

CALIFORNIA COASTAL COMMISSION

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Filed: 10/9/2007
49th Day: 11/27/2007
180th Day: N/A
Staff: Charles Posner - LB
Staff Report: 11/1/2007
Hearing Date: November 14, 2007
Commission Action:

**STAFF REPORT: APPEAL - NO SUBSTANTIAL ISSUE**

LOCAL GOVERNMENT: City of Los Angeles

LOCAL DECISION: Denial

APPEAL NUMBER: A-5-VEN-07-358

APPLICANT: City of Los Angeles Department of Public Works

APPELLANT: Robert Slayton

PROJECT LOCATION: North side of North Venice Boulevard public right-of-way adjacent to 585-595 North Venice Boulevard, Venice, City of Angeles, Los Angeles County.

PROJECT DESCRIPTION: Appeal of City of Los Angeles Denial of Local Coastal Development Permit Application No. 05-02 for the proposed vacation of a 25'x 480' portion of the North Venice Boulevard public right-of-way.

SUMMARY OF STAFF RECOMMENDATION

The Commission's role at the "substantial issue" phase of an appeal is to decide whether the appeal of the local government action raises a substantial issue as to conformity with the Chapter 3 policies of the Coastal Act. In this case, staff recommends that the Commission, after public hearing, determine that the appeal of the City's denial of the coastal development permit raises **no substantial issue** because the proposed vacation of this particular segment of the North Venice Boulevard public right-of-way would adversely affect public access and recreational opportunities by privatizing a public parking area that supports coastal access and recreation. Visual resources would also be adversely affected by the proposed vacation because the right-of-way area is necessary to provide landscaping along the boulevard that beautifies the street, improves air quality and enhances the visual quality of this "Gateway to Venice." The public parking and landscaping that exists in the portion of the right-of-way that is proposed to be vacated was installed pursuant to the requirements of Coastal Development Permit 5-90-664 (Caltrans/City of Los Angeles), which the Commission approved for the Venice Boulevard Reconstruction project (Exhibit #6). Therefore, the City correctly determined that the proposed vacation of public right-of-way could not be found to conform with the Chapter 3 policies of the Coastal Act because it would adversely affect public access, recreation and visual resources. **The motion to carry out the staff recommendation is on Page Five.**

The appellant disagrees with the staff recommendation, asserting that the proposed vacation of the public right-of-way is consistent with the Chapter 3 policies of the Coastal Act, even though he also asserts that a coastal development permit is not required for the proposed vacation.

SUBSTANTIVE FILE DOCUMENTS:

1. City of Los Angeles Local Coastal Development Permit Application No. 05-02.
2. Coastal Development Permit 5-90-664 & amendments (CALTRANS/City of Los Angeles Department of Transportation - Venice Boulevard Reconstruction).
3. Coastal Commission Appeal Case No. A-5-VEN-05-259 (North Venice Blvd. vacation).
4. City of Los Angeles City Council File No. 97-1142 & Map No. VAC-00-1400581.
5. City of Los Angeles City Council Ordinance No. 173257, 5/23/2000.
6. City of Los Angeles Venice Boulevard Planting Plan, Department of Public Works, Index No. D-30879, 5/8/1995 (Exhibit #7).

I. APPELLANT'S CONTENTIONS

The appellant, Robert Slayton¹, has appealed the City of Los Angeles denial of Local Coastal Development Permit No. 05-02 for the proposed vacation of a portion of the North Venice Boulevard public right-of-way near Electric Avenue (See Exhibits). The appellant's grounds for the appeal, which are attached to this report as Exhibit #4, are as follows:

1. The City's denial of the local coastal development permit was based solely on the issue of consistency with the Coastal Act. The City had previously found that the proposed vacation was consistent with the City's rules and procedures.
2. The City's erred in its determination that approval of the proposed right-of-way vacation would prejudice the City's ability to prepare a Local Coastal Program (LCP) that is in conformity with Chapter 3 of the Coastal Act.
3. The proposed right-of-way vacation is consistent with the Chapter 3 policies of the Coastal Act.
4. The City had previously found that the right-of-way area proposed to be vacated was not needed for vehicular or non-motorized transportation or access.
5. The proposed right-of-way vacation is supported by the policies of the certified Venice Land use Plan (LUP) which calls for enhanced streetscape improvements in accordance with a Venice Coastal Zone Streetscape Plan. Policies V.A.2 and V.A.5.
6. The proposed right-of-way vacation would not conflict with the City's implementation of the Venice Boulevard Ceremonial Gateway Landscaping Plan, which is not part of the Venice LUP.
7. The proposed right-of-way vacation must be considered on its own merits and facts, and not based on any perceived precedent. For example, the vacation area is too small to provide parking unless merged with the underlying fee.
8. A coastal development permit is not required for the vacation of a public right-of-way.

The appellant has filed the appeal in order to exhaust his administrative remedies prior to seeking recourse in the State courts of general jurisdiction. In fact, the appellant has already filed suit against the City (Electric Pointe, LLC, et al v. City of Los Angeles, LASC No. S014660).

¹ Only Robert Slayton signed the appeal form.

II. LOCAL GOVERNMENT ACTION

In May 1997, Samuel J. Kagen, Phyllis Slayton and Robert Slayton applied to the City of Los Angeles for the proposed vacation of a portion of the public right-of-way that abuts their commercial properties at 585-595 North Venice Boulevard in Venice. The 11,400 square foot area proposed to be vacated is developed with public parking spaces and measures about 25 feet wide and 480 feet long (Exhibits #3&6).

On March 24, 1998, the City Engineer issued a report to the Public Works Committee recommending that part of the proposed right-of-way vacation be approved, with a portion of it maintained as right-of-way for use as a landscaped buffer zone.

On December 14, 1998, the Public Works Committee approved the City Engineer's recommendation with a requirement that the proposed vacation must obtain a coastal development permit pursuant to the requirements of the Coastal Act. The matter was then forwarded to the City Council for action, as any right-of-way vacation in the City must be approved by the City Council.

On May 17, 2000, the City Council adopted the Ordinance of Intention (Ordinance No. 173,257) declaring the City Council's intent to proceed with the proposed right-of-way vacation as recommended by the City Engineer and the Public Works Committee.

On June 23, 2000, the City Council held a public hearing, conditionally approved the proposed right-of-way vacation, and instructed the City Engineer to proceed with the vacation. No one objected to the proposal at the hearing.

Since the City Council action did not include a local coastal development permit approval for the proposed vacation, Commission staff sent the City a letter dated October 2, 2003 reminding the City staff 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 [Cal. Pub. Res. Code §§ 30106 and 30600]. 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.

On July 13, 2005, the City of Los Angeles Department of Public Works, Bureau of Engineering initiated the processing of the local coastal development permit necessary for the proposed right-of-way vacation (Coastal Development Permit Application No. 05-02). The City is the applicant for the local coastal development permit as it is the City that holds the legal interest in the property (right-of-way) that is subject to the permit application.

On September 1, 2005, the Department of Public Works held a public hearing for Coastal Development Permit Application No. 05-02 at the Venice Library where several persons, including City Councilman Bill Rosendahl, objected to the proposed right-of-way vacation.

On May 3, 2006, the Department of Public Works issued its Notice of Decision denying Coastal Development Permit Application No. 05-02 for the proposed right-of-way vacation finding that the proposal would violate the provisions of Chapter 3 of the Coastal Act. The City initiated its ten-day appeal period on May 11, 2006. On May 19, 2006, the appellant (Robert Slayton) sent an appeal of the permit denial to the Department of Public Works Bureau of Engineering via U.S. mail, but the Bureau's offices had just been moved and the letter was not

received by the City until May 31, 2006, after the appeal period had ended. The City rejected the appeal for missing the appeal period.

The appellant objected to the City's rejection of the appeal because of the confusion created by the Bureau's change of address and filed suit against the City (Electric Pointe, LLC, et al. v. City of Los Angeles, LASC No. S014660). The appellant asserts in the lawsuit that the proposed right-of-way vacation does not constitute "development" as defined by the Coastal Act, and therefore does not require a coastal development permit. In response, the City reconsidered its initial rejection of the appellant's appeal and agreed to hear the appeal of the local coastal development permit denial so that the appellant would exhaust the administrative remedies prior to proceeding with the lawsuit (Exhibit #5, p.3).

On September 24, 2007, the Board of Public Works held a public hearing and denied the appellant's appeal of the denial of Coastal Development Permit Application No. 05-02 finding that the proposal would violate the provisions of Chapter 3 of the Coastal Act. The City's findings denying the appeal and the local coastal development permit application are attached as Exhibit #5.

On September 27, 2007, the Commission's South Coast District office in Long Beach received the City's Notice of Final Action for its denial of Local Coastal Development Permit Application No. 05-02 and established the twenty-working day appeal period.

On October 9, 2007, the Commission's South Coast District office in Long Beach received the appeal from Robert Slayton (Exhibit #4). On October 16, 2007, the Commission's South Coast District office in Long Beach received from the City a copy of its local coastal development permit file. The Commission's appeal period ended on October 26, 2007 with no other appeals received.

III. APPEAL PROCEDURES

Section 30600(b) of the Coastal Act provides that prior to certification of its Local Coastal Program, 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, 30604 and 30625(b)(1).]

