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CALIFORNIA COASTAL COMMISSION

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STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 4-98-136

APPLICANT: William Armstrong

AGENT: Alan Armstrong

PROJECT LOCATION: 3504 Las Flores Canyon Road, Malibu (Los Angeles County)

PROJECT DESCRIPTION: Construct a 2,500 sq. ft., 24 foot high, one-story plus mezzanine, pre-school facility and septic system to accommodate up to 60 children. Temporarily install a 1,440 sq. ft. classroom trailer and a 8' x 20' storage container during construction. No grading is proposed; private access road and off-street parking exist on-site.

Lot area:	21 acres
Building coverage:	2,500 sq. ft.
Pavement coverage:	6,000 sq. ft.
Landscape coverage:	15,000 sq. ft.
Parking spaces:	30 (existing)
Ht abv fin grade:	24 feet

LOCAL APPROVALS RECEIVED: County of Los Angeles: Department of Regional Planning, Approved in Concept, 4/23/98; Fire Department, Building Approval, 9/10/98, Fuel Modification Plan, 8/24/98, Oak Tree Inspection, 9/7/98; Public Works Department, Drainage Review Approval in Concept, 9/9/98, Environmental Review Board Waiver, 6/25/98; Department of Health Services, Conceptual Approval, 7/21/98, revised 9/1/98.

SUBSTANTIVE FILE DOCUMENTS: Malibu/Santa Monica Mountains certified Land Use Plan; Las Flores Canyon Fire Remediation Study, City of Malibu, March 21, 1994; Old Topanga Incident Official Report, County of Los Angeles Fire Department; Geologic Reconnaissance Report and Geotechnical Engineering Foundation Engineering Investigation and Report, by Ralph Stone and Company, Inc., dated 10/21/94; Addendum No. 1-6, by Ralph Stone and

Company, Inc., dated 2/20/95, 8/29/95, 6/5/96, 5/21/97, 7/7/97, and 6/3/97; Response to CCC Staff Report regarding Cardin School, Ralph Stone and Company, 8/31/98; Engineering-Geologic Memorandum, by Geoplan, dated 7/30/98; Water Surface Calculations for Carden Malibu School, by Dreckmann & Associates and David K. Nishimura, dated 8/98; Biological Resources Assessment at Proposed Carden Malibu School Site, by David Magney Environmental Consulting, dated 9/3/98. Coastal Development Permits: 4-94-186 (Armstrong); 4-95-244 (Armstrong); 4-97-064 (Armstrong); 4-98-210 (Armstrong).

SUMMARY OF STAFF RECOMMENDATION

The proposed project is located along the southern jurisdictional line of Los Angeles County, as it borders the City of Malibu. The land use history of the site is such that the proposed use is permitted under a valid County Conditional Use Permit, which includes the parcel to the immediate south, although the proposed use is not authorized under the certified Malibu/Santa Monica Mountains Land Use Plan.

The physical attributes of Las Flores Canyon, including the topography, morphology, and dense chaparral, when combined with the localized fire/flood cycle and the particular location of the proposed project in a flood plain, create a set of circumstances and dynamics that result in significant fire and flood hazards. In addition, the subject site is located in a disturbed portion of the Las Flores Creek ESHA; the proposed project threatens to further damage the remaining natural resources. There are several unpermitted developments on-site.

The applicant has provided site specific evidence related to fire and flood hazard mitigation, obtained local approvals from the LA County Fire and Public Works Departments, and has provided emergency contingency plans for early notification, evacuation and alternative evacuation routes. In addition, a site-specific biological assessment was conducted and a set of mitigation measures developed to mitigate the adverse impacts of the project. The applicant has concurrently submitted coastal development permit application 4-98-210 (Armstrong) to address the unpermitted development located on the subject site.

Staff recommends approval of the project with special conditions relating to preparation of an emergency preparedness plan, recordation of a deed restriction concerning assumption of risk, conformance to geologic recommendations, preparation of a drainage and erosion control plan, revised plans, habitat restoration, future improvements, and condition compliance.

STAFF RECOMMENDATION

I. Approval with Conditions

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

II. Standard Conditions

1. **Notice of Receipt and Acknowledgment** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Compliance** All development must occur in strict compliance with the proposal as set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. **Interpretation** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. **Inspections** The Commission staff shall be allowed to inspect the site and the development during construction, subject to 24-hour advance notice.
6. **Assignment** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
7. **Terms and Conditions Run with the Land** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. Special Conditions

1. Emergency Preparedness Plan

Prior to the issuance of the Coastal Development Permit, the applicant shall submit, for the review and approval of the Executive Director, a detailed Emergency Preparedness Plan, including an evacuation plan and notification system for Fire and Flood Events, which shall be coordinated with the school facilities located on the adjacent parcel to the south (Parcel One). The plan shall be prepared by a qualified professional emergency preparedness planner and fire safety engineer acceptable to the Executive Director. The plan shall include, but not be limited to, the following elements:

- a) A detailed **evacuation plan** which specifies under what circumstances and when evacuation of the school should occur, provisions for sheltering students on-site in case evacuation is not feasible, delineation of evacuation routes, and the identification of the number vehicles that must be maintained onsite to safely transport students and staff to designated evacuation areas;
- b) A **formal warning or notification system** for fire and flood events established with the appropriate local government responsible for emergency response or preparedness agency;
- c) A system for **annual reviews** of the school facility to ensure compliance with the Los Angeles County fire and flood codes and the Emergency Preparedness Plan prepared pursuant to this permit and for modification of such plan to ensure compliance with LA County fire and flood codes; and
- d) A schedule for **annual drills** to practice implementing the evacuation procedures involving students, teachers, parents and local emergency response agencies.

2. Assumption of Risk

Prior to issuance of a coastal development permit, the applicant as landowner shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which shall provide: (a) that the applicant understands that the site may be subject to extraordinary hazard from fire, landsliding, erosion and flooding on site and the applicant assumes the risk from such hazards, and (b) the applicant unconditionally waives any claim of liability against the Commission and agrees to indemnify and hold harmless the Commission and/or its officers, agents and employees relative to the Commission's approval of the project for any damage from such hazards.

The document 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 Coastal Commission-approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

3. Plans Conforming to Geologic Recommendations

Prior to the issuance of a coastal development permit, the applicant shall submit, for review and approval by the Executive Director, evidence of the geological and geotechnical consultants' review and approval of all project plans. All recommendations contained in the Geologic Reconnaissance Report and Geotechnical Engineering Foundation Engineering Investigation and Report, by Ralph Stone and Company, Inc., dated 10/21/94 and the subsequent Addendum No. 1-6, also by Ralph Stone and Company, Inc., dated 2/20/95, 8/29/95, 6/5/96, 5/21/97, 7/7/97, and 6/3/97, shall be incorporated into all final design and construction plans including recommendations concerning foundations, lateral design, slabs and drainage. All plans must be reviewed and approved by the geotechnical consultants.

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

4. Drainage and Erosion Control Plans

Prior to the issuance of a coastal development permit, the applicant shall submit for the review and approval of the Executive Director, a run-off and erosion control plan designed by a licensed engineer which assures that run-off from the roof, patios, and all other impervious surfaces on the subject parcel are collected and discharged in a manner which avoids ponding on the pad area. Site drainage shall not be accomplished by sheetflow runoff over the tops of slopes except in nonerosive-engineered devices

5. Revised Plans

Prior to issuance of a coastal development permit, the applicant shall submit, for the review and approval of the Executive Director, revised project plans which indicate the following:

- (a) Deletion of the temporary classroom trailer;
- (b) Reconfiguration of the permanent structure so as maintain a minimum 50 foot setback from the riparian corridor, delineated by the edge of the creek channel, and a minimum five foot setback from the dripline of all native oak trees; and
- (c) Removal or relocation of the two 8' x 20' storage containers to a location at least 50' from the riparian corridor, as delineated by the edge of the creek channel, and a minimum 5 foot setback from the dripline of all native oak trees.

