

**CALIFORNIA COASTAL COMMISSION**

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**F20b**

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**STAFF REPORT: REGULAR CALENDAR**

**Application Number:** 5-21-0877

**Applicant:** North Venice Boardwalk, LLC (attn: Jake Matthews)

**Agents:** Laurette Healey, David Goldberg

**Location:** 205, 207, 209, and 213 Ocean Front Walk, Venice, City of Los Angeles, Los Angeles County (APNs: 4286-030-002, 4286-030-003)

**Project Description:** Construction of a new, two-story, 25.7-ft. tall, 1,235 sq. ft., mixed-use (office, restaurant/bar, and restroom) structure with three new parking spaces on a 4,158 sq. ft. ocean-fronting lot, associated with an existing, two-story, 19-ft. tall, 3,146 sq. ft. restaurant, which spans three adjacent lots totaling 9,572 sq. ft. The project includes a request for after-the-fact approval of a two-story, 19-ft. tall, 918 sq. ft. storage area attached to the existing restaurant.

**Staff Recommendation:** Approval with Conditions.

**SUMMARY OF STAFF RECOMMENDATION**

The project area consists of four adjacent lots abutting the public boardwalk (Ocean Front Walk) in the Venice subarea of the City of Los Angeles. The project site is located in the North Venice subarea of Venice in the City of Los Angeles Dual Permit Jurisdiction Area. The standard of review for the subject CDP application is Chapter 3 of the Coastal Act, with the certified Venice LUP serving as guidance.

The three northern-most lots (205, 207, and 209 Ocean Front Walk) are currently developed with a two-story restaurant providing 16 on-site parking spaces. The existing

restaurant consists of a 3,146 sq. ft. interior area, with kitchens, restrooms, and approximately 1,398 sq. ft. of service floor area; as well as a 1,804 sq. ft. outdoor patio consisting entirely of service area. The outdoor patio has exterior walls, but lacks a roof structure. The existing restaurant was constructed prior to passage of the Coastal Act.

The fourth and southern-most lot (213 Ocean Front Walk) currently supports temporary structures, including plywood walls, an awning, and an eight-stall restroom trailer with no permanent plumbing or pipe infrastructure. The applicant obtained an Al Fresco Dining Permit from the City of Los Angeles Planning Department for the subject structures in 2020 (to allow for additional outdoor dining during the pandemic); however, the use of the site as additional service floor area for the existing restaurant did not receive a coastal development permit (CDP) from the City, nor the Coastal Commission. The proposed project includes removal of the unpermitted structures.

The applicant proposes construction of a new, two-story, 25.7-ft. tall, 1,235 sq. ft., mixed-use structure on the lot at 213 Ocean Front Walk. The new structure will include a walk-up service counter, food/beverage preparation kitchen, and restrooms on the first floor, and an office and storage areas on the second floor. The applicant is also proposing a new outdoor seating and recreation area providing 930 sq. ft. of outdoor service floor area on the lot located at 213 Ocean Front Walk. The new structure will serve as a detached addition to the existing restaurant at 205, 207, and 209 Ocean Front Walk, with a 16 ft. distance between the existing and proposed structures. The project does not propose any new consolidation of lots.

The project includes the addition of three new vehicle parking spaces on-site, for a total of 19 on-site parking spaces across all four lots; 40 on-site bicycle parking spaces; and the provision of 16 leased, off-site parking spaces within 0.4 miles of the subject site. The applicant also requests after-the-fact approval for a two-story, 19-ft. tall, 918 sq. ft. storage area that was constructed at 205 Ocean Front Walk (the northern-most lot) between 1981 and 1991.

On October 15, 2021, an appeal of local CDP No. APCW-2020-1521-SPE-SPP-CDP-CUB-ZV for the subject project was filed. The appellant, Margaret Molloy, contended that the project was inconsistent with lot consolidation limitations and parking requirements of the certified LUP; the existing development functions as a bar, rather than a restaurant; and the 918 sq. ft. storage area functions as a new restaurant, rather than a storage area. On December 15, 2021, the Commission found that Appeal No. A-5-VEN-21-0070 did not raise a substantial issue with respect to the grounds on which the appeal had been filed. The Commission determined that the local CDP for the subject project would not alter the existing restaurant's legally nonconforming status. The Commission also determined that the appellant's allegations regarding misrepresentation of use were not adequately substantiated and did not present inconsistency with Chapter 3 policies of the Coastal Act or certified LUP. The applicant subsequently submitted a CDP application with the Coastal Commission (Application No. 5-21-0877).

The existing restaurant is legally nonconforming with regard to lot consolidation and parking policies of the certified Land Use Plan (LUP). Policy I.B.7 of the LUP allows

commercial structures to consolidate a maximum of two lots, while the existing restaurant spans three lots. The 3,202 sq. ft. of service area in the existing restaurant (comprised of the outdoor patio and portions of the interior area) would require 69 total vehicle parking spaces for the structure, per the requirements of LUP policies II.A.3 and II.A.4. The existing restaurant offers only 16 on-site parking spaces. LUP Policy I.E.5 requires correction of all nonconformities associated with a structure in the event of extensive renovation, a major addition, and/or if the project would greatly extend the life of the nonconforming structure. The request for after-the-fact approval of the unpermitted storage area is the extent of work proposed to the existing restaurant. Considering the 918 sq. ft. unpermitted addition, the proposed project does not result in an extensive renovation of, or major addition to, the existing nonconforming restaurant, nor will it greatly extend the life of the restaurant. Thus, based on the information reviewed by staff, the project is not required to correct the nonconforming parking deficiency or lot consolidation aspects of the existing restaurant at this time.

The proposed project would provide a 49-ft. structural setback from Ocean Front Walk. Policy I.B.7 allows a maximum 15-ft. setback from Ocean Front Walk; as such, the location of the new structure is inconsistent with Policy I.B.7, which was likely intended to ensure visual compatibility with the surrounding row of storefronts immediately adjacent to the boardwalk. However, the applicant proposes the 49-ft. structural setback to provide an open-air courtyard with bicycle stalls, seating, and games intended to draw pedestrian and bicyclist customers. This design improves the applicant's ability to satisfy public access requirements via the provision bicycle parking spaces. The design provides a greater setback from the beach, thus additionally reducing the risk of flooding for the proposed structure. Furthermore, the new structure has been designed with varied textures, a pointed roofline, and visibly smaller massing compared to nearby structures. As proposed, it is unlikely to have an adverse cumulative effect on the surrounding community character. The proposed storage area also conforms with the design of the existing restaurant and doesn't significantly contribute to its massing or scale. Therefore, staff recommends that the Commission find the proposed use, mass, scale, and design of the new structure, as well as the after-the-fact storage area, consistent with all other relevant certified LUP design standards and Chapter 3 policies of the Coastal Act.

The LUP requires 22 parking spaces for the new structure and two new parking spaces for the after-the-fact storage area. However, the applicant asserts that only 19 parking spaces can be provided on-site due to the lot size constraints. The applicant has mitigated this deficit through the provision of bicycle racks accommodating 40 bicycles and 16 leased off-site parking spaces available to patrons on weekends, holidays, and weekdays after 5:30 pm. The applicant will provide valet parking for guests to utilize the on-site tandem spaces and off-site leased spaces. Patrons of the new structure will share parking with the existing restaurant. Under the applicant's proposed Transportation Demand Management Plan, the applicant will provide all employees with free valet parking (either on-site or off-site, depending on availability of spaces) and free passes for public transportation.

The applicant has submitted a parking study conducted by the applicant's valet service for the existing restaurant. The study reviewed use of the parking lot on weekdays in

January 2019 through February 2020, the 13-month period preceding the pandemic emergency order issued in March 2020. The study indicates that the on-site parking lot remained at least 50% vacant for the majority of weekdays during the study period. This study supports the applicant's ability to accommodate parking requirements via a combination of bicycle parking and on/off-site vehicle parking. The new structure is limited in size, designed for walk-up service, and is not intended to rely on surrounding public beach parking to accommodate patrons.

Restaurants can be a major source for single-use plastics, such as to-go containers, plastic utensils, and expanded polystyrene (Styrofoam) containers that pollute storm drains and end up in open waters. To minimize the risk of marine debris, staff recommends that the Commission impose **Special Condition 6**, which requires the applicant to submit a Plastic Pollution Reduction Plan for Executive Director approval prior to CDP issuance. As conditioned, the new development will be prohibited from using most single-use plastics and shall participate in an existing waste curtailment program.

