

CALIFORNIA COASTAL COMMISSION

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



W22a

Filed: 2/02/17
180th Day: Waived
270th Day: 10/30/17
Staff: M. Revell-LB
Staff Report: 9/22/17
Hearing Date: 10/11/17

STAFF REPORT: REGULAR CALENDAR

Application No: 5-16-0997

Applicant: Hometown America, LLC

Agent: Scott Fears, Complete Manufactured Housing

Location: 30802 South Coast Highway, Space K-56, Laguna Beach, Orange County

Project Description: Install a 28-foot high, 2-story, 810 square foot (approx.) manufactured home and a 24 square foot storage shed on a 4,079 square foot mobile home lot (Space K-56) within Laguna Terrace Mobile Home Park.

Staff Recommendation: Approval with conditions.

SUMMARY OF STAFF RECOMMENDATION

The proposed development is the installation of a 2-story manufactured home, and a 24 square foot storage shed, on a 4,079 square foot lot within an existing mobile home park. Space K-56 in Laguna Terrace Mobile Home Park, where the proposed development is located, is authorized by Coastal Development Permit 5-13-471, which was approved by the Commission on July 14, 2016, but has not yet been issued. The primary issues raised by the proposed project are protection of sensitive habitat and hazards associated with flood and fire.

Staff is recommending **APPROVAL** of the coastal development permit as conditioned to assure that the proposed project is consistent with the Chapter 3 policies of the Coastal Act. The conditions are: 1) this permit will not become effective until the underlying permit authorizing Space K-56 (CDP No. 5-13-471) has been issued, 2) landscaping shall be non-invasive and drought tolerant, 3) the project must conform with drainage and run-off control plans, 4) future improvements require a separate coastal development permit, and 5) assumption of risk and waiver of liability with the associated development.

TABLE OF CONTENTS

I.	MOTION AND RESOLUTION	3
II.	STANDARD CONDITIONS	3
III.	SPECIAL CONDITIONS	4
IV.	FINDINGS AND DECLARATIONS	5
	A. Project Description and Location.....	5
	B. Standard of Review.....	6
	C. Habitat Protection.....	6
	D. Hazards.....	9
	E. Local Coastal Program.....	9
	F. California Environmental Quality Act (CEQA).....	10

APPENDICES

Appendix A: Substantive Documents

EXHIBITS

- Exhibit 1—Vicinity Map
- Exhibit 2—Laguna Terrace Mobile Home Park Map
- Exhibit 3—Site Plans
- Exhibit 4—Letter of Concern from Penny Elia
- Exhibit 5—Letter of Concern from Ron Vanderhoff
- Exhibit 6—Site photos
- Exhibit 7—Shade Analysis

I. MOTION AND RESOLUTION

Motion:

*I move that the Commission **approve** Coastal Development Permit No. 5-16-0997 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 would substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS

This permit is granted subject to the following standard conditions:

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **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

This permit is granted subject to the following special conditions:

1. **Issuance of Underlying Coastal Development Permit 5-13-471.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the underlying Coastal Development Permit No. 5-13-471, approved by the Coastal Commission on July 14, 2016 which authorizes Space K-56, must be issued.
2. **Landscaping – Drought Tolerant, Non-Invasive Plans.** Vegetated landscaped areas on the lot must consist of drought tolerant non-invasive plant species. 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 (<http://www.water.ca.gov/wateruseefficiency/docs/wucols00.pdf>).
3. **Conformance with Drainage and Run-Off Control Plan.** The applicant shall conform with the drainage and run-off control plan received on January 3, 2017 showing roof drainage and runoff from all impervious areas directed to permeable and landscaped areas. Any proposed changes to the approved plan shall be reported to the Executive Director. No changes to the approved plan shall occur without a Commission amendment to this Coastal Development Permit unless the Executive Director determines that no amendment is legally required.
4. **Future Improvements.** This permit is only for the development described in Coastal Development Permit No. 5-16-0997. Pursuant to Title 14 California Code of Regulations Section 13250(b)(6), the exemptions otherwise provided in Public Resources Code Section 30610(a) shall not apply to this development governed by the Coastal Development Permit No. 5-16-0997. Accordingly, any future improvements to the structures authorized by this permit, including but not limited to, repair and maintenance identified as requiring a permit in Public Resources Section 30610(d) and Title 14 California Code of Regulations Sections 13252(a)-(b), shall require an amendment to Permit No. 5-16-0997 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.
5. **Assumption of Risk, Waiver of Liability and Indemnity**
By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from fire, flooding, and other natural hazards; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission’s approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in

defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

IV. FINDINGS AND DECLARATIONS

A. PROJECT DESCRIPTION AND LOCATION

The proposed development is the installation of a 28-foot high, 2-story, approximately 810 square foot manufactured home, and an approximately 24 square foot storage shed, on an existing approximately 4,079 square foot mobile home lot (Space K-56), within the existing Laguna Terrace Mobile Home Park. Space K-56 was given local approval by the City of Laguna Beach and the Department of Housing and Community Development, and was authorized through Coastal Development Permit No. 5-13-471, which was approved by the Commission on July 14, 2016, but has not yet been issued. While Coastal Development Permit No. 5-13-471 authorizes the lot (Space K-56), the applicant is required to get a separate CDP for the development on Space K-56. Coastal Development Permit 5-13-471 must be issued before the Coastal Development Permit for the development on K-56 can become effective as required by **Special Condition 1**. The primary issues raised by the proposed project are protection of sensitive habitat and hazards associated with flood and fire.

The subject site is Space K-56, located within the Laguna Terrace Mobile Home Park and surrounding property in the Hobo/Aliso area of Laguna Beach, at 30802 Coast Highway in Laguna Beach in Orange County ([Exhibit 1](#)). The Laguna Terrace Mobile Home Park is approximately 48 acres partly developed with a mobile home park located at 30802 South Coast Highway, and partly developed with a private parking lot located at 30782 South Coast Highway, in the City of Laguna Beach, Orange County. The developed part of the mobile home park (including both the mobile home park and the private parking lot?) occupies about 14 acres within and at the mouth of “Hobo Canyon”. The remainder of the land is undeveloped. The site has varied topography, ranging from moderately steep slopes, and moderately sloped to flat areas at the bottom and mouth of “Hobo Canyon” (where the mobile homes, related structures, and parking lot currently exist). The surrounding undeveloped land is a mosaic of vegetation types including southern maritime chaparral, ceanothus chaparral, toyon-sumac chaparral and coastal sage scrub, which is identified in the City’s LCP as high value habitat. In past Commission actions (e.g. Coastal Development Permit 5-12-121) these habitats have been determined by the Commission to be environmentally sensitive habitat area (ESHA).

The Coastal Commission approved the underlying Coastal Development Permit 5-13-471 in July of 2016, which approved three mobile home lots (including K-56), and formalized and delineated boundaries of different areas within the Laguna Terrace Mobile Home Park, including an annual maintenance area associated with an existing debris control dam located at the terminus of K Street, and an existing utility lot at the end of K Street, and the annual debris dam maintenance area, which will serve as an access road and vehicle turn-around for annual dam maintenance. An existing 20-foot wide strip of land behind the mobile home spaces that abut the vegetated hillside, which is maintained for fire hazard mitigation, was approved to be maintained for those purposes and is depicted on a final plan that was submitted for Executive Director approval on January 10, 2017. Coastal Development Permit No. 5-13-471 also requires on-site re-vegetation of the area surrounding the vehicle turn-around area, and designation of open space of all of the area of the

property (approximately 22.4 acres) located between the outer edge of the 20-foot wide fire management strip of land behind the mobile homes and the property line. Finally, the Commission also approved the restoration of approximately one acre of habitat area on the adjacent property known locally as “Driftwood”. Coastal Development Permit 5-13-471 has not yet been issued because there are outstanding “prior to issuance” conditions that are required to be satisfied, including the approval of plans for on-site and off-site restoration. On August 21, 2017 the applicant submitted the Laguna Beach Terrace Habitat Restoration Plan (which is required prior to issuance by Special Condition 2 of CDP No. 5-13-471) to the Commission’s South Coast office, and it is under review.

