

## CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA  
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## RECORD PACKET COPY

Filed: 2/10/00  
 49<sup>th</sup> Day: 3/30/00  
 180<sup>th</sup> Day: 8/8/00  
 Staff: MB-V *jk*  
 Staff Report: 3/23/00  
 Hearing Date: 4/11-14/00

STAFF REPORT: REGULAR CALENDAR

**APPLICATION NO.:** 4-00-028  
**APPLICANT:** Layman Financial Services, Inc.  
**AGENT:** Alan Block  
**PROJECT LOCATION:** 6656 Portshhead Road, City of Malibu (Los Angeles County)

**PROJECT DESCRIPTION:** Division of one vacant parcel into six residential lots; construction of building pads, 200 ft. long retaining wall, and private road; Grading of 7,050 cu. yds. (3550 cu. yds. cut and 3500 cu. yds. fill).

**Lot area:** 158,663 net sq. ft.  
**Pavement coverage:** 18,000 sq. ft. approximate  
**Land Use Designation:** Residential IV, 1 du/acre

**LOCAL APPROVALS RECEIVED:** City of Malibu, Planning Department, Vesting Tentative Map 46692 approval, November 30, 1999; Settlement Agreement between City of Malibu and Layman Financial, October 12, 1998.

**SUBSTANTIVE FILE DOCUMENTS:** Malibu/Santa Monica Mountains certified Land Use Plan; Chester King, Phase I archaeological report review, August 16, 1999; Geosystems, Updated Soils and Engineering Geologic Investigation for Tentative Tract 46692, September 30, 1999 and Response to City of Malibu Geology and Geotechnical Engineering Review Sheet, October 25, 1999.

SUMMARY OF STAFF RECOMMENDATION

The development proposed is on a vacant lot containing primarily exotic vegetation and eucalyptus trees, overlooking Pacific Coast Highway south of the intersection with Kanan Dume Road. The project site drains predominantly into an unnamed stream which outfalls between Dume Cove and Paradise Cove. An undeveloped setback is proposed to protect archaeological resources to the south. Staff recommends approval of the project with special conditions relating to: *drainage and polluted runoff control plan, landscape and erosion control, conformance to geologic recommendations, and archaeological resources.*

## I. STAFF RECOMMENDATION

**MOTION:** I move that the Commission approve Coastal Development Permit 4-00-028 pursuant to the staff recommendation.

### STAFF RECOMMENDATION OF APPROVAL:

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 an affirmative vote of the majority of the Commissioners present.

### RESOLUTION TO APPROVE THE PERMIT:

The Commission hereby approves a coastal development permit 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 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 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. Drainage and Polluted Runoff Control Plan

Prior to the issuance of the Coastal Development Permit, the applicant shall submit for the review and approval of the Executive Director, a drainage and polluted runoff control plan designed by a licensed engineer. The plan shall incorporate structural and non-structural Best Management Practices (BMPs), that when implemented will serve to minimize the volume, velocity and pollutant load of stormwater leaving the developed site. The drainage and polluted runoff control plan shall be designed in consideration of site specific and regional characteristics, including hydrologic soil groups, rainfall, location, size, and slope. The plan shall be reviewed and approved by the consulting engineering geologist to ensure the plan is in conformance with the geologists' recommendations. The plan shall demonstrate compliance with the following requirements, and, at a minimum include the following components:

- (a) Post-development peak runoff rates and average volumes shall not exceed pre-development conditions for the subdivision.
- (b) Opportunities for maintaining permeable space within the development shall be maximized, where geotechnical concerns would not otherwise prohibit such use.
- (c) The vertical box culvert located at the intersection of the proposed private road and Portshhead Road, which receives and conveys drainage from the proposed development via the private road, shall be fitted with a trash rack and a media filter device effective at removing or mitigating pollutants of concern, such as petroleum hydrocarbons, heavy metals, organophosphates, sediment, and other particulates to the maximum extent practicable.

- (d) Provisions for maintaining the drainage and filtration systems so that they are functional throughout the life of the approved development. Such maintenance shall include the following: (1) the drainage and filtration system shall be inspected, cleaned and repaired prior to the onset of the storm season, no later than September 30<sup>th</sup> each year and (2) should any of the project's surface or subsurface drainage/filtration structures fail or result in increased erosion, the applicant/landowner or successor-in-interest shall be responsible for any necessary repairs to the drainage/filtration system and restoration of the eroded area. Should repairs or restoration become necessary, prior to the commencement of such repair or restoration work, the applicant shall submit a repair and restoration plan to the Executive Director to determine if an amendment or new coastal development permit is required to authorize such work.

## **2. Future Development of Subdivision**

A. Prior to issuance of Coastal Development Permit No. 4-00-028, the applicant shall submit for the review and approval of the Executive Director, Covenants, Conditions and Restrictions that shall apply to the subdivision approved herein, shall be binding on each of the lots in the subdivision, shall run with the land affected by the subdivision, and shall be included in every deed transferring one or more of the lots in the subdivision. The Covenants, Conditions and Restrictions shall:

(1) specify the location, on each of the lots in the subdivision authorized herein, of all elements of the Drainage and Polluted Runoff Control Plan in accordance with Special Condition 1 contained in Coastal Development Permit No. 4-00-028;

(2) require the owners of the lots in the subdivision to maintain, repair and, if necessary, replace, all elements of the Drainage and Polluted Runoff Control Plan referred to in special condition 1 (d) above, that are located on their lot;

(3) require the owners of the lots in the subdivision to carry out and comply with the requirements of Special Condition 4.A) and 4.C) contained in Coastal Development Permit No. 4-00-028 with respect to their lot;

(4) state that the terms and conditions set forth in the Covenants, Conditions and Restrictions may not be removed or modified without an amendment to Coastal Development Permit No. 4-00-028;

(5) attach as an Exhibit, the Notice of Intent to issue Coastal Development Permit No. 4-00-028, which sets forth the Special Conditions contained in the Permit.

