

**CALIFORNIA COASTAL COMMISSION**

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**W11b**

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

**Appeal No.:** A-5-VEN-19-0021

**Applicant:** Venice Investors, LLC

**Agent:** Pacific Crest Consultants (Attn: Chris Parker)

**Local Government:** City of Los Angeles

**Local Decision:** Approval with Conditions

**Appellants:** James Murez & Robert Aronson

**Project Location:** 1656 Abbot Kinney Blvd., Venice, Los Angeles, Los Angeles County (APN: 4239-022-011)

**Project Description:** Appeal of local CDP No. DIR-2015-2823-CDP-2A authorizing a Reversion of Acreage of 5,133 sq. ft. of land including a 3,702 sq. ft. parcel (Parcel 2) and a 1,431 sq. ft. public easement area of an adjacent property (Parcel 1) to create one parcel, clarification and codification of a City-owned easement across Parcel 2, and minor landscape improvements within Parcel 2, including: 1) installation of a 3.5-ft. high 276 ft. long “living fence;” 2) 703 sq. ft. of refinished decorative concrete for the Venice Boulevard driveway; 3) 740 sq. ft. of new decorative concrete adjoining the existing driveway; 4) a new swinging gate adjoining the Venice Boulevard driveway; and 5) new landscaping.

**Staff Recommendation:** No Substantial Issue

**Important Hearing Procedure Note:** This is a substantial issue only hearing. Testimony will be taken only on the question of whether the appeal raises a substantial issue. Generally and at the discretion of the Chair, testimony is limited to 3 minutes total per side. Please plan your testimony accordingly. Only the applicant, persons who opposed the application before the local government (or their representatives), and the local government shall be qualified to testify. Others may submit comments in writing. If the Commission determines that the appeal does raise a substantial issue, the de novo phase of the hearing will occur at a future Commission meeting, during which it will take public testimony.

## SUMMARY OF STAFF RECOMMENDATION

The staff recommends that the Commission determine that **no substantial issue exists** with respect to the grounds on which Appeal A-5-VEN-19-0021 has been filed because the locally approved development is consistent with the public access and recreation provisions of Chapter 3 of the Coastal Act and the policies set forth in the certified Venice Land Use Plan (LUP).

The City approved a reversion to acreage of a 3,702 sq. ft. parcel (Parcel 2) owned by Venice Investors LLC, and minor landscape improvements within Parcel 2 at the intersection of Venice Boulevard and Abbot Kinney Boulevard in Venice, a community within the City of Los Angeles. The proposed project is in response to ongoing litigation between the applicant and the City with regard to four disputed easements across Parcel 2. The applicant purchased the project site (consisting of two separate parcels, Parcel 1 and Parcel 2) in 2008 ([Exhibit 1](#)). Parcel 1 is owned by the applicant and there is one 1,431 sq. ft. easement across that parcel adjacent to Abbot Kinney Boulevard, which the City plans to remove. Parcel 2 is also owned by the applicant and the City claimed four easements across that parcel.

The four claimed City easements across Parcel 2 are the subject of the litigation between the applicant and the City. After purchasing the property, the applicant applied to the City for a coastal development permit (CDP) for tenant improvements. At that time, the City informed the applicant that the existing parking spaces are straddled across Parcel 1 and Parcel 2 and the portion of the parking spaces that are located within Parcel 2 are also located across one of the City's four easements within Parcel 2 ([Exhibit 9](#)). The applicant disputed the existence of all four easements on Parcel 2, and eventually filed a quiet title lawsuit against the City. The Los Angeles Superior Court ruled that three of the four claimed easements were either not located within Parcel 2, or were not enforceable because they could not be located. Rather than going to trial over the last disputed easement (C.E. 70-44) on Parcel 2, the applicant and City agreed to a settlement which ultimately resulted in the City-approved CDP.

The proposed Reversion to Acreage would convey all 3,702 sq. ft. of Parcel 2 (which is owned by the applicant) back to Parcel 1 (also owned by the applicant) to create one parcel. A 13-foot strip of Easement 70-44 on Parcel 2 (approximately 1,087 sq. ft.) would be retained by the applicant for restricted private development (landscaping and improvements to the existing structure/parking spaces). The balance of the disputed easement area of Parcel 2 (approximately 33-ft. wide, 2,615 sq. ft.) would remain as a City easement (70-44) for street purposes ([Exhibit 4](#)). The public improvements that the City could pursue in the easement area include, but are not limited to: landscaping, installation of a bike share station, and expansion of the existing Venice Boulevard sidewalk by five feet.

In 2005, the Commission denied the proposed vacation of 4,500 sq. ft. of public right-of-way, development of an expanded surface parking lot, and landscaping (CDP Application Nos. A-5-VEN-05-259 and 5-05-343; see [Exhibits 11 and 12](#)). The Commission found the proposals to conflict with Policy I.C. 9 (which states that the public right-of-way in the Venice Coastal Zone shall be reserved for public transportation uses by private vehicles, pedestrians, and bicyclists), and that the vacation would preclude future use of the right-of-way for aesthetic/landscaping improvements that would enhance the overall experience along a major public coastal access route. Overall, the Commission opted for more landscaping (consistent with the LUP's call for a

beautification program to enhance public access routes) over development of additional onsite parking for a private development. The project before the Commission today differs in that the project therefore involves a Reversion to Acreage of privately held property (a court has held that both parcels are owned in fee by a private entity) and landscaping that is consistent with the 1995 Venice Boulevard Planting Plan. Unlike the prior proposal, there are no proposed changes to the existing onsite parking or to the existing onsite building. In addition, the City-approved project maintains a 33-ft. City easement which would enable the City to conduct transportation and/or landscaping improvements ([Exhibit 8](#)).

Two separate appeals of the local CDP were filed to the Coastal Commission largely on the grounds that the privatization of public lands would prevent the City from undergoing transportation-related and other public improvements (including landscaping in conjunction with the Venice Boulevard Planting Program), which would adversely impact coastal access and visual resources. However, pursuant to the settlement agreement and the local CDP, the City would retain a 33-ft. wide easement across Parcel 2, which would be used for landscaping, the expansion of the public sidewalk, and development of a Metro Bike share station, among other improvements. Existing public utilities such as the bus stops, the public sidewalks/streets, and the space necessary to hang community banners across a cluster of palm trees along the Abbot Kinney Boulevard/Venice Boulevard intersection would not be impacted by the project. Also, as part of the City's approval of the project, all landscaping at the site must be consistent with the Venice Boulevard Planting Program, as detailed in Policy V.A.5 of the LUP, which is consistent with a Coastal Commission finding during a 2005 project (CDPs A-5-VEN-05-259 and 5-05-343) on the same project site that the Venice Boulevard Planting Program constituted consistency with the visual resource and public access policies of the Coastal Act. Overall, the appellants did not demonstrate that the City-approved project is inconsistent with the Chapter 3 policies of the Coastal Act or the Certified Venice LUP, that the City's approval lacked legal or factual support, that the City's approval adversely impacts coastal resources, that the City's approval sets a negative precedent for future interpretations of its certified LUP, or that the project raises issues of regional or statewide significance.

