

Documentation in support of the proposed VNC Standing Rules for LUPC – Exhibits are attached for those who are interested in the details for reference only and as supporting documentation:

- Existing VNC Standing Rule 3 for LUPC appears to have been put in place in 2009. It doesn't reflect the way the City's Coastal Development Permit (CDP) process currently works and should have been corrected many years ago. It is inaccurate, as explained below, and therefore needs to be amended in order to be effective. (Exhibit A)
- Existing VNC Standing Rule 3 is in error because approval by the City of a project under the Venice Coastal Zone Specific Plan (VCZSP) development standards does not mean that a project is de minimis or that it is "by right" and there is no need for further review. The City also requires a CDP for coastal development, which has a separate and different set of requirements pursuant to the California Coastal Act. "Development," as defined in Coastal Act section 30106, requires a CDP, which is always a discretionary decision, and is therefore never "by right" or subject to approval using a ministerial checklist such as the VCZSP allows.
- As reflected in Los Angeles Municipal Code (LAMC) section 12.20.2, the standard of review for City CDPs is Chapter 3 of the Coastal Act. The certified Land Use Plan (LUP) development standards and policies, adopted by the City by means of a plan amendment to the Venice Community Plan (VCP), are to be used as guidance in applying Chapter 3 of the Coastal Act when issuing a City CDP. (Exhibits B, C, D and E)
- Nothing included in the proposed LUPC Standing Rule is a "state rule" or has a state-only component. This proposed Standing Rule is based 100% on City regulations, including LAMC 12.20.2, the VCP and the LUP. All of these City regulations must be acknowledged/ followed and the others cannot be ignored by considering only the VCZSP, as with the existing LUPC Standing Rule. (Exhibits B, C, D, and E)
- The details in the VCZSP may generally comply with or be consistent with the LUP, but the LUP differs from the VCZSP mainly because it contains additional policies that serve to maintain, protect and preserve Venice's character as required by Coastal Act sections on Scenic and Visual Qualities and Minimization of Adverse Impacts, including protection of special communities (Venice was designated by the Coastal Commission as a "Special Coastal Community") and minimization of adverse impacts due to geologic instability, flood, etc. (Exhibit F)

- On January 3, 2024, Barry Cassilly emailed the Board and the Rules Committee an Appellate Decision (dated January 2019) in favor of the City, in order to try to make his case that this LUPC Standing Rule proposal is somehow illegal. Not so. In fact, none of the Court's holdings nor its Judgement have any bearing on the proposed LUPC Standing Rule. The "holdings" from the Judgement are that:
 - the VCZSP does have a ministerial process, with no due process protection attached,
 - if anyone questioned the VCZSP it should have been challenged within 90 days of its approval by the City, and
 - no provision of the Coastal Act limits the City's power to abate nuisances and order demolition of unsafe or substandard conditions.

None of this impacts the requirements for issuing a City CDP.

The Judgement admits that "the City uses two different but parallel processes to approve or deny all development projects in the Venice community," the City's VCZSP permitting process and the Coastal Act CDP process [which is reflected in the City's LAMC 12.20.2].

(Exhibits G and H)

What's relevant here is that nothing changed as a result of the above-mentioned litigation.

For those interested, the introduction to the litigation helps frame the issue.
(Exhibit I)

If the City had made the corrections required by the Coastal Commission to certify its Venice Local Coastal Program (LCP), we wouldn't have any of the problems identified in that litigation, because the Coastal requirements would have been completely integrated into City code. Instead, the City took its unfinished, uncertified LIP and fashioned it into the VCZSP, which has no validity and was rejected by the Coastal Commission for purposes of implementing the Coastal Act and processing CDPs. And so, we're stuck with two separate processes implementing two separate legal frameworks, even though they are both administered by the City.

EXHIBIT A

Existing LUPC Standing Rule

5. LUPC Committee

For information regarding LUPC processes, rules and forms, see:
(1) LUPC website: <http://venicenc.org/LUPC>

January 20, 2009
Board Meeting (see attached)

Adopted by Board 090120: Projects which comply with the development standards of the VCZSP or which LUPC determines to be de minimis shall be placed on the board consent calendar without requiring a LUPC hearing or preparation of a LUPC report. The below form letter will be sent to the appropriate entities if the Board agrees with LUPC.

De Minimis Form Letter

Los Angeles City Planning Department
200 North Spring
Los Angeles, CA 90012-2601

Subject: CASE NO. (Insert Here)
Project Address: (Insert Here)
Applicant: (Insert Here)

Madam/Sir...: (Note: this will probably go to the ZA or planning staff person)

Please be advised that the Venice Neighborhood Council's Board of Officers, upon the recommendation of our Land Use and Planning Committee, has consented to take a position of "No Opinion. No Recommendation Without Prejudice" and not send a recommendation for action to Council District 11, Planning Department or any other governmental entity on the referenced planning case. However, we reserve the right to take a position at a later date in the event the project, as initially presented to the hearing authority, is changed without the consent of the affected parties.

Please provide a copy of the decision letter to the Venice Neighborhood Council, Post Office Box 550, Venice, California 90294, or electronically to Board@VeniceNC.org and LUPC@VeniceNC.org.

Thank you for your attention to this matter.

Very truly yours,
Venice Neighborhood Council

Mike Newhouse, President of Venice Neighborhood Council

Cc: Applicant
Applicant's Representative
CD11, Councilmember Bill Rosendahl
Secretary@VeniceNC.org
Chair-LUPC@VeniceNC.org VNC Land Use and Planning Committee

A. [Placeholder]

2009

January

3rd Tuesday

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Proposed LUPC Standing Rule

Changes to Standing Rules re. LUPC

The purpose of the proposed changes is three-fold: 1) to clarify the standard of review for proposed developments within Venice, 2) to clarify steps LUPC should follow in the project review process, and 3) to establish timelines for the speedy review and processing of projects.

Motion:

Standing Rules, pages 3-4, strike the existing Section 3 LUPC Committee and replace with:

LUPC Committee:

I. LUPC Agendas

The Agenda shall be prepared by the Land Use & Planning Committee (LUPC) Chair or other LUPC member assigned by the committee and shall include an agenda item to decide the disposition of all new projects in the bi-weekly Certified Neighborhood Council (CNC) City Planning Early Notification Reports since the last LUPC meeting.

II. Review of Projects

Initiating Review. The LUPC is responsible for reviewing applications for new projects listed in the CNC City Planning Early Notification Reports since the last LUPC meeting.

LUPC will determine if any projects need additional review and a public LUPC hearing by considering the project's conformance with the VCP (Venice Community Plan), which includes all of Venice, and the LCP (Venice Local Coastal Program Land Use Plan), which includes only the Coastal Zone of Venice. If there is not a consensus of the group on whether to waive the review of a given project or not, further review of the project will be put to a vote of the committee.

Projects Needing No Further Review: Those projects for which additional review is waived will appear on the next VNC Board Agenda under the Agenda Item title "Projects for which VNC Recommendation is Waived, Without Prejudice." The Board can vote to approve the list or approve a modified list and send any one of the projects listed back to LUPC for review and a public hearing.

Projects Needing Further Review: Those projects selected for further review and hearing will be assigned by the Chair during the public meeting to a specific LUPC member who will work with the applicant and the neighbors to prepare a written LUPC Staff Report. If there is opposition to the assignment of the LUPC member to a given project, the assignment will be put to a vote of the committee. Within one

month's time, or as soon as practicable, each project assigned shall be reviewed at a LUPC meeting at which a written Staff Report is presented that includes the recommendation, project description, pros and cons, a summary of community input, and any findings.

Projects for which a hearing is being held must contain the following minimum project information on the LUPC and VNC agendas:

Address:

All Case Numbers:

LUPC member assigned:

Applicant/Applicant's Representative:

Email for City Planner assigned:

Detailed Project Description:

Link to City Planning website where application and plans are posted:

Link to LUPC Staff Report

VNC Board Action. Those projects that have been heard at a LUPC meeting will appear on the next VNC Board agenda under the Agenda Item title "Projects for which LUPC Recommends Board Action." The Board can vote to accept the recommended action, reject the recommended action, or return it to LUPC for further review.

The results of the VNC Board LUPC agenda items shall be sent by the VNC Board Secretary within 72 hours of the meeting to the current City Planning Supervisor for Venice projects and the City Planner(s) assigned, with copies to the LUPC Chair and the VNC President.

EXHIBIT B

appeal, the appellant must file an appeal, together with the appropriate fee imposed by ordinance, at the Department's public counters.

LAMC

SEC. 12.20.2. COASTAL DEVELOPMENT PERMITS (PRIOR TO CERTIFICATION OF THE LOCAL COASTAL PROGRAM.)

(Title Amended by Ord. No. 160,524, Eff. 12/27/85; Sec. Added by Ord. No. 151,603,* Eff. 11/25/78.)

A. Purpose. It is the purpose of this section to provide for the approval or denial of Coastal Development Permits in accordance with Section 30600(b) of the California Public Resources Code. In adopting the California Coastal Act of 1976 the State Legislature finds and declares:

“(a) That the California Coastal Zone is a distinct and valuable natural resource of vital and enduring interest to all the people and exists as a delicately balanced ecosystem.

“(b) That the permanent protection of the state's natural and scenic resources is a paramount concern to present and future residents of the state and nation.

“(c) That to promote the public safety, health, and welfare, and to protect public and private property, wildlife, marine fisheries, and other ocean resources, and the natural environment, it is necessary to protect the ecological balance of the coastal zone and to prevent its deterioration and destruction.”

B. Definitions. For the purpose of this section the following words and phrases are defined:

“**Aggrieved Person**” means any person who, in person or through a representative, appeared at a hearing on the application for a Coastal Development Permit, or appeal hearing in connection with the decision or action appealed, or who, by other appropriate means prior to a hearing, informed the permit issuing authority, or appeal body of the nature of his or her concerns or who for good cause was unable to do either. “Aggrieved person” includes the applicant for a Coastal Development Permit.

“**Coastal Zone**” shall mean that land and water area within the City of Los Angeles as specified on maps prepared by the California Coastal Commission, copies of which are on file with the Department of City Planning and the Office of City Engineer. Such “coastal zone” extends seaward to the City's outer limit of jurisdiction, and generally extends inland 1000 yards from the mean high tide line of the sea. In significant coastal estuarine, habitat and recreational areas it extends inland to the first major ridgeline paralleling the sea or five miles from the mean high tide line of the sea, whichever is less, and in developed urban areas the zone extends inland 1000 yards.