B. Prior to commencement of construction of development authorized in Permit No. 4-00-028 (including but not limited to construction of roads, retaining walls and/or building pads) the Permittee shall submit evidence satisfactory to the Executive Director of recordation with the County Recorder at the time of recording of the final tract map for

the subdivision approved herein, the Covenants, Conditions and Restrictions referred to in paragraph A. above, as approved by the Department of Real Estate, in a manner that shall cause the Covenants, Conditions and Restrictions to run with the land affected by the subdivision and to bind all current and future owners of the lots in the subdivision and their successors and assigns.

**3. Plans Conforming to Geologist's and Engineer's Recommendations**

PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and approval by the Executive Director, evidence of the geotechnical engineering consultant's review and approval of all project plans. All recommendations contained in the Geosystems, Updated Soils and Engineering Geologic Investigation for Tentative Tract 46692, September 30, 1999 including issues related to grading, foundations, and drainage shall be incorporated in the final project plans. All plans must be reviewed and approved by the geologic consultants.

The final plans approved by the consultant shall be in substantial conformance with the plans approved by the Commission relative to construction, grading and drainage. Any substantial changes in the proposed development approved by the Commission which may be required by the consultant shall require an amendment to the permit or a new coastal permit.

**4. Landscaping and Erosion Control Plans**

Prior to issuance of a coastal development permit, the applicant shall submit landscaping and erosion control plans, prepared by a licensed landscape architect or a qualified resource specialist, for review and approval by the Executive Director. The landscaping and erosion control plans shall be reviewed and approved by the consulting engineering geologist to ensure that the plans are in conformance with the consultants' recommendations. The plans shall incorporate the following criteria:

**A) Landscaping Plan**

1) All graded and disturbed areas on the subject site shall be planted and maintained for erosion control purposes within (60) days of receipt of the certificate of occupancy for the residence. To minimize the need for irrigation all landscaping shall consist primarily of native/drought resistant plants as listed by the California Native Plant Society, Santa Monica Mountains Chapter, in their document entitled Recommended List of Plants for Landscaping in the Santa Monica Mountains, dated October 4, 1994. Invasive, non-indigenous plant species which tend to supplant native species shall not be used.

2) All cut and fill slopes shall be stabilized with planting at the completion of final grading. Planting should be of native plant species indigenous to the Santa Monica Mountains using accepted planting procedures, consistent with fire safety requirements.

Such planting shall be adequate to provide 90 percent coverage within two (2) years, and this requirement shall apply to all disturbed soils;

- 3) Plantings will 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 applicable landscape requirements;
- 4) Landscaping shall be properly maintained with efficient irrigation to reduce runoff and promote surface filtration and minimize the use of fertilizers and pesticides which can contribute to urban runoff and pollution.
- 5) All vegetated areas within appropriate flow patterns shall be designed as biofilters. All ground cover and turf used for biofiltering purposes shall be consistent with Section A.1) above.
- 6) The Permittee shall undertake development in accordance with the final approved 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 Coastal Commission - approved amendment to the coastal development permit, unless the Executive Director determines that no amendment is required.

**B) Interim Erosion Control Plan**

- 1) The plan shall delineate the areas to be disturbed by grading or construction activities and shall include any temporary access roads, staging areas and stockpile areas. The natural areas on the site shall be clearly delineated on the project site with fencing or survey flags.
- 2) The plan shall specify that grading shall not take place during the rainy season (November 1 – March 31).
- 3) These erosion measures shall be required on the project site prior to or concurrent with the initial grading operations and maintained through out the development process to minimize erosion and sediment from runoff waters during construction. All sediment should be retained on-site unless removed to an appropriate approved dumping location either outside the coastal zone or to a site within the coastal zone permitted to receive fill.
- 4) The plan shall include temporary erosion control measures should grading or site preparation cease for a period of more than thirty (30) days, including but not limited to: sediment basins (including debris basins, desilting basins or silt traps), temporary drains and swales, stabilization of any stockpiled fill, access roads, disturbed soils, and cut and fill slopes with geofabric covers and/or mats, sand bag barriers, silt fencing, other appropriate cover, install geotextiles or mats. The plan shall also specify that all disturbed areas shall be seeded with native grass species and include the technical

specifications for seeding the disturbed areas. These temporary erosion control measures shall be monitored and maintained until grading or construction operations resume.

**C) Monitoring.**

Five years from the date of the receipt of the Certificate of Occupancy for the residence the applicant shall submit for the review and approval of the Executive Director, a landscape monitoring report, prepared by a licensed Landscape Architect or qualified Resource Specialist, that certifies the on-site landscaping is in conformance with the landscape plan approved pursuant to this Special Condition. The monitoring report shall include photographic documentation of plant species and plant coverage.

If the landscape monitoring report indicates the landscaping is not in conformance with or has failed to meet the performance standards specified in the landscaping plan approved pursuant to this permit, the applicant, or successors in interest, shall submit a revised or supplemental landscape plan for the review and approval of the Executive Director. The revised landscaping plan must be prepared by a licensed Landscape Architect or a qualified Resource Specialist and shall specify measures to remediate those portions of the original plan that have failed or are not in conformance with the original approved plan.

**5. Cumulative Impact Mitigation.**

Prior to the issuance of the Coastal Development Permit, the applicants shall submit evidence, subject to the review and approval of the Executive Director, that the cumulative impacts of the subject development with respect to build-out of the Santa Monica Mountains are adequately mitigated. Prior to the issuance of this permit, the applicant shall provide evidence to the Executive Director that development rights for residential use have been extinguished on five (5) building sites in the Santa Monica Mountains Coastal Zone. The method used to extinguish the development rights shall be either:

- (a) a TDC-type transaction, consistent with past Commission actions;
- (b) participation along with a public agency or private non-profit corporation to retire habitat or watershed land in amounts that the Executive Director determines will retire the equivalent number of potential building sites. Retirement of a site that is unable to meet the County's health and safety standards, and therefore unbuildable under the Land Use Plan, shall not satisfy this condition.