The subject site is not anticipated to experience direct flooding or wave action with 6.6 ft. of sea level rise and an annual storm. However, with 6.6 ft. of sea level rise and a 20-year or 100-year storm, Our Coast Our Future models predict inundation in the project area. The proposed structure is set back 49-ft. from the boardwalk and extends nearly half of the lot length at 213 Ocean Front Walk—this setback will likely function as a buffer for the new structure in the event of 6.6 ft. of sea level rise and a 20- or 100-year storm, especially considering all structures proposed within the setback (i.e. picnic tables, shuffleboard and ping-pong tables, planters) are easily removable. The raised elevation of the new development compared to the boardwalk will also lessen the degree of inundation risk. The project has been designed to reduce coastal hazards risks within the full 75-year development lifespan. However, to ensure that the risks are acknowledged and placed on those benefitting from the approval, staff recommends the Commission impose **Special Conditions 10, 11 and 12**, requiring the applicant to assume the risks of developing on the coast and to ensure that any future owners are made aware of these risks, as well as the conditions of the permit.

Staff is recommending the Commission **approve** the CDP application with 12 special conditions, including: **1)** local government approval; **2)** permit compliance; **3)** evidence of off-site parking availability; **4)** parking restrictions; **5)** submittal of a Plastic Pollution Reduction Program; **6)** submittal of a Construction Staging Plan; **7)** construction best management practices, and drainage and run-off control practices; **8)** use of native, or non-native drought-tolerant, plants; **9)** bird-strike prevention; **10)** assumption of risk; **11)** no future shoreline protective devices; and **12)** deed restriction.

Commission staff recommends that the Commission find that the proposed project, as conditioned, can be found consistent with Chapter 3 of the Coastal Act.

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### EXHIBITS

[Exhibit 1 – Vicinity Map](#)

[Exhibit 2 – Project Plans](#)

[Exhibit 3 – Site History and Figures](#)

[Exhibit 4 – Historic Photographs](#)

[Exhibit 5 – CoSMoS Figures](#)

[Exhibit 6 – Photographs of 205 Ocean Front Walk](#)

## I. MOTION AND RESOLUTION

### Motion:

I move that the Commission approve Coastal Development Permit 5-21-0877 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 the Coastal Development Permit for the proposed project 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 that conforms to the provisions 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 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. **Local Government Approval.** The proposed development is subject to the review and approval of the City of Los Angeles (City). This action has no effect on conditions imposed by the City pursuant to an authority other than the Coastal Act. In the event of conflict between the terms and conditions imposed by the City and those of this coastal development permit, the terms and conditions of CDP No. 5-21-0877 shall prevail.
2. **Permit Compliance.** The permittee shall undertake and maintain the development in conformance with the special conditions of the permit and the final plans. Any proposed changes to the approved plans shall be reported to the Executive Director in order to determine if the proposed change shall require a permit amendment pursuant to the requirements of the Coastal Act and the California Code of Regulations. No changes to the approved plans shall occur without a Commission-approved permit amendment unless the Executive Director determines that no permit amendment is required.
3. **Off-Site Parking Availability.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall provide the Executive Director with a copy of the executed lease for 16 parking spaces reserved for use by patrons and employees of the subject development in the lower parking lot identified in Sheet A-1.05 of the project plans dated March 23, 2021. The applicant shall provide evidence any restrictions on the timing of such reserved uses leased by the St. Joseph Center.
4. **Parking Restrictions.** The following parking program shall be implemented for as long as the proposed mixed-use structure and existing storage area remain. The applicant shall provide and maintain a valet parking service, and an off-site parking supply with a minimum capacity of 16 vehicles, for use by the employees and customers of the proposed restaurant as described below. Restaurant employees shall be provided with free parking within the on-site or off-site parking supply and free public transportation passes. The applicant shall comply with the following conditions of approval:
  - A. Two (2) vehicle parking spaces shall be maintained on 205-209 OFW (4286-030-002) at all times, and one (1) vehicle parking space shall be maintained on 203 OFW (4286-030-003) for exclusive use of patrons and/or employees of the existing restaurant and new development;
  - B. 40 bicycle parking spaces shall be maintained on-site at all times;
  - C. 16 vehicle parking spaces shall be provided off-site at St. Joseph Center on weekdays after 5:30 PM, weekends, and holidays.
    - a. If the lease from St. Joseph Center is terminated, the applicant shall cease use of the structure and operations located at 213 Ocean Front Walk until a new lease for 16 vehicle parking spaces is secured and submitted to the Executive Director for review and approval. If the

Executive Director determines that an amendment to this coastal development permit (5-21-0877) or a new coastal development permit is necessary to adequately carry out the terms of this condition, the applicant shall cease use and operation of the development at 213 Ocean Front Walk until such time that the Commission approves an amendment to this coastal development permit or a new coastal development permit.

With the acceptance of this permit, the applicant and all future assigns 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. The permittee shall undertake development in conformance with these requirements unless the Commission amends this permit or the Executive Director provides a written determination that no amendment is legally required for any proposed minor deviations.

**5. Plastic Pollution Reduction Program.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and approval of the Executive Director, a robust plan, including a comprehensive monitoring and evaluation framework, to reduce waste and single-use items (including litter, single-use plastic items and expanded polystyrene foodware, containers, and packaging). The plan shall include at a minimum, all of the following, and the applicant shall implement the approved version of the plan:

- A. The applicant shall install and maintain smoke-free signage in all rooms and/or areas of the proposed mixed-use development.
- B. The applicant shall install and maintain educational signage for staff and patrons that promotes and encourages the use of reusable items (instead of single-use items).
- C. Adhere to the following criteria:
  - i. Only use reusable foodware (including dinnerware, drinkware, silverware, and ramekins/containers) for on-site dining, specifically prohibiting the use of single-use plastic cups, utensils or any other serviceware.
  - ii. Prohibit the use of plastic straws and only provide reusable straws, paper straws, or straws made from naturally occurring materials, upon request.
  - iii. Prohibit the use of expanded polystyrene items (aka Styrofoam).
  - iv. Prohibit the use of plastic bags on-site or for takeout/to-go orders.
  - v. Only provide single-use utensils, straws, condiments, containers, and other accessory items made from naturally occurring materials upon request for takeout/to-go orders. Alternatively, implement a reusable take-out program.



- vi. Prohibit the sale of all beverages in plastic bottles.
  - vii. Follow proper recycling (and composting, if available) practices.
- D. All waste resulting from restaurant activities should be exported outside the Coastal Zone.
- E. 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.
- F. The applicant shall provide an annual report for the review and approval of the Executive Director of the Coastal Commission, program scope and metrics, and total outcome of the selected program referenced in Section E. The report shall be provided annually, no later than January 30th, for the preceding calendar year and shall be provided for the lifetime of the development.
- G. No changes to the approved development shall occur without a Commission amendment to this coastal development permit or a new coastal development permit, unless the Executive Director determines that no amendment or new permit is required.

**6. Construction Staging Plan.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and written approval of the Executive Director, two copies of a construction staging plan. The construction staging plan shall incorporate the following:

- A. The plan shall specify where construction equipment is proposed to be stored during construction, consistent with the following requirements:
- i. No equipment shall be placed on any sandy areas, beach, or public beach parking lots.
  - ii. All construction equipment to be stored overnight shall be stored on-site, outside the street travel-way.
  - iii. Placement and removal of the on-site dumpster shall occur outside of peak traffic times to avoid congestion on the Speedway.
- B. The plan shall also identify a disposal site outside of the Coastal Zone for waste materials and recyclable materials.

The permittee 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 plans shall occur without a Commission

amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

## **7. Construction Best Management Practices.**

A. Construction Responsibilities and Debris Removal. By acceptance of this permit, the applicant agrees that:

- i. No demolition or construction materials, equipment, 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;
- ii. 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;
- iii. 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;
- iv. Demolition or construction debris and sediment shall be removed from work areas regularly to prevent the accumulation of sediment and other debris that may be discharged into coastal waters;
- v. All trash and debris shall be disposed in the proper trash and recycling receptacles at the end of every construction day;
- vi. The applicant(s) shall provide adequate disposal facilities for solid waste, including excess concrete, produced during demolition or construction;
- vii. 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;
- viii. 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;
- ix. 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;
- x. The discharge of any hazardous materials into any receiving waters is prohibited;

- xi. 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;
- xii. 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;
- xiii. All BMPs shall be maintained in a functional condition throughout the duration of construction activity.

