

**CALIFORNIA COASTAL COMMISSION**

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# Th18b

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## STAFF REPORT: APPEAL – NO SUBSTANTIAL ISSUE

**Appeal Number:** A-5-VEN-17-0016

**Applicant:** Fabienne Korchia, Pied A Terre, LLC

**Agent:** Dan Brunn, Dan Brunn Architecture

**Local Government:** City of Los Angeles

**Local Decision:** Approval with Conditions

**Appellants:** Robin Rudisill, Janet Lent, Frank Defurio, Judy Esposito, Lisa Bartoli, Anita Zubere, Pamela Harbour, Laurent Combredet, Laurie Hubbard Combredet, Richard Stranger, Charmaine Soo, Tom Johnstone, Lisa Farr Johnstone, Marianne Pogoler, Anne Mullins, Kennallee Mattson, Sandra Wilson, Anna Lee, Bill Mattson, Lisa Masse, Stacy Fong, Luis Perez, Clay Boss, and Terry Sidell

**Project Location:** 2325 Wilson Avenue, Venice, City of Los Angeles, Los Angeles County (APN No. 4228-008-007).

**Project Description:** Appeal of City of Los Angeles Local Coastal Development Permit No. DIR-2016-2381-CDP-MEL approved with conditions for the demolition of a one-story, 700 square-foot single-family residence and construction of a 3,400 square-foot, 24-foot high, two-story single-family residence with an attached 370 square-foot two-car garage, plus one additional on-site parking space, and a roof deck with a 34-foot high roof access structure, and a 42-inch high roof deck railing on a 4,799 square-foot lot.

**Staff Recommendation:** No Substantial Issue

## SUMMARY OF STAFF RECOMMENDATION

The City approved a local coastal development permit (CDP) for the subject development on March 3, 2017. The City's local CDP approved with conditions the demolition of a one-story, 700 square-foot single-family residence and construction of a 3,400 square-foot, 24-foot high, two-story single-family residence with an attached 370 square-foot two-car garage, plus one additional on-site parking space, and a roof deck with a 34-foot high roof access structure, and a 42-inch high roof deck railing on a 4,799 square-foot lot. No local appeals were filed by the end of the City's local appeal period, March 13, 2017. The City's notice of final local action was received by the Commission's South Coast office on March 17, 2017 and the Commission's twenty working-day appeal period was established. During the Commission's appeal period, this one appeal was received on April 17, 2017.

The appellants contend that the proposed height, one foot below the Venice certified Land Use Plan allowable height limit, and proposed floor-area ratio (FAR) of the City-approved development is not consistent with the character, mass, and scale of the surrounding area. The appellants also contend that the City's local CDP for the development included an incorrect characterization of the neighborhood, an inaccurate CEQA determination, and a final determination that will prejudice the City's ability to prepare a certified Local Coastal Program (LCP).

At a public hearing on June 7, 2017, the Commission found that the appeal of local CDP No. DIR-2016-2381-CDP-MEL, issued by the City of Los Angeles, raised no substantial issue with respect to the grounds on which the appeal was filed and proposed project's consistency with Chapter 3 of the Coastal Act. On August 7, 2017, appellants Robin Rudisill, Judy Esposito, Lydia Ponce, and Richard Stranger filed a lawsuit challenging the Commission's finding of no substantial issue. On May 28, 2019, the court ruled that the Commission's finding that the appeal raised no substantial issue was an abuse of discretion because the Commission failed to adequately consider cumulative effects of the proposed development on community character, and that the matter should be remanded to the Commission "to consider whether the appeal raises a substantial issue with respect to the Project's cumulative impact with other approved projects on the character of the neighborhood and the City's ability to certify an LCP." The purpose of this hearing is to reconsider the appeal in light of the trial court's decision. Furthermore, our staff recently became aware that the original single-family residence on the subject property was demolished without benefit of the necessary CDP. On June 6, 2017 the Los Angeles Department of Building and Safety issued Building Permit No. 17019-30000-01801 to demolish the structure; however, as noted above, the appeal of Local CDP No. DIR-2016-2381-CDP-MEL was filed with the Commission's South Coast District office on April 17, 2017 and to date final action has not yet occurred on this appeal.

Staff has reviewed the appellants' contentions in light of the court's decision and determined that: **1)** regardless of the City's characterization of the area of the development (suburban versus urban), the City-approved development is located within a highly developed area, which is consistent with Section 30250 of the Coastal Act; **2)** the City-approved development is consistent with, and lower than the maximum allowable height limit in the certified Venice Land Use Plan (LUP) and is not maximized

with regard to the allowable height for single-family residences in this area, and is therefore consistent with the development standards with regard to height of the certified LUP and, by extension, Section 30251 of the Coastal Act; **3)** a maximum FAR is not a development standard of the certified LUP and the appellants failed to substantiate how, specifically, a FAR that is larger than that of surrounding development is inconsistent with the Coastal Act; **4)** the City-approved project is consistent with the development policies of the certified Venice LUP and, as approved by the City, will not result in significant adverse cumulative impacts to community character, mass, or scale that would prejudice the City's ability to prepare a certified LCP; **5)** recreational opportunities on private property are not issues relevant to the public access and recreation policies of the Coastal Act and, furthermore, an additional on-site parking space is consistent with the parking policies of the certified LUP in this area and will free up on-street parking in the area, which will benefit public parking opportunities in the area, which could enhance public access opportunities consistent with the public access policies of the Coastal Act; **6)** it is unclear what examples of low-density residences the appellants are referring to, and the appellants did not provide a clear reason why the given examples are inappropriate; and **7)** the City is the lead agency for CEQA certification, and a CEQA determination is not a Coastal Act issue that is a valid ground for appeal.

