

CALIFORNIA COASTAL COMMISSION

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

**W21a**

Click here to go to
original staff report

ADDENDUM

Date: December 6, 2016

To: COMMISSIONERS & INTERESTED PERSONS

From: Karl Schwing, Deputy Director
South Coast District, Orange County

Subject: Commission Hearing of December 7, 2016, item W 21a of Commission
Agenda, Coastal Development Permit Amendment application No. 5-13-039-A1
(Capistrano Shores, Inc.), San Clemente, Orange County.

1) Add the following language to Special Condition No. 3a(ii) for clarification as follows
(addition is underlined):

(i) **Trash/Utility Enclosures**

1. The enclosures shall be constructed of wood slats or panels, or other similar material that will not require continuous deepened footings/foundation greater than 12 inches deep, as depicted on plans (sheet AS-6) dated February 20, 2015, subject to the review and approval of the Executive Director. Alternative designs may be allowed if the Executive Director determines that such designs are consistent with the intent of this condition and serve to minimize potential adverse effects to public access.

2) Add the following paragraph to the staff report, under C. Public Access, page 13, end of second paragraph:

By construction of costly and labor intensive structures, such as a solid wall, which require footings 3 to 6 feet deep (as shown on the submitted plans), any future relocation landward as an alternative adaptation measure to sea level rise would be inhibited. In the event that sea level rise threatens the Park and mobile home, an alternative to buttressing the existing seawall (which would have adverse impacts to public access along the shoreline) would be to move the mobile homes, as well as other associated infrastructure, improvements, and accessory structures of the mobile home park, landward to minimize the hazard (potentially subject to a revised license agreement between OCTA and the permittee). With the construction of a permanent structure, such as a brick wall with significant footings, the alternative to move the roadway, utilities, and mobile homes would be severely limited without burdensome cost and effort, which may result in the applicant alternatively

proposing for additional shoreline protection, which would result in further adverse impacts to public access along the beach.

3) The applicant's representative, Sherman Stacey, submitted a letter addressing a number of concerns regarding the special conditions of the staff report (see attachment No. 1). The following are responses to the concerns raised.

a. Mr. Stacey's concern with Special Condition No. 3a(i)(1) was regarding the intent of the condition and limitation to the use of wrought iron. As worded, the condition limits the fence to a design that maintains an open appearance with appropriate spacing between the vertical elements, i.e. poles or rods. The fence can be of any other material, such as wood, metal, or composite, as long as the design is an open design with appropriate spacing to allow some viewing between the material used.

b. Staff's suggested clarification to Special Condition No.3a(ii) above addresses Mr. Stacey's concern regarding the construction of the trash enclosures.

c. Mr. Stacey raises a concern regarding the limitation on further encroachment into the railroad right of way. The limitation on further encroachment into the railroad right of way preserves that area for future use by the Park for potential sea level rise adaptation measures that may be in the future, as well as future potential public access. Mr. Stacey's reliance on two U.S. Supreme Court cases, *Great Northern Railway Co. v. US* (1942) 315 U.S. 262 and *Marvin Brandt Revocable Trust v. US* (2014) 572 U.S. ____, do not merit a change to staff's recommendation. Both of these cases involve abandonment of right-of-ways granted to railroads pursuant to a specific statute – the General Railroad Right of Way Act of March 3, 1875, whereas staff has not been presented evidence that OCTA's interests to the property in question stem from this Act. In any case, staff's recommendation to limit encroachment into the railroad right-of-way to preserve the area for future potential coastal hazard adaptation or public access uses does not depend on OCTA abandonment of the licensed area anyway, as Mr. Stacey seems to suggest.

d. Mr. Stacey raises a concern with Special Condition 4Aii regarding new landscaping height. Mr. Stacey would like the vegetation height limit to be increased from 10 feet to a maximum of 16 feet. The 10 foot limitation was selected to be consistent with the general height of the existing mobile homes in the Park and to preserve the limited views between the coaches, as viewed from the public trails, passing trains, and some vehicles traveling along El Camino Real (Pacific Coast Highway).

4) Received an email from Ms. Vonne Barnes, dated November 25, 2016, regarding project impacts to public views and access (see attachment No. 2).

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

November 29, 2016

BY EMAIL

Marlene Alvarado
California Coastal Commission
South Coast District
200 Oceangate, #1000
Long Beach, CA 90802

Re: CDP 5-13-039-A1 (Capistrano Shores)
1880 North El Camino Real, San Clemente

Dear Marlene:

Capistrano Shores, Inc. has reviewed your Staff Report and Recommendation dated November 17, 2016. Although we disagree that a block wall is more permanent than a fence (either one can be readily removed) Capistrano Shores would be prepared to accept the fence recommendation if the following revisions to the Special Conditions were made.

Special Condition 3a(i)(1) – We want to be sure that we would not be limited to a wrought iron fence as iron requires considerable maintenance. We are exploring other materials but find the condition acceptable and take the risk of approval by the City. Should the City fail to approve, we would be back seeking an amendment. Since you have allowed for landscaping, the open nature of the fence in order to “minimize adverse effects to public view” seems unnecessary.

Special Condition 3a(ii) – Delete. The trash/utility enclosures will have to have a small setback from the fence as the proposed plans used the perimeter wall as the back. There are no deepened footings. Drawing AS-6 shows the footing depth as 12”. There is no potential adverse impact on public access. Whether of block or wood construction, the impact on visual resources remains the same. We prefer block for its stability, durability, and ease and cost of maintenance.

Special Condition 3a(iii) – Delete. The Park has leased the first 5 feet of land beyond its existing fence since at least 1991 and the remaining 2.55 of land since 2014. The Park has paid for the use of that land and will pay for the use of the land in the future. We do not understand

Attachment No 1

Marlene Alvarado
California Coastal Commission
November 29, 2016
Page 2

how the placement of the perimeter wall seven feet farther away from the existing coaches could "preclude the relocation of mobile/manufactured homes further landward." In fact, widening the existing park drive would facilitate relocation although the wider drive would be lost. The relocation of coaches and the abandonment of the rail lines are both entirely speculative. It is also unclear whether a future abandonment of the rail lines would open the area for public use or revert to the underlying owner. In *Great Northern Railway Co. v. United States*, 315 U.S. 262 (1942), a rail line which was only a right-of-way was abandoned, the owner of the underlying fee took title free of the rail line right-of-way. There is no evidence that abandonment of the rail line would not return the property to private ownership. (See also, *Marvin Brandt Revocable Trust v. United States*, 572 U.S. ____ (2014)). In any event, why should Capistrano Shores be deprived of the use of the property for the indeterminate time that would elapse before any changes occurred, if ever.

Special Condition 4Aii – Change the height of landscaping to 16 feet.

If the Staff would agree to make these changes, we would accept the special conditions. Please advise as soon as you can if these changes would be acceptable.

Sincerely,

Sherman L. Stacey

SHERMAN L. STACEY

SLS/sh

cc: Karl Schwing
Al Padilla
Eric Anderson
Eric Wills
Mark Howlett
Sue Loftin, Esq.

W21 a Permit Amendment 5-13-039-A1
November 25, 2016

Marlene Alvarado,

The purpose of this letter is to provide new information and photos for review by Commission staff and Coastal Commissioners.

- The Metrolink Train provides fantastic Ocean Views over Capistrano Shores mobile homes from passenger seats.

At the last public hearing, Commissioner Mark Vargas commented that he believed the public could see the ocean from the train. He is absolutely correct. This public ocean view can be enjoyed numerous times every day while riding the Metrolink, Amtrak, and Surfliner train services that run continuously along the beach up and down the coast.

- New Caltrans 16 Foot High Freeway Sound Wall Completely Blocks Public Views over Capistrano Shores.

Caltrans recent construction of the sound wall along the I-5 Fwy is part of a freeway widening project in San Clemente. The sound wall entirely blocks the coastal views along Capistrano Shores, making it even more important to protect the existing public ocean views along El Camino (Coast Highway) and to provide public access to the shore in a pathway along the north side of the Capistrano Shores Business office.

- A new free public trolley is available beginning in 2017

This trolley runs along El Camino Real and will provide ocean views and access along Capistrano Shores at North Beach.

Please require Capistrano Shores to provide public access to the beach to mitigate the negative impacts of the proposed:

- 19 jumbo trash/storage bins with vehicle charging stations on public owned Open Space along El Camino Real that will block views;
- Relocation of transformers and other utilities from Capistrano Shores to public owned Open Space along El Camino Real;
- Street widening encroachment on public owned Open Space for private use
- Construction of deep trenches in the public owned Open Space and installing sewer and power lines;
- $\frac{3}{4}$ mile long fence along El Camino Real

Respectfully,
Vonne Barnes
San Clemente, California

Attachment No. 2



The Amtrak is on higher ground than the roof tops of the mobile homes in Capistrano shores and has ocean views along the entire 3/4 mile length of the mobile home park..



Ocean view from seat in Metrolink train. Ocean horizon on both sides of the two story mobile home in Capistrano Shores.



Ocean view over Capistrano Shores from a seat through a window



Ocean view through Capistrano Shores from the train track at a height of 5 feet from the ground.



Another view from the train track through Capistrano Shores at a height of five feet from the ground

The Caltrans I-5 freeway sound wall now blocks all of the public ocean views over the entire 3/4 mile length of Capistrano Shores, making preservation and protection of existing ocean views with new beach access along El Camino Real (Pacific Coast Highway) even more important.



Ocean views like this over Capistrano Shores from I-5 freeway have been taken away with Caltrans construction of 16 foot high sound wall.



Ocean and coastal canyon views over Capistrano Shores from I- 5 freeway are gone with construction of 16 foot high freeway sound wall



I-5 freeway view of ocean horizon over Capistrano Shores, Shorecliff Golf Club, and coastal canyon is now blocked with 16 foot sound wall



The Caltrans sound wall under construction blocks all of the views in the above slides.



Caltrans sound wall along I-5 freeway runs along the full 3/4 mile of Capistrano Shores.

A new free trolley is available beginning in 2017 along El Camino Real that will connect to North Beach, Dana Point, and Laguna Beach.

NEWS

San Clemente seeks funds for summer trolley

Feb. 17, 2016 Updated 11:34 p.m.



Trolley riders exit at the Ritz Carlton stop in Dana Point.

ANA VENEGAS, REGISTER FILE PHOTO

Photo of trolley credit to Ana Venegas, OC Register

CALIFORNIA COASTAL COMMISSION

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



W21a

Filed: 03/16/2016
270th Day: 12/11/2016
Staff: M. Alvarado-LB
Staff Report: 11/17/2016
Hearing Date: 12/07/2016

STAFF REPORT: PERMIT AMENDMENT

Application No.: 5-13-039-A1

Permittee: Capistrano Shores, Inc.

