

CALIFORNIA COASTAL COMMISSION

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STAFF REPORT: CONSENT CALENDAR

Application No.: 5-21-0558

Applicant: Andrea Michaelson

Location: 212 Sherman Canal, Venice, City of Los Angeles Los Angeles County (APN: 4227-016-016)

Project Description: Approval of the construction of a 2-story, approximately 18-ft. high, 1,672 sq. ft. single-family home (existing home); the demolition of the existing home; and construction of a new 3-story, 30 ft. high, 4,382 sq. ft. single-family home, 317 sq. ft. roof deck, attached 541 sq. ft. two-car garage and one additional parking space onsite, and an underground 800-gallon cistern in the front yard.

Staff Recommendation: Approval with conditions.

SUMMARY OF STAFF RECOMMENDATION

The subject site is a canal-front lot located approximately 0.2 miles from the beach in the Venice Canals subarea. The 3,518 square foot lot (approximately 37 feet wide and 95 feet deep) is currently developed with a two-story, approximately 18-feet high, 1,672 square foot single-family residence with an attached two-car garage and one unenclosed space. In 1977, under prior ownership, the existing home was built when a coastal development permit (CDP) would be required. However, there is no evidence a CDP was obtained. Regardless, the applicant (existing owner) seeks approval for the

original construction of the home, the demolition of the existing home, and the construction of a new single-family home. The applicant proposes a new three-story, 30 feet high, 4,382 square foot single-family residence with a 317 square foot roof deck, attached 541 square foot two-car garage and one additional parking space onsite, and an underground 800-gallon cistern in the front yard.

The neighborhood consists of primarily two-story single-family residential structures that range between 754 and 3,580 square feet. Though, the home size would be the largest home in the survey area, the proposed home provides second and third level step backs to reduce any visual impacts. Therefore, the proposed development is compatible with the existing community character and is not anticipated to have an adverse cumulative effect on surrounding development.

Pursuant to the Commission's adopted 2018 Science Update to Sea Level Rise Policy Guidance, the site may experience up to 6.8 feet of sea level rise (SLR) within the 75-year development lifespan. The proposed lowest finished floor elevation (FFE) may be up to 2.39 feet below the mean sea level (MSL) elevation with 6.8 feet of sea level rise. To plan for potential SLR related flooding, the applicant proposes to construct the home to resist hydrostatic pressure and waterproof the home up to 2.39 feet above the lowest finished floor elevation.

Staff recommends the Commission **approve** the coastal development permit application with 13 special conditions, including: **1)** submittal of revised final plans; **2)** development setback and building height; **3)** permeable yard area; **4)** permit compliance; **5)** assumption of risk; **6)** development removal **7)** no future shoreline protective device; **8)** landscaping - drought tolerant, non-invasive plants; **9)** water quality - construction best management practices, and drainage and run-off control practices; **10)** parking and residential density; **11)** local government approval; **12)** bird strike prevention; and **13)** deed restriction. Therefore, the Commission finds that, as conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect of the proposed project, there are no remaining significant environmental impacts within the meaning of CEQA, and the project is consistent with CEQA and the policies of the Coastal Act.

These conditions are imposed to ensure that all biological resources and water quality are protected for the life of the project, and risks to life and property from flood hazards are minimized. The proposed project, only as conditioned, can be found consistent with Chapter 3 of the Coastal Act.

The standard of review is the Chapter 3 policies of the Coastal Act, with the certified LUP used as guidance.

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I. MOTION AND RESOLUTION

Motion:

I move that the Commission **approve** the coastal development permit applications included on the consent calendar in accordance with the staff recommendations.

Staff recommends a **YES** vote. Passage of this motion will result in approval of all of the permits included on the consent calendar. The motion passes only by affirmative vote of a majority of the Commissioners present.

