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STAFF REPORT: APPEALS – NO SUBSTANTIAL ISSUE

Appeal Number: A-5-VEN-19-0020

Applicant: Venice Community Housing Corporation

Local Government: City of Los Angeles

Local Decision: Approval with Conditions

Appellants: James Murez et. al; Robin Rudisill and Sue Kaplan

Project Location: 718-720 Rose Avenue, Venice, City of Los Angeles, Los Angeles County (APNs: 4240018044 & 4240018045)

Project Description: Demolition of 1 and 2-story institutional use structures; construction, use, and maintenance of a 4-story (approximately 44-foot high) 35-unit affordable supportive housing complex with approximately 1,875 square feet of administrative and program office space, solar panels, and 17 automobile and 48 bicycle parking spaces on two contiguous parcels; and consolidation of two lots to create an approximately 14,500 square foot lot.

Staff Recommendation: No Substantial Issue

IMPORTANT NOTE: This is a substantial issue only hearing. Testimony will be taken only on the question of whether the appeal raises a substantial issue. Generally, and at the discretion of the Chair, testimony is limited to three 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 appeals do raise a substantial issue, the de novo phase of the hearing will occur at a future Commission meeting, during which it will take public testimony.

SUMMARY OF STAFF RECOMMENDATION

The staff recommends that the Commission, after public hearing, determine that **no substantial issue exists** with respect to the grounds on which the appeals have been filed because the project, as approved by the City of Los Angeles, is consistent with Chapter 3 of the Coastal Act. The standard of review for these appeals is Chapter 3 of the Coastal Act and the City's certified Venice Land Use Plan (LUP) provides guidance.

On January 24, 2019, the City approved Local Coastal Development Permit (CDP) Case No. CPC-2018-2140-CU-DB-CDP-SPP-MEL with conditions for the demolition of 1 and 2-story institutional use structures; construction, use, and maintenance of a 4-story (approximately 44-foot high) 35-unit affordable supportive housing complex (deed restricted as low and very low income housing for a minimum of 55 years) with approximately 1,875 square feet of administrative and program office space, solar panels, and 17 automobile and 48 bicycle parking spaces on two contiguous parcels; and consolidation of two lots resulting in the creation of an approximately 14,500 square foot lot located approximately $\frac{3}{4}$ of a mile from the beach.

Given the project's 100% affordability, the City found that some of the building standards referenced in the Venice LUP related to height, density, and parking requirements could be waived using incentives provided by specific policies of the LUP relating to affordable housing in combination with other provisions of the State's Density Bonus Law. The appellants contend that the City-approved project is inconsistent with the land use, height, parking, and density standards of the LUP and with the community character of the area. Furthermore, Robin Rudisill and Sue Kaplan state that the City did not make adequate findings with regard to the project's consistency with parking requirements in the Venice LUP or with the scenic and visual resource policies of the Coastal Act and did not properly use the certified LUP as guidance.

The Coastal Act requires "maximum access...be provided for all people" (Section 30210). Due to historic institutionalized geographic, economic, social, and cultural barriers, marginalized populations, including low-income communities and communities of color, have been denied access to affordable housing in the coastal zone. Through the City's approval, the proposed project provides more housing units than would otherwise be allowed on the site; all of which are designated as affordable with offices supporting youth programming, resident and homeless services, and education and job training programs. The proposed project, which is located in an architecturally diverse, mixed use area in the coastal zone, will provide housing for lower income individuals and families, which will enhance Venice's social diversity, and will not adversely affect access for coastal visitors.

While the subject project does not conform with all development standards of the certified Venice LUP (specifically the 75% density bonus approved by the City allowing for 15 additional low income housing units would exceed the 25% density bonus allowed for affordable housing under the policies of the LUP), the City found that the project is consistent with the character of the surrounding development and will not adversely impact coastal resources consistent with the Chapter 3 policies of the Coastal Act. In this case, Commission staff concurs with the City's findings relating to the determination that the project is consistent with the Chapter 3 policies of the Coastal Act and would not result in any adverse impacts to coastal resources including but not limited to public access and visual resources and recommends that the Commission find that

the non-conformity with the LUP density bonus policy does not rise to a level of a substantial issue.

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." In previous decisions on appeals, the Commission has been guided by five factors, which are: 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 and with the public access policies 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 only local issues, or those of regional or statewide significance.

Applying these five substantial issue factors to the issues raised by the appeals and the administrative record for the City's action indicates that although the development standards exceptions granted by the City relating to height and setback and setback requirements are supported by the City's findings related to the certified Venice LUP, the City's findings allowing the increase in density greater than 25% do not fully support their determination that the project fully conforms to the provisions of the certified LUP. However, Commission staff concurs with the City's findings that this exception to the density standard is consistent with all Chapter 3 policies of the Coastal Act. Further, although the development is relatively large in scale, it is located in a built-out, primarily mixed-use commercial inland area of the Coastal Zone, in close proximity to other large structures, and will not be inconsistent with the character of the surrounding area. Finally, the project approval for a 100% affordable housing project has low potential to set a precedent for future development (such as market rate housing), and the issues raised by the appeal are only related to local issues, not issues of regional or statewide significance. Therefore, staff recommends the Commission find that **no substantial issue** exists, with respect to the grounds raised by the appellants.

