

CALIFORNIA COASTAL COMMISSION

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F17b

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STAFF REPORT: DE NOVO & REGULAR CALENDAR

Application Numbers: A-5-VEN-18-0049 & 5-19-1015

Applicant: Mobile Park Investment

Agent: Fred Gaines, Esq.

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

Project Description: Demolition of a 2-story, 4-unit residential structure with 2 detached garages and construction of a 3-story, 30-ft. high, 4,632 sq. ft. single family dwelling with a 550 sq. ft. accessory dwelling unit and four onsite parking spaces.

Staff Recommendation: Approval with Conditions

SUMMARY OF STAFF RECOMMENDATION

On March 16, 2017, the City of Los Angeles Director of Planning approved a coastal development permit (DIR-2016-51-CDP-SPP-MEL) for the demolition of an existing four-unit residential structure with two detached garages and construction of a new three-story, 4,632 square foot single-family home, which was appealed locally and, upon the City's denial of the local appeal, was appealed to the Coastal Commission on July 18, 2018. On December 11, 2019, the Commission determined that a substantial issue existed with respect to the grounds on which Appeal A-5-VEN-18-0049 was filed because the project, as approved by the City, was inconsistent with the unique multi-family character of the project area and could set an adverse precedent for future development in the neighborhood. The standard of review for this project is Chapter 3 of the Coastal Act and the certified Venice Land Use Plan provides guidance.

After working with Commission staff, the applicant revised the project to add an attached accessory dwelling unit (ADU) and maintain four parking spaces on-site. The subject site is a canal-front lot located approximately 750 feet from the beach in the Venice Canals subarea designated Single Family dwelling – Low Medium Density I in the certified Venice LUP. This designation allows for one dwelling per 2,300 square feet of lot area (Policy I.A.4) and Policy I.A.2 allows for a second residential dwelling unit or an accessory living quarter on lots designated for single-family residence land uses, provided that the lot has a minimum lot area of 4,600 square feet in the Venice Canals subarea (the subject lot is 5,264 square feet). In addition, residential uses adjacent to the Venice Canals are limited to single family dwellings (Policy I.D.1). Thus, the Venice LUP that serves as guidance allows for construction of a new single-family residence with a second residential unit (akin to an ADU) or accessory living quarter (not rentable) on-site.

Under the City of Los Angeles' uncertified ADU ordinance, as modified by the recently enacted statewide ADU laws, one single family residence could include either one attached ADU (or junior ADU (JADU)) or one detached ADU and one JADU could be permitted. Thus, the proposal to construct a single-family residence and an attached ADU, while not maintaining the existing density on site, does minimize the loss of density, consistent with Coastal Act policies encouraging the concentration of development in already developed areas (Sections 30250 and 30253). The addition of an ADU will also maintain the multi-family character of this area of Venice, consistent with Coastal Act community character policies (Sections 30251 and 30253(e)), and is likely to provide a more affordable housing opportunity (as compared to a single-family residence) in a coastal area that has been impacted by rising housing costs and housing shortages.

Other coastal resource concerns also support approving the project notwithstanding the loss of two units. The project is located in a flood hazard area adjacent to the Venice Canals, which is vulnerable to rising sea levels and is not an ideal location for concentrating new development.

Therefore, considering the project's location in a flood hazard area, vulnerable to rising sea levels, and adjacent to the Venice Canals, as well as the applicant's proposal to include an ADU to mitigate for the loss of housing density, staff recommends the Commission approve the de novo coastal development permit A-5-VEN-18-0049 and Dual permit 5-19-1015 applications with thirteen (13) special conditions: 1) Development Setbacks and Building Height; 2) Permeable Yard Area; 3) Permit Compliance; 4 & 5) Local Government Approval; 6) Final Parking Plan; 7) Landscaping; 8) Bird Strike Prevention; 9) Water Quality; 10) Assumption of risk, Waiver of Liability and Indemnity; 11) No Future Shoreline Protective Device; 12) Deed Restriction; and 13) Retention of Two Onsite Units. These conditions will 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.

