



APPLICATIONS:

APPEAL APPLICATION

Instructions and Checklist

Related Code Section: Refer to the City Planning case determination to identify the Zone Code section for the entitlement and the appeal procedure.

Purpose: This application is for the appeal of Department of City Planning determinations authorized by the Los Angeles Municipal Code (LAMC).

A. APPELLATE BODY/CASE INFORMATION

1. APPELLATE BODY

- ☐ Area Planning Commission ☐ City Planning Commission ☒ City Council ☐ Director of Planning
☐ Zoning Administrator

Regarding Case Number: CPC-2019-2282-CDP-MEL-SPP-DB-CUB and ENV-2019-2284-CE

Project Address: 811-815 OCEAN FRONT WALK

Final Date to Appeal: DECEMBER 30, 2020

2. APPELLANT

Appellant Identity:
(check all that apply)

- ☐ Representative ☐ Property Owner
☐ Applicant ☐ Operator of the Use/Site
☒ Person, other than the Applicant, Owner or Operator claiming to be aggrieved

☐ Person affected by the determination made by the **Department of Building and Safety**

- ☐ Representative ☐ Owner ☐ Aggrieved Party
☐ Applicant ☐ Operator

3. APPELLANT INFORMATION

Appellant's Name: POWER, Citizens Preserving Venice, Lydia Ponce, Margaret Molloy

Company/Organization: % Robin Rudisill, Citizens Preserving Venice Treasurer and POWER member

Mailing Address: 3003 Ocean Front Walk

City: Venice State: CA Zip: 90291

Telephone: 310-721-2343 E-mail: wildrudi@mac.com

a. Is the appeal being filed on your behalf or on behalf of another party, organization or company?

☒ Self ☐ Other: _____

b. Is the appeal being filed to support the original applicant's position? ☐ Yes ☒ No

4. REPRESENTATIVE/AGENT INFORMATION

Representative/Agent name (if applicable): _____

Company: _____

Mailing Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____ E-mail: _____

5. JUSTIFICATION/REASON FOR APPEAL

a. Is the entire decision, or only parts of it being appealed? ☒ Entire ☐ Part

b. Are specific conditions of approval being appealed? ☐ Yes ☒ No

If Yes, list the condition number(s) here: _____

Attach a separate sheet providing your reasons for the appeal. Your reason must state:

- ☐ The reason for the appeal ☐ How you are aggrieved by the decision
☐ Specifically the points at issue ☐ Why you believe the decision-maker erred or abused their discretion

6. APPLICANT'S AFFIDAVIT

I certify that the statements contained in this application are complete and true:

Appellant Signature: Robin Rudisill Date: December 30, 2020

GENERAL APPEAL FILING REQUIREMENTS

B. ALL CASES REQUIRE THE FOLLOWING ITEMS - SEE THE ADDITIONAL INSTRUCTIONS FOR SPECIFIC CASE TYPES

1. Appeal Documents

a. **Three (3) sets** - The following documents are required for each appeal filed (1 original and 2 duplicates)
Each case being appealed is required to provide three (3) sets of the listed documents.

- ☐ Appeal Application (form CP-7769)
☐ Justification/Reason for Appeal
☐ Copies of Original Determination Letter

b. Electronic Copy

- ☐ Provide an electronic copy of your appeal documents on a flash drive (planning staff will upload materials during filing and return the flash drive to you) or a CD (which will remain in the file). The following items must be saved as individual PDFs and labeled accordingly (e.g. "Appeal Form.pdf", "Justification/Reason Statement.pdf", or "Original Determination Letter.pdf" etc.). No file should exceed 9.8 MB in size.

c. Appeal Fee

- ☐ Original Applicant - A fee equal to 85% of the original application fee, provide a copy of the original application receipt(s) to calculate the fee per LAMC Section 19.01B 1.
☐ Aggrieved Party - The fee charged shall be in accordance with the LAMC Section 19.01B 1.

d. Notice Requirement

- ☐ Mailing List - All appeals require noticing per the applicable LAMC section(s). Original Applicants must provide noticing per the LAMC
☐ Mailing Fee - The appeal notice mailing fee is paid by the project applicant, payment is made to the City Planning's mailing contractor (BTC), a copy of the receipt must be submitted as proof of payment.

SPECIFIC CASE TYPES - APPEAL FILING INFORMATION

C. DENSITY BONUS / TRANSIT ORIENTED COMMUNITES (TOC)

1. Density Bonus/TOC

Appeal procedures for Density Bonus/TOC per LAMC Section 12.22.A 25 (g) f.

NOTE:

- Density Bonus/TOC cases, only the *on menu or additional incentives* items can be appealed.
- Appeals of Density Bonus/TOC cases can only be filed by adjacent owners or tenants (must have documentation), and always only appealable to the Citywide Planning Commission.
- ☐ Provide documentation to confirm adjacent owner or tenant status, i.e., a lease agreement, rent receipt, utility bill, property tax bill, ZIMAS, drivers license, bill statement etc.

D. WAIVER OF DEDICATION AND OR IMPROVEMENT

Appeal procedure for Waiver of Dedication or Improvement per LAMC Section 12.37 I.

NOTE:

- Waivers for By-Right Projects, can only be appealed by the owner.
- When a Waiver is on appeal and is part of a master land use application request or subdivider's statement for a project, the applicant may appeal pursuant to the procedures that governs the entitlement.

E. TENTATIVE TRACT/VESTING

1. Tentative Tract/Vesting - Appeal procedure for Tentative Tract / Vesting application per LAMC Section 17.54 A.

NOTE: Appeals to the City Council from a determination on a Tentative Tract (TT or VTT) by the Area or City Planning Commission must be filed within 10 days of the date of the written determination of said Commission.

- ☐ Provide a copy of the written determination letter from Commission.

F. BUILDING AND SAFETY DETERMINATION

- ☐ **1.** Appeal of the Department of Building and Safety determination, per LAMC 12.26 K 1, an appellant is considered the **Original Applicant** and must provide noticing and pay mailing fees.

a. Appeal Fee

- ☐ Original Applicant - The fee charged shall be in accordance with LAMC Section 19.01B 2, as stated in the Building and Safety determination letter, plus all surcharges. (the fee specified in Table 4-A, Section 98.0403.2 of the City of Los Angeles Building Code)

b. Notice Requirement

- ☐ Mailing Fee - The applicant must pay mailing fees to City Planning's mailing contractor (BTC) and submit a copy of receipt as proof of payment.

- ☐ **2.** Appeal of the Director of City Planning determination per LAMC Section 12.26 K 6, an applicant or any other aggrieved person may file an appeal, and is appealable to the Area Planning Commission or Citywide Planning Commission as noted in the determination.

a. Appeal Fee

- ☐ Original Applicant - The fee charged shall be in accordance with the LAMC Section 19.01 B 1 a.

b. Notice Requirement

- ☐ Mailing List - The appeal notification requirements per LAMC Section 12.26 K 7 apply.
- ☐ Mailing Fees - The appeal notice mailing fee is made to City Planning's mailing contractor (BTC), a copy of receipt must be submitted as proof of payment.

G. NUISANCE ABATEMENT

1. Nuisance Abatement - Appeal procedure for Nuisance Abatement per LAMC Section 12.27.1 C 4

NOTE:

- Nuisance Abatement is only appealable to the City Council.

a. Appeal Fee

- ☐ Aggrieved Party the fee charged shall be in accordance with the LAMC Section 19.01 B 1.

2. Plan Approval/Compliance Review

Appeal procedure for Nuisance Abatement Plan Approval/Compliance Review per LAMC Section 12.27.1 C 4.

a. Appeal Fee

- ☐ Compliance Review - The fee charged shall be in accordance with the LAMC Section 19.01 B.
- ☐ Modification - The fee shall be in accordance with the LAMC Section 19.01 B.

NOTES

A Certified Neighborhood Council (CNC) or a person identified as a member of a CNC or as representing the CNC may not file an appeal on behalf of the Neighborhood Council; persons affiliated with a CNC may only file as an individual on behalf of self.

Please note that the appellate body must act on your appeal within a time period specified in the Section(s) of the Los Angeles Municipal Code (LAMC) pertaining to the type of appeal being filed. The Department of City Planning will make its best efforts to have appeals scheduled prior to the appellate body's last day to act in order to provide due process to the appellant. If the appellate body is unable to come to a consensus or is unable to hear and consider the appeal prior to the last day to act, the appeal is automatically deemed denied, and the original decision will stand. The last day to act as defined in the LAMC may only be extended if formally agreed upon by the applicant.

This Section for City Planning Staff Use Only		
Base Fee:	Reviewed & Accepted by (DSC Planner):	Date:
Receipt No:	Deemed Complete by (Project Planner):	Date:
<input type="checkbox"/> Determination authority notified		<input type="checkbox"/> Original receipt and BTC receipt (if original applicant)

**APPEAL OF CPC-2019-2282-CDP-MEL-SPP-DB-CUB
ENV-2019-2284-CE
JUSTIFICATION OF APPEAL
DECEMBER 30, 2020
811-815 Ocean Front Walk, Venice**

Introduction/Background

California Government Code §65590 and §65590.1, commonly called “The Mello Act” is a California State Law passed in 1982 requiring that all developments and redevelopments in the Coastal Zone of California must replace existing affordable housing units that are being demolished or redeveloped, that new projects include a percentage of new units that are affordable, and that all projects preserve housing uses where they currently exist (California Health and Safety Code defines extremely low, very low, low and moderate affordable incomes. See Sections 50079.5, 50093, 50093, 50105, and 50106 of the code.) The law requires that the local jurisdiction granting a demolition or development permit enforce these requirements, and the law sets a floor for the minimum amount of affordable housing a jurisdiction must require for a project to be in compliance.

The Mello Act law was poorly enforced in the City of Los Angeles after its passage. In 1996, grassroots groups from the Coastal neighborhoods of Venice and San Pedro brought a lawsuit against the City of L.A. for its failure to enforce the Mello Act. In 2000, that suit, Venice Town Council Inc., et. al. v. City of Los Angeles (1996) resulted in a settlement (“Settlement Agreement”) and the City’s adoption of the Interim Administrative Procedures for Complying with the Mello Act (“IAP”), which is the current Mello Act city law governing implementation in the City’s Coastal Zone.

Especially given the current state of affordable housing in this City, where our elected officials are working hard to “stop the bleeding” of truly affordable housing to luxury housing developers, the hypocrisy from this and other determinations from the Department of City Planning (“DCP”) is unacceptable. Here, the DCP fails to consider the total loss of 10 affordable units from the Venice community. It is the duty of the City, including the City Planning Commission (“CPC”), PLUM and City Council, to ensure that abuses of discretion such as in this case do not systematically adversely impact affordable housing opportunities for low- and moderate-income people. Here, there has been a failure to comply with the spirit of the Mello Act re. the lost 10 affordable units and the Planning Director’s decision is inconsistent with the Mello Act, the IAP and the Settlement Agreement.

Approval of this project would prejudice the pending Mello Act Ordinance

The proposed project raises a number of issues that should not be resolved in the context of an individual project--this project is similar to the one at this same location that was previously denied by the West Los Angeles Area Planning Commission (“WLAAPC”)--as the City is moving toward adopting a new, permanent ordinance to implement the Mello Act. We believe that the

proposed project is not permissible under the IAP. In fact, our experience working on this project has helped inform our recommendations for a new permanent ordinance that will bring clarity to a number of issues raised by this project. We believe that approving this project at this time could prejudice the City's ability to adopt a permanent Mello Act Ordinance that serves the goal of proper Mello Act implementation in the City's Coastal Zone.

Proposed project violates the Mello Act and IAP

This project proposes the demolition of a 100% residential structure for purposes of a non-residential (mixed-use commercial) development in the Coastal Zone, which the Mello Act and the IAP prohibits. The City may not violate the state Mello Act, neither may it exceed its jurisdiction by changing the wording and the meaning of the Mello Act in order to provide for new mixed use commercial developments replacing 100% residential structures. This is simply unlawful. In addition, the December 15, 2020 determination approves "a Mello Act Compliance Review for the demolition of nine Residential Units and the construction of nine Residential Units in the Coastal Zone," ignoring the commercial aspect/nature of the project. This is piecemealing and is a violation of the Mello Act and the IAP. The Mello Act Compliance Review must apply to the same project as the related discretionary CDP application/determination, which in this case is a mixed-use commercial project and not just nine new residential units. Like CEQA, which prohibits project "piecemealing," under the Mello Act the agency cannot endorse piecemealing.

The IAP does not provide any indication that a mixed-use development is considered a residential use, and the prohibition on conversion to non-residential use is unequivocal. In addition, the Coastal Commission clearly considers mixed-use projects in the Coastal Zone to be commercial uses. See Exhibit A for one example: Coastal Staff Report dated November 20, 2020.

The IAP, in 4.1 states:

The Mello Act states that the Demolition or Conversion of residential structures for purposes of a non-Coastal-Dependent, non-residential use is prohibited, unless the local jurisdiction first finds that a residential use is no longer feasible at that location. This prohibition applies to all residential structures, regardless of the following factors: the income of current or past occupants; the form of ownership (whether the Residential Units are for-sale units or rentals); and rents charged, for-sale prices, or appraised value.

A new project must conform to both the Mello Act and Coastal Act

In addition, as per the prior City determination for a project at 811-815 Ocean Front Walk (ZA-2014-3007-CDP-CUB-ZV-SPP-MEL), which was ultimately denied by the WLAAPC, pages 21 – 22, on June 15, 2015, Charles Posner, Supervisor of Planning for the CA Coastal Commission stated in an email to the appellants, the applicant, and senior Coastal Commission staff regarding the 811-815 Ocean Front Walk project: "A new project must conform to both the Mello Act and Coastal Act requirements. If it cannot, then the existing use will continue." See attached Exhibit B. The requirement is not to harmonize the two laws, as with the Density Bonus

Act and Coastal Act, but rather both the Mello Act and the Coastal Act requirements must be followed. For an example of what would be allowed, if the existing use was commercial, including mixed use commercial, a proposed demolition for purposes of a mixed-use commercial project would be permitted as it would be in compliance with both the Mello Act and the Coastal Act.

Character and housing opportunities for housing in the area must be retained

Although the certified Land Use Plan indicates that this coastal land use designation, “community commercial,” allows for and will accommodate a mixed-use commercial project and that mixed use projects are *encouraged*, 100% residential uses are also allowed in that coastal land use designation and the City zone (C1-1). Also, the surrounding area is described in the December 15, 2020 determination (bottom of page F-2) as “a mix of tourist-serving commercial retail uses and residential uses.” The Coastal Act requires the protection of existing uses. In addition, as per the certified Land Use Plan Policy III.A.1.a., “Recreation and visitor-serving facilities shall be encouraged, ***provided that they retain the existing character and housing opportunities of the area...***” Not only is the present use residential, but building mixed use changes the area’s balance of commercial to dwelling units, regardless of how the property’s use is designated. A change from a 100% residential structure to mixed use commercial would significantly change the character of the property and the surrounding area. As noted in the Land Use Plan policy above, the coastal regulations are clear that the existing housing units and residential character must be retained and that that is also a priority over visitor-serving commercial uses/facilities.

HCID Mello determination of affordable units must be corrected and reissued

The proposed project also has numerous issues with the determination of previously existing affordable housing that must be replaced. HCID found that, because the units had been vacant for 365 days at the time of their review, no affordable units existed. However, substantial community testimony contradicts this. Many neighbors say the site was never vacant before the redevelopment effort began. Based on information provided by people who claim to have resided there, some, if not all, of the premises was used for housing that would be determined affordable replacement housing under the IAP. Evidence is in the case file for the WLAAPC appeal of the prior proposed project for these properties—ZA-2014-3007-CDP-CUB-ZV-SPP-MEL—and will be requested from DCP for purposes of this appeal. It was established that people were living there and paying rent. There is a letter from at least one person stating that. There are years of utility bills. The City’s Abatement Unit couldn’t do anything because it was the owner’s son who was living on the property with many others, so it was not an unauthorized entry. Inspection notes support this.

The question of the lookback period for ensuring affordable housing is replaced within the Coastal Zone is an important element for review. The proposed permanent Mello Act Ordinance contemplates a five-year lookback period, harmonizing the Mello Act with other laws such as the Ellis Act, and creating clarity for community members and applicants alike. The proposed permanent Mello Act Ordinance also creates a presumption of affordability for rent-stabilized housing and other “naturally occurring affordable housing.” Applicants acting in good faith

should have little trouble demonstrating if their units were operating above moderate-income rental thresholds for the five years before redevelopment is proposed. Community members have a much more difficult time providing documentation of rental records that show that affordable housing existed, even when the entire community agrees that it did. The presumption of affordability and shifting the burden of proof from primarily low-income community members to applicants will advance the policy goals of the Mello Act to create and preserve affordable housing within the Coastal Zone.

