

CALIFORNIA COASTAL COMMISSION

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Staff: E. Tate-Pulliam - LB
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STAFF REPORT: APPEALS – SUBSTANTIAL ISSUE

Appeal No.: A-5-VEN-23-0044

Applicants: Steve and Michelle Meepos

Local Government: City of Los Angeles

Local Decision: Approval with Conditions

Appellant: Citizens Preserving Venice (Attn: Robin Rudisill)

Project Location: 2308 & 2310 Pisani Place, Venice, City of Los Angeles, Los Angeles County (APN No. 4237-005-010)

Project Description: Demolish three residential structures (two 1,215 sq. ft., one-story duplexes and one 1,242 sq. ft., two-story duplex with an attached garage), merge two lots into one 7,800 sq. ft. lot, and construct a 15,016 sq. ft., 41 ft. high, four-story, residential structure with eight condominium units (one unit Very Low Income and two Low Income) with 12 parking spaces and removal of five ornamental trees.

Staff Recommendation: Substantial Issue

Important Note: Please note that at the hearing for this item the Commission will not take testimony on staff’s “substantial issue” recommendation unless at least three Commissioners request it. The Commission may ask questions of the applicant, aggrieved persons (i.e., generally persons who participated in some way in the local permitting process), the Attorney General, the Executive Director, and their proxies/representatives prior to determining whether or not to take such testimony. If the Commission does decide to take testimony, then it is generally limited to three minutes total per side (although the Commission’s Chair has the discretion to modify these time limits). Only the applicant, the appellant, persons who opposed the application before the local government, the local government, and their proxies/representatives shall be qualified to testify during this substantial issue phase of the hearing. Others may submit comments in writing. If the Commission finds that the appeal raises a substantial issue, then the Commission takes jurisdiction over the underlying coastal development permit (CDP) application and will then review that application at a future Commission meeting, at which time all persons are invited to testify. If the Commission finds that the appeal does not raise a substantial issue, then the local government CDP decision stands, and is thus final and effective.

SUMMARY OF STAFF RECOMMENDATION

The staff recommends that the Commission determine that a **substantial issue exists** with respect to the grounds on which the appeal has been filed because the project, as approved by the City of Los Angeles, is not consistent with the community character of the surrounding area. The standard of review for the appeal is Chapter 3 of the Coastal Act, and the City’s certified Venice Land Use Plan (LUP) provides guidance.

On July 13, 2023, the City approved Local Coastal Development Permit (CDP) No. CPC-2022-724-CDP-MEL-SPP-DB-HCS with conditions for the demolition of three residential structures (two 1,215 sq. ft., one-story duplexes and one 1,242 sq. ft., two-story duplex with an attached garage), a merger of two lots into one 7,800 sq. ft. lot, and construction of a four-story (41 ft. high), 15,016 sq. ft. residential structure with eight condominium units (three replacement affordable units: one Very Low Income and two Low Income) with 12 parking spaces and removal of five ornamental trees. Per the City’s Mello Act Determination, there are three existing approximately 600 sq. ft. one-bedroom affordable rental units onsite that would be replaced with three 485, 488, and 515 sq. ft. one-bedroom condo units. The replacement affordable units would be smaller than the affordable units they are replacing and would be located below grade in the partially subterranean basement level of the structure. The proposed project would include one 1,833 sq. ft. (2 bedroom/2.5 bathroom) and three 2,025(3 bedroom/3.5 bathroom) sq. ft. market rate units above grade. The project is located approximately one mile from the beach and a half mile from the Venice canals in a neighborhood characterized by one- and two-story single- and multi-family residences. The

Commission received a Notice of Permit Issuance and opened a 20-day appeal period on September 25, 2023. One appeal was received from Citizens Preserving Venice in a timely manner on October 19, 2023.

The appellant contends that the City erred and abused its discretion in the analysis of the project's impacts to visual resources and community character, the analysis of conformance with Venice LUP policy I.A.13 for Density Bonus Applications, the replacement of affordable housing guided by the City's Mello Act determination, and the past decisions of the Commission used by the City in its analysis pursuant to Coastal Act Section 30625(c). Further, the appellant raises concerns that the proposed project would prejudice the City's ability to prepare an LCP consistent with Chapter 3 of the Coastal Act and that all proposed affordable units are below grade rather than distributed throughout the project as per the City Urban Design Studio Professional Volunteer program. While the Commission does not have the authority to review Mello Act determinations or contentions raised on grounds outside of Chapter 3 of the Coastal Act, the Commission's Environmental Justice Policy and Coastal Act policies related to the protection, and encouragement, of affordable housing and equitable distribution of environmental benefits when evaluating development, including development on appeal, in the coastal zone may be considered.

