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STAFF REPORT:
APPEAL – SUBSTANTIAL ISSUE AND DE NOVO

Appeal Number:	**A-5-VEN-22-0048**
Applicant:	**Richard Gottlieb & Tobi Miller, 1301 AK, LLC.**
Agent:	City Land Use, Inc.
Local Government:	City of Los Angeles
Local Decision:	Approval with Conditions
Appellant:	Sue Kaplan on behalf of Citizens Preserving Venice
Project Location:	1301 & 1303 Abbot Kinney Boulevard, Venice, City of Los Angeles, Los Angeles County (APNs No. 4239-027-001)
Project Description (On Appeal):	Demolition of a 714 sq. ft., 15 ft. high, one-story single-family dwelling and a detached 1,312 sq. ft., 17 ft. high, one-story duplex, and the construction of a new 4,990 sq. ft., 35 ft. high, three-story mixed-use structure with one subterranean parking level (automated parking system) comprised of **two primary dwelling units, one attached Accessory Dwelling Unit**, 1,587 sq. ft. of retail space; 13 parking spaces are provided. The project also includes 2,388 cu. yds. of grading (2020 cu. yds. cut and 368 cu. yds. fill).
Project Description (De Novo):	Demolition of a 714 sq. ft., 15 ft. high, one-story single-family dwelling and a detached 1,312 sq. ft., 17 ft. high, one-story duplex, and the construction of a new

	4,990 sq. ft., 35 ft. high, three-story mixed-use structure with one subterranean parking level (automated parking system) comprised of **three primary dwelling units** and 1,587 sq. ft. of retail space; 14 parking spaces are provided. The project also includes 2,388 cu. yds. of grading (2020 cu. yds. cut and 368 cu. yds. fill).
Staff Recommendation:	Substantial Issue on Appeal and Approval with Special Conditions on De Novo

IMPORTANT NOTE: The Commission will not take testimony on this "substantial issue" recommendation unless at least three commissioners request it. The Commission may ask questions of the applicant, any aggrieved person, the Attorney General or the Executive Director prior to determining whether or not to take testimony regarding whether the appeal raises a substantial issue. (14 CCR § 13115(c).) If the Commission takes testimony regarding whether the appeal raises a substantial issue, testimony is generally and at the discretion of the Chair limited to 3 minutes total per side. Only the applicant, the appellant, persons who opposed the application before the local government, and the local government shall be qualified to testify during this phase of the hearing. Others may submit comments in writing. (14 CCR § 13117.) If the Commission finds that the appeal raises a substantial issue, the de novo phase of the hearing will occur directly following that finding, during which it will take public testimony.

SUMMARY OF STAFF RECOMMENDATION

On November 12, 2020 the City of Los Angeles Zoning Administrator approved a Coastal Development Permit (CDP) for the following development: (1) the demolition of a one-story, 15 ft. high, 714 sq. ft. single-family dwelling and a detached one-story 1,312 sq. ft. 17 ft. high duplex; and (2) the construction of a new 4,990 sq. ft. three-story 35 ft. high, mixed-use structure with one subterranean parking level.

The City-approved development is comprised of one 1,120 sq. ft. dwelling unit, one 1,159 sq. ft. dwelling unit, one 1,124 sq. ft. attached Accessory Dwelling Unit (ADU) (a total of 3,403 sq. ft. of residential development), and 1,587 sq. ft. of retail space. The City-approved project would provide 13 parking spaces and eight bicycle parking spaces onsite (12 parking spaces would be provided in a subterranean automated parking structure, one Accessible vehicle space at-grade, and two of the required commercial spaces would be replaced by four bicycle parking spaces each); all vehicle access is from South Irving Tabor Court. The City-approved project also includes 2,388 cu. yds. Of grading (2,020 cu. yds. cut and 368 cu. yds. fill).

The subject site, 1301 Abbot Kinney Boulevard, is a flat, rectangular property of approximately 3,392 sq. ft. The subject site is a corner lot, with a frontage of 40 ft. on Abbot Kinney Boulevard/South Irving Tabor Court and a uniform depth of 85 ft. on

Santa Clara Avenue. The rear property line adjoins South Irving Tabor Court (alley). The subject property is located 0.5 miles inland from the beach, in the Single-Permit Jurisdiction of the Coastal Zone, North Venice subarea of the Venice Land Use Plan (LUP). The neighborhood and properties immediately surrounding the property are developed with one-story to three-story commercial and residential structures on Abbot Kinney Boulevard and one-story to three-story residential structures in the neighborhood across Electric Avenue.

The City-approved project was appealed by Sue Kaplan on behalf of Citizens Preserving Venice. The appeal raises the following contentions:

1. The use of an ADU to replace the third existing rental unit does not maintain density.

2. The project will prejudice the ability of the City of Los Angeles to prepare a local coastal program in conformity with Chapter 3 of the California Coastal Act.

3. The project did not adequately analyze sea-level rise impacts.

4. The City incorrectly interpreted Coastal Act Sections 30251 and 30253(e) and failed to make findings regarding whether the project would have a significant adverse cumulative effect on coastal resources including the character of the neighborhood.

5. The project is not compatible with the mass and scale of the surrounding neighborhood and does not conform with Venice LUP Policies I.E.1 (General), I.E.2 (Scale), and I.E.3 (Architecture).

6. The project does not preserve existing affordable housing stock.

7. The Commission's Environmental Justice Policy was not considered.

8. The project does not provide adequate parking, the proposed automated parking scheme is impractical, and the LUP does not allow for substitution of required parking with bicycle parking.

9. The project does not protect historic resources.

10. Loading Zone cannot be waived.

The grounds for an appeal of a CDP issued by the local government prior to certification of its local coastal program (LCP) are limited to the project's consistency with the Chapter 3 policies of the Coastal Act. Any local government CDP issued prior to certification of its LCP may be appealed to the Commission. The Commission shall hear an appeal unless it determines that no substantial issue exists as to conformity with Chapter 3 policies of the Coastal Act. The Venice certified LUP may be used as guidance, but it does not constitute the standard of review for this appeal.

The Coastal Act encourages the concentration of new development in already developed areas that are able to accommodate it in order to avoid cumulative impacts to coastal resources and minimize vehicle miles traveled (Cal. Pub. Res. Code §§ 30250 and 30253(d)). These policies reflect an over-arching acknowledgment that concentrated and well-planned residential development supports the long-term preservation of coastal resources. As explained further below, the subject lot can accommodate three primary units under the certified LUP. Therefore, the redevelopment of the existing single-family residence and detached duplex with two full primary units and an ADU would result in the loss of one full residential unit. Staff agrees that the project, as approved by the City, does not preserve overall density in an area able to accommodate it, and thus is inconsistent with Coastal Act section 30250. Therefore, the appellant's contention that replacing the third existing residential unit with an ADU does not maintain density raises a substantial issue.

In addition, staff agrees with the appellants that the City did not adequately condition the project to minimize risk in a hazardous area, consistent with Coastal Act section 30253. Although the project is not directly adjacent to the beach, it is in an area of Venice that is subject to coastal flooding that is exacerbated by sea level rise (SLR). Using the Coastal Storm Modeling System (CoSMoS), considering a scenario of a minimum 6.6 ft. SLR and a 100-year storm scenario shows the subject site could potentially be affected by flooding as a result of SLR. The potential for such flooding in severe storm events is likely to increase towards the end of the project life (based on a typical development life of 75 years). The City approval did not require any mitigation strategies for the subterranean parking garage should the development be damaged by SLR related flooding in the future. In addition, the City approval did not require the applicant to assume the risk of developing in a hazardous area or impose a condition requiring that the applicant to remove the development if it is deemed unsafe by a government entity, essential services can no longer be maintained, or if maintenance of the development is counter to LCP or Coastal Act policies meant to adapt to SLR. Thus, Commission staff finds that the project, as approved by the City, is inconsistent with section 30253 of the Coastal Act and the contention that the City did not adequately analyze SLR impacts raises a substantial issue.

The project, as approved by the City, does not preserve overall density in an area able to accommodate it. Additionally, if this project was approved, other projects within this area could redevelop the lots with residences and ADUs that may not provide meaningful replacement units. Further, the City did not adequately condition the project to minimize risk in a hazardous area, consistent with Coastal Act section 30253. Therefore, the City-approved project would prejudice the ability of the City of Los Angeles to develop their LCP consistent with the Chapter 3 policies of the Coastal Act, counter to the requirement of Coastal Act section 30604.

The appellant contends that City incorrectly interpreted Coastal Act sections 30251 and 30253(e) and failed to make findings regarding whether the project would have a

significant adverse cumulative effect on coastal resources including the character of the neighborhood.

However, the City-approved development incorporates design elements consistent with the other nearby structures, including a varied roofline, a five ft. setback from the property line on all sides on the second level, five ft. setbacks on three sides of the third level, and an approximately nine ft. setback on the fourth side of the third level. Additionally, the proposed project includes a ten ft. step-back on the Abbot Kinney facing roof line. These design aspects reduce the visual impacts to the pedestrian scale of this area of Venice.

The City conducted an analysis of the lots and architectural style of 37 structures between San Juan Avenue and California Avenue on the north side of Abbot Kinney Boulevard and between Aragon Court and Andalusia Avenue on the south side of Abbot Kinney Boulevard. The City characterized the commercial neighborhood as developed primarily with one-story to three-story commercial structures on Abbot Kinney Boulevard and one-story to three-story residential structures in the neighborhood across Electric Avenue. The City stated that the proposed project complies with the policies of the LUP and includes several design elements consistent with the other structures on the block, including a varied roofline, and stepped back second and third stories. Local approval conditioned the structure to maintain a maximum height of 35 ft. and required the ground floor to comply with the Venice Coastal Zone Specific Plan, Section 11.B.1.a, "whereby the ground floor of retail/commercial use is built to the lot line. The residential portion of the proposed development incorporates a 5 foot setback on the East, West, and South side of the 2nd and 3rd floors and a 9-foot, 3 ½- inch setback on the North side of the 3rd floor which will mitigate the visual impact of the structure and maintain compatibility with the scale of the nearby structures." The City concluded that the proposed project does not impact the scale and character of the neighborhood and does not alter any existing views or change the visual character of the surrounding area.

In addition, staff conducted an independent survey of the area surrounding the proposed development, which covered the same 37 structures that the City surveyed. Staff found that the City-approved project does not impact the community character of the neighborhood. Thus, based on the results of the City and Commission surveys and the design elements of the proposed structure, staff believes that the proposed project is consistent with Coastal Act sections 30251 and 30253(e) and certified LUP Policies I.A.1, through I.A.4, which protect Venice's unique community character, a significant coastal resource. Additionally, staff further believes the project is consistent with LUP Policy I.E.2, which states, in part, "all new development and renovations should respect the scale, massing, and landscape of existing residential neighborhoods" and LUP Policy I.E.3, which states, in part, "varied styles of architecture are encouraged …while maintaining the neighborhood scale and massing." Thus, the appellant's contention that the project Is inconsistent with the mass and scale of the surrounding neighborhood does not raise a substantial issue.

The appellant also contends that the City-approved project does not consider impacts to environmental justice and social diversity. Specifically, the appellant contends that the City used commercial rents to determine that no affordable housing currently exists on the subject site, and thus the City erred in its Mello Act decision to not require affordable housing. Although the appellant raises issues related to the City's compliance with the Mello Act, the Commission does not have authority to review the City's Mello Act determinations. It is the responsibility of the local government to implement the Mello Act. Therefore, the appellant's contention regarding the City's Mello Act determination does not raise a substantial issue because the Commission does not have jurisdiction to review those contentions. The unpermitted conversion of residential space to commercial use is discussed more fully below.

The appellant also contends that the project does not provide adequate parking, that the proposed automated parking scheme is impractical, and that the LUP does not allow for substitution of required parking with bicycle parking. Staff has confirmed that the number of parking spaces provided conforms with the certified Venice LUP parking requirements. The automated parking garage design was reviewed and approved by the City and no conclusive evidence has been provided to the Commission showing that it will not function as designed. Further, the Commission has approved various projects that included replacement of a limited number of required automobile parking spaces with bicycle parking spaces[1]. As such, these contentions do not raise a substantial issue.

The appellant further contends that the City inappropriately waived the requirement for the structure to provide a loading zone. The certified LUP does not include a provision that requires a loading zone. This is only required by the uncertified zoning code, which is not the standard for review. Further, both the City and the appellant state that there are currently no properties on Abbot Kinney that have a loading zone. As such, this contention does not raise a substantial issue.

Finally, the appellant argues that the project does not protect historic resources. Neither the project site nor the current structures are listed on the National or California Register of Historic Places or identified as a Historic Cultural Monument (HCM), nor has the Project Site been found to be a potential historic resource based on the City's Historic Places LA. Therefore, this contention does not raise a substantial issue.

Staff recommends that the Commission, after a public hearing, determine that a substantial issue exists with respect to several of the grounds on which appeal number A-5-VEN-22-0048 has been filed.

