

CALIFORNIA COASTAL COMMISSION

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**W15b**

Filed: 05/03/2018
 49th Day: 07/13/2018
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 Staff Report: 06/22/2018
 Hearing Date: 07/11/2018

STAFF REPORT: APPEAL – SUBSTANTIAL ISSUE

Appeal No.: A-5-VEN-18-0033

Applicant: Bulldog Realtors / Winston Cenac

Agents: Joel Blank & Wil Nieves

Local Government: City of Los Angeles

Local Decision: Approval with Conditions

Appellants: Robin Rudisill & Sue Kaplan

Project Location: 1209 Abbot Kinney Blvd., Venice, City of Los Angeles, Los Angeles County (APN: 4239-022-011)

Project Description: Appeal of City of Los Angeles Local Coastal Development Permit No. DIR-2016-2330 for a change of use and addition to a one-story, 1,107 sq.-ft. single-family residence to a three-story, 35-ft. high, 4,111 sq.-ft. mixed-use artist-in-residence with office space on the ground floor, two on-site parking spaces, and two on-site bicycle parking stalls.

Staff Recommendation: Substantial Issue

IMPORTANT NOTE: The Commission will not take testimony on this “substantial issue” recommendation unless at least three commissioners request it. The Commission may ask questions of the applicant, any aggrieved person, the Attorney General or the executive director prior to determining whether or not to take testimony regarding whether the appeal raises a substantial issue. If the Commission takes testimony regarding whether the appeal raises a substantial issue, testimony is generally and at the discretion of the Chair limited to 3 minutes total per side. Only the applicant, persons who opposed the application before the local government (or their representatives), and the local government shall be qualified to testify during this phase of the hearing. Others may submit comments in writing. If the Commission finds that the appeal raises 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 determine that a **substantial issue exists** with respect to the grounds on which Appeal A-5-VEN-18-0033 has been filed because the locally approved development is not consistent with the public access provisions of Chapter 3 of the Coastal Act or the land use designation and parking standards set forth in the certified Venice Land Use Plan (LUP). The City approved a change in use of an existing structure from Residential to an Artist-in-Residence along with an interior remodel and addition. The certified LUP stipulates that Artist-in-Residence uses cannot include sales; it also requires two on-site parking spaces for structures designated as Artist-in-Residence. The applicant has indicated that part of the structure would be used to support an existing real estate business. Real estate businesses are typically associated with the sale of real estate. As such, the City should have designated the proposed development as a mixed-use Residential/Commercial structure not Artist-in-Residence. If the City had used the correct designation, the proposed development would require significantly more on-site parking spaces than the two on-site spaces proposed by the applicant and approved by the City. The project is located within the Beach Impact Zone designated by the certified LUP.

For the reason described above, the appeal raises a substantial issue as to conformity with the Chapter 3 policies of the Coastal Act.

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APPENDICES

Appendix A - Substantive File Documents

EXHIBITS

- Exhibit 1 – Project Location
- Exhibit 2 – Local CDP No. DIR 2016-2330
- Exhibit 3 – City-Approved Plans
- Exhibit 4 – Appeal
- Exhibit 5 – Applicant’s Response to Appeal

I. MOTION AND RESOLUTION – SUBSTANTIAL ISSUE

MOTION: *I move that the Commission determine that Appeal No. A-5-VEN-18-0033 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 **NO** vote. Failure of this motion will result in a de novo hearing on the application, and adoption of the following resolution and findings. Passage of this motion will result in a finding of No Substantial Issue and the local action will become final and effective. The motion passes only by an affirmative vote of the majority of the appointed Commissioners present.