Resolution:

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

II. STANDARD CONDITIONS

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the applicants or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent 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 applicants to bind

all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

1. **Submittal of Revised Final Plans.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant(s) shall submit, in a form and content acceptable to the Executive Director, two (2) full-sized sets of final revised project plans for the proposed development. The final plans shall be in substantial conformance with the plans submitted with this application by Andrea Michaelson Design, and shall be subject to the review and written approval of the Executive Director, and shall be revised to comply with the following:
 - A. The final project plans shall incorporate the redesign of the clearstory windows to be consistent with the 30-foot maximum height limit.
 - B. The proposed residence shall be designed to include safety measures recommended by a structural engineer to protect the development in the event of 6.8 feet of sea level rise, which may result in inundation up to 2.39 feet above the lowest finished floor elevation (located approximately 4.41 feet above the current mean sea level as of July 20, 2021). The plans shall include the proposed safety measures including the construction of walls designed to resist hydrostatic pressure, which will be waterproofed by a waterproofing membrane system up to 2.39 feet or higher above the lowest finished floor elevation.
2. **Development Setbacks and Building Height.** No development is authorized within ten feet of the fronting canal property line (Sherman Canal) nor within or above the required 555 square foot permeable front yard area, except as described in Special Condition 3 below. At a point 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 (Sherman Canal Court/Court A). Beyond ten horizontal feet from the fronting canal property line, one foot in additional height is permitted for each two additional horizontal feet to a maximum height of thirty feet (30') except for chimneys, ducts, and other accessory structures which are limited to 35 feet. Roof deck railings shall not exceed 42 inches above the thirty-foot height limit. Building height is measured from the elevation of the adjacent road or alley. A one-hundred square foot (maximum) roof access structure no higher than 10 feet above the thirty-foot roof height limit is permitted and must be setback at least 60 feet from the fronting canal property line.
3. **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' x 37' = 555 square feet) shall be maintained on the project site in the front yard area between the structure and the front (Sherman Canal) property line. Uncovered means that no fill or building extensions (i.e. chimneys, balconies, stairs, trellises) 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 or French drain 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.

4. **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.

5. **Assumption of Risk, Waiver of Liability and Indemnity.** By acceptance of this permit, the applicant(s) acknowledges and agrees (i) that the site may be subject to hazards from waves, erosion, storm conditions, liquefaction, flooding and sea level rise; (ii) to assume the risks to the applicant(s) and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; (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; (v) that sea level rise could render it difficult or impossible to provide services to the site (e.g., maintenance of roadways, utilities, sewage or water systems), thereby constraining allowed uses of the site or rendering it uninhabitable; (vi) that the boundary between public land (tidelands) and private land may shift with rising seas, the structure may eventually be located on public trust lands, and the development approval does not permit encroachment onto public trust land; (vii) any future encroachment 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; and (viii) that the structure may be required to be removed or relocated and the site restored if it becomes unsafe or if removal is required pursuant to the Coastal Act.

6. **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.

7. 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. 5-21-0558, 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 and yard improvements if any other government agency with legal jurisdiction has issued a final order, not overturned through any appeal or writ proceedings, determining that the structures are currently and permanently unsafe for occupancy or use due to coastal hazards and that there are no measures that could make the structures suitable for habitation or use without the use of bluff or shoreline protective devices.
- C. In the event that portions of the development fall to the public walkway and/or water before they are removed, the landowner(s) shall remove all recoverable debris associated with the development from the public walkway and/or water and lawfully dispose of the material in an approved disposal site. Such removal shall require a coastal development permit. Prior to removal, the permittee shall submit two copies of a Removal Plan to the Executive Director for review and written approval. The Removal Plan shall clearly describe the manner in which

such development is to be removed and the affected area restored so as to best protect coastal resources, including the Venice Canals.

8. Landscaping – Drought Tolerant, Non-Invasive Plants.

- A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit, in a form and content acceptable to the Executive Director, two (2) full sized sets of final landscaping plans, which shall include and be consistent with the following:
- i. Vegetated landscaped areas shall only consist of native plants or non-native drought tolerant plants, which are non-invasive. No plant species listed as problematic and/or invasive by the California Native Plant Society (<http://www.CNPS.org/>), the California Invasive Plant Council (formerly the California Exotic Pest Plant Council) (<http://www.cal-ipc.org/>), or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a “noxious weed” by the State of California or the U.S. Federal Government shall be utilized within the property. All plants shall be **low water use** plants as identified by California Department of Water Resources (See: <http://ucanr.edu/sites/WUCOLS/files/183488.pdf>).
 - ii. Use of reclaimed water for irrigation is encouraged. If using potable water for irrigation, only drip or microspray irrigation systems may be used. Other water conservation measures shall be considered, such as weather based irrigation controllers.
- B. The permittees shall undertake development in accordance with the approved plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

9. Water Quality.

- A. Construction Responsibilities and Debris Removal
- i. 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;
 - ii. 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;

- iii. 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;
- iv. 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;
- v. All trash and debris shall be disposed in the proper trash and recycling receptacles at the end of every construction day;
- vi. The applicant(s) shall provide adequate disposal facilities for solid waste, including excess concrete, produced during demolition or construction;
- vii. 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;
- viii. 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;
- ix. 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;
- x. The discharge of any hazardous materials into any receiving waters shall be prohibited;
- xi. 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;
- xii. 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;
- xiii. All BMPs shall be maintained in a functional condition throughout the duration of construction activity.

