

CALIFORNIA COASTAL COMMISSION

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W14b

Appeal Filed: 6/13/2007
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Staff: Charles Posner-LB
Staff Report: 9/27/2007
Hearing Date: October 10, 2007
Commission Action:



**STAFF REPORT: APPEAL
SUBSTANTIAL ISSUE & DE NOVO PERMIT**

APPEAL NUMBER: A5-VEN-07-200

APPLICANTS: Amuse Café Partners, LP (Max Trumpower & Jeanne Rosenberg)

AGENT: Fred Gaines, Gaines & Stacey, LLP

APPELLANT: James Murez

PROJECT LOCATION: 796 Main Street, Venice, City of Los Angeles, Los Angeles County.

PROJECT DESCRIPTION: Convert an existing two-story 1,184 square foot single-family residence into a restaurant with five on-site parking spaces. The City approval permits 685 square feet of customer seating area and requires the lease of seven off-site parking spaces with valet parking service.

Lot Area	1,000 square feet (approx.)
Building Coverage	630 square feet (approx.)
Landscape Coverage	0 square feet
Parking Spaces	5 (on adjacent easement)
Zoning	C2-1 Commercial
Plan Designation	Community Commercial
Building Height	20 feet above fronting street

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 appeal has been filed for the following reasons: 1) the proposed project's off-site parking plan and valet parking service approved by the local coastal development permit raise significant issues with regard to the public access policies of the Coastal Act and the protection of the public parking supply necessary to support public access to Venice Beach; and 2) the applicant's building encroachment that extends onto the Main Street public right-of-way raises a significant issue with regards to the public access policies of the Coastal Act. **See Page Six for the motion to make the substantial issue determination.**

For the De Novo portion of the appeal, the staff recommends that the Commission, after public hearing, **approve with conditions** a coastal development permit for the proposed restaurant. **See Page Twelve for the motion to approve the de novo permit.** The recommended special conditions, which begin on **Page Thirteen**, would: a) require the submittal of a revised parking plan that maximizes the number of on-site parking spaces but would also permit the applicants to pay an in lieu fee to the City of Los Angeles Venice Parking Trust Fund for additional parking space credits; b) require the submittal of revised floor plans which balance the amount of customer service area with the number of parking space credits obtained through the provision of actual on-site spaces or through the payment of the in lieu fee for additional parking space credits (at the rate fifty square feet of service area per parking space); c) require the removal of the applicants' building encroachment that extends onto the Main

Street public right-of-way (the daily placement of tables and chairs on the widened sidewalk for outdoor dining is permitted – provided that adequate parking is provided); d) impose best management practices for restaurant operation in order to protect water quality; e) limit signage; and f) require the recordation of a deed restriction. As conditioned, the proposed project will protect coastal access and conform with the Chapter 3 policies of the Coastal Act.

LOCAL APPROVALS:

1. City of Los Angeles Local Coastal Development Permit No. ZA-2005-2021.
2. City of Los Angeles City Council File No. 06-2476 [ZA-2005-2021(CDP)(ZV)(PAB)(SPP)].
3. City of Los Angeles Negative Declaration No. ENV-2004-7753-ND.
4. City of Los Angeles Conditional Use Permit No. ZA-2004-0099 (CUB).
5. City of Los Angeles Revocable Permit No. 50291 (1/29/1988).
6. City of Los Angeles Street Vacation Case No. 92-1400152 (July 1992).

SUBSTANTIVE FILE DOCUMENTS:

1. City of Los Angeles certified Land Use Plan for Venice, 6/14/2001.
2. City of Los Angeles Specific Plan for Venice, Ordinance No. 175,693.
3. Coastal Development Permit 5-89-059 (Blanchard, 511-601 Ocean Front Walk).
4. Coastal Development Permit 5-90-789 (Blanchard, 601 Ocean Front Walk).
5. Commission Appeal Case A-5-VEN-00-173 (Hartley, 30 Washington Blvd.).
6. Commission Appeal Case A-5-VEN-06-156 (RAD Venice, 700 Main Street).

I. APPELLANT'S CONTENTIONS

The City of Los Angeles Planning Commission's action to approve Local Coastal Development Permit No. ZA-2005-2021 for the restaurant proposed in the building at 796 Main Street in the North Venice area has been appealed to the Commission by James Murez (Exhibit #5).

The grounds for the appeal, attached to this report as Exhibit #5, are summarized as follows:

1. The property is in violation for prior commercial uses (e.g., restaurant) that occurred without the requisite local coastal development permit; and the front patio, stairway and deck were installed over the fronting Main Street public right-of-way without a coastal development permit [City of Los Angeles Revocable Permit No. 50291 (1/29/1988)].
2. The City's action does not clearly reflect which parts of project site belong to the applicant and which parts of the site are owned by the applicant's neighbor (i.e., the driveway and the on-site parking area) and the City (i.e., the public right-of-way).
3. The City's action does not clearly define the 685 square feet of customer seating area approved for the restaurant.
4. The City's action authorizes the restaurant's front patio, stairway and deck encroachment into the public sidewalk area of the fronting right-of-way, which adversely affects coastal access by restricting the City's ability to widen the sidewalk to its full twelve-foot width along this block of Main Street. If the sidewalk is widened to twelve feet, then the on-site parking supply would be reduced from five to four spaces.

5. The City-approved valet parking program for the required off-site parking is inefficient and would not work because the remote parking area is too far (about 1,500 feet) from the restaurant. Therefore, the City-approved off-site parking plan will not be used by the restaurant or its customers.
6. The beachfront commercial parking lot where the City has authorized the required off-site parking (601 Ocean Front Walk) is already utilized by beach goers, vendors, customers of the Ocean Front Walk businesses, and area residents. The parking lot already is required to provide 43 spaces for nearby Ocean Front Walk stores pursuant to Coastal Development Permits 5-89-059 and 5-90-789 (Blanchard). Therefore, the use of this beachfront parking lot by the restaurant would only displace existing users, increase traffic on Speedway Alley, and would not improve coastal access.
7. The City approved a variance to permit the required off-site parking to be obtained through a simple lease rather than a recorded covenant, thus increasing the likelihood that the off-site parking would disappear in the event that the remote parking lot is sold. The beachfront commercial parking lot where the City has authorized the required off-site parking (601 Ocean Front Walk) is currently on the market, with Coastal Development Permit 5-90-789 (Blanchard) that authorizes the construction of a 16.7 thousand square foot commercial retail building.
8. The City approval requires the off-site parking lease to be reviewed after the first year, but it does not require an annual review of the lease or anticipate the consequences if the lease is not maintained or is deemed unsatisfactory.
9. The restaurant's on-site parking layout is flawed because it does not provide a loading area or space for a feasible valet parking stand for vehicle drop-off and pick-up. Customers would not be able to use the five on-site parking spaces if the parking area is used for a valet service or for loading and unloading. If that is the case, the project will provide no parking on the site. Also, the easement that would allow the on-site parking does not allow other more intense uses like a valet vehicle drop-off and pick up station. As a result, the proposed valet parking service would be utilizing the public right-of-way for the restaurant's parking needs, thus displacing beach goers and other users and creating a safety hazard on Main Street. The City permit does not address the displacement of public on-street parking spaces for the necessary valet parking drop-off/pick-up station. The public on-street parking spaces provide beach access parking.

II. LOCAL GOVERNMENT ACTION

The City record shows that on February 2, 2005, the City of Los Angeles Planning Department issued Negative Declaration No. ENV-2004-7753-ND, pursuant to the California Environmental Quality Act (CEQA), for a proposed restaurant expansion at 796 Main Street in Venice. On April 4, 2005, the applicants submitted to the City an application for a local coastal development permit proposing to expand the customer seating area within an existing restaurant. Subsequently, the City determined that a local coastal development permit had never been obtained for the original conversion of the two-story single-family residence to a restaurant.

On October 27, 2005, the City of Los Angeles Planning Department amended the previously certified Negative Declaration (No. ENV-2004-7753-ND) to reflect the changed scope of the project, but it found that the Negative Declaration did not need to be recirculated because “the additional request will not change the scope of the project and will not create any new impacts beyond what has been previously analyzed.”

On December 1, 2005, the City of Los Angeles Office of Zoning Administration¹ held a public hearing for the proposed restaurant. On June 8, 2006, Associate Zoning Administrator Patricia Brown approved with conditions a local coastal development permit (Local Coastal Development Permit No. ZA-2005-2021) and a specific plan project permit (pursuant to the Venice Specific Plan) for a 685 square foot restaurant at 796 Main Street in Venice. The Associate Zoning Administrator also approved a variance to permit the required off-site parking (seven spaces with valet service) to be more than 750 feet from the restaurant. Five parking spaces were required to be provided on the project site (on the applicant’s adjacent parking and driveway easement). The Associate Zoning Administrator denied a variance request to permit the required off-site parking to be obtained through a lease rather than a recorded covenant.

James Murez appealed the Associate Zoning Administrator’s approval to the City of Los Angeles West Los Angeles Area Planning Commission (Planning Commission). The applicants also appealed the decision. On August 16, 2006, the Planning Commission held a public hearing for the appeals. The Planning Commission’s action, as set forth in its Determination Letter dated November 2, 2006 (Exhibit #6), approved the local coastal development permit and the specific plan project permit for the 685 square foot restaurant proposed at 796 Main Street in Venice, approved the variance to permit the required off-site parking to be more than 750 feet from the restaurant, and approved the variance to permit the required off-site parking to be obtained through a lease rather than a recorded covenant, thus overturning the prior denial of the variance by the Associate Zoning Administrator (Exhibit #6). The Planning Commission conditioned its approval to require the applicants to provide a valet service for the seven required off-site parking spaces, to locate the required off-site parking spaces within one-quarter mile (1,320 feet) of the restaurant, and to require a one-year review of the applicant’s off-site parking lease program.

According to the City Planning Department, the Planning Commission’s action on the local coastal development permit was not appealable to the City Council (Exhibit #6, p.3). James Murez appealed the Planning Commission’s approval of the variances to the City Council.

On March 20, 2007, the PLUM (Planning and Land Use Management) Committee of the City Council (Committee of one: Jose Huizar) held a public hearing for James Murez’s appeal of the variances granted by the Planning Commission (Exhibit #7). The PLUM Committee of one recommended to the City Council that the appeal be denied in part and granted in part with the conditions of the variances being modified.

At its meeting of April 3, 2007, the City of Los Angeles City Council adopted the recommendation of the PLUM Committee, thus upholding the grant of the variances with modified conditions (Exhibit #7).

¹ The Office of Zoning Administration is part of the City of Los Angeles Planning Department.

The City's Notice of Final Local Action for the Planning Commission's approval of the local coastal development permit was received in the South Coast District Office in Long Beach on May 21, 2007, and the Commission's required twenty working-day appeal period commenced. The appeal by James Murez was filed on June 13, 2007. The Commission's twenty working-day appeal period ended on June 19, 2007. No other appeals were filed.

On June 14, 2007, Commission staff notified the City Planning Department of the appeal. On June 22, 2007, Commission staff received from the City a copy of its local coastal development permit file. On June 21, 2007, Commission staff received from the applicants a 49-day waiver with the expectation that the appeal hearing could occur during the Commission's October 10-12, 2007 meeting in Los Angeles.

III. APPEAL PROCEDURES

Section 30600(b) of the Coastal Act provides that prior to certification of its Local Coastal Program (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 coastal development permit 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.]

Any appeal of the local action is then analyzed to determine if a substantial issue exists as to the approved project's conformity with Chapter 3 of the Coastal Act (Sections 30200-30265.5). [Cal. Pub. Res. Code § 30625(b)(1).] Unless the Commission finds that the appeal raises no substantial issue, the Commission then holds a public hearing in which it reviews the coastal development permit as a de novo matter. [Cal. Pub. Res. Code §§ 30621 and 30625.]

At this point, the Commission may decide that the appellants' contentions raise no substantial issue as to conformity of the approved project with Chapter 3 of the Coastal Act, in which case the action of the local government stands. Or, the Commission may find that a substantial issue exists with respect to the conformity of the action of the local government with Chapter 3

of the Coastal Act if it finds that the appeal raises a significant question regarding consistency with the Chapter 3 policies of the Coastal Act. If the Commission finds that a substantial issue exists, then the hearing will be continued as a de novo permit request. 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.

IV. DUAL PERMIT JURISDICTION

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. 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 development is not located within the *Dual Permit Jurisdiction*.

V. STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE

The staff recommends that the Commission determine that **a substantial issue exists** with respect to whether the local government's approval of the project is consistent with the provisions of Chapter 3 of the Coastal Act (commencing with Section 30200), pursuant to PRC Section 30625(b)(1).

Staff recommends a **NO** vote on the following motion:

MOTION: *"I move that the Commission determine that Appeal No. A-5-VEN-07-200 raises **no** substantial issue with respect to conformity of the local approval with the policies of Chapter 3 of the Coastal Act."*

Failure of the motion will result in a de novo hearing on the application and adoption of the following resolution and findings. A majority of the Commissioners present is required to pass the motion.

Resolution to Find Substantial Issue for Appeal A-5-VEN-07-200

The Commission hereby finds that Appeal No. **A-5-VEN-07-200** presents a substantial issue with respect to conformity of the local government approval with the Chapter 3 policies of the Coastal Act.

VI. FINDINGS AND DECLARATIONS FOR SUBSTANTIAL ISSUE

The Commission hereby finds and declares:

A. Project Description

The project site, which fronts Main Street, is about one thousand feet inland of the beach and boardwalk (Exhibit #2). The project site is comprised of one lot (portion of Lot 15) developed (c. 1908) with a two-story single-family residence, part of the Main Street public right-of-way, and a driveway easement which allows the applicants to use as a vehicle parking area (Exhibit #4). The development authorized by the City of Los Angeles West Los Angeles Area Planning Commission's August 16, 2006 approval of Local Coastal Development Permit No. ZA-2005-2021 is the conversion of the two-story single-family residence to a restaurant with 685 square feet of customer area (Exhibit #6). The conditions of the permit require the applicants to provide five on-site parking spaces (on the driveway and parking easement adjacent to the structure) and seven off-site parking spaces located within one-quarter mile (1,320 feet) of the restaurant. The approved restaurant is also required to provide a valet parking service for the off-site parking. The remote parking lot, where the applicants have proposed to lease off-site parking, is a commercial beachfront parking lot located on the boardwalk (601 Ocean Front Walk) about one-quarter mile from the restaurant (Exhibit #2).

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 regulations 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 has 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.

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

C. Substantial Issue Analysis

As stated in Section III of this report, the grounds for an appeal of a coastal development permit issued by the local government prior to certification of its Local Coastal Program (LCP) are the Chapter 3 policies of the Coastal Act. Any such local government coastal development permit may be appealed to the Commission. The Commission shall hear an appeal unless it determines that the local government action raises no substantial issue as to conformity with Chapter 3 policies of the Coastal Act. In this case, staff has recommended that a substantial issue does exist in the local government's approval of the project.

The appeal essentially raises two coastal access issues: 1) how the building (front patio, stairway and deck) that encroaches about eight feet into the sidewalk area of the fronting Main Street public right-of-way adversely affects public pedestrian access along Main Street, and 2) why the City-approved parking plan is not adequate to meet the parking demands of the proposed restaurant and therefore does not protect the public parking supply necessary to support public access to Venice Beach.

Section 30211 of the Coastal Act states:

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

Section 30252 of the Coastal Act 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.

First, 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 Coastal Development Permit No. ZA-2005-2021, because the local coastal development permit does not address the front patio, stairway and deck that encroaches about eight feet into the fronting Main Street public right-of-way. Although the City Department of Public works issued an encroachment permit for 796 Main Street in 1988 (Revocable Permit No. 50291, 1/29/1988), the applicants have not obtained a coastal development permit for the encroachment. Local Coastal Development Permit No. ZA-2005-2021, which authorizes a 685 square foot restaurant, does not authorize

(after-the fact) any right-of-way encroachment (or street vacation), nor does the permit conclude whether the encroachment into the public right-of-way is consistent with the public access policies of the Coastal Act. The appellant asserts that the sidewalk has been widened to twelve feet elsewhere on the block, and that the encroachment at 796 Main Street is restricting the sidewalk width to only five feet. The restricted sidewalk width may adversely affect public access. The encroachment can be permitted only if it is found to be consistent with the public access policies of the Coastal Act; which it has not been. Therefore, a substantial issue exists with regards to the project's impacts to public access along Main Street, a primary access route in the coastal zone.

Secondly, the City's approval of the applicants' proposed off-site parking plan and valet parking service raises a substantial issue with regards to the public access policies of the Coastal Act because the plan's effectiveness and ability to mitigate the parking impacts is not based on any reliable standard. A parking plan for a commercial use is supposed 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 approved development. Therefore, any off-site parking plan must actually work as designed in order to mitigate the identified parking impacts of the development, and the plan itself should not contribute to or create additional adverse impacts to coastal access. The applicants' proposed off-site parking plan and valet parking service does not meet these standards.

