

CALIFORNIA COASTAL COMMISSION

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**W20b**

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STAFF REPORT: APPEAL – SUBSTANTIAL ISSUE

Appeal Number: A-5-VEN-19-0006

Applicant: Dan Jurenka

Agent: Henry Ramirez

Local Government: City of Los Angeles

Local Decision: Approval with Conditions

Appellant: Robert Aronson

Project Location: 10 E Anchorage Street, Venice, City of Los Angeles, Los Angeles County

Project Description: Appeal of City of Los Angeles Local Coastal Development Permit No. DIR-2017-5433-CDP-SPP-MEL-1A granted for approval of after-the-fact conversion of two existing guest rooms in a three-unit apartment building to legal dwelling units resulting in a 5-unit apartment building with 7 on-site parking spaces on a 3,082 square foot lot.

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 hearing will occur at a future Commission meeting, during which time the Commission will take public testimony.

SUMMARY OF STAFF RECOMMENDATION

The staff recommends that the Commission determine that a **substantial issue** exists with respect to the project's conformity with Chapter 3 of the Coastal Act and the grounds on which the appeal has been filed because the project, as approved by the City of Los Angeles, may adversely impact public access to Venice Beach. In addition, while not the standard of review, the project is also not consistent with the policies and standards set forth in the City's certified Venice Land Use Plan (LUP) regarding parking, density, and density bonuses.

On December 19, 2018, the City approved Local Coastal Development Permit (CDP) Application No. 107-17 with conditions for approval of after-the-fact conversion of two existing guest rooms in a three-unit apartment building to legal dwelling units resulting in a five-unit apartment building with seven on-site parking spaces on an approximately 3,082 square foot lot. The appellant contends that the legalization of two additional dwelling units is inconsistent with the density and parking policies of the certified LUP, which prejudices the ability of the City of Los Angeles to prepare a Local Coastal Program (LCP) and would adversely impact the limited existing parking stock. Additionally, the appellant also suggests that the City could only justify allowing these nonconformities if both new units were made "affordable", as defined in the certified LUP, and that the City's action, which made one of the new units a "Restricted Affordable Unit", was not well-defined or conditioned.

The subject site is located within 300 feet of Venice Beach and one block from the Venice Beach public parking lot that serves visitors to the adjacent beach, Venice Fishing Pier, bike and pedestrian paths, and commercial area on Washington Boulevard. The subject site is located in a residential neighborhood zoned R3-1, Multiple Dwelling Zone, in the Marina Peninsula subarea of Venice's Coastal Zone according to the Los Angeles Municipal Code and designated Low Medium Residential II by the certified Venice LUP.

The City-approved project does not conform with the policies of the certified Venice LUP because sufficient parking is not provided. However, the City made findings that the project, as approved with one "Restricted Affordable Unit", is allowed incentives consistent with Government Code section 65915 (the State density bonus law), including exceptions from development standards for projects that provide long-term affordable housing. In addition, the City made findings related to its Unpermitted Dwelling Unit (UDU) ordinance, not certified by the Commission, which allows for the legalization of unpermitted dwelling units in conformance with the State density bonus law. Neither of these laws are the standard of review for the subject appeal. The Commission's standard of review is only whether the appeal raises a substantial issue as to conformity with Chapter 3 of the Coastal Act, where the certified LUP may provide guidance.

The appellant's concern relating to the impact of the project's proposed reduction in parking standards in a parking impacted area does raise a question with regard to the project's consistency with the public access policies of Chapter 3 of the Coastal Act. Therefore, staff recommends that the Commission determine that a **substantial issue** exists for the reasons summarized above, and described in greater detail in the body of this report.

