

CALIFORNIA COASTAL COMMISSION

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STAFF REPORT: REGULAR CALENDAR

Application No.: 5-19-0997

Applicant: Hometown America, LLC; Laguna Terrace MHP

Agent: Scott Fears

Project Location: 30802 S. Coast Highway, Space K-56, Laguna Beach, Orange County.

Project Description: Install a 28-foot high, two-story, approximately 815 square foot 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 two-story manufactured home, and a 24 square foot storage shed, on a vacant 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 No. 5-13-471, which was approved by the Commission on July 14, 2016. The pad for the proposed mobile home was cleared prior to the passage of the Coastal Act, and the Commission previously approved grading and development of the pad (CDP No. 5-13-471) and anticipated that there would be a structure on the site in the future. The primary issues raised by the proposed project are protection of sensitive habitat and hazards associated with flood and fire.

At issue is whether the project is consistent with Section 30240(b) of the Coastal Act, which requires that development adjacent to environmentally sensitive habitat areas (“ESHA”) be compatible with the continuance of those habitat areas. Due to the physical site constraints of this location, the proposed mobile home would be placed approximately 15 feet from adjacent coastal sage scrub (CSS) habitat that supports the rare plant species, big-leaved crownbeard that grows along the entire cliff face above the site. The CSS also likely supports coastal California gnatcatchers that are known to inhabit the area and breed, nest, and forage in CSS. They favor CSS dominated by California sagebrush, California buckwheat, and/or California sunflower and California sagebrush is very abundant on the slope above space K-56. Because the pad spans only 62 feet between the hillside and the road, the placement of any structure would not conform to a 100-foot or even a 50-foot buffer for protecting ESHA. However, in this case the natural topography and the existing retaining wall provide some separation between the site and the adjacent habitat. Because the CSS habitat, including the crownbeard occupies the face of the cliff well above the site pad elevation, it is less likely to be impacted by typical anthropogenic activities, such as noise and artificial lighting compared to sensitive habitat at grade level consistent with the proposed project. For example, the application of herbicides around the structure would not migrate into the habitat area, because the habitat is on a slope above the development and is separated by an approximately 4-foot high retaining wall. Further, the previous Commission action (CDP No. 5-13-471) required recordation of an open space and conservation easement over the remaining 22.4 acres of open space to ensure the protection of the sensitive habitat surrounding the mobile home park.

In order to address the development’s proximity to the adjacent habitat and limit any potential adverse environmental impacts of the development, the project has been conditioned to utilize dark-sky lighting, install bird-safe glass, maintain native and drought-tolerant landscaping, avoid using pesticides and herbicides, and conform to other conditions of approval, explained below.

Staff is recommending **APPROVAL** of the coastal development permit with **six (6) special conditions** requiring: (1) bird-strike prevention measures for wherever glass is proposed, (2) non-invasive and drought tolerant landscaping; (3) conformity with drainage and run-off control plans; (4) future improvements shall require a separate coastal development permit; (5) assumption of risk and waiver of liability with the associated development, and (6) five years of monitoring for the existing Big-leaved crownbeard behind K-56.

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EXHIBITS

- Exhibit 1 – Vicinity Map and Project Location
- Exhibit 2 – Mobilehome Park Plan Authorizing Space K56
- Exhibit 3 – Mobile Home Site Plan

- Exhibit 4 – Mobile Home Elevations
- Exhibit 5 – Site Photos
- Exhibit 6 – Shade Analysis
- Exhibit 7 – Habitat Surveys

- Exhibit 8 – Emails of Concern

I. MOTION AND RESOLUTION

Motion:

I move that the Commission approve Coastal Development Permit No. 5-19-0997 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 Commissioners present.

Resolution:

The Commission hereby approves the Coastal Development Permit for the proposed project 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. 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 feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

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

III. SPECIAL CONDITIONS

1. Bird Strike Prevention.

A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall submit final revised plans showing the design and materials of windows, 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. Windows, fences, screen walls and gates subject to this permit, if proposed, shall use materials designed to minimize bird-strikes with the windows, fencing, or gates. 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.

2. **Landscaping – Drought Tolerant, Non-Invasive Plants.** 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, the California Invasive Plant Council (formerly the California Exotic Pest Plant Council 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.

