

CALIFORNIA COASTAL COMMISSION

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Permit Denied: 1/11/2006
Staff: CP-LB
Staff Report: 3/23/2006
Hearing Date: April 11, 2006
Commission Action:

**STAFF REPORT: REVISED FINDINGS**

APPLICATION NUMBER: 5-05-343

APPLICANT: Dos Coronas, LLC

AGENTS: Devin Donner and David Meyers, Attorney

PROJECT LOCATION: 1656 Abbot Kinney Boulevard, Venice, City of Los Angeles.

PROJECT DESCRIPTION: Improve 4,500 square foot portion of North Venice Boulevard and Abbot Kinney Boulevard rights-of-way with landscaping and a private paved parking area (and pave the existing private parking area that adjoins the rights-of-way).

Existing Lot Area	6,678 square feet
Proposed Lot Area	10,178 square feet
Building Coverage	2,632 square feet
Pavement Coverage	5,700 square feet
Landscape Coverage	774 square feet
Parking Spaces	14 (9 existing/5 proposed)
Zoning	C2-1
Plan Designation	Commercial Aircraft
Building Height	26 feet (existing office bldg.)

COMMISSIONERS ON PREVAILING SIDE: Commissioners Burke, Kram, Kruer, Neely, Orr, Potter, Reilly, Secord, Shallenberger, Wan and Chair Caldwell.

SUMMARY OF STAFF RECOMMENDATION

On January 11, 2006, after a public hearing, the Commission denied the coastal development permit, finding that the proposed development does not conform with the Chapter 3 Policies of the Coastal Act. Staff is recommending that the Commission, after public hearing, adopt the following revised findings in support of the Commission's January 11, 2006 denial of Coastal Development Permit Application 5-05-343. A vote by the majority of the Commissioners on the prevailing side is necessary to adopt the revised findings. **See Page Two for the motion and resolution to adopt the revised findings.**

LOCAL APPROVALS:

1. City of Los Angeles City Council Approval for vacation of portion of public right-of-way, File No. 01-2183 (VAC-E1400779), 10/18/2002.
2. City of Los Angeles Dept. of Public Works, Revocable Permit No. 50825 (03-0483727), 3/20/2003.
3. City of Los Angeles Planning Dept. Approval in Concept No. ZA-2005-5947, 8/26/2005.

SUBSTANTIVE FILE DOCUMENTS:

1. Certified Land Use Plan for Venice, City of Los Angeles, 6/14/2001.
2. Coastal Development Permit P-74-3323 (Sarlo).
3. Coastal Development Permit Appeal A5-VEN-05-259 (City of Los Angeles).
4. Reconsideration Request 5-05-343-R (Dos Coronas, LLC).
5. City of Los Angeles Venice Boulevard Planting Plan, Department of Public Works, Index No. D-30879 (Sheet L-4), 5/8/1995.

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution to **adopt the revised findings** in support of the Commission's January 11, 2006 action to deny the coastal development permit application. Staff recommends a **YES** vote on the following motion:

MOTION: *"I move that the Commission adopt the following revised findings proposed by staff in support of the Commission's action on January 11, 2006 denying Coastal Development Permit 5-05-343."*

Passage of this motion will result in the adoption of revised findings as set forth in this staff report or as modified by staff prior to the hearing. The motion requires a majority vote of the members from the prevailing side present at the April 11, 2006 hearing, with at least three of the prevailing members voting. The eleven Commissioners on the prevailing side are:

Commissioners Burke, Kram, Kruer, Neely, Orr, Potter, Reilly, Secord, Shallenberger, Wan and Chair Caldwell.

Only those Commissioners on the prevailing side of the Commission's action are eligible to vote on the revised findings.

I. Resolution to Adopt Revised Findings

The Commission hereby adopts the findings set forth below for the denial of Coastal Development Permit Application 5-05-343 on the ground that the findings support the Commission's decision made on January 11, 2006 and accurately reflect the reasons for it.

III. Revised Findings and Declarations

[Staff Note: These revised findings include all of the staff's recommended findings that were set forth in the December 22, 2005 staff report for the Commission's January 11, 2006 hearing for the coastal development permit application. The portions of those findings that are being deleted are crossed-out in the following *revised findings*: ~~deleted findings~~. The supplemental findings being added in support of the Commission's January 11, 2006 action are identified with underlined text.

The Commission hereby finds and declares:

A. Project Description

The applicant proposes to improve an existing gravel parking area that serves a two-story, 4,696 square foot office building situated at the intersection of North Venice Boulevard and Abbot Kinney Boulevard (Exhibit #4). The existing parking area would be paved and expanded from nine to fourteen parking stalls, and would privatize and utilize approximately 4,500 square feet of the North Venice Boulevard and Abbot Kinney Boulevard rights-of-way that the applicant had petitioned the City Department of Public Works to vacate ~~City is in the process of vacating~~ [See Coastal Development Permit Appeal A-5-VEN-05-259 (City of Los Angeles)]. The applicant points out that, notwithstanding the Commission's January 11, 2006 denial of the City's proposed right-of-way vacation, the parking lot improvements proposed on the public rights-of-way could proceed pursuant to a revocable encroachment permit issued by the City (if the Commission were to grant the necessary coastal development permit). Thus, the Commission's action on the vacation request does not make consideration of this application moot.

Two existing curb cuts provide for the parking lot entrance and exit. New landscaping would be provided along the sides of the site that abut the public sidewalks along North Venice Boulevard and Abbot Kinney Boulevard (Exhibit #56). The fifteen existing trees on the project site will remain in their present location. The sycamore trees growing in planters within the existing public sidewalk would not be affected by the proposed project.

