

CALIFORNIA COASTAL COMMISSION

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STAFF REPORT: APPEAL – NO SUBSTANTIAL ISSUE

Appeal No.: A-5-VEN-21-0010

Applicant: Dustin Miles (Xingyun, LLC)

Agents: Laurette Healey, City Land Use
Daniel Freedman, JMBM
Robert Thibideau, Architect

Local Government: City of Los Angeles

Local Decision: Denied

Appellant: Dustin Miles (Xingyun, LLC)

Location: 426-428 Grand Blvd., Venice, City of Los Angeles,
Los Angeles County (APN: 06037-4238020006)

Project Description: Appeal of City of Los Angeles denial of Local Coastal Development Permit No. 2018-1485-CDP-MEL-1A, which denied a coastal development permit for the demolition of a single-story 1,473 sq. ft. duplex and the construction of a 3-story, 35 ft. high, 3,977 sq. ft. single-family residence with an attached 860 sq. ft. ADU, roof deck, and attached four-car garage on a 4,506 sq. ft. lot adjacent to an alley.

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, appellant, 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

Staff recommends that the Commission, after public hearing, determine that the appeal raises **no substantial issue** as to the proposed development's conformity with the Chapter 3 policies of the Coastal Act. The Commission's role at the "substantial issue" phase of an appeal is to determine whether the appeal of the local government action raises a substantial issue as to conformity with the Chapter 3 standards based on the substantial issue factors in section 13115(b) of the Commission's regulations. The Commission is not required at this stage to reassess the evidence and determine that the project is, or is not, consistent with the Coastal Act. In this case, the local government's findings for the denial of the coastal development permit adequately support its determination that the proposed development does not conform to the policies of Chapter 3 of the Coastal Act. **The motion to carry out the staff recommendation is on Page Four.**

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EXHIBITS

[Exhibit 1 – Project Location](#)

[Exhibit 2 – North Venice Subarea Map](#)

[Exhibit 3 – Project Plans](#)

[Exhibit 4 – Appeal](#)

[Exhibit 5 – Local Coastal Development Permit](#)

[Exhibit 6 – WLAAPC Letter of Determination Corrected Copy \(December 10, 2020\)](#)

I. MOTION AND RESOLUTION – NO SUBSTANTIAL ISSUE

Motion: I move that the Commission determine that Appeal No. A-5-VEN-21-0010 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. If the Commission finds No Substantial Issue, the Commission will not hear the application de novo and the local action will become final and effective. The motion passes only by an affirmative vote of the majority of the Commissioners present.

Resolution: The Commission hereby finds that Appeal No. A-5-VEN-21-0010 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. APPELLANT’S CONTENTIONS

On January 12, 2021, an appeal was filed by Dustin Miles (Xingyun, LLC). The appellant raises the following concerns with the West Los Angeles Area Planning Commission (WLAAPC) determination to deny the local CDP:

1. The project is deemed complete and consistent with all applicable plans, programs, policies, ordinances, standard requirements, or similar provisions per the state Housing Accountability Act (HAA) guidelines because the application was approved by the Planning Director, and no discrepancies were identified.
2. The project may not be denied if it conforms with all objective standards proclaimed in the HAA, unless the project would have a specific adverse impact on health and safety. The City did not find any specific adverse impacts to public health and safety and therefore, is in conformity with the Coastal Act.
3. The sections of the HAA and the Planning Director’s determination affirm that the project is deemed complete and consistent with all objective standards.
4. Under the scope of the HAA, subjective criteria such as “consistent with the character of the city” are not considered “objective” and therefore cannot be the basis for denying a housing project or reducing density.
5. “The WLAAPC violated the HAA’s direction that a subjective interpretation of the character, mass, or scale... cannot be a basis to deny a project.”
6. The City’s characterization is subjective and is selective with regards to the structures used to define the community character.
7. The proposed development is in character with other structures and lot-widths in proximity.

8. The City's classification of the project as a single-family dwelling project is inaccurate and that a single-family home with an ADU should be considered a multi-family dwelling according to the HCD's September 15, 2020 memo, the HAA, and the Coastal Act.
9. The City misapplied the character of the proposed development to single-family developments thereby eliminating the comparison of multi-family dwelling unit developments in the area.
10. The City misunderstood that the Coastal Act views ADUs as residential dwelling units and a two-unit development is consistent with Section 30251.
11. ADUs are devised without a density calculation so that more housing units can be built in zones that limit the number of dwelling units per site but that a single-family home and an ADU together are not "less than" a duplex.
12. The Mello determination is approved and the project is compliant with proposed CEQA Categorical Exemptions.

