

CALIFORNIA COASTAL COMMISSION

South Coast District Office
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W10a

Staff: L. Roman – LB
Date: November 19, 2020

ADMINISTRATIVE PERMIT

Application No.: 5-19-1017

Applicant: Capistrano Shores Inc.

Agent: Sherman Stacey

Location: 1880 N. El Camino Real, San Clemente,
Orange County

Project Description: Construction of hardscape improvements including pedestrian sidewalk improvements, new 5-ft. 4 in. tall block wall with 6-ft. 6-in. tall entry columns to replace approximately 68-linear ft. of existing 6-ft. chain link fencing, two 3-ft. 6-in. tall monument signs with in-ground lighting at the entry point to the Capistrano Shores Mobilehome Park

EXECUTIVE DIRECTOR'S DETERMINATION

The findings for this determination, and for any special conditions, appear on subsequent pages.

NOTE: P.R.C. Section 30624 provides that this permit shall not become effective until it is reported to the Commission at its next meeting. If one-third or more of the appointed membership of the Commission so request, the application will be removed from the administrative calendar and set for public hearing at a subsequent Commission meeting. Our office will notify you if such removal occurs.

This permit will be reported to the Commission on December 9, 2020. PLEASE NOTE THAT THIS WILL BE A VIRTUAL MEETING. As a result of the COVID-19 emergency and the Governor's Executive Orders N-29-20 and N-33-20, this Coastal Commission meeting will occur virtually through video and teleconference. Please see the Coastal Commission's Virtual Hearing Procedures posted on the Coastal

Commission's webpage at www.coastal.ca.gov for details on the procedures of this hearing. If you would like to receive a paper copy of the Coastal Commission's Virtual Hearing Procedures, please call 415-904-5202.

IMPORTANT - Before you may proceed with development, the following must occur:

Pursuant to 14 Cal. Admin. Code Sections 13150(b) and 13158, you must sign the enclosed duplicate copy acknowledging the permit's receipt and accepting its contents, including all conditions, and return it to our office. Following the Commission's meeting, and once we have received the signed acknowledgement and evidence of compliance with all special conditions, we will send you a Notice of Administrative Permit Effectiveness.

BEFORE YOU CAN OBTAIN ANY LOCAL PERMITS AND PROCEED WITH DEVELOPMENT, YOU MUST HAVE RECEIVED BOTH YOUR ADMINISTRATIVE PERMIT AND THE NOTICE OF PERMIT EFFECTIVENESS FROM THIS OFFICE.

John Ainsworth
Executive Director

by: Liliana Roman
Coastal Program Analyst

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 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 term or condition will be resolved by the Executive Director or the Commission.

4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

SPECIAL CONDITIONS: See pages seven through twelve.

EXECUTIVE DIRECTOR'S DETERMINATION (continued):

The Executive Director hereby determines that the proposed development is a category of development, which, pursuant to PRC Section 30624, qualifies for approval by the Executive Director through the issuance of an Administrative Permit. Subject to Standard and Special Conditions as attached, said development is in conformity with the provisions of Chapter 3 of the Coastal Act of 1976 and will not have any significant impacts on the environment within the meaning of the California Environmental Quality Act. If located between the nearest public road and the sea, this development is in conformity with the public access and public recreation policies of Chapter 3.

FINDINGS FOR EXECUTIVE DIRECTOR'S DETERMINATION

A. PROJECT DESCRIPTION

The project site is the Capistrano Shores Mobile Home Park located at 1880 N. El Camino Real, San Clemente, Orange County (Exhibit 1). The site is located within the first public road and the sea and is designated as OS2 Privately Owned Open Space in the City of San Clemente certified Land Use Plan (LUP). The mobile home park is bordered by an undeveloped privately owned beach parcel to the north, a public municipal beach to the south, the Pacific Ocean is immediately adjacent to the west and the OCTA and AT & SFRR railroad tracks and N. El Camino Real (aka Pacific Coast Hwy) border the site to the east. The mobile home park is comprised of 90 individual mobile home spaces and an on-site management office on a perched sandy beach protected by a rock revetment. The mobile home park is configured in a straight line with all units facing the ocean, a rock revetment on the seaward side of the units and an access road on the inland side of the units. The nearest public beach access is at the North Beach access point immediately to the south of the site; vertical public access to the beach from the mobile home park is not available.

