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STAFF REPORT: APPEAL – SUBSTANTIAL ISSUE

Appeal Number: A-5-VEN-21-0046

Applicants: James and Melanie Murez

Local Government: City of Los Angeles

Local Decision: Approval with Conditions

Appellants: Save Venice (Attn: Laddie Williams, Dr. Naomi Nightingale); Venice Dogz: An Alliance for the Preservation of Venice (Attn: Mark Rago); Keep Neighborhoods First (Attn: Amanda Seward); Margaret Molloy; Rick Garvey.

Project Location: 800-802 S Main St., Venice, City of Los Angeles, Los Angeles County (APN: 4286012045)

Project Description: Appeal of City of Los Angeles Local Coastal Development Permit No. DIR-2020-2180-CDP-SPP approved with conditions for the conversion of an existing, three-story over basement, 35-ft. tall, 5,282 sq. ft. Artist-in-Residence dwelling unit into a mixed-use development with a 2,027 sq. ft. restaurant and a 3,255 sq. ft. Artist-in-Residence dwelling unit on two lots.

Staff Recommendation: Substantial Issue.

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 applicants, 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 applicants, 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 action by the City of Los Angeles on Local Coastal Development Permit (CDP) No. DIR-2020-2180-CDP-SPP approved the conversion of an existing three-story over basement, 35-ft. tall, 5,282 sq. ft. Artist-in-Residence (AIR) dwelling unit into a mixed-use development, resulting in retention of the existing AIR unit and construction of a new, 2,027 sq. ft. restaurant within the existing ground floor and basement levels. The local CDP approved conversion of 277 sq. ft. of the existing 530 sq. ft. ground floor, in addition to the entire 1,750 sq. ft. basement, into a new commercial kitchen and food service area. This will result in a 1,953 sq. ft. commercial kitchen (located in the basement and a portion of the ground floor) and a 74 sq. ft. service floor area (located on the ground floor). Three parking spaces in the existing ground level garage are provided for the AIR unit and one new parking space was approved for the new restaurant, which would also be located in the existing garage ([Page 2 of Exhibit 3](#)). The two subject lots were connected through a lot tie and the development was constructed at both 800 and 802 Main Street. The project site is in the North Venice subarea of Venice within the City of Los Angeles Single Permit Jurisdiction Area. The standard of review for this appeal are Chapter 3 policies of the Coastal Act, with the certified Venice Land Use Plan (LUP) serving as guidance.

The applicants constructed the currently existing structure in 2012. Although the height and size of the structure is consistent with the development approved pursuant to a prior local CDP, the applicants made significant changes without an amendment to the CDP or new CDP from the City, including construction of a single AIR unit rather than the three AIR dwelling units approved by the local CDP. The structure, as built, also includes a 1,750 sq. ft. basement which was not approved by the City, and a reduction in the garage size to provide three parking spaces rather than seven parking spaces, inconsistent with the City CDP.

The appellants contend that the local CDP provides after-the-fact authorization for a reduction in housing density without adequate findings, and that the reduction in housing density (from the originally-approved three dwelling units to the existing single dwelling unit) may result in an adverse cumulative effect on housing availability in Venice. The City's action did not include findings acknowledging an unpermitted change in housing density onsite, or the consistency of this reduction with Chapter 3 policies of the Coastal Act relating to concentration of development in areas with sufficient infrastructure. The local CDP also does not include analysis of how the project could impact housing availability in the Venice coastal zone in conjunction with other projects. As such, this

contention raises a substantial issue as to whether the project is consistent with sections 30250 and 30253 of the Coastal Act.

Additionally, the appellants contend that the locally-approved project fails to provide the minimum number of parking spaces required by the certified LUP. LUP policies II.A.3 and II.A.4 require the project to provide at least three parking spaces for the AIR dwelling unit and four parking spaces for the approved restaurant; however, the locally-approved project provides three AIR parking spaces and one restaurant parking space. Thus, this appeal contention raises a substantial issue with regard to public access policies of the Coastal Act and parking requirements of the certified LUP.

The appellants also contend that the conversion of a solely residential development to a mixed-use development will result in an adverse cumulative effect on housing in commercial areas. The appellants contend that the partial use conversion will set a precedent for displacement of Rent Stabilization Ordinance housing units in commercial areas, inconsistent with the Mello Act and environmental justice policies of the Coastal Act and certified LUP. However, the locally-approved conversion from residential development to mixed-use residential and commercial development is consistent with both the LUP and Zoning Code land use designation. It would not result in displacement of any Rent Stabilization Ordinance housing units or affordable housing units, as none currently exist onsite or were previously approved by the City. The reduction from three AIR dwelling units to a single AIR dwelling unit is an unpermitted change in density unrelated to the approved change in use from solely residential to mixed-use residential and commercial. Therefore, this contention does not raise a substantial issue.

