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Staff: A. Spencer-LB
Staff Report: 08/27/2020
Hearing Date: 09/10/2020

STAFF REPORT: APPEAL – SUBSTANTIAL ISSUE & DE NOVO/DUAL PERMIT (MATERIAL AMENDMENT)

Appeal No.: **A-5-VEN-20-0023**

Amendment Nos.: **A-5-VEN-17-0051-A1 & 5-17-0892-A1**

Applicant: **305 Ocean Walk Development, LLC**

Agents: Glaser Weil (Attn: Elisa Paster)

Local Government: City of Los Angeles

Local Decision: Approval with Conditions

Appellant: Margaret Molloy

Project Location: 305-309 Ocean Front Walk, Venice, City of Los Angeles,
Los Angeles County (APN: 4286-030-024)

Appeal Project Description (A-5-VEN-20-0023): Appeal of City of Los Angeles local coastal development permit No. DIR-2019-1277 for approval of a lot merger and parcel map to convert three previously approved residential units to Artist-in-Residence condominium units.

Previously Approved Project Description (A-5-VEN-17-0051 & 5-17-0892): Demolition of a one-story, 1,728 sq. ft. commercial structure and surface parking lot, and the construction of a 35-ft. high, three-story mixed use structure with 2,850 sq. ft. of retail space on the ground floor, three residential units on the second and third floors, each with a roof deck and a 39.5-ft. high roof access structure, and one semi-subterranean level of parking providing 23 on-site parking space.

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Amendment Project Description (A-5-VEN-17-0051-A1 & 5-17-0892-A1): Lot merger and tentative tract map approval to convert three previously approved residential units to condominium units in a previously approved 10,430 sq. ft. mixed use structure.

Staff Recommendation: Substantial Issue and approval of a de novo permit and approval of permit amendment

IMPORTANT HEARING PROCEDURE NOTE: The Commission will not take public testimony during the “substantial issue” phase of the appeal hearing unless at least three commissioners request it. The Commission may ask questions of the applicant, any aggrieved person, the Attorney General, or the Executive Director prior to determining whether or not to take testimony regarding whether the appeal raises a substantial issue. If the Commission takes testimony regarding whether the appeal raises a substantial issue, testimony is generally and at the discretion of the Chair limited to three minutes total per side. Only the applicant, persons who opposed the application before the local government (or their representatives), and the local government shall be qualified to testify during this phase of the hearing. Others may submit comments in writing. If the Commission finds that the appeal raises a substantial issue, the de novo phase of the hearing will follow, unless it has been postponed, during which the Commission will take public testimony.

SUMMARY OF STAFF RECOMMENDATION

The City’s action on Local CDP No. DIR-2019-1277 authorized a parcel map to merge two adjacent beach front lots into one 8,205 square foot lot, and convert three previously approved residential units in a still under construction 10,430 square foot mixed-use structure occupying both lots (containing 2,850 square feet of ground floor retail and three residential units on the upper floors) into a mixed-use condominium building that maintains 2,850 square feet of ground-floor retail and three residential units, although the residential units would be converted into Artist-in-Residence condominium units. As approved by the City, the project would maintain 23 vehicle parking spaces, as required by the underlying CDPs, but only provide 12 of the 16 bicycle parking stalls required by the underlying CDPs. The project site is located in the North Venice subarea within the City of Los Angeles Dual Permit Jurisdiction Area. The site is directly inland of Ocean Front Walk, a County operated parking lot, and the public beach.

Staff recommends that the Commission determine that a **substantial issue exists** with respect to the grounds on which appeal number A-5-VEN-20-0023 has been filed because the City’s approval of Local CDP No. DIR-2019-1277 approved a reduced number of bicycle parking stalls inconsistent with the required and deed-restricted number of stalls required by Coastal Commission CDP Nos. A-5-VEN-17-0051 and 5-17-0892.

Commission staff also recommends that, after a public hearing, the Commission **approve de novo permit A-5-VEN-20-0023** with no special conditions. Staff is also recommending that the Commission approve the proposed amendment to CDPs A-5-VEN-17-0051 and 5-17-0892 (which have been filed in lieu of the dual permit for CDP No. A-5-VEN-20-0023, which is the subject appeal).

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EXHIBITS

[Exhibit 1 – Vicinity Map and Project Site](#)

[Exhibit 2 – Project Plans](#)

[Exhibit 3 – City Resolution for Local CDP No. DIR-2019-1277](#)

[Exhibit 4 – Appeal](#)

[Exhibit 5 – Staff report for A-5-VEN-17-0051 and 5-17-0892](#)

I. MOTION AND RESOLUTION – SUBSTANTIAL ISSUE

Motion: I move that the Commission determine that Appeal No. A-5-VEN-20-0023 raises NO Substantial Issue with respect to the grounds on which the appeal has been filed under § 30602 of the Coastal Act.

Staff recommends a **NO** vote. Following the staff recommendation on this motion will result in the Commission proceeding to conduct a de novo review of the application, and adoption of the following resolution and findings. Conversely, passage of this motion will result in a finding of No Substantial Issue and the local action will become final and effective. The motion passes only by an affirmative vote of the majority of the appointed Commissioners present.

Resolution: The Commission hereby finds that Appeal No. **A-5-VEN-20-0023** presents a **SUBSTANTIAL ISSUE** with respect to the grounds on which the appeal has been filed under Section 30602 of the Coastal Act regarding consistency with Chapter 3 policies of the Coastal Act.

II. APPELLANTS' CONTENTIONS

The City-approved project authorizes a parcel map to merge two adjacent beach front lots into one 8,205 square foot lot, and to convert three previously approved residential units to Artist-in-Residence condominium units.