III. LOCAL GOVERNMENT ACTION

A public hearing was held by a hearing officer on October 21, 2019. Four letters were received indicating the Mello Act Compliance Review should consider the proposed project as part of a Unified Development that includes the adjacent two duplex structures at 416, 418, 422 and 424 Grand Blvd. Additionally, five (5) signed statements were submitted from former tenants at 416, 418, 422, 424, 426, and 428 Grand Blvd. that indicated they were evicted and that the three duplexes meet the definition of a Unified Development per the Mello Act Interim Administrative Procedures.

On April 22, 2020, the City of Los Angeles Director of Planning approved the project under Case No. DIR-2018-1485-CDP-MEL for the development proposed at 426-428 Grand Blvd., Venice, Los Angeles. The local CDP (Exhibit 5) approved the demolition of a 1,473 sq. ft., single-story duplex built in 1947 and the construction of a 3-story, 35 ft. high, 3,977 sq. ft. single-family residence with an attached 860 sq. ft. accessory dwelling unit (ADU), attached four-car garage, and roof deck. The last day to file an appeal for the project was May 6, 2020.

On May 6, 2020, the Planning Director's approval was appealed to the West Los Angeles Area Planning Commission (WLAAPC) by appellants Bill Przlucki, People Organized for Westside Renewal (POWER), Robin Rudisill, Kevin Keresey, Teri Keresey, and Jason Lord. At its meeting on August 18, 2020, the WLAAPC granted the appeal and overturned the Planning Director's April 22, 2020 determination and denied the local CDP.

On October 6, 2020, the Commission received the Notice of Final Action (NOFA), which included the WLAAPC Letter of Determination dated October 1, 2020. The Letter of Determination stated that in addition to denial of the CDP, the WLAAPC also denied the

Mello Act Compliance Review. On November 2, 2020 and November 3, 2020, appeals were received by Dustin Miles (Xingyun, LLC) and Matthew Royce, respectively. The appeals by Dustin Miles (Xingyun, LLC) was rejected by Commission staff because required preliminary local approvals were not fulfilled. In addition, the appeal by Matthew Royce was rejected by Commission staff because only the applicant may file an appeal of the denial of a local CDP.

On December 14, 2020, the Commission received a corrected WLAAPC Letter of Determination dated December 10, 2020 (Exhibit 6) to correct that no action was taken on a Mello Act Compliance Review because the Commission's denial of the project on other grounds resulted in no development. Based on the corrected Letter of Determination, Commission staff opened a new appeal period.

On January 12, 2021, the appellant, Dustin Miles (Xingyun, LLC), submitted the appeal (A-5-VEN-21-0010) (Exhibit 4) to the Commission's South Coast District Office. No other appeals were received prior to the end of the appeal period on January 13, 2021. On January 13, 2021 a Notification of Appeal was sent to the WLAAPC and the applicant, notifying them of the appeal of the WLAAPC's denial for the local CDP.

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 Coastal Act 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 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 final local action on a 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 Sections 13318 and 13319 of Title 14 of the California Code of Regulations, an appeal of a denial of a coastal development permit must conform to the procedures for filing an appeal as required under Section 13111 of Title 14 of the California Code of Regulations, including the specific grounds for appeal and a summary of the significant question raised by the appeal.

The action currently before the Commission is to find whether there is a "substantial issue" or "no substantial issue" raised by the appeal of the local approval of the

proposed project. Sections 30621 and 30625(b)(1) of the Coastal Act require a de novo hearing of the appealed project unless the Commission determines that no substantial issue exists with respect to the grounds for appeal.

Commission staff recommends a finding of no substantial issue. If the Commission decides that the appellant's 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 accepts the appeal for a full de novo review of the permit application, and typically continues the public hearing to a later date in order to review the coastal development permit as a de novo matter. [Cal. Pub. Res. Code §§ 30621 and 30625.] Section 13321 of the Coastal Commission regulations specifies that de novo actions will be heard according to the procedures outlined in Sections 13114 and 13057-13096 of the Commission's regulations.

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

If the Commission decides to hear arguments and vote on the substantial issue question, those who are qualified to testify at the hearing, as provided by Section 13117 of Title 14 of the California Code of Regulation, will have three minutes per side to address whether the appeal raises a substantial issue. The only persons qualified to testify before the Commission at the substantial issue portion of the appeal process are the applicant, appellants, 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. A majority of Commissioners present is required to find that the grounds for the appeal raise no substantial issue.

