

CALIFORNIA COASTAL COMMISSION

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



W14c

Filed: 03/15/21
180th Day: 09/11/221
Staff: JD-LB
Staff Report: 07/29/21
Hearing Date: 08/11/21

STAFF REPORT: REGULAR CALENDAR

Application Numbers: 5-20-0696

Applicant: Daniel Fitzgerald

Agent: Rudy Alegre

Location: 5506 Pacific Avenue, Venice, City of Los Angeles, Los Angeles County (APN: 4294-008-030)

Project Description: Replace existing private parking area with new 4-story 5,516 sq.ft. single-family dwelling over habitable basement, roof deck, and attached 3-car garage on a 3,707 sq.ft. lagoon-fronting lot.

Staff Recommendation: Approval with Conditions

SUMMARY OF STAFF RECOMMENDATION

The project site is a lagoon-front lot¹ located approximately 325 feet from Venice Beach in the Ballona Lagoon West Bank subarea. The applicant is proposing to construct a 38-foot high, 5,516 square foot, four-story single-family residence over habitable basement with an attached 3-car garage, a ground floor permeable deck, and a covered roof deck at the fourth floor. Non-invasive landscaping and Low Impact Development (LID) planter boxes for stormwater management is proposed for the project. Proposed grading includes 1,120 cubic yards of cut and export.

¹ The project site is currently used as a private parking lot. In 1987, under the prior owner of the lot, the City of Los Angeles issued a Conditional Use Permit for the establishment, use and maintenance of a private parking area to serve the dwelling located at 1 Yawl Street. There is no additional CDP history for the existing site. Staff is not aware of any City or Commission permit requirements that would require 1 Yawl Street to maintain the existing parking lot at the subject site. Therefore, the proposed project will not leave 1 Yawl Street deficient in parking.

The Commission certified the City's Land Use Plan (LUP) for the Venice segment in 2001. However, the City does not yet have a certified Local Coastal Program (LCP). Therefore, the Chapter 3 policies of the Coastal Act constitute the standard of review for the project, with the certified LUP used as guidance.

The site is designated Single-Family Residential—Low Medium I Density per Policy I.A.4 of the certified Venice LUP. Policy 1.A.4 typically allows for the construction of up to two units per lot, with one unit per 3,000 square feet of lot area (which on this site, would only allow for construction of one unit). Additionally, because the subject site is located adjacent to a lagoon waterway, LUP Policy I.D.1 only allows for the construction of a single-family residence. There are a mix of three to five-story structures consisting mostly of single-family homes and a few multi-family dwellings in the area. The proposed single-family residence will be consistent with the surrounding single-family character of this area of Venice and conform to the Coastal Act community character policies (Sections 30251 and 30253(e)). In addition, the design of the proposed single-family residence, as conditioned, resembles the adjacent homes in mass and scale, is generally consistent with the character of the area, and would not prejudice the City's ability to prepare a certified LCP. The project, as conditioned, minimizes risks to life and property in a hazardous area, consistent with Section 30253 of the Coastal Act.

The LUP requires a 25 ft. lagoon buffer strip setback between the lagoon and the proposed development to provide the space necessary to reduce the negative impacts on the lagoon (and its wildlife) caused by the adjacent residential development. A 15-foot easement within the lagoon buffer strip setback also provides the area necessary for habitat protection and a public access path proposed by the applicant. However, the applicant is proposing a basement that encroaches into the required lagoon buffer strip setback. Thus, **Special Conditions 1 and 3** require the applicant to provide revised plans that remove the proposed portion of the basement from the required lagoon buffer strip setback. To ensure this access is protected, **Special Condition 2** requires the recordation of an offer to dedicate the easement for public access and habitat protection. The revised plans condition also requires removal of the proposed elevator pit and other equipment and pipes that are proposed to extend at or into the current ground water level and requires removal of all non-essential building accessory structures (skylight and elevator equipment) on the roof and minor modifications to the roof profile to ensure consistency with the LUP height requirements.

Therefore, Commission staff recommends **approval** of the coastal development permit application with fifteen (15) special conditions, including: **1)** submittal of final revised plans; **2)** offer to dedicate easement; **3)** lagoon buffer strip setback; **4)** assumption of risk and liability; **5)** development removal; **6)** no future shoreline protective devices; **7)** construction staging; **8)** water quality; **9)** Landscaping **10)** Los Angeles Department of Building and Safety approval; **11)** local government approval; **12)** bird strike prevention; **13)** lighting; **14)** cultural resource treatment and monitoring plan; and **15)** deed restriction.

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

TABLE OF CONTENTS

I. MOTION AND RESOLUTION	4
II. STANDARD CONDITIONS	4
III. SPECIAL CONDITIONS.....	5
IV. FINDINGS AND DECLARATIONS.....	14
A. Project Location and Description.....	14
B. Development and Community Character	14
C. Coastal Hazards	20
D. Biological Resources & Water Quality.....	23
E. Public Access.....	26
F. Cultural Resources.....	28
G. Local Coastal Program	28
H. California Environmental Quality Act.....	29
Appendix A – Substantive File Documents	31
Appendix B – Cultural Resources Significance Testing Plan Procedures.....	32
Appendix C – Neighborhood Survey Tables.....	34

EXHIBITS

[Exhibit 1 – Project Location](#)

[Exhibit 2 – Survey Area Map](#)

[Exhibit 3 – Project Plans](#)

[Exhibit 4 – Basement and Water Levels](#)

I. MOTION AND RESOLUTION

Motion:

*I move that the Commission **approve** Coastal Development Permit Application No. 5-20-0696 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 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 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

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 VEA Architects, and shall be subject to the review and written approval of the Executive Director, and shall be revised to comply with the following:

- a) All portions of the principal structure including the basement, shall be set back a minimum of 25 feet from the inland edge of Esplanade West, or where no Esplanade exists, from the property line which separates the parcel from the west bank of Ballona Lagoon. Ground level permeable decks, landscaping and railing and fences may encroach ten feet into the setback. The remaining 15 feet of the setback area nearest the water (lagoon buffer) shall be protected for public access and habitat restoration. The portion of the proposed basement that currently encroaches into the minimum 25-foot setback is not authorized. The proposed development must conform with all required setbacks. The plans shall include a redesign of the basement that meets the 25-foot minimum set back requirement.
- b) The plans shall include the removal of the elevator pit and other equipment and pipes that extend at or into the current ground water level of approximately 15 to 16 feet below grade, and shall be designed at the same level of the proposed basement.
- c) The plans shall include waterproofing measures including construction of walls designed to resist hydrostatic and/or equivalent fluid pressure, which will be waterproofed by a waterproofing membrane system for below-grade concrete and masonry walls. In addition, a perforated drain pipe will be installed adjacent to the basement walls, and will be wrapped with gravel and filter fabric to capture infiltrating water before it seeps to the foundation and slab.
- d) The final project plans shall incorporate plans and accompanying analysis of potential adaptation measures to minimize hazards to life and property from potential flooding from sea level rise (up to 6.6 feet) including but not limited to, flood proofing the first floor, elevating the structure, sand bags and, if the site is flooded regularly during routine high tides, possibly converting the lowest building level to non-habitable uses. The final project plans shall be in substantial conformance with the plans submitted on March 15, 2021 to the South Coast District Office.
- e) The plans shall be consistent with all recommendations contained in A.G.I. Geotechnical's response letter, dated January 27, 2021. The applicant shall submit plans showing final elevations, floor plans, foundation plans, and section drawings with evidence that an appropriately licensed professional has reviewed and approved all final design and construction plans and certified that each of

those final plans is consistent with all the recommendations specified in the above-referenced report.

- f) The final project plans shall incorporate the following roof changes including the removal of the elevator housing that extends above the 30 foot height limit (within the 60 horizontal feet from the esplanade), the removal of the skylight that extends above the 38 foot maximum height limit and a design of the roof that does not exceed one foot in height for each two additional horizontal feet beyond 60 horizontal feet of the mean high tide of the lagoon or inland side of the Esplanade (whichever is furthest from the water).

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

2) Offer to Dedicate Easement for Public Access and Habitat Protection.

- a) PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, and in accordance with the applicant's offer to do so, the applicant shall execute and record a document, in a form and content acceptable to the Executive Director, irrevocably dedicating to the City of Los Angeles a public access easement for public access and habitat protection in perpetuity. The easement shall include a fifteen-foot (15') wide strip of land over the entire width of the applicant's property as measured from the applicant's eastern (lagoon-side) property line for public access and habitat protection. Such easement shall be located within a fifteen-foot (15') wide strip of land over the entire width of the applicant's property as measured from the applicant's eastern (lagoon-side) property line as shown in Exhibit 3. No development, as defined in Section 30106 of the Coastal Act, shall occur within the easement area except for the following development authorized by this coastal development permit:

- (1) No disturbance of vegetation or development shall occur within the dedicated area, with the exception of landscaping with native vegetation compatible with the preservation of the wetland coastal strand environment, and the development of a Commission-approved pervious public walkway not exceeding five feet in width for public access and passive recreation use. Prohibited development within the dedicated area includes installation of permanent irrigation devices and the planting of non-native vegetation. The City of Los Angeles shall have the right to access the easement to landscape it with native vegetation compatible with the preservation of the wetland coastal strand and dune environment (and to construct a public walkway if approved by the Commission).

The recorded document shall include a legal description and corresponding graphic depiction of the legal parcel subject to this permit and a metes and bounds legal description and a corresponding graphic depiction, drawn to scale,

of the perimeter of the easement area prepared by a licensed surveyor based on an on-site inspection of the easement area.

The public access easement shall be ambulatory, and the easement boundaries and amenities (e.g., path, trail, benches, etc.) shall move inland within the permittee's property, if relocation and/or reconstruction of access amenities in the easement area are necessary to retain their continuity and/or utility. No development, except for landscaping with native vegetation and a Commission-approved pervious public walkway shall occur within the above-identified easement.

- b) The direct dedication shall be recorded free of prior liens and any other encumbrances that the Executive Director determines may affect the interest being conveyed. The document shall provide that the dedication shall not be used or construed to allow anyone to interfere with any rights of public access acquired through use which may exist on the property.
- c) The direct dedication shall run with the land in favor of the People of the State of California, binding successors and assigns of the applicant or landowner in perpetuity.

3) Ballona Lagoon Buffer Strip Setback. For permanent protection of the lagoon, all portions of the dwelling shall be set back a minimum of 25 feet from the inland edge of Esplanade West, or where no Esplanade exists, from the property line which separates the parcel from the west bank of Ballona Lagoon. Ground level permeable decks, landscaping and railing and fences may encroach ten feet into the setback. The remaining 15 feet of the setback area nearest the water (lagoon buffer) shall be protected for public access and habitat restoration pursuant to Special Condition 2 above.

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 flooding and sea-level rise; (ii) that critical mechanical equipment may be required to be relocated above-grade in the future given that flooding is expected to increase with sea level rise in the future; (iii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iv) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; (v) 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; (vi) 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; and (vii) 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 Special Condition 5

and at a minimum designed to be adaptable to hazardous conditions in the future pursuant to Special Condition 1.

5) Development Removal. By acceptance of this permit, the permittee agrees, on behalf of himself 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 basement, and any other improvements if: (1) any government agency has ordered that the structures are not to be occupied due to waves, erosion, storm conditions, liquefaction, landslides, or other coastal hazards, and as may be exacerbated by sea level rise; (2) essential services to the site can no longer feasibly be maintained (e.g., utilities, roads); (3) the development is no longer located on private property due to the migration of the public trust boundary; or (4) removal is required pursuant to LCP policies for sea level rise adaptation planning.

6) Waiver of Rights to Future Shoreline Protective Device.

- a) By acceptance of this permit, the applicant acknowledges that the development authorized by this permit, including the single-family residence, constitutes new development under the Coastal Act, and is therefore not entitled to a shoreline protective device under Section 30235 of the Coastal Act. Thus, by acceptance of this permit, the applicant hereby waives, on behalf of himself and all successors and assigns, any rights to construct such devices that may exist under applicable law.
- b) In addition, the development approval does not permit encroachment onto public trust lands, and 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. Any future encroachment would also be subject to the State Lands Commission's (or other designated trustee agency's) leasing approval.

7) 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 Pacific Avenue.
- b) All construction equipment to be stored overnight shall be stored on-site, outside the street travel-way.
- c) Placement of the on-site dumpster shall incorporate use of a flagman to direct traffic during placement.
- d) The plan shall also identify a disposal site outside of the Coastal Zone for waste materials and recyclable materials.

8) Water Quality. By acceptance of this permit, the applicant agrees to the following:

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

- i) During construction of the proposed project, no runoff, site drainage or dewatering shall be directed from the site into the lagoon or street that drains into the lagoon unless specifically authorized by the California Regional Water Quality Control Board;
- ii) All equipment and materials shall be stored and managed in a manner to minimize the potential of pollutants to enter the lagoon;
- iii) 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;
- iv) All runoff leaving the site shall be directed away from the lagoon and into the City storm drain system.

