

CALIFORNIA COASTAL COMMISSION

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Th27a-m

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 original staff report

ADDENDUM

July 12, 2016

TO: Coastal Commissioners and Interested Parties

FROM: South Coast District Staff

SUBJECT: **ADDENDUM TO ITEM Th27a-Th27m, APPLICATION NO. 5-10-180, 5-11-033, 5-12-126, 5-12-127, 5-12-128, 5-12-294, 5-12-295, 5-12-296, 5-12-297, 5-13-037, 5-13-038, 5-15-0978, & 5-15-0982, FOR THE COMMISSION MEETING OF THURSDAY, JULY 14, 2016.**

Commission staff recommends changes to the staff report dated June 23, 2016. Language to be added to the findings and conditions is shown in underlined text, and language to be deleted is identified by ~~strike-out~~.

1. CORRESPONDENCE RECEIVED FROM APPLICANTS & AGENT; CHANGES TO STAFF REPORT

Letter from the law firm of Axelson & Corn, representing the applicants of items Th27a through Th27m, dated July 7, 2016 (**Exhibit C**; see attached). The applicants assert that mobile home building standards are governed solely by the Manufactured Housing Act and implemented by the State Department of Housing and Community Development (“HCD”), and thus, the Coastal Commission’s regulation of the height of the structures is pre-empted. In addition, the applicants maintain that the proposed development will have little to no adverse impacts to public coastal views and object to Special Condition 1, which requires the submittal of revised project plans with a reduced building height, considering a height reduction not feasible. The applicants also believe the impacts of these applications should be assessed based on the current conditions and not in a manner that is holistic of all future potential changes that may or may not occur to the other units in the Park. Furthermore, the applicants request that the Commission grant a reduction in the application fee from five times (5x) to one without the After-the-fact multiplier (i.e. one time (1x) fee), and expressed willingness to discuss offering the excess fees as mitigation to the City of San Clemente to be used for current or future coastal view enhancement projects.

In response to the comment above, add the following after the first paragraph on page 23 of the staff report:

Moreover, as previously noted in Commission staff’s February 2014 letter to the mobile home park owner and some of the owners of mobile homes in the park, the

California Supreme Court reaffirmed that multiple laws, including the Coastal Act, that regulate development activities within mobile home parks, each with different goals, need not be incompatible and sought to harmonize the applicable laws. (Pacific Palisades Bowl Mobile Estates, LLC v. City of Los Angeles (2012) 55 Cal.4th 783). Finally, on page 10 of HCD's evaluation of the City of San Clemente's Local Enforcement Agency's performance in implementing the Mobilehome Parks Act, dated March 17, 2015, HCD even acknowledges that the City should be telling applicants seeking to install mobile homes in the coastal zone that a permit may be required from the Coastal Commission to install the mobile home depending on the circumstances. (See Attachment 4 of the Loftin Firm, P.C. letter) The HCD evaluation states the following:

"To assist in the City in serving its two masters, the Department [HCD] provided instruction on how to address MPA construction and installation permit applications that are in the coastal zone and MAY need a coastal development permit from the Coastal Commission. The Department provided instruction and a copy of the type of warning that should be given when approving a permit application that is MPA compliant but may be in a coastal zone and may need to obtain Coastal Commission approval". (emphasis in original)

Similar warning language has been incorporated into the majority of the Occupancy Agreements entered into between the park and the applicants. These documents include many of the rules of the parks and necessary disclosures. In Section 36.4 of the Occupancy Agreements, the unit owners are advised of the Commission's permit jurisdiction over development in the park. **Exhibit A** is a page extracted from the Occupancy Agreement between one of the applicants and the park, Unit 57, dated December 5th, 2007, well before the development at issue commenced, containing Section 36.4.

In response to the comment above, add the following after the first paragraph on page 43 of the staff report:

The Commission does not dispute that the HCD regulates mobile home parks under state law and has adopted regulations governing construction and occupancy of privately owned mobile homes within California to assure the health and safety of the residents of mobile home parks. However, neither the Mobilehome Parks Act (MPA), Mobilehome Residency Law, Manufactured Housing Act (MHA), nor the regulations of the HCD preempt the Coastal Commission's authority to regulate development in existing mobile home parks to protect coastal resources. The Commission does not propose to regulate any aspect of the building standards of mobile homes or mobile home parks, as suggested by the applicant. Instead, the Commission is regulating the impacts that an MPA and MHA-consistent mobile home has on coastal resources, including view impacts from nearby public vantage points. The Commission, through special condition 1, merely requires a reduction of height in the proposed mobile homes (except Unit 90), and the applicants will be required to construct their

modified mobile homes consistent with the building standards adopted by HCD. Nothing in the Special Condition 1 would affect the applicants from complying with both the Commission's permit conditions and relevant building standards for mobile homes, as adopted by HCD.

2. CORRESPONDENCE RECEIVED FROM LOFTIN FIRM, P.C. AND GAINES & STACEY LLP ON BEHALF OF PARK OWNER; CHANGES TO STAFF REPORT

Two letters were received from the law firms of Loftin Firm, P.C. (see **Exhibit D**) and Gaines & Stacey LLP (see **Exhibit E**) representing Capistrano Shores Inc. ("CSI"), the owner of the Capistrano Shores Mobilehome Park (the "Park"), dated July 6, 2016 and July 8, 2016, respectively, in objection to Special Conditions 1, 3, 8 and 9 and request for the deletion, modification, or clarification of these conditions. Additionally, issues are raised concerning the project description, the vested rights of the operation of the Park, height of the mobile homes, economic life of mobile home development, the certification of San Clemente's certified Land Use Plan, and coastal development permits subsequent to 1998 for development in any mobile home parks. CSI also maintains that views to and along the shoreline will remain substantially unaffected from the overall trail system located at the Marblehead site.

Special Condition 1

CSI objects to Special Condition 1, applicable to items Th27b through Th27m, which requires that the project plans be revised to show the proposed mobile homes will not exceed the maximum roof height of 16 feet as measured from the frontage road, Senda de La Playa. CSI asserts that any adoption of an arbitrary height limit would constitute an act in excess of the Coastal Commission's jurisdiction.

The Commission is charged with implementing and enforcing the resource protection policies of the Coastal Act in the California Coastal Zone. As noted in the staff report, one of the primary issues raised by significant improvement to or replacement of the mobile homes within the Park concern consistency with the visual resource policies of the Coastal Act. Section 30251 of the Coastal Act requires that the scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. To ensure that public coastal views across the mobile home park from the public trails to the beach and ocean are protected, the height of the two-story structures must be limited to 16 ft. or lower to avoid or minimize view impacts from the public trails and recreational areas and is consistent with past Commission permit action for the mobile home park. Therefore, staff is recommending **Special Condition 1**.

Special Condition 3, 8, and 9

CSI objects to Special Condition 3, which requires that the applicants waive any rights to a future shoreline protective device, and asserts it will put to risk the health and safety of an operating mobile home park, the infrastructure, and the neighbors of the applicants. CSI is concerned that with this waiver of individual mobile home park spaces, the

Commission would take the position that CSI lacks the ability to protect its property because the individual mobile home unit owners have waived rights to protect their units.

As explained in more detail in Section IV.C (Hazards) of the staff report, **Special Condition 3** is recommended because the proposed development involves the after-the-fact placement of a new structures and ancillary structures on the beach, which are not entitled to shoreline protection under Section 30235 of the Coastal Act. The new mobile homes are not anticipated to need additional shoreline protection beyond what would be necessary to protect other existing structures (i.e. roadway and utilities) in the park. Moreover, 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.

CSI also objects to Special Conditions 8 and 9, which require the approval from the record title property owner. CSI believes imposing these conditions would result in CSI giving up any rights to protect its property. CSI agrees to provide the applicants the necessary approval if the following language is incorporated into Special Condition 9 to ensure that CSI specifically preserves its right to repair, maintain, and improve the seawall that surround its property:

“Will not restrict any rights, duties, obligations and responsibilities that [CSI] has to preserve the mobile home park and the mobile homes located in the mobile home park, including without limitation, the right, duty and obligations of [CSI] to repair, maintain, enhance, reinforce or place or perform any other activity affecting the existing shoreline protective rights that [CSI] may have without consideration or application of this Amendment to an Occupancy Agreement.”

This language has been incorporated in amendments to Occupancy Agreements in compliance with conditions imposed by the Commission in past permit actions on mobile home development in the subject mobile home park.

In response to the comment above, add the following after the last sentence of the second paragraph on page 47 of the staff report:

For further clarification, the Commission finds that the permit conditions limit only the rights of the individual owners of the mobile homes subject to this permit and are not intended to limit CSI's rights with regard to its bulkhead and revetment

Project Description

CSI objects to the “project description”. CSI contends that the proposed projects are simply “renovations”, or remodels, of existing mobile homes and should not be classified as new development. In the letter, CSI affirms that “repair or maintenance up to the removal of the building down to the axle and wheels constitutes rehabilitation and not replacement or new development” under the Manufactured Housing Act. However, as

indicated in the staff report in Section IV.A (Project Description and Location) on page 22, the demolitions plans show that the proposed development will result in the replacement and demolition of more than 50% of the original structure. Section 13252 of the Commission's regulations states that the replacement of 50% or more of a single family residence, or any other structure, constitutes a replacement structure, and, therefore, is considered new development.

In response to the comment above, add the following after the third sentence of the third paragraph on page 22 of the staff report:

In fact, it is annotated on the demolition plans that 100% of the walls are proposed for demolition or replacement; see **Exhibit B** attached to the addendum for a representative of the demolition plans submitted by the applicants.

Claim of Vested Rights Under Conditional Use Permit

CSI objects to the characterization that the improvement or replacement of mobile homes is "significant", and asserts that there is an unlimited vested right to reconstruct and replace existing units on the site without coastal development permits because the function and use of the Park was vested in 1959 under a conditional use permit that predates the California Coastal Act. In addition, CSI does not agree with Staff's citation of the Coastal Act's definition for "development" with an emphasis on placement of a structure because CSI regards the mobile homes as essentially vehicles with portability.

In response to the comment above, add the following on page 23 of the staff report after the added section language noted above in response to item 1:

Furthermore, Staff has previously advised the park owner in a letter dated February 11, 2014 (see **Exhibit 34**), that any vested right to continuing the operational activities of the Park, if established, would not extend to new development, which in this case is replacing structures or making substantial changes to structures. Even if established, a vested right to the structures in this situation would only be for a vested right to complete construction of the individual and independent permitted units of development at issue that was underway at the time Proposition 20 became effective. As noted above in response to concerns about the project description, these units have been substantially changed, for which there is no vested right. Further, there can be no reliance on an alleged existence of vested right, when no vested rights claim has been submitted to the Commission and the Commission has not acted on such a claim, to preclude the owner or any shareholder in the park from obtaining a coastal development permit for the replacement of an existing mobile home with a new mobile home. (See, *LT-WR v. Coastal Commission* (2007) 152 Cal.App.4th 770, 785.) Moreover, with regards to the definition of development, "Development" is defined by Section 30106 of the Coastal Act, which states, in relevant part:

"Development" means, on land, in or under water, the placement or erection of any solid material or structure; ...; construction,

reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility...

The reconstruction noted above constitutes development under the Coastal Act because it is the placement of solid material on land which will result in a structure secured by a foundation (not on wheels), therefore, requires coastal development permits.

Height of Mobile Homes

CSI objects to staff's characterization of the "minimal" height for a two-story unit in the Park. In addition, the term "maximum permitted height" used in the staff report has little meaning as there is no height limit applicable to the Park. CSI also disputes that there is any prevailing height in the Park without reference to the finished mobile home pad height.

In looking at project alternatives including a minimum height wherein two-story structures would still be attainable but would help protect and preserve public coastal views, staff corresponded with the architect of the 13 proposed units, Mr. William Peters, as indicated in the staff report on Page 24, and Mr. Peters assessed that the minimal height would be approximately 22 feet with a pitched roof and 21 feet with a flat roof for a two-story unit in the park.

Concerning the term "maximum permitted height", CSI is correct in that the term is not referring to a city or HCD established height limit applicable to the entirety of the park but is referring to previous Commission permit actions regarding height limits.

With regards to the prevailing height in the Park, staff does not reference the finished mobile home pad height because staff typically measures height from centerline of the private road for development within the park; this is indicated in the staff report on Page 4, where staff specifies that the height should be "measured from the frontage road, Senda de la Playa".

Economic Life of Mobile Home Development

CSI objects to any characterization that a mobile home park (as contrasted with an individual mobile home) has a shorter lifespan than other development, and that mobile homes may just be moved in the event of sea level rise.

In response to these objections, each of the 13 applicants provided a Coastal Hazard and Wave Runup Study for the purpose of providing documentation to support that the proposed development is not at risk of any coastal hazards and is consistent with Section 30253 of the Coastal Act. When referencing the lifespan and the mobility of the proposed development in the staff report on Page 44, staff makes it clear that it is directly citing these studies which state that the proposed structures are typically constructed of lighter material with a shorter design life than a regular standard construction single

family residence, and that the mobile homes are “mobile” and can be moved if jeopardized by coastal hazards.

San Clemente’s Certified Land Use Plan

In the letters, it is asserted that the Local Coastal Program Land Use Plan (LUP) has not yet been certified. The Commission, however, certified the Land Use Plan for the City of San Clemente on May 11, 1988, and revised in 1995. The city is in the process of comprehensively updating the LUP; this submittal is pending and will be brought to the Commission at a future date. In the interim, the 1988 version remains as applicable guidance. For more information on the status of the LUP, see page 55, Section IV.G. (Local Coastal Program) of the staff report.

Coastal Development Permits Subsequent to 1998

It is indicated in the letter that, subsequent to the 1998, the Commission did not require permits or waivers for new mobile homes in any mobile home park. The Commission, however, has been consistently processing coastal development permits and/or waivers for mobile home parks, such as, but not limited to, in Seal Beach (e.g. CDP Nos. 5-05-421, 5-07-226-W, 5-07-282-W, 5-16-0005-W, among others), Newport Beach (e.g. CDP Nos. 5-11-059-W, 5-13-0346-W, among others), Laguna Beach (e.g. CDP Nos. 5-13-0472-W, 5-14-1757-W, among others), etc.

3. ADDITIONAL CHANGES TO STAFF REPORT

Commission staff recommends clarifications to the staff report dated June 23, 2016 in the following sections: Summary of Staff Recommendation and Section IV.B (Visual Analysis). Language to be added to the findings and conditions is shown in underlined text, and language to be deleted is identified by ~~strike-out~~.

Due to an inadvertent typographical error, the following changes are being made to:

- A. The last sentence of the first paragraph on Page 4 in the Summary of Staff Recommendation; and the last sentence of third paragraph on Page 41 in the Conclusion Subsection of Section IV.B (Visual Analysis):

There are additional units within the public view corridor, and doubling in height of all these units would cumulatively eliminate the whitewater and other significant public views of the shoreline from multiple public vantage points within ~~this the~~ scenic view corridor of ~~ECR nearby public areas (e.g. public trails, recreational areas, ECR approaching Avenida Pico intersection).~~

- B. The last sentence of the third paragraph on Page 28 in Section IV.B (Visual Analysis); and the last sentence of the second paragraph on Page 41 in the Conclusion Subsection of Section IV.B (Visual Analysis)

At the existing one-story height, the mobile home units are more subordinate to the natural setting, which preserves view of the shoreline and scenic coastal areas

from many public vantage points throughout the scenic corridor of PCH the public trails.

4. CORRESPONDENCE RECEIVED FROM APPLICANTS AND GENERAL PUBLIC

- a. Six (6) form letters were received from applicants and twenty-four (24) from the general public in opposition to Special Condition 1 applicable to items Th27b through Th27m and in dispute of the Coastal Commission's jurisdiction over mobile home design. Representative letter attached; see **Exhibit F**.
- b. Letter from Barrett Hines, a dealer of manufactured homes in Ventura, CA, dated July 9, 2016 in opposition to Special Condition 1 applicable to items Th27b through Th27m and in dispute of the Coastal Commission's jurisdiction over mobile home design. Letter attached; see **Exhibit G**.
- c. Two (2) letters from Vonne M. and Thomas F. Barnes, local residents, in support of staff's recommendation for the proposed projects (items Th27a through Th27m) but request that the applicants offer mitigation. They state that because Staff's recommended height of 16 feet for the proposed development will continue to restrict public ocean views, mitigation should be offered in the form of a vertical public access easement adjacent to the Capistrano Shores office building. They also reference development and improvements to the Park proposed under a separate coastal development permit application (e.g. the construction of a perimeter wall) that is not subject to the applications currently before the Commission. Letters attached; see **Exhibit H**.
- d. Letter from Steven Meyer, a mobile home owner in Topanga Canyon, CA, dated July 11, 2016 in opposition to Special Condition 1 applicable to items Th27b through Th27m and in dispute of the Coastal Commission's jurisdiction over mobile home design. Letter attached; see **Exhibit I**.

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

NEW
Member Initials

Member Initials

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

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

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

ARTICLE 37. OWNERSHIP INFORMATION

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

ARTICLE 38. NONDISCRIMINATION

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

ARTICLE 39. ACKNOWLEDGMENT

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

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

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

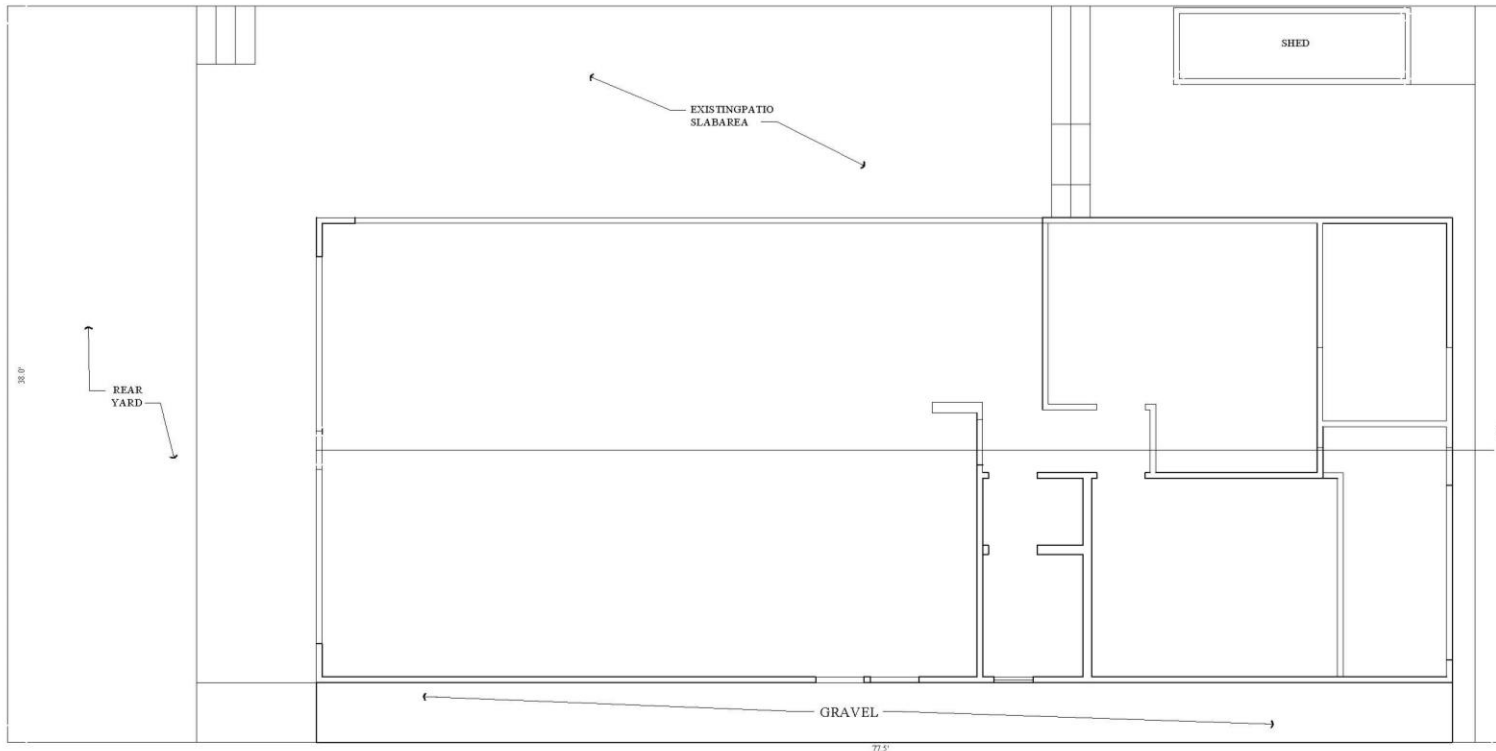
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**CHRISTIAN
RESIDENCE**

1880 N. El Camino Real
Unit 31 Capistrano Shores
San Clemente,
California



EXISTING DEVELOPMENT + DEMOLITION PLAN

NOTE: ALL WALLS TO BE DEMO'D OR REPLACED (100)

WALLS OF EXISTING MOBILE HOME
TO BE REPLACED (50)

WALLS TO BE DEMOLISHED (50)

EXISTING LANDSCAPE AREA
W/ IRRIGATION ON TIMERS
TO REMAIN

Revisions:	
No.	Date/Revision
△	
△	
△	
△	
△	

Date: 2/10/15

Job No.:

Association Submittal:

Bldg. Dept. Submittal:

Bid Issue:

Construction Issue:

Sheet Title:
**EXIST. DEVELOPMENT
+ DEMO PLAN**

Sheet No.:

A-2



160 CHESTERFIELD DRIVE
SUITE 201
ENCINITAS, CALIFORNIA 92007

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July 7, 2016

Steve Kinsey, Chairman and
Honorable Coastal Commissioners
California Coastal Commission
45 Freemont Street, No. 2000
San Francisco, CA 94105

Th27(a) – Th27(m)

This letter has been provided
to Coastal Staff.

Re: HCD-Approved Mobilehomes at Capistrano Shores Mobilehome Park
Application Nos.: 5-10-180, 5-11-033, 5-12-126, 5-12-128, 5-12-294, 5-12-295,
5-12-296, 5-12-297, 5-13-038, 5-15-0978, 5-15-0982

Dear Chairman Kinsey and Honorable Coastal Commissioners:

I represent the 13 families who legally renovated their mobilehomes at the Capistrano Shores Mobilehome Park (Park) with permits from the California Department of Housing and Community Development (HCD). We ask that you approve my clients’ applications without Special Condition No. 1 which would needlessly require my clients to demolish their mobilehomes and install new ones at a lower height with little or no corresponding public benefit. This proposed height reduction requirement is inconsistent with settled Commission precedent, and it would cost my clients more than \$18,000,000.

The Park was approved by the City of San Clemente in 1959 and has been in continuous use and fully occupied with 90 mobilehomes and a permanent 2-story manager’s residence since that time. The Park is located between the Pacific Ocean and a busy (and noisy) rail and auto transportation corridor (Amtrak, Metrolink, and Coast Highway), and is adjacent to a Metrolink rail station, a small commercial center, and a parking lot. East of the Park, across the railroad tracks and Coast Highway, lies a massive new development project known as Marblehead, now under construction.

The Marblehead development sits on average about 150 feet above the Park. It encompasses a landmass of approximately 12,000,000 square feet that stretches from Coast Highway to Interstate 5. It is now “improved” by a huge outlet mall, with hundreds of 2-story tract homes and a community center currently under construction, along with an extensive, just-completed trail system. Many of the Commission-approved private structures within Marblehead offer dramatic coastal views while themselves completely eliminating public coastal views from the public streets and the public trails within Marblehead. That said, the trail system offers dramatic ocean and horizon views from many vantage points, and my clients’ mobilehomes do not materially interfere with these views.

Due to the elevation difference and natural topography, the Park and its mobilehomes are not visible from most segments of the Marblehead trail system. From the westernmost trails only, the Park, Coast Highway, and the railroad tracks are visible. These vantage points nevertheless offer tremendous

whitewater, bluewater, horizon and sunset ocean views. My clients' HCD-approved, 2-story mobilehomes have little to no impact on the quality and breadth of these panoramic views.

The applications now before you, made under a reservation of rights, represent my clients' good faith attempt to resolve a dispute with Coastal staff over the underlying need for Commission approval in the first place. My clients truly believed that they were legally authorized to install their mobilehomes when they received their HCD permits. Unlike many local approvals that expressly require a separate Coastal Commission approval prior to building permits and construction, the HCD issued permits contained no such requirement.

After they received a Commission enforcement letter in February 2014, they agreed to apply for a CDP for the mobilehomes, but under a reservation of rights. To process these mobilehome CDP applications, Coastal staff required my clients to pay **5 times** the normal application fee for a single-family residence (about \$4,500). In total, my clients collectively paid the Commission more than **\$285,000** to process these 13 nearly identical applications. These payments were made in protest under a reservation of rights.

As foretold in the 2014 enforcement letter, written before the mobilehome applications were made, Coastal staff continues to believe that 12 of the 13 mobilehomes significantly impair coastal views from the new Marblehead trails. Per staff, these 12 mobilehomes must be reduced in height in order to comply with the Coastal Act. We respectfully disagree.

The primary issues here are (a) whether the Coastal Commission has jurisdiction over HCD-approved mobilehomes within the Park and (b) whether my clients' mobilehomes must be reduced in height in order to comply with the Coastal Act. We believe that both questions are firmly answered in the negative.

A. HCD Has Exclusive Jurisdiction Over Mobilehomes

Under the Mobilehome Parks Act (MPA) and Manufactured Housing Act (MHA), the Department of Housing and Community Development (HCD), a state agency created in 1965, has exclusive and centralized jurisdiction over all mobilehomes in California. Mobilehomes approved by HCD may be installed in any mobilehome park without the approval of other government agencies. HCD's centralized regulatory power serves important public objectives that should be given effect. These objectives expressly include protecting the ability of mobilehome owners to freely move their mobilehomes between any California mobilehome park no matter the location, and to protect the investment that owners make in their mobilehomes.

“The MPA's purpose of protecting the health and welfare of the residents of mobilehome parks, as well as the investment value of mobilehomes, can only be achieved through the centralized regulatory power of the HCD. Without such centralized regulation, mobilehome owners would be subject to the specific and particularized whims of [other agencies], and would in effect be hampered in his or her ability to move the mobilehome within the state.” County of Santa Cruz v. Waterhouse (2005) 127 Cal.App.4th 1483, 1489.

Consistent with the MPA, the Coastal Act specifically prohibits the Commission from setting standards or adopting regulations that would duplicate or supersede the regulatory controls of other state agencies, including HCD. This preserves the ability of California's mobilehome owners to use and occupy their mobilehomes in any mobilehome park without the need to make expensive alterations to accommodate the requirements of other government agencies. According to the California Attorney General, "it would be an unreasonable burden upon owners or users of mobilehomes if extensive changes would have to be made to a mobilehome when it was taken to another city or county." 41 Ops.Cal.Atty.Gen. 28, 31 (1963).

Respectfully, I direct your attention to Coastal Act Sections 30400 and 30401, which provide:

Section 30400: It is the intent of the Legislature to minimize duplication and conflicts among existing state agencies carrying out their regulatory duties and responsibilities.

Section 30401: Except as otherwise specifically provided in [the Coastal Act], enactment of [the Coastal Act] does not increase, decrease, duplicate or supersede the authority of any existing state agency. * * * [T]he commission shall not set standards or adopt regulations that duplicate regulatory controls established by any existing state agency pursuant to specific statutory requirements or authorization.

Thus, while the Commission may have jurisdiction over the siting and design of mobilehome *parks* in the Coastal Zone, it lacks jurisdiction over the design or height of HCD-approved mobilehomes within such parks. Such design considerations are exclusively within HCD's jurisdiction; additional requirements imposed by the Coastal Commission would significantly disrupt the integrated statutory scheme that allows mobilehome owners and mobilehome manufacturers to comply with 1 rule set, which reduces costs and increases mobility options.

Special Condition No. 1 is problematic because it would force my clients to make impossible design changes to their HCD-approved mobilehomes. While we would urge the Commission to agree that HCD has exclusive jurisdiction over mobilehomes, the Commission's approval of the CDP applications without Special Condition No. 1 is an acceptable outcome.¹

B. The Mobilehomes Do Not Materially Impair Views – Any View Impairment is Inconsequential

The jurisdiction issue aside, the fact remains that my clients' mobilehomes do not materially impair views from the new Marblehead trails. First, the Park and its mobilehomes are not even visible from the majority of the trails. The Marblehead trail system is extensive and most segments offer dramatic ocean and horizon views with no view to the Park and transportation corridor below. The Park and its mobilehomes are visible only from the westernmost trails when standing near the edge of trail system.

¹ For the administrative record, we also object to Special Conditions 3, 4 and 11. Special condition 3 should not be imposed for the same reasons stated on the record by Sherman Stacey, Sue Loftin, Eric Wills, and others during the Commission's recent consideration and approval of Application No. 5-14-1582, where the same condition was imposed and is now being litigated in Orange County Superior Court. Special Condition 4 presupposes that HCD does not have exclusive jurisdiction. Special Condition No. 11 applies only to the mobilehome installed at Space #90, and seeks yet another \$7,500 in application fees from its owner, Mike Barth.

Where the Park is visible, so are busy Coast Highway and the railroad tracks, and these are the least serene trail segments due to transportation related noise impacts and train exhaust fumes.

Nevertheless, an observer on the westernmost trail segments enjoys panoramic ocean views that include 180 degree whitewater, bluewater, horizon and sunset views even with the Park and its 90 mobilehomes in place below (100 feet vertical, 300 feet horizontal) the trails. Additionally, Cotton's Point and San Clemente Pier are visible to the south, Dana Point Harbor and Headlands are visible to the north, and, on clear days, Catalina and San Clemente Islands are visible to the west.

Given the horizontal and vertical distance between the Marblehead trails and the mobilehomes, an 8- to 9-foot height reduction on 12 mobilehomes, as proposed by Special Condition No. 1, would reveal maybe 1% to 2% additional view of the Pacific Ocean from a minority of trail segments, and no additional view from a majority of trail segments. The second stories on these 12 mobilehomes do not materially impair any coastal views. Whether the mobilehomes are 25 feet, 20 feet, or 16 feet, an observer on the westernmost trails at Marblehead will enjoy the same wonderful ocean view. And, any observer on the majority of the Marblehead trail segments will not even see the Park or any of its mobilehomes whatever their height may be.

At the hearing, we will present numerous photographs of the Marblehead trail system and other exhibits that demonstrate that any view impairment is inconsequential.

C. Consistent Commission Precedent Allows View Impairment Along the Oceanfront

The Coastal Act does not address structure height and the Commission has not promulgated any regulations addressing height limits along the oceanfront or otherwise. The only statutory guidance is found in the Coastal Act at Section 30251, which provides that new development shall be "sited and designed to protect views to and along the ocean...." This language is unclear, however, as "protect views" has little quantifiable meaning and it has not been interpreted by case law. However, on many occasions the Commission has approved 2- and 3-story oceanfront homes that impair public coastal views. Thus, Commission precedent tells us that views "to and along the ocean" are sufficiently "protected," within the meaning of the Coastal Act, even when a structure impairs those views.

One Commission precedent that comes to mind is the famous Nollan case at Faria Beach. In the case of the Nollan family, the Commission approved their 2-story, oceanfront home (albeit with an easement exaction that was determined to be unconstitutional) even though it "completely blocked" coastal views from Coast Highway. In the 1980s, the Commission approved 3-story structures on the Strand in Manhattan Beach despite significant coastal view blockage from the adjacent Bruce's Park. Throughout the 1970s and 1980s, the Commission approved 2- and 3-story oceanfront homes along Beach Road in Dana Point, less than 1 mile from the Park. Some of these Commission-approved homes are directly in front of Pines Park. In 2007 and 2013, the Commission approved two 35-foot oceanfront structures directly in front of Buccaneer Park in Oceanside despite finding that "public ocean views will be interrupted, but not eliminated." These are but a few examples of homes approved by the Commission despite some, even significant, view impairment. Other examples will be presented at the hearing in this matter.

Despite this precedent evidencing the Commission's own interpretation of Coastal Act §30251, the Staff Report recommends holding my clients to a different standard that is simultaneously more exacting and seemingly random. The view impairment caused by the upper 8 or 9 feet of my clients' mobilehomes is inconsequential. Yet, Staff believes that a reduction to 16 feet is required in order for the mobilehomes to be Coastal Act compliant.

Not only does this recommendation ignore Commission precedent, it does not appear to be based on any specific analysis of alleged view impairment. Instead, it is a random maximum height to be applied on a blanket basis to most, but not all, mobilehomes in the Park no matter their location relative to the Marblehead trails.

A prior Commission approval at the Park itself evidences the random nature of this recommendation. In 2010, the Commission approved the mobilehome installed at Space #81 at 18.5 feet. In the current report, Staff agrees that the mobilehome at Space #90 is Coastal Act complaint at almost 20 feet. At the same time, however, Coastal staff believes that the mobilehomes at Spaces #69 and #75 must be reduced in height to 16 feet even though all 4 mobilehomes, 69, 75, 81, and 90, are within throwing distance from each other.

The fact of the matter is this: if the 12 mobilehomes subject to Special Condition No. 1 were reduced in height by 8 or 9 feet, there would be no meaningful improvement in the views from the Marblehead trails. As will be demonstrated at the hearing, this small amount of height reduction would reveal very little additional view of the Pacific Ocean. Importantly, the views to the ocean from the Marblehead trails are excellent no matter the height of the mobilehomes. With or without my clients' mobilehomes coastal views from Marblehead are essentially unfettered.

D. Height Reduction Not Feasible

As will be further discussed at the hearing, height reduction is not feasible because it is physically impossible to reduce the height of these mobilehomes.² What Special Condition No. 1 really means is to demolish these mobilehomes and build new ones at the proposed lower height. Collectively, the total cost of compliance would exceed \$18,000,000. Proposed Special Condition No. 1 is especially unjust because Coastal staff knew the 2-story mobile homes were under way, but did nothing to stop ongoing work, electing instead to simply demand their removal after completion.

E. Cumulative Impacts?

While it's possible that other Park residents will also someday renovate their mobilehomes to 2 stories, this possibility does not mean the Commission should deny my clients' applications. The Commission should assess these applications given today's conditions as the baseline; not conditions that may or may not change in the future. Moreover, as stated above, the height of mobilehomes at the Park has little to no impact on the quality and breadth of ocean views from the Marblehead trails. Even if all 90 mobilehomes

² "Feasible means capable of being accomplished in a successful manner within a reasonable period of time, taking into account **economic**, environmental, social, and **technological** factors." Coastal Act §30108.

at the Park were 2-stories high, the coastal views from Marblehead would remain breathtaking and sufficiently “protected” within the meaning of Coastal Act §30251, as interpreted by the Commission over the years.

Also, although neither my clients nor I speak for the Park, which is owned by Capistrano Shores, Inc., the Park’s management has expressed a strong willingness, which continues, to engage in discussions with the Commission to arrive at a comprehensive plan that would address a height limit for any future mobilehome renovations, seawall maintenance, public lateral access and other relevant issues. The Park’s president, Mark Howlett, will address these points at the hearing on this matter.

Mr. Howlett and I recently met with Coastal staff to discuss the idea of such a comprehensive plan between the Park and the Commission. However, more substantive discussions along these lines were not possible due to time constraints imposed by the Permit Streamlining Act. We offered to withdraw and resubmit the current applications so we could restart the statutory clock, but Coastal staff stated that doing so would require my clients to pay another round of **5x** application fees (totaling more \$285,000), and they refused to recommend that these fees be waived. Nevertheless, we believe the Park’s management would like to re-engage with the Commission to discuss a comprehensive plan.

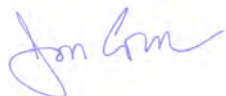
F. Resolution

We request that the Commission acknowledge it lacks jurisdiction with respect to the installation of mobilehomes within legally established mobilehome parks. While the Commission has jurisdiction over the siting and design of mobilehome parks in the Coastal Zone, the installation of mobilehomes is exclusively within the jurisdiction of HCD.

Alternatively, we request the Commission approve my clients’ CDP applications without Special Condition No. 1, and that it also agree to reduce the application fee from a **5x** to a standard fee. In lieu of refunding the excess application fees (approximately \$230,000), we are prepared to discuss depositing the excess fees to an account owned by the City of San Clemente to be used for coastal view enhancement projects either now or in the future. This would be a compromise to avoid continued conflict over the issues raised in this letter.

Respectfully submitted,

AXELSON & CORN, P.C.



Jon Corn

cc: Marlene Alvarado, Coastal Analyst
Mark Howlett, President, Capistrano Shores, Inc.
Sue Loftin, Esq.
Sherman Stacey, Esq.
Sal Poidomani, HCD



VIA U.S. MAIL AND ELECTRONIC MAIL

July 6, 2016

California Coastal Commission
200 Oceangate, 10th Floor
Long Beach, CA 90802

RE: **Hearing Date:** July 14, 2016
Item #: 27a through 27m
Comments of Capistrano Shores, Inc., to Combined Staff Report: Application Numbers 5-10-180, 5-11-033, 5-12-126, 5-12-127, 5-12-128, 5-12-294, 5-12-295, 5-12-296, 5-12-297, 5-13-037, 5-13-038, 5-15-0978, 5-15-0982 (“Staff Report”).
Requested Action: Approve CDP for Each Applicant, as Requested by Applicant With Conditions 1, 3, 8, and 9 Deleted from Approval.

Dear Honorable Commissioners:

Capistrano Shores, Inc., (“CSI”) the owner of the Capistrano Shores Mobilehome Park (“Park”) submits this comment letter without waiver of objection, and without joining the applications referenced above.

Project Description

The “Project Description” is incorrect.¹ Each of the 13 mobilehomes are renovations of the existing mobilehomes located on the respective 13 spaces. The combined 13 applications do not contemplate the removal of a mobilehome and a subsequent replacement with a new mobilehome on the same spaces. Although each rehabilitated mobilehome complies with the building codes applicable to manufactured homes as required by statute and regulation, the rehabilitated mobilehomes are not new *single-family factory-constructed housing*² constituting a “new manufactured home replacement structure.” Due to the improper Project Description, the Staff Report contains misleading examples, analogies and information related to the thirteen (13)

¹ Staff Report, Pg.1.

² See, California Health & Safety Code §§18000, 18000.5 (added in 1967, renumbered in 1980); California Public Resources Code §30333.2.

THE LOFTIN FIRM, P.C.

California Coastal Commission

July 6, 2016

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applications before you.³The Park and its improvements are not part of these 13 combined applications.

Vested Rights Under Conditional Use Permit

First, CSI objects to the characterization that the improvement or replacement of mobile homes is “significant” or otherwise unforeseeable. To the contrary, repair, rehabilitation and/or replacement of mobilehomes is a core function of a mobilehome park. Here, that function and use was vested in September 21, 1959, under a conditional use permit pursuant to the Mobilehome Park Act both of which predate the Coastal Commission and the California Coastal Act⁴. (Mobilehome Park Act⁵) See, **Exhibit “A” Conditional Use Permit**. CSI obtained the vested right for the operation of the Park, including the replacement of homes therein, at inception.⁶ The seawall surrounding the Park is likewise vested. The Coastal Commission’s consideration of CSI’s operation of the Park should not arise unless an application for improvement or repair of the seawall and revetment, is brought before the Commission.

Also, Staff mischaracterizes prior communications from The Loftin Firm, in refusing to recognize the vested right for the Park to exist.⁷ Staff also cites the broad definition of development found in the Coastal Act, with emphasis on placement of a structure, and without regard for the fact that mobilehomes are essentially vehicles. Like motor and recreational vehicles, mobilehomes have a similar national and intrastate regulatory regime, focused on their portability.

Special Condition No. 3, Waiver

CSI objects to Special Condition No. 3. The claim that applicants should be required to waive any rights to shoreline protection is at best misplaced, and at worst, a threat to the health and safety of an operating mobilehome park, the infrastructure, and the neighbors of the applicants.⁸

Staff proposes an occupancy agreement amendment to effectuate the proposed waiver of rights to shoreline protection.⁹ Under the ownership structure of the Park with individual resident households separately owning the mobilehomes, the applicants are not entitled to pledge or encumber their vote, nor do they have authority to derail CSI’s mandate to protect the property

³ See, *Staff Report*, Pg. 2 mischaracterizing a move out of an old mobilehome and a move in of a new manufactured with the 13 renovated mobilehomes. See, *Staff Report*, Pg. 4 mischaracterizing the rehabilitated mobilehomes as NEW factory built manufactured homes and justifying a conclusion that the 13 renovated mobilehomes could be reduced in size because the renovated mobilehomes were factory built.

⁴ *Staff Report*, Pg. 2.

⁵ See, *Historical Notes under California Health & Safety Code §§18200*.

⁶ See, *California Health & Safety Code § 18300.1*, which states in part that [T]he decision of the governing body shall be final when approving a conditional use permit.

⁷ *Staff Report*, Pg. 21. “The applicants’ attorney, in his March 26, 2015 letter(s), and Capistrano Shores Inc. (c/o Loftin Group), in its August 19, 2011 and October 13, 2011 letters, argue that the Commission lacks jurisdiction because the State Department of Housing and Community Development has exclusive jurisdiction over the replacement and remodeling of mobile homes.”

⁸ *Staff Report*, Pg. 3.

⁹ *Staff Report*, Pg. 4.

THE LOFTIN FIRM, P.C.

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and its operating permits, and vote to close the Park space by space. Further, any occupancy agreement amendment is not effective as to CSI. CSI will not agree to limit its own rights or cede its obligations to preserve the whole of the park.

Remodel

The staff report claims that a change in over 50% constitutes replacement and new development. However, Section 13252 does not deal with personal property, nor does it consider vehicles or other superseding state law and federal law concerning the construction of mobilehomes. Rather, the Manufactured Housing Act, Cal. Health and Safety Code §§ 18000 et seq. and the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. §§ 5401 et seq. govern the construction of mobilehomes, to provide for the orderly movement of homes within intrastate and interstate commerce, and repair and modification. As mobilehomes pose unique safety concerns, they often undergo thorough reconstruction. The Commission's new proposed "replacement" standard conflicts with the standard and thresholds reflected in the comprehensive state and federal regime relating to mobilehomes. As such, the commission's proposal standard is unduly harsh, and unnecessarily interferes with the operation of lawful, vested mobilehome parks Recreational vehicle parks throughout the coastal zone.

Further, mobile and manufactured homes are specifically exempt from building codes and building standards applicable to other types of structures.¹⁰ Cal. Health and Safety Code §§ 30333.2 specifically prohibits the adoption of any building code exempted under Cal. Health and Safety Code §§ 18909, which exemptions include mobilehomes manufactured homes and mobilehome parks.¹¹ Due to the different construction of mobilehomes and under the Manufactured Housing Act which incorporates the Federal Building Standards for mobilehomes, repair or maintenance up to the removal of the building down to the axle and wheels constitutes rehabilitation and not replacement or new development. The mobilehome owner is using the same space and the same base building.

Prevailing Height

CSI disputes that there is any prevailing height in the Park, that 13-14 feet is a reasonable approximation of any majority of homes in the Park, or that Staff's discussion of the height limit is reasonably specific without reference to the finished mobilehome pad height.¹²

Natural Setting

While there is clearly a difference in opinion as to the view impacts from the Marblehead public trails, CSI is troubled that staff suggests there is a "natural setting" from "many public vantage points throughout this scenic corridor of PCH" in addition to the public trails, without identification of the "vantage points."¹³ Staff's assertion is conclusory, and lacks any basis, when

¹⁰ See, California Health & Safety Code §18909(g)(h) & California Public Resources Code §30333.2

¹¹ There are certain aspects of Title 24 (Building Regulations) incorporated into Title 25 (Mobilehome/mobilehome Park Building Regulations)

¹² Staff Report, Pg. 23.

¹³ Staff Report, Pg. 25.

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July 6, 2016

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an impartial observer notes that PCH (El Camino Real is a major highway) through this area is bordered by concrete retaining walls, fencing, and railroad infrastructure—hardly a place for a public vantage point or “natural setting.”

Since 1959 the Park existed with its vested rights in place as an operating mobilehome park, therefore, when the Marblehead public trails were approved by the Coastal Commission and the City of San Clemente, both had long term notice of the Park existence and its vested rights which included the right to rehabilitate the mobilehomes. Neither CSI nor any of the mobilehome owners in the Park received Public Notice that said trails were being considered by the Coastal Commission or by the City which would remove any prior vested right. There was no opportunity for the applicants before you or CSI to object to the location of the trails.¹⁴

Maximum Permitted Height

The staff report also contains a potentially confusing sentence: “In addition, the proposed height of approximately 19.8 feet exceeds the maximum permitted height of 19.5 feet for residential structures within the Park.”¹⁵ To clarify, there is no height limit applicable to the Park. Rather, staff has defined “maximum permitted height” to mean “previously permitted height” by the Coastal Commission. For decades, no coastal development permit was required to repair, rehabilitate or replace a mobilehome in the Park; therefore, the term “maximum permitted height” has little meaning when defined as previously permitted height.”¹⁶

Prevailing Pattern of Development

CSI objects to a characterization of a “prevailing pattern of development” within the Park. To the contrary, mobilehome park residents are entitled to install whatever mobilehome they like onto their space, pursuant to state and federal regulation concerning mobilehome design and safety. The Commission here is interfering with the very function of a mobilehome park, which like a parking lot, is intended to accommodate varying mobilehomes over time. As two story mobilehomes are a recognized component of a mobilehome park, such as in *County of Santa Cruz v. Waterhouse*, 127 Cal. App. 4th 1483 (2005), the Commission’s architectural critique here enters into the realm of design regulation within a mobilehome park, and the Mobilehome Parks Act, Cal. Health and

¹⁴ *Staff Report, Pg. 3, and last paragraph.* Further, it should be noted that Staff Report Exhibit 34 was likewise drafted after the 13 renovated mobilehomes were completed and prior to any approval of the visual points enumerated in Exhibit 14. As such, CSI objects to Staff Report Exhibit 34 being considered.

¹⁵ *Staff Report, Pg. 37.*

¹⁶ Until approximately 2008, no Coastal Development Permit was required to replace, repair, rehabilitate or maintain a mobilehome in the Park. See, *CCC file for tear out of old mobilehome and replacement of new mobilehome on Space 74, 2008, which was the first waiver of a CDP required by the City of San Clemente (“City”) prior to issuing a permit acting as the Local Enforcement Agency (“LEA”) for the California Department of Housing and Community Development, Codes and Enforcement.* (Note: Due to failure to properly and legally act as the LEA, HCD revoked the City’s status as the LEA, **Exhibit “B”** attached hereto and hereby incorporated.

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July 6, 2016

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Safety Code §§ 18200 et seq., See, e.g. Cal. Health and Safety Code § 18253.¹⁷ The Commission’s regulation of design and construction of mobilehomes is in direct conflict with the Coastal Act and the Manufactured Housing Act.¹⁸

Special Condition No. 1, Maximum/Standard Height

CSI objects to Special Condition No. 1 which restricts the height of each mobilehome (except Space 90) to 16 feet. CSI objects to staff’s characterizations of the “minimal” height for a Two-story unit, and/or that units 19 feet in height somehow lack benefit.¹⁹ These conclusory allegations both lack the benefit of evidence from experts at the California Department of Housing and Community Development and the US Department of Housing and Urban Development, as well as presume the sole benefit from a higher unit is a second story.

CSI objects to these conclusions, as Staff’s analysis exceeds both the scope of the application before it, and the capacity of the applicant to bind CSI (much less any affirmative obligation for CSI to join in the application or offer evidence). CSI further believes that any adoption of an arbitrary height limit would constitute an act in excess of the Commission’s jurisdiction in this regard.

Stringline Reference to Local Coastal Program.

Staff makes reference to the LUP, however the Local Coastal Program Land Use Plan has not yet been certified.²⁰

Economic Life of Mobilehome Development

CSI objects to any characterization that a mobilehome park (as contrasted with an individual mobilehome) has a shorter lifespan than other development.²¹ To the contrary—a mobilehome park is a permanent improvement and CSI’s conditional use permit has no expiration date. Operating a mobilehome park carries with it the right for members to replace, repair and rehabilitate their mobilehomes, which was vested upon the issuance of the original conditional use permit for the Park. Further, we object to any characterization that mobilehomes may just be moved, in the event of sea level rise. The Park is between the beach and the railroad and cannot be moved – there is no land available. The loss of the Park and its homes would render its residents homeless.

As to sea level rise estimates, CSI objects to the use of “upper limit” estimates, which are based on “semi empirical models”—which have been rejected out of hand by the international climate

¹⁷ The Legislature finds and declares that the specific requirements relating to construction, maintenance, occupancy, use, and design of parks are best developed by [HCD] in accordance with the criteria established by this part. Placing this responsibility with the department will allow for modifications of specific requirements in a rapid fashion and in a manner responsive to the needs of park residents and owners.

¹⁸ See, Footnote #7 and Coastal Act §§30400 and 30401.

¹⁹ Staff Report, Pg. 39.

²⁰ Staff Report, Pg. 40.

²¹ Staff Report, Pg. 40, 43.

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community and the IPCC report. According to the IPCC, “semi-empirical model projections of global mean sea level rise are higher than process-based model projections (up to about twice as large)” but “there is no consensus in the scientific community about their reliability and there is thus low confidence in their projections.”²²

Special Condition 8 and 9

Special Condition 8 states that “Each applicant shall submit information indicating approval from the record title property owner that authorizes the applicant to proceed with the approved development and permits the applicant to comply with the terms and conditions of their coastal development permit.”²³ Special Condition 9 requires amendment to the occupancy agreement to which CSI would be a party which states that “the Special Conditions of this permit are restrictions on the use and enjoyment of the manufactured home and related accessory structures located on the mobile home space.”

CSI objects to Special Condition 8 and 9. The Special Conditions have the practical effect of CSI joining the application, or consenting to the waiver of rights to maintain shoreline protection for a principal residence, or agreeing to a height limit or other arbitrary restriction. These conditions are not supported by the findings or evidence. These conditions result in the prohibition against or severe limitation of the right to replace homes pursuant to a vested conditional use permit pursuant to the Mobilehome Parks Act.

Conclusion

CSI comments on the above referenced applications, but does not join in the applications. CSI supports the approval of the above referenced applications with the deletion of the above noted conditions. CSI further requests the Commission instruct Staff to correct their analysis and record accordingly.

CSI remains concerned that the Commission is taking action against mobilehome parks which creates a conflict with a comprehensive regulatory regime reflected with both state and federal law. The Commission’s actions threaten to undermine the free movement of mobilehomes throughout the country, and the operation of mobilehome parks, intended to be a standardized, uniform recipient of mobilehomes and their owners.

²² IPCC, 2013: Climate Change 2013: The Physical Science Basis. Contribution of Working Group I to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change. (289, 1140). Even the National Research Council acknowledges: “[t]he projections of future sea-level rise have large uncertainties resulting from an incomplete understanding of the global climate system, the inability of global climate models to accurately represent all important components of the climate system at global or regional scales, a shortage of data at the temporal and spatial scales necessary to constrain the models, and the need to make assumptions about future conditions (e.g., greenhouse gas emissions, large volcanic eruptions) that drive the climate system. As the projection period lengthens, uncertainty in the projections grows.” Sea Level Rise for the Coasts of California, Oregon and Washington: Past Present and Future, 101 (2012).

²³ *Staff Report*, Pg. 44.

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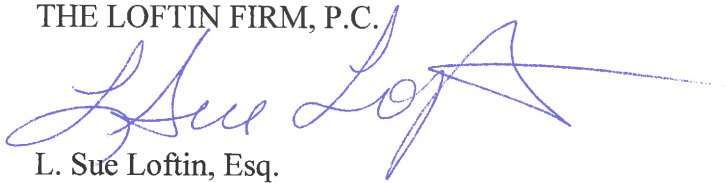
July 6, 2016

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CSI by this correspondence does not waive any legal objections it has or may have to jurisdiction under the Coastal Act which does or may conflict with the state and federal regulatory regime related to mobilehome parks and to mobile/manufactured homes.

Sincerely,

THE LOFTIN FIRM, P.C.



L. Sue Loftin, Esq.

cc: John Ainsworth, Acting Executive Director (via facsimile & overnight mail)
Marlene Alvarado, CCC Staff Person (via email & overnight mail)
Teresa Henry, South Coast District Staff Person (via email & overnight mail)
Richard Weinert, Deputy Director, HCD (via email)
Jon Corn, Esq. (via email)
Clients (via email)
Sherman Stacey (via email)

Exhibits:

“A” 1959 Conditional Use Permit Approval
“B” Revocation of City of San Clemente’s Status as LEA by HCD

**CORRESPONDENCE TO THE COASTAL COMMISSION
FROM CAPISTRANO SHORES, INC. ON JULY 6, 2016**

EXHIBIT "A"

- 1. Permit to Operate Capistrano Shores Mobilehome Park, ID # 30-0116-MP**
- 2. City of San Clemente approval of Conditional Use Permit on September 21, 1959**

ANNUAL
PERMIT TO OPERATE

STATE OF CALIFORNIA
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF CODES AND STANDARDS

May 25, 2016

Park ID No.
30-0116-MP

Inc or Unc	Mobilehome Lots With Drains	Recreational Vehicle Lots With Drains	Lots Without Drains	Total Lots
I	90	0	0	90

OWNER

CAPISTRANO SHORES INC
1880 N EL CAMINO REAL
SAN CLEMENTE, CA 92672

PARK NAME & ADDRESS

CAPISTRANO SHORES MHP
1880 N EL CAMINO REAL
SAN CLEMENTE, CA 92672

CONDITIONAL USES

Fire Hydrant System Status: Certified test results on file

THIS PERMIT EXPIRES November 30, 2016

THIS PERMIT IS ISSUED IN ACCORDANCE WITH THE PROVISIONS OF THE CALIFORNIA HEALTH AND SAFETY CODE AND IS SUBJECT TO SUSPENSION OR REVOCATION AS PROVIDED THEREIN. THIS PERMIT IS NOT TRANSFERABLE. THE DEPARTMENT SHALL BE NOTIFIED WITHIN 30 DAYS OF ANY CHANGE OF NAME, OWNERSHIP OR OPERATOR.

3737 Main Street, Suite 400
Riverside CA 92501-3337
(951) 782-4420 FAX (951) 320-6277
California Relay Service for the Hearing Impaired:
From TDD Phones: 1-800-735-2929 From Voice Phones: 1-800-735-2922

POST IN A CONSPICUOUS PLACE

HCD 503 (Rev 03/2000)

ACTION OF THE CITY COUNCIL OF THE
CITY OF SAN CLEMENTE, CALIFORNIA

Addressed to: ✓ SAN CLEMENTE PLANNING COMMISSION

Copy to: MR. ROGER C. HOLDEN

A regular meeting of the City Council of the City of San Clemente, California,
was held Sept. 16, 1959 at 8:00 P.M.

Present: Councilmen - BLAKELOCK, FESSENDEN, LOWER, MILLER & EYRE
Absent: Councilmen - NONE

Subject: Public Hearing to grant conditional permit (Holden request)

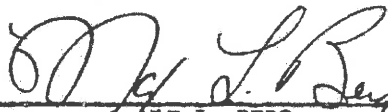
The Mayor announced that this was the time and place fixed by the City Council of the City of San Clemente to consider and determine the recommendation of the Planning Commission to grant Mr. Roger C. Holden a conditional permit to construct a Mobile Home Park on the North Beach area (formerly tentative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

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

State of California)
County of Orange) SS
City of San Clemente)

I, MAX L. BERG, City Clerk and ex-officio Clerk of the City Council of the City of San Clemente, California, do hereby certify the foregoing to be the official action as taken by the City Council at the above meeting.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this
21st day of September, 1959.



MAX L. BERG
City Clerk and ex-officio Clerk
of the City Council of the
City of San Clemente

DINA DE LA CIUDAD DE SAN CLEMENTE
ACION DE LA CIUDAD DE SAN CLEMENTE
ACTION OF THE CITY COUNCIL OF THE
CITY OF SAN CLEMENTE, CALIFORNIA

Important

Addressed to: SAN CLEMENTE PLANNING COMMISSION

August 20, 1959

Copy to: Mr. Roger C. Holden

A regular meeting of the City Council of the City of San Clemente, California, was held August 19, 1959 at 8:00 P.M.

Present: Councilmen - BLAKELOCK, FESSENDEN, LOWER, MILLER & STRE
Absent: Councilmen - NONE

Subject: Request of Mr. Roger C. Holden for a conditional permit to install a Mobile Home Park in the area of the North Beach.

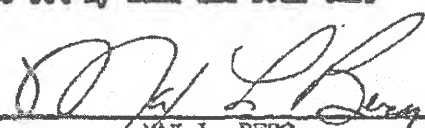
Letter was presented from the SAN CLEMENTE PLANNING COMMISSION recommending that the request of Mr. Roger C. Holden for a conditional permit to install a Mobile Home Park in the area of the North Beach (formerly tentative Tract No. 3192), be granted.

Following discussion, the City Clerk was directed to publish Notice calling for a Public Hearing on this matter to be held September 16, 1959.

State of California)
County of Orange) SS
City of San Clemente)

I, MAX L. BERG, City Clerk and ex-officio Clerk of the City Council of the City of San Clemente, California, do hereby certify the foregoing to be the official action as taken by the City Council at the above meeting.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this
20th day of August, 19 59.


MAX L. BERG
City Clerk and ex-officio Clerk
of the City Council of the
City of San Clemente

**CORRESPONDENCE TO THE COASTAL COMMISSION
FROM CAPISTRANO SHORES, INC. ON JULY 6, 2016**

EXHIBIT "B"

**(Documents Relating to City of San Clemente Failure to Comply with
Mobilehome Park Act)**

1. **August 5, 2015** **Revocation of MPA Local Enforcement Authority. Notice from Department of Housing and Community Development to Scott Smith, City Attorney for the City of San Clemente ("City Attorney").**
2. **August 4, 2015** **Letter from Lisa Campbell, Legal Counsel to the Department of Housing and Community Development ("HCD") to Scott Smith, City Attorney re Revocation for August 10, 2016.**
3. **June 5, 2015** **Notice of Corrective Action – City of San Clemente from HCD to Mike Jorgenson, Building and Scott Smith, City Attorney. [The attachments outlining the defects to be corrected are not included.]**
4. **March 26, 2009** **Memorandum Instructing the City of San Clemente that it's Non-conforming Use Ordinance as applied inside the Capistrano Shores Mobilehome Park is preempted. [There are hundreds of pages of materials relating to this 2009 Memorandum and subsequent thereto which ultimately led to the revocation of the City of San Clemente's MPA Local Enforcement Authority]**

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF LEGAL AFFAIRS**2020 W El Camino Avenue, Suite 525
Sacramento, CA 95833P.O. Box 952052
Sacramento, CA 94252-2052
(916) 263-7289
FAX (916) 263-7492

August 5, 2015

Scott C. Smith
City Attorney, City of San Clemente
Best Best and Kreiger
18101 Von Karman Ave.
Suite 1000
Irvine, CA 92612Re: City of San Clemente: Revocation of MPA Local Enforcement Authority

Dear Mr. Smith:

On August 4th, 2015, the City of San Clemente (the "City"), through the City Council, approved an Ordinance that effectively cancelled the City's designation and assumption of the Mobilehome Parks Act Local Enforcement Authority effective ninety (90) days from the date following receipt by the Department of Housing and Community Development.

However, the Department had agreed to extend the date of revocation until August 10, 2015, not ninety days from the date of the cancellation ordinance. Since the City has failed to meet the requirements of the California Code of Regulation, title 25, section 1005.5, to wit: failed to produce a written plan of action before August 10, 2015, identifying the corrective action to be taken for each deficiency noted in the Department's LEA monitoring report dated March 17, 2015 and the accompanying letter dated June 5, 2015, including the

- 1) Acknowledgement of the deficiencies;
- 2) Action to be taken to correct the deficiencies;
- 3) The personnel involved in the correction;
- 4) Timelines for completion of all corrections; and
- 5) On going oversight to prevent reoccurrences of noted deficiencies;

The Department hereby revokes the City's MPA LEA enforcement authority originally granted to the City in November 1961. The City must remit the requisite fees in accordance with California Code of Regulations, title 25, section 1006 in the amount of \$1,779.66.

This amount is derived from the calculations noted below:

There are 3 parks in the city:

30-0283-MP	SHORECLIFFS MOBILE CC	MH	192	0	192
30-0116-MP	CAPISTRANO SHORES MHP	MH	90	0	90
30-0053-MP	PALM BEACH PARK	MH	108	18	126
			390	18	408

The annual fees are \$140 each for the PTO	\$420
Per MH lot fee of \$7 * 390	2,730
MPM fee per MH lot \$4 * 390	1,560
RV lot fee of \$2 * 18	36
Total	\$4,746

Total Annual fees (excluding state fees that should have already been paid)

The City is mandated to return the amount equal to the remaining portion of the year. 1/12th is .08333; \$4,746 * .08333 is \$395.48 per month times the 4.5 months remaining in the year 2015 is \$1,779.66 due upon return of enforcement.

Thus, please be advised that on August 10, 2015, the Department's representative will meet at 1:00 p.m. at the City of San Clemente's Building Office at 910 Calle Negocio, Suite 100, San Clemente to retrieve the MPA Park records and the reimbursement fees.

If you have any further questions, please feel free to contact me at (916) 263-7490.

Very truly yours,



Lisa R. Campbell
 Attorney III
 Legal Affairs Division
 Department of Housing and Community Development

Cc: Richard Weinert, Deputy Director, Codes and Standards Division
 Shawn Huff, Assistant Deputy Director
 Deb Gore, Assistant Deputy Director
 Brad Harward, Chief Field Inspector
 Sal Poidomani, CSA III, SAO Manager

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

DIVISION OF LEGAL AFFAIRS

2020 W El Camino Avenue, Suite 525
Sacramento, CA 95833

P.O. Box 952052
Sacramento, CA 94252-2052
(916) 263-7289
FAX (916) 263-7492



August 4, 2015

Scott C. Smith
City Attorney, City of San Clemente
Best Best and Kreiger
18101 Von Karman Ave.
Suite 1000
Irvine, CA 92612

Re: City of San Clemente: Revocation of MPA Local Enforcement Authority

Dear Mr. Smith:

I am following up from our earlier discussions this week, and today's correspondence, regarding the City of San Clemente's (the "City") decision to cancel its Local Enforcement Authority (LEA) of the Mobilehome Parks Act (MPA) instead of providing a plan to cure the deficiencies noted in the Department's June 5, 2015 correspondence and LEA Monitoring report.

As I understand it, it is your recommendation that the City cancel the City's LEA enforcement authority to go into effect *"ninety (90) days following receipt by the Department"* and *not modify the Ordinance language as suggested by the Department to reflect the accurate condition that the City is cancelling due the Department's revocation action against the City.*

If this is the case, then I need to be very clear that regardless of the terms of the Ordinance tonight, to cancel and "effective in ninety (90) days", the Department will revoke the City's LEA status effective August 10, 2015. Unless the City provides a curative plan for the deficiencies in the City's LEA enforcement before August 10, 2015, the Department will take back the MPA enforcement authority as of August 10, 2015.

If you have any further questions, please feel free to contact me at (916) 263-7490.

Very truly yours,

A handwritten signature in cursive script that reads "Lisa R. Campbell".

Lisa R. Campbell

Attorney III

Legal Affairs Division

Department of Housing and Community Development

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF CODES AND STANDARDS

Southern Area Office
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From Voice Phones: 1-800-735-2922
www.hcd.ca.gov



COPY

June 5, 2015

Mr. Mike Jorgenson, P.E. C.B.O.
Building Official
City of San Clemente
910 Calle Negocio, Suite 100
San Clemente, CA 92673

Scott C. Smith, Esq.
Best Best & Krieger
City of San Clemente
18101 Von Karman Avenue, Suite 1000
Irvine, CA 92612

Re: NOTICE OF CORRECTIVE ACTION - CITY OF SAN CLEMENTE
Department of Housing and Community Development's Local Enforcement
Agency Compliance Monitoring/Summary of Findings/Corrective Action

Dear Mr. Jorgenson:

On March 17, 2015, on behalf of the Department of Housing and Community Development (the "Department"), I conducted a Mobilehome Parks Act (MPA)¹ and Special Occupancy Park's Act (SOPA)² Local Enforcement Agency (LEA)³ monitoring and evaluation of the City of San Clemente's (the "City") MPA/SOPA enforcement practices and procedures delegated to the City in 1961 pursuant to City Resolution 1247.

Monitoring Results

As a result of this monitoring evaluation and interviews with the City's staff as well as the review of City's LEA MPA permits, denial letters, in-concept review procedures, fee schedules, and Coastal Commission approval requirements as a condition precedent before the issuance of MPA permits, and the City's responses to the Department's questions as set forth in the April 30, 2015 correspondence from City Attorney Scott Smith,⁴ the Department finds that the City's enforcement of the MPA is rated as

¹ Health and Saf. Code, section 18200 et seq. and Cal. Code of Regs., tit.25, section 1000 et seq.

² Health and Saf. Code, section 18860 et seq. and Cal. Code of Regs., tit. 25 section 2000 et seq.

³ Health and Saf. Code, section 18300 subd. (c) and 18306

⁴ Exhibit "1" Letter from City Attorney, Scott Smith dated April 30, 2015

City of San Clemente
Notice of Correction
June 5, 2015

"unsatisfactory" as outlined in the attached Exhibit "2", titled "**Local Enforcement Agency Evaluation.**"⁵

In addition to the LEA evaluation, a second document-Exhibit 3⁶ titled and included herein "**Summary of LEA Monitor Findings**" sets forth the specific details of the deficiencies noted in the City's LEA MPA/SOPA enforcement practices and procedures. These noted deficiencies illustrate the City's failure to properly follow and enforce the MPA in the City's current enforcement practice and procedures. It is the Department's conclusion that these identified deficiencies are synonymous with non-enforcement of the MPA and demonstrates that the City fails to discharge its delegated responsibility within the mobilehome parks in the City's delegated jurisdiction in violation of Health and Safety Code section 18200 et seq. and 18306 specifically.

