

CALIFORNIA COASTAL COMMISSION

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F17d

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Hearing Date: 07/10/2020

STAFF REPORT: REGULAR CALENDAR

Application No.: 5-19-1266

Applicant: German Quality Borders, LLC
(Attn: Daniel Borenstein)

Agent: Paola Pini

Location: 421 E. Carroll Canal, Venice, City of Los Angeles, Los Angeles County (APN: 4227-002-007)

Project Description: Construction of an approximately 3,473-sq. ft., 30-ft. high, three-story single-family residence with an attached two-car garage and one additional on-site parking space, decks/balconies, 3.5-ft. high rooftop metal post guardrails, and hardscape and landscape improvements on a vacant canal-fronting lot.

Staff Recommendation: Approval with conditions.

STAFF NOTE: Under the Permit Streamlining Act, the time-frame for Commission action on this coastal development permit application is June 19, 2020, 180 days after filing of the CDP application. However, on April 16, 2020, the Governor of the State of California issued Executive Order N-52-20 tolling the time frame for action in the Permit Streamlining Act for 60 days. Accordingly, the Commission must act on this CDP application on or before August 18, 2020.

SUMMARY OF STAFF RECOMMENDATION

The proposed residential project raises issues concerning hazards, community character, and impacts to public access, visual quality, and water quality due its location on the bank of one of the Venice Canals.

To address these issues, Commission staff is recommending the Commission **approve** the coastal development permit application with 11 special conditions, including: **1)** development setback and building height; **2)** permeable area and setback requirement; **3)** permit compliance; **4)** assumption of risk; **5)** no future shoreline protective device; **6)** construction best management practices, and drainage and run-off control practices; **7)** drought tolerant, non-invasive plants; **8)** construction staging; **9)** LADBS approval; **10)** local government approval; and **11)** 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.

This project was previously set for hearing by the Commission at the May 2020 Commission meeting. However, on May 14, 2020, Commission staff received correspondence in opposition to this proposed project from two members of the public. The correspondents assert that the project's size and scale is not compatible with that of the neighborhood. However, the proposed project is consistent with the density, height, setback, and floor area requirements of the LUP. These requirements were addressed at the time the LUP was certified by the Commission in 2001, which contemplated larger residences in the Venice Canals. In addition, the applicant's streetscape analysis supports the fact that the Venice Canals are comprised of a mix of multi-story residences and the proposed development will be similar in size to the surrounding residences and the residences in the overall Venice Canal community.

The proposed project, only as conditioned, can be found consistent with Chapter 3 of the Coastal Act

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EXHIBITS

[Exhibit 1 – Project Location](#)

[Exhibit 2 – Plans and Elevations](#)

[Exhibit 3 – Streetscape Analysis](#)

I. MOTION AND RESOLUTION

Motion:

I move that the Commission approve Coastal Development Permit 5-19-1266 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 applicant 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 applicant 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 applicant 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 June 12, 2020, except shall be modified to comply with the following:
- i. No development is authorized within 10 feet of the fronting canal property line (Carroll Canal) nor within or above the minimum required 450-square-foot permeable front yard area, except as described in **Special Condition 2** below. Ten feet landward of the fronting canal property line, the maximum height of any structure shall not exceed 22 feet above the centerline of the rear alley. Beyond 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 30 feet except for chimneys, ducts, and other accessory structures which are limited to 35 feet. Roof deck railings shall not exceed 42 inches above the 30-foot 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 improvements (e.g. fencing, pavers, etc.) that extend beyond the canal-fronting property line must be removed.
- B. The permittee 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 (Carroll 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 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. No Future Shoreline Protective Device.**

 - A. By acceptance of this permit, the permittee 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. 5-19-1266, 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 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, garage, and yard structures and improvements, if: (a) The City or 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 shoreline protective devices; (b) the development is no longer located on private property due to the migration of the public trust boundary; (c) removal is required pursuant to LCP policies for sea-level rise adaptation planning; or (d) the development would require a shoreline protective device that is inconsistent with the coastal resource protection policies of the Coastal Act or certified LCP to prevent a-e above.

- 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.