For the reasons described above, the appeals raise no substantial issue as to conformity with the Chapter 3 policies of the Coastal Act.

## TABLE OF CONTENTS

<b>SUMMARY OF STAFF RECOMMENDATION</b> .....	2
<b>I. MOTION AND RESOLUTION – NO SUBSTANTIAL ISSUE</b> .....	5
<b>II. LOCAL GOVERNMENT ACTION</b> .....	5
<b>III. APPELLANTS’ CONTENTIONS</b> .....	6
<b>IV. APPEAL PROCEDURES</b> .....	7
<b>VI. FINDINGS AND DECLARATIONS</b> .....	9
A. PROJECT DESCRIPTION AND LOCATION.....	9
B. FACTORS TO BE CONSIDERED IN SUBSTANTIAL ISSUE ANALYSIS .....	11
C. NO SUBSTANTIAL ISSUE ANALYSIS .....	11

## APPENDICES

Appendix A - Substantive File Documents

### EXHIBITS

[Exhibit 1 – Vicinity Map/Project Location](#)

[Exhibit 2 – Local Actions](#)

[Exhibit 3 – City-Approved Plans](#)

[Exhibit 4 – Proposed Reversion to Acreage Diagram](#)

[Exhibit 5 – Appeals to the Coastal Commission](#)

[Exhibit 6 – Applicant’s Responses to Appeal](#)

[Exhibit 7 – Venice Boulevard Landscaping Plan \(1995\)](#)

[Exhibit 8 – California Supreme Court Findings regarding City-claimed Easements](#)

[Exhibit 9 – Map of Claimed Easements](#)

[Exhibit 10 – CDP/Tentative Tract Map Application](#)

[Exhibit 11 – Previous Commission Actions on Project Site](#)

## I. MOTION AND RESOLUTION – NO SUBSTANTIAL ISSUE

**MOTION:** *I move that the Commission determine that Appeal No. A-5-VEN-19-0021 raises NO Substantial Issue with respect to the grounds on which the appeal has been filed under § 30602 of the Coastal Act.*

Staff recommends a YES vote. Passage of this motion will result in a finding of No Substantial Issue and adoption of the following resolution and findings. If the Commission finds No Substantial Issue, the Commission will not hear the application de novo and the local action will become final and effective. The motion passes only by an affirmative vote by a majority of the Commissioners present.

**RESOLUTION:**

*The Commission hereby finds that Appeal No. A-5-VEN-19-0021 does not present a SUBSTANTIAL ISSUE with respect to the grounds on which the appeal has been filed under § 30602 of the Coastal Act regarding consistency with Chapter 3 policies of the Coastal Act.*

## II. LOCAL GOVERNMENT ACTION

On July 31, 2015, the applicant submitted applications DIR-2015-2823-CDP and TT-72841 ([Exhibit 10](#)) for a local CDP and tentative tract map for a Reversion to Acreage to the City of Los Angeles in order to delineate, legally describe, and record the property boundary in accordance with the legal description of the property in the grant deed across the subject site. The proposed project also included minor landscaping improvements, including a “living fence,” refinishing a 703 sq. ft. decorative concrete access driveway from Venice Boulevard into the parking lot, installation of 740 sq. ft. of additional decorative concrete adjoining the Venice Boulevard driveway, installation of a custom swinging gate adjoining the existing driveway from Venice Boulevard, and new landscaping consistent with the City of Los Angeles Boulevard Planting Plan and LUP Policy V.A.5. A public hearing for the project was held on October 22, 2015. During this hearing, James Murez and Robert Aronson (the appellants) opposed the project on the grounds that the project site was designated as landscape property, the property owner had undertaken development without permits, the land was an existing easement for the roadway, the applicant would be taking away public property currently being used for landscaping of a primary road, and that the land should be maintained for public purposes. The Venice Neighborhood Council submitted a letter (dated October 21, 2015) recommending denial of the project. In addition, seven emails were submitted by local residents in opposition of the project. The City held the record open for an additional two weeks to allow additional comments and information to be submitted by interested persons. On September 21, 2017, the City’s Planning Director approved local CDP 2015-2823 and tentative tract map TT-72841 for the project.

In response to the Planning Director’s determination, James Murez filed a local appeal of the entire decision of local CDP No. DIR-2015-2823 on October 2, 2017. Elisa Paster, a representative for the applicant, filed an appeal of a portion of the decision of the local CDP on October 2, 2017, to contest the CDP’s inclusion of indemnification language requiring the applicant to be responsible

for the City’s litigation costs. On December 20, 2017, Appeal DIR-2015-2823-CDP-1A was brought before the West Los Angeles Area Planning Commission. At its hearing, the Planning Commission granted James Murez’s appeal in full and overturned the City Planning Director’s approval of the permit and the tentative tract map. The City mailed a Notice of Final Action (NOFA) to the Commission’s South Coast District Office on January 24, 2018, stating that the project was not further appealable at the local level. On January 26, 2018, the City mailed a corrected NOFA to the Commission’s South Coast District office clarifying that the locally-approved project *was* further appealable to the City Council if an appeal is filed within 10 days of the NOFA issuance. The corrected NOFA listed February 5, 2018 as the final appeal date to the City Council.

Chris Parker, a representative for the applicant, filed second-level appeals to the City Council for the project on January 30, 2019. The second-level appeal contended that the intent of the project was to correct City mapping errors that did not accurately describe private property boundaries, and that the project was proposed in order to resolve longstanding litigation between the City, the applicant, and the applicant’s title insurance company (additional information on this litigation can be found in Section VI.A- Project Description and Location). On March 5, 2019, local Appeal DIR-2015-2823-CDP-2A was brought before the Los Angeles City Council, where the City Council overturned the West Los Angeles Planning Commission’s decision and approved the local CDP and tentative tract map for the project, consistent with the original City action from September 21, 2017 ([Exhibit 2](#)).

On March 13, 2019, the Coastal Commission’s South Coast District Office received the NOFA from the City for the subject project and the Commission’s 20-working day appeal was established. James Murez filed an appeal of local CDP DIR-2015-2823-CDP-MEL on April 4, 2019 and Robert Aronson filed a separate appeal of the local CDP on April 11, 2019 ([Exhibit 5](#)). No other appeals were received before the end of the Commissions appeal period on April 11, 2019.

