

CALIFORNIA COASTAL COMMISSION

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STAFF REPORT: APPEAL - DE NOVO

Application Number: A-5-VEN-15-0038

Applicant: Dunes Development, LLC

Agents: Laurette Healey & Daniel Freedman

Appellants: 1) Coastal Commission Executive Director, 2) James Murez; and 3) Robin Rudisill, James McCullagh, Maripaz Maramba, Marie Pabianova, Kimmy Miller, Roxanne Brown, and Ilana Marosi

Project Location: 259 Hampton Drive, Venice, City of Los Angeles

Project Description: After-the-fact authorization for change of use from tool engineering shop to a full-service restaurant and new proposed substantial renovation and 1,113 sq. ft. addition to a 1,558 sq. ft. , 1-story structure resulting in a 2,671 sq. ft., two-story, restaurant with 745 sq. ft. of service floor area; provision of 12 bicycle parking stalls and operation of a valet parking program during evening hours with off-site leased parking.

Staff Recommendation: Approval with Conditions

SUMMARY OF STAFF RECOMMENDATION

This is a De Novo hearing for an appeal of a local coastal development permit (CDP) issued by the City of Los Angeles authorizing a change of use and addition to a one-story 1,558 sq. ft. structure to construct a 2,671 sq. ft. sit-down restaurant, including the addition of a new second story. On July 14, 2016, the Commission found that a substantial issue exists with respect to the grounds on which the appeals have been filed. The grounds for the appeals were that the proposed development would adversely affect public access to the shoreline by exacerbating the parking shortage in Venice, and that the City's approval of the project was inconsistent with the certified Venice Land Use Plan

(LUP) and would prejudice the City's ability to prepare a certified LCP consistent with the Coastal Act.

The proposed project includes after-the-fact approval for a change in use of a tool engineering shop to a full-service restaurant. The existing building is currently occupied by an unpermitted restaurant with sidewalk dining. The applicant is also proposing an extensive renovation and major addition to the existing structure as described above. The major issue regarding the proposed project concerns potential impacts to public access to the coast if adequate parking for the proposed development is not provided. Failure to provide adequate parking for new or expanded development may result in displacement of existing public parking supply, including along nearby public roads, used by members of the public to access the beach.

The proposed new restaurant normally would require 17 vehicle parking spaces pursuant to the parking and public access policies set forth in the certified Venice LUP. The applicant does not propose any new vehicle parking spaces to support the demand of the proposed new restaurant, but instead proposes to provide bicycle parking spaces, incentives to employees to not drive to work, and to lease six off-site vehicle parking spaces from St. Joseph's Community Center daily starting after 5:00 p.m. The applicant also proposes to only use the upstairs addition of the restaurant starting at 5:00 p.m. daily when demand for beach parking is lower and the leased parking spaces at St. Joseph's Community Center are available. The applicant asserts that it maintains the right to eight grandfathered parking credits (nonexistent parking spaces), which would justify day time use of the first floor of the restaurant. However, Policy I.E.5 of the certified Venice LUP provides that projects involving extensive renovation and major additions to existing structures, such as the proposed project, would not qualify for grandfathered parking credit and must, therefore, satisfy the full requirements for parking, as well as comply with all other policies of the LUP. Thus, given the extensive renovation and major addition proposed for the existing structure, the Commission must evaluate the full structure for conformity with the public access and recreation policies of the Coastal Act without consideration of any grandfathered parking credits associated with the permitted tool engineering shop.

The project site is located three blocks from the beach and boardwalk in an area where the demand for parking far exceeds the parking supply. The competition for the limited amount of public parking in the vicinity of the project site has led to numerous requests for restricted "resident only" permit parking, and the cost of parking for a day at the beach can exceed twenty dollars. The Commission has denied the City's applications for "resident only" permit parking based on adverse impacts to public access [Appeal Nos. [A-5-VEN-08-340](#), [A-5-VEN-08-341](#), [A-5-VEN-08-342](#), [A-5-VEN-08-343](#) & [A-5-VEN-08-344](#)]. Similarly, customers and employees of the proposed restaurant would vie for the existing parking in the vicinity of the project, which is already inadequate to meet the demand. The applicant's proposal increases the intensity of the use of the site in the evening hours (starting at 5:00 p.m.) and offers only six leased parking spaces to meet the increased demand, which is inconsistent with the public access and recreation policies of the Coastal Act as well as the parking requirements and public access policies of the certified LUP, which is used as guidance.

Staff recognizes the size constraints of the 1,871 sq. ft. lot and the difficulty of providing parking spaces on the site or on any other site nearby. In the absence of new parking spaces, however, a project that greatly increases the intensity of use of the site is inconsistent with the Coastal Act public access policies as well as the City's certified LUP. The applicant, however, has provided Commission staff new information indicating that during the evenings it can provide six leased parking spaces for the proposed two-story restaurant in a parking lot that typically has reduced

demand in the evening. During the day time, however, there would not be adequate parking available for use by the proposed two-story restaurant that would not interfere with public use of nearby parking facilities to access the coast. Accordingly, the Commission staff recommends an approach in which the applicant is permitted to construct a major addition consisting of adding a second floor to the restaurant, provided the applicant commits to and provides evidence that it has secured sufficient parking for the newly constructed restaurant (14 parking spaces, 12 bicycle parking stalls, and a transportation demand management plan (TDMP)) and that the applicant will only make use of the second floor for serving customers after 5:00 p.m., when it has provided adequate parking for the full restaurant. Prior to 5:00 p.m., only the first floor of the restaurant would be open to customers, reducing the anticipated demand for parking to the level generated by the most recently permitted use of the property. In addition, to ensure compliance with these requirements, the applicant must provide reports to Commission staff demonstrating that the second floor is not being used during the day time, as described in Special Condition 5.

Staff therefore recommends that the Commission **approve** a coastal development permit for the proposed restaurant use with **ten (10) special conditions, including: 1) Permit Compliance; 2) Revised Plans; 3) Parking and Restaurant Operation; 4) Parking Program; 5) Compliance with Second Floor Restrictions; 6) Post-Construction As-Built Plans; 7) Future Permit Requirements; 8) Post-Development Runoff Plan; 9) Storage of Construction Materials, Mechanized Equipment and Removal of Construction Debris; and 10) Deed Restriction.** The motion is on Page Four.

