

CALIFORNIA COASTAL COMMISSION

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 Commission Action:

**Tu13c**

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STAFF REPORT: APPEAL
SUBSTANTIAL ISSUE

LOCAL GOVERNMENT: City of Los Angeles

LOCAL DECISION: Approval with Conditions

APPEAL NUMBER: A-5-VEN-05-259

APPLICANT: City of Los Angeles Department of Public Works

APPELLANTS: James Murez, John Davis, and Coastal Commission Executive Director, Peter Douglas

PROJECT LOCATION: Northwest corner of intersection of North Venice Boulevard and Abbot Kinney Boulevard, Venice, City of Los Angeles.

PROJECT DESCRIPTION: Appeal from decision of the City of Los Angeles approving Local Coastal Development Permit No. 04-01 for the vacation of a portion of the public right-of-way.

SUBSTANTIVE FILE DOCUMENTS:

1. City of Los Angeles certified Land Use Plan for Venice, 6/14/01.
2. City of Los Angeles Specific Plan for Venice, Ordinance No. 172,897, 12/22/99.
3. City of Los Angeles Local Coastal Development Permit No. 04-01.
4. City of Los Angeles Street Vacation File No. VAC-E1400779 (Council File No. 01-2183).
5. Coastal Development Permit 5-90-664 & amendments (Caltrans & City of Los Angeles).
6. Coastal Development Permit Appeal File No. A-5-91-486 (Haseko-Tekno Dev.).

SUMMARY OF STAFF RECOMMENDATION

The staff recommends that the Commission, after public hearing, determine that a **SUBSTANTIAL ISSUE EXISTS** with respect to the City-approved project's conformance with the Chapter 3 policies of the Coastal Act because the vacation of part of the right-of-way could adversely affect coastal resources and public access to the shoreline along North Venice Boulevard, a major coastal access route. **See Page Five for the motion** to make the substantial issue determination.

I. APPELLANTS' CONTENTIONS

City of Los Angeles Local Coastal Development Permit No. 04-01 approves the vacation of a portion of the public right-of-way at the northwest corner of intersection of North Venice Boulevard and Abbot Kinney Boulevard (Exhibit #2). The vacated portion of the right-of-way is about 4,500 square feet in area¹ (Exhibit #3). The local coastal development permit does not approve any physical development. The owner of the corner lot and commercial office building that abuts the vacated portion of the right-of-way currently uses the land as part of the parking area that serves the office building that he owns (1656 Abbot Kinney Boulevard).

James Murez, John Davis, and Coastal Commission Executive Director Peter Douglas have appealed the City's action to approve the local coastal development permit that is required for the vacation of part of the public right-of-way.

The grounds for the appeal by the Executive Director are:

The project approved by the local coastal development permit involves the vacation of a portion of Venice Boulevard, a major coastal access route that is subject to Commission-approved Coastal Development Permit 5-90-664 and subsequent amendments. The vacation of a part of this public right-of-way could adversely affect coastal resources and/or public access to the shoreline. For example, this segment of public right-of-way may be used to provide additional public parking, enhanced transit service or for a future expansion of the existing street system. [Coastal Act Sections 30210, 30211, 30212.5, 30213 and 30223] The right-of-way may also provide an area landscaping to enhance the visual resources of the area and to improve air quality. [Coastal Act Sections 30251, 30252 and 30253.] Therefore, this local coastal development permit action merits closer scrutiny by the Commission.

The grounds for the appeal by James Murez are attached to this report as Exhibit #4, and include the following:

- The intersection of North Venice Boulevard and Abbot Kinney Boulevard, referred to by the Coastal Conservancy as "the Ceremonial Gateway to Venice," should be retained in public ownership and landscaped in order to enhance the visual quality of the streetscape.
- The City's action sets a bad precedent as the vacation of any portion of the North Venice Boulevard right-of-way would lead to additional vacations where the right-of-way abuts other properties along the street, thus significantly reducing the public area available for street trees and other landscaping (i.e., a domino effect).
- The large street trees (sycamore) that are already growing within the public right-of-way may be removed if their canopies extend beyond the right-of-way when they reach maturity. Therefore, the width of the right-of-way should not be reduced by any vacations.

¹ The City's staff report states that the area to be vacated is 3,500 square feet in area.

- The City's action violates the landscaping plan approved by Coastal Commission Coastal Development Permit 5-90-664, which was issued to the State Department of Transportation for the realignment of Venice Boulevard in the early 1990s.
- The City's action violates the provisions of the certified Land Use Plan (LUP) for Venice that relate to the visual enhancement of Venice Boulevard (the Ceremonial Gateway to Venice) and the surrounding area.
- The City's action violates the visual resource protection provisions set forth by Section 30251 of the Coastal Act.
- The City's action does not protect the community of Venice, a popular visitor destination, as required by Section 30253(5) of the Coastal Act.

The grounds for the appeal by John Davis are attached to this report as Exhibit #5, and include the following:

- The local coastal development permit is invalid because the City does not have a certified Local Coastal Program (LCP) under which the Coastal Commission has delegated permitting authority.
- The City's action constitutes an unlawful gifting of public property to a private entity prohibited by Article 16 of the California Constitution.
- The City's action violates Coastal Act Section 30604 because it prejudices the ability of the local government to prepare a Local Coastal Program (LCP) in compliance with Chapter 3.
- The action does not comply with the requirements of the California Environmental Quality Act (CEQA).
- The City violated the Brown Act.
- The City's action is inconsistent with Chapter 3 policies 30251 and 30254 and violates numerous other provisions of the Coastal Act and the State Regulations.

II. LOCAL GOVERNMENT ACTION

On October 18, 2002, the Los Angeles City Council conditionally approved the street vacation finding that the area to be vacated is not needed for present or prospective public use. Since the City Council action did not include a local coastal development permit approval for the vacation, Commission staff reminded the City (in a letter dated October 2, 2003) that the vacation of a public right-of-way falls within the Coastal Act's definition of "development" and therefore requires a coastal development permit. Attached to the October 2, 2003 letter was a copy of a similar letter dated November 20, 1998 that Commission staff had sent to the City in regards to the vacation of public rights-of-way in the coastal zone.

In 2004, the City of Los Angeles Department of Public Works began processing a local coastal development permit for the vacation of a portion of the public right-of-way situated at the northwest corner of intersection of North Venice Boulevard and Abbot Kinney Boulevard (Exhibit #2). On December 17, 2004, the City of Los Angeles Bureau of Engineering (Public Works Department) held a public hearing for Local Coastal Development Permit No. 04-01 for the proposed vacation.

On May 2, 2005, the City of Los Angeles Bureau of Engineering issued a Notice of Decision approving Local Coastal Development Permit No. 04-01 and incorporating the conditions of the City Council's 2002 approval of the vacation (Exhibit #6).

James Murez and Steve Freedman appealed the City's May 2, 2005 approval of the local coastal development permit to the City of Los Angeles Board of Public Works. On June 27, 2005, the Board of Public Works denied the appeal and upheld the approval of Local Coastal Development Permit No. 04-01 for the vacation.

On June 28, 2005, the Commission's South Coast District office in Long Beach received the City's Notice of Final Action for its approval of Local Coastal Development Permit No. 04-01 and established the twenty-working day appeal period. On June 29, 2005, in anticipation of an appeal to the Commission, the City sent a copy of its local coastal development permit file to the Commission's Long Beach office. During the appeal period, which ended on July 27, 2005, the Commission received three appeals. James Murez filed the first appeal on July 11, 2005. The other two appeals were filed on July 27, 2005.

III. APPEAL PROCEDURES

Section 30600(b) of the Coastal Act provides that prior to certification of its Local Coastal Program (LCP), a local jurisdiction may, with respect to development within its area of jurisdiction in the coastal zone and consistent with the provisions of Sections 30604, 30620 and 30620.5, establish procedures for the filing, processing, review, modification, approval or denial of a coastal development permit. Pursuant to this provision, the City of Los Angeles developed a permit program in 1978 to exercise its option to issue local coastal development permits.

Sections 13301-13325 of Title 14 of the California Code of Regulations provide procedures for issuance and appeals of locally issued coastal development permits. Section 30602 of the Coastal Act allows *any* action by a local government on a coastal development permit application evaluated under Section 30600(b) to be appealed to the Commission. The standard of review for such an appeal is the Chapter 3 policies of the Coastal Act. [Cal. Pub. Res. Code §§ 30200 and 30604.]