B. Drainage and Water Quality

- xiv. 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;
- xv. All equipment and materials shall be stored and managed in a manner to minimize the potential of pollutants to enter the canals;
- xvi. 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;
- xvii. All runoff leaving the site shall be directed away from the canals and into the City storm drain system;
- xviii. No water from any pool or spa shall be discharged into any canal or street that drains into a canal.

10. Parking and Residential Density. The permitted use of the approved structure is a single-family residence. A minimum of three (3) parking spaces shall be provided and maintained on the site as proposed: two spaces in the garage and an area for parking a third vehicle on the driveway in the rear setback area. Any proposed change in the number of residential units, change in number of on-site parking spaces, or change in use shall be submitted to the Executive Director to determine whether an amendment to this permit is necessary pursuant to the requirements of the Coastal Act and the California Code of Regulations.

11. 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 5-21-0558 shall prevail.

12. Bird Strike Prevention. Glass railings on decks and balconies shall use materials designed to minimize bird-strikes. Such materials may consist, all or in part, of frosted or partially-frosted glass, or other visually permeable barriers that are designed to prevent creation of a bird strike hazard. Clear glass or Plexiglas shall not be installed unless they contain UV-reflective glazing that is visible to birds or appliqués (e.g. stickers/decals) designed to reduce bird-strikes by reducing reflectivity and transparency are also used. Any appliqués used shall be installed to provide coverage consistent with manufacturer specifications (e.g. one appliqué for every 3 foot by 3 foot area) and the recommendations of the Executive Director. Use of opaque or partially opaque materials is preferred to clean glass or Plexiglas and appliqués. All materials and appliqués shall be maintained throughout the life of the

development to ensure continued effectiveness at addressing bird strikes and shall be maintained at a minimum in accordance with manufacturer specifications.

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

IV. FINDINGS AND DECLARATIONS

A. PROJECT LOCATION AND DESCRIPTION

The subject site is a canal-front lot located approximately 0.2 miles 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 zoning code and designated Single Family Residential – Low Medium Density I in the certified Venice LUP. The 3,718 square foot lot (approximately 37 feet wide and 95 feet deep) is currently developed with a two-story, approximately 18-foot high, 1,672 square foot single-family residence with an attached two-car garage and two unenclosed spaces that are accessed from Sherman Canal Court,¹ the rear alley.

In 1977, under prior ownership, the existing home was built when a coastal development permit (CDP) would be required. However, there is no evidence a CDP was obtained. Regardless, the applicant (existing owner) seeks approval for the original construction of the home; the demolition of the existing home; and the construction of a new three-story, 30 feet high, 4,382 square foot single-family residence with a 317 square foot roof deck, attached 541 square foot two-car garage with one additional unenclosed onsite parking space and an 800-gallon underground cistern in the front yard (**Exhibit 2**). No roof access structure is proposed.

¹ As stated in the City's determination letter, the name of the rear alley is Sherman Canal Court. As noted on the applicant's plans and on Google Maps, the name of the alley is Court A.

The proposed project obtained a local Coastal Development Permit (CDP) issued by the City's Planning Department (Case No. DIR-2020-6239-CDP-SPP-MEL) for the demolition of an existing residence and the construction of a new residence. No appeal of the local action was filed. On July 26, 2021 the applicant submitted the required "dual" Coastal Commission CDP application (Application No. 5-21-0558) for Commission review and action.

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, **Special Condition 3** requires an uncovered and permeable yard area totaling no less than fifteen times the width of the site (in this case: 15' x 37' = 555 square feet) be maintained on the project site in the front yard area between the structure and the front (Sherman Canal) property line. The proposed residence provides an approximately 21-foot ground floor front yard setback and approximately 788 square feet of permeable yard area (**Exhibit 4**) in conformance with the Venice LUP.

