

CALIFORNIA COASTAL COMMISSION

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**W18b & W19a**

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**STAFF REPORT: APPEAL – SUBSTANTIAL ISSUE and
 DE NOVO/REGULAR CALENDAR**

Appeal/Application Number: A-5-VEN-18-0049/5-19-1015

Applicant: Mobile Park Investment (Damir Pevec)

Agent: Fred Gaines, Esq.

Local Government: City of Los Angeles

Local Decision: Approval with Special Conditions

Appellants: P.O.W.E.R. (Bill Przulucki); Westside Local; LA Tenants Union (Mairym Llorens); Abundant Housing LA (Brent Gaisford); Dean Clements; Will Hawkins; Steve Dennis

Project Location: 2812, 2814, 2816, & 2818 S. Grand Canal, Venice, City of Los Angeles, Los Angeles County (APN: 4227019012)

Project Description: Appeal of Los Angeles Local Coastal Development Permit DIR-2016-51-CDP-SPP-MEL for the demolition of a 2-story, 4-unit residential structure with 2 detached garages and construction of a 3-story, 30-ft. high, 4,632 sq. ft. single family dwelling with attached 2-car garage. Also includes the dual permit jurisdiction coastal development permit application for the proposed project as revised to include an accessory dwelling unit and four onsite parking spaces.

Staff Recommendation: Substantial Issue on Appeal and Approval with Conditions on De Novo/Dual Permit Application

Important Hearing Procedure Note: The Commission will not take testimony on this “substantial issue” recommendation unless at least three commissioners request it. The Commission may ask questions of the applicant, any aggrieved person, the Attorney General or

the executive director prior to determining whether or not to take testimony regarding whether the appeal raises a substantial issue. If the Commission takes testimony regarding whether the appeal raises a substantial issue, testimony is generally and at the discretion of the Chair limited to 3 minutes total per side. Only the applicant, persons who opposed the application before the local government (or their representatives), and the local government shall be qualified to testify during this phase of the hearing. Others may submit comments in writing. If the commission finds that the appeal raises a substantial issue, the de novo phase of the hearing will follow, unless it has been postponed, during which the Commission will take public testimony.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends that the Commission determine that a **substantial issue exists** with respect to the grounds on which Appeal A-5-VEN-18-0049 has been filed. Staff also recommends that, after a public hearing, the Commission **approve the de novo/dual coastal development permit application** with special conditions.

The appellants contend that the City-approved project is out of character with the community in terms of mass, scale, and residential density and is, therefore, inconsistent with the community character policies of the certified Venice Land Use Plan (LUP) and the Coastal Act. The appellants also contend that the loss of multiple rent-stabilized units will set an adverse precedent for future development in the Canals are of Venice and will impact the social and architectural diversity of Venice as a special coastal community.

The immediate vicinity in which the subject site is located, is characterized by a row of seven nearly identical two-story, four-unit residential structures on 60 by 90-foot canal-front lots that were built around 1948. The surrounding community is composed of single- and multi-family homes family homes that are largely two-stories high. The City-approved project, while consistent with the development standards set forth in the Venice LUP, is out of character with the existing community because it would allow a three-story, single-family home within a stable multi-family area. In addition, the change in residential density would set an adverse precedent for future development in the canals and prejudice the City's ability to prepare an LCP. The Commission's standard of review is whether the appeal raises a substantial issue as to conformity with Chapter 3 of the Coastal Act, and the certified LUP may provide guidance.

In this case, the appellants' concerns relating to the City-approved development's impact on community character raises a significant question with regard to the project's consistency with the Coastal Act. Therefore, staff recommends that the Commission determine that a **substantial issue** exists for the reasons summarized above, and described in greater detail in the body of this report.

On August 29, 2018, the applicant's representative signed a waiver of the 49 working-day deadline for Commission action on the appeal to work with Commission staff on a revised project to address the issues raised in the appeals. After working with Commission staff, the applicant revised the project to include an accessory dwelling unit (ADU) to reduce the loss of residential density in the project area. Considering the project's location in a flood hazard area, vulnerable to rising sea levels, and the higher adaptive capacity of a single family residence with an ADU as opposed to a 4-unit apartment complex, staff recommends the Commission **approve**

the de novo coastal development permit A-5-VEN-18-0049 and Dual permit 5-19-1015 application with **eleven (11)** special conditions: **1)** Development Setbacks and Building Height; **2)** Permeable Yard Area; **3)** Permit Compliance; **4)** Local Government Approval; **5)** Final Parking Plan; **6)** Landscaping; **7)** Bird Strike Prevention; **8)** Water Quality; **9)** Assumption of risk, Waiver of Liability and Indemnity; **10)** No Future Shoreline Protective Device; and **11)** Deed Restriction. These conditions are imposed to ensure the ADU and vehicle parking spaces are developed and maintained on-site, biological resources and water quality are protected for the life of the project, and risks to life and property from flood hazards are minimized.

The motions to carry out the staff recommendations are on **Page 5 (Substantial Issue) and Pages 14 and 15 (De Novo and Dual Permit)**.

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APPENDICES

Appendix A - Substantive File Documents

EXHIBITS

Exhibit 1 – Project Location

Exhibit 2 – Appeal*

Exhibit 3 – Site Images

Exhibit 4 – City-Approved Project Plans

Exhibit 5 – De Novo/Dual Project Plans

**The exhibits submitted with the appeal are not included in Exhibit 2 due to the large size of the documents. These exhibits can be reviewed at the South Coast District Office.*

I. MOTION AND RESOLUTION - SUBSTANTIAL ISSUE

Motion:

*I move that the Commission determine that Appeal No. A-5-VEN-18-0049 raises **NO Substantial Issue** with respect to the grounds on which the appeal has been filed under § 30602 of the Coastal Act.*

Staff recommends a **NO** vote. Failure of this motion will result in a de novo hearing on the application, and adoption of the following resolution and findings. Passage of this motion will result in a finding of No Substantial Issue and the local action will become final and effective. The motion passes only by an affirmative vote of the majority of the appointed Commissioners present.

