

CALIFORNIA COASTAL COMMISSION

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Th9d

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STAFF REPORT: REGULAR CALENDAR

Application No.: 5-17-0541

Applicant: Belluna Corona, LLC / Don Heller

Agents: Justin Block

Location: 14914 Corona del Mar, Pacific Palisades, Los Angeles County (APN 4411-029-001)

Project Description: Demolition of a one-story, 3,500 sq. ft. single-family residence and swimming pool and construction of a two-story, 32-ft. high, 8,884 sq. ft. single-family residence with a 3,100 sq. ft. basement, and a 2,070 sq. ft. four-car garage on a caisson grade beam foundation, construction of a swimming pool with a leak detection system, and 5,000 cu. yds. of grading on a 33,337 sq. ft. blufftop lot with an existing row of caissons along the bluff edge.

Staff Recommendation: Approval with conditions.

SUMMARY OF STAFF RECOMMENDATION

The subject site is located on a coastal bluff above Pacific Coast Highway, which is adjacent to the beach. The major issue before the Commission relates to geologic hazards. In September 2004, the Commission approved CDP No. 5-04-213 for the construction of 13 36-inch diameter caissons with grade beams along the bluff edge of the subject lot in order to stabilize the blufftop portion of the lot and protect the existing residence and pool, built prior to the Coastal Act circa 1961. In that case, the Commission found that, due to hazardous geologic conditions associated with previous major landslides between 1932 and 1995, and the 1994 Northridge earthquake, the approval of the caissons would help protect the existing residence and pool. The special conditions of CDP 5-04-213 require the applicant to contact the Executive Director in the event the blufftop caissons are exposed in order to determine mitigation that must be implemented to reduce visual impacts of the

exposed portions of the caissons. The applicant is now proposing to demolish the development that the existing blufftop caissons were approved to protect. In its place, the applicant proposes to construct a new residence on a caisson grade beam foundation and a swimming pool on a deepened mat foundation without the support of caissons or grade beams.

Section 30253 of the Coastal Act requires that new development not rely on construction of bluff protective devices to ensure the structural integrity of the development if the bluff protective devices would alter natural landforms, such as the coastal bluffs upon which the development is proposed. Here, new caissons or other bluff protective devices would alter natural landforms by modifying erosion patterns, becoming exposed as erosion occurs, and creating instability and erosion if they ever needed to be removed. As such, any new development on the site must be designed appropriately to ensure geologic and engineering stability without the need for bluff protective devices. When new development is proposed at a site where shoreline or bluff protective devices are present, the Commission can require, in appropriate circumstances, that the protective devices be removed as a condition of approval of the new development. However, due to engineering constraints and geological vulnerabilities, the removal of the existing blufftop caissons is not practical in this case because it will likely exacerbate the geologic instability of the subject site and surrounding areas and trigger additional bluff failure and erosion.

Although the applicant asserts that the new development does not rely on the existing blufftop protection, the applicant's geotechnical report acknowledges that the existing blufftop caissons contribute to the stability of the site. Specifically, it states "that the pool will perform satisfactorily if it is supported on a mat foundation" *because it will be located between the existing blufftop caisson and the caissons proposed for the new residential foundation*. Given the uncertainty of the pool's performance without the presence of the existing blufftop caissons, which should not be relied on to assure the stability and structural integrity of the proposed pool, per Coastal Act Section 30253, [Special Condition 3](#) requires the applicant to waive the right to build any new bluff protective devices to protect new development authorized by this CDP, and it prohibits the applicant from augmenting or reconstructing the existing caissons to protect the new proposed development on the subject property. Although the proposed residence has been designed, and conditioned, to ensure structural stability relative to geologic vulnerabilities to the extent feasible, it is not possible to completely preclude the possibility that conditions on site will change and that the residence could be subject to erosion and/or geologic instability in the future. If there is such future structural instability, [Special Condition 3](#) ensures that no future bluff protective devices will be constructed on site to protect the proposed development, and it requires the landowner to remove the development if it becomes threatened by erosion or if a government agency orders any structure or any portion of any structure may not be occupied due to hazards identified in this report.

