

CALIFORNIA COASTAL COMMISSION

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W8h

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Hearing Date: January 11, 2006
Commission Action:

**STAFF REPORT: REGULAR CALENDAR****APPLICATION NUMBER:** 5-05-343**APPLICANT:** Dos Coronas, LLC**AGENTS:** Devin Donner and David Meyers, Attorney**PROJECT LOCATION:** 1656 Abbot Kinney Boulevard, Venice, City of Los Angeles.

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

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

LOCAL APPROVALS:

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

SUMMARY OF STAFF RECOMMENDATION

Staff is recommending that the Commission **APPROVE** a coastal development permit for the proposed development with special conditions to protect visual resources (landscaping), water quality, and future public access needs (the City's right of defeasement/repossession). The special conditions would require the applicant to: a) maintain the landscaping as proposed, b) implement BMPs to prevent polluted runoff from adversely affecting marine resources during and post-construction, c) obtain a permit for future improvements, and, d) record a deed restriction. **See Page Two for the motion.**

SUBSTANTIVE FILE DOCUMENTS:

1. Certified Land Use Plan for Venice, City of Los Angeles, 6/14/2001.
2. Coastal Development Permit P-74-3323 (Sarlo).
3. Coastal Development Permit Appeal A5-VEN-05-259 (City of Los Angeles).

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution to **APPROVE** the coastal development permit application with special conditions:

MOTION: *"I move that the Commission approve with special conditions Coastal Development Permit 5-05-343 per the staff recommendation."*

Staff recommends a **YES** vote which would result in the adoption of the following resolution and findings. An affirmative vote by a majority of the Commissioners present is needed to pass the motion.

I. Resolution: Approval with Conditions

The Commission hereby **APPROVES** a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. Standard Conditions

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date this permit is reported to the Commission. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.

4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. **Special Conditions**

1. Final City Authorization to Use the Land

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall demonstrate its legal ability to undertake the proposed development on the entire project site. Legal ability can be demonstrated by: a) providing documentation that the City of Los Angeles has finalized the vacation of the public right-of-way that overlays approximately 4,500 square feet of the project site (Note: The City's proposed right-of-way vacation is subject to Coastal Development Permit Appeal A-5-VEN-05-259); or b) providing evidence that the City of Los Angeles has granted the applicant written permission to undertake the proposed development on the 4,500 square foot portion of the site where public right-of-way exists (e.g., City of Los Angeles Dept. of Public Works, Revocable Permit No. 50825).

2. Right of Defeasance

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

3. Landscaping

The applicant shall maintain in good growing condition, for the life of the project, all trees and plants on the project site consistent with the landscape plan approved as part of this coastal development permit. All existing trees on the project site will remain in their present location. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Exotic Pest Plant Council, or as may be identified from time to time by the State of California shall be utilized on the property. No plant species listed as a 'noxious weed' by the State of California or the U.S. Federal Government shall be utilized within the property. Any proposed change or deviation from the approved landscape plan shall be submitted to the Executive Director to determine whether an amendment to this permit is necessary pursuant to the requirements of the Coastal Act and the California Code of Regulations. No changes to the approved plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

4. Construction Responsibilities and Debris Removal

By acceptance of this permit, the applicant agrees that the permitted development shall be conducted in a manner that protects water quality pursuant to the implementation of the following Best Management Practices:

- a) No construction materials, equipment, debris, or waste will be placed or stored where it may be subject to wind or rain erosion and dispersion.
- b) Any and all demolition/construction material shall be removed from the site within ten days of completion of demolition/construction and disposed of at an appropriate location. If the disposal site is located within the coastal zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place.
- c) Erosion control/sedimentation Best Management Practices (BMPs) shall be used to control sedimentation impacts to coastal waters during construction. BMPs shall include, but are not limited to: placement of sand bags around drainage inlets to prevent runoff/sediment transport into the sea.