9) 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 consist only 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 the 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 micro-spray irrigation systems may be used. Other water

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

- c) Prohibited development within the lagoon buffer strip includes but not limited to installation of permanent irrigation devices and the planting of non-native vegetation.
- d) All existing plants within the 25-foot wide protective lagoon buffer strip setback that are native to the Ballona Lagoon habitat area shall be preserved in place. The applicant shall remove by hand all non-native plants from the applicant's property situated within the 25-foot wide protective lagoon buffer, and shall landscape and maintain the protective lagoon buffer with native plants. The native plants shall be installed immediately following completion of grading for the development and prior to or concurrent with commencement of construction of the dwelling authorized under this permit. The use of chemical pesticides, fertilizers, and herbicides is prohibited within the 25-foot wide protective lagoon buffer strip setback.

10) 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.

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 CDP No. 5-20-0696 shall prevail.

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

addressing bird strikes and shall be maintained at a minimum in accordance with manufacturer specifications.

13) Lighting. No lighting associated with the project shall significantly impact adjacent environmentally sensitive habitat in the Grand Canal waterway and Ballona Lagoon. All lighting within the development shall be directed and shielded so that light is directed away from Ballona Lagoon.

14) Cultural Resource Treatment and Monitoring Plan. By acceptance of this permit the applicant agrees to comply with the following:

a) Incorporate the following into the archeological monitoring plan:

- i) Archaeological monitor(s) qualified by the California Office of Historic Preservation (OHP) standards, and a minimum of one (1) Native American monitor from each tribal entity with documented ancestral ties to the area appointed consistent with the standards of the Native American Heritage Commission (NAHC), and the Native American most likely descendent (MLD) when State Law mandates identification of a MLD, shall monitor all project grading, excavation work, site preparation or landscaping activities associated with the approved development. Prior to the commencement and/or re-commencement of any monitoring, the permittee shall notify each archeological and Native American monitor of the requirements and procedures, and shall provide a copy of this special condition, any archaeological monitoring or research plans, past archeological reports, and any other plans required pursuant to this condition and which have been approved by the Executive Director, to each monitor;
- ii) The permittee shall provide sufficient archeological and Native American monitors to assure that all project grading and any other subsurface activity that has any potential to uncover or otherwise disturb cultural deposits is monitored at all times;
- iii) The Native American Monitor(s) shall be required until sterile soils have been reached.
- iv) If an area of tribal cultural deposits is discovered during the course of the project:
- v) All construction and subsurface activities that have the potential to uncover or otherwise disturb tribal cultural deposits in the area of the discovery shall cease within 50 feet of the deposit immediately;
- vi) The permittee shall report all discovered resources as soon as possible, by phone or by email to the Executive Director;
- vii) The professional archeological monitor on-site must contact all affected groups of the Native American Tribe that are not present for on-site monitoring and

notify them of the discovery in order to determine the results of (iv) and (v) below;

viii) Significance testing may be carried out only if acceptable to the affected Native American Tribe, in accordance with the attached "Cultural Resources Significance Testing Plan Procedures" (**Appendix B**) and in consultation with the Tribe. The Executive Director shall, in writing, determine the adequacy of the Significance Testing Plan and if it can be implemented without further Commission action, provide written authorization to proceed. The Significance Testing Plan results, if applicable, along with the project archaeologist's recommendation as to whether the discovery should be considered significant, and the comments of the Native American monitors and MLD when State Law mandates the identification of a MLD, shall be submitted to the Executive Director for a determination. If the Executive Director determines that the discovery is significant, development shall not recommence and the permittee shall submit to the Executive Director a Supplementary Archaeological Plan consistent with Appendix B.

ix) The treatment method or mitigation measure for the discovery shall be prepared in consultation with the Native American monitor(s), and the MLD when State Law mandates the identification of a MLD. The permittee shall inform the Executive Director of the treatment method in writing. In-situ preservation is the preferred treatment and can be achieved through such methods such as, but not limited to, project redesign, capping, and deeding the cultural resource areas in open space. The range of treatment and mitigation measures considered shall not be constrained by the approved development plan.

b) If the Executive Director determines that the discovery is significant or that the treatment method preferred by the affected Native American tribe is in conflict with the approved development plan, the permittee shall seek an amendment from the Commission to determine how to respond to the discovery and to protect both those and any further cultural deposits that are encountered. Development within at least 50 feet of the discovery shall not recommence until an amendment is approved, and then only in compliance with the provisions of such amendment.

15) 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 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. 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 (5506 Pacific Avenue) is an approximately 3,707 square foot lot developed with a private parking lot with Pacific Avenue to the west and Ballona Lagoon to the East. The subject lot is located approximately 325 feet from the sandy beach and 230 feet from the Marina Del Rey entrance channel in the Ballona Lagoon West Bank subarea of Venice in the City of Los Angeles (**Exhibit 1**). The site is zoned RW1-1 for Low Medium I Residential land uses by the City of Los Angeles uncertified zoning code and designated Single-Family Residential—Low Medium I Density by the certified Venice LUP.

In 1987, under the prior owner of the lot, the City of Los Angeles issued a Conditional Use Permit² for the establishment, use and maintenance of a private parking area to serve the dwelling located at 1 Yawl Street. There is no additional CDP history for the existing site. Staff is not aware of any permit requirements that would require 1 Yawl Street to maintain the existing parking lot at the subject site. Therefore, the proposed project will not leave 1 Yawl Street deficient in parking.

The applicant proposes to replace the existing surface parking area and construct a new four-story, 38-foot-high, 5,516 square-foot single-family dwelling with a habitable basement, attached three-car garage and covered roof deck (**Exhibit 3**). The proposed development includes a ground-level deck with permeable paving extending approximately 10 feet beyond the development. The deck encroachment is allowed under the LUP setback requirement. The proposed landscape improvements include non-invasive and low water use plants. Low Impact Development (LID) planter boxes for stormwater management will collect water from the catch basins from the ground floor deck and from a downspout from the roof sent to a sump pump. All other overflow and discharge will be directed to the permeable driveway and curb drain, away from Ballona Lagoon. The project requires 1,120 cubic yards of grading for the basement excavation of which the cut will be exported outside of the coastal zone to a disposal site at the Calabasas landfill. No fill is proposed.

B. DEVELOPMENT AND COMMUNITY CHARACTER

Section 30250 of the Coastal Act states, in relevant part:

- (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

² ZA-87-0202-CUZ

are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.

