

CALIFORNIA COASTAL COMMISSION

South Coast District Office
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Long Beach, CA 90802-4302
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W19b

5-20-0493 (MC Investments)

June 9, 2021

CORRESPONDENCE



February 5, 2021

To: Stephen Padilla, Chair, California Coastal Commission
CC: John Ainsworth, Executive Director, California Coastal Commission
Christine Pereira, Coastal Program Analyst, California Coastal Commission
Karl Schwing, District Director, California Coastal Commission

Re: Item W7a, Application No. 5-20-0432 – Capistrano Shores Mobile Home Park

Dear Chair Padilla,

The Surfrider Foundation South Orange County Chapter remains concerned about new development at Capistrano Shores Mobile Home Park (Capistrano Shores). At the Coastal Commission's May 2021 meeting, Surfrider objected to approval of a substantially similar new development at Capistrano Shores, Unit 54. Previous letters dated March 7 and February 5 on Unit 54 are attached to this letter.

Surfrider continues to object to new development at Capistrano Shores as any new structures will rely on and prolong the need for the existing seawall, thereby extending its life. The intention of Coastal Act section 30253 is to phase out reliance on shoreline armoring and locate new development out of harms' way. This new development will be in direct conflict with the letter and intention of the Coastal Act.

There is significant precedent that new development is not authorized to rely on existing shoreline armoring but also that they must remove the existing armoring in order to build new development. The Commission has required the removal of shoreline armoring once the existing or a new structure is no longer entitled to the protection.

In 2018, as part of an enforcement decision, the Coastal Commission required the owner of the Katz Residence in Laguna Beach (CCC-18-CD-02) to remove an unpermitted seawall that was placed to protect a home that had recently undergone a major remodel. Additionally, in July 2018, the Coastal Commission required the removal of redeveloped structures at 1307 West Cliff Drive so as to not rely on the existing seawall (A-3-STC-16-0016). Other similar situations exist. In Encinitas, the Coastal Commission requires the setback calculation to factor in sea level rise (A-6-ENC-16-0060). As such, any new development at this location must have a sufficient setback as described and remove the existing shoreline armoring adjacent to the property prior to construction.



The result of all these remodeled and new homes at Capistrano Shores with inadequate setbacks is the perpetuation of shoreline armoring beyond what the Coastal Act originally intended.

San Clemente's visitors and residents not fortunate enough to live directly on the beach deserve to have the beach in San Clemente preserved and restored as much as possible. Homes, mobile or not, should not have been placed directly on the beach in San Clemente. It's time to phase out this pattern of development that has eroded much of California's beaches over the past decades and threatens to completely drown them as sea levels rise. This would be the third new development approved since 2019 that would rely on the existing shoreline at Capistrano Shores. **Please stop this destructive pattern of development in its tracks and deny the proposed development today.**

Sincerely,

Mandy Sackett
California Policy Coordinator
Surfrider Foundation



March 7, 2021

To: Stephen Padilla, Chair, California Coastal Commission
CC: John Ainsworth, Executive Director, California Coastal Commission
Christine Pereira, Coastal Program Analyst, California Coastal Commission
Karl Schwing, District Director, California Coastal Commission

Re: Item W12c, Application No. 5-20-0432 – Capistrano Shores Mobile Home Park

Dear Chair Padilla,

Surfrider Foundation South Orange County requests denial of the proposed 2,447 sq. ft. mobile home at Capistrano Shore Mobile Home Park (Capistrano Shores) due to inconsistency with Coastal Act sections 30253 and 30235. The project consists of new development that would rely on shoreline armoring without mitigating the effects on sand supply, lateral public access and recreational opportunities. The homes at Capistrano Shores also significantly impact public views of the coast from the Pacific Coast Highway and nearby public coastal trails.

As new homes are constructed and reconstructed on El Camino Real at Capistrano Shores, they will perpetuate reliance on the existing, pre-Coastal Act seawall – a direct conflict with section 30253 of the Coastal Act. Multi-million dollar mobilehomes are the type of over-development that increase the need for coastal armoring—which ultimately exacerbates erosion and reduces the width of the beach. Surfrider detailed these points in the attached letter dated February 5, 2021 to the California Coastal Commission.

Even if the structure is considered mobile, it should not be given leniency under 30253's requirement that new development shall not rely on shoreline armoring. While the applicant claims the homes could be disassembled in a matter of days if necessary and the staff recommendation includes a special condition to address potential for removal if a government entity deems necessary – there is no clear mechanism or specific trigger criteria outlined for when and how that might take place. Further, court decision *Capistrano Shores Property LLC v. California Coastal Commission* specifically prohibited a waiver or rights to future shoreline armoring as a permit condition at Capistrano Shores, instead only allowing weaker language that the applicant acknowledge that, "the Commission may deny [requests for shoreline armoring] if future requests for such expansions or alterations are inconsistent with the lawful application of the Coastal Act." It is unclear whether this language will be defensible or effectively serve as a waiver of rights – likely not given that the previous court decision prohibited a waiver of rights. This is all the



more reason to prohibit further maladaptive development at Capistrano Shores Mobile Home Park.

Additionally, Surfrider recently filed an amicus brief to join the Coastal Commission in court case *Linovitz Capo Shores, LLC, V. California Coastal Commission*. On July 14, 2016, the Commission heard more than a dozen permit applicants for after-the-fact approval of second-story construction on the mobilehomes at Capistrano Shores Mobile Home Park. This case began after homeowners replaced their single-story mobilehomes with two-story mobilehomes without first obtaining the necessary coastal development permits. Despite several notices of violation from the Coastal Commission, the mobile homeowners in this case began and finished construction before ever seeking permits. Once the issue was finally before the Coastal Commission, the homeowners sought to end-run the regulations by withdrawing their permit applications and then trying to invoke the Permit Streamlining Act through litigation. At the hearing, Commissioners had imposed height restrictions on the homes due to visual impacts. Now, on appeal, they argue that their applications should be “deemed” approved due to time limits under the Permit Streamlining Act.