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. With a density bonus incentive to allow for a increased height of 41 ft. and reduced setback requirements in a largely one-story residential neighborhood with no buildings exceeding 30 feet, the City-approved project is significantly larger than the surrounding residences and is not consistent with the character of the area with respect to mass and scale. In addition, the City did not make the required findings outlined in LUP Policy I.A.13 related to density bonuses, replacement affordable units, and coastal resource impacts.

Therefore, staff recommends the Commission find that a **substantial issue exists**, with respect to the grounds raised by the appellant as to the City-approved project's consistency with the Chapter 3 policies of the Coastal Act and the policies of the Venice LUP.

The motion to adopt the staff recommendation is found on page 5.

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EXHIBITS

[Exhibit 1 – Project Location](#)

[Exhibit 2 – Appeals](#)

[Exhibit 3 – Site Plans](#)

[Exhibit 4 – Existing Character](#)

[Exhibit 5 - CPC-2022-724-CDP-MEL-SPP-DB-HCS](#)

I. MOTION AND RESOLUTION – SUBSTANTIAL ISSUE

Motion:

I move that the Commission determine that Appeal No. A-5-VEN-23-0044 raises **NO Substantial Issue** with respect to the grounds on which the appeals have been filed under § 30603 of the Coastal Act.

Staff recommends a **NO** vote on the foregoing motion. Failure of the 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 Commissioners present.

Resolution:

The Commission hereby finds that Appeal No. **A-5-VEN-23-0044** presents a **SUBSTANTIAL ISSUE** with respect to the grounds on which the appeal has been filed under § 30602 of the Coastal Act regarding consistency with the Chapter 3 policies of the Coastal Act.

II. LOCAL GOVERNMENT ACTIONS

On July 13, 2023, the Los Angeles City Planning Director approved a local CDP (DIR-2015-3883-CDP-SPP-MEL), density bonus compliance review, Project Permit Compliance Review, Mello Act compliance review and determined that the project is exempt from CEQA, Case No. ENV-2022-725-CE, in accordance with State Guidelines Sections 15301 (Class 1) and 15332 (Class 32) ([Exhibit 5](#)). The City-approved development includes the demolition of three residential structures (two one-story duplexes and one two-story duplex with an attached garage), the merger of two lots into one 7,800 square-foot lot, the construction of a four-story, 15,016 square-foot residential structure composed of eight residential condominium units with one unit set aside for a Very Low Income Household and two units set aside for Low Income Households, providing a total of 12 parking spaces, and the removal of five on-site non-protected trees.

The City issued a determination letter on July 13, 2023, for local CDP No. DIR-2015-3883-CDP-SPP-MEL. The City's Notice of Final Local Action for the subject local CDP was received in the Coastal Commission's Long Beach Office on September 21, 2023, and the Coastal Commission's required twenty working-day appeal period was established. One appeal was filed before the closure of the appeal period at 5:00 p.m. on October 19, 2023 ([Exhibit 2](#)), as described in more detail in the following section.

III. APPELLANT’S CONTENTIONS

On October 19, 2023, an appeal was filed by Robin Rudisill on behalf of Citizens Preserving Venice ([Exhibit 2](#)). The appellant raises the following concerns with the City-approved CDP:

1. The City erred and abused its discretion in the analysis of:
 - (a) the project’s impacts on visual resources and community character,
 - (b) conformance with Venice LUP policy I.A.13 for Density Bonus Applications,
 - (c) the replacement of affordable housing, and
 - (d) the determination that the proposed project is guided by any applicable decisions of the Commission pursuant to Coastal Act section 30625(c).
2. That the proposed project would prejudice the preparation of an LCP that is in conformance with Chapter 3 of the Coastal Act,
3. That all proposed affordable units are below grade and, instead, should be distributed throughout the project as indicated by the City’s Urban Design Studio Professional Volunteer program.

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 CDP. Pursuant to this provision, the City of Los Angeles developed a permit program in 1978 to exercise its option to issue local CDPs. Sections 13301-13325 of Title 14 of the California Code of Regulations provide procedures for issuance and appeals of locally issued CDPs. Section 30602 of the Coastal Act allows any action by a local government on a coastal development permit application evaluated under Section 30600(b) to be appealed to the Commission.

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 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 the appeals, which is conformity with the Chapter 3 policies of the Coastal Act.

Commission staff recommends a finding of **a 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 Commission reviews the coastal development permit application 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. The Venice LUP, certified on June 14, 2001, is used as guidance.

If Commission staff recommends a finding of substantial issue, and there is no motion from the Commission to find no substantial issue, the substantial issue question will be considered presumed, and the de novo phase of the hearing will follow at a later date during which the Commission will take public testimony. Sections 13315-13325 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, the appellant, 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 appeals raise no substantial issue.