The applicants' proposed off-site parking plan and valet parking service is unlikely to mitigate the parking demands of the proposed restaurant because the remote parking is too far from the restaurant (over one thousand feet) and would employ only two valets. The City standard for the maximum distance between a commercial use and remote parking is 750 feet. Approval of an off-site parking plan that places the remote parking area more than 750 feet from the restaurant is impractical and is unlikely to provide any real mitigation to the parking demands of the proposed restaurant because the restaurant's customers are more likely to park on the public street than wait for a valet parking service to park and retrieve their vehicles from the distant beachfront parking lot (601 Ocean Front Walk). People would be more likely to utilize the valet parking service if it is free or validated, but less likely to utilize it if the cost is high (or if the cost of parking is unclear). Therefore, the approval of an off-site parking plan that includes a valet parking service must also include provisions that regulate the cost of the valet parking service. The local coastal development permit does not address this component (cost of parking) of the parking plan. The off-site parking plan will not mitigate the parking impacts of the project if it is not utilized by the customers of the restaurant. Therefore, a substantial issue exists with regards to the off-site parking plan's impacts to the overall parking supply and coastal access because the plan would not adequately mitigate the parking impacts of the proposed restaurant.

The local coastal development permit also does not ensure that the proposed off-site parking supply would be available when the restaurant needs it. In this case, the proposed use of an existing commercial beachfront parking lot (601 Ocean Front Walk) to provide the required off-site parking supply conflicts with the Coastal Act requirement to protect public access to the coast because it will only result in more competition for limited parking resources at the beach, especially on weekends when the demand for beach-adjacent parking peaks. The designated remote beachfront parking lot (601 Ocean Front Walk) is already burdened by prior parking commitments imposed by Coastal Development Permits 5-89-059 and 5-90-789 (Blanchard).

The parking lot is also partially occupied by vendors (and their vehicles) and could be developed with the 16.7 thousand square foot commercial retail building approved by Coastal Development Permit 5-90-789 (Blanchard). In the near future, the proposed restaurant may have no off-site parking supply and could be dependent on on-street parking spaces and public beach parking lots that provide beach access parking. The permit requires the applicants to submit a copy of the off-site parking lease for inclusion in the City's file, but the permit does not state whether the lease of parking must be for one year or five years or any other term. Therefore, a substantial issue exists with regards to the off-site parking plan's impacts to the overall parking supply and coastal access because the plan would not adequately mitigate the parking impacts of the proposed restaurant.

The applicants' proposed off-site parking plan and valet parking service would also contribute to or create additional adverse impacts to coastal access. The valet service itself would adversely affect coastal access by displacing existing self-parking spaces for the drop-off and pick-up area, and would contribute to congestion with the shuttling of vehicles between the restaurant and the remote parking area. The approval of an off-site parking plan that includes a valet parking service must also include a vehicle drop-off/pick-up area near the restaurant, but the local coastal development permit does not address this component of the parking plan. The vehicle drop-off/pick-up area for the valet parking service must be located on the restaurant property, in which case some of the on-site parking would be displaced; or it must be located on Main Street, in which case some on-street public parking or loading spaces would be displaced. Both of these options would result in the loss of parking capacity and increase competition for the remaining parking supplies. The public on-street parking spaces support coastal access. Furthermore, the additional traffic on Venice streets (e.g. Main Street, Brooks Avenue and Speedway Alley) created by the shuttling of vehicles to and from the remote parking area will increase congestion in an already overburdened street system. Therefore, a substantial issue exists with regards to the off-site parking plan's impacts to the overall parking supply and coastal access because the plan would not adequately mitigate the parking impacts of the proposed restaurant and would create additional adverse impacts to coastal access.

The proposed restaurant's potential dependence on on-street parking spaces and public beach parking lots to meet the parking demands of the proposed restaurant would not be consistent with the Coastal Act requirements to protect public access to the lower-cost and free recreational opportunities provided by Venice Beach and the boardwalk (Ocean Front Walk).

Section 30213 of the Coastal Act states:

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

The issue of whether is the proposed restaurant can provide adequate parking for its patrons, for the life of the proposed use, without negatively impacting the public beach access parking supply, is a very 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.

Because of the importance of the public access issue, the Commission has carefully reviewed projects like the proposed restaurant that are located a few blocks from a popular coastal recreation area. 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 subsequent 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 Coastal Development Permit No. ZA-2005-2021.

Applying the five factors listed in the prior section further clarifies that the appeal raises a "substantial" issue with respect to Chapter 3. The first factor is the degree of factual and legal support for the local government's decision that the development is consistent with Chapter 3 of the Coastal Act. The findings for the City Planning Commission's approval of Local Coastal Development Permit No. 2005-2021 are found on Pages 5 through 7 of Exhibit #6 of this report. The City's findings do not provide a sufficient explanation of how the approved project complies with and carries out the relevant policies of the Coastal Act [Coastal Act Sections 30211, 30252 and 30213] for the reasons specified above.

The second factor is the scope of the development approved by the local government. The scope of the City-approved development is the conversion of a single-family residence to a restaurant with 685 square feet of customer service area. While the scope of the approved development is relatively small, the local approval would set a significant precedent that could have wide-ranging effects on public parking supplies if and when other landowners petition the City to allow the conversion of other less intensive land uses to restaurants.

The third factor is the significance of the coastal resources affected by the decision. North Venice area is a popular destination for persons seeking coastal recreation. The on-street parking, public beach parking lots, and commercial beachfront parking lots all support the ability of the public to visit Venice Beach, the boardwalk (Ocean Front Walk) and Venice Pier. Therefore, the availability of public parking supplies must be protected. Thus, the coastal resources affected by this project are significant.

The fourth factor is the precedential value of the local government's decision for future interpretations of its LCP. This is designed to avoid leaving decisions in place that could create a precedent for how the relevant provision of the LCP is to be interpreted, assuming the local government has a certified LCP. In this case, the City does not have a certified LCP, but it does have a certified land Use Plan (LUP) for the Venice area. This appeal raises a substantial issue in regards to the City's interpretation of the policies of the certified Venice LUP in regards to the conversion of other less intensive land uses to restaurants. The approval of off-site parking located over 750 feet from the restaurant sets a precedent that merits closer scrutiny by the Commission.

The final factor is whether the appeals raise local issues, or those of regional or statewide significance. The appeal raises a primarily localized issue related to the development of Venice. However, the protection of coastal access in an area that is a tourist destination for people all over the state (and beyond) rises to statewide significance.

VII. STAFF RECOMMENDATION FOR THE DE NOVO PERMIT

The staff recommends that the Commission adopt the following resolutions to **APPROVE** the coastal development permit with special conditions:

MOTION: *"I move that the Commission approve with special conditions Coastal Development Permit A5-VEN-07-200 per the staff recommendation."*

The staff recommends a **YES** vote. Passage of the motion will result in **APPROVAL** of the coastal development permit application with special conditions, and adoption of the following resolution and findings, as set forth in this staff report or as modified by staff prior to the Commission's vote. The motion passes only by an affirmative vote of a majority of Commissioners present.

Resolution: Approval with Conditions of Permit A5-VEN-07-200

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 of the Coastal Act. 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 FOR THE DE NOVO PERMIT

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 this permit is reported to the Commission. 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 or 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 FOR THE DE NOVO PERMIT

1. Parking Program

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit a revised parking program and revised floor plans for the restaurant, subject to the review and approval of the Executive Director, which comply with the following requirements:

- A. The revised parking program shall maximize the number of on-site parking spaces. Tandem parking arrangements and assisted on-site parking attendants may be utilized. The rear yard of the property may be used for parking. A valet parking service with remote parking is not permitted.
- B. Additional parking space credits may be purchased by paying an in lieu fee to the Venice Coastal Parking Impact Trust Fund (about \$18,000 per space). The applicants shall submit evidence, for the review and approval of the Executive Director, documenting the payment of the appropriate fees to the City's Venice Coastal Parking Impact Trust Fund.
- C. The revised restaurant floor plans shall balance the amount of customer service area (all indoor and outdoor dining areas and waiting areas) with the number of parking space credits obtained through the provision of actual on-site spaces plus the payment of the in lieu fee for additional parking space credits (at the rate fifty square feet of customer service area per parking space).
- D. The applicants may also lease (five-year minimum) off-site parking situated entirely within 750 feet of the proposed restaurant (without valet service) to meet the parking requirements of this permit (one parking space per fifty square feet of customer service area), subject to the approval of the Executive Director. If the Executive Director determines that a permit amendment is necessary, no changes shall be made until a permit amendment is approved by the Commission and issued by the Executive Director.

All development must occur in strict compliance with the special conditions and the final plans approved by the Executive Director. Any deviation from the approved plans, any proposed change in use, change in commercial floor area, change in number of parking stalls, use of the parking to satisfy the parking requirements of new development or future commercial intensification, or any other deviation from the approved development, shall be submitted for review by the Executive Director to determine whether an amendment to this coastal development permit is necessary pursuant to the requirements of the Coastal Act and the California Code of Regulations. If the Executive

Director determines that an amendment is necessary, no changes shall be made until a permit amendment is approved by the Commission and issued by the Executive Director.

2. Main Street Sidewalk Encroachments

- A. Within ninety (90) days of issuance of the coastal development permit, or within such additional time as the Executive Director may grant for good cause, the applicants shall remove the portion of the structure (i.e., front patio, stairway and deck) that encroaches into the fronting Main Street public right-of-way and widen the sidewalk to twelve feet. Failure to comply with this requirement may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.
- B. Provided that adequate parking is provided consistent with the requirements of Special Condition One above, and the applicants have obtained all necessary local approvals, the applicants are permitted to place (a day-to-day basis) tables, chairs and a removable barrier on a six-foot wide (6') portion of the twelve-foot wide public sidewalk for outdoor dining. The remainder of the sidewalk shall be kept clear of obstructions to public pedestrian use of the sidewalk.

3. Protection of Marine Resources

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit plans, subject to the review and approval of the Executive Director, for the implementation of appropriate source control, treatment, and both structural and non-structural Best Management Practices (BMPs) to mitigate the pollutant load of stormwaters and nuisance flows from the development site. The BMPs shall include, but are not limited to the following:

- A. The applicants shall, on a weekly basis, sweep the on-site parking and loading area, outdoor dining areas and other impervious surfaces to remove sediment, debris and vehicular residues. Washing-down of impervious surfaces is prohibited, unless these nuisance flows are diverted through an approved filter and do not contribute any additional pollutants to the runoff.
- B. The applicants shall use trash and recycling containers that, if they are to be located outside or apart from the principal structure, are fully enclosed and water-tight in order to prevent stormwater contact with waste matter which can be a potential source of bacteria, grease and other pollutants in runoff.
- C. Wash down areas for restaurant equipment and accessories shall be designed as follows: i) The area should be self-contained, equipped with a grease trap or grease interceptor, or other BMP that prevents grease from reaching the sewer system, and properly connected to a sanitary sewer; ii) if the wash area is to be located outdoors, it should be covered, paved, have primary containment, and be connected to the sanitary sewer; and, iii) the grease trap/interceptor shall be regularly maintained according to manufacturer's specifications to ensure maximum removal efficiencies.

The permittees shall implement, maintain and carry out the plans for BMPs as approved by the Executive Director.

4. Signs

Rooftop signs and signs that exceed the height of the structure are prohibited. No sign shall rotate, flash, or be internally illuminated. No freestanding signs are permitted.

5. Local Government Approval

This action has no effect on conditions imposed by a local government pursuant to an authority other than the Coastal Act, including the conditions of the City of Los Angeles Case No. ZA-2005-2021 (Alcohol Sales, Venice Specific Plan Project Permit, etc.). In the event of conflict between the terms and conditions imposed by the local government and those of this coastal development permit, the terms and conditions of Coastal Development Permit A5-VEN-07-200 shall prevail.

6. Permit Compliance

All development must occur in strict compliance with the proposal as set forth in the application, subject to any special conditions. 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 is required.

7. Deed Restriction

PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded against the parcel governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this coastal development 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 governed by this coastal development 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 coastal development permit shall continue to restrict the use and enjoyment of the subject property so long as either this coastal development permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

8. Condition Compliance

Within ninety (90) days of Commission action on this coastal development permit application, or within such additional time as the Executive Director may grant for good cause, the applicants shall satisfy all requirements specified in the conditions hereto that

the applicants are required to satisfy prior to issuance of this permit. Failure to comply with this requirement may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.

X. FINDINGS AND DECLARATIONS FOR THE DE NOVO PERMIT

The Commission hereby finds and declares:

A. Project Description

The proposed project is the conversion of the two-story single-family residence to a restaurant. The project site, situated about one thousand feet inland of the beach and boardwalk, is comprised of one lot (portion of Lot 15) developed (c. 1908) with a two-story single-family residence, part of the Main Street public right-of-way, and a driveway easement which allows the applicants to use as a vehicle parking area (Exhibit #4). Five on-site parking spaces are provided on the applicants' driveway easement and a portion of the Main Street public right-of-way. The applicants also propose to lease seven off-site parking spaces at a commercial beachfront parking lot located on the boardwalk (601 Ocean Front Walk) about one-quarter mile from the restaurant (Exhibit #2). The applicants also propose to provide a valet parking service for the off-site parking. The applicants were unable to locate any off-site parking facilities that they could lease for use by the proposed restaurant within 750 feet of the site.

The C2-1 zoned lot, where the proposed restaurant is located, is situated on the east (inland) side of Main Street, about three blocks inland from the Venice Boardwalk and beach (Exhibit #2). This segment of Main Street is dominated by residential and industrial uses (e.g. the Metropolitan Transportation Authority bus yard), but much of the industrial land is being redeveloped with high-density residential uses [Commission Appeal Case A-5-VEN-06-156 (RAD Venice, 700 Main Street)]. The City is currently considering two hotel proposals on sites near the intersection of Main Street and Abbot Kinney Boulevard. Both sides of Main Street, where the proposed restaurant is located, are lined with public parking spaces.

B. Land Use

The proposed restaurant is an appropriate land use for the project site (if the parking demands are adequately mitigated) as the certified City of Los Angeles Land Use Plan for Venice (Venice LUP) designates the site with the "Community Commercial" land use category, the lot is zoned by the City as C2-1 (Commercial), and the Coastal Act requires that visitor-serving commercial uses be given priority over residential and other non-priority land uses. Section 30222 of the Coastal Act states:

The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.

In addition, Coastal Act Section 30252(2) states that new development should provide commercial facilities within or adjoining residential development as a way to reduce vehicular traffic. Coastal Act Section 30252(2) states:

The location and amount of new development should maintain and enhance public access to the coast by (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads.

The proposed restaurant project would provide coastal visitors and nearby residents with sit-down dining service. The certified Venice LUP specifically calls for visitor-serving commercial uses, such as restaurants, to be located in the Community Commercial land use designation. Therefore, the proposed land use complies with Section 30222 of the Coastal Act and the land use designation set forth by the certified Venice LUP because it would provide a visitor-serving commercial use on the site.

C. Public Access/Parking

New development must provide an adequate parking supply in order to protect the existing public parking facilities that support public access to the many recreational opportunities available in Venice. The proposed restaurant is required to provide adequate on-site parking as required by the certified Venice LUP and Section 30252 of the Coastal Act.

Certified LUP Policy II.A.1 states:

- **Policy II. A. 1. General.** *It is the policy of the City to provide increased parking opportunities for both visitors and residents of Venice, and improve summer weekend conditions with respect to Venice Beach parking and traffic control.*

Section 30252 of the Coastal Act 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.

The Commission has consistently found that a direct relationship exists between the provision of adequate parking and availability of public access to the coast. Section 30252 of the Coastal Act requires that public access be protected by ensuring that adequate parking be provided to meet the increased parking demand generated by new development. Further intensification of uses in the project area will increase the demand for parking. The demand for parking already surpasses the supply during peak use periods. The peak use periods in

the Venice area are primarily summer days when beach attendance increases. Parking demand is lowest when beach attendance is low, although the restaurants in the area do generate a significant demand for parking during the dinner hours.

Therefore, in order to conform to the requirements of the Coastal Act, the proposed project is required to provide adequate parking facilities. The amount of parking that is “adequate” is determined by calculating the parking demand of a specific project using a parking standard. The parking standard is typically part of a certified local coastal program or zoning ordinance.

The Commission, on June 14, 2001, certified the Venice Land Use Plan (LUP), which contains specific policies to carry out the requirements of the Coastal Act. The certified Venice LUP requires that new development, including conversions of uses, shall provide the necessary additional parking spaces as required by the LUP Parking Requirement Table.

Policy II.A.3 of the certified LUP states:

Policy II. A. 3. Parking Requirements. *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.*

The certified LUP parking table, contained within LUP Policy II.A.3, sets forth the parking requirements for restaurants as follows:²

Restaurant: 1 space for each 50 square feet of service area (including outdoor).