Therefore, considering the factors for substantial issue in Section 13115(b) of the Commission's regulations, the appeal does not raise a substantial issue regarding the City-approved development's consistency with Chapter 3 policies of the Coastal Act, using the certified LUP for Venice as guidance. There is sufficient support for the City's findings that the project is consistent with Chapter 3 policies, including with respect to compatibility with community character and potential prejudice to the City's adoption of a LCP that complies with Chapter 3, and accounting for potential cumulative effects of the project. In addition, the scope of the development is limited in nature, and the decision is not likely to set an adverse precedent for future interpretations of the Venice LUP or the Coastal Act.

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. Pursuant to Section 30625(b) of the Coastal Act and Section 13321 of the Commission's regulations, do novo consideration of the application is not required.

**Important Hearing 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 applicants, 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.

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## EXHIBITS

[Exhibit 1 – Vicinity Map](#)

[Exhibit 2 – Survey Area Map](#)

[Exhibit 3 – City Determination Letter and Approved Plans](#)

[Exhibit 4 – Appeal](#)

[Exhibit 5 – Applicant’s Response to Appeal](#)

## **I. MOTION AND RESOLUTION – NO SUBSTANTIAL ISSUE**

**Motion:** I move that the Commission determine that Appeal No. A-5-VEN-17-0016 raises **NO SUBSTANTIAL ISSUE** with respect to the grounds on which the appeal has been filed under § 30602 of the Coastal Act.

Staff recommends a YES vote. Passage of this motion will result in a finding of No Substantial Issue and adoption of the following resolution and findings and the local action will become final and effective. The motion passes only by an affirmative vote of the majority of the Commissioners present.

**Resolution:** The Commission hereby finds that Appeal No. A-5-VEN-17-0016 presents **NO SUBSTANTIAL ISSUE** with respect to the grounds on which the appeal has been filed under § 30602 of the Coastal Act regarding consistency with Chapter 3 policies of the Coastal Act.

## **II. APPELLANTS' CONTENTIONS**

On March 17, 2017, the Commission received a notice of final local action for Local CDP No. DIR-2016-2381, which approves the demolition of a one-story, approximately 700 square-foot single-family residence and construction of a 3,400 square-foot, 24-foot high, two-story single-family residence with an attached 370 square-foot two-car garage, plus one additional on-site parking space, and a roof deck with a 34-foot high roof access structure, and a 42-inch high roof deck railing on a 4,799 square-foot lot.

On April 17, 2017, within 20-working days of receipt of notice of final local decision, Robin Rudisill, Janet Lent, Frank Defurio, Judy Esposito, Lisa Bartoli, Anita Zubere, Pamela Harbour, Laurent Combredet, Laurie Hubbard Combredet, Richard Stranger, Charmaine Soo, Tom Johnstone, Lisa Farr Johnstone, Marianne Pogoler, Anne Mullins, Kennallee Mattson, Sandra Wilson, Anna Lee, Bill Mattson, Lisa Masse, Stacy Fong, Luis Perez, Clay Boss, and Terry Sidell filed an appeal of the local CDP which included the following assertions: **1)** the project site is located in a suburban area, not an urban area as described by the City; **2)** development is one foot below the allowable height limit, which will degrade the scenic and visual qualities of the area; **3)** the FAR of the City-approved project is more than double the average of residences in the surrounding area, which is inconsistent with the community character of the area; **4)** the project will prejudice the City's ability to prepare a certified Local Coastal Program (LCP); **5)** the third on-site parking space is located in the rear yard, which reduces on-site recreation opportunities; **6)** some examples of low-density residences that were used by the applicant for the purpose of demonstrating to the City that the proposed FAR was fitting for the area are inappropriate; **7)** and that the City's CEQA finding "cannot be used" because it was issued in error.

## **III. LOCAL GOVERNMENT ACTION**

On January 23, 2017 and February 6, 2017, the City Planning Commission held public hearings for Local CDP DIR-2016-2381-CDP-MEL (Fabienne Korchia, Pied A Terre, LLC) for the project. On March 3, 2017, the Director of City Planning issued a Determination Letter approving the local CDP for the proposed demolition of the single-family residence, and the construction of a new single-family residence. No appeals were filed at the local level. The City's Notice of Final Local Action for the local CDP was received in the Coastal Commission's Long Beach Office on March 17, 2017 and the Coastal

Commission's required twenty working-day appeal period was established. On April 17, 2017, the appeal was received from the appellants. No other appeals were received prior to the end of the appeal period at 5 p.m. on April 17, 2017.

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

Section 30600(b) of the Coastal Act provides that prior to certification of its Local Coastal Program (LCP), a local jurisdiction may, with respect to development within its area of jurisdiction in the coastal zone and consistent with the provisions of Sections 30604, 30620 and 30620.5, establish procedures for the filing, processing, review, modification, approval or denial of a coastal development permit. Pursuant to this provision, the City of Los Angeles developed a permit program in 1978 to exercise its option to issue local 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 CDP 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 applicants, the Executive Director, or any two members of the Commission, may appeal the local decision to the Coastal Commission. [Cal. Pub. Res. Code § 30602.] As provided under section 13318 of Title 14 of the California Code of Regulations, the appellant must conform to the procedures for filing an appeal as required under section 13111 of Title 14 of the California Code of Regulations, including the specific grounds for appeal and a summary of the significant question raised by the appeal.

The action currently before the Commission is to find whether there is a "substantial issue" or "no substantial issue" raised by the appeal of the local approval of the proposed project. Sections 30621 and 30625(b)(1) of the Coastal Act, and Section 13321 of the Commission's regulations, require a de novo hearing of the appealed project unless the Commission determines that no substantial issue exists as to the project's conformity with Chapter 3 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 Commission typically continues the public hearing to a later date in order to review the CDP as a de novo matter. [Cal. Pub. Res. Code §§ 30621 and 30625.] Section 13321 of the Coastal Commission regulations specifies that de novo actions will be heard according to the procedures outlined in Sections 13114 and 13057-13096 of the Commission's regulations.

