

CALIFORNIA COASTAL COMMISSION

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

Applic. Filed: 1/29/2007
 Appeal Filed: 2/28/2007
 49th Day: 4/18/2007
 Staff: Charles Posner - LB
 Staff Report: 3/28/2007
 Hearing Date: April 11, 2007
 Commission Action:

**W9a & W10f****STAFF REPORT: APPEAL AND REGULAR CALENDAR**

APPLICATION NUMBER: 5-06-455 **APPEAL NUMBER:** A-5-VEN-07-092

APPLICANT: Gary Harris **AGENT:** Constantine Tziantzis

APPELLANT: Robert Aronson **AGENT:** N/A

PROJECT LOCATION: 1909 Ocean Front Walk, Venice, City of Los Angeles, Los Angeles Co.

PROJECT DESCRIPTION: Conversion of an existing four-unit apartment building into a four-unit condominium building, and an appeal of the local coastal development permit approving the project with conditions.

Lot Area	3,615 square feet
Gross Floor Area	5,973 square feet (excluding garage)
Parking Spaces	8 (2 per unit)
Zoning	R3-1
Plan Designation	Multi-Family Residential – Medium
Ht above boardwalk	40 feet

SUMMARY OF STAFF RECOMMENDATION

The proposed condo-conversion involves an existing forty-foot high, four-unit apartment building that fronts the Venice Boardwalk (Ocean Front Walk) in North Venice. The City of Los Angeles has approved a local coastal development permit and preliminary parcel map authorizing the conversion of the four existing residential units into four condominium units. The City determined that two of the four units qualify as affordable housing units, and in order to ensure that the project does not result in the net loss of affordable housing units, the City has required that the two affordable housing units be replaced elsewhere in the Venice coastal zone as a condition of the condominium conversion.

One of the building's tenants has appealed the City's approval of the local coastal development permit to the Commission (Appeal No. A-5-VEN-07-092). The appellant contends that the project should be denied because it does not provide guest parking, and the conversion to condominiums would prolong building life and make permanent the existing building's non-conformities in regards to height, density, setbacks and parking. Because the project is located in the "Dual Permit Jurisdiction" of the coastal zone, the applicant must also obtain a coastal development permit from the Commission (Permit Application 5-06-455). The appeal and the dual permit application are combined in this staff report.

Staff is recommending that the Commission reject the appeal because the proposed project would not change the density or intensity of land use, would not increase parking demand or decrease the existing parking supply, and the existing non-conformities do not adversely affect coastal resources. In addition, there will be no net loss of affordable housing in the Venice coastal zone as the applicant has agreed to replace two affordable housing units elsewhere in the Venice coastal zone. Therefore, staff is recommending that the Commission, after a public hearing, determine that the appeal raises **no substantial issue** as to conformity of the City's approval with the Chapter 3 policies of the Coastal Act, thus rejecting the appeal; and then **approve** the coastal development permit with special conditions relating to condition compliance, parking, and the replacement of the two affordable housing units. The

applicant agrees with the staff recommendation. **The special conditions begin on Page Four. The motions to carry out the staff recommendation are on Page Three.**

LOCAL APPROVALS

1. City of Los Angeles Local Coastal Development Permit, Case No. APCW-2005-5150
2. City of Los Angeles Preliminary Parcel Map, Case No. AA-2005-5105, 7/31/2006.

SUBSTANTIVE FILE DOCUMENTS

1. City of Los Angeles certified Venice Land Use Plan, 6/14/2001.
2. Coastal Development Permit Application P-75-5763 (Trefts: 1909 OFW).
3. Coastal Commission Appeal No. 221-75 (Trefts: 1909 OFW).
4. Coastal Development Permit 5-05-340 (Latimer: 4715 OFW).
5. Coastal Development Permit 5-05-416 (Murphy: 419 OFW).

STAFF NOTE

The proposed project is immediately inland of the Venice Boardwalk and Venice Beach Recreation Area, within 300 feet of the beach. Therefore, it is within the coastal zone area of the City of Los Angeles that has been designated in the City's permit program as the "Dual Permit Jurisdiction" area. Pursuant to Section 30601 of the Coastal Act and Section 13307 of Title 14 of the California Code of Regulations, any development located in the Dual Permit Jurisdiction that receives a local coastal development permit from the City must also obtain a permit from the Coastal Commission.

On June 21, 2006, the City of Los Angeles West Los Angeles Area Planning Commission approved Local Coastal Development Permit No. APCW-2005-5150 for the proposed condominium conversion project (Exhibit #7). The applicant submitted the application for the dual permit (Application No. 5-06-455) to the Commission's Long Beach office on November 29, 2006. The City Planning Department, however, failed to properly notify Commission staff of its approval of the local coastal development permit until January 29, 2007, thus delaying the start of the twenty working-day appeal period during which the City's action on the local coastal development permit could be appealed to the Commission.

At 5:08 p.m. on February 28, 2007, the final day of the appeal period, Robert Aronson hand-delivered his appeal of the City-approved local coastal development permit to the Commission's Long Beach office (Exhibit #8). Staff initially rejected Mr. Aronson's appeal because it was not received by Commission staff until after the appeal period ended at 5 p.m. on February 28, 2007. Mr. Aronson, however, provided documentation that he had attempted to submit his appeal via fax prior to the end of the appeal period, but the faxed appeal was not received by the Commission only because the telephone (fax) number listed on the appeal form (for the Commission's Long Beach office) was incorrect. Although staff urges applicants never to rely on faxed appeals to the Commission because such appeals may not be submitted in a timely manner if there is a problem with the fax transmission, staff determined that the listing of the incorrect telephone number on the Commission's appeal form was a staff error, and that if not for that error, the appeal would have been received in a timely manner. Therefore, due to these unique circumstances, in combination with the fact that the appellant hand-delivered the appeal only a few minutes late, the appeal has been accepted.

On March 8, 2007, escrow closed for the sale of the property that is the subject of this appeal and permit application. The former owner and applicant (Michael Sarlo) has sold the property to the current applicant, Gary Harris. Mr. Harris has stated his intent to complete the permitting process in order to convert the four apartment units to four condominium units (and replace the two affordable housing units), and he has retained the services of the prior applicant's agent (Constantine Tziantzis) to assist in this matter.

In order to minimize duplication, Commission staff has combined the appeal (A-5-VEN-07-092) and dual coastal development permit application (5-06-455) into one staff report and one Commission hearing. Therefore, the matter will require at least two separate Commission actions: one action on the substantial issue question and another action on the dual coastal development permit application. Staff is recommending that the Commission determine that the appeal raises **no substantial issue** as to conformity of the City's approval with the Chapter 3 policies of the Coastal Act, thus rejecting the appeal; and then **approve** the coastal development permit with the recommended special conditions.

STANDARD OF REVIEW

The Commission's standard of review for the proposed development is the Chapter 3 policies of the Coastal Act. The City of Los Angeles certified Land Use Plan (LUP) for Venice is advisory in nature and may provide guidance.

STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE

The staff recommends that the Commission determine that **no substantial issue exists** with respect to whether the local government action conforms with the provisions of Chapter 3 of the Coastal Act (commencing with Section 30200), pursuant to California Public Resources Code Section 30625(b)(1). Staff recommends a **YES** vote on the following motion:

MOTION: *"I move that the Commission determine that Appeal No. A-5-VEN-07-092 raises **NO SUBSTANTIAL ISSUE** as to conformity with Chapter 3 of the Coastal Act."*

An affirmative vote by a majority of the Commissioners present is required to pass the motion.

I. Resolution to Find No Substantial Issue for Appeal A-5-VEN-07-092

The Commission hereby finds that Appeal No. A-5-VEN-07-092 presents no substantial issue with respect to conformity with the Chapter 3 policies of the Coastal Act.

STAFF RECOMMENDATION FOR THE DUAL PERMIT APPLICATION

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

MOTION: *"I move that the Commission approve with special conditions Coastal Development Permit 5-06-455 per the staff recommendation."*

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. An affirmative vote by a majority of the Commissioners present is needed to pass the motion.

II. Resolution to Approve Permit Application 5-06-455 with Conditions

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.

III. Standard Conditions

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date 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.

IV. Special Conditions

1. Permit Compliance

Coastal Development Permit 5-06-455 approves the conversion of the four apartment units on the project site to four residential condominium units, consistent with the following conditions of approval. All development must occur in strict compliance with the proposal as set forth in the application for permit (and as conditionally approved by the City of Los Angeles) subject to the special conditions. Any deviation from the approved project must be submitted for review by the Executive Director to determine whether an amendment to this coastal development permit is required pursuant to the requirements of the Coastal Act and the California Code of Regulations.

2. Parking

A minimum of eight (8) on-site parking spaces shall be provided and maintained in the garage of the structure to serve the residents of the building, as proposed and as shown on **Exhibit #4 of the 3/28/07** staff report. Vehicular access to the on-site parking shall be taken only from Speedway Alley.

3. Affordable Housing Units

Two of the four condominium units authorized on the project site by this permit shall be maintained by the permittee as affordable rental units until the permittee has provided documentation, for the review and approval of the Executive Director, that the permittee has

dedicated the two required affordable replacement housing units elsewhere in the Venice coastal zone (within three years of the condominium conversion) consistent with the terms of Local Coastal Development Permit No. APCW-2005-5150. Existing affordable housing units may not be used to satisfy the requirement for the two affordable replacement housing units. The two affordable replacement housing units shall be reserved and maintained as affordable housing units for the life of the building in which they exist, but in no case less than thirty (30) years.

PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall: a) identify to the Executive Director specifically which of the two units on the project site are being preserved as affordable rental units until such time as they both are replaced as required by the terms of this permit and Local Coastal Development Permit No. APCW-2005-5150, and b) submit documentation, for the review and approval of the Executive Director, demonstrating that the applicant has recorded a covenant and agreement with the City of Los Angeles Housing Department, or with a non-profit housing organization approved by the Executive Director, assuring on-going compliance with the affordable housing provisions of this permit and Local Coastal Development Permit No. APCW-2005-5150.

4. Compliance with Local Coastal Development Permit No. APCW-2005-5150

PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and approval of the Executive Director, a written agreement confirming the applicant's acceptance of the City's conditions of approval imposed pursuant to its approval of Local Coastal Development Permit No. APCW-2005-5150, and specifically agreeing to abide by the requirements to: a) pay an in lieu fee of \$18,000 into the Venice Coastal Parking Impact Trust Fund instead of providing the required guest parking space on the project site, and b) provide two affordable replacement housing units within the Venice coastal zone within three years of the condominium conversion. In addition, the applicant shall agree to submit documentation (within ten days of condition compliance) to the Executive Director demonstrating that the required in lieu fee of \$18,000 has been paid into the Venice Coastal Parking Impact Trust Fund, and that the two affordable replacement housing units have been provided in the Venice coastal zone as required. Any proposed change to the conditions of approval imposed pursuant to the City's approval of Local Coastal Development Permit No. APCW-2005-5150 must be submitted for review by the Executive Director to determine whether an amendment to this coastal development permit is required pursuant to the requirements of the Coastal Act and the California Code of Regulations.

5. Deed Restriction

PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded against the parcel 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.

V. Appellant's Contentions

On February 28, 2007, Robert Aronson filed the appeal of the approval of City of Los Angeles Local Coastal Development Permit No. APCW-2005-5150 (Exhibit #8). Local Coastal Development Permit No. APCW-2005-5150 approves the conversion of four apartment units to four residential condominium units in an existing forty-foot tall residential building located at 1909 Ocean Front Walk in North Venice (See Exhibits). Eight on-site parking spaces are provided within the basement garage of the existing structure (Exhibit #4). The City's conditions of approval require the applicant to: 1) provide and maintain two on-site parking spaces (in tandem) for each condominium unit, 2) pay an in lieu fee of \$18,000 into the Venice Coastal Parking Impact Trust Fund instead of providing the required guest parking space on the project site, and 3) provide two affordable replacement housing units within the Venice coastal zone within three years of the proposed condominium conversion (Exhibit #7).

The appellant, who opposes the proposed condominium conversion, contends in his appeal that: 1) the proposed subdivision is not in conformity with the public access and development policies of the Coastal Act because the lack of adequate parking would adversely affect public access to the recreational opportunities provided by the adjacent beach and boardwalk, 2) the proposed project has an inadequate parking supply because no guest parking or Beach Impact Zone (BIZ) parking is being provided on the site, 3) part of the building's basement has been converted into two bedrooms and two bathrooms (and would be part of condominium Unit One), thus intensifying the project's density and the need for additional on-site parking, 4) the building's existing non-conformities (height, density, setbacks and parking) would be made permanent by the proposed condominium conversion, 5) four residential units is too dense for the site, which, under current standards, could only be developed with two units, 6) the building exceeds the 35-foot height limit by five feet, 7) the building provides four-foot side yard setbacks instead of the required five feet, 8) no drainage plan is provided, 9) many local residents and property owners oppose the project, and 10) the public's participation was limited at the City's hearings because of inadequate public notice (Exhibit #8).

