

CALIFORNIA COASTAL COMMISSION

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**W20a & W21a**

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

Appeal/Application Number: A-5-VEN-19-0022/5-19-0949

Applicant: VDM Limited, LLC (Marius Markevicius)

Agent: Greg Doench, LARC Inc.

Local Government: City of Los Angeles

Local Decision: Approval with Conditions

Appellant: California Coastal Commission, Executive Director John Ainsworth

Project Location: 21 29th Avenue, Venice, City of Los Angeles, Los Angeles County (APN: 4226-021-019)

Appealed Project Description (as approved by the City): Appeal by California Coastal Commission Executive Director of Los Angeles Local Coastal Development Permit DIR-2018-3071-CDP-SPP-MEL for the demolition of a 2-story, 25-foot high, 1,856 square foot duplex and construction of a 3-story, 28-foot high, 3,932 square foot single-family dwelling with attached 2-car garage on a walk street.

Project Description (as revised de novo/dual): Demolition of a 2-story, 25-foot high, 1,856 square foot duplex and construction of a 3-story, 28-foot high, 2,799 square foot single-family dwelling with a 2-story, 815 square foot accessory dwelling unit and 3 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

The City approved a local coastal development permit (CDP) for demolition of a duplex and construction of a single-family residence in Venice, an uncertified area in the City of Los Angeles. The standard of review for the appeal is Chapter 3 of the Coastal Act and the certified Venice Land Use Plan (LUP) provides guidance. Staff recommends that the Commission determine that a **substantial issue exists** with respect to the grounds on which Appeal A-5-VEN-19-0022 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 appellant contends that the City’s approval of the demolition of a duplex and construction of a single-family home at the project site raises a substantial issue as to the project’s consistency with Sections 30250 and 30253 of the Coastal Act and LUP Policies I.A.5 and I.A.7. Section 30250 of the Coastal Act requires new development to be located in areas able to accommodate it. Section 30253 of the Coastal Act requires new development to be compatible with the character of the neighborhood, minimize risks to life and property in high flood hazard areas, and minimize vehicle miles traveled. In addition, policies of the certified LUP specifically designate areas in Venice that are more appropriate for duplexes and multi-family developments and those areas that are more appropriate for single-family developments. Policy I.A.5 of the LUP requires the protection and preservation of existing multi-family residential neighborhoods. In this case, the project site is located in the North Venice subarea and is designated Multi-Family Residential – Low Medium II Density in the LUP; under Policy I.A.7, multi-family dwelling units (such as duplexes) in such areas should be accommodated. Together, these policies encourage the concentration of development in appropriate areas that will minimize impacts to coastal resources. The lot is currently developed with a duplex; thus, the appellant concludes that the development of a single-family residence on the lot would result in the loss of a unit, which requires the construction of a new unit elsewhere in order to preserve overall density of development consistent with Sections 30250 and 30253 of the Coastal Act and LUP Policies I.A.7 and I.A.5. No such new unit was proposed or approved by the City.

In this case, the appellant’s concerns relating to the City’s approval of the project without robust findings relating to the development’s impacts on residential density and 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 June 11, 2019, the applicant 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) onsite to mitigate the loss of a residential unit. Staff recommends the Commission **approve** the de novo coastal development permit A-5-VEN-19-0022 and Dual permit 5-19-0949 application with **ten (10)** special conditions: **1)** Permit Compliance; **2)** Local Government Approval; **3)** Final Parking Plan; **4)** Landscaping; **5)** Construction Timing and Nesting Bird Surveys; **6)** Retention of an ADU Onsite; **7)** Dewatering Plan and Ground Level Flood Proofing; **8)** Assumption of Risk, Waiver of Liability and Indemnity; **9)** No Future Shoreline Protective Device; and **10)** 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 13 and 14 (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 – City-Approved Project Plans

Exhibit 4 – Community Character

Exhibit 5 – De Novo/Dual Project Plans

I. MOTION AND RESOLUTION - SUBSTANTIAL ISSUE

Motion:

*I move that the Commission determine that Appeal No. A-5-VEN-19-0022 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-19-0022 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. APPELLANT'S CONTENTIONS

On April 8, 2019, the Coastal Commission's Executive Director, John Ainsworth, appealed the City-approved project for the demolition of a duplex and construction of a single-family residence on a lot designated by the LUP as Multi-Family Residential – Low Medium II (**Exhibit 2**). The appellant states that the City-approved project will result in the loss of one housing unit on a lot that clearly allows for multi-family residences and contends that the City's approval failed to discuss the project's consistency with the community character of the area and Coastal Act Sections 30250 and 30253. The appellant suggests that the City's action did not address the preservation of overall density consistent with Sections 30250 and 30253 of the Coastal Act, which could be attained through mitigation for the loss of a residential unit by providing a new housing unit elsewhere in Venice. Additionally, the appellant contends that the City did not make adequate findings regarding the project's consistency with Policies I.A.5 and I.A.7 of the LUP which require the preservation or protection of the multi-family neighborhood. Furthermore, the appellant argues that the City's findings fail to discuss how the City-approved single-family residence in a multi-family designated area is compatible with character of the surrounding community consistent with Coastal Act Section 30253.

III. LOCAL GOVERNMENT ACTION

On February 26, 2019, the City of Los Angeles Director of Planning and Zoning Administrator determined that the proposed project was categorically exempt from CEQA requirements (ENV-2018-3072-CE) and approved a coastal development permit (DIR-2018-3071-CDP-SPP-MEL) for the demolition of a 2-story, 25-foot high, 1,856 square foot duplex and construction of a 3-story, 28-foot high, 3,932 square foot single-family dwelling with attached 2-car garage. The City's decision was not appealed at the local level.

The Commission’s South Coast District Office received the City’s Notice of Final Action on March 18, 2019, and the Commission’s twenty working-day appeal period was established. On April 8, 2019, the appeal was filed within the twenty working-day period and 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. [14 Cal. Code of Regs., § 13315.] 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; 14 Cal. Code of Regs., § 13318.] As provided under section 13318 of the Commission’s regulations, the appellant must conform to the procedures for filing an appeal as required under section 13111 of the Commission’s regulations, including the specific grounds for appeal and a summary of the significant question raised by the appeal.

Under Section 30625(b)(1) of the Coastal Act and the Commission’s regulations a de novo hearing of an appealed project in the City of Los Angeles must occur unless the Commission finds that an appeal of a project does not raise a “substantial issue” as to conformity with Chapter 3 of the Coastal Act. [14 Cal. Code of Regs., § 13321.]

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 appellant’s 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 assumed 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 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. 5-19-0949) was received in the South Coast District office on August 16, 2019.

VI. FINDINGS AND DECLARATIONS – SUBSTANTIAL ISSUE

A. PROJECT DESCRIPTION AND LOCATION

The City-approved project is the demolition of a two-story, 25-foot high, 1,856 square foot duplex and construction of a three-story, 28-foot high, 3,932 square foot single-family residence with an attached two-car garage, roof access structure, and roof deck with 42-inch high guardrails (**Exhibit 3**). The City also approved a Zoning Administrator’s Adjustment for the setback fronting 29th Avenue walk street of 10 feet in lieu of the standard 15 feet.

The subject site is a 2,641 square foot lot at a designated walk street, 29th Avenue, located approximately 200 feet from the beach in the North Venice subarea of Venice (**Exhibit 1**). The site is designated Multi-Family Residential – Low Medium II by the certified LUP and zoned RD1.5-1-O by the City’s Zoning Code, which has not been certified by the Commission and is not the standard of review for this project. The subject site is currently developed with a multi-family residence built in 1923. No historic resources have been identified on site. A mix of multi-story, single- and multi-family residences characterizes this neighborhood.