Section 30251 of the Coastal Act states:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

Section 30253 of the Coastal Act states, in relevant part:

(e) 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 LUP Policy I. A. 4., Single-Family Residential– Low Medium I Density, states, in relevant part:

c. Ballona Lagoon West Bank Properties Between Topsail and Via Marina

Use: Single-family dwelling / one unit per lot

Density: One unit per 3,000 square feet of lot area.

Lagoon Buffer: No development other than public access improvements and habitat restoration shall be permitted within 15 feet of the lot line located nearest the water. Easements shall be dedicated to the City as a condition of development to protect the lagoon buffer for public access improvements and habitat restoration.

Setback: All portions of a dwelling, except for a ground level deck (no more than 18" high), shall be set back a minimum of 25 feet from the inland edge of Esplanade West, or where no Esplanade exists, from the property line which separates the parcel from the west bank of Ballona Lagoon. Ground level permeable decks, landscaping and railing and fences may encroach ten feet into the setback. The remaining 15 feet of the setback area nearest the water (lagoon buffer) shall be protected for public access and habitat restoration.

Height: Not to exceed 30 feet within 60 horizontal feet of the mean high tide of the lagoon or inland side of the Esplanade (City right-of-way), whichever is furthest from the water. Beyond 60 horizontal feet, one additional foot in height is permitted for each two additional horizontal feet to a maximum height of 38 feet. No portion of any structure (including roof access structures, roof deck railings and architectural features) shall exceed the 30-foot height limit within 60 horizontal feet of the mean high tide line of Ballona Lagoon or the inland side of the Esplanade, whichever is furthest from the water. 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).

Fill: No fill may be placed in the lagoon. No fill may be placed in the lagoon buffer except for the minimum amount necessary for habitat restoration and public access.

Venice Certified LUP Policy I. D. 1., Canals and Ballona Lagoon Waterways, states in relevant part:

...Adjacent Use/Development: The only permitted development adjacent to the canals and lagoon shall be habitat restoration, single-family dwellings, public parks and walkways, subterranean or surface public parking lots, maintenance activities and emergency repairs. Surface public parking lots shall be permitted only where sufficient access and roadway capacity exists to accommodate such parking. New construction along the Canals, and Ballona Lagoon shall comply with standards for setbacks, noise barriers, landscape plan, pervious surfacing with drainage control measures to filter storm run-off and direct it away from environmentally sensitive habitat areas, buffer areas in permanent open space, land dedication for erosion control, and wetland restoration including off-site drainage improvements. For more details refer to the provisions contained in Policy Group I.A., Residential Land Use and Development Standards, and Policies IV.C.1 and IV.C.2, Stormwater Runoff and Circulation.

Venice Certified LUP 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 LUP Policy I. E. 2., Scale, states, in relevant part:

New development within the Venice Coastal Zone shall respect the scale and character of community development. Buildings which are of a scale compatible with the community (with respect to bulk, height, buffer and setback) shall be encouraged. All new development and renovations should respect the scale, massing, and landscape of existing residential neighborhoods...

Venice Certified LUP 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.

Residential Density

Section 30250 of the Coastal Act requires concentration of development in existing developed areas able to accommodate it. This reduces vehicle miles traveled (required by Section 30253(d) listed in Section C below), preserves open spaces that might otherwise be developed, provides more opportunities for people to live near the places where they work and recreate, and thereby, reduces impacts to coastal resources. The Venice LUP contains building restrictions and density limits specific to individual areas and subareas of Venice, designed to protect community character and minimize impacts to coastal resources. The proposed construction of a single-family residence on the vacant lot will require no demolition of existing units, and will produce an increase in housing density, of one unit, consistent with LUP I.A.4. Regardless, LUP Policy I. D. 1. restricts residential uses adjacent to Ballona Lagoon to single-family residences. Thus, the certified LUP, which serves as guidance for Commission review, allows for construction of a single-family residence.

Other Coastal Act policies discussed further below, such as the coastal hazards policies in Section 30253, align with housing density appropriate for particular locations.

As proposed and conditioned, the development concentrates new development in an already developed area and is consistent with the allowable density in the LUP. As conditioned, the development conforms with Section 30250 and 30253(d) of Chapter 3 of the Coastal Act.

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 to preserve the character of the Venice area.

For this area, the certified Venice LUP specifies that the maximum height of any structure within 60 horizontal feet of the inland side of the Esplanade or mean high tide of the lagoon (whichever is furthest from the water) shall not exceed 30 feet. Beyond 60 horizontal feet from the mean high tide or inland side of Esplanade, one additional foot in height is permitted for each two additional horizontal feet to a maximum height of 38 feet. Roof deck railings shall not exceed 42-inches above the height limit. No portion of any structure (including roof access structures, roof deck railings and architectural features) shall exceed the height limit within 60 horizontal feet of the mean high tide line of Ballona Lagoon or the inland side of the Esplanade, whichever is furthest from the water. Chimneys, ducts, and other accessory structures essential for building function may exceed the specified height limit by five feet.

The height of the proposed structure is not consistent with the specifications of the certified LUP described above and will reach a maximum height of 38 feet at approximately 73 horizontal feet from the inland edge of the Esplanade (Exhibit 3). A

height of 38 feet would require a minimum of 76 horizontal feet. In addition, only accessory structures essential for building function may exceed the height limit by five feet. In this case, the proposed skylight and elevator equipment housing, non-essential building accessory structures, exceed the maximum height limits by approximately two feet. Therefore, **Special Condition 1** requires final revised plans that remove the skylight, elevator equipment housing, and ensure the building height is consistent with the LUP. Therefore, the Commission finds that the proposed project, as conditioned, conforms to the Venice LUP and Section 30251 of the Coastal Act. Thus, the scenic and visual qualities of the area will not be negatively impacted by the proposed project.

Building Setbacks

Buildings in Venice are required to be set back from waterways to enhance visual quality and public recreation, protect marine resources, and to provide an on-site area for water percolation. In this case, the Ballona Lagoon West Bank subarea requires a minimum 25-foot lagoon buffer setback from the property line. No building extensions, including stairs and balconies, are permitted to be placed in or over the required setback apart from permeable decks, landscaping, railings or fences. The above grade portion of the residence respects the 25-foot minimum lagoon buffer setback. However, a portion of the basement extends into the setback, inconsistent with the LUP. Thus, **Special Condition 1** requires the applicant to submit revised final plans that eliminate the portions of the basement that encroach into the required setback. This will likely reduce the overall size of the proposed residence; thus, the applicant will need to provide updated area calculations that reflect the changes provided in the revised plans. In addition, **Special Condition 3** is required to memorialize the setback requirements along the lagoon-facing portion of the site, which will be recorded in a deed restriction required by **Special Condition 15**.

