

**CALIFORNIA COASTAL COMMISSION**

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**STAFF REPORT AND RECOMMENDATION ON APPEAL  
 SUBSTANTIAL ISSUE DETERMINATION**

**Local Government:** City of San Diego

**Decision:** Approved with Conditions

**Appeal Number:** A-6-MBE-19-0009

**Applicant:** Anil Dutta

**Location:** 821-827 Island Ct, Mission Beach, San Diego, San Diego County (APN Nos. 423-675-05)

**Project Description:** Demolish two existing one- and two-story duplexes on two adjacent 0.05-acre lots and subdivide the lots to construct a new 30-ft. tall, 3-story, approx. 5,000 sq. ft. multi-family structure with 4 dwelling units and 8 off-street parking spaces on the consolidated 0.1-acre lot.

**Appellants:** Monique Barnes

**Staff Recommendation:** No Substantial Issue

**IMPORTANT HEARING PROCEDURE NOTE**

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

## **SUMMARY OF STAFF RECOMMENDATION**

Staff recommends that the Commission, after public hearing, determine that NO substantial issue exists with respect to the grounds on which the appeal has been filed.

The appellants raise four issues: (1) inadequate notice was given to the public regarding the approved development and its hearings, (2) the structure exceeds the certified height limit, (3) the structure does not provide adequate parking, and (4) the structure does not conform to community character.

Regarding the allegation of inadequate notice, a review of the city's file contains a noticing package listing the addresses of all properties within three hundred feet of the project site and a copy of the notice that was mailed to them. Additionally, there is a copy of the required posting notice for the project site and a signed certification by the applicant attesting to its posting. The city file also contains a copy of a newspaper notice that was placed in a local San Diego publication. Finally, there are copies of hearing speaker slips from the appellant demonstrating that she was present and participating in the discretionary hearings. All of the above supports the conclusion that the applicant and city complied with the LCP's noticing requirements.

Regarding structure height and off-street parking, the approved project complies with the thirty-foot height limit of the Coastal Height Limit Overlay Zone and provides eight parking spaces, consistent with the requirement for two off street parking spaces per dwelling unit.

With regard to community character, the density of the site will not change. The proposed project will be much larger than the existing structures on the site, but consistent with the Floor Area Ration (FAR), height, setback, and architectural features required by the LCP. Quadplexes are not the norm in Mission Beach, but such structures are allowed under the LCP. There are a wide range of development sizes and heights in Mission Beach, including on the subject block, and the approved quadplex will not be highly visible or impact any public views.

Because there are no identified inconsistencies with the LCP and the Coastal Act, staff recommends that the Commission determine that the project raises no substantial issue regarding conformance with the certified LCP and the Chapter 3 policies of the Coastal Act.

Standard of Review: Certified City of San Diego Local Coastal Program and the public access and recreation policies of Chapter 3 of the Coastal Act.

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[Exhibit 6 – City Speaker Slips](#)

[Exhibit 7 – Appeal](#)

## **I. APPELLANTS CONTEND**

The project as approved by the City does not conform to the City of San Diego's certified Local Coastal Program (LCP), with regard to noticing, structure height, parking, and community character.

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## **II. LOCAL GOVERNMENT ACTION**

The project was approved with conditions by the Planning Commission on January 24, 2019.

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## **III. APPEAL PROCEDURES**

After certification of a Local Coastal Program (LCP), the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on coastal development permits.