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EXHIBITS

Exhibit 1 – Project Location / Vicinity Map

Exhibit 2 – Project Plans, September 20, 2017

Exhibit 3 – Appeals

Exhibit 4 – Local Coastal Development Permit / DIR 2010-2932-SPP & ZA 2012-1770-CDP

Exhibit 5 – City of Los Angeles local CDP 84-005, June 21, 1984

Exhibit 6 – Letter from the Applicant, October 22, 2017

Exhibit 7 – Certificate of Occupancy Applications, 1969, 1986, & 1987 & Certificate of Occupancy, 1991

Exhibit 8 – Letters from Applicant, June 15, 2018 & June 26, 2018

Exhibit 9 – Letter from James Murez, Appellant, July 8, 2018

I. MOTION AND RESOLUTION

Motion: *I move that the Commission **approve** Coastal Development Permit No. A-5-VEN-15-0038 pursuant to the staff recommendation.*

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

Resolution:

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

II. STANDARD CONDITIONS

This permit is granted subject to the following standard conditions:

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the applicant or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent 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 applicant to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

This permit is granted subject to the following special conditions:

1. **Permit Compliance.** Coastal Development Permit A-5-VEN-15-0038 authorizes the change of use of the one-story, 1,558 sq. ft. tool engineering shop to a two-story, 2,226 sq. ft. restaurant with a maximum service floor area of 745 sq. ft. The first-floor service floor area shall be limited to no more than 300 sq. ft. Outdoor dining areas on the sidewalk, patios, or the rooftop of the structure are not permitted.
2. **Revised Plans**
 - A. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the Permittee shall submit, for the review and approval of the Executive Director, two (2) full-sized sets of final project plans drawn to scale that show development consistent with the requirements of Special Condition One. The final project plans shall verify the mass, volume and height of the existing structure. The final plans shall also include floor plans, paths of travel, service floor area, kitchen, restroom, etc. The gross area of the entire structure shall be completely accounted for.
 - B. The Permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission-approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.
3. **Parking and Restaurant Operation.** The first floor of the restaurant, which is limited to 300 sq. ft. in service floor area, may operate consistent with the City's codes and restrictions. The second floor of the restaurant may only be open to serve patrons, for private events, or in any other manner that serves restaurant patrons after 5:00 p.m. daily and when parking to support the entire restaurant (14 vehicle parking spaces) is provided to those visiting the restaurant by the Permittee. Before 5:00 p.m., or in the event that the full 14 parking spaces required in Special Condition 4 are not available for use by restaurant goers or those attending a private event at the restaurant, the second floor addition may not be used to serve patrons or for private events. Until parking for the entire restaurant is restored, use of the second floor addition shall be restricted to storage. No cooking, service to patrons, private events, or business operations shall be allowed to occur on the second floor until parking for the entire restaurant is fully restored, consistent with the Special Conditions of this coastal development permit. Whenever the second floor of the restaurant is being used to serve patrons or for private events, which shall only be after 5:00 p.m., the Permittee shall provide 14 parking spaces and a free valet service, consistent with the requirements of Special Condition 4, for use by patrons. Prior to 5:00 p.m., when only the first floor of the restaurant is used to serve patrons, the applicant is not required to provide any parking spaces.
4. **Parking Program.** The following parking program shall be implemented. The Permittee shall provide and maintain a valet parking service and an off-site parking supply (with a minimum capacity of 14 vehicles) for use by the employees, customers, and those attending a private event of the proposed restaurant as described below. Restaurant employees and patrons shall be provided with free parking within the off-site parking supply. The applicant shall comply with the following conditions of approval:

- A. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT** the Permittee shall submit a lease agreement, for the review and approval of the Executive Director, that secures the Permittee's legal ability to access and utilize the proposed off-site parking supply located at the St. Joseph's Community Center (204 S. Hampton Drive, Venice, City of Los Angeles). The authorization to operate the second floor addition granted in Coastal Development Permit No. **A-5-VEN-15-0038** is contingent upon the continuing availability of the off-site parking supply to meet the restaurant's increase in parking demand associated with the second floor addition. The proposed second floor may only operate if there is a valid, executed lease agreement for off-site parking and the Permittee is implementing the approved parking plan. The Permittee shall submit an inventory of all other parking spaces in the subject parking lot which are leased or rented, and shall demonstrate that the 14 required parking spaces required for the restaurant are not encumbered by a prior action, or leased by any other person or party. In the event that any of this information changes, the Permittee shall provide all updates to the Executive Director within 10 working days, at which point the parking program may be reevaluated by the Executive Director to determine if a permit amendment is required.

In the event that the lease with the St. Joseph's Community Center is terminated, the Permittee shall, within 10 working days, provide evidence that the 14 required off-site parking spaces are maintained at an alternate location in a manner acceptable to the Executive Director within nine hundred feet of 259 Hampton Drive to meet the demands of the approved second floor addition or no longer use the second floor addition, except as is consistent with the Special Conditions of this coastal development permit (A-5-VEN-15-0038). No public parking spaces (e.g., beach parking lots or on public streets) shall be used to satisfy the parking requirements.

B. Valet Parking Service

The applicant shall provide a valet parking service, consistent with the following requirements and limitations, during all hours that the off-site parking is available:

- a. Valet Station: One vehicle drop-off/pick-up station, utilizing a maximum of one (1) public on-street parking space, is permitted on Hampton Drive in the immediate vicinity of the proposed restaurant (subject to the approval of the City of Los Angeles). All public on-street parking spaces located on Hampton Drive shall be available for use by the general public on a first-come, first-serve basis consistent with all applicable City parking regulations at all times when the valet parking service is not in operation.
- b. Vehicle Storage: The valet parking service shall store/park all vehicles in the proposed off-site parking area located at the St. Joseph's Community Center (204 S. Hampton Drive, Venice, City of Los Angeles). Storage of vehicles by valets is prohibited in the public beach/pier parking lots, on public rights-of-way, and in on-street parking spaces (except for loading and unloading at the vehicle drop-off/pick-up station described above), unless authorized by an amendment to this coastal development permit or a separate Coastal Commission authorization.

c. Cost of Valet Parking Service: The Permittee shall not charge a fee to employees or patrons for use of the valet parking service.

d. Employee Parking: Employees of the restaurant shall have their vehicles stored/parked within the proposed off-site parking area located at the St. Joseph's Community Center (204 S. Hampton Drive, Venice, City of Los Angeles) during all hours that the leased off-site parking is available at no cost.

e. Signage: A double-faced portable sign shall be placed at the valet vehicle drop-off/pick-up station during all hours that the valet parking service is in operation. The sign shall clearly announce the availability of the free valet parking service for use by restaurant patrons. Each face of the sign shall not exceed 15 square-feet in area, and the sign shall not rotate, flash, or be internally illuminated.

The valet parking service shall be provided consistent with the above-stated requirements and limitations. Any change in the operation of the valet parking service shall be submitted to the Executive Director to determine whether an amendment to this permit is necessary pursuant to the requirements of the Coastal Act and the California Code of Regulations.