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EXHIBITS

Exhibit 1 – Project Location
Exhibit 2 – Appeals
Exhibit 3 – Site Plans

I. MOTION AND RESOLUTION – NO SUBSTANTIAL ISSUE

Motion:

*I move that the Commission determine that Appeal No. A-5-VEN-19-0020 raises **NO Substantial Issue** with respect to the grounds on which the appeals have been filed under § 30603 of the Coastal Act.*

Staff recommends a **YES** vote on the motion. Passage of this motion will result in a finding of No Substantial Issue and adoption of the following resolution and findings 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-19-0020** presents **NO SUBSTANTIAL ISSUE** with respect to the grounds on which the appeals have been filed under § 30602 of the Coastal Act regarding consistency with the Chapter 3 policies of the Coastal Act.*

II. LOCAL GOVERNMENT ACTIONS

On January 24, 2019, the Los Angeles City Planning Commission took a number of actions on the subject project, Case No. CPC-2018-2140-CU-DB-CDP-SPP-MEL for the demolition of 1 and 2-story institutional use structures; construction, use, and maintenance of a 4-story (approximately 44-foot high) 35-unit affordable supportive housing complex (deed restricted for affordable housing for a minimum of 55 years) with approximately 1,875 square feet of administrative and program office space, solar panels, and 17 automobile and 48 bicycle parking spaces on two contiguous parcels; and consolidation of two lots resulting in the creation of an approximately 14,500 square foot lot. The City's actions include the approval of a local CDP with conditions, a CEQA exemption determination in accordance with State Guidelines Section 15332 (In-fill Development Projects), approval of a Conditional Use for a Housing Development Project with a 75% density bonus, approval of a 35% density bonus with parking and off-menu waivers for height, stepback and setback provisions, and loading space requirements, project permit compliance for a project within the Venice Coastal Specific Plan, approval of Mello Act compliance, and adoption of the conditions and findings for the subject development project.

On July 2, 2018, the City also approved a soils report prepared by Geocon West Inc. (November 2017), holding the applicant accountable for implementing the recommendations in the Soils Report. On December 7, 2018, a portion of the project (the merger and resubdivision of approximately 10 feet of land previously quitclaimed/deeded to the City) was approved under Case No. TT-82253 and subsequently appealed to the City Planning Commission by John Reed, James Murez, and Marie Hammond. This appeal was also heard at the January 24, 2019 City Planning Commission meeting and was denied.

The City issued a determination letter on February 12, 2019. The City's Notice of Final Local Action for local CDP No. CPC-2018-2140-CU-DB-CDP-SPP-MEL was received in the Coastal

Commission’s Long Beach Office on March 15, 2019, and the Coastal Commission’s required twenty working-day appeal period was established. Two appeals, one by James Munez et. al, and one by Robin Rudisill and Sue Kaplan, were filed before the closure of the appeal period on April 15, 2019 (**Exhibit 2**).

III. APPELLANTS’ CONTENTIONS

On April 4, 2019, James Murez, Marie Hammond, Venice Stakeholders Association, Rose Ave Merchants Association, and Jaime Paige filed an appeal of the City-approved CDP. On April 15, 2019, Robin Rudisill and Sue Kaplan filed an appeal of the same City-approved CDP (**Exhibit 2**). Robin Rudisill and Sue Kaplan state that the City did not make adequate findings with regard to the project’s consistency with the parking requirements of the Venice LUP or with the scenic and visual resource policies of the Coastal Act, using the Venice LUP as guidance. James Murez et. al, contend that the City-approved project is inconsistent with the land use, height, parking, and density standards of the certified LUP and with the community character of the area.

More specifically, with regard to the LUP’s land use policies, Murez et. al, contend that the private office uses on the ground floor are inconsistent with a requirement for commercial uses to be located on the ground floor and prioritization of local shopping, civic and social activities, and visitor-serving commercial uses in Community Commercial areas. In addition, the appellants contend that the City-approved 43-foot, eight-inch maximum building height (plus solar panels and mechanical equipment) is taller than the 25-foot height limit stipulated in the LUP; is not necessary to meet the 1.5 Floor Area Ratio (FAR) also stipulated in the LUP; could be reduced to 3-stories without losing units, open space, or common areas; and as approved and conditioned by the City, does not protect community character. Murez et. al, also contend that the Commission’s past action to reduce the height of a mixed use development project with a 25% density bonus at 512 Rose Avenue (CDP No. A-5-VEN-05-206) from the proposed 40 feet to 33 feet sets a precedent with regard to community character in the area.