VI. Local Government Action

On June 20, 2005, the applicant submitted an application to the City of Los Angeles Planning Department proposing to convert the four-unit apartment building into four condominium units. The application included requests for a parcel map approval for condominium purposes, a local coastal development permit, and specific plan exceptions related to Beach Impact Zone (BIZ) parking requirements and the existing building's non-conforming status in regards to density and guest parking.

On March 20, 2006, pursuant to the requirements of the California Environmental Quality Act (CEQA), the City of Los Angeles Planning Department issued Negative Declaration No. ENV-2005-5106-ND for the project.

On April 17, 2006, the City of Los Angeles Planning Department held the first public hearing for the proposed project at the Westchester Municipal Building.¹ At the hearing on April 17, 2006, the City Hearing Officer noted that concern was expressed by some opponents that the applicant had agreed to postpone the public hearing until after the Neighborhood Council had

¹ On March 22, 2006, the Commission's Long Beach office received a public notice for the City's April 17, 2006 hearing regarding Coastal Development Permit No. APCW-2005-5150.

met to discuss the proposal at the end of April, but that the postponement had not occurred. The Hearing Officer explained that neither the applicant nor a Hearing Officer had the authority to cancel a public hearing without the legally required notice, and the hearing then commenced. It was also noted that the City had received 107 letters opposing the project, and none in favor, but that no one spoke at the hearing to oppose the proposed condominium conversion. No action was taken by the City at the April 17, 2006 hearing.

On May 5, 2006, the City of Los Angeles Housing Department determined that two affordable housing units exist on the property, and that these two units must be replaced if they are converted to condominiums as proposed by the applicant (Exhibit #10).

At its meeting on June 21, 2006, the City of Los Angeles West Los Angeles Area Planning Commission approved Local Coastal Development Permit No. APCW-2005-5150 for the proposed condominium conversion project (Exhibit #7, p.2). At the same time, the Planning Commission also approved the specific plan exceptions for the density and guest parking requirements, a Project Permit Compliance pursuant to the Venice Specific Plan, a Mello Act Compliance pursuant to the City's affordable housing requirements, and adopted Negative Declaration No. ENV-2005-5106-ND for the project. The Planning Commission also found that the proposed project is not required to provide any Beach Impact Zone (BIZ) parking spaces (Exhibit #7).

On July 19, 2006, the City of Los Angeles West Los Angeles Area Planning Commission issued a Letter of Determination reflecting the actions taken at its June 21, 2006 meeting, although the letter did not list any action taken on the local coastal development permit.

On July 31, 2006, the City of Los Angeles Advisory Agency approved with conditions Preliminary Parcel Map No. AA-2005-5105 for the proposed condominium conversion.

On August 3, 2006, the appellant Robert Aronson filed an appeal to the City Council opposing the Planning Commission's approval of the proposed condominium conversion project. For reasons not explained in the City's record, the matter did not go to the City Council for a hearing.

On November 29, 2006, the applicant submitted the application for the dual permit (Coastal Development Permit Application 5-06-455) to the Commission's Long Beach office. Commission staff notified the applicant that the project must first obtain a local coastal development permit from the City of Los Angeles prior to applying to the Coastal Commission for the dual coastal development permit. The applicant informed Commission staff that he had obtained a local coastal development permit; even though the City's Letter of Determination dated July 19, 2006 did not list any action taken on the local coastal development permit. Commission staff then informed the applicant and the City Planning Department in writing that the Commission had not received a Notice of Final Action for any local coastal development permit for the proposed condominium conversion.

On January 29, 2007, the Commission's Long Beach office received from the City a Corrected Copy of the Planning Commission's Letter of Determination reflecting the actions taken at its June 21, 2006 meeting (Exhibit #7, p.2). The Corrected Copy of the Planning Commission's Letter of Determination states that a local coastal development permit for the proposed condominium conversion was approved at the Planning Commission's June 21, 2006 meeting.

The Corrected Copy of the Planning Commission's Letter of Determination (received in the Commission's Long Beach office on January 29, 2007) was determined to be a valid Notice of Final Action for the City's approval of Local Coastal Development Permit No. APCW-2005-5150. On January 30, 2007, the twenty-working day appeal period commenced during which time anyone could appeal the City's final decision on the local coastal development permit to the Coastal Commission.

On February 28, 2007, the last day of the appeal period, the appellant Robert Aronson submitted his appeal to the Commission's Long Beach office. Commission staff notified the City Planning Department of the appeal on March 15, 2007. On March 19, 2007, the Commission's Long Beach office received from the City a copy of its record on the matter.

VII. Appeal Procedures

Section 30600(b) of the Coastal Act provides that prior to certification of its Local Coastal Program, 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, 30604 and 30625(b)(1).]

After a final local action on a local coastal development permit application, the local government must send notice of the action to the Coastal Commission 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 conformity with Chapter 3 of the Coastal Act (Sections 30200-30265.5). [Cal. Pub. Res. Code § 30625(b)(1).] The Commission holds a public hearing before it makes its determination whether the appeal raises a substantial issue in regards to conformity with the Chapter 3 policies of the Coastal Act.

If the Commission decides that the appellant's contentions raise no substantial issue as to conformity with Chapter 3 of the Coastal Act, the action of the local government stands. Alternatively, if the Commission finds that a substantial issue exists with respect to the conformity of the action of the local government with Chapter 3 of the Coastal Act, the local coastal development permit is voided and the Commission typically continues the public hearing to a later date in order to review the coastal development permit as a de novo matter. [Cal. Pub. Res. Code §§ 30621 and 30625.] Section 13321 of the Coastal Commission

regulations specifies that de novo actions will be heard according to the procedures outlined in Sections 13114 and 13057-13096 of the Commission's regulations.

VIII. 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 the development which receives a local coastal development permit also obtain a "dual" coastal development permit from the Coastal Commission. For projects located inland of the areas identified in Section 30601 (*Single Permit Jurisdiction*), the City of Los Angeles local coastal development permit is the only coastal development permit required. The proposed development is located within the *Dual Permit Jurisdiction*, and the applicant has submitted an application for the dual coastal development permit (Application 5-06-455).

IX. Findings and Declarations

The Commission hereby finds and declares:

A. Project Description and History

The applicant proposes to convert an existing four-unit apartment building into a four-unit condominium building. The project site is a 3,615 square foot residentially-zoned (R3-1) parcel situated on the inland side of the Venice Boardwalk (Ocean Front Walk), between 19th and 20th Avenues (Exhibit #3). The surrounding neighborhood inland of the boardwalk is primarily residential, but visitor-serving retail stores occupy most of the buildings facing the boardwalk on this block. The land seaward of the boardwalk is a public recreation area with a public beach, public parking lot, tennis and basketball courts, and a weight lifting gym.

The existing structure, built in 1971-72, before coastal development permits were required, is forty feet tall and has an eight-stall garage in the basement (See Exhibits). The rest of the basement (that portion not used for parking) is proposed to be incorporated into Unit One as part of the proposed condominium conversion (Exhibit #4). Units One and Two occupy the first floor above the basement. The top two units, Units Three and Four, occupy the second floor and the top mezzanine level. The building also has a roof deck (Exhibit #5). No vending or commercial use currently exists on the project site, and no commercial uses are proposed. Vehicular access to the garage is provided only by the rear alley (Speedway).

The City has approved the proposed project, but its action on the local coastal development permit (Case No. APCW-2005-5150) has been appealed to the Commission for the reasons listed in Section V of this report (Exhibit #8). The City's conditions of approval require the applicant to: 1) provide and maintain two on-site parking spaces (in tandem) for each condominium unit, 2) pay an in lieu fee of \$18,000 into the Venice Coastal Parking Impact Trust Fund instead of providing the required guest parking space on the project site, and 3) provide two affordable replacement housing units within the Venice coastal zone within three years of the proposed condominium conversion (Exhibit #7). Also, the total floor area of the building is limited by the City to a maximum of 5,973 square feet. The applicant does not object to the City's conditions of approval.

This is not the first time that the building has been the subject of an appeal before the Commission. In 1975, a former owner (John Trefts) applied to the South Coast Regional Commission to convert the four-unit apartment building into four condominium units [Coastal Development Permit Application P-75-5763 (Trefts)]. The South Coast Regional Commission denied the permit application finding that the cumulative effect of condominium conversions would change the character of the neighborhood by raising the cost of housing thus making the area unaffordable to renters (Exhibit #9). The applicant appealed the denial to the Statewide Coastal Commission which rejected the appeal finding that no substantial issue was raised by the appeal in regards to Chapter 3 policies of the Coastal Act [Appeal No. 221-75 (Trefts)]. At that time, the Commission was generally opposed to condominium conversions because of perceived social issues and the resulting loss of affordable housing units. Also, in 1975, the project site was zoned for commercial uses and the applicant was not going to provide any replacement affordable housing units to replace any converted to condominiums.

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.

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

Staff is recommending that the Commission find that **no 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.

C. Substantial Issue Analysis

The appellant, a building tenant who opposes the proposed condominium conversion, contends in his appeal (Exhibit #8) that:

- 1) The proposed subdivision is not in conformity with the public access and development policies of the Coastal Act because the lack of adequate parking would adversely affect public access to the recreational opportunities provided by the adjacent beach and boardwalk;
- 2) The proposed project has an inadequate parking supply because no guest parking or Beach Impact Zone (BIZ) parking is being provided on the site;
- 3) Part of the building's basement has been converted into two bedrooms and two bathrooms (and would be part of condominium Unit One), thus intensifying the project's density and the need for additional on-site parking;
- 4) The condominium conversion would prolong the life of the 35-year old building, thus making permanent the building's existing non-conformities in regards to height, density, setbacks and parking;
- 5) Four residential units are too dense for the site, which, under current standards, could only be developed with two units;
- 6) The building exceeds the 35-foot height limit by five feet;
- 7) The building provides four-foot side yard setbacks instead of the required five feet;
- 8) No drainage plan is provided;
- 9) Many local residents and property owners oppose the project; and,
- 10) The public's participation was limited at the City's hearings because of inadequate public notice.

The appellant's grounds for appeal include issues directly related to Chapter 3 policies and some that do not relate to Chapter 3. The primary Chapter 3 issue raised by the appeal is the parking issue. The Commission has found that the lack of adequate parking can adversely affect public access to the shoreline and public recreation areas, such as Venice Beach. The Coastal Act requires that new development provide adequate parking facilities or make other provisions to enhance public access to the coast.

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 proposed development does not involve the creation of any new residential units or other new development that would change the parking demand in the property. The proposed development would convert four apartment units to four condominium units, and it does not constitute a change in density or the intensity of land use. It is simply changing how each unit is owned. Therefore, the proposed project will not adversely affect public access to the public beach and recreation area because the project will not result in an increased demand for parking or a decrease in the amount of parking that is currently provided on the site (eight spaces). Conversely, the denial of the permit would not save any parking resources or otherwise improve the ability of the public to access the coast.

The Commission's parking standards for the Venice area, as set forth in the Parking Requirement Table of Policy II.A.3 of the certified Venice LUP, require the provision of two spaces per residential unit. The parking standards do not differentiate between different sizes of residential units, nor do they take into account the number of bedrooms in each unit. The project site currently provides eight parking spaces for four residential units, and the proposed project would retain all eight parking spaces for the four condominium units. Although a new four-unit building on this site would be required to provide one additional parking space for guest parking, existing developments (like this one) are allowed to maintain their legally grandfathered parking deficiencies as long as the building exists and there is no increase in density on the site. In this case, the project site has an existing one (guest) space deficiency, and the City has required the applicant to mitigate the one space deficiency by paying \$18,000 into the Venice Coastal Parking Impact Trust Fund (Exhibit #7, p.4).

Policy II.A.3 of the certified Venice LUP allows the payment of in lieu fees in cases like this.

• ***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 appellant asserts that the Venice Specific Plan forbids payment of an in lieu fee for the guest parking space. The Venice Specific Plan has not been certified by the Commission. The Commission's standard of review for the project is the Chapter 3 policies of the Coastal Act. The Venice LUP, which the Commission has certified, provides guidance. Therefore, even if the appellant is correct in his interpretation of the provisions of the Venice Specific Plan, the City's specific plan has no bearing on the Commission's decision on this appeal or on the permit application. In any case, the City does not agree with the appellant's assertion that the specific plan forbids the payment of the fee in to the Venice Parking Fund in lieu of providing one guest parking space for a condominium conversion.

In regards to the City's Beach Impact Zone (BIZ) parking requirements, the certified Venice LUP does not require the provision of additional BIZ parking spaces when existing apartment buildings are converted to condominiums.