Therefore, staff recommends that the Commission **approve** the proposed project with **nine (9)** special conditions, including: [1\) Existing Caissons](#); [2\) Special Conditions of CDP 5-04-213](#); [3\) No Future Bluff Protection](#); [4\) Pool Protection Plan](#); [5\) Landscaping Plan](#); [6\) Conformance with Geotechnical Recommendations](#); [7\) Construction BMPs](#); [8\) Assumption of Risk](#); and [9\) Deed Restriction](#).

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APPENDICES

Appendix A – Substantive File Documents

EXHIBITS

Exhibit 1 – Vicinity Maps

Exhibit 2 – Project Plans

Exhibit 3 – Regular and Special Conditions of CDP 5-04-213

I. MOTION AND RESOLUTION

Motion: *I move that the Commission **approve** Coastal Development Permit No. 5-17-0541 pursuant to the staff recommendation.*

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

Resolution:

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. 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

This permit is granted subject to the following 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 applicant 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 on which the Commission voted on the application. 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 applicant to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

This permit is granted subject to the following special conditions:

1. **Existing Caissons.** No development involving the existing bluff top caissons and grade beams approved under Coastal Development Permit (CDP) 5-04-213 located on the subject property is authorized under this CDP 5-17-0541, including but not limited to, repair, maintenance, enhancement, augmentation or reconstruction of the caissons.
2. **Special Conditions of Coastal Development Permit (CDP) 5-04-213.** Nothing in CDP 5-17-0541 modifies the regular and special conditions of CDP 5-04-213 that pertain to development (caissons) constructed pursuant to that permit, except that Special Condition 3, Pool Protection Plan, and Special Condition 4, Landscaping Plan, of this permit (CDP 5-17-0541) supersede Special Condition 3, Minimize Swimming Pool Impacts, and Special Condition 4, Landscaping Plan, of CDP 5-04-213. The relevant conditions of CDP 5-04-213 that remain in effect are listed in [Exhibit 3](#).
3. **No Future Bluff or Shoreline Protective Device(s) to Protect the Proposed Development.**
 - A. By acceptance of this permit, the applicant agrees, on behalf of itself and all other successors and assigns, that the existing blufftop caissons and grade beams approved under CDP 5-04-213 on the subject site shall not be repaired, enhanced/augmented or reconstructed for purposes of protecting the development approved by this coastal development permit (CDP 5-17-0541) and that no new shoreline or bluff protective device(s) shall ever be constructed to protect the development approved pursuant to CDP No. 5-17-0541 including, but not limited to, the residence, foundations, patios, pools, decks, balconies, and any future improvements and/or accessory structures, in the event that the development is threatened with damage or destruction from erosion, landslides, storm conditions, sea level rise or other natural coastal hazards in the future. By acceptance of this permit, the applicant hereby waives, on behalf of itself and all successors and assigns, any rights to augment, maintain and/or construct such devices that may exist under Public Resources Code Section 30235 or a certified Local Coastal Program.
 - B. By acceptance of this permit, the applicant/landowner further agrees, on behalf of itself and all successors and assigns, that the landowner shall remove the development authorized by this permit including, but not limited to, the residence, pool, patio, garage, and driveway, and any other accessory structures if the structures become subject to erosion or if any government agency has ordered that the structures are not to be occupied due to any of the hazards identified above. If any portion of the existing blufftop caissons and grade beams are ever removed, consistent with the special conditions of CDP 5-04-213, the applicant/landowner shall have a geotechnical investigation prepared by a licensed coastal engineer and geologist, retained by the permittee, that addresses whether any portions of the development approved per CDP 5-17-0541 are threatened by coastal hazards. The report shall identify all those immediate or potential future measures that could stabilize the development without bluff or shoreline protective device(s), including but not limited to removal or relocation of portions of the development. The report shall be submitted to the Executive Director and the appropriate local government official. If the

geotechnical investigation concludes that any portion of the development is unsafe for occupancy, the permittee shall, within 90 days of submitting the investigation, apply for a coastal development permit amendment to remedy the hazard.