Corrective measures

In accordance with the provisions of *Health and Safety Code 18300 subdivision (d)*, the City must initiate corrective measures to remediate the noted deficiencies of its LEA MPA responsibilities as outlined in Exhibit 2 and 3. The City's written response and written plan of corrective measures are to be sent within thirty (30) days to Ronald Kingsford, CSA II, located at the Department's Headquarters at 2020 W. El Camino Ave, Suite 250, Sacramento, California 95833. If the City desires to return jurisdiction back to the Department during this thirty (30) day period, the Department would consider accepting the return as a corrective measure and withdraw this matter from further administrative action.

Conclusion

Therefore, this letter shall serve as a **NOTICE OF CORRECTION** to the City and be informed that the City has thirty (30) days from the date of this notice to take immediate corrective measures to cure, remediate and correct the noted deficiencies outlined in both the *LEA Evaluation* and the *Summary of LEA Monitor Findings*. Failure to initiate immediate correction as specified below shall result in the Department's revocation of the Department's

⁵ Exhibit "2" Department's Local Enforcement Agency Evaluation dated March 17, 2015

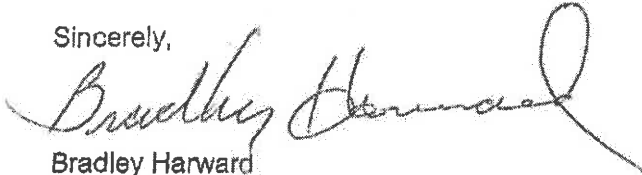
⁶ Exhibit "3" Department's Summary of LEA Monitor Findings dated March 17, 2015

City of San Clemente
Notice of Correction
June 5, 2015

delegated MPA LEA enforcement authority to the City that was delegated in 1961 and the MPA jurisdiction shall revert back to the Department on July 10, 2015.

If you have any further questions, please contact Ron Kingsford at (916) 263-4681.

Sincerely,



Bradley Harward
Codes and Standards Administrator III
Codes and Standards – Field Operations
Department of Housing and Community Development

Enclosures

cc: Richard Weinert, Deputy Director Codes and Standards - Administration
Ron Kingsford, CSA II
Gabriel Contreras, CSA I
Lisa R. Campbell, Attorney III

Attachment – 4

Attachment “4”



EXHIBIT 2
Department of Housing and Community Development
Codes and Standards Division
Summary of Findings for Local Enforcement Agency Monitoring
City of San Clemente - LEA
Date of Evaluation March 17, 2015

I. Introduction for Summary Finding

This is the Department's *Summary Findings* from the Local Enforcement Agency's Evaluation (LEA) and Monitoring conducted by the Department, through Inspector Gabriel Contreras, CSA I, on March 17, 2015, of the City of San Clemente's (City) Mobilehome Parks Act (MPA) LEA enforcement practices and procedures, which is incorporated by reference herein.

The LEA evaluation has resulted in an "**Unsatisfactory Rating.**"¹ The Summary of Findings purpose is to document and specify the Department's basis and support of the "Unsatisfactory Rating." Noted below are references to MPA LEA violations, specific examples that exemplify the City's failure to discharge its delegated LEA authority to enforce the MPA and the applicable MPA statute(s) or regulation(s) the City failed to enforce in accordance with its obligations when the City assumed LEA responsibility in 1961.^{2 3 4}

II. Sources of Information Relied Upon in Support of the Summary Findings Resulting in the Unsatisfactory Rating.

These summary findings are based on the following:

- Interviews with Mike Jorgensen, the City's building official, and the City's LEA enforcement staff;
- A review of, and confirmation that, the City has failed to establish and enforce a MPA mandated Mobilehome Park Maintenance (MPM) Inspection program even after the City represented to the Department following the City's 2013 LEA evaluation, that the City would commence an MPM program in January 2014;⁵

¹ See Exhibit 1: March 17, 2015, Department LEA Monitoring/Evaluation of the City of San Clemente.

² See Exhibit 2: September 13, 1961, Letter to Department from City requesting authority to assume MPA LEA jurisdiction.

³ See Exhibit 3: November 1, 1961, City Council Resolution No. 1247, to assume responsibility for the MPA LEA enforcement.

⁴ See Exhibit 4: November 13, 1961, Letter from Department to City accepting request for assumption of MPA LEA delegated authority.

⁵ See Exhibit 5: October 17, 2013-page 4, City's Letter Notifying Department of Corrective Measures to commence in 2014 including MPM inspections.



- A review of the City's "in-concept", "pre-approval" and MPA LEA review procedures, forms, and additional fees assessed by the City before the City as an LEA will issue a MPA compliant construction or installation permit on an approved existing lot inside Capistrano Shores Mobilehome Park (Capo' Shores);
- A review of the City's "in-concept and pre-approval" review practice and procedure where City requires an applicant for a construction or installation permit to obtain Coastal Commission approval before the City will issue MPA permits;
- A review of the City's responses to the Department's monitoring questions about the City's MPA LEA practices and procedures set forth in the City's Attorney, Scott Smith's correspondence dated April 30, 2015;⁶
- A review of the City's MPA LEA enforcement procedures, practice and the City's MPA LEA records, complaints for failure to enforce MPA, denial letters, denial of construction and installation permit applications, denials of utility replacement lines and the City's application of its local zoning and non-conforming use ordinance.

III. Summary of Findings Resulting in and Unsatisfactory Rating:

The City fails to enforce the Mobilehome Parks Act (MPA) and discharge its delegated duties and enforcement responsibilities as the City:

- (1) fails to implement the Mobilehome Parks Inspection Program (MPM);
- (2) acts in excess of its delegated MPA LEA authority when the City enforces the City's local zoning and non-conforming use ordinances instead of complying with the preemptive MPA requirements;
- (3) refuses to issue MPA construction and installation permits without prior approval from the California Coastal Commission (CCC);
- (4) imposes local building code requirements and pre-approval process for MPA construction and installation permits, including but not limited to additional "in-concept" plan check, additional plan check fees, rejection of MPA forms as applied to

⁶ See Exhibit 6: April 30, 2015, Letter from the City's City Attorney Scott Smith responding to Department Questions related to 2015 LEA monitoring.



manufactured home installations and construction permit applications.

IV. Basis For Summary of Findings of Unsatisfactory Rating

1. The City's Fails to Implement the MPM Inspection Program.

The City has failed to conduct MPM inspections over a span of at least three years, 2013, 2014 and 2015. MPM inspections are mandated to occur in at least 5 percent of the mobilehome parks in an enforcement agency's jurisdiction⁷ and the enforcement agency is to maintain all MPM records on file conducted since 1991.⁸

The LEA monitoring reveals that the City has essentially refused to comply with the MPA in this regard as is evidenced by past practice. In this inspector's review of the City's LEA activities, it is noted that in 2013, the Department determined then that the City had failed to conduct the MPM program. This failure to enforce was noted in the Department's 2013 LEA evaluation and monitoring.⁹ The Department did admonish the City at that time that the City's failure to conduct MPM inspections is non-enforcement of the MPA.¹⁰ Following the 2013 LEA evaluation, the City asserted to take corrective measures and commence the MPM inspections beginning in January 2014.¹¹ However, this did not occur and during this current LEA inspection, this inspector learned that the City has no intention of commencing MPM's in their jurisdiction.^{12 13 14}

The City did assert that the City has insufficient funds to support the MPM program and thus unable to support the MPM program with the City's current funding source. However, this inspector reminded the City that as an LEA, funds collected from the Permit to Operate fees are intended to fund the MPM inspection program.¹⁵ Due to the lack of an MPM

⁷ Health and Saf. Code, section 18400.1 requires an enforcement agency to have a goal of inspecting at least 5 percent of the parks per year, to ensure enforcement of this part and the regulations adopted pursuant to this part."

⁸ Health and Safety Code, Section 18400.2 requires an enforcement agency are mandated "to maintain all records on file of mobilehome park inspections conducted since January 1, 1991."

⁹ See Exhibit 7: August 30, 2013, Department's LEA Evaluation-Summary of Findings 2013, page 4, item #9

¹⁰ See Exhibit 1: Department's 2013 LEA Monitoring and Evaluation Report

¹¹ See Exhibit 5: October 17, 2013, City's correspondence, page 4, Issue #11

¹² See Exhibit 1: Page 6 of LEA Monitoring Report, where the City's building official, Mike Jorgensen, admits that the City has not conducted MPM's and has "no intention of commencing MPM's"

¹³ See Exhibit 2: October 17, 2013, City's Notification of Corrective Measures including MPM inspections

¹⁴ See Exhibit 1: March 17, 2015, Department LEA Evaluation Report, page 5

¹⁵ Health and Safety Code Section 18502(c) requires the four dollar (\$4) per lot fee collected can only be used for these mandated inspections - "All revenues derived from this fee shall be used exclusively for the inspection of mobilehome parks and mobilehomes to determine compliance with the Mobilehome Parks Act: (Part 2.1 (commencing with Section 18200)) and any regulations adopted pursuant to the act."



program, the 2015, LEA evaluation form identified herein as Exhibit 1 and incorporated in by reference, parts D through H, could not be completed. In sum, the City's failure to comply and perform the mandated MPM inspections as part of its enforcement responsibilities is equivalent to a failure to discharge its enforcement responsibilities and therefore is deficient in its delegated MPA enforcement duties and responsibilities.

2. *The City Acts in Excess of its MPA LEA delegated authority when the City Enforces its own Local Zoning and Non-Conforming Use (NCU) Ordinance inside the Mobilehome Parks instead of complying requirements of the preemptive MPA.*

A review of the City's records, denied applications and complaints received by the Department, reveal that the City has failed to enforce the MPA and has acted in excess of its MPA LEA delegated authority. The City has misapplied its zoning and local non-conforming use (NCU) ordinances inside mobilehome parks in its jurisdiction. The City fails to recognize Capo Shores as a lawfully permitted mobilehome park pursuant to the MPA and its preemptive laws, the City refuses to enforce the MPA through the City's delegated LEA authority by complying with the MPA construction and installation permit application forms and fees requirements and acts in excess of its authority by applying its own local NCU and building codes over the MPA permit procedures and uses the MPA to enforce its City ordinances which is a failure to enforce the MPA.

a. *Capo Shores Is a Mobilehome Park Subject to the MPA*

Capo Shores meets the definition of a mobilehome park pursuant to the MPA which is defined as an "...area or tract of land where two or more lots are rented or leased...or were formerly held out for rent or lease and later converted to a subdivision, cooperative, condominium, or other form of resident ownership, to accommodate mobilehomes...used for human habitation."¹⁶

Capo Shores was originally zoned and established by the City's limited police power in 1959 through a conditional use permit (CUP) granted by the City's City Council with one condition¹⁷ and this CUP has not been revoked.¹⁸ The City's limited police power authorized the City to establish designated land use zones for mobilehome parks¹⁹

¹⁶ Health and Saf. Code, section 18214

¹⁷ See Exhibit 8: CUP provides, "Only independent mobilehomes may be accommodated. Only vehicles bearing the Department of Housing and Community Development's insignia of approval may be installed on all lots..."

¹⁸ See Exhibit 9: December 10, 2013 Capo Shores Permit to Operate for 2014 with CUP condition.

¹⁹ Health and Saf. Code section 18300 subdivision (g) provides, "the MPA "does not prevent the local authorities of any city, county, or city and county, within the reasonable exercise of their police powers, from...establishing, subject to the requirements of Sections 65852.3 and 65852.7 of the Government Code, certain zones for manufactured homes, mobilehomes, and mobilehome parks within the city,



however, once the City exercised its permitted but limited zoning authority, and permitted the establishment of a mobilehome park, the City's zoning authority ended. The City is acting under a misapprehension of the MPA that the City has any additional police power to regulate construction, use, maintenance, design or occupancy inside a mobilehome park that is subject to the preemptive MPA. Also, the City does not possess any additional lawful authority to close a mobilehome park unless and until the City complies with Government Code section 65863.7 to convert or close a park to another use.²⁰

b. The City's Act of Amending its Land Use Zoning Designation for Capo Shores Park to a NCU Cannot Be Used to Obstruct the enforcement of the MPA.

The LEA monitoring reveals that the City fails to enforce the MPA because the City asserts *"that the local zoning of the land on which Capo Shores is located, has been amended to open space and that Capo Shores is no longer a permitted use of the land, is a "non-conforming use and not a mobilehome park subject to the MPA process or regulations."*²¹ This assertion is substantiated by a letter dated 2013, from then, City Attorney, Jeff Goldfarb, to the attorney for Capo Shore residents, Sue Loftin, wherein Mr. Goldfarb asserts *that if the City exercises its land use police power and has changed the land use designation making Capo Shores a non-conforming use, Capo Shores is therefore not a park and not subject to the MPA and is regulated by the local ordinances.*²²

This inspector confirmed through the monitoring evaluation that the City is applying its NCU designation causing the City to act contrary to the MPA LEA authority and fails to enforce the MPA according to its terms of the City's delegated authority. Specifically, the City has received MPA installation applications in 2013 and 2014 and denied these applications on the NCU basis which is outside of the MPA requirements. The City's denial was in reliance on its own designation that the Capo Shores is a NCU not a mobilehome park subject to the MPA.²³ Below are specific examples of the City's failure to enforce the MPA LEA on the basis that the Capo Shores is a NCU:

county, or city and county, or establishing types of uses and locations... or from adopting rules and regulations by ordinance or resolution prescribing park perimeter walls or enclosures on public street frontage, signs, access, and vehicle parking or from prescribing the prohibition of certain uses for mobilehome parks."

²⁰ Gov. Code section 65863.7 subdivision (a) provides, "Prior to the conversion of a mobilehome park to another use, except pursuant to the Subdivision Map Act (Division 2 (commencing with Section 66410) of Title 7), or prior to closure of a mobilehome park or cessation of use of the land as a mobilehome park, the person or entity proposing the change in use shall file a report on the impact of the conversion, closure, or cessation of use upon the displaced residents of the mobilehome park to be converted or closed.

²¹ See Exhibit 10: January 7, 2015 City of San Clemente Planning Division Staff Report regarding Space 22

²² See Exhibit 11: November 19, 2013, Letter from City Attorney, Jeff Goldfarb, page 2.

²³ See Exhibit 10: January 7, 2015 City of San Clemente Planning Division Staff Report



i. Utility Upgrade Inside Capo Shores: City Plan Check: B 13-1623

The Capo Shores submitted on September 24, 2013, to the City as the MPA LEA a construction application permit to upgrade the 50 year old Capo Shores utility system accompanied by California Coastal Commission (CCC) permit 5-13-039²⁴ which had approved the utility upgrade. The City rejected the application, authored a letter to the CCC requesting that the CCC withdraw its approval²⁵, and required the Capo Shores to submit further applications to the CCC for additional approvals for accessory structures not included in the original review. The City responded, by applying its zoning ordinance and stated there are "no new structures permitted without a discretionary approval. However section 17.72.060 (D)(2) does not permit the construction of new structures because residential uses are not conforming in the Open Space Zone. However, NCU structures may be maintained. However NCU may be maintained."²⁶

ii. Best Choice Manufactured Housing – Space 12- Plan Check 14-0113

On January 12, 2014, Best Choice Manufactured Housing, on behalf of Mr. Eric Wills, a resident of Capo Shores, lot 12, submitted a Mobilehome Installation (MHI) permit request to replace an older 24.56 foot manufactured home with a Silvercrest, 1 story mobilehome with similar measurements of 24x 52.²⁷ The City refused to issue a permit as the LEA, instead demanded that a city building permit be requested for an "in-concept" approval to go to the Coastal Commission. Space 12 submitted and obtained an "in-concept" approval and applied for a waiver of a Coastal Development Permit. The Waiver was denied and full Coast Development Permit application was required. The Coastal Development Permit DP was approved approximately 19 months later with the combined costs exceeding the cost of the mobilehome over \$120,000.00. The CCC permit was issued with conditions. All conditions except Special Condition #3 were accepted. The City' denial of the plan check dated September 22, 2014 states,

"Please note that because you are proposing a new structure associated with a nonconforming use, Municipal Code Section 17.72.060(2)(a) and (b) states, that expansion of a non-conforming use is prohibited including but not limited to construction of a new structure."²⁸

²⁴ See Exhibit 12: April 18, 2013, Permit Number 5-13-039, Calif. Coastal Commission Permit

²⁵ See Exhibit 13: February 24, 2014, Letter to Coastal Commission from City to withdraw Permit

²⁶ See Exhibit 14: October 9, 2013, City denial of Capo Shores utility upgrade plan check #B13-1623

²⁷ See Exhibit 15: October 22, 2014 Affidavit of Eric Wills signed under penalty of perjury.

²⁸ See Exhibit 16: February 2014, City of San Clemente Planning Review Plan Check Number #14-0113



When Mr. Wills application was denied, he attempted to serve a written appeal to the City but the City refused to accept the appeal.

iii. Best Choice Manufactured Housing – Space 22

On August 21, 2014, Best Choice Manufactured Housing submitted a MHI permit application for Mr. Eric Wills for Space 22 inside Capo Shores for the replacement of a 900 square foot MH and in its place install a new manufactured home with slightly larger measurements of 1,248 feet, the same exact size that had been approved by the City as an "in concept" review for Space 12.²⁹ The City denied the MHI application and the City gave as its reason the following statement:

*"The proposed replacement home constitutes a 348 square feet (39%) increase in the square footage of the existing mobilehome, which is a non-conforming use. The current zoning code does not allow the expansion of nonconforming uses."*³⁰

iv. Mr. Will Peters Application for fences on Space 40 and 57

Mr. Peters made an MPA LEA accessory structure permit application to construct a six foot fence on two lots, 40 and 57, inside Capo Shores. Mr. Peters applications were diverted to the City Planning Department and told he needed a variance from the Planning Department for fence over six feet tall as the park was a non-conforming use and the park was within a coastal zone. Mr. Peters attempted to reduce the fence height to under 6 feet tall to meet the MPA fence height exemption under Title 25 and was informed that an "in-concept approval" is still needed for a 6 feet fence as the park is a NCU.³¹ Exhibit Bill Peters Affidavit

v. Mr. Will Peters Submitted Application for Foundation on Space 23

Mr. Peters had approved rehabilitation of a MH on Space 23 pursuant to its MPA authority. Mr. Peters however had to receive approval of the foundation from the City as MPA LEA. On September 13, 2012, the City refused to accept Mr. Peters MPA construction permit application stating that the City did not receive applications for or approval foundations which was confirmed by a Senior Plan check Engineer, Dave Federoff³². Mr. Peters was denied his application where the City asserted that the application was based on conflicting City of San Clemente NCU zoning ordinance, 17.72.060(D)(2).

²⁹ See Exhibit 16: October 22, 2014, Affidavit of Eric Wills signed under penalty of perjury, Space 12.

³⁰ See Exhibit 17: September 22, 2014 City's Letter to Eric Wills rejecting MHI application for Space 22

³¹ See Exhibit 18: 2014, Affidavit of Will Peter

³² See Exhibit 18: 2014, Affidavit of Will Peter



vi. **City's August 2014 Memorandum Clarifying NCU Status of Capo Shores**

Finally, in August 2014, the City prepared a Memorandum³³ to "clarify development standards that pertain to properties zoned privately owned Shoreline (OS2S2). In this Memorandum, the City affirms their designation of Capo Shores to be a NCU residential use and that the NCU ordinances will be applied, that will prohibit any new structures including when an older existing manufactured home is removed and a new manufactured home of same size would replace the older model. This memo lends further support that the City has no regard for the MPA.

Thus, the City actions noted above document that the City has failed as the MPA LEA and has applied its local ordinances to create a legal fiction of designating Capo Shores as a NCU so that the City does not fictionally have to comply with the MPA process and procedures. The Department has informed the City that the MPA preempts local laws regulating inside of a MPA and is limited to the authority granted pursuant to Health and Safety Code section 18300 subdivision (g) as previously discussed. As noted, the MPA preemption extends to construction, design, maintenance, use and occupancy inside a mobilehome park and is mandated to be enforced by all LEA's including the City to San Clemente.³⁴ The City has failed to comply with the MPA mandates and acts in derogation of its duty when the City acts in excess of its delegated LEA authority.

3. **The City refuses to issue MPA construction or installation permits inside a mobilehome park without prior written approval by the California Coastal Commission (CCC).**

The Department's LEA monitoring reveals that the City subjects all MPA LEA construction and installation permit applications inside mobilehome parks to an extra approval process i.e., requiring an MPA permit applicant to provide Coastal Commission approval in order to obtain the MPA construction or installation permits for manufactured homes inside Capo Shores, an established operating mobilehome park with pre-existing and approved lots.

A few examples of the City's demand and CCC pre-approval before City as LEA would issue MPA permits:

³³ See Exhibit 19: August 4, 2014, City Memorandum Planning

³⁴ Health and Saf. Code, section 18250 et seq.



- i. **Capo Shores-Utility Upgrade:** The City required Capistrano Shores Mobilehome Park to obtain Coastal Commission approval before the City issued the MPA construction permit for a utility replacement inside the Park. The City's actions were in excess of the City's MPA LEA authority. The Department's documents further reveal that after the Park presented the City with the Coastal Commission approval it was mandated to obtain to upgrade the park's utility system, Permit #5-13-039³⁵, the City, required the Park to comply with additional local construction and permitting requirements including further Coastal Commission approval on additional items outside the scope of the City's authority, and City approval for construction work inside the Capistrano Shores Mobilehome park.³⁶ The City also contacted the Coastal Commission to to withdraw the approved permit to upgrade the utility inside the park.³⁷ These acts demonstrate that the City is not enforcing the MPA and its preemptive authority over the City's local ordinance, which is a violation of the City's delegated authority.
- ii. **Capo Shores Space #6:** Eric Wills, submitted an MH installation permit application to the City through the City's MPA LEA authority to replace a mobilehome with a smaller sized manufactured home. Mr. Wills' initial application to the City was for approval of the placement of the new, single story mobilehome as the MPA LEA. The City rejected the MPA application and required Mr. Wills' application be subjected to an "in-concept review" which was granted subject to obtaining Coastal Commission approval. The Coastal Commission rejected an application for a waiver and required a full application as "development." Mr. Willis had paid additional fees for this review to be discussed below.
- iii. **Capo Shores, Space 12:** Eric Wills, submitted to the City as the MPA LEA a MHI permit application to replace an older MH with a smaller sized MH. The City rejected Mr. Wills application and required the MHI application to be approved through the City's "In-concept" review process and procedures. Mr. Wills complied, and received tentative approval of the "In-concept" application but pending receipt of Coastal Commission approval. The Coastal Commission rejected the application as the Coastal Commission deemed the swap of a MH as a "Development" per Coastal Act and demanded a full CCC permit application. Mr. Wills paid additional fees of \$510.00 and waited and extended time to install MH inside Capo Shores. The permit was ultimately denied.
- iv. **Capo Shores, Space 23:** William Peters applied for a construction permit for

³⁵ See Exhibit 11: 4-18-13, Coastal Commission Approval #5-13-039

³⁶ See Exhibit 13 :Plan Check B13-1623

³⁷ See Exhibit 12: Letter, Chairman Kinsey, Coastal Commission from City Attorney



foundation on Space 23 to support a two story home. HCD approved alteration to the home, but Mr. Peters was required to obtain an accessory structure construction permit for the foundation from the city as LEA. Mr. Peters submitted application to City's staff on September 3, 2012 where city refused to accept or approve foundation; HCD intervened, city accepted application but then rejected application mandating as a pre-condition, Coastal Commission approval.³⁸

- v. Eric Wills MHI permit application for removal of older 900 square foot MH to be replaced by 1248 square foot discussed in iii (b), was also subject to Coastal Commission approval. The application was denied and Mr. Wills attempted to appeal the decision and the City refused to accept appeal. Plan Check No. B14-1374.

The City's actions noted above document the City's failure to enforce the MPA in derogation of its MPA LEA delegated duty and authority all despite the Department's efforts to educate the City on their role as MPA LEA and provide, warnings, admonitions, legal opinions, information bulletins additional times to rectify their failure to enforce the MPA LEA.

To assist in the City in serving two masters, the Department provided instruction on how to address MPA construction and installation permit applications that are in a coastal zone and MAY need a coastal development permit from the Coastal Commission. The Department provided instruction and a copy of the type of warning that should be given when approving a permit application that is MPA compliant but may be in a *coastal zone and may need to obtain Coastal Commission approval.*³⁹

In 2009, when the Department received complaints against the City's failures to enforce the MPA, the Department provided a clarifying legal opinion from the Department's then Chief Counsel Dennis Beddard, informing the City of its misapplication of the laws.⁴⁰ The Department's legal opinion informed the City, that the City was acting outside the scope of its MPA LEA delegated authority when it refused to issue MPA compliant installation or construction permits when the applicant did not include Coastal Commission approval MPA application and that its failure to do so was in excess of the LEA authority.⁴¹ The Department also included a copy of its 2008 informational bulletin titled, "*Local Ordinances Relating to the*

³⁸ See Exhibit 18: November 12, 2014, William Peters Affidavit.

³⁹ See Exhibit 20: Department's Warning Notice

⁴⁰ See Exhibit 21: March 26, 2009, Department Legal Opinion Authored by Chief Counsel Dennis Beddard.

⁴¹ See Exhibit 21: March 26, 2009, Department Legal Opinion by Chief Counsel Dennis Beddard



Installation of New Manufactured Homes and/or sale or conversion of mobilehome parks” providing further guidance and instruction.⁴²

In completing the 2015 LEA evaluation, it has become clear that the City deliberately and intentionally applies its local ordinances despite all of the Department’s interventions and efforts to educate and provide opportunities for correction, so that the City could act in accordance with the MPA LEA delegation and MPA enforcement. This deliberate and intentional act of failing to properly apply the MPA is purposeful and was confirmed when this inspector informed the City’s official, Mike Jorgensen, that the City needed to cease the Coastal Commission approval prior to issuance of MPA LEA permits and Mr. Jorgensen’s verbal response was that, *“the City will continue to require the Coastal Commission approval prior to issuing a building permit for the installation of new mobilehome on an approved lot at the Capistrano Shores Mobilehome Park”* or words to that effect.

Additionally, in the 2013 letter from the City’s attorney, Jeff Goldfarb, to the Coastal Commission, the City represented that it disagreed with the Department’s legal interpretation of the MPA and that it would not be bound by the Department’s interpretation.⁴³

The City’s assertion that the City is authorized by the Coastal Act to subject “development” applications, as defined under the Coastal Act, to additional types of administrative review and costs is of no moment as the MPA preempts the City’s local ordinances and additionally as the MPA LEA the City has assumed a legal duty to enforce the MPA.⁴⁴ The City does not currently have a certified Local Enforcement Program (LCP) certification⁴⁵ from the Coastal Commission to justify its actions pursuant to the Coastal Act, but even if it was certified, the City cannot carry out the LCP duties through use of its MPA LEA authority.

4. The City Imposes local building code requirements and preapproval process for MPA construction and installation permits, including but not limited to additional “in-concept” plan check, additional plan check fees, rejection of MPA forms as applied to manufactured home installations and construction permit applications.

⁴² See Exhibit 23: April 21-08, Department Letter to Local Government Planning Agencies- Information Bulletin 2008-10

⁴³ See Exhibit 11: Letter from Jeff Goldfarb for San Clemente to Coastal Commission outlining legal disagreement.

⁴⁴ See Exhibit 24 Pacific Palisades Bowl Mobile Estates, LLC vs. City of Los Angeles (2012) 55 Cal. 4th 783.

⁴⁵ See Exhibit 25, Coastal Commission 2014 Reference Guide to Locals Not Certified as having a Local Coastal Program.



The MPA requires the City to discharge their LEA duties by abiding by and following the MPA including but not limited to the a few important laws which the City has failed to enforce:

- Health and Safety Code Section 18400 subdivision (a) provides, "the department shall enforce this part and the rules and regulations adopted pursuant to this part..."
- Health and Safety Code Section 18207 provides that an "Enforcement agency" is the Department of Housing and Community Development, or any city, county, or city and county which has assumed responsibility for the enforcement of this part pursuant to Section 18300.
- Health and Safety Code Section 18300 subdivision (a), (b) and (g) establish all of the LEA responsibilities including the mandate that the MPA applies to all parts of the state and supersedes any ordinance enacted by any city, county, or city and county, whether general law or chartered, applicable to this part.

However, despite these laws, the City enforces its local zoning ordinances for land use, building codes and other processes by using its MPA LEA delegated authority to demand additional MPA permit requirement, additional approvals and demand additional fees before issuing and MPA LEA construction or installation permits. These actions by the City are *ultra vires* acts and are a failure to enforce.

For example, the City's mandates that all permit applications, stick built or manufactured home built homes are required to undergo a local "in-concept" and/or "pre-approval process" by a City plan check reviewer who may or may not be knowledgeable of the MPA requirements. Such a review may take in excess of two weeks to six months, in violation of the MPA mandated time frame of ten (10) day timeline.^{46 47}

In addition to the pre-approval plan check process noted above, the City assesses additional mandated fees also in excess of the MPA's fee schedule and is mandated to be paid before the City will issue an MPA construction or installation

⁴⁶ Health and Safety Code sections 18551 and 18613 and the California Code of Regulations, title 25, sections 1020, 1020.3, 1020.7 provide that a construction permit be issued within ten (10) days of the applications submission to the LEA.

⁴⁷ California Code of Regulation, title 25, section 1020 subdivision (d) provides, "When the application for a permit to construct does not comply with this chapter, the enforcement agency shall notify the applicant in what respects the application does not comply within ten (10) working days of the date they are received by the enforcement agency. When the applicant resubmits the application, an additional application filing fee may be required."



permit. For example, the City has rejected MPA LEA permit applications if the applicant has failed to submit an MPA construction or installation permit on a City form that includes the requirement for the "in-concept" plan check that ran at a cost between \$135 to \$510.00 per plan check. This fee must be paid before any review of the application occurs. It was also determined that the application review time is anywhere from two weeks to six months, usually followed by a denial of the application, in violation of the ten (10) day MPA requirement.⁴⁸

Here are some examples of the City's actions conducted in excess of its MPA LEA enforcement authority:

- i. Capo Shore, Space- 12 - Mr. Eric Willis, submitted an MPA MHI installation permit to the City. The City rejected the initial application and was told by the City to resubmit the application as an "in-concept" review in accordance with City's NCU ordinance. Mr. Willis re-characterized his application in conformance with the City's NCU ordinance as "in-concept" and City required Mr. Willis to pay \$510.00 fee. Ultimately and to this date no title 25 permit was issued.⁴⁹
- ii. Capo Shores, Space 22 – September 27, 2012. Plan Check 12-335 The City assessed \$472 to \$479 for each MPA MHI application plus an imaging fee of \$26.
- iii. Capo Shores, Space 23 - Will Peters was required to pay an additional fee ranging \$515, before MH permits may be issued.

The City's actions of subjecting MPA construction and installation applications to an additional "in-concept" or "pre-approval" process and additional fees, in excess of the MPA fee schedule⁵⁰ is an abuse of the process of which the City has been authorized to act on behalf of the State of California. The LEA is mandated to issue

⁴⁸ California Code of Regulation, title 25, section 1326 subdivision (c) and (d) provides, "If the installation fails to comply with the requirements of sections 18551 or 18613 of the Health and Safety Code and/or this chapter, the enforcement agency shall provide a written notice of violation to the applicant or their representative stating the nature of the violation including a reference to the law or regulation being violated. The applicant or their representative shall perform the necessary corrective work and request re-inspection within ten (10) days. The fee for re-inspection shall be paid prior to re-inspection; (d) Upon completion of the MH-unit's installation, the MH-unit manufacturer's installation instructions, a copy of the approved plot plan, a copy of the permit, a copy of the plans and specifications for any engineered tie-down system or foundation system installed shall be placed by the installer within the MH-unit for retention by the unit's owner.

⁴⁹ See Exhibit 14, November 14, 2014, Eric Willis affidavit

⁵⁰ See Exhibit 1, part B of enumerated deficiencies.



timely installation and construction permits that meet the MPA conditions only, anything in excess of the MPA requirements are a failure to enforce the MPA.

5. Conclusion

The Department concludes that the City has failed to discharge its MPA LEA duties and responsibilities delegated to, and accepted by the City in 1961.^{51 52 53} The City

has failed to discharge its duties and responsibilities in that the City:

1. Failed to conduct MPM inspections over a minimum span of at least three (3) years and has no intention of commencing an MPM program despite the MPA requirements and the Department admonishments and instructions.
2. Acted in excess of its delegated MPA LEA authority when the City has enforced its own local zoning and non-conforming use ordinances inside the Capo Shores Park instead of complying with the mandates and requirements of the MPA.
3. Acted in excess of its delegated MPA LEA authority by imposing additional condition precedents upon the issuance of MPA permits that are in compliance with the MPA and in excess of the City's delegated authority under the MPA, to wit, continues the practice of mandating prior approval from the coastal commission *despite the Department's warnings, admonitions, legal opinions and informational bulletins, that the City's current coastal commission pre-approval and additional fees process are in excess of the City's MPA LEA authority.*
4. Imposes its building code requirements and pre-approval process for the MPA construction and installation permits including but not limited to assessment of additional plan check fees and rejection of applications not on the City's form all in violation of the MPA, to wit, "In-concept review" of permit applications, additional fees for the In-concept review ranging from \$135 to \$510 and as stated in number 3, written prior approval of the Coastal Commission for MPA regulated activities inside of an established mobile home park on an existing approved lot.

⁵¹ See Exhibit 6: Letter to Department from City of San Clemente Requesting authority to assume MPA LEA jurisdiction.

⁵² See Exhibit 7: Action of the City Council for San Clemente, Resolution No. 1247, and assuming responsibility for the MPA enforcement as an LEA.

⁵³ See Exhibit 8: Letter from Department to City accepting request for assumption of MPA LEA delegated authority.

Summary of Findings
City of San Clemente
March 17, 2015
June 4 2015 Version



Such a failure subjects the City to a discharge from its MPA LEA delegated authority and requires that City to take steps to initiate corrective measures to correct ALL deficiencies and violation of the MPA noted herein and incorporated by reference herein within thirty (30) days from the date given in the Department's accompanying letter.

Memorandum

To : Kim Strange, Deputy Director
Division of Codes and Standards

Date : March 26, 2009

From : 
Dennis L. Beppard, Chief Counsel
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
LEGAL AFFAIRS DIVISION

Subject: **Mobilehome Parks Act Preemption of the City of San Clemente's Non-conforming Use Ordinance As Applied Inside the Capistrano Shores Mobilehome Park.**

THIS MEMORANDUM CONTAINS A CONFIDENTIAL OPINION FOR INTERNAL DEPARTMENT USE AND SHOULD NOT BE DISTRIBUTED OUTSIDE OF THE DEPARTMENT WITHOUT APPROVAL OF THE LEGAL AFFAIRS DIVISION.

I. QUESTION PRESENTED

Does the Mobilehome Parks Act ("MPA")¹ preempt the City of San Clemente ("City") ordinance pertaining to nonconforming uses and structures² when applied inside a mobilehome park? Specifically, does the MPA preempt the ordinance's prohibition on replacement of a single-story manufactured home with a larger, two-story manufactured home inside the Capistrano Shores Mobilehome Park?

II. SHORT ANSWER

Yes, the City's ordinance is preempted by a combination of the MPA and the Manufactured Housing Act of 1980 ("MHA")³ because the MPA entirely occupies the field of mobilehome park construction, maintenance, use and occupancy, including the nature of the structures that occupy spaces within a park; and the MHA occupies the field of manufactured home construction standards. As a result, a local ordinance cannot be interpreted or applied to regulate the nature of the structures permitted to occupy spaces within a mobilehome park (such as prohibiting a two-story home). The MPA does permit local governments to designate zones for mobilehome parks, and does not prohibit a locality from re-zoning the underlying land to make the park a nonconforming use. However, where a park already has been established, a locality cannot apply the zoning powers it traditionally uses to regulate nonconforming uses if those regulations encroach into areas regulated by the MPA and MHA.

Our analysis follows.

¹ Health & Saf. Code Div. 13, Part 2.1, commencing with Sec. 18200.

² City of San Clemente Ordinance 1172 (1996), and implementing regulations Chapter 17.72 Nonconforming Structures and Uses.

³ Health & Saf. Code Div. 13, Part 2, commencing with Sec. 18000.

III. FACTUAL SETTING

On September 16, 1959, the City issued Capistrano Shores Mobilehome Park (the "Park") a conditional use permit with no expiration date. The property has operated as a mobilehome park subject to the MPA from 1959 to the present time.⁴ In or about 1996, the City adopted new zoning ordinances effectively down-zoning the land-use status of the Park to open space making the Park a nonconforming use and the manufactured homes contained therein nonconforming structures. Residential development, including manufactured homes, is not a permitted use in the open space zone.⁵

In January 2008, the Park was purchased by the residents from the landowner and the long-term ground lease owner/operator. The current owner is Capistrano Shores, Inc., a California non-profit mutual benefit corporation with 100% of the residential households as members of the cooperative. The City is the "local enforcement agency" for the MPA pursuant to Health and Safety Code Section 18300. On August 6, 2008, Capistrano Shores, Inc., and one of its members submitted an application to the City to replace an older single-story mobilehome with a new and larger two-story manufactured home. The City denied the permit on the basis that the proposed manufactured home did not satisfy local code requirements under the non-conforming use implementation ordinance including, but not limited to, the fact that the new manufactured home would be a two-story home and would be more than 100 square feet larger than the structure it replaces.

The Park and mobilehome owner, through their counsel, seek an opinion from the Department as to whether the City's nonconforming use implementation ordinance (hereinafter the "Ordinance")⁶ as applied to the Park and the homeowner is preempted with respect to precluding replacement of a single-story mobilehome home with a larger (100 additional square feet) two-story manufactured home.

III. APPLICABLE LAWS AND REGULATIONS

A. Police Powers, Regulation of Nonconforming Uses, and the City's Ordinance.

1. Police Powers.

Authority for local governments to regulate land use derives from the "police power" granted by the California Constitution which states:

A county or city may make and enforce within its limits all local, police, sanitary and other ordinances and regulations not in conflict with general laws (emphasis added).⁷

The Legislature has adopted general laws with respect to planning and land use, including zoning.⁸ With respect to state laws affecting zoning, the Legislature has declared its intent to "provide only a

⁴ September 25, 2008, letter to the Department from L. Sue Loftin, the Park's attorney.

⁵ *Id.*

⁶ Hereinafter, City of San Clemente Ordinance 1172 (1996), Chapter 17.72 is referred to as the "Ordinance". Repair, maintenance and improvements to nonconforming structures are dealt with in Section 17.72.030 of the Ordinance.

⁷ Cal. Const. Art. XI, Sec. 7.

minimum of limitation in order that counties and cities may exercise the maximum degree of control over local zoning matters.”⁹

2. Nonconforming Uses.

A city or county’s zoning authority includes the authority to designate specific land uses as a nonconforming use.¹⁰ Certain general principles apply to nonconforming use designations.

A nonconforming use describes a lawful use existing on the effective date of a new zoning restriction that has continued since that time without conformance to the ordinance. While the policy of the law is for elimination of nonconforming uses, as a general rule, a new zoning ordinance may not operate constitutionally to compel immediate discontinuance of an otherwise lawfully established use or business. (Citations omitted) However, if an activity constitutes a public nuisance, it can be removed immediately as long as due protections are provided. (Citations omitted)

Zoning laws look to the future and the eventual elimination of nonconforming uses to effectuate change or to accommodate changed circumstances. . . . (Citations omitted) Given the objective of zoning to eliminate nonconforming uses, courts generally follow a strict policy against the extension or enlargement of nonconforming uses. (Citations omitted) The spirit of a zoning ordinance with a provision permitting continued nonconforming uses is to allow, but not increase, the nonconforming use. Intensification or expansion of an existing nonconforming use . . . is not permitted. . . .

California courts have relied upon a case-by-case balancing approach to determine when a city can properly terminate a nonconforming use. The courts have upheld termination provisions where a reasonable period of time to recover the permit holder’s investment is allowed. (Citations omitted)¹¹

3. The City’s Ordinance.

The City enacted the Ordinance in order to establish regulations for nonconforming uses and structures with the intent that nonconforming uses and structures will convert to conforming uses and structures.¹² However, the Ordinance also provides that until nonconforming uses and structures are converted, improvements to them which promote their compatibility with their neighborhoods, enhance the quality of development, and do not increase nonconformity should be encouraged and allowed.¹³

⁸ See Gov. Code Title 7, commencing with Sec. 65000; and see Title 7, Div. 1, Ch. 4, commencing with Sec. 65800.

⁹ See Gov. Code Sec. 65800.

¹⁰ See *Miller v. Board of Public Works* (1925) 195 Cal. 477, 487; *Acker v. Baldwin* (1941) 18 Cal.2d 341, 344; *Wilkins v. City of San Bernardino* (1946) 29 Cal.2d 332, 337.

¹¹ Curtin and Talbert, *Curtin’s California Land Use and Planning Law* (25th ed. 2005) Nonconforming Uses – Amortization, p. 61.

¹² See San Clemente Municipal Code, Title 17, Sec. 17.72.010, Purpose and Intent.

¹³ *Ibid.*

The Ordinance specifically deals with repair, maintenance and improvements to nonconforming structures and uses.¹⁴ These terms are described in the Ordinance as follows:

Repair, maintenance, and aesthetic improvements typically include painting, landscaping, paving, the replacement and addition of skylights, windows, doors, open spaces, and other features which promote the livability of the dwelling and its compatibility with and enhancement of the neighborhood (emphasis added).¹⁵

The Ordinance regards the addition of a second story to a dwelling to be a major alteration or expansion that may only be allowed through issuance of a conditional use permit.¹⁶

B. The Mobilehome Parks Act and Regulations.

1. The Mobilehome Parks Act.

For purposes of the question presented, the relevant provisions of the MPA follow:

The Legislature has found that because of the relatively permanent nature of residence in mobilehome parks, and the substantial investment which a manufactured home represents, residents of parks are entitled to live in conditions which assure their health, safety, and general welfare.¹⁷

The Legislature also has found that the standards and requirements established for the construction, maintenance, occupancy, use, and design of mobilehome parks should guarantee park residents maximum protection of their investment and a decent living environment.¹⁸ "At the same time, the standards and requirements should be flexible enough to accommodate new technologies and to allow designs that reduce costs and enhance the living environments of park residents."¹⁹ Finally, the Legislature has found that the specific requirements relating to the above standards and requirements are best developed by the Department.²⁰

Of particular importance to this opinion are the provisions of Health and Safety Code Section 18300 which read in relevant part:

18300. (a) This part applies to all parts of the state and supersedes any ordinance enacted by any city, county, or city and county, whether general law or chartered, applicable to this part. Except as provided in Section 18930, the department may adopt regulations to interpret and make specific this part and, when adopted, the regulations shall apply to all parts of the state.

¹⁴ See *id.* Secs. 17.72.030 and 17.72.040.

¹⁵ *Id.*, Secs. 17.72.030 A. and 17.72.040 A.

¹⁶ See *id.*, Secs. 17.72.030 B.2.a., C; 17.72.040 B.2.b, C.

¹⁷ Health and Saf. Code Sec. 18250.

¹⁸ Health and Saf. Code Sec. 18251.

¹⁹ *Ibid.*

²⁰ Health & Saf. Code Sec. 18253.

(g) This part shall not prevent local authorities of any city, county, or city and county, within the reasonable exercise of their police powers, from doing any of the following:

(1) From establishing, subject to the requirements of Sections 65852.3 and 65852.7 of the Government Code, certain zones for manufactured homes, mobilehomes, and mobilehome parks within the city, county, or city and county, or establishing types of uses and locations, including family mobilehome parks, senior mobilehome parks, mobilehome condominiums, mobilehome subdivisions, or mobilehome planned unit developments within the city, county, or city and county, as defined in the zoning ordinance, or from adopting rules and regulations by ordinance or resolution prescribing park perimeter walls or enclosures on public street frontage, signs, access, and vehicle parking or from prescribing the prohibition of certain uses for mobilehome parks (emphases added).

(5) From prescribing and enforcing setback and separation requirements governing the installation of a manufactured home, mobilehome, or mobilehome accessory structure or building installed outside of a mobilehome park (emphasis added).

2. MPA Regulations.

Pursuant to the authority of the MPA, the Department has adopted regulations covering the construction, use, maintenance, and occupancy of mobilehome parks.²¹ This extensive and comprehensive set of regulations encompasses over 400 sections dealing with every aspect of a mobilehome park and the installation of manufactured homes, except as provided in Health and Safety Code Section 18300 (and two other sections not relevant to this opinion).²²

Pursuant to the authority of the MPA, the Department has adopted regulations covering such topics as lot line changes, roadways, lighting, occupied area of a lot, lot and park area grading, and lot occupancy.²³

C. The Manufactured Housing Act.

The Manufactured Housing Act of 1980 ("MHA")²⁴ governs, among other things, the construction of manufactured homes and mobilehomes including the areas of structural, fire safety, plumbing, heat-producing, and electrical systems.²⁵ Of particular importance to this opinion are the following provisions of the MHA:

18000. (a) This part shall be known and may be cited as the Manufactured Housing Act of 1980.²⁶

²¹ See Cal. Code Regs, tit. 25, Div. 1, Ch. 2, commencing with Sec. 1000.

²² See Cal. Code Regs, tit. 25, Sec. 1000(a); and see Health & Saf. Code Secs. 18303 and 18304 (exemption from MPA for parks owned, operated and maintained by governmental entities, and for conventionally dwellings regulated by the State Building Standards Code).

²³ See 25 Cal. Code of Regs. Secs. 1105, 1106, 1108, 1110, 1116, and 1118.

²⁴ Health & Saf. Code Div. 13, Part 2, commencing with Sec. 18000.

²⁵ See Health & Saf. Code Secs. 18015 and 18025.

²⁶ Health & Saf. Code Sec. 18000.

18015. The provisions of this part apply to all parts of the state and supersede any ordinance enacted by any city, county, or city and county which conflict with the provisions of this part. The department may promulgate regulations to interpret and make specific the provisions of this part relating to construction, titling and registration, occupational licensing, advertising, commercial transactions, and other related or specifically enumerated activities, and, when adopted, these rules and regulations shall apply in all parts of the state. The department may promulgate rules and regulations to interpret and make specific the other provisions of this part and when adopted these rules and regulations shall apply in all parts of the state (emphasis added).²⁷

18030.5. A manufactured home, mobilehome, recreational vehicle, commercial coach, or special purpose commercial coach which meets the standards prescribed by this chapter, and the regulations adopted pursuant thereto, shall not be required to comply with any local ordinances or regulations prescribing requirements in conflict with the standards prescribed in this chapter (emphasis added).²⁸

Among other things, the MHA regulates alterations or conversions of manufactured homes and mobilehomes.²⁹

D. The Law of Preemption and Its Application to Local Zoning, the MPA and the MHA.

1. The Law of Preemption and Local Land Use.

[T]he "general principles governing state statutory preemption of local land use regulation are well settled. 'The Legislature has specified certain minimum standards for local zoning regulations (Gov. Code, § 65850 et seq.)' even though it also 'has carefully expressed its intent to retain the maximum degree of local control (see, e.g., *id.*, §§ 65800, 65802)." (*IT Corp. v. Solano County Bd. of Supervisors* [, *supra*,] 1 Cal.4th [at p.] 89, 2 Cal.Rptr.2d 513, 820 P.2d 1023.) ' A county or city may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations *not in conflict with general laws.*" (Cal. Const., art. XI, § 7, italics added.) "Local legislation in conflict with general law is void. Conflicts exist if the ordinance duplicates [citations], contradicts [citation], or enters an area fully occupied by general law, either expressly or by legislative implication [citations]." ' " (*Morehart v. County of Santa Barbara* (1994) 7 Cal.4th 725, 747, 29 Cal.Rptr.2d 804, 872 P.2d 143.)

Local legislation is "duplicative" of general law when it is coextensive therewith and "contradictory" to general law when it is inimical thereto. Local legislation enters an area "fully occupied" by general law when the Legislature has expressly manifested its intent to fully occupy the area or when it has impliedly done so in light of recognized indicia of intent. (*Great Western Shows, Inc. v. County of Los Angeles, supra*, 27 Cal.4th at pp. 860-861, 118 Cal.Rptr.2d 746, 44 P.3d 120.)"³⁰

²⁷ Health & Saf. Code Sec. 18015.

²⁸ Health & Saf. Code Sec. 18030.5.

²⁹ See Health & Saf. Code Sec. 18029.

³⁰ *Big Creek Lumber Co. v. County of Santa Cruz* (2006) 38 Cal.4th 1139, 1150.

2. Preemption and the MPA.

a. Implied Preemption. The Legislative findings above, coupled with the goal of the MPA to promote the health and safety of mobilehome park residents through uniform state-wide standards for mobilehome park construction, impliedly demonstrates that the state fully occupies the field of mobilehome park construction, maintenance, occupancy, use and design. As one court has stated:

Indeed, the goal of uniformity can only be achieved through occupation of the field, alleviating variances in local regulation. The MPA's purpose of protecting the health and welfare of the residents of mobilehome parks as well as the investment value of mobilehomes can only be achieved through the centralized regulatory power of the HCD. Without such centralized regulation, mobilehome owners would be subject to the specific and particularized whims of a local county or municipality, and would in effect be hampered in his or her ability to move the mobilehome within the state. [fn omitted] This result is clearly what the Legislature intended to prevent with the enactment of the MPA.³¹

b. Express Preemption. In addition to implied preemption, the Legislature has expressly provided that the MPA and implementing regulations preempt local regulation by stating:

This part applies to all parts of the state and supersedes any ordinance enacted by any city, county, or city and county, whether general law or chartered, applicable to this part. Except as provided in Section 18930, the department may adopt regulations to interpret and make specific this part and, when adopted, the regulations shall apply to all parts of the state. (Health & Saf. Code Sec. 18300).

Given these statements by the Legislature and the holdings in *County of Santa Cruz v. Waterhouse, supra.* (hereinafter referred to as "*Waterhouse*"), there can be little doubt that the MPA occupies the entire field of standards and requirements for construction, maintenance, occupancy, use and design of mobilehome parks,³² subject only to exceptions set forth in Health and Safety Code Section 18300(g) which are discussed below.

3. Preemption and the MHA. Based on the statutes cited in Section III.C. above, the Legislature has expressly preempted the field of manufactured home construction standards, including alteration and conversion of a manufactured home.

IV. ANALYSIS

To restate the question: Where the land underlying a mobilehome park has been re-zoned making the park a nonconforming use, and the homes and structures therein nonconforming structures, do the MPA and the MHA preempt a local nonconforming use implementation ordinance that prohibits the replacement of a single-story manufactured home with a larger two-story manufactured home?

³¹ *County of Santa Cruz v. Waterhouse* (2005) 127 Cal.App.4th 1483, 1489-1490.

³² See Health & Saf. Code Sec. 18251.

1. Scope of the Specific Exceptions to MPA Preemption.

While the MPA preempts the field of mobilehome park regulation, subdivision (g)(1) of Health and Safety Code Section 18300 also reserves to localities, within the reasonable exercise of their police powers, the authority to:

- Establish zones for mobilehome parks;
- Establish types of uses and locations (e.g., family or senior mobilehome parks); and
- Regulate:
 - Park perimeter walls or enclosures on public street frontage,
 - Signs,
 - Access, and
 - Parking.³³

Thus the narrower question is: Does the City's Ordinance fall into any of these exceptions?

The discussion and conclusion of the court in *Danville Fire Protection District v. Duffel Financial & Construction Company*³⁴ is instructive with respect to the scope of powers reserved to localities in subdivision (g)(1). In *Danville* the court was called upon to determine whether a local fire protection district could adopt residential fire sprinkler system requirements that were more restrictive than permitted under the local building code which had been adopted pursuant to state building standards law. The court determined that the state had preempted the field of residential building standards. However, as with the MPA, state law reserved some regulatory authority to local jurisdictions.³⁵ With respect to these "carve outs" from the general state preemptive scheme, the court stated:

The district argues that the proviso 'Except as otherwise specifically provided by law' at the beginning of section 17922 specifically indicates that the Legislature did not intend to restrict the power of local autonomous fire districts to adopt ordinances as authorized by section 13869 However, section 13869 is a general grant of authority in contrast to the very specific provisions of 17922, 17958, and 17958.5, quoted above. Thus, the more specific statutory provisions govern the general ones ... The only delegation of authority to local governments to regulate in this area is in section 17922, ... that specifically limits local regulations to use zones, fire zones, building setback, side and rear yard requirements, and property line requirements. Ordinance No. 5 regulates none of these and the specific grant of reserved local jurisdiction of section 17922 is a very limited one. Further, the limited grant of reserved power to local entities is by implication a denial of the grant of any greater jurisdiction (emphasis added).³⁶

³³ See Health & Saf. Code Sec. 18300(g)(1).

³⁴ *Danville Fire Protection District v. Duffel Financial & Construction Company* (1972) 58 Cal.App.3d 241.

³⁵ See Health & Saf. Code Section. 17922, which provides in part that local use zone requirements, local fire zones, building setback, side and rear yard requirements, and property line requirements are specifically and entirely reserved to the local jurisdictions.

³⁶ *Danville, supra*, at pages 246-247, cited favorably in *Briseno v. City of Santa Ana* (1992) 6 Cal.App.4th 1378 at 1383.

Similarly, the very specific grants of authority in subdivision (g)(1) must be interpreted to be a limited grant of reserved power to local governments, and a denial of the grant of any greater jurisdiction.

Finally, under the maxim of statutory construction *expression unis est exclusion alterius*, if exemptions are specified in a statute, a court may not imply additional exemptions unless there is a clear legislative intent to the contrary.³⁷

Clearly subdivision (g)(1) does not contain an express grant of authority to localities to regulate the size or height of a manufactured home located in a mobilehome park; and no such grant of authority should be implied.

2. The Scope of the "Zoning" Exemption.

Apparently the City has made the argument that its authority to regulate the size or height of a manufactured home stems from the MPA grant of authority to establish zones for mobilehome parks and establish types of uses and locations of parks.³⁸

In interpreting a statute, courts begin with the actual language of the statute; and in examining the language, the courts should give to the words of the statute their ordinary, everyday meaning unless the statute itself specifically defines those words to give them a special meaning.³⁹ In this case, we are called upon to discern the Legislature's meaning for the phrase "certain zones for ... mobilehome parks ...". The terms "zone" or "zones" are not defined in the MPA.⁴⁰ Therefore, the terms should be given their everyday meaning, but in the context of local land use planning.⁴¹ The dictionary definition of "zone" appropriate in this context is: "A municipal area in a city designated for a particular type of building, enterprise, or activity: *residential zone* (italics in original)."⁴² In other words, "zone" refers to a geographic area wherein a specified type of building or activity may be located.

In the case at hand, the City did exercise its power to zone when it adopted ordinances changing the designated land use under the Park, making the Park a nonconforming use. However, the power to designate *where* a mobilehome park may be *geographically located* does not encompass the power to determine the spatial arrangements within the park or the nature of the structures located in the park.

To interpret the zoning exemption as permitting local regulation of activities and structures within an established park would be inconsistent with several canons of statutory construction: the above-discussed canon that exceptions are to be interpreted narrowly; the canon that statutes are not to be interpreted in a manner that would lead to absurd results; and the canon that a statute is not to be

³⁷ See *Sierra Club v. State Board of Forestry (Pacific Lumber Company)* (1994) 7 Cal.4th 1215, 1230.

³⁸ See July 22, 2008, letter from Jeffrey M. Oderman of Rutan & Tucker, LLP to L. Sue Loftin, Esq. (hereinafter, the "Oderman letter.")

³⁹ See *Davis v. Harris* (1998) 61 Cal.App.4th 507 at 511.

⁴⁰ See Health & Saf. Code Sec. 18000 for definitions governing the MPA.

⁴¹ See *Orange Unified School Dist. v. Rancho Santiago Community College Dist.* (1997) 54 Cal.App.4th 337 (words of statute to be read in context, keeping in mind the nature and obvious purpose of the statute.)

⁴² American Heritage Dict. (New College ed. 1980) p. 1490, col. 1.

interpreted in a manner that would permit accomplishment by indirection that which is prohibited directly.

a. Absurd results. When uncertainty arises in a question of statutory interpretation, consideration must be given to the consequences that will flow from a particular interpretation; in this regard, it is presumed that the Legislature intended reasonable results consistent with its expressed purpose, not absurd consequences.⁴³

If the zoning exception in subdivision (g)(1) is interpreted to permit the City to apply its Ordinance without restriction, the result would be the City's ability to regulate: "repair, maintenance, and aesthetic improvements which typically include painting, landscaping, paving, the replacement and addition of skylights, windows, doors, open spaces, and other features which promote the livability of the dwelling and its compatibility with and enhancement of the neighborhood."⁴⁴ Had the Legislature intended to permit localities to regulate in these specific areas, it could easily have done so by inserting these exceptions into the list in (g)(1), but it did not. Moreover, landscaping and paving are clearly areas preempted by the MPA. And the MHA governs all aspects of manufactured home construction, rehabilitation, and repair which would include replacement of skylights, windows and doors. Interpreting the term "zone" to permit localities to regulate in these areas would create a hodgepodge of local regulation of mobilehome parks and the structures located therein – the antithesis of the Legislature's desire for state-wide uniformity – thus leading to absurd results.

b. Indirect Accomplishment. Interpretation of a statute to infer that the Legislature intended to do indirectly what it refrained from doing directly is disfavored.⁴⁵ The Legislature has expressly preempted the field of mobilehome park construction, maintenance, occupancy, use, and design with a sprinkling of exceptions that are to be construed narrowly. An interpretation of the term "zone" to encompass the ability of localities to regulate such things as park landscaping, open space and paving would permit localities to accomplish indirectly what has been denied them directly. Such an interpretation should be rejected.

3. The Holding in *Waterhouse*. In *Waterhouse*, a mobilehome park owner sued a county over its ordinance restricting the height of manufactured homes in mobilehome parks to a single story.⁴⁶ As part of its defense, the county asserted that its general authority to regulate land use coupled with its reserved authority to regulate zones for mobilehome parks gave it authority to regulate the height of manufactured homes. The *Waterhouse* court found the county's argument unpersuasive and stated:

In support of its position that the zoning exception in the MPA provides it authority to

⁴³ See *Harris v. Capital Growth Investors XIV* (1991) 52 Cal.3d 1142, 1165-1166.

⁴⁴ See San Clemente Municipal Code, Title 17, Secs. 17.72.030 A. and 17.72.040 A.

⁴⁵ See *People v. Superior Court in and for Los Angeles County (Guerro)* (1962) 199 Cal.App.2d 303, 308; cited favorably in *Rocklite Products v. Municipal Court of Los Angeles Judicial Dist.* (1967) 217 Cal.App.2d 638, at 647.

⁴⁶ The facts in *Waterhouse* are slightly different from the present case in that the county had adopted an ordinance specifically limiting the height of manufactured homes in mobilehome parks to one-story. In contrast, the City's Ordinance does not target manufactured homes in mobilehome parks. Rather, it is a fairly typical nonconforming use ordinance that applies throughout the City and is designed to curtail any expansion of the nonconforming use and, over time, result in the termination of the use. Nonetheless, the holding in *Waterhouse* would seem to control the facts of the present case.

regulate the height of mobilehomes, the County argues that the land use regulations of Government Code section 65800 et seq. referenced in section 18300, subdivision (g) allow for local regulation of the height of mobilehomes. Specifically, Government Code section 65850 authorizes localities to enact zoning ordinances, and ordinances regarding signs and billboards, lot size, yard and open space, and parking. The County asserts that these provisions give it the authority to regulate the height of mobilehomes within its confines. However, when compared to the provisions of Section 18300, it is clear that the Legislature intended to limit local authority for zoning regulation to the specifically enumerated exceptions of *where* a mobilehome park may be located, vehicle parking, and lot lines, not the structures within the parks (emphasis in original).⁴⁷

It is our understanding that the County has advanced the opinion that the facts of this matter are more akin to those in the case of *Lagrutta v. City Council*^{48 49} rather than the facts in *Waterhouse*. In *Lagrutta*, the question was whether the city could deny the initial issuance of a special use permit for a mobilehome park in the City of Stockton. It is our opinion that *Lagrutta* is inapplicable to the facts before use because it involved a city's authority to determine the initial location of a mobilehome park. This authority is clearly granted by the MPA and not contested by the Department. However, once a mobilehome park has been established, even if the underlying land is later re-zoned making the park a nonconforming use, the park remains subject to the preemptive jurisdiction of the MPA and the MHA.⁵⁰

4. Reconciliation of the Preemptive Nature of the MPA with Lawful Use of the Police Power to Terminate Nonconforming Uses.

The Legislature has established a comprehensive scheme for the adoption and administration of local zoning regulations; and the Legislature also has adopted a comprehensive scheme for regulation of mobilehome parks, which reserves the right of localities to create zones for mobilehome parks. The challenge before us is to reconcile these two bodies of law given the fact that the Park was already in existence as a lawful use when the City rezoned the underlying land to open space.

Courts have held that statutes that relate to the same thing or have a common purpose should be read together and harmonized if possible. Even when one statute merely deals generally with a particular subject while the other legislates specially upon the same subject with greater detail and particularity, the two should be reconciled and construed so as to uphold both of them if it is reasonably possible to do so.⁵¹

It is our opinion that state planning and zoning law can be reconciled with the preemptive schemes of the MHA and MPA such that the goals and objectives of all three bodies of law may be achieved. This result can be achieved by interpreting these laws together to permit localities to regulate "where"

⁴⁷ *Waterhouse, supra.* at 1493.

⁴⁸ See the Oderman letter, *supra.*

⁴⁹ *Lagrutta v. City Council* (1970) 9 Cal.App.890.

⁵⁰ The *Waterhouse* court also concluded that *Lagrutta* was inapplicable to the facts in *Waterhouse* on the basis that the MPA does not provide local authority to enact regulations governing construction of manufactured homes. See *Waterhouse supra* at 1492.

⁵¹ See *Natural Resources Defense Council, Inc. v. Arcata Nat. Corp.* (1976) 59 Cal.App.3d 959, 965.

mobilehome parks may be located (including rezoning land to make an existing park a nonconforming use, or declaring the existence of a mobilehome park to be a nuisance pursuant to applicable laws), and reserving to the state all authority to regulate within an existing mobilehome park, with the narrow exceptions of park perimeter walls or enclosures on public street frontage, signs, access, and vehicle parking which may be regulated by local governments.⁵²

This interpretation would preserve the integrity of the preemptive scheme of the MPA, and would permit the individual manufactured homes and other structures within the Park to be rebuilt, replaced, enlarged, and repaired without being impaired by the limitations of a locality's nonconforming use regulation. This outcome is consistent with the Legislature's finding that because of the relatively permanent nature of residence in mobilehome parks, and the substantial investment which a manufactured home represents, residents of parks are entitled to live in conditions which assure their health, safety, and general welfare.⁵³ And this interpretation would further the Legislature's intent that mobilehome park standards be flexible enough to accommodate new technologies and enhance the living environments of park residents.⁵⁴

At the same time, this interpretation would effectively allow termination of the use of the land as a mobilehome park consistent with planning and zoning statutes and case law (e.g., through use of eminent domain, amortization of park owner's investment, or abatement as a nuisance). Consistent with this interpretation, a rezoning or down zoning action by the local government would also provide notice that a park could not be expanded (e.g., more spaces added) inconsistent with the new zoning.

Finally, such an interpretation acknowledges the nonconforming status of a mobilehome park while protecting the interests of the individual residents therein.

5. MHA Preemption.

As noted above, the provisions of the MHA supersede any ordinance enacted by a local government which conflicts with the provisions of the MHA. Additionally, a manufactured home or mobilehome which meets the standards of the MHA and implementing regulations is not required to comply with any local ordinance prescribing requirements in conflict therewith.

The MHA establishes construction standards for mobilehomes, manufactured homes, and two-story manufactured homes. Therefore, to the extent that the provisions of the City's Ordinance pertaining to the repair, maintenance, or replacement of a manufactured home or mobilehome conflict with the MHA and its implementing regulations, the City's requirements are preempted.

The MHA expressly defines "mobilehome" and "manufactured home".⁵⁵ The MHA does not limit the number of stories for a manufactured home. (However, the MPA limits the height of manufactured homes on permanent foundations in mobilehome parks to two stories.⁵⁶)

⁵² With respect to nonconforming uses, this interpretation is akin to saying that the mobilehome park as a whole is the nonconformity, not the individual lots or manufactured homes located therein.

⁵³ See Health & Saf. Code Sec. 18250.

⁵⁴ See Health & Saf. Code Sec. 18251.

⁵⁵ See Health & Saf. Code Secs. 18008(a) and 18007(a).

Thus, any attempt by a locality to distinguish between permissible or impermissible types of manufactured homes or mobilehomes, or to limit installation of a "mobilehome" or "manufactured home" to a single-story structure for purposes of imposing construction, repair, replacement, or maintenance standards is preempted by the MHA.