V. SINGLE/DUAL PERMIT JURISDICTION AREAS

Within the areas specified in Coastal Act 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 permit also obtain a second (or "dual") CDP from the Coastal Commission. The Commission's standard of review for the proposed development in the Dual Permit Jurisdiction area is the Chapter 3 policies of the Coastal Act. For projects located inland of the areas identified in Section 30601 (i.e., projects in the Single Permit Jurisdiction), the City of Los Angeles local CDP is the only CDP required. The proposed project is located with the Single Permit Jurisdiction

Area. Therefore, the applicant is not required to obtain a second, or “dual”, CDP from the Commission for the proposed development.

VI. FINDINGS AND DECLARATIONS – NO SUBSTANTIAL ISSUE

A. PROJECT DESCRIPTION AND BACKGROUND

The scope of work approved by the Planning Director and subsequently denied by the WLAAPC includes the demolition of a vacant one-story duplex and construction of a three-story, 35 ft. high, 3,977 sq. ft. single-family residence with an attached 860 sq. ft. accessory dwelling unit (ADU), attached four-car garage and roof deck.

The project site (Exhibit 1), 426-428 Grand Blvd., is located .32 miles inland of the beach in a residential neighborhood of the North Venice subarea (Exhibit 2) within the City’s Single Permit Jurisdiction. The site, zoned RD1.5-1-O, is designated Multiple Family - Low Medium II Residential and is currently developed with a 1,473 sq. ft., single-story duplex on a 4,506 sq. ft. lot. The proposed project fronts Grand Blvd., a wide street paved on top of the original Grand Canal of Venice, developed by Abbot Kinney in the early 1900s. The site is in the center of the residential blocks of Grand Blvd. between Andalusia Ave and Riviera Ave (Exhibit 2). This residential neighborhood features single-family and multi-family residences that range from one-story to three-story structures.

The applicant’s appeal generally contends that the proposed development conforms to the Chapter 3 policies of the Coastal Act. The applicant/appellant therefore requests that the Commission overturn the City’s denial of the permit. For the reasons described more fully below, and based on the Commission’s balancing of the five substantial issue factors in section 13115 of the Commission’s regulations, the Commission determines that the appeal does **not** raise a substantial issue as to the project’s conformity with Chapter 3 of the Coastal Act sufficient to warrant accepting the appeal for a full de novo review.

B. FACTORS TO BE CONSIDERED IN SUBSTANTIAL ISSUE ANALYSIS

As indicated above, the standard of review is only whether the appeal raises a substantial issue as to conformity with Chapter 3 of the Coastal Act, Cal. Pub. Res. Code §§ 30200-265.5 When determining whether an appeal raises a “substantial issue,” section 13115(c) 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.

The City’s Letter of Determination shows that they did apply Chapter 3 policies and concluded that the development, as proposed, would run afoul of those policies that relate to community character. The appeal does not raise a valid question that the local decision correctly applied the policies of Chapter 3, and the appeal raises no substantial issue regarding conformity therewith.

Staff recommends 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 local government action on a CDP prior to certification of its LCP are the Chapter 3 policies of the Coastal Act. The Commission shall hear an appeal unless it determines that the appeal raises no substantial issue -as to conformity with Chapter 3 policies of the Coastal Act.

The grounds for this appeal primarily relate to the City’s compliance with the Housing Accountability Act with respect to its analysis of the proposed project’s potential impacts to the density and community character of Venice. Essentially, the City denied the project because it found that it is inconsistent with the Chapter 3 policies of the Coastal Act because it is not compatible with the community character of the neighborhood.

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 of the Coastal Act states, in relevant parts:

New development shall do all of the following:

- (d) Minimize energy consumption and vehicle miles traveled.
- (e) Where appropriate, protect special communities and neighborhoods that, because of their unique characteristics, are popular visitor destination points for recreational uses.

Venice Certified LUP Subsection “Duplex/Multi-Family Residential” states:

It is the intent of Venice LUP to maintain existing stable multi-family residential neighborhoods. In those stable neighborhoods characterized by a mix of densities and dwelling types, permitted densities may be reduced to levels consistent with the character of the entire area in order to minimize impacts on infrastructure, services, and to maintain or enhance the residents’ quality of life. The loss of potential units in these locations can be offset by the provision of new housing opportunities via bonuses for the replacement of affordable housing and in mixed-use development.

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

- 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; and,
 - iv. All roof access structures shall be set back at least 60 horizontal feet from the mean high tide line of Ballona Lagoon, Venice Canals, Grand Canal and the inland side of the Esplanade (City right-of-way).

