

CALIFORNIA COASTAL COMMISSION

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W8b

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STAFF REPORT: CONSENT CALENDAR

Application No.: 5-22-0993

Applicant: Diane Miltimore

Location: 1 Cottonwood Lane, Seal Beach, Orange County

Project Description: Removal of an existing 480 sq. ft. mobile home and install a new 648 sq. ft., 15 ft.-high mobile home with entry stairs and handicap ramp within Seal Beach Shores Mobile Home Park.

Staff Recommendation: Approval with conditions.

SUMMARY OF STAFF RECOMMENDATION

The project site is one of the 125 mobile home sites within Seal Beach Shores Mobile Home Park ("The Park") located between the first public road and the sea (San Gabriel River). The Park is bounded by San Gabriel River to the north, with a revetment levee and the San Gabriel River Bike Trail between the Park and the river. The levee provides incidental flood protection to the Park, but was not built specifically to protect the Park. The levee is managed by the Orange County Flood Control District for the purpose of managing the conveyance of water out to the ocean.

The City of Seal Beach does not have a certified Local Coastal Program (LCP) or a certified Land Use Plan (LUP). Therefore, the standard of review for this permit is Chapter 3 of the Coastal Act.

The applicant is proposing to remove an existing 480 sq. ft. mobile home and install a new 648 sq. ft., 15 ft.-high mobile home with entry stairs and handicap ramp at a mobile home site within Seal Beach Shores Mobile Home Park. There are no public coastal

views within the vicinity of the project site, so the project will not adversely impact public coastal views. No grading is proposed for the project.

The primary issue raised by the project is the potential for the project site to be impacted by coastal flooding resulting from sea level rise over the coming decades. Although the project site is not located within the first line of development adjacent to the shoreline, the site is within a large, low-lying coastal area that is vulnerable to flooding associated with sea level rise. According to CoSMoS sea level rise models, the project site is susceptible to flooding if 3.3 ft. of sea level rise occurs without any storm, which may occur before the anticipated end of the structure's 35 to 55 year expected life under the medium-high risk aversion scenario.

In an effort to mitigate and adapt to these hazards, the applicant proposes to elevate the foundation of the mobile home 3 ft. above the natural grade using a raised steel pier foundation, which is the maximum allowable height the mobile home could be elevated above grade as mandated by Title 25 of the California Code of Regulations. The applicant-proposed 3 ft. elevated foundation is the maximum allowable height and the site is constrained so there is nowhere else the mobile home could be located within the lease area. The applicant also proposes to elevate electrical wiring, sub-panel and mechanical equipment such as furnaces, hot water heaters, and HVAC equipment 3 ft. above grade, and install flood vents at the perimeter of the mobile home, which are designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters during flood events. Thus, there is no feasible project alternative that is superior to the current proposal.

No shoreline protective device is proposed to protect the development pursuant to this permit. However, given that the applicant is proposing to construct a new residence in a hazardous location, staff recommends the Commission impose **Special Condition 2**, requiring the applicant to agree that no future shoreline protective device may be relied on to protect the development authorized by this permit. In addition, this condition requires that if any part of the proposed development becomes threatened by coastal hazards in the future, the threatened development must be removed rather than protected in place. Staff also recommends the Commission impose **Special Condition 1**, requiring the applicant to assume the potential risk of injury and damage arising from coastal hazards that may threaten the development. As proposed by the applicant and as conditioned by the Commission, the project can be found to be consistent with hazard policies of the Coastal Act.

Commission staff recommends that the Commission **APPROVE** coastal development permit application 5-22-0993 with **nine** special conditions. The motion and resolution can be found on **Page 4**.

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EXHIBITS

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

[Exhibit 2 – Project Plans](#)

[Exhibit 3 – CoSMoS Flood Map Analyses](#)

[Exhibit 4 – Mobile Home Removal Plan](#)

I. MOTION AND RESOLUTION

Motion:

I move that the Commission approve the Coastal Development Permit applications included on the consent calendar in accordance with the staff recommendations.

