

CALIFORNIA COASTAL COMMISSION

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W13c

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original staff report

ADDENDUM

Date: April 13, 2015

To: COMMISSIONERS & INTERESTED PERSONS

From: SOUTH COAST DISTRICT STAFF

Subject: Commission Hearing of April 15, 2015, item W13c of Commission Agenda, Coastal Development Permit application No. 5-15-1582 (Capistrano Shores Property, LLC), San Clemente, Orange County.

Modify the staff report as follows (additions are shown as underlined and deletions as ~~strikethrough~~):

1. Special Condition No. 6 should be modified as follows:

6. ~~**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 landowner(s) have executed and recorded against the parcel(s) governed by this permit (i.e. the parcel(s) of land within which Unit Space #12 is located) 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 Unit Space #12, subject to terms and conditions that restrict the use and enjoyment of Unit Space #12; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of Unit Space #12. The deed restriction shall include a legal description of the entire parcel of land within which Unit Space #12 is located and a metes and bounds description of Unit Space #12 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 Unit Space #12 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.~~

Occupancy Agreement. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the landowner(s) and the applicant have executed an amendment to the Occupancy Agreement for Space #12 , (1)

stating that pursuant to this permit, the California Coastal Commission has authorized the placement of a manufactured home and related accessory structures, including without limitation, manufactured home foundation system and patio covers, on Space #12, subject to terms and conditions that restrict the use and enjoyment of the manufactured home and related accessory structures located on Space #12; and (2) stating that the Special Conditions of this permit are restrictions on the use and enjoyment of the manufactured home and related accessory structures located on Space #12. The Amendment to the Occupancy Agreement shall also state that, in the event of an extinguishment or termination of the Occupancy Agreement for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the manufactured home and accessory structures located on Space #12 of the mobilehome park so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on Space #12. Notwithstanding the foregoing, the landowner and lessee may, at their discretion, extend, assign, execute a new Occupancy Agreement, providing that the Occupancy Agreement provision required under this Permit Condition may not be deleted, altered or amended without prior approval of the Executive Director of the Coastal Commission.

2. Revise staff report to replace all reference to deed restriction in Special Condition #6 with amendment to the Occupancy Agreement.

3. Add the following to Section A. Project Location and Description, page 8, after the first paragraph:

The applicant's attorney, in his March 30, 2015 and April 13, 2015 letters, argues that the Commission lacks jurisdiction because the State Department of Housing and Community Development has exclusive jurisdiction over the replacement and remodeling of mobile homes. The applicant's attorney is basing his claim on an assertion that the Mobilehome Parks Act (Health and Safety Code, sections 18200 et seq.) and the Manufactured Housing Act (Health and Safety Code, sections 18000, et seq.) supersede the Commission's authority to regulate development in mobilehome parks. The Manufactured Housing Act is not relevant here because the Commission is not, in this action, regulating building standards of mobilehomes. The Mobilehome Parks Act only supersedes "any ordinance enacted by any city, county, or city and county, whether general law or chartered, applicable to" the Mobilehome Parks Act. (Health and Safety Code, section 18300.) The Mobilehome Parks Act, however, does not supersede state law, including the Coastal Act. Even though this particular site is subject to the Commission's jurisdiction, had it been subject to the City's LCP jurisdiction, application of the City's LCP would not be superseded by the Mobilehome Parks Act because LCPs are a function of state law in their implementation of the Coastal Act. (Charles A. Pratt Construction Co., Inc. v. Coastal Commission (2008) 162 Cal.App.4th 1068, 1075.) The applicant's attorney attempts to create a conflict between the Coastal Act and the Mobilehome Parks Act when there is no such conflict. The commission has jurisdiction over development in the coastal zone. The definition of development in the Coastal Act (section 30106) includes the placement or erection

of a structure on land, which is what the applicant is proposing to do on Space 12. Therefore, the Commission has jurisdiction over the proposed mobilehome project at the subject site.

4. Modify Section B, Hazards, page 12, first paragraph, as follows:

~~To ensure that any prospective future owners/occupants of Unit Space #12 are made aware of the applicability of the conditions of this permit, the Commission imposes Special Condition #6 requiring that the property owner (known at this time to be Capistrano Shores, Inc. based on information provided to the Commission by the applicant) record a generic deed restriction referencing all of the above Special Conditions of this permit and imposing them as covenants, conditions and restrictions on the use and enjoyment of Unit Space #12~~

The property owner and applicant argue the applicant cannot record the deed restriction because they don't own title to the land. The property owner will not agree to record the deed restriction for the applicant. The Commission finds, if the deed restriction is not recorded against the parcel, it would not change or weaken the requirement for the applicant to acknowledge the risks and agree to remove the structure if it becomes unsafe for occupancy. The purpose of the deed restriction is simply to notify future owners of the permit conditions of approval. The applicant's proposal will serve to notify future owners or occupants of the proposed mobile home of the permit requirements.

Regarding the waiver of rights to a shoreline protective device, the condition only requires that the applicant waive any rights that exist. If, as is indicated by the applicant and property owner, the applicant has no such rights, that is not a reason to remove the permit condition. Only applicable rights would be affected by the condition language. However, it is through the permit conditions and findings that the property owner and future members are also made aware of the potential limitations on future protective devices. Through these permit conditions, as the mobile homes potentially upgrade as proposed, all parties are made aware of the potential risks and limitations to protective devices that could impact public resources. Furthermore, Coastal Act Section 30601.5 states:

5. Add the following to Section C. Public Access, page 14, after third paragraph, and modify last paragraph as shown below:

The adjacent North Beach area is a heavily used public beach. North Beach is a popular regional coastal access point as it is located along a popular regional bike route along El Camino Real, it is also the trailhead to the popular San Clemente Coastal Trail, and is the site of a Metrolink/Amtrak train stop. North Beach is identified as a primary beach access point in the City with the greatest number of public parking spaces (approximately 250 off-street and 100 on-street) in the City's certified LUP. Because of the supply of public parking, popularity of the adjacent North Beach area, and the location of vertical access north of the mobile home park at Poche Beach, the public beach in front of the mobile home park is used by sunbathers, and beach strollers, and the beach is a popular surfing location.

The beach in front of this site, and the mobile home park, is narrow varying from a few feet to 70 feet, depending on the season. High tide extends up to the existing rock revetment which makes public access difficult to impossible during high tide. Because of the narrow beach in this location, allowing a future shoreline protective device to protect a new residential structure could adversely impact public access by occupying existing sandy beach and deprive the beach of sand renourishment.

Shoreline protective devices are all physical structures that occupy space. When a shoreline protective device is placed on a beach area, the underlying beach area cannot be used as beach. This generally results in the privatization of the public beach and a loss of space in the public domain such that the public can no longer access that public space. The encroachment also results in a loss of sand and/or areas from which sand generating materials can be derived. The area where the structure is placed will be altered from the time the protective device is constructed, and the extent or area occupied by the device will remain the same over time, until the structure is removed or moved from its initial location. Coastal shoreline experts generally agree that where the shoreline is eroding and armoring is installed, the armoring will eventually define the boundary between the sea and the upland.

In addition, sea level has been rising for many years. Also, there is a growing body of evidence that there has been an increase in global temperature and that acceleration in the rate of sea level rise can be expected to accompany this increase in temperature (some shoreline experts have indicated that sea level could rise 4.5 to 6 feet by the year 2100). Mean sea level affects shoreline erosion in several ways, and an increase in the average sea level will exacerbate all these conditions. On the California coast the effect of a rise in sea level will be the landward migration of the intersection of the ocean with the shore, leading to a faster loss of the beach as the beach is squeezed between the landward migrating ocean and the fixed backshore.

Given the foregoing potential impacts to access and shoreline sand supply that a shoreline protective device would cause, staff is recommending, under **Special Condition #3**, that the applicant waive its right to shoreline protection under section 30235 of the Coastal Act because it would assure that the proposed development remains consistent with the access and recreation policies of the Coastal Act by avoiding any of the aforementioned impacts that a shoreline protective device would have on public access and recreation.

As ~~proposed~~ conditioned, the Commission finds the development consistent with the public access and recreation policies of Chapter 3 of the Coastal Act.

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Via Federal Express and Email

April 13, 2015

Chairman Steve Kinsey
And Commissioners
California Coastal Commission
45 Fremont Street, #2000
San Francisco, CA 94105

Re: HEARING: April 15, 2015
Item #: W13c
Applications Number: 5-14-1582
Applicant: Capistrano Shores Property, LLC
Project Location: 1880 N. El Camino Real, Space 12, San Clemente (Orange County)
Project Description: Replacement of pre-HUD mobilehome with a Manufactured Home

Firm's Client: Capistrano Shores, Inc., Park Owner
Subject: Park Owner's Position on & Objection to Deed Restriction; Objections to Other Aspects of Applications

Dear Chairman Kinsey:

This Firm represents Capistrano Shores, Inc., the "**Park Owner**" of the property commonly known as Capistrano Shores Mobilehome Park located at 1880 N. El Camino Real, San Clemente, Orange County, California (the "**Park**"). A copy of the Grant Deed transferring

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title from the prior land owner and prior leasehold owner on January 25, 2008 was previously provided but is attached hereto as **Exhibit "A"** for ease of reference.¹

The Applicant is *not* the owner of the real property. The Applicant has the right to the use of Space 12 in the Park, which includes the right, to place a mobilehome pursuant to the Occupancy Agreement (lease) between the Park Owner and the Applicant. The Occupancy Agreement was submitted for staff's review. The mobilehome will be installed with an approved industry standard foundation system; therefore, it will be treated as personal property for all purposes, including taxation².

Background

The building codes for the construction of a manufactured home are contained in the Manufactured Housing Act, *Health & Safety Code §§ 18000 et seq.* The Owner has approved the manufactured home based upon issuance of the **HUD** label signifying compliance with the applicable building codes. *Health & Safety Code § 18026.* The enforcement of these building codes is specifically reserved to the California Department of Housing and Community Development ("**HCD**") and the Federal Department of Housing and Urban Development ("**HUD**"), manufactured home divisions. The local jurisdictions within California, including without limitation, the City of San Clemente, are not authorized to assume review and approval of the building codes for the construction of a manufacture home. Jurisdiction for said approval rests solely with **HUD** and **HCD**. *Health & Safety Code §§ 18020 et seq.*

The building codes for the installation of a **HUD** approved manufactured home are contained in the Mobilehome Parks Act, *Health & Safety Code §§ 18200 et seq.* The statutes have provided a mechanism whereby a local jurisdiction may assume the enforcement of the Mobilehome Parks Act and the City of San Clemente has assumed the enforcement of said Act. In conformance with its obligation under the Mobilehome Parks Act, the City of San Clemente approved the site plan for the replacement manufactured home.

Based upon the approvals, the **Park Owner** has also approved the proposed replacement manufactured mobilehome and the placement on Space 12 of the replacement manufactured home. Therefore, the **Park Owner** is satisfied that all building codes for the construction and placement of a replacement manufactured home have been satisfied.

¹ § 18214. "Mobilehome Park"

² See, Cal Health & Saf Code § 18551; 18551.1 and Cal Health & Saf Code, Division 13. Housing, Part 2. Manufactured Housing, Chapter 8. Registration and Titling of Manufactured Homes, Mobilehomes, and Commercial Coaches, Article 6. Fees and Taxes

Facts

1. The Application is for the replacement of manufactured homes on Space 12 available for and occupied by Applicant's mobilehome.³
2. The Applicant rents Space 12 from the **Park Owner** pursuant to an executed Occupancy Agreement not to a membership, contrary to the assertion in the staff report.⁴
3. The Occupancy Agreement does *not* permit or authorize the renter to encumber the Park land and improvements.
4. The bulkhead is *not* owned *in common by the entire mobilehome park* as stated on page 8 under Section IV Findings and Declarations, but rather is owned by the **Park Owner**.⁵
5. No assertion of jurisdiction was made prior to 2007 to the best of our knowledge, contrary to staff's assertion that *[T]he Commission, through past permit action, has consistently found that the replacement of existing manufactured/mobile homes with new manufactured/mobile homes, constitutes "Development"*⁶ and requires a coastal development permit, the first occurrence of the requirement for a full coastal development permit in Capistrano Shores Mobilehome Park was *after* the current Park Owner purchased the Park and related to spaces 80 & 81, in 2011/2012⁷.

General Objection to CCC Procedure Application for a CDP Waiver Denied

California Public Resources Code section 30624.7 states in pertinent part that *[A] proposed development is de minimis if the executive director determines that it involves no potential for any adverse effect, either individually or cumulatively, on coastal resources and that it will be consistent with the policies of Chapter 3 (commencing with Section 30200)*. This section of the Coastal Act was adopted as an urgency statute, February 17, 1982. The legislative history, including the correspondence sent to the author of the bill by Peter Douglas on April 27, 1982 stated the request and impetus for this new Coastal Act section was contained in the budget of 1981. As stated by Mr. Douglas:

[I]n approving our budget last year, the Legislature included specific control language directing the Coastal Commission to take appropriate steps "to reduce the Commission's regulatory workload and to achieve overall cost savings to the State....An obvious corollary to this is that

³ It is the Park Owner's position that the replacement or rehabilitation of a mobilehome does not meet the definition for "new development" under the Coastal Act and that a mobilehome or manufactured home does not meet the definition of single family residence or dwelling and building and construction codes related to single family residences do *not* apply to mobilehomes or manufactured homes contrary to the assertions of the *Staff Report*, IV, A, "Detailed Project Description, p.9.

⁴ See, *Staff Report*, IV, A, "Detailed Project Description, p. 8.

⁵ See, *Staff Report*, Section IV.A.p. 8.; See, also, Exhibit A. to this correspondence.

⁶ See, *infra*, fn. #2.

⁷ Incorporated here at as though fully set forth are all Coastal Commission Substantive Files Documents for each space in Capistrano Shores Mobilehome Park, including without limitation, Spaces 80, 81.

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there should be a commensurate reduction in unnecessary regulatory requirements and delays for project proponents...One of these was our request to you for an amendment to the Coastal Act which would allow the Executive Director to waive coastal permit requirements in particular cases (i.e., de minimis projects).⁸

The request for authority to reduce unnecessary regulatory requirements and delays for projects came from the Coastal Commission, through Peter Douglas. The project before you is a perfect example of applicability of that intent and the resulting statutory and regulatory additions to provide for a waiver of a Coastal Development Permit.

The staff report clearly states that there is no threat to the coastal assets which the Coastal Commission is obligated to protect, including without limitation, consistent with public access; recreation policies; scenic and visual resources; Chapter 3 policies of the Coastal Act; and the project is the least environmentally damaging feasible alternative and is consistent with CEQA.⁹

The staff report, also, clearly states that the *revetment [is] in good condition and not in need of maintenance,¹⁰ and that [Any] repair or maintenance, enhancement, reinforcement or other activity to the existing bulkhead/revetment is the responsibility of Capistrano Shores Inc. which holds fee title to the land that Unit Space #12 occupies (and the other mobile home unit spaces and all common areas in the mobile home Park.¹¹* The staff further confirms that the Applicant has no right to do, or cause to be done, any of the foregoing.¹² Therefore, there is no basis in fact upon which to make a Finding for **Special Condition #3**.

Special Condition #2 is redundant. If permits are required for a future improvement, a permit would need to be obtained from the agency responsible for enforcement of the (1) Mobilehome Parks Act, (2) Manufactured Housing Act, (3) Coastal Act, and others, each as may apply. These are legal requirements which do not require a full Coastal Development Permit process to implement.

The other Special Conditions will be discussed either hereinafter or by Sherman Stacey on behalf of the Applicant. The conclusion is that there was no need to take 6 months, lots of fees and costs required to process a Coastal Development Permit.

The legislative intent as expressed in the legislative history for adoption, at the request of the Coastal Commission through Peter Douglas has been thwarted in the Application before you. The Application [is] *consistent with the policies of Chapter 3 (commencing with Section 30200)*. Assuming *arguendo* the Coastal Act has authority related to replacement mobilehomes located in existing mobilehome parks, there is no basis in fact or law which supports the denial of the Application for a Waiver.

⁸ Cal.Publ.Res.Code § 30624.7; 14 CCR 13238-13238.2, inclusive.

⁹ See, *Staff Report*, IV.C., D., E., F., G., pp. 13-17, inclusive.

¹⁰ See, *Staff Report*, IV., B. p. 9.

¹¹ Id.

¹² Id.

General Objections to Proposed Conditions of Approval

The proposed conditions fall into two (2) objectionable categories: (1) exceed the scope of the Applications to replace a mobilehome with a manufactured home on a rented mobilehome space and (2) extend the control of the Coastal Commission over the Park and every other mobilehome Owner by the demand for waivers, restrictions on the real property not owned by the Applicant and unconscionable indemnity provisions. Assuming *arguendo* that the Coastal Commission has jurisdiction over the replacement of a non-permanent structure, a manufactured home, the result of these proposed conditions is to impose regulations over the Park and all other manufactured homes in the Park that exceed the statutory rights granted under the Coastal Act to all other types of “developments” and is attempting to do so, without proper notice and input from the other manufactured home owners in the Park.

The proposed conditions placed on the Applicant for simple move-in of a smaller, single story, replacement mobilehome on rented mobilehome space exceeds the scope of authority of the CCC staff by demanding that the entire mobilehome park be subject to deed restrictions. *See*, Staff Report dated April 2, 2015 (“SR”) Conditions III, 1-7, inclusive, specifically, III.6. The repair and maintenance condition, among others, SR III, 3 requires the waiver of Public Resources Code § 30610(a) exempting repair and maintenance of existing housing structures exempt from obtaining a coastal permit. Notwithstanding, objections noted above, the condition is overbroad.

PROPOSED DEED RESTRICTION FOR PERSONAL PROPERTY Special Condition #6

The following is the position of the Owner with regard to the proposed Condition 6, *Generic Deed Restriction* and to confirm general objections of the Park Owner. The following is not new information for staff. I personally meet with staff on behalf of the Park Owner during the discussions related to the Coastal Development Permit process to install a new mobilehome on each of spaces 80 and 81, and in addition, I sent essentially the same positions as outlined below.

The Applicant is *not* the owner of the real property. The Applicant has the right to the use of Space 12 in the Park on which to place a mobilehome pursuant to the Occupancy Agreement (lease) between the Park Owner and the Applicant. The Occupancy Agreement was submitted for staff’s review. The mobilehome is treated as personal property for all purposes, including taxation¹³.

¹³ *See*, Cal Health & Saf Code § 18551; 18551.1 and Cal Health & Saf Code, Division 13. Housing, Part 2. Manufactured Housing, Chapter 8. Registration and Titling of Manufactured Homes, Mobilehomes, and Commercial Coaches, Article 6. Fees and Taxes

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Page 2, paragraph 2 of the staff report has mischaracterized the ownership structure and the respective rights and obligations of the parties related to said ownership structure. Staff admits that the Applicant owns the mobilehome but does *not hold fee title to the land*. Notwithstanding the clear admission by staff that the Applicant does NOT own the land, staff concludes a deed restriction can be placed on "Unit Space 12" without encumbering the entire Park.¹⁴ This is an unsupportable and untenable position.

The Applicant does not have the right to encumber a Space in the Park.¹⁵ The right the Applicant holds is to place a personal property mobilehome and accessory structures on the Space, subject to the ownership rights of the Park Owner.¹⁶ The mobilehome, and accessory structures, are *personal property*, not real property.¹⁷

Staff based its conclusion that a deed restriction can be placed on the space based upon the incorrect description of the ownership structure as the common area is "owned in common" by the mobilehome owners.¹⁸ (Even if "owned in common" does not allow segregation of individual spaces) Based thereon, staff describes the area covered by the proposed deed restriction *to include a legal description of the entire parcel of land and a metes and bounds description of Unit Space #12 governed by this permit*.¹⁹ **The Park is not subdivided and does not have metes and bounds measurements of each of the 90 spaces.** Further, once a deed restriction is placed upon the legal description for the property owned by the **Park Owners**, then the deed restriction encumbers the entire parcel(s). Alternatively, the deed restriction would arguably constitute an unlawful subdivision.

A deed restriction cannot be placed upon personal property. A lien can be placed on personal property, if perfected through a security filing with HCD, but not for contractual obligations or restrictions--only for monetary obligations.

The purpose, as explained in the staff report, for the demand that the conditions of approval of the permit be recorded was to insure notice to future purchasers of the manufactured home located on Space 12 at the Park. A manufactured home is personal property. The title search that would be done on the personal property would not include a title search of the real property on which the personal property is located. Therefore, a deed restriction would not provide notice to future buyers of the manufactured homes located on Space 12, or any other future buyers of the manufactured homes located on other spaces within the Park.

¹⁴ See, *Staff Report*, III.6., p. 7 which states that *recorded against the parcel(s) governed by this permit (i.e. the parcel(s) of land within which Unit Space #12 is located a deed restriction,...* This requires encumbering the entire Park.

¹⁵ See, Exhibit A to this correspondence;

¹⁶ See, Occupancy Agreement (submitted as part of the Application); First Amended Declaration of Conditions, Covenants & Restrictions, recorded in the Recorder's Office of the County of Orange on February 2, 2014 as Document #000044382, sections 1.9, 1.10, 1.11, 1.26, 1.28, 1.35; Cal.Civ.Code §798.12.

¹⁷ See, *Cal.Heath&Safety Code* §§ 18555; 18555.1.

¹⁸ See, *Staff Report*, VI, A.p.8

¹⁹ See *Staff Report*, III, 6, p.7.

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Therefore, even if the Park Owner consented to the deed restriction, it would not accomplish the goal as stated in the staff report.²⁰ The Park is *not* a subdivided property whereby each space within the Park is owned by an individual/separate entity. The Park is owned by Capistrano Shores, Inc. (Note, this is not a Stock Cooperative as defined under the Subdivision Map Act.) Further, the ownership structure was specifically discussed prior to the purchase of the Park by the Owner at length in a meeting in October 2007. Therefore, when an encumbrance, such as a deed restriction, is placed on the Park then the entire Park (property) is encumbered. This raises two issues, among others:

1. Does an owner of a manufactured home located in the Park have the authority to execute and record a deed restriction against the Park? As acknowledged by the language in Condition No. 6, the answer is no. Therefore, Condition No. 6 requests the owner of a manufactured home to comply with a condition which said owner of the manufactured home has no authority or ability to comply.
2. What is the procedure for authorizing the Park Owner to make a recordation of an encumbrance against the Park? (a) Very simply summarized, the procedure is to present the request to the investors in the Park. (b) Once the notice and time procedure required under the California Corporations Code are met, then a super-majority (75%) approval of the investors is required to go to the next step. (c) The next step is to obtain the consent of all lenders involved with the project including lenders for Park Owner secured by the land and for Mobilehome Owners secured by a lien on the mobilehome. (d) The final step is for the Board of Directors to review and take action regarding the proposed encumbrance. This is an expensive and lengthy process which is unlikely of success due to the multiple parties, including the lenders, who must agree to the recordation of the deed restriction.

If the Owner wanted to refinance or take other similar actions, then the requested deed restriction would appear on the Owner's Title, but not on the titles to the manufactured homes. The deed restriction would then become an encumbrance recorded prior to any refinancing or similar actions which result would either cost the Owner additional fees to obtain the loan or be rejected unless the deed restriction were cleared.

Therefore, the Board of Directors of the Owner will not bring this matter to the investor/members or to the lenders.

The application before the Coastal Commission is an application to replace one (1) – 40 year old mobilehome with manufactured home on Space 12 with said space rented from the Park Owner. This should be a simple matter. Manufactured homes are being rolled into mobilehome parks up and down the coast every day without incident or Coastal Commission involvement or at most a waiver of a Coastal Development Permit. These, along with many other reasons, form the basis for the Owner's objections to the Conditions of Approval for the application. The Park Owner does not waive any rights, legal, equitable or administrative, to such objections, as

²⁰ See, *Staff Report*, IV.B.,p.6:

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applied to this Application, future applications, or Park applications, including without limitation, the jurisdictions to review applications to replace existing old mobilehomes, characterizing such replacement as “new development” or “development”, to remove such replaced homes from being “grandfathered into a Park that existed *prior* to the enactment of the Coastal Act, the burdensome, unnecessary, and onerous permit process used to review these two (2) Applications.

IMPOSITION OF CONDITIONS WHICH ARE IMPOSSIBLE OF COMPLIANCE BY APPLICANT – AND STAFF KNOWS THAT!

Special Condition #7

The staff report mentions one of the necessary compliance requirements for the issuance of a Coastal Development Permit is that the *applicant who is not the owner of a fee interest must demonstrate the authority to comply with all conditions of approval.*²¹

Special Condition #7 mandates, as discussed on page 12 of the Staff Report, that *[T]he applicant shall submit information indicating approval from the record title property owner that authorizes the applicant to proceed with the approved development and permits the applicant to comply with the terms and conditions of this coastal development permit.*²²

The staff acknowledges in the Staff Report that the Park Owner has previously refused to permit the Park to be deed restricted.²³ Therefore, staff is aware that a condition on the Applicant has been imposed fulfillment and compliance with is outside of Applicant’s ability to comply. Further staff is aware that this condition does in fact encumber the entire property of Park Owner and does not accomplish staff’s stated goal as set forth above.²⁴

Further, some of the conditions are unnecessary in that the Applicant does not possess the right or obligation to do that which he is being requested to do. Applicant is being asked to waive his right to repair the seawall. The Applicant is waiving such right because the Park Owner, only, has the right and the obligation to repair the sea wall.

“The Park Owner does not endorse nor concur with any specific condition with which the Applicant may consent.”²⁵ That statement was made in reference to the alternative condition of approval for Spaces 80 and 81 related to the deed restriction. The fact that the mobilehome owner for the mobilehomes on those two (2) spaces entered into an alternative condition does not

²¹ Cal. Publ.Res.Code § 30601.5 Where the applicant for a coastal development permit is not the owner of a fee interest in the property on which a proposed development is to be located, but can demonstrate a legal right, interest, or other entitlement to use the property for the proposed development, the commission shall not require the holder or owner of any superior interest in the property to join the applicant as coapplicant. All holders or owners of any other interests of record in the affected property shall be notified in writing of the permit application and invited to join as coapplicant. In addition, prior to the issuance of a coastal development permit, the applicant shall demonstrate the authority to comply with all conditions of approval. *See, also, Legislative History for AB 321, Adopted as Urgency Statute, effective February 17, 1982.*

²² *See, Staff Report IV, B.p. 12.*

²³ *Id.*

²⁴ *Id.*

²⁵ Quote from Correspondence to Sharlyn Sarb 2011 re Spaces 80 & 81.

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make that extreme concession applicable to other mobilehome owners in Capistrano Shores, Inc., which did not support said alternative condition.

The alternative condition was that when the mobilehomes are sold, the Coastal Development Permit expires and any buyer must apply for a new Coastal Development Permit – if no new CDP is issued the mobilehome will have to be removed. This renders the mobilehome not saleable.²⁶

For all of the reasons stated above, the Park Owner will not execute nor record a deed restriction against the Park as requested by Staff as a condition of approval for the replacement of any manufactured homes located on rental spaces in the Park. The Applicant and Applicant's attorney attempted numerous times to set a meeting with staff to discuss this issue, among others, over the last six (6) months.

The only conclusions from the facts related to this Application is that staff, and if approved, is attempting to hold this Applicant hostage to obtain a deed restriction affecting the entire Park or is placing a condition which staff knows cannot be met to prohibit the replacement of mobilehomes in the Park.

Jurisdiction Over Mobilehomes and Mobilehome Parks

The construction of the Park was approved on September 21, 1959, prior to the creation of the California Coastal Act of 1976. The rights thereunder represent vested rights. 14 CCR 13200²⁷ The Permit to Operate the Mobilehome Park, City of San Clemente Building Division, Permit No. 2, Park ID No. 30-116 states that *Only independent mobilehomes may be accommodated. Only vehicles bearing Department of Housing & Community Development insignia of approval may be installed on all lots. Recreational vehicle lots without traps or vents. Total 90 lots.* This Park has operated as a mobilehome park since construction. This is not a new development with the related authority for the local jurisdiction and the Coastal Commission. *Health & Safety Code §§ 18300; 18406 (authority & limitation of CCC re coastal access through mobilehome parks)*

As stated in numerous meetings with staff over the last 7+ years, written materials and by conduct, the Park Owner agrees with the *very* general statement that both (1) the Mobilehome Parks Act, the Manufactured Housing Act, and related regulations and (2) the Coastal Act, and related regulations, apply to the Park. However, it appears the position of the Coastal Commission has morphed to the overbroad and unsupportable position that the Coastal Act applies to every aspect of the Park, which conclusion is clearly not supported by a review of the regulatory schemes involved in the Acts.

The staff assertion that the proposed replacement mobilehome on Space 12 involves the construction of a residence is inaccurate. You further contend that 14 CCR §§ 13000, *et seq.*

²⁶ See, *Staff Report*, IV.B.p.12. The Findings in section IV are, again, not supported by the facts.

²⁷ My client has not taken this action available under Publ.Res.C. § 30608 due to the on-going negotiations with CCC Staff to resolve the conflict. It is certainly one of the options available to them if the issues are not resolved.

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April 13, 2015

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does not exempt mobilehome parks. The scope of this chapter of regulations is limited to coastal development permit applications required under Public Resources Code § 30601 (Commission) and §30600 (local jurisdictions in cases where the local government has not exercised its option to administer permits). In this matter, the local jurisdiction has not exercised its option to administer Coastal Development Permits but has exercised its option to act as the enforcement agency for HCD. H&S 18300. This is not to suggest that exercise of either the option to be enforcement agency for HCD or to administer coastal permits would change the authority of the local jurisdiction and override HCD preemption. Again, some of the regulations contained in 14 CCR §§13000 *et seq.* apply in specific circumstances as related to new construction of mobilehome parks and renovation of stick build amenities such as clubhouses, and some regulations do not apply such as moving in and out of mobilehomes of an established park.