Additionally, the appellants contend that the subject development has functioned as an event space, rather than the permitted residential use, without the necessary local CDP for a change in use. The appellants further contend that the new 1,953 sq. ft. kitchen is disproportionate in size with the new 74 sq. ft. restaurant service area and appears likely to function as a catering kitchen for unpermitted event space use, rather than the permitted restaurant. The appellants state that a single parking space provided for the restaurant would provide limited access for patrons, and further supports the contention that the new kitchen is unlikely to function as permitted. While there are multiple online sources advertising 800-802 Main Street as an event venue, the applicants indicate that they reside in the subject development and obtained Temporary Special Event Permits from the Los Angeles Department of Building and Safety (LADBS) for past events onsite. If the entirety of the structure were used exclusively as an event space, the LUP would mandate significantly more parking spaces than are required for the restaurant and AIR uses. Commission staff does not have sufficient evidence to substantiate the appellants' contention regarding use of the building for events beyond online advertisements, or to disprove the applicants' contention that the structure has primarily functioned as a residence. Additionally, there are no policies of the certified LUP that define a minimum or maximum ratio of kitchen area to service floor area for restaurants. As such, this contention does not raise substantial issue.

Lastly, the appellants contend that the City's action approved a parking garage design inconsistent with the uncertified Municipal Code, which prohibits private parking spaces

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that require vehicles to back out onto major or secondary highways (which include Main Street). Commission review is limited to project consistency with Chapter 3 policies of the Coastal Act and the certified LUP is used for guidance. Therefore, inconsistency with the uncertified Municipal Code does not raise a substantial issue.

Thus, Commission staff believes that there is a substantial issue with respect to the grounds on which the appeal was filed and the project's consistency with Chapter 3 of the Coastal Act and the Venice LUP, and recommends that the Commission, after public hearing, determine that a substantial issue exists. The motion and resolution to carry out the staff recommendation is on Page 6 of this report.

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EXHIBITS

[Exhibit 1 – Project Location](#)

[Exhibit 2 –Original City Approved Plans \(2003\)](#)

[Exhibit 3—Current City Approved Plans \(2021\)](#)

[Exhibit 4 – City Determination Letter](#)

[Exhibit 5 – Appeal](#)

I. MOTION AND RESOLUTION – SUBSTANTIAL ISSUE

Motion: I move that the Commission determine that Appeal No. A-5-VEN-21-0046 raises **NO SUBSTANTIAL ISSUE** with respect to the grounds on which the appeal has been filed under Section 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-21-0046 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

On June 30, 2021, an appeal was filed by Laddie Williams and Dr. Naomi Nightingale on behalf of Save Venice; Mark Rago on behalf of Venice Dogz: An Alliance for the Preservation of Venice; Amanda Seward on behalf of Keep Neighborhoods First; Margaret Molloy; and Rick Garvey ([Exhibit 5](#)). The appellants raise the following concerns with the City-approved development:

- 1) The City did not make adequate findings regarding after-the-fact authorization of a reduction in housing density from three approved dwelling units to a single dwelling unit.
- 2) The City did not make adequate findings regarding the cumulative effect of a reduction in housing units on availability of housing in the Venice coastal zone, nor the cumulative effect of the mixed-use conversion on affordable housing in commercial areas.
- 3) The project does not conform with minimum parking and access requirements of the certified Venice LUP and uncertified Municipal Code.
- 4) The existing development functions as an event space, rather than the permitted residential use, and the new commercial kitchen will support the unpermitted event use rather than functioning as a restaurant.

III. LOCAL GOVERNMENT ACTION

On July 20, 2020, a public hearing was held by a City Hearing Officer for Local CDP No. DIR-2020-2180-CDP-SPP. The City record indicates that six members of the public spoke in opposition of the project at the public hearing and 16 letters of opposition were received. The City record does not provide the names or organizations associated with this

opposition, but the appellants indicate having expressed opposition during the local hearing process. On May 6, 2021, the Director of City Planning issued a determination letter approving the local CDP for the proposed project ([Exhibit 4](#)). On June 30, 2021, the appellants filed a timely appeal of the City's local CDP approval ([Exhibit 5](#)). No other appeals were received prior to the end of the appeal period on June 30, 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 Coastal Act sections 30604, 30620 and 30620.5, establish procedures for the filing, processing, review, modification, approval or denial of a CDP. Pursuant to this provision, the City of Los Angeles developed a permit program in 1978 to exercise its option to issue local CDPs. Sections 13301-13325 of Title 14 of the California Code of Regulations provide procedures for issuance and appeals of locally issued CDPs. Section 30602 of the Coastal Act allows any action by a local government on a CDP 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 final local action on a 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 applicants, 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 appellants 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 appellants' 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.

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 applicants, the appellants, 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. A majority of Commissioners present is required to find that the grounds for the appeal raise no substantial issue.

V. SINGLE/DUAL PERMIT JURISDICTION AREAS

Within the areas specified in Coastal Act 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 is located with the Single Permit Jurisdiction Area. Therefore, the applicants are not required to obtain a second, or “dual”, CDP from the Commission for the proposed development.