V. DUAL/SINGLE PERMIT JURISDICTION AREA

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

VI. FINDINGS AND DECLARATIONS – SUBSTANTIAL ISSUE

A. PROJECT LOCATION & DESCRIPTION

The subject site is approximately one mile from the beach in the Southeast area of Venice (City of Los Angeles) and is located on Pisani Place between North Venice Boulevard and Boccaccio Avenue. The developments immediately surrounding the site include a mix of one- and two-story single-family residences and multi-family residential buildings. There are one- and two-story commercial buildings across the street from the project site on South Venice Boulevard. There is no environmentally sensitive habitat area in the immediate project vicinity.

The two existing lots, totaling 7,800 square feet, are zoned R3-1 (Multiple Residential—Height District 1) by the City's uncertified zoning code and designated Medium Residential by the certified Venice LUP ([Exhibit 1](#)). On the subject site there are two one-story duplexes and one two-story duplex with an attached garage, all of which would be demolished for the construction of the proposed condominium structure. There are two one-bedroom units in each of the three existing structures (totaling six units). The existing one-story duplexes to be demolished are each 1,215 sq. ft. in size (each unit is ~607.5 sq. ft.), and the existing two-story duplex is 1,242 sq. ft. in size (each unit is ~621 sq. ft.).

In 2017, when the application for a Mello Act Determination was submitted to the Los Angeles Housing and Community Investment (HCIDLA) Department, three of the units – 2308, 2308 ¼, and 2310 ½ - were occupied according to responses to certified letters sent by HCIDLA. The remaining units were vacant, and 2308 ½ and 2310 ¼ were not deemed to be affordable due to being vacant for 365 days at the time the determination was made. The City found 2308, 2308 ¼, and 2310 ½ to be affordable units based on average rent for the former two units and tenant income for the latter unit.

On July 13, 2023 the City approved the demolition of the existing two one-story duplexes and one two-story duplex, the merger of two lots into one 7,800 sq. ft. lot, the construction of a four-story, 15,016 sq. ft. residential structure composed of eight residential condominiums with one unit set aside for a Very Low Income Household and two units set aside for a Low Income Household, 12 parking spaces, and the removal of five nonprotected trees. The proposed project would include one 1,833 sq. ft. (2 bedroom/2.5 bathroom) and four 2,025(3 bedroom/3.5 bathroom) sq. ft. market rate units above grade, as well as, one 485, one 488, and one 515 sq. ft. (one bedroom/1 bathroom) affordable units within the semi-subterranean level adjacent to the garage.

As outlined in the Letter of Determination dated July 13, 2023 ([Exhibit 5](#)), the City also approved the following:

1. An incentive to allow for an 11 ft. increase in maximum building height resulting in a 41 ft. maximum for varied roofs and 36 ft. maximum for flat roofs;
2. An incentive for the reduction from a 15 ft. front setback to a 11 ft. 11 in. front setback;

3. An incentive for the reduction from a 15 ft. rear setback to a 14 ft. 6 in. rear setback;
4. A Waiver of Development Standard to allow seven standard parking stalls and five compact parking stalls in lieu of the minimum eight parking stalls otherwise required;
5. A Waiver of Development Standard to remove tandem parking restrictions;
6. A Waiver of Development Standard to remove the step-back provisions for the portions for the structure greater than 25 ft. as otherwise required by Venice LUP Section 10.G.3.a;
7. Project Permit Compliance review for a project within the uncertified Venice Coastal Zone Specific Plan; and
8. A Mello Act Compliance review for the demolition of six Residential Units and the construction of eight Residential Units in the Coastal Zone.

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. Section 13115 of the Commission's regulations provides the following:

When determining whether the appeal raises a substantial issue, the Commission may consider factors, including but not limited to:

- (1) the degree of factual and legal support for the local government's decision;
- (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 only local issues as opposed to those of regional or statewide significance.

The Commission may, but need not, assign a particular weight to a factor.

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 a petition for a writ of mandate pursuant to Code of Civil Procedure, Section 1094.5.

Staff is recommending that the Commission find that **a substantial issue exists** with respect to whether the local government action conforms to the Chapter 3 policies of the Coastal Act for the reasons set forth below.

C. SUBSTANTIAL ISSUE ANALYSIS

As stated in Section IV of this report, the grounds for an appeal of a CDP issued by the local government prior to certification of its LCP are the project's conformity with Chapter 3 policies of the Coastal Act. The certified Venice LUP policies provide guidance and may be used by the Commission to evaluate a project's consistency with Chapter 3

Relevant Coastal Act Policies

Section 30250 of the Coastal Act states, in part:

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

Section 30251 of the Coastal Act 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...

Section 30253 of the Coastal Act states, in 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.

Section 30604 of the Coastal Act states, in part:

(g) The Legislature finds and declares that it is important for the commission to encourage the protection of existing and the provision of new affordable housing opportunities for persons of low and moderate income in the coastal zone.

(h) When acting on a coastal development permit, the issuing agency, or the commission on appeal, may consider environmental justice, or the equitable distribution of environmental benefits throughout the state.