Staff Recommendation of Approval:

Staff recommends a **YES** vote. Passage of this motion will result in approval of all the permits included on the consent calendar. The motion passes only by affirmative vote of a majority of the Commissioners present.

Resolution:

The Commission hereby approves Coastal Development Permit Application No. 5-22-0993 for the proposed development 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 and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. 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 further 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 or 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. **Assumption of Risk, Waiver of Liability and Indemnity.**

By acceptance of this permit, the permittee acknowledges and agrees (i) that the permittee's mobile home space (1 Cottonwood Ln) may be subject to hazards from flooding and wave uprush, tsunami, sea level rise, and erosion; (ii) to assume the risks to the permittee 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 coastal hazards.

2. **Future Response to Coastal Hazards/No Automatic Right to Protective Shoreline Construction.**

- A. No repair or maintenance, enhancement, reinforcement, or any other activity affecting the existing revetment levee protecting the mobile home park (Seal Beach Shores Mobile Home Park) is authorized by this coastal development permit (the "Permit").
- B. By acceptance of this permit, the permittee, on behalf of itself and all successors and assigns to the applicant's mobile home space (1 Cottonwood Ln), acknowledges that (a) the mobile home space and any structures within that space may become threatened by coastal hazards in the future (e.g., by floods, wave uprush, tsunami, sea level rise, erosion, etc.); (b) the existing revetment levee that currently protects the entire park, may not continue to provide the protection that it currently provides unless it can be repaired, maintained, enhanced, or reinforced in the future; and (c) the development approved pursuant to this Coastal Development Permit No. 5-22-0993 may not be able to rely on the protection currently provided by the existing revetment levee in the future. The permittee, on behalf of itself and all successors and assigns, further acknowledges that expansions or alterations to the existing revetment levee require a Coastal Development Permit, which the Commission may deny if future requests for such expansions or alterations are inconsistent with the lawful application of the Coastal Act or other applicable law.
- C. By acceptance of this permit, the permittee agrees, on behalf of themselves and any successors and assigns, that no new shoreline protective device(s) shall ever be constructed to protect the development approved pursuant to Coastal Development Permit No. 5-22-0993 including, but not limited to, the residence, foundation, and deck in the event that the development is threatened with

damage or destruction from waves, erosion, storm conditions, liquefaction, flooding, sea level rise, or any other natural hazards in the future. By acceptance of this permit, the permittee hereby waives, on behalf of themselves and all successors and assigns, any rights to construct such devices that may exist under Public Resources Code Section 30235, any similar provision of a certified LCP, or any applicable law.

- D. By acceptance of this permit, the permittee further agrees, on behalf of itself and all successors and assigns, that it shall remove the development authorized by this permit (including the residence, foundation, deck, etc.) if the City or any other government agency with legal jurisdiction has issued a final order, not overturned through any appeal or writ proceedings, determining that the structures are currently and permanently unsafe for occupancy or use due to natural hazards including but not limited to waves, flooding, erosion, storm conditions, or sea level rise, and that there are no measures that could make the structures suitable for use without the use of new shoreline protective devices. The permittee shall obtain a coastal development permit for removal of approved development unless the Executive Director provides a written determination that no coastal development permit is legally required. In the event that portions of the development fall to the river channel before they are removed, the permittee shall remove all recoverable debris associated with the development from the river channel and lawfully dispose of the material in an approved disposal site. Such removal shall require a coastal development permit.

3. **Approved Development - Permit Compliance.** The permittee shall undertake development in accordance with the approved final plans/proposal, subject to all the requirements of all conditions herein. Any proposed change or deviation from the approved plans shall be submitted to the Executive Director to determine whether an amendment to this permit is necessary pursuant to the requirements of the Coastal Act and the California Code of Regulations. No changes to the approved plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.
4. **Future Improvements.** This permit is only for the development described in CDP No. 5-22-0993. Any future improvements to the residence and foundation and any other future improvements including but not limited to repair and maintenance identified as requiring a permit in Public Resources Code Section 30610(d) and Title 14 of the California Code of Regulations Sections 13252(a)-(b), shall require an amendment to CDP No. 5-22-0993 from the Commission or shall require an additional CDP from the Commission or from the applicable certified local government, unless the Executive Director determines that no amendment or new coastal development permit is legally required.
5. **Construction Best Management Practices.** The permittee shall comply with the following construction-related requirements and shall do so in a manner that complies with all relevant local, state and federal laws applicable to each requirement:

- (1) No construction materials, debris, or waste shall be placed or stored where it may be subject to wave, wind, or rain erosion and dispersion;
- (2) Staging and storage of construction machinery and storage of debris shall not take place on any sandy beach areas or areas containing any native vegetation;
- (3) Any and all debris resulting from construction activities shall be removed from the project site within 24 hours of completion of the project;
- (4) Construction debris and sediment shall be removed from construction areas each day that construction occurs to prevent the accumulation of sediment and other debris which may be discharged into coastal waters;
- (5) Concrete trucks and tools used for construction of the approved development shall be rinsed off-site;
- (6) Erosion control/sedimentation Best Management Practices (BMP's) shall be used to control dust and sedimentation impacts to coastal waters during construction. BMP's shall include, but are not limited to: placement of sand bags around drainage inlets to prevent runoff/sediment transport into coastal waters; and
- (7) All construction materials, excluding lumber, shall be covered and enclosed on all sides, and as far away from a storm drain inlet and receiving waters as possible.
- (8) Best Management Practices (BMP's) designed to prevent spillage and/or runoff of construction-related materials, sediment, or contaminants associated with construction activity shall be implemented prior to the onset of such activity. Selected BMP's shall be maintained in a functional condition throughout the duration of the project.

6. Landscaping – Drought-Tolerant, Non-Invasive Plants.

- A. Vegetated landscaped areas shall only consist of native plants or non-native drought-tolerant plants, which are non-invasive. No plant species listed as problematic and/or invasive by the California Native Plant Society (<http://www.CNPS.org/>), the California Invasive Plant Council (formerly the California Exotic Pest Plant Council) (<http://www.cal-ipc.org/>), 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 (See:<http://ucanr.edu/sites/WUCOLS/files/183488.pdf>).
- B. Use of reclaimed water for irrigation is encouraged. If using potable water for irrigation, only drip or microspray irrigation systems may be used. Other water conservation measures shall be considered, such as weather based irrigation controllers.

7. Occupancy Agreement.

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval documentation demonstrating that the landowner and the applicant have executed an Occupancy

Agreement for the applicant's mobile home space (1 Cottonwood Lane), (1) stating that pursuant to this permit, the California Coastal Commission has authorized the placement of a mobile home and related accessory structures, including but not limited to, the mobile home foundation system and deck, on 1 Cottonwood Lane, subject to terms and conditions that restrict the use and enjoyment of the mobile home and related accessory structures located on 1 Cottonwood Lane; and (2) stating that the Special Conditions of this permit are restrictions on the use and enjoyment of the mobile home and related accessory structures located on 1 Cottonwood Lane. The Occupancy Agreement shall also state that, in the event of an extinguishment or termination of the Occupancy Agreement for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the mobile home and accessory structures located on 1 Cottonwood Lane of the mobile home park so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on 1 Cottonwood Lane. Notwithstanding the foregoing, the landowner and lessee may, at their discretion, extend, assign, or execute a new Occupancy Agreement, providing that the Occupancy Agreement provision required under this Permit Condition may not be deleted, altered or amended without prior written approval of the Executive Director of the Coastal Commission or by approval of an amendment to this coastal development permit by the Commission, if legally required.

8. Proof of Legal Ability to Comply with Conditions.

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall demonstrate its legal ability or authority to comply with all the terms and conditions of this coastal development permit by submitting information indicating approval from the record title property owner that authorizes the applicant to proceed with the approved development and permits the applicant to comply with the terms and conditions of this coastal development permit.

9. Conformance with the Mobile Home Removal Plan. BY ACCEPTANCE OF THIS COASTAL DEVELOPMENT PERMIT, the applicant agrees, if/ when necessary, to abide by the submitted mobile home removal plan received by the Commission on March 20, 2023, which describes the phases, timing, and equipment necessary for the removal process of the mobile home and all accessory structures, including, but not limited to all foundation and deck features as well as all other structures associated with the mobile home on the site.

