

CALIFORNIA COASTAL COMMISSION

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STAFF REPORT: REGULAR CALENDAR

Application Number: A-5-VEN-15-0027

Applicant: 416 Grand Blvd LLC

Agents: Ralph Ziman, Rosario Perry, Melinda Gray, Laurette Healey, Sherman Stacey

Project Location: 416 Grand Boulevard (Lot 6, Block 3, Tract 9358), Venice, City of Los Angeles, Los Angeles County (APN No. 4230-020-004).

Project Description: Construct 3-story, 29-ft. high, approx. 2,600 sq.ft. single family home and 2-car garage.

Staff Recommendation: Approval with conditions.

SUMMARY OF STAFF RECOMMENDATION

At a public hearing on June 11, 2015, the Commission found that the appeal of local Coastal Development Permit No. ZA-2014-1356-CDP-1A, issued by the City of Los Angeles, raised a substantial issue with respect to the proposed project's consistency with Chapter 3 of the Coastal Act. At a public hearing on August 12, 2015, the Commission determined that the project, as then proposed by the applicant, was not consistent with the Chapter 3 policies of the Coastal Act or with the community character provisions of the certified Venice Land Use Plan, and it denied the project. The applicant then sued the Commission over its denial of the permit application. Subsequently, the applicant and the Commission reached a settlement whereby the applicant agreed to revise the proposed plans and the Commission agreed to consider the revised plans at a new public hearing. The Superior Court then ordered that the matter be remanded to the Commission so that the Commission can take a new action on the revised coastal development

permit application. The Commission retains the duty to ensure that the proposed project is consistent with the Chapter 3 policies of the Coastal Act and retains full authority to approve or deny the project, or to approve the project subject to conditions to ensure its consistency with the Coastal Act.

The applicant originally proposed a structure with no living area on the ground floor, which appeared to be designed to function as an accessory to a proposed home at 418-422 Grand Boulevard. The applicant revised the proposed plans to enclose the lower floor of the home and increased its proposed size to approximately 1,800 square feet; however, the Commission found that that home still featured characteristics similar to the proposed larger home next door, which might have the visual appearance of a compound, and would therefore not be consistent with the community character of the surrounding area.

The LLC controlled by the same applicant has subsequently revised the proposed project next door to provide two homes with distinctive design elements, which would not function as a compound with the subject proposed home. The proposed home has been revised to include a third story, but is still proposed to be 29-feet high. The interior square footage of the proposed home is 2,600 square feet, which is consistent with other Commission-approved homes on the subject block. The applicant has also proposed a 15-foot front yard setback for the home, a 42-inch high fence in the front setback area, and drought tolerant, non-invasive landscaping in the front yard to provide a more pedestrian-friendly scale consistent with the community character.

Staff recommends **approval** of Coastal Development Permit Application No. A-5-VEN-15-0027 with special conditions requiring the applicant to: 1) provide drought tolerant non-invasive landscaping, low water use irrigation, and maintain drainage devices in a functional state; 2) implement construction best management practices; 3) minimize fence height to a provide pedestrian scale; and 4) undertake development in accordance with the approved final plans.

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APPENDICES

Appendix A – Substantive File Documents

EXHIBITS

Exhibit 1 – Vicinity Map

Exhibit 2 – Revised Plans

I. MOTION AND RESOLUTION

Motion:

*I move that the Commission **approve** Coastal Development Permit Application No. A-5-VEN-15-0027 pursuant to the staff recommendation.*

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

Resolution:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS

This permit is granted subject to the following standard conditions:

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

This permit is granted subject to the following special conditions:

1. **Landscaping and Irrigation.** By acceptance of this permit, the permittee agrees that:
 - A. Vegetated landscaped areas shall consist of native plants or non-native drought tolerant plants, which are non-invasive. No plant species listed as problematic and/or invasive by the California Native Plant Society (<http://www.CNPS.org/>), the California Invasive Plant Council (formerly the California Exotic Pest Plant Council) (<http://www.cal-ipc.org/>), or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a “noxious weed” by the State of California or the U.S. Federal Government shall be utilized within the property. All plants shall be low water use plants as identified by California Department of Water Resources (See: <http://www.water.ca.gov/wateruseefficiency/docs/wucols00.pdf>).
 - B. If using potable water for irrigation, only drip or microspray irrigation systems shall be used. Other water conservation measures shall be considered, such as weather based irrigation controllers.
 - C. The permittee shall maintain the proposed drainage in a functional state over the life of the development. If the drainage devices, including but not limited to gutters, downspouts, cisterns, perforated pipes, and percolation pits, cease functioning, the permittee shall replace them.
2. **Water Quality.** By acceptance of this permit, the permittee agrees that the approved development shall be carried out in compliance with the following BMPs:
 - A. No construction materials, debris, or waste shall be placed or stored where it may be subject to water, wind, rain, or dispersion;
 - B. Any and all debris resulting from construction activities shall be removed from the project site within 24 hours of completion of the project;
 - C. Construction debris and sediment shall be removed from construction areas each day that construction occurs to prevent the accumulation of sediment and other debris which may be discharged into coastal waters;
 - D. Erosion control/sedimentation Best Management Practices shall be used to control dust and sedimentation impacts to coastal waters during construction. BMPs shall include, but are not limited to: placement of sand bags around drainage inlets to prevent runoff/sediment transport into coastal waters;
 - E. All construction materials, excluding lumber, shall be covered and enclosed on all sides, and as far away from a storm drain inlet and receiving waters as possible;
 - F. The permittee shall ensure the proper handling, storage, and application of petroleum products and other construction materials. These shall include a designated fueling and vehicle maintenance area with appropriate berms and protection to prevent any spillage of gasoline or related petroleum products or contact with runoff. It shall be located as far away from the receiving waters and storm drain inlets as possible;

- G. The permittee shall develop and implement spill prevention and control measures;
 - H. The permittee shall maintain and wash equipment and machinery in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into sanitary or storm sewer systems. Washout from concrete trucks shall be disposed of at a location not subject to runoff and more than 50-feet away from a stormdrain, open ditch or surface water; and
 - I. The permittee shall provide adequate disposal facilities for solid waste, including excess concrete, produced during construction.
3. **Fences.** The front fence in the 15-foot front yard setback area shall be constructed no higher than 42-inches above grade as measured from the public sidewalk adjacent to Grand Boulevard. The side and rear yard fences shall be constructed no higher than six-feet at any point as measured from natural grade.
4. **Permit Compliance.** The permittee shall undertake development in accordance with the approved final plans, specifically including the architectural plans, site plan, landscaping plan, and drainage plan.

This action has no effect on conditions imposed by a local government pursuant to an authority other than the Coastal Act, including the conditions of City of Los Angeles Department of City Planning Case Nos. DIR-2013-2903-VSO-MEL, ENV-2014-1357-MND, or the conditions of any other City of Los Angeles action or approval.

Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director provides a written determination that no amendment is legally required.

IV. DUAL PERMIT JURISDICTION AREA

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 Coastal Act requires that any development which receives a local coastal development permit 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* area), the City of Los Angeles local coastal development permit is the only coastal development permit required.

The proposed project site is within the *Single Permit Jurisdiction* area. On March 4, 2015, the City of Los Angeles approved local Coastal Development Permit No. ZA-2014-1356-CDP-1A, but that action was appealed to the Coastal Commission. On June 11, 2015, the Commission found that the appeal raised a substantial issue with respect to the proposed project’s consistency with Chapter 3 of the Coastal Act. After the Commission’s denial of the project, the applicant’s filing of a lawsuit against the Commission, and the parties’ settlement of the litigation, the court has remanded the action back to the Commission to consider the applicant’s revised coastal development permit application. The Commission is now required to approve or deny a coastal development permit for the subject application. Chapter 3 of the Coastal Act is the standard of review.

V. FINDINGS AND DECLARATIONS

A. PROJECT DESCRIPTION

416 Grand Blvd LLC proposes to construct a three-story, 29-foot high, approximately 2,600 square foot single family home and attached two-car garage at 416 Grand Boulevard in Venice (**Exhibit 1**). The plans propose drought tolerant non-invasive landscaping, drainage devices, 42-inch high fences in the front 15-foot setback area, and six-foot high side and rear yard fences (**Exhibit 2**).