“**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 the use of land, including, but not limited to, subdivisions pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land,

including parcel maps and private street divisions, except where any 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 of the California Public Resources Code).

As used in this definition, "structure" includes, but is not limited to, any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line.

"**Feasible**" shall mean capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social and technological factors.

"**Local Coastal Program**" (LCP) shall mean the City's land use plans and other applicable general plan elements, zoning ordinances, zoning district maps, and proposed implementing actions, which when taken together, meet the requirements of, and implement the provisions and policies of, the California Coastal Act of 1976.

"**Permit**" means any license, certificate, approval, or other entitlement for use granted, conditionally granted, or denied by any public agency which is subject to the provisions of this section.

"**Public Project**" shall mean any development initiated by the Department of Public Works or any of its bureaus, any development initiated by any other department or agency of the City of Los Angeles, and any development initiated or to be carried out by any other governmental agency which is required to obtain a local government permit. Public Project shall not include any development by any department or agency of the City of Los Angeles or any other governmental entity which otherwise requires action by or approval of the City Planning Commission, Area Planning Commission or the Office of Zoning Administration, or any development by any department or agency of the City of Los Angeles or any other government entity for which a permit from the Department of Building and Safety is required. Public Project shall also not include any development on tidelands, submerged lands, or on public trust lands, whether filled or unfilled. (**Definition Amended by Ord. No. 173,268, Eff. 7/1/00, Oper. 7/1/00.**)

"**Sea**" shall mean the Pacific Ocean and all harbors, bays, channels, canals, estuaries, salt marshes, sloughs and other areas subject to tidal action through any connection with the Pacific Ocean, excluding nonestuarine rivers, streams, tributaries, creeks, and flood control and drainage channels.

C. Use. No Development shall be undertaken in the Coastal Zone unless and until an application for such Development has been submitted to the City for a Coastal Development Permit and such Permit has been obtained from the appropriate City Department in conformance with the provisions of this section and has become final. Where the particular coastal project requires a coastal development permit from the Commission in addition to the one obtained from the City, no development may be commenced until both such permits have been obtained, and both have become final.

1. **EXCEPTION.** The provisions of this section shall not apply to developments which do not need locally issued coastal development permits under the Coastal Act of 1976 or the California Coastal Commission Regulations, Division 5.5 Title 14 of the California Administrative Code. A current copy of these regulations is on file with the Department of City Planning and the Office of City Engineer. This exception shall not relieve any person from obtaining from the proper authority a Coastal Development Permit for a Development within the Coastal Zone where such permit is required but can only be issued by the California Coastal Commission, the Regional Commission or the Executive Director. The provisions of this section shall also not apply to any development on tidelands, submerged lands, or on public trust lands, whether filled or unfilled; any development by a public agency for which a local government permit is not otherwise required; any emergency repair authorized by Section 30611 of the Public Resources Code; any permits authorized to be issued by the Executive Director of the California Coastal Commission or the Executive Director of the Regional Commission pursuant to Section 30624 of the Public Resources Code; and any other permits over which the City is not authorized to exercise the option provided for in subdivision (b) of Section 30600 of the Public Resources Code.

D. Initiation. Proceedings for a Permit shall be initiated by the filing of a verified application upon a form or forms prescribed for that purpose. An application for a Coastal Development Permit for a public project, or for a private project where the approval for the underlying permit is within the jurisdiction of the City Engineer shall be filed in the public office of the City Engineer. All other applications for Coastal Development Permits shall be filed in a public office of the Department of City Planning.

All applications filed with the City Engineer and the Department of City Planning shall be accompanied by the following data:

1. An adequate description of the project including, but not limited to maps, plans, photographs, drawings, etc., of the proposed development, project site and vicinity sufficient to determine whether the project complies with all relevant policies of the California Coastal Act of 1976. Each application shall contain sufficient information concerning land and water areas in the vicinity of the site of the proposed project, (whether or not owned or controlled by the applicant) so that the permit issuing authority will be adequately informed as to present uses and plans, both public and private. insofar as they can reasonably be ascertained for the vicinity surrounding the project site. The description of the development shall also include any feasible alternatives or any feasible mitigation measures available which would substantially lessen any significant adverse impact which the development may have on the environment. For purposes of this section the term "significant adverse impact on the environment" shall be defined as in the California Environmental Quality Act and the State and City Guidelines adopted pursuant thereto.

2. A description and documentation of the applicant's legal interest in the property on which the Development is to be located if the application were approved (e.g., ownership, leasehold, enforceable option, authority to acquire the specific property by eminent domain.)

3. A dated signature by or on behalf of each of the applicants, attesting to the truth, completeness, and accuracy of the contents of the application and, if the signer of the application is not the applicant, written evidence that the signer is authorized to act as the applicant's representative and to bind the applicant in all matters concerning the application.

4. A statement of the status of the environmental documentation for the project and a copy of the required environmental documentation.

5. Any additional information as may be required by the permit granting authority.

E. Notice – Posting. At the time the application is submitted for filing, the applicant must post, at a conspicuous place, easily read by the public and as close as possible to the site of the proposed development a notice that an application has been made for a Coastal Development Permit. Such notice shall contain specific information as to the nature of the proposed development and be in a form as prescribed for that purpose.

Notice – Mailing. The applicant shall furnish to the City, accompanying the application, a list containing the name and address of each property owner of record and the addresses of all residences, including apartments within one hundred feet from each boundary of the site of the proposed development. Where the hearing on the Coastal Development Permit is to be combined with a public hearing otherwise required by this Code for the proposed development, and the provisions of this Code require notification to persons beyond one hundred feet of the site of the proposed development, no separate list shall be required, and all persons notified of the hearing for the proposed development shall also be notified that the hearing shall include the application for a Coastal Development Permit. Notice of such hearing shall also be sent to an occupant of all residences, including apartments within 100 feet of the boundary of the proposed development, all persons known, or thought to have a particular interest in the application, and all other persons requesting notice.

F. Proceedings and Hearing.

1. **Time Limit – Hearing – Notice.** To the extent possible, any Permit application for a Development within the Coastal Zone shall be processed in accordance with established policies and procedures of a permit granting authority in conformance with the provisions of this Code. For those projects for which no hearing would otherwise be required by law, the appropriate City agency shall notify by mail, at least ten (10) days prior to the hearing, the following:

(a) those persons whose names appear on the list of property owners within 100 feet of the boundary of the site of the proposed development;

(b) an occupant of all residences, including apartments, within 100 feet of the boundary of the site of the proposed development. This requirement can be met by mailing such notice to “occupant” of the subject residence.

(c) those persons known or thought to have a particular interest in the application and

(d) all other persons requesting notice.

At the public hearing, all interested persons shall be afforded a reasonable opportunity to testify and present evidence.

G. Determination.

1. **Authority** – A permit granting authority shall have the authority to approve, conditionally approve or disapprove any application for a Permit under the provisions of the California Coastal Act of 1976; and, standards as established by Division 5.5 Title 14 of the California Administrative Code. In making its determination under the provisions of this section, the permit granting authority shall not approve, or conditionally approve a permit unless it makes written findings, including specific factual findings, supporting the following conclusions:

* (a) That the development is in conformity with Chapter 3 of the California Coastal Act of 1976 (commencing with Section 30200 of the California Public Resources Code).

* (b) That 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 California Coastal Act of 1976.

(c) That the Interpretative Guidelines for Coastal Planning and Permits as established by the California Coastal Commission dated February 11, 1977 and any subsequent amendments thereto have been reviewed, analyzed, and considered in the light of the individual project in making its determination.

(d) That the decision of the permit granting authority has been guided by any applicable decision of the California Coastal Commission pursuant to Section 30625(c) of the Public Resources Code.

(e) If the development is located between the nearest public road and the sea or shoreline of any body of water located within the coastal zone, that the development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act of 1976.

(f) Any other finding or findings as may be required for the development by the California Environmental Quality Act.

2. **Conditions of Approval** – In approving an application for a permit under the provisions of this section, the city shall impose such reasonable terms and conditions as it deems necessary to assure a development that is in accordance with the provisions of the California Coastal Act of 1976 and those other criteria set forth in the preceding paragraph.

3. **Notification** – A copy of the permit granting authority's action approving, conditionally approving or disapproving any application for a Coastal Development Permit, along with any findings made and conditions imposed in connection therewith, shall be mailed to the applicant and to any person or persons who, in writing, request a copy of such action.

H. Appeals. Appeals from the approval, conditional approval, or disapproval of a permit under the provisions of this section, may be taken by the applicant or any aggrieved person as follows:

1. Where a Coastal Development Permit hearing has been combined with the hearing on the project itself, an appeal may be taken to the appellate body that would hear and decide the appeal from the underlying project. If the appeal from any underlying project is further appealable to a

second appellate body, the Coastal Development Permit is likewise further appealable. The time within which to appeal shall be the same as that provided for an appeal of the project itself, but the decision of the permit granting authority on the coastal permit may be separately appealed, without appealing the action on the underlying project. The times for notification of hearing and action on such appeal shall be the same as for the underlying project, whether or not such underlying project is also appealed.

2. Where a Coastal Development Permit application is for a public project, the action of the City Engineer may be appealed to the Board of Public Works. Such appeal shall be filed with the Office of the City Engineer within ten days of the mailing of the decision of the permit granting authority.

3. Where a coastal development permit (other than for a Public Project) involves an underlying activity which is not otherwise appealable, the action of a permit-granting authority on an application may be appealed to the Area Planning Commission. That appeal shall be filed with the Area Planning Commission within ten days of the mailing of the decision of the permit-granting authority. **(Amended by Ord. No. 173,268, Eff. 7/1/00, Oper. 7/1/00.)**

4. Any appeal filed with either the City Engineer or the Area Planning Commission shall be heard and decided within 30 days of the filing of the appeal. Notice shall be mailed to the required parties at least ten days prior to the hearing. **(Amended by Ord. No. 173,268, Eff. 7/1/00, Oper. 7/1/00.)**

Action on any appeal shall be in writing, and if the appeal is granted, in whole or in part, such decision shall set forth wherein the permit granting authority, or the lower appeal body erred in its action on the permit under the criteria set forth in Section 12.20.2G.1.(a) through (e). If the action of any appeal body is further appealable within the City of Los Angeles' appeal structure, notice of such intermediate appeal body's action approving, conditionally approving or disapproving any appeal of a Coastal Development Permit along with any findings made and conditions imposed in connection therewith, shall be mailed to the applicant, the appellant, and to any person or persons who, in writing, request a copy of such action.