[1] See A-5-VEN-21-0070, A-5-VEN-21-0063, and A-5-VEN-20-0060 staff reports

The motion and resolution on substantial issue can be found on Page 10 of the staff report.

After working with Commission staff, the applicant revised the project design to provide three full primary units and to increase onsite parking to 14 spaces, consistent with the Venice LUP requirement for the subject site's Commercial Artcraft land use designation. The new project design will maintain the same square footage, height, number of stories, and architectural design as the originally proposed project. **Special Condition 1** requires the permittee to undertake the development in conformance with the revised final plans submitted to the Commission, which must incorporate three full primary units and 14 parking spaces on the site. Further, **Special Condition 3** imposes the retention of three dwelling units for the life of the development and prohibition of ingress or egress (doors) between any of the units.

In order to address potential impacts from SLR induced flooding, **Special Condition 7** requires a final dewatering plan prior to issuance of a coastal development permit.

In addition, a violation of the Coastal Act and City's LUP has occurred at the site, consisting of, but not necessarily limited to, the unpermitted conversion of all three residential units to retail space. All development within the coastal zone, including the change of use of an existing structure, requires a CDP unless the requested action is determined to be exempt from permit requirements, which is not the case here. Approval of this application pursuant to the staff recommendation and applicant's compliance with all terms and conditions of the permit would resolve the violation. The matter has been referred to the Commission's enforcement division to consider options for future action to address the violations discussed herein.

Commission staff recommends 12 special conditions to ensure that the project is consistent with Chapter 3 of the Coastal Act. The conditions include: 1) Revised Final Plans; 2) Local Government Approval; 3) Retention of Three Units On-Site; 4) Geotechnical Recommendations; 5) Assumption of Risk; 6) Maintenance Plan; 7) Final Dewatering Plan; 8) Water Quality; 9) Development Removal; 10) Construction Staging Plan; 11) Protection of Archaeological and Tribal Cultural Resources; and 12) Deed Restriction.

As thus conditioned, staff recommends the Commission find the development as proposed and conditioned, maintains onsite residential density consistent with Section 30250(a) and minimizes risks to life and property in hazardous areas consistent with Section 30253(a). In addition, the revised project is consistent with the policies of the Venice LUP and won't prejudice the ability of the City to prepare an LCP In conformity with Chapter 3 of the Coastal Act.

Therefore, staff recommends that, after a public hearing, the Commission **approve de novo permit A–5-VEN-22-0048** as conditioned**.** The motion and resolution on de novo can be found on Page 35 of the staff report.

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I. MOTION AND RESOLUTION – SUBSTANTIAL ISSUE

Motion: I move that the Commission determine that Appeal No. A-5-VEN-22-0048 raises **NO** substantial issue with respect to the grounds on which the appeal has been filed under Section 30602 of the Coastal Act.

Staff recommends a **NO** vote. Failure of this motion will result in a de novo hearing on the application, and adoption of the following resolution and findings. Passage of this motion will result in a finding of No Substantial Issue and the local action will become final and effective. The motion passes only by an affirmative vote of the majority of the appointed Commissioners present.

Resolution: The Commission hereby finds that Appeal No. A-5-VEN-22-0048 presents a substantial issue with respect to the grounds on which the appeal has been filed under Section 30602 of the Coastal Act regarding consistency with the Certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.

II. APPELLANT'S CONTENTIONS

On August 18, 2022, within 20 working days of receipt of notice of final local decision, Sue Kaplan on behalf of Citizens Preserving Venice filed an appeal of the local CDP.

The appeal includes the following contentions:

1. The use of an ADU to replace the third existing rental unit does not maintain density.

2. The project will prejudice the ability of the City of Los Angeles to prepare a local coastal program in conformity with Chapter 3 of the California Coastal Act.

3. The project did not adequately analyze sea-level rise impacts.

4. The City incorrectly interpreted Coastal Act Sections 30251 and 30253(e) and failed to make findings that the project would have a significant adverse cumulative effect on coastal resources including the character of the neighborhood.

5. The project is not compatible with the mass and scale of the surrounding neighborhood and does not conform with Venice LUP Policies I.E.1 (General), I.E.2 (Scale), and I.E.3 (Architecture).

6. The project does not preserve existing affordable housing stock.

7. The Commission's Environmental Justice Policy was not considered.

8. The project does not provide adequate parking, the proposed automated parking scheme is impractical, and the LUP does not allow for substitution of required parking with bicycle parking.

9. The project does not protect historic resources.

10. Loading Zone cannot be waived.

III. LOCAL GOVERNMENT ACTION

On March 26, 2015, the applicant submitted an application for the proposed project to the City of Los Angeles Planning Department (ZA-2015-1155-SPP-CDP-MEL-ZV). On November 12, 2020, the Zoning Administrator conducted a public hearing on the proposed project and issued a Letter of Determination on March 22, 2021. On April 6, 2021, two appeals were filed with the City of Los Angeles, Department of City Planning for the proposed project. On October 20, 2021, the West Los Angeles Area Planning Commission conducted a hearing on the appeals, denied the appeals and sustained the decision of the Zoning Administrator. On November 23, 2021, an appeal of the CEQA determination was filed with the City of Los Angeles, Department of City Planning for the proposed project. On June 7, 2022, the City of Los Angeles Planning and Land Use Management (PLUM) committee conducted a public hearing on the CEQA appeal and recommended that the City Council deny the CEQA appeal and sustain the decision by the West Los Angeles Area Planning Commission. On June 7, 2022, the City Council denied the CEQA appeal and sustained the decision by the West Los Angeles Area Planning Commission.

On July 21, 2022, the Commission received the City's Notice of Final Action (NOFA) for the project and opened the Commission's 20 working-day appeal period **(Exhibit 4)**. On August 18, 2022, the above-mentioned appeal was filed at the Commission's South Coast District office **(Exhibit 5)**. No other appeals were received prior to the end of the Commission's appeal period at 5:00 PM on August 18, 2022.

IV. APPEAL PROCEDURES

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

After issuance of a local CDP, the City must provide notice of its decision to the Coastal Commission within five working days. Unless the local government provides such notification to the commission, the permit issued by the local government shall be of no force and effect. [section 13315 of Title 14 of the California Code of Regulations]. After receipt of such a notice which contains all the required information, a twenty working-day appeal period begins during which any person, including the applicants, the Executive Director, or any two members of the Commission, may appeal the City decision to the Coastal Commission. [Cal. Pub. Res. Code § 30602.] As provided under section 13318 of Title 14 of the California Code of Regulations, the appellant must comply with the procedures for filing an appeal as required under section 13111 of Title 14 of the California Code of Regulations, including the specific grounds for appeal and a summary of the significant question raised by the appeal.

The action currently before the Commission is to find whether there is a "substantial issue" or "no substantial issue" raised by the appeal of the local approval of the City-approved project. Sections 30621 and 30625(b)(1) of the Coastal Act, and Section 13321 of the Commission's regulations, require a de novo hearing of the appealed project unless the Commission determines that no substantial issue exists as to the project's conformity with Chapter 3 of the Coastal Act.

Commission staff recommends a finding of **substantial issue**. If the Commission decides that the appellant's contentions raise no substantial issue as to conformity with Chapter 3 of the Coastal Act, the action of the local government becomes final. Alternatively, if the Commission finds that a substantial issue exists with respect to the grounds raised as to the conformity of the action of the local government with the Chapter 3 policies of the Coastal Act, the local CDP is voided and the Commission will hear the de novo matter immediately following the substantial issue finding, unless the Commission schedules the de novo portion of the hearing for a future date. [Cal. Pub. Res. Code §§ 30621 and 30625.] Section 13321 of the Coastal Commission regulations specifies that de novo actions will be heard according to the procedures outlined in Sections 13114 and 13057-13096 of the Commission's regulations.

If there is no motion from the Commission to find no substantial issue, it will be presumed that the appeal raises a substantial issue, and the Commission will hold the de novo phase of the public hearing on the merits of the application, using the Chapter 3 policies of the Coastal Act. The Venice LUP, certified on June 14, 2001, is used as guidance. Sections 13110-13120 of Title 14 of the California Code of Regulations further explain the appeal hearing process.

If the Commission decides to hear arguments and vote on the substantial issue question, those who are qualified to testify at the hearing as provided by Section 13117 of Title 14 of the California Code of Regulation, will typically have three minutes per side to address whether the appeal raises a substantial issue. The only persons qualified to testify before the Commission at the substantial issue portion of the appeal process are the applicants, appellants, persons who opposed the application before the local

government, and the local government. Testimony from other persons must be submitted in writing. The Commission will then vote on the substantial issue matter. It takes a majority of Commissioners present to find that the grounds for the appeal raise no substantial issue.

V. SINGLE/DUAL PERMIT JURISDICTION AREA

Within the areas specified in Section 30601, which is known in the City of Los Angeles permit program as the Dual Permit Jurisdiction area, the Coastal Act requires that any development which receives a local CDP also obtain a second (or "dual") CDP from the Coastal Commission. For projects located inland of the areas identified in Section 30601 (i.e, projects in the Single Permit Jurisdiction), the City of Los Angeles local coastal development permit is the only CDP required. The subject project site on appeal herein is located within the Single Permit Jurisdiction area. Therefore, the applicant is not required to obtain a second, or "dual", CDP from the Commission for the City-approved development.

VI. FINDINGS AND DECLARATIONS

A. Project Description and Location

The scope of work approved by the City includes: (1) the demolition of a 714 sq. ft., 15. ft. high one-story single-family dwelling and a 1,312 sq. ft., 17 ft. high one-story duplex located in the Beach Impact Zone (BIZ); and (2) the construction of a new 4,990 sq. ft. three-story mixed-use structure with one subterranean parking level. The City-approved development is comprised of one duplex (including one 1,120 sq. ft. dwelling unit and one 1,159 sq. ft. dwelling unit), one 1,124 sq. ft. attached Accessory Dwelling Unit (ADU) (a total of 3,403 sq. ft. of residential development), and 1,587 sq. ft. of retail space. The City-approved project will provide 13 parking spaces and eight bicycle parking spaces onsite (12 parking spaces will be provided in a subterranean automated parking structure, one accessible space at-grade, and two required commercial spaces will be replaced by four bicycle parking spaces each); all vehicle access shall be from South Irving Tabor Court. **(Exhibit 2)**.

The project site consists of one lot located on the corner of Abbot Kinney Boulevard and Santa Clara Avenue. 1301 & 1303 Abbot Kinney Boulevard are developed with a pre-coastal one-story single-family residence and a detached pre-coastal one-story duplex that have functioned as unpermitted retail space for an undetermined period of time **(Exhibit 1)**. The unpermitted conversion from residential to commercial use is discussed more fully below.

The project site is located approximately one-half of a mile inland of the beach in the North Venice subarea of Venice **(Exhibit 1)**. The subject lot is approximately 3,392 sq.-ft. in area. The site is designated as Commercial Artcraft in the certified LUP. The Commercial Artcraft designation is intended to "create enclaves in which the artisan segments of the population may live, create, and market their work, to maintain the

variety and distinctiveness of Venice's lifestyles". Artcraft activities including "mixed-use, combining residential and commercial uses which emphasize artist-in-residence uses, small businesses, light industrial and artisan activities are permitted in these areas". The site is zoned C2-1-O-CA Commercial, which allows commercial uses to be developed on the site.

B. Factors To Be Considered In Substantial Issue Analysis

When determining whether an appeal raises a "substantial issue," section 13115(c) of the Commission's regulations provide that the Commission may consider factors, including but not limited to:

1. The degree of factual and legal support for the local government's decision;

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

3. The significance of the coastal resources affected by the decision;

4. The precedential value of the local government's decision for future interpretations of its LCP; and

5. Whether the appeal raises local issues, or those of regional or statewide significance.

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

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

C. Substantial Issue Analysis

As stated in Section IV of this report, the grounds for an appeal of a CDP issued by the local government prior to certification of its LCP are whether the proposed development is in conformity with the Chapter 3 policies of the Coastal Act. Any local government CDP issued prior to certification of its LCP may be appealed to the Commission. The Commission shall hear an appeal unless it determines that no substantial issue exists as to the project's conformity with Chapter 3 policies of the Coastal Act. The Venice certified LUP may be used as guidance, but it does not constitute the standard of review for this appeal.

The following subsection lists all of the relevant Coastal Act policies and LUP policies. Next, there will be an analysis of the contentions that raise a substantial issue, followed by an analysis of the contentions that do not raise a substantial issue.

Relevant Coastal Act and LUP Policies

Coastal Act section 30250 states:

> (a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources.
>
> (b) Where feasible, new hazardous industrial development shall be located away from existing developed areas.
>
> (c) Visitor-serving facilities that cannot feasibly be located in existing developed areas shall be located in existing isolated developments or at selected points of attraction for visitors.

