

## CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000  
SAN FRANCISCO, CA 94105-2219  
VOICE AND TDD (415) 904-5200  
FAX (415) 904-5400

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Staff Report: 11/3/05  
Hearing Date: 11/18/05  
Commission Action:

**STAFF REPORT: MATERIAL AMENDMENT**

**APPLICATION NO.:** 5-03-013-A3

**APPLICANT:** SunCal/Marblehead/LLC

**AGENT:** Mark R. McGuire, Esq.  
Nancy Lucast, Lucast Consulting

**PROJECT LOCATION:** Northwest of the intersection of Avenida Pico and N. El Camino Real, City of San Clemente (Orange County)

**DESCRIPTION OF PROJECT PREVIOUSLY APPROVED:** Residential and commercial development, public park, trails and open space and associated infrastructure including roads and utilities on the 201.38-acre portion of the Marblehead property within the coastal zone. Included are a property subdivision and construction of 313 single family homes on 44.24 acres, 141,506 square feet of commercial space in ten commercial buildings on 22.3 acres, 15.43 acres of public parks; 95.04 acres of public and private open space and pedestrian and bicycle trails; 12.43 acres of private streets; 10.91 acres of public streets; more specifically described in Section II.A. of this staff report. The application also requests follow-up approval for emergency bluff stabilization grading that occurred in the early 1990s.

**DESCRIPTION OF AMENDMENT PREVIOUSLY APPROVED:** Reconfiguration of commercial and residential lots within the previously approved subdivision; increase grading by 263,400 cubic yards including changing the foundation design of the previously approved Avenida Vista Hermosa bridge to eliminate loffelstein walls; extend sub drain; increase height of 'courtyard' residential units from 24 to 30 feet; within the coastal zone reduce square footage of commercial development from 141,506 square feet to 77,576 square feet and increase parking from 1,732 spaces to 2,276 spaces; widen Via Socorro and Los Molinos streets; widen proposed Sports Park access road and increase parking from 60 to 158 spaces; expand streetscape plant palette to include non-native plant species; minor changes to storm-drain system; add a public park restroom; minor re-alignments and improvements to public trail connectivity; and eliminate deadline for dedication of nine open space lots.

**DESCRIPTION OF PROPOSED AMENDMENT:** Marblehead requests to amend Permit #5-03-013 in order to provide funding to partially offset the Commission's costs for its consideration of the permit application and condition compliance. This funding will provide additional temporary personnel to work with permanent Commission staff to expedite the review of prior to issuance documents for Permit #5-03-13.

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## I. STAFF RECOMMENDATION, MOTION AND RESOLUTION OF APPROVAL

The staff recommends that the Commission make the following motion and adopt the following resolution:

**Motion:**        *I move that the Commission approve Coastal Development Permit Amendment No. 5-03-013 pursuant to the staff recommendation.*

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

### **Resolution to Approve Permit Amendment No. 5-03-013:**

The Commission hereby approves a coastal development permit amendment 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 amendment complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternative 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. STAFF RECOMMENDATION, FINDINGS AND SPECIAL CONDITION

The Coastal Commission has lost \$3,821,000 in state general funds and 33.7 positions since FY 2001-2002. One of the positions eliminated in budget cuts was one of the Commission's two legal analysts. With only one Legal Analyst to review legal documents for recordation the backlog of workload has continued to grow. Currently there is a one to two year wait for the review and sign off of recorded legal documents that establish easements or offer to dedicate easements.

The Coastal Commission's regulations 13055 (15) (e) allow the Commission to require applicants to cover expenses in addition to permit fees. The regulation subsection states:

"In addition to the above fees, the Commission may require the applicant to reimburse it for any additional reasonable expenses incurred in its consideration of the permit application, including the costs of providing public notice."

The Commission has a history of requiring funding to offset staff costs for condition compliance and enforcement of several major energy projects. The Commission required funding for condition compliance and enforcement as a part of the permit approval and required that the Executive Director work with the applicants to determine the most efficient and cost-effective method of implementation. The best method we have found to date is for the applicant to provide funds to a non-profit (such as Environmental Careers Organization or a university foundation). The non-profit would then recruit and hire a temporary employee based on the Commission staff's direction. The temporary employee would work in the Commission's office and under the supervision of Commission staff, but be an employee of the selected non-profit.

Hearthside Homes, Inc. was the first permittee to ask the Commission to consider expediting the review of permit documents if they provided funding for temporary staff to assist the Commission with the workload. Hearthside Homes' amendment application proposes to provide funding to partially offset the Commission's cost for its consideration of the permit condition compliance documents. This funding will provide additional temporary personnel so that a team of permanent Commission staff can expedite the review of prior to issuance documents for Permit 5-05-020 and ensure that the approved coastal development permit can be issued by December 7, 2005. This expedited condition compliance review is needed so that the pending escrow for the public purchase of the lower Bolsa Chica beach can close by the December 31, 2005 deadline.

Marblehead was the second permittee to ask the Commission to expedite the review of prior to issuance permit documents if they provided funding for staff. When Marblehead fulfills the special condition in this amendment, the Commission will expedite the review of the Marblehead documents by moving Marblehead ahead on the waiting list. The Commission finds that the applicant's proposal is consistent with the above-cited fee regulation and that the development as amended is consistent with the Coastal Act.

***Staff recommends that the Commission approve the amendment request with the following special condition:***

**SPECIAL CONDITION:**

- I. **Funding Condition Compliance and Document Review:** Within 30 days of the approval of this amendment and consistent with its proposal, Marblehead shall fund necessary cost for condition compliance and expedited document review of this permit by the Coastal Commission. These costs will include staff or temporary help salaries and associated operating costs incurred by the Coastal Commission to review legal documents and evaluate compliance with the conditions of this permit.

The Executive Director will determine the form and manner of payment by Marblehead consistent with the requirements of state law and which will ensure efficiency and reasonable costs to Marblehead. The Executive Director will prepare a written request specifying all needed funding. If Marblehead and the Executive Director cannot agree on the funding or the schedule, the disagreement will be submitted to the Coastal Commission for resolution.