The question of how to deal with unpermitted units should also be addressed in the proposed permanent ordinance. The IAP is silent. It is possible that some or all of the rental activity at the project site was happening without the property owners' approval. It is well documented that an unpermitted commercial use, a recording studio, operated at the site, and some community members have indicated that the person collecting rent may have not been an agent of the property owner. In addition, there are 10 units—10 gas meters as well as HCID records for 10 units, which requires an inclusionary affordable unit. A permanent ordinance would give us policy tools to address such complex situations so that Department of City Planning ("DCP") does not abuse its discretion in its determinations.

The HCID Mello determination of replacement affordable housing must be corrected and reissued accordingly.

City Planning Commission is not the appropriate body to review Mello Act determinations

The WLAAPC already heard a proposal for a project at this site that was substantially similar, brought by the same applicant, and that proposal was denied. The CPC heard this new proposal due to the request for a density bonus. However, the CPC has no context for this project, and only heard it as it is a Density Bonus project. The WLAAPC has significant experience with Mello Act cases and the issues with the IAP, but the CPC does not have training or experience with the Mello Act and IAP.

In fact, at the hearing, one Commissioner mistakenly stated that he had read Government Code Section 65590 and he believed the project to be exempt from the Mello Act. No one, including the DCP, corrected him and it can be assumed that the other Commissioners believed he was correct. This is clearly an error as all Coastal Development Permits involving the construction, demolition, adaptive reuse or conversion of residential uses within the Coastal Zone require a Mello Act Compliance Review determination.

DCP delays in implementation of City Council's request for a permanent Mello Act implementation ordinance

In February 2015, Councilmember Bonin introduced a motion instructing the DCP to draft a permanent Mello Act implementation Ordinance. The attorneys of record on the Settlement Agreement, POWER, and community members have continuously encouraged the advancement of a stronger Mello Act Ordinance that will address the issues in the IAP.

The DCP has dragged its feet in producing that ordinance, taking literally years to incorporate public comments into a document, producing documents that after a year or more fail to incorporate anything resembling the community recommendations they agreed to incorporate.

A plain reading of the IAP would lead one to believe that the City's Coastal Zone, especially Venice, should have experienced very little if any loss of affordable housing since the ordinance was adopted in 2000. Any resident of Los Angeles knows this is far from true. Successful enforcement of the Mello Act, essentially done on a volunteer basis by community members, is the reason there are still some below-market housing opportunities available in Venice at all. Even many applicants agree that a permanent Mello Act Ordinance that gives clarity where the IAP is vague is necessary.

In using its discretion DCP is grossly inconsistent and also fails to adhere to the purpose, intent and spirit of the Mello Act

Meanwhile, that same department has continued to advance individual permit determinations in the Coastal Zone that abuse its discretion in consistently interpreting the IAP in violation of the purpose, intent and spirit of the Mello Act, favorable only to applicants. DCP rarely makes decisions, uses its discretion, or creates requirements to preserve or create affordable housing, as is the intent of the Mello Act, which intent and policy goals should be followed when there is an issue that is not covered clearly in the IAP.

A number of inconsistencies and outright contradictions have shown up in a string of recent Mello determinations by DCP staff. Because the Mello Act only applies to a tiny fraction of the City's area, the Coastal Zone areas, Planners and Commissioners (other than those of the WLAAPC) have very little opportunity to seriously acquaint themselves with the Mello Act and IAP.

The DCP has issued determinations with such inconsistencies/mental gymnastics as:

- $2+2+2 = \text{something less than } 3$
- a hotel both is and also is not a residential use for the same project
- a Mello Act Compliance Review determination cannot consider underlying zoning in a determination, and also that a Mello Act Compliance Review determination must consider underlying zoning
- existing affordable housing can only be determined by the monthly housing cost, and also that it can only be determined based on the income of the tenant
- only the DCP can evaluate a feasibility review, and also that the DCP has no expertise to evaluate a feasibility review and simply checks for completeness, not accuracy or credibility
- HCID and DCP claim they do not consider replacement of unpermitted residential units, even if the owner has been receiving income from that use for a significant time, but they do allow an applicant to submit income from an unpermitted commercial use of a legally residential property in order to avoid Mello replacement units--reference 510 Boccaccio and 1047-1051 Abbot Kinney (part of the Abbot Kinney hotel project)

Through countless volunteer hours of training, research, and practice, community members have been able to build up some resistance to the pro-gentrification DCP, which makes no secret of its hostility towards the policy goals of the Mello Act. Community members have been able to establish respect and trust with the Commissioners of the WLAAPC and the Coastal Commission, which has led to a level of parity for land use issues in the Coastal Zone.

Venice affordable housing—death by 1,000 cuts

Yet, for five years, the DCP has continued to abuse its discretion and violate the spirit and intent of the Mello Act in producing determinations favorable to gentrifying development, in direct contradiction to the purpose, intent and spirit of the Mello Act and IAP, even as many of those determinations are regularly overturned by local and state Commissions; while at the same time DCP is moving at a snail's pace to actually update a Mello policy, while affordable housing in Venice dies a death from 1,000 cuts.

Coastal Act Provisions, including the Environmental Justice provisions and the Coastal Commission's Environmental Justice Policy, must be considered

Coastal Act sections 30013, 30107.3, and 30604(h) (stemming from state Assembly Bill 2616) further support the retention of 100% residential uses as well as judgements that support replacement of existing affordable housing. In addition, Coastal Act sections 30604(f) and (g) state that the housing opportunities for persons of low- and moderate-income shall be encouraged and that the state Legislature finds and declares that encouraging the protection of existing and the provision of new affordable housing opportunities for persons of low- and moderate-income in the Coastal Zone is important. The Coastal Commission's Environmental Justice Policy indicates that affordable housing must be protected, and that the implementation of housing laws must be undertaken in a manner fully consistent with the Coastal Act (see applicable sections above). These Coastal Act provisions and policy have not been considered in the subject determinations and DCP must correct this error and abuse of discretion.

In addition, Coastal Act Section 30116 indicates that "sensitive coastal resource areas" include "areas that provide existing coastal housing or recreational opportunities for low- and moderate-income persons;" and all sensitive coastal resources must be protected, which the underlying determination does not respect.

The permanent Mello Act ordinance must be expedited

A permanent Mello Act ordinance is clearly the appropriate solution to the issues raised, not only in this case but in all Coastal Development Permits in the City. The only hope of moving the DCP to actually advance a policy that will achieve the goals articulated by the PLUM and the City Council, is to deny problematic projects like this one and force the DCP and applicants, which seem to be its only true constituents, to accept the fact that a permanent ordinance is their only pathway to future permit approvals.

A proposed project at this site can only be 100% residential

Again, as the Coastal Commission has stated with reference to this case, "A new project must conform to both the Mello Act and Coastal Act requirements. If it cannot, then the existing use

will continue.” The project is in violation of the Mello Act and IAP. Thus, the existing use, 100% residential, must continue. The project can only be approved under both the Mello Act and the Coastal Act if it is a 100% residential project, with at least 9 units, 8 of which would be replacement affordable units (4 units each in the two buildings at 815 Ocean Front Walk, feasibility analysis not applicable) assuming that the HCID Mello determination of affordable units is corrected/revised to reflect the fact that the existing units are replacement affordable.

Thus, the Planning Director erred and abused its discretion in approving these entitlements.

EXHIBIT A

A-5-VEN-20-0060 (Venice Community Housing Corporation)
Appeal – No Substantial Issue

be used by the Commission to evaluate a project's consistency with Chapter 3. In this case, the appellants contend that the City-approved project is not consistent with visual resources policies of Chapter 3 of the Coastal Act or with the land use, height, parking, density and community character standards of the certified LUP.

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

The project site is located in an area designated General Commercial. This land use designation is intended to maintain the uses, density, and character of existing low intensity commercial areas. Thus, the subject project, with a mix of residential development and commercial development, will maintain its commercial use and will provide social programs and services for the residents, is allowed under the certified Venice LUP. Section 30250 of the Coastal Act requires new development be sited in existing developed areas able to accommodate it. In this case, the project is located in a developed mixed-use area able to accommodate residential and commercial uses and is consistent with the Chapter 3 policies of the Coastal Act, including Section 30250.

EXHIBIT B

From: "Posner, Chuck@Coastal" <Chuck.Posner@coastal.ca.gov>
Subject: 811-815 Ocean Front Walk, Venice
Date: June 5, 2015 12:14:14 PM PDT
To: 'Robin Rudisill' <wildrudi@me.com>, 'John Reed' <John@reedarchgroup.com>
Cc: "Ainsworth, John@Coastal" <John.Ainsworth@coastal.ca.gov>, "Padilla, Al@Coastal" <Al.Padilla@coastal.ca.gov>, "Henry, Teresa@Coastal" <Teresa.Henry@coastal.ca.gov>

Regarding 811-815 Ocean Front Walk, Venice: Land Use Plan Designation of Community Commercial.

A new 100% residential project would not conform to the land use policies of the certified LUP or the Chapter 3 policies that prioritize visitor-serving uses along the shoreline. A mixed-use project, with residential above commercial, would conform to the LUP and Chapter 3.

The site is currently 100% residential units . The owners can maintain the existing non-conforming use if the Mello Act does not allow conversions of residential units to commercial uses.

A new project must conform to both the Mello Act and Coastal Act requirements. If it cannot, then the existing use will continue.

Charles R. Posner

Supervisor of Planning
California Coastal Commission
200 OceanGate - Tenth Floor
Long Beach, CA 90802
(562) 590-5071
chuck.posner@coastal.ca.gov



LOS ANGELES CITY PLANNING COMMISSION

200 North Spring Street, Room 272, Los Angeles, California, 90012-4801, (213) 978-1300

www.planning.lacity.org

LETTER OF DETERMINATION

MAILING DATE: **DEC 15 2020**

Case No. CPC-2019-2282-CDP-MEL-SPP-DB-CUB
CEQA: ENV-2019-2284-CE
Plan Area: Venice Coastal Zone – North Venice Subarea

Council District: 11 – Bonin

Project Site: 811 and 815 South Ocean Front Walk

Applicant: Vera J. Sutter and Gary L. Sutter MD, 811 Ocean Front Walk, LLC and 815 Ocean Front Walk, LLC
Representative: John G. Reed, Reed Architectural Group, Inc.

At its meeting of **December 3, 2020**, the Los Angeles City Planning Commission took the actions below in conjunction with the approval of the following Project:

Demolition of nine existing residential dwelling units within three buildings and the construction, use and maintenance of a three-story, 13,412 square foot mixed use building with nine dwelling units and a 1,568 square foot ground floor restaurant providing 574 square feet of Service Floor area and 50 seats requesting on-site sale of a full line of alcohol beverages, and 30 parking spaces on the ground floor and one subterranean level.

1. **Determined**, based on the whole of the administrative record, that the Project is exempt from CEQA pursuant to CEQA Guidelines, Section 15332, and there is no substantial evidence demonstrating that an exception to a categorical exemption pursuant to CEQA Guidelines, Section 15300.2 applies;
2. **Approved**, pursuant to Section 12.20.2 of the Los Angeles Municipal Code (LAMC), a Coastal Development Permit for the proposed Project in the dual permit jurisdiction of the California Coastal Zone;
3. **Approved**, pursuant to Sections 65590 and 65590.1 of the California Government Code and the City of Los Angeles Interim Mello Act Compliance Administrative Procedures, a Mello Act Compliance Review for the demolition of nine Residential Units and the construction of nine Residential Units in the Coastal Zone;
4. **Approved**, pursuant to LAMC Section 11.5.7, a Project Permit Compliance Review for a project within the North Venice Subarea of the Venice Coastal Zone Specific Plan;
5. **Approved**, pursuant to LAMC Section 12.22 A.25, a Density Bonus Affordable Housing Incentive Program Review for a housing development project comprised of nine dwelling units, of which one unit will be set aside for a Low Income Household and requesting the following Incentive and Waivers of Development Standards:
 - a. An On-Menu Incentive to permit a maximum building height of 39 feet in lieu of 35 feet, as otherwise permitted by the Venice Coastal Zone Specific Plan Section 10.F(3)(a);
 - b. A Waiver of Development Standards to permit a six-foot in width passageway in lieu of a 12-foot passageway, as otherwise required by LAMC Section 12.21.C(2)(b);
 - c. A Waiver of Development Standards to permit a two-foot nine-inch by two-foot five-inch triangular portion of the upper portion of the building to encroach into the 45 degree step-back plane, as otherwise required by the Venice Coastal Zone Specific Plan Section 10.F(3)(a); and

- d. A Waiver of Development Standards to permit a Roof Access Structure with a maximum height of 12 feet in lieu of 10 feet, as otherwise permitted by the Venice Coastal Zone Specific Plan Section 9.C(1)(a);
6. **Approved**, pursuant to LAMC Section 12.24 W.1, a Conditional Use Permit, for the sale and dispensing of a full-line of alcoholic beverages for on-site consumption within a 1,568 square foot restaurant having 574 square feet of Service Floor area with 50 seats;
7. **Adopted** the attached Modified Conditions of Approval; and
8. **Adopted** the attached Findings.

The vote proceeded as follows:

Moved: Perlman
Second: Choe
Ayes: Ambroz, Khorsand, Lopez-Ledesma, Mack, Millman
Absent: Leung, Relan

Vote: 7 – 0



Cecilia Lamas, Commission Executive Assistant
Los Angeles City Planning Commission

Fiscal Impact Statement: There is no General Fund impact as administrative costs are recovered through fees.

Effective Date/Appeals: The decision of the Los Angeles City Planning Commission related to the Density Bonus and Waiver of Development Incentives are not appealable. All remaining actions are appealable to the Los Angeles City Council within 15 days after the mailing date of this determination letter. Any appeal not filed within the 15-day period shall not be considered by the Council. All appeals shall be filed on forms provided at the Planning Department's Development Service Centers located at: 201 North Figueroa Street, Fourth Floor, Los Angeles; 6262 Van Nuys Boulevard, Suite 251, Van Nuys; or 1828 Sawtelle Boulevard, West Los Angeles.

FINAL APPEAL DATE: DEC 30 2020

Pursuant to Section 12.20.2 I of the Los Angeles Municipal Code, the Commission's action on the Coastal Development Permit shall be deemed final only after 20 working days have expired from the date this decision letter is deemed received by the Executive Officer of the California Coastal Commission and provided that a timely, valid appeal is not taken by the California Coastal Commission within said time frame.

Notice: An appeal of the CEQA clearance for the Project pursuant to Public Resources Code Section 21151(c) is only available if the Determination of the non-elected decision-making body (e.g., ZA, AA, APC, CPC) **is not further appealable** and the decision is final. The Applicant is advised that any work undertaken while the CEQA clearance is on appeal is at his/her/its own risk and if the appeal is granted, it may result in (1) voiding and rescission of the CEQA clearance, the Determination, and any permits issued in reliance on the Determination and (2) the use by the City of any and all remedies to return the subject property to the condition it was in prior to issuance of the Determination.

This Coastal Development Permit shall be subject to revocation as provided in Section 12.20.2 J of the Los Angeles Municipal Code.

If you seek judicial review of any decision of the City pursuant to California Code of Civil Procedure Section 1094.5, the petition for writ of mandate pursuant to that section must be filed no later than the 90th day following the date on which the City's decision became final pursuant to

California Code of Civil Procedure Section 1094.6. There may be other time limits which also affect your ability to seek judicial review.

Attachments: Modified Conditions of Approval, Findings, Interim Appeal Filing Procedure,
Appeal Facts Sheet

c: Faisal Roble, Principal City Planner
Juliet Oh, Senior City Planner
Ira Brown, City Planner

CONDITIONS OF APPROVAL

(As modified by the City Planning Commission at its meeting on December 3, 2020)

Entitlement Conditions

1. **Site Development.** Except as modified herein, the project shall be in substantial conformance with the plans and materials submitted by the Applicant, stamped Exhibit "A" attached to the subject case file. No change to the plans will be made without prior review by the Department of City Planning and written approval by the Director of Planning. Each change shall be identified and justified in writing. Minor deviations may be allowed in order to comply with the provisions of the Los Angeles Municipal Code or the project conditions.
2. All other use, height and area regulations of the Municipal Code and all other applicable government/regulatory agencies shall be strictly complied with in the development and use of the property, except as such regulations are herein specifically varied or required.
3. **Residential Density.** The project shall be limited to a maximum density of 9 dwelling units.
4. **Affordable Units.** A minimum of one unit, that is 10 percent of the total 9 dwelling units, shall be reserved for Low Income Households, as defined by Government Code Section 65915(c)(1) or (c)(2).
5. **Changes in Restricted Units.** Deviations that increase the number of restricted affordable units or that change the composition of units or change parking numbers shall be consistent with LAMC Section 12.22 A.25 (a-d).
6. **Housing Requirements.** Prior to issuance of a building permit, the owner shall execute a covenant to the satisfaction of the Los Angeles Housing and Community Investment Department (HCIDLA) to make one (1) unit available to Low Income Households, for sale or rental as determined to be affordable to such households by HCIDLA for a period of 55 years. Enforcement of the terms of said covenant shall be the responsibility of HCIDLA. The applicant will present a copy of the recorded covenant to the Department of City Planning for inclusion in this file. The project shall comply with the Guidelines for the Affordable Housing Incentives Program adopted by the City Planning Commission and with any monitoring requirements established by the HCIDLA. Refer to the Density Bonus Legislation Background section of this determination.
7. **Height (On-Menu Incentive).** The proposed building shall not exceed a maximum height of 39 feet, as measured from the midpoint of the centerline of Ocean Front Walk to the highest point of the roof (varied roofline).
8. **Passageway (Waiver of Development Standards).** The project shall provide a passageway of at least six feet in width.
9. **Third Story Step-back (Waiver of Development Standards).** The project shall provide a maximum two-foot nine-inch by two-foot five-inch encroachment into the 45 degree step-back plane of the upper portion of the building, as shown Sheet A4.4 of Exhibit A.
10. **Roof Access Structure (Waiver of Development Standards).** The project shall be limited to a Roof Access Structure with a maximum height of 12 feet and the area within the outside walls shall not exceed 100 square feet as measured from the outside walls.