TABLE OF CONTENTS

I. MOTION AND RESOLUTION – DE NOVO PERMIT	4
II. MOTION AND RESOLUTION – DUAL PERMIT	4
III. STANDARD CONDITIONS	5
IV. SPECIAL CONDITIONS	5
V. FINDINGS AND DECLARATIONS	10
A. Project Description and Background	10
B. Development	11
C. Coastal Hazards.....	15
D. Visual Resources and Community Character	17
E. Biological Resources.....	20
F. Local Coastal Program.....	20
G. California Environmental Quality Act.....	21

APPENDICES

Appendix A – Substantive File Documents

EXHIBITS

Exhibit 1 – Project Location

Exhibit 2 – Project Plans

I. MOTION AND RESOLUTION – DE NOVO PERMIT

Motion:

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

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

Resolution:

The Commission hereby approves Coastal Development Permit Application No. A-5-VEN-18-0049 and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that will substantially lessen any significant adverse impacts of the development on the environment.

II. MOTION AND RESOLUTION – DUAL PERMIT

Motion:

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

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

Resolution:

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

mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

III. 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.

IV. SPECIAL CONDITIONS

This permit is granted subject to the following standard conditions:

- 1. Development Setbacks and Building Height.** No development is authorized within ten feet of the canal-fronting property line (Grand Canal) nor within or above the required 885 square feet permeable front yard area, except as described in Special Condition 2 below. Ten feet landward of the canal-fronting property line, the maximum height of any structure shall not exceed 22 feet above the centerline of the rear alley. Beyond ten horizontal feet from the canal-fronting property line, one foot in additional height is permitted for each two additional horizontal feet to a maximum height of thirty feet (30') except for chimneys, ducts, and other accessory structures, which are limited to five feet above the maximum height. Roof deck railings shall not exceed 42 inches above the 30-foot height limit (top of roof). Building height is measured from the elevation of the adjacent alley.
- 2. Permeable Yard Area.** In order to maintain an open and visible access corridor, to enhance visual quality, and to preserve the water quality and biological productivity of the canals, an uncovered and permeable yard area totaling no less than fifteen times the width of the site (in this case: 15 square feet x 59 square feet = 885 square feet)

shall be maintained on the project site in the front yard area between the structure and the front (Grand Canal) property line as depicted in **Exhibit 2** of the staff report. Uncovered means that no fill or building extensions (i.e. chimneys, balconies, stairs, trellises, eaves) shall be placed in or over the permeable yard area with the exception of fences or garden walls (not to exceed 42 inches in height), permeable decks at grade (not to exceed 18 inches in height), and an underground cistern, French drain, or other similar drainage system for water retention. The permeable yard area may include minimal coverage with impermeable pavers, stones, concrete walkways or other similar ground cover, but in no event shall impermeable materials occupy more than fifteen percent (15%) of the total amount of the required permeable yard area.

- 3. Permit Compliance.** The permittee shall undertake and maintain the development in conformance with the special conditions of the permit and the final plans, including but not limited to the ADU and parking plans. Any proposed changes to the approved plans shall be reported to the Executive Director in order to determine if the proposed change shall require a permit amendment pursuant to the requirements of the Coastal Act and the California Code of Regulations. No changes to the approved plans shall occur without a Commission-approved permit amendment unless the Executive Director determines that no permit amendment is required.
- 4. City of Los Angeles, Department of Building and Safety Approval.** PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT, the applicant shall provide to the Executive Director evidence, acceptable to the Executive Director, 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.
- 5. Local Government Approval.** The proposed development is subject to the review and approval of the City of Los Angeles (City). This action has no effect on conditions imposed by the City pursuant to an authority other than the Coastal Act. In the event of conflict between the terms and conditions imposed by the City and those of this coastal development permit, the terms and conditions of Coastal Development Permit 5-19-1015/A-5-VEN-18-0049 shall prevail.
- 6. Final Parking Plan.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit a Final Parking Plan, approved by the City of Los Angeles Department of Building and Safety, for review and approval by the Executive Director. The Final Parking Plan shall be consistent with the parking plan submitted to the Commission's South Coast District Office on October 16, 2019 and shall provide a minimum of four (4) parking spaces to be maintained on-site.
- 7. Retention of Two Onsite Units.** The development approved by Coastal Development Permit Nos. A-5-VEN-18-0049 & 5-19-1015 includes the demolition of a 4-unit multi-family residence and construction of a single-family residence with an attached 550 square-foot accessory dwelling unit (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 550 square-foot size without an amendment to Permit Nos. A-5-VEN-18-0049 & 5-19-1015.