6. Restoration and Habitat Enhancement Plan

Prior to the issuance of the Coastal Development Permit, the applicant shall submit for the review and approval of The Executive Director, a detailed habitat restoration plan prepared by a qualified biologist or resource specialist who is experienced in the field of restoration ecology. The plan shall include, at a minimum, all recommendations outlined in the Biological Resources Assessment Report, dated 9/3/98, by David Magney Environmental Consulting. The plan shall also include, but not be limited to, the following requirements:

- a) If any of the three large California Sycamore trees (*Plantanus racemosa*) identified on Exhibit 6 require complete removal, they shall be replaced at a ratio of 10:1. The plan shall identify where sycamore plantings are located on site and include technical planting methods and specifications;
- b) Methodology to remove all invasive species within the project site;
- c) Supplemental plantings of native riparian species on the western bank of the creek identified in consultation with the Los Angeles County Forestry Division;
- d) The plan shall include a restoration-monitoring program for a period not less than five years to ensure that restoration activities are successful. The plan shall provide an outline of proposed maintenance activities, including the removal of weeds, or mid-course corrections (additional plantings), should they be required. At the end of the five-year period, the applicant shall submit a final monitoring report, for the review and approval of the Executive Director, which indicates the success or failure of restoration activities. If the report finds restoration activities are in part, or in whole, unsuccessful, the applicant shall be required to submit a revised or supplemental plan to compensate for those portions of the plan which were not successful. The revised or supplemental plan shall be processed as an amendment to this Coastal Development Permit.

7. Future Improvements

Prior to the issuance of a coastal development permit, the applicant shall execute and record a document, in a form and content acceptable to the Executive Director, stating that the subject permit is only for the development described in the Coastal Development Permit No. 4-98-136; and that any additions or future improvements to the permitted structure, or property, including but not limited to clearing of vegetation and grading, that might otherwise be exempt under Public Resource Code Section 30610, will require an amendment to this permit or an additional permit from the Coastal Commission or the affected local government authorized to issue such coastal development permits.. Removal of vegetation consistent with L. A. County Fire Department standards relative to fire protection is permitted.

The document 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 Coastal Commission-approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

8. Condition Compliance

Within sixty days from the date of Commission action on this permit application, or within such additional time as the Executive Director may grant for good cause, the applicant shall satisfy all requirements specified in the conditions hereto that the applicant is required to satisfy prior to issuance of this permit. Failure to comply with this requirement may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.

I. Findings and Declarations

The Commission hereby finds and declares:

A. Project Description

The applicant proposes to construct a 2,500 sq. ft., 24 foot high, one-story plus mezzanine, pre-school facility and septic system to accommodate up to 60 children. The applicant is also requesting the installation of a temporary 1,440 sq. ft. double-wide classroom trailer to be used during construction and a 8' x 20' storage container. No grading is proposed.

The subject property is located approximately 1,700 feet north of the intersection of Las Flores Canyon Road and Pacific Coast Highway, in the County of Los Angeles. The 21 acre property is located on the east side of Las Flores Canyon Road, and extends 540 feet across Las Flores Creek and up the eastern side of the canyon. The subject site contains a looped access driveway, 30 informal parking spaces, a concrete walkway, fencing and two basketball hoops. There is no existing classrooms or building improvements on-site, with the exception of two metal 8' x 20' storage containers located approximately 10' from the edge of the creek channel.

The majority of the parcel is steep canyon slope and is not suitable for development. The proposed building site is located on the canyon floor, on a relatively narrow strip of land between Las Flores Canyon Road and the creek.

B. Public Comment

The Commission has received seven letters in support of the project from James F. Lotspeich, Raymond V. Singer, Henry and Margaret Burr, Ronald Merriman, Dennis Seider, Leah Ellenberg, and William Dowey (see Exhibits 13-19). Two of the letters refer to a fire rebuild permit which is not the subject of the pending application. The subject application is for the construction of a new 2,500 sq. ft. school facility and the installation of 1, 440 sq. ft. temporary trailer and storage container during construction.

C. Background

The adjoining .8 acre parcel to the south (Parcel One) is also owned by the applicant and has been run as the Carden School, a private school facility, since 1966. In September 1966, the LA County Regional Planning Commission authorized the expansion of the school facility to accommodate 105 children. In September 1971, authorization was again granted by the LA County Regional Planning Commission to expand the facility to accommodate a maximum of 150 children.

In March 1982, the LA County Regional Planning Commission approved a Conditional Use Permit, which expires in 2002, for both the subject 21 acre parcel (Parcel Two) and the .8 acre parcel to the south to conduct a private school for up to 200 students in this residential zone. This most recent intensification of use was approved by the County after the enactment of the 1976 Coastal Act and thus, should the proposed use exceed the pre-existing use of 150 students on Parcel One a Coastal Development Permit would be required.

At the time the current Conditional Use Permit was approved in 1982, the LA County Regional Planning Commission recognized the existing facility was comprised of two existing buildings of 2,283 sq. ft., and three classroom trailers of 1,180 sq. ft., and an expansion of the facility was approved by authorizing an additional 300 sq. ft. of classroom space and a tennis court, for a total of 3,763 sq. ft. to be permitted cumulatively on both Parcels One and Two. According to the site plan submitted with the proposed project, there is currently 3,404 sq. ft. of classroom space on Parcel One. Thus, the total combined floor area for the two parcels, including the proposed project conceptually approved by the LA County Department of Regional Planning, would be 5,904 sq. ft.

The City of Malibu was incorporated in 1982 and, as a consequence, a new County/City boundary line was established between the two parcels, resulting in Parcel One being located in the City of Malibu and Parcel Two being located in the County, outside the City of Malibu's limits.

In 1993, the Old Topanga fire destroyed the 1,014 sq. ft. Carden preschool facility on Parcel One. The applicant rebuilt the structure to a size of 2,121 sq. ft. without the benefit of a Coastal Development Permit. Pursuant to P.R.C. Section 30610(g)(1) no Coastal Permit is required for the replacement of a structure destroyed by disaster, if the structure(s) does not exceed either floor area, height, or bulk of the destroyed structure by 10%. In this case, the proposed replacement structure exceeded the previous residence by 109%, and therefore a Coastal Permit was required.

In 1995, the Coastal Commission approved an after-the-fact request by the applicant to construct a two-story, 2,121 sq. ft. school facility on Parcel One, to replace the 1,014 sq. ft. structure, two septic tanks and a wrought iron fence. Coastal Development Permit (CDP) 4-95-244 (Armstrong) was approved with six special conditions related to: conformance to geologic recommendations, landscaping and erosion control plans, assumption of risk, future improvements, condition compliance, and a wild fire waiver of liability.

Two years later, in February 1997, an electrical fire destroyed a 720 sq. ft. trailer (one of three at the time) on Parcel One. The applicant then proposed a larger 1,200 sq. ft. replacement structure and pursuant to P.R.C. Section 30610(g)(1), a Coastal Development Permit was required. In April 1997, the Commission approved CDP 4-97-064 for the installation of a 1,200 sq. ft. trailer on a permanent foundation, subject to the following special conditions: conformance to geologic recommendations, assumption of risk, wild fire waiver of liability.

Recently, during a site visit to the subject parcel, Commission staff observed the following unpermitted development on Parcels One and Two: 1) the construction of a three foot high, 75 foot long timber mud flow wall on Parcel Two; 2) the extension of the wrought iron and masonry wall from the existing school facility on Parcel One to the driveway entrance on Parcel Two for a length of approximately 440'; 3) the installation of two 8' x 20' storage containers on Parcel Two between the access road and the western side of the creek; and 4) vegetation clearing, including the removal of two significant, native sycamore trees estimated to be over sixty feet tall, for the construction of a soccer field and asphalt parking lot on Parcel One.

In July, 1998 the applicant submitted another coastal development permit application, 4-98-210, as an after-the-fact request for the timber mud flow wall on Parcel One, and the wrought iron/masonry wall that spans both Parcels One and Two. As part of this application, the applicant has proposed to remove one of the storage containers and relocate the second container at a location at least 50' from the riparian habitat until the construction of the proposed pre-school is completed. Staff will investigate as a separate matter from this application whether enforcement action or separate permitting is necessary with respect to the unpermitted development on Parcel One.

The applicant was previously scheduled for the September hearing with a staff recommendation for denial, based primarily on fire and flood hazards which were not adequately mitigated. The applicant requested a postponement in order to provide evidence of mitigation and address staff concerns regarding fire and flood hazards and the potential impact to the environmentally sensitive resources of the Las Flores Canyon riparian zone.