Mass and Scale

Staff reviewed 21 structures along Pacific Avenue and found a mix of three to five-story single-family homes and multi-family dwellings (**Exhibit 2**). The subject lot is at the southern end of a row of 16 multi-story single-family residences, the majority of which were built in the 1980s to the mid-2000s, and 5 multi-story multi-family residences, which were built in the 1970s and 1980s. These lots average approximately 3,800 square feet in size and are all located adjacent to the Ballona Lagoon West Bank area.

In terms of the mass and scale, the proposed project, as conditioned, conforms with all applicable development standards in the Venice LUP and with four levels, multiple decks facing Pacific Avenue, and a fourth-floor covered roof deck, is similar in height and design to the other residential structures located along this portion of Pacific Avenue. The proposed development also includes a front yard setback of 10 feet from the Pacific Avenue property line, side yard setbacks of 4 feet, and a Ballona Lagoon Buffer setback of 25 feet from the lagoon-front property line (above grade). Thus, the proposed development is compatible with the mass and scale of the structures within the survey area.

Community Character

Venice LUP Policy I. E. 2 requires new development to respect both the scale and character of the community development. Policy I. E. 3 encourages varied styles of architecture 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. 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.

Here, as proposed and conditioned, the project is consistent with the density, height, and setback requirements of the LUP and is not anticipated to have an adverse cumulative effect regarding the character of this neighborhood, as further analyzed below.

Cumulative Effects

To evaluate the potential cumulative impacts of the proposed residence, 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. To that end, Commission staff reviewed the lagoon-fronting residential developments on the subject block, Pacific Avenue, extending from Via Marina south of the subject site to Topsail Street to the north of the site (Appendix C). This survey included the 21 currently existing multi-story, single-family and multi-family residences on Pacific Avenue and considered the year of Commission or City approval for redevelopment, lot size, habitable residence area, and height. For properties which have not received Commission or City approval for redevelopment since 2001, the survey considered the year of residence construction, lot size, and current habitable residence area. Height is not included on the mapping tool used to obtain this information, ZIMAS, and thus wasn't included for the properties that have not redeveloped subsequent to 2001.

The information analyzed by Commission staff shows that many single-family residences within the subject block have not been redeveloped since their initial construction. The information does not suggest a trend in single-family residences being redeveloped with larger homes. Rather, it appears that the homes on Pacific Avenue have largely retained their original mass and scale since certification of the LUP in 2001. Furthermore, in one Commission action after 2001, it approved a home of 9,000 square feet, but this home had a larger lot size,³ unlike several of the existing nearby residences⁴. Aside from this home, other Commission actions approved new homes that were similar in size and scale to several nearby residences, and these approvals, taken together, have not produced an adverse cumulative effect on the existing community character or visual resources of the survey area.

Table 1 indicates three Commission actions since 2001 for approving new development on vacant lots with heights ranging between 30 to 38 feet and living areas from 3,942 square feet to 9,000 square feet. Table 2 demonstrates that the proposed development

³ 5,042 square foot lot.

⁴ The average lot size in the survey area is 3,784 square feet.

exceeds the average square footage of homes that have not been redeveloped after 2001 within the survey area. Two properties, however, built in 1971 and 1988, that have not been redeveloped after 2001, do have similar lot sizes to the subject 3,707 square foot lot, and have living areas exceeding 5,000 square feet.

With regard to potential cumulative effects of the current project, it is true that the size of the proposed residence (5,516 square feet) is larger than the average of the 21 structures in the survey area (4,152 square feet). However, the 1,789 square foot basement of the proposed development would be entirely below grade and not visible, and thus the size of the home would appear to be 3,727 square feet of floor area above grade, similar to other homes in the area. Additionally, the height of the proposed residence, as conditioned, is consistent with the requirements of the certified LUP and similar to other residences in the area. As discussed above, the proposed development conforms to the mass, scale, height, setbacks, and design of the surrounding homes. Therefore, as proposed and conditioned, the project will not have any negative cumulative effects on community character or visual resources of the subject area. Regarding potential future cumulative effects, staff is not aware of any other future projects within the subject area.

In summary, the project as proposed and conditioned is unlikely to contribute to any cumulative effect on community character, mass and scale, and visual resources of the surrounding area in combination with past and potential future Commission actions. Any future improvements other than repair and maintenance require an amendment or new coastal development permit due to the location and proximity to the adjacent wetland habitat. Thus, the project conforms with the visual resource and community character policies of Chapter 3 of the Coastal Act.

C. COASTAL HAZARDS

Coastal Act Section 30253 states, in relevant 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 miles traveled.
- (e) Where appropriate, protect special communities and neighborhoods that, because of their unique characteristics, are popular visitor destination points for recreational uses.

On November 7, 2018, the Commission adopted a scientific update to its Sea Level Rise Policy Guidance. This guidance document serves as Interpretive Guidelines to help ensure projects are designed and built in a way that minimizes risks to the development

associated with sea level rise 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.”

Using the methodology recommended in the 2018 Sea Level Rise (SLR) Guidance, the projected SLR ranges for the proposed project are tailored to the nearest NOAA tide gauge, projected lifespan of the project, and risk aversion scenario. The projected lifespan for residential development is typically 75 years. Risk aversion scenario selection depends on the risk tolerance of different types of development. For example, based on the OPC SLR Guidance, a critical infrastructure asset, such as a hospital, should be analyzed with high risk aversion, and would use a more precautionary range of probabilities of amounts of SLR, while a parking lot or a bike path should be analyzed with lower risk aversion. In this case, the risk aversion scenario recommended by both the Commission and OPC Guidance for residential projects is medium-high, as the likelihood that sea level rise meets or exceeds this value is low, and thus represents a precautionary projection that should be used for less adaptive projects such as a residential structure. The nearest NOAA tide gauge to Venice is located in Santa Monica. For this area, the expected medium-high risk SLR projection for year 2090 and 2100 are 5.3 feet and 6.7 feet, respectively.

According to CoSMoS SLR modeling projections of flooding due to 6.6 feet of SLR and a 100-year storm, the subject site is not impacted from flooding above natural grade. However, A.G.I. Geotechnical, Inc. submitted a response on January 27, 2021 to staff’s request for a SLR report and ground water analysis. Based on A.G.I.’s response, the subject site has a historical water level of 5 feet below grade and the current water level rests around 15 to 16 feet below grade. The proposed development at the foundation’s mat slab is 12 feet below grade with the elevator pit reaching the current water level of approximately 15 to 16 feet. According to A.G.I, should 6.6 feet of SLR occur, the water elevation would reach 8.4 feet below grade (**Exhibit 4**). Therefore, the basement of the proposed development would become submerged due to a rise in the water table caused by sea level rise.