Murez et. al, state that the project should include 86 parking spaces per the certified Venice LUP and suggest the 17 automobile parking spaces included in the City-approved project raises a substantial issue as to whether this reduction in parking is appropriate. Also relating to parking, the appellants state that parking along Rose Avenue has been a long-standing issue exacerbated, in part, by the under-parked supermarket across the street from the subject project site and by preferential parking requirements on neighboring streets in Santa Monica. Furthermore, the appellants contend that the increase in density above the standards set out in the certified LUP and the use of a 75% density bonus, which is larger than the LUP’s allowable 25% density bonus, also raise a substantial issue with regard to the protection of community character.

In the Murez et. al, appeal, the appellants analyze the five factors used by the Commission in a substantial issue analysis (see Section 5.C, below). The appellants contend that: (1) the City did not provide sufficient explanation of the project’s conformity with the Coastal Act; (2) the development’s height is out of scope with the surrounding area; (3) the project would not protect the character of Venice nor visitor-serving commercial and recreational resources; (4) the City’s action prejudices future interpretations of the LUP; and (5) the reconciliation of density bonus incentives with the Chapter 3 policies of the Coastal Act is a statewide issue.

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 the appeals, which is conformity with the Chapter 3 policies of the Coastal Act.

Commission staff recommends a finding of **no 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 appeals 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. 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 *Single Permit Jurisdiction* area. The Commission's standard of review for the subject development is the Chapter 3 policies of the Coastal Act.

VI. FINDINGS AND DECLARATIONS – NO SUBSTANTIAL ISSUE

A. PROJECT LOCATION & DESCRIPTION

The subject site is approximately $\frac{3}{4}$ of a mile from Venice Beach in the Oakwood area of Venice (City of Los Angeles) and is located in a mixed-use neighborhood. The lots, totaling 14,500 square feet, are zoned C2-1 (Neighborhood Commercial—Height District 1) by the City's zoning code, and designated Community Commercial by the certified Venice LUP (**Exhibit 1**). The developments immediately surrounding the site include one and two-story commercial buildings and two-story multi-family residential buildings. An approximately 25-foot high, 75,500 square foot shopping center that includes a supermarket, discount general store, and pharmacy and associated parking lot are directly across the street. Commercial developments near and along Lincoln Boulevard, which is the inland coastal zone boundary, exist within approximately 150 feet of the subject development. There are three-story multi-family residential buildings on the same side of Rose Avenue a block west of the site. There is no environmentally sensitive area in the immediate project vicinity. The existing two lots that comprise the project site are owned by the applicant, the Venice Community Housing Corporation, and currently contain mixed commercial and institutional uses.

The subject development includes the demolition of three 1 and 2-story institutional use structures; construction, use, and maintenance of a 4-story (approximately 44-foot high) 35-unit affordable supportive housing complex (deed restricted as affordable for a minimum of 55 years) with approximately 1,875 square feet of administrative and program offices, solar panels, and 17 automobile and 48 bicycle parking spaces; and consolidation of two lots resulting in the creation of an approximately 14,500 square foot lot (**Exhibit 2**). 17 of the residential units are reserved for homeless youth at 30-60% Area Median Income (AMI); 17 units are reserved for homeless individuals at 30-60% AMI; and, one unit is reserved for an on-site manager. The applicant

proposes to use the offices to continue to provide youth programming, resident and homeless services, and education and job training programs.

The supportive housing development contains open space, landscaped areas, common space and recreation rooms, laundry and trash facilities, and case manager offices. A majority of the landscaping will include low-water use plant species and use drip or micro irrigation with automatic controls, flow-control, soil moisture sensors, and water meters. None of the plant species are on the California Invasive Plant Council watch lists.

The property owner previously dedicated 13 feet of land along Rose Avenue to the City for street widening purposes, which pursuant to the City’s action, will be merged back to the subject property consistent with the adjacent properties. The project also includes dedication of one foot of the property adjacent to the alley and improvements to portions of the right-of-way adjacent to the subject site including reconstructing the sidewalks, roadway, and gutters on Rose Avenue and the alley on Rose Court. The proposed dedications and improvements will not affect the number of existing vehicle travel lanes or on-street parking and the street improvements will result in wider sidewalks. On-site vehicle parking will be accessed from the alleyway. 20% of the on-site parking spaces are required to accommodate future electric vehicle charging stations and 5% are required to have immediate charging capabilities.

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 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 had been guided by the following factors:

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

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

Staff is recommending that the Commission find that **no substantial issue exists** with respect to whether the local government action conforms to the Chapter 3 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. The certified Venice LUP is used as guidance, but is not the standard of review. 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.