On June 22, 2020, an appeal was filed by Margaret Molloy (**Exhibit 4**). Ms. Molloy specifically raises the following concerns with the City-approved development:

- 1) The City-approved project is being piecemealed, inconsistent with Los Angeles Municipal Code 12.36.
- 2) The applicant applied for the condominium conversion after-the-fact.
- 3) The City of Los Angeles has a rental housing shortage.
- 4) The City approved project is a major intensification in use over the previously approved residential use.
- 5) There is inadequate parking for the suggested occupancy and project use.
- 6) The roads adjacent to the project site are too over-impacted to accommodate an intensification of use.
- 7) The City has not been adequately regulating live-work units to ensure that they do not become commercial uses.

III. LOCAL GOVERNMENT ACTION

On January 23, 2020, the Director of City Planning held a public hearing for Local CDP DIR-2019-1277 for the project. The City's record indicates that Margaret Molloy spoke in opposition to the project at the public hearing. On April 30, 2020, the Director of City Planning issued a determination letter approving the local CDP for the proposed project, as well as a Specific Plan Project Permit (SPP) (**Exhibit 3**). The City's decision on the local CDP was not appealed to the City of Los Angeles Planning Commission. The City's Notice of Final Local Action for the local CDP was received in the Coastal Commission's Long Beach Office on May 22, 2020, and the Coastal Commission's required twenty working-day appeal period was established. On June 22, 2020, Margaret Molloy filed a timely

appeal of the City's local CDP approval ([Exhibit 4](#)). No other appeals were received prior to the end of the appeal period on June 22, 2020.

IV. Appeal Procedures

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

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

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

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

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

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

V. SINGLE/DUAL PERMIT JURISDICTION AREAS

Within the areas specified in section 30601, which is known in the City of Los Angeles permit program as the Dual Permit Jurisdiction area, the Coastal Act requires that any development which receives a local CDP permit also obtain a second (or “dual”) CDP from the Coastal Commission. The Commission's standard of review for the proposed development in the Dual Permit Jurisdiction area is the Chapter 3 policies of the Coastal Act. For projects located inland of the areas identified in Section 30601 (i.e., projects in the Single Permit Jurisdiction), the City of Los Angeles local CDP is the only CDP required. The proposed project site is located within the Dual Permit Jurisdiction Area. Therefore, the applicant is required to obtain a second or “dual” coastal development permit from the Commission for the proposed development. On July 27, 2020, the applicant submitted an amendment application to the underlying dual Coastal Development Permit to the Commission's South Coast District office for the proposed development. The amendment application was submitted as an amendment to CDP Nos. A-5-VEN-17-0051 (de novo) and 5-17-0892 (dual) because the proposed development would be a change to the development that was approved by the underlying permits.

VI. FINDINGS AND DECLARATIONS – SUBSTANTIAL ISSUE

A. PROJECT DESCRIPTION AND LOCATION

The City-approved a parcel map to merge two lots into one lot, and convert a previously approved 10,430 square foot mixed-use structure (containing 2,850 square feet of ground floor retail and three residential units on the upper floors) into a mixed-use condominium building that maintains the ground-floor retail space and converts the three residential units to Artist-in-Residence condominium units. The project would provide 23 vehicle parking spaces as required by the underlying CDPs. However, the City approved a reduction in required bicycle parking spaces from 16 to

12, which is inconsistent with the Commission-approved and deed restricted special conditions of the underlying CDPs ([Exhibit 2](#)).

The project site is located on two abutting beachfront lots (Lot Nos. 217 & 219, Block 3, Golden Bay Tract) in the North Venice subarea at 305 – 309 Ocean Front Walk within the City of Los Angeles Dual Permit Jurisdiction Area. The site is directly inland of Ocean Front Walk, a County operated parking lot, and the public beach ([Exhibit 1](#)). The two lots total approximately 8,206 square feet in area and are designated Community Commercial by the certified Venice LUP and C1-1 (Limited Commercial) by the City Zoning Code. The existing elevation of the site is approximately 13 feet MSL. This area of Ocean Front Walk is comprised of commercial and residential structures ranging from small one-story buildings to large six-story buildings. Landward of the site, across Speedway, is a residential neighborhood comprised of an amalgam of new and old one-to-three story buildings.

B. FACTORS TO BE CONSIDERED IN SUBSTANTIAL ISSUE ANALYSIS

Section 30625(b)(1) of the Coastal Act states that the Commission shall hear an appeal of a local government action carried out pursuant to Section 30600(b) unless it finds that no substantial issue exists as to conformity with Chapter 3 of the Coastal Act.

The term “substantial issue” is not defined in the Coastal Act or its implementing regulations. Section 13115(b) of the Commission’s regulations simply indicates that the Commission will hear an appeal unless it “finds that the appeal raises no significant question.” In previous decisions on appeals, the Commission has been guided by the following factors:

1. The degree of factual and legal support for the local government’s decision that the development is consistent or inconsistent with the relevant provisions of the Coastal Act;
2. The extent and scope of the development as approved or denied by the local government;
3. The significance of the coastal resources affected by the decision;
4. The precedential value of the local government’s decision for future interpretations of its LCP; and,
5. Whether the appeal raises local issues, or those of regional or statewide significance.

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

1. SUBSTANTIAL ISSUE ANALYSIS

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

Contention that Raises a Substantial Issue

The primary issue raised by this appeal relates to the provision of adequate parking to accommodate the proposed development. The Commission findings for De Novo Permit A-5-VEN-17-0051 and associated Dual Permit 5-17-0892 applied the parking policies in the Venice Certified Land Use Plan (LUP) to determine the minimum required parking spaces for then-proposed mixed-use development structure:

“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 one Beach Impact Zone (BIZ) parking spaces for each 640 sq. ft. of ground floor area. In this case, the applicant would be required to provide seven vehicle parking spaces for the proposed residential uses ((2 spaces/unit X 3 units) + 1 guest space = 7 spaces), 13 vehicle parking spaces for the proposed retail use (1 space / 225 sq. ft. of floor area / 2,850 sq. ft. of floor area = 13 spaces), and 4 BIZ vehicle parking spaces (2,850 sq. ft. of ground floor area / 640 sq. ft. of ground floor area = 4 spaces).”