11. **Parking and Access.** Based upon the number of dwelling units, Service Floor area, Ground Floor area proposed, 30 parking spaces shall be provided; all vehicle access shall be from Speedway.
- a. Residential Use – A minimum of 17 unbundled parking spaces shall be provided.
 - i. Residential Parking (Affordable Housing Unit) – Vehicle parking for the Affordable Housing Unit shall be provided consistent with LAMC Section 12.22-A.25, Parking Option 1 providing one (1) parking space.
 - ii. Residential Parking (Market Rate Housing Unit) – A minimum of 16 parking spaces shall be provided.
 - iii. Notwithstanding the above subparagraphs i. and ii, required parking in a Housing Development Project that qualifies for a Density Bonus may be rented separately from the dwelling units, so that tenants have the option of renting a unit without a parking space. The separate rental of a dwelling unit and a parking space shall not cause the rent of a Restricted Affordable Unit (or the parking space) to be greater than it would otherwise have been.
 - b. Restaurant Use – The proposed 1,568 square foot restaurant is limited to 574 square foot of Service Floor area. Eleven parking spaces are required (one space for each 50 square feet of Service Floor area). Pursuant to LAMC Section 12.21-A.4, a maximum 30% of the required commercial vehicle parking may be replaced with bicycle parking. Eight vehicle parking spaces are provided, and three spaces will be replaced with 12 bicycle parking spaces.
 - c. Beach Impact Zone (BIZ) – A minimum of two parking spaces are required, one space for each 640 square feet of Ground Floor area.
12. **Adjustment of Parking.** In the event that the number of Restricted Affordable Units should increase, or the composition of such units should change (i.e. the number of bedrooms, or the number of units made available to Senior Citizens and/or Disabled Persons), or the applicant selects another Parking Option (including Bicycle Parking Ordinance) and no other Condition of Approval or incentive is affected, then no modification of this determination shall be necessary, and the number of parking spaces shall be re-calculated by the Department of Building and Safety based upon the ratios set forth above.
13. **Electric Vehicle Parking.** All electric vehicle charging spaces (EV Spaces) and electric vehicle charging stations (EVCS) shall comply with the regulations outlined in Sections 99.04.106 and 99.05.106 of Article 9, Chapter IX of the LAMC.
14. **Bicycle Parking.** Bicycle parking shall be provided consistent with LAMC Section 12.21-A.16.
15. **Open Space.** The project shall provide open space consistent with LAMC Section 12.21-G.
16. **Landscaping.** A final landscape plan shall be submitted that is substantial conformance with the landscape plan in Exhibit “A”. Open areas not used for buildings, driveways, parking areas, recreational facilities, pedestrian amenities, or walkways shall be landscaped. The landscape plan shall include an irrigation plan. Landscaping shall be maintained in good health for the life of the project.

17. **Solar Panels.** The project shall dedicate a minimum of 15% of the available rooftop space, for the installation of a solar power system as part of an operational photovoltaic system to be maintained for the life of the project, in substantial conformance with the plans stamped "Exhibit A". The Project shall comply with the Los Angeles Municipal Green Building Code, Section 99.05.211, to the satisfaction of the Department of Building and Safety.
18. **Lighting.** Outdoor lighting shall be designed and installed with shielding, such that the light source cannot be seen from adjacent residential properties, Environmental Sensitive Areas, the public right-of-way, nor from the above.
19. **Trash.** Separate trash collection areas for residential and commercial trash collection shall be maintained, and shall also accommodate the separate collection of recyclable trash. The separate trash collection areas shall be clearly identified on final plans submitted for review and sign-off.
20. **Service Floor Area.** The ground floor restaurant is limited to a maximum Service Floor, as defined in the Venice Coastal Zone Specific Plan, of 574 square feet.
21. **Dual Permit Jurisdiction Area.** The project is located within the Dual Permit Jurisdiction area of the California Coastal Zone. The applicant shall file an application for a second (or "dual") coastal development permit with the Coastal Commission and shall submit proof of a valid ("dual") permit issued by the Coastal Commission.
22. **Minimum Elevations:** The Finished Floor Elevation (FFE) of the Project shall not be lower than the Base Flood Elevation identified in the governing floor zone plus one feet.
23. **Street Wall:** Commercial buildings located on Ocean Front Walk shall have the Street Wall set zero feet from the building line and shall have a minimum height of 13 feet.
24. **Ground Floor:** At least 50 percent of the area of the Ground Floor Street Wall of the Project shall be devoted to pedestrian entrances, display windows or windows offering views into retail, office gallery or lobby space.
25. Blank Walls shall be limited to segments of 15 feet in length, except that Blank Walls that contain a vehicle entry door shall be limited to the width of the door plus five feet.
26. **Graffiti.** All graffiti on the site shall be removed or painted over to match the color of the surface to which it is applied within 24 hours of its occurrence.

Alcoholic Beverage Conditions

27. Authorized herein is the sale and dispensing of a full line of alcoholic beverages for on-site consumption, in conjunction with the proposed 1,568 square-foot restaurant with a 574 square feet of Service Floor area from the effective date of this grant. Subject to the following limitations:
 - a. The seating area shall be limited to a maximum of 50 interior seats provided that number of seats does not exceed the maximum allowable occupant load as determined by the Department of Building and Safety.
 - b. Hours of operation shall be limited to 7:00 a.m. to 2 a.m., daily.

28. No after-hour use is permitted, except for routine clean-up. This includes but is not limited to private or promotional events, special events, but is excluding any activities which are issued film permits by the City.
29. Complaint Log. Prior to the utilization of this grant, a telephone number and email address shall be provided for complaints or concerns from the community regarding the operation. The phone number and email address shall be posted at the following locations:
- a. Entry, visible to pedestrians
 - b. Customer service desk, front desk or near the reception area.

Complaints shall be responded to within 24-hours. The applicant shall maintain a log of all calls and emails, detailing: (1) date complaint received; (2) nature of complaint, and (3) the manner in which the complaint was resolved.

30. STAR/LEAD Training. Within the first six months of operation or the effectuation of the grant, all employees involved with the sale of alcohol shall enroll in the Los Angeles Police Department "Standardized Training for Alcohol Retailers" (STAR) or Department of Alcoholic Beverage Control "Licensee Education on Alcohol and Drugs" (LEAD) training program. Upon completion of such training, the applicant shall request the Police Department or Department of Alcoholic Beverage Control to issue a letter/certificate identifying which employees completed the training.
31. STAR/LEAD training shall be conducted for all new hires within three (3) months of their employment.
32. The applicant shall be responsible for monitoring both patron and employee conduct on the premises and within the parking areas under his/her control to assure such conduct does not adversely affect or detract from the quality of life for adjoining residents, property owners, and businesses.
33. Loitering is prohibited on or around these premises or the area under the control of the applicant. "No Loitering or Public Drinking" signs shall be posted in and outside of the subject facility.
34. At least one on-duty manager with authority over the activities within the facility shall be on the premises during business hours. The on-duty manager's responsibilities shall include the monitoring of the premises to ensure compliance with all applicable State laws, Municipal Code requirements and the conditions imposed by the Department of Alcoholic Beverage Control (ABC) and the conditional use herein. Every effort shall be undertaken in managing the subject premises and the facility to discourage illegal and criminal activities and any exterior area over which the building owner exercises control, in effort to ensure that no activities associated with such problems as narcotics sales, use or possession, gambling, prostitution, loitering, theft, vandalism and truancy occur.
35. The Applicant shall be responsible for maintaining the premises and adjoining sidewalk free of debris or litter.
36. Parking for the restaurant use shall be provided in compliance with the Venice Coastal Zone Specific Plan, Municipal Code and to the satisfaction of the Department of Building and Safety. No variance from the commercial use parking requirements has been requested or granted herein.

37. Coin operated game machines, pool tables or similar game activities or equipment shall not be permitted. Official California State lottery games and machines are allowed.
38. Prior to the utilization of this grant, an electronic age verification device shall be purchased and retained on the premises to determine the age of any individual attempting to purchase alcoholic beverages and shall be installed on at each point-of-sales location. This device shall be maintained in operational condition and all employees shall be instructed in its use.
39. Smoking tobacco or any non-tobacco substance, including from electronic smoking devices, is prohibited in or within 10 feet of the outdoor dining areas in accordance with Los Angeles Municipal Code Section 41.50 B 2 C. This prohibition applies to all outdoor areas of the establishment if the outdoor area is used in conjunction with food service and/or the consumption, dispensing or sale of alcoholic or non-alcoholic beverages.
40. The Applicant(s) shall comply with 6404.5(b) of the Labor Code, which prohibits smoking within any place of employment. The applicant shall not possess ashtrays or other receptacles used for the purpose of collecting trash or cigarettes/cigar butts within the interior of the subject establishment.
41. Designated Driver Program. Prior to the utilization of this grant, the applicant shall establish a "Designated Driver Program" which shall include, but not be limited to, signs/cards notifying patrons of the program. The signs/cards shall be visible to the customer and posted or printed in prominent locations or areas. These may include signs/cards on each table, at the entrance, at the host station, in the waiting area, at the bars, or on the bathrooms, or a statement in the menus.
42. Any music, sound or noise including amplified or acoustic music which is under control of the applicant shall comply Sections 112.06 or 116.01 of the Los Angeles Municipal Code (Citywide Noise Ordinance). At any time, a City inspector may visit the site during operating hours to measure the noise levels. If, upon inspection, it is found that the noise level exceeds those allowed by the citywide noise regulation, the owner/operator will be notified and will be required to modify or, eliminate the source of the noise or retain an acoustical engineer to recommend, design and implement noise control measures within property such as, noise barriers, sound absorbers or buffer zones.
43. There shall be no Adult Entertainment of any type pursuant to LAMC Section 12.70.
44. Private Events. Any use of the restaurant for private events, including corporate events, birthday parties, anniversary parties, weddings or other private events which are not open to the general public, shall be subject to all the same provisions and hours of operation stated herein.
45. Prior to the utilization of this grant, the applicant shall submit the restaurant's menu to the case file to document that the premises shall be maintained as a bona fide restaurant with a kitchen to be used for cooking and preparing of food. Food service shall be available at all times during operating hours.
46. The establishment shall be maintained as a bona fide eating place (restaurant) with an operational kitchen and shall provide a full menu containing an assortment of foods normally offered in such restaurants. Food service shall be available at all times during operating hours. The establishment shall provide seating and dispense food and refreshments primarily for consumption on the premises and not solely for the purpose of food takeout or delivery.
47. No conditional use for dancing has been requested or approved herein. Dancing is prohibited.

48. There shall be no live entertainment or amplified music on the premises including but not limited to karaoke, disc jockey, topless entertainment, male or female performers or fashion shows. Any background music or other recorded ambient music shall not be audible beyond the area under the control of the applicant.
49. Entertainment in conjunction with the restaurant is limited to ambient music to compliment the dining experience, shall be limited to background music at a low volume such that it is not audible beyond the premises. Independent, professional or amateur disc jockeys are not allowed.
50. All entertainment shall be conducted within a wholly enclosed building; there shall be no live entertainment or dancing in the outdoor patio area at any time.
51. There shall be no speakers or amplified sound permitted in the outdoor dining area.

Administrative Conditions

52. **Final Plans.** Prior to the issuance of any building permits for the project by the Department of Building & Safety, the applicant shall submit all final construction plans that are awaiting issuance of a building permit by the Department of Building & Safety for final review and approval by the Department of City Planning. All plans that are awaiting issuance of a building permit by the Department of Building & Safety shall be stamped by Department of City Planning staff "Final Plans". A copy of the Final Plans, supplied by the applicant, shall be retained in the subject case file.
53. **Notations on Plans.** Plans submitted to the Department of Building & Safety, for the purpose of processing a building permit application shall include all of the Conditions of Approval herein attached as a cover sheet, and shall include any modifications or notations required herein.
54. **Approval, Verification and Submittals.** Copies of any approvals, guarantees or verification of consultations, review of approval, plans, etc., as may be required by the subject conditions, shall be provided to the Department of City Planning prior to clearance of any building permits, for placement in the subject file.
55. **Code Compliance.** Use, area, height, and yard regulations of the zone classification of the subject property shall be complied with, except where granted conditions differ herein.
56. **Covenant.** Prior to the issuance of any permits relative to this matter, an agreement concerning all the information contained in these conditions shall be recorded in the County Recorder's Office. The agreement shall run with the land and shall be binding on any subsequent property owners, heirs or assign. The agreement must be submitted to the Department of City Planning for approval before being recorded. After recordation, a copy bearing the Recorder's number and date shall be provided to the Department of City Planning for attachment to the file.
57. **Department of Building & Safety.** The granting of this determination by the Director of Planning does not in any way indicate full compliance with applicable provisions of the Los Angeles Municipal Code Chapter IX (Building Code). Any corrections and/or modifications to plans made subsequent to this determination by a Department of Building & Safety Plan Check Engineer that affect any part of the exterior design or appearance of the project as approved by the Director, and which are deemed necessary by the Department of Building & Safety for Building Code compliance, shall require a referral of the revised plans back to the Department of City Planning for additional review and sign-off prior to the issuance of any permit in connection with those plans.

58. **Enforcement.** Compliance with these conditions and the intent of these conditions shall be to the satisfaction of the Department of City Planning.
59. **Expiration.** In the event that this grant is not utilized within three years of its effective date (the day following the last day that an appeal may be filed), the grant shall be considered null and void. Issuance of a building permit, and the initiation of, and diligent continuation of, construction activity shall constitute utilization for the purposes of this grant.
60. **Indemnification and Reimbursement of Litigation Costs.**

Applicant shall do all of the following:

- (i) Defend, indemnify and hold harmless the City from any and all actions against the City relating to or arising out of, in whole or in part, the City's processing and approval of this entitlement, including but not limited to, an action to attack, challenge, set aside, void, or otherwise modify or annul the approval of the entitlement, the environmental review of the entitlement, or the approval of subsequent permit decisions, or to claim personal property damage, including from inverse condemnation or any other constitutional claim.
- (ii) Reimburse the City for any and all costs incurred in defense of an action related to or arising out of, in whole or in part, the City's processing and approval of the entitlement, including but not limited to payment of all court costs and attorney's fees, costs of any judgments or awards against the City (including an award of attorney's fees), damages, and/or settlement costs.
- (iii) Submit an initial deposit for the City's litigation costs to the City within 10 days' notice of the City tendering defense to the Applicant and requesting a deposit. The initial deposit shall be in an amount set by the City Attorney's Office, in its sole discretion, based on the nature and scope of action, but in no event shall the initial deposit be less than \$50,000. The City's failure to notice or collect the deposit does not relieve the Applicant from responsibility to reimburse the City pursuant to the requirement in paragraph (ii).
- (iv) Submit supplemental deposits upon notice by the City. Supplemental deposits may be required in an increased amount from the initial deposit if found necessary by the City to protect the City's interests. The City's failure to notice or collect the deposit does not relieve the Applicant from responsibility to reimburse the City pursuant to the requirement in paragraph (ii).
- (v) If the City determines it necessary to protect the City's interest, execute an indemnity and reimbursement agreement with the City under terms consistent with the requirements of this condition.

The City shall notify the applicant within a reasonable period of time of its receipt of any action and the City shall cooperate in the defense. If the City fails to notify the applicant of any claim, action, or proceeding in a reasonable time, or if the City fails to reasonably cooperate in the defense, the applicant shall not thereafter be responsible to defend, indemnify or hold harmless the City.

The City shall have the sole right to choose its counsel, including the City Attorney's office or outside counsel. At its sole discretion, the City may participate at its own expense in the defense of any action, but such participation shall not relieve the applicant of any obligation imposed by this condition. In the event the Applicant fails to comply with this condition, in whole or in part, the City may withdraw its defense of the action, void its approval of the entitlement, or take any other action. The City retains the right to make all decisions with

respect to its representations in any legal proceeding, including its inherent right to abandon or settle litigation.

