

## **PROPOSED FINDINGS**

**2. Findings – The Area Planning Commission may permit an exception from a specific plan if it makes all the following findings:**

**(a) That the strict application of the policies, standards and regulations of the geographically specific plan to the subject property would result in practical difficulties and unnecessary hardships inconsistent with the general purpose and intent of such specific plan.**

The subject application seeks an after-the-fact exception for the height of a 2-story, 3-unit apartment building on 5th Avenue, in Venice. The structure is comprised of 3 pre-fabricated, fully solar-powered, modular, 2-story, kit buildings. All the building's components were pre-engineered and pre-fabricated offsite and were assembled onsite as a single building. The building is composed, primarily, of steel and glass, and it is not susceptible to modification to reduce the height without significantly impairing the structural integrity of the entire structure.

The building, which has a varied roof line, was intended to be constructed to a height of 30 feet above applicable grade pursuant to the Venice Coastal Specific Plan, Section 10.G.3.a. The building, as constructed, exceeds the allowed 30-foot height limit by as much as 3.4 feet at the top of the ridges. Ridges in the roofline are created by slanted steel members supporting solar panels, which are incorporated into the roof structure. (See drawing of roofline, attached hereto.)

The cause of the building's excess height is not entirely clear. It appears, however, that, an error was made on the plans for the building, and that the height of the building was measured from finish floor elevation, which was the same as the lowest elevation of the property prior to grading. The building height was not measured, as required by Venice Coastal Specific Plan, Section 9.B.3, from the elevation at the intersection of the midline of the property and the centerline of 5th Avenue. It appears, further, that the building itself exceeds 30 feet in height by a few inches, but it is not clear if the excess height was the result of errors in the manufacturing of the building's components or in their assembly. Had these circumstances been ascertained prior to construction, they could have easily been remedied by minimal additional grading or design modifications.

The applicant takes the position that an exception to the Venice Specific Plan is not required, and that the City's building official can allow a modification to the

Building Code's requirements by determining that additional height is permitted based on the design elements. According to the applicant, the building has a varied roof line, which has a height limit of 30 feet, and mechanical structures incorporated into the roof structure. Mechanical structures are allowed atop either a flat or varied roof pursuant to the Venice Coastal Specific Plan, Section 9.C.2, and are allowed to add an additional 5 feet to a building's height. According to the applicant, the building should be allowed to have mechanical structures up to 5 feet in height above the 30-foot height limit for varied roofs, and that the building should not have a lower height limit because its mechanical components, including solar panels, are incorporated into the roof structure rather than being built above the varied roof line. Notwithstanding this contention, and in order to avoid the necessity for an enforcement action, the applicant has agreed to submit an application for the proposed exception to the Venice Coastal Specific Plan. In doing so, the applicant has reserved his right to assert that the requested exception is not required in the event that review of the decision on his application is sought.

The strict application of the height limitations in the Venice Coastal Specific Plan to the subject building will cause practical difficulties and unnecessary hardship to the applicant without providing any meaningful public benefit. There are practical difficulties in reducing the height of the building. Because the building is constructed from structural steel, and because of the design of the building, horizontal, vertical and diagonal supports for the sides of the building all meet and are attached together at the top corners of the building. For the sides of the building to be lowered, the majority of the building would need to be disassembled, structural steel members cut and/or replaced and the building would need to be reassembled. The removal of the varied roof and replacement with a flat roof would not bring the building into compliance. With a flat roof, the building height would be a few inches higher than 30 feet, and mechanical equipment could be located on top of the flat roof. However, the height limit for a flat roof is 25 feet, not 30 feet, so that modifications of the roof will not bring the building into conformity.

Because the non-conformity appears to have been based, in large part, upon the plans' failure to measure building height from the elevation at the intersection of the midpoint of the property and the centerline of 5th Avenue, and because the additional building height could have been resolved by minimal additional grading prior to construction, it appears that the building's non-conformity was the result of error, and not an intentional disregard for the requirements of the Venice Coastal Specific Plan. Here, correction of the error would require the virtual reconstruction of most of the building. While removal of the varied roof would be possible without reconstructing most of the building, it would only reduce the height of the structure by approximately 3 feet, while reducing the height limit for the building by 5 feet,

thereby increasing its non-conformity with the Venice Coastal Specific Plan.

The building's height does not create any adverse impacts for adjacent property owners. No view blockage issues have been created by the building's excess height, nor does the additional height operate to deprive adjacent properties of light or air. The extent to which the building casts a larger shadow is negligible. Were it otherwise, a reduction in the height of the roof might still be justified. However, it is not the policy or goal of the Venice Coastal Specific Plan to prohibit or discourage the use of solar energy. A reduction in the height of the roof would necessitate the removal of the solar panels. Because it is not feasible to reduce the height of the sides of the building, and because the additional roof height permits the use of solar energy for the building and the flow of excess electricity back into the power grid, strict application of the height limitations of the Venice Coastal Specific Plan to the subject building would create a significant hardship on the applicant which does not serve the goals and policies of the plan.

