

CALIFORNIA COASTAL COMMISSION

South Coast District Office
301 E Ocean Blvd., Suite 300
Long Beach, CA 90802-4302
(562) 590-5071



F14d

Filed: 10/17/2019
180th Day: 04/14/2020
Staff: M. Alvarado-LB
Staff Report: 02/28/2020
Hearing Date: 03/13/2020

STAFF REPORT: REGULAR CALENDAR

Application No.: 5-19-0854

Applicant: Darryl and Teri Eaton

Agent: Kimberlina Whettam & Associates
(Attn: Rosemary Medel)

Location: 441 E. Sherman Canal, Venice, City of Los Angeles
Los Angeles County (APN: 4227-012-013)

Project Description: Substantial demolition, major renovation of, and 1,724-sq. ft. net addition to, an approximately 1,128-sq. ft., 20.3-ft. high, one-story single-family residence resulting in an approximately 2,852 sq. ft., 28-ft. high, three-story single-family residence with 1,111 sq. ft. of new deck space, new attached two-car garage, and one additional onsite parking stall, 3.5-ft. high rooftop guardrails, and hardscape and landscape improvements on a canal-fronting lot. The existing detached two-car garage, topped with a second-story and third-story recreation room, is proposed to be demolished. Project includes a request to maintain nonconforming front yard setback from the canal, as well as encroachments beyond the property line adjacent to the canal.

Staff Recommendation: Approval with conditions.

SUMMARY OF STAFF RECOMMENDATION

The proposed project raises issues concerning hazards and impacts to public access, visual quality, and water quality due its location on the bank of one of the Venice Canals in the City of Los Angeles.

The subject property is currently developed with a canal-fronting 1,128-square-foot, 20.3-foot high, one-story single-family residence (c. 1924) with a detached garage topped with a second and third story recreation room.

Approximately 840 square feet of the 1,128-square-foot residence is proposed to be demolished. At the same time, the applicants are proposing a 2,564 addition of living space. Therefore, the applicants are proposing substantial demolition (more than 50 percent of the primary structure and complete demolition of the detached garage and recreation room) and an approximately 1,724-square-foot net¹ addition to existing floor area of the single-family residence. The proposed project also includes new deck additions, as well as additional alterations/renovations to the major structural components of an existing residence. The proposed alterations/renovations are expected to increase the economic life of the 96-year old residence by an additional 75 years according to the applicants' coastal hazards engineer. The project also includes requests to keep the existing nonconforming reduced front yard setback from the canal and to keep a nonconforming fence and deck encroaching beyond the canal-fronting property line.

The Commission's standard of review for the proposed development is Chapter 3 of the Coastal Act. The City of Los Angeles certified Land Use Plan (LUP) for Venice is advisory in nature and provides guidance. LUP Policy I.A.4.a. requires that an average setback of 15 feet, but not less than 10 feet, be maintained in the front yard adjacent to the canal property line in order to provide a setback for access, visual quality, and to protect the biological productivity of the canals. In addition, LUP Policy I.A.4.a requires the project site to provide an open, permeable yard area of at least 450 square feet between the canal property line and the front of any structure on the lot. These policies are specific to development along the Venice Canals, which provide important recreational, aesthetic, and biological resources protected by the Coastal Act. Buildings located along the Venice Canals are required to be setback from the waterways and walkways in order to enhance visual quality and public recreation, protect marine resources, and to provide an area on the site for percolation of stormwater.

Policy I.E.5 of the City's LUP requires projects to remove non-conforming features of a project when the development constitutes an "extensive renovation" or "major addition." This policy is consistent with the Commission's practice of requiring substantial redevelopment of an existing structure to comply with all requirements of Chapter 3 of

¹ The term of art "net" refers to the amount proposed after all the proposed reductions and additions are considered. A "net" addition or net reduction is the result of an addition to a structure in one location and the simultaneous demolition and/or removal of parts of a structure in another location.

the Coastal Act because it qualifies as new development. Here, given the extent of demolition and new addition proposed by the applicants, the proposed project constitutes an “extensive renovation” and “major addition”, under Policy I.E.5 of the City’s LUP, as well as new development under the Coastal Act. Therefore, the nonconforming features of the site must be removed and the new development must conform to current development standards of Chapter 3 of the Coastal Act and the certified LUP.

The proposed project is inconsistent with the public access, recreation policies, and coastal resource protection policies of the Coastal Act. The Venice Canal neighborhood is pedestrian-oriented. The required canal-fronting setback for new residences in this area is designed to accommodate the pedestrian nature of the area, by providing a visually open and inviting feel for those walking through the area by pushing ground floor development away from the canals and public walkways. Likewise, any new second or third floors must be setback even further from the canals and public walkways than the ground floor, which enhances the visual quality of the area. In addition, the canal-fronting yard areas enhance the water quality and biological productivity of the canals. As described, LUP Policy I.A.4.a has explicit requirements for canal-fronting yard areas, which are required to provide a minimum, unobstructed permeable area. As proposed by the applicants, the proposed project would prejudice the ability for the City to prepare an LCP that complies with Chapter 3 of the Coastal Act because it would not be consistent with the LUP policies that the Commission has already certified to be consistent with the Chapter 3 of the Coastal Act or with the Coastal Act itself.