The City's Local CDP approved the conversion of three previously approved residential units to Artist-in-Residence condominiums (which requires approval of a parcel map for the condominium units). No physical changes or additions to the structure were approved and the retail area and residential units would remain the same size. Furthermore, the parking requirement for the residential units is unchanged with the designation of Artist-in-Residence condominiums, thus the parking demand for the overall structure would remain unchanged.

Using the aforementioned findings, the Commission determined that 24 on-site vehicle parking spaces were required for the mixed-use residential/retail structure. The applicant was able to provide 23 out of the 24 required parking spaces, but also agreed to provide 16 bicycle parking spaces and a Transportation Demand Management Plan (TDMP) to mitigate the impact of the lost vehicle parking space.¹ The Commission accepted the applicant's parking mitigation plan and subsequently conditioned approval of the De Novo and Dual CDPs on the provision of 23 vehicle parking spaces and 16 bicycle parking spaces to serve the approved development (Refer to Special Condition 2 in [Exhibit 5](#)).

¹ The applicant's TDMP included an on-site vehicle parking attendant 24-hours per day to operate the parking lifts and required all leases of the proposed retail space to require the lessor to provide employees with bus passes at no cost to the employees.

The special conditions, including the condition regarding parking, required the applicant to record a deed restriction in order to ensure that the proposed design and mitigation plan were implemented for the life of the development (Refer to Special Condition 10 in [Exhibit 5](#)). The applicant submitted the deed restriction, and the underlying permits were issued and vested.

While the City-approved project maintains the 23 required vehicle parking spaces, the City allowed for a reduction in required bicycle parking spaces from 16 to 12, which is inconsistent with the underlying Commission-approved CDPs A-5-VEN-17-0051 and 5-17-0892. Therefore, there is an inadequate degree of factual and legal support to approve the proposed project, and this contention raises a substantial issue with regard to the contentions on which the appeal was filed.

Contentions That Do Not Raise a Substantial Issue

The appellant raises several other issues with the City's approval of the proposed project, including the following: 1) The City-approved project is a piecemealing action inconsistent with Los Angeles Municipal Code 12.36; 2) The proposed project is an intensification of use; 3) the condominium conversion is an after-the-fact action; 4) there is a rental housing shortage in Los Angeles; 5) the roads adjacent to the project site cannot accommodate the intensification of use; and 6) The City of Los Angeles does not adequately regulate live/work units so that they do not become a commercial use. As it will be explained in detail below, none of these issues raise a substantial issue with regard to consistency with the Chapter 3 Coastal Act Policies or the certified LUP (which is not the standard of review but provides guidance).

The appellant contends that the City-approved project is not consistent with Section 12.36 of the City of Los Angeles Municipal Code because the project is being piecemealed. As stated earlier, the Chapter 3 Coastal Act policies constitute the standard of review for this appeal, with the Venice Certified LUP. The City's municipal code does not constitute the standard of review, and therefore, would not be factored into the Commission's determination of either substantial issue or no substantial issue. Furthermore, the appellant has not provided adequate information to demonstrate project piecemealing. The three-story, 10,430 square-foot mixed-use residential/retail structure was approved pursuant to CDPs A-5-VEN-17-0051 and 5-18-0892. The CDPs were vested and the project is currently under construction. The applicant correctly sought a CDP approval to authorize a parcel map in order to convert the approved residential units to Artist-in-Residence condominium units. The primary difference between the previously approved residential units and the proposed change in designation is that the condominium units can be sold independent of each other and independent from the ground floor retail component of the mixed-use structure. This appeal contention does not raise a substantial issue.

The appellant asserts that the City-approved project is an intensification of use from the previously approved project. The Commission previously approved a 10,430 square foot mixed-use structure with 2,850 square feet of ground floor retail space and three residential units on the second and third floors. The current project maintains a 10,430

square foot mixed-used structure with 2,850 square feet of ground floor retail space and three residential units on the second and third floors. There is no change to the size or configuration of the retail space or three residential units. The local CDP did change the designation of the residential units to Artist-in-Residence condominiums, however there is no change in the parking requirements for such a designation and no other changes to the previously approved structure. Therefore, the appellant's contentions regarding intensification of use do not raise a substantial issue.

The appellant also contends that the City-approved project raises a substantial issue because there is a rental housing shortage within the City of Los Angeles. Neither the Coastal Act nor the certified LUP contain policies that specifically govern rental housing within the Coastal Zone. While Coastal Act Section 30604(g) directs the Commission to **encourage** affordable housing (which may include rental housing), the Commission does not have the direct authority to require or regulate affordable housing. In addition, condominium units may be rented, though they may also be sold and occupied by an owner. Even so, it is unlikely that the residential units, if maintained as rental units, would provide affordable housing opportunities. Therefore, this contention does not raise a substantial issue with respect to the grounds on which the appeal has been filed.

Finally, the appellant contends that the City-approved project raises a substantial issue because the City does not adequately regulate live-work units in order to ensure that residential uses are not converted to purely commercial uses. This contention does not raise any specific issues with either the Coastal Act or the certified LUP. If a change in use does occur onsite without the benefit of a CDP, both the City and the Coastal Commission have enforcement mechanisms to address this very issue. With respect to the ground on which this appeal has been filed, however, the appellant's contention does not raise a substantial issue.