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 appellant's 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 **no substantial issue exists** with respect to whether the local government action conforms with the provisions of Chapter 3 of the Coastal Act (commencing with Section 30200), pursuant to California Public Resources Code Section 30625(b)(1).

Staff recommends a **YES** vote on the following motion:

MOTION: *"I move that the Commission determine that Appeal No. A-5-VEN-07-358 raises **NO SUBSTANTIAL ISSUE** as to conformity with Chapter 3 of the Coastal Act."*

A majority of the Commissioners present is required to pass the motion.

Resolution to Find No Substantial Issue for Appeal A-5-VEN-07-358

The Commission hereby finds that Appeal No. A-5-VEN-07-358 presents no substantial issue with respect to conformity with the Chapter 3 policies of the Coastal Act.

VI. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. Project Description and History

The appeal involves the denial of a local coastal development permit application for the proposed vacation of a 25'x 480' portion of the North Venice Boulevard public right-of-way near Electric Avenue in Venice (Exhibit #3). The 11,400 square foot right-of-way area subject to the vacation request, which measures about 25 feet wide and 480 feet long, is currently developed with public parking spaces used by beach goers and customers of the surrounding commercial establishments.



Public parking in right-of-way fronting 585 North Venice Boulevard, Venice (File Photo – October 21, 2003)

The sidewalk, street trees and public parking spaces were installed along the northern edge of the North Venice Boulevard right-of-way as part of the Venice Boulevard Reconstruction project approved by the Commission pursuant to Coastal Development Permit 5-90-664. The Venice Boulevard Reconstruction 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 Venice Boulevard Reconstruction 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) so that the project would not result in any net loss in the amount of public parking along Venice Boulevard. The public parking provided on the street (right-of-way) supports coastal access to Venice Beach and the Venice Canals. Coastal Development Permit 5-90-664 required the permittee to replace and maintain public parking along the outer edges of the right-of-way in order to mitigate for the loss of the public parking that was formerly provided within the median of Venice Boulevard (a relic of the old streetcar system) prior to the Venice Boulevard Reconstruction project. Special Condition One of Coastal Development Permit 5-90-664 states:

Prior to issuance of the coastal development permit, the applicant shall submit revised plans which indicate the location of parking spaces removed and parking spaces which will be replaced on the project site. The replaced parking spaces shall be equal to the number of formal and informal spaces removed and in close proximity to the parking spaces removed.

The public parking analysis submitted to show that the Venice Boulevard Reconstruction project would not result in any net loss of public parking shows that the segment of Venice Boulevard between Abbot Kinney Boulevard and Shell Avenue, where the current vacation is proposed, would actually gain fifteen on-street parking spaces with the provision of new public parking areas designed along the outer edges of the right-of-way (Exhibit #6). The roadway and medians were realigned (as shown on Exhibit #6, p. 2), leaving the outside portions of the right-of-way to be developed with public sidewalks, landscaping (Exhibit #7), and public parking. Subsequent to Caltran's completion of the Venice Boulevard Reconstruction project, the State deeded the highway right-of-way to the City of Los Angeles. It is the public parking that exists on the northern edge of North Venice Boulevard that would be adversely affected if the proposed right-of-way vacation had not been denied by the City (Exhibit #6, p.2).

The City's landscape plan for the Venice Boulevard right-of-way is also at issue in this case because the proposed right-of-way vacation would have removed part of the right-of-way from the green strip that was envisioned when the City in 1995 approved a landscape plan for the boulevard (the City of Los Angeles Venice Boulevard Planting Plan). The original concept for a lushly landscaped boulevard that would become "The Ceremonial Gateway to Venice" was the result of a series of community meetings organized in the late 1980s by the City of Los Angeles and the California Coastal Conservancy. The Venice Boulevard Planting Plan calls for the planting of ground cover and hundreds of street trees (sycamores, California coastal live oaks and Washingtonian palms) along both sides of Venice Boulevard and within the medians. The Venice Boulevard Planting Plan specifically calls for lush landscaping of the right-of-way at all four corners of the intersection of Abbot Kinney and Venice Boulevards, including the right-of-way area that the appellant is requesting to be vacated (Exhibit #7).

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.

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.

Staff is recommending that the Commission find that **no 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.

C. Substantial Issue Analysis

The appellant asserts that the proposed vacation of the public right-of-way is consistent with the Chapter 3 policies of the Coastal Act, even though he also asserts that a coastal development permit is not required for the proposed vacation. The standard of review is only whether the appeal raises a substantial issue as to conformity with Chapter 3 of the Coastal Act, Cal. Pub. Res. Code §§ 30200-30265.5 (hereinafter "Chapter 3").² [Cal. Pub. Res. Code § 30625(b)(1); 14 C.C.R. § 13321.]

Coastal Access and Recreation

The coastal access issue is whether the vacated area should be used for public parking or private parking. The following Chapter 3 access and recreation policies are relevant to this case, and were cited by the City in its findings for the denial of the local coastal development permit application:

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

² Unless otherwise indicated, all subsequent statutory references are to sections within the Coastal Act. Cal. Pub. Res. Code §§ 30000 *et seq.*

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.

The City determined that the right-of-way area proposed to be vacated is needed for a public use, including parking. Other potential uses of the right-of-way include landscaping, enhanced transit service (e.g. a bus stop) or a future expansion of the existing street system. The fact that the site is currently being used for public parking upholds this conclusion. The proposed vacation of the right-of-way area that provides the parking required pursuant to Coastal Development Permit 5-90-664 would remove the parking from public use and grant it to the abutting property owner to be used as a private parking area. This would adversely affect public access by reducing the amount of parking in the area that supports public access to the Venice Canals and Venice Beach.

The Commission agrees with the City's determination that the proposed vacation of the right-of-way would adversely affect coastal resources and public access to the shoreline along North Venice Boulevard, a major coastal access route. North Venice Boulevard provides direct vehicular and pedestrian access to Venice Beach and public beach parking lots (Exhibit #2). Therefore, the City's denial of the coastal development permit raises no substantial issue because the proposed vacation of this particular segment of the North Venice Boulevard public right-of-way would adversely affect public access and recreational opportunities by privatizing a public parking area that supports coastal access.

Furthermore, the City is the permittee for Coastal Development Permit 5-90-664. Even if the City was not the permittee, the City cannot authorize development that would conflict with or undercut a prior Commission action on a coastal development permit. The public parking and

landscaping that exists in the portion of the right-of-way that is proposed to be vacated was installed pursuant to the requirements of Coastal Development Permit 5-90-664, which the Commission approved for the Venice Boulevard Reconstruction project (Exhibit #6). Since Coastal Development Permit 5-90-664 requires that public parking be provided and protected in the segment of the Venice Boulevard right-of-way that is proposed to be vacated, the City cannot grant that public parking to a private landowner under any circumstance. Only the Commission can change the provisions of a Commission-issued permit. Therefore, the City correctly determined that the proposed vacation of public right-of-way could not be found to conform with the Chapter 3 policies of the Coastal Act because it would adversely affect public access, recreation and visual resources.

Visual Resources

Visual resources would be adversely affected by the proposed vacation because the right-of-way area is necessary to provide landscaping along the boulevard that beautifies the street, improves air quality and enhances the visual quality of this "Gateway to Venice." The following Chapter 3 policies protect the scenic and visual qualities of coastal areas and were cited by the City in its findings for the denial of the local coastal development permit application:

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.

The Commission finds that the entire right-of-way area proposed to be vacated should be retained in public ownership and landscaped in order to enhance the visual quality of the streetscape. The proposed vacation of part of the right-of-way would set 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).

It is a matter of public importance that the character and visual resources of the Venice area be considered and protected. 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. Maintaining the

accessway with the relatively inexpensive investment in landscaping would enhance the visual resources of the area (and also improve air quality).

Additional landscaping on the street would also visually distinguish the critical nearby intersection where Venice Boulevard, a major coastal access route, joins the commercial center of Venice (Abbot Kinney Boulevard). The additional landscaping contemplated by the City-approved Venice Boulevard Planting Plan (Exhibit #7) would improve the view down the streets 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 agrees with the City's determination that the proposed vacation of the right-of-way would 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.

The City's conclusion regarding the inconsistency of the proposed development with the above-stated Chapter 3 policies is supported by substantial evidence. There is no question that the local decision correctly applied the policies of Chapter 3, and the appeal raises no substantial issue regarding conformity therewith.

Appellant's contentions

The Commission responds to the appellant's contentions, as follows:

- The City's denial of the local coastal development permit was based solely on the issue of consistency with the Coastal Act. The City had previously found that the proposed vacation was consistent with the City's rules and procedures

Prior to its denial of the local coastal development permit application for the proposed vacation, the City Council had conditionally approved the processing of the appellant's right-of-way vacation request. The appellant is correct that the City's denial of the local coastal development permit application was based solely on the issue of consistency with the Coastal Act, because the standard of review for any local coastal development permit (processed under Section 30600(b) of the Coastal Act) is the Chapter 3 policies of the Coastal Act. When it acted on the local coastal development permit application, the City correctly determined that the proposed vacation could not be found to be consistent with the Chapter 3 policies of the Coastal Act and a permit could not be approved.