TABLE OF CONTENTS

I. MOTION AND RESOLUTION – SUBSTANTIAL ISSUE.....	4
II. APPELLANTS’ CONTENTIONS.....	4
III. LOCAL GOVERNMENT ACTIONS.....	4
IV. APPEAL PROCEDURES.....	5
V. DUAL/SINGLE PERMIT JURISDICTION AREA.....	6
VI. FINDINGS AND DECLARATIONS – SUBSTANTIAL ISSUE	6
A. PROJECT LOCATION & DESCRIPTION	6
B. FACTORS TO BE CONSIDERED IN SUBSTANTIAL ISSUE ANALYSIS	7
C. SUBSTANTIAL ISSUE ANALYSIS	7

APPENDICES

Appendix A – Substantive File Documents

EXHIBITS

Exhibit 1 – Project Site
Exhibit 2 – Appeal
Exhibit 3 – Site Plans
Exhibit 4 – CDP No. DIR-2017-5433-CDP-SPP-MEL-1A

I. MOTION AND RESOLUTION – SUBSTANTIAL ISSUE

Motion:

*I move that the Commission determine that Appeal No. A-5-VEN-19-0006 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 on the motion. Passage of this motion will result in a finding of No Substantial Issue and the local action will become final and effective. The motion passes only by an affirmative vote of the majority of the Commissioners present.

Resolution:

*The Commission hereby finds that Appeal No. A-5-VEN-19-0006 presents a **SUBSTANTIAL ISSUE** with respect to the grounds on which the appeal has been filed under § 30602 of the Coastal Act regarding consistency with the Chapter 3 policies of the Coastal Act.*

II. APPELLANTS' CONTENTIONS

On January 23, 2019, Robert Aronson filed an appeal of City of Los Angeles Local CDP No. DIR-2017-5433-CDP-SPP-MEL-1A granted for approval of after-the-fact conversion of two existing guest rooms in a three-unit apartment building to legal dwelling units resulting in a five-unit apartment building with seven on-site parking spaces on an approximately 3,082 square foot lot (**Exhibit 2**). The appellant contends that the City-approved development is inconsistent with the City's certified LUP relating to allowable densities, parking standards, and density bonuses and that the project should be held to the parking standards in the certified Venice LUP because parking and traffic in the area are already highly impacted. Furthermore, the appellant contends that the City did not define "Restricted Affordable Unit" or condition the project to maintain that unit as affordable. The appellant suggests that the City should require both new units to be affordable in order to qualify for incentives like reductions in parking standards.

III. LOCAL GOVERNMENT ACTIONS

On October 11, 2018, the City of Los Angeles approved CDP No. DIR-2017-5433-CDP-SPP-MEL-1A for approval of after-the-fact conversion of two existing guest rooms in a three-unit apartment building to legal dwelling units resulting in a five-unit apartment building with seven on-site parking spaces (**Exhibit 4**). A timely appeal was filed by Robert Aronson on October 26, 2018 contesting the Director of Planning's determination to approve the subject CDP because the project, as approved, was inconsistent with the Coastal Act and certified Venice LUP and would prejudice the City's preparation of an LCP. On December 19, 2018, the West Los Angeles Planning Commission held a public hearing for the appeal; the appellant was not in attendance. The Planning Commission acted to deny the appeal, find the project exempt from CEQA (Section 15303, Class 3, Category 2), and sustain the Director of Planning's determination to conditionally approve CDP No. DIR-2017-5433-CDP-SPP-MEL-1A, Project Permit Compliance, and Mello Act Compliance.

IV. APPEAL PROCEDURES

Section 30600(b) of the Coastal Act provides that prior to certification of its LCP, a local jurisdiction may, with respect to development within its area of jurisdiction in the coastal zone and consistent with the provisions of Sections 30604, 30620 and 30620.5, establish procedures for the filing, processing, review, modification, approval or denial of a CDP. Pursuant to this provision, the City of Los Angeles developed a permit program in 1978 to exercise its option to issue local CDPs. Sections 13301-13325 of Title 14 of the California Code of Regulations provide procedures for issuance and appeals of locally issued CDPs. Section 30602 of the Coastal Act allows *any* action by a local government on a coastal development permit application evaluated under Section 30600(b) to be appealed to the Commission. 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 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 reviews 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 hold the de novo phase of the public hearing on the merits of the application. 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 in the de novo phase of the appeal. 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. DUAL/SINGLE PERMIT JURISDICTION AREA