Agent: Sherman Stacey

Location: 1880 N. El Camino Real (Capistrano Mobile Home Park), San Clemente (Orange County) (APN: 691-432-02)

Description of Original Project Approved in 2013: Replacement of existing electrical, CATV, telephone, gas, sewer and water lines servicing a 90 unit beachfront mobile home park; new utility lines are proposed approximately 20-30 feet inland from their current location along a beachfront property, and abandoning existing lines in place. The project includes installation of associated transformers.

Description of Proposed First Amendment: Request for re-pavement and widening of private frontage road; relocation (approximately 7-ft. landward) and replacement of an existing 6-ft. high chain-linked fence with a 6-ft. high, approximately 0.70-mile long, concrete wall with architectural wall features (i.e. 4-in. cap and 7.33-ft. by 3.5-ft. wide high columns at varying intervals) and 11.1-ft. high front entry; relocation and replacement of 16 solid trash/utility enclosures with 15 new 10-ft. high trellises and new concrete perimeter walls; relocation of eight utility transformers; and removal and replacement of new landscaping. The proposed development will result in an additional approximately 7-8 ft. encroachment into the Orange County Transportation Authority railroad right-of-way and minor modifications to existing drainage culverts.

Staff Recommendation: Approval with conditions

SUMMARY OF STAFF RECOMMENDATION

The project site is within the Capistrano Shores Mobile Home Park (“Park”) located at 1880 N. El Camino Real in the City of San Clemente, and located directly seaward of El Camino Real (“ECR”), which is the first public road that is parallel to the sea. The Park is a legal non-conforming use on a stretch of beach developed with a single row of 90 mobile/manufactured homes parallel to the shoreline on a lot zoned OS2 Privately Owned Open Space (intended for open space – no formal easement) and designated Open Space in the City of San Clemente Land Use Plan (LUP). The applicant, Capistrano Shores, Inc. (“CSI”) is a non-profit mutual benefit corporation and owner of the Park. The proposed project site is a longitudinal portion of the railroad right-of-way paralleling the coast that is leased on a monthly basis to CSI by Orange County Transportation Authority (“OCTA”). According to the applicant, the Park currently encroaches 20 ft. into the railroad right-of-way pursuant to a pre-Coastal Act long term license agreement with Atchison, Topeka and Santa Fe (“AT&SF”); in 1993, AT&SF sold the railroad property to OCTA. As defined in the license agreement, the use of the licensed property is limited to only mobile home park accessory and infrastructure improvements. No work is proposed to the existing bulkhead, revetment, mobile/manufactured homes, or work/office unit.

Because the City of San Clemente does not have a currently-certified IP (and therefore does not have a fully certified LCP), the standard of review for the proposed development is the Chapter 3 policies of the Coastal Act; the San Clemente Land Use Plan (LUP) policies, however, provide guidance. The major issues raised by this proposed development relate to consistency with the public access, hazards, and visual resource policies of the Coastal Act.

As part of the proposed project, the applicant is proposing to widen the existing private frontage road, which currently encroaches 20 ft. inland into the railroad right-of-way pursuant to a pre-Coastal Act license agreement, and to construct a new concrete wall with attached concrete trash/utility enclosures establishing the new boundary of the Park (as measured by the increased width of the lease area in the railroad right-of-way). In 1992, the license agreement was amended to modify the width of the lease area to from 20 ft. to 25 ft. In 2014, OCTA signed a new license agreement with CSI, establishing a wider lease area of 27.55 ft. There have been no improvements beyond the current 20 ft. encroachment area. With the proposed road widening, the Park will encroach into the railroad right-of-way by an additional approximately 7-8 ft. However, the railroad right-of-way is presently owned and managed by OCTA, a public agency, and should be reserved to address potential future public access needs, such as those arising out of sea level rise related issues. For instance, in the event that the mobile/manufactured homes need to be relocated due to hazards, to avoid significant public access impacts along the beach and to avoid property damage, the Park may need to be moved further inland to minimize risks to life and property pursuant to Section 30253(a) of the Coastal Act. The construction of a wall, and concrete trash/utility enclosures further inland could create a more permanent impediment and could significantly hamper the relocation of mobile/manufactured homes further landward. Furthermore, the Park is an existing non-conforming use and the widening of the encroachment area and the construction of a concrete wall and enclosures into the railroad right-of-way for private mobile home park improvements would fortify the permanence of this non-conforming private use.

The issue with regards to visual resources concerns the importance of protecting coastal views, and of restoring and enhancing the visual quality in visually degraded areas where feasible. Section 30251 of the Coastal Act states that where feasible, permitted development shall be sited and designed to

restore and enhance visual quality in visually degraded areas. Public coastal views that exist between the mobile/manufactured homes' varied rooflines are being partially obstructed by the existing landscaping. With the proposed replacement of the existing vegetation, there is an opportunity to protect existing public views and to enhance and restore these public blue water views that exist between the mobile/manufacture homes along the Park, as viewed from the inland public trails located within the canyon, El Camino Real ("ECR", first public road parallel to the sea), and the Metrolink (commuter rail system). For instance, the existing landscaping consists of trees and bushes that vary in height and extend as high as 20 ft. Once the existing landscaping is removed, the public coastal views that were previously partially obstructed by this landscaping will be enhanced. Whether this enhancement is preserved is contingent on the proposed location and size of the new landscaping.

To ensure that the public visual quality is enhanced and public access is protected, staff recommends **Special Condition 3 & 4** requiring the following revisions be made to the proposal: an open fence design (e.g. wrought iron) in place of a concrete wall, aligned and located in the same location as the existing fence, to maintain an open appearance; trash/utility enclosures shall be constructed of material that would not require continuous deepened footings/foundation; new landscaping shall be situated and maintained at a height of no greater than 10 ft.; and all proposed improvements shall only occur within the existing improved footprint of the Park and not further extend into the railroad right-of-way beyond the existing 20 ft. wide lease area. As conditioned, the proposed project can be found consistent with the relevant policies of the City's Local Coastal Land Use Plan, used as guidance, and with the public access, hazards, and visual resource policies of the Coastal Act.

Commission Staff recommends approval of the amendment request with four special conditions, which: require the applicant to submit revised project plans that reflect the changes to the development plan as a result of Commission action on this permit amendment request (**Special Condition 3**); revised landscaping plans (**Special Condition 4**); require that the applicant provide evidence of legal interest in the leased right-of-way space in the event of lease termination (**Special Condition 5**); and resolves any conflict between the terms and conditions imposed by the local government and those of this permit (**Special Condition 6**). The applicant does not agree with the staff's recommendation regarding the revision to the proposed wall, landscaping, and encroachment area.

Staff Note:

The standard of review for the proposed project is the policies and provisions of the Coastal Act, specifically include those regarding visual resources, public access, coastal hazards, and biological resources. **Due to Permit Streamlining Act requirements, the Commission must act upon this permit amendment application at the December 2016 Commission meeting.**

PROCEDURAL NOTE: The Commission's regulations provide for referral of permit amendment requests to the Commission if:

- 1) The Executive Director determines that the proposed amendment is a material change,
- 2) Objection is made to the Executive Director's determination of immateriality, or
- 3) The proposed amendment affects conditions required for the purpose of protecting a coastal resource or coastal access.

If the applicant or objector so requests, the Commission shall make an independent determination as to whether the proposed amendment is material. (14 Cal. Code of Regulations Section 13166.)

The subject application is being forwarded to the Commission because the Executive Director has determined that the proposed amendment is a material change and has the potential to negatively impact coastal resources or coastal access.

TABLE OF CONTENTS

I. MOTION AND RESOLUTION	6
II. STANDARD CONDITIONS	6
III. SPECIAL CONDITIONS	7
IV. FINDINGS AND DECLARATIONS	10
A. PROJECT DESCRIPTION AND LOCATION	10
B. PROJECT HISTORY	11
C. PUBLIC ACCESS	11
D. HAZARDS	14
E. VISUAL RESOURCES	17
F. BIOLOGICAL RESOURCES	17
G. LOCAL COASTAL PROGRAM	21
H. CALIFORNIA ENVIRONMENTAL QUALITY ACT	22

APPENDICES

Appendix A – Substantive File Documents

EXHIBITS

Exhibit 1 – Project Location and Aerial
Exhibit 2 – Site Plan and Representative Detailed Site Plan
Exhibit 3 – Representative Elevation Plans
Exhibit 4 – Cross Section
Exhibit 5 – Photographs of Site
Exhibit 6 – Letter of Opposition

I. MOTION AND RESOLUTION

Staff Recommendation of Approval

Staff recommends that the Commission adopt the following resolution. The motion passes only by affirmative vote of a majority of the Commissioners present.

Motion:

*I move that the Commission adopt the staff recommendation to **approve** Coastal Development Permit Amendment 5-13-039-A1, with the approval subject to the conditions set forth in the staff recommendation, by adopting the resolution set forth in the staff report.*

Staff recommends a **YES** vote on the foregoing motion. Passage of this motion will result in conditional approval of the permit amendment in part, denial of the permit amendment in part, 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** the coastal development permit amendment for the proposed development and adopts the findings set forth below on the grounds that the development, as amended and subject to conditions, will be in conformity with the policies of Chapter 3 of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS

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. **Interpretation.** Any questions of intent of interpretation of any condition will be resolved by the Executive Director or the Commission.
3. **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.
4. **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

NOTE: Special Conditions One and Two approved by the Commission in its prior action on Coastal Development Permit No. 5-13-039 continue to apply. Special Condition Three through Six are imposed by the approval of this Coastal Development Permit Amendment, 5-13-039-A1.

Prior Conditions (5-13-039)

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

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

- (a) No demolition or construction materials, debris, or waste shall be placed or stored where it may enter sensitive habitat, receiving waters or a storm drain, or be subject to wave, wind, rain, or tidal erosion and dispersion.
- (b) No demolition or construction equipment, materials, or activity shall be placed in or occur in any location that would result in impacts to environmentally sensitive habitat areas, streams, wetlands or their buffers.
- (c) Any and all debris resulting from demolition or construction activities shall be removed from the project site within 24 hours of completion of the project.
- (d) Demolition or construction debris and sediment shall be removed from work areas each day that demolition or construction occurs to prevent the accumulation of sediment and other debris that may be discharged into coastal waters.
- (e) All trash and debris shall be disposed in the proper trash and recycling receptacles at the end of every construction day.
- (f) The applicant shall provide adequate disposal facilities for solid waste, including excess concrete, produced during demolition or construction.
- (g) Debris shall be disposed of at a legal disposal site or recycled at a recycling facility. If the disposal site is located in the coastal zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place unless the Executive Director determines that no amendment or new permit is legally required.
- (h) All stock piles and construction materials shall be covered with a sheeting material that will prevent dispersal of the stock pile and construction materials, enclosed on all sides, and shall be located as far away as possible from drain inlets and any waterway, and shall not be stored in contact with the soil.
- (i) Construction equipment or activity shall not occur outside the staging or storage area.
- (j) Public parking areas shall not be used for staging or storage of equipment.
- (k) Habitat areas shall not be used as staging or storage areas.
- (l) Machinery and equipment shall be maintained and washed in confined areas. specifically designed to control runoff and contaminants. Thinners or solvents shall not be discharged into sanitary or storm sewer systems.
- (m) The discharge of any hazardous materials into any receiving waters shall be prohibited.

