

CALIFORNIA COASTAL COMMISSION

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



W17c

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STAFF REPORT: DE NOVO

Application Numbers: A-5-VEN-21-0052

Applicant: Stephen & Hillary Zashin, LA Riverstonegrey, LLC

Agent: Fred Gaines, Esq. and Marmol Radziner

Location: 628 & 628 ½ Santa Clara Avenue, Venice, City of Los Angeles, Los Angeles County (APN: 4239029010)

Project Description: Demolition of two single-family homes (1,112 sf. and 576 sf.) on an approximately 5,200 sf. lot and construction of a 2-story, approximately 25-foot high, 2,993 sf. duplex (582 sf. and 2,253 sf.) with a 2-car garage and 3 uncovered parking spaces, and a roof deck.

Staff Recommendation: Approval with Conditions

SUMMARY OF STAFF RECOMMENDATION

The project site, located in the Oakwood subarea of Venice, is currently developed with two one-story, single-family homes (1,112 and 576 square feet) and is designated as Low Medium II Residential by the certified Venice LUP and zoned Restricted Density Multiple Dwelling (RD1.5-1) by the uncertified Los Angeles Municipal Code. The existing buildings, which are vacant and appear to be in a dilapidated state, were built in 1916 and 1924 according to LA County Assessor data.

In May 2021, the City approved a CDP for the demolition of the existing buildings and construction of a new two-story, 3,254 square-foot single-family dwelling with an

attached two-car garage, roof deck and a 581 square-foot ADU with three parking spaces. The City's approval was appealed to the Coastal Commission on July 23, 2021 by Citizens Preserving Venice. On September 8, 2021, the Commission determined that a substantial issue existed with respect to the grounds on which Appeal A-5-VEN-21-0052 was filed because the project, as approved by the City, raised significant questions as to the project's consistency with the community character protection policies in the certified LUP and Coastal Act, including policies protecting multi-family residential character, and the Coastal Act requirement to locate new development in areas able to accommodate it (Section 30250). In addition, the Commission found that the City did not make adequate community character or cumulative impact findings and found issue with the City's findings that a single-family residence with an ADU is equivalent to a duplex.

After working with Commission staff, the applicant revised the project to include the construction of a duplex rather than a single-family residence. The two units are 582 square feet and 2,253 square feet and share a two-car garage, three uncovered parking spaces, a landscaped front yard, and courtyard with a landscaped patio and pool area. The proposed structure will be articulated and stepped back in multiple locations with rooftop landscaping on multiple levels to minimize the massing as seen from the street.

The standard of review for this project is Chapter 3 of the Coastal Act and the certified Venice Land Use Plan (LUP) provides guidance.

The proposed duplex will maintain the multi-family character of this area of Venice and is consistent with Coastal Act community character policies (Sections 30251 and 30253(e)). In addition, the building design, while architecturally different from others on the street, is compatible with the variety of architectural styles and ages of the one- and two-story residences on the block, including the two-story structures on either side and across from the project site. The project has also been designed to minimize risks to life and property in a flood-prone area, consistent with Section 30253 of the Coastal Act.

Therefore, staff recommends the Commission approve the de novo CDP Application No. A-5-VEN-21-0052 with six (6) special conditions: 1) Permit Compliance; 2) Local Government Approval; 3) Landscaping; 4) Assumption of Risk, Waiver of Liability and Indemnity; 5) Development Removal; and 6) Deed Restriction. These conditions will ensure the site will be developed with a duplex, biological resources are protected for the life of the project, and risks to life and property from flood hazards are minimized.

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APPENDICES

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EXHIBITS

Exhibit 1 – Project Location

Exhibit 2 – Project Plans

I. MOTION AND RESOLUTION

Motion:

I move that the Commission **approve** Coastal Development Permit Application No. A-5-VEN-21-0052 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-21-0052 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. 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.