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

VI. FINDINGS AND DECLARATIONS – SUBSTANTIAL ISSUE

A. PROJECT LOCATION & DESCRIPTION

The project site is located in a residential neighborhood in the Marina Peninsula subarea of Venice within the City of Los Angeles. The subject lot is 35 feet wide and approximately 88 feet deep (approximately 3,082 square feet in area) and is zoned R3-1, Multiple Dwelling by the City's Zoning Code and Low Medium Residential II by the certified Venice LUP. This location is within 300 feet of Venice Beach and one block from the Venice Beach public parking lot that serves visitors to the adjacent beach, Venice Fishing Pier, bike and pedestrian paths, and commercial area on Washington Boulevard (**Exhibit 1**) and is designated a Beach Impact Zone. The Venice community – including the residential neighborhoods, the beach, the boardwalk, the canals, and the eclectic architectural styles of the neighborhoods – is one of the most popular visitor destinations in California. This area, in particular, is heavily visited by local residents and tourists, alike. The subject site fronts a walk street, alley-like public road, and alley. The development standards in the Venice LUP, certified by the Commission on June 14, 2001, for multi-family residences in this area limit the density on the subject property to two units; however, the City approved three units on-site in 1970, prior to the adoption of the Coastal Act. In 2016, during the process of retrofitting the covered parking area, the City became aware of a discrepancy between the Certificate of Occupancy for three dwelling units and two guest rooms and what existed on-site: five dwelling units. By definition per the Los Angeles Municipal Code, guest rooms and dwelling units are both considered habitable and rentable units. The difference between the two is guest rooms cannot have kitchens. The City's recent approval of Local CDP

No. DIR-2017-5433-CDP-SPP-MEL-1A allows for five units on-site¹, including one “Restricted Affordable Unit”.

The City approved after-the-fact conversion of two existing guest rooms in a three-unit apartment building to dwelling units resulting in a five-unit apartment building with seven on-site parking spaces (**Exhibit 3**). No physical modifications to the building are proposed at this time. It appears that there are currently seven parking spaces on-site (six tandem and one non-tandem). There is no street parking immediately adjacent to the subject site. The closest public parking areas are the public beach parking lot, metered street parking along Washington Boulevard, and free street parking along Pacific Avenue.

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 if 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 whether the local government action conforms to the public access policies of the Coastal Act for the reasons set forth below.

C. SUBSTANTIAL ISSUE ANALYSIS

As stated in Section IV of this report, the grounds for an appeal of a CDP issued by the local government prior to certification of its LCP are the project’s conformity with Chapter 3 policies of the Coastal Act. Any local government CDP issued or denied prior to certification of its LCP

¹ Los Angeles County Assessor data indicate that there are six units on-site; however, the City-approved plans and the City’s description of what is on-site show five existing dwelling units. This issue can be clarified during the de novo phase of the appeal.

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 grounds for the subject appeal relate to the proposed project's potential adverse impacts to public access. Additionally, the appellant claims that the local approval prejudices the City's ability to prepare an LCP because the project is inconsistent with the certified LUP. The City's findings that the proposed project is consistent with Chapter 3 of the Coastal Act and the certified Venice LUP are based on the assertion that (1) there is sufficient public beach parking available in the project vicinity, thus, the project will not impact public access; and (2) the project can be found to meet the development standards of the LUP because of its compliance with the City's UDU ordinance and the State density bonus law. The appellant disagrees with the City's public access findings and suggests that additional affordable housing measures should be required to qualify for the reduced parking incentive.

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).

The appeal raises a substantial issue as to conformity with Chapter 3 of the Coastal Act (Cal. Pub. Res. Code §§ 30200-30265.5). The Notice of Decision for Local CDP No. DIR-2017-5433-CDP-SPP-MEL-1A 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 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.

Section 30210 of the Coastal Act states, in part:

...maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, and rights of private property owners, and natural resource areas from overuse.

Section 30211 of the Coastal Act states, in part:

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization...

Section 30212 of the Coastal Act states, in part:

Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where...adequate access exists nearby...

Section 30250 of the Coastal Act states, in part:

New residential development...shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it...