RESOLUTION:

*The Commission hereby finds that Appeal No. A-5-VEN-18-0033 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 Chapter 3 policies of the Coastal Act.*

II. LOCAL GOVERNMENT ACTION

On July 1, 2016, the City of Los Angeles, Department of City Planning accepted local coastal development permit (CDP) application DIR-2016-2330 from Winston Cenac of Bulldog Realtors. The applicant requested a change of use of a one-story, 1,107 sq.-ft. residence to an artist-in-residence with a 366 sq.-ft. addition on the ground floor, a new second and third story, resulting in a three-story, 4,111 sq.-ft. artist-in-residence with two on-site parking spaces. On September 18, 2017, the City Planning Commission held a public hearing for the proposed project. On January 4, 2018, the City of Los Angeles Director of City Planning issued a determination letter approving the local CDP ([Exhibit 2](#)). On January 19, 2018, Robin Rudisill and Sue Kaplan filed a local appeal to the West Los Angeles Area Planning Commission (WLAAPC) in opposition of the local CDP. The local appeal was denied by the WLAAPC on March 21, 2018 and the local CDP received final approval from the WLAAPC on April 3, 2018 ([Exhibit 2](#)).

The City's Notice of Final Local Action for the Local CDP was received in the Coastal Commission's Long Beach Office on April 5, 2018, and the Coastal Commission's required twenty working-day appeal period was established. On May 3, 2018 one appeal of the local CDP was received by the Commission's South Coast District Office ([Exhibit 4](#)). The appellants are Robin Rudisill and Sue Kaplan. No other appeals were received prior to the end of the appeal period on May 3, 2018.

III. APPELLANTS' CONTENTIONS

The appeal can be read in full in [Exhibit 4](#) of this staff report. The appellants' contentions are as follows. The City's actions are not consistent with Section 30006 of the Coastal Act because the City did not provide the appellants with a copy of the City-approved plans associated with the subject project. The City-approved project is not consistent with Policy II.A.3 of the certified LUP because, while the City designated the change in use of the residential structure to artist-in-residence, the intended use is actually a real estate office with retail space, which would require substantially more on-site parking than the two spaces the City required for the artist-in-residence.

The project is not consistent with Policies I.E., I.F.1, and I.F.2 of the certified LUP because the City failed to recognize the historic significance of the existing structure thereby ignoring the historical and cultural resources that may be affected by the proposed project as well as the proposed project's impact on community character in the area. The City-approved project is not consistent with Sections 30251 or 30253 of the Coastal Act because, at three stories with a zero-ft. side yard setback on the upper floors, it is not visually compatible with the character of the surrounding area and does not protect Venice as a special community. The project is not consistent with the City's Zoning Code with regard to side yard setbacks because the City approved zero-ft. setbacks for the side yards of the proposed second and third stories for unqualified reasons. The project will prejudice the City's ability to prepare a certified LCP because it is not consistent with the policies of the certified LUP or the Coastal Act, and the project is not consistent with the Mello Act because the City did not make all the necessary findings that the project is consistent with the Mello Act.

IV. APPEAL PROCEDURES

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

After a final local action on a local CDP application, the Coastal Commission must be noticed within five days of the decision. After receipt of such a notice, which contains all the required information, a twenty working-day appeal period begins during which any person, including the applicant, the Executive Director, or any two members of the Commission, may appeal the local decision to the Coastal Commission. [Cal. Pub. Res. Code § 30602.] As provided under section 13318 of Title 14 of the California Code of Regulations, the appellant must conform to the procedures for filing an appeal as required under section 13111 of Title 14 of the California Code of Regulations, including the specific grounds for appeal and a summary of the significant question raised by the appeal.

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

Commission staff recommends a finding of **substantial issue**. If the Commission decides that the appellants' contentions raise no substantial issue as to conformity with Chapter 3 of the Coastal Act, the action of the local government becomes final. Alternatively, if the Commission finds that a substantial issue exists with respect to the conformity of the action of the local government with the Chapter 3 policies of the Coastal Act, the local CDP is voided and the Commission typically

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

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

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

V. SINGLE PERMIT JURISDICTION AREA

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

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

The proposed development is located approximately one-half mile inland of the beach within the area of the City of Los Angeles that has been designated in the City’s permit program as the “Single Permit Jurisdiction” area pursuant to Section 13307 of Title 14 of the California Code of Regulations and Section 30601 of the Coastal Act. The applicant received a local CDP (DIR 2016-2330) from the City of Los Angeles on April 3, 2018. The local CDP has been appealed to the Commission. This is the substantial hearing for the appeal.