#### B. Drainage and Water Quality

- i. During construction of the proposed project, no runoff, site drainage or dewatering shall be directed from the site into any canal or street that drains into a canal, 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 canals;
- iii. A French drain, underground cistern, or other similar drainage systems that collect and reduce the amount of runoff that leaves the site shall be installed and maintained on the project site;
- iv. All runoff leaving the site shall be directed away from the nearby bluff and beach and into the City storm drain system.

**8. Landscaping – Drought Tolerant, Non-Invasive Plants.** By acceptance of this permit, the applicant agrees that all landscaping shall consist of native, or non-native drought tolerant non-invasive plant species, appropriate to the habitat type. No plant species listed as problematic and/or invasive by the California Native Plant Society (<https://www.cnps.org/>), the California Invasive Plant Council (formerly the California Exotic Pest Plant Council) (<https://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 (<https://ucanr.edu/sites/WUCOLS/files/183488.pdf>). The use of reclaimed water for irrigation is encouraged. If using potable water for irrigation, only drip or micro-spray irrigation systems may be used. Other water conservation measures shall be considered, such as weather-based irrigation controllers.

**9. Bird Strike Prevention.** Ocean-facing deck railing systems, fences, screen walls, gates, and windows subject to this permit shall use materials designed to minimize bird-strikes. Such materials may consist, all or in part, of frosted or partially-frosted glass, or other visually permeable barriers that are designed to prevent creation of a bird strike hazard. Clear glass or Plexiglass shall not be installed unless they contain UV-reflective glazing that is visible to birds, or unless the materials are provided by Ornilux glass or equivalent. All materials shall be maintained throughout the life of the development to ensure continued effectiveness at addressing bird strikes and shall be maintained at a minimum in accordance with manufacturer specifications.

**10. Assumption of Risk, Waiver of Liability and Indemnity.** By acceptance of this permit, the permittee acknowledges and agrees (i) that the site may be subject to hazards including but not limited to waves, erosion, storm conditions, liquefaction, flooding, and 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.

**11. No Future Shoreline Protective Device.**

A. By acceptance of this permit, the permittee agrees, on behalf of themselves and any successors and assigns, that no shoreline protective device(s) shall ever be constructed to protect the development approved pursuant to CDP No. 5-21-0877, including, but not limited to, the new mixed-use development at 213 Ocean Front Walk, in in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, flooding, sea level rise, or any other natural hazards in the future. By acceptance of this permit, the permittee hereby waives, on behalf of themselves and all successors and assigns, any rights to construct such devices that may exist under Public Resources Code Section 30235, any similar provision of a certified LCP, or any applicable law.

B. By acceptance of this Permit, the permittee further agrees, on behalf of themselves and all successors and assigns, that they are required to remove all or a portion of the development authorized by this permit and restore the site, if:

- i. The City or any government agency with jurisdiction has issued a final order, not overturned through any appeal or writ proceedings, determining that the structures are currently and permanently unsafe for occupancy or use due to damage or destruction from waves, erosion, storm conditions, flooding, sea level rise, or other natural hazards related to coastal processes, and that there are no feasible measures that could make the structure suitable for habitation or use without the use of bluff or shoreline protective devices;

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- ii. Essential services to the site (e.g. utilities, roads) can no longer feasibly be maintained due to the coastal hazards listed above;
- iii. Removal is required pursuant to LCP policies for sea level rise adaptation planning; or
- iv. The development requires new or augmented shoreline protective devices that conflict with applicable LCP or Coastal Act policies.

Approval of CDP No. 5-21-0877 does not allow encroachment onto public right-of-ways and/or beach. Any future encroachment onto public right-of-ways and/or beach shall be removed unless authorized by the Coastal Commission.

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

## IV. FINDINGS AND DECLARATIONS

### A. PROJECT DESCRIPTION & LOCATION

The project area encompasses four adjacent lots located in an ocean-fronting commercial corridor, bordered primarily by residential development inland of the site and a hotel immediately south of the site, in the North Venice subarea of Venice, City of Los Angeles ([Exhibit 1](#)). The four subject lots are designated Community Commercial by the certified Venice LUP and C1-1 by the City of Los Angeles uncertified Zoning Code. The project site is located less than 100 ft. inland of the public beach and fronts the Venice Beach boardwalk (Ocean Front Walk), with vehicle access obtained solely from the rear alley (Speedway).

An existing, two-story restaurant is located across three adjacent lots with a net 9,572 sq. ft. area: 205 Ocean Front Walk (2,730 sq. ft. in size), 207 Ocean Front Walk (2,730 sq. ft. in size), and 209 Ocean Front Walk (4,112 sq. ft. in size) ([Exhibit 2](#)). The existing restaurant consists of a 3,146 sq. ft. interior area with kitchens, restrooms, and 1,398 sq. ft. of service floor area; in addition to a 1,804 sq. ft. outdoor patio consisting entirely of service area. The outdoor patio includes exterior walls, but lacks a roof structure.

Including both the interior restaurant and the rear outdoor patio, the existing restaurant has a 4,950 sq. ft. net area. 65% of that net area is comprised of service floor area (3,202 sq. ft.) and the remaining 35% is comprised of restroom and kitchen area (1,748 sq. ft.). The existing restaurant provides 16 parking spaces spanning the rear of all three lots.

The full site history for all four lots is extensive and summarized with accompanying figures in [Exhibit 3](#). Records confirm that the restaurant has spanned the three lots since at least 1951, prior to the effective date of the Coastal Act ([Exhibit 3, Page 17](#)). The restaurant was originally constructed in 1951 with a 1,875 sq. ft. (25-ft. by 75-ft.) interior dining area. Assessor records dated 1964 show a 3,696 sq. ft. (42-ft. by 88-ft.) outdoor patio located behind the interior dining area.

In 1991, a 1,271 sq. ft. (31-ft. by 41-ft.) portion of the outdoor patio was converted to interior dining area through construction of a new roof structure ([Exhibit 3, Page 26](#)), with the subject LADBS permit issued for the work referencing City and Coastal Commission exemptions. This work reduced the dimensions of the 3,696 sq. ft. patio to result in the current 1,804 sq. ft. size.<sup>1</sup> Commission records confirm that an exemption letter was issued on June 26, 1991, to John Pierre Kuntz—however, the records don't indicate a file number or include the letter of approval. As such, it is unclear what project components the Commission determined were exempt from CDP requirements. Regardless, the historic record suggests the current configuration shown in the current project plans—a 3,146 sq. ft. interior dining area and 1,804 sq. ft. outdoor patio—have obtained local and Commission approval over the past 71 years ([Exhibit 2, Page 4](#)). Under the certified LUP, the existing restaurant is a legally non-conforming structure with regard to the consolidated three lots across which the restaurant sits and the provision of 16 parking spaces on-site.<sup>2</sup>

The fourth lot, 213 Ocean Front Walk, is 4,158 sq. ft. in size and located at the southernmost end of the project site. The lot located at 213 Ocean Front Walk remained undeveloped until approximately 1981 to 1991, when multiple outdoor picnic tables were placed in the front area of 213 Ocean Front Walk to provide additional service area for the adjacent restaurant. The Commission did not approve the additional outdoor service area. In 2018, the current applicant (North Venice Boardwalk, LLC) began using the lot for temporary structures to support the adjacent restaurant, including plywood walls, an awning, and an eight-stall restroom trailer with no permanent plumbing or pipe

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<sup>1</sup> The existing, 3,146 sq. ft. interior dining area consists of the original 1,875 sq. ft. (25-ft. by 75-ft.) portion plus the 1,271 sq. ft. (31-ft. by 41-ft.) portion enclosed by a new roof in 1991. The existing, 1,804 sq. ft. outdoor patio is the remainder of the original 3,696 sq. ft. (42-ft. by 88-ft.) outdoor space after subtracting the 1,271 sq. ft. (31-ft. by 41-ft.) portion enclosed by a new roof in 1991, the 512.5 sq. ft. (41-ft. by 12.5-ft.) portion converted to part of the 918 sq. ft. unpermitted storage area, and the less than 200 sq. ft. residual square footage lost by narrowing the patio for rear parking.