Therefore, to ensure that the project complies with current development standards and the Coastal Act, Commission staff is recommending **Special Condition 1**, which requires the submittal of final revised plans which must be consistent with the Commission’s canal-front setback and permeable yard requirements. Special Condition 1 also requires that all encroachments and nonconformities be removed. **Special Condition 2** requires that a minimum of 450 square feet of permeable area be maintained between development on the site and the canal.

Staff is recommending the Commission **approve** the coastal development permit application with 10 special conditions, including: **1)** development setback and building height; **2)** permeable area and setback requirement; **3)** permit compliance; **4)** assumption of risk; **5)** drought tolerant, non-invasive plants; **6)** construction best management practices, and drainage and run-off control practices; **7)** LADBS approval; **8)** local government approval; **9)** no future shoreline protective device; **10)** deed restriction. These conditions are imposed to ensure that the 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 proposed project, only as conditioned, can be found consistent with Chapter 3 of the Coastal Act.

TABLE OF CONTENTS

I. MOTION AND RESOLUTION.....	5
II. STANDARD CONDITIONS.....	5
III. SPECIAL CONDITIONS	6
IV. FINDINGS AND DECLARATIONS	10
A. Project Location and Description.....	10
B. Development	11
C. Visual Resources	18
D. Public Access.....	19
E. Biological Resources & Water Quality	21
F. Hazards	23
G. Local Coastal Program (LCP)	27
H. California Environmental Quality Act (CEQA)	27
APPENDIX A – SUBSTANTIVE FILE DOCUMENTS.....	29

EXHIBITS

Exhibit 1 – Project Location

Exhibit 2 – Plans and Elevations

I. MOTION AND RESOLUTION

Motion:

I move that the Commission approve Coastal Development Permit 5-19-0854 pursuant to the staff recommendation.

Staff recommends a **YES** vote on the foregoing motion. 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 Commissioners present.

Resolution:

The Commission hereby approves the Coastal Development Permit for the proposed project 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 that conforms to the provisions of Chapter 3 of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS

- 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 applicants or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
- 2. Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
- 3. Interpretation.** Any questions of intent of interpretation of any condition will be resolved by the Executive Director or the Commission.
- 4. Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.

5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the applicants to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

1. Development Setbacks and Building Height.

- A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit, in a form and content acceptable to the Executive Director, two (2) full sized sets of final revised project plans, which shall substantially conform with the project plans received by the Commission's South Coast District Office on October 10, 2019, except shall be modified to comply with the following:
- i. No development is authorized within ten (10') feet of the fronting canal property line (Sherman Canal) nor within or above the required 450-square-foot permeable front yard area, except as described in **Special Condition 2** below. Ten (10') feet landward of the fronting canal property line, the maximum height of any structure shall not exceed 22 feet above the centerline of the rear alley. Beyond ten (10') 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 35 feet. Roof deck railings shall not exceed 42 inches above the thirty-foot (30') height limit and shall clearly be of an open design. Building height is measured from the elevation of the adjacent alley.
 - ii. The proposed residence shall provide and maintain an average setback of 15 feet, but no less than 10 feet, in the front yard adjacent to the canal property line. Proposed development must conform with all required setbacks.
 - iii. All structural improvements, including fencing and deck/patio, that extend beyond the canal-fronting property line must be removed.
- B. The permittees shall undertake development in accordance with the approved plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

2. **Permeable Yard Area.** In order to maintain an open and visible access corridor, to enhance visual quality, and to preserve the water quality and biological productivity of the canals, an uncovered and permeable yard area totaling no less than fifteen times the width of the site (in this case: 15 feet x 30 feet = 450 square feet) shall be maintained on the project site in the front yard area between the structure and the front (Sherman Canal) property line. 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. 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. Assumption of Risk, Waiver of Liability and Indemnity.** By acceptance of this permit, the applicant(s) acknowledges and agrees (i) that the site may be subject to hazards from waves, erosion, storm conditions, liquefaction, flooding and sea level rise; (ii) to assume the risks to the applicant(s) and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.
- 5. Landscaping – Drought Tolerant, Non-Invasive Plants.**

 - A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit, in a form and content acceptable to the Executive Director, two (2) full sized sets of final landscaping plans, which shall include and be consistent with the following:

 - i. Vegetated landscaped areas shall only consist of native plants or non-native drought tolerant plants, which are non-invasive. No plant species listed as problematic and/or invasive by the California Native Plant Society (<http://www.CNPS.org/>), the California Invasive Plant Council (formerly the California Exotic Pest Plant Council) (<http://www.cal-ipc.org/>), or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a “noxious weed” by the State of California or the U.S. Federal Government shall be utilized within the property. All plants shall be **low water use** plants as identified by California Department of Water Resources (See: <http://www.water.ca.gov/wateruseefficiency/docs/wucols00.pdf> and <http://ucanr.edu/sites/WUCOLS/files/183488.pdf>).
 - ii. Use of reclaimed water for irrigation is encouraged. If using potable water for irrigation, only drip or microspray irrigation systems may be used. Other

water conservation measures shall be considered, such as weather based irrigation controllers.