B. FACTORS TO BE CONSIDERED IN SUBSTANTIAL ISSUE ANALYSIS

Prior to certification of a local coastal program, the Commission shall hear an appeal of any action taken by a local government unless the Commission finds that the appeal raises no “substantial issue” as to conformity with Chapter 3 of the Coastal Act. (Public Res. Code § 30625(b); 14 Cal. Code of Regs., §§ 13115(c), 13321.) Section 13115(c) of the Commission’s regulations provides

that the Commission may consider the following five factors when determining if a local action raises a significant issue:

1. The degree of factual and legal support for the local government’s decision;
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 if its LCP; and,
5. Whether the appeal raises local issues, or those of regional or statewide significance.

The Commission may, but need not, assign a particular weight to a factor.

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

Coastal Act Section 30250(a) states, in relevant part:

New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources...

Coastal Act Section 30251 states, in part:

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...

Coastal Act Section 30253 states, in part:

New development shall ...

- (a) *Minimize risks to life and property in areas of high geologic, flood, and fire hazard.*
- (b) *Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.*

- (c) Be consistent with requirements imposed by an air pollution control district or the State Air Resources Board as to each particular development.*
- (d) Minimize energy consumption and vehicle miles traveled*
- (e) Where appropriate, protect special communities and neighborhoods that, because of their unique characteristics, are popular visitor destination points for recreational uses.*

Venice Land Use Plan, Duplex/Multi-Family Residential, states:

It is the intent of Venice LUP to maintain existing stable multi-family residential neighborhoods. In those stable neighborhoods characterized by a mix of densities and dwelling types, permitted densities may be reduced to levels consistent with the character of the entire area in order to minimize impacts on infrastructure, services, and to maintain or enhance the residents' quality of life. The loss of potential units in these locations can be offset by the provision of new housing opportunities via bonuses for the replacement of affordable housing and in mixed-use development.

Venice Land Use Plan Policy I. A. 5 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 Land Use Plan Policy I. A. 7 states:

Accommodate the development of multi-family dwelling units in the areas designated as "Multiple Family Residential" and "Low Medium II Density" on the Venice Coastal Land Use Plan (Exhibits 9 through 12). Such development shall comply with the density and development standards set forth in this LUP.

Oakwood, Milwood, Southeast and North Venice

Use: Duplexes and multi-family structures.

Density: One unit per 1,500-2,000 square feet of lot area. Lots smaller than 4,000 square feet are limited to a maximum density of two units.

Replacement Units/Bonus Density: Lots greater than 4,000 square feet can add extra density at the rate of one unit for each 1,500 square feet of lot area in excess of 4,000 square feet on parcels zoned RD1.5, or one unit for each 2,000 square feet of lot area in excess of 4,000 square feet on parcels zoned RD2, if the unit is a replacement affordable unit reserved for low and very low income persons. (See LUP Policies I.A.9 through I.A.16).

Yards: Yards shall be required in order to accommodate the need for fire safety, open space, permeable land area for on-site percolation of stormwater, and on-site recreation consistent with the existing scale and character of the neighborhood.

Height: North Venice: Not to exceed 30 feet for buildings with flat roofs; or 35 feet for buildings utilizing a stepped back or varied roofline. The portion that exceeds 30 feet in height shall be set back from the required front yard one foot for every foot in height above 30 feet. Structures located along walk streets are

limited to a maximum height of 28 feet. (See LUP Policy I.A.1 and LUP Height Exhibits 13-16).

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.

Coastal Act Section 30250(a) requires new residential development to be located in close proximity to existing developed areas able to accommodate it and where it will not have significant, cumulative adverse impacts to coastal resources. Section 30253 of the Coastal Act requires new development to be compatible with the character of the neighborhood, minimize risks to life and property in high flood hazard areas, and minimize vehicle miles traveled. Together, these policies encourage the concentration of development in existing developed areas (i.e. infill) that will minimize impacts to coastal resources. In addition, the certified LUP incorporates these Coastal Act policies and designates specific areas in Venice where more dense developments should be accommodated (Policy I.A.7) and specific areas where only single-family residential neighborhoods are allowed (Policy I.A.5). Thus, the LUP reflects the City's intention to designate areas where more concentrated development should exist in Venice.