**(b) That there are exceptional circumstances or conditions applicable to the subject property involved or to the intended use or development of the subject property that do not apply generally to other property in the specific plan area.**

The building is a pre-fabricated, fully solar-powered, modular kit building. All the building components were fabricated off-site and assembled on-site. The solar panels are incorporated into the roof structure. The building's design and construction represents an exceptional circumstance or condition unlike other buildings in the Venice area. The building's height was intended to be 30 feet in height, which complies with the height limitations of the Venice Coastal Specific Plan. Due to inadvertent error, the ground elevation for the building was not set at the elevation of the midpoint of the property where it intersects the centerline of 5th Avenue. As a result, the building's height exceeds the plan's 30-foot height limit. The building, however, was essentially constructed to the specifications set forth in the plan, and had the error in the plans been detected in the plan check phase of development, minimal additional grading could have been performed to reduce the finished grade to the elevation required by the Venice Coastal Specific Plan. Now that the building has already been constructed, it is too late to lower the property's finished grade so that it is level with the centerline of 5th Avenue. Because the building is fabricated primarily from steel and glass, rather than wood and stucco, it is unlike most other buildings in Venice and it is much less susceptible to modification to reduce the building's height.

**(c) That the exception from the geographically specific plan is necessary for the preservation and enjoyment of a substantial property right or use generally possessed by other property within the geographically specific plan in the same zone and vicinity, but which because of special circumstances and practical difficulties or unnecessary hardships is denied to the property in question.**

The subject property is zoned for multi-family use, and the applicant was permitted to construct a 3-unit apartment building, rather than a 2-unit building, because most other multi-family properties of similar size in the vicinity were previously allowed to be developed with 3-unit apartment buildings. The zone for the property further allows a building height of 35 feet, and other apartment buildings in the vicinity, constructed prior to the Venice Coastal Specific Plan's effective date, were allowed to be constructed to a height of 35 feet. The applicant intended to construct the building on the subject property to a height of 30 feet. However, due to an inadvertent error in the finish grade elevation of the subject property, the building was constructed approximately 3.4 feet above the plan's 30-foot height limit. The height non-conformity could have been avoided had the error been detected in the plan check phase of development by performing minimal additional grading to make the property's finished grade level with the centerline of 5th Avenue. Now that the building has been constructed, it is necessary to allow an exception to the Venice Coastal Specific Plan in order to avoid the demolition and reconstruction of most of the building. Because the building is fabricated primarily from steel and glass, rather than wood and stucco, it is much less susceptible to modification to reduce the building's height, and it would result in an unnecessary hardship on the applicant to have to modify the building to bring its height into conformity with the Venice Coastal Specific Plan. The applicant has not and will not derive any benefit from the excess height of the building. Rather, the exception is sought to prevent the building from being substantially demolished and to prevent the applicant from suffering the extreme economic detriment of having to reconstruct most of the building in order to reduce its height by approximately 3.4 feet.

**(d) That the granting of the exception will not be detrimental to the public welfare or injurious to the property or improvements adjacent to or in the same vicinity of the subject property.**

The exception sought will not allow a building that is taller than other 3-unit apartment buildings in the vicinity that were constructed prior to the adoption of the Venice Coastal Specific Plan. The building's height does not create any adverse

impacts for adjacent property owners. No view blockage issues have been created by the building's excess height, nor does the additional height operate to deprive adjacent properties of light or air. The extent to which the building casts a larger shadow is negligible. The building is only approximately 3.4 feet higher than allowed by the Venice Coastal Specific Plan for varied roof structures with mechanical equipment on the roof. The building is fully solar-powered and has the capacity both to satisfy its own electrical needs and to send excess electrical power back into the power grid. The building is not easily susceptible to modification to reduce its height and the granting of an exception will legitimize an otherwise lawful use of the property and allow a certificate of occupancy to be issued, thereby preventing the property from standing vacant.

**(e) That the granting of the exception will be consistent with the principles, intent and goals of the geographically specific plan and any applicable element of the General Plan.**

The purpose of the Venice Coastal Specific Plan is, primarily, to limit over-development of land within the plan area and to make future uses consistent with established uses, with the overall goal of preserving the character of the different geographic areas described in the plan and preventing the overuse of infrastructure. The Oakwood area of Venice is an older residential area which is interspersed with newer buildings, some of architectural interest, but most of Spanish or Mediterranean-style stucco over wood-frame construction. The subject building has a unique modern design with steel and glass construction. It makes a significant contribution to the architectural diversity of the Venice area and increases the aesthetic appeal of the vicinity immediately adjacent to the subject property. It is also a fully solar-powered building. These are circumstances which are consistent with the principles and goals of the Venice Coastal Specific Plan. The granting of the requested exception to legitimize the height of the building will allow the building to be used for its intended purpose and encourage others to attempt to create innovative designs and construction for apartment buildings in Venice.