The project is proposed on a graded lot in the middle of a residentially zoned block (RD1.5-1-O) in the North Venice subarea within the City of Los Angeles Single Permit Jurisdiction area. The proposed project fronts Grand Boulevard, a wide street paved on top of the original Grand Canal of Venice, developed by Abbot Kinney in the early 1900s. The site is approximately 1,000 feet inland of Venice Beach and Ocean Front Walk. Grand Boulevard and the surrounding residential blocks feature single-family homes and multi-unit residential structures of varying architectural styles, ranging from one-story wood bungalows to three-story-plus-roofdeck modern stucco and glass structures.

The subject parcel is approximately 25-feet wide by 90-feet deep. In addition, a separate coastal development permit application is pending with the Coastal Commission for development of a three-story, 29-foot high, approximately 2,700 square foot single family home and attached two-car garage at 418 Grand Boulevard and a three-story, 30-foot high, approximately 2,700 square foot single family home and attached two-car garage at 422 Grand Boulevard. Separate applications are pending with the Los Angeles Department of City Planning for a two-story 1,462 square foot home plus 420 square foot two-car garage and a three-story 4,848 square foot home plus roofdeck and 397 square foot two-car garage on three adjoining lots to the east (424-428 Grand Blvd); one of the lots is currently graded and the latter two are currently developed with a 1940's era duplex.

B. PROJECT HISTORY

The subject development is proposed on a single lot at 416 Grand Boulevard, previously developed with a portion of a duplex constructed in 1947, which spanned 416-418 Grand Blvd (Lots 6 and 7, Block 3, Tract 9358). The applicant purchased 416-418 Grand Boulevard on July 30, 2012. On June 27, 2013, after reviewing information submitted by the applicant, the City of Los Angeles Housing and Community Investment Department determined that both units within the pre-existing duplex qualified as affordable under the City's Interim Administrative Procedures for Complying with the Mello Act.

On September 17, 2013, the Los Angeles Director of Planning issued a Venice Sign Off and a Mello Clearance for the demolition the duplex (DIR-2013-2903-VSO-MEL). The City's Mello Act Coordinator determined that it was infeasible to provide replacement affordable housing units on-site or off-site. The feasibility study was accompanied by a one page Mello Act Compliance Review Worksheet which defines *feasible*: "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technical factors."

On October 22, 2013, the same applicant submitted Coastal Development Permit Application No. 5-13-0949 to the Commission proposing to demolish two pre-existing duplexes spanning four residential lots and construct a three-story, 30-foot high, 6,166 three story single-family home. The proposed development would have consolidated three lots. In a letter dated November 19, 2013, Commission staff notified the applicant's representative that the proposed development was inconsistent with the standards of the Coastal Act and the certified Venice Land Use Plan and encouraged the applicant to modify the project and apply for a local coastal development permit from the City of Los Angeles.

The applicant elected to move forward with the demolitions of the two duplexes. On January 24, 2014, after the applicant obtained new local approvals for the demolitions of both duplexes, the Executive Director approved the demolitions under waiver of coastal development permit requirements No. 5-13-0949-W. The De Minimis Waiver noted: "the applicant's stated intent is to develop the properties with residences once the necessary approvals are obtained."

On December 16, 2014, the City of Los Angeles Director of Planning issued DIR-2014-4707-VSO, approving a single-family dwelling with two-car garage guest parking space, pool, and spa on Lots 7 and 8. On December 26, 2014, a City of Los Angeles Zoning Administrator approved 2014-1356-CDP for development of a two-story, 30-foot high, 1,064 square foot single-family home with an attached 361 square foot two-car garage on the same site. The Zoning Administrator's action was appealed to the City of Los Angeles Planning Commission. On March 4, 2015, the Planning Commission upheld the Zoning Administrator's decision and approved with conditions local Coastal Development Permit No. ZA-2014-1356-CDP-1A.

On April 17, 2015, the Executive Director of the Coastal Commission and Robin Rudisill et al submitted appeals of the City's action. At a public hearing on June 11, 2015, the Commission found that a substantial issue existed with respect to the proposed project's consistency with the Chapter 3 policies of the Coastal Act. The Commission's action voided the local coastal development permit and the Commission acquired jurisdiction over the proposed development.

