

**CALIFORNIA COASTAL COMMISSION**

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# F6c

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## STAFF REPORT: CONSENT CALENDAR

**Application No.:** 5-17-0037

**Applicant:** Zack Freedman

**Agent:** Brian Silveira

**Location:** 232 Linnie Canal, Venice, City of Los Angeles, Los Angeles County (APN: 4227009021)

**Project Description:** Demolition of a one-story, 930 sq. ft. single-family residence, and construction of an approximately 2,845 sq. ft., 30 ft. high three-story single-family residence with an attached two-car garage with one additional on-site parking space, a 240 sq. ft. roof terrace with 3 ft. high glass railing, new landscaping, and hardscape improvements on a canal fronting lot.

**Staff Recommendation:** Approval with conditions

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### SUMMARY OF STAFF RECOMMENDATION

The proposed residential project raises issues concerning canal front development regarding hazards and impacts to public access, visual quality, and water quality due its location.

The proposed development has been conditioned to assure that the proposed project is consistent with the Chapter 3 policies of the Coastal Act. The conditions are: **1)** development setback and building height; **2)** permeable area and setback requirement; **3)** parking and residential density; **4)** assumption of risk; **5)** construction-related requirements and best management practices; **6)** drainage and run-off control; practices; **7)** drought-tolerant, non-invasive landscaping; **8)** bird-strike prevention; **9)** permit compliance; and **10)** deed restriction.

Staff is recommending **APPROVAL** of the proposed coastal development permit as conditioned.

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### EXHIBITS

Exhibit 1 – Project Location & Aerial

Exhibit 2 – Plans and Elevations

## I. MOTION AND RESOLUTION

### Motion:

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

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

### Resolution:

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

## II. STANDARD CONDITIONS

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. **Permeable Yard Area.** In order to maintain an open and visible access corridor, to enhance visual quality, and to preserve the water quality and biological productivity of the canals, an uncovered and permeable yard area totaling no less than fifteen times the width of the site (in this case: 15' x 30' = 450 square feet) shall be maintained on the project site in the front yard area between the structure and the front (Linnie Canal) property line. The precise boundaries of the area that must remain uncovered and permeable yard area shall be described and depicted in accordance with **Exhibit 2** of the staff report dated April 20, 2017 and shall be attached to the Notice of Intent to Issue Permit (NOI) that the Executive Director issues for this permit. Uncovered means that no fill or building extensions (i.e. chimneys, balconies, stairs, trellises) shall be placed in or over the permeable yard area with the exception of fences or garden walls (not to exceed 42 inches in height), permeable decks at grade (not to exceed 18 inches in height), and an underground cistern for water retention. The permeable yard area may include minimal coverage with impermeable pavers, stones, concrete walkways or other similar ground cover, but in no event shall impermeable materials occupy more than fifteen percent (15%) of the total amount of the required permeable yard area.
2. **Development Setbacks and Building Height.** No development is authorized within ten feet of the fronting canal property line (Linnie Canal) nor within or above the required 450 square foot permeable front yard area, except as described in **Special Condition 1** above. Ten feet landward of the fronting canal property line, the maximum height of any structure shall not exceed 22 feet above the centerline of the rear road. Beyond ten horizontal feet from the fronting canal property line, one foot in additional height is permitted for each two additional horizontal feet to a maximum height of thirty feet (30') except for chimneys, ducts, and other accessory structures which are limited to 35 feet. Roof deck railings shall not exceed 42 inches above the thirty-foot height limit. Building height is measured from the elevation of the adjacent road or alley. This permit (CDP No. 5-17-0037) does not authorize a roof access structure above the above the thirty-foot height limit.
3. **Parking and Residential Density.** The permitted use of the approved structure is a single-family residence. A minimum of three (3) parking spaces shall be provided and maintained on the site as proposed: two spaces in the garage and an area for parking a third vehicle on the driveway in the rear setback area. Any proposed change in the number of residential units, change in number of on-site parking spaces, or change in use shall be submitted to the Executive Director to determine whether an amendment to this permit is necessary pursuant to the requirements of the Coastal Act and the California Code of Regulations.
4. **Assumption of Risk, Waiver of Liability and Indemnity.** By acceptance of this permit, the applicant(s) acknowledges and agrees (i) that the site may be subject to hazards from waves, erosion, storm conditions, liquefaction, flooding and sea level rise; (ii) to assume the risks to

the applicant(s) and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

**5. Storage of Construction Materials, Mechanized Equipment and Removal of Construction Debris**

The permittee shall comply with the following construction-related requirements:

- (a) No demolition or construction materials, debris, or waste shall be placed or stored where it may enter sensitive habitat, receiving waters or a storm drain, or be subject to wave, wind, rain, or tidal erosion and dispersion.
- (b) No demolition or construction equipment, materials, or activity shall be placed in or occur in any location that would result in impacts to environmentally sensitive habitat areas, streams, wetlands or their buffers.
- (c) Any and all debris resulting from demolition or construction activities shall be removed from the project site within 24 hours of completion of the project.
- (d) Demolition or construction debris and sediment shall be removed from work areas each day that demolition or construction occurs to prevent the accumulation of sediment and other debris that may be discharged into coastal waters.
- (e) All trash and debris shall be disposed in the proper trash and recycling receptacles at the end of every construction day.
- (f) The applicant(s) 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.

6. **Drainage & Water Quality.** By acceptance of this coastal development Permit, the applicant agrees that:

- a) 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.
- b) All equipment and materials shall be stored and managed in a manner to minimize the potential of pollutants to enter the canals.
- c) A one hundred cubic foot French drain or underground cistern shall be installed on the project site to collect and reduce the amount of runoff that leaves the site.
- d) All runoff leaving the site shall be directed away from the canals and into the City storm drain system.
- e) No water from any pool or spa shall be discharged into any canal or street that drains into a canal.

The permittee and all successors in interest shall construct and maintain the development consistent with the drainage plans approved by the Executive Director.

7. **Landscaping – Drought Tolerant, Non-Invasive Plants.**

- A. Vegetated landscaped areas shall only consist of native plants or non-native drought tolerant plants, which are non-invasive. No plant species listed as problematic and/or invasive by the California Native Plant Society (<http://www.CNPS.org/>), the California Invasive Plant Council (formerly the California Exotic Pest Plant Council) (<http://www.cal-ipc.org/>), or as may be identified from time to time by the State of California shall be employed or allowed

- to naturalize or persist on the site. No plant species listed as a “noxious weed” by the State of California or the U.S. Federal Government shall be utilized within the property. All plants shall be low water use plants as identified by California Department of Water Resources (See: <http://www.owue.water.ca.gov/docs/wucols00.pdf>).
- B. Use of reclaimed water for irrigation is encouraged. If using potable water for irrigation, only drip or microspray irrigation systems may be used. Other water conservation measures shall be considered, such as weather based irrigation controllers.
8. **Bird Strike Prevention.**
- A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall submit final revised plans showing the location, design, height and materials of fences, screen walls and gates, if proposed, for the review and approval of the Executive Director. Said plans shall reflect the requirements of this special condition. Ocean front deck railing systems, fences, screen walls and gates subject to this permit, if proposed, shall use materials designed to minimize bird-strikes with the deck railing, fence, or gate. Such materials may consist, all or in part, of wood; wrought iron; frosted or partially-frosted glass, Plexiglas or other visually permeable barriers that are designed to prevent creation of a bird strike hazard. Clear glass or Plexiglas shall not be installed unless they contain UV-reflective glazing that is visible to birds or appliqués (e.g. stickers/decals) designed to reduce bird-strikes by reducing reflectivity and transparency are also used. Any appliqués used shall be installed to provide coverage consistent with manufacturer specifications (e.g. one appliqué for every 3 foot by 3 foot area) and the recommendations of the Executive Director. Use of opaque or partially opaque materials is preferred to clean glass or Plexiglas and appliqués. All materials and appliqués shall be maintained throughout the life of the development to ensure continued effectiveness at addressing bird strikes and shall be maintained at a minimum in accordance with manufacturer specifications and as recommended by the Executive Director
- B. The permittee shall undertake development in accordance with the approval 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.
9. **Permit Compliance.** All development must occur in strict compliance with the proposal as set forth in the application, subject to any special conditions. Any deviation from the approved plans must be submitted for review by the Executive Director to determine whether an amendment to this coastal development permit is required.
10. **Deed Restriction** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant(s) shall submit to the Executive Director for review and approval documentation demonstrating that the landowner(s) have 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.

