

**CALIFORNIA COASTAL COMMISSION**

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# Th20a

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180th Day: 10/24/2016  
Staff: S. Vaughn-LB  
Staff Report: 09/15/2016  
Hearing Date: 10/06/2016

## STAFF REPORT: REGULAR CALENDAR

**Application No.:** 5-16-0096

**Applicants:** **Samy & Hedy Kamienowicz**

**Agent:** Matt Dzurec

**Location:** 2709 Ocean Front Walk, Venice, City of Los Angeles, Los Angeles County (APN: 4226-020-044)

**Project Description:** Construction of a 4,037 sq. ft., 33-ft. high, three-story single-family residence with an attached 566 sq. ft., three-car garage and a 43-ft. high, 98 sq. ft. roof access structure on a vacant 2,520 sq. ft. beachfront lot.

**Staff Recommendation:** Approval with conditions

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### SUMMARY OF STAFF RECOMMENDATION

The applicants are proposing to construct a new single-family residence on a vacant beachfront lot. The primary issue with the proposed development is that it does not comply with the height requirements in the certified Venice Land Use Plan (LUP). Therefore, **Special Condition 2** is imposed in order to bring the proposed project into conformance with the height requirements of the certified Venice LUP.

Staff is recommending **approval** of the proposed coastal development permit with **two (2)** special conditions regarding: **1) Construction Best Management Practices (BMPs)** and **2) Revised Final Plans**.

## TABLE OF CONTENTS

<b>I. MOTION AND RESOLUTION</b> .....	3
<b>II. STANDARD CONDITIONS</b> .....	3
<b>III. SPECIAL CONDITIONS</b> .....	4
<b>IV. FINDINGS AND DECLARATIONS</b> .....	5
A. PROJECT LOCATION & DESCRIPTION .....	5
B. HEIGHT LIMIT .....	6
C. SINGLE/DUAL PERMIT JURISDICTION .....	7
D. LOCAL COASTAL PROGRAM (LCP).....	7
E. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA).....	8

### APPENDICES

[Appendix A](#) - Substantive File Documents

### EXHIBITS

Exhibit 1 - Vicinity Map

Exhibit 2 – Site Plan

## I. MOTION AND RESOLUTION

### Motion:

*I move that the Commission **approve** Coastal Development Permit Application No. 5-16-0096 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 a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.*

## II. STANDARD CONDITIONS

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 of interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

### III. SPECIAL CONDITIONS

This permit is granted subject to the following special conditions:

1. **Construction Responsibilities and Debris Removal.** By acceptance of this permit, the permittees agree that the approved development shall be carried out in compliance with the following BMPs:
  - (a) No demolition or construction materials, debris, or waste shall be placed or stored where it may enter sensitive habitat, receiving waters or a storm drain, or be subject to wave, wind, rain, or tidal erosion and dispersion.
  - (b) No demolition or construction equipment, materials, or activity shall be placed in or occur in any location that would result in impacts to environmentally sensitive habitat areas, streams, wetlands or their buffers.
  - (c) Any and all debris resulting from demolition or construction activities shall be removed from the project site within 24 hours of completion of the project.
  - (d) Demolition or construction debris and sediment shall be removed from work areas each day that demolition or construction occurs to prevent the accumulation of sediment and other debris that may be discharged into coastal waters.
  - (e) All trash and debris shall be disposed in the proper trash and recycling receptacles at the end of every construction day.
  - (f) The applicant shall provide adequate disposal facilities for solid waste, including excess concrete, produced during demolition or construction.
  - (g) Debris shall be disposed of at a legal disposal site or recycled at a recycling facility. If the disposal site is located in the coastal zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place unless the Executive Director determines that no amendment or new permit is legally required.
  - (h) All stock piles and construction materials shall be covered, enclosed on all sides, shall be located as far away as possible from drain inlets and any waterway, and shall not be stored in contact with the soil.
  - (i) Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into sanitary or storm sewer systems.
  - (j) The discharge of any hazardous materials into any receiving waters shall be prohibited.
  - (k) Spill prevention and control measures shall be implemented to ensure the proper handling and storage of petroleum products and other construction materials. Measures shall include a designated fueling and vehicle maintenance area with appropriate berms and protection to prevent any spillage of gasoline or related petroleum products or contact with runoff. The area shall be located as far away from the receiving waters and storm drain inlets as possible.

- (l) Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) designed to prevent spillage and/or runoff of demolition or construction-related materials, and to contain sediment or contaminants associated with demolition or construction activity, shall be implemented prior to the on-set of such activity.
- (m) All BMPs shall be maintained in a functional condition throughout the duration of construction activity.
- (n) During construction of the project, no runoff, site drainage or dewatering shall be directed from the site into any street, alley or stormdrain, unless specifically authorized by the California Regional Water Quality Control Board.