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Notwithstanding other policies of this LUP, chimneys, exhaust ducts, ventilation shafts and other similar devices essential for building function may exceed the specified height limit in a residential zone by five feet.

- b. Residential Lot Consolidations. In order to preserve the nature and character of existing residential neighborhoods, lot consolidations shall not be permitted in the Venice Canals and Silver Strand residential neighborhoods. No more than two lots may be consolidated in the Ballona Lagoon West, Ballona Lagoon (Grand Canal) East, Southeast Venice, Mil wood, North Venice and Oxford Triangle neighborhoods and on walk streets. Lot consolidations of not more than three lots shall be permitted in the Oakwood and Marina Peninsula residential neighborhoods. Lot consolidations may be permitted only subject to the following limitations:
- i. No building or structure shall be constructed on what were more than two contiguous lots prior to lot consolidation with the exception of subterranean development that is entirely below street elevation.
 - ii. Building facades shall be varied and articulated to provide a pedestrian scale which results in consistency with neighboring structures on small lots. Such buildings shall provide habitable space on the ground floor, a ground level entrance and landscaping and windows fronting the street. No increase in the number of units shall result from the lot consolidation.
 - iii. Front porches, bays and balconies shall be provided to maximize architectural variety.

Venice Certified LUP Policy I.A.5 Preserve and Protect Stable Multi-Family Neighborhoods, states:

Preserve and protect stable multi-family residential neighborhoods and allow for growth in areas where there is sufficient public infrastructure and services and the residents' quality of life can be maintained and improved.

Venice Certified LUP Policy I.A.7 Multi-Family Residential– Low Medium II Density, states, in relevant part:

Accommodate the development of multi-family dwelling units in the areas designated as “Multiple Family Residential” and “Low Medium II Density” on the Venice Coastal Land Use Plan (Exhibits 9 through 12). Such development shall comply with the density and development standards set forth in this LUP...

Oakwood, Milwood, Southeast and North Venice

Use: Duplexes and multi-family structures

Density: One unit per 1,500-2,000 square feet of lot area. Lots smaller than 4,000 square feet are limited to a maximum density of two units.

Replacement Units/Bonus Density: Lots greater than 4,000 square feet can add extra density at the rate of one unit for each 1,500 square feet of lot area in excess of 4,000 square feet on parcels zoned RD1.5, or one unit for each 2,000 square feet of lot area in excess of 4,000 square feet on parcels zoned RD2, if the unit is a replacement affordable unit reserved for low and very low income persons. (See LUP Policies I.A.9 through I.A.16).

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:

North Venice: Not to exceed 30 feet for buildings with flat roofs; or 35 feet for buildings utilizing a stepped back or varied roofline. The portion that exceeds 30 feet in height shall be set back from the required front yard one foot for every foot in height above 30 feet. Structures located along walk streets are limited to a maximum height of 28 feet. (See LUP Policy I.A.1 and LUP Height Exhibits 13-16).

Venice Certified LUP Policy I.E.2. Scale states, in relevant part:

All new development and renovations should respect the scale, massing, and landscape of existing residential neighborhoods.

Housing Accountability Act (HAA)

The appeal raises several allegations that the City's action on its coastal development permit application is not consistent with the Housing Accountability Act (HAA), because that law limits the City's discretion to deny housing projects, including applications for housing projects that conform to "objective standards."

The Housing Accountability Act generally establishes limitations on a local government's ability to deny, reduce the density of, or make infeasible housing development projects, emergency shelters, or farmworker housing that are consistent with objective local development standards and contribute to meeting housing need. However, section 65589.5(d)(5)(e) of the HAA states "nothing in this section shall be construed to relieve the local agency from complying with ... the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code)." Therefore, the HAA does not alter the standard of review for the City's approval or denial of coastal development permits under the Coastal Act, which is the Chapter 3 policies of the Coastal Act.

The City's action denying the applicant's permit application applies the Chapter 3 policies of the Coastal Act, using the certified Land Use Plan for Venice as guidance, and includes written findings explaining how the project does not conform to the policies

of the Coastal Act. Regardless of the local government's actions pertaining to the HAA, the standard of review for this appeal is Chapter 3 of the Coastal Act and the certified Venice Land Use Plan (LUP) as guidance. Therefore, the appeal's contentions regarding the City's compliance with the HAA does not raise a substantial issue as to the project's conformity with the Coastal Act.

Community Character

The proposed development includes the demolition of a single-story duplex, and the construction of a 3-story, 35 ft. high, 3,977 sq. ft. single-family home with an attached 860 sq. ft. ADU, attached 4-car garage and roof deck (Exhibit 3).

