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STATE OF CALIFORNIA -- THE RESOURCES AGENCY GRAY DAVIS, *Governor*

CALIFORNIA COASTAL COMMISSION
SOUTH CENTRAL COAST AREA
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Commission Action:	

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STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 4-01-046

APPLICANT: PCH-Tyler Associates, Inc. **AGENT:** Marny Randall

PROJECT LOCATION: 24675 Pacific Coast Highway, Malibu (Los Angeles County)

PROJECT DESCRIPTION: Proposal to: divide one 6.46 acre parcel into four lots (Lot 1: 1.83 acres, Lot 2: 1.0 acres, Lot 3: 1.03 acres, Lot 4: 2.6 acres); construct a 635 ft. long, 24 ft. wide paved common access driveway and cul-de-sac plus a 90 ft. long, 20 ft. wide easement from the cul-de-sac to Lot 4 for future access, with 70 lineal ft., 0-6 ft. high retaining wall at driveway entrance and 200 lineal ft., 0-6 ft. high retaining wall at cul-de-sac, and 3,272 cu. yds. of grading (1,906 cu. yds. cut and 1,366 cu. yds. fill); construct two earth berms (5 ft. high on Lot 3 and 7 ft. high on Lot 4) with 540 cu. yds. fill (220 cu. yds. on Lot 3 and 320 cu. yds. on Lot 4); and install drainage facilities and water and utility lines to serve the proposed parcels.

Land Use Designation	2.06 acres Rural Land I (1 du/10 acres)/4.4 acres Residential I (1 du/acre)
Lot 1 Area	1.83 acres
Lot 2 Area	1 acre
Lot 3 Area	1.03 acres
Lot 4 Area	2.6 acres
Paved Area	20,300 sq. ft.

LOCAL APPROVALS RECEIVED: City of Malibu Planning Department, Approval in Concept, February 5, 2001; City of Malibu Geology Review, Approval in Concept, December 14, 2000; City of Malibu Environmental Health, Approval in Concept, December 11, 2000; County of Los Angeles Fire Department, Preliminary Fuel Modification Plan Approval, December 18, 2000; County of Los Angeles Fire Department, Fire Prevention Engineering Approval, April 3, 2001.

SUBSTANTIVE FILE DOCUMENTS: Certified Malibu/Santa Monica Mountains Land Use Plan; "Limited Geologic Soils and Engineering Investigation," GeoConcepts, Inc., September 13, 2000; "Addendum Report No. 1," GeoConcepts, Inc., October 30, 2000; "Addendum Report No. 2," GeoConcepts, Inc., November 30, 2000; "Private Sewage Disposal System," GeoConcepts, Inc., December 6, 2000; "A Phase 1 Archeological Study", Historical, Environmental, Archeological Research Team, December 1999; "The Results of Additional Archeological Monitoring", Historical, Environmental, Archeological Research Team, November 27, 2000.

Summary of Staff Recommendation

Staff recommends ***approval*** of the proposed project with **seven (7) special conditions** regarding (1) geologic recommendations, (2) drainage and polluted runoff control, (3) landscaping and erosion control, (4) color restriction, (5) archeological resources, (6) cumulative impact mitigation, and (7) future development of subdivision.

I. Staff Recommendation

MOTION: ***I move that the Commission approve Coastal Development Permit No. 4-01-046 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. Plans Conforming to Geologic Recommendations

All recommendations contained in the Limited Geologic Soils and Engineering Investigation dated September 13, 2000 and the Private Sewage Disposal System dated December 6, 2000 prepared by GeoConcepts, Inc. shall be incorporated into all final design and construction including *foundations*, *grading*, and *drainage*. Final plans must be reviewed and approved by the project's consulting geotechnical engineer and geologist. *Prior to issuance of the coastal development permit*, the applicant shall submit, for review and approval by the Executive Director, evidence of the consultant's review and approval of all project plans.

The final plans approved by the consultants 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 consultants shall require an amendment to the permit or a new coastal permit.

2. Drainage and Polluted Runoff Control Plans

Prior to the Issuance of the Coastal Development Permit, the applicants shall submit to the Executive Director for review and written approval, final drainage and runoff control plans, including supporting calculations. The plan shall be prepared by a licensed engineer and shall incorporate structural and non-structural Best Management Practices (BMPs) designed to control the volume, velocity and pollutant load of stormwater leaving the developed site. The plan shall be reviewed and approved by the consulting geotechnical engineer and geologist to ensure the plan is in conformance with consultant's recommendations. In addition to the specifications above, the plan shall be in substantial conformance with the following requirements:

(a) Selected BMPs (or suites of BMPs) shall be designed to treat or filter stormwater from each runoff event, up to and including the 85th percentile, 24-hour runoff event for volume-based BMPs, and/or the 85th percentile, 1-hour runoff event, with an appropriate safety factor, for flow-based BMPs.

(b) Runoff shall be conveyed off site in a non-erosive manner.

(c) Energy dissipating measures shall be installed at the terminus of outflow drains.

(d) The plan shall include provisions for maintaining the drainage system, including structural BMPs, in a functional condition throughout the life of the approved development. Such maintenance shall include the following: (1) BMPs shall be inspected, cleaned and repaired when necessary prior to the onset of the storm season, no later than September 30th each year and (2) should any of the project's surface or subsurface drainage/filtration structures or other BMPs 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 or BMPs 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.

3. Landscaping and Interim Erosion Control Plans

Prior to issuance of a coastal development permit, the applicants 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 geotechnical engineering and geologic consultant to ensure that the plans are in conformance with the consultant's recommendations. The plans shall identify the species, extent, and location of all plant materials and 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 completion of grading operations. 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 February 5, 1996. 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. Plantings should be of native plant species indigenous to the Santa Monica Mountains using accepted planting procedures, consistent with fire safety requirements. Such plantings shall be adequate to provide 90 percent coverage within two (2) years, and this requirement shall apply to all disturbed soils.

(3) Vertical landscape elements shall be included in the landscape plan that are designed, upon attaining maturity, to screen future residences to minimize impacts of the development on public views from Pacific Coast Highway and the Malibu Bluffs State Recreation Area located southeast of the site (Exhibit 1).

(4) 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.

(5) 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 should grading take place during the rainy season (November 1 – March 31) the applicant shall install or construct temporary sediment basins (including debris basins, desilting basins or silt traps), temporary drains and swales, sand bag barriers, silt fencing, stabilize any stockpiled fill with geofabric covers or other appropriate cover, install geotextiles or mats on all cut or fill slopes and close and stabilize open trenches as soon as possible. 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.

(3) The plan shall also include temporary erosion control measures should grading or site preparation cease for a period of more than 30 days, including but not limited to: stabilization of all stockpiled fill, access roads, disturbed soils and cut and fill slopes with geotextiles and/or mats, sand bag barriers, silt fencing; temporary drains and swales and sediment basins. The plans 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 issuance of the permit, 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.

4. Color Restriction

The color of the driveway and retaining walls permitted hereby shall be restricted to a color compatible with the surrounding environment.

Prior to the issuance the coastal development permit, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which reflects the restrictions stated above on the proposed development. The document shall run with the land for the life of the structures approved in this permit, binding all successors and assigns, and shall be recorded free of prior liens and encumbrances 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.

5. Archeological 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 reports prepared by Historical, Environmental, Archeological, Research, Team entitled "A Phase 1 Archeological Study" dated December 1999 and "The Results of Additional Archeological Monitoring" dated November 27, 2000, 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 archaeologists' 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.

6. Cumulative Impact Mitigation

Prior to the issuance of the Coastal Development Permit, the applicant 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 applicant shall provide evidence to the Executive Director that development rights for residential use have been extinguished on three (3) building sites 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)-type transaction; or

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.

7. Future Development of Subdivision

A. Prior to issuance of Coastal Development Permit No. 4-00-046, 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 No. Two (2) contained in Coastal Development Permit No. 4-00-046;

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 No. Two (2)(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 No. Three (3)a. and c. contained in Coastal Development Permit No. 4-00-046 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. 4-00-046;

5) attach as an Exhibit, the Notice of Intent to issue Coastal Development Permit No. 4-00-046, which sets forth the Special Conditions contained in the Permit.

B. Prior to commencement of construction of development authorized in Permit No. 4-00-046 (including but not limited to construction of roads, and retaining walls) 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.

IV. Findings and Declarations

The Commission hereby finds and declares:

A. Project Description and Background

The applicant is proposing to: subdivide a 6.46 acre parcel into four lots (Lot 1: 1.83 acres, Lot 2: 1.0 acres, Lot 3: 1.03 acres, Lot 4: 2.6 acres); construct a 635 ft. long, 24 ft. wide paved common access driveway and cul-de-sac plus a 90 ft. long, 20 ft. wide easement from the cul-de-sac to Lot 4 for future access, with 70 lineal ft., 0-6 ft. high retaining wall at driveway entrance and 200 lineal ft., 0-6 ft. high retaining wall at cul-de-sac, and 3,272 cu. yds. of grading (1,906 cu. yds. cut and 1,366 cu. yds. fill); construct two earth berms (5 ft. high on Lot 3 and 7 ft. high on Lot 4) with 540 cu. yds. fill (220 cu. yds. on Lot 3 and 320 cu. yds. on Lot 4); and install drainage facilities and water and utility lines to serve the proposed parcels (Exhibit 3).