B. STANDARD OF REVIEW

The subject site is located within the City of Laguna Beach. Laguna Beach has a certified Local Coastal Program (LCP). However, at the time the LCP was certified, five geographical areas were deferred for LCP certification, including Hobo Canyon. The associated certified Land Use Plan expressly refers to the mobile home park as being within the Hobo Canyon area of deferred certification. Since certification of the LCP, the Commission has processed coastal development permits in the first instance for development proposed within the mobile home park (e.g. G5-95-286, 5-95-286, 5-95-286 A, 5-96-048, 5-98-151, 5-98-151-A1, 5-12-121 and 5-13-471). The City has not subsequently submitted an LCP amendment to certify the Hobo Canyon area as part of the LCP. Because the subject site is located in an area of deferred certification, the coastal development permit is processed by the Coastal Commission rather than the local government, and the standard of review is the Chapter 3 policies of the Coastal Act.

C. HABITAT PROTECTION

Staff has determined through historic aerial photos and site visits that no significant biological resources are present on Space K-56, as it was graded prior to the Coastal Act and kept largely free of native vegetation through use, thus, use of the space was not anticipated to result in any adverse impacts on biological resources. However, Coastal Development Permit No. 5-13-471 required a separate CDP for any proposed structures to be installed or built on the space to ensure sufficient protection of the surrounding sensitive habitat, because the presence of Coastal sage scrub and maritime chaparral are documented to exist in the vegetated hillsides and slopes surrounding Space K-56.

The primary issue raised by the proposed development is whether or not the development can be accommodated in a manner that will not affect the existing sensitive habitat. If the development can be accommodated without significant adverse impacts to sensitive habitat, the Commission can find the proposed activities to be in conformity with Sections 30240 of the Coastal Act.

Environmentally sensitive habitat areas are defined in Coastal Act Section 30107.5, as follows:

“Environmentally sensitive area” means any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.

Coastal sage scrub and maritime chaparral are sensitive plant communities that are very limited in distribution among the coastal and inland hills of Southern California. Coastal sage scrub in the

Laguna Beach area generally consists of summer-dormant soft or suffrutescent aromatic plants that grow to approximately waist height. While its composition can vary, characteristic species generally include: California sagebrush, California buckwheat, orange bush monkey flower, and several species of sage. Southern maritime chaparral is also a low, fairly open plant community, highly dependent on maritime climate. In the Laguna area, southern maritime chaparral is generally characterized by the presence of big podded and/or warty-stemmed ceanothus, bush rue, bladder pod, and spiny or little-leaved redberry, among other species.¹

In this case, the applicant has not prepared a biological report for the subject site, therefore current, precise information about the boundaries of habitat areas is not available. However, there have been biological reports prepared in conjunction with past proposals at the subject site which document the presence of coastal sage scrub and maritime chaparral. These studies include the South Laguna Biological Resources Inventory prepared by Karlin Marsh for the City of Laguna Beach in 1992, and a Biological Resources Assessment by LSA Associates dated August 17, 2000, among others. Furthermore, both coastal sage scrub and southern maritime chaparral communities have been observed by Commission staff on the subject site. These plant communities are considered by the U.S. Fish and Wildlife Service and the California Department of Fish and Wildlife as “sensitive” or “special status.”² As discussed more fully in two memos written by Commission Ecologist John Dixon (see substantive file documents), the plant communities found on the site serve important ecosystem functions, such as providing habitat for State and federally listed as rare and threatened big-leaved crown beard, the federally listed as threatened California gnatcatcher, and the rufous-crowned sparrow, a California Species of Special Concern. Each of these species has been observed at the site.³

The southern maritime chaparral and coastal sage scrub communities have been severely impacted by agricultural activities, urbanization, disruption of natural fire regimes, and competition from invasive species. These rare plant communities are confined to coastal and a few inland areas of Southern California and Baja, Mexico. The US Fish and Wildlife Service reports that urbanization and agricultural conversion have caused the destruction of an estimated 82 to 93 percent of southern maritime chaparral⁴ and an estimated 85 to 90 percent of coastal sage scrub⁵ vegetation in California. As evidenced by these figures, southern maritime chaparral and coastal sage scrub

¹ Marsh, K. January 20, 1992. South Laguna Biological Resources Inventory. A report prepared for the City of Laguna Beach.

