

CALIFORNIA COASTAL COMMISSION

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W7c

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STAFF REPORT: CONSENT CALENDAR

Application No.: 5-21-0142

Applicant: Venice Ventures, LLC

Agent: Tima A. Bell

Location: 20 Washington Blvd, Venice, Los Angeles, Los Angeles County (APN: 4225001008)

Project Description: After-the-fact change of use from a 946 square foot flower shop to a 946 square foot restaurant with 200 square feet of service floor area, remove unpermitted outdoor dining patio and outdoor deck, addition of four bicycle spaces and conversion of two of the four standard parking spaces to an ADA compliant space, resulting in three parking spaces.

Staff Recommendation: Approval with conditions

SUMMARY OF STAFF RECOMMENDATION

The subject property is located approximately 215 feet inland of the beach in the Marina Peninsula subarea of Venice and also within the Beach Impact Zone (BIZ) identified in the Venice Land Use Plan (LUP). The project site is not located between the first public road and the sea. The building faces Washington Blvd. and the parking adjacent to the rear of the building is accessed through an abutting unnamed alley. The applicant requests after-the-fact approval to convert a 946 square foot one-story flower shop to a 946 square foot one-story restaurant with 200 square feet of service floor area and to remove an unpermitted outdoor dining patio and an unpermitted outdoor deck. The applicant also proposes to convert of two of the four standard parking spaces to an ADA compliant space, resulting in three parking spaces.

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The main Coastal Act issue raised by the project concerns coastal access due to the project's potential impacts on coastal and beach parking availability. The parking demand associated with the proposed restaurant is six vehicle spaces, however, the applicant is proposing to provide only three vehicle parking spaces. To mitigate the parking deficiency, the applicant has proposed to implement a Transportation Demand Management Plan (TDMP). The TDMP would provide four onsite bicycle parking spaces and cover 100% of the cost of transit passes for all employees. **Special Condition 1** is imposed to ensure that onsite parking remains available to employees and patrons of the establishment, and **Special Condition 2** is imposed to ensure that the TDMP will be maintained.

The restaurant will serve residents and visitors in the area and has potential to create pollution in the form of trash and debris which could enter coastal waters that are near the subject site. Thus, **Special Condition 3** requires the applicant to participate in a marine debris reduction program to reduce waste and single-use plastic foodware and packaging. Additionally, **Special Condition 5** requires the applicant to implement construction best management practices.

To ensure that any prospective future owners of the property are made aware of the applicability of the conditions of this permit, the Commission imposes **Special Condition 4** requiring that the property owner record a deed restriction against the property, referencing the above Special Conditions of this permit and imposing them as covenants, conditions and restrictions on the use and enjoyment of the property. Thus, as conditioned, this permit ensures that any prospective future owner will receive actual notice of the restrictions and/or obligations imposed on the use and enjoyment of the land in connection with the authorized development. Lastly, violations of the Coastal Act have occurred on the property including, but not limited to, change of use from flower shop to restaurant with 200 square feet of service floor area and construction of an outdoor dining patio and outdoor deck. To resolve the violations on the property, the applicant has proposed to authorize the after-the-fact change of use from flower shop to restaurant with 200 square feet of service floor area and to remove unpermitted outdoor dining patio and outdoor deck.

The standard of review is the Coastal Act and the certified Venice Land Use Plan may be used as guidance.

Commission staff recommends that the Commission **APPROVE** coastal development permit (CDP) application 5-21-0142, as conditioned. The motion to carry out the staff recommendation is on page 4 of this report.

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EXHIBITS

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

[Exhibit 2 – Project Plans](#)

I. MOTION AND RESOLUTION

Motion:

*I move that the Commission **approve** the coastal development permit applications included on the consent calendar in accordance with the staff recommendations.*

Staff recommends a **YES** vote. Passage of this motion will result in approval of all of the permits included on the consent calendar. The motion passes only by affirmative vote of a majority of the Commissioners present.

Resolution:

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

II. STANDARD CONDITIONS

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

III. SPECIAL CONDITIONS

1. Parking Restrictions. With the acceptance of this permit, the applicant and all future assigns, owners, and successors acknowledge that any change in the parking proposed under this permit, including, but not limited to, the provision of the leasing or selling of parking spaces to third parties, or reserving parking spaces for other uses not approved under this permit, or change in the number of parking spaces, shall be submitted to the Executive Director to determine if an amendment to the permit is legally required.