Density and Housing

The state is currently experiencing a housing supply shortage of approximately 90,000 units on a yearly basis¹. From 2000 to 2015, Venice Beach saw a reduction in housing by approximately 700 units² and there appears to be a trend in CDP applications for conversion of multi-family structures to single-family residences. Housing shortages throughout the state have been met with growing efforts to address and improve availability. In 2017, the State Legislature acknowledged that California is facing a severe housing crisis, and that current and future demands are exceeding the availability of housing units³. Thus, the Commission has more recently emphasized the importance of preserving existing housing stock in already developed areas of the coastal zone, where appropriate, thereby minimizing impacts to coastal resources (Sections 30250 and 30253) and encouraging more affordable housing (Section 30604(f)). The policies in the certified Venice LUP also seek to preserve and maintain existing housing stock by encouraging the accommodation of duplexes and multi-family developments in areas deemed appropriate to sustain such development (Policies I.A.5 through I.A.8) and preserving the character of Venice, including architectural and social diversity and multi-family residential neighborhoods (Policy I.E.1 and Duplex/Multi-Family Residential Policy).

In this case, the lot is developed with a duplex; thus, as contended by the appellant, the City-approved demolition of the existing duplex and construction of a single-family residence on the lot results in the loss of a residential unit, which was not addressed by the City in the context of

¹ Dahdoul, Ahmad, et. al. 7 May 2017. "Building California's Future: Increasing the Supply of Housing to Retain California's Workforce". USC Price. Pp. 3-4. <https://cfce.calchamber.com/wp-content/uploads/2017/06/CFCE-Building-Californias-Future-Final-Report-May-7-2017.pdf>.

² Brausuell, James. 2017. "Venice, California has fewer housing units than in 2000". Planetizen website. <https://www.planetizen.com/node/93800/venice-california-has-fewer-housing-units-2000>.

³ California Legislative Information. *Government Code Section 65852.150* pursuant to Senate Bill 1069 (Wieckowski) and Assembly Bill 2299 (Bloom), effective January 1, 2019. https://leginfo.ca.gov/faces/codes_displaySection.xhtml?lawCode=GOV§ionNum=65852.150.

the preservation overall density in Venice, and, thus, the City's action raises a significant question as to whether the project is consistent with Sections 30250 and 30253 of the Coastal Act and Policies I.A.7 and I.A.5 of the certified Venice LUP. Furthermore, the City's approval does not discuss potential measures to offset the loss of the residential housing unit, as encouraged through the Duplex/Multi-Family Residential policy of the certified Venice LUP, consistent with Sections 30250 and 30253 of the Coastal Act.

Although the project involves the loss of one housing unit, approval of this project, in conjunction with other similar projects in Venice and the coastal zone, may cumulatively adversely affect coastal resources by encouraging development in undeveloped areas that are not able to accommodate it, such as rural areas or areas vulnerable to sea level rise. Therefore the appeal raises a substantial issue as to whether the project is consistent with Sections 30250 and 30253 of the Coastal Act.

Community Character

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 North Venice subarea contains coastal resources such as walk streets, historic structures, and iconic visitor-serving development such as the Venice sign and Kinney Plaza. The residential portions of the North Venice subarea are all designated Multi-Family Residential – Low Medium II Density. Thus, duplexes and other multi-unit residential development are a significant component of the character of the North Venice area. 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.

The subject block is bounded by Pacific Avenue to the east and Speedway to the west and consists of 17 lots with a 29-unit apartment complex on four lots, multi-family structures on nine lots, and single-family residences on seven lots. Beyond the immediate block, particularly from 30th Place to North Venice Blvd, approximately 56% of 283 lots contain multi-family residences (**Exhibit 4**), approximately 1% contain commercial structures, and 43% contain single-family residences. On May 8, 2019, staff conducted a site visit of the neighborhood and confirmed the largely multi-family character in the project vicinity.