D. Development and Land Use Plan Designations

The Carden School, historically located on Parcel One to the south of the subject site (Parcel Two), has been operating as an institutional use since 1966, under three successive Zoning Board authorizations issued by the Los Angeles County Regional Planning Commission in September 1966, September 1971 and March 1982. The current Conditional Use Permit approval includes both Parcels One and Two, although to date all permitted school improvements have been clustered on Parcel One.

The subject site, located on Parcel Two, is designated in the Malibu/Santa Monica Mountains certified Land Use Plan (LUP) for residential use under Rural Land III which permits one dwelling unit per two acres. However, the LUP is silent on whether any conditional uses are permitted in a residential zone such as a private school, which is defined in the LUP as an institutional use. As noted above, Los Angeles County Zoning Ordinance, which is not part of a

certified LCP, permits institutional uses in a residential zone with an approved Conditional Use Permit.

Since the certified LUP is silent on institutional uses in residential designations, and since the Los Angeles County Zoning Ordinance has not been certified by the Coastal Commission, the proposed school or institutional use is currently not a permitted use under the certified Land Use Plan and would require an amendment to the Malibu/Santa Monica Mountains certified LUP. However, it should be noted that since the County does not have a fully certified Local Coastal Program, the LUP is used as guidance only for the purposes of review by the Commission. Thus, the standard of review for the Commission in this case is conformance with the policies of the Coastal Act.

On 4/23/98, the Los Angeles County Department of Regional Planning issued an approval-in-concept to construct an additional 2,500 sq. ft. of classroom space on Parcel Two under the findings of the existing Conditional Use Permit. The applicant has stated that the maximum enrollment for the two parcels will not exceed 120 students. The existing 3,404 sq. ft. of classroom facilities located on Parcel One have been leased out to a new private grammar school. The intent of the proposed project is to re-establish the Carden School, as a pre-school within the proposed 2,500 sq. ft. of classroom space on Parcel Two.

Existing improvements on Parcel Two, the subject site, include: an access road, informal parking spaces, a concrete walkway, three foot high cyclone fencing, two basketball hoops and two 8' x 20' metal storage containers. The subject site has been used as an informal playground for the pre-school. No classroom or other formal school facilities have been constructed on-site.

Finally, the subject parcel is identified in the Malibu/Santa Monica Mountains certified LUP as a Disturbed Sensitive Resource Area, described as follows:

Disturbed Sensitive Resource Areas

"Scattered areas exist throughout the Malibu Coastal Zone that historically would have met the Coastal Act definition of an Environmentally Sensitive Habitat Area (ESHA); however, as a result of development patterns and intensities, these areas have been substantially modified. These modified habitats no longer have the same biological significance or sensitivity to disturbance as an undisturbed ESHA, but nevertheless are sufficiently valuable to warrant some degree of resource protection."

In particular, the subject site falls within Las Flores Creek riparian zone and includes numerous significant and heritage sized native tree species such as oaks and sycamore trees (see Environmentally Sensitive Resources below).

E. Hazards

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

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.**
- (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.**

The Malibu/Santa Monica Mountains certified Land Use Plan also provides policy guidance, in regards to hazards, as follows:

P144 Continue to provide information concerning hazards and appropriate means of minimizing the harmful effects of natural disasters upon persons and property.

P147 Continue to evaluate all new development for impact on, and from, geologic hazard.

P149 Continue to require a geologic report, prepared by a registered geologist, to be submitted at the applicant's expense to the County Engineer for review prior to approval of any proposed development within potentially geologically unstable areas including landslide or rock-fall areas and the potentially active Malibu Coast-Santa Monica Fault Zone. The report shall include mitigation measures proposed to be used in the development.

P151 Continue to evaluate all new development for its impact on, and from flood and mudflow hazard.

P152 Prohibit buildings within areas subject to inundation or erosion unless proper mitigation measures are provided to eliminate flood hazard.

P156 Continue to evaluate all new development for impact on, and from, fire hazard.

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

The Coastal Act requires that new development minimize the risk to life and property in areas of high fire hazard. The Coastal Act recognizes that new development may involve the taking of some risk. Coastal Act policies require the Commission to establish the appropriate degree of risk acceptable for the proposed development and to establish who should assume the risk. When development in areas of identified hazards is proposed, the Commission considers the hazard associated with the project site and the potential cost to the public, as well as the individual's right to use his property.

1. Fire Hazards

The project site is located in the lower reaches of Las Flores Canyon. In recent years this canyon has been affected by fire, flooding, debris flows, and landslides. Large fires followed by heavy rains can result in a chain reaction of events commonly referred to as the fire/flood cycle. It is currently believed that chaparral burns on average every 10 to 50 years. Once fire has removed native vegetation from steep slopes, several erosional process begin to occur, such as landslides, debris flows, mudflows, and flooding. Development within the chaparral habitats of the Santa Monica Mountains are often located within the sphere of influence of this cycle.

Vegetation in the coastal areas of the Santa Monica Mountains consists mostly of coastal sage scrub and chaparral. Many plant species common to these communities produce and store terpenes, which are highly flammable substances (Mooney in Barbour, Terrestrial Vegetation of California, 1988). Chaparral and sage scrub communities have evolved in concert with, and continue to produce the potential for frequent wild fires. The typical warm, dry summer conditions of the Mediterranean climate combine with the natural characteristics of the native vegetation to pose a risk of wild fire damage to development that cannot be completely avoided or mitigated.

The intensity of these fires in terms of temperature, and total acreage lost also have an impact on the ability of the surrounding chaparral ecosystem to recover in an adequate and timely fashion. The ecosystem's lack of ability to recover in turn effects the duration and intensity of erosion associated hazards. Once vegetation has been destroyed and heavy rains follow, the potential for landslides, mudflows, slumping and flooding is greatly exacerbated. Any development located within this environment will be continually affected by the fire/flood cycle.

The 1993 Malibu/Topanga firestorm destroyed over 450 structures as well as 18,000 acres of land, most of which was covered by chaparral habitat. Development in this chaparral habitat has complicated the fire/flood cycle through the advent of fire suppression as wildfires are aggressively fought and extinguished as soon as they begin. However, fire plays an important role in the removal of dead woody debris, and further aids in the regeneration of chaparral habitat.

The removal of frequent, low intensity burns has led to the massive build-up of woody materials in the Santa Monica Mountains, and has led to the creation of large, high intensity fires that burn out of season, and in such a manner that they are nearly impossible to control. The Topanga fire of 1993 was such a fire. The following passage, from the Old Topanga Incident Official Report, issued by the County of Los Angeles Fire Department describes the fire as it swept through Las Flores Canyon (note: the referenced bridge abuts Parcel One on the south side of the property):

"The spot fires created a labyrinth along access routes. Wooden power poles caught fire and tumbled onto the road ways. Rocks, large and small, that had been held

against the hillsides by dense brush were loosened by the fire and came crashing onto the roads below. Animals of all sizes and types were running amuck. The bridge over Las Flores Creek burned and collapsed leaving only one escape route from the area - back to the north through the mouth of the fire.

The fire roared over Rambla Pacifico and pushed through Las Flores Canyon like a runaway freight train. Multiple fires burned within the canyons fanned by tremendous winds. A more perfect formula for a fire storm could not have been created.

The Branch Director recalled 'embers as big as your fist began to blow by at an incredible rate then suddenly the sky turned extremely black and the ground began to shake - the wind which had been blowing so fiercely abruptly stopped... there was a moment of quiet except for the distant rumbling - then the wind began sucking uphill toward the fire and I saw the fire literally blow out of Las Flores Canyon like a blow torch - something I've never seen in 28 years on the job'."

The Las Flores Canyon area is particularly hazardous with regard to fire due to the narrow, extremely steep canyon topography and morphology. Las Flores Canyon works, in effect, like a chimney drawing the fire up or down the canyon, depending on wind direction, with incredible force and speed as described by the fire captain above. The subject site is located at the floor of the canyon, in between some of the steepest topography and rock formations that form a narrow funnel at the south end of the canyon. During a 28 minute period at the height of the 1993 Firestorm, the fire was consuming approximately 75 acres per minute with flame lengths reaching 200 feet, according to the Old Topanga Incident Report.

