


CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA

SOUTH CALIFORNIA ST., SUITE 200

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Commission Action:

**RECORD PACKET COPY****STAFF REPORT: CONSENT CALENDAR****APPLICATION NO.:** 4-99-027**APPLICANT:** Leslie and Steven Carlson; Kirsten and Joseph Bohman; and Thomas Wilkes
AGENT: John MacNeil**PROJECT LOCATION:** 111 Old Topanga Canyon Road, Topanga, Los Angeles County [APNs: 4445-028-011, 4446-009-010, 011, and 012]**PROJECT DESCRIPTION:** Redivision and merger of four existing parcels, totaling 25.01-acres into three newly configured parcels. Each of the three new parcels will contain existing development.**LOCAL APPROVALS RECEIVED:** Los Angeles County Regional Planning Approval in Concept for Lot Line Adjustment LLA101672**SUBSTANTIVE FILE DOCUMENTS:** Permits 5-89-955 (Carlson), 5-91-534 (Carlson)**SUMMARY OF STAFF RECOMMENDATION**

Staff recommends approval of the proposed project with one special condition that requires the applicant to submit revised plans to reflect the applicants' amended proposal. The original proposal was for the redivision of 3 lots into 3 newly configured lots. The applicants have revised the project description since receiving local approval to include a fourth parcel in the proposed redivision. As conditioned to submit revised plans incorporating this modification, the proposed project will minimize impacts to coastal resources, and ensure that all proposed parcels have adequate public services, including road access. As conditioned, the proposed project will be consistent with §30250(a) of the Coastal Act.

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

I. Approval with Conditions

The Commission hereby grants a permit, subject to the conditions below, for the proposed development on the grounds that the development, as conditioned, will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, will not prejudice the ability of the local governments having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act and will not have any significant adverse effects on the environment within the meaning of the California Environmental Quality Act.

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 permittee 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. Compliance.** All development must occur in strict compliance with the proposal as set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
- 4. Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
- 5. Inspections.** The Commission staff shall be allowed to inspect the site and the development during construction, subject to 24-hour advance notice.
- 6. 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.
- 7. Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. Special Conditions

1. Evidence of Lot Merger and Reconfiguration.

Prior to issuance of the coastal development permit, the applicant shall submit, for the review and approval of the Executive Director, a revised Tentative Lot Line Adjustment Map, a revised Certificate of Compliance for Lot Line Adjustment No. 101672, approved by the County of Los Angeles, which includes Parcel No. 4446-009-012 as part of the project site, and any other approvals, if any, required by the County for the lot merger permitted by this permit. Said revised Tentative Lot Line Adjustment Map, revised Certificate of Compliance, and any other required approvals shall include the merger of Parcels No. 446-009-012, 4446-009-011, and 4446-009-010 into one parcel.

IV. Findings and Declarations

The Commission hereby finds and declares:

A. Project Description and Background

The applicants propose the redivision of four existing parcels totaling 25.01 acres into three reconfigured parcels with no grading or other development. The three proposed parcels would each contain existing development. Exhibit 2 shows the location of the proposed project site in relation to the surrounding area. As can be seen from this exhibit, the largest parcel is adjacent to Topanga Canyon Boulevard while the smaller lots are located within and take access through the Fernwood small lot subdivision on Summit Drive.

Exhibits 3 and 4 show the existing and proposed parcel configurations. Comparison of these exhibits shows that the effect of the proposed project would be to divide off a 1-acre piece of the 23-acre parcel as a newly configured lot and to merge the three small lots (.34-acre, .73-acre, and .93-acre) into one newly configured 2-acre parcel.

The proposed redivision was reviewed and approved-in-concept by Los Angeles County as a lot-line adjustment. Staff discussed with County staff whether the County considered the proposed project to require a conditional use permit under the County's recently amended Hillside Management Ordinance. The amended section of this ordinance requires the approval of a conditional use permit for certain types of lot line adjustments between lots located in a hillside management area. In this case, the County has informed Commission staff that the County determined that the proposed project did not require approval of a conditional use permit.