## 6. Archaeological Resources

(a) By acceptance of this permit the applicant agrees to have a qualified archaeologist(s) present on-site during all grading, excavation and site preparation that involve earth moving operations. The number of monitors shall be adequate to observe the earth moving activities of each piece of active earth moving equipment. Specifically, the earth moving operations on the project site shall be controlled and monitored by the archaeologist(s) with the purpose of locating, recording and collecting any archaeological materials. In the event that any significant archaeological resources are discovered during earth moving operations, grading and/or excavation in this area shall be halted and an appropriate data recovery strategy be developed, by the applicant's archaeologist, the City of Malibu archaeologist and the native American consultant consistent with CEQA guideline and subject to review and approval of the Executive Director.

(b) All recommendations contained in the Chester King, Phase 1 report review, August 16, 1999 as well as any additional recommendations developed by the archaeologist(s) during project monitoring, shall be incorporated in to all final design and construction. If the consulting archaeologist's recommendations, based on discovery of significant archaeological remains, require a substantial modification or redesign of the proposed project plans, an amendment to this permit is required.

## IV. Findings and Declarations.

The Commission hereby finds and declares:

### A. Project Description and Background

The proposal is the division of a one 3.75 acre vacant parcel into six residential lots, with construction of building pads, a 200 ft. long retaining wall, a private road, and grading of 7,050 cu. yds. (3550 cu. yds. cut and 3500 cu. yds. fill).

The development location is a vacant lot containing primarily exotic vegetation and eucalyptus trees, overlooking Pacific Coast Highway, south of the intersection with Kanan Dume Road. There is a commercial office complex to the north, a motel to the east, residential land to the south, and undeveloped land to the west.

The project site drains predominantly to the north into a vacant field which drains into an unnamed stream which outfalls between Dume Cove and Paradise Cove. The remainder of the lot drains onto the adjacent motel property and then to an unnamed tributary of Walnut Canyon Creek. Both creek areas are designated as disturbed environmentally sensitive habitat areas in the certified LUP for the Malibu/Santa Monica Mountains, used as guidance by the Commission for permit decisions in the City of Malibu. The area offshore of both these drainages is designated as rocky shoreline and kelp beds, which are both environmentally sensitive habitat areas. In addition,



immediately west of the drainage of the subject property under Portshead Road is located a small degraded wetland area containing rushes.

The City of Malibu has required that the project include decomposed granite paths along the private street rather than concrete sidewalks. An undeveloped setback (20 ft. wide "no grading" buffer) is proposed as part of the subdivision design to protect archaeological resources to the south.

The proposed development is an amendment to Tentative Tract Map 46692, which was originally approved by the Los Angeles County prior to incorporation of the City of Malibu. The original (County) tentative map allowed a 28 unit condominium complex. The City of Malibu was then incorporated and reduced the allowed density so that the 28 units would not be allowed. To resolve this matter the City and applicant entered into a Settlement Agreement between City of Malibu and Layman Financial, October 12, 1998. Under the settlement agreement, each lot is limited to a single family residence of 3,000 square feet. Further, the settlement agreement include a landscape buffer to conceal structures and favor native and fire resistant plants. Also, the settlement agreement required that the proposed lot 6 be set back 25 ft. from the edge of the slope. The visual impact of the project is discussed below under Visual Resources.

#### B. Water Quality

The Commission recognizes that new development in the Santa Monica Mountains has the potential to adversely impact coastal water quality through the removal of native vegetation, increase of impervious surfaces, increase of runoff, erosion, and sedimentation, introduction of pollutants such as petroleum, cleaning products, pesticides, and other pollutant sources, as well as effluent from septic systems. Section 30231 of the Coastal Act states that:

***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, minimizing alteration of natural streams.***

As described above, the proposed project includes the division of a one 3.75 acre vacant parcel into six residential lots, with construction of building pads, a 200 ft. long retaining wall, a private road, and grading of 7,050 cu. yds. (3550 cu. yds. cut and 3500 cu. yds. fill). The conversion of the project site from its previous state as a field of predominantly introduced vegetation and subsequent development of single family residences, not included as part of this application, will result in an increase in the

amount of impervious surface and reduction in the naturally vegetated area. Further, use of the site for residential purposes will introduce potential sources of pollutants such as petroleum hydrocarbons, and heavy metals from vehicular use on the new road, household cleaners pesticides/herbicides and fertilizers, as well as other accumulated pollutants from rooftops and other impervious surfaces.

The removal of natural vegetation and placement of impervious surfaces allows for less infiltration of rainwater into the soil, thereby increasing the rate and volume of runoff. Additionally, the infiltration of precipitation into the soil allows for the natural filtration of pollutants. When infiltration is prevented by impervious surfaces, pollutants in runoff are quickly conveyed to coastal streams and to the ocean. Thus, new development can cause cumulative impacts to the hydrologic cycle of an area by increasing and concentrating runoff, leading to stream channel destabilization, increased flood potential, increased concentration of pollutants, and reduced groundwater levels.

Therefore, it is necessary to impose Special Condition One (1), which requires the applicant to submit a Drainage and Polluted Runoff Control Plan designed to minimize the volume, velocity, and pollutant load of stormwater leaving the developed site. Specifically, Special Condition One (1) requires the applicant to incorporate Best Management Practices (BMPs) which will ensure that post-development peak runoff rate and average volume is maintained at levels similar to pre-development conditions.