8. **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>).
9. **Bird Strike Prevention.** Canal-front deck railing systems, fences, screen walls and gates authorized by this permit shall use materials designed to minimize bird-strikes with the deck railing, wall, fence, or gate. Such materials may consist, all or in part, of wood; wrought iron; frosted or partially-frosted glass, Plexiglas or other visually permeable barriers that are designed to prevent creation of a bird strike hazard. Clear glass or Plexiglas shall not be installed unless they contain UV-reflective glazing that is visible to birds or use appliqués (e.g. stickers/decals) designed to reduce bird-strikes by reducing reflectivity and transparency. Any appliqués used shall be installed to provide coverage consistent with manufacturer specifications (e.g. one appliqué for every 3 foot by 3 foot area). Use of opaque or partially opaque materials is preferred to clean glass or Plexiglas and appliqués. All materials and appliqués shall be maintained throughout the life of the development to ensure continued effectiveness at addressing bird strikes and shall be maintained at a minimum in accordance with manufacturer specifications.

10. 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.

11. Assumption of Risk, Waiver of Liability and Indemnity. By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards, including but not limited to waves, storms, flooding, erosion, and earth movement, many of which will worsen with future sea level rise; (ii) to assume the risks to the permittee and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

12. No Future Shoreline Protective Device.

- A. By acceptance of this permit, the permittee(s) agrees, on behalf of itself and all other successors and assigns, that the project is new development for which there is no right to shoreline protection and hereby waives on behalf of itself, and all other successors and assigns, any rights that may exist under applicable law to construct a shoreline protective device to protect the development approved pursuant to Coastal Development Permit Nos. 5-19-1015/A-5-VEN-18-0049, and any future improvements, in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, liquefaction, flooding, sea level rise, or other natural hazards in the future.
- B. By acceptance of this permit, the applicant further agrees, on behalf of itself and all successors and assigns, that the landowner(s) is required to remove the development authorized by this permit, including the residence, pool, and yard improvements if any other government agency with legal jurisdiction has issued a final order, not overturned through any appeal or writ proceedings, determining that the structures are currently and permanently unsafe for occupancy or use due to coastal hazards and that there are no measures that could make the structures suitable for habitation or use without the use of bluff or shoreline protective devices.

C. In the event that portions of the development fall to the public accessway and/or water before they are removed, the landowner(s) shall remove all recoverable debris associated with the development from the public accessway and/or water and lawfully dispose of the material in an approved disposal site. Such removal shall require a coastal development permit. Prior to removal, the permittee shall submit two copies of a Removal Plan to the Executive Director for review and written approval. The Removal Plan shall clearly describe the manner in which such development is to be removed and the affected area restored so as to best protect coastal resources, including the Venice Canals.

13. 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.

V. FINDINGS AND DECLARATIONS

A. Project Description and Background

The subject site is an approximately 5,264 square foot canal-front lot (59 feet wide by 90 feet deep) located approximately 750 feet from the beach in the Venice Canals subarea of the City of Los Angeles (**Exhibit 1**). The site is zoned RW1-1-O by the City of Los Angeles (uncertified) zoning code and designated Single Family dwelling – Low Medium Density I in the certified Venice LUP. At this particular site, the Venice LUP allows for a single-family residence plus a second residential unit or accessory living quarter. A mix of one to three-story single-family homes and two-story multi-family dwellings characterizes the neighborhood.

The project site is currently developed with a two-story, 2,772 square foot multi-family residence with four units, each 700 square feet in size, and two detached two-car garages that are accessed from Grand Canal Court, the rear alley. The existing building was built in 1948 and is considered non-conforming because it contains four residential units while the Venice LUP (and City's zoning code) only allows for one residential unit plus an accessory living quarter or ADUs under the recently enacted ADU laws.