The proposed project must provide parking or pay an in lieu fee to the Venice Coastal Parking Impact Trust Fund (about \$18,000 per space) at the rate of one space for each fifty square feet of customer service area. The permit is conditioned to require the applicants to submit, for the review and approval of the Executive Director, revised floor plans for the proposed restaurant that balance the amount of customer service area with the number of parking space credits obtained through the provision of actual on-site spaces or through the payment of the in lieu fee for additional parking space credits (at the rate 50 square feet of service area per parking space). The applicants are permitted to maximize the number of parking spaces on their project site through the use of tandem parking arrangements and assisted on-site parking. The applicants are also permitted to pay an in lieu fee to the City of Los Angeles Venice Parking Trust Fund for additional parking space credits. The City of Los Angeles Venice Parking Trust Fund was established by the City to be used by the City to improve coastal access and public parking opportunities.

² The parking standards in the certified Venice LUP are identical to the parking standard contained in the Commission's Regional Interpretive Guidelines for Los Angeles County, adopted 1980.

The use of the proposed remote parking lot at 601 Ocean Front Walk is not permitted as that lot is too far from the restaurant away and must be reserved to provide parking for public beach parking, nighttime parking for nearby residents, and parking for the previously permitted commercial uses on the boardwalk [See Coastal Development Permits 5-89-059 & 5-90-789 (Blanchard, 511-601 Ocean Front Walk)]. The use of the proposed remote parking lot at 601 Ocean Front Walk is also not permitted because the shuttling of vehicles between the proposed restaurant and the remote parking lot at the beach would adversely affect coastal access by adding to congestion on Venice streets (e.g. Main Street, Brooks Avenue and Speedway Alley). Any other proposed valet parking program that involves a remote parking lot must be submitted for Commission review as a permit amendment.

However, in the future, should the applicants locate off-site parking within 750 feet of the proposed restaurant (which they would lease for a term of five years), they can submit the revised off-site parking plan (without valet service) for the review and approval of the Executive Director. Any proposed for a valet parking program shall be submitted as a permit amendment, and shall be consistent with the following policy of the certified Venice LUP:

Policy II. A. 10. Valet Parking. *Valet parking programs may be permitted and implemented in order to increase the amount of available public parking in parking impacted areas. In order to ensure that any valet parking program that is permitted to operate in the Venice Coastal Zone does not negatively impact coastal access opportunities, all approved valet parking programs shall comply with the following policies:*

a. The use of public parking areas for valet vehicle Drop-off/Pick-up stations shall be limited to the minimum area necessary and occupy the fewest number of public parking spaces.

b. Vehicle Storage/Parking. The storage of vehicles by valets is prohibited in public parking lots, on public rights-of-way and in on-street parking spaces (except for loading and unloading) unless it is determined that use of the public parking area will not conflict with the need for public parking by beach goers.

c. A valet parking program that utilizes public property in the coastal zone shall be available for use by the general public with no preference granted to any group or type of use (i.e., restaurant customers vs. beach goers).

Only as conditioned to mitigate the parking demands of the proposed restaurant at the rate of one space (or in lieu fee) per fifty square feet of customer service area can the proposed restaurant be found to be consistent with the public access policies of the Coastal Act.

D. Public Access on the Main Street Sidewalk

The public access and recreation policies of the Coastal Act require that maximum access and recreational opportunities be provided and that development shall not interfere with public access. The proposed development must be designed to avoid any adverse impacts on public access to the coast or to nearby recreational facilities.

Section 30210 of the Coastal Act states:

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.

Section 30211 of the Coastal Act states:

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

The Main Street sidewalk is part of the public sidewalk system that provides direct pedestrian access from inland areas to Venice Beach. The front patio, stairway and deck of the proposed restaurant encroach about eight feet into the fronting Main Street public right-of-way. Although the City Department of Public works issued an encroachment permit for 796 Main Street in 1988 (Revocable Permit No. 50291, 1/29/1988), the applicants have not obtained a coastal development permit for the encroachment.

The City has required the provision of a twelve-foot wide sidewalk elsewhere on the block. The encroachment at 796 Main Street is restricting the sidewalk width to only five feet, and this narrow part of the adversely affects public access along the sidewalk by creating a restricted passage very close to the private property (i.e., the building at 796 Main Street). Therefore, the encroachment conflicts with the public access policies of the Coastal Act because it looms over passing pedestrians and is interfering with the public's use of the sidewalk as a pedestrian accessway.

A condition of the permit requires the applicants to remove the portion of the structure (i.e., front patio, stairway and deck) that encroaches into the fronting Main Street public right-of-way and to widen the sidewalk to twelve feet. If adequate parking is provided, the applicants are permitted to place (on a day-to-day basis) tables and chairs on the widened sidewalk for outdoor dining. Only as conditioned is the proposed project is consistent with the public access policies of the Coastal Act.

E. Community Character

As required by the Coastal Act and the certified Venice LUP, the visual qualities of this coastal area shall be protected from negative impacts such as excessive building heights and bulks, and unnecessary visual clutter.

Section 30251 of the Coastal Act states:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the

alteration of natural land forms, to be visually compatible with the character of surrounding areas....

Policies I.D.4 and V.A.5 of the certified Venice LUP state:

- **Policy I. D. 4. Signs.** *Roof top signs and billboards are prohibited in all land use categories. Business identification signs shall comply with the height limits and development standards specified in the LUP to ensure they do not adversely affect view sheds and view corridors.*
- **Policy V. A. 5. Streetscapes.** *Streetscape improvements throughout the Venice Coastal Zone shall be maintained and enhanced to enhance pedestrian activity and contribute to a high quality of life and visual image for residents and visitors.*

The portion of the structure (i.e., front patio, stairway and deck) that encroaches into the fronting Main Street public right-of-way contributes to unnecessary visual clutter and is required to be removed from the right-of-way in order to improve the quality of the sidewalk experience.

The local community and the Commission are also concerned about the design and appearance of the commercial structures. Exterior signs and other advertising on structures can negatively impact the visual quality of the area. Therefore, in order to protect against excessive visual impacts caused by signs, the approval of the project is conditioned to limit the type of exterior signs that are permitted to be attached to the proposed structure. Rooftop signs and signs that exceed the height of the structure are prohibited. No sign shall rotate, flash, or be internally illuminated. No freestanding signs are permitted.

Therefore, only as conditioned, does the proposed project adequately protect the scenic and visual qualities of the Venice area. Only as conditioned is the proposed project consistent with Section 30251 of the Coastal Act.

Therefore, the Commission finds that the proposed project, as conditioned, is consistent with Section 30251 of the Coastal Act because, as conditioned, the proposed project would have no adverse effect on public views and is visually compatible with the character of the surrounding neighborhood. In order to ensure that the proposed development is undertaken consistent with the plans and conditions approved by the Commission, special conditions are imposed that require strict compliance with the proposal as set forth in the application, and as modified by the conditions of approval. 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 is required.

F. Control of Polluted Runoff

Section 30230 of the Coastal Act states:

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a

manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30231 of the Coastal Act states:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

The proposed restaurant poses a potential source of pollution due to contaminated runoff from the restaurant and its parking and trash areas. Runoff from the site enters the City's stormdrain system and is ultimately discharged into the marine environment. Untreated wastewater from the site must be prevented from negatively affecting the marine resources in the adjacent waters of the Pacific Ocean.

To mitigate potential impacts to marine resources caused by polluted runoff leaving the site, a special condition requires the applicants to incorporate best management practices (BMPs) into the project and site management procedures to reduce or prevent contaminants from running off the site.

As conditioned, the proposed project will minimize water quality impacts and is consistent with past Commission action with regards to water quality requirements. A similar condition was imposed by the Commission when it approved small restaurant intensifications at: 1401 Ocean Front Walk [Coastal Development Permit Amendment 5-93-389-A1 (10/8/01)], 205 Ocean Front Walk [Coastal Development Permit 5-01-177 (10/8/01)], 18 Washington Boulevard [Coastal Development Permit 5-03-378 (1/15/4)] and Coastal Development Permit Amendment 5-84-638 (2/18/04)]. The Commission, therefore, finds that, as conditioned, the development will be consistent with Sections 30230 and 30231 of the Coastal Act.

G. Unpermitted Development

Prior to applying for this coastal development permit, some of the development on the site occurred without the required coastal development permit. The unpermitted development includes: building encroachments onto the Main Street public right-of-way and a partial street vacation. The street vacation matter is not before the Commission at this time, as the City of Los Angeles would need to be the applicant in order to vacate a public right-of-way in the coastal zone.

A condition of the permit requires the applicants to remove (within 90 days of permit issuance) the portion of the structure (i.e., front patio, stairway and deck) that encroaches into the fronting Main Street public right-of-way and widen the sidewalk to twelve feet. To ensure that the matter of unpermitted development is resolved in a timely manner, a special condition

requires that the applicants satisfy all conditions of this permit amendment which are prerequisite to the issuance of this permit amendment within ninety days of Commission action, or within such additional time as the Executive Director may grant for good cause.

Although development has taken place prior to Commission action on this permit application, consideration of the application by the Commission is based solely upon Chapter 3 policies of the Coastal Act. Commission action on this permit application does not constitute a waiver of any legal action with regard to the alleged violation nor does it constitute an admission as to the legality of any development undertaken on the subject site without a coastal development permit or permit amendment.

H. Deed Restriction

To ensure that any prospective future owners of the property are made aware of the applicability of the conditions of this coastal development permit, the Commission imposes one additional condition requiring that the property owners to record a deed restriction against the property, referencing all of the above special conditions of this permit and imposing them as covenants, conditions and restrictions on the use and enjoyment of the property. Thus, as conditioned, this permit ensures that any prospective future owner will receive actual notice of the restrictions and/or obligations imposed on the use and enjoyment of the land in connection with the authorized development.

I. Local Coastal Program

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.

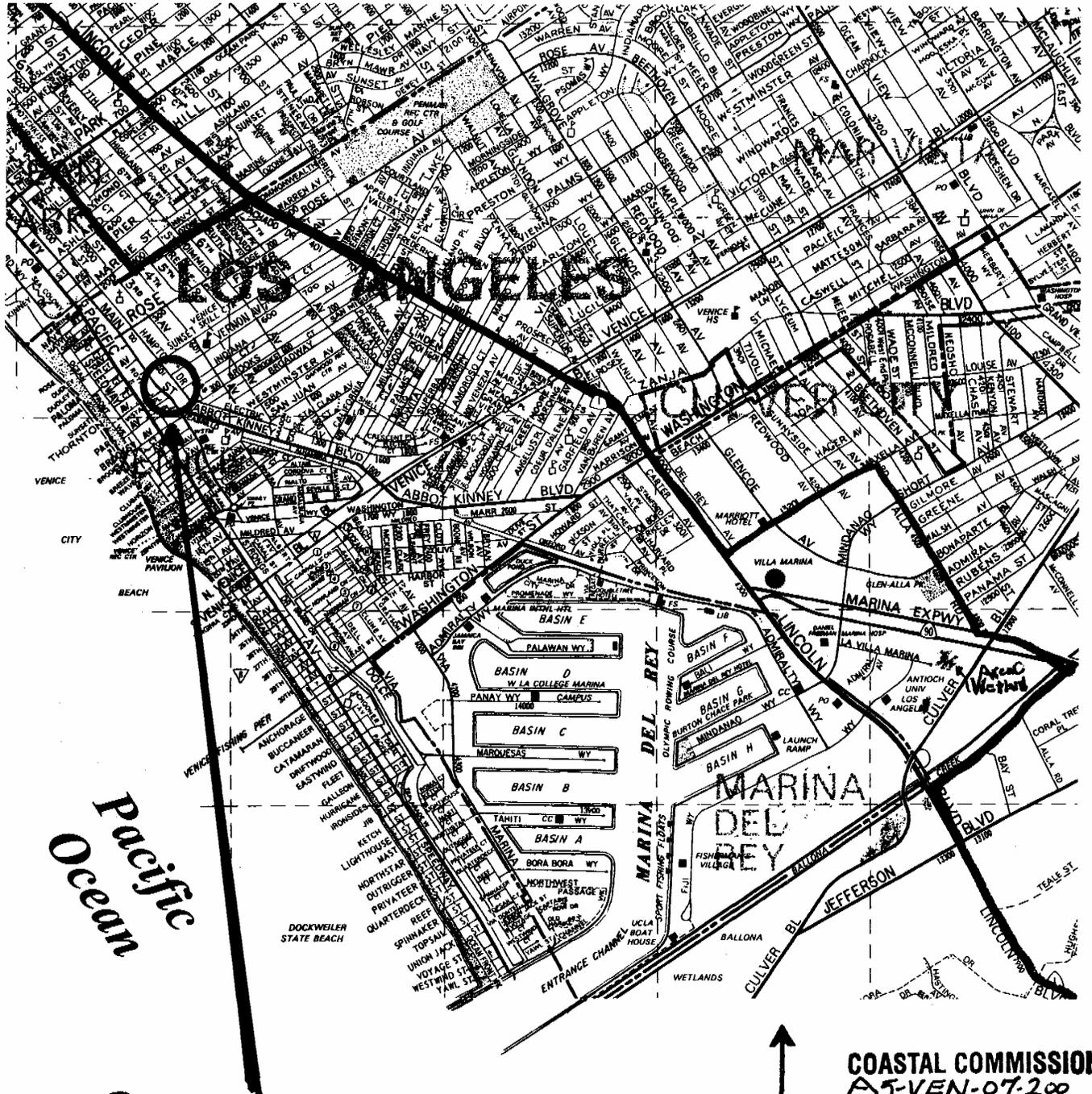
The City of Los Angeles does not have a certified Local Coastal Program for the Venice area. The City of Los Angeles Land Use Plan (LUP) for Venice was effectively certified on June 14, 2001. The proposed project, as conditioned, conforms to the proposed Venice LUP. The proposed project, as conditioned, is also consistent with the Chapter 3 policies of the Coastal Act. Therefore, the Commission finds that approval of the proposed development, as conditioned, will not prejudice the City's ability to prepare a Local Coastal Program consistent with the policies of Chapter 3 of the Coastal Act, as required by Section 30604(a).

J. California Environmental Quality Act (CEQA)

Section 13096 Title 14 of the California Code of Regulations requires Commission approval of a 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 proposed project, as conditioned, has been found consistent with the Chapter 3 policies of the Coastal Act. All adverse impacts have been minimized by the recommended conditions of approval and there are no feasible alternatives or additional feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed development and permit amendment can be found consistent with the requirements of the Coastal Act to conform to CEQA.

VENICE, CA



Pacific Ocean

Site: 796 Main Street

COASTAL COMMISSION
A5-VEN-07-200

EXHIBIT # 1

PAGE 1 OF 1

Maximum Building Height

- E** 22'-30'
- F** 30' with a flat roof
35' with varied or stepped back roofline
28' along walk streets

Notes:

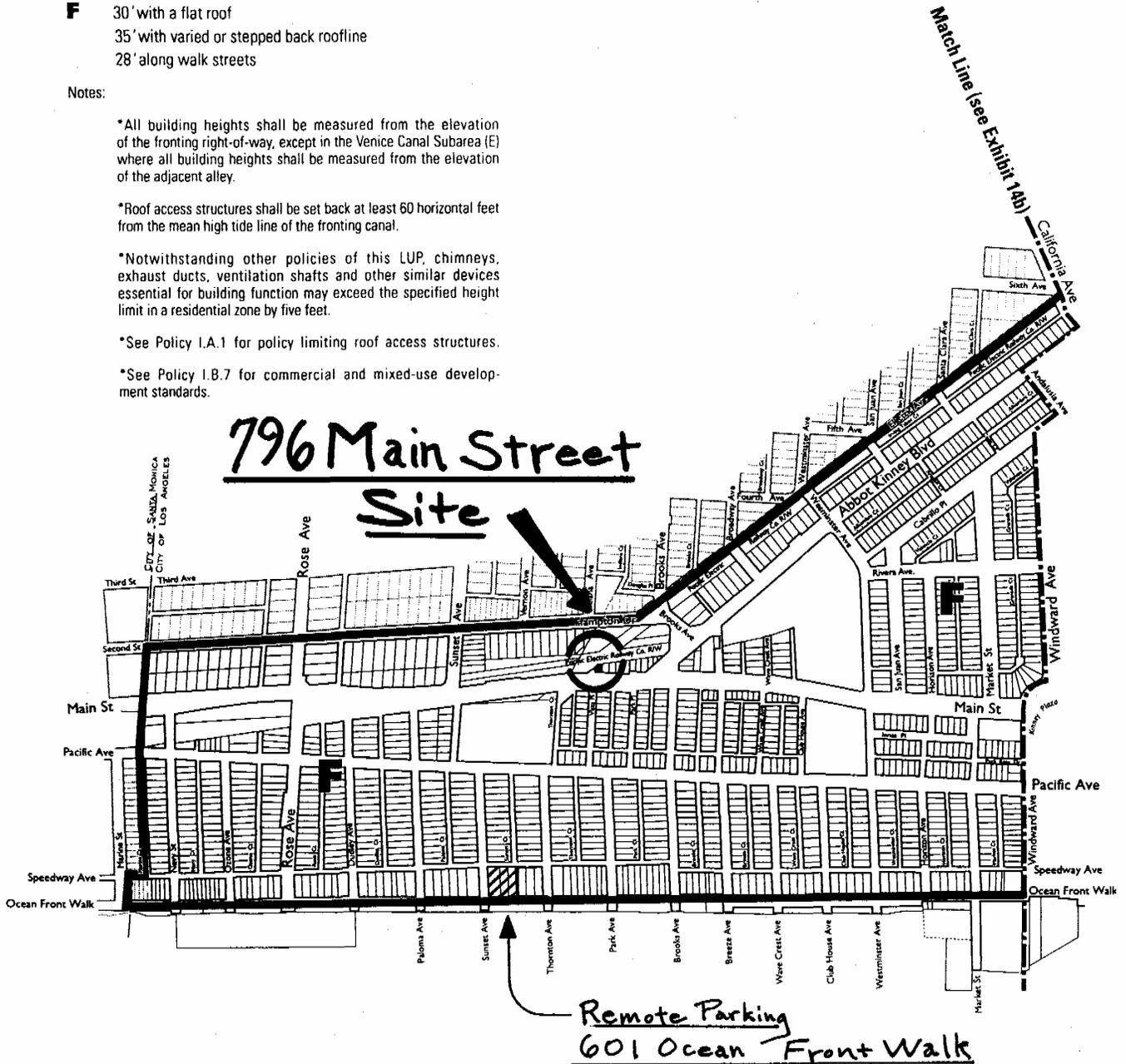
*All building heights shall be measured from the elevation of the fronting right-of-way, except in the Venice Canal Subarea (E) where all building heights shall be measured from the elevation of the adjacent alley.

