

CALIFORNIA COASTAL COMMISSION

South Coast District Office
301 Ocean Blvd., Suite 300
Long Beach, CA 90802
(562) 590-5071



Th13c

(CDP 5-23-0293, Maximo Diamond)

November 16, 2023

CORRESPONDENCE UPDATED NOVEMBER 15, 2023



November 9, 2023

California Coastal Commission
455 Market Street Suite 300
San Francisco, CA 94105

SENT VIA EMAIL

Re: Th13c Application No. 5-23-0293
Hometown America, LLC, Laguna Terrace MHP, Laguna Beach
30802 S. Coast Highway, Space K-44, Laguna Beach

Dear Chair Brownsey and Coastal Commissioners:

The Sierra Club's Save Hobo Aliso Task Force has had the honor and privilege of working with you and your staff for over 20 years to protect and preserve this special area along our coast. We appreciate the opportunity to once again work with you in an effort to uphold the Coastal Act and apply its policies to this proposed development. We thank staff for making time to discuss this project prior to the staff report being published so that we could talk through several concerns. After visiting the site and then carefully reviewing the staff report and conditions, we feel there are a few more opportunities for improvement and enhanced protection of our natural resources. Given staff's intense workload, they are not able to physically visit these proposed development sites so we will include a few photos to help illustrate our ongoing concerns with the development practices of Hometown America's contractor whom we have met with on multiple occasions and shared our overall concerns for this entire area.

It's always important to understand why environmental organizations choose to take a stand on certain issues and special areas. Here's why Hobo Canyon is so important – this is an excerpt from the South Laguna Biological Resources Inventory prepared by Karlin Marsh for the City of Laguna Beach in 1992. It is referenced in the staff report. This succinctly summarizes why protecting and preserving this area is so important. This area has become the last location on the planet where the endangered Big-Leaved Crownbeard is still found. We continue to ask the Commission to help us save this endangered species from extinction as we have many times in the past.

Hobo Canyon; South-facing Slope of Aliso Canyon

Hobo Canyon, including its surrounding ridges, extending north to and including Goff Ridge and inland to and including the Moulton Meadows marine terrace, and the contiguous south-facing slope of Aliso Canyon down to the golf course is the single most significant habitat block in South Laguna. The area is rich in rare, threatened and endangered species and unique habitats, is the center of distribution and contains the largest extant stand of California threatened big-leaved crownbeard in the United States, and is broadly connected to the permanent protected open space of the Laguna Greenbelt, thus insuring that wildlife diversity and use will continue to be high.

Our comments consist of a page-by-page review of the staff report, so while there may be some duplication of comments, we feel it is important to reiterate our concerns related to overall ecosystem protection and the protection and preservation of endangered species in this fragile canyon.

As a general comment, this applicant has met with the your Long Beach staff (both permitting and enforcement), the Sierra Club, and multiple trusted biologists on several occasions over the past few years. Mr. Fears is very aware of our concerns and should, at this juncture, understand the process and how best to alleviate creating concerns about his projects. One of the basics of a CDP application is posting. This project was not posted, but it would appear from our site visit that some work had already commenced in preparation for the new unit.



Existing unit at K-44 scheduled for demolition and removal. The required posting for the CDP did not occur. As a side note, it was a beautiful afternoon in Hobo Canyon, and this photo does not do justice to the incredible ESHA that surrounds the property. It is truly a magnificent area deserving of our collective protection and preservation.

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ESHA/Habitat Protection – Coastal Act Policy 30240

The staff report focuses on the topic of ESHA to a great extent, but we feel that the placement and size of this unit, which is not use-dependent, will create impacts to ESHA and endangered species that have not been addressed. The report states that the project is unable to conform to the required 100', or even 50' ESHA buffer, but does not examine the opportunity to decrease the size of the unit, i.e. alternate project. The current unit pictured above is 1000 sf, but the new proposed unit is 1500 sf. A smaller unit would certainly improve the conformity to the required ESHA buffer.

Herbicide application in and around this site is not advisable. The staff report states that pesticides should be avoided, but does not put forward the same restrictions on herbicides. Given the endangered species and all of the native habitat that currently covers the back slope of this property, we urge the Commission to prohibit use of herbicides.

