

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
 200 Oceangate, Suite 1000
 Long Beach, CA 90802-4302
 (562) 590-5071

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STAFF REPORT: CONSENT CALENDAR & DE NOVO

Application Nos.: 5-16-0352 & A-5-VEN-17-0012

Applicant: City of Los Angeles

Agents: Gary Lam, Maria Martin, Jane Adrian, & James Tebbetts

Location: 3503 & 3507 Via Dolce (Grand Canal), Venice, City of Los Angeles, Los Angeles County (APN: 4225-013-091)

Project Description: Construction of a pocket park including hardscaping, benches, picnic tables, a playground, a bike rack, a 36-inch high split rail fence, an irrigation system, park signs, improvement of an existing dirt path with decomposed granite, and a native vegetation restoration area on a vacant 6,300 sq. ft. canal-fronting parcel.

Staff Recommendation: Approval with conditions

SUMMARY OF STAFF RECOMMENDATION

On June 29, 2016, the City of Los Angeles, Department of Public Works held a public hearing for Local Coastal Development Permit (CDP) 16-02 (City of Los Angeles) for the project, which was approved on February 16, 2017. The City's Notice of Final Local Action for the local CDP was received in the Coastal Commission's Long Beach Office on March 3, 2017. On April 3, 2017 the local CDP was appealed on the grounds that, as approved by the City, the project would eliminate a designated public accessway on the east bank of the Grand Canal by planting vegetation over the dirt path and thereby making the path impassable to pedestrians, which is inconsistent with the public access and recreation policies of the Chapter 3 of the Coastal Act and the certified Venice Land Use Plan (LUP). On May 12, 2017, the Commission found substantial issues with the appeal. The City has since revised the project and now proposes to maintain and improve the existing designated public accessway with decomposed granite, thereby addressing the concerns raised in the appeal.

This is a combined staff report for the de novo hearing (for the appeal) and for the dual permit application. Staff is recommending **approval** of the proposed CDP with five special conditions. The special conditions include: **1) Public Access, 2) Landscaping; 3) Construction BMPs; 4) Approved Development; and 5) Assumption of Risk.**

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APPENDICES

Appendix A - Substantive File Documents

[EXHIBITS](#)

[Exhibit 1 – Project Location](#)

[Exhibit 2 – Project Plans](#)

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. **Public Access Areas and Amenities Maintained.** All public access amenities of the approved project (i.e., the park and the Grand Canal public walkway) shall be maintained in their approved state for continuous public use, as shown in [Exhibit #2](#) of the staff report dated July 20, 2017. Signage shall be provided along the Grand Canal public walkway, and along the sidewalk along the northern side of the approved park, which clearly indicates that the Grand Canal public walkway is open to the general public 24 hours a day. Public access signs, with directions to the Grand Canal public walkway, shall be posted at the entrance to the vertical accessway along Via Dolce. Public access signage shall include an acknowledgement that the Grand Canal public walkway was provided through the cooperative efforts of the City of Los Angeles and the California Coastal Commission.

2. **Landscape Plan.** The applicant shall conform to the landscape plan shown in Exhibit 2 showing vegetated landscaped areas consisting 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.water.ca.gov/wateruseefficiency/docs/wucols00.pdf>).

Existing non-native vegetation that does not conform to the above requirements shall be removed. If using potable water for irrigation, the project shall use water-conserving emitters (e.g. microspray) and drip irrigation. Use of weather-based irrigation controllers and reclaimed water for irrigation is encouraged.

3. **Construction Best Management Practices.**

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

- (1) No construction materials, debris, or waste shall be placed or stored where it may be subject to wave, wind, rain, or tidal erosion and dispersion;
- (2) Any and all debris resulting from construction activities shall be removed from the project site within 24 hours of completion of the project;
- (3) Construction debris and sediment shall be removed from construction areas each day that construction occurs to prevent the accumulation of sediment and other debris which may be discharged into coastal waters;
- (4) Erosion control/sedimentation Best Management Practices (BMPs) shall be used to control dust and sedimentation impacts to coastal waters during

construction. BMPs shall include, but are not limited to: placement of sand bags around drainage inlets to prevent runoff/sediment transport into coastal waters; and

- (5) All construction materials, excluding lumber, shall be covered and enclosed on all sides, and as far away from a storm drain inlet and receiving waters as possible.

B. Best Management Practices (BMPs) designed to prevent spillage and/or runoff of construction-related materials, sediment, or contaminants associated with construction activity shall be implemented prior to the on-set of such activity. Selected BMPs shall be maintained in a functional condition throughout the duration of the project. Such measures shall be used during construction:

- (1) The applicant shall ensure the proper handling, storage, and application of petroleum products and other construction materials. These 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. It shall be located as far away from the receiving waters and storm drain inlets as possible;
- (2) The applicant shall develop and implement spill prevention and control measures;
- (3) The applicant shall maintain and wash equipment and machinery in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into sanitary or storm sewer systems. Washout from concrete trucks shall be disposed of at a location not subject to runoff and more than 50-feet away from a stormdrain, open ditch or surface water; and
- (4) The applicant shall provide adequate disposal facilities for solid waste, including excess concrete, produced during construction.