After a final local action on a local coastal development permit application, the Coastal Commission must be noticed within five days of the decision. After receipt of such a notice which contains all the required information, a twenty working-day appeal period begins during which any person, including the applicant, the Executive Director, or any two members of the Commission, may appeal the local decision to the Coastal Commission. [Cal. Pub. Res. Code § 30602.]

Any appeal of the local action is then analyzed to determine if a substantial issue exists as to conformity with Chapter 3 of the Coastal Act (Sections 30200-30265.5). [Cal. Pub. Res. Code § 30625(b)(1).] Unless the Commission finds that the appeal raises no substantial issue, the Commission then holds a public hearing in which it reviews the coastal development permit as a de novo matter. [Cal. Pub. Res. Code §§ 30621 and 30625.]

At this point, the Commission may decide that the appellants' contentions raise no substantial issue as to conformity with Chapter 3 of the Coastal Act, in which case the action of the local government stands. Or, the Commission may find that a substantial issue exists with respect to the conformity of the action of the local government with Chapter 3 of the Coastal Act if it finds that the appeal raises a significant question regarding consistency with the Chapter 3 policies of the Coastal Act. If the Commission finds that a substantial issue exists, then the hearing will be continued as a de novo permit request. Section 13321 of the Coastal Commission regulations specifies that de novo actions will be heard according to the procedures outlined in Sections 13114 and 13057-13096 of the Commission's regulations.

IV. DUAL PERMIT JURISDICTION

Within the areas specified in Section 30601, which is known in the City of Los Angeles permit program as the *Dual Permit Jurisdiction* area, the Coastal Act requires that the development which receives a local coastal development permit also obtain a "dual" coastal development permit from the Coastal Commission. For projects located inland of the areas identified in Section 30601 (*Single Permit Jurisdiction*), the City of Los Angeles local coastal development permit is the only coastal development permit required. The proposed development is not located within the *Dual Permit Jurisdiction*.

V. STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE

The staff recommends that the Commission determine that **a substantial issue exists** with respect to whether the local government's approval of the project is consistent with the provisions of Chapter 3 of the Coastal Act (commencing with Section 30200), pursuant to PRC Section 30625(b)(1).

Staff recommends a **NO** vote on the following motion:

MOTION: *"I move that the Commission determine that Appeal No. A-5-VEN-05-259 raises **no** substantial issue with respect to conformity of the local approval with the policies of Chapter 3 of the Coastal Act."*

Failure of the motion will result in a de novo hearing on the application and adoption of the following resolution and findings. A majority of the Commissioners present is required to pass the motion.

Resolution to Find Substantial Issue for Appeal A-5-VEN-05-259

The Commission hereby finds that Appeal No. **A-5-VEN-05-259** presents a substantial issue with respect to conformity of the local government approval with the Chapter 3 policies of the Coastal Act.

VI. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. Project Description

The project approved by Local Coastal Development Permit No. 04-01 is the vacation of a portion of the public right-of-way situated at the northwest corner of intersection of North Venice Boulevard and Abbot Kinney Boulevard (Exhibit #3). The local coastal development permit does not approve any physical development, but the owner of the abutting corner lot claims to hold title to the underlying land over which the right-of-way would be vacated and intends to use it for private parking and landscaping after the vacation of the right-of-way is finalized. This landowner is currently using the right-of-way on his lot as part of the parking area that serves the office building on his property at 1656 Abbot Kinney Boulevard. The vacated areas are situated between the existing public sidewalk and the abutting lot.

B. Factors to be Considered in Substantial Issue Analysis

Section 30625(b)(1) of the Coastal Act states that the Commission shall hear an appeal of a local government action carried out pursuant to Section 30600(b) unless it finds that no substantial issue exists as to conformity with Chapter 3 of the Coastal Act. The term "*substantial issue*" is not defined in the Coastal Act or its implementing regulations. Section 13115(b) of the Commission's regulations simply indicates that the Commission will hear an appeal unless it "finds that the appeal raises no significant question." In previous decisions on appeals, the Commission has been guided by the following factors.

1. The degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the relevant provisions of the Coastal Act;
2. The extent and scope of the development as approved or denied by the local government;
3. The significance of the coastal resources affected by the decision;
4. The precedential value of the local government's decision for future interpretations of its LCP; and,
5. Whether the appeal raises local issues, or those of regional or statewide significance.

Staff is recommending that the Commission find that **a substantial issue exists** with respect to whether the local government action conforms with the provisions of Chapter 3 of the Coastal Act for the reasons set forth below. Even when the Commission chooses not to hear an appeal, appellants nevertheless may obtain judicial review of the local government's coastal permit decision by filing petition for a writ of mandate pursuant to Code of Civil Procedure, Section 1094.5.

C. Substantial Issue Analysis

As stated in Section III of this report, the grounds for an appeal of a coastal development permit issued by the local government prior to certification of its Local Coastal Program (LCP) are the Chapter 3 policies of the Coastal Act. Any such local government coastal development permit may be appealed to the Commission. The Commission shall hear an appeal unless it determines that the local government action raises no substantial issue as to conformity with Chapter 3 policies of the Coastal Act. In this case, staff has recommended that a substantial issue does exist in the local government's approval of the project.

1. Project History

The portion of the right-of-way that is subject to the City's local coastal development permit action is the portion at the northwest corner of the intersection of North Venice Boulevard and Abbot Kinney Boulevard (Exhibit #3). The portion of the Abbot Kinney Boulevard right-of-way being vacated is five feet deep and about ninety feet long. The portion of the North Venice Boulevard right-of-way being vacated is much larger, about forty feet deep and about 95 feet long. The vacated areas are situated between the existing public sidewalk and the abutting lot that occupies the corner of the intersection.

The City considers the portion of the North Venice Boulevard right-of-way being vacated as excess land that became unnecessary for public use in the early 1990s when the State Department of Transportation (Caltrans) realigned North and South Venice Boulevard (within the existing Venice Boulevard right-of-way) and eliminated portions of a widened median strip that was a relic of the old streetcar system. The project design, including landscaping, was the result of a series of community meetings and agreements between the City of Los Angeles, which was accepting ownership of the street, and several government agencies (e.g., Caltrans, Coastal Commission and the Coastal Conservancy). The general public and non-government groups (e.g. Venice Action Committee) were also involved in formulating the plan for the Venice Boulevard right-of-way. The plan identified both interim and permanent public parking in the right-of-way, ten-foot wide sidewalks, and median landscaping that included large street trees (sycamores) to mark the "Gateway to Venice."

On September 13, 1990, the Commission approved Coastal Development Permit 5-90-664 for the public works project. Coastal Development Permit 5-90-664 addressed primarily the issue of the preservation of public parking within the Venice Boulevard right-of-way (both within the median and along the sides of the right-of-way). During that project, the roadways and medians were realigned leaving some of the outside portions of the right-of-way undeveloped (i.e., the right-of-way area beyond/outside of the paved street and sidewalk). Coastal Development Permit 5-90-664 requires that certain portions of the undeveloped Venice Boulevard right-of-way be preserved for public parking so that the project would not result in any net loss of the public parking that supports coastal access. Commission staff is investigating whether a final landscape plan for the entire right-of-way was ever approved as part of Coastal Development Permit 5-90-664.

2. Coastal Access

The City determined that the vacated area is not needed for any public use, including parking. But the fact that the site is currently being used for parking challenges this conclusion. The

coastal access issue is whether the vacated area should be used for public parking or private parking (or perhaps, only for landscaping). Since the proposed project involves a public area that could potentially provide additional public parking, Commission staff is recommending that a substantial issue exists in regards City's action because the vacation of a part of this public right-of-way could adversely affect public access to the shoreline and recreation. The City's approval raises a substantial issue with the following Chapter 3 access and recreation policies:

Section 30210

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30211

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.

Section 30212.5

Wherever appropriate and feasible, public facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate against the impacts, social and otherwise, of overcrowding or overuse by the public of any single area.