- (n) Spill prevention and control measures shall be implemented to ensure the proper handling and storage of petroleum products and other construction materials. Measures shall include a designated fueling and vehicle maintenance area with appropriate berms and protection to prevent any spillage of gasoline or related petroleum products or contact with runoff. The area shall be located as far away from the receiving waters and storm drain inlets as possible.
 - (o) Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) designed to prevent spillage and/or runoff of demolition or construction-related materials, and to contain sediment or contaminants associated with demolition or construction activity, shall be implemented prior to the on-set of such activity
 - (p) All BMPs shall be maintained in a functional condition throughout the duration of construction activity.
2. **Construction Staging Area.** The permittee shall comply with the following construction staging area(s) restrictions to avoid impacts to public access, to beach areas or to sensitive habitat areas:
- (a) Construction equipment or activity shall not occur outside the staging area
 - (b) Beach areas shall not be used as staging areas
 - (c) Vegetated areas shall not be used as staging areas
 - (d) The staging area for construction of the project shall not obstruct vertical or lateral access to the beach.

The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

Added Conditions (5-13-039-A1)

3. **Revised Plans.**
- a. **PRIOR TO ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT AMENDMENT, 5-13-039-A1,** the permittee shall submit, for the review and approval of the Executive Director, two (2) sets of final revised project plans. The revised final project plans shall reflect the following:
 - (i) **Fence Design Alternatives**
 - 1. The fence shall be a wrought iron fence, or other similar, visually open design, consistent with the provisions of the City's public safety requirements, subject to the review and approval of the Executive Director. Alternative designs may be allowed if the Executive Director determines that such designs are consistent with the intent of this condition and serve to minimize adverse effects to public views.
 - 2. The proposed fence shall be no greater than 6 ft. in height.

3. The fence plan shall consist of supporting dimensions indicating a minimum of 4-inch spacing between bars. The proposed shall be aligned and located at the same location as the existing fence.

(ii) **Trash/Utility Enclosures**

1. The enclosures shall be constructed of wood slats or panels, or other similar material that will not require continuous deepened footings/foundation, subject to the review and approval of the Executive Director. Alternative designs may be allowed if the Executive Director determines that such designs are consistent with the intent of this condition and serve to minimize potential adverse effects to public access.

(iii) **Encroachment Area**

The proposed development shall only occur within the existing improved footprint of the Park and not further extend into the railroad right-of-way beyond the existing 20 ft. wide improved lease area as depicted in **Exhibit 2, page 2**.

4. **Landscaping – Drought Tolerant, Non-Invasive Plants.**

A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall submit, in a form and content acceptable to the Executive Director, two (2) full size sets of final revised landscaping plans, which shall include and be consistent with the following:

- i. Vegetated landscaped areas shall only consist of native plants or non-native drought tolerant plants, which are non-invasive. No plant species listed as problematic and/or invasive by the California Native Plant Society (<http://www.CNPS.org/>), the California Invasive Plant Council (formerly the California Exotic Pest Plant Council) (<http://www.cal-ipc.org/>), or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a “noxious weed” by the State of California or the U.S. Federal Government shall be utilized within the property. All plants shall be low water use plants as identified by California Department of Water Resources (See: <http://www.water.ca.gov/wateruseefficiency/docs/wucols00.pdf>).
- ii. Landscaping shall be situated and maintained at a height of no greater than 10 ft.

5. **Leased Property**

With acceptance of this permit amendment (No. 5-13-039-1), the permittee acknowledges that with the expiration of and non-renewal of the lease of the right-of-way owned by the Orange County Transportation Authority, the applicant shall submit an amendment to the underlying permit or a new permit application to remove all improvements from the leased property, unless the applicant can demonstrate legal interest in the property.

6. **Approved Development - Permit Compliance.** All development must occur in strict compliance with the plans approved by the Commission, subject to the special conditions. Any proposed change or deviation from the approved plans shall be submitted to the Executive Director to determine whether an amendment to this permit is necessary pursuant to the requirements of the Coastal Act and Coastal Commission Regulations. No changes to the approved plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

7. **Local Government Approval.** The proposed development is subject to the review and approval of the local government (City of San Clemente). This action has no effect on conditions imposed by a local government pursuant to an authority other than the Coastal Act, including conditions of the City of San Clemente Planning Division Resolution No. PC 15-003. In the event of conflict between the terms and conditions imposed by the local government and those of the coastal development permit, the terms and conditions of Coastal Development Permit Amendment No. 5-13-039-A1 shall prevail.

IV. FINDINGS AND DECLARATIONS

A. PROJECT DESCRIPTION AND LOCATION

The proposed development is an infrastructure improvement project. The applicant is requesting to: 1) repave and widen Senda de la Playa, the private 0.70-mile long frontage road (consisting of paved road, landscape area, and fence) from approximately 36-ft. to 44-ft.; 2) relocate (approximately 7-ft. landward) and replace an existing 6-ft. high chain-linked fence with a 6 ft. high, approximately 0.70-mile long, concrete wall designed in the Spanish Colonial Revival architectural style with architectural wall features (i.e. 4 in. cap and 7.33 ft. high by 3.5 ft. wide columns at varying intervals) and 11.1 ft. high front entry; 3) relocate and replace 16 solid trash/utility enclosures with 15 new 10-ft. high trellises and new concrete perimeter walls; 4) relocate eight utility transformers; and 5) replace the existing landscaping that runs parallel to the fence with new landscaping (**Exhibit 2 & 3**). The proposed wall, with attached trash/utility enclosures, will run along the length and frontage of the Park. The proposed development will result in an additional approximately 7-8 ft. encroachment into the Orange County Transportation Authority (“OCTA”) railroad right-of-way. To accommodate the wall, the proposed project involves bridging the wall over 10 existing drainage culverts, which are concrete-lined to the sides and concrete- and gravel-lined at the base, and extending the reinforced concrete pipes (RCP) at the culverts.

The project site is located between the first public road and the sea and seaward of the OCTA railroad tracks and within the Capistrano Shores Mobile Home Park (“Park”) at 1880 N. El Camino Real in the City of San Clemente, Orange County (**Exhibit 1**). The Park is an existing legal non-conforming use on a stretch of beach developed with a single row of 90 mobile/manufactured homes parallel to the shoreline on a lot zoned OS2 Privately Owned Open Space (intended for open space – no formal easement) and designated Open Space in the City of San Clemente Land Use Plan (LUP). The applicant, Capistrano Shores, Inc. (“CSI”) is a non-profit mutual benefit corporation and owner of the Park. The Park is bordered by an undeveloped privately owned beach parcel to the north, a public municipal beach to the south, the Pacific Ocean is immediately adjacent to the west and the OCTA railroad tracks and N. El Camino Real (aka Pacific Coast Hwy) border the site to the east. The Park is comprised of 90 individual mobile home spaces and an on-site management office on a perched sandy beach protected by timber bulkhead and a rock revetment. The pre-Coastal Act timber bulkhead and rock revetment exist along the entire length of the Park. The Park is configured in a straight line with all units facing the ocean, a rock revetment on the seaward side of the units and an access road on the inland side of the units (**Exhibit 1**). The proposed project site is a longitudinal portion of the railroad right-of-way that is leased on a monthly basis to CSI by OCTA. According to the applicant, the Park currently encroaches 20 ft. into the railroad right-of-way pursuant to a pre-Coastal Act long term license agreement with Atchison, Topeka and Santa Fe (“AT&SF”); in 1993, AT&SF sold the railroad property to OCTA.

As defined in the license agreement, the use of the licensed property is limited to only mobile home park accessory and infrastructure improvements. No work is proposed to the existing bulkhead, revetment, mobile/manufactured homes, or work/office unit as part of this CDP amendment request.

The Park is private and not open to the public. The nearest public beach access is at the North Beach access point immediately to the south of the site and at Poche Beach to the north; vertical public access to this beach from the Park is not available (**Exhibit 1**). Lateral access along the beach in front of the 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. A large portion of the rock revetment remains buried depending on varying sand level elevations throughout the year.

The standard of review is the Chapter 3 policies of the Coastal Act. While the certified San Clemente Land Use Plan (LUP), certified by the Commission in 1988, is not the standard of review, the LUP policies provide guidance.

B. PROJECT HISTORY

On May 8, 2013, the Commission's original approval of Coastal Development Permit (CDP) No. 5-13-039 permitted the replacement of existing electrical, CATV, telephone, gas, sewer, and water lines servicing the 90-unit beachfront Capistrano Shores Mobile Home Park. All new lines were placed under the private frontage access road, Senda de La Playa, approximately 20-30 feet further east (inland) than the previously existing lines which were under the existing mobile home units. The installation of the new utility lines was completed consistent with the plans approved by CDP No. 5-13-039. The new gas line, which is fed by the existing gas company high pressure main, was installed the length of the mobile home park to provide individual service to individual mobile home units. The capacity of gas service did not increase with the new line. A new water line was placed with new connections for each mobile home unit. The new water line did not increase capacity but does provide water service to up to two new fire hydrants to provide emergency service for the mobile home park. The municipal sewer main is underneath the access road, and a new series of sewer collection lines is proposed underneath the road to connect each mobile home site to the City's main line. New electrical/CATV/telephone lines were also installed under authority of the 2013 permit but the associated new transformers have not yet been installed (now proposed as part of the CDP amendment request).

Presently, the applicant is requesting to augment the 2013 operational improvements project by requesting an amendment to CDP No. 5-13-039 for additional infrastructure improvements and to relocate the transformers approved in the original permit.

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 relevant 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 ...

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.

Furthermore, the San Clemente Land Use Plan contains policies regarding public coastal access, including the following:

LUP Policy IX.14 mirrors Section 30212 of the Coastal Act.

LUP Policy IX.15 states in relevant part:

New developments lying between the first public roadway and the shoreline shall provide both physical and visual access to the coastline.

As shown in **Exhibit 1**, the project site is located between the first public road and the sea directly seaward of the Orange County Transportation Authority (“OCTA”) railroad tracks. The Park is improved with a pre-Coastal Act continuous timber bulkhead and rock revetment on the seaward side. Vertical coastal public access is not available through the Capistrano Shores Mobile Home Park (“Park”); therefore, no development-associated impacts to beach public access are anticipated. During low tide, the public has lateral access from the North Beach access point along the wet sand beach between the surf and the rock revetment in front of the mobile park; however, often during high tide the waves come up to the rock revetment impeding lateral public access. Vertical public coastal access to the beach exists at Poche Beach, approximately 480 yards north of the Park, and to the south of the Park at the North Beach public access point (**Exhibit 1**).