- The City's erred in its determination that approval of the proposed right-of-way vacation would prejudice the City's ability to prepare a Local Coastal Program (LCP) that is in conformity with Chapter 3 of the Coastal Act.

The City did not err in its determination that approval of the proposed right-of-way vacation would prejudice the City's ability to prepare a Local Coastal Program (LCP) that is in conformity with Chapter 3 of the Coastal Act. In 2001, the Commission certified the Venice Land Use Plan (LUP) and found that the LUP policies were adequate to carry out and consistent with Chapter 3 of the Coastal Act. The certified LUP is part of the LCP that the City has been trying to develop, and any action that violates the LUP policies would prejudice the

City's ability to prepare a LCP that is consistent with Chapter 3. The approval of the proposed right-of-way vacation would violate the following policies of the certified Venice LUP:

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.*

LUP 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, LUP Exhibit 23, and to Policy II.B.4 for street and highway improvements).*

LUP 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.*

Approval of the proposed vacation of part of the public right-of-way would violate the above-stated policies of the certified Venice LUP. 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 vacation would have adversely affected 1.5 miles of this important coastal accessway by encouraging other right-of-way vacation 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 right-of-way vacation is consistent with the Chapter 3 policies of the Coastal Act.

For the reasons stated in this report, the Commission finds that the proposed right-of-way vacation is not consistent with the Chapter 3 policies of the Coastal Act.

- The City had previously found that the right-of-way area proposed to be vacated was not needed for vehicular or non-motorized transportation or access.

The most recent City action (denial of the local coastal development permit) found that the area proposed to be vacated was needed for public parking and landscaping. Since the area already provides public parking pursuant to the requirements of Coastal Development Permit 5-90-664, it must continue to do so (provide public parking).

- The proposed right-of-way vacation is supported by the policies of the certified Venice Land use Plan (LUP) which calls for enhanced streetscape improvements in accordance with a Venice Coastal Zone Streetscape Plan. [See LUP Policies V.A.2 and V.A.5 above].

The proposed right-of-way vacation is not supported by LUP Policies V.A.2 and V.A.5. LUP Policies V.A.2 and V.A.5 in no way encourage the City to vacate public rights-of-way, and the proposed vacation of the right-of-way would do nothing to implement the streetscape improvements contemplated by the certified LUP. If anything, the proposed right-of-way vacation would make it more difficult to enhance the North Venice Boulevard streetscape by reducing the amount of public land available for landscaping and other improvements along the street, as contemplated in the City-approved Venice Boulevard Planting Plan (Exhibit #7). Furthermore, the denial of the proposed vacation does not adversely affect the adjacent private developments from including elements on their properties that would contribute to and enhance streetscape improvements, as called for by LUP Policy V.A.5.

- The proposed right-of-way vacation would not conflict with the City's implementation of the Venice Boulevard Ceremonial Gateway Landscaping Plan, which is not part of the Venice LUP.

The proposed right-of-way vacation would conflict with the City's implementation of the Venice Boulevard Ceremonial Gateway Landscaping Plan by reducing the amount of public land available for landscaping and other improvements along the street, as contemplated in the City-approved Venice Boulevard Planting Plan. It would also encourage others on the street to request right-of-way street vacations, which would compromise the City's ability to complete the landscaping.

- The proposed right-of-way vacation must be considered on its own merits and facts, and not based on any perceived precedent. For example, the vacation area is too small to provide parking unless merged with the underlying fee.

The proposed right-of-way vacation was considered on its own merits and facts. Since it would privatize public parking and area for landscaping, it cannot be found to conform with the Chapter 3 policies of the Coastal Act. The allegation that the area proposed to be vacated is too small to provide parking is unsupported by any evidence, and is contradicted by the public parking plan for the right-of-way attached to this report as page two of Exhibit #6.

- A coastal development permit is not required for the vacation of a public right-of-way.

Section 30600(a) of the Coastal Act requires that, with certain exceptions not applicable to this case, anyone wishing to perform or undertake any development within the coastal zone shall obtain a coastal development permit. The proposed vacation of a public right-of-way in the coastal zone is considered development, as defined in Section 30106 of the Coastal Act, because it would result in a change in the intensity of use of land.

Section 30106 of the Coastal Act states:

“Development” means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any

gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; ***change in the density or intensity of use of land***, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with Section 4511). **[Emphasis added.]**

Also, Policy I.C.9 of the certified City of Los Angeles Land Use Plan (LUP) for Venice states:

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.*

In addition, the section of the Venice Boulevard right-of-way located west of Lincoln Boulevard is subject to the requirements of Coastal Development Permit 5-90-664. The Coastal Commission approved Coastal Development Permit 5-90-664 on September 13, 1990 for road and parking improvements within the Venice Boulevard right-of-way, and it includes provisions to protect public parking within the project area. Any proposed vacation of the Venice Boulevard right-of-way would therefore require a local coastal development permit approved by the City and a coastal development permit amendment (amending 5-90-664) approved by the Coastal Commission. The permit amendment would be required because any vacation of the Venice Boulevard right-of-way located west of Lincoln Boulevard could affect the previously imposed terms and conditions of Commission-issued Coastal Development Permit 5-90-664. Any local coastal development permit acted upon by the City is appealable to the Commission.

The appellant's contentions do not raise an issue in regards to consistency of the local decision with the policies of Chapter 3.

The Five Factors

Applying the five factors listed in the prior section further clarifies that the appeal raises no "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 inconsistent (in this case) with Chapter 3 of the Coastal Act. As indicated above, the City's conclusion was supported by evidence showing that the area proposed to be vacated was designated for parking and landscaping, and could not be found to conform with Chapter 3 of the Coastal Act. The City's

denial references the requirements of Coastal Development Permit 5-90-664 and the Venice Boulevard Planting Plan. The City also acknowledged that there is parking on the site currently. Therefore, the decision that the project was inconsistent with Chapter 3 has substantial factual and legal support.

The second factor is the scope of the development approved by the local government. Here, the local government denied the vacation of a portion of the public right-of-way. No development was approved. The local decision is a denial and the proposal is not a type of development that is prioritized by the policies of Chapter 3. The posture in which this proposal comes to the Commission is one in which the scope of development would be nil. Put differently, that denial does not rob the site of any resources or amenities promoted by Chapter 3, and the scope of the development *approved* is none.

The third factor is the significance of the coastal resources affected by the decision. The public parking and visual resources protected by the City's denial are significant, as the loss of these resources would adversely affect public access and recreation.

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. 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 vacation would have adversely affected 1.5 miles of this important coastal accessway by encouraging other right-of-way vacation 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 transfer of public parking to a private landowner would create a bad precedent for the interpretation of the following certified LUP policies that protect public parking:

Policy II. A. 1. General. *It is the policy of the City to provide increased parking opportunities for both visitors and residents of Venice, and improve summer weekend conditions with respect to Venice Beach parking and traffic control.*

Policy II. A. 9. Protection of Public Parking. *The following policies shall be implemented and enforced in order to protect and enhance public parking opportunities provided on public rights-of-way and in off-street parking areas:*

c. Rights-of-way. *In order to maintain and increase the public parking supply, the City shall maximize and protect the availability of public parking opportunities on City streets that currently accommodate vehicular traffic.*