Resolution:

*The Commission hereby finds that Appeal No. A-5-VEN-18-0049 presents A **SUBSTANTIAL ISSUE** with respect to the grounds on which the appeal has been filed under § 30602 of the Coastal Act regarding consistency with Chapter 3 policies of the Coastal Act.*

II. APPELLANTS' CONTENTIONS

On July 18, 2018, an appeal by People Organized for Westside Renewal (P.O.W.E.R), Westside Local, LA Tenants Union, Abundant Housing LA, Dean Clements, Will Hawkins, and Steve Dennis (**Exhibit 2**) of City of Los Angeles Local Coastal Development Permit (CDP) No. DIR-2016-51-CDP-SPP-MEL was submitted in the South Coast District office. The appeal contends that the proposed single-family home is not compatible with the existing multi-family character, mass and scale of the surrounding neighborhood and, therefore, is inconsistent with Sections 30251, 30253, and 30604(a) of the Coastal Act and will further prejudice the ability for the City to prepare a local coastal program (LCP) in the future. The appellants state that the Venice Canals area is one of the most popular visitor destination points and a historic landmark. In addition, the appellants contend that the loss of multiple rent-stabilized units will set an adverse precedent for future development in the Canals area of Venice and will impact the social and architectural diversity of Venice as a special coastal community. The appellants also suggest that the City-approved project is similar to one in which Commission staff recommended denial for the construction of a single-family residence with a building façade that would span across two abutting canal-fronting lots (CDP No. 5-02-153), which included findings relating to the project's consistency with the visual resource policies of the Coastal Act. The appellants also refer to two audio transcripts of the West Los Angeles Area Planning Commission (WLAAPC) hearing, in which appellants argue that the decision to uphold the Planning Director's determination and deny the appeal was incorrect and did not fully address the appeal points for consistency with Coastal Act policies¹. On August 23, 2018, the applicant's agent submitted a document rebutting the appeal and urging the Commission to find no substantial issue.

¹ WLAAPC hearing audio. 2017. <http://planning.lacity.org/staffrpt/audios/west/2017/05-17-2017/7%20DIR-2016-51.mp3>. WLAAPC hearing audio. 2018. <http://planning.lacity.org/StaffRpt/Audios/West/2018/06-06-2018/9%20DIR-2016-51-cdp-mel-spp-1a.mp3>.

III. LOCAL GOVERNMENT ACTION

In 1949, the City issued a Certificate of Occupancy for the existing structure on-site, which describes the structure as a “new 2-story, Type V, 33 x 50, Four Unit Apartment House” for R-2 occupancy. According to the appellants, the City rezoned the area for R1-1 occupancy in 1971. Thus, the existing multi-family residence is a legally non-conforming structure.

On January 8, 2016, the applicant submitted a master land use permit application to the Department of City Planning to demolish the existing 4-unit structure and construct a new single-family residence with 5 bedrooms, 5.5 bathrooms, and an attached 2-car garage. A total of 3 on-site parking spaces were proposed (2 covered and 1 uncovered) and yard improvements including new landscaping and a new pool and spa. On April 4, 2016, the City’s Mello Act determination found that no affordable units exist on the site, although the City’s determination states that no information was received for two of the four units. On July 6, 2017, a revised Mello Act determination found that one affordable unit exists based on information provided by the appellant and a tenant. However, based on new information provided by the property owner, on March 22, 2018, a second revised Mello Act determination found that no affordable units exist because the tenant did not provide additional documentation.

On April 1, 2017, the City determined that the proposed project was categorically exempt from CEQA requirements (ENV-2016-0052-CE). On March 16, 2017, the City of Los Angeles Director of Planning approved a coastal development permit (DIR-2016-51-CDP-SPP-MEL) for the demolition of the existing four-unit residential structure with two detached garages and construction of new three-story, 4,632 square foot single-family home. The City’s decision was appealed to the WLAAPC by Will Hawkins and over a dozen other co-signing parties. The WLAAPC held multiple hearings on May 17, July 19, and October 4, 2017 and June 6, 2018 for the local appeal of the City’s CDP. The WLAAPC issued a determination to sustain the Director of Planning’s decision to conditionally approve the CDP and deny the appeal determination on June 13, 2018 subsequent to the June 6 hearing.

The Commission’s South Coast District Office received the City’s Notice of Final Action on June 19, 2018, and the Commission’s twenty working-day appeal period was established. On July 18, 2018, the appeal was filed within the twenty working-day period. On July 19, 2018, Commission staff notified the City and the applicant of the appeal.

IV. APPEAL PROCEDURES

Section 30600(b) of the Coastal Act provides that prior to certification of its LCP, a local jurisdiction may, with respect to development within its area of jurisdiction in the coastal zone and consistent with the provisions of Sections 30604, 30620 and 30620.5, establish procedures for the filing, processing, review, modification, approval or denial of a CDP. Pursuant to this provision, the City of Los Angeles developed a permit program in 1978 to exercise its option to issue local CDPs. Sections 13301-13325 of Title 14 of the California Code of Regulations provide procedures for issuance and appeals of locally issued CDPs. Section 30602 of the Coastal Act allows any action by a local government on a coastal development permit application evaluated under Section 30600(b) to be appealed to the Commission. The standard of review for such an appeal is the Chapter 3 policies of the Coastal Act. [Cal. Pub. Res. Code §§ 30200 and 30604.]

After a final local action on a local CDP application, the Coastal Commission must be noticed within five days of the decision. After receipt of such a notice, which contains all the required information, a twenty working-day appeal period begins during which any person, including the applicant, the Executive Director, or any two members of the Commission, may appeal the local decision to the Coastal Commission. [Cal. Pub. Res. Code § 30602.] As provided under section 13318 of Title 14 of the California Code of Regulations, the appellant must conform to the procedures for filing an appeal as required under section 13111 of Title 14 of the California Code of Regulations, including the specific grounds for appeal and a summary of the significant question raised by the appeal.

The action currently before the Commission is to find whether there is a “substantial issue” or “no substantial issue” raised by the appeal of the local approval of the project. Sections 30621 and 30625(b)(1) of the Coastal Act require a de novo hearing of the appealed project unless the Commission determines that no substantial issue exists with respect to the grounds for the appeals, which is conformity with the Chapter 3 policies of the Coastal Act.

