

**CALIFORNIA COASTAL COMMISSION**

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Filed:	3/23/2016
49th Day:	Waived
Staff:	S. Vaughn – LB
Staff Report:	6/23/2016
Hearing Date:	7/14/2016

**STAFF REPORT: APPEAL – SUBSTANTIAL ISSUE AND DE NOVO**

**Appeal Number:** A-5-VEN-16-0041

**Applicant:** Kadi D. Lee of AW Enterprises, LLC

**Local Government:** City of Los Angeles

**Local Decision:** Approval with Conditions

**Appellants:** 1) Coastal Commission Executive Director, 2) Dennis Gibbons, 3) Elaine Spierer, & 4) Todd Darling

**Project Location:** 1346 Abbot Kinney Boulevard, Venice, City of Los Angeles

**Project Description:** Appeal of City of Los Angeles Local Coastal Development Permit No. DIR-2015-2967 approved with conditions for a change of use of a portion of a 3,590 sq. ft. Artist-in-Residence dwelling with one on-site parking space resulting in 2,621 sq. ft. commercial use (salon) and a 605 sq. ft. of Artist-in-Residence use within an existing two-story building with two on-site parking spaces, and minor exterior improvements consisting of the alteration of a rear wall and the application of new plaster.

**Staff Recommendation:** Substantial Issue – Approval with Conditions

**SUMMARY OF STAFF RECOMMENDATION**

The staff recommends that the Commission, after public hearing, determine that a **substantial issue exists** with respect to the grounds on which the appeals have been filed for the following reason: the project, as approved by the City of Los Angeles, may adversely affect the public's ability to access the coast because the additional parking demands generated by this project (and others) are not adequately mitigated, thereby resulting in increased competition for the limited supply of public parking.

The applicant has revised the project to bring it into conformance with the parking requirements of the certified LUP and the public access policies of Chapter 3 of the Coastal Act. The applicant

now proposes to change the use of the building into an 874 square-foot salon on the first floor and a 1,800 square-foot Artist-in-Residence dwelling unit on the second floor. The garage will provide five on-site parking spaces and at least four on-site bicycle parking spaces. As revised, the proposed project will provide adequate on-site parking and mitigation to meet the parking demand. Therefore, staff is recommending that the Commission, after a public hearing, **approve** the coastal development permit with conditions.

### **IMPORTANT NOTE**

The Commission will not take public testimony during the ‘substantial issue’ phase of the appeal hearing unless at least three (3) commissioners request it. If the Commission finds that the appeal raises a substantial issue, the de novo phase of the hearing will follow, during which it will take public testimony. Written comments may be submitted to the Commission during either phase of the hearing.

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### APPENDICES

Appendix A - Substantive File Documents

### EXHIBITS

Exhibit 1 – Project Location/Vicinity Map

Exhibit 2 – City-Approved Project Plans

Exhibit 3 – Revised Project Plans

Exhibit 4 – Appeals

## I. MOTION AND RESOLUTION – SUBSTANTIAL ISSUE

**MOTION:** *I move that the Commission determine that Appeal No. A-5-VEN-16-0041 raises NO Substantial Issue with respect to the grounds on which the appeal has been filed under § 30602 of the Coastal Act.*

Staff recommends a **NO** vote. Failure of this motion will result in a de novo hearing on the application, and adoption of the following resolution and findings. Passage of this motion will result in a finding of No Substantial Issue and the local action will become final and effective. The motion passes only by an affirmative vote of the majority of the appointed Commissioners present.

**RESOLUTION:** *The Commission hereby finds that Appeal No. A-5-VEN-16-0041 presents A **SUBSTANTIAL ISSUE** with respect to the grounds on which the appeal has been filed under § 30602 of the Coastal Act regarding consistency with Chapter 3 policies of the Coastal Act.*

## II. APPELLANTS' CONTENTIONS

The appellants content that the City-approved development may adversely affect public access and could prejudice the City's ability to prepare a Local Coastal Program (LCP) (**Exhibit 4**). The local coastal development permit (CDP) authorizes an increase in intensity of land use (2,621 square feet of commercial salon use) which will significantly increase the demand for parking on the project site by approximately ten spaces more than provided and the local CDP does not require adequate mitigation for the increase in parking demand. The local CDP would allow the applicant to pay an in-lieu fee into a city fund rather than provide additional parking spaces that would meet the parking demands of the approved development. The in-lieu fee is not adequate mitigation for the following two reasons: 1) the amount paid per parking space (\$18,000) is significantly less than the cost of providing one parking space, and 2) the City does not have a plan to use the collected fees to mitigate the parking impacts of the approved development (e.g., construction of additional parking). The result of the action is to increase the demand for parking in an area that currently does not have an adequate supply to meet the parking demand. The lack of adequate parking reduces the ability of the public to access the shoreline.

Also, the proposed commercial development is not consistent with the terms of the underlying CDP for the property. On May 7, 1999, the Executive Director issued Administrative CDP 5-99-088 (Enrique Martinez-Celaya) for construction of a 1,300 square-foot second floor addition, and conversion of an existing one-story, 2,649 square-foot commercial structure with one parking space to a single Artist-in-Residence unit. CDP 5-99-088 includes a special condition that limits the permitted use of the site to one single-family residential unit with a combined living and working area for the resident and family. Special Condition One of CDP 5-99-088 states:

*The permitted use of the structure is limited to one single-family residential unit with a combined living and working area for the resident and family. No commercial retail use is permitted. Any change in density, number of units, or change in use shall be submitted to the Executive Director to determine whether an amendment to this permit is necessary pursuant to the requirements of the Coastal Act and the California Code of Regulations.*

The City's approval of increased commercial intensity in the coastal zone without mitigating the parking demands (by providing more parking or other means to access the area) will result in cumulative adverse effects to public access. The competition for the limited amount of public parking in the vicinity of the project site has led to numerous requests for restricted "resident only" permit parking. The Commission has denied the City's applications for "resident only" permit parking [Appeal Nos. A-5-VEN-08-340, A-5-VEN-08-341, A-5-VEN-08-342, A-5-VEN-08-343, & A-5-VEN-08-0334]. The Commission's denials of applications for "resident only" parking were based on adverse impacts to public access. Also, the Commission has recently (February 2015) found that a Substantial Issue exists with similar City-approved CDPs for commercial intensifications that do not provide adequate mitigation for increased parking demands [Appeal Nos. A-5-VEN-15-002 & A-5-VEN-15-003].

### III. LOCAL GOVERNMENT ACTION

On October 26, 2015, a public hearing for Local CDP DIR-2015-2697 was held before a representative of the Director of City of Los Angeles Department of Planning. At that hearing, speakers commented that they are concerned that the change in use will intensify parking problems in the area and indicated that the in-lieu parking fees are insufficient to produce needed parking. They also voiced concerns that this project sets a bad precedent. The Venice Neighborhood Council (VNC) did not support or oppose the proposed project at the hearing, but later, on December 17, 2015, the VNC submitted a letter supporting the proposed project.

On February 5, 2016, the Director of City of Los Angeles Department of Planning approved Local CDP No. DIR-2015-2697. The local CDP requires the provision of twelve total parking spaces (ten for the change in use and two Beach Impact Zone BIZ parking spaces), but allows the applicant to pay \$18,000 per space, or provide bicycle parking, in lieu of providing actual parking spaces. The payment of the in lieu fees would bring the proposed project into compliance with the parking requirements of the Venice Specific Plan (VSP), which is an uncertified City ordinance.

The City's Notice of Final Action for Local CDP No. DIR-2015-2697 was received in the Coastal Commission's Long Beach Office on February 24, 2016, and the Coastal Commission's 20 working-day appeal period was established. On March 23, 2016, an appeal of the local CDP was filed by the Executive Director,, and an additional appeal was filed by Mr. Dennis Gibbons, Ms. Elaine Spierer, and Mr. Todd Darling (**Exhibit 4**). No other appeals were received before the end of the appeal period on March 23, 2016 at 5:00 p.m.

### IV. APPEAL PROCEDURES

Section 30600(b) of the Coastal Act provides that prior to certification of its LCP, a local jurisdiction may, with respect to development within its area of jurisdiction in the coastal zone and consistent with the provisions of Sections 30604, 30620 and 30620.5, establish procedures for the filing, processing, review, modification, approval or denial of a coastal development permit. Pursuant to this provision, the City of Los Angeles developed a permit program in 1978 to exercise its option to issue local coastal development permits. Sections 13301-13325 of Title 14 of the California Code of Regulations provide procedures for issuance and appeals of locally issued coastal development permits. Section 30602 of the Coastal Act allows *any* action by a local government on a coastal development permit application evaluated under Section 30600(b) to be appealed to the Commission. The standard of review for such an appeal is the Chapter 3 policies of the Coastal Act. [Cal. Pub. Res. Code §§ 30200 and 30604.]

After a final local action on a local CDP application, the Coastal Commission must be noticed within five days of the decision. After receipt of such a notice which contains all the required information, a twenty working-day appeal period begins during which any person, including the applicant, the Executive Director, or any two members of the Commission, may appeal the local decision to the Coastal Commission. [Cal. Pub. Res. Code § 30602.] As provided under section 13318 of Title 14 of the California Code of Regulations, the appellant must conform to the procedures for filing an appeal as required under section 13111 of Title 14 of the California Code of Regulations, including the specific grounds for appeal and a summary of the significant question raised by the appeal.

The action currently before the Commission is to find whether there is a “substantial issue” or “no substantial issue” raised by the appeal of the local approval of the proposed project. Sections 30621 and 30625(b)(1) of the Coastal Act require a de novo hearing of the appealed project unless the Commission determines that no substantial issue exists with respect to the grounds for appeal.

Commission staff recommends a finding of **substantial issue**. If the Commission decides that the appellants’ contentions raise no substantial issue as to conformity with Chapter 3 of the Coastal Act, the action of the local government becomes final. Alternatively, if the Commission finds that a substantial issue exists with respect to the conformity of the action of the local government with the Chapter 3 policies of the Coastal Act, the local CDP is voided and the Commission typically continues the public hearing to a later date in order to review the coastal development permit as a de novo matter. [Cal. Pub. Res. Code §§ 30621 and 30625.] Section 13321 of the Coastal Commission regulations specifies that de novo actions will be heard according to the procedures outlined in Sections 13114 and 13057-13096 of the Commission’s regulations.