The appellant contends that the City's findings relating to the project's consistency with the community character policies of the certified Venice LUP and Coastal Act are not sufficiently substantiated and the City-approved project, which replaces a duplex with a single-family residence, raises a question of compatibility with the multi-family character of the community. In addition, the City did not discuss potential mitigation for the loss of housing density at the site, which raises the possibility that the project does not preserve and protect the multi-family neighborhood in which the subject site is located, as required in the certified LUP (Duplex/Multi-Family Residential Policy). Given the lack of analysis in the City's record of this issue, the appeal raises a substantial issue with regard to the project's conformity to the

community character policies of the certified LUP and Sections 30250, 30251, and 30253 of the Coastal Act and the possibility of prejudicing 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’s findings state that the project is consistent with the Chapter 3 policies of the Coastal Act, including Sections 30250 and 30253, which encourage the concentration of development in appropriate areas. The City of Los Angeles’ approval also includes findings that the demolition of the duplex and construction of the single-family residence is consistent with LUP Policy I.A.7, which states that multi-family residences, including duplexes, should be accommodated (single-family residences are not listed) in areas with the Multi-Family Residential – Low Medium II Density designation. These findings, however, as detailed above, do not include discussions of how the project preserves and protects the multi-family neighborhood, the character of the area, or overall housing density in Venice, which is required and encouraged through the aforementioned policies of the Coastal Act and certified Venice LUP. Therefore, the Commission finds that the City provided an inadequate degree of factual and legal support for its decision 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. While the mass and scale of the City-approved single-family structure is consistent with that of the surrounding development, the loss of residential density can have far-reaching impacts if not properly mitigated and, therefore, when considered cumulatively throughout Venice, the scope of the project raises a substantial issue.

The third factor is the significance of the coastal resources affected by the decisions. Venice is a unique area that specifically draws millions of visitors from around the world each year. As such, it has been designated a coastal resource that deserves special protection. The cumulative impacts of the City-approved development that results in the loss of housing stock could have significant impacts on the community character of Venice, which is a significant coastal resource.

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 Venice LUP specifically designates areas that are more appropriate for duplexes and multi-family developments and areas that are more appropriate for single-family developments. The 2,641 square foot project site, as designated in the certified LUP, allows for duplexes and multi-family structures and can support two units per the policy’s density standards. The character of the North Venice area, which is largely designated by the certified LUP for multi-family residential development, is not discussed in the City’s approval. Policy I.A.5 of the LUP requires the protection and preservation of existing multi-family residential neighborhoods and the Duplex/Multi-Family Residential Policy of the LUP states that the loss of housing units can be offset by the construction of new housing units to preserve stable multi-family residential areas. Therefore, the City’s approval sets a precedent for the continued conversion of the multi-family residential neighborhood to a single-family neighborhood without offsetting the loss of units elsewhere in the Venice coastal zone. 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. As described above, the State Legislature has acknowledged that California is facing a severe housing crisis, and that current and future demands are exceeding the availability of housing units. The Coastal Act codifies a number of statewide policies to encourage coastal 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. The City's approval raises a significant question as to the development's consistency with these policies. Thus, the City-approved project could prejudice the preparation of an LCP for the region in conformance with the Chapter 3 policies of the Coastal Act. Therefore, the City's approval of the demolition of a duplex and construction of a single-family residence raises issues of regional and statewide significance.

In conclusion, the City-approved project is not consistent 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-19-0022 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-19-0022 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. 5-19-0949 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. 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 accessory dwelling unit (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.
- 2. 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 5-19-0949/A-5-VEN-19-0022 shall prevail.
- 3. 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 in substantial conformance with the parking plan submitted to the Commission’s South Coast District Office on September 24, 2019 and shall provide a minimum of three (3) parking spaces to be maintained on-site.
- 4. 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>).
- 5. Construction Timing and Nesting Bird Surveys.** For any construction activities, including vegetation removal, between February 15th and September 1st, the permittee shall retain the services of a qualified biologist to conduct nesting bird species surveys in order to determine the presence of bird species including, but not limited to, great blue herons and snowy egrets. At least 30 calendar days prior to commencement of any project operations, the permittee shall submit the name and qualifications of the biologist, for the review and approval of the Executive Director. All project construction and operations shall be carried out consistent with the following:
 - A. The surveys shall be conducted 30 calendar days prior to construction activities, including any vegetation removal, to detect any active bird nests in all trees at the project

site. A follow-up survey must be conducted 3 calendar days prior to the initiation of vegetation clearance/construction and nest surveys must continue on a monthly basis throughout the nesting season or until the project is completed, whichever comes first. These surveys shall be submitted to the Executive Director within two days of completion.