#### **IV. FINDINGS AND DECLARATIONS**

##### **A. PROJECT DESCRIPTION**

The applicant proposes to demolish a one-story, 930 sq. ft. single-family residence, and construct an approximately 2,845 sq. ft., 30 ft. high three-story single-family residence with an attached two-car garage with an additional on-site parking space, a 240 sq. ft. roof terrace, landscaping, and hardscape improvements on a canal fronting lot (**Exhibit 2**). The proposed project incorporates best management practices (BMPs) during construction to address water quality, and post-construction by directing runoff to downspouts and to the existing drainage systems. No roof access structure is proposed.

The subject site is a level, approximately 2,849 sq. ft. lot in the Venice Canals subarea of the City of Los Angeles, on the south bank of Linnie Canal (**Exhibit 1**). The subject block is composed primarily of both old and new two and three-story single family residences of varying architectural styles, and with or without roof decks and roof access structures (**Exhibit 1**). Public sidewalks currently provide public access along all banks of the canals.

The height limits set forth in the certified Venice Land Use Plan (LUP) for the Venice Canals subarea are specific with regards to residences. Ten feet landward of the fronting canal property line, the maximum height of any structure shall not exceed 22 feet above the centerline of the rear alley. Beyond ten horizontal feet from the fronting canal property line, one foot in additional height is permitted for each two additional horizontal feet to a maximum height of 30 feet except for chimneys, ducts, and other accessory structures which are limited to 35 feet. Roof deck railings shall not exceed 42 inches above the 30 foot height limit. Building height is measured from the elevation of the adjacent alley.

The proposed residence will provide an approximately 22.3 ft. front yard setback and a 670 sq. ft. permeable yard area in conformance with the Commission certified Venice Land Use Plan (LUP) (see **Exhibit 2**), which requires that canal fronting homes maintain a permeable yard area between the canal and home, in this case, a minimum of 15 ft. from the canal side property line to the structure, and a minimum total of 450 sq. ft. of area, as represented in **Special Condition 1**.

The proposed residence features a stepped-back design with two stories in the front facing the canal and three stories to the rear of the structure. The front height of the residence, which is setback 22.4 ft. and fronting the canal, will be maintained at 18 ft. – 6 in. (as measured from the centerline of the road). The maximum height of proposed project will not exceed 30 ft. In addition, the proposed roof terrace will be sited on the stepped back roof of the second floor fronting the canal and the roof deck railing will not exceed 42 inches in height. Therefore, the proposed project meets the specific height requirements of the LUP. **Special Condition 2** reflects the requirements for height limits.



In addition, due to limited on-street parking, the Venice Certified LUP requires single-family residences to provide three parking spaces, and three on-site parking spaces are provided for this project: two in the garage and one on the driveway apron, all accessed from the alley (Linnie Canal), as required by **Special Condition 3**.

The project has a local Coastal Development Permit (CDP) issued by the City's Planning Department (Case No. ZA 2015-0637(CDP)(SPP)(MEL)) and the development conforms with the City's RW1-1-0 zoning (Low Medium I Residential), which allows one dwelling unit on a lot.

The existing structure has not been designated as historic on any local, state, or national register. The development will not affect the visual qualities of the existing home from the street or from the canal. The project has been designed to be consistent with the community character. The proposed development will not adversely impact coastal resources, public access, or public recreation opportunities, and is consistent with past Commission actions in the area and Chapter Three policies of the Coastal Act.

Given that the applicant has chosen to implement the project on a waterfront lot despite risks from liquefaction, sea level rise, and storm flooding, the applicant must assume the risks; therefore, the Commission imposes **Special Condition 4**. In addition, because the project site fronts the canals and is in proximity to the water, the Commission imposes construction-related requirements and best management practices under **Special Condition 5**, and to address water quality, imposes **Special Condition 6** to ensure pollution of the canal is prevented. In addition, the applicant is proposing new non-invasive, drought-tolerant landscaping and a stormwater rain garden, which will help minimize water runoff from the subject site. **Special Condition 7** requires the applicant utilize drought tolerant, non-invasive plant species in order to minimize water use and water runoff from the subject site.