*Roof access structures shall be set back at least 60 horizontal feet from the mean high tide line of the fronting canal.

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

*See Policy I.A.1 for policy limiting roof access structures.

*See Policy I.B.7 for commercial and mixed-use development standards.



LUP
Exhibit 14a
Height
Subarea: North Venice • Venice Canals

COASTAL COMMISSION
A5-VEN-07-200

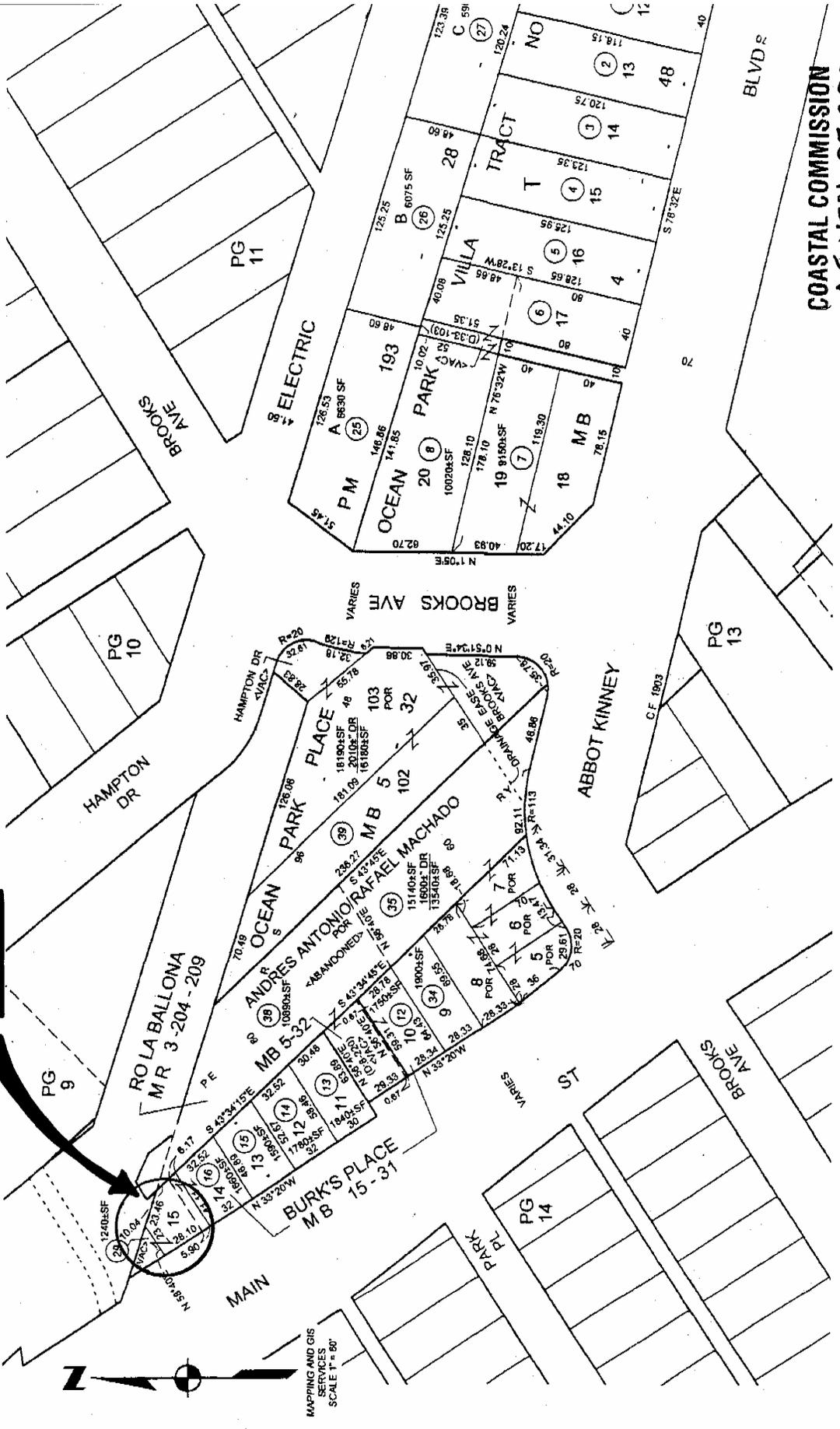
EXHIBIT # 2
 PAGE 1 OF 1



Not to Scale

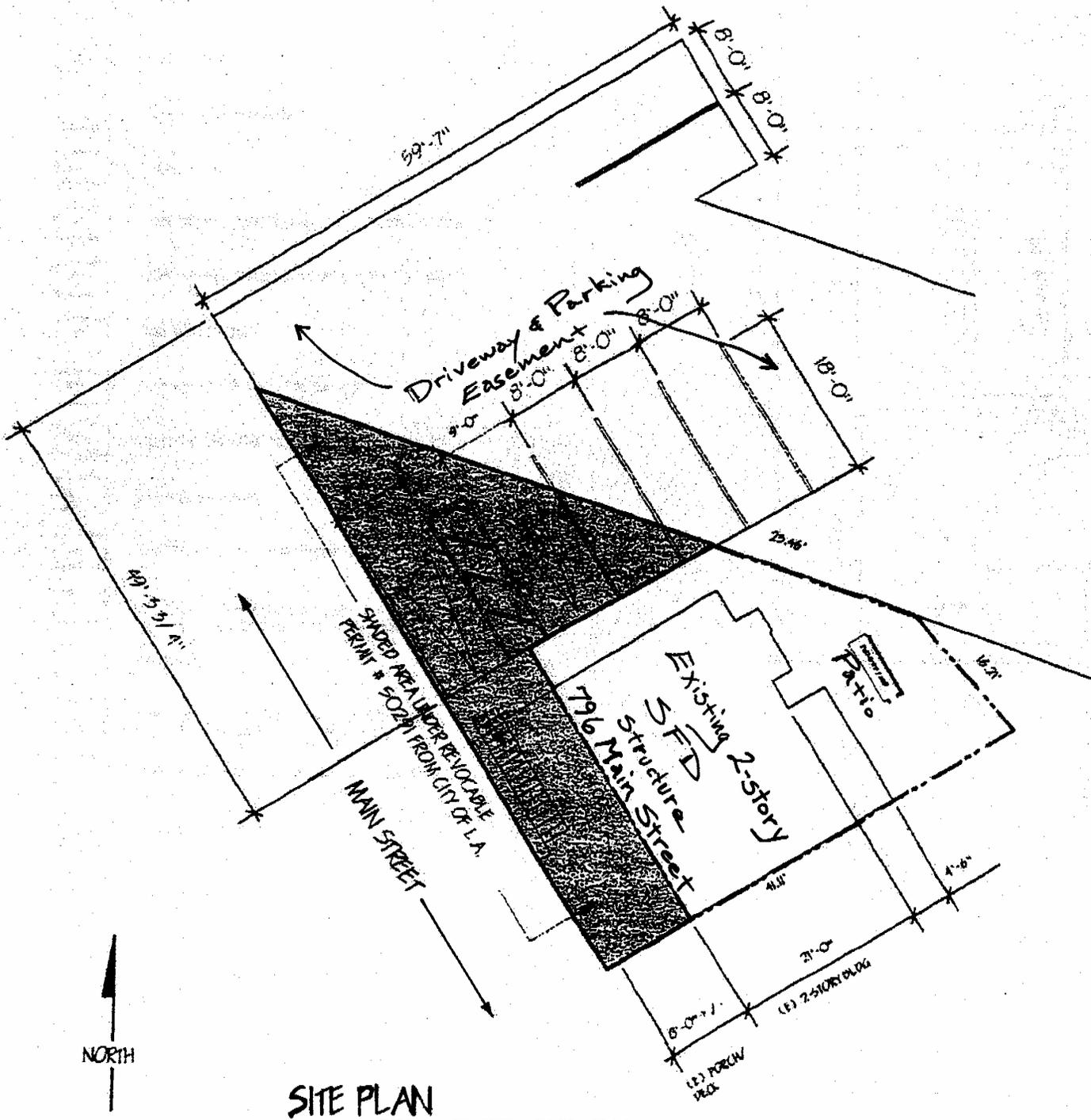
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2007 Site: 796 Main Street



**COASTAL COMMISSION
A5-VEN-07-200**

EXHIBIT # 3
PAGE 1 OF 1



SITE PLAN

COASTAL COMMISSION
A5-VEN-07-200

EXHIBIT # 4
 PAGE 1 OF 1

RECEIVED
South Coast Region

ARNOLD SCHWARZENEGGER, Governor

STATE OF CALIFORNIA -- THE RESOURCES AGENCY

CALIFORNIA COASTAL COMMISSION

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

JUN 13 2007



**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: James Murez

Mailing Address: 804 Main Street

City: Venice

Zip Code: 90291-3218

Phone: 310-399-1490

SECTION II. Decision Being Appealed

1. Name of local/port government:

City of Los Angeles

2. Brief description of development being appealed:

The Cities approval of a Change-of-Use from residential to restarurant. The City is not conforming to the Venice Specific Plan for required parking. A portion of the project, the front patio was constructed on public land reducing pederstrian access because of a nerrow sidewalk. This action will validate the commissions exception of this use of public property. The proposed remote parking lot and valet service will hinder beach access.

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

796 Main Street, Venice 90291

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-5-VEN-07-200

DATE FILED: 6.13.07

DISTRICT: Long Beach / South Coast District

COASTAL COMMISSION
A5-VEN-07-200

EXHIBIT # 5

PAGE 1 OF 7

Section IV. Reasons for Supporting the Appeal

This property has been in violation by not having a Coastal Development Permit (CDP) for nearly 15 years. Back then, the City of Los Angeles granted a Change-of-Use (CoU) permit exempting it from a CDP and allowed the conversion from a Single Family Dwelling (SFD) to a Commercial Restaurant without any public plan review process. Basically, it was an over-the-counter deal and since then, many more changes to the property have occurred without following Coastal Commission procedures. The Council File No. 06-2476 for this permit references two important City Zoning Administrator Cases (2005-2021 and 2004-0099), which for the most part attempt to legitimize the present configuration of the property. Attached are copies of these cases in Exhibit I and II respectively.

In the City's Conditions of Approval Case No. 2005-2021, item #2, the ZA states that the property shall be in substantial conformance with the plot plan that was submitted as their "Exhibit A" (see Exhibit III, P1). This condition is very misleading because the plot plan that was submitted is very inaccurate and does not take into account land that is on loan from the City through a revocable permit process (called out on Exhibit III, P3 drawing as "DECK") (also see Exhibit VII, "notice to Abate Nuisance or Correct Violation" citation), additional land that was obtained through a Public Street Vacation (VAC No. 92-1400152) nor land that the owner won after suing his neighbor in an Adverse Possession legal battle. Because the Plot Plan is inaccurate and does not show dimensions of all these areas, it is impossible to determine how the entire site will be utilized in the future or, for that matter, what property belongs to the 796 Main Street owner vs. that which is owned by the City or that which is owned by a neighbor and is controlled through an egress easement as a result of a private lawsuit.

With respect to the use, the ZA in Case 2005-2021, item #14 references a prior ZA Case No. 2004-0099 (CUB) in which the seating area of the restaurant is defined. However, again in this earlier case, the documentation was inaccurate and misleading. None of the above-described areas where the property has grown were documented with a real survey. The mapmaker was a graphic design firm hired as part of the Liquor License permit process in 2003. The food service area in the map in this case (2004-0099 see Exhibit IV) does not match the map in the following ZA Case (2005-2021 see Exhibit V). However, all the seating count was based on the earlier map, but the parking requirements were calculated on the newer map. Notice on the newer map a reduction of service area by showing "Planters" (that don't exist), an additional "Storage" room that is an un-permitted temporary structure and an outdoor "Sink" which is inaccessible because the planter and storage room are blocking the walkway passage.

In Case 2004-0099 (Exhibit IV, P3) and again in the original Case 2005-2021 drawings (Exhibit III, P3), the interior downstairs is called out as a "Waiting Area". The documents in these cases show a proposed 52 chair seating area. However, after the public hearing, when it was pointed out that the property was in violation with State Handicap Access code, the applicant redefined the seating areas as shown in Exhibit V, P2. Notice in this document that the downstairs interior now calls out 50 sq ft of additional dining area. In this case, I would assume that the calculations in the parking requirements would need adjusting but, instead, the applicant reduced the other seating areas. But what is to prevent the now unidentified areas that were and always have been used for seating from reverting back to dining areas once their permit is granted? NOTHING! This is a farce!

Yet another discrepancy in the documentation exists between the seating plan in Case 2004-0099 (Exhibit IV) and the WLA APC seating plan (Exhibit III, P1 & P4). On the earlier case 54 seats are shown but on the later case the number is revised to only show 52. However in both cases 54 seats are written into the approval. Also, compare the rear year square footages areas for the seating areas in Exhibit III, P1 and Exhibit V, P1. In the later exhibit the same area specified in both drawings grows by 52 S.F.

In the Conditions of Approval Case No. 2005-2021, item #6, the ZA is granting 10 seats for dining on the upper patio. The ZA did not consider that this patio is on revocable land owned by the City. Furthermore, this patio was built on the City land without permits from the Department of Public Works who legally controls the land. Once Public Works became aware of the structure, the property owner was cited to remove it (see Exhibit VII). However, the owner was able to convince Public Works to stay their decision pending the outcome of this permit process. In effect, since City Council has approved the patio for food and alcohol service, Public Works will vacate the property and the ownership of the underlying rights will revert back to the property owner.

So why does the patio's encroachment into the public right-of-way have a significant impact on the community? That's simple -- it prevents the City from widening the sidewalk up to the current coastal area access standards. The effect of this limitation is a narrower sidewalk, which restricts pedestrian access on this major corridor just two blocks from the beach. This section of Main Street acts as the circulation path between the business district of Venice on Main Street and Abbot Kinney and to the north with Santa Monica's Main Street boutiques.

Besides the Street Vacation implications of the right to include the patio on the public right-of-way, it is limiting the City from improving the sidewalk to conform to the width of the sidewalk on the rest of the block. At the south end of the same block of Main Street, a 2004 street improvement project installed over 1000 linear feet of 12-foot wide sidewalks. And again to the north of this site, the City has required the project now under development to install 12 foot sidewalks plus provide a five foot landscaped setback. The sidewalk width in front of the proposed project site is 5 feet excluding the area where the public pay phone sits. A three-foot parkway also exists but it houses a lollipop manicured Ficus tree, a bike rack and newsstands which all restrict walking access. All other recent projects on this block of Main Street have conformed to the more pedestrian friendly sidewalk width -- why should this property be any different.

Because the ZA's action was adopted by the City Council, the Department of Public Works will be forced to allow the violation and will grant the owner new rights that allow the structure to remain. This patio is inconsistent planning and violates the Coastal Act by limiting pedestrian access to coastal visitors.

The downstairs area of the patio was left undefined in the ZA Case 2004-0099 and no reference was made to it in the 2005-2021 case. In the past, the operators have used this patio for food service.

Condition No. 8 in Case 2005-2021 allows the applicant to define a valet and parking plan. The plan that was presented in the original case called out a remote parking lot belonging to another business on Abbot Kinney Blvd. just over a mile away from this site. That plan was then withdrawn at the West Los Angeles Area Planning Commission and a revised plan described how a lot at Sunset Ave and Ocean Front Walk would be utilized (see Exhibit VIII). As it turns out, by the way a crow would fly, the Sunset lot is about 1500 feet away. But since cars don't normally fly like a crow, the route and round trip time to valet park at the proposed lot must be considered.