Projecting sea level rise at any one location is not an exact science, and coastal areas are inherently unpredictable, especially when making predictions about conditions in 75-100 years. Therefore, to plan for potential SLR-related flooding, the geotechnical recommendation is to seal the mat foundation and all basement walls for additional water proofing for their full width and height as well as design the basement walls for specific Equivalent Fluid Pressures (EFPs) at various depths. **Special Condition 1** requires the project applicant to follow the geotechnical recommendations for water proofing and EFP designs and ensures the inclusion of these protective project elements in the revised plans. **Special Condition 1** also requires the applicant provide revised plans that prohibit the design of the elevator pit and other equipment from reaching the current water levels.

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 1, 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.

Given the risks and vulnerabilities the site faces with regard to flood hazards for the life of the development, **Special Conditions 5 and 6** require the applicant to waive the 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 feasible measures that could make the structure suitable for habitation or use without the use of shoreline protective devices.

Special Condition 10 requires the applicant to obtain preliminary review and approval of revised plans by the LADBS to address any non-coastal resource related concerns with the revised plans, which would require the applicant to return to the Commission for an amendment to this CDP. **Special Condition 11** requires the applicant to comply with local government requirements, which include details relating to the maintenance of appropriate drainage and permeable area on-site. To ensure that any prospective future owners of the property are made aware of the applicability of the conditions of this permit, **Special Condition 15** requires the applicant to record a deed restriction acknowledging that, pursuant to the subject permit (CDP No. 5-20-0696), the Coastal Commission has authorized development on the subject property subject to the terms and 15 Special Conditions of this permit that restrict the use of the subject property. This condition will additionally provide notice of potential hazards of the property, the risks of flooding, and other sea level rise impacts towards the end of the development's economic life.

Section 30253 of the Coastal Act requires siting new development such that it minimizes risks to life and property in flood hazard areas, assures stability and structural integrity, and does not require the construction of protective devices that substantially alter natural landforms. Concurrently, and as discussed above, the Coastal Act also requires concentrating development in existing developed areas able to accommodate it (as required by Section 30250), which provides more opportunities for people to live near places they work and recreate, such as the beach. This reduces vehicle miles traveled and preserves open spaces that might otherwise be developed, thereby reducing impacts to coastal resources. Overall, these Coastal Act policies support maintaining housing density in safe areas to assure the stability and structural integrity of development. In this case, the project site may be vulnerable to SLR impacts towards the end of its useful life. As conditioned, the project can be found to be consistent with

Section 30253 of the Coastal Act regarding the siting of development in hazardous locations.

D. 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.

Section 30240 of the Coastal Act states:

- a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas.
- b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.

Policy I.A.4.c of the certified Venice LUP states:

I.A.4.c. Ballona Lagoon West Bank Properties Between Topsail and Via Marina

Setback: All portions of a dwelling, except for a ground level deck (no more than 18" high), shall be set back a minimum of 25 feet from the inland edge of Esplanade West, or where no Esplanade exists, from the property line which separates the parcel from the west bank of Ballona Lagoon. Ground level permeable decks, landscaping and railing and fences may encroach ten feet into the setback. The remaining 15 feet of the setback area nearest the water (lagoon buffer) shall be protected for public access and habitat restoration.

Ballona Lagoon is in the Silver Strand/Marina Peninsula area of Venice in the City of Los Angeles, adjacent to the Marina del Rey entrance channel (Exhibit #2). The lagoon is an artificially confined tidal slough connecting the Venice Canals to the Pacific Ocean via the Marina del Rey harbor entrance channel and County-controlled tidal gates. The lagoon is 150-200 feet wide and contains approximately sixteen acres of open water and wetland area. The waterway is a critical foraging habitat area for the California least tern and many other species. The banks of the lagoon are remnants of coastal sand dunes, and the native vegetation consists of coastal dune plants on the lagoon bank, with wetland plants near the water. Beds of (non-native) ice plant cover large sections of the west bank. Ballona Lagoon is an Environmentally Sensitive Habitat Area (ESHA) protected by the above-stated Coastal Act policies and certified LUP policies. Unfortunately, the wetland and upland habitat in and adjacent to Ballona Lagoon (i.e., salt marsh, sidebanks, mudflats, and marine habitat) is negatively affected by the lagoon's proximity to human activity, urban runoff, noise, lighting and the abundance of invasive non-native vegetation. Despite this, Ballona Lagoon provides habitat for a variety of benthic invertebrates, fish and shorebirds [See Biota of the Ballona Region, Los Angeles County Natural History Museum Foundation, Edited by Ralph W. Schreiber, 1981]. Ballona Lagoon is surrounded by a highly urbanized area of single and multiple-family residential development.

The proposed development could have adverse impacts including the increase in human activity that will occur on the project site during and subsequent to construction, the increase in runoff from the proposed building and landscaped yard areas and impacts from increased noise and lighting. Each of these impacts can have an adverse effect on the biota of the wetland and water areas of the lagoon. Particularly, construction of a basement within the setback area will have a negative impact on the quality of the wetland. The closer the impact is to the resource, the more adverse effect the impact will have on the resource. Therefore, the proposed development must be setback from the wetland and water to mitigate the adverse impacts, and consistent with Policy I.A.4.c. the approval is conditioned to provide revised plans (Special Condition 1) indicating conformance with this setback policy. In addition, **Special Condition 13** requires the applicant to submit a lighting plan. The lighting associated with the proposed project shall not significantly impact the adjacent ESHA. Therefore, all lighting within the development shall be directed and shielded so that light is directed away from Ballona Lagoon. Lastly, **Special Condition 1** requires the applicant to remove the elevator equipment and other equipment and pipes that are proposed to extend at or into the current ground water level to prevent impacts to existing water quality consistent with Section 30231.

Ballona Lagoon Buffer Strip Setback

Building limitations, like the building setback requirement and the building height limit, are necessary to prevent building encroachments from negatively affecting the bird flyway over the lagoon and its banks. Ballona Lagoon is utilized by many bird species, including the federally and state listed endangered California least tern and Brown pelican. The building limits protect against a "canyon effect" that could negatively impact the visual cone of the ESHA and thus bird flight and foraging patterns. Many species of birds will not forage or roost in an area where their cone of vision is limited or obstructed.

Predators can utilize obstacles in the animal's cone of vision, and more cautious species will avoid the area all together.

