

**CALIFORNIA COASTAL COMMISSION**

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**W23f**

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**STAFF REPORT: APPEAL – NO SUBSTANTIAL ISSUE**

**Appeal Number:** A-5-VEN-17-0019

**Applicant:** Juliette Hohnen

**Local Government:** City of Los Angeles

**Local Decision:** Approval with Conditions

**Appellants:** Robin Rudisill, Lydia Ponce, Celia Williams, Todd Darling, David Ewing, POWER/Bill Przulucki, George Gineris, Gabriel Ruspini, Jed Pauker, and Noel Gould

**Project Location:** 628 San Juan Avenue, Venice, City of Los Angeles

**Project Description:** Appeal of City of Los Angeles Local Coastal Development Permit No. ZA 2014-4054 for the conversion of two-story, 23.5 ft. high, 1,812 sq. ft. duplex into a two-story, 23.5 ft. high, 2,416 sq. ft. single-family residence. The scope of work includes a 351 sq. ft. first floor addition, 253 sq. ft. second floor addition, and interior remodeling but no change in building height. Two vehicular parking spaces will be maintained onsite.

**Staff Recommendation:** No Substantial Issue

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

## **SUMMARY OF STAFF RECOMMENDATION**

The staff recommends that the Commission, after public hearing, determine that **no substantial issue exists** with respect to the grounds on which the appeal has been filed for the following reasons: the proposed duplex conversion into a single-family residence, interior remodel of existing building, and construction of a 604 sq. ft. addition, as approved by the City of Los Angeles, is consistent with the Chapter 3 policies of the Coastal Act, and therefore does not negatively impact coastal resources. Pursuant to Section 30625, the grounds of appeal are limited to whether or not a substantial issue exists as to conformity with Chapter 3 of the Coastal Act when there is an appeal pursuant to section 30602. The motion to carry out the staff recommendation is on **page 4**.

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### EXHIBITS

Exhibit 1 – Project Location

Exhibit 2 – Project Plans

Exhibit 3 – Commission Notification of Appeal and Appeal

Exhibit 4 – Local Coastal Development Permit No. ZA 2014-4054

Exhibit 5 – Surrounding Development

## I. MOTION AND RESOLUTION

**Motion:** *I move that the Commission determine that Appeal No. A-5-VEN-17-0019 raises **NO SUBSTANTIAL ISSUE** with respect to the grounds on which the appeal has been filed under § 30602 of the Coastal Act.*

Staff recommends a **YES** vote. Passage of this motion will result in a finding of No Substantial Issue and adoption of the following resolution and findings. If the Commission finds No Substantial Issue, the Commission will not hear the application de novo and the local action will become final and effective. The motion passes only by an affirmative vote of the majority of the Commissioners present.

**Resolution:**

*The Commission hereby finds that Appeal No. A-5-VEN-17-0019 presents **NO SUBSTANTIAL ISSUE** with respect to the grounds on which the appeal has been filed under § 30602 of the Coastal Act regarding consistency with Chapter 3 policies of the Coastal Act.*

## II. APPELLANTS' CONTENTIONS

On March 27, 2017, the Commission received a valid notice of final local action for Local Coastal Development Permit (CDP) No. ZA 2014-4054, which approves the conversion of a duplex into a single-family residence and the construction of a 604 sq. ft. addition.

On April 25, 2017, the Commission received an appeal of Local Coastal Development Permit No. ZA 2014-4054 from Robin Rudisill, Lydia Ponce, Celia Williams, et al. (**Exhibit 3**). The appellants contend that proposed project has the potential to negatively impact the community and neighborhood character of the area, and that it poses potentially adverse impacts to affordable housing ("Mello Act") (**Exhibit 3**). The appellants contend that without the proper procedures, the City-approved development could prejudice the City's ability to prepare a Local Coastal Program (LCP). No other appeals were received prior to the end of the appeal period on April 25, 2017.