The general rule of statutory construction is that when a statute encompasses an area of law, then any conflicting statutes, ordinances, or regulations are preempted. A further sub-rule of the general rule of statutory constructions is that when two state legislative acts may apply to a specific matter, then the two legislative acts must be harmonized to give meaning and effectiveness to both legislative acts. The statutory construction espoused by the Coastal Commission related to Capistrano Shores Mobilehome Park denudes and renders ineffective the Mobilehome Parks Act, Manufactured Housing Act, and other related statutes and regulations governing mobilehome parks and mobile/manufactured housing.

All homes within the Park are mobile/manufactured homes and meet the requirements of the Manufactured Housing Act²⁸ and have been permitted thereunder. *Health & Safety Code § 18007, 18008.* The only governmental agency which has authority to enforce and/or approve a mobile/manufactured home is HCD. *Health & Safety Code § 18253.*

The design of these mobile/manufactured homes are created under specific building codes which are exempted from Coastal Commission regulation under *Public Resources Code § 30333.2*. *Public Resources Code § 30333.2* prohibits Coastal Adopting Building Codes and Standards. (See, SB 321, 1979) In this same bill, as stated in the Legislative Counsel's Digest (drafts dated January, 1979, April 16, 1979, May 14, 1979, June 7, 1979, July 17, 1979, September 5, 1979, ***This bill would vest in the [California Building Standards] commission the responsibility for approving and publishing, as specified in the bill, all building standards, as defined in the bill, except those relating to mobilehomes. Excepting mobilehomes, the bill would designate the [California Building Standards] commission as the sole state agency with authority to approve and publish building standards, as defined, after July 1, 1980. Excepting regulations relating to mobilehomes...*** This bill also added section 30333.2 of the Publ.Resources Code which prohibits the CCC to adopt building standards, regulations, etc. *Any building standard adopted [by CCC] in violation of this section shall have no force or effect.* This is obviously a very brief discussion of the legislative history relating to the Coastal

²⁸ The Manufactured Housing Act is the implementing State Statutes for enforcement of the Federal Housing Act, related to mobile/manufactured home construction. It is beyond the scope of this response to discuss the preemption of Federal Statutes and Regulations related to this topic. *National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. section 5401 et seq. See, H&S 18024.5(b).*

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Commission limitation of authority with regard to the building standards for mobile/manufactured homes.

SB 321 was a comprehensive review and restate of the authority to enact and enforce building codes, and the Public Resources Code § 30333.2 limiting CCC was part of that overall legislative bill. CCC is prohibited from developing regulations, policies or any other scheme that would conflict with the authority of the Federal Statute or HCD designated as the sole authority to enforce the Federal Statutes and to set Building Standards for manufactured homes or parks.

My clients respectfully disagrees with staff's allegation that the Coastal Commission can set building standards for mobile/manufactured homes.

In conclusion, my clients assert that the Coastal Commission cannot require an Application for a Coastal Development Permit nor issue the "Special Conditions" to a Coastal Development under the facts and circumstances of this Application.

If you have any questions regarding this correspondence, please contact me.

Sincerely,

THE LOFTIN FIRM LLP



By: L. Sue Loftin, Esq.

cc: Client (*Via Email*)
Ms. Sherilyn Sarb (sherilyn.sarb@coastal.ca.gov)
Mr. Karl Schwing (karl.schwing@coastal.ca.gov)
Mr. Al Padilla (al.padilla@coastal.ca.gov)
Sherman Stacey, Esq. (*Via Email*)

Exhibit List:

Exhibit "A" Grant Deed

EXHIBIT "A"

GRANT DEED

This Document was electronically recorded by
Chicago Title Commercial

Recorded in Official Records, Orange County
Tom Daly, Clerk-Recorder

Order No.
Escrow No.

 35.00

2008000037828 01:52pm 01/25/08

119 59 G02 4
0.00 0.00 20.00 0.00 9.00 0.00 0.00 0.00

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO
AND MAIL TAX STATEMENTS TO:

Capistrano Shores, Inc.
1880 N. El Camino Real
San Clemente, CA 92672

DOCUMENTARY TRANSFER TAX \$ _____ *	Space above this line for Recorder's Use
... Computed on the full consideration or value of property conveyed; OR	
... Computed on the consideration or value less liens or encumbrances remaining at time of sale.	Signature of Declarant or Agent determining tax - Firm Name

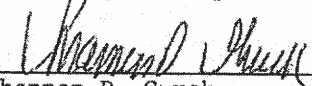
*Documentary transfer tax is not shown pursuant to Section 11932 of the California Revenue and Taxation Code as amended.

GRANT DEED

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, the TRUSTEES OF AMHERST COLLEGE, a 501(c)(3) non-profit corporation, hereby GRANTS to CAPISTRANO SHORES, INC., a California non-profit mutual benefit corporation, that certain real property in the County of Orange, State of California, as more particularly described in Exhibit "A" attached hereto and incorporated herein by this reference, subject to matters of record.

Dated: January 23, 2008

TRUSTEES OF AMHERST COLLEGE,
a 50(c)(3) non-profit corporation

By: 
Shannon D. Gurek

Its: _____
Associate Treasurer

MAIL TAX STATEMENTS AS DIRECTED ABOVE

A.P.N. 691-432-01

MASSACHUSETTS ALL-PURPOSE ACKNOWLEDGMENT

Gov. Exec. Ord. #455 (03-13), §5(d)

Commonwealth of Massachusetts }
County of Hampshire } ss.

On this, the 21st day of January, 2008, before me,

Nancy A. Brownfield, the undersigned Notary Public,
Name of Notary Public

personally appeared Shannon D. Gurek,
Name(s) of Signer(s)

proved to me through satisfactory evidence of identity, which was/were

personally known by Notary,
Description of Evidence of Identity

to be the person(s) whose name(s) is/are signed on the preceding or attached document, and acknowledged to me that he/she/they signed it voluntarily for its stated purpose(s).

as partner(s) for _____,
Name of Partnership
_____, a partnership.

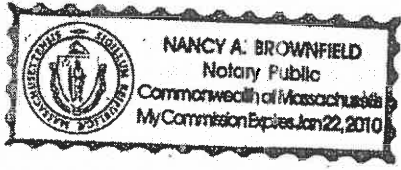
as Associate Treasurer for
Title of Office
Amherst College, a corporation.
Name of Corporation

as attorney in fact for _____,
Name of Principal Signer
_____, the principal.

as _____ for _____,
Type of Capacity
_____, a/the _____
Name of Person/Entity Type of Entity

Nancy A. Brownfield
Signature of Notary Public

Nancy A. Brownfield
Printed Name of Notary



Place Notary Seal and/or Any Stamp Above

My Commission Expires January 22, 2010

OPTIONAL

Although the information in this section is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: Grant Deed Capistrano Shares

Document Date: 1/23/08 Number of Pages: 1
signed 1/21/08 Exhibit A Attached (2 pages)

Signer(s) Other Than Named Above: None

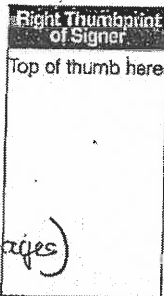


EXHIBIT "A"
LEGAL DESCRIPTION OF PROPERTY

PARCEL 1:

THAT PORTION OF SECTION 32, TOWNSHIP 8 SOUTH, RANGE 7 WEST, SAN BERNARDINO BASE AND MERIDIAN, DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST NORTHERLY CORNER OF TRACT NO. 981, AS SHOWN ON A MAP RECORDED IN BOOK 31, PAGE 26 OF MISCELLANEOUS MAPS, RECORDS OF ORANGE COUNTY, CALIFORNIA; RUNNING THENCE NORTH $46^{\circ} 27'$ WEST 3182.22 FEET ALONG THE NORTHWESTERLY PROLONGATION OF THE NORTHEASTERLY LINE OF SAID TRACT TO THE SOUTHEASTERLY LINE OF THE LAND CONVEYED TO HERMANN H. GOLDSCHMIDT BY DEED RECORDED JULY 21, 1941 IN BOOK 1100, PAGE 480 OF OFFICIAL RECORDS, SAID POINT ALSO BEARS SOUTH $43^{\circ} 59'$ WEST FROM ENGINEERS STATION 232 + 73.32 FEET OF THE CALIFORNIA STATE HIGHWAY DESIGNATED AS DIVISION VII, ORANGE COUNTY ROUTE 2, SECTION A, APPROVED SEPTEMBER 22, 1914; THENCE SOUTH $43^{\circ} 59'$ WEST 140 FEET, MORE OR LESS, TO AN INTERSECTION WITH THE ORDINARY HIGH TIDE LINE OF THE PACIFIC OCEAN; THENCE IN A SOUTHEASTERLY DIRECTION ALONG ABOVE MENTIONED HIGH TIDE LINE TO AN INTERSECTION WITH NORTHWESTERLY LINE OF TRACT NO. 981; THENCE NORTH $43^{\circ} 33'$ EAST 110 FEET, MORE OR LESS, TO THE POINT OF BEGINNING.

EXCEPTING ANY PORTION OF THE LAND BELOW THE LINE OF ORDINARY HIGH WATER WHERE IT WAS LOCATED PRIOR TO ANY ARTIFICIAL OR AVULSIVE CHANGES IN THE LOCATION OF THE SHORELINE.

EXHIBIT "A"
LEGAL DESCRIPTION OF PROPERTY

PARCEL 2A:

LOTS 1 THROUGH 16, INCLUSIVE OF TRACT NO. 981, SAN CLEMENTE, THE SPANISH VILLAGE, AS SHOWN ON A MAP RECORDED IN BOOK 31, PAGE 26 OF MISCELLANEOUS MAPS, RECORDS OF ORANGE COUNTY, CALIFORNIA.

EXCEPTING THEREFROM ONE-HALF OF ALL OIL, GAS AND OTHER HYDROCARBONS AND MINERALS PRODUCED FROM SAID PROPERTY TOGETHER WITH ONE-HALF OF ALL BONUSES FOR AND ALL RENTS AND OTHER LESSOR BENEFITS UNDER ANY LEASE FOR THE PRODUCTION OF SAID SUBSTANCES TOGETHER WITH ONE-HALF OF THE RENT AND/OR ROYALTIES AND BONUSES RECEIVED FOR THE USE OF ANY SITE OR SITES LOCATED ON SAID PROPERTY FOR DRILLING, AND/OR BORING BY WHIPSTOCKING OR DIRECTIONAL DRILLING FOR THE PRODUCTION AND REMOVAL OF OIL, GAS AND OTHER HYDROCARBONS AND MINERALS FROM AND UNDER LANDS OTHER THAN THE REAL PROPERTY DESCRIBED HEREIN, INCLUDING ONE-HALF OF THE RENT AND/OR ROYALTIES AND BONUSES RECEIVED FOR PERMITTING MINING, DRILLING AND/OR FOR OIL, GAS AND OTEHR HYDROCARBONS AND MINERALS BY WHIPSTOCKING OR DIRECTIONAL DRILLING, MINING OR BORING THEREFOR FROM LANDS OTHER THAN, AND ONLY UNDER AND THROUGH, THE REAL PROPERTY DESCRIBED HEREIN, AS RESERVED IN A DEED FROM BANK OF AMERICA NATIONAL TRUST AND SAVINGS ASSOCIATION, RECORDED MAY 18, 1959 IN BOOK 4717, PAGE 330 OF OFFICIAL RECORDS.

ALSO EXCEPTING ANY PORTION OF THE LAND BELOW THE LINE OF ORDINARY HIGH WATER WHERE IT WAS LOCATED PRIOR TO ANY ARTIFICIAL OR AVULSIVE CHANGES IN THE LOCATION OF THE SHORELINE.

PARCEL 2B:

AN EASEMENT FOR ACCESS, INGRESS AND EGRESS FOR THE BENEFIT OF LOTS 1 THROUGH 16 INCLUSIVE OF TRACT NO. 981, "THE SPANISH VILLAGE" AS SHOWN ON A MAP RECORDED IN BOOK 31, PAGE 26 OF MISCELLANEOUS MAPS, RECORDS OF ORANGE COUNTY, CALIFORNIA, OVER THAT CERTAIN STRIP OF LAND DELINEATED AS "SENDA DE LA PLAYA" ON THE MAP OF SAID TRACT NO. 981.

END OF LEGAL DESCRIPTION

FRED GAINES
SHERMAN L. STACEY
LISA A. WEINBERG
REBECCA A. THOMPSON
NANCI S. STACEY
KIMBERLY RIBLE
ALICIA B. BARTLEY

LAW OFFICES OF
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1111 BAYSIDE DRIVE, SUITE 280
CORONA DEL MAR, CALIFORNIA 92625

TELEPHONE
(949)640-8999
FAX
(949)640-8330

April 13, 2015

Chairman Steve Kinsey
And Commissioners
California Coastal Commission
45 Fremont Street, #2000
San Francisco, CA 94105

Re: Application for Permit No. 5-14-1582 (Capistrano Shores Property LLC)
Space 12, Capistrano Shores Mobile Home Park
1800 El Camino Real, San Clemente

Dear Chairman Kinsey and Commissioners:

On April 15, 2015, I will appear before you on behalf of the Applicant, Capistrano Shores Property LLC, in connection with CDP No. 5-14-1582 to replace an existing 16 foot high, 1,440 square foot mobile home with a new 16 foot high 1,238 square foot mobile home. The location of the mobile home is Space No. 12, leased by the applicant in the Capistrano Shores Mobile Home Park (the "Park") at 1880 El Camino Real, San Clemente. The application was submitted on August 26, 2014, and filed on October 23, 2014. The hearing was initially set for January 10, 2015, with a Staff Recommendation of approval with 6 Special Conditions. However, the written public notice which was sent read "January 9, 2015". Due to the Staff error in the public notice, the Staff postponed the matter from the January agenda.

On January 26, 2015, I wrote to Al Padilla asking for modifications to proposed Special Conditions 1, 3 and 6. A copy of my letter is attached hereto as Exhibit A. A copy of the Special Conditions with the Applicant's requested modifications is attached hereto as Exhibit B. Although I requested a meeting with staff in writing on January 26, February 12, February 17 and March 13, Staff did not respond. The Applicant also called Staff requesting a meeting and receive no response. When permit streamlining time was running out, I received a call on March 26 offering to discuss the matter if the Applicant would waive time. Having had his replacement mobile home on a storage lot since July 2014, and having been ignored by the Staff, the Applicant declined to do so. The permit hearing is now set for April 15, 2015. In the revised Staff Report, an additional Special Condition 7 was added. Under Special Condition 7 the Applicant cannot replace the mobile home unless Capistrano Shores, Inc. ("CSI"), the owner of the Park, agrees to record the Deed Restriction required by Special Condition 6. CSI will not do so and the Applicant objects to Special Condition 7 as well.

1. The Capistrano Shores Mobile Home Park and Coastal Commission Regulation.

Capistrano Shores Mobile Home Park was first approved by the City of San Clemente in 1959. (Copy of City Council minutes dated September 16, 1959 approving the Park are attached as Exhibit C.) The Park was constructed in 1960 with 90 spaces for mobile homes, a single structure built as an office and manager's residence, and a seawall along the shoreline.

To our knowledge, from 1973 through 2007, mobile homes had been placed, modified and replaced within the Park without a coastal development permit ("CDP"). The California Department of Housing and Community Development ("HCD") and the City of San Clemente ("City") issued permits for new and modified mobile homes without requiring a CDP. HCD has long maintained that HCD has exclusive jurisdiction to approve mobile homes within existing parks.

In 2007, existing residents in the Park formed CSI to acquire the Park from its prior owner, Amherst College. To assure themselves that no CDP was required for the residents to purchase the Park, some residents met with Peter Douglas. Mr. Douglas advised that no CDP was required.

Only after the residents purchased the Park on January 25, 2008, did the Commission assert that a CDP was required to replace one HCD approved mobile home with another HCD approved mobile home. Although CSI disagreed with the new requirement for a CDP and opposed the Commission asserting jurisdiction where it had not asserted jurisdiction before, no contest was advanced since the Commission staff issued waivers of permit requirements to the first 5 mobile home replacements in 2008. (See, Waivers 5-08-043W, 5-08-069W, 5-08-070W, 5-08-106W, 5-08-225W.) In 2009, the Staff changed its position and declined to approve further waivers.

The first two permit applications ever to come before the Commission were filed by Hitchcock, the lessee and coach owner in Spaces 80 and 81. (See, CDP 5-09-179, 5-09-180.) On June 9, 2010, the Commission approved these applications with conditions. Hitchcock accepted the Special Conditions. CSI objected to the Special Conditions waiving the right to protection from the ocean and requiring CSI to record a deed restriction. The Special Conditions were modified to eliminate the need for CSI to record the Deed Restriction providing instead that any sale of a mobile home by Hitchcock would require the purchaser to obtain a new CDP. The Applicant objects to such a condition as the CDP which it obtains should be the only action necessary to place and maintain the new mobile home. No other CDP applications for replacement mobile homes in the Park have come before the Commission before today.

2. The Applicant's Replacement Mobile Home.

The mobile home in Space No. 12 was placed in the Park in 1977. Manufactured by Levitt, the dimensions of the standard doublewide model are 24 feet wide and 60 feet long, for a

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And Commissioners
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total of 1,440 square feet. The design of this standard doublewide mobile home has a simple peaked shed roof at 16 feet above grade at the ridgeline. By 2014, the Levitt coach was worn out and uninhabitable. (See Exhibit D.) On July 10, 2014, the Applicant purchased a Silvercrest Model 1461H for \$117,354.00. (See Exhibit E.) The Model 1461H is 24 feet wide and 52 feet long with an identical ridgeline height of 16 feet. Other than being 8 feet shorter, the Levitt and the Silvercrest mobile homes are identical in height, width and length.

The work is easily described. The Levitt mobile home goes out. The Model 1461H mobile home goes in. Both the old Levitt and Model 1461H are on standard mobile home pier supports below the metal floor joists installed at the factory. A skirt is placed around the required 18 inch clearance to provide a neat appearance and a small outside deck is erected to give its residents a place to sit outdoors. A small storage shed is placed near the street.

The Model 1461H is 8 feet shorter than the Levitt. Six additional feet of setback is provided on the seaward side and two additional feet on the front yard. A plot plan showing the location of the old Levitt model and the new Model 1461H is attached as Exhibit F. Photographs of the old Levitt are attached as Exhibit G. A photographs of the new Model 1461H stored in Corona is attached as Exhibit H.

3. Special Condition No. 3.

Special Condition No. 3 requires the Applicant to waive any right to protect its mobile home in the event that the existing seawall proves inadequate in the future. The Applicant objects to this waiver. Such a waiver is not required by the Coastal Act.

The Applicant's existing and proposed mobile home are already protected by a seawall which extends seaward from the edge of Space #12. The entire Park has been protected by a seawall since its construction in 1960. The replacement of the mobile home does not and will not require the construction of a shoreline protective device. The protective device is in place. There is no impact that arises from changing identical mobile homes that justifies the waiver of rights under Public Resources Code §30235 to protect existing structures.

If the revetment needs to be maintained, repaired, replaced or expanded in order to continue adequate protection of the Park itself, or the mobile home in Space No. 12, the Applicant cannot be required to waive any right which the Coastal Act extends to the property. Neither can the Commission compel the Park owner, CSI, to refrain from providing, maintaining or, with appropriate permits, repairing or improving the existing protection. Since shoreline protection already exists, the replacement of one mobile home with another HCD approved mobile home does not create a need for additional shoreline protection.

The recommended findings speculate that there could be a future need to repair or expand the shoreline protection. There is no evidence to support this finding. Further, the Staff report takes the legal position that the new mobile home is not entitled to protection as it is no longer

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the “existing structure”. Public Resources Code §30235 protects “existing structures”. Section 30235 does not say that this protection is limited to structures that existed on January 1, 1977, the effective date of the Coastal Act. Once the new mobile home is in place, it is an existing structure. The test of whether or not approval of shoreline protection is required for an existing structure arises when the protection is needed. At the time that CSI might make an application for a CDP to improve or repair to the seawall, the Silvercrest Model 1461H will be an existing structure.

If, however, the Staff is correct that only structures in existence on January 1, 1977 are entitled to shoreline protection, then no waiver is needed. An application to improve protection for the Silvercrest Model 1461H in Space No. 12 could be denied on the grounds that such protection is not necessary to protect an “existing structure”.

Neither the Applicant nor the Park owner, CSI, are presently seeking to improve the shoreline protection. If the future should result in a need to repair or improve the protection, the Park will need to apply for a CDP. That application will be judged on either the policies of Chapter 3 or on an LCP. A CDP may be approved or may not be approved. What the Applicant seeks that the structure in Space No. 12 can be a structure entitled to protection like other structures in the Park. The waiver in Special Condition 3 deprives the Applicant of the right to protection that the Coastal Act extends.

In other actions on CDP where the Commission has required a waiver, the Commission has relied upon Public Resources Code §30253(b) which provides that “new development” will not “in any way require the construction of protective devices that will substantially alter natural landforms on bluffs and cliffs.” (See, e.g., CDP 5-02-345 (Markland), 5-04-205 (Paicius); 5-11-064 Yousefi); 1-12-023 (Winget); 1-13-0990 (Lee); 5-13-1209 (Morris).) But §30253(b) does not apply to Space No. 12 (nor to the entire Park). The Park is not on a bluff or cliff and no alteration to natural landforms on any bluff or cliff will result. In addition, although the Silvercrest mobile home is new, the Park is not new.

The Applicant’s proposed Special Condition 3 eliminates the waiver of the right to future protection that may prove essential. The changes which are requested to the remainder of Special Condition No. 3 are technical in nature as to how the proposed development is described. The remaining changes alter the intent of Special Condition No. 3. The Applicant requests that the Commission modify Special Condition No. 3.

4. Special Condition No. 6 and 7.

Special Conditions No. 6 and 7 require that the Applicant secure the signature of CSI on a Deed Restriction setting forth the content of the Special Conditions which would be recorded. The Applicant cannot effectively execute a Deed Restriction because the Applicant is only a tenant, not the owner of the land. CSI is the owner of the land. CSI has declined, as it declined in the Hitchcock CDPs in 2010, to execute or record a Deed Restriction.

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CSI has written separately to the Commission setting forth the reasons for its objections to signing and recording a Deed Restriction. CSI had the same objections in 2010 to the Hitchcock permits for Spaces 80 and 81 (CDP 5-09-179 and 5-09-180).

The Applicant has no objection to insuring that subsequent purchasers of the mobile home in Space No. 12 have full notice of the Special Conditions which the Coastal Commission imposes on this CDP No. 5-14-1582. The purpose of Special Conditions No. 6 and 7 is to place subsequent purchasers of the mobile home in Space No. 12 on notice of the Special Conditions. But the Deed Restriction required by Special Conditions No. 6 and 7 do not accomplish this intended result.

The purchaser of the mobile home in Space No. 12 purchases personal property, not real property. No purchaser in the Park acquires real property. Transfer is made by a certificate of title issued by HCD. (Examples of the certificates for the Levitt model and Model 1461H are attached as Exhibit I.) There is no title report which discloses any Deed Restriction to the purchaser. HCD does not maintain a system by which restrictions on the personal property for which HCD issues certificates of title can be established. Therefore, recording a deed restriction as required by Special Condition No. 6 and 7 will do nothing to provide notice to any subsequent purchasers.

When the same impasse was faced in the Hitchcock CDPs in 2010, the Commission elected to impose a Special Condition that any subsequent purchaser of the mobile home would have to obtain a new CDP or the mobile homes in Spaces No. 80 and 81 would have to be removed. No effective mechanism for providing notice to a prospective purchaser of these mobile homes was included in the conditions on Hitchcock. Hitchcock has not sold either of his mobile homes so the effectiveness of this Special Condition has not been tested.

The Hitchcock solution is not an effective or efficient solution. If 20 years from now, a purchaser from Hitchcock's estate is even aware of the requirement to get a new CDP, it involves the Commission in again approving what it already approved. If the more likely result that a purchaser from Hitchcock's estate knows nothing of the requirement to get a new CDP, it embroils the Commission in enforcement against an angry and innocent purchaser.

The Applicant has a better solution in Special Condition No. 6 attached hereto. In the Applicant's Special Condition No. 6, CSI and the Applicant modify the terms of the Occupancy Agreement for Space No. 12 to set forth the Special Conditions as part of the Occupancy Agreement. Since the purchaser of the mobile home is acquiring the right of occupancy as well, the purchaser will as a matter of course be provided with the Occupancy Agreement. Putting the Special Conditions in the Occupancy Agreement will provide notice of the Special Conditions to any subsequent purchaser of the mobile home. The Applicant's proposed Special Condition 6 would also require that no amendment, renewal or modification to the Occupancy Agreement or any new Occupancy Agreement could delete the provisions incorporating the Special Conditions. CSI, as the owner of the Park, is willing to abide by this procedure.

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The Applicant sent the proposed language for Special Condition No. 6 to the Staff in January. The Applicant has had no response. No substantive or technical problem with the Applicant's proposed Special Condition No. 6 has been raised.

The Applicant's proposed Special Condition 6 will bind the Applicant in Space No. 12 and give notice to prospective purchasers of the mobile home in Space No. 12. The Deed Restriction required by the Staff's Special Condition 6 and 7 will not. Applying the Applicant's proposal which has the cooperation of CSI as landowner, would eliminate future Coastal Commission actions that Special Conditions No. 6 and 7 would require. What the Applicant proposes is effective and efficient for all parties. The Applicant asks you to delete Special Conditions No. 6 and 7 in the Staff Report and impose the Applicant's proposed Special Condition No. 6.

5. The Commission Does Not Have Jurisdiction to Control the Placement of HCD Approved Mobile Homes in Existing Mobile Home Parks.

In my letter dated August 25, 2104 submitting the Application, my letter dated October 22, 2014 responding to the Notice of Incomplete Application, and my letter dated January 26, 2015 expressing opposition to proposed Special Conditions, I have reserved the right to object to the Commission's jurisdiction over replacement of mobile homes in existing mobile home parks.

A. The Commission is not authorized to establish standards for mobile homes which have been approved by HCD nor to prohibit the placement in an existing park of one HCD approved home with another.

The Commission has no permit jurisdiction over the replacement of one mobile home coach with another mobile home coach licensed by HCD. Even if the Commission had permit jurisdiction, the Commission is specifically barred by Public Resources Code §30333.2 from establishing any building standards. Finally, the replacement of the Levitt coach with a new coach of substantially similar dimensions has no impacts which would give rise to the imposition of any of the proposed Special Conditions.

The Park has operated as a mobile home park since its construction in 1960. The Park is not a new development with the related authority for the Coastal Commission to approve or disapprove of changes to mobile home coaches which are approved by HCD. The application of the Coastal Act to the Park must be read together with the Manufactured Housing Act (Health & Safety Code §§18000, et seq.) and the Mobilehome Parks Act (Health & Safety Code §§18300, et seq.) These laws give exclusive jurisdiction to HCD to approve or disapprove of mobile homes which may be located within an existing mobile home park.

All homes within the Park are mobile/manufactured homes and must meet the requirements of the Manufactured Housing Act. The Model 1461H proposed for Space No. 12 meets this requirement. (See Exhibit I.) Removing one home and replacing it with a

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substantially identical home requires only the approval of HCD. The Commission can regulate other aspects of development within the Park such as permits for improvements to the seawall, to the driveways, fences or utilities, to the manager's building, to trash enclosures or other amenities, or to the exterior amenities which may surround each mobilehome. But the mobilehome itself may be placed, modified or replaced without benefit of a coastal development permit provided that HCD has issued its permit.

B. The structure of coastal regulation supports the HCD preemption over mobile homes.

The structure of coastal regulation also supports the preemption by HCD over mobile homes within mobile home parks. The Coastal Act contemplates that state Coastal Act policies will be administered by local governments under certified Local Coastal Programs. (See, Public Resources Code §§30500, et seq.) The Coastal Act specifically contemplates that permit regulation within the Coastal Zone will be delegated to local government. (See, Public Resources Code §30519.) Although after 40 years this process is not complete, it is the local government that the Legislature anticipated would administer permits.

The Manufactured Housing Act ("MHA") and the Mobilehome Parks Act ("MPA") both specifically provide that those Acts and the regulations adopted by HCD pursuant to those Acts "supersede any ordinance adopted by any city, county, city and county, whether general law or chartered". (Health & Safety Code §18015, §18300(a).) In common application, regarding regulation of mobile home parks and of mobile homes, local regulation is preempted by HCD. (*County of Santa Cruz v. Waterhouse* (2005) 127 Cal.App.4th 1483, 1489-1490.)

The policies of the Coastal Act are intended to be administered by local regulation by cities and counties. But the Legislature has provided in the area of mobilehome parks and mobilehomes, local regulation is preempted by HCD. It should not be of any importance in the preemption by HCD that a specific local regulation has not yet been adopted to carry out the policies of the Coastal Act. HCD's specific rules and regulations governing mobile homes must prevail against the general policies of the Coastal Act intended for local administration.

One might argue that the MPA and the MHA are in conflict with the Coastal Act. When there are two laws are in conflict, an effort to harmonize their provisions should be made. (*Mejia v. Reed* (2003) 31 cal.4th 657, 663.) The Coastal Act can be harmonized with the MPA and the MHA by recognizing the Coastal Commission authority over the creation of a new mobilehome park and over improvements to a mobilehome park such as roads, utilities, gates, fences, walls, and other permanent structures. However the Coastal Act should not be applied to require a CDP for one mobile home to replace another mobile home in an existing mobile home park. A change of one HCD approved mobile home for a different HCD mobile home entails negligible impacts meriting regulation for Coastal Act purposes.

c. **There are no impacts from the change in mobile homes requested by the Applicant.**

The old Levitt mobile home and the new Silvercrest mobile home are indistinguishable from one another in their impacts upon the Coastal Zone. The new Silvercrest home is even smaller and placed farther from the seawall than the old Levitt home. Without any discernable impact, the Coastal Commission does not have jurisdiction to burden a property with conditions. Indeed, until 2010, the Executive Director had granted waivers to changes in mobile homes in the Park. To grant a waiver, the Executive Director was required to find, and did find, "it involves no potential for any adverse effect, either individually or cumulatively, on coastal resources and that it will be consistent with the policies of Chapter 3".