In addition, Special Condition One (1) requires the incorporation of a media filter device into the vertical box culvert located at the intersection of the proposed private road and Portshead Road, which will receive the majority of drainage from the project in the post-development condition, prior to conveying such drainage into the previously noted small, degraded wetland on the opposite side of Portshead Road and then toward the unnamed stream. A media filter can aid in the removal and mitigation of pollutants commonly associated with urban runoff, thereby reducing the potential impacts of the proposed development on coastal resources. Regular inspection and maintenance of filtration devices is necessary in order to maintain the efficacy of such devices. Therefore, Special Condition Two (2), discussed below, requires the applicant to ensure maintenance through recorded covenants, conditions, and restrictions.

Special Condition One (1) requires the applicant to maximize opportunities for maintaining permeability within the development, where geotechnical concerns would not otherwise prohibit such use. Preservation of permeable area with vegetative cover, will facilitate percolation of water downward through the soil to remove pollutants, increase groundwater re-charge and reduce excessive runoff volume. This requirement is imposed in consideration of the projected construction of homes on the individual lots within the subdivision. Further, in order to ensure the drainage will be conveyed off site in a non-erosive manner, and will not result in geotechnical stability hazards, Special Condition One (1) requires the Plan be certified as conforming to the consulting geologists recommendations.

The Commission further finds that control the effects of drainage and polluted runoff in a subdivision, as discussed in these findings, cannot be adequately addressed without consideration of the future development of individual lots, i.e. which originate from each single family residence and ancillary development. Special Condition Two (2) will achieve this through mechanisms, i.e. covenants, conditions, and restrictions, which: identify the location of drainage and pollution control elements on the individual lots; require the owners of each lot to maintain, repair and, if necessary, replace, all elements; require the each owner to comply with landscaping requirements; require an amendment to change the terms of the condition; and requires informing. In addition, a deed restriction is required to implement this condition.

The Commission finds while Special Conditions One (1) and Two (2) will ensure that post-development impacts associated with polluted runoff, will be controlled and minimized, grading activity during the construction phase can cause impacts to water quality as well. Grading activity associated with the proposed project can result in bare slopes subject to erosion. Erosion can de-stabilize slopes, creating geo-technical hazards and contribute to sedimentation of surface water bodies, which receive drainage from the site. Therefore, in order to minimize potential impacts to streams and wetlands, during construction and pre-development stages, Special Condition Four (4) is imposed. Special Condition Four (4) requires the applicant submit and adhere to a Landscaping and Erosion Control Plan, designed to control erosion, and sediment runoff from the site, and re-vegetate and stabilize all exposed slopes. The Plan must be certified by the engineering geologist as being in conformance with geologists recommendations. Further, the landscaping plan has been modified to include requirements to limit excessive irrigation, which can create nuisance flows, promote surface filtration, and minimize the use of fertilizers and pesticides which can contribute to runoff pollution, and ensure that plants are selected with consideration for their biofiltration capacity.

Finally, the geologic consultants have analyzed the potential for installation of future on-site septic system to serve future residences. The applicants' geologic consultants, as discussed in greater detail below relative to Geologic Stability and Hazards, have performed percolation tests and evaluated the potential for future septic systems to serve six residences. The report concludes that the site is suitable for future septic systems and there would be no adverse impact to the site or surrounding areas from the use of a septic system. Provided the future septic system meets the requirements of the plumbing code, the Commission finds that based on the geotechnical consultants analysis of the property the site will be able to accommodate future septic systems that will not adversely impact water quality of nearby streams or coastal waters. Therefore, the Commission finds that the proposed project, as conditioned to implement a Drainage and Polluted Runoff Control Plan, as specified in Special Condition One (1), future development restrictions required by Special Condition Two (2), and a Landscape & Erosion Control Plan, required by Special Condition Four (4), is consistent with Section 30231 of the Coastal Act.

**C. Cumulative Impacts of New Development**

The Commission has consistently emphasized the need to address the cumulative impacts of new development in the Malibu/Santa Monica Mountains area. Section 30250(a) of the Coastal Act states that:

***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 used in Section 30250(a) to mean that:

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

As described previously, the proposed project includes the division of a one 3.75 acre vacant parcel into six residential lots, with construction of building pads, a 200 ft. long retaining wall, a private road, and grading of 7,050 cu. yds. (3550 cu. yds. cut and 3500 cu. yds. fill). The following is a table showing the proposed size of each lot:

<u>PROPOSED LOT</u>	<u>NET SQUARE FOOTAGE</u>
1	14,590
2	16,917
3	19,430
4	18,375
5	55,133
<u>6</u>	<u>34,218</u>
<b>Total</b>	<b>158,663</b>

The Coastal Act requires that new development, including subdivisions and multi-family projects, be permitted 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 looked to the land use designations of the Malibu/Santa Monica Mountains Land Use Plan for guidance on the maximum density and intensity of land use that may be permitted in any particular area.

The proposed development is located in the coastal terrace at the base of the Santa Monica Mountains where the most extensive infrastructure and services are found. Higher density single family development of the type proposed (i.e. generally less than one acre lots in an area between motel, office and commercial uses) serves as a transitional land use. The proposed land division where the proposed development is within the LUP-designated Point Dume-Paradise Cove Center, an area is permitted by the LUP to infill and link existing development clusters.

In addition, the criteria outlined in Section 30250 regarding 50 percent development of usable parcels in the area and minimum lot size are imposed for land divisions outside existing developed areas. In this case, the proposed project site is located on the coastal terrace, an area which the Commission has, in past decisions, recognized as an existing developed area. As such, this criteria is not applicable to the proposed project.

While the LUP is no longer legally binding within the City of Malibu, the land use designations are instructive on the level of density that the Commission has previously found allowable consistent with the policies of the Coastal Act. In this case, the LUP designates the proposed project site for the Residential IV Category, which allows 6 to 8 dwelling units per acre. The proposed project would result in a density of 1.6 dwelling units per acre which is considerably below the 6 to 8 dwelling units per acre allowed. As such, the proposed project would be consistent with the density category. The proposed development at 1.6 dwelling units per acre will bring the density into greater conformity than the previously County-approved 28 unit condominium project, while further resulting in a substantial decrease in density and creating a conforming single family unit building type.