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

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

## **V. SINGLE 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”) CDP 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 coastal development permit 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 appeal is the Chapter 3 policies of the Coastal Act.

## **VI. FINDINGS AND DECLARATIONS**

### **A. PROJECT DESCRIPTION AND LOCATION**

The project site for the City-approved development is located in a residential neighborhood within the Southeast subarea of Venice, City of Los Angeles. The subject corner lot, which is larger than most of the lots in the surrounding neighborhood, is approximately 4,799 square feet in area and designated as Single Family Residential (Low) by the Venice LUP and zoned R1-1 by the Los Angeles Municipal Code. The site is located approximately  $\frac{3}{4}$  of a mile inland of the public beach and boardwalk ([Exhibit 1](#)). The Southeast Venice neighborhood and the subject block are characterized primarily by one-story, two-story, and three-story single-family and multi-family homes of varying sizes and architectural styles.

The City-approved project includes the demolition of a one-story, approximately 700 square-foot single-family residence and the construction of a 3,400 square-foot, 24-foot high, two-story single-family residence with an attached 370 square-foot, two-car garage, plus one additional on-site parking space, and a roof deck with a 34-foot high roof access structure, and 42-inch high roof deck railings ([Exhibit 3](#)). Parking for the residence will be accessed through the rear alley and there will be no curb cuts. The front yard setback for the proposed residence is 19.5 feet from the front yard property

line. The rear yard setback is 15 feet and the side yard setbacks are each 5 feet. The City-approved project observes all of the required setbacks of the City's Municipal Code and there are no exceptions or variances for height or setback requirements in the City's Municipal Code or the certified Venice LUP.

### **Coastal Act Violations**

As noted above, staff recently became aware that the original single-family residence on the subject property was demolished without benefit of the necessary CDP. On June 6, 2017 the Los Angeles Department of Building and Safety issued Building Permit No. 17019-30000-01801 to demolish the structure; however, as noted above, the appeal of Local CDP No. DIR-2016-2381-CDP-MEL was filed with the Commission's South Coast District office on April 17, 2017 and to date final action has not yet occurred on this appeal. If the Commission finds no substantial issue with Local CDP No. DIR-2016-2381-CDP-MEL the local action by the City of Los Angeles will be approved and the violation will be resolved.

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

When determining whether an appeal raises a "substantial issue," section 13115(b) of the Commission's regulations provide that the Commission may consider factors, including but not limited to:

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.

The Commission may, but need not, assign a particular weight to a factor.

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

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

As stated in Section IV of this report, the grounds for an appeal of a CDP issued by the local government prior to certification of its LCP are the Chapter 3 policies of the Coastal Act. Any local government CDP issued prior to certification of its LCP may be appealed to the Commission. The Commission shall hear an appeal unless it

determines that no substantial issue exists as to conformity with Chapter 3 policies of the Coastal Act.

The grounds for this appeal focus primarily on the proposed project's consistency with Sections 30250, 30251, and 30253 of the Coastal Act because the appellants allege that the mass and scale of the proposed structure is not consistent with the character of the Southeast subarea of Venice.

Section 30250(a) of the Coastal Act states, in relevant 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:

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. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

Section 30253(e) of the Coastal Act states, in relevant part:

New development shall...

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

Section 30250 of the Coastal Act requires new development to "be located within, contiguous with, or in close proximity to, existing developed areas." Sections 30251 and 30253 of the Coastal Act state that such scenic areas and special communities shall be protected. These sections of the Coastal Act require permitted development to be visually compatible with the character of surrounding areas and require protection of communities and neighborhoods that, because of their unique characteristics, are popular visitor destination points for recreational uses. The Venice community including the beach, the boardwalk, the canals, and the eclectic architectural styles of the neighborhoods – is one of the most popular visitor destinations in California. According to the Venice Chamber of Commerce, 15

million people visited Venice in 2015, drawn by the unique characteristics of the area.<sup>1</sup>

When the Commission certified the Venice LUP in 2001, it considered the potential impacts that development could have on community character and adopted policies and specific residential building standards to ensure development was designed with pedestrian scale and compatibility with surrounding development. The Commission recognized that Venice was largely built out and that "recycling" of older homes was the primary form of residential development in Venice. The building standards approved by the Commission would allow for some larger homes to be built over time. However, due to the inherently small size of most Venice lots, the Commission found that height limits and land use designations were generally sufficient to protect community character, as long as two issues were addressed—over-sized roof access structures and lot consolidations, which the Commission identified as the "major threat" to community character in Venice.<sup>2</sup> Therefore, the Commission suggested modifications to the Venice Land Use Plan to control roof access structures and lot consolidations and found that the "proposed height limits and land use designations, and the suggested controls on roof access structures and lot consolidations, will effectively control the character and scale of existing single family neighborhoods . . ."<sup>3</sup>

Given the specific conditions surrounding the subject site and the diverse development pattern of Venice, it is appropriate to use the certified LUP policies as guidance in determining whether or not the project is consistent with sections 302520, 30251, and 30253 of the Coastal Act.

In this case, the certified Venice LUP echoes the priority expressed in Coastal Act for preservation of the nature and character of unique residential communities and neighborhoods:

Certified Venice LUP Policy I. E.1 General, 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.