Section 30603(b)(1) of the Coastal Act states:

*The grounds for an appeal pursuant to subdivision (a) shall be limited to an allegation that the development does not conform to the standards set forth in the certified local coastal program or the public access policies set forth in this division.*

Coastal Act Section 30625(b) states that the Commission shall hear an appeal unless it determines:

*With respect to appeals to the commission after certification of a local coastal program that no substantial issue exists with respect to the grounds on which an appeal has been filed pursuant to Section 30603.*

If the staff recommends "substantial issue" and no Commissioner objects, the Commission will proceed directly to the de novo portion of the hearing on the merits of the project, then, or at a later date. If the staff recommends "no substantial issue" or the Commission decides to hear arguments and vote on the substantial issue question, those allowed to testify at the hearing will have three minutes per side to address whether the appeal raises a substantial issue. It takes a majority of Commissioners present to find that no substantial issue is raised. If substantial issue is found, the Commission will proceed to a full public hearing on the merits of the project then, or at a later date, reviewing the project de novo in accordance with sections 13057-13096 of the Commission's regulations. If the Commission conducts the de novo portion of the hearing on the permit application, the applicable standard of review for the Commission to consider is whether the proposed development is in conformity with the certified Local Coastal Program (LCP).

In addition, for projects located between the sea and the first public road paralleling the sea, Section 30604(c) of the Act requires that a finding must be made by the approving agency, whether the local government or the Coastal Commission on appeal, that the development is in conformity with the public access and public recreation policies of Chapter 3 of the Coastal Act. In other words, in regard to public access questions, the Commission is required to consider not only the certified LCP, but also applicable Chapter 3 policies when reviewing a project on appeal.

The only persons qualified to testify before the Commission at the "substantial issue" stage 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. At the time of the de novo portion of the hearing, any person may testify.

The term "substantial issue" is not defined in the Coastal Act or its implementing regulations. The Commission's regulations indicate simply that the Commission will hear an appeal unless it "finds that the appeal raises no significant question as to conformity with the certified local coastal program" or, if applicable, the public access and public recreation policies of Chapter 3 of the Coastal Act (Cal. Code Regs., tit. 14 section 13115(b)). In previous decisions on appeals, the Commission has 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 certified LCP;
2. The extent and scope of the development as approved or denied by the local government;
3. The significance of the coastal resources affected by the decision;
4. The precedential value of the local government's decision for future interpretations of its LCP; and
5. Whether the appeal raises only local issues, 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 a petition for a writ of mandate pursuant to the Code of Civil Procedure, section 1094.5.

The City of San Diego has a certified Local Coastal Program (LCP), and the subject site is located in an area where the Commission has appeal jurisdiction because it is located between the first public road and the sea. Therefore, before the Commission considers the appeal de novo, the appeal must establish that a substantial issue exists with respect to the grounds on which an appeal has been filed pursuant to Section 30603. In this case, for the reasons discussed further below, the Commission exercises its discretion to determine

that the development approved by the City does not raise a substantial issue with regard to the appellant's contentions regarding coastal resources.

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#### **IV. SUBSTANTIAL ISSUE MOTION AND RESOLUTION**

The staff recommends the Commission adopt the following resolution:

**MOTION:**        *I move that the Commission determine that Appeal No. A-6-MBE-19-0009 raises NO substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act.*

#### **STAFF RECOMMENDATION:**

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

**RESOLUTION:**        *The Commission hereby finds that Appeal No. A-6-MBE-19-0009 does not present a substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act regarding consistency with the certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.*

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#### **V. SUBSTANTIAL ISSUE FINDINGS AND DECLARATION**

The Commission finds and declares as follows:

##### **A. PROJECT DESCRIPTION**

The project site is two adjacent 0.05-acre parcels each currently containing a duplex, a one-story duplex at 821 Bayside Court and a two-story Duplex at 827 Bayside Court, in the Mission Beach community of San Diego. The approved permit is for demolition of the two existing duplexes and construction of a new 3-story, 30-ft. tall, approx. 5,000 sq. ft. quadplex with 8 attached tandem parking spaces across the two lots, which will be subdivided to create a new 0.1-acre consolidated lot. The standard of review is the certified LCP for the City of San Diego and the public access policies of the Coastal Act.

