

**CALIFORNIA COASTAL COMMISSION**

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# W14b

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## STAFF REPORT: REGULAR CALENDAR

**Application No.:** 5-24-0231

**Applicant:** The Marina Trust

**Agent:** EZ Permits, LLC Attn: Sean Nguyen

**Location:** 4819 S Ocean Front Walk, Venice, City of Los Angeles, Los Angeles County (APN: 4293005004)

**Project Description:** Substantial demolition, remodel, and addition to an existing 2,500 sq. ft. 2-story single-family residence on a 3,800 sq. ft. beach-fronting corner lot resulting in a 5,605 sq. ft., 3-story, 32 ft. 3 in. high (from Ocean Front Walk) single-family residence with an attached 764 sq. ft. 3-car garage, 2<sup>nd</sup> and 3<sup>rd</sup> floor balconies, a 94 sq. ft. rooftop deck with 33 in. guardrails and 2 10 ft. high, 38 sq. ft. and 61 sq. ft. roof access structures; 361 cy. cut and export for semi-subterranean 1<sup>st</sup> floor; removal of encroachments into Ocean Front Walk and Reef Street public access ways, including invasive plant species, and restoration of sandy beach; construction of a segment of Ocean Front Walk public path along the front property line; and yard improvements within the front yard, side yard, and encroachment areas, including removal of one tree, construction of stairs and deck, landscaping, and installation of 42 in. high wall and gates.

**Staff Recommendation:** Approval with Conditions

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## SUMMARY OF STAFF RECOMMENDATION

The applicant proposes to redevelop a corner lot in the Marina Peninsula subarea of Venice, Los Angeles that fronts Ocean Front Walk and the beach, as well as a walk street (Reef Street). The development would include major remodel of a 2-story, 2,500 sq. ft. single-family residence resulting in a 3-story, 5,605 sq. ft. single-family residence with an attached 3-car garage and a roof deck. The applicant also proposes to remove nonconforming, mostly invasive, nonnative vegetation within the Reef Street beach accessway, construct a missing segment of the Ocean Front Walk coastal trail, and develop a portion of the Reef Street right-of-way with private yard encroachments as is typical for many walk streets.

The project site is located within the City of Los Angeles dual permit jurisdiction. The applicants received a local CDP (DIR-2022-7644-CDP-SPP) from the City of Los Angeles on December 21, 2023. The permit was not appealed to the Commission. Venice does not have a certified Local Coastal Program (LCP); therefore, the Chapter 3 policies of the Coastal Act constitute the standard of review for this project with the certified Venice LUP providing guidance for the project's consistency with Chapter 3.

While the proposed project includes improvements to public access and beach habitat, there are several elements of the project that are inconsistent with the objective standards of the certified LUP. The inconsistencies include but are not limited to the proposed height of the residence, a semisubterranean ground level, and private encroachments that would extend beyond the line of adjacent development; all of which raise issue with the public access, recreation, visual resource, and community character policies of the certified LUP and Coastal Act. In addition, adaptation measures are proposed to reduce the risk of potential flooding onsite; however, the semisubterranean floor could exacerbate risks from flooding and function as a shoreline protective device in the future inconsistent with the coastal hazard policies of Chapter 3. To address these issues and ensure that the development is compatible with the special community character of Venice, public access is maximized, biological resources and water quality are protected for the life of the project, and risks to life and property from flood hazards are minimized, staff is recommending the Commission **approve** the coastal development permit application with **10 Special Conditions** summarized as follows:

**1)** Revised final plans to ensure consistency with the Venice LUP standards for walk streets, protect and enhance biological resources, mitigate flood risk, and improve public access; **2)** ensure the appropriate local permits are acquired for development of Ocean Front Walk and Reef Street right-of-way; **3)** clarify that the subject CDP prevails if there are conflicts with local permit requirements; **4)** require off-street parking to be maintained for the life of the development; **5)** ensure that future development at the site requires a CDP or CDP amendment due to the potential for impacts to coastal resources; **6)** impose best management practices that protect the adjacent beach habitat and local coastal waters; **7)** should archaeological or tribal cultural resource deposits be found during grading activities, ensure the appropriate entities are informed; **8)** require the applicant to assume the risk of development in a hazardous coastal environment; **9)** prohibit the construction of a shoreline protective device to protect the

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proposed development; and **10)** impose a deed restriction to make future owners aware of the permit conditions and potential hazards at this site.

Staff recommends that the Commission find that the proposed project, as conditioned, is consistent with Chapter 3 of the Coastal Act, and thus recommends approval of Coastal Development Permit Application No. 5-24-0231.

The motion to approve the staff recommendation is on Page Five.

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**APPENDICES**

Appendix A - Substantive File Documents

**EXHIBITS**

Exhibit 1 – Project Location  
Exhibit 2 – Project Plans

## I. MOTION AND RESOLUTION

### Motion:

I move that the Commission **approve** Coastal Development Permit No. 5-24-0231 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 a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

## II. STANDARD CONDITIONS

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

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

### III. SPECIAL CONDITIONS

This permit is granted subject to the following special conditions:

**1. Revised Final Plans.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, in a form and content acceptable to the Executive Director, two (2) complete sets of final revised plans, prepared and certified by a licensed professional(s) as applicable, which shall substantially conform with the plans that conform with the plans prepared by O + L Building Projects LLC dated September 21, 2023, except shall be modified to comply with and include the following:

- A. **Building Height.** The maximum height of the structure shall not exceed 28 feet above the centerline of Reef Street. Chimneys, exhaust ducts, ventilation shafts and other similar devices essential for building function may exceed 28 feet by no more than five feet (i.e. must not exceed a height of 33 feet).
- B. **Roof Access Structure.** If a roof access structure is proposed, it shall be limited to the following:
  - i. The development is limited to one roof access structure. If both an elevator and stairs are proposed, they shall be combined into one structure;
  - ii. The height of the roof access structure shall not exceed the height limit by more than 10 feet (i.e. must not exceed a height of 38 feet);
  - iii. The roof access structure shall be set back from the walk street and Ocean Front Walk in a manner such that it does not result in a visible increase in bulk or height of the roof line as seen from the walk street and Ocean Front Walk; and
  - iv. The size of the roof access structure shall not exceed 100 square feet total as measured from the outside walls.
- C. **Ground Level Uses.** The ground floor of the residential structure, as well as any structures within the minimum five-foot setback area between Ocean Front Walk and structures associated with the residence (i.e. access stairs and decks) and within the revokable encroachment area on Reef Street, shall be located at or above grade. The entrance to the residence shall also be located at or above grade.
- D. **Final Grading and Foundation Plans.** To conform with the requirements of Special Condition 1.C, the applicant shall revise the grading and foundation plans. All recommendations of the Geotechnical Engineering Investigation and Wave Run Up and Seal Level Rise Study prepared by NorCal Engineering (dated

October 14, 2022) and ENGEO (dated July 7, 2022), respectively, shall be adhered to including recommendations for site preparation, structural fills, compaction standards, seismic design parameters, foundation design, pavement subgrade preparation, drainage, floodproofing, elevation of mechanical equipment, and all other recommendations. Foundations shall be designed to facilitate removal and/or relocation of the structure and its foundation in the future. The applicant shall submit evidence that an appropriate licensed professional has reviewed and approved all final design and construction plans, including foundations, grading and drainage plans, and certified that each of those final plans is consistent with all of the recommendations specified in the above referenced plans.