The route to the Sunset lot includes crossing Main Street and Pacific Ave, both of which are divided two-lane secondary highways as defined by the City Department of Transportation. These streets in combination serve almost exclusively as the connectors between the Marina Del Rey, Santa Monica and Venice communities. Needless to say, they are both extremely impacted by heavy traffic. However, crossing these two roads at intersections without traffic control devices is the only way to get to the remote site parking lot.

Once across these streets, a valet will need to navigate down narrow residential alleys before coming to the one-way (south only) street known as Speedway. Speedway, which limits traffic to just 15 miles per hour is actually an alley by transportation designations. The remote lot is on the

corner of Sunset and Speedway. The return trip requires the valet to again travel down Speedway to Brooks Ave. Both Brooks at Pacific and Brooks at Main Street are controlled intersections with traffic lights. Once back on Main, 796 is just a few hundred feet away from Brooks.

So, based on the distance and accessibility to the remote lot, it seems infeasible for a one or two person valet service to handle lunch or dinner crowd. If the restaurant was a lot larger and could economically afford to employ many more valets, it might be feasible to access the lot through the assistance of a shuttle bus, but that is not the case here. I seriously doubt the seven remote spaces will ever be used by this applicant or customers or the restaurant.

One other important note about the proposed remote lot is that it is currently used by beach visitors, neighbors in the area where the lot is located for residential parking, and by several commercial vendors who run shops along the Ocean Front Walk side of the parking lot. Allowing this lot to be leased to the applicant in this case will remove badly needed parking from that neighborhood. One must also wonder about the phantom parking spaces that already exist there – those spaces that been rented to several other users but are undocumented.

In reference to the remote lot, the City is only requiring a simple lease between the two parties. In the original ZA Case No. 2005-2021, the two properties were required to be tied through the means of a recorded covenant agreement. This zoning administrator condition was overturned in the West Los Angeles Appeal and only a simple lease is before the Commission at this time. The lot at Sunset is currently on the market to be sold and since the lease can not be enforced should the lot be sold off, the remote parking lot might disappear.

Condition No. 9 of the 2005-2021 case specifies that the Council Office and Neighborhood Council will review the remote parking lot lease after the first year, but stops short, without requiring an annual review of the lease in the following years nor specifying what will occur should the lease be unsatisfactory or not maintained. (Keep in mind that this is the same City that for fifteen years has exempted this property from a CDP since issuing their original CoU.)

The onsite parking is flawed for several reasons as well. First, the applicant is proposing to load and unload valet services in the driveway area beside their building. In the past, this might have been possible. However, the driveway belongs to the neighboring property. That neighboring property is under construction and, once completed early next year, will use the driveway as the main entrance into their building. Therefore, it will not be possible for valet service to use the driveway space.

In one of the hearings, the applicant suggested that they might not park cars in the spaces onsite to allow space for the valet to turn around, load and unload customer cars. If this were the case, then the onsite spaces would no longer be available for parking and the remote requirement would be greater than described in the permit request.

The Adverse Possession lawsuit mentioned earlier also has some impact on the onsite parking because the applicant received some sort of easement rights to enter his property by traveling over the neighbor's land. It is not clear what the exact easement rights were granted the applicant but, from speaking with the developer of the 35-unit condo project who owns the underlying rights to the land, the condo association will not permit any use of this land that is not expressly granted in the easement agreement. It was his opinion that no valet services would be possible on site as it would disturb the tenants of the condos' access to their underground parking garage.

I'm assuming that, in an effort to solve the valet unload and load complications, the applicant rallied the City Department of Transportation to install a 30 minute limited parking zone in front of the property at 796 Main St. Presumably, the valets will use these spaces as additional parking and should Parking Enforcement attempt to ticket the cars, the valet will most likely shuffle them

with cars in the adjacent lot. Most likely, unloading and loading of valet served cars will occur in the number two lane of traffic on Main Street, causing hazard problems for everyone. The reality of these public parking spaces becoming very time constrained has a negative impact on the entire community and especially on those visitors who are coming to enjoy the beach.

The CoU permit documented five onsite spaces, which was carried over in error and included as part of the findings of the permits in this action. However, the Commission should be aware this count is inaccurate. As previously referenced, the property owner received a revocable permit to use City-owned land within the public right-of-way (see Exhibit IX). As shown on the illustration (Exhibit IV, P1) in Case No. 2004-0099 on the applicants' drawing, the "SHADED AREA UNDER REVOCABLE PERMIT # 50291 FROM CITY OF L.A." includes one parking space.

Although this fifth offsite space physically abuts the four onsite spaces and appears to be one of the five available spaces, it becomes important to this case should the City decide to widen the sidewalk to accommodate a more pedestrian friendly walkway. If the sidewalk is improved to comply with the rest of the block, this parking space will disappear. As a result, this property will have one less onsite parking space and need to reapply for yet another new variance for additional remote offsite allowances.

In the Council hearing File No. 06-2476, the deputy for the councilman where this property is located introduced a new idea that might relieve some or all of the parking problems in the area. The Councilman's Motion (Exhibit VI) asked the Department of Transportation to develop a community valet parking lot plan. But the reality of the plan may not be able to address the problems and may take many years to implement. This proposal, assuming it is funded and implemented, would not prevent this applicant from re-applying for this CoU in the future. At present, this is not a viable solution and therefore should not be considered by the Commission.

Support for this appeal has been voiced by many neighbors and a board resolution letter from the local Venice Neighborhood Council was included in the City case file. (See Exhibit X.)

This property is still in the Commissions records as being a Single Family Dwelling. At the very least, I urge the Commission to have the entire issue of uses defined within the floor area of the restaurant and require the applicant to provide a survey created by a California licensed Civil Engineer that will show all structures, parking spaces, neighboring easement areas and City-owned land now occupied by the existing project along with an accurate layout of the interior before supporting any portions. There are just too many conflicting documents because this case has developed over time in a piece meal process.

In response to Case ZA 2005-2021 Coastal Development Permit Findings:

1. The 685 square feet must be questioned for accuracy since there are too many conflicting documents on which to base an accurate decision on. In addition, there are several undefined areas which could be used for additional food service area. Finally the parking plan specified which locates the seven remote space at 601 Ocean Front Walk is an infeasible solution due to the travel distance and limited route to the lot and because this will adversely impact coastal access to beach visitors by removing seven parking spaces from a beach serving parking lot.
2. Although no new development is taking place the net effect of the change-of-use this project is proposing from single family which is currently on the commissions books to the commercial restaurant use the applicant is

- seeking, will result in a increase in trip traffic and have a significant impact on local parking and traffic to and from the remote lot.
3. The building configuration from a residential house into a restaurant has already taken place with proper coastal clearances. The front patio exists on public property and was constructed with the valid permits. In these terms the setback is not only not conforming but has gone negative into the public right-of-way.
 4. In the summary findings presented in this appeal, many reasons exist under Section 30625(c) that violate the authority of the Coastal Act of 1976. First and foremost it the conversion of a single family dwelling into a restaurant and using offsite visitor severing parking for the required spaces. Furthermore, the front patio is located on public land and causing pedestrian access to be congested in this coastal area.

Please grant this appeal and deny the CUP for 796 Main Street.

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5

COASTAL COMMISSION

EXHIBIT # 5
PAGE 6 OF 7

NOTICE TO ABATE NUISANCE OR CORRECT VIOLATION

JEANNE ROSENBERG - TRUMPOWER MAX
ME 27540

121 OLD TOPANGA CANYON RD.
TOPANGA CA 90290-3844 ROOM
DISTRICT 1107

City of Los Angeles
DEPARTMENT OF PUBLIC WORKS
BUREAU OF STREET SERVICES
STREET USE INSPECTION DIVISION
600 S. Spring Street, 4th Floor, L.A., CA 90014
Phone (213) 485-3711

Location 796 MAIN ST (C.M. 1095 A 143) Date 5-23-02

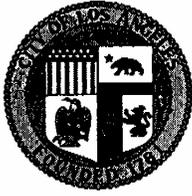
You are hereby notified to comply with the requirements of the Los Angeles Municipal Code by REMOVING THE WOODEN STAIRCASE FROM THE PUBLIC RIGHT OF WAY AT THE ABOVE LOCATION.

You must comply with this notice at once/within 0 days from the date shown above. LAMC 56.08
BOARD OF PUBLIC WORKS
CITY OF LOS ANGELES
By Stephanie Hill Inspector
District No. 112

Form 1065 (R.10.99) (See Reverse Side of this Notice)

COASTAL COMMISSION

EXHIBIT # 5
PAGE 7 OF 7



WEST LOS ANGELES AREA PLANNING COMMISSION

200 N. Spring Street, Room 532, Los Angeles, California, 90012-4801, (213) 978-1300
www.lacity.org/PLN/index.htm

Date: November 2, 2006

City Council
City Hall, Room 395

City Plan Case No. ZA 2005-2021-CDP-ZV- PAB-SPP-1A
Council District No. 11
Plan Area: Venice
Location: 796 Main Street

CASE NO. ZA 2005-2021-CDP-ZV- PAB-SPP-1A

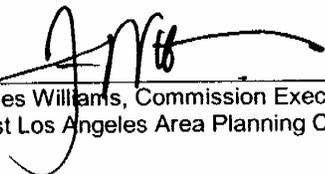
APPEAL REQUEST:

An appeal of the entire determination of the West Los Angeles Area Planning Commission.

Commission Determination:

1. **Granted** the appeal in part.
2. **Overtured** the action of the Zoning Administrator.
3. **Approved**, pursuant to Los Angeles Municipal Code Section 12.20.2-G, a Coastal Development Permit for a 685 square foot restaurant; and
4. **Approved**, pursuant to Charter Section 562 and Los Angeles Municipal Code Section 12.27-B, a **variance** to permit required parking through lease rather than recorded covenant; and
5. **Approved**, pursuant to Los Angeles Municipal Code Section 12.27-B, a **variance** to park more than 750 feet away; and
6. **Sustained**, pursuant to Los Angeles Municipal Code Section 12.24-M, the Zoning Administrator's approval of plans to permit the **sale of alcohol** in an upper patio with 10 seats; and
7. **Sustained**, pursuant to Los Angeles Municipal Code Section 11.5.7, the Zoning Administrator's approval of a **Specific Plan Project Permit**.
8. **Modified** Conditions of Approval (attached).
9. **Adopted** Findings (attached).
0. **Adopted** ENV 2004-7753-ND.

Applicant: Amuse Café Partners, LP
Appellant: James Murez

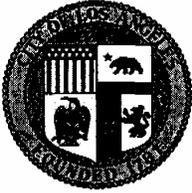

James Willants, Commission Executive Assistant
West Los Angeles Area Planning Commission

Final date to appeal: November 17, 2006

Attachments: Appeal, Corrected Determination Letter dated November 2, 2006.

COASTAL COMMISSION
AS-VEN-07-200

EXHIBIT # 6
PAGE 1 OF 12



WEST LOS ANGELES AREA PLANNING COMMISSION

200 N. Spring Street, Room 532, Los Angeles, California, 90012-4801, (213) 978-1300

www.lacity.org/PLN/index.htm

Determination Mailing Date: NOV 0 2 2006

CASE NO.: ZA 2005-2021-CDP-ZV-PAB-SPP-1A

CEQA: ENV 2004-7753-ND

Council District: 11 ✓

Location: 796 Main St.

Plan Area: Venice

Zone: C2-1

District Map: 109.5 A 153

Legal Description: Lot 15 and vacated portion of Vista Burk's Place Tract

CORRECTED DETERMINATION (Entitlements, CEQA)

Applicant: Amuse Café Partners, LP

Appellant: Same

At its meeting on August 16, 2006, the following action was taken by the West Los Angeles Area Planning Commission:

1. **Granted** the appeal in part.
2. **Overtured** the action of the Zoning Administrator.
3. **Approved**, pursuant to Los Angeles Municipal Code Section 12.20.2-G, a Coastal Development Permit for a 685 square foot restaurant; and
4. **Approved**, pursuant to Charter Section 562 and Los Angeles Municipal Code Section 12.27-B, a **variance** to permit required parking through lease rather than recorded covenant; and
5. **Approved**, pursuant to Los Angeles Municipal Code Section 12.27-B, a **variance** to park more than 750 feet away; and
6. **Sustained**, pursuant to Los Angeles Municipal Code Section 12.24-M, the Zoning Administrator's approval of plans to permit the **sale of alcohol** in an upper patio with 10 seats; and
7. **Sustained**, pursuant to Los Angeles Municipal Code Section 11.5.7, the Zoning Administrator's approval of a **Specific Plan Project Permit**.
8. **Modified** Conditions of Approval (attached).
9. **Adopted** Findings (attached).
0. **Adopted** ENV 2004-7753-ND.

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

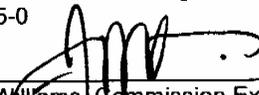
This action was taken by the following vote:

Moved: Burton

Seconded: Washington

Ayes: Brown, Foster, Martínez

Vote: 5-0


James Williams, Commission Executive Assistant
West Los Angeles Area Planning Commission

COASTAL COMMISSION

AS-VEN-07-200

EXHIBIT # 6

PAGE 2 OF 12

Effective Date/Appeals: This action of the West Los Angeles Area Planning Commission is effective on the mailing date of this Determination and will be final unless an appeal to the City Council is filed within 15 days from the mailing date of this determination. All appeals shall be filed on forms provided at the Planning Department's Public Counters at 201 N. Figueroa Street, Fourth Floor, Los Angeles, or at 6262 Van Nuys Boulevard, Room 251, Van Nuys. Forms are also available on-line at www.lacity.org/pln.

**PLANNING & LAND
USE MANAGEMENT**

NOV 0 6 2006

The Coastal Development Permit is effective at the City level on the mailing date of this determination. The Coastal Development Permit is not further appealable at the City level, but appealable only to the California Coastal Commission - South Coast District Office. The California Coastal Commission, upon receipt and acceptance of this determination, will establish the start of the 20-day appeal period.

If you seek judicial review of any decision of the City pursuant to California Code of Civil Procedure Section 1094.5, the petition for writ of mandate pursuant to that section must be filed no later than the 90th day following the date on which the City's decision became final pursuant to California Code of Civil Procedure Section 1094.6. There may be other time limits which also affect your ability to seek judicial review.

Attachments: Modified Conditions of Approval and Findings.

COASTAL COMMISSION

EXHIBIT # 6
PAGE 3 OF 12

CONDITIONS OF APPROVAL

1. All other use, height and area regulations of the Municipal Code and all other applicable government/regulatory agencies shall be strictly complied with in the development and use of the property, except as such regulations are herein specifically varied or required.
2. The use and development of the property shall be in substantial conformance with the plot plan submitted with the application and marked Exhibit "A", except as may be revised as a result of this action.
3. The authorized use shall be conducted at all times with due regard for the character of the surrounding district, and the right is reserved to the Zoning Administrator to impose additional corrective conditions, if, in the Administrator's opinion, such conditions are proven necessary for the protection of persons in the neighborhood or occupants of adjacent property.
4. All graffiti on the site shall be removed or painted over to match the color of the surface to which it is applied within 24 hours of its occurrence.
5. A copy of the first page of this grant and all conditions and/or any subsequent appeal of this grant and its resultant conditions and/or letters of clarification shall be printed on the building plans submitted to the Zoning Administrator and the Department of Building and Safety for purposes of having a building permit issued.
6. Seating on the upper floor patio shall be limited to a maximum of 10 people.
7. The applicant shall file a plan approval 2 years from the effective date of this action for review of the operation of the restaurant to ensure that the operation has not adversely impacted surrounding uses.
8. ~~A covenant and agreement shall be recorded assuring that parking not provided on-site will be available by valet service.~~ The applicant shall submit a valet and parking plan for inclusion in the case file. The plan shall identify the parking load and the location of the parking lots utilized.
9. A one year review shall be conducted for review of the parking lease. The one year shall be from the opening date of the restaurant and shall be conducted with the Council Office and the Neighborhood Council to review the operation of the lease parking lease program.

COASTAL COMMISSION

EXHIBIT # 6
PAGE 4 OF 12

10. A minimum of 5 parking spaces shall be provided on-site and a minimum of 7 off-site parking spaces provided by valet service only at an off-site location. No variance for reduced parking was requested nor granted herein.
11. Off-site parking with valet service shall be located within a distance of no more than one-quarter mile of the restaurant to ensure that vehicle pick-up and return will not discourage use of the valet service.
12. Parking lease and valet service agreements shall be submitted to the Zoning Administrator for inclusion in the file. Should the submitted agreements expire, new parking lease and valet service agreements shall be submitted for inclusion in the file.
13. The grant herein for the sale of alcohol on the upper floor patio, specifically beer and wine is limited to a period of four years from the effective date of this grant. Thereafter, this authorization shall become null and void and a new conditional use to allow the sale of alcohol will be required.
14. The project shall comply with all conditions imposed under ZA 2004-0099 (CUB) except as specifically revised herein.
15. Prior to the issuance of any permits relative to this matter, a covenant acknowledging and agreeing to comply with all the terms and conditions established herein shall be recorded in the County Recorder's Office. The agreement shall run with the land and shall be binding on any subsequent owners, heirs or assigns. The agreement shall run with the land and shall be binding on any subsequent owners, heirs or assigns. The agreement with the conditions attached must be submitted to the Zoning Administrator for approval before being recorded. After recordation, a certified copy bearing the Recorder's number and date shall be provided to the Zoning Administrator for attachment to the subject case file.