Relevant Coastal Act Policies

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 30250 of the Coastal Act states, in part:

New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources.

Section 30251 of the Coastal Act states, in part:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas...

Section 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, in part:

New development shall...Minimize energy consumption and vehicle miles traveled...Where appropriate, protect special communities and neighborhoods that, because of their unique characteristics, are popular visitor destination points for recreational resources.

Section 30604 of the Coastal Act states, in part:

(g) The Legislature finds and declares that it is important for the commission to encourage the protection of existing and the provision of new affordable housing opportunities for persons of low and moderate income in the coastal zone.

(h) When acting on a coastal development permit, the issuing agency, or the commission on appeal, may consider environmental justice, or the equitable distribution of environmental benefits throughout the state.

Relevant Venice LUP Policies

Exhibit 3 (Summary of Venice Coastal Issues) of the Venice LUP states, in part:

Locating and Planning New Development

Residential Land Use and Development...

- *Provision of very low, low, and moderate income housing for a cross-section of the population, including persons with special needs...*

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

... 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.

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.B.6 (Community Commercial Land Use) of the Venice LUP states, in part:

The areas designated as Community Commercial on the Land Use Policy Map (Exhibits 9 through 12) will accommodate the development of community-serving commercial uses and services, with a mix of residential dwelling units and visitor-serving uses. The Community Commercial designation is intended to provide focal points for local shopping, civic and social activities and for visitor-serving commercial uses. They differ from Neighborhood Commercial areas in their size and intensity of business and social activities. The existing community centers in Venice are most consistent with, and should be developed as, mixed-use centers that encourage the development of housing in concert with multi-use commercial uses. The integration and mixing of uses will increase opportunities for employees to live near jobs and residents to live near shopping. Overnight visitor-serving uses, such as hotels and youth hostels, are preferred uses in the Community Commercial land use category.

Uses/Density: Community commercial uses shall accommodate neighborhood and visitor-serving commercial and personal service uses, emphasizing retail and restaurants; and mixed residential/commercial use with retail on the ground floor and personal services and residential uses on upper floors. Drive-thru facilities and billboards shall be prohibited in the Community Commercial land use category. On a commercial lot, residential uses shall not exceed one unit per 800-1200 square feet of lot area.

Policy I.E.1 (Preservation of Venice as a Special Coastal Community, General) of the Venice LUP states:

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

Parking Requirement Table of the Venice LUP states, in part:

<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>
<i>General Office and other Business, Technical Service, Administrative or Professional Offices</i>	<i>1 space for each 250 square feet of floor area.</i>

Policy II.B.1 (Public Transportation) of the Venice LUP states, in part:

It is necessary to maintain existing and develop new public transportation facilities to facilitate coastal access in Venice...

Policy II.C.9 (Alley Access and Improvements) of the Venice LUP states, in part:

...New development shall incorporate any improvements necessary to upgrade or retain alleys to current standards and to enhance public safety.

Chapter 3 of the Coastal Act is the standard of review for the substantial issue determination; however, the certified Venice LUP policies provide guidance and may be used by the Commission to evaluate a project's consistency with Chapter 3. In this case, the appellants contend that the City-approved project is not consistent with the visual resources and public access policies of Chapter 3 of the Coastal Act or with the land use, height, parking, and density standards of the certified LUP.

Section 30251 of the Coastal Act protects public views to and along the coast and requires permitted development be sited and designed to be visually compatible with the character of surrounding areas. The Venice LUP includes standards for building height, development setbacks, roofline setbacks, floor area ratio, and density, which may be used as guidance in analyzing new development for compatibility with existing development in Venice. The appellants contend that the project is not consistent with the Venice LUP and, thus, raises a substantial issue with regard to the City's findings of conformity with Chapter 3 of the Coastal Act.

The project site is located in an area designated Community Commercial. This zoning designation allows for uses ranging from retail to schools to multi-family residential, and development of community-serving commercial uses and services. Policy I.B.6 (Community Commercial Land Use) states that these areas are "*intended to provide focal points for...civic and social activities...They differ from Neighborhood Commercial areas in their size and intensity of business and social activities. The existing community centers in Venice...should be developed as mixed-use centers that encourage the development of housing in concert with multi-use commercial uses. The integration and mixing of uses will increase opportunities for employees to live near jobs and residents to live near shopping.*" Thus, the subject project with a mix of residential development and program office, which provide social programs and activities for the residents, is allowed under the certified Venice LUP. Section 30250 of the Coastal Act requires new development be sited in existing developed areas able to accommodate it. In this case, the project is located in a developed mixed-use area able to accommodate residential and commercial uses and is consistent with the Chapter 3 policies of the Coastal Act, including Section 30250.