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, which are all laterally accessible during low tide, the public beach in front of the mobile home park is used by

sunbathers, and beach strollers frequently during low tide, and the beach is a popular surfing location.

The applicant is proposing to widen the existing private frontage road, which currently encroaches into the railroad right-of-way by extending 20-ft. inland beyond the Park's property line pursuant to a pre-Coastal Act license agreement according to the applicant, and to construct a new concrete wall and 16 attached trash/utility enclosures establishing the new boundary of the Park (as measured by the increased width of the lease area in the railroad right-of-way). In 1992, the license agreement was amended to modify the width of the lease area to 25 ft. In 2014, OCTA signed a new license agreement with Capistrano Shores Inc. ("CSI"), establishing a wider lease area of 27.55 ft. CSI has not improved beyond the current 20 ft. encroachment area, and with the proposed road widening, the Park will encroach into the railroad right-of-way by an additional approximately 7-8 ft. According to the applicant, the road widening is necessary to accommodate a private pedestrian walkway to help improve safety. However, documentation has not been provided to demonstrate that the Park is unable to operate safely without the private pedestrian walkway, and the applicant has not otherwise supported its claim with substantial documented evidence that it currently experiences pedestrian safety issues stemming from the width of the existing road.

In addition, the railroad right-of-way is presently owned and managed by OCTA, a public agency, and as such should be reserved to address potential future public access needs, such as those arising out of sea level rise related issues. According to the California Emergency Management Agency ("CalEMA"), the Park is located within the tsunami inundation zone which is associated with additional risks, such as flooding, related to development sited so close to the ocean. The existing timber bulkhead and rock revetment currently offer the Park protection from wave uprush hazards. However, it is impossible to completely predict what conditions the Park may be subject to in the future. 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. "Hard" protective devices (i.e. seawalls, revetments, cliff retaining walls, groins and other such structures) designed to forestall erosion have the effect of altering natural landforms and natural shoreline processes. The Coastal Act limits construction of these devices because they have a variety of negative impacts on coastal resources including adverse effects on sand supply, public access, coastal views, natural landforms, and overall shoreline beach dynamics on and off site, ultimately resulting in the loss of beach. Therefore, it would be inadvisable for the applicant to expect to rely on shoreline protection to address foreseeable impacts to public access (as well as other resource impacts) at the Park resulting from future coastal hazards.

For any type of future shoreline hazard response, alternatives to the shoreline protection must be considered that will lessen or eliminate impacts to coastal and recreational resources including, but not limited 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 minimizing risks to life and property from erosion and other coastal hazards.

If the existing shoreline protection is modified or removed at a future date, the new mobile units could be re-located and/or removed and replaced with smaller and/or differently configured units that provide an adequate setback from the shoreline to avoid hazards. According to the Federal Railroad Association (FRA), alternatives and different conceptual corridor alignments and station options (e.g. I-5 tunnel) for the Los Angeles to San Diego (LOSSAN) rail corridor are being considered due to sea level rise concerns. These proposed rail corridor improvements include potentially removing or relocating the OCTA rail tracks that are currently adjacent to the Park. In the event that the mobile/manufactured homes need to be relocated due to hazards, the Park may need to be moved further inland to minimize risks to life and property pursuant to Section 30253 of the Coastal Act while also simultaneously avoiding significant public access impacts along the beach (*i.e.*, through shoreline protection). Constructing a concrete wall with deepened footings and concrete enclosures further inland and encroaching into the railroad right-of-way could create a more permanent impediment and could preclude the relocation of mobile/manufactured homes further landward. In addition to providing a “buffer” for potential landward relocation of the mobile homes in response to coastal hazards, the railroad right-of-way should also be reserved for future public access improvements such as for trails or parking in the event that the rail line abandons the use of the tracks. Furthermore, the Coastal Act does not provide assurances that a private property owner is entitled to a private pedestrian walkway at the expense of protecting public access and recreation. Moreover, the Park is an existing non-conforming use and the widening of the encroachment area and the construction of a concrete wall and enclosures further into the railroad right-of-way for private mobile home park improvements would fortify the permanence of this non-conforming private use and make it that much more difficult to bring the site and use into conformity with existing land use policies if the mobile home park ever ceases to exist. In other words, considering all of the above, the proposed widening of the private road into the OCTA right-of-way, rather than ensuring public access consistent with applicable Coastal Act policies, will have the opposite effect of reducing public access by limiting options for responding to coastal hazards that respect public access as well as by limiting opportunities to use the right-of-way for future coastal public access purposes.

Accordingly, staff recommends that the proposed development occur within the existing improved footprint of the Park and not further extend into the railroad right-of-way beyond the existing approximately 20 ft. wide lease area, to prevent any potential adverse impacts to public access. Therefore, **Special Condition 3** requires revised plans requiring that a fence be proposed as opposed to a more permanent structure such as the concrete wall; the trash/utility enclosures be constructed of material that will not require continuous/deepened foundation (e.g. wood slats/panels); and that all proposed improvements shall only occur within the existing footprint of the Park and not further extend into the railroad right-of-way beyond the existing approximately 20 ft. wide lease area.

As conditioned, the Commission finds the development consistent with the relevant policies of the City’s Local Coastal Land Use Plan, used as guidance, and the public access policies of Chapter 3 of the Coastal Act (Section 30210, 30212, and 30213).

D. HAZARDS

Section 30235 of the Coastal Act states in relevant part:

Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public

beaches in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply...

Section 30253 of the Coastal Act states, in relevant part:

New development shall do all of the following:

(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. ...

The certified San Clemente Land Use Plan (LUP) also contains policies to address hazard areas. Policy VII.5 of the LUP reflects Section 30253 of the Coastal Act verbatim.

LUP Policy XV.4 states in relevant part:

Designate lands for protection of significant environmental resources and protection of life and property from environmental hazards...

Capistrano Shores Mobile Home Park ("Park") is bordered by an undeveloped privately owned beach parcel to the north, a public municipal beach to the south, the Pacific Ocean is immediately adjacent to the west and the OCTA railroad tracks and N. El Camino Real (aka Pacific Coast Hwy) border the site to the east. Presently, there is a narrow public beach in front of the Park that varies in width from a few feet to approximately 70 feet, depending on the season. The shore protection of the Park 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. The revetment is composed of meta-volcanic quarry stones and predates the Coastal Act. High tide extends up to the existing rock revetment. No improvements are proposed to the existing bulkhead and revetment as part of this CDP amendment request.

Section 30253(a) states that new development shall minimize risks to life and property in areas of high geologic, flood, and fire hazard. Since the proposed improvements (i.e. concrete wall, landscaping, trash/utility enclosure and transformer relocation, road widening) are landward of existing development (mobile/manufactured homes) and the rock revetment and timber bulkhead, the proposed development is not anticipated to be subject to wave hazard related damage.

Nevertheless, beach areas are dynamic environments, so the property may be subject to unforeseen changes and hazards associated with oceanfront development. For instance, sea level has been rising slightly for many years. Recent satellite measurements have detected global sea level rise from 1993 to present of 3 mm/yr. There is a growing body of evidence that there has been a slight increase in global temperature and that an accelerated rate of sea level rise can be expected to accompany this increase in temperature. Sea level rise is expected to increase significantly throughout the 21st century and some coastal experts have indicated that sea level rise of 3 to 5 feet

or more could occur by the year 2100.¹ Mean water level affects shoreline erosion in several ways and an increase in the average sea level will exacerbate all these conditions. Future expansion of the existing shoreline protection of the Park 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.

As noted above in Section C of this staff report, alternatives to the shoreline protection must be considered for any type of future shoreline hazard response that will eliminate impacts to coastal and recreational resources including, but not limited to, scenic visual resources, recreation, and shoreline processes. Alternatives for analysis 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.

The applicant is currently proposing to widen the existing approximately 36 ft. wide private frontage road (including paved road, landscape and fence area) to 44 ft., which currently encroaches 20 ft. inland into the railroad right-of-way pursuant to a pre-Coastal Act license agreement, and to construct a new concrete wall and 16 attached concrete trash/utility enclosures. The proposed development will result in the Park encroaching into the railroad right-of-way by an additional approximately 7-8 ft. As noted in Section C, the railroad right-of-way should be reserved to address potential future hazard and public access needs, such as those arising out of sea level rise related issues. For instance, in the event that the mobile/manufactured homes need to be relocated due to hazards from wave uprush and sea level rise, the Park may need to be moved further inland to minimize risks to life and property pursuant to Section 30253 of the Coastal Act (in addition to avoiding significant public access impacts along the beach). Constructing a concrete wall and concrete enclosures further inland which encroach into the railroad right-of-way could significantly hamper the relocation of mobile/manufactured homes further landward as an available alternative to minimize risks to life and property in this area of high flood and wave hazards. In other words, considering all of the above, the proposed development limits options for the mobile home park owner to respond to coastal hazards without relying upon shoreline protection, as called for by Coastal Act policies.

Accordingly, staff recommends **Special Condition 3**, requiring the submittal of revised plans showing a fence as opposed to a more permanent concrete wall, and showing the proposed concrete enclosures constructed of wood or other material that will not require continuous/deepened foundation. This condition also requires that the proposed infrastructure improvements only occur within the existing footprint of the Park and not further extend into the railroad right-of-way beyond the existing approximately 20 ft. wide lease area, which will preserve the option of relocating the fence and enclosures further inland and providing additional space for relocating the mobile homes and infrastructure in the future if necessary due to sea level rise. This requirement will ensure that the proposed project does not result in future adverse effects related to coastal hazard response and is consistent with public access and hazards policies of the Coastal Act.

¹ Cayan, D.R., M. Tyree, M. Dettinger, H. Hidalgo, T. Das, E. Maurer, P. Bromirski, N. Graham, and R.E. Flick, 2009. *Climate Change Scenarios and Sea Level Estimates for the California 2008 Climate Change Scenarios Assessment*, Draft Paper, CEC-500-2009-014-D, 62 pp, <http://www.energy.ca.gov/2009publications/CEC-500-2009-014-D.pdf>.

Only as conditioned does the Commission find the proposed development consistent with the relevant policies of the City's Local Coastal Land Use Plan and with Section 30235 and 30253 of Chapter 3 of the Coastal Act.

E. VISUAL RESOURCES

Section 30251 of the Coastal Act states:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas...

The certified San Clemente Land Use Plan echoes the priority expressed in the Coastal Act for preservation of scenic and visual qualities of coastal areas:

LUP Policy VII.3 states, in relevant part:

The Scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be site and designed:

- a. To protect public views to and along the ocean and scenic coastal area.*
- b. To minimize the alteration of coastal bluffs and canyons.*
- c. Where feasible, to restore and enhance visual quality in visually degraded areas.*

LUP Policy XII states:

Maintain the visual quality, aesthetic qualities and scenic public views in the Coastal Zone.

LUP Policy XII.4 states:

Preserve the aesthetic resources of the City, including coastal bluffs, visually significant ridgelines, and coastal canyons, and significant public views.