The proposed project is located at a prominent Venice intersection on a major coastal access route (Venice Boulevard). The intersection of North Venice Boulevard and Abbot Kinney Boulevard has been referred to by the Coastal Conservancy as the "Gateway to Venice." The existing two-story office building on the site was approved by the Commission on July 1, 1974 [Coastal Development Permit P-74-3323 (Sarlo)]. Pursuant to Coastal Development Permit P-74-3323, the approval of the office building included the permittee's proposed provision of nine on-site parking spaces. No changes are proposed to the building. The applicant asserts that the City has determined that the proposed fourteen-stall private parking lot project is necessary to legalize the applicant's use of the property at 1656 Abbot Kinney Boulevard. The area surrounding the proposed project is a mix of residential and commercial uses in one and two-story buildings.

B. Public Access and Recreation

The standard of review for the proposed project is the Chapter 3 policies of the Coastal Act. The certified Venice Land Use Plan (LUP) may provide guidance. One of the basic goals

stated in the Coastal Act is to maximize public access and recreation along the coast. The ~~proposed project, as conditioned, will conform with the~~ following Coastal Act policies that protect and encourage public access and recreational use of coastal areas are applicable to this proposal.

Section 30210 of the Coastal Act states:

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

Section 30211 of the Coastal Act 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.

Section 30212.5 of the Coastal Act states:

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 of the Coastal Act states, in part:

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

Section 30223 of the Coastal Act states:

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

The following policy of the certified Venice LUP reserves the use of public rights-of way for public transportation use, but allows uses that do not interfere with coastal access, transportation and visual quality.

• **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.*

The following certified LUP policies are also applicable to this proposal.

• **Policy V. A. 2. Street and Highway Improvements.** Streets and highways shall be designed and improved to adequately accommodate development and to enhance public access to the shoreline. (Refer to Circulation Map, Exhibit 23, and to Policy II.B.4 for street and highway improvements).

• **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.

Implementation Strategies

A streetscape plan for public and private developments should be developed for the Venice Coastal Zone in conjunction with the Bureaus of Engineering, Street Maintenance, and other Departments with jurisdiction over street design should include the following:

“It is the intent of the City that whenever a ... street ... is to be improved, complete street improvements should be installed whenever feasible whether a project is initiated by a public agency or a private party.... Any item may be eliminated from an improvement project if the item would not contribute to the safety or welfare of the community, or if unusual conditions make its installation impractical or unnecessary.”

The Venice coastal zone streetscape plan should also include the following:

1. Consideration of roadway and sidewalk widths based on pedestrian and vehicular needs.
2. Promotion of pedestrian and bicycle access and transit use emphasizing circulation along major retail corridors, as well as establishing and reinforcing connections between the beach, walk streets, canals and lagoon, and other areas of pedestrian activity.
3. Provision of amenities for pedestrians, cyclists and transit users such as street trees, mini parks, improved lighting, special paving, graphics, and street furniture.
4. A boulevard beautification program should be included in the Local Implementation Plan involving street tree planting, landscaping, or construction of gardens. Trees which are a minimum of 24-inch box size are encouraged. Trees should be drought tolerant and associated with California coastal areas. A distinction should be made on the plan map between the species of trees to be planted along all major and secondary highways and

local and collector streets. The following streets should be targeted for the beautification program.

- a. Lincoln Boulevard
- b. Rose Avenue
- c. Pacific Avenue
- d. Venice Boulevard
- e. Washington Boulevard
- f. Abbot Kinney Boulevard
- g. Main Street
- h. Venice Way

- 5. Require that all surface parking lots incorporate landscaping in their interior and along their perimeter.
- 6. Require that all new development in the Venice coastal zone provide open space and landscaping which contributes to a high quality visual environment. New residential developments should incorporate landscaping that supplements and enhances existing deficient landscaping or complements the existing landscape where a high visual quality exists. Commercial developments should provide landscaping along their street frontages such that it is designed to enhance pedestrian activity.

The proposed project is located at a prominent Venice intersection on a major coastal access route (Venice Boulevard) that connects the San Diego Freeway (I-405) to Venice Beach. North Venice Boulevard is "the Ceremonial Gateway to Venice," as referred to by the Coastal Conservancy in the Venice planning document entitled "Coastal Conservancy Urban Waterfront Restoration Plan Policies".

Part of the proposed project (4,500 square feet) would occur on the public right-of-way that the City was in the process of vacating. The portion of the project site that exists outside of the public right-of-way is developed as a private nine-stall gravel parking lot that serves a two-story commercial office building at 1656 Abbot Kinney Boulevard [Coastal Development Permit P-74-3323 (Sarlo)]. The applicant, who owns the project site and the two-story commercial office building, proposes to privatize and develop the adjoining right-of-way area in order to enlarge the existing private parking lot (Exhibits #4&5). The applicant asserts that the City has determined that the proposed fourteen-stall private parking lot project is necessary to legalize the applicant's use of the property at 1656 Abbot Kinney Boulevard.

As stated above, a portion Part of the proposed project (4,500 square feet) would occur on a public right-of-way that the City ~~was~~ is in the process of vacating. On January 11, 2006, the Commission denied the coastal development permit for the City's proposed vacation. [See Coastal Development Permit Appeal A-5-VEN-05-259 (City of Los Angeles)]. The applicant points out that, notwithstanding the Commission's January 11, 2006 denial of the City's proposed right-of-way vacation, the parking lot improvements proposed on the public rights-of-way could proceed pursuant to a revocable encroachment permit issued by the City (if the Commission were to grant the necessary coastal development permit). Thus, the Commission's action on the vacation request does not make consideration of this application moot.