5. Parking Lot Drainage Plan

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and approval of the Executive Director, a drainage plan for the surface parking area that incorporates structural and non-structural Best Management Practices (BMPs) to: a) reduce the volume of runoff leaving the parking lot site, b) control the velocity at which the runoff enters the storm water drains, and c) reduce the amount of pollutants contained in the runoff leaving the parking lot site prior to entering the storm drain system. The drainage plan shall be designed to treat, infiltrate or filter the amount of stormwater runoff produced by all storms up to and including the 85th percentile, 24-hour storm event for volume-based BMPs, and/or the 85th percentile, 1-hour storm event, with an appropriate safety factor (i.e., 2 or greater), for flow-based BMPs. The drainage plan shall incorporate, but not be limited to, the following suggested BMPs: landscaped buffers, catch basins to collect litter, trash racks or bars to filter runoff, grease and oil separators or filters which will aid in the removal of dissolved contaminants, provisions for regular scheduled cleaning of paved parking lot surfaces and catch basins at least once a year between September 15 and October 15, and maintenance of structural and non-structural BMPs as necessary. The drainage plan may include other measures as well. The permittee shall implement the approved drainage plan on an ongoing and permanent basis in a manner consistent with the drainage plan approved by the Executive Director. In addition, any lease or operating agreement that involves the proposed parking lot shall explicitly incorporate the provisions of the drainage plan approved by the Executive Director.

6. Future Improvements

This coastal development permit is only for the development described in Coastal Development Permit 5-05-343. Pursuant to Title 14 California Code of Regulations Section 13253(b)(6), the exemptions otherwise provided in Public Resources Code

Section 30610(b) shall not apply. Accordingly, any future development on the site, including changes to the landscaping, parking arrangement or other development authorized by this permit, including but not limited to repair and maintenance identified as requiring a permit in Public Resources Code Section 30610(d) and Title 14 California Code of Regulations Section 13252(a)-(b), shall require an amendment to Coastal Development Permit 5-05-343 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

7. Deed Restriction

PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the landowner has executed and recorded against the parcel governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this coastal development permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the property. The deed restriction shall include a legal description of the entire parcel governed by this coastal development permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this coastal development permit shall continue to restrict the use and enjoyment of the subject property so long as either this coastal development permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

IV. Findings and Declarations

The Commission hereby finds and declares:

A. Project Description

The applicant proposes to improve an existing gravel parking area that serves a two-story, 4,696 square foot office building situated at the intersection of North Venice Boulevard and Abbot Kinney Boulevard (Exhibit #4). The existing parking area would be paved and expanded from nine to fourteen parking stalls, and would utilize approximately 4,500 square feet of the North Venice Boulevard and Abbot Kinney Boulevard rights-of-way that the City is in the process of vacating [See Coastal Development Permit Appeal A-5-VEN-05-259 (City of Los Angeles)]. Two existing curb cuts provide for the parking lot entrance and exit. New landscaping would be provided along the sides of the site that abut the public sidewalks along North Venice Boulevard and Abbot Kinney Boulevard (Exhibit #6). The fifteen existing trees on the project site will remain in their present location. The sycamore trees growing in planters within the existing public sidewalk would not be affected by the proposed project.

The proposed project is located at a prominent Venice intersection on a major coastal access route (Venice Boulevard). The intersection of North Venice Boulevard and Abbot Kinney

Boulevard has been referred to as the "Gateway to Venice." The existing two-story office building on the site was approved by the Commission on July 1, 1974 [Coastal Development Permit P-74-3323 (Sarlo)]. No changes are proposed to the building. The area surrounding the proposed project is a mix of residential and commercial uses in one and two-story buildings.

B. Public Access and Recreation

The standard of review for the proposed project is the Chapter 3 policies of the Coastal Act. The certified Venice Land Use Plan (LUP) may provide guidance. One of the basic goals stated in the Coastal Act is to maximize public access and recreation along the coast. The proposed project, as conditioned, will conform with the following Coastal Act policies that protect and encourage public access and recreational use of coastal areas.