VI. FINDINGS AND DECLARATIONS – SUBSTANTIAL ISSUE

A. PROJECT DESCRIPTION AND LOCATION

The project site is located in a commercial corridor surrounded on the western and eastern sides primarily by residential development, in the North Venice subarea of Venice, City of Los Angeles ([Exhibit 1](#)). The existing development is located on a two-lot tie, each lot 32-ft. wide by a 53-ft. average depth, for a total 3,373 sq. ft consolidated size. The lot adjacent to the north of the project site (804 Main Street) is also owned by the applicants and is currently developed with a three-story duplex constructed in 1991. The subject project does not include any changes to the duplex.

The project site is designated “Community Commercial” by the certified Venice LUP and “C2-1” by the City of Los Angeles uncertified Zoning Code. The project site is located approximately 0.2 miles inland of the public beach and fronts Main Street, with access to onsite parking obtained solely from Main Street.

The two subject lots were originally developed with two single family-residences—it is unclear from the City record whether these residences were constructed prior to certification of the Coastal Act in 1972, but there is no CDP history for the two original residences. In 2001, the applicants applied for a local CDP to demolish the two existing residences and construct an AIR development containing three dwelling units, in conjunction with a remodel of the adjacent duplex at 804 Main Street. The application requested a Venice Specific Plan (VSP) Exception for the proposed lack of a front yard setback, exceedance of height limitations, and construction on three contiguous lots (800, 802, and 804 Main Street) in nonconformance with the uncertified VSP and the certified LUP.

On June 4, 2001, the City of Los Angeles Planning Department published a memorandum describing the two existing single-family residences located at 800 and 802 Main Street as affordable units ([Page 107, Exhibit 5](#)). The memorandum states: “The project is therefore must [sic] provide two replacement affordable units to meet Mello obligations.” On December 20, 2002, the West Los Angeles Planning Commission denied Application No. APCW-2001-2695-SPE-SPP-CDP-ZAA-MEL. The City’s findings describe the following reasons for denial: failure to provide façade articulation between the three lots; insufficient parking for the proposed artist sales area on the ground floor, which the findings indicated would require an additional 3-4 parking spaces pursuant to LUP requirements for multi-family dwellings in the Beach Impact Zone; and the applicants failed to demonstrate special circumstances unique to the site that would justify a VSP Exception. The Planning Commission’s action also included Mello Act consistency findings indicating that, if the project were to be approved, it would not be required to provide replacement affordable housing for demolition of the two affordable single-family residences. The City’s findings indicated that the proposed increase from two to three housing units justified the loss of affordable housing onsite. The findings also stated that the applicants had shown sufficient proof that provision of a single affordable unit onsite would be economically infeasible. Regardless, the West Los Angeles Planning Commission denied the application due to the reasons listed above.

On December 26, 2002, James Murez (one of the two applicants) filed an appeal of the denial. On April 17, 2003, the Los Angeles City Council overruled the Planning Commission’s denial and approved local CDP No. APCW-2001-2695-SPE-SPP-CDP-ZAA-MEL. The City Council’s findings indicate that the proposed lack of a front yard setback, exceedance of height limitations, and construction on three contiguous lots would allow for an increase in housing with minimal adverse impacts to the surrounding neighborhood. The City’s findings state, in relevant part:

“The prohibition of consolidating lots was meant as a means to discourage large homes and [sic] multiple lots and the loss of small commercial lots to large single commercial users. In this project...a varied number [of] users is encouraged by multiple units and the structure will be developed in a unified appearance.”

Regarding Mello Act consistency, the City Council’s findings state that it is generally infeasible for residential developments with less than nine units to provide Inclusionary Housing units (i.e. low and moderate income housing units).

The City Council's action approved demolition of the previously existing two detached single family residences and construction of a three-story, 35-ft. tall residential development containing three AIR dwelling units and an enclosed six-car garage, plus an additional guest parking space perpendicular to the garage ([Page 2 of Exhibit 2](#)), constructed on two lots. The local CDP also approved a concurrent remodel of the existing duplex at 804 Main Street and connection of the new AIR third floor with the existing duplex third floor for ingress/egress between the three contiguous lots. Additionally, the local CDP approved construction of a 42-ft. tall roof access structure (RAS) and consolidation of the applicants' three lots (800, 802, and 804 Main Street) to allow connection of the existing duplex third floor with the new third floor of the structure proposed for 800 and 802 Main Street. The City issued a VSP Exception approving the lack of a front yard setback, a 35-ft. development height exceeding the 30-ft. maximum, and a 42-ft. RAS height exceeding the 40-ft. maximum. (These proposed project heights were also inconsistent with the height standards of the LUP.) The locally-approved CDP project plans show an AIR workshop and garage on the ground floor, a large kitchen and lap pool on the second floor, and three bedrooms on the third floor ([Pages 2-3 of Exhibit 2](#)). The three bedrooms were not clearly denoted as independent dwelling units in the plans; one bedroom does not appear to have a separate restroom and includes ingress/egress to the adjacent bedroom via a shared restroom¹ ([Page 4 of Exhibit 2](#)). The locally-approved CDP was not appealed to the Commission.