The existing building is approximately 50 feet wide and appears as two separate structures connected by a parapet roof feature. This building design is present in six other canal-front properties immediately adjacent to the project site. According to the City, no historic or potentially historic structures have been identified on site. However, the National Register of Historic Places identifies the Venice Canals as a historic district (LUP Policy I.F.3), given its significance as an example of community recreational planning in a coastal marshland area. In addition, the City has declared the Venice Canal system as a historic-cultural monument.

In June 2018, the City approved a CDP for the demolition of the existing building and construction of a new three-story, 30-foot high, 4,632 square foot single-family dwelling with an attached 436 square foot two-car garage, one uncovered parking space in the rear yard, landscaping, and a pool and spa in the rear yard. The City's approval was appealed locally and, upon the City's denial of the local appeal, was also appealed to the Coastal Commission on July 18, 2018. On December 11, 2019, the Commission determined that a substantial issue existed with respect to the grounds on which Appeal A-5-VEN-18-0049 was filed because the project, as approved by the City, was inconsistent with the unique multi-family character of the project area and could set an adverse precedent for future development in the neighborhood.

After working with Commission staff, the applicant revised the project to add an attached accessory dwelling unit (ADU) and maintain four parking spaces on-site. As proposed, the 550 square foot ADU is located above the attached 2-car garage and includes one bedroom, one bath, a kitchen, and a foyer with a side yard entrance that is separate from the entrance to the single family residence. The applicant is also proposing an additional uncovered parking space on-site. With regard to setbacks: the portion of the building with a width of 28.3 feet is set back 18.1 feet from the front yard property line to the first floor, and the portion with a width of 17 feet is set back 30 feet; the area within these setbacks is proposed to be landscaped with open permeable space; the second floor is set back 13 feet from the front yard property line; and the side yards are set back 5.8 feet and the rear yard is set back 9 feet. The ground level of the proposed residential structure has been designed to act as a plinth for the rest of the residence and ADU if the site is flooded for an extended period of time (**Exhibit 2**).

As proposed, the development observes all of the setback, height, and yard requirements in the City's Municipal Code and the certified Venice LUP. However, while the certified Venice LUP may provide guidance, the Commission's standard of review is Chapter 3 of the Coastal Act.

B. Development

Section 30250(a) of the Coastal Act, *Location; existing developed area*, states, in 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 30253(d), *Minimization of adverse impacts*, states:

Minimize energy consumption and vehicle miles traveled.

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

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

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

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. ...

Venice Certified Land Use Plan Policy I. D. 1, *Canals and Ballona Lagoon Waterways*, states, in part:

... Adjacent Use/Development: The only permitted development adjacent to the canals and lagoon shall be habitat restoration, single-family dwellings, public parks and walkways, subterranean or surface public parking lots, maintenance activities and emergency repairs. ...

The Coastal Act requires concentrating development in existing developed areas able to accommodate it (required by Section 30250). This reduces vehicle miles traveled (required by Section 30253(d)), preserves open spaces that might otherwise be developed, provides more opportunities for people to live near places they work and recreate (consistent with Coastal Act public access policies and the Coastal Commission's Environmental Justice policy), and thereby, reduces impacts to coastal resources. Thus, in general, these Coastal Act policies support maintaining housing density in existing developed areas that are able to accommodate it¹. The Venice LUP contains building restrictions and density limits specific to individual areas and subareas of Venice designed to protect community character and minimize impacts to coastal resources.

¹ See following Coastal Hazards section.

As of January 1, 2020, new State ADU laws² went into effect that changed local governments' authority relating to regulation of ADUs with the goal of increasing statewide availability of smaller, more affordable housing units, which aligns with the aforementioned Coastal Act policies. Similarly, SB 330 (Skinner), which also took effect January 1, 2020, enacted the Housing Crisis Act of 2019 with the goal of increasing housing stock. The Housing Crisis Act prohibits a city or county from approving a housing development that will require the demolition of occupied or vacant residential dwelling units unless the project will create at least as many residential dwelling units as will be demolished (no net loss). However, the subject application is not subject to the no net loss requirements of SB 330 because it was filed before January 1, 2020.

While Coastal Act Sections 30250 and 30253 align with SB 330's goals, the Housing Crisis Act is not the standard of review for this CDP application, as it does not supersede, limit, or modify the Coastal Act. Nevertheless, Coastal Act polices, as discussed above, do encourage concentrating development in existing developed areas that are able to accommodate it. Other Coastal Act policies (discussed elsewhere in this staff report) are also relevant to the amount of housing density that is appropriate at a particular location, such as the hazards policies in Section 30253.