Policy II.A.4 of the certified Venice LUP states:

- **Policy II. A. 4. Parking Requirements in the Beach Impact Zone.** *Any new and/or any addition to commercial, industrial, and multiple-family residential development projects within the Beach Impact Zone shall provide additional (in addition to parking required by Policy II.A.3) parking spaces for public use or pay in-lieu fees into the Venice Coastal Parking Impact Trust Fund.*

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

- a. *Commercial and industrial projects in the BIZ shall provide one additional parking space for each 640 square feet of floor area of the ground floor. Up to 50% of the total number of these additional parking spaces required in this section may be paid for in lieu of providing the spaces.*
- b. *Multiple family residential projects in the BIZ shall provide an additional parking space for each 1,000 square feet of floor area of the ground floor for multiple dwelling projects of three units or more. Up to 100% of the total number of these additional parking spaces required in this section may be paid for in lieu of providing the spaces. The recommended rates shall be established based upon the development cost study of the area.*
- c. *All in-lieu fees shall be paid into the Venice Coastal Parking Impact Trust Fund to be administered by the City of Los Angeles Department of Transportation for improvement and development of public parking facilities that support public access to the Venice Coastal Zone.*
- d. *In no event shall the number of BIZ parking spaces (over and above those spaces required by the parking requirements set forth in Policy II.A.3) required for projects of three or more dwelling units, or commercial or industrial projects, be less than one (1) parking space for residential projects and two (2) parking spaces for commercial and industrial projects.*

As stated in the above policy, some projects (typically new buildings) located in the Beach Impact Zone are required to provide BIZ parking spaces in addition to the parking required by the parking table. In this case, the City determined that the proposed development is not required to provide any BIZ spaces, and the appellant disagrees. Again, there is no change in density or the intensity of land use that would trigger the requirement for additional parking.

Therefore, the Commission finds that the appeal raises no substantial issue in regards to parking and coastal access because the proposed project would not change the density or intensity of land use and would not increase parking demand or decrease the existing parking supply. The alleged addition of bedrooms and/or bathrooms to the existing building also would not trigger the need to provide any additional parking since parking spaces in Venice are required on a per unit basis, regardless of unit size or number of rooms.

In regards to the existing building's non-conformities (density, height, parking and setbacks), the Commission finds that the existing non-conformities do not adversely affect coastal resources and an existing development is allowed to maintain its legally grandfathered non-conformities. In regards to density, the certified Venice LUP states that two units per lot (or one unit per 1,200 square feet of lot area) are permitted in the land use category for the subject site: Multi-Family Residential – Medium. The 3,615 site is comprised of one and a half lots (Exhibit #3). Therefore, the four existing units on the site exceed the currently permitted density. The building, however, was properly permitted by the City in 1971 under the zoning laws in effect at that time, and is permitted to maintain that density as long as the building exists. The four residential units that exist on this site do not adversely affect public recreation or other coastal resources.

The appellant is concerned that the proposed condominium conversion would prolong the life of the 35-year old building, thus making the building's existing non-conforming density permanent. The proposed condominium conversion will likely extend the life of the building, and this was an issue raised in 1975 when the previous request to convert the building to four condominiums was denied, but the Commission cannot identify any adverse impact to coastal resources that would result. The adverse impact on coastal resources identified by the Commission in its 1975 denial was the proposed project's adverse affect on the affordable housing units in the building, as well as the cumulative affect of condominium conversions on community character (Exhibit #9). In this case, the City's conditional approval has mitigated the adverse impact to affordable housing resources by requiring the applicant to replace two affordable housing units elsewhere in the Venice coastal zone. Therefore, given the unique facts presented by this application, the Commission finds that the existing non-conforming density is not a substantial issue.

In regards to building height, a small portion of the forty-foot tall building extends above the forty-foot height limit. The portion of the building above 35 feet is not adversely affecting any coastal resources, as the tallest part of the structure is set back away from the boardwalk and out of the public's view. In addition, the 35-foot height limit does not restrict all of a structure from extending above 35 feet; it only applies to the livable floor area and the roof. Some parts of new buildings (e.g. roof deck railing, air condition units and roof access structures) are currently allowed to exceed the height limit. Therefore, the existing non-conforming height of the structure is not so high as to be out of character with the surrounding neighborhood which has several 35-foot tall buildings with roof access structures extending up to 45 feet in height. In any case, the building will remain at its current height even if the proposed project is denied, or if not, a new building could be built with a 35-foot high roof with roof access structures extending up to 45 feet in height. Therefore, the Commission finds that the non-conforming height of the existing structure is not a substantial issue.

The side yard setback issue (four foot vs. five foot wide side yards) is also not a substantial issue. The difference in this case of one foot in the side yard does not merit Commission acceptance of the appeal because no coastal resource is affected. The alleged lack of a drainage plan is also not a basis for accepting the appeal, since the existing building currently drains into the adjacent rights of way and into the storm drain system. The footprint of the existing building covers almost the entire parcel (Exhibit #4).

The other contentions raised by the appeal are non-Chapter 3 issues and are addressed in the next section (Responses to Appellant's Specific Contentions) of this report.

The Five Factors

The standard of review for an appeal is whether it raises a substantial issue as to conformity with Chapter 3 of the Coastal Act, Cal. Pub. Res. Code §§ 30200-30265.5 (hereinafter “Chapter 3”).² [Cal. Pub. Res. Code § 30625(b)(1); 14 C.C.R. § 13321.] In this case, the local government’s findings for the approval of the coastal development permit support its determination that the proposed development conforms to the policies of Chapter 3 of the Coastal Act.

Applying the five factors listed in the prior section further clarifies that the appeal raises no “substantial” issue with respect to Chapter 3, and the appeal does not implicate Chapter 3 policies to a level of significance necessary to meet the substantiality standard of Section 30265(b)(1).

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 City’s findings for approval of the local coastal development permit state that the proposed project conforms to the policies of Chapter 3 of the Coastal Act. The City found that, with the conditions of approval, “there would be no impacts to any existing public access to the sea including access for recreational purposes”. This is based on the fact that there is no increase in density or intensity of land use, and the applicant is required to pay an in lieu fee for one guest parking space into the Venice Parking Fund. In this case, the local government’s decision correctly applied the policies of Chapter 3, was amply supported by the facts, and was consistent with the law. Thus, the appeal raises no substantial issue regarding conformity therewith.

The second factor is the scope of the development approved by the local government. The scope of the approved development is limited to the conversion four apartment units to four condominium units. The scope of the approved development alone does not support a finding that the appeal raises a “substantial” issue.

The third factor is the significance of the coastal resources affected by the decision. No coastal resources will be affected by the City’s conditional approval of the proposed condominium conversion. The proposed condominium conversion would not result in an increase in density or intensity of use, or reduction in the building’s parking supply. The project’s impacts to affordable housing are being mitigated by the requirement to provide two replacement affordable housing units elsewhere in the Venice coastal zone. Therefore, the appeal raises no grounds for a finding of substantial issue regarding consistency with the Coastal Act.

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. The City’s interpretation of the Beach Impact Zone (BIZ) parking requirement contained in the certified LUP has been raised by this appeal, but the City’s interpretation of the LUP is correct: no BIZ parking is required for condominium conversions (See Page Thirteen). Therefore, the

² Unless otherwise indicated, all subsequent statutory references are to sections within the Coastal Act. Cal. Pub. Res. Code §§ 30000 *et seq.*

Commission does not find any negative precedential value in the City's interpretation of the policies of the certified LUP or Chapter 3, in this case. In fact, the conditional approval of the proposed condominium conversion project is consistent with many prior actions by the Coastal Commission approving coastal development permits in Venice for the same type of project.

The Commission has approved the following condominium conversions in the Venice area:

<u>Address</u>	<u>Permit No.</u>	<u>No. of Units</u>
4715 OFW ³	5-05-340-W	Ten Units
1628 Electric Ave.	5-04-367-W	Two Units
24 Voyage St.	5-03-346-W	Two Units
28 Mast St.	5-99-018-W	Two Units
15 Ketch St.	5-98-028-A	Two Units
3319 Grand Canal	5-98-097-A	Two Units
2809 OFW	5-95-246-W	Two Units
3719 OFW	5-94-133-W	Two Units
109 Hurricane St.	5-93-274	Two Units
52 Navy St.	5-92-461	Two Units
17 Driftwood St.	5-86-931-A	Two Units
24 Catamaran St.	5-85-539-A	Two Units
24 Buccaneer St.	5-85-540-A	Two Units

The final factor is whether the appeal raises local issues, or those of regional or statewide significance. This appeal raises a localized issue related to the City's processing of a local coastal development permit, but the appeal does not raise any issues of statewide significance. Therefore, in conclusion, the Commission finds that the local government's action does not raise any substantial Chapter 3 issues because the City's decision is consistent with Chapter 3, does not affect any particularly significant resources or set any adverse precedent, and the appeal raises only local issues. Therefore, no substantial issue exists with respect to the Chapter 3 policies of the Coastal Act.

D. Responses to Appellant's Specific Contentions

The previous section assessed the appeal under the applicable standard of review – whether it raised a substantial issue as to conformity with Chapter 3 of the Coastal Act. The appellant also asserts that procedural errors may have occurred in the local government's issuance of the local coastal development permit. Specifically, the appellant alleges that the public's participation was limited at the City's hearings because of inadequate public notice.

The Commission's role at the "substantial issue" phase of an appeal is not to assess whether the local government correctly processed a permit, but only to decide whether the appeal of the local government's action raises a substantial issue as to conformity with the policies of Chapter 3. The Commission's hearing on the dual permit application will include an opportunity for any interested persons to comment on the proposal. If, as the appellant asserts, many local residents and property owners oppose the project, the hearing for this application presents the public with the opportunity to voice their concerns to the Commission.

³ OFW = Ocean Front Walk

E. Affordable Housing

In approving the proposed condominium conversion, the City determined that two of the four existing residential units qualify as affordable units (Exhibit #10). The City's conditions of approval require the applicant to provide two affordable replacement units within the Venice coastal zone within three years of the proposed condominium conversion (Exhibit #7, p.5). The certified Venice LUP states that there shall be no net loss of affordable housing units in the Venice community, and requires the replacement of any affordable housing units converted to condominiums. The replacement affordable housing units must be provided in the immediate area.

Policies I.A.9 through I.A.12 of the certified Venice LUP state:

- **Policy I. A. 9. Replacement of Affordable Housing.** *Per the provisions of Section 65590 of the State Government Code, referred to as the "Mello Act", the conversion or demolition of existing residential units occupied by persons and families of low or moderate income shall not be permitted unless provisions have been made for replacement of those dwelling units which result in no net loss of affordable housing in the Venice Community in accordance with Section 65590 of the State Government Code (Mello Act).*
- **Policy I. A. 10. Location of Replacement Housing.** *The replacement units shall be located in one or more of the following areas, listed in order of priority: 1) on the site of the converted or demolished structure; 2) within the site's Venice coastal subarea; 3) within the Venice Coastal Zone; 4) within the Venice Community Plan area east of Lincoln Boulevard; and, 5) within a three mile radius of the affected site.*
- **Policy I. A. 11. Replacement Ratios for Replacement Units.** *Replacement ratios shall be at a minimum of 1:1 (one unit replaced for each unit removed). Replacement ratios shall increase according to how far from the affected site replacement units are located as defined in the Mello Act.*
- **Policy I. A. 12. Displaced Residents Priority.** *Displaced residents shall be given right of first refusal on the new replacement units.*

The Coastal Act also encourages the protection of affordable housing opportunities in the coastal zone. Section 30604 of the Coastal Act states, in part:

30604(f): The Commission shall encourage housing opportunities for persons of low and moderate income.

30604(g): The Legislature finds and declares that it is important for the commission to encourage the protection of existing and the provision of new affordable housing opportunities for persons of low and moderate income in the coastal zone.

Section 30607 of the Coastal Act requires the Commission to condition permits to ensure that they development authorized will be in accordance with the provisions of the Coastal Act, including Sections 30604(f) and (g). The Commission is therefore required to encourage the protection of affordable housing. The applicant has agreed to provide two replacement affordable housing units in the Venice coastal zone as required by Local Coastal Development

Permit No. APCW-2005-5150. The Commission imposes special conditions on its permit, in accordance with its obligation to protect affordable housing, in order to ensure that the two replacement affordable housing units are provided as required by the City permit. The Commission's special conditions address the timing of the proposed condominium conversion in relation to the provision of the two replacement affordable housing units.

The special conditions require the applicant to record a deed restriction on the property (which lists the conditions of this permit) and to record the required covenant with the City (agreeing to provide the affordable housing units) before the permit is issued and before the proposed condominium conversion occurs. The deed restriction will ensure that any prospective future owners of the property (e.g. buyers of the four proposed condominium units) are made aware of the applicability of the conditions of this permit.

Once the coastal development permit is issued, the applicant can complete the proposed condominium conversion and sell two of the four condominium units to new owners at market rate. Only two of the condominium units may be sold and converted to market-rate housing before the permittee provides the two required replacement affordable housing units. The two replacement affordable housing units must be provided before the two affordable rental units on the project site are freed of the affordable housing limitations. In this order, the applicant will be able to use the proceeds from the sale of two of the condominium units to finance the purchase and/or construction of the two residential units in Venice that will be dedicated as the two required replacement affordable housing units.

The special conditions also state that existing affordable housing units may not be used to satisfy the requirement for the two affordable replacement housing units, and that the two affordable replacement housing units shall be reserved and maintained as affordable housing units for the life of the building in which they exist, but in no case less than thirty (30) years. If the two replacement affordable units have not been provided within three years of the condominium conversion as required by the conditions of approval, the two affordable rental units will continue to be protected as such on the project site. As conditioned, the proposed development conforms with Sections 30604(f) and (g) of the Coastal Act and the affordable housing provisions of the certified Venice LUP.