The Commission, however, by its denial of Coastal Development Permit Application A5-VEN-05-259, made a choice between two competing alternatives for the improvement of the 4,500 square foot portion of the project site that is public right-of-way. The Commission concluded in favor of more landscaping (instead of a parking lot) in the right-of-way, thus supporting the City-approved Venice Boulevard Planting Plan¹ described by Mr. Murez at the January 11, 2006 public hearing. The Commission concluded that the City-approved Venice Boulevard Planting Plan conformed more closely with the Coastal Act policies that address visual resources and public access in that the additional landscaping of the right-of-way area would substantially improve aesthetics and coastal access along North Venice Boulevard, a major coastal access route. The Commission also found that the proposed privatization and removal of the subject portion of the right-of-way from the Venice Planting Plan would threaten the entire plan by setting a precedent for other similarly situated segments of the Venice Boulevard right-of-way that are supposed to be landscaped by the City pursuant to the City-approved Venice Boulevard Planting Plan.

The proposed project again presents the Commission with the two competing plans for the project site at the corner of this prominent intersection: 1) the applicant's proposed private parking lot with about 1,000 square feet of landscaping around the edges (Exhibit #5), and 2) the City-approved Venice Boulevard Planting Plan designed for the corner that would landscape 3,500 square feet (approx.) of public right-of-way that the applicant proposes to privatize and pave for the proposed parking lot (Exhibit #6).

The proposed private parking lot project would not affect the existing public sidewalk or require the removal of the sycamore trees growing in planters within the sidewalk, but it would remove about 3,500 square feet from the green strip that the City-approved Venice Boulevard Planting Plan designates for public landscaping (Exhibit #6: Venice Boulevard Planting Plan, Sheet L-4, Dept. of Public Works, Index No. D-30879). The other 1,000 square feet (approx.) of the 4,500 square foot right-of-way area proposed to be privatized and developed as a private parking lot is designated in the City's planting plan as pavement for the existing driveway that provides vehicular access from North Venice Boulevard to the office building at 1656 Abbot Kinney Boulevard (Exhibit #6).

Jim Murez, a concerned party at the January 11, 2006 public hearing, showed the Commission a visual presentation of the City-approved Venice Boulevard Planting Plan for the four corners of the intersection of Venice Boulevard and Abbot Kinney Boulevard (Exhibit #6: Venice Boulevard Planting Plan, Sheet L-4, Dept. of Public Works, Index No. D-30879). The City-approved Venice Boulevard Planting Plan, which includes the right-of-way area proposed to be privatized at the northwest corner of the intersection, would landscape about 3,500 square feet of right-of-way with new trees and shrubs that would beautify and improve the visual quality of this "Gateway to Venice" intersection. Jim Murez's presentation demonstrated how the proposed private parking lot conflicts with the City-approved Venice Boulevard Planting Plan that was designed for the intersection. In addition to the paving over a portion of the right-of-way that was planned to be a green strip, the proposed project would also set a precedent that could adversely affect 1.5 miles of this important coastal accessway by encouraging other right-of-way privatization requests. Future right-of-way vacation requests along Venice

¹ On May 8, 1995, the Department of Public Works (City Engineer) signed and approved the Venice Boulevard Planting Plan.

Boulevard could adversely affect several thousand square feet of the green strip designed in the City-approved Venice Boulevard Planting Plan.

Even though the City's Venice Boulevard landscape project seems to have stalled at this point, as the council district changed representatives in 2005 and additional funding is still necessary, the new City Councilman for Venice, Bill Rosendahl, is working to obtain the necessary funding to complete the City's planting plan for Venice Boulevard. Councilman Rosendahl requested that the Commission deny the proposed right-of-way privatization in order to preserve all of the right-of-way for landscaping pursuant to the City-approved Venice Boulevard Planting Plan.

When the Commission staff reviewed the proposed project in advance of the January 11, 2006 public hearing, the staff concluded, as had the City, that the right-of-way area on the project site does not currently support public access and recreational opportunities (e.g., public parking). No prior action by the Commission has identified the project site as a public parking area, and the proposed project would not interfere with the public sidewalk that runs along North Venice and Abbot Kinney Boulevards. No new curb cuts are proposed, as the entrance and exit to the parking area already exist. Since the proposed project would not adversely affect or interfere with existing public parking, the public sidewalk, or any other existing public access facilities, staff reported to the Commission that the project would not interfere with existing public access. The City had also indicated no interest in expanding the roadway by adding an additional lane.

Although the proposed project may not directly interfere with or displace any existing public access or recreation facilities, the Commission finds that the City's proposed right-of-way vacation would preclude the use of the right-of-way for future public improvements associated with the road (e.g. landscaping and widened walkways) that would improve the aesthetics and the overall experience of proceeding along the major coastal access route that is North Venice Boulevard. In addition to landscaping, other potential uses of the right-of-way area include a widened walkway, 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 currently need the vacated right-of-way areas for any public use, this could change in the future as the population grows and technology advances. The applicant proposed a condition subsequent, which would have allowed the right-of-way to revert back to the City if it determined, in the future, that the privatized right-of-way property was needed for a public street purpose (e.g., street widening, public transportation, sidewalk, bicycle lane, etc.). The condition subsequent, however, would not mitigate the proposed project's adverse and irrevocable effect on the City's ultimate completion of the Venice Boulevard Planting Plan.

The Commission's endorsement of the City-approved landscape plan over the proposed right-of-way vacation (A-5-VEN-05-259) and the proposed private parking lot is based on the public access policies of the Coastal Act. The Commission recognizes the public value in landscaped boulevards, especially along a major coastal access route like North Venice Boulevard. Street landscaping is a common incident to a highway purpose. The lack of attractive landscaping degrades the aesthetic experience of the public using the accessway, and thus negatively affecting coastal access. The right-of-way in question is not a park, but it is part of a public transportation route for vehicles, cyclists and pedestrians. Increasing the apparent width of the road with the relatively inexpensive investment in landscaping of the right-of-way would enhance the visual resources of the area and visually distinguish this critical intersection where Venice Boulevard joins the commercial center of Venice (Abbot Kinney Boulevard). The

additional landscaping contemplated by the City's Venice Boulevard Planting Plan would make the streets and the intersection a more inviting and attractive area for area residents and visitors alike. The visual quality of this major coastal access route should not be sacrificed for an enlarged private parking lot.