Prior to removal/relocation, the permittee shall submit two copies of a Removal/Relocation Plan to the Executive Director for review and written approval. The Removal/Relocation Plan shall clearly describe the manner in which such development is to be removed/relocated and the affected area restored so as to best protect coastal resources. In the event that portions of the development fall down the bluff before they are removed, the landowner shall remove all recoverable debris associated with the development and lawfully dispose of the material in an approved disposal site. Such removal shall require a coastal development permit.

4. **Pool Protection Plan.** The permittee shall undertake development in accordance with the submitted pool protection plan shown on page A-1.10, dated March 1, 2017 ([Exhibit 2](#)), which incorporates mitigation of the potential for geologic instability caused by leakage from the proposed pool, including: 1) installation of a pool leak detection system such as, but not limited to, leak detection system/moisture sensor with alarm and/or a separate water meter for the pool which is separate from the water meter for the house to allow for the monitoring of water usage for the pool; 2) use of materials and pool design features, such as but not limited to double linings, plastic linings or specially treated cement, to be used to waterproof the undersides of the pool and spa to prevent leakage, along with information regarding the past and/or anticipated success of these materials in preventing leakage; and where feasible; and 3) installation of a sub drain or other equivalent drainage system under the pool that conveys any water leakage to an appropriate drainage outlet. The applicant shall comply with the final pool plan approved by the Executive Director.

Any proposed changes to the approved plan shall be reported to the Executive Director. No changes to the approved plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

5. **Landscape Plan.** The applicant shall conform to the landscape plan received on June 21, 2017 showing vegetated landscaped areas consisting of native plants or non-native drought tolerant plants, which are non-invasive. No plant species listed as problematic and/or invasive by the California Native Plant Society (<http://www.CNPS.org/>), the California Invasive Plant Council (formerly the California Exotic Pest Plant Council) (<http://www.cal-ipc.org/>), or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. 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. All plants shall be low water use plants as identified by California Department of Water Resources (See:<http://www.water.ca.gov/wateruseefficiency/docs/wucols00.pdf>). Existing vegetation that does not conform to the above requirements shall be removed.

No permanent irrigation system shall be allowed on the site. Temporary, above ground irrigation to allow the establishment of the plantings is allowed. Irrigation system shall be connected to an automatic shut-off valve which will limit the amount of water on the slope. The quantity of water shall be based on recommendations by the landscape architect and geologist/soil consultant. All required plantings will be maintained in good growing

conditions throughout the life of the project, and whenever necessary, shall be replaced with new plant materials to ensure continued compliance with the landscape plan.

6. **Conformance with Geotechnical Recommendations.**

- A. All final design and construction plans, including grading and drainage plans, and as modified and approved under Coastal Development Permit No. 5-17-0541, shall be consistent with all recommendations contained in the geotechnical reports by Gorian & Associates Inc., dated October 21, 2016 updated May 10, 2016 and March 3, 2017, as well as all requirements of the City of Los Angeles Department of Building and Safety, Geology and Soils Report Approval Letters, dated April 8, 2016, corrected on December 6, 2016, and March 31, 2017.
- B. The permittee shall undertake development in accordance with the approved permit. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

7. **Storage of Construction Materials, Mechanized Equipment and Removal of Construction Debris.**

A. The permittee shall comply with the following construction-related requirements:

- 1. No construction materials, debris, or waste shall be placed or stored where it may be subject to water, wind, rain, or dispersion;
- 2. Any and all debris resulting from construction activities shall be removed from the project site within 24 hours of completion of the project;
- 3. Construction debris and sediment shall be removed from construction areas each day that construction occurs to prevent the accumulation of sediment and other debris which may be discharged into coastal waters;
- 4. Erosion control/sedimentation Best Management Practices (BMPs) shall be used to control dust and 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 coastal waters; and
- 5. All construction materials, excluding lumber, shall be covered and enclosed on all sides, and as far away from a storm drain inlet and receiving waters as possible.