4. Permit Compliance. All development must occur in strict compliance with the proposal as set forth in the application, subject to any special conditions imposed herein. Any deviation from the approved plans must be submitted for review by the Executive Director to determine whether an amendment to these Coastal Development Permit Nos. 5-16-0352 and A-5-VEN-17-0012 is necessary pursuant to the requirements of the Coastal Act and the California Code of Regulations.

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 waves, erosion, storm conditions, liquefaction, flooding, and sea level rise; (ii) 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; (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. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit a written agreement, in a form and content acceptable to the Executive Director, incorporating all of the above terms of this condition.

IV. FINDINGS AND DECLARATIONS

A. PROJECT LOCATION & DESCRIPTION

The project is located at 3503 & 3507 Via Dolce (two lots on a shared parcel), Venice, in the City of Los Angeles, Los Angeles County ([Exhibit 1](#)). The parcel, which is in the Dual Permit Jurisdiction, is owned by the City of Los Angeles. The site is a vacant, approximately 6,300 sq. ft. parcel that abuts Grand Canal and is two blocks inland from the sandy beach and Venice boardwalk. The nearest public access to Grand Canal, which represents the inland extent of the sea, is an improved sidewalk adjacent to the north side of the parcel that leads from Via Dolce to Grand Canal. The sidewalk connects to an improved sidewalk near the canal and extends northwest along the east bank of the canal. The sidewalk also leads to an unimproved dirt path along the western most (canal-fronting) portion of the subject parcel. The dirt path connects to an improved path that extends southeast along the east bank of Grand Canal ([Exhibits 1 & 2](#)). Both sides of Grand Canal (east and west) are developed with improved and unimproved accessways that extend the entire length of the canal, although some portions have fallen into disrepair. South of the site begins a row of canal-fronting residences. North of the site is a County-owned housing development and other residences. The subject lots are zoned Two Family Residential Waterways (RW2-1) by the City of Los Angeles Municipal Code, and are designated Low Medium II Residential by the certified Venice LUP. On May 20, 2009, the City of Los Angeles Board of Recreation and Park Commissioners approved a resolution that transferred title of the property from the Department of General Services to the Department of Recreation and Parks to be dedicated as park property in perpetuity.

The City proposes to construct a public pocket park and habitat restoration/vegetation area on the vacant parcel including hardscaping, benches, a trashcan, picnic tables, a playground, a bike rack, a 36-inch high split rail vegetation fence, an irrigation system, park signs, a native vegetation restoration area, and improvement of the existing five-foot wide public dirt path with decomposed granite ([Exhibit 2](#)). The proposed playground and hardscaped area will cover approximately 2,200 sq. ft. of the parcel and will be located on the northeast portion of the parcel away from the canal ([Exhibit 2](#)). Visitors to the park will be able to access the playground, tables, and benches from an entrance off of the sidewalk along Via Dolce.

The proposed vegetation restoration area will be approximately 3,760 sq. ft. in area and will be located on the southern portion of the parcel. It will surround the playground and hardscape area to the east and west sides of the parcel. The vegetated area will be surrounded with approximately 36-inch high, split rail vegetation fences in an effort to protect the vegetation, and will be bordered to the west (canal side of the lot) by the improved public trail that extends along the entire canal. There are bunches of pickleweed (*Salicornia*) west (canalward) of the public trail on the west bank of the canal, which will not be disturbed. The City proposes to protect pickleweed in place. The proposed

vegetation area will be planted with: *Lyonothamnus floribundus* (Catalina ironwood), *Distichlis spicata* (salt grass), *Erigeron glaucus* (seaside daisy), *Eriogonum parvifolia* (coast buckwheat), *Juncus acutus* (spiny rush), *Isomeris arborea* (bladderpod), *Frankenia salina* (alkali health/seahealth), an *Prunus ilicifolia* (hollyleaf cherry).

