

## CALIFORNIA COASTAL COMMISSION

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SOUTH CENTRAL COAST AREA  
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## RECORD PACKET COPY

Filed: 6/18/01

49th Day: 8/6/01

180th Day: 12/15/01

Staff: J. Johnson

Staff Report: 10/24/01

Hearing Date: 11/16/01

Commission Action:

STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 4-01-080

APPLICANT: Amber Asfour

AGENT: Norman Haynie

PROJECT LOCATION: 28637 Pacific Coast Highway, Malibu, Los Angeles County

**PROJECT DESCRIPTION:** Divide a 2.14 acre (gross) parcel into two parcels, 1.54 acres with an existing guest house and 0.6 acres with a primary residence, respectively. The applicant voluntarily offers to identify an approximate 0.7 acre portion of one parcel as Open Space on the Tentative Parcel Map and plant riparian vegetation along the drainage, obtain an approved "Fuel Modification Plan" from Los Angeles County Fire Department, add gravel walkway along Zumirez Drive frontage, and no construction or grading is required or proposed.

Existing Parcel Area: 2.14 acres (gross) 1.59 acres (net)

Proposed Parcel 1: 1.54 acres (gross) 1.09 acres (net)

Proposed Parcel 2: 0.6 acres (gross) 0.5 acres (net)

Plan Designation: Rural Land III, Residential I, Residential IV B

Zoning: 1 unit / 2 acres, 1 unit / 1 acre, 8-10 units / 1 acre

**SUMMARY OF STAFF RECOMMENDATION:**

Staff recommends approval of the proposed land division with Special Conditions addressing a revegetation plan and fuel modification plan, cumulative impact mitigation and open space easement. The project site is located north of Point Dume inland of Pacific Coast Highway about one half-mile inland of the Coast. The project site is located within the developed area of the coastal zone. The project site is located within a transition area of high density multiple family residential development to the south and lower density single family residential development to the north. Therefore, the proposed project, as conditioned, will be consistent with the Coastal Act.

LOCAL APPROVALS RECEIVED: Approval in Concept, City of Malibu Planning Department, dated 3/5/01.

SUBSTANTIVE FILE DOCUMENTS: Certified Malibu/Santa Monica Mountains Land Use Plan; Coastal Permit No. 4-00-115, Stewart; Coastal Permit No. 4-97-113, Eisenstein.

## I. STAFF RECOMMENDATION

**MOTION:** *I move that the Commission approve Coastal Development Permit No. 4-01-080 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 affirmative vote of a 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 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 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. **Interpretation.** Any questions of intent or interpretation of any term or 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 permittee to bind all future owners and possessors of the subject property to the terms and conditions.

### III. SPECIAL CONDITIONS

#### 1. REVEGETATION AND FUEL MODIFICATION PLANS

In order to implement the applicant's offer to revegetate the open space area, as shown on exhibit 3, and provide a fuel modification plan, prior to issuance of a coastal development permit, the applicant shall submit final revegetation and fuel modification plans, prepared by a licensed landscape architect or a qualified resource specialist, for review and approval by the Executive Director. The final plans shall incorporate the following criteria:

##### A) Revegetation Plan

- 1) The Open Space Area shall be planted and maintained with ten (10) sycamore trees (five-gallon or larger containers size plants) and ten (10) clusters of willows (five-gallon or larger container size plants) located within fifteen (15) feet of the centerline of the drainage within the Open Space Area and spaced throughout the length of drainage within the Open Space Area (Exhibit 3). The plantings shall be completed during the rainy season, from December through February. To minimize the need for irrigation all native plants proposed for the revegetation 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 February 5, 1996. Invasive, non-indigenous plant species which tend to supplant native species shall not be used.
- 2) Plantings will be maintained in good growing condition and, whenever necessary, shall be replaced with new plant materials to ensure continued compliance with applicable revegetation requirements;
- 3) The Permittee shall undertake development for the planting 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.
- 4) Vegetation within 20 feet of the existing residential structures may be removed to mineral earth, vegetation within a 200 foot radius of these structures may be selectively thinned in order to reduce the fire hazard. However, such thinning shall only occur in accordance with an approved long-term fuel modification plan submitted pursuant to this special condition and that no existing or revegetated riparian vegetation shall be

removed from the Open Space Area. The fuel modification plan shall include details regarding the types, sizes and location of plant materials to be removed, and how often thinning is to occur. In addition, the applicant shall submit evidence that the final fuel modification plan has been reviewed and approved by the Forestry Department of Los Angeles County. Within the twenty (20) foot radius of these structures shall be selected from drought tolerant species of subspecies, or varieties suited to the Mediterranean climate of the Santa Monica Mountains together with limited areas may be planted with ornamental shrubs and trees and other landscaping that is non-invasive and drought tolerant.

**B) Monitoring.**

Five years from the date of the issuance of the Coastal Permit, the applicant shall submit for the review and approval of the Executive Director, a revegetation monitoring report, prepared by a licensed Landscape Architect or qualified Resource Specialist, that certifies the on-site revegetation within this Open Space Area is in conformance with the revegetation plan approved pursuant to this Special Condition. The monitoring report shall include photographic documentation of plant species and plant coverage.

If the revegetation monitoring report indicates the revegetation planting is not in conformance with or has failed to meet the performance standards specified in the revegetation plan approved pursuant to this permit, the applicant, or successors in interest, shall submit a revised or supplemental revegetation plan for the review and approval of the Executive Director. The revised revegetation 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.

**2. 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 issuance of this permit, the applicants shall provide evidence to the Executive Director that development rights for residential use have been extinguished on one (1) building site in the Santa Monica Mountains Coastal Zone. The method used to extinguish the development rights shall be either:

a) a Transfer of Development Credit (TDC);

b) 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. 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.

