

**CALIFORNIA COASTAL COMMISSION**

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# Th13c

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## STAFF REPORT: REGULAR CALENDAR

**Application No.:** 5-23-0293

**Applicant:** Maximo Diamond

**Agents:** Scott Fears, Hometown America, LLC; Laguna Terrace MHP

**Project Location:** 30802 S. Coast Highway, Space K-44, Laguna Beach, Orange County.

**Project Description:** Remove an 11.5-ft. high, 1,000 sq. ft. manufactured home and detached 120 sq. ft. storage shed, and install a new approx. 14-ft. high, approx. 1,500 sq. ft. manufactured home with a new 120 sq. ft. storage shed on an existing 3,074 sq. ft. mobile home lot (Space K-44) within Laguna Terrace Mobile Home Park.

**Staff Recommendation:** Approval with conditions.

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## SUMMARY OF STAFF RECOMMENDATION

The proposed development is the removal of an existing 11.5-ft. high, 1,000 sq. ft. manufactured home and installation of a new 14-ft. high, 1,500 sq. ft. manufactured home on an existing 3,074 square foot lot within an existing mobile home park. 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 and not significantly degrade them. Due to the physical site constraints of this location, the proposed mobile home would be placed approximately 20 feet from adjacent coastal sage scrub (CSS) habitat that supports one specimen of the rare plant species big-leaved crownbeard (*Verbesina dissita*), that grows along the southwest property line above the site. The CSS also likely supports coastal California gnatcatchers (*Polioptila californica californica*) that are known to inhabit the area and breed, nest, and forage in CSS. They favor CSS dominated by California buckwheat (*Eriogonum fasciculatum*), California sunflower (*Encelia californica*), and California sagebrush (*Artemisia californica*), among others, and California buckwheat and California sunflower is abundant on the slope above space K-44.

Because the pad spans only approximately 60 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 that is proposed to be replaced in the same alignment provide some separation between the site and the adjacent habitat. Because the CSS habitat, including the big-leaved crownbeard, occupies the face of the slope above the site pad elevation, it is less likely to be impacted by typical anthropogenic activities, such as use of 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, a previous Commission action (CDP No. 5-13-471) required recordation of an open space and conservation easement over 22.4 acres of open space surrounding Laguna Terrace Mobile Home Park to ensure the protection of the sensitive habitat surrounding the park.

In order to address the development’s proximity to the adjacent habitat and limit any potential adverse environmental impacts of the development, the applicant is proposing to utilize dark-sky lighting, install bird-safe glass, maintain non-invasive and drought-tolerant landscaping, avoid using pesticides, and conform to other conditions of approval, explained below.

With regard to fire management, fuel modification is anticipated to occur within the 20-foot fire management area approved through Coastal Development Permit 5-13-471, but fuel modification does not typically include removal of endangered species, so big-leaved crownbeard is not authorized to be removed. However, given the sensitivity of this site due to its proximity to ESHA, if the applicant conducts fuel modification outside of the 20-foot fire management strip, the applicant is required to coordinate with the Executive Director prior to conducting the fuel modification, for authorization of that fuel modification consistent with the Coastal Act, which is memorialized in **Special Condition 7**.

Staff is recommending **APPROVAL** of the coastal development permit with **seven (7) 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; (6) five years of monitoring for the existing big-leaved crownbeard behind K-44; and (7) which requires the applicant to coordinate with the Executive Director and obtain written authorization for any fuel modification proposed to occur outside of the 20-foot fire management strip authorized by CDP 5-13-471.

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## **EXHIBITS**

[Exhibit 1 – Vicinity Map and Project Location](#)

[Exhibit 2 – Mobilehome Park Plan](#)

[Exhibit 3 – Mobile Home Site Plan and Elevations](#)

[Exhibit 4 – Habitat Survey](#)

[Exhibit 5- Proposed Landscaping Plan](#)

## I. MOTION AND RESOLUTION

### Motion:

I move that the Commission approve Coastal Development Permit No. 5-23-0293 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 appliqué (e.g. stickers/decals) designed to reduce bird-strikes by reducing reflectivity and transparency are also used. Any appliqué 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 appliqué. All materials and appliqué 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 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.