If another such fire was to ignite in close proximity to the proposed school, during a Santa Ana wind condition, the safe evacuation of the children is an issue of great concern. However, according to LA County Fire Chief Jordan, the children could be evacuated in 15 to 30 minutes, which he has indicated is an adequate amount of time. Further, the Fire Chief has pointed out, the proposed project meets all Fire Code requirements. The proposed structure will be constructed of an all stucco exterior, concrete access ramps, Class A asphalt singled roof and interior sprinkler systems. The applicant has submitted a building approval letter from the LA County Fire Department dated 9/10/98 (see Exhibit 11).

In addition, the applicant has submitted a Fuel Modification Plan, approved by the LA County Fire Department dated 8/24/98. The Fuel Modification Plan calls for the establishment of three concentric zones from the proposed structure, which includes the removal of all trees within ten feet of the structure and the elimination of all non-native invasive species. The Fuel Modification Plan permits the protection of the heritage oak tree, although two native sycamores would need to be removed or thinned (see Environmentally Sensitive Resources section below).

Access to the site is also a significant issue in the canyon, as Las Flores Canyon Road is the only source of public automobile ingress and egress. During a firestorm condition, with huge embers blowing down the canyon, a spot fire could easily jump the main fire and

isolate the school. Access would then be cut off by fire and seriously limit the ability of fire personnel to reach the school or evacuate the area. Further, 120 parents trying to reach the two schools would significantly impede fire vehicle response and/or evacuation efforts.

The applicant has attempted to respond to this concern claiming that an alternative evacuation route exists behind the Caltrans facility and over to Rambla Pacifico. According to Mr. Armstrong, this half mile route can be accessed by vehicle for approximately one quarter mile, at which point a locked gate prevents through automobile traffic across a private road. The local fire and police departments have keys to the emergency locks and the owner of the property has indicated that emergency access is open to everyone. The private road continues for less than a quarter of a mile until it reaches Deerpath Road and then Rambla Pacifico. At this time, the applicant has not adequately demonstrated that this alternative evacuation route is adequate and available for its use.

The applicant has also submitted a copy of the school's emergency preparedness plan, included in the parent's manual, that provides specific notification and evacuation procedures in case of fire, flood or earthquake. The plan specifies when the school will be closed, how the parents are to contact the school during an emergency, evacuation routes, and pre-arranged meeting places should an evacuation during an emergency event be necessary.

Finally, the applicant has contacted the City of Malibu's Emergency Services Coordinator who has apparently agreed to initiate a procedure whereby the schools in Las Flores Canyon would be notified via fax when there is a threat of wildfire or a flood warning. This notification procedure will be coordinated with the Lost Hills Sheriff station, according to the applicant. No written agreement by these entities or legal obligation to provide such notification has been evidenced at this time; thus the applicant has not provided evidence of notification procedure adequate to minimize risks to life and property in this area of fire hazards.

The 1993, the 1,014 sq. ft. Carden preschool facility, located on Parcel One to the south of the subject site, was destroyed by the Old Topanga Firestorm. Given the particular and unique dynamics associated with the Las Flores Canyon topography, morphology, weather conditions, and surrounding fuel load, there is a significant potential for another catastrophic fire to sweep through the subject property and destroy the existing and proposed preschool facilities.

The previous site of the Carden preschool facility on Parcel One has now been leased out to a private grammar school with a maximum enrollment of 60 students. Just prior to leasing their facility, the Carden preschool had an enrollment of approximately 35 children, according to a 6/8/98 letter from the applicant. The proposed site for the Carden School, on Parcel Two, is designed to accommodate 60 students.

Thus, the construction of the proposed project will allow for a potential 100% expansion of the number of students between the two sites, both of which are under the ownership of applicant. The proposed project will place an ultimate total of 120 children, or 100% more

than the existing facilities can accommodate, at risk should there be another firestorm. The applicant has indicated that as owner of Parcel One, all emergency preparedness efforts will be coordinated between the two facilities.

In an effort to minimize the risk to the maximum extent feasible, the applicant has provided evidence of: LA County Fire approval for the building design and a Fuel Modification Plan; and evacuation plans. The applicant has provided tentative evidence of a third evacuation route out of Las Flores Canyon behind the Caltrans facility; emergency notification and; and an additional early warning system through the City of Malibu, but the availability of these measures has not yet been assured and their adequacy has not been determined.

The emergency preparedness plan as submitted does not adequately address the level of preparedness need given the significant risk of wildfire fire and flooding. Areas in which further planning are needed include: establishing specific criteria as to when the school will be evacuated, identification and provision of adequate emergency access routes, providing adequate transportation for evacuation, securing shelter on-site, and conducting annual drills. Similarly, the notification procedure, and the means for that notification, need to be further developed and formalized with the local emergency responders.

Thus, the Commission finds the school's emergency response plan, as submitted, to be inadequate to address the significant level of fire and flooding hazards which threaten the preschool children, and staff of the proposed project. Therefore, the Commission can only find the project consistent with the Coastal Act if the emergency preparedness plan is revised and approved by a qualified emergency preparedness planner to more fully address notification and evacuation plans as noted in *Special Condition number one(1)*.

Further, due to the fact that the proposed project is located in an area subject to an extraordinary potential for damage or destruction from wild fire, the Commission can only approve the project if the applicant assumes the liability from the associated risks of developing this site. This responsibility is carried out through the recordation of a deed restriction, as noted in *Special Condition number two (2)*. The assumption of risk deed restriction, when recorded against the property will show that the applicant is aware of and appreciates the nature of the hazards which exist on the site and which may adversely affect the safety or stability of the proposed development.

Therefore, the Commission finds the project, as conditioned, to be consistent with the Fire Hazard provisions of Section 30253 of the Coastal Act.

2. Geologic Stability and Flooding

Setting: A natural slope ascends above the east side of Las Flores Canyon approximately 700 feet at an approximate gradient of 40 to 50 degrees. The proposed preschool facility is set back from the toe of this slope approximately 75 feet with the creek located in between. West of the site, on the opposite side of Las Flores Canyon Road, the natural canyon slopes rises at an approximate gradient of 30 to 40 degrees to approximately 650 feet above the canyon floor. The proposed building site is setback from the toe of this slope

approximately 125 feet. Drainage at the site is sheet flow runoff and appears largely uncontrolled. Drainage is directed toward Las Flores Canyon Road as well as the natural creek on the east side of the property.

Flood Designations: Two different governmental agencies project flooding probabilities in Las Flores Canyon: the Los Angeles County Flood District and the Federal Emergency Management Agency (FEMA). The Los Angeles County Flood map differentiates between the flood way, which include the actual course of the creek, and the flood plain that abuts the flood way. The proposed project site is located within the flood plain (see Exhibit 4).

The FEMA flood Insurance Map designates the proposed building site to be in Flood Zone A, an area subject to 100 year flooding. However, there was some question as to whether the FEMA flood zone actually extends beyond the 155 foot elevation, as noted for the east side of the bank on the map, given the FEMA maps by their nature do not always provide parcel level accuracy. In response to staff concerns about the flood plain boundary, the applicant contracted a hydrologic engineer to calculate more accurate flood level elevations for the subject site. According to David Nishimura, Consulting Engineer, the water surface elevations at the proposed building site are 156.5 feet.

The Los Angeles County Public Works Department, Building and Safety Division, is charged with insuring that any new construction within the flood zone is adequately mitigated from flood hazards. The County uses a 50 year "burn and bulk" capital storm event scenario as the design standard to which any new construction must meet. Essentially, this model calculates the volumes of sediment and debris laden waters that would be created within a burned watershed after four days of continuous rain.

According to the County Building Official for Las Flores Canyon, this scenario is equal to, or in most cases exceeds, the FEMA 100 year event that is calculated assuming clear water flow characteristics. In fact, in order for the County to qualify for the Federal Flood Insurance Program, the County had to demonstrate that their adopted building code standards were equal to or more conservative than those of FEMA. The Los Angeles County Flood Plain Ordinance requires that any structure located within a designated flood plain must be located a minimum of one foot above the Base Flood Elevation (BFE), as determined from the County Flood Map. The County Flood map identifies the subject site to be at the 158 foot elevation.