- E. Final Landscaping Plan. A final landscaping plan shall be provided that includes a map showing the type, size, and location of all plant and vegetation materials that will be removed and planted on the developed site, the methods and timing of plant removal and disposal, the irrigation system, topography of the developed site, and all other landscape features consistent with the following subsections:
- i. Removal of nonconforming vegetation from the Ocean Front Walk and Reef Street rights-of-way shall be conducted using hand tools, where feasible. The use of herbicides and/or rodenticides containing any anticoagulant compounds is prohibited.
  - ii. Tree removal shall only occur during the period after September 1 and prior to March 1 (outside of the bird nesting season) unless a survey for the presence of active nesting and/or roosting habitat is first conducted by a qualified biologist and the survey results demonstrate that no nesting birds are present in the tree(s) slated for removal or in any adjacent trees that could be disturbed by the tree removal activities.
  - iii. The new landscape design shall be consistent with all landscaping-related recommendations contained in the geology and soils report (“Geotechnical Engineering Study”) prepared by NorCal Engineering dated October 14, 2022.
  - iv. Vegetated landscaped areas shall consist of native plants or non-native drought tolerant plants, which are non-invasive. No plant species listed as problematic and/or invasive by the California Native Plant Society (<http://www.CNPS.org/>), the California Invasive Plant Council (formerly the California Exotic Pest Plant Council) (<http://www.cal-ipc.org/>), or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a “noxious weed” by the State of California or the U.S. Federal Government shall be utilized within the property. All plants shall be low water use plants as identified by California Department of Water Resources (See:<http://www.water.ca.gov/wateruseefficiency/docs/wucols00.pdf>)

- v. All irrigation systems shall limit water use to the maximum extent feasible. Use of reclaimed water (“gray water “systems) and rainwater catchment systems for irrigation are encouraged. If permanent irrigation systems using potable water are included in the landscape plan, they shall use water conserving emitters (e.g., microspray) and drip irrigation only. Other water conservation measures shall be considered, including use of weather based irrigation controllers.
- vi. Construction of Ocean Front Walk. The final plans shall include the details for construction of the Ocean Front Walk public path with a width of not less than ten (10’) feet and a length of approximately 75 feet from the northern property line to the existing path near the centerline of Reef Street consistent with the City of Los Angeles specifications and requirements for permanent right-of-way improvements.
- vii. Encroachment onto the Reef Street Right of Way. The proposed development shall not interfere with public pedestrian access to and along the public access way that runs down the center of the Reef Street right-of-way. In order to enhance visual quality, preserve water quality, and to provide a transitional zone between the Reef Street public accessway and the permittee’s property line (i.e. within the Reef Street right-of-way), the proposed private use and development within the encroachment area of the Reef Street public right-of-way is limited as follows:
  - a. No development is permitted outside of the encroachment area, as permitted by the City of Los Angeles.
  - b. The area situated between the Reef Street access way and the applicants’ property line shall be limited to grade level uses including gardens, patios, landscaping, ground level decks and fences and maintained as a permeable yard area, except for minimal paved walks to the building entrances.
  - c. Only non-invasive and low water use plants shall be used in accordance with Special Condition 1.A.E. In order to maintain an open and visible access corridor and to enhance visual quality, plantings shall be maintained to a height of 48 inches or less.
  - d. Any new or existing fence or hedge erected in the public right-of-way shall not exceed 42 inches in height and shall be visually permeable.
  - e. New fences shall be located in line with existing fences on the same side of Reef Street.
  - f. Private parking on the Reef Street right-of-way is not permitted. In order to prevent vehicular access on the portion of the project site situated within the Reef Street right-of-way, the permittee shall maintain a visually permeable decorative fence (e.g. split rail, picket or rustic) not exceeding

42 inches in height to enclose the area situated between the Reef Street access way and the permittees' property line (i.e. enclose the project area situated within the Reef Street right-of-way without the use of gates).

- g. The permittee and the proposed development shall not interfere with public pedestrian access to and along a public walkway in center of the Reef Street right-of-way.
  
- F. Final Construction Staging Plan. A final construction staging plan shall be provided that includes a timeline for construction of the residence, Ocean Front Walk trail, and Reef Street right-of-way improvements. The final staging plan shall also include the proposed staging area(s) for work within the public rights-of-way. The use of public beach or parking areas shall be avoided or, if avoidance is not feasible, minimized to the maximum extent practicable.
  
- G. Bird-Safe Glass. Deck railing systems, fences, screen walls, gates, and windows and the like that are subject to this permit shall use materials designed to minimize bird-strikes with the deck railing, 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 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. No appliqués shall be used. Use of opaque or partially opaque materials is preferred to clean glass or Plexiglas. All materials 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.
  
- H. Final Lighting Plan. All lighting within the proposed development shall be directed and shielded so that light is directed away from the beach. Furthermore, no skyward-casting lighting shall be used. The lowest intensity lighting shall be used that is appropriate for safety purposes. The lighting plan shall serve to protect the beach habitat areas from light generated by the project. The lighting plan to be submitted to the Executive Director shall be accompanied by an analysis of the lighting plan prepared by a qualified biologist, which documents that the lighting plan is effective at preventing lighting impacts upon adjacent habitat.

The permittees shall undertake 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 Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required for any proposed minor deviations.

- 2. Public Access Improvements: Ocean Front Walk and Reef Street.** PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall

submit, for the review and approval of the Executive Director, a Class A or B City of Los Angeles Permit for the proposed improvement of the Ocean Front Walk and Reef Street rights-of-way where they abut the project site, unless the City provides a written statement that no such permit is needed. The public accessway that runs down the center of the Reef Street right-of-way shall be improved for public pedestrian access consistent with the City of Los Angeles specifications and requirements. The permit for private encroachments into the Reef Street right-of-way should be revokable and shall be improved consistent with the requirements outlined in Special Condition 1 of this permit (CDP No. 5-24-0231). The Ocean Front Walk right-of-way shall be improved for public pedestrian access to a width of not less than ten (10') feet and a length of approximately 75 feet from the northern property line to the existing path near the centerline of Reef Street consistent with the City of Los Angeles specifications and requirements for permanent right-of-way improvements. The proposed Reef Street and Ocean Front Walk rights-of-way improvements shall be completed concurrently with the construction of the approved single-family residence. Private use or development of the public right-of-way of Ocean Front Walk is not permitted. Unpermitted off-site development includes, but is not limited to, building overhangs, walls, fences, equipment storage, landscaping and posting of signs.

3. **Local Government Approval.** The proposed development is subject to the review and approval of the City of Los Angeles (City). This action has no effect on conditions imposed by the City pursuant to an authority other than the Coastal Act. In the event of conflict between the terms and conditions imposed by the City and those of this coastal development permit, the terms and conditions of Coastal Development Permit 5-24-0231 shall prevail.
4. **Parking.** The proposed on-site parking supply (three total spaces) shall be provided and maintained on the site as shown on the plans prepared by O + L Building Projects LLC dated September 21, 2023. Vehicular access to the on-site parking shall be taken only from Speedway Alley. Private parking on the Reef Street right-of-way is not permitted.
5. **Future Development.** This permit is only for the development described in Coastal Development Permit No. 5-24-0231. Pursuant to Title 14 California Code of Regulations section 13250(b)(6), the exemptions otherwise provided in Public Resources Code section 30610(a) shall not apply to any future development on any portion of the parcel. Accordingly, any future improvements to the site, including but not limited to the single-family residence, encroachment area, and foundations other than as provided for in the approved plans, shall require an amendment to Coastal Development Permit No. 5-24-0231 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government based on permitting authority.
6. **Storage of Construction Materials, Mechanized Equipment and Removal of Construction Debris.** The permittee shall comply with the following construction related requirements:

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- A. No demolition or construction materials, 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;
- B. 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;
- C. 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;
- D. 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;
- E. All trash and debris shall be disposed in the proper trash and recycling receptacles at the end of every construction day;
- F. The applicant shall provide adequate disposal facilities for solid waste, including excess concrete, produced during demolition or construction;
- G. 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;
- H. 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;
- I. 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;
- J. The discharge of any hazardous materials into any receiving waters is prohibited;
- K. 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;
- L. 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; and
- M. All BMPs shall be maintained in a functional condition throughout the duration of construction activity.
- N. During construction of the project, no runoff, site drainage or dewatering shall be

directed from the site into any street, alley or stormdrain, unless specifically authorized by the California Regional Water Quality Control Board.