The City denied the project on the grounds of community character. The City analyzed the character of the lots and structures fronting Grand Blvd. between Riviera Ave. and Andalusia Ave. The City has defined the character of this area to contain predominantly narrow lot massings of 25-30 ft, mostly 1-2 story structures, and few consolidated lots, most of which consist of multiple-family dwelling structures. The character was also deemed to include a high proportion of rental units. The City found the proposed development to be out of character in the following manner:

1. **Mass.** The single-family home would be on a double lot with a front of 50 feet on Grand Blvd. in contrast to the predominance of residential structures on single, narrow 25-30 ft. wide lots. There is only one single-family structure built on two consolidated lots along this section of Grand Blvd.
2. **Scale.** The proposed development's height profile and square footage are out of scale with the historic contributing structures, of which are predominantly 1-2 stories and an average of 2,000 sq. ft. Additionally, the development would be out of character with the average square footage (between 2,000 – 2,500 sq. ft.) of the other structures on this section of Grand Blvd.
3. **Density.** Single-family dwellings with an ADU do not function with the same purpose as a multi-family dwelling. The replacement of multi-family dwellings with large single-family dwellings will result in the loss of density, and erode the physical and social character of the neighborhood over time.

Sections 30251 and 30253(e) of the Coastal Act state that special communities shall be protected and require permitted development to be visually compatible with the character of surrounding areas. These sections also require protection of communities and neighborhoods that, because of their unique characteristics, are popular visitor destination points for recreational uses. The Commission has previously found that Venice's unique social and architectural diversity should be protected as a Special Coastal Community. The City found that the proposed project to be inconsistent with the character of the surrounding area and therefore inconsistent with Section 30251 of the Coastal Act, and the record suggests that the City's findings are supported and reasonably explained.

When the Commission certified the Venice Land Use Plan (LUP) in 2001, it considered the potential impacts that development could have on community character and

adopted residential building standards to ensure development was designed with pedestrian scale and compatibility with surrounding development. Given the specific conditions surrounding the subject site and the eclectic 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 30251 and 30253 of the Coastal Act.

The City found the project to be visually incompatible with the surrounding area and therefore inconsistent with Section 30251. Specifically, the City's findings explain that the project is out of character with other structures on this section of Grand Blvd., particularly with regards to the narrow lots, the contributing historic structures, the large square footage, the number of stories, the conversion of a duplex to single-family dwelling and the lack of precedence of a single-family structure on a consolidated lot. Additionally, the City argues that the project's cumulative impact on the community character must be considered as well.

The City's determination letter classifies the project as primarily a single-family dwelling with an attached accessory dwelling unit (ADU) and not a multi-family dwelling. According to the appellant, the project is described as providing "two distinctly separate dwelling units – a single-family home with an attached ADU" and argues that it is "correctly classified as a multifamily dwelling protected under the State Housing Accountability Act ("HAA")." Additionally, the appellant argues that the California Housing and Community Development (HCD) Housing Accountability Act Technical Assistance Advisory Memo, dated September 15, 2020, considers a single-family home with an attached ADU as a multi-family dwelling. The appellant argues that the proposed development meets several definitions of "multi-family dwelling" based on the *quantity* of units.

The appellant continue to conflate the HAA and the Coastal Act. However, for purposes of the Coastal Act, regardless of whether the proposed development is labelled as a "single-family" residence with an ADU or a "multi-family" development, the City's concern is that replacing a duplex with a single-family residence and an ADU may have cumulative impacts to the character of this neighborhood. As the Commission has found in recent actions, ADUs are not necessarily the functional equivalent of a full residential unit¹, and replacing duplexes and similar multi-family structures with single-family residences and ADUs may fundamentally change the character² of a neighborhood and reduce housing density, because there is no guarantee that ADUs will be occupied and made available to the general public.

Although single-family residences are an allowable use in areas, like the project site, designated Multi-Family Residential – Low Medium I and Low Medium II Density, the Venice LUP envisions that duplexes and other multi-unit residential development are a

¹ For example, refer to CDP Nos. 5-19-1244 and 5-20-0223.

² For example, refer to Appeal Nos. A-5-VEN-19-0018 and A-5-VEN-20-0039.

significant component of the character of the subject neighborhood. Therefore, construction of a single-family dwelling with an attached ADU could potentially be authorized at this site, but only if it is visually compatible with the community character of the area and avoids contributing to a larger trend of coastal housing loss consistent with the Coastal Act Sections 30250, 30251 and 30253.