F. Public Access

The conditions of approval for the coastal development permit require the applicant to provide and maintain eight on-site parking spaces for the four residential units, and provide evidence that the in lieu fee for the guest parking space has been paid as required by the local coastal development permit. As conditioned by the coastal development permit, the proposed development will not have any new adverse impact on public access to the coast or to nearby recreational facilities. Thus, as conditioned, the proposed development conforms with Sections 30210 through 30214, Sections 30220 through 30224, and 30252 of the Coastal Act.

G. Public Recreation

The proposed development does not interfere with public recreational use of coastal resources. Therefore, the Commission finds that the proposed development, as conditioned, is in conformity with Sections 30210 through 30214 and Sections 30220 through 30223 of the Coastal Act regarding the promotion of public recreational opportunities.

H. Development

The development is located within an existing developed area and, as conditioned, will continue to be compatible with the character and scale of the surrounding area, and will avoid cumulative adverse impacts on public access. Therefore, the Commission finds that the development, as conditioned, conforms with Sections 30250, 30251, 30252, 30253 and the public access provisions of the Coastal Act.

I. Deed Restriction

To ensure that any prospective future owners of the property are made aware of the applicability of the conditions of this permit, the Commission imposes one additional condition requiring that the property owner record a deed restriction against the property, referencing all of the 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.

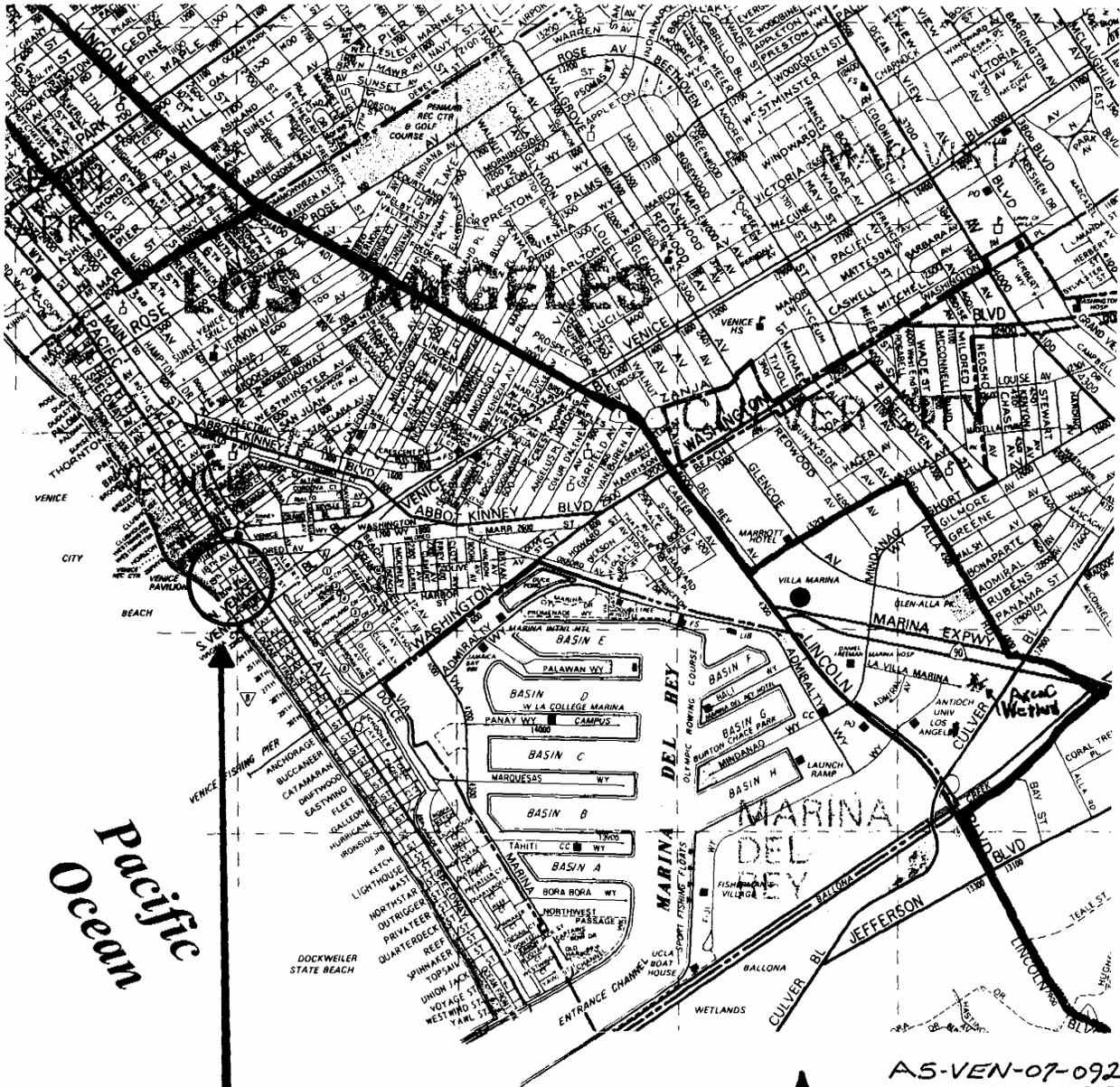
J. Local Coastal Program

Coastal Act section 30604(a) states that, prior to certification of a local coastal program ("LCP"), a coastal development permit can only be issued upon a finding that the proposed development is in conformity with Chapter 3 of the Act and that the permitted development will not prejudice the ability of the local government to prepare an LCP that is in conformity with Chapter 3. The City of Los Angeles Land Use Plan (LUP) for Venice was effectively certified on June 14, 2001. As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act and with the certified Land Use Plan for the area. Approval of the project, as conditioned, will not prejudice the ability of the local government to prepare an LCP that is in conformity with the provisions of Chapter 3 of the Coastal Act.

K. California Environmental Quality Act (CEQA)

The City of Los Angeles is the lead agency for this project with respect to CEQA review. The City issued Negative Declaration No. ENV-2005-5106-ND for this project finding that the project as conditioned would have no significant negative impact on the environment. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