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. 5-19-0997. 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 Coastal Development Permit No. 5-19-0997. 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 Code Section 30610(d) and Title 14 California Code of Regulations Sections 13252(a)-(b), shall require an amendment to Permit No. 5-19-0997 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 storms, fire, flooding, landslide, erosion, earth movement, 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.
- 6. Big-Leaved Crownbeard Monitoring.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT the applicant must submit a plan to monitor the big-leaved crownbeard that occupies the coastal sage scrub habitat on the slope above the project pad site, for review and approval by the Executive Director. The objective of the monitoring is to document the status of the crownbeard, prior to placing the mobile home on the site to establish a baseline, and for five years following placement of the mobile home on the site. The monitoring should consist of a qualitative assessment of the health of the crownbeard population and a quantitative survey (e.g. transects, quadrats) designed to estimate the percent cover of crownbeard conducted in May each year. The results of the monitoring must be submitted to the Executive Director by December each year following the May monitoring.

IV. FINDINGS AND DECLARATIONS

A. Project Description and Location

The proposed development is the installation of a 28-foot high, two-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 ([Exhibit 4](#)). 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 and issued on May 23, 2018. While Coastal Development Permit No. 5-13-471 authorizes the lot (Space K-56), the applicant is required to get a separate CDP for development on Space K-56. In 2016, the applicant sought a coastal development permit (Coastal Development Permit No. 5-16-0997) for the same project on Space K-56, but at that time the underlying Coastal Development Permit No. 5-13-471 had not yet been issued. The applicant had not yet conducted a site-specific habitat survey for the subject lot, so the applicant withdrew that application in September 2017. The primary issues raised by the proposed project are protection of sensitive habitat and risks of 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 an approximately 48-acre partly developed mobile home park located at 30802 South Coast Highway, and a partly developed a lot with a private parking lot located at 30782 South Coast Highway. 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 to very steep slopes, 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 coastal sage scrub, southern maritime chaparral, ceanothus chaparral, and toyon-sumac chaparral, which is identified in the City's LCP as high value habitat. In past Commission actions (e.g. Coastal Development Permit No. 5-12-121), these habitats have been determined by the Commission to be environmentally sensitive habitat area ("ESHA"). Approximately 22 acres of the site are open space protected by an Open Space Conservation easement.

The Coastal Commission approved the underlying Coastal Development Permit No. 5-13-471 in July 2016, which approved three mobile home spaces (including K-56), and formalized and delineated boundaries of different areas within the Laguna Terrace Mobile Home Park. These areas included 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 serves

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 required 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 ([Exhibit 2](#)). Finally, the Commission also approved the restoration of approximately one acre of habitat area on the adjacent property known locally as “Driftwood,” which was initiated in November 2019 pursuant to the Laguna Beach Terrace Habitat Restoration Plan, and is currently underway.

B. Standard of Review

The subject site is located within the City of Laguna Beach. Laguna Beach has a certified Local Coastal Program (“LCP”). 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. Nos. 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

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.

Staff has determined through historic aerial photos and site visits that no significant biological resources are present on the graded pad of Space K-56, as it was graded prior to the Coastal Act and kept largely free of native vegetation through use. Historically, 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 in the vegetated hillsides and slopes surrounding Space K-56.

The primary issue raised by the proposed development is whether 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 Section 30240 of the Coastal Act.

Environmentally sensitive areas are defined in Coastal Act Section 30107.5:

“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 and that support a myriad of sensitive plant and animals species. 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, California sunflower, orange bush monkey flower, and several species of sage. Southern maritime chaparral is a very rare habitat type that 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

Several biological reports have been prepared in conjunction with past proposals at the subject site which documents 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

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

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 crownbeard, 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 California, Mexico. The U.S. Fish and Wildlife Service reports that urbanization and agricultural conversion have caused the destruction of an estimated 82 to 93 percent of southern maritime chaparral and an estimated 85 to 90 percent of coastal sage scrub vegetation in California. As evidenced by these figures, southern maritime chaparral and coastal sage scrub communities are rare and easily degraded by human activities. Consequently, coastal sage scrub and maritime chaparral on the hillside surrounding the subject site meet the definition of ESHA under the Coastal Act.