<sup>2</sup> The existing restaurant includes 3,202 sq. ft. of net service floor area and would require 69 parking spaces per certified LUP policies II.A.3 and II.A.4 without its legally non-conforming status. The restaurant spans three lots but would be limited to two lots per certified LUP Policy I.B.7.

infrastructure. In 2020, the applicant obtained an Al Fresco Permit<sup>3</sup> from the City of Los Angeles Department of Transportation for the outdoor dining use, with a current permit expiration date of June 2023—however, the structures and use of the site as additional service floor area was not approved via a CDP from the City nor the Commission. The proposed project includes removal of all unpermitted structures at 213 Ocean Front Walk.

The applicant proposes construction of a new, two-story, 25.7-ft. tall, 1,235 sq. ft., mixed-use structure at 213 Ocean Front Walk to complement the existing restaurant located on the three adjacent lots (205-209 Ocean Front Walk). The first floor of the new structure will include a 180 sq. ft. walk-up service counter with a food/drink preparation area, and a 560 sq. ft. restroom area with ten stalls. The second floor will include a 362 sq. ft. office area, a 173 sq. ft. storage area, and an ocean-facing balcony ([Exhibit 2](#)). The project also includes 930 sq. ft. of total service floor area, comprised of 558 sq. ft. of uncovered recreation area with game tables (such as shuffleboard and ping-pong) and a 372 sq. ft. uncovered seating area with picnic tables accommodating up to 42 guests. The 930 sq. ft. of service floor area is located within the 49-ft. structural setback from the boardwalk. The proposed office area may be rented for independent use or used by management staff.

The applicant also requests after-the-fact approval for the construction of a 918 sq. ft. storage area attached to the existing restaurant at 205 Ocean Front Walk. Records suggest that the storage area was constructed without Commission approval between 1981 and 1992, prior to the start of the applicant's ownership in 2017 ([Exhibit 3, Page 29](#)). There are photographs showing that the unpermitted storage area was used as service floor area for a restaurant, Boardwalk Tacos, from October 2018 to June 2019 ([Exhibit 6](#)).<sup>4</sup> Photographs from this timeframe show seating, countertops, and a window for pick-up food service located in the subject area. The applicant did not obtain a CDP from the City, nor the Commission, for this use. The applicant removed these features in 2019 and ceased all service floor area use in the subject area; current photographs show an absence of the previous paint on the interior walls, open windows, and countertops. The subject area serves solely storage area use.

The applicant also proposes a 40-stall bicycle rack and three new vehicle parking spaces, for a total of 19 on-site vehicle parking spaces spanning all four lots adjacent to Speedway. In addition to the three new on-site parking spaces, the applicant proposes provision of 16 off-site valet vehicle parking spaces at St. Joseph Center, located approximately 0.4 miles inland of the site at 204 Hampton Drive. The off-site parking spaces will be available to patrons on weekends, holidays, and weekdays after 5:30 pm.

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<sup>3</sup> Ref. [https://ladot.lacity.org/sites/default/files/documents/alfresco\\_expanded\\_property\\_dining\\_en.pdf](https://ladot.lacity.org/sites/default/files/documents/alfresco_expanded_property_dining_en.pdf)

<sup>4</sup> Ref. <https://www.newmgmt.com/boardwalk-tacos>  
<https://usarestaurants.info/explore/united-states/california/los-angeles-county/los-angeles/409484-boardwalk-tacos.htm>

The new development will provide valet parking for patrons; employees will be offered free valet parking to the on-site tandem parking spaces and/or off-site parking spaces.

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, with the certified Venice LUP providing guidance. The proposed project is located with the Dual Permit Jurisdiction Area and requires both a local CDP and a CDP approved by the Commission.

On February 3, 2021, the West Los Angeles Area Planning Commission (WLAAPC) approved the applicant's (North Venice Boardwalk, LLC's) request for approval of the new mixed-use structure and unpermitted storage area consistent with the summary above. On March 19, 2021, an appeal of WLAAPC's action on local CDP No. APCW-2020-1521-SPE-CDP-CUB-ZV was filed by Margaret Molloy. On August 18, 2021, the Los Angeles City Council denied the appeal and upheld the WLAAPC's action to approve local CDP No. APCW-2020-1521-SPE-CDP-CUB-ZV.

On October 15, 2021, the City's approval was appealed to the Coastal Commission by appellant Margaret Molloy. The appellant contended primarily that: 1) the project is inconsistent with the certified Venice LUP with regard to lot consolidation and parking; 2) the existing development has functioned as a bar, rather than a restaurant; and 3) the unpermitted 918 sq. ft. addition functions as an independent restaurant, rather than a storage area. On December 15, 2021, the Commission determined that no substantial issue existed with respect to the grounds on which Appeal No. A-5-VEN-21-0070 was filed. The Commission determined that the local CDP for the subject project would not alter the existing restaurant's legally nonconforming status. The Commission also determined that the appellant's allegations regarding misrepresentation of use were not adequately substantiated and did not present inconsistency with Chapter 3 policies of the Coastal Act or certified LUP.

On December 30, 2021, the applicant submitted the required "dual" Coastal Commission CDP application (Application No. 5-21-0877) for Commission review and action.

## **B. DEVELOPMENT**

Section 30105.5 of the Coastal Act states:

"Cumulatively" or "cumulative effect" means the incremental effects of an individual project shall be reviewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.

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(a) of the Coastal Act states, in relevant part:

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 30251 of the Coastal Act states, in relevant part:

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

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.6 Community Commercial Land Use states, in relevant part:

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. ...

(c) North Venice Community Commercial. ...

Uses: Visitor-serving and personal services emphasizing retail and restaurants. Mixed-use with retail and/ or personal services on the ground floor with either residential or personal services on upper floors.

Venice Certified LUP Policy I.B.7 Commercial Development Standards, states, in relevant part:

Lot Consolidation. Two commercial lots may be consolidated, or three with subterranean parking with the following restrictions:

1. Methods for ensuring that the structure does not look consolidated (breaks in front wall of ten feet minimum) shall be utilized. ...

Exception: Lot consolidation of more than two lots shall be permitted for mixed-use projects which conform to the existing scale and character of the surrounding community and provide adequate on-site parking. ...

Ground Level Development: Every commercial structure shall include a Street Wall, which shall extend for at least 65% of the length of the street frontage, and shall be located at the property line or within five feet of the property line, except on Ocean Front Walk, where all commercial buildings shall have the Street Wall set zero (0) feet from the building line. The required Street Wall at sidewalk level shall be a minimum of 13 feet high. (A Street Wall is the exterior wall of a building that faces a street.) Street Walls adjacent to a sidewalk café, public plaza, retail courtyard, arcade, or landscaped area may be setback a maximum of 15 feet along the project which consists of the sidewalk café, public plaza, retail courtyard, arcade, or landscaped area. Such areas shall not be considered in calculating the buildable area of a project but, with the exception of areas used only for landscaping, shall be considered in calculations for required parking.

The Venice Certified LUP defines “Lot Consolidation” as follows:

Lot consolidation occurs when: (1) one or more structures are built over a lot line dividing two lots created in a previous subdivision; or (2) a lot line is abandoned, a lot line is adjusted, lots are merged, or other action is taken, for the purpose of allowing a structure to be built extending over what were previously two or more separate lots.

The Venice Certified LUP defines “Street Wall” as follows:

An exterior wall of a building that faces a street.

Certified Land Use Plan Policy I.E.2, Scale, states, in relevant part:

New development within the Venice Coastal Zone shall respect the scale and character of the community development. Buildings which are of a scale compatible with the community (with respect to bulk, height, buffer and setback) shall be encouraged. All new development and renovations should respect the scale, massing, and landscape of existing residential neighborhoods.

Certified Land Use Policy I.E.3, Architecture, states:

Varied styles of architecture are encouraged with building façades which incorporate varied planes and textures while maintaining the neighborhood scale and massing.

Certified Venice LUP Policy I.E.5, Nonconforming Structures, states:

Where extensive renovation of and/or major addition to a structure is proposed and

the affected structure is nonconforming or there is another nonconforming structure on the site, or a project is proposed that would greatly extend the life of a nonconforming structure or that eliminates the need for the nonconformity, the following shall apply:

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

Certified Venice 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.

