

CALIFORNIA COASTAL COMMISSION

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W16b

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STAFF REPORT: PERMIT AMENDMENT

Application No.: 5-85-249-A1

Applicant: William Keenan

Location: 1901 Ocean Front Walk, Venice, City of Los Angeles,
Los Angeles County, APN

Description of Original Project Approved Pursuant to Permit No. 5-85-249: Convert three 250 sq. ft. single apartments in three-story, five unit building to commercial uses, including fast-food/take-out restaurant on the ground floor, beauty shop on second floor, and manicure shop on third floor, with six on-site parking spaces and four off-site parking spaces.

Description of Pending Permit Amendment No. 5-85-249-A1: After-the-fact conversion of two commercial units to residential guest rooms on the second and third floors and change the use of 693 sq. ft. on the ground floor from parking/restaurant space to retail space. Resulting in four residential units (two residential guest rooms without kitchens and two full apartments). Maintain six existing on-site parking spaces and provide three off-site parking spaces.

Staff Recommendation: Approval with conditions.

SUMMARY OF STAFF RECOMMENDATION

The project site is located on an oceanfront lot on Ocean Front Walk in Venice. In 1985 the Commission approved the after-the-fact (ATF) conversion of three of the five residential units in the approximately 3,524 sq. ft., three story plus loft building (constructed in 1972) to three separate 250 sq. ft. commercial uses, including fast-food/take-out restaurant on the ground floor, beauty shop on second floor, and manicure shop on third floor, with six on-site parking spaces and four off-site parking spaces (Coastal Development Permit (CDP) No. 5-85-249). Subsequent to, and inconsistent with the Commission's approval, the 250 sq. ft. fast-food/take-out restaurant on the ground floor was expanded and converted to a retail use, the 250 sq. ft. commercial spaces on the second and third floors were converted to residential guest rooms, and the interior square footage of the units on the second and third floor were reallocated, all of which was undertaken without benefit of the necessary CDP amendment. In order to resolve these violations at issue, the current CDP amendment request is for ATF approval to convert the commercial units on the second and third floor back to residential use (resulting in two residential units and two residential guest rooms), and to convert 693 sq. ft. of the ground floor from parking/restaurant space to retail use; maintain the six onsite parking spaces, and to reduce offsite parking from four to three parking spaces. The proposed changes in use would not result in an increase in square footage or height.

The underlying CDP required the development to include six onsite parking spaces and four offsite parking spaces for at least two years from the date of issuance of that permit. Violations of the Coastal Act exist on the subject property including, but not necessarily limited to, unpermitted use in violation of the underlying CDP.

Commission Staff recommends **approval** of the amendment request with revisions to Standard Condition 3 (Compliance); and Special Conditions 1 (Parking), 2 (Change of Use Requires a Permit); and the addition of Special Condition 3, which requires a deed restriction to notify all future landowners of the conditions of the permit. The conditions of the underlying permit, as revised, continue to apply.

PROCEDURAL NOTES: The Commission's regulations provide for referral of permit amendment requests to the Commission if:

- 1) The Executive Director determines that the proposed amendment is a material change, or
- 2) Objection is made to the Executive Director's determination of immateriality, and at least three Commissioners object to the executive directors' designation of immateriality at the next Commission meeting, or the Executive Director determines that the objection raises an issue of conformity with the Coastal Act or certified Local Coastal Program.

The Executive Director has determined that the proposed amendment is a material change that affects conditions required for the purpose of protecting coastal access.

Section 13166(a) of the Commission's Regulations also calls for the Executive Director to reject a permit amendment request if it would lessen or avoid the intended effect of the previously approved permit.

The proposed amendment would not lessen the intended effect of Coastal Development Permit No. 5-85-249 envisioned in the Commission's November 1985 action approving the project with conditions. Therefore, the Executive Director accepted the amendment request.

PLEASE NOTE THAT THIS WILL BE A VIRTUAL MEETING. As a result of the COVID-19 emergency and the Governor's Executive Orders N-29-20 and N-33-20, this Coastal Commission meeting will occur virtually through video and teleconference. Please see the Coastal Commission's Virtual Hearing Procedures posted on the Coastal Commission's webpage at www.coastal.ca.gov for details on the procedures of this hearing. If you would like to receive a paper copy of the Coastal Commission's Virtual Hearing Procedures, please call 415-904- 5202.