On August 12, 2015, the Commission held a de novo hearing for the application and denied the project, finding that the project, as then proposed by the applicant, was not consistent with the Chapter 3 policies of the Coastal Act or with the community character provisions of the certified Venice Land Use Plan and that approval of the application would have an adverse cumulative effect on the special coastal community of Venice and would prejudice the ability of the City of Los Angeles to prepare a certified local coastal program for Venice. On June 9, 2016, the Commission approved revised findings in support of its denial of the application.

The applicant then sued the Commission over its denial of the permit application. The applicant and the Commission thereafter reached a settlement whereby the applicant agreed to revise the proposed plans and the Commission agreed to consider the revised plans at a new public hearing. The Superior Court of California (Los Angeles County) then ordered that the matter be remanded to the Commission (effective January 6, 2017) so that the Commission can take a new action on the revised coastal development permit application. The Commission retains the duty to ensure that the proposed project is consistent with the Chapter 3 policies of the Coastal Act and retains full authority to approve or deny the project, or to approve the project subject to conditions to ensure its consistency with the Coastal Act.

C. DEVELOPMENT

The Venice community – including the beach, the boardwalk, the canals, and the eclectic architectural styles of the neighborhoods – is one of the most popular visitor destinations in California. According to the Venice Chamber of Commerce, 16 million people visit annually, drawn by the unique characteristics of the area including “the Pacific Ocean, Boardwalk vendors, skaters, surfers, artists, and musicians.”¹ The North Venice subarea includes Abbot Kinney Boulevard and Grand Boulevard, each developed in the early 20th century as part of Mr. Kinney’s vision for a free and diverse society. Venice was the birthplace of The Doors and The Lords of Dogtown and its unique characteristics attracted myriad artists and musicians from the Beat Generation to the poets and street performers people still travel to Venice to see. 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 visually compatible with the character of surrounding areas...

Section 30253 of the Coastal Act states in part:

New development shall...

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

The entire Venice community is a popular visitor serving destination point for recreational uses specifically because of its unique characteristics. The North Venice subarea and the Venice boardwalk subsection of that area (approximately 1,000 feet west of the subject site) are the most popular visitor destination points in Venice, and among the most popular in California. Sections 30251 and 30253 of the Coastal Act state that such scenic areas and special communities shall be protected.

When the Commission certified the Venice Land Use Plan (LUP) in 2001, it considered the potential impacts that development could have on community character and adopted residential building standards to ensure development was designed with pedestrian scale and compatibility with surrounding development. Given the specific conditions surrounding the subject site and the eclectic development pattern of Venice, it is appropriate to use the certified LUP policies as guidance in determining whether or not the project is consistent with sections 30251 and 30253 of the Coastal Act.

In this case, the certified Venice Land Use Plan echoes the priority expressed in Coastal Act for preservation of the nature and character of unique residential communities and neighborhoods.

Policy I. E. 1, General, 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.

¹ Venice Chamber of Commerce website. < <http://venicechamber.net/visitors/about-venice/>>

Policy I. E. 2. Scale, states.

New development within the Venice Coastal Zone shall respect the scale and character of the 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.

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. 1 b, Residential Development, states, in part:

In order to preserve the nature and character of existing residential neighborhoods, lot consolidations shall not be permitted in the Venice Canals and Silver Strand Residential Neighborhoods. No more than two lots may be consolidated in...North Venice. Lot consolidations may be permitted only subject to the following limitations:

- i. No building or structure shall be constructed on what were more than two contiguous lots prior to lot consolidation...*
- ii. Building facades shall be varied and articulated to provide a pedestrian scale which results in consistency with neighboring structures on small lots. Such buildings shall provide habitable space on the ground floor, a ground level entrance and landscaping and windows fronting the street...*
- iii. Front porches, bays, and balconies shall be provided to maximize architectural variety.*

The project originally proposed under Coastal Development Permit Application No. 5-13-0949 was a three-story, 30-foot high, 6,166 three story single-family home over three lots, which was inconsistent with Sections 30251 and 30253 of the Coastal Act and with the policies of the certified LUP because it was not visually compatible with the character of the surrounding area. The structure was not consistent with the scale, massing, and landscape of the existing residential neighborhood and the proposal to construct one house over three lots was inconsistent with the policies of the certified LUP.