- B. If an active nest of a shore bird, wading bird, or raptor species is found within the project work area, no construction activities shall occur within the project work area. No nests shall be removed or disturbed. If the permittee wants to proceed with work, the permittee's biologist shall monitor bird behavior and construction noise levels during all significant construction activities (those with potential noise impacts) to ensure that nesting birds are not disturbed by construction related noise. Construction-related activities may occur only if noise levels are at or below a peak of 65 dB at the nest site(s). If noise exceeds a peak level of 65 dB at the nest site(s), sound mitigation measures such as sound shields, blankets around smaller equipment, mixing concrete batches off-site, use of mufflers, and minimizing the use of back-up alarms shall be employed. If these sound mitigation measures do not reduce noise levels, construction shall cease and shall not recommence beyond the boundaries described above until either new sound mitigation can be employed or the chicks have fledged.

- 6. Retention of an ADU Onsite.** The development approved by Coastal Development Permit Nos. A-5-VEN-19-0022 & 5-19-0949 includes the demolition of a duplex and construction of a single-family residence with an attached 815 square foot ADU. The applicant and all assigns/successors shall maintain the ADU as a separate unit. At no point may the ADU be incorporated into the single-family residence or reduced to less than the proposed 815 square foot size without an amendment to Permit Nos. A-5-VEN-19-0022 & 5-19-0949.

7. Dewatering Plan and Ground Level Flood Proofing.

- A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit a final dewatering plan or evidence that no dewatering is required and a detailed description of measures to be undertaken to ensure the ground level will be flood resistant for the review and approval of the Executive Director. The final dewatering plan flood proofing measures must first be approved by the City of Los Angeles and other applicable agencies.
- B. PRIOR TO COMMENCEMENT OF CONSTRUCTION, the applicant shall provide to the Executive Director a copy of a dewatering permit issued by the Los Angeles County Sanitation District or the Regional Water Quality Control Board, or letter of permission, or evidence that no permit or permission is required. The applicant shall inform the Executive Director of any changes to the project required by the Los Angeles County Sanitation District or the Regional Water Quality Control Board. Such changes shall not be incorporated into the project until the applicant obtains a Commission amendment to this coastal development permit, unless the Executive Director determines that no amendment is legally required. In addition, dewatering on the public beach, Venice Canals, Ballona Lagoon, or other waterways is not authorized by this permit, and any proposal to install dewatering infrastructure (temporary or permanent) in such areas shall require an amendment to this permit.

8. 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) that critical mechanical equipment may be required to be relocated above-grade in the future given that the basement is located below the water table and groundwater inundation is expected to increase with sea level rise in the future; (iii) 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; (iv) 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 (v) 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.

9. 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 and foundations, if any 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 walkway and/or water before they are removed, the landowner(s) shall remove all recoverable debris associated with the development from the public walkway 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.

10. Deed Restriction. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the landowner 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 7. However, after working with Commission staff, the applicant revised the project to add an accessory dwelling unit (ADU) and maintain three parking spaces on-site. As proposed, the two-story, 815 square foot ADU is located above the attached three-car garage, accessed through a side yard entrance that is separate from the entrance to the single-family residence, and includes one bedroom, two bath, a kitchen, living and dining spaces, and a balcony (**Exhibit 5**). The applicant is also proposing to remove three non-native trees on-site—one of which is diseased and one of which is dead—and install yard improvements, including new non-invasive landscaping and approximately 4.5-foot perimeter walls and fencing.

