

CALIFORNIA COASTAL COMMISSION

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



Th5c

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STAFF REPORT: CONSENT CALENDAR

Application No.: 5-17-0776

Applicants: Kevin & Maria Smith

Agent: Michael Lee Architects

Location: 127 Via Marina (Lot 13 of Block 17, Del Rey Beach Tract), Venice, City of Los Angeles, Los Angeles County APN 4295-009-009.

Project Description: Construction of a four-story, 45-foot high, 4,203 square-foot single-family residence with an attached 560 square-foot, three-car garage on a vacant 3,150 square-foot lot.

Staff Recommendation: Approval with conditions

SUMMARY OF STAFF RECOMMENDATION

The applicants are proposing to construct a new single-family residence on a vacant lot in a developed residential neighborhood in the Dual Permit Jurisdiction area in the Venice community of the City of Los Angeles. The project site is located approximately 100 feet from the Marina del Rey entrance channel and 290 feet from Ballona Lagoon. The applicants have incorporated water quality measures and best management practices into the project. The proposed residence is designed to be compatible with the surrounding neighborhood and is consistent with the development standards set forth in the certified Venice Land Use Plan (LUP). Staff is recommending **APPROVAL** of the proposed coastal development permit (CDP) with the following special conditions: **1)** maintenance of Public areas; **2)** CDP 5-87-112 permit compliance; **3)** building height; **4)** wall height and landscaping adjacent to the public sidewalk; **5)** permeable yard area; **6)** landscaping; **7)** parking; **8)** water quality; **9)** best management practices; **10)** permit compliance; and **11)** deed restriction.

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APPENDICES

Appendix A - Substantive File Documents

EXHIBITS

[Exhibit 1 – Vicinity map and Project Location](#)

[Exhibit 2 – Plans and Elevations](#)

[Exhibit 3 – Public Areas Exhibit – Del Rey/Silver Strand](#)

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. **Maintenance of Public Areas.** In order to maintain the public areas designated in the Silver Strand and Del Rey Beach tracts, the applicants and all successors in interest shall participate in the private homeowners association established under amended Coastal Development Permit (CDP) A-266-77 (ILA) on a fair and equitable basis in the maintenance of all public areas and landscaping (including pedestrian malls, parking nodes, and the lagoon buffer and pathway) installed pursuant to CDPs A-266-77 (ILA), 5-86-641 (Lee), and 5-87-112 (Del Rey Assoc.). The public areas are identified on the attached “Public Areas Exhibit – Del Rey/Silver Strand” ([Exhibit 3 of the staff report dated 04/19/2018](#)) and repeated as Exhibit 1 to the Notice of Intent that the Executive Director issues for this coastal development permit.
2. **Coastal Development Permit (CDP) 5-87-112 (Del Rey Assoc.)** Through the acceptance of this CDP, the applicants acknowledge and agree as follows:
 - a) The project site is subject to CDP 5-87-112 (Del Rey Assoc.) and that all development must be consistent with CDP 5-87-112 (Del Rey Assoc.), and;
 - b) All public areas provided and improved pursuant to CDP 5-87-112 (Del Rey Assoc.), including Channel Pointe (Yawl) Mall, Westwind Mall, and the public streets and alleys, shall remain open and available for use by the general public on the same basis as similar public areas within the City.
3. **Building Height.** The roof of the proposed single-family residence shall not exceed a height of 45 feet, measured from the centerline of the Via Marina right-of-way in front of the project site. Any roof deck railings shall be of an open design and shall not exceed 36 inches above the 45-foot roof height limit. Chimneys, exhaust ducts, ventilation shafts and other similar devices essential for building function may extend up to fifty feet in elevation above the Via Marina right-of-way. The permittee shall undertake and maintain the development in accordance with the final plans approved by the Commission. Any proposed change to the approved plans shall be reported to the Executive Director in order to determine if the proposed change shall require a permit amendment pursuant to the requirements of the Coastal Act and the California Code of Regulations. No changes to the approved plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.
4. **Wall Height and Landscaping Adjacent to Public Sidewalk.** Through the acceptance of this coastal development permit, the applicants acknowledge and agree as follows:
 - a) The maximum height of the wall proposed between the approved single-family residence and the abutting public sidewalk on Via Marina shall not exceed a height of six feet, as measured from the Via Marina public sidewalk, and;
 - b) All landscaping within the planter area of the wall shall be maintained in good growing condition throughout the life of the project. New plant material shall be installed whenever necessary.