B. Best Management Practices (BMPs) designed to prevent spillage and/or runoff of construction-related materials, sediment, or contaminants associated with construction activity shall be implemented prior to the on-set of such activity. Selected BMPs shall be maintained in a functional condition throughout the duration of the project. Such measures shall be used during construction:

- 1. The applicant shall ensure the proper handling, storage, and application of petroleum products and other construction materials. These shall include a designated fueling and vehicle maintenance area with appropriate berms and protection to prevent any spillage of gasoline or related petroleum products or contact with runoff. It shall be located as far away from the receiving waters and storm drain inlets as possible;
- 2. The applicant shall develop and implement spill prevention and control measures;

3. The applicant shall maintain and wash equipment and machinery in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into sanitary or storm sewer systems. Washout from concrete trucks shall be disposed of at a location not subject to runoff and more than 50-feet away from a storm drain, open ditch or surface water; and
 4. The applicant shall provide adequate disposal facilities for solid waste, including excess concrete, produced during construction.
8. **Assumption of Risk, Waiver of Liability, and Indemnity.** By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from slope instability, erosion, landslides and wave uprush, storm conditions, and sea level rise; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.
9. **Deed Restriction.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the landowners have executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this 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 or parcels governed by this 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 permit shall continue to restrict the use and enjoyment of the subject property so long as either this 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. DUAL PERMIT JURISDICTION AREA

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

Within the areas specified in Section 30601 of the Coastal Act, which is known in the City of Los Angeles permit program as the Dual Permit Jurisdiction area, the Act requires that any development that receives a local CDP also obtain such a permit from the Coastal Commission. Section 30601 requires a second CDP from the Commission on all lands located (1) between the sea and the first public road, (2) within 300 feet of the inland extent of a beach, or the sea where there is no beach,

(3) on tidelands or submerged lands, (4) on lands located within 100 feet of a wetland or stream, or (5) on lands located within 300 feet of the top of the seaward face of a coastal bluff. Outside that area, the local agency's (City of Los Angeles) CDP is the only coastal development permit required. Thus it is known as the Single Permit Jurisdiction area.

The proposed development is located just inland of Pacific Coast Highway, on a coastal bluff and within 300 feet of the top of the seaward face of a coastal bluff. This area is located within the coastal zone area of the City of Los Angeles that has been designated in the City's permit program as the "Dual Permit Jurisdiction" area pursuant to Section 13307 of Title 14 of the California Code of Regulations and Section 30601 of the Coastal Act. The applicant received a local CDP (DIR-2016-2532-CDP-MEL) from the City of Los Angeles on May 5, 2017. The permit was not appealed to the Commission and is, therefore, a final action by the City. This application is for the Commission's dual permit.

V. FINDINGS AND DECLARATIONS

A. PROJECT DESCRIPTION & LOCATION

The applicant proposes to demolish a one-story 3,500 square-foot single-family residence and swimming pool built circa 1961 and construct an 8,884 square-foot, two-story, approximately 31-foot high single-family residence with a 3,100 square-foot basement and a 2,700 square-foot four-car garage and two additional on-site uncovered parking spaces on a caisson grade beam foundation with patio improvements, a swimming pool, and approximately 5,000 cubic yards of grading to be exported outside of the coastal zone ([Exhibit 2](#)). The proposed caisson grade beam foundation will be located underneath the proposed residence only ([Exhibit 2](#)) and no new caissons or grade beams will extend beyond the footprint of the residence.