Section 30222 of the Coastal Act prioritizes visitor-serving and recreational uses in the coastal zone. Coastal Act sections 30250(a) and 30251 encourage new development be sited in already-developed areas with adequate public services and designed for visual compatibility, while Policy III.A.1 of the certified Venice LUP echoes these requirements. Taken together, these policies encourage the concentration of new, visitor-serving appropriate designed development in areas with sufficient infrastructure.

Additionally, Coastal Act Section 30253 requires protection of special coastal communities with unique characteristics that draw visitors to the coastal zone. The Commission has considered Venice a special coastal community in past actions and relied on LUP policies for design guidelines specific to each geographically-defined subarea to preserve community character.

LUP Policy I.B.6 provides guidelines for the subject land use designation, Community Commercial. Policy I.B.6 encourages mixed-use development and specifically encourages the combination of ground-floor retail use and upper-floor residential or personal use in the North Venice subarea. This design balances visitor-serving facilities accessed from the boardwalk with private uses on the upper floors, reducing the distance community-members must travel for recreation and work. The applicant's proposed uses—food and beverage service on the ground floor and office use on the second floor—are consistent with the Community Commercial land use designation.

LUP Policy I.B.7 provides additional design guidelines for commercial development and allows consolidation of more than two lots for mixed-use projects, which do not impact the surrounding community character or availability of public parking. The certified LUP defines lot consolidation as occurring when "one or more structures are built over a lot line dividing two lots created in a previous subdivision." While the project area includes four adjacent lots, no lot consolidation is proposed by the subject project. As previously discussed, the existing restaurant was constructed across three lots (205, 207, and 209 Ocean Front Walk) prior to the effective date of the Coastal Act. The applicant is requesting after-the-fact approval for the 918 sq. ft. non-habitable addition at 205 Ocean

Front Walk, and no additional work is proposed to the existing restaurant. The 918 sq. ft. addition will increase the total area of the existing restaurant by approximately 18.5%.<sup>5</sup> As such, it may be considered less than an “extensive renovation” or “major addition” and does not require correction of all nonconforming features of the subject development per LUP Policy I.E.5.

The new, mixed-use development is an independent structure contained entirely within the property lines of the lot corresponding to 213 Ocean Front Walk ([Exhibit 2](#)). The existing restaurant will share the outdoor seating area, bicycle parking, and new restroom facilities located on the ground floor of the new structure—however, these facilities will not be physically combined and do not cross lot lines. The outdoor facilities, including the recreation area, would set the new, two-story structure back 49 ft. from the ocean-facing property line and 16 ft. from the closest point of the existing restaurant, creating a pronounced break between the existing restaurant and the new, detached structure. The new structure will not result in lot consolidation and does not raise issues of consistency with the mass and scale of the surrounding area.

LUP Policy I.B.7 additionally requires every commercial structure fronting Ocean Front Walk to include a Street Wall, defined by the LUP as the “exterior wall of a building that faces a street.” The policy allows the Street Wall to be setback no more than 15 ft. from the building line if adjacent to a “sidewalk café, public plaza, retail courtyard, arcade, or landscaped area” and requires a minimum 13-ft. height for the Street Wall. “Building line” is not defined in the LUP, but may refer to the line demarcating the front of the building. Exhibit 14(a) of the LUP specifies a maximum 35-ft. height for development in North Venice with a varied roofline. Therefore, the project is allowed a height between 13 and 35-ft. per LUP limitations. The 1,235 sq. ft. structure proposed for 213 Ocean Front Walk includes a 25.7-ft. tall Street Wall located 49-ft. inland of the building line, adjacent to an open recreation and seating area ([Exhibit 2](#)). As such, the project conforms to height requirements but exceed the maximum Street Wall setback by 34 ft.

LUP Policy I.B.7 was likely intended to preserve community character along Ocean Front Walk, as most commercial structures are set back zero feet from the building line and form a row of storefronts immediately adjacent to the boardwalk. Coastal Act Section 30105.5 defines “cumulative effect” as “the incremental effects of an individual project” in conjunction with past, current, and probable future projects. To determine whether the nonconforming setback will have an adverse cumulative effect on community character, staff first considered past City and Commission actions on Ocean Front Walk. Commission precedent has required a minimum five-foot setback from the seaward property line for residential structures on Ocean Front Walk, citing the need for a privacy

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<sup>5</sup> The 918 sq. ft. addition constitutes a 48.9% increase when considering the 1,875 sq. ft. original interior dining area and excluding the 3,696 sq. ft. rear, outdoor dining area (which had exterior walls but no roof). The 918 sq. ft. addition constitutes an 18.5% increase when including the rear outdoor dining area, for a total 4,950 sq. ft. interior and exterior dining area.

buffer and space for structural repair without the need to encroach onto the boardwalk.<sup>6</sup> While this analysis pertained solely to residential use (as most past actions on commercial boardwalk structures have not included setback findings), past Commission actions have approved construction of at least four structures on Ocean Front Walk without the zero-foot setback required by Policy I.B.7. The current pattern of development shown by aerial satellite imagery suggests that the majority of boardwalk development lacks a setback. The proposed 49-ft. setback would be relatively unique compared to past and current development setbacks in the surrounding area.

However, the subject project is also unique with regard to its status as a structure intended to complement an existing, legally nonconforming restaurant. The Commission has grappled with several recent projects in Venice designed to maximize floor-to-area ratio (FAR) to the greatest extent feasible, thus providing less open space and smaller setbacks on-site. In this case, the proposed development uses nearly half of the subject lot as an open-air courtyard for games and picnic tables. It appears unlikely to inspire a pattern of similar increased setbacks on Ocean Front Walk, as developers are typically incentivized to use all lot area to increase structural size or parking spaces. Commission staff are not aware of any future projects on Ocean Front Walk that propose a setback greater than 15 ft.

Additionally, development setback is not the only contributing factor in preservation of community character. LUP policies I.E.2 and I.E.3 include setback, bulk, height, and varying styles of architecture with “varied planes and textures” as significant for community character. The proposed 25.7-ft. tall, 1,235 sq. ft. structure does not exceed the surrounding buildings with respect to mass or scale—it is taller than the adjacent, 19-ft. tall existing restaurant, but significantly shorter than the nearby, six-story development at 215 Ocean Front Walk. The structure incorporates a pointed roofline and a storefront with bird-safe glass, wood, potted plants, and open space ([Exhibit 2](#)). Overall, the project will be visually compatible with the surrounding area. For the reasons summarized above, the proposed setback does not raise any Coastal Act issues and it is unlikely to set a negative precedent for future development in the area. Furthermore, the 49-ft. setback plays a significant role in the applicant’s ability to satisfy public access requirements and safety from coastal inundation (discussed further in the ‘Public Access’ and ‘Hazards’ subsections below). The proposed use, mass, scale, and design of the project is consistent with all other relevant certified LUP policies described above and the visual quality and community character protection policies of the Coastal Act.

In order to assure that the project conforms to the plans reviewed and approved herein, the Commission imposes **Special Condition 1** to establish that, while the proposed development is subject to review and approval by the local government, the terms and conditions of CDP No. 5-21-0877 shall prevail in the event of any conflict between City and Commission requirements. Additionally, in the event that the LADBS requires any revisions to the project design, **Special Condition 2** requires the applicant to obtain an

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<sup>6</sup> [CDP 5-20-0583](#) (Shoda), [5-16-0757](#) (Greene), [A-5-DRL-18-0075](#) (Playa, LLC), [A-5-VEN-18-0017 & 5-18-0212](#) (Targon)

amendment to the subject CDP for any deviations from the Commission-approved plans, unless the Executive Director determines that no amendment is legally required.

As so conditioned, the Commission finds that the development conforms to the applicable policies of the certified Venice LUP, as well as sections 30222, 30250(a), 30251, and 30253 of the Coastal Act.

### **C. 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 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 ...

Venice Certified LUP Policy I.B.11, Intensification of Commercial Uses, states:

Intensification of existing commercial uses, including, but not limited to additions to commercial structures, expansion of indoor or outdoor dining areas, and conversions of retail uses to sit-down restaurants, shall be required to provide adequate parking to meet the demands of the intensification consistent with LUP Policies II.A.3 and II.A.4.

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

...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).

Drive-in and Window Service Restaurant providing Outdoor Eating Area or Walk-up or Drive-up Window Service: 1 space for each 50 square feet of floor area but not fewer than 10 spaces. The above may be modified for walk-up facilities with no seating area and beach front walk-up with seating depending on the particulars of the individual case.