In addition, the applicant submitted conceptual grading plans for four future residences with estimated cut and fill amounts for each proposed lot. The applicant shall propose in the future the construction of four new split level single family residences with attached garages, driveways, retaining walls, and private sewage disposal systems involving 5,276 cubic yards of grading (2,479 cu. yds. cut and 2,797 cu. yds. fill): 1,507 cu. yds. on Lot 1; 1,368 cu. yds. Lot 2; 1,172 cu. yds. Lot 3; and 1,229 cu. yds. Lot 4 (Exhibits 4 & 5). The conceptual driveways for each proposed lot will originate along the currently proposed paved driveway and cul-de-sac in order to independently access each future single family residence. The conceptual plan indicates that the future residences and associated fuel modification will not adversely impact any environmentally sensitive habitat. The residences on Lots 3 and 4 will be visible from public views, therefore, the applicant is proposing two earth berms with landscaping to attenuate the visual impacts of the residences on those visual resources.

The project site is currently vacant and is located on the north side of Pacific Coast Highway east of Puerco Canyon and just west of John Tyler Drive in the City of Malibu (Exhibit 1). The subject parcel is bordered on the south by Pacific Coast Highway, on the west by Puerco Canyon, on the north by numerous residences, and on the east by Malibu Water Reclamation Plant. Topographically, the project site is situated on steep slopes ascending to the north. Ascending cut slopes from Pacific Coast Highway to the natural slopes have a gradient of 1.5:1 or less (horizontal to vertical). Existing vegetation on site consists of a mix of native and exotic species including, but not limited to, native grasses, coastal sage scrub, chaparral, and trees. However, the development area contains primarily exotic grasses that are disked on an annual basis pursuant to fire department requirements. There is a small riparian corridor at the west end of the property, which is part of a continuous habitat area that extends from the blue line stream that flows south of the property, and is characterized as environmentally sensitive habitat area, however, no development is proposed (including conceptual plans for future development) within 230 ft. of the ESHA (Exhibit 3). Puerco Canyon drainage, which is a blueline stream, is located south and west of the western extension of the subject parcel. The area surrounding the project site is characterized as a built-out portion of Malibu consisting of similar residential development, although the area to the southeast consists of a state park and recreation area with a public hiking trail. The site is located on Pacific Coast Highway and across from Malibu Bluffs Park and Recreation Area, thus, the site will be visible from a designated scenic highway and public viewing areas.

B. Geology & Hazards

The proposed development is located in the Santa Monica Mountains area, an area that is generally considered to be subject to an unusually high amount of natural hazards. Geologic hazards common to the Santa Monica Mountains area 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.

Section 30253 of the Coastal Act states in pertinent 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.***

Section 30253 of the Coastal Act mandates that new development be sited and designed to provide geologic stability and structural integrity, and minimize risks to life and property in areas of high geologic, flood, and fire hazard. As described above, the proposed project includes subdivision of a 6.46 acre parcel into four lots (Lot 1: 1.83 acres, Lot 2: 1.0 acres, Lot 3: 1.03 acres, Lot 4: 2.6 acres); construction of a 635 ft. long, 24 ft. wide paved common access driveway and cul-de-sac plus a 90 ft. long, 20 ft. wide easement from the cul-de-sac to Lot 4 for future access, with 70 lineal ft., 0-6 ft. high retaining wall at driveway entrance and 200 lineal ft., 0-6 ft. high retaining wall at cul-de-sac, and 3,272 cu. yds. of grading (1,906 cu. yds. cut and 1,366 cu. yds. fill); construction of two earth berms (5 ft. high on Lot 3 and 7 ft. high on Lot 4) with 540 cu. yds. fill (220 cu. yds. on Lot 3 and 320 cu. yds. on Lot 4); and installation of drainage facilities and water and utility lines to serve the proposed parcels.

The applicant has submitted a Limited Geologic Soils and Engineering Investigation dated September 13, 2000 and the Private Sewage Disposal System dated December 6, 2000 prepared by GeoConcepts, Inc. which evaluate the geologic stability of the subject site in relation to the proposed development. Based on their evaluation of the site's geology and the proposed development the consultants have found that the project site is suitable for the proposed project. The project's consulting geotechnical engineer states in the Limited Geologic Soils and Engineering Investigation dated September 13, 2000 prepared by GeoConcepts, Inc.:

> ***It is the finding of this corporation, based upon the subsurface data, that the proposed project will be safe from landslide, settlement or slippage and will not adversely affect adjacent property, provided this corporation's recommendations and those of the Uniform Building Code and the City of Malibu are followed and maintained.***

Furthermore, the Private Sewage Disposal System dated December 6, 2000 prepared by GeoConcepts, Inc. states:

> ***It is the finding of this corporation, based upon the subsurface data, that the proposed seepage system will be safe from landslide, settlement or slippage and***

will not adversely affect adjacent property, provided this corporation's recommendations, the City of Malibu and those of the Uniform Building Code are followed and maintained.

The geotechnical engineering consultants conclude that the proposed development is feasible and will be free from geologic hazard provided their recommendations are incorporated into the proposed development. The Limited Geologic Soils and Engineering Investigation dated September 13, 2000 and the Private Sewage Disposal System dated December 6, 2000 prepared by GeoConcepts, Inc. contain several recommendations to be incorporated into project construction, design, sewage disposal and drainage to ensure the stability and geologic safety of the proposed project site and adjacent properties. To ensure that the recommendations of the consultants have been incorporated into all proposed development the Commission, as specified in **Special Condition No. One (1)**, requires the applicant to submit project plans certified by the consulting geotechnical engineer as conforming to all structural and site stability recommendations for the proposed project. Final plans approved by the consultant shall be in substantial conformance with the plans approved by the Commission. Any substantial changes to the proposed development, as approved by the Commission, which may be recommended by the consultant shall require an amendment to the permit or a new coastal development permit.

Controlling and diverting run-off in a non-erosive manner from the proposed structures and impervious surfaces will also add to the geologic stability of the project site. Therefore, in order to minimize erosion and ensure stability of the project site, and to ensure that adequate drainage and erosion control is included in the proposed development, the Commission requires the applicants to submit drainage and erosion control plans certified by the geotechnical engineer, as specified in **Special Conditions No. Two and Three (2 & 3)**.

The Commission also finds that landscaping of graded and disturbed areas on the subject site will serve to stabilize disturbed soils, reduce erosion and thus enhance and maintain the geologic stability of the site. Therefore, **Special Condition No. Three (3)** requires the applicant to submit landscaping plans certified by the consulting geotechnical engineer as in conformance with their recommendations for landscaping of the project site. Special Condition No. Three also requires the applicant to utilize and maintain native and noninvasive plant species compatible with the surrounding area for landscaping the project site.

Finally, Invasive and non-native plant species are generally characterized as having a shallow root structure in comparison with their high surface/foliage weight. The Commission notes that non-native and invasive plant species with high surface/foliage weight and shallow root structures do not serve to stabilize slopes and that such vegetation results in potential adverse effects to the stability of the project site. Native species, alternatively, tend to have a deeper root structure than non-native and invasive species, and once established aid in preventing erosion. Therefore, the Commission finds that in order to ensure site stability, all slopes and disturbed and graded areas of the site shall be landscaped with appropriate native plant species, as specified in **Special Condition No. Three (3)**.

The Commission finds that the proposed project will serve to minimize potential geologic hazards of the project site and adjacent properties, and thus, for the reasons set forth above, the Commission finds that, as conditioned, the proposed project is consistent with §30253 of the Coastal Act.

C. 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 governments shall be subordinate to the character of its setting.***

To assess potential visual impacts of projects, the Commission investigates publicly accessible locations from which the proposed development is visible, such as beaches, parks, trails, and roads. The Commission also examines the site and the scale of the proposed development in relation to nearby scenic resources. The subject site is located adjacent to Pacific Coast Highway, and is thus, visible from a designated scenic highway. The proposed project site is also located northwest of Malibu Bluffs, a state park and recreation area with a public hiking trail (see Exhibit 1).

In past actions, the Commission has provided for protection of visual resources when reviewing development proposals in the Santa Monica Mountains. For example, the Commission has found that new development shall be sited and designed to protect public views from scenic highways, to and along the shoreline, and to scenic coastal areas, including public parklands. In addition, the Commission has found that structures shall be designed and located so as to create an attractive appearance and harmonious relationship with the surrounding environment. Furthermore, in highly scenic areas and along scenic highways, the Commission has found that new development shall be sited and designed to protect views to and along the ocean and to and along other scenic features, minimize the alteration of natural land forms, conceal graded slopes, be visually compatible with and subordinate to the character of the setting, and not intrude into the skyline as seen from public viewing areas. Finally, in past actions, the Commission has also found that structures shall be sited to conform to the natural topography of the site, as is feasible.