Commission staff recommends a finding of **substantial issue**. If the Commission finds that a substantial issue exists with respect to the conformity of the action of the local government with the Chapter 3 policies of the Coastal Act, the Commission reviews the coastal development permit application as a de novo matter. [Cal. Pub. Res. Code §§ 30621 and 30625.] Section 13321 of the Coastal Commission regulations specifies that de novo actions will be heard according to the procedures outlined in Sections 13114 and 13057-13096 of the Commission’s regulations. Alternatively, if the Commission decides that the appellants’ contentions raise no substantial issue as to conformity with Chapter 3 of the Coastal Act, the action of the local government becomes final.

If there is no motion from the Commission to find no substantial issue, it will be presumed that the appeal raises a substantial issue and the Commission will hold the de novo phase of the public hearing on the merits of the application. A de novo public hearing on the merits of the application uses the Chapter 3 policies of the Coastal Act. The certified Venice LUP is used as guidance in the de novo phase of the appeal. Sections 13315-13325 of Title 14 of the California Code of Regulations further explain the appeal hearing process.

If the Commission decides to hear arguments and vote on the substantial issue question, those who are qualified to testify at the hearing, as provided by Section 13117 of Title 14 of the California Code of Regulation, will have three minutes per side to address whether the appeal raises a substantial issue. The only persons qualified to testify before the Commission at the substantial issue portion of the appeal process are the applicant, persons who opposed the application before the local government (or their representatives), and the local government. Testimony from other persons must be submitted in writing. The Commission will then vote on the substantial issue matter. It takes a majority of Commissioners present to find that the grounds for the appeals raise no substantial issue.

V. SINGLE/DUAL PERMIT JURISDICTION AREAS

Section 30601 of the Coastal Act provides details regarding the geographic areas in the City of Los Angeles where applicants must obtain a coastal development permit from the Commission in addition the local CDP from the City. These areas, which include all canal-fronting lots in Venice, are considered Dual Permit Jurisdiction areas. Coastal zone areas outside of the Dual Permit Jurisdiction areas are considered Single Permit Jurisdiction areas. Pursuant to Section 30600(b) of

the Coastal Act, the City of Los Angeles has been granted the authority to approve or deny coastal development permits in both jurisdictions, but all of the City’s actions are appealable to the Commission. The proposed project site is located within the *Dual Permit Jurisdiction Area*. The applicant’s application for the Coastal Commission dual permit (No. 5-19-1015) was received in the South Coast District office on September 13, 2019.

VI. FINDINGS AND DECLARATIONS – SUBSTANTIAL ISSUE

A. PROJECT DESCRIPTION AND LOCATION

The subject site is a canal-front lot located approximately 750 feet from the beach in the Venice Canals subarea (**Exhibit 1**). The site is zoned RW1-1-O by the City of Los Angeles zoning code and designated Single Family dwelling – Low Medium Density I in the certified Venice LUP, which allows up to two units due to the large lot size. A mix of one to three-story single-family homes and two-story multi-family dwellings characterizes the neighborhood. The 5,264 square foot lot (59 feet wide and 90 feet deep) is currently developed with a two-story, 2,772 square foot multi-family residence with four units and two detached garages that are accessed from Grand Canal Court, the rear alley. The existing building is 50 feet wide and appears as two separate structures connected by a parapet roof feature. This building design is present in six canal-front properties immediately adjacent to the project site (**Exhibit 3**). The existing building was built in 1948 and is a non-conforming structure with four residential units. According to the City’s findings, no historic or potentially historic structures have been identified on site. However, the National Register of Historic Places identifies the Venice Canals as a historic district (LUP Policy I.F.3), given its significance as an example of community recreational planning in a coastal marshland area. In addition, the City has declared the Venice Canal system as a historic-cultural monument.

In June 2018, the City approved the demolition of the existing building and construction of a new three-story, 30-foot high, 4,632 square foot single-family dwelling with an attached 436 square foot two-car garage, one uncovered parking space in the rear yard, landscaping, and a pool and spa in the rear yard. The portion of the building with a width of 28.3 feet is set back 18.1 feet from the front yard property line to the first floor, and the portion with a width of 17 feet is set back 30 feet. The area within these setbacks is proposed to be landscaped with open permeable space. The second floor is set back 13 feet from the front yard property line. The side yards are set back 5.8 feet and the rear yard is set back 9 feet (**Exhibit 4**).

The City-approved project observes all of the setback, height, and yard requirements in the City’s Municipal Code and the certified Venice LUP. However, while the certified Venice LUP may provide guidance, the Commission’s standard of review is whether the appeal raises a substantial issue as to conformity with Chapter 3 of the Coastal Act, as described in more detail below.

B. FACTORS TO BE CONSIDERED IN SUBSTANTIAL ISSUE ANALYSIS

Section 30625(b)(1) of the Coastal Act states that the Commission shall hear an appeal of a local government action carried out pursuant to Section 30600(b) unless it finds that no substantial issue exists as to conformity with Chapter 3 of the Coastal Act. The term “substantial issue” is not defined in the Coastal Act or its implementing regulations. Section 13115(b) of the Commission’s regulation simply indicates that the Commission will hear an appeal unless it “finds that the appeal

raises no significant question.” In previous decisions on appeals, the Commission had been guided by the following factors:

1. The degree of factual and legal support for the local government’s decision that the development is consistent or inconsistent with the relevant provisions of the Coastal Act;
2. The extent and scope of the development as approved or denied by the local government;
3. The significance of the coastal resources affected by the decision;
4. The precedential value of the local government’s decision for future interpretations of its LCP; and,
5. Whether the appeal raises local issues, or those of regional or statewide significance.

Even when the Commission chooses not to hear an appeal, appellants nevertheless may obtain judicial review of the local government’s coastal permit decision by filing a petition for a writ of mandate pursuant to Code of Civil Procedure, Section 1094.5.

Staff is recommending that the Commission find that **a substantial issue exists** with respect to whether the local government action conforms to the provisions of Chapter 3 of the Coastal Act for the reasons set forth below.