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

The Venice LUP, certified in 2001, designates the project site and the row of lots within which it sits as Single-Family Residential. This designation allows for one dwelling per 2,300 square feet of lot area (Policy I.A.4). In addition, Policy I.A.2 allows for a second residential unit or an accessory living quarter³ on lots designated for single-family residence land uses, provided that the lot has a minimum lot area of 4,600 square feet in the Venice Canals subarea and all units conform to the development standards applicable to the site. Furthermore, Policy I.D.1 restricts residential uses adjacent to the Venice Canals to single-family dwellings. Thus, for the approximately 5,264 square foot project site, the certified LUP that serves as guidance allows for a single-family residence and a second residential unit, which is akin to an accessory dwelling unit.

Under the new ADU laws, ADUs could be constructed on the project site—and in some cases must be ministerially approved, depending on the type of primary residence

² AB 68, AB 587, AB 670, AB 881, and SB 13

³ According to the City of Los Angeles, an accessory living quarters is not a dwelling unit, it has no kitchen facilities and cannot be rented or used as a separate dwelling unit.

located on the lot or proposed to be constructed⁴. In this case, under the City of Los Angeles' uncertified ADU ordinance, as modified by the recently enacted statewide ADU laws, either one attached ADU or JADU or one detached ADU and one JADU could be permitted for the proposed single-family residence; and like the Venice LUP, the City's zoning regulations⁵ also limit density in the RW1 zone to one residential dwelling unit and one accessory living quarters⁶. Therefore, the applicant's proposed construction of a single-family residence and one attached ADU as part of the subject application is consistent with both the certified Venice LUP and the City's uncertified Zoning Code.

While the proposed development does not maintain four units on-site and, therefore, does not maintain existing density along the row of four-unit residences within which it sits, the existing structure does not conform to the Venice LUP, and the applicant's proposal to modify the project to include an ADU provides one additional residential unit, offering an opportunity for one potentially more affordable housing unit on-site (as compared to a single-family residence) and mitigating the loss of housing density. **Special Condition 3** requires the development to be carried out in a manner consistent with the proposed project, **Special Condition 7** requires the ADU be retained on-site as proposed, and **Special Condition 13** requires the applicant to record a deed restriction imposing the special conditions of the permit as restrictions for use of the property to ensure the ADU will be built and maintained.

As proposed and conditioned, the project locates new development in an already developed area and is consistent with the allowable density in the LUP. As conditioned,

⁴ For example, the new ADU law requires local governments to ministerially approve an application for not more than two detached ADUs on a site with an existing multi-family dwelling (Government Code § 65852.2(e)(1)(D)). For a proposed single-family residence, the law requires local governments to ministerially approve an application for one ADU or junior ADU within the proposed residence, or one detached ADU (which could be combined with a junior ADU) (Government Code § 65852.2(e)(1)(A), (B)).

⁵ **LAMC Section 12.08.5** The following regulations shall apply in the "RW1" Residential Waterways Zone: ... Use. No building, structure or land shall be used and no building or structure shall be erected, structurally altered, enlarged, or maintained, except for the following uses, and when a "Supplemental Use District" is created by the provisions of Article 3 of this chapter, for such uses as may be permitted therein:

1. One-family dwelling.
2. Accessory buildings, including private garages, accessory living quarters, servants quarters, or recreation rooms, provided that: (a) No accessory living quarters nor servants quarters are located or maintained on a lot having an area of less than 4,600 square feet. (b) An accessory living quarters, servants quarters, recreation room or private garage or any combination of said uses may be included in one building not exceeding two stories in height. For location of accessory buildings, refer to Sections 12.21C and 12.22C. ...

⁶ Any deviations from the City's zoning regulations require discretionary approval. For variations from the allowable density onsite, a Zone Variance would need to be requested and the City could approve the variance under specific circumstances including, but not limited to, a finding that the variance is necessary for the preservation and enjoyment of a substantial property right or use.

the development conforms with Sections 30250 and 30253(d) of Chapter 3 of the Coastal Act.