However, as described in the staff report for the Commission's certification of Venice's Land Use Plan, allowing large homes to be constructed on two or more consolidated lots significantly changes the character of neighborhoods: "The major threat to the unique character of the small pedestrian oriented scale of many Venice neighborhoods is lot consolidations. Very large new residential projects built across two or more consolidated lots would be substantially out of scale and character with the older small-lot Venice neighborhoods." See <http://documents.coastal.ca.gov/reports/2000/11/T10e-11-2000.pdf> (pp. 38, 44-45).

Accordingly, Venice Land Use Plan Policy I.A.1 b forbids lot consolidations in some areas and significantly restricts it in others. The North Venice neighborhood is one neighborhood in which lot consolidation is restricted. Under this policy, proposals to consolidate two lots in North Venice may be found to be consistent with the Coastal Act and with the Venice LUP only if proposed structures are articulated to provide a pedestrian scale and are designed to be visually compatible with surrounding structures. Additionally, Land Use Plan Policy I.E.2. Scale states, "all new development and renovations should respect the scale, massing, and landscape of existing residential neighborhoods." This policy is intended to preserve Venice as a Special Coastal Community.

To ensure a thorough review of the immediate area, staff independently reviewed the structures between Riviera and Andalusia, on either side of Grand Blvd. for community character. The age of the structures span over 100 years, with a few historic structures contributing to the character of the area. The maximum number of stories built on this section of Grand Blvd. include four three-story structures on either side of Grand Blvd. between Riviera Ave. and Andalusia Ave. With only four structures built as three stories, the remaining section is predominantly built at a smaller scale with 1-2 story structures. The average square footage of the three-story structures fronting Grand Blvd. is 2,770 square feet. The proposed structure would exceed that average by over 1,000 square feet. The proposed project would also exceed the average of other single-family homes by 1,834 square feet and multi-unit homes by more than double the square footage. Three of the four three-story structures rest on one individual lot. The proposed project would rest on two lots. It is very unusual for this section of Grand Blvd. to have a single-family home on two lots. Currently, only two of the twelve single-family homes reside over two lots. Additionally, not all multi-unit structures on this street utilize two lots. Four of the eight multi-unit structures reside over one lot.

A review of the applicant's project plans and existing single-family homes in the surrounding neighborhood reveals that, while there are some large homes in the neighborhood, there is support for the City's determination that the proposed project does not respect the overall scale and character of the existing neighborhood. The City

found the proposed development to be inconsistent with the surrounding area, which features primarily smaller, one and two story single family residences on single lots. The City found that the proposed structure would be significantly larger than all of the surrounding development. The City's decision that the project is not consistent Section 30251 of the Coastal Act is well-supported both factually and legally. Therefore, the appeal raises no substantial issue as to the project's consistency with the Coastal Act's policies regarding community character and protecting special communities, such as Venice. To the contrary, the City's decision will further these important Coastal Act policies.

Coastal Act Section 30250(a) requires new residential development be located in close proximity to existing developed areas able to accommodate it and where it will not have significant, cumulative adverse impacts to coastal resources. Section 30253 of the Coastal Act requires new development be compatible with the character of the neighborhood, minimize risks to life and property in high flood hazard areas, and minimize vehicle miles traveled. Together, these policies encourage the concentration of development in existing developed areas (i.e. infill) that will minimize impacts to coastal resources. In addition, the certified LUP incorporates these Coastal Act policies and designates specific areas in Venice where more dense developments should be accommodated (Policy I.A.5) and specific areas where only single-family residential neighborhoods are allowed (Policy I.A.2). Thus, the LUP reflects the City's intent to designate areas where more concentrated development should exist in Venice.

The state is currently experiencing a housing supply shortage of approximately 90,000 units on a yearly basis³. From 2000 to 2015, Venice Beach saw a reduction in housing by potentially 700 units⁴ and there appears to be a trend in CDP applications for conversion of multi-family structures to single-family residences. Housing shortages throughout the state have been met with growing efforts to address and improve availability. In 2017, the State Legislature acknowledged that California is facing a severe housing crisis, and that current and future demands are exceeding the availability of housing units⁵. Thus, the Commission has more recently emphasized the importance of preserving existing housing stock in already developed areas of the coastal zone where appropriate, thereby minimizing impacts to coastal resources (Sections 30250 and 30253) and encouraging more affordable housing (Section 30604(f)). The policies in the certified Venice LUP also seek to preserve and maintain existing housing stock by encouraging the accommodation of duplexes and multi-family developments in areas deemed appropriate to sustain such development (Policies I.A.5

³ Dahdoul, Ahmad, et. al. 7 May 2017. "Building California's Future: Increasing the Supply of Housing to Retain California's Workforce". USC Price. Pp. 3-4. <https://cfce.calchamber.com/wp-content/uploads/2017/06/CFCE-Building-Californias-Future-Final-Report-May-7-2017.pdf>.