##### **B. INADEQUATE NOTICING**

Section 112.0301 of the Land Development Code states, in relevant part:

**§112.0301 Types of Notice**

*(a) Notice of Application. A Notice of Application is required for an application for a permit, map, or other matter acted upon in accordance with Process Three, Process Four, Process Five, or Process CIP-Five.*

*(1) Content. The Notice of Application shall include the following information:*

*(A) A general description of the proposed development including, when applicable, the type of permit, project name, square footage of proposed construction, and the number of proposed residential units;*

*(B) The location and size of the property that is the subject of the application;*

*(C) The community planning area in which the proposed development is located and the name of the contact person, if any, designated by the officially recognized community planning group;*

*(D) The name and telephone number of the City staff person to contact for additional information; and*

*(E) The name of the applicant and, with the consent of the applicant, the applicant's address and telephone number.*

*(2) Distribution. The City Manager shall mail the Notice of Application to the persons described in Section 112.0302(b), no later than 30 calendar days after the date on which the application is deemed complete and at least 60 calendar days prior to the first public hearing. The applicant shall post the Notice of Application on the property that is the subject of the application in accordance with Section 112.0304.*

*[...]*

*(c) Notice of Public Hearing. A Notice of Public Hearing shall be provided before a decision is made on an application for a permit, map, or other matter acted upon in accordance with Process Three, Process Four, Process Five, or Process CIP-Five, or an appeal of a Process Two, Process CIP-Two, Process Three, or Process Four decision, or of an environmental determination. A Notice of Public Hearing shall also be provided before a decision is made by the City Council in accordance with Section 132.1555 (Overrule Process).*

*(1) Content. Except as set forth in Section 112.0301(c)(2), the Notice of Public Hearing shall include the following information:*

*(A) The general subject of the public hearing including the type of development permit and the name of the proposed development.*

*(B) The location and size of the property that is the subject of the application.*

*(C) The community planning area in which the proposed development is located.*

*(D) A general description of the proposed development, including the square footage of proposed commercial or industrial uses and the proposed number of dwelling units.*

*(E) The name of the applicant and, with the consent of the applicant, the applicant's address and telephone number.*

*(F) The identity of the decision maker holding the public hearing.*

*(G) The date, time, and place of the public hearing.*

*(H) A brief description of the general procedures concerning the conduct of hearing and local actions and the procedure and requirements for filing an appeal. For Process Three or Process Four public hearings, the definition of an interested person for purposes of appeal.*

*(I) The name and telephone number of the City staff person to contact for additional information.*

[...]

*(3) Distribution. Except as otherwise provided by the Municipal Code, the City Manager shall publish the Notice of Public Hearing in accordance with Section 112.0303, and shall mail the Notice of Public Hearing to the persons described in Section 112.0302(b), at least 10 business days before the date of the public hearing. Where fees are being imposed on a specific project to defray the cost of public facilities, the Notice of Public Hearing shall also be published, in accordance with California Government Code section 6062a, or as amended.*

### **§112.0302 Notice by Mail**

*(a) General Provisions. When the Land Development Code requires a Notice of Application, Notice of Future Decision, Notice of Public Hearing, or other mailed notice, the notice shall be postage prepaid and addressed to the persons identified in Section 112.0302(b). Notice by mail shall be considered complete at the time of deposit in the United States Mail.*



*(b) Persons Entitled to Notice. Except as provided in Section 112.0302(c), the Notice of Application, Notice of Future Decision, Notice of Public Hearing, and Notice of Availability shall be mailed to the following:*

*(1) The applicant;*

*(2) All tenant addresses located on the subject property and all addresses within 300 feet of the boundary of the real property that is the subject of the application, including each tenant address within a condominium or apartment complex.*

*(3) The owners of any real property, as shown on the latest equalized property tax assessment roll of the San Diego County Assessor, located within 300 feet of the boundary of the property that is the subject of the application;*

*(4) The officially recognized community planning group, if any, that represents the area in which the proposed development is located, and officially recognized community planning groups that represent the area within 300 feet of the location of the proposed development; and*