C. Coastal Hazards

Coastal Act Section 30253, *Minimization of Adverse Impacts*, states, in part:

- (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.

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 minimize risks to the development associated with SLR and avoid related impacts to coastal resources. These guidelines state, “to comply with Coastal Act Section 30253 or the equivalent LCP section, projects will need to be planned, located, designed, and engineered for the changing water levels and associated impacts that might occur over the life of the development.”

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

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

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

Understanding the risks and vulnerabilities the site faces with regard to flood hazards for the life of the development, the applicant has incorporated design elements to adapt to rising sea levels. These adaptation measures include increasing the amount of permeable surface on-site, especially seaward of the proposed residence, to allow water to percolate into the on-site drainage system prior to reaching the base of the structure. In addition, the ground level of the structure has been designed to act as a plinth for the rest of the residence and ADU if the site becomes inundated for an extended period of time. **Special Condition 3** requires the development to be carried out in a manner consistent with the proposed project, as approved and conditioned. In addition, **Special Condition 4** requires the applicant to obtain preliminary review and approval of revised plans by the City of Los Angeles Department of Building and Safety in order to address any non-coastal resource related concerns with the revised plans, which would require the applicant to return to the Commission for an amendment to this CDP and **Special Condition 5** requires that applicant to comply with local government requirements, which include details relating to the maintenance of appropriate drainage and permeable area on-site.

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

In terms of adaptive capacity, which is the ability of an entity to leverage resources to adapt to changing conditions, the proposed single family residence and ADU have a

higher adaptive capacity than the existing multi-family residence for two reasons. In addition to the plinth design as discussed above, the proposal for fewer residential units presumes that there will be fewer people and/or families living on the project site than there would be with four units. If, in the future, the development was subject to hazards in a manner that required the development to be removed, fewer people and/or families would need to be relocated. **Special Conditions 11 and 12** require the applicant to assume the risks of pursuing development in a hazardous area, waive the applicant's right to install shoreline protective devices, and remove the development if deemed unsafe by a government entity. In addition, **Special Condition 13** requires the applicant to record a deed restriction acknowledging that, pursuant to the subject CDP (CDP Nos. A-5-VEN-18-0049 / 5-19-1015), the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of the subject property; and imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the property. The deed restriction will additionally provide notice of potential hazards of the property, and the risks of flooding and other sea level rise impacts towards the end of the development's economic life.

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

D. Visual Resources and Community Character

Section 30251 of the Coastal Act, *Scenic and Visual Qualities*, 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 the surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas...

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

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

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

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

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

New development within the Venice Coastal Zone shall respect the scale and character of 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. F. 3, *Scale*, states, in part:

The historic integrity of the Venice Canals shall be preserved. The canals are deemed to be significant as an early example of community recreational planning in a coastal marshlands area. Included in the historic district are the six canals, their associated sidewalks, and a number of vehicular and pedestrian bridges...

A mix of one to three-story single-family homes and two-story multi-family dwellings characterizes the neighborhood. The project site is located in the center of a row of several relatively large lots adjacent to the Venice Canals (Grand Canal), which is designated by the City as a historic-cultural monument. These lots are developed with multifamily residences built around the same time and designed in a similar manner as the existing four-unit structure that is proposed to be demolished. With regard to the proposed development's impact on the character of the unique row of multi-family residences, for the reasons described in the Development section above, redeveloping the project site to maintain the nonconforming four-unit density is not allowed under current the certified LUP (or the City's standards).

The Housing Crisis Act of 2019, effective January 1, 2020, requires no net loss of residential dwelling units. However, this CDP application is not subject to these requirements because it was filed before the Housing Crisis Act updates took effect. Thus, while the proposed single-family residence is not entirely consistent with the row of multifamily structures in which it sits, as proposed to include an attached ADU, the project mitigates for the loss of residential units and helps to maintain the multi-family character of the subject neighborhood. In addition, this project will not result in cumulative impacts to the community character of the area because the Housing Crisis Act prohibits local governments from approving housing development project applications received after January 1, 2020 that would require the demolition of occupied or vacant residential dwelling units unless the project will create at least as many residential dwelling units as will be demolished. Thus, if applications for the conversion of the adjacent multifamily residences to single-family residences are filed with the City in the future, it is unlikely the City would approve any loss of residential units. Therefore, the proposed development is not expected to set a precedent for new development proposals in this neighborhood or cumulatively change the multifamily character of the area.