Existing Configuration

As shown on Exhibit 3, the existing configuration consists of a 23-acre parcel and three adjacent parcels which together total 2-acres in size. Following are details regarding each existing lot :

OWNER NAME	APPROX. SIZE	APN	EXIST. DEVELOPMENT
Carlson	23.01 acres	4445-028-011	Single Family Residence and Restaurant
Wilkes	.93 acres	4446-009-010	Vacant
Bohman	.73 acres	4446-009-011	Vacant
Bohman	.34 acres	4446-009-012	Single Family Residence

The existing 23-acre Carlson parcel is an irregularly shaped lot which contains frontage on both Topanga Canyon Road and Old Topanga Canyon Road. It is currently developed with a residential and a commercial use. In the Malibu/Santa Monica Mountains Land Use Plan (LUP), this site is designated for three land use categories: Rural Land I (1 du/10 ac); Rural Land II (1 du/5 ac) and Rural Commercial. The area of this parcel that is designated Rural Commercial is developed with a restaurant which takes access from Topanga Canyon Road. There is also an existing single family residence and agricultural uses on the parcel which take access from Old Topanga Canyon Road.

The .93-acre Wilkes parcel and the .73-acre Bohman parcel are currently vacant. The .34-acre Bohman parcel is developed with a single family residence that pre-dates the Coastal Act. This house takes access from Summit Drive through the Fernwood small lot subdivision.

Proposed Configuration

The proposed redivision would result in the creation of three reconfigured lots including a 22-acre parcel, a 1-acre parcel, and a 2-acre parcel as shown on Exhibit 4. Following are details regarding the proposed lots if reconfigured:

OWNER NAME	APPROX. SIZE	EXIST. DEVELOPMENT
Carlson	1 acre	Restaurant
Carlson	22.01 acres	Single Family Residence
Bohman	2 acres	Single Family Residence

The proposed 1-acre Carlson parcel would contain the existing restaurant. The 22-acre Carlson parcel would contain the existing single family residence and the existing agricultural uses. Finally, the 2-acre Bohman parcel would contain the existing single family residence.

Staff would note that the applicants originally proposed a redivision of three existing parcels into three reconfigured parcels. The .34-acre Bohman parcel was not originally part of the proposed project. Staff expressed concerns regarding the steep slope and lack of road access to the .93-acre Wilkes parcel and the .73-acre Bohman parcel (these two lots were to become one parcel under the original proposal). The applicants' agent confirmed that these lots are very steep and that it would be difficult, if not impossible, to provide road access that would satisfy the Fire Department access requirements to the proposed reconfigured parcel. In response to staff's concerns, the applicants amended the project description to add the .34-acre Bohman parcel to the project site and to reconfigure the existing lots such that this parcel would be merged with the .73-acre Bohman parcel as well as the .93-acre Wilkes lot, resulting in a 2-acre parcel which has road access and is developed with a single family residence. Staff would note that the proposed 1-acre Carlson parcel and the proposed 22-acre Carlson parcel have adequate existing road access.

Previous Commission Actions

The Commission has previously considered permits for development on the 23-acre Carlson parcel, which is part of this application. Permit 5-89-955 (Carlson) was approved for the construction of a 2,500 sq. ft., 12 ft. high single family residence, septic system, well, agricultural activities, 2,997 cu. yds. of grading for access road, paving access road, and bridge over blue-line stream. This permit was approved with special conditions relating to conformance with geologic recommendations, implementation of a landscaping plan, identification of disposal location for excess fill material, future improvements restriction, removal of unpermitted culverts, and offer to dedicate riding and hiking trail easements. This permit included after-the-fact approval for much of the development that had been undertaken without permits.

The Commission also approved Permit 5-91-534 (Carlson) for the construction of a 4,654 sq. ft. restaurant/commercial building with 45 parking spaces, septic system and no grading. This permit contained conditions related to conformance with geologic recommendations, landscaping, submittal of sign plans, drainage plans, archaeological monitoring, and implementation of a plan to remove unpermitted fill and restore a creek bank. The fill that was located in the restaurant area of the project site had been placed earlier without permits. The applicant did remove this fill and restore the creek bank affected by the fill. With the completion of this restoration, all unpermitted development on the site was resolved.

B. New Development/ Cumulative Impacts

Section 30250 (a) of the Coastal Act provides that new development be located within or near existing developed areas able to accommodate it, with adequate public services, where it will not have significant adverse effects, either individually or cumulatively, on coastal resources:

New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.