*(5) Any person who has submitted a written request for notification of the proposed development to the City staff person named in the Notice of Future Decision.*

*(6) The San Diego County Regional Airport Authority (SDCRAA), sitting as the Airport Land Use Commission, California Department of Transportation, Division of Aeronautics, and the airport operator, as applicable, for any development within the Airport Land Use Compatibility Overlay Zone.*

*(c) Alternative to Mailed Notice. If the number of tenants and owners to whom notice would be mailed in accordance with Section 112.0302(b) is greater than 1,000, notice may be given by placing a display advertisement of at least one-eighth page in a newspaper of general daily circulation within the City in lieu of mailing, unless the noticing is required for a Coastal Development Permit.*

*(d) Notice Address*

*(1) A notice to the applicant shall be mailed to the address shown on the application or as indicated on a written change of address form filed by the applicant with the City.*

*(2) A notice to each owner of real property located within 300 feet of the*

*property that is the subject of the application shall be mailed to the record owner.*

*(3) A notice mailed to a tenant address shall be addressed "Tenant".*

**§112.0303 Published Notice**

*When the Land Development Code requires a Notice of Public Hearing to be published, the City shall submit the Notice of Public Hearing for publication in at least one newspaper of general daily circulation within the City. A published notice is effective on the date of publication.*

**§112.0304 Posted Notice**

*When this division requires a Notice of Application or a Notice of Future Decision to be posted, the applicant shall post the notice in the following manner.*

*(a) Placement of Notice. The applicant shall post copies of the Notice of Application or Notice of Future Decision along the street frontage of the property that is the subject of the application. The notices shall not be spaced more than 200 feet apart. No more than three notices are required for any property. If the street frontage is less than 200 feet, only one notice is required.*

*(b) Verification of Posting. The applicant shall verify in writing, on a form prescribed by the City, that the notice has been posted in accordance with this section, within 5 business days of the date on which the applicant receives the notice from the City.*

*(c) Error in Posting. The posting required by this section is intended only to supplement other notice requirements of this division. A decision on an application for a permit, map, or other matter shall not be invalidated because of any error or irregularity in the posting of a notice in accordance with this section.*

*(d) Maintaining Posted Notices. It is unlawful to deface, damage, move, or remove a notice posted in accordance with the applicable provisions of the Municipal Code.*

**§112.0306 Notice for Coastal Development Permits**

*All notices for a Coastal Development Permit shall include a statement that the development is within the Coastal Overlay Zone, the date of filing of the application and the number assigned to the application. When a Coastal Development Permit is to be considered under Process Two, Process CIP-Two, or at a public hearing, the City Manager shall mail a Notice of Future Decision or Notice of Public Hearing to the California Coastal Commission and all persons requesting notice on Coastal Development Permits. This notice shall be provided in addition to the other notices required by this division. Notices for appealable*

*Coastal Development Permits shall include provisions for appeals to the California Coastal Commission.*

**§112.0309 Failure to Receive Notice**

*The failure of any person to receive notice given in accordance with this division and the State of California Planning and Zoning Laws shall not constitute grounds for any court to invalidate any action taken by the City for which the notice was provided and such action shall not be held invalid for noticing errors in the absence of a court's final determination of invalidity on that basis under the standard set forth in California Government Code section 65010(b).*

The appellant alleges that inadequate notice and public participation was given when the subject development was reviewed by the local community planning group and subsequently by the city's hearing officer and planning commission. The appellant alleges this occurred through failure to mail notices to her, the scheduling of review by the local community planning group for the summer months, and failure to provide a physical copy of the project plans to the appellant upon request.

Pursuant to LCP noticing requirements, when applicants submit for development permits from the city, they are required to include in their application a noticing package containing an Assessor's Parcel Number map delineating all properties within 300 feet of the subject property, a mailing list containing the address of all those properties, and a signed form attesting as to the noticing package's accuracy. The required noticing package is in the city file and includes the appellant's address [\[Exhibit 5\]](#), in addition to a copy of the various notices that were mailed out during the course of the project's local review. Furthermore, the city file contains a copy of the newspaper notice that was placed on October 24, 2018, in "The Daily Transcript," a San Diego County news publication. Thus, while it is possible that the appellant did not receive the mailed notice, the file indicates that the notice was duly mailed and published as required.