Section 30252 of the Coastal Act states, in part:

The location and amount of new development should maintain and enhance public access to the coast by...providing adequate parking facilities or providing substitute means of serving the development with public transportation...

Section 30253 of the Coastal Act states, in part:

New development shall...minimize energy consumption and vehicle miles traveled...

The Duplex/Multi-Family Residential Policy of the Venice LUP states, in part:

It is the intent of [the] Venice LUP to maintain existing stable multi-family residential neighborhoods...The loss of potential units in these locations can be offset by the provision of new housing opportunities via bonuses for the replacement of affordable housing...

Policy I.A.7 (Multi-family Residential – Low Medium II Density) of the Venice LUP states, in part:

Accommodate the development of multi-family dwelling units...Such development shall comply with the density and development standards set forth in this LUP.

c. Marina Peninsula

Uses: Two units per lot, duplexes and multi-family structures.

Density: One unit per 1,200 square feet of lot area. Lots smaller than 4,000 square feet are limited to a maximum density of two units per lot.

Yards: Yards shall be required in order to accommodate the need for fire safety, open space, permeable land area for on-site percolation of stormwater, and on-site recreation consistent with the existing scale and character of the neighborhood.

Height: Not to exceed 35 feet. Structures located along walk streets are limited to a maximum height of 28 feet. (See LUP Policy I.A.1 and LUP Height Exhibits 13-16).

Policy II.A.3 (Parking Requirements) of the Venice LUP states, in part:

...The public beach 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 of the table shall be required to provide missing numbers of parking spaces or provide an in-lieu fee payment into the Venice Coastal Parking Impact Trust Fund for the existing deficiency...

<i>Multiple dwelling and duplex on lots 40 feet or more in width, or 35 feet or more in width if adjacent to an alley</i>	<i>2 spaces for each dwelling unit; plus a minimum of 1 (one) guest parking space for each 4 (four) or fewer units (i.e. 2.25 spaces per unit; always round-up to highest whole number of spaces)...</i>
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Policy II.A.4 (Parking Requirements in the Beach Impact Zone) of the Venice LUP states, in part:

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:

...Multiple family residential projects in the BIZ shall provide an additional parking space for each 1,000 square feet of floor area on the ground floor for multiple dwelling projects of three units or more...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 space for residential projects...

Policy I.A.14 (Parking Requirements for Affordable Housing) of the Venice LUP states, in part:

Reduced parking is permitted for low income units only if: a) the project is consistent with LUP policy I.A.13 [Density Bonus Applications]; and b) it is demonstrated that the prospective occupants of the project will have a reduced demand for parking. However, if a unit changes its status from low or low-moderate income to market rate unit, parking should be provided for market rate units according to the parking standards listed in LUP Policies II.A.3 and II.A.4.

Policy I.A.13 (Density Bonus Applications) of the Venice LUP states, in part:

Required replacement dwelling units shall be counted as reserved units in any related State-mandated density bonus application for the same project. In order to encourage the provision of affordable housing units in the areas designated as “Multiple Family Residential” and in mixed-use developments, the City may grant incentives such as reduced parking, additional height or increased density consistent with Government Code Section 65915 provided that the affordable housing complies with the following:

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

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

ordinances and land use element certified by the Coastal Commission. The density bonus shall be applicable to housing development consisting of five or more units.

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

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

e. In addition to a 25 percent density bonus, a qualifying housing development shall receive one of the incentives identified in Government Code Section 65915(h), unless it is found that the additional incentive is not required in order to provide for affordable housing costs or rents. If the City determines that the additional development incentive requested by an applicant pursuant to this section will not have any adverse effects on coastal resources, the City may grant the requested incentive. If the City determines that the requested incentive will have an adverse effect on coastal resources, the City shall consider all feasible alternative incentives and the effects of such incentives on coastal resources. The City may grant one or more of those incentives that do not have an adverse effect on coastal resources. If all feasible incentives would have an adverse effect on coastal resources, the City shall grant only that additional incentive which is most protective of significant coastal resources.