Project Density

The appellants contend that the City-approved residential density at the project site is inconsistent with the LUP. Policy I.B.6 of the Venice LUP states that the allowable residential density is one unit per 800 to 1,200 square feet of lot area. Therefore, the allowable density on-site per the LUP standard is between 13 and 19 units. The City calculated the allowable density for the subject site to be 20 units. The City-approved project includes 35 residential units. In order to approve the exceedance of allowable density on site, the City approved a 75% density

bonus (15 units in excess of the normally allowed 20 units) for the 100% affordable housing project. While the State Density Bonus Law referenced in the LUP “shall be interpreted liberally in favor of producing the maximum number of total housing units” [Government Code Section 65915(r)] and LUP Policy I.A.13 allows for and encourages the provision of affordable housing through density bonuses to address the issue of limited affordable housing in Venice as listed in the LUP’s Summary of Issues, the policy limits the density bonus to a maximum of 25% more units than the property’s zoning would normally allow. Thus, as approved by the City of Los Angeles, the proposed project is not fully consistent with this provision of the LUP because it allows for a greater density bonus on site than allowed by Policy I.A.13. In approving the larger density bonus, the City found that this exception is consistent with the similar State Law allowing for such bonuses; however, that law does not constitute a standard of review for coastal development permits.

However, in this case, the City-approved project provides new, supportive affordable housing located in an urbanized area (¾ of a mile from the beach) clustered with other larger mixed use residential and commercial developments, and, as discussed below, will not adversely impact coastal access or coastal views; and is consistent with the applicable Chapter 3 policies of the Coastal Act. In addition, the project, as approved and conditioned by the City, is consistent with the intent of Policy I.A.13 of the Venice LUP and Section 30604(g) of the Coastal Act to encourage the provision of affordable housing. Furthermore, the subject development protects Venice’s social diversity through the creation of affordable housing for homeless youths, individuals, and families consistent with Section 30604(h) of the Coastal Act, which provides that environmental justice issues may be considered by the Commission as part of its actions on coastal development permits and appeals; such as this project.

The appellants reference a previous case in Venice where the Commission authorized a 25% increase in units over the number otherwise allowed and allowed the building to exceed the allowable height up to 33-feet (CDP No. A-5-VEN-05-206). However, that case and others explicitly authorized by LUP Policy I.A.13 are differentiated from the subject application because density bonuses (with affordable units making up some but not all of the excess units) have been authorized as part of what were otherwise market rate developments. CDP A-5-VEN-05-206 authorized seventy residential condominium units, of which just seven were designated as affordable units and 63 were sold at market rate. This allowed the property owner to develop in excess of the approximately 53 market rate units that would have otherwise been allowed. Thus, that application provided an incentive for a development which would otherwise have been 100% market rate to provide some affordable units and some additional market rate units, collectively adding up to 25% more than would have otherwise been allowed. This is consistent with the intent of LUP Policy I.A.13 to serve as *an incentive program* that encourages property owners who might not otherwise include any affordable housing in a project to include some affordable units (10% affordable units plus approximately 15% more market rate units in the case of CDP A-5-VEN-05-206).

The proposed project is different from the referenced project and from the projects incentivized pursuant to LUP Policy I.A.13 because all of the housing units (not just a portion of the bonus units) are proposed to be affordable. The City-approved exceedance of the 25% density bonus cited in Policy I.A.13, is not fully consistent with the Venice LUP, but it is supported by

Development Controls set forth by the legislature in Coastal Act Section 30604. Part g of that section was included when the legislature removed the specific policies of affordable housing from Chapter 3, and reads: *the Legislature finds and declares that it is important for the commission to encourage the protection of existing and the provision of new affordable housing opportunities for persons of low and moderate income in the coastal zone.* Part h of that section was added by the legislature in 2017, and reads: *when acting on a coastal development permit, the issuing agency, or the commission on appeal, may consider environmental justice, or the equitable distribution of environmental benefits throughout the state.* The exceedance of the density bonus and the provision of additional affordable housing units is consistent with this Coastal Act policy encouraging the provision of new affordable housing and is also consistent with the Commission’s Environmental Justice Policy (adopted in March 2019), which aims to ensure access to opportunities for equitable coastal access and lower-cost recreation consistent with the public access and recreation policies in Chapter 3 of the Coastal Act, which is the standard of review, as analyzed in this section.

Visual Resources and Community Character

Section 30251 of the Coastal Act requires that “*development be sited and designed to protect[s] views to and along the ocean and scenic coastal areas*” and “*to be visually compatible with the character of surrounding areas.*” Additionally, Section 30253 requires new development “*where appropriate, [to] protect special communities that, because of their unique characteristics, are popular visitor destination points for recreational uses.*” While Venice, as a whole, is considered a special community that is a popular visitor destination area, the project site is located in an area at the inland extent of the coastal zone, adjacent to larger commercial developments and Lincoln Boulevard/State Highway 1 (a busy commuter street). There are no views to or along the ocean at this location and Rose Avenue is not considered a scenic route.