Section 30105.5 of the Coastal Act defines the term "cumulatively", as it is applied in Section 30250(a) to mean that:

... the incremental effects of an individual project shall be reviewed in conjunction with the effects of past projects, the effects of other current projects, and the effects of probable future projects.

In addition, the certified Malibu/Santa Monica Mountains Land Use Plan (LUP) contains the following policies regarding land divisions and new development which are applicable to the proposed development. The LUP policies cited below have been found to be consistent with the Coastal Act and therefore, may be looked to as guidance by the Commission in determining consistency of the proposed project with the Coastal Act. Policy 271 states, in part, that:

New development in the Malibu Coastal Zone shall be guided by the Land Use Plan Map and all pertinent overlay categories... The land use plan map presents a base land use designation for all properties... Residential density shall be based on an average for the project; density standards and other requirements of the plan shall not apply to lot line adjustments.

Policy 273(d) provides that:

In all other instances, land divisions shall be permitted consistent with the density designated by the Land Use Plan Map only if all parcels to be created contain sufficient area to site a dwelling or other principal structure consistent with the LCP. All land divisions shall be considered to be a conditional use.

The Coastal Act requires that new development, including land divisions, be permitted within, contiguous, or in close proximity to existing developed areas, or if outside such areas, only where public services are adequate and only where public access and coastal resources will not be cumulatively affected by such development. In past permit actions, the Commission has found that for Malibu and the Santa Monica Mountains, the coastal terrace area represents the existing developed area. The Commission has repeatedly emphasized, in past permit decisions, the need to address the cumulative impacts of new development in the Malibu/Santa Monica Mountains coastal zone. The

Commission has reviewed land division applications to ensure that newly created or reconfigured parcels are of sufficient size, have access to roads and other utilities, are geologically stable and contain an appropriate potential building pad area where future structures can be developed consistent with the resource protection policies of the Coastal Act. In particular, the Commission has ensured that future development on new or reconfigured lots can minimize landform alteration and other visual impacts, and impacts to environmentally sensitive habitat areas. Finally, the Commission has ensured that all new or reconfigured lots will have adequate public services, including road access that meets the requirements of the Fire Department.

The Commission has considered several projects which the applicants and the County treated "lot line adjustments" which actually resulted in major reconfiguration of lot lines amongst several lots [4-96-28 (Harberger, et. al.) 4-96-150 (Rein, et. al.), 4-96-189 (Flinkman), 4-96-187 (Sohal)]. In these cases, the Commission has considered the proposed projects to actually be "redivisions" whereby existing property boundary lines are significantly modified to redivide the project site into the same number or fewer wholly reconfigured lots. The Commission has, in essence, analyzed these proposals just as it analyzes a new subdivision of lots. The Commission has only permitted such redivisions where adequate fire access and other public services are available and where the resultant lots could be developed minimizing impacts to coastal resources.

As noted in the project description, the proposed project involves the redivision of four existing lots into three reconfigured lots. As such, the project would result in the reduction of lots by one and a reduction in overall density across the project site. Currently, two of the four existing parcels are developed. The 23-acre Carlson parcel contains two developed uses, a single family residence and a restaurant. The .34-acre Bohman parcel is developed with a single family residence. The .93-acre Wilkes parcel and the .73-acre Bohman parcel are both currently vacant. These two parcels, which are designated for residential use, could potentially be developed with residences. As proposed, these two vacant lots would be merged with the developed .34-acre Bohman parcel, reducing the potential density of the proposed project site. Therefore, the density standards required under Policy 271 and 273(d) of the LUP are not at issue in this case.

Although the certified LUP provides standards for density and intensity of development, the Commission must also review land divisions for consistency with the Coastal Act. The proposed project site is located outside of the coastal terrace area that the Commission has previously found constitutes the existing developed area for the Malibu/Santa Monica Mountains. As such, the provisions of §30250(a) apply. Staff has determined that the proposed redivision is consistent with the average lot size and 50% development of useable parcels criteria of Section 30250(a) of the Coastal Act. As shown on Exhibit 2, the lots in the surrounding area vary greatly in size. The proposed reconfiguration would result in a 2-acre lot located within the Fernwood small lot subdivision. This parcel will be larger than the majority of the lots in the small lot subdivision. The proposed 1-acre Carlson parcel would be located in an existing

developed central commercial area. The proposed size of the parcel is consistent with lots in the surrounding area. As such, the proposed redivision would be consistent with these two provisions of §30250(a). However, the Commission must also ensure that the proposed parcels are in an area with adequate public services and where they will not have significant adverse effects on coastal resources.