**3. Open Space Deed Restriction**

- A. No development, as defined in section 30106 of the Coastal Act, shall occur in the open space area, as shown in Exhibit 3, except for:
1. Revegetation and fuel modification as provided for in the approved revegetation and fuel modification plan prepared pursuant to Special Condition No. One (1).
  2. A non-combustible deck or patio located above the 155 foot contour elevation, as shown on Exhibit 3.
  3. Drainage and utility structures necessary to serve the existing and any future residential development.

B. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall execute and record a deed restriction in a form and content acceptable to the Executive Director, reflecting the above restriction on development in the designated open space. The deed restriction shall include legal descriptions of both the applicant's entire parcel and the open space area. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

#### **IV. Findings and Declarations**

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

The project site is located north of Point Dume about one half-mile inland of the Coast. The project site is located along Zumirez Drive, a private street, inland of Pacific Coast Highway, although the subject site address identifies the site with a Pacific Coast Highway address. The project site is located within a transition area of high density multiple family residential development to the south and lower density single family residential development to the north. The western portion of the existing parcel includes an existing drainage feature that is identified as a blue line stream on the Coastal Zone Boundary Map Number 134, Point Dume (Exhibits 1 - 4). The site includes an existing two story residence and one story guest house, a short driveway from Zumirez Drive to each residential structure and two septic systems. The Commission's records indicate that the guest house was approved in 1986 as a then described "granny unit" (Coastal Permit No. 5-86-461).

The applicant proposes to divide a 2.14 acre (gross) parcel into two parcels, 1.54 acres with an existing guest house and 0.6 acres with a primary residence, respectively. The net acreage is a 1.59 acre parcel proposed to be divided into one 1.09 acre parcel with the guest house and a 0.5 acre parcel with a primary residence. The applicant owns in fee interest a 0.55 acre portion of the private road, Zumirez Drive which is used as an access easement by property owners further north along Zumirez Drive. In addition, the applicant proposes to voluntarily offer to identify an approximate 0.7 acre portion of proposed Parcel

One as Open Space on the Tentative Parcel Map, plant riparian vegetation including ten (10) sycamore trees and ten (10) clusters of willows within fifteen (15) feet of the centerline of the drainage located within the Open Space Area along the length of the drainage on proposed Parcel One, obtain an approved "Fuel Modification Plan" from Los Angeles County Fire Department, add gravel walkway along Zumirez Drive frontage, and no construction or grading is required or proposed. The applicant proposes to plant five-gallon, or larger, container size trees noted above during the months of December and February (Exhibit 5).

The project site not located in any designated Environmentally Sensitive Habitat Area, although the site includes a blue line stream, one of two tributaries to the 'Walnut Canyon' that drains south and eventually into the ocean near Paradise Cove. The certified Los Angeles County Land Use Plan (LUP) designates portions of this parcel as Rural Land III, Residential I and Residential IV B allowing one dwelling unit for two acres, one acre, and 8 - 10 units for one acre, respectively.

### **B. Biological Productivity, ESHA, and Wildfire Hazards**

Section 30231 of the Coastal Act is designed to protect and enhance, or restore where feasible, marine resources and the biologic productivity and quality of coastal waters, including streams. **Section 30231 of the Coastal Act states as follows:**

**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.**

**Section 30240 of the Coastal Act states that:**

**(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.**

**(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.**

**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, 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.**

**1. Biological Productivity/ESHA**

The proposed development site is located on the terrace area of the Santa Monica Mountains within the City of Malibu. The Commission recognizes that development in the Santa Monica Mountains and Malibu area has the potential to adversely impact coastal water quality through the removal of native vegetation, increase of impervious surfaces, increase in runoff, erosion, and sedimentation, and other pollutant sources, as well as effluent from septic systems. Section 30231 of the Coastal Act requires that the biological productivity and quality of coastal waters and streams be maintained and restored by minimizing the effects of waste water discharges and controlling runoff, among other means.

Although, the subject site includes a drainage course that is designated as a blue line stream, the drainage course, one of two tributaries to Walnut Canyon, does not include a well defined water course as commonly found along creek channels with creek bottoms and channel banks. Water runoff originating from the lower terrace areas to the north of the subject parcel drain south into a drainage culvert southwest through multi-residential developed property and beneath Pacific Coast Highway. Known as Walnut Canyon, this drainage then empties into the ocean near Paradise Cove. The southern portion of Walnut Canyon south of Pacific Coast Highway is designated a Disturbed Sensitive Resource Area with Significant Oak Woodland and Savannahs along the last one third mile before draining into the ocean at a designed Rocky Area Shoreline along the beach (Exhibit 4). These offsite resources are designated Environmentally Sensitive Habitat Areas on the Sensitive Resource Area Map certified by the Commission in the Malibu/Santa Monica Mountains Land Use Plan.

Although the applicant proposes no construction or grading in this application to complete the land division, the applicant has voluntarily offered to designate about 0.7 acres of the western portion of proposed Parcel One as "Open Space" and identify it on the Final Parcel Map. (Exhibit 3).

As discussed below, the applicant also proposes to plant riparian vegetation within this Open Space Area. As a result, of the applicant's offer, a portion of the subject site, now the drainage area, will be protected as an Open Space Area designation while providing for revegetation of a portion of this area. The open space easement would allow for a future non-combustible deck or patio located above the 155 foot contour elevation, as shown on Exhibit 3. This area is at the top of the slope that descends to the creek and is setback 50 feet from the blueline stream. A non-combustible deck or patio would not extend fuel modification into the riparian area and would be setback an adequate distance to ensure a deck or patio would not adversely impact the stream corridor. In order to ensure the

applicant's offer to dedicate an open space easement, as shown on Exhibit 3, is implemented Special condition 3 is required. The proposed project, as conditioned, to require revegetation of the drainage area and the recordation of the Open Space easement brings this project into compliance with Sections 30231 and 30240 of the Coastal Act.