Therefore, the Commission finds that the proposed paved parking lot and privatization of the right-of-way area would adversely affect public access and enjoyment of the access route by allowing the privatization and paving of a public area that is part of the City's planned landscaped green strip. The Commission finds that the right-of-way area on the project site should be preserved for landscaping that would improve the public beach accessway and the Gateway to Venice as contemplated by the City's Venice Boulevard Planting Plan. The enhanced landscaping previously designed for the intersection would improve the recreational experience and psychological aspects of the coastal accessway. Denial of the proposed development will preserve the City's options over the long term. Therefore, the permit is denied, as the proposal does not conform with the access and recreation policies of the Coastal Act.

~~Before the coastal development permit can be issued and the proposed development is allowed to proceed, however, the situation regarding the use of the public right-of-way must be resolved (See Coastal Development Permit Appeal A-5-VEN-05-259). Therefore, the approval of this permit is conditional upon the applicant demonstrating its legal ability to undertake the proposed development on the entire project site. Legal ability can be demonstrated by: a) providing documentation that the City of Los Angeles has finalized the vacation of the public right-of-way that overlays approximately 4,500 square feet of the project site (Note: The City's proposed right-of-way vacation is subject to Coastal Development Permit Appeal A-5-VEN-05-259); or b) providing evidence that the City of Los Angeles has granted the applicant written permission to undertake the proposed development on the 4,500 square foot portion of the site where public right-of-way exists. The applicant has provided a copy of City of Los Angeles Dept. of Public Works Revocable Permit No. 50825, but it is unclear as to the revocable permit is valid for the proposed parking lot improvements, or whether the revocable permit is only to use the existing gravel parking area.~~

~~Most of the project site is already occupied by a permitted use (office building and parking lot), and all of the existing parking on the project site serves the two-story commercial office building (See Coastal Development Permit P-74-3323). One question is whether the vacated right-of-way area should be used for public parking or private parking. As public right-of-way, the site could potentially provide additional public parking (about nine parking spaces) in an area that is deficient in parking facilities. It is impractical, because of management and liability issues, to create a new fourteen-stall parking lot that is partly private and partly public. The parking area has only one entrance and one exit (two existing curb cuts).~~

~~In any case, the creation of additional off-street parking, even private parking, would increase the number of parking spaces in the neighborhood and benefit coastal access. Therefore, the proposed improvement of the entire site (including the former right-of-way) as a private parking area would not adversely affect coastal access or recreation because additional off-street parking would result.~~

~~The applicant has agreed to the proposed right-of-way vacation being conditional upon the City's limited right of defeasance (Exhibit #10, p.2). Therefore, in order to ensure that the right-~~

~~of-way area is available in the future, should the City determine that it is needed for a public purpose; Commission approval of the proposed project is subject the following condition (Right of Defeasance):~~

~~By acceptance of this permit, the applicant acknowledges that the City of Los Angeles maintains a right of defeasement for the 4,500 square foot portion of the site that is subject to Coastal Development Permit Appeal A-5-VEN-05-259. Therefore, if the City of Los Angeles determines that the vacated right-of-way, or portion thereof, is needed for a public purposes (e.g., street widening, public transportation, sidewalk, bicycle lane, etc.) the property shall revert to public right-of-way in order to provide for the public purpose identified by the City.~~

~~As conditioned, the City's right of defeasement would apply to the entire right-of-way area being vacated, or that portion which the City determines is needed for a public purpose. The applicant in this case is requesting that the City's right of defeasement be limited to the area that would remains between the existing curbline of North Venice Boulevard and the edge of the proposed new parking lot (Exhibit #4). As proposed, the parking lot plan would leave about eighteen feet of sidewalk and landscaping between the proposed edge of the parking lot pavement wall and the existing curb, enough space for one new vehicular lane and a sidewalk. A limited right of defeasement may not allow for a particular public use in the future, so the right of defeasement applies to the entire area to be vacated.~~

C. Visual Resources

Section 30251 of the Coastal Act protects visual resources and requires that development be designed to enhance visual quality, where feasible.

Section 30251 of the Coastal Act states:

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

Section 30253(5) of the Coastal Act protects special communities, like Venice, that are popular visitor destination points for recreational uses.

Section 30253(5) of the Coastal Act states:

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.

The following policy of the certified Venice LUP addresses the visual quality of streetscapes in the Venice coastal zone.

- **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 proposed project is located at a prominent Venice intersection on a major coastal access route (Venice Boulevard). ~~The intersection of North Venice Boulevard and Abbot Kinney Boulevard, is~~ referred to by the Coastal Conservancy as “the Ceremonial Gateway to Venice.” Sycamore trees, planted in planters within the existing public sidewalk, would not be affected by the proposed project. Several palms near the corner of North Venice Boulevard and Abbot Kinney Boulevard would remain in place.

