

CALIFORNIA COASTAL COMMISSION

SOUTH COAST DISTRICT OFFICE
301 E. OCEAN BLVD, SUITE 300
LONG BEACH, CA 90802-4325
VOICE (562) 590-5071
FAX (562) 590-5084



F10d

ADDENDUM

November 16, 2021

TO: Coastal Commissioners and Interested Parties

FROM: South Coast District Staff

SUBJECT: **ADDENDUM TO ITEM F10d, APPLICATION NO. 5-20-0362 (Fakhoury-Sawabini Private Trust 021817) FOR THE COMMISSION MEETING OF FRIDAY, NOVEMBER 19, 2021.**

I. RESPONSE TO CORRESPONDENCE

Since the publication of the staff report, the Commission has received a comment letter from the applicant in opposition to the staff recommendation for the above-referenced CDP application. The comment letter is included within the Public Correspondence for this item. The comment letter and staff's response are hereby added to the proposed findings included in the November 3, 2021 staff report. The comment letter and staff's responses are summarized below:

1) Applicant asserts there is no legal, reasonable or rational basis to treat this applicant differently than any of the previous applicants within Capistrano Shores Mobile Home Park. The applicant has provided, in Exhibit 8 in the letter, a list of 24 projects either approved by the Commission and/or recommended for approval by Staff with structure heights of at least 16'. The applicant asserts that,

"...while it is understood that certain public viewsheds impact areas within the Park differently, the issues surrounding each space in the Park are the same. Thus, past Commission action and Staff recommendations have set precedent as to how these issues have been analyzed and ruled on within the Park."

Staff disagrees with this assertion. Because certain public viewsheds impact areas within the Park differently, the Commission must make case-specific findings in evaluating each CDP application within the Park to ensure project consistency with the Coastal Act. In this case, the November 3, 2021 report specifies that Unit 3 is located in the southernmost portion of the Park, which, unlike much of the Park (including Unit 6), is visible from East Avenida Pico, one of the key protected view corridors to the ocean specified in the San Clemente LUP Figure 6-2-B. Therefore, staff analyzed public coastal views available from

this road, among other viewpoints, and concluded that the project would have a significant view impact at its proposed height of 16'.

Additionally, the applicant asserts that none of the previous applicants within the Park were required to submit a cumulative view analysis for mobile homes on spaces they did not own. The Applicant believes staff's request for a cumulative visual analysis is unwarranted, places an undue burden, and treats him differently than any other applicant who has ever come before this Commission for projects within Park. Staff would note that, as stated in the November 3, 2021 report, the potential view impact generated by this project is of particular concern given the prominence in this view corridor from East Avenida Pico. Given that staff must analyze each CDP application within the Park on a case-specific basis, staff believe a cumulative view impact study is warranted for the southernmost units, which are located within a key view corridor specified in the LUP Figure 6-2-B. If each of the handful of units at the southernmost end of the park were elevated to a height of 16' there would be significant visual resource impacts. Commission staff believes requiring a cumulative analysis is warranted in order for the Commission to be able to properly assess permitting this project.

2) Applicant implies that staff's entire viewshed analysis is invalidated because during the review process for the application, staff shared photos with the applicant that were zoomed in. Staff used the zoom feature as one tool in its cursory review of the project. The applicant communicated with staff that they did not feel that the zoomed in photos were an accurate depiction of the project impacts. Staff concurs with the applicant that use of zoomed in photos for the final view impact determination is not accurate. Therefore, none of the zoomed in photos were referenced in the staff report or included as exhibits. The final view impact analysis relied exclusively on images provided by the applicant, as well as images that have not been contested by the applicant.

3) Applicant asserts that, while the image in the Staff Report depicting the proposed mobile home unit from the viewpoint at East Avenida Pico (Exhibit 4, p. 15 of 21) was provided by the Applicant, it is not indicative of the actual view. East Avenida Pico is a four-lane road which contains a non-accessible pedestrian center median separating opposing directions of the road. The applicant asserts that the image provided by the applicant depicts the viewpoint from the center median, which is not an area suitable for pedestrian travel. Applicant continued to assert that the actual viewpoint from East Avenida Pico would be from the two lanes that traverses towards the ocean and attached an image from Google Earth's Street View at approximately the same location as the public view corridor at E. Avenida Pico as shown in Figure 6-2-B (Exhibit 9 of the applicant's letter). The applicant claimed this exhibit evidences that the proposed space is not visible from that specific location and a 16'-0" structure would not significantly obstruct the public view.

Staff disagrees with applicant's assertion. Even if Unit 3 is not visible from the exact location specified in Figure 6-2-B of the LUP, the figure broadly provides for protection of the view corridor available from E. Avenida Pico. Unit 3, as well as the southernmost units within the Park, is clearly visible as one travels down E. Avenida Pico, as the road gets closer to the ocean and eventually meets N. El Camino Real. Visual analysis from this key

corridor should incorporate all public views available to a person traveling seaward along this road.

