

## Communication from Public

**Name:** Katrina Hardt-Holoch  
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**Council File No:** 21-1478  
**Comments for Public Posting:** Please find a written response to the appeal application for CEQA filed for this project.



## Memorandum

**DATE:** June 2, 2022

**TO:** Richard Gottlieb and Spalding Commercial

**FROM:** EcoTierra Consulting  
633 W. 5<sup>th</sup> Street, 26<sup>th</sup> Floor  
Los Angeles, CA 90071

**RE:** 1301-03 Abbot Kinney CE Appeal Response

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On November 9, 2021, the West Los Angeles Area Planning Commission prepared a Letter of Determination (LOD) for the Project located at 1301 and 1303 Abbot Kinney Boulevard (ENV-2020-5333-CE, ZA-2015-1155-SPP-CDL-MEL-ZL-1A). The LOD determined that the Project is exempt from CEQA and granted the appeals in part, denied the appeals in part, sustained the Zoning Administrator's determination dated March 22, 2021, approved the Coastal Development permit, Project Permit Compliance Review for a Project within the Venice Coastal Zone Specific Plan, approved the Mello Act Compliance Review for demolition of three residential units and construction of three residential units in the Coastal Zone, approved a Zone Variance, adopted Conditions of Approval, and adopted Findings.

A Justification for CEQA Appeal was filed on behalf of Citizens Preserving Venice. The purpose of this memorandum is to provide responses to CEQA issues raised in the Justification for CEQA Appeal filed on behalf of Citizens Preserving Venice. These responses are based on the information contained in the Categorical Exemption (CE) EcoTierra prepared in January 2020.

### **Response to III. Justifications/Reasons for the Appeal**

The Appeal states that there is an existing MND for the project and that the City has overridden it with a CE. The MND prepared for ENV-2015-1156-MND is for a project that would construct a three-story, 10,200 square foot residential building containing two-live work units and seven parking spaces. The Project (ENV-2020-5333-CE-1AE) would demolish a one-story single-family dwelling and a one-story duplex and construct a 4,990 square foot (sf) (gross) three-story mixed-use building with one subterranean level. The Project would include two residential dwelling units, one Accessory Dwelling Unit, 1,587 square feet of retail space, with 13 parking spaces and eight (8) bicycle parking spaces are provided. The Project (ENV-2020-5333-CE-1A) is clearly a different project; therefore, the previously prepared MND is not appropriate to use as the Project environmental document.

### **Response to III. A. The Project Does NOT Qualify for Class 32 Categorical Exemption**

The Appeal states that the Project does not meet the criteria for a Class 32 CE as it is not “consistent with the applicable general plan general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations.” The Project would be consistent with the applicable general plan, zoning, and regulations for the following reasons.

#### *City of Los Angeles General Plan*

The Project does not include any General Plan Amendments or zoning designation changes. As described on Page III-2 of the January 2020 CE, the Project’s proposed mixed-use development with commercial and residential uses would be consistent with the current underlying Community Commercial designation per the General Plan Framework Element, including all applicable objectives and policies.

#### *Venice Community Plan*

As described on Page III-9 of the January 2020 CE, Project’s proposed mixed-use development with residential units would be consistent with the current underlying Community Commercial designation per the Venice Community Plan, including applicable objectives and policies. The Project includes Specific Plan Exceptions for the following: to construct three dwelling units as opposed to the two allowed; to increase allowable F.A.R by 23 percent; to allow a 35-foot tall flat roof in lieu of the allowable 35-foot tall varied roof; and to reduce on-site auto parking from 18 to 16.

The Specific Plan Exceptions would be requested following the procedures specified under LAMC 11.5.7.H; therefore, these Exceptions would be consistent with the Specific Plan.

#### *Venice Coastal Zone Specific Plan*

The Venice Coastal Zone Specific Plan (VCZSP) designates the Property as C2-CA. Formal adoption of the VCZSP by the Coastal Commission as a Certified Local Coastal Program is still pending. The Project would be consistent with the VCZSP for the following reasons:

1. The Project would not be materially detrimental to adjoining lots or the immediate neighborhood as neighborhood and properties immediately surrounding the property are zoned as zoned C2-1-O-CA and RD1.5-1 and developed with one-story to three-story commercial structures on Abbot Kinney Boulevard and one-story to three-story residential structures in the neighborhood across Electric Avenue. Additionally, recent construction in the surrounding area includes 2 two-story structures and 8 three-story structures. Therefore, the Project would be consistent with the VCZSP as it is compatible in scale and character with the existing neighborhood, which includes both residential and commercial uses.
2. The Project would not exceed the allowable density for the lot.