C. SUBSTANTIAL ISSUE ANALYSIS

The Venice Canals are an iconic symbol of Abbot Kinney’s vision for beachside recreation and communal gatherings. The canals provided a sense of character for the Venice community that has historically attracted socially and economically diverse groups of people to recreate, work, and live by the coast. Lots abutting the canals range in size from 2,300 square feet to 5,000 square feet and have been redeveloped since the mid-1900s from small one-story beachside cottages to larger single-family homes and multi-unit structures that are seen today, but have maintained their residential land use.

The appellants contend that the proposed single-family home spanning a wide lot is not compatible with the existing mass and scale of the surrounding neighborhood, which is characterized by a row of four to five unit multi-family residences on canal-front lots that are twice the width of the lots located across the canal that are developed with single-family residences. They claim that the City’s approval is inconsistent with Chapter 3, Sections 30251 and 30253(e) of the Coastal Act and prejudices the City’s ability to prepare a Local Coastal Program (LCP) that is in conformity with Chapter 3 of the Coastal Act.

Coastal Act Section 30251, Scenic and visual qualities, states:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation

Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

Coastal Act Section 30253(e), Minimization of Adverse Impacts, states:

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

Sections 30251 and 30253(e) of the Coastal Act state that scenic areas and special communities shall be protected and require permitted development to be visually compatible with the character of surrounding areas. These sections also require protection of communities and neighborhoods that, because of their unique characteristics, are popular visitor destination points for recreational uses. The Commission has previously found that Venice's unique social and architectural diversity should be protected as a Special Coastal Community. The Venice LUP also sets forth policies to preserve the community character, scale, and architectural diversity of Venice as a Special Coastal Community. The Venice LUP states that the character and scale of single-family neighborhoods should be maintained and that infill development should be allowed provided that it is compatible with and maintains the density, character, and scale of the existing development (Policy I.A.2). While the Venice LUP is not the standard of review, the certified LUP policies provide guidance from which the Commission can evaluate a project's consistency with Chapter 3.

Venice Certified Land Use Plan Policy I. A. 2, Preserve Stable Single-Family Residential Neighborhoods, states:

Ensure that the character and scale of existing single-family neighborhoods is maintained and allow for infill development provided that it is compatible with and maintains the density, character and scale of the existing development. A second residential unit or an accessory living quarter may be permitted on lots designated for single-family residence land uses, provided that the lot has a minimum lot area of 4,600 square feet in the Venice Canals subarea, or 10,000 square feet in the Silver Strand, Southeast Venice, or Oxford Triangle subareas, and all units conform to the height limit, parking requirements, and other development standards applicable to the site.

Venice Certified Land Use Plan Policy I. A. 4, Single-Family Dwelling – Low Medium I Density, states:

Use: Single-family dwelling / one unit per lot

Density: One unit per 2,300 square feet of lot area. Lots smaller than 5,000 square feet shall not be subdivided. Lots larger than 2,300 square feet shall not be combined.

Buffer/Setback: In order to provide a setback for access, visual quality, and to protect the biological productivity of the canals, an average setback of 15 feet, but not less than 10 feet, shall be maintained in the front yard adjacent to the canal property line.

Yards: An open, permeable yard of at least 450 square feet for a 30-foot wide lot, and at least 600 square feet for a 40-foot wide lot, shall be maintained

between the canal property line and the front of any structure. A minimum 10-foot front yard setback, with a required 15-foot setback average, shall provide the required permeable front yard area. No fill or building extensions, including stairs and balconies, shall be placed in or over the required permeable front yard area with the exception of 42-inch high fences or permeable decks at grade (no more than 18" high).

Height: Not to exceed 22 feet for any portion within 10 feet from the canal property line. Thereafter, an ascending height equal to one half the horizontal depth from this 10-foot line with a maximum height of 30 feet. Roof access structures shall be set back at least 60 horizontal feet from the mean high tide line of the fronting canal. Notwithstanding other policies of this LUP, chimneys, exhaust ducts, ventilation shafts and other similar devices essential for building function may exceed the specified height limit in a residential zone by five feet. (See LUP Policy I.A.1 and LUP Height Exhibits 13-16).

Venice Certified Land Use Policy I. A. 5, Preserve and Protect Existing Stable Multi-Family Neighborhoods, states:

Preserve and protect stable multi-family residential neighborhoods and allow for growth in areas where there is sufficient public infrastructure and services and the residents' quality of life can be maintained and improved.

Venice Certified Land Use Policy I. E. 1, General, states:

Venice's unique social and architectural diversity should be protected as a Special Coastal Community pursuant to Chapter 3 of the California Coastal Act of 1976.

Venice Certified Land Use Plan Policy I. E. 2, Scale, states in relevant part:

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

Venice Certified Land Use Policy I. E. 3, Architecture, states:

Varied styles of architecture are encouraged with building façades which incorporate varied planes and textures while maintaining the neighborhood scale and massing.

In August 2018, staff conducted a site visit and observed the subject site and the surrounding community. The site is situated in a relatively small but unique pattern of development, which consists of a row of seven approximately 60 by 90 foot lots (about twice the size of other lots in the area) containing similarly designed two-story dwellings with four units each (**Exhibit 3**). The project site is in the center of this row of seven multi-family structures all built around 1948. On the opposite side of Grand Canal is a different pattern of development consisting of one to three-story single-family dwellings on narrower lots. The Venice LUP was certified in 2001 and includes policies I.A.2 and I.A.4, which allow up to two units on the subject 5,264 square foot

lot; thus, the existing multi-family structure is legally nonconforming. The City-approved project consists of one unit on-site.

Although the City-approved project complies with the residential development standards for the Venice Canals subarea in the LUP (including density, height, setbacks, parking, and yard areas), as mentioned in the City's CDP findings, the project, which involves the demolition of a four-unit residential structure and construction of a single family residence across a wide canal-front lot, does not protect and preserve the existing character of the residential area. The existing character is defined, in part, by the nonconforming multi-family residences in the project vicinity. The City-approved project could set an adverse precedent for replacement of multi-family residences with single-family residences, which, cumulatively, could change the character of the Venice Canals that is protected through the visual resource and special community policies of the Coastal Act and Venice LUP.

