

CALIFORNIA COASTAL COMMISSION

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



Th5c

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Hearing Date: 09/13/2018

STAFF REPORT: CONSENT CALENDAR

Application No.: 5-18-0620

Applicant: Joel Jay Shapiro

Agent: David Hertz & Eric Lindeman

Location: 447 Sherman Canal, Venice, City of Los Angeles, Los Angeles County (APN: 4227-012-015)

Project Description: Remodel, relocation, addition to, and partial demolition of, a 949 sq. ft. single-family residence, resulting in a 323 sq. ft. single-family residence with an attached 350 sq. ft. two-car garage with an approximately 55-ft. front yard setback. Relocation of the 37 sq. ft. front porch from existing front yard setback to relocated residence.

Staff Recommendation: Approval with conditions

SUMMARY OF STAFF RECOMMENDATION

The proposed residential project consists of partial demolition, relocation, addition, and remodel of an existing single-family residence. The project raises issues concerning hazards and impacts to public access, visual quality, and water quality due to its location on the bank of one of the Venice canals.

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)** permit compliance; **4)** assumption of risk; **5)** construction-related requirements and best management practices; **6)** drought tolerant, non-invasive plants; **7)** drainage and run-off control; practices; and **8)** deed restriction.

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

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EXHIBITS

- Exhibit 1 – Vicinity map and Project Location
- Exhibit 2 – Permeable Front Yard Area
- Exhibit 3 – 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. **Development Setbacks and Building Height.** No development is authorized within ten feet of the fronting canal property line (Sherman Canal) nor within or above the required 450 square-foot permeable front yard area, except as described in **Special Condition Two** below. 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 thirty feet (30 feet) except for chimneys, ducts, and other accessory structures which are limited to 35 feet, and a roof access structure limited to 40 feet. Roof deck railings shall not exceed 42 inches above the thirty-foot height limit.
2. **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 feet x 30 feet = 450 square feet) shall be maintained on the project site in the front yard area between the structure and the front (Sherman Canal) property line as depicted in **Exhibit 2** of the staff report. Uncovered means that no fill or building extensions (i.e. chimneys, balconies, stairs, trellises, eaves) 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, French drain or other similar drainage system 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.
3. **Permit Compliance.** Coastal Development Permit 5-18-0620 authorizes the construction of a new one-story, 15-foot high single-family residence with an attached two-car garage. The applicant shall maintain three (3) parking spaces on-site over the life of the approved development (two spaces in the garage and one in the driveway). All development must occur in strict compliance with the proposal as set forth in the application, subject to any special conditions.

The permittee shall undertake development in accordance with the approved 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 required.

4. **Assumption of Risk, Waiver of Liability and Indemnity.** By acceptance of this permit, the applicants acknowledge and agree (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 applicants 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 permittees 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. 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. 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 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, underground cistern, or other similar drainage systems that collect and reduce the amount of runoff that leaves the site shall be installed on the project 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.

- 8. 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 applicants propose partial demolition and relocation of an existing approximately 949 sq. ft., single-story single-family residence, along with the relocation of the front porch and an 85 sq. ft. addition to the relocated structure. The relocated residence will be attached to the existing 375 sq. ft. two-car garage. The proposed project would result in a 334 sq. ft., single-story, single-family residence with an attached 375 sq. ft., two-car garage, with one additional on-site parking space on the driveway apron, and a 37 sq. ft. front porch (**Exhibit 3**). No grading, removal of vegetation, or landscaping is proposed at this time.

The subject site is a non-sloping 2,850 sq. ft. lot in the Venice Canals subarea of the City of Los Angeles, on the north bank of Sherman Canal (**Exhibit 1**). The lot is zoned Low Medium I Residential by the certified Venice LUP and RW1-1-O by the City of Los Angeles. The subject block is composed primarily of two and three-story single-family residences of varying architectural styles. Many of the homes in the Venice canals have been reconstructed to be three stories in height and of significantly larger size to the proposed project. Public sidewalks currently provide public access along all banks of the canals.

The height limits set forth in the certified Venice 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 ft. 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 ft. except for chimneys, ducts, and other accessory structures which are limited to 35 ft. Roof access structures are permitted to exceed the 30-ft. height limit by up to ten feet, but must be smaller than 100 sq. ft. in area and setback sixty

feet from the canal. Roof deck railings shall not exceed 42 in. above the 30-ft. height limit. Building height is measured from the elevation of the adjacent alley.