Coastal Act section 30251 states:

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

Coastal Act section 30253 states, in pertinent 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.
>
> (d) Minimize energy consumption and vehicle miles traveled.
>
> (e) Where appropriate, protect special communities and neighborhoods that, because of their unique characteristics, are popular visitor destination points for recreational uses.

Coastal Act section 30270 states:

> The commission shall take into account the effects of sea level rise in coastal resources planning and management policies and activities in order to identify,

assess, and, to the extent feasible, avoid and mitigate the adverse effects of sea level rise.

Coastal Act Section 30604 states, in pertinent part:

(f) The commission shall encourage housing opportunities for persons of low and moderate income. In reviewing residential development applications for low- and moderate-income housing, as defined in paragraph (3) of subdivision (h) of Section 65589.5 of the Government Code, the issuing agency or the commission, on appeal, may not require measures that reduce residential densities below the density sought by an applicant if the density sought is within the permitted density or range of density established by local zoning plus the additional density permitted under Section 65915 of the Government Code, unless the issuing agency or the commission on appeal makes a finding, based on substantial evidence in the record, that the density sought by the applicant cannot feasibly be accommodated on the site in a manner that is in conformity with Chapter 3 (commencing with Section 30200) or the certified local coastal program.

(g) The Legislature finds and declares that it is important for the commission to encourage the protection of existing and the provision of new affordable housing opportunities for persons of low and moderate income in the coastal zone.

(h) When acting on a coastal development permit, the issuing agency, or the commission on appeal, may consider environmental justice, or the equitable distribution of environmental benefits throughout the state.

Coastal Act section 30625(c) states:

(c) Decisions of the commission, where applicable, shall guide local governments or port governing bodies in their future actions under this division.

LUP Policy I. B. 2. Mixed-Use Development, states:

Mixed-use residential commercial development shall be encouraged in all areas designated on the Land Use Policy Map for commercial use. Residential density in commercial land use designations shall not exceed one unit per 800-1200 sq. ft. of lot area and shall comply with the Floor Area Ratio (FAR) limits set forth in Policy I.B.7. The design of mixed-use development is intended to help mitigate the impact of the traffic generated by the development on coastal access roads and reduce parking demand by reducing the need for automobile use by residents and encouraging pedestrian activity. Such development shall comply with the density and development standards set forth in this LUP.

Implementation Strategy

The LIP (Specific Plan) shall include specific standards which provide for mixed-use development in commercial areas.

Policy I.B.3. Commercial Artcraft Land Use Designation, states:

> The purpose of this land use designation is to create enclaves in which the artisan segments of the population may live, create, and market their work, to maintain the variety and distinctiveness of Venice's lifestyles. Residential density in the Commercial Artcraft designation shall not exceed one unit per 800-1200 sq. ft. of lot area.
>
> Land designated Commercial Artcraft in the Venice Coastal Zone shall include the following areas:
>
> **North Venice:** As indicated on the Land Use Policy Maps (Exhibits l0a and l0b), properties located along Abbot Kinney Boulevard from North Venice Boulevard to Westminster Avenue, along Windward Avenue from Ocean Front Walk to Pacific venue, and along Ocean Front Walk in that vicinity, including a small site at North Venice Boulevard and Pacific Avenue.
>
> Uses: Artcraft activities including mixed-use, combining residential and commercial uses which emphasize artist-in-residence uses, small businesses, light industrial and artisan activities are permitted in these areas. Drive-thru facilities and billboards shall be prohibited in the Commercial Artcraft land use designation.

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

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

LUP Policy I.E.2 Scale, states:

> New development within the Venice Coastal Zone shall respect the scale and character of 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. Lot consolidations shall be restricted to protect the scale of existing neighborhoods. Roof access structures shall be limited to the minimum size necessary to reduce visual impacts while providing access for fire safety. In visually sensitive areas, roof access structures shall be set back from public recreation areas, public walkways, and all water areas so that the roof access structure does not result in a visible increase in bulk or height of

> the roof line as seen from a public recreation area, public walkway, or water area. No roof access structure shall exceed the height limit by more than ten (10) ft. Roof deck enclosures (e.g. railings and parapet walls) shall not exceed the height limit by more than 42 inches and shall be constructed of railings or transparent materials. Notwithstanding other policies of this LUP, chimneys, exhaust ducts, ventilation shafts and other similar devices essential for building function may exceed the specified height limit in a residential zone by five ft.

LUP Policy I. E.3 Architecture, states:

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

Policy I. F. 1. Historic and Cultural Resources, states:

> The historical, architectural and cultural character of structures and landmarks in Venice should be identified, protected and restored where appropriate, in accordance with historical preservation guidelines. The following buildings, streets, and trees have been identified through the coordinated efforts of surveys performed by the Venice Historical Society, Venice Community, State Coastal Conservancy and City of Los Angeles as significant architectural, historical and cultural landmarks in the Venice Coastal Zone.
>
> Venice City Hall
>
> Lighthouse Street Bridge
>
> Eastwind Community Gardens
>
> Crown Arms (Catamaran St.)
>
> Bay Cities Laundry
>
> Sidewalk Café (1915)
>
> Waldorf Hotel (1913)
>
> St. Charles Hotel (1905) – (St. Marks Annex).
>
> Abbot Kinney Boulevard between Venice Boulevard and Brooks
>
> Avenue
>
> Old Venice Jail
>
> Breakwater (1905)
>
> Brick Street – 18th Street
>
> 64-72 Market Street (1913-14)

Canals Bridges

Old Venice Library

The Windward area, including the Windward Colonnades,

Windward Apartments (1906), 52 Windward Avenue and 80

Windward Avenue (constructed in 1905 and housed the Venice First National Bank).

Walk streets (as shown in the LUP on Exhibit 19, Pedestrian Access and Bicycle Trails).

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

> The parking requirements outlined in the following table shall apply to all new development, any addition and/or change of use. The public beach parking lots and the Venice Boulevard median parking lots shall not be used to satisfy the parking requirements of this policy. Extensive remodeling of an existing use or change of use which does not conform to the parking requirements listed in the table shall be required to provide missing numbers of parking spaces or provide an in-lieu fee payment into the Venice Coastal Parking Impact Trust Fund for the existing deficiency. The Venice Coastal Parking Impact Trust Fund will be utilized for improvement and development of public parking facilities that improve public access to the Venice Coastal Zone.

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 sq. ft. 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 sq. ft. 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.

c. All in-lieu fees shall be paid into the Venice Coastal Parking Impact Trust Fund to be administered by the City of Los Angeles Department of Transportation for improvement and development of public parking facilities that support public access to the Venice Coastal Zone.

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.

Implementation Strategies

The in-lieu fee for a BIZ parking space shall be established in the (LIP) at a rate proportional to the cost of providing a physical parking space.

Factors That Raise a Substantial Issue

1) Reduction in available housing stock

The appellant contends that replacing one residential unit with an ADU would result in a loss of housing density and would not preserve overall density in an area able to accommodate it and, thus, is inconsistent with Coastal Act section 30250. The Coastal Act encourages the concentration of new development in already developed areas that are able to accommodate it in order to avoid cumulative impacts to coastal resources and minimize vehicle miles traveled (Pub. Res. Code §§ 30250 and 30253(d)). These policies reflect an over-arching acknowledgment that concentrated and well-planned residential development supports the long-term preservation of coastal resources.

The project site is located in the North Venice subarea on a site designated as Commercial Artcraft by the certified Venice LUP. The City determined that the maximum density determination on the subject 3,392 sq. ft. lot is two units based on the uncertified Los Angeles Municipal Code (LAMC). LAMC Section 12.10-C.4 states, in relevant part, “in no case…shall more than two dwelling units be permitted where a lot has an area of less than 4,000 square feet.” However, Policy I. B. 2. of the Venice LUP provides that residential density in commercial land use designations shall not exceed one unit per 800-1200 sq. ft. of lot area and does not include a prohibition on developing more than two units on lots less than 4,000 sq. ft. Thus, three primary residential units on this 3,392 sq. ft. lot would be consistent with the certified LUP.

In light of the City's uncertified zoning code restriction that prohibits three primary residential units on the project site, the applicants have proposed to construct an attached 1,124 sq. ft. ADU located on the second and third levels of the structure, between the two primary residential units, that features a separate exterior entry (pursuant to the State's ADU requirements), its own kitchen and dining area, one bathroom, multiple windows, and one bedroom (**Exhibit 2**).

Construction of two primary residential units and an attached ADU would result in the loss of one existing primary residential unit, discussed more fully below. California is currently experiencing a severe housing supply shortage. The California Department of Housing and Community Development (HCD) projects that more than 2.5 million homes must be developed over an eight-year period to meet the housing needs of California residents, and at least one million of these must be developed to meet the needs of lower-income households.[2] For context, only approximately 867,000 total units were permitted in the state for the eight-year period of 2012-2020.[3] In Los Angeles County, HCD projects that over 456,000 new housing units are needed to meet the needs of residents for the period of 2021-2029.[4] However, only approximately 27,400 of these units have been permitted so far.[5] Additionally, over 22,000 affordable homes are at risk of conversion to market rate in the next five years, including 7,973 affordable housing units in Los Angeles County.[6] From 2000 to 2015, Venice saw a reduction in housing by potentially 700 units, and there appears to be a trend in CDP applications for conversion of multi-family structures to single-family residences.[7]

Housing shortages throughout the state have been met with growing efforts to address and improve availability. In 2022, the State Legislature declared that California is facing a severe shortage of housing at all income levels, and that this severe shortage is a matter of statewide concern.[8] Thus, the Commission has emphasized the importance of preserving existing housing stock in already developed areas of the coastal zone where appropriate, thereby minimizing impacts to coastal resources (Coastal Act sections 30250 and 30253) and encouraging more affordable housing (Coastal Act section 30604(f)).

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[2] California Department of Housing and Community Development (HCD), 2022 Statewide Housing Plan, available at https://statewide-housing-plan-cahcd.hub.arcgis.com/.
[3] HCD, 2022 Statewide Housing Plan Story Map, available at https://storymaps.arcgis.com/stories/94729ab1648d43b1811c1698a748c136/.
[4] HCD, Housing Element Implementation and APR Dashboard, available at https://www.hcd.ca.gov/planning-and-community-development/housing-open-data-tools/housing-element-implementation-and-apr-dashboard; Southern California Association of Governments (SCAG)'s 6th Cycle Regional Housing Needs Assessment (RHNA) Final Allocation Plan, available at https://scag.ca.gov/sites/main/files/file-attachments/6th_cycle_final_rhna_allocation_plan_070121.pdf?1646938785.
[5] HCD, Housing Element Implementation and APR Dashboard.
[6] HCD, 2022 Statewide Housing Plan Story Map.
[7] Brausuell, James. 2017. "Venice, California has fewer housing units than in 2000". Planetizen website. https://www.planetizen.com/node/93800/venice-california-has-fewer-housing-units-2000
[8] Senate Bill 478 (Weiner), Stats. 2022, Ch. 363, Sec. 4.

The policies in the certified Venice LUP also seek to preserve and maintain existing housing stock by encouraging the accommodation of duplexes and multi-family developments in areas deemed appropriate to sustain such development (Policies I.A.5 through I.A.8) and preserving the character of Venice, including architectural and social diversity and multi-family residential neighborhoods (Policy I.E.1 and "Duplex/Multi-Family Residential Policy"). Thus, cumulatively, the application of LAMC Section 12.10-C.4 could drastically reduce the residential density of Venice, which would be inconsistent with Coastal Act section 30250 because it would reduce, rather than concentrate, residential density in a developed area able to accommodate new development.

The cumulative effect of the loss of residential housing in areas able to accommodate such density could unwittingly lead to increased pressure to develop housing in other areas that do not have adequate public transit and/or public services, thereby increasing reliance on automobiles (and, potentially, increased energy consumption, production of greenhouse gases and vehicle miles traveled). As viewed in the context of the housing crisis, projects like the subject proposal that do not concentrate development in existing developed areas may instead contribute to further urban sprawl, counter to Coastal Act policies designed to concentrate residential development to minimize impacts to coastal resources (Sections 30250 and 30253).

In previous projects, the Commission has allowed the development of an ADU or junior accessory dwelling unit (JADU) to mitigate for lost residential units as a compromise solution when no other feasible alternative existed.[9] However, the Commission has also found that ADUs are not the equivalent of a full unit that might be lost as a result of redevelopment.[10] Although ADUs are typically designed as separate units from the associated single-family residence, an ADU is, by its nature, accessory to the primary residence and is inherently dependent on the single-family residence to serve as a housing unit. ADUs usually share utility lines (power, water) with the associated single-family residence and, except in very limited situations, inapplicable here, cannot be sold separately from the primary residence. Further, due to their subordinate function, ADUs are more likely to be left vacant or used by the residents of the primary residences, rather than rented out. If ADUs are a substitute for primary residential units but are unlikely to be used for housing, then the project, when viewed cumulatively with similar projects in Venice, will not concentrate development in existing developed areas and instead will contribute to further urban sprawl, counter to Coastal Act policies designed to concentrate residential development to minimize impacts to coastal resources (sections 30250 and 30253). Therefore, the appeal raises substantial issue as to loss of housing density in an area able to accommodate it.