In addition to assuring that newly created parcels are consistent with the maximum allowable density and intensity for each area, the Commission has repeatedly emphasized the need to address the cumulative impacts of new development in the Malibu/Santa Monica Mountains area in past permit actions. The cumulative impact problem stems from the existence of thousands of undeveloped and poorly sited parcels in the mountains along with the potential for creating additional parcels and/or residential units through subdivisions and multi-unit projects. Because of the large number of existing undeveloped lots and potential future development, the demands on road capacity, services, recreational facilities, and beaches could be expected to grow tremendously. In addition, future build-out of many lots located in environmentally sensitive areas would create adverse cumulative impacts on coastal resources.

As a means of addressing the cumulative impact problem in past actions, the Commission has consistently required, as a special condition to development permits for land divisions and multi-unit projects, participation in the Transfer of Development Credit (TDC) program as mitigation (155-78, Zal; 158-78, Eide; 182-81, Malibu Deville; 196-86, Malibu Pacifica; 5-83-43, Heathercliff; 5-83-591, Sunset-Regan; and 5-85-748,

Ehrman & Coombs; and 4-98-281 Cariker). The TDC program has resulted in the retirement from development of existing, poorly-sited, and non-conforming parcels at the same time new parcels or units were created. The intent of the program is to insure that no net increase in residential units results from the approval of land divisions or multi-family projects while allowing development to proceed consistent with the requirements of Section 30250(a). In summary, the Commission found that the TDC program, or a similar technique to retire development rights on selected lots, remained a valid means of mitigating cumulative impacts. Without some means of mitigation, the Commission would have no alternative but denial of such projects based on the provisions of Section 30250(a) of the Coastal Act.

The applicants propose to subdivide one parcel of land into six residential lots. The proposed number of residential units is consistent with the character of the area. The subject parcel is an existing legal parcel. Therefore, no cumulative impact mitigation requirements shall be imposed as a condition of approval of this permit regarding the legality of the existing parcel.

However, as discussed above, the Commission has approved new subdivisions, but has continued to require purchase of TDC's as one of the alternative mitigation strategies. Staff review indicates that the incremental contribution to cumulative impacts would be the creation of five additional lots. Impacts such as traffic, sewage disposal, recreational uses, visual scenic quality and resource degradation would be associated with the development of the five (5) additional lots in this area. Therefore, the Commission determines that it is necessary to impose a TDC requirement on the applicant, in order to insure that the cumulative impacts of the creation of seven additional legal buildable lots are adequately mitigated.

This permit has, therefore, been conditioned (Special Condition No. 5) to require the applicant to mitigate the cumulative impacts of the subdivision of this property, either through purchase of five (5) TDCs or participation along with a public agency or private nonprofit corporation to retire habitat or watershed land in amounts that the Executive Director determines will retire the equivalent number of potential building sites. The Commission finds that as conditioned, the proposed project is consistent with Section 30250 of the Coastal Act.

D. Geologic Stability and Hazards

Section 30253 of the Coastal Act states in part that new development shall:

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.**
- (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, 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.**

The proposed development is located in the Santa Monica Mountains, an area considered to be subject to an unusually high amount of natural hazards. Geologic hazards common to the Santa Monica Mountains include landslides, erosion, and flooding. In addition, fire is an inherent threat to the indigenous chaparral community of the coastal mountains. Wild fires often denude hillsides in the Santa Monica Mountains of all existing vegetation, thereby contributing to an increased potential for erosion and landslides on property.

The prominent geomorphic features in the area are Pt. Dume to the south and the coastal range to the north. As previously noted, the site drains into two blue line streams, predominantly to the north into a vacant field, draining into an unnamed stream which outfalls between Dume Cove and Paradise Cove. The remainder of the lot drains onto the adjacent motel property and then to an unnamed tributary of Walnut Canyon Creek. Both creek areas are designated as disturbed environmentally sensitive habitat areas in the certified LUP. The area offshore is designated as rocky shoreline and kelp beds which are both environmentally sensitive habitat areas. As further noted, immediately west of the drainage of the subject property under Portshhead Road is located a small degraded wetland area containing rushes.

## **1. Geology**

The applicant has submitted a Geosystems, Updated Soils and Engineering Geologic Investigation for Tentative Tract 46692, September 30, 1999 which states that:

*It is the finding of this firm that the proposed building and or grading will be safe and that the site will not be affected by any hazard from landslide, settlement or slippage and the completed work will not adversely affect adjacent property in compliance with the County code, provided our recommendations are followed.*

Given the findings and recommendations of the consulting engineering geologists, the Commission finds that the development is consistent with Section 30253 of the Coastal Act so long as all recommendations regarding the proposed development are incorporated into the project plans. Therefore, the Commission finds it necessary to require the applicant to submit project plans that have been certified in writing by the consulting engineering geologists as conforming to their recommendations, as noted in Special Condition Three (3), for the final project plans for the proposed project.

## **2. Erosion**

Surface drainage on site, as noted above, is predominately toward the west, toward the unnamed stream and disturbed sensitive resource area. The project plans indicate

excess drainage from the individual building pads will be directed to the private road. Drainage is then conveyed to a vertical box culvert which drains underneath Portshead Road into the aforementioned degraded "pocket" wetland and then to an unnamed stream, previously discussed, draining to the sea. The applicant has indicated to staff that this box culvert will be upgraded as part of the project.

The consulting geologist is concerned about the drainage associated with the proposal, and recommended that drainage should be dispersed in a non-erosive manner to preclude concentration of runoff and erosion. Increased erosion can result in sedimentation of the nearby stream on an interim basis and after construction, if not controlled. Further, increased erosion can result in destabilization of the site.