The permittees shall undertake development in accordance with the approved plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

2. **Submittal of Revised Final Plans.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit, for review and approval of the Executive Director, two sets of final plans, including a site plan and elevations, which shall be in substantial conformance with the site plan and elevations received on February 4, 2016, except that, the structure in the approved final plans shall not exceed 30 feet in height if the structure has a flat roof or 35 feet in height if the structure is utilizing a stepped back or varied roofline. The portion of the structure that exceeds 30 feet in height shall be set back one horizontal foot from the required front-yard setback at beach-fronting property line for every foot in height above 30 feet. Additionally, the top of the roof access structure shall not exceed 40 feet in height.

The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

## IV. FINDINGS AND DECLARATIONS

### A. PROJECT DESCRIPTION & LOCATION

The applicants propose to construct a three-story, approximately 33-foot high, 4,037 square-foot single-family residence with a 566 square-foot three-car garage and a ten-foot tall 98 square-foot roof access structure on a vacant beachfront lot (**Exhibit 2**). The roof access structure is proposed to reach a height of approximately 43 feet. The applicants' proposal includes three on-site parking spaces in an attached garage.

The subject site is a 2,520 square-foot lot located at 2709 Ocean Front Walk in the North Venice subarea of Venice, City of Los Angeles, Los Angeles County (**Exhibit 1**). The land use designation of the subject lot is designated as Low Medium Density Residential in the certified Venice LUP and is located within a developed beachfront residential neighborhood of Venice. The neighborhood where the proposed project is located is comprised of both old and new one-, two-, and three-story single-family residences, duplexes, and apartments. The height of the residence and the roof access structure are not consistent with the policies of the certified Venice LUP as described below. The proposed project is consistent with the Commission's parking requirements of two parking spaces per residential unit, with three on-site parking spaces, which will be accessed from Speedway, and no public street parking spaces will be displaced.

The applicants' plans identify downspouts, planter boxes, sump pumps, and trench drains. Runoff from non-permeable surfaces will be collected and directed on-site to planter boxes and drains to be filtered before entering the City's storm drain system. All landscaping will be noninvasive and primarily drought tolerant. The proposed project complies with the applicable water efficiency and conservation measures of the City's adopted CalGreen standards concerning irrigation systems and efficient fixtures and appliances.

## **B. COMMUNITY CHARACTER AND HEIGHT LIMIT**

Venice has a wide range of scale and style of residential buildings throughout its various neighborhoods. Venice's historical character, diverse population, as well as its expansive recreation area, Ocean Front Walk (boardwalk), and wide, sandy beach make it a popular destination not only for Southern California but also for national and international tourists. Accordingly, Venice has engendered a status as one of the more unique coastal communities in the state, and therefore, a coastal resource to be protected. Since the Venice coastal zone is primarily a residential community beyond the beach and popular oceanfront boardwalk which includes some commercial stretches, the residential development is a significant factor in determining Venice's community character.

The Coastal Act requires that the special character of communities be protected from negative impacts such as excessive building heights and bulks. In particular, Sections 30253(e) and 30251 of the Act state:

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(e):

*"New development shall where appropriate, protect special communities and neighborhoods which, because of their unique characteristics, are popular visitor destination points for recreational uses."*

The following sections of the Venice LUP address character preservation and building height limits:

Certified Venice LUP Policy I.A.1 states, in part:

*“The maximum densities, building heights and bulks for residential development in the Venice Coastal Zone shall be defined by the Land Use Plan Maps and Height Exhibits (Exhibits 9 through 16), and the corresponding land use categories and the development standards as described in this LUP...”*

**a. Roof Access Structures.** *Building heights and bulk shall be controlled to preserve the nature and character of existing residential neighborhoods. Residential structures may have an enclosed stairway (roof access structure) to provide access to a roof provided that:*

- i. The roof access structure shall not exceed the specified flat roof height limit by more than 10 feet;*
- ii. The roof access structure shall be designed and oriented so as to reduce its visibility from adjacent public walkways and recreation areas;*
- iii. The area within the outside walls of the roof access structure shall be minimized and shall not exceed 100 square feet in area as measured from the outside walls, and;*
- iv. All roof access structures shall be setback at least 60 horizontal feet from the mean high tide line of Balboa Lagoon, Venice Canals, Grand Canal, and the inland side of the Esplanade (City right-of-way).*

Certified Venice LUP Policy I.A.8.c states, in part:

*“Height: Not to exceed 30 feet for buildings with flat roofs or 35 feet for buildings utilizing stepped back or varied rooflines. The portion of the structure that exceeds 30 feet in height shall be set back one horizontal foot for every foot in height above 30 feet...”*

