

CALIFORNIA COASTAL COMMISSION

South Coast District Office
301 E Ocean Blvd., Suite 300
Long Beach, CA 90802-4830
(562) 590-5071



F15a

Filed: 12/02/22
180th day 05/31/23
Staff: BW-LB
Staff Report: 04/21/23
Hearing Date: 05/12/23

STAFF REPORT: MATERIAL AMENDMENT

Application No.: 5-21-0558-A1
Applicant: Andrea Michaelson
Location: 212 Sherman Canal, Venice, City of Los Angeles, Los Angeles County (APN: 4227-016-016)

Description of Original Project Approved Pursuant to Permit No. 5-21-0558:

Approval of the construction of a 2-story, approximately 30-ft. high, 1,865 sq. ft. single-family home (existing home)¹; the demolition of the existing home; and construction of a new 3-story, 30 ft. high, 4,382 sq. ft. single-family home, 317 sq. ft. roof deck, attached 541 sq. ft. two-car garage and one additional parking space onsite, and an underground 800-gallon cistern in the front yard.

Description of Pending Permit Amendment No. 5-21-0558-A1: Reduce the size of the new home resulting in a 2-story, 29 ft. 4 in. high, 2,598 sq. ft. single-family residence, 820 sq. ft. roof deck, an approximately 136 sq. ft. rooftop greenhouse, an attached 541 sq. ft. two-car garage and one additional parking space onsite, and an underground 800-gallon cistern in the front yard.

Staff Recommendation: Approval with conditions.

¹ The staff report for CDP 5-21-0558 mistakenly stated that the existing home was 18 feet high and 1,672 square feet.

SUMMARY OF STAFF RECOMMENDATION

The subject site is a 3,518 square foot canal-front lot located approximately 0.2 miles from the beach in the Venice Canals subarea, and is currently developed with a two-story, approximately 30-foot high, 1,865 square foot single-family residence with an attached two-car garage and one additional unenclosed space. The site is designated Single Family Residential – Low Medium Density I in the certified Venice Land Use Plan (LUP) and zoned RW1-1-O by the City zoning code. The project site is located between the sea and the first public road. Thus, the site is located within the dual permit jurisdiction area of the coastal zone. The existing home was built by a previous owner in 1977, when a coastal development permit (CDP) would have been required. However, the applicant did not provide any evidence that a CDP for the existing home was obtained, nor could Commission staff find any such evidence.

On April 5, 2021, the City of Los Angeles approved a local CDP (Case No. DIR-2020-6239-CDP-SPP-MEL) for demolition of the existing home at the site and construction of a new home on the site. No appeals of the local action were filed with the Commission.

On December 15, 2021, the Commission approved the “dual” CDP 5-21-0558 for the construction and demolition of the existing home, and the construction of a new three-story, 30-foot high, 4,382 square foot single-family residence with a 317 square foot roof deck, attached 541 square foot two-car garage and one additional parking space onsite, and an underground 800-gallon cistern in the front yard.

In response to updated flood risk data provided by the Federal Emergency Management Agency (FEMA), the City updated its FEMA Flood Insurance Rate Maps (FIRMs) on April 21, 2021. The maps affect a relatively large area around the Venice Canals, including this site ([Exhibit 4](#)). New residential development in this area is required to elevate habitable area to 9 feet NAVD88 (Base Floor Elevation of 8 feet NAVD88 + 1 foot). The FEMA requirements are administered by the Los Angeles Bureau of Engineering. Neither the Commission nor the Los Angeles City Planning Department were aware of the updated FEMA requirements at the time of the respective CDP approvals, due to a delay in coordination between the two City departments. The applicant was not notified of the new elevation requirement until after City and Commission CDP approvals. The requirement to elevate the lowest finished floor to 9 feet NAVD88 makes the previously approved three-story home design infeasible and limits the redevelopment potential for the site due to the 30-foot height limit required by the certified Venice LUP.

The applicant requests an amendment to CDP 5-21-0558 to reduce the size of the new home, resulting in a two-story, 29-foot 4-inch high, 2,598 square foot single-family residence, an 820 square foot roof deck with an approximately 136 square foot roof top greenhouse that provides access to the roof deck and does not exceed the proposed height of the new residence, an attached 541 square foot two-car garage and one additional parking space onsite, and an underground 800-gallon cistern in the front yard ([Exhibit 2](#)). The applicant has redesigned the project in such a way that the City

determined that the project does not trigger the minimum finished floor elevation requirement. The City classifies the development as a remodel vs. new development based on the cost of development. The City uses different metrics to define redevelopment for purposes of the FEMA requirement vs. for a CDP. On July 1, 2022, the Los Angeles Director of Planning approved a modification to the local CDP to reflect the revised home design. No appeal was filed with the Commission.