As we have requested in every CDP application for a new unit in Hobo Canyon, we once again request that only native habitat be considered for the landscaping plant palette, and that the final plan be approved by Dr. Engel given her extensive knowledge of this area and past recommendations (see page 12 of staff report).

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Once again we question Condition 2 and ask that only native habitat, Southern Maritime Chaparral, be considered for the landscaping. We have discussed this with staff for every project and have had on-site meetings with staff and Mr. Fears to show them exactly why we are concerned about how the landscaping plans in this area are formulated and implemented.

Page 5

Condition 2 needs to be strengthened and include only native landscaping

Page 7

Condition 6 states that prior to the issuance of the CDP, the applicant must submit a plan to monitor Big-Leaved Crownbeard that occupies the coastal sage scrub habitat on the slope above the project pad site. However, it doesn't stipulate that this plan should be completed by a qualified biologist which is usually the requirement and part of the condition.

In the case of previous Big-Leaved Crownbeard plans for spaces K-53 and K-56, the applicant utilized the services of Hamilton Biological, and specifically, James Bailey, a local expert on this species. We once again request that this condition include the retention of a qualified biologist, and if possible, request that the applicant be consistent with past analysis procedures and retain the service of James Bailey. Mr. Bailey is located not more than a mile and half from this property, and knows the area and species incredibly well.

On the next page please note the photo showing pavers that have been stacked on top of the crownbeard that has now gone to seed. This is the time of year we count on the crownbeard having ample area to seed and spread, but these pavers are presenting constraints and also crushing the actual plant itself.

We understand the applicant has been requested by staff to leave everything in place from the previous owner, but request that these pavers be removed as soon as possible given that rain is in the forecast and the crownbeard should be given every opportunity possible to thrive and spread. For reference, please note the photo of the crownbeard at K-53 that is being protected with fencing. We would very much appreciate this being put into place as soon as possible please.



K-44: Big-Leaved Crownbeard to the left of the stacked pavers that are preventing proper seeding at this time of year.



K-53: Fencing protects the crownbeard in the unpermitted ditch area, and will be continue to be protected once the unit is installed. Please also note the crownbeard going to seed on the slope above. At one time, this area had a lot of crownbeard, but continual grading and unpermitted development has presented challenges.

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The staff report notes on several occasions that this area was graded prior to the Coastal Act. Not only was the area graded prior to the Coastal Act, but it was all done without any type of permit whatsoever. However, native habitat is incredibly strong and tenacious and has attempted on many occasions to re-establish itself in this area. We continue to ask this Commission to help Nature along – give it every chance it can get. A new unit that's nearly 3' higher and 500 sf larger is not helping us achieve the ESHA buffers required by Coastal Act Policy 30240(b). Why is a larger unit being considered given the multiple references to compliance with 30240(b)?

Page 9 and 10

Many references are made to the special status of this area, including designations from USFWS and CDFW. The term "very rare" is applied to this area, but the proper protections do not seem to be afforded this very rare Southern Maritime Chaparral. Not only is it very rare, but also easily disturbed by human activity. We once again reference Dr. Engels comments on page 12 and have attached Dr. John Dixon's memo related to this area from 2008. Staff references this memo in a footnote at the bottom of page 10. This memo is definitely worth the read if one truly wishes to understand the importance of this area and the devastating impacts of prior unpermitted development efforts. We cannot afford to continue to make the same missteps.

Exhibit 4 clearly illustrates how a smaller unit could benefit the natural resources on this site.

Page 11

We again reiterate that we do not feel this project is consistent with Section 30240(b) of the Coastal Act given the increased size of the proposed unit. Although staff negotiated with the applicant to remove the encroaching deck and awning, the unit is still too large for the site and does not allow for the maximum ESHA buffer as required.

Staff discusses spatial separation, but then goes on to state that herbicides will be used and that they will not disturb the ESHA. How is this possible?

End of Page 11 continuing to Page 12

We applaud Dr. Engel for making the proper decision at 791 Barracuda, another issue this task force addressed years ago when Steve Kaufmann represented the violator. We do not understand why these same principles are not being applied to this proposed project.

Page 13

Fuel modification and the appropriate monitoring by staff in the future remains a concern, but we are not sure how to address this given the work overload of staff. Our experience with the Laguna Beach Fire Department's interaction with Hometown America makes us very wary of any monitoring actually occurring.