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

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

## V. SINGLE/DUAL PERMIT JURISDICTION AREA

Within the areas specified in Section 30601, which is known in the City of Los Angeles permit program as the *Dual Permit Jurisdiction* area, the Coastal Act requires that any development which receives a local coastal development permit also obtain a second (or “dual”) coastal development permit from the Coastal Commission. The Commission's standard of review for the proposed development in the *Dual Permit Jurisdiction* area is the Chapter 3 policies of the Coastal Act. For projects located inland of the areas identified in Section 30601 (i.e., projects in the *Single Permit Jurisdiction*), the City of Los Angeles local coastal development permit is the only coastal development permit required. The proposed project site is located within the *Single Permit Jurisdiction Area*.

## VI. FINDINGS AND DECLARATIONS – SUBSTANTIAL ISSUE

### A. PROJECT DESCRIPTION AND LOCATION

The project site is located in a commercially zoned neighborhood of North Venice within the City’s Single Permit Jurisdiction and fronts Abbot Kinney Boulevard, approximately one-half mile inland of the beach and boardwalk (**Exhibit 1**). The site is developed with a two-story, 3,590 square-foot Artist-in-Residence dwelling unit with one parking space on a 2,699 square foot-lot (**Exhibit 2**). The existing building was constructed in 1925, and was enlarged subsequent to issuance of CDP 5-99-088 in 1999. The permitted use of the structure is a single artist-in-residence unit.

The City approved the applicant’s proposal to convert a portion of the Artist-in-residence into a 2,621 square-foot two-story salon (commercial use), while maintaining a 605 square-foot Artist-in-Residence dwelling unit (**Exhibit 2**). The proposed project would provide two on-site parking spaces within the ground floor garage accessed from the rear alley and four bicycle parking spaces. The proposed project would require a complete interior remodel and minor exterior improvements consisting of the alteration of a rear wall and the application of new plaster.

The City determined that the proposed change in use requires twelve parking spaces; ten for the salon and two BIZ spaces. The applicant intends to provide some bicycle parking and pay a fee to the City in lieu of providing the parking spaces required for the proposed change in use.

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

Section 30625(b)(1) of the Coastal Act states that the Commission shall hear an appeal of a local government action carried out pursuant to Section 30600(b) unless it finds that no substantial issue exists as to conformity with Chapter 3 of the Coastal Act. The term “substantial issue” is not defined in the Coastal Act or its implementing regulations. Section 13115(b) of the Commission’s regulation simply indicates that the Commission will hear an appeal unless it “finds that the appeal raises no significant question.” In previous decisions on appeals, the Commission had been guided by the following factors:

1. The degree of factual and legal support for the local government’s decision that the development is consistent or inconsistent with the relevant provisions of the Coastal Act;
2. The extent and scope of the development as approved or denied by the local government;
3. The significance of the coastal resources affected by the decision;

4. The precedential value of the local government’s decision for future interpretations of its LCP; and,
5. Whether the appeal raises local issues, or those of regional or statewide significance.

Even when the Commission chooses not to hear an appeal, appellants nevertheless may obtain judicial review of the local government’s coastal permit decision by filing petition for a writ of mandate pursuant to Code of Civil Procedure, Section 1094.5.

Staff is recommending that the Commission find that **a substantial issue exists** with respect to whether the local government action conforms to the provisions of Chapter 3 of the Coastal Act for the reasons set forth below.

### C. SUBSTANTIAL ISSUE ANALYSIS

As stated in Section IV of this report, the grounds for an appeal of a CDP issued by the local government prior to certification of its LCP are the project’s conformity with Chapter 3 policies of the Coastal Act. Any local government CDP issued or denied prior to certification of its LCP may be appealed to the Commission. The Commission shall hear an appeal unless it determines that no substantial issue exists as to conformity with Chapter 3 policies of the Coastal Act.

The grounds for this appeal relate to the proposed project’s potential adverse impacts on public access to the coast due to the lack of parking provided in relation to the increase in parking demand that would result from the change of use from a single-family Artist-in-Residence to a combined commercial use and Artist-in-Residence (**Exhibit 4**). Additionally, such an approval would prejudice the City’s ability to prepare an LCP because it is inconsistent with the parking policies of the certified LUP. The City cites the VSP for associated parking requirements; however, the VSP is an uncertified City ordinance. While the Coastal Act is the standard of review for this project, the certified LUP, not the VSP, may be used for guidance. The appellants contend that the City-approved change in use of the building will increase parking demand and requirements, yet there is no actual requirement for physical parking spaces in relation to this project and the suggested mitigation will not alleviate the increase in the demand for physical parking spaces. Additionally, the City-approval would be inconsistent with Coastal Commission CDP 5-99-088 for a change in use, as Special Condition 1 of that CDP restricts the use of the structure to residential and explicitly states that no commercial retail use is permitted.

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

This appeal raises a substantial issue as to conformity with Chapter 3 of the Coastal Act (Cal. Pub. Res. Code §§ 30200-30265.5).<sup>1</sup> The Notice of Decision for Local CDP No. DIR-2015-2967 and accompanying Final Staff Report issued by the City of Los Angeles states that the City applied the policies of Chapter 3 of the Coastal Act and concluded, in part, that the development, as proposed and conditioned by the City, would be consistent with Chapter 3 of the Coastal Act and will not prejudice the ability of the City to prepare an LCP for the Venice Coastal Zone (**Exhibit 4**). However the City did not substantiate this claim with factual or legal support for its conclusion.

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<sup>1</sup> Unless otherwise indicated, all subsequent statutory references are to sections within the Coastal Act. Cal. Pub. Res. Code §§ 30000 *et seq.*

The issue of whether the proposed development can provide adequate parking for its patrons, for the life of the proposed use, without negatively impacting the public beach access parking supply, is an important and substantial issue. Section 30252 of the Coastal Act requires that new development provide adequate parking facilities to maintain and enhance public access to the coast. Section 30213 of the Coastal Act requires that lower cost visitor and recreational facilities shall be protected.

Coastal Act Section 30213 states:

*Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.*

*The commission shall not: (1) require that overnight room rentals be fixed at an amount certain for any privately owned and operated hotel, motel, or other similar visitor-serving facility located on either public or private lands; or (2) establish or approve any method for the identification of low or moderate income persons for the purpose of determining eligibility for overnight room rentals in any such facilities.*

Coastal Act Section 30252 states:

*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 nonautomobile 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.*

A substantial issue exists with respect to the proposed project's conformance with Chapter 3 of the Coastal Act, and with the approval of Local CDP No. DIR-2015-2967 because the City-approved project does not include an operative plan that will mitigate the parking impacts of the development. The City-approved project provides one new parking space and four new bicycle parking spaces for the proposed 2,621 square-foot commercial space. One parking space would be saved for the 605 square foot Artist-in-Residence.

Using the parking standards in the certified LUP for commercial service and Artist-in-Residence (one parking space for each 250 square feet of floor area; two spaces for each dwelling unit for Artist-in-Residence, and two BIZ parking spaces), the 2,621 square-foot retail space and 605 square-foot Artist-in-Residence would need to provide fourteen parking spaces for the proposed change in use. No off-site parking plan or other effective mitigation was approved or required by the City. The applicant's proposal to the City does state that the applicant will pay the VSP-approved in-lieu fee of \$18,000 per parking space for ten parking spaces that would be required for the proposed change in use of the subject site. The City's approval gives the applicant the option to pay a fee to the City in lieu of providing actual parking. However, there is no evidence that the payment of a fee to the City in lieu of providing actual parking will mitigate the parking impacts of the project or improve access to the coast.

While the certified LUP is not the basis for establishing the proper grounds for finding substantial issue, the policies nonetheless provide a baseline from which the Commission can evaluate the adequacy of a project's mitigation of public access impacts, including those associated with impacts on public parking supply for coastal access. In its adoption of the certified LUP, the Commission recognized that public parking supply is limited in the Venice Beach area and, as such, it is imperative that any proposed development provide adequate parking on-site (or off-site in non-public parking areas reserved for the development) to ensure that those who use the proposed development will not affect available public parking areas used for coastal access and recreation.

When the LUP was certified in 2001, the Commission considered the potential impacts that development could have on public parking supply and adopted policies to require an applicant to provide a certain number of off-street spaces depending on the size and proposed use of the site. Thus, the parking standards adopted by the Commission in the certified LUP can be used as a baseline requirement if using the baseline on a case-by-case basis is appropriate to assure that the project will be consistent with the Chapter 3 policies of the Coastal Act. Given the site specific conditions of the proposed project and the parking shortage in Venice, it is appropriate to use the certified LUP policies as a baseline for determining whether or not the proposed project is consistent with Chapter policies of the Coastal Act because the number of parking spaces generally accommodate the anticipated number of people who would use the proposed development.

Here, the provision of only two actual parking spaces and four bicycle parking spaces for a new 2,359 square-foot commercial space and a 605 square-foot Artist-in-residence raises a substantial issue in regards to the public access policies of the Coastal Act because two vehicle parking spaces and four bicycle parking spaces is not enough parking to meet the parking demands of the proposed change in use as provided in the LUP. The proposed project would increase parking demand and intensify competition for parking in an area that is already suffering from an insufficient parking supply. A parking plan for commercial use is necessary to mitigate that parking demands of the development so that the public parking supply that supports coastal access is not adversely affected by the parking demands of the proposed development. The City-approved project does not include a comprehensive plan that will mitigate the parking impacts of the development. Therefore, a substantial issue exists with respect to the grounds on which the appeals were filed.

Public access is an important issue and as such, the Commission has carefully reviewed projects like the propose development that are located in popular coastal recreational areas. The City's approval of this project and other similar projects, have collectively exacerbated the parking problems for which Venice is famous. The ongoing competition for limited parking resources has resulted in the City's adoption resident-only parking permits (over-night parking districts, subsequently denied by the Commission). The City has failed to require provisions of adequate parking, thus creating additional pressure on the existing parking supply, which adversely impacts the public's ability to access the coast.