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

New development within the Venice Coastal Zone shall respect the scale and character of the community development. Buildings which are of a scale compatible with the community (with respect to bulk, height, buffer and setback) shall be encouraged. All new development and renovations should

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<sup>1</sup> Venice Chamber of Commerce website. <<http://venicechamber.net/visitors/about-venice/>>

<sup>2</sup> With respect to lot consolidations, the Commission found that "[w]ithout lot consolidation, the new modern homes and other structures are limited in size and bulk by the area of the small lots that are typical of Venice neighborhoods. If lot consolidations are permitted, new modern structures could be built across two lots that formerly had two separate homes."

<sup>3</sup> The Commission approved the Venice Land Use Plan with suggested modifications in November 2000. The Land Use Plan was effectively certified in March 2001, after the City accepted the Commission's suggested modifications. The staff report for the Commission's approval of the Venice Land Use Plan is found at: <https://documents.coastal.ca.gov/reports/2000/11/T10e-11-2000.pdf>.

respect the scale, massing, and landscape of existing residential neighborhoods.

Certified Venice LUP Policy I. E.3 Architecture, states.

Varied styles of architecture are encouraged with building facades which incorporate varied planes and textures while maintaining the neighborhood scale and massing.

Certified Venice LUP Policy I.A.1 Development Standards states, in part:

The maximum densities, building heights and bulks for residential development in the Venice Coastal Zone shall be defined by the Land Use Plan Maps and Height Exhibits (Exhibits 9 through 16), and the corresponding land use categories and the development standards as described in this LUP...

a. Roof Access Structures. Building heights and bulks shall be controlled to preserve the nature and character of existing residential neighborhoods. Residential structures may have an enclosed stairway (roof access structure) to provide access to a roof provided that:

i. The roof access structure shall not exceed the specified flat roof height limit by more than 10 feet;

ii. The roof access structure shall be designed and oriented so as to reduce its visibility from adjacent public walkways and recreation areas:

iii. The area within the outside walls of the roof access structure shall be minimized and shall not exceed 100 square feet in area as measured from the outside walls; ...

Certified Venice LUP Policy I.A.2 states, in part:

Ensure that the character and scale of existing single family neighborhoods is maintained and allow for infill development provided that it is compatible with and maintains the density, character and scale of the existing development. A second residential unit or an accessory living quarter may be permitted on lots designated for single-family residence land uses, provided that the lot has a minimum lot area of 4,600 square feet in the Venice Canals subarea, or 10,000 square feet in the Silver Strand, Southeast Venice, or Oxford Triangle subareas, and all units conform to the height limit, parking requirements, and other development standards applicable to the site.

Certified Venice LUP Policy I.A.3 states, in part:

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

Height: Not to exceed 25 feet for buildings with flat roofs or 30 feet for buildings with a varied or stepped back roof line.

The City approved the demolition of a one-story, approximately 700 square-foot, single-family residence and detached garage, and the construction of a two-story, 24-foot high single-family residences with a 100 square-foot, 34-foot high roof access structure and three on-site parking spaces. The height limit, as set forth in the certified LUP, is 25 feet for structures with flat roofs and 30 feet for structures with varied roofs located in the Southeast subarea of Venice. Roof access structures may reach a height of 10 feet above the flat roof height limit and have an area of no greater than 100 square feet as measured from the outside of the structure.

In this case, the City approved a 24-foot high single-family residence with a flat roof and a 34-foot high, 100 square-foot roof access structure, and a roof deck with 42-inch high roof deck railings ([Exhibit 3](#)). The height of the City-approved residence is consistent with the development standards regarding height and roof access structures of the certified Venice LUP as listed above.

### **Community Character**

The appellants primarily contend that the FAR of the City-approved project is not consistent with the community character of the area because the mass and scale of the new development exceeds that of surrounding single-family residences in the neighborhood. The City's findings address the project's consistency with Venice LUP and Coastal Act Chapter 3 policies intended to preserve residential community character, such as LUP Policy I.A.3 and Coastal Act Section 30253. The City's findings also deemed the project generally consistent with similar multi-story, single-family residences approved in the Venice area.

FAR is a ratio determined by dividing the habitable square footage of a development by the respective lot size; this metric is useful in determining the general scale of development for the neighborhood, but is not a development limit applicable to residential development in the Southeast Venice subarea. The appellants surveyed existing residences along both sides of the Wilson Avenue on the subject block and one block to the south to generate a comparison of existing FAR to the proposed development ([Exhibit 4](#)). Although neither the Coastal Act nor the Venice LUP limit FAR, using the examples provided by the appellants, the average FAR is 0.455. However, had the appellants included the residences along Mildred Avenue and Oxford Avenue, which is adjacent to the subject site to the north, they would have gotten a higher average FAR. Likewise, had the appellants included residences along Boone Avenue and Bryan Avenue, one block to the west and east of the subject site, respectively, the generated FAR would also be higher. Using the City of Los Angeles Zone Information and Map Access System (ZIMAS) and records of past Commission and City action, Commission staff conducted a survey of single-family residences within the subject neighborhood ([Appendix B](#)). This survey included all single-family residences within the 2300 and 2400 blocks of Wilson Avenue; the portion of Mildred Avenue and Oxford Avenue located immediately north of the site; 2300 and 2400 blocks

of Boone Avenue; and 2300 and 2400 blocks of Bryan Avenue, and totaled 84 residences ([Exhibit 2](#)). The average FAR of the 84 surveyed residences is 0.515.

Table 1 summarizes recent Commission action in the subject area since the Venice LUP certification in 2001 and includes some metrics related to the compatibility of a proposed project with the community character of a given area. With an FAR of 0.70 (3,400 sq. ft. house/4,800 sq. ft. lot) ([Exhibit 5](#)), the City-approved project is consistent with and actually smaller than the FARs of other residences approved by the Commission since the Venice LUP certification in 2001. This is shown by the 0.90 average FAR for the recent Commission actions in Table 1, which is larger than the City-approved project FAR value. In fact, at nearly 4,800 square feet, the subject lot is much larger than the typical residential lot in the neighborhood and, at 3,400 square feet, the City-approved residence is roughly the same size as previous Commission-approved two-story single-family residences in the area.