#### **2. Landscaping.**

A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit in a form and content acceptable to the Executive Director, two (2) sets of a final revised landscaping plans prepared by an appropriately licensed professional which demonstrates the following:

B. All areas disturbed/affected by construction activities not occupied by structural development (including the structure, retaining wall and deck) shall be re-vegetated for habitat enhancement and erosion control purposes;

C. No plant species listed as problematic and/or invasive by the California Native Plant Society, 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. Any existing landscaping that doesn't meet all of the requirements in this special condition shall be removed;

- D. Any areas disturbed/affected by construction activities shall be planted and maintained for erosion control and native habitat enhancement purposes. To minimize the need for irrigation and minimize encroachment of non-native plant species into adjacent existing native plant areas, all landscaping shall consist of drought tolerant plants native to coastal Orange County and appropriate to the habitat type. Native plants shall be from local stock wherever possible;
- E. Landscaped areas in the front yard (street-facing) area shall consist of native or non-invasive, non-native drought tolerant plant species;
- F. All planting will be completed within 60 days after completion of construction;
- G. No permanent in-ground irrigation systems shall be installed on the coastal bluff-facing portion of the site. Temporary above ground irrigation is allowed to establish plantings.
- H. All vegetation shall be maintained in good growing condition throughout the life of the project, and whenever necessary, shall be replaced with new plant materials to ensure continued compliance with the landscaping plan.

The permittee shall undertake development in accordance with the approved plan. Any proposed changes to the approved final plan 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. Conformance with Drainage and Run-Off Control Plan.** The applicant shall ensure that the project will be performed in accordance with the drainage and run-off control plan received on April 4, 2023, showing roof drainage and runoff from all impervious areas directed to permeable and landscaped areas. Any proposed changes to the plan shall be reported to the Executive Director. No changes to the 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. 5-23-0293. 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. 5-23-0293. 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 Section 30610(d)

and Title 14 California Code of Regulations Sections 13252(a)-(b), shall require an amendment to Permit No. 5-23-0293 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 big-leaved 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 big-leaved crownbeard population and a quantitative survey (e.g. transects, quadrats) designed to estimate the percent cover of big-leaved 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.
- 7. Fuel Modification.** By acceptance of this permit, the applicant agrees that prior to conducting any fuel modification outside of the 20' fire management strip approved with Coastal Development Permit No. 5-13-471, they shall coordinate with the Executive Director and obtain written authorization of that fuel modification and associated mitigation requirements consistent with the Coastal Act.

## **IV. FINDINGS AND DECLARATIONS**

### **A. Project Description and Location**

The proposed development is the removal of an existing 11.5-ft. high, 1,000 sq. ft. manufactured home and installation of a new 14-ft. high, 1,500 sq. ft. manufactured home with a 6-ft. wide deck and 7-ft. high awning along the western exterior wall, on an existing 3,074 square foot lot (Space K 44), which is 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 & 3](#)). The Laguna Terrace Mobile Home Park is an approximately 48-acre partly developed mobile home park with a private parking lot ([Exhibit 2](#)). 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 portion of K-Street where space K44 is located was graded prior to the effective date of the Coastal Act.

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 Mobile Home Park are open space protected by an Open Space Conservation easement, which was authorized by Coastal Development Permit 5-13-471, and also formalized and delineated 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.

## **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, 5-13-471, 5-19-0997, and 5-21-0562). 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 existing pad or surrounding the existing mobile home on Space K-44, 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, because the presence of coastal sage scrub and maritime chaparral are documented in the vegetated hillsides and slopes surrounding Space K-44, the primary issue raised by the proposed development is whether the development can be accommodated in a manner that will not adversely 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 animal 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.<sup>1</sup>

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

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

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 Fish and Wildlife as “sensitive” or “special status.”<sup>2</sup> 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 rare and threatened big-leaved crownbeard, the federally listed threatened coastal California gnatcatcher, and the rufous-crowned sparrow, a California Species of Special Concern. Each of these species has been observed at the site.<sup>3</sup>

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 vegetation survey focused on special status plant species potentially present on the adjacent slopes surrounding the subject space dated July 19, 2023 ([Exhibit 4](#)). According to the survey, the state and federally listed species big-leaved crownbeard (*Verbesina dissita*) was observed along the southwest property line within the slope directly above the developed lot, approximately 20 feet behind the proposed structure as shown in [Exhibit 4](#). Dr. Jonna Engel, Commission Environmental Program Manager, has confirmed that because the crownbeard is located among other coastal sage scrub species within a portion of Hobo Canyon that supports sensitive avian species such as the federally threatened coastal California gnatcatcher, the adjacent hillside and open space above the pad are ESHA. The graded pad below the canyon wall, however, where the existing and proposed mobile homes are located, is not within an area that contains ESHA.