4) Applicant asserts that staff has gone out of their way on this application to manufacturer and/or locate vantage points to substantiate their significant view blockage claims. Staff does not agree with the assertion. The Commission has consistently found that every project within the Park must be analyzed on a case-specific basis. Staff has made a good-faith effort to analyze the potential view impacts of the project both on an individual and cumulative basis. Staff has carefully analyzed the view simulation provided by the applicant, conducted a site visit, and concluded that the proposed 16' height design is inconsistent with visual resource policies of the Coastal Act.

5) Applicant asserts that the proposed flat roof design would not result in additional view impacts compared to a pitched roof design. Staff notes that the applicant did not provide any visual simulations or analysis to show that the proposed flat roof design would not result in additional view impacts as compared to a pitched roof design prior to publication of this staff report. The proposed project would be the first project in the park to raise the roof height and implement an entirely flat roof. In addition, the proposed design has only about 1/6 of the structure facing the ocean with a flat roof lower than 16' and the remainder has a flat roof at 16'. Moreover, the applicant's analysis in Exhibit 10 of the letter compares the proposed design with a pitched roof design at 16' development height. The November 3, 2021 report has stated that, based on the submitted view simulations by the applicant, even at the development height of 16' with a pitched roof design, there is a significant blue water view obstruction by the structure's elevation. Therefore, regardless of whether the proposal is a flat roof or pitched roof at its proposed height of 16', staff finds the proposal to be inconsistent with Section 30251 of the Coastal Act, which provides for protection of scenic and visual qualities of coastal areas and requires development to be visually compatible with the character of surrounding areas.

6) The applicant requests that the Commission include 24 previous CDP applications in the Capistrano Shores Mobile Home Park (list provided in Exhibit 8 of the letter) into the substantive record of this application. Staff once again notes that the Commission must make case-specific analysis on each of the proposals within the Park for consistency with the policies of the Coastal Act. Regardless, the applicant would like staff to include mention of these applications due to their relevance to the Commission's decision-making and any possible subsequent litigation regarding this unit. Staff notes that nine of the applicant's listed 24 CDP applications have already been addressed in the November 3, 2021 staff report,¹ 11 were not acted on by the Commission² and therefore do not have a precedential value, and three applications with approved development heights greater than 16' on the northern end of the Park³ are not relevant to this project due to their remote location at the opposite end of the Park, which has different coastal vantage points. The remaining one CDP application of the 24 (CDP

¹ CDP Nos. 5-19-1093 (Unit 6), 5-14-1582 (Unit 12), 5-16-0624 (Unit 22), 5-19-1178 (Unit 32), 5-16-0265 (Unit 36), 5-20-0432 (Unit 54), 5-18-0325 (Unit 67), 5-18-0326 (Unit 68), and 5-20-0493 (Unit 70).

² CDP Nos. 5-12-297 (Unit 13), 5-12-294 (Unit 17), 5-12-128 (Unit 18), 5-13-038 (Unit 23), 5-12-126 (Unit 35), 5-15-0982 (Unit 40), 5-13-037 (Unit 46), 5-12-296 (Unit 48), 5-15-0978 (Unit 57), 5-12-127 (Unit 69), and 5-12-295 (Unit 75).

³ CDP Nos. 5-09-179-A2 (Unit 80), 5-09-180-A1 (Unit 81), and 5-10-180-A1 (Unit 90)

No. 5-11-033; Unit 31; Approved by the Commission on 7/14/2016) is located towards the southernmost portion of the center of the Park and requested an after-the-fact approval for replacement of an approximately 12 ft. high, 1,406 sq. ft. one-story mobile home with an approximately 21.9 ft. high, 2,669 sq. ft. two-story mobile/manufactured home. The June 23, 2016 staff report found that Unit 31's proposed increase in bulk and height (an increase of 10 ft. in height and 1,263 sq. ft. in floor area) would result in significant obstruction of highly scenic coastal views from the public trails, and the Commission approved the project with a Special Condition requiring revised final plans for a maximum roof height of 16'.

Additionally, staff informed the applicant that staff does not prepare staff reports with analysis and findings it deems unnecessary. While staff may discuss other CDP applications or Commission decisions in drafting a report, it is not staff's practice to include findings simply because an applicant requested such inclusion. Staff attempted to clarify the request made by the applicant by asking the applicant if he wanted staff to make the prior approval files available for his review or if he wanted to submit a Public Records Act request for the files. However, the applicant did not indicate that he wanted to review the files in order to include relevant portions of the files in a comment letter, which would be the typical practice. Staff also clarified to the applicant that the administrative record for a project is only prepared following litigation and that during preparation of a staff report only the substantive file, which includes materials referenced in preparation of the report, is prepared.