The proposed redivision would result in the reconfiguration of four existing parcels into three new lots. Each of the three proposed lots would have public services, including road access from roads and driveways that have already been constructed. Each lot would also contain existing development. The proposed 1-acre Carlson parcel would contain the existing restaurant and would take access from Topanga Canyon Boulevard, the proposed 22-acre Carlson parcel would contain an existing single family residence taking access from Old Topanga Canyon Road, and the proposed 2-acre Bohman parcel would contain an existing single family residence taking access from Summit Drive. The applicants have stated that no physical development is proposed at this time.

The redivision of the 23-acre Carlson parcel into a 1-acre restaurant parcel and a 22-acre single family residence parcel would minimize impacts to coastal resources. This parcel is unusual in that the LUP designates portions of it both for residential and commercial use. As discussed above, the parcel is already developed with a restaurant and a single family residence. The proposed 1-acre parcel would contain the restaurant which is directly adjacent to Topanga Canyon Road. It is located in a central commercial area of Topanga (for a point of reference, the restaurant is located next to the existing Topanga post office). The proposed 22-acre parcel would contain the existing single family residence, agricultural uses, and driveway from Old Topanga Canyon Road. This proposed redivision would result in the creation of an additional lot in an area already developed with similar uses with adequate public services and road access. No grading or landform alteration would be necessary for future development of the proposed parcels as they already are developed. Similarly, the proposed merger of the .93-acre Wilkes parcel, the .73-acre and the .34-acre Bohman parcels into one lot would also minimize impacts to coastal resources. This merger would result in a reduction in the potential density of development in this area. The existing lots here are very steep and are located in a more isolated area in the Fernwood small lot subdivision.

As discussed above, the applicants have amended their original proposal. The .34-acre Bohman parcel was not originally part of the proposed project. Staff expressed concerns regarding the steep slope and lack of road access to the .93-acre Wilkes parcel and the .73-acre Bohman parcel (these two lots were to become one parcel under the original proposal). The applicants' agent confirmed that these lots are very steep and that it would be difficult, if not impossible, to provide road access that would satisfy the Fire Department access requirements to the proposed reconfigured parcel. In response to staff's concerns, the applicants amended the project description to add the .34-acre Bohman parcel to the project site and to reconfigure the existing lots such

that this parcel would be combined with the .73-acre Bohman parcel as well as the .93-acre Wilkes lot, resulting in a 2-acre parcel which has road access and is developed with a single family residence.

The applicants' agent has stated that the .34-acre Bohman parcel will be added to the proposed project by revising the map and certificate of compliance for Lot Line Adjustment 101672 at the County. This revised redivision will result in the merging of two existing vacant parcels that have no road access with a third parcel which has road access and is currently developed with a single family residence. As currently proposed, there would be no need to provide road access to the undeveloped area of the reconfigured parcel. The potential density of development in this area would be reduced. As such, the revised project would minimize impacts, individual and cumulative, to coastal resources, and ensure that the resulting parcel has adequate public services.

Absent such a revision, the proposed redivision raises questions regarding consistency with §30250(a). The vacant .93-acre Wilkes parcel and the .73-acre Bohman parcel (these two lots were to become one parcel under the original proposal) are both very steep and currently contain no road access. The applicants' agent confirmed that these lots are very steep and that it would be difficult, if not impossible, to provide road access that would satisfy the Fire Department access requirements to the proposed reconfigured parcel. Providing road access and building pads for that reconfigured parcel would require a great deal of grading and landform alteration with attendant impacts to coastal resources. However, the applicants' proposal to merge the vacant .93-acre Wilkes parcel and the .73-acre Bohman parcel with the developed .34 Bohman parcel, will result in one lot that has road access and a developed building site. The revised project would therefore eliminate the potential for development of road access to the steepest areas of the resulting parcel. The potential density of development in this area with associated grading, fuel modification, and sewage disposal would be reduced. In order to ensure that the proposed redivision is amended at the County to include the .34-acre Bohman parcel, in accord with the applicants' proposal, the Commission finds it necessary to require the applicants to submit the revised Tentative Lot Line Adjustment Map and Certificate of Compliance No 101672. This requirement is detailed in Condition No. 1. The Commission finds that, as conditioned, the proposed project is consistent with Section 30250(a) of the Coastal Act.