- 5. Permeable Yard Area.** In order to reduce the amount of runoff leaving the site and to preserve the water quality and biological productivity of Ballona Lagoon, a permeable yard area shall be maintained in the front yard area between the structure and the front property line. No more than twenty percent (20%) of the front yard setback (permeable front yard area) shall be covered with impervious materials (i.e., walkway, stairways, and garden walls).
- 6. 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.water.ca.gov/wateruseefficiency/docs/wucols00.pdf> and <http://ucanr.edu/sites/WUCOLS/files/183488.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.
- 7. Parking.** The applicants shall provide at least three off-street parking spaces on the project site as proposed. These parking spaces shall take access from the alley (also called court). The courts and street ends shall not be used as parking for the residence approved by this coastal development permit (CDP). This condition shall serve as notification that amended CDP A-266-77 (ILA) reserves parking on the street ends in the Silver Strand area for public parking, and that these public parking areas shall not be used for preferential parking. It also serves notice that the street and street ends adjacent to the project site shall not be reserved to any homeowner(s).
- 8. Drainage & Water Quality.** By acceptance of this Coastal Development Permit, the applicants agree that:
- a) During construction of the proposed project, no runoff, site drainage or dewatering shall be directed from the site into any lagoon, waterway, or street that drains into a lagoon, or waterway 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) All runoff leaving the site shall be directed away from any lagoon or waterway and into the City storm drain system.
 - d) No water from any pool or spa shall be discharged into any lagoon, waterway, or street that drains into a lagoon or waterway.

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

9. 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.

10. Deed Restriction. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the landowner(s) have executed and recorded against the 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 applicants are proposing to construct a four-story, 45-foot high, approximately 4,203 square-foot single-family residence with an attached 560 square-foot three-car garage on a vacant 3,150 square-foot lot ([Exhibit 2](#)). No grading is proposed to the previously graded building pad permitted by Coastal Development Permit 5-87-112 (Del Rey Assoc.), which currently has a height of approximately 20 to 22 feet datum point of grade.

The subject site is located at 127 Via Marina in the Silver Strand sub-area of the Venice community of the City of Los Angeles, Los Angeles County ([Exhibit 1](#)). The Silver Strand sub-area is comprised of single-family residences, most of which reach a height of about 45 feet, which is consistent with the building standards set forth in the certified Venice Land Use Plan. The project site is located on the inland side of Via Marina and fronts the Marina del Rey entrance channel, which runs parallel to Ballona Creek. The Marina del Rey entrance channel is approximately 100 feet south and west of the site on the other side of Via Marina. Ballona Lagoon is approximately 290 feet west of the subject lot.

The project site is part of the Del Rey Beach Tract ([Exhibit 3](#)). The Silver Strand subdivision is located three blocks north of the site. The entire area is referred to as the "Silver Strand Area." The Silver Strand subdivision and the Del Rey Beach tract share a long history before the Coastal Commission. Both subdivisions, referred to together as the Silver Strand area, are located along the east bank of Ballona Lagoon and have only recently been developed with single-family residences. Although the subdivisions were created in the early 1900s, the development of the area did not

commence until the late 1970s. Therefore, the Commission has reviewed and permitted the development of the subdivisions with single-family residences.

The first Commission approval in the area occurred in 1977 when the Commission approved the "Silver Strand Permit", A-266-77 (ILA), which was brought before the Commission on an appeal. Prior to the Commission's action on CDP A-266-77 (ILA) in 1977, the Commission and its predecessor denied several applications to improve the streets and supply utilities within portions of the Silver Strand subdivision and the Del Rey Beach Tract to make residential development possible. The previous projects were denied because of adverse impacts on traffic, recreation and wetland habitat.

The projects were proposed by a consortium of most of the owners of the approximately three hundred undeveloped lots situated on Blocks 7 through 18 of the Silver Strand subdivision and Blocks 13 through 15 of the Del Rey Beach Tract ([Exhibit 3](#)). The consortium was judged to have the legal ability to apply for a permit to grade the lots, improve the streets, and supply utilities within the Silver Strand area so that individual lot owners would eventually be able to build homes under separate permits.