Section 30213

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

Section 30223

Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

Other potential uses of the vacated areas include landscaping, enhanced transit service (e.g. a bus stop) or a future expansion of the existing street system. Even though the City has determined that it does not need the vacated right-of-way areas for any public use, the local coastal development permit action approving the vacation merits closer scrutiny by the Commission.

3. Visual Resources

Commission staff is also recommending that a substantial issue exists in regards City's action because the vacation of a part of this public right-of-way could adversely affect visual

resources by limiting the ability of the City to use the right-of-way to provide landscaping that would beautify the intersection, improve air quality and enhance visual resources. Therefore, the City's approval raises a substantial issue with the following Chapter 3 access and recreation policies:

Section 30251

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

Section 30253(5)

New development shall: (5) Where appropriate, protect special communities and neighborhoods which, because of their unique characteristics, are popular visitor destination points for recreational uses.

4. A Procedural Issue

The City's action raises a procedural issue that is independent of the Chapter 3 issues. Venice Boulevard is a major coastal access route that is subject to Commission-approved Coastal Development Permit 5-90-664 and subsequent amendments. The City approval states that the local coastal development permit can override the landscaping requirements of Coastal Development Permit 5-90-664. This is incorrect, as only the Commission can change the provisions of a Commission-issued permit. This procedural issue does not raise a substantial issue with regards to consistency with Chapter 3. Moreover, since the Commission concludes that the local approval presents a substantial issue for other reasons, the de novo portion of the appeal can clarify whether any approved development amends the previously approved Commission-issued coastal development permit.

5. The Five Factors

Applying the five factors listed in the prior section further clarifies that the appeal raises a "substantial" issue with respect to Chapter 3. The first factor is the degree of factual and legal support for the local government's decision that the development is consistent with Chapter 3 of the Coastal Act. The City's findings do not provide a sufficient explanation of how the approved project complies with and carries out the relevant policies of the Coastal Act [Coastal Act Sections 30210, 30211, 30212.5, 30213, 30223, 30251, 30252 and 30253] for the reasons specified above.

The second factor is the scope of the development approved by the local government. The scope of the approved development is the transfer of property. The local coastal development permit approves no physical development, although the vacation of portions of the public right-

of-way could ultimately result in additional private development being situated closer to the existing public sidewalk. Private encroachments into the area currently designated as public right-of-way could result in adverse impacts to public access and visual resources.

The third factor is the significance of the coastal resources affected by the decision. The character of the Venice area is the main resource affected by the proposed project. All Venice neighborhoods may be affected indirectly by the precedential nature of the street vacation being approved by the City. Thus, the coastal resources affected are significant.

The fourth factor is the precedential value of the local government's decision for future interpretations of its LCP. This is designed to avoid leaving decisions in place that could create a precedent for how the relevant provision of the LCP is to be interpreted, assuming the local government has a certified LCP. In this case, the City does not have a certified LCP, but it does have a certified land Use Plan (LUP) for the Venice area. These appeals raise a substantial issue in regards to the City's interpretation of the following policies of the certified Venice LUP:

- **Policy I. C. 9. Public Rights-of-Way.** *Public rights-of-way in the Venice Coastal Zone shall be reserved for public transportation uses including use by private vehicles, pedestrians and bicyclists. Uses that do not interfere with coastal access, transportation and visual quality may be permitted, subject to a discretionary review by means of a coastal development permit. Vacations of public rights-of-way shall not be permitted in the area between the first public road and the sea, Ballona Lagoon or any canal except for public purposes consistent with all applicable local, state and federal laws.*
- **Policy V. A. 5. Streetscapes.** *Streetscape improvements throughout the Venice Coastal Zone shall be maintained and enhanced to enhance pedestrian activity and contribute to a high quality of life and visual image for residents and visitors. Public and private developments within the Venice Coastal Zone shall be required to include elements that will contribute to and enhance streetscape improvements in accordance with a Venice Coastal Zone streetscape plan.*

The final factor is whether the appeals raise local issues, or those of regional or statewide significance. The appeal raises a primarily localized issue related to a street intersection in Venice. However, the protection of community character in an area that is a tourist destination for people all over the state (and beyond) rises to statewide significance.

D. Responses to Appellants' Other Contentions

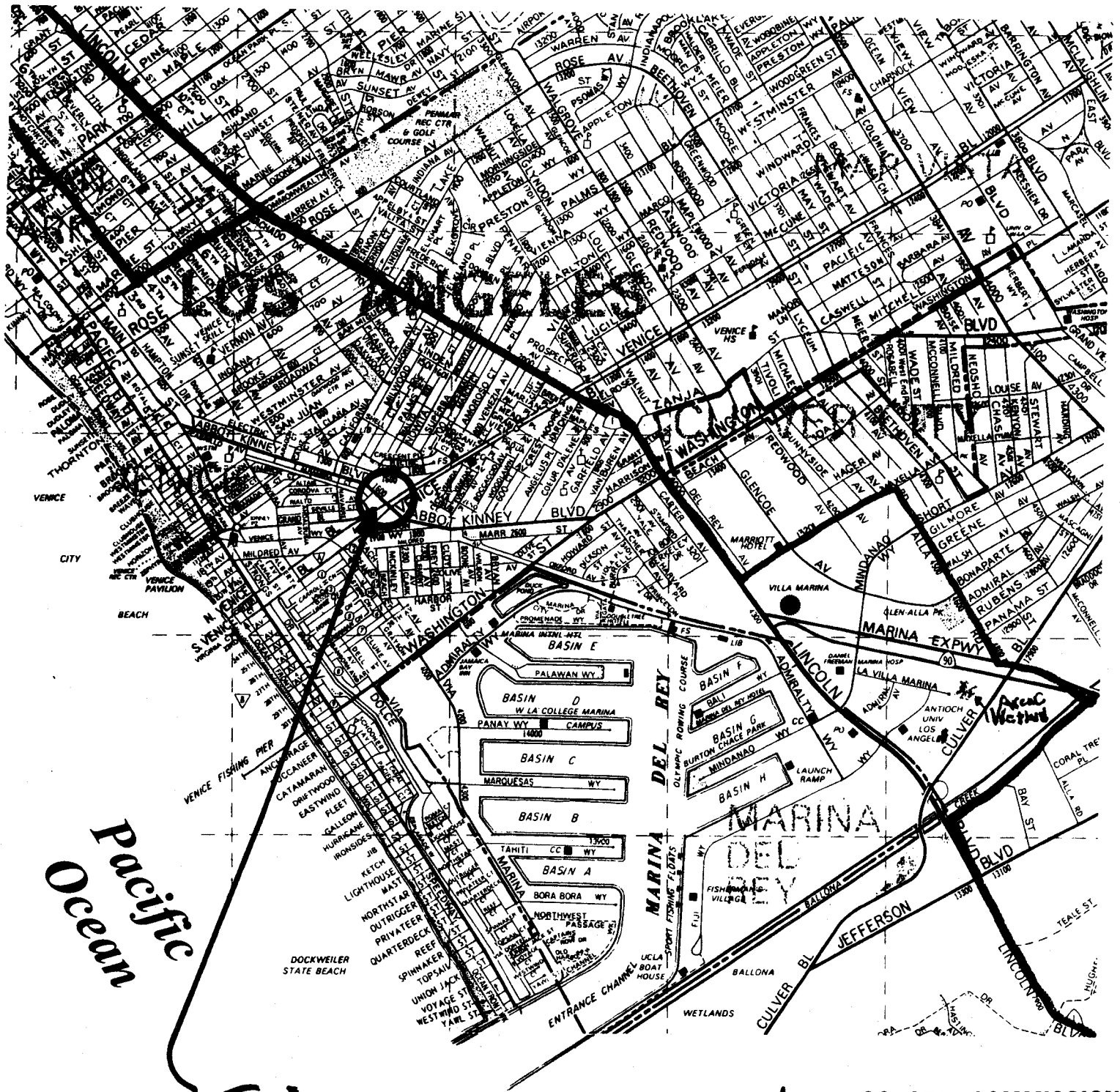
The previous section assessed the appeal under the applicable standard of review – whether it raised a substantial issue as to conformity with Chapter 3 of the Coastal Act. The appellants have also raised several specific grounds for the appeals that are not directly relevant to that standard. Nevertheless, the Commission responds to the appellants' contentions below.