VI. FINDINGS AND DECLARATIONS

A. PROJECT DESCRIPTION AND LOCATION

The City approved a change of use and addition to a one-story, 1,107 sq.-ft. single-family residence to a three-story, 35-ft. high, 4,111 sq.-ft. artist-in-residence with office space on the ground floor, two on-site parking spaces, and two on-site bicycle parking stalls ([Exhibit 3](#)). The City's approval also includes a Zoning Administrator's Adjustment for zero-ft. side-yard setbacks instead of the normally required five ft. and a rear yard setback of five ft. instead of the normally required 15 ft. ([Exhibit 2](#)).

The project site is located approximately one-half of a mile inland of the beach in the North Venice subarea of Venice ([Exhibit 1](#)). The subject lot is approximately 3,417 sq.-ft. in area and is designated Artcraft by the certified Venice LUP and C2-1 (Commercial Artcraft) by the City of Los Angeles Zoning Code. The project is located within the Beach Impact Zone designated by the certified LUP.

B. FACTORS TO BE CONSIDERED IN SUBSTANTIAL ISSUE ANALYSIS

Section 30625(b)(2) of the Coastal Act requires a de novo hearing of the appealed project unless the Commission determines that no substantial issue exists with respect to the grounds on which the appeal has been filed pursuant to Section 30603(a) 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 regulations 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 has considered 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 a substantial issue exists with respect to the grounds on which an appeal has been filed pursuant to Section 30602 of the Coastal Act.

C. SUBSTANTIAL ISSUE ANALYSIS

The City of Los Angeles does not have a certified LCP for any of its segments that fall within the coastal zone. However, the Venice segment of the City of Los Angeles does have a certified LUP. The standard of review for the appeal is the Coastal Act, but the LUP may be used as guidance.

As stated in Section IV of this report, the grounds for an appeal of a CDP issued by the local government prior to certification of its LCP are the project's conformity with Chapter 3 policies of the Coastal Act. Any local government CDP issued or denied prior to certification of its LCP may be appealed to the Commission. The Commission shall hear an appeal unless it determines that no substantial issue exists as to conformity with Chapter 3 policies of the Coastal Act. The appellants' contentions are summarized in Section III of this staff report.

The Commission's standard of review for determining whether to hear the appeal is only whether the appeal raises a substantial issue as to 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 (B. Factors to be Considered in Substantial Issue Analysis).

This appeal raises a substantial issue as to conformity with Chapter 3 of the Coastal Act (Cal. Pub. Res. Code §§ 30200-30265.5).¹ The Notice of Decision for Local CDP No. DIR 2016-2330 and accompanying Final Staff Report issued by the City of Los Angeles state that the City applied the policies of Chapter 3 of the Coastal Act and concluded, in part, that the development, as proposed and conditioned by the City, would be consistent with Chapter 3 of the Coastal Act and will not prejudice the ability of the City to prepare an LCP for the Venice Coastal Zone ([Exhibit 2](#)).

Section 30006 of the Coastal Act states:

The Legislature further finds and declares that the public has a right to fully participate in decisions affecting coastal planning, conservation and development; that achievement of sound coastal conservation and development is dependent upon public understanding and support; and that the continuing planning and implementation of programs for coastal conservation and development should include the widest opportunity for public participation.

Section 30213 of the Coastal Act states:

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

The commission shall not: (1) require that overnight room rentals be fixed at an amount certain for any privately owned and operated hotel, motel, or other similar visitor-serving facility located on either public or private lands; or (2) establish or approve any method for the identification of low or moderate income persons for the purpose of determining eligibility for overnight room rentals in any such facilities.

Section 30251 of the Coastal Act states:

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,

¹ Unless otherwise indicated, all subsequent statutory references are to sections within the Coastal Act. Cal. Pub. Res. Code §§ 30000 *et seq.*

where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

Section 30252 of the Coastal Act states:

The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing nonautomobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.