C. Parking Demand Management Plan (PDMP). **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the review and approval of the Executive Director, a PDMP which shall, for the life of the approved development, carry-out the following:

a. Provide and actively manage a minimum of 14 vehicle parking spaces, consistent with the above-describe requirements, available at no cost to the customers and employees of the approved development.

b. Provide a minimum of 12 on-site bicycle parking spaces available to customers and employees of the approved development.

c. Provide free, secure bicycle storage for customers and employees who bring their own bicycles to the approved development.

d. Provide an on-site parking attendant during all hours of operation of the second floor addition of the restaurant to assist customers using valet parking spaces.

e. Educate employees about alternative modes of transportation and implement incentives to decrease the approved development's impact on local parking resources, including the provision of free public transportation passes to employees and/or reimbursements for public transportation fees for transportation to and from work.

f. Provide a detailed plan to undertake an annual traffic and parking study consistent with the following:

- 1) The study shall be conducted annually for a minimum duration of one week (seven full days) during peak parking demand (July and August) and shall be submitted to the Executive Director annually, by October 31st of each year.

- 2) The study shall document vehicle use of the St. Joseph's Community Center parking lot. Parking lot vehicle counts shall be taken at least once per hour during all hours of operation of the restaurant throughout the study. Any critical points (when a vehicle is attempting/ waiting to use the valet parking service but no leased parking spaces in the St. Joseph's Community Center parking lot are available) shall be documented. Any critical points shall be documented even if they occur outside of the time that the hourly vehicle parking counts are taking place.
- 3) The study shall measure vehicle queuing on Hampton Drive (if any) by vehicles awaiting the use of the valet parking service. Traffic monitoring shall take place during all hours of operation of the restaurant throughout the study. Any identified critical points and traffic delays shall be documented (if any). For example, if a vehicle is waiting to use the valet parking service on Hampton Drive and causes traffic to back up on either side of the street preventing continuous movement of vehicles along Hampton Drive, as a result of vehicle queuing, that shall be documented, including a count of the number of vehicles that are waiting to move past the restaurant and the amount of time that the vehicles are waiting on Hampton Drive in order to enter or move past the restaurant parking lot.
- 4) If any annual study finds that the parking supply is inadequate to meet the needs of the restaurant, or traffic delays exceed the previous year's impacts by 10% or more (e.g., if the amount of vehicle traffic backup along Hampton Drive increases in time or number of vehicles waiting to enter or move past the restaurant parking lot increases by 10% or more), the Permittee shall, within one month of this finding, submit a complete application for a CDP amendment to either cease operation of the second floor addition or provide additional traffic and/or parking management measures or mitigation adequate to ensure adequate parking supply and resolve impacts to traffic resulting from the approved development.
- 5) As part of the study, the Permittee shall provide a traffic and parking monitoring program and an adaptive management plan that identifies traffic monitoring methods, establishes traffic and parking thresholds that, if exceeded, will trigger additional mitigation; provides additional mitigation options, including but not limited to an off-site valet parking program that is acceptable to the Executive Director; and establish procedures for the loading of restaurant supplies that minimizes disruption to traffic and on-street parking in the area. The traffic and parking monitoring program and adaptive management plan shall be submitted to the Executive Director for review and approval.

The required PDMP shall be implemented at all times consistent with the above-stated requirements and limitations. Any proposed change to the required PDMP shall be submitted to the Executive Director to determine whether an amendment to this permit is necessary pursuant to the requirements of the Coastal Act and the California Code of Regulations.

5. **Signage, Monitoring and Compliance Plan. PRIOR TO ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT**, the Permittee shall submit, for Executive Director review and

written approval, a Signage, Monitoring and Compliance Plan establishing the method by which the Permittee shall demonstrate compliance with Special Condition 3, limiting the use of the second floor of the restaurant to between 5:00 p.m. and midnight. The plan shall include, at a minimum, the following requirements:

- 1) Proposed measures (e.g. video footage, motion-sensor cameras, or other method of documenting the non-use during prohibited hours) by which the Permittee establishes through objective, reliable, verifiable data that the restrictions on the use of the second floor are being implemented as required.
- 2) Installation of a sign, conspicuously located near the entrance to the restaurant, providing notice that the second floor of the restaurant shall only be open from 5:00 p.m. to midnight.
- 3) A statement on the restaurant's website, if any, that the second floor of the restaurant shall only be open from 5:00 p.m. to midnight. This statement shall be conspicuously provided on any page of the website providing information about the location or hours of operation of the restaurant.
- 4) Monitoring reports (in a format acceptable to the Executive Director) shall be submitted for Executive Director review and written approval at least every six months. The report shall certify that the second floor of the proposed restaurant has not been used as a restaurant, for events, or in any other manner that serves restaurant patrons, during the day (any time prior to 5:00 p.m.) at any time during the prior six month period. The accuracy of the report shall be certified by the general manager or owner of the restaurant under penalty of perjury.

Failure to operate the restaurant consistent with the time restrictions of this permit (limiting use of the second floor to between 5:00 p.m. and midnight), or failure to provide complete and accurate monitoring reports when due, shall constitute a knowing and intentional violation of coastal development permit A-5-VEN-15-0038 and the public access provisions of the Coastal Act and, thus, the permittee will be subject to civil penalties pursuant to Section 30821 of the Coastal Act for each violation, each day that the violation(s) occurs.

6. **Post Construction As-Built Plans.** After construction is complete, the Permittee shall submit final as-built plans to the Executive Director. The as-built plans shall account for all gross floor area of the structure, including, but not limited to: all service floor area and non-service floor area, including, shelving, planter boxes, kitchen area, bathrooms, paths of travel, etc. The plans shall also detail all doors, windows, and outside second floor areas.
7. **Future Permit Requirement.** This permit is only for the development described in coastal development permit (CDP) A-5-VEN-15-0038. Pursuant to Title 14 California Code of Regulations (CCR) Section 13253(b)(6), the exemptions otherwise provided in Public Resources Code (PRC) Section 30610(b) shall not apply to the development governed by CDP A-5-VEN-15-0038. Accordingly, any future improvements to this structure authorized by this permit shall require an amendment to CDP A-5-VEN-15-0038 from the Commission or shall require an additional CDP from the Commission or from the applicable certified local government. In addition thereto, an amendment to CDP A-5-VEN-15-0038 from the Commission or an additional CDP from the Commission or from the applicable certified local government shall be required for any repair or maintenance identified as requiring a permit in Public Resources Code Section 30610(d) and Title 14 CCR Sections 13252(a)-(b).