Section 30210 of the Coastal Act states:

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

Section 30211 of the Coastal Act states:

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Section 30212.5 of the Coastal Act states:

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

Section 30213 of the Coastal Act states, in part:

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

Section 30223 of the Coastal Act states:

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

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

- **Policy I. C. 9. Public Rights-of-Way.** *Public rights-of-way in the Venice Coastal Zone shall be reserved for public transportation uses including use by private vehicles, pedestrians and bicyclists. Uses that do not interfere with coastal access, transportation and visual quality may be permitted, subject to a discretionary review by means of a coastal development permit. Vacations of public rights-of-way shall not be permitted in the area between the first public road and the sea, Ballona Lagoon or any canal except for public purposes consistent with all applicable local, state and federal laws.*

Part of the proposed project (4,500 square feet) would occur on a public right-of-way that the City is in the process of vacating [See Coastal Development Permit Appeal A-5-VEN-05-259 (City of Los Angeles)]. Commission staff has reviewed the proposed project and has concluded, as has the City, that the right-of-way area proposed to be vacated does not currently support public access and recreational opportunities (e.g., public parking). No prior action by the Commission has identified the project site as a public parking area. The proposed project will not interfere with the public sidewalk that runs along North Venice and Abbot Kinney Boulevards. No new curb cuts are proposed, as the entrance and exit to the parking area already exist. Therefore, the proposed project would not adversely affect or interfere with public parking, the public sidewalk, or any other existing public access facilities.

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

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

In any case, the creation of additional off-street parking, even private parking, would increase the number of parking spaces in the neighborhood and benefit coastal access. Therefore, the proposed improvement of the entire site (including the former right-of-way) as a private parking

area would not adversely affect coastal access or recreation because additional off-street parking would result.

Other potential uses of the vacated right-of-way area include landscaping, enhanced transit service (e.g. a bus stop) or a future expansion of the existing street system. Even though the City has determined that it does not currently need the vacated right-of-way areas for any public use, this could change in the future. The applicant has agreed to the proposed right-of-way vacation being conditional upon the City's limited right of defeasance (Exhibit #10, p.2). Therefore, in order to ensure that the right-of-way area is available in the future, should the City determine that it is needed for a public purpose; Commission approval of the proposed project is subject the following condition (Right of Defeasance):

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

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

C. Visual Resources

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

Section 30251 of the Coastal Act states:

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

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

Section 30253(5) of the Coastal Act states:

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

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

- **Policy V. A. 5. Streetscapes.** *Streetscape improvements throughout the Venice Coastal Zone shall be maintained and enhanced to enhance pedestrian activity and contribute to a high quality of life and visual image for residents and visitors. Public and private developments within the Venice Coastal Zone shall be required to include elements that will contribute to and enhance streetscape improvements in accordance with a Venice Coastal Zone streetscape plan.*

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

It is a matter of public importance that the visual resources of the site be considered and protected. Landscaping on the site enhances the visual quality of the intersection, and it should continue to do so. The applicant is proposing to landscape the project site with a several trees and a parkway along North Venice and Abbot Kinney Boulevards (Exhibit #6). A condition of approval requires the applicant to install and maintain the proposed landscaping on the site. Therefore, as conditioned, the proposed project would enhance visual resources consistent with Sections 30251 and 30253 of the Coastal Act and the policies of the certified Venice LUP.

D. Control of Polluted Runoff

Section 30230 of the Coastal Act states:

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

Section 30231 of the Coastal Act states:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where

feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

The proposed paved parking area pose a potential source of pollution due to contaminated runoff. Runoff from the site enters the City's stormdrain system and is ultimately discharged into the marine environment. Untreated wastewater from the site must be prevented from negatively affecting the marine resources in the adjacent waters of the Pacific Ocean.

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

E. Deed Restriction

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

F. Local Coastal Program

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

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

The City of Los Angeles does not have a certified Local Coastal Program for the Venice area. The City of Los Angeles Land Use Plan (LUP) for Venice was effectively certified on June 14, 2001. The proposed project, as conditioned, conforms to the proposed Venice LUP. The proposed project, as conditioned, is also consistent with the Chapter 3 policies of the Coastal Act. Therefore, the Commission finds that approval of the proposed development, as conditioned, will not prejudice the City's ability to prepare a Local Coastal Program consistent with the policies of Chapter 3 of the Coastal Act, as required by Section 30604(a).

G. California Environmental Quality Act (CEQA)

Section 13096 Title 14 of the California Code of Regulations requires Commission approval of a coastal development permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

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