As previously described, the proposed project is to: subdivide a 6.46 acre parcel into four lots (Lot 1: 1.83 acres, Lot 2: 1.0 acres, Lot 3: 1.03 acres, Lot 4: 2.6 acres); construct a 635 ft. long, 24 ft. wide paved common access driveway and cul-de-sac plus a 90 ft. long, 20 ft. wide easement from the cul-de-sac to Lot 4 for future access, with 70 lineal ft., 0-6 ft. high retaining wall at driveway entrance and 200 lineal ft., 0-6 ft. high retaining wall at cul-de-sac, and 3,272 cu. yds. of grading (1,906 cu. yds. cut and 1,366 cu. yds. fill); construct two earth berms (5 ft. high on Lot 3 and 7 ft. high on Lot 4) with 540 cu. yds. fill (220 cu. yds. on Lot 3 and 320 cu. yds. on Lot 4); and install drainage facilities and water and utility lines to serve the proposed parcels. There are existing single family residences to the north and a large university to the northeast of the site. Malibu Country Estates is a densely developed small lot subdivision with lots 10,000 sq. ft. in size or less. Malibu Bluffs State Park lies to the south of the site , thus, the proposed project would provide a transition between the vacant land seaward of Pacific Coast Highway and the densely developed subdivision just north of the subject site. As such, the proposed project will be consistent with the character of the surrounding area. The grading required for the proposed development is limited to the construction of the common driveway to

provide access to the four proposed lots and creation of two earth berms, which shall serve to mitigate visual impacts on Lots 3 and 4 from public views. Furthermore, the grading amounts for the common driveway and cul-de-sac were reduced from 4,122 cu. yds. to 3,272 cu. yds. and two retaining walls were eliminated through revised grading plans submitted by the applicant. As such, the Commission finds that the proposed grading is sufficiently minimized, and in concert with the landscaping required, as specified in **Special Condition No. Three (3)**, to plant all graded and disturbed areas with native species, the project shall be consistent with visual resource and landform alteration policies of the Coastal Act.

Moreover, the applicant submitted conceptual grading plans for future residences on the proposed lots. The Commission has required in past permit actions on redivisions and subdivisions of property that the applicant specify building sites and conceptual or actual grading amounts to ensure the proposed parcels can be developed consistent with the Chapter Three Policies of the Coastal Act. The applicant is not proposing the construction of building pads and driveways on proposed lots at this time. The Commission recognizes that the grading proposed for these residential building sites is conceptual and these grading designs may require minor modifications through future coastal development permits for residential development. However, future residential developments should reflect the general grading amounts, designs and development footprints outlined in the findings below. The applicant shall propose in the future the construction of four new split level single family residences with attached garages, driveways, retaining walls, and private sewage disposal systems involving 5,276 cubic yards of grading (2,479 cu. yds. cut and 2,797 cu. yds. fill): 1,507 cu. yds. on Lot 1; 1,368 cu. yds. Lot 2; 1,172 cu. yds. Lot 3; and 1,229 cu. yds. Lot 4 (Exhibits 4 & 5). The conceptual driveways for each proposed lot will originate along the currently proposed paved driveway and cul-de-sac in order to independently access each future single family residence. The split level design of the residences design serves to minimize landform alteration and intrusion into the skyline as seen from public viewing areas. As such, the proposed parcels can be developed in conformance with visual resource and landform alteration policies of the Coastal Act.

The natural topography screens the future residences on Lots 1 and 2 from scenic views on Pacific Coast Highway, however, Lots 3 and 4 will be partially visible from the highway. In order to mitigate the impacts on visual resources, the applicant proposes to construct two earth berms on Lots 3 and 4 (5 ft. high and 7 ft. high, respectively) to shield the residences from scenic vistas. However, due to the visible nature of the project, including the earth berms, as seen from Pacific Coast Highway and Malibu Bluffs Recreation Area, native landscaping on those berms will further serve to screen the residences above the height of the berms and soften visual impacts as seen from these public viewing areas. Thus, the Commission notes that landscaping will further serve to reduce visual impacts from the future residences to be proposed on those lots. In order to ensure that potential visual impacts from the graded and disturbed areas of the project site are minimized, including the earth berms, **Special Condition No. Three (3)**, requires the applicant to prepare and implement a landscaping plan, comprised primarily of native vegetation, which provides for the revegetation of all graded and disturbed areas and shall include vertical elements to screen the residences from public views. The applicant must also monitor the landscaping and report to the Commission on the success of the revegetation in order to ensure that the landscaping is successful. The landscaping shall consist of native, drought resistant plants and be designed to minimize and control erosion, as well as partially screen and soften the visual impact of the future structures, grading, and earth berms, as seen from Pacific Coast Highway and Malibu Bluffs Recreation Area, with vertical elements such as trees and shrubs. To ensure future property owners comply with the

requirements of Special Condition No. Three (3), the Commission finds, that the applicant shall record Covenants, Conditions and Restrictions on the tract map or properties that specify the property owners are required to comply with the provisions of this condition, as required in Special Condition No. Seven (7).

The Commission also finds it necessary to require that the proposed development be subject to the specific color restrictions set forth in **Special Condition No. Four (4)**. The purpose of this restrictions is to reduce the impacts of the proposed project on scenic views. These restrictions limit the color of the proposed common access driveway with cul-de-sac and retaining walls to colors compatible with the surrounding environment. This condition will further reduce the negative impacts from the proposed development on the visual resources from the above mentioned public viewing areas.

In summary, the proposed project, as conditioned, will not result in a significant adverse impact to the public views. Thus, the Commission finds that the proposed project, as conditioned, is consistent with §30251 of the Coastal Act.

D. Cumulative Impacts

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:

> ***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:

> ***[T]he 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 previously described, the proposed project includes the subdivision of a 6.46 acre parcel into four lots (Lot 1: 1.83 acres, Lot 2: 1.0 acres, Lot 3: 1.03 acres, Lot 4: 2.6 acres); construction of a 635 ft. long, 24 ft. wide paved common access driveway and cul-de-sac plus a 90 ft. long, 20 ft. wide easement from the cul-de-sac to Lot 4 for future access, with 70 lineal ft., 0-6 ft. high retaining wall at driveway entrance and 200 lineal ft., 0-6 ft. high retaining wall at cul-de-sac, and 3,272 cu. yds. of grading (1,906 cu. yds. cut and 1,366 cu. yds. fill); construction of two earth berms (5 ft. high on Lot 3 and 7 ft. high on Lot 4) with 540 cu. yds. fill (220 cu. yds. on Lot 3 and 320 cu. yds. on Lot 4); and installation of drainage facilities and water and utility lines to serve the proposed parcels.

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.

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.

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. The zoning set forth by the City of Malibu, Single Family Medium, would have allowed for a maximum of 24 homes on the property, at approximately one residence per quarter acre. However, while the City of Malibu has made its own land use designations, the land use designations from the certified Malibu/Santa Monica Mountains LUP 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 certified LUP designates 2.06 acres of proposed project site as the Rural Land I Category, which allows one dwelling unit per ten acres and the other 4.4 acres as the Residential I Category, which allows one dwelling unit per acre. Therefore, the total allowable dwelling units on the property would be 4.61 or a maximum of four residences. The proposed project would result in the maximum density allowed under the certified LUP, and as such, would be consistent with the land use designation category.

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 Development Credit (TDC) program as mitigation, such as been done in past actions including CDP Nos. P-78-155 (Zal), P-81-182 (Malibu Deville), 5-83-43 (Heathercliff), 5-83-591 (Sunset-Regan), 4-98-281 (Cariker), 4-00-044 (Blank Par-E, LLC), and 4-00-097 (Rollins). 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 has found that the TDC program, or a similar technique to retire development rights on selected lots, and remains a valid means of mitigating cumulative impacts. Without

some means of mitigation, the Commission would have no alternative but to deny such projects, based on the provisions of Section 30250(a) of the Coastal Act.

The applicant is proposing to subdivide one parcel of land into four 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 TDCs as one of the alternative mitigation strategies. Staff's review indicates that the incremental contribution to cumulative impacts would be the creation of three additional lots. Impacts such as traffic, sewage disposal, recreational uses, visual scenic quality, and resource degradation are associated with the development of an additional parcel 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 three additional legal buildable lots are adequately mitigated.

Therefore, **Special Condition No. Six (6)** requires the applicant to mitigate the cumulative impacts of the subdivision of this property, either through purchase of three (3) TDCs or participation along with a public agency or private nonprofit corporation in retiring habitat or watershed land in amounts that the Executive Director determines will retire the equivalent potential building sites. The Commission finds that, as conditioned, the proposed project is consistent with §30250 of the Coastal Act.

E. Archeological Resources

Section 30244 of the Coastal Act states:

> ***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 that remain intact.