Special Condition One (1), previously discussed in the Water Quality section of this report, requires the applicant to submit Drainage and Polluted Runoff Control Plans, certified by the project consulting geologist, as being in conformance with geologist recommendations. Special Condition Two (2) requires that future development on the individual lots addresses the control of drainage, polluted runoff, and future maintenance of the drainage system. Special Condition Four (4) requires the applicant to submit a detailed Landscape and Erosion Control Plan for the proposed development. Landscaping is a necessary part of this plan to minimize the potential for erosion of graded and disturbed soils and thereby ensure site stability. It is also necessary to ensure that the landscape and erosion control plan is reviewed and approved by the consulting engineering geologist and includes measures for replanting, soil stabilization, maintenance, sedimentation control, and monitoring. Such a plan ensures site stability and avoidance of the potentially adverse impacts of erosion and sedimentation in a manner consistent with PRC Section 30253.

In summary, Special Conditions One (1) the Drainage and Polluted Runoff Control Plan, Two (2) Future Development of the Subdivision, and Four (4) Landscaping and Erosion Control Plan, as all previously discussed in the Water Quality section of this report, collectively require the applicant to implement temporary and permanent erosion and polluted runoff control measures to manage drainage from the site during construction phase and post-development, in order to maintain site stability and the integrity of coastal and surface water quality in a manner which ensures project consistency with Coastal Act Sections 30231 and 30253.

#### **E. Visual Resources**

Section 30251 of the Coastal Act states that:

***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. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.**

The proposed project site is predominantly located on a west facing slope with a sharper, northeast slope overlooking Pacific Coast Highway. Pacific Coast Highway has been designated as a scenic highway. The Commission has, in past decisions, required that development that may be viewed from scenic highways or other public areas to minimize impacts to visual resources. Consequently, in addition to review of the land division and creation of building pads, the Commission may find that to minimize impacts to visual resources, it may be necessary to impose design restrictions such as height limits, the use of earth tones for exterior materials, or landscaping on future permits for the individual residences when such development is proposed.

The proposed subdivision will result in Lots 5 and 6 providing building sites where future houses could visually impact on views from Pacific Coast Highway because of their location on a northeast facing and draining slope. Both lots are located on a break in the terrain, which drains toward the northeast toward Pacific Coast Highway and the adjacent motel. The crest of this drainage is the approximate 200 ft. contour declining to the approximate 150 ft. contour. This constitutes an approximate 1.5: 1 slope. The visual impact is especially strong for west-bound traffic on Pacific Coast Highway, but is mitigated as discussed below.

The grading plan includes the construction of a 3:1 fill slope overlaying the existing slope on Lot 6 to create a building pad. The building pad for lot 6 will be at the approximate crest of the drainage, and consequently very visible from Pacific Coast Highway, while the pad for lot 5 will be on the opposite or southwest side of the crest. Thus, the alteration of Lot 5 will not be visible to any significant degree. The north-facing slope is planted with mature eucalyptus trees which, will be retained as part of the subdivision design. Because of the slope of the pad at 3:1 and blockage afforded by vegetation, which will be retained, the proposed fill is not considered a significant alteration of natural landform or change in visual character. In addition, the visual impact of this slope can be mitigated through landscaping, as required below.

The building pads for all six lots will drain to the proposed private street and then to Portshead Road. This drainage includes roughly two thirds of the total acreage and declines from the previously noted approximate 200 ft. elevation crest to a low point at the previously noted drain at the approximate 180 ft. elevation. This constitutes an moderate slope facing west. Because of the alignment of Pacific Coast Highway (traveling in a east southeast to west northwest direction), as well as intervening buildings and topography, this portion of the development does not impact significantly on views from this scenic highway.

In addition, the project site does not have significant impact on views of the coast or mountains from public roadways and other potential public viewpoints. Further, the project at the proposed intensity and location proposed will be similar in character to commercial and residential building in the vicinity of the Highway. For these reasons, the project will not result in significant visual impacts.

The Commission, however, finds it necessary to require the applicant to submit a landscaping plan for the whole project site, depicting the location and size of all plant material and utilizing primarily native vegetation will ensure that the proposed development will blend with the surrounding area and minimize impacts to visual resources. Special condition number four (4) requires the applicant to prepare a landscape plan and to monitor the success of the revegetation. The Commission finds that the required landscape plan, if developed, implemented, and monitored for the site will minimize impacts to visual resources. The Commission finds that, as so conditioned, the proposed project is consistent with Section 30251 of the Coastal Act.

**F. Archaeological Resources**

PRC Section 30244 of the Coastal Act states that:

***Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.***

Archaeological resources are significant to an understanding of cultural, environmental, biological, and geological history. The proposed development is located in a region of the Santa Monica Mountains which contains one of the most significant concentrations of archaeological sites in southern California. The coastal act requires the protection of such resources to reduce the potential adverse impacts through the use of reasonable mitigation measures.

Degradation of archaeological resources can occur if a project is not properly monitored and managed during earth moving activities and construction. Site preparation can disturb and/or obliterate archaeological materials to such an extent that the information that could have been derived would be permanently lost. In the past, numerous archaeological sites have been destroyed or damaged as a result of development. As a result, the remaining sites, even though often less rich in materials, have become increasingly valuable as a resource. Further, because archaeological sites, if studied collectively, may provide information on subsistence and settlement patterns, the loss of individual sites can reduce the scientific value of the sites, which remain intact.

The applicant proposes a six lot subdivision and related improvements including a private street and grading for building pads. According to Chester King, the City of Malibu Archaeologist, Phase I archaeological report review, August 16, 1999, because of archaeological resources on nearby parcels to the south, grading or other excavation

within 100 ft. of the southern boundary shall be subject to supervision of a qualified archaeologist and a monitoring program shall be approved prior to rough grading.