For this specific project, the applicant prepared a biological assessment focused on special status plant species potentially present on the adjacent slopes surrounding the subject space on July 19, 2018 ([Exhibit 7](#)). This assessment was updated to reflect current site conditions as of August 26, 2019 ([Exhibit 7](#)). According to these surveys, the state and federally listed species big-leaved crownbeard (*Verbesina dissita*) was observed in large clumps along the east-facing slope directly above the vacant lot, approximately 12 to 15 feet behind the proposed structure as shown in Exhibit 3. Dr. Jonna Engel, Senior Staff Ecologist, has confirmed that the adjacent hillside and open space are ESHA. While most of the open space is ESHA and supports many different habitats, the crownbeard that grows along the cliff-face just above this site and avian species including the federally threatened coastal California gnatcatcher which is known to occupy Hobo Canyon. Section 30240 of the Coastal Act requires the protection of ESHA.

It is important to remember that the Commission already approved the grading of the pad to support the mobile home, and determined at that time that the development did not have a direct impact on ESHA. Similarly, the placement of the mobile home on the

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).

already-developed pad will not be within an area that contains ESHA. Section 30240(a) requires that only uses dependent on the resource be allowed within ESHA. Residential development is not use-dependent, however it is not proposed to occur directly within the habitat. The placement of the mobile home will occur adjacent to the habitat. Section 30240(b) requires that development adjacent to ESHA be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of those habitat areas. The proposed project must be consistent with Section 30240(b).

At the request of Commission staff, the applicant provided an alternative site plan reconfiguring the location of structures on Space K-56 to ensure that the proposed development would be sited and designed to prevent impacts to habitat on the slope behind the mobile home space. The revised plans relocate the mobile home approximately 15.5 feet closer to K Street (farther from existing vegetation on the slope), and reduce the size of the proposed shed, and relocate it from along the retaining wall that abuts the vegetated slope to approximately 11 feet away from the base of the hillside. Maximizing the space between the proposed development and the adjacent habitat provides the maximum amount of buffer space possible for this particular site.

Because the crownbeard grows along a sheer cliff, there are concerns that a 2-story structure might shade the adjacent hillside and impact the sensitive habitat. To address possible negative impacts to vegetation caused by new shading from the proposed structure, the applicant submitted a shade analysis at Commission staff's request in 2017 ([Exhibit 4](#)). 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 ([Exhibit 6](#)). 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.

In addition, the applicant submitted letters of support for the project written by Fred M. Roberts, consulting botanist, and Sandra Leatherman, principal biologist for the Laguna Terrace Restoration project. The letters conclude that based on their experience with big-leaved crownbeard, which is known to grow in the understory of other shrubs on shaded slopes, the plants would be shaded for such a limited amount of time that "indirect impacts are not anticipated" ([Exhibit 5](#)). Dr. Jonna Engel has reviewed the project and agrees with this conclusion.

The Commission typically requires an adequate buffer between proposed development and ESHA. A buffer is not itself a part of the ESHA, but is a barrier, "safe zone," or bordering strip of natural habitat or land between ESHA and development or human related disturbance (e.g. noise, artificial lighting; hazards of herbicides, pesticides and other pollutants; shading from buildings, non-native or invasive landscaping activities,

and domestic pets). Buffers provide the necessary horizontal spatial separation to preserve the integrity and natural function of individual species and habitats and protect biological productivity. Spatial separation minimizes the adverse effects of human use and urban development on wildlife habitat value through physical partitioning. Buffers may also provide ecological functions essential for species in the ESHA. The required width for buffers varies depending on the type of ESHA and on the type of development, location and topography of the site, and the sensitivity of the resources to the particular kind of disturbance. Because of the position of the coastal sage scrub and crownbeard along the face of the cliff, it is less likely to be impacted by typical anthropogenic activities, compared to sensitive habitat at a grade consistent with the proposed project. For example, the application of herbicides around the structure would not migrate into the habitat area, because the habitat is on the slope above the development and is separated from the hillside by an approximately 4-foot-high retaining wall ([Exhibit 5](#)).