Only with careful review of the proposed project can the Commission ensure that public access to the coast is protected. If it finds that a substantial issue exists, the Commission will have the opportunity to review and act on the proposed project at the following de novo hearing. Therefore, the Commission finds that a substantial issue exists with respect to the proposed project's conformance with Chapter 3 of the Coastal Act, and with the approval of Local CDP DIR-2015-2967.

Applying the five factors listed in the prior section clarifies that the appeal raises "a substantial issue" with respect to Chapter 3 of the Coastal Act, and therefore, does meet the substantiality

standard of Section 30265(b)(1), because the nature of the proposed project and the local government action are not consistent with policies of Chapter 3 of the Coastal Act.

The first factor is the degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the relevant provisions of the Coastal Act. The City's findings state that "no objective data or analysis regarding the inadequacy of the in-lieu fee program [had] been submitted for consideration." The City has not shown that they have analyzed any data relating to the effectiveness of the Venice Coastal Parking Impact Trust Fund. However, a Venice In-Lieu Parking Fee Study released in July 2012 offers evidence that suggests the \$18,000 per parking space in-lieu fee is considerably inadequate. The study shows that in 2012, a single parking space in similar areas throughout Southern California can cost a developer between \$25,000 - \$80,000 per space, depending on the location and type (above or below ground) of the parking structure. Additionally, because the City has not evaluated the Venice In-Lieu Parking Fee Study program, the City has failed to prove that the program is working. Furthermore, the City has not displayed that they have plans to actually build more parking spaces with the fees they have collected in impacted areas, such as near Abbot Kinney Boulevard in North Venice. Therefore, the Coastal Commission finds that the City provided an inadequate degree of factual and legal support for the local government's action.

The second factor is the extent and scope of the development as approved or denied by the local government. The existing development is an Artist-in-Residence that provides one on-site parking space. The propose development would require the applicant to provide thirteen additional parking spaces to support the proposed change in use. The applicant is proposing two on-site vehicle parking spaces, and four on-site bicycle spaces that would substitute for one vehicle parking space. The applicant has not provided a plan to supply the additional parking spaces that are required for the proposed change in use. The applicant fails to meet or adequately mitigate the full scope of the parking requirement for the proposed project. Therefore, the proposed development is not consistent with the public access policies of Chapter 3 of the Coastal Act.

The third factor is the significance of the coastal resources affected by the decision. Public parking is explicitly called out in Section 30212.5 of Chapter 3 of the Coastal Act and in the Shoreline Access section of the certified Venice LUP. Many people who visit the coast, and especially Venice Beach, travel long distances and it is not practical for them to walk, ride bikes, or take public transit. It is because of this reason that protecting the public parking supply to the coast is of significant importance. Although the project location is nearly one-half mile from the beach, it is also a highly visited area with a very limited parking supply. The proposed project, and others like it, has the potential to negatively and cumulatively impact public beach parking supplies by not providing the required parking needed to meet the demand of the proposed development. Also, Coastal Commission CDP 5-99-088 for the existing Artist-in-Residence, identified parking as a significant resource that shall be protected. Therefore, the proposed development could significantly and adversely affect important coastal resources.

The fourth factor is the precedential value of the local government's decision for future interpretations of its LCP. The City does not currently have a certified LCP. Although, the proposed development is consistent with the mass, height and scale of past Commission approvals for this area of Venice, it is not consistent with the parking requirement. The City currently has several similar pending projects that have applied for a permit to convert residential uses to commercial uses with the payment of an in-lieu fee rather than providing any actual parking spaces. The certified LUP envisions an in-lieu fee program that will "be established in the Implementation Plan (IP) at a rate proportional to the cost of providing a physical parking space." The current in-lieu fee of \$18,000

per parking space is set forth in the VSP, not the certified LUP, and has not been review by the Coastal Commission for adequacy and effectiveness. Thus, the project, as approved and conditioned, raises a substantial issue with regard to the project's conformity with the public access policies of Chapter 3 of the Coastal Act and as such would have the potential to set a negative precedent for failing to adequately mitigate the project's impacts on public access.

The final factor is whether the appeal raises local issues, or those of regional or statewide significance. This appeal raises specific local issues, but without a proper action plan to mitigate potential negative and cumulative public parking impacts to the coast with in-lieu fees that the City is collecting, it may set a statewide precedence. Venice Beach is one of the most popular visitor destinations in the state making public access to Venice Beach a statewide issue. Therefore, the City's approval does raise issues of statewide significance.

In conclusion, the primary issue for the appeal is potential adverse impacts to public parking that supports coastal access. In this case, the City-approved CDP is not in conformity with the public access policies of Chapter 3 of the Coastal Act and therefore, Commission staff recommends that the Commission find that the appeal raises a substantial issue as to conformity with Chapter 3 policies.

## VII. MOTION AND RESOLUTION – DE NOVO

### MOTION:

*I move that the Commission **approve** Coastal Development Permit Application No. A-5-VEN-16-0041 pursuant to the staff recommendation.*

Staff recommends a YES vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

### RESOLUTION:

*The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.*

## VIII. STANDARD CONDITIONS

This permit is granted subject to the following standard conditions:

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent of interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

## IX. SPECIAL CONDITIONS

This permit is granted subject to the following special conditions:

1. **Permitted Use.** Coastal Development Permit A-5-VEN-16-0041 authorizes the use of the structure as an 874 square-foot salon on the first floor and a 1,800 square-foot Artist-in-Residence dwelling unit on the second floor. Five on-site parking spaces shall be provided and maintained in the garage for use by residents and salon customers. Any change in density, number of units, or change in use shall be submitted to the Executive Director to determine whether an amendment to this permit is necessary pursuant to the requirements of the Coastal Act and the California Code of Regulations.
2. **Revised Plans.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and approval of the Executive Director, final revised project plans to address the following:
  - a. Commercial service floor area not to exceed 874 square feet on the first floor only; commercial area is only authorized on the first floor of the structure.
  - b. A minimum of five onsite vehicle parking spaces in the garage.
  - c. The location of the proposed on-site bicycle parking (minimum of four stalls).
  - d. The remainder of the structure is authorized for Artist-in-Residence/residential use only.

All development must occur in strict compliance with the proposal as set forth in the application, subject to any special conditions imposed herein. Any deviation from the approved plans must be submitted for review by the Executive Director to determine whether an amendment to this Coastal Development Permit No. A-5-VEN-16-0041 is necessary pursuant to the requirements of the Coastal Act and the California Code of Regulations.

3. **Parking.** As proposed, a minimum of five vehicular parking spaces shall be provided and maintained on the site to serve the approved development (one for the residence and four for employees and customers). Vehicular access to the site shall be taken only from the rear alley/Alhambra Court. The Transportation Demand Management plan shall be implemented as proposed for the life of the commercial use.
4. **Deed Restriction.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

## **X. FINDINGS AND DECLARATIONS – DE NOVO**

### **A. PROJECT DESCRIPTION**

The applicant has revised the project to bring it into conformance with the parking requirements of the certified LUP and the public access policies of Chapter 3 of the Coastal Act. The applicant now proposes to change the use of the building into an 874 square-foot salon on the first floor and a 1,800 square-foot Artist-in-Residence dwelling unit on the second floor. The garage will provide five on-site parking spaces. At least four on-site bicycle parking spaces will also be provided (**Exhibit 3**). The proposed project would require major interior improvements and minor exterior improvements consisting of the alteration of a rear wall and the application of new plaster.

**Special Condition 1** restricts the approved development as described in this CDP and requires any future improvements at the site to be reviewed by the Executive Director. **Special Condition 2** requires the applicant to provide revised plans showing the reduction in service floor area and at least five on-site vehicle parking spaces and four on-site bicycle parking spaces. **Special Condition 3** requires the applicant to maintain a minimum of five on-site vehicle parking spaces. **Special Condition 4** requires the applicant to record a deed restriction on the site to ensure that all conditions of approval are documented and any future owners are aware of the conditions of development associated with the site.

### **B. DEVELOPMENT**

Coastal Act Section 30250(a) states:

*(a) 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. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.*

Coastal Act section 30252 states, in part:

*The location and amount of new development should maintain and enhance public access to the coast by... (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation...*

Coastal Act Section 30253(e) states:

*New development shall do all of the following:*

*(e) Where appropriate, protect special communities and neighborhoods, that, because of their unique characteristics, are popular destination points for recreational users*

The development is located within an existing developed area and, as conditioned, will be compatible with the character and scale of the surrounding area, has been designed to assure structural integrity, and will avoid cumulative adverse impacts on public access. Therefore, the Commission finds that the development, as conditioned, conforms with Sections 30250, 30252, 30253, and the public access provisions of the Coastal Act.