To ensure that impacts to archaeological resources are minimized, special condition six (6) requires that the applicant have a qualified archaeologist(s) and appropriate Native American consultant(s) present on-site during all grading, excavation and site preparation in order to monitor all earth moving operations. In addition, if any significant archaeological resources are discovered during construction, work shall be stopped and an appropriate data recovery strategy shall be developed by the City of Malibu archaeologist and the Native American consultant consistent with California Environmental Quality Act (CEQA) guidelines. In addition, further mitigation measures will be initiated if found necessary. The Commission further finds that it is necessary to require that the applicant to conform to all recommendations of the City of Malibu as well as any additional recommendations developed by the archaeologist(s) during project monitoring and, if a substantial modification or redesign of the proposed project plans is necessary, an amendment to this permit is required.

Thus, the Commission finds that, based on the findings of the archaeological report and other available evidence, the proposed development, as conditioned to monitor the site during earth moving activities and to incorporate the recommendations of the archeological consultant will mitigate any adverse impacts on archaeological resources, is consistent with Section 30244 of the Coastal Act.

#### **G. Septic System**

The Commission recognizes that the potential build-out of lots in Malibu, and the resultant installation of septic systems, may contribute to adverse health effects and geologic hazards in the local area. Section 30231 of the Coastal Act states that:

***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, minimizing alteration of natural streams.***

The proposed site has been subject to a slope stability and boring analysis by GeoSystems to evaluate the site for septic system suitability. The study (GeoSystems, Response to city of Malibu Geology and Geotechnical Engineering Review Sheet, October 25, 1999) found that:

*Sustained, long term use of the private sewage disposal systems located on the subject Tract (lots 1 through 6) is not expected to adversely affect the site or adjacent site stability, or result in the mounding or day lighting of sewage effluent provide that our recommendations are followed.*

A percolation test was performed on the subject property and indicated that the individual lots meet Uniform Plumbing Code requirements for, and are sufficient to serve, the proposed single family residence. In summary, the potential for installation of a private sewage disposal system was reviewed by the consulting geologist and found not to create or cause adverse conditions to the site or adjacent properties.

The Commission has found in past permit actions that compliance with the health and safety codes will minimize any potential for wastewater discharge that could adversely impact coastal streams and waters. Therefore, the Commission finds that the proposed septic system is consistent with Section 30231 of the Coastal Act.

#### H. Local Coastal Program

Section 30604(a) of the Coastal Act states that:

***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, as conditioned, will not prejudice the City's ability to prepare a Local Coastal Program for Malibu which is also consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

#### I. 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)(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 effects which the activity would have on the environment.

The proposed development would not cause significant, adverse environmental effects, which 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.