I. Notification. After the decision of the last appeal body, or the time within which any appeal can be taken has expired, the permit granting authority, or any appeal body whose action became final on the permit, shall transmit a copy, by mail, with return receipt requested, of the notice of permit issuance or permit denial to the Executive Director of the Regional Coastal Commission. Such notice shall include the requisite findings, a project description and a verbatim copy of any conditions attached to the permit, all as required by Section 13302(g) of the California Coastal Commission Regulations. Notice shall also be mailed to the applicant, the appellant, and any persons who, in writing, requested such notice.

The decision of the permit granting authority, or any appeal body to approve issuance of a permit shall not be deemed to be final and no Coastal Development Permit may be issued until 20 working days have expired from the date said notice of permit issuance is deemed received by said Executive Director and without an appeal having been taken to the South Coast Regional Commission.

If a timely, valid appeal is taken to the Regional Commission, the operation and effect of the Coastal Development Permit is stayed pending final action on the appeal by the Regional Commission or the Commission, and the City shall within five working days of the receipt of such notice, deliver to the Executive Director copies of all relevant documents and materials used by the City in its consideration of the permit application.

If no appeal is taken within 20 working days of the date of the notice of the City's decision to issue a permit is deemed received by the Executive Director, the applicant may commence utilization of the permit. If no timely appeal is taken from the City's decision to deny a permit, such decision is final.

Neither an applicant nor any other aggrieved party may appeal the approval, conditional approval, or disapproval of any permit to the Regional Commission unless and until all of the City's appeal procedures for such permit have been taken, and a decision thereon has been made.

J. Revocation. Any permit application filed or approved under the provisions of this section or Code may be immediately terminated or revoked by the permit granting authority upon a finding that one or more of the following grounds exist:

1. That inaccurate, erroneous or incomplete information was filed or presented in conjunction with said Permit application.
2. That names and addresses of all property owners as shown on the records of the City Engineer or of the County Assessor, were not provided within the required radius of the involved property in conformity with the requirements of this section and Code. **(Amended by Ord. No. 181,595, Eff. 4/10/11.)**
3. That the addresses of all residential occupancies within one hundred feet of each boundary of the site of the proposed development were not provided.
4. That the applicant failed to post and maintain the required notice at the project site in accordance with Subsection E of this section.

K. Exception. Notwithstanding any other provisions of this section or Code, an applicant may file an application for a Permit at any point of the project approval process relating to his or her Development. However, upon initiation of the project approval process by the applicant, said applicant shall sign and notarize a form prescribed for this purpose which shall contain the following:

1. A statement advising the applicant that no permits or permission for a Development in the Coastal Zone shall be issued unless and until a Permit has been approved in accordance with the provisions of this section.
2. A statement relieving the City of any legal or other responsibility in the event that failure to apply for a Permit results in, or contributes to, a violation of Section 65950, 65951 or 65952 of the California Government Code.

L. Violations. Any violation of the provisions of this section and Code relating to the processing of permits shall be subject to enforcement and penalties of Chapter 9 of the California Coastal Act of 1976 and subsequent amendments thereto.

M. Charges For Notification. No person requesting notification of any application, hearing or decision by any permit granting authority or any notification of hearing or decision on any appeal therefrom shall be required to bear the cost of any such notification.

N. Extensions of Permits. (Added by Ord. No. 171,424 Eff. 1/4/97.) Prior to the expiration of a Coastal Development Permit, an applicant may apply to the initial approving authority of the original permit for an extension of the permit for a period of one year. This request shall automatically extend the expiration date of the permit until the approving authority has acted upon the request and the approving authority's action becomes effective. However, if construction has not commenced at the time the application for extension is made, construction may not commence during the period of the automatic extension until the approving authority has acted upon the request and it becomes effective. The application shall state the reasons for the request and shall be accompanied by evidence of a valid, unexpired permit and of the applicant's continued legal ownership interest in the property. The applicant shall also furnish to the City the information required in Subsection E. of this section.

The approving authority, in considering the request for extension, shall determine whether there are changed circumstances that may affect the consistency of the project with the findings required under Subsection G. of this section.

If the approving authority determines that there are no changed circumstances that may affect the consistency of the project with the findings required under Subsection G. of this section, notice of the determination, including a summary of the procedures set forth in this subsection, shall be posted on the subject property by the applicant and shall be mailed, by first class mail by the appropriate City agency, to all persons who testified at any public hearing on the original permit and left their names and addresses, or submitted written testimony or to any other persons requesting notice.

If no written objection to the determination is received within 10 working days of the posting and mailing, the extension shall be approved.

If the approving authority determines that, due to changed circumstances, the proposed development is no longer consistent with the findings required in Subsection G. of this section, or if objection is made to the determination of consistency, the approving authority shall set the matter for public hearing and give notice in accordance with the provisions of Subsection F. of this section. In addition, the approving authority shall notify any persons who objected to the approving authority's determination of consistency.

The approving authority shall make a determination based on the facts presented at the public hearing. If the proposed development is determined to be consistent with the findings required in Subsection G. of this section, the extension shall be approved. If the proposed development is determined to be inconsistent with these requirements, the extension shall be denied.

Notice of any action taken by the approving authority on an application for an extension of a permit shall be provided as set forth in Subdivision 3. of Subsection G. of this section.

Any action taken by the approving authority on an application for an extension of a permit is appealable to the first City appellate body referenced in Subsection H. of this section in the same manner as an appeal of the original permit as set forth in Subsection H.

The notification procedures and the procedures applicable to appeals to the Coastal Commission set forth in Subsection I. of this section are applicable to applications for extensions of permits.

O. Amendments To Permits. (Added by Ord. No. 171,424 Eff. 1/4/97.)

1. The holder of a Coastal Development Permit may apply to amend the permit by filing a written application with the initial approving authority who approved the original permit. The application shall contain a description of the proposed amendment, the reason for the amendment, together with maps, plans or any other information as may be required by the approving authority, and shall be accompanied by evidence of a valid, unexpired permit and of the applicant's continued legal ownership interest in the property. The applicant shall also furnish to the City the information required in Subsection E. of this section. If the application is deemed complete and accepted, the approving authority shall determine if the requested amendment constitutes an immaterial or material change to the permit.

2. For applications representing immaterial changes, the approving authority shall prepare a written notice containing the same information required for the notice of the original application for a Coastal Development Permit, a description of the proposed amendment and a summary of the procedures outlined in this subsection. The notice shall be posted on the subject property by the applicant and shall also be mailed, by first class mail by the appropriate City agency, to all persons who testified at any public hearing on the original permit and left their names and addresses, or submitted written testimony or to any other persons who requested to be notified. If no written objection is received by the approving authority within 10 working days of the posting and mailing, the approving authority shall approve the amendment provided the following findings are made:

(a) that the proposed amendment will not lessen or avoid the intended effect of the original permit, as approved or conditioned consistent with the findings required in Subsection G. of this section, unless the proposed amendment is necessitated by a change in circumstances, and the applicant has presented newly discovered material which he or she could not, with reasonable diligence, have discovered and produced before the original permit was granted; and

(b) that the proposed amendment will not lessen or eliminate any conditions imposed for the purpose of protecting a coastal resource or coastal access consistent with the findings required by Subsection G. of this section; and

(c) that all of the findings required by Subsection G. of this section can still be made; and

(d) that the proposed amendment will not result in any increase in the density or intensity of the project; and

(e) that the proposed amendment will not cause any adverse impact on surrounding properties.

3. For applications representing material changes, applications whose immateriality has been challenged or applications for amendments which affect coastal resource or coastal access protection as required by California Public Resources Code Section 30604, the approving authority shall set the matter for public hearing and shall give notice in accordance with the provisions of Subsection F. of this section. The approving authority shall also notify all persons who objected to the approving authority's determination of immateriality. If the approving authority can make the findings contained

in Subdivision 2. of this subsection, it shall approve the application for amendment to the permit. If the approving authority cannot make the findings referenced above, the application for amendment shall be denied.

4. Notice of any action taken by the approving authority on an application for an amendment to a permit shall be provided as set forth in Subdivision 3. of Subsection G. of this section.

5. Any action taken by the approving authority on an application for an amendment to a permit is appealable in the same manner as an appeal on the original permit as set forth in the Subsection H. of this section.

6. The notification procedures and the procedures applicable to appeals to the Coastal Commission set forth in Subsection I. of this section are applicable to applications for amendments to permits.

EXHIBIT C

From: Ira Brown <ira.brown@lacity.org>

Subject: **Re: Venice--standard of review for pre-LCP CDPs**

Date: January 12, 2024 at 11:55:20 AM PST

To: Robin Rudisill <wildrudi@icloud.com>

Cc: Juliet Oh <juliet.oh@lacity.org>, Steve Hudson <Steve.Hudson@coastal.ca.gov>

Hello Robin

See my response below:

On Fri, Jan 12, 2024 at 11:29AM Robin Rudisill <wildrudi@icloud.com> wrote:

Hi Ira,

I just got a note that Juliet is out of town for several days. Is it possible for you to check this and let me know today?

I'm copying Steve Hudson here. He has reviewed it and the below reflects his slight adjustments (except he wasn't sure about #4 and suggested I ask City Planning).

But I want to be sure this is your understanding as well. Thank you!

*For the Love of Los Angeles
and our precious Coast,
Robin Rudisill
(310) 721-2343*

Begin forwarded message:

From: Robin Rudisill <wildrudi@icloud.com>

Hi Juliet,

Can you please confirm that what I'm saying here is accurate as I need to submit it to the Neighborhood Council as background for a presentation I'm doing.

If there is a chance you could get back to me on this today, I would really appreciate it.

★ When a City Coastal Development Permit (CDP) for a Venice Coastal Zone project is required:

1. LAMC 12.20.2.G. requires findings (among others) that:
 - a. the development is in conformity with Chapter 3 of the Coastal Act,
 - b. The development will not prejudice the ability of the City to prepare a Local Coastal Program (LCP) that is in conformity with Chapter 3 of the Coastal Act.