Relevant Venice LUP Policies

Policy I.E.1 (Preservation of Venice as a Special Coastal Community, General) of the Venice LUP states:

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

Policy I.E.2 (Scale) states:

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.3 (Architecture) states:

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

Policy I.A.8.a (Multiple-Family Residential - Medium Density, Southeast Venice) states, in part:

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.

Policy I.A.9 (Replacement of Affordable Housing) states:

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

Policy I.A.13 (Density Bonus Applications) states:

Required replacement dwelling units shall be counted as reserved units in any related State mandated density bonus application for the same project. In order to encourage the provision of affordable housing units in the areas designated as “Multiple Family Residential” and in mixed-use developments, the City may grant

incentives such as reduced parking, additional height or increased density consistent with Government Code Section 65915 provided that the affordable housing complies with the following:

(a) This is an incentive program that allows developers of any one of the types of residential projects described in Government Code Section 65915(b), and which complies with all standards set forth in Government Code Section 65915, to build no more than 25 percent more units than a property's zoning would ordinarily allow. In exchange for this density bonus, the owners must make the units affordable for 30 years if an incentive is utilized in addition to a density bonus specified in Government Code Section 65915(b) or for 10 years if a second incentive is not utilized.

(b) In accordance with Government Code Section 65915(f), the density bonus shall be calculated based on the otherwise maximum allowable residential density under the applicable zoning ordinance and land use element of the general plan. In the Coastal Zone, the otherwise maximum allowable residential density shall mean the maximum density determined by applying all site-specific environmental development constraints applicable under the coastal zoning ordinances and land use element certified by the Coastal Commission. The density bonus shall be applicable to housing development consisting of five or more units.

(c) In the coastal zone, any housing development approved pursuant to Government Code Section 65915 shall be consistent, to the maximum extent feasible and in a manner most protective of coastal resources, with all otherwise applicable certified local coastal program policies and development standards. If the City approves development with a density bonus, the City must find that the development, if it had been proposed without the 25 percent density increase, would have been fully consistent with the policies and development standards of the certified local coastal program. If the City determines that the means of accommodating the density increase proposed by the applicant do not have an adverse effect on coastal resources, the City shall require that the density increase be accommodated by those means. If, however, the City determines that the means for accommodating the density increase proposed by the applicant will have an adverse effect on coastal resources, before approving a 25 percent density increase, the City shall identify all feasible means of accommodating the 25 percent density increase and consider the effects of such means on coastal resources. The City shall require implementation of the means that are most protective of significant coastal resources.

(d) The City may prepare an LCP amendment for certification by the Commission for specific areas or subregions within the planning area where density bonuses in excess of 25 percent may be permitted based on a finding that no adverse impacts on coastal resources would result.

(e) In addition to a 25 percent density bonus, a qualifying housing development shall receive one of the incentives identified in Government Code Section 65915(h),

unless it is found that the additional incentive is not required in order to provide for affordable housing costs or rents. If the City determines that the additional development incentive requested by an applicant pursuant to this section will not have any adverse effects on coastal resources, the City may grant the requested incentive. If the City determines that the requested incentive will have an adverse effect on coastal resources, the City shall consider all feasible alternative incentives and the effects of such incentives on coastal resources. The City may grant one or more of those incentives that do not have an adverse effect on coastal resources. If all feasible incentives would have an adverse effect on coastal resources, the City shall grant only that additional incentive which is most protective of significant coastal resources.

(f) For the purposes of this section, “coastal resources” means any resource which is afforded protection under the policies of Chapter 3 of the Coastal Act, California Public Resources Code section 30200 *et seq.*, including but not limited to public access, marine and other aquatic resources, environmentally sensitive habitat, and the visual quality of coastal areas.

Community Character

Visual Resources

Section 30251 of the Coastal Act requires that “development be sited and designed to protect[s] views to and along the ocean and scenic coastal areas” and “to be visually compatible with the character of surrounding areas.” Additionally, Section 30253(e) requires new development “[to] protect special communities that, because of their unique characteristics, are popular visitor destination points for recreational uses.” The certified Venice LUP, which provides guidance and may be used to evaluate a project’s consistency with Chapter 3 of the Coastal Act, encourages “building facades which incorporate varied planes and textures while maintaining the neighborhood scale and massing” and “yards...consistent with the existing scale and character of the neighborhood.”

The project site is located in an area near the inland extent of the coastal zone, adjacent to Venice Boulevard, a local commuter street. There are no views to or along the ocean at this location and this portion of Venice Boulevard and Pisani Place are not considered scenic routes. However, Venice, as a whole, is considered a special community and is a popular visitor destination area. The Venice LUP includes standards for building height, development setbacks, roof access structure design, and density, which may be used as guidance in analyzing new development for compatibility with existing development in Venice. While the City waived the height, front setback and rear setback standards through application of the density bonus provisions in the LUP, the appellant raises significant questions regarding the project’s visual compatibility with the surrounding area and regarding the City’s findings that conclude there would be no adverse visual resource impacts and that the project is consistent with LUP policy I.A.13 (as discussed in the following subsection).