The applicant withdrew the referenced proposed 6,166 square foot house from the original CDP application and modified the proposed project to include a three-story, 35-foot high, 4,816 square foot single-family home with an attached 367 square foot two-car garage on the subject two lots and a 1,064 square foot single family home on a third adjacent lot. That proposal was approved by the City of Los Angeles but the Commission found that the project raised a substantial issue with respect to consistency with Chapter 3 of the Coastal Act, and specifically with the policies related to scenic and visual qualities and community character referenced above.

The applicant then modified the proposed project and submitted revised plans which featured a three-story, 35-foot high, 3,913 square foot single-family home with attached 367 square foot two-car garage and a swimming pool on two adjoining lots, subject to Coastal Development Permit Application No. A-5-VEN-15-0026. An approximately 1,800 square foot home with an enclosed lower floor was proposed on third adjacent lot subject to this permit application. However, the Commission found that that cumulative project was too massive, would have appeared to function as a compound, and would have been out of character with the surrounding development.

The revised proposal is more consistent with the scale, massing, and landscaping of the existing residential neighborhood because it features a single family home wholly separated from the proposed structures to the north, with distinctive designs and architectural embellishments including a stepped back roof. The proposed three-story, approximately 2,600 square foot home is consistent with other Commission-approved projects on the subject block and elsewhere in the North Venice subarea. Other three-story structures on the subject block include a 2,798 square foot single family home at 404 Grand Boulevard and a 3,159 square foot single family home at 406 Grand Boulevard. Those homes were built to nearly the maximum size allowed by the zoning code and the certified LUP and included roofdecks and narrower front setbacks than the subject application. There is also a two story, 3,362 square foot four-unit apartment building to the west of the subject site at 414 Grand Boulevard and a three-story 2,526 square foot single family home at 434 Grand Boulevard. There are also many one and two-story structures on the opposite side of the street.

The revised proposal includes the use of different materials from the homes proposed next door by 422 Grand Blvd LLC (which is controlled by the same applicant) under the related, but separate, Coastal Development Permit Application No. A-5-VEN-15-0026. The architectural design of the home subject to this coastal development permit application and the proposed homes next door are distinct, which will ensure that they do not function as a compound or visually appear to represent a compound. Each home is designed with fencing, indoor and outdoor living area, and parking for distinct residents. The revised plans include two vehicle parking spaces accessed from the rear alley, which is consistent with certified Venice Land Use plan policies and previous Commission-approved projects in the area. The applicant's proposal step back the home from Grand Boulevard and includes low fencing and landscaping, which will be consistent with the character of the subject block.

The revised proposal features a 15-foot front yard setback and 42-inch high fences in the front yard adjacent to Grand Boulevard. The proposed fences fronting each of the proposed developments are distinct from one another in design. The revised proposal is also consistent with the existing landscape of the community because it provides drought tolerant non-invasive landscaping in the 15-foot front setback, which will be visible from the sidewalk and will provide contrast from the front façade of the home. The sidewalks in front of the home, which may be utilized by the public to access the nearby public beach, will be protected in place and no public parking spaces will be affected by the development. In order to ensure that the development preserves the pedestrian scale which contributes to the unique character of the community as outlined in the certified LUP, **Special Condition 3** requires that the front fence in the 15-foot front-yard setback area shall be constructed no higher than 42 above grade as measured from the public sidewalk adjacent to Grand Boulevard. The side and rear yard fences shall be constructed no higher than six-feet at any point as measured from natural grade.

In order to ensure that the development is carried out as shown on the revised plans, consistent with the size and scale of surrounding structures and with the pedestrian scale which contributes to the unique character of the community as outlined in the certified LUP, **Special Condition 4** requires the applicant to undertake development in accordance with the approved final plans, specifically including the architectural plans, site plan, landscaping plan, and drainage plan.