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

- a. Commercial and industrial projects in the BIZ shall provide one additional parking space for each 640 square feet of floor area of the ground floor. Up to 50% of the total number of these additional parking spaces required in this section may be paid for in lieu of providing the spaces.
- 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. Up to 100% of the total number of these additional parking spaces required in this section may be paid for in lieu of providing the spaces. The recommended rates shall be established based upon the development cost study of the area...
- 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.

Section 30210 of the Coastal Act requires that new development be designed to avoid interference with the public's ability to access the coast. Sections 30250(a) and 30252 specifies design methods that serve this goal, including siting new development contiguous with already-developed areas and provision of adequate parking facilities and public transit. These methods also ensure consistency with Section 30253(d), which requires new development to minimize energy consumption and vehicle miles traveled. To guide development consistent with these policies, the certified Venice LUP provides parking requirements for each development use, with additional parking spaces required in the Beach Impact Zone (BIZ) based on the concentration of tourism and associated parking strain near the beach.

As previously discussed, the existing, 3,146 sq. ft. restaurant at 205, 207, and 209 Ocean Front Walk was constructed prior to the effective date of the Coastal Act. While it is legally nonconforming with regard to the existing 16 parking spaces on-site, the current project does not include renovation or substantial alteration of the existing restaurant. Therefore, the development located at 205, 207, and 209 Ocean Front Walk is not required to provide additional parking in conformance with the certified LUP. However, the new development proposed at 213 Ocean Front Walk and the new storage area proposed at 205 Ocean Front Walk must adequately address impacts to coastal resources, including public access.

LUP Policy II.A.3 requires one parking space for each 50 sq. ft. of total service floor area for window service restaurants with walk-up service and outdoor eating area. Per this policy, the 2,165 sq. ft. (including the outdoor service area) of new service area with walk-up window service would require 36 parking spaces, not including the BIZ parking spaces. LUP Policy II.A.3 also states that the parking requirements may be modified for beachfront walk-up with seating depending on the particulars of the individual case. In

this case the new structure, while separate, will be associated with the existing restaurant. The new outdoor service floor area created by the project may be used by both the existing restaurant and the new walk-up service window restaurant. The new outdoor service floor area will include seating and tables. Thus, considering the new service floor area and the proposed office use of the structure, it is appropriate to use the parking standards for Restaurant and Office uses rather than Walk-Up Window Service Restaurant.

For Restaurant use, Policy II.A.3 requires 19 parking spaces (rounding up from 18.6) for the 930 sq. ft. of outdoor and indoor service area on the first floor, and an additional one parking space (rounding down from 1.3) for the 326 sq. ft. office area on the second floor. Policy II.A.4 requires an additional two parking spaces for the first-floor commercial area and two parking spaces for the after-the-fact storage area in the BIZ. Thus, the restaurant component of the project requires 21 parking spaces, the Office use requires one parking space, and the storage area requires two parking spaces, for a total requirement of 24 parking spaces.

The project will shift the 16 existing parking spaces further north to allow for three new parking spaces provided at 209 and 213 Ocean Front Walk, for a total of 19 on-site vehicle spaces spanning all four lots ([Exhibit 2](#)). Additionally, the project will provide bicycle racks both along the boardwalk and in a secure location in the rear of the property, accommodating a total of 40 bicycles. (In Los Angeles County, where bicycle theft is fairly common, the siting of some of the bicycle parking away from the main boardwalk right-of-way may help reduce bicycle theft.) The project also includes 16 off-site vehicle parking spaces leased from a private location approximately 0.4 miles away. The off-site parking will be located St. Joseph Center at 204 Hampton Drive.

St. Joseph Center is subject to CDP No. A-5-VEN-04-315, approved by the Commission on January 13, 2005 for demolition and reconstruction of a portion of the existing church with 132 on-site parking spaces (in an upper and lower parking lot) to serve the on-site uses.<sup>7</sup> The local CDP approved by the City for St. Joseph Center on June 7, 2006 specifically allows the property-owner to lease some of the parking spaces in the lower parking lot to others who are not associated with the Center.<sup>8</sup>

On August 9, 2017, the Commission approved CDP No. A-5-VEN-15-0038 for another restaurant (located at 259 Hampton Drive in Venice) to lease six off-site parking spaces at St. Joseph Center.<sup>9</sup> The six spaces are located in the 71-space lower lot and reserved for patrons of 259 Hampton Drive. The applicant for CDP No. A-5-VEN-15-0038-A1 submitted a parking study conducted by Hirsch/Green Transportation Consulting, Inc. for the original permit approval, dated June 22, 2016, which evaluated the site's ability to reserve parking spaces for private uses. The study noted that nine

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<sup>7</sup> Ref. <https://documents.coastal.ca.gov/reports/2018/8/Th15a/Th15a-8-2018-report.pdf>

<sup>8</sup> Ref. [Local CDP No. APCW-2003-3304-SPE-CU-ZAD-SPP-CDP-EXT](#)

<sup>9</sup> Ref. <https://documents.coastal.ca.gov/reports/2018/8/Th15a/Th15a-8-2018-report.pdf>



parking spaces in the lower lot were reserved by traffic cone placement for unspecified private uses. The study did not clarify this unspecified use; but in response to recent Commission staff inquiry, St. Joseph Center leasing management staff indicated that there are no longer nine spaces reserved by traffic cones in the 71-space lower lot. Leasing management staff indicated that the only current encumbrance in the lower lot is the six parking spaces reserved for 259 Hampton Drive. Regardless, in the study's week-long observation period, the lower lot remained at least 61% vacant after 5PM weekdays and weekends.

The subject leased parking spaces will be located in the same lower lot of St. Joseph Center. As proposed, 16 spaces will be leased for exclusive use by the subject project, available to patrons on weekdays after 5:30pm, weekends and holidays (as these are the busiest restaurant hours). **Special Condition 3** requires the applicant to submit evidence of the number of parking spaces leased for private uses in the lower parking lot to provide staff with a formal confirmation that the proposed 16 off-site parking spaces are available for use.

An on-site valet drop-off/pick-up station will be located in the rear of the project site, accessed by Speedway, to allow patrons vehicles and commercial ride-sharing vehicles to release or board passengers. The valet service will operate during all hours of restaurant operation to park patron vehicles in tandem spaces on-site and leased spaces off-site. Valets will use the 19 total parking spaces on-site (16 existing spaces offered by the original restaurant and shared by the new structure, plus three new spaces on-site) before parking cars at the off-site location.

The project proposes a deficit of five parking spaces according to the certified LUP requirements. However, the applicant has submitted a parking study that suggests sparse use of the existing parking lot. The study was conducted by the applicant's existing valet service, Safety Park, and published on March 3, 2020 for the restaurant at 205, 207, and 209 Ocean Front Walk. The study analyzed parking receipts from January 2019 through February 2020, the 13-month period preceding the pandemic emergency order issued in March 2020. Results of the study indicate that an average of 8.5 vehicles parked in the existing 16 parking spaces on-site prior to 5:30pm on weekdays, and an average of 8.8 vehicles parked on-site following 5:30pm on weekdays. According to the applicant's study, the parking lot is left almost 50% vacant most of the time between Monday and Friday, however no data was provided for weekend use of the parking spaces.

The site location and customer demographic should be considered in determining whether bicycle racks can adequately mitigate a discrepancy between proposed parking spaces and LUP required parking spaces. The boardwalk is heavily frequented by pedestrians, bicyclists, and rideshare app users who wish to avoid driving through traffic. The open design and features adjacent to the boardwalk right-of-way (i.e. shuffleboard, ping pong tables, and a large sign for the restroom that may appeal to passers-by in an area with limited public restroom facilities) is specifically designed to draw pedestrians and cyclist customers.