## **2. Wildfire Hazards**

The Coastal Act requires that development minimize the risk to life and property in areas of high fire hazard. The Coastal Act also recognizes that development may involve the taking of some risk. Vegetation in the coastal areas of the Santa Monica Mountains, including the terrace area of the City of Malibu, consists of grasses, coastal sage scrub and chaparral. Many plant

The existing guest house and residence is located in close proximity to various plants, including non-native species, that may present a wildfire hazard. The applicant has offered in the project description to prepare a Fuel Modification Plan and have it approved by the Los Angeles County Fire Department. The applicant anticipates that the final Plan approved by the Fire Department will specify that no indigenous riparian vegetation shall be removed from the Open Space Area and that hazardous non-native vegetation may be removed within 100 feet of the existing structures.

As a result of the applicant's proposal to obtain an approved final Fuel Modification Plan, some of the plant species in close proximity to the existing residential structures will need to be removed in certain areas and thinned in other areas to reduce the on-site fire hazard. The applicant's proposed submittal of an approved Plan will include the removal of some non-native species and the thinning of native plant species together with the planting of new native species for proposed Open Space Area located along the drainage course. Furthermore, the Plan will indicate that only those materials designated by the County Fire Department, Forestry Division, as "high fire hazard" are to be removed as part of this Plan and that native plant species that are located within a 200 foot radius of the residential structures are to be thinned rather than cleared for fire protection. The Fuel Modification Plan will identify that no existing or revegetated riparian plant species will be removed within the Open Space Area. The vegetation located within 20 feet of the residential structures and driveways may be cleared and replaced with native plant species that are less flammable. As required by Special Condition Number Two, the applicant's proposal for obtaining a final Fuel Modification Plan approved by the Los Angeles County Fire Department will be carried out on the proposed two parcels.

The Commission finds that the development is consistent with Section 30253 as required by Special Condition Number One which provides for a revegetation and fuel modification plan. The final revegetation plan will include the planting of ten (10) sycamores and ten (10) clusters of willows located within fifteen (15) feet of the centerline of the drainage located within the Open Space Area identified on the Final Parcel Map. The revegetation plan should include primarily native, drought resistant plants for any areas where existing non-native plants will be removed in the vicinity of the residential structures. Planting shall be maintained in good growing condition, and wherever necessary, shall be replaced with new plant materials to ensure continued compliance with applicable revegetation



requirements. The Revegetation Plan shall be approved by the Los Angeles County Fire Department as a Final Fuel Modification Plan. Lastly, a revegetation monitoring report shall be provided five (5) years from the date of the issuance of this Coastal Permit to ensure that the final revegetation plan has meet the performance standards in the plan and provide a revised plan in the event the revegetation is not in conformance with the approved final revegetation plan.

Therefore, the Commission finds that the proposed project, as conditioned, is consistent with Sections 30231, 30240, and 30253 of the Coastal Act.

### **C. 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:

**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 Land Use Plan includes policy 271 regarding land divisions. This LUP policy cited below has 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 is inserted in the inside back pocket ... .**

The land use plan map presents a base land use designation for all properties. Onto this are overlaid three resource protection and management categories: (a) significant environmental resource areas, (b) significant visual resource areas, and (c) significant hazardous areas. For those parcels not overlaid by a resource

management category, development can normally proceed according to the base land use classification and in conformance with all policies and standards contained herein. 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.

The Coastal Act requires that new development, including land divisions, be permitted within, contiguous with, 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. The land use designations in the Los Angeles County Land Use Plan provide guidance for the Commission to consider, among other issues, during the review of land divisions.

The applicant proposes a minor land division of one parcel into two parcels, both with residential development each access by a driveway from Zumirez Drive. This parcel is located within the City of Malibu in the residentially developed area commonly known as the Malibu terrace. The Commission has found in previous permit actions that the Malibu Terrace is considered a developed area according to Section 30250 of the Coastal Act. As a result, the average lot size of surrounding parcels provided in Section 30250 (a) is not an applicable test.

The Commission has reviewed land division applications to ensure that newly created parcels are of sufficient size, have access to roads and other utilities, are geologically stable and include appropriate building pad areas where future structures can be developed consistent with the resource protection policies of the Coastal Act.

The land use designations will be addressed first. A review of the Malibu/Santa Monica Mountains designated Land Use Plan indicates that there are three Los Angeles County land use designations on the property; Rural Land III, Residential I, and Residential IV B, providing one residential unit each for two, for one acre and 8 – 10 units per acre, respectively. Calculating the LUP density standard or guideline for this parcel on a net basis without including the private road serving the site and other properties (Zumirez Drive) allows for three parcels. The applicants are requesting a two-lot subdivision to allow for two parcels each with a single family residence. Given the proposed density of two parcels are less than what may have been allowed under the LUP density guideline, the Commission finds that the proposed two parcel subdivision is in substantial conformance with the LUP density guideline for these proposed parcels.

Although the subject parcel is in substantial conformance with the density guideline in the Los Angeles County LUP, the proposed land division must meet the standards of the Coastal Act. Section 30250 provides the standard of review for the Commission to consider when reviewing this application for a land division. As noted above, the proposed land division is located within a developed area, as the Commission has found development located within the Malibu terrace as the 'developed area' of the Santa Monica Mountains area, and therefore meets the first test.