Prior to a development permit being heard by the city, San Diego directs applicants to bring their project before the local community planning group. For Mission Beach, that entity is the Mission Beach Precise Planning Board (MBPPB), whose minutes show that the project was heard twice: May 15, 2018 and July 15, 2018, with the planning board voting to support approval of the project both times. The appellant claims that by scheduling the meetings in the summer, when many Mission Beach residents are on vacation or living elsewhere, public participation was intentionally suppressed to discourage opposition participation. However, the MBPPB is a volunteer-operated entity that meets monthly, and there are no regulatory prohibitions on scheduling particular items at particular times, such as the summer season. Items are scheduled as timing and resources permit, and the MBPPB confirmed to Commission staff that they placed notice of the two above hearings on their website and outside their meeting room at least seventy-two hours prior to the meeting.

Subsequent to review and vote by the local community planning group, a permit application then moves on to a city hearing and vote. In the case of the subject development, it was heard by the city hearing officer on November 7, 2018 and then the city planning commission on January 24, 2019, whereupon the project received final permit approval, as conditioned. The city file contains speaker slips from the appellant's daughter – Ellie Barnes – who acted as her proxy due to limited mobility [[Exhibit 6](#)], from both hearings, demonstrating the appellant's knowledge of the project and ability to participate in the discretionary hearings to have her issues raised and heard by the requisite bodies.

The appellant alleges that prior to the November 7, 2018 hearing before the hearing officer, the appellant requested a hard copy of the proposed project plans due to limited Internet access and inability to review the plans online. The appellant alleges that a hard copy was never furnished and that this substantially impacted her ability to review and participate in the discretionary review. As discussed above, the appellant was able to participate in both city hearings on the project, and while LCP's are designed to maximize public participation in the decision making process, the furnishing of a hard copy of proposed project plans is not a requirement of the noticing regulations of the LCP, and the absence of such a copy is not a violation of LCP.

In conclusion, with regards to public noticing of the proposed development, the city record contains sufficient evidence to support the conclusion that regulatory requirements were adhered to and proper noticing given to the general public. Thus, the project does not raise a substantial issue on the grounds filed by the appellant relative to noticing.

### **C. STRUCTURE HEIGHT**

Section 113.0103 of the Land Development Code defines “story” and “structure height” accordingly:

*Story means the area between grade and finished floor, the area between finish-floor elevations or the area between the finish floor elevation and the roof elevation...*

*Structure height means the vertical distance between all points on top of a structure or any of its appurtenances and grade directly below...*

Section 132.0501 of the Land Development Code states:

*The purpose of the Coastal Height Limit Overlay Zone is to provide a supplemental height limit for specific coastal areas as enacted by the voters of the City of San Diego.*

Section 132.0505 of the Land Development Code states, in relevant part:

*Coastal Height Limit*

- (a) *Notwithstanding any section to the contrary, no building or addition to a building shall be constructed with a height in excess of thirty feet within the Coastal Zone of the City of San Diego*
- (b) *The words “Coastal Zone” as used within this section shall mean that land and water area of the City of San Diego from the northern City limits, south to the border of the Republic of Mexico, extending seaward to the other limits of City jurisdiction and extending inland to the location of Interstate 5 on January 1, 1971...*

The subject property is located in the community of Mission Beach, within the city’s Coastal Height Limit Overlay Zone, which imposes a thirty foot height limit on all development located therein. As approved, the proposed development will be a three-story, thirty-foot tall quadplex with a roof deck atop the structure. As approved and conditioned by the city, all portions of the approved structure, including the parapet railings bordering the roof deck, will comply with the aforementioned thirty-foot height limit [[Exhibit 3](#)].