Due to limited on-street parking, the LUP requires single-family residences to provide three parking spaces in the Venice Canals subarea, and three on-site parking spaces are provided – two in the garage and one on the driveway apron, all accessed from the rear alley, Sherman Canal Court.² The provision of three onsite parking spaces will ensure that the development does not cause the use of street parking that would displace public parking spaces used for coastal access and therefore this parking requirement is imposed through **Special Condition 10** and **Special Condition 4** requiring that any deviation from the approved plans must be submitted for review by the Executive Director.

In addition, Venice LUP Policy I.A.4 limits this site to a height of 22 feet for any portion of the home 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. Additionally, only accessory structures essential for building function may exceed the height limit by five feet. The proposed single-family residence is setback 21 feet from the canal property line and reaches a maximum height of 30 feet consistent with the ascending height restriction as outlined in the LUP policy. However, the applicant proposes several rooftop clearstory lightwells, non-essential building accessory structures, exceeding the maximum height limit by approximately two feet. Therefore, **Special Conditions 1 and 2** reflect the requirements for height limits and require revised final plans that redesign the clearstory lightwells to be consistent with the LUP height limit.

The proposed single-family residence is visually compatible with the surrounding area. Commission staff undertook a survey of the homes on Sherman Canal between Grand Canal and Dell Avenue. The nearby homes consist primarily two-story single-family residential structures that range between 754 and 3,580 square feet. The proposed

² As stated in the City's determination letter, the name of the rear alley is Sherman Canal Court. As noted on the applicant's plans and on Google Maps, the name of the alley is Court A.

4,382 square foot home would be the largest among the 22 lots in the survey area (**Exhibit 3**). The proposed residence, as conditioned, complies with the thirty-foot height limit and the average 15-foot front yard setback for all development in the Venice Canals subarea. The first and second levels of the proposed single-family residence are setback 21-feet from the canal property line and would reach a height of approximately 21 feet high. The third floor would be setback approximately 34-feet from the canal property line and would reach a maximum height of 30 feet. Together, the proposed setbacks help to reduce massing and visual impacts to pedestrians along the canals. Therefore, the proposed development is compatible with the existing community character and is not anticipated to have an adverse cumulative effect on surrounding development. In addition, the proposed development will not adversely impact coastal resources, public access, or public recreation opportunities, and is consistent with past Commission actions in the area and Chapter 3 policies of the Coastal Act.

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 updated Guidance’s sea level rise projection tables estimate up to 6.8 feet in projected sea level rise in Santa Monica by 2100 (i.e., within approximately 80 years), under current development and emission patterns (a medium-high risk aversion scenario) and discounting ice sheet loss.

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 to rise. 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) hazards map, which uses the Coastal Storm Modeling System (CoSMoS), 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. The OCOF hazards map indicates the project site is 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.³ A rise in sea level of 6.6 feet is projected to occur between 2090 and 2100 which is towards the end of the anticipated 75-year lifespan of the proposed development. While 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, the current best available science indicates that some impacts are likely.

The applicant's coastal hazards report, published by GeoSoils, Inc. on July 20, 2021, indicates the proposed residence's finished floor elevation (FFE) is approximately 7 NAVD88 or approximately 4.41 feet above the current mean sea level elevation. With up to 6.8 feet of sea level rise, mean sea level may rise up to 2.39 feet above the FFE of the proposed home. To plan for potential SLR related flooding, the applicant proposes to construct the home to resist hydrostatic pressure and waterproof the home up to 2.39 feet above the lowest finished floor elevation. Therefore, **Special Condition 1** requires the submittal of final revised plans which include safety measures for Executive Director approval prior to permit issuance.

Given the risks and vulnerabilities the site faces regarding potential flood hazards, **Special Conditions 5, 6 and 7** require the applicant to assume the risks of pursuing development in a hazardous area, waive the applicant's right to install shoreline protective devices, and remove the development if deemed unsafe by a government entity. **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.

Due to the site's proximity to the canals, **Special Condition 9** requires construction-related requirements and best management practices to prevent canal pollution. Based on the project plans, stormwater runoff will be diverted from downspouts and channel drains to the underground cistern, away from the canal. Should stormwater overflow, a pop-up emitter is used to release the flow into the permeable yard area. **Special Condition 8** requires the applicant to utilize only drought tolerant, low water use, non-invasive plant species and water conservative irrigation systems for any new landscaping.

Special Condition 11 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. 5-21-0558) shall prevail.