6. Preempted Local Ordinances Are Void.

Finally, it must be noted that local regulations in conflict with general laws are void, and therefore unenforceable. The California Supreme Court has stated:

"Local legislation in conflict with general law is void. Conflicts exist if the ordinance duplicates (citations omitted), contradicts (citations omitted), or enters an area fully occupied by general law, either expressly or by legislative implication (citations omitted). If the subject matter or field of the legislation has been fully occupied by the state, there is no room for supplementary or complementary local legislation, even if the subject were otherwise one properly characterized as a 'municipal affair' (citations omitted) (emphasis added).⁵⁷

Thus, application of the City's Ordinance within an established mobilehome park in areas preempted by the MPA and MHA is void and unenforceable.

V. CONCLUSION

Based on: (1) the express preemption of the field of manufactured home construction standards; (2) express and implied preemption of the field of standards for construction, maintenance, occupancy, use, and design of mobilehome parks; (3) accepted rules of statutory construction; and (4) case law (i.e., *Waterhouse*), it is our conclusion that the Mobilehome Parks Act and Manufactured Housing Act of 1980 collectively preempt any local regulation, including zoning, when applied to the interior of an existing mobilehome park with the narrow exceptions of park perimeter walls or enclosures on public street frontage, signs, access, and vehicle parking.

Please let us know if you have any questions regarding this opinion.

cc: Doug Hensel, Assistant Deputy Director
Ron Javor, Assistant Deputy Director of Codes and Standards
Chris Anderson, Chief of Field Operations

⁵⁶ See Health & Saf. Code Sec. 18551.1(d).

⁵⁷ *Deukemjian v. County of Mendocino* (1984) 36 Cal.3d 476, 484-485.

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TH27a-27m

July 8, 2016

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

Re: Application Nos.: 5-10-180, 5-11-033, 5-12-126, 5-12-127, 5-12-128, 5-12-294, 5-12-295, 5-12-296, 5-12-297, 5-13-037, 5-13-038, 5-15-0978 (was 5-11-193), and 5-15-0982 (was 5-11-194), Capistrano Shores Mobilehome Park, 1880 N. El Camino Real, San Clemente

Dear Commissioners:

On July 14, 2016, I will appear before you on behalf of Capistrano Shores, Inc., the owner of the Capistrano Shores Mobilehome Park (the "Park") located at 1880 N. El Camino Real, San Clemente ("CSI"). My appearance will be in connection with the above-referenced applications which are combined in a single Staff Report and scheduled as Items 27a-27m on Thursday. CSI is not an applicant but is the owner of the land and the lessor of a single space within the Park to each of the applicants.

This letter is in supplement to a letter dated July 6, 2016 from Sue Loftin, also on behalf of CSI. I incorporate the objections made by Ms. Loftin in her July 6, 2016 letter. As San Clemente does not have a certified Local Coastal Program, the test for the permit applications which have been submitted is consistency with Chapter 3 policies. This letter will focus on the application of Chapter 3 Policy and the Staff recommendation that certain conditions are necessary in order to find each application to be consistent with Chapter 3 Policies.

CSI believes that either the evidence does not support the recommended findings, or that the recommended findings do not support the imposition of some of the Special Conditions. The Special Conditions to which CSI objects are Special Conditions 1, 3, 8, and 9. I will deal with each of these in order.

1. SPECIAL CONDITION 1.

Special Condition 1 has the practical effect of requiring 12 of the 13 applicants to demolish their existing 2-story mobilehomes and to install a single story home in their place. When a remodel has been designed and approved by HCD with living areas on the ground floor and bedrooms on the second floor, it is extremely difficult to simply take the second floor off. Special Condition 1 also has the practical effect of establishing a precedent that homes within the Park may not exceed 16 feet in height.

Imposition of Special Condition 1 is based entirely upon a claim that the condition is necessary to find consistency with Public Resources Code § 30251 which 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. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.”

Although the Staff Report makes reference on page 25 to policies contained in the 1988 Certified Land Use Plan for the City of San Clemente, such policies are little more than a restatement of § 30251. The Staff Report focuses exclusively upon the language “permitted development shall be sited and designed to protect use to and along the ocean in scenic coastal areas.” The proposed developments do not alter natural land forms, are visually compatible with the character of surrounding areas such as Beach Road in Dana Point, the nearest oceanfront development which exists in the area and in which 2-story development up to 29.5 feet above maximum flood plain was approved in the Dana Point Local Coastal Program. (See, Dana Point Municipal Code §9.09.030.)

The locations from which the Staff Report claims that the proposed development does not protect views to and along the ocean is from a series of trails, the development of which was exacted from the property owner in the approval of the Marblehead development in 2003. The Staff Report acknowledges that as these trails descend to lower elevations, the visibility of the proposed development in the Park increases. However, there is a difference as to whether views to and along the ocean are unreasonably interfered with by the two-story development. Although

some views from some locations may be marginally limited, the issue is not whether specific locations may or may not suffer diminished visibility of the blue or white water but whether from the overall trail system located in Marblehead there remain views to and along the shoreline which are substantially unaffected.

The Staff Report concedes that from many of the locations within the Marblehead trail system, expansive views of the ocean, both white water and blue water, and the San Clemente Pier and Catalina Island will remain substantially unimpaired. No person will be deprived of the ability to enjoy such views within the Marblehead trail system. As such, the conclusion that seven to nine additional feet of height within the Park will not protect views to and along the ocean is not supported by the facts. (Special Condition 1 requires a height limit of 16 feet and the applications, other than Space 90, seek approval for 23 to 25 feet.) “[S]ignificant public view corridors to the ocean” are preserved as required by policy No. X11.9 of the Certified LUP.

2. SPECIAL CONDITION 3.

Special Condition 3 requires the applicant to waive any rights to shoreline protection for their mobile home that may exist under Public Resources Code § 30235. Special Condition 3 affirms that an owner of a remodeled mobile home has rights under Public Resources Code § 30235 to protect their home from erosion. The findings supporting this waiver at pages 43-47 of the Staff Report are based upon a series of speculations unsupported by any evidence. The Staff Report acknowledges that there is an existing seawall and revetment which has protected the park since prior to the Coastal Act. The waiver in Special Condition 3 will eliminate the applicant’s right to seek a permit to even repair the existing seawall if necessary to protect the home. (CSI is not an applicant and is concerned that Special Conditions 8 and 9 may be interpreted in the future to bind CSI to this waiver. See, Section 3 and 4, below.)

The Staff Report concedes that the evidence in the record demonstrates that it is unlikely that the homes will be in danger over the next 50 years, even when applying the Commission’s sea level rise guidance. The Staff Report speculates that at some date either before or after the 50 years the then owner of the coach may seek to improve the seawall to provide protection to the mobile home. The Staff Report can only speculate that adverse impacts on the shoreline would arise from shoreline protection, the design of which they have never seen, the location of which has not been ascertained, and the factual circumstances giving rise to the need for such device have not been determined. None of these elements may be known for 50 years.

At the bottom of page 45, the Staff Report states:

“Special Condition 3 requires each applicant to waive on behalf of itself and all successors and assigns, any rights to new shoreline protection that may exist under Public Resources Code § 30235.”

That is a very limited description of the impact of Special Condition 3. Special Condition 3 not only prohibits any new shoreline protection, it prohibits any “future request for repair, maintenance, or expansion of shoreline protection.” (Staff Report, page 47.) Similar waivers were required in CDP No. 5-09-179 (Hitchcock) and 5-09-180 (Hitchcock), and CDP No. 5-14-1582 (Capistrano Shores Property, LLC). The 13 additional applications before the Commission would increase the number of waivers to 16. CSI is concerned that over the next 25 years, this number could increase to the point where the Coastal Commission would take the position that CSI lacks the ability to protect its property because the individual coach owners had waived rights to protect their coaches.

Finally, the Commission Staff relies on § 30253(b) to support this waiver. § 30253(b) requires that new development:

“Assures stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site’s surrounding area, or in any way require construction protective devices that would substantially alter natural land forms along bluffs and cliffs.”

The Staff Report speculates as to whether any new, repaired or maintained seawall (which has not even been proposed) would contribute “significantly” to erosion, geologic stability, or destruction of the site. Further, the prohibition in §30253(b) on construction of protective devices applies only to those that would “substantially alter natural land forms along bluffs and cliffs.” The Park is located along the beach. The seawall and any improvement to the seawall would not alter any natural land form along any bluff or cliff. Thus, § 30253(b) provides no basis for the imposition of Special Condition 3.

3. SPECIAL CONDITION 8.

CSI objects to Special Condition 8 to the extent that compliance with Special Condition 8 by CSI would result in CSI giving up any rights to protect its property. Special Condition 8 requires CSI as record title property owner to authorize the applicant to proceed with the approved development and to comply with the terms and conditions of the Coastal Development Permit. Unless CSI may reserve its right to maintain and improve the seawall irrespective of any action taken by any individual coach owner, CSI objects to Special Condition 8.

4. SPECIAL CONDITION 9.

Special Condition 9 requires an amendment to the Occupancy Agreement for the manufactured home. In the statement “that the Special Conditions of this permit are restrictions on the use and enjoyment of a manufactured home and related accessory structure located on the mobile home space.” CSI objects to being required to enter into an agreement that the restrictions of Special Condition 3 apply to CSI unless CSI specifically preserves its right to repair, maintain and improve the seawall that surrounds its property. A similar condition was imposed on Special Condition 5-14-1582 (Capistrano Shores Property, LLC). In the Occupancy Agreement Amendment that was accepted by the Executive Director, Recital K stated that the Amendment to the Occupancy Agreement:

“Will not restrict any rights, duties, obligations and responsibilities that [CSI] has to preserve the mobile home park and the mobile homes located in the mobile home park, including without limitation, the right, duty and obligations of [CSI] to repair, maintain, enhance, reinforce or place or perform any other activity affecting the existing shoreline protective rights that [CSI] may have without consideration or application of this Amendment to an Occupancy Agreement.”

CSI insists that such language be included in any Occupancy Agreement Amendment and that the Commission acknowledge in its findings that neither Special Condition 8 or Special Condition 9 are intended to limit CSI’s rights with regard to its seawall.

5. CONFLICT WITH THE MOBILEHOME PARKS ACT.

The Loftin letter dated July 6, 2016, raises the issue that the Coastal Commission lacks any jurisdiction to act upon permits for the remodel or replacement of mobilehomes within an existing mobilehome park which have been approved by the California Department of Housing & Community Development (“HCD”). The Loftin letter, provides a detailed analysis of the conflicts between the Coastal Act and the Mobilehome Parks Act. I have nothing to add to the legal analysis contained in such letter. However, I do have factual experiences which the Commission should take into consideration when acting on these permits.

In 1998, I was involved in negotiations among Coastal Commission Staff, including Peter Douglas and representatives of HCD over whether a Coastal Development Permit was required in order to remove a mobilehome coach from an existing mobilehome park and replace it with another. The Commission Staff had issued a violation letter to a mobilehome park which had

been engaged in such activity. The mobilehome park defended on the grounds that HCD had the jurisdiction to determine what mobilehomes could be located in a mobilehome park and no coastal development permit could be required. The mobilehome park itself is the vested use and the individual mobilehomes are movable property. Discussions ensued over a period of weeks between Peter Douglas and HCD. In the end, Peter Douglas chose not to pursue the violation and a letter was written to the affected park advising that the violation file was closed.

I have been active in participating in Coastal Commission proceedings since 1973, including representing several mobilehome parks in the 1980's. To my knowledge the 1998 violation letter was the first assertion by the Coastal Commission of jurisdiction over replacement coaches in mobilehome parks. Subsequent to 1998, I can find no further efforts by the Coastal Commission to require permits for new mobilehomes in any mobilehome park located in California. Peter Douglas agreed with HCD that the replacement of mobilehomes in an existing mobilehome park would not require a coastal development permit. This fact is supported by (i) the absence of any significant record of coastal development permits or waivers for mobilehome coach replacements within the Coastal Zone for which the Commission has jurisdiction, or by local jurisdictions administering certified local coastal programs, and (ii) by HCD's administration of its mobilehome permit program for at least the past 30 years.

CSI requests that the Commission delete Special Condition 1, modify Special Condition 3, to remove the second sentence of the first paragraph. CSI seeks clarification that Special Conditions 8 and 9 will not put CSI in the position of consenting or agreeing to any waiver of any rights that CSI possesses to maintain, repair or improve the seawall which protects the mobilehome park.

Sincerely,

Sherman L. Stacey

SHERMAN L. STACEY

SLS:ck

cc: All Commissioners
Marlene Alvarado, Permit Analyst
Karl Schwing, Orange County Manager
Eric Wills Mark
Howlett Sue
Loftin, Esq. Jon
Corn, Esq.

From: [Gerard Loughman](#)
To: [Alvarado, Marlene@Coastal](mailto:Alvarado.Marlene@Coastal)
Subject: Re: Coastal Commission Hearing Date July 14, 2016. Items Th27(b) – Th27(m)
Date: Thursday, July 07, 2016 1:31:00 PM

July 7, 2016

Via Email to Marlene Alvarado

(marlene.alvarado@coastal.ca.gov)

Steve Kinsey, Chairman and
Honorable Coastal Commissioners
California Coastal Commission
45 Fremont Street, No. 2000
San Francisco, CA 94105

Re: Coastal Commission Hearing Date July 14, 2016
Items Th27(b) – Th27(m)

Dear Chairman Kinsey and Coastal Commissioners:

As a California mobilehome owner, we are very concerned with and strongly oppose Special Condition No. 1 for Items Th27(b) through Th27(m). This special condition would require the applicants to demolish their HCD-registered, HCD-approved mobilehomes at tremendous cost with little or no public benefit.

HCD exclusively regulates mobilehome installations throughout the state. The Coastal Commission has no jurisdiction over the design or height of HCD approved mobilehomes. Yet, through Special Condition No. 1, Commission staff asserts that it may force mobilehome owners to design their homes to Coastal Commission standards when the mobilehome is installed in the Coastal Zone. This is contrary to the Mobile Home Parks Act that is there for our protection.

What's at stake in this case is a claim that the applicants' mobilehomes block public views from a newly installed trail system high above a legally existing mobilehome park. However, the Park has been there since the 1950s and the mobilehomes in question were installed prior to the creation of the trails. Most importantly, the mobilehomes have no material impact on the coastal views from the new trails.

We request that the Coastal Commission recognize it lacks jurisdiction over mobilehome design, and it should allow these applicants to keep their mobilehomes in place as approved by HCD.

Respectfully,

Gerard Loughman & Bridget Callanan

From: [Barrett Hines](#)
To: [Alvarado, Marlene@Coastal](mailto:Alvarado_Marlene@Coastal)
Subject: Coastal Commission Hearing Date July 14, 2016
Date: Saturday, July 09, 2016 10:49:50 AM

Steve Kinsey, Chairman and
Honorable Coastal Commissioners
California Coastal Commission
45 Fremont Street, No. 2000
San Francisco, CA 94105

Re: Coastal Commission Hearing Date July 14, 2016
Items Th27(b) – Th27(m)

Dear Chairman Kinsey and Coastal Commissioners:

As a Dealer of California manufactured homes in a different region of the State (Ventura), I am very concerned with and strongly oppose Special Condition No. 1 for Items Th27(b) through Th27(m). This special condition would require the applicants to demolish their HCD-registered, HCD-approved mobilehomes at tremendous cost with no public benefit.

The vast majority of my customers are looking to achieve a dream of home ownership at an affordable price, many as a "final" residence to live out their days. For some, those dreams involve the coastal environment. These people cannot afford typical site-built beach properties, but they can enjoy the cost-effective option of manufactured housing in a like-minded community atmosphere. The proposed Special Condition will influence the market to make it more costly for this segment of the population to enjoy coastal home ownership. It will help to further partition off our coastal lands to the wealthy.

HCD exclusively regulates mobilehome installations throughout the state. The Coastal Commission has no jurisdiction over the design or height of HCD approved mobilehomes. Yet, through Special Condition No. 1, Commission staff asserts that it may force mobilehome owners to design their homes to Coastal Commission standards when the mobilehome is installed in the Coastal Zone. This is contrary to the Mobile Home Parks Act that is there for our protection.

What's at stake in this case is a claim that the applicants' mobilehomes block public views from a newly installed trail system high above a legally existing mobilehome park. However, the Park has been there since the 1950s and the mobilehomes in question were installed prior to the creation of the trails. Most importantly, the mobilehomes have no material impact on the coastal views from the new trails.

I request that the Coastal Commission recognize it lacks jurisdiction over mobilehome design, and it should allow these applicants to keep their mobilehomes in place as approved by HCD.

Respectfully,

Barrett Hines
Macy Homes
2452 Alameda Avenue
Ventura, CA 93003
805-642-6229

California Coastal Commission Hearing

July 14, 2016

Items Th27a-27m — Capistrano Shores Mobile Home Park

Comments

Coastal Commissioners,

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

The heights of unpermitted prefabricated coaches in Capistrano Shores have restricted street level ocean views for decades; and proposed heights of 16 feet will continue to restrict public ocean views, a significant conflict with the Coastal Act, in particular:

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

A 16 foot height prefabricated coach height limit will significantly block street ocean views daily for hundreds of:

- pedestrians, joggers, and bike riders enjoying the new Pacific Bike Trail from North Beach to Dana Point Harbor;
- passengers in vehicles driving in both directions along El Camino Real

The applicants have offered absolutely nothing to mitigate the negative impacts caused by years of unpermitted coach heights. In fact, no effort has been made to trim overgrown masses of trees and shrubs choking the ¾ mile chain link fence along El Camino Real. Like a torn curtain, tacky, green, screening materials have been added, hanging down from the top of the chain link fence, to further block public views.

If the Coastal Commission grants approval to the 13 coach owners, it is likely that most, if not all, of the remaining 77 coach owners will follow suit, and if they are all approved, public ocean views from El Camino Real will be lost forever.

Please note that Capistrano Shores has also applied (App # 513039a-1) for a solid ¾ **mile foot high wall** along El Camino Real to replace the existing chain link fence, which will further block the restricted view access.

Relevant 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 provide 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

California Coastal Commission Hearing

July 14, 2016

Items Th27a-27m — 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, 9 foot 9 inches 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, 9 foot 9 inches 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





Capistrano Shores Office

Entry from El Camino Real

Public Beach Access





PROPOSED ENTRY MONUMENT
 CAPISTRANO SHORES
 SAN CLEMENTE, CALIFORNIA

DATE: 08/11/2011 11:02 AM
 DRAWN BY: J. W. WILSON
 PROJECT: 1101110111
 1101110111
 1101110111
 1101110111
 1101110111
 1101110111

NADEL

Wall and Landscaping

Steven M. Meyer MD JD

Steve Kinsey, Chairman and
Honorable Coastal Commissioners
California Coastal Commission
45 Fremont Street, No. 2000
San Francisco, CA 94105

Re: Coastal Commission Hearing Date July 14, 2016
Items Th27(b) – Th27(m)

Dear Chairman Kinsey and Coastal Commissioners:

As a California mobilehome owner, we are very concerned with and strongly oppose Special Condition No. 1 for Items Th27(b) through Th27(m). This special condition would require the applicants to demolish their HCD-registered, HCD-approved mobilehomes at tremendous cost with little or no public benefit.

HCD exclusively regulates mobilehome installations throughout the state. The Coastal Commission has no jurisdiction over the design or height of HCD approved mobilehomes. **Nor does it have the authority or even the expertise necessary to properly assume and exercise jurisdiction over home design or height. In fact, it is my belief that should the Coastal Commission seek to expand the authority granted to it, it will not only be found to be unconstitutional it will also expose the Coastal Commission and ultimately the citizens of California to liability that is improper and unnecessary.**

Yet, through Special Condition No. 1, Commission staff asserts that it may force mobilehome owners to design their homes to Coastal Commission standards when the mobilehome is installed in the Coastal Zone. This is contrary to the Mobile Home Parks Act that is there for our protection.

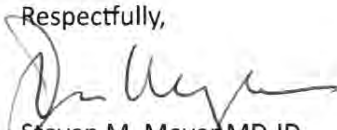
What's at stake in this case is a claim that the applicants' mobilehomes block public views from a newly installed trail system high above a legally existing mobilehome park. However, the Park has been there since the 1950s and the mobilehomes in question were installed prior to the creation of the trails. Most importantly, the mobilehomes have no material impact on the coastal views from the new trails.

I request that the Coastal Commission recognize it lacks jurisdiction over mobilehome design, and it should allow these applicants to keep their mobilehomes in place as approved by HCD.

21839 Saddle Peak Rd
Topanga, CA 90290

Steven M. Meyer MD JD

Respectfully,



Steven M. Meyer MD JD

21839 Saddle Peak Rd

Topanga, CA 90290

CALIFORNIA COASTAL COMMISSION

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



Staff: M. Alvarado-LB
Staff Report: 06/23/2016
Hearing Date: 07/14/2016

Items Th27a-27m

	5-10-180, 5-11-033, 5-12-126, 5-12-127, 5-12-128, 5-12-294, 5-12-295, 5-12-296, 5-12-297, 5-13-037, 5-13-038, 5-15-0978, 5-15-0982
Filed	10/23/2015
180th Day	04/20/2016
270th Day	07/19/2016

COMBINED STAFF REPORT: REGULAR CALENDAR

Application Nos.: 5-10-180, 5-11-033, 5-12-126, 5-12-127, 5-12-128, 5-12-294,
5-12-295, 5-12-296, 5-12-297, 5-13-037, 5-13-038, 5-15-
0978, 5-15-0982

Item #	Application	Applicant(s)	Project Location: Capistrano Shores Mobile Home Park, 1880 N. El Camino Real, San Clemente, Orange County
1	5-10-180	Trustee of Barth Family Trust, Mr. Leonard and Michael Barth	Unit Space 90
2	5-11-033	Mike Christian	Unit Space 31
3	5-12-126	Schreiber Trust	Unit Space 35
4	5-12-127	Chase-Muir Trust	Unit Space 69
5	5-12-128	The Loughman-Callanan Trust	Unit Space 18
6	5-12-294	Richard Gallagher Trust	Unit Space 17
7	5-12-295	Casa De La Familia, LLC	Unit Space 75
8	5-12-296	Carver Properties, LLC	Unit Space 48
9	5-12-297	Linovitz Family Trust	Unit Space 13
10	5-13-037	Steve Samuelian	Unit Space 46
11	5-13-038	Suter/Witkin Family Trust	Unit Space 23
12	5-15-0978 (was 5-11-193)	Jane S. & George B. Wallace Family Trust	Unit Space 57
13	5-15-0982 (was 5-11-194)	Capo Unit 40, LLC	Unit Space 40

Agent: Jon Corn

Project Description: After-the-fact approval for removal of existing one-story (11-15 ft. high) mobile/manufactured home structure and installation of new mobile/manufactured home replacement structure, and ancillary development at 13 oceanfront mobile home spaces located throughout the Capistrano Shores Mobile Home Park; for Unit 90, the replacement home is 19.8 ft. one-story mobile/manufactured home with a loft. For all other units, the replacement home is two-story ranging from 22-25 ft. in height. See Table 1 in Section IV.A (Page 19) of this staff report for detailed breakdown of the elements of each individual development.

Project Location: 1880 N. El Camino Real (Capistrano Shores Mobile Home Park), Unit Space #13, 17, 18, 23, 31, 35, 40, 46, 48, 57, 69, 75 and 90 at Capistrano Shores Mobile Home Park, San Clemente, Orange County.

Staff Recommendation: Approval with conditions

SUMMARY OF STAFF RECOMMENDATION

This staff report addresses thirteen separate coastal development permit applications for after-the-fact replacement mobile homes at the Capistrano Shores Mobile Home Park in San Clemente. One mobile home (Unit 90) is proposed as one-story and is addressed separately because staff is recommending approval of the proposed height for Unit 90 only. All remaining replacement homes are two-story and addressed together for purposes of general description and issues related to consistency with the Coastal Act.

The applicants are requesting after-the-fact approval for the replacement of one-story (11-15 ft. high) mobile homes with new two-story (22-25 ft. high) mobile/manufactured homes on 12 mobile home unit spaces. For Unit 90, the applicant proposes removal of 12-13 ft. high mobile home and installation of a new one-story (19.8 feet high) mobile/manufactured home with a loft. Ancillary development (e.g. drainage improvements, minimal landscaping, patio areas, etc.) are also proposed. The thirteen unit spaces are located throughout the 90-space Capistrano Shores Mobile Home Park ("Park"), located between the first public road (El Camino Real (ECR)) and the sea and seaward of the Orange County Transportation Authority (OCTA) railroad tracks in San Clemente. The elements of the individual projects (i.e. height and square footage of original and new mobile homes, ancillary development) are broken down in the table in Section IV.A (Page 19) of this staff report.

The mobile home 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). A pre-Coastal Act rock revetment and bulkhead protects the mobile home park property from direct wave attack. No improvements are proposed to the existing bulkhead or revetment.

As noted above, the applicants are requesting after-the-fact approval of replacement structures. Applicants and their representatives have suggested that they were not aware of the requirement for a coastal development permit before they commenced construction. As explained below, however, the applicants were provided notice of the need for a coastal development permit. Whether or not the applicants were aware of the requirement for a coastal development permit, they are still required to obtain such authorization.

As a result of prior Commission actions, applicants were clearly on notice of the requirement for a coastal development permit before construction commenced. For instance, in June 2010, before any of the unpermitted development at issue commenced, the Commission approved two Coastal Development Permits, No. 5-09-179 (Hitchcock) and CDP No. 5-09-180 (Hitchcock) for replacement structures. Notice of these permits, and thus the need for a coastal development for this type of development, was provided to all unit owners within 100 feet of the project sites and to the park owner, which is essentially an association of all unit owners. In addition, in July 2010, when staff became aware that demolition and construction had commenced at Unit 90, staff sent a Notice of Violation letter to the owner of Unit 90 and to all the unit owners via the park owner (**Exhibit 31**). The Notice of Violation letter explained that construction of the replacement structure that was

occurring on the space required a coastal development permit, that no such permit had been applied for or obtained, and therefore the construction ongoing at the site constituted a violation of the Coastal Act. This Notice of Violation letter predated the unpermitted development at issue at the other unit sites.

On April 15, 2011, staff sent a letter in response to a March 2011 pre-application meeting with the park owner (association of all unit owners) to identify what would be needed for the Park to apply for a comprehensive permit, or more specifically to discuss possible future Coastal Development Permit (CDP) application(s) for necessary improvements to the existing shoreline protection bulkhead/rock revetment protecting Capistrano Shores Mobile Home Park, for the replacement of individual homes within the park, and other potential future development (e.g. utilities and perimeter wall) (**Exhibit 32**).

Nevertheless, in July 2011, staff became aware that demolition and construction of replacement units had commenced at Units 10, 40, 57 and sent Notice of Violation letters to the owners of the units and to all the unit owners via the park owner (**Exhibit 33**). Like the previous Notice of Violation letter to Unit 90, and in subsequent correspondence (see for instance letter from staff dated 2014 and attached as **Exhibit 34**) these Notice of Violation letters explained that the construction ongoing at the sites constituted violations of the Coastal Act. Despite the fact that notice of the requirement for a coastal development permit was provided to the applicants, they proceeded to complete construction of the replacement structures in violation of the Coastal Act.

The primary issues raised by significant improvement to or replacement of the mobile homes within the Park concern consistency with the visual resource and hazards policies of the Coastal Act. The issue before the Commission with regards to visual resources is the appropriateness of approving the proposed projects given the importance of preserving scenic resources and public views. In this particular case, consistency with the pattern of development in this area (a low-scale mobile home park) would maintain the scenic coastal vistas available from ECR and adjacent surrounding public recreational areas including the Capistrano Beach upcoast, North Beach area of San Clemente downcoast and the inland areas including the public recreational trails and open space system on the uplands associated with the Marblehead development immediately inland of the oceanfront Park and ECR.

The general pattern of development within the Park consists of development with a prevailing height of approximately 13-14 feet located on a perched beach directly seaward of ECR and the Commission-approved public trails along the coastal bluffs at the Marblehead Coastal Site (CDP No. 5-03-013). Each applicant is requesting after-the-fact approval for the replacement/reconstruction of a one-story mobile/manufactured home unit with a new unit consisting of a two-story addition (or loft in the case of Unit 90). In each instance, the heights of the units are being significantly increased, from approximately 11-15 feet (average 13.3 feet) to 19.8-25 feet (average 24 feet). The proposed increased height will result in significant obstruction of major coastal views from the nearby public areas (e.g. public trails and recreational areas). These coastal view elements include the ocean whitewater, blue water, horizon, shoreline and coastline, San Clemente Pier, headlands, islands, and sandy beach. With the exception of Unit 90 due to its distance from public vantage areas, the proposed two-story mobile/manufactured homes are inconsistent with Section 30251 of the California Coastal Act, which requires that the visual qualities of coastal areas shall be considered and protected as a resource of public importance and

5-10-180, 5-11-033, 5-12-126, 5-12-127, 5-12-128, 5-12-294,
5-12-295, 5-12-296, 5-12-297, 5-13-037, 5-13-038, 5-15-0978, 5-15-0982

that new development shall be sited and designed to protect views to and along the ocean and coastal scenic areas.

In addition, approval of the proposed two-story, 22-25 feet high mobile homes would have a major adverse cumulative impact on public views and community character of the Park, and would set a negative precedent for development in this area. The relatively low-scale line of mobile homes, which allow views of the ocean, would be replaced with what would appear to be a two-story residential subdivision. There are additional units within the public view corridor, and doubling in height of all these units would cumulatively eliminate the whitewater and other significant public views of the shoreline from multiple public vantage points within this scenic view corridor of ECR.

Beachfront two-story residences exist along Beach Road approximately 1,500 feet northwest of the Park. An important distinction, however, between the two-story residences along Beach Road and the two-story mobile homes within the Park is that the proposed mobile homes are located immediately seaward of the Marblehead site and, because of their close proximity, are highly visible from the public trails along the Marblehead bluffs. These trails, along with bluff-top recreational parks, were a result of Commission review of the coastal development permit for development of the vacant uplands that required the applicant to reduce the density and increase the setback of the proposed Marblehead development to provide such public amenities, which offer public coastal views, recreational uses, and beach access (CDP No. 5-03-013).

To ensure that public coastal views over the units are protected, the height of the two-story structures must be limited to 16 ft. or lower to avoid or minimize view impacts from the public trails and recreational areas and is consistent with past Commission permit action for the mobile home park. Therefore, the staff is recommending **Special Condition 1**, which is applicable to all permits except for CDP No. 5-10-180 (Unit 90), and requires revised plans showing that the proposed mobile homes will not exceed a maximum roof height of 16 feet as measured from the frontage road, Senda de la Playa. In addition, **Special Condition 10** requires that the applicants satisfy all conditions of these permits within 180 days of the issuance of the permits. 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 visual resource policies (Section 30251) of the Coastal Act.

It should be noted that mobile/manufactured homes are manufactured offsite and assembled onsite. According to the California Health and Safety Code Section 18007, a manufactured home is a complete single-family home deliverable in one or more transportable section. Because of the construction method and how the units are assembled by sections, the recommended height reduction and modification to the structures is feasible. Modification to the structures to lower the heights of each unit is necessary to ensure consistency with the visual policies of the Coastal Act.

The issue concerned with hazards is the potential expectation that the existing revetment may be augmented in the future to protect such new development. Any seaward encroachment of the revetment would directly impact existing lateral public access along the shoreline and encroach onto State tidelands or lands subject to the public trust. Therefore, staff is recommending a condition requiring acknowledgement and agreement that the project sites may be subject to hazards from flooding, wave uprush, sea level rise, and erosion and a requirement that each applicant waive any rights to shoreline protection for the proposed new mobile homes, consistent with the Commission's

action on the most recent application for a replacement mobile home at the Park (CDP No. 5-14-1582 (Capistrano Shores Property, LLC).

Mobile home owners in the Park own the mobile home structures, but do not hold fee title to the land upon which the applicants have placed their new mobile home structures. Capistrano Shores, Inc. is a non-profit mutual benefit corporation in which each mobile home owner, such as the subject applicants, holds a 1/90 “membership” interest which allows the use of the unit space for mobile home purposes. Typically the recordation of a deed restriction is required to notify future owners or occupants of the new mobile homes of the permit requirements. However, because each mobile home owner does not hold fee title to the land, an Amendment to the Occupancy Agreement between the land owner and each applicant is necessary. Any occupancy agreement amendment would not apply to the entire parcel of land within which each subject unit space exists, but would apply specifically to Unit Space #13, 17, 18, 23, 31, 35, 40, 46, 48, 57, 69, 75, 90, with the intention to provide future owners of the proposed new mobile home on the above-mentioned unit spaces notice of the special conditions imposed on the individual permits for the installation/construction of the new mobile home. An amendment to the individual mobile home owner’s occupancy agreement must be executed by each applicant for each proposed project site. The occupancy agreement amendment would indicate that, pursuant to the individual permits for each separate and individual unit space subject to this staff report, the California Coastal Commission has authorized development on above-mentioned unit spaces, subject to terms and conditions that restrict the use and enjoyment of these spaces only; the conditions imposed would not apply to the mobile home park as a whole or to other units within the mobile home park.

Additionally, the proposed development has been conditioned to assure the proposed project is consistent with the resource protection policies of the Coastal Act. The conditions are:

1) Revised Final Plans; 2) Assumption of Risk; 3) Future Response to Erosion/No Future Shoreline Protective Device; 4) Future Improvements; 5) Construction Best Management Practices; 6) Landscaping; 7) Bird Strike Prevention; 8) Proof of Legal Ability to Comply with Conditions; 9) Occupancy Agreement; 10) Condition Compliance; and 11) Application Fee (Unit 90).

Commission staff recommends **approval** of coastal development permit application No. 5-10-180, 5-11-033, 5-12-126, 5-12-127, 5-12-128, 5-12-294, 5-12-295, 5-12-296, 5-12-297, 5-13-037, 5-13-038, 5-15-0978, 5-15-0982, as conditioned.

Section 30600(c) of the Coastal Act provides for the issuance of coastal development permits directly by the Commission in regions where the local government having jurisdiction does not have a certified Local Coastal Program. The City of San Clemente only has a certified Land Use Plan and has not exercised the options provided in 30600(b) or 30600.5 to issue its own permits. Therefore, the Coastal Commission is the permit issuing entity and the standard of review is Chapter 3 of the Coastal Act. The certified Land Use Plan may be used for guidance.

Staff Note:

The standard of review for the proposed project is the policies and provisions of the Coastal Act regarding visual resources, hazards, biological resources, and public access. **Due to Permit Streamlining Act requirements, the Commission must act upon these permit applications at the JULY 2016 Commission meeting unless they are withdrawn by the applicants.**

5-10-180, 5-11-033, 5-12-126, 5-12-127, 5-12-128, 5-12-294,
5-12-295, 5-12-296, 5-12-297, 5-13-037, 5-13-038, 5-15-0978, 5-15-0982

These items were originally scheduled for the April 2016 Commission meeting, but the items were postponed. Section 13073 of the Commission's regulations states that the applicants have one right to a postponement. Prior to the April Commission meeting, the applicants exercised this right to provide themselves additional time to work with staff and address the major issues. The applicants requested additional time to draft a mitigation plan for staff's consideration. Since March, however, no concrete mitigation offer has been submitted to staff. Staff suggested working towards a more mutually agreeable path with the applicants, one that might include a comprehensive height standard for structures in the park that would provide for increases in the heights of existing (legal) structures; ensure impacts to coastal views, if any, are minimal; and also provide for enhanced public access along the shoreline at the park in order to expand coastal view opportunities at the Park. However, the applicants were not willing to consider reducing the height standard necessary to eliminate or limit impacts to coastal views, and instead are moving forward with their current proposals, which would significantly obstruct coastal views, unless modified as recommended by staff.

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APPENDICES

Appendix A – Substantive File Documents

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5-12-295, 5-12-296, 5-12-297, 5-13-037, 5-13-038, 5-15-0978, 5-15-0982

LIST OF EXHIBITS		
	Available in Printed Version	Available Online
Exhibit 1 – Location of Mobile Home Park	✓	✓
Exhibit 2 – Aerial Image of Project Sites	✓	✓
Exhibit 3 – Plans & Elevations (Unit 13)		✓
Exhibit 4 – Plans & Elevations (Unit 17)	✓	✓
Exhibit 5 – Plans & Elevations (Unit 18)		✓
Exhibit 6 – Plans & Elevations (Unit 23)		✓
Exhibit 7 – Plans & Elevations (Unit 31)		✓
Exhibit 8 – Plans & Elevations (Unit 35)		✓
Exhibit 9 – Plans & Elevations (Unit 40)		✓
Exhibit 10 – Plans & Elevations (Unit 46)		✓
Exhibit 11 – Plans & Elevations (Unit 48)		✓
Exhibit 12 – Plans & Elevations (Unit 57)		✓
Exhibit 13 – Plans & Elevations (Unit 69)		✓
Exhibit 14 – Plans & Elevations (Unit 75)		✓
Exhibit 15 – Plans & Elevations (Unit 90)		✓
Exhibit 16 – View Analysis (Unit 13)		✓
Exhibit 17 – View Analysis (Unit 17)	✓	✓
Exhibit 18 – View Analysis (Unit 18)		✓
Exhibit 19 – View Analysis (Unit 23)		✓
Exhibit 20 – View Analysis (Unit 31)		✓
Exhibit 21 – View Analysis (Unit 35)		✓
Exhibit 22 – View Analysis (Unit 40)		✓
Exhibit 23 – View Analysis (Unit 46)		✓
Exhibit 24 – View Analysis (Unit 48)		✓
Exhibit 25 – View Analysis (Unit 57)		✓
Exhibit 26 – View Analysis (Unit 69)		✓
Exhibit 27 – View Analysis (Unit 75)		✓
Exhibit 28 – Pictures of views from northern trail points		
Exhibit 29 – View Analysis (Unit 90)		✓
Exhibit 30 – Pictures from Avenida Pico & El Camino Real Intersection, and from near bluff-top recreational park	✓	✓
Exhibit 31 – CCC Notice of Violation dated July 9, 2010	✓	✓
Exhibit 32 – Staff Letter to Park Owner dated April 15, 2011	✓	✓
Exhibit 33 – CCC Notice of Violation dated July 12, 2011	✓	✓
Exhibit 34 – CCC Notice of Violation dated February 11, 2014	✓	✓
Exhibit 35 – City of San Clemente Letter of Concern	✓	✓

I. MOTION AND RESOLUTION

Staff recommends that the Commission **approve** the permit applications with special conditions.

Motion # 1:

*I move that the Commission **approve** Coastal Development Permit No. 5-10-180 pursuant to the staff recommendation.*

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

Resolution:

The Commission hereby approves a Coastal Development Permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that will substantially lessen any significant adverse impacts of the development on the environment.

Motion # 2:

*I move that the Commission **approve** Coastal Development Permit No. 5-11-033 pursuant to the staff recommendation.*

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

Resolution:

The Commission hereby approves a Coastal Development Permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that will substantially lessen any significant adverse impacts of the development on the environment.

Motion # 3:

*I move that the Commission **approve** Coastal Development Permit No. 5-12-126 pursuant to the staff recommendation.*

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

Resolution:

The Commission hereby approves a Coastal Development Permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that will substantially lessen any significant adverse impacts of the development on the environment.

Motion # 4:

*I move that the Commission **approve** Coastal Development Permit No. 5-12-127 pursuant to the staff recommendation.*

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

Resolution:

The Commission hereby approves a Coastal Development Permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that will substantially lessen any significant adverse impacts of the development on the environment.

Motion # 5:

*I move that the Commission **approve** Coastal Development Permit No. 5-12-128 pursuant to the staff recommendation.*

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

Resolution:

The Commission hereby approves a Coastal Development Permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that will substantially lessen any significant adverse impacts of the development on the environment.

Motion # 6:

*I move that the Commission **approve** Coastal Development Permit No. 5-12-294 pursuant to the staff recommendation.*

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

Resolution:

The Commission hereby approves a Coastal Development Permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that will substantially lessen any significant adverse impacts of the development on the environment.

Motion # 7:

*I move that the Commission **approve** Coastal Development Permit No. 5-12-295 pursuant to the staff recommendation.*

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

Resolution:

The Commission hereby approves a Coastal Development Permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that will substantially lessen any significant adverse impacts of the development on the environment.

Motion # 8:

*I move that the Commission **approve** Coastal Development Permit No. 5-12-296 pursuant to the staff recommendation.*

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

Resolution:

The Commission hereby approves a Coastal Development Permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that will substantially lessen any significant adverse impacts of the development on the environment.

Motion # 9:

*I move that the Commission **approve** Coastal Development Permit No. 5-12-297 pursuant to the staff recommendation.*

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

Resolution:

The Commission hereby approves a Coastal Development Permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that will substantially lessen any significant adverse impacts of the development on the environment.

Motion # 10:

*I move that the Commission **approve** Coastal Development Permit No. 5-13-037 pursuant to the staff recommendation.*

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

Resolution:

The Commission hereby approves a Coastal Development Permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that will substantially lessen any significant adverse impacts of the development on the environment.

5-10-180, 5-11-033, 5-12-126, 5-12-127, 5-12-128, 5-12-294,
5-12-295, 5-12-296, 5-12-297, 5-13-037, 5-13-038, 5-15-0978, 5-15-0982

Motion # 11:

*I move that the Commission **approve** Coastal Development Permit No. 5-13-038 pursuant to the staff recommendation.*

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

Resolution:

The Commission hereby approves a Coastal Development Permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that will substantially lessen any significant adverse impacts of the development on the environment.

Motion # 12:

*I move that the Commission **approve** Coastal Development Permit No. 5-15-0978 pursuant to the staff recommendation.*

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

Resolution:

The Commission hereby approves a Coastal Development Permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that will substantially lessen any significant adverse impacts of the development on the environment.

Motion # 13:

*I move that the Commission **approve** Coastal Development Permit No. 5-15-0982 pursuant to the staff recommendation.*

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

Resolution:

The Commission hereby approves a Coastal Development Permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that will substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS

This permit is granted subject to the following standard conditions:

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

Special Condition 1 is applicable to all permits except CDP No. 5-10-180/Unit 90:

1. **Revised Final Plans.**
 - A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and approval of the Executive Director, final revised project plans, approved by the appropriate regulatory authorities, drawn to scale which show that the proposed mobile home shall not exceed a maximum roof height of 16 feet as measured from the mobile home frontage road (private access road), Senda de la Playa.
 - B. The permittee shall undertake development in accordance with the approved final plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

Special Conditions 2-12 are applicable to all permits:

2. **Assumption of Risk, Waiver of Liability and Indemnity.**

By acceptance of this permit, the applicant acknowledges and agrees (i) that the applicant's mobile home space may be subject to hazards from flooding and wave uprush, tsunami, sea level rise, and erosion; (ii) to assume the risks to the applicant and the property that is the

subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such coastal hazards.

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

No repair or maintenance, enhancement, reinforcement, or any other activity affecting the existing shoreline protective device, is authorized by this coastal development permit. By acceptance of this Permit, the applicant waives, on behalf of itself and all successors and assigns of the applicant's mobile home space, any rights to shoreline protection that may exist under Public Resources Code Section 30235 to protect the proposed new mobile home on the applicant's mobile home space.

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

4. Future Improvements.

This permit is only for the development described and conditioned herein. Any non-exempt future improvements or development shall be submitted for Commission review and shall not commence unless Commission approval is granted. New development, unless exempt, shall require an amendment to this permit from the Coastal Commission.

5. Construction Best Management Practices.

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

- (1) No construction materials, debris, or waste shall be placed or stored where it may be subject to wave, wind, or rain erosion and dispersion;
- (2) Staging and storage of construction machinery and storage of debris shall not take place on any sandy beach areas or areas containing any native vegetation;

- (3) Any and all debris resulting from construction activities shall be removed from the project site within 24 hours of completion of the project;
- (4) Construction debris and sediment shall be removed from construction areas each day that construction occurs to prevent the accumulation of sediment and other debris which may be discharged into coastal waters;
- (5) Concrete trucks and tools used for construction of the approved development shall be rinsed off-site;
- (6) Erosion control/sedimentation Best Management Practices (BMP's) shall be used to control dust and sedimentation impacts to coastal waters during construction. BMP's shall include, but are not limited to: placement of sand bags around drainage inlets to prevent runoff/sediment transport into coastal waters; and
- (7) All construction materials, excluding lumber, shall be covered and enclosed on all sides, and as far away from a storm drain inlet and receiving waters as possible.

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

6. Landscaping – Drought Tolerant, Non-Invasive Plants.

- A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant 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>).

7. Bird Strike Prevention.

- A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall submit final revised plans showing the location, design, height and materials of fences, screen walls and gates, if proposed, for the review and approval of the Executive Director. Said plans shall reflect the requirements of this special

condition. Ocean front deck railing systems, fences, screen walls and gates subject to this permit, if proposed, shall use materials designed to minimize bird-strikes with the deck railing, fence, or gate. Such materials may consist, all or in part, of wood; wrought iron; frosted or partially-frosted glass, Plexiglas or other visually permeable barriers that are designed to prevent creation of a bird strike hazard. Clear glass or Plexiglas shall not be installed unless they contain UV-reflective glazing that is visible to birds or appliqués (e.g. stickers/decals) designed to reduce bird-strikes by reducing reflectivity and transparency are also used. Any appliqués used shall be installed to provide coverage consistent with manufacturer specifications (e.g. one appliqué for every 3 foot by 3 foot area) and the recommendations of the Executive Director. Use of opaque or partially opaque materials is preferred to clean glass or Plexiglas and appliqués. All materials and appliqués shall be maintained throughout the life of the development to ensure continued effectiveness at addressing bird strikes and shall be maintained at a minimum in accordance with manufacturer specifications and as recommended by the Executive Director

- B. The permittee shall undertake development in accordance with the approval 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.

8. Proof of Legal Ability to Comply with Conditions.

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall demonstrate its legal ability or authority to comply with all the terms and conditions of this coastal development permit by submitting information indicating approval from the record title property owner that authorizes the applicant to proceed with the approved development and permits the applicant to comply with the terms and conditions of this coastal development permit.

9. Occupancy Agreement.

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval documentation demonstrating that the landowner and the applicant have executed an Amendment to the Occupancy Agreement for the applicant's mobile home space, (1) stating that pursuant to this permit, the California Coastal Commission has authorized the placement of a manufactured home and related accessory structures, including without limitation, manufactured home foundation system and patio covers, on the mobile home space, subject to terms and conditions that restrict the use and enjoyment of the manufactured home and related accessory structures located on the mobile home space; and (2) stating that the Special Conditions of this permit are restrictions on the use and enjoyment of the manufactured home and related accessory structures located on the mobile home space. The Amendment to the Occupancy Agreement shall also state that, in the event of an extinguishment or termination of the Occupancy Agreement for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the

5-10-180, 5-11-033, 5-12-126, 5-12-127, 5-12-128, 5-12-294,
5-12-295, 5-12-296, 5-12-297, 5-13-037, 5-13-038, 5-15-0978, 5-15-0982

manufactured home and accessory structures located on the mobile home space of the mobile home park so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on the mobile home space. Notwithstanding the foregoing, the landowner and lessee may, at their discretion, extend, assign, execute a new Occupancy Agreement, providing that the Occupancy Agreement provision required under this Permit Condition may not be deleted, altered or amended without prior written approval of the Executive Director of the Coastal Commission or by approval of an amendment to this coastal development permit by the Commission, if legally required.

10. Condition Compliance.

Within 180 days of issuance of this coastal development permit or within such additional time as the Executive Director may grant in writing for good cause, the applicant shall satisfy all requirements specified in all conditions of this permit. Failure to comply with this requirement may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.

Special Condition 13 is applicable only to CDP No. 5-10-180/Unit 90:

11. Application Fee.

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall pay the balance of the application fee for after-the-fact development, which equals \$7,500.

IV. FINDINGS AND DECLARATIONS:

A. PROJECT DESCRIPTION AND LOCATION

Each applicant is requesting after-the-fact approval for the removal/demolition of a one-story (11-15 ft. high)¹ mobile/manufactured home and installation/construction of a new mobile home. The replacement units are two-story (22-25 ft.) mobile/manufactured homes for all units except Unit 90, which is one-story (19.8 ft. high) with a loft, and on a non-permanent sub-set foundation system (i.e. steel chassis frame on jacks with concrete block skirt walls) and ancillary development on an oceanfront mobile home space located at 1880 N. El Camino Real (Unit Space 13, 17, 18, 23, 31, 35, 40, 46, 48, 57, 69, 75, and 90), San Clemente. Please see the table below on page 19 for breakdown of the elements of the individual projects (i.e. height and square footage of original and new mobile homes, ancillary development). Project plans are included as **Exhibits 3 through 15**. The applicants are not proposing any work to the existing bulkhead/rock revetment. Each unit in the mobile home park provides two parking spaces per unit.

¹ Although it is indicated on the plans that the height of most of the original one-story mobile homes were approximately 16 ft., staff has estimated the heights to have been on average 13 ft. based on 2006-2011 photos of the original structures, ranging between 11-15 feet. Staff's estimated heights for each of the original one-story mobile homes are incorporated in the table below.

5-10-180, 5-11-033, 5-12-126, 5-12-127, 5-12-128, 5-12-294,
5-12-295, 5-12-296, 5-12-297, 5-13-037, 5-13-038, 5-15-0978, 5-15-0982

Table 1. Summary of Proposed Work for Coastal Development Permit Application Nos. 5-10-180 (Unit 90), 5-11-033 (31), 5-12-126 (35), 5-12-127(69), 5-12-128 (18), 5-12-294 (17), 5-12-295 (75), 5-12-296 (48), 5-12-297 (13), 5-13-037 (46), 5-13-038 (23), 5-15-0978 (57), 5-15-0982 (40)

Item #	Application	Applicant(s)	Project Location: Capistrano Shores Mobile Home Park, 1880 N. El Camino Real, San Clemente, Orange County	Project Description
1	5-10-180	Trustee of Barth Family Trust, Mr. Leonard and Michael Barth	Unit Space 90	Request for after-the-fact approval for replacement of an approx. 1,332 sq. ft., 12-13 ft. high one-story mobile home with an approx. 1,569 sq. ft., 19.8 ft. high (with loft) mobile/manufactured home with a shed and covered patio, bbq, drainage improvements, and minimal landscaping.
2	5-11-033	Mike Christian	Unit Space 31	Request for after-the-fact approval for replacement of an approx. 1,406 sq. ft., 12 ft. high one-story mobile home with an approx. 2,669 sq. ft., 21.9 ft. two-story mobile/manufactured home with a 642 sq. ft. covered carport, covered patio, bbq, drainage improvements, and minimal landscaping.
3	5-12-126	Schreiber Trust	Unit Space 35	Request for after-the-fact approval for replacement of an approx. 1,293 sq. ft., 12 ft. high one-story mobile home with an approx. 1,957 sq. ft., 24.3 ft. high two-story mobile/manufactured home with 382 sq. ft. covered patio, 48 sq. ft. shed with plumbing and electricity, fencing (including 6-foot high glass fence with applied or etched grid), bbq, drainage improvements, and minimal landscaping.
4	5-12-127	Chase-Muir Trust	Unit Space 69	Request for after-the-fact approval for replacement of an approx. 1,494 sq. ft., 12-13 ft. high, one-story mobile home with an approx. 2,684 sq. ft., 25 ft. high two-story mobile/manufactured home, 104 sq. ft. shed, fencing (including 6-foot high fence with tempered glass), drainage improvements, and installation of minimal landscaping.
5	5-12-128	The Loughman-Callanan Trust	Unit Space 18	Request for after-the-fact approval for replacement of an approx. 1,485 sq. ft., 12-13 ft. high one-story mobile home with an approx. 2,542 sq. ft., 24.9 ft. high two-story mobile/manufactured home with 329 sq. ft. covered patio, 57 sq. ft. shed with plumbing and electricity, fencing, drainage improvements, and minimal landscaping.
6	5-12-294	Richard Gallagher Trust	Unit Space 17	Request for after-the-fact for replacement of an approx. 1,483 sq. ft., 12-13 ft. high one-story mobile home with an approx. 2,534 sq. ft., 25 ft. high two-story mobile/manufactured home, construction of a 120 sq. ft. shed with plumbing and electrical, fencing (including 6-foot high glass fence with applied or etched grid), bbq, fire pit, drainage improvements, and minimal landscaping.
7	5-12-295	Casa De La Familia, LLC	Unit Space 75	Request for after-the-fact approval for replacement of an approx. 1,394 sq. ft., 12 ft. high one-story mobile home with an approx. 2,857 sq. ft., 24.9 ft. high two-story mobile/manufactured home with patio, drainage improvements, and minimal landscaping.
8	5-12-296	Carver Properties, LLC	Unit Space 48	Request for after-the-fact approval for replacement of an approx. 1,560 sq. ft., 13-14 ft. high one-story mobile home with an approx. 2,970 sq. ft., 25 ft. two-story mobile/manufactured home, construction of an 87 sq. ft. shed with plumbing and electricity, drainage improvements, and minimal landscaping.
9	5-12-297	Linovitz Family Trust	Unit Space 13	Request for after-the-fact approval for replacement of an approx. 1,462 sq. ft., 13 ft. high one-story mobile home with an approx. 2,440 sq. ft., 24.9 ft. high two-story mobile/manufactured home, construction of 88 sq. ft. storage shed, fencing, bbq, drainage improvements, and minimal landscaping.
10	5-13-037	Steve Samuelian	Unit Space 46	Request for after-the-fact approval for replacement of an approx. 1,606 sq. ft., 13-14 ft. high one-story mobile home with an approx. 2,967 sq. ft., 24.9 ft. high two-story mobile/manufactured home with covered patios, construction of 84 sq. ft. with plumbing and electricity, fencing (including 6-foot high glass fence with applied or etched grid), drainage improvements, and minimal landscaping.
11	5-13-038	Suter/Witkin Family Trust	Unit Space 23	Request for after-the-fact approval for replacement of an approx. 1,440 sq. ft., 14-15 ft. high one-story mobile home with an approx. 2,741 sq. ft., 24.9 ft. high two-story mobile/manufactured home with an 80 sq. ft. second-floor deck, construction of a 66 sq. ft. shed with plumbing and electricity, fencing (including 6-foot high glass fence with applied or etched grid), bbq, fire pit, drainage improvements, and minimal landscaping.

5-10-180, 5-11-033, 5-12-126, 5-12-127, 5-12-128, 5-12-294,
 5-12-295, 5-12-296, 5-12-297, 5-13-037, 5-13-038, 5-15-0978, 5-15-0982

12	5-15-0978 (was 5-11-193)	Jane S. & George B. Wallace Family Trust	Unit Space 57	Request for after-the-fact approval for replacement of an approx. 1,470 sq. ft., 13-14 ft. high one-story mobile home with an approx. 2,241 sq. ft., 22.3 ft. high two-story mobile/manufactured home with a covered patio, two sheds totaling 120 sq. ft. (one with plumbing and electricity), bbq, drainage improvements, and minimal landscaping.
13	5-15-0982 (was 5-11-194)	Capo Unit 40, LLC	Unit Space 40	Request for after-the-fact approval for replacement of an approx. 1,559 sq. ft., 13-14 ft. high one-story mobile home with an approx. 2,769 sq. ft. sq. ft., 24.3 ft. high two-story mobile/manufactured home, construction of 665 sq. ft. covered patio area, storage shed, fencing with glass gate, bbq, drainage improvements, and minimal landscaping.

Each applicant owns the original and the proposed new mobile home but neither holds fee title to the land upon which each applicant has built his or her mobile home structure nor to the land upon which the land owner has built the bulkhead/rock revetment. The Capistrano Shores Mobile Home Park property (1880 N. El Camino Real, San Clemente) is owned by Capistrano Shores, Inc., a non-profit mutual benefit corporation in which each applicant holds a 1/90 “membership” interest, which allows the applicants the use of a unit space for mobile home purposes. Each applicant, as “members” of the corporation is only responsible for repair/maintenance of their own mobile home and to the landscape on their unit space. The corporation provides for all necessary repairs, maintenance and replacements to the rest of the mobile home park common areas including the bulkhead/rock revetment.

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

In a letter dated June 11, 2015, the applicants’ attorney stated that the applicants seek approval for the “remodel” of all 13 mobile homes. More than 50% of the original units, however, were replaced and/or demolished according to the demolition plans and therefore the change is not a remodel. Section 13252 of the Commission’s regulations states that the replacement of 50% or more of a single family residence, or any other structure, constitutes a replacement structure, and, therefore, is considered new development. Consequently, the Commission will treat the proposed remodeling as “replacement” of all 13 mobile homes.

LOCATION

The proposed projects are located between the first public road and the sea and seaward of the Orange County Transportation Authority (OCTA) railroad tracks at Unit Space #13, 17, 18, 23, 31, 35, 40, 46, 48, 57, 69, 75, 90 in the Capistrano Shores Mobile Home Park at 1880 N. El Camino Real in the City of San Clemente, Orange County (**Exhibits 1 & 2**). The mobile home park is an existing non-conforming use on a stretch of beach developed with a single row of 90 mobile homes parallel to the shoreline on a lot 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 applicants’ attorney, in his March 26, 2015 letter(s), and Capistrano Shores Inc. (c/o Loftin Group), in its August 19, 2011 and October 13, 2011 letters, argue that the Commission lacks

jurisdiction because the State Department of Housing and Community Development has exclusive jurisdiction over the replacement and remodeling of mobile homes. This claim is based on an assertion that the Mobilehome Parks Act (Health and Safety Code, sections 18200 et seq.) and the Manufactured Housing Act (Health and Safety Code, sections 18000, et seq.) supersede the Commission's authority to regulate development in mobilehome parks. The Manufactured Housing Act is not relevant here because the Commission is not, in this action, regulating building standards of mobilehomes. The Mobilehome Parks Act only supersedes "any ordinance enacted by any city, county, or city and county, whether general law or chartered, applicable to" the Mobilehome Parks Act. (Health and Safety Code, section 18300.) The Mobilehome Parks Act, however, does not supersede state law, including the Coastal Act. Even though this particular site is subject to the Commission's jurisdiction, had it been subject to the City's LCP jurisdiction, application of the City's LCP would not be superseded by the Mobilehome Parks Act because LCPs are a function of state law in their implementation of the Coastal Act. (Charles A. Pratt Construction Co., Inc. v. Coastal Commission (2008) 162 Cal.App.4th 1068, 1075.) There is an attempt to create a conflict between the Coastal Act and the Mobilehome Parks Act when there is no such conflict. The Commission has jurisdiction over development in the coastal zone. The definition of development in the Coastal Act (section 30106) includes the placement or erection of a structure on land, which is what each applicant has done so on the individual spaces subject to the individual permit applications. Therefore, the Commission has jurisdiction over the proposed mobile home projects at the subject sites.

On the seaward side of the unit spaces, the subject sites are fronted by a narrow perched beach inland of an older timber bulkhead that exists roughly along the seaward limits of each Unit Space. A quarry stone rock revetment exists seaward of the bulkhead and between the proposed development and the Pacific Ocean. The pre-Coastal Act timber bulkhead and rock revetment exists along the entire length of the Capistrano Shores Mobile Home Park, including the subject sites, from direct wave attack. Each applicant has provided a Coastal Hazard and Wave Runup Study prepared by GeoSoils Inc. for each site and the proposed development.

Vertical public access to this beach is not available along the length of the Capistrano Shores Mobile Home Park. The nearest vertical public access is available at the North Beach access point and to the north at the Poche Beach access point (**Exhibit 1**). In addition, lateral access along the beach in front of the mobile home park and bulkhead/rock revetment is only accessible during low tide; during high tide the waves crash up against the rock revetment. Pursuant to the grant deed property description of the parcels owned by Capistrano Shores, Inc. comprising Capistrano Shores Mobile Home Park, property ownership of the common area seaward of the Unit Space property lines extends from the bulkhead to the ordinary high tide line. Seaward of the bulkhead is an approximately 30-foot wide beach area owned in common by the mobile home park corporation up to the ordinary high tide line (per the legal property description). According to the cross-sections of the rock revetment provided in the Coastal Hazard and Wave Runup Studies prepared by GeoSoils, the rock revetment begins immediately adjacent to the wood bulkhead and extends approximately 20-feet out seaward but still inland of the ordinary high tide line. A large portion of the rock revetment remains buried depending on varying sand level elevations throughout the year.

BACKGROUND

As explained above, the applicants are requesting after-the-fact approval of replacement structures. In July 2010, when staff became aware that demolition and construction had commenced at Unit 90,

5-10-180, 5-11-033, 5-12-126, 5-12-127, 5-12-128, 5-12-294,
5-12-295, 5-12-296, 5-12-297, 5-13-037, 5-13-038, 5-15-0978, 5-15-0982

staff sent a Notice of Violation letter to the owner of Unit 90 and to all the unit owners via the park owner. The Notice of Violation letter explained that construction of the replacement structure that was occurring on the space required a coastal development permit, no such permit had been applied for or obtained, and therefore the construction ongoing at the site constituted a violation of the Coastal Act. This Notice of Violation letter predated the unpermitted development at issue at the other unit sites. In response to the letter, the owner of Unit 90 submitted an incomplete application to authorize the “remodeling of the residence”. In “Notice of Incomplete Application” letters to the unit owner dated September 9, 2010 and January 26, 2011 (and in additional letters dated April 27, 2015, May 8, 2015, and July 15, 2015), staff identified and requested information that was necessary to adequately analyze the proposed project, including the information necessary to complete the application; as a result the application remained incomplete until October 2015.

Subsequent to the Notice of Violation letters sent to the Park and unit owners, incomplete applications were received by Commission staff for development at 12 residential unit spaces within the Park, in addition to Unit 90 referenced above. Three incomplete applications were submitted to staff in 2011 (CDP No. 5-11-033, 5-11-193, and 5-11-194), seven applications in 2012 (CDP No. 5-12-126, 5-12-127, 5-12-128, 5-12-294, 5-12-295, 5-12-296, and 5-12-297), and two applications in 2013 (CDP No. 5-13-037 and 5-13-038). These applications remained incomplete until recently, except for 5-11-193 and 5-11-194, which were withdrawn by the applicants in 2012 and resubmitted in 2015; these two applications were assigned CDP No. 5-15-0978 and 5-15-0982, respectively. In each instance staff requested via multiple “Notice of Incomplete Application” letters that the applicants submit information regarding the height of the unit, among other things, in order to complete the application for staff’s review. All 13 applications were filed on October 3, 2015 subsequent to receiving the material and information requested by staff. Upon further inspection of the submitted material, staff requested that the architect provide revised plans and height matrixes due to discrepancies in the plans regarding the height of the units. As of March 1, 2016, Commission staff received this requested information for all thirteen applications.

Consequent to receiving all requested material, staff scheduled the 13 items for the April 2016 Commission meeting, but the items were postponed. Section 13073 of the Commission’s regulations states that the applicants have one right to a postponement. Prior to the April Commission meeting, the applicants exercised this right to provide themselves additional time to work with staff and address the major issues. The applicants requested additional time to draft a mitigation plan for staff’s consideration. Since March, however, no concrete mitigation offer has been submitted to staff. Staff suggested working towards a more mutually agreeable path with the applicants, one that might include a comprehensive height standard for structures in the park that would provide for increases in the heights of existing (legal) structures; ensure impacts to coastal views, if any, are minimal; and also provide for enhanced public access along the shoreline at the park in order to expand coastal view opportunities at the Park. However, the applicants were not willing to consider reducing the height standard necessary to eliminate or limit impacts to coastal views, and instead are moving forward with their current proposals, which would significantly obstruct coastal views, unless modified as recommended by staff.

B. 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. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

The 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 from which the Commission can evaluate the significance of the project's impacts.

In this case, 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:

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.*

Policy XII states:

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

Policy XII.4 states:

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

Policy XIV.8 states:

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

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, and 5-14-1582) 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 and public recreational areas) and to be visually compatible with the heights of the rest of the exclusively

5-10-180, 5-11-033, 5-12-126, 5-12-127, 5-12-128, 5-12-294,
5-12-295, 5-12-296, 5-12-297, 5-13-037, 5-13-038, 5-15-0978, 5-15-0982

single-story homes in the low scaled mobile home park; the prevailing height of development in the Park is approximately 13-14 feet. 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 impacts views to and along the coast.

The beach in front of the Park is narrow and varies from a few feet to 70 feet 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 one-story mobile homes at the Park; therefore, the proposed structures will not result in further visual obstruction of the coastal bluffs from the beach.

The proposed development is seaward from the public trails along the coastal bluff inland of El Camino Real at the Marblehead coastal site (**Exhibit 2**). The Marblehead 247-acre large-scale, mixed use development coastal project (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. The trails and the recreational parks were a result of Commission review to reduce the density and increase the setback of the proposed Marblehead development to provide public amenities for viewing the coast, recreational uses, and beach access (CDP No. 5-03-013). The public trail system, composed of trails located on the bluff-top and low & mid bluff, was secured through an offer to dedicate a trail easement; the City of San Clemente has since accepted the easement. The trails are managed by the City.

Beachfront two-story residences exist along Beach Road in Capistrano Beach (Dana Point) approximately 1,500 feet northwest of the Park and approximately 2,700 northwest from the Marblehead public trails. An important distinction, however, between the two-story residences along Beach Road and the two-story mobile homes within the Park is that the proposed mobile homes are located immediately seaward of the Marblehead site. The residences further north do not have a significant view impact from the trails because of their distance. The Park is located directly in front of the trails and other recreational areas. Therefore, because of the close proximity to the trails, any redevelopment of the Park has the potential to significantly impact public views from the trails. The currently proposed units are located within the public view corridor of the public trails along the Marblehead bluffs and because of their close proximity to the trails and parks, are highly visible from these public amenities and impact coastal views.