Sections 30210, 30211, 30212, and 30252 of the Coastal Act require protection and enhancement of public access and recreation in the coastal zone. Especially in areas that are between the first public road and the sea or the inland extent of the sea, as is the case with the subject development. Certified Venice LUP Policies II.C.1 and II.C.2 require the City to develop and maintain non-vehicular access throughout Venice and specifically improve pedestrian access along both sides of Grand Canal. Certified Venice LUP Policy II.C.2., states:

***Grand Canal Pedestrian Access.** The three existing public rights-of-way from the Grand Canal to Strongs Drive and Pacific Avenue shall be improved and appropriately signed. South of Washington Boulevard, the public walkways that provide public pedestrian access along both sides of Grand Canal shall be improved and appropriately signed.*

Public access to the shoreline is a fundamental principle of the Coastal Act. The project site is located between the first public road and the inland extent of the sea. The proposed project will create a public recreation amenity and enhance an existing public accessway along the east bank of the canal consistent with sections 30210, 30211, 30212, and 30252 of the Coastal Act and with Venice certified LUP Policies II.C.1 and II.C.2. **Special Condition 1** requires the that all of the approved public access amenities (i.e., the park and the Grand Canal public walkway) shall be maintained in their approved state in perpetuity, as shown in Exhibit #2 , and that signage shall be provided, consistent with the public access policies of the Coastal Act and the certified LUP. **Special Condition 4** requires the applicant to implement the proposed development consistent with the approved plans. Any deviation from the approved plans will require an amendment to this CDP, unless the executive Director determines that no amendment is necessary.

Coastal Act sections 30230, 30231, and 30240 require the protection and enhancement of marine resources and environmentally sensitive habitat areas (ESHA) and for new development to minimize adverse effects to biological productivity. Grand Canal is identified as ESHA by the certified Venice LUP (Exhibits 22a & 22b). Currently the subject parcel has some sparse, degraded vegetation growing on it ([Exhibit 1](#)); however, it is not exceptionally productive. The City proposes to protect the existing bunches of pickleweed on the east bank of Grand Canal adjacent to the subject site and to create a vegetation restoration area on much of the parcel ([Exhibit 2](#)) inland of the proposed improved pedestrian accessway ([Exhibit 2](#)). The City also proposes to install a “smart” irrigation system that will monitor and regulate watering of the proposed vegetation, which will prevent overwatering of the site while ensuring an adequate supply of water for the proposed vegetation to thrive, thereby providing a quality habitat area for birds and other animals in the area where currently there are only bits of degraded vegetation. **Special Condition 2** requires the City to adhere to the proposed landscaping and irrigation plan. **Special Condition 3** requires the City to follow construction BMPs to protect the water quality of the adjacent canal.

Section 30253 of the Coastal Act requires new development to be designed in a manner that minimizes risks due to flooding. The project site is located adjacent to a tidally influenced canal, although muted because of the tide gates that control the seawater that passes through Grand Canal.

As such, the project site may be subject to flooding associated with storms and sea level rise in the future. **Special Condition 5** requires the City to assume all risks associated with the development and to indemnify and unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards.

B. PUBLIC ACCESS

As conditioned, the proposed development will not have any new adverse impact on public access to the coast or to nearby recreational facilities; rather, it will improve public access. Thus, as conditioned, the proposed development conforms with Sections 30210 through 30214, Sections 30220 through 30224, and 30252 of the Coastal Act.

C. PUBLIC RECREATION

The proposed development, as conditioned, will benefit public recreational use of coastal resources. The proposed development, as conditioned, protects coastal areas suited for recreational activities. Therefore, the Commission finds that the proposed development, as conditioned, is in conformity with Sections 30210 through 30214 and Sections 30220 through 30223 of the Coastal Act regarding the promotion of public recreational opportunities.

D. BIOLOGICAL RESOURCES

As conditioned, the development will not result in significant degradation of adjacent habitat, recreation areas, or parks and is compatible with the continuance of those habitat, recreation, or park areas. Therefore, the Commission finds that the project, as conditioned, conforms with Section 30240(b) of the Coastal Act.

E. DEVELOPMENT

The development is located within an existing developed area and, as conditioned, will be compatible with the character and scale of the surrounding area, has been designed to assure structural integrity, and will avoid cumulative adverse impacts on public access. Therefore, the Commission finds that the development, as conditioned, conforms with Sections 30250, 30251, 30252, 30253 and the public access provisions of the Coastal Act.

F. WATER QUALITY

The proposed work will be occurring in a location where there is a potential for a discharge of polluted runoff from the project site into coastal waters. The storage or placement of construction material, debris, or waste in a location where it could be carried into coastal waters would result in an adverse effect on the marine environment. To reduce the potential for construction and post-construction related impacts on water quality, the Commission imposes special conditions requiring, but not limited to, the appropriate storage and handling of construction equipment and materials to minimize the potential of pollutants to enter coastal waters and for the use of on-going best management practices following construction. As conditioned, the Commission finds that the development conforms with Sections 30230 and 32031 of the Coastal Act.

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.

5-16-0352 & A-5-VEN-17-0012 (City of Los Angeles)

Appendix A - Substantive File Documents

- Appeal A-5-VEN-17-0012
- Certified Venice Land Use Plan, November 14, 2000