The proposed finished floor elevation of the proposed structure will be at the 160 foot elevation, which is two feet above the County flood plain elevation, and 3.5 feet above the hydrologic consultant's site specific estimated elevation. Thus, the proposed structure exceeds the minimum LA County Flood Plain Ordinance requirements, of one foot above the flood level, according to their flood map and two and a half feet above the consultant's estimate. The applicant has submitted a conceptual drainage approval, based on the consultant's estimated flood elevations, from LA County Public Works, dated 9/9/98.

The natural flood plain and steep narrow canyon setting of Las Flores Creek creates a unique set of circumstances that must be considered in relation to the fire/flood cycle and the worst case storm events. Following a major fire, storm events of this magnitude generate tremendous flowrates and amounts of debris and sediment laden waters, significant enough to destroy the proposed school facilities even if they are elevated above the 50 year flood plain. In addition, landsliding of the steep, unstable canyon slopes is very

likely to create dams within the stream channel; the sudden release of this debris laden water would destroy most structures situated downstream in the flood plain.

Following the 1993 Firestorm, consultants for the City of Malibu projected that the burned watershed hydrology of Las Flores Canyon, when combined with the particularly steep, narrow topography and morphology, will create heightened flowrates during a 50 year flood event of approximately 8,264 cubic feet per second (cfs), or 5,041 cfs above normal. Similarly, the Soil Conservation Service calculated that during a 100 year storm event in a burned Las Flores Canyon watershed, 273,400 cu. yds. of sediment debris will be generated. This sediment would be transported downstream via large debris flows that could sweep into the flood plain and damage the proposed school.

Thus, a worst case 50 year flood event following a major fire, calculated with sediment and debris laden flowrates, would dramatically increase the flooding and debris flow hazards. Large boulders and an extraordinary amount of woody debris would be carried downstream damming and diverting the flow of the creek at its more narrow points, destroying structures in its path and interrupting access in and out of the canyon via Las Flores Canyon Road.

The LA County Building and Safety Division of the Public Works Department is responsible for reviewing all proposed structures which are located within a flood plain. Similar to their review of the flood elevation levels, the Building and Safety Division also reviews the structural design, and particularly the foundation of the proposed project, to ensure it meets the design standards of a 50 year capital storm event. Typically, this level of review is conducted following conceptual approval, at the stage of construction drawings. Thus, the prior to final local approval, the foundation design will be reviewed to ensure that it will withstand a 50 year capital storm event. However, other ancillary facilities, and the site itself, may be destroyed or damaged in this type of flood.

Thus, given the applicant has submitted evidence, in the form of conceptual LA County Public Works drainage approval, that the proposed project will exceed the minimum requirements for flooding and will meet the design protection standards for a 50 year capital storm event, the Commission finds the proposed structure minimizes risk to life and property from flood hazard.

However, due to the fact that the proposed project is located in an area subject to an extraordinary potential for damage or destruction from flooding, the Commission can only approve the project if the applicant assumes the liability from the associated risks of developing this site. This responsibility is carried out through the recordation of a deed restriction, as noted in *Special Condition number two (2)*. The assumption of risk deed

restriction, when recorded against the property will show that the applicant is aware of and appreciates the nature of the hazards which exist on the site and which may adversely affect the safety or stability of the proposed development.

Geologic Stability: The applicant has submitted a Geologic Reconnaissance Report and Geotechnical Engineering Foundation Engineering Investigation and Report, dated 10/21/94, prepared by Ralph Stone and Company, Inc., and Addendum No. 1-6, dated 2/20/95, 8/29/95, 6/5/96, 5/21/97, 7/7/97, and 6/3/97, prepared by Ralph Stone and Company, Inc.; Response to CCC Staff Report regarding Cardin School, Ralph Stone and Company, 8/31/98; Engineering Geologic Memorandum, by Geoplan, dated 7/30/98 for the subject site. The geotechnical consultant concludes in Addendum 6:

"It is the opinion of the undersigned, based upon data obtained as outlined in this geotechnical and geologic engineering report, that if constructed in accordance with our recommendations and the recommendations of the other product consultants, and properly maintained the proposed structures will be safe against hazard from landslide, damaging settlement, or slippage, and that the proposed building or grading construction will have no adverse effect on the geotechnical stability of property outside of the building site. The nature and extent of the data obtained for the purposes of this declaration are, in the opinion of the undersigned, in conformance with generally accepted practice in the area. The described findings and statements of professional opinion do not constitute a guarantee or warranty, express or implied."

However, in regard to landslides, the geological consultant did find mapped landslides on either side of the property in the original 1994 report, which at the time was focused on the proposed development for Parcel One to the south:

"Yerkes and Campbell, 1980, have mapped landslide deposits to be present on both sides of Las Flores Canyon about 500 feet north of the subject property. These deposits are reported to consist in general of surficial and disturbed bedrock debris which has been translated downslope."

The applicant is well aware of the recent landslide and mudflow history to the west and north of the subject site as noted by the geotechnical consultant above. The applicant asserts that the 1998 winter season did not cause any significant landslide activity along the road. Further, the applicant has provided a detailed description of the recent landslide and mudflow activity as the following selections reflect:

"The property to the west and north across Las Flores Canyon road show signs of landslide activity. This activity increased significantly after the post fire winter of 1994 and 1995 following the Topanga firestorm. This was probably due to the loss of vegetation in the area and the access road grading and drainage system that cut and filled across this unstable area coupled with heavy post fire rains in 1994 and 1995"

The toe of the slide fronts on the west side of Las Flores Canyon Road. The broken up ground caused a poor drainage condition which allowed surface drainage to percolate into the ground. The ground water caused the 20 foot high banks along the west side of Las Flores Canyon Road to become saturated and creep onto Las Flores Canyon Road and over rides the asphalt roadway.

...The (southern) section of slide activity is 150 feet to the north of our proposed building location and 100 feet to the east. This drainage area drains onto Las Flores Canyon Road and then drains south along the west side of the road. In 1994 we built a 3 foot timber flood wall on the east side of Las Flores Canyon Road to mitigate the post fire mud flow hazard to our property. This flood wall was built in accordance to a LA County Public Works Design.

...However, the major post fire mud flows in 1994 and 1995 came from two small canyons that drain on to a small access road next to Caltrans on the west and south of our proposed building site by 150 feet. These canyons dumped a couple feet of mud onto Las Flores Canyon Road in front of the Caltrans facility just north of the bridge. This closed Las Flores Canyon in 1994.

(The area north of the proposed pick up/drop off driveway)... represents the main section of the landslide fronting on Las Flores Canyon Road and oriented east/west. This section is located approximately 250 feet to the north of our building site and approximately 100 feet past our fenced playground to the north.... This landslide has been aggravated by cutting an access road in the 1960's and the associated cut and fill of the slope as well as disrupting the natural drainage which may have contributed to increased ground water. The landslide was activated by post fire run off in 1994 and 1995 which caused the access road and the drainage system to fail and become landslide debris. The head scarp got bigger in 1994 and 1995 and is now about 30 feet high and the head scarp is approximately 300 feet up the hill to the west from Las Flores Canyon.

...The main area of the landslide includes most of the mass of the landslide and does not appear in my opinion to be the type of landslide that would trigger a massive mud flow that would push cars into the creek to the east."

Erosional processes following the firestorm of 1993 have had a major impact upon Las Flores Canyon, and the areas surrounding the proposed building site. In 1994, LA County Public Works Department issued a Post-Burn Mudflow Protective Advice notice to the applicant related to the landslide located west of the site and recommended the construction of the above referenced three foot timber mud flow deflector wall and noted: "Due to the burned condition of the watershed, possible sediment flows may impact your property". Since that time the applicant, as noted, has completed the mudflow wall. However, this project was constructed without the benefit of a Coastal Development Permit.

During a site visit Commission staff confirmed the applicant's assessment of the landslide area including several locations west and just north of the proposed building site where

there is evidence of previous landslides and mudflows, the toe of each now terminating at the edge of Las Flores Canyon Road.