In terms of the project’s visual compatibility with the surrounding area, along with the density bonus, the City granted incentives consistent with Policy I.A.13 of the Venice LUP and Government Code Section 65915 for increased height, reduced setbacks and stepback of the upper level, and elimination of a commercial loading space. These extra incentives are explicitly referenced by Venice LUP Policy 1.A.13. Murez et. al, contend that these density bonus incentives resulted in a project that is not visually compatible with the character of the area.

Developments with stepped back rooflines in the Oakwood subarea of Venice, where the subject project is located, have a maximum height of 30 feet per the certified LUP. The portion of the building that exceeds 25 feet in height is required to be stepped back one foot from the front yard for every foot above 25 feet. Applying a density bonus incentive, consistent with LUP Policy I.A.13, the City approved the subject project with a maximum height of 43 feet, 8 inches. The height of the building façade fronting Rose Avenue, however, is 33 feet, 1 inch, which the City found to be consistent with other developments along Rose Avenue within two blocks of the proposed development. With an approximately 33-foot height at Rose Avenue, the subject project should include an approximately eight foot set back per the LUP standards. The City waived this standard using another density bonus incentive, consistent with LUP Policy I.A.13, to allow an approximately 5-foot setback. The City found that the reduced setback is also consistent with those similar developments in the project vicinity.

The project is located approximately 4,000 feet ($\frac{3}{4}$ of a mile) from the beach and 300 feet from Lincoln Boulevard/State Highway 1, which is the boundary of the coastal zone in this location and is a busy commuter thoroughfare lined with commercial development. Directly across the street from the project site is an approximately 25-foot high, 75,000 square foot shopping center with a supermarket, discount general store, pharmacy, and parking lot and gas station. Other uses in the immediate vicinity include retail, multi-family residential, restaurant, and motel. There is a 30-foot high apartment building seven lots west of the project site, a 35-foot high residence another eight lots west, and a 37-foot high mixed residential and commercial use building that is two blocks west of the project site. The developments at these sites are set back between five and ten feet from the front property line, which is consistent with the approximately five-foot setback of the City-approved project. The building design is also articulated and includes landscaping on all levels of the building. Thus, while the project is relatively large in scale (approximately 33 feet at the Rose Avenue frontage with a maximum height of approximately 44 feet), it is sited in a location in the city with other large scale development and is designed to reduce the project's mass. Therefore, the appellants' contentions relating to the height and setback of the subject development do not rise to the level of substantial issue because the development is not inconsistent with other commercial and residential development in the area and does not affect views to and along the ocean.

Furthermore, Policy I.E.2 of the Venice LUP acknowledges Venice's social and architectural diversity as a coastal resource that should be protected as an element that characterizes the popular visitor destination. In this case, the project, as approved and conditioned by the City, protects Venice's social diversity through the creation of affordable housing. While the project's maximum height exceeds the LUP standard for the Oakwood area, the project is located near a number of larger-scale commercial and residential developments, and the City-approved project height and setback (approved through the use of density bonus incentives consistent with Policy I.A.13) do not adversely impact the community's character. Thus, as approved and conditioned by the City, the project is consistent with the Chapter 3 policies of the Coastal Act.

Public Access and Parking

The appellants also raise concerns about the City-approved reduction in parking, stating that parking in this area is already limited by local issues including insufficient supermarket parking and overflow parking resulting from preferential parking areas nearby. 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. In a recent study conducted by Fehr & Peers in April 20, 2017, 42 affordable housing sites within the City of Los Angeles were surveyed for vehicle trip generation and parking. The results indicate that parking utilization ratios are less than the ratios required in the certified LUP. The study indicated that permanent supportive affordable housing, created a demand between 0.2 and 0.48 spaces per unit. Additionally, in March 2019, Crain and Associates produced a report on the effects of a 100% affordable housing project and transit availability on personal vehicle ownership and parking demand. That study concluded that substantial evidence and academic research support reduced car ownership and parking utilization by lower income households and housing in close proximity to public transit.

The certified LUP parking standards would normally require 87 parking spaces for the proposed development (70 spaces for 35 residential units, 9 for guest parking, and 8 spaces for commercial/administrative use); however, Policy I.A.14 of the certified LUP also allows for the normally required parking requirements to be reduced for affordable housing. Further, in this case, the subject project is located approximately 500 feet from public transit and provides affordable supportive housing for a minimum of 55 years, which, as demonstrated by the referenced studies, generates a significantly lower demand for parking than a market rate residential development. Thus, it is appropriate to apply a reduced parking ratio for the development. The City-approved project provides 17 on-site parking spaces and 48 bicycle parking spaces. The City calculated the parking requirement by using reduced parking ratio (0.5 spaces/bedroom) for the affordable units with additional reductions (0.3 spaces/unit) for units restricted for use by individuals with special needs, which results in a 12 automobile space requirement for the residential use. The parking for the office space (1 space/250 square feet) was calculated to be approximately seven. Therefore, the total automobile parking spaces required, as calculated by the City, would be 19. The City further reduced this requirement to 17 through the provision of at least eight bicycle parking spaces; the applicant is providing an additional 40 bike parking spaces to meet City standards (not identified in the Venice LUP).