- The local coastal development permit is invalid because the City does not have a certified Local Coastal Program (LCP) under which the Coastal Commission has delegated permitting authority.

- The City's action constitutes an unlawful gifting of public property to a private entity prohibited by Article 16 of the California Constitution.
- The action does not comply with the requirements of the California Environmental Quality Act (CEQA).
- The City violated the Brown Act.

These contentions do not raise an issue in regards to consistency of the local decision with the policies of Chapter 3. The City of Los Angeles issues local coastal development permits without a certified LCP pursuant to Section 30600(b) of the Coastal Act (See Section III on Page Four). Local Coastal Development Permit No. 04-01 was approved under Section 30600(b) of the Coastal Act. In regards to CEQA and the Brown Act, it is not the Commission's role to resolve conflicts over compliance with these laws. The Commission has a limited appellate authority/jurisdiction as defined by Section 30625(b). The Commission is not a judicial body of general jurisdiction, as its review is limited to assessing conformity with Chapter 3. The Brown Act and the California Environmental Quality Act are not within Chapter 3. The appellant John Davis has recourse in the State courts of general jurisdiction. The Commission does note, however, that the Brown Act, Cal. Gov't Code §§ 54950-963, does not apply to State agencies. Cf. Cal. Gov't Code §§ 54951 (defining "local agency" for purposes of the Brown Act) and 54952 (defining "legislative body" for purposes of the Brown Act).

VENICE, CA



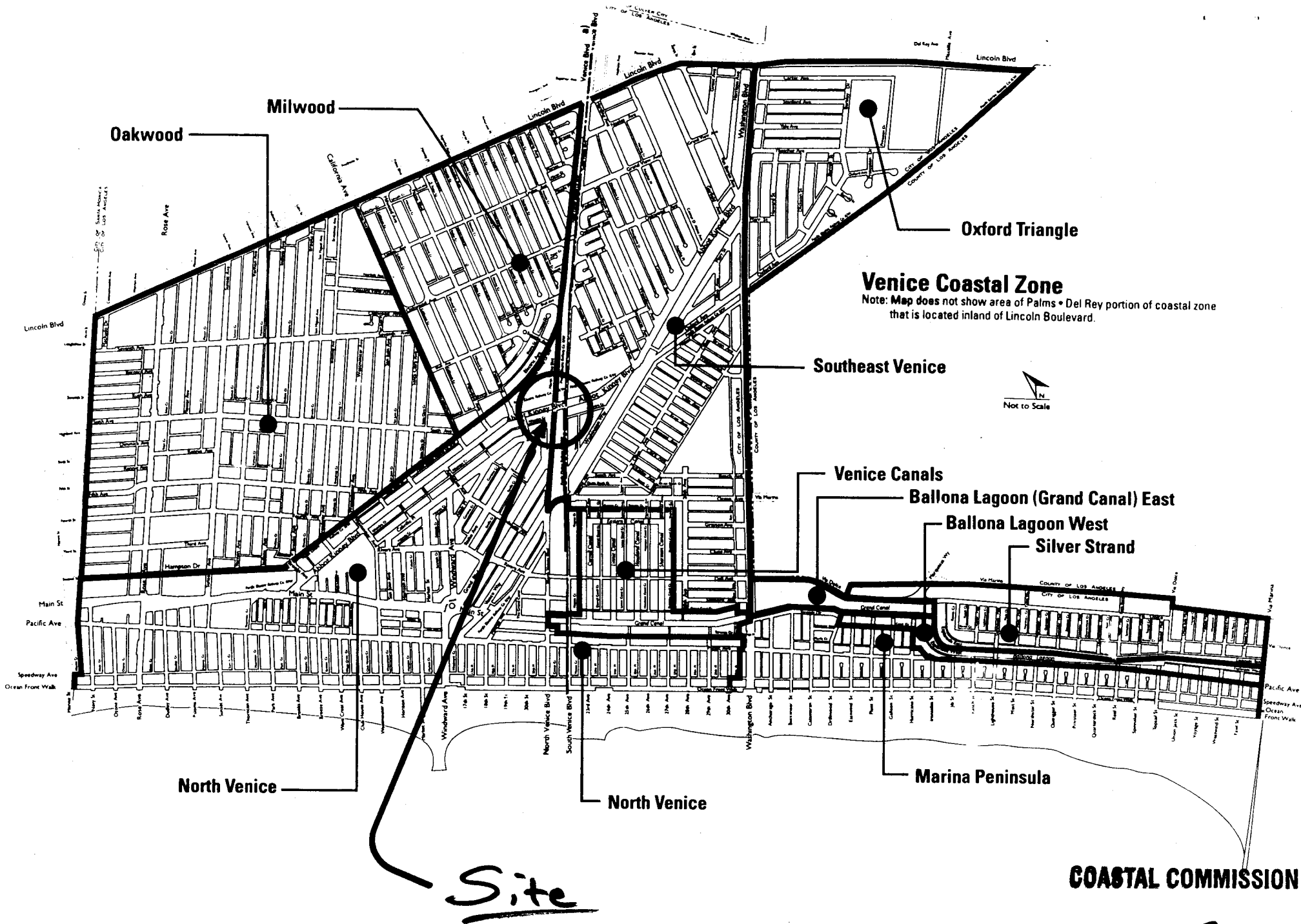
Pacific Ocean

Site



COASTAL COMMISSION
AS-VEN-05-259

EXHIBIT # 1
PAGE 1 OF 1



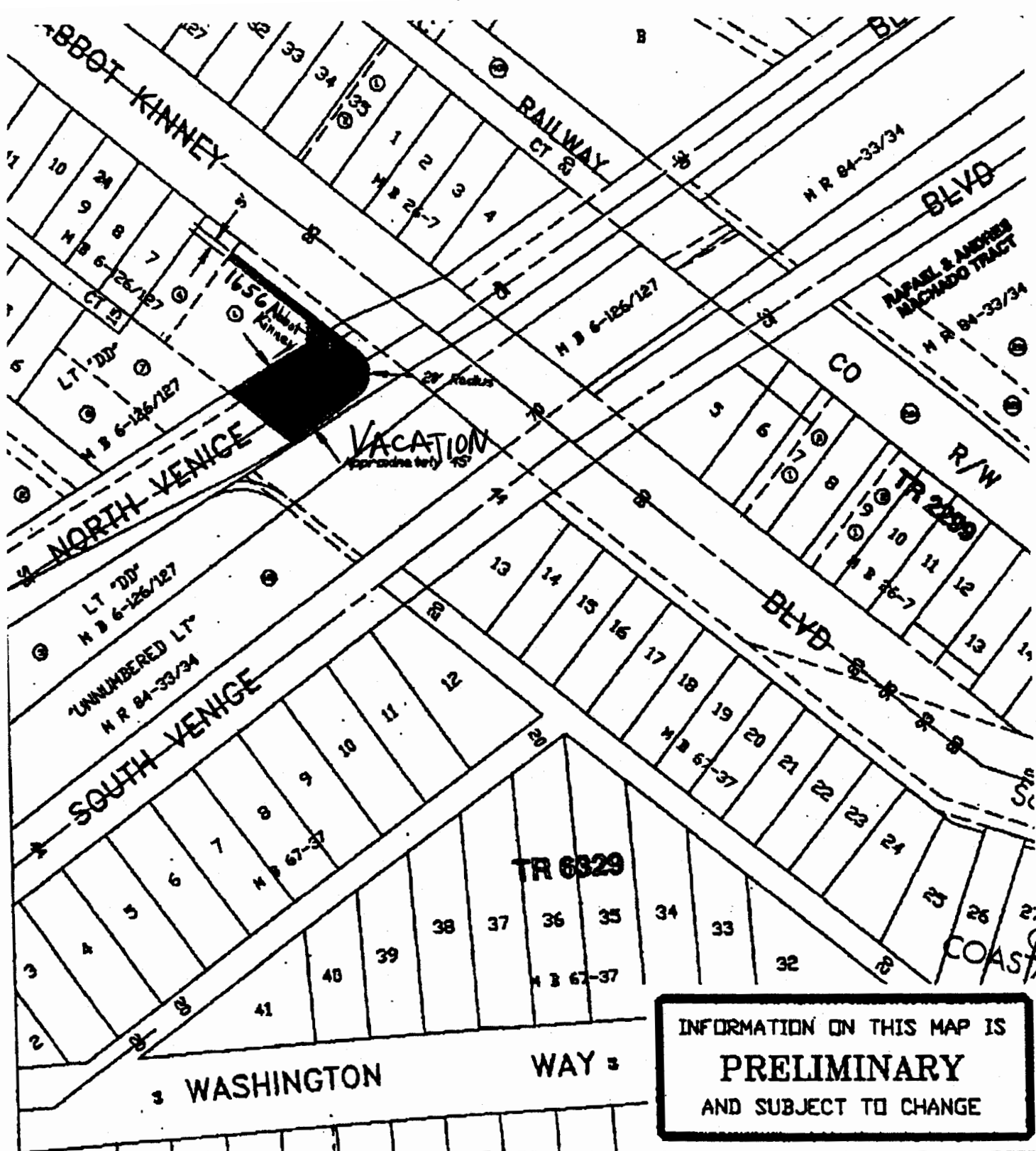
Venice Coastal Zone

Note: Map does not show area of Palms • Del Rey portion of coastal zone that is located inland of Lincoln Boulevard.