Certified LUP Policy I. E. 1, 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.”*

Certified LUP Policy I. E. 2 states:

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

For the proposed development at 2709 Ocean Front Walk, the surrounding neighborhood is comprised of a variety of old and new multi-unit residential structures and single-family residences

that vary in height, size, and scale. The majority of homes are two- and three-story structures with some one-story homes. Other than the height and scale of the structure, it is difficult to define the style of the community. Architectural features of existing nearby homes include a mix of Craftsman bungalows and traditional Victorians, next door to Modern and Contemporary style homes. Inconsistencies in existing architectural style aside, the proposed development is not consistent with the community character of the area in height, size, and scale of existing development because it exceeds the height limit allowed for structures with flat roofs and as the project is currently proposed, it has a flat roof. Past projects similar to the proposed development that have been approved or denied by the Commission include:

CDP #5-97-211-A2 at 2707 Ocean Front Walk

In February 2016, the Commission **denied a proposal next door to** increase the maximum building height of the duplex from **30 feet for a flat roof to 37 feet 11 inches** to allow for a fourth story of living and storage space.

CDP #5-10-037 at 2611 Ocean front Walk

In April 2010, the Commission approved the construction of a three-story, 33-foot high (with 40-foot high roof access structure), 5,234 square-foot duplex with an attached four-car garage on a vacant 3,240 square-foot beachfront lot. The roof is flat, however, the building is **set back eight feet from the ocean-fronting property line**, instead of the required five feet, which is stepped back from the property line and consistent with LUP Policy I.A.8.c

CDP #5-10-115 at 2705 Ocean Front Walk

In July 2010, the Commission approved the demolition of two detached residential units on a 2,520 square-foot beachfront lot and the construction of a four-story, 35-foot high, 3,184 square-foot single-family residence with an attached two-car garage. The **roofline is varied** and consistent with LUP Policy I.A.8.c.

CDP #5-13-086 at 2715 Oceanfront Walk

In October 2013, the Commission approved: the construction of a two-story (with basement), 35-foot high (with **varied roof** and a forty-foot high roof access structure), 3,628 square foot single-family residence with a 624 square foot attached garage on a vacant 2,520 square foot beachfront lot.

In this case, the City approved a Specific Plan Project Adjustment to allow a roof height on 32.95 feet in lieu of 30 feet [Case No. ZA-2014-3072-CDP-ZAA]. The City made findings that the proposed height limit does not comply with the height requirement of the certified Venice LUP that limits projects with flat roofs in the North Venice Subarea to a maximum height of 30 feet. In spite of the City's findings that the proposed height is not consistent with the certified LUP, the City, pursuant to its Municipal Code (Section 11.5.7), approved the height adjustment. While this may be allowable and general practice for areas in the City that fall outside of the coastal zone, it is not acceptable for projects that fall within the coastal zone, because approving a project that is not consistent with a certified LUP, may prejudice the City's ability to prepare a certifiable LCP. Additionally, Coastal Act Sections 30251 and 30253(e) provide protection for visual resources and community character. The proposed structure exceeds the height limit that all new development is required to comply with in accordance with the certified LUP. Height, size, and scale are some of the variables that define community character in Venice. The proposed project does not respect the visual qualities or community character established in Venice because it exceeds the height limit



established in the certified LUP and is therefore not consistent with sections 30251 and 30253(e) of the Coastal Act. As such, the City erred in its approval of a local coastal development permit and Specific Plan Project Adjustment in this case.

The height of the proposed residence and the roof access structure are not consistent with the policies of the certified Venice LUP. The proposed height of the residence is approximately 33 feet. LUP Policy I.A.8.c allows a height of up to 35 feet for residences with a varied or stepped back roof and up to 30 feet for residences with flat roofs for this area of Venice. The proposed project has a flat roof and is set back the minimum required distance (five feet) from the beach-fronting property line (**Exhibit 2**) and is therefore limited to a height of 30 feet. Unless the proposed project provides a step back for building articulation as described above, or provides a larger setback from the required front yard setback from the beach-fronting property line (setback from the required front yard setback from the beach-fronting property line one additional foot over the five foot minimum for each foot over 30 feet in height, up to an additional five feet, i.e. setback ten feet from the beach-fronting property line for a maximum height of 35 feet), in which case, the height would be limited to 35 feet. The proposed roof access structure is less than 100 square-feet in area; however, with a height of 43 feet, the roof access structure exceeds the flat roof height limit by more than 10 feet, which is consistent with the size requirements but not the height requirements for roof access structures described in the City's certified LUP (Policy I.A.1).