The project site is located on a rectangular, approximately 33,347 square-foot lot that measures approximately 285 to 287 feet in depth and 110 to 117 feet in width on the seaward side of the street at 14914 W Corona del Mar in the Pacific Palisades area of the City of Los Angeles ([Exhibit 1](#)). The lot is zoned RE20-1, Very Low I Residential by the City of Los Angeles Zoning Code and sits on a bluff that is composed primarily of marine and non-marine terrace deposits. The northeastern portion of the site is relatively flat, extending southwest approximately 140 feet from the frontage of the road to the top of the bluff. The southwestern portion of the lot consists of a steep approximately 165-foot tall bluff. From the top of the bluff, the lot descends seaward toward Pacific Coast Highway (PCH). The toe of the slope, which is outside of the applicant's property line, has been buttressed with a fill slope installed by Caltrans. There is also an approximately 10-foot high debris wall along the toe of the slope adjacent to PCH. The coastal bluff overlooks and is visible from PCH and Will Rogers State Beach and is not currently subject to marine erosion as PCH is located between the sea and the toe of the bluff. Currently on the site, there is a row of 13 36-inch diameter caissons with grade beams below grade along the bluff edge that was approved by the Commission pursuant to CDP No. 5-04-213 in September 2004.

The proposed residence would be set back a minimum of 40 feet from the top of the bluff consistent with past Commission permit actions for blufftop development. The proposed pool and spa would not be built on a caisson foundation, and would be independent of the residential foundation and the existing caissons at the bluff edge of the lot. The pool and spa would be set back a minimum of ten feet from the bluff edge and would include a leak detection system consistent with past Commission permit actions for blufftop development. With the exception of some landscaping, no development is proposed within ten feet of the bluff edge.

B. HAZARDS AND VISUAL RESOURCES

Coastal Act Section 30240, states in part:

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

Coastal Act Section 30251, 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 landforms, 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.

Coastal Act Section 30253, states in part:

New development shall:

(1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.

(2) Assure stability and structure integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

Site History

In January 1998, the Commission approved CDP No. 5-97-312 for the construction of 13 36-inch diameter caissons and associated grade beams along the bluff edge of the subject lot in order to stabilize the blufftop portion of the lot and protect the existing residence and pool, built prior to the Coastal Act circa 1961. In that case, the Commission found that due to hazardous geologic conditions associated with previous major landslides between 1932 and 1995, the most recent of which was attributed to heavy rains in the winter of 1994 – 1995, and the 1994 Northridge Earthquake, the approval of the caissons would help protect the existing residence and pool. That CDP subsequently expired and a new CDP application (CDP No. 5-00-217) was approved for the same project. CDP No. 5-00-217 also expired and in September 2004, the Commission approved CDP No. 5-04-213 with special conditions for the same project. The existing caissons were installed pursuant to CDP No. 5-04-213.

Special Condition 1 of CDP No. 5-04-213 required the applicant to comply with the geotechnical recommendations of the Geotechnical Report prepared by Gorian & Associates Inc., dated May 5, 1997. Special Condition 2 of CDP No. 5-04-213 required the applicant to comply with an approved Erosion and Runoff Control Plan. That plan requires the site to permanently direct all runoff to the street and prohibits any runoff to be directed to the rear yard slope or retained in the front yard.

Special Condition 2 of CDP No. 5-04-213 further directed the applicant to contact the Executive Director in the event the blufftop caissons are exposed in order to determine mitigation that must be implemented to reduce visual impacts of the exposed portions of the caissons.

Special Condition 3 of CDP No. 5-04-213 required the applicant to address potential leaks from the existing swimming pool. Special Condition 4 of CDP No. 5-04-213 requires the applicant to comply with an approved landscaping plan, which required the applicant to use primarily drought tolerant native vegetation for all landscaping and prohibited the planting of invasive vegetation on the site. Special Condition 4 of CDP No. 5-04-213 also prohibited the installation of a permanent irrigation system on the site, but allowed temporary above ground irrigation that includes an automatic shutoff mechanism that prevents overwatering and limits the amount of water on the slope.

Special Condition 5 of CDP No. 5-04-213 required the applicant to assume all risks associated with development in a hazardous area. Special Condition 6 of CDP No. 5-04-213 required the applicant to record a deed restriction, which imposed all the special conditions of CDP No. 5-04-213 against the subject lot in perpetuity.