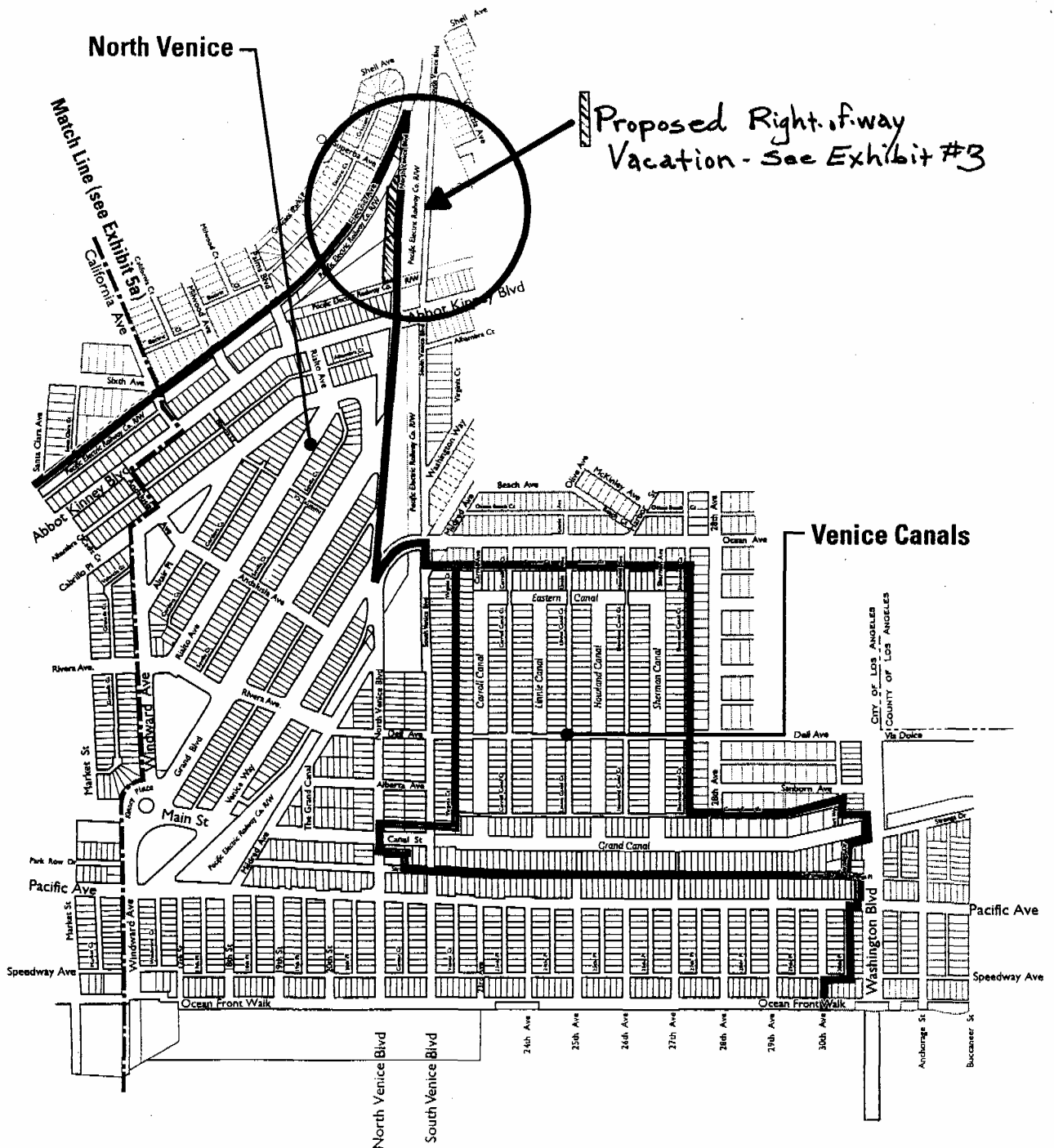
e. Private parking. *Existing ordinances shall be enforced to ensure that parking areas situated on street-ends and on public rights-of-way are protected for public use and shall not be privatized or posted for private use.*

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

Therefore, in conclusion, the Commission finds that the City's finding that the proposed development does not comply with the Chapter 3 policies of the Coastal Act was a reasonable conclusion supported by ample evidence. Moreover, the local government action does not raise any substantial Chapter 3 issues because the City's decision is consistent with Chapter 3. Therefore, no substantial issue exists with respect to the Chapter 3 policies of the Coastal Act.

VENICE, CA





LUP
Exhibit 5b

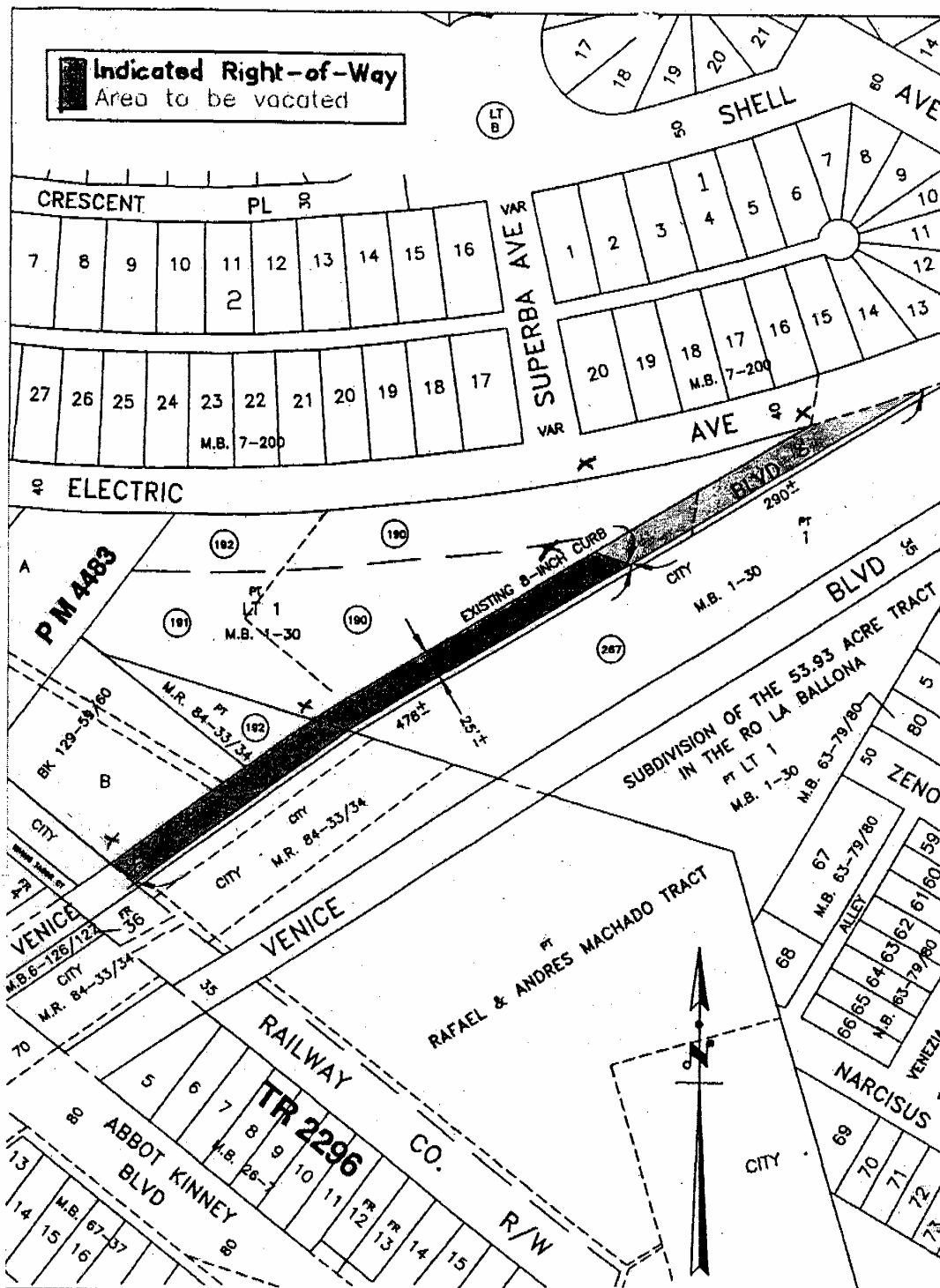
Subarea: North Venice • Venice Canals



Not to Scale

COASTAL COMMISSION
A5-VEN-07-358

EXHIBIT # 2
PAGE 1 OF 1



TITLE: VENICE BOULEVARD (PORTION OF NORTHERLY SIDE) FROM ELECTRIC AVENUE TO APPROXIMATELY 720' SOUTHWESTERLY THEREOF.

WORK ORDER NO. VAC- E1400581
COUNCIL FILE NO. 97-1142
COUNCIL DIST. 6 DIV. INDEX 1432
ENGR. DIST. W.L.A T.G. 671-H6
DISTRICT MAP 108 -B- 145

CITY OF LOS ANGELES
DEPT. OF PUBLIC WORKS
VITALY B. TROYAN
CITY ENGINEER

COASTAL COMMISSION
A5-VEN-07-358

EXHIBIT # 3
PAGE 1 OF 1

MAP NO. VAC-2000-1400581

CALIFORNIA COASTAL COMMISSION

SOUTH COAST DISTRICT OFFICE

200 OCEANGATE, 10TH FLOOR

LONG BEACH, CA 90802-4416

VOICE (562) 590-5071 FAX (562) 590-5084

RECEIVED
South Coast Region

OCT - 9 2007

CALIFORNIA
COASTAL COMMISSION

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Electric Pointe LLC, Robert Slayton Managing Partner and KLC, LLC

Mailing Address: 1627 Electric Avenue

City: Los Angeles

Zip Code: California

Phone: 310-392-8794

SECTION II. Decision Being Appealed

1. Name of local/port government:

City of Los Angeles, Department of Public Works

2. Brief description of development being appealed:

Denial of Application for the Vacation of an easement along Venice Boulevard in Los Angeles

3. Development's location (street address, assessor's parcel no., cross street, etc.):

The easement is located on Venice Boulevard extending from Electric Avenue to Tabor Court

4. Description of decision being appealed (check one.):

- ☐ Approval; no special conditions
- ☐ Approval with special conditions:
- ☒ Denial

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:APPEAL NO: A-5-VEN-07-358DATE FILED: 10/9/07DISTRICT: South Coast / LongCOASTAL COMMISSION
A5-VEN-07-358EXHIBIT # 4PAGE 1 OF 2

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly **your reasons for this appeal**. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