The appellant alleges the approved development will not comply with the statutory height limit because the roof deck constitutes a fourth story. Per the definition of “story” in the certified LCP, the roof deck does not constitute a story, as it is not located between finished floors. Regardless of whether or not the roof deck does constitute a story, under the certified LCP, the number of stories a structure has is irrelevant for the purposes of determining a structure’s height. The structure height is determined by looking at the highest point in the structure in relation to the grade below, independent of how many stories the structure may contain. In the approved development, all such structural points comply with the thirty-foot height limit.

In conclusion, with regards to the compliance with the thirty-foot height limit, the development, as approved and conditioned by the City of San Diego, meets all applicable requirements, and the development thus does not raise a substantial issue on the grounds filed by the appellant relative to potential impacts of height on coastal resources.

**D. PARKING**

Section 1513.0403 of the City of San Diego Land Development Code states, in relevant part:

[...]

*(b) Residential Subdistricts*

*(1) Every premises used for one or more of those uses permitted in Section 1513.0303 shall be provided with a minimum of permanently maintained off-street parking spaces located on the premises as follows:*

*(A) Two spaces per dwelling unit; except for the following:*

*(i) In R-S Subdistricts when a unit is added to a lot with an existing single-family unit and the lot has less than 34 feet of frontage on a street or alley, then the requirement shall be 1.5 spaces per dwelling unit.*

*(ii) In the R-N Subdistrict the requirement shall be one space per dwelling unit for lots abutting Ocean Front Walk or Bayside Walk with less than 10 feet of vehicular access on a street or alley.*

*(B) One space per unit (room) of boarder or lodger.*

*[...]*

*(4) Tandem off-street parking is permitted consistent with the following:*

*(A) The space required is 8 feet by 36 feet and accommodates 2 cars, one behind the other, except that the width of parking spaces that abut a wall, column, or other immovable obstacle shall be 8 feet and 6 inches.*

*(B) Both of the tandem spaces shall be assigned to the same unit.*

*(C) Tandem spaces are not required to be enclosed.*

*(D) Unenclosed tandem parking spaces may only encroach into an interior yard to achieve the required 36-foot depth*

*[...]*

As approved by the city, the proposed quadplex will have four dwelling units serviced by eight attached tandem parking spaces, two per dwelling unit. The appellant alleges that the quadplex will be utilized for short term rentals and that the provided parking will be inadequate, causing tenant parking to occupy public street parking.

The applicant's proposal and the city's approval make no mention as to the presence of short term rentals in the future. Regardless, short term rentals are not prohibited by the city's certified LCP. The certified LCP requires two off-street parking spaces per dwelling unit, which the approved development provides pursuant to the tandem parking provisions [[Exhibit 3](#)].

In conclusion, with regards to the adequacy of off-street parking, the development, as approved and conditioned by the City of San Diego, meets all applicable requirements, and the development thus does not raise a substantial issue on the grounds filed by the appellant relative to potential impacts of parking on public access.

## E. COMMUNITY CHARACTER

Page 12 of the Mission Beach Precise Plan states in its “Overall Goals:”

*The continuation of the existing medium-density character of Mission Beach, exemplified by the overall low profile and random mix of housing types and styles.*

*The promotion of a community balanced by housing types, dwelling unit sizes, a variety of individual and family sizes, housing price, and racial and ethnic composition.*

Page 15 of the Mission Beach Precise Plan states in the “Goals” in the “Residential” section:

*The permanent control of height and building bulk so that structures in Mission Beach will not have adverse effects on surrounding property, the beaches, and community in general.*

*The insurance of necessary health and safety conditions such as the provision of adequate light and air, and storage of trash and garbage.*

*The insurance of necessary environmental amenities such as the provision of open space, landscaping, and vegetation.*

Section 1513.0303 of the San Diego Municipal Code states in relevant part:

*No building or improvement or portion thereof shall be erected, constructed, converted, established, altered, or enlarged, nor shall any lot or premises be used except for one or more of the following purposes:*

*(a) Primary Uses*

- 1) Single dwelling units.*
- 2) Duplexes (2 dwelling units in a single structure)*
- 3) Multiple dwelling units; restricted to a maximum of 4 dwelling units in any single structure including common wall construction on adjoining lots.*
- 4) Parks and playgrounds*

*[...]*

Section 1513.0304 of the San Diego Municipal Code states in relevant part:

*(a) Density Regulations*

*One dwelling unit shall be allowed, including lodging and boarding units, per 1,200 square feet of lot area, except as follows:*

- 1) A single R-S lot of 2,000 to 2,400 square feet shall be entitled to a maximum of 2 dwelling units;*
- 2) Two contiguous R-S lots developed concurrently with common wall construction shall be entitled to a maximum of 4 dwelling units; and*
- 3) Fractions of dwelling units shall not be rounded up when determining the total units permitted on a lot or lots.*

The appellant contends that the proposed quadplex residential structure does not conform to the prevalent community character of Mission Beach because the height, density, and bulk and scale of the structure is not commonly found along Bayside Court or Mission Beach in general.

Density

Mission Beach is the most densely developed community in San Diego, with a maximum permitted density of thirty-six dwelling units per acre. Each of the applicant's two adjacent lots are 30-ft. by 80-ft. – 2,400 sq. ft. in size – and thus could contain a maximum of two dwelling units each per the LCP. The two properties already each contain a duplex, which will be demolished, and the approved quadplex will have four dwelling units. Thus, the proposed density is consistent with the density allowed in the LCP.

While there exists some previously conforming pre-coastal structures that are above thirty feet in height or have non-standard setbacks, the pattern of development within Mission Beach has been fairly consistent since the community was first platted out in 1914. The historical pattern substantially consists of larger lots containing residential structures with up to three dwelling units along the eastern and western boardwalks or on corner lots, and the inland properties between the boardwalks consisting of smaller 30-ft. by 80-ft. or 25-ft. by 50-ft. lots containing single family residences or duplexes.

Bulk and Scale

Density, FAR, and lot size are all different aspects that cumulatively define the most prominent feature of any proposed structure – its bulk and scale. While the density of the two lots will not change, the approved development would replace two separate structures with one larger structure on a consolidated lot. The existing duplexes are one and two stories, while the approved quadplex is approximately 5,200 sq. ft., 3 stories, and 30 feet in height. In addition to being larger, because the approved project is a single structure, there will not be as many side yard setbacks as there would be if the two



adjacent lots were developed with separate duplexes. Currently, inland Mission Beach predominantly consists of single family residences and duplexes, with some triplexes on corner lots by the side streets (beach and bay fronting development is almost uniformly much larger and denser than inland development). The appellant alleges that the community character of Mission Beach prohibits the construction of such structures on the subject site, that allowing their construction would adversely affect the greater community's character and create an adverse precedent that would then be repeated elsewhere in Mission Beach, and that the project site should be developed with the common 30-ft. by 80-ft. lot size and related duplexes.

However, the approved structure is consistent with the size allowed under the LCP. The Mission Beach Precise Plan, which serves as the certified Land Use Plan (LUP) for Mission Beach, and the planned district ordinance (PDO), which is a community-specific subset of development regulations, allow structures with a maximum FAR of 1.1, which on a 30-ft. by 80-ft. lot would allow structures of up to 2,640 sq. ft. of gross floor area, with up to an additional 400 sq. ft. for the required two off-street parking spaces being exempted from that limit. Furthermore, Section 1513.0304(g) of the PDO states that "regardless of lot size, individual buildings, including common wall construction, shall not exceed 5,280 sq. ft. in total gross floor area." Quadplexes are not the norm in Mission Beach, and probably never will be, as construction of a quadplex requires that contiguous lots be purchased and developed together, and it is unusual for contiguous lots to come up for sale simultaneously. But nevertheless, such structures are allowed under the LCP. As cited above, a primary permitted use is "[m]ultiple dwelling units; restricted to a maximum of 4 dwelling units in any single structure including a common wall construction on adjoining lots" (as common wall construction is permitted in Mission Beach, the approved quadplex could be constructed even without the approved consolidation of the two adjacent lots). Thus, the LCP anticipated and allows for the construction of structures with the bulk and scale of the approved project.