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<sup>2</sup> 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.”

<sup>3</sup> 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).

Section 30240(a) of the Coastal Act 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. Therefore, section 30240(a) is not implicated by this project. However, 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 that would significantly degrade such areas, and that it 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 removing a deck and awning that were proposed to be located in the back of the new mobile home on Space K-44 to ensure that the proposed development would be sited and designed to prevent impacts to habitat on the slope behind the mobile home space ([Exhibit 3](#)). The revised plans removed a proposed deck and awning which were located approximately 8 feet from the existing big-leaved crownbeard on the slope, so that the proposed structure is now approximately 20 feet from the base of the hillside. Maximizing the space between the edge of the primary structure within the proposed development and the adjacent habitat provides the maximum amount of buffer space possible for this particular site.

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. artificial lighting, pesticides and other pollutants, shading from buildings, non-native or invasive landscaping, 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 big-leaved 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 3](#)).

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 20 feet. Because the width of the pad between the hillside and the road is approximately 60 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. It should also be noted that Coastal Development Permit No. 5-21-0562, which was approved by the Commission in June of 2023, authorized a new mobile home on Space K-53 in the Laguna Terrace Mobile Home Park with an 18-foot buffer between existing ESHA on the lot with similar site constraints. Again, it is important to remember that the subject mobile home pad was cleared of vegetation prior to the passage of the Coastal Act, and there is already an existing mobile home on site that is in very close proximity to ESHA. When analyzed in its entirety, the proposed project adequately protects the habitat while allowing for the vested development pattern to occur in this residential community.

In order to protect the existing big-leaved crownbeard onsite, the applicant is proposing to protect it in place during all landscaping and construction activities by installing stakes around the big-leaved crownbeard and protecting it with a 3-foot high fence, which is memorialized in **Special Condition 2**. Although the Commission finds that the project will not significantly degrade the existing habitat behind K-44, **Special Condition 6** of this permit requires the applicant to also 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-44 encroaches into the typical 100-foot ESHA buffer, the Commission 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 existing big-leaved crownbeard is located within the 20-foot wide area where fuel modification is anticipated to occur through Coastal Development Permit 5-13-471 ([Exhibit 4](#)), but fuel modification does not typically include removal of endangered species, so big-leaved crownbeard is not authorized to be removed. Additionally, given the sensitivity of this site due to its proximity to ESHA, if the applicant conducts fuel modification outside of the 20-foot fire management strip, the applicant is required to coordinate with the Executive Director prior to conducting the fuel modification, for authorization of that fuel modification consistent with the Coastal Act, which is memorialized in **Special Condition 7**.

Additionally, the applicant is 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. The applicant is also proposing to utilize bird-safe glass to minimize bird-strikes with the windows, fencing, or gates, as memorialized in **Special Condition 1**. Therefore, as

conditioned, the Commission finds that the proposed project will be in conformity with Sections 30240(a) and 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 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.

As was anticipated by the underlying Coastal Development Permit No. 5-13-471, the current applicant proposes to maintain a 20-foot wide strip of land around the existing home, 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. If the applicant conducts fuel modification outside of the 20-foot fire management strip, the applicant is required to coordinate with the Executive Director prior to conducting the fuel modification, for authorization of that fuel modification consistent with the Coastal Act, which is memorialized in **Special Condition 7**.

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 in the backyard to be native, and landscaping in the front yard 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. **Special Condition 6** requires the applicant submit annual monitoring reports for Big-leaved crownbeard. Finally, **Special Condition 7** requires the applicant to coordinate with the Executive Director prior to conducting fuel modification outside of the

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authorized 20-foot wide fire management strip. 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.