Adequate public services are provided on the subject parcel with an existing single family residence and a guest house. The services provided include the following: water is

provided by the Los Angeles County Water Works District; fire suppression is provided by the Los Angeles County Fire Department; a paved private road (Zumirez Drive) exists along the southern property boundary which leads to a public road (Pacific Coast Highway) maintained by Caltrans; electric power is provided by Southern California Edison. Sewage disposal service is provided by two on-site private septic systems, as is common in this area. Therefore, the proposed project is located in an area where adequate public services are available, and therefore, the project meets this test.

Regarding the second test, first the issue of impacts to coastal resources on an individual basis will be discussed; cumulative impacts will be discussed next below. The applicant proposes to divide one parcel into two parcels. The subject parcel after the land division will have a single family residence and a guest house each on separate parcels. The guest house will become a primary residence on the second proposed parcel. This application includes no grading or construction as each residential structure currently exists and has a separate private driveway. Special Condition Number One requires the applicant to implement the proposed a revegetation and fuel modification plan, thereby enhancing on-site habitat within the drainage area. There is no designated ESHA on the subject site. The visibility of the parcel is limited from any public roads, lands or trails; therefore, no adverse visual impacts are expected as a result of the land division. Therefore, the proposed project, as conditioned, will not create adverse impacts on coastal resources on an individual basis.

Regarding the issue of cumulative impacts to coastal resources, the Commission has repeatedly emphasized the need to address the cumulative impacts of new development in the Malibu and Santa Monica Mountains area in past permit actions. The cumulative impact issue is important because of the existence of thousands of undeveloped and poorly sited parcels and multi-unit projects. 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 minimizes landform alteration and other visual impacts, and impacts to environmentally sensitive habitat areas.

The Commission has found that minimizing the cumulative impacts of new development is especially critical in the Malibu/Santa Monica Mountains area because of the large number of lots which already exist, many in remote, rugged mountain and canyon areas. From a comprehensive planning perspective, the potential development of thousands of existing undeveloped and poorly sited parcels in these mountains would create cumulative impacts on coastal resources and public access over time. Because of the large number of existing undeveloped parcels and potential future development, the demands on road capacity, public services, recreational facilities, and beaches would be expected to grow tremendously.

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 (Coastal Permit No. 155-78, Zal; 158-78, Eide; 182-81, Malibu Deville; 196-86, Malibu Pacifica; 5-83-43, Heathercliff; 5-83-591, Sunset-Regan; 5-85-748, Ehrman & Coombs, and 4-00-195, Simons & Rundel). The TDC program 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 was to insure that no net increase in residential units resulted from the approval of land divisions or multi-family projects while allowing development to proceed consistent with the requirements of Section 30250(a).

In 1986, the Commission certified the Malibu/Santa Monica Mountains Land Use Plan. The Plan contained six potential mitigation programs that if in place would adequately mitigate the cumulative impacts of new development. However, in approving the above cited permit requests, the Commission found that none of the County's six mitigation programs were defined in the LUP as "self-implementing" or adequate to offset the impact of increased lots in the Santa Monica Mountains and that mitigation was still required to offset the cumulative impacts created by land divisions and multi-unit projects. 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.

Because the applicant proposes to divide an existing parcel into two parcels, mitigation for cumulative impacts is necessary. 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 one additional lot and the conversion of a guest house into a separate single family residence that could be increase in habitable square footage in the future. Impacts such as traffic, sewage disposal, recreational uses, visual scenic quality and resource degradation would be associated with this conversion and the potential intensification of residential development of the additional lot in this area. Therefore, the Commission determines that it is necessary to impose Special Condition Number Three on this application, in order to insure that the cumulative impacts caused by creating one additional legal lot is adequately mitigated. The Commission finds it necessary to require Special Condition Number Two to require the applicant to mitigate the cumulative impacts of the subdivision of this property, either through purchase of one (1) TDC or the 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 the single family residential parcels created, in this case one site.

As discussed above, this application, as conditioned, meets all of the applicable tests of Section 30250. Therefore, the Commission finds that, as conditioned, the proposed project is consistent with Section 30250 of the Coastal Act.

#### **D. Local Coastal Program**

**Section 30604 of the Coastal Act states 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 applicants. 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 of Malibu's ability to prepare a Local Coastal Program for this area of the Santa Monica Mountains that is also consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

#### **E. California Environmental Quality Act (CEQA)**

Section 13096(a) of the Commission's administrative regulations requires Commission approval of Coastal Development Permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The Commission finds that, the proposed project, as conditioned will not have significant adverse effects on the environment, within the meaning of the California Environmental Quality Act of 1970. Therefore, the proposed project, as conditioned, has been adequately mitigated and is determined to be consistent with CEQA and the policies of the Coastal Act.