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. Landscaping – Drought Tolerant, Non-Invasive Plants. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, in a form and content acceptable to the Executive Director, two (2) full size sets of final revised landscaping plans, which shall include and be consistent with the following:

- A. Vegetated landscaped areas shall only consist of native plants and/or non-native drought-tolerant plants, which are non-invasive. No plant species listed as problematic and/or invasive by the California Native Plant Society (<http://www.CNPS.org/>), the California Invasive Plant Council (formerly the California Exotic Pest Plant Council) (<http://www.cal-ipc.org/>), or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a “noxious weed” by the State of California or the U.S. Federal Government shall be utilized within the property. All plants shall be low water use plants as identified by

California Department of Water Resources (See: <http://www.water.ca.gov/wateruseefficiency/docs/wucols00.pdf> and <http://ucanr.edu/sites/WUCOLS/files/183488.pdf>).

- B. Use of reclaimed water for irrigation is encouraged. If using potable water for irrigation, only drip or microspray irrigation systems may be used. Other water conservation measures shall be considered, such as weather based irrigation controllers.
- 8. Construction Staging Plan.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the written review and approval of the Executive Director, two copies of a construction staging plan. The construction staging plan shall incorporate the following:
- A. The plan shall specify where construction equipment is proposed to be stored during construction in order to maintain slope stability, control erosion, and maintain public access along Court E.
- 1) All construction equipment to be stored overnight shall be stored on-site, outside the street travelway.
 - 2) Placement of the on-site dumpster shall incorporate use of a flagman to direct traffic during placement.
- B. The plan shall also identify a disposal site outside of the Coastal Zone for waste materials and recyclable materials.
- 9. 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.
- 10. 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 5-19-1266 shall prevail.
- 11. Deed Restriction.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the landowner(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 (421 E. Carroll Canal) is an approximately 2,400-square-foot (30 feet wide and 80 feet deep) vacant, canal-front lot located approximately 1/3-mile 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 zoning code and designated Single Family Dwelling – Low Medium Density I in the certified Venice LUP.

The applicant proposes to construct an approximately 3,473-square-foot¹, 30-foot high three-story single-family residence with an attached two-car garage ([Exhibit 2](#)). The applicant is proposing an additional on-site parking space on the driveway apron. The proposed development also includes roof and first floor decks totaling 918 square feet, 3.5-foot high rooftop metal post guardrails, and landscape and hardscape improvements. The roof deck will be accessed by an external staircase, which will not be enclosed by a roof access structure.

Though the project site is presently vacant, based on 2011-2017 Google Map aerials, it appears that there were unpermitted structures (i.e. a storage shed and a trellis) that encroached into the property. However, these structures have since been removed from the project site; the property was vacated of any unpermitted structures before the applicant acquired the property and before the submittal of this CDP application. There are no known outstanding violations on-site.

B. COMMUNITY CHARACTER

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

¹ Approximately 3,016 square feet of living space + 457-square-foot two-car garage = 3,473-square-foot residence.

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.

As discussed below, the applicant has designed the proposed project in compliance with the above-stated LUP building standards in order to obtain the required coastal development permit, and to also obtain approval from the City pursuant to the Venice Specific Plan. The proposed project is in the Dual Permit Jurisdiction and has received a local coastal development permit (DIR-2019-2006-CDP-MEL-SPP) from the Los Angeles Department of City Planning. No appeal of the local action was filed.

Residential Density

The applicant is proposing to construct a single-family residence. The proposed project complies with the Low Medium I Residential designation of the certified LUP and its density limit of one unit per 2,300 square feet.

Building Height

Building height and bulk can also affect the scenic and visual qualities of coastal areas. In prior actions, the Commission and the City have both consistently limited the height of structures in order to preserve the character of the Venice area. Development immediately adjacent to the Venice Canals and Ballona Lagoon has been limited to a height of thirty feet in order to provide more air space for bird flyways and to enhance public recreation by protecting the waterways from a canyon effect created by taller buildings [e.g. Coastal Development Permit 5-00-018 (Orenstein)].

The Commission-certified Venice LUP maintains the historic thirty-foot height limit for all development in the Venice Canals neighborhood. The proposed single-family residence does not exceed a height of thirty feet (**Exhibit 2**). The permit is conditioned to limit the height of the proposed single-family residence to a maximum of thirty feet above the elevation of the adjacent alley (with a lower ascending height for the portion of the structure fronting Carroll Canal). The proposed residence features a stepped-back third

story. The front height of the residence, which is set back 18.8 feet and fronting the canal, begins at a height of just above 22 feet and then ascends to a maximum height of approximately 30 feet (as measured from the centerline of the rear alley, Court E).