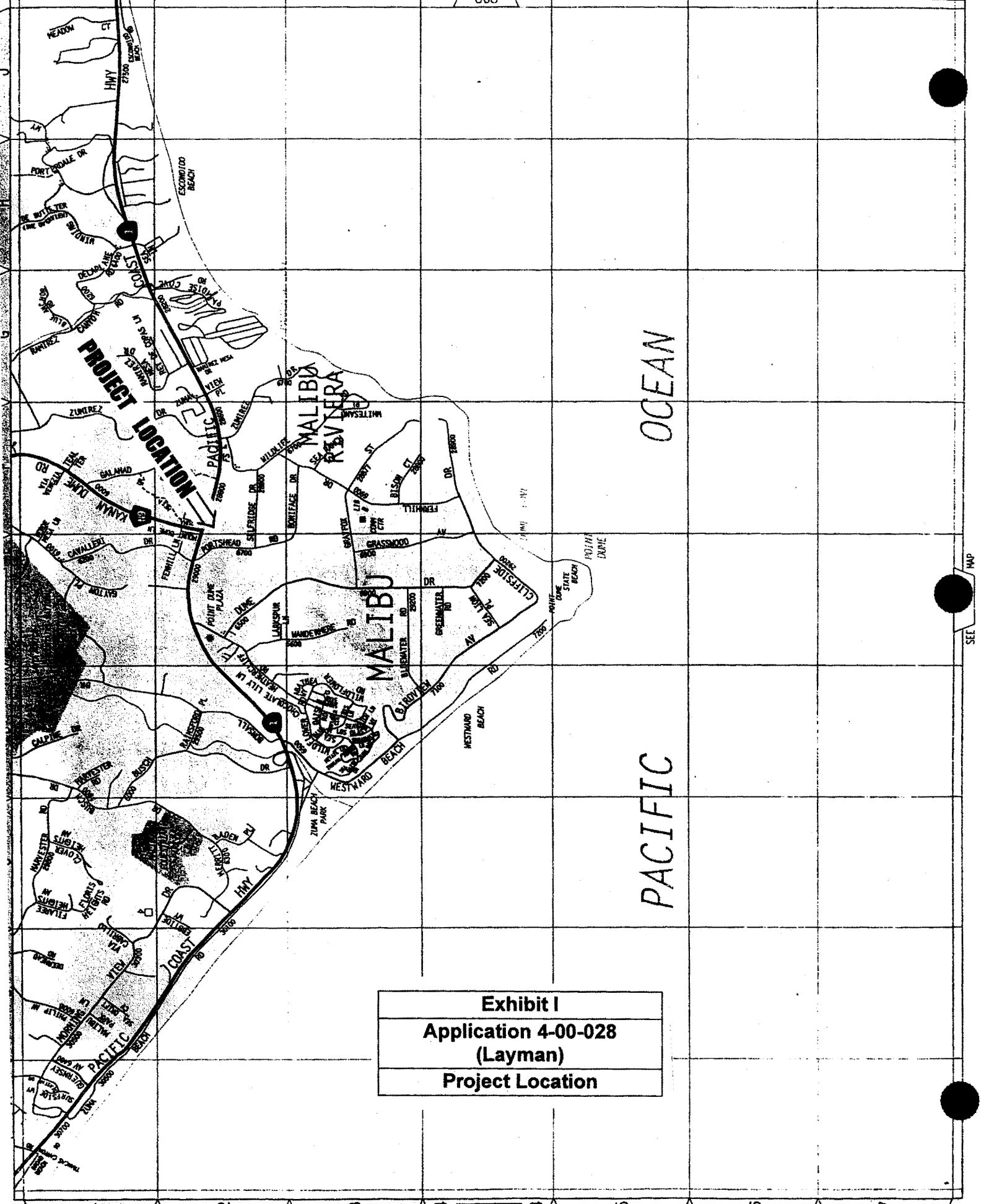


Exhibit I  
 Application 4-00-028  
 (Layman)  
 Project Location

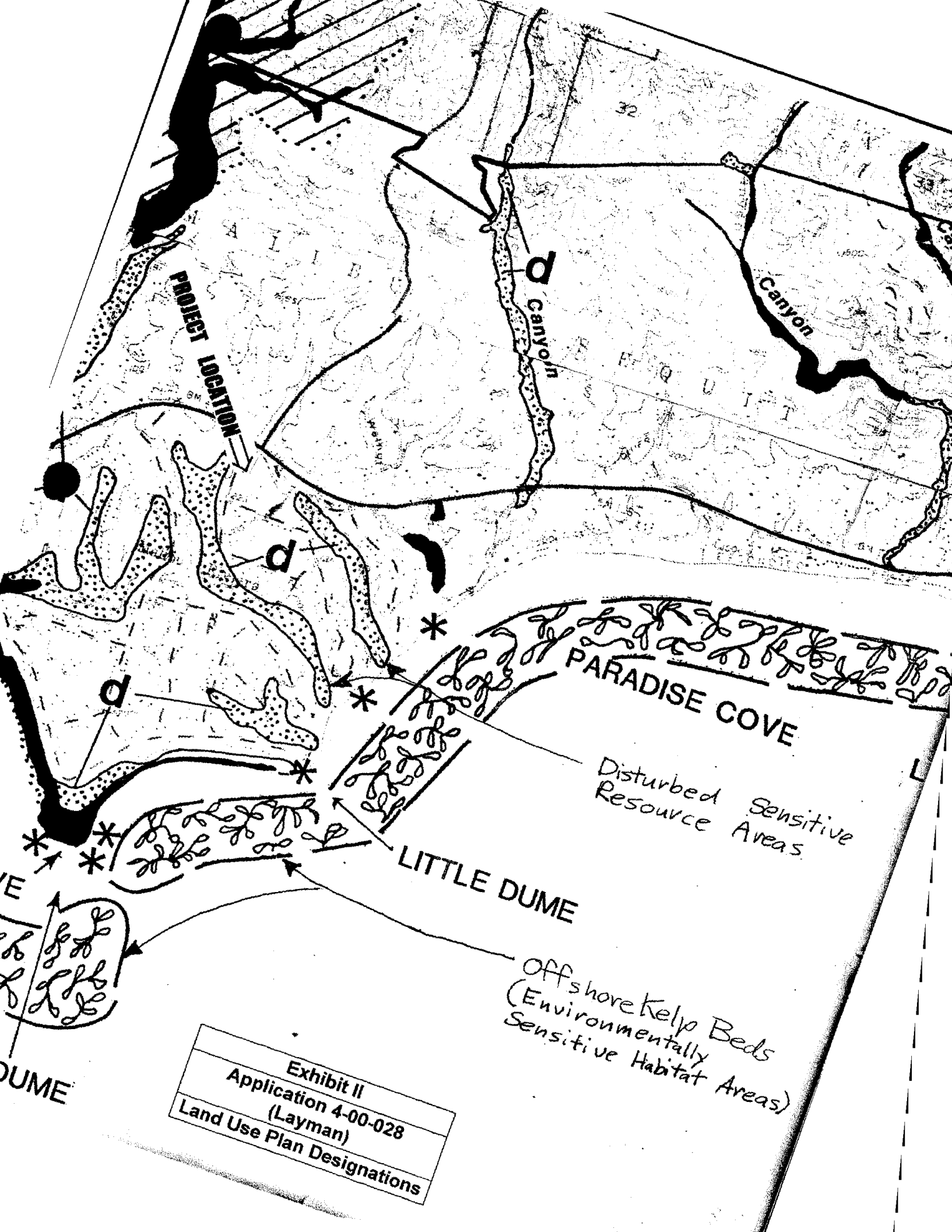


Exhibit II  
Application 4-00-028  
(Layman)  
Land Use Plan Designations

Offshore Kelp Beds  
(Environmentally  
Sensitive Habitat Areas)

Disturbed Resource Sensitive  
Areas

PROJECT LOCATION

CANYON

Canyon

PARADISE COVE

LITTLE DUME

DUME

**Exhibit III**  
**Application 4-99-028**  
**(Layman)**  
**Proposed Land Division**



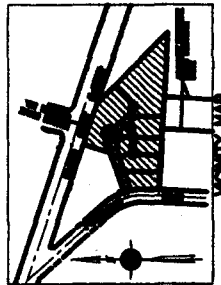
**VESTING TENTATIVE TRACT NO. 40692**

In The City of Inglewood, County Of Los Angeles  
 State Of California

**For Subdivision Purposes**

**PREPARED BY: [Signature]**

DATE: 11-27-79  
 BY: A. WOO  
 8/23/79  
 107-1788-E



**GENERAL NOTES - CONTINUED:**

1. THE LOTS AND BLOCKS SHOWN ON THIS MAP ARE SUBJECT TO ALL EASEMENTS, RIGHTS OF WAY, AND OTHER INTERESTS SHOWN ON THE RECORD MAPS OF THE COUNTY OF LOS ANGELES.
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