**C. PUBLIC ACCESS – PARKING**

Coastal Act Section 30212.5 states:

*Wherever appropriate and feasible, public facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate against the impacts, social and otherwise, of overcrowding or overuse by the public of any single area.*

LUP Policy II. A. 1 General, states:

*It is the policy of the City to provide increased parking opportunities for both beach visitors and residents of Venice, and improve summer weekend conditions with respect to Venice Beach parking and traffic control.*

LUP Policy II.A.3. Parking Requirements, states:

*The parking requirements outlined in the following table shall apply to all new development, any addition and/or change of use. The public beach parking lots and the Venice Boulevard median parking lots shall not be used to satisfy the parking requirements of this policy. Extensive remodeling of an existing use or change of use which does not conform to the parking requirements listed in the table shall be required to provide missing numbers of parking spaces or provide an in-lieu fee payment into the Venice Coastal Parking Impact Trust Fund for the existing deficiency. The Venice Coastal Parking Impact Trust Fund will be utilized for improvement and development of public parking facilities that improve public access to the Venice Coastal Zone.*

Personal Service Establishment, Including Cleaning or Laundry Agency or similar use	1 space for each 250 square feet of floor area.
---	---

LUP Policy II.A.4. Parking Requirements in the Beach Impact Zone, states:

*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.*

*Beach Impact Zone (BIZ) Parking Impact Trust Fund criteria:*

*a. Commercial and industrial projects in the BIZ shall provide one additional parking space for each 640 square feet of floor area of the ground floor. Up to 50% of the total number of these additional parking spaces required in this section may be paid for in lieu of providing the spaces.*

*b. Multiple family residential projects on the BIZ shall provide an additional parking space for each 1,000 square feet of floor area of the ground floor for multiple dwelling projects of three units or more. Up to 100% of the total number of these additional parking spaces required in this section may be paid for in lieu of providing the spaces. The recommended rates shall be established based upon the development cost study of the area.*

*c. All in-lieu fees shall be paid into the Venice Coastal Parking Impact Trust Fund to be administered by the City of Los Angeles Department of Transportation for improvements and development of public parking facilities that support public access to the Venice Coastal Zone.*

*d. In no event shall the number of BIZ parking spaces (over and above those spaces required by the parking requirements set forth in Policy II.A.3) required for projects of three or more dwelling units, or commercial or industrial projects, be less than one (1) parking space for residential projects and two (2) parking spaces for commercial and industrial projects.*

*Implementation Strategies*

*The in lieu fee for a BIZ parking space shall be established in the Implementation Plan (IP) at a rate proportional to the cost of providing a physical parking space.*

The proposed project requires a total of six parking spaces; one parking space for the Artist-in-Residence (consistent with Special Condition 3 of CDP 5-99-088); three spaces for the proposed commercial use (one space for each 250 square feet of floor area;  $874/250 = 3.5$  spaces); and two BIZ spaces (one space for each 640 square feet of floor area on the first floor, however a minimum of two BIZ spaces shall be provided for commercial uses;  $874/640 = 1.4$  spaces; two spaces per LUP Policy II. A. 4). BIZ spaces are required parking spaces over and above the parking spaces required by LUP Policy II. A. 3. As such, LUP Policy II. A. 4 states that up to 50% of BIZ spaces may be paid for in lieu of providing actual spaces. However, the City does not yet have a certified IP within which the in-lieu fee program is to be established. Thus, the applicant's options are limited to either providing the physical parking spaces or mitigate the need for 50% of the BIZ parking spaces.

The applicant is proposing five on-site parking spaces; one residential space, three commercial spaces, and one BIZ space. The applicant has proposed a comprehensive transportation demand management (TDM) plan to mitigate the need of the second BIZ parking space. The TDM plan includes, but is not limited to: four on-site bicycle parking spaces; transit passes for employees who take public transportation to work; incentives for employees who walk, bike, or carpool to work; and flexible work schedules. In this case, the proposed TDM plan will satisfy the need for the additional BIZ parking space.

The proposed development includes five on-site vehicle parking spaces, four on-site bicycle parking spaces (**Exhibit 3**), and a TDM plan. The proposal to provide on-site vehicle parking, bicycle parking, and a TDM plan is consistent with Coastal Act requirements and the requirements of the certified LUP. As conditioned, the project will not adversely affect public access to the coast because it will not project the parking demand associated with the proposed development to public parking resources. The Commission finds that only as conditioned the development consistent with Sections 30212.5, 30213, 30252 of the Coastal Act and with LUP Policies II.A.1, II.A.3, and II.A.4.

#### **D. LOCAL COASTAL PROGRAM (LCP)**

Section 30604(a) of the Coastal Act provides that the Commission shall issue a coastal development permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with Chapter 3 policies of the Coastal Act:

*(a) Prior to certification of the Local Coastal Program, a coastal development permit shall be issued if the issuing agency, or the commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) of this division and that the permitted development will not prejudice the ability of the local government to prepare a Local Coastal Program*

*that is in conformity with the provisions of Chapter 3 (commencing with Section 30200). A denial of a Coastal Development Permit on grounds it would prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200) shall be accompanied by a specific finding which sets forth the basis for such conclusion.*

The City of Los Angeles does not have a certified Local Coastal Program for the Venice area. The City of Los Angeles LUP for Venice was effectively certified on June 14, 2001. The Commission's standard of review for the proposed development is the Chapter 3 policies of the Coastal Act. The certified Venice LUP is advisory in nature and may provide guidance. As conditioned, the proposed development is consistent with the certified LUP and with the Chapter 3 Policies of the Coastal Act. As a result of the proposed development's consistency with the Coastal Act, approval of the development will not prejudice ability of the City of Los Angeles to prepare an LCP that is consistent with Chapter 3 of the Coastal Act.

#### **E. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

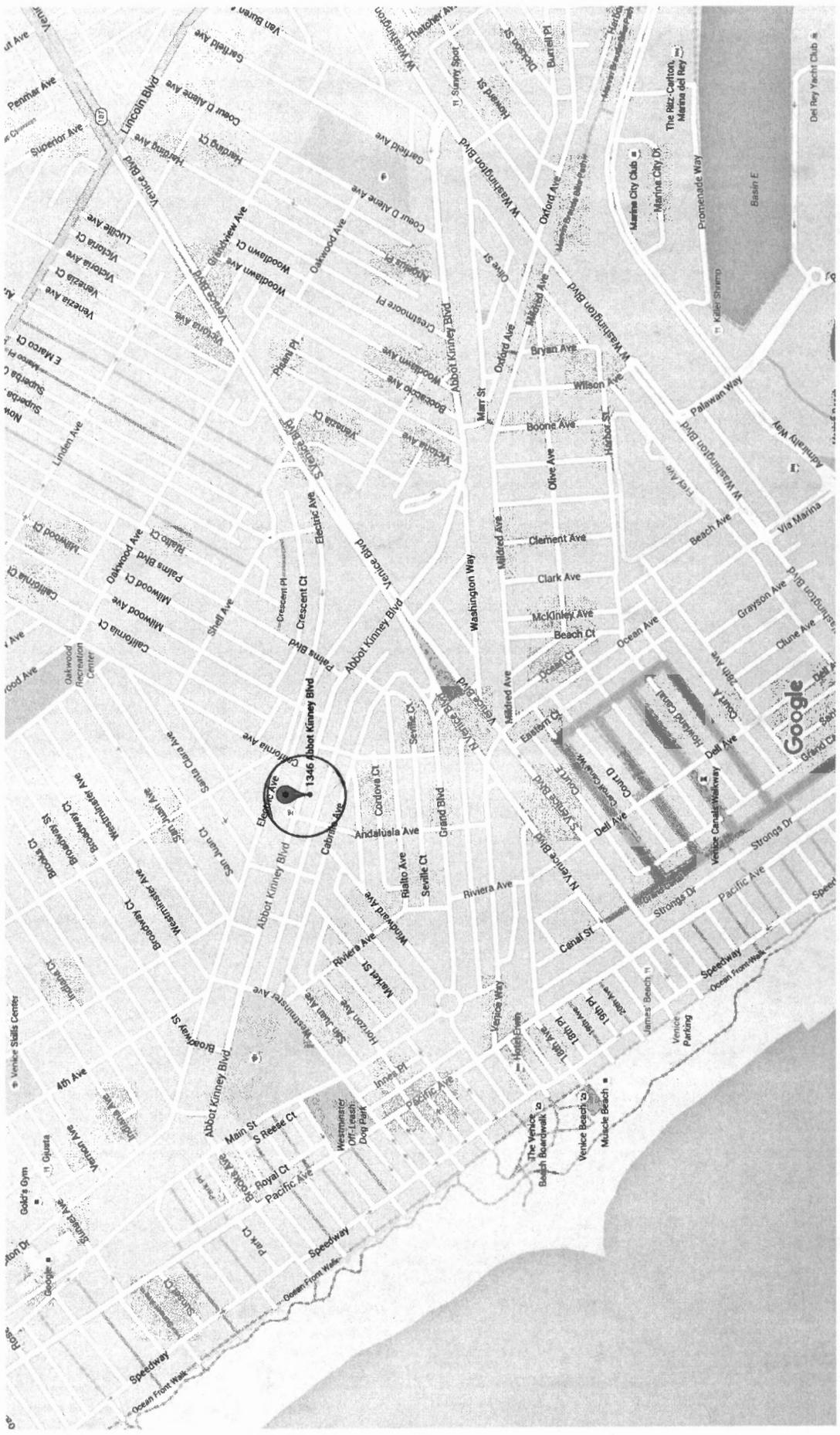
Section 13096 of the California Code of Regulations requires Commission approval of coastal development permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The City of Los Angeles is the lead agency for the purposes of CEQA review. On August 11, 2015, the City of Los Angeles issued CEQA Categorical Exemption ENV-2015-2968-CE, for a project. Furthermore, the proposed project has been conditioned in order to be found consistent with the Chapter 3 policies of the Coastal Act. Mitigation measures, in the form of special conditions, require the applicant to: 1) submit revised plans; 2) provide sufficient on-site parking; 3) restricts the use of the site; 4) submit any future improvement to the Executive Director; 5) carry out the development in accordance with the final approved plans; and 6) record a deed restriction. As conditioned, there are no feasible alternatives or additional feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and complies with the applicable requirements of the Coastal Act to conform to CEQA.