The proposed development is an operational improvement project consisting of pedestrian sidewalk improvements, new 5-ft. 4 in. tall block wall with 6-ft. 6-in. tall entry columns to replace approximately 68-linear ft. of existing 6-ft. chain link fencing, two 3-ft. 6-in. tall monument signs with in-ground lighting at the entry point to the Capistrano

Shores Mobilehome Park in an area owned by the Southern California Regional Rail Authority (SCRRA) aka, Metrolink and leased by the Park. Project plans are included as Exhibit 2.

The Capistrano Mobile Home Park is located on the beach. Due to the project's location near coastal waters, it is necessary to ensure that construction activities will be carried out in a manner that will not adversely affect recreation, water quality, or marine resources. The potential adverse impacts to water quality and marine resources include discharges of contaminated runoff and sedimentation during construction. The proposed work is inland of an existing rock revetment on a perched beach and inland of the mobile home park office. To avoid the possibility of adverse impacts to biological resources and address water quality concerns during construction, the applicant proposes to stage vehicles along the paved access road along the eastern property fence, implement construction best management practices (BMPs) for temporary sediment control, tracking controls, scheduling, and materials and waste management. Furthermore, **Special Condition #1** requires the applicant comply with additional BMPs. **Special Condition #2** also further reiterates requirements regarding equipment and material staging area(s) avoid impacts to public access, to beach areas and to sensitive habitat areas.

Additionally, due to the project's location along a perched sandy beach, the site may be subject to hazards from waves, storm waves, flooding and erosion. **Special Condition #3** requires the applicant assume the risks to the property that is the subject of this permit from such hazards in connection with this permitted development.

Currently there is no vertical public access to the beach from the subject mobile home park. The nearest available public access to the beach is immediately south of the project site at the municipal North Beach access point. During low tide, the public has lateral access from the North Beach access point along the wet sand beach between the surf and the rock revetment in front of the mobile park; however, often during high tide the waves come up to the rock revetment impeding lateral public access. Public access during construction is not anticipated to be adversely impacted as the project will take place along the mobile home park's private access road. No work is proposed seaward of the mobile home units.

The proposed entry improvements consisting of a 5-ft. 4 in. tall block wall that would replace approximately 68-linear ft. of existing 6-ft. chain link fencing, new 6-ft. 6-in. tall entry columns and two new 3-ft. 6-in. tall monument signs would not impede pedestrian or vehicular access to the mobile home park. No entry gate to only allow access to residents of the mobile home park is proposed. Thus, the proposed development will not have any new adverse impact on public access to the coast or to nearby recreational facilities. **Special Condition #5** requires the approval of this permit not constitute a waiver of any public rights that exist or may exist on the property and that the permittee shall not use this permit as evidence of a waiver of any public rights that may exist on the property.

Additionally, the proposed 5-ft. 4 in. tall block wall that would replace approximately 68-linear ft. of existing 6-ft. chain link fencing is along the entry area of the park (approximately 32' to the south of the vehicular and pedestrian entry point and 36' to the north) located immediately in front of the existing 2-story park office/manager's unit would not result in any new adverse visual impact. This existing pre-Coastal Act 2-story structure already restricts views of the ocean, just in this area of the mobile home park, as the proposed 5-ft. 4 in. tall block wall will be in front of this existing structure, its construction would not result in a new adverse visual impact. To ensure that the proposed development does not result in any adverse impact to public access or visual resources, the Commission imposes **Special Condition #4** informing the applicant that this permit is only for the described development and any future improvements shall require an amendment to this permit or shall require a new CDP.

Standard of Review

The City of San Clemente has a certified Land Use Plan but does not have a certified Local Coastal Program. Therefore, the Commission's standard of review for the proposed development is the Chapter 3 policies of the Coastal Act.

B. PUBLIC ACCESS

The proposed development will not affect the public's ability to gain access to, and/or to make use of, the coast and nearby recreational facilities. Therefore, as proposed the development conforms with Sections 30210 through 30214, Sections 30220 through 30224, and 30252 of the Coastal Act.

C. MARINE RESOURCES AND WATER QUALITY

The proposed development has a potential for a discharge of polluted runoff from the project site into coastal waters. The development, as proposed and as conditioned, incorporates design features to minimize the effect of construction and post construction activities on the marine environment. These design features include, but are not limited to, the appropriate management of equipment and construction materials, reducing runoff through the use of permeable surfaces, the use of non invasive drought tolerant vegetation to reduce and treat the runoff discharged from the site, and for the use of post construction best management practices to minimize the project's adverse impact on coastal waters. Therefore, the Commission finds that the proposed development, as conditioned, conforms with Sections 30230 and 30231 of the Coastal Act regarding the protection of water quality to promote the biological productivity of coastal waters and to protect human health.