For purposes of this condition, the following definitions apply:

“City” shall be defined to include the City, its agents, officers, boards, commissions, committees, employees, and volunteers.

“Action” shall be defined to include suits, proceedings (including those held under alternative dispute resolution procedures), claims, or lawsuits. Actions includes actions, as defined herein, alleging failure to comply with any federal, state or local law.

Nothing in the definitions included in this paragraph are intended to limit the rights of the City or the obligations of the Applicant otherwise created by this condition.

FINDINGS

Entitlement Findings

1. Coastal Development Permit Findings

- a. The development is in conformity with Chapter 3 of the California Coastal Act of 1976.***

Chapter 3 of the Coastal Act includes provisions that address the impact of development on public services, infrastructure, traffic, the environment and significant resources, and coastal access. The applicable provisions are as follows:

Article 2 Public Access

Section 30211 Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Section 30212 (a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where: (1) It is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, (2) Adequate access exists nearby, or, (3) Agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.

The subject property is comprised of two private lots located on Ocean Front Walk, mid-block between Park Avenue and Brooks Avenue Avenues. The subject property is developed with three residential buildings and does not provide public access to the beach. Access to the Venice Beach Shoreline is provided by Park Avenue (Walk Street) located approximately 115 feet to the north of the property and Brooks Avenue, located approximately 86 feet to the south of the property. Park Avenue and Brooks Avenue provide adequate public access to the beach and shoreline. The proposed development is limited to the subject property. No work is proposed in the public right-of-way. Therefore, the proposed mixed-use will not interfere with or obstruct the public's right to access to coastal resources.

Article 5 Land Resources

Section 30240 requires the protection of environmentally sensitive habitat areas and to prevent significant impacts on such areas.

Section 30244 requires reasonable mitigation measures to reduce potential impacts on archeological or paleontological resources.

The Project site is identified in Venice Land Use Plan as a site located adjacent to the beach which is an Environmentally Sensitive Habitat Area (ESHA). The project site is separated from the ESHA by Ocean Front Walk, a pedestrian pathway. The proposed development would be fully developed within the boundaries of the private lots and would not impact sensitive habitat areas.

The Project site currently improved with structures and is not located in an area identified to contain paleontological or archaeological resources. The proposed excavation and grading are subject to review by the Los Angeles Department of Building and Safety (LADBS) and compliance with the Los Angeles Building Code. In the event archaeological or paleontological resources are discovered during excavation or grading activities, the project is subject to compliance with Federal, State and Local regulations already in place.

Article 6 Development

Section 30250 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 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 30252 The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing non-automobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.

The proposed Project can be accommodated by the existing infrastructure and by the existing public services. The project site is contiguous with and in close proximity to existing developed areas that are able to accommodate it.

The subject property is zoned for commercial uses on property which fronts on a public right-of-way (Ocean Front Walk) that directly serves a beach. The project proposes a ground-level, 50-seat restaurant with nine dwelling units above to replace the existing buildings which together contain nine residential units. This portion of Ocean Front Walk is developed with a mixture of tourist-serving commercial retail uses and residential uses. The property is not located in an area suitable for an agriculture use, nor to directly support recreational boating uses.

There are multiple mixed-use projects and multifamily residential projects along Ocean Front Walk dating from 1910 to 2007. These building range in height between 30 feet and 76 feet and vary between three stories and six stories. Along Ocean Front Walk, there are

seven buildings that vary between four stories and six stories and 13 three-story buildings between Rose Avenue and 17th Avenue.

The subject property is located along a commercial strip fronting on Ocean Front Walk, a pedestrian walkway that fronts on Venice Beach. This commercial strip is part of the larger Venice Boardwalk, which is a regional and international tourist attraction. Surrounding properties include a mix of residential and commercial uses. The northwestern adjoining property, fronting on Ocean Front Walk, Speedway, and Park Avenue, is zoned C1-1 and developed with a one- and two-story multi-tenant commercial retail building. The northeastern and eastern adjoining properties, across Speedway, are zoned RD1.5, and developed with a two- and three-story residential duplex and a three-story single-family dwelling. The southeastern adjoining property, fronting Ocean Front Walk, Speedway, and Brooks Avenue is zoned C1-1 and developed with a two-story-over-garage multi-unit residential building fronting on Speedway and Brooks Avenue and a one-story multi-tenant commercial building fronting on Ocean Front Walk.

Many buildings along Ocean Front Walk are three-stories or more in height, many contain both commercial and residential components, and most maximize their development potential according to the size of their lot. The architectural character of nearby development includes an eclectic mix of architectural styles including modern and contemporary style buildings. The project's proposed contemporary design fits into the architectural diversity of the neighborhood. The building facades clearly identifies the commercial from residential uses with the use of color and material changes. The project height, massing and scale of the project is consistent with existing buildings along Ocean Front Walk. The requested four-foot height increase will not adversely impact the scale of the street. Additionally, the residential portion of the project, levels 2 and 3, are set back 5 feet from the property line decreasing the visual impact of the project along sidewalk of Ocean Front Walk. Therefore, the Project is visually compatible in scale and character with the existing neighborhood, and the Venice Coastal Development Project would not be materially detrimental to adjoining lots or the immediate neighborhood.

The proposed Project is located between the first public road and the sea and is located more than 140 feet from the beach. Adequate parking will be provided onsite within at-grade and subterranean parking. The proposed project will not interfere with or obstruct the public's right to access to coastal resources. The proposed development will not have any adverse impacts on public access to the coast. Additionally, the proposed project will comply with the requirements of the Venice Coastal Zone Specific Plan which establishes design guidelines for project. The proposed project will neither interfere nor reduce access to the shoreline as the site does not have direct access to any water or beach. As such, the project will not have a significant adverse impact on coastal resources.

Section 30253 states new development shall: (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard. (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs. (3) Be consistent with requirements imposed by an air pollution control district or the State Air Resources Control Board as to each particular development. (4) Minimize energy consumption and vehicle miles traveled. (5) Where appropriate, protect special communities and neighborhoods which, because of their unique characteristics, are popular visitor destination points for recreational uses.

The proposed development is located within a methane, liquefaction, and tsunami inundation zone, and within 4.75 kilometers of the Santa Monica Fault. As such, the project

is subject to compliance with Zoning and Building Code requirements that will minimize risks to life and property in such hazard areas. The property is also located within Zone B, Areas of 500-year flood.

The project site is also located within an area that may be affected by Sea Level Rise. On August 12, 2015, the Coastal Commission adopted a Sea Level Rise Policy Guidance document, updated and adopted On November 7, 2018. This policy document provides a framework and directions for local jurisdictions to address sea level rise (SLR) in Local Coastal Programs (LCPs) and Coastal Development Permits (CDPs). In May 2018, the City completed an initial sea level rise vulnerability assessment for the Venice Coastal Zone. The report provides that: *Existing wide beaches generally protect Venice from coastal hazards. Coastal assets along or near the beachfront are potentially vulnerable during a large storm event in combination with SLR greater than 3.3 feet. After 4.9 feet SLR, beachfront assets are more vulnerable to damage from flooding or potential erosion of the beach. A SLR of 6.6 feet is a tipping point for Venice's exposure to extreme coastal wave events. Beachfront and coastal assets could flood annually, beaches could be greatly reduced in width, and high water levels could greatly increase potential for flooding of inland low-lying areas. As discussed in the analysis, there is considerable uncertainty around the timing of SLR, how coastal processes may be affected, and what adaptation approaches will be applied in the future (VSLRVA, pg. 45).* Policies and development standards to address the potential impacts of SLR would be addressed in the City's LCP for the Venice Coastal Zone.

However, this proposed project, a Wave Uprush Study/Coastal Engineering Report (February 1, 2020) was prepared by Pacific Engineering Group for the subject property to determine the wave uprush limit and design parameters for the proposed project. The Report analyzed the project's vulnerability to flood hazards, considering a scenario of a minimum 5.5-foot sea level rise and a 100-year storm scenario. The analysis found that the maximum storm wave uprush at the property will occur 145 feet seaward of the subject property. The report provides recommendations for foundation systems, minimum finished floor elevations, and construction materials. The report concluded that the project will not have an adverse effect on the normal coastal and littoral processes along the shoreline provided the project is constructed per the elevations and recommendations in the report and that the construction will not have any effect on the natural coastal hazards affecting any of the adjacent structures or properties. Furthermore, any repair, demolition, and/or new construction as a result of any flooding would be subject to additional review. As conditioned, the proposed development is consistent with Section 30253 of the Coastal Act.

The proposed development will have no adverse impacts on public access, recreation, public views, or the marine environment. The project will neither interfere nor reduce access to the shoreline or beach. There will be no dredging, filling or diking of coastal waters or wetlands associated with the request, and there are no sensitive habitat areas, archaeological or paleontological resources identified on the site. The proposed dwelling will not block any designated public access views. As conditioned, to a maximum height of 39 feet, the proposed project is in conformity with Chapter 3 of the California Coastal Act.

- b. The development will not prejudice the ability of the City of Los Angeles to prepare a local coastal program that is in conformity with Chapter 3 of the California Coastal Act of 1976.***

Coastal Act Section 30604(a) states that prior to the certification of a Local Coastal Program ("LCP"), a coastal development permit may only be issued if a finding can be

made that the proposed development is in conformance with Chapter 3 of the Coastal Act. The Venice Local Coastal Land Use Plan ("LUP") was certified by the California Coastal Commission on June 14, 2001; however, the necessary implementation ordinances were not adopted. The City is in the initial stages of preparing the LCP; prior to its adoption the guidelines contained in the certified LUP are advisory. The subject site is located within the North Venice Subarea with a land use designation of Community Commercial and zoned C1-1.

The following are applicable policies from the certified LUP:

Policy I.B.6 Community Commercial Land Use. The areas designated as Community Commercial will accommodate the development of community serving commercial uses and services, with a mix of residential dwelling units and visitor-serving uses. The Community Commercial designation is intended to provide focal points for local shopping, civic and social activities and for visitor-serving commercial uses.

Uses/Density: On a commercial lot, residential uses shall not exceed one unit per 800-1200 square feet of lot area.

The applicant is proposing the construction use and maintenance of a three-story 39-foot high, approximately 13,412 square foot, mixed-use building containing a 1,568 square foot ground level restaurant, two upper residential levels with nine dwelling units, including one unit set aside as a Low Income unit, and at grade parking and a subterranean parking level providing a total of 30 required on-site parking spaces. The ground floor level contains a restaurant fronting on Ocean Front Walk designed with 574 square feet of Service Floor area and 50 seats. The ground floor restaurant will enhance the pedestrian experience, providing neighborhood-serving commercial uses and dining options. The proposed neighborhood serving uses have the added benefit of attracting more pedestrian activity to activate the streets in the surrounding area.

Commercially zoned properties in the North Venice Subarea are limited to a maximum of one dwelling unit per 800 square feet of lot area using the R3 density standard. The proposed project with a lot area of 9,001 square feet would allow for 11 dwelling units to be built. The Project proposes the construction of nine dwelling units.

Policy I.B.7 Commercial Development Standards. The following standards shall apply in all commercial land use designations, unless specified elsewhere within this Land Use Plan.

Density/Intensity: Maximum Floor Area Ratio (FAR)

- 0.5 to 1 for retail only (including restaurants)*
- 1.0 to 1 for retail / office*
- 1.5 to 1 for retail and/or office and residential*

Lot Consolidation. Two commercial lots may be consolidated, or three with subterranean parking with the following restrictions:

- 1. Methods for insuring that the structure does not look consolidated (breaks in front wall of ten feet minimum) shall be utilized.*
- 2. Subterranean parking shall be fully depressed with roof at natural grade.*

Yards: Per the following Ground Level Development Policy which requires that commercial development be designed in scale with, and oriented to, the adjacent pedestrian accessways (i.e. sidewalks).

Ground Level Development: Every commercial structure shall include a Street Wall, which shall extend for at least 65% of the length of the street frontage, and shall be located at the property line or within five feet of the property line, except on Ocean Front Walk, where all commercial buildings shall have the Street Wall set zero (0) feet from the building line. The required Street Wall at sidewalk level shall be a minimum of 13 feet high. (A Street Wall is the exterior wall of a building that faces a street.)

Street Walls adjacent to a sidewalk café, public plaza, retail courtyard, arcade, or landscaped area may be setback a maximum of 15 feet along the project which consists of the sidewalk café, public plaza, retail courtyard, arcade, or landscaped area. Such areas shall not be considered in calculating the buildable area of a project but, with the exception of areas used only for landscaping, shall be considered in calculations for required parking.

The Venice Land Use Plan permits a Floor Area Ratio (FAR) of 1.5 times the buildable area of the lot for mixed-use projects in the C1-1 zone (VSP Section 11.B.3). The buildable lot area is 9,001 square feet, so a FAR of 1.5 to 1 permits a total floor area of approximately 13,502 square feet. The project proposes a maximum FAR of 1.49, a total project size of 13,412 square feet.

The project consists of the consolidation of two lots with one level of subterranean parking providing 30 required parking spaces. The subterranean parking structure is fully below the natural grade.

The proposed ground floor commercial will include a full-service restaurant and that restaurant space will front on Ocean Front Walk, observing no setback from the building line. Ground floor uses will enhance the pedestrian experience, providing neighborhood-serving commercial uses and dining options. The proposed neighborhood serving uses have the added benefit of attracting more pedestrian activity which will help to activate the streets in the surrounding area.

Policy I.A. 14. Parking Requirements for Affordable Housing. Reduced parking is permitted for low income units only if: a) the project is consistent with LUP policy I.A. 13; and b) it is demonstrated that the prospective occupants of the project will have a reduced demand for parking. However, if a unit changes its status from low or low-moderate income to market rate unit, parking should be provided for market rate units according to the parking standards listed in LUP Policies II.A.3 and II.A.4.

The proposed Project includes the demolition of nine existing residential dwelling units within three buildings, and the construction use and maintenance of a three-story 39-foot high, approximately 13,412 square foot, mixed-use building containing a 1,568 square foot ground level restaurant, two upper residential levels with nine dwelling units, including one unit set aside as a Low Income unit, and at grade parking and a subterranean parking level providing a total of 30 required on-site parking spaces. Vehicle parking for the Affordable Housing Unit is provided consistent with LAMC Section 12.22-A.25, Parking Option 1 providing one parking space. The required parking for the market rate housing units and commercial use is provided consistent with Venice Coastal Zone Specific Plan Parking Requirement Table (Policy II.A.3) providing 27 parking spaces.

Policy II. A. 4. Parking Requirements in the Beach Impact Zone (BIZ). Any new and/or any addition to commercial, industrial, and multiple-family residential development projects within the Beach Impact Zone shall provide additional (in addition to parking required by Policy II.A.3) parking spaces for public use or pay in-lieu fees into the Venice Coastal Parking Impact Trust Fund. Projects within the Beach Impact Zone (BIZ) shall provide one parking space for each 640 square feet of floor area of the ground floor commercial. The project contains 1,568 square foot of ground floor commercial floor area necessitating an additional 2 parking spaces for the BIZ requirement.

- c. The Interpretive Guidelines for Coastal Planning and Permits as established by the California Coastal Commission dated February 11, 1977 and any subsequent amendments thereto have been reviewed, analyzed and considered in light of the individual project in making this determination.***

The Los Angeles County Interpretative Guidelines were adopted by the California Coastal Commission (October 14, 1980) to supplement the Statewide Guidelines. Both regional and statewide guidelines, pursuant to Section 30620 (b) of the Coastal Act, are designed to assist local governments, the regional commissions, the commission, and persons subject to the provisions of this chapter in determining how the policies of this division shall be applied to the coastal zone prior to the certification of a local coastal program. As stated in the Regional Interpretative Guidelines, the guidelines are intended to be used “in a flexible manner with consideration for local and regional conditions, individual project parameters and constraints, and individual and cumulative impacts on coastal resources.” On June 14, 2001, the Coastal Commission certified the Venice Coastal Zone Land Use Plan (LUP), which provides policies and development standards to guide development in the Venice Coastal Zone. As discussed in Finding 1.b, the proposed development is consistent with the applicable policies of the certified LUP. Furthermore, the Regional Interpretive Guidelines do not outline specific guidelines for development in the North Venice Subarea.

- d. The decision of the permit granting authority has been guided by any applicable decision of the California Coastal Commission pursuant to Section 30625(c) of the Public Resources Code, which provides that prior decisions of the Coastal Commission, where applicable, shall guide local governments in their actions in carrying out their responsibility and authority under the Coastal Act of 1976.***

The project consists of the demolition of nine existing residential dwelling units within three buildings and the construction, use and maintenance of a three-story, 13,412 square foot mixed use building with nine dwelling units and a 1,568 square foot ground floor restaurant providing 574 square feet of Service Floor area and 50 seats and is located within the dual permit jurisdiction of the Coastal Zone, where the local jurisdiction (City of Los Angeles) issues Coastal Development Permits and the Coastal Commission will render a decision on the a second Coastal Development Permit. The Coastal Commission took action on the following residential projects in the Venice Coastal Zone:

Application Nos. 5-18-0212 and A-5-Ven-18-0017 (appeal) – On November 28, 2018, the Commission approved a Coastal Development Permit (de novo hearing) for the demolition of an existing residential structure containing two dwelling units and three guest rooms and the construction of a new 3, 139 square-foot, two-story single-family dwelling with an attached four-car garage, basement having no habitable rooms, and a roof deck, at 3011 South Ocean Front Walk in the dual permit jurisdiction of the Coastal Zone.