The proposed development has a potential for a discharge of polluted runoff from the project site into coastal waters. There are an estimated 375 residential lots adjacent to the Venice Canals and Ballona Lagoon, most of which have been developed⁵. The amount of polluted runoff these homes could introduce to the lagoon without the required setbacks would have extreme cumulative effects on the water quality and biological resources of Ballona Lagoon. These setbacks will help to protect and improve water quality of the lagoon and to avoid adverse impacts on avian flight patterns and the cone of vision over the ESHA. As discussed above, the proposed project is required to be set back 25-feet from the lagoon-front property line. **Special Condition 3** ensures that the lagoon buffer setback is maintained.

Water Quality

The project site is located adjacent to Ballona Lagoon which is a saltwater system hydrologically connected to the Pacific Ocean via the Marina del Rey inlet tide gate, the Venice Canals, 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. **Special Condition 7** ensures that all construction materials, equipment, or debris be placed to avoid entering sensitive habitat or the lagoon. This condition also includes water quality measures to be implemented on-site. To avoid water quality impacts during construction, the Commission additionally imposes **Special Condition 8**, which requires the applicant to follow construction best management practices that prevent construction activities and construction related debris from entering and impacting the lagoon waters.

Landscaping

The applicant is not proposing to use any invasive species in the landscape design, which minimizes the potential spread of invasive species through the lagoon area; however, **Special Condition 9** 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 9** requires the applicant to utilize primarily drought-tolerant plant species and water conservative irrigation systems for any new landscaping.

Bird Strike Prevention

The applicant's proposal does not include the installation of glass guardrails on the lagoon-fronting side of the structure. However, if the railings were to be modified to glass at some point in the future, the railings would have the potential to impact birds that forage in the lagoon and fly in the project vicinity. Additionally, the glass windows included on the lagoon-fronting side of the structure may also impact avian activity in the area. Thus, **Special Condition 12** is imposed to use bird-strike prevention techniques in

⁵ <http://voiceofthecanals.org/our-community.html>

the design of windows and glass guardrails to be maintained through the life of the development.

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 the use of post-construction BMPs 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. 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.

Venice LUP Policy I.A.4, Single-Family Dwelling - Low Medium I Density, states, in relevant parts:

Accommodate the development of single-family dwelling units in areas designated as "Single-family Residential" and "Low Medium I 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...

c. Ballona Lagoon West Bank Properties Between Topsail and Via Marina

Lagoon Buffer: No development other than public access improvements and habitat restoration shall be permitted within 15 feet of the lot line located nearest the water. Easements shall be dedicated to the City as a condition of development to protect the lagoon buffer for public access improvements and habitat restoration.

Venice LUP Policy II.A.3, Parking Requirements, states, in relevant parts:

The parking requirements outlined in the following table shall apply to all new development, any addition and/or change of use...

RESIDENTIAL USES: Single-family dwelling

OFF-STREET PARKING REQUIRED: 2 spaces; except projects in the Silver Strand and Venice Canals Residential Subareas, where three spaces are required.

The dedicated easements in this area form a contiguous lagoon buffer strip between the waters of the lagoon and the residential development on both banks. The lagoon buffer strip provides the space necessary to reduce the negative impacts on the lagoon (and its wildlife) caused by the adjacent residential development. The lagoon buffer strip also provides the area necessary for a public access path along the bank of the lagoon. To ensure this access is protected, and as offered by the applicant, **Special Condition 2** requires the recordation to dedicate an easement for public access and habitat protection granted to the City of Los Angeles. This condition will ensure the maintenance of the contiguous lagoon buffer strip, thus avoiding the potential cumulative effects of future encroachment by proposed residences.

The public access policies of the Coastal Act ensure 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 limited on-street parking in the immediate vicinity of the project, Venice LUP Policy II.A.3 requires single-family residences to provide two parking spaces; this requirement is satisfied by the proposed three-car garage accessed from Pacific Avenue.

Regarding the construction staging for the project, construction 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 are minimized. Therefore, **Special Condition 7** 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 travel-way. Placement of an on-site dumpster shall incorporate use of a flagman to direct traffic during placement.

Therefore, no long-term, post-construction impacts are anticipated for existing coastal access and nearby recreational facilities. Moreover, the three on-site parking spaces

satisfy the certified LUP on-site parking requirements for a single-family residence. As proposed, and conditioned, the development conforms to Sections 30210 and 30214 of the Coastal Act.

F. CULTURAL RESOURCES

Section 30244 of the Coastal Act states:

Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.

As described above, the project involves 1,120 cubic yards of cut for the construction of a basement. On, April 30, 2021 staff reached out to tribal governments in the area and on May 19, 2021 a representative of the Gabrieleno Band of Mission Indians – Kizh Nation responded, however, due to an emergency has been unable to schedule a consultation. The project site is near the Ballona Lagoon, a culturally sensitive area.

In past permit actions on projects located in this area, the Commission has required applicants to monitor all grading and construction activities and required appropriate recovery and mitigation measures regarding excavation, reporting and curation. To ensure that the project is consistent with the protection of any found cultural deposits, the Commission imposes **Special Condition 14** requiring monitoring.

Therefore, as conditioned, the proposed project is consistent with Section 30244 of the Coastal Act which requires reasonable mitigation measures be provided to offset impacts to archaeological resources.

G. LOCAL COASTAL PROGRAM

Coastal Act Section 30604(a) states, in relevant part:

(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).

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 to Chapter 3 policies of the Coastal Act:

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. 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. The project proposes three onsite parking spaces, which is three spaces short of the six parking spaces required pursuant to LUP Policies II.A.3 and II.A.4. However, the project is located in an area that is well-served by public transportation. Moreover, the applicant has proposed a parking and transportation plan that would maintain three parking spaces onsite, maintain eight bicycle spaces, and provide transit passes to the retail shop employees in order to reduce onsite parking demand. Therefore, the project is not expected to have an adverse impact on public access. Approval of the project, only as conditioned by the Commission, 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, either individually or cumulatively with other approved developments in Venice.

H. CALIFORNIA ENVIRONMENTAL QUALITY ACT

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 staff report dated September 10, 2020, the City determined that the proposed development was categorically exempt from CEQA requirements pursuant to CEQA Guidelines Sections 15303 (Class 3).

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, either individual or cumulative, and complies with the applicable requirements of the Coastal Act to conform to CEQA.

Appendix A – Substantive File Documents

1. City of Venice Certified Land Use Plan.
2. City of Los Angeles Coastal Development Permit Case No. DIR-2019-5748-CDP-SPP-MEL, dated September 10, 2020.