No portion of the structure is permitted to exceed thirty feet in height above the elevation of the alley, except for chimneys, ducts and ventilation shafts, which are limited to 35 feet, and roof access structures, which are limited to 40 feet. The proposed metal post roof deck railing will not exceed 42 inches in height, and the roof deck will be an external staircase. Therefore, the proposed project meets the specific height requirements of the LUP. **Special Condition 1** reflects the requirements for height limits. Pursuant to **Special Condition 1 and 3**, no increase in height or changes to the approved plans can be made without a Commission-approved permit amendment unless the Executive Director determines that no permit amendment is required.

Therefore, the Commission finds that the proposed project as conditioned conforms to the Venice LUP and Section 30251 of the Coastal Act. As conditioned, the scenic and visual qualities of the area will not be negatively impacted by the proposed project.

Building Setback

Buildings in Venice have been required to be set back from waterways in order to enhance visual quality and public recreation, protect marine resources, and to provide an area on the site for water percolation. The Commission has consistently required that development adjacent to the Venice Canals provide an open and permeable yard (at least 450 square feet for a thirty-foot wide lot, and at least six hundred square feet for a forty-foot wide lot) between the lagoon/canal property line and the front of any structure. A minimum ten-foot front yard setback, with a required fifteen-foot setback average on any lot provides the required permeable front yard area. 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. For the rear yard, a 10-foot rear yard setback is required on the ground floor (for additional vehicle storage). The Venice LUP includes this permeable yard and setback requirement for all development proposed along the Venice Canals, which is imposed by **Special Condition 1 and Special Condition 2**.

The proposed residence will provide an 20-foot deep front (canal-front) yard setback and approximately 456 square feet of permeable front yard area on the canal front side of the property that is consistent with prior Commission approvals and the requirements of the Venice LUP. Moreover, the proposed project will provide 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.

In addition, the proposed roof deck will be sited on the stepped back roof of the third floor fronting the canal. Therefore, the proposed project meets the specific height and setback requirements of the LUP.

Mass and Scale

On May 14, 2020, two members of the public, submitted correspondence in opposition to this proposed project. The correspondents assert that the project's size and scale is not compatible with that of the neighborhood, and the proposed development is 210 percent larger than the average size of the residences along the north side Carroll Canal. The correspondents maintain that the average size for the 20 residences on this side of the Canal is 1,682 square feet. They also contend that the project is not compatible because the project includes a flat roof unlike any other residence on the north side of Carroll Canal.

The correspondents' analysis is based only on the north side of Carroll Canal and does not account for the residences along the south side within the same canal block, and relies only on the City of Los Angeles's Zoning Code's application of floor area, which, unlike the Building Code's definition of floor area, does not include the area of the exterior walls, stairways, shafts, and basement storage areas. The distinction between the enforcement of the Building Code and the Zoning Code in the application of floor area is subtle but does affect the resulting area calculation. For instance, the area of the proposed residence approximates to 2,592 square feet (not including garage) under the Zoning Code, but approximates to 3,016 square feet (not including garage) under the Building Code.

The applicant has provided a streetscape analysis comparing the proposed residence to residences along the 400 Carroll Canal Block (north and south sides) and to residences similar in size within the greater Venice Canal community, which is attached to this report as [Exhibit 3](#). Based on the streetscape analysis, approximately 67 percent of the residences along the 400 Carroll Canal Block are two to three stories (24 percent are three stories, and 43 percent are two stories), with or without roof decks and roof access structures. The remainder approximately 33 percent of residences along the same block are one story.

The applicant's is proposing a three-story, 30-foot high, 3,473-square-foot residence (living space + garage). The Commission has previously approved residences along the 400 Carroll Canal block that were similar in size. For example, under CDP 5-11-0232, the Commission authorized a three-story, 3,151-square-foot single-family residence at 432 Carroll Canal, and under CDP 5-99-0227, the Commission authorized a three-story, 3,542-square-foot single-family residence at 458 Carroll Canal.

Furthermore, within the block, residences range from 440² square feet (465 E. Carroll Canal) to 3,780³ square feet (405 E. Carroll Canal). Therefore, the proposed development would be similar in size to the surrounding residences and the residences in the overall Venice Canal community. The applicant's streetscape analysis supports the fact that the Venice Canals are comprised of a mix of multi-story residences.