Application No. A-5-VEN-19-0020 (appeal) – On June 12, 2019, the Commission found No Substantial Issue with the City’s approval of a Coastal Development Permit for the

development of a four-story, 44-foot tall, 35 unit affordable housing project (supportive housing) providing 17 vehicle and 48 bicycle parking spaces on two consolidated lots at 718-720 Rose Avenue, in the single permit jurisdiction.

Application No. A-5-VEN-05-206 (appeal) – On August 9, 2005, the Commission approved a Coastal Development Permit (de novo hearing) for the development of a three-story, 37-foot tall (up to 50 feet for one clock tower), mixed use project comprised of 70 residential condominium units of which seven are restricted for Very Low Income Households, five live/work units, and one ground floor commercial use (bakery/restaurant), providing 247 parking spaces within a subterranean garage; the project is located on eight consolidated lots at 512 Rose Avenue, in the single permit jurisdiction.

In these decisions, the Coastal Commission approved Density Bonus incentives for increased height, determining that the resulting development would be consistent and visually compatible with existing development in the project vicinity. The Commission also found that reduced parking was consistent with the Policy I.A.4 of the certified LUP and provided: “In a recent study conducted by Fehr & Peers in April 20, 2017, 42 affordable housing sites within the City of Los Angeles were surveyed for vehicle trip generation and parking. The results indicate that parking utilization ratios are less than the ratios required in the certified LUP. The study indicated that permanent supportive affordable housing, created a demand between 0.2 and 0.48 spaces per unit.

As such, this decision of the permit granting authority has been guided by applicable decisions of the California Coastal Commission pursuant to Section 30625(c) of the Public Resources Code, which provides that prior decisions of the Coastal Commission, where applicable, shall guide local governments in their actions in carrying out their responsibility and authority under the Coastal Act of 1976.

- e. The development is not located between the nearest public road and the sea or shoreline of any body of water located within the coastal zone, and the development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act of 1976.***

Section 30210 of the Coastal Act states the following in regards to public access:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, right of private property owners, and natural resources from overuse.

Section 30211 of the Coastal Act states the following in regards to public recreation policies:

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

The subject site is located on the eastern (inland side) of Ocean Front Walk, between Park Avenue to the north and Brooks Avenue to the south, both within 120 feet of the property and of which provide vehicle as well as pedestrian access to Venice Beach. Ocean Front Walk is a public right-of-way which separates the beach from developed inland areas. There is no evidence of any previous public ownership of the lot and the project does not conflict with the goal of providing appropriately located public access points to the coast.

f. An appropriate environmental clearance under the California Environmental Quality Act has been granted.

A Categorical Exemption, ENV-2019-2284-CE, has been prepared for the proposed project consistent with the provisions of the California Environmental Quality Act. The project proposes the demolition of nine existing residential dwelling units within three buildings and the construction, use and maintenance of a three-story, 13,412 square foot mixed use building with nine dwelling units and a 1,568 square foot ground floor restaurant providing 574 square feet of Service Floor area and 50 seats requesting on-site sale of a full line of alcohol beverages, and 30 parking spaces on the ground floor and one subterranean level. The Categorical Exemption prepared for the proposed project is appropriate pursuant to CEQA Guidelines Section 15332 (In-fill Development). A full discussion is provided in Finding Number 6 – Environmental Finding.

2. Density Bonus/Affordable Housing Incentives Compliance Findings

The applicant requests one (1) On-Menu Incentive and three (3) Waiver of Development Standards pursuant to the Density Bonus/Affordable Housing Incentives Program, as follows:

- An **On-Menu Incentive** to permit a maximum building height of 39 feet in lieu of 35 feet, as otherwise permitted by Venice Coastal Zone Specific Plan Section 10.F(3)(a),
- A **Waiver of Development Standards** to permit a six-foot in width passageway in lieu of a 12-foot passageway, as otherwise required by LAMC Section 12.21.C(2)(b),
- A **Waiver of Development Standards** to permit a two-foot nine inch by two-foot five inch triangular portion of the upper portion of the building to encroach into the 45 degree step-back plane, as otherwise required by the Venice Coastal Zone Specific Plan Section 10.F(3)(a), and
- A **Waiver of Development Standards** to permit a Roof Access Structure with a maximum height of 12 feet in lieu of 10 feet, as otherwise permitted by the Venice Coastal Zone Specific Plan Section 9.C(1)(a).

Following is a delineation of the findings related to the request for the On-Menu Incentive and Waivers of Development Standards pursuant to Government Code 65915 and LAMC Section 12.22.A.25. The Commission shall approve a Density Bonus and requested Incentives unless the Commission makes a finding based on substantial evidence that:

- a. The incentive does not result in identifiable and actual cost reductions to provide for affordable housing costs as defined in California Health and Safety Code Section 50052.5 or Section 50053 for rents for the affordable units.**

The record does not contain substantial evidence that would allow the City Planning Commission to make a finding that the requested incentives do not result in identifiable and actual cost reduction to provide for affordable housing costs per State Law. The California Health & Safety Code Sections 50052.5 and 50053 define formulas for calculating affordable housing costs for very low-, low-, and moderate-income households. Section 50052.5 addresses owner-occupied housing and Section 50053 addresses rental households. Affordable housing costs are a calculation of residential rent or ownership pricing not to exceed 25 percent gross income based on area median income thresholds dependent on affordability levels.

The list of On-Menu Incentives in LAMC Section 12.22 A.25 was pre-evaluated at the time the Density Bonus Ordinance was adopted to include types of relief that minimize restrictions on the size of the project. As such, the Planning Department will always arrive at the conclusion that the Density Bonus On-Menu Incentives provide identifiable and actual cost reductions that provide for affordable housing costs, because the Incentives by their nature increase the scale of the project, allow the construction of increased residential floor area, allow for processing, construction and design efficiencies, and collectively allow more market-rate floor area whose rents will subsidize the affordable units.

Height. The project site is zoned C1-1. The 1 height district limits which provides for unlimited building height. The Venice Coastal Zone Specific Plan further limits building height to 35 feet. The applicant requests a height of 39 feet. Pursuant to LAMC Section 12.22 A.25(f)(5), the project is eligible for a percentage increase in the height requirement in feet equal to the percentage of Density Bonus for which the Project is eligible; the height increase shall not exceed 11 feet or one story. The requested On-Menu Incentive for an 4-foot increase in height is expressed in the Menu of Incentives per LAMC Section 12.22 A.25(f) and as such, allows exceptions to zoning requirements that result in building design or construction efficiencies that provide for affordable housing costs. The requested incentive will allow the developer to expand the building envelope and build an additional story, increasing the overall space dedicated to residential use.

- b. The incentive will have a specific adverse impact upon public health and safety or the physical environment, or on any real property that is listed in the California Register of Historical Resources and for which there are no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to Very Low, Low and Moderate Income households. Inconsistency with the zoning ordinance or the general plan land use designation shall not constitute a specific, adverse impact upon the public health or safety (Gov. Code 65915(d)(1)(B) and 65589.5(d)).**

There is no substantial evidence in the record that the proposed incentive will have a specific adverse impact. A "specific adverse impact" is defined as, "a significant, quantifiable, direct and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete" (LAMC Section 12.22 A.25(b)). As required by Section 12.22 A.25(e)(2), the project meets the eligibility criterion that is required for density bonus projects.

The project also does not involve a contributing structure in a designated Historic Preservation Overlay Zone or on the City of Los Angeles list of Historical-Cultural Monuments. Therefore, there is no substantial evidence that the proposed incentive(s) will have a specific adverse impact on public health and safety.

- c. The incentives are contrary to state or federal law.**

There is no substantial evidence in the record that the requested incentives are contrary to state or federal law.

Following is a delineation of the findings related to the request for the Waiver of Development Standards, pursuant to Government Code Section 65915.

Government Code Section 65915 and LAMC Section 12.22 A.25(c) state that the Commission shall approve a density bonus and requested Waivers of Development Standard(s) unless the Commission finds that:

d. The waiver(s) or reduction(s) of development standard(s) are contrary to state or federal law.

A project that provides 10 percent of base units for Low Income Households qualifies for one (1) Incentive, and may request other “waiver[s] or reduction[s] of development standards that will have the effect of physically precluding the construction of a development meeting the [affordable set-aside percentage] criteria of subdivision (b) at the densities or with the concessions or incentives permitted under [State Density Bonus Law]” (Government Code Section 65915(e)(1)).

Therefore, the request for the following is recommended as Waivers of Development Standards. Without the below Waivers, the existing development standards would physically preclude development of the base units, proposed density bonus units, build out of the incentives, and project amenities:

Passageway Reduction. LAMC Section 12.21-C.2, requires a passageway of 12 feet in width, extending from the street to the entrance of each dwelling unit or a hallway (common entrance to a multi-family residential structure) for three-story multi-family residential structures. The proposed project would provide a 12-foot passageway extending from the street to the entrance of the stairwell access to the residential units on the upper floors. Thereafter the passageway will be reduced to six feet on the southerly side yard setback.

In order to accommodate the 9 residential units on the second and third floor and provide elevator access and the necessary two exit stairs, a reduction to this passageway is required from Ocean Front Walk to the elevator. The proposed solution sets the building back 12 feet from the south property line but provides the exit stair and exit balcony within this 12-foot passageway. The mass of the building does not change because the second and third floor residential units are set back 12 feet from the south property line where the passageway is required but the exit stair and exit balcony will be located within the passageway.

Strict compliance with the passageway requirement on the ground floor would physically preclude the development of two dwelling units by substantially reducing the width and floor area of unit one and unit six. In addition, due to the narrow lot, the required passageway results in the elimination of two residential parking spaces on the ground floor required for the units. Compliance with the passageway requirement would require the removal of floor area that could otherwise be dedicated to the number, configuration, and livability of the units including the affordable housing unit. By waiving this development standard, the applicant will not be physically precluded from constructing the proposed development with nine units, of which one are affordable dwelling units.

Step-Back Plane. Pursuant to Venice Coastal Zone Specific Plan Section 10.F(3)(a), development project shall be limited to a maximum height of 30 feet for flat portions of the roof and 35 feet for varied rooflines (slope greater than 2:12), measured from the centerline of street. Any portion of the roof that exceeds 30 feet shall be set back from the required front yard at least one foot in depth for every foot in height (45 degrees) above 30 feet.

The proposed project would provide a two-foot nine-inch by two-foot five inch encroachment into step-back plane. Compliance with the step-back requirement would substantially reduce the floor area and livable space for 4 of the 9 proposed units (Units 1, 2, 6, and 7) as proposed. Without the waiver, the applicant would be physically precluded from constructing some portion of the residential units. The requested waiver will allow the developer to expand the building envelope so the units can be constructed, and the overall space dedicated to residential use is increased.

Roof Access Structure. Pursuant to Venice Coastal Zone Specific Plan Section 9.C(1)(a), Roof Access Structures may exceed the building height by up to ten feet in height. An elevator structure is necessary to provide access to the third floor. Based on the overhead mechanical equipment for the elevator, a waiver of this standard is necessary for building design or construction efficiencies that provide for affordable housing costs. The elevator from the ground floor to the upper third level is required by the City's Building Code to comply with ADA requirements for all the units. The elevator shaft size is mandated by the Building Code and the top of the shaft enclosure is 41 feet in height which exceeds the Roof Access Structure maximum height by one foot. Without this waiver, the applicant would be physically precluded from constructing a residential level as the building height would need to be lowered to accommodate 10 feet in height roof access structure, which would result in the loss of buildable floor area.

- e. **The waivers will have a specific adverse impact upon public health and safety or the physical environment, or on any real property that is listed in the California Register of Historical Resources and for which there are no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to Very Low, Low and Moderate-Income households. Inconsistency with the zoning ordinance or the general plan land use designation shall not constitute a specific, adverse impact upon the public health or safety (Gov. Code 65915(d)(1)(B) and 65589.5(d)).**

There is no substantial evidence in the record that the proposed waivers will have a specific adverse impact. A "specific adverse impact" is defined as, "a significant, quantifiable, direct and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete" (LAMC Section 12.22 A.25(b)). As required by Section 12.22 A.25(e)(3), the project meets the eligibility criterion that is required for density bonus projects. The project also does not involve a contributing structure in a designated Historic Preservation Overlay Zone or on the City of Los Angeles list of Historical-Cultural Monuments. Therefore, there is no substantial evidence that the proposed incentive(s) will have a specific adverse impact on public health and safety.

- f. **The waivers are contrary to state or federal law.**

There is no substantial evidence in the record that the requested incentives are contrary to state or federal law.

3. Conditional Use Permit Findings

- a. **That the project will enhance the built environment in the surrounding neighborhood or will perform a function or provide a service that is essential or beneficial to the community, city or region.**

The project site is located on Ocean Front Walk within a commercial zone developed with restaurants, entertainment uses, and recreational uses. Restaurant uses are essential to

the local economy and the project site is zoned for such uses, with the intention that the restaurants serve nearby residents and visitors to the Venice Beach shoreline. The sale of alcoholic beverages is incidental to food sales. It is generally accepted that the availability of alcoholic beverages has become a component of the dining experience.

A variety of commercial uses are necessary for the conservation, development, and success of a vibrant neighborhood. The proposed project would contribute to a vibrant sidewalk and provide transparency on the street with glazing along the façade. The current project site contains three vacant residential structures. As such, the mixed use development would enhance the built environment and the surrounding neighborhood. The proposed use in conjunction with the imposition of a number of conditions addressing operational and alcohol-related issues will assure that the service alcoholic beverages will not be disruptive to the community. The availability of a full line of alcoholic beverages for on-site consumption in conjunction with the restaurant will offer an amenity to the local residents and visitors to the Venice area.

- b. That the project's location, size, height, operations and other significant features will be compatible with and will not adversely affect or further degrade adjacent properties, the surrounding neighborhood or the public health, welfare, and safety.**

Restaurant uses contribute to the overall success of the surrounding community and the local economy. Furthermore, restaurant uses are desirable to the public convenience and welfare as such uses are intended to serve nearby residents and visitors. However, the sale of alcohol for on-site consumption is necessary for new restaurants to compete with other area restaurants for patrons who desire this service. As the project site is located within an active and vibrant commercial and recreational area, the ability to serve a full line of alcoholic beverages for on-site consumption will help to ensure the lasting financial success of the restaurant. The proposed size and location of the restaurant is consistent with other restaurants along Ocean Front Walk. The approval of the subject CUP request not adversely affect or further degrade adjacent properties, the surrounding neighborhood, or the public health, welfare, and safety.

Conditions have been imposed to encourage responsible management and deter criminal activity. As conditioned, the continued operation of the restaurant with the sale of a full line of alcoholic beverages for on-site consumption will not adversely affect or further degrade adjacent properties, the surrounding neighborhood, or the public health, welfare and safety and the development of the community.

- c. That the project substantially conforms with the purpose, intent and provisions of the General Plan, the applicable community plan, and any applicable specific plan.**

There are eleven elements of the General Plan including the Framework Element, a Land Use Element and twelve citywide elements which address various citywide topics. Each of these elements establishes policies that provide for the regulatory environment in managing the City and for addressing environmental concerns and problems. The majority of the policies derived from these Elements are in the form of Code requirements of Los Angeles Municipal Code (LAMC).

The Land Use Element of the City's General Plan divides the city into 35 Community Plans. The Venice Community Plan designates the property for General Commercial land uses with the corresponding zones of C1.5, C2, C4, CR, RAS3, and RAS4 and Height District No. 1. In addition, the Venice Community Plan outlines objectives regarding the importance of strengthening commercial development.

The CUP request is consistent with the intent of the Venice Community Plan, which aims to increase pedestrian activity and economic prosperity. The subject request meets the following goals and objectives:

- *Goal 2: A strong and competitive commercial sector, which promotes economic vitality, serves the needs of the community through well designed, safe and accessible areas while preserving the historic, commercial and cultural character of the community.*
- *Objective 2-1: To conserve and strengthen viable commercial development in the community and to provide additional opportunities for new commercial development and services within existing commercial areas.*
- *Objective 2-2: To enhance the identity of distinctive commercial districts and to identify pedestrian-oriented districts.*
- *Policy 2-2.1: Encourage pedestrian-oriented uses and mixed-use in designated areas.*

Approval of the subject request would further the goals of the Plan to promote the economic well-being of the community and enhance pedestrian activity in the area.

While the Framework Element and Venice Community Plan provide general policies that support commercial uses in existing commercial areas, the Venice Coastal Zone Specific Plan and Land Use plan outline additional development regulations regarding the intensity of commercial uses within the Venice Specific Plan area.