Additionally, in this case, the City-approved single-family residence is located on a lot that is twice as wide (50 to 60 feet) as other lots in the area containing single family residences (30 to 40 feet) and although the City-approved building façade is similar to the neighboring multi-unit structures, the scale and mass of the single family residence is not consistent with other single family residences in the area, and thus, raises a substantial issue with regard to the conformance of the subject development with the community character and visual resource policies of Chapter 3 of the Coastal Act. Staff believes that there may have been administrative oversight when the lots were designated in the LUP for single-family homes, since they are significantly larger than surrounding canal lots with single-family homes.

The appellants also contend that the City-approved development is inconsistent with LUP Policy I.E.1, which protects the social (and architectural) diversity of Venice as a Special Coastal Community pursuant to Section 30253(e) of the Coastal Act, and Coastal Act Section 30604 of the Coastal Act, which requires the Commission to encourage lower cost housing opportunities. The appellants suggest that the subject development authorizes the removal of multiple rent-stabilized units and sets an adverse precedent for future development in the canals by allowing displacement of lower-income residents, thereby disrupting the social diversity and community character of this area and prejudicing the City's ability to prepare an LCP.

In 1982, the California Legislature codified Government Code Section 65590 (known as the "Mello Act"), requiring local governments to protect and mitigate for displacement of affordable units. In this case, while the City's Mello Act determination changed a couple times throughout the local CDP process, the City's final determination concluded that no affordable units exist on-site². However, the California Legislature amended the Coastal Act, specifically Section 30604, for the Commission to consider environmental justice (as defined in Sections 30013 and 30107.3) on appeals and encourage lower cost housing opportunities. While these sections of the Coastal Act are not the standard of review, the appellants' contention relating to the project's impact on the social diversity and character of the Venice Canals does raise a question as to the

² Pursuant to Section 30011 of the Coastal Act, the Commission does not have authority to review a local jurisdiction's Mello Act decisions. The affordable housing policies of the Coastal Act were repealed in 1981 and, therefore, in general, the Commission does not have authority to regulate or require the provision of affordable housing, although the Coastal Act does direct the Commission to encourage affordable housing pursuant to Section 30604.

City-approved project’s consistency with the special coastal community protection policies of the Coastal Act.

Thus, for the reasons described above, the City-approved development is out of character with the surrounding development and sets a precedent that could result in the replacement of the adjacent multi-unit structures with single-family homes, loss of residential density, and construction of structures that are out of character with the surrounding community. Therefore, the City-approved project raises a substantial issue on the grounds on which the appeal has been filed and would prejudice the City’s ability to prepare an LCP in the future.

Applying the five factors listed in the prior section clarifies that the appeal raises a “substantial issue” and, therefore, does meet the substantiality standard of Section 30625(a).

The first factor is the degree of factual and legal support for the local government’s decision that the development is consistent with the relevant provisions of the Coastal Act. The City of Los Angeles’ Chapter 3 findings reference impacts of the proposed development on public services, infrastructure, traffic, environmentally significant resources, and coastal access. The City’s findings also state that the project is consistent with Chapter 3 policies of the Coastal Act. However, the findings of the local CDP do not adequately address the project’s compatibility with the community character of the immediate area in which the subject site is located. Therefore, the Commission finds that the City provided an inadequate degree of factual and legal support for the local government’s decisions to approve the single family residence on this site.

The second factor is the extent and scope of the development as approved by the local government. The City-approved development involves the demolition of a two-story, four-unit multi-family residence that is within a distinct row of other multi-family homes built at the same time and in the same style as the existing structure, and construction of a three-story single family residence on the existing lot, which is approximately twice the size of other lots in the neighborhood that are developed with single-family residences. The extent and scope of the City-approved development is inconsistent with the existing pattern of development and is, therefore, inconsistent with the community character policies of Chapter 3 of the Coastal Act.

The third factor is the significance of the coastal resources affected by the decisions. Venice is a unique Coastal resource and the Venice Canals is identified in National Register of Historic Places as a historic district. The cumulative impacts of the City-approved development, including potential loss of housing stock, and development of new single-family residences that are out of character with the area immediately surrounding the project site could have significant impacts on visual resources as well as the community character of Venice, which are significant coastal resources that may be adversely affected by the City-approved development.

The fourth factor is the precedential value of the local government’s decisions for future interpretations of its LCP. The City currently does not have a certified LCP, but it does have a certified Land Use Plan. The project site is in the middle of a row of seven similar multi-family structures all built around 1948. The City-approved construction of a single-family residence on-site, which is a 60-foot wide canal-front lot, is inconsistent with the immediate pattern of development as well as the existing single-family residences, which are located on narrower 30 to 40-foot wide lots in the area. Therefore, the City-approved project could result in the replacement of the adjacent multi-unit structures with single-family homes, construction of

structures that are out of character with the surrounding community, and loss of housing stock in the developed Venice community. Thus, the project, as approved by the City, could prejudice the ability of the City to prepare an LCP that is in conformance with Chapter 3 policies of the Coastal Act.

The final factor is whether the appeal raises local issues, or those of regional or statewide significance. The City's approval of the demolition of a four-unit multi-family residence and construction of a single-family residence raises potential issues of regional and statewide significance. The Coastal Act codifies a number of statewide policies to encourage development that is sited in already developed areas, supports affordable housing, and protects the character of coastal communities, especially popular visitor destinations such as the Venice Canals. The City-approved development is not consistent with these policies or with the community character standards set forth in the certified Venice LUP. The Venice LUP is in the process of being updated and such a precedential local action could, thus, prejudice the preparation of an LCP for the region in conformance with the Chapter 3 policies of the Coastal Act. Therefore, the City-approved development does raise issues of regional and statewide significance.

In conclusion, the primary issue for the appeal is potential adverse impacts to community character. In this case, the City-approved project is not in conformity with the Chapter 3 policies of the Coastal Act and, therefore, the Commission finds that the appeal raises a substantial issue as to conformity with the Chapter 3 policies.

VII. MOTION AND RESOLUTION - DE NOVO PERMIT

Motion:

*I move that the Commission **approve** Coastal Development Permit Application No. A-5-VEN-18-0049 pursuant to the staff recommendation.*

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

Resolution:

The Commission hereby approves Coastal Development Permit Application No. A-5-VEN-18-0049 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 will substantially lessen any significant adverse impacts of the development on the environment.