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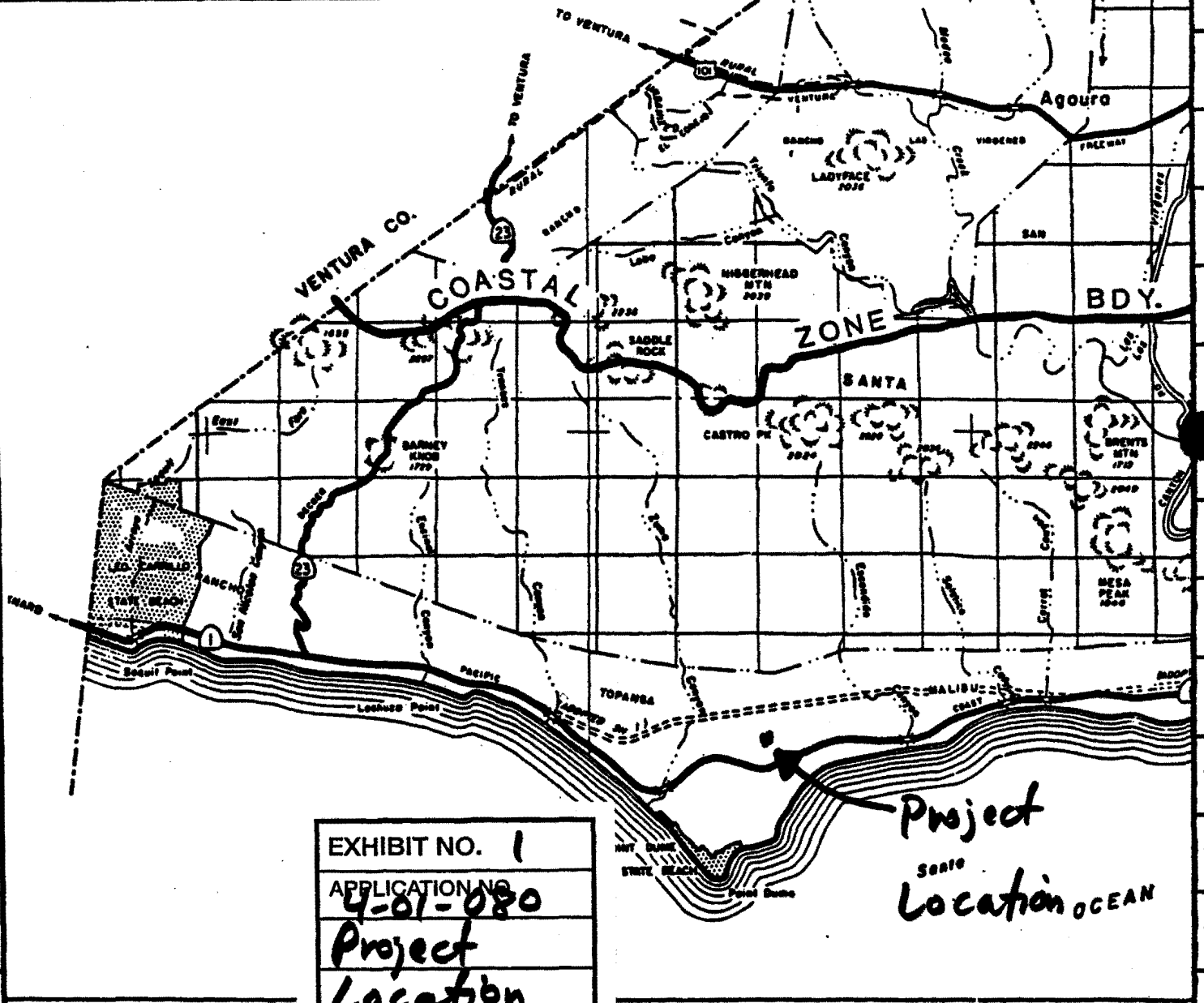
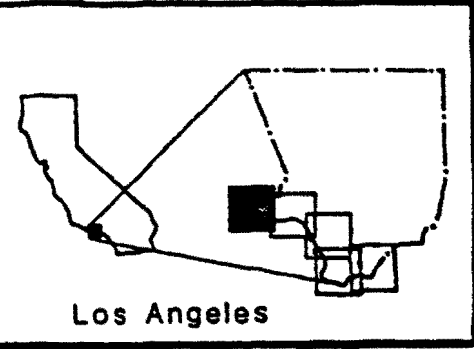