⁴ Brausuell, James. 2017. "Venice, California has fewer housing units than in 2000". Planetizen website. <https://www.planetizen.com/node/93800/venice-california-has-fewer-housing-units-2000>.

⁵ California Legislative Information. Government Code Section 65852.150 pursuant to Senate Bill 1069 (Wieckowski) and Assembly Bill 2299 (Bloom), effective January 1, 2019. https://leginfo.ca.gov/faces/codes_displaySection.xhtml?lawCode=GOV§ionNum=65852.150.

through I.A.8)—such as the project site—and preserving the character of Venice, including architectural and social diversity and multi-family residential neighborhoods (Policy I.E.1 and “Duplex/Multi-Family Residential Policy”).

In this case, the lot is currently developed with a duplex. The proposed project would demolish the duplex and replace it with a single-family dwelling and an accessory dwelling unit (ADU). Continued loss or replacement of multi-family dwelling structures with single-family dwellings can raise a community character issue. Presently, this section of Grand Blvd. contains thirteen single-family dwellings and eight multi-family dwellings (including the proposed development). These numbers reflect the recent loss of two duplexes (at 416 and 422 Grand Blvd.) and the addition of one single-family home (at 416 Grand Blvd.). Given the recent pattern of development, there is a potential for cumulative effects to the neighborhood’s community character, particularly given the fact that the development potential of this site under LUP Policy I.A.7 is up to three (3) residential units. The pattern of development and risk of cumulative effects to community character supports the City’s finding that the project is not consistent with the character of this neighborhood.

The proposed 860 sq. ft. ADU occupies approximately 18% of the proposed single-family residence and is commensurate of the residential unit to be replaced. Additionally, the ADU is likely capable of accommodating one or multiple community members. While the project maintains two units on site, approval of this project in conjunction with other similar projects in Venice and the coastal zone may result in a cumulative adverse effect on coastal resources. Although the applicant proposes an ADU of roughly the same size as one of the existing units of the duplex, there are significant questions as to whether the ADU will provide meaningful housing opportunity and will not be used by the owner of the single-family residence. As the Commission has found in prior actions, ADUs and JADUs are dependent on the primary residence to serve as a housing unit and cannot be sold separately from the primary residence. This differs somewhat from a duplex, where the units can have separate utility connections and are typically designed to be rented out as separate units, but also could not be sold separately unless converted to a condominium. In addition, it is more difficult to enforce the continuous provision of an ADU as compared to a duplex, and ADUs are more easily left vacant or used by the occupants of the primary residence. Therefore, there can be a low degree of confidence that an ADU will be used by someone other than the occupant(s) of the primary residence or rented out as an additional unit. In this case, the applicant is proposing an attached 860 sq. ft. ADU that would be located on the second floor of the residence. Although the proposed ADU would have a separate exterior entrance (pursuant to the state’s ADU requirements), the ADU can easily be incorporated into the primary residence, and is less likely to be rented out as a separate unit than if a detached ADU was proposed on site.

If this project was approved, other similarly-sized lots with multi-family residences within this area could redevelop the lots with single-family residences and ADUs that may not provide meaningful replacement units, effectively downzoning an area that was designated in the certified LUP to support and encourage primarily multi-family

development⁶. This runs counter to the certified LUP goal to protect the current mix of housing and would therefore prejudice the ability of the City of Los Angeles to develop their LCP consistent with the Chapter 3 Coastal Act policies. An overall loss of housing density in residential areas of Venice may encourage development in undeveloped areas that are not able to accommodate it, such as rural communities or communities vulnerable to sea level rise. Therefore, the appeal raises no substantial issue as to the City's analysis of community character and density.

Mello Act and CEQA

The appellant argues that the City approved a Mello Act determination and that the project is categorically exempt from CEQA. The City of Los Angeles is responsible for implementation of the Mello Act in its segments of the Coastal Zone, including Venice. The appellant's contentions regarding the City's implementation of the Mello Act and CEQA do not raise a substantial issue as to the Project's conformity with 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 Section 13115(c) of the Commission's regulations.

Applying the five factors listed in Section 13115(c) confirms that the appeal raises "no substantial issue" with respect to Chapter 3 of the Coastal Act, and therefore, does not meet the substantiality standard of Section 30265(b)(1), because the local government appropriately found that the Project is not consistent with policies of Chapter 3 of the Coastal Act.