Table 2 summarizes recent local approvals in the subject area issued by the City of Los Angeles since the Venice LUP certification in 2001 which were not appealed to the Commission. This table includes the metrics of Table 1. With an FAR of 0.70, the City-approved project is consistent with, and actually smaller than, the 0.87 average FAR of other recent City-approved houses in the neighborhood. Furthermore, at 3,400 square feet, the City-approved residence is roughly the same size of previous City-approved two-story single-family residences in the area.

Table 3 summarizes the year built, lot size, residence size, and FAR of the single-family residences within the subject area which were built prior to certification of the LUP, using information obtained from ZIMAS on July 20, 2020. This table does not include development height or the original area or FAR parameters of redeveloped properties, as ZIMAS does not provide this information. This table allows inclusion of past development in Commission review in order to ensure an analysis of cumulative impact consistent with Coastal Act Section 30105.5.

### **Cumulative Effects**

Section 30105.5 of the Coastal Act states:

"Cumulatively" or "cumulative effect" means the incremental effects of an individual project shall be reviewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.

In order to evaluate the potential cumulative impacts of the City-approved residence, the incremental effects of the proposed development on community character, mass, and scale are considered in connection with the effects of the past, current, and probable future projects within the subject area. To that end, Commission staff reviewed residential developments on the subject block, Wilson Avenue, and the adjacent residential blocks listed above (Boone Ave, Bryan Ave, Mildred Ave, and Oxford Ave.)

since 2001.<sup>4</sup> This survey included 84 multi- and single-story single-family residences and considered the year of Commission or City approval for redevelopment, lot size, habitable residence area, FAR, and height. For properties which have not received Commission or City approval for redevelopment since 2001, the survey considered the year of residence construction, lot size, current habitable residence area, and FAR. Height is not included on the mapping tool used to obtain this information, ZIMAS, and thus wasn't included for the properties that have not redeveloped subsequent to 2001.

The information analyzed by Commission staff shows that the City-approved residence has a height, size, and FAR consistent with past Commission and City actions on similar residences since 2001. Table 3 also demonstrates the subject residence is larger and has a significantly higher FAR than the majority of homes that have not been redeveloped subsequent to 2001 within the survey area. However, the size and FAR of the proposed project is generally similar in scale to nearby development on comparable lot sizes, where lots greater than 4,000 square feet are uncommon in Venice. Nevertheless, within the survey area, five of the properties that had not redeveloped subsequent to 2001 have lot sizes greater than 4,000 square feet and the homes on these lots have an average size of 2,656 square feet and an average FAR of 0.53.

The information gathered by Commission staff suggests that larger homes have been built in this neighborhood in recent years. However, the locally-approved residence at issue in this appeal is not unusual for larger lots in this neighborhood. Some similarly-sized homes were constructed in the surrounding area decades before the Venice LUP was certified; thus, there is precedent for approval of a residence of this size and scale, both recently and in the past.<sup>5</sup> Furthermore, the Venice LUP anticipated that homes in Venice would be replaced over time and that larger homes could be built, as long as the LUP's land use designations and limits on height, roof access structures, and lot consolidations are observed. Here, as discussed above, all of the building standards of the Venice LUP have been satisfied, and the locally-approved residence is not incompatible with the character of the smaller-sized homes that once predominated in this neighborhood and in Venice. Rather, a mix of home sizes and architectural styles is compatible with Venice's eclectic character.

In short, the appeal does not raise a substantial issue as to the project's compatibility with Chapter 3 policies relating to community character and Venice's special community status, as the project does not appear to pose a significant detrimental cumulative impact to the community character of the surrounding neighborhood that is inconsistent with Chapter 3 of the Coastal Act. The certified Venice LUP does not restrict FAR or

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<sup>4</sup> The appeal did not include a contention that the project is inconsistent with Chapter 3 of the Coastal Act because of cumulative effects of the project and past, present or future projects on community character in Venice. The appeal instead contends that the project is not consistent with the existing character of the surrounding neighborhood, primarily based on an analysis of floor-area-ratios for surrounding homes. Under the Coastal Act and the Commission's regulations (section 13321 of Title 14, Cal. Code of Regs.), the Commission's responsibility is to determine whether the appeal raises a "substantial issue" as to conformity with Chapter 3 of the Coastal Act and, here, the appeal does not raise a substantial issue regarding the project's conformity with Chapter 3 policies relating to community character.

<sup>5</sup> For example, a 2,086 sq. ft. home was constructed at 2337 Boone Avenue in 1935, a 3,005 sq. ft. home was constructed at 2337 Wilson Avenue in 1991, and 2,499 sq. ft. home was constructed at 2409 Wilson Avenue in 1953, per ZIMAS records.

home size for residential development in this area, however the LUP does restrict FAR for sites with commercial land use designations. As such, appellants' contentions regarding FAR and mass and scale do not raise a substantial issue.

In so finding, the Commission acknowledges that there have been changes to the size of homes in this neighborhood of Venice as older homes are replaced with newer homes. As discussed, the Venice LUP allows for this, and established limits on building height, setbacks, roof structures, and lot consolidations to ensure community character in Venice is protected over time. The City of Los Angeles approval of this project was not as thorough as the Commission would undertake through a de novo review of the project. However, the question before the Commission is whether the appeal raises a substantial issue as to the project's conformity with Chapter 3 of the Coastal Act. Here, based on the guidance provided by the Venice LUP, there is reasonable support for the City's decision to approve the project.