- 7. Archeological and Tribal Cultural Resources Mitigation.** If an area of archeological and/or tribal cultural resources is discovered during the course of the project, project activities with the potential to impact such resources shall cease and shall not recommence until a qualified archeological and/or tribal cultural resource specialist, in consultation with Native American Tribes listed on an updated Native American Heritage Commission (NAHC) contact list, analyzes the significance of the find and prepares a supplementary archaeological plan for the review and approval of the Executive Director. If human remains are encountered, the permittee shall comply with applicable State and Federal laws. 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 Commission-approved amendment to this coastal development permit, unless the Executive Director determines that no amendment is legally required. Upon approval of the supplementary archeological plan, the permittee shall implement the development in compliance with the approved final plans.
- 8. Assumption of Risk, Waiver of Liability and Indemnity.** By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards, including but not limited to waves, storm conditions, flooding, and erosion, many of which will worsen with future sea level rise; (ii) to assume the risks to the permittee and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.
- 9. No Future Shoreline Protective Device.**
- A. By acceptance of this permit, the applicant agrees, on behalf of itself and all successors and assigns, that no shoreline protective device(s) shall ever be constructed to protect the development approved pursuant to Coastal Development Permit No. 5-24-0231 including, but not limited to, the residence, foundations, decks, encroachment fencing, and/or garage including in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, liquefaction, or other coastal hazards in the future, and as may be exacerbated by sea level rise. By acceptance of this permit, the applicant hereby waives, on behalf of itself and all successors and assigns, any rights to construct such devices that may exist under applicable law.
- B. By acceptance of this permit, the applicant further agrees, on behalf of itself and all successors and assigns, that they are required to remove all or a portion of the development authorized by this permit, including, but not limited to, the

residence, foundations, decks, and/ or garage and restore the site, if:

- i. 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 wave uprush, flooding, erosion, 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 shoreline protective devices;
- ii. essential services to the site (e.g., utilities, roads) can no longer feasibly be maintained due to the coastal hazards listed above;
- iii. removal is required pursuant to LCP policies for sea level rise adaptation planning; or
- iv. the development requires new and/or augmented shoreline protective devices that conflict with relevant LCP or Coastal Act policies.

In addition, this approval does not permit any development to be located on lands impressed with a public trust interest, and any development that comes to be located on such lands due to the movement of the mean high tide line must be removed unless the Coastal Commission determines, pursuant to a permit amendment, that the development may remain pursuant to the Coastal Act. If the development comes to be located on lands impressed with a public trust interest due to the movement of the mean high tide line, the applicant would also be subject to the State Lands Commission's (or other designated trustee agency's) discretionary leasing approval.

- C. Prior to removal/relocation, the permittee shall submit two copies of a Removal/Relocation Plan to the Executive Director for the review and written approval. The Removal/Relocation Plan shall clearly describe the manner in which such development is to be removed/relocated and the affected area restored so as to best protect coastal resources, including the Pacific Ocean. In the event that portions of the development fall to the beach or ocean before they are removed/relocated, the landowner shall remove all recoverable debris associated with the development from the beach and ocean and lawfully dispose of the material in an approved disposal site. Such removal shall require a coastal development permit.

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

restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

## **IV. DUAL PERMIT JURISDICTION**

The proposed development is within the coastal zone of the City of Los Angeles. Section 30600(b) of the Coastal Act allows a local government to assume permit authority prior to certification of its local coastal program. Under that section, the local government must agree to issue all permits within its jurisdiction. In 1978 the City of Los Angeles chose to issue its own CDPs pursuant to this provision of the Coastal Act.

Within the areas specified in Section 30601 of the Coastal Act, which is known in the City of Los Angeles permit program as the Dual Permit Jurisdiction area, the Act requires that any development that receives a local CDP also obtain such a permit from the Coastal Commission. Section 30601 requires a second CDP from the Commission on all lands located (1) between the sea and the first public road, (2) within 300 feet of the inland extent of a beach, or the sea where there is no beach, (3) on tidelands or submerged lands, (4) on lands located within 100 feet of a wetland or stream, or (5) on lands located within 300 feet of the top of the seaward face of a coastal bluff. Outside that area, the local agency's (City of Los Angeles) CDP is the only coastal development permit required. Thus, it is known as the Single Permit Jurisdiction area.

The project site is located within the "Dual Permit Jurisdiction" area pursuant to Section 13307 of Title 14 of the California Code of Regulations and Section 30601 of the Coastal Act. The applicants received a local CDP (No. DIR-2022-3509-CDP-MEL-HCA) from the City of Los Angeles on December 21, 2023. Proper notice of the City's determination was received on January 10, 2024, and the permit was not appealed to the Commission and is, therefore, a final action by the City. The subject application is for the Commission's dual coastal development permit.

## **V. FINDINGS AND DECLARATIONS**

### **A. PROJECT LOCATION AND DESCRIPTION**

The project site is located at 4819 Ocean Front Walk, less than 100 ft. from the public beach within the Marina Peninsula subarea of Venice in the City of Los Angeles (**Exhibit 1**). The subject beachfront corner lot is approximately 3,800 sq. ft. (40 ft. wide by 95 ft. long) and adjacent to a walk street (Reef Street) with access to the rear yard through the abutting alley, Speedway. The site is currently developed with a two-story,

2,500 sq. ft. single-family residence constructed in 1911.<sup>1</sup> Approximately 84 percent of the structure is proposed to be demolished and disposed of at Calabasas Landfill.

The site is designated Multiple Family Residential and Low Medium II Density by the certified Venice Land Use Plan (LUP) and Multiple Dwelling Zone (R3-1) by the City of Los Angeles uncertified Municipal Code. The subject lot is bordered by the coastal accessway of Ocean Front Walk to the west, an LUP-designated Walk Street (Reef Street) to the south, a two-story 28 ft.-high duplex to the north, and Speedway to the east. Ocean Front Walk and Reef Street are designated coastal resources in the Venice LUP that provide direct pedestrian and bicycle access to the public beach. The surrounding area is highly developed and characterized by single family and multifamily structures, many of which were constructed prior to the certification of the Venice LUP and have nonconforming building footprints and building heights. The residential development within this neighborhood ranges in height from two to four stories and is articulated with balconies, porches, and entryway recessions.

The applicant proposes substantial demolition, remodel, and addition to an existing 2,500 sq. ft. two-story single-family residence with an attached two-car garage resulting in a 5,605 sq. ft., three-story (approximately 32 ft. 3 in. high as seen from Ocean Front Walk) single-family residence with a 764 sq. ft. attached three-car garage (**Exhibit 2**). The new residence would include two ocean-fronting balconies on the second and third levels and a 94 sq. ft. rooftop deck accessed by two approximately 10 ft. high roof access structures, approximately 38 sq. ft. (stairs) and 61 sq. ft. (elevator), with approximately 33 in. high wood and glass guardrails. As proposed, the residential structure would be recessed approximately 2.5 ft. below existing grade on a slab foundation resulting in 361 cy. of soil cut and export. The new structure would be set back 5 ft. from the property line along Ocean Front Walk, 15 ft. from Speedway, and 5 ft. from the neighbor to the north. The north side 5 ft. setback would be developed with a foot of roof overhang and a Low Impact Development Planter that would abut that side property line. Any existing nonconforming vegetation within the Ocean Front right-of-way would be removed, and a 10 ft. wide segment of Ocean Front Walk would be constructed across the length of the development with a 42 in. high property wall along and within the subject property adjacent to the path.