² This figure is the Zoning Code area of the building in square feet. Information regarding the Building Code floor area of the residences along 400 Carroll Canal is not available.

³ This figure is the Building Code floor area of the building.

Character

Venice LUP Policy I.E.2 requires that new development must respect both the scale and character of the community development. At the same time, Policy I.E.3 allows that varied styles of architecture are encouraged, while maintaining the neighborhood scale and massing. Therefore, new development need not be identical to the homes in the surrounding neighborhood; rather, a variety of styles and appearances are part of Venice's unique character. While the Venice LUP primarily addresses compatibility with community character and protection of Venice's special status through objective building standards, such as setbacks, height and density, there is also a subjective component.

Here, the proposed project is consistent with the density, height, setback, and floor area requirements of the LUP. These requirements were incorporated into the LUP (which was certified by the Commission in 2001) in order to protect community character and Venice's special community status, and the LUP contemplated and allowed for some larger homes to be built in the Venice Canals consistent with Chapter 3 of the Coastal Act. In addition to being consistent with the LUP's building standards, the proposed home simply does not stand out in any significant way from the surrounding neighborhood, particularly in light of the overall eclectic nature of the Venice community. Therefore, the proposed development is compatible with community character, and is not anticipated to have an adverse cumulative effect with regard to the character of this neighborhood.

Conclusion

As proposed, the development is consistent with all relevant legal limits on size, height and land use, is on par with residential developments in the area and, thus, preserves community character as required by the Coastal Act. Therefore, as proposed, the development conforms with Sections 30250, 30251, and 30253(e) of the Coastal Act.

C. HAZARDS

Coastal Act section 30253 states, in part:

New development shall do all of the following:

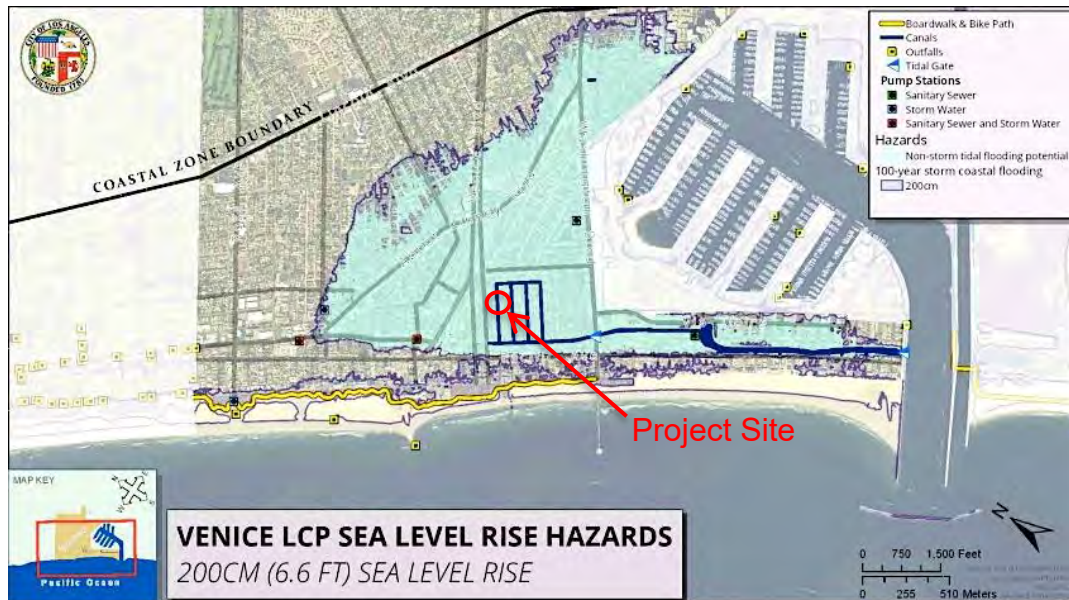
- (a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.
- (b) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction 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 within 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. 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 City’s Venice Sea Level Rise Vulnerability Assessment prepared by Moffat & Nichol (May 2018), the communities within the Venice Canals area are low-lying and flood prone under existing conditions. The tide gates are typically closed prior to higher-high tide events to prevent the water levels in the canal from rising. As sea levels rise, the tide gates may remain closed for longer periods (which would prevent accumulated stormwater from flushing out to sea), and as storm events become more extreme, flooding may become more frequent.