III. SPECIAL CONDITIONS

This permit is granted subject to the following standard conditions:

1. **Permit Compliance.** The permittee shall undertake and maintain the development in conformance with the special conditions of the permit and the final plans, including but not limited to the plans for the duplex. Any proposed changes to the approved plans shall be reported to the Executive Director in order to determine if the proposed change shall require a permit amendment pursuant to the requirements of the Coastal Act and the California Code of Regulations. No changes to the approved plans shall occur without a Commission-approved permit amendment unless the Executive Director determines that no permit amendment is required.
2. **Local Government Approval.** The proposed development is subject to the review and approval of the City of Los Angeles (City). This action has no effect on conditions imposed by the City pursuant to an authority other than the Coastal Act. In the event of conflict between the terms and conditions imposed by the City and those of this coastal development permit, the terms and conditions of Coastal Development Permit A-5-VEN-21-0052 shall prevail.
3. **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>).
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, 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.

- 5. Development Removal.** By acceptance of this permit, the permittee agrees, on behalf of itself and all successors and assigns, that the landowner shall remove the development authorized by this permit including, but not limited to, the residence, including the pool, and any other improvements if: (1) 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 damage or destruction from waves, flooding, erosion, bluff retreat, landslides, or other hazards related to coastal processes, and that there are no feasible measures that could make the structures suitable for habitation or use without the use of bluff or shoreline protective devices; (2) essential services to the site (e.g., utilities, roads) can no longer feasibly be maintained due to the coastal hazards listed above; (3) removal is required pursuant to LCP policies for sea level rise adaptation planning; or (4) the development requires new and/or augmented shoreline protective devices that conflict with relevant LCP or Coastal Act policies. The permittee shall obtain a coastal development permit for removal of approved development unless the Executive Director provides a written determination that no coastal development permit is legally required. In addition, this permit does not permit encroachment onto public trust lands and any future encroachment onto public trust lands must be removed unless the Coastal Commission determines that the encroachment is legally permissible pursuant to the Coastal Act and authorizes it to remain. Any future encroachment would also be subject to the State Lands Commission's (or other trustee agency's) leasing approval.
- 6. 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.

IV. SINGLE PERMIT JURISDICTION AREA

Within the areas specified in Section 30601 of the Coastal Act, which is known in the City of Los Angeles permit program as the Dual Permit Jurisdiction area, the Coastal Act requires that any development which receives a local coastal development permit also obtain a second (or "dual") coastal development permit from the Coastal Commission. For projects located inland of the areas identified in Section 30601 (i.e., projects in the

Single Permit Jurisdiction area), the City of Los Angeles local coastal development permit is the only coastal development permit required.

The proposed project site is within the *Single Permit Jurisdiction* area. On May 19, 2021, the City of Los Angeles approved a local CDPs (DIR-2019-5257-CDP-MEL), which was appealed to the Coastal Commission and, pursuant to Section 30623 of the Coastal Act, the locally approved CDPs were stayed pending Commission action on the appeals. On September 8, 2021, the Commission found that the appeals raised a substantial issue with respect to the proposed project's consistency with Chapter 3 of the Coastal Act. The Commission is now required to hold a de novo hearing on the merits of the project. Chapter 3 of the Coastal Act is the standard of review. The certified Venice LUP is used as guidance.

IV.FINDINGS AND DECLARATIONS

A. Project Description and Background

The subject property is an approximately 5,200 square foot lot located a little over one-half mile inland of the beach in the Oakwood subarea of Venice at 628 Santa Clara Avenue (**Exhibit 1**). The Oakwood neighborhood is a geographically distinct area that was previously restricted by covenant as the only area in Venice where African Americans could own property and was settled by many of Abbot Kinney's employees in the early 1900s¹. The neighborhood has changed significantly since that time and is currently characterized by one-story and two-story multi-family and single-family homes of varying sizes and architectural styles. The project site is designated as Low Medium II Residential by the certified Venice LUP and zoned Restricted Density Multiple Dwelling (RD1.5-1) by the uncertified Los Angeles Municipal Code and is currently developed with two detached one-story, single-family homes. The front house is 1,112 square feet and the back house is 576 square feet. The existing buildings, which are vacant and appear to be in a dilapidated state, were built in 1916 and 1924, respectively, according to LA County Assessor data. In its Mello Act review, the City found that there were no affordable units onsite.