- 8. Post-Development Runoff Plan. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the permittee shall submit, for the review and written approval of the Executive Director, a final Post-Development Runoff Plan that demonstrates that the project complies with the following requirements:
- A. **Implement Source Control BMPs.** Appropriate and feasible long-term Source Control BMPs, which may be structural features or operational practices, shall be implemented to minimize the transport of pollutants in runoff from the development by controlling pollutant sources and keeping pollutants segregated from runoff. Use strategies such as covering outdoor storage areas; using efficient irrigation; proper application and clean-up of potentially harmful chemicals and fertilizers; and proper disposal of waste.
 - B. **Manage BMPs for the Life of the Development.** Appropriate protocols shall be implemented to manage BMPs (including ongoing operation, maintenance, inspection, and training) to keep the water quality provisions effective for the life of the development. The project shall comply with the following requirements:
 - 1. On a weekly basis, the applicant shall, sweep impervious surfaces to remove litter, sediment, and other debris.
 - 2. Washing-down of impervious surfaces is prohibited, unless these nuisance flows are diverted through an approved filter and do not contribute any additional pollutants to the runoff.
 - 3. The applicant shall use trash and recycling containers that, if they are to be located outside or apart from the principal structure, are fully enclosed and water-tight in order to prevent stormwater contact with waste matter which can be a potential source of bacteria, grease, and other pollutants in runoff.
 - 4. Wash down areas for restaurant equipment and accessories shall be self-contained, equipped with a grease interceptor (minimum capacity of 750 gallons), and properly connected to a sanitary sewer. If the wash area is to be located outdoors, it should be covered, paved, have primary containment, and be connected to the sanitary sewer. The grease interceptor shall be regularly maintained according to manufacturer's specifications to ensure maximum removal efficiencies.
 - C. **Site Plan and Narrative Description.** The Post-Development Runoff Plan shall include a site plan and a narrative description addressing, at a minimum, the following required components:
 - 1. A site plan, drawn to scale, showing the property boundaries, building footprint, runoff flow directions, relevant drainage features, structural BMPs, impervious surfaces, permeable pavements, and landscaped areas.
 - 2. Identification of pollutants potentially generated by the proposed development that could be transported off the site by runoff.
 - 3. An estimate of the proposed changes in (1) impervious surface areas on the site, including pre-project and post-project impervious coverage area and the percentage of the property covered by impervious surfaces; (2) the amount of impervious areas that drain directly into the storm drain system without first flowing across permeable areas; and (3) site coverage with permeable or semi-permeable pavements.

4. A description of the BMPs that will be implemented, and the Low Impact Development approach to stormwater management that will be used. Include a schedule for installation or implementation of all post-development BMPs.
5. A description and schedule for the ongoing management of all post-development BMPs (including operation, maintenance, inspection, and training) that will be performed for the life of the development, if required for the BMPs to function properly.

The permittee shall undertake development in accordance with the approved Post-Development Runoff Plan, unless the Commission amends this permit or the Executive Director determines issues a written determination that no amendment is legally required for any proposed minor deviations.

9. Storage of Construction Materials, Mechanized Equipment and Removal of Construction Debris. The permittee shall comply with the following construction-related requirements:

- (a) No demolition or construction materials, debris, or waste shall be placed or stored where it may enter sensitive habitat, receiving waters or a storm drain, or be subject to wave, wind, rain, or tidal erosion and dispersion.
- (b) No demolition or construction equipment, materials, or activity shall be placed in or occur in any location that would result in impacts to environmentally sensitive habitat areas, streams, wetlands or their buffers.
- (c) Any and all debris resulting from demolition or construction activities shall be removed from the project site within 24 hours of completion of the project.
- (d) Demolition or construction debris and sediment shall be removed from work areas each day that demolition or construction occurs to prevent the accumulation of sediment and other debris that may be discharged into coastal waters.
- (e) All trash and debris shall be disposed in the proper trash and recycling receptacles at the end of every construction day.
- (f) The applicant shall provide adequate disposal facilities for solid waste, including excess concrete, produced during demolition or construction.
- (g) Debris shall be disposed of at a legal disposal site or recycled at a recycling facility. If the disposal site is located in the coastal zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place unless the Executive Director determines that no amendment or new permit is legally required.
- (h) All stock piles and construction materials shall be covered, enclosed on all sides, shall be located as far away as possible from drain inlets and any waterway, and shall not be stored in contact with the soil.
- (i) Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into sanitary or storm sewer systems.
- (j) The discharge of any hazardous materials into any receiving waters shall be prohibited.
- (k) Spill prevention and control measures shall be implemented to ensure the proper handling and storage of petroleum products and other construction materials. Measures shall include a designated fueling and vehicle maintenance area with appropriate berms and protection to prevent any spillage of gasoline or related petroleum products or contact with runoff. The area shall be located as far away from the receiving waters and storm drain inlets as possible.

- (l) Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) designed to prevent spillage and/or runoff of demolition or construction-related materials, and to contain sediment or contaminants associated with demolition or construction activity, shall be implemented prior to the on-set of such activity
- (m) All BMPs shall be maintained in a functional condition throughout the duration of construction activity.

10. Deed Restriction. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the landowners have executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

IV. FINDINGS AND DECLARATIONS

A. PROJECT DESCRIPTION

The proposed project involves the after-the-fact authorization for a change in use of a 1,558 sq. ft. tool engineering shop to a full-service sit-down restaurant. The applicant also proposes an extensive renovation and major addition to the one-story structure as it existed at the time that it was used as a tool engineering shop resulting in a two-story, 2,671 sq. ft. restaurant with 745 sq. ft. of service floor area ([Exhibit 2](#)). The proposal includes twelve new bicycle parking stalls and authorization to lease six vehicle parking spaces daily from 5:00 p.m. to midnight from the St. Joseph's Community Center, approximately 500 ft. from the subject site. The applicant also proposes limiting use of the second floor dining area to 5:00 p.m. to midnight when leased parking spaces at St. Joseph's Community Center are available.

The project site is located at 259 Hampton Drive in the North Venice subarea of the City of Los Angeles approximately three blocks from the beach and boardwalk. The 1,871 sq. ft. lot is designated as Limited Industry by the certified Venice Land Use Plan (LUP) ([Exhibit 1](#)). The surrounding neighborhood is comprised of residential, commercial, industrial and institutional uses. According to the City, the site is currently developed with a single-story 1,558 sq. ft. building operating as retail and food take-out uses with no physical vehicle parking spaces. The site has been operating as a retail and food take-out establishment without a coastal development permit since at least December 31, 1991.