Blufftop Protection Devices at the Subject Site

Section 30253 of the Coastal Act mandates that new development shall minimize risks to life and property in areas of high geologic and flood hazard and shall not require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

The area where the subject site is located has historically been subject to landslides and damage resulting from erosion, earthquakes, and heavy rains. Past occurrences have resulted in loss of and damage to homes, which led to the installation of caissons on the subject property in order to stabilize and repair the eroding bluff and to protect the *existing* home and swimming pool. The applicant now proposes to demolish the existing home and swimming pool. The existing caissons were authorized to protect the development as it was constructed circa 1961 and existed circa 2004 when the caissons were approved; however, pursuant to the Coastal Act, new development or redevelopment should not rely on such bluff protection.

Blufftop protective devices, by their very nature, tend to conflict with Chapter 3 policies of the Coastal Act because they can have a variety of adverse impacts on coastal resources, including but not limited to adverse effects on coastal views and natural landforms. Specifically, public coastal views along the coast can be affected as the coastal bluffs retreat landward due to the natural process of erosion, thereby exposing the protective devices in whole or in part. Due to their size and construction, caissons can also cause erosion, loss of natural landforms, and other impacts if they ever need to be removed. As a result of the potential impacts arising from bluff protective device projects, it is critical to have an alternatives analysis based upon the technical and resource data specific to the site. The Coastal Act requires projects on hazardous blufftop areas to be sited and designed to protect views to and along the ocean and scenic coastal areas and to prevent impacts which would degrade sensitive habitats, parks, and recreation areas. Even where such devices must be approved, they must still satisfy these requirements to the maximum extent possible.

Consistent with Section 30253 of the Coastal Act, new development or redevelopment of a site may not rely on bluff protective devices to ensure a structure's stability, but must be designed appropriately to ensure geologic and engineering stability without the need for bluff protective

devices. When new development is proposed at a site where shoreline or bluff protective devices are present, the Commission requires, in appropriate cases, that the protective devices be removed as a condition of approval of the new development. However, due to engineering constraints and geological vulnerabilities, the removal of the existing blufftop caissons is not practical in this case because it will likely exacerbate the geologic instability of the subject site and surrounding areas and trigger additional bluff failure and erosion.

Despite the presence of the existing blufftop caissons, development at the subject site is at risk due to erosion from wind, rain, earthquakes, and natural geologic processes. The applicant has proposed that the new residence be constructed on a caisson/grade beam foundation system and the new pool and patio improvements be constructed independently of the residential foundation system in a manner that does not rely on any new caissons or bluff protection devices. The applicant's geotechnical report states:

The proposed pool will be located between the existing row of piles and the western row of building/basement piles... Since the pool will be located between two rows of piles, it is our opinion that the pool will perform satisfactorily if it is supported on a mat foundation and designed with the recommendations presented below. Therefore, we recommend that the proposed swimming pool and spa, to be located in the rear yard area, be supported on a mat foundation. The pool and spa should be supported independently of the house and independently of the existing row of piles located at the top of the slope.

The applicant asserts that the proposed development has been designed appropriately to withstand the foreseen geological vulnerabilities in the area. However, the applicant's geotechnical report relies on the existing blufftop caissons to support the finding *"that the pool will perform satisfactorily if it is supported on a mat foundation."* As described above, new development on blufftop parcels should be designed in a manner that will not require the construction or use of bluff protective devices that would alter natural landforms.