The Commission's 1977 approval of CDP A-266-77 (ILA) permitted the consortium of applicants, the Isthmus Landowners Association (ILA), to develop the infrastructure necessary for the development of single-family homes on approximately three hundred lots located on Blocks 7 through 18 of the Silver Strand subdivision and Blocks 13 through 15 of the Del Rey Beach Tract ([Exhibits 1 & 3](#)).

The currently proposed project is located on a lot (Lot 13 of Block 17, Del Rey Beach Tract) outside of the project area of approved CDP A-266-77 ([Exhibit 3](#)). The Commission's approval of CDP A-266-77 (ILA), however, is still relevant as subsequent permits have applied CDP A-266-77(ILA) to the Silver Strand area [e.g., CDP 5-87-112 (Del Rey Assoc.)].

CDP A-266-77 (ILA) included conditions addressing lagoon protection, maintenance of public areas, public access, and public parking. In its approval of CDP A-266-77 (ILA), the Commission found that Ballona Lagoon, located adjacent to the Silver Strand and Del Rey Beach subdivisions and about three hundred feet west of the subject site, was critical habitat area and an important coastal resource. The Commission further found that residential development of the Silver Strand area would have major adverse cumulative impacts on the lagoon and that several measures were necessary to mitigate the adverse impacts of development.

One of the mitigation measures was a condition of CDP A-266-77 (ILA) that required the owners of the lots subject to CDP A-266-77 (ILA) to establish a private homeowners association sufficient to maintain all public areas and landscaping approved and required by the permit. Because all of the owners of the lots subject to CDP A-266-77 (ILA) would benefit from the permitted tract improvements, the Commission required each lot owner to contribute to the maintenance of the improvements. CDP A-266-77 (ILA) was amended in 1979. Since 1980, the approved grading has been completed, a public access path along Ballona Lagoon has been improved, and the permittee (ILA) established itself as the private homeowners association of the Isthmus Landowners Association (ILA) to maintain the lagoon buffer and other public areas.

The findings and special conditions established in CDP A-266-77 (ILA) provide the basis for the mitigating special conditions that have been routinely applied to all subsequent CDPs in the area, including this one. The special conditions ensure that the Chapter 3 policies of the Coastal Act and the underlying permit are carried out as individual lots are developed in the Silver Strand area.

Special Condition 1, in particular, requires the applicants to participate in the private homeowners association established under amended CDP A-266-77 (ILA) in the maintenance of all public areas and landscaping (including pedestrian malls, parking nodes, and the lagoon buffer and pathway) that have been installed pursuant to CDP A-266-77 (ILA) and the other permits authorizing the development in the Silver Strand area [See Exhibit 2: CDPs 5-86-641 (Lee) and 5-87-112 (Del Rey Assoc.)]. The public areas are identified on the attached “Public Areas Exhibit – Del Rey/Silver Strand” ([Exhibit 3](#)). As conditioned, the proposed development conforms with the Chapter 3 policies of the Coastal Act and the prior permits.

B. PUBLIC ACCESS AND RECREATION

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.

C. MARINE RESOURCES AND 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 to 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.

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 to Sections 30250, 30251, and 30252 of the Coastal Act.

E. ENVIRONMENTALLY SENSITIVE HABITAT AREAS (ESHA)

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.

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, 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 City of Los Angeles 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

1. City of Los Angeles Venice certified Land Use Plan
2. Coastal Development Permit A-266-77 (ILA) and amendments
3. Coastal Development Permit 5-87-112 (Del Rey Assoc.) and amendments
4. Coastal Development Permit 5-86-641 (Lee)
5. Coastal Development Permit 5-03-497 (B.A.B Enterprises, 133 Channel Pte Mall)
6. Coastal Development Permit 5-00-458 (Rafla, 135 Via Marina)
7. Coastal Development Permit 5-00-440 (MFC Properties, 123 Via Marina)
8. Coastal Development Permit 5-00-047 (Wilson, 119 Via Marina)
9. Coastal Development Permit 5-08-285 (15 Voyage Street, LLC, 147 Via Marina)