In addition, under the Permit Streamlining Act, the deadline for Commission action on this application was October 22, 2020. However, on April 16, 2020, the Governor of the State of California issued Executive Order N-52-20 tolling the time-frames for action in the Permit Streamlining Act for 60 days. Accordingly, the deadline for Commission action on this permit amendment is December 12, 2020.

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APPENDICES

Appendix A – Substantive File Documents

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EXHIBITS

Exhibit 1 – Vicinity Map and Project Location

Exhibit 2 – Project Plans

I. MOTION AND RESOLUTION

Motion:

I move that the Commission **approve** Coastal Development Permit Amendment No. 5-85-249-A1, pursuant to the staff recommendation.

Staff recommends a **YES** vote on the foregoing motion. Passage of this motion will result in conditional approval of the permit amendment 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 Coastal Development Permit Amendment No. 5-85-249-A1 on the grounds that the development as amended and subject to conditions, 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 amendment 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 amended development on the environment, or 2) there are no feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the amended development on the environment.

II. CHANGES TO CONDITIONS

NOTE: Appendix B, attached, includes all standard and special conditions that apply to this permit, as approved by the Commission in its original action and modified and/or supplemented by all subsequent amendments, including this amendment number 1. All of the Commission's adopted special conditions, and any changes in the project description proposed by the applicant and approved by the Commission in this or previous actions, continue to apply in their most recently approved form unless explicitly changed in this action. New conditions and modifications to existing conditions imposed in this action on Amendment 1 are shown in the following section. Within Appendix B, changes to the previously approved special conditions are also shown in **bold**. This will result in one set of adopted standard and special conditions.

Unless specifically altered by this amendment, all regular and special conditions attached to Coastal Development Permit 5-85-249, as amended, remain in effect. Language to be deleted is shown in ~~strike-out~~ and new language is shown in **bold, underlined**.

A. Standard Conditions

3. Compliance. All development must occur in strict compliance with the proposal as set forth in the application for the permit, **as modified by the application for the**

permit amendment, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.

B. Special Conditions

1. Conversion of ~~three single apartments~~ **two commercial spaces to two residential quest rooms** to the commercial uses permitted herein shall be subject to the availability, at all times, of no less than ~~ten~~ **nine** parking spaces, including six on-site and ~~four~~ **three** off-site, ~~as per conditions 3&4 of the Los Angeles Coastal Development Permit 84-020 (attached as Exhibit 1).~~ Prior to ~~transmittal~~ **issuance of the permit, the applicant shall submit evidence of an appropriate lease agreement guaranteeing provision of these off-site spaces for at least two** **three** years.
2. Any change in type of use (~~including conversion of the take-out restaurant to sit-down service~~), area devoted to commercial use, or availability of parking, shall require a separate Coastal Development Permit.
3. **Deed Restriction. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall execute and record documents(s) in a form and content acceptable to the Executive Director, restricting the use and enjoyment of the parcel by requiring the provision of parking resources as described in Special Condition 1 and requiring a CDP for any change in use as required by Special Condition 2. The recorded document(s) shall include a legal description and corresponding graphic depiction of the legal parcel(s) subject to this permit. The deed restriction shall be recorded free of prior liens and any other encumbrances that the Executive Director determines may affect the interest being conveyed. The deed restriction shall run with the land in favor of the People of the State of California, binding successors and assigns of the applicant or landowner in perpetuity.**

A. Project Description and Background

The project site consists of a 2,523 sq. ft. ocean front lot on Ocean Front Walk in the North Venice subarea of Venice, and is designated Medium Residential by the certified Venice Land Use Plan (LUP) ([Exhibit 1](#)). It is developed with a 3-story plus loft approximately 3,524 square foot mixed-use building constructed in 1972 consisting of retail on the ground floor, four residential units on the second and third floors including a two bedroom apartment and residential guest room on the second floor, and a two bedroom apartment plus loft and residential guest room on the third floor. The project is located within the City of Los Angeles Dual Permit Jurisdiction Area, and the standard of review is Chapter Three of the Coastal Act. The Certified Venice Land Use Plan is used as guidance.

The certified LUP also designates this project site as being located within the Venice Beach Impact Zone, which is an area where parking demands are greatest. Ocean Front Walk, which is located immediately seaward of the project site, is a highly used beach-

fronting pedestrian right-of-way that extends the full length of Venice and links the project site to popular visitor-serving destinations including Venice Beach, Venice Skate Park, Muscle Beach, and Venice Pier.