## III. LOCAL GOVERNMENT ACTION

The applicant submitted to the City of Los Angeles Department of Planning a Master Land Use Permit Application dated October 29, 2014 for the conversion of a duplex into a single-family dwelling and a 362 sq. ft. addition. On December 4, 2014, the City granted the applicant a CEQA Notice of Exemption (ENV 2014-4055-CE). In May 2016, the applicant revised the application to request a 604 sq. ft. addition versus the previously requested 362 sq. ft. total. The coastal development permit (CDP) application was assigned Case No. ZA 2014-4054.

On July 7, 2016, the City of Los Angeles Office of Zoning Administration (ZA) held a public hearing before the ZA Hearing Officer for Local Coastal Development Permit No. ZA 2014-4054. The hearing was attended by the applicant's representative, the applicant, and concerned neighbors and residents of the Venice community. Public testimony from the concerned Venice residents related to the project's potential non-compliance with Mello Act regulation.

On February 16, 2017, the City of Los Angeles, Department of City Planning approved with conditions Coastal Development Permit (CDP) No. ZA 2014-4054 authorizing the conversion of a two-story, 23.5 ft. high, 1,812 sq. ft. duplex into a two-story, 23.5 ft. high 2,416 sq. ft. single-family dwelling; scope of work includes a 604 sq. ft. addition to the structure. The applicant name listed on the City's local CDP is Juliette Hohnen. The City received no appeal of its action approving the local coastal development permit.

On March 27, 2017, the Commission staff received from the City a valid notice of final local action for Local Coastal Development Permit (CDP) No. ZA 2014-4054. Subsequently, Commission staff established the twenty working-day appeal period. The appellants submitted a timely appeal within the appeal period. No other appeals were received prior to the end of the appeal period on April 25, 2017.

#### **IV. APPEAL PROCEDURES**

Section 30600(b) of the Coastal Act provides that prior to certification of its Local Coastal Program (LCP), a local jurisdiction may, with respect to development within its area of jurisdiction in the coastal zone and consistent with the provisions of Sections 30604, 30620 and 30620.5, establish procedures for the filing, processing, review, modification, approval or denial of a coastal development permit. Pursuant to this provision, the City of Los Angeles developed a permit program in 1978 to exercise its option to issue local coastal development permits. Sections 13301-13325 of Title 14 of the California Code of Regulations provide procedures for issuance and appeals of locally issued coastal development permits. Section 30602 of the Coastal Act allows *any* action by a local government on a coastal development permit application evaluated under Section 30600(b) to be appealed to the Commission. The standard of review for such an appeal is the Chapter 3 policies of the Coastal Act. [Cal. Pub. Res. Code §§ 30200 and 30604.]

After a final local action on a local coastal development permit 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 applicants, the Executive Director, or any two members of the Commission, may appeal the local decision to the Coastal Commission. [Cal. Pub. Res. Code § 30602.] As provided under section 13318 of Title 14 of the California Code of Regulations, the appellant must conform to the procedures for filing an appeal as required under section 13111 of Title 14 of the California Code of Regulations, including the specific grounds for appeal and a summary of the significant question raised by the appeal.

The action currently before the Commission is to find whether there is a “substantial issue” or “no substantial issue” raised by the appeal of the local approval of the proposed project. Sections 30621 and 30625(b)(1) of the Coastal Act require a de novo hearing of the appealed project unless the Commission determines that no substantial issue exists with respect to the grounds for appeal.

Commission staff recommends a finding of no substantial issue. If the Commission decides that the appellant's contentions raise no substantial issue as to conformity with Chapter 3 of the Coastal Act, the action of the local government becomes final. Alternatively, if the Commission finds that a substantial issue exists with respect to the conformity of the action of the local government with the Chapter 3 policies of the Coastal Act, the local coastal development permit

is voided and the Commission typically continues the public hearing to a later date in order to review the coastal development permit as a de novo matter. [Cal. Pub. Res. Code §§ 30621 and 30625.] Section 13321 of the Coastal Commission regulations specifies that de novo actions will be heard according to the procedures outlined in Sections 13114 and 13057-13096 of the Commission’s regulations.