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[9] See 5-20-0223 and 5-20-0650 staff reports
[10] See 5-21-0451, 5-21-0467, A-5-VEN-20-0037, A-5-VEN-20-0039 staff reports

2) The project did not adequately analyze sea-level rise impacts.

The appeal contends that the project does not meet Coastal Act Chapter 3 requirements regarding SLR. The project site is located landward of the first public road, approximately 0.5 mile inland from the beach. Although the project is not directly adjacent to the beach, it is in an area of Venice that is subject to coastal flooding based on a 100-year storm scenario, that is exacerbated by SLR.

The City used the Coastal Storm Modeling System (CoSMoS) to analyze the project's vulnerability to flood hazards, considering a scenario of a minimum 6.6 ft. SLR and a 100-year storm scenario. Based on this scenario, the proposed development could potentially be affected by flooding as a result of SLR. The potential for such flooding in severe storm events is likely to increase towards the end of the project life (based on a typical development life of 75 years). The City noted that "policies and development standards to address the potential impacts of SLR will be addressed in the City's LCP for the Venice Coastal Zone," and that "any repair, demolition, and/or new construction as a result of any flooding would be subject to additional review". However, the City did not require any mitigation strategies for the subterranean parking garage, should the development be damaged by SLR or groundwater in the future. In addition, the City did not require the applicant to assume the risk of developing in a hazardous area or impose a condition requiring that the applicant remove the development if it is damaged by sea-level rise in the future. In short, the City did not adequately condition the project to minimize risk in a hazardous area, despite the fact that the project is located in an area subject to coastal flooding as required by Coastal Act section 30253(a). Therefore, this contention does raise a substantial issue.

3) Prejudice to Prepare LCP

The appellant also contends that the City-approved project would prejudice the ability of the City of Los Angeles to develop their LCP consistent with the Chapter 3 policies of the Coastal Act. If this project went forward as approved and used as precedent, other projects within this area could redevelop the lots with residences and ADUs that may not provide meaningful replacement units. Further, the City did not adequately condition the project to minimize risk in a hazardous area, consistent with Coastal Act section 30253. Therefore, the City-approved project would prejudice the ability of the City of Los Angeles to develop their LCP consistent with the Chapter 3 policies of the Coastal Act, counter to the requirement of Coastal Act section 30604.

Contentions That Do Not Raise a Substantial Issue

1) Community Character, Special Coastal Community, Cumulative Adverse Impacts

The appellant primarily contends that the project does not protect the Special Coastal Community of Venice and would not be in conformance with Coastal Act section 30253(e) and LUP Policy I.E.1 regarding Venice as a Special Coastal Community. The appellant further contends that the City approval was in error as the proposed

development is not visually compatible with the mass, scale, and character of the neighborhood, inconsistent with Coastal Act section 30251 and LUP Policies I.E.1 through I.E.3. More specifically, the appellant contends that the City-approved, three-story project is not compatible with the predominantly one-story structures on Abbot Kinney Blvd. The appellant also contends that that the character of the neighborhood would be changed by the conversion of residential structures to mixed-use commercial structures, as the new structures would have commercial lot lines with no setbacks in the wall of concrete. Furthermore, the appellant contends that the proposed home would cause a significant adverse cumulative effect on the community character of the surrounding neighborhood and on Venice as a Special Coastal Community.

Policy I.B.3 in the certified LUP details the Commercial Artcraft land use designation and the allowable uses. According to the policy, the Commercial Artcraft zone will "create enclaves in which the artisan segments of the population may live, create, and market their work, to maintain the variety and distinctiveness of Venice's lifestyles". Residential density in the Commercial Artcraft designation shall not exceed one unit per 800-1200 sq. ft. of lot area. Artcraft activities including mixed-use, combining residential and commercial uses which emphasize artist-in-residence uses, small businesses, light industrial and artisan activities are permitted in these areas.

Section 30251 requires that new development be "visually compatible with the character of surrounding areas." Section 30253(e) specifically requires the protection of special communities, and the certified Venice LUP sets forth policies to preserve Venice as a Special Coastal Community. Venice LUP Policy I.E.2 states, in part, that "all new development and renovations should respect the scale, massing, and landscape of existing residential neighborhoods." Additionally, LUP Policy I.E.3 states, in part, that, "varied styles of architecture are encouraged...while maintaining the neighborhood scale and massing." Typically, when the Commission evaluates a project for consistency with community character in Venice, the mass, scale, and use of the building are compared to the mass, scale, and use of surrounding development in order to assess any individual or cumulative impacts to the character of the area. The Commission relies heavily on development standards in the LUP to establish consistency with these Coastal Act policies, as the guiding purpose of the LUP was to protect Venice's character and status as a special coastal community, which it accomplished through land use designations and other limits on building height, roof structures, and setbacks.

When reviewing the project, the City conducted an analysis of the lots and architectural style of 37 structures between San Juan Avenue and California Avenue on the north side of Abbot Kinney Boulevard and between Aragon Court and Andalusia Avenue on the south side of Abbot Kinney Boulevard. The City characterized the commercial neighborhood as developed primarily with one-story to three-story commercial structures on Abbot Kinney Boulevard and one-story to three-story residential structures in the neighborhood across Electric Avenue. The City stated that the proposed project complies with the policies of the LUP and includes several design elements consistent with the other structures on the block, including a varied roofline, and stepped back

second and third stories. Local approval conditioned the structure to maintain a maximum height of 35 ft. and required the ground floor to comply with the Venice Coastal Zone Specific Plan, Section 11.B.1.a, "whereby the ground floor of retail/commercial use is built to the lot line. The residential portion of the proposed development incorporates a 5 foot setback on the East, West, and South side of the 2nd and 3rd floors and a 9-foot, 3 ½- inch setback on the North side of the 3rd floor which will mitigate the visual impact of the structure and maintain compatibility with the scale of the nearby structures." The City concluded that the proposed project does not impact the scale and character of the neighborhood and does not alter any existing views or change the visual character of the surrounding area.

Staff reviewed the City-approved project plans and the structures on the 45 lots between San Juan Avenue and California Avenue on the north side of Abbot Kinney Boulevard and between Aragon Court and Andalusia Avenue on the south side of Abbot Kinney Boulevard.

The LUP does not list specific setback requirements for development along Abbot Kinney Boulevard. However, much of the surrounding development appears to be built right up to the public right-of-way, which indicates a prevailing setback of zero ft. The first level of the proposed structure would be setback approximately zero ft. from the property line. The second level would be set back five ft. from the property line on all sides. The third level would be set back approximately five ft. from the property line on the right, Abbot Kinney-facing, and South Irving Tabor Court-facing sides of the building, and nine ft. from the property line on the Santa Clara Street-facing side of the building. The proposed project would also include a ten ft. step-back from the property line to the roof on the Abbot Kinney-facing façade of the building. These design elements help to reduce the massing and scale of the proposed development and are compatible with neighboring development.

Exhibit 14B of the certified LUP lists the height limits for projects located in the North Venice subarea. Given the location of the project site, the maximum building height in the area is 30 ft. for buildings with a flat roof, 35 ft. buildings with a varied or stepped back roofline, or 28 ft. for buildings located along a walk street. The project site is not located on a walk street, and the proposed development features a varied (curved) roofline. Therefore, the maximum allowable building height is 35 ft. The applicant is proposing a 35 ft.-high structure. The roof of the building also drops three ft. between Abbot Kinney and South Irving Tabor Court, resulting in a 35-ft.-high roof on the Abbot Kinney side and a 32-ft.-high roof on the South Irving Tabor Court side. The height of the proposed structure is consistent with the development standards of the Venice LUP, which stipulate a maximum height of 35 ft. for structures with varied roofs in this area.

Surveyed Area – Average Lot Size

The average lot size of all the lots located along the surveyed portion of Abbot Kinney is 3,120 sq. ft.[11].

Surveyed Area – Units per Lot
There are eight single-family homes and three duplexes in the survey area. Additionally, there are ten mixed-use lots in the survey area. There are 12 commercial buildings (five of which span multiple lots), and four industrial artist-in-residence structures that span multiple lots within the survey area.

Surveyed Area –Number of Stories
There are 23 one-story structures, three two-story structures, and 11 three-story structures in the survey area.

As stated above, 11 of the 37 structures in the survey area are three stories. Three of the eight existing three-story structures have minimal setbacks on the second and third levels, one has a significant setback on the second level toward the rear of the lot, and one has a break in plane on the façade of the structure. All of the three-story structures in the survey area incorporate architectural designs that reduce the mass and scale of the structures.

While the mass of the proposed structure is larger than that of many of the structures in the surrounding area, it is similar to larger structures in the area. The proposed articulation of the structure also is similar to other structures in the surrounding area. Thus, the articulation and mass of the City-approved project are consistent with the scale of other structures in the areas, and it is therefore compatible with the character of the neighborhood. Therefore, the appellant's contention that the mass and scale of the structure is out of character with the surrounding area does not raise a substantial issue with the project's conformity with the visual resource and community character protection policies of Chapter 3 of the Coastal Act and Venice LUP Policies I.E.1, I.E.2 and I.E.3.

Table 1 summarizes recent Commission action in the subject area since the Venice LUP certification in 2001 and includes metrics related to the compatibility of a proposed project with the community character of a given area. At 4,990 sq. ft., the City-approved project is larger than the average size of other buildings approved by the Commission since the Venice LUP certification in 2001. This is shown by the 3,846 sq. ft. average size for the recent Commission actions in Table 1.

Table 2 summarizes recent local approvals in the subject area issued by the City of Los Angeles since the Venice LUP certification in 2001 that were not appealed to the

[11] There are 45 lots within the survey area, some of which are developed with buildings spanning multiple lots

Commission. This table includes the same metrics as Table 1. With an area of 4,990 sq. ft., the project is smaller than the average size of other recent City-approved houses in the neighborhood since the Venice LUP certification in 2001. This is shown by the 6,061 sq. ft. average area size for the recent Commission actions in Table 2.

Table 3 summarizes the year built, number of units, lot size, and residence size of all residences within the subject area that were built prior to certification of the LUP, using information obtained from ZIMAS on September 27, 2023. This table does not include development height or the original area of redeveloped properties, as ZIMAS does not provide this information. This table allows inclusion of past development in Commission review in order to ensure an analysis of cumulative impact consistent with Coastal Act section 30105.5. The project generally conforms with the size of most original buildings in this table. Thus, the proposed size of the City-approved development does not raise substantial issue with respect to community character of the surrounding area.

In order to evaluate the potential cumulative impacts of the City-approved development, the incremental effects of the proposed development on community character, mass, and scale are considered in connection with the effects of the past, current, and probable future projects within the subject area. To that end, Commission staff reviewed residential redevelopments on the subject block, Abbot Kinney Boulevard, since 2001. Of these developments, six are one story structures, primarily constructed in the 1920s. three are two-story structures and three are three-story structures. The analysis considered the year of Commission or City approval for redevelopment, number of units, lot size, habitable residence area, and height. For properties which have not received Commission or City approval for redevelopment since 2001, the survey considered the year of residence construction, number of units, lot size, and current habitable residence area. Height is not included on the mapping tool used to obtain this information, ZIMAS, and thus wasn't included for the properties that have not redeveloped after 2001.

The appellant contends that the three-story structure is not compatible with the predominantly one-story make-up of the neighborhood. However, an analysis of Abbot Kinney Boulevard identified two lots within 200 ft. of the subject site that have been developed with one two-story structure, and one three-story structure: 1305 Abbot Kinney Boulevard (an approximately 25 ft. tall, two-story structure), and 1315 Abbot Kinney Boulevard (an approximately 35 ft. tall, three-story structure). Given the structural makeup of Abbot Kinney Boulevard, the proposed three-story structure is compatible with the pattern of development along Abbot Kinney and would not set a precedent for development in this area that would significantly impact the eclectic character of the area, either individually or cumulatively with other projects in the area.

Therefore, the project is consistent with Section 30253(e) and the certified LUP with respect to the preservation of special coastal communities, which includes the preservation of architectural diversity. The proposed three-story structure is sited in an area that can accommodate it and is designed in a manner that is compatible with the

character of the surrounding area. Based on the totality of the evidence before the Commission, the project will not have any significant individual or cumulative impacts on the character of the neighborhood or Venice's status as a special coastal community. Therefore, the contentions regarding preservation of community character, and protection of special coastal communities do not raise a substantial issue.