D. DEVELOPMENT

As proposed, the development is located within an existing developed area and is compatible with the character and scale of the surrounding area. The project provides adequate parking based on the Commission's typically applied standards. Therefore,

the Commission finds that the development conforms with Sections 30250, 30251, and 30252 of the Coastal Act.

E. LOCAL COASTAL PROGRAM (LCP)

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 Land Use Plan ("LUP") for the City of San Clemente was effectively certified on May 11, 1988. The certified LUP was updated and certified by the Commission in March 1996, and again in August 2018. The version of the LUP last certified in 1996 continues to apply to the Capistrano Shores mobile home park community, which is the subject of the CDP. 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. As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act and with the 1996 certified Land Use Plan for the area. Approval of the project, as conditioned, will not prejudice the ability of the local government to prepare an LCP that is in conformity with the provisions of Chapter 3 of the Coastal Act.

F. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

As conditioned, there are no feasible alternatives or additional feasible mitigation measures available that would substantially lessen any significant adverse effect that the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

SPECIAL CONDITIONS

The permit is granted subject to the following special conditions:

1. Construction Responsibilities. By acceptance of this coastal development permit, the permittee agrees that the permitted development shall be conducted in a manner that protects water quality pursuant to the implementation of the following BMPs:

- (a) No demolition or construction materials, debris, or waste shall be placed or stored where it may enter sensitive habitat, receiving waters or a storm drain, or be subject to wave, wind, rain, or tidal erosion and dispersion.

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

- (n) Spill prevention and control measures shall be implemented to ensure the proper handling and storage of petroleum products and other construction materials. Measures shall include a designated fueling and vehicle maintenance area with appropriate berms and protection to prevent any spillage of gasoline or related petroleum products or contact with runoff. The area shall be located as far away from the receiving waters and storm drain inlets as possible.
- (o) Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) designed to prevent spillage and/or runoff of demolition or construction-related materials, and to contain sediment or contaminants associated with demolition or construction activity, shall be implemented prior to the on-set of such activity
- (p) All BMPs shall be maintained in a functional condition throughout the duration of construction activity.

2. Construction Staging Area. The permittee shall comply with the following construction staging area(s) restrictions to avoid impacts to public access, to beach areas or to sensitive habitat areas.

- (a) Construction equipment or activity shall not occur outside the staging area
- (b) Beach areas shall not be used as staging areas
- (c) Vegetated areas shall not be used as staging areas
- (d) The staging area for construction of the project shall not obstruct vertical or lateral access to the beach.

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

3. Assumption of Risk, Waiver of Liability and Indemnity Agreement. By acceptance of this permit, the applicant, on behalf of itself, and its successor and assigns, acknowledges and agrees (i) that the site may be subject to hazards from waves, storm waves, flooding 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; (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, expenses, and amounts paid in settlement arising from any injury or damage due to such hazards; and (v) to agree to include a provision in any subsequent sublease or assignment of the development authorized by this permit

requiring the sublessee or assignee to submit a written agreement to the Commission, for the review and approval of the Executive Director, incorporating all of the foregoing restrictions identified in (i) through (v).

4. **Future Improvements.** This permit is only for the development described in Coastal Development Permit No. 5-19-1017. Except as otherwise provided in Public Resources Code section 30610 and applicable regulations, any future development as defined in PRC section 30106, including, but not limited to, a change in the density or intensity of use of land, shall require an amendment to Permit No. 5-19-1017 from the Commission or shall require an additional coastal development permit from the Commission, unless the Executive Director determines no amendment or new CDP is legally required, or from the applicable certified local government.

5. **Public Rights.** The approval of this permit shall not constitute a waiver of any public rights that exist or may exist on the property. The permittee shall not use this permit as evidence of a waiver of any public rights that may exist on the property.

ACKNOWLEDGMENT OF PERMIT RECEIPT/ACCEPTANCE OF CONTENTS

I/We acknowledge that I/we have received a copy of this permit and have accepted its contents including all conditions.

Applicant's Signature

Date of Signing