SUBSTANTIAL ISSUE FACTORS:

The Commission typically applies five factors in making a determination whether an appeal raises a substantial issue:

1. The degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the relevant provisions of the Coastal Act.

The City did not substantially support its approval of the project as being consistent with all the public access and recreation provisions of the Coastal Act. The proposed project seeks a lot merger and to convert three residential units permitted under CDPs A-5-VEN-17-0051 and 5-17-0892 into three Artist-in-Residence condominium units. The Commission found that the underlying development could be found to be consistent with the public access policies only if 23 vehicle parking spaces and 16 bicycle parking spaces with a TDMP were provided for the project. The City approved the condominium conversion with a reduced number of bicycle parking spaces, inconsistent with the Commission's public access findings for the underlying development. Therefore, the local government's decision lacks factual and legal support that the City-approved project is consistent with the Coastal Act Chapter 3 policies, and this factor supports a substantial issue finding.

2. The extent and scope of the development as approved or denied by the local government.

The City approved Local CDP No. DIR-2019-1277 to merge two lots and convert three residential units to three Artist-in-Residence condominium units. The project does not change any physical features of the structure approved by the Commission in 2018, nor does it change the size, number, or type of uses onsite. Overall, the scope of the development as approved by the local government is minor and does not significantly change the existing development. Therefore, this factor supports a finding of no substantial issue.

3. The significance of the coastal resources affected by the decision. The subject site spans two beachfront lots in an area that is generally impacted with respect to parking. In past Commission action, parking has been found to be an important feature in providing adequate public access to the shoreline, and therefore a coastal resource that should be protected. Although not a perfect substitute for vehicle parking, bicycle parking has been considered to be a supplemental means to ensure that new development is adequately parked. The City approved the project with fewer bicycle parking space than was required and deed restricted by previous Commission-approved CDPs for the subject development. The lack of adequate parking or proper mitigation for parking impacts for new development can significantly impact the public's ability to access the shoreline. The affected coastal resource is public access. Therefore, this factor therefore supports a finding of substantial issue.

4. The precedential value of the local government's decision for future interpretations of its LCP. The City of Los Angeles has a LUP for the Venice segment that was certified in November 2000. However, because the Venice segment does not have a certified Implementation Plan (IP), there is no certified LCP for the Venice segment of the City of Los Angeles. The certified LUP identifies parking (a form of public access) as an issue of concern. In its permitting decision for CDPs A-5-VEN-17-0051 and 5-17-0852, the Commission found the subject mixed-use development to be consistent with the public access policies of the Coastal Act only when conditioned to require 23 vehicle parking spaces and 16 bicycle parking spaces. While the City's approval of the condominium conversion does not increase the parking demand of the mixed-use development overall, the approval of 12 bicycle parking spaces instead of 16 bicycle parking spaces reduces the availability of supporting alternate means to reach the shoreline within the project vicinity. Moreover, this approval could set a negative precedent to approve development within Venice with inadequate parking and/or mitigation measures. Therefore, this factor supports a finding of substantial issue.

5. Whether the appeal raises local issues, or those of regional or statewide significance. Impacts to coastal resources, including public access, are important statewide issues. The City's action is not consistent with the public access findings of the underlying CDPs, which were based on the policies in the certified LUP and the public access and recreation policies the Coastal Act. Although the subject development may only affect public access in the immediate area, it is not consistent with the standards set forth in the Chapter 3 policies of the Coastal Act and could set a bad statewide precedent in terms of following

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Chapter 3 policies, Therefore, the Commission finds that the City's action does raise issues of statewide significance.

Conclusion

In conclusion, staff recommends that the Commission find that a substantial issue exists with respect to whether the local government action conforms with the policies of the City's certified LCP and the public access policies of the Coastal Act.

VI. MOTION AND RESOLUTION – DE NOVO PERMIT

Motion: I move that the Commission **approve** Coastal Development Permit No. A-5-VEN-20-0023 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 Coastal Development Permit Application No. A-5-VEN-20-0023 and adopts the findings set forth below on grounds that the development, as conditioned, will be in conformity with the Certified Local Coastal Plan and the public access and recreation policies of Chapter 3 of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that will substantially lessen any significant adverse impacts of the development on the environment.

VII. MOTION AND RESOLUTION – A-5-VEN-17-0051-A1

Motion: I move that the Commission **approve** Coastal Development Permit No. A-5-VEN-17-0051-A1 pursuant to the staff recommendation.

Staff recommends a **YES** vote. 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. A-5-VEN-17-0051-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.

VIII. MOTION AND RESOLUTION – 5-17-0892-A1

Motion: I move that the Commission **approve** Coastal Development Permit No. 5-17-0892-A1 pursuant to the staff recommendation.

Staff recommends a **YES** vote. 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 Application No. 5-17-0892-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.

IX. STANDARD CONDITIONS: A-5-VEN-20-0023

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

XI. CHANGE TO CONDITIONS: A-5-VEN-17-0051 and 5-17-0892

Unless specifically altered by this amendment, all regular and special conditions attached to Coastal Development Permits A-5-VEN-17-0051 and 5-17-0892, as amended, remain in effect. Language to be deleted is shown in ~~strike-out~~ and new language is shown in **bold, underlined**.

Special Conditions

11. Future Permit Requirement. This permit is only for the development described in coastal development permits (CDP) *A-5-VEN-17-0051 & 5-17-0892* **as amended by A-5-VEN-17-0051-A1 & 5-17-0892-A1**. 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 the CDPs *A-5-VEN-17-0051 & 5-17-0892* **as amended by A-5-VEN-17-0051 & 5-17-0892**. Accordingly, any future improvements to this structure authorized by this permit shall require an amendment to CDPs *A-5-VEN-17-0051-A1 & 5-17-0892-A1* 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 CDPs *A-5-VEN-17-0051-A1 & 5-17-0892-A1* 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 PRC Section 30610(d) and Title 14 CCR Sections 13252(a)-(b).