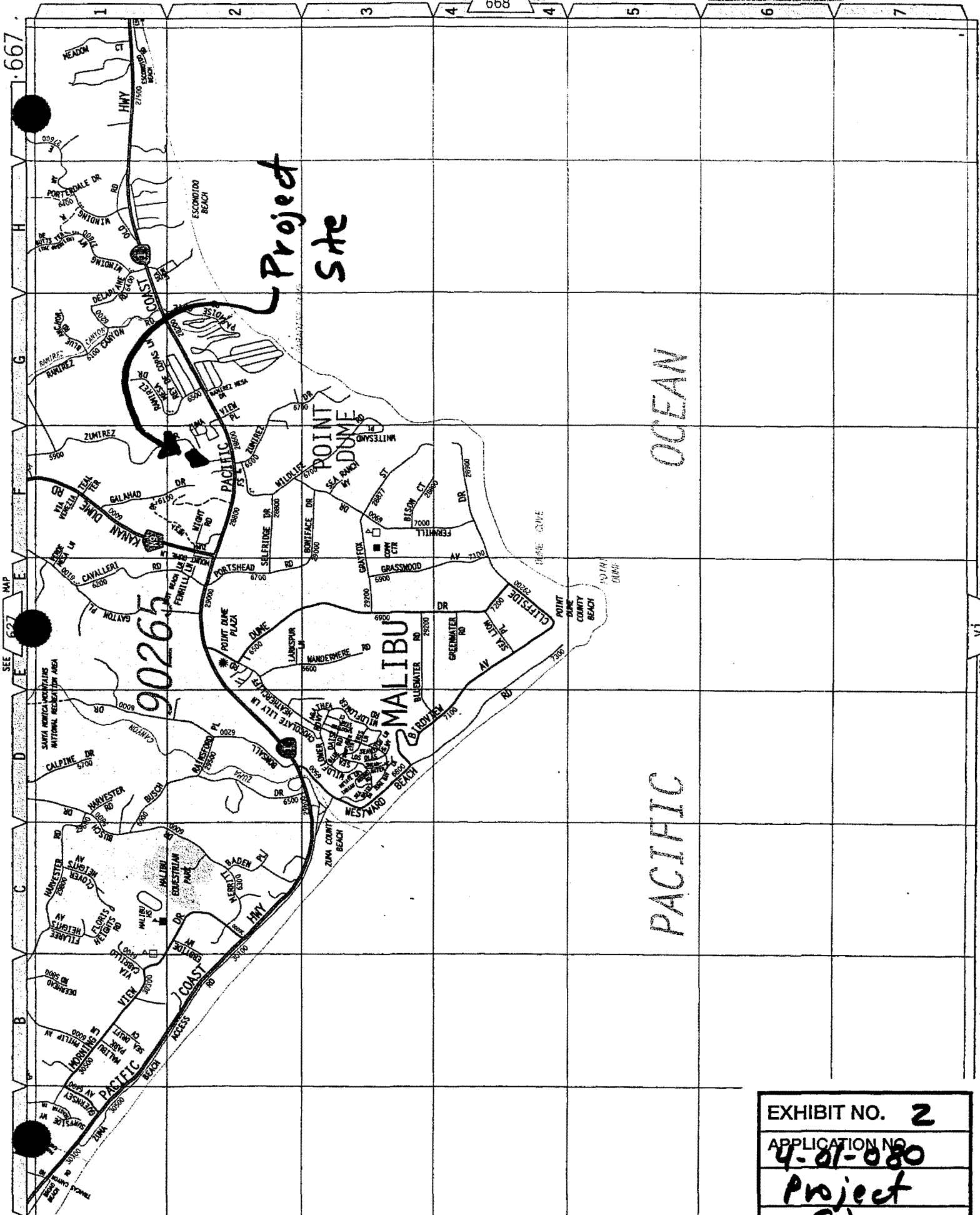
EXHIBIT NO. 1
APPLICATION NO. 4-01-080
Project Location