3. The Project would be in conformity with Coastal Development Permit regulations as it would not adversely impact archaeological or paleontological resources, as identified by the State Historic Preservation Officer, as none are identified on the site and if such are discovered, the Project is subject to Federal, State, and Local regulations already in place.
4. The Project location is within an existing neighborhood developed in the 1920s. The existing structures on the Project site are currently served by water, sewer and electrical utility lines and the Project would connect to these existing services.
5. The Project site and surrounding area are relatively flat with no views to and along the ocean. No natural landforms would be altered as part of the Project. The Project would not obstruct any views or compromise the scenic or visual qualities of the area in which it is located. As such, the Project would not impact the scale and character of the neighborhood and would not alter any existing views or change the visual character of the surrounding area.
6. The Project is located approximately 0.5 miles east of the Pacific Ocean and would not affect public access to the Pacific Ocean.
7. The Project would be constructed in compliance with Zoning, Building, and Fire Safety Code requirements that will minimize risks to life and property in geologic and methane hazard areas.
8. The Project would be consistent with the certified Venice Land Use Plan as it would be compatible with respect to bulk, height, buffer, and setback; would not alter any existing views or change the visual character of the surrounding area; and complies with the development standards outlined in Policy I.B.3 to I.B.7 of the LUP.
9. The Project is in conformance with Chapter 3 of the Coastal Act and would not prejudice the ability of the City to prepare a local coastal program in conformance with Chapter 3 of the California Coastal Act of 1976.
10. There are prior applicable decisions made by the Coastal Commission that the City can rely on in approving the Project.

In summary, the Project would have no adverse impacts on public access, recreation, public views or the marine environment, as the Project is located within a developed residential area and located approximately 0.5 miles from Venice Beach. The project would neither interfere nor reduce access to the shoreline or beach. The Project does not propose dredging, filling or diking of coastal waters or wetlands, and there are no sensitive habitat areas, archaeological or paleontological resources identified on the Project Site. The Project would not block any designated public access views.

The decision to grant the CDP permit 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. Therefore, the Project is in conformity with the VCZSP and Chapter 3 of the California Coastal Act.

### *Mello Act*

The Appeal states that the both the City and HCID are violating the Mello Act and the IAP by using the existing unpermitted, illegal commercial use that is a violation of the Mello Act (conversion from residential to commercial is not allowed) as a basis to conclude that no affordable units exist at the project site.

The buildings on the Project site have been used for commercial uses for many years and there are no on-site affordable dwellings documented. A Determination issued by the Los Angeles Housing and Community Investment Department (HCIDLA) dated September 13, 2016, concluded that no affordable units exist at the project site.

### *Cumulative Effects*

The Appeal states that the Determination is silent on the adverse cumulative effect of the Project., specifically community character. As found in the City's LOD, Page F-16, the Project is compatible with the character and scale of the existing neighborhood, which is characterized as an area with both residential and commercial uses. As detailed above, the Project would be consistent with applicable land use and zoning regulations and the Venice Community Plan, including goals and policies that protect the quality of development in the Project area.

Regarding community character, the Project would be consistent with Venice Community Plan Policies 1-1.2 and 2.3-2, as the City has reviewed the design and approved as sensitive to and compatible with the surrounding commercial and residential neighborhoods.

Additionally, as stated on Pages F-3, -16, and -21 of the LOD, the Project would not impact the scale and character of the neighborhood and does not alter any existing views or change the visual character of the surrounding area and would add to the vibrancy and character of Venice and Abbott Kinney Boulevard. There would be no impact to community character and, therefore, no potential for cumulative impact.

### *Zone Variance Regulations*

The Project's proposed mixed-use development with residential units would be consistent with the current underlying C2 zoning at the Project Site per the Planning and Zoning Code.

The Project is requesting a Zone Variance to not provide a loading space. Development potential is drastically reduced by physical attributes of the development site. Due the limited lot size, parking must be provided through an automated system. The existing lot is a non-conforming lot and the loading bay and ADA parking requirements that are needed for this type of development make it physically impossible to provide the suggested loading space.