8. No Future Shoreline Protection.

- a) By acceptance of this Permit, the applicant agrees, on behalf of itself and all successors and assigns, that no shoreline protective device(s) shall ever be constructed to protect the development approved pursuant to Coastal Development Permit Nos. *A-5-VEN-17-0051* and *5-17-0892*, **as amended by A-5-VEN-17-0051-A1 and 5-17-0892-A1** including, but not limited to, the foundation, commercial space, residential structures, or parking garage including in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, flooding, liquefaction, landslides, or other coastal hazards in the future, and as may be exacerbated by sea level rise. By acceptance of this Permit, the applicant hereby waives, on behalf of itself and all successors and assigns, any rights to construct such devices that may exist under applicable law.
- b) By acceptance of this Permit, the applicant further agrees, on behalf of itself and all successors and assigns, that the landowner shall remove the development authorized by this Permit, including parking garage, foundation, retail space, and residential structures, if any government agency has ordered that the structures are not to be occupied due to any of the hazards identified above, or if any public agency requires the structures to be removed. If any portion of the development at any time encroaches onto public property, the permittee shall either remove the encroaching portion of the development or apply to retain it. Any application to retain it must include proof of permission from the owner of the public property. The approved project may be constructed and used consistent with the terms and

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conditions of this permit for only as long as it remains safe for occupancy and on private property or with permission from the owner of the public property. The permittee shall obtain a coastal development permit for removal of approved development unless the Executive Director provides a written determination that no coastal development permit is legally required.

- c) Prior to removal/relocation, the permittee shall submit two copies of a Removal/Relocation Plan to the Executive Director for review and written approval. The Removal/Relocation Plan shall clearly describe the manner in which such development is to be removed/ relocated and the affected area restored so as to best protect coastal resources, including the Pacific Ocean. In the event that portions of the development fall to the beach or ocean before they are removed/relocated, the landowner shall remove all recoverable debris associated with the development from the beach and ocean and lawfully dispose of the material in an approved disposal site. Such removal shall require a coastal development permit.

XII. FINDINGS AND DECLARATIONS – DE NOVO (A-5-VEN-20-0023) AND DUAL (A-5-VEN-17-0051-A1 and 5-17-0892-A1)

Note: The Findings and Declarations in the Substantial Issue section of this staff report are hereby adopted by reference into the Findings and Declarations for the De Novo and Dual Permits.

A. PROJECT DESCRIPTION

Project History

The project site was originally developed with a one-story, 1,728 square foot commercial structure and a surface parking lot that contained 23 parking spaces. In 1988, the Commission approved CDP 5-88-474 (Oheb) for a proposed addition to the existing commercial structure, but the project was never built. In 1991, the Commission approved CDP 5-91-540 (Alai) for another proposed addition to the existing commercial structure, but that project was also never built. On November 14, 2007, the Commission approved CDP 5-07-222 (Ted Shelton & Associates, LLC) for the demolition of a one-story, 1,728 sq. ft. commercial structure on a 8,208 sq. ft. beachfront site (two lots), and construction of a three-story (over a subterranean parking garage), 35-ft. high, 10,815 sq. ft. mixed-use structure containing five residential condominium units, four ground floor commercial condominium units with a total of one thousand square feet of retail space, and nineteen parking spaces. The Commissions CDP was issued on November 28, 2007, but the project was never built.

In 2016, 305 Ocean Front Walk Development, LLC applied to the City of Los Angeles for a CDP to demolish the commercial structure and construct a three-story, 10,430 square-foot mixed-use development with 2,850 square feet of ground floor retail and three residential units. On January 23, 2017, the City of Los Angeles Director of City Planning held a public hearing for Local CDP DIR-2016-1341 for the project. On August 2, 2017, the Director of City Planning issued a determination letter approving the local CDP for the proposed project, as well as a Specific Plan Project Permit

(SPP). The City's Notice of Final Local Action for the local CDP was received in the Coastal Commission's Long Beach Office on August 22, 2017.

On September 20, 2017, the Commission's Executive Director filed an appeal of the City-approved project. The appeal primarily focused on the proposed project's consistency with sections 30210, 30211 and 30253 of the Coastal Act because the City failed to require or conduct a sea level rise analysis despite the fact that the project is located on two beach front lots that may be subject to the effects of sea level rise. Additionally, the appeal contended that the subterranean parking structure, which would reach a depth of approximately 22 feet below grade, could act as a sea wall if wave scour and beach erosion reach the structure, which could alter natural landforms and impede and degrade public access seaward of the site. On November 9, 2017 the Commission found a substantial issue with respect to the grounds on which the appeal was filed. The applicant revised the project description to remove much of the subterranean parking, resulting in a one-level, 23-space subterranean garage and 16 bicycle parking stalls to serve the proposed development. The applicant also submitted a dual permit application reflecting project revisions, which was filed on March 1, 2018. On June 7, 2018, the Commission approved De Novo CDP A-5-VEN-17-0051 and Dual Permit 5-17-0892, with 10 special conditions. The CDPs were vested and construction began for the approved development.

As mentioned above, the applicant received a new CDP from the City (DIR-2019-1277) that authorized a parcel map to merge the two lots and convert the residential units into Artist-in-Residence condominium units. The City's approval has been appealed to the Commission under Appeal No. A-5-VEN-20-0023. Commission staff has recommended that the Commission determine that the appeal raises a substantial issue because the City-approved project is inconsistent with the bicycle parking conditions required for the new development pursuant to CDPs A-5-VEN-17-0051 and 5-17-0892. Specifically, the City approved the condominium conversion with only 12 bicycle parking spaces instead of the 16 bicycle parking spaces that were required by the Commission and deed restricted upon approval of the project. Commission staff has spoken with the applicant regarding the discrepancy between the Commission's bicycle parking requirement and the City approved reduction, and the applicant has submitted revised plans that show 16 bicycle parking spaces in conjunction with the proposed condominium conversion.