While Dr. Engel has reviewed the project and agrees with the habitat assessment, Dr. Engel has not commented on an appropriate buffer distance in this case. It should be noted that in a recent nearby Commission action (791 Barracuda Way), Dr. Engel recommended a 100-foot buffer space between human development and open space habitat with existing coastal sage scrub and southern maritime chaparral that support coastal California gnatcatchers. The findings in that staff report (5-19-0909) indicate that it was possible for that proposed development to conform to the recommended 100-foot buffer, and stated that “the proposed encroachments are not consistent with Section 30240 of the Coastal Act and it has not been demonstrated that the 100-foot buffer is not possible due to significant site-specific constraints.” In contrast, in this particular case, due to the physical site constraints, the maximum possible buffer is approximately 15 feet. Because the width of the pad between the hillside and the road is approximately 62 feet, the placement of any structure would not be able to conform to a 100-foot, or even a 50-foot buffer. Also, in this case the natural topography and the existing retaining wall provide some separation of the site from the adjacent habitat. Again, it is important to remember that the pad was cleared prior to the passage of the Coastal Act, and that the Commission previously approved grading and development of the pad (5-13-471) and anticipated that there would be a structure on the site in the future. The underlying permit that formalized Space K-56 and several other lots within the mobile home park (CDP 5-13-471) contemplated that the new mobile homes constructed to occupy those spaces would be in very close proximity to existing ESHA given the constraints of the site, and would potentially encroach into an ESHA buffer normally required by the Commission. But when analyzed in its entirety, CDP 5-13-471’s requirements that 22.4 acres be designated as open space and one acre of habitat offsite located in the “Driftwood” habitat area be restored were found to sufficiently mitigate for these potential impacts and adequately protect the habitat while allowing for vested development to occur in this residential community.

Although Commission staff finds that the project will not significantly degrade the existing habitat behind K-56, **Special Condition 6** of this permit requires the applicant to monitor the Big-leaved crownbeard annually for five years to determine whether any decline in percentage of coverage of Big-leaved crownbeard results from the development. Thus, although the proposed residence on K-56 encroaches into the

ESHA buffer, Commission staff finds that as conditioned, it has been sited and designed to prevent impacts which would significantly degrade the habitat and is compatible with the continuance of such habitat areas.

The applicant is also proposing to reduce the amount of nighttime exterior lighting of hillside habitat by utilizing a 25-watt low illuminating bulb that would be directed toward the home, away from the hillside, and controlled by a motion sensor. As conditioned, the applicant will utilize dark-sky lighting. Additionally, as conditioned, the applicants are prohibited from using herbicides and pesticides.

In January and February 2020, staff received several emails and phone calls from Ms. Penny Elia regarding the potential impacts that the proposed development could have on sensitive habitat surrounding the project. Specifically, Ms. Elia is concerned that (1) 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 (mainly the big-leaved crownbeard); (2) the proposed third floor deck could potentially impact wildlife by encouraging human activities to occur immediately adjacent to ESHA; and (3) fuel modification that would be conducted to protect the new structure would harm native vegetation.

The applicants have not proposed, nor does this CDP authorize, fuel modification work within the adjacent habitat. Fuel modification can have significant adverse impacts on sensitive habitat. Because of maintenance, thinning, or clearing, fuel modification is not typically considered to be compatible with protection of ESHA. In areas where fuel modification is necessary, the Commission requires an ESHA buffer that is separate and distinct from fuel modification zones, *unless* it is determined infeasible due to pre-existing development layout and site constraints, and unless it would deny a property owner reasonable use of an existing legal building site. As discussed below, some limited fuel modification was anticipated by the previous permit.

With regard to the third-floor roof deck, Commission staff discussed concerns regarding potential impacts it could have on wildlife located immediately adjacent to it. In order to accommodate this concern, the applicant removed the proposed third floor roof deck from the plans. Therefore, as conditioned, the Commission finds that the proposed project will be in conformity with Section 30240(a) of the Coastal Act, and as conditioned, is consistent with Section 30240(b) 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. The proximity of the proposed structure falls within the zone that the City of Laguna Beach Fire Department recommends for fuel modification, typically removal or thinning of native vegetation.

Anticipated by the underlying Coastal Development Permit No. 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 No. 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 No. 5-13-471. The Commission also adds the standard waiver of liability condition to this coastal development permit as **Special Condition 5**. As conditioned, the project is consistent with Section 30253 of the Coastal Act.

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 LCP 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 LCP the areas of deferred certification that conform with and are adequate to carry out the Chapter 3 policies of the Coastal Act.

F. California Environmental Quality Act

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, as a responsible agency, must comply 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 bird-safe glass be utilized where glass is proposed. **Special Condition 2 requires** landscaping to be non-invasive and drought tolerant. **Special Condition 3** requires that the project conform with drainage and run-off control plans. **Special Condition 4** ensures that future improvements to any structure on the space must receive a permit amendment or separate coastal development permit. **Special Condition 5** imposes the standard waiver of liability associated with development in an inherently risky location. Finally, **Special Condition 6** requires the applicant submit annual monitoring reports for Big-leaved crownbeard. 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.