Section 30253 of the Coastal Act states:

New development shall do all of the following:

- (a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.*
- (b) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.*
- (c) Be consistent with requirements imposed by an air pollution control district or the State Air Resources Board as to each particular development.*
- (d) Minimize energy consumption and vehicle miles traveled.*
- (e) Where appropriate, protect special communities and neighborhoods that, because of their unique characteristics, are popular visitor destination points for recreational uses.*

Certified Venice LUP Policy I.B.3, states:

Commercial Aircraft Land Use Designation. *The purpose of this land use designation is to create enclaves in which the artisan segments of the population may live, create, and market their work, to maintain the variety and distinctiveness of Venice's lifestyles. Residential density in the Commercial Aircraft designation shall not exceed one unit per 800 – 1200 square feet of lot area.*

Land designated Commercial Aircraft in the Venice Coastal Zone shall include the following areas:

North Venice: *As indicated on the Land Use Policy Maps (exhibits 10a – 10b), properties located along Abbot Kinney Boulevard from North Venice Boulevard to Westminster Avenue, along Windward Avenue from Ocean Front Walk to Pacific Avenue, and along Ocean Front Walk in that vicinity, including a small site at North Venice Boulevard and Pacific Avenue.*

Uses: Artcraft activities including mixed-uses, combining residential and commercial uses which emphasize artist-in-residence uses, small businesses, light industrial and artisan activities are permitted in these areas. Drive-thru facilities and billboards shall be prohibited in the Commercial Artcraft land use designation.

Certified Venice LUP Policy I.B.9, states:

Artcraft Overlay District Uses. *Uses currently permitted by code in citywide designated artcraft overlay districts shall be evaluated for their appropriateness in the Venice Coastal Zone. In order to protect residents from the adverse effects of potentially detrimental uses (i.e., those that require use of toxic substances or create excessive noise), such uses shall either be eliminated or restricted in the Venice Coastal Zone.*

Certified Venice LUP Policy I.C.4, states:

Accessory Retail Use. *On-site retail sale of goods produced industrially designated lands and in areas recommended for artcraft shall be encouraged. Adequate off-street parking shall be required for all uses consistent with Policies II.A.3 and 4.*

Certified Venice LUP Policy I.E.1, states:

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

Certified Venice LUP Policy I.E.2, states:

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

Certified Venice LUP Policy I.E.5, states:

Nonconforming Structures. *Where extensive renovation of and/or major addition to a structure is proposed and the affected structure is nonconforming or there is another nonconforming structure on the site, or a project is proposed that would greatly extend the life of a nonconforming structure or that eliminates the need for the nonconformity, the following shall apply:*

Unless the City finds that it is not feasible to do so, the project must result in bringing the nonconforming structure into compliance with the current standards of the certified LCP, unless in its nonconformity it achieves a goal associated with community character (i.e. the reuse and renovation of a historic structure) or affordable housing that could not be achieved if the structure conforms to the current standards of the certified LCP.

Certified Venice LUP Policy I.F.1, states:

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

The following buildings, streets, and trees have been identified through the coordinated efforts of surveys performed by the Venice Historical Society, Venice Community, State Conservancy and City of Los Angeles as significant architectural, historical and cultural landmarks in the Venice Coastal Zone.

*Venice City Hall
Lighthouse Street Bridge
Eastwind Community Gardens
Crown Arms (Catamaran St.)
Bay Cities Laundry
Sidewalk Café (1915)
Waldorf Hotel (1913)
St. Charles Hotel (1905) – (St. Marks Annex).
Abbot Kinney Boulevard between Venice Boulevard and Brooks Avenue
Old Venice Jail
Breakwater (1905)
Brick Street – 18th Street
64 – 72 Market Street (1913 – 14)
Canals Bridges
Old Venice Library
The Windward area, including the Windward Colonnades, Windward Apartments (1906), 52 Windward Avenue and 80 Windward Avenue (constructed in 1905 and housed the First National Bank).
Walk streets (as shown in the LUP on Exhibit 19, Pedestrian Access and Bicycle Trails).*

Certified Venice LUP Policy I.F.2, states:

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

- a. Renovating building facades to reflect their historic character as closely as possible, and discouraging alterations to create an appearance inconsistent with the actual character of the buildings.*

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

Certified Venice LUP Policy II.A.3, states:

Parking Requirements. *The parking requirements outlined in the following table shall apply to all new development, any addition and/or change of use. The public beach parking lots and the Venice Boulevard median parking lots shall not be used to satisfy the parking requirements of this policy. Extensive remodeling of an existing use or change of use which does not conform to the parking requirements listed in the table shall be required to provide the missing numbers of parking spaces or provide an in-lieu fee payment into the Venice Coastal Parking Impact Trust Fund for the existing deficiency. The Venice Coastal Parking Impact Trust Fund will be utilized for improvement and development of public parking facilities that improve public access to the Venice Coastal Zone.*

PARKING REQUIREMENT TABLE (relevant requirements)	
USE	OFF-STREET PARKING REQUIRED
Artist in residence (no sales)	2 spaces for each dwelling unit.
Single family dwelling on lots of 40 feet or more in width, or 35 feet or more in width if adjacent to an alley	3 spaces
General Office and other Business, Technical Services, Administrative or Professional Offices	1 space for each 250 square feet of floor area

Certified Venice LUP Policy II.A.4, states:

Parking Requirements in the Beach Impact Zone. *Any new and/or any addition to commercial, industrial, and multiple-family residential development projects within the Beach Impact Zone shall provide additional (in addition to parking required by Policy II.A.3) parking spaces for public use or pay in-lieu fees into the Venice Coastal Parking Impact Trust Fund.*

Beach Impact Zone (BIZ) Parking Impact Trust Fund criteria:

- a. Commercial and industrial projects in the BIZ shall provide one additional parking spaces for each 640 square feet of floor area of the ground floor. Up to 50% of the total number of these additional parking spaces required in this section may be paid for in lieu of providing spaces.*

b. Multiple family residential projects in the BIZ shall provide and additional parking space for each 1,000 square feet of floor area of the ground floor for multiple dwelling projects of three units or more. Up to 100% of the total number of these additional parking spaces required in this section may be paid for in lieu of providing spaces. The recommended rates shall be established based upon the development cost study of the area.

c. All in-lieu fees shall be paid into the Venice Coastal Impact Trust Fund to be administered by the City of Los Angeles Department of Transportation for improvement and development of public parking facilities that support public access to the Venice Coastal Zone.

d. In no event shall the number of BIZ parking spaces (over and above those spaces required by the parking requirements set forth in Policy II.A.3) required for projects of three or more dwelling units, or commercial or industrial projects, be less than one (1) parking spaces for residential projects and two (2) parking spaces for commercial and industrial project.

Implementation Strategies

The in lieu fee for a BIZ parking space shall be established in the (LIP) at a rate proportional to the cost of providing a physical parking space.

The appellants contend that they were denied full public participation in the decision affecting the local CDP under Section 30006 of the Coastal Act, because the City's determination letter regarding the local CDP did not include a copy of the project plans. While Section 30006 of the Coastal Act requires maximum public participation throughout the CDP process, it does not stipulate what constitutes maximum public participation. On November 27, 1978, the City of Los Angeles, through Ordinance 151,603, October 11, 1978, assumed permitting authority of CDPs, with conditions, for the parts of the coastal zone that fall within the City of Los Angeles. The certified noticing requirements do not require that project plans be included as part of public noticing, but state that the "notice shall contain specific information as to the nature of the proposed development and be in a form as prescribed for that purpose." Additionally, the Commission's regulations regarding noticing requirements state that noticing for a CDP application shall contain: the permit application number; a description of the proposed development; the date, time, and location at which the application will be heard by the Commission; the general procedures of Commission hearings; direction to persons wishing to participate in the public hearing; and a statement regarding distribution of the staff report. There is no requirement in either the City's certified ordinance or the Commission's regulation that mandates that project plans be included in public noticing for CDP applications. Thus, although project plans are typically available to members of the public upon request and also posted on local government and Commission websites for public review, they are not legally required as part of the notice for proposed development. As such, the appellants' contentions that they were denied full public participation because they did not receive a copy of the project plans do not raise a substantial issue regarding consistency with Chapter 3 policies of the Coastal Act.