2) The Coastal Act's affordable housing provisions and the Commission's Environmental Justice Policy were not considered

The appellant contends that the City-approved project does not consider impacts to environmental justice and social diversity. Specifically, the appellant contends that the City erred in determining that no affordable housing currently exists on the subject site, and thus the City erred in its Mello Act decision to not require affordable housing. In support of their contention, the appellant asserts that the Mello Act Determination is not accurate because the City used unpermitted commercial rents to determine there were no affordable units, which is a violation of the Mello Act and City's Interim Administrative Procedures.

The appellant references the Housing Section of the Coastal Commission's Environmental Justice Policy, which states:

> **"**The Commission will also support measures that protect existing affordable housing. If the Commission staff determines that existing, affordable housing would be eliminated as part of a proposed project in violation of another state or federal law, the Commission staff will use its discretion to contact the appropriate agency to attempt to resolve the issue."

The appellant contends that since there is no long-term residential rent data available for the three existing residential units, which are currently being operated as unpermitted retail space, the units should be protected as affordable housing.

According to available City data, the single-family home and duplex served as unpermitted retail space from at least 2008 to the present. The applicant asserts that all of the residences have been used for commercial purposes for at least 50 years. Residential rental records have not been provided or located, but the City determined in 2016 that no affordable units were available onsite **(Exhibit 6)**.

Section 30604(h) states that when "acting on a coastal development permit, the issuing agency, or the commission on appeal, may consider environmental justice, or the equitable distribution of environmental benefits throughout the state." Therefore, both the City and the Commission on appeal have the discretion to consider environmental justice. However, Section 30604 of the Coastal Act is not a Chapter 3 policy, and appeals must raise an issue as to consistency with a Chapter 3 policy.

Here, the City determined that no affordable units exist at the project site because the Mello Determination was based on the commercial rents from unpermitted retail operations. The high commercial rents led to the determination that the units were not affordable. Because of this, the City determined that no affordable replacement units are required for the project under Mello Act.

The California Legislature amended the Coastal Act to remove specific policies related to the Commission's direct authority to protect affordable housing in the coastal zone. The remaining affordable housing related policies in the Coastal Act require the Commission to encourage local governments and property owners to provide affordable housing opportunities. In 1982, the legislature codified California Government Code Section 65590 (the Mello Act), requiring local governments to protect and increase the supply of affordable housing in the Coastal Zone. Currently, Section 30011 of the Coastal Act states that nothing in the Coastal Act "shall authorize the commission to review a local government's application of the requirements of Section 65590 of the Government Code to any development."

The Venice LUP was certified after the Coastal Act was amended to remove specific affordable housing policies and after the Mello Act was passed. The City's certified LUP sets forth specific policies encouraging the preservation of existing residential units. LUP Policy I. A. 9. (Replacement of Affordable Housing), states:

> Per the provisions of Section 65590 of the State Government Code, referred to as the "Mello Act", the conversion or demolition of existing residential units occupied by persons and families of low or moderate income shall not be permitted unless provisions have been made for replacement of those dwelling units which result in no net loss of affordable housing in the Venice Community in accordance with Section 65590 of the State Government Code (Mello Act).

The certified Venice LUP also includes Policy I.A.11- requiring affordable housing units to be replaced at a 1:1 ratio, Policy I.A.12- giving displaced residents priority for new units, Policy I.13.A- allowing for greater residential density in projects that include affordable housing units, Policy I.A.14- allowing for the provision of fewer parking spaces than required for projects that include affordable housing units, and Policy I.A.15- allowing for a payment of a fee in lieu of providing actual required replacement affordable housing units.

Although the appellant raises issues related to the City's compliance with the Mello Act, the Commission does not have authority to review the City's Mello Act determinations. It is the responsibility of the local government to implement Government Code section 65590. Therefore, the appellant's contentions regarding the City's Mello Act determination do not raise a substantial issue because the Commission does not have jurisdiction to review those contentions.

3) Parking

The appeal contends that the City-approved project does not provide the parking required under the certified Venice LUP. The City-approved development consists of two primary dwelling units, an ADU, and a retail shop. For residential units the certified LUP requires 2 parking spaces for each dwelling unit plus a minimum of 1 (one) guest parking space for each 4 (four) or fewer units (i.e. 2.25 spaces per unit; always rounded-up to highest whole number of spaces). The LUP does not include a parking requirement for ADUs. The LUP also requires 1 space per 225 sq. ft. of retail area. Finally, the LUP requires one Beach Impact Zone (BIZ) parking space for each 640 sq. ft. of ground floor area of commercial development, but no fewer than two spaces for commercial uses.

As approved by the City, the applicant is required to provide a total of 15 vehicle parking spaces for the proposed residential and commercial uses (6 residential, 7 retail, 2 BIZ). The City approved an allowance for the applicant to replace 2 retail parking spaces with bike parking (4 bike spaces per 1 retail parking space). Table 1a details the parking calculations for the proposed development.

Use	Floor Area/ Units	Parking Ratio	Required Parking
Residential Units	2	2 per unit	4
Accessory Dwelling Unit	1	1 per unit	1
Guest Parking	--	.25 per unit	1
Retail	1,587 SF	1 per 225 SF	7
Beach Impact Parking	1,587 SF	1 per 640 SF	2
Total Parking Required			**15**
Less Bike Swap Per LAMC 12.21-A.4			-2
Total Parking Provided			13 automobile spaces 8 bicycle spaces

The appellant contends that the City erred in their calculation of required BIZ parking spaces, resulting in a one-parking-space discrepancy in the number of BIZ spaces required. This one-space discrepancy is due to the rounding methodology employed by the City. According to the certified LUP, one BIZ parking space is required per 640 sq. ft. floor area of the ground floor. The proposed ground floor area is 1,587 sq. ft. By this calculation, the proposed structure would require 2.48 parking spaces. The City rounded down the parking requirement to two spaces given that 2.48 is less than 2.5 The LUP does not specify when to round up or down when a proposed development area is less than the amount that triggers the need for an additional parking space. Requiring any portion of a space to be rounded up to the next whole number would be more conservative and more protective of public parking. However, in this case, rounding the parking requirement down is a reasonable approach.

The appellant also contends that the proposed "automated parking scheme is impractical" and that the LUP does not allow for substitution of required parking with bicycle parking. The automated parking garage design was reviewed and approved by the City and no conclusive evidence has been provided to the Commission showing that it will not function as designed. The City has also stated that due to the substandard lot size, along with the requirement that all parking be accessed through the alley, the fully automated subterranean parking garage is necessary for the applicant to be able to meet the parking requirement for the proposed project. Compared to a conventional parking garage, an automated parking garage requires less space to construct because there are no additional accommodations for ramps and turning radiuses.

The certified LUP requires the City-approved mixed-use structure to provide a total of 15 parking spaces (four residential spaces, one guest parking space, one ADU parking space, seven retail spaces, and two Beach Impact Zone spaces). The City-approved project provides 13 new on-site spaces. The applicant also proposes on-site bicycle spaces accommodating eight bicycles. The Commission has, in some cases, accepted bicycle parking and other means to mitigate for a small number of actual parking spaces[12]. In this case, two out of 15 total required parking spaces will be accounted for in the form of bicycle parking, and no significant impacts to public access have been identified or are anticipated at this time. Additionally, recent Commission actions encourage alternate modes of transportation and less intense energy uses. The substitution of two automobile parking spaces with eight bicycle parking spaces is consistent with Section 30252 of the Coastal Act because it provide(s) non-automobile circulation within the development, and provide(s) adequate parking facilities. The proposed replacement is also consistent with section 30253 because the provision of bicycle parking minimizes energy consumption and vehicle miles traveled. Therefore, the appellant's contention does not raise a substantial issue with regard to the project's consistency with public access policies of the Coastal Act, nor the certified LUP.

Therefore, the appellant's contention that the project parking is insufficient, and by extension would adversely impact public access, raises no substantial issue.

4) Historic Resources

The appellant contends that the City-approved project does not protect historic resources. The appeal points to LUP Policy I.F.1, which lists Abbot Kinney Boulevard between Venice Boulevard and Brooks Avenue as a significant landmark. The current buildings (constructed in 1912 and 1922) are not officially designated as historic structures on the local, state, or national registers, but the appellant contends that they are considered by many in Venice to be "structures of local interest". According to Survey LA, the City's historic resource survey, "development in the district is a mix of

[12] See A-5-VEN-21-0070, A-5-VEN-21-0063, and A-5-VEN-20-0060 staff reports

commercial and residential building types, with modest Craftsman cottages from the teens and 1920s alongside one- to three-story vernacular brick buildings from the 1920s. Today the district is almost exclusively commercial in its use. While the area does not retain sufficient integrity or cohesion to qualify as a historic district, a number of intact properties were surveyed individually." 1301 Abbot Kinney was not mentioned as one of the properties surveyed nor was it found to be a potential historic resource.

The City's findings state that subject site and existing structures have not been identified as a historic resource or within a historic district (SurveyLA, 2015), the project is not listed on the National or California Register of Historic Places or identified as a Historic Cultural Monument (HCM), nor has the Project Site been found to be a potential historic resource based on the City's Historic Places LA. The City determined that the proposed project is categorically exempt from CEQA, thereby acknowledging that there are no historic resources on the site.

A historic resource assessment prepared by the applicant's historic consultant, ASM Affiliates, dated February 19, 2016, determined that "the bungalow residence is not a good representation of the themes within the Craftsmen Movement in comparison with other intact examples of such themes." As such, the report recommended that the structure is not eligible as an individual resource under various criteria. The Office of Historic Resources concurred with this recommendation. The City's Notice of Exemption from the California Environmental Quality Act review also states that, "although [1301 and 1303 Abbot Kinney Boulevard are] within the Abbot Kinney Boulevard Commercial Planning District, the structures have not been identified as significant'" **(Exhibit 7)**.

In this case, the City provided sufficient factual support for its recommendation to approve the project. Therefore, the appellant's contention does not raise a substantial issue.

5) Loading Zone

The appeal contends that the City erred in approving the elimination of a loading zone requirement for the proposed project. The appellant contends that LAMC Section 12.14-C, 4 and 12.21-C, 6(a) requires that a loading zone be provided for the proposed development.

The City's analysis found that the limited lot size (the lot is 32% smaller than conforming lots by today's standards) drastically reduces development potential, and that denial of the request to waive the loading zone requirement would result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of the code. Further, both the City and the appellant state that there are no loading zones located on Abbot Kinney Blvd and that none of the existing or newly developed commercial buildings on all sides of Abbot Kinney offer loading zones. Regardless, the LUP does not include any policies that require a loading zone for the subject area, and the

uncertified municipal code section is not a standard of review. Therefore, the appellant's contention does not raise a substantial issue.

SUBSTANTIAL ISSUE FACTORS

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

The first factor is the **degree of factual and legal support for the local government's decision** that the development is consistent or inconsistent with the relevant provisions of the Coastal Act. The City did not analyze the project for consistency with Venice LUP Policy I. B. 3. regarding maximum density. Additionally, the City did not adequately condition the project to minimize risk in a hazardous area. Therefore, the Commission finds that the City did not provide an adequate degree of factual and legal support for its decision, and this factor supports a finding of substantial issue.

The second factor is **the extent and scope of the development** as approved or denied by the local government. The City-approved development will demolish a single-family residence and duplex and replace it with a new duplex with attached ADU, and a retail space on the ground floor in a highly developed area. The loss of residential density posed by the demolition of the existing single-family residence and duplex is not adequately mitigated by the proposed ADU. Loss of residential density and insufficient SLR review has far-reaching consequences and thus, when considered cumulatively throughout Venice, the scope of the project raises a substantial issue.

The third factor is the **significance of the coastal resources affected** by the decision. Venice is a unique area that specifically draws millions of visitors from around the world each year. As such, it has been designated a coastal resource that deserves special protection. The cumulative impacts of the City-approved development that results in the loss of housing stock in a neighborhood able to accommodate new development could have significant impacts on the community character of Venice, which is a significant coastal resource, so this factor supports a finding of substantial issue.

The fourth factor is the **precedential value of the local government's decision** for future interpretations of its LCP. The City does not currently have a certified LCP, and thus the standard of review for this project is Chapter 3 policies of the Coastal Act. The City-approved development is inconsistent with the policies of the Coastal Act, which provide for maintaining housing density in existing developed areas able to accommodate it, minimizing risks from coastal hazards, including flooding, and addressing, avoiding and mitigating the adverse effects of sea level rise. Therefore, the Commission finds that the City-approved development would prejudice the City's ability to prepare a future LCP in this area and would set an adverse precedent for future interpretations thereof, and this factor supports a finding of substantial issue.

The final factor is **whether the appeal raises local issues, or those of regional or statewide significance**. Impacts to housing density and flooding and other sea level rise related hazards are important statewide issues. The City-approved development is inconsistent with various policies of the certified LUP and with Chapter 3 of the Coastal Act. Therefore, the Commission finds that this factor also weighs in favor of a finding of substantial issue.

Conclusion

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

VII. MOTION AND RESOLUTION – DE NOVO

Motion: I move that the Commission **approve** Coastal Development Permit Application No. A-5-VEN-22-0048 pursuant to the staff recommendation.