The Venice Local Coastal Land Use Plan (“LUP”) was certified by the California Coastal Commission. The LUP designates the property as a General Commercial area.

The subject property is in the North Venice Subarea on parcels designated for “Community Commercial” use. The Venice Land Use Plan provides policy direction for the Community Commercial designation. The project substantially conforms and complies with the LUP Policies and Coastal Guidelines as demonstrated by the following policies:

- *Policy I. B. 2: Mixed-use residential-commercial development shall be encouraged in all areas designated on the Land Use Policy Map for commercial use.*
- *Policy I. B. 6: The Community Commercial designation is intended to provide focal points for local shopping, civic and social activities and visitor-serving commercial uses... The existing community centers in Venice are most consistent with, and should be developed as, mixed-use centers that encourage the development of housing in concert with multi-use commercial uses.*
- *Policy III. A. 1(a): Recreation and visitor-serving facilities shall be encouraged, provided they retain the existing housing opportunities of the area and provided there is sufficient infrastructure capacity to service such facilities.*
- *Policy I. B. 6. (c): Properties located along Ocean Front Walk from 17th Avenue to the Santa Monica City Line, which includes the project site, are designated as “Community Commercial Areas of Special Interest” with the intention of promoting: “Visitor-serving and personal services emphasizing retail and restaurants. Mixed-use with retail and/or personal services on the ground floor with either residential or personal services on upper floors.”*

The Venice Community Plan, Venice Land Use Plan (LUP), and Venice Coastal Zone Specific Plan text are silent as to alcoholic beverage sales. The Los Angeles Municipal Code authorizes the Zoning Administrator to grant the subject request in the zones corresponding to the Plan's Land Use Designation of Community Commercial. The subject request is a permitted use by this land use category in the Venice Community Plan. Indeed, the LUP states that "Community Commercial uses shall accommodate neighborhood and visitor-serving commercial and personal service uses, emphasizing retail and restaurants". As conditioned, the proposed project conforms with the purpose, intent and policies of the General Plan, Land Use Plan and Specific Plan.

d. The proposed use will not adversely affect the welfare of the pertinent community.

The project site has long been an area of blight along the boardwalk. The lack of activity has attracted nuisance activity. The proposed development will enhance the area by providing a new restaurant and dwelling units.

The project compliments Coastal policies and guidelines designed to increase the availability of ground floor commercial services within walking or bicycling distance of the waterfront while at the same time fully replaces the existing nine residential units. The project will increase quality of life within the community and offer added amenities for visitors.

The request for a CUP to allow on-site alcohol sales is compatible with the surrounding uses as the restaurant provides a place for business people, residents, guests and visitors to eat, drink, socialize, and do business. The sale of alcoholic beverages is an expected amenity that accompanies most restaurants and further enhances their economic viability.

The project is located within a commercial corridor developed with primarily restaurant and retail uses, abutting Venice Beach recreational areas. A variety of commercial uses are an integral part of these service amenities necessary for the conservation, development, and success of a vibrant neighborhood. As conditioned, the sale of a full line of alcoholic beverages for on-site consumption will not adversely affect the welfare of the pertinent community. Negative impacts commonly associated with the sale of alcoholic beverages, such as criminal activity, public drunkenness, and loitering are mitigated by the imposition of conditions requiring deterrents against loitering and responsible management. Employees will undergo training on the sale of a full line of alcoholic beverages including training provided by the Los Angeles Police Department Standardized Training for Alcohol Retailers (STAR) Program. Other conditions related to excessive noise, litter and noise prevention will safeguard the residential community. Therefore, with the imposition of such conditions, the sale of a full line of alcoholic beverages for on-site consumption at this location will not adversely affect or further degrade adjacent properties, the surrounding neighborhood, or the public health, welfare and safety.

e. The granting of the application will not result in an undue concentration of premises for the sale or dispensing for consideration of alcoholic beverages, including beer and wine, in the area of the City involved, giving consideration to applicable State laws and to the California Department of Alcoholic Beverage Control's guidelines for undue concentration; and also giving consideration to the number and proximity of these establishments within a one thousand foot radius of the site, the crime rate in the area (especially those crimes involving public drunkenness, the illegal sale or use of narcotics, drugs or alcohol, disturbing the peace and disorderly conduct), and whether revocation or nuisance proceedings have been initiated for any use in the area.

According to the California Department of Alcoholic Beverage Control (ABC) licensing criteria, 3 on-site and 1 off-site consumption licenses are allocated to the subject census tract (Census Tract 2734.02). Currently there are 16 on-site licenses and three off-site licenses in this census tract. Records from the California Department of Alcoholic Beverage Control show no active ABC Licenses for the subject site.

Within 1,000 ft. of the Project Site there are 4 total active licenses, two for on-site sales and two for off-site sales. Over concentration can be undue when the addition of a license will negatively impact a neighborhood. Over concentration is not undue when the approval of a license does not negatively impact an area, but rather such a license benefits the public welfare and convenience.

According to statistics provided by the Los Angeles Police Department's Pacific Division Vice Unit, within Crime Reporting District No. 1412, which has jurisdiction over the subject property, a total of 904 crimes were reported in 2019 (268 Part I and 636 Part II crimes), compared to the citywide average of 170 offenses and the high crime reporting district of 204 crimes for the same reporting period.

Part I Crimes reported by LAPD include, Homicide (0), Rape (3), Robbery (9), Aggravated Assault (61), Burglary (37), Auto Theft (29), Larceny (129). Part II Crimes reported include, Other Assault (25), Forgery/Counterfeit (0), Embezzlement/Fraud (2), Stolen Property (2), Weapons Violation (2), Prostitution Related (0), Sex Offenses (3), Offenses Against Family (0), Narcotics (40), Liquor Laws (130), Public Drunkenness (22), Disturbing the Peace (1), Disorderly Conduct (0), Gambling (0), DUI related (3), Moving Traffic Violations (2), Miscellaneous Other Violations (52), Pre-Delinquency (1) and other offenses (351). Of the 904 total crimes reported for the census tract, 130 arrests were made for liquor laws, 22 arrests were made for under the influence of alcohol, and 3 arrest was made for driving under the influence. Crime reporting statistics for 2020 are not yet available.

In these active commercial areas where there is a demand for licenses beyond the allocated number and where an over-concentration of licenses is suggested, the ABC has recognized that high-activity retail and commercial centers located within revitalized hubs are supported by a significant employee population, in addition to the increasing resident population base in the area. The ABC has discretion to approve an application if there is evidence that normal operations will not be contrary to public welfare and will not interfere with the quiet enjoyment of property by residents. Additional conditions have been included to prevent public drinking, driving under the influence, and public drunkenness.

The above statistics indicate that the crime rate in the census tract where the subject site is located is higher than the city average. Negative impacts commonly associated with the sale of alcoholic beverages, such as criminal activity, public drunkenness, and loitering are mitigated by the imposition of conditions requiring surveillance, responsible management and deterrents against loitering. The conditions will safeguard the welfare of the community. As conditioned, allowing the sale of a full line of alcoholic beverages for off-site consumption at the subject location will benefit the public welfare and convenience because it would add an amenity to nearby residences.

The Venice Beach Boardwalk has a long history as a commercial tourist attraction that draws over 18 million visitors annually. A large concentration of the alcohol licenses issued along Ocean Front Walk predate the advent of CUB permitting and offer the operators "grandfathered" rights. A survey of the establishments operating closest to the project shows many operate with these grandfathered licenses.

The conditions placed on CUB's will set this project apart from the grandfathered license holders in the area and form the basis for a partnership between the applicants and the community to provide a supervised sales process in a safe environment. The LAPD Pacific Area Vice Unit reviewed the case and submitted a letter, dated January 29, 2020, stating no objections to the CUB.

- f. The proposed use will not detrimentally affect nearby residentially zoned communities in the area of the City involved, after giving consideration to the distance of the proposed use from residential buildings, churches, schools, hospitals, public playgrounds and other similar uses, and other establishments**

All sales will happen in conjunction with sit-down food service within a quality restaurant. Service will be conducted and monitored at all times by employees certified to have completed Standardized Training for Alcohol Retailers (STAR Training) and security staff will routinely patrol the building exterior and parking lot to discourage loitering.

This commitment to safety on the part of the applicants has been recognized by LAPD as evidenced by the Pacific Area Vice Unit review of the prior 2014 case and ultimate support of the project. The applicants will continue to work with LAPD to ensure a safe environment for the entire community.

While the project site is within proximity to nearby sensitive uses, the location of the site does not directly adjoin these sensitive uses and service of alcoholic beverages is anticipated to be ancillary to the sale of food at the restaurant. The project site is located within a developed commercial area and will not detrimentally affect the neighboring commercial uses. To the west and west of the project site the properties are zoned RD1.5- and are developed with single- and multi-family residential uses. These residential areas are, however, buffered from the project site by commercial zones and uses.

The project site is zoned for commercial uses and will be redeveloped as a mixed use development with a restaurant use. The following sensitive uses are located within a 1,000-foot radius of the site:

- Venice Beach
- Westminster Off-Leash Park
- Westminster Avenue Elementary School

Consideration has been given to the distance of the subject establishment from the above-referenced sensitive uses. The grant has been well conditioned, which should protect the health, safety and welfare of the surrounding neighbors. The potential effects of excessive noise or disruptive behavior have been considered and addressed by imposing conditions related to noise and loitering. The project is consistent with the zoning and in keeping with the existing uses adjacent to the development. This project will contribute to a neighborhood and will serve the neighboring residents and the local employees as well as visitors. Therefore, as conditioned, the project will not detrimentally affect residentially zoned properties or any other sensitive uses in the area.

4. Project Permit Compliance Review Findings

- a. The project substantially complies with the applicable regulations, findings, standards, and provisions of the Venice Coastal Zone Specific Plan.**

The project consists of the demolition of nine existing residential dwelling units within three buildings and the construction, use and maintenance of a three-story, 13,412 square foot mixed use building with nine dwelling units and a 1,568 square foot ground floor restaurant providing 574 square feet of Service Floor area and 50 seats requesting on-site sale of a full line of alcohol beverages, and 30 parking spaces on the ground floor and one subterranean level. As conditioned, the proposed project complies with the applicable General Land Use and Development Regulations set forth in Section 9, Land Use and Development regulations for the North Venice Subarea set forth in Section 10.F, Commercial and Industrial Design Standards in Section 11, and the Parking provisions set forth in Section 13 of the Specific Plan as evidenced below:

Section 8.C of the Specific Plan outlines the following required findings:

- i. **That the Venice Coastal Development Project is compatible in scale and character with the existing neighborhood, and that the Venice Coastal Development Project would not be materially detrimental to adjoining lots or the immediate neighborhood.**

The subject property is comprised of two legal lots with a combined width of 60 feet and a length of 150 feet for a total lot square footage of 9,001 square feet. The subject property is zoned C1-1 and the surrounding properties are zoned C1-1 and RD1.5-1. The proposed project will consist of a three-story mixed-use project containing a restaurant on the ground floor and 9 residential units totaling on the second and third floors with a maximum height of 39 feet. The Venice Local Coastal Program Land Use Plan Policy I.B.6. identifies commercial properties along Ocean Front Walk between Santa Monica City Line and 17th Avenue as areas of special interest with "Visitor-serving and personal services emphasizing retail and restaurants uses." Mixed-use projects with the ground floor commercial and residential units on upper floors is encouraged. There are multiple mixed-use projects and multifamily residential projects along Ocean Front Walk constructed between 1910 and 2007. These buildings range in height between 30 feet to 76 feet and vary between 3-stories and 6-stories. Along Ocean Front Walk, there are seven buildings that vary between six-stories and four-stories and 13 three-story buildings between Rose Avenue and 17th Avenue.

The subject property is located along a commercial strip fronting on Ocean Front Walk, a pedestrian right-of-way adjacent to Venice Beach. This commercial strip is part of the larger Venice Boardwalk, which is a regional and international tourist attraction. Surrounding properties include a mix of residential and commercial uses. The northwestern adjoining property, fronting on Ocean Front Walk, is zoned C1-1 and developed with a two-story multi-tenant commercial retail building constructed in 1989. The northeastern and eastern adjoining properties, across Speedway, are zoned RD1.5, and developed with a three-story single-family dwelling and a lot containing three-story duplex and a one-unit structure. The southeastern adjoining property, fronting Ocean Front Walk, Speedway, and Brooks Avenue is zoned C1-1 and developed with a three-story mixed-use project with ground floor commercial and two stories of residential constructed in 2000. The western adjoining property (across Ocean Front Walk) is zoned OS-1XL-O and is maintained as a beach. The buildings fronting Ocean Front Walk Between Rose Ave and 17th Avenue were constructed between 1910 and 2007 with varying building heights. There are 20 buildings along this length of Ocean Front Walk that range between three and six stories, with 14 buildings exceeding 40 feet in height. The tallest building is 76-feet 9-inches.

Generally, the buildings along Ocean Front Walk are three or more stories in height and many contain both commercial and residential components, and most maximize their development potential according to the size of their lot. Architectural character of nearby development includes an eclectic mix of architectural styles including modern and contemporary style buildings. The project's proposed contemporary design fits into the architectural diversity of the neighborhood. The building facades clearly identifies the commercial from residential uses with the use of color and material changes. The project height and scale of the project is consistent with existing buildings along Ocean Front Walk. The requested 4-foot height increase will not adversely impact the scale of the street. Additionally, the residential portion of the project, levels 2 and 3, are set back 5 feet from the property line decreasing the visual impact of the project along sidewalk of Ocean Front Walk. Therefore, the Project is compatible in scale and character with the existing neighborhood, and the Venice Coastal Development Project would not be materially detrimental to adjoining lots or the immediate neighborhood.

ii. That the Venice Coastal Development Project is in conformity with the certified Venice Local Coastal Program.

A Local Coastal Program is comprised of a Land Use Plan and Implementation Plan, certified by the California Coastal Commission. The Venice Local Coastal Land Use Plan ("LUP") was certified by the Coastal Commission on June 14, 2001, however, the necessary Implementation Plan was not certified. The proposed project conforms to the applicable policies of the certified Venice LUP, as outlined in Finding No. 1.b.

iii. That the applicant has guaranteed to keep the rent levels of any Replacement Affordable Unit at an affordable level for the life of the proposed Venice Coastal Development Project and to register the Replacement Affordable Units with the Los Angeles Department of Housing.

No on-site affordable dwellings have been documented. A Determination issued by the Los Angeles Housing and Community Investment Department (HCIDLA) dated July 14, 2015 concluded that no affordable units exists at the project site. HCIDLA reviewed data from June 2012 to June 2015.

On May 10, 2007, a Notice of Intent to Withdraw Units (Ellis Act) from Rental Housing Use was filed with the Los Angeles County Recorder's Office and was granted by HCIDLA on September 24, 2009. On February 2008 and July 2012, the HCIDLA Enforcement inspectors noted the subject property was vacant and boarded up. In addition, the owner provided a security contract and billing statements for 24-hour security patrol for the period from April 2013 to April 2016.

The Notice of Intent to Withdraw Units, Security contract/billing statements and HCIDLA database indicate the property has been vacant for more than 365 days and therefore shall not be classified as an affordable unit.

As such, there is no requirement to replace any Affordable Dwelling Units in conjunction with this project.

iv. That the Venice Coastal Development Project is consistent with the special requirements for low and moderate income housing units in the Venice Coastal Zone as mandated by California Government Code Section 65590 (Mello Act).

The Project proposes nine new Residential Units and qualifies as a Small New Housing Development. The proposed development is therefore exempt from the Inclusionary Residential Units requirement.

In addition to the requisite findings set forth in Section 8.C of the Specific Plan, the project also complies with all applicable provisions of the Specific Plan, as set forth below:

B. Section 9. General Land Use and Development Regulations

1. *Lot Consolidation.* Lot consolidation of more than two lots shall be permitted for mixed-use and multi-family residential Venice Coastal Development Projects. The project site is comprised of two adjacent lots which would be consolidated to create a unified mixed-use building across the lots. The project complies with the development standards in Section 9.A.2 as the subterranean parking is fully below grade and not visible from the street, the building provides a variety of visual breaks and architectural features to create a change in material or a break in the plane for every 20 feet in horizontal length and every 15 vertical feet, and includes residential balconies to provide architectural variety.
2. *Height* As shown in "Exhibit A", the height of the structure is measured from the centerline of Ocean Front Walk and conforms to the standards of measurement as outlined in Section 9.B of the Specific Plan.
3. *Roof Structures.* Roof Access Structures shall not exceed the Flat Roof height limit by more than ten feet regardless of roof type. The North Venice subarea specifies a 30 foot height limit for a Flat Roof. The Project includes an elevator to provides access on all levels and the elevator enclosure is 42.5 feet in height. The Project requests approval of a Density Bonus Waiver of Development Standard to permit a 42.5 foot Roof Access Structure in lieu of 40 feet permitted.