The applicant is proposing to subdivide a 6.46 acre parcel into four lots (Lot 1: 1.83 acres, Lot 2: 1.0 acres, Lot 3: 1.03 acres, Lot 4: 2.6 acres); construct a 635 ft. long, 24 ft. wide paved common access driveway and cul-de-sac plus a 90 ft. long, 20 ft. wide easement from the cul-de-sac to Lot 4 for future access, with 70 lineal ft., 0-6 ft. high retaining wall at driveway entrance and 200 lineal ft., 0-6 ft. high retaining wall at cul-de-sac, and 3,272 cu. yds. of grading (1,906 cu. yds. cut and 1,366 cu. yds. fill); construct two earth berms (5 ft. high on Lot 3 and 7 ft. high on Lot 4) with 540 cu. yds. fill (220 cu. yds. on Lot 3 and 320 cu. yds. on Lot 4); and install drainage facilities and water and utility lines to serve the proposed parcels.

The archaeological reports prepared by Historical Environmental Archeological Research Team (HEART) entitled "Phase I Archeological Study" dated December 1999 and "The Results of Additional Archeological Monitoring" dated November 27, 2000 assess the potential for archaeological resources on the proposed project site. The subject site is within the boundaries of a prehistoric site. The report entitled "Phase I Archeological Study" dated December 1999 states:

> ***The results of the Phase I archeological reconnaissance confirmed the presence of a prehistoric archeological site. The site is a light scatter of predominantly quartzite lithic materials and a quartzite hammerstone situated on a terrace overlooking the Pacific Coast Highway. The site location conforms to the original configuration provided on the back of site form CA-LAN-31. The site encompasses a large area trending east-west from the Puerco Canyon drainage to an existing reclamation facility and small drainage... Most likely the site continued to the south where the PCH now runs, connecting to a similar terrace to the south which eventually reaches the Pacific Ocean.***

This report also finds:

> ***The site is roughly 500 feet east-west by 120 feet north-south, and appears to be surface in nature, although Dr. Chester King remarked seeing cultural material in the PCH road cut on the southern edge of the site as it drops down to the highway... The site appears to be temporally or spatially related to CA-LAN19/263 just west of the Puerco Canyon drainage, or CA-LAN-479 on the same terrace to the south across the Pacific Coast Highway.***

The report also discusses preservation of the site by avoiding cultural resource remains and delineates an area where there shall be no surface/subsurface disturbance (Exhibit 3). This includes, but is not limited to, proposed roads, placement of construction equipment, grading, landscaping, utility placement, or other subsurface construction and improvements which will lead to accessing the proposed site area.

Chester King, Archaeologist for the City of Malibu, imposed several conditions on the project regarding monitoring, inspection, discovery, collection, and avoidance. The report entitled "The Results of Additional Archaeological Monitoring" dated November 27, 2000 addresses those conditions and discusses further investigation results. This report states:

> ***No significant cultural resource remains, including intact features were discovered during the monitoring of the geologic testing on the subject property.***

The report concludes that additional testing operations performed on the subject parcel shall require an archeological consultant to monitor activity.

As a main area of an archaeological site appears to be on the subject property, the proposed development has the potential to adversely impact cultural resources. The proposed development is outside of the delineated archeological monitoring area, however, there is the possibility that archaeological artifacts are present outside of this area. Therefore, to ensure that impacts to archaeological resources are minimized, **Special Condition No. Five (5)** 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 archaeologist(s) and the Native American consultant(s), in consultation with the City of Malibu Archaeologist, consistent with California Environmental Quality Act (CEQA) guidelines.

The Commission further finds that it is necessary to require the applicant to implement all other recommendations contained in reports entitled "Phase I Archeological Study" dated December 1999 and "The Results of Additional Archeological Monitoring" dated November 27, 2000 prepared by HEART. Further, any recommendations developed by the consultants as part of any necessary data recovery plan shall be incorporated into the project. Finally, if the recommendations require a substantial modification or redesign of the proposed project, the applicant shall be required to submit an amendment to this permit.

Thus, the Commission finds that based on the findings of the archaeological reports and other available evidence, the proposed development, as conditioned to monitor the site, including Lots 1, 2, 3 and 4, during earth moving activities and to incorporate the recommendations of the archeological consultant(s) to mitigate any adverse impacts on archaeological resources, is consistent with §30244 of the Coastal Act.

F. ESHA

Section 30230 of the Coastal Act states that:

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

Section 30231 states:

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

Section 30240 states:

> ***(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas.***
>
> ***(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.***

Sections 30230 and 30231 of the Coastal Act require that the biological productivity and the quality of coastal waters and streams be maintained and, where feasible, restored through means such as minimizing adverse effects of waste water discharge and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flows, maintaining natural buffer areas that protect riparian habitats, and minimizing alteration of natural streams. In addition, §30240 of the Coastal Act states that environmentally sensitive habitat areas must be protected against disruption of habitat values.

To assist in the determination of a proposed project's consistency with §30230, §30231 and §30240 of the Coastal Act, the Commission has looked to the certified Malibu/Santa Monica Mountains Land Use Plan (LUP) for guidance. The Land Use Plan has been found to be consistent with Coastal Act Policies and provides specific standards for development along the Malibu coast and within the Santa Monica Mountains. In its findings regarding the certification of the Malibu/Santa Monica Mountains LUP, the Commission emphasized the importance placed by the Coastal Act on protection of sensitive environmental resources and found that:

> ***Coastal canyons in the Santa Monica Mountains require protection against significant disruption of habitat values, including not only the riparian corridors located in the bottoms of the canyons, but also the chaparral and coastal sage biotic communities found on the canyon slopes.***

The proposed project site is located on a south-facing hillside east of Puerco Canyon and is adjacent to and upslope from a natural drainage course, which is designated as a blueline stream by the United States Geological Survey and the stream's associated riparian corridor, which extends onto the western portion subject property, is designated as Environmentally Sensitive Habitat Area (ESHA) by the Malibu/Santa Monica Mountains Land Use Plan. The proposed development will occur on proposed Lots 1, 2 and 3, the three most eastern lots and thus, will not affect the environmentally sensitive habitat area on proposed Lot 4, the western most portion of the existing parcel. The areas proposed for construction of future residences are located over 230 feet from the edge of the sensitive habitat area on site. As such, development of the proposed project and future single family residences will not adversely impact the ESHA on site.

In past permit actions regarding new development adjacent to riparian habitat, the Commission has required that all new development, consistent with Table 1 of the Malibu/Santa Monica Mountains LUP, be located more than 100 ft. from the outer limit of the riparian vegetation canopy in order to provide for an adequate buffer area from new development. The proposed project is found by the Commission to be consistent with this setback as the outermost reach of future structures is approximately 230 feet from the outer limit of the riparian vegetation canopy.

The Commission notes that the proposed and future development will be located at least 100 ft. or more from the outer limit of the riparian tree canopy and designated environmentally sensitive habitat. In addition to the above mentioned setback/buffer areas, the applicant has submitted a Fuel Modification Plan approved by the Los Angeles County Fire Department Fuel Modification Unit which indicates that no cutting or clearing of vegetation will be required for fuel modification purposes in the riparian corridor or environmentally sensitive habitat area. Thus the Commission notes that no removal, thinning, or other disturbance of vegetation will occur in the riparian corridor or environmentally sensitive habitat as a result of constructing the future residences and subsequent fuel modification requirements for fire safety standards. Therefore, the Commission finds that the proposed project is adequately located and designed, through minimum setback/buffer requirements and an accommodating fuel modification plan, to minimize significant disruption of sensitive riparian vegetation existing at the project site.

The Commission further finds that the use of non-native and/or invasive plant species for residential landscaping results in both direct and indirect adverse effects to native plants species indigenous to the Malibu/Santa Monica Mountains area. Adverse effects from such landscaping result from the direct occupation or displacement of native plant communities by new development and associated non-native landscaping. Indirect adverse effects include offsite migration and colonization of native plant habitat by non-native/invasive plant species (which tend to outcompete native species) adjacent to new development. The Commission notes that the use of exotic plant species for residential landscaping has already resulted in significant adverse effects to native plant communities in the Malibu/Santa Monica Mountains area. Therefore, in order to minimize adverse effects to the indigenous plant communities of the Malibu/Santa Monica Mountains area, **Special Condition No. Three (3)** requires that all landscaping consist primarily of native plant species and that invasive plant species shall not be used.

The Commission notes that seasonal streams and drainages, such as the natural drainage located south and west of the subject site, in conjunction with primary waterways, provide important habitat for riparian plant and animal species. Section 30231 of the Coastal Act provides that the quality of coastal waters and streams shall be maintained and restored whenever feasible through means such as: controlling runoff, preventing interference with surface water flows and alteration of natural streams, and by maintaining natural vegetation buffer areas. In past permit actions the Commission has found that new development adjacent to coastal streams and natural drainages results in potential adverse impacts to riparian habitat and marine resources from increased erosion, contaminated storm runoff, introduction of non-native and invasive plant species, disturbance of wildlife, and loss of riparian plant and animal habitat. As discussed in detail above, the Commission notes that the proposed and future development will be located as far as feasible from the riparian habitat and the proposed development is setback 100 ft. or more from those resources as typically required by the Commission to ensure adequate resource protection. In the case of the proposed project (including future residential development), no removal of vegetation in environmentally sensitive habitat areas identified on site is proposed and the Commission notes that all natural vegetation buffer areas currently existing at the subject site will be maintained. However, the Commission finds that potential adverse effects to the value and quality of the natural tributary, and of the riparian and oak tree habitat on the subject site, may be further minimized through the implementation of an appropriate landscaping plan utilizing native plant species, and implementation of a drainage and polluted runoff control plan, **Special Conditions Two and Three (2 & 3)** .