The Commission reviewed a similar project at The Whaler (10 Washington Boulevard, located 1.4 miles south of the project site on the Venice Beach boardwalk). The project proposed a 754 sq. ft. restaurant addition consisting of removable planter boxes placed within the pedestrian area of the street end with 684 sq. ft. of outdoor service floor area and a walk-up service window. On September 8, 2016, the Commission approved CDP No. 5-16-0478 for the addition with the provision of no on-site parking and 28 off-site parking spaces leased from an off-site location for patron use only on weekdays after 5:30 PM and weekends during all hours of operation.<sup>10</sup> In that case, the approved addition consisted of a patio created with the use of roll-away planter boxes and an awning, both of which are temporary in nature and could be very easily removed in the future if the establishment lost the ability to secure off-site parking. The project before the Commission now has a different set of circumstances; nevertheless, in the case of CDP No. 5-16-0478, the Commission's findings considered the following parameters in determining whether adequate parking may be provided at off-site locations:

1. The proposed off-site parking supply must provide an adequate capacity to meet the demands of the project.
2. The proposed off-site parking supply must be near the proposed project and be accessible for convenient use by the target group that the off-site parking serves.
3. The proposed off-site parking supply must be available for convenient use during the hours that the parking is needed to meet the demands of the project.
4. The proposed off-site parking supply must be available to meet the demands of the project on a permanent or long-term basis.

In this case, the 16 off-site parking spaces in combination with the three on-site parking spaces and 40 bicycle-docking spaces could be sufficient to meet the demands of the proposed development, if implemented and managed consistent with the applicant's proposal and Commission-imposed conditions described below. The off-site parking location is 0.4 miles from the project site and will be conveniently available through valet service, and the applicant has entered into a five-year lease with St. Joseph Center property management. As such, applying these parameters, there is support for approval of the proposal to provide 16 off-site parking spaces to partially meet the development's parking needs.

Furthermore, the Commission has accepted bicycle parking stations in-lieu of vehicle parking spaces in past actions near the project site. On February 12, 2016, the Commission approved CDP No. 5-14-0158 for construction a 2,300 sq. ft. roof-deck addition to an existing 2,700 sq. ft. hotel at 1697 Pacific Avenue, located less than one

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<sup>10</sup> Ref. <https://documents.coastal.ca.gov/reports/2016/9/th15a-9-2016.pdf>

block inland of the beach.<sup>11</sup> Similar to the subject project, the development was constrained by lot size and unable to provide additional parking spaces on-site. The Commission's findings determined that the installation of 92 bicycle-parking stalls along the exterior hotel perimeter, in addition to the already provided 134 on-site valet vehicle parking spaces and a transportation demand management plan, would adequately mitigate the applicant's inability to provide 23 additional on-site parking spaces as required by the LUP. On February 18, 2017, the Commission approved CDP A-5-VEN-16-0046 to convert 717 sq. ft. of an existing 5,000 sq. ft. bakery to a new restaurant use at 320 Sunset Avenue, located approximately 0.3 miles inland of the beach.<sup>12</sup> The Commission's findings determined that the installation of 12 on-site bicycle parking spaces and free public transit passes for employees who require transportation to work would adequately mitigate the applicant's inability to provide 14 additional on-site parking spaces as required by the LUP. While these two examples vary from the subject project with regard to project details, they illustrate the Commission's consideration of site-specific constraints in determining whether an applicant has satisfied parking requirements.

In summary, while not explicitly meeting the parking requirements of the certified LUP, the applicant adequately meets the expected demand generated by the proposed development through the provision of bicycle parking stalls and on- and off-site vehicle parking. **Special Condition 4** requires the applicant to acknowledge that any change in the parking proposed and approved by this permit must be submitted to the Executive Director, to determine if an amendment to the permit is legally required. **Special Condition 4** additionally requires the applicant to maintain 19 vehicle parking spaces spanning the four lots and 40 bicycle parking spaces on-site at all times, and 16 off-site valet vehicle parking on weekends, holidays, and weekdays after 5:30 PM. In the event that either parcel (currently identified as 4286-030-002 and 4286-030-003) undergoes a change in ownership, the two new parking spaces proposed on 205-209 Ocean Front Walk (4286-030-002) must be maintained for the use of the new structure at 213 Ocean Front Walk (4286-030-003) as approved by this permit. This shall be applicable unless the Commission amends the subject permit.

To ensure that any prospective future owners of the properties are made aware of the applicability of the conditions of this permit, including the parking requirements, **Special Condition 12** requires the owner to execute a deed restriction acknowledging that, pursuant to the subject permit (CDP No. 5-21-0877), the Commission has authorized development on the subject property subject to the terms and 12 special conditions of this permit that restrict the use of the subject property.

To ensure construction does not interfere with vehicle activity in the rear alley (Speedway), **Special Condition 6** requires the applicant to submit a Construction Staging Plan for Executive Director review and approval prior to CDP issuance. The

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<sup>11</sup> Ref. <https://documents.coastal.ca.gov/reports/2016/2/f19b-s-2-2016.pdf>

<sup>12</sup> Ref. <https://documents.coastal.ca.gov/reports/2017/2/w30a-2-2017.pdf>

Construction Staging Plan shall prohibit placement or removal of the on-site dumpster during peak traffic hours, to avoid blocking the Speedway.

As proposed and conditioned, the Commission finds that the development conforms to the applicable policies of the certified Venice LUP, as well as sections 30210 and 30252 of the Coastal Act.

#### **D. BIOLOGICAL RESOURCES & WATER QUALITY**

Section 30230 of the Coastal Act states, in relevant part:

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance...

Section 30231 of the Coastal Act states, in relevant part:

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

Sections 30230 and 30231 of the Coastal Act require protection of marine resources for both terrestrial and marine development. Much of the pollutants entering the ocean originate from land-based development. The proposed development's proximity to the beachfront renders it especially important for the applicant to incorporate design measures for reduction of production of polluted runoff and plastic debris, as these could be otherwise be directly introduced to open coastal waters.

Restaurants can be a major source for single-use plastics, in the form of plastic to-go containers, plastic utensils, and Styrofoam containers that can pollute storm drains and end up in open waters. To minimize the risk of marine debris, the Commission imposes **Special Condition 5**, which requires the applicant to submit a Plastic Pollution Reduction Plan for Executive Director approval prior to CDP issuance. The plan shall prohibit the applicant from providing patrons with single-use foodware (unless specifically requested for take-out orders), plastic straws, plastic bags, and other specified plastic products. The applicant must install smoke-free and educational recycling signage and participate in an existing Marine Debris Reduction Program, such as the ReThink Disposable Program or Surfrider's Ocean Friendly Restaurants. Additionally, the applicant shall provide an annual report summarizing actions taken under the Marine Debris Reduction Program, for the review and approval of the Executive Director.

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

biological productivity of coastal waters. For instance, construction debris entering coastal waters may cover and displace soft bottom habitat. Sediment discharged into coastal waters may cause turbidity, which can inhibit light penetration and reduce habitat quality and foraging success for avian and marine species. To avoid water quality impacts during construction, the Commission imposes **Special Conditions 6 and 7**, which require the applicant to submit a construction staging plan and follow construction best management practices. These measures will prevent construction activities and construction related debris from entering and impacting the adjacent sandy beach.

The project does not include any landscaping on-site. However, in the event that the applicant proposes future landscaping, **Special Condition 8** requires the use of a plant palette limited to native—or non-native, drought tolerant, non-invasive—plant species. No plant species listed as problematic and/or invasive by the State of California shall be planted or allowed to persist on-site.

Lastly, Section 30230 of the Coastal Act requires the maintenance of healthy marine species populations (which includes shorebirds), in addition to preservation of water quality. The proposed structure includes glass facing the ocean and could pose a strike-risk for shorebirds. Thus, the Commission imposes **Special Condition 9** requiring the applicant to use materials designed to minimize bird-strikes (such as opaque glass or UV-reflective glazing) for all ocean-facing structures.

Thus, as proposed and conditioned, the Commission finds that the development conforms to sections 30230 and 30231 of the Coastal Act.

## **E. HAZARDS**

Coastal Act Section 30253 states, in relevant part:

New development shall do all of the following:

- (a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.
- (b) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs...

On November 7, 2018, the Commission adopted a scientific update to its Sea Level Rise Policy Guidance. The guidance document serves as Interpretive Guidelines to help ensure projects are designed and built in a way that minimizes risks to the development associated with sea level rise and avoids related impacts to coastal resources. These guidelines state, “to comply with Coastal Act Section 30253 or the equivalent LCP section, projects will need to be planned, located, designed, and engineered for the changing water levels and associated impacts that might occur over the life of the development.” Additionally, Moffat & Nichol prepared a Venice Sea Level Rise Vulnerability Assessment for the City of Los Angeles in May 2018, which further discusses potential sea level rise impacts in Venice.