FINDINGS

COASTAL DEVELOPMENT PERMIT FINDINGS

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

The applicant has requested a Coastal Development Permit for a 685 square foot restaurant with patio dining within the single permit area of Venice. The proposed restaurant will be located within an existing structure and will consist of a main

dining room, 335 square feet in size, a rear patio, 200 square feet in size, and a front patio, 150 square feet in size. Parking spaces for 5 vehicles are located to the south adjacent to the restaurant additional parking for up to 7 vehicles will be provided via valet service at an existing parking lot located at 601 Ocean Front Walk.

As granted herein and conditioned, the development will be in conformity with Chapter 3 of the California Coastal Act.

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

The proposed restaurant will be located within the C2-1 zone, in an existing structure with 5 parking spaces adjacent to the site and 7 parking spaces located at an off-site parking lot. No new development will occur as a result of the project. Therefore the development will not prejudice the ability of the city to prepare a local coastal program.

- 3. The Interpretive Guidelines for Coastal Planning and Permits as established by the California Coastal Commission dated February 11, 1977 and any subsequent amendments thereto have been reviewed, analyzed and considered in light of the individual project in making this determination. Such Guidelines are designed to provide direction to decision-makers in rendering discretionary determinations on requests for coastal development permits pending adoption of an LCP. In this instance, the Guidelines standards concerning the following are relevant:**

The requirements of the Venice Specific Plan for the North Venice area set forth requirements for height, setbacks and parking for the subject development. The site is developed with an existing structure in which the restaurant will locate. Therefore, no new construction will result from the project. Parking will be provided adjacent to the site as well at an off-site parking lot.

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

No issues have been identified which would result in a conflict between applicable decisions by the California Coastal Commission and the location of the proposed

restaurant in the existing structure. Conditions have been imposed to ensure that parking is provided for the patrons of the restaurant.

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

The project is not so located.

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

On February 2, 2005, the City Planning Department Environmental Staff Advisory Committee (ESAC) issued Negative Declaration No. ENV-2004-7753-ND (Article V - City CEQA Guidelines) and determined that this project will not have a significant effect on the environment.

VARIANCE FINDINGS

7. **The strict application of the provisions of the Zoning Ordinance would result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of the zoning regulations.**

The applicant has proposed off-site parking for 7 spaces at 601 Ocean Front Walk, a site located more than 750 feet from the proposed restaurant. As proposed, use of the lot would be provided by valet parking services only and would not involve patrons self-parking of vehicles. The Commission in their action has allowed the use of parking leases in lieu of a covenant. Requiring a covenant would create an unnecessary hardship as property owners willing to lease parking will not commit to the recording of a covenant. A condition requiring a one year review of the operation of the leasing program with the Council Office and the Neighborhood Council had been imposed to ensure that the leasing program does not adversely impact the surrounding uses. The applicant must submit a valet parking plan which includes the load and location of the parking lots utilized. The site is located within the Venice beach area and in close proximity to residential uses. Ensuring that parking for the restaurant is available and will not adversely impact the adjacent residential uses as well as add to the parking problem in the area is essential. The assurance of parking by lease as conditioned for the restaurant will not adversely impact uses in the area.

The limited parking at the site as a result of the existing development and the

demand for parking in the area necessitates parking be provided off-site and with valet service. The proposed off-site leased parking is at a parking lot at 601 Ocean Front Walk, more than 750 feet from the restaurant. Without the use of valet service, patrons driving to the restaurant may try to locate street parking within the surrounding residential areas or park illegally in the surrounding area. Providing parking at the site or within 750 feet of the site would result in practical difficulties and unnecessary hardship. The shortage of parking in the area especially during the summer months with increased beach usage, limits the ability to secure parking in close proximity for the commercial use.

8. **There are special circumstances applicable to the subject property such as size, shape, topography, location or surroundings that do not apply generally to other property in the same zone and vicinity.**

The subject site located within the Venice Beach Community is developed with an existing structure with parking for 5 vehicles. Surrounding properties are developed with the a storage building to the north, vacant shop to the south, parking lot to the east and to the west across Main Street, duplexes and single-family dwellings.

The existing development on the site, the proposed restaurant use and limited parking in the area, present special circumstances applicable to the subject property. While the area in general suffers from the high demand for parking, the provision of off-site parking utilizing valet services will ensure that parking demand for the proposed restaurant use will not adversely impact the surrounding uses.

9. **Such variance is necessary for the preservation and enjoyment of a substantial property right or use generally possessed by other property in the same zone and vicinity but which, because of such special circumstances and practical difficulties or unnecessary hardships, is denied the property in question.**

Uses on the easterly side of Main Street are zoned C2-1 and developed with commercial and residential uses. The proposed restaurant site is developed with a structure, but has limited parking on the site. Providing parking at an off-site location with the use of the valet service will ensure that patrons will not park in the surrounding residential area, nor park illegally, thereby hampering the use of the surrounding properties.

10. **The granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the same zone or vicinity in which the property is located.**

The granting of the variance for off site parking with valet service will not be materially detrimental to public welfare or property or improvements in the same zone or vicinity.

The request for parking by lease has been approved with a condition requiring the review of the operation. It is essential that off-site parking be provided and it is the use of valet service that ensures that patrons are not walking through neighborhoods to and from the restaurant site.

11. The granting of the variance will not adversely affect any element of the General Plan.

With off-site parking valet service in combination with the condition requiring review of the parking operation, the granting of the variance will not adversely affect residential uses in the surrounding area, and therefore will not adversely affect any element of the General Plan.

PLAN APPROVAL FINDINGS

12. The proposed location will be desirable to the public convenience or welfare.

The applicant has requested a plan approval to allow the service of beer and wine on an upper floor outdoor patio with seating for 10 patrons. Under ZA 2004-0099(CUB), the Zoning Administrator approved a conditional use permit for beer and wine for on-site consumption at the restaurant for a rear patio and the interior of the restaurant. The Zoning Administrator also imposed conditions of approval to address the service of beer and wine.

Approval of the requested Plan Approval would allow for service of beer and wine in the entire restaurant including an outdoor patio seating a maximum of 10 patrons. The approval of service has been conditioned herein as well as in the prior ZA case for alcohol service. Compliance with the prior conditions and the conditions herein will ensure that the service of alcohol on the additional patio will be desirable to the public convenience and welfare.

13. The location is proper in relation to adjacent uses or the development of the community.

The patio is located on the upper front portion of the structure. The granting of the plan approval herein is conditioned and includes those conditions imposed under ZA 2004-0099(CUB). Conditions imposed under this action and the prior action

include: seating for a maximum of 10 patrons, limitation to service of beer and wine, prohibition on "Happy Hours", service of alcohol on in conjunction with food service and no outdoor music. With the imposed conditions, the service of beer and wine on the patio will be proper in relation to the adjacent uses and the community.

14. **The use will not be materially detrimental to the character of the development in the immediate neighborhood.**

With the imposed conditions, the granting of the service of beer and wine on the upper patio will not be materially detrimental to the character of development in the immediate neighborhood.

15. **The proposed location will be in harmony with the various elements and objectives of the General Plan.**

The Venice Plan Map designates the property for Highway Oriented Commercial land uses with corresponding zones of CR, C1, C2, C4, and P and Height District No. 1. The property is within the area of the Venice Specific Plan Ordinance No. 172,081.

The granting of the plan approval to permit the service of beer and wine on the upper outdoor patio will be consistent with the Venice Plan provisions and the Venice Specific Plan.

SPECIFIC PLAN PROJECT PERMIT FINDINGS

16. **The project substantially complies with the applicable regulations, findings, standards and provisions of the specific plan.**

The subject site is located within the North Venice subarea of the Venice Coastal Specific Plan. Applicable provisions of the plan are: height, setbacks and parking. The restaurant will be located within an existing structure, therefore the height limitations do not apply, nor would the required setbacks. Parking at one space for every 50 square feet of floor area is required. The applicant is providing 5 on-site parking spaces and 7 off-site parking spaces. A condition has been imposed requiring that parking be provided at a minimum of 5 parking spaces on-site and a minimum of 7 spaces be provided off-site with valet parking service at an off-site location.

Therefore, the use of the existing structure with all required parking spaces complies with the applicable regulations, findings, standards and provisions of the specific plan.

COASTAL COMMISSION

EXHIBIT # 6
PAGE 10 OF 12

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

The subject restaurant use will be located within an existing structure, hence there will be no new construction and a negative declaration was issued for the project. The site is located within the Coastal Transportation Corridor Specific Plan and must comply with the requirements of the Specific Plan. With the conditions imposed and compliance with the provisions of the Specific Plans, the impact of the project have been mitigated to the extent physically feasible.

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

The subject site is developed with an existing two story structure in which the restaurant will locate.

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

The project does not include a residential component.

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

The project does not include a residential component.

ADDITIONAL MANDATORY FINDINGS

21. The National Flood Insurance Program rate maps, which are a part of the Flood Hazard Management Specific Plan adopted by the City Council by Ordinance No. 172,081, have been reviewed and it has been determined that the property is located in Zone C, areas of minimal flooding.

COASTAL COMMISSION

EXHIBIT # 6
PAGE 11 OF 12

22. On February 2, 2005, the City Planning Department Environmental Staff Advisory Committee (ESAC) issued Negative Declaration No. ENV-2004-7753-ND (Article V - City CEQA Guidelines) and determined that this project will not have a significant effect on the environment. I hereby adopt that action. The records upon which this decision is based are with the Environmental Review Section in Room 750, 200 North Spring Street.
23. Fish and Game: The subject project, which is located in Los Angeles County, will not have an impact on fish or wildlife resources or habitat upon which fish and wildlife depend, as defined by California Fish and Game Code Section 711.2.

COASTAL COMMISSION

EXHIBIT # 6
PAGE 12 OF 12

FRANK T. MARTINEZ
City Clerk

KAREN E. KALFAYAN
Executive Officer

When making inquiries
relative to this matter
refer to File No.

CITY OF LOS ANGELES
CALIFORNIA



ANTONIO R. VILLARAIGOSA
MAYOR

Office of the
CITY CLERK
Council and Public Services
Room 395, City Hall
Los Angeles, CA 90012
Council File Information - (213) 978-1043
General Information - (213) 978-1133
Fax: (213) 978-1040

CLAUDIA M. DUNN
Chief, Council and Public Services Division
www.cityclerk.lacity.org

CF 06-2476
ZA 2005-2021 CDP ZV PAB SPP
CD 11

RECEIVED
South Coast Region

MAY 21 2007

CALIFORNIA
COASTAL COMMISSION

May 16, 2007

Executive Director of the
California Coastal Commission
South Coastal Area Office
200 Oceangate, Ste. 1000
Long Beach, CA 90802

Attn: Charles Posner

COASTAL DEVELOPMENT PERMIT FOR PROPERTY AT 796 MAIN STREET, (AMUSE CAFÉ PARTNERS)

At its meeting held April 3, 2007, the Los Angeles City Council considered and adopted the report from the West Los Angeles Area Planning Commission (WLAAPC) in overturning the decision of the Zoning Administrator in part, and thereby approving a Zone Variance to permit the required parking through lease rather than recorded covenant; and approving a Zone Variance to park more than 750 feet away to permit required parking spaces through lease in a C2-1 Zone for property at 796 Main Street, subject to Conditions of Approval. (WLAAPC also approved the Coastal Development Permit; plans to permit sale of alcohol; and Specific Plan Permit for this project.)

Please be advised that the City Council is the last appellate body for all actions pertaining to the above-referenced project with the exception of the Coastal Development Permit which is appealable to your Commission. Attached are the Council's approval letter, Planning and Land Use Management Committee report, Conditions of Approval and Findings for the project at 796 Main Street.

Should you require further assistance, please contact me at (213) 978-1068.

Sincerely,

Barbara Greaves
Deputy City Clerk

BG:ys

#062476ltrA

COASTAL COMMISSION
AS-VEN-07-200

EXHIBIT # 7

PAGE 1 OF 15

FRANK T. MARTINEZ
City Clerk

KAREN E. KALFAXAN
Executive Officer

When making inquiries
relative to this matter
refer to File No.

06-2476

CITY OF LOS ANGELES
CALIFORNIA



ANTONIO R. VILLARAIGOSA
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Fax: (213) 978-1040

CLAUDIA M. DUNN
Chief, Council and Public Services Division
www.cityclerk.lacity.org

CD 11

April 12, 2007

Office of the Mayor
City Planning Department,
Director of Planning
cc: Office of Zoning Administration
Department of Transportation,
Traffic/Planning Sections
Fire Department

Councilmember Wesson
Bureau of Engineering,
Land Development Group
Department of Building and Safety
c/o Zoning Coordinator
cc: Residential Inspection Unit
See attachment for additional notification

RE: A ZONE VARIANCE APPEAL FOR PROPERTY AT 796 MAIN STREET

At the meeting of the Council held April 3, 2007, the following action was taken:

Motion adopted to approve communication recommendation(s)	<u>X</u>
Attached motion () adopted	_____
Attached resolution adopted	_____
Attached report adopted	_____
Findings adopted	<u>X</u>
Negative Declaration adopted	<u>X</u>
Mayor concurred	<u>4-10-07</u>

Frank T. Martinez

City Clerk
jr

PLACE IN FILES

APR 16 2007

COASTAL COMMISSION

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2005-2021
REID. PLAN COMM.

EXHIBIT # 7
PAGE 2 OF 15

FF BG



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COMMUNICATION

TO: LOS ANGELES CITY COUNCIL

FILE NO. 06-2476

FROM: COUNCILMEMBER JOSE HUIZAR, VICE CHAIR
PLANNING AND LAND USE MANAGEMENT COMMITTEE

NEGATIVE DECLARATION and COMMUNICATION FROM THE VICE CHAIR, PLANNING AND LAND USE MANAGEMENT COMMITTEE relative to a Zone Variance appeal for property at 796 Main Street.

Recommendations for Council action, SUBJECT TO THE APPROVAL OF THE MAYOR:

1. FIND that this project will not have a significant effect on the environment, pursuant to the City's Environmental Guidelines and is in compliance with the California Environmental Quality Act; that the Negative Declaration reflects the independent judgment of the lead agency in the City of Los Angeles; that the documents constituting the record of proceedings in this matter are located in Council file No. 06-2476 in the custody of the City Clerk and in the files of the Department of City Planning in the custody of the Environmental Review Section; and ADOPT the Negative Declaration [ENV 2004-7753 ND].
2. ADOPT the FINDINGS of the West Los Angeles Area Planning Commission (WLAAPC) as the Findings of City Council.
3. GRANT IN PART AND DENY IN PART appeal filed by James Murez from the entire determination of the WLAAPC in overturning the decision of the Zoning Administrator in part, and THEREBY APPROVE a Zone Variance to permit the required parking through lease rather than recorded covenant in a C2-1 Zone; and APPROVE a Zone Variance to park more than 750 feet away in a C2-1 Zone, for a restaurant located at 796 Main Street, subject to Conditions of Approval, as modified, and attached to the Committee report, to require that a one year plan review shall be conducted for the parking related variances. The one year shall be from the opening date of the restaurant and shall be set for hearing with notification to the Council office and Neighborhood Council. The one year review plan may result in the termination of the variances and/or a requirement that the owner comply with any new Venice parking ordinance. (The WLAAPC also approved the Coastal Development Permit; plans to permit sale of alcohol; and Specific Plan Permit for this project.)

Applicant: Amuse Café Partners, LP

ZA 2005-2021 CDP ZV PAB SPP

Fiscal Impact Statement: The WLAAPC reports that there is no General Fund impact, as administrative costs are recovered through fees.

TIME LIMIT FILE - APRIL 3, 2007

(LAST DAY FOR COUNCIL ACTION - APRIL 3, 2007)

COASTAL COMMISSION

EXHIBIT # 7
PAGE 3 OF 15

Summary:

At its meeting held on March 20, 2007 (continued from Committee meetings on January 16, 2007 and February 13, 2007), Jose Huizar, Vice Chair, for the Planning and Land Use Management (PLUM) Committee (sitting as a committee of one), considered an appeal filed by James Murez from the entire determination of the West Los Angeles Area Planning Commission (WLAAPC) in overturning the decision of the Zoning Administrator in part, in approving a Zone Variance to permit the required parking through lease rather than recorded covenant in a C2-1 Zone; and a Zone Variance to park more than 750 feet away in a C2-1 Zone, for the proposed restaurant located at 796 Main Street, subject to Conditions of Approval. (The WLAAPC also approved the Coastal Development Permit; plans to permit sale of alcohol; and Specific Plan Permit for this project.)