- B. The permittees shall undertake development in accordance with the approved plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

6. 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.

7. City of Los Angeles, Department of Building and Safety Approval. PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT, or within such additional time as the Executive Director may grant in writing for good cause, the applicant shall provide to the Executive Director a copy of a permit issued or evidence of preliminary approval by the City of Los Angeles, Department of Building and Safety (LADBS). The applicant shall inform the Executive Director of any changes to the project required by LADBS. Such changes shall not be incorporated into the project until the applicant obtains an amendment to this coastal development permit, unless the Executive Director determines that no amendment is legally required.

8. 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 5-19-0854 shall prevail.

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 No. 5-19-0854, 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 coastal hazards in the future.

- B. By acceptance of this permit, the applicants further agree, 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 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, including the Venice Canals.

10. Deed Restriction. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant(s) shall submit to the Executive Director for review and approval documentation demonstrating that the landowner(s) have executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

IV. FINDINGS AND DECLARATIONS

A. PROJECT LOCATION AND DESCRIPTION

The subject site is a canal-front lot located approximately 0.33-mile 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. The 2,850-square foot lot (30 feet wide and 95 feet deep) is currently developed with a one-story, 1,128 square foot single-family residence with a detached three-story accessory structure (garage topped “recreation room”) that is accessed from Court B, the rear alley. A mix of one to three-story single-family residences and two-story multi-family residential structures, with or without roof decks and roof access structures, characterize the neighborhood, and are similar in size to the proposed project.

The applicants are proposing substantial demolition, major renovation of, and net addition to, an approximately 1,128-square-foot, 20.3-foot high, one-story single-family residence resulting in an approximately 2,852-square-foot, three-story single-family residence with a maximum height of 28 feet (**Exhibit 2**). Approximately 840 square feet of the 1,128-square-foot residence is proposed to be demolished. At the same time, the applicants are proposing to retain 288 square feet of the existing residence (including the nonconforming portion of the residence) and construct a 2,564 square-foot addition of living space. Therefore, the applicants are proposing substantial demolition (more than 50 percent of the primary structure and complete demolition of the detached garage and recreation rooms) and an approximately 1,724 square feet net¹ addition to existing floor area of the single-family residence.

The proposed project includes approximately 1,111 square feet of new deck space, new attached two-car garage, and one additional onsite parking space on the driveway apron, 3.5-foot high metal post guardrails on roof of second story, and 3.5-foot high wood slat guardrails on roof of third story, and hardscape and landscape improvements. No roof access structure is proposed. The existing residence has a legally nonconforming front yard (canal-fronting) setback of nine feet and a nonconforming fence and deck, which extend beyond the applicants’ canal-fronting property line. The applicants are proposing to maintain the nonconforming canal-fronting setback, fence, and deck.

The project site is located in the Venice Canals subarea, within the dual permit jurisdiction area of Venice. The project has obtained a Local Coastal Development Permit (CDP) issued by the City’s Planning Department (Case No. DIR-2018-4375-CDP-MEL-SPP). No appeal of the local action was filed. On July 23, 2019, the applicants submitted the required “dual” Coastal Commission CDP application (Application No. 5-19-0854) for Commission review and action.

B. DEVELOPMENT

Section 30250 of the Coastal Act states:

- (a) 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. In addition, land divisions, other than

leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels. (b) Where feasible, new hazardous industrial development shall be located away from existing developed areas. (c) Visitor-serving facilities that cannot feasibly be located in existing developed areas shall be located in existing isolated developments or at selected points of attraction for visitors.

Section 30251 of the Coastal Act 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....

Section 30253(e) of the Coastal Act states:

Where appropriate, protect special communities and neighborhoods that, because of their unique characteristics, are popular visitor destination points for recreational uses.

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 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 Plan 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.

The Project Constitutes New Development

The applicant proposes to maintain several non-conforming features of the existing single-family residence, including front yard setbacks from the Venice canals, and canal-front permeable yard area, that do not meet the standard in the Venice LUP.

The issue of whether a project constitutes new development rather than improvements to, or repair and maintenance of, existing development becomes significant when an applicant proposes to retain an existing non-conforming feature that has a negative effect on coastal resources. New “development” must comply with all Chapter 3 policies, here, using the policies of the certified Venice LUP as guidance.