In 2012, the applicants constructed the currently existing structure. The reason for the nine-year delay between the City's action and the applicants' commencement of work is not explained in the City record.) Although the height and size of the structure is consistent with the project approved pursuant to the local CDP, there are significant changes. The applicant received LADBS approval for construction of one AIR dwelling unit, rather than the permitted three AIR dwelling units. The structure, as built, also includes a 1,750 sq. ft. basement and a lesser garage size containing three parking spaces rather than the permitted seven parking spaces. The applicants did not pursue the permitted three-lot tie for connection of the existing duplex and new development third floors, instead obtaining a two-lot tie for construction of the 5,282 sq. ft. development at 800 and 802 Main Street ([Page 1 of Exhibit 2](#)). The applicants did not receive an amendment to the local CDP or new CDP from the City. Furthermore, a new 20 working-day Commission appeal period did not occur to allow review of changes to the project. The site address is advertised as a boutique event venue on Google Maps, Yelp, and several other online sources², but is designated as an AIR single-family residence the City's Zone Information and Map Access

¹ The Venice LUP includes limited information about development standards for AIRs. However, the uncertified Los Angeles Building Code defines an AIR dwelling unit as a space for combined living and working purposes with alternative building standards (such as less stringent fire safety standards). The alternative building standards specified in Section 91.8502(g) of the uncertified Building Code mandate that each AIR unit has direct access to the restroom facilities from a public corridor if the restroom is shared between units; the project plans approved by the City in 2003 do not show a restroom accessible from a public corridor for the third bedroom.

² <https://www.timeout.com/los-angeles/event-spaces/800-main>
<https://www.venuereport.com/venue/800main/>
<https://m.facebook.com/800MAIN/>
<https://m.yelp.com/biz/800-main-venice-2>

System (ZIMAS) and the current locally-approved CDP. The applicants indicate that their family resides in the subject development with no additional tenants.

On May 6, 2021, the City approved local CDP No. DIR-2020-2180-CDP-SPP (subject to the current appeal) for conversion of the existing three-story over basement, 35-ft. tall, 5,282 sq. ft. AIR dwelling unit into a mixed-use development with a new 2,027 sq. ft. restaurant on the existing ground floor and basement ([Exhibit 3](#)). The project would convert the entirety of the existing, unpermitted, 1,750 sq. ft. basement, and 277 sq. ft. of the existing 530 sq. ft. ground floor, into restaurant use. This would result in a new restaurant with 1,953 sq. ft. of kitchen area (located in the basement and a portion of the ground floor) and 74 sq. ft. of food service area (located on the ground floor). The plans show that the 74 sq. ft. of service area would accommodate up to three 16 sq. ft. tables (shown in orange on [Page 2 of Exhibit 3](#)). The project provides three parking spaces for the AIR dwelling unit, located in the existing ground level garage, and one new parking space in the existing garage for the new restaurant. No changes to the existing development setbacks or height are proposed.

B. FACTORS TO BE CONSIDERED IN SUBSTANTIAL ISSUE ANALYSIS

When determining whether an appeal raises a “substantial issue,” Section 13115(b) of the Commission’s regulations provide that the Commission may consider factors, including but not limited to:

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.

The Commission may, but need not, assign a particular weight to a factor.

Staff recommends 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.

C. 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

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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.

The primary issues raised by this appeal relate to the loss of housing density and impacts to public access.

Section 30210 of the Coastal Act states, in relevant part:

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 30222 of the Coastal Act states:

The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.

Section 30250 of the Coastal Act states, in relevant part:

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

Section 30252 of the Coastal Act states, in relevant part:

The location and amount of new development should maintain and enhance public access to the coast by:...

(2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads...

(4) providing adequate parking facilities or providing substitute means of serving the development with public transportation...

Section 30253 of the Coastal Act states, in relevant part:

New development shall...

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

Venice Certified LUP Policy I.B.1 Commercial Intensity states:

Mixed-use development provides an on-site mix of housing, retail, jobs and recreational opportunities consistent with the character of the Venice commercial areas, the City's General Plan Framework Element and Coastal Act Policy Section 30252. The Venice Community has many structures both older and newer containing various forms of mixed use development. This is particularly true in the Commercial Aircraft districts where artisans live and work in their studios.

Venice Certified LUP Policy I.B.6 Community Commercial Land Use states:

The areas designated as Community Commercial on the Land Use Policy Map (Exhibits 9 through 12) will accommodate the development of community-serving commercial uses and services, with a mix of residential dwelling units and visitor-serving uses. The Community Commercial designation is intended to provide focal points for local shopping, civic and social activities and for visitor-serving commercial uses. They differ from Neighborhood Commercial areas in their size and intensity of business and social activities. The existing community centers in Venice are most consistent with, and should be developed as, mixed-use centers that encourage the development of housing in concert with multi-use commercial uses. The integration and mixing of uses will increase opportunities for employees to live near jobs and residents to live near shopping...