Page 14

There is a long history in this canyon of the "inability to certify policies regarding development in sensitive habitat areas in conformity with Chapter 3 policies of the Coastal Act." This area has been an area of deferred certification for decades for many reasons and requires an extensive amount of staff time and effort due to the negligence of owners, applicants and the Laguna Beach Fire Department.

We commend staff for their amazing ability to do what they do and we know we always ask for more. Yes, we are once again asking for a bit more – all in the name of protection and preservation of our finite natural resources and a continuing effort to uphold the Coastal Act to the fullest extent possible. There are feasible alternatives and hopefully you can appreciate and accommodate our suggestions.

This concludes the Save Hobo Aliso Task Forces' comments and we are happy to discuss our concerns with staff prior to the hearing. We once again thank staff for their continued efforts to consider our comments and concerns related to this special area that we continue to try to protect.

Sincerely,

A handwritten signature in cursive script, reading "Penny Elia". The ink is dark and the signature is fluid.

Penny Elia
Chair, Save Hobo Aliso Task Force
Sierra Club

Copy: Dr. Jonna Engel

Attachment: Dr. John Dixon Memo of July 14, 2008

California Coastal Commission

Attention: Mandy Revell, Coastal Program Analyst
301 E. Ocean Blvd. Suite 300
Long Beach, California 90802-4302

November 14, 2023

Applicants: Maximo and Jacqueline Diamond and 2 children (ages 5 and 8) Location: 30802 S. Coast Highway, Space K44, Laguna Beach, Orange County Coastal Development Permit Application No. 5-23-0293

Contractor: Scott Fears
P.O. Box 647
Lake Elsinore, CA 92531

RE: Summary of Responses to Public Comments

Dear Ms. Revell and California Coastal Commission,

This letter is to provide some summary information and responses to public comments in support of our application.

By way of introduction, we are a family of 4. I am a physician, and my wife is a homemaker. We have been in our present home in Dana Point for 22 years and are looking forward to moving into our new home in Laguna Beach. We have made this decision so that our children may attend the Laguna Beach Schools.

Generally, when new development takes place, the assumption is that a negative effect will occur on the environment. In this project, however, the net effect is positive leading to enhanced environmental protection. Specifically:

1. Although the home we selected is 500 sq feet larger than the existing home, the actual land use decreases from 40% to 36% allowing for additional conservation areas. By comparison, the home next door utilizes 70% of the land, leaving only 30% undeveloped (and not necessarily protected). Reviewing all existing homes on K street, the average sq. footage is over 1,539, placing our home size below the 50% mark.

Lot Total: 6,544+/-

Proposed Home SF: 1527

Carport: 756SF

Shed: 120SF

SF Used: 36%

Existing Home: 1000SF (Built in 1968)

Carport: 550 SF

Pavers: 948SF
Shed: 120SF
SF Used: 40%

2. The property and habitat have been completely surveyed, endangered species identified, and protection/conservation has been started (obviously, many more steps remain to properly and fully protect the endangered species and surrounding habitat).
3. The plans for this home and conservation of the majority of the habitat were determined by my wife and I proactively before presenting our plans to the Coastal Commission in March 2023. We created these plans without advice from the Coastal Commission or any environmentalist. That is because, we too care about the environment and protecting natural beauty and treasures. This is our home. Of course, we care. We care a lot. There are no opposing views here for environmental conservation/protection. We don't need strong guidance to do the right thing. We studied information about Hobo Canyon conservation and Verbesina Dissata before making an offer to buy the property. Please see our attached letter to the Coastal Commission dated July 20th, 2023, where we outline specific measures, we are willing to undertake for environmental protection including:
 - a. Preservation
 - b. Maintenance
 - c. Access Restrictions
 - d. Management Plan Development
 - e. Annual Reporting
 - f. Compliance Monitoring

"We understand the importance of adhering to the Open Space/Conservation Deed Restrictions and the significant role they play in safeguarding the ecological values of the project site and the surrounding areas. We are fully committed to upholding these requirements throughout the duration of the project and beyond as we intend to stay in the home for many years to come." July 20th, 2023.

The conditions requested by the Coastal Commission to approve our application are all acceptable and consistent with what we want as well for this property. This includes annual monitoring and reporting on the habitat for 5 years or more. As stated, there are no opposing views on environmental protection.

Respectfully,



Maximo Diamond

&



Jacqueline Diamond

Response to additional public comments:

Spare Pavers were left by the previous owner and are on top on the retaining wall, not the ground. They will be removed once we have permission to make changes to the property.