As such, the applicants' proposal is not consistent with the certified Venice LUP. **Special Condition 2** requires the applicants to submit revised final plans that show the height of the proposed residence and roof access structure as consistent with the height requirements of the certified Venice LUP. If the applicant proposes to keep a flat roof design without a step back for building articulation, then the height of the structure may not exceed 30 feet. If the applicant proposes a varied or stepped back roof, then the height of the proposed structure may reach up to 35 feet. However, in both cases, the roof access structure shall be limited to a maximum height of 40 feet. Only as conditioned may the proposed project be found consistent with the certified Venice LUP and the Chapter 3 policies of the Coastal Act.

### **C. SINGLE/DUAL PERMIT JURISDICTION**

Within the areas specified in Section 30601 of the Coastal Act, which is known in the City of Los Angeles permit program as the Dual Permit Jurisdiction area, the Coastal Act requires that any development which receives a local coastal development permit also obtain a second (or "dual") coastal development permit from the Coastal Commission. The Commission's standard of review for development in the Dual Permit Jurisdiction area is the Chapter 3 policies of the Coastal Act. For projects located inland of the areas identified in Section 30601 (i.e., projects in the Single Permit Jurisdiction area), the City of Los Angeles local coastal development permit is the only coastal development permit required.

In this case, the project site is within the Dual Permit Jurisdiction area. The City of Los Angeles completed its final action to approve local Coastal Development Permit No. ZA-2014-3072-CDP-ZAA and ENV 2013-2051-MND on October 15, 2015 and reported its action to the Coastal Commission on November 12, 2015. The City's findings indicate that the approved development is consistent with the character of the area and will not prejudice its ability to prepare a local coastal program. There were no appeals of the local action submitted to the Commission within the 20 working day appeal period.

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

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:

- (a) Prior to certification of the Local Coastal Program, a coastal development permit shall be issued if the issuing agency, or the commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) of this division and that the permitted development will not prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200). A denial of a coastal development permit on grounds it would 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) shall be accompanied by a specific finding which sets forth the basis for such conclusion.

The City of Los Angeles does not have a certified Local Coastal Program (LCP) for the Venice area. The City of Los Angeles Land Use Plan (LUP) for Venice was effectively certified on June 14, 2001. The proposed project, only as conditioned, conforms to the proposed Venice LUP. The proposed project, only as conditioned, is also consistent with the Chapter 3 policies of the Coastal Act. Without **Special Condition 2**, the proposed project would not be consistent with the certified Venice LUP and would therefore prejudice the LCP. Therefore, the Commission finds that approval of the proposed development, only as conditioned, will not prejudice the City's ability to prepare an LCP consistent with the policies of Chapter 3 of the Coastal Act, as required by Section 30604(a).