LUP Policy XIV.8 states:

Maintain a healthy coastline, preventing degradation of the community's visual and environmental resources.

LUP Policy XII.9 states:

Promote the preservation of significant public view corridors to the ocean.

In past Commission actions (CDP Nos. 5-09-179, 5-09-180, 5-10-180, and 5-11-033) pertaining to development in the Park, the Commission has found that development in the Park must be sited and designed to protect views of the coast from public vantage points (e.g. public trails, recreational areas, and El Camino Real (or Pacific Coast Highway)). In addition, it is through the coastal development permit process that the Commission ensures that proposed development is consistent with the Coastal Act, including that the development does not adversely impact views to and along the coast.

The beach in front of the Park is narrow and varies from a few feet to 70-ft. depending on the season. During low tide, this beach is used by sunbathers and beach strollers, and it is a popular

surfing location. However, high tide extends up to the existing rock revetment, which makes public access difficult to impossible during high tide. Looking inland from this beach when public access is available, views of the coastal bluffs at the Marblehead Coastal site are already obstructed by the existing mobile/manufactured homes at the Park; therefore, the proposed development (i.e. concrete wall and attached concrete trash/utility enclosures, transformers, landscaping, access road widening which are behind and obstructed by the mobile homes when considered from the beach) will not result in further visual obstruction of the coastal bluffs from the beach.

The proposed development is seaward of the public trails along the coastal bluffs inland of the first public road at the Marblehead coastal site (**Exhibit 1**). The Marblehead 247-acre large-scale, mixed use development (CDP No. 5-03-013) was approved by the Coastal Commission in 2003, which included extensive public trails to and along the bluffs, public parks, preservation of coastal canyons and bluffs, and riparian areas. In addition, the project site is located directly seaward of other public access areas, such as the heavily used Metrolink (commuter rail system) and El Camino Real, which is the first public road that is parallel to the sea. El Camino Real (“ECR”) is considered a scenic corridor and provides a popular coastal bicycle trail; it will also soon be improved with additional pedestrian and class I bicycle lanes on the ocean side of ECR (CDP No. 5-15-0154) directly landward of the Park. Because the project site is located between the first public road and the sea, any redevelopment of the Park has the potential to significantly impact public views from public access areas such as the public trails and ECR and Metrolink.

The issue with regards to visual resources concerns the importance of protecting coastal views, and of restoring and enhancing visual quality in visually degraded areas where feasible. The proposal includes the removal of an existing 6-ft. high chain-linked fence that runs along the length of the Park, and the replacement of the fence with the construction of a 6-ft. high, approximately 0.70-mile long, concrete wall, to be located approximately 7-8 ft. east (inland) of the existing fence, with architectural wall features (i.e. 4-in. cap and 7.33-ft. high, 3.5-ft. wide columns at varying intervals) and 11.1-ft. high front entry (**Exhibit 2 & 3**).

Originally, the applicant proposed to remove and replace the existing chain-linked fence in-kind, but relocated in the same location as the presently proposed wall. The proposal was amended by the applicant in order to obtain the required local governmental approval from the City of San Clemente (Resolution No. PC 15-003). The City granted the applicant a Conditional Use Permit (No. 14-475) and a Variance (No. 1474) for the proposed development. The City is in support of the wall and attached trash/utility enclosures proposed in the Spanish Colonial Revival architectural style, as it states that it will serve as an improved gateway streetscape into the city. According to the applicant, the intended purpose of the concrete wall is to enhance the safety of the residents and visitors of the Park due to the property’s proximity (and proposed closer proximity) to the train. In addition, the wall was also originally intended to serve as a sound wall. However, due to the proposed 6-ft. height of the wall and the project site’s approximately 3-ft. lower elevation difference with the railroad tracks, the applicant has indicated that the proposed wall would not actually effectively function as a sound wall (**Exhibit 4**). In addition to the elevation difference, the commuter train has a height of 15.5-ft. Therefore, the point source of concern, the Metrolink, will emit sound waves over the wall and any sound attenuation will not be perceivable.

The proposal also involves the replacement of the existing landscaping, that is adjacent to and runs parallel to the fence, with new landscaping, the relocation and replacement of 16 trash/utility enclosures with 15 new 10-ft. high trellises, and the relocations of eight above-ground utility

transformers (**Exhibit 2 & 3**). In the original permit (CDP No. 5-13-039), the transformers were approved to be installed 15-ft. inland of the existing chain-linked fence. However, the applicant has indicated that OCTA required that the transformers be relocated on the seaward side of the proposed wall. Therefore, the applicant is currently proposing to relocate the transformers 10 ft. further seaward.

Section 30251 of the Coastal Act states that where feasible, permitted development shall be sited and designed to restore and enhance visual quality in visually degraded areas. Public coastal views that exist above and between the varied rooflines of the mobile/manufactured homes along the Park as viewed from public areas are partially being obstructed by the existing landscaping. With the proposed replacement of the existing vegetation, there is an opportunity to protect existing public views and enhance and restore some of these public blue water views that exist above and between the varied rooflines of the mobile/manufacture homes along the Park as viewed from ECR as one approaches the Avenida Pico intersection, MetroLink, and the public trails, particularly the lower trails including those located within the canyon of the Marblehead site (**Exhibit 5, page 3**). For instance, the existing landscaping consists of trees and bushes that vary in height and extend as high as 20 ft. Once the existing landscaping is removed, the public coastal views offered between the mobile/manufactured homes that were previously obstructed by this landscaping will be enhanced. Whether this enhancement is preserved is contingent on the proposed size and location of the new landscaping. The location is also significant because visibility of development and coastal view obstruction increases the closer development is to the viewer (along ECR, Metrolink, and the public trails). Therefore, staff recommends that the proposed landscaping be situated within the existing Park footprint and be limited to a height of no greater than 10 ft., consistent with the lower height of the existing varied rooflines and with the height of the proposed trellises.

Because of the Park's close proximity to the public access areas such as the public trails and ECR, the proposed project will be highly visible. With the construction of a solid wall with features that extend beyond the proposed 6 ft. height, the visual quality from the public areas directly landward of the Park will regress. Although there is a line of mobile/manufactured homes and accessory structures seaward of the proposed wall and within the viewshed of ECR, Metrolink, and Marblehead trails, an open design, such as a wrought iron fence, will open up the area and provide additional depth of view, which will enhance the public's blue ocean view at a comprehensive level. For an open design, the fence should consist of a minimum of 4-inch spacing between bars and should not extend higher than 6 ft.

To ensure that the public visual quality is restored and enhanced, staff recommends **Special Condition 3 & 4** requiring the following revisions be made to the proposal: an open fence design (e.g. wrought iron fence) be proposed in place of a concrete wall, where the proposed will be aligned and located in the same location as the existing fence; to maintain an open appearance, new landscaping will be situated within the existing footprint of the Park and maintained at a height of no greater than 10 ft.

On July 5, 2016, the South Coast District office received a letter from the Vonne M. and Thomas F. Barnes, a local resident, in opposition of the construction of a 6-ft. solid wall (**Exhibit 6**). The letter raised issues that concerned the visual and aesthetic impacts resulting from the proposed development from public areas that offer coastal views. On August 4, 2016, Mrs. Barnes provided staff renderings for public access and photos of the project site to supplement her original letter. A few of these photos have been attached to this staff report to represent her concerns; see **Exhibit 6**,

page 7-9. These photos were taken along the inland shoulder of ECR adjacent to the Marblehead bluffs. The visual resources analysis, as provided above, adequately addresses the concerns raised in the two letters submitted by Vonne M. and Thomas F. Barnes.

As conditioned, the proposed project can be found consistent with the relevant policies of the City's Local Coastal Land Use Plan and with the visual resource policies (Section 30251) of the Coastal Act.

F. BIOLOGICAL RESOURCES

Section 30230 of the Coastal Act states:

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

Section 30231 of the Coastal Act states:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges- and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Section 30240 of the Coastal Act states:

- (a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.*
- (b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.*

Policy XIV.1, XIV.2, XV.2 and XV.3 of the certified San Clemente Land Use Plan reflect Section 30230, 30231, 30240(a), and 30240(b) of the Coastal Act verbatim, respectively.

LUP Policy XIV.5 states:

Maintain and enhance the City's beaches and marine resources

LUP Policy XIV.8 states:

Maintain a healthy coastline, preventing degradation of the community's visual and environmental resources

LUP Policy XV.4 states:

Balance the preservation of the City's habitat areas with new development

Native terrestrial habitat in the area is located near the Capistrano Shores Mobile Home Park ("Park") along the Marblehead coastal bluffs, coastal canyons, and riparian areas. The applicant has is proposing new landscaping. The placement of any vegetation that is considered to be invasive which could supplant native vegetation should not be allowed. Invasive plants have the potential to overcome native plants and spread quickly. Invasive plants are generally those identified by the California Invasive Plant Council (<http://www.cal-ipc.org/>) and California Native Plant Society (www.CNPS.org) in their publications. Furthermore, any plants in the landscape plan should only be drought tolerant to minimize the use of water (and preferably native to coastal Los Angeles County). The term drought tolerant is equivalent to the term 'low water use' as defined and used by "A Guide to Estimating Irrigation Water Needs of Landscape Plantings in California" prepared by University of California Cooperative Extension and the California Department of Water Resources dated August 2000 available at <http://www.water.ca.gov/wateruseefficiency/docs/wucols00.pdf>).

To ensure the proposed project incorporates and implements these measures, the Commission imposes **Special Condition 4**, which implements the installation of only non-invasive, drought-tolerant vegetation to prevent plants from taking over and supplanting the native terrestrial habitats in the adjacent area and to minimize water use.

Furthermore, Staff recommends that all development proposed under this CDP amendment request be limited to the existing disturbed footprint of the Park and further recommends that certain special conditions from the prior CDP for the mobile home park (CDP 5-13-039) relating to best construction practices be incorporated as applicable special conditions to this CDP amendment (**Special Conditions 1 and 2**). Together, these Staff revisions to the proposed CDP amendment request will achieve consistency with the biological resource policies of Chapter 3 of the Coastal Act because the development will not result in any new impacts to biological resources.

The Commission, therefore, finds that, as conditioned to require: the proposed development to be limited to occur within the existing improved footprint of the Park; construction-related requirements and best management practices; non-invasive drought tolerant landscaping and native landscaping; the development will be consistent with the relevant policies of the City's Local Coastal Land Use Plan, and with Section 30230, 30231 and 30240 of the Coastal Act.

G. LOCAL COASTAL PROGRAM

Section 30604(a) of the Coastal Act provides that the Commission shall issue a coastal development permit only if approval 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

City did not act further on the conditional certification and the suggested modifications expired on October 10, 1998. The City re-submitted an Implementation Plan on June 3, 1999, but withdrew the submittal on October 5, 2000.