Their size and oceanfront location mean that these luxury mobilehomes are pricier than typical mobilehomes—single-story mobilehomes in the park are listed for sale at over \$2 million, and multistory mobilehomes sell for \$7 million. These multi-million dollar mobilehomes will undeniably increase the need for coastal armoring—which ultimately exacerbates erosion and reduces the width of the beach. Such extensive redevelopment at Capistrano Shores, if permitted, will undeniably lead to the desire to redevelop armoring as it ages and increase it as sea levels rise. **With the fate of these homes looming, the Coastal Commission must reevaluate whether redevelopment at Capistrano Shores is warranted at all.**

San Clemente’s visitors and residents not fortunate enough to live directly on the beach deserve to have the beach in San Clemente preserved and restored as much as possible. Homes, mobile or not, should not have been placed directly on the beach in San Clemente. It’s time to phase out this shorefront development that has eroded much of California’s beaches over the past decades and threatens to completely drown them as sea levels rise. **Please stop this destructive pattern of development in its tracks and deny the proposed development today.**

Sincerely,

Henry Chou, Chairman
South Orange County Chapter
Surfrider Foundation

Mandy Sackett
California Policy Coordinator
Surfrider Foundation



February 5, 2021

To: Stephen Padilla, Chair, California Coastal Commission
CC: John Ainsworth, Executive Director, California Coastal Commission
Christine Pereira, Coastal Program Analyst, California Coastal Commission
Karl Schwing, District Director, California Coastal Commission

Re: Item W7a, Application No. 5-20-0432 – Capistrano Shores Mobile Home Park

Dear Chair Padilla,

The Surfrider Foundation South Orange County Chapter is concerned about the pending coastal development permit (CDP) at Capistrano Shores Mobile Home Park (Capistrano Shores). **Surfrider hereby requests that this item be pulled from the consent calendar.** The proposed 2,447 sq. ft. mobile home at Capistrano Shore is inconsistent with Coastal Act sections 30253 and 30235. The project consists of new development that would rely on shoreline armoring without mitigating the effects on sand supply, lateral public access and recreational opportunities. As new homes are constructed and reconstructed on El Camino Real at Capistrano Shores, they will perpetuate reliance on the existing, pre-Coastal Act seawall – a direct conflict with section 30253 of the Coastal Act.

New Development Would Rely on Shoreline Armoring

According to the staff report, the applicant's Coastal Hazard and Wave Runup Study states that, "the site has the potential to be flooded on occasion from waves breaking on the revetment, overtopping the bulkhead and reaching the mobile home unit." New development at this location will rely on and prolong the need for the seawall, thereby extending the life of the seawall. The intention of Coastal Act section 30253 is to phase out reliance on shoreline armoring and locate new development out of harms' way. This new development will be in direct conflict with the letter and intention of the Coastal Act.

Already, the beach is highly eroded and impassible on all but the lowest of tides during much of the year due to effects from the existing seawall. Waves frequently overtop the existing seawall. Even if there was not a conflict with 30253, this new home would be reliant upon the seawall without any mitigation fee to offset the sand supply, public access and recreational impacts, as is required in most scenarios where development would rely on shoreline armoring. Section 30235 requires that the impact from shoreline armoring be offset.

Mobile Misnomer



The “mobile” nature of the proposed home does not mean that this structure can be easily towed away and therefore somehow exempt from Coastal Act section 30253. While it may be constructed with lighter weight building materials, it is not mobile in that it could easily be moved out of harms’ way during a storm or high tide event. Regardless, the building materials will not negate the fact that this structure would perpetuate reliance on shoreline armoring.

The staff report notes that the permittee must seek a CDP to remove to the home, “if the City or any other government agency with legal jurisdiction has issued a final order [...]” This is insufficient in addressing this structure’s conflict with 30253. Throughout the structure’s entire lifespan, it would be reliant upon the existing seawall. And all the while, the existing seawall would continue to encroach onto public beach space, depriving residents and visitors their rightful beach space.

The staff report does not expressly define a “mobile home”. Even if a mobile structure were given leniency under 30253’s requirement that new development not rely on shoreline armoring, this structure should not be considered mobile or temporary. Neighboring structures have recently sold for \$1.5 to \$2.3 million, according to data on Zillow.com. At nearly 2,500 square feet, this home is large, set in foundation and built to withstand the harsh marine environment for decades.

The staff report also notes that the owner of Capistrano Shores submitted a coastal development permit for seawall repairs. The application has remained unfiled since 2012. However, with new homeowners and new homes, it’s only a matter of time before extensive repairs and enhancements are sought – perpetuating this seawall for decades to come and ensuring a death sentence to this San Clemente beach as sea levels rise.

San Clemente’s visitors and residents not fortunate enough to live directly on the beach deserve to have the beach in San Clemente preserved and restored as much as possible. Homes, mobile or not, should not have been placed directly on the beach in San Clemente. It’s time to phase out this pattern of development that has eroded much of California’s beaches over the past decades and threatens to completely drown them as sea levels rise. This would be the third new development approved since 2019 that would rely on the existing shoreline at Capistrano Shores. **Please stop this destructive pattern of development in its tracks and deny the proposed development today.**

Sincerely,

Henry Chou, Chair
South Orange County Chapter
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Mandy Sackett
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