While construction of a 5,200 sq. ft., 30-ft. tall quadplex is allowed by the Mission Beach Precise Plan and PDO, it is important to evaluate whether the structure is nevertheless consistent with the character of the community. The predominant pattern of development in the inland lots of Mission Beach is separate structures on lots of 30 ft. by 80 ft. The proposed project deviates from this historic pattern, and is clearly much larger than the existing duplex structures. However, there is a wide range of development sizes and heights in Mission Beach, and the Commission and the City regularly approve development projects up to thirty feet in height and above 2,000 sq. ft. (ref. CDP Nos. 6-18-1163 and 6-18-0532), including a recent approval for a construction of a 2,079 sq. ft., two-story duplex with a 1,093 sq. ft. roof deck and carport on a 2,400 sq. ft. lot approximately five hundred feet west of the subject site at 721 Island Court (ref. CDP No. 6-18-0004). The block on which the subject quadplex would be located currently includes a variety of building types and sizes, including several two-story structures [\[Exhibit No. 4\]](#).

Furthermore, besides density and FAR, the Mission Beach Precise Plan addresses controlling bulk and scale through setback, height, and lot coverage requirements. Section 1513.0304(d) of the PDO requires for R-S zoned properties front yard setbacks of fifteen feet from the pedestrian right-of-way and default five-ft. (reducible to three feet) side yard setbacks to ensure the provision of sufficient light and air between residences. While alley setbacks can be zero feet, the alleys in Mission Beach are twenty feet wide, thus allowing for adequate light and air. Regarding structure height, as described in the “Structure Height” section above in this report, all of Mission Beach, and most of San Diego’s coastal zone, is under a thirty-ft. coastal height limit overlay zone. Finally, Section 1513.0304(f) sets maximum lot coverage by structures at sixty-five percent. The approved development conforms to the above limitations. The PDO also contains numerous provisions regarding architectural features, angled setbacks, and encroachments that must be complied with to maintain the appearance and character of the area, and the proposed project is consistent with all of these requirements.

In addition, while the proposed buildings do represent a change from the typical pattern of structure size in Mission Beach, and will result in fewer side yard setbacks than typically seen in Mission Beach’s street grid due to the common wall design of the approved development, the overall impact on community character will be less than significant. The setbacks between structures are not public view corridors, and thus coastal views are not impacted. Visitors to the beach, bay, or visitor-serving uses in the community are unlikely to notice the relatively minor differences between the proposed structures on the subject site and the rest of Mission Beach. Thus, the differences to community character represented by the subject project are minor and do not rise to a level of statewide significance. Thus, the bulk and scale of the proposed project does not raise a substantial issue with regard to consistency with the policies of the certified LCP regarding community character.

## **F. SUBSTANTIAL ISSUE FACTORS**

Generally speaking, the Commission considers five factors when deciding whether a project raises a “substantial issue.” None of the factors support a finding of substantial issue regarding the issues raised in this appeal. As discussed above, the appellant did not demonstrate the City lacked factual and legal support to approve the proposed development. The scope of development is limited, and no coastal resources are impacted and public access is not impacted. Therefore, the objections to the project suggested by the appellant do not raise any substantial issues of regional or statewide significance. Finally, the City’s approval of this coastal development permit will not create an adverse precedent for future interpretation of this LCP.

**APPENDIX A**

**SUBSTANTIVE FILE DOCUMENTS:** Appeal by Monique Barnes dated February 13, 2019