I have attached copies of Waivers No. 5-08-069W and 5-08-106W (Exhibit J). Waiver No. 5-08-069W approved removing a 1978, 1,525 square foot mobile home and replacing it with a new 1,626 square foot mobile home in Space No. 37. Waiver No. 5-08-106 approved removing an existing 1,022 square foot mobile home and replacing it with a 1,122 square foot mobile home in Space No. 74. These two waivers allowed larger new mobile homes. The Applicant proposes a smaller new mobile home. The two Waivers are substantively identical to what the Applicant has requested. In 2008, the Executive Director (with the Commission's concurrence) finds that no conditions are necessary to comply with Chapter 3 policies and that there is no individual or cumulative potential for adverse effect.

By 2014, seven Special Conditions are now required of the Applicant. What the Applicant requests to do (change one mobile home for another) was a part of the "cumulative" effect that the Executive Director repeatedly found was not adverse. (There is no evidence that any of the mobile homes for which waivers were made resulted in any impacts that required a CDP.)

The findings recommended in the Staff Report are so distant from the Executive Director's prior findings as to make the current findings suspect. Rather than there actually being any adverse effect arising from what the Applicant proposes to do, the Applicant finds itself trapped in a permit process which is used to apply restrictions that the facts do not justify. The Commission is not free to impose conditions simply because the Commission claims that a CDP is required. The conditions must bear some relationship to impacts from the development.

Public Resources Code §30607 authorizes the Commission to impose "reasonable terms and conditions" in order to insure that the Applicant taking out one mobile home to replace it with a substantially identical mobile home is consistent with the Coastal Act. To be "reasonable" means that there must be a reason to apply the condition which arises from the effects of the proposed activity being regulated. The Commission lacks jurisdiction to impose conditions that are unreasonable.

Chairman Steve Kinsey
And Commissioners
April 13, 2015
Page 9

The Commission should also note that (1) the waivers took only a few weeks for the Applicants while this CDP has taken 8 months, (2) that the amount of the Commission's staff resources applied to permitting each change of a mobile home at the Park is a substantial burden on the Commission Staff, and (3) all of this effort by Staff and Applicant produces no benefit to the public and the coast.

7. Applicant's Request.

Although the Applicant believes that the Commission should return to the waiver policy where similar mobile homes are removed and replaced, after 6 months waiting for a permit hearing, the Applicant requests that the Commission approve its CDP. The Applicant requests an amending motion changing Special Condition No. 3 and No. 6 to the language attached hereto, and to delete Special Condition No. 7.

Sincerely,

Sherman L. Stacey

SHERMAN L. STACEY

SLS/sh

cc: (by email)
Mr. Al Padilla
Mr. Eric Wills
Mr. Eric Anderson
Mr. Mark Howlett
Sue Loftin, Esq.

**THE APPLICANT REQUESTS AN AMENDING MOTION TO CHANGE SPECIAL
CONDITIONS 3 AND 6 AS SET FORTH BELOW, AND DELETE SPECIAL
CONDITION 7**

3. **Future Response to Erosion/No Future Shoreline Protective Device.** No repair or maintenance, enhancement, reinforcement, or any other activity affecting the existing shoreline protective device is authorized by this coastal development permit.

By acceptance of this permit, the applicant agrees on behalf of itself and all successors and assigns to the manufactured home on, and Occupancy Agreement to, Space #12 that the applicant and all successors and assigns shall remove the development authorized and defined by this permit as, including the manufactured home and related accessory structures, if any government agency has issued a permanent order that the manufactured home not be occupied due to the immediate threat of substantial or actual damage rendering the manufactured home on Space #12 uninhabitable or destruction of the premises resulting from waves, erosion, storm conditions, sea level rise, or other natural hazards in the immediate future. In the event that portions of the development fall on the beach before they are removed, the applicant or successor shall remove all recoverable debris associated with the development from the beach and ocean and lawfully dispose of the material in an approved disposal site. Such removal shall require a coastal development permit.

6. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the landowner(s) and the applicant have executed an amendment to the Occupancy Agreement for Space #12, (1) stating that pursuant to this permit, the California Coastal Commission has authorized the placement of a manufactured home and related accessory structures, including without limitation, manufactured home foundation system and patio covers, on Space #12, subject to terms and conditions that restrict the use and enjoyment of the manufactured home and related accessory structures located on Space #12; and (2) stating that the Special Conditions of this permit are restrictions on the use and enjoyment of the manufactured home and related accessory structures located on Space #12. The Amendment to the Occupancy Agreement shall also state that, in the event of an extinguishment or termination of the Occupancy Agreement for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the manufactured home and accessory structures located on Space #12 of the mobilehome park so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on Space #12. Notwithstanding the foregoing, the landowner and lessee may, at their discretion, extend, assign, execute a new Occupancy Agreement, providing that the Occupancy Agreement provision required under this Permit Condition may not be deleted, altered or amended without prior approval of the Executive Director of the Coastal Commission.

7. Delete Special Condition 7.

EXHIBITS TO STACEY LETTER DATED APRIL 13, 2015

- Exhibit A: Letter from Stacey to Padilla dated January 26, 2015
- Exhibit B: Special Conditions from January 2015 with Applicant's requested modifications
- Exhibit C: City Council of San Clemente approval on August 30, 1959
- Exhibit D: Letter dated April 9, 2015 from Applicant re condition of old coach
- Exhibit E: Silverton Model 1461H Purchase Closing Statement dated July 10, 2014
- Exhibit F: Plot Plan comparing mobile home locations
- Exhibit G: Photograph of old Levitt mobile home
- Exhibit H: Photograph of new Silverton Model 1461H
- Exhibit I: HCD Certifications for Levitt and Silverton mobile homes
- Exhibit J: Permit Waiver Nos. 5-08-069, 5-08-106W

FRED GAINES
SHERMAN L. STACEY
LISA A. WEINBERG
REBECCA A. THOMPSON
NANCI S. STACEY
KIMBERLY RIBLE
ALICIA B. BARTLEY

LAW OFFICES OF
GAINES & STACEY LLP
1111 BAYSIDE DRIVE, SUITE 280
CORONA DEL MAR, CALIFORNIA 92625

TELEPHONE
(949)640-8999
FAX
(949)640-8330

January 26, 2015

BY EMAIL AND MAIL

Mr. Al Padilla
California Coastal Commission
South Coast District Office
200 Oceangate, #1000
Long Beach, CA 90802

Re: Application for CDP No. 5-14-1582
Capistrano Shores, LLC
1880 El Camino Real, Space #12, San Clemente

Dear Al:

I represent the Applicant on Application for CDP No. 5-14-1582. We have had the opportunity to review the staff report and recommendation dated December 18, 2014. The Applicant can agree with Special Conditions 1, 2, 4 and 5. However, the Applicant cannot agree with special Conditions 3 and 6. I have attached a redline copy of the Special Conditions on which I have made changes to which the Applicant could agree. (There are one or two technical changes in the other Special Conditions which do not change their content.)

1. **Special Condition No. 3.**

As to Special Condition No. 3, the Applicant is unwilling to waive the right to protect the manufactured home which the Applicant seeks to place on the site. The Applicant has a right to protect the existing manufactured home and the replacement of the existing manufactured home with another manufactured home of similar size (albeit smaller) should not be considered new development which gives rise to Special Condition No. 3.

Moreover, we disagree with the Commission's waiver policy and we do not believe such a waiver is required by the Coastal Act. Special Condition No. 3 is presumably based upon Public Resources Code §30253(b) which states:

New development shall do all the following:

EXHIBIT A

.....

(b) Assure stability and structural 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.

While it may be clear that new development cannot rely on or require the construction of certain protective devices to achieve stability and structural integrity, this section does not require the waiver of future rights to shoreline protection.

More to the point, the Applicant's existing and proposed manufactured home are already protected by a rock revetment and timber bulkhead which extend seaward from the edge of Space #12. The replacement of the manufactured home does not and will not require the construction of a shoreline protective device as the protective device is in place. There is no nexus between the development proposed and the waiver of rights under Public Resources Code §30235 to protect existing structures. If the revetment needs to be maintained, repaired, replaced or expanded in order to continue adequate protection of the park itself or the manufactured home, the Applicant cannot be required to waive any right which the Applicant may have to do so, or to have Capistrano Shores, Inc. (the Park's "Owner") do so for the Applicant's benefit. Since shoreline protection already exists, the replacement of one manufactured home with another HCD approved manufactured home does not in and of itself create a need for shoreline protection.

The changes which are requested to the remainder of Special Condition No. 3 are technical in nature as to how the proposed development is described. I do not believe that the remaining changes alter the intent of Special Condition No. 3. If you disagree, I would wish to discuss your concerns.

2. **Special Condition No. 6.**

As you are aware, the Applicant is not the owner of the land. The land is owned by Capistrano Shores, Inc. ("Owner"). The purchaser of a manufactured home within Capistrano Shores Mobilehome Park ("Park") does not obtain title insurance or a title report. Transfer is made by a certificate of title issued by the California Department of Housing and Community Development. Therefore, recording a deed restriction as required by Special Condition No. 6 will do nothing to provide notice to subsequent purchasers and the Applicant has no authority to do so in any event..

That is, the Applicant cannot execute an effective deed restriction as the Applicant is not the owner of the land and the Owner objects to the deed restriction required by Special Condition No. 6. I refer you to the letter to Sherlyn Sarb from Sue Loftin dated June 2, 2010 with regard to Application Nos. 5-09-179 and 5-09-180 (a copy of which is enclosed). CDP 5-09-179 and 5-09-180 were approved by the Commission for the replacement of two other manufactured homes within the Park. As stated on page 3 of Loftin's letter, the objections stated in such letter were intended to apply to future applications. The objections by the Owner remain and I incorporate such letter as applicable to Application 5-14-1582.

Mr. Al Padilla
California Coastal Commission
January 26, 2015
Page 3

At the time of Loftin's letter, the applicant for 5-09-179 and 5-09-180 proposed an alternative method to assure notice to subsequent purchasers which was acceptable to that applicant. The Commission did not adopt that alternative method and instead required that any subsequent purchaser would be required to obtain a new Coastal Development Permit to allow the manufactured home to remain. The Applicant herein objects to such a condition.

The Applicant proposes a different manner to bind and provide notice to subsequent purchasers. The Owner will comply with the Special Condition No. 6 as I have written in the attached proposed Special Conditions. The Applicant and the Owner will amend the Occupancy Agreement for Space #12 to include the Special Conditions as terms which the Applicant, and the Applicant's successors, would be required to comply. Written evidence of this Occupancy Agreement Amendment would be submitted to the Executive Director. The Occupancy Agreement Amendment would also provide that the Amendment could not be modified or amended between the Owner and the Applicant, or the Applicant's successor, without the consent of the Commission. I believe that this is an appropriate way to bind successors and to put successors on notice of the Special Conditions.

I am available to meet with you to discuss resolution of this conflict further. It is my sincere desire to arrive at a set of Special Conditions which are acceptable to the Owner and which have the potential of being acceptable to future applicants.

Sincerely,

Sherman L. Stacey
SHERMAN L. STACEY

SLS/sh

cc: Mr. Eric Wills
Mr. Eric Anderson
Mr. Mark Howlett
Sue Loftin, Esq.

EXHIBIT A

1. Assumption of Risk, Waiver of Liability and Indemnity. By acceptance of this permit, the applicant acknowledges and agrees (i) that ~~Unit~~ Space #12 may be subject to hazards from flooding and wave uprush, tsunami, sea level rise, and erosion; (ii) to assume the risks to the applicant and the ~~property~~ manufactured home and related accessory structures 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 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 coastal hazards.

2. Future Improvements. This permit is only for the development described in Coastal Development Permit No. 5-14-1582 and conditioned herein. Any non-exempt future improvements or development shall be submitted for Commission review or review by the appropriate delegated local authority and shall not commence unless Commission approval or the approval of the appropriate delegated local authority is granted. New development, unless exempt, shall require an amendment to this permit, a new coastal development permit from the Coastal Commission or its successor agency, or may be processed as a Public Works Plan Specific Project pursuant to Section 30606 of the Coastal Act.

Pursuant to Public Resources Code Section 30606, prior to the commencement of any development pursuant to Section 30605, the public agency proposing the public works project, shall notify the commission and other interested persons, of the impending development and provide data that is consistent with the certified public works plan. No development shall take place within 30 working days after the notice.

3. Future Response to Erosion/No Future Shoreline Protective Device. No repair or maintenance, enhancement, reinforcement, or any other activity affecting the existing shoreline protective device is authorized by this coastal development permit. ~~By acceptance of this Permit, the applicant waives, on behalf of himself and all successors and assignees of Unit Space #12, any rights to new shoreline protection that may exist under Public Resources Code Section 30235 to protect the proposed new mobile home on Unit Space #12.~~

By acceptance of this permit, the applicant ~~further~~ agrees on behalf of ~~himself~~ himself and all successors and assigns to ~~Unit~~ the manufactured home on, and Occupancy Agreement to, Space #12, that the applicant and all successors and assigns shall remove the development authorized ~~and defined~~ by this permit as, including the ~~residence, foundations, patio covers~~ manufactured home and related accessory structures, if any government agency has issued a permanent order that the ~~structure~~ manufactured home not be occupied due to the immediate threat of substantial or actual damage rendering the manufactured home on Space #12 uninhabitable or destruction ~~to~~ of the premises resulting from waves, erosion, storm conditions, sea level rise, or other natural

hazards in the immediate future. In the event that portions of the development fall on the beach before they are removed, the applicant or successor shall remove all recoverable debris associated with the development from the beach and ocean and lawfully dispose of the material in an approved disposal site. Such removal shall require a coastal development permit.

4. Construction Best Management Practices. The permittee shall comply with the following construction-related requirements and shall do so in a manner that complies with all relevant local, state and federal laws applicable to each requirement:

- (1) No construction materials, debris, or waste shall be placed or stored where it may be subject to wave, wind, or rain erosion and dispersion;
- (2) Staging and storage of construction machinery and storage of debris shall not take place on any sandy beach areas or areas containing native vegetation;
- (3) Any and all debris resulting from construction activities shall be removed from the project site within 24 hours of completion of the project;
- (4) 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;
- (5) Concrete trucks and tools used for construction of the approved development shall be rinsed off-site;
- (6) Erosion control/sedimentation Best Management Practices (BMP's) shall be used to control dust and sedimentation impacts to coastal waters during construction. BMP's shall include, but are not limited to: Placement of sand bags around drainage inlets to prevent runoff/sediment transport into coastal waters; and
- (7) 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.

Best Management Practices (BMP's) designed to prevent spillage and/or runoff of construction-related materials, sediment, or contaminants associated with construction activity shall be implemented prior to the onset of such activity. Selected BMP's shall be maintained in a functional condition throughout the duration of the project.

5. Landscaping - Native, Drought Tolerant, Non-Invasive Plants. All areas affected by construction activities not occupied by structural development shall be re-vegetated for erosion control purposes.

Vegetated landscaped areas shall consist of non-invasive and drought-tolerant plants. 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://owue.water.ca.gov/docs/wucols00.pdf>).

6. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the landowner(s) ~~have executed and recorded against~~ the parcel(s) government by this permit (i.e. the parcel(s) of land within which Unit applicant have executed an amendment to the Occupancy Agreement for Space #12 is located) a deed restriction, in a form and content acceptable to the Executive Director, (1) ~~indicating~~ stating that, pursuant to this permit, the California Coastal Commission has authorized ~~development on Unit~~ the placement of a manufactured home and related accessory structures, including without limitation, manufactured home foundation system and patio covers, on Space #12, subject to terms and conditions that restrict the use and enjoyment of ~~Unit~~ the manufactured home and related accessory structures located on Space #12; and (2) ~~imposing~~ stating that the Special Conditions of this permit ~~as covenants, conditions and are~~ restrictions on the use and enjoyment of ~~Unit~~ the manufactured home and related accessory structures located on Space #12. ~~The deed restriction shall include a legal description of the entire parcel of land within which Unit Space #12 is located and a metes and bounds description of Unit Space #12 governed by this permit. The deed restriction~~ Amendment to the Occupancy Agreement shall also ~~indicate~~ state that, in the event of an extinguishment or termination of the ~~deed restriction~~ Occupancy Agreement for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of ~~Unit~~ the manufactured home and accessory structures located on Space #12 of the ~~subject property~~ mobilehome park 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.~~ Space #12. Notwithstanding the foregoing, the landowner and lessee may, at their discretion, extend, assign, execute a new Occupancy Agreement, providing that the Occupancy Agreement provision required under this Permit Condition may not deleted, altered or amended without prior approval of the Executive Director of the Coastal Commission.

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Community Club House
 San Clemente, California
 September 16, 1959

The regular meeting of the City Council of the City of San Clemente was held in the Council Chambers, Community Clubhouse, 100 North Seville, San Clemente, California on Wednesday, September 16, 1959 at 8:00 P.M., Mayor George F. Eyre, presiding.

PLEDGE OF ALLEGIANCE AND INVOCATION

Pledge of Allegiance to the Flag of the United States of America by all present: Invocation by Rev. K. Logan Barnes of the Community Presbyterian Church.

ROLL CALL

PRESENT: Councilmen - BLAKELOCK, FESSENDEN, LOWER,
 MILLER AND EYRE
 ABSENT: Councilmen - NONE.

READING OF THE MINUTES

The City Clerk called the Council's attention to a change in the wording, as suggested by the City Attorney, of paragraph 9 on page 4 of the minutes of the Council meeting held September 2, 1959, following which IT WAS MOVED BY COUNCILMAN BLAKELOCK, SECONDED BY COUNCILMAN MILLER AND UNANIMOUSLY CARRIED that the minutes of said meeting, having been previously presented to the members of the Council, be approved as amended, and the reading thereof waived.

PUBLIC HEARINGS

J.W.LUEBBERT
 HEARING ON
 RECOMMENDATION
 TO GRANT CON-
 DITIONAL EXCEP-
 TION FOR ZON-
 ING VARIANCE

The Mayor announced that the hour of 8:00 P.M. having arrived, this was the time and place fixed by the City Council of the City of San Clemente, to consider and determine the recommendation of the Planning Commission to grant a conditional exception for zoning variance to allow all C-1 uses except a mortuary, hospital or motel on Lot 31, Block 4 of Tract No. 793 (J. W. Luebbert request).

The Mayor inquired of the City Clerk if any written communications had been filed. The Clerk read a letter from three owners of property adjacent to Mr. Luebbert's proposed building in which it was stated that they approve of the conditional exception and further, approve of Mr. Luebbert's desire to have the building placed on the property line without setback requirements.

Following reading of the original application for conditional exception, Mr. Luebbert addressed the Council requesting elimination of the 8 ft. setback as recommended by the Planning Commission and Department Heads.

Councilman Miller MOVED that the recommendation of the Planning Commission be approved except that a substantial solid fence be permitted in lieu of the concrete wall, and further, that the Planning Commission's recommendation for an 8 ft. setback be accepted. THE MOTION died for lack of a second.

Councilman Blakelock restated the MOTION eliminating the 8 ft. setback. THE MOTION died for lack of a second.

LUEBBERT REQUEST
 GRANTED, WITH
 CERTAIN EXCEP-
 TIONS.

Following further discussion, IT WAS MOVED BY COUNCILMAN FESSENDEN, SECONDED BY COUNCILMAN LOWER AND CARRIED that the conditional exception to allow all C-1 uses except a mortuary, hospital or motel, be granted

San Clemente City Council Minutes 9-16-1959

subject to departmental recommendations as amended by the Planning Commission, except however, that ~~the 8 ft. setback not be required.~~

HEARING ON

MR. HOLDEN'S RE-

QUEST TO CON-
STRUCT MOBILE
HOME PARK ON
NORTH BEACH.

The Mayor announced that this was the time and place fixed by the City Council of the City of San Clemente to consider and determine the recommendation of the Planning Commission to grant Mr. Roger C. Holden a conditional permit to construct a Mobile Home Park on the North Beach area (formerly tentative Tract No. 3192).

MR. HOLDEN'S
REQUEST
GRANTED.

The Mayor inquired if there were any written or oral protests or objections, and there being none, IT WAS MOVED BY COUNCILMAN BLAKELOCK, SECONDED BY COUNCILMAN LOWER AND UNANIMOUSLY CARRIED that a conditional permit to construct a Mobile Home Park on the North Beach area, as per request submitted by Mr. Roger C. Holden, and as recommended by the Planning Commission, be granted.

HEARING ON

R. HENDERSON
REQUEST FOR
OFF-STREET
PARKING VAR-
IANCE.

The Mayor announced that this was the time and place set for the continued hearing to consider and determine the request of Mr. and Mrs. Robert Henderson for variance to off-street parking requirements for Lot 11, Block 6 of Tract No. 779.

The Mayor inquired of the City Clerk if there were any written protests or objections filed. The Clerk reported that there were none, whereupon the Mayor called for oral communications.

Mr. C. D. Steves, representing his clients, Mr. & Mrs. Henderson, briefly reviewed the various stages through which this matter has gone, and called the Council's attention to the length of time that has elapsed without any decision having been reached. He further stated that, by Council direction, the Planning Commission was to have made a study of the overall parking question and submit suggestions for the modification, where necessary, of the present parking ordinance, and that he had hoped by now, such recommendations would have been forthcoming from the Commission.

Discussion ensued concerning deficiencies in the present parking ordinance and proposed amendments which would permit owners of land-locked parcels to deposit with the City a certain sum per parking space, in lieu of providing actual parking, with such funds to be accumulated and used toward developing parking lots.

HEARING ON
HENDERSON
REQUEST
CONTINUED
FOR 60 DAYS
(MEETING OF
NOV. 18.)

Following further discussion, IT WAS MOVED BY COUNCILMAN FESSENSEN, SECONDED BY COUNCILMAN MILLER AND UNANIMOUSLY CARRIED that the Public Hearing regarding request of Mr. and Mrs. Robert Henderson for variance to off-street parking requirements be continued for approximately 60 days to the meeting of November 18, 1959, to allow the Planning Commission further opportunity to submit definite recommendations for parking ordinance amendments, in order that the Henderson matter may be resolved.

Upon question, Mr. Steves advised that his clients would consent to the 60 day extension of the hearing.

SEALED BIDS

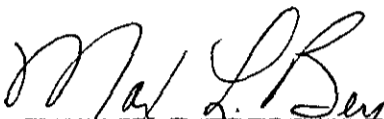
The City Clerk reported that a sealed bid

On motion of Councilman Blakelock, seconded by Councilman Lower, ORDINANCE NO. 359, BEING AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, ANNEXING CERTAIN UNINHABITED TERRITORY CONTIGUOUS TO THE CITY OF SAN CLEMENTE KNOWN AS "SAN CLEMENTE ANNEXATION NO. 1", having been introduced by title only and the reading in full thereof waived at the Council meeting of September 2, 1959, was read in full, passed and adopted upon the following stated vote, to wit:


AYES: Councilmen - BLAKELOCK, FESSENDEN, LOWER, MILLER AND EYRE
NOES: Councilmen - NONE
ABSENT: Councilmen - NONE.

ADJOURNMENT

There being no further business UPON MOTION OF COUNCILMAN MILLER, SECONDED BY COUNCILMAN LOWER AND UNANIMOUSLY CARRIED, the meeting was adjourned - at 10:50 P.M.



City Clerk and Ex-officio
Clerk of the City Council



Mayor and President of
the City Council

April 9, 2015

California Coastal Commission
45 Fremont Street, #2000
San Francisco, CA 94105

Re: Application for Permit No. 5-14-1582 (Capistrano Shores Property LLC)
Space 12, Capistrano Shores Mobile Home Park
1800 El Camino Real, San Clemente

Dear Sir:

Until August, 2013, the mobile home located at Space No. 12 in the Capistrano Shores Mobile Home Park was rented to George Komatsu. Recurrent problems with the subfloor, frame and mold made the home uninhabitable. Mel vacated the home and I unsuccessfully tried to effect repairs. The scope of repair made the project infeasible so I purchased a new mobile home, Silvercrest Model 1461H, to replace the old Levitt mobile home which was on Space No. 12. My closing statement for the purchase on July 10, 2014 is attached hereto.

CAPISTRANO SHORES PROPERTY LLC

By


Eric Wills, Managing Member

EXPRESS



ESCROW COMPANY

7812 Edinger Avenue • Suite 300 • Huntington Beach, CA 92647

(714) 847-4747 • Fax (714) 848-9174

BUYER(S) ESTIMATED CLOSING STATEMENT

ESCROW NO: 13204 - BR
ESCROW OFFICER: Belen Ramirez

DATE: 7/10/2014
TIME: 10:51 AM

BUYER(S): Capistrano Shores Property, LLC
PROPERTY ADDRESS: FOB: 299 N. Smith Avenue Corona, CA 92880

	DEBITS	CREDITS
SALES PRICE	\$ 116,763.00	
<u>Deposits</u>		
Initial Deposit for WILLS		\$ 1,000.00
Additional Deposit		\$ 59,000.00
<u>Escrow Charges</u>		
Escrow Fee	\$ 500.00	
<u>HCD Charges</u>		
Transfer Fee	\$ 91.00	
Approximate Amount Due Escrow		\$ 57,354.00
Totals	\$ 117,354.00	\$ 117,354.00

Capistrano Shores Property, LLC

By: _____



EXHIBIT G, p 1





EXHIBIT H

**STATE OF CALIFORNIA - DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
REGISTRATION CARD**

Manufactured Home

Decal No: AAN4653

Manufacturer ID/Name LEVIT	Trade Name LEVIT	Model LEVIT		DOM		DFS 02/04/1977	RY 1977	Exp. Date Feb 28, 2015	
Serial Number SB500026 SA500026	Label/Insignia Number 239904 239905	Weight	Length 60' 60'	Width 12' 12'	SPC AHD	SCC 30	Exempt	Use SFD	Type ILT
							Issued Jan 29, 2014	Total Fees Paid \$82.00	

Addressee

CAPISTRANO SHORES PROPERTY LLC
C/O ERIC WILLIS
92 S LA SENDA DR
LAGUNA BEACH, CA 92651



Registered Owner(s)

CAPISTRANO SHORES PROPERTY LLC
C/O ERIC WILLIS
92 S LA SENDA DR
LAGUNA BEACH, CA 92651

Situs Address

1880 N EL CAMINO REAL 12
SAN CLEMENTE, CA 92672-4901

ATTENTION OWNER:

THIS IS THE REGISTRATION CARD FOR THE UNIT DESCRIBED ABOVE. PLEASE KEEP THIS CARD IN A SAFE PLACE WITHIN THE UNIT.

INSTRUCTIONS FOR RENEWAL:

REGISTRATION FOR THIS UNIT EXPIRES ON THE DATE INDICATED ABOVE IN THE BOX LABELED "Exp. Date". THERE ARE SUBSTANTIAL PENALTIES FOR DELINQUENCY. IF YOU DO NOT RECEIVE A RENEWAL NOTICE WITHIN 10 DAYS PRIOR TO THE EXPIRATION DATE, CONTACT H.C.D. FOR RENEWAL INSTRUCTIONS.



IMPORTANT

THE OWNER INFORMATION SHOWN ABOVE MAY NOT REFLECT ALL LIENS RECORDED WITH THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT AGAINST THE DESCRIBED UNIT. THE CURRENT TITLE STATUS OF THE UNIT MAY BE CONFIRMED THROUGH THE DEPARTMENT.

**STATE OF CALIFORNIA - DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
REGISTRATION CARD**

Manufactured Home

Decal No: **LBM1290**

Manufacturer ID/Name		Trade Name		Model		DOM	DFS		RY	Exp. Date	
1218438	CHAMPION HOME BUILDERS INC	SILVERCREST		BRADFORD		08/01/2014	08/13/2014				
Serial Number		Label/Insignia Number		Weight	Length	Width	SPC	SCC	Exempt	Use	Type
176000HA000851A		NTA1634655		27,484	52'	12'		30		SFD	LPT
176000HA000851B		NTA1634656		27,684	52'	12'					
								Issued		Total Fees Paid	
								Sep 26, 2014		\$91.00	

Addressee

CAPISTRANO SHORES PROPERTY LLC
92 S LA SENDA DR
LAGUNA BEACH, CA 92651



Registered Owner(s)

CAPISTRANO SHORES PROPERTY LLC
92 S LA SENDA DR
LAGUNA BEACH, CA 92651

Situs Address

1880 N EL CAMINO REAL SP 12
SAN CLEMENTE, CA 92672



IMPORTANT

**THE OWNER INFORMATION SHOWN ABOVE MAY NOT REFLECT ALL LIENS RECORDED WITH THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT AGAINST THE DESCRIBED UNIT.
THE CURRENT TITLE STATUS OF THE UNIT MAY BE CONFIRMED THROUGH THE DEPARTMENT.**

DTN: 8191244

09262014 - 663

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
 200 Oceangate, Suite 1000
 Long Beach, CA 90802-4302
 (562) 590-5071



June 24, 2008

David Neish
 101 Columbia Suite 185
 Aliso Viejo, CA 92656

SUBJECT: Waiver of Coastal Development Permit Requirement/De Minimis Developments-Section 30624.7 of the Coastal Act

Based on your project plans and information provided in your permit application for the development described below, the Executive Director of the Coastal Commission hereby waives the requirement for a Coastal Development Permit pursuant to Section 13238.1, Title 14, California Code of Regulations. If, at a later date, this information is found to be incorrect or the plans revised, this decision will become invalid; and, any development occurring must cease until a coastal development permit is obtained or any discrepancy is resolved in writing.

WAIVER#: 5-08-069 **APPLICANT:** Pearson Family Trust

LOCATION: 1880 N El Camino Real Unit #37, San Clemente (Orange County)

PROPOSED DEVELOPMENT: Removal of existing 1,525 sq. ft. 1978 double wide mobile home and installation of new 1,626 sq. ft., 15' 7" high, one-story mobile home on a 3,120 sq. ft. space, cantilevered wood deck, outdoor fireplace, decomposed aggregate walkways and flagstone pavers patios. Drainage is designed for onsite infiltration of concentrated and surface water runoff. Landscaping consists of drought tolerant non-invasive plants such as sages and succulent plants. The project includes a drip irrigation system for planter areas.