### **III. APPELLANTS’ CONTENTIONS**

James Murez raises several contentions in his appeal, including: privatizing public property should not be pursued without first considering existing laws and prior history; that the City has not and cannot make the required legal findings under the Los Angeles Municipal Code or the Coastal Act to support approval of the project; that the City has not adequately explained how privatizing this property will not prejudice the ability to get a certified Local Coastal program (LCP) approved by the Commission; that the privatization of the project site would lose the community vision for a “Ceremonial Gateway to Venice,” and would further lose the ability to provide future resources to serve the community (i.e. Metro Bike Share) ([Exhibit 4](#)).

Robert Aronson also raises multiple contentions with the City’s approval of the project, including: that the proposed “reversion to acreage” would permanently terminate the ‘vested and unfettered right’ of the City and the public to perform essential public works activities and other actions that would benefit the local community and visitors, including: bike path widening, pedestrian safety improvements (i.e. sidewalk widening), installation of communications equipment, installation of landscaping in compliance with existing landscaping plans and streetscape requirements, and the

promotion of Venice community and visitor-serving events<sup>1</sup>; that the City-approved project will set a precedent to allow the other property owners along Venice Boulevard to receive a CDP to terminate the 44 contiguous easements along each of their properties; that the project would prevent possible future public transportation and transportation-related uses at the subject site; that the proposed project is not consistent with Policies I.C.9, I.F.1, V.A.2, V.A.5, II.B.1, and II.C.1 of the certified LUP with regard to the use/development of the intersection of Venice Boulevard and Abbot Kinney Boulevard; and that the project is not consistent with the Coastal Act ([Exhibit 4](#)).

#### IV. APPEAL PROCEDURES

Section 30600(b) of the Coastal Act provides that prior to certification of its LCP, a local jurisdiction may, with respect to development within its area of jurisdiction in the coastal zone and consistent with the provisions of Sections 30604, 30620 and 30620.5, establish procedures for the filing, processing, review, modification, approval or denial of a coastal development permit. Pursuant to this provision, the City of Los Angeles developed a permit program in 1978 to exercise its option to issue local coastal development permits. Sections 13301-13325 of Title 14 of the California Code of Regulations provide procedures for issuance and appeals of locally issued coastal development permits. Section 30602 of the Coastal Act allows *any* action by a local government on a coastal development permit application evaluated under Section 30600(b) to be appealed to the Commission. The standard of review for such an appeal is the Chapter 3 policies of the Coastal Act. [Cal. Pub. Res. Code §§ 30200 and 30604.]

After a final local action on a local CDP 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.] As provided under section 13318 of Title 14 of the California Code of Regulations, the appellant must conform to the procedures for filing an appeal as required under section 13111 of Title 14 of the California Code of Regulations, including the specific grounds for appeal and a summary of the significant question raised by the appeal.

The action currently before the Commission is to find whether there is a “substantial issue” or “no substantial issue” raised by the appeals of the local approval of the proposed project. Sections 30621 and 30625(b)(1) of the Coastal Act require a *de novo* hearing of the appealed project unless the Commission determines that no substantial issue exists with respect to the grounds for appeal.

Commission staff recommends a finding of **no substantial issue**. If the Commission decides that the appellants’ contentions raise no substantial issue as to conformity with Chapter 3 of the Coastal Act, the action of the local government becomes final. Alternatively, if the Commission finds that a substantial issue exists with respect to the conformity of the action of the local government with the Chapter 3 policies of the Coastal Act, the local CDP is voided and the Commission typically continues the public hearing to a later date in order to review the coastal development permit as a de novo matter. [Cal. Pub. Res. Code §§ 30621 and 30625.] Section 13321 of the Coastal Commission

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<sup>1</sup> The cluster of palm trees on the corner of Abbot Kinney Boulevard and Venice Boulevard are currently used to post banners to advertise community events and information.

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.

If there is no motion from the Commission to find no substantial issue, it will be presumed that the appeals raise a substantial issue and the Commission will schedule the de novo phase of the public hearing on the merits of the application at a later hearing date. A de novo public hearing on the merits of the application uses the Chapter 3 policies of the Coastal Act. The certified Venice LUP may be used as guidance. Sections 13110-13120 of Title 14 of the California Code of Regulations further explain the appeal hearing process.

If the Commission decides to hear arguments and vote on the substantial issue question, those who are qualified to testify at the hearing, as provided by Section 13117 of Title 14 of the California Code of Regulation, will have three minutes per side to address whether the appeal raises a substantial issue. The only persons qualified to testify before the Commission at the substantial issue portion of the appeal process are the applicant, persons who opposed the application before the local government (or their representatives), and the local government. Testimony from other persons must be submitted in writing. The Commission will then vote on the substantial issue matter. It takes a majority of Commissioners present to find that the grounds for the appeals raise no substantial issue.

## **V. SINGLE/DUAL PERMIT JURISDICTION AREAS**

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

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

The proposed development is located approximately 0.6 mile inland of the beach within the area of the City of Los Angeles that has been designated in the City’s permit program as the “Single Permit Jurisdiction Area” pursuant to Section 13307 of Title 14 of the California Code of Regulations and Section 30601 of the Coastal Act. The applicant received a local CDP (DIR 2015-2823-CDP-2A) from the City of Los Angeles on March 5, 2019. The local CDP has been appealed to the Commission. This is the substantial hearing for the appeal.



## VI. FINDINGS AND DECLARATIONS

### A. PROJECT DESCRIPTION AND LOCATION

The City of Los Angeles approved a local CDP and a Tentative Tract Map TT-72841 to authorize a Reversion to Acreage<sup>2</sup> of a 3,702 sq. ft. parcel (Parcel 2) along Venice Boulevard and a 1,431 sq. ft. easement located adjacent to Abbot Kinney Boulevard within Parcel 1 ([Exhibit 3](#)). The City approval also includes the retention and delineation of a 33-ft. wide City easement across Parcel 2, and the following: 1) installation of a three and one half-foot high “living fence<sup>3</sup>,” 2) approximately 703 sq. ft. of refinished decorative concrete access driveway from Venice Boulevard; 3) installation of approximately 740 sq. ft. of new decorative concrete adjoining the existing driveway; 4) installation of a custom swinging gate that adjoins the existing Venice Boulevard driveway, and 5) new landscaping consistent with the City’s Venice Boulevard Planting Plan ([Exhibit 7](#)).

The project site is located approximately 0.6 mile inland of the beach in the North Venice subarea of Venice in the City of Los Angeles ([Exhibit 1](#)). The project site is designated Artcraft by the certified Venice Land Use Plan and C2-1 (Commercial Artcraft) by the City of Los Angeles Zoning Code. The project is located within the Beach Impact Zone designated by the certified LUP. The subject site is composed of two separate adjacent parcels (1 and 2), which were purchased by the applicant in 2008.