If there is no motion from the Commission to find no substantial issue, it will be presumed that the appeal raises a substantial issue and the Commission will schedule the de novo phase of the public hearing on the merits of the application at a subsequent Commission hearing. A de novo public hearing on the merits of the application uses the Chapter 3 policies of the Coastal Act. The Venice Land Use Plan (LUP), certified on June 14, 2001, is used as guidance. Sections 13110-13120 of Title 14 of the California Code of Regulations further explain the appeal hearing process.

If the Commission decides to hear arguments and vote on the substantial issue question, those who are qualified to testify at the hearing, as provided by Section 13117 of Title 14 of the California Code of Regulation, will have three minutes per side to address whether the appeal raises a substantial issue. The only persons qualified to testify before the Commission at the substantial issue portion of the appeal process are the applicants, persons who opposed the application before the local government (or their representatives), and the local government. Testimony from other persons must be submitted in writing. The Commission will then vote on the substantial issue matter. It takes a majority of Commissioners present to find that the grounds for the appeal raise no substantial issue.

## **V. SINGLE/DUAL PERMIT JURISDICTION AREAS**

Section 30601 of the Coastal Act provides details regarding the geographic areas where applicants must also obtain a coastal development permit from the Commission in addition to obtaining a local coastal development permit from the City. These areas are considered Dual Permit Jurisdiction areas. Coastal zone areas outside of the Dual Permit Jurisdiction areas are considered Single Permit Jurisdiction areas. Pursuant to Section 30600(b) of the Coastal Act, the City of Los Angeles has been granted the authority to approve or deny coastal development permits in both jurisdictions, but all of the City’s actions are appealable to the Commission. The proposed project site is located within the Single Permit Jurisdiction Area.

## **VI. FINDINGS AND DECLARATIONS**

### **A. PROJECT DESCRIPTION**

Local Coastal Development Permit No. ZA 2014-4054 authorizes the conversion of a two-story, 23.5 ft. high, 1,812 sq. ft. duplex into a two-story, 23.5 ft. high, 2,416 sq. ft. single-family dwelling; scope of work includes a 604 sq. ft. addition to the structure (**Exhibit 2**). The Los Angeles County Tax Assessor records indicate that the existing 1,812 sq. ft. duplex at 628 San Juan Avenue was constructed in 1946. According to the City’s Department of Building and Safety (LADBS) record, minor improvements have been made to the structure including the remodeling of the interior of the second level unit in 2014, the demolition of a detached garage in 2015, and the construction of an outdoor pool in 2015 (per City of Los Angeles Building and Safety Permits and exemption coastal clearances).

According to the City’s record, the proposed project includes 351 sq. ft. of new floor area to be added to the first floor, and 253 sq. ft. of new floor area to be added to the second floor. Remodeling of the interior is proposed (e.g., removal of one kitchen and related changes to the floor plan). No change in height is proposed. At least two parking uncovered parking spaces will be provided onsite.

The project site is located in the Oakwood subarea of Venice at 628 San Juan Avenue within the City of Los Angeles Single Permit Jurisdiction Area, about 0.6 miles inland of the beach (**Exhibit 1**). The subject site is a 5,200 sq. ft. lot, which is zoned RD1.5-1 (Multiple Dwelling) and designated for Low Medium II Residential by the certified Venice Land Use Plan (LUP). The subject site is situated in a highly urbanized, residentially developed area along San Juan Avenue. The front property line fronts San Juan Avenue and rear property line adjoins the alley, San Juan Court. The subject site is surrounded by mostly one- to two-story, and a few three-story, single-family and multi-family residences.