According to the Our Coast Our Future (OCOF) model, which, like the City’s Vulnerability Assessment, uses Coastal Storm Modeling 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 exceedances of stormwater capacity and/or tide gate malfunction. 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 the anticipated 75-100 year life of the proposed development. The OCOF model indicates the project site is especially flood-prone with 2.5 feet of sea level rise, and will be subject to non-storm coastal flooding with 6.6 feet of sea level rise (see Figure 1 below). 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.

Figure 1 Coastal and Inland Flooding for 6.6-ft. Sea Level Rise Scenario in the City of Los Angeles Venice subarea, including the project site.



Source: Venice Sea Level Rise Vulnerability Assessment by Moffat & Nicol (May 2018)

Given the risks and vulnerabilities the site faces with regard to flood hazards for the life of the development, **Special Conditions 4 and 5** 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 approved by this permit if deemed unsafe by a government entity. In addition, the applicant would be required to remove the approved development if the City or 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 structure suitable for habitation or use without the use of shoreline protective devices.

To minimize the project's impact on shoreline processes, and to minimize risks to life and property, the development has been conditioned to: require an appropriate set-back from the water; require a drainage and runoff control plan to direct, treat, and minimize the flow of water offsite; and to require that the landowner and any successor-in-interest assume the risk of undertaking the development.

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 11** requires the applicant to record a deed restriction acknowledging that, pursuant to the subject permit (CDP No. 5-19-1266), 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.

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:

- (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 Carroll Canal. Carroll 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.

The project has been revised to ensure no improvements are proposed within the public-right-of-way. Because revisions have been made to the project, **Special Condition 1** requires the applicant to submit final revised plans for the review and approval by the Executive Director. In addition, **Special Condition 9** requires that the applicant obtain, at a minimum, preliminary approval from the local government to ensure that any changes to the project required by the local government comply with the intent of this coastal development permit. **Special Condition 10** requires the applicant 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. 5-19-1266) shall prevail.

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 E). 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**.

A third member of the public submitted correspondence to Commission staff in May 2020 with concerns about construction staging for this project. Construction projects can adversely impact public access by displacing otherwise available on-street, public parking spaces or by blocking traffic. During construction, measures should be implemented to ensure that temporary impacts to public access be minimized. Therefore, **Special Condition 8** requires that a final construction staging plan be submitted for Commission review and approval. All construction equipment to be stored overnight shall be stored on-site, outside the street travelway. Placement of the on-site dumpster shall incorporate use of a flagman to direct traffic during placement.

The proposed project is on an existing private residential lot. Therefore, no long-term, post-construction impacts are anticipated because the project would not create any changes to existing coastal access and nearby recreational facilities. Moreover, the three on-site parking spaces satisfies the certified LUP's on-site parking requirements for a single-family residence. Therefore, as proposed, and conditioned, the development 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 on-site 220-gallon rain tank and permeable areas for percolation, which will help minimize water runoff from the subject site.

Special Condition 5(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. To avoid water quality impacts during construction, the Commission imposes **Special Condition 6**, 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. In addition, **Special Condition 6** also includes water quality measures to be implemented on-site.

Canal Setback

The proposed development has a potential for a discharge of polluted runoff from the project site into coastal waters. As discussed in Section IV.B above, the proposed project will provide the required 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, which will also help to protect and improve water quality of the canal waterways by allowing for greater on-site water percolation.

Landscaping

The applicant is proposing new landscaping. Therefore, **Special Condition 7** requires the applicant 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. 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 LUP 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.

G. 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)** no future shoreline protective device; **6)** construction best management practices, and drainage and run-off control practices; **7)** drought tolerant, non-invasive plants; **8)** construction staging; **9)** LADBS approval; **10)** local government approval; and **11)** 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. 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.

APPENDIX A – SUBSTANTIVE FILE DOCUMENTS

City of Venice certified Land Use Plan

City of Los Angeles local Coastal Development Permit Case No. DIR-2019-2006-CDP-MEL-SPP, dated September 26, 2019.

Venice Sea Level Rise Vulnerability Assessment by Moffat & Nichol, dated May 25, 2018.

Coastal Hazards and Sea Level Rise Discussion for 421 E. Carroll Canal, Venice, Los Angeles, California prepared by Geosoils, Inc., dated January 20, 2020.