² Evans, K.E. (USFWS). December 21, 2001. Letter to A. Larson (City of Laguna Beach) re: “Draft Environmental Impact Report for the Laguna Beach Driftwood Estates (Tentative Tract Number 16035), City of Laguna Beach, County of Orange, California.”

³ Dixon, John. (CCC). April 16, 2007. Memo to Ryan Todaro re: Habitat Characteristics on the Athens Group LLC property at Hobo Aliso Ridge (formerly known as Driftwood Estates).

⁴ U.S. Fish and Wildlife Service. 1996. Determination of endangered or threatened status for four southern maritime chaparral plant taxa from coastal southern California and northwestern Baja California, Mexico. Federal Register 61(195): 52370-52384

⁵ US Fish and Wildlife Service. 1993. Determination of threatened status for the California Gnatcatcher. Federal Register 58(59): 16742-16757.

communities are rare and easily degraded by human activities. Consequently, on the hillside surrounding the subject site, coastal sage scrub and maritime chaparral meet the definition of Environmentally Sensitive Habitat Area (ESHA) under the Coastal Act.

In May of 2017, staff received several emails and phone calls from Ms. Penny Elia regarding the potential impacts that the proposed development could have on the adjacent habitat located on the slope behind space K-56. Specifically, Ms. Elia is concerned that the proposed two story mobile home will unnaturally shade the existing ESHA surrounding K-56, thereby causing potentially negative impact to the surrounding existing vegetation, including the California and federally listed species *Verbesina dissita*, or big-leaved crownbeard, which is currently growing on the slope behind space K-56 as observed by staff on July 7, 2017 ([Exhibit 6](#)).

On June 16, 2017, Commission staff also received a letter from Mr. Ron Vanderhoff, the Orange County Chapter Director of the California Native Plant Society ([See Exhibit 5](#)). According to his letter, Mr. Vanderhoff is of the opinion that the plants growing at this location, if shaded additionally, will “decline in health and have a high probability of being replaced by other vegetation types more tolerant of this condition. Although big-leaved crownbeard is relatively shade tolerant, even preferring some shade, and healthy populations often grow in the understory of other larger woody plants, specific plants and populations already established at a site and adjusted to those lighting conditions are unlikely to tolerate sudden additional shading.”

The Coastal Act requires the protection of ESHA.

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 such resources shall be allowed within such 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 such areas, and shall be compatible with the continuance of such habitat areas.

As stated, staff has determined through historic aerial photos and site visits that no significant biological resources are present on the mobile home space itself, as it was graded prior to the Coastal Act and kept largely free of native vegetation through use. However, to ensure the proposed development is sited and designed to prevent impacts to habitat on the slope behind the mobile home space, Commission staff requested the applicant provide an alternative site plan reconfiguring the location of structures on space K-56 to be closer to K street (and further away from existing vegetation on the slope), and ensure that exterior lighting would not negatively impact the surrounding ESHA and wildlife. On January 3, 2017, Commission staff received revised plans submitted by the applicant that relocated the proposed mobile home closer to K Street approximately 15.5 feet away from the base of the hillside, reduced the size of the proposed shed and relocated it from the retaining wall that abuts the vegetated slope to approximately 11 feet away from the base of the hillside, and reduced the width of the proposed deck from 5 feet to 3 feet to accommodate moving the mobile home closer to K Street. The applicant also proposed to reduce the amount of nighttime exterior lighting by utilizing a 25-watt low illuminating bulb that is proposed to be directed toward the home, away from the hillside, and controlled by a motion sensor.

In light of Ms. Elia's and Mr. Vanderhoff's concerns regarding possible negative impacts to vegetation caused by new shading from the proposed structure, the applicant submitted a shade analysis at Commission staff's request, which was received by the South Coast District Office on September 13, 2017 ([Exhibit 7](#)). The shade analysis (*Sun/Shade Analysis for Laguna Terrace, 30802 S. Coast Highway, Space K-56, Laguna Beach, Bruce Oliver of Suliso Inc.*) includes a graphic representation of how the proposed two story structure will potentially shade some of the surrounding landscape at nine different times during the course of a year, during the summer solstice, winter solstice, and spring and fall equinox. The results of the shade analysis demonstrate that while the proposed structure will create some minor shading of approximately 50 square feet of the slope at 3:00 pm for a relatively short duration of the day during the winter solstice and fall equinox within the lower 10 feet of the slope, the amount of shading is minimal, and will not significantly adversely impact existing surrounding vegetation.