As proposed, the residential structure would be set back 5 ft. from the southern property line adjacent to Reef Street; however, the residence's entry stairs and roof overhang would project into that setback approximately 5 ft. and 1 ft., respectively. The applicant is also proposing to encroach 15 ft. into the Reef Street right-of-way to create an additional private side yard area typical of walk streets in the Marina Peninsula. The applicant plans to get an encroachment permit from the City of Los Angeles to enclose this area in 42 in. high walls and gates, construct a side yard deck, and install other landscaping. There is currently fencing and nonconforming vegetation (including

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<sup>1</sup> According to the applicant's Historical Resources Assessment Report, prepared on December 21, 2022, by Sapphos Environmental, Inc., the property is not a historical resource.

invasive plant species) on Reef Street beyond the 15 ft. wide easement that is proposed to be removed and restored to publicly accessible beach sand.

The Commission's standard of review for the proposed development in the Dual Permit Jurisdiction area is the Chapter 3 policies of the Coastal Act, with the certified Venice LUP providing guidance.

## **B. PUBLIC ACCESS**

Coastal Act Section 30210 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.

Coastal Act Section 30211 states:

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

Coastal Act Section 30212(a) states:

Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where: (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, (2) adequate access exists nearby, or (3) agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.

Coastal Act Section 30252 states:

The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing nonautomobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.

Venice Certified LUP Policy I. D. 2, Venice Beach states:

Venice Beach stretches along the coast from Navy Street on the north to the entrance channel of Marina Del Rey.

Use/Density: The beach shall be zoned Open Space and used for public recreation. There should be no further construction on the beach other than police substation, City's and County's operational and management offices, recreational and accessory facilities such as playground equipment, athletic facilities, restrooms, lifeguard stations, bikeways, related short-term bicycle parking, walkways, lighting facilities where appropriate, and necessary expansion of existing or installation of new infrastructure. Reconstruction and rehabilitation of existing facilities shall be encouraged. Development shall be sited to protect Least Tern nesting areas and other environmentally sensitive habitat areas.

Venice Certified LUP Policy II. C. 5, Ocean Front Walk states:

It is the policy of the City to a continuous public pedestrian walkway that extends from the boundary with City of Santa Monica to the Marina del Rey entrance jetty as indicated on Exhibit 19. Ocean Front Walk shall be preserved and enhanced for public access including but not limited to improvements, such as repaving and landscaping along Ocean Front Walk, development of pedestrian plaza along Washington Boulevard and provision of landscaping and decorative treatments at Windward Avenue as outlined in the 1995 Venice Beach Ocean Front Walk Refurbishment Plan.

Venice Certified LUP Policy II. C. 7, Walk Streets states:

Designated walk streets shall be preserved and maintained at their present widths for public pedestrian access to the shoreline and other areas of interest and to preserve views along and from the public right-of-way. Vehicular access on walk streets shall be restricted to emergency vehicles. The minimum width of the pedestrian path shall be 10-12 feet in the North Venice and Peninsula areas and 4½ feet in the Milwood area. The remaining public right-of-way shall be limited to grade level uses including landscaping, patios, gardens and decks.

Venice Certified LUP Policy II. C. 11, Encroachments into Walk Street Right-of-Way states:

Encroachments into City right-of-way shall be limited to grade level uses including gardens, patios, landscaping, ground level decks and fences. The gardens/patios in the right-of-way, between the fences and the buildings, shall be permitted to provide a transitional zone between the public path ways and private dwellings.

To create a defensible space, the planting along the walk streets shall not impede the view of walkways by the residents and the view of the gardens by the pedestrian.

Creative use and arrangement of permeable paving materials shall be encouraged.

Any fence, wall or hedge erected in the public right-of-way shall not exceed 42 inches in height as measured from the existing grade of the public right-of-way. The use of decorative fence patterns such as split rail, picket and rustic is encouraged. New fences shall be located in line with existing fences on the same side of the street.

The project site is located at the intersection of two Venice LUP-designated coastal accessways—Ocean Front Walk and Reef Street—that provide direct access to and along the public beach. The subject 3,800 sq. ft. corner lot fronts Reef Street, an LUP-designated walk street, to the south and Ocean Front Walk to the west. The westerly property boundary fronting Ocean Front Walk is approximately 40 ft. wide and the southern property line is approximately 95 ft. long. The Coastal Act and certified Venice LUP contain numerous policies that ensure public access to and along these accessways is maximized.

### Ocean Front Walk

Ocean Front Walk is the first public road adjacent to the beach in Venice. North of the Venice Pier, there is a continuous pedestrian path that provides public access seaward of private development. South of the Pier, however, the Ocean Front Walk right-of-way is not fully paved. Thus, in compliance with Section 30210 of the Coastal Act, which requires public access be maximized for all people, Venice LUP Policy II.C.5 states that it is a policy of the City of Los Angeles to complete the walkway.

In this case, the segment of Ocean Front Walk immediately seaward of the subject property is currently undeveloped. As approved by the City and proposed by the applicant, the applicant would obtain a B-Permit or other locally required permit to construct a minimum 10 ft. wide paved path in the Ocean Front Walk right-of-way. However, considering the local permit was unclear about the length of the segment to be constructed and, in order to maximize public access consistent with these Coastal Act and LUP policies, **Special Conditions 1 and 2** are imposed. These conditions clarify that the applicant shall construct the segment of Ocean Front Walk from the northern boundary of the site to the intersection with the centerline of Reef Street where it will connect to an existing segment of the trail to the south and require the final plan set to include those details. **Special Conditions 2 and 3** require the applicant to obtain any necessary local permits. Additionally, to ensure the site is adequately prepared for the trail, **Special Condition 1.E** requires the applicant to remove any existing nonconforming vegetation that may exist, and **Special Condition 2** prohibits any future private encroachments into the Ocean Front Walk right-of-way.

As proposed, except for a 42 in. high wall along the property line and landscaping, all development adjacent to Ocean Front Walk would be set back at least 5 ft. from the property line. This setback is important to prevent residential maintenance activities from encroaching onto Ocean Front Walk and to minimize psychological impacts that the mass of residential development may have on members of the public using the trail. **Special Conditions 1 and 2** ensure that these areas remain clear of substantial development. **Special Condition 5** requires future development proposals at the site to

be requested for through a CDP (or CDP amendment) application to avoid impacts from future development, including development that may otherwise be exempt.

### Reef Street

Reef Street, including the subject block between Speedway and Ocean Front Walk, is designated as a “walk street” per LUP Policy II.C.7. The same policy states that walk streets provide public pedestrian access to the shoreline and other areas of interest and views along and from the right-of-way and must be at least 10 to 12 ft. wide in the Marina Peninsula area. The LUP also states: “The walk streets in North Venice, Marina Peninsula and Milwood neighborhoods are among the most pleasant pedestrian amenities in Los Angeles and provide excellent vertical access to the beach.”

At this location, Reef Street, has a functional right-of-way width of 40 ft. including 15 ft. of Permanent Encroachment area and 25 ft. of beach access.<sup>2</sup> The Commission has routinely approved front yard encroachments on the historic Venice walk streets, finding that the landscaped encroachment areas maintain the unique and historic character of the pedestrian accessways.<sup>3</sup> There are, however, policies in the LUP that dictate what development is allowed in those areas to minimize adverse impacts to public access.