C. Local Coastal Program.

Section **30604** of the Coastal Act states, in part, that:

- (a) Prior to certification of the local coastal program, a coastal development permit shall be issued if the issuing agency, or the commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) of this division and that the permitted development will not prejudice the ability of the local government to prepare a local program that is in conformity with the provisions of

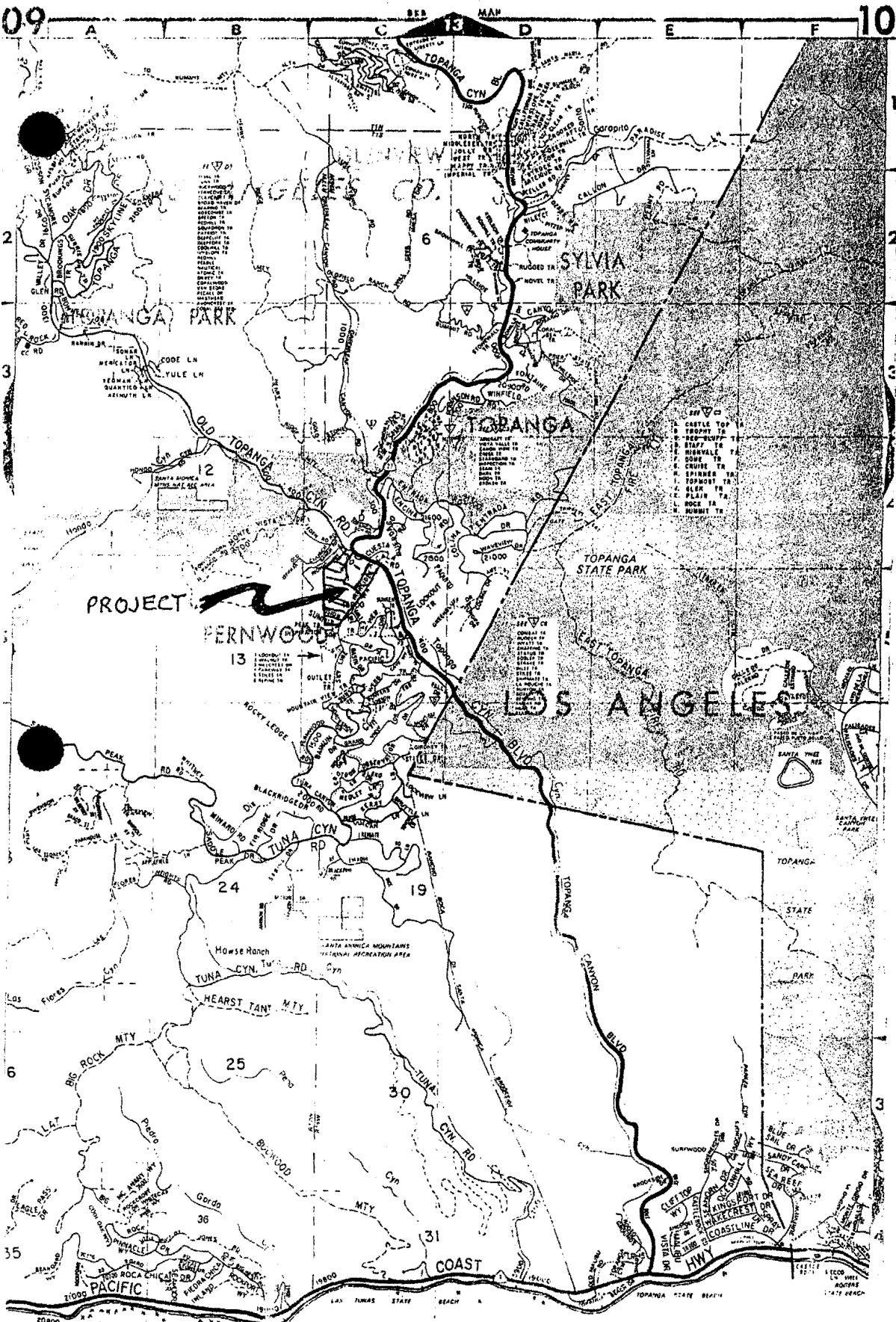
Chapter 3 (commencing with Section 30200).