The Planning Department staff briefly described the project and appeal. Staff recommend that the PLUM Committee deny the appeal and uphold the decision of the Zoning Administrator.

The appellant, Mr. James Murez, contended that the City's documentation, along with the applicant's description that five parking spaces are being provided on site, is inaccurate. The appellant also reported that a portion of the restaurant located is on public property without a grant from the City. It was also reported by Mr. Murez that the sidewalks located near the restaurant are substandard. In addition, Mr. Murez reported there is sometimes no access to parking, as the streets at the nearby Venice beach are closed. He suggested that the owner of the restaurant and adjacent condo work with the Council office to facilitate off-site parking.

The representative for the applicant reported that the WLAAPC approved the variance and other entitlements for the project by a vote of 5-0. He noted that among the request was a request for an increase in seating from 44 to 54 seats and for zone variances to accommodate parking. He requested that Condition No. 9 (now Condition No. 7) be amended to specify that a one year plan review shall be conducted for review of the parking related variances. The one year shall be from the opening date of the restaurant and shall be set for hearing with notification to the Council office and Neighborhood Council. The one year review plan may result in the termination of the variances and/or a requirement that the owner comply with any new Venice parking ordinance.

The Council Deputy of Council District 11 spoke in support of the variance and provided a copy of the Motion (Rosendahl - Greuel) referred to the City Council's Transportation and PLUM Committees which request the Department of Transportation to develop a Community Parking Pilot Project, consistent with the Venice Specific Plan, to provide parking options to assist pedestrian oriented businesses seeking to locate in the Venice Beach area, and minimize the use of valet parking, as well as protect the adjacent residential neighborhoods from commercial parking and related matters. The Council Deputy requested that a Condition be added to ensure that the plan approval shall be valid for a maximum of one year, at which time any variance approved should require that the applicant comply with all existing City regulations and ordinances. In addition, the condition should specify that the one year review plan may result in the termination of the variances and/or a requirement that the owner comply with any new Venice parking ordinance.

COASTAL COMMISSION

EXHIBIT # 7
PAGE 4 OF 15

After careful consideration of the documents on the file and the testimony provided by Planning staff, the appellant, and the representative for the applicant, the Vice Chair of the Committee sitting as a Committee of one recommended that Council grant in part and deny in part the appeal filed by James Murez from the entire determination of the WLAAPC in overturning the decision of the Zoning Administrator in part, and thereby approve a Zone Variance, subject to conditions of approval as modified.

Respectfully submitted,

COUNCILMEMBER JOSE HUIZAR, VICE CHAIR
PLANNING AND LAND USE MANAGEMENT COMMITTEE

<u>MEMBER</u>	<u>VOTE</u>
REYES:	ABSENT
HUIZAR:	YES
WEISS:	ABSENT

BG:ys
3-28-07

Attachment: Conditions of Approval, as modified (Condition No. 7, formerly Condition No. 9)
CD 11

#062476


NEA DEC
& FINDINGS
ADOPTED
MOTION ADOPTED TO APPROVE COMMUNICATION RECOMMENDATIONS
APR 03 2007

LOS ANGELES CITY COUNCIL

COASTAL COMMISSION

EXHIBIT # 7
PAGE 5 OF 15

MAYOR WITH FILE

Council file No. 06-2476
ZA 2005-2021(CDP)(ZV)(PAB)(SPP)

**CONDITIONS OF APPROVAL AS MODIFIED BY
PLANNING AND LAND USE MANAGEMENT COMMITTEE
ON MARCH 20, 2007**

1. All other use, height and area regulations of the Municipal Code and all other applicable government/regulatory agencies shall be strictly complied with in the development and use of the property, except as such regulations are herein specifically varied or required.
2. The use and development of the property shall be in substantial conformance with the plot plan submitted with the application and marked Exhibit "A", except as may be revised as a result of this action.
3. The authorized use shall be conducted at all times with due regard for the character of the surrounding district, and the right is reserved to the Zoning Administrator to impose additional corrective conditions, if, in the Administrator's opinion, such conditions are proven necessary for the protection of persons in the neighborhood or occupants of adjacent property.
4. All graffiti on the site shall be removed or painted over to match the color of the surface to which it is applied within 24 hours of its occurrence.
5. A copy of the first page of this grant and all conditions and/or any subsequent appeal of this grant and its resultant conditions and/or letters of clarification shall be printed on the building plans submitted to the Zoning Administrator and the Department of Building and Safety for purposes of having a building permit issued.
6. Seating on the upper floor patio shall be limited to a maximum of 10 people.
7. A one year plan review shall be conducted for review of the parking related variances. The one year shall be from the opening date of the restaurant and shall be set for hearing with notification to the Council Office and Neighborhood Council. The one year review plan may result in the termination of the variances and/or a requirement that the owner comply with any new Venice parking ordinance.
8. A minimum of five parking spaces shall be provided on-site and a minimum of seven off-site parking spaces provided by valet service only at an off-site location. No variance for reduced parking was requested nor granted herein.

COASTAL COMMISSION

EXHIBIT # 7
PAGE 6 OF 15

9. A covenant and agreement shall be recorded assuring that parking not provided on-site will be available by valet service.
10. Off-site parking with valet service shall be located within a distance of no more than one-quarter mile of the restaurant to ensure that vehicle pick-up and return will not discourage use of the valet service.
11. Parking lease and valet service agreements shall be submitted to the Zoning Administrator for inclusion in the file. Should the submitted agreements expire, new parking lease and valet service agreements shall be submitted for inclusion in the file.
12. The grant herein for the sale of alcohol on the upper floor patio, specifically beer and wine is limited to a period of four years from the effective date of this grant. Thereafter, this authorization shall become null and void and a new conditional use to allow the sale of alcohol will be required.
13. The project shall comply with all conditions imposed under ZA 2004-0099(CUB) except as specifically revised herein.
14. Prior to the issuance of any permits relative to this matter, a covenant acknowledging and agreeing to comply with all the terms and conditions established herein shall be recorded in the County Recorder's Office. The agreement (standard master covenant and agreement form CP-6770) shall run with the land and shall be binding on any subsequent owners, heirs or assigns. The agreement with the conditions attached must be submitted to the Zoning Administrator for approval before being recorded. After recordation, a certified copy bearing the Recorder's number and date shall be provided to the Zoning Administrator for attachment to the subject case file.

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COASTAL COMMISSION

EXHIBIT # 7
PAGE 7 OF 15

FINDINGS

COASTAL DEVELOPMENT PERMIT FINDINGS

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

The applicant has requested a Coastal Development Permit for a 685 square foot restaurant with patio dining within the single permit area of Venice. The proposed restaurant will be located within an existing structure and will consist of a main

COASTAL COMMISSION

EXHIBIT # 7
PAGE 8 OF 15

dining room, 335 square feet in size, a rear patio, 200 square feet in size, and a front patio, 150 square feet in size. Parking spaces for 5 vehicles are located to the south adjacent to the restaurant additional parking for up to 7 vehicles will be provided via valet service at an existing parking lot located at 601 Ocean Front Walk.

As granted herein and conditioned, the development will be in conformity with Chapter 3 of the California Coastal Act.

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

The proposed restaurant will be located within the C2-1 zone, in an existing structure with 5 parking spaces adjacent to the site and 7 parking spaces located at an off-site parking lot. No new development will occur as a result of the project. Therefore the development will not prejudice the ability of the city to prepare a local coastal program.

3. **The Interpretive Guidelines for Coastal Planning and Permits as established by the California Coastal Commission dated February 11, 1977 and any subsequent amendments thereto have been reviewed, analyzed and considered in light of the individual project in making this determination. Such Guidelines are designed to provide direction to decision-makers in rendering discretionary determinations on requests for coastal development permits pending adoption of an LCP. In this instance, the Guidelines standards concerning the following are relevant:**

The requirements of the Venice Specific Plan for the North Venice area set forth requirements for height, setbacks and parking for the subject development. The site is developed with an existing structure in which the restaurant will locate. Therefore, no new construction will result from the project. Parking will be provided adjacent to the site as well at an off-site parking lot.

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

No issues have been identified which would result in a conflict between applicable decisions by the California Coastal Commission and the location of the proposed

restaurant in the existing structure. Conditions have been imposed to ensure that parking is provided for the patrons of the restaurant.

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

The project is not so located.

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

On February 2, 2005, the City Planning Department Environmental Staff Advisory Committee (ESAC) issued Negative Declaration No. ENV-2004-7753-ND (Article V - City CEQA Guidelines) and determined that this project will not have a significant effect on the environment.

VARIANCE FINDINGS

7. **The strict application of the provisions of the Zoning Ordinance would result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of the zoning regulations.**

The applicant has proposed off-site parking for 7 spaces at 601 Ocean Front Walk, a site located more than 750 feet from the proposed restaurant. As proposed, use of the lot would be provided by valet parking services only and would not involve patrons self-parking of vehicles. The Commission in their action has allowed the use of parking leases in lieu of a covenant. Requiring a covenant would create an unnecessary hardship as property owners willing to lease parking will not commit to the recording of a covenant. A condition requiring a one year review of the operation of the leasing program with the Council Office and the Neighborhood Council had been imposed to ensure that the leasing program does not adversely impact the surrounding uses. The applicant must submit a valet parking plan which includes the load and location of the parking lots utilized. The site is located within the Venice beach area and in close proximity to residential uses. Ensuring that parking for the restaurant is available and will not adversely impact the adjacent residential uses as well as add to the parking problem in the area is essential. The assurance of parking by lease as conditioned for the restaurant will not adversely impact uses in the area.

The limited parking at the site as a result of the existing development and the

COASTAL COMMISSION

EXHIBIT # 7
PAGE 10 OF 15

demand for parking in the area necessitates parking be provided off-site and with valet service. The proposed off-site leased parking is at a parking lot at 601 Ocean Front Walk, more than 750 feet from the restaurant. Without the use of valet service, patrons driving to the restaurant may try to locate street parking within the surrounding residential areas or park illegally in the surrounding area. Providing parking at the site or within 750 feet of the site would result in practical difficulties and unnecessary hardship. The shortage of parking in the area especially during the summer months with increased beach usage, limits the ability to secure parking in close proximity for the commercial use.

8. **There are special circumstances applicable to the subject property such as size, shape, topography, location or surroundings that do not apply generally to other property in the same zone and vicinity.**

The subject site located within the Venice Beach Community is developed with an existing structure with parking for 5 vehicles. Surrounding properties are developed with the a storage building to the north, vacant shop to the south, parking lot to the east and to the west across Main Street, duplexes and single-family dwellings.

The existing development on the site, the proposed restaurant use and limited parking in the area, present special circumstances applicable to the subject property. While the area in general suffers from the high demand for parking, the provision of off-site parking utilizing valet services will ensure that parking demand for the proposed restaurant use will not adversely impact the surrounding uses.

9. **Such variance is necessary for the preservation and enjoyment of a substantial property right or use generally possessed by other property in the same zone and vicinity but which, because of such special circumstances and practical difficulties or unnecessary hardships, is denied the property in question.**

Uses on the easterly side of Main Street are zoned C2-1 and developed with commercial and residential uses. The proposed restaurant site is developed with a structure, but has limited parking on the site. Providing parking at an off-site location with the use of the valet service will ensure that patrons will not park in the surrounding residential area, nor park illegally, thereby hampering the use of the surrounding properties.

10. **The granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the same zone or vicinity in which the property is located.**

COASTAL COMMISSION

EXHIBIT # 7
PAGE 11 OF 15

The granting of the variance for off site parking with valet service will not be materially detrimental to public welfare or property or improvements in the same zone or vicinity.

The request for parking by lease has been approved with a condition requiring the review of the operation. It is essential that off-site parking be provided and it is the use of valet service that ensures that patrons are not walking through neighborhoods to and from the restaurant site.

11. The granting of the variance will not adversely affect any element of the General Plan.

With off-site parking valet service in combination with the condition requiring review of the parking operation, the granting of the variance will not adversely affect residential uses in the surrounding area, and therefore will not adversely affect any element of the General Plan.

PLAN APPROVAL FINDINGS

12. The proposed location will be desirable to the public convenience or welfare.

The applicant has requested a plan approval to allow the service of beer and wine on an upper floor outdoor patio with seating for 10 patrons. Under ZA 2004-0099(CUB), the Zoning Administrator approved a conditional use permit for beer and wine for on-site consumption at the restaurant for a rear patio and the interior of the restaurant. The Zoning Administrator also imposed conditions of approval to address the service of beer and wine.

Approval of the requested Plan Approval would allow for service of beer and wine in the entire restaurant including an outdoor patio seating a maximum of 10 patrons. The approval of service has been conditioned herein as well as in the prior ZA case for alcohol service. Compliance with the prior conditions and the conditions herein will ensure that the service of alcohol on the additional patio will be desirable to the public convenience and welfare.

13. The location is proper in relation to adjacent uses or the development of the community.

The patio is located on the upper front portion of the structure. The granting of the plan approval herein is conditioned and includes those conditions imposed under ZA 2004-0099(CUB). Conditions imposed under this action and the prior action

include: seating for a maximum of 10 patrons, limitation to service of beer and wine, prohibition on "Happy Hours", service of alcohol on in conjunction with food service and no outdoor music. With the imposed conditions, the service of beer and wine on the patio will be proper in relation to the adjacent uses and the community.

14. The use will not be materially detrimental to the character of the development in the immediate neighborhood.

With the imposed conditions, the granting of the service of beer and wine on the upper patio will not be materially detrimental to the character of development in the immediate neighborhood.

15. The proposed location will be in harmony with the various elements and objectives of the General Plan.

The Venice Plan Map designates the property for Highway Oriented Commercial land uses with corresponding zones of CR, C1, C2, C4, and P and Height District No. 1. The property is within the area of the Venice Specific Plan Ordinance No. 172,081.

The granting of the plan approval to permit the service of beer and wine on the upper outdoor patio will be consistent with the Venice Plan provisions and the Venice Specific Plan.

SPECIFIC PLAN PROJECT PERMIT FINDINGS

16. The project substantially complies with the applicable regulations, findings, standards and provisions of the specific plan.

The subject site is located within the North Venice subarea of the Venice Coastal Specific Plan. Applicable provisions of the plan are: height, setbacks and parking. The restaurant will be located within an existing structure, therefore the height limitations do not apply, nor would the required setbacks. Parking at one space for every 50 square feet of floor area is required. The applicant is providing 5 on-site parking spaces and 7 off-site parking spaces. A condition has been imposed requiring that parking be provided at a minimum of 5 parking spaces on-site and a minimum of 7 spaces be provided off-site with valet parking service at an off-site location.

Therefore, the use of the existing structure with all required parking spaces complies with the applicable regulations, findings, standards and provisions of the specific plan.

COASTAL COMMISSION

EXHIBIT # 7
PAGE 13 OF 15

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

The subject restaurant use will be located within an existing structure, hence there will be no new construction and a negative declaration was issued for the project. The site is located within the Coastal Transportation Corridor Specific Plan and must comply with the requirements of the Specific Plan. With the conditions imposed and compliance with the provisions of the Specific Plans, the impact of the project have been mitigated to the extent physically feasible.

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

The subject site is developed with an existing two story structure in which the restaurant will locate.

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

The project does not include a residential component.

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

The project does not include a residential component.

ADDITIONAL MANDATORY FINDINGS

21. The National Flood Insurance Program rate maps, which are a part of the Flood Hazard Management Specific Plan adopted by the City Council by Ordinance No. 172,081, have been reviewed and it has been determined that the property is located in Zone C, areas of minimal flooding.

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22. On February 2, 2005, the City Planning Department Environmental Staff Advisory Committee (ESAC) issued Negative Declaration No. ENV-2004-7753-ND (Article V - City CEQA Guidelines) and determined that this project will not have a significant effect on the environment. I hereby adopt that action. The records upon which this decision is based are with the Environmental Review Section in Room 750, 200 North Spring Street.

23. Fish and Game: The subject project, which is located in Los Angeles County, will not have an impact on fish or wildlife resources or habitat upon which fish and wildlife depend, as defined by California Fish and Game Code Section 711.2.

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796 MAIN ST
VENICE, CA

REVISED/UPDATED TIMELINE
July 2007

From Applicants

OVERVIEW:

796 Main St is a small (approx 1200 sq ft), 2 story building originally constructed as part of the Venice Short Line/Pacific Electric Railway to service interurban transportation in the early 1900's.

Prior to our purchasing the property in Jan 1988, it was used commercially by Tastee Spuds as a testing kitchen and distribution center.