Exhibit 2 provides a map of the Marblehead public trails and the 19 selected points of vantage (VP) on these trails referenced in this staff report; these trails were opened to the public in April 2015. Views of the coast and the Park are available throughout the public trail system and are not limited to the selected vantage points.

The viewshed along the bluffs from the Marblehead public trail system extends approximately 1,800 lateral feet from the northernmost vantage point, VP 2, to the southernmost vantage point, VP 14 (see **Exhibit 2**). The westernmost vantage point, VP 6, and the easternmost vantage point, VP 13, are located approximately 150 feet and 1100 feet, respectively, from the easterly (inland) property line of the Capistrano Mobile Home Park (see **Exhibit 2**). The bluffs range from 110-130 feet above sea level, and trails of the Marblehead public trail system are situated along the bluffs at various elevations. Panoramic views of the Pacific Ocean from the near shore area to the horizon

are available from this public trail viewshed, which include major scenic resources such as views of ocean white water and blue water, ocean horizon, shoreline and coastline, sandy beach, headlands, the San Clemente Pier, coastal bluffs, and islands (e.g. Catalina Island and San Clemente Island). The proposed development (at all unit spaces subject to this staff report) is not visible from VP 1, 4, 9 and 12 due their distance from the bluff edge and the Park, and due to the topography and vegetation along the bluffs. The following table (Table 2) provides information regarding each proposed mobile/manufactured home unit and where each is highly visible from and results in an impact of coastal views from a particular vantage point along the Marblehead public trails.

Table 2. Visual Resource Impacts from public vista points resulting from proposed development at proposed project site under Coastal Development Permit Application Nos. 5-10-180 (Unit 90), 5-11-033 (31), 5-12-126 (35), 5-12-127(69), 5-12-128 (18), 5-12-294 (17), 5-12-295 (75), 5-12-296 (48), 5-12-297 (13), 5-13-037 (46), 5-13-038 (23), 5-15-0978 (57), 5-15-0982 (40)

Mobile/ Manufacture d Home Unit	VP 1	VP 2	VP 3	VP 4	VP 5	VP 6	VP 7	VP 8	VP 9	VP 10	VP 11	VP 12	VP 13	VP 14	VP 15	VP 16	VP 17	VP 18	VP 19
Unit 13		✓				✓	✓	✓		✓	✓		✓		✓	✓	✓	✓	✓
Unit 17		✓				✓	✓	✓		✓	✓		✓	✓	✓	✓	✓	✓	✓
Unit 18		✓				✓	✓	✓		✓	✓		✓	✓	✓	✓	✓	✓	✓
Unit 23		✓				✓	✓	✓		✓	✓					✓	✓	✓	✓
Unit 31		✓				✓	✓	✓		✓	✓					✓	✓	✓	✓
Unit 35		✓				✓	✓	✓		✓	✓					✓	✓	✓	✓
Unit 40		✓				✓	✓	✓		✓	✓					✓	✓	✓	✓
Unit 46		✓				✓	✓	✓		✓	✓					✓	✓	✓	✓
Unit 48		✓				✓	✓	✓		✓	✓					✓	✓	✓	✓
Unit 57		✓			✓	✓	✓	✓		✓	✓					✓	✓	✓	✓
Unit 69		✓			✓	✓	✓	✓		✓	✓					✓	✓	✓	✓
Unit 75		✓			✓	✓	✓	✓		✓	✓					✓	✓	✓	✓
Unit 90						✓		✓		✓	✓							✓	✓

Each applicant has provided a View Analysis Report prepared by Steinmetz Photographic Services for each project site (Unit Space #13, 17, 18, 23, 31, 35, 40, 46, 48, 57, 69, 75, and 90); the reports provide pictures of each project site as viewed from the 19 selected viewpoints along the trails. In the reports, the viewpoints were split into two categories based on elevation: primary (upper, bluff-top) and secondary (lower, mid bluff) viewpoint areas. It is indicated that the visual impacts are minimal with a few exceptions, particularly from the secondary viewpoint areas (VP1 &15-19). In addition, it is noted that views from the secondary viewpoints “offer less public coastal views given their lower elevation, proximity to air and noise pollution, proximity to other land features, and/or lack of parking” and “are unlikely to see significant public use.” Therefore, according to the studies, there is no significant impairment of coastal views from all the viewpoint areas.

5-10-180, 5-11-033, 5-12-126, 5-12-127, 5-12-128, 5-12-294,
5-12-295, 5-12-296, 5-12-297, 5-13-037, 5-13-038, 5-15-0978, 5-15-0982

It is important to note, however, that the Marblehead public trails are composed of bluff-top and low & mid-bluff trails, which are part of a singular trail system. This public trail system offers public access to and from the coast and the coastal canyons, and significant public recreational use. Public parking for the Marblehead trail system is available throughout the Marblehead site and the North Beach public parking lots; the entrance to the North Beach parking lots is located approximately 400 feet south of the nearest trail access point at El Camino Real. Furthermore, although the mid-bluff trails are at a lower elevation, these lower trails also offer key views to major scenic coastal resources. Increased loss of these scenic resources is expected as the line of sight becomes increasingly horizontal to the proposed development. As a person descends from the upper trails down to the lower trails, the overhead angle view of the coast over the Park reduces; therefore, the angled sight becomes increasingly horizontal to the proposed development. Significant blockage of major scenic resources from either or both the upper and lower trails resulting in adverse view impacts would be inconsistent with the Section 30251 of the Coastal Act, which states that permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas.

Upon visiting the Marblehead trails and the project sites and upon review of the Visual Analysis Reports, it can be found that the impacts from the increased heights of the proposed units at the Park are significant, and impede coastal views from nearby public access points and trails.

Individual visual resource findings are provided below for each proposed mobile/manufactured home with an analysis on the impacts of vistas from along the bluffs and, if any, other public vista corridors. It should be noted that the analysis focuses on the 19 selected vantage, or view, points for purposes of providing a representation of various views found along the extensive trail system. These trail vantage points, however, are not the only views available along this scenic corridor. All units within the Park are visible from the trails, but the degree to which the units are visible and how significant the view impact is, is dependent on the distance from the public trails and other recreational areas. At the existing one-story height, the mobile units are more subordinate to the natural setting which preserves views of the shoreline and scenic coastal areas from many public vantage points throughout this scenic corridor of PCH.

UNIT 13 (CDP APPLICATION NO. 5-12-297)

The applicant for CDP Application No. 5-12-297 is requesting after-the-fact approval for replacement of an approximately 13-ft. high, 1,462 sq. ft. one-story mobile home with an approximately 24.9-ft. high, 2,440 sq. ft. two-story mobile/manufactured home at Unit Space #13, resulting in a significant increase in bulk and height (**Exhibit 3**). This will result in an increase of approximately 12 ft. in height and 978 sq. ft. in floor area.

Unit Space #13 is located near the entrance towards the southern end of the Park. Unit Space #13 is visible from the beach, from El Camino Real and from various Vantage Points (VP) along the public trails that extend along the coastal bluffs at the Marblehead Coastal site; the site is visible from VP 2, 6, 7, 8, 10, 11, 13, 15, 16, 17, 18, and 19. The distance of these vantage points from the proposed project site vary. The closest being VP 15, found along the southern portion of the Marblehead trail system, measuring at approximately 370 feet and the farthest being VP 2, found along the northern portion, measuring at approximately 1,900 feet from Unit Space #13. The viewshed, as viewed from these public trail vantage points, extends approximately 1,700 lateral feet along the bluffs from the northernmost vantage point, VP 2, to the southernmost vantage point, VP

15 (see **Exhibit 2**). This viewshed provides views of major scenic resources including ocean white water and blue water, ocean horizon, shoreline and coastline, beach, headlands, the San Clemente Pier, coastal bluffs, and islands. The table below (Table 3) lists the scenic resources that are visible and are impacted by the proposed development at each of these vista points.

Table 3. Visual Resource Impacts from public vista points resulting from proposed development at proposed site under Coastal Development Permit Application No. 5-12-297 (Unit 13)

Vantage Point (VP)	Views	View Impacts
2, 6, 7, 8, 10, 11, 13, 16	Ocean whitewater, blue water, horizon, San Clemente Pier, headlands, coastal bluffs, coastline and shoreline, beach, islands	Complete/partial blockage of whitewater and/or partial blockage of blue water (Nearly complete blockage of whitewater from VP 2, 6, 7, 8, 10, 11) (Nearly complete blockage of blue water from VP 16)
15	Ocean blue water, horizon	Complete blockage of ocean blue water and the horizon
17, 18, 19	Ocean whitewater, blue water, horizon, San Clemente Pier, headlands, coastal bluffs, coastline, islands	Complete blockage of whitewater and blue water views with complete or partial blockage of San Clemente Pier

The proposed increase in bulk and height negatively impacts coastal views from 12 of the 19 selected public vantage points along the trails, as well as other sections along the trails. The visual impacts include partial and complete blockage of views to the ocean white water and blue water, to the horizon, and San Clemente Pier from the upper and the lower trails (**Exhibit 16**). The proposed project will result in significant obstruction of highly scenic coastal views from the public trails, particularly from the vantage points in closer proximity to the project site and at lower elevations (e.g. VP 15, 16); see **Exhibit 16, pages 11-12** of the view analysis.

In addition, the proposed project will result in a partial blockage of the ocean from a public children recreational area on the northern part of the Marblehead coastal site that is currently being constructed and will be maintained by the City; see **Exhibit 30, page 1**. The children’s recreation area is approximately 800 feet northeast of the project site. Furthermore, the proposed development will significantly, and almost completely, block the view to the ocean from the public view corridor on the public right-of-way as one drives west along Avenida Pico at the Avenida Pico and El Camino Real intersection, see **Exhibit 30, page 2**.

UNIT 17 (CDP APPLICATION NO. 5-12-294)

The applicant for CDP Application No. 5-12-294 is requesting an after-the-fact approval for replacement of an approximately 12-13 foot high, 1,438 sq. ft. one-story mobile home with an approximately 25-foot high, 2,534 sq. ft. two-story mobile/manufactured home at Unit Space #17, resulting in a significant increase in bulk and height (**Exhibit 4**). This will result in an increase of approximately 12-13 ft. in height and 1,096 sq. ft. in floor area.

Unit Space #17 is located towards the southern end of the Park. Unit Space #17 is visible from the beach, from El Camino Real and from various Vantage Points (VP) along the public trails that extend along the coastal bluffs at the Marblehead Coastal site; the site is visible from VP 2, 6, 7, 8, 10, 11, 13, 14, 15, 16, 17, 18, and 19. The distance of these vantage points from this proposed project site vary. The closest being VP 16, found along the southern portion of the Marblehead trail system, measuring at approximately 240 feet and the farthest being VP 2, found along the northern portion, measuring at approximately 1,760 feet from Unit Space #17. The viewshed, as viewed

5-10-180, 5-11-033, 5-12-126, 5-12-127, 5-12-128, 5-12-294,
5-12-295, 5-12-296, 5-12-297, 5-13-037, 5-13-038, 5-15-0978, 5-15-0982

from these public trail vantage points, extends approximately 1,700 lateral feet along the bluffs from the northernmost vantage point, VP 2, to the southernmost vantage point, VP 15 (see **Exhibit 2**). This viewshed provides views of major scenic resources including ocean white water and blue water, ocean horizon, shoreline and coastline, beach, headlands, the San Clemente Pier, islands, and coastal bluffs. The table below (Table 4) lists the scenic resources that are visible and are impacted by the proposed development at each of these vista points.

Table 4. Visual Resource Impacts from public vista points resulting from proposed development at proposed site under Coastal Development Permit Application No. 5-12-294 (Unit 17)

Vantage Point (VP)	Views	View Impacts
2, 6, 7, 8, 10, 11, 13, 14, 16	Ocean whitewater, blue water, horizon, San Clemente Pier, headlands, coastal bluffs, coastline and shoreline, beach, islands	Complete/partial blockage of whitewater and/or partial blockage of blue water (Nearly complete blockage of blue water from VP 16)
15	Ocean blue water, horizon	Complete blockage of ocean blue water and the horizon
17, 18, 19	Ocean whitewater, blue water, horizon, San Clemente Pier, headlands, coastal bluffs, coastline and shoreline, beach, islands	Complete blockage of blue water views with complete/partial blockage of San Clemente Pier

The proposed increase in bulk and height negatively impacts coastal views from 13 of the 19 selected public vantage points along the trails, as well as other sections along the trails. The visual impacts include partial and complete blockage of views to the ocean white water and blue water, to the horizon, and San Clemente Pier (**Exhibit 17**). The proposed project will result in significant obstruction of highly scenic coastal views from the public trails, particularly from the vantage points in closer proximity to the project site and at lower elevations (e.g. VP 15, 16); see **Exhibit 17, pages 12-13** of the view analysis.

In addition, the proposed project will result in a partial blockage of the ocean from a public children recreational area on the northern part of the Marblehead coastal site that is currently being constructed and will be maintained by the City; see **Exhibit 30, page 1**. The children’s recreation area is approximately 830 feet northeast of the project site. Furthermore, the proposed development will significantly and almost completely block the view to the ocean from the public view corridor on the public right-of-way at the Avenida Pico and El Camino Real intersection, see **Exhibit 30, page 2**.

UNIT 18 (CDP APPLICATION NO. 5-12-128)

The applicant for CDP Application No. 5-12-128 is requesting an after-the-fact approval for replacement of an approximately 12-13 ft. high, 1,485 sq. ft. one-story mobile home with an approximately 24.9 ft. high, 2,542 sq. ft. two-story mobile/manufactured home at Unit Space #18, resulting in a significant increase in bulk and height (**Exhibit 5**). This will result in an increase of approximately 12-13 ft. in height and 1,057 sq. ft. in floor area.

Unit Space #18 is located towards the southern end of the Park. Unit Space #18 is visible from the beach, from El Camino Real and from various Vantage Points (VP) along the public trails that extend along the coastal bluffs at the Marblehead Coastal site; the site is visible from VP 2, 6, 7, 8, 10, 11, 13, 14, 15, 16, 17, 18, and 19. The distance of these vantage points from this proposed

project site vary. The closest being VP 16, found along the southern portion of the Marblehead trail system, measuring at approximately 220 feet and the farthest being VP 2, found along the northern portion, measuring at approximately 1,720 feet from Unit Space #18. The viewshed, as viewed from these public trail vantage points, extends approximately 1,700 lateral feet along the bluffs from the northernmost vantage point, VP 2, to the southernmost vantage point, VP 15 (see **Exhibit 2**). This viewshed provides views of major scenic resources including ocean white water and blue water, ocean horizon, shoreline and coastline, beach, headlands, the San Clemente Pier, and coastal bluffs. The table below (Table 5) lists the scenic resources that are visible and are impacted by the proposed development at each of these vista points.

Table 5. Visual Resource Impacts from public vista points resulting from proposed development at proposed site under Coastal Development Permit Application No. 5-12-298 (Unit 18)

Vantage Point (VP)	Views	View Impacts
2, 6, 7, 8, 10, 11, 13, 14, 16, 17, 18	Ocean whitewater, blue water, horizon, San Clemente Pier, headlands, coastal bluffs, coastline and shoreline, beach, islands	Complete/partial blockage of whitewater and/or partial blockage of blue water (Nearly complete blockage of blue water from VP 16, 17, 18)
15	Ocean blue water, horizon	Complete blockage of ocean blue water and the horizon
19	Ocean whitewater, blue water, horizon, San Clemente Pier, headlands, coastal bluffs, coastline and shoreline, beach, islands	Complete blockage of blue water views with complete blockage of San Clemente Pier

The proposed increase in bulk and height negatively impacts coastal views from 13 of the 19 selected public vantage points along the trails, as well as other sections along the trails. The visual impacts include partial and complete blockage of views to the ocean white water and blue water, to the horizon, and San Clemente Pier (**Exhibit 18**). The proposed project will result in significant obstruction of highly scenic coastal views from the public trails, particularly from the vantage points in closer proximity to the project site and at lower elevations (e.g. VP 15, 16); see **Exhibit 18, pages 12-13**.

In addition, the proposed project will result in a partial blockage of the ocean from a dedicated public children recreational area on the northern part of the Marblehead coastal site that is currently being constructed and will be maintained by the City; see **Exhibit 30, page 1**. The children’s recreation area is approximately 840 feet northeast of the project site. Furthermore, the proposed development will significantly and almost completely block the view to the ocean from the public view corridor on the public right-of-way at the Avenida Pico and El Camino Real intersection, see **Exhibit 30, page 2**.

UNIT 23 (CDP APPLICATION NO. 5-13-038)

The applicant for CDP Application No. 5-13-038 is requesting an after-the-fact approval for replacement of an approximately 14-15 ft. high, 1,440 sq. ft. one-story mobile home with an approximately 24.9 ft. high, 2,741 sq. ft. two-story mobile/manufactured home at Unit Space #23, resulting in a significant increase in bulk and height (**Exhibit 6**). This will result in an increase of approximately 10-11 ft. in height and 1,301 sq. ft. in floor area.

5-10-180, 5-11-033, 5-12-126, 5-12-127, 5-12-128, 5-12-294,
 5-12-295, 5-12-296, 5-12-297, 5-13-037, 5-13-038, 5-15-0978, 5-15-0982

Unit Space #23 is located towards the southern end of the Park. Unit Space #23 is visible from the beach, from El Camino Real and from various Vantage Points (VP) along the public trails that extend along the coastal bluffs at the Marblehead Coastal site; the site is visible from VP 2, 6, 7, 8, 10, 11, 16, 17, 18, and 19. The distance of these vantage points from this proposed project site vary. The closest being VP 16, found at the southern portion of the Marblehead trail system, measuring at approximately 240 feet and the farthest being VP 2, found along the northern portion, measuring at approximately 1,530 feet from Unit Space #23. The viewshed, as viewed from these public trail vantage points, extends approximately 1,550 lateral feet along the bluffs from the northernmost vantage point, VP 2, to the southernmost vantage point, VP 16 (see **Exhibit 2**). This viewshed provides views of major scenic resources including ocean white water and blue water, ocean horizon, shoreline and coastline, beach, headlands, the San Clemente Pier, and coastal bluffs. The table below (Table 6) lists the scenic resources that are visible and are impacted by the proposed development at each of these vista points.

Table 6. Visual Resource Impacts from public vista points resulting from proposed development at proposed site under Coastal Development Permit Application No. 5-13-038 (Unit 23)

Vantage Point (VP)	Views	View Impacts
2, 6, 7, 8, 10, 11, 16, 17, 18	Ocean whitewater, blue water, horizon, San Clemente Pier, headlands, coastal bluffs, coastline and shoreline, beach, islands	Complete/partial blockage of whitewater and/or partial blockage of blue water (Nearly complete blockage of blue water from VP 16, 17)
19	Ocean whitewater, blue water, horizon, San Clemente Pier, headlands, coastal bluffs, coastline and shoreline, beach, islands	Complete blockage of blue water views with complete/partial blockage of San Clemente Pier

The proposed increase in bulk and height negatively impacts coastal views from 10 of the 19 selected public vantage points along the trails, as well as other sections along the trails. The visual impacts include partial and complete blockage of views to the ocean white water and blue water, to the horizon, and San Clemente Pier (**Exhibit 19**). The proposed project will result in significant obstruction of highly scenic coastal views from the public trails, particularly from the vantage points in closer proximity to the project site and at lower elevations (e.g. VP 16, 17); see **Exhibit 19, pages 10-11** of the visual analysis.

In addition, the proposed project will result in a partial blockage of the ocean from the dedicated children recreational area on the northern part of the Marblehead coastal site that is currently being constructed and will be maintained by the City; see **Exhibit 30, page 1**. The children’s recreation area is approximately 930 feet northeast of the project site.

UNIT 31 (CDP APPLICATION NO. 5-11-033)

The applicant for CDP Application No. 5-11-033 is requesting an after-the-fact approval for replacement of an approximately 12 ft. high, 1,406 sq. ft. one-story mobile home with an approximately 21.9 ft. high, 2,669 sq. ft. two-story mobile/manufactured home at Unit Space #31, resulting in a significant increase in bulk and height (**Exhibit 7**). This will result in an increase of approximately 10 ft. in height and 1,263 sq. ft. in floor area.

Unit Space #31 is located towards the southernmost portion of the center of the Park. Unit Space #31 is visible from the beach, from El Camino Real and from various Vantage Points (VP) along the public trails that extend along the coastal bluffs at the Marblehead Coastal site; the site is visible from VP 2, 6, 7, 8, 10, 11, 16, 17, 18, and 19. The distance of these vantage points from this proposed project site vary. The closest being VP 17, found along the central portion of the Marblehead trail system, measuring at approximately 320 feet and the farthest being VP 2, found along the northern portion, measuring at approximately 1,250 feet from Unit Space #31. The viewshed, as viewed from these public trail vantage points, extends approximately 1,550 lateral feet along the bluffs from the northernmost vantage point, VP 2, to the southernmost vantage point, VP 16 (see **Exhibit 2**). This viewshed provides views of major scenic resources including ocean white water and blue water, ocean horizon, shoreline and coastline, beach, headlands, the San Clemente Pier, and coastal bluffs. The table below (Table 7) lists the scenic resources that are visible and are impacted by the proposed development at each of these vista points.

Table 7. Visual Resource Impacts from public vista points resulting from proposed development at proposed site under Coastal Development Permit Application No. 5-11-033 (Unit 31)

Vantage Point (VP)	Views	View Impacts
2, 6, 7, 8, 10, 11, 16, 17, 18, 19	Ocean whitewater, blue water, horizon, San Clemente Pier, headlands, coastal bluffs, coastline and shoreline, beach, islands	Complete/partial blockage of whitewater and/or partial blockage of blue water

The proposed increase in bulk and height negatively impacts coastal views from 10 of the 19 selected public vantage points along the trails, as well as other sections along the trails. The visual impacts include complete and partial blockage of views to the ocean white water, and partial blockage of blue water (**Exhibit 20**). The proposed project will result in significant obstruction of highly scenic coastal views from the public trails, particularly from the vantage points in closer proximity to the project site and at lower elevations (e.g. VP 16, 17); see **Exhibit 20, pages 10-11**.

UNIT 35 (CDP APPLICATION NO. 5-12-126)

The applicant for CDP Application No. 5-12-126 is requesting an after-the-fact approval for replacement of an approximately 12 ft. high, 1,293 sq. ft. one-story mobile home with an approximately 24.3 ft. high, 1,957 sq. ft. two-story mobile/manufactured home at Unit Space #35, resulting in a significant increase in bulk and height (**Exhibit 8**). This will result in an increase of approximately 12 ft. in height and 664 sq. ft. in floor area.

Unit Space #35 is located towards the southern portion of the center of the Park. Unit Space #35 is visible from the beach, from El Camino Real and from various Vantage Points (VP) along the public trails that extend along the coastal bluffs at the Marblehead Coastal site; the site is visible from VP 2, 6, 7, 8, 10, 11, 16, 17, 18, and 19. The distance of these vantage points from this proposed project site vary. The closest being VP 17, found along the central portion of the Marblehead trail system, measuring at approximately 220 feet, and the farthest being VP 2, found along the northern portion, measuring at approximately 1,090 feet from Unit Space #35. The viewshed, as viewed from these public trail vantage points, extends approximately 1,550 lateral feet along the bluffs from the northernmost vantage point, VP 2, to the southernmost vantage point, VP 16 (see **Exhibit 2**). This viewshed provides views of major scenic resources including ocean white water and blue water, ocean horizon, shoreline and coastline, beach, headlands, the San Clemente

5-10-180, 5-11-033, 5-12-126, 5-12-127, 5-12-128, 5-12-294,
 5-12-295, 5-12-296, 5-12-297, 5-13-037, 5-13-038, 5-15-0978, 5-15-0982

Pier, and coastal bluffs. The table below (Table 8) lists the scenic resources that are visible and are impacted by the proposed development at each of these vista points.

Table 8. Visual Resource Impacts from public vista points resulting from proposed development at proposed site under Coastal Development Permit Application No. 5-12-126 (Unit 35)

Vantage Point (VP)	Views	View Impacts
2, 6, 7, 8, 10, 11, 18	Ocean whitewater, blue water, horizon, San Clemente Pier, headlands, coastal bluffs, coastline and shoreline, beach, islands	Complete/partial blockage of whitewater and/or partial blockage of blue water
16, 17, 19	Ocean whitewater, blue water, horizon, San Clemente Pier, headlands, coastal bluffs, coastline and shoreline, beach, islands	Partial blockage of blue water views with partial blockage of horizon (Nearly complete blockage of blue water from VP 16, 17, 19)

The proposed increase in bulk and height negatively impacts coastal views from 10 of the 19 selected public vantage points along the trails, as well as other sections along the trails. The visual impacts include complete and partial blockage of views to the ocean white water, and partial blockage of blue water and the horizon (**Exhibit 21**). The proposed project will result in significant obstruction of highly scenic coastal views from the public trails, particularly from the vantage points in closer proximity to the project site and at lower elevations (e.g. VP 7, 16, 17); see **Exhibit 21, pages 10-11** of the view analysis.

UNIT 40 (CDP APPLICATION NO. 5-15-0982)

The applicant for CDP Application No. 5-15-0982 is requesting an after-the-fact approval for replacement of an approximately 13-14 ft. high, 1,559 sq. ft. one-story mobile home with an approximately 24.3 ft. high, 2,769 sq. ft. two-story mobile/manufactured home at Unit Space #40 resulting in a significant increase in bulk and height (**Exhibit 9**). This will result in an increase of approximately 10-11 ft. in height and 1,210 sq. ft. in floor area.

Unit Space #40 is located towards the center of the Park. Unit Space #40 is visible from the beach, from El Camino Real and from various Vantage Points (VP) along the public trails that extend along the coastal bluffs at the Marblehead Coastal site; the site is visible from VP 2, 6, 7, 8, 10, 11, 16, 17, 18, and 19. The distance of these vantage points from this proposed project site vary. The closest being VP 17 found along the central portion of the Marblehead trail system, measuring at approximately 240 feet, and the farthest being VP 2, found along the northern portion, measuring at approximately 920 feet from Unit Space #40. The viewshed, as viewed from these public trail vantage points, extends approximately 1,550 lateral feet along the bluffs from the northernmost vantage point, VP 2, to the southernmost vantage point, VP 16 (see **Exhibit 2**). This viewshed provides views of major scenic resources including ocean white water and blue water, ocean horizon, shoreline and coastline, beach, headlands, the San Clemente Pier, and coastal bluffs. The table below (Table 9) lists the scenic resources that are visible and are impacted by the proposed development at each of these vista points.

Table 9. Visual Resource Impacts from public vista points resulting from proposed development at proposed site under Coastal Development Permit Application No. 5-15-0982 (Unit 40)

Vantage Point (VP)	Views	View Impacts
2, 6, 7, 8, 10, 11, 16, 17, 18, 19	Ocean whitewater, blue water, horizon, San Clemente Pier, headlands, coastal bluffs, coastline and shoreline, beach, islands	Complete/partial blockage of whitewater and/or partial blockage of blue water (Nearly complete blockage of blue water from VP 16, 17, 19)

The proposed increase in bulk and height negatively impacts coastal views from 10 of the 19 selected public vantage points along the trails, as well as other sections along the trails. The visual impacts include complete and partial blockage of views to the ocean white water, and partial blockage of blue water (**Exhibit 22**). The proposed project will result in significant obstruction of highly scenic coastal views from the public trails, particularly from the vantage points in closer proximity to the project site and at lower elevations (e.g. VP 16, 17, 18, 19); see **Exhibit 22, pages 10-13** of the view analysis.

UNIT 46 (CDP APPLICATION NO. 5-13-037)

The applicant for CDP Application No. 5-13-037 is requesting an after-the-fact approval for replacement of an approximately 13-14 ft. high, 1,606 sq. ft. one-story mobile home with an approximately 24.9 ft. high, 2,967 sq. ft. two-story mobile/manufactured home at Unit Space #46 resulting in a significant increase in bulk and height (**Exhibit 10**). This will result in an increase of approximately 11-12 ft. in height and 1,361 sq. ft. in floor area.

Unit Space #46 is located towards the center of the Park. Unit Space #46 is visible from the beach, from El Camino Real and from various Vantage Points (VP) along the public trails that extend along the coastal bluffs at the Marblehead Coastal site; the site is visible from VP 2, 6, 7, 8, 10, 11, 16, 17, 18, and 19. The distance of these vantage points from this proposed project site vary. The closest being VP 18, found along the northern portion of the Marblehead trail system, measuring at approximately 330 feet, and the farthest being VP 16, found along the southern portion, measuring at approximately 1000 feet from Unit Space #46. The viewshed, as viewed from these public trail vantage points, extends approximately 1,550 lateral feet along the bluffs from the northernmost vantage point, VP 2, to the southernmost vantage point, VP 16 (see **Exhibit 2**). This viewshed provides views of major scenic resources including ocean white water and blue water, ocean horizon, shoreline and coastline, beach, headlands, the San Clemente Pier, and coastal bluffs. The table below (Table 10) lists the scenic resources that are visible and are impacted by the proposed development at each of these vista points.

Table 10. Visual Resource Impacts from public vista points resulting from proposed development at project site under Coastal Development Permit Application No. 5-13-037 (Unit 46)

Vantage Point (VP)	Views	View Impacts
2, 6, 7, 8, 10, 11, 16, 17, 18, 19	Ocean whitewater, blue water, horizon, San Clemente Pier, headlands, coastal bluffs, coastline and shoreline, beach, islands	Complete/Partial blockage of whitewater and/or partial blockage of blue water (Nearly complete blockage of blue water from VP 16, 17, 19)

The proposed increase in bulk and height negatively impacts coastal views from 10 of the 19 selected public vantage points along the trails, as well as other sections along the trails. The visual impacts include complete and partial blockage of views to the ocean white water, and partial

5-10-180, 5-11-033, 5-12-126, 5-12-127, 5-12-128, 5-12-294,
 5-12-295, 5-12-296, 5-12-297, 5-13-037, 5-13-038, 5-15-0978, 5-15-0982

blockage of blue water (**Exhibit 23**). The proposed project will result in significant obstruction of highly scenic coastal views from the public trails, particularly from the vantage points in closer proximity to the project site and at lower elevations (e.g. VP 17, 18, 19); see **Exhibit 23, pages 11-13** of the view analysis.

UNIT 48 (CDP APPLICATION NO. 5-12-296)

The applicant for CDP Application No. 5-12-296 is requesting an after-the-fact approval for replacement of an approximately 13-14 ft. high, 1,560 sq. ft. one-story mobile home with an approximately 25 ft. high, 2,970 sq. ft. two-story mobile/manufactured home at Unit Space #46 resulting in a significant increase in bulk and height (**Exhibit 11**). This will result in an increase of approximately 11-12 ft. in height and 1,410 sq. ft. in floor area.

Unit Space #48 is located towards the center of the Park. Unit Space #48 is visible from the beach, from El Camino Real and from various Vantage Points (VP) along the public trails that extend along the coastal bluffs at the Marblehead Coastal site; the site is visible from VP 2, 6, 7, 8, 10, 11, 16, 17, 18, and 19. The distance of these vantage points from this proposed project site vary. The closest being VP 18, found along the northern portion of the Marblehead trail system, measuring at approximately 280 feet and the farthest being VP 16, found along the southern portion, measuring at approximately 1075 feet from Unit Space #48. The viewshed, as viewed from these public trail vantage points, extends approximately 1,550 lateral feet along the bluffs from the northernmost vantage point, VP 2, to the southernmost vantage point, VP 16 (see **Exhibit 2**). This viewshed provides views of major scenic resources including ocean white water and blue water, ocean horizon, shoreline and coastline, beach, headlands, the San Clemente Pier, and coastal bluffs. The table below (Table 11) lists the scenic resources that are visible and are impacted by the proposed development at each of these vista points.

Table 11. Visual Resource Impacts from public vista points resulting from proposed development at proposed site under Coastal Development Permit Application No. 5-12-296 (Unit 48)

Vantage Point (VP)	Views	View Impacts
2, 6, 7, 8, 10, 11, 16, 17, 18, 19	Ocean whitewater, blue water, horizon, San Clemente Pier, headlands, coastal bluffs, coastline and shoreline, beach, islands	Complete/Partial blockage of whitewater and/or partial blockage of blue water (Nearly complete blockage of blue water from VP 16, 17, 19)

The proposed increase in bulk and height negatively impacts coastal views from 10 of the 19 selected public vantage points along the trails, as well as other sections along the trails. The visual impacts include complete and partial blockage of views to the ocean white water, and partial blockage of blue water (**Exhibit 24**). The proposed project will result in significant obstruction of highly scenic coastal views from the public trails, particularly from the vantage points in closer proximity to the project site and at lower elevations (e.g. VP 17, 18, 19); see **Exhibit 24, pages 11-13** of the view analysis.

UNIT 57 (CDP APPLICATION NO. 5-15-0978)

The applicant for CDP Application No. 5-15-0978 is requesting an after-the-fact approval for replacement of an approximately 13-14 ft. high, 1,470 sq. ft. one-story mobile home with an approximately 22.3 ft. high, 2,241 sq. ft. two-story mobile/manufactured home at Unit Space #57

resulting in a significant increase in bulk and height (**Exhibit 12**). This will result in an increase of approximately 8-9 ft. in height and 771 sq. ft. in floor area.

Unit Space #57 is located towards the northern portion of the center of the Park. Unit Space #57 is visible from the beach, from El Camino Real and from various Vantage Points (VP) along the public trails that extend along the coastal bluffs at the Marblehead Coastal site; the site is visible from VP 2, 5, 6, 7, 8, 10, 11, 16, 17, 18, and 19. The distance of these vantage points from this proposed project site vary. The closest being VP 19, found along the northern portion of the Marblehead trail system, measuring at approximately 250 feet and the farthest being VP 16, found along the southern portion, measuring at approximately 1400 feet from Unit Space #57. The viewshed, as viewed from these public trail vantage points, extends approximately 1,550 lateral feet along the bluffs from the northernmost vantage point, VP 2, to the southernmost vantage point, VP 16 (see **Exhibit 2**). This viewshed provides views of major scenic resources including ocean white water and blue water, ocean horizon, shoreline and coastline, beach, headlands, the San Clemente Pier, and coastal bluffs. The table below (Table 12) lists the scenic resources that are visible and are impacted by the proposed development at each of these vista points.

Table 12. Visual Resource Impacts from public vista points resulting from proposed development at proposed site under Coastal Development Permit Application No. 5-15-0978 (Unit 57)

Vantage Point (VP)	Views	View Impacts
2, 5, 6, 7, 8, 10, 11, 16, 17, 18, 19	Ocean whitewater, blue water, horizon, San Clemente Pier, headlands, coastal bluffs, coastline and shoreline, beach, islands	Complete/Partial blockage of whitewater and/or partial blockage of blue water (Nearly complete blockage of blue water from VP 17, 19)

The proposed increase in bulk and height negatively impacts coastal views from 11 of the 19 selected public vantage points along the trails, as well as other sections along the trails. The visual impacts include complete and partial blockage of views to the ocean white water, and partial blockage of blue water (**Exhibit 25**). The proposed project will result in significant obstruction of highly scenic coastal views from the public trails, particularly from the vantage points in closer proximity to the project site and at lower elevations (e.g. VP 17, 18, 19); see **Exhibit 25, pages 12-14** of the view analysis.

UNIT 69 (CDP APPLICATION NO. 5-12-127)

The applicant for CDP Application No. 5-12-127 is requesting an after-the-fact approval for replacement of an approximately 12-13 ft. high, 1,494 sq. ft. one-story mobile home with an approximately 25 ft. high, 2,684 sq. ft. two-story mobile/manufactured home at Unit Space #69 resulting in a significant increase in bulk and height (**Exhibit 13**). This will result in an increase of approximately 12-13 ft. in height and 1,190 sq. ft. in floor area.

Unit Space #69 is located towards the northernmost portion of the center of the Park. Unit Space #69 is visible from the beach, from El Camino Real and from various Vantage Points (VP) along the public trails that extend along the coastal bluffs at the Marblehead Coastal site; the site is visible from VP 2, 5, 6, 7, 8, 10, 11, 16, 17, 18, and 19. The distance of these vantage points from this proposed project site vary. The closest being VP 19, found along the northern portion of the Marblehead trail system, measuring at approximately 400 feet and the farthest being VP 16, found along the southern portion, measuring at approximately 1880 feet from Unit Space #69. The

5-10-180, 5-11-033, 5-12-126, 5-12-127, 5-12-128, 5-12-294,
 5-12-295, 5-12-296, 5-12-297, 5-13-037, 5-13-038, 5-15-0978, 5-15-0982

viewshed, as viewed from these public trail vantage points, extends approximately 1,550 lateral feet along the bluffs from the northernmost vantage point, VP 2, to the southernmost vantage point, VP 16 (see **Exhibit 2**). This viewshed provides views of major scenic resources including ocean white water and blue water, ocean horizon, shoreline and coastline, beach, headlands, the San Clemente Pier, and coastal bluffs. The table below (Table 13) lists the scenic resources that are visible and are impacted by the proposed development at each of these vista points.

Table 13. Visual Resource Impacts from public vista points resulting from proposed development at proposed site under Coastal Development Permit Application No. 5-12-127 (Unit 69)

Vantage Point (VP)	Views	View Impacts
2, 5, 6, 7, 8, 10, 11, 17, 18, 19	Ocean whitewater, blue water, horizon, San Clemente Pier, headlands, coastal bluffs, coastline and shoreline, beach, islands	Complete/Partial blockage of whitewater and/or partial blockage of blue water (Nearly complete blockage of blue water from VP 17, 19)
16	Ocean whitewater, blue water, horizon, San Clemente Pier, headlands, coastal bluffs, coastline and shoreline, beach, islands	Complete blockage of distant blue water and obstruction of distant headland coastline to the north

The proposed increase in bulk and height negatively impacts coastal views from 11 of the 19 selected public vantage points along the trails, as well as other sections along the trails. The visual impacts include complete and partial blockage of views to the ocean white water, blue water, and coastline along the headlands to the north (**Exhibit 26**). The proposed project will result in significant obstruction of highly scenic coastal views from the public trails, particularly from the vantage points in closer proximity to the project site and at lower elevations (e.g. VP 18, 19); see **Exhibit 26, pages 13-14** of the view analysis.

UNIT 75 (CDP APPLICATION NO. 5-12-295)

The applicant for CDP Application No. 5-12-295 is requesting an after-the-fact approval for replacement of an approximately 12 ft. high, 1,393 sq. ft. one-story mobile home with an approximately 24.9 ft. high, 2,857 sq. ft. two-story mobile/manufactured home at Unit Space #75 resulting in a significant increase in bulk and height (**Exhibit 14**). This will result in an increase of approximately 13 ft. in height and 1,464 sq. ft. in floor area.

Unit Space #75 is located towards the northern end of the Park. Unit Space #75 is visible from the beach, from El Camino Real and from various Vantage Points (VP) along the public trails that extend along the coastal bluffs at the Marblehead Coastal site; the site is visible from VP 2, 5, 6, 7, 8, 10, 11, 16, 17, 18, and 19. The distance of these vantage points from this proposed project site vary. The closest being VP 19, found along the northern portion of the Marblehead trail system, measuring at approximately 620 feet and the farthest being VP 16, found along the southern portion, measuring at approximately 2100 feet from Unit Space #75. The viewshed, as viewed from these public trail vantage points, extends approximately 1,550 lateral feet along the bluffs from the northernmost vantage point, VP 2, to the southernmost vantage point, VP 16 (see **Exhibit 2**). This viewshed provides views of major scenic resources including ocean white water and blue water, ocean horizon, shoreline and coastline, beach, headlands, the San Clemente Pier, and coastal bluffs. The table below (Table 14) lists the scenic resources that are visible and are impacted by the proposed development at each of these vista points.

Table 14. Visual Resource Impacts from public vista points resulting from proposed development at proposed site under Coastal Development Permit Application No. 5-12-295 (Unit 75)

Vantage Point (VP)	Views	View Impacts
2, 5, 6, 7, 17, 18, 19	Ocean whitewater, blue water, horizon, San Clemente Pier, headlands, coastal bluffs, coastline and shoreline, beach, islands	Complete/Partial blockage of whitewater and/or partial blockage of blue water (Partial but nearly complete blockage of blue water from VP 17, 18, 19)
8, 10, 11	Ocean whitewater, blue water, horizon, San Clemente Pier, headlands, coastal bluffs, coastline and shoreline, beach, islands	Complete blockage of distant view of shoreline to the north and complete/partial blockage of whitewater
16	Ocean whitewater, blue water, horizon, San Clemente Pier, headlands, coastal bluffs, coastline and shoreline, beach, islands	Complete blockage of distant view of blue water and obstruction of headland coastline at the north

The proposed increase in bulk and height negatively impacts coastal views from 10 of the 19 selected public vantage points along the trails, as well as other sections along the trails. From VP 7 coastal views are partially obstructed by vegetation. The visual impacts include complete and partial blockage of views to the ocean white water, blue water, Poche Beach shoreline, and coastline along the headlands to the north (**Exhibit 27**). The proposed project will result in significant obstruction of highly coastal views from the public trails, particularly from the vantage points in closer proximity to the project site and at lower elevations (e.g. VP 18, 19); see **Exhibit 27** of the view analysis and **Exhibit 28**².

UNIT 90 (CDP APPLICATION NO. 5-10-180)

The applicant for CDP Application No. 5-10-180 is requesting an after-the-fact approval for replacement of an approximately 12-13 ft. high, 1,332 sq. ft. one-story mobile home with an approximately 19.8 ft. high, 1,569 sq. ft. mobile/manufactured home with a loft at Unit Space #90 resulting in an increase in bulk and height (**Exhibit 15**).

Unit Space #90 is located at the northern end of the Park. Unit Space #90 is visible from the beach, from El Camino Real and from various Vantage Points (VP) along the public trails that extend along the coastal bluffs at the Marblehead Coastal site; the site is visible from VP 6, 8, 10, 11, 18, and 19. The distance of these vantage points from this proposed project site vary. The closest being VP 19 measured at approximately 1,180 feet and the farthest being VP 11 at approximately 2450 feet from Unit Space #90. The viewshed, as viewed from these public trail vantage points, extends approximately 1,550 lateral feet along the bluffs from the northernmost vantage point, VP 2, to the southernmost vantage point, VP 16 (see **Exhibit 2**). This viewshed provides views of major scenic resources including ocean white water and blue water, ocean horizon, shoreline and coastline, beach, headlands, the San Clemente Pier, and coastal bluffs. The table below (Table 15) lists the scenic resources that are visible and are impacted by the proposed development at each of these vista points.

² Staff has provided recent photos of the project site as viewed from VP 18 & 19 representing views near the northernmost portion of the trails. The photos (labeled VP 18 & 19) of the applicant’s view analysis may have inadvertently been taken at a different location as the trails had not yet been completed when the photos were taken.

5-10-180, 5-11-033, 5-12-126, 5-12-127, 5-12-128, 5-12-294,
 5-12-295, 5-12-296, 5-12-297, 5-13-037, 5-13-038, 5-15-0978, 5-15-0982

Table 15. Visual Resource Impacts from public vista points resulting from proposed development at proposed site under Coastal Development Permit Application No. 5-10-180 (Unit 90)

Vantage Point (VP)	Views	View Impacts
6,	Ocean whitewater, blue water, horizon, San Clemente Pier, headlands, coastal bluffs, coastline and shoreline, beach, islands	Partial blockage of beach, shoreline, and white water to the North
8, 10, 11	Ocean whitewater, blue water, horizon, San Clemente Pier, headlands, coastal bluffs, coastline and shoreline, beach, islands	Partial blockage of to the north (Poche Beach)
18, 19	Ocean whitewater, blue water, horizon, San Clemente Pier, headlands, coastal bluffs, coastline and shoreline, beach, islands	Partial blockage of white water and/or partial blockage of blue water to the north

The proposed project will result in a bulk increase of approximately 200 sq. ft. compared to the previous unit at Unit Space #90. In addition, the proposed height of approximately 19.8 feet exceeds the maximum permitted height of 19.5 feet for residential structures within the Park. Under CDP No. 5-09-170 and 5-09-108, the Commission approved the installation of mobile homes with heights of 18.5 feet and 19.5 feet at Unit Spaces #80 and 81, respectively, located near the far northern (upcoast) end of the Park, approximately 310 feet south of Unit 90. An increase in height could have a significant impact on public coastal views from the various vantage points depending on the location of the unit within the park and proximity to the public scenic vantage points. Unit 90 is visible from 6 of 19 selected public vantage points, as well as other sections along the trails; however, because of the location of the project site at the far northern end of the Park and its distance from the public trails, the proposed project will not result in significant obstruction of major coastal views; see **Exhibit 29**. Furthermore, the loft is limited to a small area of approximately 130 sq. ft.; therefore, the remainder of the proposed unit is generally at a lower maximum height of approximately 17 feet.

CONCLUSION

As previously stated, the standard of review is the Chapter 3 policies of the Coastal Act. Section 30251 of the Coastal Act requires that the scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. The Commission has previously limited new development in the Capistrano Shores Mobile Home Park (“Park”) to minimize visual impacts and to avoid cumulative adverse impacts of development encroachment into natural areas consistent with the above-cited policy of the Coastal Act. Development at this location must be sited and designed to be visually compatible with the character of the area. In addition, it is necessary to ensure that new development be sited and designed to protect views along public vista points, such as public beaches, public trails and roads.

As shown in the visual impact analysis, above, the proposed individual units will have a significant adverse impact on coastal views from the public City trails and public children recreational areas at the Marblehead coastal site, as well as from the public view corridor on the public right-of-way at the Avenida Pico and El Camino Real (ECR) intersection.

In past Commission permit action for development in the Park, the Commission has approved mobile homes with heights at 16 feet to 19.5 feet. In 2015, the Commission reviewed the application for the replacement of a mobile home at Unit Space #12. This unit space is located north of the southernmost entrance of the Park and is approximately 300 feet southwest from the Marblehead trails. Unit 12 is within the view corridor of the public bluff trails and public parks

along Marblehead, which were under construction when the unit was brought to the Commission. Based on the location, and minimal public view impacts, the Commission approved the replacement of the existing one-story mobile home and construction of a new one-story mobile home at a maximum height of 16 feet at Unit Space # 12 (CDP No. 5-14-1582). The Commission found that at 16 feet the mobile home would not a significant adverse impact on scenic resources and would continue to protect the coastal views from vantage points on the public trails in the Marblehead development. In 2009, the Commission approved mobile homes with heights of 18.5 feet and 19.5 feet (CDP No. 5-09-170 and 5-09-108). These two mobile homes are located on Unit Spaces #80 and 81 near the far northern (upcoast) end of the Park and much further away from the trails and park, with a distance of approximately 800-840 feet from the nearest trail end. Because of the location and distance of the Units 80 and 81 from public vista areas, the Commission found that the two units were sited and designed to protect coastal views.

The proposed units range from Unit 13 in the south to Unit 75 in the north, with Unit 90 located at the furthest northern end of the Park. With the exception of Unit 90, Units 13 through 75 vary in closeness to the nearest selected vantage points along the public trails, ranging between 370 ft. to 620 ft. Because of their close proximity to the trails, these units are all within the view corridor of the trails and are easily visible from various points along the trails.

The proposed 22-25 foot high mobile homes cannot be found compatible with the character of the Park. The Commission finds that the proposed larger mobile home structures (with the exception of Unit 90) do not represent the prevailing pattern of development within a low-scale mobile home Park. At the existing one-story height, the mobile units are more subordinate to the natural setting which preserves views of the shoreline and scenic coastal areas from many public vantage points throughout this scenic corridor of ECR.

Approval of the proposed two-story, 22-25 feet high units would have a significant adverse cumulative impact on public views and community character of the Park, and would set a negative precedent for development in this area. The relatively low-scale line of mobile homes, which allows views of the ocean, would be replaced with what would appear to be a two-story residential subdivision. There are additional units within the public view corridor, and doubling in height of all these units would cumulatively eliminate the whitewater and other significant public views of the shoreline from multiple public vantage points within this scenic view corridor of ECR.

The 13 units currently before the Commission represent 14% of the 90 units within the Park, and cumulatively take up approximately 330 lineal feet of coastal views as viewed from the Marblehead trail system, and from the public parks that are currently under construction on the Marblehead coastal site. This is a significant loss of coastal views for this area. Should the mobile homes be approved as proposed, the approved heights would provide an adverse precedent from which the owners of the remaining 77 one-story mobile homes in the Park could draw support for proposals to build significantly taller, two-story mobile homes. With a cumulative increase in height of the units, the loss of coastal views (including views of ocean whitewater, blue water, horizon, San Clemente Pier, headlands, coastal bluffs, coastline and shoreline, beach, islands) from the public trails, bluff-top public parks, and view corridor at the intersection of ECR and Avenida Pico could potentially expand approximately 1,970 lineal feet along the coast. This would be a significant cumulative impact on public scenic coastal views.

5-10-180, 5-11-033, 5-12-126, 5-12-127, 5-12-128, 5-12-294,
5-12-295, 5-12-296, 5-12-297, 5-13-037, 5-13-038, 5-15-0978, 5-15-0982

On January 27, 2016, the Commission received an additional application for essentially the same two-story mobile home development at another unit space within the Park. This new application indicates that in addition to these 13 currently before the Commission and the application recently submitted in January, it is reasonably foreseeable that additional occupants of the Park could be applying for similar development in the near future. Consequently, it is important to establish a height limit with the mobile homes approved under this permit to address expectations of future applicants and members of the Park.

In addition, according to a 2012 visual analysis prepared by the Park owner, that analyzes impacts to coastal views if the heights of units at the Park are increased to 26 feet, it is evident that such increases in the heights of the individual units, and cumulatively, would further impact public views of shoreline from vista points and recreational areas inland of the Park. Furthermore, the South Coast District office has received a letter from the City of San Clemente, dated August 17, 2015, in opposition to the proposed two story mobile/manufactured homes (**Exhibit 35**). The letter raised issues that concerned the visual and aesthetic impacts resulting from the proposed development from public areas that offer coastal views.

As proposed, the new two-story, 22-25 feet high mobile/manufactured homes do not adequately protect the visual resources of the area between the San Clemente North Beach and Poche Beach area with the exception of Unit 90. Moreover, although the proposed two-story mobile homes meet the structural and deck stringlines, they do not minimize the bulk of the structures that can be seen from the public areas such as the public trails along the Marblehead bluffs.

Staff considered alternatives including a minimum height that would still allow for two-story structures but would help protect and preserve public coastal views. According to the architect of all 13 units, however, the minimal height for a two-story structure is approximately 22 feet with a pitched roof (21 feet with a flat roof). At 22 feet, as evident by the proposed units already at a height of approximately 22 feet, the proposed structures would not adequately protect the visual resources, particularly those sited closer to the trails and are highly visible within the public viewshed. Based on staff's analysis, a standard height of 19 feet for all of the structures in the Park would also increase the loss of view to the ocean and scenic resources without the benefit of accommodating an additional story to the existing single story mobile homes. Therefore, staff has concluded that limiting the height of the proposed development to 16 feet would allow for an increased height to the Park's prevailing approximately 13-14 foot unit height and upgraded one-story unit, but would not have a significant adverse impact on the ocean viewshed from public areas, thereby minimizing negative impacts to visual resources.

Based on staff's visual analysis 16 ft. would minimize the visual impact on coastal views from the intersection and trails along Marblehead. Furthermore, 16 ft. height limit is consistent with past permit action for the Park for projects that would have significant view impacts because of where they are located within the view corridor. It should be noted that mobile/manufactured homes are manufactured offsite and assembled onsite. According to the California Health and Safety Code Section 18007, a manufactured home is a complete single-family home deliverable in one or more transportable section. Because of the construction method and how the units are assembled by sections, the recommended height reduction and modification to the structures is feasible. Modification to the structures to lower the heights of each unit is necessary to ensure consistency with the visual policies of the Coastal Act. Therefore, to ensure that the development will not have a

significant adverse visual impact, a condition (**Special Condition 1**) of Coastal Development Permit No. 5-11-033 (31), 5-12-126 (35), 5-12-127 (69), 5-12-128 (18), 5-12-294 (17), 5-12-295 (75), 5-12-296 (48), 5-12-297 (13), 5-13-037 (46), 5-13-038 (23), 5-15-0978 (57), 5-15-0982 (40) is required, which would limit the maximum height of the mobile/manufactured home to 16 ft. as measured from the frontage road, Senda de la Playa.

As for Coastal Development Permit No. 5-10-180 (Unit 90), staff is recommending that the Commission approve the after-the-fact development as-built. The Commission finds the proposed unit at Unit Space #90 is sited in a manner that would minimize its visibility from public areas and will not have a significant adverse impact on visual resources. Therefore, the Commission finds Unit 90 is consistent with the relevant policies of the City's Local Coastal Land Use Plan and with Section 30251 of the Coastal Act.

Special Condition 10 is imposed to ensure that all development occur in compliance to the proposal, subject to all the requirements of all conditions herein. As conditioned, the Commission finds the proposed project will not have a significant adverse impact on visual resources and is consistent with the relevant policies of the City's Local Coastal Land Use Plan and with Section 30251 of the Coastal Act.

Each applicant is also requesting the after-the-fact approval of ancillary development, such as drainage improvements, minimal landscaping, sheds, barbecues, fire pits, fencing, and concrete and covered patio areas (**Exhibits 3 through 15**). These components of the proposed projects will not be more visible than the original mobile homes, will not increase the height of the original buildings, and the siting of these proposed hardscape improvements meet the LUP structural and first-floor deck stringline policy for new infill construction on a beachfront property and all other City standards as they extend no farther seaward than the original units. These components of the proposal will avoid cumulative adverse impacts on visual resources and public access. Therefore, the Commission finds that the minor exterior work and ancillary structures conform with Section 30251 of the Coastal Act.

C. HAZARDS

Section 30253 of the Coastal Act states in relevant part:

New development shall:

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

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

Revetment/Bulkhead – Existing Conditions

Each applicant has provided a Coastal Hazard and Wave Runup Study prepared by GeoSoils, Inc for each project site (Unit Space #13, 17, 18, 23, 31, 35, 40, 46, 48, 57, 69, 75, and 90). The studies state that the shore protection for each site primarily consists of a quarry stone revetment; a timber

5-10-180, 5-11-033, 5-12-126, 5-12-127, 5-12-128, 5-12-294,
5-12-295, 5-12-296, 5-12-297, 5-13-037, 5-13-038, 5-15-0978, 5-15-0982

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 that range in size from less than ½ ton to about 11 ton with an average size of about 5 tons. According to the GeoSoils reports, which used the National Geodetic Vertical Datum 1929 (NGVD 29), the top of the revetment varies from +13.0 feet NGVD29 to +15.7 feet NGVD29 with an average elevation of about +14.4 feet NGVD29. The visible slope of the revetment varies from 2/1 to 1.5/1 (h/v). A visual inspection of the existing revetment/bulkhead conducted by GeoSoils, Inc. found the revetment in good condition and not in need of maintenance at this time.

Wave Run-Up/Overtopping Analysis

The Wave Run-Up and Coastal Hazard Study conducted by GeoSoils, Inc. did not identify a design life for the mobile home structures but did ascertain that these structures are typically constructed of lighter material with a shorter design life than a regular standard construction single family residence. In addition, the studies state, that the mobile homes are unique in that the structures are “mobile” and can be moved if jeopardized by coastal hazards. The Studies continue:

“The design water level will be the maximum historical water level of +4.9 feet NGVD29 plus 2.0 feet of SLR [Sea Level Rise], and plus 4 feet of SLR...the maximum SLR prediction for the year 2060 (45 years from now) is 2 feet and the maximum SLR for the year 2095 (80 years from now) is about 4 feet.”

Using the two above-mentioned SLR estimates, each study took into account ocean water depths and elevations, wave heights, the average height of the revetment, the average height of the timber bulkhead, the calculated overtopping rate of the revetment under both scenarios, and concluded that the bulkhead approximately ½ to 1 foot above the top of the revetment will impede the overtopping. Moreover, the Studies continue:

“In addition, the 10-foot wide beach along with the low height bulkhead will significantly prevent wave runoff from impacting the mobile home[s]...Due to the elevation of the development above the adjacent grade (the perched beach is at about +14.5 feet NGVD29) the development is reasonably safe from coastal hazards and wave runoff even under the most onerous SLR conditions in the next 80 years. In the event the water does reach the replacement mobile home and associated improvements, the water velocity will be insufficient to cause significant damage.”

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

Erosion and Flooding Hazards

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

The Studies find that the proposed mobile homes are reasonably safe from flooding. The analyses show that the sites have the potential to be flooded on occasion from waves breaking on the revetment, overtopping the bulkhead and reaching the mobile house units. Such flooding is a hazard that would be expected for a location this close to the ocean even with the existing shore protection provided by the bulkhead/revetment (deemed adequate by the Studies) that is protecting the mobile home park property from the main wave attack.

Furthermore, the entire mobile home park is located within the tsunami inundation zone according to the California Emergency Management Agency (CalEMA). **Special Condition 2** places the applicants and subsequent owners on notice (through an amendment to the occupancy agreements per **Special Condition 9**) that this is a high hazard area and that by acceptance of coastal development permit No. 5-10-180 (Unit 90), 5-11-033 (31), 5-12-126 (35), 5-12-127 (69), 5-12-128 (18), 5-12-294 (17), 5-12-295 (75), 5-12-296 (48), 5-12-297 (13), 5-13-037 (46), 5-13-038 (23), 5-15-0978 (57), 5-15-0982 (40), the applicants acknowledge the risks, such as flooding, that are associated with location in the tsunami inundation zone, and that are associated with development sited so close to the ocean. The applicants should cooperate with the local CalEMA or emergency responders in case of a large earthquake or a tsunami warning.

The applicants do not propose any changes or improvements to the existing bulkhead/revetment along the portion that protects each project site (Unit Space#13, 17, 18, 23, 31, 35, 40, 46, 48, 57, 69, 75, and 90) under coastal development permit application No. 5-10-180 (Unit 90), 5-11-033 (31), 5-12-126 (35), 5-12-127 (69), 5-12-128 (18), 5-12-294 (17), 5-12-295 (75), 5-12-296 (48), 5-12-297 (13), 5-13-037 (46), 5-13-038 (23), 5-15-0978 (57), 5-15-0982 (40). Any repair or maintenance, enhancement, reinforcement or other activity to the existing bulkhead/revetment is the responsibility of Capistrano Shores Inc., which holds fee title to the land that the unit spaces occupy and all common areas in the mobile home park. The applicants are only responsible for repair/maintenance to the mobile homes, landscape, ancillary structures (i.e, decks, patios, and garden walls) on their Unit Space. The Capistrano Shores Inc. would be the applicant for the coastal development permit required for any modifications to the existing revetment that may be necessary to protect existing structures. Because the proposed development involves the after-the-fact placement of a new structure and ancillary structures on the beach, those new structures are not entitled to shoreline protection under Section 30235 of the Coastal Act; the new mobile homes are not anticipated to need additional shoreline protection beyond what would be necessary to protect other existing structures in the park. Future expansion of the existing shoreline protection to address such threats could conflict with Coastal Act requirements regarding public access and recreation, shoreline sand supply, and protection of views to and along the shoreline. Therefore, **Special Condition 3** requires each applicant to waive on behalf of itself and all successors and assigns, any rights to new shoreline protection that may exist under Public Resources Code Section 30235 to protect the new proposed mobile home and ancillary development at each proposed site.

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

Because of the shoreline location of the proposed development, pursuant to sections 13250(b) and 13252(a)(3) of the Commission's regulations, the Commission imposes **Special Condition 4** requiring a coastal development permit amendment for any future improvements or repair and maintenance to the development approved under the subject permits and/or any new development.

The property owner and applicants argue that the applicants cannot record a deed restriction because they do not own title to the land. The property owner will not agree to record the deed restriction for the applicants. The Commission finds, if the deed restriction is not recorded against the parcel, it would not change or weaken the requirement for the applicant to acknowledge the risks and agree to remove the structure if it becomes unsafe for occupancy. The purpose of the deed restriction is simply to notify future owners of the permit conditions of approval. The Occupancy Agreement Amendment between the land owner and each applicant will serve to notify future owners or occupants of the new mobile homes of the permit requirements, with the amendment stating that: (1) pursuant to this permit, the California Coastal Commission has authorized the placement of a manufactured home and related accessory structures, including without limitation, manufactured home foundation system and patio covers, on the mobile home space, subject to terms and conditions that restrict the use and enjoyment of the manufactured home and related accessory structures located on the mobile home space; and (2) the Special Conditions of this permit are restrictions on the use and enjoyment of the manufactured home and related accessory structures located on the mobile home space.

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

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

the issuance of a coastal development permit, the applicant shall demonstrate the authority to comply with all conditions of approval.

Therefore, the Commission imposes **Special Condition 8** requiring each applicant to demonstrate their legal ability or authority to comply with all the terms and conditions of their coastal development permit, prior to issuance of the coastal development permits. Each applicant shall submit information indicating approval from the record title property owner that authorizes the applicant to proceed with the approved development and permits the applicant to comply with the terms and conditions of their coastal development permit.

Thus, as conditioned, the individual permits ensure that any prospective future owners of any of the development approved on the subject unit spaces (Unit Space #13, 17, 18, 23, 31, 35, 40, 46, 48, 57, 69, 75, and 90) pursuant to the CDPs, will receive notice of the restrictions and/or obligations imposed on the use and enjoyment of the land in connection with the authorized development, including the risks of the development and/or hazards to which each Unit Space is subject, and the Commission's immunity from liability. The amendment to the occupancy agreements will indicate that the California Coastal Commission has authorized development on the above-mentioned unit spaces, subject to terms and conditions that restrict the use and enjoyment of the individual spaces only and does not restrict the remainder of the land that the mobile home park occupies.

Since the scope of the development in this case is limited to Unit Space #13, 17, 18, 23, 31, 35, 40, 46, 48, 57, 69, 75, and 90, the Commission has focused on assurance that its authorization for placement of a new mobile home on that space (and ancillary development) would not be used to support any future requests for repair, maintenance, or expansion of shoreline protection. In addition, representatives for Capistrano Shores, Inc. were previously notified that repair, maintenance or enhancement of the existing shoreline protection, if deemed necessary, should occur as part of a comprehensive plan for the entire mobile home park. The Capistrano Shores Mobile Home Park Homeowner Association submitted a coastal development permit application in February 2012 which in addition to park wide improvements, included maintenance of the existing shoreline protective device. That application has since remained incomplete, pending submittal of additional information regarding the bulkhead/rock revetment and project alternatives. Any such repairs/enhancements should occur within the mobile home park's private property and not further encroach onto the public beach. No additional shoreline protective devices should be constructed for the purpose of protecting ancillary improvements (e.g., patios, decks, fences, landscaping, etc.) located between the mobile home and the ocean. For any type of future shoreline hazard response, alternatives to the shoreline protection must be considered that will eliminate impacts to 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 protecting a mobile home that may be in danger from erosion and other coastal hazards.

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

D. PUBLIC ACCESS

Section 30210 of the Coastal Act states:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30212 of the Coastal Act states, in part:

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

(2) Adequate access exists nearby, or,

Section 30213 of the Coastal Act states:

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

Section 30223 of the Coastal Act states:

Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

As shown in **Exhibits 1 & 2**, the new mobile homes will be located between the first public road and the sea directly seaward of the OCTA railroad tracks. Vertical public access is not available through the Capistrano Shores Mobile Home Park (“Park”); therefore, no construction impacts to public access are anticipated. Lateral public access is available along the public beach seaward of the bulkhead/revetment during low tide. Vertical public access to the beach exists nearby at Poche Beach, approximately 480 yards north of the Park (**Exhibit 1**). Public access from the southern end of the mobile home park is available at the North Beach public access point (**Exhibit 1**).

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

The adjacent North Beach area is a heavily used public beach. North Beach is a popular regional coastal access point as it is located along a popular regional bike route along El Camino Real, it is also the trailhead to the popular San Clemente Coastal Trail, and is the site of a Metrolink/Amtrak train stop. North Beach is identified as a primary beach access point in the City with the greatest number of public parking spaces (approximately 250 off-street and 100 on-street) in the City’s

certified LUP. Because of the supply of public parking, popularity of the adjacent North Beach area, and the location of vertical access north of the mobile home park at Poche Beach, the public beach in front of the mobile home park is used by sunbathers, and beach strollers, and the beach is a popular surfing location.

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

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

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

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

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

E. BIOLOGICAL RESOURCES

Section 30230 of the Coastal Act states:

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

5-10-180, 5-11-033, 5-12-126, 5-12-127, 5-12-128, 5-12-294,
5-12-295, 5-12-296, 5-12-297, 5-13-037, 5-13-038, 5-15-0978, 5-15-0982

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.*

WATER QUALITY

To protect water quality from construction related activities, the Commission imposes construction-related requirements and best management practices under **Special Condition 5** in order to minimize adverse construction-related impacts upon marine resource and for erosion control.

Drainage from the predominantly paved site sloped away from the ocean and toward the street where water runoff from the site is directed to a dry well/percolation box for onsite water infiltration. In addition, each applicant will incorporate minor landscaping in contained planters, in order to minimize water use and water runoff from each subject site.

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

LANDSCAPING

Native terrestrial habitat in the area is located near the Capistrano Shores Mobile Home Park (“Park”) along the Marblehead coastal bluffs. Each applicant is proposing landscaping; therefore,

the Commission imposes **Special Condition 6**, which implements the installation of non-invasive, drought-tolerant vegetation.