Yes

2. The City- and Coastal Commission-certified Venice Land Use Plan development standards and policies are to be used as guidance in applying Chapter 3 of the Coastal Act when issuing a City CDP.

In general, yes. I would emphasize that the LUP is a policy document (guidance), where the LIP provides development standards.

3. The Venice Coastal Zone Specific Plan was not certified by the Coastal Commission as guidance to determine conformance with Chapter 3 of the Coastal Act and is not the standard of review nor guidance for a City or State CDP.

In general, yes

4. The Venice Coastal Zone Specific Plan was prepared to be a post-LCP document, i.e. part of the LCP (for example, it refers to LAMC 12.20.2.1, the LAMC applicable after the LCP is approved) but was not certified as such by the Coastal Commission.

Yes

5. In order to finalize the LCP the City will need to have a certified Local Implementation Plan (LIP), which would be the zoning ordinance component.

A certified LCP includes a certified LIP and certified LUP.

Please let me know if there's anything else I should add. Thank you.

*For the Love of Los Angeles
and our precious Coast,
Robin Rudisill
(310) 721-2343*

EXHIBIT D

RELATIONSHIP TO OTHER CITY PLANS AND PROCEDURES

Certified
Venice
Land Use
Plan

The most effective means of addressing the largest number of issues identified in the work program is through the development of the Venice LCP and the associated general plan amendments and the adoption of implementing ordinances including a Venice specific plan. Detailed and specific coastal issues can be addressed in the LUP through general plan amendments including policy statements and specific programs. The LIP will contain a specific plan process to address development standards and other implementation tools to implement the policies of the LUP.

The Land Use Plan is adopted by means of a plan amendment to the Venice Community Plan. The specific plan ordinance adopts zoning and development standards which carry the full weight of zoning law. All new development within the boundaries of the specific plan must comply with the ordinance. The specific plan ordinance is an integral part of the Los Angeles Municipal Planning and Zoning Code, and is enforced accordingly.

Wherever the specific plan contains provisions which differ from provisions contained in Chapter I of the Los Angeles Municipal Code, the specific plan shall prevail and supersede the applicable provisions of the Code. In order to be certified by the Coastal Commission, the specific plan must conform to, and be adequate to carry out, the policies and land uses maps of the certified LUP.

After certification of the LCP, permit processing procedures for coastal permits in the Venice Coastal Zone are controlled by the Coastal Act and the California Code of Regulations. The City's permit issuing ordinances must be certified as part of the Local Implementation Plan (LIP). After certification of the Local Coastal Program by the Coastal Commission, the authority of the Coastal Commission is limited to development within the retained, or original jurisdiction (i.e. Submerged lands, public trust lands and tidelands) and to appeals of locally issued coastal development permits. The Coastal Commission will also retain jurisdiction over amendments to coastal development permits that it approved before certification of the LCP. Section 30519(a) of the Coastal Act provides that, except for appeals to the Commission (as provided in Section 30603) after a LCP, or any portion thereof, has been certified and all implementing actions have become effective, the development review authority provided for in Chapter 7 (commencing with Section 30600) of the Coastal Act shall no longer be exercised by the Coastal Commission and shall at that time be delegated to the local government that is implementing the LCP. Section 30519(b) states that 30519(a) does not apply to development proposed or undertaken on any tidelands, submerged lands, or on public trust lands. The Commission also retains jurisdiction over coastal development permits that were previously approved by the Commission as well as amendments to such permits.



All development, land use and coastal-related activities (including but not limited to maintenance and recreational activities) in the Venice Coastal Zone will be required to be consistent with the certified LCP.

EXHIBIT E

VENICE

Local Coastal Program

Land Use Plan

TABLE OF CONTENTS

VENICE COASTAL ZONE MAPS

LAND USE PLAN

- Chapter 1. Introduction
- Chapter 2. Land Use Plan Policies
 - I. Locating and Planning New Development/
Coastal Visual Resources and Special Communities
 - II. Shoreline Access
 - III. Recreation and Visitor-Serving Facilities
 - IV. Water and Marine Resources and Environmentally
Sensitive Habitat Areas
 - V. Public Works

*This certified Land Use
Plan is a part of the
City's General Plan.*

RELATIONSHIP TO OTHER CITY PLANS AND PROCEDURES

The most effective means of addressing the largest number of issues identified in the work program is through the development of the Venice LCP and the associated general plan amendments and the adoption of implementing ordinances including a Venice specific plan. Detailed and specific coastal issues can be addressed in the LUP through general plan amendments including policy statements and specific programs. The LIP will contain a specific plan process to address development standards and other implementation tools to implement the policies of the LUP.



The Land Use Plan is adopted by means of a plan amendment to the Venice Community Plan. The specific plan ordinance adopts zoning and development standards which carry the full weight of zoning law. All new development within the boundaries of the specific plan must comply with the ordinance. The specific plan ordinance is an integral part of the Los Angeles Municipal Planning and Zoning Code, and is enforced accordingly.

Wherever the specific plan contains provisions which differ from provisions contained in Chapter I of the Los Angeles Municipal Code, the specific plan shall prevail and supersede the applicable provisions of the Code. In order to be certified by the Coastal Commission, the specific plan must conform to, and be adequate to carry out, the policies and land uses maps of the certified LUP.

After certification of the LCP, permit processing procedures for coastal permits in the Venice Coastal Zone are controlled by the Coastal Act and the California Code of Regulations. The City's permit issuing ordinances must be certified as part of the Local Implementation Plan (LIP). After certification of the Local Coastal Program by the Coastal Commission, the authority of the Coastal Commission is limited to development within the retained, or original jurisdiction (i.e. Submerged lands, public trust lands and tidelands) and to appeals of locally issued coastal development permits. The Coastal Commission will also retain jurisdiction over amendments to coastal development permits that it approved before certification of the LCP. Section 30519(a) of the Coastal Act provides that, except for appeals to the Commission (as provided in Section 30603) after a LCP, or any portion thereof, has been certified and all implementing actions have become effective, the development review authority provided for in Chapter 7 (commencing with Section 30600) of the Coastal Act shall no longer be exercised by the Coastal Commission and shall at that time be delegated to the local government that is implementing the LCP. Section 30519(b) states that 30519(a) does not apply to development proposed or undertaken on any tidelands, submerged lands, or on public trust lands. The Commission also retains jurisdiction over coastal development permits that were previously approved by the Commission as well as amendments to such permits.



All development, land use and coastal-related activities (including but not limited to maintenance and recreational activities) in the Venice Coastal Zone will be required to be consistent with the certified LCP.

EXHIBIT F

To: CJ Cole
From: Richard Stanger and Robin Rudisill
Subject: Comparison of VCZSP with VLUP

You asked us to prepare a listing of all issues that are consistent between the two plans or are not consistent. Many of the differences are not in conflict so much as they are missing in the Venice Coastal Zone Specific Plan (VCZSP), but included in the Venice Land Use Plan (VLUP). It is not practical to list ALL consistencies, but below are the main ones.

1. Issues That Are Consistent:

The maximum densities, building heights, setbacks, and buffer zones are the same in the VCZSP and the VLUP. This is the main area of consistency.

2. Issues that Are Inconsistent:

a. **Jurisdiction:** The Coastal Act allows a local agency to take over administration of the coastal zone's land use decisions once its Land Use Plan (LUP) and Local Implementation Plan (LIP) are certified by the Coastal Commission. These two planning documents together constitute a Local Coastal Program (LCP). In the Venice Coastal Zone, the full LCP was never certified and does not exist. The VCZSP was written as if it is a post-LCP document but was rejected by the Coastal Commission as such. Until the updated 2001 VLUP and the new Venice Local Implementation Plan (VLIP) are both certified by the Coastal Commission as the Venice LCP, the controlling, State-approved documents representing the standard of review to be used to approve a Coastal Development Permit (CDP) in the Venice Coastal Zone remain Chapter 3 of the Coastal Act and the 2001 VLUP, used to determine conformance with Chapter 3 of the Coastal Act.

b. **Protection Policies:** The VLUP includes a number of protection policies not found in the VCZSP.

First of all, the VCZSP nowhere references the applicable policies of the Coastal Act, such as Sections 30250, 30251, 30253. Nor does it acknowledge Venice's importance as a special coastal community and man-made coastal resource important to all Californians, as does the VLUP and the Coastal Act.

Also, there are a number of neighborhood protection policies the VCZSP does not include, such as:

Policy I.A.2. Preserve Stable Single-Family Residential Neighborhoods.

Ensure that the character and scale of existing single family neighborhoods is maintained and allow for infill development provided that it is compatible with and maintains the density, character and scale of the existing development.

Yard Requirements: In the VLUP each subarea has a section like the one below on yard requirements. The VCZSP has yard requirements only for the lagoon and Venice Canal subareas. It leaves out any yard requirements for all other subareas of Venice.

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

Policy I . A. 5 . Preserve and Protect Stable Multi-Family

Neighborhoods. Preserve and protect stable multi-family residential neighborhoods and allow for growth in areas where there is sufficient public infrastructure and services and the residents' quality of life can be maintained and improved.

Policy I. E. 1. General. Venice's unique social and architectural diversity should be protected as a Special Coastal Community pursuant to Chapter 3 of the California Coastal Act of 1976.

Policy I. E. 2. Scale. New development within the Venice Coastal Zone shall respect the scale and character of community development. Buildings which are of a scale compatible with the community (with respect to bulk, height, buffer and setback) shall be encouraged. All new development and renovations should respect the scale, massing, and landscape of existing residential neighborhoods.

The VCZSP does include two sections with a few policy statements: *Section 3. Purpose.* and *Section 8.C.1. Findings* are two of them. They, however, significantly modify the protection policies of the VLUP. Two are quoted here:

Section 3.F. To regulate all development, including use, height, density, setback, buffer zone and other factors in order that it be compatible in character with the existing community and to provide for the consideration of aesthetics and scenic preservation and enhancement, and to protect environmentally sensitive areas. (Emphases added.)

The language comes close to equating use, height, setback, buffer with compatibility with character. Moreover, "other factors" like mass, scale, and character are ignored throughout the rest of the VCZSP. Its focus remains primarily on use, density and height.

Section 8.C.1. [In approving a project the Approving Authority shall make a Finding ...] That the Venice Coastal Development Project is compatible in scale and character with the existing neighborhood, and that the Venice Coastal Development Project would not be materially detrimental to adjoining lots or the immediate neighborhood; (Emphasis added.)