Our intent is to preserve the existing building and continue its 15 year use as a small community restaurant. We are not planning new developments or construction projects which would impact the neighbors or make major changes to the neighborhood. In the face of persistent complaints from one very disgruntled, politically savvy and vocal neighbor, we are trying simply to comply with all City and Coastal requirements in order to maintain a local gathering spot for residents and visitors – a charming piece of old Venice. There are over 76 letters of support from the community to preserve this use.

TIMELINE:

Jan 1988 – Max Trumpower/Jeanne Rosenberg purchase property.

Jan 1988 – LA Dept of Public Works issues Revocable Permit (#50291) for “paved and fenced area at side of and in front of building.”

June 1988 – Receive Coastal Exemption to ‘repair existing deck.’

June 1988 – Receive Building Permit from LA Dept of Building & Safety to repair and replace decking on existing deck.

Oct 1988 – Begin Application for Street Vacation (#92-1400152) with LA Dept of Public Works for a portion of area covered by Revocable Permit 50291.

Sept 1991 – Receive Certificate of Occupancy from LA City for Change of Use from Single Family Dwelling to Retail/TakeOut Restaurant. (Both front and rear patio decks are used by restaurants as of this date.) Queen of Cups opens as Retail/TakeOut Restaurant.

July 1992 – Street Vacation 92-1400152 is granted.

Feb 1993 – Van Go's Ear Restaurant opens as 24 hour TakeOut Restaurant.

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OCT 1993 – Settlement Agreement & Mutual General Release reached with Harry Brown and successors Granting Lot Line Adjustment plus Exclusive Easements concerning Parking Area plus Ingress & Egress area servicing Parking Area

Dec 1997 thru Feb 1998 – Inquiries to City Planning, Building & Safety, Coastal Commission and Council Person's Office about permits and exemptions to change from a TakeOut to a SitDown Restaurant yield contradictory information concerning necessity of obtaining a Coastal Development Permit and Venice ICO. Majority of opinions indicate CDP not required. (Detailed notes of all conversations available)

Feb 1998 – Receive exemption for Venice ICO.

July 1998 – Receive Certificate of Occupancy for Change of Use from Retail/TakeOut Restaurant to SitDown Restaurant. Plan Checker Daniel Alvidrez verifies that existing 5 onsite parking spaces are sufficient for indoor seating & that the outdoor front deck and back patio require no additional parking since their total # of seats is no more than 50% of interior seats. Van Go's Ear changes from TakeOut to a 24 hour SitDown Restaurant.

Jan 2002 – Table opens as a limited hours (breakfast/lunch/dinner), full service Restaurant.

May 2002 – A citation is issued from Dept of Public Works, Street Use Inspection Division via Stephanie Hill claiming front deck & stairway are located on Public Right of Way & that the existing Revocable Permit 50291 refers only to walkway & railing. (citation initiated due to complaint from disgruntled neighbor Jim Murez)

May 2002 thru June 2003 – A year long series of conversations concerning the Citation, Front Deck and Revocable Permit ensue between us and Stephanie Hill at Public Works as well as Deputy City Atty Arletta Maria Bimsey plus Bernardo Nery & Michael Waters at Public Works. Mr. Nery Wonders why adjacent building wasn't cited since its entire front wall encroaches the same distance as our deck and stairway. Mr. Walters & Mr. Nery conclude that Revocable Permit 50291 is probably sufficient. Months later they determine we should make a Street Vacation Application from Downtown Dept of Public Works - Engineering.

April 2003 - Amuse Café leases the property for a full service, 54 seat Restaurant.

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- June 2003 – Meeting w/Jeffrey Moore & James Kho of Dept of Public Works – Engineering informs that a Title Report indicating proper Reversionary Rights is necessary before making a Street Vacation Application.
- June 2003 – Raymond Scott is hired to draw map of proposed Street Vacation area as initial step in seeking requested Title Report.
- June 2003 – Spurred by a complaint from disgruntled neighbor Jim Murez, Amuse Café owner Nick Roberts queries Dept of Building & Safety and is assured that rear patio is legal.
- July 2003 – First American Title is hired to generate a report tracing Reversionary Rights of the proposed Street Vacation land.
- Feb 2004 – Old tract maps and the unorthodox nature of this Venice area cause difficulties and delays in the Title search but finally a Report from First American Title assures that Reversionary Rights revert back to the property owners at 796 Main St, us.
- April 2004 – Meeting with Jeffrey Moore & James Kho reveals a recent change now requires a Coastal Development Permit before applying for Street Vacation.
- April 2004 – Chuck Posner at CA Coastal Commission suggests LA Public Works should issue their own Coastal Dev Permit for the Street Vacation concurrent with our application. If Public Works is approved, we will be approved and receive the vacation. (City issues its own permits.)
- May 2003 – Jeffrey Moore of Downtown Public Works – Engineering suggests informing Andy Montelegre & Greg Shoup of Downtown City Planning that we're trying to legalize the deck and stairs. "File for a Coastal Development Permit. City Planning will issue it and Coastal Commission will review it."
- June 2004 – Andy Montelegre & Greg Shoup of Downtown City Planning suggest returning to the Coastal Commission to apply for a Coastal Development Permit, then filing for a Street Vacation with Public Works then, halfway through the Street Vacation process, applying for a Revocable Permit.
- June 2004 – Chuck Posner informs that Coastal Commission can only accept an application if the City is a co-applicant, suggesting 3 choices:
1. Get the City to accept our sole application
 2. Get the City to be co-applicant with us then apply to Coastal Commission
 3. Abandon the Street Vacation and apply only for a Revocable Permit.

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- June 2004 – Application approved (CUB) (ZA 2004-0099) granting Amuse Café Conditional Use Permit to allow sale of beer & wine in conjunction with existing restaurant for a period of 5 years with conditions limiting hours of operation and prohibiting food & beverage service on the front deck until permit issues are resolved. (Ruling Appealed by Jim Murez.)
- July 2004 – Queries about resolving issues and obtaining a permit for the front deck lead Chuck Posner to question whether the City should have initially gotten a Coastal Development Permit for the entire restaurant back in 1988. He informs that one can apply after the fact for this Coastal Development Permit.
- Aug 2004 – Application filed for New Revocable Permit for front deck & stairway as per advice of Mike Walters of West LA Public Works. Head of Department Mike Patonai informs that Street Vacation should happen simultaneously with Revocable Permit application and directs questions back to Jeffrey Moore of Downtown Public Works – Engineering.
- Aug 2004 – Jeffrey Moore informs that only after we file for a Coastal Dev Permit with Greg Shoup of City Planning, can he accept a Street Vacation Application.
- Sept 2004 – Greg Shoup of City Planning informs that a Variance is necessary for a Coastal Development Permit regarding the front deck since Dept of Building & Safety will require 3 additional Parking Spaces for this area if food and beverages are served there.
- Oct 2004 – Land Use Consultants (The Morey Group/TMG Solutions) are hired to help research and expedite the necessary filings and applications.
- March 2005 – Applications filed with LA City Case ZA 2005-2021
(CDP)(ZV)(PUB)(SPP)
1. Coastal Development Permit (CDP)
 2. Zone Variance (to allow offsite parking for the upper floor front deck through lease rather than covenant & to permit parking site to be located more than 750 ft away) (ZV)
 3. Plan Approval (to allow seating on the upper floor front deck as per CUP ZA 2004-0099) (PUB)
 4. Project Permit (to certify compliance under the Venice Specific Plan) (SPP)
- April 2005 – Denial of Murez Appeal GRANTS beer & wine license to Amuse Café - including CUP ZA 2004-0099 condition that no seating is allowed on upper floor front deck until the deck meets all City requirements for legal use.
- April 2005 – Initiated by a complaint from Jim Murez, Inspector Javier Landeros, Dept of Building & Safety informs that no Building Permit exists for seating in the rear patio which has in fact been used for this purpose since 1991.

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- April 2005 – Felix Figueroa with the Planning Dept at West LA Dept of Building & Safety informs that legal requirements for using the rear patio requires 1 parking space per every 50 sq ft of dining area.
- April 2005 – Building Permit Application pulled for outside dining in rear patio.
- May 2005 – Permit for use of rear patio is added to our existing Applications already filed with LA City. (Case ZA 2005-2021)
- May 2005 – Felix Figueroa of W LA Dept of Building & Safety – Planning, re-verifies that additional parking is required for the rear patio but says Building & Safety has no issues with the front deck, parking or otherwise, and that it is already permitted in the 1998 C of O.
- May 2005 – Chuck Posner at Coastal Commission informs that the Commission will require a Coastal Dev Permit not only for the front deck and rear patio but also for the entire restaurant regardless of the fact that it's been operating under two Certificates of Occupancy for the past 14 years and that various government agencies have held differing opinions. A Coastal Dev Permit for the entire restaurant requires 1 parking space per 50 sq ft of indoor and outdoor dining. CDP for entire restaurant is added to our already existing Applications. (Case ZA 2005-2021)
- Nov 2005 – Jim Murez files request for Dept of Building & Safety to revoke original 1990's Building Permits 90SP4676 and 97016-30000-28020 (Reference no. 98WL50561) for the conversion of an existing single-family dwelling into a TakeOut then SitDown restaurant, without complying with parking requirements. Request denied.
- Dec 2005 – Hearing at West LA Municipal Building before ZA Pat Brown regarding our Applications, case ZA 2005-2021 (CDP)(ZV)(PAB)(SPP) Project description:” Legalization of upper patio/deck, adding 10 seats to an existing 44 seat restaurant with on-site beer and wine sales.” (Jim Murez opposes.)
- Dec 2005 – We present our plans to Venice Neighborhood Council where our time is cut short and our request for certification of our compliance is mis-understood as a request for variance from the Venice Plan. Even so, 1 member votes in our favor and 2 abstain. 4 vote against us. Jim Murez is the principle opposition. It is perhaps significant that he is notably familiar and friendly with members of the council, has worked often with them in the past, has ongoing relations with them and that his spouse has also worked closely with them.

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March 2006 – Jim Murez’ Appeal of the Building & Safety decision to not revoke building permits regarding change of use is denied by ZA Lin Wyatt. Case # DIR 2005-9050 (BSA). ZA determines Building & Safety did not err.

March 2006 – Jim Murez files Appeal of Lin Wyatt Determination Case 2005-9050

June 2006 – Determination of our Applications by Pat Brown, Case ZA 2005-2021 (CDP)(ZV)(PAB)(SPP):

1. APPROVES a Coastal Development permit for entire restaurant
 2. DENIES Variance to permit required parking thru Lease rather than Covenant
 3. APPROVES Variance to permit parking more than 750 ft away
 4. APPROVES plans to permit sale of alcohol in upper patio w/10 seats
 5. APPROVES a Specific Plan Project Permit
- Safeguards, oversights and limitations are built into the Determination including use of a Valet Service with contracts and agreements to be kept on file as well as an on-file current Parking Site Lease.

June 2006 – Jim Murez Appeals ZA Pat Brown’s Determination regarding our Applications -- Case ZA 2005-2021 and ZA Lin Wyatt Determination DIR 2005-9050 to WLA Area Planning Commission.

Aug 2006 – Hearing at West LA Area Planning Commission regarding Murez appeals of ZA 2005-2021 (CDP)(ZV)(PAB)(SPP) – 1A and DIR 2005-9050 (BSA)1A. ZA Lin Wyatt’s Determination regarding Building & Safety correct issuance of change of use building permits is APPROVED and can no longer be appealed.

Sept 2006 – Determination Letter of Murez Appeals to West LA Area Planning Commission

- a). APPROVES a Coastal Development Permit for the entire restaurant
 - b). APPROVES a Variance to permit parking thru lease rather than covenant
 - c). APPROVES a Variance to park more than 750 ft away
 - d). SUSTAINS ZA’s APPROVAL of sale of alcohol on upper patio with 10 seats
 - e). SUSTAINS ZA’s APPROVAL of a Specific Plan Project Permit
- Conditions of Approval include oversights and reviews regarding valet parking service, offsite parking lease, adherence to beer & wine regulations, # of seats allowed on upper deck, graffiti removal and protection of the neighborhood from negative impacts plus a narrow expiration date requiring permit renewals.
(A typo Corrected Determination Letter mailed Nov 2006)

Oct 2006 – Jim Murez Appeals WLA APC Determination to City Council PLUM Committee – CF 06-2476 ZA 2005-2021 (CDP)(ZV)(PAB)(SPP)

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- March 2007 – PLUM Hearing of Murez Appeal (CF 06-2476) chaired by Councilmember Jose Huizar as committee of one recommends ADOPTING WLA APC Findings and suggests Modified Conditions of Approval including a limit of 10 people maximum seating on upper front deck as well as oversight and review procedures of parking arrangements which could result in termination of parking Variances.
(see Oct 2006 - WLA APC Determination points above)
- April 2007 – LA City Council ADOPTS PLUM Committee Recommendations.
- May 2007 – Proper notification is sent from LA City to CA Coastal Commission regarding Mayor's APPROVAL of City Council's recommended adoptions and APPROVAL of Zone Variance
- June 2007 – Jim Murez APPEALS LA City Coastal Development Permit Decision to CA Coastal Commission - Appeal No. A-5-VEN-07-200. Initial Hearing date w/Coastal Commission set for July 2007 is postponed – Future date TBD – request submitted to be scheduled for local Oct 2007 meeting.
- June 2007 – Initiated by a complaint from Jim Murez, Octavio Jimenez from Bureau of Street Services issues Citation to obtain Revocable Permit for front deck. After meeting with Jimenez, an acting supervisor and Civil Engineer Anthony Munoz (who had been unaware of our earlier Revocable Permit) We're granted an Extension to begin Street Vacation process.
(Theoretically, Street Vacation & Revocable Permit should happen simultaneously, within a year, with Extensions granted from Street Services if we're proceeding diligently toward the Street Vacation. Public Works can grant Revocable Permit once Downtown Land Development determines that everything is complete and there are no possible derailments to the pending Street Vacation.
- June 2007 – Application for Street Vacation accepted by Jeffrey Moore at Downtown Land Development. Project # VACE1401074 (fee rcpt # 09188)

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May 16, 2005

RE: Case No. ZA2005-2021 (CDP)(ZV)(PAB)(SPP)

Venice Planning Area
District Map NO. 109.5A13
Council District No. 11

APPLICANT: MAX TRUMPOWER

DEAR SIRs:

I live at 798 Main Street, Venice adjacent to the 796 Main Street property and Restaurant. As a neighbor who would be most directly affected I have no objections to granting the Coastal Development Permits and Variances as requested and applied for by Mr. Max Trumpower and the existing restaurant in CASE NO. ZA 2005-2021(CDP)(ZV)(PAB)(SPP).

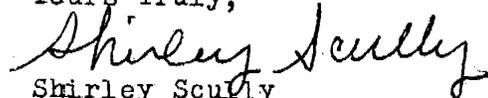
For many years a number of different restaurants have occupied the premises and they have all been allowed, without restriction, to use the upper deck and rear patio for food service with no adverse effects or protests from me or the neighborhood. The Deck and Patio are a main part of the charm and ambiance of the restaurant. I can see no reason to deny their use now for seating and food service as requested.

The existing restaurant, the Amuse, has Valet Parking so granting a variance to locate the required off street parking on a lot more than 750 feet away from the premises would not present a problem or concern to me.

I have no objection to the restaurant, The Amuse, continuing to serve Beer and Wine with their food. I have not experienced any problems from the restaurant doing so in the past with their existing Conditional Use Permit.

I do not have any objections to granting the permits and variances as applied for by Mr. Max Trumpower and the Amuse restaurant and as stated in CASE NO. ZA2005-2021(CDP)(ZV)(PAB)(SPP). I am in support of the application.

Yours Truly,



Shirley Scully
798 Main Street
Venice, California
90291

COASTAL COMMISSION
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May 5, 2005

Office of Zoning Administration
221 N. Figueroa Street
Los Angeles, CA 90012

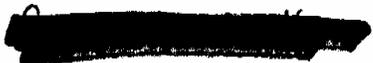
Re: 796 Main Street
Lot 15; Burk's Place Tract

To Whom It May Concern:

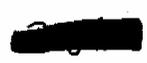
I am writing to support Mr. Max Trumpower and Amuse Cafe in their Zoning Administrator application to allow the following:

1. PLAN APPROVAL as permitted under Section 12.24 m of the Zoning Code and as allowed under Condition 7 of Conditional Use Permit ZA 2004-0099 to allow 10 additional seats on the upper floor deck/patio area. (As stated, ZA 2004-0099 approved 20 seats and alcohol sales for the rear patio, so no Plan Approval is required for the rear patio.)
2. ZONE VARIANCE as permitted under Section 12.27 of the Zoning Code to allow required parking for the upper patio/deck and rear patio through lease rather than covenant and to permit the parking to be located more than 750 feet away.
3. COASTAL DEVELOPMENT PERMIT as permitted under Section 12.20.2 of the Zoning Code.
4. PROJECT PERMIT to certify compliance under the Venice Specific Plan as allowed under Section 11.5.7 C of the Zoning Code.

Regards,



Name

 18th St

Address Santa Monica, CA

5/22/05

90402

Date

Typical- 1 of 67

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