Earth & Debris Dams: The fire/flood cycle and its particular manifestation in Las Flores Canyon is further clarified by the applicant's geotechnical consultant, Ralph Stone & Company, in their description of the impact of slope instability on the subject parcel (note: again, the "subject property" in the following quote refers to Parcel One, located to the immediate south):

"The site is setback from the eastern canyon wall slope such that shallow slope failure will not likely impact the (restored) structure. However, because the slope has lost its stabilizing vegetation cover, surficial slumping during future heavy storms should be expected. These slumps events may significantly dam the creek and cause local overbank flooding. This condition is also true of the existing landslides which have been mapped to the north of the subject property."

"As described above, landslides or mudflows may dam the creek during a heavy storm event and cause the stream to shift its course or overspill its banks."

Staff also observed, on the recent site visit, slumping of the eastern slope into the creek directly across from the proposed building pad where the steep topography forms one of its narrowest points in the canyon. On the western bank of the creek, at the same location, there is a large rock outcropping which serves to narrow the creek and would easily create a dam effect should the eastern slope suffer a more significant failure, and directly threaten the proposed structure with flooding.

In December of 1994, the applicant for the constructed of a 210' long, 14' high concrete debris wall (which now rises directly out of the channel of the creek) to replace a 10' high timber and concrete wall destroyed by the 1993 firestorm on Parcel One, to the south. Commission staff determined the new wall was a replacement of a structure destroyed by a disaster and therefore exempt from coastal development permit requirements. The purpose of this debris wall is to protect the site from extremely high flood waters, mud flows and debris flows in Las Flores Creek. The applicant states that this wall, and the previous wall, have been effective in protecting the site following the 1970 and 1993 firestorms.

Site visits conducted by Commission staff in 1994, and 1995 as well as photographic evidence reviewed by Commission staff indicate that mud flows and debris flows have however, occurred in the creek and across the section of Las Flores Canyon Road adjacent to the project site. These flows did not directly impact the project site; although, they did completely encircle Parcel One to the south and temporarily close access along Las Flores Canyon Road.

If other mud flows occurred to the north or south of the subject property, while perhaps not directly threatening the proposed structure, the only public access road in and out of Las Flores Canyon would be flooded. The Rambla Pacifico landslide, located less than one

quarter of a mile to the south of the proposed project site, is another likely source of flooding as a result of the fire/flood cycle. The following scenario was taken from the March 21, 1994, City of Malibu Las Flores Canyon Fire Remediation Study:

"The Rambla-Pacifico landslide will be significantly affected by any large storm flows in the canyon. Significant storm flows will incrementally remove the toe of the slide which extends into Las Flores Creek. This will result in the removal of soil that buttresses the slide which will cause it to suddenly move across the canyon floor, blocking the stream. This temporary dam will trap storm flows, flooding properties north of the dam."

In response to staff concerns regarding landslides, damming and associated flooding, the applicant's geotechnical consultant conducted a secondary review of the site. Ralph Stone, Inc., concludes the landslide on the eastern canyon wall of the creek is shallow and surficial, and that when slides do occur on this portion of the canyon, "the stream channel carries the (landslide) debris away, then comes to a point of equilibrium".

In regards to the larger landslide west of Las Flores Canyon Road, the consultant acknowledges that there has been creep onto Las Flores Canyon Road during times of heavy rain. However, the consultant finds no historical or geomorphologic evidence to indicate that this landslide has crossed the road and impacted the stream.

The consulting geological engineer, Geoplan, Inc., characterizes both the landslide to the northwest of the building site, on the western canyon, and the Rambla Pacifico landslide to the south, as an:

"incipient feature which accelerates to a slow creep as it becomes saturated during and for short periods after intense prolonged rainfall. A similar condition exists at the Rambla Pacifico slide which has had no direct affect on the subject property."

The subject site is located 75-95 vertical feet above portion of Las Flores Creek adjacent to the Rambla Pacifico landslide. The probability of this slide creating and sustaining a dam condition which would result in flooding conditions at the subject site are unlikely according to another of the applicant's consulting engineers, Oswaldo Dreckman. According to the applicant, Dreckman has indicated that:

"If there was any damming at the bridge by Caltrans (just south of Parcel One) the vertical distance to (the) site is 20 feet and any blockage would be dislodged before it could reach (the) proposed site."

Thus, the consulting engineers Geoplan and Dreckman concur, the site will not be affected by the slow moving Rambla Pacifica landslide, located at an vertical elevation of 75-95 feet below the subject site.

Conclusions: At the time of the first application submittal, staff had significant concerns regarding the geological hazard associated with the site. Since that time, the applicant has contracted with several consulting engineers to address these concerns. Thus, after further investigation, the consulting geotechnical engineer, geologist and civil engineer/hydrologist conclude that landslides, both on-site and off, will not produce any significant direct or indirect hazards for the proposed project.

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

Further, given the specific concerns of the geotechnical engineer regarding the existing site drainage, the potential to cause further erosion of the creek wall, and the need to direct all project related discharges towards the street in a non-erosive manner, the Commission finds that the project can only be found consistent with the Coastal Act, if the applicant submits a drainage and erosion control plan, certified in writing by the consulting geotechnical engineer as conforming to their recommendations, as noted in *Special Condition number four (4)*.

Thus, given the site specific findings of the consulting geotechnical, geologic and civil/hydrological engineers regarding the risk of landslide failure, both on and off site, that would specifically produce a damming effect on Las Flores Creek, the Commission finds that the project, as conditioned, would not be significantly threatened by direct landslides or landslide related flooding and therefore, would be consistent with Section 30253 of the Coastal Act.

The proposed project is located in an area of Las Flores Canyon that is subject to a high level of risk due to the natural hazards of fire, landslides and flooding. The applicant has made a significant effort to minimize the nature of these risks through the following actions: obtaining LA County Fire approval for the building design and a Fuel Modification Plan; identifying an alternative evacuation route out of Las Flores Canyon; developing emergency notification and evacuation plans and an additional early warning system; developing site specific data regarding projected flood levels and obtaining conceptual County drainage approvals that exceed minimum requirements for flooding; and developing specific on and off site landslide information to address concerns related to damming and flooding.

For all of the above reasons, the Commission finds the proposed development, as conditioned, will minimize risks to life and property relating to fire, geologic and flooding hazards and therefore is consistent with the provisions of Section 30253 of the Coastal Act.

F. Environmentally Sensitive Resources and Sewage Disposal

1. Environmentally Sensitive Resources

The Coastal Act defines an Environmentally Sensitive Habitat Area (ESHA) in Section 30107.5 stating that:

Environmentally sensitive area means any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.

The proposed project is located adjacent to Las Flores Creek to the east, a riparian corridor recognized in the Malibu/Santa Monica Mountains LUP as an ESHA just north of the project site. The subject parcel is recognized as Disturbed Sensitive Resource area, as the riparian habitat of this section of Las Flores Creek is in a degraded state as a result of previous development.

Although this disturbed riparian habitat does not have the same biological significance as an undisturbed riparian ESHA, it is sufficiently valuable to warrant some protection. This portion of the creek does contain unique and sensitive riparian resources associated with the Santa Monica Mountains which provide habitat for the wildlife of the mountains. Plant species located within and adjacent to the project site include Coast Live Oak (*quercus agrifolia*) and California Sycamore (*platanus racemosa*).

Furthermore, the Coastal Act requires that development adjacent to an ESHA be sited and designed to prevent impacts that would degrade the ESHA value. Specifically, 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 area.***
- (b) ***Development in areas adjacent to environmentally sensitive habitat 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 30231 of the Coastal Act is designated to protect and enhance, or restore where feasible, the biological productivity and quality of coastal waters, including streams:

Section 30231 of the Coastal Act states that:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of

waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

The Malibu/Santa Monica Mountains LUP contains several policies (P79, P81, P82, P84) designated to protect the streams and environmentally sensitive resources from both the individual and cumulative impacts of development.

- P79** To maintain natural vegetation buffer areas that protect all sensitive riparian habitats as required by section 30231 of the Coastal Act, all development other than driveways and walkways should be set back at least 50 feet from the outer limit of designated environmentally sensitive riparian vegetation.
- P81** To control runoff into coastal waters, wetlands and riparian areas, as required by Section 30231 of the Coastal Act, the maximum rate of storm water runoff into such areas from new development should not exceed the peak level that existed prior to development.
- P82** Grading shall be minimized for all new development to ensure the potential negative effects of runoff and erosion on these resources are minimized.
- P84** In disturbed areas, landscape plans shall balance long-term stability and minimization of fuel load. For instance, a combination of taller, deep-rooted plants and low-growing ground covers to reduce heat output may be used. Within ESHAs and significant watersheds, native plant species shall be used, consistent with fire safety requirements.