The Commission, therefore, finds that the appellants' contentions that the City-approved project is not consistent with the community character of the neighborhood do not raise a substantial issue with regard to Chapter 3 policies of the Coastal Act.

### **Prejudice to City's Preparation of an LCP That Conforms to Chapter 3**

The appellants contend that the project will prejudice the City's ability to prepare a certified LCP that complies with Chapter 3 of the Coastal Act. The Venice LUP was certified by the Coastal Commission on June 14, 2001, but implementing ordinances have not been adopted. The City is currently working to certify an updated LUP for Venice and Implementation Plan, and subsequently obtain a fully certified LCP. However, in the interim the City is able to issue CDPs with the Chapter 3 policies of the Coastal Act as the standard of review and the certified LUP used by the Commission as guidance in the event of an appeal. Under Section 30604(a) of the Coastal Act, a local government's approval of a CDP must include findings that the project conforms with Chapter 3 and that the "permitted development will not prejudice the ability of the local government to prepare a local coastal program that is in conformity with Chapter 3." Here, the City's approval of the appealed project included findings that the approved residence complies with the relevant Chapter 3 policies protecting scenic and visual resources, marine resources, environmental resources, and public access. As previously discussed, the City-approved project is consistent with all the development standards of the certified LUP, and is not likely to result in significant adverse cumulative effects to the character of this neighborhood that are inconsistent with Chapter 3 of the Coastal Act. As such, the appeal does not raise a substantial issue with regard to the City's ability to approve a certified LCP that complies with Chapter 3 of the Coastal Act.

### **Other Contentions**

In addition to character, mass, and scale, the appellants make several other assertions. The appellants cite Section 30250 of the Coastal Act, stating that the project is located in a suburban area, not an urban area as described by the City. Section 30250 of the Coastal Act requires new development to "be located within, contiguous with, or in close proximity to existing developed areas..."; whether the project is located in an urban or

suburban area is inconsequential in this case. The City-approved development is located within a highly developed area consistent with Section 30250 of the Coastal Act. Thus, no substantial issue is raised with regard to the characterization of the location of the project.

The appellants assert that the proposed location of a parking space within the rear yard will inhibit on-site recreation consistent with the existing character of the neighborhood. The City's CDP findings include an analysis of the proposed yard dimensions and its consistency with relevant Venice LUP development standards. The City-approved structure will be set back 19.5 feet from the front yard property line, 15-25 feet from the rear yard property line, and five feet from each side yard property line. The certified LUP does not mandate a specific length for each setback, but does require yards to be adequate "to accommodate the need for fire safety, open space, permeable land area...and on-site recreation consistent with the existing scale and character of the community." The subject site is a corner lot that abuts an alley. For this particular lot, the City's zoning code requires front yard setback of 20 percent of the lot depth, but no more than 20 feet, and not less than the prevailing setback. The City-approved project observes the setback requirements of the City's Municipal Code. Additionally, the City's staff report leaves the option for the City Department of Building and Safety to make adjustments to the approved setbacks for safety purposes. This action by the City is not inconsistent with the certified LUP or with the Coastal Act, because the certified LUP does not mandate specific setback lengths and there are no public coastal resources in the area that will be infringed upon due to the length of the City-approved setback. Furthermore, the site is a corner lot adjacent to a rear alley, which provides greater access to the lot and to any structures on the lot, should that ever be required for safety purposes. Moreover, the City-approved project includes landscaped areas, exterior decks, and permeable yard area consistent with the California Green Building Code Standards observing water and energy conservation measures and providing personal individual on-site recreation opportunities for any future residents.

The appellants contend that some examples of low-density residences that were used are inappropriate. The appellants did not provide comprehensive information with regard to what examples they were referring to, who they were presented by, and to whom they were presented. Regardless, the City-approved project is consistent with the development standards of the certified LUP and the public access and recreation policies of the Coastal Act and no substantial issue is raised with regard to examples of low-density residences in the area are offered by the appellants.

Finally, the appellants contend that the City's CEQA finding "cannot be used" because it was issued in error. The City is the lead agency for CEQA certification. The City determined that the project is categorically exempt from CEQA pursuant to Article III, Section 1, Class 3, Category 1 and certified its determination concurrently with the local CDP on March 3, 2017 (ENV-2016-2382-CE). The claim does not raise any issue with regard to Chapter 3, which is the Commission's standard of review. As such, no substantial issues are raised with regard to the project's CEQA determination.

Therefore, for the reasons described above, the appeal raises no substantial issue as to conformity with the Chapter 3 policies of the Coastal Act.

## SUBSTANTIAL ISSUE FACTORS

The Commission's standard of review for determining whether to hear the appeal is only whether the appeal raises a substantial issue as to conformity with Chapter 3 of the Coastal Act. Cal. Pub. Res. Code § 30625(b)(1); 14 C.C.R. § 13321. The Commission's decision will be guided by the factors listed in the previous section of this report.

The first factor is the **degree of factual and legal support for the local government's decision** that the development is consistent or inconsistent with the relevant provisions of the Coastal Act. The City found the project will be located in a developed residential neighborhood consisting of single-family homes with similar heights and setbacks and therefore consistent with the community character of the area, consistent with Sections 30250, 30251, and 30253 of the Coastal Act. The City-approved project is also consistent with the development policies regarding mass, scale, and character of the certified LUP and, by extension, the Chapter 3 policies of the Coastal Act. Although the City's findings concerning community character are not robust, there is adequate support for the City's determinations that the project is consistent with community character and will not prejudice the City's ability to prepare an LCP that conforms with Chapter 3, findings that are consistent with the Commission's independent analysis of the project's individual and cumulative effects. As discussed above, no other issues raised by the appellants describe factually inaccurate or legally questionable actions by the City. Therefore, the Commission finds that the City provided an adequate degree of factual and legal support for its decision.