The proposed project includes approximately 3,812 cu. yds. of grading (1,906 cu. yds. of cut and 1,906 cu. yds. of fill). Although no grading is proposed within the riparian habitat on the subject site, or in the western portion of the site near the blueline stream, all grading activities at the project site have the potential to increase erosion on site and increase sedimentation into the natural drainage course and ultimately, downstream areas. The Commission finds that minimizing site erosion will reduce the project's individual and cumulative potential to adversely affect the designated ESHA associated with the natural drainage course, as well as sensitive resources located downstream of the project site.

The Commission finds that the value and quality of the riparian habitat on the subject site is directly related to the water quality of the coastal tributary that sustains the habitat. As such, the Commission finds that potential adverse effects of the proposed development on riparian habitat at the site may be further minimized through the implementation of a drainage and polluted runoff control plan, which will ensure that erosion is minimized and polluted run-off from the site is controlled and filtered before it reaches natural drainage courses within the watershed. Therefore, the Commission requires **Special Condition No. Two (2)**, the Drainage and Polluted Run-off Control Plan, which requires the applicants to incorporate appropriate drainage devices and Best Management Practices (BMPs) to ensure that run-off from the proposed structures, impervious surfaces, and around berms is conveyed off-site in a non-erosive manner and is treated/filtered to reduce pollutant load before it reaches coastal waterways. (See Section **D. Water Quality** for a more detailed discussion of coastal water quality).

For the reasons set forth above, the Commission finds that the proposed project, as conditioned, is consistent with §30230, §30231 and §30240 of the Coastal Act.

G. 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, and 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:

> ***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, the proposed project involves the subdivision of a 6.46 acre parcel into four lots (Lot 1: 1.83 acres, Lot 2: 1.0 acres, Lot 3: 1.03 acres, Lot 4: 2.6 acres); construction of a 635 ft. long, 24 ft. wide paved common access driveway and cul-de-sac plus a 90 ft. long, 20 ft. wide easement from the cul-de-sac to Lot 4 for future access, with 70 lineal ft., 0-6 ft. high retaining wall at driveway entrance and 200 lineal ft., 0-6 ft. high retaining wall at cul-de-sac, and 3,272 cu. yds. of grading (1,906 cu. yds. cut and 1,366 cu. yds. fill); construction of two earth berms (5 ft. high on Lot 3 and 7 ft. high on Lot 4) with 540 cu. yds. fill (220 cu. yds. on Lot 3 and 320

cu. yds. on Lot 4); and installation of drainage facilities and water and utility lines to serve the proposed parcels.

The proposed development will result in an increase in impervious surface, which in turn decreases the infiltrative function and capacity of existing permeable land on site. The reduction in permeable space therefore leads to an increase in the volume and velocity of stormwater runoff that can be expected to leave the site. Further, pollutants commonly found in runoff associated with residential use include petroleum hydrocarbons including oil and grease from vehicles; heavy metals; synthetic organic chemicals including paint and household cleaners; soap and dirt from washing vehicles; dirt and vegetation from yard maintenance; litter; fertilizers, herbicides, and pesticides; and bacteria and pathogens from animal waste. The discharge of these pollutants to coastal waters can cause cumulative impacts such as: eutrophication and anoxic conditions resulting in fish kills and diseases and the alteration of aquatic habitat, including adverse changes to species composition and size; excess nutrients causing algae blooms and sedimentation increasing turbidity which both reduce the penetration of sunlight needed by aquatic vegetation which provide food and cover for aquatic species; disruptions to the reproductive cycle of aquatic species; and acute and sublethal toxicity in marine organisms leading to adverse changes in reproduction and feeding behavior. These impacts reduce the biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes and reduce optimum populations of marine organisms and have adverse impacts on human health.

Therefore, in order to find the proposed development consistent with the water and marine resource policies of the Coastal Act, the Commission finds it necessary to require the incorporation of Best Management Practices designed to control the volume, velocity and pollutant load of stormwater leaving the developed site. Critical to the successful function of post-construction structural BMPs in removing pollutants in stormwater to the Maximum Extent Practicable (MEP), is the application of appropriate design standards for sizing BMPs. The majority of runoff is generated from small storms because most storms are small. Additionally, storm water runoff typically conveys a disproportionate amount of pollutants in the initial period that runoff is generated during a storm event. Designing BMPs for the small, more frequent storms, rather than for the large infrequent storms, results in improved BMP performance at lower cost.

The Commission finds that sizing post-construction structural BMPs to accommodate (infiltrate, filter or treat) the runoff from the 85th percentile storm runoff event, in this case, is equivalent to sizing BMPs based on the point of diminishing returns (i.e. the BMP capacity beyond which, insignificant increases in pollutants removal (and hence water quality protection) will occur, relative to the additional costs. Therefore, the Commission requires the selected post-construction structural BMPs be sized based on design criteria specified in **Special Condition No. Two (2)**, and finds this will ensure the proposed development will be designed to minimize adverse impacts to coastal resources, in a manner consistent with the water and marine policies of the Coastal Act. To ensure future property owners comply with the requirements of Special Condition No. Two (2), the Commission finds, that the applicant shall record Covenants, Conditions and Restrictions on the tract map or properties that specify the property owners are required to comply with the provisions of this condition, as required in Special Condition No. Seven (7).

Furthermore, interim erosion control measure implemented during construction and post construction landscaping will serve to minimize the potential for adverse impacts to water

quality resulting from drainage runoff during construction and in the post-development stage. Therefore, the Commission finds that **Special Condition No. Three (3)** is necessary to ensure the proposed development will not adversely impact water quality or coastal resources.

Finally, future development on the proposed parcels includes the installation of on-site private sewage disposal systems to serve the future residences. The applicant's environmental health specialist performed infiltration tests. The County of Los Angeles Environmental Health Department has given in-concept approval of the future septic systems, determining that the systems meet the requirements of the plumbing code. The Commission has found that conformance with the provisions of the plumbing code is protective of resources. Therefore, the Commission finds that the proposed project, as conditioned, is consistent with Section 30231 of the Coastal Act.

H. Local Coastal Program

Section 30604(a) of the Coastal Act states:

> ***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 §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 §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 project will not create adverse impacts and is found to be consistent with the applicable policies contained in Chapter 3 of the Coastal Act. 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 consistent with the policies of Chapter 3 of the Coastal Act as required by §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 by any conditions of approval, to be consistent with any applicable requirements of the California Environmentally Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect that the activity may have on the environment.

The Commission finds that, the proposed project, as conditioned, will not have any 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.