RATIONALE: The subject mobile home is situated on leased land in the Capistrano Shores Mobile Home Park between the first public road and the sea and seaward of the OCTA railroad tracks. The mobile home park is a non-conforming use on a stretch of beach developed with 90 mobile homes parallel to the shoreline on a lot designated OS2 Privately Owned Open Space (intended for open space – no formal easement) in the City of San Clemente certified Land Use Plan (LUP). A rock revetment protects the 90 mobile home units at this site from direct wave attack. Public coastal access is available approximately half a mile south from the site at the North Beach access point. All proposed development is landward of the rock revetment. The proposed development consisting of removal and replacement of a mobile home at space #34, hardscape and landscape improvements, does not strictly adhere to the LUP structural and deck stringline policy for new infill construction on a beachfront. Although the proposed new mobile home will be located seaward of both of its adjacent units (Units 36 and #38), it will have a 16' setback from the rock revetment which is the average setback of the majority of the living units in the vicinity located downcoast and upcoast of the site. In addition, the proposed hardscape areas are located at least 11 feet landward of subject sites' seaward boundary and the rock revetment, thus, providing space for access to and maintenance of the revetment as may be necessary (with appropriate approvals). The proposal is consistent all other City standards. The proposal will therefore not result in adverse impacts to coastal access, coastal resources, public recreation or coastal views. The proposed project provides four parking spaces, exceeding the Commission's 2 spaces per residential unit requirement. Although inconsistent with the land use designation in the City's certified LUP, the proposed development will not change the use of the site or substantially extend the life of the existing mobile home park (e.g. the proposed unit is mobile and can be removed if the land use changes), the proposed development is consistent with past Commission actions in the area and Chapter 3 policies of the Coastal Act. Additionally, the proposed development will not prejudice the City's ability to prepare a Certified Local Coastal Program.

This waiver will not become effective until reported to the Commission at their **July 9-11, 2008** meeting and the site of the proposed development has been appropriately noticed, pursuant to 13054(b) of the California Code of Regulations. The enclosed Notice Card shall remain posted at the site until the waiver has been validated and no less than seven days prior to the Commission hearing. If four (4) Commissioners object to this waiver of permit requirements, a coastal development permit will be required.

by: 

PETER DOUGLAS
 Executive Director

KARL SCHWING
 Supervisor Regulation and Planning

cc: Commissioners/File

May-30-08 02:40pm From: California Coastal

+8825006004

T-319 P.002/009 F-308

STATE OF CALIFORNIA - THE RESOURCES AGENCY

ARNOLD SCHWARZENEGGER, Governor

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
200 Oceanside, Suite 1000
Long Beach, CA 90802-4302
(562) 590-6071



May 27, 2008

David Neish
101 Columbia Suite 185
Aliso Viejo, CA 92658

SUBJECT: Waiver of Coastal Development Permit Requirement/De Minimis Developments-Section 30624.7 of the Coastal Act

Based on your project plans and information provided in your permit application for the development described below, the Executive Director of the Coastal Commission hereby waives the requirement for a Coastal Development Permit pursuant to Section 13236.1, Title 14, California Code of Regulations. If, at a later date, this information is found to be incorrect or the plans revised, this decision will become invalid; and, any development occurring must cease until a coastal development permit is obtained or any discrepancy is resolved in writing.

WAIVER#: 5-08-108

APPLICANT: Renetta Caya

LOCATION: 1880 N El Camino Real Unit #74, San Clemente (Orange County)

PROPOSED DEVELOPMENT: Removal of an existing 1,022 sq. ft. double wide mobile home and installation of a new 1,122 sq. ft., 12' tall mobile home on a 2,605 sq. ft. space; hardscape improvements including a concrete paving patio, 8' high masonry block walls at the northern property line, 48" wall along the beach setback, a patio cover, outdoor built in bar and bbq grill, storage shed and planters. The drainage system is designed to retain concentrated and surface sheet flow within the site. Runoff water will sheet flow toward surface area drains directed to an underground drainage system for on-site infiltration. Landscaping consists of drought tolerant non-invasive plants.

RATIONALE: The subject mobile home is situated on leased land in the Capistrano Shores Mobile Home Park between the first public road and the sea and seaward of the OCTA railroad tracks. The mobile home park is a non-conforming use on a stretch of beach developed with 90 mobile homes parallel to the shoreline on a lot designated OS2 Privately Owned Open Space (intended for open space - no formal easement) in the City of San Clemente Land Use Plan (LUP). A rock revetment protects the 90 mobile home units at this site from direct wave attack. Public coastal access is available approximately half a mile south from the site at the North Beach access point. All proposed development is landward of the rock revetment. The proposed development consisting of removal and replacement of a mobile home at space # 74, hardscape and landscape improvements, meets the LUP structural and deck stringline policy for new infill construction on a beachfront and all other City standards and will therefore not result in adverse impacts to coastal access, coastal resources, public recreation or coastal views. The proposed project provides four parking spaces, exceeding the Commission's 2 spaces per residential unit requirement. Although inconsistent with the land use designation in the City's certified LUP, the proposed development is consistent with past Commission actions in the area and Chapter 3 policies of the Coastal Act. Additionally, the proposed development will not prejudice the City's ability to prepare a Certified Local Coastal Program.

This waiver will not become effective until reported to the Commission at their June 11-13, 2008 meeting and the site of the proposed development has been appropriately noticed, pursuant to 13054(b) of the California Code of Regulations. The enclosed Notice Card shall remain posted at the site until the waiver has been validated and no less than seven days prior to the Commission hearing. If four (4) Commissioners object to this waiver of permit requirements, a coastal development permit will be required.

PETER DOUGLAS
Executive Director
cc: Commissioners/File

by: _____
KARL SCHWING
Supervisor Regulation and Planning

FRED GAINES
SHERMAN L. STACEY
LISA A. WEINBERG
REBECCA A. THOMPSON
NANCI S. STACEY
KIMBERLY RIBLE
ALICIA B. BARTLEY

LAW OFFICES OF
GAINES & STACEY LLP
1111 BAYSIDE DRIVE, SUITE 280
CORONA DEL MAR, CALIFORNIA 92625

TELEPHONE
(949)640-8999
FAX
(949)640-8330

March 30, 2015

BY EMAIL AND MAIL

Mr. Al Padilla
California Coastal Commission
South Coast District Office
200 Oceangate, #1000
Long Beach, CA 90802

Re: Application for CDP No. 5-14-1582
Capistrano Shores Property, LLC
1880 N. El Camino Real, Space #12

Dear Al:

I have received the copy of CDP No. 5-09-180 which you sent to me. Capistrano Shores Property, LLC and I are intimately aware of CDP No. 5-09-180 and No. 5-09-179 that were approved on June 9, 2010 for Fredrick E. Hitchcock and the Fredrick E. Hitchcock Jr. 1999 Family Trust each to replace one mobilehome coach with another. The Capistrano Shores Mobilehome Park was developed in 1959. Prior to 2008 no permits were ever required by the Commission for replacing mobilehomes. When the Commission first asserted jurisdiction in 2008, the Commission issued waivers to the applicants. While Capistrano Shores, Inc. ("CSI")¹ and the residents of the mobilehome park did not agree that a waiver or permit was required, they did not want to litigate this issue as a \$500 waiver fee was more of an inconvenience than a perceived power grab by the Commission. After the Commission issued 5 waivers in 2008, the Commission changed its mind and said they would no longer issue waivers and that complete CDPs would be required for all mobilehome replacements.

Due to the unacceptable conditions imposed by the Commission on CDP No. 5-09-180 and No. 5-09-179, they were the first and last permits issued by the Commission for a mobilehome replacement in the Capistrano Shores Mobilehome Park. During the permitting process, CSI strongly objected to the conditions of the permit (please see attached letter from Sue Loftin dated June 2, 2010) and despite multiple meetings and phone calls, the unreasonable

¹ Capistrano Shores, Inc. is the fee interest holder in the Capistrano Shores Mobilehome Park.

*Exhibit 1
Addendum pg 1 of 11*

conditions were adopted. The special conditions to Mr. Hitchcock's CDP No. 5-09-180 are unacceptable to the applicant and CSI. We are not aware of any resident in the mobilehome park that would agree to these conditions. Mr. Hitchcock is an elderly man with a lot of grandchildren. At the time of his permit, he had no intention of ever selling his home(s) and therefore agreed to the conditions. That is not the case with this applicant or most residents in the mobilehome park.

As we discussed in the Long Beach offices on September 30, 2014 and numerous times prior to that meeting, the applicant disputes the Coastal Commission's assertion of jurisdiction over this matter, and reserves its right to challenge this assertion before the Commission and/or in court, should such become necessary. This reservation of rights is maintained to preserve the applicant's right to challenge the jurisdiction of the Coastal Commission if a permit is not granted on reasonable terms and conditions. I would note that in hundreds, if not thousands, of cases over the past 40 years mobilehome coach owners have replaced or remodeled their mobilehomes in hundreds of Coastal Zone mobilehome parks without a coastal development permit or waiver. We believe this has taken place with the Coastal Commission's full knowledge and acceptance, and it has been commonly understood by mobilehome owners that the State Department of Housing and Community Development has exclusive jurisdiction over mobile home parks in California.

While we do not agree that a CDP is required, we believe that the revised conditions which I sent to you on January 26, 2015 would be acceptable to my client and would be a better template for future applications that may come before the Commission. I have attached a copy of my letter. My client and I are available to meet with you this week to see if we can come to agreement on conditions that are acceptable to both parties.

Sincerely,

Sherman L. Stacey

Sherman L. Stacey

Attachments

cc: Eric Wills
Eric Anderson
Mark Howlett
Sue Loftin, Esq.

FRED GAINES
SHERMAN L. STACEY
LISA A. WEINBERG
REBECCA A. THOMPSON
NANCI S. STACEY
KIMBERLY RIBLE
ALICIA B. BARTLEY

LAW OFFICES OF
GAINES & STACEY LLP
1111 BAYSIDE DRIVE, SUITE 280
CORONA DEL MAR, CALIFORNIA 92625

TELEPHONE
(949)640-8999
FAX
(949)640-8330

January 26, 2015

BY EMAIL AND MAIL

Mr. Al Padilla
California Coastal Commission
South Coast District Office
200 Oceangate, #1000
Long Beach, CA 90802

Re: Application for CDP No. 5-14-1582
Capistrano Shores, LLC
1880 El Camino Real, Space #12, San Clemente

Dear Al:

I represent the Applicant on Application for CDP No. 5-14-1582. We have had the opportunity to review the staff report and recommendation dated December 18, 2014. The Applicant can agree with Special Conditions 1, 2, 4 and 5. However, the Applicant cannot agree with special Conditions 3 and 6. I have attached a redline copy of the Special Conditions on which I have made changes to which the Applicant could agree. (There are one or two technical changes in the other Special Conditions which do not change their content.)

1. **Special Condition No. 3.**

As to Special Condition No. 3, the Applicant is unwilling to waive the right to protect the manufactured home which the Applicant seeks to place on the site. The Applicant has a right to protect the existing manufactured home and the replacement of the existing manufactured home with another manufactured home of similar size (albeit smaller) should not be considered new development which gives rise to Special Condition No. 3.

Moreover, we disagree with the Commission's waiver policy and we do not believe such a waiver is required by the Coastal Act. Special Condition No. 3 is presumably based upon Public Resources Code §30253(b) which states:

New development shall do all the following:

.....

(b) Assure stability and structural 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.

While it may be clear that new development cannot rely on or require the construction of certain protective devices to achieve stability and structural integrity, this section does not require the waiver of future rights to shoreline protection.

More to the point, the Applicant's existing and proposed manufactured home are already protected by a rock revetment and timber bulkhead which extend seaward from the edge of Space #12. The replacement of the manufactured home does not and will not require the construction of a shoreline protective device as the protective device is in place. There is no nexus between the development proposed and the waiver of rights under Public Resources Code §30235 to protect existing structures. If the revetment needs to be maintained, repaired, replaced or expanded in order to continue adequate protection of the park itself or the manufactured home, the Applicant cannot be required to waive any right which the Applicant may have to do so, or to have Capistrano Shores, Inc. (the Park's "Owner") do so for the Applicant's benefit. Since shoreline protection already exists, the replacement of one manufactured home with another HCD approved manufactured home does not in and of itself create a need for shoreline protection.

The changes which are requested to the remainder of Special Condition No. 3 are technical in nature as to how the proposed development is described. I do not believe that the remaining changes alter the intent of Special Condition No. 3. If you disagree, I would wish to discuss your concerns.

2. **Special Condition No. 6.**

As you are aware, the Applicant is not the owner of the land. The land is owned by Capistrano Shores, Inc. ("Owner"). The purchaser of a manufactured home within Capistrano Shores Mobilehome Park ("Park") does not obtain title insurance or a title report. Transfer is made by a certificate of title issued by the California Department of Housing and Community Development. Therefore, recording a deed restriction as required by Special Condition No. 6 will do nothing to provide notice to subsequent purchasers and the Applicant has no authority to do so in any event..

That is, the Applicant cannot execute an effective deed restriction as the Applicant is not the owner of the land and the Owner objects to the deed restriction required by Special Condition No. 6. I refer you to the letter to Sherlyn Sarb from Sue Loftin dated June 2, 2010 with regard to Application Nos. 5-09-179 and 5-09-180 (a copy of which is enclosed). CDP 5-09-179 and 5-09-180 were approved by the Commission for the replacement of two other manufactured homes within the Park. As stated on page 3 of Loftin's letter, the objections stated in such letter were intended to apply to future applications. The objections by the Owner remain and I incorporate such letter as applicable to Application 5-14-1582.

Mr. Al Padilla
California Coastal Commission
January 26, 2015
Page 3

At the time of Loftin's letter, the applicant for 5-09-179 and 5-09-180 proposed an alternative method to assure notice to subsequent purchasers which was acceptable to that applicant. The Commission did not adopt that alternative method and instead required that any subsequent purchaser would be required to obtain a new Coastal Development Permit to allow the manufactured home to remain. The Applicant herein objects to such a condition.

The Applicant proposes a different manner to bind and provide notice to subsequent purchasers. The Owner will comply with the Special Condition No. 6 as I have written in the attached proposed Special Conditions. The Applicant and the Owner will amend the Occupancy Agreement for Space #12 to include the Special Conditions as terms which the Applicant, and the Applicant's successors, would be required to comply. Written evidence of this Occupancy Agreement Amendment would be submitted to the Executive Director. The Occupancy Agreement Amendment would also provide that the Amendment could not be modified or amended between the Owner and the Applicant, or the Applicant's successor, without the consent of the Commission. I believe that this is an appropriate way to bind successors and to put successors on notice of the Special Conditions.

I am available to meet with you to discuss resolution of this conflict further. It is my sincere desire to arrive at a set of Special Conditions which are acceptable to the Owner and which have the potential of being acceptable to future applicants.

Sincerely,

Sherman L. Stacey
SHERMAN L. STACEY

SLS/sh

cc: Mr. Eric Wills
Mr. Eric Anderson
Mr. Mark Howlett
Sue Loftin, Esq.

129 5 of 11

Carlsbad Location
5760 Fleet Street, Ste. 110
Carlsbad, California 92008
Tel: 760.431.2111
Fax: 760.431.2003

Tennessee Location
407 Main Street, Ste. 205
Franklin, Tennessee 37064
Tel: 615.567.6722
Fax: 615.567.6723



Respond to Carlsbad, CA Location

www.loftinfirm.com
sloftin@loftinfirm.com

Client/Matter NumberCapoShores:CCC--010-600(80.81)

Attorneys at Law

Via Email (ssarb@coastal.ca.gov) & U.S. Mail

June 2, 2010

Sharlyn Sarb, Director
California Coastal Commission
South Coast District Office
200 Oceangate, Suite 1000
Long Beach, CA 90602-4302

ATTN:Karl Schwing (kschwing@coastal.ca.gov)

Re: Applications Number: 5-09-179; 5-09-180
"Owner": Frederick E. Hitchcock
Project Location: 1880 N. El Camino Real, # 80 & 81, San Clemente (Orange County)
Project Description: Replacement of pre-HUD mobilehome with a Manufactured Home
Firm's Client: Capistrano Shores, Inc., Land Owner
Subject: Land Owner's Position on & Objection to Deed Restriction; Objections to Other Aspects of Applications

Dear Ms. Sarb:

This Firm represents Capistrano Shores, Inc., the "**Owner**" of the property commonly known as Capistrano Shores Mobilehome Park located at 1880 N. El Camino Real, San Clemente, Orange County, California (the "**Park**"). A copy of the Grant Deed transferring title from the prior land owner and prior leasehold owner on January 25, 2008 was previously provided but is attached hereto as **Exhibit "A"** for ease of reference. The following is to confirm the position of the Owner with regard to the proposed Condition 7, *Generic Deed Restriction* and to confirm general objections of the Owner.

The purpose, as explained by you, for the demand that the conditions of approval of the permit be recorded was to insure notice to future purchasers of the manufactured homes located on spaces 80 and/or 81 at the Park. A manufactured home is personal property. The title search

THE LOFTIN FIRM LLP

Sharlyn Sarb
June 2, 2010
Page 2 of 3

that would be done on the personal property would not include a title search of the real property on which the personal property is located. Therefore, a deed restriction would not provide notice to future buyers of the manufactured homes located on spaces 80 and/or 81, or any other future buyers of the manufactured homes located on other spaces within the Park.

The Park is *not* a subdivided property whereby each space within the Park is owned by an individual/separate entity. The Park is owned by Capistrano Shores, Inc. (Note, this is not a Stock Cooperative as defined under the Subdivision Map Act. Further, the ownership structure was specifically discussed prior to the purchase of the Park by the Owner at length in a meeting which you attended in October 2007. A copy of the letter confirming the results of the meeting from David Neish is attached hereto as **Exhibit "B"**) Therefore, when an encumbrance, such as a deed restriction, is placed on the Park then the entire Park (property) is encumbered. This raises two issues, among others:

1. Does an owner of a manufactured home located in the Park have the authority to executed and record a deed restriction against the Park? As acknowledged by the language in Condition No. 7, the answer is no. Therefore, Condition No. 7 requests the owner of a manufactured home to comply with a condition which said owner of the manufactured home has no authority or ability to comply.
2. What is the procedure for authorizing the Owner to make a recordation of an encumbrance against the Park? (a) Very simply summarized, the procedure is to present the request to the investors in the Park. The investors are also the owners of the manufactured homes located in the Park. (b) Once the notice and time procedure required under the California Corporations Code are met, then a super-majority (75%) approval of the investors is required to go to the next step. (c) The next step is to obtain the consent of the lenders involved with the project. (d) The final step is for the Board of Directors to review and take action regarding the proposed encumbrance. This is an expensive and lengthy process which is unlikely of success due to the multiple parties who must agree to the recordation of the deed restriction.

If the Owner wanted to refinance or take other similar actions, then the requested deed restriction would appear on the Owner's Title, but not on the titles to the manufactured homes. The deed restriction would then become an encumbrance recorded prior to any refinancing or similar actions which result would either cost the Owner additional fees to obtain the loan or be rejected unless the deed restriction were cleared.

Therefore, the Board of Directors of the Owner will not bring this matter to the investor/members or to the lenders.

The two (2) applications before the Coastal Commission are applications to replace two (2) - 40 year old mobilehomes with manufactured homes on spaces rented from the Owner. This should be a simple matter. Manufactured homes are being rolled into mobilehome parks up and

THE LOFTIN FIRM LLP

Sharlyn Sarb
June 2, 2010
Page 3 of 3

down the coast every day without incident or Coastal Commission involvement. These, along with many other reasons as shared with you at our meeting, form the basis for the Owner's objections to the Conditions of Approval for these two (2) applications. The Owner does not waive any rights, legal, equitable or administrative, to such objections, as applied to these Applications, future applications, or Park applications, including without limitation, the jurisdictions to review applications to replace existing old mobilehomes, characterizing such replacement as "new development" or "development", to remove such replaced homes from being "grandfathered into a Park that existed *prior* to the enactment of the Coastal Act, the burdensome, unnecessary, and onerous permit process used to review these two (2) Applications..

Further, some of the conditions are unnecessary in that the Applicant does not possess the right or obligation to do that which he is being requested to do. For example, the Applicant is being asked to waive his right to repair the seawall. The Applicant is waiving such right because the Owner, only, has the right and the obligation to repair the sea wall. The Owner does not endorse nor concur with any specific condition with which the Applicant may consent.

For all of the reasons stated above, the Owner will not execute nor record a deed restriction against the Park as requested by Staff as a condition of approval for the replacement of two (2) manufactured homes located on two (2) rental spaces (80 & 81) in the Park. The Applicant has provided an alternative to this condition, which the Owner is hopeful, will satisfy the "Notice" issue raised by the Staff.

If you have any questions regarding this correspondence, please contact me.

Sincerely,

THE LOFTIN FIRM LLP



By: L. Sue Loftin, Esq.

cc: Jon Petke, Planning Associates (Via Email)
David Neish (Via Email)
Jim Burroughs, Esq., Attorney for Applicant (Via Email)
Fritz Hitchcock, Applicant (Via Email)
Board of Owner (Via Email)

Exhibit List:

Exhibit "A" Grant Deed
Exhibit "B" Letter from David Neish

1. Assumption of Risk, Waiver of Liability and Indemnity. By acceptance of this permit, the applicant acknowledges and agrees (i) that Unit Space #12 may be subject to hazards from flooding and wave uprush, tsunami, sea level rise, and erosion; (ii) to assume the risks to the applicant and the property manufactured home and related accessory structures 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 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 coastal hazards.

2. Future Improvements. This permit is only for the development described in Coastal Development Permit No. 5-14-1582 and conditioned herein. Any non-exempt future improvements or development shall be submitted for Commission review or review by the appropriate delegated local authority and shall not commence unless Commission approval or the approval of the appropriate delegated local authority is granted. New development, unless exempt, shall require an amendment to this permit, a new coastal development permit from the Coastal Commission or its successor agency, or may be processed as a Public Works Plan Specific Project pursuant to Section 30606 of the Coastal Act.

Pursuant to Public Resources Code Section 30606, prior to the commencement of any development pursuant to Section 30605, the public agency proposing the public works project, shall notify the commission and other interested persons, of the impending development and provide data that is consistent with the certified public works plan. No development shall take place within 30 working days after the notice.

3. Future Response to Erosion/No Future Shoreline Protective Device. No repair or maintenance, enhancement, reinforcement, or any other activity affecting the existing shoreline protective device is authorized by this coastal development permit. ~~By acceptance of this Permit, the applicant waives, on behalf of himself and all successors and assignees of Unit Space #12, any rights to new shoreline protection that may exist under Public Resources Code Section 30235 to protect the proposed new mobile home on Unit Space #12.~~

By acceptance of this permit, the applicant ~~further~~ agrees on behalf of ~~himself~~ himself and all successors and assigns to ~~Unit~~ the manufactured home on, and Occupancy Agreement to, Space #12, that the applicant and all successors and assigns shall remove the development authorized and defined by this permit as, including the residence, foundations, patio covers ~~manufactured home and related accessory structures,~~ if any government agency has issued a permanent order that the ~~structure~~ manufactured home not be occupied due to the immediate threat of substantial or actual damage rendering the manufactured home on Space #12 uninhabitable or destruction ~~of~~ the premises resulting from waves, erosion, storm conditions, sea level rise, or other natural

hazards in the immediate future. In the event that portions of the development fall on the beach before they are removed, the applicant or successor shall remove all recoverable debris associated with the development from the beach and ocean and lawfully dispose of the material in an approved disposal site. Such removal shall require a coastal development permit.

4. Construction Best Management Practices. The permittee shall comply with the following construction-related requirements and shall do so in a manner that complies with all relevant local, state and federal laws applicable to each requirement:

- (1) No construction materials, debris, or waste shall be placed or stored where it may be subject to wave, wind, or rain erosion and dispersion;
- (2) Staging and storage of construction machinery and storage of debris shall not take place on any sandy beach areas or areas containing native vegetation;
- (3) Any and all debris resulting from construction activities shall be removed from the project site within 24 hours of completion of the project;
- (4) 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;
- (5) Concrete trucks and tools used for construction of the approved development shall be rinsed off-site;
- (6) Erosion control/sedimentation Best Management Practices (BMP's) shall be used to control dust and sedimentation impacts to coastal waters during construction. BMP's shall include, but are not limited to: Placement of sand bags around drainage inlets to prevent runoff/sediment transport into coastal waters; and
- (7) 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.

Best Management Practices (BMP's) designed to prevent spillage and/or runoff of construction-related materials, sediment, or contaminants associated with construction activity shall be implemented prior to the onset of such activity. Selected BMP's shall be maintained in a functional condition throughout the duration of the project.

5. Landscaping - Native, Drought Tolerant, Non-Invasive Plants. All areas affected by construction activities not occupied by structural development shall be re-vegetated for erosion control purposes.

Vegetated landscaped areas shall consist of non-invasive and drought-tolerant plants. 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://owuc.water.ca.gov/docs/wucols00.pdf>).

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6. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the landowner(s) ~~have executed and recorded against the parcel(s) government by this permit (i.e. the parcel(s) of land within which Unit applicant have executed an amendment to the Occupancy Agreement for Space #12 is located) a deed restriction, in a form and content acceptable to the Executive Director.~~ (1) ~~indicating~~ stating that, pursuant to this permit, the California Coastal Commission has authorized development on Unit ~~the placement of a manufactured home and related accessory structures, including without limitation, manufactured home foundation system and patio covers, on Space #12, subject to terms and conditions that restrict the use and enjoyment of Unit the manufactured home and related accessory structures located on Space #12; and (2) imposing~~ stating that the Special Conditions of this permit as ~~covenants, conditions and are~~ restrictions on the use and enjoyment of Unit ~~the manufactured home and related accessory structures located on Space #12. The deed restriction shall include a legal description of the entire parcel of land within which Unit Space #12 is located and a metes and bounds description of Unit Space #12 governed by this permit. The deed restriction~~ Amendment to the Occupancy Agreement shall also indicate state that, in the event of an extinguishment or termination of the deed restriction ~~Occupancy Agreement~~ for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of Unit ~~the manufactured home and accessory structures located on Space #12 of the subject property~~ mobile home park 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. ~~Space #12. Notwithstanding the foregoing, the landowner and lessee may, at their discretion, extend, assign, execute a new Occupancy Agreement, providing that the Occupancy Agreement provision required under this Permit Condition may not deleted, altered or amended without prior approval of the Executive Director of the Coastal Commission.~~

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South Coast Region

OCT 23 2014

OCCUPANCY AGREEMENT
OF
CAPISTRANO SHORES, INC.

CALIFORNIA
COASTAL COMMISSION

1880 N. El Camino Real
San Clemente, CA 92672

THIS OCCUPANCY AGREEMENT (this "Agreement" or "Occupancy Agreement") is made and entered into this 5th day of December 2007, by and between Capistrano Shores, Inc., a California nonprofit mutual benefit corporation (the "Corporation"), having an office and place of business at 1880 N. El Camino Real, San Clemente, CA 92672, and:

Member: Capistrano Shores Property, LLC
1880 N. El Camino Real, San Clemente, CA 92672

Address: 1880 N. El Camino Real, San Clemente, CA 92672

Lot No.: 12

(emergency contact information, for convenience only, is provided on Exhibit B attached hereto)

RECITALS

A. WHEREAS, the Corporation has been formed for the purpose of acquiring, owning, and operating a single family manufactured home development known as Capistrano Shores Community (the "Community"), located in San Clemente, California, with the intent that its members shall have the right to occupy the lots thereof under the terms and conditions set forth in this Agreement.

B. WHEREAS, the Community is a resident owned community designed to be used and enjoyed solely and exclusively by and for the Members and their permitted guests; the Community is not a rental community, nor is the Community one with multiple occupancy or characterized by high occupant turnover by those not financially interested in the Community.

C. WHEREAS, the Member, without the assistance of a co-signatory, qualified for membership in the Corporation ("Membership") and is the owner and holder of a certificate of membership issued by the Corporation (a "Membership Certificate") and is therefore a member in the Corporation ("Member").

D. WHEREAS, the Member is the legal owner of the manufactured home ("Home") which is or will be placed on property located in the Community at Member's address listed above (or the following address if different from that listed above):

E. WHEREAS, the Corporation is governed by Articles of Incorporation dated October 23, 2006, and any amendments thereto (the "Articles" or "Articles of Incorporation"), Bylaws and any amendments thereto (the "Bylaws"), Rules and Regulations of the Community ("Rules and Regulations"), such other documents collectively known as the "Governing Documents," and any amendments thereto, and the provisions of this Occupancy Agreement.

Exhibit 2
Addendum

pg 1/18

NOW, THEREFORE, BE IT RESOLVED, that in consideration of the Member's purchase of a Membership, and in further consideration of the mutual promises contained herein, the Corporation hereby gives occupancy rights to the Member, and the Member hereby accepts occupancy rights from the Corporation, to the above-referenced lot number (the 'Lot').

RESOLVED, FURTHER, that said Lot shall be occupied by the Member, his or her executors, administrators, and authorized assigns, on the terms and conditions set forth herein and in the Articles and Bylaws of the Corporation, and any Rules and Regulations of the Corporation now or hereinafter adopted pursuant thereto, for an initial term of ninety nine (99) years from the date of this Occupancy Agreement. Following the expiration of the initial ninety nine (99) year term, this Occupancy Agreement shall automatically renew for successive one (1) year terms. The Corporation reserves the right to change the terms of this Occupancy Agreement upon renewal. Any capitalized terms not defined herein shall have the meanings set forth in the Bylaws.