While the dividing line between an improvement (or repair and maintenance) and “redevelopment” is not always clear, at a certain point, substantial alterations to a residence can no longer be considered minor improvements, but instead must be considered new development. Thus, Coastal Act Section 30610(a) allows certain types of “improvements” to existing single-family residences without a coastal development permit, which may include modest additions. Although the Coastal Act and its implementing regulations do not define “improvement,” the regulations acknowledge that “improvements” generally include additions that result in an increase of at least up to 10 percent of internal floor area of an existing home. (see 14 Cal. Code Regs § 13250(b)(4).) In addition, at least in the context of requiring new public access, the Coastal Act defines relatively large additions to existing structures as new development, rather than improvements to existing structures. (See Pub. Res. Code § 30212: project constitutes “new development” if it increases the floor area, height, or bulk of a structure

by more than 10 percent.) Section 13252(b) of the Commission's regulations also states that the "replacement" of 50 percent or more of a single-family residence constitutes a replacement structure requiring a coastal development permit, rather than repair or maintenance.

In applying Section 13252(b), the Commission has found (see A-5- VEN-17-0009 (Thomas), A-5-LGB-18-0012 (Bracamonte); 6-18-0182 (Harris); 5-18-0223 (Walsh)) that a structure is considered redeveloped if one of the following takes place: 1) 50% or more of the major structural components are replaced; 2) there is a 50% increase in gross floor area; 3) replacement of less than 50% of a major structural component results in cumulative alterations exceeding 50% or more of that major structural component (taking into account previous replacement work undertaken); and/or 4) less than a 50% increase in floor area where the alteration would result in a cumulative addition of 50% or more of the floor area, taking into account previous additions to the structure.

Policy I.E.5 of the City's LUP requires projects to remove non-conforming features of a project when the development constitutes an "extensive renovation" or "major addition." This policy is consistent with the Commission's practice of requiring substantial redevelopment of an existing structure to comply with all requirements of Chapter 3 of the Coastal Act because it qualifies as new development. Policy I.E.5 of the City's LUP states:

Where extensive renovation of and/or major addition to a structure is proposed and the affected structure is nonconforming or there is another nonconforming structure on the site, or a project is proposed that would greatly extend the life of a nonconforming structure or that eliminates the need for the nonconformity, the following shall apply:

Unless the City finds that it is not feasible to do so, the project must result in bringing the nonconforming structure into compliance with the current standards of the certified LCP, unless in its nonconformity it achieves a goal associated with community character (i.e. the reuse and renovation of a historic structure) or affordable housing that could not be achieved if the structure conforms to the current standards of the certified LCP.

The applicants have submitted information regarding the extent of alterations proposed. The applicants' plans indicate that 54.5 percent of the exterior walls (78 linear feet/143.3 linear feet) of the existing 1,128-square-foot residence are to remain, and only 288 square feet of floor area is to remain. However, 840 square feet out of the 1,128-square-foot residence is proposed for demolition, which will result in the demolition of more than 74 percent of the roof, and more than 74 percent of the existing foundation. Furthermore, 30 of the 78 linear feet of exterior wall proposed to remain would likely need to be substantially altered, augmented, and reinforced in order to support the new additional story proposed above it. The proposed alterations/renovations are expected to increase the economic life of the 96-year old residence by an additional 75 years

according to the applicants' coastal hazards engineer.

In addition, the proposed development, which includes a 2,564-square-foot three-story addition, constitutes an extensive renovation of and/or major addition to a nonconforming structure, and thus, Policy I.E.5 of the LUP is applicable. Accordingly, given that the proposed project, at a minimum, is proposing a major addition and extensive renovation (maintaining only 288 of 1,128 square feet), the resulting development should bring the nonconforming features of the site into compliance with the current Commission-certified development standards, including yard setbacks and minimum canal-front permeable yard requirement.

Policy I.E.5 of the LUP (cited above) does allow for a few exceptions. Policy I.E.5 states that even where extensive renovation of and/or major additions to a structure are proposed, nonconformities can be retained if it has been determined that it is not feasible to bring the nonconforming structure into compliance with current standards, or if the nonconformities are necessary to achieve a goal associated with community character, such as the reuse and renovation of a historic structure, or to provide affordable housing.

However, according to the City, the existing residence (c. 1924) has not been designated as a historic structure. Nor is maintaining the setback necessary for the new house to be consistent with the character of this area of Venice. Moreover, the nonconformity is not required to achieve affordable housing as no affordable housing units are being proposed.

As to feasibility, the applicant has not demonstrated or provided evidence with regard to the infeasibility of redesigning the project to comply with current standards. Because the proposed project includes substantial demolition and redevelopment, it is not infeasible to set the proposed residence back to meet the required setbacks, including the canal-front setback (average of 15 feet but no less than 10 feet), and still maintain the overall design of the proposed residence.