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

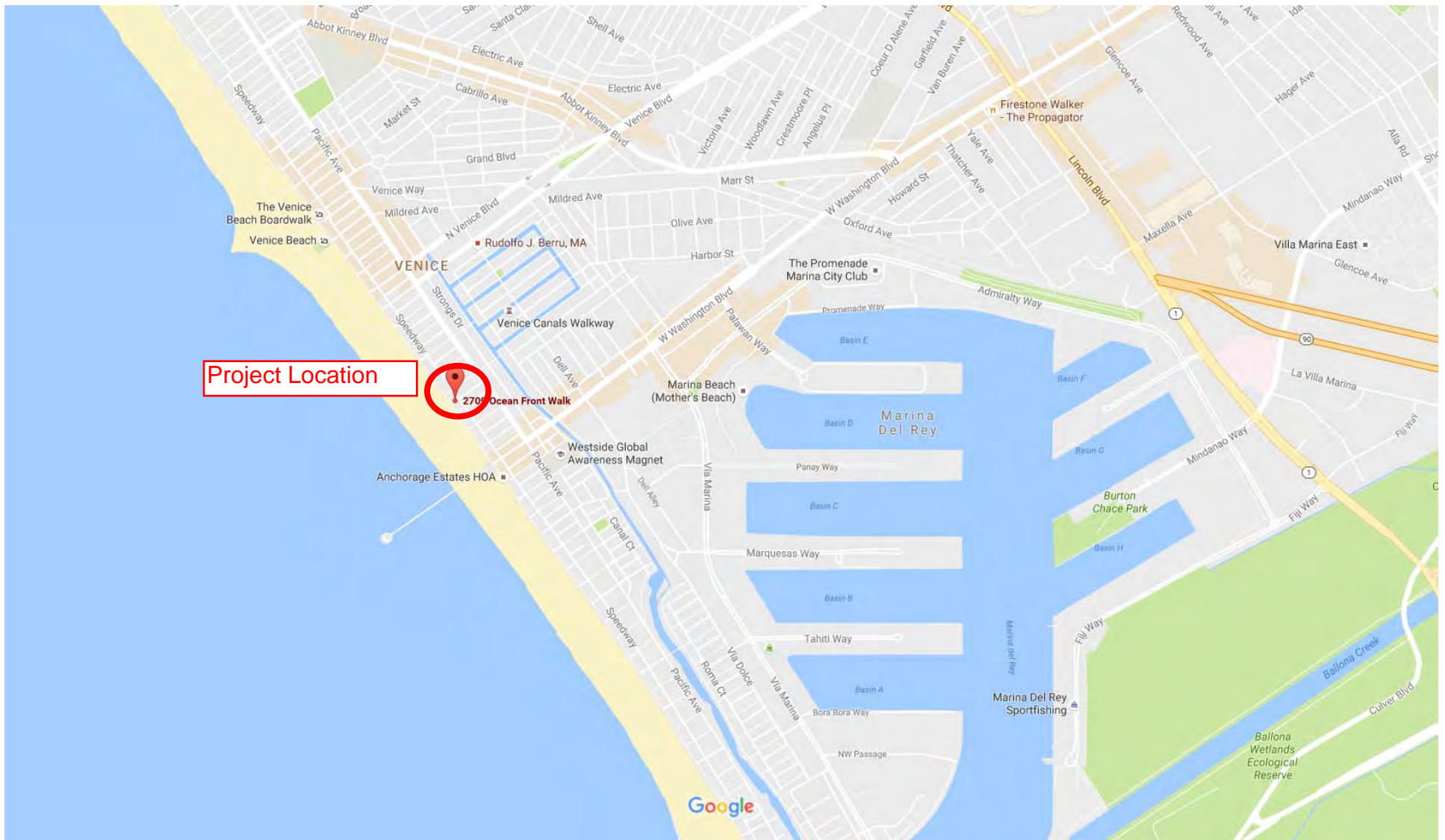
Section 13096 Title 14 of the California Code of Regulations requires Commission approval of a coastal development permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The City of Los Angeles is the lead agency for the purposes of CEQA review. The City of Los Angeles issued Negative Determination No. ENV-2013-2051-MND for the proposed development. The proposed project, as conditioned, has been found consistent with the Chapter 3 policies of the Coastal Act. All adverse impacts have been minimized by the recommended conditions of approval and there are no feasible alternatives or additional feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project can be found consistent with the requirements of the Coastal Act to conform to CEQA.

**Appendix A - Substantive File Documents**

- Certified Venice Land Use Plan, November 14, 2000
- CDPs 5-97-211-A2, 5-10-037, 5-10-115, 5-13-086