Section 30604(a) of the Coastal Act provides that the Commission shall issue a Coastal Permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with Chapter 3 policies of the Coastal Act. The preceding sections provide findings that the proposed project will be in conformity with the provisions of Chapter 3 if certain conditions are incorporated into the project and accepted by the applicant. As conditioned, the proposed development will not create adverse impacts and is found to be consistent with the applicable policies contained in Chapter 3. Therefore, the Commission finds that approval of the proposed development will not prejudice the County's ability to prepare a Local Coastal Program Implementation Plan for the unincorporated Santa Monica Mountains area which is also consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

D. California Environmental Quality Act.

Section 13096(a) of the Commission's administrative regulations requires Commission approval of a Coastal Development Permit application to be supported by a finding showing the application, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(i) 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 would have on the environment.

The proposed development would not cause significant, adverse environmental effects that would not be adequately mitigated by the conditions imposed by the Commission. Therefore, the proposed project, as conditioned, is found consistent with CEQA and with the policies of the Coastal Act.



PACIFIC OCEAN

EXHIBIT 1
4-99-027
Vicinity Map

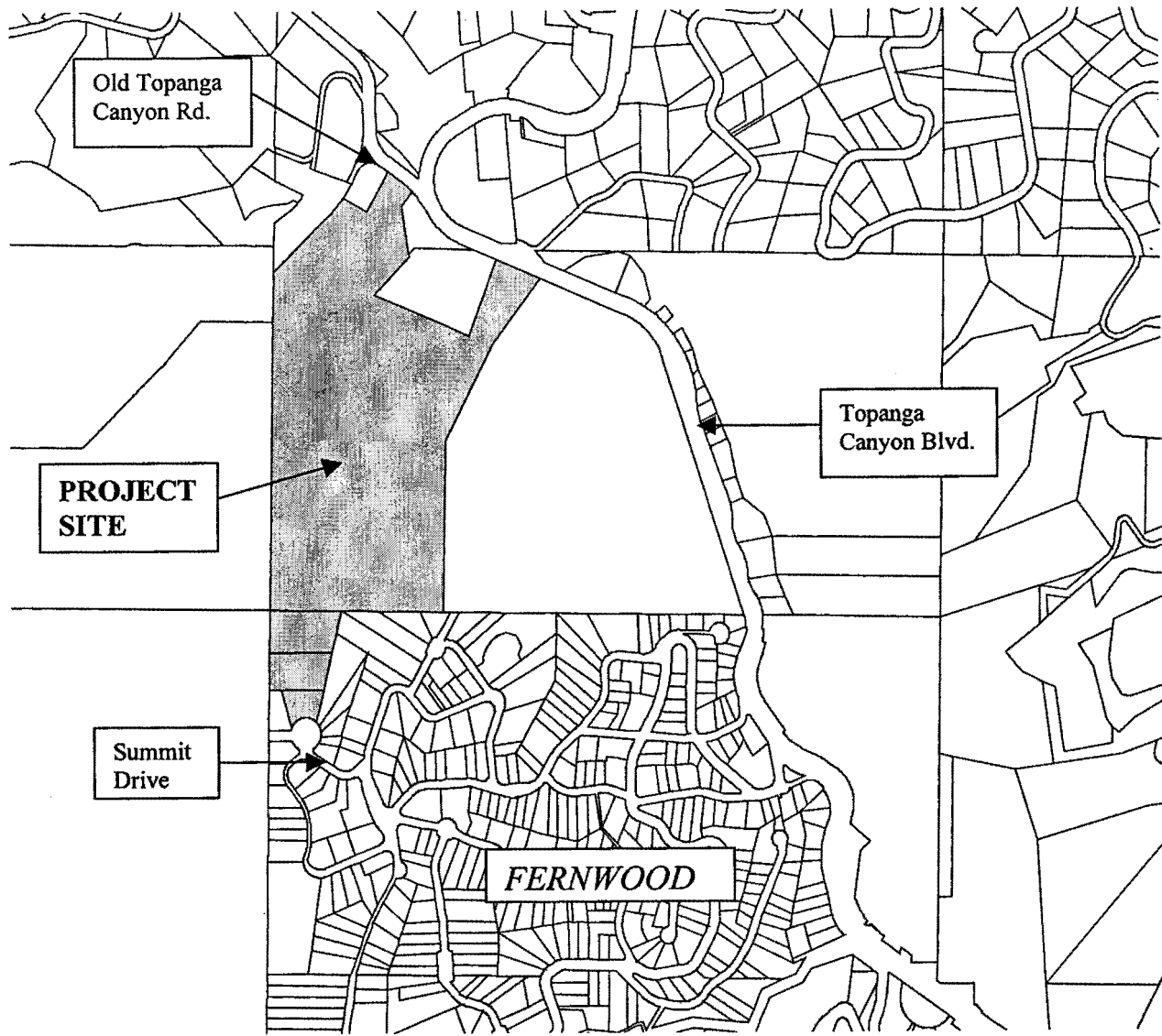


EXHIBIT 2
4-99-027
Area Map

EXISTING CONFIGURATION

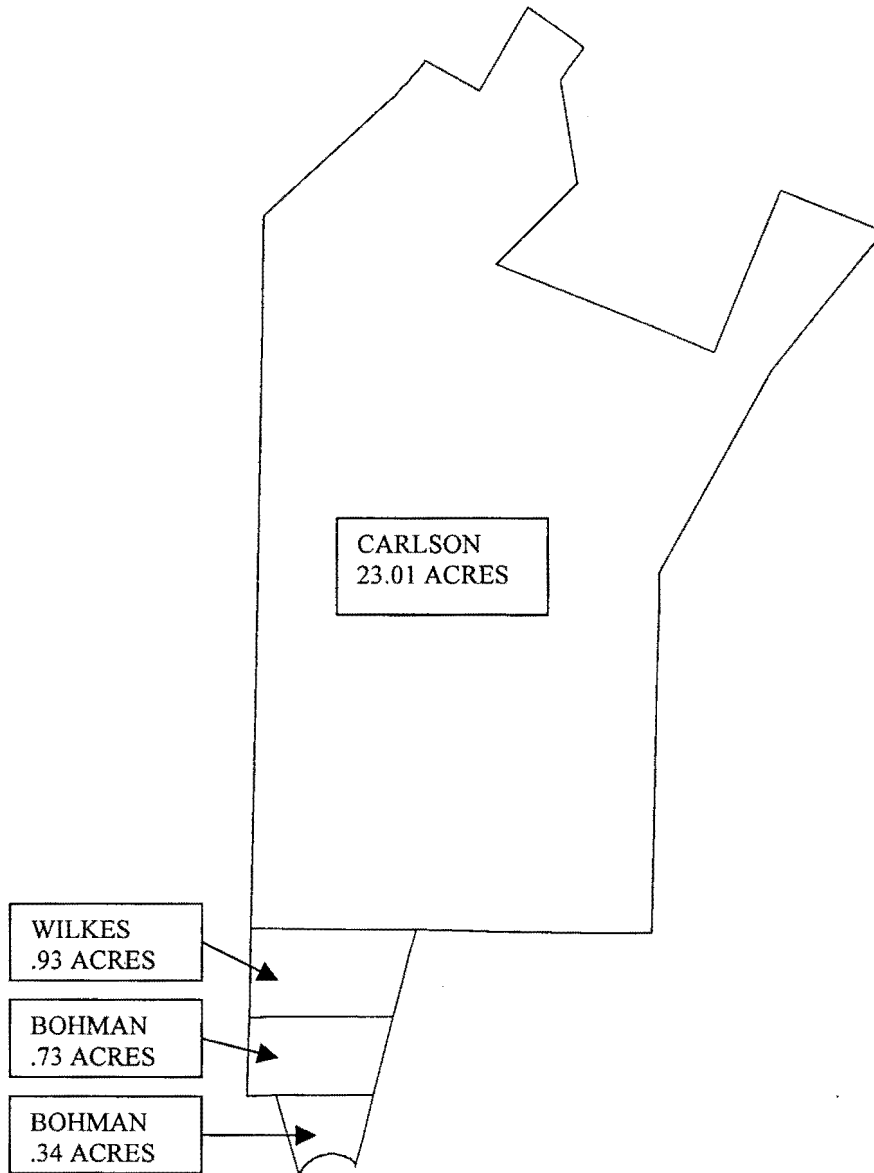


EXHIBIT 3
4-99-027
Existing Configuration

PROPOSED CONFIGURATION

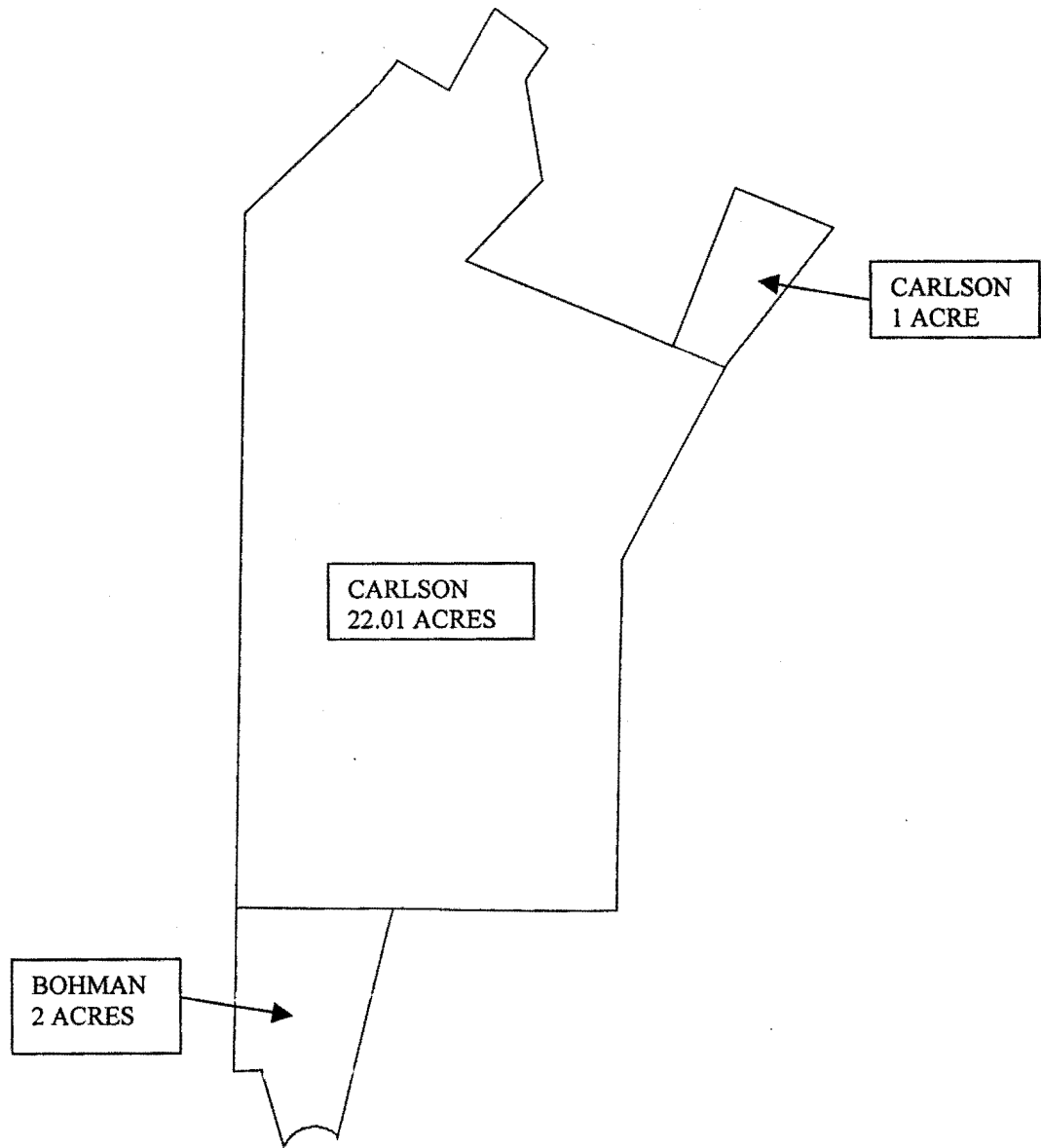


EXHIBIT 4
4-99-027
Proposed Configuration