In a letter dated October 8, 2019, the applicants' representative requested the approval of the proposed project design, with the maintenance of the existing non-conformities in the front of the property. The applicants' representative cites a 2006 permit approved by the Commission (CDP No. 5-05-495) related to a remodel in the Venice Canals neighborhood where the Commission allowed the retention of an existing non-conforming front yard setback. The applicant's representative contends that approval of this permit application, with an allowance for the non-conformities on the site, is necessary as a result of the precedent established by CDP No. 5-05-495. However, in approving CDP No. 5-05-495, the Commission focused primarily on the extent of demolition/removal of the exterior walls, and conditioned the project to require that the maintained walls retain their structural components such as studs and to prohibit augmentation of the walls in a manner that would support new development or extend the life of the structure.

In this case (CDP Application No. 5-19-0854), however, the applicants are proposing to demolish nearly everything on the site except for the nonconforming portion of the existing residence and portions of the exterior walls. In addition, much of the remaining portions of the walls (and the foundation) would need to be augmented in order to support the proposed second and third stories, which would constitute new (not maintained) development for those augmented portions of the walls and foundation. Thus, it does not appear possible to condition the project in the same manner the Commission did when approving CDP No. 5-05-495.

Moreover, as discussed, for recent projects (e.g. A-5- VEN-17-0009 (Thomas), A-5-LGB-18-0012 (Bracamonte); 6-18-0182 (Harris); 5-18-0223 (Walsh)), when evaluating whether proposed renovations to a residence qualify as new development, the Commission has looked beyond the exterior walls, and has assessed the extent of replacement of major structural components of a residence (i.e., the roof or foundation) or the extent of additions to the gross floor area of a structure, among other factors. Where a project has resulted in demolition or replacement of 50% or more of the major structural components of a residence, or a 50% increase in a structure's gross floor area, the Commission has treated a project as new development that must comply with the Coastal Act. Here, the proposed project involves both of these situations, notwithstanding the applicants' efforts to maintain a significant portion of the exterior walls of the existing structure.

Based on the project plans submitted by the applicant, and for the reasons described above, the applicants have proposed an "extensive renovation" and a "major addition" to the existing residence on the site. Consistent with recent Commission actions, the proposed development constitutes new development and must comply with all standards of the Venice LUP and Chapter 3 of the Coastal Act.

Building Setbacks and Permeable Front Yard Area

New buildings located along the Venice Canals are required to be setback from the waterways and walkways in order to enhance visual quality and public recreation, protect marine resources, and to provide an area on the site for water percolation.

Pursuant to LUP Policy I.A.4, the Commission has consistently required that new development adjacent to the Venice Canals provide a buffer between the canals/walkways and the development in the form of open and permeable canal-front yards (at least 450 square feet for 30-foot wide lots, and at least 600 square feet for forty-foot wide lots) and further setbacks for any second and third floors. A minimum 10-foot setback from the canal-fronting property line, with a required average setback of no less than 15 feet, on any lot provides the minimum permeable front yard area required for new development. No building extensions, including stairs and balconies, are permitted to be placed in or over the required permeable front yard area with the exception of permeable decks. The canal-front yard and setbacks are required in order to prevent a canyon effect throughout the canal area, thereby protecting and enhancing the visual resources in the area, and to provide an area on each site for water percolation to improve water quality, thereby protecting and enhancing biological resources.

limited to 35 feet. Roof deck railings shall not exceed 42 inches above the 30-foot height limit. Building height is measured from the elevation of the adjacent alley.

The proposed residence features a stepped-back third story. The front height of the proposed residence begins at a height of approximately 20.3 feet then ascends to a maximum height of approximately 28 feet. The proposed rooftop railings will not exceed 42 inches in height. No roof access structure is proposed. The proposed residence is set back approximately nine feet from the canal-fronting property line does not conform to setback requirements as described in greater detail above. However, the proposed project does meet the specific height requirements of the LUP. To ensure compliance, **Special Condition 1** reflects the requirements for height limits. Special Condition 1 also requires that the roof railings, or guardrails, clearly are of an open design.

Residential Density

The Venice LUP currently limits residential density in the project area to one unit per lot. The applicants propose to construct a single family residence. Therefore, the proposed project as conditioned conforms to the density limit of the Venice LUP.

Conclusion

As conditioned, the proposed development conforms with Sections 30250, 30251, and 30253 of the Coastal Act.

C. VISUAL RESOURCES

Section 30251 of the Coastal Act 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.

The Coastal Act protects the visual quality of scenic coastal areas. Buildings along the Venice Canals have been required to be setback from waterways in order to enhance visual quality. Policy I.A.4 of the certified LUP, states, in relevant part:

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).