Uses/Density: Community commercial uses shall accommodate neighborhood and visitor-serving commercial and personal service uses, emphasizing retail and restaurants; and mixed residential/commercial use with retail on the ground floor and personal services and residential uses on upper floors... On a commercial lot, residential uses shall not exceed one unit per 800-1200 square feet of lot area.

Venice Certified LUP Policy I.E.1 General, states:

Venice's unique social and architectural diversity should be protected as a Special Coastal Community pursuant to Chapter 3 of the California Coastal Act of 1976.

Venice Certified LUP Policy II.A.3 Parking Requirements, states:

The parking requirements outlined in the following table shall apply to all new development, any addition and/or change of use...

Artist in residence (no sales): 2 spaces for each dwelling...

Dance Hall, Pool or Billiard Parlor, Roller or Ice Skating Rink, Exhibition Hall and Assembly Hall without fixed seats, including Community Center, Private Club, Lodge Hall and Union Headquarters: 1 space for each 75 square feet of floor area.

Restaurant, Night Club, Bar, and similar establishments and for the sale or consumption of food and beverages on the premises: 1 space for each 50 square feet of service floor area (including outdoor service areas).

Venice Certified LUP Policy II.A.4 Parking Requirements in the Beach Impact Zone, states:

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

(a) Commercial and industrial projects in the BIZ shall provide one additional parking space for each 640 square feet of floor area of the ground floor. Up to 50% of the total number of these additional parking spaces required in this section may be paid for in lieu of providing the spaces.

(b) Multiple family residential projects in the BIZ shall provide an additional parking space for each 1,000 square feet of floor area of the ground floor for multiple dwelling projects of three units or more...

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

Venice Certified LUP Policy III.A.1 General, states:

(a) Recreation and visitor-serving facilities shall be encouraged, provided they retain the existing character and housing opportunities of the area, and provided there is sufficient infrastructure capacity to service such facilities.

Housing Density

Coastal Act Section 30250(a) requires new residential development be located in close proximity to existing developed areas able to accommodate it and where it will not have significant, cumulative adverse impacts to coastal resources. Section 30253 of the Coastal Act requires new development be compatible with the character of the neighborhood, minimize risks to life and property in high flood hazard areas, and minimize vehicle miles traveled. Together, these policies encourage the concentration of development in existing developed areas (i.e. infill) that will minimize impacts to coastal resources.

In recent actions, the Commission has emphasized the importance of preserving existing housing stock in already developed areas of the coastal zone where appropriate, thereby minimizing impacts to coastal resources pursuant to Coastal Act sections 30250 and 30253. Policies in the certified Venice LUP also seek to preserve and maintain existing housing stock by encouraging a mix of residential and commercial development in commercial areas deemed appropriate to sustain such development pursuant to LUP policies I.B.1 and I.B.6. In this case, two lots are developed with a single AIR dwelling unit. As described in the "Project Description" subsection above, three AIR dwelling units were permitted onsite and no CDP amendment or new CDP was issued for the change in

density.

The appellants contend that the City's action provided after-the-fact authorization of the single-family residence without adequate findings acknowledging the reduction from three permitted dwelling units to the existing single-family residence. The local CDP includes findings acknowledging that the 2003 CDP approved three AIR dwelling units, but fails to further discuss the discrepancy between the previous CDP and the existing single-family residence ([Exhibit 4](#)). The City's approval does not address the resulting loss of two dwelling units onsite, or the consistency of this reduction with sections 30250 and 30253 of the Coastal Act.

The loss of two housing units onsite requires findings discussing consistency of the project with development concentration policies of the Coastal Act, as well as analysis of how the reduction may impact Venice as a Special Coastal Community (as required by LUP Policy I.E.1). An overall loss of housing density in residential areas of Venice may encourage development in undeveloped areas that are not able to accommodate it, such as rural communities or communities vulnerable to sea level rise. Therefore, the appeal contention raises a substantial issue as to whether the project is consistent with sections 30250 and 30253 of the Coastal Act.

Cumulative Effects

The appellants contend that the locally-approved project will result in an adverse cumulative effect on the availability of housing in the Venice coastal zone. In order to evaluate the potential cumulative impacts of the City-approved mixed-use development, the incremental effects of the proposed development on housing density in the subject neighborhood should be considered in connection with the effects of the past, current, and probable future projects within the subject area. In this case, the City did not make adequate findings regarding the project's cumulative effects on the existing housing stock in Venice.

Since LUP certification in 2001, Commission staff are aware of at least 13 past Commission actions³ and three City actions⁴ in the North Venice subarea (specifically the area shown by LUP Exhibit 10(a) on Page 34 of the Venice LUP, inland of Hampton Drive and extending between Navy Street and Windward Avenue) which resulted in demolition of multiple units without construction of a commensurate number of units. Of these 16 total actions, 11 of the projects included demolition of two existing units for construction of a single-family residence. This magnitude of unit displacement through construction of single-family residences is especially concerning, considering that all residentially-designated areas of the Commission staff survey area (as shown in the map on Exhibit 5a of the LUP) are designated Multiple-Family Residential.