Dual/Single Permit Jurisdiction

The proposed development is within the coastal zone of the City of Los Angeles. Section 30600(b) of the Coastal Act allows a local government to assume permit authority prior to certification of its

Local Coastal Program. Under that section, the local government must agree to issue all permits within its jurisdiction. In 1978 the City of Los Angeles chose to issue its own CDPs pursuant to this provision of the Coastal Act.

Within the areas specified in Section 30601 of the Coastal Act, which is known in the City of Los Angeles permit program as the Dual Permit Jurisdiction Area, the Act requires that any development that receives a local CDP also obtain such a permit from the Coastal Commission. Section 30601 requires a second CDP from the Commission on all lands located (1) between the sea and the first public road, (2) within 300 feet of the inland extent of a beach, or the sea where there is no beach, (3) on tidelands or submerged lands, (4) on lands located within 100 feet of a wetland or stream, or (5) on lands located within 300 feet of the top of the seaward face of a coastal bluff. Outside that area, the local agency's (City of Los Angeles) CDP is the only coastal development permit required, although all such permits are appealable to the Commission. Thus it is known as the Single Permit Jurisdiction Area.

The proposed development is not located within the Dual Permit Jurisdiction Area specified in Section 30601. Therefore, only a single coastal development permit is required from the City of Los Angeles, but that permit may be appealed to the Commission, as was the case with Coastal Development Permit No. ZA-2012-1770 issued by the City of Los Angeles for this development.

Project History

On September 18, 2014, the Zoning Administration held a public hearing for Local CDP No. ZA-2012 – 1770 (Dunes Development, LLC). The Zoning Administration approved the project, which was then appealed by Ms. Ilana Marosi to the West Los Angeles Area Planning Commission (WLAAPC). On April 1, 2015, the WLAAPC held a combined public hearing for the local CDP and Specific Plan compliance case DIR 2010-2932 (Richard J. Gottlieb & Dunes, LLC). On May 18, 2015, the WLAAPC issued its determination approving Local CDP No. ZA 2012 – 1770 (ENV 2013 – 2592 – MND) and DIR 2010-2932 for a change of use of a 1,042 sq. ft. retail store to a 1,658¹ sq. ft. full service sit-down restaurant with 616 sq. ft. of service floor area with a maximum seat count of 60 seats ([Exhibit 4](#)). On June 5, 2015, the WLAAPC issued a corrected determination letter for Local CDP No. ZA 2012-1770, which denied the applicant's request for the sale and dispensing of a full line of alcoholic beverages for on-site consumption in conjunction with the proposed restaurant, but upheld the conversion and construction of the existing structure to a sit-down restaurant.

The City's Notice of Final Local Action for Local CDP No. ZA 2012-1770 was received in the Coastal Commission's Long Beach Office on June 8, 2015, and the Coastal Commission's required twenty working-day appeal period was established. On June 29, 2015, Mr. James Murez submitted an appeal to the City's approval of the Local CDP ([Exhibit 3](#)). On July 6, 2015, Mr. James McCullagh, Ms. Maripaz Maramba, Ms. Marie Pabianova, Ms. Kimmy Miller, Ms. Roxanne Brown, Ms. Ilana Marosi, Ms. Robin Rudisill, and the Coastal Commission Executive Director submitted appeals of the City's local CDP ([Exhibit 3](#)).

The Commission had originally scheduled the substantial issue and de novo hearing for August 12, 2015. The staff report was published on July 23, 2015. At that time, Commission staff was recommending that the Commission determine a substantial issue exists with respect to the grounds

¹ There is a discrepancy in the area of the existing structure. The City's local CDP states that the existing structure is 1,658 sq. ft. in area. However, the City's Zoning Information and Map Access System (ZIMAS), states that the existing structure is 1,558 sq. ft. in area. The applicant's architect has confirmed that the existing structure is 1,558 sq. ft. in area.

on which the appeals were filed because, as approved by the City, the proposed restaurant would adversely affect the public's ability to access the coast in this area because the additional parking demands generated by the new restaurant were not adequately mitigated, thereby resulting in an increase in competition for the limited supply of public parking. Additionally, approval of development that exacerbates the parking shortage in Venice would prejudice the City's ability to prepare a certified LCP. At that time staff also recommended denial of the proposed project because there was no requirement by the City or proposal by the applicant to adequately mitigate the increased demand for parking associated with the proposed restaurant.

After the July 23, 2015 staff report was published, the applicant requested, on July 30, 2015, to postpone the scheduled August 12, 2015 Commission appeal hearing and the appeal hearing was postponed. Commission staff met with the applicant's representatives on July 24, 2015, February 2, 2016, and July 7, 2016 to discuss the feasibility of leasing existing off-site vehicle parking spaces to support the parking needs of the proposed restaurant. A new public hearing was scheduled for the appeal and the proposed project on July 14, 2016. During that hearing, the Commission determined that a substantial issue did exist with respect to the grounds on which the appeals were filed. At that time, the applicant was proposing a 2,798 sq. ft. restaurant with a service floor area between 995 sq. ft. and 1,140 sq. ft. Commission staff determined that, the applicant's proposal would typically require 25 vehicle parking spaces (see Commission staff report [A-5-VEN-15-0038, June 23, 2016](#)). The applicant disagreed with staff and asserted that the proposed restaurant would only be required to provide six vehicle parking spaces and proposed to do so by leasing them from St Joseph's Community Center, a church located about one block north of the project site. During the de novo phase of the hearing, staff informed the Commission that the proposal to lease parking from St. Joseph's Community Center was not a feasible alternative because any available parking in that lot was already being made available for beach goers at a price lower than that charged in the nearby County-operated beach parking lots; thus, the proposed use of St. Joseph's parking for a new use would result in adverse impacts to public access. Ultimately, on July 14, 2016 the Commission voted to continue the de novo phase of the hearing in order to allow the applicant to continue searching for a viable parking supply to support the parking demand generated by the proposed restaurant.

The applicant again met with Commission staff on June 27, 2017. During that meeting the applicant proposed to lease parking spaces from a commercial building located at 3100 Main Street in Santa Monica, two blocks from the project site and two blocks from the beach. The property at that address straddles the border of the Cities of Santa Monica and Los Angeles (Venice). The Venice portion of the property is located in the Single Permit Jurisdiction Area of the City of Los Angeles.

Commission staff reviewed the applicant's new proposal for leasing off-site parking and found that on June 21, 1984, the City of Los Angeles approved Local CDP No. 84-005 for the commercial building located at 3100 Main Street ([Exhibit 5](#)). Special Condition Eight of Local CDP No. 84-005 requires all excess "on-site parking [to be made] available to the general public [on weekends and holidays] at a rate no higher than half the normal weekday rate, but in no event more than the rate charged by the County of Los Angeles on public parking lots along the coast." As such, the parking proposed to be leased by the applicant was not a feasible alternative because doing so would adversely affect public access and would be inconsistent with the terms of the underlying CDP.