#### Appendix A

1. Venice Certified Land Use Plan, 2001
2. Venice In-Lieu Parking Fee Study, July 2012
3. Coastal Development Permit No. 5-99-088
4. Local Coastal Development Permit No. DIR-2015-2967

Google Maps 1346 Abbot Kinney Blvd



**COASTAL COMMISSION**  
 A-5-VENT-16-0041  
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Google Maps 1346 Abbot Kinney Blvd



Imagery ©2016 Google, Map data ©2016 Google 20 ft

**COASTAL COMMISSION**

EXHIBIT # 1  
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# SHEET INDEX

A000	project information
A010	general notes
A020	ADA bathroom design standards
A030	ADA design standards
A040	ADA sign standards
A050	ADA parking design standards
A100	existing floor plans
A101	demolition plans
A102	proposed floor plans
A103	proposed roof plan
A200	existing exterior elevations
A201	proposed exterior elevations
A202	proposed exterior elevations
A300	building sections
A550	partition types
A600	schedules

# PROJECT INFORMATION

PROJECT DATA:	EXISTING	PROPOSED REMODEL
ADDRESS:	1346 ABBOT KINNEY BLVD. VENICE, CA 90291	NO CHANGE
LEGAL DESCRIPTION:	VENICE OF AMERICA BLOCK 17, LOT 26	NO CHANGE
LOT AREA:	2899 SF	NO CHANGE
CONSTRUCTION TYPE:	V-B	NO CHANGE
OCCUPANCY:	R-2	B, U, R-2
SPRINKLERS:	NO	NO CHANGE
FLOOR AREA:	3590 Artist-In-Residence	605 Artist-In-Residence* (R-2) 2821 Salon (R-2 to B) 3226 Total

\* PER ZONING CODE SECTIONS:  
12.21C.9(a) & 12.13A.2(a)(27)

# PARKING ANALYSIS

PROPOSED USE	SPACES/SQ. FT	SPACES REQ'D
ARTIST-IN-RESIDENCE**:	605 SQ. FT	N/A
SALON GROUND FLOOR:	1576 SQ. FT	1 / 250 SQFT
SALON UPPER FLOOR:	1045 SQ. FT	1 / 250 SQFT
BEACH IMPACT ZONE*	1576 SQ. FT	1 / 640 SQFT
SUM PARKING SPACES REQ'D:		14

PARKING REDUCTION	SPACES/SQ. FT	SPACES REDUCED
ZA-99-0087-ZAI	TO ALLOW ONLY (1)	<1>
BIKE PARKING PROVIDED***	20% (12) OR MIN. 4	<4>
B.I.Z. IN-LIEU PARKING FEE*	MAX 50% OF (2)	<1>
IN-LIEU PARKING FEE**	REMAINING DEFICIENCY	<6>
SUM PARKING SPACES REDUCED:		<12>

TOTALS		
REMAINING B.I.Z SPACE (50% REMAINING FROM IN-LIEU FEE):		1
REQUIRED RESIDENTIAL PARKING:		1
TOTAL PROVIDED SPACES:		2

\* PER VENICE SPECIFIC PLAN:  
SECTION 13.E.3  
\*\* PER VENICE SPECIFIC PLAN:  
SECTION 13.C  
\*\*\* PER ZONING CODE SECTION:  
12.21 A (4)

\*\*\*ALL FEES SUBJECT TO CHANGE\*\*\*

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A-S-VEN-16-0041  
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# OCCUPANT LOAD

DESCRIPTION	AREA	TYPE	LOAD FACTOR	OCCUPANTS
ARTIST-IN-RESIDENCE	605 SQ. FT.	R-2	200	3.025 = 3
SALON				
1ST FLOOR	1576 SQ. FT.	B	100	15.76=16
2ND FLOOR	1045 SQ. FT.	B	100	10.45=10
				16 + 10 = 26
PARKING	614 SQ. FT.	U-1	200	3.07 = 3

# PLUMBING FIXTURE COUNT

DESCRIPTION	AREA	TYPE	LOAD FACTOR	OCCUPANTS	RESTROOMS REQ'D
ARTIST-IN-RESIDENCE	605 SQ. FT.	R-2	200	3.025 = 3	1*
SALON	2821 SQ. FT.	B	200	13.10 = 13; 7 M; 7F	1**

\*PER CPC TABLE 422.1  
\*\*PER CPC 422.2(3)

# ARTIST-IN-RESIDENCE FLOOR AREA

DESCRIPTION	AREA	PERCENTAGE	CODE REF.
LIVING FLOOR AREA	515 SQ. FT.	85.1%	
WORKING FLOOR AREA	90 SQ. FT.	14.9%	12.21C.9(a)
TOTAL FLOOR AREA	605 SQ. FT.	100%	(TIER 1 STANDARD)

# APPLICABLE CODES

2014 LOS ANGELES BUILDING CODE  
2013 CALIFORNIA PLUMBING CODE

# DESCRIPTION OF WORK

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Case No. DR 2014-2967-CPP-SPP

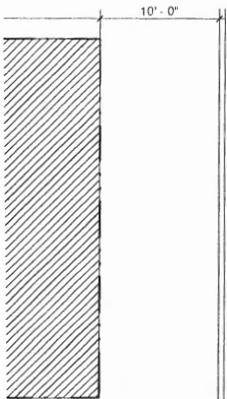
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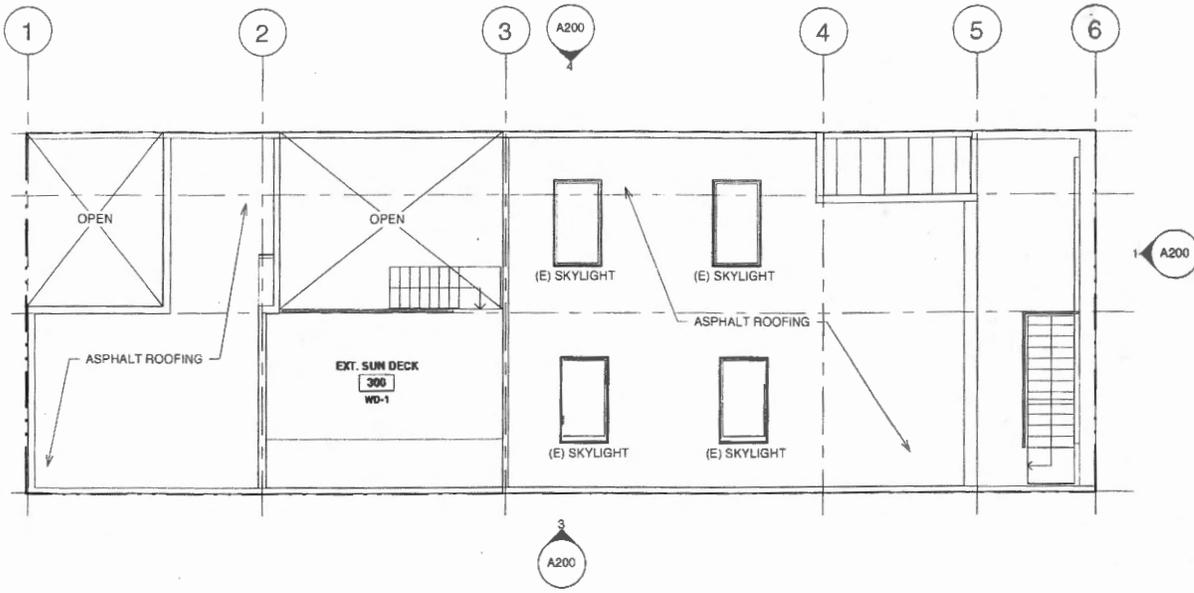
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©2015 standard @llp  
4411 santa monica blvd  
los angeles, california 90029  
info@standardarchitecture.com  
tel: 323 662 1000

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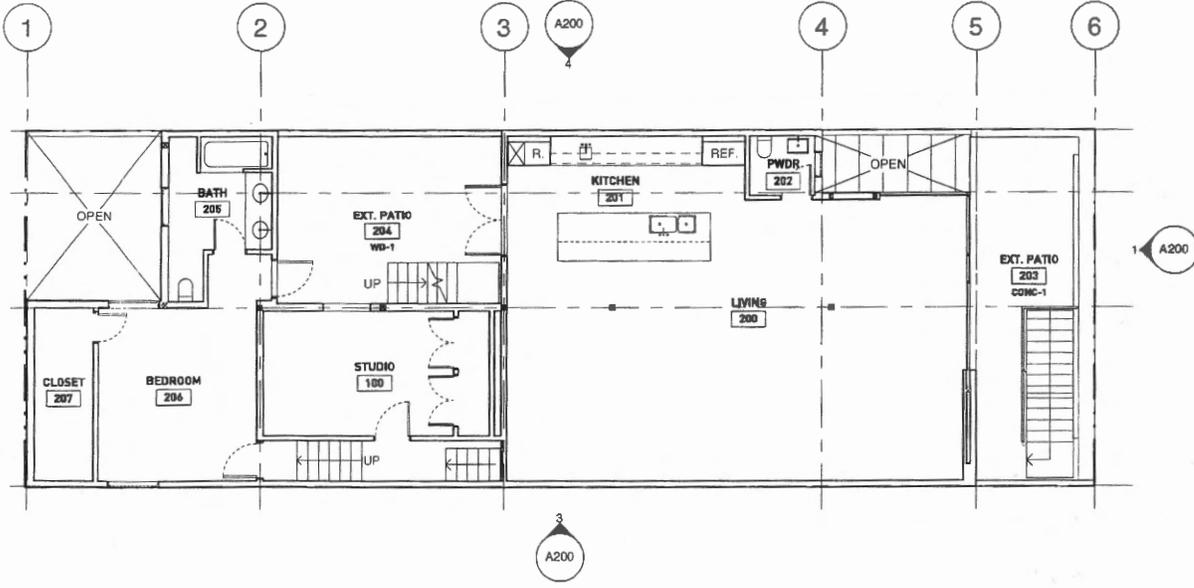
ENGINEER:



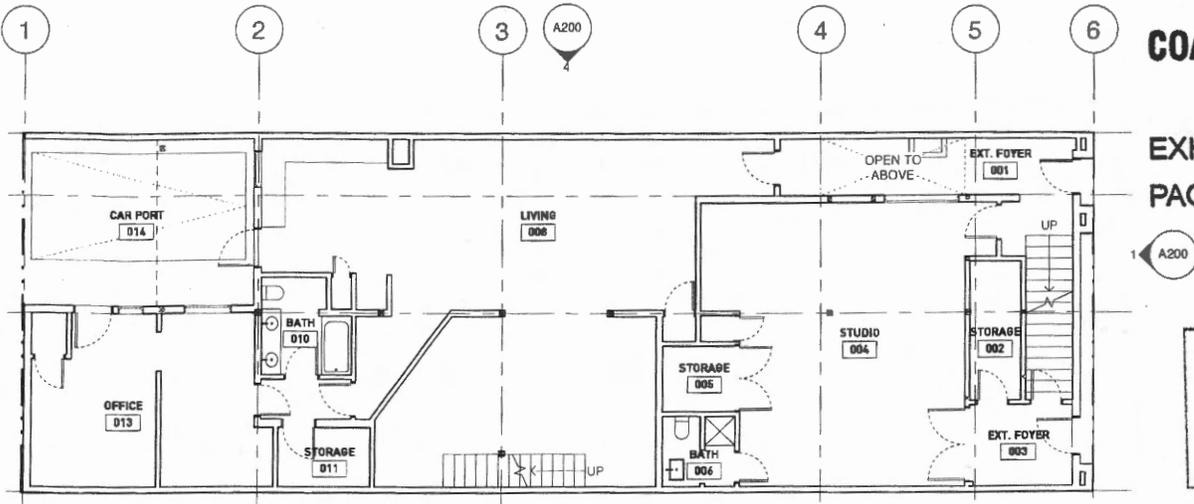
ABBOT KINNEY BLVD



EXISTING ROOF PLAN  
SCALE: 1/8" = 1'-0"