1. On April 12, 2005, in the Final Staff Report for Coastal Development Permit 05-01, the Bureau of Engineering Environmental Management Group of the City of Los Angeles found that the vacation was consistent with their rules and procedures and issued tentative approval for the vacation in question. The most recent reversal in position resulting in the local denial was based solely on the issue of consistency with the Coastal Act.
2. The grounds for the Denial by the Local Government, that the vacation would prejudice "the ability of the City of Los Angeles to Prepare a Local Coastal Program that is in conformity with Chapter 3 of the Coastal Act," are legally incorrect under Section 30600.5 (c) of the Public Resources Code.
3. The vacation of the public street easement in question is fully consistent with the Coastal Act, any Local Coastal Program, the California Code of Regulations and all pertinent City ordinances.
4. The Vacation Areas were found by the City to be in excess of their requirements for street and highway purposes, do not directly or indirectly interfere with any present or prospective public use, access or recreational facilities and, are not needed for vehicular or non motorized transportation or access and the Local Land Use Plan (LUP) does not designate them as such.
5. The vacation of this particular easement is supported by Venice LUP Policies V.A.2 and V.A.5. Policy V.A.5 states specifically that "...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." Since any private developer must secure a CDP that complies with the Streetscape plan, the mere change of ownership represented by the vacation cannot be in conflict with the LUP.
6. The Venice Boulevard Ceremonial Gateway Landscaping Plan is not part of the LUP, and is not supported by the initial dedication of the easement which was specifically limited to "street purposes only." Since this vacation is only the transfer of land and not a change in its function, it does not interfere with implementation of the Plan because the City and Commission retain jurisdiction over any development within the vacation area.
7. Each proposed vacation along Venice Boulevard presents an individual set of facts and legalities and each application must be considered upon its own merits and not based on any perceived precedential value. For example, the vacation area is too small to provide parking unless merged with the underlying fee.
8. A Coastal Development Permit is not required pursuant to the Public Resources Code Section 30106.

COASTAL COMMISSION
A5-VEN-07-358

EXHIBIT # 4
PAGE 2 OF 2

Department of Public Works

Bureau of Engineering
Report No. 1

September 24, 2007
CD No. 11

CONSIDERATION OF AN APPEAL FROM CITY ENGINEER'S DENIAL OF COASTAL DEVELOPMENT PERMIT (CDP) APPLICATION NO. 05-02 FOR THE VENICE- ELECTRIC STREET VACATION

RECOMMENDATION

Deny the appeal of Robert Slayton and Samuel J. Kagan, thereby upholding the City Engineer's decision to deny issuance of a Local CDP for vacation of a portion of Venice Boulevard near Electric Avenue.

TRANSMITTALS

1. CDP Application No. 05-02 Final Staff Report, dated May 2, 2007
2. Appeal of Robert Slayton and Samuel J. Kagan, dated May 18, 2007.

DISCUSSION

Background

Los Angeles Municipal Code (L.A.M.C.) § 12.20.2 *et seq.* authorizes the City Engineer to issue coastal development permits and establishes the Board's authority to hear appeals. Robert Slayton and Samuel J. Kagan have filed a joint appeal from the City Engineer's decision to deny a coastal development permit for the vacation of a portion of the northwesterly side of North Venice Boulevard from about 290 feet to about 768 feet southwesterly of Electric Avenue.

Robert Slayton and Samuel J. Kagan applied to the City of Los Angeles for a street vacation in May 1997, in order to enhance private parking for adjacent commercial buildings. The area to be vacated is about 25 feet in width, about 480 feet in length, and has a total area of about 11,400 square feet. The area is paved with asphalt concrete and is being used for additional parking for the existing adjacent commercial and retail buildings (Site addresses: 585, 589, and 595 North Venice Boulevard). The properties adjoining the proposed vacation to the northwest are zoned M1-10 with a corresponding Industrial land use designation and are developed with commercial buildings and a retail store.

The Venice Community Plan designates this segment of Venice Boulevard as a Scenic Divided Major Highway, with a designated bikeway running along Venice Boulevard. Consistent with this designation, Venice Boulevard (in the segment adjacent to the area to be vacated), contains a 39-foot and variable width roadway on North Venice Boulevard, a

Report No. 1

Page 2

51-foot and variable width roadway on South Venice Boulevard and a variable width median separating the two roadways. There are concrete curbs and gutters on both sides of each roadway and 10-foot wide concrete sidewalks along both the northwesterly side of North Venice Boulevard and along the southeasterly side of South Venice Boulevard. Electric Avenue is an improved local street dedicated 40 feet in width with a 32-foot wide roadway and concrete curb, gutter, and sidewalk on the northerly side of the street.

On May 17, 2000, the City Council adopted the Ordinance of Intention (Ordinance No. 173,257), which declared the intention of the City Council to vacate the street. The City Council held a public hearing for the street vacation on June 23, 2000. At the conclusion of the public hearing, the City Council conditionally approved the street vacation and instructed, 1) the City Engineer to proceed with the street vacation, and 2) the applicant to complete the conditions of approval for the street vacation.

As a condition of approval of the street vacation, the applicants needed to obtain a coastal development permit (CDP) from the City Engineer. The Bureau of Engineering (BOE) initiated the local CDP process for the street vacation on July 13, 2005 as required by the Municipal Code (Section 12.20.2 *et seq.*). Public hearing notices were mailed to property owners and occupants within a 100-foot radius of the property lines of the project (excluding roads) on August 8, 2005, and a public hearing was held on September 1, 2005, at the Venice Public Library. Councilman Bill Rosendahl, who represents this area, has expressed opposition to the street vacation. After considering the comments received, staff prepared a final report of findings recommending denial of the local CDP (Transmittal No. 1).

A Notice of Decision was issued on May 3, 2006 and mailed to the applicant and interested parties on May 11, 2006. The May 11, 2006 mailing date started the 10-calendar appeal period. On behalf of Robert Slayton and Samuel J. Kagan, Nicole Slayton contacted the BOE to initiate the filing of the appeal on May 18, 2006. In order to perfect the filing of the appeal, the completed appeal form needed to be submitted to the BOE within 5 calendar days. The applicant sent the appeal form via certified mail on May 19, 2006 to the BOE's former address (BOE offices had moved from 650 South Spring Street to 1149 South Broadway after the initial application was filed). The correct address was provided on the appeal form; however, this was overlooked by the applicant. The appeal form was delivered to the BOE's office on May 31, 2006. The appeal period had ended and the appeal form was not accepted.

The appellants believe their right to an appeal was wrongly denied because of confusion created by the Bureau's relocation and have filed a lawsuit (*Electric Pointe, LLC, et al. v. City of Los Angeles*, LASC No. SS014660). In their lawsuit, the appellants further contend that the street vacation does not constitute "development" under the California Coastal Act of 1976 (Coastal Act) and therefore does not require a CDP. The City Attorney recommends the appeal to be heard, as permitted by the L.A.M.C. Section 12.20.2.

EXHIBIT # 5
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September 24, 2007
Page 3

In order to settle the litigation, the City has agreed 1) to "hold open" the street vacation action conditionally approved by the City Council pending the determination by the Coastal Commission of whether a CDP will be issued and 2) to give the appellants the opportunity to present their appeal to the BOE on the merits of the CDP. Whether the appeal is granted or denied by the City, the appellants would have exhausted their administrative remedies, and could then appeal to the Coastal Commission, the body with the authority to issue the relief sought by the appellants. If the Coastal Commission finds there is no "substantial issue" and refuses to take the appeal, the appellants may then litigate the issue, having exhausted their remedies on the merits of their contention that a street vacation does not constitute a "development" under the Coastal Act. If the issue is resolved in the appellants' favor, they may then complete the street vacation process.

Grounds for Appeal

The appeal of Robert Slayton and Samuel J. Kagan asserts that:

- 1) The vacation of the public street easement in question is fully consistent with the Coastal Act, any Local Coastal Program, the California Code of Regulations and all pertinent City ordinances.
- 2) The vacation areas are in excess of the dedication requirement for street or highway purposes, do not directly or indirectly interfere with any present or prospective public use, access or recreational facilities, are not needed for vehicular circulation or access, and are not needed for nonmotorized transportation purposes.
- 3) The vacation of this public easement is supported by Venice Land Use Plan Policies V.A.2 and V.A.5.
- 4) The Venice Boulevard Ceremonial Gateway Landscaping Plans are not legally supported by the initial dedication of the easement for street transportation purposes only.
- 5) Each proposed vacation along Venice Boulevard presents an individual set of facts and legalities and each application must be considered upon its own merits, not simply because of its precedential value for the other right-of-way requests.
- 6) The proposed vacation of the public street easement in question should categorically be approved, as originally intended by the City Council's Public Works Committee.

COASTAL COMMISSION

EXHIBIT # 5
PAGE 3 OF 9

ANALYSIS

1) *Consistency with the Coastal Act, Local Coastal Program and All Pertinent Regulations.*

The City can permit a project only if the permitted development will not prejudice the ability of the City of Los Angeles to prepare a Local Coastal Program that is in conformity with Chapter 3 of the Coastal Act. The appellants contend that vacation of the public street easement is fully consistent with the Coastal Act, any Local Coastal Program, the California Code of Regulations and all pertinent City ordinances. The appellants content further that the street vacation of this public easement is supported by the Venice Land Use Plan Policies V.A.2 and V.A.5. Staff disagrees with the appellants.

The subject property is within the geographic boundaries of the Venice Land Use Plan (LUP) of the City of Los Angeles. The Venice LUP was adopted by the Los Angeles City Council on October 29, 1999, and approved by the Coastal Commission on November 14, 2000. The City of Los Angeles LUP for Venice was effectively certified on June 14, 2001. The staff's analysis (Transmittal 1) found that approval of the proposed vacation would violate Policies 1.C.9.V.A.2 and V.A.5 of the certified Venice LUP.