Parcel 1 is 6,181 sq. ft. and is currently developed with a two-story, 4,606 sq. ft. building with a surface parking lot that contains nine parking spaces that extend partially onto Parcel 2. The structure and parking spaces were permitted by the Coastal Commission in 1974 (CDP No. P-74-3323). There is a 10-ft. wide, 1,431 sq. ft. City-owned Easement (OR D6658-568) that is located in Parcel 1 adjacent to Abbot Kinney ([Exhibit 9](#)). In the 1980s, the City required the owner to dedicate the 1,431 sq. ft. area as an easement for street purposes. The intent of the dedication was to expand Abbot Kinney Boulevard to include a designated right turn lane. This project never came to fruition; the properties to the north of Parcel 1 had been developed up to the Abbot Kinney right-of-way (similar to the building on Parcel 1), and were not subjected to dedication requirements by the City. The City found that it was infeasible to condemn the existing properties in order to expand Abbot Kinney Boulevard and has indicated that it has no intention to conduct street improvements within Easement OD D6656-568 now or in the future. Therefore, since the easement across Parcel 1 is no longer being considered for street improvements along Abbot Kinney Boulevard, the applicant is seeking a CDP to revert the easement area back to Parcel 1.

Parcel 2 is 3,702 sq. ft. and is developed with a portion of the parking lot shared with Parcel 1, some landscaping, an approximately 20-ft. wide concrete driveway along Venice Boulevard, and a dirt/gravel area. Parcel 2 is the primary subject of the ongoing litigation between the applicant and the City with regard to four disputed easements (CE 51-139, CE 56-32, CE 70-44, and CE 51-171). The applicant purchased the project site (consisting of both parcels) in 2008. After purchasing the property, the applicant applied to the City for tenant improvements. During its review of the application the City informed the applicant that portions of the nine permitted parking spaces were located within a ten-ft. wide public easement (CE 51-171); therefore, a Certificate of Occupancy

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<sup>2</sup> A Reversion to Acreage allows subdivided parcels to be merged back together into larger, undivided parcels.

<sup>3</sup> The “living fence” is described as a combination of metal posts and chain-link hedge boxes covered with butterfly-attracting bougainvillea. This fence has been designed to support habitat.

could not be issued for a remodel of the existing building. Furthermore, the City claimed that three additional easements (CE 51-139, CE 56-32, CE 70-44) also existed on the southern edge of Parcel 2 ([Exhibit 9](#)). The applicant disputed the existence of the street easements on its property, and eventually filed a quiet title lawsuit against the City.

The case was heard before the Superior Court of California on December 3, 2018 ([Exhibit 8](#)). The Court ruled that both Parcels 1 and 2 are owned in fee simple by Venice Investors, LLC. During the trial, three of the four disputed easements across Parcel 2 were determined to be invalid. The Court found that CEs 51-139 and 56-32 are actually the same easement that was recorded twice. The Court also determined that those easements are not actually located on Parcel 2, but are in fact located approximately 13 ft. south of the City-referenced location, within the Venice Boulevard right-of-way ([Exhibit 9](#)). With regard to CE 51-171, the Court determined that the City does not have an enforceable easement interest because the easement is not locatable and cannot be plotted<sup>4</sup>.

Unlike the rulings on the other three easements, the Court determined that there was not enough information on CE 70-44 to rule in favor of the City or in favor of the applicant. CE 70-44 is presumed to be 45-ft. in width (which the City claims to extend across all of Parcel 2) and appears to have been established in a 1906 deed. The applicant claims that the original deed is not legible and it is therefore impossible to map out its actual location. In the court proceedings, the City provided an iteration of the 1906 deed that was traced over by a handwriting expert to render the document legible. The applicant claims that the document was produced by the City and cannot be referred to as an original source document to map out CE 70-44. The Court ruled that additional adjudication is needed to determine the validity of CE 70-44.

In order to avoid additional litigation for CE 70-44, the City and the applicant reached a settlement agreement. The City would permit the applicant to apply for a “Reversion to Acreage” to allow the applicant to properly define its property boundaries. The terms of the settlement would transfer the entire 3,702 sq. ft. area of Parcel 2 (which the applicant owns in fee) back to Parcel 1 to create one singular parcel. A 13-ft. wide strip (1,087 sq. ft.) of Parcel 2 would be held by the applicant, but it could only use this land to develop and legalize its existing onsite parking spaces and to make landscaping improvements; no permanent structures or additional parking spaces would be allowed within the 13-ft. strip of land. The remaining 33-ft. wide portion (2,615 sq. ft.) of Parcel 2 would still be owned by the applicant in fee, but would be encumbered by the City’s Easement 70-44 for public street purposes ([Exhibit 4](#)). The public improvements that the City could choose to pursue in the easement area include landscaping at the corner of Abbot Kinney and Venice Boulevards, creating a designated area to establish a bike share station, and expanding the existing Venice Boulevard sidewalk, or other similar landscaping or paving.

If the dispute over CE 70-44 went to trial and the court ruled in favor of the applicant, then CE 70-44 would be completely extinguished and the City would have no claim to put in landscaping, sidewalk improvements, and the bike share station. The settlement reached by the applicant and the City allows the City to maintain a majority of the easement area to continue public improvements

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<sup>4</sup> The easement was determined to be “non-locatable” because the ‘Point of Beginning’ described in the original deed for the easement (a street intersection does not correlate to an existing intersection). Without a verified Point of Beginning, the Court ruled that there are no legitimate coordinates with which to map the easement’s location.

and allows the applicant to lawfully apply for City approvals (i.e. CDPs, building permits) for improvements to structures on the property.

## **B. FACTORS TO BE CONSIDERED IN SUBSTANTIAL ISSUE ANALYSIS**

Section 30625(b)(2) of the Coastal Act requires a de novo hearing of the appealed project unless the Commission determines that no substantial issue exists with respect to the grounds on which the appeal has been filed pursuant to Section 30603(a) 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 considered 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 the grounds on which the appeals have been filed pursuant to Section 30602 of the Coastal Act.

## **C. NO SUBSTANTIAL ISSUE ANALYSIS**

The City of Los Angeles does not have a certified LCP for any of its segments that fall within the coastal zone. However, the Venice segment of the City of Los Angeles does have a certified Land Use Plan (LUP). The Chapter 3 policies of the Coastal Act constitute the standard of review on appeal, but the certified LUP may be used as guidance to determine consistency with the Chapter 3 policies. As stated in Section IV of this report, the grounds for an appeal of a CDP issued by the local government prior to certification of its LCP are the project’s conformity with Chapter 3 policies of the Coastal Act. Any local government CDP issued or denied prior to certification of its LCP may be appealed to the Commission. The Commission shall hear an appeal unless it determines that no substantial issue exists as to conformity with Chapter 3 policies of the Coastal Act. The appellants’ contentions are summarized in Section III of this staff report.