The proposed development includes new 3 ft. high glass railing on the roof terrace along the canal fronting side of the project site. Glass railing systems, walls or wind screens are known to have adverse impacts upon a variety of bird species. Birds are known to strike these glass walls causing their death or stunning them, which exposes them to predation. To ensure bird strike prevention, **Special Condition 8** requires that the applicant to use a material for the glass railing that is designed to prevent creation of a bird strike hazard, and to submit revised plans reflecting the requirements of this condition.

To ensure that any future changes are consistent with the policies of the Coastal Act, any deviation from the approved plans must be submitted for review by the Executive Director; therefore, the Commission imposes **Special Condition 9**. The Commission imposes **Special Condition 10** requiring the applicant to record a Deed Restriction acknowledging that, pursuant to this permit (CDP No. 5-17-0037), 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.

## **B. HAZARDS**

Development adjacent to the ocean is inherently hazardous. To minimize the project's impact on shoreline processes, and to minimize risks to life and property, the development has been conditioned to: require an appropriate set-back from the water; require a drainage and runoff control plan to direct, treat, and minimize the flow of water offsite; and to require that the landowner and any successor-in-interest assume the risk of undertaking the development. As conditioned, the Commission finds that the development conforms to the requirements of Sections 30235 and 30253 of the Coastal Act regarding the siting of development in hazardous locations.

## **C. PUBLIC ACCESS**

The proposed development will not affect the public's ability to gain access to, and/or to use the coast and nearby recreational facilities. Therefore, as proposed, and conditioned, the development conforms to Sections 30210 through 30214, Sections 30220 through 30224, and 30252 of the Coastal Act.

## **D. DEVELOPMENT**

As proposed, the development is located within an existing developed area and is compatible with the character and scale of the surrounding area. The project provides adequate parking based on the Commission's typically applied standards. Therefore, as proposed, the development conforms with Sections 30250, 30251, and 30252 of the Coastal Act.

## **E. WATER QUALITY**

The proposed development has a potential for a discharge of polluted runoff from the project site into coastal waters. The development, as proposed and as conditioned, incorporates 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. Therefore, the Commission finds that the proposed development, as conditioned, conforms with Sections 30230 and 30231 of the Coastal Act regarding the protection of water quality to promote the biological productivity of coastal waters and to protect human health.

## **F. DEED RESTRICTION**

To ensure that any prospective future owners of the property are made aware of the applicability of the conditions of this permit, the Commission imposes one additional condition requiring that the property owner record a deed restriction against the property, referencing all of the above Special Conditions of this permit and imposing them as covenants, conditions and restrictions on the use and enjoyment of the Property. Thus, as conditioned, this permit ensures that any prospective future owner will receive actual notice of the restrictions and/or obligations imposed on the use and enjoyment of the land in connection with the authorized development, including the risks of the development and/or hazards to which the site is subject, and the Commission's immunity from liability.

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

Coastal Act section 30604(a) states that, prior to certification of a local coastal program (LCP), a coastal development permit can only be issued upon a finding that the proposed development is in conformity with Chapter 3 of the Act and that the permitted development will not prejudice the ability of the local government to prepare an LCP that is in conformity with Chapter 3. The Venice Land Use Plan was certified by the Commission on June 14, 2001 and is advisory in nature and may provide guidance. The proposed development is consistent with Chapter 3 of the Coastal Act and with the certified Land Use Plan for the area. Approval of the project as proposed will not prejudice the ability of the local government to prepare an LCP that is in conformity with the provisions of Chapter 3 of the Coastal Act.

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

As conditioned, there are no feasible alternatives or additional feasible mitigation measures available that would substantially lessen any significant adverse effect that the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

**Appendix A - Substantive File Documents**

- City of Venice certified Land Use Plan
- Coastal Development Permit Application No. 5-17-0037
- City of Los Angeles local Coastal Development Permit Case No. ZA-2015-0637 (CDP)(SPP)(MEL), dated January 21, 2016