On October 22, 2017, the applicant sent another proposal ([Exhibit 6](#)) to Commission staff and requested to be scheduled for the next available hearing. That proposal was for a change of use of a

tool engineering shop to a full-service restaurant, which would result in a two-story, 2,831 sq. ft. restaurant with 500 sq. ft. of service floor area, and 12 bicycle parking stalls. At that time, the applicant had withdrawn the proposal to lease any off-site vehicle parking spaces to support the needs of the proposed restaurant and proposed no actual new physical vehicle parking spaces. Staff reviewed the applicant's new proposal and scheduled the de novo hearing for the proposed project for the Commission's December 2017 meeting. The staff report for the December 14, 2017 hearing was published on November 30, 2017 (see Commission staff report [A-5-VEN-15-0038, November 30, 2017](#)). The staff recommendation was for approval of the after-the-fact authorization of the change in use and new proposed renovation of the first floor with a special condition that required deletion of the 2nd floor addition due to the lack of adequate parking. On December 4, 2017, the applicant requested to postpone the December 2017 hearing. On December 5, 2017, the December 2017 de novo hearing was postponed.

Subsequently, on May 16, 2018, staff met with the applicant's representatives to discuss a new proposal by the applicant for the site which would limit use of the 2nd story addition to evening hours only with the provision of a valet parking program with off-site leased parking spaces, which is described in more detail above, and is the subject of the current De Novo coastal development permit application.

B. PUBLIC ACCESS

Section 30212.5 of the Coastal Act states:

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

Section 30213 of the Coastal Act states:

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

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. [Emphasis added]*

Policy I.E.5 of the certified LUP states:

*Where **extensive renovation of and/or major addition to a structure is proposed and the affected structure is nonconforming** or there is another nonconforming structure on the site, or a project is proposed **that would greatly extend the life of a nonconforming structure** or that eliminates the need for the nonconformity, the following shall apply:*

Unless the City finds that it is not feasible to do so, the project must result in bringing the nonconforming structure into compliance with the current standards of the certified LCP, unless in its nonconformity it achieves a goal associated with community character (i.e. the reuse and renovation of a historic structure) or affordable housing that could not be achieved if the structure conforms to the current standards of the certified LCP. [Emphasis added]

Policy II.A.1 of the certified LUP states:

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

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

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

| | |
|---|--|
| Restaurant, Night Club, Bar, and similar establishments and for the sale or consumption of food and beverages on the premises | 1 space for each 50 square feet of service floor area (including outdoor service areas). |
| Manufacturing and Industrial Establishment, including Offices and other than incidental operations. | 3 spaces; plus 1 space for each 350 square feet of floor area. |

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

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

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

*a. Commercial and industrial projects in the BIZ shall provide **one additional parking space for each 640 square feet of floor area of the ground floor. Up to 50% of the total number***

of these additional parking spaces required in this section may be paid for in lieu of providing the spaces. [Emphasis added]

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

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

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

Implementation Strategies

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

The standard of review for this permit application is Chapter 3 of the Coastal Act, with the certified Venice LUP serving as guidance. Under Coastal Act Section 30252(c), the Commission must be able to find that the project provides “adequate parking facilities” or “substitute means of serving the development with public transportation.” The Venice LUP provisions concerning parking provide guidance for the Commission’s determination of whether the project complies with the Coastal Act.

The proposed project would provide after-the-fact authorization for the conversion of a 1,558 sq. ft. tool shop to a restaurant and allow for new substantial additions and renovations that would result in a substantially larger 2,671 sq. ft. restaurant able to accommodate up to 91 patrons at one time. However, the City limited seating to a maximum of 60 patrons ([Exhibit 4](#)). The proposed restaurant will result in an increase in intensity of use from both the currently permitted structure (tool shop) and the current use (one-story take-out restaurant), necessitating the provision of additional parking to serve the additional customers of an expanded restaurant. The applicant proposes to satisfy the parking demand for the proposed development by relying on eight grandfathered (nonexistent) parking space credits, 12 bicycle parking stalls, a traffic demand management plan (TDMP), which would provide incentives for employees to not drive personal vehicles to work, and to lease 6 vehicle parking spaces from St. Joseph’s Community Center starting at 5:00 p.m. each day. As explained below, although the applicant’s proposal does not comport with Chapter 3 or the certified LUP, the Commission can find that the project, as conditioned in this staff report, complies with Chapter 3.

The Applicant’s Proposal is Inconsistent with the Coastal Act and Venice LUP

The applicant’s current proposal for addressing parking impacts of the two-story restaurant does not comply with the public access provisions of the Coastal Act or the Venice LUP’s parking standards.

First, the applicant's proposal requires that it use 8 grandfathered parking space credits to support the expanded restaurant, but this is not appropriate given the significant changes proposed at the project site.² The Coastal Act does not provide specific parking standards, but LUP Policy I.E.5 states, in part, that "*where extensive renovation of and/or major addition to a structure is proposed and the affected structure is nonconforming or... a project is proposed that would greatly extend the life of a nonconforming structure... the following shall apply: unless the City finds that it is not feasible to do so, the project must result in bringing the nonconforming structure into compliance with the current standards of the certified LCP...*" And, LUP Policy II.A.3 states, in part, that "*...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 the missing numbers of parking spaces...*"

The proposed project includes a new second floor (i.e., "major addition") and remodeling a tool engineering shop into a restaurant including an elevator with a subterranean housing unit (i.e., "extensive renovation").³ The building is proposed to be renovated and enlarged in a manner that will greatly extend the life of the nearly century-old nonconforming structure. As such, to the extent that they are used for guidance, LUP Policies I.E.5 and II.A.3 are applicable, as the proposal is an extensive renovation/remodel, a major addition, and a change of use. And, given this significant change in the intensity of use, to ensure the proposed two-story restaurant complies with Chapter 3 Commission staff uses the parking standards of the certified LUP to obtain guidance on the anticipated level of parking demand created by the new project.

Therefore, the applicant's current proposal includes a two-story, 2,671 sq. ft. structure with 745 sq. ft. of net service floor area and 522 net sq. ft. of paths of travel through dining areas. Using the calculations provided by the applicant, with 745 sq. ft. of service floor area, the proposed restaurant would be required to provide 17 physical vehicle parking spaces. The certified LUP requires 1 space for each 50 sq. ft. of service floor area and 1 BIZ space per 640 sq. ft. ((1 space/50 sq. ft. service floor area) + (1 BIZ space/640 sq. ft. of ground floor area) = (745 sq. ft. (1 space/50 sq. ft.)) + (1,558 sq. ft. (1 space/640 sq. ft.)) = 15 spaces + 2 spaces \approx 17 spaces).