Consistent with the LUP, the Commission has historically required an uncovered permeable yard area totaling no less than fifteen times the width of a canal-fronting site. In this case, the property is 30 feet wide, therefore, a minimum of 450 square feet of uncovered permeable yard area must be provided on the canal front side of the property. In addition, the Commission has historically required an average setback of 15 feet in the front yard adjacent to the canal property line consistent with the LUP. This yard area and canal-front setback is intended to not only preserve the water quality and biological productivity of the canals but to also maintain an open and visible access corridor and to enhance visual quality.

However, the applicants are not proposing to provide the minimum 450 square feet of uncovered permeable front yard area or a minimum 10-foot or average of 15-foot building setback in the front yard adjacent to the canal property line. In addition, the applicants are requesting to keep portions of a deck/patio and fencing that extend toward the canal beyond the applicants' property line, and may be encroaching into the public right-of-way. The building limits protect against a "canyon effect" that could negatively impact the visual cone of the canals and bird flight patterns.

As described in greater detail in Section IV.B above, the proposed project constitutes new development—as well as an extensive renovation and/or major addition under LUP Policy I.E.5—and, therefore, existing nonconformities must be brought into conformance with current standards. Therefore, to ensure that the project brings nonconforming structures into compliance with current standards, Commission staff is recommending **Special Condition 1**, which requires the submittal of final revised plans which must be consistent with the Commission's canal-front setback and permeable yard requirements. Special Condition 1 also requires that all encroachments and nonconformities be removed.

The Commission finds that the proposed development, only as conditioned, does not present a significant visual impact to the scenic resources. Therefore, the Commission finds the project, as conditioned, consistent with the visual resource protection policies of Section 30251 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.

Section 30214 of the Coastal Act states, in relevant part (**emphasis added**):

- (a) The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following:
 - (3) The appropriateness of limiting public access to the right to pass and repass depending on such factors as the fragility of the natural resources in the area and **the proximity of the access area to adjacent residential uses.**
 - (4) The **need to** provide for the management of access areas so as to **protect the privacy of adjacent property owners** and to protect the aesthetic values of the area by providing for the collection of litter.

A public sidewalk currently exists on the canal bank situated between the project site and Sherman Canal. Sherman Canal is a waterway, approximately 70 feet in width; five-foot wide pedestrian walkways run along both sides of the Canal. The existing sidewalk is part of a continuous City right-of-way system that provides public access and recreational opportunities along all the Venice waterways. The Coastal Act and the policies of the certified Venice LUP protect public access to and along the banks of the Venice Canals, which is the inland extent of the sea in this location.

Development Setback

The project site is a canal-fronting site located between and along a row of canal-fronting residentially developed lots along Sherman Canal. The proposed residence will only be set back nine feet from the canal-ward property line on the first level. In addition, the applicants are requesting to maintain an at-grade patio/deck and fencing that would extend beyond the setback area and the canal-front property line, may be encroaching into the public right-of-way.

As discussed in greater detail in Section IV.B above, the applicants are proposing substantial demolition and addition (more than 50 percent) to the existing structure but are nevertheless requesting to keep existing nonconforming setbacks encroachments between the canal waterway and the subject site, and to maintain a reduced canal front setback of nine feet. Because the proposed project qualifies as new development, it must comply with Chapter 3 of the Coastal Act, using the certified Venice LUP policies as guidance.

The lack of an adequate setback between private canal-fronting development and the adjacent public canal access walkway, and encroachments into the public right-of-way areas can result in potential conflicts between users of private property and the public accessway. Furthermore, without adequate setbacks, the close proximity of the residents effectively privatizes the walkway area in front of the residences because the public is often uncomfortable being so close to the residential structures, which can, at times, be imposing.

Therefore, to ensure that public access is not infringed, the project must address all nonconforming aspects of the existing structure and ensure the project complies with current Commission-certified development standards in the Venice LUP; thus, Commission staff is recommending **Special Condition 1**, which requires the submittal of final revised plans which must be consistent with the Commission's canal-front setback and permeable yard requirements. Special Condition 1 also requires that all encroachments and nonconformities be removed. **Special Condition 2** requires that the minimum 450-square-foot permeable area be maintained on-site.

Furthermore, **Special Condition 9(c)** requires any debris that falls into the public walkway as a result of coastal hazards to be removed and properly disposed of to minimize impacts to public access to this popular waterfront destination.

Onsite Parking

The public access policies of the Coastal Act provide for the protection and enhancement of all people's opportunity to access the coast and enjoy coastal recreation. This includes Section 30252, which 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.

Due to the lack of any on-street parking in the immediate area of the project, the Venice Certified LUP requires single-family residences to provide three parking spaces, and three on-site parking spaces are provided for this project: two in the garage and one on the driveway apron, all accessed from the alley (Court B). To ensure that any future changes are consistent with the policies of the Coastal Act, any deviation from the approved plans must be submitted for review by the Executive Director; therefore, the Commission imposes **Special Condition 3**.