It is a matter of public importance that the visual resources of the site be considered and protected. Landscaping on the site enhances the visual quality of the intersection, and it should continue to do so. The entire North Venice Boulevard corridor is part of a major tourist destination (Venice Canals and Venice Beach). Major public parking lots exist along Venice Boulevard, between Abbot Kinney Boulevard and the beach. Connecting these parking lots with a landscaped walkway would encourage public use of these lots. The right-of-way area proposed to be privatized provides an area for public landscaping that would provide an alternative to the dense landscape of pavement, parked cars and intense development that presently marks the approach to the beach. Increasing the apparent width of the accessway with the relatively inexpensive investment in landscaping would enhance the visual resources of the area (and also improve air quality). The applicant is proposing to landscape the project site with a several trees and a parkway along North Venice and Abbot Kinney Boulevards, but the proposed parking lot plan would leave about 3,500 fewer square feet of planting area that the City-approved planting plan (Exhibit #6). ~~A condition of approval requires the applicant to install and maintain the proposed landscaping on the site. Therefore, as conditioned, the proposed project would enhance visual resources consistent with Sections 30251 and 30253 of the Coastal Act and the policies of the certified Venice LUP.~~

The applicant has stipulated that the landscaping proposed as part of the private parking lot proposal would be completed in conformity with the Venice Planting Plan and in cooperation with the community. The Commission, however, finds that the applicant’s stipulations cannot mitigate the proposed private parking lot’s adverse effects to coastal resources and public access because it is not possible to implement the proposed private parking lot project in conformity with the City-approved Venice Planting Plan. The applicant’s proposed parking lot plan is inherently inconsistent with the existing City-approved Venice Boulevard Planting Plan because the parking lot plan would pave about 3000 square feet of area that was previously planned by the City to be landscaped with shrubs and trees. The applicant’s proposed stipulations cannot change the essential nature of the parking lot proposal.

The additional landscaping on the street corner site contemplated by the City-approved planting plan would also improve the view down the streets and visually distinguish this critical intersection where Venice Boulevard, a major coastal access route, joins the commercial center of Venice (Abbot Kinney Boulevard), and the intersection would become an inviting and attractive area for area residents and visitors alike. Landscaping would especially improve the

quality of the pedestrian experience so as to provide an inviting alternative to the automobile for transportation.

Therefore, the Commission finds that the proposed privatization and paving of the right-of-way should be denied, and the public's right to use the land for street purposes be retained, so that the visual quality of the area can be enhanced as called for by Sections 30251 and 30253 of the Coastal Act and Policy V.A.5 of the certified Venice LUP. The Commission finds that the visual quality of this major coastal access route should not be sacrificed for an enlarged parking lot. Therefore, the permit is denied, as the proposed privatization of the right-of-way would adversely affect visual resources and is not consistent with Sections 30251 and 30253 of the Coastal Act.

D. Control of Polluted Runoff

Section 30230 of the Coastal Act states:

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30231 of the Coastal Act states:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

The proposed paved parking area pose a potential source of pollution due to contaminated runoff. Runoff from the site enters the City's stormdrain system and is ultimately discharged into the marine environment. Untreated wastewater from the site must be prevented from negatively affecting the marine resources in the adjacent waters of the Pacific Ocean. Denial of the proposed paved private parking lot, so that the City can landscape the public right-of-way, as contemplated by the Venice Boulevard Planting Plan, will result in less pavement and fewer adverse impacts to marine resources.

~~To mitigate potential impacts to marine resources caused by polluted runoff leaving the site, a special condition requires the applicant to incorporate best management practices (BMPs) into the project and site management procedures to reduce or prevent contaminants from running off the site. As conditioned, the proposed project is consistent with past Commission action with regards to water quality requirements and will minimize water quality impacts. The Commission, therefore, finds that, as conditioned, the development will be consistent with Sections 30230 and 30231 of the Coastal Act.~~

E. Applicant's Other Issues Deed Restriction

~~To ensure that any prospective future owners of the property are made aware of the applicability of the conditions of this permit, the Commission imposes one additional condition requiring that the property owner record a deed restriction against the property, referencing all of the above special conditions of this permit and imposing them as covenants, conditions and restrictions on the use and enjoyment of the property. Thus, as conditioned, this permit ensures that any prospective future owner will receive actual notice of the restrictions and/or obligations imposed on the use and enjoyment of the land in connection with the authorized development.~~

The applicant has raised several issues that are not relevant to the Commission's standard of review for the coastal development permit application, which is the Chapter 3 policies of the Coastal Act. These issues are addressed below.

First, the applicant asserts that the City determined that the proposed fourteen-stall private parking lot project is necessary to legalize the applicant's use of the property at 1656 Abbot Kinney Boulevard. Assuming that the City did make such a determination, the Commission decision does not contradict the City's determination because the Commission is not ruling on how the existing development conforms or does not conform with the City's zoning regulations. The Commission's decision to deny the permit application also does not address whether the applicant is allowed to continue the use of the office building on the larger property without the completion of the proposed parking lot project.

The Commission did, however, deny the applicant's request to use part of a public right-of-way for a private parking lot. The applicant does not have any automatic right to use others' property or public rights-of-way in order to provide the vehicular parking that may be required. In any case, the City's zoning code provides for continuance of properly permitted and maintained non-conforming uses (City of Los Angeles Municipal Code, Chapter One, Section 12.23). Commission records indicate that the existing two-story office building that occupies the site was properly permitted in 1974 with nine on-site parking spaces [See Coastal Development Permit P-74-3323 (Sarlo)]. The question of consistency with the City's zoning regulations is irrelevant to the Commission's standard of review for the coastal development permit. The Commission is bound by Chapter 3 of the Coastal Act, not by what is needed to bring an existing allegedly non-conforming use into compliance with the City's zoning regulations.

Second, the applicant asserts that denial of the permit for the proposed development, the implementation of which would place the property in substantially the same condition as adjacent properties, would constitute unfair disparate treatment. The suggestion appears to be that a denial, even if consistent with the policies of the Coastal Act that form the Commission's standard of review, may violate principles of equal protection if it denies a property owner a permit to bring a property into the same condition as adjacent properties.

There is no requirement that all properties be allowed to develop in the same manner. The adjacent properties may have been developed prior to the adoption of the Coastal Act or local land use regulations that would prevent this property from being developed in the same manner. The applicant's suggestion is inconsistent with the long-standing principles of

grandfathering and non-conforming uses. In addition, the applicant does not provide any specific evidence of the alleged state of those adjacent properties or of disparate treatment.