The proposed revised project does constitute redevelopment for purposes of the CDP because it results in alteration to greater than 50% of the existing roof structure and exterior walls of the existing home.

The neighborhood consists of primarily two-story single-family residential structures that range between 754 and 3,580 square feet. The home size is similar to the other two-story homes in the area and the proposed home provides a significant step back for the majority of the canal facing second level to reduce any visual impacts. Therefore, the proposed development is compatible with the existing community character and is not anticipated to have an adverse cumulative effect on surrounding development.

The proposed amendment requires updates to three of the thirteen special conditions approved as part of CDP 5-21-0558.

Special Condition 1 of the original CDP mandated that the final project plans incorporate the redesign of proposed clearstory windows to be consistent with the 30-foot height limit. However, submission of the proposed amended plans included the removal of the previously proposed clearstory windows and reduced the height of the proposed home, including the greenhouse, to 29 feet 4 inches. Therefore, this language has been removed from **Special Condition 1**.

The lowest finished floor elevation of the proposed home is approximately 7 feet NAVD88, two feet lower than the FEMA requirement for new development. However, based on the inland location of the home and the location's dependency on the Venice Canal tidegates, the Commission's engineer has determined that it is not necessary to elevate the home at this time if the applicant includes floodproofing measures to minimize risk at the site which will increase with sea level rise. **Special Condition 1** of CDP 5-21-0558 requires the applicant to incorporate floodproofing measures to the proposed development to an elevation of 9.4 feet NAVD88, approximately 29 inches above the first floor elevation. The condition language has been updated to reflect the revised finished floor for the new home and to quantify the required floodproof elevation using the current sea level rise datum, NAVD88.

Special Condition 11 and **Special Condition 13** have incorporated clerical updates to specify that the conditions listed therein are applicable to CDP amendment 5-21-0058-A1. To ensure the proposed project is subject to terms and conditions explained herein, **Special Condition 13** has been updated to further require a deed restriction to memorialize the conditions of this permit, as amended, that will supersede and replace the deed restriction recorded pursuant to CDP No. 5-21-0558.

The standard of review is the Chapter 3 policies of the Coastal Act, with the certified Venice Land Use Plan used as guidance. As conditioned, the project can be found consistent with the Chapter 3 policies of the Coastal Act, and staff recommends **APPROVAL** of the coastal development permit amendment application 5-21-0558-A1 as conditioned. The motion and resolution can be found on Page 6.

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EXHIBITS

[Exhibit 1 – Vicinity Map and Project Site](#)

[Exhibit 2 – Project Plans](#)

[Exhibit 3 – Permeable Yard Area](#)

[Exhibit 4 – FEMA Map](#)

I. MOTION AND RESOLUTION

Motion:

I move that the Commission approve Coastal Development Permit Amendment 5-21-0558-A1 pursuant to the staff recommendation.

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

Resolution:

The Commission hereby approves the Coastal Development Permit Amendment No. 5-21-0558-A1 on the grounds that the development, as amended and subject to conditions, will be in conformity with the Chapter Three policies of the Coastal Act. Approval of the permit amendment 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. CHANGES TO CONDITIONS

NOTE: Unless specifically altered by this amendment, all regular and special conditions attached to Coastal Development Permit 5-21-0558, as amended through 5-21-0558-A1, and reflected in **Appendix B**, remain in effect. This permit amendment is granted subject to the following amended special conditions shown in underlined. Language to be removed is shown in ~~strikethrough~~.

- 1. Submittal of Revised Final Plans.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT, the applicant(s) shall submit, in a form and content acceptable to the Executive Director, two (2) full-sized sets of final revised project plans for the proposed development. The final plans shall be in substantial conformance with the plans submitted with this application by Andrea Michaelson Design and shall be subject to the review and written approval of the Executive Director. The proposed residence shall be designed to include safety measures recommended by a qualified engineer to floodproof the development at least 29 inches above the proposed finished floor elevation (9.4 feet NAVD88). The plans shall describe the proposed safety measures in detail including how walls will be designed to resist expected hydrostatic loads.

The permittee shall undertake development in conformance with the approved final plans unless the Commission amends this permit or the Executive Director provides a written determination that no amendment is legally required for any proposed minor deviations.