The Commission’s standard of review for determining whether to hear the appeals is only whether the appeals raise a substantial issue as to conformity with Chapter 3 of the Coastal Act. Cal. Pub. Res. Code § 30625(b)(1); 14 C.C.R. § 13321. The Commission’s decision will be guided by the

factors listed in the previous section of this report (B. Factors to be Considered in Substantial Issue Analysis).

Section 30006 of the Coastal Act states:

*The Legislature further finds and declares that the public has a right to fully participate in decisions affecting coastal planning, conservation and development; that achievement of sound coastal conservation and development is dependent upon public understanding and support; and that the continuing planning and implementation of programs for coastal conservation and development should include the widest opportunity for public participation.*

Section 30213 of the Coastal Act states:

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

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 30252 of the Coastal Act states:

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

Section 30253 of the Coastal Act states, in relevant part:

*New development shall do all of the following:*

*(e) Where appropriate, protect special communities and neighborhoods that, because of their unique characteristics, are popular visitor destination points for recreational uses.*

Certified Venice LUP Policy I.C.9 states:

**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.*

Certified Venice LUP Policy I.F.1, states:

**Historic and Cultural Resources.** *The historical, architectural and cultural character of structures and landmarks in Venice should be identified, protected and restored where appropriate, in accordance with historical preservation guidelines.*

*The following buildings, streets, and trees have been identified through the coordinated efforts of surveys performed by the Venice Historical Society, Venice Community, State Conservancy and City of Los Angeles as significant architectural, historical and cultural landmarks in the Venice Coastal Zone.*

*Venice City Hall  
Lighthouse Street Bridge  
Eastwind Community Gardens  
Crown Arms (Catamaran St.)  
Bay Cities Laundry  
Sidewalk Café (1915)  
Waldorf Hotel (1913)  
St. Charles Hotel (1905) – (St. Marks Annex).  
Abbot Kinney Boulevard between Venice Boulevard and Brooks Avenue  
Old Venice Jail  
Breakwater (1905)  
Brick Street – 18<sup>th</sup> Street  
64 – 72 Market Street (1913 – 14)  
Canals Bridges  
Old Venice Library  
The Windward area, including the Windward Colonnades, Windward Apartments (1906), 52 Windward Avenue and 80 Windward Avenue (constructed in 1905 and housed the First National Bank).  
Walk streets (as shown in the LUP on Exhibit 19, Pedestrian Access and Bicycle Trails).*

Certified Venice LUP Policy II.B.1 states:

**Public Transportation.** *It is necessary to maintain existing and develop new public transportation facilities to facilitate coastal access in Venice. The City shall pursue establishment of a subregional transit system. The subregional system shall include Venice as one of the interconnecting destinations. Those portions of the system located within the*

*Venice LCP area should be linked to those portions located within the County's Marina del Rey LCP area, to ensure a single, integrated system.*

*A public transit service within and to Venice to meet recreational needs is of prime importance and shall be maintained and expanded, subject to available funding. The City Department of Transportation (LADOT) shall work with the regional bus operators, such as the Metropolitan Transportation Authority (MTA), Santa Monica Municipal Bus Lines, and Culver City Municipal Bus, inter-operator fare integration task force to provide peak period and event scheduling of bus services for the area and to develop park-and-ride lots.*

*Implementation Strategies*

*The funding and resources of various jurisdiction, such as Proposition AJC Local Discretionary Funds, shall be coordinated to maximize beach transit service.*

Certified Venice LUP Policy II.C.1 states:

***General Non-Vehicular Coastal Access Policy.*** *Pedestrian and bicycle access ways are identified on Exhibit 19. Pedestrian Access and Bicycle Trails shall be developed, protected and maintained, and new development adjacent to the coast and coastal waterways shall be required to provide public access in a manner that is consistent with the policies of the Coastal Act.*

Certified Venice LUP Policy V.A.2 states:

***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 states:

***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 usual 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.*

Contentions Submitted by James Murez

James Murez contends that the City cannot give away public land without consideration of prior decisions and case law. He points to a prior Coastal Commission permit denial on the property for what he alleges was a very similar project, in which the Commission denied the City's previous approval for a Reversion to Acreage on appeal A-5-VEN-05-283, which was for the vacation of a 4,500 sq. ft. portion of the public right of way along Venice Boulevard and Abbot Kinney Boulevard ([Exhibit 11](#)). CDP application No. 5-05-343 proposed improvements to the 4,500 sq. ft. vacated portion of Venice Boulevard and Abbot Kinney Boulevard, including new landscaping and a five parking-space expansion of the existing 9-space gravel parking area to incorporate 14 parking spaces ([Exhibit 12](#)). The property owner at that time, Dos Coronas, LLC, contended that the 4,500 sq. ft. vacation and the surface improvements were necessary in order to obtain a certificate of occupancy for proposed building improvements on the northern parcel (Parcel 1).

In its denial of Application 5-05-343, which proposed landscaping and a private paved parking area within the 4,500 vacated area (if CDP A-5-VEN-05-283 was approved), the Commission found that the City-approved Venice Boulevard Planting Plan was more consistent with the visual resource and public access policies of the Coastal Act than the proposed expansion of a private parking lot (that would not provide public beach access spaces). The Commission's finding was based, at least in part, on Venice LUP Policy V.A.5, which calls for streetscape improvements to be maintained and enhanced throughout the Venice Coastal Zone to "enhance pedestrian activity and contribute to a high quality of life and visual image for residence and visitors." The policy lays out implementation strategies that should be included in a future Implementation Plan, which include a boulevard beautification program for certain streets –both Venice Boulevard and Abbot Kinney Boulevard have been targeted for the program. Although the Venice Boulevard Planting Plan (approved by the City in 1995, prior to certification of the Venice LUP) is not specifically mentioned in the certified LUP, the Commission's findings and approval of the LUP were consistent with the goals and policies the City set forth in its approval of the Venice Planting Program.

The project before the Commission today differs from the 2005 projects denied by the Commission in several respects. In 2005, the Commission denied the proposed vacation, development of an expanded surface parking lot, and landscaping largely under the assumption that the area to be vacated was a public right-of-way. The Commission found the proposal to conflict with Policy I.C. 9, which states that the public right-of-way in the Venice Coastal Zone shall be reserved for public transportation uses by private vehicles, pedestrians, and bicyclists. The Commission also found that the proposed vacation area did not support public access/recreational opportunities, and further that the 2005 vacation project was not likely to directly impact existing public access/recreation facilities at that time. The Commission found that the vacation would preclude future use of the right-of-way for public improvements (including aesthetic improvements/landscaping), that, if installed, would enhance the overall experience along a major public coastal access route. Overall, the Commission in 2005 found that the proposed vacation presented two development options for the site. The Commission opted for more landscaping (consistent with the LUP's call for a beautification program to enhance public access routes) over development of additional onsite parking for a private development.