The appellants claim that the City-approved project is not consistent with Policy II.A.3 of the certified LUP because, while the City designated the change in use of the residential structure to

artist-in-residence, the intended use is actually a real estate office with retail space, which would require substantially more on-site parking than the two spaces required by the City for the artist-in-residence. The applicant changed the project description throughout the local CDP process. The applicant had originally proposed office and retail uses on the site in addition to the residential use. The project description, as approved by the City indicates the use of the site would be an artist-in-residence. The applicant's representative has expressed to Commission staff that the applicant intends to operate a real estate business from the subject site as well as other office sites in the area ([Exhibit 5](#)).

The City-approved project plans include a lobby, office space, and work space presumably to support the operation of the applicant's real estate business ([Exhibit 3](#)). Real estate businesses are typically associated with the sale of real estate. Policy II.A.3 of the certified Venice LUP is explicit that an artist-in-residence use cannot include sales. As such, the proposed development would be more appropriately designated as a mixed-use commercial residential structure, rather than an artist-in-residence, and the City should have required adequate on-site parking to support the proposed commercial/business use. The project is located within the Beach Impact Zone designated by the certified LUP. For the applicant's proposed use, the certified LUP requires two additional on-site parking spaces to meet the Beach Impact Zone standards and also requires one on-site parking space for each 250 sq.-ft. of office space. Because the City did not explicitly identify area(s) to be used as office space to support the real estate business, a calculation of how many parking spaces would be required per the LUP cannot be computed. In any case, the City-required two on-site parking spaces are not adequate to meet the demands of a commercial use and an artist-in-residence use on the same site. The parking demand of the multiple uses is more than two parking spaces. The lack of adequate parking to meet the demands of the proposed use raises a substantial issue in regards to the public access policies of the Coastal Act because customers of the business will compete with the general public for use of the limited amount of public parking that supports access to the coast.

The appellants assert that the project is not consistent with Policies I.E., I.F.1, and I.F.2 of the certified LUP because the City failed to recognize the historic significance of the existing structure thereby ignoring the historical and cultural resources that may be affected by the proposed project as well as the proposed project's impact to community character in the area. The City found that *"the subject site and existing structure have not been identified as a historic resource or within a historic district (Survey LA, 2015), the project is not listed on the National or California Register of Historic Places, or identified as a Historic Cultural Monument (HCM)."* The City determined that the proposed project is categorically exempt from CEQA, thereby acknowledging that there are no historic resources on the site. However, the applicant has proposed to maintain the majority of the existing structure with interior modifications to incorporate the interior remodel and exterior modifications necessary to accommodate the rear residential addition, thereby maintaining most of the existing structure whether it's considered "historic" or not. Additionally, the street-facing portion of the structure is proposed to remain essentially the same as it currently looks, which would, for the most part, maintain the streetscape character of the existing site. As such, the appellants' contentions regarding the project's consistency with Policies I.E., I.F.1, and I.F.2 of the certified LUP do not raise any substantial issues.

The appellants assert that the City-approved project is not consistent with Sections 30251 or 30253 of the Coastal Act because it is not visually compatible with the character of the surrounding area and does not protect Venice as a special community. The applicant's proposal includes maintaining

most of the existing structure, including the street-facing, craftsman style portion, and adding a new three-story residential portion to the rear of the building with minimal side and rear yard setbacks. In this case, reduced side and rear yard setbacks do not disrupt any coastal resources and would not be easily visible by pedestrians, bicyclists, or motorists passing by the site. Additionally, three-story structures of varying and clashing architectural style are not uncommon in this area of Venice. However, an analysis of how the proposed structure compares to other structures in the area has not been provided to staff. As such, at this time, staff is not prepared to make a recommendation regarding the appellants' contentions that the project is not consistent with Sections 30251 and 30253 of the Coastal Act.

The appellants claim that the project is not consistent with the City's Zoning Code with regard to rear and side yard setbacks because the City approved zero-ft. setbacks for the side yards of the proposed second and third stories and a five-ft. setback for the rear portion of the proposed addition for unqualified reasons. The City's Zoning Code is not a certified document and the Commission does not have a specific mechanism for challenging the City's determination for approving adjustments regarding their own Zoning Code when there are no coastal resources identified that would be impacted by such adjustments. In this case, the appellants did not identify any coastal resources that would be negatively impacted by the rear and side yard setback adjustments approved by the City and the City's Zoning Administrator's Adjustments to the rear and side yard setbacks do not raise any Coastal Act issues in this case.