In lieu of a dual permit application for appeal A-5-VEN-20-0023, the applicant submitted an application to amend CDPs A-5-VEN-17-0051 and 5-17-0892 requesting approval of a parcel map to convert the previously approved residential units into Artist-in-Residence condominium units. The amended project would not change any of the uses approved by the underlying CDPs, nor would it require any substantive modifications to the conditions of those CDPs (although some minor changes to the conditions of CDPs A-5-VEN-17-0051 and 5-17-0892 are necessary to make clear that the conditions of those permits apply to the development approved by this permit and permit amendment requests (i.e, the Artist-in-Residence condominium units); it would only change the project description by changing the designation of the residential units from residences to individual Artist-in-Residence

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condominium units that can be sold independently from each other. The size of the residential units would remain the same, and there are no changes to the mixed-use structure as a whole, including vehicle parking and the 2,850 square-foot ground floor retail space. In addition, the amended project would maintain 23 vehicle parking spaces and 16 bicycle parking spaces and provide a TDMP, as originally approved in the underlying Commission CDPs.

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 30212 of the Coastal Act states, in relevant part:

“(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where: (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, (2) adequate access exists nearby, or, (3) agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.”

Section 30214 of the Coastal Act states:

“(a) The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following:

(2) The capacity of the site to sustain use and at what level of intensity.”

Section 30252 of the Coastal Act states:

“The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing nonautomobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the

amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.”

The certified LUP requires two vehicle parking spaces for each Artist-in-Residence 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 one Beach Impact Zone (BIZ) parking spaces for each 640 sq. ft. of ground floor area. In this case, the applicant would be required to provide seven vehicle parking spaces for the proposed residential uses ((2 spaces/unit X 3 units) + 1 guest space = 7 spaces), 13 vehicle parking spaces for the proposed retail use (1 space / 225 sq. ft. of floor area / 2,850 sq. ft. of floor area = 13 spaces), and 4 BIZ vehicle parking spaces (2,850 sq. ft. of ground floor area / 640 sq. ft. of ground floor area = 4 spaces).

In total, the certified LUP requires 24 on-site vehicle parking spaces to support the project. There is no change in the parking requirement from the previously Commission-approved project and the proposed amendment. At the time of Commission approval of the underlying CDPs in June 2018, the project was one vehicle parking space shy of meeting the parking requirements set forth in the certified LUP, which the Commission may use as guidance. However, the Commission found that the applicant’s proposal to mitigate the parking deficiency of one vehicle parking space with a TDMP and 16 bicycle parking stalls was adequate to meet the needs of the project’s parking demand. Thus, the Commission approved CDPs A-5-VEN-17-0051 and 5-17-0892, which required the applicant to provide 23 on-site vehicle parking spaces and 16 on-site bicycle parking stalls along with a TDMP² to support the new development. For all of the reasons set forth in the staff report for CDPs A-5-VEN-17-0051 and 5-17-0892, incorporated herein by reference, the applicant has proposed sufficient parking and transportation resources to adequately serve the mixed-use development such that there will not be significant impacts to public access to the coast; the proposed lot merger and conversion of the units to condominium units does not alter the project’s consistency with Chapter 3 public access policies. Although the City-approved CDP allowed a reduction in bicycle parking stalls, the applicant has proposed to maintain the 16 bicycle stalls required by the Commission CDPs. Therefore, the proposed merger of the two lots and conversion of the three residential units to condominium units, does not change the use or intensity of use of the site and is consistent with all of the conditions of the underlying CDPs previously approved by the Commission. Therefore, as proposed, and previously conditioned, the development conforms to Sections 30210, 30212, 30214, and 30252 of the Coastal Act.

C. DEVELOPMENT

Section 30250(a) of the Coastal Act states:

“New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close

² This TDMP includes an on-site vehicle parking attendant 24-hours per day to operate the parking lifts and requires all leases of the proposed retail space to require the lessor to provide employees with bus passes at no cost to the employees.

proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.”

Section 30251 of the Coastal Act states:

“The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.”

Section 30253(e) of the Coastal Act states:

New development shall do all of the following:

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

The applicant is requesting approval of a parcel map that would merge two contiguous lots upon which the previously described 10,430 square-foot mixed-used structure was approved pursuant to Commission-approved CDPs. The parcel map would allow the applicant to designate the three residential units approved with the mixed-use development as Artist-in-Residence condominium units, which the applicant is also proposing. The applicant is not proposing any changes to the number vehicle or bicycle parking spaces, the height, mass, or scale of the structure, the location or area of retail space, or the location or sizes of the residential units. Therefore, the proposed project does not pose any new impacts to community character or public coastal views in the area. In addition, the proposed development would not lessen the intent of any of the special conditions required by CDPs A-5-VEN-17-0051 or 5-17-0892.

The appellant contends that the three residential units should not be converted to condominium units because there is a shortage of rental housing in the City of Los Angeles. The availability of affordable housing opportunities, which includes rental housing, is an important matter of statewide concern. However, the Coastal Act does not include policies relating to rental housing; although Section 30604 of the Coastal Act directs the Commission to “encourage” housing opportunities for persons of low- and moderate-income levels, the Act does not authorize the Commission to require affordable

housing. The Venice LUP also does not contain policies regarding the rental housing market in Venice.

As mentioned previously, the project site is zoned C1-1 by the City of Los Angeles General Plan and designated as a Community Commercial land use by the certified Venice LUP. As stated in certified LUP Policy I.B.6, the Community Commercial zone is intended to accommodate both visitor-serving commercial uses and residential uses. The surrounding neighborhood is comprised primarily of two- and three-story single- and multi-unit residential structures with commercial structures³ lining the inland side of the boardwalk; this is consistent with the Community Commercial Designation. Policy I.B.6, as well as other similar policies concerning development in the Community Commercial Zone, is silent on the prioritization of rental residential units or for-sale units. Furthermore, staff is not aware of a pattern of converting rental units to for-sale units in this area in a manner that would fundamentally change the character of this area. As mentioned earlier, even if the previously approved units are converted to condominium units, the owners have the option to rent out the individual units. Overall, the proposed amendment would not adversely impact the character of the surrounding area, either individually or cumulatively, and would not require additional conditions to remain consistent with Section 30251 of the Coastal Act.