~~A. The final project plans shall incorporate the redesign of the clearstory windows to be consistent with the 30-foot maximum height limit.~~

~~B. The proposed residence shall be designed to include safety measures recommended by a structural engineer to protect the development in the event of 6.8 feet of sea level rise, which may result in inundation up to 2.39 feet above the lowest finished floor elevation (located approximately 4.41 feet above the current mean sea level as of July 20, 2021). The plans shall include the proposed safety measures including the construction of walls designed to resist hydrostatic pressure, which will be waterproofed by a waterproofing membrane system up to 2.39 feet or higher above the lowest finished floor elevation.~~

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 amendment, the terms and conditions of Coastal Development Permit amendment 5-21-0558-A1 shall prevail.

13. Deed Restriction. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT (5-21-0558-A1), the applicant(s) shall submit to the Executive Director for review and approval documentation demonstrating that the ~~landowner(s) have~~ applicant has executed and recorded against the parcel(s) governed by this permit amendment, a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, as amended, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit, as amended, as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit, as amended. 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, as amended, 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. This deed restriction shall supersede and replace the deed restriction recorded pursuant to Special Condition 13 of Coastal Development Permit 5-21-0558, approved on December 15, 2021, which deed restriction is recorded as Instrument No. 20220111316 in the official records of Los Angeles County.

III. SINGLE/DUAL PERMIT JURISDICTION AREA

Within the areas specified in Section 30601, which is known in the City of Los Angeles permit program as the Dual Permit Jurisdiction area, the Coastal Act requires that any development which receives a local CDP also obtain a second (or “dual”) CDP from the Coastal Commission. For projects located inland of the areas identified in Section 30601 (i.e, projects in the Single Permit Jurisdiction), the City of Los Angeles local coastal development permit is the only CDP required. The subject project site on appeal herein is located within the Dual Permit Jurisdiction Area. Therefore, the applicant is required to obtain a second, or “dual”, CDP from the Commission for the City-approved development.

IV. FINDINGS AND DECLARATIONS

A. Project Location and Description, Prior Permit History and Standard of Review

The subject site is a 3,718 square foot canal-front lot located at 212 Sherman Canal, between the first public road and the sea and approximately 0.2 miles from the beach in the Venice Canals subarea of the City of Los Angeles ([Exhibit 1](#)). The site is designated Single Family Residential – Low Medium Density I in the certified Venice LUP and zoned RW1-1-O by the City zoning code, and is currently developed with a two-story, approximately 30-foot high, 1,865 square foot single-family residence with an attached two-car garage and one unenclosed space that are accessed from Sherman Canal Court, the rear alley.²

The existing home was built by a previous owner in 1977, when a CDP would have been required. However, the applicant did not provide evidence that a CDP was obtained for the existing home, nor did Commission staff find any such evidence. On April 5, 2021, the previously proposed project obtained a local CDP issued by the City’s Planning Department (Case No. DIR-2020-6239-CDP-SPP-MEL) for the demolition of the existing residence and the construction of the new residence. No appeals of the local action were filed.

On July 26, 2021, the applicant submitted the required “dual” Coastal Commission CDP application (Application No. 5-21-0558) for Commission review and action. On December 15, 2021, the Commission approved the CDP application subject to conditions, for development consisting of construction and demolition of the existing 1977 home and construction of a new three-story, 30-foot high, 4,382 square foot single-family residence, with an attached 541 square foot, two-car garage and one additional uncovered parking space, a 317 square foot roof deck, and an 800-gallon

² The staff report for CDP 5-21-0558 mistakenly stated that the existing home was 18 feet high and 1,672 square feet.

underground rainwater cistern in the front yard. CDP 5-21-0558 was issued on April 21, 2022. The existing 1977 home remains, and no demolition or other work approved by CDP 5-21-0558 has commenced.

In response to updated flood risk data provided by the Federal Emergency Management Agency (FEMA), the City updated its FEMA Flood Insurance Rate Maps (FIRMs) on April 21, 2021.³ The maps affect a relatively large area around the Venice Canals, including this site ([Exhibit 4](#)). New residential development in this area is required to elevate habitable area to 9 feet NAVD88 (Base Floor Elevation of 8 feet NAVD88 + 1 foot.) The FEMA requirements are administered by the Los Angeles Bureau of Engineering. Neither the Commission nor the Los Angeles City Planning Department were aware of the updated FEMA requirements at the time of the respective CDP approvals, due to a delay in coordination between the two City departments.