B. DEVELOPMENT

Relevant Coastal Act and certified Venice Land Use Plan policies are hereby incorporated from Section VI.C, above.

Density & Housing

The project site is a 2,641 square foot lot on a walk street currently developed with a two-story, 25-foot high, 1,856 square foot duplex. Three-quarters of the subject block is developed with multi-family structures; one-quarter is developed with single-family residences. This is representative of the North Venice subarea, which contains development comprised of mostly multi-family residences with some single-family residences and concentrated commercial development.

The Venice LUP, certified in 2001, designates the residential areas in the North Venice subarea as Multi-Family Residential – Low Medium II Density. This designation (LUP Policy I.A.7) allows for duplexes and multi-family structures with one dwelling unit per 1,500-2,000 square feet of lot area with a maximum of two units for lots under 4,000 square feet (Policy I.A.7). While the applicant proposes to reduce the density by one unit on the subject 2,641 square foot lot, that loss is mitigated through the addition of an 815 square foot ADU, which is roughly comparable to the size of the duplex units proposed to be demolished.

The inclusion of an ADU maintains density in this already developed area. In addition, encouraging the retention of housing along the walk streets facilitates pedestrian access to Venice Beach’s coastal resources without utilizing vehicles, thus minimizing vehicle miles traveled consistent with Section 30253. **Special Condition 1** 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. Additionally, **Special Condition 6** requires the ADU to be retained on-site as proposed and **Special Condition 10** requires the applicant to record a deed restriction imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the property.

As proposed and conditioned, the development maintains housing density in an already developed area, is consistent with the allowable density under the LUP, will not contribute to cumulative impacts of loss of housing density, and mitigates for the loss of one residential unit by constructing and maintain an ADU on the site. As conditioned, the development conforms with Section 30250 and 30253(d) 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 sea level rise 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.” Additionally, Moffat & Nichol prepared a Venice Sea Level Rise Vulnerability Assessment for the City of Los Angeles in May 2018, which provides information regarding the potential impacts of sea level rise in Venice.

The proposed development is located between Venice Beach and the tidally influenced Venice canal system, which is mechanically controlled via a tide gate system. According to the Our Coast Our Future model, which, like the City’s Vulnerability Assessment, uses Coastal Storm Modelling System data, the project site is not predicted to flood until a rise of 5.7 feet in sea level is reached. Under a medium-high risk aversion scenario, a rise in sea levels of 5.5 to 6.8 feet is expected 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.

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. As proposed, the ground level of the residence is proposed approximately three feet below the existing grade. In order to assure that the proposed development is safe from flood hazards; **Special Condition 7** requires the applicant to submit a detailed description of all measures that will be undertaken to ensure the ground level will be flood resistant. In addition, **Special Conditions 8 and 9** 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 it is determined by an appropriate agency that it is permanently unsafe for occupation. Furthermore, **Special Condition 10** requires the applicant to record a deed restriction acknowledging that, pursuant to the subject CDP (CDP Nos. A-5-VEN-19-0022 / 5-19-0949), 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. Therefore, as conditioned the proposed development minimizes risks to life and property and is consistent with the hazards policies of the Coastal Act.

Community Character

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 North Venice subarea contains coastal resources such as walk streets, historic structures, and iconic visitor-serving development such as the Venice sign and Kinney Plaza. The residential portions of the North Venice subarea are all designated Multi-Family Residential – Low Medium II Density. Thus, duplexes and other multi-unit residential development are a significant component of the character of the North Venice area. 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.