In its approval of CDP Nos. A-5-VEN-17-0051 and 5-17-0892, the Commission imposed a special condition to require a new permit or an amendment to the underlying CDPs for any future improvements on the site. Commission staff recommends that the Commission amend Special Condition 1 of CDPs A-5-VEN-17-0051 and 5-17-0892 to clarify that the future permit requirement applies to the entire mixed-use development, including the Artist-in-Residence condominiums.

Therefore, as proposed and previously conditioned, the development conforms to Sections 30250, 30251 and 30253(e) of the Coastal Act.

D. Hazards

Section 30235 of the Coastal Act states:

“Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. Existing marine structures causing water stagnation contributing to pollution problems and fishkills should be phased out or upgraded where feasible.”

Section 30253 of the Coastal Act states:

New development shall do all of the following:

³ The ratio of rental units to for-sale units in this area is not known at this time.

(d) Minimize energy consumption and vehicle miles traveled.

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

Development adjacent to the ocean is inherently hazardous. Development which may require a protective device in the future cannot be allowed due to the adverse impacts such devices have upon, among other things, public access, visual resources and shoreline processes.

As stated earlier, the proposed project consists of a lot merger and conversion of three residential units within a previously approved mixed-use structure into condominium units through a parcel map. The siting of new development, particularly within area that may be subject to coastal hazards, is not before the Commission at this time. However, because of its oceanfront location, an inherently dynamic and potentially hazardous area, the project site was examined for the potential for erosion, flooding, wave attack and wave runup hazards (including consideration of potential impacts due to severe storm events) at the time when CDPs A-5-VEN-17-0051 and 5-17-0892 were approved for the mixed-use structure.

At the time that the underlying CDPs for the subject development were submitted, the applicant commissioned a coastal hazards study (Coastal Hazard and Wave Runup Study for 305-309 Ocean Front Walk, Venice, City of Los Angeles, California, GeoSoils Inc, October 9, 2017) which did include a sea level rise analysis. The sea level rise analysis assumed local sea level rise between 1.8 – 4.3 feet. The study concluded that over the next 75 years, sea level rise would not significantly impact the project site, including wave attack, wave run-up, wave overtopping, tsunamis, groundwater intrusion, erosion, or flooding. However, Commission staff conducted an additional sea level rise analysis using the CoSMoS⁴ tool, which showed potential flooding reaching the site given a 2.5-foot rise in sea level with a 20-year storm scenario and a 1.6-foot rise in sea level with a 100-year storm scenario. As the sea level rise input increases, the CoSMoS tool shows a significant increase in potential flooding and waves reaching the site and beyond with the given storm scenarios.

Given the discrepancy in the applicant's coastal hazards study and the information obtained using the CoSMoS tool, it was uncertain as to whether the subject structure, including the three residential units would require shoreline protection at some point in the future, though the structure did not require shoreline protection at the time and the applicant's coastal hazards study suggested that no such shoreline protection will be necessary. To ensure the risks and uncertainties of development in this inherently hazardous coastal area were appropriately born by the applicant enjoying the benefits of private development, and not the public, the Commission imposed special conditions requiring the applicant to waive any rights to future shoreline protection and to assume the

⁴ which was developed by the United States Geologic Service (USGS)

risks associated with developing in a hazardous area (see Special Conditions 8 and 9 in Exhibit 5).

The proposed conversion of the residential units to condominium units does not raise any new hazards concerns. Therefore, the conditions of the CDPs adequately address potential hazards associated with the mixed-use development and no new conditions are necessary for the project to comply with the Chapter 3 hazards policies. Nevertheless, the Commission recommends approval of the proposed changes to Special Condition 8 of CDP Nos. A-5-VEN-17-0051 and 5-17-0892 to clarify that the waiver of rights to shoreline protection applies to both the mixed-use structure and the proposed condominium units. As previously conditioned, the Commission finds that the development conforms to the requirements of Sections 30235 and 30253 of the Coastal Act regarding the siting of development in hazardous locations.

E. Deed Restriction

Special Condition 4 of CDPs A-5-VEN-17-0051 and 5-17-0892 required that the property owner record a deed restriction against the property imposing the conditions of the permit as covenants, conditions, and restrictions on the use of the property that run with the land, to ensure that any prospective future owners of the property are made aware of the applicability of the conditions of this permit. The applicant has recorded the required deed restriction. Because the applicant's amendment request does not require any substantive changes to the permit conditions nor any new permit conditions, it is not necessary for the applicant to record a new deed restriction on the property incorporating the terms of the amended permits. Nor is it necessary to condition the de novo permit to require recordation of a deed restriction. The existing deed restriction will provide adequate notice to future owners of the property of the requirements of the CDPs.

F. 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.

G. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

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

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substantially lessen any significant adverse effect which the activity may have on the environment, either individually or cumulatively with other past, present, or foreseeable future projects.

The City of Los Angeles is the lead agency for the purposes of CEQA review. On August 7, 2017 (ENV-2016-1342) and April 30, 2020 (ENV-2019-1278)9, the City determined the project to be Categorical 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

1. Appeal No. A-5-VEN-20-0023 and associated File Documents
2. Amendment No. A-5-VEN-20-0051-A1/5-17-0892-A1 and associated File Documents
3. Staff Report for CDP Nos. A-5-VEN-17-0051 and 5-17-0892

APPENDIX B – SPECIAL CONDITIONS FOR A-5-VEN-17-0051-A1 AND 5-17-0892-A1

1. Future Permit Requirement. This permit is only for the development described in coastal development permits (CDP) A-5-VEN-17-0051 & 5-17-0892 as amended by A-5-VEN-17-0051-A1 & 5-17-0892-A1. 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 the CDPs A-5-VEN-17-0051 & 5-17-0892 as amended by A-5-VEN-17-0051 & 5-17-0892. Accordingly, any future improvements to this structure authorized by this permit shall require an amendment to CDPs A-5-VEN-17-0051-A1 & 5-17-0892-A1 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 CDPs A-5-VEN-17-0051-A1 & 5-17-0892-A1 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 PRC Section 30610(d) and Title 14 CCR Sections 13252(a)-(b).