Conclusion

As conditioned, the Commission finds that the development will not interfere with the existing public walkway along Sherman Canal, will not affect the public's ability to gain access to, and/or to use the coast and nearby recreational facilities, and conforms to Sections 30210 and 30214 of the Coastal Act.

E. BIOLOGICAL RESOURCES & WATER QUALITY

Section 30230 of the Coastal Act states:

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

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.

Water Quality

The project site is located adjacent to the Venice Canals, which is a saltwater system hydrologically connected to the Pacific Ocean via the Marina del Rey inlet tide gate, Ballona Lagoon, and Washington Boulevard tide gate. Sections 30230 and 30231 of the Coastal Act require that marine resources and the biological productivity of coastal water be maintained and enhanced. Stormwater runoff will be diverted to an onsite cistern and permeable areas for percolation, which will help minimize water runoff from the subject site.

To avoid water quality impacts during construction, the Commission imposes **Special Condition 6**, which requires the applicants to follow construction best management practices that prevent construction activities and construction related debris from entering and impacting the canal waters. In addition, Special Condition 6 also includes water quality measures to be implemented on-site. **Special Condition 9(c)** requires any debris that falls into the water as a result of coastal hazards to be removed and properly disposed of to prevent adverse impacts to water quality for the life of the development.

Canal Setback

The proposed development has a potential for a discharge of polluted runoff from the project site into coastal waters. The Commission has consistently required a minimum 450-square-foot uncovered permeable front yard area for lots that are 30 feet wide (which is the case here) and a minimum average of 15-foot setback on the canal side of canal-fronting properties to protect and improve water quality of the canal waterways by requiring on-site water percolation.

The existing residence is only setback nine feet from the canal-fronting property line and only provides a 275-square-foot uncovered permeable front yard. The applicants are requesting to maintain these nonconforming conditions. In lieu of revising the project to meet current setback requirements and provide the minimum 450-square-foot permeable front yard, the applicants are proposing to provide additional permeable areas throughout the property along the side yards, which would allow for onsite water percolation.

However, the Venice LUP's requirement to maintain front yard areas in the Venice Canal neighborhood serves many purposes in addition to onsite percolation of stormwater, as explained in the findings above. The requirement to provide the minimum front yard setback and minimum 450-square-foot permeable front yard area

on the canal-front side of the property is critical, not only for public access, and visual qualities, but also because it is the area closest to the canals and, therefore, is it a higher risk of potentially impacting water quality of the canals. Thus, providing permeable yard areas throughout a project site interspersedly could assist in enhancing water quality in small ways, but does not adequately maximize the opportunity to improve and enhance water quality as envisioned by the Commission and the City when the Venice LUP policies were certified by the Commission.

Moreover, the Venice Canal waterways are utilized by many bird species and building setbacks and minimum front yard permeable yard area requirements for development along the Venice Canals are also necessary to prevent building encroachments from affecting bird flyway over the canals and their banks.

Landscaping

The applicants are proposing new landscaping. Therefore, **Special Condition 5** requires the applicants to submit a landscape plan utilizing only non-invasive and drought-tolerant plant species (low water use) and water conservative irrigation systems for any new landscaping.

Conclusion

The development, as proposed and as conditioned, incorporates design features to minimize the effect of construction and post-construction activities on the marine environment. These design features include, but are not limited to, the appropriate management of equipment and construction materials, reducing runoff through the use of permeable surfaces, the use of non-invasive drought tolerant vegetation to reduce and treat the runoff discharged from the site, and for the use of post-construction best management practices to minimize the project's adverse impact on coastal waters. Therefore, the Commission finds that the proposed development, as conditioned, conforms with Sections 30230 and 30231 of the Coastal Act regarding the protection of water quality to promote the biological productivity of coastal waters and to protect human health.

F. HAZARDS

Coastal Act section 30253 states, in part:

New development shall do all of the following:

- (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...
- (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.

Climate change and sea level rise were not considered when the Commission certified the Venice LUP in 2001. 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 adjacent to the tidally influenced Venice canal system, which is mechanically controlled via a tide gate system, which is hydrologically connected to Ballona Lagoon by the Grand Canal. There are two sets of tide gates: tide gates located under the Washington Street Bridge at Grand Canal, which connect to the Venice Canals, and tide gates located at the southern end of Ballona Lagoon (see Figure 3 below). These tide gates limit the potential for flooding and regulate tidal flushing (with seawater) in the Ballona Lagoon, Grand Canal, and Venice Canals. However, based on the Venice Sea Level Rise Vulnerability Assessment, the communities surrounding the canals are low-lying and flood prone under existing conditions.

Figure 2 Map of Low-lying Areas in Venice (using CoSMoS COAST 3.0 Digital Elevation Model); Tide Gates are circled in white.