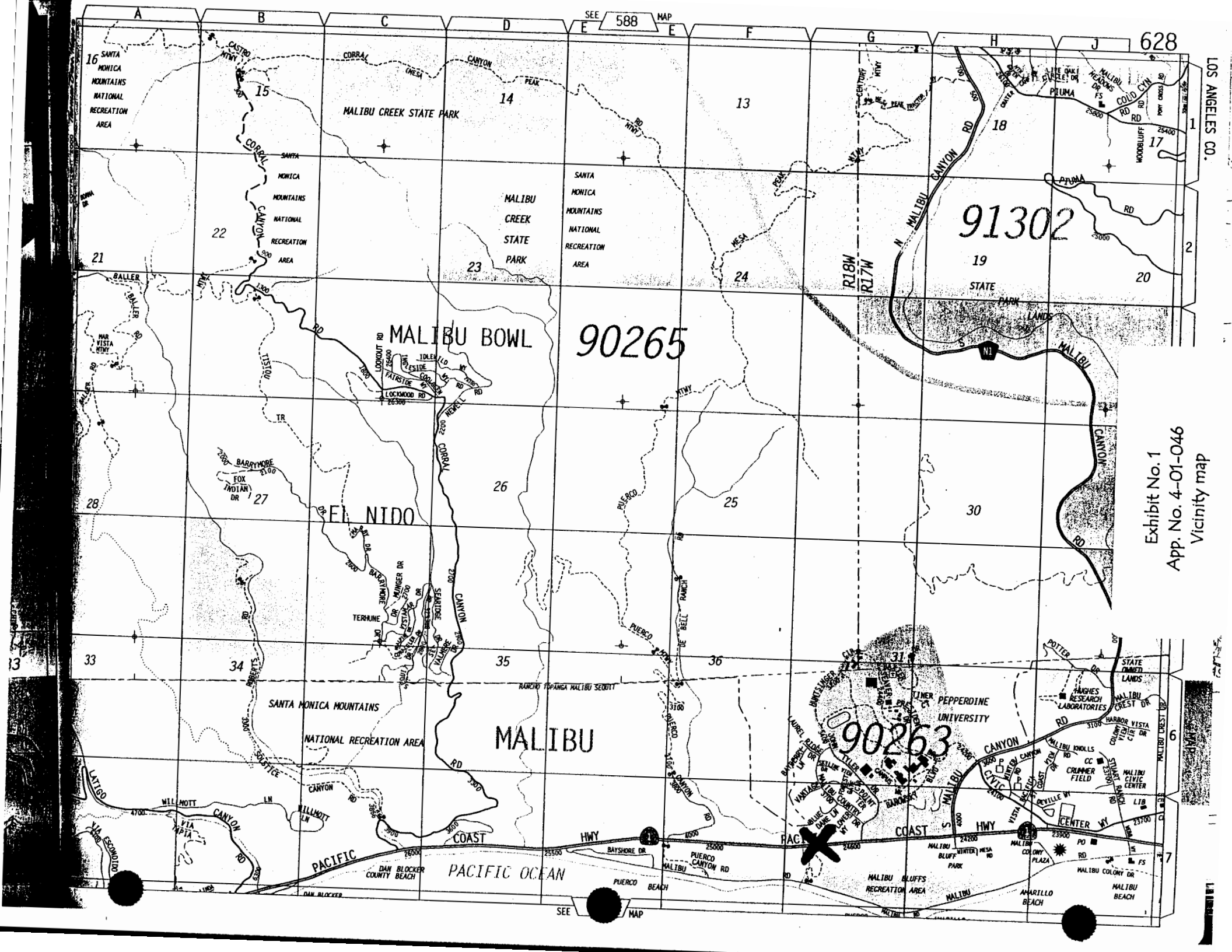


Exhibit No. 1
App. No. 4-01-046
Vicinity map

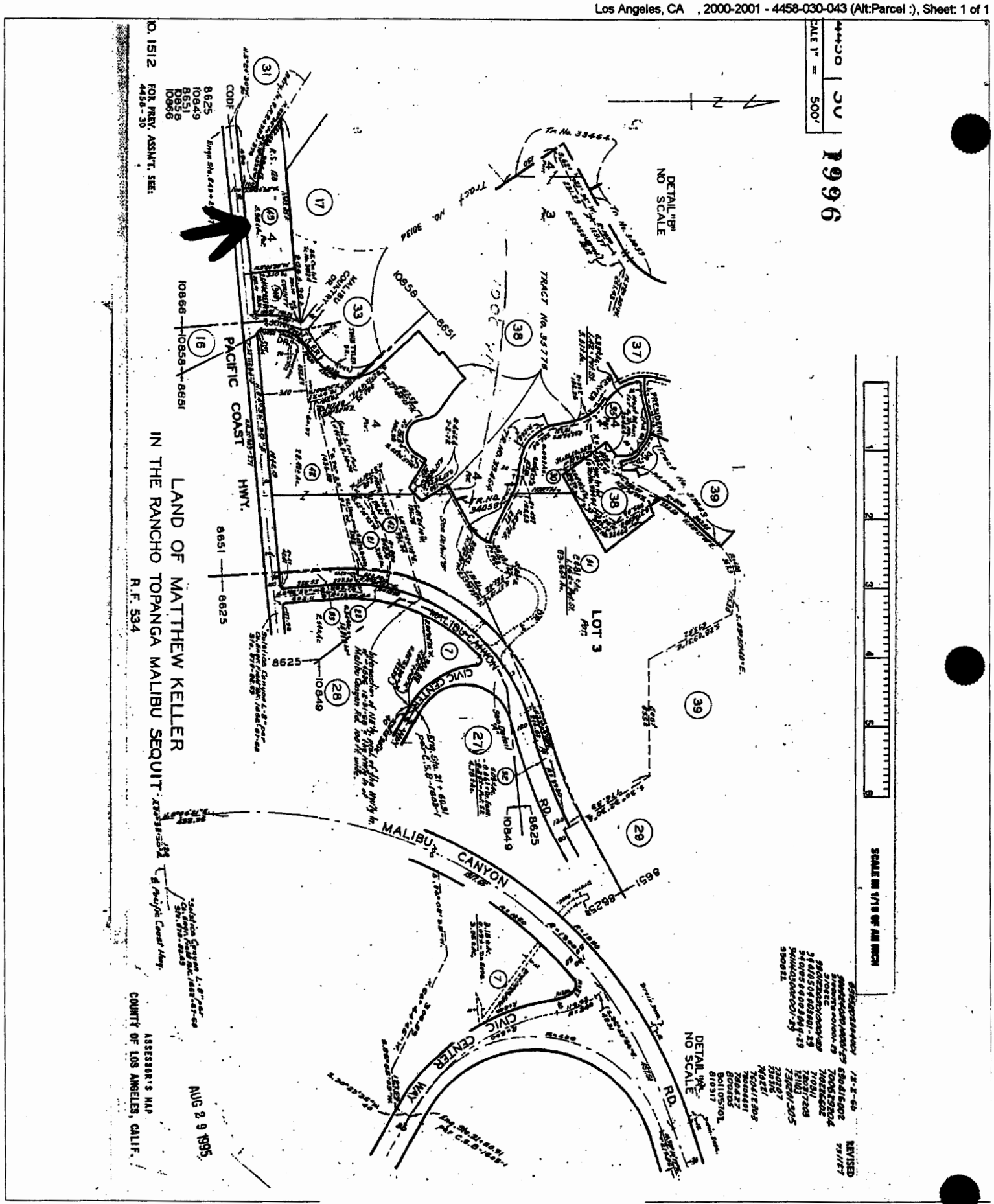


Exhibit No. 2
App. No. 4-01-046
Parcel map

VESTING TENTATIVE PARCEL MAP NO.26048
IN THE CITY OF MALIBU, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA
BEING A DIVISION OF A PORTION THE RANCHO TOPANGA MALIBU SEQUIT AS CONFIRMED TO MATTHEW KELLER BY PATENT RECORDED IN BOOK 1, PAGE 407 ET. SEQ. OF PATENTS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY

BY: LEWIS SOLOFF, P.L.S. 5344
SOLOFF SURVEYING & CONSULTING
FEBRUARY, 2001 (310) 543-9491

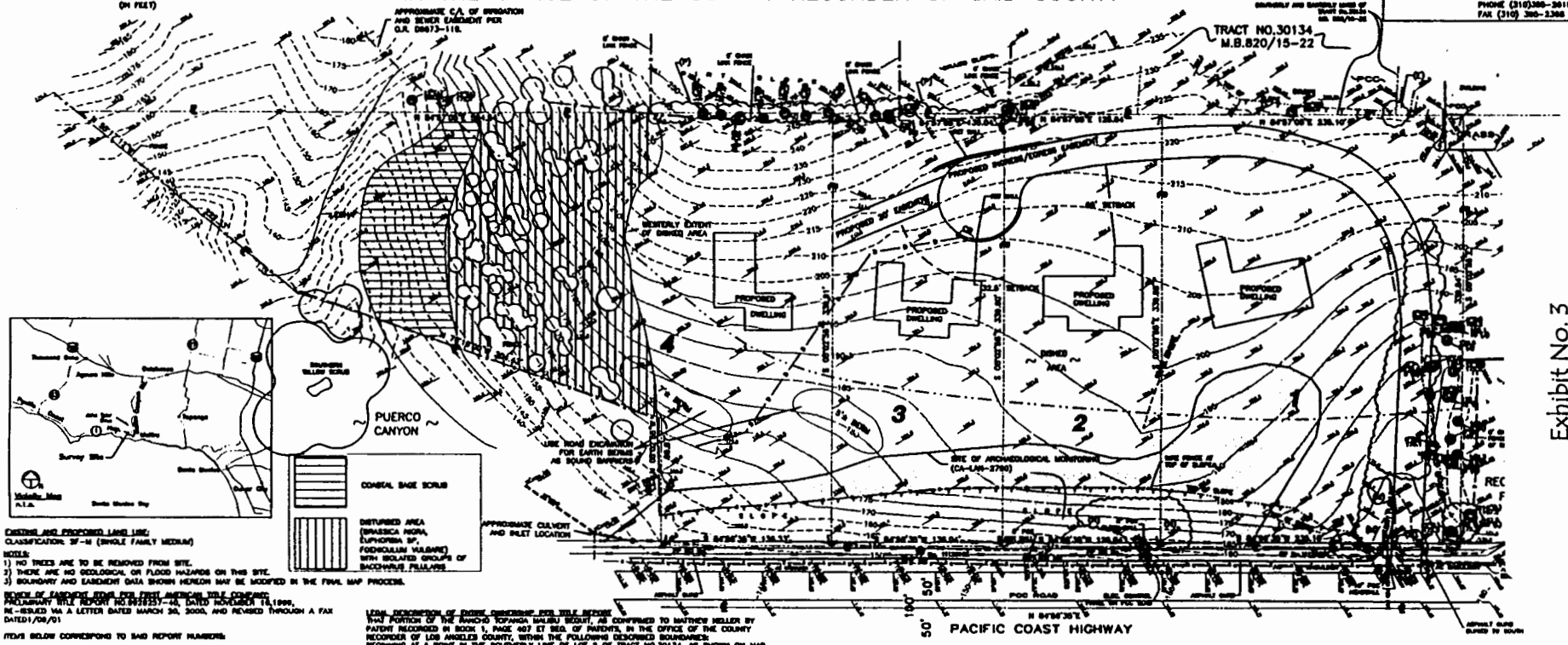
SCALE: 1"=40'

GRAPHIC SCALE

(IN FEET)

PROPERTY OWNER'S ADDRESS: PCH-TYLER ASSOCIATES, L.L.C.
C/O RON GOLDMAN
24050 PCH SUITE 4002
MALIBU, CA 90265
PHONE (310) 456-1631
FAX (310) 456-7080

APPLICANT'S ADDRESS: HARRY RAHOLA
909 EISELO ST. #6
SANTA MONICA, CA 90403
PHONE (310)395-3818
FAX (310) 395-3388



EXISTING AND PROPOSED LAND USE:
CLASSIFICATION: SF-M (SINGLE FAMILY MEDIUM)

NOTES:
1) NO TREES ARE TO BE REMOVED FROM SITE.
2) THERE ARE NO GEOLOGICAL OR FLOOD HAZARDS ON THIS SITE.
3) BOUNDARY AND EASEMENT DATA SHOWN HEREON MAY BE MODIFIED IN THE FINAL MAP PROCESS.