ARTICLE 1. PREMISES TO BE USED FOR RESIDENTIAL PURPOSES ONLY

1.1 Occupancy of the Lot under this Occupancy Agreement is limited to the Member who holds title, in the Member's name, to the Home located on the Lot and the following named members of his or her immediate household: See Exhibit B attached hereto.

1.2 The Member shall occupy the Lot covered by this Agreement as a private dwelling for himself or herself and his or her immediate family, or Member's tenant(s) or sublessee(s) under a lease or sublease entered into in compliance with the terms and conditions of the Governing Documents, and for no other purpose, and may enjoy the use, in common with the other Members of the Corporation, of all community property and facilities of the Community, so long as he or she continues to own a Membership in the Corporation, occupies his or her Lot, abides by the terms of this Agreement, and remains a Member in good standing under the Governing Documents.

1.3 The Member shall not permit or suffer anything to be done or kept upon said premises which will increase the rate of insurance on the Community, or on the contents thereof, or which will obstruct or interfere with the rights of other occupants, or annoy them by unreasonable noises or otherwise, nor will he or she commit or permit any nuisance on the premises or commit or suffer any illegal act to be committed thereon. The Member shall comply with all state and local requirements with respect to said premises. If by reason of the occupancy or use of said premises by the Member the rate of insurance on the property increases, the Member shall become personally liable for the additional insurance premiums.

1.4 Member shall not abandon the Lot at any time during the term of this Occupancy Agreement, its renewal, or holdover period. If Member abandons the Lot, in addition to all other remedies permitted by law, the Corporation shall be entitled to collect rent and other charges related to the Lot through and including the date the Lot is rented to someone else.

1.5 Written authorization to keep a pet in the Community or Lot must be obtained from the Corporation or an authorized agent of the Corporation ('Agent') prior to bringing any pet into the Community or Lot, in accordance with the terms and conditions set forth in the Rules and Regulations.

1.6 Regardless of the number of persons who execute this Occupancy Agreement and therefore become Members hereunder, at least one (1) such Member must remain the 'legal owner' or 'registered owner' of the Home.

ARTICLE 2. TERM OF OCCUPANCY AGREEMENT

2.1 As long as the person(s) executing this Agreement are Members, subject to the terms and conditions set forth herein, the initial term of this Occupancy Agreement shall be ninety nine (99) years from the date of this Occupancy Agreement, so long as the Member abides by this Occupancy Agreement and the Governing Documents. Following the expiration of the initial ninety nine (99) year term, this Occupancy Agreement shall automatically renew for successive one (1) year terms. The Corporation reserves the right to change the terms of this Occupancy Agreement upon renewal.

ARTICLE 3. DESCRIPTION OF HOME

3.1 Member owns the Manufactured Home described below and is on title to said Manufactured Home: See Exhibit A attached hereto and made a part hereof.

ARTICLE 4. MONTHLY REGULAR ASSESSMENTS

4.1 Commencing at the time indicated in Article 9 hereof, the Member agrees to pay to the Corporation a monthly sum referred to herein as "Regular Assessments," to be determined in conformance with the Bylaws of the Corporation. The amount of the Regular Assessments will be based in part on the sum required by the Corporation, as estimated by its board of directors ("Board" or "Board of Directors"), to meet its annual expenses, as set forth in the Bylaws. The Board of Directors shall determine the Regular Assessments from time to time pursuant to the Bylaws.

4.2 Until further notice from the Corporation, the monthly Regular Assessments for the Lot shall be Four Thousand Four Hundred Dollars (\$4,400).

(a) Cash Election. Notwithstanding the foregoing, the Regular Assessment shall be reduced in accordance with Board Resolution No. 1001 for any Member who makes a "Cash Election" thereunder and in accordance with such Member's Subscription Agreement. In such case, until further notice from the Corporation, the Regular Assessment for the Lot shall be Eight Hundred Dollars (\$800).

(b) Adjustments. The amount of the monthly Regular Assessments is subject to change by the Board of Directors on ninety (90) days' written notice to the Member.

4.3 Regular Assessments are due on or before the first (1st) and are deemed late on the fifth (5th) (see Article 8 regarding late fees and other costs of collection).

4.4 Member hereby agrees to execute, from time to time, a promissory note or other evidence of indebtedness in favor of the Corporation in an amount representing such Member's prorata portion of any blanket loan on the property, on such terms and conditions as are substantially similar to the terms and conditions of said blanket loan financing.

ARTICLE 5. SPECIAL ASSESSMENTS

5.1 In addition to the Regular Assessments, the Member shall also pay any "Special Assessments" levied by the Board of Directors. Special Assessments shall be levied as provided in the Bylaws for the purpose of defraying, in whole or in part, the common expenses of the Corporation for any fiscal year, including, but not limited to, unanticipated delinquencies, costs of construction, unexpected repairs, or replacement or reconstruction of capital improvements in or on the Corporation property.

ARTICLE 6. INDIVIDUAL SPECIAL ASSESSMENTS

6.1 The Member shall also pay any "Individual Special Assessments" levied by the Board of Directors. Individual Special Assessments shall be levied as provided in the Bylaws for the purpose of reimbursing the Corporation for costs incurred in performing repairs to the Member's Lot for which the Member is responsible pursuant to the Bylaws and Section 17.1 of this Agreement. Member shall pay all costs related to collection of Individual Special Assessments, including, without limitation, late fees, return check fees, and attorney fees and costs. If Member fails to pay any taxes due or utility fees owed that are the responsibility of such Member pursuant to this Occupancy Agreement, the Corporation may, but is not required to, pay such taxes due or utilities owed and levy an Individual Special Assessment against the Member for the sum of such taxes due or utilities owed plus any cost incurred by the Corporation related to its initial payment of such amounts.

ARTICLE 7. PROPERTY TAXES (Member Responsibility)

7.1 EACH MEMBER SHALL BE RESPONSIBLE FOR AND PAY WHEN DUE THE PROPERTY TAXES ON THE MEMBER'S SHARE WHICH INCLUDES THE RIGHT TO OCCUPY THE REAL PROPERTY WHICH IS THE SUBJECT OF THIS AGREEMENT, AS DETERMINED BY THE TAX ASSESSOR FOR THE COUNTY OF ORANGE. IT IS THE MEMBER'S RESPONSIBILITY, UPON ACCEPTANCE OF A MEMBERSHIP CERTIFICATE AND EXECUTION OF THIS OCCUPANCY AGREEMENT, TO FILE WITH THE TAX ASSESSOR A CHANGE OF OWNERSHIP FORM AS REQUIRED BY LAW (IF THE MEMBER IS A NEW OWNER) AND TO FILE INFORMATION REQUIRED FOR A HOMEOWNER'S TAX EXEMPTION. THE MEMBER WILL BE BILLED DIRECTLY BY THE ORANGE COUNTY ASSESSOR'S OFFICE FOR THE REAL PROPERTY TAXES ATTRIBUTABLE TO THE SHARE, AND SAID MEMBER IS RESPONSIBLE FOR PAYMENT OF SAID TAXES.

ARTICLE 8. LATE CHARGES AND OTHER COSTS IN CASE OF DEFAULT; ADDITIONAL ASSESSMENTS

8.1 Regular Assessments, Special Assessments, and Individual Special Assessments (collectively referred to herein as the "Assessments") are delinquent if not paid within five (5) days after they become due. In addition to the other sums that have become or will become due pursuant to the terms of this Agreement, and so long as not limited by any provision of the Bylaws, if any Assessments are delinquent the Member shall pay to the Corporation as an additional assessment, a late charge not to exceed ten percent (10%) of the delinquent Assessment or Two Hundred Fifty Dollars (\$250), whichever is greater. In addition to late charges imposed on delinquent Assessments, and so long as not limited by any provision of the Bylaws, the Member shall pay all reasonable costs incurred by the Corporation in collecting the delinquent Assessment, including reasonable attorneys' fees and interest on all sums due, including the delinquent Assessment, reasonable fees and costs of collection, and late charges at an annual interest rate of twelve percent (12%), commencing thirty (30) days after the Assessment becomes due.

8.2 In the event either party to this Agreement institutes legal action against the other party to interpret or enforce this Occupancy Agreement or to obtain damages for any alleged breach of this Occupancy Agreement or to enforce payment of any late charges pursuant to this Article 8, the prevailing party in such action shall be entitled to an award of reasonable attorney's fees and other costs of suit.

ARTICLE 9. COMMENCEMENT OF PAYMENT OF ASSESSMENTS

9.1 If a person executes this Occupancy Agreement and becomes a Member after the first day of a calendar month and before such month's end, such Member shall make a prorated payment for Regular Assessments covering the unexpired balance of the month upon the earlier of: (a) the date this Occupancy Agreement is executed, provided that the Lot is available; or (b) the date of actual occupancy of the Lot by the Member. Thereafter, the Member shall pay Regular Assessments on the first day of each month.

ARTICLE 10. MEMBER'S RIGHT TO PEACEABLE POSSESSION

10.1 In return for the Member's continued fulfillment of the terms and conditions of this Occupancy Agreement, the Corporation covenants that the Member may, at all times while this Agreement remains in effect, have and enjoy for his or her sole use and benefit the Lot hereinabove described, after obtaining occupancy, and may enjoy in common with all other Members of the Corporation the use of all community property and facilities of the Corporation.

ARTICLE 11. USE RESTRICTIONS

11.1 Nuisances. All Members, their guests, tenants, and family members shall refrain at all times from engaging in any noxious, illegal, or seriously offensive activities including, but not limited to, activities defined as a nuisance under any applicable laws and regulations, and any amendments thereto, including the laws and regulations of Orange County, which such determination shall be made after giving consideration to the nature of the Community as described in Recital B of this Agreement. The activities defined above in this Section 11.1 are prohibited on any Lot or Home situated on any Lot, or in any portion of the Community. In addition, Members, their guests, tenants, and family members shall refrain at all times from engaging in any activity that may be or may become a serious annoyance or a nuisance to or which may in any way interfere with the quiet enjoyment of any Member's respective Lot, or which shall in any way increase the rate of insurance for the Community, or cause any insurance policy to be cancelled or cause a refusal by an insurance company to renew the same, or which shall impair the structural integrity of any building located on or within the Community.

11.2 Vehicle Restriction. Except as may be permitted by, and in accordance with, the "Rules and Regulations" of the Corporation (as may be amended from time to time), there shall be no parking or storage of recreational vehicles, including, but not limited to, motor homes, campers, boats, jet skis, travel trailers, and similar equipment. An exception to this Section 11.2 may be granted by the Board of Directors in its sole discretion, when the Member who is the owner of the vehicle has no other means of transportation and the vehicle is used on a daily basis.

No commercial vehicles or equipment are to be parked or stored within the Community except vehicles or equipment necessary for maintenance of the Community.

There shall be no outside storage in the Community's common areas ("Common Area") or vacant lot ("Vacant Lot").

No vehicle owned or operated by a Member of the Community shall be parked in the common parking areas inconsistent with the Rules and Regulations of the Corporation, as adopted from time to time.

Towing of vehicles parked in common parking areas, or other Common Areas or Vacant Lot shall be done in accordance with the Rules and Regulations of the Corporation, as adopted from time to time.

11.3 Power Equipment and Vehicle Maintenance. The use of power equipment, operation of hobby shops and/or performance of car maintenance shall only be permitted in the Community in accordance with the Rules and Regulations, as adopted by the Board of Directors from time to time.

11.4 Number of Homes Per Lot. Not more than one (1) Home shall be placed on each Lot.

11.5 Requirements for Home Placement. No Home may be placed on any Lot until approved in writing by the Board of Directors as to site, condition, and appearance. All Homes must comply with federal and state laws as to construction and building codes, and as to their placement on their respective sites. It is the Member's responsibility to obtain all necessary permits and to place the Home on the site in accordance with these requirements.

11.6 - Drainage. The surface of any Lot or portion thereof in the Community shall not be regraded without the prior consent of the Board of Directors. The Member will be responsible for the drainage of the Lot. The Lot must not drain onto any other Lot or to any Common Area or Vacant Lot, except the street. The Corporation shall maintain all drainage facilities within the private drainage easements in proper order, including, but not limited to, keeping the facility free from debris and obstructions.

11.7 Trees. It is the sole responsibility of the Member to maintain, trim, and remove, when required, all trees on his or her Lot, except that the Corporation will maintain, trim, and remove, when required, any trees located within the Common Areas or Vacant Lot ("Community Tree"). The Member shall be responsible for any damage caused by trees located on the Member's Lot to adjacent lots, or improvements thereon, or to any Common Areas, Common Area Improvements ("Common Area Improvements") or Vacant Lot, except Member shall not be responsible for any damage caused by Community Trees. No tree or bush may be planted on the Lot without prior written approval of the Board of Directors and/or Architectural Committee.

11.8 Driveways. It is the sole responsibility of the Member to maintain, repair, replace, pave, and seal the Member's installed driveway, if any; provided, however, that Member is not responsible for maintaining any sidewalks located in Common Areas within the Community. A Member may be charged for the cost of any damage to the driveway caused by an act of the Member or a breach of the Member's responsibilities under the Rules and Regulations so long as those Rules and Regulations are not inconsistent with the provisions of *California Civil Code § 798.37.5*. Notwithstanding the foregoing, if the damage is caused by a tree, then the person responsible for the tree under Section 11.7 shall be financially responsible to pay all costs and expenses of the damage to paved areas caused by the tree.

11.9 Use of Recreational Facilities. All common area recreational facilities, if any from time to time exist ("Common Area Recreational Facilities"), are for the use of the Members and the tenants of said Member or the Corporation. Tenants are subject to the Rules and Regulations and are responsible for any damage to the Common Area Recreational Facilities. Members are responsible for the occupants in their Homes, including guests and invitees for violations of the Governing Documents, including, without limitation, the Rules and Regulations, and for damage to the Common Area Recreational Facilities caused by them. The Corporation has the right to limit the number of guests at Common Area Recreational Facilities. In addition to the foregoing, the Rules and Regulations set forth additional rules and regulations relating to the use of the Common Area Recreational Facilities, which are incorporated herein by reference.

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ARTICLE 12. NO SUBLETTING; RESTRICTION ON CO-OWNERSHIP

12.1 Subletting of a Member's Lot or lease of their Home shall be strictly prohibited within the Community except in accordance with section 13.1(D) of the Declaration.

12.2 Members and their guests, tenants, invitees and constituent partners, family members, owners, and beneficiaries are subject to the use restrictions relative to corporate ownership or co-ownership set forth in Section 6.1(B) of the Declaration, which are incorporated herein by reference.

12.3 Notwithstanding the foregoing, in the event Member has entered into this Occupancy Agreement (and acquired its Membership Interest in the Corporation) subject to the right(s) of an existing occupant and homeowner within the Community who elected not to participate in the acquisition of the Community by the resident owned Corporation (a "Group A Subtenant"), then the additional terms and conditions as set forth on Exhibit C shall apply and are hereby incorporated by reference.

ARTICLE 13. TRANSFERS

13.1 Neither this Agreement nor the Member's right to occupancy shall be transferable or assignable except in the manner as may now or hereafter be provided for in the Bylaws of the Corporation for transfer of Membership in the Corporation.

13.2 The Member agrees that the provisions of Article 38 shall apply in the event of the sale of any Membership interest.

13.3 Upon the death of a Member and during the probate administration of his or her estate, the voting rights and other rights of the deceased Member to participate in the affairs of the Corporation shall be suspended. The rights of any surviving Member or Resident shall not be suspended. Any other heir of the Member's estate who was not a Member or Resident as of the Member's date of death shall not succeed to any such rights of Membership.

If upon the death of a Member, his or her Membership in the Corporation passes by will or intestate distribution to a legatee or distributee, such legatee or distributee may, by assuming in writing the terms of this Occupancy Agreement between the Corporation and the deceased Member within the earlier of sixty (60) days after the Member's death or sixty (60) days after a court order names a legatee or distributee, and paying all amounts due thereafter, become a Member of the Corporation, provided the person meets all Membership requirements and the Board of Directors approves the legatee or distributee as a Member. If a Member dies and an obligation is not assumed in accordance with the foregoing, and/or the Board of Directors fails to approve the legatee or distributee as a Member, then the Corporation shall thereupon at its election either (1) repurchase said Membership at its Transfer Value (as defined in the Bylaws), or (2) proceed with reasonable diligence to effect a sale of the Membership to a purchaser at a sales price acceptable to the Corporation.

Should the Membership pass to a trust for the benefit of a beneficiary, the beneficiary may become a Member of the Corporation in the same manner as a legatee or distributee.

ARTICLE 14. COMMUNITY RULES AND REGULATIONS

14.1 The provisions of this Occupancy Agreement, the Articles, the Bylaws, the Declaration, and all other Governing Documents shall be deemed to be incorporated by reference into the Rules and Regulations of the Community and shall therefore constitute portions of such Rules and Regulations. The Member and all occupants of the Member's Home shall comply with the Community's Rules and

Regulations. The Rules and Regulations may be amended from time to time by the Corporation's Board of Directors.

14.2 The Member covenants that he or she will preserve and promote the principles on which the Corporation has been founded, abide by the Articles of Incorporation, Bylaws, Declaration, Rules and Regulations, and any amendments thereto. He or she further covenants to act in cooperation with the other Members to bring about for himself or herself and his or her co-Members a high standard in home and community conditions.

14.3 The Community is subject to portions of the Mobilehome Residency Law, commencing at *California Civil Code § 798 et seq.*, as it may be amended from time to time by the State of California.

ARTICLE 15. MANAGEMENT, TAXES, AND INSURANCE

15.1 The Corporation shall provide necessary management, operation, and administration of the Corporation and the Community; pay or provide for the payment of all property taxes or assessments levied against the Community Common Areas; procure and pay or provide for the payment of fire insurance and extended coverage, and other insurance as required by any mortgage on Corporation property, and such other insurance as the Corporation may deem advisable on the Corporation property. The Corporation will not, however, provide insurance on the Member's interest in a Home or on his or her personal property.

ARTICLE 16. UTILITIES

16.1 The Member shall pay directly to the supplier for cable television, electricity, and gas (including its use for heat) or, if separately submetered, the Member's usage of such utilities shall be paid to the Corporation as a Utility Assessment. The Corporation shall provide water and trash collection to the Member and Common Area utilities in an amount deemed necessary by the Corporation.

ARTICLE 17. REPAIRS

17.1 By Member. The Member shall be responsible for (a) all repairs and maintenance to his or her own Home, (b) any repairs or maintenance to the landscape of his or her Lot, and (c) all repairs and maintenance from the point of service hook-up into his or her Home. If repairs and maintenance to the Common Areas or Vacant Lot of the Community are necessitated by the Member's negligence, the Member shall be responsible for all expenses incurred. The Corporation retains the right to make repairs at the Member's expense and may charge the cost thereof to the Member as an Individual Special Assessment as provided in the Bylaws. The Member must make all repairs mandated by local ordinance and state law.

17.2 Corporation. The Corporation shall provide and pay for all necessary repairs, maintenance, and replacements in the Community, except as specified in Section 17.1 above. The Corporation is not responsible for any cost involved in modifying a Member's Home service hook-up to fit the services provided by the Corporation.

ARTICLE 18. ALTERATIONS AND ADDITIONS; ARCHITECTURAL CONTROL

18.1 No building, fence, wall, obstruction, outside or exterior wiring, balcony, screen, patio, patio cover, tent, awning, carport, carport cover, improvement or structure of any kind shall be commenced, installed, erected, painted, repainted (unless an identical color) or maintained upon the Home Lot, nor shall any alteration or improvement of any kind be made thereto until the same has been approved in

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writing by the Board of Directors or by any Architectural Committee appointed pursuant to Section 6.8 of the Declaration.

18.2 Plans and specifications showing the nature, kind, shape, color, size, materials, and location of any improvements, alterations, etc., described in Section 18.1 above, shall be submitted to the Board of Directors or the Architectural Committee for approval as to quality of workmanship and design and harmony or external design with existing structures and as to location in relation to surrounding structures, topography and finish grade elevation. Nothing contained herein shall be construed to limit the right of a Member to paint the interior of his or her Home any color desired.

18.3 Landscaping of patios or yards visible from the street or from the Common Area that does not involve the use of natural plants, grass, trees or shrubs, and does not involve the use of synthetic materials, or concrete, rock, or similar materials shall not be undertaken by any Member until plans and specifications showing the nature, kind, shape, and location of the materials shall have been submitted to and approved in writing by the Board of Directors or by the Architectural Committee.

18.4 In the event the Board or any Architectural Committee fails to approve or disapprove plans and specifications within thirty (30) days after the same have been submitted to it, approval will not be required and the related covenants shall be deemed to have been fully complied with by Member.

18.5 Upon the placement of any Home on any Lot in the Community, the Member shall, within three (3) months or ninety (90) days, whichever is less, of such placement, do the following:

18.5.1 Install exterior improvements including, but not limited to skirting, approved by the Board of Directors or any Architectural Committee; and

18.5.2 Have landscaping approved and completed. Each Lot shall have a front, side, and rear setback line which is in conformance with the ordinances of the County within which the Community is located and in conformance with the California Administrative Code, Title 25. No permanent structure or Home shall be placed on or maintained on such side or rear yards. Eaves and awnings of any Home shall not extend into any Common Area, Vacant Lot, or any adjacent Home Lot.

18.6 It is the sole responsibility of the Member to obtain all necessary permits and approvals for any construction, repair or replacement of improvements on the Lot and to conform to all construction requirements, including, without limitation, set back requirements, size and placement of sheds, if any, utility hook-ups, and location of utility lines in relationship to the placement of the Home.

ARTICLE 19. DEFINITION OF DEFAULT BY MEMBER

19.1 The Member shall be in default of this Occupancy Agreement upon the occurrence of any of the following:

(a) Failure of the Member or other occupant (including Member's tenants or sublessees) of the Member's Home to comply with a local ordinance, state law, or regulation relating to manufactured homes within a reasonable time after the Member or other occupant receives a notice of noncompliance from the Corporation or appropriate governmental agency.

(b) Conduct by the Member, or other occupant of the Member's Home, upon the Community premises, which constitutes a substantial annoyance to other Members or residents.

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(c) Conviction of the Member, or other occupant of the Member's Home, for prostitution or a felony controlled substance offense if the act resulting in the conviction was committed anywhere on the premises of the Community including, but not limited to, within the Member's Home; provided, however, the Membership may not be terminated for the reason specified in this subsection if the person convicted of the offense has permanently vacated and does not subsequently reoccupy the Home.

(d) Failure of the Member or other occupant of the Member's Home (including Member's tenants or sublessees) to comply with a reasonable rule or regulation of the Community which is part of this Occupancy Agreement or any amendment thereto or the Bylaws, including, without limitation:

(i) An attempt by Member to transfer, assign, or sublet the Membership Certificate or his or her right of occupancy of the Lot in a manner inconsistent with the provisions of the Bylaws or this Occupancy Agreement;

(ii) Failure by Member to make and/or pay for repairs and maintenance as provided in this Occupancy Agreement; or

(iii) Alterations by the Member to his or her Lot or external alterations to his or her Home without the prior written consent of the Board of Directors.

No act or omission of the Member or other occupant of the Member's Home shall constitute a failure to comply with a reasonable rule or regulation unless and until the Corporation has given the Member written notice of the alleged rule or regulation violation and the Member or other occupant of the Member's Home has failed to adhere to the rule or regulation within seven (7) days. However, if a Member has been given a written notice of an alleged violation of the same rule or regulation on three (3) or more occasions within a twelve (12)-month period after the Member or other occupant of the Member's Home has violated that rule or regulation, no written notice shall be required for a subsequent violation of the same rule or regulation to be grounds for the termination of Membership and tenancy.

(e) Failure of Member to pay Assessments, utility charges, or reasonable incidental service charges, provided that the amount due has been unpaid for a period of at least fifteen (15) days from its due date. If Member is in default pursuant to this Section 19.1(e), the Corporation or its Board of Directors may take any such action described in the Corporation's Bylaws (including, but not limited to, those rights set forth in Sections 3.9, 3.10 and Article X) which shall be incorporated by reference herein.

ARTICLE 20. BASIS OF TERMINATION BY THE ASSOCIATION

20.1 In addition to termination of this Occupancy Agreement, the Member's tenancy in the Community, and the Member's Membership in the Corporation as outlined in Article 19 above, termination of the foregoing shall also occur upon the occurrence of either of the following:

(a) Condemnation of the Community;

(b) Change of use of the Community or any portion thereof, provided in *California Civil Code* § 798.56(g); or

(c) Violation of the Governing Documents, including, without limitation, the Subscription Agreement, the Declaration, the Rules and Regulations and the Bylaws, as amended from time to time.

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ARTICLE 21. EFFECT OF DEFAULT BY MEMBER

21.1 If the Member is in default pursuant to Article 19 above, the Corporation shall have the right to terminate this Occupancy Agreement, the Member's tenancy in the Community, and the Member's Membership in the Corporation in the manner set forth in Sections 3.10 of the Bylaws and further outlined in the Procedures and Policies for Enforcement of the Governing Documents.

21.2 Once the termination is effective pursuant to the Bylaws, the Corporation shall give written notice to the Member in the manner prescribed in *California Civil Code of Procedure § 1162* to remove the Member's Home from the Community within a period of not less than sixty (60) days, which period shall be specified in the notice.

21.3 The Member hereby expressly waives any and all right of redemption in case he or she shall be dispossessed by judgment or warrant of any court or judge; the words "enter," "re-enter," and "re-entry," as used in this Occupancy Agreement are not restricted to their technical legal meaning, and in the event of a breach or threatened breach by the Member of any of the covenants or provisions hereof, the Corporation shall have the right of injunction and the right to invoke any remedy allowed at law or in equity, as if re-entry, summary proceedings, and other remedies were not provided for herein.

21.4 The Member agrees that there exists a landlord/tenant relationship under this Occupancy Agreement. In the event of a breach or threatened breach by the Member of this Occupancy Agreement or any other agreement between the Member and the Corporation, there shall be available to the Corporation such legal remedies as are available to a landlord for a breach or threatened breach under the law by a tenant.

21.5 The failure on the part of the Corporation to avail itself of any of the remedies given under this Occupancy Agreement shall not waive or destroy the right of the Corporation to avail itself of such remedies for similar or other breaches on the part of the Member.

21.6 In the event of default or any action to enforce this Occupancy Agreement, the non-prevailing party in any such action shall be responsible for all costs and expenses incurred as a result of such action, including reasonable attorneys' fees incurred by the prevailing party, all of which may be included as part of the judgment rendered in any such action.

21.7 If the Corporation sells a Member's Membership as the result of default by the Member, the Member shall be entitled to the proceeds of such sale, less the following amounts, the determination of such amounts by the Corporation to be conclusive:

(a) Any amount due to the Corporation from the Member under the Occupancy Agreement or otherwise;

(b) The cost or estimated cost of all deferred maintenance, repairs, and replacements as are deemed necessary by the Corporation to place the Lot in suitable condition for another occupant; and

(c) Legal and other expenses incurred by the Corporation in connection with the default of such Member and the resale of his or her Membership.

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ARTICLE 22. EFFECT OF FIRE LOSS ON INTERESTS OF MEMBER

22.1 In the event of loss or damage by fire or other casualty to the Lot without the fault or negligence of the Member, the Corporation shall determine whether to restore the damaged Lot and shall further determine, in the event such Lot shall not be restored, the amount which shall be paid to the Member to redeem the Membership of the Member and to reimburse him or her for such loss as he or she may have sustained, but only to the extent of available insurance proceeds.

22.2 The Corporation is not responsible for loss or damage to a Member's Home, nor is the Corporation liable for any accident occurring inside or caused by the Member's Home.

ARTICLE 23. ENTERING A MEMBER'S HOME

23.1 The Corporation or its representative is authorized to enter a Member's Home only with prior written permission of that Member or other resident of such Home, except that the Corporation or its representative may enter the Home without the prior written consent of the Member or other resident in the case of an emergency or when the Member has abandoned the Home.

23.2 The Member agrees that the representatives of any mortgagees holding a mortgage on the property of the Corporation, the officers and employees of the Corporation, the employees of any management agent, and, with the approval of the Corporation, the employees of any contractor, utility company, or governmental agency or other person, shall have the right to enter the Lot, but not the Home of the Member, for the purpose of making inspections at any reasonable hour of the day; provided, however, that, unless the Member consents at the time of entry, such entry shall be made only upon twenty-four (24)-hours' written notice and during normal business hours, except in the event of an emergency as determined by the Corporation, or where the Member has abandoned or surrendered the Lot.

ARTICLE 24. SUBORDINATION CLAUSE

24.1 Notwithstanding any provisions in this Occupancy Agreement to the contrary, the provisions of this Occupancy Agreement and the rights and duties of the parties hereto, including any persons who may subsequently become bound hereby, shall be subject to and subordinate to the provisions of any promissory notes or deeds of trust that may at any time hereafter be placed on the property of the Corporation. The Member hereby agrees to execute, at the Corporation's request and expense, any instrument that the Corporation or any lender may deem necessary or desirable to effect the subordination of this Occupancy Agreement to any such mortgage or deed of trust, and the Member hereby appoints the Corporation and each and every officer thereof, and any future officer, his or her irrevocable attorney-in-fact during the term hereof, to execute any such instrument on behalf of the Member.

ARTICLE 25. ORAL REPRESENTATION

25.1 Oral agreements are not binding. All agreements other than those contained in the Articles of Incorporation, Occupancy Agreement, Bylaws, Declaration, and all other Governing Documents must be in writing.

ARTICLE 26. LIENS AND CLAIMS

26.1 Residents shall not suffer or permit to be enforced against Member's title to the Lot, or any part thereof, any lien, claim, or demand arising from any work or construction, repair, restoration, or maintenance of the Lot, nor shall Member suffer or permit to be enforced against the Member's title to

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the Lot, or any part thereof, any lien, claim, or demand arising from another Member's failure to abide by the Occupancy Agreement or Community Rules and Regulations.