(Photo Source: Venice Sea Level Rise Vulnerability Assessment prepared by Moffat & Nichol)

Although these tide gates afford some protection of development from flooding hazards, the canals area exists at a lower elevation than the surrounding area and is prone to hazards. During a storm event, rainfall from the area drains via gravity to the canals and, when the tide gates are open, drains out to the ocean at low tide. When the sea water levels rise and are higher than canal water levels, water naturally flows into the canal system. Therefore, the tide gates are typically closed prior to higher-high tide events to prevent the water levels in the canal to rise. Thus, when tide gate closure coincides with a large storm event, stormwater can accumulate in the canals without flushing out to sea and potentially cause flooding. Additionally, if the tide gates malfunction and the gates are open when sea water levels are higher than canal water levels, flooding may also occur. As sea levels rise, the tide gates may remain closed for longer periods, and as storm events become more extreme, such flooding may become more frequent.

According to the Our Coast Our Future (OCOF) model, which, like the City's Vulnerability Assessment, uses 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. The OCOF model indicates the project site is especially flood-prone with 2.5 feet of sea level rise and subject to flooding with 6.6 feet of sea level rise. Under a medium-high risk aversion scenario, 2.5 feet of sea level rise is possible within the next 40 years and 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 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 the proposed residential development 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.

Given the risks and vulnerabilities the site faces in regard to flood hazards for the life of the development, design elements to adapt to rising sea levels should be incorporated into the project. These adaptation measures include increasing the amount of permeable surface on-site, especially canal-ward of the proposed residence, to allow for water to percolate into the on-site drainage system prior to reaching the base of the structure. **Special Conditions 1 and 2** require that a **minimum** of 450 square feet of permeable area be maintained on-site and **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 7** requires that the applicants obtain at a minimum preliminary approval from the local government to ensure that any changes to the project required by the local government complies with the intent of this coastal development permit. **Special Condition 8** requires the applicants to comply with local government requirements but clarifies that 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 this permit (CDP No. 5-19-0854) shall prevail.

Special Conditions 4 and 9 require the applicants 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, to ensure that any prospective future owners of the property are made aware of the applicability of the conditions of this permit, **Special Condition 10** requires the applicants to record a deed restriction acknowledging that, pursuant to the subject permit (CDP No. 5-19-0854), 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.

As conditioned, the Commission finds that the development conforms to the requirements of Sections 30235 and 30253 of the Coastal Act regarding the siting of development in hazardous locations.

G. LOCAL COASTAL PROGRAM (LCP)

Coastal Act Section 30604(a) states that, prior to certification of a local coastal program (“LCP”), a coastal development permit can only be issued upon a finding that the proposed development is in conformity with Chapter 3 of the Act and that the permitted development will not prejudice the ability of the local government to prepare an LCP that is in conformity with Chapter 3:

(a) 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). A denial of a coastal development permit on grounds it would 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) shall be accompanied by a specific finding which sets forth the basis for such conclusion.

The Venice Land Use Plan was certified by the Commission on June 14, 2001 and is advisory in nature and may provide guidance. The proposed development is consistent with Chapter 3 of the Coastal Act and with the certified Land Use Plan for the area. Approval of the project as proposed will not prejudice the ability of the local government to prepare an LCP that is in conformity with the provisions of Chapter 3 of the Coastal Act.

H. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Section 13096(a) of the Commission's regulations requires Commission approval of Coastal Development Permit applications 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).

Under Section 15251(c) of Title 14 of the California Code of Regulations, the Commission's CDP regulatory process has been certified as the functional equivalent to the CEQA process. As a certified regulatory program, Section 21080.5(d)(2)(A) of CEQA still applies to the Commission's CDP regulatory process and 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 City of Los Angeles is the lead agency for purposes of CEQA. As noted on the City's staff report dated June 28, 2019, the City determined that the proposed development was categorically exempt from CEQA requirements pursuant to CEQA Guidelines Sections 15301(Class 1) and 15303 (Class 3).

The development, as conditioned, is consistent with the Chapter 3 policies of the Coastal Act. Special Conditions imposed will mitigate adverse impacts to coastal resources and public access. The **Special Conditions** address the following issues: **1)** development setback and building height; **2)** permeable area and setback requirement; **3)** permit compliance; **4)** assumption of risk; **5)** drought tolerant, non-invasive plants; **6)** construction best management practices, and drainage and run-off control practices; **7)** LADBS approval; **8)** local government approval; **9)** no future shoreline protective device; **10)** deed restriction. Therefore, the Commission finds that, as conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect of the proposed project, there are no remaining significant environmental impacts within the meaning of CEQA, and the project is consistent with CEQA and the policies of the Coastal Act.

5-19-0854 (Eaton)

APPENDIX A – SUBSTANTIVE FILE DOCUMENTS

City of Venice certified Land Use Plan

City of Los Angeles local Coastal Development Permit Case No. DIR-2016-1422-CDP-MEL-SPP, dated May 1, 2017.