³ 5-01-399-W (Woodward), 5-06-217-W (Zisk), 5-07-134-W (Miller), 5-07-414-W (Diaz), 5-08-132 (Herndon), 5-08-195-W (Hines), 5-08-303-W (Goldman), 5-09-017-W (Shanley), 5-09-204-W (Levy), A-5-VEN-10-138 (Carnaj), 5-10-210-W (Mankin), 5-11-295 (Bloomberg & Farell), 5-12-045-W (HBIC Trust), 5-13-0648-W (Hobson).

⁴ ZA-2015-1256-CDP-ZAA-SPP-MEL (Chase), DIR-2015-2974-CDP-SPP-MEL (Aryeh).

A-5-VEN-21-0046 (Murez)
Appeal – Substantial Issue

In addition to past projects, Commission staff is aware of one future project that may reduce existing housing stock in the subject area. Local CDP No. ZA-2012-3354-CUB-CU-CDP-MEL approving the demolition of three alleged residential units for construction of a commercial development at 1051 Abbott Kinney Boulevard. This permit was appealed by Citizens Preserving Venice on January 14, 2021 and has been assigned Appeal No. A-5-VEN-21-0011.

When considered in conjunction with past and probable future projects, the current project may contribute to a larger trend of single-family residences constructed in an area designated by the LUP as able to accommodate multi-family development. Commission staff's survey area is not large enough for analysis of an overall trend in housing density changes in Venice, but the results are significant enough to suggest the subject project may have an adverse cumulative effect on the concentration of housing in Venice.

The appellants also contend that the project's change of use component will have an adverse cumulative impact resulting in the displacement of affordable housing in commercially-designated areas. The appellants contend that the conversion of a solely residential development to a mixed-use residential and commercial development will set an adverse precedent of Rent Stabilization Ordinance housing unit displacement.

While two affordable single-family residences existed onsite prior to the City's action in 2003, the City approved a local CDP for demolition of the two affordable units and construction of three dwelling units without rate restrictions. The applicant demolished the two affordable residences pursuant to the permit in 2012. No replacement affordable units were required by the City. The applicants constructed a single-family residence rather than the three approved dwelling units, but this was solely a reduction in housing units—no unpermitted reduction in affordable housing occurred. The subject local CDP provided after-the-fact authorization of a single-family residence and approved conversion of the basement and ground floor level to a new restaurant use. Thus, the loss of two affordable single-family residences prior to 2012 is outside the scope of the subject appeal.

Additionally, the project does not support the appellants' contention that mixed-use conversion in residential development will result in displacement of existing units. The local CDP reduced the existing residence size for construction of a new restaurant on the basement and ground level, but did not impact the number of units that currently exist onsite. Furthermore, the City's original action in 2003 approved three dwelling units located on the third floor, suggesting a restaurant conversion on the lower floors could have occurred without impacts to housing density even if the applicants had constructed the three permitted dwelling units.

Mixed-use residential and commercial development is also consistent with the "Community Commercial" LUP land use designation and "C-2" uncertified Zoning Code designation. Policy I.B.6 of the LUP prioritizes mixed-use centers that develop housing in concert with multi-use commercial uses in order to "increase opportunities for employees to live near jobs and residents to live near shopping." Policy I.B.1 further defines mixed-use development as a combination of housing, work, and recreational opportunities for

the community. Policy I.A.1 encourages recreation and visitor-serving facilities if they retain housing opportunities in the area and are developed within areas providing sufficient infrastructure. These policies uphold Section 30222 of the Coastal Act, which prioritizes visitor-serving commercial recreational facilities over private residential development.

The City's action approved a mixed-use commercial food service and residential development in an area specifically designated for such uses by the certified LUP. The change in use approved for the basement and ground floors would not impact existing housing density onsite, nor would it have impacted housing density if the applicants had constructed three AIR dwelling units in conformance with the project plans approved by the City in 2003. Thus, this contention does not raise a substantial issue.

Commission staff reviewed the North Venice survey area described above for any past projects that may relate to the contended cumulative impact resulting from a change in use from residential to mixed-use commercial. The Commission approved de novo CDP No. A-5-VEN-16-0041 on July 14, 2016 for conversion of an AIR single-family residence to a mixed-use commercial and residential development at 1346 Abbott Kinney Boulevard near the subject site⁵. This action approved the construction of a new 874 sq. ft. salon on the first floor of an existing two-story, 3,590 sq. ft. AIR dwelling unit. The appealed local CDP had originally approved a much larger, 2,621 sq. ft. salon, but the Commission found Substantial Issue based on failure to meet parking requirements. This project is similar to the subject project in that the mixed-use conversion did not impact housing density.