- 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.** The City's findings state that the project is inconsistent with the Chapter 3 policies of the Coastal Act, including Section 30251, which protects scenic and visual qualities of coastal areas. The City's denial includes findings that the demolition of the duplex and construction of the single-family residence with an ADU

⁶ The Commission has previously approved ADUs and JADUs as adequate mitigation for projects that propose redevelopment of multi-family developments with fewer residential units; however, this has typically involved situations where an existing multi-family structure was not consistent with the certified LUP (Refer to CDP Nos. 5-19-1244; 5-20-0142; 5-20-0223, approved by the Commission at the September 2020 hearing.). Past Commission approvals of these types of projects were considered as a compromise approach when there was no other option for a property owner to redevelop a site with an aging residential structure while maintaining the same number of housing units consistent with the LUP.

is inconsistent with LUP Policies I.A.5, 1.A.7. These findings discuss how the project does not protect and preserve the multi-family neighborhood, the character of the area, and overall housing density in Venice, which is required and encouraged through the aforementioned policies of the Coastal Act and certified Venice LUP. For all of the reasons discussed above, incorporated herein by reference, the Commission finds that the City provided an adequate degree of factual and legal support for its decision to deny the single-family residence with attached ADU on this site as inconsistent with Chapter 3 of the Coastal Act, using the certified Land Use Plan for Venice as guidance.

- 2. The extent and scope of the development as approved or denied by the local government.** The existing duplex is one-story and 1,473 sq. ft. The applicant proposes to replace the existing duplex with a structure that is approximately 3.2 times larger than the existing structure. Here, the proposed development is a relatively minor project because it is a duplex and, because the City denied the permit application, there is no risk of significant cumulative adverse impacts. Put differently, the scope of the development *denied* is minor, and that denial does not rob the site of any resources or amenities protected by Chapter 3; and the scope of the development *approved* is none.
- 3. The significance of the coastal resources affected by the decision.** Because the local government denied a permit application for a residential project, there will not be any significant adverse effects on any coastal resources, either individually or cumulatively. The duplex currently existing on site will remain on site, and it will not be replaced with a single-family residence and ADU. From a coastal resource perspective, the *status quo* is maintained and there will not be any impacts to coastal resources, and the applicant is free to propose and seek a coastal development permit from the City for a different residential project.
- 4. The precedential value of the local government's decision for future interpretations of its LCP.** The City does not currently have a certified LCP. Approving projects that are not consistent with the Chapter 3 policies of the Coastal Act and the certified Venice LUP may prejudice the ability of the City to prepare an LCP that is in conformity with Chapter 3 of the Coastal Act. As such, the City's denial set a positive precedent that informs the City's future consideration of whether or not projects are consistent with Chapter 3 of the Coastal Act.
- 5. Whether the appeal raises local issues, or those of regional or statewide significance.** The appeal was filed by a project applicant who was denied a coastal development permit for his proposed residential project, and as such, primarily raises a matter of local, and not statewide concern. To the extent the Appeal implicates broader issues relating to California's severe housing crisis, the City's action results in the maintenance of a duplex on this site, and will limit the potential cumulative loss of these kind of multi-family developments in Venice, which is consistent with Coastal Act policies encouraging the concentration of development in already developed areas (Section 30250(a)), and protecting the character of coastal

communities, especially popular visitor destinations such as Venice (Sections 30251 and 30253(e)). Therefore, the City's denial of a CDP does not raise issues of regional and statewide significance.

CONCLUSION

In conclusion, the primary issue raised by the appeal is that the City erred because the proposed development is consistent with the community character policies of Chapter 3 of the Coastal Act and the certified Venice LUP. To the contrary, the Commission finds that there is ample factual and legal support for the City's determination that the proposed development is not consistent with the community character policies of Chapter 3 of the Coastal Act or with those of the certified Venice LUP. In addition, because the appealed action is a denial of a request for a coastal development permit, there is no risk of significant adverse effects to coastal resources, either individually or cumulatively, if the City's decision remains in place, and the Appeal raises primarily a local issue that is not significant at the statewide or regional level. After a balancing of all of the substantial issue factors, the Commission finds that the Appeal does not raise a substantial issue as to the Project's conformity with Chapter 3 of the Coastal Act.

A-5-VEN-21-0010 (Miles)
Appeal – No Substantial Issue

APPENDIX A – SUBSTANTIVE FILE DOCUMENTS

1. City of Los Angeles Certified Land Use Plan for Venice (2001)
2. City of Los Angeles Resolution and staff report for Local CDP No. DIR-2018-1485-CDP-MEL-1A