COASTAL COMMISSION

EXHIBIT # 2
PAGE 1 OF 1



TITLE: VENICE BOULEVARD (PORTION OF NORTHWESTERLY SIDE) FROM ABBOT KINNEY BOULEVARD TO APPROXIMATELY 96' SOUTHWESTERLY THEREOF.

WORK ORDER NO. VAC- E1400779
 COUNCIL FILE NO. 01-2183
 COUNCIL DIST. 6 DIV. INDEX 1428
 ENGR. DIST. W.L.A T.G. 671-H6
 DISTRICT MAP 108B145 & 108B149
 106.5A145 & 106.5A147



CITY OF LOS ANGELES
 DEPT. OF PUBLIC WORKS
 COASTAL COMMISSION
 VITALY B. TROYAN
 CITY ENGINEER **EX. 3**
 PAGE 1 OF 1

In the "Findings" of the City's decision, item "a" states that the development will conform to City's Local Coastal Program (LCP). This statement is in error for the reasons below and if this action occurs, it will violate the City's certified LUP, specified sections of the Coastal Act, and several prior Coastal Development permits that reference this land as landscaped public property that are listed below.

1. This violates the LCP as described in the certified publication dated 6/14/2001. This was derived from several prior documents. One of these documents is the "Coastal Conservancy Urban Waterfront Restoration Plan Policies" (LCP page I-11, Exhibit 8 Relevant Documents, item 3). This document describes in words and illustrations what later became the LCP to a great extent. It was also the City's first attempt to organize the community to develop a plan for the Venice public open space. In this document, Venice Blvd is described as "The Ceremonial Gateway to Venice". As the ceremonial gateway in this plan, several vistas are described that include the intersection of Abbot Kinney and Venice Blvd being the entrance to the commercial district of Venice. Also described is the intersection of Grand Avenue and Venice Blvd that is one block to the west and the park in the median that stretches from Abbot Kinney to Grand Ave before blending into the Venice Library. One of the points made in this plan is the uniting of these intersections that historically align with Windward Circle. These vistas are key elements to this plan but if this vacation is allowed, both of these historic scenic view corridors, will be lost, in violation of the LCP and Section 30251 of the Coastal Act.

2. In the Coastal Conservancy plan, Venice Blvd. is shown as a green belt leading to the beach. The drawings include a par exercise course, a bike path, and several mini park areas where visitors can stop and relax while taking in the visual aspects of this diverse community. This was the basis of the LCP and should be preserved as a critical element. This document is also referenced several times in the LCP policies. One policy that addresses the preservation of this resource is I.F.1, entitled Historic and Cultural Resources, which discusses the streets and trees and references the Conservancy plan. In this policy, several structures along Venice Blvd are cited, along with the very intersection where this property is located. This policy and the Conservancy plan talk about preserving this area as landscaped public property. If this action should be allowed, it would violate the intent of the LCP and Sections 30210-30214 and 30251 of the Coastal Act.

3. In Policy Group II, Shoreline Access of the LCP, public access to the beach is identified as a Commission issue. If this vacation were allowed to proceed, it would set a precedent that would encourage other property owners along this stretch of Venice Blvd to apply for vacations of public property adjacent to their property. These potential vacations would have a devastating impact on public access to the beach by narrowing the public right of way and eliminating the attractive landscaping planned for the Venice Blvd. corridor. The concept of a Ceremonial Gateway as described in the LCP and the Conservancy plan to Venice Beach would be lost, in violation of the LCP and Sections 30210-30214 of the Coastal Act.

The visual impact of vacating this landscape buffer can only be imagined because all the public easements along Venice Blvd. is presently publicly controlled and partially landscaped. This does not prevent us from assuming a worst-case scenario that can be quantified by assuming the maximum property build-out under the current zoning code. In this assumption, this site and about 40 others along Venice Blvd. that fall into the same category have the right to build to zero front setbacks and to a height of thirty feet

or more. The net effect of this build-out would turn Venice Blvd into a narrow corridor surrounded by tall buildings. The concept of a Ceremonial Gateway to the beach would be lost and Venice Blvd would become another non-descript commercial corridor, in violation of the LCP and Section 30251 of the Coastal Act.

4. In addition to becoming a commercial corridor, under the build-out, many of the existing street trees along Venice Blvd. would have to be removed and replaced by much smaller varieties. This will occur as a result of the growing pattern of the present three hundred plus California Sycamore trees that are located in the parkway area of the sidewalks along Venice Blvd. These trees were chosen for these parkway locations because, in time, they will create a canopy over the street and provide shade for parked cars and beachgoers along the sidewalks. The canopies of these trees at full maturity will be in excess of sixty feet. With the sidewalk only being ten feet wide along this street and buildings at zero setback, these trees will have to be so heavily cut back to conform to City code for minimum building clearances, they will end up lopsided and would endanger vehicles and pedestrians as a result of becoming unstable. Replacing these trees with smaller species will not only be very costly but will be devastating to the local community that volunteered their time to install them in the first place. The visual aspects will be impaired because smaller trees will not create a shade canopy over the street and the sidewalk and, therefore, will not meet the vision of any of the prior community plans for this area, in violation of the LCP and Section 30251 of the Coastal Act.

5. This action will violate a prior Coastal decision. A 1990 Caltrans project (M-3041(395), CRP-LO89(627), 07-062224 dated 12/24/1990) realigned Venice Blvd between Lincoln Blvd and Pacific Ave. The project was permitted by the City and approved by the California Coastal Commission. That project reduced the center median of the divided highway to move the traffic lanes closer together and removed the previously existing parking and landscaped areas from the median. The permitted plans show the vacation area to be part of the public right-of-way. The plans clearly indicate the buffer area to be landscaped. This is indicated on the approved plans and in the build-out of the roadway by the inclusion of an irrigation crossover at station 174+15, the detail of which can be seen in drawing HP-1. This detail indicates that sprinklers will be connected in the buffer area. Therefore, since the prior Commission action approved the roadway to be constructed with this area as a landscape buffer, it would violate that plan and the permit, along with the Sections of the Coastal Act referenced therein to allow it to become anything other than landscaped public space.

In 1990, the voters of Los Angeles voted to approve Proposition A, which specifically earmarked funding for the landscaping of Venice Blvd. Although the City diverted these funds to other projects in Venice, it was still the desire of the voters to see Venice Blvd landscaped in its entirety.

6. In 1992, the Venice Action Committee was awarded an Environmental Enhancement Mitigation grant by Caltrans as part of Assembly Bill 471. The project was funded by public monies under this bill to reduce the negative impacts of the prior Caltrans roadway realignment. The project went through the normal City plan approval process (Public Works Permit D-30879) that also included Coastal Commission compliance. These plans identified landscaping this buffer area with one *Platanus racemosa*, three *Spathodea campanulata* and nine *Washingtonia robusta* trees, in addition to many native xeriscape plants specified in the Venice Interim Control Ordinance. Of these

original trees, the nine *Washingtonia robusta* trees remain, but the other trees and ground cover have been destroyed by vehicles belonging to or associated with the adjacent property owner (underlying vacation applicant). The irrigation system that was installed as part of this project remains, but has been damaged by these same vehicles. Nevertheless, this land was included in several public workshops that specified this space as public landscaped area.