Project  
SITE  
Location OCEAN



LOCATION MAP





Project Site

90265

OCEAN

PACIFIC

EXHIBIT NO. 2
APPLICATION NO. 4-01-080
Project Site

RECEIVED

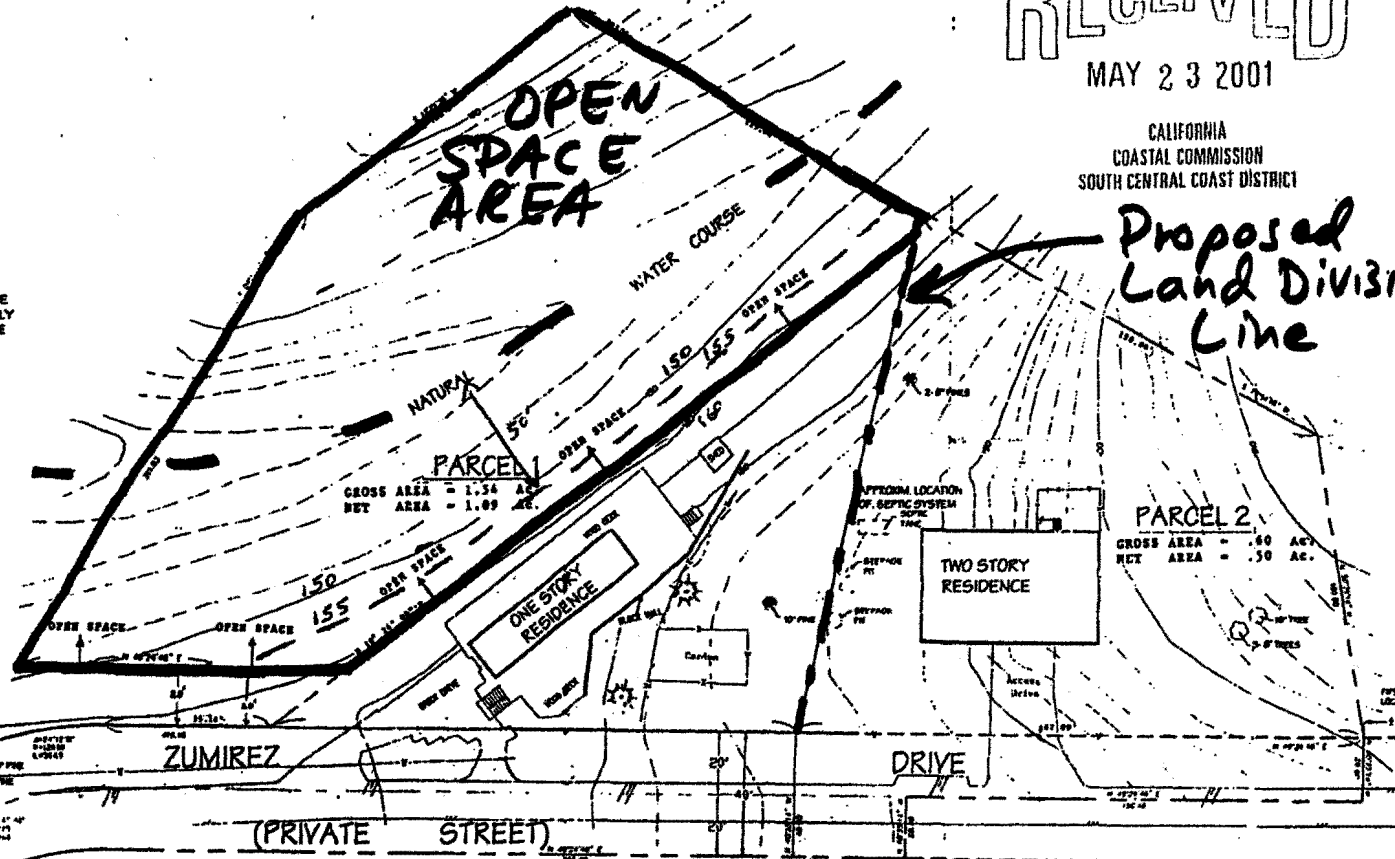
MAY 23 2001

CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

Proposed  
Land Division  
Line

LEGAL DESCRIPTION:  
PORTION OF PARCELS 4 AND 4B IN THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS SHOWN ON THE RECORD OF SURVEY MAP FILED IN BOOK 54 PAGES 37 TO 39 INCLUSIVE OF RECORD OF SURVEYS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE SOUTHEASTERLY LINE OF SAID PARCEL 4B, DISTANT SOUTH 48°24'48" WEST 100.00 FEET THEREON FROM THE NORTHEASTERLY TERMINUS OF CERTAIN COURSE IN THE SOUTHEASTERLY LINE OF SAID PARCEL 4B, HAVING A BEARING OF SOUTH 48°24'48" WEST AND A LENGTH OF 583.74 FEET; THENCE NORTH 40°35'14" WEST 20 FEET; THENCE NORTH 50°38'14" WEST 100.00 FEET; THENCE SOUTH 77°31'16" WEST 28.25 FEET TO THE WESTERLY LINE OF SAID PARCEL 4B; THENCE ALONG SAID WESTERLY LINE SOUTH 12°21'30" WEST 108.43 FEET; THENCE SOUTH 05°20'55" EAST ALONG THE WESTERLY LINE OF SAID PARCELS 4B AND 4 A DISTANCE OF 700.00 FEET TO THE SOUTHWEST CORNER OF SAID PARCEL 4; THENCE EASTERLY ALONG THE SOUTHERLY LINE OF SAID PARCEL 4, BEING CONCAVE NORTHERLY HAVING A RADIUS OF 2,450 FEET A DISTANCE OF 40.33 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 20.00 FEET; THENCE NORTHWESTERLY ALONG SAID CURVE 31.75 FEET; THENCE NORTH 8°20'55" WEST 40.25 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE EASTERLY, HAVING A RADIUS OF 80.00 FEET; THENCE NORTHEASTERLY ALONG SAID CURVE 80.85 FEET; THENCE NORTH 48°24'48" EAST 258 FEET; THENCE NORTH 40°35'14" WEST 20.00 FEET TO THE SOUTHEASTERLY LINE OF SAID PARCEL 4B; THENCE ALONG SAID SOUTHEASTERLY LINE NORTH 48°24'48" EAST TO THE POINT OF BEGINNING.

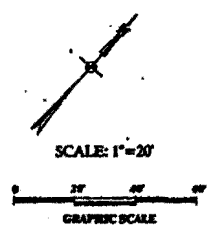
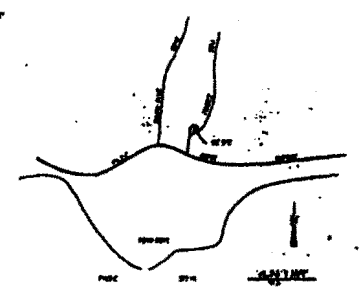


Legend

- 1/2" Concrete ---
- Rail Fence ---
- 1/4" Fence ---

POINTS ARE SHOWN IN APPROXIMATE LOCATIONS

EXHIBIT NO. 3  
APPLICATION NO. 260  
Tentative  
Parcel map



NOTES:

- TOTAL GROSS AREA: 2.15 AC.
- EXISTING ZONES: SF
- PROPOSED ZONE: SAME
- PRESENT USE: RESIDENTIAL
- PROPOSED USE: RESIDENTIAL
- WATER: W.W. DISTRICT NO. 29
- SEWER: PRIVATE SEPTIC SYSTEM
- ASSESSOR'S NO.: 4467-015-010
- THOMAS GUIDE: 667 F-2
- NO WATER WELLS OR LEACH LINES
- TREES: NO OAK TREES
- NO UNDERGROUND IRRIGATION/ DRAINAGE LINES
- NO AREAS OF ARCHEOLOGICAL, CULTURAL, HISTORIC SIGNIFICANCE
- NO GEOSENSITIVE AREAS

ENGINEER:  
V.P.L. CONSULTING, INC.  
7625 HAYVENHURST AVENUE, SUITE #16  
VAN NUYS, CALIFORNIA, 91406  
(818) 786-5072  
MARDIROS MARKARIAN R.C.E. 0853434