EXISTING SECOND LEVEL PLAN  
SCALE: 1/8" = 1'-0"

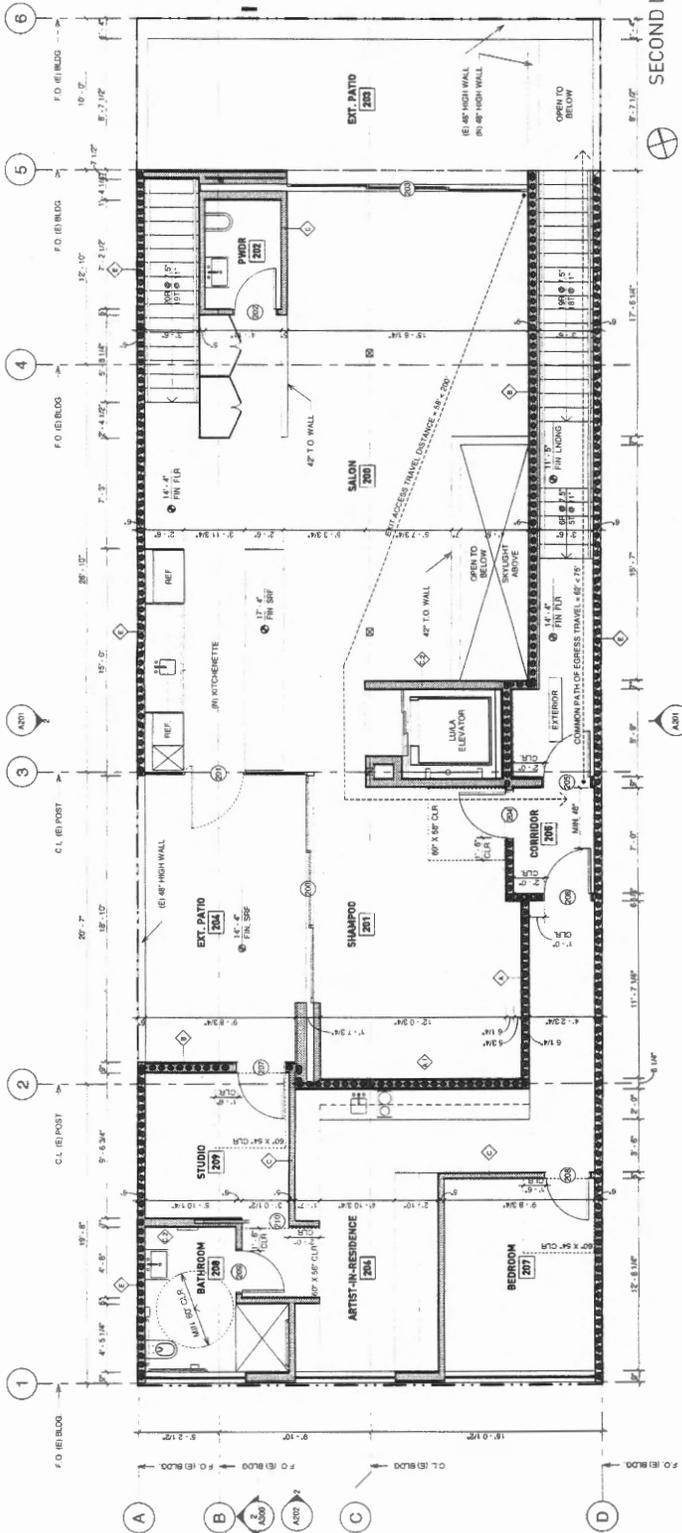


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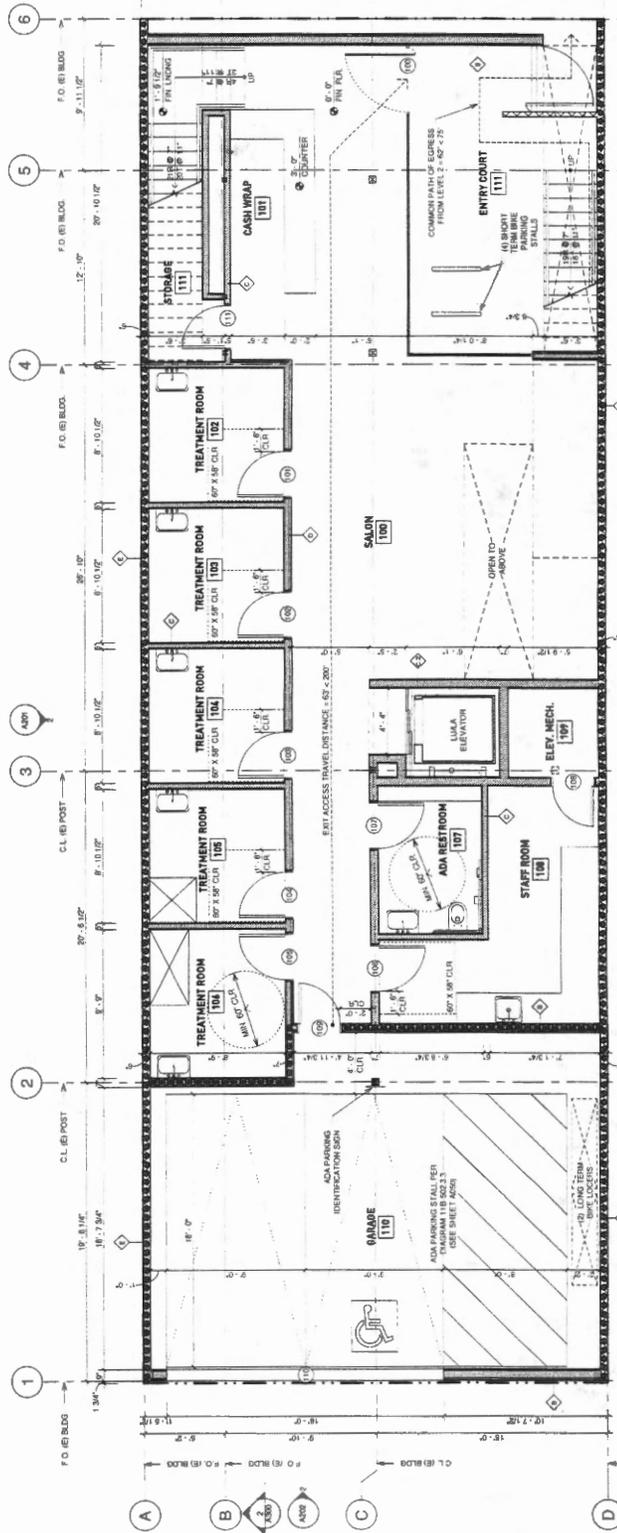
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- LEGEND**
- 2 HR RATED WALLPARTITION
  - 1 HR RATED WALLPARTITION
  - 0 WALLPARTITION
  - 0 WALLPARTITION



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Case No. 2017-2167-EXP-SP



ARCHITECT:  
6035 S. 10th St., Ste. 100, Phoenix, AZ 85042  
PH: 602.421.1800

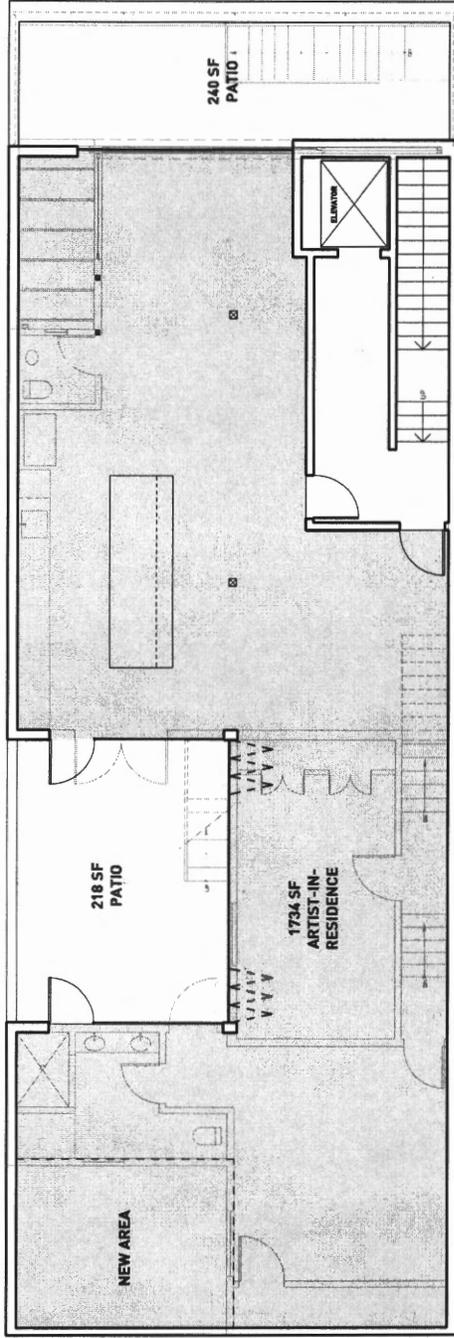
ENGINEER:  
100 NORTH TERRY STREET, SUITE 100, PHOENIX, AZ 85004  
PH: 602.421.1800