Commission staff is not aware of any adjacent properties having privatized a portion of the public right-of-way for use as a private parking lot, as is proposed by the applicant. The North Venice Boulevard is being used as a public street, with landscaping and public parking. The right-of-way area outside of the main roadway and sidewalk is typically used for public parking, as required and approved pursuant to amended Coastal Development Permit 5-90-664, or landscaping. Although a few paved driveways leading to private properties do extend across the sidewalk and right-of-way area in order to provide vehicular access from the boulevard to the private properties (as do the applicant's existing driveways), the Commission has not approved the privatization of any portion of the North Venice Boulevard right-of-way. Therefore, the applicant did not receive unfair disparate treatment from the Commission.

Third, the applicant asserts that denial of the permit for the proposed development without enforcement actions against similarly situated properties that use unused portions of the right-of-way for parking lots unfairly discriminates against the applicant. Again, the Commission is not aware of any adjacent properties having privatized a portion of the public right-of-way for use as a private parking lot, as is proposed by the applicant. Staff will investigate any specific allegations put forth regarding unpermitted use of public rights-of-way. The Commission did reject the applicant's proposed project in favor of the City-approved Venice Boulevard Planting Plan, but the Commission did not unfairly discriminate against the applicant.

F. Local Coastal Program

Section 30604(a) of the Coastal Act provides that the Commission shall issue a coastal development permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with Chapter 3 policies of the Coastal Act:

- (a) Prior to certification of the Local Coastal Program, a coastal development permit shall be issued if the issuing agency, or the commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) of this division and that the permitted development will not prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200). A denial of a Coastal Development Permit on grounds it would prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200) shall be accompanied by a specific finding which sets forth the basis for such conclusion.

The City of Los Angeles does not have a certified Local Coastal Program for the Venice area. The City of Los Angeles Land Use Plan (LUP) for Venice was effectively certified on June 14, 2001. See the certified LUP policies listed previously in this report on pages 4-6 and 10.

~~The proposed project, as conditioned, conforms to the proposed Venice LUP. The proposed project, as conditioned, is also consistent with the Chapter 3 policies of the Coastal Act. Therefore, the Commission finds that approval of the proposed development, as conditioned,~~

~~will not prejudice the City's ability to prepare a Local Coastal Program consistent with the policies of Chapter 3 of the Coastal Act, as required by Section 30604(a).~~

Approval of the proposed privatization and paving of part of the public right-of-way would violate the policies of the certified Venice LUP listed previously in this report (Policies I.C.9 V.A.2 and V.A.5). The Commission finds that the proposed removal of the subject portion of the right-of-way from the Venice Planting Plan would threaten the entire plan by setting a precedent for other similarly situated segments of the Venice Boulevard right-of-way that are planned to be landscaped pursuant to the City-approved Venice Boulevard Planting Plan. Approval of the proposed right-of-way privatization and parking lot could adversely affect 1.5 miles of this important coastal accessway by encouraging other right-of-way privatization requests that would affect several thousand square feet of the planned green strip, thus significantly reducing the public area available for street trees and other landscaping (i.e., a domino effect). The proposed project is also not consistent with the Chapter 3 policies of the Coastal Act. Therefore, the Commission finds that approval of the proposed development will prejudice the City's ability to prepare a Local Coastal Program consistent with the policies of Chapter 3 of the Coastal Act, as required by Section 30604(a).

G. California Environmental Quality Act (CEQA)

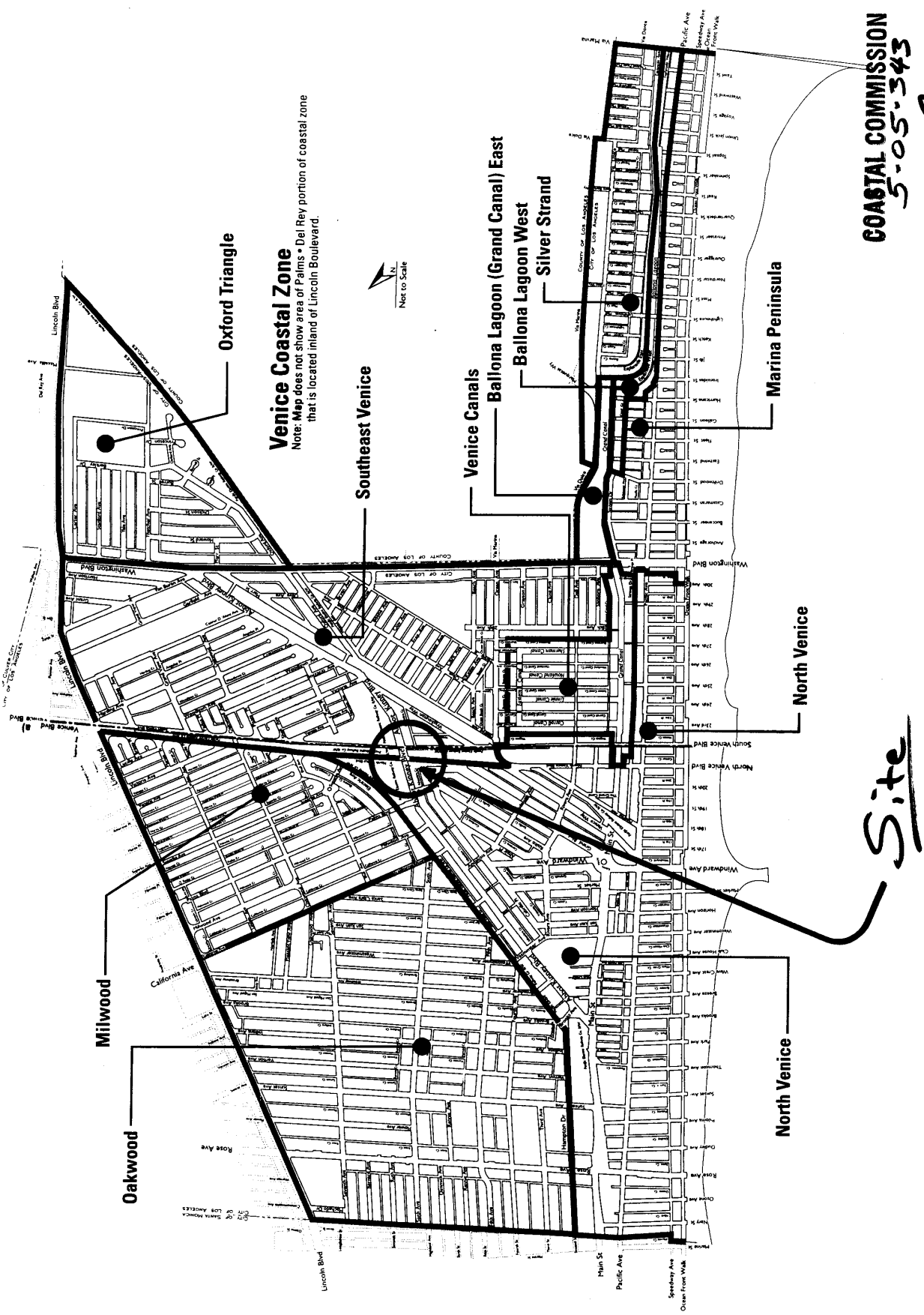
Section 13096 Title 14 of the California Code of Regulations requires Commission approval of a coastal development permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). 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 which the activity may have on the environment.