### **B. FACTORS TO BE CONSIDERED IN SUBSTANTIAL ISSUE ANALYSIS**

Section 30625(b)(1) of the Coastal Act states that the Commission shall hear an appeal of a local government action carried out pursuant to Section 30600(b) unless it finds that no substantial issue exists as to conformity with Chapter 3 of the Coastal Act. The term “substantial issue” is not defined in the Coastal Act or its implementing regulations. Section 13115(b) of the Commission’s regulation simply indicates that the Commission will hear an appeal unless it “finds that the appeal raises no significant question.” In previous decisions on appeals, the Commission had been guided by the following factors:

1. The degree of factual and legal support for the local government’s decision that the development is consistent or inconsistent with the relevant provisions of the Coastal Act;
2. The extent and scope of the development as approved or denied by the local government;
3. The significance of the coastal resources affected by the decision;
4. The precedential value of the local government’s decision for future interpretations of its LCP; and,
5. Whether the appeal raises local issues, or those of regional or statewide significance.

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

Staff is recommending that the Commission find that no substantial issue exists with respect to whether the local government action conforms to the provisions of Chapter 3 of the Coastal Act for the reasons set forth below.

### **C. SUBSTANTIAL ISSUE ANALYSIS**

As stated in Section IV of this report, the grounds for an appeal of a Coastal Development Permit issued by the local government prior to certification of its Local Coastal Program (LCP) are the Chapter 3 policies of the Coastal Act.

The issues of this appeal relate primarily to the proposed project’s potential impacts to the community character of Venice and to affordable housing (“Mello Act”).

The Notice of Decision on Local Coastal Development Permit No. ZA 2014-4054 issued by the City of Los Angeles indicates that the City applied the policies of Chapter 3 of the Coastal Act and concluded that the development, as proposed, would be consistent with the Chapter 3 policies, particularly Section 30250, 30251, 30253(e) of the Coastal Act, and would not prejudice the ability of the City to prepare an LCP for the Venice Coastal Zone (**Exhibit 4**).

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:

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

In order for no substantial issue to be found, the proposed project must conform to the requirements of the Chapter 3 policies of the Coastal Act (Cal. Pub. Res. Code §§ 30200-30265.5). The certified Venice Land Use Plan (LUP) is not the standard of review for finding substantial issue, but it provides guidance from which the Commission can evaluate a project.

The appellants contend that the City did not provide evidence that the proposed project’s compatibility with the scale and character of the surrounding existing neighborhood was reviewed. The new development at issue, subject to this appeal of Local CDP No. ZA 2014-4054, is limited to the conversion of a two-story 1,812 sq. ft. duplex into a single-family residence, a 604 sq. ft. addition, and an interior remodel. The proposed project will result in a modest addition to the side and rear of the structure but will not result in a reduced front or rear yard setback; thereby, the proposed addition will not directly impact the streetscape. In addition, no change in height or number of stories is proposed; the building is already two-stories. In addition, the surrounding development consists of a mix of one- and two-story residential structures. **Exhibit 5** provides street view images of existing development surrounding the proposed project. Based on the existing surrounding development and the limited extent of the proposed work, the proposed project will not significantly alter the existing building and will not

adversely impact the character of the community and neighborhood with regards to mass and scale. Therefore, this contention does not raise a substantial issue.

The appellants also contend that the proposed project does not comply with the Mello Act and should be reconsidered in order to assure proper adherence the Mello Act Interim Administrative Procedures. The appellants are concerned that the City’s Housing Department failed to take into account an alleged unpermitted third rental unit that previously existed on the property; the allegation is that the garage (demolished in 2015) was formerly rented as a third unit, which could have been affordable.

According to the City’s records, on January 17, 2007, an application was submitted to City of Los Angeles Department of Building and Safety (LADBS) for an addition to an existing two-car garage and conversion of the garage into a third dwelling unit at the project site, but no building permit or coastal development permit was ever issued for this application. Therefore, if the assumption is true and the garage was converted into a third rental unit, the change in the intensity of use of the garage would have occurred without the benefit of a coastal development permit. Any improvement to a structure which changes the intensity of use of the structure in the coastal zone is not exempt under any section or provision of the Coastal Act or the Commission’s Regulations – and requires a coastal development permit (CDP). Therefore, the alleged conversion of the garage into a third rental unit would have constituted non-exempt “development” as defined in the Coastal Act, and would, consequently, be “unpermitted” development that would not be recognized as “existing” development today by the Commission.