The submitted appeal references a list of over 200 properties with residential housing in commercially designated areas of the Coastal Zone, contending that these 200 properties include over 700 Rent Stabilization Order housing units that could be impacted by housing density reduction related to changes in use. However, the referenced list does not indicate whether any of the included properties have been approved for a housing density reduction due to mixed-use, residential and commercial development. The appellants also provided a list of six sites in the North Venice subarea, indicating the sites as support for their contention regarding a cumulative effect on housing density resulting from mixed-use conversions. However, three of the six properties listed by the appellants were converted from residential development to mixed-use development with no net reduction in housing density⁶; two of the properties did not show any relevant past or current projects in the City and Commission record⁷; and the sixth property was converted from residential development to solely commercial development, which resulted in a loss of housing unrelated to mixed-use conversion⁸.

Commission staff are unaware of any future probable projects that could result in a cumulative adverse impact on existing affordable units due to conversion of residential

⁵ <https://documents.coastal.ca.gov/reports/2016/7/th24b-7-2016.pdf>

⁶ DIR-2017-1124-CDP-SPP-MEL (Berkson), DIR-2020-1241-CDP-SPP (Darvish), A-5-VEN-18-0010 (Sutter).

⁷ 1410 S Main Street and 1214 Abbott Kinney Boulevard.

⁸ DIR-2012-367-VSO-MEL (Duvivier).

use to mixed-use development. The subject project also does not meet that description.

In summary, the locally-approved change of use to mixed-use development is consistent with Section 30422 of the Coastal Act and policies I.B.1 and I.B.6 of the certified LUP. However, the appeal does raise a substantial issue regarding the cumulative effect of the project on housing density in relation to sections 30250 and 30253 of the Coastal Act.

Public Access

Section 30210 of the Coastal Act requires recreational opportunities to be provided in the coastal zone consistent with the need to protect public rights and maximum access. Section 30252 additionally encourages the provision of commercial facilities “within or adjoining residential development” if adequate parking facilities are provided for the public.

The appellants contend that the project does not provide adequate onsite parking and will increase the deficit of beach parking in the surrounding area. Policy II.A.3 of the LUP requires two off-street parking spaces for each AIR dwelling unit, in addition to one parking space for each 50 sq. ft. of service floor area associated with restaurant use. Because the project includes a single AIR dwelling unit and 74 sq. ft. of service floor area, Policy II.A.3 would require four total parking spaces onsite. Additionally, the project is located within the Beach Impact Zone. For commercial development in the Beach Impact Zone, Policy II.A.4 requires one additional parking space for each 640 sq. ft. of commercial floor area on the ground floor. In this case, there is less than 640 sq. ft. of commercial area on the ground floor. However, the policy specifies that no less than two additional parking spaces shall be required for commercial projects regardless of the ground floor area.

Thus, a total of six parking spaces are required (two parking spaces for the AIR dwelling unit, two parking spaces for the new commercial use, and two additional Beach Impact Zone parking spaces) for conformance with the LUP. The project includes three parking spaces for the AIR single-family residence and one parking space for the restaurant. As such, it does not provide adequate parking for the proposed commercial use and is inconsistent with sections 30210 and 30252 of the Coastal Act, as well as policies II.A.3 and II.A.4 of the certified LUP.

The appellants also contend that the project is inconsistent with Los Angeles Municipal Code Section 12.21.A.5(i), which prohibits the location of parking stalls in a manner that requires backing out onto a major or secondary highway. The appellants indicate that Main Street is identified as a secondary highway in the uncertified Municipal Code and the applicants’ parking configuration requires backing onto Main Street in order to exit the building. However, the standard of review for this appeal is the Chapter 3 policies of Coastal Act with certified LUP policies serving as guidance. The City’s uncertified Municipal Code is not the standard of review. Therefore, this contention does not raise a substantial issue.

Regardless, the applicants’ failure to provide at least six parking spaces onsite (more would be required if there were three residential units, as originally approved by the City

of Los Angeles) does raise substantial issue with regard to the public access policies of the Coastal Act and certified LUP discussed above.

Event Space Use

The appellants contend that the subject development has functioned as an event space, rather than the permitted residential use, without the necessary local CDP authorizing a change in use. The appellants further contend that the approved commercial kitchen is intended to function as a food preparation area for events, evidenced by its disproportionate size in the new restaurant (96% kitchen area and 4% service area) and the single parking space provided for restaurant patrons [\(Page 2 of Exhibit 3\)](#).

The Parking Requirement Table included in LUP Policy II.A.3 does not include a specific “Event Space Use” category, but does require one space for each 75 sq. ft. for “Dance Hall” or “Assembly Hall” use. This characterization appears to adhere most closely to the alleged event space use out of all included uses. If the entirety of the 5,282 sq. ft. development were used exclusively as an event space, Policy II.A.3 would require at least 70 parking spaces provided onsite rather than the three parking spaces currently provided.

As previously discussed, there are multiple online sources advertising 800-802 Main Street as a boutique event venue⁹, including an article published by US Magazine on September 13, 2017 which indicates a celebrity baby shower for a reality television couple was hosted onsite¹⁰. A complaint was submitted to the Los Angeles Department of Building Code Enforcement in May 2021 regarding alleged event space use, but the complaint remains pending. City Enforcement staff indicate it can be difficult to distinguish between private parties and commercial event space use. There are also no policies of the certified LUP that define a minimum or maximum ratio of kitchen area to service floor area for restaurants.