In 1985 the Commission approved the after-the-fact (ATF) conversion of three of the five residential units in the approximately 3,524 sq. ft., three story plus loft building (constructed in 1972) to three separate 250 sq. ft. commercial uses, including fast-food/take-out restaurant on the ground floor, beauty shop on second floor, and manicure shop on third floor, with six on-site parking spaces and four off-site parking spaces (Coastal Development Permit (CDP) No. 5-85-249). Subsequent to, and inconsistent with the Commission's approval, the 250 sq. ft. fast-food/take-out restaurant on the ground floor was expanded and converted to a retail use, the 250 sq. ft. commercial spaces on the second and third floors were converted to residential guest rooms, and the interior square footage of the units on the second and third floor were reallocated. The current CDP amendment request is for ATF approval to convert the commercial units on the second and third floor back to residential use (resulting in two residential units and two residential guest rooms), and to convert 693 sq. ft. of the ground floor from parking/restaurant space to retail use ([Exhibit 2](#)); maintain the six onsite parking spaces, and to reduce offsite parking from four to three parking spaces.

The applicant received a local CDP from the City (DIR-2018-2935) that authorized the subject development. The City's approval was not appealed to the Commission. The proposed modification to the offsite parking requirement of the underlying permit that required four spaces for the commercial uses in 1985 would result in a reduction of one parking space to require three offsite parking spaces for the commercial retail use, which requires less parking than the commercial uses approved in 1985, and is discussed in greater detail below in Section B. The underlying CDP required the development to include 10 parking spaces: six onsite and four offsite, which were required to be leased to serve the general public for at least two years by **Special Condition 1** of the underlying permit.

B. Public Access

Section 30210 of the Coastal Act states:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30211 of the Coastal Act states:

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

Section 30252 of the Coastal Act states, in part:

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.

Policy II. A. 3. Parking Requirements of the Certified Venice LUP state, in part:

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.

Business and Commercial Uses, General Retail Store, except as otherwise provided, shall provide 1 space for each 225 square feet of floor area.

The certified LUP requires two vehicle parking spaces for each residential unit, plus one guest parking space for each four (or fewer) units for multiple dwelling developments; one vehicle parking space for each 225 sq. ft. of floor area for general retail uses; and two Beach Impact Zone (BIZ) parking spaces for the commercial use. In this case, the applicant would be required to provide five vehicle parking spaces for the proposed residential uses ((2 spaces/unit X 2 units)¹ + one guest space = 5 spaces), and 2 vehicle parking spaces for the proposed retail use² (1 space/225 sq. ft. of floor area/ 446 sq. ft. of floor area = 2 spaces), and 2 BIZ vehicle parking spaces for the commercial parking.

¹ The residential guest rooms are intended to be rented separately from the residential units, but are considered development that is accessory to the residential units, and therefore do not require parking under the Venice certified LUP.

² According to the Venice certified LUP, commercial restaurant use can require one vehicle parking space for each 50 sq. ft. of service floor area, while commercial retail requires one space for each 225 sq. ft. of floor area.

In total, the certified LUP requires 9 vehicle parking spaces to support the project. The applicant is proposing to maintain 6 onsite parking spaces, and to provide 3 parking spaces offsite evidenced by a lease agreement they have submitted for a term of three years, for a total of 9 parking spaces altogether. Furthermore, Special Condition Three requires the applicant to record a deed restriction referencing the parking requirement associated with the development associated with this permit, ensuring that future owners will receive notice of the parking requirements of this permit. As such, the proposed project meets the vehicle parking requirements set forth in certified Venice LUP, and conforms to Sections 30210, 30211, and 30252 of the Coastal Act.

C. Visual Resources and Community Character

Section 30251 of the Coastal Act states, in part:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of the surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas...

Section 30253 of the Coastal Act states, in part:

New development shall do all of the following: ...

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

Venice LUP Policy I.A.8 states, in part:

North Venice: Two units per lot, duplexes and multi-family structures. Density: One unit per 1,200 square feet of lot area. Lots smaller than 4,000 square feet are limited to a maximum density of two units per lot.

As discussed, the subject property is zoned R-3-1-O in the City of Los Angeles General Plan and designated as Medium Residential in the Venice certified Land Use Plan. The neighborhood and properties surrounding the property are zoned R3-1-O and developed with multi-family dwellings. The properties immediately north of the subject property are zoned C1-1-CA and developed with various commercial structures. The applicant is requesting after-the-fact approval of conversion of commercial space to residential and retail space, including 2 guest rooms of an existing 3,534 mixed use building constructed in 1972, and the project complies with the density and development standards for residential projects in areas with a Land Use Designation of Medium Residential Density.