7. The Shoreline Access summary on page I-4 of the LCP describes one of the guiding issues of the Conservancy plan and many topics of the community hearings that were conducted by the City in the preparation of the LCP. With regard to pedestrian access to the beach it reads, "Open areas in activity nodes and special districts are often completely surfaced with asphalt and concrete without provisions for pedestrian relief from the sun's heat and reflected glare. Resting places or other people-oriented accommodations are seldom provided." This vacation would result in a direct conflict with that LCP statement. The public landscaped land would become private and, as stated in the application findings, the area would become another private paved parking lot. Even the landscaped area of the parking lot would not allow public access without trespassing onto private property, in violation of Section 30210-30214 of the Coastal Act.

8. On page I-6 of the LCP, Los Angeles City Public Works is entrusted to develop and implement a comprehensive streetscape plan. In 1992, such a plan was developed for Venice Blvd. The process included two public workshops, and at least one multi-department meeting conducted by City Engineer Stan Sysack. The resulting plan was permitted by the City and approved by the Commission. The implementation of the plan was partly completed in the mid 1990's by the Venice Action Committee (VAC) and community volunteers. In the late 1990's, the Street Maintenance Division returned to the site and continued the planting project. Recently, the CD11 City Council office and the VAC in conjunction with the LADPW, Street Services Division, has funded and intends to complete the original project. This work was originally scheduled to be completed prior to the Venice Centennial on July 4th, 2005. By allowing this street vacation to occur, the entire landscaping plan for Venice Blvd. would become questionable since more than half of the public land could be subject to similar vacations, in violation of Section 30251 of the Coastal Act.

9. The LCP Policy Group III cites several sections of the Coastal Act. In Policy III.A.1, the document discusses new opportunities to expand and maintain existing passive recreational areas. Item "b" under this section talks about acquiring additional land and item "d" talks about maximizing opportunities. But nowhere in this section or anywhere else in the LCP is there anything that references reducing the size of any of the coastal access corridor. Since Venice Blvd is the primary coastal access corridor to Venice Beach, it should be expanded at its narrow points to comply with the intent of the Coastal Act and the LCP, not made narrower which would violate Sections 30210-30214 of the Coastal Act!

10. At LCP Policy Group V – Public Works, section 30254 of the Coastal Act, policy V.A.4, 1c refers to the type of plants to be used within public open space. The Venice Blvd landscaping project complies with this requirement. All the plant material used within the right-of-way is drought resistant and native to the southern California region. If the property became privatized, the plant palette would no longer be required.

COASTAL COMMISSION

Furthermore, policy V.A.5 talks about improving the streetscapes throughout the Venice Coastal Zone to enhance the visual image for residents and visitors. This section states, "...whenever a street is to be improved, complete street improvements should be installed..." and does not refer to anything about undoing or giving away opportunities for such improvements. As a matter of fact, boulevard beautification, as called in item 4 of this section, refers to several streets (a,c,d,f and h) that were all incorporated into the nearly complete Venice Blvd landscaping project. Vacating this site would set a precedent that could allow other owners to apply for the same sort of vacation that could threaten the entire landscaping project for Venice Blvd. Any deviation from the existing plan along the lines of vacating public land along this corridor will be in direct conflict with this section of the LCP and Sections 30251 and 30254 of the Coastal Act.

11. Coastal Act policy at section 30251 – states that scenic and visual qualities of the coastal areas shall be considered and protected as a public importance. The very limited public open space within the community of Venice must preserved. Venice Blvd is the primary gateway corridor to the beach and thus plays an even a greater role in the scenic aspects of this coastal region. It is the only roadway that directly connects Venice beach to the Los Angeles freeway system. West of the harsh environment of U.S. Route #1 (Lincoln Blvd.), the visual qualities of the Venice community quickly become apparent. The roadway is reduced from three lanes in both directions to just two. The landscape areas should serve as a buffer between the roadway and the private properties appear on both sides of the street. This landscape buffer softens the harshness of the cityscape as it appears east of Lincoln Blvd. If this development permit is allowed to go through then all the other properties along this corridor will eventually apply for the same street vacation and the visual qualities of this scenic gateway to the beach will disappear, in violation of Section 30251 of the Coastal Act.

12. Section 30253.5 states, where appropriate, to protect special communities and neighborhoods that, because of their unique characteristics, are popular visitor destination points for recreational uses. The intersection of Abbot Kinney and Venice Blvd is a primary focal point to residents and visitors. Venice Blvd is the primary access corridor to Venice beach and Abbot Kinney is the gateway to the commercial district. This is indicated on local maps, the signage on the 405 and 10 freeways and on local signage that is also tied into the remote parking lots and DASH schedule bus system.

The main Venice Business district, which includes some of the finest restaurants in the City, many small shops and boutiques, and also happens to be called out in the LCP, many travel guides and tourist maps, is Abbot Kinney Boulevard starting at Venice Boulevard and continues north to Main Street.

Therefore, the intersection of Venice Blvd and Abbot Kinney Blvd is of major importance to the ambience of the community. The open space at this intersection allows visitors to appreciate the special importance of these intersecting gateways. Reducing this open space would be a mistake that would felt by everyone passing through this intersection. This land must be protected to comply with this section of the Coastal Act.

13. LUP Policy I.F.1 discusses cultural resources including several sites along Venice Blvd. It states that these sites were identified in the Coastal Conservancy workshops. This plan calls out many building sites, but includes the landscaping areas along Venice Blvd. If this process is allowed to privatize this public land, then other property owners along this same route will probably make similar applications. Most of these properties

are allowed under current City zoning to build to zero setbacks. With ever increasing land value, it is hard to imagine that these cultural resource sites will continue to exist without public protection. Existing structures will be remodeled and expanded onto the existing public right-of-way if vacations are allowed. The net result will be much larger buildings overtaking these existing cultural sites.

14. There is another problem to consider if this vacation of public property is allowed. Let's call it the saw tooth effect of vacations. If the City allows this vacation, it would set a precedent. As some of the adjacent property owners apply for additional vacations we would end up with one property owner exercising the right to build to their property line besides others that do not exercise that option – hence the saw tooth. As such, the roadside would become a zig-zag of structures and open spaces eliminating the view corridor and harboring crime, trash and other negative elements. There are over forty properties along this stretch of roadway that fall into this category. Before any decision is made, a comprehensive plan must be made that will not allow this sort of negative impact on the community. To act otherwise, would prejudice the completion of the City's LCP in compliance with the Coastal Act policies cited above.

The approval of this vacation would undo all these prior decisions and removes a much needed community and visitor-serving amenity, namely public open space. No other streets leading to Venice Beach have any open space. As the ceremonial gateway to the Venice Beach and the community Venice Blvd. enjoys the widest right-of-way west of Lincoln Blvd. These public buffer areas existing outward of the sidewalks were earmarked for landscaping to retain an open feeling for residents and visitors approaching the beach to enjoy.

In effect, this vacation would open the door for about 40 additional property owners along Venice Blvd to apply for the public land in front of their properties to be vacated. Such vacations would constitute, in effect, a gift of public lands to private property owners at the expense of previous Commission-recognized coastal resources. We respectfully request that the Commission accept the appeal and deny this application for Coastal Development Permit.

After attending several public meetings about this vacation application, it is understood why the property owner does not continue to use the revocable permit the City has already granted for this space to be used as a parking lot. In addition, allowing this commercial property to increase their business parking capacity will not necessarily provide public parking to facilitate public access to the beach. Along these lines, another policy worth noting is Section 30253(5): "New development shall . . . (3) Where appropriate, protect special communities and neighborhoods which, because of their unique characteristics, are popular visitor destination points for recreational uses."

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COASTAL COMMISSION

EXHIBIT # 4
PAGE 5 OF 5

APPEAL OF CDP 04-01
BY: JOHN DAVIS
PO 10152 MARINA DEL REY CA 90295
DATE: July 27, 2005

Honorable Coastal Commissioners,

Substantial Issues and procedural questions surrounding CDP 04-01 requiring the Coastal Commission to consider this appeal at a public hearing are presented below;

Coastal Commission Regulations § 3115 define Grounds for Appeal and the California Coastal Act § 30625 (b) define Substantial Issue Determination and § 13119 defines the standard of review.