The applicants indicate that they received Temporary Special Event Permits from LADBS for all events. They assert that the events which have occurred onsite were fundraising events or celebrations hosted for friends, and maintain that the site serves as their private residence. Commission staff does not have sufficient evidence to substantiate the appellants’ contention regarding use of the building for events beyond online advertisements, or to disprove the applicants’ contention that the structure has primarily functioned as a residence. As such, this contention does not raise substantial issue.

As such, the alleged unpermitted change in use from residential development to event space use does not raise a substantial issue.

⁹ <https://www.timeout.com/los-angeles/event-spaces/800-main>
<https://www.venuereport.com/venue/800main/>
<https://m.facebook.com/800MAIN/>
<https://m.yelp.com/biz/800-main-venice-2>

¹⁰ <https://www.usmagazine.com/celebrity-moms/news/heidi-montag-and-spencer-pratts-baby-shower-photos-w502453/>

SUBSTANTIAL ISSUE FACTORS:

The Commission's standard of review for determining whether to hear the appeal is whether the appeal raises a substantial issue as to conformity with Chapter 3 of the Coastal Act. Cal. Pub. Res. Code § 30625(b)(1); 14 C.C.R. § 13321. The Commission's decision is guided by the factors listed in the previous section of this report.

1. The degree of factual and legal support for the local government's decision that the development is consistent with the relevant provisions of the Coastal Act. The City found that the project would be consistent with the Chapter 3 policies of the Coastal Act, including sections 30250 and 30253, which encourage the concentration of development in appropriate areas. The City of Los Angeles' approval also includes findings that the provided parking would be consistent with Policy II.A.4. However, as detailed above, the City did not include any findings addressing the unpermitted reduction in density from three AIR dwelling units to a single-family residence or the impact of this on overall housing density in Venice, particularly in light of potential cumulative effects of the development with other similar projects in Venice, which is required and encouraged through the aforementioned policies of the Coastal Act and certified Venice LUP. The City also did not discuss the project's consistency with the parking requirements of Policy II.A.4. Therefore, the Commission finds that the City provided an inadequate degree of factual and legal support for its decision to approve the change in use of the basement and ground floor of the existing AIR single-family residence.

2. The extent and scope of the development as approved or denied by the local government. The loss of residential density posed by after-the-fact authorization of a single-family residence is not mitigated by the project. The project also does not provide adequate onsite parking. These inconsistencies have far-reaching consequences and thus, when considered cumulatively throughout Venice, the scope of the project raises a substantial issue.

3. The significance of the coastal resources affected by the decision. Venice is a unique area that specifically draws millions of visitors from around the world each year. As such, it has been designated a coastal resource that deserves special protection. The cumulative impacts of the City-approved development that results in the loss of housing stock in a neighborhood specifically designated for higher-density development could have significant impacts on the community character of Venice, which is a significant coastal resource.

4. The precedential value of the local government's decision for future interpretations of its LCP. The City currently does not have a certified LCP, but it does have a certified LUP. The Venice LUP specifically designates areas that are more appropriate for multi-family and commercial developments and areas that are more appropriate for single-family developments. The two project lots, as designated in the certified LUP and approved by a previous City action, can support at least three dwelling units in addition to commercial development. The applicant's unpermitted construction of a single-family residence is not discussed in the City's findings. The project's failure to provide the minimum number of parking spaces in a Beach Impact Zone—an area that

requires a significant amount of parking to facilitate public access to the beach—is also not discussed in the findings. Thus, the project, as approved by the City, could prejudice the ability of the City to prepare an LCP that is in conformance with Chapter 3 policies of the Coastal Act.

5. Whether the appeal raises local issues, or those of regional or statewide significance. The State Legislature has acknowledged that California is facing a severe housing crisis, and that current and future demands are exceeding the availability of housing units. The Coastal Act codifies a number of statewide policies to encourage coastal development that is sited in already developed areas, supports affordable housing, and protects the character of coastal communities, especially popular visitor destinations such as Venice. The City’s approval raises a significant question as to the development’s consistency with these policies. Thus, the City-approved project could prejudice the preparation of an LCP for the region in conformance with the Chapter 3 policies of the Coastal Act. Therefore, the City’s after-the-fact authorization of a single-family residence with a new restaurant providing inadequate parking onsite raises issues of regional and statewide significance.

Conclusion

Applying the five factors listed above clarifies that, on balance, the appeal raises a “substantial issue” with respect to the project’s consistency with Chapter 3 of the Coastal Act. There is sufficient support that the project is inconsistent with the Chapter 3 policies and, by extension, the Venice LUP with respect to compatibility with concentration of development in suitable areas and public access. The decision is likely to set an adverse precedent for future interpretations of the Venice LUP or the Coastal Act and prejudice the City’s ability to prepare an LCP in the future. Therefore, staff recommends that the Commission find that the appeal raises a substantial issue as to the project’s conformity with the Chapter 3 policies of the Coastal Act.