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

A substantial issue exists with respect to the proposed project’s conformance with Chapter 3 of the Coastal Act because the City-approved project does not provide a sufficient number of

parking spaces to meet the additional permitted demand generated for the increase in intensity of use of the site and, therefore, may adversely impact public access. The project, as approved by the City, provides a total of seven spaces (six of which are tandem spaces) for five dwelling units with a total of nine bedrooms. Section 30252 of the Coastal Act requires new development to maintain public access to the coast by providing adequate parking facilities or providing substitute means of serving the development with public transportation. Per the standards of the Venice LUP, 13 parking spaces are required to be provided for five units at this location [two spaces per unit; plus a minimum of one guest space for every four or fewer units (any fractions are rounded up); plus a minimum of one space for developments in the Beach Impact Zone]. This standard could be reduced by applying a density bonus under Venice LUP Policy I.A.13 and I.A.14 for “low income” units; however, the rental covenant agreement between the City and the applicant indicates that the proposed “Restricted Affordable Unit” would be reserved for a moderate income household, not a low-income household. Thus, the project is not consistent with the certified Venice LUP with regard to the required on-site parking. While Chapter 3 of the Coastal Act is the standard of review for the substantial issue determination, the certified LUP policies provide guidance from which the Commission can evaluate a project’s consistency with Chapter 3. Applying the certified LUP as guidance here, the City-approved project raises a substantial issue as to conformity with public access policies of the Coastal Act because it approves development that does not include sufficient parking.

In addition, the City’s findings that a reduction in parking requirements is warranted because of the project’s consistency with the State density bonus law and the City’s UDU ordinance does not resolve the project’s inconsistency with Chapter 3 public access policies. The City’s UDU ordinance has not been certified by the Commission and is not the standard of review for this appeal, nor is the State density bonus law.

Therefore, the Commission finds that a substantial issue exists with respect to the City-approved projects’ conformance with Chapter 3 policies of the Coastal Act.

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 City-approved 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 approved development is consistent with the relevant provisions of the Coastal Act. With regard to the public access policies of the Coastal Act, the City did not provide sufficient or accurate evidence to support its approval of the project with reduced parking standards. The Coastal Act provides for maximum public access, and Section 30252 of the Coastal Act requires new development to maintain public access to the coast by providing adequate parking facilities or providing substitute means of serving the development with public transportation. The City approved the project with six tandem and one non-tandem covered parking spaces for five dwelling units with a total of nine bedrooms. As discussed above, the certified Venice LUP requires a minimum of thirteen required parking spaces for a development of this density (not ten parking spaces, as stated in the City staff report).

In addition, the City made findings that the project, as approved, was consistent with the Chapter 3 policies of the Coastal Act because: a) there are no modifications to the physical structure on-site and, therefore, no new impacts to archaeological or paleontological resources or public access and no new coastal hazards or change in the size, character, or visual quality of the site; b) the development is located in a developed area with similar residential uses; c) the applicant is eligible for incentives in accordance with the City’s UDU ordinance and State density bonus law for providing one “Restricted Affordable Unit”; and d) the parking standard reduction will not impact public access because most visitors to the area utilize the public beach parking lot or the valet associated with the commercial uses on Washington Boulevard. Finally, the City found that the area is well-served by alternative forms of transportation and, thus, will not impact public access.

In general, the Commission supports efforts to increase density in an already developed area and add to available affordable housing; however, the City’s approval of this project is not adequately supported by facts or law and, as a result, the project may harm public access to the coast². First, the City-approved increase in permitted intensity of use on-site (number of units authorized by a CDP) has the potential to impact public access despite there being no change in the physical structure on-site. Second, as discussed above, the project does not comply with the certified LUP policies relating to reduction in parking requirements for affordable housing; in addition, the City’s finding that the project complies with the City’s UDU ordinance and State density bonus law does not adequately support the City-approved CDP for the project because neither are the standard of review for the purpose of analyzing a project with regard to consistency with the Coastal Act, nor for this appeal, which is limited to Chapter 3 of the Coastal Act, with the certified LUP providing guidance. Furthermore, the City-approved project does not comply with Venice LUP Policy I.A.13, which references the State law, because the project does not appear to be eligible for density bonus incentives under the State law and, thus, under the Venice LUP³.