In May 2021, the City approved a CDP for the demolition of the existing buildings and construction of a new two-story, 3,254 square-foot single-family dwelling with an attached two-car garage, roof deck and a 581 square-foot ADU with three parking spaces. The City's approval was appealed to the Coastal Commission on July 23, 2021 by Citizens Preserving Venice. On September 8, 2021, the Commission determined that a substantial issue existed with respect to the grounds on which Appeal A-5-VEN-21-0052 was filed because the project, as approved by the City, raised significant questions as to the project's consistency with the community character protection policies in the certified LUP and Coastal Act, including policies protecting multi-family residential character, and the Coastal Act requirement to locate new development in areas able to accommodate it (Section 30250). In addition, the Commission found that the City did not make adequate community character or cumulative impact findings and found issue with the City's findings that a single-family residence with an ADU is equivalent to a duplex.

After working with Commission staff, the applicant revised the project to include the construction of a duplex rather than a single-family residence. The revised project is substantially similar in size to the City-approved development, but instead of converting the use of the site from multi-family to single-family, it will remain multi-family. The two units are 582 square feet and 2,253 square feet in size. The smaller unit contains a bedroom, bathroom, and kitchen, and a storage area that is attached to the garage. It is located on the ground floor and has a separate lockable entrance and immediate access to the courtyard and pool area. The larger unit has an entry way, closets and storage, and a kitchen on the first floor and four bedrooms and three bathrooms on the second floor. The structure's first level is waterproofed three feet above the slab on grade foundation. The two units share a two-car garage and three uncovered parking spaces located in the 15-foot rear yard setback, a landscaped front yard, and courtyard with a landscaped patio and pool area. The proposed structure is set back 15 feet from the front yard property line, articulated at the first and second levels, and designed with rooftop landscaping to minimize massing. The side yards are set back 4 feet (**Exhibit 2**).

As proposed, the development observes all of the setback, height, and yard requirements in 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 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...

Venice LUP Policy I.A.5 Preserve and Protect Stable Multi-Family Neighborhoods, states:

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

Venice LUP Policy I.A.7 Multi-Family Residential – Low Medium II Density states, in part:

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

...Oakwood, Millwood, Southeast and North Venice

Use: Duplexes and multi-family structures.

Density: One unit per 1,500-2,000 square feet of lot area. Lots smaller than 4,000 square feet are limited to a maximum density of two units. Replacement Units/Bonus Density: Lots greater than 4,000 square feet can add extra density at the rate of one unit for each 1,500 square feet of lot area in excess of 4,000 square feet on parcels zoned RD1.5...

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

Height: Oakwood, Milwood, and Southeast Venice: Not to exceed 25 feet for buildings with flat roofs; or 30 feet for buildings utilizing a stepped back or varied roofline. The portion that exceeds 25 feet in height shall be set back from the required front yard one foot for every foot in height above 25 feet. Structures located along walk streets are limited to a maximum of 28 feet. (See LUP Policy I.A.1 and LUP Height Exhibits 13-16).

Section 30250 of the Coastal Act requires new development be concentrated in existing developed areas able to accommodate it, which supports other Chapter 3 policies by reducing vehicle miles traveled, preserving open spaces that might otherwise be developed, and providing more opportunities for people to live near places they work and recreate. Thus, in general, the Coastal Act policies support maintaining housing density in existing developed areas that are able to accommodate it.

The Venice LUP includes several policies that are relevant to the subject City-approved project and related appeal. The building restrictions and density limits at the subject site are defined by LUP Policy I.A.7, which describes the uses allowed on properties with the Low Medium II Density designation: duplexes and multi-family residences. The existing two residences on the subject lot are consistent with this designation. LUP Policy I.A.5 also preserves and protects multi-family residences in areas able to accommodate them.

As originally approved by the City, the project would have changed the land use for the site from multi-family to single-family. Thus, the Commission found a substantial issue existed with the conformance of the City-approved project with the aforementioned policies. The revised project currently proposed would result in the demolition of the two existing single-family residences on the site and construction of a duplex with two attached units. Therefore, the residential density allowed under the LUP for this part of Venice is maintained. City staff have reviewed the revised project plans and believe them to be consistent with the uncertified Venice Specific Plan, compliant with the Mello Act, and approvable under City Building and Safety requirements. **Special Condition 1** requires the applicant to construct the development in compliance with the approved plans for the duplex. Pursuant to **Special Condition 2**, the applicant must obtain all necessary City approvals and, before the permit can be issued, the applicant to record a deed restriction memorializing the subject permit conditions (**Special Condition 6**).