26.2 Should any lien, demand, or claim be filed, Member shall cause it to be immediately removed. In the event Member, in good faith, desires to contest such lien, demand, or claim, he or she may do so, but in such case, Member agrees to post such bond as the Corporation reasonably requires and shall indemnify and hold the Corporation harmless from any and all liability for damages resulting therefrom and agrees to and shall, in the event of a judgment of foreclosure on said lien, cause the same to be satisfied, discharged, and removed prior to execution of the judgment.

26.3 Should Member fail to discharge such lien or furnish bond against the foreclosure thereof, Corporation may, but shall not be obligated to, discharge the same or take such other action as it deems necessary to prevent a judgment of foreclosure on said lien from being executed against the property and all costs and expenses, including, but not limited to, reasonable attorney's fees and court costs incurred by the Corporation in connection therewith, shall be repaid by Member to the Corporation on written demand.

ARTICLE 27. INDEMNIFICATION

27.1 The Corporation shall not be liable for any damage or injury to Member or any other person, or to any property, occurring on the Lot or any part of the Lot, Common Areas, or Vacant Lot unless the damage is the proximate result of the gross negligence or willful misconduct of the Corporation, the Corporation's agents or the Corporation's employees. Member agrees to indemnify, defend, and hold harmless the Corporation for any liability, costs (including reasonable attorney's fees), or claims for personal injuries or property damage cause by the negligent, willful, or intentional act or omission to act of Member, Member's household members, invitees, agents, guests, visitors, or unlawful occupants, or any other resident of the Community or such resident's household members, invitees, agents, guests, visitors, or unlawful occupants. Each party waives the right of subrogation against the other party.

ARTICLE 28. INSURANCE

28.1 It is recommended that Member obtain, at Member's own cost, extended coverage for Member's fire, flood and other casualty insurance on the Lot, Home, and other improvements and contents of the Lot and such other insurance as is necessary to protect Member, Member's household members, invitees, agents, guests, visitors, unlawful occupants, or others from loss or liability. The Corporation is not and shall not be responsible for carrying this insurance for Member's property or for any liability arising by occupancy of the Lot and Home.

28.2 It is recommended that Member maintain comprehensive general liability insurance with Broad Form Liability Endorsement insuring Member against any and all damages and liability, including attorney's fees and other costs and expenses on account of or arising out of injuries to or the death of any person or damage to property occasioned by the use of any parking license obtained by Member. Such comprehensive general liability insurance should insure the performance by Member of the indemnity agreement as set forth more fully in this Article 28.

28.3 Member agrees to indemnify and defend the Corporation against and hold the Corporation harmless from any and all loss, costs, liability, damage, and expenses including, without limitation, penalties, fines, and reasonable attorney's fees and costs incurred in connection with or arising from the use or exercise of the Occupancy Agreement by Member or any entity or person claiming under or through Member, or any of Member's household members, invitees, agents, guests, visitors, unlawful

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occupants, or others. The provisions of this Section 28.3 shall survive the expiration or earlier termination of this Occupancy Agreement.

ARTICLE 29. NOTICES

29.1 - All notices required or permitted under this Occupancy Agreement must be in writing and may be served upon the Corporation or Member by any means permitted by law. Member understands that any notice by the Corporation terminating Member's tenancy must be given to Member in writing in the manner described in *California Code of Civil Procedure § 1162*. The service of any other notice on Member, including, but not limited to, a notice of lease payments increase, a notice of amendments to the Community's Rules and Regulations, notices relating to other matters in Articles 1 through 5 inclusive, and Article 7 of the *California Civil Code, Mobilehome Residency Law, §§ 798 et. seq.*, shall be deemed duly and validly served if the notice is mailed to the Member at his or her address in the Community by First Class United States mail, postage prepaid. Any such notice served upon Member in this manner shall be deemed served forty-eight (48) hours after its mailing. Addresses for purposes of this section are as follows:

MEMBER:

*Capistrano Shores Property, LLC
1880 N. El Camino Real
San Clemente, CA 92672*

ASSOCIATION:

Capistrano Shores, Inc.
1880 N. El Camino Real
San Clemente, CA 92672

With copy to:

L. Sue Loftin
The Loftin Firm
5760 Fleet Street, Suite 110
Carlsbad, CA 92008

ARTICLE 30. ENTIRE OCCUPANCY AGREEMENT

30.1 This Occupancy Agreement and the documents referred to herein constitute the entire Occupancy Agreement between Member and the Corporation pertaining to the subject matter contained herein and supercede all prior and contemporaneous occupancy agreements, representations, and undertakings of the parties, whether written or oral, including any prior Occupancy Agreements between the Member and any previous Owner of the Community.

ARTICLE 31. DISPUTE RESOLUTION: MEDIATION

31.1 Except with respect to any claim, counterclaim, dispute, and other matters relating to the payment of rent or any other amount owing from Member to the Corporation under this Occupancy Agreement, Member and the Corporation agree that, if and to the extent that any claim, counterclaim, dispute, and other matter in question between them arising out of or relating to this Occupancy Agreement or the breach thereof ("Non-Monetary Dispute") cannot be resolved through direct discussions, such Non-Monetary Dispute shall be scheduled for mediation.

31.2 Member and the Corporation agree to use a mediator associated with the Judicial Arbitration and Mediation Services ("JAMS"). Mediator shall possess accreditation as required by law in the State of California.

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31.3 All expenses of the mediation shall be borne by the parties equally; however, each party shall bear the expense of its own counsel, experts, witnesses, and preparation and presentation of proofs.

31.4 Member, being of lawful age, hereby fully releases and discharges the Corporation and relinquishes all rights, claims, and actions Member has or may have, for all claims for injuries, damages, or loss to the real property, personal property, or person of Member (whether those injuries, damages or losses are known or unknown, foreseen or unforeseen, patent or latent) that may have arisen prior to the date of this Occupancy Agreement, and as to those claims waives the application of *California Civil Code* § 1542, which states:

“A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR EXPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN TO HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR.”

And Member indicates that fact by initialing here:


Member Initials

Member Initials

31.5 Notwithstanding the foregoing, nothing contained in this Article 31 shall be deemed to limit or restrict the Corporation's rights to file an unlawful detainer action under *California Code of Civil Procedure* § 1161 *et seq.* and obtain a judgment thereunder.

ARTICLE 32. HEADINGS

32.1 The title of the paragraphs and subparagraphs contained herein are inserted for convenience and under no circumstances are they to be treated or construed as any part of this Occupancy Agreement.

ARTICLE 33. TIME OF ESSENCE

33.1 Time is of the essence with respect to the performance of every provision of this Occupancy Agreement.

ARTICLE 34. INVALIDITY OF PROVISIONS

34.1 Any provision of this Occupancy Agreement that is unenforceable or invalid or the inclusion of which would adversely affect the validity, legality, or enforcement of this Occupancy Agreement shall have no effect, but all remaining provisions of this Occupancy Agreement shall remain in full force.

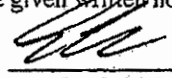
ARTICLE 35. CHOICE OF LAW

35.1 This Occupancy Agreement and all documents referred to herein shall be construed and enforced in accordance with the laws of the State of California.

ARTICLE 36. ZONING INFORMATION

36.1 The Community is zoned open space (OSS2) and the Community operates pursuant to a conditional use permit which allows a ninety (90) space mobilehome park.

36.2 If a change occurs concerning the zoning permit under which the Community operates, Member shall be given written notice within thirty (30) days of such change.



Member Initials

Member Initials

36.3 The Community is surrounded by a railroad and highway to the East, beaches and residential neighborhoods to the North and South, and the Pacific Ocean to the West.

36.4 The Community is located within the coastal zone and, as such, any development and/or other activities may be subject to oversight by the California Coastal Commission or other applicable regulatory agencies.

36.5 The additional disclosures and information set forth in Addendum A-10 attached hereto are incorporated herein by reference.

ARTICLE 37. OWNERSHIP INFORMATION

37.1 The Community is owned by the Corporation. Ownership of a Home and Membership in the Corporation is outlined in the Governing Documents, as adopted and amended from time to time by the Corporation.

ARTICLE 38. NONDISCRIMINATION

38.1 Member covenants by and for himself or herself, all heirs, executors, and assigns; and all persons claiming under and through Member, that this Occupancy Agreement is made and accepted upon and subject to the following conditions: occupancy of the Community shall be open to all regardless of race, sex, color, religion, creed, marital status, sexual orientation, national origin, AIDS, ancestry, family status, sources of income or conditions of physical or mental disability.

ARTICLE 39. ACKNOWLEDGMENT

39.1 Member acknowledges that he or she has read, understood, and received copies of this Occupancy Agreement, Disclosure Package (as more fully described in Addendum A, attached hereto), and the Community's Rules and Regulations as attached to this Occupancy Agreement. Member understands that by executing this Occupancy Agreement, he or she will be bound by the terms and conditions within the Rules and Regulations described in this Occupancy Agreement as applicable to Member.

39.2 Member covenants and agrees that he or she has been afforded sufficient opportunity to examine, and has examined, the Lot, the improvements and facilities located thereon and the same are delivered to Member in good order and condition and the Member accepts them in their "as is" condition, without any representation or warranty of any kind from the Corporation.

39.3 Member acknowledges that this Occupancy Agreement is governed by portions of the Mobilehome Residency Law, *California Civil Code §§ 798, et seq.*

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ARTICLE 40. MISCELLANEOUS

40.1 This Occupancy Agreement may be signed in multiple counterparts with the same force and effect as if all original signatures appeared on one (1) copy. In the event this Occupancy Agreement is signed in counterparts, each counterpart shall be deemed an original and all of the counterparts shall be deemed to be one Occupancy Agreement.

40.2 This Occupancy Agreement and each and every provision hereof is for the exclusive benefit of the parties hereto and not for the benefit of any third party.

[Remainder of page intentionally left blank]

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be signed the day and year first above written.

[Handwritten Signature]
Member

Member

CAPISTRANO SHORES, INC.,
a California nonprofit mutual benefit corporation

By: *[Handwritten Signature]*

Its: President

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CALIFORNIA COASTAL COMMISSION

South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302
(562) 590-5071

FILE COPY

Date: June 23, 2010
Permit Application No.:5-09-180
Page 1 of 4



COASTAL DEVELOPMENT PERMIT

Corrected Copy/Replaces Permit Issued June 17, 2010

On **June 9, 2010**, the California Coastal Commission approved Coastal Development Permit No. **5-09-180**, requested by **Frederick E. Hitchcock and the Frederick E. Hitchcock Jr. 1999 Family Trust** dated **November 1, 1999** subject to the attached conditions, for development consisting of: **Installation of a new 1,345 sq. ft., double-wide, 19.5' tall mobile home on an above-ground concrete block pier foundation, hardscape improvements including paver patio, 11' tall patio cover, 30" tall masonry seat wall parallel to and inland of the western Unit Space property line, drainage improvements and landscaping on an oceanfront mobile home space.** More specifically described in the application file in the Commission offices.

The development is within the coastal zone in **Unit Space #81 of Capistrano Shores Mobile Home Park, 1880 N El Camino Real, San Clemente (Orange County)**

Issued on behalf of the California Coastal Commission on 6/23/2010.

PETER DOUGLAS
Executive Director

By: 
Title: Coastal Program Analyst

ACKNOWLEDGMENT

The undersigned permittees acknowledge receipt of this permit and agree to abide by all terms and conditions thereof.

The undersigned permittees acknowledge that Government Code Section 818.4 which states in pertinent part, that: "A public entity is not liable for injury caused by the issuance . . . of any permit . . ." applies to the issuance of this permit.

IMPORTANT: THIS PERMIT IS NOT VALID UNLESS AND UNTIL A COPY OF THE PERMIT WITH THE SIGNED ACKNOWLEDGMENT HAS BEEN RETURNED TO THE COMMISSION OFFICE. 14 CAL. ADMIN. CODE SECTION 13158(a).

_____ Date

Permittee/Frederick E. Hitchcock, Jr.

_____ Date

Co-Permittee/ Trustee of the Frederick E. Hitchcock Jr. 1999 Family Trust dated November 1, 1999

Please sign and return one copy of this form to the Commission office at the above address.

*Exhibit 3
Addendum
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COASTAL DEVELOPMENT PERMIT

Date: June 23, 2010

Permit Application No.: 5-09-180

Page 2 of 4

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 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 permittee to bind all future owners and possessors of the subject property to the terms and conditions.

SPECIAL CONDITIONS:

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

The applicant shall comply with the following construction-related requirements:

- A. No construction materials, debris, or waste shall be placed or stored where it may enter the storm drain system leading to the Pacific Ocean;
- B. Any and all debris resulting from construction activities shall be removed from the project site within 24 hours of completion of the project;
- C. Erosion control/sedimentation Best Management Practices (BMP's) 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 storm drain system and a pre-construction meeting to review procedural and BMP guidelines;
- D. 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. Debris shall be disposed of outside the coastal zone, as proposed by the applicant.
- E. Concrete trucks and tools used for construction of the approved development shall be rinsed off-site;

COASTAL DEVELOPMENT PERMIT

Date: June 23, 2010

Permit Application No.:5-09-180

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- F. Staging and storage of construction machinery and storage of debris shall not take place on any sandy beach areas or areas containing any native vegetation.

2. Drainage Plan

The applicant shall conform to the site drainage details depicted in the hardscape plan received in the Commission's office on 09/17/09 depicting proposed concrete pavers sloped to drain to the back (street side) of the mobile home unit space and an overflow area drain both directed to an underground dry well for on-site percolation of runoff from all site impervious areas. 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 legally required.

3. Landscaping – Native, Drought Tolerant, Non-Invasive Plants

All areas affected by construction activities not occupied by structural development shall be re-vegetated for erosion control purposes.

Vegetated landscaped areas shall consist of non-invasive and drought-tolerant plants. 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.owue.water.ca.gov/docs/wucols00.pdf>).

4. Future Response to Erosion/No Future Shoreline Protective Device

- A. No repair or maintenance, enhancement, reinforcement, or any other activity affecting the existing shoreline protective device is authorized by this coastal development permit.
- B. By acceptance of this Permit, the applicant waives, on behalf of himself and all successors and assigns of Unit Space #81, any rights to new shoreline protection that may exist under Public Resources Code Section 30235 to protect the proposed new mobile home on Unit Space #81.
- C. By acceptance of this permit, the applicant further agrees, on behalf of himself and all successors and assigns to Unit Space #81, that the applicant and all successors and assigns shall remove the development authorized by this permit, including the residence, foundations, patio covers, if any government agency has issued a permanent order that the structure not be occupied due to the threat of or actual damage or destruction to the premises resulting from waves, erosion, storm conditions, sea level rise, or other natural hazards in the future. In the event that portions of the development fall to the beach before they are removed, the applicant or successor shall remove all recoverable debris associated with the

COASTAL DEVELOPMENT PERMIT

Date: June 23, 2010

Permit Application No.:5-09-180

Page 4 of 4

development from the beach and ocean and lawfully dispose of the material in an approved disposal site. Such removal shall require a coastal development permit.

5. Future Development

This permit is only for the development described in Coastal Development Permit No. 5-09-180. Pursuant to Title 14 California Code of Regulations Section 13250(b) (6), the exemptions otherwise provided in Public Resources Code Section 30610(a) shall not apply to the development governed by Coastal Development Permit No. 5-09-180. Accordingly, any future improvements to the development authorized by this permit, including but not limited to repair and maintenance identified as requiring a permit in Public Resources Section 30610(d) and Title 14 California Code of Regulations Sections 13252(a)-(b), shall require an amendment to Permit No. 5-09-179 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

6. Assumption of Risk, Waiver of Liability and Indemnity

By acceptance of this permit, the applicant acknowledges and agrees (i) that Unit Space #80 may be subject to hazards from flooding and wave uprush, tsunamis, sea level rise, and erosion; (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 coastal hazards.

7. Termination or Reauthorization

The development authorized in Coastal Development Permit No.:5-09-180 shall terminate on the legal conveyance of the applicant's or co-applicant's interest in Unit Space #81 to a third party, subject to the exception listed herein. For purposes of this Special Condition, a "third party" is any person or entity that is not the applicant (Frederick E. Hitchcock Jr.) nor a beneficiary under The Frederick E. Hitchcock Jr. 1999 Family Trust dated November 1, 1999 (the co-applicant for this permit). Prior to the conveyance to a third party, all development authorized by Coastal Development Permit No.:5-09-180 shall be removed in accordance with a plan pre-approved by the Executive Director, unless the development is reauthorized by another Coastal Development Permit. Commission approval of the third party application for reauthorization of the permit must be made prior to the date of legal conveyance to the third party. Revocation of the Trust shall be considered conveyance to a third party, for purposes of this condition.

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302
(562) 590-5071

Date: June 17, 2010
Permit Application No.:5-09-179
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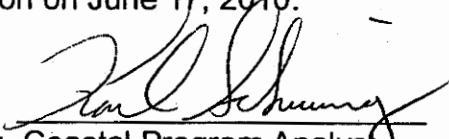
COASTAL DEVELOPMENT PERMIT

On June 9, 2010, the California Coastal Commission approved Coastal Development Permit No. 5-09-179, requested by Frederick E. Hitchcock, Jr. and the Frederick E. Hitchcock Jr. 1999 Family Trust dated November 1, 1999 subject to the attached conditions, for development consisting of: Installation of a new 1,256 sq. ft., double-wide, 18.5' tall mobile home on an above-ground concrete block pier foundation, hardscape improvements including paver patio, 11' tall patio cover, 30" tall masonry seat wall parallel to and inland of the western Unit Space property line, drainage improvements and landscaping on an oceanfront mobile home space...More specifically described in the application file in the Commission offices.

The development is within the coastal zone in Unit Space #80 of Capistrano Shores Mobile Home Park, 1880 N El Camino Real, San Clemente (Orange County)

Issued on behalf of the California Coastal Commission on June 17, 2010.

PETER DOUGLAS
Executive Director

By: 
Title: Coastal Program Analyst

ACKNOWLEDGMENT

The undersigned permittees acknowledge receipt of this permit and agree to abide by all terms and conditions thereof.

The undersigned permittees acknowledge that Government Code Section 818.4 which states in pertinent part, that: "A public entity is not liable for injury caused by the issuance . . . of any permit . . ." applies to the issuance of this permit.

IMPORTANT: THIS PERMIT IS NOT VALID UNLESS AND UNTIL A COPY OF THE PERMIT WITH THE SIGNED ACKNOWLEDGMENT HAS BEEN RETURNED TO THE COMMISSION OFFICE. 14 CAL. ADMIN. CODE SECTION 13158(a).

Date

Permittee/Frederick E. Hitchcock, Jr.

Date

Co-Permittee/ Trustee of the Frederick E. Hitchcock Jr. 1999 Family Trust dated November 1, 1999

Please sign and return one copy of this form to the Commission office at the above address.

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COASTAL DEVELOPMENT PERMIT

Date: June 17, 2010

Permit Application No.:5-09-179

Page 2 of 4

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 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 permittee to bind all future owners and possessors of the subject property to the terms and conditions.

SPECIAL CONDITIONS:

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

The applicant shall comply with the following construction-related requirements:

- A. No construction materials, debris, or waste shall be placed or stored where it may enter the storm drain system leading to the Pacific Ocean;
- B. Any and all debris resulting from construction activities shall be removed from the project site within 24 hours of completion of the project;
- C. Erosion control/sedimentation Best Management Practices (BMP's) 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 storm drain system and a pre-construction meeting to review procedural and BMP guidelines;
- D. 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. Debris shall be disposed of outside the coastal zone, as proposed by the applicant.
- E. Concrete trucks and tools used for construction of the approved development shall be rinsed off-site;

COASTAL DEVELOPMENT PERMIT

Date: June 17, 2010

Permit Application No.:5-09-179

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- F. Staging and storage of construction machinery and storage of debris shall not take place on any sandy beach areas or areas containing any native vegetation.

2. Drainage Plan

The applicant shall conform to the site drainage details depicted in the hardscape plan received in the Commission's office on 09/17/09 depicting proposed concrete pavers sloped to drain to the back (street side) of the mobile home unit space and an overflow area drain both directed to an underground dry well for on-site percolation of runoff from all site impervious areas. 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 legally required.

3. Landscaping – Native, Drought Tolerant, Non-Invasive Plants

All areas affected by construction activities not occupied by structural development shall be re-vegetated for erosion control purposes.

Vegetated landscaped areas shall consist of non-invasive and drought-tolerant plants. 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.owue.water.ca.gov/docs/wucols00.pdf>).

4. Future Response to Erosion/No Future Shoreline Protective Device

- A. No repair or maintenance, enhancement, reinforcement, or any other activity affecting the existing shoreline protective device is authorized by this coastal development permit.
- B. By acceptance of this Permit, the applicant waives, on behalf of himself and all successors and assigns of Unit Space #80, any rights to new shoreline protection that may exist under Public Resources Code Section 30235 to protect the proposed new mobile home on Unit Space #80.
- C. By acceptance of this permit, the applicant further agrees, on behalf of himself and all successors and assigns to Unit Space #80, that the applicant and all successors and assigns shall remove the development authorized by this permit, including the residence, foundations, patio covers, if any government agency has issued a permanent order that the structure not be occupied due to the threat of or actual damage or destruction to the premises resulting from waves, erosion, storm conditions, sea level rise, or other natural hazards in the future. In the event that portions of the development fall to the beach before they are removed, the applicant or successor shall remove all recoverable debris associated with the

COASTAL DEVELOPMENT PERMIT

Date: June 17, 2010

Permit Application No.:5-09-179

Page 4 of 4

development from the beach and ocean and lawfully dispose of the material in an approved disposal site. Such removal shall require a coastal development permit.

5. Future Development

This permit is only for the development described in Coastal Development Permit No. 5-09-179. Pursuant to Title 14 California Code of Regulations Section 13250(b) (6), the exemptions otherwise provided in Public Resources Code Section 30610(a) shall not apply to the development governed by Coastal Development Permit No. 5-09-179. Accordingly, any future improvements to the development authorized by this permit, including but not limited to repair and maintenance identified as requiring a permit in Public Resources Section 30610(d) and Title 14 California Code of Regulations Sections 13252(a)-(b), shall require an amendment to Permit No. 5-09-179 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

6. Assumption of Risk, Waiver of Liability and Indemnity

By acceptance of this permit, the applicant acknowledges and agrees (i) that Unit Space #80 may be subject to hazards from flooding and wave uprush, tsunami, sea level rise, and erosion; (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 coastal hazards.

7. Termination or Reauthorization

The development authorized in Coastal Development Permit No.:5-09-179 shall terminate on the legal conveyance of the applicant's or co-applicant's interest in Unit Space #80 to a third party, subject to the exception listed herein. For purposes of this Special Condition, a "third party" is any person or entity that is not the applicant (Frederick E. Hitchcock Jr.) nor a beneficiary under The Frederick E. Hitchcock Jr. 1999 Family Trust dated November 1, 1999 (the co-applicant for this permit). Prior to the conveyance to a third party, all development authorized by Coastal Development Permit No.:5-09-179 shall be removed in accordance with a plan pre-approved by the Executive Director, unless the development is reauthorized by another Coastal Development Permit. Commission approval of the third party application for reauthorization of the permit must be made prior to the date of legal conveyance to the third party. Revocation of the Trust shall be considered conveyance to a third party, for purposes of this condition.

1295/8

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302
(562) 590-5071



W13c

Filed: 10/23/14
180th Day: 4/21/15
Staff: L. Roman-LB
Staff Report: 4/2/15
Hearing Date: 4/15/15

STAFF REPORT: REGULAR CALENDAR

Application No.: 5-14-1582

Applicants: Capistrano Shores Property, LLC

Project Location: Capistrano Shores Mobile Home Park
1880 N. El Camino Real, Space #12
San Clemente, Orange County

Project Description: Removal/demolition of an existing 1,440 sq. ft., 16 ft. high single-story mobile/manufactured home structure and installation of a new 1,248 sq. ft., 16-ft. high single story mobile/manufactured home structure, 85 sq. ft. storage shed, slab on grade concrete patio, 18" high wood seatwall, 6-ft. tall glass fence, and minor landscaping on an oceanfront mobile home space.

Staff Recommendation: Approval with conditions.

SUMMARY OF STAFF RECOMMENDATION

The applicant proposes to install a new mobile home in Unit Space #12 in the Capistrano Shores Mobile Home Park located between the first public road and the sea and seaward of the Orange County Transportation Authority (OCTA) railroad tracks in San Clemente. The mobile home park is a legal non-conforming use on a stretch of beach developed with a single row of 90 mobile homes parallel to the shoreline on a lot designated OS2 Privately Owned Open Space (intended for open space – no formal easement) in the City of San Clemente Land Use Plan

(LUP). A rock revetment protects the 90 mobile home units at this site from direct wave attack. No improvements are proposed to the existing bulkhead or revetment. The primary issue raised by significant improvements to or replacement of the existing mobile homes within the park is the potential expectation that the existing revetment may be augmented in the future to protect such development. Any seaward encroachment of the revetment would directly impact existing lateral public access along the shoreline and encroach onto State tidelands or lands subject to the public trust. Therefore, Commission staff is recommending approval of the installation of a new mobile home in Unit Space #12 with a condition requiring acknowledgement and agreement that Unit Space #12 may be subject to hazards from flooding, wave uprush, sea level rise, and erosion and a requirement that the applicant waive any rights to shoreline protection for the proposed new mobile home.

Mobile home owners in the Capistrano Shores Mobile Home Park own the mobile home structures, but do not hold fee title to the land. Capistrano Shores, Inc. is a non-profit mutual benefit corporation in which each mobile home owner, such as the subject applicant, holds a 1/90 “membership” interest which allows the use of the Unit Space for mobile home purposes. As such, any recommended deed restriction would not apply to the entire parcel of land within which Unit Space #12 exists, but would apply specifically to Unit Space #12, with the intention to provide future owners of the proposed new mobile home on Unit Space #12 notice of the special conditions of this CDP for the installation of the new mobile home. The deed restriction must be recorded by Capistrano Shores, Inc. which holds the fee title to the entire mobile home park, including Unit Space #12. The staff recommended deed restriction indicates that, pursuant to this permit, the California Coastal Commission has authorized development on Unit Space #12, subject to terms and conditions that restrict the use and enjoyment of Unit Space #12 only; the conditions imposed would not apply to the mobile home park as a whole or to other units within the mobile home park.

Additionally, the proposed development has been conditioned to assure the proposed project is consistent with the resource protection policies of the Coastal Act. The conditions are: 1) Assumption of Risk; 2) Future Improvements; 3) Future Response to Erosion/No Future Shoreline Protective Device; 4) Construction Best Management Practices; 5) Landscaping; 6) Deed Restriction; and 7) Proof of Legal Ability to Comply with Conditions.

Commission staff recommends **approval** of coastal development permit application 5-14-1582, as conditioned.

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APPENDICES

Appendix A – Substantive File Documents

LIST OF EXHIBITS

Exhibit 1 – Vicinity Map

Exhibit 2 – Aerial Photo of Mobile Home Park

Exhibit 3 – Aerial Photo of Site

Exhibit 4 – Plan of Existing Seawall

Exhibit 5 – Public Access

Exhibit 6 – Site Plan

Exhibit 7 – Elevations

Exhibit 8 – Floor Plan

Exhibit 9 – Special Condition “Termination or Reauthorization” for Coastal Development No. 5-09-180(Hitchcock)

I. MOTION AND RESOLUTION

Motion:

*I move that the Commission **approve** Coastal Development Permit No. 5-14-1582 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 will 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 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 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 permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

1. **Assumption of Risk, Waiver of Liability and Indemnity.** By acceptance of this permit, the applicant acknowledges and agrees (i) that Unit Space #12 may be subject to hazards from flooding and wave uprush, tsunami, sea level rise, and erosion; (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 coastal hazards.
2. **Future Improvements.** This permit is only for the development described in Coastal Development Permit No. 5-14-1582 and conditioned herein. Any non-exempt future improvements or development shall be submitted for Commission review and shall not commence unless Commission approval is granted. New development, unless exempt, shall require an amendment to this permit from the Coastal Commission.
3. **Future Response to Erosion/No Future Shoreline Protective Device.** No repair or maintenance, enhancement, reinforcement, or any other activity affecting the existing shoreline protective device, is authorized by this coastal development permit. By acceptance of this Permit, the applicant waives, on behalf of himself and all successors and assigns of Unit Space #12, any rights to shoreline protection that may exist under Public Resources Code Section 30235 to protect the proposed new mobile home on Unit Space #12.

By acceptance of this permit, the applicant further agrees, on behalf of himself and all successors and assigns to Unit Space #12, that the applicant and all successors and assigns shall remove the development authorized by this permit, including the residence, foundations, patio covers, if any government agency has issued a permanent order that the structure not be occupied due to the threat of or actual damage or destruction to the premises resulting from waves, erosion, storm conditions, sea level rise, or other natural hazards in the future. In the event that portions of the development fall to the beach before they are removed, the applicant or successor shall remove all recoverable debris associated with the development from the beach and ocean and lawfully dispose of the material in an approved disposal site. Such removal shall require a coastal development permit.

4. **Construction Best Management Practices.** The permittee shall comply with the following construction-related requirements and shall do so in a manner that complies with all relevant local, state and federal laws applicable to each requirement:

- (1) No construction materials, debris, or waste shall be placed or stored where it may be subject to wave, wind, or rain erosion and dispersion;
- (2) Staging and storage of construction machinery and storage of debris shall not take place on any sandy beach areas or areas containing any native vegetation;
- (3) Any and all debris resulting from construction activities shall be removed from the project site within 24 hours of completion of the project;
- (4) 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;
- (5) Concrete trucks and tools used for construction of the approved development shall be rinsed off-site;
- (6) Erosion control/sedimentation Best Management Practices (BMP's) shall be used to control dust and sedimentation impacts to coastal waters during construction. BMP's shall include, but are not limited to: placement of sand bags around drainage inlets to prevent runoff/sediment transport into coastal waters; and
- (7) 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.

Best Management Practices (BMP's) designed to prevent spillage and/or runoff of construction-related materials, sediment, or contaminants associated with construction activity shall be implemented prior to the onset of such activity. Selected BMP's shall be maintained in a functional condition throughout the duration of the project.