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

Resolution: The Commission hereby approves Coastal Development Permit Application No. A-5-VEN-22-0048 and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that will substantially lessen any significant adverse impacts of the development on the environment.

VIII. STANDARD CONDITIONS

This permit is granted subject to the following standard conditions:

1. **Notice of Receipt and Acknowledgment**. The permit is not valid and development shall not commence until a copy of the permit, signed by the 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 the 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.

IX. SPECIAL CONDITIONS

This permit is granted subject to the following special conditions:

1. **Revised Final Plans**

   A. PRIOR TO ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for review and written approval of the Executive Director, two full-size sets of revised final plans, that have been reviewed and approved by the City of Los Angeles. The revised plans shall substantially conform with the plans submitted to the Commission, titled "1301 Abbot Kinney Blvd", by Herber Design, dated 4/19/23, that reflect the following:

      1) The structure shall contain three primary dwelling units;

      2) A minimum of fourteen (14) parking spaces shall be provided onsite, 7 residential and 7 retail, along with 8 bicycle parking spaces;

      3) The proposed subterranean parking garage shall be designed to include safety and floodproofing measures recommended by a structural engineer to protect the development for up to 6.6 ft. of sea level rise, which may result in inundation of the subterranean floor of the structure. Safety measures to minimize flood risks may include, but are not limited to, strengthening all subterranean structural elements to resist expected hydrostatic and lateral loads; waterproofing all building elements below grade; and/or installing pumps for crawl spaces. The safety and floodproofing measures shall be clearly indicated in the final plans and shall also be described in an accompanying narrative explaining how the selected measures will combine to protect the development over a 75-year project life;

      4) Storage cabinets for hazardous materials (e.g., paints, solvents, household chemicals) shall be attached to the walls of the structure at as high an elevation as feasible;

      5) All mechanical and utility installations shall be installed at as high an elevation as feasible.

      6) The applicant shall submit evidence that an appropriate licensed professional has reviewed and approved all final design and construction plans, including foundations, grading and drainage plans, and certified that each of those final plans is consistent

with all of the recommendations specified in the above referenced plan(s) as well as the requirements in **Special Condition 4** below.

B. All revised plans shall be prepared and certified by a licensed professional or professionals as applicable (e.g., architect, surveyor, geotechnical engineer), based on current information and professional standards, and shall be certified to ensure that they are consistent with the Commission's approval and with the recommendations of any required technical reports as may be specified below.

C. The permittee shall undertake development in conformance with the approved final revised plans unless the Commission amends this permit or the Executive Director determines that no amendment is legally required for any proposed minor deviations.

2. **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 Coastal Development Permit A-5-VEN-22-0048 shall prevail.

3. **Retention of Three Primary Residential Units On-Site**. The development approved by Coastal Development Permit No. A-5-VEN-22-0048 is for construction of a mixed-use building with three primary residential units. The permittee and all assigns/successors shall maintain the three separate units. At no point may one residential unit be incorporated into the other residential unit or converted to a non-residential use. Ingress and egress (doors) between any of the three residential units are prohibited.

4. **Geotechnical Recommendations**. All recommendations of the Geotechnical Investigation Report titled "Geotechnical Investigation Report for a Proposed Commercial Structure at 1301 & 1303 Abbot Kinney Boulevard, Venice, California 90291" prepared by Stratum Geotechnical Consultants and dated June 2, 2014, as well as the Soils Report Approval Letter by the City of Los Angeles Department of Building and Safety dated June 19, 2019, shall be adhered to including recommendations for site preparation, structural fills, compaction standards, seismic design parameters, foundation design, pavement subgrade preparation, drainage, and all other recommendations.

5. **Assumption of Risk, Waiver of Liability and Indemnity**. By acceptance of this permit, the applicant acknowledges and agrees: (i) that the site may be subject to hazards from flooding, sea-level rise, erosion and wave uprush (ii) that critical mechanical equipment may be required to be relocated above-grade in the future given that the parking garage is located below the water table and groundwater

inundation is expected to increase with sea level rise in the future; (iii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iv) 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 (v) 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.

6. **Maintenance Plan.** PRIOR TO ISSUANCE OF THIS PERMIT AMENDMENT, the applicant shall submit a written plan that addresses the applicant's responsibilities in maintaining the proposed development. Responsibilities include, but are not limited to, waterproofing of subterranean parking walls and maintenance of structural components of the subterranean parking garage. The maintenance plan shall identify methods to address potential increases in groundwater levels such as applying a certain thickness of waterproof coating to the parking garage that prevent increased flooding events in the future. The plan shall also address methods to minimize impacts to public access during servicing events where heavy machinery is present, including but not limited to, temporary relocation of the ingress/ egress pathway. The maintenance plan shall also require prompt notification to City staff in the event that the permittee becomes aware of issues with the electrical components maintained by LADWP. The permittee shall undertake development in accordance with the approved maintenance plan.

7. **Final Dewatering Plan.** PRIOR TO COMMENCEMENT OF CONSTRUCTION, the applicant shall provide to the Executive Director a copy of a dewatering permit issued by the Los Angeles County Sanitation District or the Regional Water Quality Control Board, or letter of permission, or evidence that no permit or permission is required. The applicant shall inform the Executive Director of any changes to the project required by the Los Angeles County Sanitation District or the Regional Water Quality Control Board. Such changes shall not be incorporated into the project until the applicant obtains a Commission amendment to this coastal development permit, unless the Executive Director determines that no amendment is legally required.

8. **Water Quality**

    A. Construction Responsibilities and Debris Removal
        1) 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;

2) 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;
3) 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;
4) Demolition or construction debris and sediment shall be removed from work areas that may be susceptible to discharge into coastal waters each day that demolition or construction occurs to prevent the accumulation of sediment and other debris that may be discharged into coastal waters;
5) All trash and debris shall be disposed in the proper trash and recycling receptacles at the end of every construction day;
6) The permittee shall provide adequate disposal facilities for solid waste, including excess concrete, produced during demolition or construction;
7) 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;
8) 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;
9) 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;
10) The discharge of any hazardous materials into any receiving waters is prohibited;
11) 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;
12) 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;

13) BMPs shall be maintained in a functional condition throughout the duration of construction activity.

B. Drainage and Water Quality

1) 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;
2) All equipment and materials shall be stored and managed in a manner to minimize the potential of pollutants to enter the canals;
3) 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;
4) All runoff leaving the site shall be directed away from the canals and into the City storm drain system;
5) No water from any pool or spa shall be discharged into any canal or street that drains into a canal.

9. **Development Removal**. By acceptance of this permit, the permittee agrees, on behalf of itself and all successors and assigns, that the landowner shall remove the development authorized by this permit including, but not limited to, the mixed use structure and any other improvements if: (1) the City or any other government agency with legal jurisdiction has issued a final order, not overturned through any appeal or writ proceedings, determining that the structure is currently and permanently unsafe for occupancy or use due to damage or destruction from flooding or other hazards related to coastal processes; (2) essential services to the site (e.g., utilities, roads) can no longer feasibly be maintained due to the coastal hazards listed above; (3) removal is required pursuant to LCP policies for sea level rise adaptation planning; or (4) the development requires new and/or augmented protective devices that conflict with relevant LCP or Coastal Act policies. The permittee shall obtain a coastal development permit for removal of approved development unless the Executive Director provides a written determination that no coastal development permit is legally required.

10. **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 in order to control erosion and maintain public access along Abbot Kinney Boulevard and Electric Avenue.

B. All construction equipment to be stored overnight shall be stored on-site, outside the street travel-way and on-street parking areas unless street or lane closure permits are obtained from the City of Los Angeles.

C. The plan shall also identify a disposal site outside of the coastal zone for waste materials and recyclable materials.

11. **Protection of Archaeological and Tribal Cultural Resources.** The permittee shall undertake development in compliance with the following mitigation measures to protect archaeological, including tribal cultural resources:

A. AT LEAST ONE MONTH PRIOR TO COMMENCEMENT OF ANY GROUND-DISTURBING CONSTRUCTION ACTIVITIES, the permittee shall (i) notify the representatives of Native American Tribes listed on an updated Native American Heritage Commission (NAHC) contact list for the area; (ii) invite all Tribal representatives on that list to be present and to monitor ground-disturbing activities; and (iii) arrange for any invited Tribal representative that requests to monitor and a qualified archaeological monitor to be present to observe project activities with the potential to impact archaeological and/or tribal cultural resources. The monitor(s) shall have experience monitoring for archaeological resources of the local area during excavation projects, be competent to identify significant resource types, and be aware of recommended Tribal procedures for the inadvertent discovery of archaeological resources and human remains.

B. If an area of archaeological resources is discovered during ground-disturbing activities, all construction shall cease and shall not recommence except as provided in subsection (D) hereof, and the permittee shall retain an archaeologist and/or tribal cultural resource specialist qualified to analyze the significance of the find in consultation with the Native American Tribes listed on the NAHC list. The specialist(s) shall immediately notify the Tribes on the NAHC list. An “exclusion zone” where unauthorized equipment and personnel are not permitted shall be established (e.g., taped off) around the discovery area that includes a reasonable buffer zone recommended by the monitor(s). Project activities may continue outside of the exclusion zone.

C. Should human remains be discovered on-site during the course of the project, immediately after such discovery, the on-site archaeologist and Native American monitor shall notify the County Coroner within 24 hours of such discovery, and all construction activities shall be temporarily halted until the remains can be identified. The Native American group/person deemed acceptable by the NAHC shall participate in the identification

process, pursuant to Public Resources Code Section 5097.98. Should the human remains be determined to be that of a Native American, the permittee shall comply with the requirements of Section 5097.98. Within five (5) calendar days of such notification, the permittee shall notify the Executive Director of the discovery of human remains.

D. A permittee seeking to recommence construction within the exclusion zone following discovery of the archaeological resources shall submit a Supplementary Archaeological Plan (SAP) prepared by the project archaeologist in consultation with the Native American Tribes listed on the NAHC list for the review and written approval of the Executive Director. If the Executive Director approves the SAP and determines that the SAP's recommended changes to the proposed development or mitigation measures are de minimis in nature and scope, construction may recommence after this determination is made by the Executive Director in writing. If the Executive Director approves the SAP but determines that the changes therein are not de minimis, construction may not recommence until after an amendment to this permit is approved by the Commission.

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

X. FINDINGS AND DECLARATIONS

A. Project Description and Location

The applicant has revised the project located at 1301 Abbot Kinney Boulevard and is proposing the following: (1) the demolition of a one-story single-family dwelling and a one-story duplex; and (2) the construction of a new 4,990 sq. ft. three-story mixed-use structure with one subterranean parking level. The proposed development is comprised

of three primary residential units (including one 1,120 sq. ft. dwelling unit, one 1,159 sq. ft. dwelling unit, and one 1,124 sq. ft. dwelling unit for a total of 3,403 sq. ft. of residential development), and 1,587 sq. ft. of retail space. The proposed project will provide 14 parking spaces and 8 bicycle parking spaces onsite (13 parking spaces will be provided in a subterranean automated parking structure, one Accessible space at-grade, and eight bicycle parking spaces will be provided in lieu of two commercial spaces); all vehicle access will be from South Irving Tabor Court **(Exhibit 3)**.

B. Development

Relevant Coastal Act and certified Venice LUP policies and findings are hereby incorporated from Section VI.C of the Substantial Issue portion of this staff report on pages 10 through 16.

Residential Density

Coastal Act section 30250(a) requires new residential development be located near existing developed areas able to accommodate it and where it will not have significant, cumulative adverse impacts to coastal resources. Section 30253 of the Coastal Act requires new development be compatible with the character of the neighborhood, minimize risks to life and property in high flood hazard areas, and minimize vehicle miles traveled. Together, these policies encourage the concentration of development in existing developed areas (i.e. infill) that will minimize impacts to coastal resources. In addition, the certified LUP incorporates these Coastal Act policies and designates specific areas in Venice where more dense development should be accommodated (Policy I.A.5) and specific areas where only single-family residential neighborhoods are allowed (Policy I.A.2). Thus, the LUP reflects the City's intent to designate areas where more concentrated development should exist in Venice.

The Venice LUP designates the project site and adjacent rows of lots as Commercial Artcraft per the Policy I.B.3 subarea map. This designation allows for the construction of mixed-use structures with one dwelling unit per 800-1,200 sq. ft. of lot area. With an area of 3,392 sq. ft., it is feasible to maintain three primary dwelling units. However, the City's uncertified zoning regulations limit density for lots smaller than 4,000 sq. ft. to no more than two residential dwelling units. However, an ADU can be included in a project without adding density. The original, City-approved project was for a duplex residence with one attached ADU.