The Venice Specific Plan additionally requires that access to parking is from the rear alley. This limits layout and access options. Because the applicant must use a fully automated parking system to comply with

parking requirements and parking must be accessed from the rear of the lot, it is physically impossible to provide a commercial loading space that meets the 400 square foot requirement. Therefore, the strict application of the code requiring the loading space would impair/prevent the applicant from developing the lot as would normally be allowed on a larger (conforming) lot. The entry way to the subterranean parking level and the area on the surface of the lot dedicated to an Americans with Disabilities Act required parking space take up the entire rear property line adjacent to the alley, which leaves no room on the lot for the required loading zone.

The proposed commercial space would maintain the same delivery practices of other commercial uses along Abbot Kinney Boulevard today. Deliveries are typically in small delivery vehicles not exceeding 19' in length. Many deliveries to the area are unloaded from the existing alley or the center median of Abbot Kinney Boulevard. As described above, the strict application of the zoning code would result in unnecessary hardships inconsistent with the general purpose and intent of the LAMC.

Per LAMC 12.27, the Project applicant would apply for the variance. A public hearing would be set and noticed and the Zoning Administrator would prepare written findings of fact related to the variance. Because the applicant would follow the process for the variance as defined under LAMC 12.27, the Project would be consistent and would not conflict with the City's Planning and Zoning Code.

**Response to B. The project qualifies for a CEQA Guidelines Section 15300.2 exception to the CE**

*Cumulative Impacts*

The Appeal states that the Project would have cumulative impacts and that unusual circumstances preclude the use of a Class 32 exemption.

As detailed on Pages III-50 through -61 of the January 2020 CE and the City's LOD, the Project would not meet any of the exceptions to a Class 32 exemption. The Project would not result in cumulative impacts for the following reasons.

1. The Project is located in an urbanized area of the City of Los Angeles and would not impact an environmental resource of hazardous or critical concern (see also the discussion for Exception [e]), below).
2. The Project Site does not contain any habitat capable of sustaining any species identified as endangered, rare, or threatened. Therefore, the exception is not applicable to the Project.
3. The Project Site is totally developed, located in an urbanized area, and does not contain any listed species or habitat. LADOT has determined that the Project would not result in any significant operational impacts from traffic.
4. The Project's proposed mixed-use development with residential units would be consistent with the current underlying C2 zoning at the Project Site per the Planning and

Zoning Code. Development of related projects in the area is expected to occur in accordance with adopted plans and regulations.

5. The Project would not double the traffic volumes on any roadway segment or study intersection in the Project site vicinity. As such, the Project and cumulative scenarios would not have the potential to increase roadway noise levels by 3 dBA, and would not result in a cumulatively considerable contribution to a noise impact.
6. The Project has less than 80 residential units or less than 75,000 square feet of non-residential use, and involves less than 20,000 cubic yards of soil export; therefore, the City and SCAQMD have determined that it would not exceed the SCAQMD construction or operational thresholds, and there is no potential for construction and operation air quality impacts to be cumulative as the Project impacts would be less than significant.

The Appeal states that the Project would result in a cumulative impact to the designation of Venice as a Special Coastal Community and due to the impact on existing affordable housing and displacement of existing residents. Affordable housing is not a threshold analyzed under Appendix G of the CEQA Guidelines. The Project Site is not currently used for residential uses and there are not existing residents on site. Therefore, there would be no displacement of existing residents.

Regarding the designation of Venice as a Special Coastal Community, as stated on Page F-6 of the LOD, the Project is consistent with the Special Coastal Community by directing new growth to areas that can accommodate new housing. The Project would not result in adverse cumulative effect because the certified LUP anticipates and encourages the intensification of these commercially zoned lots.

*Response to Unusual Circumstances Preclude Usage of Class 32 Exemption*

The Appeal states that under CEQA Guidelines 15300.2, CE's 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 and states that the unusual fact is that for several decades the residences have been used for commercial purposes and that the applicant has violated the Mello Act. A Determination issued by the Los Angeles Housing and Community Investment Department (HCIDLA) dated September 13, 2016 concluded that no affordable units exists at the project site. Therefore, there are no unusual facts related to residential uses on the site.

The Project Site is located within a highly urbanized setting, and the site would be redeveloped from commercial development to a mixed-use development, which is a typical urban land use appropriate for the area. Additionally, no significant impacts would result from the Project. CEQA Guidelines 15031 through 15033 defines the types of project class that qualify for a CE. As described in the January 2020 CE, the Project meets the definition of a Class 32 CE, meets the conditions of the CE, would not result in any significant impacts, and does not meet any of the exceptions to the use of a CE. The Project site is similar to other developed sites in the area, and there are no unusual circumstances present. Therefore, there are no unusual circumstances that would apply to the Project.