2. Transportation Demand Management Plan.

a. By Acceptance of this permit, the applicant agrees to maintain the Transportation Demand Management program throughout the life of the subject development, which includes the following:

i. The applicant and its successor and assigns shall provide four (4) secure bicycle parking stalls, free of charge, on the property for the public, including, employees and visitors.

ii. A public transit fare reimbursement program shall be implemented by the applicant or its successors and assigns. All commercial tenants shall offer full (100 percent) reimbursement of public transit fare to and from work to all employees of the development, provided that the employee purchases a monthly regional public transit pass of the employee's choice (e.g. LA DOT 31-Day Dash Pass, Metro EZ Pass, Metro TAP or equivalent). An employee accepting the transportation allowance shall be required to sign a statement agreeing said employee will not utilize a single occupancy vehicle for the majority (at least 51%) of their daily commute distance more often than: (a) five working days per month or (b) 25% of their days of work per month, whichever is less. The employee's statement shall also specify the employee's alternative commute mode (e.g. transit, bike, walk). The employee must demonstrate compliance as reasonably required by the employer.

b. Any proposed changes to the measures shall be submitted to the Executive Director to determine if an amendment to the permit is legally required.

3. Marine Debris Reduction Program. PRIOR TO ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and approval of the Executive Director, a robust and comprehensive plan to reduce waste and single-use plastic foodware and packaging. The plan shall include commitments consistent with all of the following, and the applicant shall implement the approved version of the plan.

a. Participate in a Marine Debris Reduction Program such as the ReThink Disposable Program (RTDP) or Surfrider's Ocean Friendly Restaurants (OFR) or

a substantially similar program. Within 6 months of the completion of the proposed development, the applicant shall participate in an established program to reduce waste and single-use plastic foodware and packaging on-site and for takeout orders. The applicant shall be responsible for the fees needed to participate in the program.

- b. The applicant shall provide an annual report for the review and approval of the Executive Director of the Coastal Commission which includes the Marine Debris and Reduction Program scope and metrics, and total impact of the program. The report shall be provided annually, no later than January 30th, for the preceding calendar year.
 - c. The applicant shall undertake development in accordance with the approved plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Commission amendment to this coastal development permit, unless the Executive Director determines that no amendment is legally required.
- 4. Deed Restriction.** PRIOR TO ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded against the parcel(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.
- 5. Construction BMPs and Water Quality.** By acceptance of this permit, the applicant shall comply with the following construction-related requirements:
- a. No demolition or construction materials, debris, or waste shall be placed or stored where it may enter sensitive habitat, receiving waters or a storm drain, or be subject to wave, wind, rain, or tidal erosion and dispersion.
 - b. No demolition or construction equipment, materials, or activity shall be placed in or occur in any location that would result in impacts to environmentally sensitive habitat areas, streams, wetlands or their buffers.
 - c. Any and all debris resulting from demolition or construction activities shall be removed from the project site within 24 hours of completion of the project.

- d. Demolition or construction debris and sediment shall be removed from work areas each day that demolition or construction occurs to prevent the accumulation of sediment and other debris that may be discharged into coastal waters.
- e. All trash and debris shall be disposed in the proper trash and recycling receptacles at the end of every construction day.
- f. The applicant shall provide adequate disposal facilities for solid waste, including excess concrete, produced during demolition or construction.
- g. Debris shall be disposed of at a legal disposal site or recycled at a recycling facility. If the disposal site is located in the coastal zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place unless the Executive Director determines that no amendment or new permit is legally required.
- h. All stock piles and construction materials shall be covered, enclosed on all sides, shall be located as far away as possible from drain inlets and any waterway, and shall not be stored in contact with the soil.
- i. Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into sanitary or storm sewer systems.
- j. The discharge of any hazardous materials into any receiving waters shall be prohibited.
- k. Spill prevention and control measures shall be implemented to ensure the proper handling and storage of petroleum products and other construction materials. Measures shall include a designated fueling and vehicle maintenance area with appropriate berms and protection to prevent any spillage of gasoline or related petroleum products or contact with runoff. The area shall be located as far away from the receiving waters and storm drain inlets as possible.
- l. Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) designed to prevent spillage and/or runoff of demolition or construction-related materials, and to contain sediment or contaminants associated with demolition or construction activity, shall be implemented prior to the on-set of such activity
- m. All BMPs shall be maintained in a functional condition throughout the duration of construction activity.
- n. Drainage and Water Quality:
 - i. During construction of the proposed project, no runoff, site drainage or dewatering shall be directed from the site toward the beach or into any

streets that drain toward the beach, unless specifically authorized by the California Regional Water Quality Control Board;