The second factor is the **extent and scope of the development** as approved or denied by the local government. The City-approved development will demolish a single-family residence and replace it with a new single-family residence in a highly developed area. The scope is consistent with that of the surrounding development, which is comprised primarily of one-story and two-story single- and multi-family residences. The locally approved project would have no adverse impacts to visual resources and is consistent with the community character of the neighborhood. Therefore, the Commission finds that the extent and scope of the City-approved development is consistent with the Chapter 3 policies of the Coastal Act.

The third factor is the **significance of the coastal resources affected** by the decision. Venice's unique community character is a significant coastal resource. However, as described above, the City-approved development is consistent with the mass, scale, and character of the surrounding neighborhood, and is not likely to have significant adverse cumulative effects on the character of this area of Venice that is inconsistent with Chapter 3 of the Coastal Act, using the certified LUP areas guidance. Therefore, the Commission finds that the City-approved development will not have a significant impact on coastal resources.

The fourth factor is the **precedential value of the local government's decision** for future interpretations of its LCP. The City does not currently have a certified LCP but it does have a certified LUP. The Commission relies on the certified LUP for Venice as guidance when reviewing appeals and approving projects because the LUP was certified by the Commission as consistent with Chapter 3 of the Coastal Act. The City-

approved development is consistent with all of the LUP residential building standards related to scale, mass, and architectural diversity. Additionally, the project is consistent with previous Commission and City actions in the area, as shown in Tables 1 and 2, which have authorized similarly sized two-story residential structures. While recent redevelopment has produced a pattern of increased home sizes and FARs in the subject neighborhood, the certified Venice LUP does not restrict FAR or home size for residential development in this area. Rather, the LUP allowed for some larger homes to be built in Venice, as long as land use designations and limits on building height, setbacks, and lot consolidations are observed. Thus, the project, as approved with conditions, does not raise a substantial issue with regard to the project's conformity with the certified LUP. Therefore, the Commission finds that the City-approved development will not prejudice the City's ability to certify an LCP.

The final factor is **whether the appeal raises local issues, or those of regional or statewide significance**. Impacts to coastal resources, including community character, are important statewide issues. However, the City-approved development is consistent with the development standards of the certified LUP and with Chapter 3 of the Coastal Act. Therefore, the Commission finds that the City-approved CDP does not raise any issues of statewide significance.

### **Conclusion**

Applying the five factors listed above clarifies that, on balance, the appeal raises "no substantial issue" with respect to the project's consistency with Chapter 3 of the Coastal Act, because there is sufficient support for the City's findings that the project is consistent with Chapter 3 policies, including with respect to compatibility with community character, the scope of the development is limited in nature, and the decision is not likely to set an adverse precedent for future interpretations of the Venice LUP or the Coastal Act. Therefore, de novo consideration of the project is not required.

## **Appendix A – Substantive File Documents**

1. City of Los Angeles certified Venice Land Use Plan.
2. City of Los Angeles Resolution and staff report for Local CDP No. DIR-2016-2381-CDP-MEL.

## Appendix B – Neighborhood Survey Tables

**Table 1.** Past Commission actions on single-family residences within the subject neighborhood since the Venice LUP certification in 2001 ([Exhibit 2](#)).

Address	Action No.	Approval Year	Height (ft.)	Lot Size (sq. ft.)	Square Footage		FAR	
					(original)	(new)	(original)	(new)
2325 Wilson Ave (proposed)	A-5-VEN-17-0016	N/A	24*	4,799	700	3,400	0.15	0.71
2433 Wilson Ave	A-5-VEN-18-0038	2018	24.5	3,830	1,099	2,811	0.29	0.73
2413 Wilson Ave	5-14-0084-W	2014	23*	3,600	1,114	3,196	0.31	0.89
639 Mildred Ave	5-14-0288	2014	27	2,000	Vacant	2,091	N/A	1.05
641 Mildred Ave	5-14-0523	2014	27	2,000	Vacant	2,615	N/A	1.31
647 Mildred Ave	5-14-0290	2014	27	2,000	Vacant	2,615	N/A	1.31
651 Mildred Ave	5-14-0289	2014	27	2,000	789	2,586	0.39	1.29
2341 Wilson Ave	5-07-095-W	2007	25*	3,600	930	2,806	0.26	0.78
2420 Wilson Ave	5-07-026-W	2007	25*	3,600	700	2,960	0.19	0.82
2429 Wilson Ave	5-07-157-W	2007	25*	3,600	930	2,806	0.26	0.78
2408 Bryan Ave	5-07-096-W	2007	29	3,600	900	2,806	0.25	0.78
2344 Boone Ave	5-06-468-W	2006	30	3,600	844	2,033	0.23	0.56
2405 Wilson Ave	5-05-400-W	2005	29	3,600	700	2,576	0.19	0.72
2336 Boone Ave	5-05-115-W	2005	27.8	3,600	712	2,698	0.20	0.75
2324 Boone Ave	5-04-106-W	2004	30	5,004	930	2,515	0.18	0.50
665 Mildred Ave	5-01-164	2001	30	2,000	Vacant	2,487	N/A	1.24
Average FAR (Original/Redeveloped):							0.25	0.90
Average Square Footage (Original/Redeveloped):							877	2,640
Average Height (Redeveloped):								27.1

\*Roof access structure not included in height.

**Table 2.** Past City of Los Angeles local CDPs and exemptions issued for single-family residences within the subject neighborhood since the Venice LUP certification in 2001 ([Exhibit 2](#)).