In addition, Table One from the Malibu/Santa Monica Mountains LUP, sets forth the following development standards and stream protection policies, relevant to this proposal, for Disturbed Sensitive Resource Areas:

- ***In disturbed riparian areas, structures shall be sited to minimize removal of riparian tree;***
- ***In disturbed oak woodland and savanna areas, structures shall be sited in accordance with the Los Angeles County Oak Tree Ordinance;***
- ***Removal of native vegetation and grading shall be minimized;***
- ***site grading shall be accomplished in accordance with the stream protection and erosion policies.***

In this case, the riparian habitat is severely disturbed including the stream itself where a 14' high masonry debris wall, located on Parcel One and previously exempted after the firestorm of 1993, rises straight-up from the existing channel of the creek. The access road, fencing and concrete walkway wind in and out of the riparian zone and woodland habitat on the subject parcel. In addition, the proposed building pad site appears to have

been previously cleared and seeded for use as a playground lawn area. Nevertheless, there are numerous native oak and sycamore trees on the subject parcel, including a heritage sized, multi-trunk oak tree with a canopy spread of over 60' on the north end.

In past Commission actions, the Commission has consistently required a development setback of 50' from the riparian canopy. In the case of a severely disturbed riparian canopy, as is the case here, the riparian canopy or zone is typically defined as 50' from the edge of the stream channel. Additionally, the Los Angeles County Tree Ordinance requires that no development shall encroach into the protected zone of a native oak tree, which is in effect 5 feet beyond the canopy or dripline of the tree.

As noted earlier, the Los Angeles County Department of Regional Planning land use approval in concept is based on an existing Conditional Use Permit for the proposed site and Parcel One to the south. Similarly, the Los Angeles County Environmental Review Board requirement was waived by the Department of Regional Planning, as they found the proposed development would be sited on a previously approved tennis court location, and the proposed enrollment would not exceed the maximum limit of 200 students for both parcels.

Fuel Modification Plan: The Los Angeles County Fire Department requires a Fuel Modification Plan for development in high fire hazard areas such as Las Flores Canyon. Typically, the applicant is required to provide four levels of fuel modification zones beginning with a minimum setback zone of 10 to 20 feet limited to ground covers, lawns, and a limited number of ornamental plants. The applicant has submitted a three zone Fuel Modification Plan, approved by the LA County Fire Department on 8/24/98.

In this case, the first zone of the Fuel Modification Plan requires the removal of all trees within ten feet of any combustible structures, which necessitates the removal of three native sycamore trees. According to the plan, perhaps two of the multi-trunk trees could be thinned rather than removed. The proposed trailer would also encroach ten feet under the canopy of the heritage oak tree. Although the Fire Department strongly recommends against locating any structures within ten feet of trees, special consideration is granted for the protection of oak trees. All dead branches must be removed, and no living portions of the tree can either come in contact with, or be pruned to accommodate, the structure.

Within the first and second zones of the Fuel Modification Plans the County Fire Department also requires the eradication of all non-native, invasive species. The third fuel modification zone is limited to the steep eastern slope of the canyon, which is currently vegetated with native chaparral. The County Fire Department is not requiring any thinning of this 200' wide zone at this time.

Oak Tree Setback Standards: The proposed building site is located on a narrow strip of land, 145' wide at its maximum width, between Las Flores Road to the west and Las Flores Creek to the east. The applicant proposes to construct a 2,500 sq. ft. school room facility and septic system, install a temporary 1,440 sq. ft. double-wide classroom trailer and a 8' x

20" storage container during construction. The storage container would be re-located adjacent to the parking spaces, and setback over 50 feet from edge of the creek channel. The proposed permanent school facility is setback 40 feet from the edge of the channel, at its closest point, and the proposed temporary trailer is located 23 feet from the edge of the creek channel (see Exhibit 6).

The proposed permanent structure and storage container would be setback at least five feet from the nearest oak tree canopy, whereas the temporary trailer, would encroach ten feet into the protected zone of the heritage sized, 60' canopied multi-trunk oak tree. Oak trees are easily damaged, very sensitive to disturbances and need to maintain at least a five foot protection zone beyond the dripline of the canopy. The oaks depend on the surface roots within the dripline for both air and water.

Thus, while the permanent structure and storage container would be sufficiently setback from the oaks, the temporary trailer would have a limited impact on the heritage sized oak. The LA County Forestry Division of the Fire Department conducted a site inspection to assess the potential impact of the proposed project on the heritage sized oak tree. According to both the County Fire Chief responsible for implementing the Oak Tree Ordinance and the applicant's consulting biologist, a temporary use such as the proposed trailer would most likely not significantly impact the health of the oak tree, if the project does not require pruning or trenching within the dripline. An Oak Tree Permit was not required by the County.

Perhaps two of the three sycamore trees that would be affected by the proposed development could be saved if they were pruned down to single trunks. The worst case scenario would require the removal of all three trees, which would be determined at the time of construction.

Biological Assessment: A biological resource assessment, was conducted by David Magney Environmental Consulting, on 9/3/98. Mr. Magney describes the site as highly disturbed, and consisting primarily of non-native ornamental plant species. The proposed building site, within the fenced area, contains almost no native plant species, except the Coast Live Oak and California Sycamore trees. Fauna observed by Mr. Magney during a daylight site visit was limited to birds and insects: "No special status species of plants or animals are reported or expected to occur onsite or in the immediate vicinity of the proposed project";

Mr. Magney concludes that the temporary trailer will not adversely affect the heritage oak, the general riparian habitat along the creek, or any sensitive wildlife species. The fact that the permanent classroom will require the removal or thinning of three sycamores to conform to the Fuel Modification Plan will not, according to the consultant, "significantly affect the biodiversity or habitat structure of the site", as the applicant has agreed to mitigate the loss of the trees.

The biological assessment recommends the following mitigation measures: 1) replace the two sycamore trees; 2) supplement the existing plantings on the western bank of the creek with native riparian plants; 3) remove all invasive species; and 4) install bird nesting boxes (See Exhibit 12).

Locating the proposed temporary trailer and permanent classroom structures within 50 feet of the edge of the creek channel will further reduce an existing, although disturbed, open space used by wildlife and produce additional runoff into the creek thereby creating additional erosion and sedimentation downstream. The other surrounding habitat areas, including the ESHA to the north, but most intensively under the canopy of native oaks and sycamore immediately surrounding the structure, will be further impacted by the displaced playground activity and noise generated by the addition of 60 pre-schoolers and staff.

Conclusions: The Commission has, through past permit actions, found a 50 foot setback from all riparian zones and a 5 foot set back from the dripline of all native oak trees to be necessary for the protection of these sensitive environmental resources. The temporary trailer will encroach 23 foot into the 50 foot riparian setback and 10 foot into the protective zone of the heritage sized oak tree.

There are no other feasible locations on-site for this temporary use given the topography, the proposed location of the permanent structure and the location of native trees, with the exception perhaps of the parking area adjacent to Las Flores Canyon Road. However, this location would put the children at risk of automobile and truck traffic given the proximity to Las Flores Canyon Road. Thus, should the Commission approve the project, the least damaging alternative would be to find a temporary classroom location off-site until the permanent facility is completed.

Given, the proposed location of the permanent structure would be 40 feet from the edge of the creek channel, the temporary trailer would be 23 feet from the edge of the channel, and partially under the canopy of the heritage sized oak tree, and the existing location of the storage containers is within 10 feet of the edge of the creek channel, the Commission finds the project can only be found consistent with the Coastal Act if the applicant submits revised plans to remove all temporary and permanent development from the 50 foot stream setback and the 5 foot protection zone of all oak trees.

The revised plans need to indicate the removal of the temporary trailer and one of the storage containers from the proposed plans, the reconfiguration of the permanent structure so as maintain a minimum 50 foot setback from the riparian corridor and a minimum five foot setback from the dripline of all native oak trees, and the relocation of the remaining storage container to be a minimum of 50 feet from the edge of the creek channel, as noted in *Special Condition number five (5)*.