In the issuance of CDP 04-01, the City failed to meet the requirements of Public Resources Code Sections 30604(b) /(c) for the following reasons.

§30005 disallows a City from adopting and implementing regulations in conflict with the California Coastal Act (CCA) hereinafter.

Pursuant to the California Coastal Commission Regulations (Title 14, Division 5. 5) (CCCR) hereinafter, § 13113 and Public Resources Code § 30303 (b), it appears that there are no appeal procedures of a decision of local government to issue Coastal Development Permits (CDP) hereinafter unless the Coastal Commission has certified a Local Coastal Program (LCP hereinafter) for that permit area.

CCA § 30620 conformity is required by City's claim under CCA §30300(b) it has the authority to issue CDP(s). CCA § 30620 (a) requires the Coastal Commission to prepare interim procedures for the submission, review, and appeal of a coastal development permit application. CCA The Commission has NOT prepared an interim procedure for appeal of a Coastal Development issued by the City Engineer such as this case.

CCA § 30620.5 (a) requires a Local Government electing to exercise the option provided in sub division (b) of §30600 to notify the Coastal Commission and take steps to assure that the public is properly notified of such action taken by the City to exercise permit authority.

In order to take notice of such an action by a Local Government to exercise CCA 30600 (b) the California Coastal Commission must have meet pursuant to Pursuant to the California Coastal Commission Regulations (Title 14, Division 5. 5) (CCCR). However there is no record of any meeting of the Coastal Commission indicating that it took notice of any actions of the City of Los Angeles to exercise CCA 30600 (b) by adopting City of Los Angeles Ordinance No. 151603.

COASTAL COMMISSION

EXHIBIT # 5
PAGE 1 OF 4

Therefore the City claim to have CDP issuing power is now questioned in light of the Coastal Commissions non-conformance with CCA § 30620 and CCA § 30620.5 (a). Furthermore the City has clearly violated CCA §30005.

In issuing Coastal Development Permits the City of Los Angeles must conform to the US Coastal Zone Management Act of 1972, the California Coastal Act of 1976 - associated Regulations, the California Environmental Quality Act, and the California Constitution.

This CDP would constitute an unlawful gifting of public property to a private entity prohibited by Article 16 of the California Constitution.

There is no evidence of CEQA compliance by the City in that no alternative uses such as public parking or open space has been properly considered. Under CEQA a Coastal Commission Staff Report is required to serve the purpose of CEQA clearance. The claim by the City there are no feasible alternatives is not based on any substantial evidence whatsoever as required by CEQA. The city relies only on its imagination that alternatives have been lawfully considered.

The City Land Use Plan is five years or more old and is now irrelevant.

In acting on behalf of the Commission the City of Los Angeles has failed its duty under the CCC in the following respects.

Issuance of this permit violates CCA §30604 in that it will prejudice the ability of the Local Government under CCA § 30200 to prepare a Local Coastal Program in conformance with Chapter Three of the CCA.

§ 30003(b) requires this Legislature to implement the California Coastal Plan as it pertains to Venice. This proposal is counter to the goals specified by the Plan.

The Applicant failed to transmit all of the materials regarding CDP 04-01 to the Commission as is required by law. The "Hearing Attendees" list provided by the City is for an unlawful hearing held by the City Engineer in non compliance with the Ralph M. Brown Act. The Action was appealed and there was a subsequent Hearing held under the Brown Act. The City Failed to transmit the list of Hearing Attendees of that hearing therefore precluding the Coastal Commission from informing interested parties such as myself of the opening of the appeal period.

On the last page the signature of the Applicant or Agent does not appear, therefore the application is invalid on its face. CCR § 130533 . 5 (c) requires the Applicants signature however it is absent.

CCR § 130533 . 5 (a) (d) requires and adequate description including plans etc., sufficient to determine whether the project complies with all relevant policies of the Coastal Act. An adequate description is absent.

COASTAL COMMISSION

EXHIBIT # 5
PAGE 2 OF 4

The Project was appealed to the Board of Public Works Commissioners however the City submission includes no record of that final action or submissions by the public.

CCR § 13056 requires that the Executive Director shall only file the application after reviewing and finding it complete. For the reasons stated above the application included in this appeal is not complete and therefore invalid on its face. The Executive Director should not have filed the appeal and denied the permit on that basis.

CCR § 13054 (3-b) has not met in this CDP violating the CCR thereby.

CCR § 13057 (1) (2) (3) (4) (5) (6) were not adequately addressed or entirely absent from the City Staff Report invalidating the application.

§ 13507 (6-c-3) requires responses to significant environmental points raised during the evaluation of the proposed development as required by the CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) hereinafter.

Furthermore I also incorporate by reference my comments transmitted to the City upon appeal from the City Engineer and copied to the Coastal Commission via email.

ILLEGAL PROCEDURES BY THE CITY ENGINEER

The Brown Act, California Codes Government Code § 54950-54963, defines this board as a legislative body and grants it the ability to take action within its subject matter jurisdiction.

The City Engineer is not a legislative body, therefore the prior hearing was unlawful as was the proposed issuance of a Coastal Development Permit by it.

GOVERNMENT CODES CONTRIDICTING THIS APPLICATION

§ 54952

§ 54952.2. (a)(b)

§ 54952.6

PUBLIC RESOURCES CODE DIVISION 20 , THE CALIFORNIA COASTAL ACT OF 1976 CONTRIDICTING THIS APPLICATION

In the Absence of a certified Local Coastal Plan, Chapter Three Policies of the Coastal Act govern development in the Venice coastal zone.

Granting this application violates the following sections of the Public Resources Code.

§ 30006

COASTAL COMMISSION

EXHIBIT # 5
PAGE 3 OF 4

§ 30110

§ 30251

§ 30254

Furthermore approving this permit would constitute a violation of the California Coastal Zone Management Plan (CaCZMP)

**TITLE 14 CALIFORNIA CODE OF REGULATIONS CHAPTER 3. GUIDLINES FOR
IMPLIMENTATION OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT
CONTRIDICTING THIS APPLICATION**

There is significant Public Controversy surrounding this application.

§ 15020

§ 15021

§ 15022

§ 13096

§ 21080.5 (D)(2)(A)

COASTAL COMMISSION

EXHIBIT # 5
PAGE 4 OF 4

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**CITY OF LOS ANGELES
CALIFORNIA**



**JAMES K. HAHN
MAYOR**

June 27, 2005

**DEPARTMENT OF
PUBLIC WORKS
BUREAU OF
ENGINEERING**

GARY LEE MOORE, P.E.
CITY ENGINEER
650 SOUTH SPRING ST., SUITE 200
LOS ANGELES, CA 90014-1911
213-847-8766

<http://eng.lacity.or>

RECEIVED
South Coast Region

JUN 28 2005

**CALIFORNIA
COASTAL COMMISSION**

Mr. Charles Posner
California Coastal Commission
South Coast Area Office
200 Oceangate, 10th Floor
Long Beach, CA 90802-4302

Dear Mr. Posner:

Please find enclosed the City of Los Angeles Coastal Development Permit No. 04-01 which was approved by the Board of Public Works Commissioners on June 27, 2005.

Per your request please find enclosed the following documents:

- 1) Notice of Permit Issuance
- 2) Coastal Development Permit 04-01
- 3) Notice of Decision

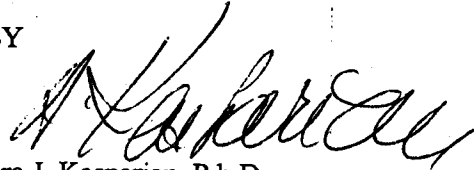
The 20 working day appeal period begins once these documents are deemed complete by your office.

If you have any questions, please feel free to contact Irene Paul of my staff at (213) 485-0998.