VENICE, CA



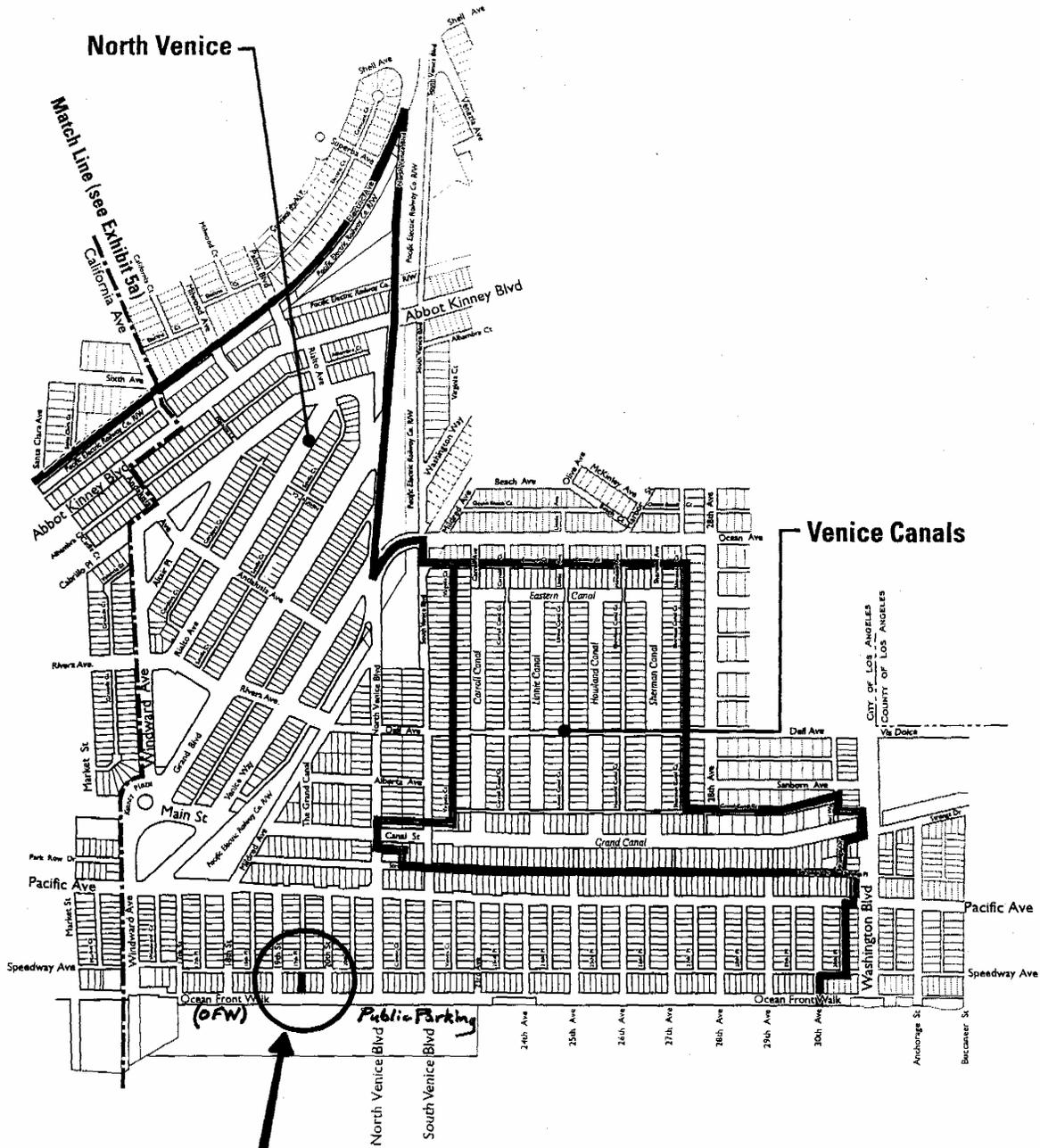
Pacific Ocean

Project Site: 1909 OFW

North ↑

AS-VEN-07-092
COASTAL COMMISSION
5-06-455

EXHIBIT # 1
PAGE 1 OF 1



Project Site: 1909 OFW

LUP
Exhibit 5b
Subarea: North Venice • Venice Canals

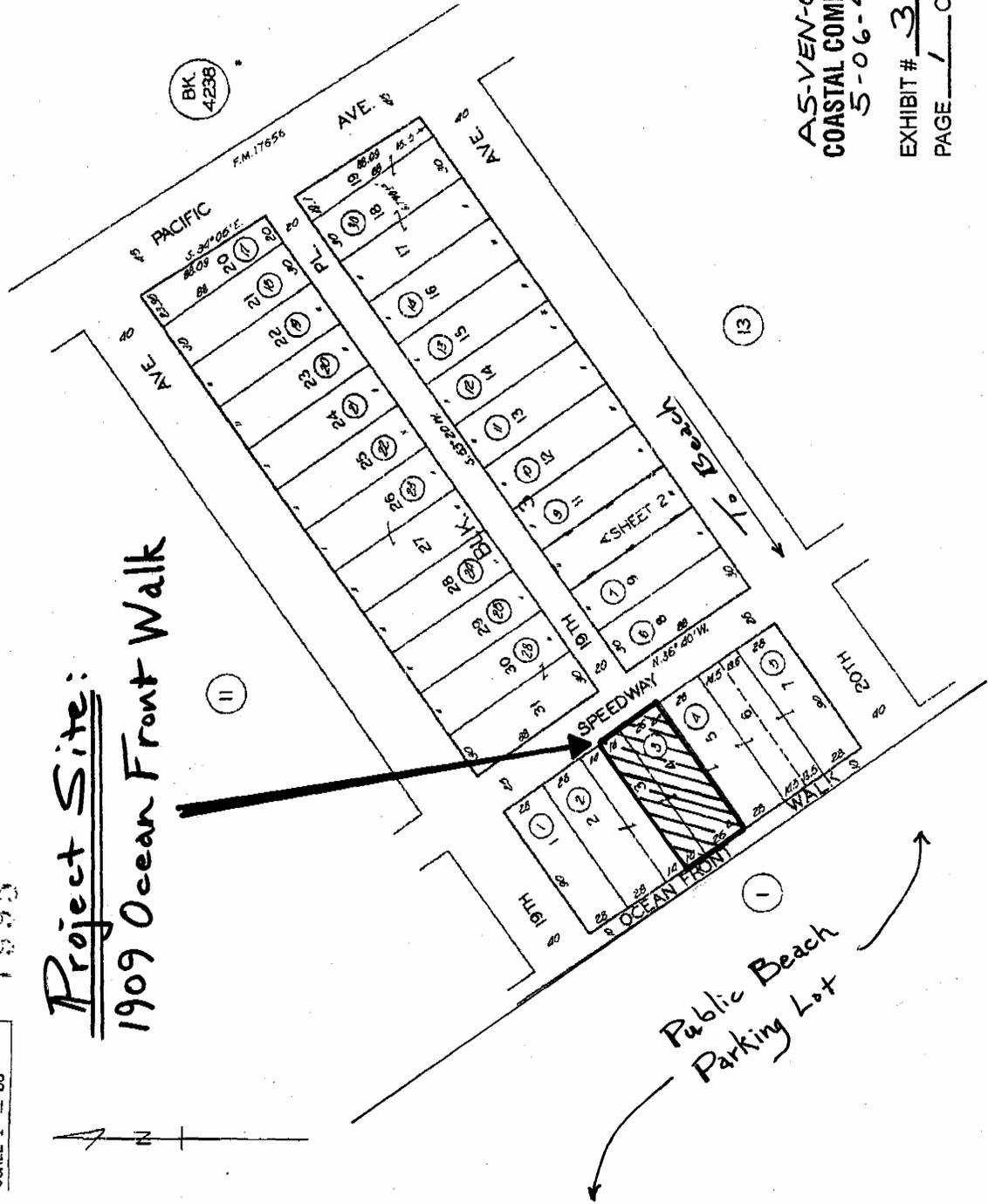

 Not to Scale
COASTAL COMMISSION
 A5-VEN-07-092
 5-06-455
 EXHIBIT # 2
 PAGE 1 OF 1

County of Los Angeles: Rick Auerbach, Assessor

4226 SHEET 12
SCALE 1" = 60'

1995

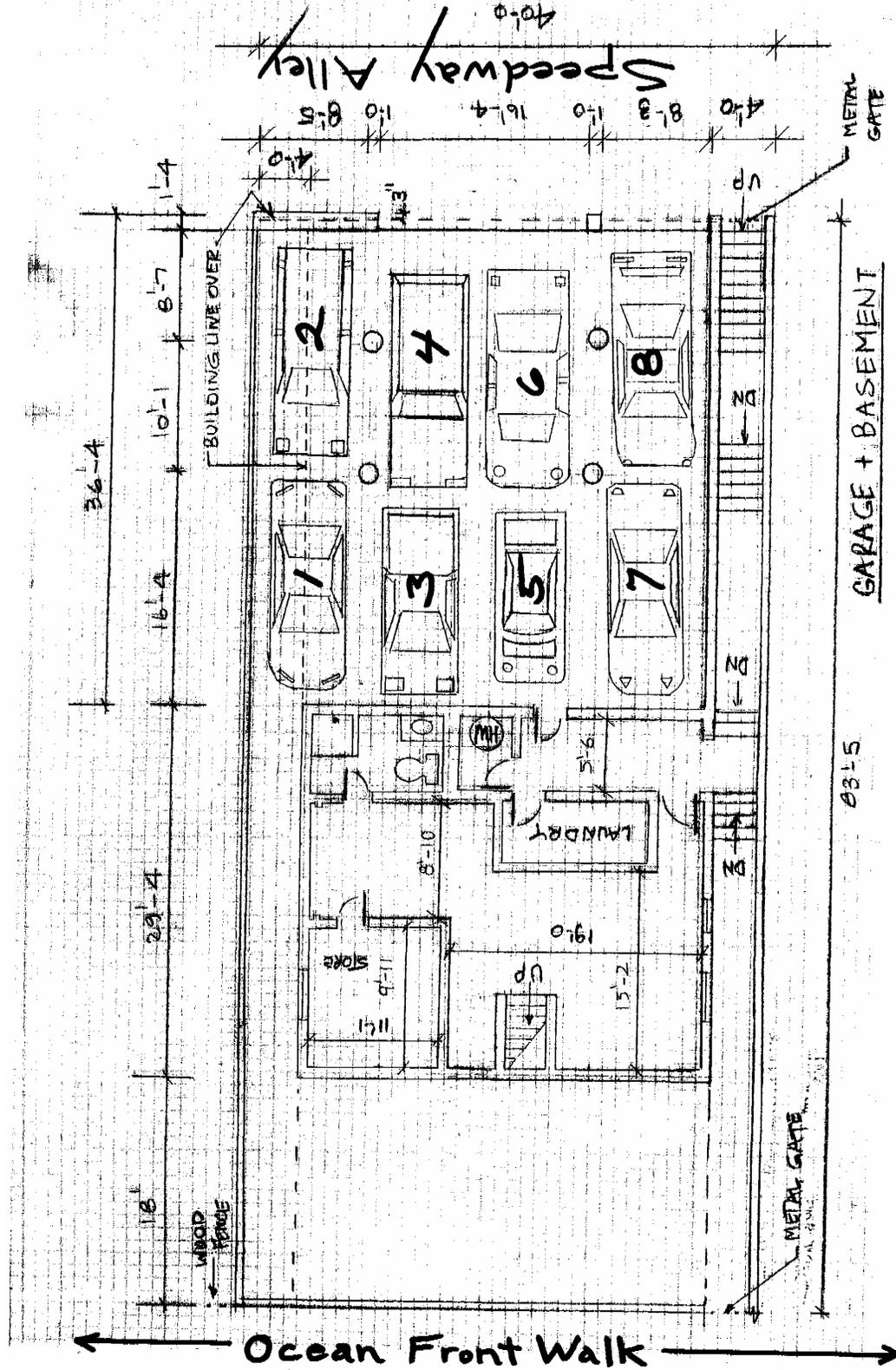
Project Site:
1909 Ocean Front Walk



A5-VEN-07-092
COASTAL COMMISSION
5-06-455

EXHIBIT # 3

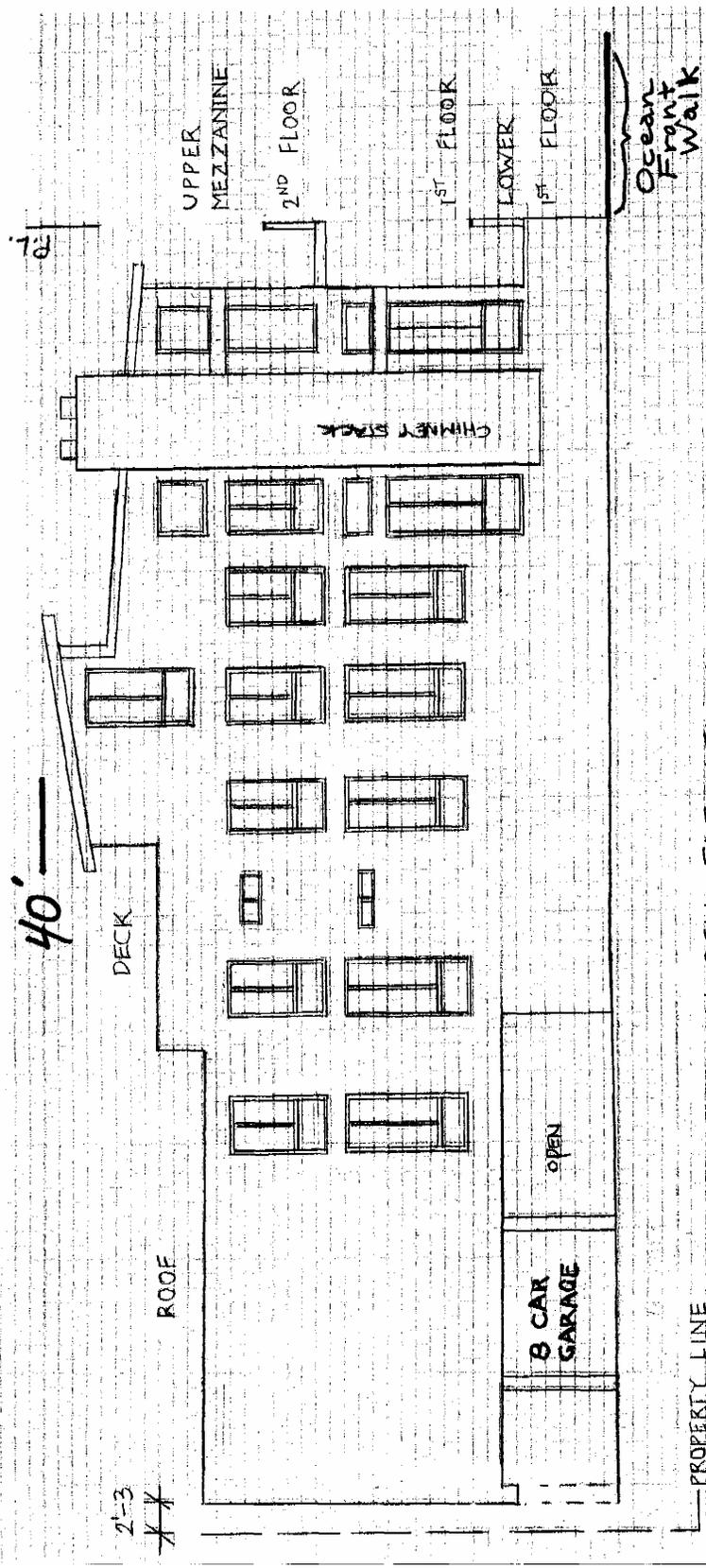
PAGE 1 OF 1



AS-VEN-07-092
 COASTAL COMMISSION
 5-06-755

EXHIBIT # 4
 PAGE 1 OF 1

North



A5-VEN-07-092
 COASTAL COMMISSION
 5-06-455

EXHIBIT # 5
 PAGE 1 OF 1

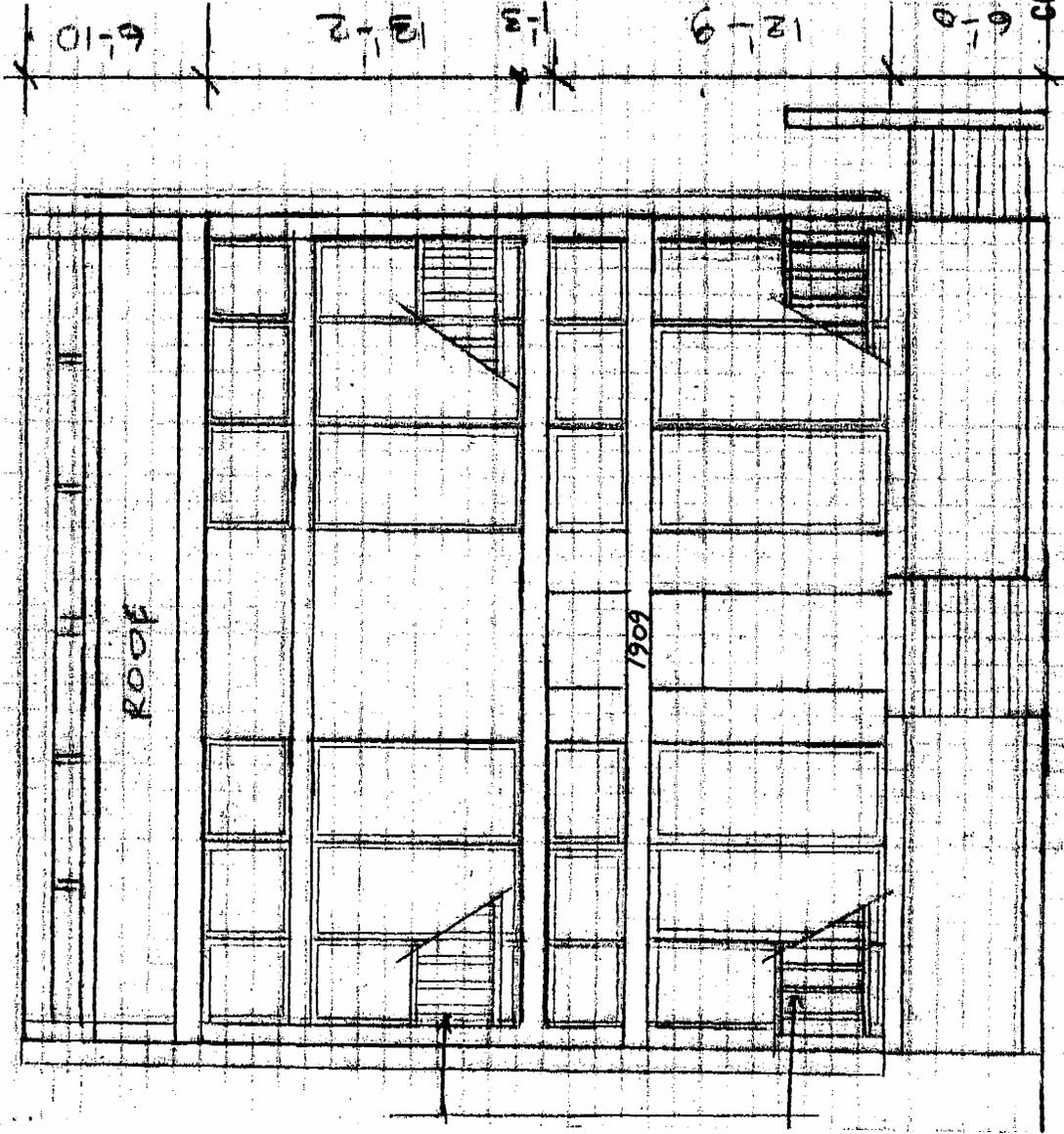
NORTH ELEVATION

PROPERTY LINE
 ← Speedway Alley

Ocean
 Front
 Walk

2'-3
 X X

40' Top of roof



AS-VEN-07-092
COASTAL COMMISSION
5-06-455

Front (Ocean Front Walk) Elevation

EXHIBIT # 6
PAGE 1 OF 1



West Los Angeles Area Planning Commission

200 North Spring Street, Room 532, Los Angeles, CA 90012-4801 (213) 978-1300

Website: <http://www.lacity.org/pln/index.htm>

TO: California Coastal Commission
South Coast District Office
200 Oceangate, Suite 1000
Long Beach, CA 90802

Mailing Date: January 25, 2007

CP Case No. APCW 2005-⁵¹⁵⁰~~5406~~-SPE-CDP-MEL

Address: 1909 Ocean Fr
Plan Area: Venice
Council District: 11
RECEIVED
South Coast Region

JAN 29 2007

FROM: West Los Angeles Area Planning Commission

CALIFORNIA
COASTAL COMMISSION

NOTICE OF COASTAL DEVELOPMENT PERMIT ISSUANCE

Applicant name/address

Michael Sarlo
1842 S. Washington Way
Venice, CA 90292

Applicant Representative name/address

Constantine Tziantzis
333 Washington Blvd. 146
Marina Del Rey, CA 90292

The above referenced Coastal Development Permit was **granted** effective **January 24, 2007**, pursuant to a public hearing conducted by the West Los Angeles Area Planning Commission on June 21, 2006. An appeal was not filed with the City Council during the mandatory appeal period or no appeal to City Council was permitted from the Commission's action; whichever is indicated in the Commission's Determination Report.