Due to the changes in the FEMA FIRM for this area, the previously approved development could not be carried out in a manner consistent with the local and Commission-issued CDPs and the requirements of FEMA because the finished floor elevation would have to be raised to a height that would no longer allow the approved home to be built because it would exceed the height limit mandated in the certified LUP; thus, the applicant is requesting an amendment to the CDP. The amendment request consists of the reduction of the size of the previously-approved new home, resulting in the construction of a two-story, 29-foot 4-inch high, 2,598 square foot single family residence, a 820 square foot roof deck with an approximately 136 square foot greenhouse that provides access to the roof and will not exceed the height of the proposed home, an attached 541 square foot two-car garage and one additional parking space onsite, and an underground 800-gallon cistern in the front yard ([Exhibit 2](#)).

On July 1, 2022, the Los Angeles Director of Planning approved a modification to the local CDP to reflect the revised home design. No appeals were filed with the Commission. The standard of review is the Chapter 3 policies of the Coastal Act, with the certified Venice LUP used as guidance.

B. Development

Policy I.A.4 of the certified LUP mandates a height limit in the Venice Canals are not to exceed 22 feet for any portion of the development within 10 feet from the canal property line. Thereafter, an ascending height equal to one half the horizontal depth from this 10-foot line with a maximum height of 30 feet. In addition, roof access structures shall be setback at least 60 horizontal feet from the mean high tide line of the fronting canal.

³ <https://hazards-fema.maps.arcgis.com/apps/webappviewer/index.html?id=8b0adb51996444d4879338b5529aa9cd>

As part of the proposed amendment, the applicant submitted revised plans, which removed the previously proposed clearstory windows, which would have exceeded the 30-foot height limit for new development in this area pursuant to the certified LUP. The applicant's revised plans lower the overall height of the proposed residence, including the greenhouse which will provide access to the rood deck, to 29 feet 4 inches, which is consistent with the height limit of the certified LUP. No independent roof access structure is proposed at this time. Thus **Special Condition 1** of the CDP herein has been modified to reflect the change.

The subject neighborhood is an existing developed area consisting primarily of two-story single-family residential structures that range in size between 754 and 3,580 square feet. The proposed home size is similar to the other two-story homes in the area and provides a significant step back for the majority of the canal facing second level to reduce any visual impacts. Therefore, the proposed development is compatible with the existing community character and scale of the surrounding area and is not anticipated to have an adverse cumulative effect on surrounding development.

Therefore, as proposed and conditioned, the development conforms with Sections 30250, 30251, and 30252 of the Coastal Act.

C. Public Access

Policy II.A.3 of the certified Venice LUP requires three on-site parking spaces for new single-family homes on lots of 40 feet or more in width, or lots 35 feet or more in width that are adjacent to an alley. The subject lot is 37 feet wide (and 95 feet deep) and adjacent to an alley (Sherman Court), thus the project is required to provide a minimum of three on-site parking spaces. The applicant proposes two parking spaces in an attached 541 square foot garage and one additional uncovered parking space for a total of three on-site parking spaces. Thus, the project, as proposed by the applicant, provides adequate parking consistent with the certified LUP. The proposed development will not affect the public's ability to gain access to, and/or to use the coast and nearby recreational facilities. Therefore, as proposed, and conditioned, the development conforms to Sections 30210 through 30214, Sections 30220 through 30224, and 30252 of the Coastal Act.

D. Biological Resources and Water Quality

Policy IV.A.4 of the certified LUP requires that, in order to provide a setback for access, to protect the visual quality and biological productivity of the Venice Canals Area, and to limit water runoff, a setback with an average depth of 15 feet (and a minimum depth at any point of 10 feet) shall be provided and maintained in the front yard areas of private residences (adjacent to the canal property line). The setback shall also provide a permeable yard with an area at least 15 feet times the width of the lot at the canal side. Furthermore, Policy I.A.4 of the certified LUP requires a minimum of 450 square feet of permeable yard area for lots that are 30-feet-wide and 600 square feet for lots that are 40-feet-wide.

The subject lot is 37 feet wide. **Special Condition 3** of 5-21-0558, which would still be in effect pursuant to this amendment, requires a minimum of 555 square feet of permeable front yard area and as proposed and verified by a professional land surveyor, 988 square feet will be provided ([Exhibit 3](#)) consistent with the certified LUP. In addition, the applicant has provided landscaping plans for the revised project that include only native plants or non-native drought tolerant plants, which are non-invasive and does not include any plant species listed as problematic and/or invasive by the California Native Plant Society.