The permittee shall undertake removal in accordance with the approved final removal plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

IV. FINDINGS AND DECLARATIONS

A. PROJECT DESCRIPTION AND BACKGROUND

The applicant is proposing to remove an existing 480 sq. ft. mobile home and install a new 648 sq. ft., 15 ft.-high mobile home with entry stairs and handicap ramp at a mobile home site within the Seal Beach Shores Mobile Home Park ([Exhibit 2](#)). The project site is located between the first public road and the sea (the mouth of the San Gabriel River), but is not directly facing the ocean ([Exhibit 1](#)). The area is zoned as residential high density in the City of Seal Beach zoning code, and the proposed project conforms to the permitted uses for a high-density zone. There are no public coastal views within the vicinity of the project site, so the project will not adversely impact public coastal views. No grading is proposed for the project.

The project site is one of the 125 mobile home sites within Seal Beach Shores Mobile Home Park ("The Park"). The applicant owns the existing mobile home but does not own the land under the existing unit. The Park is owned by Seal Beach Shores, Inc., a non-profit public benefit corporation in which the applicant holds a 1/125 "membership" interest, which allows the applicant the use of a unit space for mobile home purposes.

The Park is bounded by San Gabriel River to the north, with a revetment levee and the San Gabriel River Bike Trail between the Park and the river. The levee provides incidental flood protection to the Park, but was not built specifically to protect the Park. The levee is managed by the Orange County Flood Control District for the purpose of managing the conveyance of water out to the ocean. The project site is located in a low-lying coastal area that is subject to coastal hazards. The primary issue raised by the project is the potential for the project site to be impacted by coastal flooding resulting from sea level rise over the coming decades.

The City of Seal Beach does not have a certified Local Coastal Program (LCP) or a certified Land Use Plan (LUP). Therefore, the standard of review for this permit is Chapter 3 of the Coastal Act.

B. HAZARDS

Section 30253 of the Coastal Act states in relevant part:

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.

Section 30235 of the Coastal Act states in relevant part:

Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply...

Section 30253 of the Coastal Act requires that new development minimize risks to life and property in hazardous areas, including areas subject to flooding. New development must also not significantly contribute to erosion or destruction of the site or surrounding area or require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

Although the project site is not located within the first line of development adjacent to the shoreline, the proposed project raises potential hazards concerns related to the project site's location in a low-lying area adjacent to San Gabriel River that is inherently vulnerable to flooding. Thus, potential hazards issues that must be addressed include the potential for flooding and storm hazards associated with locating development in an area that is vulnerable to flooding. These hazards may be exacerbated by the sea level rise that is expected to occur over the coming decades.

Sea level has been rising for many years. Several different approaches have been used to analyze the global tide gauge records in order to assess the spatial and temporal variations, and these efforts have yielded sea level rise rates ranging from about 1.2 mm/year to 1.7 mm/year (about 0.5 to 0.7 inches/decade) for the 20th century, but since 1990 the rate has more than doubled, and the rate of sea level rise continues to accelerate. Since the advent of satellite altimetry in 1993, measurements of absolute sea level from space indicate an average global rate of sea level rise of 3.4 mm/year or 1.3 inches/decade – more than twice the average rate over the 20th century and greater than any time over the past one thousand years. Recent observations of sea level along parts of the California coast have shown some anomalous trends; however, there is unequivocal evidence that the climate is warming, and such warming is expected to cause sea levels to rise at an accelerating rate throughout this century.

On the California coast, the effect of a rise in sea level will be the landward migration of the intersection of the ocean with the shore in many locations, which will result in increased flooding, erosion, and storm impacts to coastal areas. Along much of the California coast, the bottom depth controls the nearshore wave heights, with bigger waves occurring in deeper water. Since wave energy increases with the square of the wave height, a small increase in wave height can cause a significant increase in wave energy and wave damage. Combined with the physical increase in water elevation, a small rise in sea level can expose previously protected back shore development to increased wave action, and those areas that are already exposed to wave action will be exposed more frequently, with higher wave forces. Structures that are adequate for current storm conditions may not provide as much protection in the future.