The certified Land Use Plan has specific policies addressing the protection of scenic and visual qualities of coastal areas. As stated in the previous sections of this report, the proposed development raises issues regarding hazards, has the potential of negatively impacting public access, and will have a significant individual and cumulative impact on public coastal views from the Metrolink, public trails, and El Camino Real, which is the first public road that is parallel to the sea. The proposed development will be inconsistent with the hazards, view protection and enhancement, and public access policies of the LUP and approval of the development will prejudice the City's ability to prepare a Local Coastal Program (LCP) consistent with the Chapter 3 policies of the Coastal Act. Therefore, only as conditioned, to protect coastal resources and public access, will the development be consistent with the policies of the LUP and not prejudice the City's ability to prepare a LCP.

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, as conditioned, 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).

H. CALIFORNIA ENVIRONMENTAL QUALITY ACT

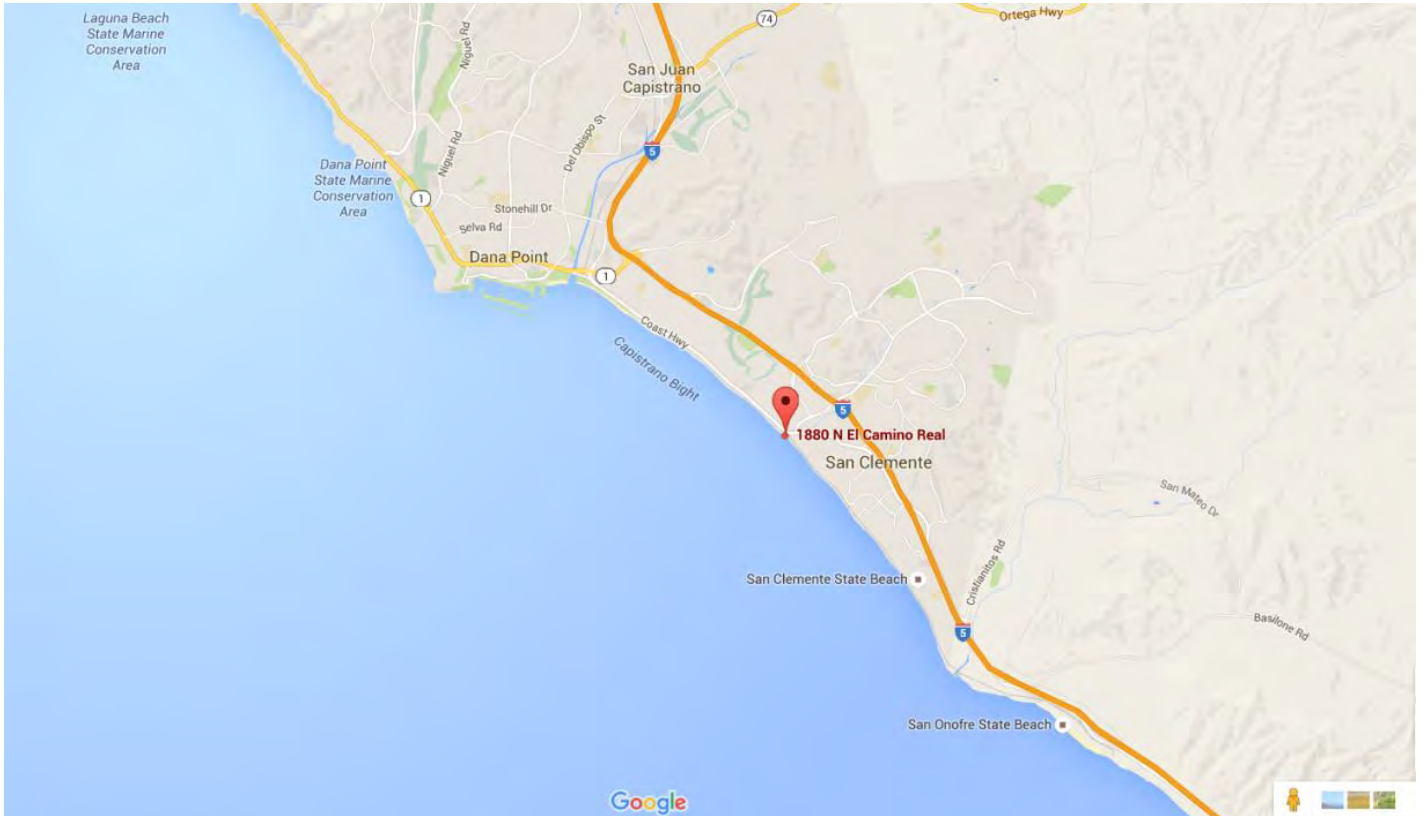
The City of San Clemente is the lead agency for purposes of CEQA compliance. As determined by the City, the project is categorically exempt pursuant to CEQA Guidelines section 15303 as a Class 3 categorical exemption (construction of accessory structures).

Section 13096(a) 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.

As stated in the previous sections of this report, the proposed development with the proposed concrete wall, trellises, relocation and replacement of solid trash/utility enclosures, relocation of transformers, new landscaping, and increased encroachment area into the railroad right-of-way will have significant cumulative impacts on public access, coastal hazards, biological resources, and public views from El Camino Real, which is the first public road parallel to the sea. The alternatives available to the applicant include the no project alternative and the alternative development modifications recommended by staff. Staff is recommending that the proposed improvements consist of a more open design and that they be relocated to avoid encroaching further into the railroad right-of-way to enhance public views and preserve the right-of-way to address future needs related to public access and hazards. As discussed and conditioned in this staff report, staff has determined that the proposed development, as amended, is a feasible alternative which would substantially lessen any significant adverse impact on the environment.

Appendix A – Substantive File Documents

1. City of San Clemente certified Land Use Plan
2. Coastal Development Permit (CDP) No. 5-13-039
3. CDP Nos. 5-09-179, 5-09-180, 5-10-180, and 5-11-033



COASTAL COMMISSION

EXHIBIT # 1
PAGE 1 OF 2



Marblehead Site

Capistrano Shores Mobile Home Park

Railroad tracks

Public trail path in
canyon at
Marblehead site

COASTAL COMMISSION

EXHIBIT # 1
PAGE 2 OF 2

PETERS ASSOCIATES

33771 BLUE LANTERN STREET
DANA POINT, CA 92629
949-412-4428

william.peters@yahoo.com

Seal/Signature:

Structural Engineer
D.E.J. ENGINEERING

1427 LIEFFREY DR.,
SUITE 245
IRVINE, CA 92618
949-497-6810 FAX 949-497-6819
dejengineering@yahoo.com

SITE PROJECT

1880 N. El Camino Real
Capistrano Shores
San Clemente,
California

Revisions:

No. Date Revision

△

△

△

△

△

△

Date: 6/20/15

Job No.:

Association Submittal:

Bldg. Dept. Submittal:

Bid Item:

Construction Issue:

Sheet Title:
ARCHITECTURAL
SITEPLAN



COASTAL COMMISSION

EXHIBIT # 2
PAGE 1 OF 2

SITEPLAN(D)

SCALE: 1"=40'-0"

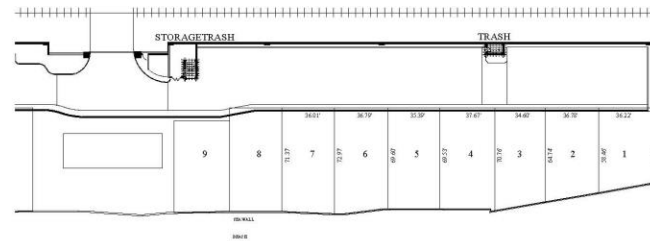
SITEPLAN(C)

SCALE: 1"=40'-0"

SITEPLAN(B)

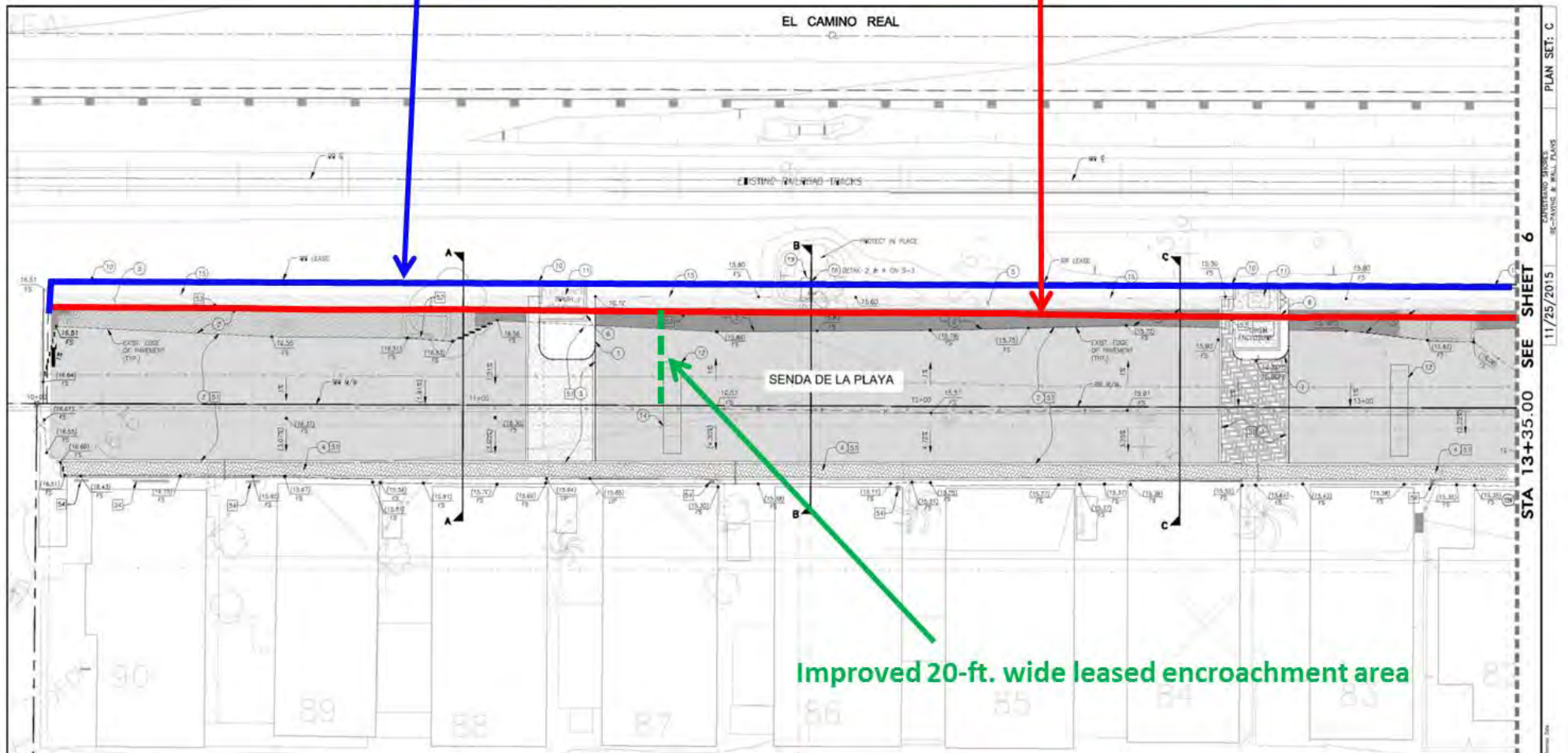
SCALE: 1"=40'-0"