- ii. All equipment and materials shall be stored and managed in a manner to minimize the potential of pollutants to enter the beach and surrounding sensitive areas;
- iii. All runoff leaving the site shall be directed away from the beach and into the City storm drain system;

IV. FINDINGS AND DECLARATIONS

A. PROJECT DESCRIPTION & LOCATION

The project site (**Exhibit 1**) is currently developed with a 946 square foot, one-story commercial building with four on-site parking spaces, and is located in a commercial neighborhood in the Marina Peninsula sub-area of Venice approximately 215 feet from the beach, within the City of Los Angeles at 20 Washington Boulevard (**Exhibit 1**). Vehicular access to the onsite parking is provided by the unnamed alley at the rear of the property. The subject lot is approximately 30 feet wide and approximately 63 feet deep (approximately 1,890 square feet in area) and is zoned C4-1, Commercial Zone by the City's Zoning Code and Community Commercial by the certified Venice LUP.

The building was originally constructed in 1964 and, per the applicant, has been operating as a restaurant for over three decades. On December 4, 2018, the applicant submitted a request to the City of Los Angeles seeking after-the-fact approval of the unpermitted conversion of a flower shop into a restaurant. On January 21, 2020, the City of Los Angeles Director of Planning approved the change of use from a 946 square foot retail flower shop into a restaurant with 200 square feet of service floor area, the demolition of an unpermitted outdoor dining patio, and the maintenance of three parking spaces on-site pursuant to DIR-2018-7086-CDP-SPP. The local CDP was not appealed and thus became "effective" on February 6, 2020. However, the project is located within the *Dual Permit Jurisdiction* area of the City of Los Angeles. Within the areas specified in Section 30601 of the Coastal Act, which is known in the City of Los Angeles permit program as the *Dual Permit Jurisdiction* area, the Coastal Act requires that any development which receives a local CDP must also obtain a second (or "dual") coastal development permit from the Coastal Commission. Thus, on March 1, 2021, the applicant submitted the dual permit application to the Commission's South Coast District Office. In addition to the project described in the local approval, the applicant is also proposing to remove an unpermitted outdoor deck at the rear of the property.

The Commission's standard of review for the subject development in the *Dual Permit Jurisdiction* area is the Chapter 3 policies of the Coastal Act and the certified Land Use Plan is used as guidance.

The Venice community- including the residential neighborhoods, the beach, the boardwalk, the canals, and the eclectic architectural styles of the neighborhoods – is one of the most popular visitor destinations in California. This area is heavily visited by residents and

tourists, alike. The Commission has consistently found that a direct relationship exists between the provision of adequate parking and the availability of public access to the coast. Section 30252 of the Coastal Act requires that new development should maintain and enhance public access to the coast by providing adequate parking facilities or providing substitute means of serving the development with public transportation. The Coastal Act prioritizes the protection of public access to the coast and, in Section 30252, specifically identifies adequate parking as an important component of new development. Therefore, to conform to the requirements of the Coastal Act, the proposed project must provide adequate parking and/or alternative modes of transportation to avoid negatively impacting coastal access.

The proposed restaurant would have a service floor area of 200 square feet. The Venice LUP requires the provision of one parking space for every 50 square feet of restaurant service floor area. In this case, 200 square feet of service floor area would produce a demand of four parking spaces consistent with past Commission action. More so, the project site is located in the Beach Impact Zone (BIZ) which requires one additional parking space per 640 square feet of floor area of the ground floor of commercial projects. Here, the 946 square foot structure would require two parking BIZ parking spaces. Therefore, a total of six parking spaces is required onsite. The existing property is currently improved with four standard parking spaces. The applicant proposes to replace two of the existing standard parking spaces with one ADA compliant parking space for a total of three onsite spaces.