The addition of "not be materially detrimental" is found nowhere in the VLUP.

In short, the VCZSP can be applied within the Venice Coastal Zone, but not as the prevailing document for approving a CDP because it was never certified by the Coastal Commission. The Coastal Commission remains the agency ultimately responsible for land use decisions in the Venice Coastal Zone, and it uses Chapter 3 of the Coastal Act and the VLUP as the standard of review. Those documents have protection policies in addition to the simple use, density and height measurements/development standards of the VCZSP.

EXHIBIT G

31 Cal.App.5th 42

Court of Appeal, Second District, Division 8, California.

VENICE COALITION TO PRESERVE
UNIQUE COMMUNITY CHARACTER

et al., Plaintiffs and Appellants,

v.

CITY OF LOS ANGELES et al.,

Defendants and Respondents.

B285295

|

Filed 1/9/2019

Synopsis

Background: Objectors brought action against city, alleging city illegally exempted certain development projects from permitting requirements in local land use plan and the Coastal Act. The Superior Court, Los Angeles County, No. BC611549, *Yvette M. Palazuelos*, J., granted summary judgment to city. Objectors appealed.

Holdings: The Court of Appeal, *Stratton*, J., held that:

[1] process by which city's director of planning, pursuant to neighborhood's specific plan under city's general plan, issued sign-off to exempt a small-scale development project in neighborhood from project permit compliance review was a ministerial process to which no due process protection attached;

[2] objectors' challenge to process by which exemptions from permit compliance review were issued was an attack on specific plan and thus subject to 90-day statute of limitations; and

[3] no provision of the Coastal Act limits city's power to abate nuisances and order demolition of unsafe or substandard conditions.

Affirmed.

Procedural Posture(s): On Appeal; Motion for Summary Judgment.

West Headnotes (14)

[1] **Environmental Law** ← Coastal areas, bays, and shorelines

Under the Coastal Act, once the Coastal Commission certifies a local government's program, and all implementing actions become effective, the commission delegates authority over coastal development permits to the local government. *Cal. Pub. Res. Code § 30600 et seq.*

[2] **Constitutional Law** ← Particular issues and applications

Zoning and Planning ← Right to Permission, and Discretion

Process by which city's director of planning, pursuant to neighborhood's specific plan under city's general plan, issued sign-off to exempt a small-scale development project in neighborhood from project permit compliance review was a ministerial process to which no due process protection attached, where director of planning used forms that were essentially checklists for determining whether a proposed project did or did not meet objective measurement criteria to be exempt from compliance review. *U.S. Const. Amend. 14.*

[3] **Constitutional Law** ← Zoning and Land Use
Zoning and Planning ← Legislative, administrative, judicial, or quasi-judicial power

Local governments take three types of actions in land use matters, as would inform what protections are required under due process: legislative, adjudicative, and ministerial. *U.S. Const. Amend. 14.*

[4] **Constitutional Law** ← Local government

Constitutional Law ← Zoning and Land Use

Legislative actions by a local government, as would generally not require due process protections, are actions that involve the

enactment of general laws, standards or policies, such as general plans or zoning ordinances. U.S. Const. Amend. 14.

1 Case that cites this headnote

[5] **Constitutional Law** ← **Zoning and Land Use**

Adjudicative actions by local government, as would generally require procedural due process protections, are actions that involve discretionary decisions that apply laws to specific development project such as zoning permits. U.S. Const. Amend. 14.

1 Case that cites this headnote

[6] **Constitutional Law** ← **Protections Provided and Deprivations Prohibited in General**

Constitutional Law ← **Zoning and Land Use**

Ministerial actions by a local government, as would generally not trigger due process protections, are actions that involve nondiscretionary decisions based only on fixed and objective standards, not subjective judgment; an example is the issuance of a typical, small-scale building permit. U.S. Const. Amend. 14.

[7] **Constitutional Law** ← **Notice and Hearing**

Adjudicative governmental actions that implicate significant or substantial property deprivation generally require the procedural due process protections of reasonable notice and an opportunity to be heard. U.S. Const. Amend. 14.

1 Case that cites this headnote

[8] **Constitutional Law** ← **Proceedings and review**

Zoning and Planning ← **Discretion in general**

Land use decisions that require a public official to exercise judgment are discretionary and require notice and a hearing pursuant to due process clause. U.S. Const. Amend. 14.

[9] **Constitutional Law** ← **Protections Provided and Deprivations Prohibited in General**

Actions which require a public officer to perform in a prescribed manner in obedience to the mandate of legal authority without regard to his or her own judgment are ministerial and do not trigger due process protections. U.S. Const. Amend. 14.

[10] **Zoning and Planning** ← **Comprehensive or general plan**

Small-scale development projects in neighborhood, which could be exempt from permit compliance review pursuant to neighborhood's specific plan component of city's general plan, were necessarily consistent with neighborhood land use plan when they were consistent with neighborhood's specific plan, where city planning commission had previously determined that specific plan complied with the land use plan, and specific plan was developed to ensure consistency with development standards of land use plan.

[11] **Zoning and Planning** ← **Time for Proceedings**

Objectors' challenge to process by which exemptions from permit compliance review were issued for small-scale development projects in neighborhood, pursuant to neighborhood's specific plan component of city's general plan, was an attack on specific plan and thus subject to 90-day statute of limitations, where objectors essentially challenged specific plan as being inconsistent with neighborhood land use plan, and remedy sought by objectors would have required alteration of specific plan. Cal. Gov't Code § 65009(c)(1)(A).

[12] **Environmental Law** ← **Exceptions, exemptions, and variances**

Additions, rather than solely improvements, to existing structures are eligible for Coastal Act

exemptions from the coastal development permit (CDP) process. [Cal. Pub. Res. Code § 30610](#).

[13] Environmental Law — Coastal areas, bays, and shorelines

No provision of the Coastal Act limits city's power to abate nuisances and order demolition of unsafe or substandard conditions; to the contrary, Act explicitly provides that it does not limit power of any city to declare, prohibit, and abate nuisances. [Cal. Pub. Res. Code § 30005\(b\)](#).

[14] Injunction — Nature of remedy in general

An injunction is a remedy, not a cause of action; therefore, it may not be issued if the underlying causes of action are not established.

Witkin Library Reference: 12 [Witkin, Summary of Cal. Law \(11th ed. 2017\) Real Property, § 937](#) [Coastal Lands; Development Permits; In General.]

[4 Cases that cite this headnote](#)

****289** APPEAL from a judgment of the Superior Court of Los Angeles County, [Yvette M. Palazuelos](#), Judge. Affirmed. (Los Angeles County Super. Ct. No. BC611549)

Attorneys and Law Firms

Venskus & Associates, [Sabrina Venskus](#), Ojai, [Elise Cossart-Daly](#), El Segundo; Wittwer Parkin, [William P. Parkin](#) and [Pearl Kan](#), Santa Cruz, for Plaintiffs and Appellants.

[Michael N. Feuer](#), City Attorney, [Terry P. Kaufmann Macias](#), Assistant City Attorney, [Amy Brothers](#) and Patrick Hagan, Deputy City Attorneys for Defendants and Respondents.

STRATTON, J.

***46 INTRODUCTION**

Appellants Venice Coalition to Preserve Unique Community Character and Celia R. Williams alleged in a complaint filed in Los Angeles County Superior Court that the City of Los Angeles engaged in a pattern and practice of illegally

exempting certain development projects in Venice from permitting requirements in the Venice land use plan and in the California Coastal Act of 1976 ([Pub. Resources Code, § 30000](#)). The trial court granted summary judgment as to all causes of action, and Venice Coalition, et al., appeal. As we find that the City is entitled to judgment as a matter of law, we affirm.

FACTUAL AND PROCEDURAL BACKGROUND

In February 2016, appellants Venice Coalition to Preserve Unique Community Character and Celia R. Williams (Venice Coalition) filed a complaint for declaratory and injunctive relief against respondents the City of Los Angeles and Department of City Planning for the City of Los Angeles (City). The complaint alleged violations of due process under the California Constitution, and violations of the California Coastal Act of 1976 (Coastal Act), the Venice land use plan (LUP), and the California Code of Civil Procedure. The first cause of action alleged the City engaged in a pattern and practice of approving development projects without affording the community an opportunity for notice and a hearing. The second cause of action alleged the City failed to ensure all development projects complied with the requirements of the LUP. The third cause of action alleged the City acted in excess of its authority by issuing exemptions from the California Coastal Act's requirement that development projects obtain coastal development permits (CDP's). The fourth cause of action alleged the exemptions granted by the City were unauthorized under [Public Resources Code section 30610](#)¹ of the Coastal Act. The fifth cause of action asked the ****291** court to enjoin the City from using taxpayer funds to illegally issue permitting exemptions.

The City filed a motion for judgment on the pleadings, which the trial court denied. The City then filed a motion for summary judgment, which the trial court granted.

Venice Coalition timely appealed the court's grant of summary judgment as to the first, second, fourth, and fifth causes of action. Venice Coalition is not challenging the grant of summary judgment as to the third cause of action.

***47 DISCUSSION**

A. Standard of review

We review a trial court's grant of summary judgment de novo, "considering all the evidence set forth in the moving and opposition papers except that to which objections have been made and sustained." (¶ *Guz v. Bechtel National, Inc.* (2000) 24 Cal.4th 317, 334, 100 Cal.Rptr.2d 352, 8 P.3d 1089.) We liberally construe the evidence in support of the party opposing summary judgment and resolve doubts concerning the evidence in favor of that party. (¶ *Miller v. Department of Corrections* (2005) 36 Cal.4th 446, 460, 30 Cal.Rptr.3d 797, 115 P.3d 77.)

Summary judgment is warranted if all the papers submitted show that there is no triable issue as to any material fact such that the moving party is entitled to judgment as a matter of law. (¶ *Code Civ. Proc.*, § 437c, subd. (c).) A motion for summary adjudication shall be granted only if it completely disposes of a cause of action, an affirmative defense, a claim for damages, or an issue of duty. (*Id.*, subd. (f)(1).)