Second, the applicant may not use bicycle stalls and a traffic management plan as a substitute for 11 actual parking spaces in this case. There are no provisions in the Coastal Act or the certified LUP that explicitly allow the substitution of bicycle parking stalls and a TDMP for actual physical parking spaces. In the past, the Commission has found that allowing bicycle parking stalls and a TDMP to substitute *some* of the required vehicle parking spaces, when the majority of required vehicle parking spaces were provided on site, is consistent with the Coastal Act ([A-5-VEN-14-0011](#), [A-5-VEN-15-0025](#), [A-5-VEN-16-0041](#)). However, given the change in intensity of use of the project

² The legally permitted use of the existing structure on the subject site is a 1,558 sq. ft. tool engineering shop. The parking requirement outlined in the certified LUP for such a use is: 3 spaces; plus 1 space for each 350 square feet of floor area, which yields eight parking spaces (3 spaces + (1,558 sq. ft./350 sq. ft./space) = 3 spaces + 4.5 spaces = 7.5 spaces \approx 8 spaces). Therefore, the existing permitted use has an intensity of use of eight (8) parking spaces.

³ The applicant asserts that the proposed project is not an extensive renovation because it will maintain 86% of the existing exterior walls and therefore a grandfathered parking credit of eight (8) spaces associated with the site would be permitted. Staff disagrees given the extensive changes required to transform the permitted use (a tool shop) into a two-story restaurant, including construction of an elevator and a subterranean housing unit. In any event, the proposed project is clearly a "major addition" as it involves construction of a second level, so the guidance in LUP Policy I.E.5 applies.

site, and that the proposed development is located in an area with a significant demand for parking to support coastal access, and that use of the grandfathered parking credits will not result in any new parking it would not be adequate mitigation of the identified impacts to replace a 17 parking space requirement with only 12 bicycle parking stalls, six off-site leased parking spaces, and a TDMP. Accordingly, the Commission finds that the applicant's proposal does not comply with the Coastal Act public access policies relating to parking, or the Venice LUP.

As Conditioned in this Staff Report, the Project Complies with Chapter 3

Despite the deficiencies discussed above, the Commission can find that the project complies with the public access and recreation policies of Chapter 3 of the Coastal Act, but only with adherence to special conditions outlined here to ensure that adequate parking is provided when the full restaurant is operating. After further discussions with Commission staff, the applicant has provided evidence to staff indicating that it can provide at least 14 off-site leased parking spaces for the proposed two-story restaurant during the evening hours (after 5:00 p.m.) without interfering with the public's use of nearby parking facilities for accessing the coast, due to a reduced demand for such parking facilities at night.⁴ Thus, staff recommends authorizing construction of the second floor ([Special Condition 1](#)), but imposing [Special Conditions 3 and 4](#) to limit operation of the second floor to the hours of 5:00 p.m. to midnight daily when off-site leased parking is available and required to be provided.

As discussed above, LUP Policy I.E.5 requires the provision of 17 parking spaces for a project of this size. The applicant here would only be required to provide 14 actual off-site parking spaces when the full restaurant is in operation. However, in conjunction with the 12 bicycle spaces and the TDMP for employees, and prior Commission decisions for new development projects in the Venice area, where the Commission found that, in some cases, where it is not possible to provide all necessary parking on site, it may be appropriate to allow bicycle parking spaces to replace up to two vehicle parking spaces and that a TDMP for employees can replace one vehicle parking space, it is not inconsistent with the Chapter 3 public access and parking policies to require only 14 parking spaces, provided the above referenced additional parking mitigation measures are implemented, instead of the normally required 17 in this case.

During the day time, however, the applicant cannot feasibly provide any vehicle parking for its patrons for the restaurant without interfering with the public's use of nearby parking facilities to access the coast. Prior to 5:00 p.m. daily, therefore, [Special Condition 3](#) requires the applicant to use only the first floor of the proposed restaurant, which is limited to 300 sq. ft. in service floor area. This ensures that the demand for parking associated with the new restaurant (two beach impact zone spaces and six parking spaces for 300 sq. ft. of service floor area) will be no greater than that for the last authorized use of the subject site (eight parking spaces). In addition, limiting the first-floor service floor area to 300 sq. ft. does not change the current intensity of use of the site, and therefore it would not exacerbate the current parking demand in this area to allow the first-floor only to operate during the day time hours.

Thus, although the proposed project may still qualify as a "change in use" (Policy II.A.3) and an "extensive renovation" (Policy I.E.5) when only the first-floor of the restaurant is in operation, such that the LUP would require the provision of at least eight actual parking spaces in lieu of the

⁴ The applicant provided a parking study ([Exhibit 8](#)), which indicates that evening use of the parking lot at St. Joseph's Community Center is much lower than day time use and there is ample parking available to lease for off-site uses in the evening without interfering with public beach parking.

grandfathered parking credits, it is not inconsistent with Chapter 3 public access policies given that there will not be an increase in the intensity of use or related impacts to public access during the day, when competition for public parking near the coast is highest. Policy I.E.5 explicitly allows deviating from the LUP's parking requirements when compliance would not be "feasible," as the applicant has clearly demonstrated is the case during day time hours, and both policies are used as guidance in any event.

Accordingly, [Special Condition 1](#) authorizes a renovation of the existing one-story, 1,558 sq. ft. structure as a restaurant with a maximum service floor area of 745 sq. ft., and also allows for construction of the second story addition with restrictions (set forth in the Special Conditions). [Special Condition 1](#) limits the service floor area to 300 sq. ft. on the first floor (which is the maximum service floor area allowed with an intensity of use of eight parking spaces) and prohibits outdoor dining areas. [Special Condition 2](#) requires the applicant to submit revised final plans in accordance with the approved project described in [Special Condition 1](#) and that all development occur in strict compliance with the approved final plans.

[Special Condition 4](#) also requires the applicant/Permittee to participate in a comprehensive parking program and parking monitoring plan. This will ensure the continued availability of vehicle parking spaces for use of patrons of the restaurant when the second floor addition is in use, thereby reducing the impact to public access.

[Special Condition 5](#) requires the applicant to prepare and submit for approval by the Executive Director a Signage, Monitoring and Compliance Plan to establish the method by which the applicant can demonstrate compliance with the Special Condition 3, limiting the hours of operation of the second-floor of the restaurant to between 5:00 p.m. and midnight daily. Special Condition 3 is critical to the Commission's finding that the project complies with the Coastal Act's public access and parking policies. Yet, in the experience of Commission staff, similar types of limitations on restaurant operations have been difficult to monitor to ensure compliance. Accordingly, the applicant must develop a plan for providing signage and evidence of compliance with the restaurant operational limits in [Special Condition 3](#).