The project before the Commission today differs in significant ways from the prior project that the Commission denied. A court has held that both parcels are owned in fee by a private entity, so that the only potential public ownership interest is an easement held by the City of Los Angeles. The



project therefore involves a Reversion to Acreage of privately held property and landscaping that is consistent with the 1995 Venice Boulevard Planting Plan. Unlike the prior proposal, there are no proposed changes to the existing onsite parking or to the existing onsite building. In addition, the City-approved project maintains a 33-ft. City easement which would enable the City to widen the sidewalk along Venice Boulevard to 15 ft. in width and place a new Metro Bike Share station behind existing bus benches ([Exhibit 8](#)). There is a 1,431 sq. ft. public street easement (OR D6658-568) located on Parcel 1 adjacent to Abbot Kinney Boulevard that would be eliminated as a result of the project. However, the City has indicated that it has no present or future plans to use the easement (which was dedicated by the applicant in the 1980s) for street purposes. The City's approval included a condition requiring the applicant to submit final landscaping plans to ensure that the landscaping adheres to the Venice Boulevard Planting Plan, consistent with LUP Policy V.A.5<sup>5</sup>. The requirement for landscaping to adhere to the Venice Boulevard Planting Plan is consistent with the Commission's 2005 finding that adherence to the Venice Boulevard Planting Plan conforms to the visual resources and public access policies of the Coastal Act. Therefore, in this case, the Commission can conclude that the City-approved project is consistent with the public access and visual resource policies of the Coastal Act and is not inconsistent with the past Commission action on a project at the same location.

The second contention raised by Mr. Murez is that the City did not and cannot make the findings that the City-approved project is consistent with the City of Los Angeles Municipal Code or the Coastal Act. Mr. Murez specifically asserts that the City needs to demonstrate that the area to be reverted to acreage has no present or potential future use to the City. In addition, the appellant argues that the City needs to demonstrate how privatizing the property does not impact coastal access to the Coastal Zone or prejudice the ability to prepare an LCP for the Venice segment that is consistent with the Chapter 3 Coastal Act policies.

The City's Municipal Code has not been certified by the Commission and is not a standard of review for determining whether or not an appeal raises a substantial issue. Therefore, with regard to the appellant's contention that the City-approved project is not consistent with the City's Municipal Code, there is no substantial issue.

With regard to the public access policies of the Coastal Act, the applicant has not demonstrated that the proposed development adversely impacts coastal access. In fact, the evidence indicates that the project is consistent with the public access policies of the Coastal Act. The reversion to acreage was approved by the City in order to accurately define the land that is owned by the applicant, as referenced in the deed documents and as agreed upon by the litigation settlement. The City-approved Reversion to Acreage does not impact either the Venice Boulevard or the Abbot Kinney Boulevard rights-of-way, including the sidewalks and the street. In fact, the project clarifies the City's claim to a 33-ft. wide easement (CE 70-44) across Parcel 2 and explicitly allows for public access improvements. This includes the right to widen the existing sidewalk and to develop a new bike share station. The City has indicated that it plans to conduct these improvements at some point in the future. The City has also indicated that it does not intend to use Easement OR D6658-568 adjacent to Abbot Kinney Boulevard for street improvements now or in the future. Therefore, the

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<sup>5</sup> Although specific "beautification plans" are not listed within the certified LUP, in its previous denial of a proposed vacation and landscaping project on the project site in 2005, the Commission identified the Venice Boulevard Planting Plan as being consistent with the coastal access and visual resource policies of the Coastal Act, as well as the beautification program listed in certified LUP Policy V.A.5.

City-approved project would improve pedestrian coastal access along Venice Boulevard (identified as a local major coastal access route), and maintain the current access along Abbot Kinney Boulevard. Also, the City conditioned approval of the project on the submittal of final landscaping plans that adhere to the Venice Boulevard Planting Plan, consistent with LUP Policy V.A.5. As the Commission determined in 2005, adherence to the Venice Boulevard Planting Plan constitutes consistency with the public access and visual resource policies of the Coastal Act. Therefore, the City correctly determined that the proposed project is consistent with the Chapter 3 Coastal Act policies, and the appellant's contention does not raise a substantial issue.

The third contention raised by Mr. Murez is that the privatization of the project site would lose the community vision for a "Ceremonial Gateway to Venice," and would further lose the ability to provide future resources to serve the community (i.e. Metro Bike Share). Mr. Murez has not provided additional information to demonstrate how the proposed Reversion to Acreage would result in a loss of the community vision for a "Ceremonial Gateway to Venice." The applicant has indicated that the existing palm trees located within the property lines at the corner of Abbot Kinney Boulevard and Venice Boulevard would remain untouched by the proposed Reversion to Acreage (this is mainly due to the fact that the existing palm trees are located within the area of claimed easement by the City that was agreed upon during the litigation settlement). The palm trees are currently used by local residents to hang banners to advertise community events. The applicant has also indicated that the banners will continue to be allowed to hang from the palm trees located within the property lines if the Reversion to Acreage is approved.

Furthermore, the "Ceremonial Gateway to Venice" was coined by the Coastal Conservancy to promote the beautification of the main coastal access routes. However, this designation is not specifically mentioned in the certified LUP, which constitutes guidance for standard of review on appeal (the Coastal Act Chapter 3 policies). Nevertheless, the proposed project was approved by the City under the condition that all final approved landscaping plans are consistent with the Venice Boulevard Planting Plan, which was written and has been implemented to achieve "street beautification" along Venice Boulevard. As mentioned earlier, the Commission found in its previous denials on the site that the Venice Boulevard Planting plan adhered to the Coastal Act's visual resource protection policies. It follows, then, that adherence to the Venice Boulevard Planting Plan constitutes consistency with the visual resource policies found in Chapter 3 of the Coastal Act. In any case, the appellant's contention does not raise a substantial issue.

Mr. Murez asserts that the proposed Reversion to Acreage would result in an inability to provide future resources to serve the community, but does not detail what those resources might be or provide additional information to substantiate this claim. Therefore, no substantial issue can be found with this assertion.

#### Contentions Submitted by Robert Aronson

In his appeal of the City of Los Angeles local CDP, Robert Aronson first contends that the proposed Reversion to Acreage would forever terminate the vested and unfettered right of the City to provide transportation-related and other public services. The services that Robert Aronson points out in his appeal include: bike path widening; pedestrian safety improvements (i.e. sidewalk widening); installation of communications equipment; installation of landscaping in compliance with existing

landscaping plans and streetscape requirements; and the promotion of Venice community and visitor-serving events.