The proposed development has a potential for a discharge of polluted runoff from the project site into coastal waters. The development, as proposed and as conditioned, incorporates design features to minimize the effect of construction and post-construction activities on the marine environment. These design features include, but are not limited to, the appropriate management of equipment and construction materials, reducing runoff through the use of permeable surfaces, and the use of non-invasive drought tolerant vegetation to reduce and treat the runoff discharged from the site to minimize the project's adverse impact on coastal waters. Therefore, the Commission finds that the proposed development, as conditioned, conforms with Sections 30230 and 30231 of the Coastal Act regarding the protection of water quality to promote the biological productivity of coastal waters and to protect human health.

E. Hazards

In response to updated flood risk data provided by the Federal Emergency Management Agency (FEMA), the City updated its FEMA Flood Insurance Rate Maps (FIRMs) on April 21, 2021. The maps affect a relatively large area around the Venice Canals, including this site ([Exhibit 4](#)). New residential development in this area is required to elevate the habitable area to 9 feet NAVD88 (Base Floor Elevation of 8 feet NAVD88 + 1 foot.)

The applicant was not notified of the new elevation requirement until after the City approved the local CDP and the Commission approved the dual CDP. As described in Section IV.A above, the new requirement makes the previously approved home design infeasible due to the 30-foot height limit required by the LUP. The applicant has redesigned the project in such a way that the City determined that the project does not trigger the elevated floor area requirement by reducing the cost of improvements to below the thresholds set by the City's flood ordinance. While the City classifies the development as a remodel rather than new development for flood elevation requirements based upon the cost of development, the Commission considers the proposed revised project redevelopment for purposes of the CDP because it results in alteration to greater than 50% of the existing roof structure and exterior walls of the existing home.

The Venice Canals area is extremely low-lying and potentially vulnerable to flooding. Were it not for the existing tidegates system, much of the areas around the Canals

would likely flood daily from high tides.⁴ This risk is expected to increase with sea level rise. The City has been working with Commission staff on the development of its Local Coastal Program (LCP) and has demonstrated a meaningful effort to work on developing policies that address the larger risk in the Venice area. The City has also been working with Commission staff in an effort to update the existing tidegate system around the Canals to address the risk of sea level rise specific to the Venice Canals subarea.

The lowest finished floor elevation of the proposed home is approximately 7 feet NAVD88, two feet lower than the FEMA requirement for new development. To raise the first-floor elevation above future 100-year flood elevations including 6.8 feet of sea level rise (the 2100 projection under the medium-high risk aversion curve), the first floor would need to be elevated close to 9 feet above the proposed first floor, posing feasibility issues with the current zoning standards. However, based on the inland location of the home and the location's dependency on the Venice Canal tidegates system, the Commission's engineer has determined that it is not necessary to elevate the home at this time if the applicant implements reasonable floodproofing measures, understands the potential risk (including that such risk is expected to increase with sea level rise), and accepts this risk. **Special Condition 1** of CDP 5-21-0558 requires the applicant to implement floodproofing measures up to 9.4 feet NAVD88 or 29 inches above the proposed finished floor elevation. The condition has been updated to reflect the revised finished floor for the new home and to quantify the required floodproof elevation using the current sea level rise datum, NAVD88.

Additionally, development adjacent to the ocean and the inland extent of the sea is inherently hazardous. Development that may require a protective device in the future cannot be allowed due to the adverse impacts such devices have upon, among other things, public access, visual resources, and shoreline processes. To minimize the project's impact on shoreline processes, and to minimize risks to life and property, the proposed development has been conditioned, pursuant to CDP 5-21-0558, to prohibit construction of protective devices (such as a seawall) in the future and to require that the landowner and any successor-in-interest assume the risk of undertaking the development. As conditioned, the Commission finds that the proposed development conforms to the requirements of Section 30253 of the Coastal Act regarding the siting of development in hazardous locations.

F. Coastal Act Violation

A violation of the Coastal Act has occurred on the project site, including but not necessarily limited to construction of the residence in 1977 without benefit of the necessary CDP. Any non-exempt development activity conducted in the Coastal Zone

⁴ https://planning.lacity.org/odocument/83cf6597-25f1-4fd7-8124-dcd015000d82/venice_coastal_zone_slr_vulnerability_assessment_-_nov._2018_copy.pdf

without a valid CDP, or which does not substantially conform to a previously issued permit, constitutes a violation of the Coastal Act.