The State of California has undertaken significant research to understand how much sea level rise to expect over this century and to anticipate the likely impacts of such sea level rise. On November 7, 2018, the Commission adopted a science update to its Sea Level Rise Policy Guidance. This document provides interpretive guidelines to ensure that projects are designed and built in a way that minimizes sea level rise risks to the development and avoids related impacts to coastal resources, consistent with Coastal Act Section 30253. These guidelines state, “to comply with Coastal Act Section 30253 or the equivalent LCP section, projects will need to be planned, located, designed, and engineered for the changing water levels and associated impacts that might occur over the life of the development.”

The Coastal Commission, in line with statewide guidance, generally advocates for a precautionary approach to sea level rise adaptation planning, which stems from the overall importance of keeping development safe from coastal hazards and protecting coastal resources, consistent with the Coastal Act. It also derives from the fact that the costs and consequences associated with inadvertently underestimating SLR hazards could be quite high. As explained in the State of California Sea Level Rise Guidance written by the Ocean Protection Council (OPC), the “risk aversion scenario” is a principle of SLR risk analysis that is used to account for variable risk tolerance for different types of development by establishing SLR probability thresholds for varying degrees of risk aversion. For example, a critical infrastructure asset, such as a hospital, should be analyzed with high risk aversion, and would use a more precautionary range of probabilities of amounts of SLR, while a parking lot or a bike path could be analyzed with lower risk aversion. In this case, the risk aversion scenario recommended by both the Commission and OPC Guidance for residential projects is “medium-high,” as it represents a scenario that is relatively high within the range of possible future SLR scenarios and is therefore appropriately precautionary for such residential structures that are not as readily adaptable to SLR and have greater consequences associated with SLR impacts. In other words, the statewide SLR guidance recommends use of the relatively high projection of SLR associated with the medium-high risk aversion scenario, even though it has a lower probability (1-in-200 chance), because of the high consequences to precious coastal resources, valuable development, and life and safety that would occur if SLR were underestimated, and the recognition that many of these impacts cannot be undone once they have occurred.

The Sea Level Rise Policy Guidance recommends evaluating potential sea level rise impacts over the entire expected life of a development. In this case, the Commission finds that a 30- to 55-year time period is a reasonable upper limit for measuring sea level rise impacts for a mobile home development, as the expected life of a mobile home structure can reasonably be estimated at 50 years. In addition, a mobile home unit can potentially be relocated in the event of a known threat. For purposes of mobile home replacements, the Commission’s staff coastal engineer concurs that an upper limit of a 30- to 55-year time period to measure sea level rise impacts is appropriate for the anticipated life of a mobile home development.

For the subject site, the natural grade elevation of the proposed development ranges from +7.5 ft. to +8.5 ft. (NAVD88). The proposed foundation elevation is 3 ft. above

grade. The site is approximately 300 ft. inland from the San Gabriel River and, as previously noted, the entire Park receives incidental flood protection from the existing revetment levee that runs along the San Gabriel River. According to CoSMoS sea level rise models, the project site is susceptible to flooding if 3.3 ft. of sea level rise occurs without any storm, which may occur by the year 2070 before the anticipated end of the structure's maximum 55 year expected life under the medium-high risk aversion scenario ([Exhibit 3](#)). Using CoSMoS sea level rise models and imposing a 100-year storm scenario, the project site is even more vulnerable to flooding, at a lower amount of sea level rise of 1.6 ft. which could occur as soon as the year 2047 under the medium-high risk aversion scenario. While the existing levee provides some level of protection, as shown on CoSMoS, the project site would still be susceptible to flooding if 3.3 ft. of sea level rise occurs even with these levees in place, because flooding may overtop the levee or seep up through the stormdrain system. So while the project is located inland of the first line of residences and the nearby San Gabriel River, and is not expected to be subject to direct wave action, flooding may still occur during the lifetime of the development and affect the residences and surrounding streets and utilities.