Although in some instances the Commission has allowed an ADU to preserve density, in this case, a third primary residential unit is allowable based on the certified LUP, which supersedes the City's uncertified zoning code. Further, as discussed below, SB 478 prohibits cities and counties from denying these kinds of housing development projects solely on the basis that the lot area of the existing parcel does not meet the local agency's requirements for minimum lot size.

On January 1, 2020, new housing laws went into effect that seek to address the statewide housing crisis by encouraging the maintenance of existing multi-family residential density (SB330) and provision of additional ADUs (Government Code §§ 65852.2, 65852.22). The Housing Crisis Act prohibits local governments from approving residential projects that would demolish more "dwelling units" than are created by the project (no net loss). The Housing Crisis Act does not apply to the Commission or modify the Coastal Act. Nevertheless, it appears that the City has taken the position that an ADU satisfies the no net loss requirement of the Housing Crisis Act. The subject project was approved by the City after January 1, 2020.

However, in September 2021, Governor Newsom signed two additional housing laws, which took effect on January 1, 2022. Senate Bill 8 (SB 8) extends the expiration of the Housing Crisis Act from January 1, 2025 to January 1, 2030 and clarifies that the definition of "housing development project" in the Housing Crisis Act was intended to include development of single-family residences. Senate Bill 478 (SB 478)[13] prohibits cities and counties from imposing a ratio of building floor area to parcel area (called "floor area ratio" or FAR) of less than 1.0[14] for housing development projects of three to seven units[15] located on an existing legal parcel in a multifamily residential or mixed-use zone (Gov. Code § 65913.11(a)). SB 478 also prohibits cities and counties from denying these kinds of housing development projects solely on the basis that the lot area of the existing parcel does not meet the local agency's requirements for minimum lot size (*Id.*). In addition, SB 478 prohibits local governments from imposing a lot coverage requirement that would physically preclude a housing development project such as the one presented here from achieving a floor area ratio of at least 1.0 (Gov. Code § 65913.11(c)(2)).). These laws are intended to encourage new residential units in areas that have historically and/or currently limited the number of residential units that can be developed.

Considering the above discussed SB 478, the Commission understands that, effective January 1, 2022, the City of Los Angeles could no longer deny a project to construct three full primary units on the subject site solely on the basis that the lot area of the existing parcel does not meet the minimum lot size requirements in the City's uncertified zoning code. Therefore, the applicant now has proposed, and the City has indicated that they would approve, a revised plan that proposes three full primary units on the site, as opposed to the City-approved two primary units with an ADU. Thus, **Special Condition 1** requires that the applicant submit the revised approved plans to replace the proposed ADU with a full primary unit.

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[13] Abbot Kinney Blvd. is not listed as a historic district on the State Historic Resources Inventory nor in the Venice LUP.
[14] A FAR of 1.0 means that the square footage of the building cannot be greater than the size of the lot.
[15] ADUs and JADUs do not count as a "unit" under SB 478 for purposes of determining whether the new laws apply to a housing development project with three to ten units (Gov. Code § 65913.11(d)(3)).

The Commission also imposes **Special Condition 2** to require the applicant to obtain any necessary local government approvals and adhere to the conditions of such approvals. **Special Condition 3** imposes the retention of three primary dwelling units for the life of the development and prohibition of ingress or egress (doors) between any of the three units. **Special Condition 12** requires the applicant to record a deed restriction imposing the special conditions of the permit as restrictions for use of the property to ensure that prospective property owners are aware of this and other ongoing permit conditions. As proposed and conditioned, the Commission finds the project consistent with Sections 30250, 30251 and 30253(e) of the Coastal Act.

C. Hazards

Relevant Coastal Act and certified Venice LUP policies are hereby incorporated from Section VI.C of the Substantial Issue portion of this staff report on pages 10 through 16.

Commission 2018 Sea Level Rise Guidance

On November 7, 2018, the Commission adopted a science update to its Sea Level Rise Policy Guidance.[16] The document provides interpretive guidelines to ensure that projects are designed and constructed to minimize damage from SLR and avoid related impacts to coastal resources, consistent with Coastal Act section 30253. The Commission's guidance recommends the use of Our Coast Our Future's Coastal Storm Modeling System (CoSMoS) and future SLR ranges projected by the Ocean Protection Council's (OPC's) "State of California Sea-Level Rise Guidance".[17]

The 2018 OPC Guidance contains a set of projections for 12 tide gauges located throughout California and operated by the National Oceanic and Atmospheric Administration (NOAA). The OPC provides multiple projected ranges for each timeframe, based on greenhouse gas emissions and probability scenarios. The OPC's low risk aversion scenario has an estimated 66% likelihood of future occurrence, while the medium-high risk aversion scenario has an estimated 0.5% likelihood. Both the Commission's Sea Level Rise Policy Guidance and the OPC documents recommend evaluating the medium-high risk scenario for residential development, as such development has less adaptive capacity and higher consequences associated with SLR (the medium-high risk aversion scenario does not account for ice sheet loss and may be exceeded within the anticipated 75-year lifespan).

The project site is located nearest to the Santa Monica tide gauge. The OPC's projections for Santa Monica show between 3.3 and 6.8 ft. of SLR predicted by 2100.

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[16] Ref. Sea Level Rise Policy Guidance, published by the Coastal Commission and updated on November 7, 2018.
[17] Ref. CoSMoS published by Our Coast Our Future and State of California Sea-Level Rise Guidance published by the Ocean Protection Council.

Therefore, the following analysis assumes up to 6.8 ft. of SLR within the proposed project's 75-year lifespan.

The proposed development is located approximately 0.5 miles from the beach. Under a medium-high risk aversion scenario, a rise in sea levels of up to 6.6 ft. is projected to occur between 2090 and 2100 with current development and emission patterns (this does not account for ice sheet loss), which is within the end of the anticipated 75 to 100-year life of the proposed development. In addition, groundwater levels onsite are expected to be emergent under current conditions and entirely emergent if sea levels rise over 1 ft. While the project site is located relatively far inland, given the topography of Venice, it is anticipated to experience similar impacts from coastal hazards as properties located farther seaward and/or closer to the canals.

The City commissioned the Venice Sea Level Rise Vulnerability Assessment (Assessment), prepared by Moffat & Nichol and dated May 2018. The assessment includes a map of low-lying areas in Venice, with specific elevation estimates for critical facilities. The estimates are provided as positive or negative values in the North American Vertical Datum of 1988 (NAVD88) based on their height above or below a fixed reference point. Geodetic datums use a fixed reference point as the baseline (+0 ft. NAVD88) to allow consistent elevation comparisons over a large geographic extent.[18]

Based on the Santa Monica tide gauge data, current mean sea level near the project site is +2.59 ft. NAVD88. The Marina del Rey tide gates are located approximately 13 ft. above current mean sea level (+16 ft. NAVD88), while the Washington tide gates are located approximately 4 ft. above current mean sea level (+6.9 ft. NAVD88). Predicting tide gate failure is not as simple as adding projected SLR to the existing gate elevation: 6.8 ft. of SLR would not necessarily mean 2.8 ft. of water rising above the Washington tide gates.

The presence of upstream gates and a varied, surrounding topography make gradual overtopping unlikely. However, discrete overtopping events from storms and/or spring tides (popularly referred to as 'king tides') would increase in likelihood with SLR. SLR may also result in shoaling, where subterranean groundwater tables rise and, in extreme cases, become emergent. The cumulative effects of SLR would ultimately pose major issues for the City's current drainage system.

The City's Assessment states that during large rainfall events a significant volume of stormwater gravity-drains into the canals, where opened tide gates allow it to drain into the Marina Del Rey Harbor and the Pacific Ocean. Low tides are a crucial part of this process—the tide gates will not drain naturally unless there is a lower water elevation on the other side. Higher sea levels will make this stormwater-release process difficult.

[18] Ref. North American Vertical Datum of 1988, published by National Geodetic Survey on July 12, 2018.

The City's Assessment raises the potential for stormwater and/or ocean tides to ultimately exceed the canal capacity and flood approximately 4,000 parcels.

Therefore, the project site could potentially experience inundation within the proposed development's lifetime. The City's local regulations and coordination with the Federal Management Agency (FEMA) provide further detail on projected flood elevations and risk-minimization measures.

Floodplain Management

The City of Los Angeles enforces a Floodplain Management Plan consistent with federal government requirements (but uncertified by the Commission). By enforcing federally-consistent floodplain regulations, the City becomes eligible for flood insurance provided to residents by the Federal Emergency Management Agency (FEMA).[19] The City's floodplain regulations apply primarily to development located in areas with a 1% chance of flooding in any given year—in other words, areas likely to flood in a 100-year storm event.[20] FEMA refers to these locations as Special Flood Hazard Areas and shows the location of each on Flood Insurance Rate Maps, updated periodically to reflect new scientific data. FEMA published the most recent Flood Insurance Rate Map for Los Angeles County on June 2, 2021 and updated its Special Flood Hazard Areas to encompass a broad swath of land in Venice, including the project site (**Exhibit 9**). The City requires new development located in Special Flood Hazard Areas to build the lowest habitable finished floor elevation at least one ft. higher than FEMA's predicted base flood elevation[21] (BFE). The project site is in a Special Flood Hazard Area, where FEMA predicts a +8 ft. NAVD88 baseline flood elevation.

The proposed project includes construction of a subterranean parking garage. The applicant undertook a Sea Level Rise Analysis prepared by Stratum Geotechnical Consultants dated June 2, 2014. in conjunction with the proposed excavation activities for the parking garage. The report indicates that groundwater was encountered nine ft. below grade within their excavated boring and that the depth to the historic high regional groundwater surface within the vicinity of the subject site is approximately six to seven ft. below ground surface, depending on the data source. Consultants informed the Department of Building and Safety that excavation for the proposed subterranean parking garage will be approximately 14 ft. deep. The report concluded that the maximum anticipated groundwater surface is located above the level of the parking garage floor and recommended that the Project Structural Engineer provide consideration of the uplift potential created by the buoyancy effect of the parking garage and that all parking garage retaining walls be designed to support a hydrostatic load

[19] Ref. City of Los Angeles 2020 Floodplain Management Plan, published by Tetra Tech for the City of Los Angeles Department of Public Works in October 2020.
[20] Ref. The 100-Year Flood, published by USGS on June 11, 2018.
[21] FEMA defines base flood elevation as the elevation of surface water resulting from a flood that has a 1% chance of equaling or exceeding that level in any given year (Base Flood Elevation (BFE) | FEMA.gov)

below the elevation of the maximum anticipated groundwater surface, in addition to the lateral soil loads presented herein.

The applicants submitted a Floodproofing Certificate for Non-Residential Structures from the Federal Emergency Management Agency dated May 17, 2023 **(Exhibit 8).** The certificate indicates the project must be floodproofed at least one ft. above NAVD88. The document certifies that the building has been designed with floodproofing measures that ensure that all structural components are capable of resisting hydrostatic and hydrodynamic flood forces, including the effects of buoyancy, and anticipated debris impact forces. The project complies with the City's requirements by siting the lowest habitable finished floor elevation at least one ft. above the anticipated flood elevation (the residential component begins on the second floor of the structure, 13 ft. above BFE). The proposed lowest habitable finished floor elevation would be located at least eight ft. above current mean sea level and one ft. above future sea level (assuming a medium-high risk aversion scenario). However, given that construction will take place within the water table, excess water is likely to need to be disposed of during construction activities. Improper treatment and disposal of such water could have adverse impacts on coastal resources; therefore, a final dewatering plan should be prepared in advance of the intended construction to ensure proper handling of water encountered during construction. Thus, the Commission imposes **Special Condition 7**, which requires a final dewatering plan prior to issuance of a coastal development permit. In addition, the applicant must provide evidence that the appropriate permits have been obtained from the corresponding agencies. In order to assure that the proposed development is safe from flood hazards, **Special Condition 1** also requires that the applicant submit a detailed description of all measures that will be undertaken to ensure the parking garage is flood resistant. **Special Condition 9** requires the applicant to remove the development if deemed unsafe by a government entity, essential services can no longer be maintained, or if maintenance of the development is counter to LCP or Coastal Act policies meant to adapt to SLR.

Furthermore, **Special Condition 4** requires the applicant to comply with the recommendations of the Geotechnical report, including recommendations for site preparation, structural fills, compaction standards, seismic design parameters, foundation design, pavement subgrade preparation, drainage, and all other recommendations.

Previous Commission action within the project vicinity analyzed potential impacts from SLR and imposed conditions to assume the risk of developing in a hazardous area and to remove the development if it is damaged by sea-level rise in the future.[22] In order to plan for potential SLR related flooding, the applicant has agreed to waterproofing the subterranean parking garage. With expected SLR by 2100, key infrastructure systems across Venice (the road network, electrical station, the storm drains, etc.) are vulnerable, which means the services these residential areas currently rely upon may

[22] See A-5-VEN-18-0033 and A-5-VEN-15-0003 staff report.

be at risk. Because the subject site may be affected by SLR related flooding during its expected lifespan and it is unclear at this time what, if any, community-scale SLR adaptation might be implemented in Venice in the future to account for these hazards, **Special Conditions 5 and 6** have been included to ensure that the risks of property damage or loss arising from sea-level rise or other changed circumstances, including that critical mechanical equipment may be required to be relocated above-grade in the future and potential removal of the subject development, are borne by the applicant enjoying the benefits of its private new development, and not the public.