Venice Land Use Policy V.A.2 states, "Streetscapes. Streets and highways shall be designed and improved to adequately accommodate development and to enhance public access to the shoreline."

Therefore, staff finds that the proposed right-of-way vacation would adversely affect public access and enjoyment of the access route by allowing the privatization (for a paved private parking lot) of a public area that is part of the City's planned landscaped green strip. Privatization of the area in question would remove an impediment to the development of the site with a private paved parking lot where a City plan (Venice Boulevard Planting Plan) proposes a landscaped green strip.

Staff finds that the area that is proposed to be vacated should be preserved as right-of-way so that it can be used to improve the public beach accessway as contemplated by the City's Venice Boulevard Planting Plan. The enhanced landscaping would improve the recreational aspects of the coastal accessway. Denial of the proposed vacation will preserve the City's options over the long term. Therefore, staff recommends that the permit be denied, as the proposal does not conform with the access and recreation policies of the Coastal Act.

Venice Land Use Policy V.A.5 states, "Streetscapes. Streetscapes 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."

COASTAL COMMISSION

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Page 5

The proposed project is located in the vicinity of a prominent Venice intersection on a major coastal access route (Venice Boulevard). North Venice Boulevard is referred to by the Coastal Conservancy as "the Ceremonial Gateway to Venice." It is a matter of public importance that the character and visual resources of the Venice area be considered and protected. 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 vacated provides an area for public landscaping that would provide an alternative to the dense hardscape 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).

Staff finds that the area that is proposed to be vacated should be preserved as right-of-way so that it can be used to improve the public beach accessway as contemplated by the City's Venice Boulevard Planting Plan. The enhanced landscaping would improve the recreational experience and psychological aspects of the coastal accessway. Denial of the proposed vacation will preserve the City's options over the long term. Therefore, staff recommends that the permit be denied, as the proposed project does not conform with the access and recreation policies of the Coastal Act.

2) *Conflict with Street or Highway Purposes, or Other Public Use.*

The appellants contend that the vacation areas are in excess of the dedication requirement for street or highway purposes, do not directly or indirectly interfere with any present or prospective public use, access or recreational facilities, are not needed for vehicular circulation or access, and are not needed for nonmotorized transportation purposes. Staff disagrees with the appellants.

On September 13, 1990, the Coastal Commission approved Coastal Development Permit 5-90-664 for reconstruction of Venice Boulevard by Caltrans (Venice Boulevard was a state highway then). 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). In July 1991 the Coastal Commission amended the (CDP 5-90-664-A1) to preserve public parking within the Venice Boulevard right-of-way (both within the median and along the sides of the right-of-way) by permitting the construction of a 180+ car public parking lot in the median strip and further requiring 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. In its consideration of the permit 5-90-664-A1, the Coastal Commission required the City and Caltrans to assure no net loss in the total supply of "formal and informal parking spaces", estimated at 536 spaces including legal on-street parking and legal and illegal off-street parking lots. At that time the proposed area to be vacated was identified as legal on-street parking.

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 vacation involves a public area that could potentially provide additional public parking, approving the CDP could adversely affect public access to the shoreline and recreation.

Although the proposed project may not directly interfere with or displace any existing public access or recreational facilities, staff finds that the street vacation would preclude the use of the right-of-way for future public improvements associated with the road that would improve the aesthetics and the overall experience of proceeding along the major coastal access route that is North Venice Boulevard. Potential uses of the proposed street vacation area include a widened walkway, enhanced transit service (e.g. a bus stop) or a future expansion of the existing street system.

3) *The Venice Boulevard Ceremonial Gateway Landscaping Plans.*

Denial of a CDP for the vacation was based in part on the finding that the street vacation would conflict with the Venice Boulevard Planting Plan, also known as the "Venice Boulevard Ceremonial Gateway Landscaping Plans". The appellants contend that the Venice Boulevard Ceremonial Gateway Landscaping Plans are not legally supported by the initial dedication of the easement for street transportation purposes only. Staff disagrees with the appellants.

Landscaping is a normal part of a modern highway. The public value in landscaped boulevards, especially along a major coastal route like North Venice Boulevard, is generally recognized. Without attractive landscaping the aesthetic experience of the public using the accessway would be degraded, and thus coastal access would be negatively affected.

Landscaping plans for Venice Boulevard from Pacific Avenue to Lincoln were developed in 1995 in conjunction with the Caltrans project (5-90-664) but not fully implemented. The plan for the vacation area is shown on plan D30878 (Venice Boulevard - Lincoln to Pacific Avenue Landscape Irrigation Specifications, sheet 3 of 8) and on plan D30879 (Venice Boulevard Planting Plan, sheet 7 of 13). Landscaping of the median was funded by a Proposition A-2-per-parcel discretionary grant of \$750,000 and was completed on April 28, 2003.

COASTAL COMMISSION

EXHIBIT # 5
PAGE 6 OF 9

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Page 7

Staff's recommendation of the City-approved landscape plan over the proposed right-of-way vacation is based on the public access policies of the Coastal Act. Increasing the apparent width of the road with the relatively inexpensive investment of landscaping of the right-of-way would enhance the visual resources of the area. 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.

4) *Each Proposed vacation must be Considered Upon its Own Merits*

Denial of the CDP for the vacation was based in part on the finding that removal of the subject portion of the right-of-way from the Venice Boulevard Ceremonial Gateway Landscaping Plans would threaten the entire plan by setting a precedent for similar segments of Venice Boulevard. The appellants contend that each proposed vacation along Venice Boulevard presents an individual set of facts and legalities and each application must be considered upon its own merits, not simply because of its precedent value for the other right-of-way requests. Staff disagrees with the appellants.

Street right-of-ways are linear features and therefore a vacation of any portion may affect the public's use of the remainder. Approval of the proposed right-of-way vacation could adversely affect 1.6 miles of this important coastal accessway by encouraging other right-of-way vacation 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).

Furthermore, the permit granting authority must be guided by any applicable decision of the California Coastal Commission pursuant to Section 30625(c) of the Public Resources Code (LAMC 12.20.2.G.1(d)). Denial of a CDP for the vacation is consistent with the following applicable decisions of the California Coastal Commission:

Application No. 5-90-664-A1

In July 1991, the Commission approved Coastal Development Permit Application No. 5-90-664-A1 for a permit to construct a 180+ car public parking lot in the median strip to provide parking during reconstruction of Venice Boulevard (5-90-664). The Commission required the City and Caltrans to assure the continued existence of a total of 536 "formal and informal parking spaces". The parking in the currently-proposed vacation area was included in that total as legal on-street parking.

Application No. A-5-VEN-05-259

The Commission had jurisdiction over the proposed project as the result of an appeal of the City of Los Angeles approval of Local Coastal Development Permit No. 04-01 for a

permit to vacate a public street easement along North Venice Boulevard. On August 9, 2005, the Commission determined that a substantial issue existed with respect to the consistency of the local coastal development permit with the policies in Chapter 3 of the Coastal Act because the City's approval of the proposed right-of-way vacation could adversely affect coastal resources and public access to the shoreline along North Venice Boulevard, a major coastal access route. On January 11, 2006, after a public hearing, the Commission denied the coastal development permit in order to preserve the subject public right-of-way for development pursuant to the City-approved Venice Boulevard Planting Plan. On April 11, 2006, the Commission adopted the revised findings.

Application No. 5-05-343

On January 11, 2006, the Commission denied Coastal Development Permit Application 5-05-343 for a permit to improve a 4,500 square foot portion of North Venice Boulevard and Abbot Kinney Boulevard rights-of-way with landscaping and a private paved parking area (without the street vacation proposed in A-5-VEN-05-259).

5) The Proposed Vacation of the Public Street Easement in Question should be Categorically Approved, as Originally Intended by the City Council's Public Works Committee

The appellants contend that the proposed vacation of the public street easement in question should be categorically approved, as originally intended by the City Council's Public Works Committee. Staff disagrees with the appellants.

The Public Works Committee of the City Council on October 18, 2004 found that the vacation is exempt from the California Environmental Quality Act of 1970, pursuant to Article VII, Class 5(3) of the City's Environmental Guidelines. The staff agrees with that finding, however the vacation is not exempt from the Coastal Act, and the City Council's actions to date do not lessen the City Engineer's discretionary authority under the Municipal Code.

Staff also notes that the City of Los Angeles Land Use Plan (LUP) for Venice was effectively certified on June 14, 2001 - after the City Council's original conditional approval of the proposed street vacation but before the local CDP process was initiated. The LUP established a revised standard of review for the proposed street vacation.

Conclusion

In consideration of the foregoing, staff recommends that the Board find that the City Engineer did not err in his decision and that the Board deny the appeal.