PLEXIGLAS OR GLASS WIND SCREENS

Some of the proposed development includes new railings around the decks/patios on the seaward side of the project sites. Glass railing systems, walls or wind screens are known to have adverse impacts upon a variety of bird species. Birds are known to strike these glass walls causing their death or stunning them which exposes them to predation. Some authors report that such birds strikes cause between 100 million to 1 billion bird deaths per year in North America alone. Birds strike the glass because they either don't see the glass, or there is some type of reflection in the glass which attracts them (such as the reflection of bushes or trees that the bird might use for habitat)³ This is of particular concern at this location since the site is adjacent to a Marine Protected Area (just offshore of the site) and there is vegetation and other perching/landing areas at the site on the promontory that are attractive to birds.

There are a variety of methods available to address bird strikes against glass. For instance, glass can be frosted or etched in a manner that renders the glass more visible and less reflective. Where clear glass is used, appliqué (e.g.) stickers can be affixed to the glass that have a pattern that is visible to birds. Some appliqué incorporate features that allow humans to see through the glass, but which are visible to birds. Usually appliqué must be replaced with some frequency in order to retain their effectiveness. In the case of fences or walls, alternative materials can be used, such as wood, stone, or metal (although this approach isn't usually palatable when there is a desire to see through the wall). Use of frosted or etched glass, wood, stone or metal material is preferable to appliqué because of the lower maintenance and less frequent replacement that is required.

As a special condition of this permit (**Special Condition 7**) each applicant proposing glass fencing along the seaward side of their unit space within the Park is required to use a material for the new railing that is designed to prevent creation of a bird strike hazard.

CONCLUSION

The Commission, therefore, finds that, as conditioned to require construction-related requirements and best management practices, non-invasive drought tolerant landscaping and native landscaping, and to incorporate glass walls or windscreens that will prevent bird strikes, the development will be consistent with Section 30230, 30231 and 30240 of the Coastal Act.

F. UNPERMITTED DEVELOPMENT

Commission staff received 13 applications authorization for development after the fact at Capistrano Shores Mobilehome Park ("Park"). Each proposed project site has been developed with new approximately 22-25 foot high two-story (or approximately 19.8 foot high with an upper level loft) mobile homes that were installed/constructed without the benefit of a coastal development permit. Therefore, unpermitted development has occurred on site in violation of the Coastal Act. Despite this unpermitted development, though, consideration of Coastal Development Permit (CDP) No. 5-10-180 (Unit 90), 5-11-033 (31), 5-12-126 (35), 5-12-127 (69), 5-12-128 (18), 5-12-294 (17), 5-12-295 (75), 5-12-296 (48), 5-12-297 (13), 5-13-037 (46), 5-13-038 (23), 5-15-0978 (57), 5-15-

³ Daniel Klem, Jr. (1989) Bird-Window Collisions. *Wilson Bulletin* 101: 606-620; Daniel Klem, Jr. (1990) Collisions Between Birds and Windows: Mortality and Prevention. *Journal of Field Ornithology*, 1990, 61:120-128; Fatal Light Awareness Program (FLAP), <http://www.flap.org/>

5-10-180, 5-11-033, 5-12-126, 5-12-127, 5-12-128, 5-12-294,
5-12-295, 5-12-296, 5-12-297, 5-13-037, 5-13-038, 5-15-0978, 5-15-0982

0982 (40) by the Commission is based solely upon the visual resources, hazards, public access, and water quality policies of the Coastal Act, with guidance from the policies of the certified LUP.

As explained above, the applicants are requesting after-the-fact approval of replacement structures. Applicants and their representatives have suggested that they were not aware of the requirement for a coastal development permit before they commenced construction. As explained below, however, the applicants were provided notice of the need for a coastal development permit. Whether or not the applicants were aware of the requirement for a coastal development permit, they are still required to obtain such authorization.

As a result of prior Commission actions, applicants were clearly on notice of the requirement for a coastal development permit before construction commenced. For instance, in June 2010, before any of the unpermitted development at issue commenced, the Commission approved two Coastal Development Permits, No. 5-09-179(Hitchcock) and CDP No. 5-09-180 (Hitchcock) for replacement structures. Notice of these permits, and thus the need for a coastal development for this type of development was provided to all unit owners within 100 feet of the project sites and to the park owner, which is essentially an association of all unit owners. In addition, in July 2010, when staff became aware that demolition and construction had commenced at Unit 90, staff sent a Notice of Violation letter to the owner of Unit 90 and to all the unit owners via the park owner. The Notice of Violation letter explained that construction of the replacement structure that was occurring on the space required a coastal development permit, no such permit had been applied for or obtained, and therefore the construction ongoing at the site constituted a violation of the Coastal Act. This Notice of Violation letter predated the unpermitted development at issue at the other unit sites.

On April 15, 2011, staff sent a letter in response to a March 2011 pre-application meeting with the park owner (association of all unit owners) to identify what would be needed for the Park to apply for a comprehensive permit, or more specifically to discuss possible future Coastal Development Permit (CDP) application(s) for necessary improvements to the existing shoreline protection bulkhead/rock revetment protecting Capistrano Shores Mobile Home Park, for the replacement of individual homes within the park, and other potential future development (e.g. utilities and perimeter wall) (**Exhibit 32**).

Nevertheless, in July 2011, staff became aware that demolition and construction of replacement units had commenced at Units 10, 40, 57 and sent Notice of Violation letters to the owners of the units and to all the unit owners via the park owner. Like the previous Notice of Violation letter to Unit 90, these Notice of Violation letters explained that the construction ongoing at the sites constituted violations of the Coastal Act. Between 2011 and 2013, at least 9 other unit owners commenced unpermitted replacement of structures.

Despite the fact that notice of the requirement for a coastal development permit was provided to the applicants, they proceeded to complete construction of the replacement structures in violation of the Coastal Act.

The applicants are not proposing to remove any of the unpermitted development. However, staff is recommending approval of the applications with conditions to modify the proposed structures (with the exception of Unit 90) to ensure compliance with Coastal Act resource protection policies. To that end, Special Conditions are proposed to ensure the proposed development's consistency with

the visual resources, hazards, public access, and water quality policies of the Coastal Act. Approval of these applications pursuant to the staff recommendation, issuance of the permits, and the applicants' subsequent compliance with all terms and conditions of the permits will result in resolution of the above described violations.

Special Condition 1 of Coastal Development Permit No. 5-11-033 (31), 5-12-126 (35), 5-12-127 (69), 5-12-128 (18), 5-12-294 (17), 5-12-295 (75), 5-12-296 (48), 5-12-297 (13), 5-13-037 (46), 5-13-038 (23), 5-15-0978 (57), 5-15-0982 (40) requires the applicants to submit revised plans showing that the proposed mobile homes will not exceed a maximum roof height of 16 feet as measured from the frontage road, Senda de la Playa. **Special Condition 10** is imposed to ensure that all development occur in compliance to the proposal, subject to the conditions herein. As for Coastal Development Permit No. 5-10-180 (Unit 90), staff is recommending that the Commission approves the after-the-fact development as-built.

To ensure that the unpermitted development component of this application is resolved in a timely manner, **Special Condition 10** also requires that the applicants satisfy all conditions of these permits within 180 days of the issuance of the permits. The Executive Director may grant additional time for good cause. Although development has taken place prior to submission of these permit applications, consideration of the applications by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Approval of these permits does not constitute a waiver of any legal action with regard to any alleged violations nor does it constitute an admission as to the legality of any development undertaken on the subject site without a coastal permit. Resolution of the above described unpermitted development will not occur pursuant to these coastal development permits until these applications are approved conforming to the staff recommendation, the permits are issued, and the applicants subsequently comply with all terms and conditions of the permits.

APPLICATION FILING FEE FOR AFTER-THE-FACT DEVELOPMENT

As described in detail above, unpermitted development has occurred at the project sites.

The applicants are proposing after-the-fact approval of the unpermitted development noted above and described in more detail in the project description. Although the development has taken place prior to submittal of this application, consideration of this application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act.

Section 30620 of the Coastal Act states, in relevant part:

The Commission may require a reasonable filing fee and the reimbursement of expenses for the processing by the Commission of any application for a coastal development permit...

Section 13055 of the California Code of Regulations sets the filing fees for coastal development permit applications, and states in relevant part:

(d) Fees for an after-the-fact (ATF) permit application shall be five times the amount specified in section (a) unless such added increase is reduced by the Executive Director when it is determined that either:

(1) the ATF permit application can be processed by staff without significant additional review time (as compared to the time required for the processing of a regular permit,) or

(2) the owner did not undertake the development for which the owner is seeking the ATF permit, but in no case shall such reduced fees be less than double the amount specified in section (a) above. For applications that include both ATF development and development that has not yet occurred, the ATF fee shall apply only to the ATF development. In addition, payment of an ATF fee shall not relieve any persons from fully complying with the requirements of Division 20 of the Public Resources Code or of any permit granted thereunder or from any penalties imposed pursuant to Chapter 9 of Division 20 of the Public Resources Code.

(i) The required fee shall be paid in full at the time an application is filed. However, applicants for an administrative permit shall pay an additional fee after filing if the executive director or the commission determines that the application cannot be processed as an administrative permit. The additional fee shall be the amount necessary to increase the total fee paid to the regular fee. The regular fee is the fee determined pursuant to this section. In addition, if the executive director or the commission determines that changes in the nature or description of the project that occur after the initial filing result in a change in the amount of the fee required pursuant to this section, the applicant shall pay the amount necessary to change the total fee paid to the fee so determined. If the change results in a decreased fee, a refund will be due only if no significant staff review time has been expended on the original application. If the change results in an increased fee, the additional fee shall be paid before the permit application is scheduled for hearing by the commission. If the fee is not paid prior to commission action on the application, the commission shall impose a special condition of approval of the permit. Such special condition shall require payment of the additional fee prior to issuance of the permit.

Subsection (d) of California Code of Regulations Section 13055 indicates that the fee for an after-the-fact permit application shall be five times the amount otherwise required, unless reduced by the Executive Director for specified reasons. An after-the-fact permit is a permit involving any non-exempt development activity conducted in the Coastal Zone without a valid coastal development permit, or which does not substantially conform to a previously issued permit.

Subsection (d) of California Code of Regulations Section 13055 indicates that the fee for an after-the-fact permit application shall be five times the amount specified in section (a) unless such added increase is reduced by the Executive Director when it is determined that either: the permit application can be processed by staff without significant additional review time or the owner did not undertake the development for which the owner is seeking the after-the-fact permit. In this case, the Executive Director did not reduce the fee because neither of the criteria for reducing the filing fee has been met. Staff has expended a significant amount of time to secure submittal of these applications, to discuss the Commission's jurisdiction over this matter with the applicants and their representatives, for instance see the letter dated February 11, 2014 and attached as **Exhibit 34**, and

to review plans to interpret which portions of the structures have already been demolished, replaced, and/or rebuilt, amongst other things. Second, based upon the information provided to staff, it is our understanding that each of the applicants undertook the development for which after-the-fact authorization is now being sought.

Based on the filing fee schedule for the fiscal year the applications were submitted, the permitting fee for residential projects between 1,501 and 5,000 square feet was \$4,500. Five times the regular permit fee of \$4,500 is \$22,500, which has been paid by each applicant except for CDP No. 5-10-180.

Because the applicant of CDP No. 5-10-180 has already paid \$15,000, **Special Condition 11** requires the applicant to pay the balance of \$7,500 prior to issuance of the permit, consistent with the requirements of California Code of Regulations Section 13055(i).

G. LOCAL COASTAL PROGRAM

Section 30604(a) of the Coastal Act provides that the Commission shall issue a coastal development permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program that conforms to Chapter 3 policies of the Coastal Act. The Commission certified the Land Use Plan for the City of San Clemente on May 11, 1988, and certified an amendment approved in October 1995. On April 10, 1998, the Commission certified with suggested modifications the Implementation Plan portion of the Local Coastal Program. The suggested modifications expired on October 10, 1998. The City re-submitted on June 3, 1999, but withdrew the submittal on October 5, 2000.

The 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 will have significant individual and cumulative impacts on public coastal views from nearby public trails, parks, and a major roadway that leads to the public beach and El Camino Real, which is the first public road that is parallel to the sea. The trails and park along Marblehead bluffs are a significant public resource and under the LUP, are required to be protected. The proposed development will be inconsistent with the view protection 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 the views from the public facilities, 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 (CEQA)

Section 13096 of Title 14 of the California Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California

5-10-180, 5-11-033, 5-12-126, 5-12-127, 5-12-128, 5-12-294,
5-12-295, 5-12-296, 5-12-297, 5-13-037, 5-13-038, 5-15-0978, 5-15-0982

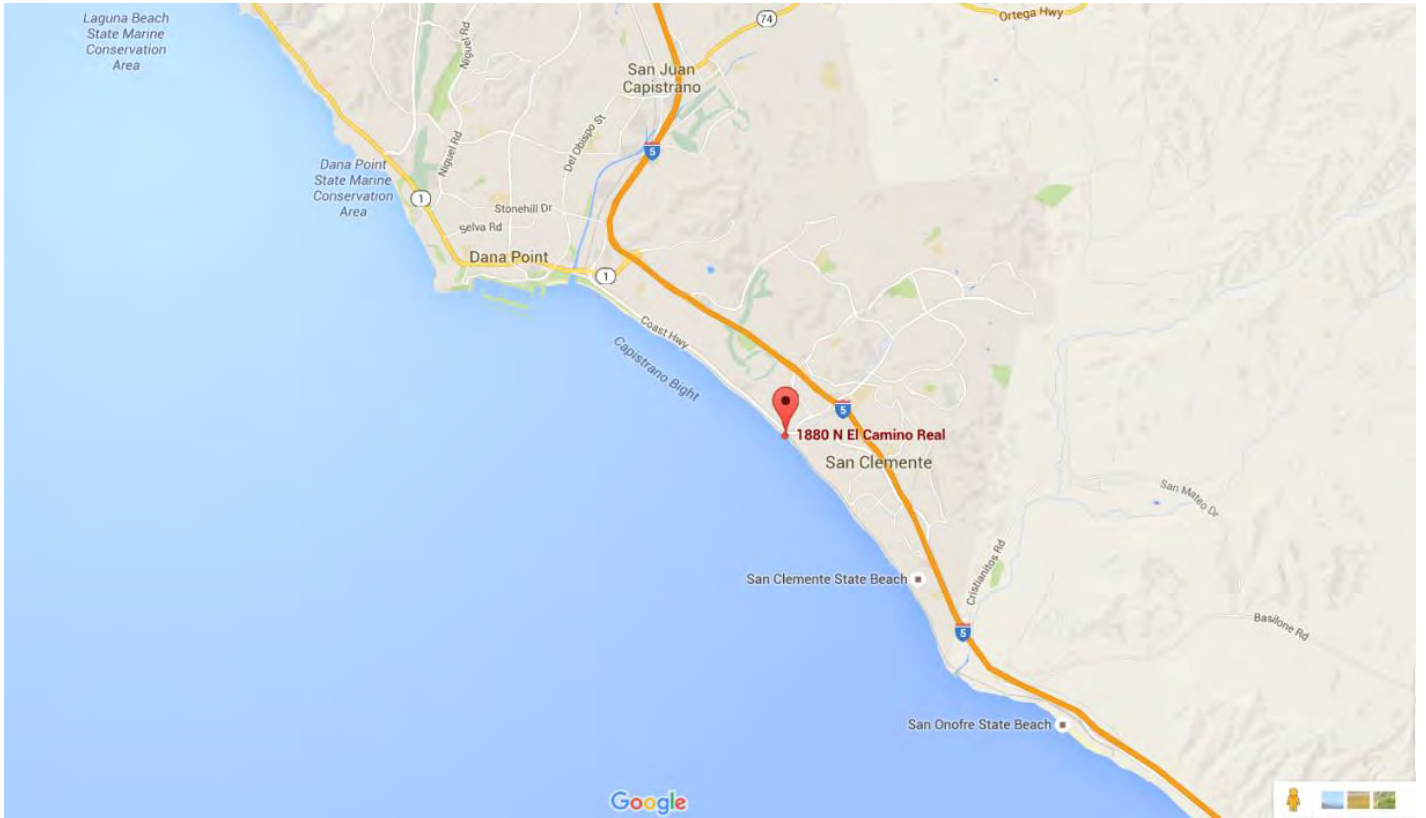
Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect that the activity may have on the environment.

As stated in the previous sections of this report, the proposed development with the proposed increase in height to 22-25 feet will have significant individual and cumulative impacts on public views from nearby public trails, parks, and a major roadway (Avenida Pico) that leads to the public beach and El Camino Real, which is the first public road parallel the sea. The alternative available to the applicant(s) is to construct the proposed mobile homes to a height that will minimize the visual impact and protect the public views from those vistas. As stated and conditioned by this permit, staff has determined that a 16 foot height limit is a feasible alternative which would substantially lessen any significant adverse impact on the environment.

The City of San Clemente is the lead agency for purposes of CEQA compliance. As determined by the City, the project is categorically exempt pursuant to CEQA Guidelines section 15302 as a Class 2 Item (replacement of an existing structure). In order to ensure compliance with resource protection policies of the Coastal Act, the proposed development is conditioned for additional mitigation measures. The conditions are: **1) Revised Final Plans; 2) Assumption of Risk; 3) Future Response to Erosion/No Future Shoreline Protective Device; 4) Future Improvements; 5) Construction Best Management Practices; 6) Landscaping; 7) Bird Strike Prevention; 8) Proof of Legal Ability to Comply with Conditions; 9) Occupancy Agreement; 10) Condition Compliance; and 11) Application Fee (Unit 90).** As conditioned, the proposed development is consistent with the visual resource protection, hazards, public access, and water quality policies of the Coastal Act and there are no feasible alternatives or additional feasible mitigation measures available which would substantially lessen any significant adverse effect, which the activity may have on the environment. Therefore, the Commission finds that the proposed development, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and is consistent with the requirements of the Coastal Act and CEQA.

APPENDIX A- SUBSTANTIVE FILE DOCUMENTS

1. City of San Clemente LUP
2. CDP Application No. 5-10-180, 5-11-033, 5-12-126, 5-12-127, 5-12-128, 5-12-294, 5-12-295, 5-12-296, 5-12-297, 5-13-037, 5-13-038, 5-15-0978 (was 5-11-193), and 5-15-0982 (was 5-11-194)
3. *Capistrano Shores # [], View Analysis, CA Coastal Commission Permit Application [],* by Steinmetz Photographic Services - (Individual Reports submitted for Units # 13, 17, 18, 23, 31, 35, 40, 46, 48, 57, 69, 75, and 90)
4. *Wave Runup and Coastal Hazard Study, and Shore Protection Observation, 1880 N. El Camino Real, Unit 13, San Clemente,* by GeoSoils Inc., dated February 10, 2015.
5. *Wave Runup and Coastal Hazard Study, and Shore Protection Observation, 1880 N. El Camino Real, Unit 17, San Clemente, California,* by GeoSoils Inc., dated February 17, 2015.
6. *Wave Runup and Coastal Hazard Study, and Shore Protection Observation, 1880 N. El Camino Real, Unit 18, San Clemente, California,* by GeoSoils Inc., dated February 18, 2015.
7. *Wave Runup and Coastal Hazard Study, and Shore Protection Observation, 1880 N. El Camino Real, Unit 23, San Clemente, California,* by GeoSoils Inc., dated February 19, 2015.
8. *Wave Runup and Coastal Hazard Study, and Shore Protection Observation, 1880 N. El Camino Real, Unit 31, San Clemente, California,* by GeoSoils Inc., dated February 20, 2015.
9. *Wave Runup and Coastal Hazard Study, and Shore Protection Observation, 1880 N. El Camino Real, Unit 35, San Clemente, California,* by GeoSoils Inc., dated February 21, 2015.
10. *Wave Runup and Coastal Hazard Study, and Shore Protection Observation, 1880 N. El Camino Real, Unit 40, San Clemente, California,* by GeoSoils Inc., dated February 22, 2015.
11. *Wave Runup and Coastal Hazard Study, and Shore Protection Observation, 1880 N. El Camino Real, Unit 46, San Clemente, California,* by GeoSoils Inc., dated February 23, 2015.
12. *Wave Runup and Coastal Hazard Study, and Shore Protection Observation, 1880 N. El Camino Real, Unit 48, San Clemente, California,* by GeoSoils Inc., dated February 23, 2015.
13. *Wave Runup and Coastal Hazard Study, and Shore Protection Observation, 1880 N. El Camino Real, Unit 57, San Clemente, California,* by GeoSoils Inc., dated February 22, 2015.
14. *Wave Runup and Coastal Hazard Study, and Shore Protection Observation, 1880 N. El Camino Real, Unit 69, San Clemente, California,* by GeoSoils Inc., dated February 22, 2015.
15. *Wave Runup and Coastal Hazard Study, and Shore Protection Observation, 1880 N. El Camino Real, Unit 75, San Clemente, California,* by GeoSoils Inc., dated February 23, 2015.
16. *Wave Runup and Coastal Hazard Study, and Shore Protection Observation, 1880 N. El Camino Real, Unit 90, San Clemente, California,* by GeoSoils Inc., dated February 24, 2015.
17. *Capistrano Shores Mobilehome Park, 1880 N. El Camino Real, San Clemente, CA, View Analysis* by Focus360, Architectural Communications, dated January 10, 2012
18. CDP No. 5-09-179 (Hitchcock) and 5-09-180 (Hitchcock)
19. CDP No. 5-14-1582 (Capistrano Shores Property, LLC)



MARBLEHEAD PARKS & TRAILS

Viewpoint Map



Primary viewpoints 2-14 | Secondary viewpoints 1 & 15-19

Exhibit 2

Page 1 of 1

PETERS ASSOCIATES

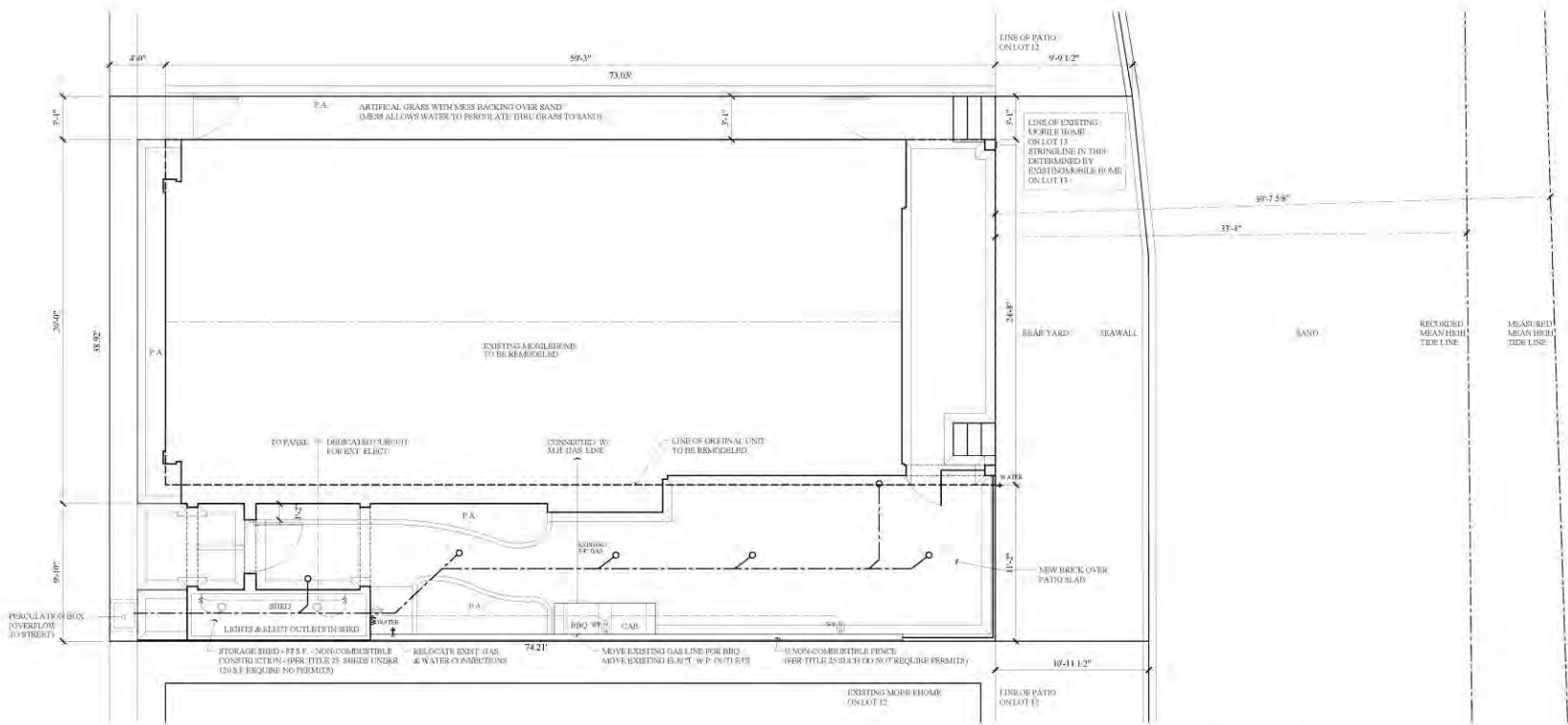
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Seal / Signature:

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LINOVITZ RESIDENCE
1880 N. El Camino Real
Unit 13 Capistrano Shores
San Clemente,
California

U.C.D. Approval



**ACCESSORY STRUCTURES
DRAINAGE & SITE WORK**

1/4" = 1'-0"

NOTES
1. "P.A." DESIGNATES PLANTING AREAS - SEE L-1 LANDSCAPE FOR FURTHER INFO.

ELECTRICAL / PLUMBING SYMBOLS

- SUBMITTANT'S LIGHT FIXTURE
- RECESSED LIGHT FIXTURE, 1/8" SAUCER
- ⊕ SWITCH
- WP ⊕ WATER-PROOF JUNCTION BOX
- HC — HEAT RISE
- GAS — GAS SUPPLY FOR APPLIANCE

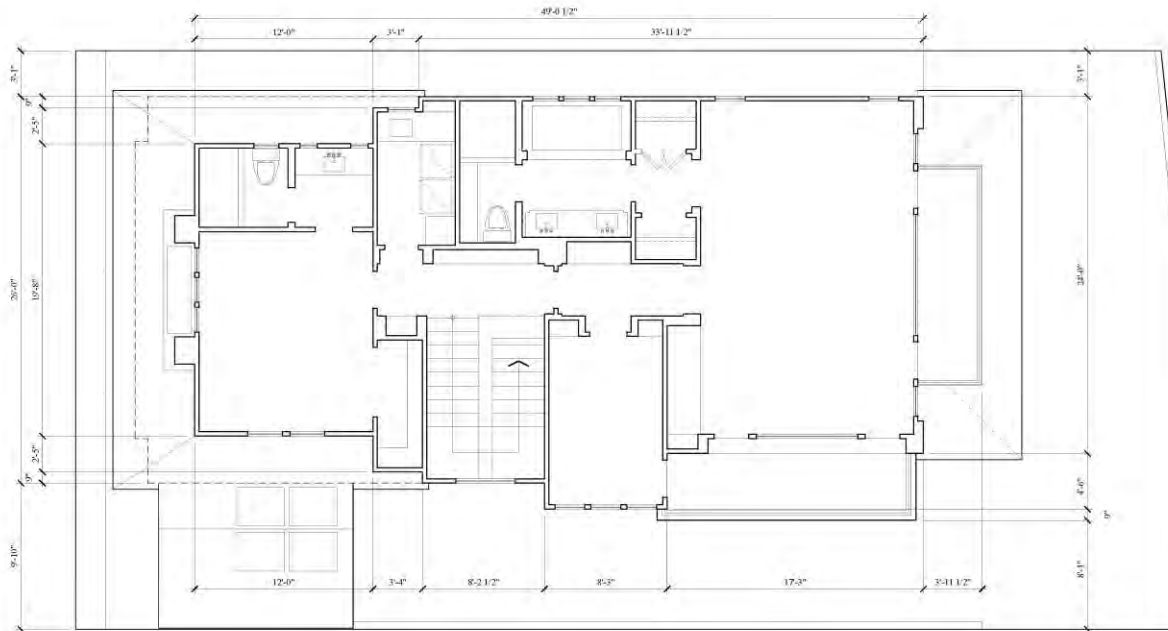
Revisions:

No.	Date	Revision

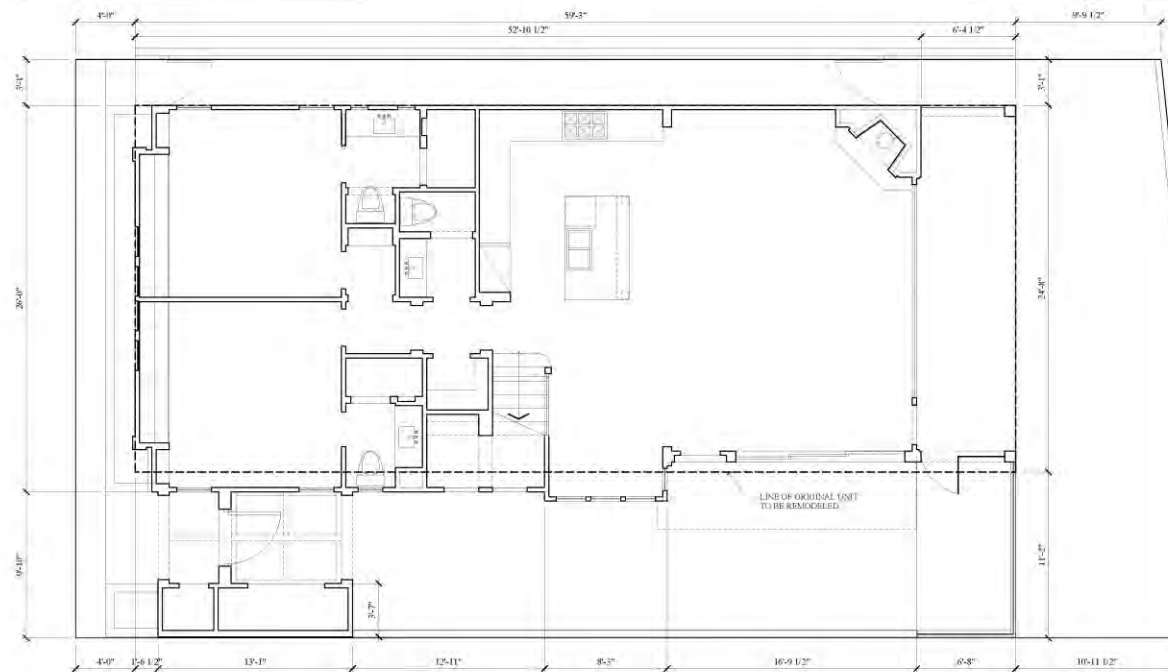
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Job No.:
Association Submittal:
Bldg. Dept. Submittal:
Bid Issue:
Construction Issue:

Sheet Title:
**ACCESSORY STRUCT.,
DRAINAGE & MISC.
SITE WORK.**

Sheet No.:
A - 1



SECOND FLOOR PLAN



FIRST FLOOR PLAN 1/4" = 1'-0"

BUILDING DATA

ORIGINAL UNIT (COMPLETELY REMODELED)	1,462 S.F.
MAIN FLOOR	1,337 S.F.
UPPER LEVEL	1,103 S.F.
TOTAL	2,440 S.F.
- SHED W/ BATH	87 S.F.

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ILCD Approval

Revisions:

No.	Date	Revision

Date: 9 / 20 / 12

Job No.:

Association Submittal:

Bldg. Dept. Submittal:

Bid Issue:

Construction Issue:

Sheet Title:
FLOOR PLANS

Sheet No.:

A - 3

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ILCD Approval

Revisions:

No.	Date	Revision
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Date: 2 / 20 / 15

Job No.:

Association Submittal:

Bldg. Dept. Submittal:

Bid Issue:

Construction Issue:

Sheet Title:
ELEVATIONS

Sheet No.:

A - 4



SOUTH ELEVATION



WEST ELEVATION (OCEAN)



NORTH ELEVATION



EAST ELEVATION (STREET)

1/4" = 1'-0"

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GALLAGHER RESIDENCE

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San Clemente,
California

H.C.D. Approval

Revisions:

No.	Date	Revision
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Date: 2 / 12 / 15

Job No.:

Association Submittal:

Bldg. Dept. Submittal:

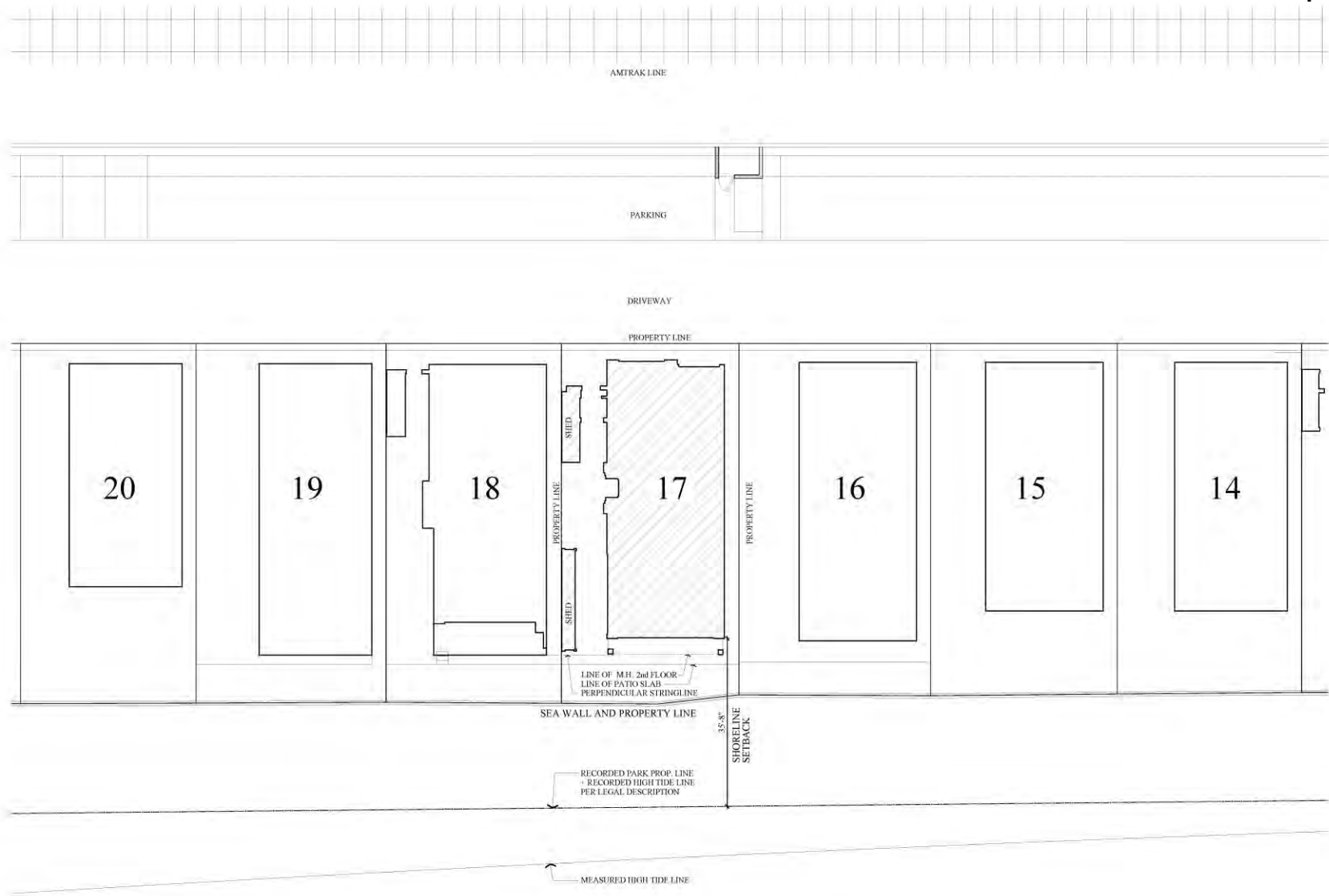
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Construction Issue:

Sheet Title:
**SHORELINE SETBACK
PATTERN OF
DEVELOPMENT PLAN**

Sheet No.:

A - 1A

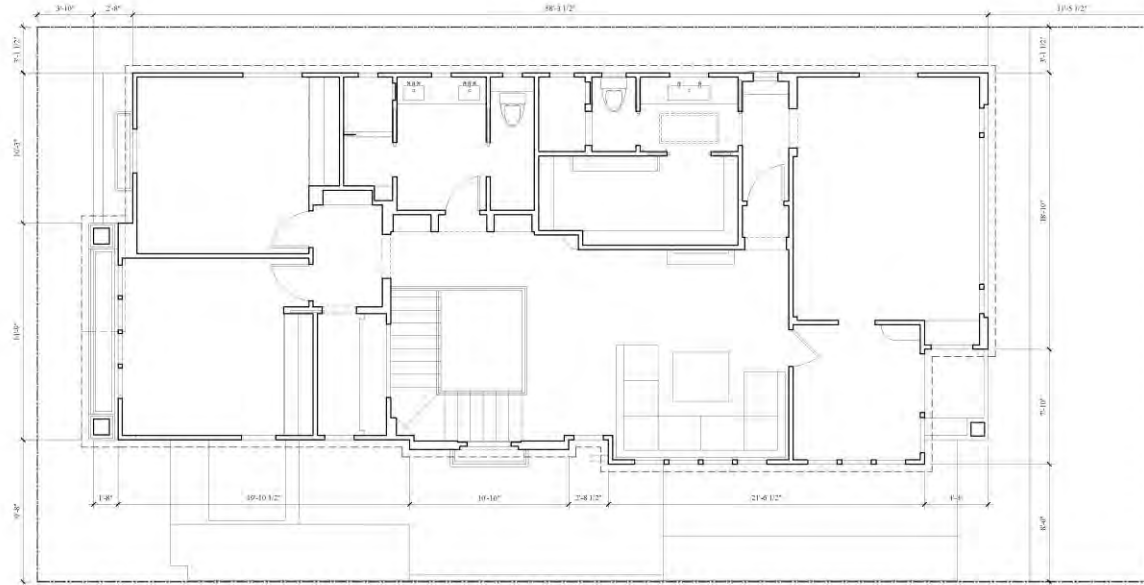


**SHORELINE SETBACK +
PATTERN OF ADJACENT DEVELOPMENT SITE PLAN**
1" = 10'-0"

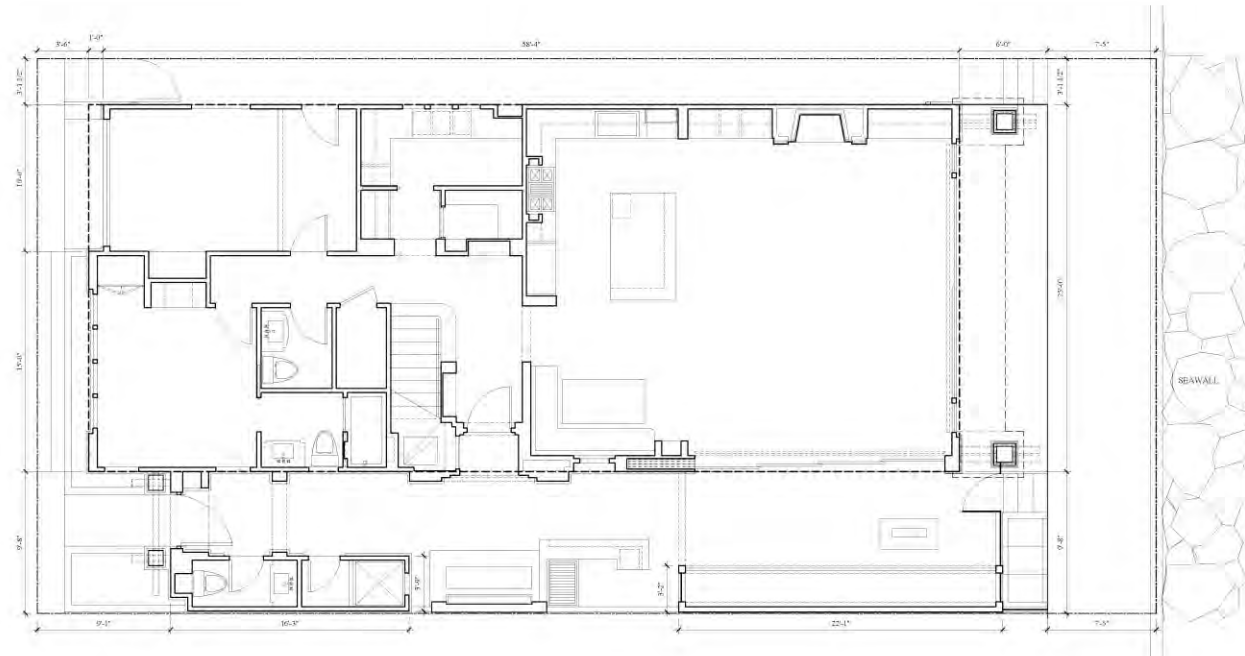
**PARK C C & R RULES FOR SEAWARD PERPENDICULAR STRINGLINE LIMITATION
OF THE PLACEMENT OF MOBILE HOMES, PATIOS AND SECOND STORY DECKS**

THE PLACEMENT OF ANY MOBILEHOME, PATIO OR 2ND STORY DECK IN CAPISTRANO SHORES SHALL BE LIMITED BY THE LEAST RESTRICTIVE OF THE FOLLOWING:

1. THE LINE OF THE EXISTING LOCATION OF THE M.H. OR PATIO ON THE SUBJECT SITE.
2. THE SEAWARDMOST "PERPENDICULAR" STRINGLINE FROM THEIR EXISTING COUNTERPART (M.H. OR PATIO) ON EITHER ADJACENT LOT, WHICHEVER IS MOST SEAWARD FOR EACH ELEMENT.
3. SECOND STORIES & 2ND STORY DECKS MUST MEET THE SAME SETBACKS AS THE M.H.



SECOND FLOOR PLAN



FIRST FLOOR PLAN
1/4" = 1'-0"

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San Clemente,
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H.C.D. Approval

Revisions:

No.	Date	Revision
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Date: 9 / 14 / 12

Job No.:

Association Submittal:

Bldg. Dept. Submittal:

Bid Issue:

Construction Issue:

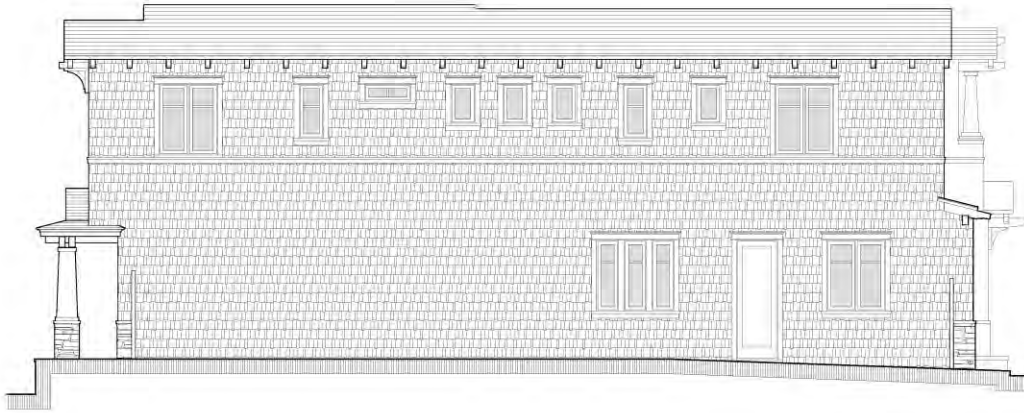
Sheet Title:
FLOOR PLANS

Sheet No.:

A - 3

BUILDING DATA

ORIGINAL UNIT (COMPLETELY REMODELED)	1,483 S.F.
MAINS FLOOR	1,455 S.F.
UPPER LEVEL	1,168 S.F.
TOTAL	2,534 S.F.
SHEDS	120 S.F.
COVERED PATIO	248 S.F.



SOUTH ELEVATION



WEST ELEVATION (OCEAN)



NORTH ELEVATION



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

**PETERS
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**GALLAGHER
RESIDENCE**

1880 N. El Camino Real
Unit 17 Capistrano Shores
San Clemente,
California

H.C.D. Approval

Revisions:

No.	Date	Revision
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△		
△		

Date: 2 / 20 / 15

Job No.:

Association Submittal:

Bldg. Dept. Submittal:

Bid Issue:

Construction Issue:

Sheet Title:
ELEVATIONS

Sheet No.:

A - 4

**PETERS
ASSOCIATES**

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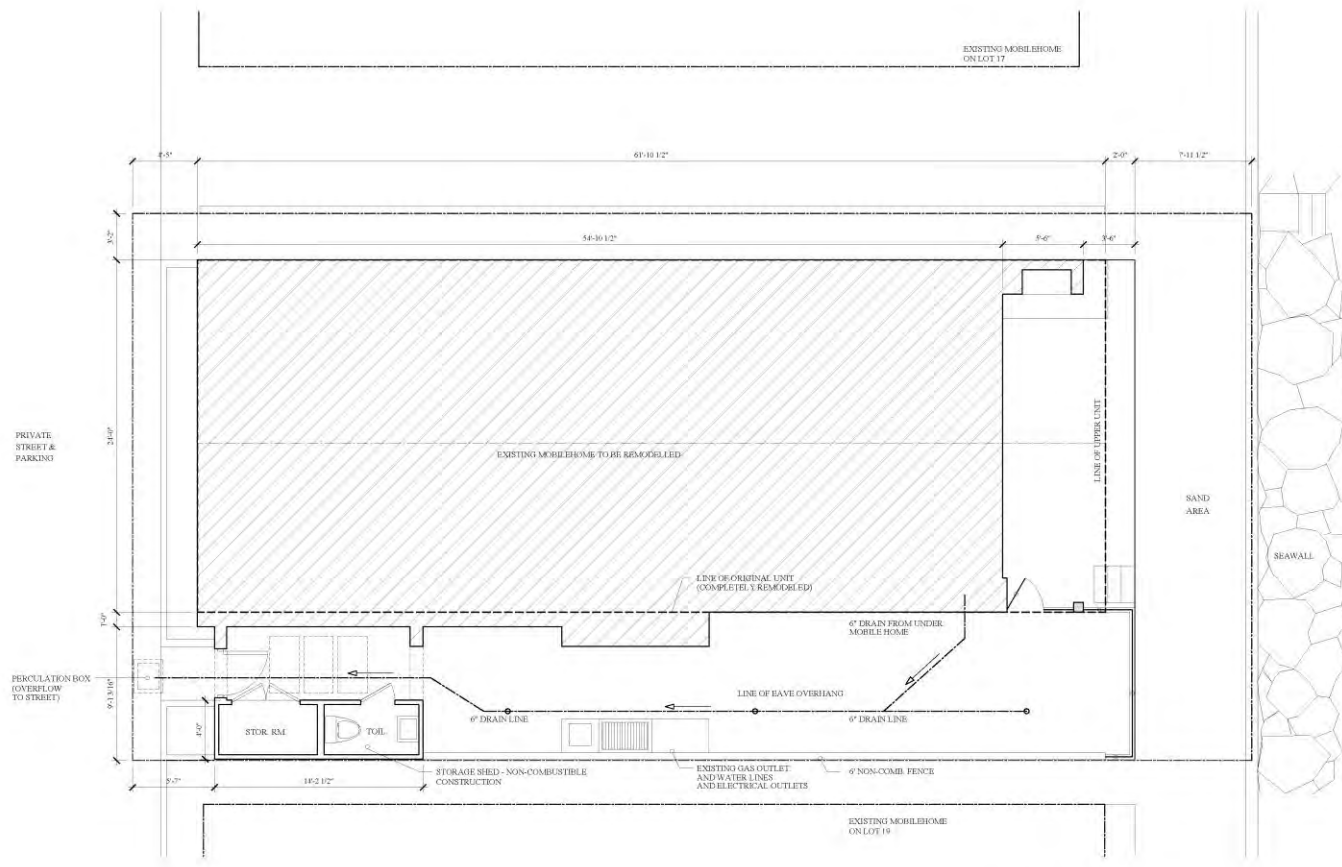
Seal / Signature:

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**LOUGHMAN
CALLANAN
RESIDENCE**

1880 N. El Camino Real
Unit 18 Capistrano Shore,
San Clemente,
California

H.C.D. Approval



SITE PLAN
1/4" = 1'-0"

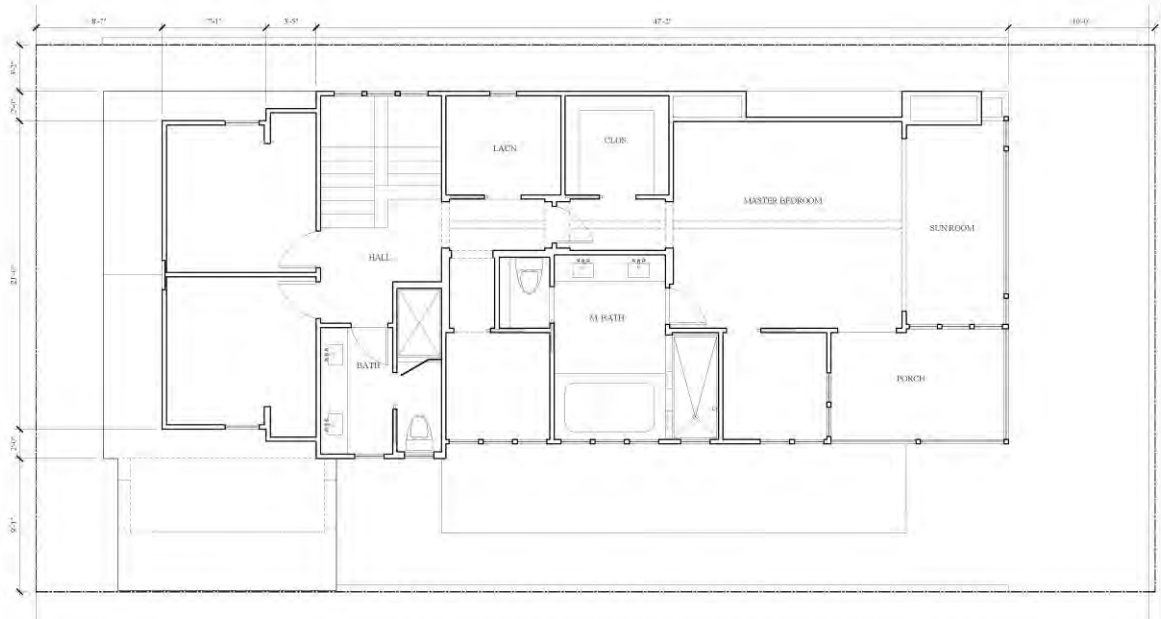
Revisions:

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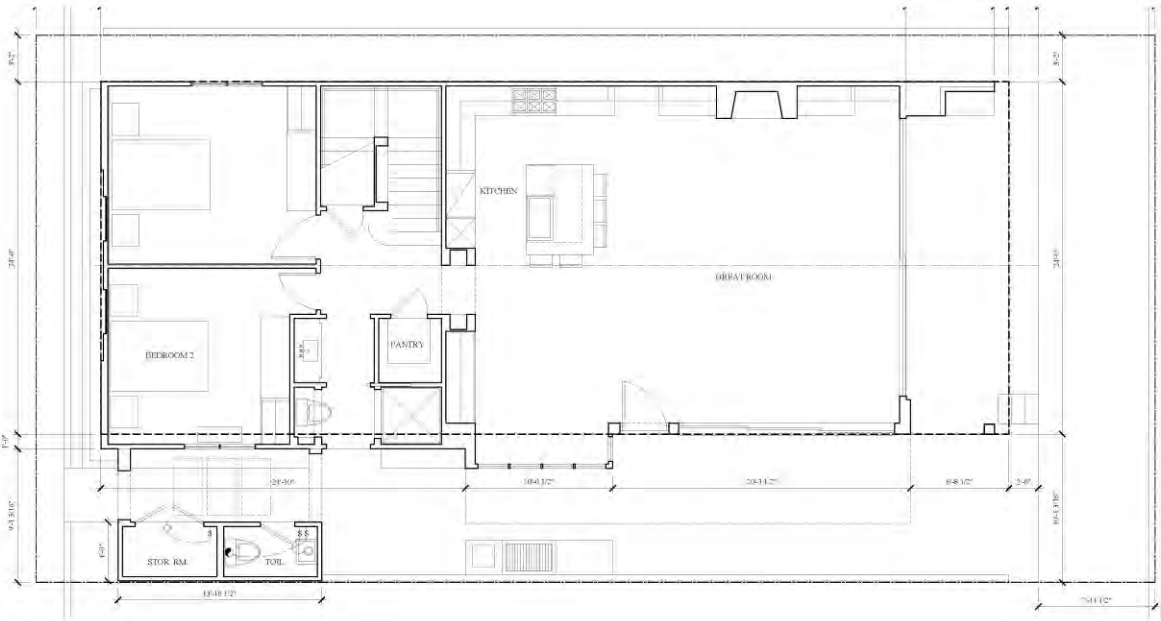
Date: 2 / 10 / 15
Job No.:
Association Submittal:
Bldg. Dept. Submittal:
Bid Issue:
Construction Issue:

Sheet Title:
SITE PLAN

Sheet No.:
A - 1



SECOND FLOOR PLAN



BUILDING DATA
 ORIGINAL UNIT (COMPLETELY REMODELED) 1,485 S.F.
 MAIN FLOOR 1,374 S.F.
 UPPER LEVEL 1,168 S.F.
 TOTAL 2,542 S.F.

COVERED PATIO 329 S.F.
 SHEED 57 S.F.

FIRST FLOOR PLAN
 1/4" = 1'-0"

PETERS ASSOCIATES

31693 BEACLEIF DRIVE
 LAGUNA BEACH, CA 92651
 949-412-4428

Seal / Signature: _____

Structural Engineer
D.E.J. ENGINEERING
 2825 LAGUNA CANYON RD.
 SUITE D
 LAGUNA BEACH, CA 92651
 949-497-6810, FAX: 949-497-6819
 dejengineering@yahoo.com

LOUGHMAN CALLANAN RESIDENCE

1880 N. El Camino Real
 Unit 18 Capistrano Shore,
 San Clemente,
 California

H.C.D. Approval _____

Revisions:

No.	Date	Revision
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Date: 3/6/12
 Job No.: _____
 Association Submittal: _____
 Bldg. Dept. Submittal: _____
 Bid Issue: _____
 Construction Issue: _____

Sheet Title:
FIRST FLOOR PLAN

Sheet No.: _____

**PETERS
ASSOCIATES**

31693 SEACLIFF DRIVE
LAGUNA BEACH, CA 92651
949-412-4428

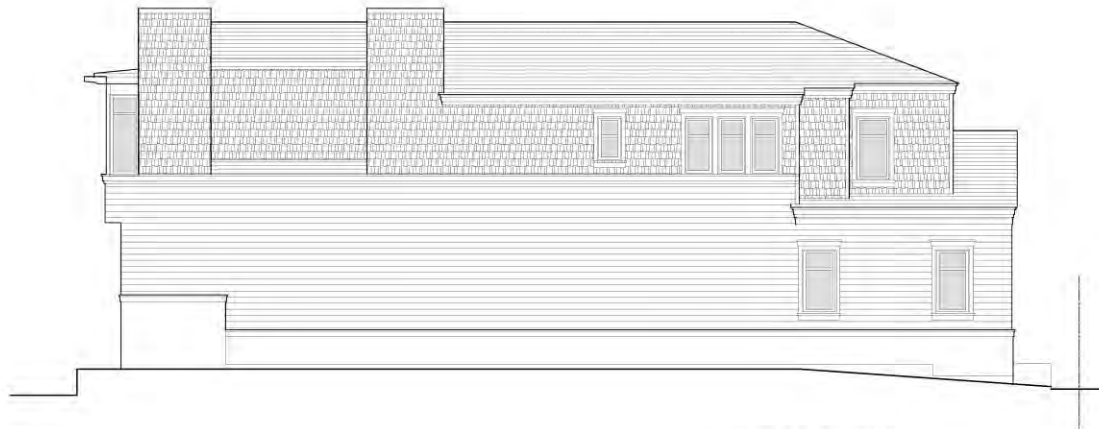
Scale / Signature:

Structural Engineer
D.E.J. ENGINEERING
2825 LAGUNA CANYON RD.
SUITE D
LAGUNA BEACH, CA 92651
949-497-6810, FAX: 949-497-6819
dejengineering@yahoo.com

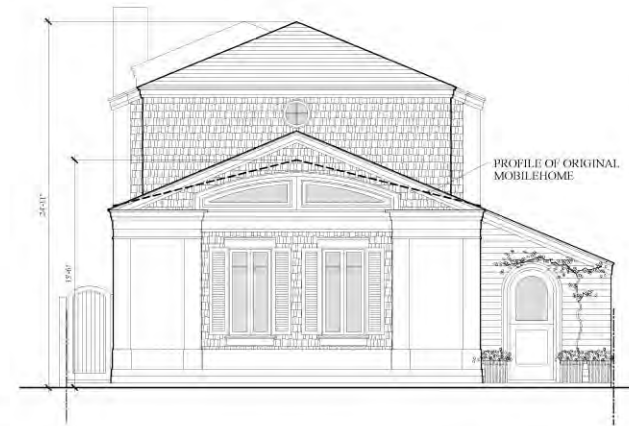
**LOUGHMAN
CALLANAN
RESIDENCE**

1880 N. El Camino Real
Unit 18 Capistrano Shore,
San Clemente,
California

H.C.D. Approval



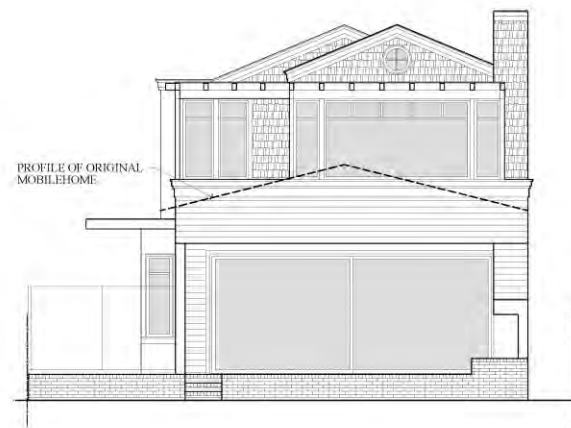
SOUTH ELEVATION



EAST ELEVATION (STREET)



NORTH ELEVATION



WEST ELEVATION (OCEAN)
1/4" = 1'-0"

Revisions:

No.	Date	Revision
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Date: 2 / 20 / 15
Job No.:
Association Submittal:
Bldg. Dept. Submittal:
Bid Issue:
Construction Issue:

Sheet Title:
ELEVATIONS

Sheet No.:

PETERS ASSOCIATES

33771 BLUE LANTERN
DANA POINT, CA 92629
949-412-4428
williamspeters@yahoo.com

Seal / Signature:

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D.E.J. ENGINEERING
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Project
SUTER-WITKIN RESIDENCE
1880 N. El Camino Real
Capistrano Shores - Unit 23
San Clemente,
California

H.C.D. Approval:

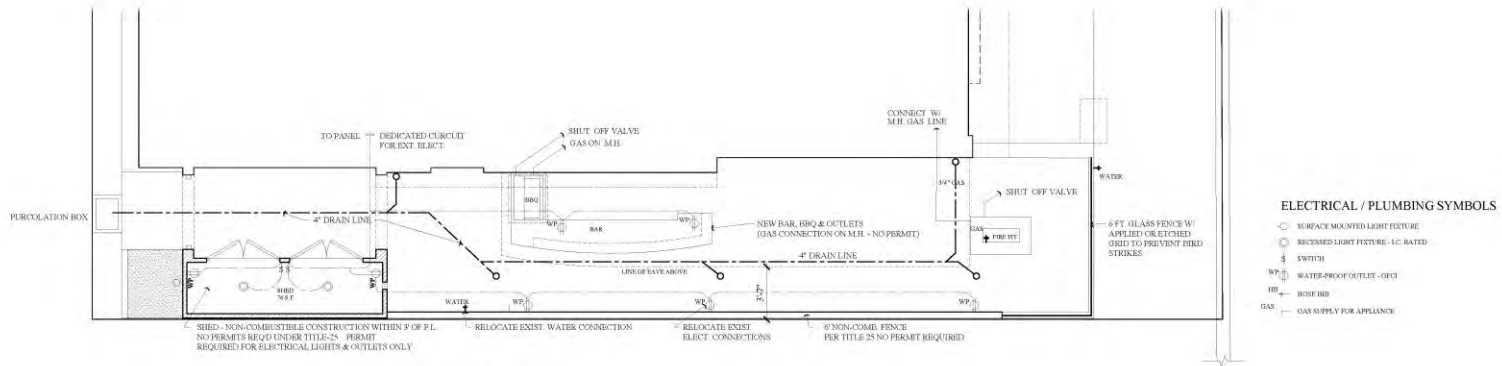
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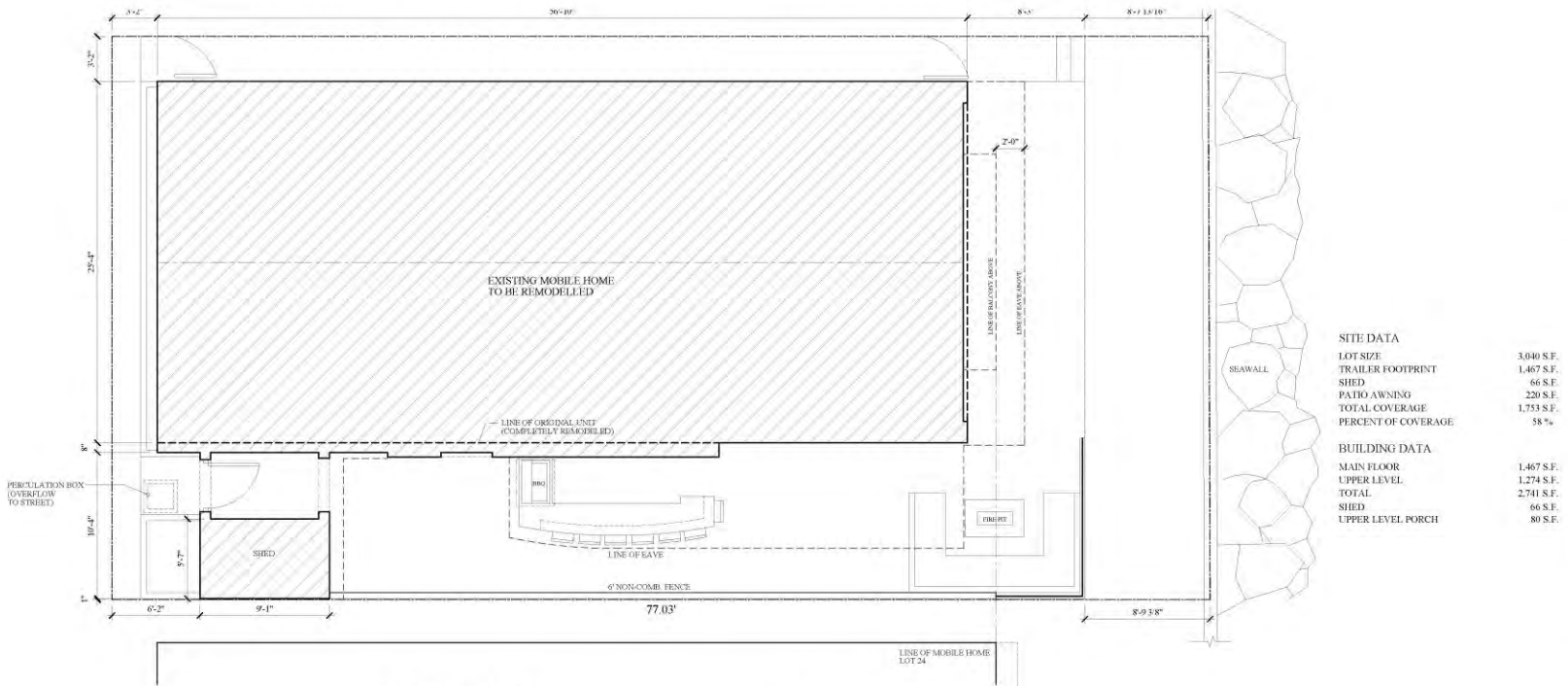
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Job No.:	
Association Submittal:	
Bldg. Dept. Submittal:	
Bid Issue:	
Construction Issue:	

Sheet Title:
SITE IMPROVEMENT PLAN

Sheet No.:
A - 1



UTILITY PLAN 1/4" = 1'-0"



SITE PLAN 1/4" = 1'-0"

SITE DATA

LOT SIZE	3,040 S.F.
TRAILER FOOTPRINT	1,467 S.F.
SHED	66 S.F.
PATIO AWNING	220 S.F.
TOTAL COVERAGE	1,753 S.F.
PERCENT OF COVERAGE	58%

BUILDING DATA

MAIN FLOOR	1,467 S.F.
UPPER LEVEL	1,274 S.F.
TOTAL	2,741 S.F.
SHED	66 S.F.
UPPER LEVEL PORCH	80 S.F.