Appeals must be filed within a 20 working-day appeal period, to be determined by the South Coast District Office of the Coastal Commission in accordance with said Commission's procedures.

- (X) The proposed development **is in the dual permit jurisdiction area**, and will require an additional permit from the California Coastal Commission upon the expiration of the above 20-working-day appeal period.
- () The proposed development **is in the single permit jurisdiction area**, and if the application is not appealed within the 20-working-day period the applicant may proceed with the subject project.

Attachments: Coastal Development Permit / Commission Determination Report
Zoning Administrator Determination or Staff Report
Miscellaneous relevant documents

cc: Applicant and Applicant's Representative (Notice, Coastal Permit/APC Determination)

FINAL LOCAL ACTION NOTICE	
RECEIVED	<u>1/29/07</u>
REFERENCE	<u>APCW 2005-5150</u>
APPEAL PERIOD	<u>2/28/07</u>
COASTAL COMMISSION A5-VEN-07-092	

EXHIBIT # 7
PAGE 1 OF 6



West Los Angeles Area Planning Commission

200 North Spring Street, Room 532, Los Angeles, CA 90012-4801 (213) 978-1300
 Website: <http://www.lacity.org/pln/index.htm>

JAN 24 2007

Determination Mailing Date: _____

Corrected Copy

Added CDP approval on front page only (correction underlined).

CASE NO.: APCW 2005-5150-SPE-CDP-MEL
 CEQA: ENV 2005-5106-ND

Location: 1909 S. Ocean Front Walk
 Council District: 11
 Plan Area: Venice
 District Map: 1065 A 143
 Zone: R3-1-O

Applicant: C. Tziantzis (M. Sorlo)

At its meeting on June 21, 2006, the following action was taken by the West Los Angeles Area Planning Commission:

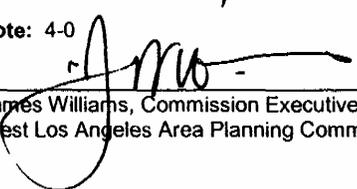
1. **Approved** a Specific Plan Exception to permit the continued use and maintenance of a non-conforming, four (4) unit apartment building to be converted into a four (4) unit condominium building, subject to the modified conditions of approval (attached).
2. **Approved** a Specific Plan Exception to permit zero (0) Guest Parking Spaces in-lieu of the one (1) guest parking space required by the Venice Coastal Zone Specific Plan, subject to the attached Conditions of Approval.
3. **Disapproved**, without prejudice, a Specific Plan Exception to permit the applicant to provide zero (0) Beach Impact Parking space on-site in-lieu of one (1) space, as it has been determined that the project is not required to provide any Beach Impact Parking spaces.
4. **Approved** the requested Project Permit Compliance, subject to the attached Conditions of Approval.
5. **Approved the requested Coastal Development Permit.**
6. **Approved** the requested Mello Act Compliance, subject to the attached Conditions of Approval.
7. **Adopted** Negative Declaration No. ENV-2005-5106-ND.
8. **Adopted** the attached Conditions and Findings.

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: Moon
Seconded: Brown
Ayes: Foster, Washington
Absent: Burton

Vote: 4-0


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

The time in which a party may seek judicial review of this determination is governed by California Code of Civil Procedure Section 1094.6. Under that provision, a petitioner may seek judicial review of any decision of the City pursuant to California Code of Civil Procedure Section 1094.5, only if the petition for writ of mandate pursuant to that section is filed no later than the 90th day following the date on which the City's decision becomes final.

Attachments: Conditions and Findings.

COASTAL COMMISSION
AS-VEN-07-092

EXHIBIT # 7
 PAGE 2 OF 6

CONDITIONS OF APPROVAL

A. Entitlement Conditions

1. **Use.** The use of the subject property shall be limited to a maximum of four (4) dwelling units in the existing building, as of the effective date of this action.
2. **Floor Area.** The total floor area of all buildings and structures on the site shall be limited to a maximum of 5,973 square feet, as defined by Section 12.21.1 of the Municipal Code.
3. **Site Plan.** The use and development of the subject property shall be in substantial conformance with the Site Plans and Elevations dated June 21, 2006 and labeled Exhibits E-3 and E-8, in the subject case file, except as modified by this action. Prior to the issuance of a building permit for the subject project, detailed development plans shall be submitted for review and approval by the Department of City Planning for verification of compliance with the imposed conditions. Minor deviations may be allowed in order to comply with the provisions of the Municipal Code, the subject conditions and the intent of the subject authorization.
4. **Parking.** A minimum of eight (8) parking spaces shall be provided on-site, in substantial conformance with the Garage and Basement plan stamped and dated June 21, 2006 and labeled Exhibit E-4, in the subject case file. Further, the following shall also apply:

Two (2) tandem parking spaces shall be assigned and designated for each residential unit.

5. **Height.** The height of all buildings and structures shall not exceed a maximum height of 30-feet (for buildings and structures with a Flat Roof) and 35-feet for buildings and structures with Varied Rooflines, provided that any portion of the roof that exceeds 30-feet in height is set back from the required front yard at least one foot in depth for every foot in height above 30-feet.

The height of the project shall be in substantial conformance with Exhibit E-8 stamped and dated June 21, 2006, in the subject case file. All rooftop mechanical equipment and/or duct work that exceeds the roof ridge or parapet wall, whichever is higher, shall be screened from horizontal view with materials compatible with the design of the building.

6. **Related Parcel Map.** The applicant shall comply with all of the requirements contained in Parcel Map Case No. AA-2005-5105-PMLA, except as modified by this action, being processed concurrently with this case and any subsequent modifications thereto, to the satisfaction of the Advisory Agency of the Department of City Planning.
7. **Dedication(s) and Improvements(s).** Prior to the issuance of any building permits, public improvements and dedications for streets and other rights-of-way adjoining the subject property shall be guaranteed to the satisfaction of the Bureau of Engineering, Department of Transportation, Fire Department (and other responsible City, regional and federal government agencies, as may be necessary).

A. Responsibilities/Guarantees

1. As part of early consultation, plan review, and/or project permit review, the applicant/developer shall contact the responsible agencies to ensure that any necessary dedications and improvements are specifically acknowledged by the applicant/developer.

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2. Prior to issuance of sign-offs for final site plan approval and/or project permits by the Planning Department, the applicant/developer shall provide written verification to the Planning Department from the responsible agency acknowledging the agency's consultation with the applicant/developer. Any required dedications and/or improvements may necessitate a redesign of the project. Any changes to project design required by a public agency shall be documented in writing and submitted for review by the Planning Department.

B. Street Dedication and Improvements. If determined necessary, dedicate and improve all adjacent streets and alleys to the satisfaction of the City Engineer.

C. Street Lighting. Installation of street lights to the satisfaction of the Bureau of Street Lighting. If new street light(s) are required, the property within the boundary of the development shall be formed or annexed into a Street Lighting Maintenance Assessment District prior to final recordation or issuance of the Certificate of Occupancy.

D. Street Trees. Construct tree wells and plant street trees to the satisfaction of the Street Tree Division of the Bureau of Street Services.

E. Sewers. Construct sewers to the satisfaction of the City Engineer.

F. Drainage. Construct drainage facilities to the satisfaction of the City Engineer.

G. Parking/Driveway Plan. Parking access shall be from Speedway. The applicant shall file a parking area and driveway plan with the Bureau of Engineering and the Department of Transportation for review and approval prior to the issuance of a building permit. The plan shall be prepared consistent with the Department of Transportation's Driveway Design Manual and applicable provisions of Section 12.21 of the Municipal Code.

H. Fire. The requirements of the Fire Department relative to fire safety shall be incorporated into the building plans, which includes the submittal of a plot plan for approval by the Fire Department either prior to the recordation of a final map or the approval of a building permit.

Notice. Certificates of Occupancy for the subject property will not be issued by the City until the construction of all the public improvements (streets, sewers, storm drains, etc.), as required herein, are completed to the satisfaction of the City Engineer.

8. **Graffiti Removal and Deterrence.** Every building, structure, or portion thereof shall be maintained in a safe and sanitary condition and good repair. The premises of every building or structure shall be maintained in good repair and free from graffiti, debris, rubbish, garbage, trash, overgrown vegetation or other similar material, pursuant to Municipal Code Section 91.8104. The exterior of all privately owned buildings and fences shall be free from graffiti when such graffiti is visible from a public street or alley, pursuant to Municipal Code Section 91.8104.15.

B. **Specific Plan Exception Conditions**

9. **Guest Parking – In lieu fee.** The applicant shall be required to pay the in-lieu fee rate of \$18,000.00 (for one (1) guest parking space) into the Venice Coastal Parking Impact Trust Fund (Fund No. 864), to the satisfaction of the Department of Transportation, prior to the issuance of any building permits for the project.

10. **Use and maintenance of four (4) dwelling Units.** The Specific Plan Exception which allows for four (4) dwelling units to be converted into condominiums is conditioned upon the provision of two (2)

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PAGE 4 OF 6

Affordable Replacement Units in accordance with Condition No. 11, provision b-h, below. Any changes to this condition shall require a new Specific Plan Exception.

C. **Mello Act Conditions**

11. **Affordable Housing.** Pursuant to the determination of the Los Angeles Housing Department (LAHD) (Exhibit E-10, attached), the Applicant shall be required to provide two (2) Affordable Replacement Units, pursuant to the following:
- a. **Affordable Housing Provision Plan.** Applicants required to provide Affordable Replacement Units or Inclusionary Residential Units shall prepare an Affordable Housing Provision Plan, that specifies how the Applicant shall carry out the conditions, below. Applicants shall contact LAHD for detailed information regarding the required elements in the Plan, and submit their Affordable Housing Provision Plan to LAHD for review and approval.
 - b. **Location.** The affordable replacement units must be provided within the Coastal Zone, within the Venice area.
 - c. **Timing Requirement.** The required Affordable Replacement Units shall be provided within three years of the date that work commenced on the Conversion. (Note: The Department of Building and Safety shall determine the date that "work commenced" on the Conversion).
 - d. **Income Targeting.** Pursuant to Section 7.2.1 of the Interim Administrative Procedures for Complying with the Mello Act (the "Settlement Agreement" effective January 2, 2001), Affordable Replacement Units may be provided at any level of affordability.
 - e. **Performance Standards.** If Affordable Replacement Units are included as part of mixed-income New Housing Developments, then Applicants shall comply with the Performance Standards, as set forth in the Affordable Housing Incentives Guidelines (adopted by the City Planning Commission on Dec. 14, 1995, or any amendment thereto). All other Applicants shall comply with the project design and amenities requirements promulgated by LAHD.
 - f. **Affordability Covenants.** The applicant shall record a covenant with the Los Angeles County Recorder guaranteeing that applicable affordability criteria shall be observed for at least 30-years from the issuance of the Certificate of Occupancy.
 - g. **Financial Assurances.** The LAHD may require the Applicant to post a bond or make other financial assurances to assure compliance with the final approved Affordable Housing Provision Plan.
 - h. **Monitoring Requirements.** The applicant shall comply with the monitoring requirements set forth in Section IVC of the Affordable Housing Incentives Guidelines.