2. Parking. The proposed on-site parking supply (23 spaces) shall be provided and maintained in the garage of the approved structure as shown on the proposed project plans. An on-site parking attendant shall be available to operate the parking lifts 24 hours per day for the life of the structure. Vehicular access to the on-site parking shall be taken

only from Speedway Alley. The proposed 16 on-site bicycle parking stalls (eight long-term and eight short-term) shall be maintained for the life of the structure. The on-site parking shall be made available to the residents, lessees and customers of the businesses within the approved structure. All leases shall provide that the lessors of the retail spaces shall provide bus passes to employees, upon request, at no cost to the employees.

3. Building Height. The roof of the approved structure shall not exceed thirty-five (35) feet in elevation above the Ocean Front Walk right-of-way. Chimneys, exhaust ducts, ventilation shafts and other similar devices essential for building function may extend up to forty (40) feet in elevation above the Ocean Front Walk right-of-way. Roof access structures may extend up to forty feet (40) in elevation above the Ocean Front Walk right-of-way. No portion of any structure shall exceed forty feet (40) in elevation above the Ocean Front Walk right-of-way.

4. Public Right-of-Way. The development approved by this coastal development permit is limited to the applicant's private property. Private use or development of the public right-of-way of Ocean Front Walk is not permitted. Unpermitted off-site development includes, but is not limited to, construction, landscaping, fencing, tables, vending and posting of signs.

5. Landscaping – Drought Tolerant, Non-Invasive Plants.

- a) Vegetated landscaped areas shall only consist of native plants or non-native drought tolerant plants, which are non-invasive. No plant species listed as problematic and/or invasive by the California Native Plant Society (<http://www.CNPS.org/>), the California Invasive Plant Council (formerly the California Exotic Pest Plant Council) (<http://www.cal-ipc.org/>), or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a "noxious weed" by the State of California or the U.S. Federal Government shall be utilized within the property. All plants shall be low water use plants as identified by California Department of Water Resources (See: <http://www.water.ca.gov/wateruseefficiency/docs/wucols00.pdf> and <http://ucanr.edu/sites/WUCOLS/files/183488.pdf>).
- b) Use of reclaimed water for irrigation is encouraged. If using potable water for irrigation, only drip or microspray irrigation systems may be used. Other water conservation measures shall be considered, such as weather based irrigation controllers.

6. Drainage & Water Quality. By acceptance of this Coastal Development Permit, the applicant agrees that:

- a) During construction of the proposed project, no runoff, site drainage or dewatering shall be directed from the site onto the beach or Ocean Front Walk or to street that drains into a canal, onto the beach, or to the ocean, unless specifically authorized by the California Regional Water Quality Control Board.

- b) All equipment and materials shall be stored and managed in a manner to minimize the potential of pollutants to enter the ocean.

The permittee and all successors in interest shall construct and maintain the development consistent with the drainage plans approved by the Executive Director.

7. 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 on the beach or 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(s) 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.

8. No Future Shoreline Protection.

- a) By acceptance of this Permit, the applicant agrees, on behalf of itself and all successors and assigns, that no shoreline protective device(s) shall ever be constructed to protect the development approved pursuant to Coastal Development Permit Nos. A-5-VEN-17-0051 and 5-17-0892, as amended by A-5-VEN-17-0051-A1 and 5-17-0892-A1 including, but not limited to, the foundation, commercial space, residential structures, or parking garage including in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, flooding, liquefaction, landslides, or other coastal hazards in the future, and as may be exacerbated by sea level rise. By acceptance of this Permit, the applicant hereby waives, on behalf of itself and all successors and assigns, any rights to construct such devices that may exist under applicable law.
- b) By acceptance of this Permit, the applicant further agrees, on behalf of itself and all successors and assigns, that the landowner shall remove the development authorized by this Permit, including parking garage, foundation, retail space, and residential structures, if any government agency has ordered that the structures are not to be occupied due to any of the hazards identified above, or if any public agency requires the structures to be removed. If any portion of the development at any time encroaches onto public property, the permittee shall either remove the encroaching portion of the development or apply to retain it. Any application to retain it must include proof of permission from the owner of the public property. The approved project may be constructed and used consistent with the terms and conditions of this permit for only as long as it remains safe for occupancy and on private property or with permission from the owner of the public property. The permittee shall obtain a coastal development permit for removal of approved development unless the Executive Director provides a written determination that no coastal development permit is legally required.

- c) Prior to removal/relocation, the permittee shall submit two copies of a Removal/Relocation Plan to the Executive Director for review and written approval. The Removal/Relocation Plan shall clearly describe the manner in which such development is to be removed/ relocated and the affected area restored so as to best protect coastal resources, including the Pacific Ocean. In the event that portions of the development fall to the beach or ocean before they are removed/relocated, the landowner shall remove all recoverable debris associated with the development from the beach and ocean and lawfully dispose of the material in an approved disposal site. Such removal shall require a coastal development permit.

9. Assumption of Risk. By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards, including but not limited to waves, storms, flooding, erosion, and earth movement, many of which will worsen with future sea level rise; (ii) to assume the risks to the permittee and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

10. 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.

A-5-VEN-20-0023 (305 Ocean Front Walk Development, LLC)
A-5-VEN-17-0051-A1 and 5-17-0892-A1 (Material Amendment)