COASTAL COMMISSION

EXHIBIT # 5
PAGE 8 OF 9

Department of Public Works
Bureau of Engineering
Report No 1

September 24, 2007
Page 9

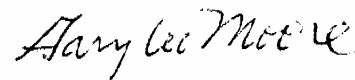
(AJK DJW EY CWR)

Report prepared by:

Respectfully submitted,

Environmental Management Division

Ara J. Kasparian, Ph.D.
Division Manager
Phone No. (213) 485-5729



Gary Lee Moore, P.E.
City Engineer

AJK/IP/08-2007-0182.EMG.gva

Questions regarding this report
may be referred to:

Writer: Irene Paul
Phone No. (213) 485-5761
Fax No. (213) 847-0656

COASTAL COMMISSION
A5-VEN-07-358

EXHIBIT # 5
PAGE 9 OF 9

Sheet No.	Title and Location Map
2-3	Typical Cross Sections
4	Standard Plans List
5-16	Layouts
19-39	Construction Details
40-42	Drainage
113-141	Sanitary Sewer
142-158	Utilities
160-187	Storm Construction
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189-202	Permanent Delineation and
203	Summary of Quantities
204-205	Sound Wall
207	Regulatory Planning and
208-246	Electrical Plans
242-243	Revised Standard Plans

STRUCTURE PLANS

**PROJECT PLANS FOR CONSTRUCTION ON
STATE HIGHWAY
IN LOS ANGELES COUNTY IN LOS ANGELES**

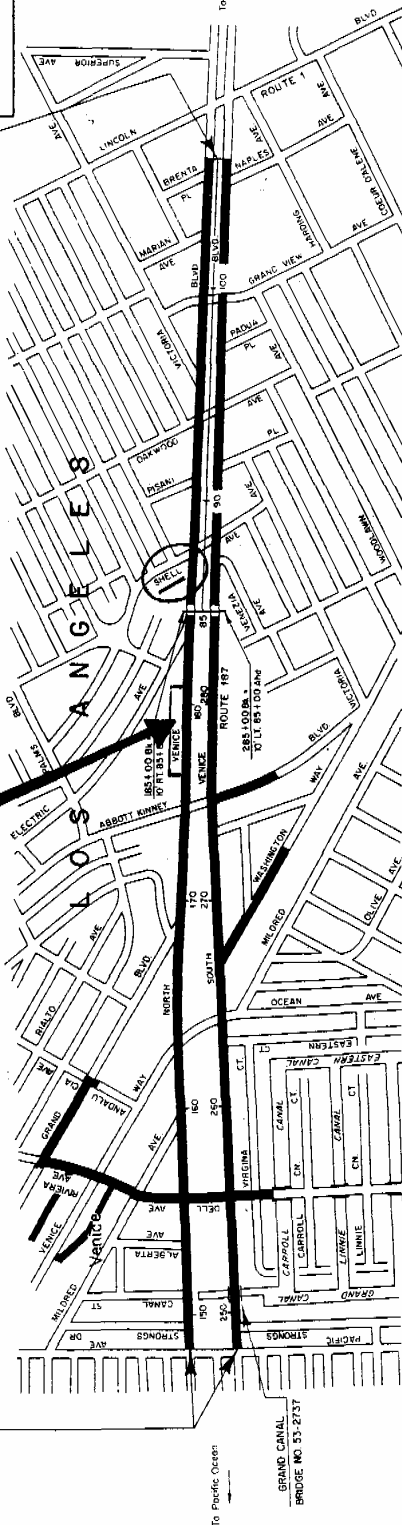
FROM PACIFIC AVENUE TO LINCOLN BOULEVARD

To be supplemented by Standard Plans dated Jan., 1989

END WORK AND CONSTRUCTION
STA. 106+91.05 P.M. 3.5

BEGIN WORK AND CONSTRUCTION
STA. 147+92.31 NORTH VENICE BLVD
STA. 247+93.50 SOUTH VENICE BLVD

Proposed Vacation



NO SCALE

COASTAL COMMISSION
AS-VEN-07-358

EXHIBIT # 6
PAGE 1 OF 3

CITY OF LOS ANGELES		ROBERT S. MOORE		CITY ENGINEER	
APPROVALS	ENGINEER	DATE	REVISIT	ENGINEER	BY NO
STRUCTURAL					
ELECTRICAL					
MECHANICAL					
PLUMBING					
ST. MAINT.					
SANITATION					
			APPROVED		

Form No. 07-06

CU 07219

EST	COUNTY	PROJECT	DATE
07	LA	187	2.4.18.5
REGISTERED CIVIL ENGINEER		DATE	
FRANK QUON		2.2.1.18.5	
PROJECT DEVELOPMENT		DATE	
LAYOUT L-6		DATE	

NOTE: FOR COMPLETE RIGHT OF WAY AND ADJACENT PROPERTY RECORD MAPS AT DISTRICT OFFICE.

CONTIGUOUS DRIVEWAY FROM STA. 176+54.65 TO 178+80.35
CASE 2, X=31, Y=6, T=5

Public Parking

Public Parking

Public Parking

Public Parking

Public Parking

Public Parking

R	Δ	L	T
A	3,000'	2°26'32"	127.87'
B	200.00'	1°25'12"	40.07'
C	2,300'	4°17'57"	172.88'
D	2,300'	1°10'33"	47.28'
E	35'	46°59'20"	28.70'
F	35'	45°00'00"	27.49'
G	35'	180°00'00"	9.42'
H	9147'	0°00'21"	23.08'
I	10'	45°00'00"	2.85'
J	1184'	42°09'	2.70'
K	2'	133°00'40"	4.64'
L	1'	135°00'40"	2.36'
M	1'	135°00'40"	2.42'

R	Δ	L	T
K	40'	32°59'33"	23.03'
L	35'	133°49'57"	81.75'
M	80'	37°38'32"	58.62'
N	2'	135°45'16"	5.37'
O	35'	45°00'00"	27.49'
P	35'	180°00'00"	9.42'
Q	35'	45°00'00"	27.49'
R	35'	180°00'00"	9.42'
S	35'	24°53'44"	15.21'
T	9'	160°18'31"	25.18'
U	25'	47°28'32"	20.70'
V	15'	170°01'01"	4.45'
W	80'	7°32'27"	10.35'
X	80'	7°32'27"	10.35'
Y	80'	7°32'27"	10.35'
Z	80'	7°32'27"	10.35'

Public Parking

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State of California

CATEGORY:421

OFFICE MEMO

DATE: May 19, 1992

TO: KREIG S. LARSON
Environmental Planning Branch

PHONE NUMBER
213-897-0675

FROM: ART CORREA
Project Development Branch D

PHONE NUMBER
213-897-0127
LOCATION:3-5F

SUBJECT: 07-LA-187 2.4/3.5
Venice Boulevard from Pacific Avenue to Lincoln Boulevard
Relinquishment Project
Parking Spaces Summary
EA 07-062221

This is in response to your request on May 13, 1992 for an analysis of the existing and proposed parking conditions along the Venice Boulevard Corridor and information about the temporary parking lot in the median between Dell Avenue and Ocean Avenue.

PARKING SPACES						
FROM - TO	OFF-STREET PARKING			STREET PARKING		
	EXIST	PROP	DIFF	EXIST	PROP	DIFF
Pacific Avenue to Dell Ave	191	191	0	45	40	- 5
Dell Avenue to Ocean Avenue	0	187 ***	+187	48	26	-22
Ocean Avenue to Abbott Kinney Blvd	0	44 ****	+ 44	50	47	- 3
Abbott Kinney Blvd to Shell Avenue	50 *	26 *****	- 24	47	62	+15
Shell Avenue to Lincoln Boulevard	50 *	78 **	+ 28	55	76	+21
TOTAL	291	526	+235	245	251	+ 6