C. Sections 10.F. Land Use and Development Regulations for North Venice Subarea

1. *Density.* Projects in the North Venice Subarea on a commercially-zoned lot shall not exceed the density permitted in the R3 Zone. The R3 Zone permits a residential density of one dwelling unit per 800 square feet of lot area which permits a maximum of 11 dwelling units on the subject site. The project proposes 9 dwelling units which complies with the density provisions in the North Venice Subarea.
2. *Height.* Pursuant to the Venice Specific Plan North Subarea, Venice Coastal Development Projects with Varied Rooflines may be up to 35 feet in height, provided that those portions of the building which exceed 30 feet in height are set back from the required front yard one foot for every foot in height over 30 feet. Pursuant to LAMC Section 12.22 A.25(f)(5)(i), the project requests a Density Bonus on-menu incentive to permit 39 feet in height in lieu of 35 feet otherwise permitted by Venice Coastal Zone-Specific Plan Section 10.F(3)(a). The building is setback approximately five feet on the second and third residential levels from the front property line and a two feet nine inches by two feet six inches triangular portion of the upper portion of the building encroaches within the 45 degree step back requirement. The project requests a Density Bonus Waiver of Development Standard to permit the minor height

stepback encroachment. The project's proposed height is measured from the centerline of street adjacent to the front lot line measured from the projection of the midpoint of the lot frontage. Elevations. With approval of the Density Bonus incentive, the project complies with the height provisions of the Specific Plan. The height increase is also consistent with the mass and scale of existing buildings fronting Ocean Front Walk where there are 20 buildings that range between 3 stories and 6 stories between Rose Avenue and 17th Avenue.

3. Setback. Pursuant to the Venice Specific Plan North Subarea, Commercial Venice Coastal Development Projects along Ocean Front Walk may set their front yard at the building line. The project's ground floor and restaurant use is located along the property line abutting Ocean Front Walk. Therefore, the project is in compliance with the setback provisions of the Plan.
4. Access. Driveways and vehicular access to Venice Coastal Development Projects shall be provided from alleys, unless the Department of Transportation determines that it is not Feasible. As shown in "Exhibit A", the proposed project maintains vehicle access to from the Speedway, which functions like an alley.

D. Section 11 – Commercial and Industrial Design Standards

1. Ground Floor Commercial Development. Pursuant to the Venice Coastal Specific Plan, all commercial Venice Coastal Development Projects which fronts on Ocean Front Walk shall include a street wall which extends a minimum of 65 percent of the length of the Building Frontage, is set back zero feet from the building line, with a minimum height of 13 feet. In addition, a minimum of 50 percent of the area of the Ground Floor Street Wall of a commercial Venice Coastal Development Project shall be devoted to pedestrian entrances or windows; and there shall be at least one pedestrian entrance into each business or use for each Store Frontage. As proposed, a restaurant will be located on the Ground Floor of the new mixed-use building, and that restaurant space will front on Ocean Front Walk, observing no setback from the building line. The commercial portion of the Street Wall has a height of 13 feet as required. The Street Wall that the restaurant will occupy approximately 78 percent of the lot width and approximately 54 percent of the street wall consists of windows into the restaurant dining area. A pedestrian walkway and entrance are provided for the restaurant from Ocean Front Walk. Therefore, the project complies with the ground floor commercial development provisions of the Plan.
2. Floor Area Ratio. Pursuant to the Venice Coastal Specific Plan, in all commercial zones the floor area ratio is limited 1.5 to one for retail and/or office and residential development. The proposed mixed-use restaurant and residential building is located on an approximately 9,001.75 square-foot property which permits a maximum 13,502.30 square feet of floor area. The project proposes to construct approximately 13,412.60 square feet of floor area for a 1.49 to one floor area ratio which complies with the floor area ratio provisions of the Specific Plan.
3. Access. Driveways and vehicular access to Venice Coastal Development Projects shall be provided from alleys, unless the Department of Transportation determines that it is not Feasible. As shown in "Exhibit A", the proposed project

maintains vehicle access to from the alley and Speedway, which functions like an alley.

4. Landscaping. Pursuant to the Venice Specific Plan, any open portion of the lot on which the Venice Coastal Development Project is located, which is not used for buildings, parkways, driveways, or other access features, shall be landscaped. The project proposes a multi-story mixed-use building over a subterranean parking garage. The dimensions of the subterranean parking garage basically correspond to the maximum dimensions of the lot, with exceptions for areas corresponding with the ground-level loading zone and an access stairway. On the second level, the project includes a central courtyard that includes a row of planter boxes and 36 inch boxed olive tree.
5. Light. Pursuant to the Venice Specific Plan, lighting from commercial Venice Coastal Development Projects is to be directed away from residential Venice Coastal Development Projects and Environmentally Sensitive Habitat Areas. The project contains residential uses and is adjacent to others, and westerly of the mean high tide line is designated by the Venice Land Use Plan as an Environmentally Sensitive Habitat Area. No lighting plan has been submitted for review and approval, however, as conditioned the project is in compliance with the lighting provisions of the Plan.
6. Trash. Pursuant to the Venice Specific Plan, Venice Coastal Development Projects are required to have trash enclosures for both regular and recyclable trash. Commercial trash and recycle enclosures and separate residential trash and recycle enclosures are proposed on the subterranean level.

E. Section 13 – Parking

The proposed Project includes the demolition of nine existing residential dwelling units within three buildings, and the construction use and maintenance of a three-story 39-foot high, approximately 13,412 square foot, mixed-use building containing a 1,568 square foot ground level restaurant, two upper residential levels with nine dwelling units, including one unit set aside as a Low Income unit, and at grade parking and a subterranean parking level providing a total of 30 required on-site parking spaces. A total of 30 parking spaces are provided for the project, as follows: Vehicle parking for the Affordable Housing Unit is provided consistent with LAMC Section 12.22-A.25, Parking Option 1 providing one parking space. The parking for the eight market rate housing units is provided consistent with Venice Coastal Zone Specific Plan Parking Requirement Table providing 16 parking spaces.

The parking for the 1,568 square restaurant with 574 square foot Service Floor is provided consistency with the Venice Coastal Zone Specific Plan Parking Requirement, which requires one space for every 50 square feet of Service Floor area. Table providing 11 parking spaces. Pursuant to LAMC Section 12.21-A.4, a maximum 30% of the required commercial vehicle parking may be replaced with bicycle parking. Eight vehicle parking spaces are provided, and three spaces will be replaced with 12 bicycle parking spaces.

Parking Requirements in the Beach Impact Zone (BIZ). Any new and/or any addition to commercial, industrial, and multiple-family residential development projects within the Beach Impact Zone shall provide additional (in addition to

parking required by Policy II.A.3) parking spaces for public use or pay in-lieu fees into the Venice Coastal Parking Impact Trust Fund. Projects with the Beach Impact Zone (BIZ) shall provide one parking space for each 640 square feet of floor area of the ground floor commercial. The project contains 1,568 square foot of ground floor commercial necessitating an additional 2 parking spaces for the BIZ requirement.

- b. The project incorporates mitigation measures, monitoring measures when necessary, or alternatives identified in the environmental review, which would mitigate the negative environmental effects of the project, to the extent physically feasible.**

A Categorical Exemption, ENV-2019-2284-CE, has been prepared for the proposed project consistent with the provisions of the California Environmental Quality Act. The project proposes the demolition of nine existing residential dwelling units within three buildings and the construction, use and maintenance of a three-story, 13,412 square foot mixed use building with nine dwelling units and a 1,568 square foot ground floor restaurant providing 574 square feet of Service Floor area and 50 seats requesting on-site sale of a full line of alcohol beverages, and 30 parking spaces on the ground floor and one subterranean level. The Categorical Exemption prepared for the proposed project is appropriate pursuant to CEQA Guidelines Section 15332 (In-fill Development). A full discussion is provided in Finding Number 6 – Environmental Finding.

- 5. Mello Act Compliance Review Findings.** Pursuant to the City of Los Angeles Interim Administrative Procedures for Complying with the Mello Act, all Conversions, Demolitions, and New Housing Developments must be identified in order to determine if any Affordable Residential Units are onsite and must be maintained, and if the project is subject to the Inclusionary Residential Units requirement. Accordingly, pursuant to the settlement agreement between the City of Los Angeles and the Venice Town Council, Inc., the Barton Hill Neighborhood Organization, and Carol Berman concerning implementation of the Mello Act in the Coastal Zone Portions of the City of Los Angeles, the findings are as follows:

a. Demolitions and Conversions (Part 4.0)

The project includes the demolition of nine existing residential dwelling units within three buildings and the construction of a three-story, 13,412 square foot mixed use building with nine dwelling units and a 1,568 square foot ground floor restaurant. A Determination issued by the Los Angeles Housing and Community Investment Department (HCIDLA) dated July 14, 2015 concluded that no affordable units exist at the project site. HCIDLA reviewed data from June 2012 to June 2015.

On May 10, 2007, a Notice of Intent to Withdraw Units (Ellis Act) from Rental Housing Use was filed with the Los Angeles County Recorder's Office and was granted by HCIDLA on September 24, 2009. On February 2008 and July 2012, the HCIDLA Enforcement inspectors noted the subject property was vacant and boarded up. In addition, the owner provided a security contract and billing statements for 24-hour security patrol for the period from April 2013 to April 2016. The Notice of Intent to Withdraw Units, Security contract/billing statements and HCIDLA database indicate the property has been vacant for more than 365 days and therefore shall not be classified as an affordable unit. As such, there is no requirement to replace any Affordable Dwelling Units in conjunction with this project.

b. New Housing Developments (Part 5.0).

The project proposes the construction of nine new Residential Units within a mixed-use development. Pursuant to Part 2.4.2 of the Interim Administrative Procedures, developments, which consist of nine or fewer Residential Units, are Small New Housing Developments and are categorically exempt from the Inclusionary Residential Unit requirement. Therefore, the proposed development of nine new Residential Unit is found to be categorically exempt from the Inclusionary Residential Unit requirement for New Housing Developments.

Environmental Findings

6. Environmental Findings.

The project is for the demolition of nine existing residential dwelling units within three buildings and the construction, use and maintenance of a three-story, 13,412 square foot mixed use building with nine dwelling units and a 1,568 square foot ground floor restaurant providing 574 square feet of Service Floor area and 50 seats requesting on-site sale of a full line of alcohol beverages, and 30 parking spaces on the ground floor and one subterranean level. As a residential mixed used building and a project characterized as in-fill development, the project qualifies for the Class 32 Categorical Exemption.

CEQA Determination – Class 32 Categorical Exemption Applies

A project qualifies for a Class 32 Categorical Exemption if it is developed on an infill site and meets the following criteria:

- a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with the applicable zoning designation and regulations.**

The site currently is developed with buildings that contain nine residential dwelling units, which have been vacant since 2007. The site is zoned C1-1 and has a General Plan Land Use Designation of Community Commercial. The Project consists of the construction, use and maintenance of a three-story, 13,412 square foot mixed use building with nine dwelling units and a 1,568 square foot ground floor restaurant providing 30 parking spaces on the ground floor and one subterranean level and is conformance with the General Plan and Zoning designation.

There are eleven elements of the General Plan including the Framework Element, a Land Use Element and twelve citywide elements which address various citywide topics. Each of these elements establishes policies that provide for the regulatory environment in managing the City and for addressing environmental concerns and problems. The majority of the policies derived from these Elements are in the form of Code requirements of Los Angeles Municipal Code (LAMC).

The Land Use Element of the City's General Plan divides the city into 35 Community Plans. The Venice Community Plan designates the property for General Commercial land uses with the corresponding zones of C1.5, C2, C4, CR, RAS3, and RAS4 and Height District No. 1. In addition, the Venice Community Plan outlines objectives regarding the importance of strengthening commercial development.

The proposed development meets the following goals and objectives:

- *Goal 2: A strong and competitive commercial sector, which promotes economic vitality, serves the needs of the community through well designed, safe and accessible areas while preserving the historic, commercial and cultural character of the community.*
- *Objective 2-1: To conserve and strengthen viable commercial development in the community and to provide additional opportunities for new commercial development and services within existing commercial areas.*
- *Objective 2-2: To enhance the identity of distinctive commercial districts and to identify pedestrian-oriented districts.*
- *Policy 2-2.1: Encourage pedestrian-oriented uses and mixed-use in designated areas.*

The subject property is in the North Venice Subarea on parcels designated for “Community Commercial” use. The Venice Land Use Plan provides policy direction for the Community Commercial designation. The project substantially conforms and complies with the LUP Policies and Coastal Guidelines as demonstrated by the following policies:

- *Policy I. B. 2: Mixed-use residential-commercial development shall be encouraged in all areas designated on the Land Use Policy Map for commercial use.*
- *Policy I. B. 6: The Community Commercial designation is intended to provide focal points for local shopping, civic and social activities and visitor-serving commercial uses... The existing community centers in Venice are most consistent with, and should be developed as, mixed-use centers that encourage the development of housing in concert with multi-use commercial uses.*
- *Policy III. A. 1(a): Recreation and visitor-serving facilities shall be encouraged, provided they retain the existing housing opportunities of the area and provided there is sufficient infrastructure capacity to service such facilities.*
- *Policy I. B. 6. (c): Properties located along Ocean Front Walk from 17th Avenue to the Santa Monica City Line, which includes the project site, are designated as “Community Commercial Areas of Special Interest” with the intention of promoting: “Visitor-serving and personal services emphasizing retail and restaurants. Mixed-use with retail and/or personal services on the ground floor with either residential or personal services on upper floors.”*

- b) **The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses.**

The site – located at 811-815 South Ocean Front Walk – is wholly within the City of Los Angeles, and is completely surrounded by urban uses. Surrounding properties include single story and multi-story commercial and residential uses and Pacific Ocean shoreline.

- c) **The project site has no value as habitat for endangered, rare or threatened species.**

The site is not a wildland area, and is not inhabited by endangered, rare, or threatened species. The project site is currently developed with three existing buildings that contain nine residential dwelling units, which have been vacant since 2007. The area around the site is highly urbanized and surrounded by residential, commercial and recreational uses. NavigateLA and the Venice Land Use Plan shows that the subject site is not located in a Significant Ecological Area. The site has been developed since at least 1909 with residential uses and has no value as a habitat for endangered, rare or threatened species.

- d) **Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.**

The project will be subject to Regulatory Compliance Measures (RCMs), which require compliance with the City of Los Angeles Noise Ordinance, pollutant discharge, dewatering, stormwater mitigations; and Best Management Practices for stormwater runoff. More specifically, RCMs include but are not limited to:

- **Regulatory Compliance Measure RC-AQ-1(Demolition, Grading and Construction Activities): Compliance with provisions of the SCAQMD District Rule 403.** The project shall comply with all applicable standards of the Southern California Air Quality Management District, including the following provisions of District Rule 403:
 - All unpaved demolition and construction areas shall be wetted at least twice daily during excavation and construction, and temporary dust covers shall be used to reduce dust emissions and meet SCAQMD District Rule 403. Wetting could reduce fugitive dust by as much as 50 percent.
 - The construction area shall be kept sufficiently dampened to control dust caused by grading and hauling, and at all times provide reasonable control of dust caused by wind.
 - All clearing, earth moving, or excavation activities shall be discontinued during periods of high winds (i.e., greater than 15 mph), so as to prevent excessive amounts of dust.
 - All dirt/soil loads shall be secured by trimming, watering or other appropriate means to prevent spillage and dust.
 - All dirt/soil materials transported off-site shall be either sufficiently watered or securely covered to prevent excessive amount of dust.
 - General contractors shall maintain and operate construction equipment so as to minimize exhaust emissions.
 - Trucks having no current hauling activity shall not idle but be turned off.

- **Regulatory Compliance Measure RC-GEO-1 (Seismic):** The design and construction of the project shall conform to the California Building Code seismic standards as approved by the Department of Building and Safety.
- **Regulatory Compliance Measure RC-NO-1 (Demolition, Grading, and Construction Activities):** The project shall comply with the City of Los Angeles Noise Ordinance and any subsequent ordinances, which prohibit the emission or creation of noise beyond certain levels at adjacent uses unless technically infeasible.

These RCMs will reduce any potential impacts on noise and water quality to less than significant. The creation of noise is limited to certain decibels, restricted to specific hours.

The proposed Project is not expected to result in a cumulatively net increase of any criteria pollutant for which the air basin is non-attainable under an applicable federal or state ambient air quality standard. The operational emissions derived from the Project would be minimal due to the small size of the Project, and neither construction nor operation of the Project are anticipated to cause the SCAQMD's recommended threshold levels to be exceeded.

- e) **The site can be adequately served by all required utilities and public services.**

The project site will be adequately served by all public utilities and services given that the property is located in an urban tract with water supply, water treatment, sewage and waste disposal infrastructure, and power lines. The area surrounding the project is developed with a mix of commercial and multiple family dwellings, thereby making the project site contiguous with and in close proximity to existing developed areas that are served by utilities and public services. The street is accessible to emergency vehicles. As such, no significant impact on the capacity of existing utilities and services is anticipated.