A-5-VEN-23-0044 (Steve and Michelle Meepos)
Appeal – Substantial Issue

The City found that the proposed project is consistent with the development pattern of the area and visually compatible with the character of the area, and as such, with Section 30251 of the Coastal Act. The City's findings were based on the assertion that the subject four-story multi-family development would not have a significant impact on the integrity of the neighborhood that is comprised of one- and two-story single- and multi-family structures and one three story structure ([Exhibit 5](#)). The appellant does not agree with the City's conclusion and contends that the City-approved project is not consistent with the one- and two-story character of the community.

When analyzed in combination with the existing development in the project vicinity, which is comprised primarily of one- and two-story residences and commercial structures, the project is out of character with the surrounding structures because it does not respect the prevailing height or mass of the existing residences. Policy I. E. 2, states that new development within Venice shall respect the scale and character of community development. The City-approved structure is 41 feet tall with additional roof deck railings and access structures above. The appellant contends that the rooftop structures, without upper-level step backs give the appearance of a five-story structure.

As acknowledged in the City's findings and supported by the context analysis conducted by the applicant and dated June 23, 2021, most other structures in the immediate vicinity are one- and two-story buildings. There is one three-story building located at 2311 Oakwood Avenue, directly behind the subject property, however the structure does not exceed the 30 ft. flat roofline height limit required by the certified LUP. Staff's analysis of the nearest 49 structures in proximity of the subject site show 29 are one-story, 19 are two-stories, and 1 is three-stories ([Exhibit 4](#)). The City's Letter of Determination states that there are ten lots zoned as R3-1 Medium Density located within one block of the subject site, of which seven are developed with one-story structures, two have two stories, and one has three stories. There are also three lots immediately east of the subject lot that are improved with two two-story multi-family structures and one-story single-family dwellings. The City does not make reference to the actual heights of the buildings, but rather makes comparisons based on the number of stories. The applicant conducted an independent massing study analyzing the height of 33 structures, which shows that there are only three structures with varied rooflines of 30 ft. within the area bounded by South Venice Blvd. with Oakwood Ave to the northeast, Boccaccio Avenue to the southeast, and Pisani Place to the southwest; all the rest are under 30 feet ([Exhibit 5](#)).

The City found that the proposed project is consistent with the visual and scenic qualities of the area because there are no views to the ocean, the property is not located on a bluff, and the certified LUP outlines Medium Density lots adjacent to Venice Boulevard as able to accommodate new growth and "...preserve the Special Coastal Character of Venice by directing redevelopment to areas that can accommodate new housing." In referring to the certified LUP the City quotes in its findings "the development standards also define for each land use designation a density of housing units and lot coverage to maintain the scale and character of existing residential neighborhoods to minimize the impacts of building bulk and mass" and "the

certified LUP encourages the provision of affordable housing units in areas designated as ‘Multiple Family Residential’” which is used as support for the City approving projects that exceed the LUP-designated density and waive other LUP requirements in accordance with the State Density Bonus Law when affordable units are included. However, the City did not mention that, when using the State Density Bonus Law incentives, the LUP also requires that certain findings be made (described in more detail in the following subsection). In this case, the City did not make specific findings related to the project’s consistency with the LUP’s 30-ft. height limit for this area and does not provide compelling evidence that the 41-ft. high project would “maintain the scale and character” of the area as the City acknowledges is required by the certified LUP nor that the incentives are the least impactful on coastal resources and necessary to accommodate the increased density.

A density bonus incentive allowing for a maximum height of 41 ft. for varied rooflines and 36 ft. for flat rooflines was approved for the project by the City, allowing the approval of the subject project that would exceed the standard maximum height by 11 ft. The City’s findings state, “Although the proposed project does introduce a new four-story structure with reduced yards into this neighborhood, the first level of the structure is located below the street level minimizing the scale of the structure and creating the visual effect of a three-story rather than a four-story structure. Further, the proposed structure incorporates balconies and varied rooflines at the front portion of the structure to break up the massing of the structure.” While a semi-subterranean level reduces the height of the project as compared to a completely above-grade first floor, the 41 ft. height is measured from the centerline of the street, not from below-grade, and the City-approved project height is well-above all development in the project vicinity.

Additionally, the cited articulation includes balconies and a varied roofline at the front of the proposed structure to “break up the massing of the structure.” However, the removal of stepback provisions (the requirement that upper levels of a structure be stepped back to minimize the appearance of the structure’s mass) for portions of the structure greater than 25 ft. as typically required pursuant to LUP requirements has been waived in the City’s approval. Further, the City found that the current design which includes a semi-subterranean first floor creates the “visual effect of a three-story rather than a four-story structure. As such the City’s approval of the project raises a substantial issue as to consistency with Policy I.E.3 of the Venice LUP, which encourages building facades to maintain the neighborhood scale and massing.