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

C. 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. E. 1, *General*, states:

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

Venice Certified Land Use Plan Policy I. E. 2, *Scale*, states, in 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 LUP Policy I.E.3, *Architecture*, states.

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

Coastal Act Sections 30253(e) and 30251, together, require the protection of the unique characteristics—visual and otherwise—that make coastal communities like Venice popular destinations. The Commission has previously found that Venice's unique social and architectural diversity should be protected as a Special Coastal Community. When the Commission certified the Venice LUP in 2001, it considered the potential impacts that development could have on community character, and, in order to protect community character and minimize impacts to coastal resources, the Venice LUP includes building restrictions and density limits specific to individual areas and subareas of Venice. It is appropriate to use the certified LUP policies as guidance in determining whether the project is consistent with sections 30250, 30251, and 30253 of the Coastal Act.

Mass and Scale

LUP Policies I.E.2, I.E.3 and Coastal Act Section 30251 require development to maintain existing neighborhood scale, massing, landscape, and character and be visually compatible with the character of the area. Regarding scale, the proposed duplex would be approximately 3,000 square feet in size. While larger than the two existing residences combined, 11 of the approximately 40 buildings on the block are

over 3,000 square feet. In addition, there are at least six other residences on the block that have roof decks, like the proposed development.

Regarding the mass of the proposed structure, the new building is to be articulated and stepped back in multiple locations to minimize the massing as seen from the public sidewalks and Santa Clara Avenue. In addition, the structure's first level is set back approximately 15 feet where the smaller unit is located, consistent with the City's uncertified Zoning Code requirements, and 30 feet where the ground floor of the larger unit is located and maintains the multi-structure pattern on the block, with a breezeway between the smaller unit and garage, which reduces the structure's massing. The second level is set back approximately 25 feet. The approximately 24-foot, seven-inch height of the flat roofed residence is consistent with the LUP's height requirements. Furthermore, the proposed development includes several planted areas, including in the front yard, courtyard area, and multiple rooftop areas.

This design, while architecturally different from others on the street, appears to be compatible with the variety of architectural styles and ages of the one- and two-story residences on the block, including the two-story structures on either side and across from the project site. In addition, the development's landscaping and green rooftops are consistent with the lush landscaping of the immediately surrounding residences and the relatively green tree-lined street. **Special Condition 1** requires the applicant to construct the project consistent with the approved plans that must also be approved by the City of Los Angeles (**Special Condition 2**). Thus, the proposed development is visually compatible with the character of the surrounding area.

Cumulative Community Character

LUP Policy I.E.1 protects the social diversity of Venice as one of the unique characteristics of Venice (a popular visitor-serving destination) required to be protected under Coastal Act Section 30253(e). To evaluate the potential cumulative impacts of the proposed development, the incremental effects of the proposed development on community character, mass, and scale are considered in connection with the effects of the past, current, and probable future projects within the subject area.

Oakwood, where the subject site is located, was a historically working-class neighborhood that was majority Black in the early 1900s, transitioned to majority Latinx in the 1960s and 1970s as Mexican American and immigrant communities were displaced from other areas during the construction of the freeway systems, and then to majority white in the 1980s following gang injunctions³. Relative income levels of Oakwood residents also increased over time⁴. Citizens Preserving Venice (the appellant of the City-approved project) believes that there has been a precedent of replacing more affordable multi-family residences in this area with large, higher-cost residences thereby reducing housing stock (including more affordable housing) and disrupting the social diversity of Venice.

In this case, the original City-approved project raised a significant question as to the consistency of conversion of a multi-family property to single-family with an ADU with the

community character preservation policies of the Coastal Act, in part, because of the potential cumulative impacts of residential density loss (from two full units to one and an ADU) on the multi-family community character of the project vicinity and social diversity of Venice. However, the applicants have since revised the project to maintain the multi-family character onsite. Thus, with the retention of the existing residential density on site, the project will not contribute to the cumulative loss of residential density in the Oakwood area. The proposed duplex units may also be more affordable than a single-family residence with an ADU.