The moving party "bears the burden of showing the court that the plaintiff 'has not established, and cannot reasonably expect to establish, a prima facie case.'" (¶ *Miller v. Department of Corrections, supra*, 36 Cal.4th at p. 460, 30 Cal.Rptr.3d 797, 115 P.3d 77.) The burden then shifts to the plaintiff to show the existence of a triable issue; to meet that burden, the plaintiff " 'may not rely upon the mere allegations or denials of its pleadings ... but, instead, shall set forth the specific facts showing that a triable issue of material fact exists as to that cause of action.'" (¶ *Lyle v. Warner Brothers Television Productions* (2006) 38 Cal.4th 264, 274, 42 Cal.Rptr.3d 2, 132 P.3d 211.)

B. Regulatory Background

The City employs two different, but parallel, processes to approve or deny all development projects in the Venice community. One involves the Venice specific plan which governs all development in Venice. The other process is pursuant to the Coastal Act, with which all development in Venice must also comply. To comply with the specific plan, all development projects in Venice must either undergo a project permit compliance review, or a determination that a review is not required. To comply with the Coastal Act, all development projects in Venice must obtain a CDP or an exemption from the CDP requirement.

1. The Coastal Act

The California Coastal Act of 1976 is a comprehensive scheme governing land use planning for the entire coastal zone of California. (¶ *48 *Pacific Palisades Bowl Mobile Estates, LLC v. City of Los Angeles* (2012) 55 Cal.4th 783, 793, 149 Cal.Rptr.3d 383, 288 P.3d 717 (¶ *Pacific Palisades*.) The broad goals of the Coastal Act are permanent protection of the state's natural and scenic resources; protection of the ecological balance of the coastal zone; and regulation of existing and future developments to ensure consistency with the policies of the Coastal Act. (§ 30001.) With certain exceptions, **292 "any person wishing to perform or undertake any development in the coastal zone must obtain a coastal development permit 'in addition to obtaining any other permit required by law from any local government or from any state, regional, or local agency. ...'" (¶ *Pacific Palisades*, at p. 794, 149 Cal.Rptr.3d 383, 288 P.3d 717; § 30600, subd. (a).) The Coastal Act authorizes exemptions from the CDP requirement for certain minor developments such as improvements to existing single family residences and other structures. (§ 30610.)

[1] The Coastal Act requires local governments to develop local coastal programs, which consist of a land use plan and a local implementation plan. (¶ *Pacific Palisades, supra*, 55 Cal.4th at p. 794, 149 Cal.Rptr.3d 383, 288 P.3d 717.) "Once the California Coastal Commission certifies a local government's program, and all implementing actions become effective, the commission delegates authority over coastal development permits to the local government." (¶ *Ibid.*) Prior to the certification of its local coastal program " 'a local government may, with respect to any development within its area of jurisdiction ..., establish procedures for the filing, processing, review, modification, approval, or denial of a coastal development permit.'" (¶ *Ibid.*) Actions pursuant to a locally issued CDP are appealable to the Coastal Commission. (¶ *Ibid.*)

In 1978, the coastal commission granted to the City the authority to issue both CDP's for development within the coastal zone and exemptions for development projects that do not require a CDP under the Coastal Act. The City's CDP program is codified in section 12.20.2 of the Los Angeles Municipal Code. In 2001, the coastal commission certified the Venice LUP. The City submitted a Venice local implementation plan to the coastal commission in 2004; as of yet, the implementation plan has not been certified.

2. The Venice Land Use and Specific Plans

The certified Venice LUP is a part of the City's general plan, which guides the City's use of land and the design and character of buildings and open space. One of the goals of the LUP is to control building heights and bulks to "preserve the nature and character of existing residential neighborhoods."

x In 2003, the City Planning Commission approved the amended Venice specific plan at a public hearing. The specific plan is an ordinance developed *49 to implement the policies of the LUP; specifically, the specific plan regulates "all development, including use, height, density, setback, buffer zone and other factors in order that it be compatible in character with the existing community and to provide for the consideration of aesthetics and scenic preservation and enhancement, and to protect environmentally sensitive areas." The specific plan sets forth two processes by which a development project may be evaluated and approved. For many small-scale development projects, such as construction and demolition of four unit or smaller residential projects not located on walk streets,² the director of planning may issue a "Venice Sign-Off" (VSO), which exempts the project from a project permit compliance review. All other projects must be evaluated for project permit compliance.

C. First Cause of Action: The VSO Process Is Ministerial

[2] The first cause of action alleged the City denied Venice residents due process **293 by issuing VSO's without notice and a hearing. The City countered that the VSO process is ministerial and therefore does not trigger due process protections. The trial court agreed with the City, as do we.

[3] [4] [5] [6] Local governments take three types of actions in land use matters: legislative, adjudicative, and ministerial. (Calvert v. County of Yuba (2006) 145 Cal.App.4th 613, 622, 51 Cal.Rptr.3d 797.) Legislative actions "involve the enactment of general laws, standards or policies, such as general plans or zoning ordinances." (Ibid.) Adjudicative actions "involve discretionary decisions" that apply laws to specific development projects such as zoning permits. (Ibid.) "Ministerial actions involve nondiscretionary decisions based only on fixed and objective standards, not subjective judgment; an example is the issuance of a typical, small-scale building permit." (Ibid.)

[7] [8] [9] The federal and state Constitutions prohibit the government from depriving persons of property without due process of law. (U.S. Const., 5th Amend.; Cal. Const., art. I, § 7, subd. (a).) Adjudicative governmental actions that implicate significant or substantial property deprivation generally require the procedural due process protections of reasonable notice and an opportunity to be heard. (Calvert v. County of Yuba, supra, 145 Cal.App.4th at p. 622, 51 Cal.Rptr.3d 797.) Legislative action generally does not require due process protections because "it is not practical that everyone should have a direct voice in legislative decisions; elections provide the check there." (Ibid.) Ministerial actions do not generally trigger due process protections because they are "essentially automatic based on whether certain fixed standards and objective *50 measurements have been met." (Id. at p. 623, 51 Cal.Rptr.3d 797.) In other words, land use decisions that require a public official to exercise judgment are discretionary and require notice and a hearing. Actions which require a public officer to perform "in a prescribed manner in obedience to the mandate of legal authority" without regard to his or her own judgment are ministerial and do not trigger due process protections. (Rodriguez v. Solis (1991) 1 Cal.App.4th 495, 501, 2 Cal.Rptr.2d 50.)

Here, section 8A of the Venice specific plan provides that the director of planning may issue a VSO to certain projects upon a determination that they are exempt from project permit compliance review. Section 8A lists several types of projects eligible for VSO's, including improvements to existing single- or multiple-family structures not located on a walk street; new construction of one single-family unit and not more than two condominium units not located on a walk street; new construction of four or fewer rental units, not located on a walk street; and demolition of four or fewer units. Once the director of planning determines that a project is eligible under one of these categories, he or she must then determine whether it meets certain fixed development requirements applicable to the neighborhood in which the proposed project lies. These requirements include maximum height, maximum density, and minimum yard setback measurements. The director of planning uses forms that are essentially checklists requiring only a determination that the proposed project does or does not meet objective measurement criteria.

Sections 8B and 8C of the Venice specific plan, however, govern development projects not subject to VSO approval

x However, the Coastal Commission did not agree; thus, the Venice Specific Plan cannot be used in making a City CDP determination. Only the LUP can be used.

and therefore subject to project permit compliance review. Under section 8C, the director of planning must make certain findings, including that the project “is compatible in scale and character with the existing neighborhood, and ... not be materially **294 detrimental to adjoining lots or the immediate neighborhood.”

We agree with the City and the trial court that the VSO process is ministerial. The director of planning is not required to exercise independent judgment; he or she only reviews a set of fixed, objective construction measurements. In contrast, the project permit compliance review in section 8C requires the director of planning to exercise independent, subjective judgment as to whether the project is generally compatible with the character of the existing neighborhood.

Venice Coalition also argues that, by its nature, the VSO process cannot be ministerial because each project must be reviewed for compliance with the LUP. As discussed in the next section, Venice Coalition contends that the LUP mandates that all projects, including those granted a VSO, must *51 conform to the character of the existing community; as such, project approval must involve a discretionary decision that cannot be adequately captured in a checklist. Because we agree with the court and the City that VSO projects do not need to be separately reviewed for compliance with the LUP, and because we agree that the VSO process is ministerial, we conclude that for VSO projects the Venice Coalition is not entitled to notice and a hearing.

D. Second Cause of Action: The Director of Planning Is Not Required To Review VSO Projects for Compliance with the LUP

[10] Venice Coalition argues that the director of planning must conduct a discretionary analysis of every VSO to ensure it is compliant with the LUP. Venice Coalition points to language on the cover of the Venice specific plan stating “Please refer to the certified Venice Coastal Land Use Plan for other development standards that may apply to your project” and language in the LUP stating new development must respect the “scale and character of community development,” the “massing and landscape of existing residential neighborhoods,” and must identify, protect, and restore the “historical, architectural and cultural character of structures and landmarks.”

Venice Coalition has not identified any ordinance, municipal code provision, or statute requiring the director of planning to independently review small-scale VSO projects for

compatibility with the LUP. Moreover, in *52 2003, the City Planning Commission previously determined that the amended specific plan complies with the LUP. The amended Venice specific plan was developed in response to the City Council's direction to the planning staff to update the specific plan to ensure consistency with development standards in the LUP, including lot consolidation, roof structures, maximum height, yard setback, and parking.

Accordingly, we agree with the City that VSO projects that are consistent with specific plan standards are necessarily consistent with LUP policies.

[11] Furthermore, any challenge to the VSO process as embodied in the specific plan is time-barred. **Section 65009(c)(1)(A) of the Government Code** sets a 90-day statute of limitations to “attack, review, set aside, void, or annul the decision of a legislative body to adopt or amend a general or specific plan.” Venice Coalition claims it is not attacking the Venice specific plan itself, its adoption, or the City's determination that the specific plan is consistent with the LUP. Rather, Venice Coalition claims it is only challenging the City's ongoing failure to ensure that VSO projects “respect the scale, massing, character, **295 and landscape of existing neighborhoods” as required by the LUP.

This argument, however, is an attempt to recast what is essentially a challenge to the specific plan itself as being inconsistent with the LUP. In 2003, the City previously determined that the ministerial process outlined in the specific plan was consistent with the LUP. Thus, as set out above, compliance with the specific plan is compliance with the LUP. Consistent with that 2003 determination, the specific plan contains no language requiring the director of planning to independently review specific plan projects for compliance with the LUP. Arguing that the director of planning must nonetheless conduct such an independent review is tantamount to arguing that the City was wrong. This argument should have been brought to the attention of the City within the statutory time limitation.