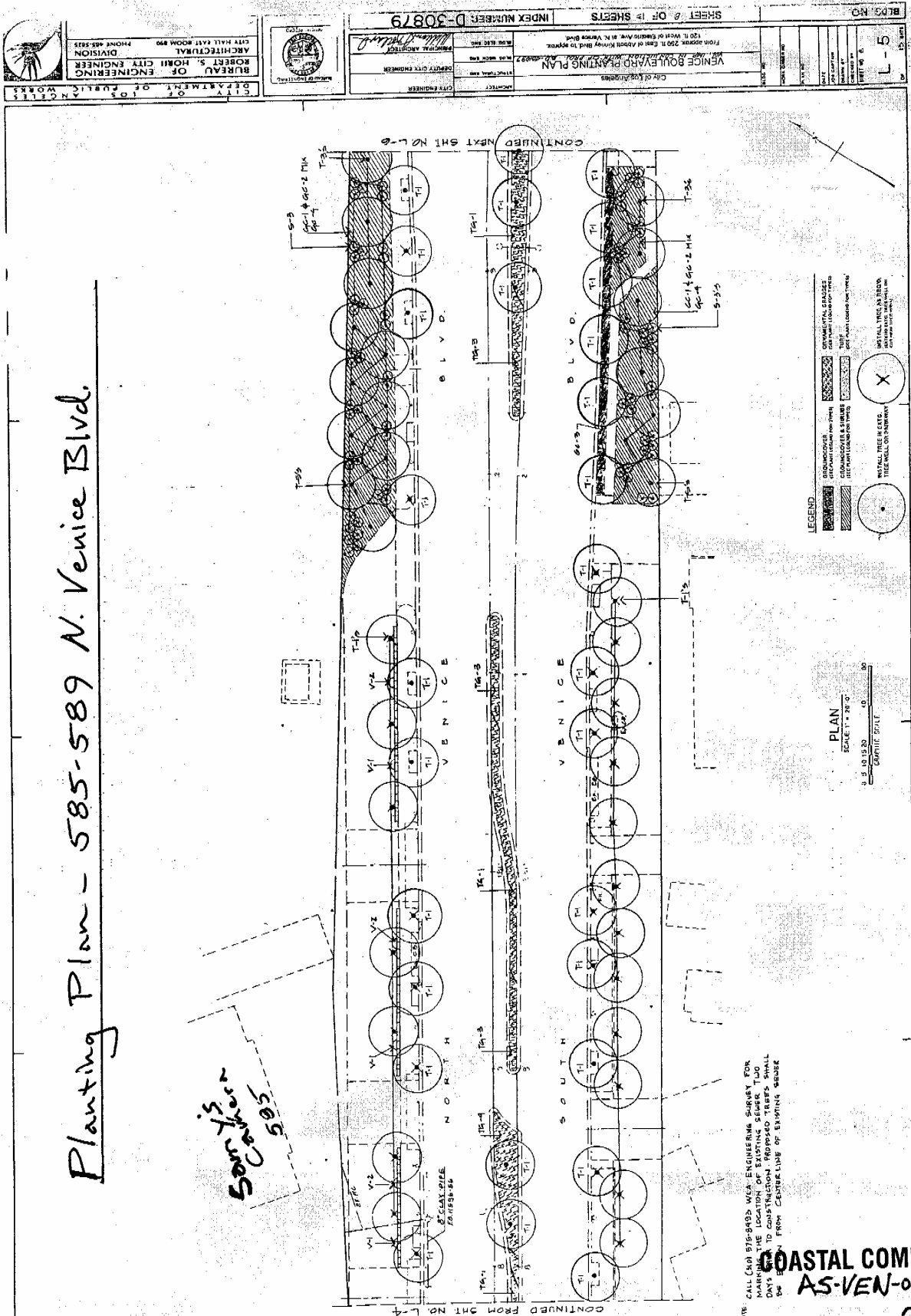
NOTES:

- * Illegal Parking Lots - Non Standard Lots
- ** Pisani Lot, City Lot No. 613. When completed this lot is expected to have capacity for 78 vehicles. On August 26, 1991 this lot was re-stripped to handle 56 cars

EXHIBIT # 6
PAGE 3 OF 3

Planting Plan - 585-589 N. Venice Blvd.

San Jose
505



COASTAL COMMISSION
AS-VEN-07-35B

EXHIBIT # 7

PAGE 1 OF 1

PHILIP RAIDER
620 Fifth Avenue
Venice, CA 90291-2644
310-399-4449

September 28, 2005

Bureau of Engineering
Environmental Management Group, Attn: Irene Pal
650 South Spring Street, Room 574
Los Angeles, CA 90014-1911

RE: Case #CDP 05 02

Dear Ms. Pal:

I am writing to express my strong opposition to vacating any easements located on Venice Boulevard and Abbot Kinney Boulevard in Venice.

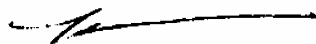
There is a long history of open space public parking on this property.

When Venice Boulevard was rebuilt in the early 90's, the parking then located in the center median strip East & West of Abbot Kinney Boulevard was relocated to property abutting the street on the north and south side of Venice Boulevard. Signs indicating that this land was for public use have been removed over time. People newer to Venice do not remember that this is public land and it has been used instead by the owners on adjacent property who now want the land vacated.

This land must be maintained for public use and signs need to be reinstalled letting the public know that parking is allowed in those spaces.

In addition, this is a view corridor for the entrance to Venice and must be maintained. Some years ago, a large number of people met to design such a view corridor and the plans still exist.

Please do not go forward with any easement vacations until you understand the history of the property. For more information, please log onto www.venice.net/landscaping, or speak to Jim Murez.
Sincerely,



Phil Raider
Secretary, Grass Roots Venice Neighborhood Council

COASTAL COMMISSION

EXHIBIT # 8
PAGE 1 OF 5

September 14, 2005

Bureau of Engineering
Environmental Management Group, Attn: Irene Pal
650 So. Spring St., Room 574
Los Angeles, CA 90014-1911

Case #CDP 05-02

To Whom It May Concern:

I am totally against granting property owners request(s) to vacate easements adjacent to Venice Blvd. of varying widths on each side of Venice Blvd. Six to eight months ago the property owner on the northwest corner filed to have the easement vacated for parking. Recently the California Coastal Commission found that there were substantial issues with the request and moved for a full hearing on the matter. Now a second property owner has filed for a similar request to vacate a strip almost 500' long on Venice Blvd.

If this request is ultimately granted Venice will loose this view corridor all the way from Oakwood Ave. to the Library on Venice Blvd. Parts of the easement are currently planted, the palms at Venice & Abbott Kinney Blvd., as well as sycamores up and down Venice.

This area should remain in the hands of the people of Venice and planted for our enjoyment, and not be given away to property owners.

Sincerely,



Mindy Taylor-Ross
District 4 Representative
Grass Roots Venice Neighborhood Council

1033 Nowita Place
Venice, CA 90291
mindyt@tft.ucla.edu
(310) 206-6154

COASTAL COMMISSION

EXHIBIT # 8
PAGE 2 OF 5

LINDA LUCKS

September 28, 2005

Bureau of Engineering
Environmental Management Group
Attn: Irene Pal
650 South Spring Street, Room 574
Los Angeles, CA 90014-1911

30 Wave Crest Avenue
Venice, CA 90291-3211
Facsimile (310) 452-7892
Telephone (310) 450-2554
email: Lindalucks@aol.com

RE: Case #CDP 05 02

Dear Ms. Pal:

I am writing to express my strong opposition to vacating any City owned land located on Venice Boulevard and Abbot Kinney Boulevard in Venice.

There is a long history of public parking on this property.

When Venice Boulevard was rebuilt in the early 90's, the parking then located in the center median strip East & West of Abbot Kinney Boulevard was relocated to property abutting the street on the north and south side of Venice Boulevard. Signs indicating that this land was for public use have been removed over time. People newer to Venice do not remember that this is public land and it has been used instead by the landowners on adjacent property who now want the land vacated.

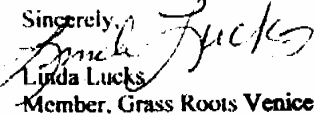
This land must be maintained for public use and signs need to be reinstalled letting the public know that parking is allowed in those spaces.

In addition, this is a view corridor for the entrance to Venice and must be maintained. Some years ago, a large number of people met to design such a view corridor and the plans still exist.

The property owners who have filed to vacate the land on the corners and along the corridor have no right to it.

Please do not go forward with any land vacations until you understand the history of the property and have spoken with the community.

For more information, please log onto www.venice.net/landscaping, speak to Jim Murez, Jay Griffith, Ann Haskins (former Chief of Staff for Councilwoman Galanter) and others who know the history.

Sincerely,

Linda Lucks
Member, Grass Roots Venice Neighborhood Council

Cc: Hon. Bill Rosendahl, 11th District
Jim Murez
Jay Griffith
Ann Haskins

COASTAL COMMISSION

EXHIBIT # 8
PAGE 3 OF 5



Venice Neighborhood Council

PO Box 550, Venice, CA 90294-0550
310.606.2015



September 20, 2007

Ms. Irene Y. Paul
Environmental Supervisor 1
1149 S Broarway, Suite 600
Los Angeles, CA 90015

Re; CDP #05-02

Dear Ms. Paul,

On September 10, 2007 the Administrative Committee of The Venice Neighborhood Council (VNC) voted unanimously to reaffirm the VNC Board decision of January 17, 2006 and oppose the requested N. Venice Blvd./Electric Ave. Street Vacation.

The VNC feels that this important Venice resource and view corridor be maintained for the public's use and that it not be relinquished to a private party.

The VNC fully supports your previous denial of the request.

Thank you,

DeDe Audet *TR*

DeDe Audet, President
DA/pwr

cc; Councilman Bill Rosendahl

COASTAL COMMISSION

EXHIBIT # 8
PAGE 4 OF 5

Raveniswork

August, 28, 2005

Department Of Public Works
Bureau of Engineering
Gary Lee Moore
650 South Spring Street
Los Angeles, CA 90014-1911

RE: Coastal Development Permit No. 05-02 for the Venice/Electric street vacation.

Dear Gary Moore,

I am a local business owner, property owner and resident with in the 500 foot notification area for this vacation. I'm very familiar with the property in question and the use of the property by the adjacent businesses.


I support the vacation of this property to assure the local community that these businesses will be able to continue to provide parking for their employees, clients and customers in the future. To do otherwise would put an enormous burden on the community, as these people would compete with the local residents for limited street parking.

There has been a misconception by some local activists that these businesses are squatting on public land but nothing could be further from the truth. In 1993, CalTrans collaborated with these businesses along Venice Boulevard paving the driveways and parking areas and providing curb cuts.

It will be very hard on these businesses and the local residents if this vacation is denied.

I urge you to grant this vacation.

Sincerely,


Robert Feist

COASTAL COMMISSION

EXHIBIT # 8
PAGE 5 OF 5