Therefore, as conditioned, the Commission finds that the proposed project will be in conformity with Section 30240 of the Coastal Act.

D. HAZARDS

Section 30253 of the Coastal Act states in relevant part that 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.*

Approval of the proposed project will approve a two-story mobile home on an approved lot in a high fire hazard zone. Ms. Elia's emails also expressed concerns regarding the potential hazards associated with approving a two-story mobile home in this part of the canyon.

Authorized by the underlying Coastal Development Permit 5-13-471, the applicant maintains a 20-foot wide strip of land around the existing homes, between the homes and the restricted open space, which will provide some protection to the proposed structure that will help to mitigate the fire hazard, but will not completely eliminate the risk of fire resulting in damage to the development. Also, the Mobile Home Park is located within a steeply sided canyon where some flood damage and debris flows are possible during extreme weather. The park installed a variety of drainage and debris control improvements under CDP 5-95-086 that help address the risk to the existing park and the proposed development. Nonetheless, the risk associated with flooding and debris flow is not eliminated, though no further mitigation is identified or necessary to reduce that risk. Any development in this location involves some inherent risk, and therefore the standard waiver of liability condition was attached to the underlying Coastal Development Permit 5-13-471. The Commission also adds the standard waiver of liability condition to this coastal development permit as Special Condition 5.

E. LOCAL COASTAL PROGRAM

Coastal Act section 30604(a) states that, prior to certification of a local coastal program ("LCP"), a coastal development permit can only be issued upon a finding that the proposed development is in

conformity with Chapter 3 of the Act and that the permitted development will not prejudice the ability of the local government to prepare an LCP that is in conformity with Chapter 3.

The City of Laguna Beach Local Coastal Program was certified with suggested modifications, except for the areas of deferred certification, in July 1992. In February 1993, the Commission concurred with the Executive Director's determination that the suggested modification had been properly accepted and the City assumed permit issuing authority at that time.

The subject site is located within the Hobo Canyon area of deferred certification. Certification in this area was deferred due to inability to certify policies regarding development in sensitive habitat areas in conformity with the Chapter 3 policies of the Coastal Act. However, the proposed project will not result in any significant adverse impacts to sensitive habitat areas. Therefore the Commission finds that approval of this project, as conditioned, will not prejudice the City of Laguna Beach from certifying as part of the Local Coastal Program the areas of deferred certification that conforms with and is adequate to carry out the Chapter 3 policies of the Coastal Act.

F. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Section 13096 of Title 14 of the California Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect that the activity may have on the environment.

The City of Laguna Beach is the lead agency for purposes of CEQA compliance. As determined by the City, this project is categorically exempt from CEQA. As such, the City determined that the project is exempt for CEQA's requirements regarding consideration of mitigation measures and alternatives. The Commission, however, as a responsible agency complies with CEQA "by considering the EIR or negative declaration prepared by the Lead Agency and by reaching its own conclusions on whether and how to approve the project involved." (14 CCR § 15096(a).) On that basis, the Commission has conditioned the proposed project in order to ensure its consistency with Coastal Act requirements regarding sensitive habitat and hazards. **Special Condition 1** requires that prior to the issuance of the permit, the applicant shall submit proof that the underlying Coastal Development Permit No. 5-13-471 authorizing space K-56, has been issued. **Special Condition 2** requires landscaping to be non-invasive and drought tolerant, and **Special Condition 3** requires that the project conform with drainage and run-off control plans, and **Special Condition 4** ensures that future improvements to any structure on the space must receive a permit amendment or separate coastal development permit, and **Special Condition 5** imposes the standard waiver of liability associated with development in an inherent risky location. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect that the activity may have on the environment. Therefore, the Commission finds that the proposed project is consistent with the requirements of the Coastal Act and CEQA.

APPENDIX A - Substantive File Documents:

Coastal Development Permit No. 5-13-471.

Cite the studies in Section C, or eliminate this Appendix altogether