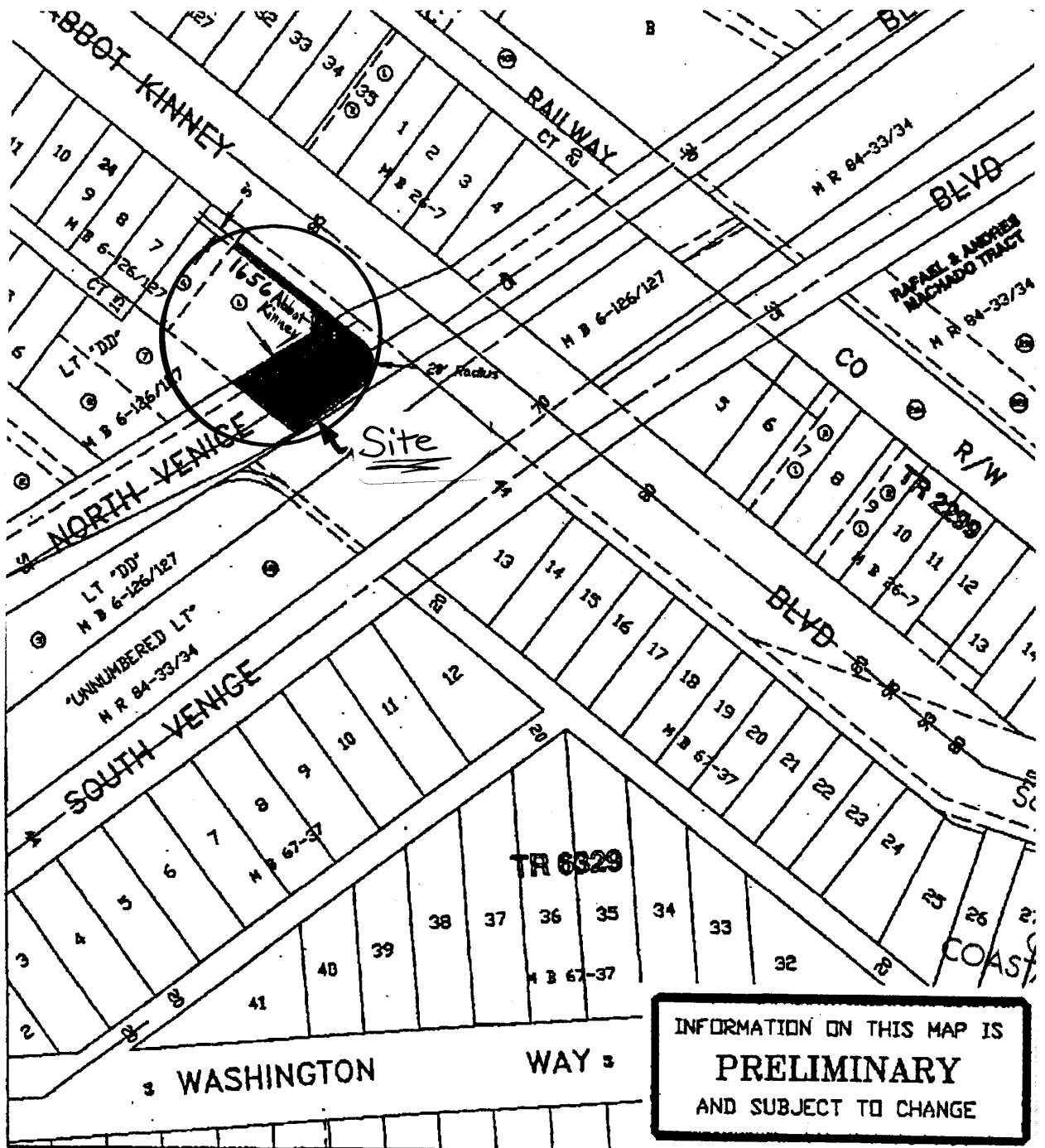
~~The proposed project, as conditioned, has been found consistent with the Chapter 3 policies of the Coastal Act. All adverse impacts have been minimized by the recommended conditions of approval and there are no feasible alternatives or additional feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed development can be found consistent with the requirements of the Coastal Act to conform to CEQA.~~

The proposed project is not consistent with the Chapter 3 policies of the Coastal Act. All adverse impacts have not been minimized and denial of the proposed project is a feasible alternative which would substantially lessen the significant adverse impacts which the activity may have on the environment. The City-approved Venice Boulevard Planting Plan, as applied to the four corners of the intersection of Venice Boulevard and Abbot Kinney Boulevard, provides a feasible alternative which would substantially lessen the significant adverse impacts which the activity may have on the environment (Exhibit #6: Venice Boulevard Planting Plan, Sheet L-4, Dept. of Public Works, Index No. D-30879). Therefore, the Commission finds that the proposed development cannot be found consistent with the requirements of the Coastal Act to conform to CEQA.