SITEPLAN(A)



Proposed New Solid Wall

Existing Chain-linked Fence



CONSTRUCTIONNOTES:

1. CONSTRUCT 6" CURB ONLY, ELEV. 41'-6", PER CITY OF SAN CLEMENTE STD. PLAN SP-2.
2. CONSTRUCT FULL DEPTH ASPHALT PER NOTE 12 OF STREET IMPROVEMENT SIDE ON SHEET 1.
3. CONSTRUCT INTERLOCKING PAVERS WITH CONCRETE BASE PER DETAIL 8/3. DESIGN AND RECONSTRUCTION PER GEOTECHNICAL RECOMMENDATIONS.
4. CONSTRUCT PERMEABLE PAVERS WITH CONCRETE BASE PER DETAIL 8/3. SEE GEOTECHNICAL REPORT FOR SUBSOIL RECOMMENDATIONS.
5. CONSTRUCT PERMEABLE CONCRETE PAVEMENT PER DETAIL 2/3 OR APPRO. EQUAL.
6. CONSTRUCT TRASH ENCLOSURE PER DETAILS ON SHEET 4.
7. CONSTRUCT AC PAVING, SEE GEOTECHNICAL REPORT FOR PAVEMENT SECTION.
8. ADJUST MANHOLE RIM ELEVATION.
9. CONSTRUCT CURB TRANSITION FROM 6" OF 10" TO 6" CURB ONLY.
10. 1" SOUND WALL SEE DETAILS ON S-1 TO S-3. FOR FINISHES SEE INTERLOCKING DETAIL SHEETS.
11. CONSTRUCT CONCRETE, SEE GEOTECHNICAL REPORT SPECIFICATIONS.
12. CONSTRUCT SPEED-BUMP PER DETAIL 4/2.
13. ADJUST WATER MAIN ELEVATION.
14. ADJUST SEWER CLEANOUT ELEVATION.
15. INSTALL REDUCED HEADEN.
16. CONSTRUCT MAINTAINED WALL TO CROSS CULVERTS. SEE PLAN FOR SPECIFIED DETAIL.
17. CONSTRUCT 4" PERFORATED PVC PIPE PER PERMEABLE PAVEMENT SPECIFICATIONS.
18. INSTALL IMPERMEABLE LINER. SEE PERMEABLE PAVEMENT DETAIL ON SHEET 2.
19. CONSTRUCT BOP PIPE WITH CONC. COLUMN CONNECTION. MATCH JABBING PIPE DET.

DEMOLITIONNOTES:

21. REMOVE EXISTING AC PAVING.
22. REMOVE EXISTING TRASH ENCLOSURE.
23. REMOVE EXISTING FENCE.
24. REMOVE EXISTING DRAINAGE INLET.

LEGEND:

- | | | | |
|--|-----------------------------------|--|--------------------|
| | REMOVE AND REPLACE ASPHALT PAVING | | SOUND WALL |
| | CONCRETE PAVERS | | NEW ASPHALT PAVING |
| | PERMEABLE PAVERS | | EXISTING CONCRETE |
| | CONCRETE | | |



CITY OF SAN CLEMENTE	
APPROVAL OF STREET IMPROVING & WALLS	
APPROVED BY:	DATE:
SUPERVISOR BY:	DATE:
REVIEWED BY:	DATE:

NO.	DATE	REVISION	DATE	APPROVED

DESIGNED BY:	DATE:
DESIGNED BY:	DATE:
CHECKED BY:	DATE:



COASTAL COMMISSION

PROJECT NO.	1016/07
SHEET	5
OF	25

EXHIBIT # 2
PAGE 2 OF 2

PETERS ASSOCIATES

33771 BLUE LANTERN STREET
DANA POINT, CA 92629
949-412-4428

william.peters@yahoo.com

Seal/Signature:

Structural Engineer

D.E.J. ENGINEERING

14271 JEFFREY DRIVE,
SUITE 245
IRVINE, CA 92618
949-497-6810 FAX 949-497-6819
dejenengineering@yahoo.com

SITE PROJECT CAPITRAN SHORES

1880 N.E. Camino Real
San Clemente,
California

Revisions:

No. Date Revision



Date: 6/20/15

Job No.:

Association Submittal:

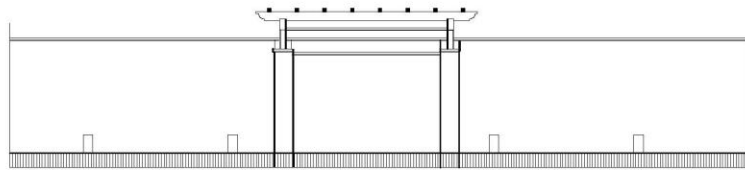
Bldg. Dept. Submittal:

Bid/Issue:

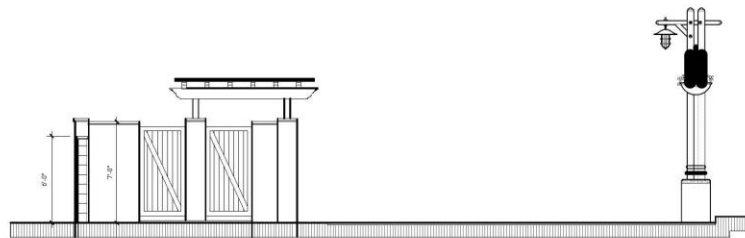
Construction Issue:

Sheet Title:
TYPICAL STREET PLAN
& SECTION THROUGH TRASH

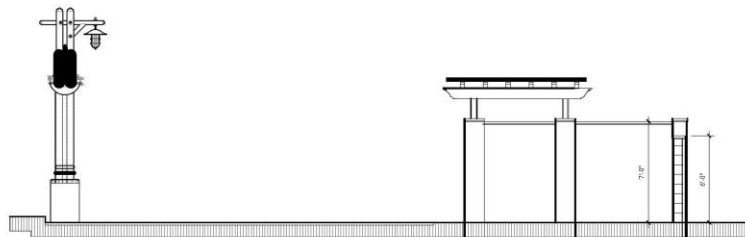
COASTAL COMMISSION



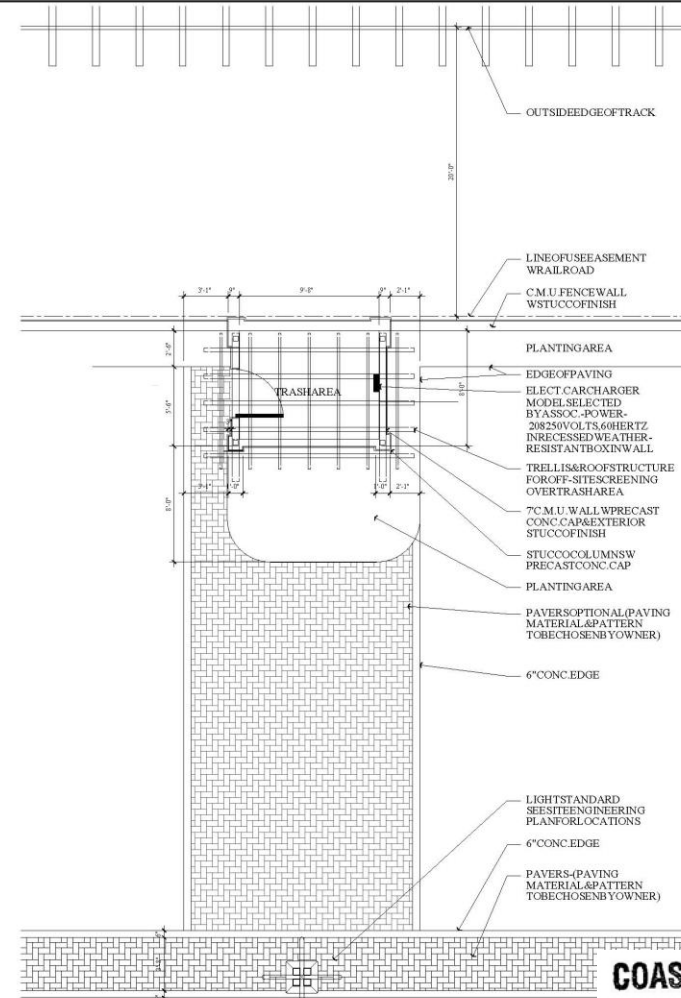
WEST STREET ELEVATION @ TRASH & TRANSFORMER ENCLOSURE



NORTH STREET ELEVATION @ TRASH & TRANSFORMER ENCLOSURE



SOUTH STREET ELEVATION @ TRASH & TRANSFORMER ENCLOSURE



TYP. STREET PLAN @ TRASH & TRANSFORMER ENCLOSURE

EXHIBIT # 3
PAGE 1 OF 2

PETERS
ASSOCIATES

33771 BLUE LANTERN STREET
DANA POINT, CA 92629
949-412-4128

william.peters@yahoo.com

Seal/Signature:

Structural Engineer
D.E.J. ENGINEERING

1427 JEFFREY DR.,
SUITE 245
IRVINE, CA 92618
949-497-6810 FAX 949-497-6819
djenengineering@yahoo.com

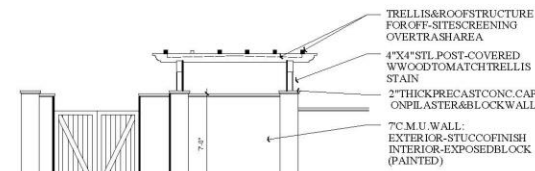
SITE PROJECT

1880 N. El Camino Real
Capistrano Shores
San Clemente,
California



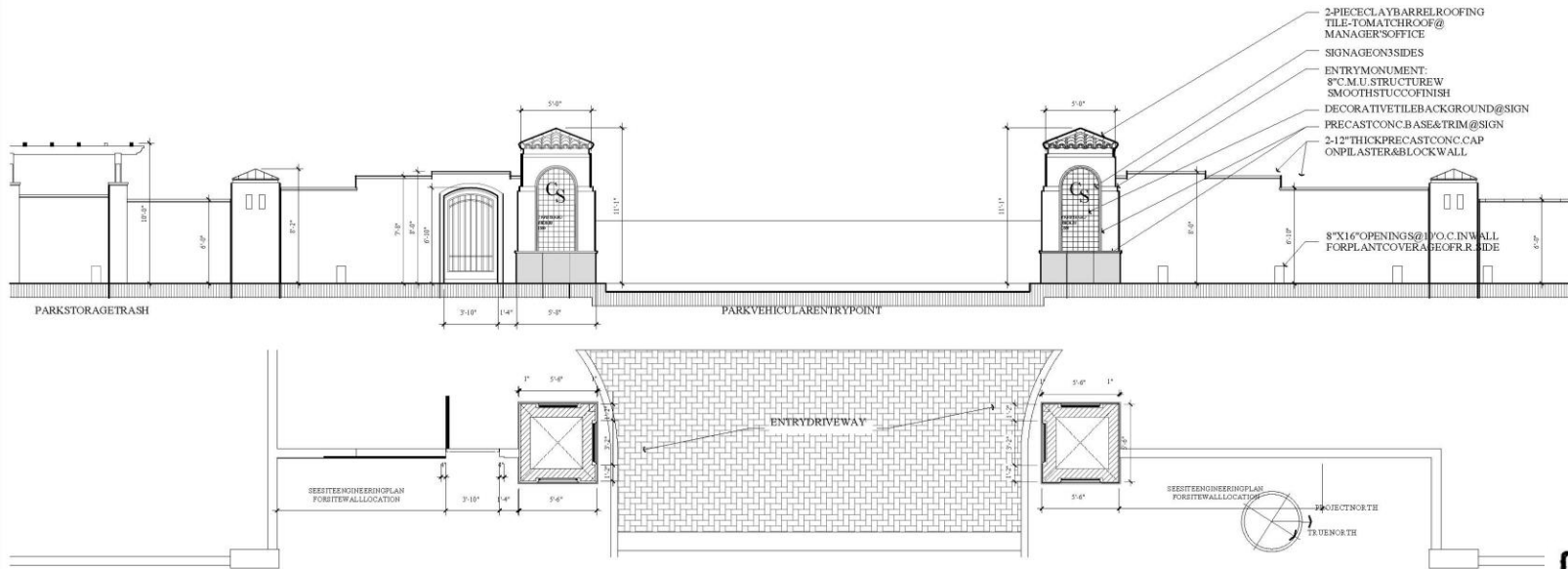
SOUTH

ELEVATION STORAGE TRASH ENCL. @ ENTRY



WEST

ELEVATION STORAGE TRASH ENCL. @ ENTRY SCALE: 1/4" = 1'-0"



ENTRY MONUMENT PLAN AND ELEVATIONS

Revisions:

No. Date Revision



Date: 6/20/15

Job No.:

Association Submittal:

Bldg. Dept. Submittal:

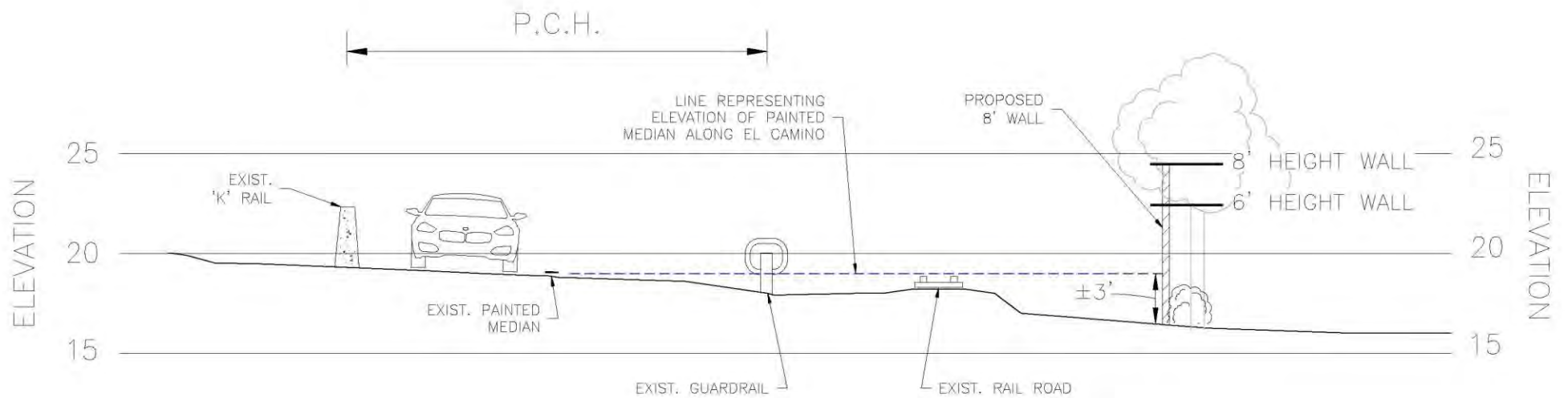
Bid Issue:

Construction Issue:

Sheet Title:

ENTRY MONUMENT PLAN
+ ELEVATIONS +
BARRIER WALL + TRASH

COASTAL COMMISSION



NOTE:

ALONG EL CAMINO REAL, THERE IS A DIFFERENCE IN ELEVATION THAT AVERAGES APPROXIMATELY TWO FEET AND RANGES FROM 1'-3' THROUGHOUT THE ENTIRE STRETCH OF THE PROPOSED SCREEN WALL.

GIVEN THE PROJECTION OF THE CURRENT ELEVATION OF THE PAINTED MEDIAN AT EL CAMINO REAL, IT IS ANTICIPATED THAT AT MOST, THE PERCEIVED HEIGHT OF SUCH WALL WILL BE:

- FOR AN 8' WALL 5'
- FOR A 6' WALL 3'

SCALE: 1"=5' VERT
1"=10' HORZ

COASTAL COMMISSION

EXHIBIT # 4
PAGE 1 OF 1

Photos of project site at Capistrano Shores Mobile Home Park taken from ocean side of El Camino Real (or Pacific Coast Highway)



COASTAL COMMISSION

EXHIBIT # 5
PAGE 1 OF 3



COASTAL COMMISSION

EXHIBIT # 5
PAGE 2 OF 3

Photos of project site at Capistrano Shores Mobile Home Park taken from public trail path within canyon at Marblehead site



COASTAL COMMISSION

EXHIBIT # 5
PAGE 3 OF 3

California Coastal Commission Hearing

EXHIBIT # 6
PAGE 1 OF 9

Item W13A, CDP Amendment Application No. 5-13-039-A1 Capistrano Shores Mobile Home Park

Additional Condition of Approval: Pedestrian Public Beach Access Adjacent to the Capistrano Shores Business Office

Coastal Commissioners,

To mitigate the negative impacts of Capistrano Shores

- existing shoreline revetment;
- proposed solid wall, 6 foot high, extending $\frac{3}{4}$ mile along El Camino Real to Camino Capistrano;

we respectfully request that the Coastal Commission add the following Condition of Approval:

Capistrano Shores will provide a public access walkway to the beach along the 15 foot wide area located on the north side of the Capistrano Shores Business office (Exhibits # 1, 2 & 3)

Negative Impacts of Existing Shoreline Revetment (Exhibit # 1)

The nearest public beach access is a pedestrian entry approximately 500 feet south of Capistrano Shores near a public parking lot. Lateral beach access at the south end of Capistrano Shores is blocked by incoming waves that surge against the existing revetment. Visitors must sprint around the revetment between sets of waves, making this an unsafe point of entry. When the tide is "in" twice daily, access is not possible.

Importantly, the staff report emphasizes that due to hazards, there is the "... expectation that the existing revetment may be augmented in the future to protect the new development... (p. 4)."

Increasing the mass of the revetment and subsequent seaward encroachment will cause the existing lateral beach access to become more restricted and less safe than it already is; and the sandy beach in front of the 90 mobile homes will become exclusive and accessible only to residents, tenants, and guests in Capistrano Shores.

Negative Impacts of Proposed Solid Wall (Exhibits 4 & 5)

Respectfully, the staff report does not address Capistrano Shores' proposed solid wall, 6 foot high, extending $\frac{3}{4}$ mile along El Camino Real. The solid wall will totally block street level ocean views of pedestrians and bike riders using new bike trail from

North Beach in San Clemente to Dana Point Harbor; and also block ocean views from vehicles driving in both directions.

Coastal Act Sections:

§ 30001.5 (c) "new developments are required to **maximize public access to and along the coast.**"

§ 30251: preserves public ocean view opportunities, and enforces restrictions on developments (landscaping and structures) that significantly interfere with public ocean views.

§ 30252 "new developments are required to maintain and enhance public access to the coast."

§30001(a) provides that the California coastal zone is a distinct and valuable natural resource of vital and enduring interest to all the people...

§30001(b) provides that the permanent protection of the state's natural and scenic resources is a paramount concern to present and future residents of the state and nation.

§30001 (d) That existing developed uses, and future developments that are carefully planned and developed consistent with the policies of this division, are essential to the economic and social well-being of the people of this state and especially to working persons employed within the coastal zone.

Please protect direct public access to the beach by including the Condition of Approval to provide public access along the 15 foot wide area on the north side of the Capistrano Shores' Business office.

Respectfully,



Vonne M. Barnes



Thomas F. Barnes

COASTAL COMMISSION

EXHIBIT # 6
PAGE 2 OF 9



Diagram of the site area showing public direct access from El Camino Real along the north side of the Capistrano Shores Business Office and down stairs to the beach. Also shown is a public walkway along the top of the lateral revetment that interconnects with the running along beside the Business Office. To the south are stairs to the beach from the revetment.



Satellite photo (google) north side of the Capistrano Shores Business Office is 15 feet wide. Ocean is seen over the rock wall.

COASTAL COMMISSION



With the wall removed to open the easement for public access there could be a walkway to a set of stairs to the beach in front of Capistrano Shores



This is a satellite (google) photo of the top of the Capistrano Shores Business Office as viewed from the ocean towards El Camino Real. The proposed public access walkway is on the north (left side) of the building where the tree and redwood colored ground and two lounge chairs are shown.

COASTAL COMMISSION



Modification of a 15 foot wide easement on the north side of Capistrano Shores Business Office could provide a public walkway and stairs to the beach



A public walkway running across the top of the lateral revetment could provide additional public access

COASTAL COMMISSION

EXHIBIT # 6
PAGE 5 OF 9

COASTAL COMMISSION

EXHIBIT # 6
PAGE 6 OF 9



COASTAL COMMISSION

EXHIBIT # 6
PAGE 7 OF 9



Ocean view obstructed by what appears to be unpermitted out building between trailers, overgrown trees taller than trailers, and green tarp along the chain/barbed wire link fencing



Ocean view between trailers obstructed by overgrown trees taller than trailers, and green tarp along the chain/barbed wire link fencing

COASTAL COMMISSION

EXHIBIT # 6
PAGE 8 OF 9



Bike rider along Pacific Bike Trail looking at public ocean view between trailers



Pedestrian walking along public access along [inland shoulder of] El Camino Real

COASTAL COMMISSION

EXHIBIT # 6
PAGE 9 OF 9



Bike rider going by public ocean view between trailers



Bike rider in Pacific Bike Lane looking at the public ocean view between the trailers; Public ocean view blocked by white fencing and green tarp can be seen through trees which are taller than the trailers