5. **Landscaping – Native, Drought Tolerant, Non-Invasive Plants.** All areas affected by construction activities not occupied by structural development shall be re-vegetated for erosion control purposes.

Vegetated landscaped areas shall consist of non-invasive and drought-tolerant plants. 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.owue.water.ca.gov/docs/wucols00.pdf>).

6. **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 landowner(s) have executed and recorded against the parcel(s) governed by this permit (i.e. the parcel(s) of land within which Unit Space #12 is located) 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 Unit Space #12, subject to terms and conditions that restrict the use and enjoyment of Unit Space #12; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of Unit Space #12. The deed restriction shall include a legal description of the entire parcel of land within which Unit Space #12 is located and a metes and bounds description of Unit Space #12 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 Unit Space #12 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.
7. **Proof of Legal Ability to Comply with Conditions.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall demonstrate its legal ability or authority to comply with all the terms and conditions of this coastal development permit by submitting information indicating approval from the record title property owner that authorizes the applicant to proceed with the approved development and permits the applicant to comply with the terms and conditions of this coastal development permit.

IV. FINDINGS AND DECLARATIONS:

A. PROJECT LOCATION AND DESCRIPTION

The proposed project is located between the first public road and the sea and seaward of the Orange County Transportation Authority (OCTA) railroad tracks at Unit Space #12 in the Capistrano Shores Mobile Home Park at 1880 N. El Camino Real in the City of San Clemente, Orange County (**Exhibits 1, 2, & 3**). The mobile home park is an existing non-conforming use on a stretch of beach developed with a single row of 90 mobile homes parallel to the shoreline on a lot designated OS2 Privately Owned Open Space (intended for open space – no formal easement) in the City of San Clemente Land Use Plan (LUP).

On the seaward side of Unit Space #12, the subject site is fronted by a narrow perched beach inland of an older timber bulkhead that exists roughly along the seaward limits of Unit Space #12. A quarry stone rock revetment exists seaward of the bulkhead and between the proposed development and the Pacific Ocean (**Exhibit 4**). The pre-Coastal Act timber bulkhead and rock revetment protects the row of 90 mobile home units along the entire length of the Capistrano Shores Mobile Home Park, including the subject site, from direct wave attack. The applicant

provided a Coastal Hazard and Wave Runup Study prepared by GeoSoils Inc. of the site and the proposed development.

Vertical public access to this beach is not available at the site or anywhere else along the length of the Capistrano Shores Mobile Home Park. The nearest vertical public access is available approximately half a mile south at the North Beach access point (**Exhibit 5**) and to the north at the Poche Beach access point. In addition, lateral access along the beach in front of the mobile home park and bulkhead/rock revetment is only accessible during low tide; during high tide the waves crash up against the rock revetment. Pursuant to the grant deed property description of the parcels owned by Capistrano Shores, Inc. comprising Capistrano Shores Mobile Home Park, property ownership of the common area seaward of the Unit Space property lines extends from the bulkhead to the ordinary high tide line. Seaward of the bulkhead is an approximately 30-foot wide beach area owned in common by the entire mobile home park up to the ordinary high tide line (per the legal property description). According to the cross-section of the rock revetment provided in the Coastal Hazard and Wave Runup Study prepared by GeoSoils (Exhibit 4, page 4 of 4), the rock revetment begins immediately adjacent to the wood bulkhead and extends approximately 25-feet out seaward but still inland of the ordinary high tide line. A large portion of the rock revetment remains buried depending on varying sand level elevations throughout the year.

Detailed Project Description

The applicant proposes to remove an existing 1,440 sq. ft., 16-ft. high single-story mobile/manufactured home structure and install a new 1,248 sq. ft., 16-ft. high mobile home with an above-ground concrete block pier foundation, slab on grade concrete patio along the side yards and rear yard (oceanfront) with an 18-inch high wood seat wall, and a 6-ft. high fence with a solid half wall and tempered glass on the upper half, an 85 sq. ft. storage shed along the side yard, drainage improvements, and minimal landscaping. The proposed oceanfront concrete patio will extend 8'-10" from the mobile home parallel to a narrow 6-foot wide perched beach inland of a timber bulkhead/rock revetment that exists roughly along the seaward limits of Unit Space #12. Project plans are included as **Exhibit 6-8**.

The proposed siting of the new mobile home and hardscape improvements meet the LUP structural and deck stringline policy for new infill construction on a beachfront and all other City standards as it extends no farther seaward than the existing units on either side. The applicant is not proposing any work to the existing bulkhead/rock revetment. Each unit in the mobile home park provides two parking spaces per unit.

The applicant would own the proposed new mobile home but does not hold fee title to the land at Unit Space #12 or to the bulkhead/rock revetment. The Capistrano Shores Mobile Home Park is owned by Capistrano Shores, Inc., a non-profit mutual benefit corporation in which the applicant holds a 1/90 "membership" interest which allows him the use of the Unit Space #12 for mobile home purposes. The applicant, as "member" of the corporation is only responsible for repair/maintenance of his own mobile home and to the landscape on his unit space. The corporation provides for all necessary repairs, maintenance and replacements to the rest of the mobile home park common areas including the bulkhead/rock revetment.

Section 30106 of the Coastal Act defines “Development”, in part, as the “placement or erection of any solid material or structure...” The applicant is proposing to remove an existing structure (manufactured/ mobile home) and place, or construct, a new manufactured/mobile home on the site. Pursuant to Section 30106, the proposed project is considered “Development” and requires a coastal development permit. The Commission, through past permit action, has consistently found that replacement of existing manufactured/ mobile homes with new manufactured/ mobile homes, constitutes “Development” and requires a coastal development permit.

B. HAZARDS

Section 30253 of the Coastal Act states in relevant part:

New development shall:

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

(b) Assure stability and structural 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.

Revetment/Bulkhead – Existing Conditions

The applicant provided a Coastal Hazard and Wave Runup Study prepared by GeoSoils, Inc., dated October 15, 2014. The Study states that the site’s shore protection primarily consists of a quarry stone revetment; a timber bulkhead abuts the stone revetment on its landward side, which is then back-filled with a 6-10 foot wide perched beach that runs the length of the mobile home park (**Exhibit 4**). The perched beach at Unit Space #12 is approximately 6-feet wide. The revetment is composed of meta-volcanic quarry stones that range in size from less than ½ ton to about 11 ton with an average size of about 5 tons. According to the GeoSoils report, which used the National Geodetic Vertical Datum 1929 (NGVD 29), the top of the revetment at the subject site varies from +13.7 feet NGVD29 to +15.7 feet NGVD29 with an average elevation of about +15 feet NGVD29. The visible slope of the revetment varies from 2/1 to 1.5/1 (h/v). A visual inspection of the existing revetment/bulkhead in front of Unit Space #12 conducted by GeoSoils, Inc. found the revetment in good condition and not in need of maintenance at this time.

Wave Run-Up/Overtopping Analysis

The Wave Run-Up and Coastal Hazard Study conducted by GeoSoils, Inc. identified a design life of 37 years for a mobile home structure as these are typically constructed of lighter material with a shorter design life than a regular standard construction single family residence. In addition, the Study states, that a mobile home is unique in that the structure is “mobile” and can be moved if jeopardized by coastal hazards. The Study continues:

“The design water level will be the maximum historical water level of +4.9 feet NGVD29 plus 2.0 feet of Sea Level Rise (SLR) or +6.9 feet NGVD29. The maximum SLR prediction for the year 2060 (45 years from now) is 2 feet. If the total water depth is about 7 feet, based upon a maximum scour depth at the toe of the revetment fronting the site of +0.0 feet NGVD29 and a water elevation of 6.9 feet NGVD29, then the design wave height will be about 6.1 feet. The average height of the revetment is +15 feet NGVD29 and the timber bulkhead about 1 foot above at elevation +16 feet NGVD29...The calculated overtopping rate of the revetment under the eroded beach conditions with 2 feet of future SLR is 0.42 ft.³/s-ft. This is less than 1 foot of water coming over the top of the revetment for each wave. The 10 foot wide beach and the presence of the low height bulkhead will significantly prevent wave runup from impacting the mobile home. In addition, the mobile home is proposed to be raised 18 inches above the street which is at about elevation +16.5 feet NGVD29. Due to the proposed elevation of the development above the adjacent grade, the proposed development is reasonably safe from coastal hazards and wave runup even under the most onerous SLR conditions in the next 40+ years. In the event the water does reach the replacement mobile home and associated improvements, the water velocity will be insufficient to cause significant damage.”

The sea level rise amount used in the provided analysis for the proposed project is a low estimate for the coming 100 year time period. However, as the proposed project is a mobile home, it may represent a reasonable upper limit for sea level rise for a 40 to 50 year time period and this time period may be appropriate for a mobile home development as the expected life of a mobile home structure is lower than that of a permanent detached single-family residence and can reasonably be estimated at approximately a 50 year time life. In addition, a mobile unit can be easily relocated in the event of a threat. For purposes of a mobile home replacement, the Commission’s staff coastal engineer concurs that an upper limit for sea level rise for a 40 to 50 year time period is appropriate for the anticipated economic life of a mobile home development.

Erosion and Flooding Hazards

Regarding erosion hazards on the subject site, the Coastal Hazard and Wave Runup Study states, “While the beach experiences short term erosion, there is no clear indication of a significant long term erosion trend. Because the shoreline is stabilized by the revetment and as long as the revetment is maintained, the proposed mobile homes are reasonably safe from the short term erosion hazards.”

The Study finds that the proposed mobile home is reasonably safe from flooding. The analysis shows that the site has the potential to be flooded on occasion from waves breaking on the revetment, overtopping the bulkhead and reaching the mobile house units. Such flooding is a hazard that would be expected for a location this close to the ocean even with the existing shore protection provided by the bulkhead/revetment (deemed adequate by the Study) that is protecting the units from the main wave attack.

Furthermore, the entire mobile home park, including Unit Space #12, is located within the tsunami inundation zone according to the California Emergency Management Agency (CalEMA). **Special Condition #1** places the applicant and subsequent owners on notice (through a generic deed restriction per **Special Condition #6**) that this is a high hazard area and that by acceptance of coastal development permit #5-14-1582 the applicant acknowledges the risks, such as flooding, that are associated with location in the tsunami inundation zone, and that are associated with development sited so close to the ocean. The applicant should cooperate with the local CalEMA or emergency responders in case of a large earthquake or a tsunami warning.

The applicant does not propose any changes or improvements to the existing bulkhead/revetment along the portion that protects Unit Space #12 under this coastal development permit application. Any repair or maintenance, enhancement, reinforcement or other activity to the existing bulkhead/revetment is the responsibility of Capistrano Shores Inc. which holds fee title to the land that Unit Space #12 occupies (and the other mobile home unit spaces) and all common areas in the mobile home park. The applicant is only responsible for repair/maintenance to the mobile home, landscape, ancillary structures (i.e, decks, patios, and garden walls) on Unit Space #12. The Capistrano Shores Inc. would be the applicant for the coastal development permit required for any modifications to the exiting revetment that may be necessary to protect existing structures. Because the proposed development involves the placement of a new structure and ancillary structures on the beach, those new structures are not entitled to shoreline protection under Section 30235 of the Coastal Act; the proposed mobile home is not anticipated to need additional shoreline protection beyond what would be necessary to protect other existing structures in the park. Future expansion of the existing shoreline protection to address such threats could conflict with Coastal Act requirements regarding public access and recreation, shoreline sand supply, and protection of views to and along the shoreline. Therefore, **Special Condition #3** requires the applicant to waive on behalf of itself and all successors and assigns, any rights to new shoreline protection that may exist under Public Resources Code Section 30235 to protect the proposed placement of a new mobile home and ancillary structures in Unit Space #12.

If the existing shoreline protection is modified or removed at a future date, the proposed development is a mobile unit that could be re-located and/or removed and replaced with a smaller and/or differently configured unit that provides an adequate setback from the shoreline to avoid hazards. If such relocation or replacement would not address the hazard, the mobile unit could be removed entirely. Therefore, **Special Condition #3** also establishes requirements related to response to future coastal hazards, including relocation and/or removal of structures that may be threatened in the future, and in the event that portions of the development fall to the beach before they are removed, requiring the applicant or successor remove all recoverable debris associated with the development from the beach and ocean and lawfully dispose of the material in an approved disposal site. Such removal shall require a coastal development permit.

Because of the sensitive shoreline location of the proposed development, the Commission imposes **Special Condition #2** requiring a coastal development permit amendment for any future improvements to the development.

To ensure that any prospective future owners/occupants of Unit Space #12 are made aware of the applicability of the conditions of this permit, the Commission imposes **Special Condition #6** requiring that the property owner (known at this time to be Capistrano Shores, Inc. based on information provided to the Commission by the applicant) record a generic deed restriction referencing all of the above Special Conditions of this permit and imposing them as covenants, conditions and restrictions on the use and enjoyment of Unit Space #12. Furthermore, Coastal Act Section 30601.5 states:

Where the applicant for a coastal development permit is not the owner of a fee interest in the property on which a proposed development is to be located, but can demonstrate a legal right, interest, or other entitlement to use the property for the proposed development, the commission shall not require the holder or owner of any superior interest in the property to join the applicant as co-applicant. All holders or owners of any other interests of record in the affected property shall be notified in writing of the permit application and invited to join as co-applicant. In addition, prior to the issuance of a coastal development permit, the applicant shall demonstrate the authority to comply with all conditions of approval.

Therefore, the Commission imposes **Special Condition 7** requiring the applicant to demonstrate their legal ability or authority to comply with all the terms and conditions of this coastal development permit, prior to issuance of the coastal development permit. The applicant shall submit information indicating approval from the record title property owner that authorizes the applicant to proceed with the approved development and permits the applicant to comply with the terms and conditions of this coastal development permit.

Thus, as conditioned, this permit ensures that any prospective future owners of the proposed new mobile home approved for installation on Unit Space #12 pursuant to this CDP, will receive 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 Unit Space #12 is subject, and the Commission's immunity from liability. The deed restriction indicates that the California Coastal Commission has authorized development on Unit Space #12, subject to terms and conditions that restrict the use and enjoyment of Unit Space #12 only and does not restrict the remainder of the land that the mobile home park occupies.

In 2010, the Commission approved the replacement of two mobile homes in the Capistrano Shores Mobile Home Park under CDP 5-09-179(Hitchcock) and CDP 5-09-180(Hitchcock). At that time, Capistrano Shores, Inc., the fee title property owner, was unwilling to record the deed restrictions recommended by staff. The applicant, therefore, provided a potential alternative approach to provide future owners notice of the CDP requirements in lieu of a generic deed restriction through a "Termination, Extension or Reauthorization" special condition (**Exhibit 9**). The condition required, upon sale of the mobile home, termination of the approved permit and required any new owner to apply for a new CDP, or required removal of all authorized development approved under the permit. The Commission agreed with the applicant's proposed alternative instead of the typical Commission procedure of a recorded deed restriction. In this particular case, the applicant has not agreed to the alternative condition; therefore, **Special Condition #6** requiring the recordation of a generic deed restriction is necessary to ensure that all future owners of unit space #12 are aware of the conditions of this permit.

The generic deed restriction is the mechanism typically applied by the Commission to provide future owners notice of the Special Conditions of this permit. Capistrano Shores Inc. holds fee title to the land that Unit Space #12 occupies including the other mobile home unit spaces and all common areas in the mobile home park and is the entity assigned by the mobile home park to be responsible for any future repairs/improvements to the existing bulkhead/revetment shoreline protective device.

Since the scope of the development in this case is limited to Unit Space #12, the Commission has focused on assurance that its authorization for placement of a new mobile home on that space (and ancillary development) would not be used to support any future requests for repair, maintenance, or expansion of shoreline protection. In addition, representatives for Capistrano Shores, Inc. were previously notified that repair, maintenance or enhancement of the existing shoreline protection, if deemed necessary, should occur as part of a comprehensive plan for the entire mobile home park. The Capistrano Shores Mobile Home Park Homeowner Association submitted a coastal development permit application in February 2012 which in addition to park wide improvements, included maintenance of the existing shoreline protective device. That application has since remained incomplete, pending submittal of additional information regarding the bulkhead/rock revetment and project alternatives. Any such repairs/enhancements should occur within the mobile home park's private property and not further encroach onto the public beach. No additional shoreline protective devices should be constructed for the purpose of protecting ancillary improvements (e.g., patios, decks, fences, landscaping, etc.) located between the mobile home and the ocean. For any type of future shoreline hazard response, alternatives to the shoreline protection must be considered that will eliminate impacts to scenic visual resources, recreation, and shoreline processes. Alternatives would include but are not limited to: relocation and/or removal of all or portions of the mobile home and ancillary improvements that are threatened, and/or other remedial measures capable of protecting the mobile home without shoreline stabilization devices. Alternatives must be sufficiently detailed to enable the Coastal Commission to evaluate the feasibility of each alternative, and whether each alternative is capable of protecting a mobile home that may be in danger from erosion and other coastal hazards.

Only as conditioned does the Commission find the proposed development consistent with Section 30253 and 30235 of the Coastal Act.

C. PUBLIC ACCESS

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 30212 of the Coastal Act states, in part:

(a) *Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:*

(2) *Adequate access exists nearby, or,*

Section 30213 of the Coastal Act states:

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.

As shown in **Exhibit #1**, the proposed mobile home will be located between the first public road and the sea directly seaward of the OCTA railroad tracks. Vertical public access is not available through the Capistrano Shores Mobile Home Park, therefore, no construction impacts to public access are anticipated. Lateral public access is available along the public beach seaward of the bulkhead/revetment during low tide. Vertical public access to the beach exists nearby at Poche Beach, approximately 600 yards north of the site. Public access from the southern end of the mobile home park is available at the North Beach public access point. **Exhibit #5** provides a map of the primary public coastal access points in the City.

The proposed project is sufficiently setback to be consistent with the pattern of development of the surrounding mobile homes within the Capistrano Shores Mobile Home Park. Furthermore, the setback provides an area that may accommodate any necessary future bulkhead/revetment repairs/enhancement efforts within the mobile home unit's private property thereby protecting intertidal habitat and avoiding any possible future public access impacts that may arise due to rock revetment encroachment into public beach areas (both individually and cumulatively).

As proposed, the Commission finds the development consistent with the public access and recreation policies of Chapter 3 of the Coastal Act.

D. SCENIC AND VISUAL RESOURCES

Section 30251 of the Coastal Act states that:

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.

The above-cited policy of the Coastal Act was designed to minimize visual impacts and landform alteration and to avoid cumulative adverse impacts of development encroachment into natural areas.

Development at this location must be sited and designed to be visually compatible with the character of the area. It is also necessary to ensure that new development be sited and designed to protect views along public vantage points such as public beaches, public trails and roads. The proposed development is on a perched beach protected by a bulkhead/revetment adjacent to the public beach. The site is visible looking inland from the beach. Views of the mobile home park and white water ocean views are available from proposed public trails along the coastal bluffs inland of El Camino Real at the Marblehead Coastal site. The proposed mobile home meets the structural and deck stringlines and replaces an existing mobile home structure at the subject site, and can therefore be found compatible with the character of the mobile home park. Additionally, as designed, the 16-ft. height of the proposed single-story mobile home is compatible with the height of the rest of the permitted mobile homes in the Capistrano Shores Mobile Home Park. As sited the new structure will not adversely impact coastal views. Therefore, the Commission finds the proposed development consistent with Section 30251 of the Coastal Act.

E. WATER QUALITY

Section 30230 of the Coastal Act states, in pertinent part:

Marine resources shall be maintained, enhanced, and where feasible, restored...

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.

To protect water quality during construction, the applicant proposes, and **Special Condition #4** requires the applicant to implement best management practices (BMPs) designed to avoid temporary impacts to the ocean by minimizing erosion and preventing soil and debris from entering coastal waters during construction. Furthermore, the applicant proposes drainage from the predominantly paved site to slope away from the ocean and toward the street where water runoff from the site will be directed to a dry well for onsite water infiltration and to a small strip of landscaped permeable area. The applicant proposes minor landscaping in contained planters. **Special Condition #5** requires the applicant utilize drought tolerant, non-invasive plant species in order to minimize water use and water runoff from the subject site.

As proposed and conditioned, the project will minimize possible adverse impacts on coastal waters to such an extent that it will not have a significant impact on marine resources, biological productivity or coastal water quality. Therefore, the Commission finds that the proposed development, as conditioned, conforms to Sections 30230 and 30231 of the Coastal Act regarding the protection of water quality to protect marine resources, promote the biological productivity of coastal waters and to protect human health.

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 that conforms to Chapter 3 policies of the Coastal Act. The Commission certified the Land Use Plan for the City of San Clemente on May 11, 1988, and certified an amendment approved in October 1995. On April 10, 1998, the Commission certified with suggested modifications the Implementation Plan portion of the Local Coastal Program. The suggested modifications expired on October 10, 1998. The City re-submitted on June 3, 1999, but withdrew the submittal on October 5, 2000.

The proposed development, as conditioned, is consistent with the policies contained in the certified Land Use Plan. Moreover, as discussed herein, the development, as conditioned, is consistent with the Chapter 3 policies of the Coastal Act. Therefore, approval of the proposed development will not prejudice the City's ability to prepare a Local Coastal Program for San Clemente that is consistent with the Chapter 3 policies of the Coastal Act as required by Section 30604(a).

G. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Section 13096 of Title 14 of the California Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, 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 that the activity may have on the environment.

The City of San Clemente is the lead agency for purposes of CEQA compliance. As determined by the City, the project is categorically exempt pursuant to CEQA Guidelines section 15302 as a Class 2 Item (replacement of an existing structure). In order to ensure compliance with Coastal Act requirements, the Commission adopts additional mitigation measures including: special conditions related to compliance with construction-related best management practices (BMPs), drainage, landscaping, shoreline protection, future development, assumption of risk, waiver of liability and indemnity. As conditioned, the proposed project is consistent with the public access, water quality and visual resource protection policies of the Coastal Act and there are no feasible alternatives or additional feasible mitigation measures available which would substantially lessen any significant adverse effect, which the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to

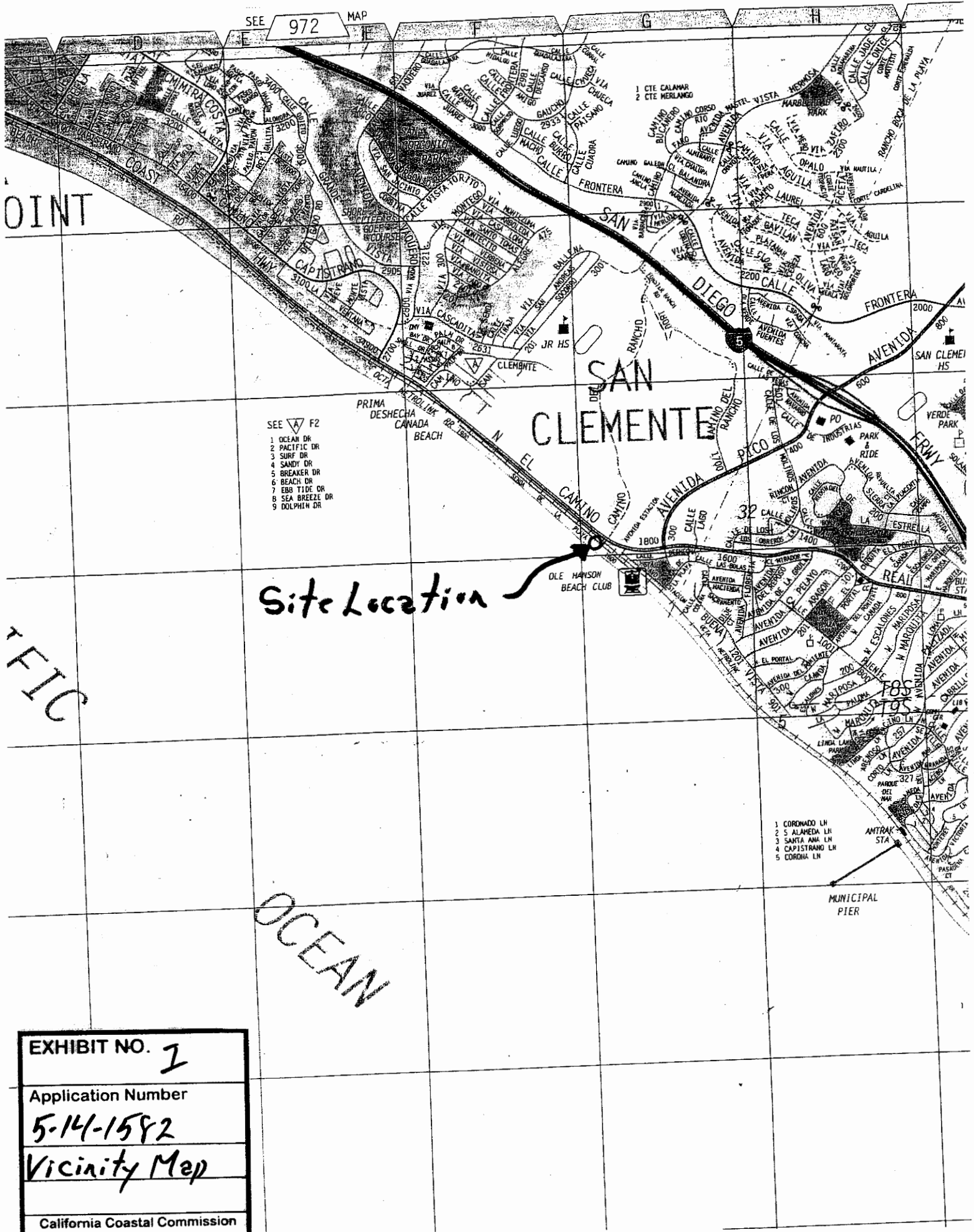
mitigate the identified impacts, is the least environmentally damaging feasible alternative and is consistent with the requirements of the Coastal Act and CEQA.