D. **Administrative Conditions**

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12. **Approval, Verification and Submittals.** Copies of any approvals, guarantees or verification of consultations, review or approval, plans, etc., as may be required by the subject conditions, shall be provided to the Department of City Planning for placement in the subject file.
13. **Code Compliance.** Area, height and use regulations of the zone classification of the subject property shall be complied with, except as such regulations are herein specifically varied or required.
14. **Building Plans.** Page 1 of the grant and all the conditions of approval shall be printed on the any building plans submitted to the City Planning Department and/or the Department of Building and Safety.
15. **Covenant.** Prior to the issuance of any permits relative to this matter, an agreement concerning all the information contained in these conditions shall be recorded in the County Recorder's Office. The agreement shall run with the land and shall be binding on any subsequent property owners, heirs or assigns. The agreement shall be submitted to the Department of City Planning for approval before being recorded. After recordation, a copy bearing the Recorder's number and date shall be provided to the Department of City Planning for attachment to the file.
16. **Definition.** Any agencies, public officials or legislation referenced in these conditions shall mean those agencies, public offices, legislation or their successors, designees or amendment to any legislation.
17. **Enforcement.** Compliance with these conditions and the intent of these conditions shall be to the satisfaction of the Department of City Planning and any designated agency, or the agency's successor and in accordance with any stated laws or regulations, or any amendments thereto.
18. **Modification.** The authorized use shall be conducted at all times with due regard for the character of the surrounding neighborhood. The right is reserved to the Department of City Planning to impose additional corrective conditions if such conditions are deemed necessary for the protection of the neighborhood. (Note: Conditions cannot be modified to be less restrictive, except as allowed by these conditions or City law, except by filing a new application).
19. **Utilization of Entitlement.** The applicant/owner shall have a period of two years from the effective date of the subject grant for the Specific Plan Exception, Coastal Development Permit, Project Permit Compliance and Mello Act Compliance to effectuate the terms of this entitlement by either securing a building permit or a Certificate of Occupancy for the authorized use, or unless prior to the expiration of the time period to utilize the grant, the applicant files a written request and is granted an extension to the termination period for up to one additional year pursuant to applicable provisions of the Municipal Code.

Thereafter, the entitlement shall be deemed terminated and the property owner shall be required to secure a new authorization for the use. If a building permit is obtained during this period, but subsequently expires, this determination shall expire with the building permit.

20. **Indemnification.** The applicant shall defend, indemnify and hold harmless the City, its agents, officers, or employees from any claim, action, or proceeding against the City or its agents, officers, or employees to attack, set aside, void or annul this approval which action is brought within the applicable limitation period. The City shall promptly notify the applicant of any claim, action, or proceeding and the City shall cooperate fully in the defense. If the City fails to promptly notify the applicant of any claim action or proceeding, or if the City fails to cooperate fully in the defense, the applicant shall not thereafter be responsible to defend, indemnify, or hold harmless the City.

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Reasons Supporting This Appeal:

I

INTRODUCTION

The proposed subdivision is for 4 condominium units with no guest parking spaces on the Venice Boardwalk, a highly congested area with a severe shortage of parking due to both the high density of housing, and its popularity as a visitor destination point for coastal recreational uses. The proposed subdivision is located on a small lot directly in front of the paddle tennis courts and several blocks south of Muscle Beach on Ocean Front Walk.

The current zoning allows only 2 units to be built on the property. The existing apartment building on the property was constructed in 1972, with four 2-bedroom units, and the applicant proposes to convert it to condominiums. The applicant contends that there is no intensification of use. However, shortly before applying to convert, the applicant completed 7 months of illegal construction, with no plans or permits, and built out the basement area adjacent to the parking area, connected it by an interior stairway to one of the four units, and added two bedrooms and two bathrooms to that unit.

Adding two additional bedrooms to a building with 8 bedrooms is a 25% increase in occupancy, and exacerbates the impairment of access to the coastal zone that comes with increased density and increased demand for resident and guest parking.

The proposed subdivision is opposed by over 100 residents and property owners within a 500-foot radius of the proposed project. Copies of over 100 separate written letters of opposition are included with this appeal, specifying the name and exact address of the resident and/or property owner who signed the letter. The original letters are in the City case file.

The proposed subdivision is not in conformity with the public access and development policies of the Coastal Act.

II

**THE PROPOSED SUBDIVISION IS DOUBLE THE DENSITY
CURRENTLY PERMITTED, EXCEEDS THE ALLOWABLE HEIGHT
DOES NOT PROVIDE THE REQUIRED YARDS,
AND HAS INADEQUATE PARKING**

The proposed subdivision is on a small, 3,615 square foot lot (approximately 40' x 90'), at the mid-point of a beach-front block. A maximum of two dwelling units is allowed on this lot under the Venice Coastal Zone Specific Plan § 10.F.2. The proposed subdivision is slightly over 40 feet tall with a varied roofline, whereas the Venice Coastal Zone Specific Plan § 10.F.3.a. allows a maximum height of 35 feet. The proposed subdivision is substantially taller than all of the buildings on the block to the north and to the south, with the exception of a

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decrepit apartment building at the north end of the block. The top floor of the proposed subdivision is a large loft and roof deck area for each of the two upstairs units, with the indoor loft area is approximately 12' x 15', larger than many beach-area studio apartments (Exhibit E-7). The proposed subdivision has side yards of 4 feet, whereas Los Angeles Municipal Code § 12.10.C.2. requires side yards of at least 5 feet for a three-story building in the R3 zone. There is no on-site percolation or drainage plan at the proposed subdivision.

III

STEALTH INTENSIFICATION OF USE - ILLEGAL INCREASE IN FLOOR AREA WITH 25% INCREASE IN BEDROOMS

Shortly before applying for this subdivision, the applicant completed over 7 months of construction in a vacant unit, Unit #1, and added two new bedrooms and two bathrooms to this unit, by connecting an existing vacant illegal "Basement" apartment called Unit "A" into Unit #1 with the construction of an internal stairway. This "Basement" space and stairway is depicted on Exhibit E-4, entitled "Garage + Basement," and is prone to flooding.

The Applicant did all of the construction work with no plans, no permits, and no licensed contractors, and without upgrading the electrical system. The new tenants in Unit #1 began experiencing electrical problems immediately after moving in, which progressively grew worse and spread to the entire building, until all electrical power to the building was lost, at which time a licensed contractor was brought in. The Los Angeles Housing Department cited the Applicant for having done the renovation work "without a building permit or inspection approvals" and for illegally converting "Unit A" into part of Unit #1, and ordered the Applicant to either "demolish and remove the unapproved portion or alteration and restore structure to its originally approved condition, or obtain the required Permits and inspection approvals from the Department of Building and Safety." A certified copy of the Los Angeles Housing Department's Notice to the Applicant is included with this appeal.

The Applicant has ignored the Housing Department's Orders concerning the illegally-added living area. The applicant has submitted as-built plans to the City for the proposed subdivision which actually includes this illegal expansion of floor area. The City has approved the continued existence of this illegal expansion of floor area, a significant, 25% intensification of use.

IV

GUEST PARKING IS GROSSLY INADEQUATE

The front door to the proposed subdivision opens onto the Venice Boardwalk, directly in front of the paddle tennis courts, and several blocks south of Muscle Beach. Because this area has significant coastal recreational attractions, and is a major

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visitor destination, the number of guests who will visit the residents of the proposed subdivision is greater than usual, and more guest parking spaces than usual should be required. Yet the City of Los Angeles approved the proposed subdivision with zero guest parking spaces.

While the requirements of the City of Los Angeles are not dispositive, they are indicative of the inadequacy of guest parking at the proposed subdivision. The Venice Coastal Zone Specific Plan § D. requires one guest parking space for the proposed subdivision, which may not be satisfied by in lieu payment because the proposed parking is not fully enclosed:

"...a minimum of one guest parking space for each four or fewer units (e.g., 0.25 guest parking spaces per unit, any fraction shall be rounded up to require one additional guest parking space). Exception: for Venice Coastal Development Projects where all required parking spaces are fully enclosed, any required guest spaces may be paid at the same in lieu fee rate defined for BIZ parking..."

Although the above-quoted passage from the Venice Coastal Zone Specific Plan expressly forbids payment of an in-lieu fee for guest parking spaces, the City approved the proposed subdivision with zero guest parking spaces, and allowed the applicant to pay an in lieu fee of \$18,000.

It is widely known that no land is reasonably available for purchase in the Venice area for the purpose of building parking facilities. The guest parking needs for four large units on the beach in Venice are not satisfied with zero guest parking spaces. For this reason, Beach Impact Zone (BIZ) parking requirements under the Venice Coastal Zone Specific Plan increase the number of parking spaces required for a development near the beach. The City dispensed with these additional parking spaces by pretending the BIZ requirements do not apply to the proposed subdivision.

The ground floor of the proposed subdivision is the first floor of the existing building, which is shown to be approximately 2,700 square feet on Exhibit E-5, the "First Floor Plan." The Venice Coastal Zone Specific Plan § 13.E. requires at least one parking space in any event, and requires more BIZ parking based on the square footage of the "Ground Floor" of the project. In this case, three BIZ parking spaces are required if the "First Floor" is the "Ground Floor," but at least one parking space is required in any event:

"2. One parking space for each 1,000 square feet of the floor area of the Ground Floor for multiple dwelling Venice Coastal Development Projects of three units or more. ...

3. In no event shall the number of Beach Impact Zone parking spaces required for Venice Coastal Development Projects of three or more dwelling units... be less than one parking space for residential Venice Coastal Development Projects...."

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Because the "First Floor" of the proposed subdivision is 2,700 square feet (Exhibit E-5), and because Los Angeles Municipal Code § 12.21 A.4.(k) requires rounding up when the calculation of parking spaces results in a fraction of more than one-half, three BIZ parking spaces are required for this proposed subdivision.

The City of Los Angeles Planning Department supervisor overruled the Planner assigned to this case, and instructed the Planner to find that no BIZ parking spaces were required. The basis for this is set forth on page F-5 of the Findings in the Recommendation Report to the Planning Commission, and also on the first page of Exhibit E-11, a letter from the applicant's representative to the City Planner assigned to the case. **The supervisor found that the "Ground Floor" is the illegally-expanded "Basement" floor area of 900 square feet, rather than the 2,700 square foot "First Floor."** For this reason, the Planning Commission determination states:

"(The WLAAPC also disapproved, without prejudice, a Specific Plan Exception to permit the applicant to provide zero Beach Impact Parking space on-site in-lieu of one space, as it was determined that the project is not required to provide any Beach Impact Parking spaces.)"

The applicant was, in essence, rewarded for illegal construction. The City also ignored the requirement set forth in Venice Coastal Zone Specific Plan § 13.E.3. that "In no event shall the number of Beach Impact Zone parking spaces required for Venice Coastal Development Projects of three or more dwelling units... be less than one parking space for residential Venice Coastal Development Projects...."

A proper reading of the Venice Coastal Zone Specific Plan would require one guest parking space, and at least one, but more accurately three, additional BIZ parking spaces. This would result in either 2 or 4 additional parking spaces, in a coastal recreation area which is critically short of parking. While this parking calculation is not dispositive of the issue, it does suggest that zero guest parking spaces fails to adequately serve the proposed subdivision, in an area which attracts significant visitors to its coastal resources. It is respectfully submitted that there is inadequate parking for the proposed subdivision, and that the proposed subdivision is not sound coastal development.

V

**SUBDIVISION OF AIRSPACE GRANTS A PERMANENT RIGHT
TO MAINTAIN NONCONFORMING STRUCTURES**

A fundamental principal of zoning law is that, as structures age and become obsolete, and properties are redeveloped or undergo substantial renovation, the new development will have to comply with existing zoning laws, including density, height, side yards, and parking. Subdivision of airspace, on the other hand,

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is forever, and this proposed subdivision permanently locks in the zoning regulations from 35 years ago, when the existing building was constructed in 1972.

Other buildings in the area have density, setbacks, and height that do not comply with existing zoning regulations, but when these properties are redeveloped, there will be improved ocean view corridors, light transmission, and less massing. Other buildings in the area have fewer parking spaces than would be required today, and those buildings will be required to bring their parking up to code when they are redeveloped. It would set a terrible precedent, and perpetuate a severe parking shortage, to allow oversized buildings, or buildings with inadequate parking, to exist in perpetuity.

VI

Limited or Nonexistent Public Participation At Hearings

Public participation and public testimony at the City hearings was either nonexistent or limited, due to "weird" events and outright dishonesty by the applicant.

The initial public hearing was set for April 17, 2006, before the City Planner assigned to this application. The applicant assured the Venice community, through the Chairperson of the Venice Neighborhood Council Land Use and Planning Committee, that date for this hearing date would be moved forward to allow the Land Use and Planning Committee to hear the matter first (Staff Report, page S-3). The applicant lied, and fortunately someone familiar with the reputation of the applicant checked with the City Planner and learned at the last minute that the applicant had not changed the hearing date as promised. For this reason, the hearing before the City Planner went ahead as scheduled with limited public participation because the community had been told the hearing date would be changed.

Similarly, the hearing before the West L.A. Area Planning Commission was scheduled for June 21, 2006. The City Planner assigned to the case assured the interested parties opposing the application that the hearing would not take place as scheduled in June, and would instead take place in July. However, the June hearing went forward and the application was heard and determined by the Planning Commission, with no one present to oppose the application. The City requires no public notice of the hearing to be posted or mailed, and none was given. The City Planner later explained that "things got weird" and the hearing went forward in June. When these events are viewed in conjunction with the City Planning supervisor's interpretation that no BIZ parking spaces were required, when the Venice Coastal Zone Specific Plan unambiguously requires otherwise, independent parties have expressed concern that shenanigans were afoot.

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VII

THE PROPOSED SUBDIVISION WILL NEGATIVELY AND SIGNIFICANTLY IMPACT COASTAL ACCESS

The proposed project is located between Pacific Avenue (the public road nearest to the shoreline) and the ocean. During the day time in the summer, and on weekend days with nice weather, traffic in the vicinity of the proposed project is gridlocked, and parking is nearly impossible, with all public lots filling up early and quickly. On such days, the City of Los Angeles Department of Transportation often closes Pacific Avenue between North Venice Boulevard and Venice Way, with orange traffic cones, barriers, and traffic officers. Local residents requiring access to their homes must stop and speak to a traffic officer to get through. The proposed project is midway between North Venice Boulevard and Venice Way, right in the heart of this supercongested area.