Although retail use is not consistent with the Medium Residential zoning designation of the Venice LUP certified in 2001, the underlying CDP approved commercial use on the ground floor in 1985, which predates the Venice LUP. Thus, although the proposed amendment does not in part meet current zoning of the certified LUP with regard to the commercial retail use, it is a legal nonconforming use consistent with the underlying

CDP. Moreover, the proposed retail area is considered compatible with the commercial uses immediately north of the site and is consistent with the surrounding visitor-serving uses. The surrounding neighborhood is comprised primarily of two-and three story single and multi-unit residential structures with commercial retail or restaurant structures lining the inland side of the boardwalk, and a small number of nonconforming visitor-serving uses are located in the surrounding residential area as well. The ground-level retail use with residential units upstairs are typical of this portion of the boardwalk, and is consistent with the eclectic character of the community. Therefore, the proposed development is consistent with the visual resource and community character policies of the Coastal Act.

D. Coastal Act Violations

Violations of the Coastal Act have occurred on the subject property including, but not necessarily limited to the change in use of two commercial units to residential guest rooms on the second and third floors and the change in use of 693 sq. ft. on the ground floor from parking/restaurant space to retail space without benefit of the necessary coastal development permit.

Any non-exempt development activity conducted in the Coastal Zone without a valid CDP or which does not substantially conform to a previously issued permit, constitutes a violation of the Coastal Act.

In order to resolve the violations described herein the applicant is requesting after-the-fact approval for the above described changes in use. Commission review and approval of the CDP amendment will resolve the violations identified in this section.

Commission review and action on this permit does not constitute a waiver of any legal action with regard to the alleged violations (or any other violations), nor does it constitute an implied statement of the Commission's position regarding the legality of the development undertaken on the subject site without a coastal permit, or of any other development, other than the development approved herein, undertaken on the subject site without a coastal permit. In fact, approval of this permit is possible only because of the conditions included herein, and the applicant's presumed subsequent compliance with said conditions, and failure to comply with these conditions in conjunction with the exercise of this permit would also constitute a violation of this permit and of the Coastal Act. Accordingly, the applicant remains subject to enforcement action just as it was prior to this permit approval for engaging in unpermitted development, unless and until the conditions of approval included in this permit are satisfied.

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 consistent with Chapter 3 of the Coastal Act and with the certified Land Use Plan for the area. Approval of the project as proposed by the applicant and conditioned by the Commission 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. California Environmental Quality Act

Section 13096(a) of the Commission's administrative regulations requires Commission approval of coastal development permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment. The City of Los Angeles is the lead agency for the purposes of CEQA review. On November 15, 2019 (ENV-2018-2936-CE and ENV-2018-2968-CE), the City determined the project to be Categorically Exempt from CEQA requirements. In addition, the proposed project has been conditioned to be found consistent with the Coastal Act. As conditioned to minimize risks associated with public access, 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, is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

Appendix A: Substantive File Documents

- Staff Report for Coastal Development Permit No. 5-85-249

APPENDIX B –Special Conditions pursuant to CDP No. 5-85-249 through CDP Amendment No. 5-85-249-A1 (will change with Erin’s edits)

NOTE: This Appendix B provides a list of all standard and special conditions imposed pursuant to Coastal Development Permit 5-85-249, as approved by the Commission in its original action and modified and/or supplemented by CDP Amendment No. 5-85-249-A1. Any changes, pursuant to amendment A1, from the previously approved standard special conditions are shown in **bold**. Thus, this Appendix B provides an aggregate list of all currently applicable adopted standard special conditions.

A. Standard Conditions

3. Compliance. All development must occur in strict compliance with the proposal as set forth in the application for the permit, **as modified by the application for the permit amendment**, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.

B. Special Conditions

1. Conversion of **two commercial spaces to two residential guest rooms** permitted herein shall be subject to the availability, at all times, of no less than **nine** parking spaces, including six on-site and **three** off-site. Prior to **issuance of the permit**, **the** applicant shall submit evidence of an appropriate lease agreement guaranteeing provision of these off-site spaces for at least **three** years.
2. Any change in type of use or availability of parking shall require a separate Coastal Development Permit.
3. **Deed Restriction. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant(s) shall submit to the Executive Director for review and approval documentation demonstrating that the landowner(s) 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.