VIII. MOTION AND RESOLUTION - DUAL PERMIT

Motion:

*I move that the Commission **approve** Coastal Development Permit Application No. 5-19-1015 pursuant to the staff recommendation.*

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

Resolution:

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

IX. 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 or 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.

X. 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 canal-fronting property line (Grand Canal) nor within or above the required 885 square feet permeable front yard area, except as described in Special Condition 2 below. Ten feet landward of the canal-fronting 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 canal-fronting 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 five feet above the maximum height. Roof deck railings shall not exceed 42 inches above the 30-foot height limit (top of roof). Building height is measured from the elevation of the adjacent alley.
- 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 square feet x 59 square feet = 885 square feet) shall be maintained on the project site in the front yard area between the structure and the front (Grand Canal) property line as depicted in **Exhibit 3** 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.** The permittee shall undertake and maintain the development in conformance with the special conditions of the permit and the final plans, including but not limited to the ADU and parking plans. Any proposed changes 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-approved permit amendment unless the Executive Director determines that no permit amendment is required.
- 4. Local Government Approval.** The proposed development is subject to the review and approval of the City of Los Angeles (City). This action has no effect on conditions imposed by the City pursuant to an authority other than the Coastal Act. In the event of conflict between the terms and conditions imposed by the City and those of this coastal development permit, the terms and conditions of Coastal Development Permit 5-19-1015/A-5-VEN-18-0049 shall prevail.
- 5. Final Parking Plan.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit a Final Parking Plan, approved by the City of Los Angeles Department of Building and Safety, for review and approval by the Executive Director. The Final Parking Plan shall be consistent with the parking plan submitted to the

Commission’s South Coast District Office on October 16, 2019 and shall provide a minimum of four (4) parking spaces to be maintained on-site.

- 6. Landscaping.** Vegetated landscaped areas shall 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>).
- 7. Bird Strike Prevention.** Canal-front deck railing systems, fences, screen walls and gates authorized by this permit shall use materials designed to minimize bird-strikes with the deck railing, wall, 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 use appliqué (e.g. stickers/decals) designed to reduce bird-strikes by reducing reflectivity and transparency. Any appliqué used shall be installed to provide coverage consistent with manufacturer specifications (e.g. one appliqué for every 3 foot by 3 foot area). Use of opaque or partially opaque materials is preferred to clean glass or Plexiglas and appliqué. All materials and appliqué 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.
- 8. Water Quality.**
 - A. Construction Responsibilities and Debris Removal**
 - (1) No demolition or construction materials, equipment, 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;
 - (2) 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;
 - (3) 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;
 - (4) 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;
 - (5) All trash and debris shall be disposed in the proper trash and recycling receptacles at the end of every construction day;
 - (6) The applicant(s) shall provide adequate disposal facilities for solid waste, including excess concrete, produced during demolition or construction;

- (7) 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;
- (8) 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;
- (9) 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;
- (10) The discharge of any hazardous materials into any receiving waters shall be prohibited;
- (11) 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;
- (12) 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;
- (13) All BMPs shall be maintained in a functional condition throughout the duration of construction activity.

B. Drainage and Water Quality

- (1) 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;
- (2) All equipment and materials shall be stored and managed in a manner to minimize the potential of pollutants to enter the canals;
- (3) A French drain, underground cistern, or other similar drainage systems that collect and reduce the amount of runoff that leaves the site shall be installed and maintained on the project site;
- (4) All runoff leaving the site shall be directed away from the canals and into the City storm drain system;
- (5) No water from any pool or spa shall be discharged into any canal or street that drains into a canal.

9. 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, including but not limited to waves, storms, flooding, erosion, and earth movement, many of which will worsen with future sea level rise; (ii) to assume the risks to the permittee 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.

10. No Future Shoreline Protective Device.

- A. By acceptance of this permit, the permittee(s) agrees, on behalf of itself and all other successors and assigns, that the project is new development for which there is no right to shoreline protection and hereby waives on behalf of itself, and all other successors and assigns, any rights that may exist under applicable law to construct a shoreline protective device to protect the development approved pursuant to Coastal Development Permit Nos. 5-19-1015/A-5-VEN-18-0049, and any future improvements, in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, liquefaction, flooding, sea level rise, or other natural hazards in the future.
- B. By acceptance of this permit, the applicant further agrees, on behalf of itself and all successors and assigns, that the landowner(s) is required to remove the development authorized by this permit, including the residence, pool, and yard improvements if any other government agency with legal jurisdiction has issued a final order, not overturned through any appeal or writ proceedings, determining that the structures are currently and permanently unsafe for occupancy or use due to coastal hazards and that there are no measures that could make the structures suitable for habitation or use without the use of bluff or shoreline protective devices.
- C. In the event that portions of the development fall to the public accessway and/or water before they are removed, the landowner(s) shall remove all recoverable debris associated with the development from the public accessway and/or water and lawfully dispose of the material in an approved disposal site. Such removal shall require a coastal development permit. Prior to removal, the permittee shall submit two copies of a Removal Plan to the Executive Director for review and written approval. The Removal Plan shall clearly describe the manner in which such development is to be removed and the affected area restored so as to best protect coastal resources, including the Venice Canals.

11. 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 has 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.

XI. FINDINGS AND DECLARATIONS

A. PROJECT DESCRIPTION AND LOCATION

The project description and location is hereby incorporated by reference from Section VI.A of the Substantial Issue portion of this staff report on page 8. However, after working with Commission staff, the applicant revised the project to add an accessory dwelling unit (ADU) and maintain four parking spaces on-site. As proposed, the 550 square foot ADU is located above the attached 2-car garage and includes one bedroom, one bath, a kitchen, and a foyer with a side yard entrance that is separate from the entrance to the single family residence. The applicant is also proposing an additional uncovered parking space on-site (**Exhibit 5**).