The proposed project contains 4 dwelling units with a total of 10 bedrooms and two large loft areas, yet provides no guest parking whatsoever. The proposed project includes an illegal 25% increase in the number of bedrooms on the property, and allowing this increase in density to become permanent will further impact the existing parking shortage, and will contribute to increased use of coastal access roads, and worse traffic congestion in the coastline area.

It is respectfully submitted that the proposed project will intensify the use of coastal access roads and parking spaces in the coastal area, will provide inadequate parking, and will further impair access to Venice Beach, Ocean Front Walk, and the shoreline.

VIII

THE PROPOSED SUBDIVISION DOES NOT COMPLY WITH THE DEVELOPMENT STANDARDS OF THE COASTAL ACT

Venice is a popular destination for coastal recreational use. But even at night, when the crowds dissipate, rush-hour traffic is congested. Street parking becomes difficult to impossible starting in the evenings after working hours, through the following morning, due to the existing high-density development and shortage of street parking, with many older buildings having inadequate on-site parking, plus the underutilization and lack of public transportation.

The existing building is slightly over 40 feet tall (Exhibit E-3), which is substantially higher than the adjacent buildings to the north and to the south of the proposed project. The Conditions Of Approval (Page C-1, A.5.) imposed by the City of Los Angeles require, on one hand, a maximum height of 35 feet, but ambiguously allow the height to be "in substantial conformance with" the elevation of the existing building as shown on Exhibit E-8, which shows a building height of 40 feet. While other buildings exist nearby which are approximately 40 feet

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tall, those buildings are all apartments, and will have to comply with existing zoning when they are replaced.

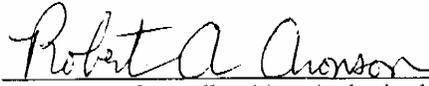
Approval of an airspace subdivision 40 feet tall will allow this building to remain at that height forever, despite current height limit being lower. Requiring the proposed subdivision to comply with existing 35-foot- tall building height limitation will help restore and enhance the visual quality of the ocean front buildings, and make the proposed building more compatible with the surrounding buildings. It is respectfully submitted that the scenic and visual qualities of the coastal area, including view corridors, light, and massing along the coastline, will be negatively impacted by this proposed development on a permanent basis.

CONCLUSION

It is respectfully submitted that the proposed subdivision of airspace would permanently grant the right to develop a project which is out of character with scenic and visual qualities of development in the surrounding area, and which would negatively impact public the already highly-congested access to the coastal recreational uses that surround the project.

SECTION V. Certification

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



Signature of Appellant(s) or Authorized Agent

Date: February 27, 2007

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CALIFORNIA COASTAL ZONE CONSERVATION COMMISSION

1540 Market Street, San Francisco 94102 — (415) 557-1001

15763

REVISED APPEAL SUMMARY

19 Oct 76
NSI 760

Appeal No. 221-75
(Trefts)
60th Day: Waived

DECISION OF
REGIONAL
COMMISSION:

Permit denied by South Coast Regional Commission

PERMIT
APPLICANT:

John Trefts

DEVELOPMENT
LOCATION:

1909 Ocean Front Walk, Venice, Los Angeles County (Exhibit 1)

DEVELOPMENT
DESCRIPTION:

Conversion of 4-unit apartment building to condominiums

APPELLANT:

John Trefts

APPELLANT CONTENDS THAT:

1. The Regional Commission decision was based on the erroneous findings that the proposed condominium conversion would change the character of the neighborhood; that the cumulative effect of condominium conversions is to raise the cost of housing and that renters cannot afford to purchase condominium units.

SUBSTANTIVE FILE DOCUMENTS:

1. Regional Commission file
2. Notice of Appeal
3. Appeals Nos. 157-75, 158-75, 159-75 (EMH Management Co.), 160-75, and 161-75 (Grimmer)

STAFF NOTES:

1. Project Description. The applicant proposes to convert an apartment building containing four 2-bedroom units built in 1971 to condominium ownership. The project is located in North Venice on Ocean Front Walk immediately adjacent to the beach. The property is zoned for commercial use and the City of Los Angeles would not permit the construction of a new residential development on the property. In 1974 a request for rezoning to residential uses was denied by the City. Residential zoning in the vicinity has been downzoned in recent years and at present would allow only 2 units on such a 3,600-sq.ft. parcel. Although the parcel is comprised of 1½ pre-existing lots, the size falls within the South Coast Regional Commission criteria for nonconforming lots. If this were an application for a new permit, the structural area would be limited to 1.5 times the buildable lot area for a total of approximately 4,000 sq. ft. The existing building is 8,194 sq. ft. The building contains 8 parking spaces, of which 4 are tandem. Present Commission guidelines would require primary spaces.

2. Related Commission Decisions. The State Commission has considered several other condominium conversion applications in Venice (Exhibit 1). Three of these were located on the Marina Peninsula and approved (Appeals No. 157-75, 158-75, 159-75 (EMH Mgmt. Co.)). The Commission found no substantial issues in the South Coast Regional Commission approvals because existing high rents

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(average \$500/month), adequate parking and open space, and landscaping and public beach access improvements required by the City of Los Angeles addressed the concerns the Commission has otherwise expressed about condominium conversions. These concerns include the intensified use often accompanying condominium conversions: increased numbers of cars, residents and visitors burdening the local street system and inhibiting public access to, and use of, the public beaches. In addition, the market value increases resulting from conversion to condominium ownership increases property taxes on surrounding properties as well, accelerating the loss of low and moderate cost housing (Exhibit 2). Condominium ownership also limits turnover of occupants, limiting the diversity of residents which is a vital component of the Venice community.

In Appeal No. 264-75 (Collura) the Commission found no substantial issue in the Regional Commission denial of an application for conversion of a 6-unit apartment building into a 4-unit condominium. Although that project was located on the Marina Peninsula, and thus did not raise many of the issues involved in condominium conversions in North Venice, it involved the difficulties, present also in the appeal now before the Commission, of condominium management of such a small number of units.

In Appeals Nos. 160-75 and 161-75 (Grimmer) the Commission found no substantial issue raised by the South Coast Regional Commission's denial of permits for conversion of buildings in the North Venice area (Exhibit 1), as these projects provided inadequate parking and open space for the intensified use found in condominiums.

The subject units rent for \$385 to \$500/month; the applicant estimates that payments on the \$40,000 to \$60,000 purchase price would be comparable. This comparison does not consider, however, the limitations caused by the need for downpayments and credit.

3. Growth Pressures in Venice. Venice is one of the areas in the South Coast Region designated as a Special Coastal Community in the Preliminary Coastal Plan. Preliminary Policy 45 calls for protection and enhancement of the special characteristics of such communities. The 1974 U.S.C. Sea Grant report (The Urban Marina: Developing and Managing Marina del Rey) summarized the special nature and growing problems of the Venice area as follows:

"The socio-economic composition of the area is extremely varied. There is a combination of Mexican-Americans, street people, poets, musicians, students, artisans, the elderly and the wealthy, making it one of the last 'Bohemian' areas in Southern California. Venice also has the only black residential area in California which is within easy reach of the ocean.

"This atmosphere of diverse life-styles and values has been undergoing a gradual change with an influx of upper-middle income people seeking the benefits of one of the finest beaches in the County (made wider by the original dredging for Marina del Rey), the relatively clean air, and the proximity to Westwood, the Marina, and the Los Angeles Civic Center. At the same time, high-rise apartments, expensive shopping centers, and high-priced condominiums are being developed, creating increased traffic congestion, inadequate parking, and reduced public access to the beach. Venice's attractiveness for development has also caused tax assessments and rents in the area to rise rapidly and produce a high rate of turnover in the population. The passage of the coastal initiative, creating uncertainty about where new construction can occur, has increased the value of existing structures. As a result of these market pressures, some parts of Venice are beginning to resemble Marina del Rey." (p. 104)

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4. Structural Problems with Condominium Conversions. The growing trend to convert apartment buildings to condominium ownership has raised concern in many jurisdictions because design and construction criteria applied to apartment buildings, especially older buildings, do not meet present requirements for new condominium structures in terms of open space, parking, storage, noise insulation, etc. Condominium conversion may prolong the life of buildings that would not now be permitted to be built beyond that originally expected. For example, a new condominium project on the subject parcel could not contain more than 2 units under current zoning, and would not be permitted the existing floor area and concomitant bulk overlooking a public beach under South Coast Regional Commission criteria. For example, the City of Redondo Beach passed a detailed condominium and condominium conversion ordinance, the intent of which was summarized by the Planning Commission of the City:

"The unique status of condominium projects tend to magnify the effects associated with higher urban densities to the point where they may have deleterious effects on the Southern California seller and buyer who often do not fully appreciate the implications of condominium ownership and lead to conditions of mismanagement, neglect and blight that impact upon the health, safety, welfare and economic property of the larger community. To ensure that such problems are avoided in both the short and long term, it is the express intent to treat condominiums differently from apartments and other like structures."

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STATE OF CALIFORNIA

CALIFORNIA COASTAL ZONE CONSERVATION COMMISSION
SOUTH COAST REGIONAL COMMISSION655 E. OCEAN BOULEVARD, SUITE 3107
P.O. BOX 1450
LONG BEACH, CALIFORNIA 90201
(213) 436-4201 (714) 846-0648

September 29, 1975

100 111

John Trefts
124 Washington St.
Marina del Rey, CA 90291

Subject: Denial of Application

Dear Sir:

At a public hearing held on September 15, 1975 the South
Coast Regional Commission, by a vote of 5 in favor and
4 against, denied your application # P-7-23-75-5763.

Yours truly,


M.J. Carpenter
Executive Director

MJC/wk

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Antonio R. Villaraigosa, Mayor
Mercedes Márquez, General Manager

Memorandum

1200 W. 7th Street, 9th Fl., Los Angeles, CA 90017
tel 213.808.8806 | fax 213.808.8965
www.lacity.org/lahd

Date: May 5, 2006
To: *CH* Lynn Harper, City Planning Department
From: Cynthia Landis, Los Angeles Housing Department
Re: 1909 Ocean Front Walk, Venice, CA 90291

DECLARATION OF PRESENCE OF AFFORDABLE UNITS

This report is in response to your emailed request of March 17, 2006, for a second evaluation of this property for the presence of affordable replacement units under the Mello Act. You informed us that the ZA 2005 5105 Final Map, Second Public Hearing, Mello Evaluation held March 15, 2006, resulted in an appeal by the tenant, Robert Aronson, residing in Unit #4. The tenant informed the Agency that the owner had provided an erroneous rent level which was higher than the actual monthly rent paid for the rental unit. The owner acknowledged the reporting error.

The Los Angeles Housing Department (LAHD) initially processed a Mello Act Determination for this property, located at 1909 Ocean Front Walk, Venice, CA 90291, on October 31, 2005. LAHD's initial finding resulted in a Declaration of Absence of affordable replacement units. The determination was made based upon current Monthly Housing Cost data, namely, the rent and tenant information submitted by the owner, inasmuch as none of the tenants, including Mr. Aronson, responded to the notices sent by Certified mail by the Department requesting income documentation. All four of the two-bedroom units on the property had owner reported rents above the moderate qualifying rent level of \$1,770 for Year 2005.

In light of the contradiction between the LAHD finding and the tenant's testimony, the Hearing Officer requested the LAHD re-evaluate the affordability status of the project. LAHD has complied by repeating the Mello determination process. Notices were sent to the tenants of the property, asking them to provide LAHD with income documentation. All existing tenants have had a second opportunity to document their household income. The only respondent, Mr. Aronson, provided his current rental amount but did not provide income data. In the absence of income data, and pursuant to the Interim Mello Act Administrative Procedures, the LAHD is therefore required to base its determination upon current Monthly Housing Cost data. The Monthly Housing Cost is the rent information submitted by the owner for all units and in the case of Unit 4, verified by the tenant. The current determination utilized the updated rent/income levels for Year 2006. The qualifying rent level for a two-bedroom rental unit is \$1,873, an increase of approximately 5.8% from the qualifying rent level for Year 2005.

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LAHD determines that two (2) two-bedroom affordable units exist at: 1909 Ocean Front Walk, Venice, CA 90291 and the project must provide two (2) two-bedroom replacement affordable units.

Note that in the event of a conflict, Section C.4.4 of the City of Los Angeles Mello Act Settlement Agreement allows the use of actual income data to correct any incorrect occupant income determinations based on Monthly Housing Cost. Thus a determination based on Monthly Housing Cost alone remains subject to appeal by the owner (in this instance) should he obtain and provide income information to the City on the tenants in the units designated as affordable replacement units.

CC: Constantine Tziantzis, Building and Design Consultant
Richard A. Rothschild, Western Center on Law and Poverty, Inc.
Emily Gabel, City Planning Department
Susan Palmas, City Planning Department
Simon Pastucha, City Planning Department
Diana Lowrance, City Planning Department ✓
Los Angeles Housing Department File

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