CEQA Section 15300.2: Exceptions to the Use of Categorical Exemptions

There are five (5) Exceptions which must be considered in order to find a project exempt under Class 32:

- (a) **Cumulative Impact.** A categorical exemption shall not be used if the cumulative impact of successive projects of the same type in the same place, over time, is significant. The project is consistent with the type of development permitted for the area zoned C1-1 and designated Community Commercial use. The proposed addition of nine new dwelling units and 1,568 square foot of commercial space will not exceed thresholds identified for impacts to the area (i.e. traffic, noise, etc.) and will not result in significant cumulative impacts. Staff did not identify any comparable projects that have either filed or were granted approvals for land use entitlements within a 500-foot radius of the subject site. Moreover, the air quality study indicated construction and operations of the Project would not result in exceedances of SCAQMD daily. Therefore, it is not anticipated that any successive projects of the same type in the immediate vicinity would create cumulative impacts.

- (b) **Significant Effect.** A categorical exemption shall not be used if there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances. An unusual circumstance may result if a project “has some feature that distinguishes it from others in the exempt class.” No unusual circumstances exist in this case. Although the project site fronts Venice beach, the project is consistent with the type of development permitted for the area zoned C1-1 and designated Community Commercial use. Moreover, the proposed project is typical of development that has been historically developed along the Venice Beach Boardwalk. There is nothing about the Property that would differentiate it from other Class 32 infill developments that would create a significant impact. Therefore, there is no fair argument or substantial evidence that the Project would create a significant impact, nor can it be readily perceived that the Project would create a significant impact.

A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances. The proposed project consists of work typical in a C1 Zone and the Venice Beach Boardwalk specifically and, as such, no unusual circumstances are present or foreseeable.

- (c) **Scenic Highways.** A categorical exemption shall not be used for a project which may result in damage to scenic resources within a highway officially designated as a state scenic highway. The project site is not located on or near a designated state scenic highway. There is no evidence that the Project may result in damage to scenic resources within a highway officially designated as a State scenic highway because neither Ocean Front Walk nor any surrounding street is designated as a State scenic highway. According to Appendix B of the City of Los Angeles Mobility Plan, the Project Site is not designated as being on a scenic highway, nor are there any designated scenic highways located near the Project Site.
- (d) **Hazardous Waste Sites.** A categorical exemption shall not be used for a project located on a site which is included on a designated list of hazardous waste sites. The project site is not identified as a hazardous waste site or is on any list compiled pursuant to Section 65962.5 of the Government Code. According to Envirostor, the State of California's database of Hazardous Waste Sites, the Project Site, or any other site in the vicinity, is identified as a hazardous waste site. As such, this exception is not applicable.
- (e) **Historical Resources.** A categorical exemption may not be used for a project which may cause a substantial adverse change in the significance of a historical resource. The Project Site has not been identified as a historic resource by local or state agencies, and the Project Site has not been determined to be eligible for listing in the National Register of Historic Places, California Register of Historical Resources, the Los Angeles Historic-Cultural Monuments Register, and/or any local register, nor has the Project Site been found to be a potential historic resource based on the City's HistoricPlacesLA website or SurveyLA, the citywide survey of Los Angeles. Based on this, the Project will not result in a substantial adverse change to the significance of a historic resource.

Therefore, the project is determined to be categorically exempt and does not require mitigation or monitoring measures; no alternatives of the project were evaluated. An appropriate environmental clearance has been granted.

ADDITIONAL MANDATORY FINDING

- 7. Flood Insurance.** The National Flood Insurance Program rate maps, which are a part of the Flood Hazard Management Specific Plan adopted by the City Council by Ordinance No. 172,081, have been reviewed and it has been determined that this project is located in Zone B, Areas of 500-year flood: areas of 100-year flood with average depths of less than 1-foot or with drainage areas less than 1 square mile; and areas protected by levees from 100-year- flood.

COVID-19 UPDATE

Interim Appeal Filing Procedures

March 27, 2020



Consistent with Mayor Eric Garcetti's "Safer At Home" directives to help slow the spread of COVID-19, the Department of City Planning is implementing new procedures for the filing of appeals for non-applicants that eliminate or minimize in-person interaction. There are two options for filing appeals, which are effective immediately and described below.

OPTION 1: EMAIL PLUS US MAIL

This is a two-step process including pre-clearance by email of the appeal application followed by application and payment submittal via US Mail.

STEP 1:

Email planning.figcounter@lacity.org with the subject line: **"Request to File Appeal."** In the email body provide:

- The case number
- Appellant contact information (name, email, telephone number)

Include as individual attachments to the email:

- Copy of Signed Appeal Application
- Justification
- Letter of Determination

City Planning staff will contact the appellant to confirm whether the appeal is complete and meets the applicable provisions of the Los Angeles Municipal Code (LAMC). The appellant will then be instructed to move forward with Step 2.

STEP 2:

Send appeal application via US Mail, postmarked no later than the last day of the appeal period. The package shall include:

- Original Appeal Application (wet signatures),
- Copy of email correspondence with City Planning staff (from Step 1)
- Appeal fee, check payable to the City of Los Angeles (\$109.47 for an aggrieved party, not the Project Applicant.)

Mail the appeal application to:

Department City Planning - Metro DSC
201 N. Figueroa St., 4th Floor
Los Angeles, CA 90012

City Planning staff will email and mail the appellant with a receipt for payment. Note: only the original application, email, and check need to be sent via US Mail. This ensures a standard envelope with standard postage is sufficient, and no trip to the Post Office is necessary. Steps 1 and 2 must both be completed. An email alone is not sufficient to satisfy appeal requirements.

OPTION 2: DROP OFF AT DSC

An appellant may continue to submit an appeal application and payment at any of the three Development Services Center (DSC) locations. City Planning established drop off areas at the DSCs with physical boxes where appellants can drop off appeal applications and payment. **Drop off areas are monitored in secure locations outside the three DSCs (Metro/Downtown, Van Nuys, and West Los Angeles) and are available during regular business hours.**

City Planning staff will follow up with the appellant via email and phone to:

- Confirm that the appeal package is complete and meets the applicable provisions of the LAMC
- Provide a receipt for payment

FACT SHEET

Planning Entitlement Appeals

Summary

Discretionary planning decisions in Los Angeles can be appealed, at times, to one of the eight City Commissions that oversee planning-related issues and, in some instances, directly to the City Council. These appeals provide members of the public with an opportunity to challenge certain planning decisions, exercising their rights in accordance with the Los Angeles Municipal Code (LAMC). City Planning has developed an informational fact sheet, complete with frequently asked questions, to inform the public of their rights and opportunities for filing project appeals.

Background

The LAMC outlines a process to allow members of the public to appeal land use decisions that are issued by the City. Appeals are intended to challenge the merits of the decision, specifically to contend that a decision maker erred or abused their discretion. To allow community members the ability to appeal qualifying planning decisions at a minimal personal cost, City Planning has consistently (and significantly) subsidized non-applicant appeal fees. This has allowed individuals to be part of a fair and equitable process, one which has provided the public with the opportunity to question certain decisions.

The Department has developed a fact sheet to further clarify the process for filing project-related appeals. This document will be updated periodically, as needed. For additional information, please contact the planning staff located at the Figueroa Plaza (Downtown), Marvin Braude (Van Nuys), or West Los Angeles Development Services Centers preferably via email at planning.figcounter@lacity.org.

Frequently Asked Questions

Where are project appeals filed?

Appeals can be filed at any of the three Development Services Centers (DSCs)—[Downtown, Van Nuys, and West Los Angeles](#)—where planning staff is located. A physical drop off area has been set up at each location to allow applicants to submit their applications, without having to file an initial appointment or enter the premises. As an additional option, the Department has also created an online portal for electronic appeal applications. Click this [link](#) to access the online forms and submit the relevant information electronically.

How long do applicants have to submit a project-related appeal?


An appeal must be filed within a specified period of time as established by the LAMC—varying in length from 10 to 15 days of the issuance of the Letter of Determination (LOD), depending on the planning entitlements being appealed. As a point of reference, deadlines for filing appeals are noted in the [Los Angeles Municipal Code](#) (LAMC) and typically also identified within the LOD.

Where can applicants access the appeal form and corresponding instructions?

The appeal form and instructions can be found [here](#). Both an applicant and “aggrieved party” (a community member opposing the decision) may choose to file an appeal. All appeals will be processed at the same time. Each appeal form represents one appeal, regardless of the number of individuals who have signed the appeal form. For certain planning entitlements, such as determinations for projects that file under the Density Bonus and [Transit Oriented Communities Incentive](#) Programs, appeals are limited to adjacent and abutting owners of property or occupants, as specified in the implementing State and/or local statute. Neighborhood Councils and/or City-appointed decision-making bodies may not file an appeal.

Who decides the outcome of project appeals?

Letters of Determination are issued by the Director of Planning (DIR), Associate Zoning Administrator (AZA), Deputy Advisory Agency (DAA), Area Planning Commission



(APC), or City Planning Commission (CPC). Depending on the initial decision-maker, there are three appellate bodies for planning cases in Los Angeles: the Area Planning Commissions, the City Planning Commission, and the City Council. The LAMC establishes appeal procedures including which types of decisions are eligible for a first- and second-level appeal (meaning that in some cases, the project can be appealed again to a higher decision maker).

How long does the City have to consider the appeal of a land use decision?

According to the LAMC, the City must process appeals under strict time limits. Depending on the planning entitlements, the date that an appeal hearing must be scheduled varies between 30 days from appeal submittal up to 75 days from the last day of the appeal period. These time periods may be extended if there is mutual agreement between the applicant and the City. The LAMC does not, however, allow a non-applicant to request an extension beyond this allotted time period for project appeals.

How (and when) are notifications sent notifying the appellant of their hearing date?

The LAMC specifies the timelines by which appeal hearings must be held. In general, appellants receive notice of their upcoming hearing at least 10 days prior to the hearing date. Notices for some appeal hearings may be published in a local newspaper. If unavailable to attend the date of the hearing, the appellant can submit written comments to the decision-maker or appoint a representative to provide public testimony on their behalf at the public hearing.

Who from City Planning can provide assistance, should there be any questions?

Planning staff at the DSCs serve as a main point of contact for [general inquiries](#). Once a project appeal has been submitted, questions can be directed to the assigned planner, who will process the appeal and take it to the hearing. The contact information for the assigned planner may be found on the Department's [Planning Case Tracking System \(PCTS\)](#).

When can documents be sent to the appellate decision maker who will hear the appeal?

In addition to the appeal application, the appellant may submit documents for the official public record at the time the appeal is filed. If there is a need to provide additional documents after the appeal has been filed, the appellant can send them to the planner assigned to the appeal. Information submitted after a staff recommendation report has been drafted will be included in the public record, but it will not have been considered at the time of the writing of the staff report.

City Planning's Commission Office requires that supplemental information be provided more than 48 hours in advance of the hearing, and meet the criteria as outlined below.

REQUIREMENTS FOR COMMISSION SUBMISSION OF MATERIALS

Regular Submissions: Initial Submissions, not limited as to volume must be received no later than by 4:00 pm on the Monday of the week prior to the week of the Commission meeting. Materials must be emailed to the assigned staff and Commission identified on the project's public hearing notice.

Rebuttal Submissions: Secondary Submissions in response to a Staff Recommendation Report and/or additional comments must be received electronically no later than 48 hours prior to the Commission meeting. For the Central, South Los Angeles and Harbor Area Planning Commissions, materials must be received no later than by 3:00 pm, Thursday of the week prior to the Commission meeting. Submissions, including exhibits, shall not exceed ten (10) pages and must be submitted electronically to the Commission identified on this announcement.

Day of Hearing Submissions: Submissions less than 48 hours prior to, and including the day of the hearing, must not exceed two (2) written pages, including exhibits, and must be submitted electronically to the staff and Commission identified on the project's public hearing notice. Photographs do not count toward the page limitation.

Non-Complying Submissions: Submissions that do not comply with these rules will be stamped "File Copy. Non-complying Submission." Non-complying submissions will be placed into the official case file, but they will not be delivered to or considered by the Commission and will not be included in the official administrative record for the item at issue.

Commission email addresses:

City Planning Commission: cpc@lacity.org

Central Los Angeles Area Planning Commission: apccentral@lacity.org

East Los Angeles Area Planning Commission: apceastla@lacity.org

Harbor Area Planning Commission: apcharbor@lacity.org

North Valley Area Planning Commission: apcnorthvalley@lacity.org

South Valley Area Planning Commission: apcsouthvalley@lacity.org

South Los Angeles Area Planning Commission: apcsouthla@lacity.org


West Los Angeles Area Planning Commission: apcwestla@lacity.org

Are appellants required to sit through the entire meeting when there are multiple items on the agenda?

The answer is no; however, the agenda items can be taken out of order. Therefore, it is in the interest of each appellant to attend the full meeting at the scheduled start time, until their item is taken up for consideration. Depending on how many items are on the agenda, and the agenda order, your item could be heard very quickly or you may have to wait through several items which could take a few hours. As a point of reference, commission meetings for Area Planning Commissions and City Planning Commission generally start at 4:30 PM and 8:30 AM, respectively. For additional details, please consult the “[Events Calendar](#)” on City Planning’s website. For City Council and Council Committee meetings, please consult the Meeting Calendar page for [City Council](#) and [Committees](#).

Will the appellant have an opportunity to speak during the hearing?

Following the presentation by the planner assigned to the appeal case, the appellant can present their case. After the appellant’s presentation, the project applicant will be given an equal amount of time to provide a rebuttal to the appellant’s presentation. There is often time for an additional rebuttal by the applicant or appellant. While there are exceptions to the rule, the appellate body may invite the appellant to respond to



questions. It is important to note that the appellate body will not engage in a back and forth conversation with either the applicant or appellant. This is done to be both fair and consistent in the amount of time allocated to each party.

What is the format and structure of a typical hearing for a project appeal?

Each appellate body follows a slightly different set of procedures when hearing project appeals. That said, there are a number of common features that apply regardless of whether the appellate body is the Area Planning Commission, Cultural Heritage Commission, City Planning Commission, or City Council. A formal public meeting structure is always maintained in order to ensure a fair and predictable process—one where all sides are heard, and the meeting is conducted in an orderly manner. In the case when a planning commission is the appellate body, there are additional steps, such as: a presentation from the Department, an opportunity for the appellant to testify, a forum for the applicant to offer their rebuttal, and time reserved for public testimony. This would take place leading up to any formal action on the part of the commissioners, as it relates to a project appeal.


To slow the spread of COVID-19, City Planning has implemented new procedures for public hearings and outreach meetings in order to practice proper physical distancing protocols. Until notified otherwise, commission meetings will be conducted virtually to allow applicants and the public to participate using a webcam or by telephone. For more information, consult the City Planning's [website](#) with detailed instructions.

How much time does the appellant have to present their argument?

The time allocated to the appellant for the purposes of their presentation varies. It is ultimately determined by the appellate body and communicated at the start of the meeting. More often than not, appellants are allocated five to 10 minutes to make their presentation. Project appeals that are heard by City Council follow slightly different procedures, which the assigned planner can explain.

Is there a need for the appellant to submit a PowerPoint presentation?

Appellants can prepare a PowerPoint presentation, in addition to making verbal remarks when it is their turn to speak. If a PowerPoint is being prepared, the appellant should



submit the document to City Planning no less than 72 hours in advance of the meeting. The assigned planner will coordinate the submission for the appellant.

What role does the planner assigned to this project play during the appeal process?

The role of the assigned planner is to ensure that an appellant is notified of the appeal hearing as an interested party, to provide them with a courtesy copy of the staff report if prepared, and to make sure that all parties are informed of the outcome or final decision of the appeal. The assigned planner will analyze the appeal points and prepare a staff recommendation report responding to each of the points raised by the appellant. At the hearing, the assigned planner will make a presentation to the decision maker. All information about the case is available for public view in the case file, and the Planner can assist in making an appointment to review it. The planner can also ensure that translation and special accommodations for individuals with disabilities can be provided at the public hearing, if requested.

What happens after the Appellate Body issues a formal decision, one way or another?

After the Commission takes a vote, a formal Letter of Determination is issued. If the decision is not further appealable, this concludes the appeal process. Under the LAMC and City Charter, only certain Commission-level appellate decisions are further appealable to City Council.

When can a CEQA appeal be filed?

Generally, a standalone CEQA appeal to the City Council may only be filed if a project's land use determination is not further appealable to the City Council (with some exceptions). If a determination made by an Area Planning Commission or City Planning Commission is further appealable to the City Council, the City Council will consider CEQA related appeal points made by an appellant when considering the entire appeal of the project.



When should appellants fill out the CEQA Appeal Form?

The CEQA Appeal form shall only be used if the Area Planning Commission or City Planning Commission issues a determination for a project that is not further appealable. In these situations, an individual may file an appeal of a project's CEQA clearance to the City Council. Forms and procedures for the appeal of CEQA documents can be found here listed under "CEQA Appeal Application."