The appellants assert that the project will prejudice the City's ability to prepare a certified LCP because it is not consistent with the policies of the certified LUP or the Coastal Act. With regard to the parking requirements of the certified LUP, as described above, designating the proposed project as an Artist-in-Residence instead of a Residential/Commercial mixed use structure is not an appropriate designation in this case. As such, the proposed development could prejudice the City's ability to prepare a certified LCP with regard to land use designations and parking requirements. This assertion does raise a substantial issue.

Finally, the appellants claim that the project is not consistent with the Mello Act because the City did not make all the necessary findings that the project is consistent with the Mello Act. The City is the lead agency for determining a project's consistency with the Mello Act. The City determined that the project is consistent with the Mello Act stating that "[a] Mello Act Determination issued by the Los Angeles Housing and Community Investment Department (HCIDLA) dated April 10, 2017 states that no affordable units exist onsite...[t]herefore, no Affordable Existing Residential Units are proposed for demolition or conversion and the applicant is not required to provide any Affordable Replacement Units." In any case, the Mello Act is not the appropriate standard of review for the Commission when reviewing an appeal of a CDP issued by the City of Los Angeles. The Commission may only consider whether the appeal raises a substantial issue of conformity with the Chapter 3 policies of the Coastal Act. Thus, the appellants' contentions concerning the City's Mello Act determination does not raise a substantial issue.

The substantial issues with respect to the grounds for this appeal raised by the appellants relate to the proposed project's potential adverse impact on public access to the coast and the City's ability to prepare a certified LCP. The public access contentions relate to the lack of parking provided in relation to the increase in parking demand that would result from the change of use from Residential to Residential with a Commercial use. The residence itself has a parking demand of two spaces.

Any additional commercial use would increase the parking demand above the required supply of two spaces. Additionally, such an approval would prejudice the City's ability to prepare an LCP because it is inconsistent with the certified LUP and the Chapter 3 policies of the Coastal Act. The appellants raised other contentions, which are not relevant to the Chapter 3 policies of the Coastal Act, described above.

The City approved a change-in-use of the site from Residential to Artist-in-Residence under the certified LUP. The City equated the Artist-in-Residence designation to the Live/Work Unit and Joint living and work quarters in the City's Municipal Code. While the uses of the site are not inconsistent with each other, per se, the parking requirements that the City imposed on the proposed project are for the Artist-in-Residence designation under the certified LUP only. The City-approved project plans show a lobby, office, and work area. The agent for the applicant has indicated that the applicant intends to use the designated workspace within the proposed structure to operate a real estate business ([Exhibit 5](#)). Additionally, page 6 of the City's staff report ([Exhibit 2](#)) states that *"the building is currently used as a realty office,"* and page 14 of the City's staff report states *"the proposed project would maintain one artist-in-residence dwelling unit with an office/retail component on the ground floor and residential uses on the second and third floor."*

Real estate businesses are typically associated with the sale of real estate. Policy II.A.3 of the certified LUP prohibits any sales with the land use designation of Artist-in-Residence. As such, the City should have designated the change in use from Residence to mixed use Residential with Commercial/Office/Retail use and calculated the parking requirement accordingly instead of using the parking requirement for an Artist-in-Residence, which only requires two on-site parking spaces. The issue of whether the proposed development can provide adequate parking for its intended uses, for the life of the proposed use, without negatively impacting the public beach access parking supply, is an important and substantial issue. Section 30252 of the Coastal Act requires that new development provide adequate parking facilities to maintain and enhance public access to the coast. Section 30213 of the Coastal Act requires that lower cost visitor and recreational facilities shall be protected.

Public access is an important issue and as such, the Commission has carefully reviewed projects like the proposed development that are located near popular coastal recreational areas. The City's approval of this project and other similar projects, have collectively exacerbated the parking problems for which Venice is famous. The ongoing competition for limited parking resources has resulted in the City's request for resident-only parking permits (overnight parking districts) and the County's recent request to raise parking rates in the beach parking lots to as much as \$20 per day in the Venice Beach parking lots (CDP application 5-18-0007). The City has failed to require provisions of adequate parking, thus creating additional pressure on the existing parking supply, which adversely impacts the public's ability to access the coast.