As discussed earlier, the proposed Reversion to Acreage project allocates a 33-ft. easement across Parcel 2 to the City for street purposes. The easement would enable the City to widen the sidewalk along Venice Boulevard, install a Metro Bike Share station, plant landscaping in accordance with the Venice Boulevard Planting Plan, and other public improvements. The City has also indicated that Easement OR D6658-568 will not be used for street purposes now or in the future, particularly because no other properties along Abbott Kinney are encumbered by similar easements.<sup>6</sup> Thus, the project does not adversely impact any realistic opportunity for the City to provide public services along Abbott-Kinney Boulevard, and it does allow such services and landscaping to be installed along Venice Boulevard. As discussed above, the project is consistent with the public access and visual resource protection policies of Chapter 3 of the Coastal Act. Therefore, the appellant's contention does not raise a substantial issue.

Mr. Aronson's second contention is that the City-approved project will set a precedent for other property owners along Venice Boulevard and Abbot Kinney Boulevard to receive a CDP to terminate the 44 contiguous easements along each of their properties.

The appellant claims that there are 44 public street easements that run through Venice Boulevard and Abbot Kinney Boulevard, but does not provide evidence to substantiate this claim. It is staff's understanding that there are no similar easements along Abbott Kinney Boulevard, at least. As it pertains to the project site, the applicant and the City had to go to court in order to determine which, if any, easements are actually present on the property. If adjoining property owners wish to pursue reversion to acreage projects in the future, they would likely have to endure a similar process to that undertaken by the applicant, and at this point, the outcome of any such case would be speculative. In addition, any reversion to acreage would require a CDP, and would need to be consistent with the Coastal Act's Chapter 3 policies, including public access. Therefore, the appellant's contention does not raise a substantial issue.

The third contention raised by Mr. Aronson is that the proposed project would prevent possible future public transportation and transportation-related uses. As mentioned previously, the proposed Reversion to Acreage project allocates a 33-ft. easement to the City for street purposes, which could allow for future public transportation-related uses. Therefore, the appellant's contention does not raise a substantial issue.

Mr. Aronson also contends that the proposed project is not consistent with Policies I.C.9, I.F.1, V.A.2, V.A.5, II.B.1, and II.C.1 of the Certified Venice Land Use Plan with regard to the use/development of the intersection of Venice Boulevard and Abbot Kinney Boulevard.

The Certified LUP Policies that Mr. Aronson references in his appeal are copied at the top of this section. Policy I.C.9 refers to the designated uses for rights-of-way in the Venice Coastal Zone, and further states that vacations of public rights-of-way are not permitted between the first public road and the sea, Ballona Lagoon, or any canal. The proposed project is not located in any of those areas, nor is it a vacation of public rights-of-way. Furthermore, the undisputed public rights-of way (the

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<sup>6</sup> Refer to the discussion about Easement OR D6656-568 in the Project Description section of the staff report (Page 9).

sidewalk and the street) would not be impacted by the project and would continue to be used by public transportation vehicles, private vehicles, pedestrians, and bicyclists. Thus the appellant's claim that the project is not consistent with Policy I.C.9 of the certified LUP does not raise a substantial issue.

Policy I.F.1 identifies buildings, streets, and trees that have been identified as historic and/or cultural resources by the Venice Historical Society, Venice Community, State Coastal Conservancy, and City of Los Angeles. It should be noted that Abbot Kinney Boulevard between Venice Boulevard and Brooks Avenue is identified in the LUP as cultural/historic resource. However, this particular policy does not contain specific implementation strategies to preserve historic/cultural resources, particular if the resource is a street with no specific structures identified. As mentioned earlier, the Venice Boulevard Planting Program has been identified by the City and by the Commission as a means to maintain a cultural identity and ensure that Venice Boulevard is maintained as an aesthetically pleasing coastal access route. The project, as approved by the City, would maintain consistency with the Venice Boulevard Planting project, and thus maintain the cultural identity of the street, consistent with the stated LUP policy.

LUP Policy II.B.1 states the necessity to maintain existing public transportation facilities and develop new public transportation facilities to facilitate coastal access in Venice. There are currently two bus stops in the project vicinity. The Venice/Abbot Kinney stop is located along Venice Boulevard and serves the 33 and 733 local bus routes. The Abbot Kinney SB & Venice NS stop is located along Abbot Kinney Boulevard and serves the Big Blue Bus Route 18<sup>7</sup>. These bus stops are located on the undisputed public rights-of-way (i.e. the sidewalks) beyond the property lines of the privately held property, and would therefore not be impacted by the proposed Reversion to Acreage. Should the City decide to add more bus routes, it could do so within its own right-of-way. Also, as stated earlier, the project includes full recognition of a 33-ft. easement held by the City that can be used to establish a new bike share station. The appellant claims that the proposed Reversion to Acreage would result in the City "relinquishing" its right to install a bike share station and would instead locate it to a substandard location behind the existing bus stop on Venice Boulevard. Again, there is no evidence that the City is "relinquishing" any right to build a bike share station. Also, there are no finalized plans for a bike station at this time; therefore, there is no evidence that the proposed location for a future bike share station would impede pedestrian access across the sidewalk. Overall, the City-approved project is consistent with this LUP policy.

LUP Policy II.C.1 states that pedestrian access and bicycle trails shall be developed, protected, and maintained. Further, a network of pedestrian and bicycle routes shall be developed, enhanced, and maintained to provide linkages between neighborhoods, visitor-serving commercial areas, coastal recreational areas, transit routes, and parking areas. As stated earlier, the proposed Reversion to Acreage will have no impact on the existing sidewalks and streets, seeing that these developments are within public rights-of-way that are not disputed. Furthermore, the City would reestablish and maintain a 33-ft. wide easement within the private property (Parcel 2) under the proposed Reversion to Acreage (a result of the settlement agreement between the City and the applicant). The City may use the easement area to widen the pedestrian sidewalk, place a new bike share station, or put in a portion of a bike trail. At this time, the City has expressed interest in widening the pedestrian

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<sup>7</sup> This Big Blue Bus route is a regional route that spans from UCLA to Marina Del Rey. The route runs through Brentwood, Santa Monica and Venice as well.

sidewalk and placing a Metro Bike Share station within the 33-ft. wide easement. There is nothing to indicate that the project is inconsistent with the stated LUP Policy.

Policy V.A.2 states that streets and highways shall be designed and improved to adequately accommodate development and to enhance public access to the shoreline. Abbot Kinney Boulevard and Venice Boulevard are both developed streets that are abutted on both sides with development. The City has indicated that it has no future plans to widen either of the streets. However, if the City were to change its mind, the 33-ft. wide easement area (Easement 70-44) would enable the City to expand Venice Boulevard. In any case, the proposed Reversion to Acreage project would not impact either Venice Boulevard or Abbot Kinney Boulevard. Therefore, the project is consistent with the stated LUP policy.