Moreover, besides being unnecessary, it would not be feasible to impose a duty on the City to review VSO projects for compliance with the LUP without altering the specific plan itself. Venice Coalition is essentially aiming to convert the ministerial VSO process, which the City already authorized as compliant with the LUP, into a discretionary one by imposing an additional duty on the director of planning that the City did not contemplate. In other words, the remedy Venice Coalition

** The Coastal Commission did not agree and therefore the Specific Plan cannot be used in making a City CDP determination.*

urges would require an alteration of the specific plan, which is tantamount to an attack on the specific plan itself. Again, any attempt to do so should have been presented within the statutory time limitation.

Finally, if a project receives VSO approval, it still must get a CDP. Venice Coalition does not dispute that the City applies LUP policies as part of the CDP process, which is discretionary. The Municipal Code requires the City to find that development projects conform to chapter three of the Coastal Act. (L.A. Mun. Code, § 12.20.2(G)(1)(a).) Among the requirements in Chapter Three is the mandate that development 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. (§ 30251.) Therefore, the City ultimately does end up evaluating specific plan projects for compliance with the LUP. We see no reason why the City should be compelled to undergo this process again and again.

E. Fourth Cause of Action: Additions to Existing Structures Are Eligible for Exemptions Under the Coastal Act

Venice Coalition alleged in the fourth cause of action that, in violation of the Coastal Act, the City was issuing exemptions from the CDP process for additions to existing buildings and demolitions ordered as part of a nuisance abatement order. Venice Coalition argued that section 30610 only allows for “improvements” to existing structures, not additions. On appeal, Venice Coalition argues not that all additions are disallowed by the Coastal Act, but *53 that improvements that increase the existing height or floor area by more than 10 percent are impermissible in all areas of the coastal zone. Not so.

[12] Venice Coalition points to sections 13250, subdivision (b)(4) and 13253, subdivision (b)(4) of title 14 of the California Code of Regulations for the proposition that no improvements to existing structures that increase floor area or height by more than 10 percent are allowed in the entire coastal zone. The language of these regulations, however, is as follows: “On property not included in subsection (b) (1) **296 above³ that is located between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide of the sea where there is no beach, whichever is the greater distance,

or in significant scenic resources areas as designated by the commission or regional commission,” CDP’s are required for improvements that would increase the internal floor area of an existing structure by 10 percent or more, improvements of 10 percent or less where an improvement to the structure had previously been undertaken pursuant to section 30610, subdivisions (a) or (b), and increases in height by more than 10 percent of existing structures. (Italics added.) With respect to existing single-family residences in the specific areas described above, CDP’s are also required for any significant nonattached structures such as garages, fences, shoreline protective works, or docks. (Cal. Code Regs., tit. 14, § 13250, subd. (b)(4).) The plain language of the regulation makes clear that the 10 percent limitation applies only to property within a certain proximity to the sea or in a designated scenic resource area. Venice Coalition points to no language in the regulations or elsewhere limiting the size of improvements to structures in other parts of the coastal zone.

Furthermore, the language of these regulations, which were enacted to carry out the provisions of section 30610, subdivision (a), confirms that the Coastal Act contemplates that improvements to existing structures would include additions. Were it otherwise, the regulations would disallow all improvements that increase the size of an existing structure rather than limiting those in certain specified coastal areas to less than 10 percent. Finally, Charles Posner, supervisor of planning for the coastal commission, stated in a sworn declaration that commission staff approves the City’s issuance of exemptions for additions to existing structures.


[13] With respect to demolitions ordered as part of a nuisance abatement order, Venice Coalition does not argue this issue on appeal. Nonetheless, we *54 agree with the trial court’s determination that no provision of the Coastal Act limits the City’s power to abate nuisances and order demolition of unsafe or substandard conditions. To the contrary, the Coastal Act explicitly provides that no provision in the Act can limit “the power of any city or county or city and county to declare, prohibit, and abate nuisances.” (§ 30005, subd. (b).)

Venice Coalition also argues on appeal that the City fails to provide notice of many of the exemptions in violation of the Coastal Act. Venice Coalition did not, however, raise this issue in the trial court, nor did they include the underlying facts to support this allegation in their separate statement of facts opposing summary judgment. We therefore decline to address the issue here. (*City of San Diego v. Rider* (1996) 47 Cal.App.4th 1473, 1493, 55 Cal.Rptr.2d 422 [a party waives

a new theory on appeal when it fails to include the underlying facts in the separate statement of facts in opposing summary judgment.]

F. Fifth Cause of Action: Venice Coalition Is Not Entitled to Injunctive Relief

[14] The trial court granted summary judgment as to the fifth cause of action for ****297** injunctive relief because it was predicated on the success of the other claims. An injunction is a remedy, not a cause of action. Therefore, it may not be issued if the underlying causes of action are not established.

( *Allen v. City of Sacramento* (2015) 234 Cal.App.4th 41, 65, 183 Cal.Rptr.3d 654.) As we affirm the court's grant of summary judgment as to the first, second, and fourth causes of action, we also affirm the court's grant of summary judgment as to the fifth cause of action.

DISPOSITION

The judgment is affirmed. The parties are to bear their own costs on appeal.

Grimes, Acting P. J., and **Rubin**, J. *, concurred.

Opinion

A petition for a rehearing was denied January 25, 2019, and appellants' petition for review by the Supreme Court was denied April 17, 2019, S254130.

All Citations

31 Cal.App.5th 42, 242 Cal.Rptr.3d 288, 19 Cal. Daily Op. Serv. 433, 2019 Daily Journal D.A.R. 272

Footnotes

- * Presiding Justice of the Court of Appeal, Second Appellate District, Division Five, assigned by the Chief Justice pursuant to [article VI, section 6 of the California Constitution](#).
- 1 All further statutory references are to the Public Resources Code unless otherwise indicated.
- 2 A "walk street" is a "public street in the Coastal Zone and/or beach area that has been improved for public pedestrian use over part of its width and is landscaped ... over the remainder, but which has not been improved for vehicular access."
- 3 [Subdivision \(b\)\(1\) of sections 13250 and 13253 of title 14 of the California Code of Regulations](#) provides that CDP's are required for all improvements to a single-family structure located on a beach, wetland, seaward of the mean high tide line, on environmentally sensitive habitat area, an area designated as highly scenic in a LUP, or within 50 feet of the edge of a coastal bluff.

EXHIBIT H

From **Barry Cassilly** <barrycassilly@me.com>

Date: Wed, Jan 3, 2024 at 2:06PM

Subject: VNC Rules and Selection

To: <lisa.redmond@venicenc.org>, <helen.fallon@venicenc.org>, <christopher.lee@venicenc.org>, CJ Cole <cj.cole@venicenc.org>, Brian Averill <brian.averill@venicenc.org>, <tima.bell@venicenc.org>, <james.robb@venicenc.org>, <nico.rudderaman@venicenc.org>, <erica.moore@venicenc.org>, Michael Jensen <michael.jensen@venicenc.org>, <alley.bean@venicenc.org>, <jason.sugars@venicenc.org>, <amara.hordt@venicenc.org>, <clark.brown@venicenc.org>, <deborah.keaton@venicenc.org>, <soledad.ursa@venicenc.org>, Robert Thibodeau <robert.thibodeau@venicenc.org>, <steve.bradbury@venicenc.org>, <yolanda.gonzales@venicenc.org>, <eric.donaldson@venicenc.org>, <vanessa.serrano@lacity.org>, <vanessa.alvarado@lacity.org>, <elise.rubin@lacity.org>

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Available until Feb 2, 2024

Rules and Selection Committee Motion from Robin Rudisill.

RESPONSE

This motion is illegal. (See motion below)

not true

Click to Download

Ruling on MSJ.pdf
23.4 MB

Click to Download

B285295.pdf
178 KB

Current Standing Rules, pages 3-4, Section 3 LUPC Committee were written in response to the Venice Specific Plan being adopted by the City Council as the binding legal document guiding planning determinations **at the City level** in the Venice Coastal Zone. The requirement that LUPC send project applications which qualify for ministerial review under provisions of the VSP to the full VNC board as de minimus reflects the fact that the VSP contains concrete metrics defining project compliance in each of the 7 different Venice Sub- Areas. At the City level, there is no discretion involved in determining project compliance for small project which categorically qualify for ministerial review under the VSP.

not correct

NO

Ms. Rudisill's motion either mistakes or deliberately misrepresents the timeline of events when she writes, "Standing Rule 3 appears to have been put in place in 2009, before the community understood how the coastal regulations work..." Standing Rule 3 was put in place on September 1, 2020 in direct response to a court ruling in which Ms. Rudisill was involved. Venice Coalition, using Citizens Preserving Venice's longstanding attorney Sabrina Venskus along with Robin Rudisill's active involvement, sued the City seeking to stop the City from certifying that projects were VSP compliant. Ms. Venskus included in her arguments all the points Ms. Rudisill has mentioned in her motion arguing that the Venice Land Use Plan and the Coastal Act permitting requirements precluding the City from using the VSP to determine project compliance AND issue Venice Sign-offs based on the non-discretionary metrics in the VSP.

Wrong

NO

I submitted docs + testimony to both sides.

Unfortunately, for Ms. Rudisill, Ms. Venskus, and Venice Coalition, the courts disagreed, and disagreed strongly. The Superior court ruled against the Venice Coalition after the Coalition then appealed to the Appellate court. The Appellate court then sustained the Superior court decision again refuting Ms. Venskus' arguments. Superior, or lower court decisions, are opinions that may be used provisionally in arguments in other court cases. Appellate court decisions, if published, and the Appellate court decision in this case was published, have the full force of law. That decision was issued in 2019, and the VNC's standing rules were adjusted accordingly to reflect the substance of that ruling. A copy of that ruling is attached.

Nothing changed as a result of this ruling. VCZSP is still used and City CDPs are still determined using Coastal Act + LUP.