REVIEW OF EASEMENT ITEMS PER FIRST AMERICAN TITLE COMPANY:
PRELIMINARY TITLE REPORT NO.0818257-48, DATED NOVEMBER 18,1999,
RE-ISSUED VIA A LETTER DATED MARCH 30, 2000, AND REVISED THROUGH A FAX DATED1/08/01

ITEMS BELOW CORRESPOND TO SAID REPORT NUMBERS:

1) AN UNLOCATED EASEMENT FOR THE PURPOSES SHOWN AND INCIDENTAL PURPOSES AS PROVIDED IN A DOCUMENT FOR: POLES LINES AND CONDUITS, RECORDED: MARCH 12, 1940 IN BOOK 17146, PAGE 338 OFFICIAL RECORDS.

3) THE PRIVILEGE AND RIGHT TO CONSTRUCT AND MAINTAIN CULVERTS, DRAINAGE STRUCTURES AND HIGHWAY EXCAVATION AND EMBANKMENT SLOPES AS DELINEATED ON COUNTY SURVEYOR'S MAP NO.10985, SHEET NO.3 ON FILE IN THE OFFICE OF THE COUNTY SURVEYOR'S OF THE LOS ANGELES COUNTY, AS SET FORTH IN THE DEED TO THE STATE OF CALIFORNIA, RECORDED IN BOOK 20743, PAGE 271 OFFICIAL RECORDS.

A WAIVER OF ANY CLAIMS FOR DAMAGE TO SAID LAND AS CONTAINED IN A DOCUMENT RECORDED: MARCH 22, 1944 IN BOOK 20743 PAGE 271 OFFICIAL RECORDS.

8) AN EASEMENT FOR PURPOSES HEREIN STATED, AND RIGHTS INCIDENTAL THERETO AS PROVIDED IN A DOCUMENT FOR: IRRIGATION AND SEWERS, AFFECTS: AS DESCRIBED THEREIN, RECORDED: AUGUST 16, 1972 AS INSTRUMENT NO.3032 IN BOOK D5573 PAGE 119 OFFICIAL RECORDS.

A PORTION OF SAID EASEMENT WAS VACATED AND ABANDONED BY INSTRUMENT RECORDED AUGUST 3, 1979 AS INSTRUMENT NO.79-860870.

LEGAL DESCRIPTION OF ENTIRE OWNERSHIP PER TITLE REPORT

THAT PORTION OF THE RANCHO TOPANGA MALIBU SEQUIT, AS CONFIRMED TO MATTHEW KELLER BY PATENT RECORDED IN BOOK 1, PAGE 407 ET SEQ. OF PATENTS, IN THE OFFICE OF THE COUNTY RECORDER OF LOS ANGELES COUNTY, WITHIN THE FOLLOWING DESCRIBED BOUNDARIES:
BEGINNING AT A POINT IN THE SOUTHERLY LINE OF LOT 2 OF TRACT NO.30134, AS SHOWN ON MAP FILED IN BOOK 820, PAGES 15 TO 22, INCLUSIVE, OF MAPS, IN THE OFFICE OF SAID RECORDER, SAID POINT BEING DISTANT ALONG SAID SOUTHERLY LINE AND ITS EASTERLY PROLONGATION SOUTH 84° 57' 00" WEST 391.10 FEET FROM THE SOUTHEASTERLY CORNER OF LOT 1 OF SAID TRACT; THENCE ALONG SAID SOUTHERLY LINE AND ITS WESTERLY PROLONGATION SOUTH 84° 57' 00" WEST 1089.85 FEET TO THE EASTERLY BOUNDARY OF THAT CERTAIN PARCEL OF LAND DESCRIBED IN DEED FROM MANSFIELDHEAD LAND COMPANY TO STEPHEN Y. PHILBRICKAN, ET UX., RECORDED IN BOOK 24388, PAGE 378, OF OFFICIAL RECORDS, IN THE OFFICE OF SAID RECORDER; THENCE SOUTHEASTERLY AND SOUTHERLY ALONG SAID EASTERLY BOUNDARY TO THE NORTHERLY LINE OF THAT 100 FOOT STRIP OF LAND DESCRIBED IN DEED TO THE STATE OF CALIFORNIA (PACIFIC COAST HIGHWAY) RECORDED ON MARCH 22, 1944, AS DOCUMENT NO.1279, IN BOOK 20743, PAGE 271, OF SAID OFFICIAL RECORDS; THENCE EASTERLY ALONG SAID NORTHERLY LINE TO A LINE WHICH BEARS AT RIGHT ANGLES FROM SAID NORTHERLY LINE AND WHICH PASSES THROUGH THE POINT OF BEGINNING; THENCE NORTHERLY IN A DIRECT LINE TO THE POINT OF BEGINNING.

EXCEPT THAT PORTION WITHIN THE LINES OF PACIFIC COAST HIGHWAY PER THE DOCUMENTS OF THE STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION.

EXCEPTING THEREFROM ALL OIL, GAS, MINERALS AND OTHER HYDROCARBON SUBSTANCES LYING BELOW THE SURFACE OF SAID LAND, BUT WITH NO RIGHT OF SURFACE ENTRY THERETO, AS PROVIDED IN THE DEED RECORDED MAY 19, 1966 AS INSTRUMENT NO.3778 IN BOOK 02810, PAGE 176, OFFICIAL RECORDS.

LEGEND:

SITE OF ARCHAEOLOGICAL MONITORING (CA-LAN-2780) PER STUDY BY HISTORICAL, ENVIRONMENTAL AND ARCHAEOLOGICAL RESEARCH TEAM IN APRIL, 2000.

AREA SUMMARIES:

	LOT 1	LOT 2	LOT 3	LOT 4	TOTALS
GROSS AREA (6.48 ACRES)	79900	47560	45900	113244	281544
LESS INGRESS\EGRESS EASEMENT AREA	11128	3361	4969	0	19459
LESS AREAS EQUAL TO OR GREATER THAN 1:1 SLOPE	0	0	0	81	81
NET AREA	68771	36918	40931	113163	259784

NOTES:
1) ALL AREAS ARE SHOWN IN SQUARE FEET (U.N.O.) ROUNDED TO NEAREST SQUARE FOOT.

EXISTING VEGETATION, TREES AND SHRUBS

SITE	CODE	BOTANICAL NAME	COMMON NAME	NUMBER TREES/STANDS	TREATMENT CODE
	(A)	OPUNTIA sp.	COASTAL PRICKLY PEAR	7	
	(B)	PINUS pinea	ITALIAN STONE PINE	10	
	(C)	SCHINUS terebinthifolius	BRAZILIAN PEPPER	1	
	(D)	EUCALYPTUS		1	
	(E)	JUNIPERUS chinensis 'torulosa'	JUNIPER HOT BLUE	1	
	(F)	NERIUM	OLEANDER	1	
	(G)	WASHINGTONIA robusta		9	
	(H)	PITTOSPORUM crassifolium		1	
	(I)	PINUS canariensis	CANARY ISLAND PINE	1	
	(J)	PINUS radiata	MONTEREY PINE	1	POSSIBLE
	(K)	ERYTHRINA caffra	CORAL TREE	1	
	(L)	ARECASTRUM	COYOTA PALM	1	
	(M)	ACACIA longifolia	SILVER WATTLE	1	
	(N)	WASHINGTONIA	WASHINGTONIA	1	
		TOTAL IDENTIFIED TREES AND STANDS OF SHRUBS:		43	