Currently, there is only an approximately 5 ft. wide public walkway along this block of Reef Street between Speedway and the beach, inconsistent with LUP Policy II.C.7. The property to the south at 1 Spinnaker Street is developed with a multifamily building and planters along Reef Street within its property lines. Thus, the remaining 20 ft. of public access way is dominated by nonconforming dense non-native and invasive plant species, as verified onsite by Dr. Jonna Engel (Commission staff ecologist), that the applicant is proposing to remove as part of the subject project. This part of the applicant’s proposal will increase public access and recreation by creating a walkable street width that is consistent with other walk streets in the area.

However, as proposed, there are multiple elements related to the Reef Street encroachment area that are not consistent with the public access and recreation policies of Chapter 3 or the walk street policies of the certified Venice LUP. The LUP states: “Permanent encroachments within the existing public right-of-way of a designated walk street shall be permitted only by obtaining a revocable encroachment permit from the City Department of Public Works.” The applicant does not yet have the authority to conduct work within this area. Thus, **Special Condition 2** is imposed requiring the applicant to provide evidence that the City has permitted the subject encroachment prior to issuance of the subject coastal development permit. In the event of conflict between the terms and conditions imposed by the City and those of this

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<sup>2</sup> Per City of Los Angeles December 21, 2023, Director’s Determination for the subject project (Case No. DIR-2022-7644-CDP-SPP).

<sup>3</sup> CDP No. 5-01-162

coastal development permit, **Special Condition 3** clarifies that the terms and conditions of this permit (CDP No. 5-24-0231) shall prevail.

Second, Venice LUP Policy II.C.11, which regulates encroachments into walk street rights-of-way, states (in relevant parts) that: (a) encroachments shall be limited to grade level uses including gardens, patios, landscaping, ground level decks and fences, (b) landscaping and fences shall not impede the view of the gardens by pedestrians and decorative fence patterns such as split rail shall be encouraged, and (c) new fences shall be located in line with existing fences on the same side of the street. Regarding the nature of the encroachments, as proposed, the improvements within the encroachment area includes a boundary wall and hardscape that extends below existing grade. Per LUP Policy II.C.11, decorative fences (permeable styles) are encouraged and such improvements must be grade level with a maximum height of 42 in. to provide for the transitional zone between the public pathways and private dwellings and minimize any psychological barrier to public access within the publicly accessible pathway. Thus, **Special Condition 1.E** is imposed to require revised plans for the encroachment area that requires the 42 in. walls and gates to be replaced with visually permeable 42 in. fences and for any improvements/landscaping to be installed and maintained at grade and no taller than 48 in. As conditioned, the project would be consistent with the walk street policies for development within the encroachment area.

LUP Policy II.C.11 is also clear that new fences must be located in line with existing fences on the same side of the street. The other residential fences along the north side of Reef Street are approximately 5 ft. closer to the residences than the proposed encroachment boundary. Thus, **Special Condition 1.E** requires the final revised plans to align the proposed encroachment boundary fence with the other residential fences along that side of the Reef Street walk street. As conditioned, the development would be consistent with Policy II.C.11 and would increase public access along the walk street consistent with the public access policies of the Coastal Act.

In terms of the cumulative impacts associated with private encroachments within the walk streets, should the adjacent neighbor request a similar private encroachment into the Reef Street right-of-way, there could be potential for public access impacts. However, as stated previously, these private encroachments have been considered part of the historic character of walk streets providing a transition between the walk street and adjacent residential development. Further, even if the neighbor at 1 Spinnaker Street were to request a new 15 ft. private encroachment into Reef Street, the accessway (if developed as proposed and conditioned by this permit), would maintain a minimum 10 ft. walkway consistent with LUP Policy II.C.7. Thus, there would be no significant adverse cumulative impacts to public access.

### Parking

Coastal Act Section 30252 requires new development to provide for adequate parking onsite to avoid the need for, in this case, residents to use on-street public parking that would otherwise be available to the public to access the beach. Per the LUP, this site is within the Beach Impact Zone where it is especially important to provide onsite parking

resources because public beach parking is very limited. The LUP requires a new single-family residence on a 40 ft. wide property to provide three parking spaces. There is currently no garage onsite, but there are several informal parking spaces on a concrete driveway adjacent to Speedway. As proposed, the single-family home would have an attached three-car garage that would be accessed by a driveway on Speedway. Thus, as proposed, the development is consistent with the LUP parking standards and Section 30252 of the Coastal Act. **Special Condition 4** ensures that future changes at the site would not significantly affect public parking resources.

The LUP also prohibits the use of walk street and private encroachment areas for parking (LUP Policy II.C.7 and II.C.11). In fact, the LUP definition of a walk street includes that it has not been improved for vehicular access. As proposed, the gates that front Speedway appear to wide enough to allow car access and potential parking on the proposed hardscape within the encroachment area. This would be inconsistent with the LUP policies relating to walk streets. Thus, **Special Condition 1.E** is imposed to revise the final plans for the encroachment areas to reduce remove the gates, including the wide gate located on Speedway. As conditioned, the project would be consistent with the parking limitations for walk streets and encroachments in the LUP, which ensures public access to and along the walk street is prioritized.

### Construction

As previously described, the project fronts two public pedestrian accessways that are associated with and provide direct access to the beach. Thus, construction staging and activities, including the removal of any existing vegetative or structural encroachments in the rights-of-way and construction of Ocean Front Walk and the property boundary walls/fencing around the site have the potential to temporarily impact public access at the site. The applicant provided a staging plan that sites all construction staging on site except for temporary silt fencing along Reef Street that would temporarily extend into Reef Street during certain construction activities. However, the staging plan does not address the proposed construction of Ocean Front Walk or the restoration of the Reef Street right-of-way. Thus, **Special Condition 1.F** is imposed to ensure that the final construction staging plan includes all elements of the project and minimizes access limitations by requiring the applicant to provide the final plan to the Executive Director for review and approval prior to issuance of the CDP. As conditioned, the project is consistent with the public access and recreation policies of Chapter 3 of the Coastal Act and the certified Venice LUP.

### Conclusion

As proposed and conditioned, the project will not obstruct and will, in fact, provide for lateral beach access via the paved pedestrian path on Ocean Front Walk and improve vertical access via the removal of encroachments within the Reef Street right-of-way (LUP Policies II.C.7 and II.C.11). 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.

## **C. COMMUNITY CHARACTER & VISUAL RESOURCES**

Section 30250 of the Coastal Act states:

(a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels. (b) Where feasible, new hazardous industrial development shall be located away from existing developed areas. (c) Visitor-serving facilities that cannot feasibly be located in existing developed areas shall be located in existing isolated developments or at selected points of attraction for visitors.

Section 30251 of the Coastal Act states:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas ....

Section 30253(e) of the Coastal Act states:

New development shall: Where appropriate, protect special communities and neighborhoods which, because of their unique characteristics, are popular visitor destination points for recreational uses.

Venice Certified Land Use Plan Policy I.A.1, Residential Development states:

The maximum densities, building heights and bulks for residential development in the Venice Coastal Zone shall be defined by the Land Use Plan Maps and Height Exhibits (Exhibits 9 through 16), and the corresponding land use categories and the development standards as described in this LUP. Refer to Policies II.C.10 for development standards for walk streets and to Policies II.A.3 and 4 for parking requirements.

a. Roof Access Structures. Building heights and bulks shall be controlled to preserve the nature and character of existing residential neighborhoods. Residential structures may have an enclosed stairway (roof access structure) to provide access to a roof provided that:

i. The roof access structure shall not exceed the specified flat roof height limit by more than 10 feet;

5-24-0231 (The Marina Trust)

ii. The roof access structure shall be designed and oriented so as to reduce its visibility from adjacent public walkways and recreation areas;

iii. The area within the outside walls of the roof access structure shall be minimized and shall not exceed 100 square feet in area as measured from the outside walls; and,

iv. All roof access structures shall be set back at least 60 horizontal feet from the mean high tide line of Ballona Lagoon, Venice Canals, Grand Canal and the inland side of the Esplanade (City right-of-way).