PETERS ASSOCIATES

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949-412-4428
williamspeters@yahoo.com

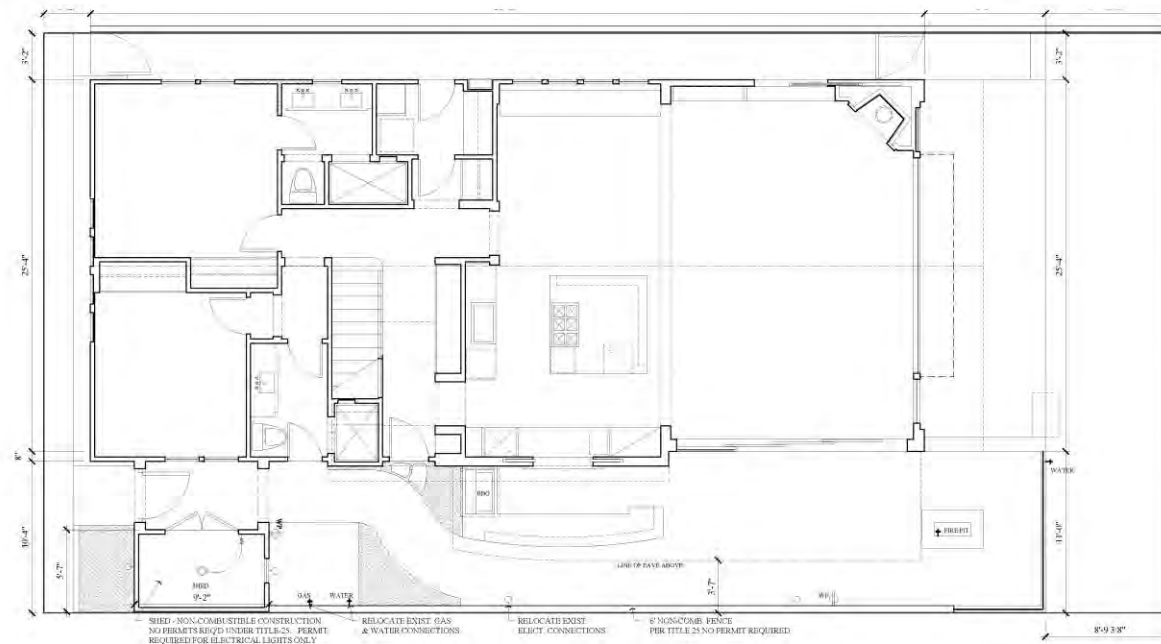
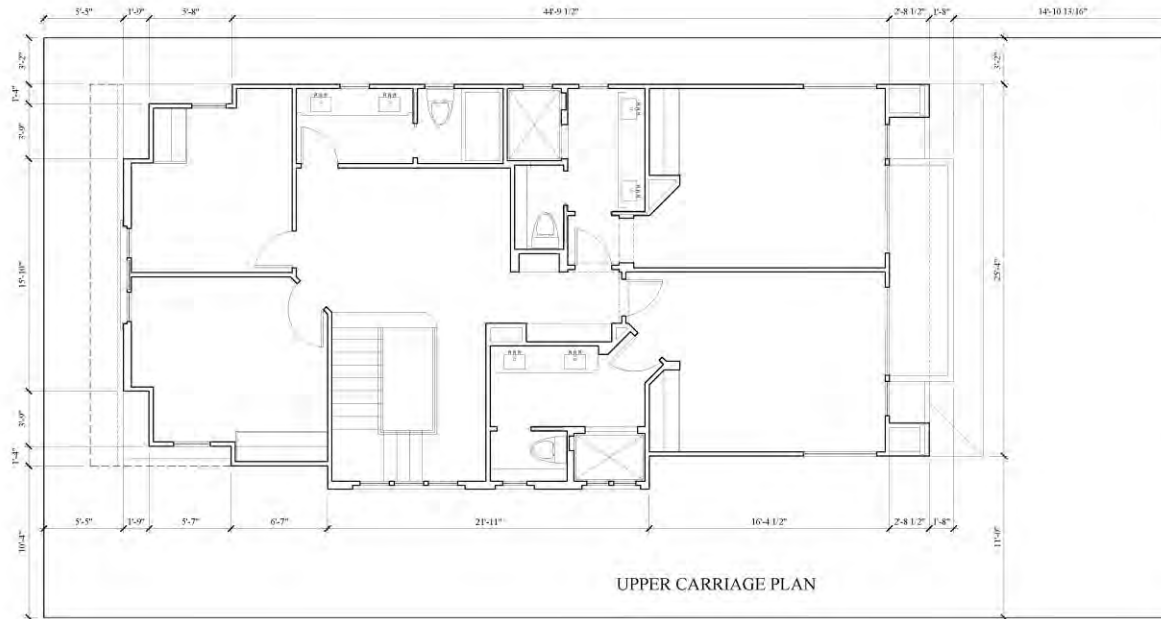
Seal / Signature:

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Project
SUTER-WITKIN RESIDENCE

1880 N. El Camino Real
Capistrano Shores - Unit 23
San Clemente,
California

ILCD Approval



BUILDING DATA

ORIGINAL UNIT (COMPLETELY REMODELED)	1,440 S.F.
MAIN FLOOR	1,467 S.F.
UPPER LEVEL	1,274 S.F.
TOTAL	2,741 S.F.
SHED	66 S.F.
UPPER LEVEL PORCH	80 S.F.

SHED - NON-COMBUSTIBLE CONSTRUCTION
NO FRAMING REQUIRED INSIDE TILES - PERMIT
REQUIRED FOR ELECTRICAL LIGHTS ONLY

RELOCATE EXIST GAS
& WATER CONNECTIONS

RELOCATE EXIST
ELECT. CONNECTIONS

8' NON-COMB. FENCE
FOR TITLE 25 NO PERMIT REQUIRED

Revisions:

No.	Date	Revision
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Date: 2 / 20 / 15
Job No.:
Association Submittal:
Bldg. Dept. Submittal:
Bid Issue:
Construction Issue:

Sheet Title:
FLOOR PLANS

Sheet No.:
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**PETERS
ASSOCIATES**

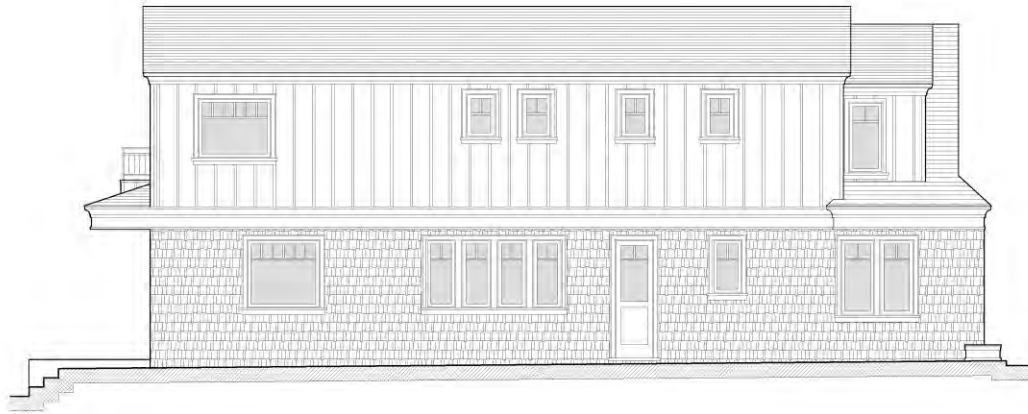
31693 SEACLIFF DRIVE
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williamspeters@yahoo.com

Seal / Signature:

Structural Engineer
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Project
**SUTER-WITKIN
RESIDENCE**
1880 N. El Camino Real
Capistrano Shores - Unit 23
San Clemente,
California

H.C.D. Approval



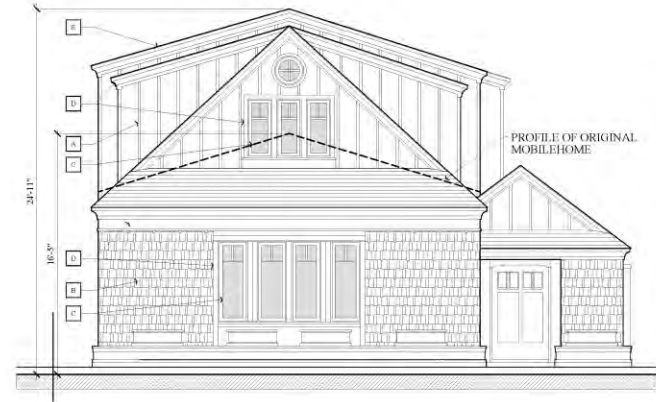
SOUTH ELEVATION



WEST ELEVATION (OCEAN)



NORTH ELEVATION



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

- A BOARD AND BATTEN SIDING - FIBER CEMENT PANELS W/ FIBER CEMENT-BATTENS
- B FIBER CEMENT SHINGLE BOARDS
- C MILLEARD "RESINCE" WINDOWS - FIBERGLASS CLAD WOOD WINDOWS
- D TRUS/ 6" x 6" x 6" COMPOSITE TRIM AT WINDOWS AND FAUCES
- E "CLASS A" COMPOSITE ASPHALT SHINGLE ROOFING

Revisions:

No.	Date	Revision
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Date: 2 / 20 / 15
Job No.:
Association Submittal:
Bldg. Dept. Submittal:
Bid Issue:
Construction Issue:

Sheet Title:
ELEVATIONS

Sheet No.:
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**CHRISTIAN
RESIDENCE**

1880 N. El Camino Real
Unit 31 Capistrano Shores
San Clemente,
California

Revisions:

No.	Date	Revision
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Date: 2 / 20 / 15

Job No.:

Association Submittal:

Bldg. Dept. Submittal:

Bid Issue:

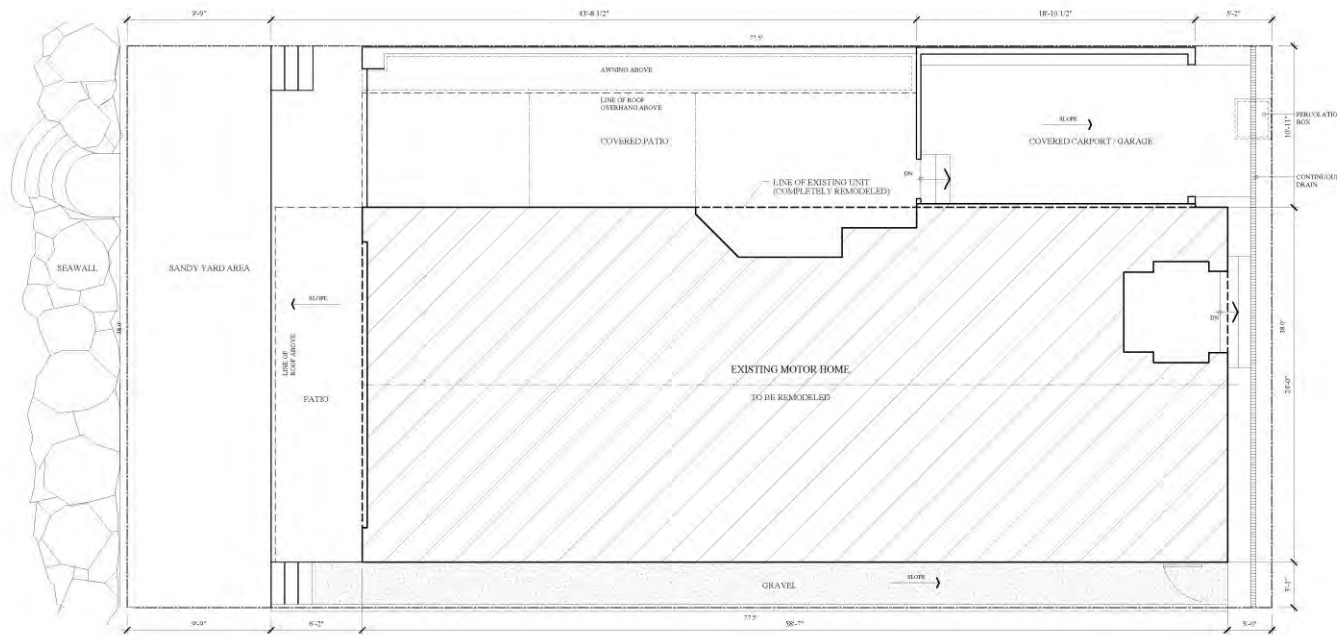
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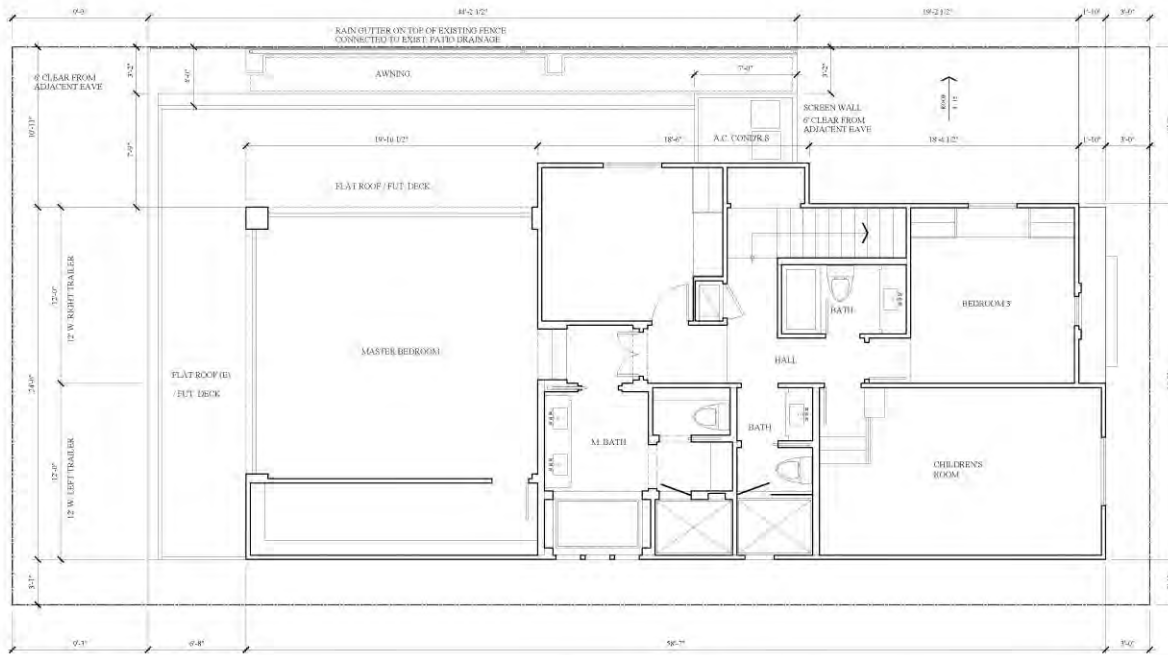
SITE PLAN

Sheet No.:

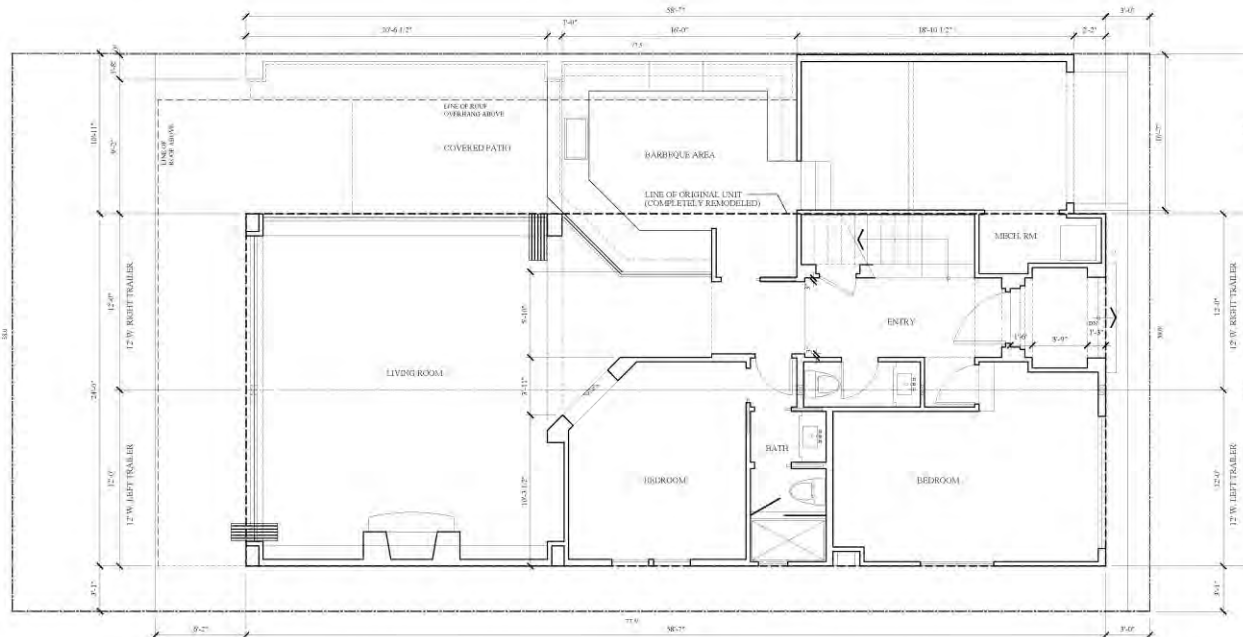
A - 1



SITE DRAINAGE PLAN
1/4" = 1'-0"



SECOND FLOOR
1/4" = 1'-0"



SITE DATA

LOT SIZE	2,945 S.F.
ORIGINAL UNIT (COMPLETELY REMODELED)	1,406 S.F.
FIRST FLOOR	1,323 S.F.
COVERED PATIO	642 S.F.
TOTAL COVERAGE	1,967 S.F.
PERCENT OF COVERAGE	67 %

FLOOR PLAN
1/4" = 1'-0"

PETERS
ASSOCIATES

31693 SEACLIFF DRIVE
LAGUNA BEACH, CA 92651
949-412-4428

Seal / Signature:

Structural Engineer
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dejengineering@yahoo.com

CHRISTIAN
RESIDENCE

1880 N. El Camino Real
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San Clemente,
California

Revisions:

No.	Date	Revision
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Date: 2/20/15

Job No.:

Association Submittal:

Bldg. Dept. Submittal:

Bid Issue:

Construction Issue:

Sheet Title:
FLOOR PLANS

Sheet No.:

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PETERS ASSOCIATES

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

Seal / Signature:

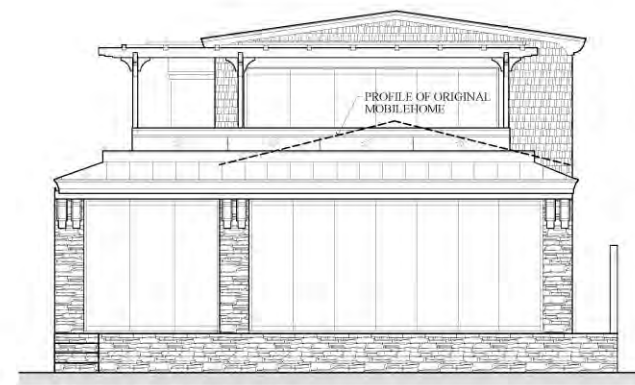
Structural Engineer
D.E.J. ENGINEERING
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LAGUNA BEACH, CA 92651
949-497-6810, FAX: 949-497-6819
dejengineering@yahoo.com

CHRISTIAN RESIDENCE

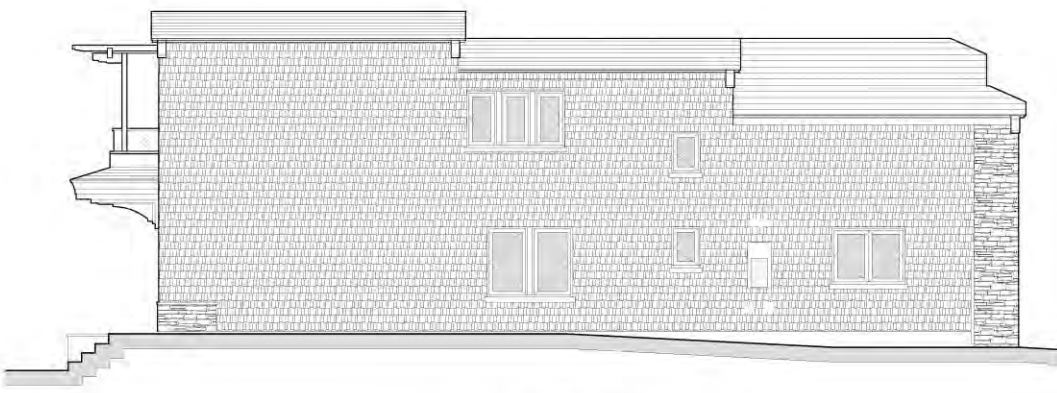
1880 N. El Camino Real
Unit 31 Capistrano Shores
San Clemente,
California



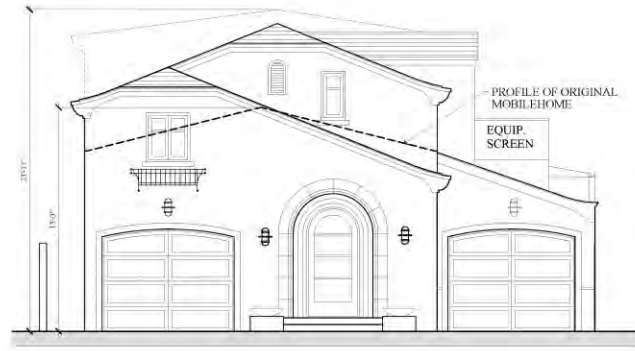
NORTH SIDE ELEVATION



REAR ELEVATION (OCEAN)
1/4" = 1'-0"



SOUTH SIDE ELEVATION



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

Revisions:

No.	Date	Revision
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Date: _____
Job No.: _____
Association Submittal: _____
Bldg. Dept. Submittal: 2 / 20 / 15
Bid Issue: _____
Construction Issue: _____

Sheet Title:
ELEVATIONS

Sheet No.:
A - 4

PETERS ASSOCIATES

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Seal / Signature:

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dejengineering@yahoo.com

SCHREIBER RESIDENCE

35 Capistrano Shores
San Clemente,
California

H.C.D.

Revisions:

No.	Date	Revision

Date: 9 / 15 / 11

Job No.:

Association Submitted:

H.C.D. Submitted:

Bid Issue:

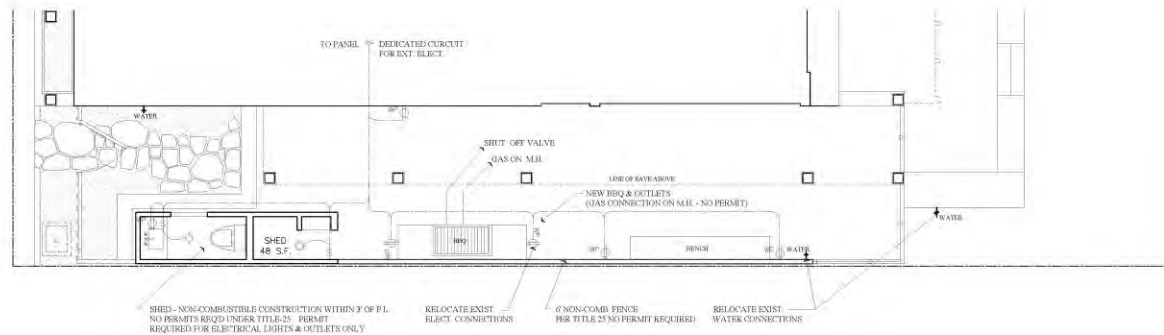
Construction Issue:

Sheet Title:

SITE UTILITY PLAN

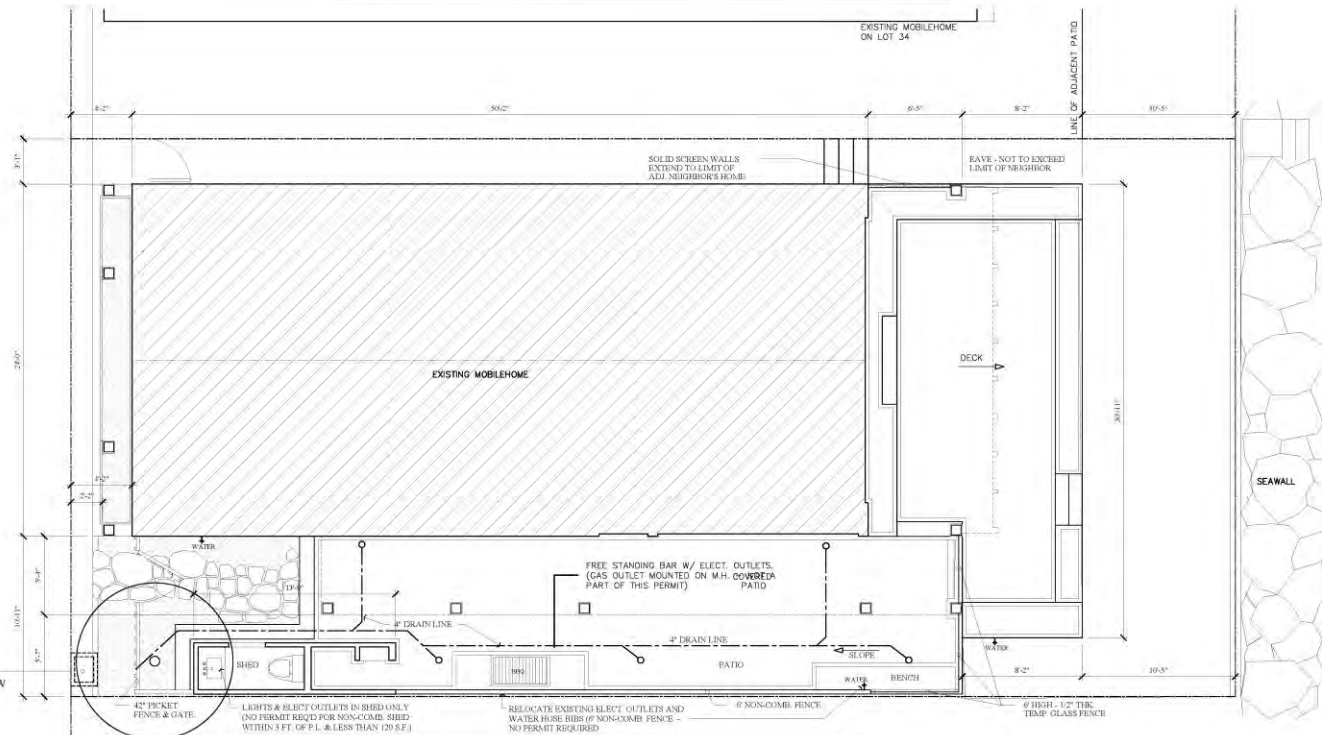
Sheet No.:

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ELECTRICAL / PLUMBING SYMBOLS

- SURFACE MOUNTED LIGHT FIXTURE
- RECESSED LIGHT FIXTURE - I.L. SALES
- SWITCH
- W WATER-PROOF OUTLET - GFI
- W WATER FUSE
- GAS SUPPLY (FOR APPLIANCES)



LANDSCAPING
DROUGHT TOLERANT SHRUBS AND GROUND COVER FROM THE COASTAL ACTS PLANT PALATTE
AUTOMATIC IRRIGATION ON TIMER

SITE DATA

LOT SIZE	3,014 S.F.
TRAILER FOOTPRINT	1,169 S.F.
COVERED PATIO	382 S.F.
TOTAL COVERAGE	1,551 S.F.
% OF COVERAGE	51 %
% OF COVERAGE (INCL. PATIO)	72 %

HCD NOTES

1. T-25 EFR # 3280.2 MANUFACTURED HOUSE MEANS A STRUCTURE, TRANSPORTABLE IN ONE OR MORE SECTIONS, WHICH IN THE TRAVELING MODE IS EIGHT BODY FEET OR MORE IN WIDTH OR FORTY BODY FEET OR MORE IN LENGTH.

SITE UTILITY PLAN

1/4" = 1'-0"

PETERS ASSOCIATES

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949-412-4428
william@peters@yahoo.com

Scale / Signature:

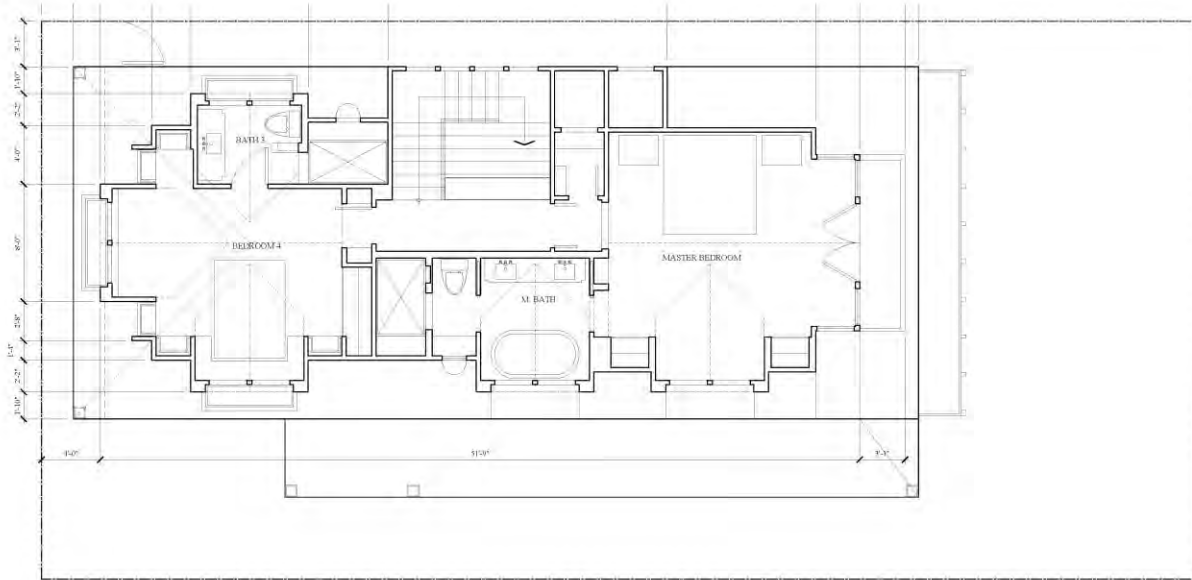
D.E.J. ENGINEERING

2825 LAGUNA CANYON RD.
SUITE D
LAGUNA BEACH, CA 92651
949-497-6810, FAX: 949-497-6810
dejengineering@yahoo.com

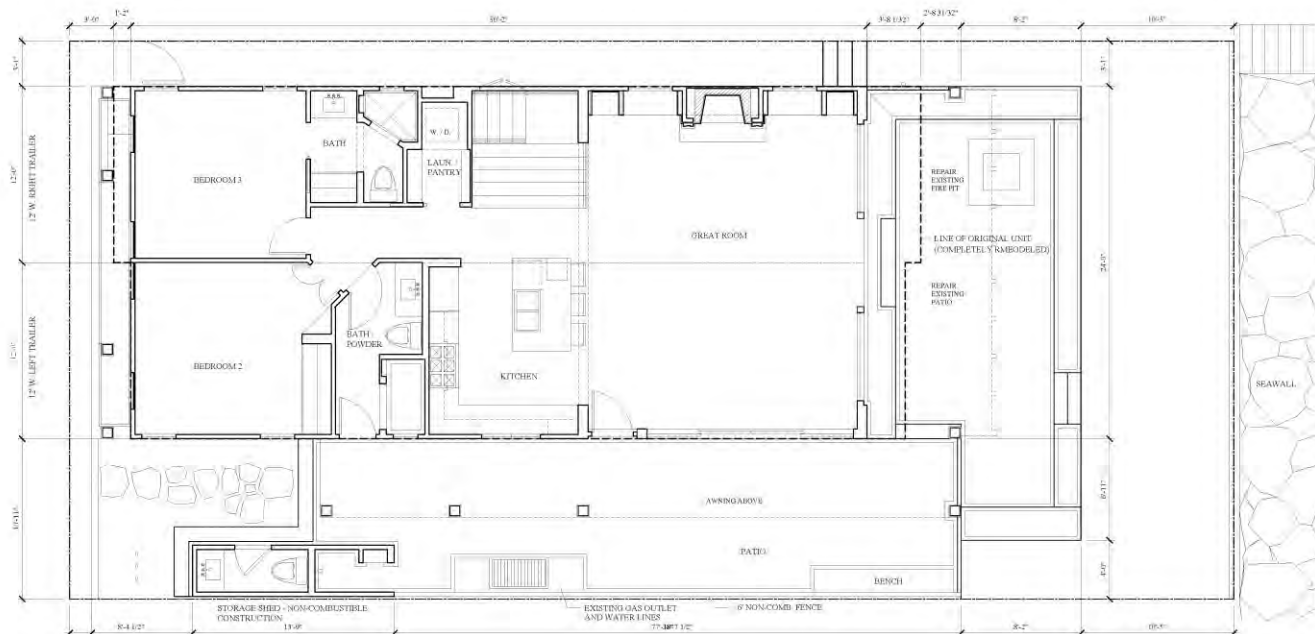
SCHREIBER RESIDENCE

35 Capistrano Shores
San Clemente,
California

H.C.D.



SECOND FLOOR PLAN
1/4" = 1'-0"



BUILDING DATA
ORIGINAL UNIT (COMPLETELY REMODELED) 1,293 S.F.
MAIN FLOOR 1,169 S.F.
UPPER LEVEL 788 S.F.
TOTAL 1,957 S.F.
COVERED PATIO 382 S.F.

FIRST FLOOR PLAN
1/4" = 1'-0"

Revisions:

No.	Date	Revision
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Date: 2/20/13

Job No.:

Association Submittal:

H.C.D. Submittal:

Bid Issue:

Construction Issue:

Sheet Title:
FLOOR PLANS

Sheet No.:

A - 2



NORTH ELEVATION



EAST ELEVATION (STREET)



SOUTH ELEVATION



WEST ELEVATION (OCEAN)
1/4" = 1'-0"

PETERS ASSOCIATES

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SCHREIBER RESIDENCE

35 Capistrano Shores
San Clemente,
California

H.C.D.

Revisions:

No.	Date	Revision
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Date: 2/20/15

Job No.:

Association Submittal:

H.C.D. Submittal:

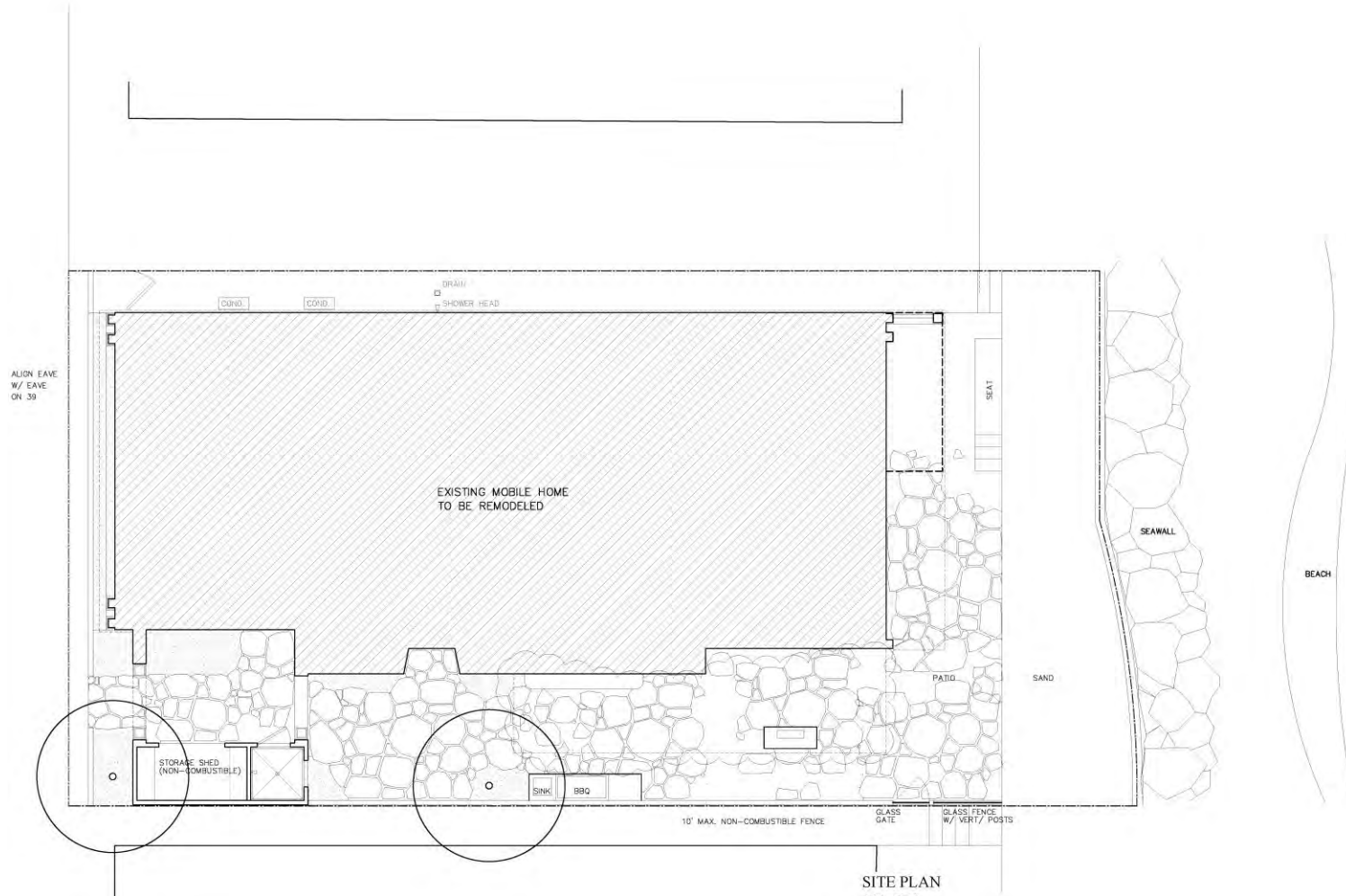
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Construction Issue:

Sheet Title:
ELEVATIONS

Sheet No.:

A - 3



SITE PLAN

1/4" = 1'-0"

SITE DATA	
LOT SIZE	3,204 S.F.
TRAILER FOOTPRINT	1,511 S.F.
COVERED PATIO/SHED	665 S.F.
TOTAL COVERAGE	2,176 S.F.
PERCENT OF COVERAGE	68 %

BUILDING DATA	
MAIN FLOOR	1,511 S.F.
UPPER LEVEL	1,258 S.F.
TOTAL MOBILE HOME	2,769 S.F.
COVERED PATIO / SHED	665 S.F.

Revisions:

No.	Date	Revision
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Date: 7 / 9 / 11

Job No.:

Association Submittal:

Bldg. Dept. Submittal:

Bid Issue:

Construction Issue:

Sheet Title:
SITE PLAN

Sheet No.:
A - 1

PETERS ASSOCIATES

31693 SEACLIFF DRIVE
LAGUNA BEACH, CA 92651
949-412-4428

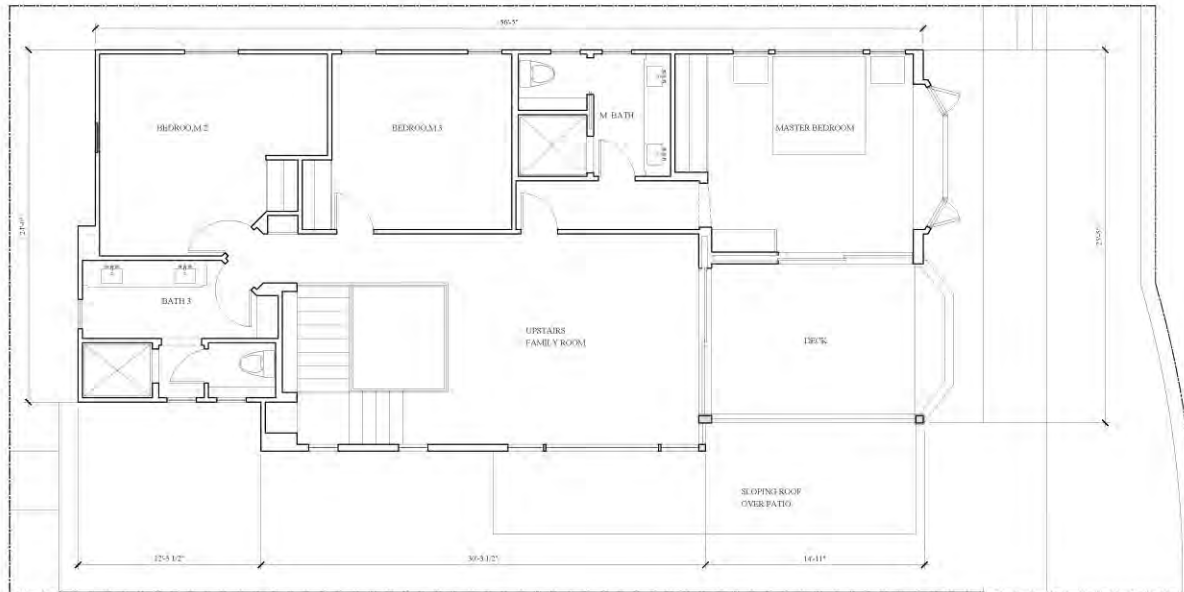
Seal / Signature:

Structural Engineer
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LAGUNA BEACH, CA 92651
949-497-6810, FAX: 949-497-6819
dejengineering@yahoo.com

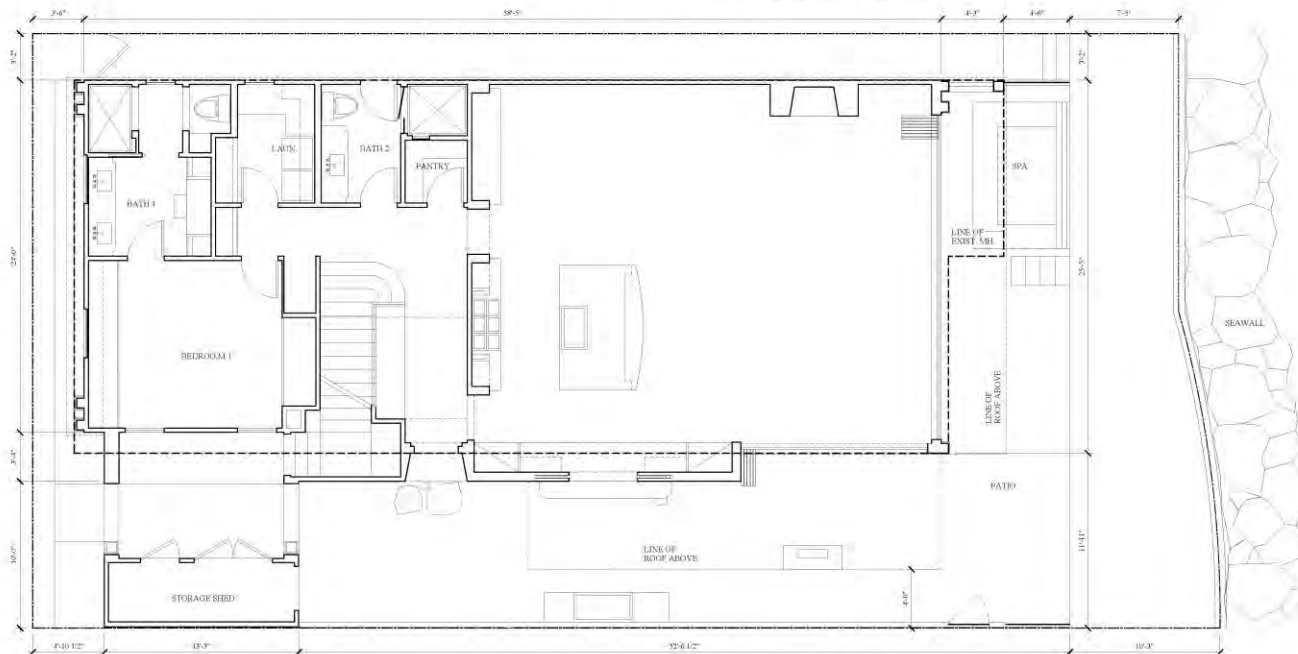
GRISWOLD RESIDENCE

1880 N. El Camino Real
Unit 40 Capistrano Shore,
San Clemente,
California

H.C.D. Approval



SECOND FLOOR PLAN



FIRST FLOOR PLAN 1/4" = 1'-0"

BUILDING DATA	
ORIGINAL UNIT (COMPLETELY REMODELED)	1,559 S.F.
MAIN FLOOR	1,511 S.F.
UPPER LEVEL	1,288 S.F.
TOTAL MOBILE HOME	2,769 S.F.
COVERED PATIO / SHED	665 S.F.

Revisions:

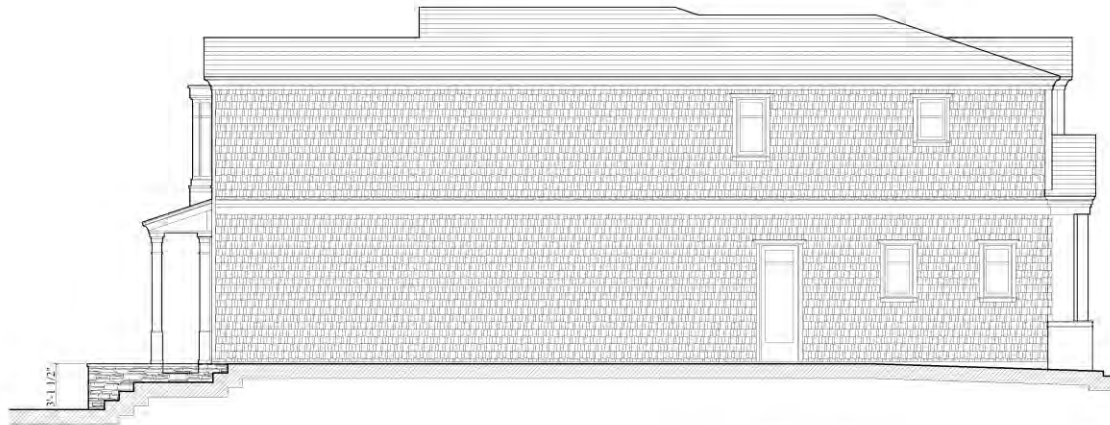
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Date: 3 / 17 / 11
Job No.:
Association Submittal:
Bldg. Dept. Submittal:
Bid Issue:
Construction Issue:

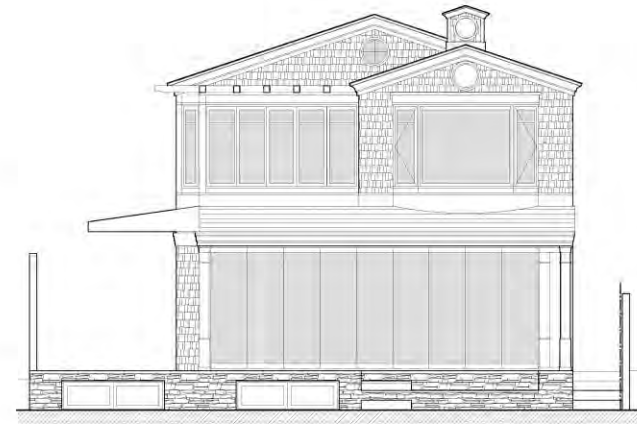
Sheet Title:
FLOOR PLAN

Sheet No.:

A - 2



SOUTH ELEVATION



REAR (OCEAN) ELEVATION



NORTH ELEVATION



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

**PETERS
ASSOCIATES**

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949-412-4428

Seal / Signature:

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dejengineering@yahoo.com

**GRISWOLD
RESIDENCE**

1880 N. El Camino Real
Unit 40 Capistrano Shore
San Clemente,
California

H.C.D. Approval

Revisions:

No.	Date	Revision
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Date: 2 / 20 / 15

Job No.:

Association Submittal:

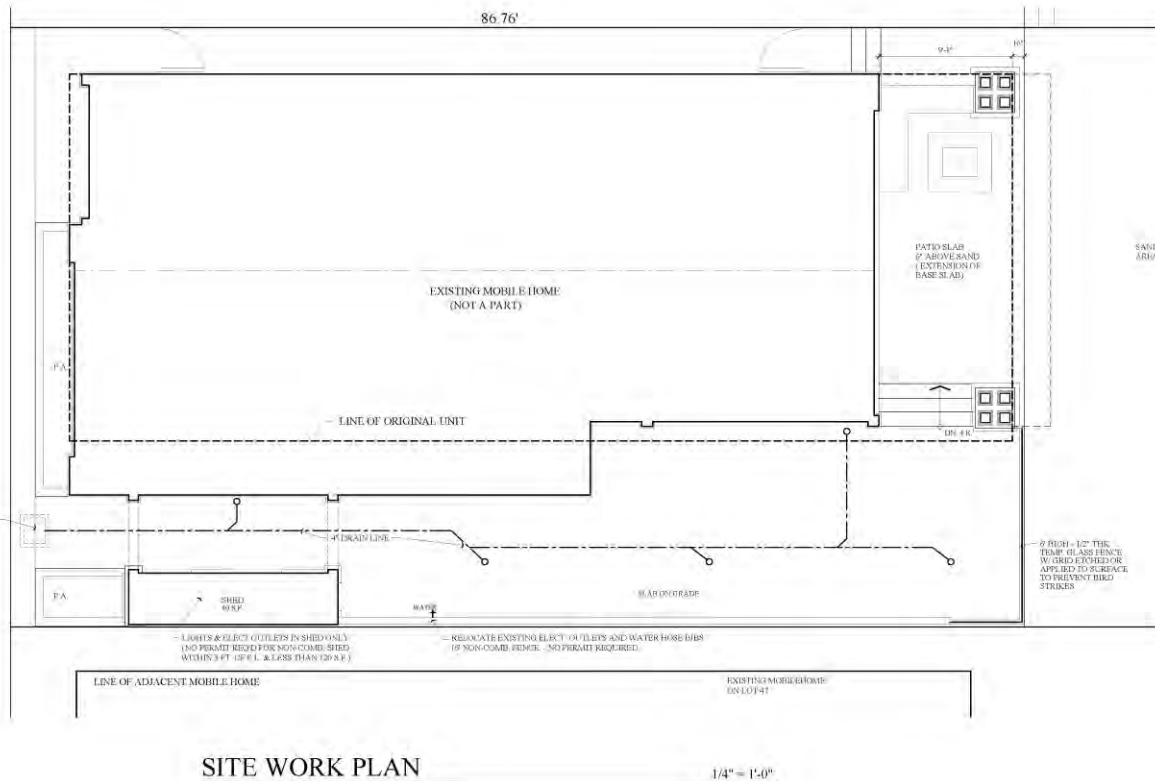
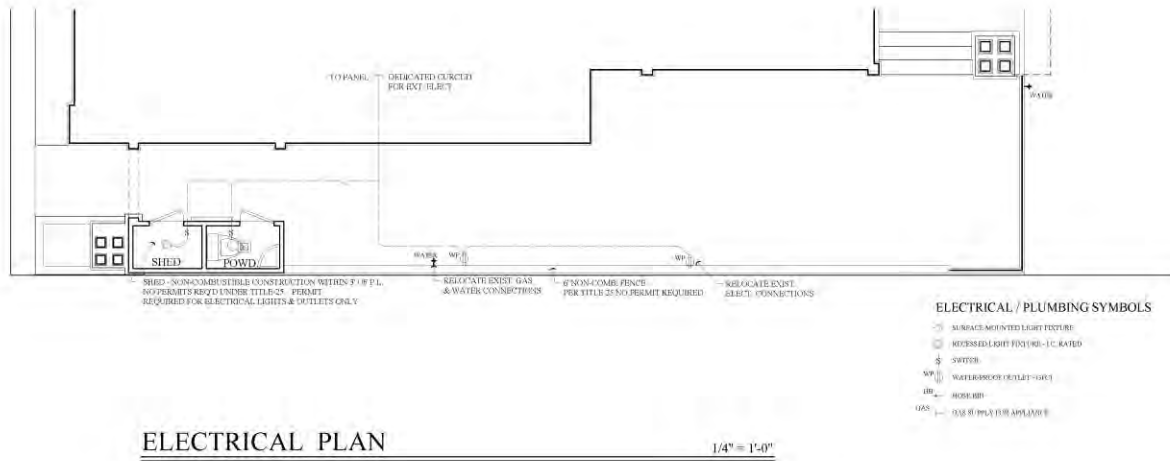
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Bid Issue:

Construction Issue:

Sheet Title:
**ELEVATIONS
SECTIONS**

Sheet No.:



PETERS ASSOCIATES

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DANA POINT, CA 92629
949-412-4428
williampeters@yahoo.com

Seal / Signature:

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949-497-6810, FAX: 949-497-6819
dejenrincing@yahoo.com

SAMUELIAN RESIDENCE

1880 N. El Camino Real
Unit 46 Capistrano Shores
San Clemente,
California

H.C.D. Approval

Revisions:

No.	Date	Revision
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Date: 2 / 20 / 15

Job No.:

Association Submittal:

Bldg. Dept. Submittal:

Bid Issue:

Construction Issue:

Sheet Title:
SITE DEVELOPMENT PLANS

Sheet No.:

A - 1B

PETERS ASSOCIATES

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SAMUELIAN RESIDENCE

1880 N. El Camino Real
Unit 46 Capistrano Shores
San Clemente,
California

H.C.D. Approval

Revisions:

No.	Date	Revision

No.	Date	Revision

Date: 1 / 20 / 13

Job No.:

Association Submittal:

Bldg. Dept. Submittal:

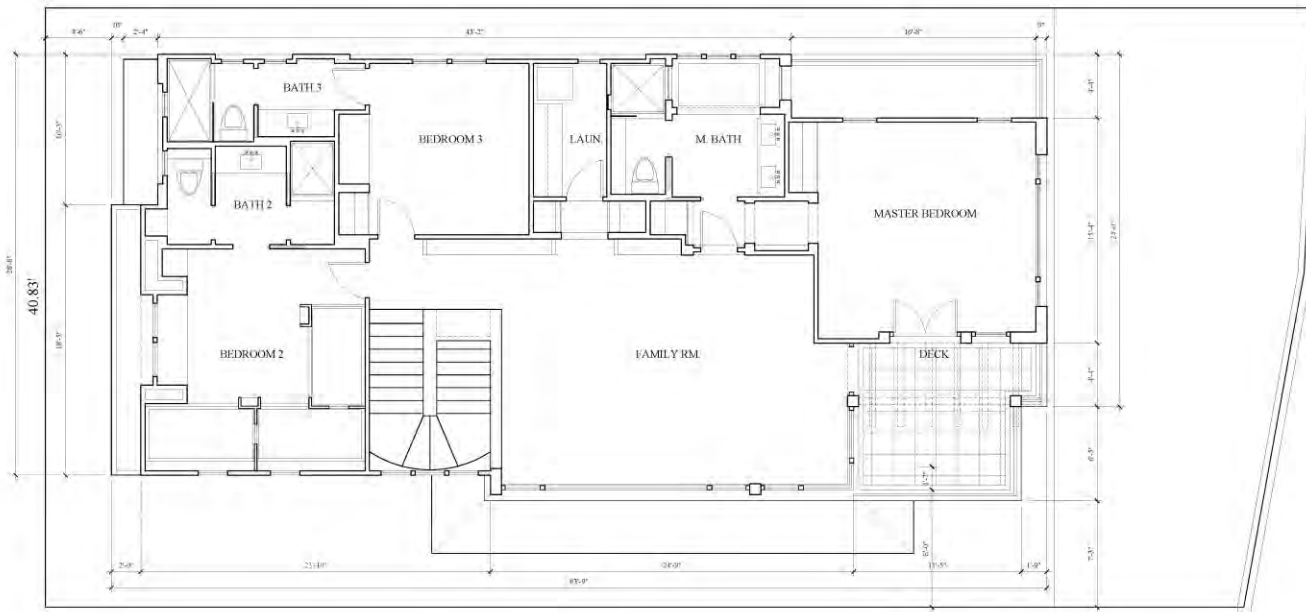
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Construction Issue:

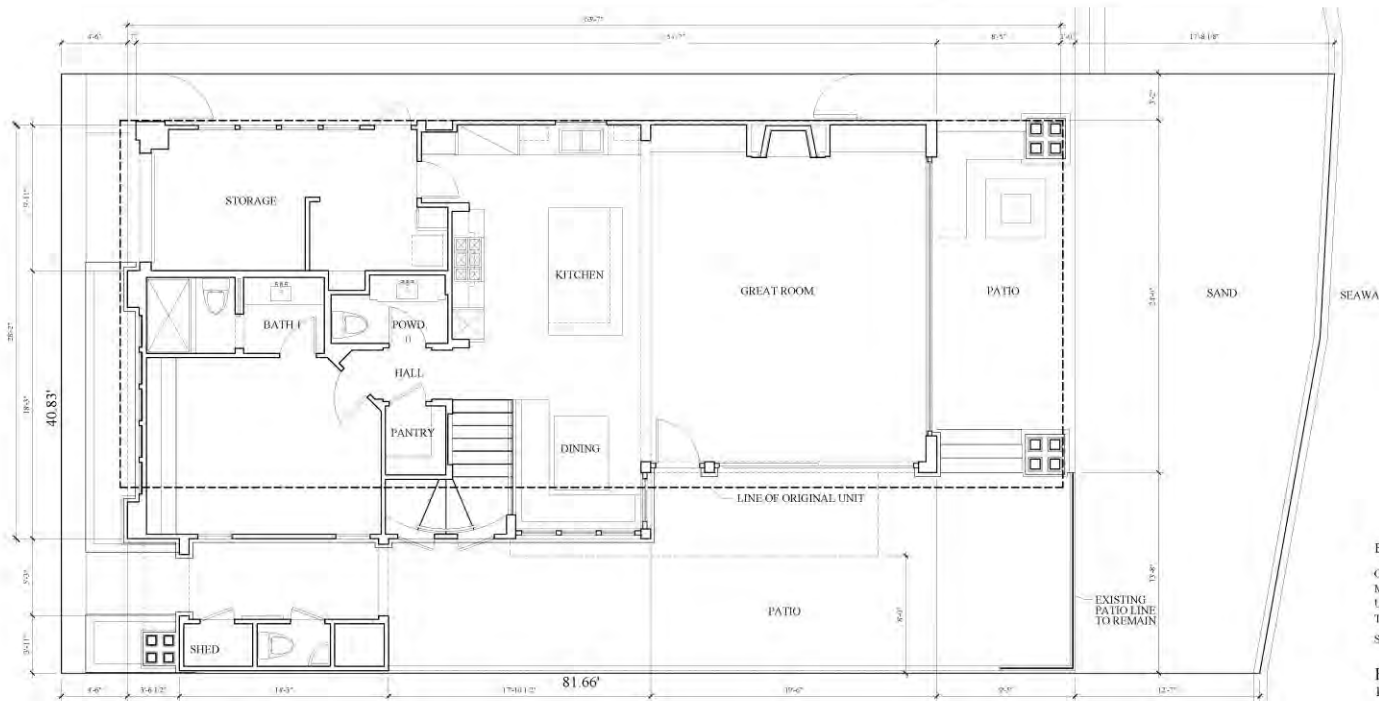
Sheet Title:
FIRST FLOOR PLAN

Sheet No.:

A - 2R



SECOND FLOOR PLAN



BUILDING DATA

ORIGINAL UNIT (COMPLETELY REMODELED)	1,606 S.F.
MAIN FLOOR	1,459 S.F.
UPPER LEVEL	1,508 S.F.
TOTAL	2,967 S.F.
SHEDS	84 S.F.