In an effort to mitigate and adapt to these hazards, the applicant proposes to elevate the foundation of the mobile home 3 ft. above grade using a raised steel pier foundation, which is the maximum allowable height the mobile home could be elevated above grade mandated by Title 25 of California Code of Regulations.¹ The Commission finds that, since the applicant-proposed 3 ft. elevated foundation is the maximum allowable height, there is no feasible project alternative that is superior to the current proposal. The applicant also proposes to elevate electrical wiring, sub-panel and mechanical equipment such as furnaces, hot water heaters, and HVAC equipment 3 ft. above grade, and install flood vents at the perimeter of the mobile home, which are designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters during flood events.

Given the dynamic nature of coastal beaches, as well as the Commission's review of data indicating that the property could be impacted by sea level rise at some point in the future, it is important to ensure that the risks of developing on these inland lots are borne by the applicant, not the public at large.

Section 30253 prohibits new development that would require construction of a protective device that would substantially alter natural landforms along bluffs or cliffs. Here, the applicant has not proposed to construct a shoreline protection device and no shoreline protection would be authorized by this permit; however, the applicant or a successor-in-interest could request a shoreline protection device at some point in the future. Although the project site is not a beachfront site, with expected sea level rise

¹ Title 25, Chapter 2, § 1334. MH-unit Support Piers and Footings, (h) Individual load bearing piers, which do not include the footing as defined in section 1002 of this chapter, located under the MH-unit's chassis shall not exceed thirty-six (36) inches in height.

and flooding, the area between the project site and ocean waters is expected to narrow with time. Likewise, flooding from the San Gabriel River is expected to affect the project site in the future, which in turn raises the question of a possible request for future shoreline protection at the site. Therefore, it must be clear that, as new development, the entire development approved by this permit is not entitled to a shoreline protection device now or in the future. **Special Condition 2** is imposed to require the applicant to acknowledge that the applicant has no right to a shoreline protective device for the project and that no future shoreline protective device will be allowed on site to protect the proposed development.

In addition, **Special Condition 2** requires that the applicant acknowledge that he does not own the existing shoreline protective device (revetment levee) and the shoreline protective device is not built to be solely protective of the subject property, and that the Commission retains full power and discretion to prohibit any expansions or alterations thereof that would be inconsistent with the lawful application of the Coastal Act, considering the Coastal Act's policies and goals.

Given that the applicant does not have an automatic right to expand or alter the revetment in ways that are inconsistent with lawful application of the Coastal Act (and the park owner may not choose to or be able to do so), the mobile home may need to be altered or removed in the future either in response to changes to the revetment or to threats posed by shoreline hazards. Therefore, **Special Condition 2** also establishes requirements related to response to future coastal hazards, including relocation and/or removal of structures that may be threatened in the future if any government agency has issued a permanent order that the structure is not to be occupied due to the threat of or actual damage or destruction to the premises resulting from waves, erosion, storm conditions, sea level rise, or other natural hazards in the future, and in the event that portions of the development fall to the beach before they are removed, requiring the applicant or successor(s) to remove all recoverable debris associated with the development from the beach and ocean and lawfully dispose of the material in an approved disposal site. Such removal shall require a coastal development permit.

The applicant submitted a plan for removal of the mobile home if/when it becomes necessary to remove the unit due to coastal hazards ([Exhibit 4](#)). **Special Condition 9** requires the applicant's conformance with the mobile home removal plan, which describes the phases, timing, and equipment necessary for the removal process of the mobile home.

The Commission also finds that due to the possibility of flooding and other coastal hazards, if the applicant chooses to build in this location despite those risks, he should assume the risks of development in a hazardous area as a condition of project approval. Because this risk of harm cannot be completely eliminated, the Commission requires the applicant to waive any claim of liability against the Commission for damage to life or property that may occur as a result of the permitted development. The applicant/landowner's Assumption of Risk, Waiver of Liability and Indemnity, as required by **Special Condition 1**, requires awareness of the nature of the hazards which exist on

the site, and that may adversely affect the stability or safety of the subject development, and will effectuate the necessary assumption of those risks by the applicant.