Google Maps 2709 Ocean Front Walk



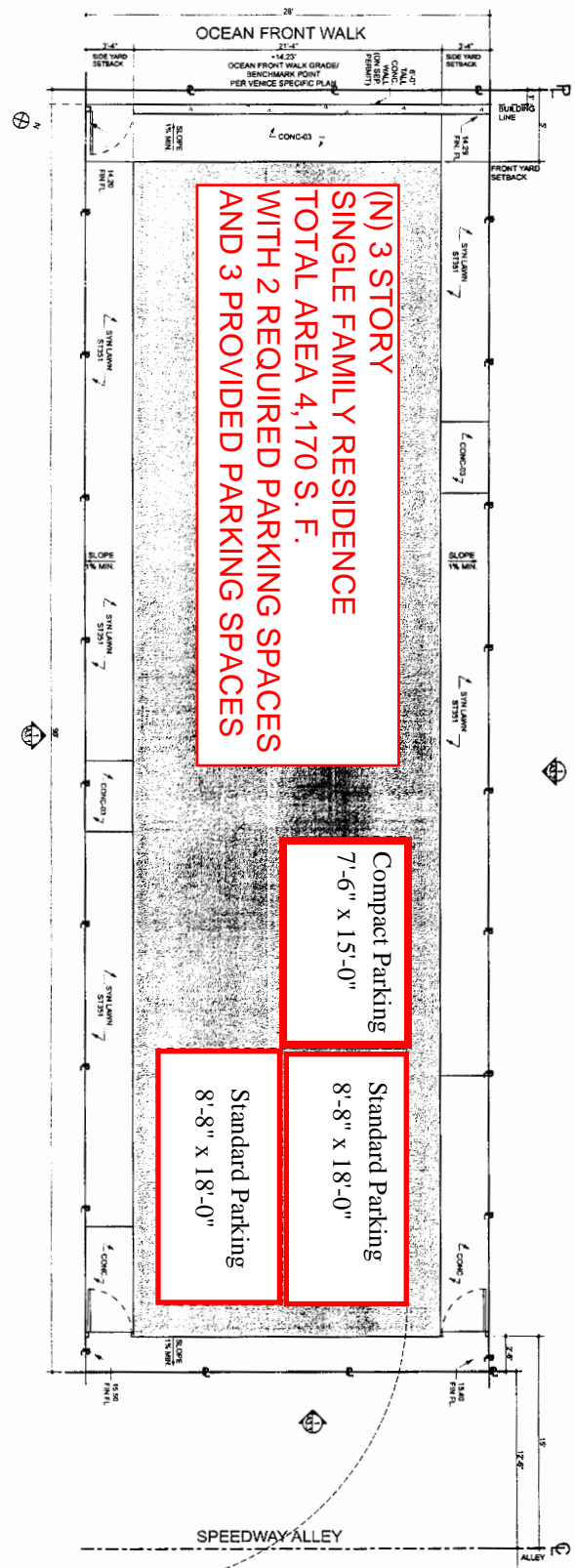
Map data ©2016 Google 1000 ft



Imagery ©2016 Google, Map data ©2016 Google 100 ft



1 PLOT PLAN  
SCALE: 1/8" = 1'-0"



(N) 3 STORY  
SINGLE FAMILY RESIDENCE  
TOTAL AREA 4,170 S. F.  
WITH 2 REQUIRED PARKING SPACES  
AND 3 PROVIDED PARKING SPACES

Compact Parking  
7'-6" x 15'-0"

Standard Parking  
8'-8" x 18'-0"

Standard Parking  
8'-8" x 18'-0"

A2.1  
Site Plan

2013/04/28  
013-001

REVISIONS	#	date	remarks

2709  
Ocean Front Walk

Owner:  
Garner Homes  
Architect:  
Dan Brown  
100 Wilshire Boulevard Suite 303  
Los Angeles, CA 90024  
P: 310.801.3000 F: 310.801.3660



42.95'

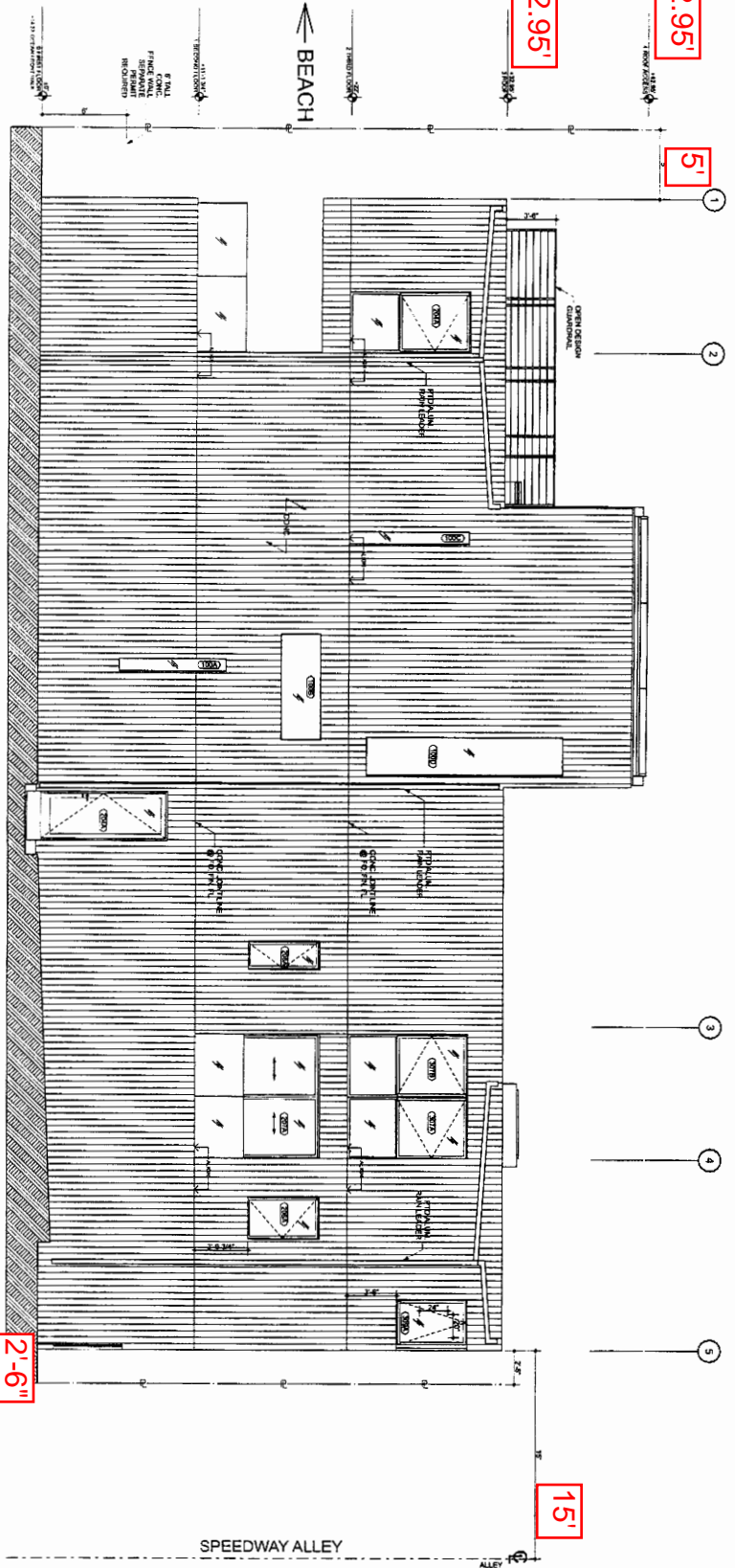
32.95'