The appellant also raises contentions that the proposed decreases in yard areas and removal of mature trees are not consistent with the scale and character of the neighborhood given that the majority of the residences in the project vicinity have substantial vegetated yard areas. The City-approved project includes removal of the vegetation, including approximately five mature trees without replacement and reduced front and rear setbacks. Both Policy I.A.8.a and I.E.2 of the City’s certified LUP require new development to respect the yard and landscape character of the existing neighborhood. The City did not make findings that removal of the trees and reduced yard areas would not cause an adverse impact on the community character pursuant to Sections 30251 and 30253(e). Front and side yard setbacks and vegetation, especially

mature trees, serve to minimize the massing of structures and protect the pedestrian scale of development that is protected by the LUP. Thus, in combination with the height and minimal articulation, these questions raise a substantial issue as to the project's conformance with the visual character of the area.

While the Venice LUP protects the architectural diversity of the community (Policy I.E.1, Preservation of Venice as a Special Coastal Community), given the proposed development's relative disproportionate height, mass, and landscape area, the City-approved project raises a substantial issue as to consistency with Section 30251 of the Coastal Act. These impacts could be mitigated if the project were redesigned or conditioned to require features to minimize building mass and increase yard area consistent with surrounding development. Therefore, the Commission finds that a substantial issue exists with respect to the City-approved project's conformance with the community character and visual resource protection policies of the Coastal Act, including sections 30251 and 30253.

Social Diversity and Environmental Justice

Section 30253, specifically 30253(e), protects the special characteristics that make Venice a special coastal community and visitor destination. When the LUP was certified in 2001, Venice was described as a “quintessential coastal village where people of all social and economic levels are able to live in what is still, by Southern California standards, considered to be affordable housing;” this is memorialized in the introduction for Policy Group I of the LUP. The certified Venice LUP includes Policy I.E.1, which protects two particular traits of Venice as elements that make Venice a “special coastal community”—architectural diversity and social diversity. Therefore, it is clear that the social diversity protected by the LUP as part of what makes Venice a special coastal community includes differences in cultures, political affiliations, and income levels, among other things.

The LUP includes Policies I.A.9 and I.A.13, which allow for the use of development incentives to encourage the protection and construction of affordable housing units as laid out in the State's Density Bonus Law if certain findings are made. The appellant contends that the City's approval of deviations from LUP standards, including an increased maximum building height, reduced rear yard setback, and reduced front yard setback using density bonuses did not include the required I.A.13 findings and is erroneous as these policies are designed to incentivize developers to provide affordable housing where they might not otherwise, but in this case, state law already requires the replacement of affordable units. As such, the appellant claims the City's approval is not consistent with LUP Policy I.A.13 because developers have no standing to request or make use of Density Bonus Applications when affordable units are being replaced as is required by Section 65590 of the Government Code (Mello Act); in other words, incentives should only be provided if new affordable units are proposed. The appellant also asserts the City erred and abused discretion in the replacement of affordable housing inconsistent with Section 30604 of the Coastal Act, which encourages the provision of affordable housing and allows the Commission to consider environmental justice and the equitable distribution of benefits throughout the state.

In terms of the replacement of above-grade affordable units with smaller, semi-subterranean units a substantial question is raised as to whether the affordable units are being replaced in an equivalent manner in order to maintain the community character of the area. In addition, regarding consistency with LUP Policy I.A.13, while the intent of Policy I.A.13 is to, at a minimum, replace and hopefully encourage new affordable housing, the appellant's assertion that density bonuses can only be applied to new (not replacement) affordable units is not correct. Both the certified LUP and State Density Bonus Law authorize affordable replacement units to be counted toward the bonus calculation. However, the appellant is correct in stating that the City did not make adequate findings to suggest that the proposed development is the most protective of coastal resources (subsection c), including community character, and is the least environmentally damaging alternative (subsections e and f). The City found that "The proposed four-story multi-family dwelling is consistent with the policies of the Certified Venice Land Use Plan." However, this is untrue because the project does not conform with the density, height, setback, or yard requirements of the LUP, and the City did not make the required findings that the deviations are the minimum required in order for the affordable units to be provided and that the coastal resource impacts are minimized and mitigated to the maximum extent feasible. Thus, the City did not make the findings required in order to approve deviations from LUP requirements pursuant to a density bonus.