In any case, the subject garage no longer exists. In 2012, LADBS received an application for the conversion of an existing garage into a recreation room but there was a question regarding a potential unpermitted expansion of the garage; a permit was never issued for this application. In 2014, an application was submitted for the removal of 300 sq. ft. of a 620 sq. ft. existing garage at the project site and for the conversion of the remaining portion of the structure into a recreation room with a half-bath. The permit for this application was issued in October 2014 per LADBS Permit No. 14016-10002-09246 (and a 2014 exemption coastal clearance) but was allowed to expire on October 31, 2016 and the work never commenced; a similar application was submitted on February 9, 2015 but a permit for this subsequent application was never issued and the status has remained “pending”. Moreover, a separate permit was issued on April 17, 2015 for the demolition of the subject two-car garage, which has since been demolished (per LADBS Permit No. 15019-20000-00927 and a 2015 exemption coastal clearance).

In addition, the appellants emphasize that it is the Commission’s responsibility to encourage affordable housing per the Coastal Act Sections 30604 (f), (g), and (h). Although the Coastal Act does require that the Commission encourage affordable housing pursuant to Section 30604, the Coastal Act does not provide any authority to the Commission to review the City’s Mello Act determination. Additionally, based on the City’s record, the City’s Housing Department concluded that rental information showed a pattern of housing cost that was above affordable for the two existing legal residential units in the duplex. In any case, the Commission has no authority to review and invalidate a lead agency’s Mello Act determination and thus, the appellants’ contention does not constitute a substantial issue.

Applying the five factors listed in the prior section clarifies that the appeal raises “no substantial issue” with respect to Chapter 3 of the Coastal Act, and therefore, does not meet the

substantiality standard of Section 30265(b)(1), because the nature of the proposed project and the local government action are consistent with policies of Chapter 3 of the Coastal Act.

The first factor is the degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the relevant provisions of the Coastal Act. The City's conclusion was substantially supported by sufficient evidence and findings. The City discussed consistency with the policies of Chapter 3 of the Coastal Act and concluded that the development, as proposed, would be consistent with the Chapter 3 policies, particularly Section 30250, 30251, and 30253, of the Coastal Act, and would not prejudice the ability of the City to prepare an LCP for the Venice Coastal Zone.

The second factor is the extent and scope of the development as approved or denied by the local government. The scope of the approved development is the conversion of an existing duplex into a single-family residence and a 604 sq. ft. addition with some interior remodeling, which is a relatively minor project in the inland Oakwood subarea of Venice's Coastal Zone. This type of development is consistent with the type and character of development in the surrounding area and is consistent with development promoted by Section 30222 of the Coastal Act. Therefore, the scope of the approved development supports a finding that the appeal raises "no substantial" issues.

The third factor is the significance of the coastal resources affected by the decision. The significance is minimal as there are no coastal resources affected. The location of the proposed development is over ½ of a mile from the beach in a residentially developed area in Venice. Because of its distant proximity to the beach, this area is not a primary destination for shoreline access.

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 (LUP). The proposed development is consistent with the mass, height and scale of past Commission approvals for this area of Venice, and with the policies of the certified Venice LUP. This project, as proposed and conditioned, will not prejudice the ability of the City to prepare a Local Coastal Program that is in conformity with Chapter 3 of the Coastal Act.

The final factor is whether the appeal raises local issues, or those of regional or statewide significance. Impacts to coastal resources, including community character, are important statewide issues, but this appeal raises local issues only. The City addressed the replacement of affordable housing with a Mello Act determination pursuant to Section 65590(b) of the Mello Act. While there are several local issues that the City addressed, the City's approvals do not raise issues of statewide significance.

In conclusion, the issues for this appeal relate primarily to the potential impacts to community and neighborhood character, as well as to affordable housing ("Mello Act"). The Commission has jurisdiction to review local government's actions for consistency with the policies of the Coastal Act. In this case, the proposed project is in conformity with the Chapter 3 policies of the Coastal Act. Therefore, Commission staff recommends that the Commission find that the appeal raises no substantial issue as to conformity with Chapter 3 policies.