PROJECT:  
11th Street Laundry Shed

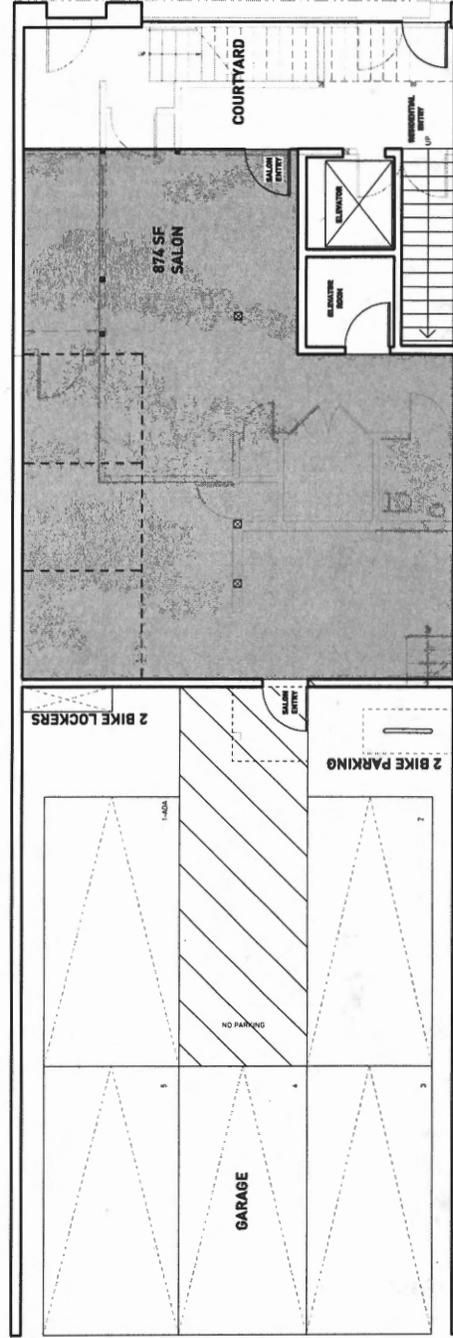
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SECOND FLOOR



GROUND FLOOR

**AREA CALCULATIONS**

TOTAL GROUND FLOOR SALON: 874 SF

TOTAL ARTIST-IN-RESIDENCE: 1734 SF

TOTAL PROPOSED AREA: 2608 SF

TOTAL EXISTING AREA: 3590 SF

DELTA: -982 SF

**PARKING**

SALON PARKING REQUIRED: 3 VEHICLES  
 SALON PARKING PROVIDED: 4 BICYCLES

BEACH IMPACT REQUIRED: 2  
 BEACH IMPACT PROVIDED: 1 IN-LIEU

A.I.R. REQUIRED: 1  
 A.I.R. PROVIDED: 1

ALHAMBRA COURT

ABBOT KINNEY BLVD

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**CALIFORNIA COASTAL COMMISSION**

South Coast Area Office  
200 Oceangate, Suite 1000  
Long Beach, CA 90802-4302  
(562) 590-5071



**APPEAL FROM COASTAL PERMIT  
DECISION OF LOCAL GOVERNMENT**

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MAR 23 2016

**SECTION I. Appellant(s)**

Name, mailing address and telephone number of appellant(s):

CALIFORNIA  
COASTAL COMMISSION

Coastal Commission Acting Executive Director, John Ainsworth  
200 Oceangate, Suite 1000  
Long Beach, CA 90802 (562) 590-5071

**SECTION II. Decision Being Appealed**

1. Name of local/port government: City of Los Angeles
2. Brief description of development being appealed: Change of use of a portion of a 3,590 square foot Artist-in-Residence dwelling resulting in 2,621 square feet of commercial use (salon) while maintaining 605 square feet of Artist-in-Residence use within an existing two-story building with an attached garage, and minor exterior improvements consisting of the alteration of a rear wall and the application of new plaster.
3. Development's location (street address, assessor's parcel no., cross street, etc.): 1346 Abbot Kinney Boulevard, Venice, City of Los Angeles.
4. Description of decision being appealed:
  - a. Approval; no special conditions: \_\_\_\_\_
  - b. Approval with special conditions: XX
  - c. Denial: \_\_\_\_\_

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

**TO BE COMPLETED BY COMMISSION:**

APPEAL NO: A-5-VEN-16-0041

DATE FILED: March 23, 2016

DISTRICT: South Coast

**COASTAL COMMISSION**  
A-5-VEN-16-0041  
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5. Decision being appealed was made by (check one):
- a. Planning Director/Zoning Administrator: XX
  - b. City Council/Board of Supervisors: \_\_\_\_\_
  - c. Planning Commission: \_\_\_\_\_
  - d. Other: \_\_\_\_\_
6. Date of local government's decision: February 5, 2016
7. Local government's file number: DIR-2015-2967 (CDP)

**SECTION III. Identification of Other Interested Persons**

Give the names and addresses of the following parties.  
(Use additional paper as necessary.)

1. Name and mailing address of permit applicant:

Kadi D. Lee, AW Enterprises, LLC  
1346 Abbot Kinney Blvd.  
Los Angeles, CA 90291

2. Name and mailing address of permit applicant's agent:

Jeff Allsbrook, Standard, LLP  
4411 Santa Monica Blvd.  
Santa Monica, CA 90405

2. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

a. James Murez Murez@Venice.net  
Main Street  
Venice, CA 90292

b. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

c. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**COASTAL COMMISSION**

EXHIBIT # 4  
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**SECTION IV. Reasons Supporting This Appeal**

Note: Appeals of local government Coastal Permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section, which continues on the next page. Please state briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing.

- 1) The City-approved development may adversely affect public access and could prejudice the City's ability to prepare an Local Coastal Program (LCP).
- 2) The local coastal development permit authorizes an increase in intensity of land use (2,621 square feet of new commercial floor area) which will significantly increase the parking demand on the project site (approximately twelve parking spaces more than provided), and the local coastal development permit does not require adequate mitigation for the increased parking demand. The local coastal development permit would allow the applicant to pay an lieu fee into a city fund rather than provide additional parking that would meet the parking demands of the approved development. The in lieu fee is not adequate mitigation for two reasons: 1) the amount paid per parking space (\$18,000) is significantly less than the cost for providing one parking space, and 2) the City does not have a plan to use the collected fees to mitigate the parking impacts of the approved development (e.g., construct addition parking). The result of the action is to increase the demand for parking in an area that currently does not have adequate parking supplies to meet the parking demand. The lack of adequate parking reduces the ability of the public to access the shoreline.
- 3) The proposed commercial development is not consistent with the terms of the underlying coastal development permit for the property, Coastal Development Permit 5-99-088 (Enrique Martinez-Celaya) for construction of a 1,300 square foot second floor addition, and conversion of an existing one-story, 2,649 square foot commercial structure with one parking space to a single artist-in-residence unit. Coastal Development Permit 5-99-088 includes a special condition that limits the permitted use of the site to one single-family residential unit with a combined living and working area for the resident and family. Special Condition One of Coastal Development Permit 5-99-088 states: *The permitted use of the structure is limited to one single-family residential unit with a combined living and working area for the resident and family. No commercial retail use is permitted. Any change in density, number of units, or change in use shall be submitted to the Executive Director to determine whether an amendment to this permit is necessary pursuant to the requirements of the Coastal Act and the California Code of Regulations.*
- 4) The competition for the limited amount of public parking in the vicinity of the project has lead to numerous requests for restricted "resident only" permit parking. The Commission has denied the City's applications for "resident only" permit parking [Appeal Nos. A-5-VEN-08-340, A-5-VEN-08-341, A-5-VEN-08-342, A-5-VEN-08-343 & A-5-VEN-08-344]. The Commission's denials of the applications for "resident only" permit parking were based on adverse impacts to public access.
- 5) The Commission has recently (February 2015) found that a Substantial Issue exists with similar City-approved coastal development permits for commercial intensifications that do not provide adequate mitigation for increased parking demands [Appeal Nos. A-5-VEN-15-0002 & A-5-VEN-15-0003]. The City's approval of increased commercial intensity in the coastal zone without mitigating the parking demands (by providing more parking or other means to access the area) will result in cumulative adverse effects to public access.

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COASTAL COMMISSION

**SECTION V. Certification**

The information and facts stated above are correct to the best of my/our knowledge.

  
Signature of Appellant(s) or Authorized Agent

3/23/16  
Date

**COASTAL COMMISSION**

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CALIFORNIA COASTAL COMMISSION

SOUTH COAST DISTRICT OFFICE  
200 OCEANGATE, 10<sup>TH</sup> FLOOR  
LONG BEACH, CA 90802-4416  
VOICE (562) 590-5071 FAX (562) 590-5084

RECEIVED EDMUND G. BROWN JR., Governor  
South Coast Region

MAR 23 2016



CALIFORNIA  
COASTAL COMMISSION

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Dennis Gibbons, Dennis Gibbons Architects, Elaine Spierer, Todd Darling

Mailing Address: 1634 Ocean Park Blvd

City: Venice

Zip Code: 90291

Phone: 310-452-8438

SECTION II. Decision Being Appealed

1. Name of local/port government:

Los Angeles

2. Brief description of development being appealed:

Change of use of a portion of a 3,590 square foot Artist-in-Residence dwelling resulting in 2,621 sq ft of commercial use (salon) while maintaining 605 sq ft of Artist-in-Residence use within an existing two-story building with an attached garage, and minor exterior improvements consisting of the alteration of a rear wall & the application of new plaster.

3. Development's location (street address, assessor's parcel no., cross street, etc.):

1346 Abbot Kinney, APN: 423-800-4036, Andalusia Ave

4. Description of decision being appealed (check one.):

- Approval; no special conditions
- Approval with special conditions:
- Denial

**Note:** For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:	
APPEAL NO:	A.S. Ven. 16-0041
DATE FILED:	3.23.16
DISTRICT:	South Coast

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5. Decision being appealed was made by (check one):

- Planning Director/Zoning Administrator  
 City Council/Board of Supervisors  
 Planning Commission  
 Other

6. Date of local government's decision: February 5, 2016

7. Local government's file number (if any): DIR-2015-2967-CDP-SPP

**SECTION III. Identification of Other Interested Persons**

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

Kadi D. Lee, AW Enterprises, LLC, 1346 Abbot Kinney Blvd., L.A., CA 90291  
and  
Jeff Allsbrook, Standard, LLP, 4411 Santa Monica Blvd, Santa Monica, CA

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1)

(2)

(3)

(4)

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APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)**SECTION IV. Reasons Supporting This Appeal****PLEASE NOTE:**

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

**APPLICABLE LAWS/REGS:**Coastal Act Section 30210 Access; recreational opportunities; posting

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, rights of private property owners, and natural resource areas from overuse.

