

CALIFORNIA COASTAL COMMISSION

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STAFF REPORT: CONSENT 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. Staff recommends that the Commission approve the proposed project with **eight (8)** special conditions, including: 1) Existing Caissons 2) Special Conditions of CDP 5-04-213; 3) Pool Protection Plan; 4) Landscaping Plan; 5) Conformance with Geotechnical Recommendations; 6) Construction BMPs; 7) Assumption of Risk; and 8) Deed Restriction.

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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** the coastal development permit applications included on the consent calendar in accordance with the staff recommendations.*

Staff recommends a **YES** vote. Passage of this motion will result in approval of all of the permits included on the consent calendar. 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 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. These include the conditions listed in Exhibit 3.
3. **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.

4. **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.

5. 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.

6. 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.
7. **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.
8. **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 will extend beyond the footprint of the residence, however the proposed pool will be tied into the proposed foundation with a grade beam extension.

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 1 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.

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, however, it will be tied into the proposed residential foundation

with a grade beam extension. 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. Currently on the site, there is a row of 13, 36-inch diameter caissons along the bluff edge that was approved by the Commission pursuant to CDP No. 5-04-213 in September 2004.

Site History, Hazards, and Visual Resources

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. In that case, the Commission found that due to hazardous geologic conditions associated with previous major landslides between 1932 and 1995, the most recent which was attributed heavy rains in the winter of 1994 – 1995 and the 1994 Northridge earthquake, the approval of the caisson was consistent with the provisions of Section 30253 of the Coastal Act. 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.

Therefore, the Commission imposes **Special Condition 2** of this CDP (No. 5-17-0541), which 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 3 & 4 of this CDP (5-17-0541). Special Condition 3 of both CDPs describes a pool protection plan. Special Condition 3 of CDP 5-04-213 is outdated and pertains to the previous pool on the site. The applicant is proposing a new pool,

therefore, **Special Condition 3** of CDP 5-17-0541 requires the applicant to build the proposed pool in accordance with the submitted plans 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 4** of CDP 5-17-0541 requires the applicant to maintain the new landscaping plan with updated landscaping conditions.

Regarding Special Condition 2 of CDP No. 5-04-213, 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 Coastal Development Permit (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 they contact the Executive Director and to determine in 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.

Given the geologic history of the site, the Commission imposes **Special Condition 5**, which requires the applicant to comply 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. **Special Conditions 7 & 8** require the applicant to assume the risks associated with the development authorized by CDP No. 5-17-0541 and to record a deed restriction acknowledging the special condition of the CDP and providing notice of the development restrictions placed on the site for any future owners of the subject property.

Finally, because the proposed development is located adjacent to the ocean on a coastal bluff and in close proximity to the bluff edge, the Commission imposes **Special Condition 6**, which requires the applicant to observe BMPs during all construction activities associated with CDP No. 5-7-0541. **Special Condition 6** is designed to prevent spillage and runoff at the site that could impact coastal resources.

B. HAZARDS, VISUAL RESOURCES, AND PUBLIC ACCESS

The development is located within an existing developed area and, as conditioned, will be compatible with the character and scale of the surrounding area, has been designed to assure structural integrity, and will avoid cumulative adverse impacts on public access. Therefore, the

Commission finds that the development, as conditioned, conforms with Sections 30250, 30251, 30252, 30253 and the public access provisions of the Coastal Act.

C. WATER QUALITY

The proposed development has a potential for discharge of polluted runoff from the project site into coastal waters. Furthermore, uncontrolled runoff from the project site and the percolation of water could also affect the structural stability of bluffs and hillsides. To address these concerns, the development, as proposed and as conditioned, incorporates design features to minimize the infiltration of water and the effect of construction and post-construction activities on the marine environment. These design features include, but are not limited to, the appropriate management of equipment and construction materials, the use on non-invasive drought tolerant vegetation, and for the use of post-construction best management practices to minimize the project's adverse impact on coastal waters. Therefore, the Commission finds that the proposed development, as conditioned, conforms with Sections 30230 and 30231 of the Coastal Act regarding the protection of water quality to promote the biological productivity of coastal waters and to protect human health.

D. 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, including the risks of the development and/or hazards to which the site is subject, and the Commission's immunity from liability.

E. 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.

F. 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