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.

Venice Certified LUP Policy I.A.7, Multi-family Residential states, in relevant part:

c. Marina Peninsula

Use: Two units per lot, duplexes and multi-family structures.

Density: One unit per 1,200 square feet of lot area. Lots smaller than 4,000 square feet are limited to a maximum density of two units per lot.

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

Height: Not to exceed 35 feet. Structures located along walk streets are limited to a maximum height of 28 feet. (See LUP Policy I.A.1 and LUP Height Exhibits 13-16).

[Relevant note from referenced LUP Height Exhibit for Marina Peninsula:]

\*All building heights shall be measured from the elevation of the fronting right-of-way, except on lagoon lots where all building heights shall be measured from the average existing natural grade.

Venice Certified Land Use Plan Policy I. E. 2, Scale, states in relevant part:

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

Venice Certified Land Use 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.

Venice Certified LUP Policy I.D.3, Views of Natural and Coastal Recreation Resources states:

The scale of development shall comply with height limits, setbacks and standards for building massing specified in Policy Groups I.A and I.B, Residential and Commercial Land Use and Development Standards of this LUP, in order to protect public views of highly scenic coastal areas and vista points, including, but not limited to, the canals, lagoon, jetty, pier, Ocean Front Walk, walk streets and pedestrian oriented special communities.

Venice LUP Policy II.C.10, Walk Streets – Residential Development Standards states:

New residential development along walk streets shall enhance both public access and neighborhood character. Building materials, colors, massing and scale of new structures shall complement those of existing structures in the neighborhood. Building facades shall be varied and articulated to provide visual interest to pedestrians. Primary ground floor residential building entrances and frequent windows shall face the walk streets. Front porches, bays, and balconies shall be encouraged. In case of duplexes and low density multiple-family buildings, entries shall be located in the exterior building facade for each residential unit, shall face walk streets, and be well-defined and separate.

The proposed development is within an existing developed area designated in the certified Venice LUP as the Marina Peninsula subarea, which is generally bounded by Thirtieth Place and the Washington Boulevard Pier on the north, Via Marina on the south, Strongs Drive, Canal Court and Pacific Avenue on the east, and the beach and Pacific Ocean on the west. The proposed project is located at an intersection of two coastal accessways—one walk street and one beachfront trail—that provide direct access to the beach and shoreline. Consistent with the Chapter 3 visual resource protection policies, the certified Venice LUP contains policies that ensure new development protects the historic character of walk streets, maintains the pedestrian scale of development, ensures new structures are compatible with the mass and scale of the neighborhood, and provides for views to and along the beach. These policies are intended to preserve visual resources and Venice as a Special Coastal Community that brings people from all over to this part of the California coastline.

The subject area is almost exclusively residential with a mix of single- and multifamily structures two or more stories in height. The proposed project would replace an existing 2-story single-family residence with a 3-story single-family residence, maintaining the mixed residential character of the area. The existing residence was constructed in 1911 and modified several times thereafter. A report prepared by Sapphos Environmental Inc. in 2022 concluded that, due to the extent of alternations since its original construction and lack of connection with a historic figure, the existing structures on site are not

historical resources. Thus, the demolition of approximately 85% the house and change to the architectural style would not significantly impact the unique character of Venice protected by Coastal Act Section 30253(e).

### Pedestrian Scale

The Venice LUP, which provides more specific guidance for consistency of the development with Chapter 3 of the Coastal Act, limits the height of new residential structures in the subject area to 35 ft., generally, and 28 ft. along walk streets (LUP Policy I.A.7). The LUP further clarifies that the height should be measured from the fronting right-of-way. In this case, the proposed residence fronts both Ocean Front Walk and Reef Street. Thus, applying the standard that is more protective of coastal resources, including community character (e.g. the pedestrian scale of development along walk streets) and visual resources, the height of the new residence would be limited to a maximum of 28 ft.

The proposed 3-story residence has a building height of approximately 32 ft.-3 in. measured from the centerline of Ocean Front Walk. While the rectangular shaped structure is of varied massing, materials, and colors and designed with articulation elements including entryway and balcony recessions at the first, second, and third levels to reduce the visual bulk and massing, it is taller than 28ft. and, thus, inconsistent with the LUP standards provided in Policy I.A.7. Therefore, **Special Condition 1.A** requires revised final plans that meet the LUP height standard for the new residence thereby increasing conformity with the residential character of the area.

Further, the applicant's proposal to construct the home, as well as the development within in the encroachment area, below existing grade does not conform to the character of the neighborhood. This feature would separate the development from adjacent properties and beaches by sinking it down below surrounding development, which similarly separates it from the pedestrian experience. Therefore, to ensure the scale and character of community development is consistent with LUP Policy I.E.2 and Coastal Act section 30253(e), **Special Condition 1.C** is imposed to require revised plans that maintain the visual character of the area by raising the first floor to current grade, consistent with surrounding development.

### Roof Access Structures

The proposed development includes a rooftop deck that has become a popular feature for new development in the area. Such decks often necessitate the construction of an enclosed roof access structure (i.e. enclosed stairway or elevator landing) that can add to the height and mass of a building and, if not located appropriately, could impact the apparent scale and mass of the structure and, thus, the residential character. Therefore, the Venice LUP contains several restrictions on roof access structures (Policy I.A.1.a) including that they cannot extend beyond 10 ft. above the maximum building height, they must be sited and designed to minimize visibility from public accessways, there can only be one per building, and it must not exceed 100 sq. ft. in area, as measured from the exterior walls.

As proposed, there are two roof access structures 61 sq. ft. and 38 sq. ft. for an elevator and stairs. While the two together constitute less than 100 sq. ft., are less than 10 ft. tall, and are located away from Ocean Front Walk and the walk street to reduce visibility, the LUP only allows for a single roof access structure. More than one roof access structure at this site would likely be visible from the beach and would increase the massing and apparent height of the structure thereby affecting the character of the area. Thus, **Special Condition 1.B** requires revised plans that include only one roof access structure that conforms to the LUP requirements to ensure consistency with the visual resource and community character policies of the Coastal Act.

### Encroachment Area

The Venice LUP describes walk streets as providing excellent pedestrian access and views to the beach and shoreline, historic resources, and a visual and recreational amenity, making them a significant coastal resource that contributes to the unique character of Venice. LUP Policy II.C.11 allows private encroachments into public rights-of-way so long as certain standards are met. To protect and enhance views, access, and the pedestrian experience along walk streets like Reef Street, new development in encroachment areas are limited to grade level uses including gardens, patios, landscaping, ground level decks and fences; the views of such gardens shall not be impeded by fences; and fences are encouraged to be visually permeable. As proposed, upon receipt of an encroachment permit from the City (**Special Condition 2**), the applicants would construct a new 42 in. high wall with solid gates around the boundary of the encroachment area. While consistent with the height limits identified in the LUP, this would limit pedestrians' views of the landscaping inconsistent with the LUP-stated intent that these areas provide a visual transition between the public walkway and the residential development. **Special Condition 1.E** limits any new structural encroachment boundary delineation to be visually permeable fencing, rather than a solid wall. As conditioned, this also minimizes impacts to views of the beach and ocean, which are protected by the visual resource policies of Chapter 3 and the LUP. **Special Condition 1.E** also memorializes the LUP's limitation on the height of any structures or landscaping within the encroachment area (42 in. maximum) and requirement for ground level uses.