Should the applicant need to implement additional flood-protection measures on the property in the future, the applicant may need to apply for a coastal development permit amendment for such measures. A more comprehensive strategy to address the flooding hazard in the low-lying areas in Venice will be addressed in the Venice LCP.

Special Condition 12 requires the applicant to record a deed restriction acknowledging that, pursuant to the subject CDP (CDP No. A-5-VEN-22-0048), the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of the subject property; and imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the property. The deed restriction will additionally provide notice of potential hazards of the property, and the risks of flooding and other SLR impacts towards the end of the development's economic life. Thus, the development as proposed and conditioned, minimizes risks to life and property in hazardous areas consistent with Coastal Act section 30253(a).

D. Archeological and Tribal Cultural Resources

Section 30244 of the Coastal Act states:

> Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.

The Commission's Tribal Consultation Policy (adopted on August 8, 2018) recognizes the importance of State efforts to protect tribal cultural resources and improve communication and coordination with Tribes, and it sets out a tribal consultation process that is fully consistent with, and complementary to the nature of, the Commission's goals, policies (including Section 30244), and mission statement. Tribal cultural resources can be sites, features, cultural landscapes, sacred places, and objects with cultural value and can also qualify as archaeological, paleontological, visual, biological, or other resources that the Commission is tasked with protecting pursuant to the Coastal Act.

The proposed development involves ground-disturbing activities, including for the excavation of the subterranean parking level, which have the potential to affect archaeological, tribal cultural, and paleontological resources. The applicant requested a

cultural resources records search through the California Historical Resources Information System South Central Coastal Information Center (CHRIS-SCCIC). In addition, the applicant requested a Sacred Lands File (SLF) search from the Native American Heritage Commission (NAHC) that yielded negative results. The applicant followed-up by consulting with Native American representatives and conducting independent research to understand the potential for tribal cultural resources to exist onsite.

According to the applicant's prepared Mitigated Negative Declaration/Initial Study (IS/MND), the proposed project would have a less than significant impact on potential cultural resources in the area. The report indicates that, given the archaeological sensitivity of the general area, there is a possibility that unknown, subsurface archaeological, paleontological and cultural resources may exist at the project site. The report recommended, should the project uncover any resources, the project would be required to follow procedures as detailed in the California Public Resources Code Section 21083.2, 5097.5, and 30244. Additionally, a Boring Logs and laboratory results report prepared by Grover-Hollingsworth for Stratum Geotechnical Consultants summarized subsurface conditions as a combination of silt gravely sand and clay of medium density. The report indicated that no tribal resources were found on the site.

Nevertheless, based on past consultations with tribal representatives on projects within the general project area and the aforementioned findings, Commission staff is aware of the culturally sensitive nature of this area. Thus, **Special Condition 11** is imposed requiring the applicant to reach out to tribal representatives with ancestral ties to the area at least one month before ground-disturbing construction activities and invite them to monitor, as well as implement mitigation measures to protect archaeological, including tribal cultural resources. This condition will ensure that appropriate Native American monitors and archeological professionals are present during all ground-disturbing activities and that any resources found are treated in accordance with best practices, including best practices identified through consultation with the appropriate tribal government(s). As conditioned, the project can be found consistent with Coastal Act section 30244.

E. Unpermitted Development

A violation of the Coastal Act has occurred on the subject parcel, consisting of, but not necessarily limited to, the unpermitted conversion of residential space to commercial retail space. All development within the coastal zone, including an internal change of use of an existing structure from residential to commercial retail, requires a CDP unless the requested action is determined to be exempt from permit requirements, which is not the case here.

The subject properties were built in 1912 and 1922, and originally developed as a single-family residence and a duplex. At some undetermined point during the lifetime of the development, the homes were converted from residential uses to commercial retail;

and the applicant has provided no evidence of authorization for this conversion. In 2014, the Los Angeles Department of Building and Safety Code Enforcement Bureau opened a Compliance Case at the subject properties to investigate the aforementioned unpermitted conversion of residential units to commercial retail. In July 2014, a Substandard Order to Comply (#A-3238095) was issued by the City to the property owner, which required the property owner to return both structures to their previous habitable condition by August 9, 2014. In May 2018, the outstanding violations continued to remain, the ongoing Compliance Case was closed upon sale of the properties, and a new case (No. 816690) was subsequently opened with the new owners. Since May 2018, the outstanding violations have not been resolved. The applicants have proposed the current project to satisfy the Substandard Order to Comply. If approved, the current project will authorize the previously unpermitted commercial uses on the site.

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 does not result in resolution of the violations described above. 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, nor does it constitute an implied statement of the Commission's position regarding the legality of development, other than the development addressed herein, undertaken on the subject site without a coastal development permit.

F. Water Quality

Section 30230 of the Coastal Act states:

> 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. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30231 of the Coastal Act states:

> The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes 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.

The project site is located within an urbanized residential area. The proposed development, however, has the potential for discharge of polluted runoff from the project site into coastal waters. The development, as proposed and as conditioned, shall incorporate design features to minimize the effect of construction and post-construction activities on the marine environment. These design features include, but are not limited to, the appropriate management of equipment and construction materials, reducing runoff through the use of permeable surfaces, the use of non-invasive drought tolerant vegetation to reduce and treat the runoff discharged from the site, and for the use of post-construction best management practices to minimize the project's adverse impact on coastal waters. In order to preserve water quality during construction, **Special Condition 10** requires a construction staging plan to control erosion and prevent hazardous materials from entering coastal waters. **Special Condition 7** requires the applicant to implement construction best management practices. Therefore, the Commission finds that the proposed development, as conditioned, conforms with Sections 30230 and 30231 of the Coastal Act for the protection of coastal waters and human health.

G. Public Access

Section 30210 of the Coastal Act states:

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

Section 30211 of the Coastal Act states:

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

Section 30252 of the Coastal Act states, in pertinent 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, (3) providing nonautomobile circulation within the development, (4) providing

> adequate parking facilities or providing substitute means of serving the development with public transportation.

The original City-approved project proposed to construct two full primary units and an ADU above retail space. As required by **Special Condition 1**, the ADU shall be replaced with a full primary unit. This increases the parking requirement by one for a total of 16 spaces. In lieu of two of these parking spaces, eight bicycle parking spaces will be provided. As conditioned, the proposed multi-use structure, located on Abbot Kinney (visitor-serving commercial area) and approximately one half of a mile from the Venice Beach Boardwalk, provides 13 parking spaces in the subterranean parking garage, one uncovered parking space on the first level, and eight bicycle spaces. All parking is accessed from South Irving Tabor Court. The provision of two parking spaces per unit and one guest space for multiple dwellings on lots of 35 ft. or more in width if adjacent to an alley, of one space for each 225 sq. ft. of retail floor area, and of one additional Beach Impact Zone parking space for each 640 sq. ft. of retail floor area of the ground floor complies with the certified LUP parking requirement. Adequate on-site parking is necessary and provides relief for the low supply of on-street parking that is otherwise utilized by the public to access the coastal zone in Venice. Thus, **Special Condition 1** requires a minimum of 14 parking spaces in order that the project will not affect the public's ability to gain access to, and/or to make use of, the coast and nearby recreational facilities. Therefore, as conditioned, the development conforms to Sections 30210, 30211, and 30252 of the Coastal Act.

H. Local Coastal Program

The Coastal Act requires that the Commission consider the effect on a local coastal program when it approves a project. Section 30604(a) of the Coastal Act provides that the Commission shall issue a coastal development permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program (LCP) which conforms with Chapter 3 policies of the Coastal Act:

Section 30604 (a) of the Coastal Act states:

> 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). 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 City of Los Angeles does not have a certified Local Coastal Program for the Venice area. The City of Los Angeles LUP for Venice was effectively certified on June 14, 2001. In addition, the Commission and City staffs are in the process of updating the LUP, which will require Commission approval in the near future. The Commission's standard of review for the proposed development is the Chapter 3 policies of the Coastal Act. The certified Venice LUP is advisory in nature and may provide guidance.

As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act and with the certified LUP for the area. Thus, with the conditions imposed on the proposed development and the certified LUP policies protecting the character of Venice as a special community, the subject development 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.

I. 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, either individually or cumulatively with other past, current, or probable future projects. The proposed project has been conditioned to be 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. 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 complies with the applicable requirements of the Coastal Act to conform to CEQA.

Appendix A – Substantive File Documents

1. Appeal Number A-5-VEN-22-0048 and associated file documents

2. City of Los Angeles Director's Determination for Case No. ZA-2015-1155-SPP-CDP-MEL-ZV-1A, dated November 9, 2022

Appendix B – Neighborhood Survey Tables

Table 1. Past Commission actions on all structures within the survey area since the Venice LUP certification in 2001.

Address	Action No.	Action Year	Lot Size (sq. ft.)	Square footage		Stories
				(original)	(new)	
1209 Abbot Kinney	A-5-VEN-18-0033	2019	3418	1107	4111	1 story
1214 Abbot Kinney	A-5-VEN-15-0003	2021	2692	1200	3800	3 stories
1301-1303 Abbot Kinney[23]	A-5-VEN-22-0048	2023	3392	2031	4990	3 stories
1305 Abbot Kinney	A-5-VEN-10-138	2010	3389	1312	1514	2 stories
1326 Abbot Kinney	5-06-017-W	2006	2701	1197	4060	3 stories
1345 Abbot Kinney	5-03-377	2003	3351		4602	3 stories
Average Square Footage:					3846	
Average Lot Size:					3157	

Table 2. Past City of Los Angeles actions on all structures within the survey area since the Venice LUP certification in 2001

Address	Action No.	Action Year	Lot Size	Square footage		Stories
			(sq. ft.)	(original)	(new)	
1210-1212 Abbot Kinney	APCW-2002-4599-SPE-CDP-ZAD-SPP-MEL	2007	5244	260	9873	3 stories
1311 Abbot Kinney	ZA-2005-1330-CDP-ZAA-SPP	2005	3386	360	3388	3 stories

[23] Proposed project not included in calculations

1319 Abbot Kinney	ZA-2003-9142-CDP-SPP-ZAA	2005	3376	913	4923	3 stories
Average Square Footage:					6061	
Average Lot Size:					4002	

Table 3. All structures within the survey area that were constructed or redeveloped prior to certification of the Venice LUP in 2001.[24]

Address	Original Year Built	Lot Size (sq. ft.)	Square Footage	Stories
1201 Abbot Kinney	1917	3,456.1	3,200	1 story
1205 Abbot Kinney	1925	3,420.9	3,200	1 story
1219 Abbot Kinney	1968	3414.6	1456	1 story
1221-1227 Abbot Kinney	1924	6819.7	5866	1 story
1231 Abbot Kinney	1910	3405.1	1350	1 story
1235-1239 Abbot Kinney	1941	6800.8	1752	1 story
1315 Abbot Kinney	1965	3382.8	1578	1 story
1317 Abbot Kinney	1960	3379.6	1260	1 story
1321 Abbot Kinney	1940	3373.2	869	1 story
1325 Abbot Kinney	1922	3370	1598	1 story
1327-1335 Abbot Kinney	1923	10091	10080	1 story
1337 Abbot Kinney	1908	3357.2	748	1 story
1341 Abbot Kinney	1964	3354	2490	2 stories
1347-1357 Abbot Kinney	1925	9122.8	10796	1 story
1202 Abbot Kinney	1911	2699.7	900	1 story
1204 Abbot Kinney	1921	2699	756	1 story
1208 Abbot Kinney	1921	2698.3	1681	1 story
1216-1218 Abbot Kinney	1922	2695.5	1200	1 story
1220 Abbot Kinney	1913	2694.7	1432	1 story

[24] Information obtained from ZIMAS on September 27, 2023.

1222 Abbot Kinney	1921	2694	768	1 story
1224 Abbot Kinney	1959	2698.6	1260	1 story
1302 Abbot Kinney	1927	2698	3206	1 story
1306 Abbot Kinney	1927	2698.1	3206	2 stories
1308-1312 Abbot Kinney	1956	2698.2	4860	1 story
1316 Abbot Kinney[25]	1965	2698.5	2100	1 story
1318 Abbot Kinney	2002	2698.6	4208	3 stories
1320 Abbot Kinney	2002	2698.7	4208	3 stories
1324 Abbot Kinney	2002	2698.8	4208	3 stories
Average Square Footage:			2866	
Average Lot Size:			3697	

[25] According to the LA County Assessor, structures on 1316, 1318, and 1320 Abbot Kinney were built in 2022, however there is no City or California Coastal Commission permit history available for these developments