No work has commenced. The storage shed blew over on August 19-20, 2023, due to the large storm that passed through Southern California. Since it landed on the paved patio and not on any plants, it was left in place to be later removed by a construction crew once permitted.

A bright yellow posting for the Coastal Commission Application was done on April 1, 2023. When we learned the posting was missing on November 10, a new laminated copy was applied more firmly with direct street visibility.

Lastly, we request no further trespassing. Please respect the law. We are available by appointment with short notice and welcome you to join us for Tea.

California Coastal Commission
Attention: Mandy Revell, Coastal Program Analyst
301 E. Ocean Blvd. Suite 300
Long Beach, California 90802-4302

July 20, 2023

Applicants: Maximo and Jacqueline Diamond and 2 children (ages 5 and 8)
Location: 30802 S. Coast Highway, Space K44, Laguna Beach, Orange County
Coastal Development Permit Application No. 5-23-0293

Contractor: Scott Fears
P.O. Box 647
Lake Elsinore, CA 92531

Subject: Conformance with Requirements of Adjacent Open Space / Conservation Deed Restriction

Dear Ms. Revel and California Coastal Commission,

We are writing in response to the requirements outlined in Special Condition Nos. 3 and 7 of Coastal Development Permit 5-13-471, pertaining to the conformance with the Open Space/Conservation Deed Restrictions for the proposed project in response to your letter dated May 3, 2023. We would like to provide a written description of our intent to conform with these requirements and ensure compliance with the designated restrictions. Attached is the Habitat Survey of the property in the current state – we have 1 *verbena dissita* (Big-Leaved Crownbeard) along the western property line.

As the applicant for the proposed project, we are fully committed to upholding the Open Space/Conservation Deed Restrictions and ensuring that the project aligns with the stipulations set forth. The following is a detailed description of our intent to conform to the requirements:

1. Special Condition No. 3: This condition mandates the preservation and protection of designated open space and conservation areas. We are fully aware of the importance of these areas in maintaining the ecological integrity of the region and am committed to adhering to the following measures:

a. Preservation: We will ensure that the designated open space and conservation areas are preserved in their current state, without any alterations or encroachments that could compromise their ecological value.

b. Maintenance: We will undertake regular maintenance activities to sustain the health and vitality of the open space and conservation areas. This includes controlling invasive species, promoting native vegetation, and implementing erosion control measures as needed.

c. Access Restrictions: We will enforce access restrictions to prevent unauthorized entry or activities within the designated open space and conservation areas. This will include the installation of appropriate signage and physical barriers to discourage trespassing.

2. Special Condition No. 7: This condition requires the establishment of a long-term management plan for the protected areas. To ensure compliance, we will undertake the following actions:

a. Management Plan Development: We will collaborate with the California Coastal Commission environmental consultants or requested conservation organizations, to develop a comprehensive management plan for the protected areas. This plan will outline specific objectives, strategies, and monitoring protocols to guide the long-term conservation efforts.

b. Annual Reporting: If requested, we can submit annual reports to the California Coastal Commission, detailing the implementation of the management plan and providing updates on the status of the protected areas. These reports will include information on any maintenance activities, restoration efforts, or changes in ecological conditions.

c. Compliance Monitoring: We will facilitate periodic site visits by authorized representatives from the California Coastal Commission or other designated entities to ensure that the Open Space/Conservation Deed Restrictions are being adhered to. We will cooperate fully during these visits and provide access to all necessary information.

We understand the importance of adhering to the Open Space/Conservation Deed Restrictions and the significant role they play in safeguarding the ecological values of the project site and the surrounding areas. We are fully committed to upholding these requirements throughout the duration of the project and beyond as we intend to stay in the home for many years to come.

Please let us know if any further documentation or information is required to demonstrate our intent to conform with the requirements of the Open Space/Conservation Deed Restrictions. We are eager to collaborate with the California Coastal Commission to ensure the successful implementation of these provisions and allow for the replacement of the existing home which must be replaced due its advanced age with structural integrity loss of the floor and roof.

Thank you for your attention to this matter. We look forward to your guidance and support in ensuring compliance with the Open Space/Conservation Deed Restrictions.

Respectfully,



Maximo Diamond

&



Jacqueline Diamond