In addition, LUP Policy II.C.11 requires new fences to be located in line with existing fences on the same side of the walk street. As described in the Public Access section of this report, the proposed boundary wall is not in line with the fences along the rest of the northern side of Reef Street. Thus, **Special Condition 1.E** requires the proposed boundary fence around the encroachment area to be moved closer to the residential structure. This, along with the visual permeability of the fence, will also serve to open up additional public blue water views and views of the beach consistent with the visual resource policies of Chapter 3.

Similarly, the entrance to the residence is located on the second floor adjacent to the encroachment area facing Reef Street, which is not consistent with other development along the walk street. LUP Policy II.C.10 requires new residential development on walk streets to complement existing structures, as well as have primary ground floor

entrances and windows facing the walk street. To ensure consistency with this policy and maintain the pedestrian scale of the walk street, **Special Condition 1.C** requires the revised final plans to locate the entrance on the at grade ground floor.

### Conclusion

The proposed project, if revised as conditioned, would be visually compatible with the surrounding developed area including development along Reef Street, other nearby walk streets, and Ocean Front Walk. Furthermore, cumulative impacts to community character and visual resources that may have occurred if the project was not conditioned as detailed above thereby setting an adverse precedent for future development along Walk Streets and Ocean Front Walk, are avoided as conditioned. Therefore, as proposed and conditioned, the development conforms with Sections 30250, 30251, and 30253 of the Coastal Act and is consistent with the visual resource and community character policies, including walk street standards, outlined in the certified Venice LUP.

## **D. COASTAL HAZARDS**

Coastal Act Section 30253 states, in pertinent 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 protection devices that would substantially alter natural landforms along bluffs and cliffs.

Coastal Act Section 30270 states:

The commission shall take into account the effects of sea level rise in coastal resources planning and management policies and activities in order to identify, assess, and, to the extent feasible, avoid and mitigate the adverse effects of sea level rise.

The project site is located immediately adjacent to a currently approximately 600 ft. wide public beach and approximately 300 ft. from Grand Canal, which is part of a man-made saltwater canal system tidally influenced through the use of a series of mechanical tide gates. Development adjacent to the ocean is inherently hazardous and, based on the City's Venice Sea Level Rise Vulnerability Assessment prepared by Moffat & Nichol (May 2018), the communities near the Venice Canals area are low-lying and flood prone under existing conditions. There are also parts of Venice where groundwater levels are emergent and could cause flood hazards. These hazards may be exacerbated by the

sea level rise that is expected to occur over the coming decades.

While uncertainty remains with regard to exactly how much sea levels will rise and when, currently, the best available science on SLR projections in California is provided in the State of California Sea-Level Rise Guidance Update (OPC 2024) and is reflected in the 2024 Update to the Coastal Commission Sea Level Rise Policy Guidance (CCC 2024). It is critical to continue to assess sea level rise vulnerabilities when planning for future development, and such an assessment would be consistent with Coastal Act Section 30270, which requires that sea level rise be taken into account in order to identify, assess, and, to the extent feasible, avoid and mitigate the adverse effects of sea level rise. Importantly, maintaining a precautionary approach that considers high or even extreme sea level rise rates and includes planning for future adaptation will help ensure that decisions are made that will result in a resilient coastal California.

The applicant submitted a Wave Runup and Sea Level Rise Study prepared by ENGEO on July 7, 2022 that analyzed potential coastal hazards from sea level rise and wave runup from the ocean and provided recommendations for adaptation measures that would reduce risk to the structure. The study anticipates that the site would be safe from wave uprush hazards due to a stable back beach that would provide a relatively wide buffer (approximately 300 ft.) between the residence and wave uprush limits over the expected 75-year life of the development.<sup>4</sup> Still, the recommendations of the study include floodproofing the residence and associated utilities and providing adequate drainage onsite. The applicant is also proposing to locate mechanical systems at least 5 ft. above existing grade, which is already at an elevation of 15.5 ft. (NAVD88), and to use 12-in.-thick concrete walls for the ground level to support hydrodynamic loads in the event of wave uprush in the future.

Other main potential flooding sources would be tidal (from the canal should the tide gates cease to function), fluvial (from storms should drainage onsite be inadequate), or from groundwater (should the groundwater table emerge above the surface). To address these hazards, the applicant proposes floodproofing measures such as a sewer system design that would avoid infiltration into the groundwater table, use of a stormwater catchment system that could accommodate overflow and pump it to the street, and a mat slab foundation engineered to disperse the weight of the building in the case of uplift due to hydrostatic pressures.

Nevertheless, the project proposal includes excavation of 361 cy. of soils to construct the ground floor approximately 2.5 ft. below existing grade. This semisubterranean level could adversely impact coastal resources in several ways. First, in the Geotechnical Engineering Investigation prepared by NorCal Engineering on October 14, 2022, the groundwater table at this site was found to be approximately 9.5 ft. to 10 ft. below grade

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<sup>4</sup> Although many jurisdictions with LCPs specify design lives for certain types of development, the City of Los Angeles does not have relevant certified LUP/LCP policies for new beachfront development in Venice. The design life of the subject development should be approximately 75 to 100 years, consistent with the minimum 75-year timeframe used in the applicants' consultant's coastal hazards study and recommended in the Commission's SLR Guidance for new residential development or redevelopment.

at present, but it is expected to rise along with sea levels. According to data from the U.S. Geologic Survey Coastal Storm Modeling System (CoSMoS), groundwater levels could be around 3 to 6 ft. below ground surface by the end of the residence's design life in the year 2100. In addition, the Venice Sea Level Rise Vulnerability Assessment prepared for the City by moffatt & nichol on May 25, 2018, suggests that Venice is vulnerable to groundwater shoaling (the process by which sea level rise causes groundwater to rise). Thus, even with the applicant's proposed floodproofing measures, the subsurface portions of the structure could become increasingly inundated and exacerbate risks from coastal hazards.

Moreover, generally, basements can complicate future removal of threatened structures, can function as shoreline protective devices, can compromise health and safety depending on what is stored in those areas, and displace groundwater in confined aquifers. In this case, the sunken first floor could function as a shoreline protective device, altering natural shoreline processes as the beach is squeezed by sea level rise and existing development. As a new residence, the development does not have a right to shoreline protection, which if constructed would come at the expense of the public beach. **Special Condition 9** is imposed to ensure that coastal processes and the public's right to access the coast are not adversely affected by a shoreline protective device in the future, should sea levels rise faster than currently expected and the new development authorized by this permit becomes exposed to coastal hazards.

Additionally, the recessed level would make it more difficult to remove the development should it become threatened and deemed unsafe by a government entity, as required by **Special Condition 9**. Furthermore, the applicant has not provided sufficient evidence that the proposed sunken first floor would not create localized flooding by displacing groundwater as the water table rises in association with sea levels. Thus, **Special Condition 1.C** is imposed to require revised plans where the first floor is at the existing grade consistent with adjacent development in order to minimize risks of flooding, be more compatible with the community character of the surrounding area, and be more consistent with the walk street policies requiring ground floor uses to be at grade (as described in the Community Character and Visual Resources section of this staff report). **Special Condition 1.D** requires the final grading and foundation plans to be in conformance with the recommendations of the geotechnical investigation and sea level rise study prepared for the site.

**Special Condition 8** requires the applicant to assume the risks of development in a hazardous environment. Additionally, **Special Condition 10** requires the applicant to record a deed restriction acknowledging that, pursuant to this permit, the Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the property. Thus, as conditioned, this condition ensures that any prospective future owner will receive notice of the restrictions and/or obligations imposed on the use and enjoyment of the land in connection with the authorized development, including the risks of the development and/or hazards to which the site is subject, and the Commission's immunity from liability.

As proposed and conditioned, the development is consistent with Sections 30253 and 30270 of the Coastal Act.