Policy I.A.9 of the certified Venice LUP prohibits the conversion or demolition of existing affordable units unless they are replaced (with no net loss of affordable units) in accordance with Section 65590 of the Government Code (Mello Act). The appellant's contentions relating to replacement affordable housing are focused on the City's Mello Act review. The appellant contends that the City used commercial rent data in the form of short-term rental data, as opposed to average long-term data and excluded data from two non-conforming units on site. For these reasons and because the appellant claims the City did not use the correct data to inform the determination of existing affordable units, the appellant asserts there are likely additional affordable units that should be replaced. While the appellant also acknowledges that pursuant to Section 30011 of the Coastal Act, the Commission does not have authority to review a local jurisdiction's Mello Act decisions, Citizens Preserving Venice cites Coastal Act section 30604's policies encouraging affordable housing and consideration of environmental justice and equity in coastal zone, as well as the Commission's Environmental Justice Policy to suggest the Commission should use this authority to address the issues raised by the Mello Act. Specifically, the appellant quotes the Commission's EJ Policy, which states: "If the Commission staff determines that existing, affordable housing would be eliminated as part of a proposed project in violation of another state or federal law, the Commission staff will use its discretion to contact the appropriate agency to attempt to resolve the issue." In this case, Commission staff does not have sufficient information to suggest that there were additional affordable units, and Commission staff did meet with City Planning and Housing staff to discuss the City's affordable housing policies on January 4, 2024. As it relates to this appeal, Commission staff learned that short-term rental data is used by the City as a proxy when preferred rental or income data are not available.

Additionally, in the appeal, the appellant claims that the City-approved plans are not consistent with the City's uncertified Urban Design Studio Professional Volunteer Program because all three of the proposed affordable units are located on the semi-subterranean level and are not distributed throughout the structure. In its meeting with City staff, Commission staff also learned that the City uses Affordable Housing Incentive Guidelines that include provisions that the affordable units should be dispersed throughout a development, not located on the same floor, and should be at least 90% of the size of market rate units providing the same number of bedrooms/bathrooms. In this case, the City's action approved all three affordable units, which are significantly smaller than the market rate units (although they also have fewer bedrooms/bathrooms) and slightly smaller than the existing affordable units, in the semi-subterranean level; however, the City's final review and approval for consistency with the Guidelines occurs following any CDP action and before final entitlements are given. Further, the City's Conditions for Approval state that a minimum of three units, that is at least 30% of the base dwelling units permitted in Medium Density zoned lots shall be reserved as affordable, that the project is required to comply with the Replacement Unit Determination that was issued on April, 26th, 2022, that the most restrictive affordability levels shall be followed in a covenant, and that prior to the issuance of a building permit, the owner must execute a covenant to make one unit available to Very Low Income Households and two units available to Low Income Households for sale for the period of 55 years.

In any case, as acknowledged by the appellant, the Legislature removed the Commission's authority to regulate affordable housing in the coastal zone, and, thus, the contentions regarding the number of affordable replacement units that should be required is not valid grounds for appeal. However, the Commission's Environmental Justice Policy and the affordable housing policies related to the equitable distribution of environmental benefits when evaluating development, including development on appeal, in the coastal zone may be considered. With such considerations, as well as the inadequacy of the City's findings relating to LUP Policies I.E.1 and I.A.13, which reflect the Chapter 3 policies protecting community character of special communities (Section 30253) and maximizing public access (Section 30210), a substantial issue does exist.

Past Commission Actions

The appellant asserts that the City erred in its findings because its determination was not guided by applicable Commission actions. The appellant specifically contends that two of the cases referred to by the City in its analysis—2467 and 2471 Lincoln Blvd and 720 Rose Ave—are 100% affordable housing projects that do not include market rate units and increase affordable housing supply. Thus, Citizens Preserving Venice claim these development projects are not applicable. Further, a third reference—2300-2302 Pisani Place, which is only three lots away (~170 ft. towards Venice Blvd) from the project site—was appealed to the Commission (A-5-VEN-19-0185) on similar grounds as the subject project (i.e. mass/scale and affordable housing), and the Commission found the City's approval of that project raised a substantial issue due to the potential impacts on community character. That project has not yet had a De Novo hearing. As such the City's approval was not a decision that should guide approval for the subject

project. Further, the appellant contends that since the proposed development for 2300-2302 Pisani was smaller in mass and scale compared to the subject project, that the subject project is even more incompatible with the mass and scale of the surrounding neighborhood. Thus, while this contention does not raise specific Chapter 3 issues, it does raise a question as to the City's factual and legal support for the subject approval.

Project Prejudices the City's Preparation of a LCP that Conforms with Chapter 3

Under Section 30604(a) of the Coastal Act, a local government's approval of a CDP must include findings that the project conforms with Chapter 3 of the Coastal Act and that the "permitted development will not prejudice the ability of the local government to prepare a local coastal program that is in conformity with Chapter 3." The appellant contends that the proposed project is inconsistent with the visual resources and community character policies as outlined in Chapter 3 of the Coastal Act and the certified Venice LUP and would thus prejudice the City's ability to prepare a LCP that conforms to Chapter 3. The Venice LUP was certified by the Coastal Commission on June 14, 2001, but implementing ordinances have not been adopted. The City is currently working to adopt an updated LUP and Implementation Plan for Venice and subsequently obtain a fully certified LCP.