Opponents of the proposed project previously asserted that the City's public hearing procedures violated Venice residents' due process, did not comply with the California Environmental Quality Act, and did not comply with California Government Code Section 65590 (the Mello Act). They argue that the Venice LUP contains standards for implementation of the Mello Act which the City of Los Angeles ignored.

The California Legislature amended the Coastal Act to remove some specific policies related to the Commission's direct authority to protect affordable housing in the coastal zone. Section 30604 of the Coastal Act, as amended, contains the following policies:

(f) The commission shall encourage housing opportunities for persons of low and moderate income. In reviewing residential development applications for low- and moderate-income housing, as defined in paragraph (3) of subdivision (h) of Section 65589.5 of the Government Code, the issuing agency or the commission, on appeal, may not require measures that reduce residential densities below the density sought by an applicant if the density sought is within the permitted density or range of density established by local zoning plus the additional density permitted under Section 65915 of the Government Code, unless the issuing agency or the commission on appeal makes a finding, based on substantial evidence in the record, that the density sought by the applicant cannot feasibly be accommodated on the site in a manner that is in conformity with Chapter 3 (commencing with Section 30200) or the certified local coastal program.

(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.

These policies require the Commission to encourage cities and property owners to provide affordable housing opportunities, but they have not been interpreted as a basis for the Commission to mandate the provision of affordable housing through its regulatory program. In 1982, the legislature codified California Government Code Section 65590 (the Mello Act), requiring local governments to protect and increase the supply of affordable housing in the Coastal Zone.

The City of Los Angeles is responsible for implementation of the Mello Act in its segments of the Coastal Zone, including Venice. Its initial regulatory program for Mello compliance was challenged by a 1993 lawsuit brought by displaced low income tenants at 615 Ocean Front Walk, where the City approved a new development with no replacement affordable housing. That lawsuit resulted in a 2001 settlement agreement between the aggrieved parties, the Venice Town

Council et al, and the City of Los Angeles². Since 2001, the City has been regulating development through its Interim Administrative Procedures for Complying with the Mello Act.

In this case, the City of Los Angeles Housing and Community Investment Department determined that the subject site (in conjunction with the adjacent Lot 7 designated 418 Grand Boulevard) contained two affordable housing units in the pre-existing duplex, but the City of Los Angeles Planning Department determined that it was infeasible to provide replacement affordable housing on the site and approved a Mello Act Compliance review for a new home at 416 Grand Boulevard on February 9, 2015. The Planning Department also approved a Mello Act Compliance review for a new home at 418-422 Grand Boulevard (Lots 7 and 8) and a Mello Act Compliance review for a new home at 424 Grand Boulevard (Lot 9). The Mello Act Compliance Review for the home at 424 Grand Boulevard was overturned on appeal by the West Los Angeles Planning Commission following a public hearing on November 18, 2015. The City also indicates that the Mello Act Compliance Review for a proposed home at 418-422 Grand Boulevard (which the Coastal Commission subsequently denied) is no longer valid because the applicant is now proposing two separate homes on those two lots rather than one home over both lots. The applicant indicates that the Mello Act Compliance Review for a home on the subject site at 416 Grand Boulevard remains valid.

The Venice Land Use Plan was certified after the Coastal Act was amended to remove specific affordable housing policies, and after the Mello Act was passed. The City's certified LUP sets forth specific policies encouraging the preservation of existing residential units. LUP 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).

The certified Venice Land Use Plan also includes Policy I.A.11 requiring affordable housing units to be replaced at a 1:1 ratio, Policy I.A.12. giving displaced residents priority for new units, Policy I.13.A allowing for greater residential density in projects that include affordable housing units, Policy I.A.14 allowing for the provision of fewer parking spaces than required for projects that include affordable housing units, and Policy I.A.15 allowing for a payment of a fee in lieu of providing actual required replacement affordable housing units.

However, LUP Policy I.A.16 incorporates by reference the exception provisions of the Mello Act. Applying Policy I.A.16. Exceptions, for proposed demolitions of fewer than three units in one structure, or up to 10 units in multiple structures, replacement of affordable housing units is only required when the local government determines that it is feasible. In this case, the City considered the demolitions of each duplex separately and the City did not require any replacement affordable housing units because the City determined that it was not feasible to provide replacement affordable housing units, pursuant to the provision of the Mello Act.