Sincerely,

Gary Lee Moore, P.E.
City Engineer

BY


Ara J. Kasparian, P.h.D.
Manager, Environmental Management Group

**FINAL LOCAL
ACTION NOTICE**

RECEIVED 6.28.05
REFERENCE # CDP 04-01
APPEAL PERIOD 7.27.05

Enclosures:

- 1) Notice of Permit Issuance
- 2) Coastal Development Permit 04-01
- 3) Notice of Decision

Cc: City of Los Angeles Council District Office No. 11

COASTAL COMMISSION

EXHIBIT # 6
PAGE 1 OF 6

ADDRESS ALL COMMUNICATIONS TO THE CITY ENGINEER

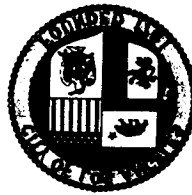
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CITY ENGINEER
650 SOUTH SPRING ST., SUITE 200
LOS ANGELES, CA 90014-1911
213-847-8766

<http://eng.lacity.or>

Issuance Date: June 27, 2005
Coastal Development Permit Number: 04-01

NOTICE OF PERMIT ISSUANCE

Please take notice that the above-referenced Coastal Development Permit was issued on the above date, pursuant to a public hearing on December 17, 2004 and Notice of Decision on May 2, 2005 and following the expiration of the mandatory ten calendar day appeal period, with an appeal having been filed. The appeal was denied by the Board of Public Works Commissioners on June 27, 2005.

The applicant should sign one copy of the permit and return it to the:

Bureau of Engineering
Environmental Management Group
650 South Spring Street, Room 574
Los Angeles, CA 90014

A period of 20 working days must expire from the date this notice is received by the Regional Coastal Commission, before this permit will become effective.

- () The development is in the dual jurisdiction area and will require an additional permit from the South Coast Regional Coastal Commission.
- (X) The development is not in the dual jurisdiction area, no additional Coastal Development Permit is required.

Sincerely,

Gary Lee Moore, P.E.
City Engineer

BY

Ara J. Kasparian, P.h.D.
Manager, Environmental Management Group

Enclosure: Coastal Development Permit No. 04-01

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650 SOUTH SPRING ST., SUITE 200
LOS ANGELES, CA 90014-1911
213-847-8766

<http://eng.lacity.org>

COASTAL DEVELOPMENT PERMIT

(under authority of Sec. 30600(b) of the California Coastal Act of 1976)

PROJECT TYPE: () Public (X) Private

APPLICATION NUMBER: 04-01

NAME OF APPLICANT: City of Los Angeles

PROJECT LOCATION: The project is located in the community of Venice, California.

DEVELOPMENT DESCRIPTION: The proposed action is to vacate a public street easement in (1) a portion of the northwesterly side of North Venice Boulevard from Abbot Kinney Boulevard to approximately 96 feet southwesterly thereof and (2) a portion of the southwesterly side of Abbot Kinney Boulevard from North Venice Boulevard to approximately 133 feet northwesterly thereof. The area to be vacated is approximately 3,500 square feet and lies between the existing public sidewalk and a single adjacent private property. The owner of the adjacent private property has developed the area to be vacated for use as parking and landscaping for his business.

I. The proposed development is subject to the following conditions imposed pursuant to the California Coastal Act of 1976:

(a) **Notice of Receipt and Acknowledgment:** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the City Engineer's office.

(b) **Expiration:** If development has not commenced, the permit will expire two years from the permit date as reported from the Coastal Commission. 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.

(c) **Interpretation:** Any questions of intent or interpretation of any condition will be resolved by the City Engineer.

COASTAL COMMISSION

EXHIBIT # 6
PAGE 3 OF 6



- (d) Assignment: The permit may be assigned to any qualified person, provided assignee files with the City Engineer an affidavit accepting all terms and conditions of the permit.
- (e) Terms and Conditions Run with the Land: These terms and conditions shall be perpetual, and it is the intention of the City Engineer and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.
- (f) Other approvals: Obtain permit form the State Coastal Commission if project is determined to be a Major Public Works.

II. The following conditions of approval are the original conditions of approval for the street vacation (VAC-E1400779):

- (1) That the processing fees for the vacation proceedings be paid. If this fee is not paid within 45 days of the date on the City Engineer's Processing Fee letter, this vacation proceeding shall be terminated.
- (2) That a suitable map delineating the limits of the areas to be vacated, approved by the West Los Angeles District Engineering Office, be submitted to the City Engineer prior to the preparation of the Resolution to Vacate. The limits of the Venice Boulevard vacation should be established to retain a minimum of a 12-foot wide street border area.
- (3) That a legal description describing the limits of the areas being vacated be submitted to the Land Development Group of the Bureau of Engineering prior to the preparation of the Resolution to Vacate.
- (4) That a title report indicating the vestee of the underlying fee title interest in the areas to be vacated to be submitted to the City Engineer.
- (5) That any fee title interest of the areas being vacated, not currently vested with the petitioner, be acquired by the petitioner.
- (6) That the following improvements be constructed adjoining the petitioner's property in a manner satisfactory to the City Engineer.
 - (a) Remove and replace any broken and off-grade concrete sidewalk.
 - (b) Repair the off-grade tree well cover on Abbot Kinney Boulevard.
- (7) That the petitioner obtain a revocable permit from the West Los Angeles District Engineering Office to occupy the public right-of-way on Abbot Kinney Boulevard where their existing building encroaches into the public street easement.

COASTAL COMMISSION

EXHIBIT # 6
PAGE 4 OF 6

- (8) That arrangements be made with the Department of Water and Power for the removal or relocation of all affected facilities, including fire hydrants or the providing of easements or rights for the protection of affected facilities to remain in place.
- (9) That an agreement be recorded satisfactory to the Bureau of Engineering to hold the adjoining parcel of land under the one ownership and its adjoining areas to be vacated, as one parcel to preclude the creation of landlocked parcels. This is to remain effective until such time as a new subdivision map is recorded over said areas, a parcel map exemption is permitted or until released by the authority of the City of Los Angeles.
- (10) That street lighting facilities be installed as may be required by the Bureau of Street Lighting.
- (11) That street trees be planted and tree wells be installed as may be required by the Street Tree Division of the Bureau of Street Services.

III. FINDINGS: In keeping with the findings and recommendations set forth in the adopted staff report incorporated herein by reference, the City of Los Angeles finds that:

- (a) The development is in conformity with Chapter 3 of the California Coastal Act of 1976, and will not prejudice the ability of the City of Los Angeles to prepare a Local Coastal Program in conformity with said Chapter 3.
- (b) The Interpretative Guidelines established by the Coastal Commission dated August 14, 1978 and any subsequent amendments thereto have been reviewed, analyzed, and considered in the light of the individual project in making this determination, and the decision of the permit granting authority has been guided by any applicable decision of the Coastal Commission.
- (c) If the development is located between the nearest public road and the sea of shoreline of any body of water located within the Coastal Zone, the development is in conformity with the public access and public recreation policies of Chapter 3 of the Coastal Act.
- (d) There are no feasible alternatives, or feasible mitigation measures, as provided in the California Environmental Quality Act, available for imposition by this authority under the power granted to it which would substantially lessen any significant adverse impact that the development, as finally permitted, may have on the environment.

IV. Pursuant to a public hearing, held on December 17, 2004 and Notice of Decision on May 2, 2005 and following the expiration of the mandatory ten calendar day appeal period, with an appeal having been filed on May 16, 2005, and the appeal having been

COASTAL COMMISSION

EXHIBIT # 6
PAGE 5 OF 6

denied by the Board of Public Works Commissioners on June 27, 2005, permit application number 04-01 is hereby approved.

- V. This permit may not be assigned to another person except as provided in Section 13170, Coastal Commission Rules and Regulations.
- VI. This permit shall not become effective until the expiration of 20 working days after a COPY of this permit has been received by the Regional Commission, upon which copy all permittees or agent(s) authorized in the permit application have acknowledged that they have received a copy of the permit and have accepted its contents, unless a valid appeal is filed within that time. The acknowledgement should be returned within ten (10) working days following issuance of the permit but in any case prior to commencement of construction. If the acknowledgement has not been returned within the time for commencement of construction under Section 13156(g), the executive director shall not accept any application for the extension of the permit.
- VII. Work authorized by this permit must commence within two years from the effective date of this permit. Any extension of time of said commencement date must be applied for prior to expiration of the permit.
- VIII. Issued: June 27, 2005 pursuant to local government authority as provided in Chapter 7 of the California Coastal Act of 1976.
- VIX. I, _____, permittee/agent, hereby acknowledge receipt of permit number 04-01 and have accepted its content.

COASTAL COMMISSION

EXHIBIT # 6
PAGE 6 OF 6