Careful review of the proposed project will allow the Commission to ensure that public access to the coast is protected. If it finds that a substantial issue exists, the Commission will have the opportunity to review and act on the proposed project at the subsequent de novo hearing. Therefore, the Commission finds that a substantial issue exists with respect the proposed project's conformance with Chapter 3 of the Coastal Act, and with the approval of Local Coastal Development Permit No. DIR 2016-2330-CDP-MEL-SPP.

Applying the five factors listed in the prior section clarifies that the appeal raises “a substantial issue” with respect to Chapter 3 of the Coastal Act, and therefore, does meet the substantiality standard of Section 30265(b)(1), because the nature of the proposed project and the local government action are not 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 current structure is designated as a Residential use. The City approved a change in use to an Artist-in-Residence. However, the City’s staff report acknowledges that the ground floor of the proposed structure would be used for office/retail purposes. Additionally, the applicant has an expressed intention of using the site to support a real estate business, which typically includes the sale of real estate. Policy II.A.3 of the certified LUP prohibits any sales with the Artist-in-Residence land use designation. Therefore, the Coastal Commission finds that the City provided an inadequate degree of factual and legal support for its decision to designate the change in use of the site from Residential to Artist-in-Residence.

The second factor is the extent and scope of the development as approved or denied by the local government. The City approved a change in use of a single-family residence from Residential to Artist-in-Residence, as well as an interior remodel and addition. The City failed to address the intended business/commercial use of the proposed structure, which includes a real estate business and, as such, is not appropriately designated an Artist-in-Residence and instead should be designated Residential/Commercial mixed use. If designated Residential/Commercial mixed use, the project would require more on-site parking than the two spaces currently required for an Artist-in-Residence. Depending on the appropriate designation of the proposed/intended use of the structure, and the floor area of such a designation, substantially more on-site parking to support the proposed use could be required. Therefore, the scope of the development as approved by the City is not consistent with the land use designation policies of the certified LUP and thus, it is not consistent with public access policies of Chapter 3 of the Coastal Act.

The third factor is the significance of the coastal resources affected by the decision. Public parking is explicitly called out in Section 30212.5 of Chapter 3 of the Coastal Act and in the Shoreline Access section of the certified Venice LUP. Many people who visit the coast, and especially Venice Beach, travel long distances and it is not always practical for them to walk, ride bikes, or take public transit. It is because of this reason that protecting the public parking supply to the coast is of significant importance. The project is located within the Beach Impact Zone designated by the certified LUP, and it is a highly visited area with a very limited parking supply. The proposed project, and others like it, has the potential to negatively and cumulatively impact the public beach parking supply by not providing adequate parking for the proposed development. Therefore, the proposed development could significantly and adversely affect coastal resources.

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. The proposed development is not consistent with the land use designation of the certified LUP and thus the parking requirement. The certified Venice LUP sets forth very specific parking requirements and incorrectly designating the permitted use as Artist-in-Residence instead of the intended mixed Residential/Commercial use, yields a much smaller parking requirement than if the site were appropriately designated. The proposed project is providing two on-site parking spaces for an

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Artist-in- Residence, which would not be adequate to support the intended real estate office use of the site. As such, this project, as proposed and conditioned by the City, may prejudice the ability of the City to prepare an LCP 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. This appeal raises specific local issues, but without a proper action plan to mitigate public parking impacts to the coast, it may set a statewide precedent. Venice Beach is one of the most popular visitor destinations in the state, making public access to Venice Beach a statewide issue. Therefore, the City’s approval does raise issues of statewide significance.

In conclusion, the primary issue for the appeal is the potential adverse impacts to public parking that supports coastal access. In this case, the proposed project does not comply with the land use designation and thus, the parking regulations of the certified LUP or the Chapter 3 policies of the Coastal Act. Therefore, Commission staff recommends that the Commission find that the appeal raises a substantial issue as to conformity with the Chapter 3 policies of the Coastal Act.

Appendix A

1. Certified Venice Land Use Plan, November 14, 2000
2. City of Los Angeles Ordinance 151,603, October 11, 1978