B. DEVELOPMENT

Allowable Density

The project site is a 5,264 square foot lot (59 feet wide and 90 feet deep) currently developed with a two-story, 2,772 square foot multi-family residence with four units. The subject lot is in the center of a row of seven similarly designed four-unit multi-family structures all built around 1948. In 1971, the City downzoned these approximately 5,000 square foot lots from Multiple Dwelling to One Family Residential Waterways. Thus, the existing multi-family development is legally nonconforming under the City's uncertified zoning code.

The Venice LUP, certified in 2001, designates the project site and the row of lots within which it sits as Single-Family Residential. This designation allows for one dwelling per 2,300 square feet of lot area (Policy I.A.4). However, Policy I.A.2 allows for a second residential unit or an accessory living quarter on lots designated for single-family residence land uses, provided that the lot has a minimum lot area of 4,600 square feet in the Venice Canals subarea and all units conform to the development standards applicable to the site. In this case, the approximately 5,300 square foot project site is large enough to accommodate two units, consistent with the LUP that is used as guidance. As currently proposed by the applicant, therefore, the project maximizes the allowable number of units on-site with the proposed single family residence and ADU.

While the proposed development does not maintain all four existing units on-site and therefore does not maintain the density or character of the row of residences within which it sits, the inclusion of an ADU provides one additional residential unit, offering an opportunity for more affordable housing on-site and concentrating development in this already developed area.

Special Condition 3 requires the development to be carried out in a manner consistent with the proposed project, as approved and conditioned, ensuring that the ADU will be built and maintained. Furthermore, in preparation for the update of the Venice LUP, City and Commission staff are in a position to consider a re-designation of the approximately 60 by 90 foot lots currently designated as 'Low Medium Density Single-family Dwelling' in the LUP in order to protect the existing multiple units that encourage housing opportunities for a wide spectrum of people.

As proposed and conditioned, the development concentrates new development in an already developed area and is consistent with the allowable density in the LUP. As conditioned, the development conforms with Section 30250 of Chapter 3 of the Coastal Act.

Coastal Hazards

On November 7, 2018, the Commission adopted a science update to its Sea Level Rise Policy Guidance. This guidance document serves as Interpretive Guidelines to help ensure that projects are designed and built in a way that minimizes risks to the development associated with SLR and avoids related impacts to coastal resources. These guidelines state, “to comply with Coastal Act Section 30253 or the equivalent LCP section, projects will need to be planned, located, designed, and engineered for the changing water levels and associated impacts that might occur over the life of the development.”

The proposed development is located adjacent to the tidally influenced Venice canal system, which is mechanically controlled via a tide gate system. The communities surrounding the canals, identified as the Venice Canals in the certified LUP, are low-lying and flood prone under existing conditions. These tide gates limit the potential for flooding and regulate tidal flushing in the Ballona Lagoon, Grand Canal, and Venice Canals (**Exhibit 1**). Although these tide gates afford some protection of development from flooding hazards, development in this area is not immune to hazards. For example, the canal area exists at a lower elevation than the surrounding area. During a storm event, rainfall from the area drains via gravity to the canals and typically drains out to the ocean at low tide. The tide gates are typically closed prior to higher-high tide events which, when coinciding with large storm events and/or potential tide gate malfunction, can lead to stormwater accumulation in the canals and flooding. Such flooding may become more prevalent as sea levels rise.

According to the City’s vulnerability assessment (May 2018), which is supported by the Our Coast Our Future model (Coastal Storm Modelling System data), the subject site is one of approximately 4,000 parcels, including the surrounding walk streets and canal bridges, which are anticipated to flood particularly from exceedance of stormwater capacity and/or tide gate malfunction with 6.6-ft. of sea level rise. Under a medium-high risk aversion scenario, a rise in sea levels of up to 6.6 feet is projected to occur between 2090 and 2100 with current development and emission patterns (this does not account for ice sheet loss), which is within the end of the anticipated 75-100 year life of the proposed development.

As explained in the State of California Sea Level Rise Guidance written by the Ocean Protection Council (OPC), the “risk aversion scenario” is a principle of SLR risk analysis that is used to account for variable risk tolerance for different types of development by establishing sea level rise probability thresholds for varying degrees of risk aversion. In this case, the risk aversion scenario recommended by both the Commission and OPC Guidance for residential projects is “medium-high,” as it represents a scenario that is relatively high within the range of possible future sea level rise scenarios and is therefore appropriately precautionary. However, projecting sea level rise at any one location is not an exact science, and coastal areas are inherently unpredictable, especially when making predictions about conditions in 75-100 years. Although the current trend of sea level rise appears to be in the direction of more accelerated sea level rise, not less, the Commission cannot determine with absolute certainty that this house will be impacted by sea level rise-related hazards before the end of its economic life, although the current best available science indicates that some impacts are likely.

Understanding the risks and vulnerabilities the site faces in regard to flood hazards for the life of the development, the applicant has incorporated design elements to adapt to rising sea levels. These adaptation measures include increasing the amount of permeable surface on-site, especially seaward of the proposed residence, to allow for water to percolate into the on-site drainage system prior to reaching the base of the structure. In addition, the ground level of the structure has been designed to act as a plinth for the rest of the residence and ADU if the site becomes inundated for an extended period of time. **Special Condition 3** requires the development to be carried out in a manner consistent with the proposed project, as approved and conditioned. In addition, **Special Condition 4** requires the applicant to comply with local government requirements, which include details relating to the maintenance of appropriate drainage and permeable area on-site.

Section 30253 of the Coastal Act requires siting new development such that it minimizes risks to life and property in flood hazard areas, assures stability and structural integrity, and does not require the construction of protective devices that substantially alter natural landforms. Concurrently, the Coastal Act also requires concentrating development in existing developed areas able to accommodate it (as required by Section 30250), which provides more opportunities for people to live near places they work and recreate, such as the beach, thus reducing vehicle miles traveled and preserving open spaces that might otherwise have to be developed, and thereby, reduces impacts to coastal resources. Taken together, these Coastal Act policies support maintaining housing density in safe areas to assure the stability and structural integrity of development. In this case, the project site is located in a low-lying area vulnerable to flood hazards. Thus, as it relates to coastal hazards, it is appropriate to limit development and density at the project site to protect coastal resources.