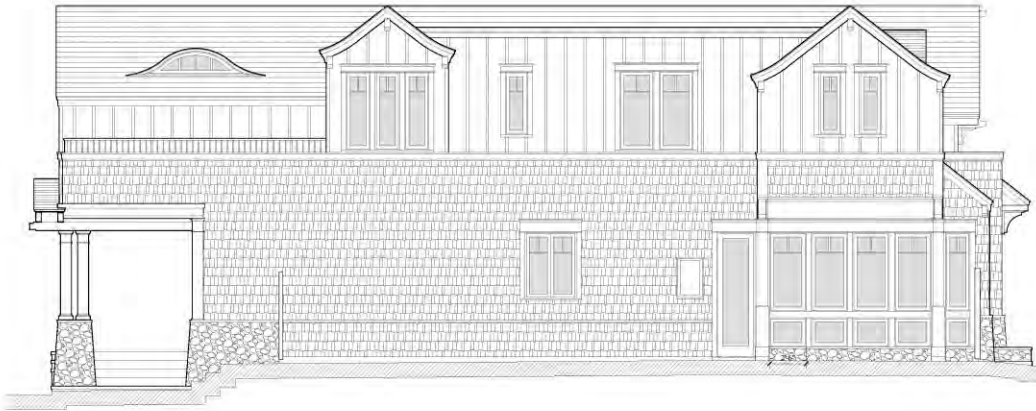
FIRST FLOOR PLAN
1/4" = 1'-0"



SOUTH SIDE ELEVATION



WEST ELEVATION (OCEAN)



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

ELEVATION KEYNOTES

- A BOARD AND BATTEN SIDING - W/ COMPOSITE PANELS OR FIBER CEMENT PANELS W/ FIBER CEMENT BATTERS
- B FIBER CEMENT SHINGLE BOARDS
- C STONE VENEER
- D MILDGARD "SASSINI" WINDOWS - THREE GLASS CLAU/WOOD WINDOWS
- E "TRIN" OR "AZEK" COMPOSITE TRIM AT WINDOWS AND DOORS
- F "CLASS A" COMPOSITE ASPHALT SHINGLE ROOFING
- G ZIPPER STANDING SEAM EDGE

PETERS ASSOCIATES

33771 BLUE LANTERN
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949-412-4428
williampeters@yahoo.com

Seal / Signature:

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SAMUELIAN RESIDENCE

1880 N. El Camino Real
Unit 46 Capistrano Shores
San Clemente,
California

H.C.D. Approval

Revisions:

No.	Date	Revision
1		
2		
3		
4		
5		

- 1
- 2
- 3
- 4
- 5

Date: 1 / 20 / 13

Job No.:

Association Submittal:

Bldg. Dept. Submittal:

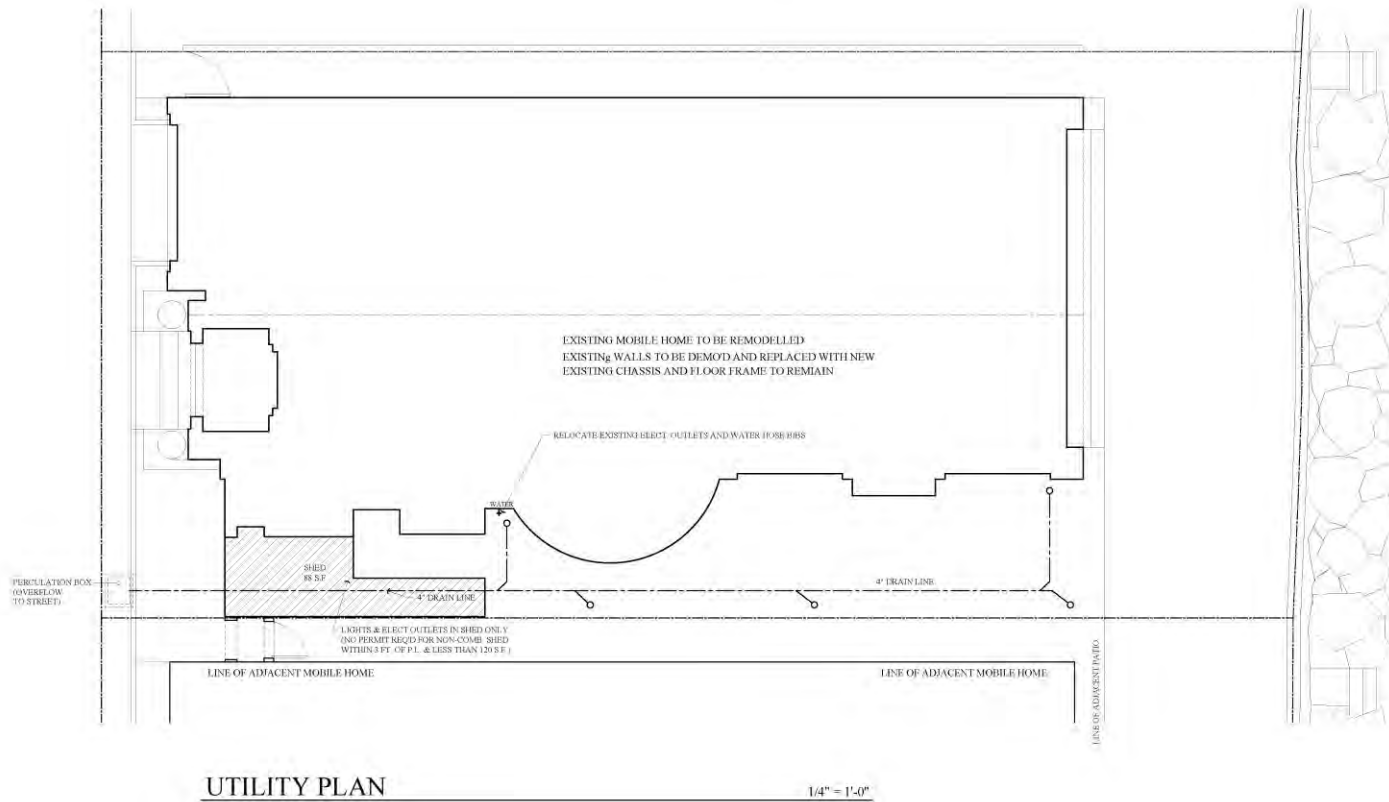
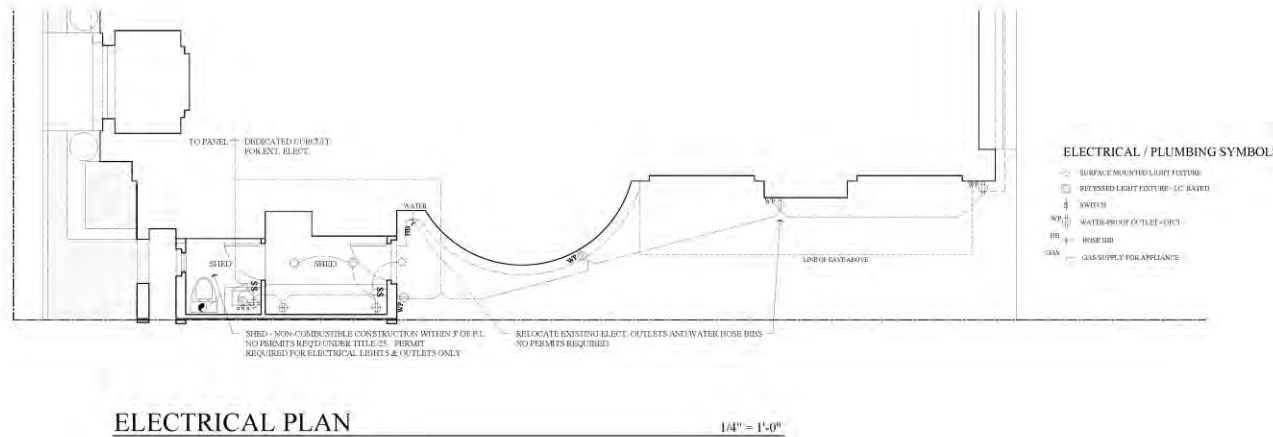
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Construction Issue:

Sheet Title:
ELEVATIONS

Sheet No.:

A - 4



PETERS ASSOCIATES

33771 BLUE LANTERN STREET
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**Project
CARVER RESIDENCE**

1880 N. El Camino Real
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H.C.D.

Revisions:

No.	Date	Revision
△		
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△		
△		
△		

Date: 2/20/15

Job No.:

Association Submittal:

H.C.D. Submittal:

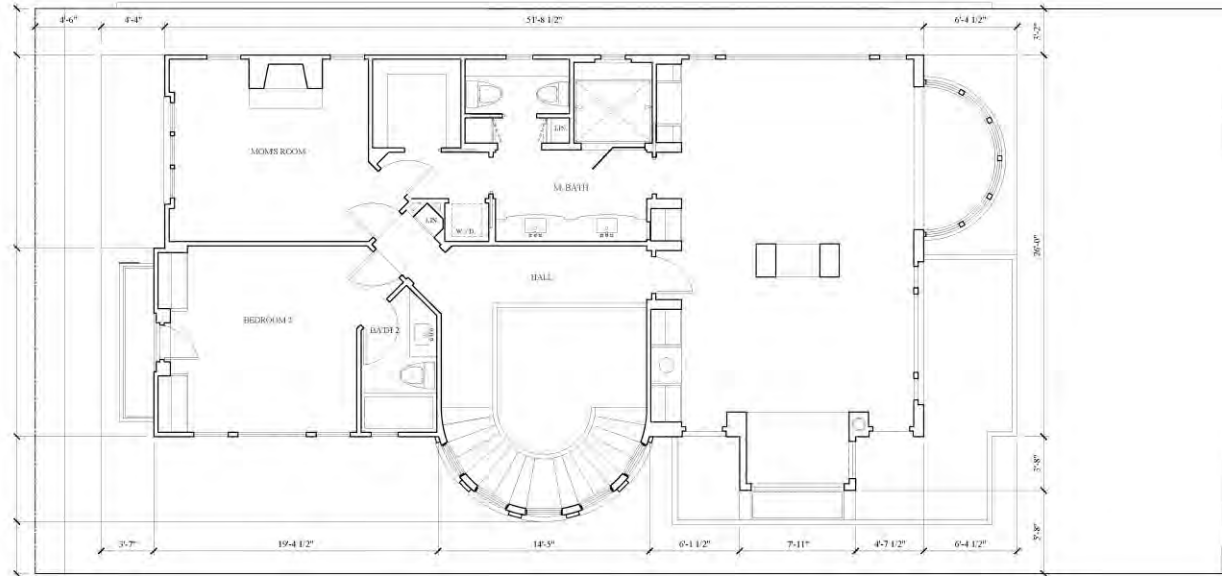
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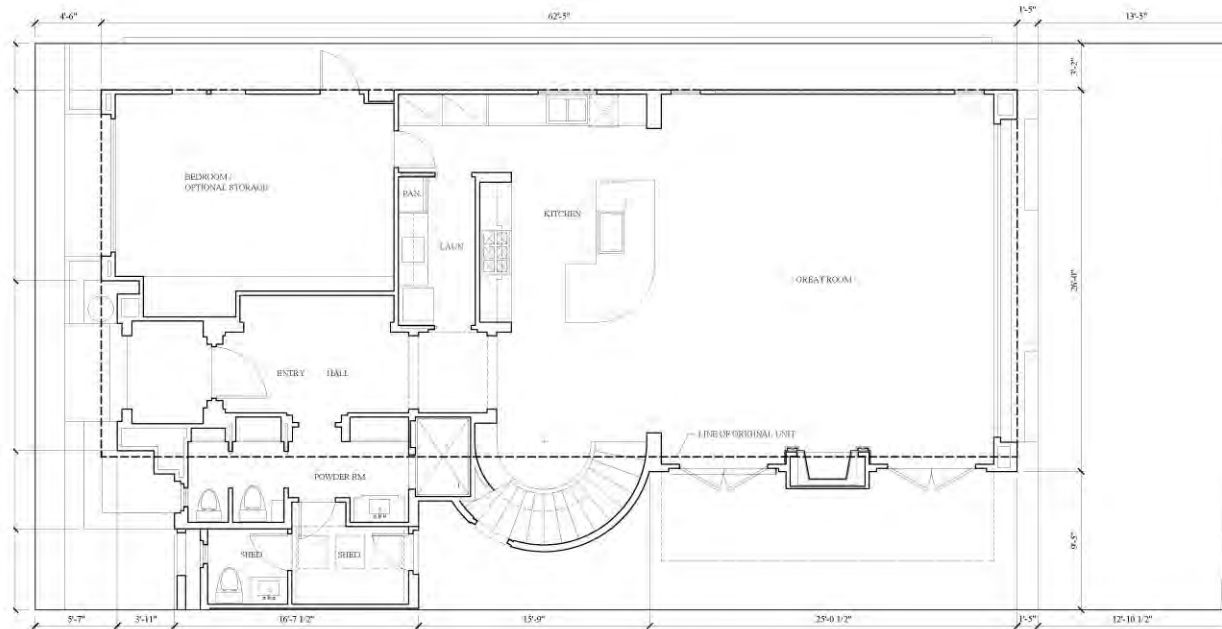
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**SITE PLAN WITH
ACCESSORY STRUCT.
+ DRAINAGE**

Sheet No.:

A- 1.B



SECOND FLOOR PLAN



BUILDING DATA
 ORIGINAL UNIT (COMPLETELY REMODELED) 1,560 S.F.
 MAIN FLOOR 1,648 S.F.
 UPPER LEVEL 1,322 S.F.
 TOTAL 2,970 S.F.
 SHED W/ BATH 87 S.F.
FIRST FLOOR PLAN
 1/4" = 1'-0"

PETERS ASSOCIATES

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 williamspeters@yahoo.com

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Project
CARVER RESIDENCE

1880 N. El Camino Real
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 California

H.C.D.

Revisions:

No.	Date	Revision
△		
△		
△		
△		
△		

Date: 8 / 20 / 12

Job No.:

Association Submittal:

H.C.D. Submittal:

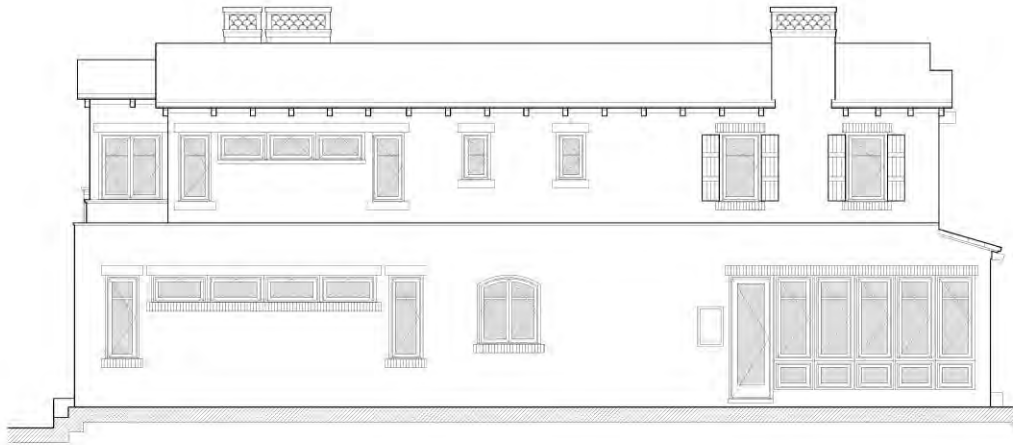
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Construction Issue:

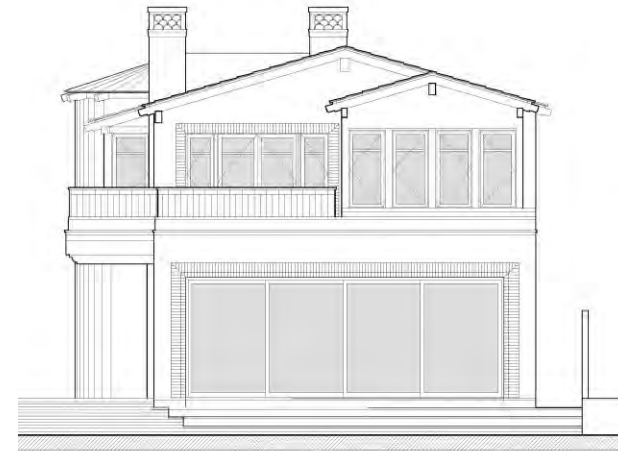
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Sheet No.:

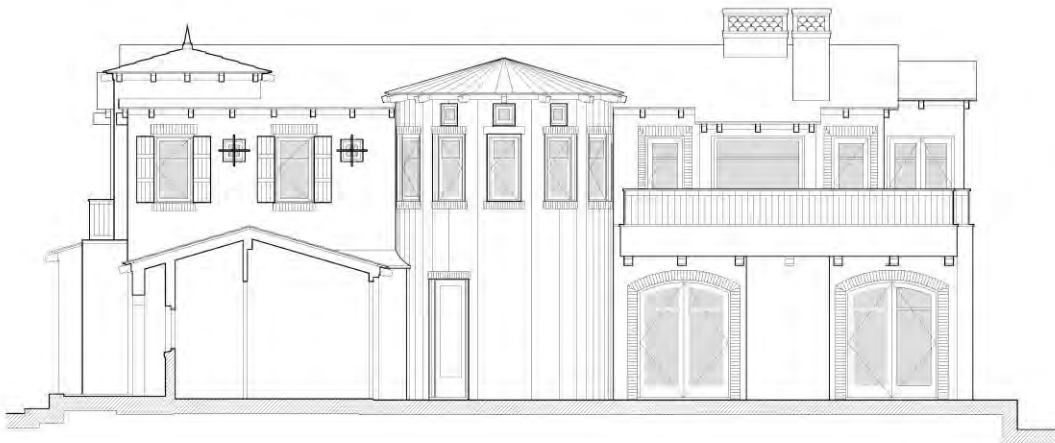
A - 3



SOUTH ELEVATION



WEST ELEVATION (OCEAN)



NORTH ELEVATION



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

NOTE:
THE STONE MAY BE SUBSTITUTED FOR BRICK FOR THE DOOR
AND WINDOW SURROUNDS.

**PETERS
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RESIDENCE**

1880 N. El Camino Real
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San Clemente,
California

H.C.D.

Revisions:

No.	Date	Revision
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△		
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Date: 2 / 20 / 15

Job No.:

Association Submittal:

H.C.D. Submittal:

Bid Issue:

Construction Issue:

Sheet Title:
ELEVATIONS

Sheet No.:

A - 4

**PETERS
ASSOCIATES**

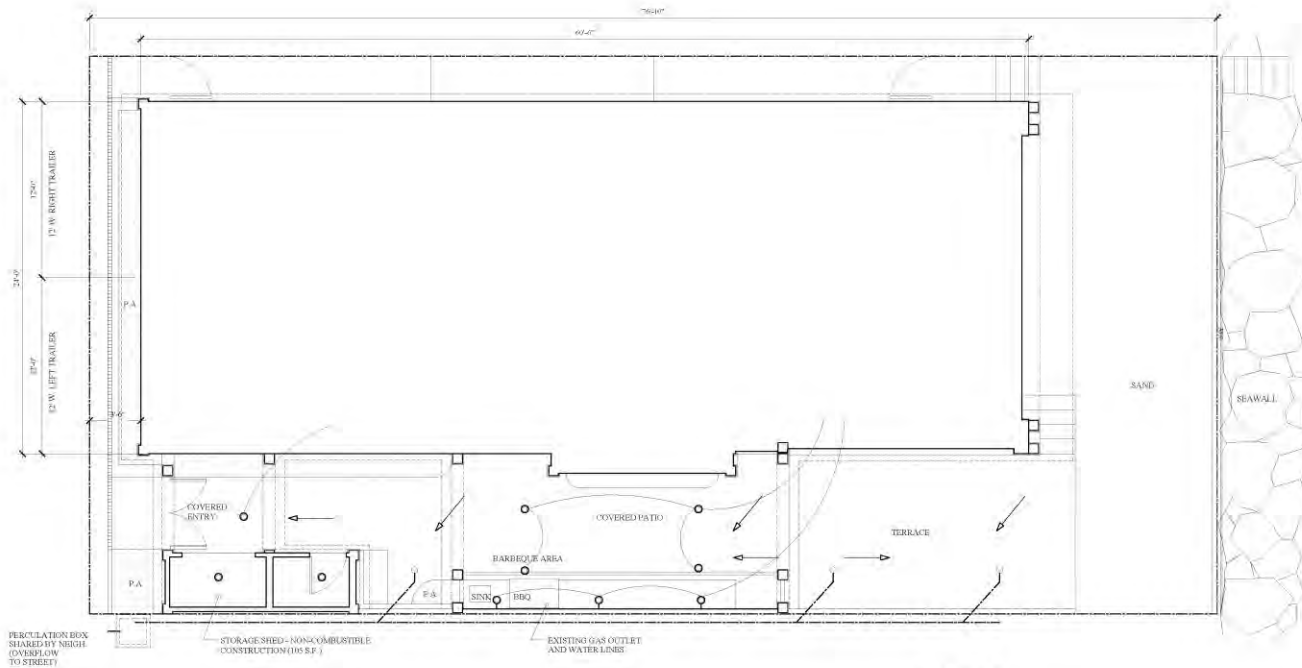
33771 BLUE LANTERN STREET
DANA POINT, CA 92629
949-412-4428

Seal / Signature:

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D.E.J. ENGINEERING
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dejengineering@yahoo.com

**WALLACE
RESIDENCE**
1880 N. El Camino Real
Capistrano Shores - Unit 57
San Clemente,
California

HCD Approval:



SITE PLAN
1/4" = 1'-0"

Revisions:

No.	Date	Revision
△		
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△		
△		
△		

Date: 11 / 15 / 12
 Job No.:
 Association Submittal:
 H.C.D. Submittal:
 Bid Issue:
 Construction Issue:

Sheet Title:
SITE PLAN

Sheet No.:
A - 1

**PETERS
ASSOCIATES**

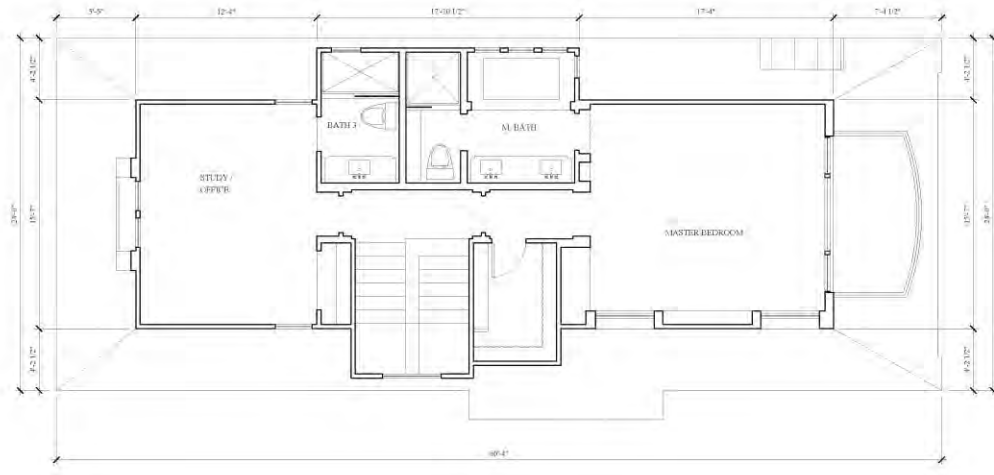
33771 BLUE LANTERN STREET
DANA POINT, CA 92629
949-412-4428

Seal / Signature

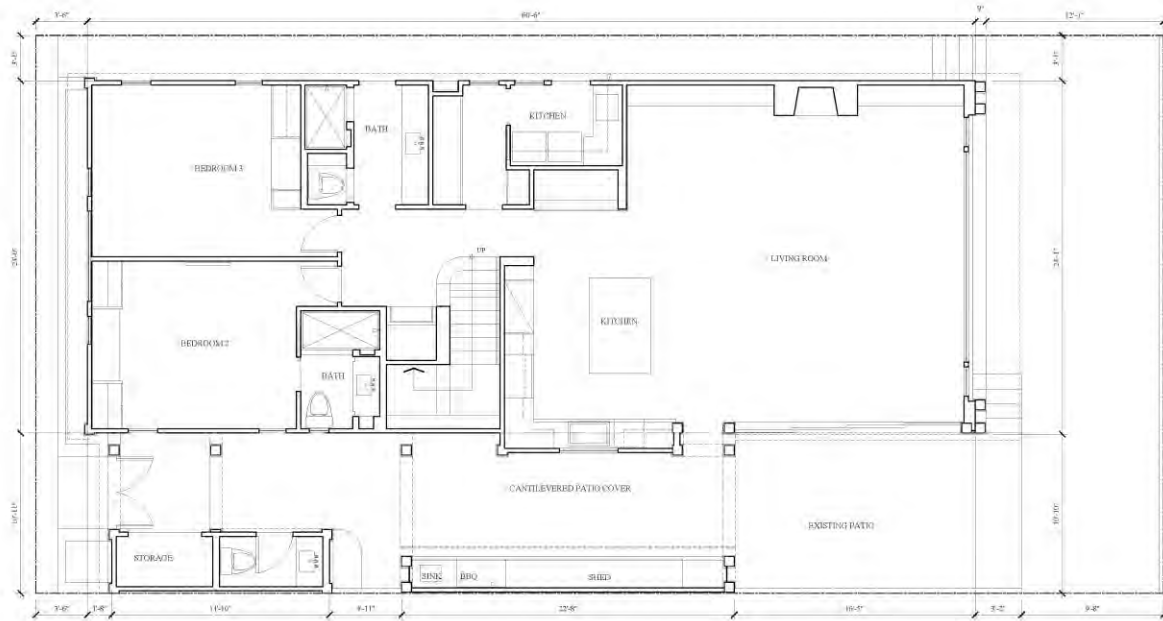
Structural Engineer
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949-497-8810, FAX: 949-497-6819
dejengineering@yahoo.com

**WALLACE
RESIDENCE**
1880 N. El Camino Real
Capistrano Shores - Unit 57
San Clemente,
California

HCD Approval:



SECOND FLOOR PLAN



BUILDING DATA

ORIGINAL UNIT (COMPLETELY REMODELED)	1,470 S.F.
MAIN FLOOR	1,455 S.F.
UPPER LEVEL	786 S.F.
TOTAL	2,241 S.F.
SHEDS	120 S.F.

FIRST FLOOR PLAN
1/4" = 1'-0"

Revisions:

No.	Date	Revision
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Date: 11 / 15 / 12
Job No.:
Association Submittal:
H.C.D. Submittal:
Bid Issue:
Construction Issue:

Sheet Title:
FLOOR PLANS

Sheet No.:

A - 3

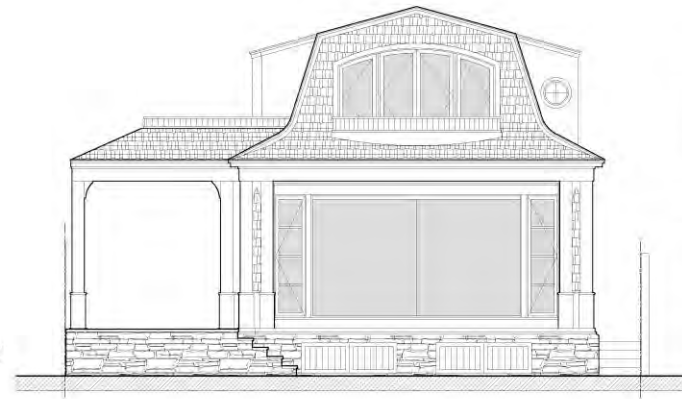
**PETERS
ASSOCIATES**

318 1/2 GRAND CANAL
NEWPORT BEACH, CA 92662
949-412-4428

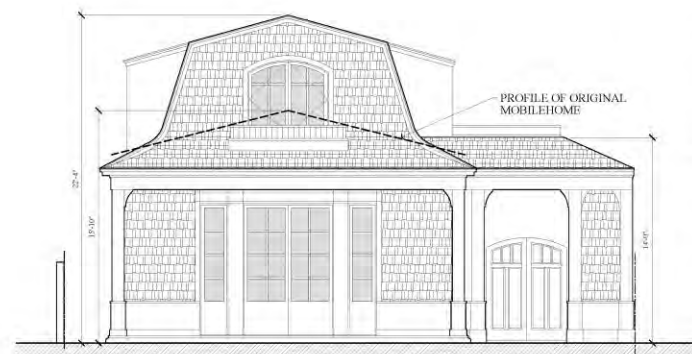
Seal / Signature:

Structural Engineer
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dejengineering@yahoo.com

**WALLACE
RESIDENCE**
57 Capistrano Shores
San Clemente,
California



REAR ELEVATION
1/4" = 1'-0"



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

Revisions:

No.	Date	Revision
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Date: 2/20/15
Job No.:
Association Submittal:
H.C.D. Submittal:
Bid Issue:
Construction Issue:

Sheet Title:
**ELEVATIONS
SECTIONS**

Sheet No.:
A - 4

PETERS ASSOCIATES

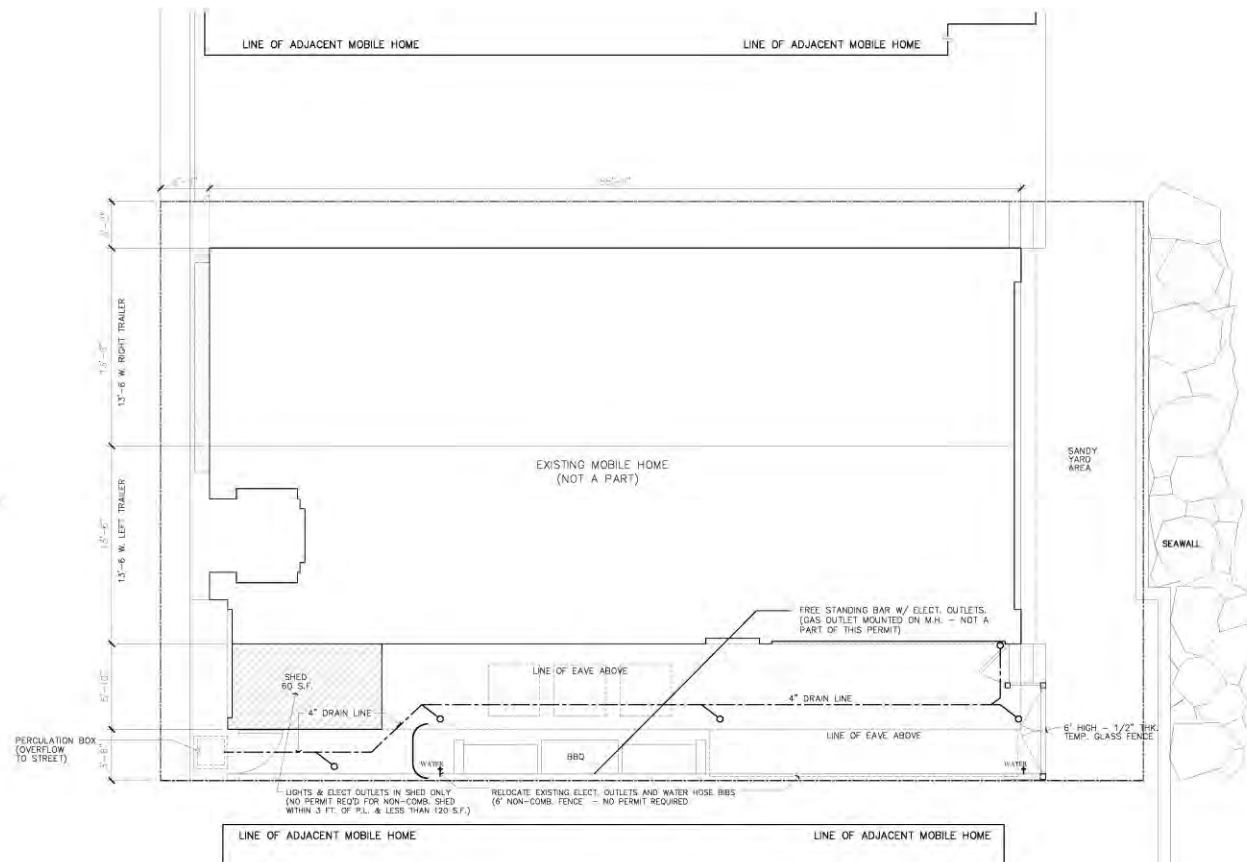
33771 BLUE LANTERN
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949-412-4428
williamspeters@yahoo.com

Seal / Signature:

Structural Engineer
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Project
CHASE-MUIR RESIDENCE
1880 N. El Camino Real
Unit 69 Capistrano Shore
San Clemente, California

City of San Clemente Title 25 Approval



SITE PLAN 1/4" = 1'-0"

LANDSCAPING AREA
AUTOMATIC IRRIGATION ON TIMER

SITE DATA	
LOT SIZE	2,646 S.F.
TRAILER FOOTPRINT	1,393 S.F.
SHED	104 S.F.
PATIO AWNING	245 S.F.
TOTAL COVERAGE	1,742 S.F.
PERCENT OF COVERAGE	66 %

Revisions:		
No.	Date	Revision
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Date: _____
Job No.: _____
Association Submitted: _____
Bldg. Dept. Submitted: _____
Bid Issue: _____
Construction Issue: _____

Sheet Title
SITE PLAN

Sheet No.:
A - 1

PETERS ASSOCIATES

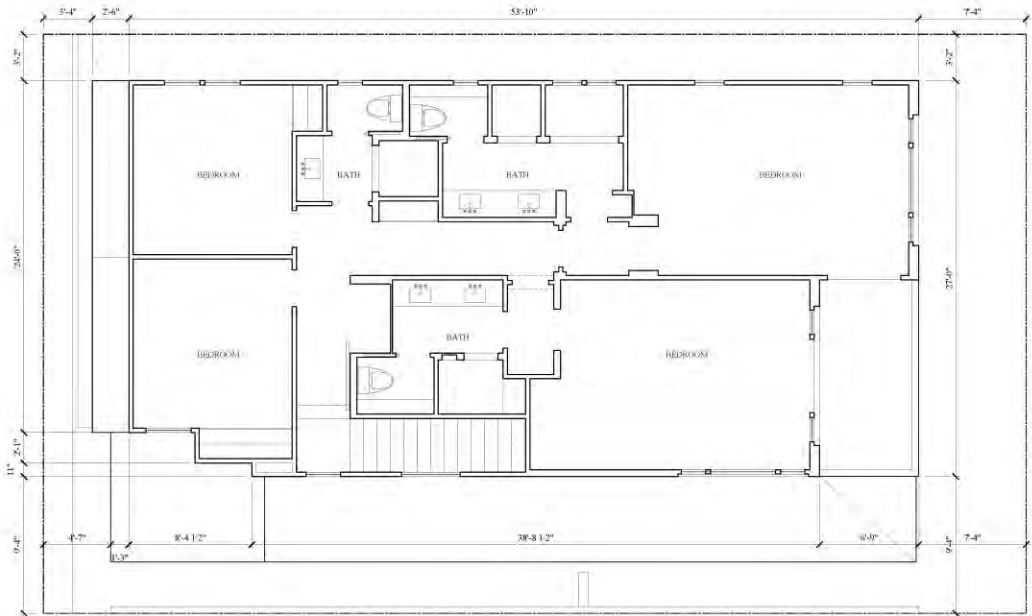
31693 SEACLEFF DRIVE
LAGUNA BEACH, CA 92651
949-412-4128
williampeters@yahoo.com

Seal: Signature:

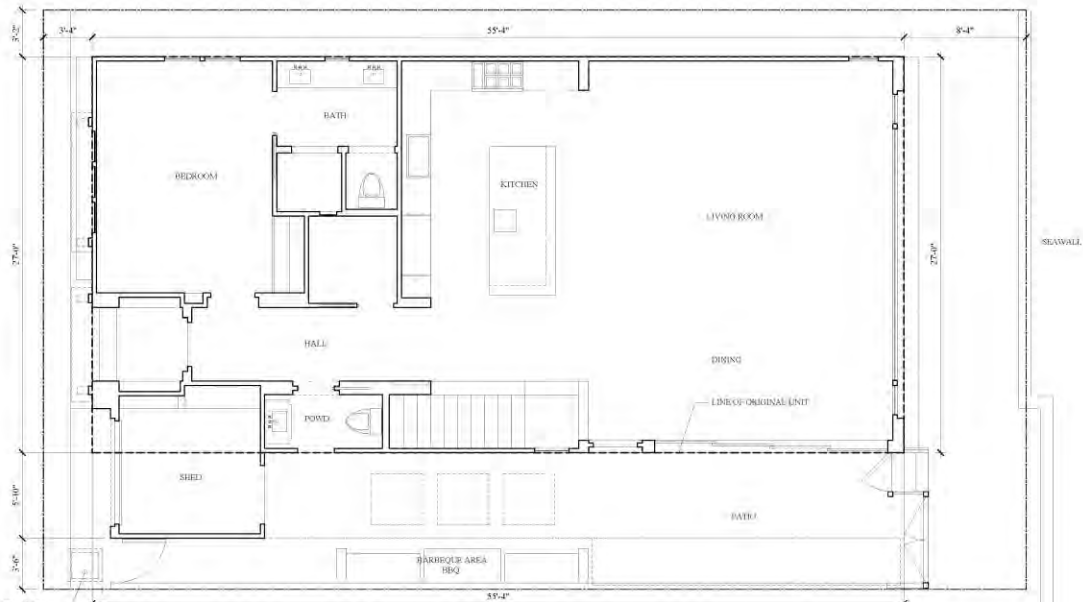
Structural Engineer
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CHASE-MUIR RESIDENCE
1880 N. El Camino Real
Unit 69 Capistrano Shores
San Clemente,
California

H.C.D. Approval



SECOND FLOOR PLAN



BUILDING DATA

ORIGINAL UNIT (COMPLETELY REMODELED)	1,494 S.F.
MAIN FLOOR	1,393 S.F.
UPPER LEVEL	1,291 S.F.
TOTAL	2,684 S.F.
SHED	104 S.F.

FIRST FLOOR PLAN
1/4" = 1'-0"

Revisions:

No.	Date	Revision
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Date: 11 / 25 / 11

Job No.:

Association Submittal:

Bldg. Dept. Submittal:

Bid Issue:

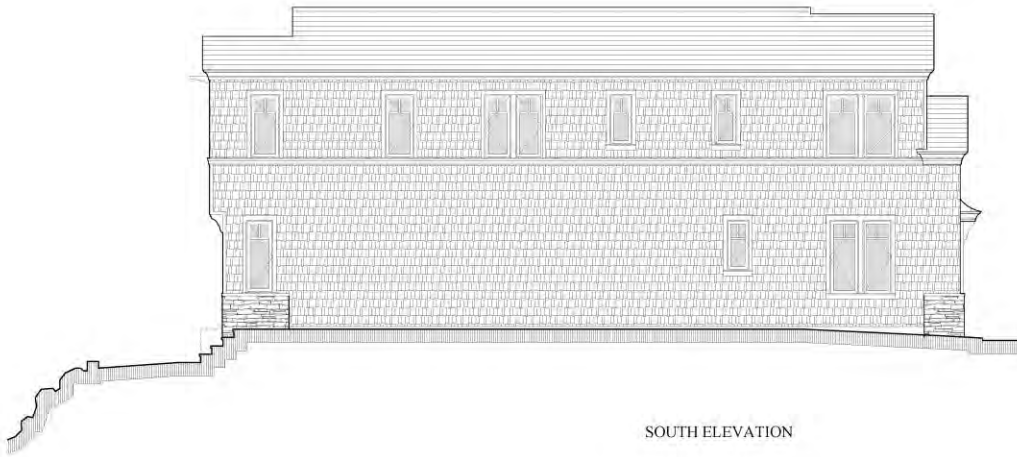
Construction Issue:

Sheet Title
FLOOR PLANS

Sheet No.:

A - 2

PERCULATION FROM
FOOTCRAWL
TO STREET



SOUTH ELEVATION



WEST ELEVATION (OCEAN)

**PETERS
ASSOCIATES**

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**CHASE-MUIR
RESIDENCE**
1880 N. El Camino Real
Unit 69 Capistrano Shores
San Clemente,
California

H.C.D. Approval

Revisions:

No.	Date	Revision
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Date: 2/20/15

Job No.:

Association Submittal:

Hdg. Dept. Submittal:

Bid Issue:

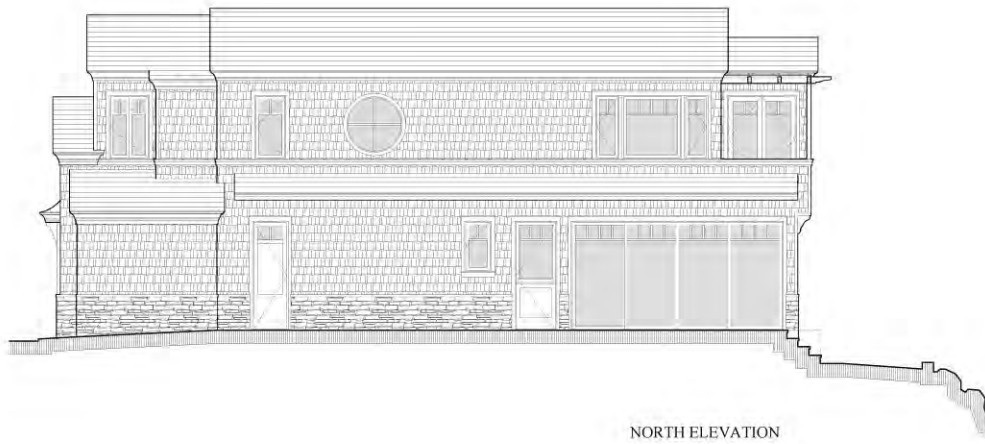
Construction Issue:

Sheet Title:

ELEVATIONS

Sheet No.:

A - 4



NORTH ELEVATION



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

**PETERS
ASSOCIATES**

33771 BLUE LANTERN STREET
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949-412-1428
williamspeters@yahoo.com

Seal / Signature:

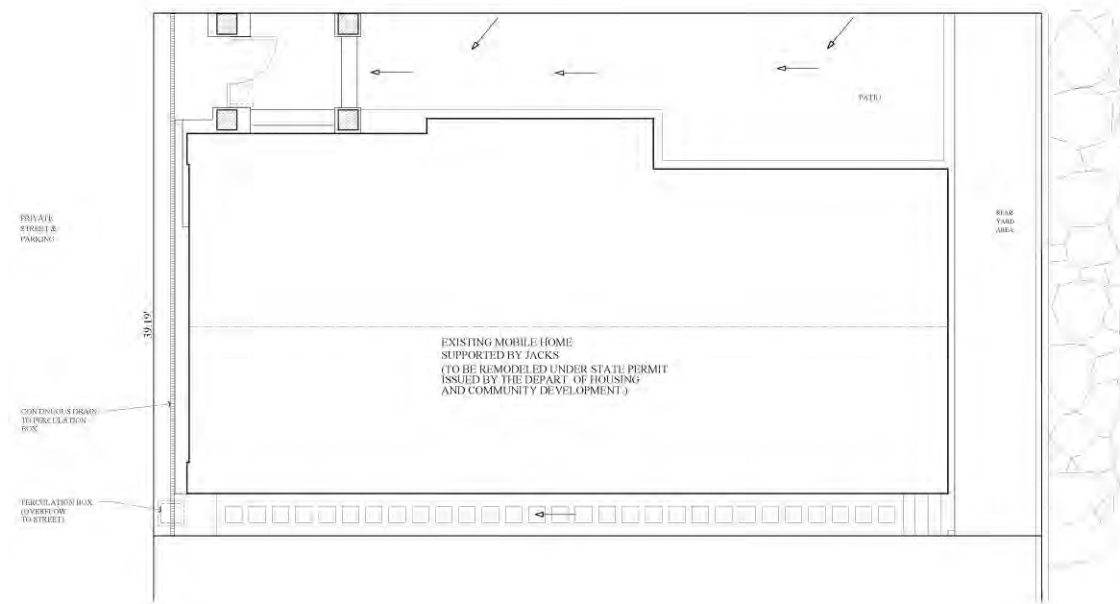
**Structural Engineer
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14271 JEFFREY DR., SUITE 245
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**CAYA
RESIDENCE**

1880 N. El Camino Real
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San Clemente,
California

H.C.D. Approval



ACCESSORY STRUCTURE + DRAINAGE PLAN

1/4" = 1'-0"

Revisions:

No.	Date	Revision
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Date: 2/10/2015

Job No:

Association Submittal:

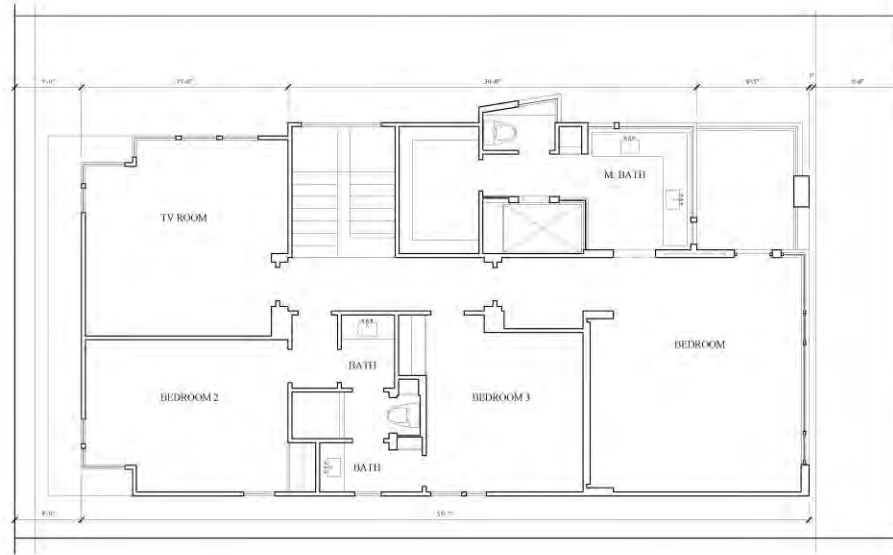
City Dept. Submittal:

Bid Issue:

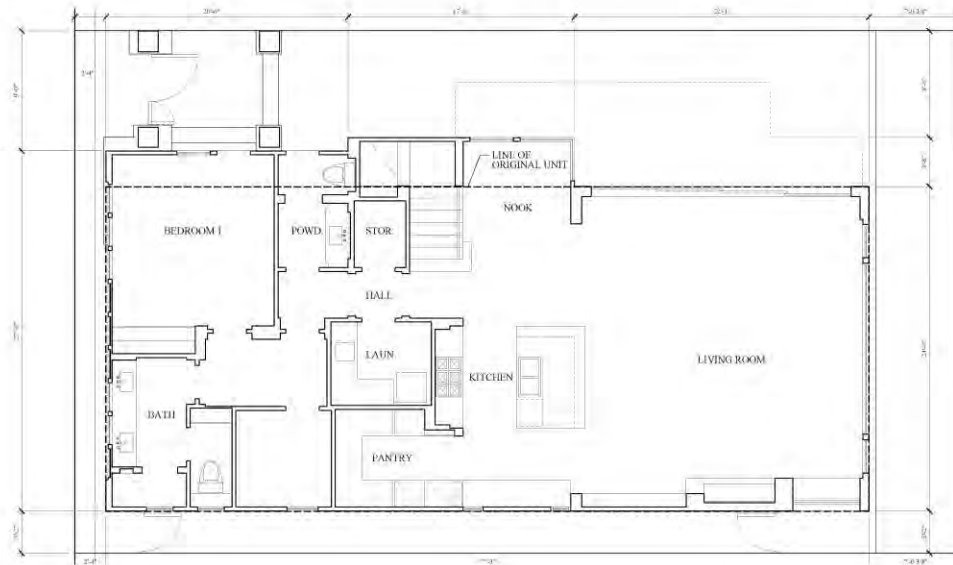
Construction Issue:

Sheet Title
**SITE WORK PLAN W/
ACCESSORY STRUCT.
+ DRAINAGE + MISC.**

Sheet No:
A - 1A



SECOND FLOOR PLAN



FIRST FLOOR PLAN
1/4" = 1'-0"

**PETERS
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**CAYA
RESIDENCE**

1880 N. El Camino Real
Unit 75 Capistrano Shore
San Clemente,
California

H.C.D. Approval

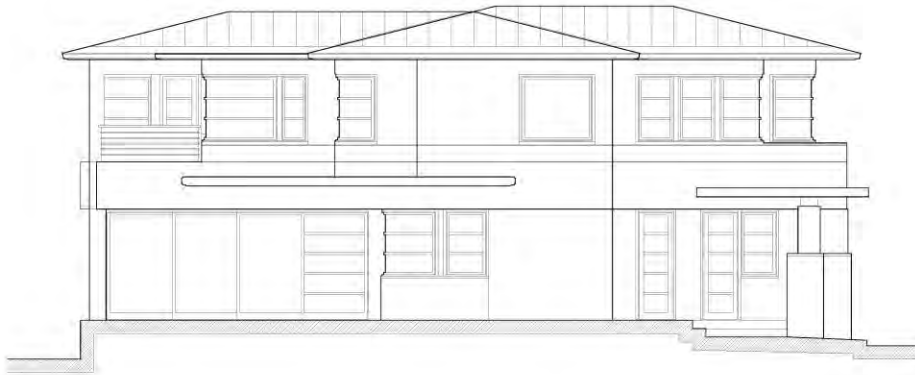
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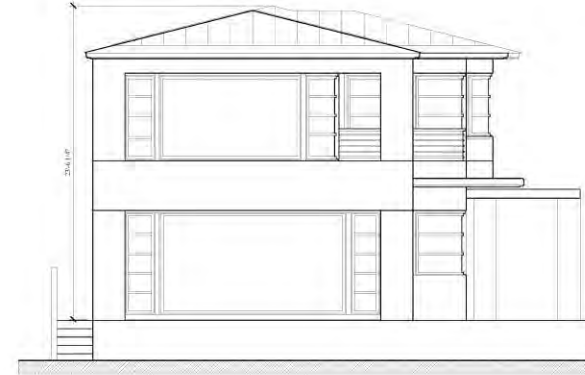
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Association Submittal: _____
Hdq. Dept. Submittal: _____
Bid Issue: _____
Construction Issue: _____

Sheet Title
FLOOR PLANS

Sheet No: **A - 3**



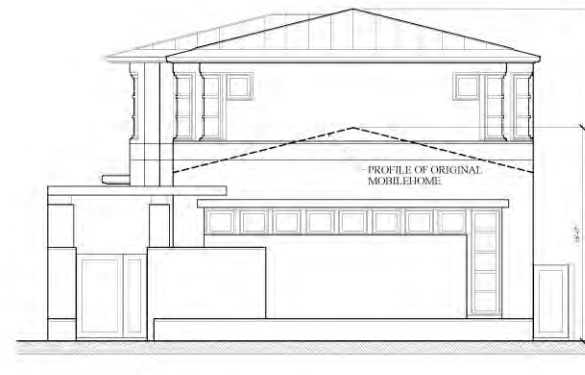
SOUTH ELEVATION



WEST ELEVATION (OCEANFRONT)
1/4" = 1'-0"



NORTH ELEVATION



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

**PETERS
ASSOCIATES**

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williamspeters@yahoo.com

Seal / Signature:

**Structural Engineer
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1880 N. El Camino Real
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San Clemente,
California

H.C.D. Approval

Revisions:

No.	Date	Revision
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△		

Date:

Job No.:

Association Submittal:

Divd. Dept. Submittal:

Bid Issue:

Construction Issue:

Sheet Title
ELEVATIONS

Sheet No.:

A - 4

**PETERS
ASSOCIATES**

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Seal Signature:

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dejenr@comcast.net

**BARTH
RESIDENCE**

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90 Capistrano Shores
San Clemente,
California

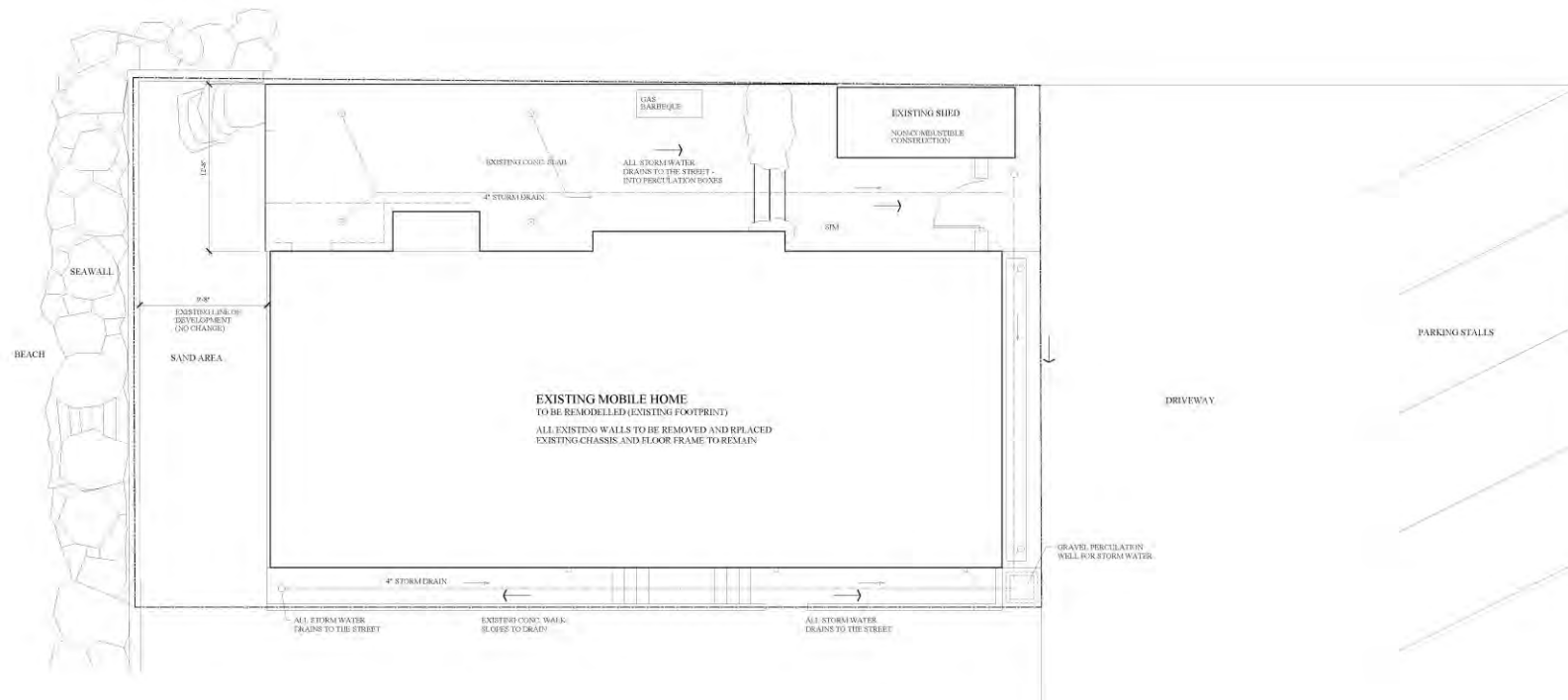
Revisions:

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Date: _____
Job No.: _____
Association Submittal: _____
Bldg. Dept. Submittal: 2/20/14
Bid Issue: _____
Construction Issue: _____

Sheet Title:
SITE PLAN & DRAINAGE

Sheet No.:
A - 1A



SITE DRAINAGE PLAN
1/4" = 1'-0"

**PETERS
ASSOCIATES**

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Seal / Signature:

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**BARTH
RESIDENCE**

90 Capistrano Shores
San Clemente,
California

Revisions:

No.	Date	Revision
△		
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△		

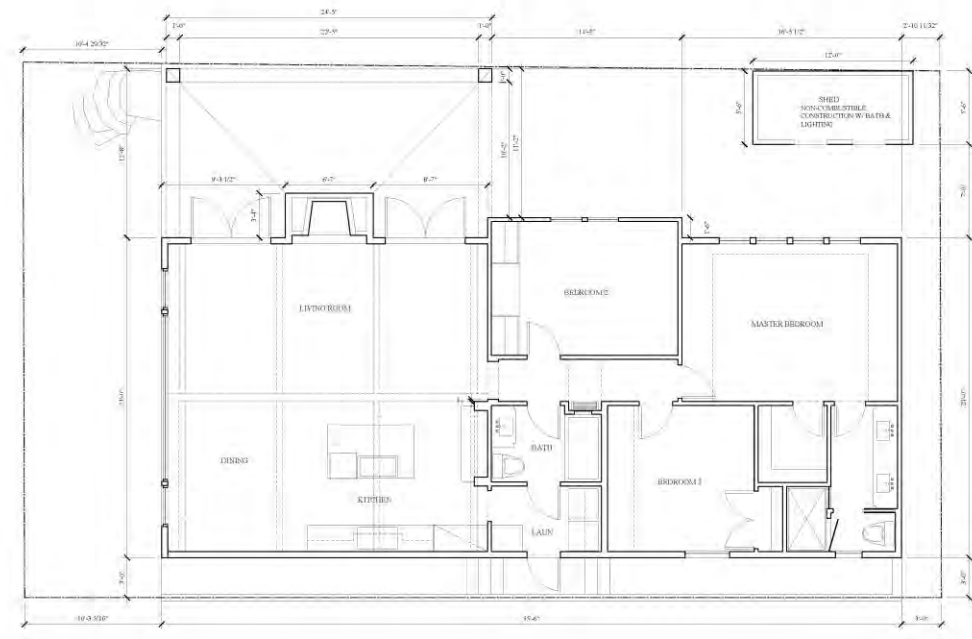
Date: 2/20/15
Job No.:
Association Submittal:
Hldg. Dept. Submittal:
Bid Issue:
Construction Issue:

Sheet Title:
FLOOR PLANS

Sheet No.:
A - 3



ATTIC PLAN



FLOOR PLAN
1/4" = 1'-0"

**PETERS
ASSOCIATES**

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LAGUNA BEACH, CA 92651
949-412-4428
williamspeters@yahoo.com

Seal Signature:

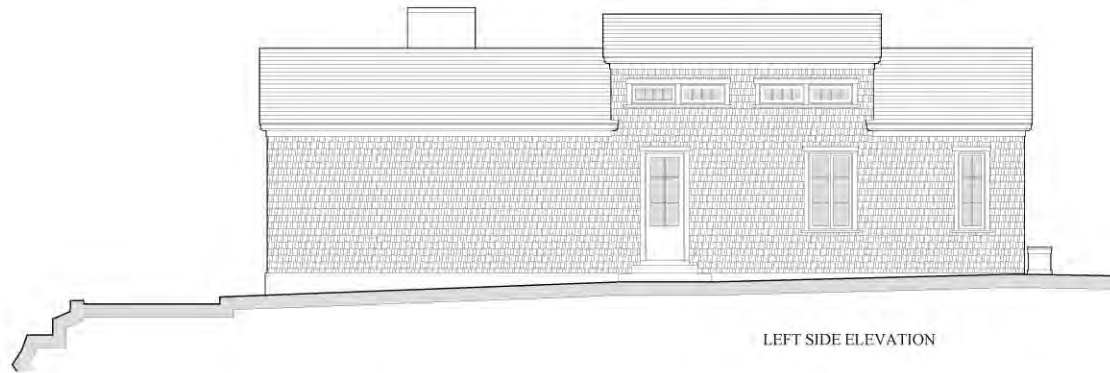
Structural Engineer
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949-497-6810, FAX 949-497-6819
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**BARTH
RESIDENCE**

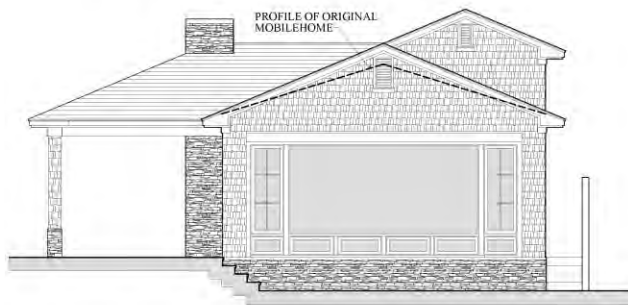
90 Capistrano Shores
San Clemente,
California



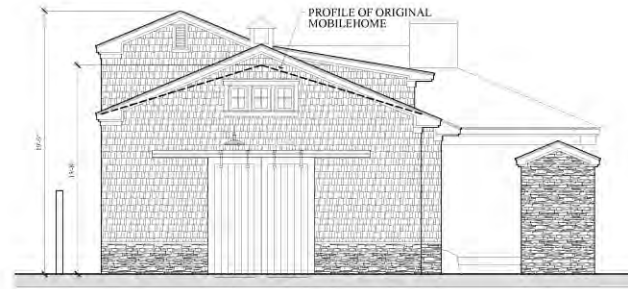
RIGHT SIDE ELEVATION



LEFT SIDE ELEVATION



REAR ELEVATION



FRONT ELEVATION
1/4" = 1'-0"

Revisions:

No.	Date	Revision
△		
△		
△		
△		
△		
△		

Date: _____
Job No: _____
Association Submittal: _____
Bldg. Dept. Submittal: 2/20/14
Bid Issue: _____
Construction Issue: _____

Sheet Title:
ELEVATIONS

Sheet No.:
A - 4

CAPISTRANO SHORES #13 VIEW ANALYSIS

CA Coastal Commission Permit Application 5-12-297

CAPISTRANO SHORES #13



Former mobile home (2009)

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CAPISTRANO SHORES #13



Existing mobile home
STRAIGHT ON from street level/bike path

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CAPISTRANO SHORES #13



Existing mobile home
Viewpoint 2

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CAPISTRANO SHORES #13



Existing mobile home
Viewpoint 6

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CAPISTRANO SHORES #13



Existing mobile home
Viewpoint 7

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CAPISTRANO SHORES #13



Existing mobile home
Viewpoint 8

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CAPISTRANO SHORES #13



Existing mobile home
Viewpoint 10

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CAPISTRANO SHORES #13



Existing mobile home
Viewpoint 11

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CAPISTRANO SHORES #13



Existing mobile home
Viewpoint 13

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CAPISTRANO SHORES #13



Existing mobile home
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Existing mobile home
Viewpoint 16

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Existing mobile home
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Existing mobile home
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CAPISTRANO SHORES #13



Existing mobile home
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CAPISTRANO SHORES #17 VIEW ANALYSIS

CA Coastal Commission Permit Application 5-12-294

CAPISTRANO SHORES #17



Former mobile home (2009)

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CAPISTRANO SHORES #17



Existing mobile home
STRAIGHT ON from street level/bike path

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CAPISTRANO SHORES #17



Current mobile home
Viewpoint 2

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CAPISTRANO SHORES #17



Existing mobile home
Viewpoint 6

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CAPISTRANO SHORES #17



Existing mobile home
Viewpoint 7

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CAPISTRANO SHORES #17



Existing mobile home
Viewpoint 8

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CAPISTRANO SHORES #17



Existing mobile home
Viewpoint 10

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CAPISTRANO SHORES #17



Existing mobile home
Viewpoint 11

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CAPISTRANO SHORES #17



Existing mobile home
Viewpoint 13

Exhibit 17
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CAPISTRANO SHORES #17



Existing mobile home
Viewpoint 14

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CAPISTRANO SHORES #17



Existing mobile home
Viewpoint 15

CAPISTRANO SHORES #17



Existing mobile home
Viewpoint 16

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Existing mobile home
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Existing mobile home
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CAPISTRANO SHORES #17



Existing mobile home
Viewpoint 19

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CAPISTRANO SHORES #18 VIEW ANALYSIS

CA Coastal Commission Permit Application 5-12-128

CAPISTRANO SHORES #18



Former mobile home (2009)

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CAPISTRANO SHORES #18



Existing mobile home
STRAIGHT ON from street level/bike path

Exhibit 18
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CAPISTRANO SHORES #18



Existing mobile home
Viewpoint 2

Exhibit 18
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CAPISTRANO SHORES #18



Existing mobile home
Viewpoint 6

Exhibit 18
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CAPISTRANO SHORES #18



Existing mobile home
Viewpoint 7

Exhibit 18
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CAPISTRANO SHORES #18



Existing mobile home
Viewpoint 8

Exhibit 18
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CAPISTRANO SHORES #18



Existing mobile home
Viewpoint 10

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CAPISTRANO SHORES #18



Existing mobile home
Viewpoint 11

Exhibit 18
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CAPISTRANO SHORES #18



Existing mobile home
Viewpoint 13

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CAPISTRANO SHORES #18



Existing mobile home
Viewpoint 14

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CAPISTRANO SHORES #18



Existing mobile home
Viewpoint 15

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Existing mobile home
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Existing mobile home
Viewpoint 17

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Existing mobile home
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CAPISTRANO SHORES #18



Existing mobile home
Viewpoint 19

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CAPISTRANO SHORES #23 VIEW ANALYSIS

CA Coastal Commission Permit Application 5-13-038

CAPISTRANO SHORES #23



Pre-construction mobile
home Image taken in 2009

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CAPISTRANO SHORES #23



Current mobile home
STRAIGHT ON from street level/bike path

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CAPISTRANO SHORES #23



Current mobile home
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CAPISTRANO SHORES #23



Current mobile home
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CAPISTRANO SHORES #23



Current mobile home
Viewpoint 7

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CAPISTRANO SHORES #23



Current mobile home
Viewpoint 8

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CAPISTRANO SHORES #23



Current mobile home
Viewpoint 10

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CAPISTRANO SHORES #23



Current mobile home
Viewpoint 11

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CAPISTRANO SHORES #23



Current mobile home
Viewpoint 16

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CAPISTRANO SHORES #23



Current mobile home
Viewpoint 17

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CAPISTRANO SHORES #23



Current mobile home
Viewpoint 18

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CAPISTRANO SHORES #23



Current mobile home
Viewpoint 19

CAPISTRANO SHORES #31 VIEW ANALYSIS

CA Coastal Commission Permit Application 5-11-033

CAPISTRANO SHORES #31



Former mobile home (2009)

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CAPISTRANO SHORES #31



Existing mobile home
STRAIGHT ON from street level/bike path

Exhibit 20
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CAPISTRANO SHORES #31



Existing mobile home
Viewpoint 2

Exhibit 20
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CAPISTRANO SHORES #31



Existing mobile home
Viewpoint 6

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CAPISTRANO SHORES #31



Existing mobile home
Viewpoint 7

Exhibit 20
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CAPISTRANO SHORES #31



Existing mobile home
Viewpoint 8

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Existing mobile home
Viewpoint 10

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CAPISTRANO SHORES #31



Existing mobile home
Viewpoint 11

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CAPISTRANO SHORES #31



Existing mobile home
Viewpoint 16

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CAPISTRANO SHORES #31



Existing mobile home
Viewpoint 17

Exhibit 20
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CAPISTRANO SHORES #31



Existing mobile home
Viewpoint 18

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CAPISTRANO SHORES #31



Existing mobile home
Viewpoint 19

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CAPISTRANO SHORES #35 VIEW ANALYSIS

CA Coastal Commission Permit Application 5-12-126

CAPISTRANO SHORES #35



Former mobile home (2009)

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CAPISTRANO SHORES #35



Existing mobile home
STRAIGHT ON from street level/bike path

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CAPISTRANO SHORES #35



Existing mobile home
Viewpoint 2

Exhibit 21
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CAPISTRANO SHORES #35



Existing mobile home
Viewpoint 6

Exhibit 21
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CAPISTRANO SHORES #35



Existing mobile home
Viewpoint 7

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CAPISTRANO SHORES #35



Existing mobile home
Viewpoint 8

Exhibit 21
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CAPISTRANO SHORES #35



Existing mobile home
Viewpoint 10

Exhibit 21
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CAPISTRANO SHORES #35



Existing mobile home
Viewpoint 11

Exhibit 21
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CAPISTRANO SHORES #35



Existing mobile home
Viewpoint 16

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CAPISTRANO SHORES #35



Existing mobile home
Viewpoint 17

Exhibit 21
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CAPISTRANO SHORES #35



Existing mobile home
Viewpoint 18

Exhibit 21
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CAPISTRANO SHORES #35



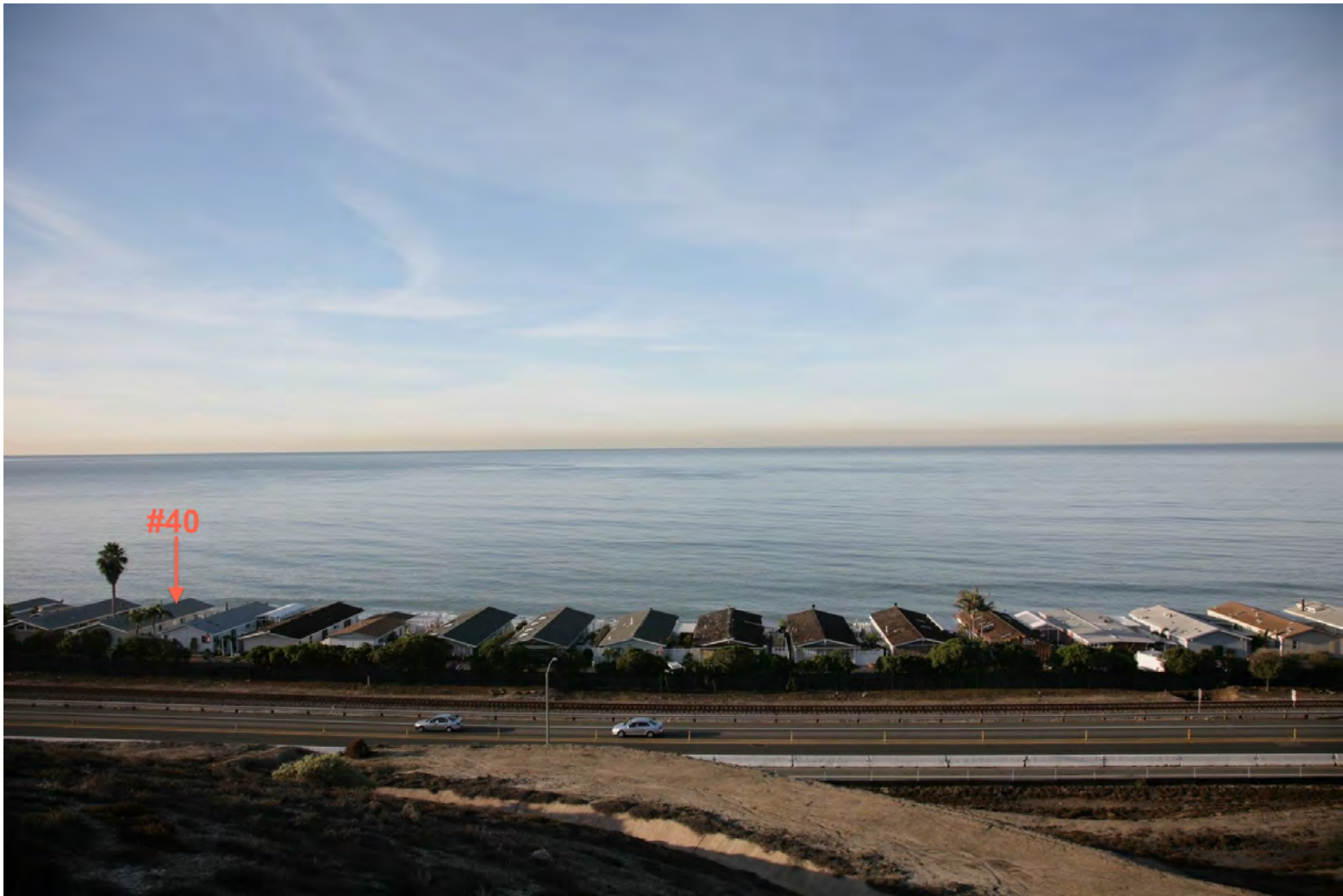
Existing mobile home
Viewpoint 19

Exhibit 21
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CAPISTRANO SHORES #40 VIEW ANALYSIS

CA Coastal Commission Permit Application 5-11-194

CAPISTRANO SHORES #40



Former mobile home (2009)

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CAPISTRANO SHORES #40



Existing mobile home
STRAIGHT ON from street level/bike path

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CAPISTRANO SHORES #40



Existing mobile home
Viewpoint 2

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CAPISTRANO SHORES #40



Existing mobile home
Viewpoint 6

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CAPISTRANO SHORES #40



Existing mobile home
Viewpoint 7

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CAPISTRANO SHORES #40



Existing mobile home
Viewpoint 8

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CAPISTRANO SHORES #40



Existing mobile home
Viewpoint 10

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CAPISTRANO SHORES #40



Existing mobile home
Viewpoint 11

CAPISTRANO SHORES #40



Existing mobile home
Viewpoint 16

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Existing mobile home
Viewpoint 17

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CAPISTRANO SHORES #40



Existing mobile home
Viewpoint 18

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CAPISTRANO SHORES #40



Existing mobile home
Viewpoint 19

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CAPISTRANO SHORES #46 VIEW ANALYSIS

CA Coastal Commission Permit Application 5-13-037

CAPISTRANO SHORES #46



Former mobile home (2009)

CAPISTRANO SHORES #46



Existing mobile home
STRAIGHT ON from street level/bike path

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CAPISTRANO SHORES #46



Existing mobile home
Viewpoint 2

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CAPISTRANO SHORES #46



Existing mobile home
Viewpoint 6

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CAPISTRANO SHORES #46



Existing mobile home
Viewpoint 7

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CAPISTRANO SHORES #46



Existing mobile home
Viewpoint 8

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CAPISTRANO SHORES #46



Existing mobile home
Viewpoint 10

Exhibit 23
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CAPISTRANO SHORES #46



Existing mobile home
Viewpoint 11

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CAPISTRANO SHORES #46



Existing mobile home
Viewpoint 16

Exhibit 23
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CAPISTRANO SHORES #46



Existing mobile home
Viewpoint 17

Exhibit 23
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CAPISTRANO SHORES #46



Existing mobile home
Viewpoint 18

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Existing mobile home
Viewpoint 19

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CAPISTRANO SHORES #48 VIEW ANALYSIS

CA Coastal Commission Permit Application 5-12-296

CAPISTRANO SHORES #48



Former mobile home (2009)

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CAPISTRANO SHORES #48



Existing mobile home
STRAIGHT ON from street level/bike path

Exhibit 24
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CAPISTRANO SHORES #48



Existing mobile home
Viewpoint 2

Exhibit 24
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CAPISTRANO SHORES #48



Existing mobile home
Viewpoint 6

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CAPISTRANO SHORES #48



Existing mobile home
Viewpoint 7

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CAPISTRANO SHORES #48



Existing mobile home
Viewpoint 8

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CAPISTRANO SHORES #48



Existing mobile home
Viewpoint 10

CAPISTRANO SHORES #48



Existing mobile home
Viewpoint 11

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CAPISTRANO SHORES #48



Existing mobile home
Viewpoint 16

Exhibit 24
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CAPISTRANO SHORES #48



Existing mobile home
Viewpoint 17

Exhibit 24
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CAPISTRANO SHORES #48



Existing mobile home
Viewpoint 18

Exhibit 24
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CAPISTRANO SHORES #48



Existing mobile home
Viewpoint 19

Exhibit 24
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CAPISTRANO SHORES #57 VIEW ANALYSIS

CA Coastal Commission Permit Application 5-11-193

CAPISTRANO SHORES #57



Former mobile home (2009)

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CAPISTRANO SHORES #57



Existing mobile home
STRAIGHT ON from street level/bike path

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CAPISTRANO SHORES #57



Existing mobile home
Viewpoint 2

Exhibit 25
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CAPISTRANO SHORES #57



Existing mobile home
Viewpoint 5

Exhibit 25
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CAPISTRANO SHORES #57



Existing mobile home
Viewpoint 6

Exhibit 25
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CAPISTRANO SHORES #57



Existing mobile home
Viewpoint 7

Exhibit 25
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CAPISTRANO SHORES #57



Existing mobile home
Viewpoint 8

Exhibit 25
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CAPISTRANO SHORES #57



Existing mobile home
Viewpoint 10

Exhibit 25
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CAPISTRANO SHORES #57



Existing mobile home
Viewpoint 11

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CAPISTRANO SHORES #57



Existing mobile home
Viewpoint 16

Exhibit 25
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Existing mobile home
Viewpoint 17

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CAPISTRANO SHORES #57



Existing mobile home
Viewpoint 18

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CAPISTRANO SHORES #57



Existing mobile home
Viewpoint 19

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CAPISTRANO SHORES #69 VIEW ANALYSIS

CA Coastal Commission Permit Application 5-12-127

CAPISTRANO SHORES #69



Former mobile home (2009)

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CAPISTRANO SHORES #69



Existing mobile home
STRAIGHT ON from street level/bike path

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CAPISTRANO SHORES #69



Existing mobile home
Viewpoint 2

Exhibit 26
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CAPISTRANO SHORES #69



Existing mobile home
Viewpoint 5

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CAPISTRANO SHORES #69



Existing mobile home
Viewpoint 6

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CAPISTRANO SHORES #69



Existing mobile home
Viewpoint 7

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CAPISTRANO SHORES #69



Current mobile home
Viewpoint 8

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CAPISTRANO SHORES #69



Existing mobile home
Viewpoint 10

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Existing mobile home
Viewpoint 11

CAPISTRANO SHORES #69



Existing mobile home
Viewpoint 16

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Existing mobile home
Viewpoint 17

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CAPISTRANO SHORES #69



Existing mobile home
Viewpoint 18

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CAPISTRANO SHORES #69



Existing mobile home
Viewpoint 19

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CAPISTRANO SHORES #75 VIEW ANALYSIS

CA Coastal Commission Permit Application 5-12-295

CAPISTRANO SHORES #75



Former mobile home (2009)

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CAPISTRANO SHORES #75



Existing mobile home
STRAIGHT ON from street level/bike path

Exhibit 27
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CAPISTRANO SHORES #75



Existing mobile home
Viewpoint 2

Exhibit 27
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CAPISTRANO SHORES #75



Existing mobile home
Viewpoint 5

Exhibit 27
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CAPISTRANO SHORES #75



Existing mobile home
Viewpoint 6

Exhibit 27
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CAPISTRANO SHORES #75



Existing mobile home
Viewpoint 7

Exhibit 27
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CAPISTRANO SHORES #75



Existing mobile home
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CAPISTRANO SHORES #75



Existing mobile home
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CAPISTRANO SHORES #75



Existing mobile home
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Exhibit 27
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CAPISTRANO SHORES #75



Existing mobile home
Viewpoint 16

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CAPISTRANO SHORES #75



Existing mobile home
Viewpoint 17

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CAPISTRANO SHORES #75



Existing mobile home
Viewpoint 18

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Existing mobile home
Viewpoint 19

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VP 18



VP 19



CAPISTRANO SHORES #90 VIEW ANALYSIS

CA Coastal Commission Permit Application 5-10-180

CAPISTRANO SHORES #90



Former mobile home (2009)

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CAPISTRANO SHORES #90



Existing mobile home
STRAIGHT ON from street level/bike path

Exhibit 29
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CAPISTRANO SHORES #90



Existing mobile home
Viewpoint 6

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CAPISTRANO SHORES #90



Existing mobile home
Viewpoint 8

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CAPISTRANO SHORES #90



Existing mobile home
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Exhibit 29
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CAPISTRANO SHORES #90



Existing mobile home
Viewpoint 11

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CAPISTRANO SHORES #90



Existing mobile home
Viewpoint 17

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CAPISTRANO SHORES #90



Existing mobile home
Viewpoint 18

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CAPISTRANO SHORES #90



Existing mobile home
Viewpoint 19

Exhibit 29
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CALIFORNIA COASTAL COMMISSION

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



July 9, 2010

Capistrano Shores, Lot #90
 1880 N. El Camino Real
 San Clemente, CA 92672

Violation File Number: V-5-10-018

Property Location: Lot #90, 1880 N. El Camino Real, San Clemente

Unpermitted Development: Construction of a residence

Dear Sir or Madam:

The California Coastal Commission ("Commission") is the state agency created by, and charged with administering, the California Coastal Act of 1976. The California Coastal Act¹ was enacted by the State Legislature in 1976 to provide long-term protection of California's 1,100-mile coastline through implementation of a comprehensive planning and regulatory program designed to manage conservation and development of coastal resources. In making its permit and land use planning decisions, the Commission carries out Coastal Act policies, which, amongst other goals, seek to protect and restore sensitive habitats; protect natural landforms; protect scenic landscapes and views of the sea; protect against loss of life and property from coastal hazards; and provide maximum public access to the sea.