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

G. Deed Restriction

Special Condition 11 and **Special Condition 13** have incorporated clerical updates to specify that the conditions listed therein are applicable to CDP amendment 5-21-0058-A1. To ensure the proposed project is subject to terms and conditions of the original permit and as revised and explained herein, **Special Condition 13** has been updated to further require a deed restriction to memorialize the conditions of this permit, as amended, that will supersede and replace the deed restriction recorded pursuant to CDP No. 5-21-0558. Thus, as conditioned, any prospective future owner will receive actual notice of the restrictions and/or obligations imposed on the use and enjoyment of the land including the risks of the development and/or hazards to which the site is subject, and the Commission's immunity from liability.

H. Local Coastal Program (LCP)

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

I. California Environmental Quality Act (CEQA)

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

Under Section 15251(c) of Title 14 of the California Code of Regulations, the Commission's CDP regulatory process has been certified as the functional equivalent to the CEQA process. As a certified regulatory program, Section 21080.5(d)(2)(A) of CEQA still applies to the Commission's CDP regulatory process and prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available, which would substantially lessen any significant adverse effect which the activity may have on the environment. The City of Los Angeles is the lead agency for purposes of CEQA. As noted on the City's determination letter dated April 5, 2021, the City determined that the proposed development was categorically exempt from CEQA requirements pursuant to CEQA Guidelines Sections 15301 (Class 1) and 15303 (Class 3). The City did not change the CEQA determination pursuant to the CDP modification approval.

The preceding coastal development permit findings in this staff report have discussed the relevant coastal resource issues with the proposal, and the permit conditions identify appropriate mitigations to avoid and/or lessen any potential for adverse impacts to said resources. The Commission incorporates these findings as if set forth here in full. As a responsible agency under CEQA, the Commission has determined that the proposed project, as conditioned, is consistent with the policies of the Coastal Act. Therefore, the Commission finds that, as conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect of the proposed project, there are no remaining significant environmental impacts within the meaning of CEQA, and the proposed project can be found consistent with the 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 local Coastal Development Permit Case No. DIR-2020-6239-CDP-SPP-MEL dated June 4, 2021.
3. City of Los Angeles local Coastal Development Permit Case No. DIR-2020-6239-CDP-SPP-MEL Modification dated July 1, 2022.

APPENDIX B – STANDARD AND SPECIAL CONDITIONS PURSUANT TO CDP NO. 5-10-220 THROUGH CDP AMENDMENT NO. 5-10-220-A1

Note: This Appendix B provides a list of all standard and special conditions imposed pursuant to Coastal Development Permit 5-10-220, as approved by the Commission in its original action and modified and/or supplemented by CDP Amendment No. 5-10-220-A1. Thus, this Appendix B provides an aggregate list of all currently applicable adopted special conditions.

STANDARD CONDITIONS:

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the applicants or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the applicants to bind all future owners and possessors of the subject property to the terms and conditions.

SPECIAL CONDITIONS:

- 1. Submittal of Revised Final Plans.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT, the applicant(s) shall submit, in a form and content acceptable to the Executive Director, two (2) full-sized sets of final revised project plans for the proposed development. The final plans shall be in substantial conformance with the plans submitted with this application by Andrea Michaelson Design, and shall be subject to the review and written approval of the Executive Director. The proposed residence shall be designed to include safety measures recommended by a qualified engineer to floodproof the development at least 29 inches above the proposed finished floor elevation (9.4 feet NAVD88). The plans shall describe the proposed safety measures in detail including how walls will be designed to resist expected hydrostatic loads.

The permittee shall undertake development in conformance with the approved final plans unless the Commission amends this permit or the Executive Director provides a written determination that no amendment is legally required for any proposed minor deviations.

- 2. Development Setbacks and Building Height.** No development is authorized within ten feet of the fronting canal property line (Sherman Canal) nor within or above the required 555 square foot permeable front yard area, except as described in Special Condition 3 below. At a point ten feet landward of the fronting canal property line, the maximum height of any structure shall not exceed 22 feet above the centerline of the rear alley (Sherman Canal Court/Court A). Beyond ten horizontal feet from the fronting canal property line, one foot in additional height is permitted for each two additional horizontal feet to a maximum height of thirty feet (30') except for chimneys, ducts, and other accessory structures which are limited to 35 feet. Roof deck railings shall not exceed 42 inches above the thirty-foot height limit. Building height is measured from the elevation of the adjacent road or alley. A one-hundred square foot (maximum) roof access structure no higher than 10 feet above the thirty-foot roof height limit is permitted and must be setback at least 60 feet from the fronting canal property line.
- 3. Permeable Yard Area.** In order to maintain an open and visible access corridor, to enhance visual quality, and to preserve the water quality and biological productivity of the canals, an uncovered and permeable yard area totaling no less than fifteen times the width of the site (in this case: 15' x 37' = 555 square feet) shall be maintained on the project site in the front yard area between the structure and the front (Sherman Canal) property line. Uncovered means that no fill or building extensions (i.e. chimneys, balconies, stairs, trellises) shall be placed in or over the permeable yard area with the exception of fences or garden walls (not to exceed 42 inches in height), permeable decks at grade (not to exceed 18 inches in height), and an underground cistern or French drain for water retention. The permeable yard