The Commission's 2018 update recommends using the high emission scenario when determining the range of Low Risk and Medium-High Risk sea level rise. Per this guidance, sea levels near the Santa Monica gauge (i.e. nearest to the project site) will likely rise between 3.3 ft. and 6.8 ft. within the subject development's estimated 75-year lifespan. Our Coast, Our Future's Coastal Storm Modeling System (CoSMoS) provides a map projecting flooding with varying degrees of sea level rise and storm events. A 100-year storm describes a magnitude of storm event with 1 in 100 chance, or 1% chance, of occurring any given year. 20-year storms have a 1 in 20 chance, or 5% chance, of occurring any given year. Annual storms have a lesser magnitude and high likelihood of occurring at least once every year.<sup>13</sup>

The project site is a beach-fronting lot located approximately 175 ft. inland of the sandy beach and approximately 800 ft. from the mean high tide line. The proposed project does not include any sub-surface development or grading. The natural slope of the lot and 49-ft. building setback will result in construction of the new structure at an elevation 1.7-ft. higher than the existing grade at Ocean Front Walk. CoSMoS indicates that the site is unlikely to experience flooding with 6.6 ft. of sea level rise (the closest estimate to 6.8 ft. available on CoSMoS) and an annual storm event. However, with 6.6 ft. of sea level rise and a 20-year storm, the perimeter of the site will be subject to flooding; and with 6.6 ft. of sea level rise and a 100-year storm, nearly half of the site is likely to face inundation [\(Exhibit 5\)](#).

The 49-ft. building setback from the ocean-facing property line extends 44% of the total 111 ft. lot length at 213 Ocean Front. The setback will provide an additional buffer for the structure in the event of 6.6 ft. of sea level rise and a 100-year storm, especially considering all development proposed within the setback is easily removable. The raised elevation of the structure compared to the boardwalk will also lessen the degree of inundation risk. Considering the lack of flooding anticipated in the first scenario (6.6 ft. and an annual storm) and the limited flooding in the second scenario (6.6 ft. and a two-year storm), these measures will be appropriate to mitigate the risk of development in a low-lying, beach-fronting area. As noted above, the third scenario (6.6 ft. of sea level rise and a 100-year storm) has a 1 in 100 chance of occurring any given year and poses a manageable degree of risk for the proposed development as designed and conditioned.

**Special Condition 1** requires the applicant to comply with local government requirements. **Special Condition 10** requires the applicant to assume all risks associated with proposed development, including the risks of flooding and all other sea level rise impacts summarized above. **Special Condition 11** additionally requires the applicant to acknowledge that the development approved by this permit is not entitled to shoreline protection and to waive, on behalf of herself and all successors and assigns, any rights that may exist under applicable law to construct a shoreline protective device to protect the subject development and further requires removal of any development approved by this permit if it encroaches onto the public right-of-way or beach.

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<sup>13</sup> [The 100-Year Flood](#), published by USGS on June 11, 2018.

To ensure that any prospective future owners of the property are made aware of the applicability of the conditions of this permit, **Special Condition 12** requires the applicant to record a deed restriction acknowledging that, pursuant to the subject permit (CDP No. 5-21-0877), the Commission has authorized development on the subject property subject to the terms and 12 special conditions of this permit that restrict the use of the subject property. This condition will additionally provide notice of potential hazards of the property, the risks of flooding, and other sea level rise impacts towards the end of the development's economic life.

Therefore, as proposed and conditioned, the Commission finds that the development conforms to the requirements of Section 30253 of the Coastal Act regarding the siting of development in hazardous locations.

## **F. COASTAL ACT VIOLATION**

A violation of the Coastal Act exists on the subject property, including, but not necessarily limited to, construction of an unpermitted, 918 sq. ft. addition to the existing restaurant located on 205 Ocean Front Walk. The restaurant building was constructed on the site prior to the effective date of the Coastal Act. However, City records show that a 918 sq. ft. attached storage area was constructed in the northernmost portion of the project area between 1981 and 1991, prior to the current applicant's new ownership in 2017.

There is also evidence that the subject unpermitted addition at 205 Ocean Front Walk served as service floor area for a restaurant, Boardwalk Tacos, which operated out of the addition and the adjacent southern area (currently designated as kitchen space for the existing restaurant). The applicant did not obtain a CDP from the City or the Commission for the service floor area use. The applicant has indicated that this unpermitted use began in October 2018 and ceased by June 21, 2019, at which time all countertops, windows, and murals were removed from the subject area. The applicant represents that the area now functions solely as storage area; this has been confirmed by current photographs from 2019 and 2022, which show an absence of the previous open windows, countertops, and paint on the interior walls present when the unpermitted addition functioned as a restaurant ([Exhibit 6](#)).

Additionally, 213 Ocean Front Walk currently supports temporary structures, including plywood walls, an awning, and an eight-stall restroom trailer with no permanent plumbing or pipe infrastructure. The applicant obtained an Al Fresco Dining Permit from the City of Los Angeles Planning Department for the subject structures in 2020 (to allow outdoor dining during the pandemic); however, the use of the site as additional service floor area for the existing restaurant did not receive a coastal development permit (CDP) from the City, nor the Coastal Commission. The proposed project includes removal of all unpermitted structures on 213 Ocean Front Walk and retention of the unpermitted addition at 205 Ocean Front Walk as solely a storage area.

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 herein going forward.



Although development has taken place prior to submission of this permit application, consideration of this application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Commission review and action on this permit does not constitute a waiver of any legal action with regard to the alleged violations (or any other violations), nor does it constitute an implied statement of the Commission's position regarding the legality of the development undertaken on the subject site without a coastal permit, or of any other development, undertaken on the subject site without a coastal permit, except as specifically stated herein. In fact, approval of this permit is possible only because of the conditions included herein, and the applicant's presumed subsequent compliance with said conditions, and failure to comply with these conditions in conjunction with the exercise of this permit would also constitute a violation of this permit and of the Coastal Act. Accordingly, the applicant remains subject to enforcement action just as it was prior to this permit approval for engaging in unpermitted development.

### **G. LOCAL COASTAL PROGRAM (LCP)**

Coastal Act Section 3060 states, in relevant part:

(a) Prior to certification of the Local Coastal Program, a Coastal Development Permit shall be issued if the issuing agency, or the Commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) of this division and that the permitted development will not prejudice the ability of the local government to prepare a local coastal program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200).

The Venice LUP was certified by the Commission on June 14, 2000, is advisory in nature, and may provide the Commission with guidance. Although the Street Wall setback is inconsistent with LUP I.B.7, the Commission finds that the development conforms with, and will not have an adverse cumulative effect on, the visitor-serving commercial character of the area as intended by the LUP. The proposed development is consistent with Chapter 3 of the Coastal Act. Therefore, approval of the project as proposed and 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.

### **H. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

Section 13096(a) of the Commission's 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). The findings above are incorporated herein by reference.

Under Section 15251(c) of Title 14 of the California Code of Regulations, the Commission's CDP regulatory process has been certified as the functional equivalent to the CEQA process. As a certified regulatory program, Section 21080.5(d)(2)(A) of CEQA still applies to the Commission's CDP regulatory process and prohibits a proposed



development from being approved if there are feasible alternatives or feasible mitigation measures available, which would substantially lessen any significant adverse effect which the activity may have on the environment. The City of Los Angeles is the lead agency for purposes of CEQA. As noted on the City's staff report dated February 3, 2021, the City determined that the proposed development was categorically exempt from CEQA requirements pursuant to CEQA Guidelines sections 15301 (Class 1) and 15303 (Class 3).

The Commission incorporates its findings on Coastal Act consistency at this point as if set forth in full. The proposed project has been conditioned in order to be found consistent with the Chapter 3 policies of the Coastal Act. As conditioned, there are no feasible alternatives or additional feasible mitigation measures available which would substantially lessen any significant adverse effect which the development may have on the environment. Public comments received as of the publication of this report have been addressed. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative, has no remaining significant environmental effects, either individual or cumulative, and is consistent with the applicable requirements of the Coastal Act to conform to CEQA.

## **Appendix A – Substantive File Documents**

Policies of the City of Venice Certified Land Use Plan cited in report.

City of Los Angeles Local Coastal Development Permit Case No. APCW-2020-1521-SPE-CDP-CUB-ZV, dated February 3, 2021.