OWNER:  
AMBER ASFOUR  
28637 PACIFIC COAST HIGHWAY  
MALIBU, CALIFORNIA, 90265  
(310) 457-1719

APPLICANT:  
AMBER ASFOUR  
28637 PACIFIC COAST HIGHWAY  
MALIBU, CALIFORNIA, 90265  
(310) 457-1719

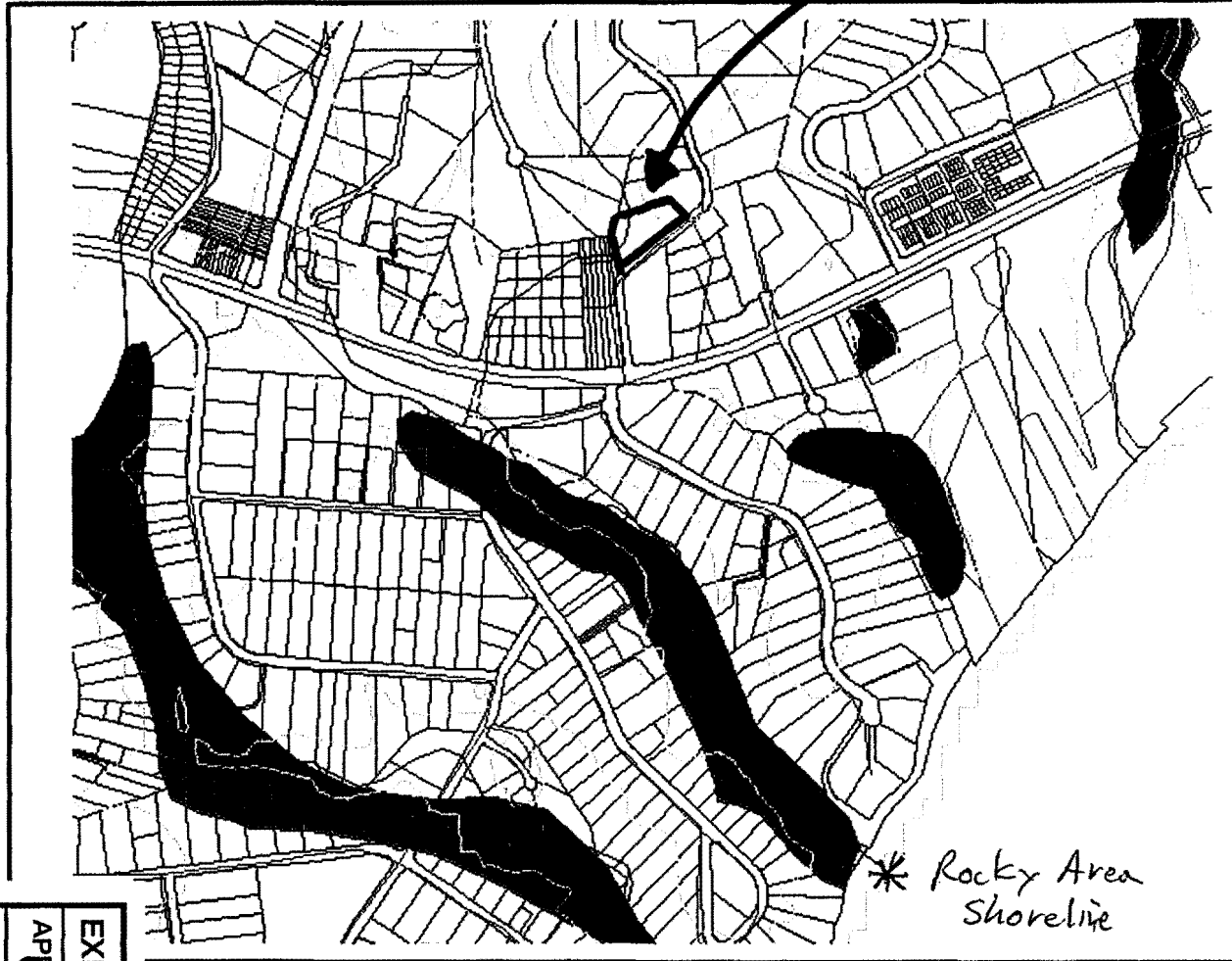
TENTATIVE PARCEL MAP No. 2606

PACIFIC COAST HIGHWAY



401080asfourparcel

Project Site



- contours @ 100ft
- Blue Line Streams
- streets
- laprcls
- esha

\* Rocky Area Shoreline



EXHIBIT NO. 4  
APPLICATION NO. 01-080  
ESHA Map

BLUE ONYX DESIGN & ENGINEERING, INC.

BY FACSIMILE

October 23, 2001

James Johnson  
California Coastal Commission  
89 S. California St., Ste. 200  
Ventura CA 93001  
Fax: 805-641-1732

RE: Coastal Permit Application No. 4-01-080 (Asfour)

Dear Mr. Johnson:

In accord with the discussions that were held between you and myself on October 23, 2001, the landowner has agreed to modify the project description of the above referenced project in the following manner:

- 1. The Final Parcel Map will include a designated "Open Space" area which will include the blue water stream and drainage course.
- 2. A fuel modification plan will be prepared by the owner and approved by the Los Angeles County Fire Department. The fuel modification plan shall specify that no indigenous riparian vegetation shall be removed from the "Open Space" area, but that hazardous non-native vegetation may be removed within 100 feet of the existing structures.
- 3. The owner shall plant the following vegetation to help restore the riparian vegetation in the Open Space Area.
  - A. Ten (10) sycamore trees shall be planted within 15 feet of the centerline of the drainage course and be evenly spaced throughout the length of the drainage course. The trees shall be planted from five-gallon, or larger, containers and shall be planted during the months of December and February.

The owner will provide a sworn statement from a licensed landscape contractor that the above plantings have been made prior to the Coastal Commission's issuance of a Coastal Permit.

EXHIBIT NO. 5
APPLICATION NO. 4-01-080
Agent's 9/28/01
letter pg 1 of 2

James Johnson  
October 24, 2001  
Page Two

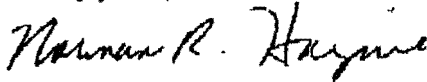
- B. Ten (10) clusters of willows shall be planted within 15 feet of the centerline of the drainage course and be evenly spaced throughout the length of the drainage course within the Open Space area. The trees shall be planted from five-gallon, or larger, containers and shall be planted during the months of December and February.

The owner will provide a sworn statement from a licensed landscape contractor that the above plantings have been made prior to the Coastal Commission's issuance of a Coastal Permit.

The above stated modifications will supersede the modifications referenced in my September 28, 2001 letter to you.

I hope that the above stated modifications to the project description are satisfactory to you and that the project can be heard at the November meeting.

Sincerely yours,



Norman R. Haynie  
Project Representative

NRH/cek

Cc: Amber Asfour

EXHIBIT NO. 5
APPLICATION NO. 4-01-080
Agent's 9/28/01 letter pg 2 of 2