area may include minimal coverage with impermeable pavers, stones, concrete walkways or other similar ground cover, but in no event shall impermeable materials occupy more than fifteen percent (15%) of the total amount of the required permeable yard area.

- 4. Permit Compliance.** The permittee shall undertake and maintain the development in conformance with the special conditions of the permit and the final plans. Any proposed changes to the approved plans shall be reported to the Executive Director in order to determine if the proposed change shall require a permit amendment pursuant to the requirements of the Coastal Act and the California Code of Regulations. No changes to the approved plans shall occur without a Commission-approved permit amendment unless the Executive Director determines that no permit amendment is required.
- 5. Assumption of Risk, Waiver of Liability and Indemnity.** By acceptance of this permit, the applicant(s) acknowledges and agrees (i) that the site may be subject to hazards from waves, erosion, storm conditions, liquefaction, flooding and sea level rise; (ii) to assume the risks to the applicant(s) and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards; (v) that sea level rise could render it difficult or impossible to provide services to the site (e.g., maintenance of roadways, utilities, sewage or water systems), thereby constraining allowed uses of the site or rendering it uninhabitable; and (vi) that the structure may be required to be removed or relocated and the site restored if it becomes unsafe or if removal is required pursuant to the Coastal Act.
- 6. Development Removal.** By acceptance of this permit, the permittee agrees, on behalf of itself and all successors and assigns, that the landowner shall remove the development authorized by this permit including, but not limited to, the residence and any other improvements if: (1) the City or any other government agency with legal jurisdiction has issued a final order, not overturned through any appeal or writ proceedings, determining that the structures are currently and permanently unsafe for occupancy or use due to damage or destruction from waves, flooding, erosion, bluff retreat, landslides, or other hazards related to coastal processes, and that there are no feasible measures that could make the structures suitable for habitation or use without the use of bluff or shoreline protective devices; (2) essential services to the site (e.g., utilities, roads) can no longer feasibly be maintained due to the coastal hazards listed above; (3) removal is required pursuant to LCP policies for sea level rise adaptation planning; or (4) the development requires new and/or augmented shoreline protective devices that conflict with relevant LCP or Coastal Act policies. The permittee shall obtain a coastal development permit for removal of approved

development unless the Executive Director provides a written determination that no coastal development permit is legally required.

7. No Future Shoreline Protective Device.

- A. By acceptance of this permit, the permittee agrees, on behalf of itself and all other successors and assigns, that the project is new development for which there is no right to shoreline protection and hereby waives on behalf of itself, and all other successors and assigns, any rights that may exist under applicable law to construct a shoreline protective device to protect the development approved pursuant to Coastal Development Permit No. 5-21-0558, and any future improvements, in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, liquefaction, flooding, sea level rise, or other natural coastal hazards in the future.
- B. By acceptance of this permit, the applicant further agrees, on behalf of itself and all successors and assigns, that the landowner(s) is required to remove the development authorized by this permit, including the residence and yard improvements if any other government agency with legal jurisdiction has issued a final order, not overturned through any appeal or writ proceedings, determining that the structures are currently and permanently unsafe for occupancy or use due to coastal hazards and that there are no measures that could make the structures suitable for habitation or use without the use of bluff or shoreline protective devices.
- C. In the event that portions of the development fall to the public walkway and/or water before they are removed, the landowner(s) shall remove all recoverable debris associated with the development from the public walkway and/or water and lawfully dispose of the material in an approved disposal site. Such removal shall require a coastal development permit. Prior to removal, the permittee shall submit two copies of a Removal Plan to the Executive Director for review and written approval. The Removal Plan shall clearly describe the manner in which such development is to be removed and the affected area restored so as to best protect coastal resources, including the Venice Canals.