APPENDIX A

SUBSTANTIVE FILE DOCUMENTS

1. City of San Clemente LUP
2. *Wave Runup and Coastal Hazard Study and shore Protection Observation, 1880 N. El , Unit 12, San Clemente, California, Coastal Development Permit Application No. 5-14-1582, by GeoSoils Inc., dated October 15, 2014*
3. CDP 5-09-179(Hitchcock) and CDP 5-09-180(Hitchcock)

SEE 972 MAP



- SEE F2
- 1 OCEAN DR
 - 2 PACIFIC DR
 - 3 SURF DR
 - 4 SANDY DR
 - 5 BREAKER DR
 - 6 BEACH DR
 - 7 EBB TIDE DR
 - 8 SEA BREEZE DR
 - 9 DOLPHIN DR

Site Location

- 1 CORONADO LN
- 2 ALAMEDA LN
- 3 SANTA ANA LN
- 4 CAPISTRANO LN
- 5 CORONA LN

MUNICIPAL PIER

EXHIBIT NO. 1
Application Number 5-14-1582
Vicinity Map
California Coastal Commission

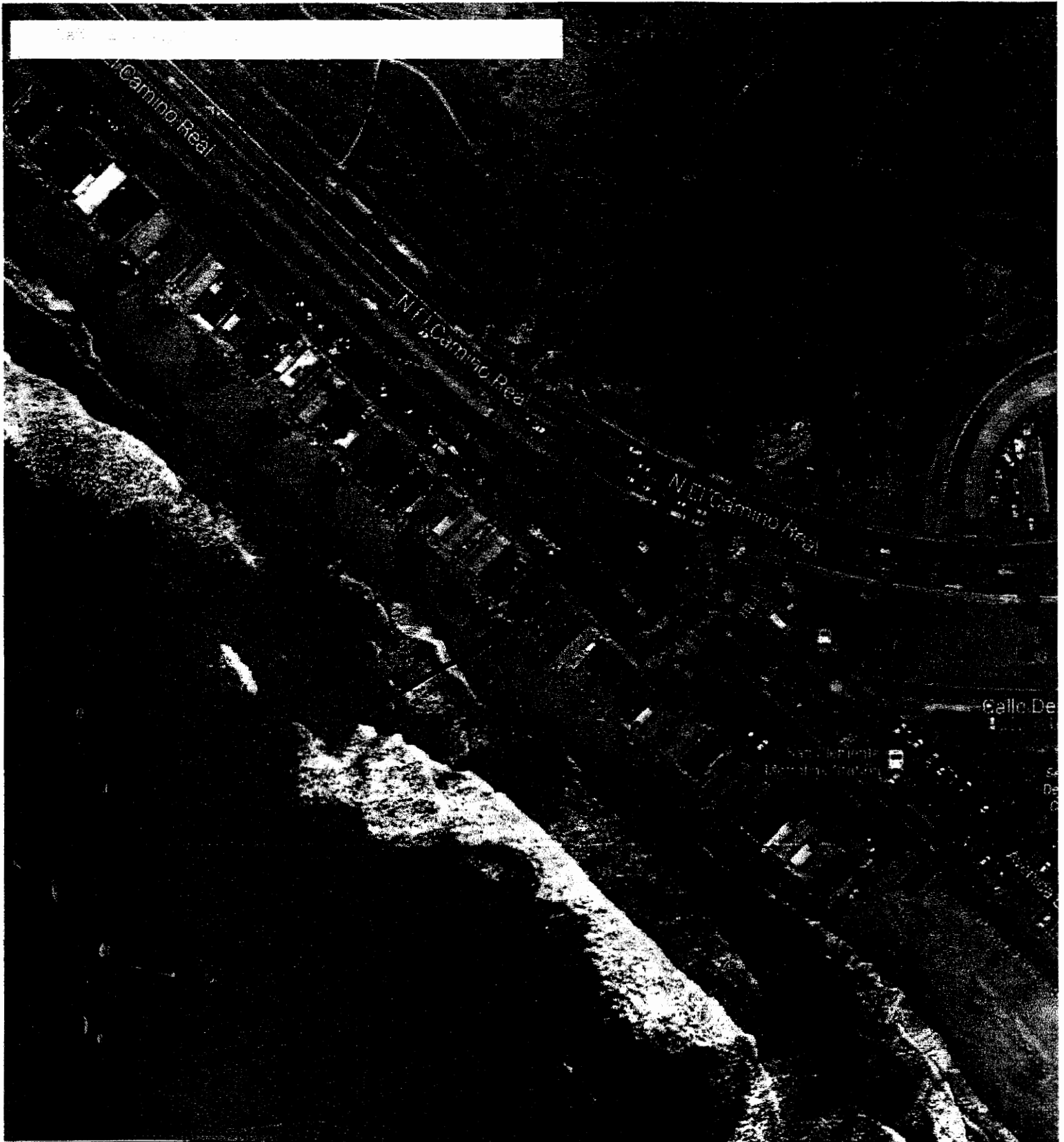
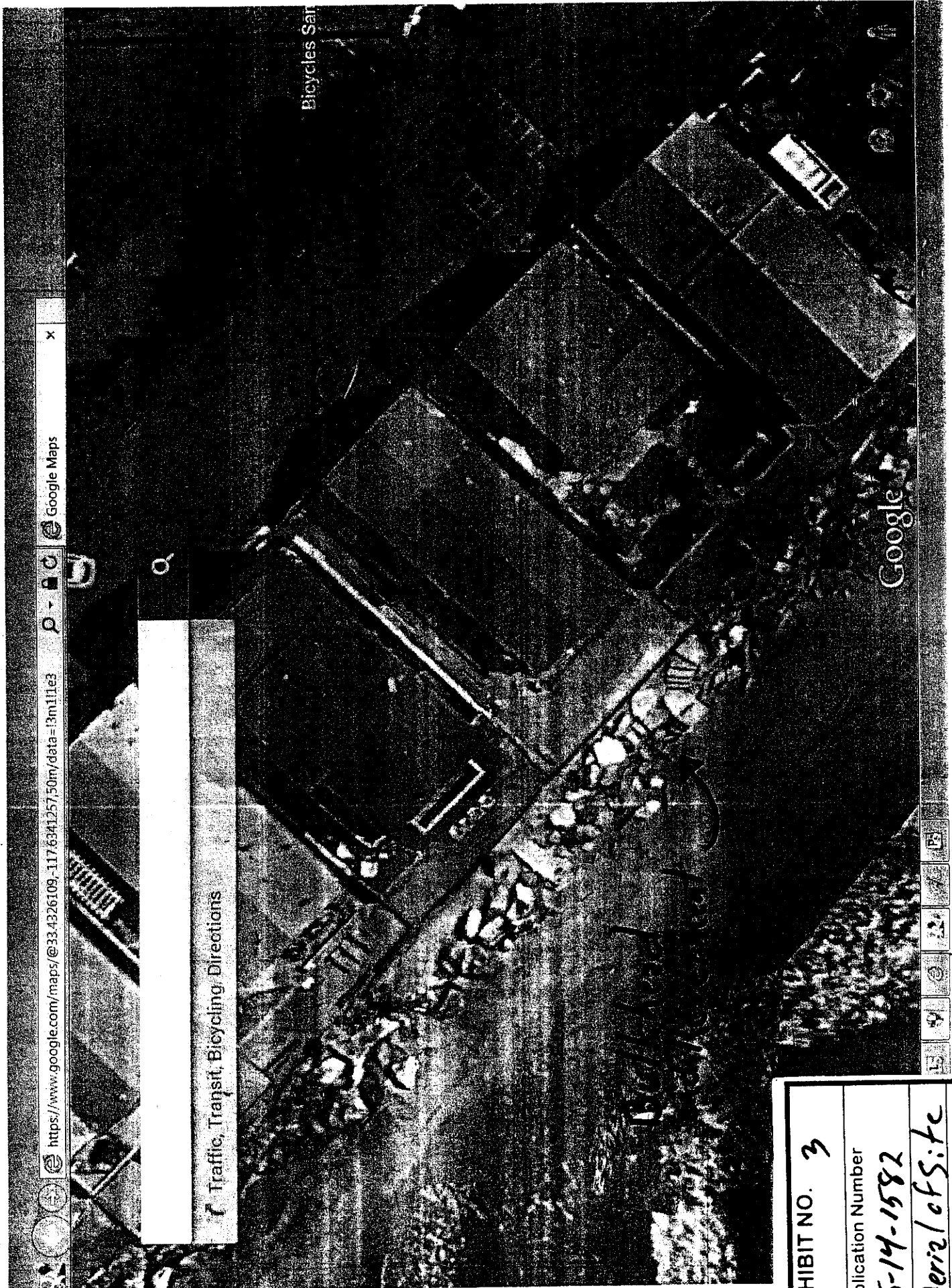


EXHIBIT NO. 2
Application Number 5-14-1582
Aerial photo of Mobile Home Park
California Coastal Commission



Google Maps
https://www.google.com/maps/@33.4326109,-117.6341257,50m/data=!3m1!1e3

Traffic, Transit, Bicycling, Directions

EXHIBIT NO.	3
Application Number	5-14-1582
	Aerial of Site

DATE	10/11/14
NO.	51

Capistrano Shores
Unit 12

766-938-8155
5747 Palmer Way, Carlsbad, CA 92010
Environmental - Geologic - Coastal - Environmental
ESI
SCOTT SCHMIDT, P.E.
DAVE SCHMIDT, P.E.
(760)414-3976

DATE	
NO.	

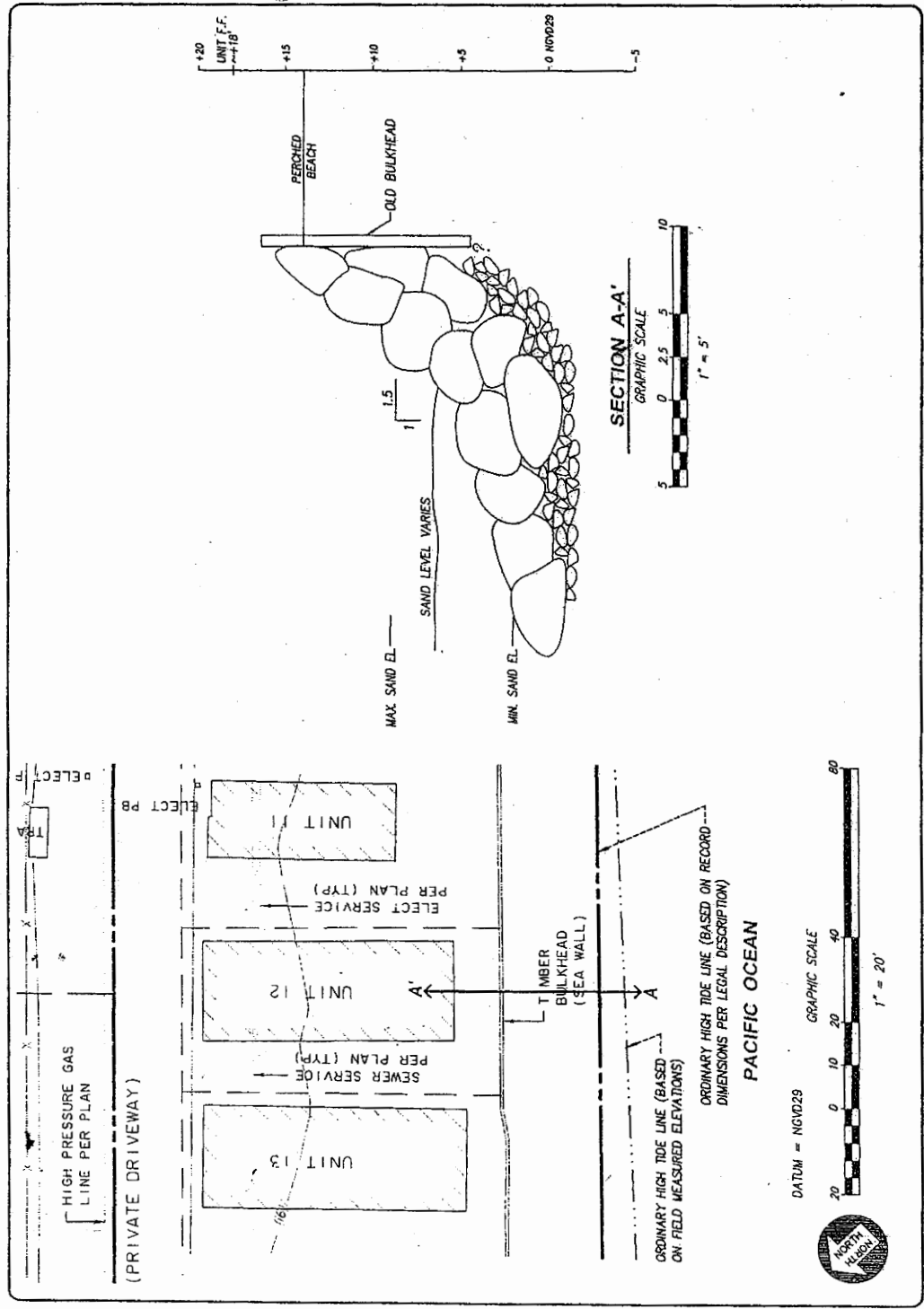


EXHIBIT NO.	4
Application Number	5-14-1582
	Existing Seawall

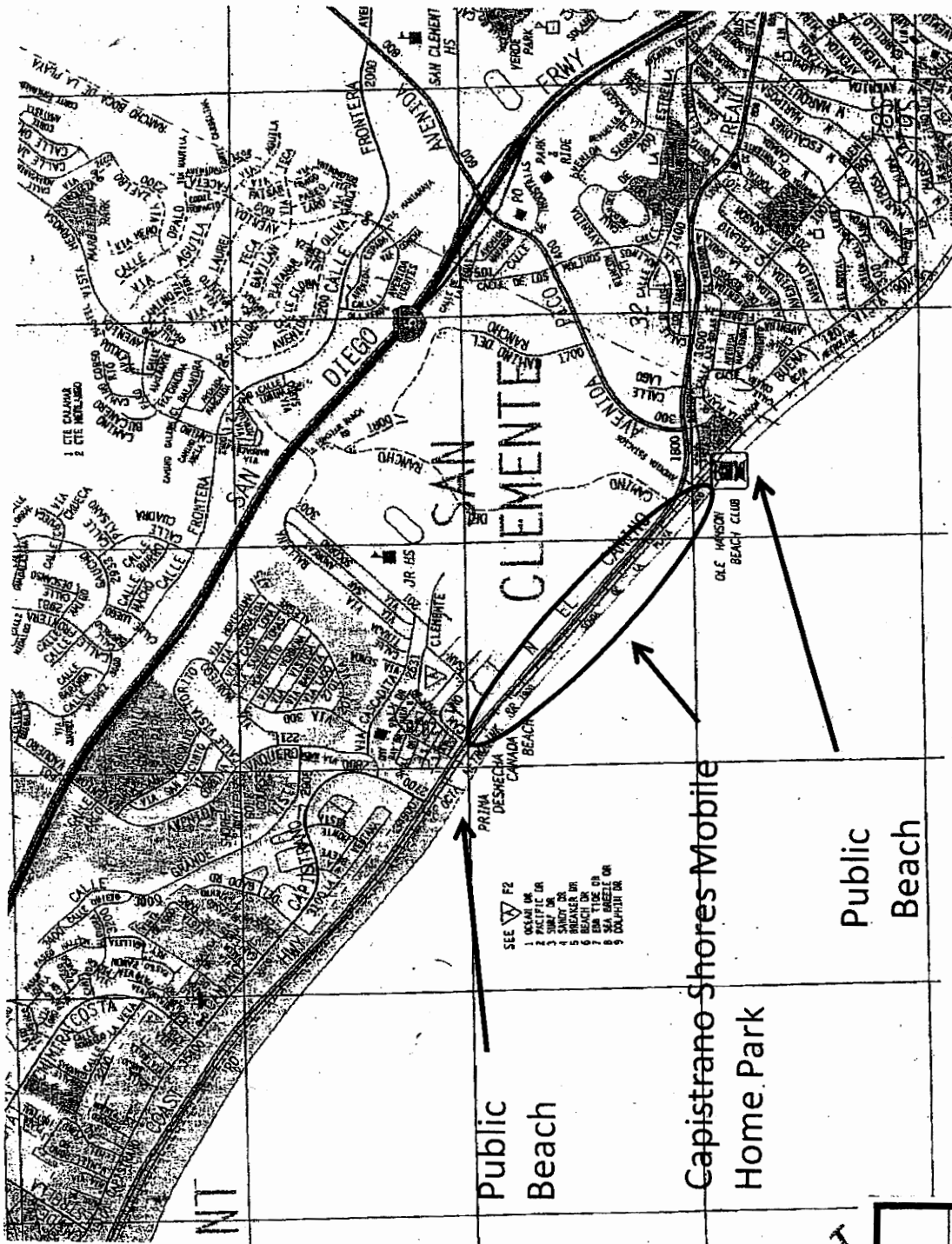


EXHIBIT NO.	5
Application Number	5-14-1582
	Public Access

RECEIVED
South Coast Region

OCT 23 2014

CALIFORNIA
COASTAL COMMISSION

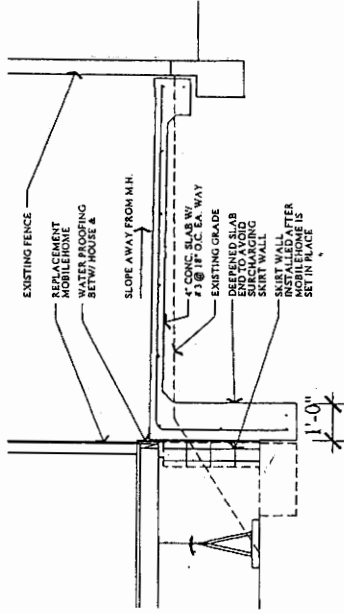
EXHIBIT NO. **6**

Application Number

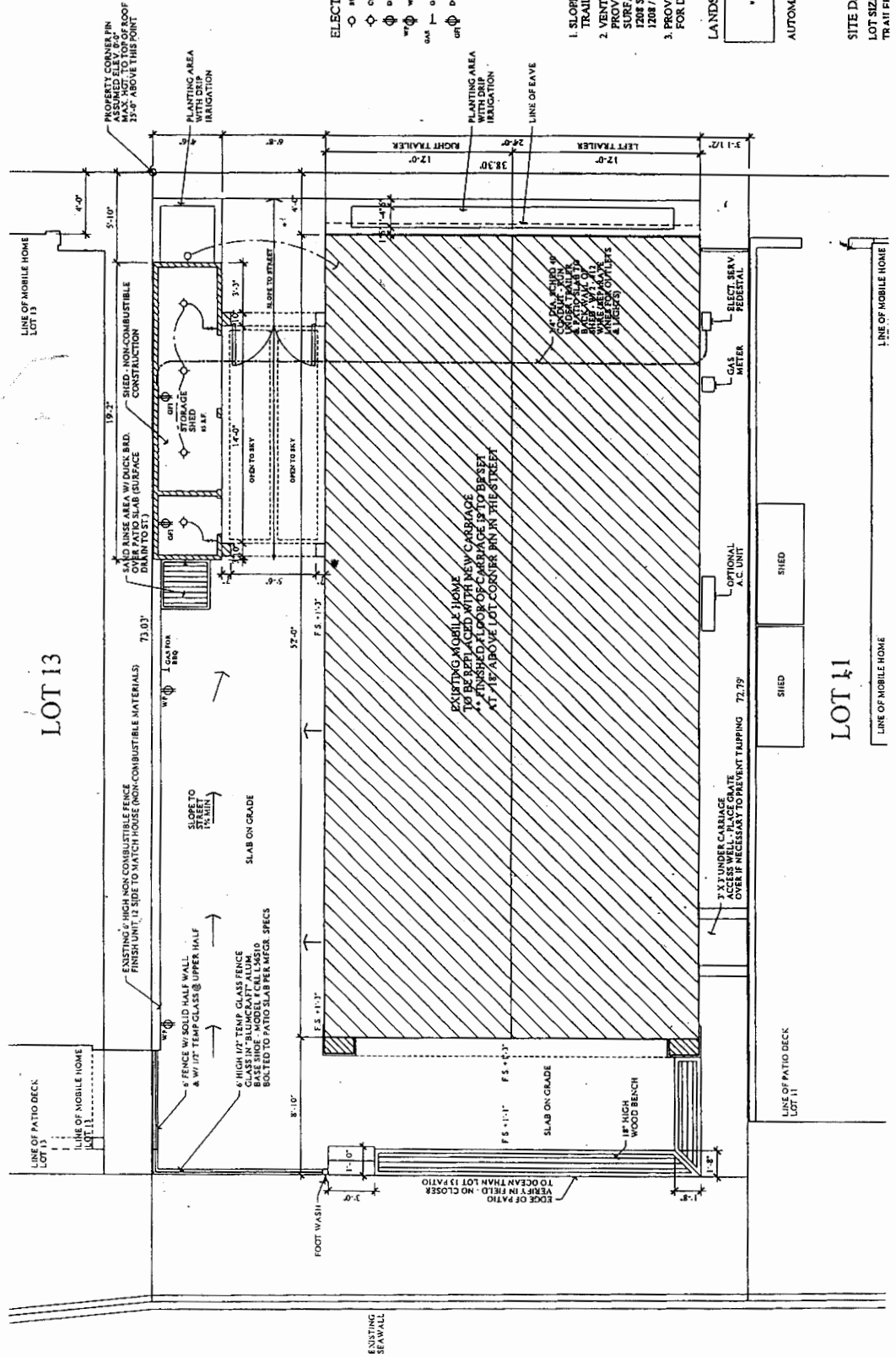
5-14-1582

Site Plan

California Coastal Commission



SECTION THRU PATIO



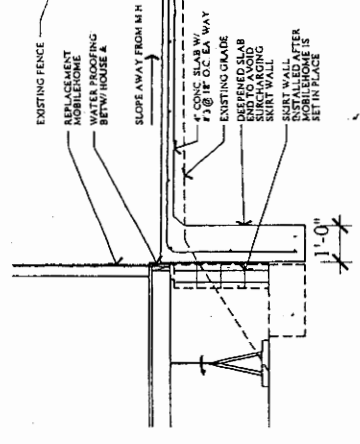
- ELECTRICAL SYMBOLS
- STORAGE MOUNTED LIGHT FIXTURE
 - CEILING MOUNTED LIGHT FIXTURE (RECYCLED)
 - DUPLEX OUTLET - AC
 - WATER IN ROOM OUTLET - GFCI
 - GAS SUPPLY FOR APPLIANCE
 - DUPLEX OUTLET ON GAS CIRCUIT

1. SLOPE FINISH GRADE AND HARDSCAPE AWAY FROM TRAILER
2. VENTING / PRESSURE RELIEF PROVIDE 1 SQ. IN. OF VENTING PER SQUARE FOOT OF SURFACE AREA UNDER CARRIAGE 1208 S.F. - REQUIRES 1208 SQ. IN. MIN. - 1208 / 144 SQ. IN. PER FOOT = 8.4 S.F. OF VENTING REQ'D FOR DRAINAGE IN THE EVENT OF FLOODING

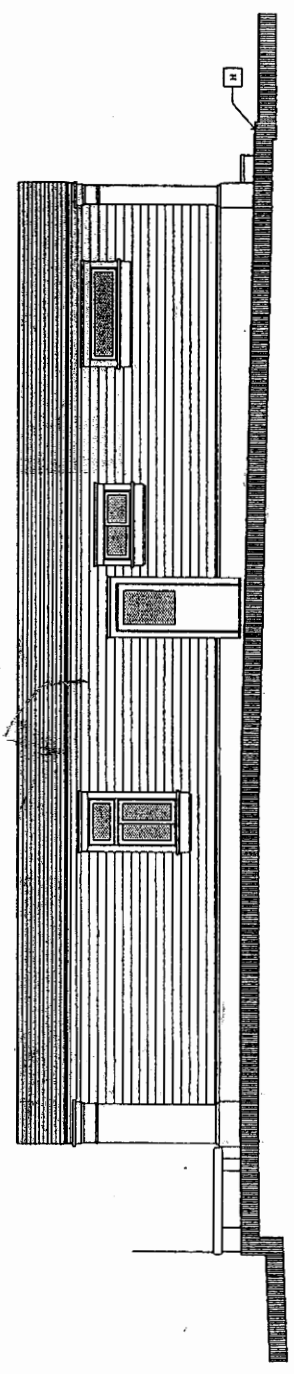
- LANDSCAPING AREA
- DROUGHT TOLERANT SHRUBS AND GROUND COVER FROM PALMISTE ACTS PLANT PALMISTE
 - AUTOMATIC IRRIGATION ON TIMER

SITE DATA
 2,791 S.F.
 1,748 S.F.

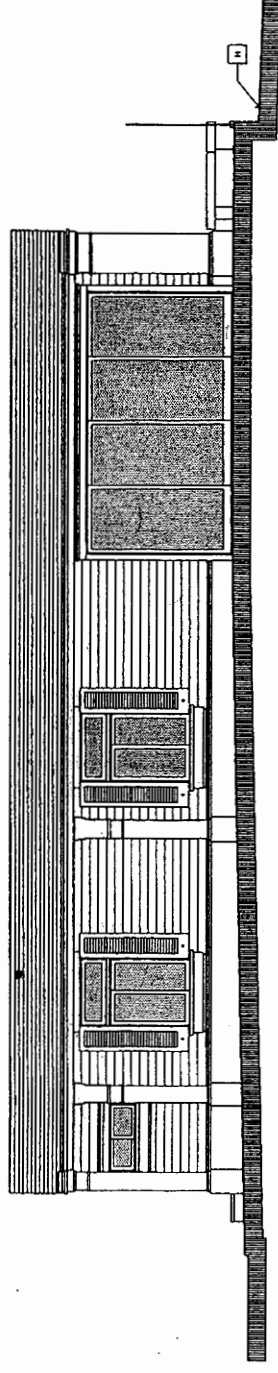
EXHIBIT NO. 7
Application Number
5-14-1582
Elevations
California Coastal Commission



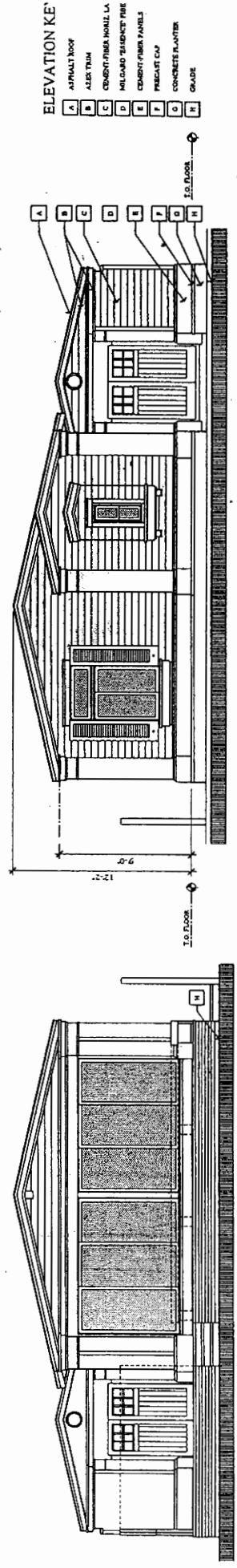
DETAIL THRU PATIO SLAB



LEFT SIDE ELEVATION (SOUTH)



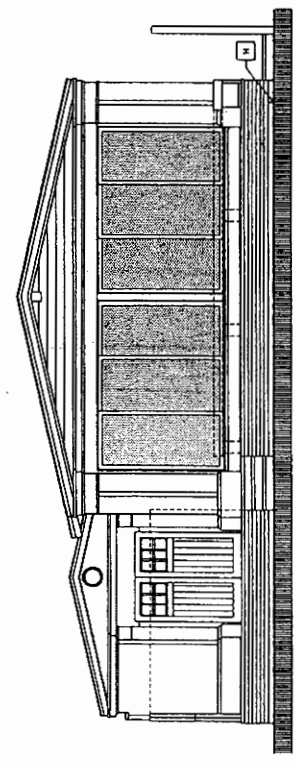
RIGHT SIDE ELEVATION (NORTH)



FRONT ELEVATION (STREET) 1/4" = 1'-0"

ELEVATION KEY

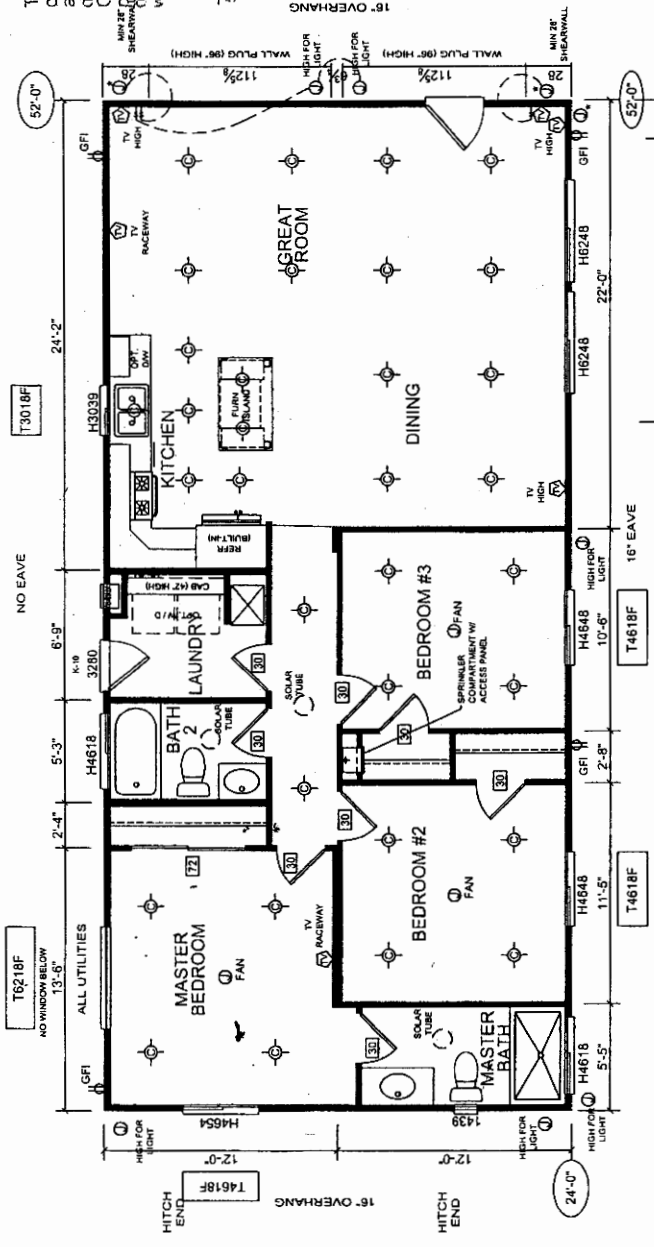
A	ASPHALT BODY
B	ALUMINUM
C	CONCRETE FIBER WALLS
D	MILGARD THERMO-TECH FIBRE
E	CONCRETE FIBER PANELS
F	PRECAST CONCRETE
G	CONCRETE FINISH
H	GRADE



REAR ELEVATION (OCEAN)

The development as proposed is approved by the City of San Clemente in concept. This is a preliminary approval and does not grant the recipient all development rights which are approved by the Coastal Commission. The City will then process all plans for permits. Please check with other City departments and divisions to ensure full compliance with all City codes, standards and requirements.

City Planner
Date



1461H (BD-05-4624 SP) (1248 SQ. FT.) 52'-0" x 24'-0"

- 9' FLAT CEILING THROUGHOUT
- OMIT ALL LINOLEUM
- SPRINKLER SYSTEM

* EACH JBOX MOUNTED
* WIRING ON SEPARATE
* 15 AMP CIRCUITS (14-3
* WIRE)

CUSTOMER: WILLS
(NAVISION REVISION # 19)

SHEET NO.: LT-101
PAGE: 1 OF 1

MODEL: 1461H (BD-05-4624 SP)
3924-SBR
TITLE: LITERATURE PLAN
DATE: 11-15-13 SCALE: 1/8" = 1'-0"
DRAWN BY: BMS CHECKED BY: 1461H-LT101

MODIFICATIONS
1A-SEE REV LOG
2-SEE REV LOG
3-SEE REV LOG
4-SEE REV LOG
5A-SEE REV LOG
6-SEE REV LOG
BMS 11-15-13
BMS 11-21-13
BMS 11-28-13
BMS 12-28-13
BMS 12-29-13
BMS 01-07-14

APPROVER'S SEAL

SILVERCREST
CHAMPION
ORONA, CA 92880
CONFIDENTIAL
SHEETS, MATERIALS & ALL
BUILDINGS ARE
BUILT FOR DESIGN

EXHIBIT NO. 8
Application Number
5-14-1582
Floor Plan

NOTICE OF INTENT TO ISSUE PERMIT

(Upon satisfaction of special conditions)

Date: June 16, 2010

Permit Application No.:5-09-180

Page 5 of 5

and erosion; (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 coastal hazards.

7. Termination or Reauthorization

The development authorized in Coastal Development Permit No.:5-09-180 shall terminate on the legal conveyance of the applicant's or co-applicant's interest in Unit Space #81 to a third party, subject to the exception listed herein. For purposes of this Special Condition, a "third party" is any person or entity that is not the applicant (Frederick E. Hitchcock Jr.) nor a beneficiary under The Frederick E. Hitchcock Jr. 1999 Family Trust dated November 1, 1999 (the co-applicant for this permit). Prior to the conveyance to a third party, all development authorized by Coastal Development Permit No.:5-09-180 shall be removed in accordance with a plan pre-approved by the Executive Director, unless the development is reauthorized by another Coastal Development Permit. Commission approval of the third party application for reauthorization of the permit must be made prior to the date of legal conveyance to the third party. Revocation of the Trust shall be considered conveyance to a third party, for purposes of this condition.

EXHIBIT NO. 9
Application Number 5-14-1582
Special Condition from CDP#5-09-180
California Coastal Commission