In addition, the City’s finding that most visitors use the beach parking lot and valet service does not mean the project will not harm public access as a result of allowing development at the site without adequate parking facilities. And, finally, the City’s finding that the area is well-served by public transportation does not address the fact that there is a substantial discrepancy between the parking currently provided on-site (seven spaces) and the parking required by the certified Venice LUP for development of this density (13 spaces). Even with available public transportation options, a shortage of six parking spaces (nearly 50% of normally required parking) is significant, particularly in an extremely popular coastal destination, such as Venice, that is chronically short on available parking. Furthermore, the City’s findings were not supported by evidence like parking studies or proof that some of the residents of the apartment

² The Commission does not dispute the City’s findings that there are no new impacts to archaeological, paleontological, or visual resources or the geological conditions on-site.

³ To be eligible for density bonuses under the State law, the applicant must propose either: 1) ten percent of the total units for lower income households, 2) five percent of the total units for very low income households, 3) senior citizen housing, 4) ten percent of the total units in a common interest dwelling for moderate income persons or families, or 5) twenty percent of the total units for lower income students in a student housing development. According to the rental covenant agreement in the City’s record, the “Restricted Affordable Unit” is reserved for a moderate income household and none of the other requirements are included as part of the City-approved project.

building would not store cars at the subject site. As an example, Policy I.A.14 of the certified Venice LUP, in part, permits reduced parking for low income units only if it is demonstrated that the prospective occupants of the project will have a reduced demand for parking. No such information was provided in the City's record.

Therefore, the Coastal Commission finds that the City provided an inadequate degree of factual and legal support for the local government's decision to approve after-the-fact conversion of two existing guest rooms in a three-unit apartment building to legal dwelling units resulting in a five-unit apartment building with seven on-site parking spaces on a 3,082 square foot lot.

The second factor is the extent and scope of the development as approved or denied by the local government. The City-approved project increases the non-conformities on-site both related to density (increase from three to five dwelling units on a site that is zoned for a maximum of two) and parking; however the City found that by using density bonus incentives the non-conformities would not be increased. The project, as approved by the City, provides approximately half of the parking that would normally be required per the Venice LUP standards for the site, and the City does not provide sufficient support for its finding that the seven parking spaces are sufficient to avoid impacts to public access. Therefore, the extent and scope of the proposed developments are not consistent with the public access policies of Chapter 3 of the Coastal Act.

The third factor is the significance of the coastal resources affected by the decision. The protection of public access to the coast is a significant Coastal Act policy as reflected in Section 30211, which provides that development "shall not interfere with the public's right of access to the sea..." Venice is a unique coastal resource and is one of the most popular beach destinations in California. The subject site is located approximately one block from Venice Beach, the Venice Fishing Pier, Ocean Front Walk, the beach bike path, and the visitor-serving commercial area on Washington Boulevard. Public parking availability in this area is already highly impacted. Thus, the reduction in parking standards without adequate findings may further limit the availability of public beach parking and, in turn, public access to the coast. Therefore, the development could significantly and adversely affect important 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 but it does have a certified LUP. The City-approved development is not consistent with the density, density bonus, or parking standards set forth in the certified Venice LUP, as described in more detail under the analysis of the first factor. Thus, the projects, as approved and conditioned, raise a substantial issue with regard to the projects' conformity with the public access policies of Chapter 3 of the Coastal Act and the certified Venice LUP and would have the potential to set a negative precedents for future development and future interpretation of the City's LUP. This project, as proposed and conditioned, 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. The appeal raises specific local issues, but Venice is a popular visitor destination and attracts visitors from throughout the State and beyond, making the impacts to public access

resulting from cumulative effects of limited parking availability an issue of statewide significance. Therefore, the City’s approval does raise issues of statewide significance.

In conclusion, the primary issue for the appeal is potential adverse impacts to public access to the coast. In this case, the City-approved project is not in conformity with the Chapter 3 policies of the Coastal Act and, therefore, the Commission finds that the appeal raises a substantial issue as to conformity with the Chapter 3 policies.

Appendix A – Substantive File Documents

Venice Land Use Plan