In the published decision the court stated: "In 2003, the City Planning Commission approved the VSP...The specific plan is an ordinance developed to implement the policies of the Land Use Plan." When Ms. Rudisill argues that "the certified Land Use Plan development standards and policies are to be used to determine a project's conformance with Chapter 3 of the Coastal Act;" she ignores the fact that the City has already approved the VSP as the only interpretation of the Land Use Plan at the City level. At the City level, the VSP has the force of law, and is not subject to reinterpretation by any City agency, City body such as the VNC or by Robin Rudisill herself.

the City agrees

But the Coastal Commission disagreed so VCZSP can't be used for a City CDP.

The VSP establishes provisions where small projects, defined by CEQA as projects of 4 units or less, are to be reviewed as part of a ministerial process which exempts them from project compliance review. There are several kinds of projects that are exempt from project compliance review including all single family homes not located on walk streets. On this point the court said, "Once the Director of Planning determines that a project is eligible under one of these categories, he or she must then determine whether it meets certain fixed development requirements applicable to the neighborhood in which the proposed project lies. These requirements include maximum height, maximum density, and minimum yard setback measurements. The Director of Planning uses forms that are essentially checklists requiring only a determination that the proposed project does or does not meet objective measurement criteria."

THIS IS NOT part of the City CDP process

These criteria are all set forth in black and white in the VSP. *- a separate process.*

Critically, although City bodies cannot deviate from the concrete objective measurements in the VSP, this does not hold true for the Coastal Commission. The Coastal Commission approved the LUP but did not approve the VSP which is the implementation plan of the LUP. Therefore, despite the fact that the City's planning commission adopted the VSP and thereby certified its use as the implementation of the LUP at the City level, the Coastal Commission retains discretion to set aside project compliance based on the VSP when such City determinations are before the Commission.

wrong

It's not certified for this use unless the Coastal Commission agrees.

The significance of this is that Ms. Rudisill CAN appeal any Venice project at the Coastal Commission level regardless of whether it was determined by the City to qualify for ministerial review based on the VSP and is therefore de minimus at the City level. City determinations that a project is de minimus does not make the project de minimus at the Coastal Commission level. At the Coastal Commission level such projects are still potentially subject to discretionary review.

No

Only City CDP's can be appealed to Coastal, not VCZSP reviews.

Ms. Rudisill is attempting to turn this process on its head in arguing that because a project can be subject to discretionary review by the Coastal Commission that it is also subject to discretionary review at the City level by City bodies such as there VNC. This is not the case. The Coastal Commission has the power to find substantial issue and revisit a Venice project even if the City has processed a CDP and even if the project is 4 units or less and categorically qualifies for ministerial review under the terms of the VSP. The VNC has no power to find substantial issue with a project qualifying for ministerial review under the provisions of the VSP.

This is true

The VNC makes recommendations on CDP projects and must use the same standard of review as the City - Coastal Act + LUP.

The Coastal Commission alone has this power. Yet, Ms. Rudistill's motion effectively sets up conditions wherein despite the fact that a project may qualify for ministerial review under provisions of the VSP, LUPC and the VNC set all this aside and subject such projects to discretionary review by committee members. This was the essence of Ms. Venskus' arguments before the court, an argument which was flat out rejected.

not trying to set it aside

To reiterate, the VSP has the force of law at the City level and city bodies such as the VNC do not have the power set aside that law. As much as Ms. Rudisill and friends would like the discretion to use LUPC and the VNC to arbitrarily weigh in with their personal opinions on the appropriateness of ALL projects in Venice, the courts have ruled that this is not allowed when it comes to small projects which fall into the VSP's categories for ministerial, non-discretionary approval. These are exactly the type of projects for which current Standing Rules, pages 3-4, Section 3 LUPC Committee were written.

not true

Not true.

-Barry Cassilly
Ms. Rudisill's motion:

We must use the same discretionary review as the City for a City CDP.

1. Stakeholder Motion from Robin Rudisill – Changes to Standing Rules and Bylaws re LUPC a. Item Description:

EXHIBIT I

I. INTRODUCTION

This case is about the impact of serial developments in violation of state law in a designated Special Coastal Community, Venice Beach. (AA 787.) The Venice Coalition to Preserve Unique Community Character, and Celia R. Williams (Appellants) allege that the City of Los Angeles (City) engages in an illegal pattern and practice that violates the California Coastal Act (Coastal Act¹) when it approves development in the Coastal Zone through exemptions or its so-called local Venice Sign-Off process. The Coastal Zone is a legally designated area along the California coast from Oregon to Mexico that is supervised by the state. (Pub. Resources Code §§ 30103, 30103.5(a).) Appellants contend that the trial court improperly granted summary judgment as the City has not met its burden and Appellants have shown triable issues of fact.

The Coastal Act, enacted in 1976 following the passage of a coastal protection initiative in 1972, designed a system of state oversight to protect the iconic California coast from harmful development stemming from local agency approvals.

The California Coastal Act of 1976 had its origin in an initiative measure, the Coastal Zone Conservation Act (popularly known as Proposition 20), passed by the voters in the November 1972 general election. The 1972 initiative measure created a statewide California Coastal Zone Conservation Commission and six regional coastal conservation commissions that were charged, among other

¹ Pub. Resources Code § 30000, *et seq.*

responsibilities, with the duty of preparing a plan for land use and development within the coastal zone

(*Marine Forests Society v. California Coastal Com.* (2005) 36 Cal.4th 1, 18.)

In enacting the Coastal Act, the California Legislature found and declared “That the permanent protection of the state’s natural and scenic resources is a paramount concern to present and future residents of the *state and nation*.” (Pub. Resources Code § 30001(b) (emphasis added).) Thus, one of the principle purposes underpinning the Coastal Act was to promote the protection of coastal resources as a matter of statewide, and even national, concern as opposed to local concern:

To ensure conformity with the provisions of this division, and to provide maximum state involvement in federal activities allowable under federal law or regulations or the United States Constitution which affect California’s coastal resources, *to protect regional, state, and national interests* in assuring the maintenance of the long-term productivity and economic vitality of coastal resources necessary for the *well-being of the people of the state*, and to avoid long-term costs to the public and a diminished quality of life resulting from the misuse of coastal resources, to coordinate and integrate the activities of the many agencies whose activities impact the coastal zone, and to supplement their activities in matters not properly within the jurisdiction of any existing agency, it is necessary to provide for continued state coastal planning and management through a state coastal commission.

(Pub. Resources Code § 30004(b) (emphasis added).) The Legislature envisioned state oversight of the Coastal Zone to ameliorate potential local influence that would damage coastal resources that are of statewide, and national, importance.

The Coastal Act's power is broad-reaching. It dictates land use regulations tailored to preserve coastal resources and communities, is "liberally construed," supersedes local land use law, and controls all local jurisdictions within the Coastal Zone.

(Pub. Resources Code § 30009.) The Coastal Act also includes specific protections for Special Coastal Communities, like Venice Beach. (Pub. Resources Code, §§ 30001.5, 30103(a), 30116(e), 30253(e); AA 787.) As will be demonstrated below, the City of Los Angeles (City) exercises land use controls beyond the scope of authority provided by the Coastal Act to local jurisdictions.

The statewide agency responsible for overseeing development in the Coastal Zone is the California Coastal Commission (Coastal Commission). The Coastal Act

requires local governments [within the coastal zone] to develop local coastal programs ["LCPs"], comprised of a Land Use Plan ["LUP"] and a set of implementing ordinances ["Local Implementation Plans" or "LIPs"] designed to promote the Coastal Act's objectives of protecting the coastline and its resources... .

(*Landgate, Inc. v. California Coastal Com.* (1998) 17 Cal.4th 1006, 1011 (citing Pub. Resources Code §§ 30001.5, 30512, 30513).) The Coastal Commission is responsible for approving, or "certifying," LCPs to ensure consistency with the Coastal Act.

(See *Douda v. California Coastal Com.* (2008) 159 Cal.App.4th 1181, 1194; Pub. Resources Code § 30330; 14 Cal. Code Regs. §§ 13302, 13304.) Specifically, the Coastal Commission reviews local Coastal Development Permit Programs for consistency “with the requirements of the California Coastal Act or of Section 13302 [of the Coastal Act regulations].” (14 Cal. Code Regs. § 13304; *Hagopian v. State of California* (2014) 223 Cal.App.4th 349, 362-363 (citing Pub. Resources Code §§ 30500–30522).) If any component of the program does not comply with the Coastal Act, the Commission “may approve only a portion of the program, for example the land use portion, but reject the implementation portion.” (*Id.* (citing Pub. Resources Code §§ 30511(b), 30513).)

Prior to full certification of an LCP, a local government must ensure that every permitted development “is in conformity with” the Coastal Act, and “will not prejudice the ability of the local government to prepare a local coastal program.” (Pub. Resources Code § 30604(a).)

The Coastal Commission certified the City’s Venice Coastal Land Use Plan (Venice Land Use Plan) as conforming with Chapter 3 of the Coastal Act. (Pub. Resources Code § 30512(c) (Coastal Commission shall certify a land use plan “if it finds that a land use plan meets the requirements of and is in conformity with, the policies of Chapter 3 [of the Coastal Act]”); *Douda v. California Coastal Com.*, *supra*, 159 Cal.App.4th at 1194 (permit issuing agency “should consider the contents of a certified land use plan in making a [permit] decision”).)

While the City has a certified Land Use Plan, the Coastal Commission has not certified the City's LIP. (See, AA 1186-1189.) Thus, over 40 years after the enactment of the Coastal Act, the state's largest city still does not have a fully certified LCP. This was not the vision of the Legislature.

The City takes the erroneous position that "There is no authority that a city must have a Local Coastal Program." (RT 322-600.) The Coastal Act mandates that the City prepare an LCP. "Each local government lying, in whole or in part, within the coastal zone *shall* prepare a local coastal program for that portion of the coastal zone within its jurisdiction." (Pub. Resources Code § 30500(a) (emphasis added).) As to the implementing regulations, the Coastal Act envisioned that an LIP be submitted by January 1, 1984. (Pub. Resources Code § 30517.6(a).) It is now 34 years since that deadline has passed.² The City's dilatory tactics regarding full certification of the LCP, as further described below, are not countenanced by the Coastal Act. The City's failure to submit an LIP that the Coastal Commission could accept is the heart of the cumulative problems now experienced in Venice Beach. Without Appellants' action, it may be decades more before Venice Beach receives the protection

² The Commission could grant a waiver of the deadline pursuant to Public Resources Code § 30517.6(b). But, clearly the Legislature did not contemplate the deadline being extended by 34 years, or even indefinitely as appears to be the case with the City.