Glass railing systems, walls or wind screens are known to have adverse impacts upon a variety of bird species. Birds are known to strike these glass walls causing their death or

³ CoSMoS doesn't offer the maximum 6.8 ft. projection.

stunning them, which exposes them to predation. To ensure bird strike prevention, **Special Condition 12** requires that the applicant to use a material for the glass railing that is designed to prevent creation of a bird strike hazard.

Special Condition 13 requires the applicant to record a Deed Restriction acknowledging that, pursuant to this permit (CDP No. 5-21-0558), 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 imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the property.

B. DEVELOPMENT

As proposed, the development is located within an existing developed area and is compatible with the character and scale of the surrounding area. The project provides adequate parking based on the Commission's typically applied standards. Therefore, as proposed, the development conforms with Sections 30250, 30251, and 30252 of the Coastal Act.

C. PUBLIC ACCESS

The proposed development will not affect the public's ability to gain access to, and/or to use the coast and nearby recreational facilities. Therefore, as proposed, and conditioned, the development conforms to Sections 30210 through 30214, Sections 30220 through 30224, and 30252 of the Coastal Act.

D. BIOLOGICAL RESOURCES & WATER QUALITY

The proposed development has a potential for a discharge of polluted runoff from the project site into coastal waters. 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, and the use of non-invasive drought tolerant vegetation to reduce and treat the runoff discharged from the site 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.

E. HAZARDS

Development adjacent to the ocean is inherently hazardous. Development which may require a protective device in the future cannot be allowed due to the adverse impacts such devices have upon, among other things, public access, visual resources, and shoreline processes. To minimize the project's impact on shoreline processes, and to minimize risks to life and property, the development has been conditioned to prohibit

construction of protective devices (such as a seawall) in the future and to require that the landowner and any successor-in-interest assume the risk of undertaking the development. As conditioned, the Commission finds that the proposed development conforms to the requirements of Section 30253 of the Coastal Act regarding the siting of development in hazardous locations.

F. COASTAL ACT VIOLATION

A violation of the Coastal Act has occurred on the project site, including but not necessarily limited to construction of the residence in 1977 without benefit of the necessary coastal development permit. Any non-exempt development activity conducted in the Coastal Zone without a valid coastal development permit, or which does not substantially conform to a previously issued permit, constitutes a violation of the Coastal Act.

Approval of this application pursuant to the staff recommendation, issuance of the permit, and the applicant's subsequent compliance with all terms and conditions of the permit will result in resolution of the violation described in this section. Although development has taken place prior to submission of this permit application, consideration of the permit application by the Commission has been based solely on consistency of the proposed development with the policies of Chapter 3 of the Coastal Act. Commission review and action on this permit does not constitute a waiver of any legal action with regard to the alleged violation (or any other violations).

G. LOCAL COASTAL PROGRAM (LCP)

Coastal Act section 30604(a) states that, prior to certification of a local coastal program (LCP), a coastal development permit can only be issued upon a finding that the proposed development is in conformity with Chapter 3 of the Act and that the permitted development will not prejudice the ability of the local government to prepare an LCP that is in conformity with Chapter 3. The Land Use Plan for Venice was effectively certified on June 14, 2001. As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act and with the certified Land Use Plan for the area. Approval of the project, as conditioned, will not prejudice the ability of the local government to prepare an LCP that is in conformity with the provisions of Chapter 3 of the Coastal Act.

H. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Section 13096(a) of the Commission's regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). The findings above are incorporated herein by reference.

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 determination letter dated June 4, 2021, 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)** submittal of revised final plans; **2)** development setback and building height; **3)** permeable yard area; **4)** permit compliance; **5)** assumption of risk; **6)** development removal **7)** no future shoreline protective device; **8)** landscaping - drought tolerant, non-invasive plants; **9)** water quality - construction best management practices, and drainage and run-off control practices; **10)** parking and residential density; **11)** local government approval; **12)** bird strike prevention; and **13)** deed restriction. Therefore, the Commission finds that, as conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect of the proposed project, there are no remaining significant environmental impacts within the meaning of CEQA, and the project is consistent with CEQA and the policies of the Coastal Act.

APPENDIX A – SUBSTANTIVE FILE DOCUMENTS

1. City of Venice certified Land Use Plan
2. City of Los Angeles local Coastal Development Permit Case No. DIR-2020-6239-CDP-SPP-MEL dated June 4, 2021.