Furthermore, any potential changes to the proposed project may result in adverse impacts to coastal resources. In further consideration of the hazardous project location, **Special Condition 4** requires an amendment to Coastal Development Permit (CDP) No. 5-22-0993, or an additional CDP, for any future development on the site that would otherwise be exempt from permit conditions, unless the Executive Director determines that no amendment or new coastal development permit is legally required. Any repair and maintenance work that would normally be exempt from a coastal development permit would still be exempt.

Because the applicant does not own the land under the subject site, the applicant cannot record a deed restriction. The Commission finds, if a deed restriction is not recorded against the parcel, it would not change or weaken the requirement for the applicant to acknowledge the risks and agree to remove the structure if it becomes unsafe for occupancy. One purpose of a deed restriction is to notify future property owners of the CDP's conditions of approval. An Occupancy Agreement between the land owner and the applicant will serve to notify future owners or occupants of the new mobile home of the permit requirements, with the agreement stating that: (1) pursuant to this permit, the California Coastal Commission has authorized the placement of a mobile home and related accessory structures, including without limitation, mobile home foundation system and deck, on 1 Cottonwood Lane, subject to terms and conditions that restrict the use and enjoyment of the mobile home and related accessory structures located on 1 Cottonwood Lane; and (2) the Special Conditions of this permit are restrictions on the use and enjoyment of the mobile home and related accessory structures located on 1 Cottonwood Lane. Thus, the Commission imposes **Special Condition 7**, which requires the applicant to execute an occupancy agreement with the mobile home park.

Furthermore, Coastal Act Section 30601.5 states:

Where the applicant for a coastal development permit is not the owner of a fee interest in the property on which a proposed development is to be located, but can demonstrate a legal right, interest, or other entitlement to use the property for the proposed development, the commission shall not require the holder or owner of any superior interest in the property to join the applicant as co-applicant. All holders or owners of any other interests of record in the affected property shall be notified in writing of the permit application and invited to join as co-applicant. In addition, prior to the issuance of a coastal development permit, the applicant shall demonstrate the authority to comply with all conditions of approval.

Therefore, because the applicant does not own the property on which the proposed development is to be sited, the Commission imposes **Special Condition 8**, requiring the applicant to demonstrate its legal ability or authority to comply with all the terms and conditions of the subject CDP No. 5-22-0993, prior to issuance of said permit. The applicant shall submit information indicating approval from the record title property

owner that authorizes the applicant to proceed with the approved development and permits the applicant to comply with the terms and conditions of its CDP.

Thus, as conditioned, the permit ensures that any prospective future owners of any of the development approved on the subject site pursuant to this CDP will receive notice of the restrictions and/or obligations imposed on the use and enjoyment of the land in connection with the authorized development, including the risks of the development and/or hazards to which 1 Cottonwood Lane is subject, and will be noticed of the Commission's immunity from liability. The occupancy agreement will indicate that the California Coastal Commission has authorized development at 1 Cottonwood Lane, subject to terms and conditions that restrict the use and enjoyment of the subject unit only.

As proposed by the applicants and conditioned by the Commission, the project can be found to be consistent with Section 30253 of the Coastal Act pertaining to hazards.

C. PUBLIC ACCESS AND VISUAL RESOURCES

Section 30210 of the Coastal Act states:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30212 of the Coastal Act states, in part:

- (a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:
 - (2) Adequate access exists nearby, ...

Section 30251 of the Coastal Act states, in part:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas...

The project site is located between the first public road and the sea (San Gabriel River), but is not directly facing the ocean or the river ([Exhibit 1](#)). Public access to the San Gabriel River Bike Trail, which runs parallel to the river, is available 1,500 ft. north and 1,000 ft. south of the Park, but no public access is available within the Park; therefore, no impacts to public access are anticipated.

The existing mobile home site does not provide a parking space, as parking spaces for residents are provided within the Park grounds. Therefore, the project will not displace any public vehicle parking spaces that are used for coastal access, nor any private vehicle parking spaces for the Park residents.