Given the constraints of the subject site, it is not feasible for the applicant to provide all six of the required parking spaces on the site without demolishing a portion of the existing structure. Thus, to mitigate for the potential parking impacts of the proposed development, the applicant proposes to incorporate a Transportation Demand Management Plan (TDMP). The TDMP would provide four onsite bicycle parking spaces and cover 100% of the cost of transit passes for all employees. **Special Condition 1** is imposed to ensure that onsite parking remains available to employees and patrons of the establishment, and **Special Condition 2** is imposed to ensure that the TDMP will be maintained throughout the life of the development.

The restaurant will serve residents and visitors in the area and has potential to create pollution in the form of trash and debris which could enter coastal waters near the subject site. Thus, **Special Condition 3** requires the applicant to participate in a marine debris reduction program to reduce waste and single-use plastic foodware and packaging on-site and for takeout orders. Furthermore, **Special Condition 5** outlines construction-related requirements to provide for the safe storage of construction materials and the safe disposal of construction debris. This condition requires the applicant to remove any and all debris resulting from construction activities within 24 hours of completion of the project.

The project site is not located between the first public road and the sea but is in a low-lying area that, given predicted sea level rise and the associated impacts, is expected to be subject to coastal hazards such as flooding toward the end of the century. However, the existing structure is approximately 57 years old. Given the age of the structure and the

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scope of work proposed, the site is not likely to experience sea level rise related impacts by the end of the structure's lifespan.

To ensure that any prospective future owners of the property are made aware of the applicability of the conditions of this permit, the Commission imposes **Special Condition 4** requiring that the property owner record a deed restriction against the property, referencing all of the above Special Conditions of this permit and imposing them as covenants, conditions and restrictions on the use and enjoyment of the property.

As conditioned, the proposed project will expand existing, visitor-serving facilities in the coastal zone. The proposed development will not have an adverse impact on public access to the coast or to nearby recreational facilities.

B. DEVELOPMENT

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

C. WATER QUALITY

The proposed work will be occurring in a location where there is a potential for a discharge of polluted runoff from the project site into coastal waters. The storage or placement of construction material, debris, or waste in a location where it could be carried into coastal waters would result in an adverse effect on the marine environment. To reduce the potential for construction and post construction related impacts on water quality, the Commission imposes special conditions requiring, but not limited to, the appropriate storage and handling of construction equipment and materials to minimize the potential of pollutants to enter coastal waters and for the use of on going best management practices following construction. As conditioned, the Commission finds that the development conforms with Sections 30230 and 32031 of the Coastal Act.

D. PUBLIC ACCESS & RECREATION

As conditioned, the proposed development will not have any new adverse impact on public access to the coast or to nearby recreational facilities. Thus, as conditioned, the proposed development conforms with Sections 30210 through 30214, Sections 30220 through 30224, and 30252 of the Coastal Act.

E. MARINE RESOURCES

The proposed project has been conditioned to minimize any significant adverse effect the project may have on the environment by avoiding or mitigating impacts upon sensitive marine resources. Therefore, the Commission finds that the proposed development, as conditioned, conforms with Sections 30224, 30230, 30231, and 30233 of the Coastal Act.

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 Land Use Plan for Venice was effectively certified on June 14, 2001. As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act and with the certified Land Use Plan for the area. Approval of the project, as conditioned, will not prejudice the ability of the local government to prepare an LCP that is in conformity with the provisions of Chapter 3 of the Coastal Act.

G. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

As conditioned, 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.

H. COASTAL ACT VIOLATIONS

Violations of the Coastal Act have occurred on the property including, but not limited to, change of use from flower shop to restaurant with 200 square feet of service area and construction of an outdoor dining patio and outdoor deck. Any non-exempt development activity conducted in the Coastal Zone without a valid coastal development permit, or which does not substantially conform to a previously issued permit, constitutes a violation of the Coastal Act.

To resolve the violations on the property, the applicants have proposed to authorize the after-the-fact change of use from flower shop to restaurant with 200 square feet of service area and to remove unpermitted outdoor dining patio and outdoor deck.

Approval of this application pursuant to the staff recommendation, issuance of the permit, and the applicant's subsequent compliance with all terms and conditions of the permit will result in resolution of the violations described above. Although development has taken place prior to submission of this permit application, consideration of the permit application by the Commission has been based solely on consistency of the proposed development with the policies of Chapter 3 of the Coastal Act. 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).