ANGLE INC. P.M.-R	ATTENDED BY L. SOLOFF	REVISIONS: LOTS RECONFIGURED, INGRESS\ EGRESS EASEMENT AND CUL-DE-SAC REVISED, GRADE FROM CUL-DE-SAC MOVED, NET AND GROSS AREAS REVISED.	SURVEY: SURVEYING & CONSULTING 1011 S. PACIFIC COAST HIGHWAY LAND SURVEYING, MAPPING AND CONSTRUCTION STAKING REDONDO BEACH, CA 90277 (310) 540-0401	PROJECT: VESTING TENTATIVE PARCEL MAP IN THE CITY OF MALIBU, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA	SHT. NO. 1/1
DATE: FEBRUARY 02, 2001	SCALE: 1"=40'			CLIENT: TYLER ASSOCIATES, LLC	
JOB NO.:	DRAWING: TYLER-1-REVR-TPM				

Exhibit No. 3
App. No. 4-01-046
Site & Grading Plan

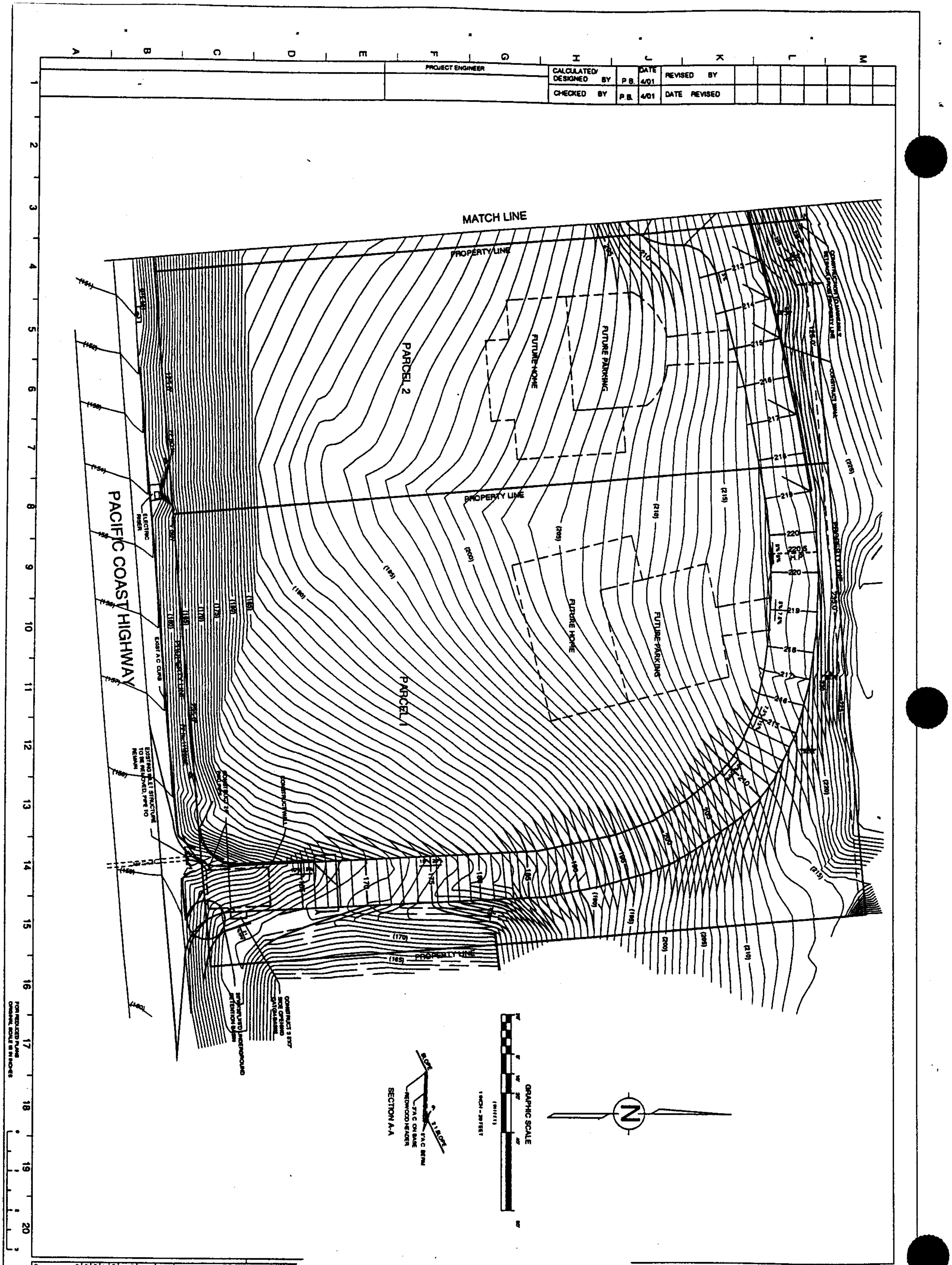
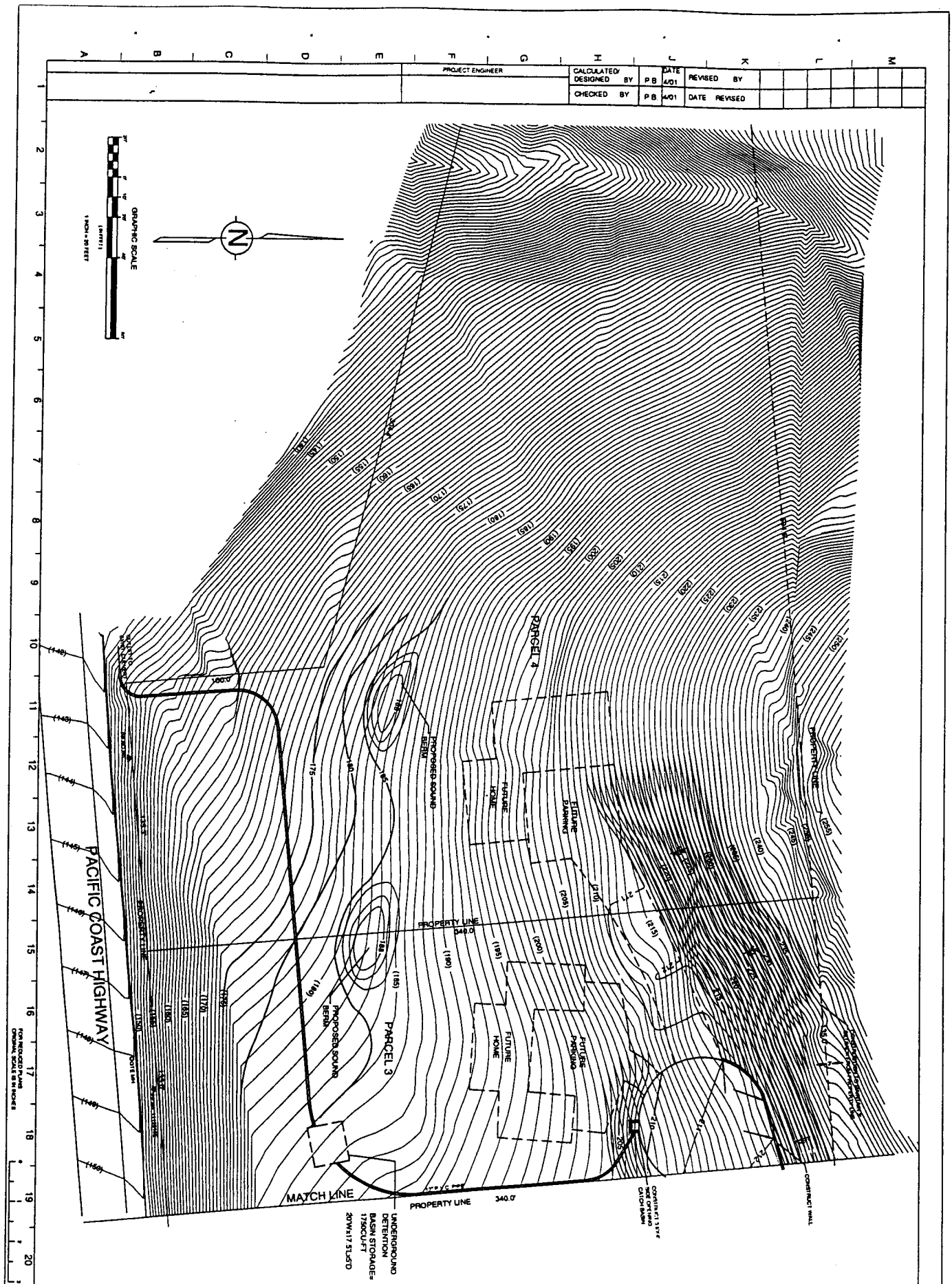


Exhibit No. 4
App. No. 4-01-046
Conceptual Grading Plan
Lots 1 & 2



SINGLE FAMILY RESIDENCE CON
CONCEPT GRADING PLA
PCH TYLER ASSOCIATES
24875 PACIFIC COAST HIGHWAY,
FOR: GOLDMAN-FIRTH ARCHITEC
SHEET 3 OF 3

C-3

Exhibit No. 5
App. No. 4-01-046
Conceptual Grading Plan
Lots 3 & 4

PLANS PREPARED BY
PHILLIP M BERGER DATE
13128 03/31/05
RCE NO EXP DATE