There are no public coastal views within the vicinity of the project site, so the project will not adversely impact coastal views. Given that the existing 480 sq. ft. mobile home is proposed to be replaced with an 648 sq. ft. mobile home, the project will also maintain the existing residential density onsite. Overall, the project is consistent with Section 30251 regarding community character and visual resources.

As proposed, the proposed development will not have any new adverse impact on visual resource, community character, or public access to the coast or to nearby recreational facilities. Thus, the proposed development conforms with Sections 30210, 30212, and 30251 of the Coastal Act.

D. MARINE RESOURCES AND WATER QUALITY

Section 30230 of the Coastal Act states:

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30231 of the Coastal Act states:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges- and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

The proposed project has the potential to adversely impact the water quality of the nearby San Gabriel River and the Pacific Ocean. Much of the pollutants entering the ocean come from land-based development. The Commission finds that it is necessary to minimize the cumulative adverse impacts on water quality resulting from incremental increases in impervious surface associated with additional development. The applicant has indicated that roof runoff will be collected in rain gutters and redirected to the public storm drains.

Landscaping on a lot to be improved with a new mobile home residence must consist of non-invasive and drought tolerant plants. For water conservation, any plants in the landscape plan should only be drought tolerant to minimize the use of water. The applicant will incorporate minor landscaping in contained planters in order to minimize water use and water runoff from the subject site. **Special Condition 6** requires the applicant utilize drought-tolerant, non-invasive plant species in order to minimize water use and water runoff from the subject site.

The Coastal Act requires protection of marine resources, including the protection of coastal waters by controlling runoff and preventing spillage of hazardous materials. Storage or placement of construction materials, debris, or waste in a location subject to erosion and dispersion or which may be discharged into coastal water via rain or wind would result in adverse impacts upon the marine environment that would reduce the biological productivity of coastal waters. For instance, construction debris entering coastal waters may cover and displace soft bottom habitat. Sediment discharged into coastal waters may cause turbidity, which can shade and reduce the productivity of foraging avian and marine species' ability to see food in the water column. In order to avoid adverse construction-related impacts upon marine resources, the Commission imposes **Special Condition 5**, which outlines construction-related requirements to provide for the safe storage of construction materials and the safe disposal of construction debris. This condition requires the applicant to remove any and all debris resulting from construction activities within 24 hours of completion of the project. In addition, all construction materials, excluding lumber, shall be covered and enclosed on all sides, and stored as far away from a storm drain inlet and receiving waters as possible.

Therefore, the Commission finds that the proposed development, as conditioned to require construction-related requirements and best management practices, and non-invasive drought-tolerant landscaping, conforms with Sections 30230 and 30231 of the Coastal Act regarding the protection of water quality to promote the biological productivity of coastal waters and to protect human health.

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. On July 28, 1983, the Commission denied the proposed City of Seal Beach Land Use Plan (LUP) as submitted and certified it with suggested modifications. The City did not act on the suggested modifications within six months from the date of Commission action. Therefore, pursuant to Section 13537(b) of Title 14 of the California Code of Regulations, the Commission's certification of the land use plan with suggested modifications expired. The LUP has not been resubmitted for certification since that time. However, the City received an LCP Grant from the Commission in 2016 and is working toward the completion of a sea level rise vulnerability assessment and Local Coastal Program update.

As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act. Approval of the project, as conditioned, will not prejudice the ability of the local government to prepare an LCP that is in conformity with the provisions of Chapter 3 of the Coastal Act.

F. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Section 13096 of Title 14 of the California Code of Regulations requires Commission approval of Coastal Development Permit applications to be supported by findings showing the approval, as conditioned, 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 which the activity may have on the environment. The Commission's regulatory program for reviewing and granting CDPs has been certified by the Resources Secretary to be the functional equivalent of CEQA. (14 CCR § 15251(c).)

In this case, the City of Seal Beach is the lead agency and the Commission is a responsible agency for the purposes of CEQA. The City of Seal Beach determined that the proposed development is exempt under Section 15302 of CEQA. As conditioned, there are no feasible alternatives or additional feasible mitigation measures available that would substantially lessen any significant adverse effect that the activity may have on the environment, either individually or cumulatively with other past, present, or reasonably foreseeable probable future projects. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.