Address	Action No.	Approval Year	Height (ft.)	Lot Size (sq. ft.)	Sq. Ft.		FAR	
					(original)	(new)	(original)	(new)
2345 Wilson Ave	DIR-2017-1917-CDP-MEL	2017	24	3,602	832	2,711	0.23	0.75
2405 Boone Ave	DIR-2017-1608-CDP-MEL	2017	25	3,605	1,283	2,600	0.36	0.72

2325 Wilson Ave (proposed)	DIR-2016-2381-CDP-MEL	2016	24*	4,799	700	3,400	0.15	0.71
621 Mildred Ave	ZA-2013-1814-CDP-ZAA-SPPA-SPP	2016	27.5	2,000	vacant	2,766	N/A	1.38
2404 Boone Ave	DIR-2014-2215-CDP-MEL	2014	24*	3,599	1,152	2,956	0.32	0.82
2421 Bryan Ave	ZA-2014-3139-CEX	2014	29*	3,597	964	2,518	0.27	0.70
Average FAR (Original/Redeveloped):							0.30	0.87
Average Square Footage (Original/Redeveloped):							846	2,710
Average Height (Redeveloped):								25.9

\*Roof access structures not included in height.

**Table 3.** Single-family residences currently within the subject neighborhood that were constructed prior to certification of the Venice LUP or the Coastal Act ([Exhibit 2](#)).

Note: Residences at 610 through 632 Oxford Avenue are located on Mildred Avenue but named for the northern side of the street, Oxford Avenue.

Address	Year Built	Lot Size (sq. ft.)	Square Footage	FAR
610 Oxford Ave	2001	7,229	3,005	0.41
614 Oxford Ave	2001	4,636	3,005	0.64
618 Oxford Ave	2001	4,634	3,005	0.64
622 Oxford Ave	2001	3,507	3,005	0.85
628 Oxford Ave	2001	3,507	3,005	0.85
632 Oxford Ave	2001	4,394	3,005	0.68
684 Mildred Ave	1986	3,116	1,930	0.61
2337 Bryan Ave	1950	3,601	700	0.19
2340 Bryan Ave	1954	2,731	922	0.33
2341 Bryan Ave	1951	3,600	939	0.26
2402 Bryan Ave	1955	3,600	1,160	0.32
2405 Bryan Ave	1951	3,599	939	0.26
2409 Bryan Ave	1950	3,598	930	0.25

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2412 Bryan Ave	1950	3,600	1,266	0.35
2413 Bryan Ave	1950	3,598	1,168	0.32
2416 Bryan Ave	1950	3,600	1,466	0.40
2417 Bryan Ave	1956	3,597	1,066	0.29
2420 Bryan Ave	1950	4,484	1,260	0.28
2425 Bryan Ave	1955	3,596	2,008	0.55
2429 Bryan Ave	1950	3,596	1,405	0.39
2433 Bryan Ave	1956	3,871	1,271	0.32
2329 Wilson Ave	1950	3,601	3,242	0.90
2334 Wilson Ave	1956	3,321	1,050	0.32
2337 Wilson Ave	1991	3,601	3,005	0.83
2340 Wilson Ave	1946	3,600	1,012	0.28
2344 Wilson Ave	1952	3,600	753	0.21
2348 Wilson Ave	1950	3,600	930	0.26
2404 Wilson Ave	1953	3,600	832	0.23
2408 Wilson Ave	1950	3,600	1,966	0.55
2409 Wilson Ave	1953	3,600	2,499	0.69
2412 Wilson Ave	1950	3,600	1,014	0.28
2416 Wilson Ave	1950	3,600	700	0.19
2417 Wilson Ave	1950	3,599	930	0.26
2421 Wilson Ave	1950	3,599	1,238	0.34
2424 Wilson Ave	1950	3,600	1,776	0.49
2425 Wilson Ave	1950	3,599	930	0.26
2428 Wilson Ave	1950	3,600	930	0.26
2432 Wilson Ave	1950	3,857	930	0.24
2433 Wilson Ave	1957	3,831	1,099	0.29
2313 Boone Ave	1978	2,754	1,482	0.54

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2317 Boone Ave	1950	3,606	930	0.26
2321 Boone Ave	1953	3,606	1,022	0.28
2325 Boone Ave	1954	3,606	860	0.24
2329 Boone Ave	1951	3,606	1,008	0.28
2333 Boone Ave	1950	3,606	1,130	0.31
2334 Boone Ave	1954	3,600	1,136	0.32
2337 Boone Ave	1935	3,605	2,086	0.58
2340 Boone Ave	1927	3,600	765	0.21
2341 Boone Ave	1985	3,605	2,040	0.57
2348 Boone Ave	1954	3,600	1,782	0.50
2408 Boone Ave	1950	3,600	1,308	0.36
2409 Boone Ave	1955	3,605	1,016	0.28
2412 Boone Ave	2001	3,600	2,104	0.58
2413 Boone Ave	1955	3,605	1,016	0.28
2416 Boone Ave	1950	3,600	930	0.26
2417 Boone Ave	1953	3,604	878	0.24
2420 Boone Ave	1950	3,600	968	0.27
2421 Boone Ave	1950	3,604	2,228	0.62
2424 Boone Ave	1950	3,600	930	0.26
2425 Boone Ave	1953	3,604	2,179	0.60
2428 Boone Ave	1950	3,600	1,208	0.34
2429 Boone Ave	1950	3,604	1,593	0.44
2432 Boone Ave	1950	3,813	1,070	0.28
2433 Boone Ave	1953	3,781	1,714	0.45
Total Number of Residences in Table				64
Average FAR:				0.39

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	Average Square Footage: 1,479
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\*Information obtained from ZIMAS on July 20, 2020.