5'

2'-6"

15'

1 SOUTH ELEVATION  
SCALE: 1/8" = 1'-0"



**A3.1**  
**ELEVATIONS**

2013/04/28  
013-001

REVISIONS	#	DATE	REMARKS

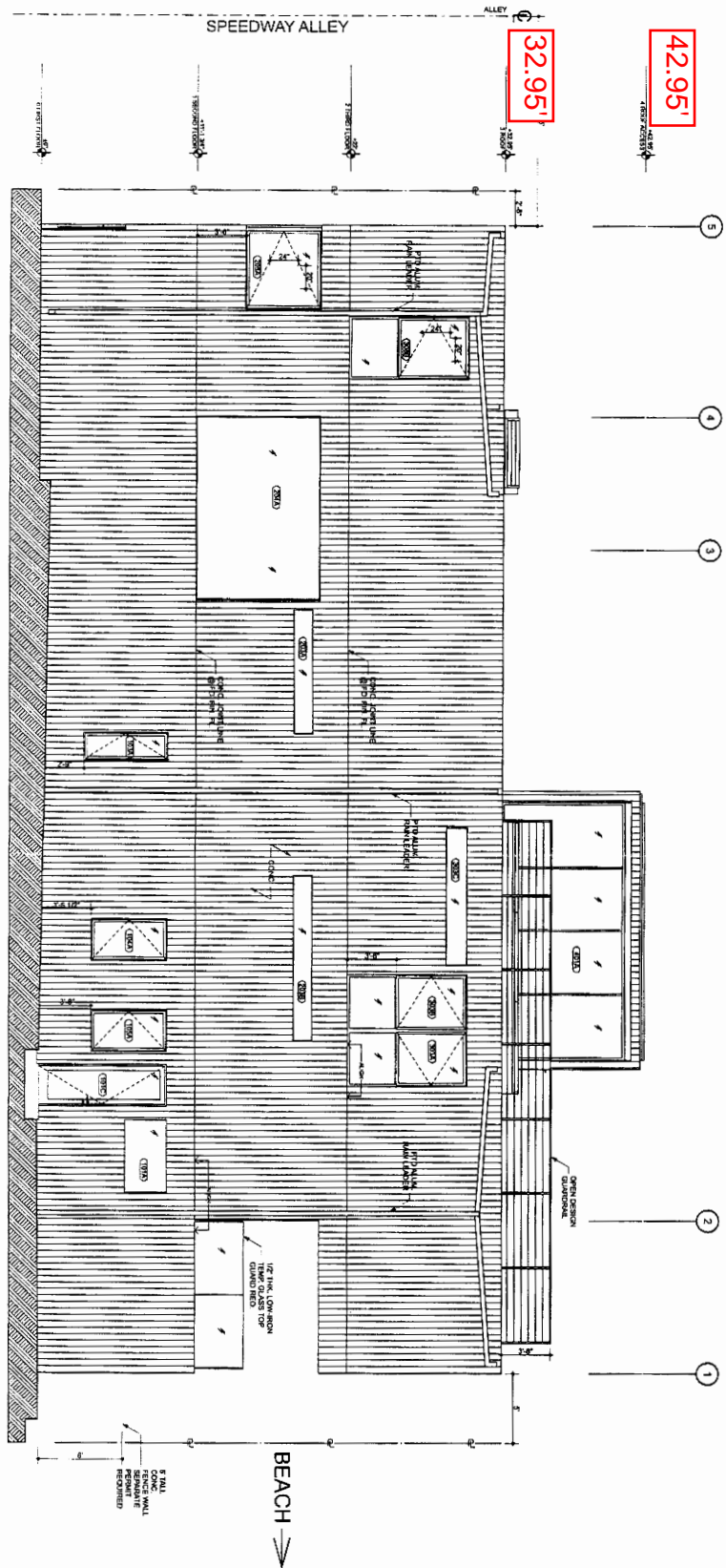
**2709**  
**Ocean Front Walk**

**Owner:**  
Karmannus

**Architect:**  
Dan Brown  
2300 Wilshire Boulevard Suite 205  
Los Angeles, CA 90061  
P: 310.848.2666 F: 310.848.2600







1 NORTH ELEVATION  
SCALE: 1/8" = 1'-0"

**A3.2**  
**ELEVATIONS**

Sheet Date: 2013/04/28  
 013-001

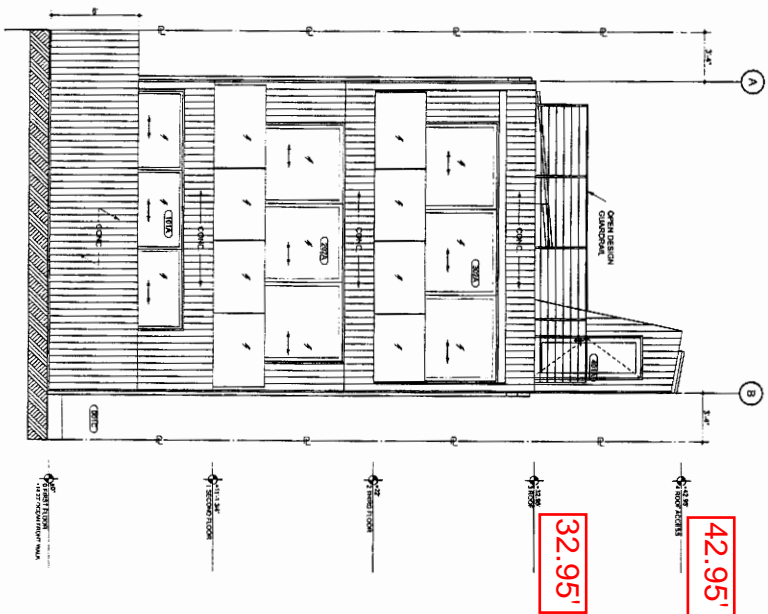
REVISIONS	#	date	remarks

**2709**  
**Ocean Front Walk**

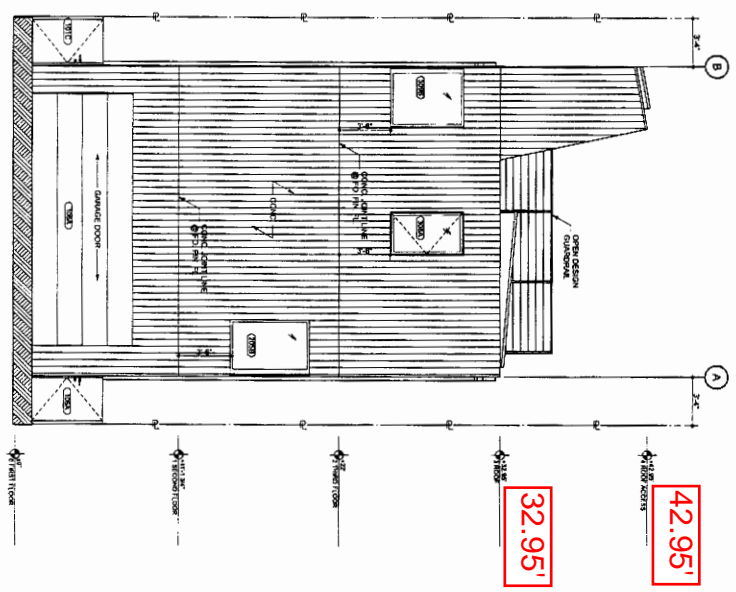
**Owner:**  
Comcast

**Architect:**  
CSC  
4330 Wilshire Boulevard Suite 200  
Los Angeles, CA 90048  
P: 310.887.3665 F: 310.881.3660





1 WEST ELEVATION  
SCALE: 1/8" = 1'-0"



2 EAST ELEVATION  
SCALE: 1/8" = 1'-0"

<p><b>A3.3</b> ELEVATIONS</p>	<p>Issue Date: 2013/04/26 Issue Number: 013-001</p>	<p><b>REVISIONS</b> # date remarks</p>	<p><b>2709</b> <b>Ocean Front Walk</b></p>	<p><b>Owner</b> Karmann</p>
	<p>Architect Dan Strup 620 Wilshire Boulevard Suite 620 Los Angeles, CA 90048 P: 310.866.2666 F: 310.466.2506</p>			