The subject block is bounded by Pacific Avenue to the east and Speedway to the west and consists of 17 lots with a 29-unit apartment complex on four lots, multi-family structures on nine lots, and single-family residences on seven lots. Beyond the immediate block, particularly from 30th Place to North Venice Blvd, approximately 56% of 283 lots contain multi-family residences (**Exhibit 4**), approximately 1% contain commercial structures, and 43% contain single-family residences. On May 8, 2019, staff conducted a site visit of the neighborhood and confirmed the majority multi-family character in the project vicinity. As proposed to include a two-story 815 square foot ADU and conditioned to ensure the maintenance of the ADU on-site for the life of the development, the project mitigates for the loss of a residential unit 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, the proposed project is 28 feet in height, which conforms with the maximum height standard for residential development on walk streets in the North Venice subarea in the certified Venice LUP (Policy I.A.7). The project height is also consistent with other development along the walk street, which includes several three-story structures and one four-level structure. While the City approved a variance for the project's front yard setback (from required 15 feet to 10 feet), at least four of the properties in the immediate project vicinity, including one of the lots adjacent to the project site, appear to have a similar 10-foot front yard setback. The proposed development also includes landscaping and articulation consistent with other development the neighborhood. Therefore, the project, as proposed and conditioned, is consistent with the community character of the project area and, thus, conforms with the visual resource and community character policies of Chapter 3 of the Coastal Act and the certified Venice LUP, which serves as guidance.

C. WATER QUALITY & BIOLOGICAL RESOURCES

Section 30231 of the Coastal Act states:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Coastal Act section 30240(b) states:

Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

The proposed development is located approximately 200 feet from Venice Beach and approximately 450 feet from Grand Canal, which is a tidally influenced waterway. If construction will take place within the water table, excess water is likely to need to be disposed of during construction activities, and improper treatment and disposal of such water could have adverse impacts on coastal resources. Therefore a final dewatering plan must be prepared in advance of the intended construction to ensure proper handling of water encountered during construction. **Special Condition 6** also requires a final dewatering plan or evidence that no dewatering will be necessary prior to issuance of a coastal development permit and, if required, the applicant must provide evidence that the appropriate permits have been obtained from the corresponding agencies. In addition, **Special Condition 2** requires the applicant to comply with local government requirements, which include details relating to the maintenance of appropriate drainage on-site.

The applicant is not proposing to use any invasive species in the landscape design, which minimizes the potential spread of invasive species. In fact, the applicant is proposing largely mostly native, drought-tolerant landscaping. **Special Condition 4** is imposed to ensure that any

landscaping on-site through the life of the development does not include the use of invasive species and utilizes primarily drought tolerant plant species and water conservative irrigation systems for any new landscaping. The applicant is also proposing to remove three existing trees with canopies that range between 5 and 12 feet. Given the proximity of the project site to the Venice Canals, which is a known bird foraging area, and the existing mature landscaping in the project vicinity, **Special Condition 5** is imposed to ensure that breeding birds are not impacted by the proposed development, including tree removal.

Thus, as proposed and conditioned, the project minimizes potential impacts to water quality and biological resources, consistent with Sections 30231 of the Coastal Act.

D. PUBLIC ACCESS

Section 30210 of the Coastal Act states:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Coastal Act section 30252 states:

The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing nonautomobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.

Section 30252 of the Coastal Act states that new development should maintain and enhance public access to the coast by providing adequate parking facilities or providing substitute means of serving the development through public transportation. The certified Venice LUP (Parking Requirement Table) requires two parking spaces for a single family residence in this area in order to keep public off-street parking spaces available for those who drive to the coast from inland areas. In some cases, additional parking is not required for an ADU if it is located within half of a mile of public transit, however, in other cases, even if an ADU is located within half of a mile of public transit, additional parking may be necessary, especially if the ADU is located in a popular coastal area with inadequate public parking facilities. In any case, here, the applicant is proposing to provide three on-site parking spaces, two for the single-family residence and one for the ADU, thereby minimizing the impact of the development on automobile parking availability in the area, which is limited along the Venice coastline.

Special Condition 1 requires the development to be carried out in a manner consistent with the proposed project, as approved and conditioned, ensuring that the parking will be provided.

Additionally, **Special Condition 3** requires the three parking spaces to be retained on-site, as proposed, and **Special Condition 10** requires the applicant to record a deed restriction imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the property.

Therefore, the project as proposed and conditioned conforms with the public access policies of Chapter 3 of the Coastal Act.

E. 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. 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.

F. 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-2018-3071-CDP-SPP-MEL*