Coastal Act Section 30211 Development not to interfere with access

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.

Coastal Act Section 30212 New development projects

(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 access way 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 access way.

(b) For purposes of this section, "new development" does not include:

- (1) Replacement of any structure pursuant to the provisions of subdivision (g) of Section 30610.
- (2) The demolition and reconstruction of a single-family residence; provided, that the reconstructed residence shall not exceed either the floor area, height or bulk of the former structure by more than 10 percent, and that the reconstructed residence shall be sited in the same location on the affected property as the former structure.
- (3) Improvements to any structure which do not change the intensity of its use, which do not increase either the floor area, height, or bulk of the structure by more than 10 percent, which do not block or impede public access, and which do not result in a seaward encroachment by the structure.
- (4) The reconstruction or repair of any seawall; provided, however, that the reconstructed or repaired seawall is not seaward of the location of the former structure.

(5) Any repair or maintenance activity for which the commission has determined, pursuant to Section 30610, that a coastal development permit will be required unless the commission determines that the activity will have an adverse impact on lateral public access along the beach.

*As used in this subdivision "bulk" means total interior cubic volume as measured from the exterior surface of the structure.*

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(c) Nothing in this division shall restrict public access nor shall it excuse the performance of duties and responsibilities of public agencies which are required by Sections 66478.1 to 66478.14, inclusive, of the Government Code and by Section 4 of Article X of the California Constitution.

Coastal Act Section 30212.5 Public facilities; distribution

Wherever appropriate and feasible, public facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate against the impacts, social and otherwise, of over crowding or over use by the public of any single area.

Coastal Act Section 30213 Lower cost visitor and recreational facilities; encouragement and provision: overnight room rentals

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

The commission shall not:

- (1) require that overnight room rentals be fixed at an amount certain for any privately owned and operated hotel, motel, or other similar visitor-serving facility located on either public or private lands; or
- (2) establish or approve any method for the identification of low or moderate income persons for the purpose of determining eligibility for overnight room rentals in any such facilities.

Coastal Act Section 30250 Location; existing developed area

(a) 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. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.

(b) Where feasible, new hazardous industrial development shall be located away from existing developed areas.

(c) Visitor-serving facilities that cannot feasibly be located in existing developed areas shall be located in existing isolated developments or at selected points of attraction for visitors.

Coastal Act Section 30252 Maintenance and enhancement of public access

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
- (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.

JUSTIFICATION:

This is a request for a conversion/change of use of all but 605 square feet of an Artist-in-Residence/residential use to almost entirely commercial/retail use, without providing the necessary parking. The Community is under siege with more and more projects for changes of use without real

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parking receiving approvals from City Planning. The damage is incalculable, as deficit parking and traffic congestion affect everyone forever--the cumulative impact results in increasingly less Public Access to the nearby beach and recreation facilities and an increase in customers who can't find parking in this retail area, as well as surrounding neighborhoods with no street parking for residents. Allowing such a change of use is an abuse of the intent/purpose of the Artist-in-Residence use code, which is essential to the nature of Venice itself, as a Special Coastal Community. Approval of this conversion is an unacceptable precedent to set, due not only to the loss of residential uses in this neighborhood, but also due to the continued loss of Venice's unique artist community, which is having a cumulative effect on Venice's unique cultural heritage. The rental rate for a residential property is materially less than the current retail lease rates. This appears to be an obvious attempt to cash in on the significantly increased valuation of retail properties on Abbot Kinney Blvd.

Neither the Venice Coastal Zone Specific Plan nor the certified Venice Land Use Plan (LUP) permit exchanging required parking spaces for bike racks, but the Applicant is attempting to satisfy their parking deficit with bicycle parking. The Applicant must not be allowed to ignore the Venice Coastal Zone parking requirements. Bike parking can be a valuable supplement to required parking, but it is not a replacement. One only has to observe that the bicycle parking racks are empty at night to know that their use is limited to daytime use, for a multitude of reasons.

The individual who fairly recently bought the subject property knew what its limitations were. This is not a hardship case and the application should be disapproved/no exceptions allowed.

Further, the Applicants for both 1214 Abbot Kinney and 1511 Abbot Kinney have previously applied for precisely the same conversion/change of use and those projects were also appealed to the Coastal Commission and are pending. When one considers how many parking spaces code requires for 15,000 feet of retail space, it is clear that these three properties offer the street absolutely nothing but an increased parking deficit and even more traffic gridlock, both resulting in a significant decrease of Public Access to Venice Beach. We must acknowledge and highlight the cumulative negative effects that such approvals from City Planning have inflicted on the Venice Community, and we have no choice but to draw our line in the sand and deny this application and all similar applications.

The issue of whether the proposed development can provide adequate parking for its patrons, for the life of the proposed use, without negatively impacting the public beach access parking supply, is an important and substantial issue. Coastal Act Section 30252 requires that new development provide adequate parking facilities to maintain and enhance public access to the coast. Coastal Act Section 30213 requires that lower cost visitor and recreational facilities shall be protected. We believe that the facts clearly show that a substantial issue exists with respect to the proposed project's conformance with Chapter 3 of the Coastal Act, and thus with the approval of the Coastal Development Permit, because the City-approved project does not include a plan that will mitigate the parking impacts of the development. No off-site parking plan or other mitigation was approved or required by the City. The Applicant's proposal to the City does state that the applicant will pay the Venice Coastal Zone Specific Plan In Lieu Parking Fee of \$18,000 per parking space, and the City's approval gives the Applicant the option to pay this fee to the City in lieu of providing actual parking. However, there is no evidence that the payment of a fee to the City in lieu of providing actual parking will mitigate the parking impacts of the project or improve access to the coast.

While the certified LUP is not the basis for establishing the grounds for finding substantial issue, its policies nonetheless provide a baseline and guide from which the Coastal Staff can evaluate the adequacy of a project's mitigation of public access impacts, including those associated with impacts on public parking supply for coastal access. In its adoption of the certified LUP, the Coastal Commission recognized that the public parking supply is limited in the Venice Beach area and, as such,

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it is imperative that any proposed development provide adequate parking on-site (or off-site in non-public parking areas reserved exclusively for the development) to ensure that the use of the proposed development will not affect available public parking areas used for coastal access and recreation.

When the LUP was certified in 2001, the Coastal Commission considered the potential impacts that development could have on the public parking supply and adopted policies to require an Applicant to provide a certain number of off-street parking spaces, depending on the size and proposed use of a site. Thus, the parking standards adopted in the certified LUP can be used as a baseline requirement to assure that the project will be consistent with the Chapter 3 policies of the Coastal Act. Given the site specific conditions of the proposed project and the parking shortages in Venice, it is appropriate to use the certified LUP policies as a baseline for determining whether or not the proposed project is consistent with the Chapter 3 policies of the Coastal Act, due to the fact that the number of parking spaces required generally accommodates the anticipated number of people who would use the proposed development. In this case, the amount of actual parking spaces being proposed is not enough parking to meet the parking demands of the proposed project. Thus, the proposed project would increase parking demand and intensify competition for parking in an area already suffering from a grossly insufficient parking supply.

A parking plan for commercial retail use of this area is necessary to mitigate the parking demands of the development so that public parking supplies that support coastal access are not adversely affected by the parking demands of the proposed development. The project does not include a plan that will mitigate the parking impacts of the development. Therefore, the CDP's Public Access-related Findings cannot be made. The City has failed to require provisions of adequate parking, thus creating additional pressure on the existing parking supply, which adversely impacts the public's ability to access the coast.

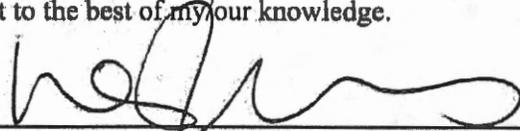
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**SECTION V. Certification**

The information and facts stated above are correct to the best of my/our knowledge.



\_\_\_\_\_  
Signature of Appellant(s) or Authorized Agent

Date: March 23, 2016

**Note:** If signed by agent, appellant(s) must also sign below.

**Section VI. Agent Authorization**

I/We hereby  
authorize

\_\_\_\_\_ to act as my/our representative and to bind me/us in all matters concerning this appeal.

\_\_\_\_\_  
Signature of Appellant(s)

Date: \_\_\_\_\_

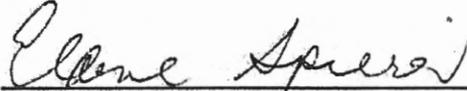
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**APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4.2)**

**SECTION V. Certification**

The information and facts stated above are correct to the best of my/our knowledge.



\_\_\_\_\_  
Signature of Appellant(s) or Authorized Agent

Date: March 23, 2016

**Note:** If signed by agent, appellant(s) must also sign below.

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Signature of Appellant(s)

Date: \_\_\_\_\_

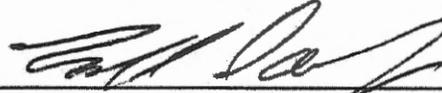
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**APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4.3)**

**SECTION V. Certification**

The information and facts stated above are correct to the best of my/our knowledge.



\_\_\_\_\_  
Signature of Appellant(s) or Authorized Agent

Date: March 23, 2016

Note: If signed by agent, appellant(s) must also sign below.

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\_\_\_\_\_  
Signature of Appellant(s)

Date: \_\_\_\_\_

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**Posner, Chuck@Coastal**

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**From:** David Ewing <seriousbus@aol.com>  
**Sent:** Wednesday, March 23, 2016 4:00 PM  
**To:** Posner, Chuck@Coastal  
**Cc:** Robin Rudisill  
**Subject:** CORRECTED: Appeal of 1346 Abbot Kinney  
**Attachments:** 1346\_Abbot\_Kinney\_Appeal\_corrected\_reduced\_size\_March23,2016.pdf

Chuck,  
Apologies. I sent an incomplete appeal. This one is corrected.  
Thanks,  
David Ewing

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