Given the uncertainty of the pool's performance without the presence of the existing blufftop caissons and grade beams, which should not be relied on to assure the stability and structural integrity of the proposed pool, [Special Condition 3](#) requires the applicant to waive the right to build any new bluff protective devices to protect the new proposed development, including the pool, authorized by this CDP, and it prohibits the applicant from augmenting or reconstructing the existing caissons and/or grade beams to protect the new proposed development, including the pool. Although the proposed residence and pool have been designed to ensure structural stability relative to geologic vulnerabilities to the extent feasible, it is not possible to completely preclude the possibility that conditions on site will change and that the residence and pool could be subject to erosion and/or geologic instability in the future. If that occurs, [Special Condition 3](#) ensures that no future bluff protective devices will be constructed on site to protect the proposed development. It also requires the landowner to remove the development approved pursuant to CDP 5-17-0541 if it becomes subject to or threatened by erosion or if a government agency orders any structure or any portion of any structure may not be occupied due to hazards identified in this report. It further requires a geotechnical investigation, and possible removal of any unstable development, if the existing blufftop caissons and grade beams are ever removed, consistent with the special conditions governing the presence of the blufftop caissons under CDP 5-04-213.

Given that the new development on the site approved pursuant to CDP 5-17-0541, including the residence and pool, is specifically designed to ensure geologic and engineering stability without the need for bluff stabilization devices, in the event that any portion of the blufftop caissons or grade beams approved pursuant to CDP 5-04-213 are ever exposed, pursuant to Special Condition 2 of CDP 5-04-213, the Executive Director may require the applicant to obtain a new CDP or an amendment to CDP 5-04-213 to remove the exposed caissons and grade beams below grade. Thus, [Special Condition 3](#) of CDP 5-17-0541 clarifies that the new accessory development approved by this coastal development permit (5-17-0541) would be removed or stabilized without the use of new bluff protective devices in the event that it is ever subject to erosion, and that the presence of such accessory development would not preclude the property owner from removing all or portions of the blufftop caissons and grade beams if required pursuant to Special Condition 2 of CDP 5-04-213.

The Coastal Act recognizes that development, even as designed and constructed to incorporate the recommendations of an applicant's coastal engineer, may still involve the taking of some risk. When development in areas of identified hazards is proposed, the Commission considers the hazard associated with the project site and the potential cost to the public, as well as the individual's right to use the subject property. Thus, in this case, the Commission finds that due to the possibility of landslides and erosion, the applicant shall assume these risks as a condition of approval. Because this risk of harm cannot be completely eliminated, the Commission requires the applicant to waive any claim of liability against the Commission for damage to life or property which may occur as a result of the permitted development. The applicant's Assumption of Risk, Waiver of Liability and Indemnity, as required by [Special Condition 8](#) will show that the applicant is aware of and appreciates the nature of the hazards which exist on the site, and that may adversely affect the stability or safety of the development it protects, and will effectuate the necessary assumption of those risks by the applicant. Additionally, [Special Condition 9](#) requires the applicant to record a deed restriction that imposes the terms and conditions of this permit as restrictions on use and enjoyment of the property and provides any prospective purchaser of the site with recorded notice that the restrictions are imposed on the subject property.

[Special Condition 2](#) of this CDP (No. 5-17-0541) requires the applicant to maintain compliance with the special conditions of CDP No. 5-04-213 ([Exhibit 3](#)) related to the as-built caissons, with the exception of Special Conditions 3 & 4 of CDP 5-04-213 which will be replaced by [Special Conditions 4 & 5](#) of this CDP (5-17-0541). Special Condition 3 of CDP 5-04-213, which describes a pool protection plan, is outdated and pertains to the previous pool on the site. The applicant is proposing a new pool; therefore, [Special Condition 4](#) of CDP 5-17-0541 requires the applicant to build the proposed pool in accordance with the submitted plans ([Exhibit 2](#)) and includes updated pool protection conditions regarding materials and a leak detection system. Special Condition 4 of CDP 5-04-213 is specific to the previous landscaping plan for the site. The applicant is proposing a new landscaping plan and therefore, [Special Condition 5](#) of CDP 5-17-0541 requires the applicant to maintain the new landscaping plan with updated landscaping conditions.