Specifically, Policy I.A.14 of the certified Venice LUP allows for reduced parking for low income affordable units if the project is consistent with the density bonus policies of the LUP (described above) and if it is demonstrated that the occupants would have a reduced demand for parking (also described above). Applying a parking ratio of 0.2 to 0.48 parking spaces per unit for affordable supportive housing, as suggested in the Fehr & Peers April 2017 study, between 7 and 17 spaces would be required for the 35 housing units. In addition, approximately seven parking spaces would be required for the office use. Therefore, a total of between 14 and 24 automobile parking spaces would be required. In this case the provision of 48 bicycle parking spaces and the reduced demand for parking (due to the restricted income levels of the residents and the project site's proximity to public transit) supports the City's approved parking plan with 17 vehicle parking spaces as appropriate for the subject affordable housing development. Thus, no substantial issue is raised with respect to the consistency of the development with Chapter 3 of the Coastal Act or the certified LUP, used here as guidance.

Additionally, the City found that non-vehicular public access would be provided through the maintenance and expansion of the sidewalk between the subject structures and Rose Avenue (part of the merged area), which supports LUP Policies II.B.1 and II.C.2 (Public Transportation and General Non-Vehicular Coastal Access Policy). The City also found that public access would be improved through improvements to the alley from the subject site to 7th Avenue, which supports LUP Policy II.C.9 (Alley Access and Improvements).

Furthermore, Section 30210 requires the provision of maximum coastal access and recreational opportunities for all people. As stated in the introduction to the Commission's Environmental Justice Policy, adopted in March 2019: "*Statistics show a startling lack of diversity among those who live on the California coast, and yet millions of inland residents visit and work there every day without the means to access affordable accommodations.*" Due to historic institutionalized geographic, economic, social, and cultural barriers, marginalized populations, including low-income communities and communities of color, have been denied access to affordable housing in

the coastal zone. The subject project includes a 100% affordable housing component that reserves 34 of the 35 units for homeless youth, individuals, and families. In addition, the applicant proposes to use the administrative offices to continue to provide youth programming, resident and homeless services, and education and job training programs. Through the City's approval, the project provides more housing units than would otherwise have been allowed on site, all of which are designated as affordable. Furthermore, the City-approved project includes new supportive affordable housing that not only provides housing in the coastal zone for low and very low income individuals and families, but also provides on-site supportive services for those individuals, which supports the provision of equitable access consistent with the Commission's adopted Environmental Justice Policy. As analyzed in this section, the City-approved project is also consistent with the Chapter 3 policies of the Coastal Act.

Substantial Issue Factors

Applying the five factors listed in the prior section demonstrates that the appeals raise "no substantial issue" with respect to the visual resource protection and public access policies of the Coastal Act and the policies of the certified LUP, and therefore, do not meet the substantiality standard of Section 30625(b)(1).

The first factor is the degree of factual and legal support for the local government's decision that the City-approved development is consistent with the relevant provisions of the certified LCP. Relating to the development's visual resource impacts, the City acknowledges that, as the Commission has found in the past, Venice's unique social and architectural diversity makes defining its character difficult. In this case, the City compared the project to a number of other structures on Rose Avenue located within two blocks of the project site (all seaward). These eight properties range in height from 28 to 37 feet at the front façade, which ranged from 0 to 11 feet from the front lot line. The subject project is designed in the middle of these ranges with the height of the building's façade at approximately 31 feet, nine inches, which is set back 5 feet, one inch and additional building articulation and landscaped open space. Furthermore, the City-approved project is sited in close proximity to larger commercial and residential developments, which is appropriate location for a larger housing complex. With regard to parking requirements, while the City did not calculate the required parking or parking reductions using the certified LUP standards that apply to market rate development, the City found that the reduction in parking requirements would not adversely impact coastal access due to the reduced utilization of vehicles by mixed-use developments, low-income individuals and households, and individuals living in close proximity to public transit. In this case, the City-approved parking plan is consistent with LUP Policy I.A.14, which allows for reduced parking standards for affordable housing projects.