Special Conditions 1 and 6 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.

D. 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 (SLR) 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 approximately 0.4 miles from the Venice Canals and 0.6 miles from the beach. 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. In addition, groundwater levels onsite are expected to be very shallow to emergent under current conditions and entirely emergent if sea levels rise over one foot. While the project site is located relatively far inland, given the topography of Venice, it is anticipated to experience similar impacts from coastal hazards as properties located farther seaward and/or closer to the canals.

No basements or significant subsurface structures, other than the pool, are proposed and nearly 60% of the outdoor hardscape areas are proposed to be permeable.

However, in order to plan for potential SLR related flooding, the applicant has proposed waterproofing the ground level up to three feet above grade. It is also important to note that with expected SLR by 2100, key infrastructure systems across Venice (the road network, electrical station, the storm drains, etc.) are vulnerable, which means the services these residential areas currently rely upon may be at risk. Because the subject site may be affected by SLR related flooding during its expected lifespan and it is unclear at this time what, if any, community-scale SLR adaptation might be implemented in Venice in the future to account for these hazards, **Special Conditions 4 and 5** have been included to ensure that the risks of property damage or loss arising from sea-level rise or other changed circumstances, including that critical mechanical equipment may be required to be relocated above-grade in the future and potential removal of the subject development, are borne by the applicant enjoying the benefits of its private new development, and not the public.

Should the applicant need to implement additional flood-protection measures on the property in the future, the applicant may need to apply for a coastal development permit amendment for such measures. A more comprehensive strategy to address the flooding hazard in the low-lying areas in Venice will be addressed in the Venice LCP. **Special Condition 5** further clarifies that development approval does not permit encroachment onto public trust lands and any future encroachment onto public trust lands must be removed unless the Coastal Commission determines that the encroachment is legally permissible pursuant to the Coastal Act and authorizes it to remain, and any future encroachment would also be subject to the State Lands Commission's (or other trustee agency's) leasing approval.

Furthermore, **Special Condition 2** requires the applicant to comply with local government requirements, which include detailed standards relating to the maintenance of appropriate drainage and permeable area on-site and **Special Condition 6** requires the applicant to record a deed restriction acknowledging that, pursuant to the subject CDP (CDP No. A-5-VEN-21-0052), 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, the development as proposed and conditioned, minimizes risks to life and property in hazardous areas consistent with Section 30253(a).

E. Biological Resources

Given that the project site is anticipated to experience flooding from the canals by the end of its design life, which could result in hydrologic transport of plant seeds, to protect coastal habitats and ecological communities, it is important to ensure that the plants used onsite are non-invasive. The applicant is not proposing to use any invasive species in the landscape design, which minimizes the potential spread of invasive species;

however, **Special Condition 3** 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 3** requires the applicant to utilize primarily drought tolerant plant species and water conservative irrigation systems for any new landscaping.

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 biological resource protection policies of the Coastal Act.

F. 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 30211 of the Coastal Act states:

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

The proposed duplex, located approximately 700 feet from Abbot Kinney (visitor-serving commercial area) and approximately 3,200 feet from the Venice Beach Boardwalk, provides two covered parking spaces in the attached garage and three uncovered parking spaces in the rear yard setback. All parking is accessed from the alley. The provision of two parking spaces per unit and one guest space complies with the certified LUP parking requirement for duplexes on lots 40 feet or more in width. Adequate on-site parking is necessary and provides relief for the general lack of on-street parking that is otherwise utilized by the public to access the coastal zone in Venice. The project will not affect the public's ability to gain access to, and/or to make use of, the coast and nearby recreational facilities. Therefore, as conditioned, the development conforms to Sections 30210 through 30214, Sections 30220 through 30224, and 30252 of the Coastal Act.

G. 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.

H. 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

- City of Los Angeles CDP No. DIR-2019-5257-CDP-MEL
- Substantial Issue staff report for Appeal No. A-5-VEN-21-0052