In terms of adaptive capacity, which is the ability of an entity to leverage resources to adapt to changing conditions, the proposed single family residence and ADU have a higher adaptive capacity than the existing multi-family residence due primarily to there being fewer parties involved in adaptation efforts in the event that the development would be required to be removed at some point in the future. **Special Conditions 9 and 10** require the applicant to assume the risks of pursuing development in a hazardous area, waive the applicant's right to install shoreline protective devices, and remove the development if deemed unsafe by a government entity. In addition, **Special Condition 11** requires the applicant to record a deed restriction acknowledging that, pursuant to the subject CDP (CDP Nos. A-5-VEN-18-0049 / 5-19-1015), the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of the subject property; and imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the property. The deed restriction will additionally provide notice of potential hazards of the property, and the risks of flooding and other sea level rise impacts towards the end of the development's economic life.

Thus, while in the near term, the proposed development replaces four potentially more affordable housing units with a single family residence and ADU, in the long term, this reduction in density avoids siting more affordable housing in hazardous areas where a greater number of residents will be required to adapt to the impacts of coastal hazards. On a broader scale, maintaining (and potentially increasing) density in locations other parts of Venice with reduced risks from sea level rise will have the net effect of helping to maintain housing stock that is safe from hazards and relieve development pressure in unsafe areas in the long-term, thus carrying out Section 30253's hazards policies on a community-scale. Therefore, as proposed and conditioned, the

reduction in density on-site, which is consistent with the density allowed in Venice’s certified LUP, increases the adaptive capacity of the site and minimizes risks to life and property in hazardous areas.

Community Character

With regard to the proposed development’s impact on the immediately adjacent row of multi-family residences, for the reasons described in the Allowable Density section above, redeveloping the project site to maintain the nonconforming four-unit density is not allowed under current City standards or the certified LUP. However, as proposed to include an ADU, the project mitigates for the loss of residential units and helps to maintain the multi-family character of the subject neighborhood.

In terms of the mass and scale of the proposed single family residence, while the proposed project conforms with all applicable development standards in the Venice LUP, the project involves the construction of a new single family residence and ADU on a lot that is approximately twice as wide as the other lots in the neighborhood that are developed with single family residences and is three-stories with a maximum height of thirty feet. The residences surrounding the project site are largely one- and two-story structures; however, there are at least five three-story single family residences across the canal. In addition, the project design is highly articulated with the ground floor set back 18 and 30 feet from the canal-fronting property line, which contains 30 percent more open permeable area than the existing development and the similarly designed neighboring structures. In addition, the second floor (less than 22 feet high) is set back 13 and 30 feet from the front yard property line, which is consistent with the neighboring two-story structures with second level decks. Finally, the third level is set back approximately 20 and 30 feet. Thus, the proposed development is articulated and includes appropriate setbacks from the canal and street and is consistent with the mass and scale of the neighboring multi-family residences. **Special Conditions 1, 2, and 3** require the development to be carried out in a manner consistent with the proposed project, including but not limited to the proposed height, setbacks, and permeable yard area, as approved and conditioned.

Therefore, the project as proposed and conditioned conforms with the visual resource and community characters of Chapter 3 of the Coastal Act.

C. BIOLOGICAL RESOURCES

The project site is located adjacent to the Venice Canals, which is a salt water system hydrologically connected to the Pacific Ocean via the Marina del Rey inlet tide gate, Ballona Lagoon, and Washington Boulevard tide gate. The applicant is not proposing to use any invasive species in the landscape design, which minimizes the potential spread of invasive species through the canals; however, **Special Condition 6** is imposed to ensure that any landscaping on-site through the life of the development does not include the use of invasive species. In addition, **Special Condition 6** requires the applicant to utilize primarily drought tolerant plant species and water conservative irrigation systems for any new landscaping. The permeable area on the canal-fronting portion of the lot is also required, through **Special Condition 2**, to be developed and maintained as open space with a minimum area of 885 square feet.

The applicant’s proposal also includes the installation of glass guardrails on the canal-fronting side of the residence, which has the potential to impact birds that forage in the canals and fly in the project vicinity. Thus, **Special Condition 7** is imposed to use bird-strike prevention techniques in the design of the glass guardrails to be maintained through the life of the

development. Furthermore, to avoid water quality impacts during construction, the Commission imposes **Special Condition 8**, which requires the applicant to follow construction best management practices that prevent construction activities and construction related debris from entering and impacting the canal waters.

D. LOCAL COASTAL PROGRAM (LCP)

The Coastal Act requires that the Commission consider the effect on a local coastal program when it approves a project. Section 30604(a) of the Coastal Act provides that the Commission shall issue a coastal development permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program (LCP) which conforms with Chapter 3 policies of the Coastal Act:

Section 30604 (a) of the Coastal Act states:

Prior to certification of the Local Coastal Program, a Coastal Development Permit shall be issued if the issuing agency, or the Commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) of this division and that the permitted development will not prejudice the ability of the local government to prepare a local coastal program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200).

Prior to certification of the Local Coastal Program, a Coastal Development Permit shall be issued if the issuing agency, or the Commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) of this division and that the permitted development will not prejudice the ability of the local government to prepare a local coastal program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200). The City of Los Angeles does not have a certified Local Coastal Program for the Venice area. The City of Los Angeles Land Use Plan (LUP) for Venice was effectively certified on June 14, 2001. In addition, the Commission and City staffs are in the process of updating the LUP and will require Commission approval in the near future. The Commission's standard of review for the proposed development is the Chapter 3 policies of the Coastal Act. The certified Venice LUP is advisory in nature and may provide guidance.

As conditioned, 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 conditioned, 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)

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

The proposed project has been conditioned in order to be found consistent with the Chapter 3 policies of the Coastal Act. As conditioned, there are no feasible alternatives or additional

feasible mitigation measures available which would substantially lessen any significant adverse effect which the development 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, has no remaining significant environmental effects, and complies with the applicable requirements of the Coastal Act to conform to CEQA.

APPENDIX A- SUBSTANTIVE FILE DOCUMENTS

- *Certified Venice Land Use Plan*
- *Venice Sea Level Rise Vulnerability Assessment (May 2019, Moffat & Nichol)*
- *Local CDP No. DIR-2016-51-CDP-SPP-MEL*