Policy V.A.5 states that streetscape improvements shall be maintained throughout the Venice Coastal Zone to maintain and enhance the visual image along coastal access routes. The policy also targets certain streets including both Abbot Kinney Boulevard and Venice Boulevard, for “boulevard beautification programs” within a future Implementation Plan. The policy lists several general criteria that should be included in a beautification program, although specific plans are not listed within the certified LUP. In its previous denial of a proposed vacation and landscaping project on the project site in 2005, the Commission identified the Venice Boulevard Planting Plan as being consistent with the coastal access and visual resource policies of the Coastal Act, as well as the beautification program listed in certified LUP Policy V.A.5. As mentioned several times throughout this report, the proposed project includes landscaping that is consistent with the Venice Boulevard Landscaping Plan. Furthermore, the City conditioned approval of the project on submittal of final landscaping plans to ensure consistency with the Venice Boulevard Planting Plan. Therefore, the project, as approved by the City, is consistent with the stated LUP policy.

Mr. Aronson’s final contention is that the City-approved project is not consistent with the Coastal Act. The appellant fails to mention specific Chapter 3 Coastal Act policies with which the project is inconsistent. Furthermore, the analysis above demonstrates that the City-approved project is consistent with the public access and visual resource policies of the Coastal Act. The project also does not raise any issues with regard to coastal hazards and development policies found within Chapter 3 of the Coastal Act. Because the appellant has failed to demonstrate inconsistency with Chapter 3 Coastal Act policies, the appellant’s contention does not raise a substantial issue.

Mr. Aronson has not demonstrated how the City-approved project is inconsistent with the Chapter 3 policies of the Coastal Act or with the certified LUP. Therefore, the appellant’s contentions do not raise a substantial issue.

#### **NO SUBSTANTIAL ISSUE – Five Factors**

Applying the five factors listed in the prior section clarifies that the appeals do not raise “a substantial issue” with respect to Chapter 3 of the Coastal Act, and therefore, do not meet the substantiality standard of Section 30625(b)(1), because the nature of the proposed projects and the local government actions are consistent with policies of Chapter 3 of the Coastal Act.

The first factor is the degree of factual and legal support for the local government’s decision that the development is consistent with the relevant provisions of the Coastal Act. The City provided

adequate factual and legal support in its determination to approve the Local CDP. The proposed Reversion to Acreage project is part of a settlement agreement reached between the City and the applicant after years of litigation over the validity of four public easements that the City claimed ran through the private property, three of which the court found to be invalid, and it did not rule on the validity of the fourth. In its decision to grant a CDP for the Reversion to Acreage, the City correctly applied the LUP policies with regard to the use and development of Venice Boulevard. The City also correctly determined the project to be consistent with the visual resource and public access policies of the Coastal Act. The City's requirement to have proposed landscaping be consistent with the Venice Boulevard Planting Program is consistent with the Commission's 2005 finding that the Venice Boulevard Planting Program would constitute consistency with the visual resource and public access policies of the Coastal Act. The City detailed its CEQA process, which ultimately resulted in a mitigated negative declaration for the project. Overall, the City provided a narrative that led to the approval of the local CDP and included a thorough analysis of the relevant provisions of the Coastal Act. Therefore, this factor supports a finding of no substantial issue.

The second factor is the extent and scope of the development as approved or denied by the local government. The proposed development includes a Reversion to Acreage of a 3,702 sq. ft. privately-owned parcel (Parcel 2, owned by the applicant) and a 1,431 sq. ft. City easement area to an adjacent privately-owned area (Parcel 1, which is also owned by the applicant), as well as some minor landscaping within Parcel 2. The project will not involve any expansion of the existing building or surface parking lot on Parcel 1, nor will it add any new permanent structures. The purpose of the project is to clearly delineate the extent of privately held development, but also clearly identifies the City's disputed 33-ft. wide easement adjacent to Venice Boulevard. The City indicated that it will not use the street easement area along Abbot Kinney Boulevard (which was dedicated in the 1980s by the Parcel 1 owner at the time under a City requirement) now or in the future. Therefore, the easement area will be returned to the private property as a result of the Reversion to Acreage. The project affects a major intersection within the Venice coastal zone, but there is very little physical development associated with the CDP, and the changes to the easements are not significant under the specific circumstances presented here. Therefore, this factor supports a finding of no substantial issue.

The third factor is the significance of the coastal resources affected by the decision. The project is located in an urbanized commercially developed area more than one half mile inland from the beach. Coastal resources in this area relate to public access, visual resources, historical resources, and community character. The City-approved project includes landscaping consistent with the Venice Boulevard Planting Program, which in turn protects visual resources and public access in the area. There are no historical resources impacted by this project, and it will not adversely impact community character. Furthermore, the public sidewalks and the streets will not be impacted by the project. Therefore, this factor supports a finding of no substantial issue.

The fourth factor is the precedential value of the local government's decision for future interpretations of its LCP. The Venice segment of the City of Los Angeles has a certified LUP, but an LCP has not been completed at this time. Therefore, development projects should not only be consistent with the Chapter 3 Coastal Act policies, but also must not prejudice the ability of the City to develop an LCP that is consistent with the Chapter 3 policies. The City-approved project is consistent with the visual resource and public access policies of the Coastal Act. Furthermore, the developments are consistent with the relevant policies of the certified LUP. Although the LUP is

not the standard of review in this appeal, it may be used as guidance in determining consistency with the Chapter 3 policies. In this case, the development is consistent with both the LUP and the Chapter 3 policies. This factor supports a finding of no substantial issue.

The final factor is whether the appeal raises local issues, or those of regional or statewide significance. The project involves a reversion to acreage of a 3,702 sq. ft. parcel and a 1,431 sq. ft. easement area, as well as a delineation of a 33-ft. wide City easement across that parcel. The appeal was brought to the Commission under the contention that the Reversion to Acreage would eliminate public easements. The City originally claimed four easements across Parcel 2. A court invalidated three of these, and this CDP would affirmatively establish the location of the fourth easement, which is currently contested. Thus, this fourth easement would no longer be contested and would remain under the City's control for street improvements, including public access improvements. Although the City would be relinquishing an easement on Parcel 1, this easement does not connect to other easements on adjacent properties, and the City has adequately supported its claim that it has no intention of using this easement to establish a dedicated right turn lane, which was the intent of the easement when it was required. The issues raised by these appeals relate to specific, local issues, at one intersection in Venice and do not raise issues of statewide significance. This factor, therefore, also weighs in favor of a finding of no substantial issue.

### **Conclusion**

In conclusion, for the reasons stated above, staff recommends that the Commission find that no substantial issue exists with respect to whether the local government action conforms to the Chapter 3 Coastal Act policies.