The proposed residence is set back approximately 55 ft. from the front (canal) property line. Maximum height of the proposed residence is approximately 15 ft. There is no roof access structure proposed for this project. Therefore, the proposed project meets the specific height requirements of the certified LUP. **Special Condition 1** reflects the requirements for height limits.

The proposed residence will provide a 55-ft. deep front yard setback and a minimum of 450 square foot permeable yard area in conformance with the Commission certified Venice Land Use Plan (LUP) (**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 feet from the canal side property line to the structure, and a minimum total of 450-square-foot of area (based on the width of the lot), as represented in **Special Condition 2**.

In addition, due to the lack of any on-street parking in the immediate area of the project, and to prevent impacts to public access to the coast as a result of proposed construction, the Venice Certified LUP requires single-family residences to provide three on-site 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 (Court B). 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 3**.

The project obtained a City of Los Angeles Local Coastal Development Permit (CDP) (Case No. DIR-2014-3386-CDP-MEL) on March 23, 2018, corrected on April 30, 2018, and the proposed single-family residence conforms to the Low Medium I Residential land use designation set forth in the certified LUP.

The proposed development will not adversely affect the visual qualities of the area, and the project has been designed to be consistent with the community character by complying with the historic thirty-foot height limit and complying with the front yard setback for all development in the Venice Canals neighborhood. Accordingly, the project site is surrounded by multi-story residential structures that are significantly larger in size and height. 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.

As previously mentioned, the proposed project site is located within the Venice canal system north of Washington Boulevard, which is hydrologically connected to Ballona Lagoon by the Grand Canal. There are two sets of tide gates: tide gates located under the Washington Street Bridge at Grand Canal, which connect to the Venice Canals, and tide gates located at the southern end of Ballona Lagoon. These tide gates limit the potential for flooding (from precipitation and sea level rise) and regulate tidal flushing (with seawater) in the Ballona Lagoon, Grand Canal, and Venice Canals. Even though these tide gates currently afford protection of development from flooding hazards, development in such low-lying areas is not immune to hazards. Additionally, the tide gates may not always be operational and/or may not meet the actual effects of sea level rise in situ. The

Ocean Protection Council predicts a 1.38 to 5.48 rise in sea level in this area by the year 2100¹. If the tide gates become nonoperational or are not sufficient to provide protection from the rising sea, the canals' capacity to contain the water could be exceeded resulting in area flooding. Given that the applicant has chosen to implement the project on a waterfront lot despite potential risks from flooding and sea level rise, the applicant must assume the risks inherent in such development; 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** to ensure pollution of the canal is prevented. Based on the project plans, no development, landscaping or otherwise, is proposed for the front yard at this time. However, **Special Condition 6** requires the applicants to utilize only drought tolerant, non-invasive plant species and water conservative irrigation systems for any future landscaping; and to address water quality, the Commission imposes **Special Condition 7**. Removal of trees and vegetation is not proposed.

The Commission imposes **Special Condition 8** requiring the applicants to record a Deed Restriction acknowledging that, pursuant to this permit (CDP No. 5-18-0620), 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. PUBLIC ACCESS

Parking is important for ensuring public access in this highly visited area of Venice. The proposed development will provide three on-site parking spaces, consistent with the parking requirements of the certified Venice LUP. 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. 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 and consistent with the guidance provided by the Venice LUP. Therefore, as proposed, the development conforms to Sections 30250, 30251, and 30252 of the Coastal Act.

D. HAZARDS

Under Section 30253 of the Coastal Act, new development may occur in areas of high geologic, flood, and fire hazard so long as risks to life and property are minimized and the other policies of Chapter 3 are met. 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 landowners and any successor-in-interest assume the risk of undertaking the development. As

¹ http://www.opc.ca.gov/webmaster/ftp/pdf/docs/2013_SLR_Guidance_Update_FINAL1.pdf

conditioned, the Commission finds that the development conforms to the requirements of Section 30253 of the Coastal Act regarding the siting of development in hazardous locations.

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 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.

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 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 Los Angeles Venice certified Land Use Plan
- City of Los Angeles Local CDP No. DIR-2014-3386-CDP-MEL, dated March 23, 2018, corrected April 30, 2018.