In terms of the mass and scale of the proposed single family residence, the proposed project conforms with all applicable development standards in the Venice LUP. However, the project involves the construction of a new single family residence and ADU on a lot that is approximately twice as wide as the other lots in the neighborhood that are developed with multi-story single family residences. The residences surrounding the project site are largely one- and two-story structures, while the proposed residence has a maximum height of 30-feet. However, there are at least five three-story single family residences across the canal and the proposed height is consistent with the certified LUP. In addition, the project design is highly articulated with the ground floor set back 18 and 30 feet from the canal-fronting property line, which contains 30 percent more open permeable area than the existing development and the similarly designed neighboring structures. In addition, the second floor (less than 22 feet high) is set back 13 and 30 feet from the front yard property line, which is consistent with the neighboring two-story structures with second level decks. Finally, the third level is set back approximately 20

and 30 feet. Hence, the proposed development is articulated and includes appropriate setbacks from the historic canal and pedestrian walkway and is, therefore, compatible with the mass and scale of the neighboring multi-family residences.

Thus, even though the proposed residence and ADU may not look identical to the immediately adjacent homes, it maintains the overall multi-family character of the surrounding area, complies with the applicable development standards in the Venice LUP, and, as such, is consistent with the character of the surrounding area and protects the character of the special community of Venice.

Special Conditions 1, 2, and 3 require the development to be carried out in a manner consistent with the proposed project, including but not limited to the proposed height, setbacks, and permeable yard area, as approved and conditioned. Therefore, the project as proposed and conditioned conforms with the visual resource and community character policies of Chapter 3 of the Coastal Act.

E. Biological Resources

The project site is located adjacent to the Venice Canals, which is a salt water system hydrologically connected to the Pacific Ocean via the Marina del Rey inlet tide gate, Ballona Lagoon, and Washington Boulevard tide gate. The applicant is not proposing to use any invasive species in the landscape design, which minimizes the potential spread of invasive species through the canals; however, **Special Condition 8** is imposed to ensure that any landscaping on-site through the life of the development does not include the use of invasive species. In addition, **Special Condition 8** requires the applicant to utilize primarily drought tolerant plant species and water conservative irrigation systems for any new landscaping. The permeable area on the canal-fronting portion of the lot is also required, through **Special Condition 2**, to be developed and maintained as open space with a minimum area of 885 square feet, consistent with LUP policy I.A.4, which requires a minimum 600 square foot yard.

The applicant's proposal also includes the installation of glass guardrails on the canal-fronting side of the residence, which has the potential to impact birds that forage in the canals and fly in the project vicinity. Thus, **Special Condition 9** is imposed to use bird-strike prevention techniques in the design of the glass guardrails to be maintained through the life of the development. Furthermore, to avoid water quality impacts during construction, the Commission imposes **Special Condition 10**, which requires the applicant to follow construction best management practices that prevent construction activities and construction related debris from entering and impacting the canal waters.

Therefore, as proposed and conditioned to conserve water and energy and minimize impacts to water quality, habitat, and wildlife, the subject development is consistent with the Chapter 3 policies of the Coastal Act.

F. Local Coastal Program

The Coastal Act requires that the Commission consider the effect on a local coastal program when it approves a project. Section 30604(a) of the Coastal Act provides that

the Commission shall issue a coastal development permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program (LCP) which conforms with Chapter 3 policies of the Coastal Act:

Section 30604 (a) of the Coastal Act states:

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

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

As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act and with the certified Land Use Plan for the area. Thus, with the conditions imposed on the proposed development and the certified LUP policies protecting the character of Venice as a special community, the subject development 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.

G. California Environmental Quality Act

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

- Venice Sea Level Rise Vulnerability Assessment (May 2019, Moffat & Nichol)
- Local CDP No. DIR-2016-51-CDP-SPP-MEL
- City of Los Angeles memorandum on the Implementation of 2019 Accessory Dwelling Unit (ADU) Ordinance and State ADU Law (February 27, 2020)