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

- A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit, in a form and content acceptable to the Executive Director, two (2) full sized sets of final landscaping plans, which shall include and be consistent with the following:
 - i. Vegetated landscaped areas shall only consist of native plants or non-native drought tolerant plants, which are non-invasive. No plant species listed as problematic and/or invasive by the California Native Plant Society (<http://www.CNPS.org/>), the California Invasive Plant Council (formerly the California Exotic Pest Plant Council) (<http://www.cal-ipc.org/>), or as may be

identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a “noxious weed” by the State of California or the U.S. Federal Government shall be utilized within the property. All plants shall be **low water use** plants as identified by California Department of Water Resources (See: <http://ucanr.edu/sites/WUCOLS/files/183488.pdf>).

- ii. Use of reclaimed water for irrigation is encouraged. If using potable water for irrigation, only drip or microspray irrigation systems may be used. Other water conservation measures shall be considered, such as weather based irrigation controllers.

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

9. Water Quality.

A. Construction Responsibilities and Debris Removal

- i. No demolition or construction materials, equipment, debris, or waste shall be placed or stored where it may enter sensitive habitat, receiving waters or a storm drain, or be subject to wave, wind, rain or tidal erosion and dispersion;
- ii. No demolition or construction equipment, materials, or activity shall be placed in or occur in any location that would result in impacts to environmentally sensitive habitat areas, streams, wetlands or their buffers;
- iii. Any and all debris resulting from demolition or construction activities shall be removed from the project site within 24 hours of completion of the project;
- iv. Demolition or construction debris and sediment shall be removed from work areas each day that demolition or construction occurs to prevent the accumulation of sediment and other debris that may be discharged into coastal waters;
- v. All trash and debris shall be disposed in the proper trash and recycling receptacles at the end of every construction day;
- vi. The applicant(s) shall provide adequate disposal facilities for solid waste, including excess concrete, produced during demolition or construction;

- vii. Debris shall be disposed of at a legal disposal site or recycled at a recycling facility. If the disposal site is located in the coastal zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place unless the Executive Director determines that no amendment or new permit is legally required;
- viii. All stock piles and construction materials shall be covered, enclosed on all sides, shall be located as far away as possible from drain inlets and any waterway, and shall not be stored in contact with the soil;
- ix. Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into sanitary or storm sewer systems;
- x. The discharge of any hazardous materials into any receiving waters shall be prohibited;
- xi. Spill prevention and control measures shall be implemented to ensure the proper handling and storage of petroleum products and other construction materials. Measures shall include a designated fueling and vehicle maintenance area with appropriate berms and protection to prevent any spillage of gasoline or related petroleum products or contact with runoff. The area shall be located as far away from the receiving waters and storm drain inlets as possible;
- xii. Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) designed to prevent spillage and/or runoff of demolition or construction-related materials, and to contain sediment or contaminants associated with demolition or construction activity, shall be implemented prior to the on-set of such activity;
- xiii. All BMPs shall be maintained in a functional condition throughout the duration of construction activity.

B. Drainage and Water Quality

- xiv. During construction of the proposed project, no runoff, site drainage or dewatering shall be directed from the site into any canal or street that drains into a canal, unless specifically authorized by the California Regional Water Quality Control Board;
- xv. All equipment and materials shall be stored and managed in a manner to minimize the potential of pollutants to enter the canals;
- xvi. A French drain, underground cistern, or other similar drainage systems that collect and reduce the amount of runoff that leaves the site shall be installed and maintained on the project site;

- xvii. All runoff leaving the site shall be directed away from the canals and into the City storm drain system;
- xviii. No water from any pool or spa shall be discharged into any canal or street that drains into a canal.

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

11. Local Government Approval. The proposed development is subject to the review and approval of the City of Los Angeles (City). This action has no effect on conditions imposed by the City pursuant to an authority other than the Coastal Act. In the event of conflict between the terms and conditions imposed by the City and those of this coastal development permit amendment, the terms and conditions of Coastal Development Permit amendment 5-21-0558-A1 shall prevail.

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

13. Deed Restriction. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT (5-21-0558-A1), the applicant(s) shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded against the parcel governed by this permit amendment, a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, as amended, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit, as amended, as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed

restriction shall include a legal description of the entire parcel or parcels governed by this permit, as amended. 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, as amended, 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. This deed restriction shall supersede and replace the deed restriction recorded pursuant to Special Condition 13 of Coastal Development Permit 5-21-0558, approved on December 15, 2021, which deed restriction is recorded as Instrument No. 20220111316 in the official records of Los Angeles County.