Appendix B – Cultural Resources Significance Testing Plan Procedures

- A. An applicant seeking to recommence construction following discovery of the cultural deposits shall submit a Significance Testing Plan for the review and approval of the Executive Director. The Significance Testing Plan shall identify the testing measures that will be undertaken to determine whether the cultural deposits are significant. The Significance Testing Plan shall be prepared by the project archaeologist(s), in consultation with the Native American monitor(s), and the Most Likely Descendent (MLD) when State Law mandates identification of a MLD. The Executive Director shall make a determination regarding the adequacy of the Significance Testing Plan within 10 working days of receipt. If the Executive Director does not make such a determination within the prescribed time, the plan shall be deemed approved and implementation may proceed.
1. If the Executive Director approves the Significance Testing Plan and determines that the Significance Testing Plan's recommended testing measures are de minimis in nature and scope, the significance testing may commence after the Executive Director informs the permittee of that determination.
 2. If the Executive Director approves the Significance Testing Plan but determines that the changes therein are not de minimis, significance testing may not recommence until after an amendment to this permit is approved by the Commission.
 3. Once the measures identified in the significance testing plan are undertaken, the permittee shall submit the results of the testing to the Executive Director for review and approval. The results shall be accompanied by the project archeologist's recommendation as to whether the findings are significant. The project archeologist's recommendation shall be made in consultation with the Native American monitors and the MLD when State Law mandates identification of a MLD. The Executive Director shall make the determination as to whether the deposits are significant based on the information available to the Executive Director. If the deposits are found to be significant, the permittee shall prepare and submit to the Executive Director a supplementary Archeological Plan in accordance with subsection B of this appendix and all other relevant subsections. If the deposits are found to be not significant, then the permittee may recommence grading in accordance with any measures outlined in the significance testing program.
- B. An applicant seeking to recommence construction following a determination by the Executive Director that the cultural deposits discovered are significant shall submit a supplementary Archeological Plan for the review and approval of the Executive Director. The supplementary Archeological Plan shall be prepared by the project archaeologist(s), in consultation with the Native American monitor(s), the Most Likely Descendent (MLD) when State Law mandates identification of a

MLD, as well as others identified in the special condition. The supplementary Archeological Plan shall identify proposed investigation and mitigation measures. The range of investigation and mitigation measures considered shall not be constrained by the approved development plan. Mitigation measures considered may range from in-situ preservation to recovery and/or relocation. A good faith effort shall be made to avoid impacts to cultural resources through methods such as, but not limited to, project redesign, capping, and placing cultural resource areas in open space. In order to protect cultural resources, any further development may only be undertaken consistent with the provisions of the Supplementary Archeological Plan.

1. If the Executive Director approves the Supplementary Archeological Plan and determines that the Supplementary Archeological Plan's recommended changes to the proposed development or mitigation measures are de minimis in nature and scope, construction may recommence after the Executive Director informs the permittee of that determination.
 2. If the Executive Director approves the Supplementary Archeological Plan but determines that the changes therein are not de minimis, construction may not recommence until after an amendment to this permit is approved by the Commission.
- C. Prior to submittal to the Executive Director, all plans required to be submitted pursuant to this special condition, except the Significance Testing Plan, shall have received review and written comment by a peer review committee convened in accordance with current professional practice that shall include qualified archeologists and representatives of Native American groups with documented ancestral ties to the area. Names and qualifications of selected peer reviewers shall be submitted for review and approval by the Executive Director. The plans submitted to the Executive Director shall incorporate the recommendations of the peer review committee. Furthermore, upon completion of the peer review process, all plans shall be submitted to the California Office of Historic Preservation (OHP) and the NAHC for their review and an opportunity to comment. The plans submitted to the Executive Director shall incorporate the recommendations of the OHP and NAHC. If the OHP and/or NAHC do not respond within 30 days of their receipt of the plan, the requirement under this permit for that entities' review and comment shall expire, unless the Executive Director extends said deadline for good cause. All plans shall be submitted for the review and approval of the Executive Director.

Appendix C – Neighborhood Survey Tables

Table 1. Past Commission actions on structures within the subject block since certification of the LUP in 2001.

Address	Action No.	Approval Year	Height (ft.)	Lot Size (sq. ft.)	Square Footage (original)	Square Footage (new)*
5506 Pacific Ave (proposed)	5-20-0696	N/A	38	3,707	vacant	5,516
5102 Pacific Ave ⁶	5-02-133 & 5-02-133-A2	2002	38	5,042	vacant	9,000
5106 Pacific Ave ⁷	5-01-306	2001	38	3,647	vacant	3,942
5110 Pacific Ave ⁸	5-01-307	2001	38	3,648	vacant	3,942
Average Square Footage (Original/New):					vacant	5,628
Average Height (New):					38	

*Source: Coastal Commission

Table 2. Existing structures currently within the subject block that have not obtained permits or exemptions for redevelopment⁹ from either the City or the Commission since certification of the LUP in 2001.

Address	Year Built ¹⁰	Lot Size (sq. ft.)	Square Footage
5414 - 5418 Pacific Ave	2002	3,857	3,890
5406 Pacific Ave	1999	3,688	3,978
5410 Pacific Ave	1999	3,693	3,758
5518 Pacific Ave	1998	3,862	4,538
5202 Pacific Ave	1991	3,817	4,336
5206 Pacific Ave	1991	3,659	4,236
5210 Pacific Ave	1991	3,082	3,657
5502 Pacific Ave	1991	3,865	4,321
5310 Pacific Ave	1989	3,680	4,511

⁶ Related City Action No. DIR-2002-468-SPP, ZIMAS reports building area is 8,462 square feet

⁷ Related City Action No. DIR-2001-2784-SPP, ZIMAS reports building area is 6,092 square feet

⁸ Related City Action No. DIR-2001-2786-SPP, ZIMAS reports building area is 6,161 square feet

⁹ An increase internal floor area or height.

¹⁰ Different than approval year as seen in Table 1.

5-20-0696 (Fitzgerald)

5314 Pacific Ave	1989	3,680	4,552
5318 Pacific Ave ¹¹	1989	3,863	4,856
5302 Pacific Ave	1988	3,833	5,170
5306 Pacific Ave	1988	3,675	4,545
5114 Pacific Ave**	1986	3,631	1,549
5214 Pacific Ave**	1986	3,395	3,782
5510 Pacific Ave**	1979	3,711	1,772
5516 Pacific Ave**	1979	3,713	1,649
5218 Pacific Ave**	1971	3,818	5,216
Total Number of Structures in Table:			18
Average Square Footage:			3,906

*Source: ZIMAS

** Multi-family structure for reference.

¹¹ City action was taken (DIR-2017-949-VSO: remodel of existing single-family dwelling) but it is unclear what improvements were made to the home.