[Special Condition 6](#) requires the applicant to submit as-built plans to the Executive Director to ensure that redevelopment of the site occurs in strict compliance with the conditions of this CDP. The City did not require and the applicant did not propose a loading zone in order to receive deliveries for the proposed restaurant.

In conclusion, the proposed project raises significant issues related to coastal access in the Venice area, a highly popular visitor destination and densely populated area where adequate parking is critical to ensuring public access to and use of the coast. In this case, as proposed by the applicant, the proposed two-story restaurant project does not comply with the certified LUP or the Chapter 3 policies of the Coastal Act. Although the standard of review for the proposed project is the Coastal Act, the Commission has certified an LUP for Venice and the LUP may be used for guidance. The LUP sets forth extensive parking requirements for Venice which have been described in detail above. Additionally, the provision of adequate parking to support coastal access is explicitly prioritized in several Chapter 3 policies and in the Shoreline Access section of the certified Venice LUP. Many people who visit the coast, and especially Venice Beach, travel long distances from inland areas and it is not practical for them to walk, ride bikes or take public transit. Once one arrives in Venice, then bike transportation is a viable option. But one must get there first, and public

transportation options to get to Venice from inland areas are very limited. It is because of this reason that protecting the public parking supply to the coast is of significant importance. The project is located just three blocks from the beach and is a highly visited area with a very limited parking supply. Therefore, only as conditioned to avoid adverse impacts to public access can the proposed project be found consistent with the Coastal Act and the certified LUP.

C. MARINE RESOURCES/WATER QUALITY

Section 30230 of the Coastal Act states:

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for longterm commercial, recreational, scientific, and educational purposes.

Section 30231 of the Coastal Act states:

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

The proposed project is located near the coastal waters of the Pacific Ocean ([Exhibit 1](#)). Water from the project site will flow into the City of Los Angeles storm drain system ultimately draining to the Pacific Ocean. Beach closures occurring throughout Los Angeles County are typically attributed to polluted urban runoff discharging into the ocean through outfalls. As illustrated by these beach closures, polluted runoff negatively affects both marine resources and the public's ability to access coastal resources.

The standard of review for the proposed development is the Chapter 3 policies of the Coastal Act, including the aforementioned marine resource policies. The proposed project poses a potential source of pollution due to contaminated runoff generated at the site during construction phase and from the proposed restaurant uses. To mitigate potential impacts to marine resources caused by polluted runoff leaving the site, [Special Condition 8](#) requires the applicant provide a post development runoff control plan which incorporate best management practices (BMPs) into the project design aimed to reduce or prevent contaminants from running off the site and impacting nearby coastal waters and special water quality protection requirements typically required of restaurant uses for wash down areas for restaurant equipment and accessories to be self-contained, equipped with a grease interceptor and properly connected to a sanitary sewer.

Additionally, during grading and construction, the storage or placement of construction materials, debris, or waste in a location subject to erosion and dispersion or which may be discharged into coastal water via rain or wind would result in adverse impacts upon the marine environment that

would reduce the biological productivity of coastal waters. For instance, construction debris entering coastal waters may cover and displace soft bottom habitat. Sediment discharged into coastal waters may cause turbidity, which can shade and reduce the productivity of foraging avian and marine species' ability to see food in the water column. In order to minimize adverse construction-related impacts upon marine resources, [Special Condition 9](#) requires the applicant to comply with construction-related best management practices (BMPs) to: (1) ensure that construction materials, debris and waste do not enter receiving waters or disperse; (2) prevent spillage and/or runoff of demolition or construction related materials; and (3) contain sediment or contaminants associated with demolition or construction activities.

D. 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 [Special Condition 10](#) requiring that the property owner record a deed restriction against the property, referencing all of the above Special Conditions of this permit and imposing them as covenants, conditions and restrictions on the use and enjoyment of the Property. Thus, as conditioned, this permit ensures that any prospective future owner will receive actual notice of the restrictions and/or obligations imposed on the use and enjoyment of the land in connection with the authorized development, including the risks of the development and/or hazards to which the site is subject, and the Commission's immunity from liability.

E. 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 Venice Land Use Plan was certified by the Commission on June 14, 2001 and is advisory in nature and may provide guidance. The proposed development is not consistent with Chapter 3 of the Coastal Act and with the certified Land Use Plan for the area. Approval of the project as proposed will 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.

Only as conditioned with the imposed special conditions that require the project to avoid adverse impacts on public access and water quality can the proposed development be found to be consistent with Chapter 3 of the Coastal Act and with the certified Land Use Plan for the area. Approval of the project, with the imposed special conditions that require the project to avoid adverse impacts on public access and water quality, 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.

F. UNPERMITTED DEVELOPMENT

Development has occurred on the subject site without the benefit of the required coastal development permit consisting of a change of use of the structure from tool engineering shop to restaurant with an undefined amount of service floor area and sidewalk dining. A coastal development permit was not issued by the Commission or the City of Los Angeles to authorize the change in use. Any development activity conducted in the Coastal Zone without a valid coastal development permit, or which does not substantially conform to a previously issued permit, constitutes a violation of the Coastal Act.

Although development has taken place prior to submission of this permit application, consideration of this application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Commission review and action on this permit does not constitute a waiver of any legal action with regard to any alleged violations, nor does it constitute an implied statement of the Commission's position regarding the legality of development (other than the development addressed herein) undertaken on the subject site without a coastal development permit.

G. CALIFORNIA ENVIRONMENTAL QUALITY ACT

Section 13096 Title 14 of the California Code of Regulations requires Commission approval of a coastal development permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The Commission incorporates its findings on Coastal Act consistency at this point as if set forth in full. As discussed above, the proposed development, only as conditioned, is consistent with the Chapter 3 policies of the Coastal Act. Feasible mitigation measures, which will minimize all significant adverse environmental effects, have been required as special conditions.

As conditioned to minimize adverse impacts to coastal resources, including public access and water quality, there are no feasible alternatives or additional feasible mitigation measures available that would substantially lessen any significant adverse effect that the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, has no remaining significant environmental impacts, is the least environmentally damaging feasible alternative, and is consistent with the requirements of the Coastal Act to conform to CEQA.

Appendix A

1. Venice In-Lieu Parking Fee Study, July 2012
2. [A-5-VEN-15-0038, Staff Report, July 23, 2015](#)
3. [A-5-VEN-15-0038, Staff Report, June 23, 2016](#)
4. [A-5-VEN-15-0038, Staff Report, November 30, 2017](#)