Our staff has confirmed that development consisting of construction of a residence has occurred on Capistrano Shores Lot #90, which is located within the Coastal Zone. Commission staff has researched our permit files and concluded that no coastal development permits have been issued for any of the development described above. Pursuant to Section 30600 (a) of the Coastal Act, any person wishing to perform or undertake development in the Coastal Zone must obtain a coastal development permit, in addition to any other permit required by law. "Development" is defined by Section 30106 of the Coastal Act as:

"Development" means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of the use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvest of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations....[emphasis added]

¹ The Coastal Act is codified in sections 30000 to 30900 of the California Public Resources Code. All further section references are to that code, and thus, to the Coastal Act, unless otherwise indicated.

The above described construction of a residence constitutes development under the Coastal Act and, therefore, requires a coastal development permit. Please note that neither the Coastal Act nor the California Coastal Commission Administrative Regulations, (CCR, Title 14, Division 5.5, sections 13000 et seq), contain an exclusion or an exemption from the permit requirements of the Act for development in an existing mobilehome park. Furthermore, the Mobilehome Parks Act, Mobilehome Residency Law, and the regulations of the Department of Housing and Community Development do not preempt the Coastal Commission's authority to regulate development in existing mobilehome parks. Any development activity conducted in the coastal zone without a valid coastal development permit constitutes a violation of the Coastal Act.


In many cases, violations involving unpermitted development may be resolved through the coastal development permit process, avoiding court-imposed fines and penalties, by removal of the unpermitted development and restoration of any damaged resources or by obtaining a coastal development permit authorizing the development after-the-fact, potentially with conditions to ensure conformance with the resource protection policies of Chapter 3 of the Coastal Act. Therefore, in order to resolve this matter administratively, a complete coastal development permit application to either retain the development or to remove the unpermitted development and restore the site to its pre-violation condition must be submitted to staff.

In order to resolve this matter in a timely manner, we are requesting that a complete coastal development permit application is submitted to staff by **August 6, 2010**, for either removal of the unpermitted development and restoration of the site or to authorize the development after-the-fact. A coastal development permit application is available at www.coastal.ca.gov. Please contact me by no later than **July 22, 2010**, regarding how you intend to address this violation.

Although we would prefer to resolve this matter through the coastal development permit process, please be aware that the Executive Director is authorized, after providing notice and the opportunity for a hearing before the Commission as provided for in Section 30812 of the Coastal Act, to record a Notice of Violation against your property.

Thank you for your attention to this matter. If you have any questions regarding this letter or the pending enforcement case, please feel free to contact me at (562) 590-5071.

Sincerely,


Andrew Willis
District Enforcement Analyst

cc: Capistrano Shores, Inc
Karl Schwing, Orange County Planning Supervisor, CCC
Mike Jorgensen, City of San Clemente

CALIFORNIA COASTAL COMMISSION

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



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April 15, 2011

Eric Wills, Capistrano Shores Mobile Home Park Association
Capistrano Shores Mobile Home Park
1880 N. El Camino Real
San Clemente, CA 92672

Dear Mr. Wills,

This letter is in response to your transmittal of a Wave Runup & Coastal Hazard Study and a View Analysis received in our office on January 7, 2011 and our subsequent March 3, 2011 pre-application meeting to discuss possible future Coastal Development Permit (CDP) application(s) for necessary improvements to the existing shoreline protection bulkhead/rock revetment protecting Capistrano Shores Mobile Home Park, for the replacement of individual homes within the park, and other potential future development (e.g. utilities and perimeter wall).

With regard to the existing revetment, to date we have focused on coastal hazards, such as flooding, wave uprush and erosion and the potential improvements to and/or maintenance of the existing revetment necessary to protect the existing mobile home park from those hazards. We have also acknowledged the concern of coastal staff that new replacement structures on the mobile home sites must be sited and designed to assure no additional shoreline protection, seaward of the line of a properly maintained revetment, is required for protection in the future.

We have discussed submittal of a CDP application that addresses coastal hazards at the site, acknowledges the seaward limits of the mobile homes and the protective device and includes a proposed Shoreline Management Plan including maintenance requirements for the revetment. Approval of such a comprehensive plan for improvements to the revetment could enable us to develop an expedited review process for future mobile home replacement projects at individual mobile home spaces if certain criteria are met. Following is the additional information that we feel would be necessary in a CDP application for such a Shoreline Management Plan to adequately analyze the scope of improvements to the existing revetment that may be found consistent with Chapter 3 policies of the Coastal Act that address hazards and impacts to public access and recreation and to public views of the shoreline.

Coastal Development Permit Application. You will need to submit a completed application for coastal development permit, including all listed attachments and fees. You may download a copy of the application from our website, or simply use the following link: <http://www.coastal.ca.gov/cdp/CDP-ApplicationForm-sc.pdf>

Determination of Private/Public Ownership by State Lands Commission. The location of the boundary between public ownership (e.g. State lands) and private ownership (e.g. Capistrano Shores) must be determined in consultation with the California State Lands Commission. The State Lands Commission (SLC) has responsibility for all state tidelands, trust lands, and sovereign lands. Therefore, Commission staff will not be able to file your application complete until evidence is submitted that the SLC has made a determination as to its jurisdiction over the project.

To determine the location of the existing revetment in relation to the mean high tide line, the CDP application should include the following: 1) a survey prepared by a licensed surveyor depicting, topographic contours, at 1 to 5 foot intervals, of the entire project site (beach and upland area to the

landward property boundary) from a recent (normally within the past two years) topographic survey of the property, during both summer and winter beach conditions; 2) the location of mean high water, which is the 19-year average of all high water heights (this information can be obtained through the National Ocean Service (NOAA)). The footprint of the existing revetment, tied to stable monuments, must also be depicted on this plan.

This information is important as it will help determine what land areas can be used by the Capistrano Shores HOA for shore protection efforts. Once you have a final determination from SLC, you will need to submit an updated plan that depicts the final location identified by SLC.

Shoreline Management Plan. The Draft Wave Runup & Coastal Hazard Study Shore Protection Observation for Capistrano Shores Mobile Home Park dated July 20, 2010 by GeoSoils, Inc. documents the current risks from flooding to which the mobile homes are exposed. These risks will increase with a rise in sea level. A Shoreline Management Plan should take the information provided in the Wave Runup Study and determine how this information should be used in management actions directed at shoreline protection at the mobile home park. Such a Shoreline Management Plan would likely cover more than monitoring and maintenance. Since no monitoring and maintenance plan was provided with the Wave Runup & Coastal Hazard Study, it is not possible for Commission staff to know what maintenance and monitoring would also be appropriate for the longer term Shoreline Management Plan. The Shoreline Management Plan should promote and enhance public access along the beach area, while providing some acceptable level of protection for the existing development.

One option for the Shoreline Management Plan would be to propose a footprint for shore protection that can be found acceptable to all concerned parties (the applicant, the Coastal Commission, State Lands Commission, and possible other agencies such as the US Army Corps of Engineers, Fish and Wildlife Service, California Dept. of Fish and Game, California Dept. of Parks and Recreation, Orange County or City of San Clemente). As we have discussed, Commission staff believes Coastal Act policies would support limiting further seaward encroachment of the structure onto State tidelands for maintenance of the existing and any future anticipated conditions.

Thus, the application materials should identify what the existing revetment would look like (i.e. its profile and footprint) if properly engineered, stable and designed to withstand shoreline conditions now and with anticipated sea level rise. Your submittal should propose in detail the improvements necessary to the revetment to provide adequate protection to the existing mobile home park, and potential measures for future protection that would not involve seaward encroachment. The Shoreline Management Plan would then provide information on how this footprint would be maintained in a manner that is safe for the public and the applicant. Information items would include:

- The times of year; frequency, and types of triggering events that will be used to determine when the shore protection will be assessed for stability
- Monuments or markers that will be used to determine that the shore protection structure is within the agreed upon footprint
- How the shore protection will be maintained, while minimizing direct and indirect impacts to public beach access and coastal resources
- What types of skills and qualifications will be expected of the persons doing monitoring and maintenance
- The design template for revetment maintenance, showing maximum seaward limit, minimum allowable steepness, minimum stone size
- The funding mechanism that will be used to make sure the shore protection is monitored and maintained throughout its lifetime
- The person/officer responsible for ensuring the Shoreline Management Plan is adhered

- The person/officer who will respond to inquiries and concerns from the public about blocked or unsafe public access
- Points or triggers at which maintenance will no longer be sufficient and either new shore protection efforts or managed retreat options will be needed
- The preparations that will be made to protect the beach and near shore from debris and pollutants resulting from events that exceed limits of the current shore protection
- Method for updating the Shoreline Management Plan at certain time intervals to insure that the plan and methods are current and that they remain effective

Furthermore, the Shoreline Management Plan should include a contingency plan for sea level rise and a tsunami preparedness plan since the site is within the tsunami inundation zone. Additionally, the Plan should address/mitigate for the impacts to beach recreation, access and shoreline sand supply caused by maintaining and perpetuating the existence of the revetment and any future improvements.

Verification of all other permits or approvals by other agencies. A CDP application filing requirement is verification of all other permits, permissions or approvals by other public agencies have been applied for or granted. Proposed plans should have the City's approval-in-concept. Approvals from State Lands Commission (as noted above), and possible other agencies such as the US Army Corps of Engineers, U.S. Fish and Wildlife Service, California Dept. of Fish and Game, California Dept. Parks and Recreation, and Orange County may also be necessary.

Following is the information that would be necessary in a CDP application for replacement mobile home units to adequately analyze the impacts and determine consistency with Chapter 3 policies of the Coastal Act addressing water quality, hazards, public access and recreation and public views of the shoreline.

Residential Structure Design Parameters. A coastal development permit application for replacement of residential structures on all of the residential space sites in the park, must propose design parameters for those structures. These would need to include dimensions, such as height, length/width, setback distances from the bulkhead and/or property lines, maximum floor square footage, typical foundation type(s), maximum heights of appurtenances (e.g. fences, patio covers), etc.

Comprehensive Drainage Plan. Drainage and runoff control should be addressed in a comprehensive drainage plan. Drainage and runoff on oceanfront residential sites raises potential water quality concerns especially if the majority of the site is paved with minimal areas for on-site water infiltration. How and where runoff from the structure, patio covers, decks, driveways and other paved surfaces will be collected and directed should be clarified to address water quality concerns. In order to limit impairment of water quality at the site, on-site surface water should be properly controlled to avoid potential direct runoff into the ocean. A park wide comprehensive drainage plan should demonstrate how water will be minimized and/or retained on site at each mobile home unit space and how runoff will be controlled through measures to capture, infiltrate, or treat any runoff from the proposed development, (i.e., French drains, bottomless trench drains) or walkways made from porous materials (i.e., crushed gravel, permeable pavers) to allow increased percolation of runoff into the ground, rain gutters on primary structures oriented towards landscaped or other permeable areas to facilitate infiltration/reduce the amount of stormwater and surface runoff leaving the site.

Additionally, the proposed drainage plan should include construction phase best management practices including erosion control measures to minimize possible water quality impacts during construction (i.e., mobile home demolition, replacement activities and hardscape improvements).

Landscaping Plans. To further avoid water quality impacts, the Commission typically requires that landscaping consist of "California Friendly" drought tolerant and non-invasive plants or native plants appropriate to the habitat type. No. invasive plant species, such as those listed by the California Invasive Plant Council (www.cal-ipc.org) and the California Native Plant Society (www.cnps.org) shall be permitted. The Commission requires landscaping plans or a plant list meeting these requirements for oceanfront residential lots which should be included in your application submittal.

View Analysis. We are in receipt of your analysis of view impacts associated with replacing one-story residential structures with two-story, 32 foot tall structures. Commission staff opinion is that an increase in the height of the mobile home park units from the current primarily one-story height to a new height of 32-feet as shown in the visual analysis, would have significant adverse public view impacts of the shoreline from public vista points and recreational areas inland of the mobile home park. We understand that you have a strongly different opinion. We are unable to identify a specific two-story height limit that would be acceptable criteria for a CDP application addressing all replacement structures. Our proposal would be to submit a CDP application that would address all replacement structures that are one-story in height, and that *individual* CDP applications would be required for any proposed mobile home replacement units exceeding one-story.

Please note that we have not identified filing requirements for the utility upgrades and perimeter wall. Given its location, we believe a perimeter wall would require a coastal development permit, and cannot identify any exemptions that would apply. Certain changes to the utilities may be exempt, while others would not be, so we would need a complete description and plans for the proposal to identify permit requirements. Once your proposal related to these utility upgrades is fully formed, please contact us to determine permit and application filing requirements.

Please do not limit your submittal to the above-mentioned items. You may submit any information, which you feel, may help Commission staff gain a clear understanding of the scope of your project. Upon receipt of the requested materials, we will proceed with determining the completeness of your CDP application. Please be aware that additional questions and requests for information may be raised after review of the information requested. Thank you for your attention to these matters. We look forward to working with you. If you have any questions, you may contact me at (562) 590-5071.

Sincerely,


Liliana Roman
Coastal Program Analyst

CALIFORNIA COASTAL COMMISSION

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



Exhibit 33
Page 1 of 3

July 12, 2011

Capistrano Shores, Inc.
Attn: Mark Howlett
1880 N. El Camino Real
San Clemente, CA 92672

Violation File Numbers: V-5-11-016, V-5-11-017, V-5-11-018

Property Location: Lots #10, #40, and #57 1880 N. El Camino Real, San Clemente

Unpermitted Development¹: Construction of residences/ additions to residences

Mr. Howlett:

The California Coastal Commission ("Commission") is the state agency created by, and charged with administering, the California Coastal Act of 1976. The California Coastal Act² was enacted by the State Legislature in 1976 to provide long-term protection of California's 1,100-mile coastline through implementation of a comprehensive planning and regulatory program designed to manage conservation and development of coastal resources. In making its permit and land use planning decisions, the Commission carries out Coastal Act policies, which, amongst other goals, seek to protect and restore sensitive habitats; protect natural landforms; protect scenic landscapes and views of the sea; protect against loss of life and property from coastal hazards; and provide maximum public access to the sea.

Our staff has confirmed that development consisting of construction of residences has occurred on Capistrano Shores Lots #10 and #40. Staff has also confirmed that either a construction of a new residence or an addition to an existing residence has occurred on Lot #57. All of these sites are located within the Coastal Zone. Commission staff has researched our permit files and concluded that no coastal development permits have been issued for any of the development described above. Pursuant to Section 30600 (a) of the Coastal Act, any person wishing to perform or undertake development in the Coastal Zone must obtain a coastal development permit, in addition to any other permit required by law. "Development" is defined by Section 30106 of the Coastal Act as:

"Development" means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or

¹ Please note that the description herein of the violation at issue is not necessarily a complete list of all development on the subject property that is in violation of the Coastal Act and/or that may be of concern to the Commission. Accordingly, you should not treat the Commission's silence regarding (or failure to address) other development on the subject property as indicative of Commission acceptance of, or acquiescence in, any such development.

² The Coastal Act is codified in sections 30000 to 30900 of the California Public Resources Code. All further section references are to that code, and thus, to the Coastal Act, unless otherwise indicated.

intensity of the use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvest of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations.... [emphasis added]

The above described construction of residences constitutes development under the Coastal Act and, therefore, requires a coastal development permit. Please note that neither the Coastal Act nor the California Coastal Commission Administrative Regulations, (CCR, Title 14, Division 5.5, sections 13000 et seq), contain an exclusion or an exemption from the permit requirements of the Act for development in an existing mobilehome park. Furthermore, the Mobilehome Parks Act, Mobilehome Residency Law, and the regulations of the Department of Housing and Community Development do not preempt the Coastal Commission's authority to regulate development in existing mobilehome parks. Any development activity conducted in the coastal zone without a valid coastal development permit constitutes a violation of the Coastal Act.

Please note that the subject violations persist on property that Capistrano Shores, Inc. owns. Capistrano Shores, Inc. is liable for unpermitted development that persists on its property regardless of who constructed the unpermitted development.

In many cases, violations involving unpermitted development may be resolved through the coastal development permit process, avoiding court-imposed fines and penalties, by removal of the unpermitted development and restoration of any damaged resources or by obtaining a coastal development permit authorizing the development after-the-fact, potentially with conditions to ensure conformance with the resource protection policies of Chapter 3 of the Coastal Act. Therefore, in order to resolve this matter administratively, a complete coastal development permit application to either retain the development or to remove the unpermitted development and restore the site to its pre-violation condition must be submitted to staff.

In order to resolve this matter in a timely manner, concurrent with this letter, staff has sent Notice of Violation letters to the owners of the residence noted above requesting that a complete coastal development permit application is submitted to staff by **August 9, 2011** for either removal of the unpermitted development and restoration of the site or to authorize the development after-the-fact. A coastal development permit application is available at www.coastal.ca.gov.

Although we would prefer to resolve this matter through the coastal development permit process, please be aware that the Executive Director is authorized, after providing notice and the opportunity for a hearing before the Commission as provided for in Section 30812 of the Coastal Act, to record a Notice of Violation against Capistrano Shores, Inc. property. In addition, the California Coastal Commission is authorized, after providing notice and the opportunity for a hearing before the Commission as provided for in Section 30810 of the Coastal Act, to issue a cease and desist order which may include conditions requiring the immediate removal of any unpermitted development on Capistrano Shores, Inc. property.

Thank you for your attention to this matter. If you have any questions regarding this letter or the pending enforcement case, please feel free to contact me at (562) 590-5071.

Sincerely,

A black rectangular redaction box covering the signature of Patrick Donegan.

Patrick Donegan
California Coastal Commission
South Coast District Enforcement

CALIFORNIA COASTAL COMMISSION

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



Exhibit 34
Page 1 of 7

February 11, 2014

Bill Peters
31693 Seacliff Drive
Laguna Beach, CA 92651

Barth Family Trust
c/o Lon Stephens
5000 Birch Street, Suite 410
Newport Beach, CA 92660

Capistrano Shores, Inc.
c/o Sue Loftin
The Loftin Firm
5760 Fleet Street, Suite 110
Carlsbad, CA 92008

Re: Unpermitted development at Capistrano Shores Mobilehome Park

Dear Mr. Peters, Mr. Stephens, and Ms. Loftin:

Commission staff has received a number of applications for development at Capistrano Shores Mobilehome Park ("Park"), all of which remain incomplete or have been withdrawn.¹ These applications generally request authorization for relocation of incidental utilities, landscaping, and construction of accessory structures at individual residential spaces within the Park. The applications do not include requests to authorize reconstruction of the units. However, the residential unit at each of the subject spaces has been reconstructed without the required coastal development permit. In each instance, the height of the unit has been significantly increased. We would like to work with the parties to resolve these issues comprehensively and collaboratively; below, we describe possible steps to such a resolution through the coastal development permit process.

Coastal Resource Protection

The increased heights of the units constructed at the Park are notable, and impede coastal views from nearby public access points and trails, as can be confirmed by viewing the site from the nearby public access points and trails. In addition, according to a 2012 visual analysis prepared by the Park owner that analyzes impacts to coastal views if the heights of units at the Park are

¹ Within the previous few years, Commission staff has received the following applications for development on individual Capistrano Shores spaces that do not address increases in heights of residences that occurred on the spaces: 5-10-180 (Unit #90), 5-11-033 (31), 5-11-193 (57), 5-11-194 (40), 5-12-126 (35), 5-12-127 (69), 5-12-128 (18), 5-12-294 (75), 5-12-295 (75), 5-12-296 (48), 5-12-297 (13), 5-13-028 (23), and 5-13-037 (46). With the exception of 5-10-180, which was submitted by Mr. Stephens on behalf of the Barth Family Trust, all of the applications were submitted by Mr. Peters. All of the applications, except for 5-11-193 and 5-11-194, which were withdrawn by the applicants, remain incomplete.

increased to 26', it is evident that such increases in the heights of the individual units, and cumulatively, numerous residences in the Park, would further impact public views of the shoreline from vista points and recreational areas inland of the Park. Generally the units at issue have been increased to 21-25'. As noted above, these increases have resulted in observable detrimental impacts to view. Thus, at these heights too, perpetuation of such a trend would result in further degradation of public coastal views. Section 30251 of the Coastal Act states, in pertinent part:

"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...."

Past Commission actions pertaining to development in the Park have found that development in the Park must be sited and designed to protect views of the coast from public vantage points and to be visually compatible with the heights of the rest of the exclusively single-story homes in the Park.

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 anticipate reliance on new shoreline protection devices that threaten public access and recreation, shoreline sand supply, and views to and along the coast. The potential impacts to public access resulting from new shoreline protection devices are particularly significant here given the close proximity of the Park units to public lands located at and below the mean high tide line, which is predicted to move inland as a result of sea level rise, even by the most conservative of estimates.

History of unpermitted development

In June 2010, before the unpermitted development at issue occurred, the Commission approved two coastal development permits to authorize replacement structures within the Park. Although the unpermitted structures at issue are taller than those approved (the structures approved by the Commission were limited in height to 18.5' and 19.5'), the development activity approved by the Commission, i.e. replacement of the pre-Coastal Act unit with a new structure, was similar if not identical to the unpermitted development activity at issue. By authorizing such development activity, the Commission clearly notified the Park owner and the unit owners² of its permit jurisdiction over such development activity.

Unpermitted reconstruction of units at Capistrano Shores first came to staff's attention in July 2010 in the context of the unpermitted reconstruction of Unit #90. Staff sent a Notice of Violation letter dated July 9, 2010 to the owner of Unit #90. The Notice of Violation letter informed the unit owner that installation of the replacement structure that was occurring on the site constituted a violation of the Coastal Act. The Notice of Violation was also sent to the Park owner and the unit owners in their capacities as members of the ownership entity. The Notice of

² Notice of the coastal development permit process was sent to the Park owner - a mutual benefit corporation of which the unit owners are members, and in addition to the units within 100' of the approved structures.

Violation letter requested that the unit owner submit a complete coastal development permit application for removal of the unpermitted development or to authorize the development after the fact. The owner of Unit #90 submitted an incomplete application to authorize remodeling of the residence. In letters to the unit owner dated September 9, 2010 and January 26, 2011, staff identified and requested information that is necessary to adequately analyze the proposed project, including information that clearly identifies the height of the reconstructed unit. Staff has not received the information necessary to complete the application, and as a result the application remains incomplete. However, reconstruction of the unit continued without benefit of the required coastal development permit.

Although the Park and unit owners had been notified of the requirement for a coastal development permit for replacement structures, and that unpermitted replacement of structures constitutes a violation of the Coastal Act, at least 12 other unit owners commenced unpermitted replacement of structures subsequent to notification of permit requirements. Commission staff sent three additional Notice of Violation letters to unit owners undertaking unpermitted development as staff became aware that unpermitted development was occurring. The Notice of Violation letters informed the unit owners that installation of the replacement structures that was occurring on their spaces constituted violations of the Coastal Act. Despite such notification that replacement of the structures without authorization from the Coastal Commission constituted a violation of the Coastal Act, unpermitted development continued without authorization and without a request for authorization.

Subsequent to the initial Notice of Violation sent to the Unit #90 owner and the Park owner, incomplete applications were received for development at 12 other residential spaces within the Park, in addition to #90 referenced above. Although the units were expanded and the heights of the units were increased, none of the applications included proposals for such expansion or reconstruction at an increased height, or any reconstruction for that matter. In each instance staff requested via "Notice of Incomplete Application" letters that the applicants submit information regarding the height of the unit in order to complete the application for staff's review. As of this date, Commission staff has not received this requested information for any of the 12 applications.

Coastal development permits required

Pursuant to Section 30600 (a) of the Coastal Act, any person wishing to perform or undertake development in the Coastal Zone must obtain a coastal development permit, in addition to any other permit required by law. "Development" is defined by Section 30106 of the Coastal Act as:

"Development" means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of the use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvest of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations.... [emphasis added]

The reconstruction of units noted above constitutes development under the Coastal Act and, therefore, requires coastal development permits.³ Any non-exempt development activity conducted in the Coastal Zone without a valid coastal development permit, or which does not substantially conform to a previously issued permit, constitutes a violation of the Coastal Act.

Correspondence with Park and unit owners

Concurrent with reconstruction of the 13 units at issue, Commission staff and the park owner, Capistrano Shores Inc., corresponded regarding the Commission's jurisdiction over development within the Park. The Park owner asserts that coastal development permits are only required to construct a new park, enlarge the size of an existing park, or add homes to an existing park, and thus are not necessary for the work at issue. The Park owner also asserts that mobilehome building standards are governed solely by the Manufactured Housing Act, and thus, the Commission's regulation of the height of the structures is pre-empted.

Claim of vested right

The first issue noted above relates to a claim of a "vested right" to certain development. One exception to the requirement to obtain a coastal development permit before undertaking development within the Coastal Zone is in the situation where a person has a vested right in the development prior to the effective date of coastal development permit requirements, i.e. the effective date of the Coastal Act or Proposition 20 (the "Coastal Initiative")⁴ depending upon the location of the development.⁵ Pursuant to Coastal Act Section 30608 and implementing regulations and case law, if a person obtained a vested right in a development prior to the requirement for a coastal development permit, no coastal development permit is required to complete that development. However, there is no vested right to alter a completed development. The statute also establishes that no substantial change may be made to any such development until a coastal development permit, or approval pursuant to another provision of the Coastal Act, is obtained. Even if the construction of the individual units began prior to the Coastal Act under conditions such that the developer obtained a vested right to complete that development and no coastal development permit was required for initial placement of the units prior to the Coastal Initiative, substantial improvements and reconstruction of the structures constitute a substantial change to the structures. Even if established, a vested right does not cover such substantial change to a pre-Coastal Initiative structure. Therefore, the vested rights provisions of the Coastal Initiative and Coastal Act do not exempt the subject development activities from the requirement for a coastal development permit.

³ Pursuant to section 30610(a) of the Coastal Act, improvements to a single family residence are exempt from permit requirements except under circumstances identified in Section 13250 of the Coastal Commission regulations, including under the following circumstances: Section 13250(b)(1) states that an improvement to a structure on a beach requires a CDP and Section 13250(b)(4) states that an improvement to a structure located between the first public road and the sea that results in either a 10% or more increase in floor area or height requires a CDP. For these reasons, the unpermitted reconstruction of units at issue is not exempt pursuant to Section 30610(a).

⁴ The date by which a claimant for a vested right must have satisfied the criteria to establish a vested right to development under the Coastal Initiative was November 8, 1972.

⁵ Under the Coastal Initiative, development within 1000 yards of the mean high tide line required authorization from the Coastal Commission's predecessor. The Coastal Zone—which constitutes the Commission's coastal development permit jurisdiction—was subsequently mapped pursuant to the Coastal Act.

The Park owner asserts that since original construction of the Park occurred prior to the effective date of the Coastal Initiative, there exists a general vested right to operate a mobilehome park. The Park owner further asserts that there is an unlimited vested right to reconstruct units on the site without coastal development permits, as long as those units replace existing units. However, vested rights claims are narrowly construed against the person making the claim. (*Urban Renewal Agency v. California Coastal Commission* (1975) 15 Cal.3d 577). Any vested right to continuing the operational activities of an existing mobilehome park, if established, would not extend to new development, here, replacing structures or making substantial changes to structures, as the Park owner contends. Likewise, a vested right to the structures in this situation, even if established, would only be for a vested right to complete construction of the individual and independent units of development at issue, i.e. the individual residential units, that was underway at the time the Coastal Initiative became effective. The Park owner's application of the Coastal Act's vested rights provision is excessively broad and one that would lead to significant impacts to coastal resources, as is the case in the present instance, where taller unpermitted units have resulted in impacts to protected coastal views. As noted above, these units have been substantially changed, for which there is no vested right.

Manufactured home building standards

Please note that neither the Coastal Act nor the California Coastal Commission Administrative Regulations, (CCR, Title 14, Division 5.5, sections 13000 et seq), contain an exclusion or an exemption from the permit requirements of the Coastal Act for development in an existing mobilehome park. The Park owner asserted in an August 19, 2011 letter that the Commission is preempted from regulating such development activities described above. Commission staff previously responded to these claims in an October 4, 2011 letter (enclosed). As explained in more detail in the October 4 letter, Commission staff does not dispute that the State Department of Housing and Community Development ("HCD") regulates mobilehome parks under state law and has adopted regulations governing construction and occupancy of privately owned mobilehomes within California. However, neither the Mobilehome Parks Act, Mobilehome Residency Law, Manufactured Housing Act, nor the regulations of the HCD preempt the Coastal Commission's authority to regulate development in existing mobilehome parks to protect coastal resources. In a recent court decision⁶ the California Supreme Court specifically reaffirmed the fact that multiple laws, including the Coastal Act, regulating development activities within mobilehome parks, each with different goals, need not be incompatible, and the court sought to harmonize the applicable laws so that each of the laws could remain effective.

In this matter, the requirements of the HCD and other applicable statutes pertaining to mobilehome materials and manufacturing standards, and the Coastal Act resource protection policies, need not be in conflict. For instance, building heights are typically addressed during the coastal development permit process to further the view protection policies of the Coastal Act. Such height restrictions established through the coastal development permit process might dictate the height of a structure placed at a mobilehome space, but these restrictions would not interfere with the applicable statutes and HCD's regulations regarding the building materials or construction standards used to manufacture and install a height-compliant structure.

⁶ *Pacific Palisades Bowl Mobile Estates, LLC v. City of Los Angeles* (2012) 55 Cal.4th 783 [The court found that conversion of a mobilehome park to resident-owned subdivision is subject to Coastal Act permitting requirements].

Despite its general objection to the Commission's jurisdiction over the reconstruction of the residences, the Park owner expressed an interest in addressing the issue through the coastal development permit process, and, in an October 13, 2011 letter, asked staff for clarification regarding what information is necessary to complete the pending applications. Staff has already identified the additional information necessary to complete the incomplete applications in letters sent to each unit owner. Please see the attached March 8, 2013 Notice of Incomplete Application letter for an example that is generally representative of the incomplete application letters that were sent to the individual unit owners. Despite staff's direction to the applicants that they include in each of the applications requests for the height increases that have occurred, none of the unit owners have done so adequately. Construction of the taller units has continued without any of the required coastal development permits, resulting in detriment of protected coastal resources.

Resolution

In many cases, violations involving unpermitted development may be resolved through the coastal development permit process, avoiding court-imposed fines and penalties, by removing the unpermitted development and restoring any damaged resources or by obtaining a coastal development permit authorizing the reconstruction after-the-fact, potentially with conditions to ensure conformance with the resource protection policies of Chapter 3 of the Coastal Act. However, please note that it is not likely that Commission staff could recommend approval of structures at these heights in this location due, in part, to the visual resource protection policies in the Coastal Act, noted above.

In order to resolve this matter in a timely manner, we are requesting that the applicants complete the coastal development permit applications previously submitted to staff by **March 11, 2014** for either removal of the unpermitted development, or to authorize the reconstruction after-the-fact. The additional information necessary to complete the applications is described in staff's letters sent to each unit owner; the filing requirements for the applications are generally described in the attached March 8 letter. Staff is also available to discuss filing requirements for each application. Please contact me by no later than **February 25, 2014**, to discuss resolution of this matter.

Although we would prefer to resolve this matter amicably through the coastal development permit process, please be advised that the Coastal Act has a number of potential remedies to address violations of the Coastal Act including the following:


Section 30809 states that if the Executive Director of the Commission determines that any person has undertaken, or is threatening to undertake, any activity that may require a permit from the Coastal Commission without first securing a permit, the Executive Director may issue an order directing that person to cease and desist. Section 30810 states that the Coastal Commission may also issue a cease and desist order. A cease and desist order may be subject to terms and conditions that are necessary to avoid irreparable injury to the area or to ensure compliance with the Coastal Act. Section 30811 also provides the Coastal Commission the authority to issue a restoration order to order restoration of a site. A violation of a cease and desist order or restoration order can result in civil fines of up to \$6,000 for each day in which the violation persists.

Sections 30803 and 30805 authorize the Commission to initiate litigation to seek injunctive relief and an award of civil fines in response to any violation of the Coastal Act. Section 30820(a)(1) provides that any person who violates any provision of the Coastal Act may be subject to a penalty amount that shall not exceed \$30,000 and shall not be less than \$500. Section 30820(b) states that, in addition to any other penalties, any person who "knowingly and intentionally" performs or undertakes any development in violation of the Coastal Act can be subject to a civil penalty of not less than \$1,000 nor more than \$15,000 for each day in which the violation persists.

In addition to these other remedies, Section 30812 of the Coastal Act also allows the Executive Director, after providing formal notice and opportunity for a hearing, to record a Notice of Violation of the Coastal Act against the property if this matter is not resolved administratively.

Thank you for your attention to this matter. We of course would prefer to resolve this matter amicably through the coastal development permit process, and we are open to discussing this option in greater detail and coordinating with the City of San Clemente, which shares our concerns with the unpermitted development that has occurred on the site and supports our efforts to enforce the Coastal Act in this situation. If you have any questions regarding this letter or the pending enforcement case, please feel free to contact me at (562) 590-5071.

Sincerely,


Andrew Willis
Enforcement Analyst

cc: City of San Clemente
Sherilyn Sarb, Deputy Director, CCC
Lisa Haage, Chief of Enforcement, CCC
Alex Helperin, Senior Legal Counsel, CCC

Enclosures: CCC letter dated October 4, 2011
CCC letter dated March 8, 2013



City of San Clemente Planning Division

James Pechous, City Planner

Phone: (949)361-6195 Fax: (949)366-4750

pechousj@san-clemente.org

Monday, August 17, 2015

Sherilyn Sarb
Deputy Director
California Coastal Commission
200 Océangate 1000
Long Beach, CA 90802

RECEIVED
South Coast Region

AUG 18 2015

CALIFORNIA
COASTAL COMMISSION

Re: Coastal Development Permit Application No. 5-10-180, 5-11-033, 5-11-193, 5-11-194, 5-12-126, 5-12-127, 5-12-128, 5-12-294, 5-12-295, 5-12-296, 5-12-297, 5-13-037, 5-13-038

Dear Deputy Director Sarb:

The purpose of this letter is to inform the Coastal Commission staff of concerns and City policies related to the Capistrano Shores Mobile Home Park Coastal Development Permit applications for the approval of 13 second story additions. The City requests the Coastal Commission consider the information provided in this letter in evaluating the 13 CDP applications. Our concern focuses on the impacts these projects both individually and cumulatively have on public views of the whitewater and the ocean from designated public view corridors in Marblehead Coastal and points along El Camino Real. The impacts on views are demonstrated in the attached photographs.

In addition to the Coastal Act policy that protect "scenic and visual qualities", the City asks the Commission also consider policies in the City's certified Coastal Land Use Plan (in the process of being updated) and the City Centennial General Plan that address the protection of public views of aesthetic resources. Policies in the City's certified Coastal Land Use Plan, include:

Policy XII.5, Preserve the aesthetic resources of the City, including coastal bluffs, visually significant ridgelines, and coastal canyons, and significant public views.

Policy XII.9 Promote the preservation of significant public view corridors to the ocean

The newly completed coastal trails and parks within the Marblehead Coastal Specific Plan area are examples of how Policy XII.5 has been implemented and the City's commitment to preserving our scenic resources.

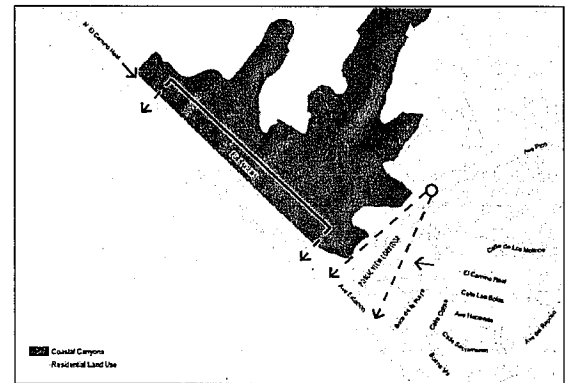
The City of San Clemente Centennial General Plan, which involved five years of public participation in its creation, stresses maintaining our City's quality of life. The General Plan provides further clarity with the identification and preservation of important public views in the Natural Resources Element, Aesthetic Resources Section, and the Coastal Element, Scenic and Coastal Resources Section. These polices include:

NR-2.04. Public View Corridors of Ocean. *We preserve designated public view corridors to the ocean.*

NR-2.09. Public View Corridors. *The City will preserve and improve the view corridors, as designated in Figures NR-1 and NR-2 and encourage other agencies with jurisdiction to do so. Specifically, in its capital improvement programs and discretionary approvals, the City will seek to ensure that:*

- a. Development projects shall require a view analysis to ensure they do not negatively impact a public view corridor.*
- b. Utilities, traffic signals, and public and private signs and lights shall not obstruct or clutter views, consistent with safety needs.*
- c. Where important vistas of distant landscape features occur along streets, street trees shall be selected and planted so as to facilitate viewing of the distant features.*

Figure NR-2



North Beach - Public View Corridors

C-3.01. Visual Character and Aesthetic Resources Preservation. *We preserve the visual character and aesthetic resources of the City, including coastal bluffs, visually significant ridgelines, and coastal canyons, open spaces, prominent, mature trees on public lands, and designated significant public views as discussed in the Natural Resources Element, Aesthetic Resources Section.*

C-3.02. Scenic View Corridors and Public Views. *We identify and designate the location and orientation of significant designated scenic view corridors and significant public views. (See Glossary for definitions of "significant view corridors" and "significant public views.")*


C-3.04. Development Review. *We review and require changes to development proposals, as needed, to minimize obstructions of designated significant public views and designated scenic view corridors, and to ensure public and private development projects in the Coastal Zone are of high-quality materials and designed to be attractive and aesthetically compatible with adjacent structures, site improvements, utilities and landscape features, as further described in the Urban Design Element.*

Glossary - Public View Corridor (also, "Designated Public View Corridor"). A view from a public right-of-way, public facility or other publicly-owned use area which is specifically designated in the General Plan and which provides the public at large with views of the Pacific Ocean, shoreline, coastal ridgelines, coastal canyons or other visual resources. Approximate boundaries of a view corridor are identified using a motorist's, cyclist's or pedestrian's line of vision and are typically defined or enframed by landforms, structures and vegetation.

Glossary - Scenic Corridor. A scenic corridor is a linear segment of major or minor streets, as described in the Master Landscape Plan for Scenic Corridors. Scenic corridors are designated to: 1) identify scenic highways and local arterials, 2) describe significant visual linkages between the resources and amenities of San Clemente, and 3) establish objective design and landscaping criteria to maintain quality visual experiences along such corridors through appropriate landscaping, enhancement and protection of public views. "Major" and "Minor" scenic corridors shall correspond to the Master Landscape Plan for Scenic Corridor's definitions of "Major Urban/Recreation Corridor" and "Minor Urban/Recreation Corridor", respectively.

The City's concerns with this non-permitted two story development and its impacts on our scenic resources is not new, they have been voiced to the Commission beginning with the first two story structure being built without a Coastal Development Permit. Our most recent written correspondence being in a letter from our City Attorney dated November 19, 2013. The City is providing this correspondence to the Commission in advance of processing these 13 Coastal Development Permits to assist you in your evaluation of these applications. If you have any questions regarding the City's concerns, please contact me. Thank you for your consideration.

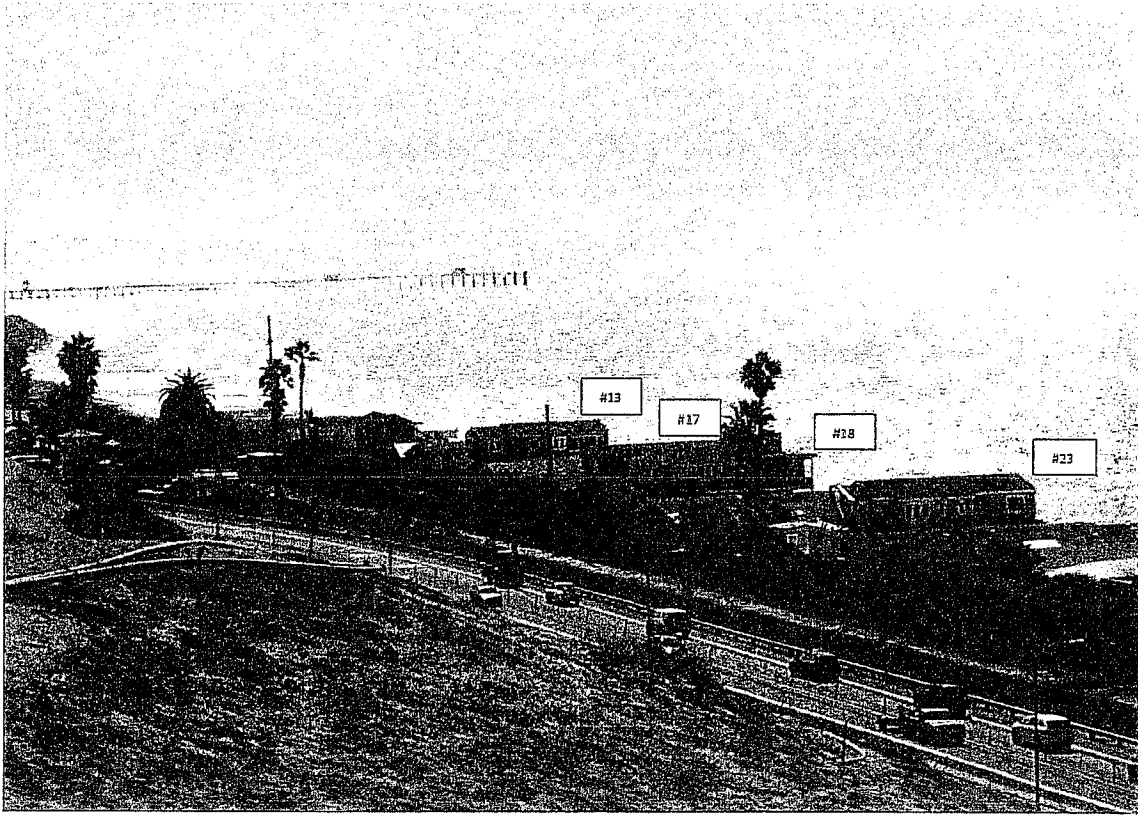
Sincerely,



James Pechous
City Planner

Attachments

CC: Karl Swing, Coastal Program Manager
Mayor and Members of the City Council
James Makshanoff, City Manager
Cecilia Gallardo-Daly, Community Development Director
Michael Jorgensen, Building Official
Scott Smith, City Attorney





2nd story (space #17) viewed from N. El Camino Real

2nd story (space #13) viewed from N. El Camino Real



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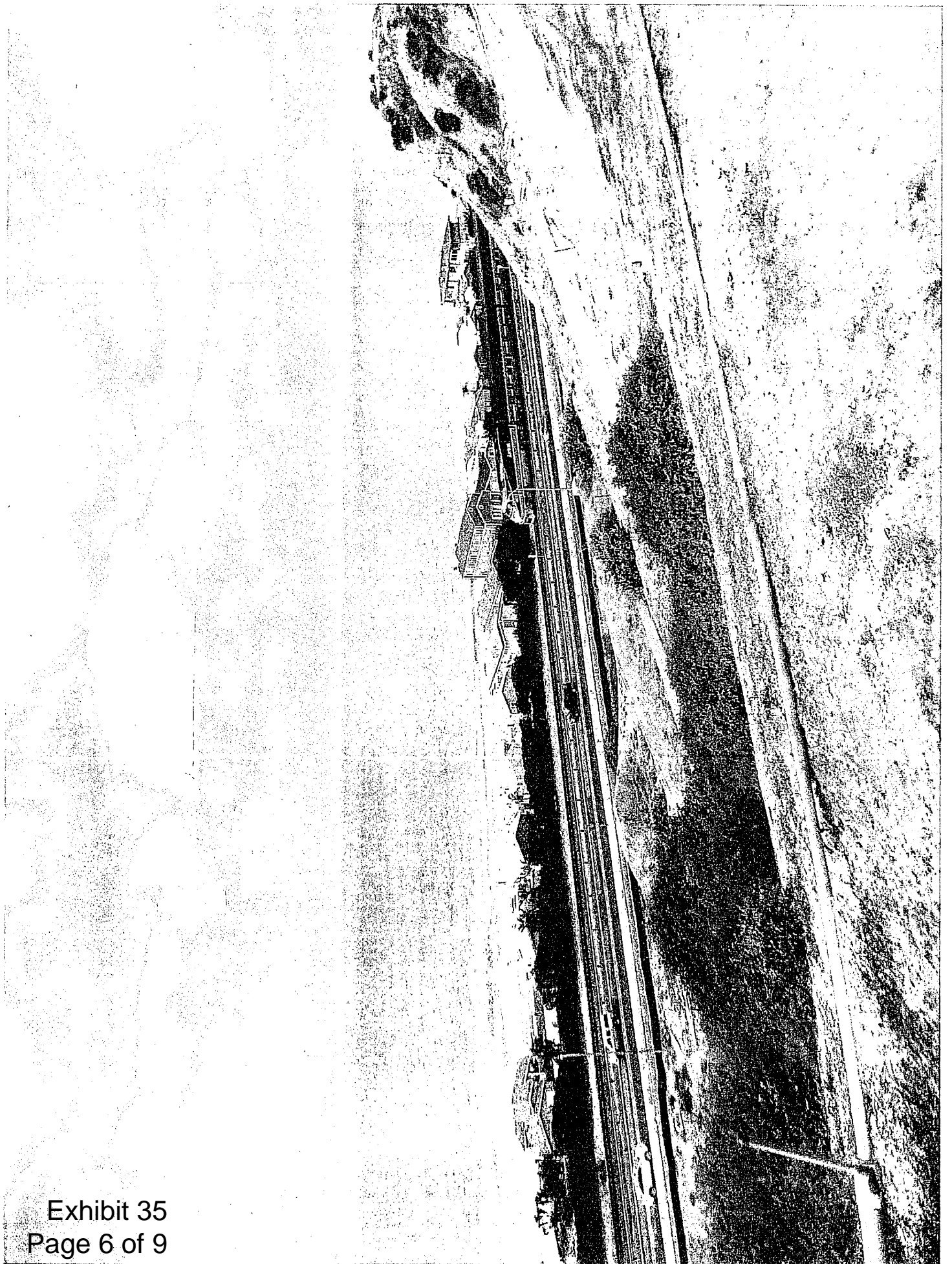
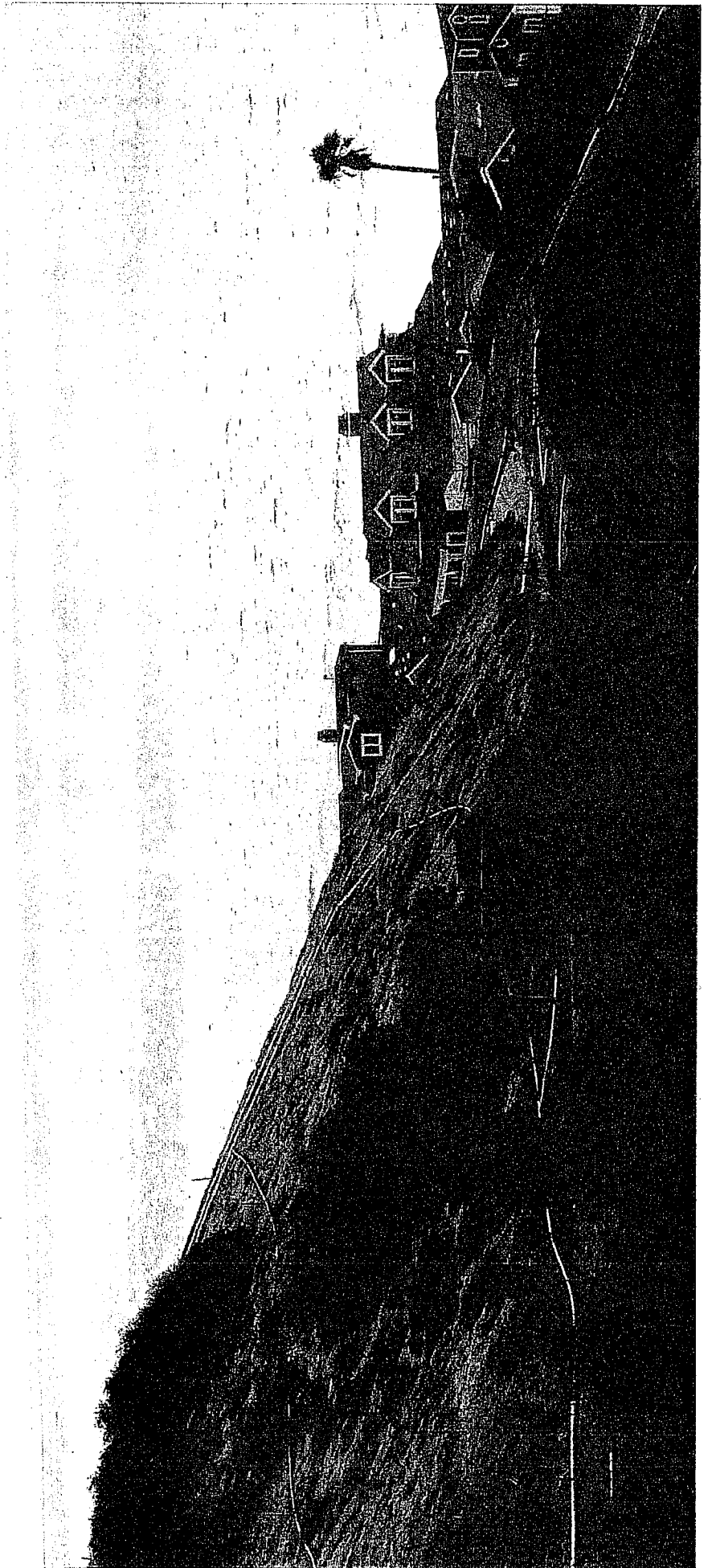
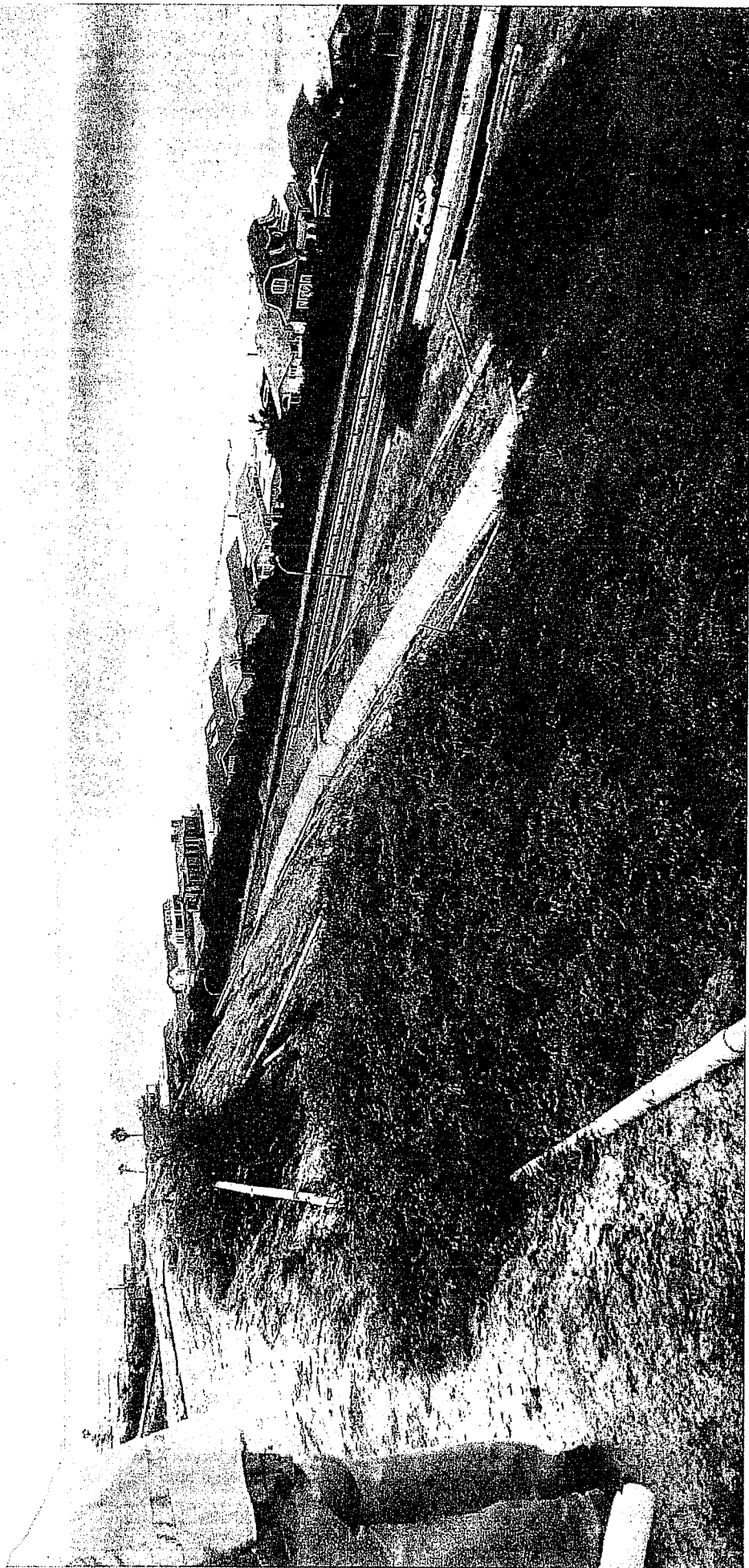


Exhibit 35
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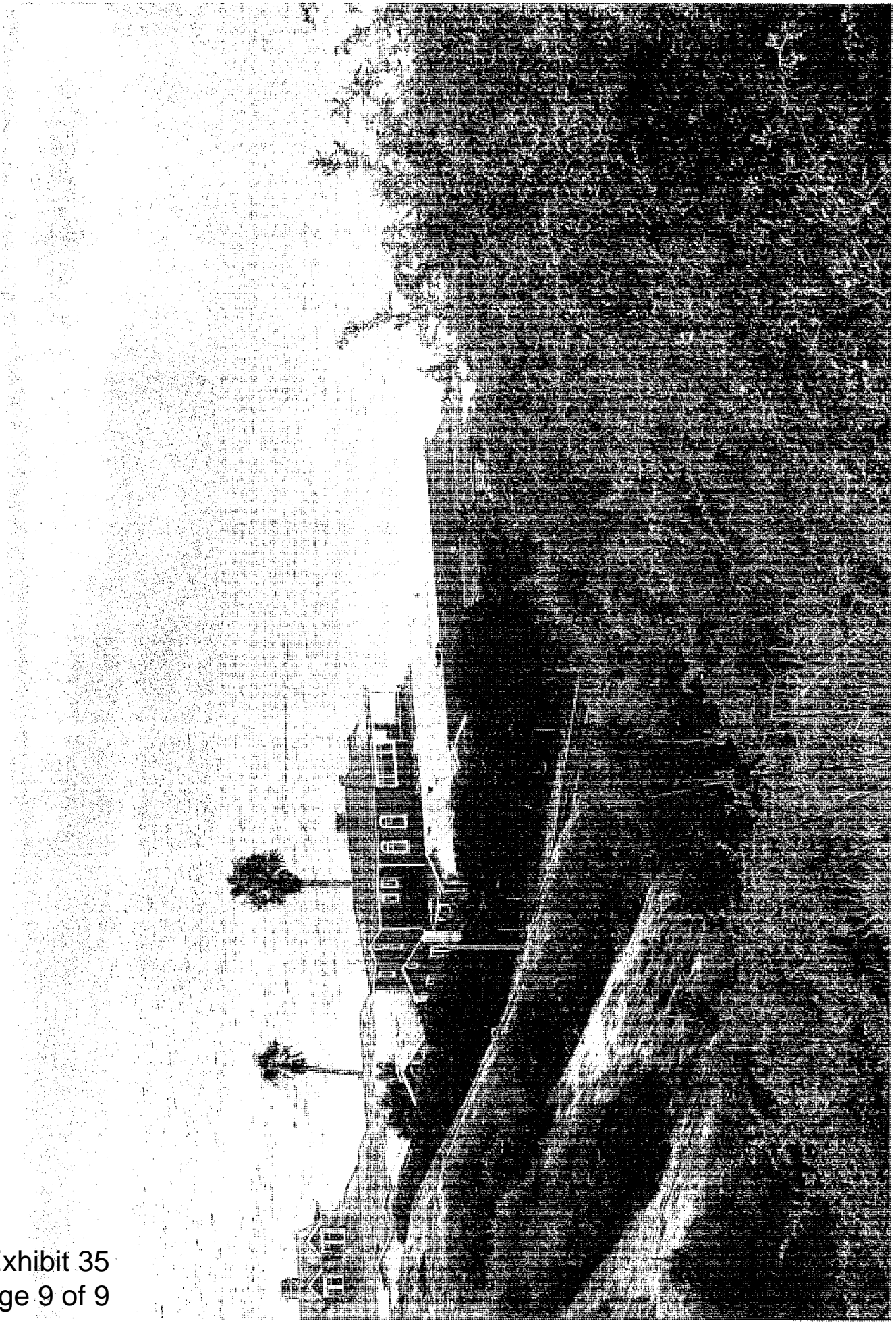


Exhibit 35
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