² No. B091312. Second Dist., Div. Seven. Jul 31, 1996. Venice Town Council Inc. et al., Plaintiffs and Appellants, v. City of Los Angeles et al., Defendants and Respondents

The Commission has no jurisdiction to alter the City's Mello Act determinations. The California Government Code makes it clear that it is the responsibility of the local government to implement Section 65590. Nor can the Commission invalidate the City's California Environmental Quality Act determination. In its substantial issue analysis, the Commission found that the appellant's contentions regarding the City's Mello Act and CEQA determinations did not raise a substantial issue because the Commission does not have jurisdiction to review those contentions.

The development is located within an existing developed area and, as conditioned, will be compatible with the character and scale of the surrounding area, has been designed to assure structural integrity, and will avoid cumulative adverse impacts on public access. Therefore, the Commission finds that the development, as conditioned, conforms with Sections 30250, 30251, 30252, 30253 and the public access provisions of the Coastal Act. Additionally, the proposed development is consistent with the visual resources and community character policies of the certified Venice Land Use Plan, which may be used as guidance.

D. WATER QUALITY

Section 30231 of the Coastal Act states:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

The applicant's revised plans identify drainage devices for the home including gutters, downspouts, cisterns, perforated pipes, and percolation pits. The revised landscape plan features entirely drought-tolerant, non-invasive plant species. Water from the cisterns will be utilized to irrigate the landscaped areas through a drip or microspray system. The applicant proposes construction best management practices including filters to capture any runoff during construction. The applicant indicates that the development will comply with CalGreen standards for interior appliances and exterior drainage and landscaping. In order to ensure that water quality is preserved and water use is minimized over the life of the development, **Special Condition 1** requires the applicant to provide drought tolerant non-invasive landscaping, low water use irrigation, and maintain drainage devices in a functional state. In order to preserve water quality during construction, **Special Condition 2** requires the applicant to implement construction best management practices.

Therefore, the Commission finds that the proposed development, as conditioned, conforms with Section 30231 of the Coastal Act regarding protection of water quality to promote biological productivity.

E. LOCAL COASTAL PROGRAM

Section 30604(a) of the Coastal Act provides that the Commission shall issue a coastal development permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program (LCP) which conforms with Chapter 3 policies of the Coastal Act:

Prior to certification of the Local Coastal Program, a Coastal Development Permit shall be issued if the issuing agency, or the Commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) of this division 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 the provisions of Chapter 3 (commencing with Section 30200).

The City of Los Angeles does not have a certified Local Coastal Program for the Venice area. The City of Los Angeles Land Use Plan (LUP) for Venice was effectively certified on June 14, 2001. The Commission's standard of review for the proposed development is the Chapter 3 policies of the Coastal Act. The certified Venice LUP is advisory in nature and may provide guidance.

As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act and with the certified Land Use Plan for the area. Approval of the project, as conditioned, will not prejudice the ability of the local government to prepare an LCP that is in conformity with the provisions of Chapter 3 of the Coastal Act.

F. CALIFORNIA ENVIRONMENTAL QUALITY ACT

Section 13096 Title 14 of the California Code of Regulations requires Commission approval of a coastal development permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment. The City is the lead agency for CEQA compliance, and after preparing an Initial Study, the City adopted Mitigated Negative Declaration No. ENV-2014-1357-MND.

As conditioned to preserve community character, prevent adverse impacts to public access to the nearby beach, and enhance water quality, there are no feasible alternatives or additional feasible mitigation measures available that would substantially lessen any significant adverse effect that the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, will not have any significant impacts on the environment within the meaning of CEQA, is the least environmentally damaging feasible alternative, and is consistent with the requirements of the Coastal Act to conform to CEQA.

Appendix A – Substantive File Documents

1. City of Los Angeles Certified Land Use Plan for Venice (2001)
2. Coastal Development Permit Waiver No. 5-13-0949-W
3. City File for Local Coastal Development Permit ZA-2014-1356-CDP-1A
4. City File for Local Coastal Development Permit ZA-2014-1358-CDP-1A
5. Stipulation to Entry of Remand Order, Superior Court of California (Los Angeles County),
January 6, 2017