Special Condition 2 of CDP No. 5-04-213 required the applicant to comply with an approved Erosion and Runoff Control Plan which prohibited the collection and storage of runoff on the site. The applicant is proposing two new bio-filtration/rain gardens on the site. Runoff from the site would be directed to the proposed rain gardens and used to irrigate the rain gardens themselves. The rain gardens include impermeable liners and drains that would direct excess discharge/runoff to the street via a sump pump. These features of the proposed project can be found consistent with Special Condition 2 of CDP No. 5-04-213 because they do not retain runoff on the site, but recycle existing

runoff on the site, using the minimum necessary to maintain the rain gardens and directing the excess runoff to the street, which does not undermine Special Condition 2 of CDP No. 5-04-213.

Special Condition 1 of this CDP (No. 5-17-0541) clarifies that this permit does not authorize any development involving or affecting the existing bluff top caissons approved under CDP 5-04-213 located on the subject property. Those caissons are governed by CDP No. 5-04-213. If in the future the applicant wishes to alter the caissons approved under CDP No. 5-04-213 in any way, they are required to comply with Special Condition 2 of CDP No. 5-04-213, which mandates the applicant contact the Executive Director and determine if an amendment to CDP No. 5-04-213 would be required. Additionally, if the existing blufftop caissons approved under CDP No. 5-04-213 become exposed during construction authorized by CDP No. 5-17-0541 or at any other time for any other reason, Special Condition 3 of CDP No. 5-04-213 requires the applicant to contact the Executive Director in order to determine appropriate mitigation for the impacts to visual resources resulting from the exposed portions of the blufftop caissons. Such mitigation measures would be determined at the time the caissons are exposed, but would likely include the removal of the exposed portions of the caissons at grade.

Given the geologic history of the site, the Commission imposes **Special Condition 6**, which requires the applicant to comply with the recommendations contained in the geotechnical reports by Gorian & Associates Inc., dated October 21, 2016 updated May 10, 2016 and March 3, 2017, as well as all requirements of the City of Los Angeles Department of Building and Safety, Geology and Soils Report Approval Letters, dated April 8, 2016, corrected on December 6, 2016, and March 31, 2017. Additionally, the proposed development is located on a coastal bluff and in close proximity to the bluff edge near the beach, therefore, the Commission imposes **Special Condition 7**, which requires the applicant to observe BMPs during all construction activities associated with CDP No. 5-7-0541. The BMPs are designed to prevent spillage and runoff at the site that could impact coastal resources.

Therefore, the Commission finds that the proposed project, as conditioned, is consistent with the hazards and blufftop development policies of the Coastal Act.

C. LOCAL COASTAL PROGRAM

Coastal Act section 30604(a) states that, prior to certification of a local coastal program (“LCP”), a coastal development permit can only be issued upon a finding that the proposed development is in conformity with Chapter 3 of the Act and that the permitted development will not prejudice the ability of the local government to prepare an LCP that is in conformity with Chapter 3. The Pacific Palisades area of the City of Los Angeles has neither a certified LCP nor a certified Land Use Plan. As conditioned, the proposed development will be consistent with Chapter 3 of the Coastal Act. Approval of the project, as conditioned, 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 of the Coastal Act.

D. CALIFORNIA ENVIRONMENTAL QUALITY ACT

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 Commission incorporates its findings on Coastal Act consistency at this point as if set forth in full. As discussed above, the proposed development, as conditioned, is consistent with the Chapter 3 policies of the Coastal Act. Feasible mitigation measures, which will minimize all significant adverse environmental effects, have been required as special conditions.

As conditioned to minimize adverse impacts to coastal resources, including scenic public views and water quality, there are no feasible alternatives or additional feasible mitigation measures available that would substantially lessen any significant adverse effect that the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, has no remaining significant environmental impacts, is the least environmentally damaging feasible alternative, and is consistent with the requirements of the Coastal Act to conform to CEQA.

Appendix A – Substantive File Documents

1. CDP No. 5-97-312
2. CDP No. 5-00-217
3. CDP No. 5-04-213
4. Geotechnical reports by Gorian & Associates Inc., dated October 21, 2016 updated May 10, 2016 and March 3, 2017