While the City's approval is not fully consistent with the policy of the certified LUP regarding the LUP's maximum 25% density bonus allowance, the LUP policies also encourage the development of affordable housing in the coastal zone (I.A.13 and I.A.14). In addition, the City found that, overall, the mixed-use, affordable housing project will maintain and enhance public access to the coast consistent with the Chapter 3 policies of the Coastal Act. Therefore, there is factual and legal support for all of the City's findings, with the exception of its approval of a project that has a higher density than that allowed under the LUP. There is, however, factual and legal support for the City's finding that the project is consistent with the Coastal Act's visual

resource and public access policies. Thus, overall, this factor weighs in favor of a finding of no substantial issue.

The second factor is the extent and scope of the development as approved or denied by the local government. This project includes the construction of a 4-story, 35-unit affordable supportive housing complex on an approximately 14,500 square foot lot within a mile of the coast. Per the general standards defined in the certified Venice LUP, the density and height of the City-approved development are beyond what is allowed. This is a large development within Venice's coastal zone; however, there are other 30 to 37-foot high buildings within two blocks of the project site, which is also directly across the street from an approximately 25-foot high, 75,000 square foot shopping center with a supermarket, discount general store, pharmacy, and parking lot and gas station, and there are no views to or along the ocean impacted by the project. This factor therefore weighs in favor of a finding of no substantial issue.

The third factor is the significance of the coastal resources affected by the decision. In this case, the resources affected include visual resources, in the form of Venice's community character, and public access to the coast. The project site is approximately $\frac{3}{4}$ of a mile from the beach in an urbanized, mixed-use area within a block of Lincoln Boulevard/State Route 1. The subject project, as approved and conditioned, maintains Venice's architectural and social diversity. Coastal access for all people has not yet been realized due to geographic, economic, social, and cultural barriers preventing marginalized populations, including low-income communities and communities of color, from accessing and recreating on the coast even though many individuals belonging to such populations work within the coastal zone. The project will provide affordable housing for lower income individuals and families, which will enhance Venice's social diversity, and will not adversely affect access for coastal visitors. As approved and conditioned by the City, the subject development is consistent with the public access and visual resource policies of the Coastal Act and will not adversely affect coastal resources. This factor weighs in favor of a no substantial issue determination.

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 for the Venice area. As discussed above, the City did not fully support its findings regarding some of the LUP policies and the City-approved development is not entirely consistent with the development standard of the LUP relating to density. However, in this particular case, the project would not result in any significant impact to coastal resources, including but not limited to coastal access and visual resources. Further, the City's approval for a 100% affordable supportive housing project has low potential to be a precedent for future development (such as market rate housing) or to have cumulative impacts on coastal resources because Venice is built-out with limited large parcels that could support similar projects. In this case, the applicant already owns the property where the subject affordable housing development is proposed, which is unusual. In cases where affordable housing developers do not already own a large parcel in a mixed use area or cannot obtain such a parcel at a discount, it may not be feasible to develop affordable housing. If the City considers the LUP policies for affordable housing to be too restrictive such that 100% affordable housing developments cannot meet the LUP standards, then it should consider modifying such standards through amendments to its certified LUP. In amending the certified Venice LUP, the City would be required to analyze the cumulative impacts on coastal resources associated with authorizing the construction of affordable housing

developments with less restrictive standards. By itself, the subject project, which is unique in its location and its developer's economic conditions, will not set a precedent for large residential projects throughout Venice. In addition, as discussed above, the project is consistent with the Chapter 3 policies of the Coastal Act. Therefore, the City's action will not prejudice the ability of the City to prepare an LCP that is in conformity with Chapter 3 of the Coastal Act, and this factor weighs in favor of a finding of no substantial issue.

The final factor is whether the appeal raises local issues, or those of regional or statewide significance. Venice is a popular visitor destination and attracts visitors from throughout the State and beyond, making impacts to coastal resources issues of statewide significance. In addition, the lack of sufficient affordable housing within the California coastal zone and the resulting impact on coastal access for all people is a statewide issue. The issues raised by the appeals relating to community character, allowable density, and height standards relate to unique project-specific factors of local concerns that do not raise statewide issues. Further, the City-approved development will not adversely impact coastal resources and, thus, no substantial issue is raised regarding the City's action on CDP No. CPC-2018-2140-CU-DB-CDP-SPP-MEL.

In conclusion, the subject 100% affordable housing project is consistent with the overarching goals and policies of the Venice LUP and the Chapter 3 policies of the Coastal Act. Therefore, the Commission finds that the appeals do not raise a substantial issue as to conformity the Chapter 3 policies of the Coastal Act.

Appendix A – Substantive File Documents

- Venice Land Use Plan
- Local CDP Case No. CPC-2018-2140-CU-DB-CDP-SPP-MEL
- Fehr & Peers, *Task 2.1A Local Affordable Housing Trip Generation Study* (April 20, 2017)
- Crain & Associates, *Low-Income Restriction and Transit Availability Effects on Personal Vehicle Ownership and Parking Demand* (March 12, 2019)
- State Density Bonus Law, Government Code Section 35915