While the City provided a community character analysis, that analysis did not adequately address critical aspects of community character, including cumulative massing, increased height, reductions in required yard areas, and social diversity, that could be affected by the subject development. Thus, the appellant raises a significant question as to whether the City's approval would prejudice the preparation of an LCP.

Substantial Issue Factors

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

Applying the five factors demonstrates that the appeal raises a "substantial issue" with respect to the visual resource protection policies of the Coastal Act and the policies of the certified LUP, and therefore, a substantial issue does exist.

1. **The first factor is the degree of factual and legal support for the local government's decision that the City-approved development is consistent with the relevant provisions of the certified LCP.** With regard to the visual and community character protection policies of the Coastal Act, the City concluded that the four-story condominium is consistent with the character of the one- and two-story structures in the project vicinity. However, the City found that the LUP anticipates community character evolving over time regarding development size and density at Medium Density lots adjacent to Venice Boulevard. Nevertheless, the maximum LUP development standards for this same area, as certified by the Commission as consistent with Chapter

3 of the Coastal Act, would not allow for the City-approved project. The only allowable deviations from such standards are for density bonus projects, but as stated in the LUP, such projects must be found to be most protective of coastal resources and to only use incentives if adhering to those specific LUP policies would preclude the development of affordable units. The City did not make these findings. Additionally, the past City approvals used in its consistency analysis are not ideal comparisons for the subject project. The predominant pattern for residential structures in the project vicinity is one- and two-story single- and multi-family residences; the City-approved project is significantly more massive at four-stories with reduced yard areas and minimal upper level step backs and articulation. In addition, the City did not analyze the project's potential impacts on the social diversity aspect of community character, nor was there adequate support for the need for LUP inconsistency in order to accommodate the increased density. Therefore, this factor supports a finding of substantial issue.

2. **The second factor is the extent and scope of the development as approved or denied by the local government.** The City-approved project involves the construction of a 41-ft.-high four-story structure with reduced front and rear yard areas in a predominantly one- and two-story residential area with only a couple structures reaching a maximum building height of 30 ft. and is, thus, not compatible with the existing scale and massing of the surrounding area. Approximately 60% of the closest structures to the project site are single-story buildings as seen from the street; approximately 40% are two-story structures, and there is one three-story structure. While it is only one building, the City-approved condominium complex would be the only four-story structure in the project vicinity. Therefore, this factor also supports a finding of substantial issue.
3. **The third factor is the significance of the coastal resources affected by the decision.** Venice is a unique coastal resource and a popular visitor destination due, at least in part, to its eclectic community character. The Southeast Venice subarea contributes to that unique character, including the social diversity of Venice that is protected in the certified LUP. The City did not adequately address this element of community character. In any case, the mass and scale of the City-approved development is drastically different than the surrounding development and could set a precedent for larger development projects in this area, which was not analyzed by the City. Thus, this factor supports a finding of substantial issue.
4. **The fourth factor is the precedential value of the local government's decision for future interpretations of its LCP.** The City does not currently have a certified LCP, but it does have a certified Land Use Plan. There are significant questions raised as to the consistency of the City's approval with the standards set forth in the certified Venice LUP, including in its required findings when using a density bonus (LUP Policy I.A.13) and the community

character impacts the project may have. Given the large mass of the City-approved development relative to surrounding development and the concerns raised about the replacement affordable units, as approved and conditioned by the City, the project raises a significant question as to the project's conformity with the community character policies of Chapter 3 of the Coastal Act and the certified Venice LUP and would have the potential to set a precedent for future development and future interpretation of the City's LUP. It also raises a significant question as to its consistency with the Commission's Environmental Justice Policy, which is not the standard of review for this appeal but may be considered. Therefore, this approval may prejudice the ability of the City to prepare an LCP that is in conformity with Chapter 3 of the Coastal Act, and this factor supports a finding of substantial issue.

- 5. The final factor is whether the appeal raises local issues, or those of regional or statewide significance.** These appeals raise specific local issues, but Venice is one of the most popular visitor destinations in California, making its preservation as an eclectic community with a unique character a statewide issue. Therefore, the City's approval does raise issues of statewide significance, supporting a finding of substantial issue.

In conclusion, the primary issue raised in the appeal is potential adverse impacts to community character, including the built and social character of Venice. In this case, the City-approved project is not in conformity with the Chapter 3 policies of the Coastal Act as guided by the certified LUP, and, therefore, the Commission finds that the appeal raises a substantial issue as to the City-approved project's conformity with the Chapter 3 policies.