## **E. BIOLOGICAL RESOURCES AND WATER QUALITY**

Coastal Act Section 30230 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.

Coastal Act Section 30231 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 waterflow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Coastal Act Section 30232 states:

Protection against the spillage of crude oil, gas, petroleum products, or hazardous substances shall be provided in relation to any development or transportation of such materials. Effective containment and cleanup facilities and procedures shall be provided for accidental spills that do occur.

Coastal Act Section 30240(b) states:

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 those areas, and shall be compatible with the continuance of those habitat and recreation areas.

The subject site is located adjacent to the beach and approximately 300 ft. from Grand Canal. Both areas provide nesting, foraging, and spawning habitat for numerous bird, fish, and other species. Thus, it is important that new development avoid impacts to water quality and degradation of habitat, as protected by Coastal Act sections 30230, 30231, 30232, and 30240. Currently, the site contains one mature tree proposed to be removed and nonconforming vegetation that is dominated by invasive and non-native plant species.

The applicant is proposing to remove the nonconforming vegetation to open the walk street width to its intended size and to allow for the construction of Ocean Front Walk. As confirmed by Commission staff ecologist Dr. Jonna Engel, the vegetation does not rise to the level of “environmentally sensitive habitat area,” and its removal would stop the spread of invasive species at the subject site and beyond and allow for the continuation of sandy beach habitat found surrounding the vegetation. However, **Special Condition 1.E** requires a final landscape plan approved by the Executive Director to ensure that removal activities do not adversely impact coastal species. Similarly, **Special Condition 1.E** requires the applicant to retain a qualified specialist to survey the mature tree that is proposed to be removed to avoid any impacts to nesting birds.

The applicant is proposing to have large windows adjacent to the beach, as well as glass guardrails along the roof deck. Glass railing systems, walls or wind screens are known to have adverse impacts upon a variety of bird species. Birds are known to strike these glass walls causing their death or stunning them, which exposes them to predation. To minimize bird strikes, **Special Condition 1.G** requires that the applicant to use a material for the glass railing that is designed to prevent creation of a bird strike hazard. The new development may also have night lighting that could impact the foraging and nesting activities of birds and other species in the area. Thus, **Special Condition 1.H** is imposed to ensure light is downcast and directed away from the adjacent sandy beach areas and the minimum necessary to ensure public safety.

The proposed development also has the potential for discharge of polluted runoff from the project site into coastal waters during construction and over the life of the development. Storage or placement of construction materials, debris, or waste in a location subject to erosion and dispersion or which may be discharged into coastal waters via rain or wind would result in adverse impacts upon the marine environment that would reduce the biological productivity of coastal waters. Thus, **Special Condition 6** is imposed to ensure the applicant’s proposed best management practices include those that will protect the adjacent beach habitat and avoid runoff into canal waters. Regarding onsite drainage, the development, as proposed relies on reducing runoff through the use of permeable surfaces, using vegetation to reduce and treat the runoff discharged from the site, and a drainage system designed to collect all runoff from the roof, decks, and driveway, with room for stormwater overflow, and pipe or pump it (depending on catchment location) to the Speedway Alley stormwater system. **Special Condition 1.D** requires the final plans to be in conformance with the recommendations of the geotechnical and sea level rise studies prepared for the project. To further ensure that the as-built project protects coastal habitats and ecological communities, preserves water quality, minimizes energy use, and does not contribute to invasive weeds, **Special Condition 1.E** requires a final landscaping plan that adheres to landscape recommendations listed in the NorCal Engineering Geotechnical Engineering Investigation geology and City of Los Angeles Soils Report and limits the proposed plant palette to non-invasive plant species.

The development, as proposed and as conditioned, improves adjacent habitat areas by removing invasive plant species and incorporates design features and construction

measures to minimize the effect of construction and post-construction activities on the marine environment, biological productivity, and coastal water quality. Therefore, the Commission finds that the proposed development, as conditioned, conforms to Sections 30230, 30231, 30232, and 30240 of the Coastal Act regarding the protection of water quality to protect marine resources, promote the biological productivity of coastal waters and protect human health.

## **F. ARCHAEOLOGICAL, PALEONTOLOGICAL, AND TRIBAL 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.

The applicant provided a Geotechnical Engineering Investigation prepared by NorCal Engineering on October 14, 2022 that suggests the sediment at the site is composed of a 1 to 1.5 ft. deep layer of fill with native soils beneath. The native soils are composed of sands and silty sands. The proposed design would necessitate approximately 361 cy. of excavation. Excavation and other grading activities that disturb native soils or fill that may have come from the site or another area nearby have the potential to contain in ground archaeological, paleontological, and tribal cultural resources. The relatively shallow excavation depth (approximately 5 ft.) and sandy natural soil layer, suggests the site is not likely to contain paleontological resources. However, recognizing that the entirety of the State's coastal zone was originally indigenous territory that continues to have cultural significance to Native American tribes and that this area was historically part of a larger wetland complex, Commission staff have consulted with local tribal representatives with ties to the area pursuant to the Commission's Tribal Consultation Policy (adopted on August 8, 2018)<sup>5</sup> and have learned that this general area has potential for the discovery of tribal cultural resources. Tribal Cultural Resources can be sites, features, cultural landscapes, sacred places, and objects with cultural value and can also qualify as archeological, paleontological, visual, biological, or other resources that the Commission is tasked with protecting pursuant to the Coastal Act. Such resources have the potential to be impacted through ground disturbing activities including excavation.

Commission staff initiated consultation regarding this specific project with all tribes known to have ties to the project area in accordance with the Commission's Tribal Consultation procedures on September 25, 2024. Only one response was received. A representative of the Gabrieleno Band of Mission Indians – Kizh Nation said they were not concerned about the particular fill materials in this area, but since there is still potential to come across some culturally significant artifacts, they requested that any inadvertent discovery of resources be reported to the Tribe. This and other tribal entities

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<sup>5</sup> <https://documents.coastal.ca.gov/assets/env-justice/tribal-consultation/Adopted-Tribal-ConsultationPolicy.pdf>

with ties to the area have explained why typical inadvertent discovery permit conditions and mitigation measures are not adequate to protect tribal cultural resources. However, given this specific request along with the requirements of **Special Condition 1.C** to construct the residence and accessory development at grade, thereby significantly reducing the amount of ground disturbance that would be required to construct the residence, **Special Condition 7** is imposed directing the applicant of the steps to be taken should archaeological and/or tribal cultural resources be found onsite.

The proposed project, as thus conditioned, is consistent with Coastal Act section 30244, as the development will include reasonable mitigation measures to minimize potential adverse impacts to archaeological and tribal cultural resources at the site.

### **G. LOCAL COASTAL PROGRAM (LCP)**

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

### **H. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

Section 13096(a) of the Commission's administrative regulations require Commission approval of a Coastal Development Permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). 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. Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect that the activity may have on the environment.

The City of Los Angeles is the lead agency for purposes of CEQA compliance. As noted on the City's Director's Determination (Case No. DIR-2022-7644-CDP-SPP) dated December 21, 2023, 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). In addition, the proposed project has been conditioned to be found consistent with the Coastal Act. As conditioned to minimize risks associated with public access, there are no feasible alternatives or additional

feasible mitigation measures available that would substantially lessen any significant adverse effect, individual or cumulative, that the activity 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 and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

**Appendix A – Substantive File Documents**

- Historical Resources Assessment Report, prepared on December 21, 2022, by Sapphos Environmental, Inc.
- City of Los Angeles December 21, 2023, Director's Determination for the subject project (Case No. DIR-2022-7644-CDP-SPP)
- Wave Runup and Sea Level Rise Study prepared by ENGEO on July 7, 2022
- Geotechnical Engineering Investigation prepared by NorCal Engineering on October 14, 2022