VENICE, CA





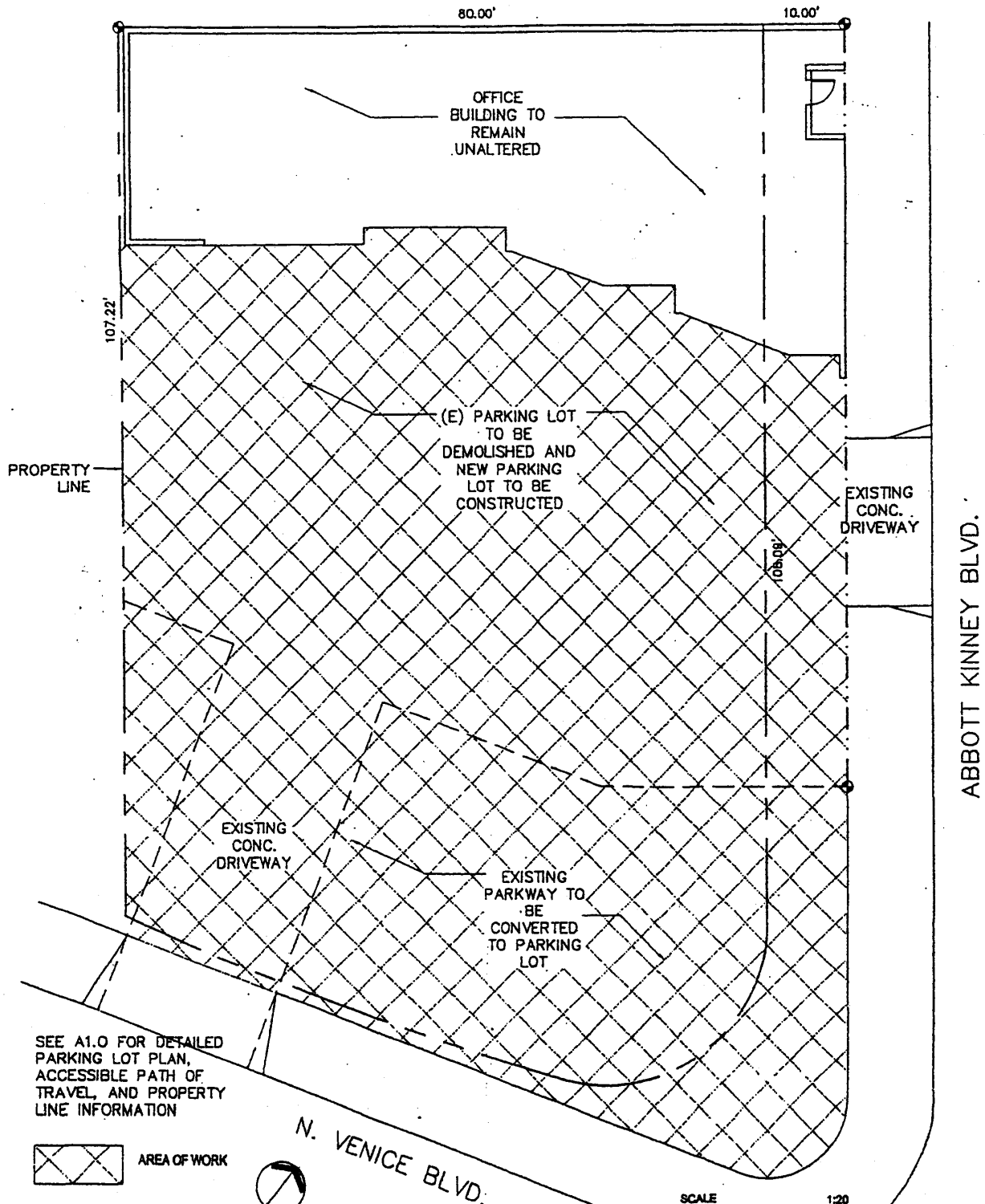


TITLE: VENICE BOULEVARD (PORTION OF NORTHWESTERLY SIDE) FROM ABBOT KINNEY BOULEVARD TO APPROXIMATELY 96' SOUTHWESTERLY THEREOF.

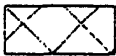
WORK ORDER NO. VAC- E1400779
 COUNCIL FILE NO. 01-2183
 COUNCIL DIST. 6 DIV. INDEX 1428
 ENGR. DIST. W.L.A. T.G. 671-H6
 DISTRICT MAP 108B145 & 108B149
 106.5A145 & 106.5A147



CITY OF LOS ANGELES
 DEPT. OF PUBLIC WORKS
 COASTAL COMMISSION
 VITALY B. TROYAN 5-05-343
 CITY ENGINEER **EX. 3**
 PAGE 1 OF 1



SEE A1.0 FOR DETAILED
PARKING LOT PLAN,
ACCESSIBLE PATH OF
TRAVEL, AND PROPERTY
LINE INFORMATION



AREA OF WORK



NORTH

Los Angeles City Planning
COASTAL ZONE PLAN APPROVAL
Single Jurisdiction
Dual Jurisdiction

SCALE
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COASTAL COMMISSION

5-05-343

EXHIBIT # 4

PAGE 1 OF 1

Proposed Parking Lot Plan