In addition, the proposed project will have a direct adverse impact on the remaining structural habitat through: the loss of three native sycamore trees; the potential future loss of habitat on the eastern side of the creek through further thinning requirements in the third

zone of the fuel modification plan; the increased levels disruption to the local fauna as a result of human activity surrounding the proposed structures and trees; and the increased amount of runoff and sedimentation into Las Flores Creek as a result of the increased impervious surface. Thus, the Commission finds the project, as proposed, will result in a significant adverse impact on the remaining environmentally sensitive resources on-site, including the permanent loss of native, structural habitat.

The Commission further finds, however, that a comprehensive habitat restoration program will ensure the impact to these resources are minimized. This plan shall include: the mitigation measures developed by the consulting biologist; a specified replacement ratio for the loss of the sycamore trees; a methodology to remove all invasive species within the project site; a planting plan; and monitoring plan. Therefore, the Commission can only find this project consistent with the Coastal Act if the loss or disturbance of any environmentally sensitive resources are mitigated through a habitat restoration plan as indicated in *Special Condition number six (6)*.

Further, any future improvements to the site or the proposed structure could result in significant adverse impacts to the remaining resources that comprise this Disturbed Sensitive Resource Area. Particularly, any new structures or additions to the proposed structure could lead to the loss of the heritage sized oak, the smaller oaks and sycamore trees, and/or the further degradation of Las Flores Creek. Thus, the Commission finds it is necessary to require the applicant to include a future improvements deed restriction that limits future development, subject to the Commission's review, as indicated in *Special Condition number seven (7)*.

Thus, the findings and special conditions attached to this permit will serve to ensure that the proposed development results in the development of the site that is consistent with and conforms to the Chapter 3 policies of the Coastal Act. The Commission finds that as conditioned, the proposed project is consistent with Section 30250(a) and with all the applicable policies of the Coastal Act.

Thus, for all the reasons noted above, the Commission finds the project, as conditioned, to be consistent with Sections 30240(a)(b) and 30231 of the Coastal Act.

2. Septic System

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

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste

water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, minimizing alteration of natural streams.

The siting of sewage disposal systems is also guided by the Malibu/Santa Monica Mountains LUP which requires a 50 foot setback from a riparian or oak canopy for leachfields, in order to specifically protect blueline streams:

P80 The following setback requirement shall be applied to new septic systems: (a) at least 50 feet from the outer edge of the existing riparian or oak canopy for leachfields, and (b) at least 100 feet from the outer edge of existing riparian or oak canopy for seepage pits. A larger setback shall be required if necessary to prevent lateral seepage from the disposal beds into stream waters.

The proposed septic system includes a 1,500 gallon septic tank with two leach trenches. The installation of a private sewage disposal system was reviewed by the consulting geologist, Ralph Stone and Company, who found the disposal of wastewater by means of leach trenches in the proposed location will not cause any instability either for the subject property or for any neighboring property.

The applicant's proposal conflicts with Policy 80 of the Malibu/Santa Monica Mountains LUP which requires a 50 foot setback for leachfields from existing riparian or oak canopies. In past permits actions, the Commission has found this setback is protective of water quality and in conformity with Coastal Act policies. In this case, the applicant is proposing to locate the first leach trench approximately 43 foot from the heritage sized oak tree and 41' from a 13 foot oak tree on the south end of the site. The second, future leach trench meets the 50 foot setback requirement. Both leach trenches meet the 50 foot setback requirement from the riparian zone, which in this case is the edge of the creek channel, as noted above (see Exhibit 10).

The geological consultant, Geoplan, has indicated in his letter of 7/30/98 that a 25 foot leach trench setback from the canopy of the large oak tree would be sufficient. Similarly, the consulting biologist, David Magney, has indicated in discussions with staff that as long as the leach trench area is out of the dripline, the oaks should not be adversely affected, and certainly the proposed 40 foot setback should be adequate. In addition, given the constraints of the sloping site between the creek and Las Flores Canyon, there are no alternative locations for the leach trenches on-site.

Thus, given the consultants' findings that the proposed 40 foot leach trench setback from the oak trees is sufficient to protect the long term health of the oak trees, and the fact that there are no other alternative locations on-site, the Commission finds a 40 foot setback to be adequate in this particular circumstance.

A percolation test was performed on the subject property which indicated the percolation rate meets Uniform Plumbing Code requirements for a 34 fixture unit classroom building and a 14 fixture unit modular classroom and is sufficient to serve the proposed school

facility and temporary trailer. The applicant has submitted a conceptual approval for the sewage disposal system from the Los Angeles County Department of Health Services based on a 34 fixture unit classroom building and a 14 fixture unit modular classroom. This approval indicates that the sewage disposal system for the project in this application complies with all minimum requirements of the Uniform Plumbing Code.

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

Thus, for all the above reasons, the Commission finds the project, as conditioned, will maintain protection of the surrounding Disturbed Sensitive Resource area and the adjacent ESHA area to the north and is therefore consistent with Sections 30240(a)(b), and 30231 of the Coastal Act.

G. Violations

During a site visit to the subject parcel, Commission staff observed the following unpermitted development on Parcels One and Two: 1) the construction of a three foot high, 75 foot long timber mud flow wall on Parcel Two; 2) the extension of the wrought iron and masonry wall from the existing school facility on Parcel One to the driveway entrance on Parcel Two for a length of approximately 440'; 3) the installation of two 8' x 20' storage containers on Parcel Two between the access road and the creek; and 4) vegetation clearing, including the removal of two significant, native sycamore trees estimated to be over sixty feet tall, for the construction of a soccer field and asphalt parking lot on Parcel One.

The applicant has submitted another coastal development permit application, 4-98-210, as an after-the-fact request for the timber mud flow wall on Parcel One, and the wrought iron/masonry wall that spans both Parcels One and Two. As part of this application, the applicant proposes to remove one of the storage containers and requests to maintain the second container at a location at least 50' from the riparian habitat until the construction of the proposed pre-school is completed. The proposed temporary location is within the four parking spaces along the driveway (see Exhibit 6).

Thus, the Commission finds: 1) the applicant has taken the necessary steps to bring the unpermitted walls into compliance through the application of permit 4-98-210; 2) the proposed removal of one storage container will necessitate a compliance condition to ensure the removal of the structure in a timely fashion, as noted in *Special Condition number nine (9)*; and 3) the proposed relocation of one storage container at least fifty feet from the riparian corridor is consistent with Section 30231 and 30240 of the Coastal Act.

Staff is investigating as a separate matter from this application whether enforcement action or separate permitting is necessary with respect to the unpermitted development on Parcel One. Although development has taken place prior to submission of this permit application, consideration of the application by the Commission has been based solely upon the Chapter 3

policies of the Coastal Act. Approval of this permit does not constitute a waiver of any legal action with regard to any violation of the Coastal Act that may have occurred.

H. Local Coastal Program

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

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

Section 30604(a) of the Coastal Act provides that the Commission shall issue a Coastal Permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with Chapter 3 policies of the Coastal Act. Prior findings of this report indicate the proposed project's numerous inconsistencies with many of the County's LUP policies, as well as with the policies of the Coastal Act.

Therefore, for the reasons stated above, the Commission finds that approval of the proposed project will prejudice the ability of the County of Los Angeles to prepare an LCP that conforms to the policies of Chapter 3 of the Coastal Act.

I. California Environmental Quality Act

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

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

II. Persons Contacted

Pat Askren,	Fire Prevention Engineering Assistant, Fire Prevention Unit, LA County Fire Department,
David Magney,	David Magney Environmental Consulting
Jim Jordon,	Fire Captain, LA County Fire Department
Jose Martinez,	Forestry Assistant, LA County Fire Department, Fuel Modification Unit
Paul McCarthy,	Assistant Section Head, LA County Regional Planning, Zoning Permits Division
David Nishimura,	David Nishimura, Consulting Civil Engineer, Hydrology
Mark Pestrella,	Building Official, LA County Public Works Department, Building and Safety Division
Chris Stone,	Section Head, Planning Division, Public Works Department, LA County
Michael Wilkinson	Chief, Forestry Division, Prevention Bureau, LA County Fire Department
Larry Young,	Environmental Health Specialist

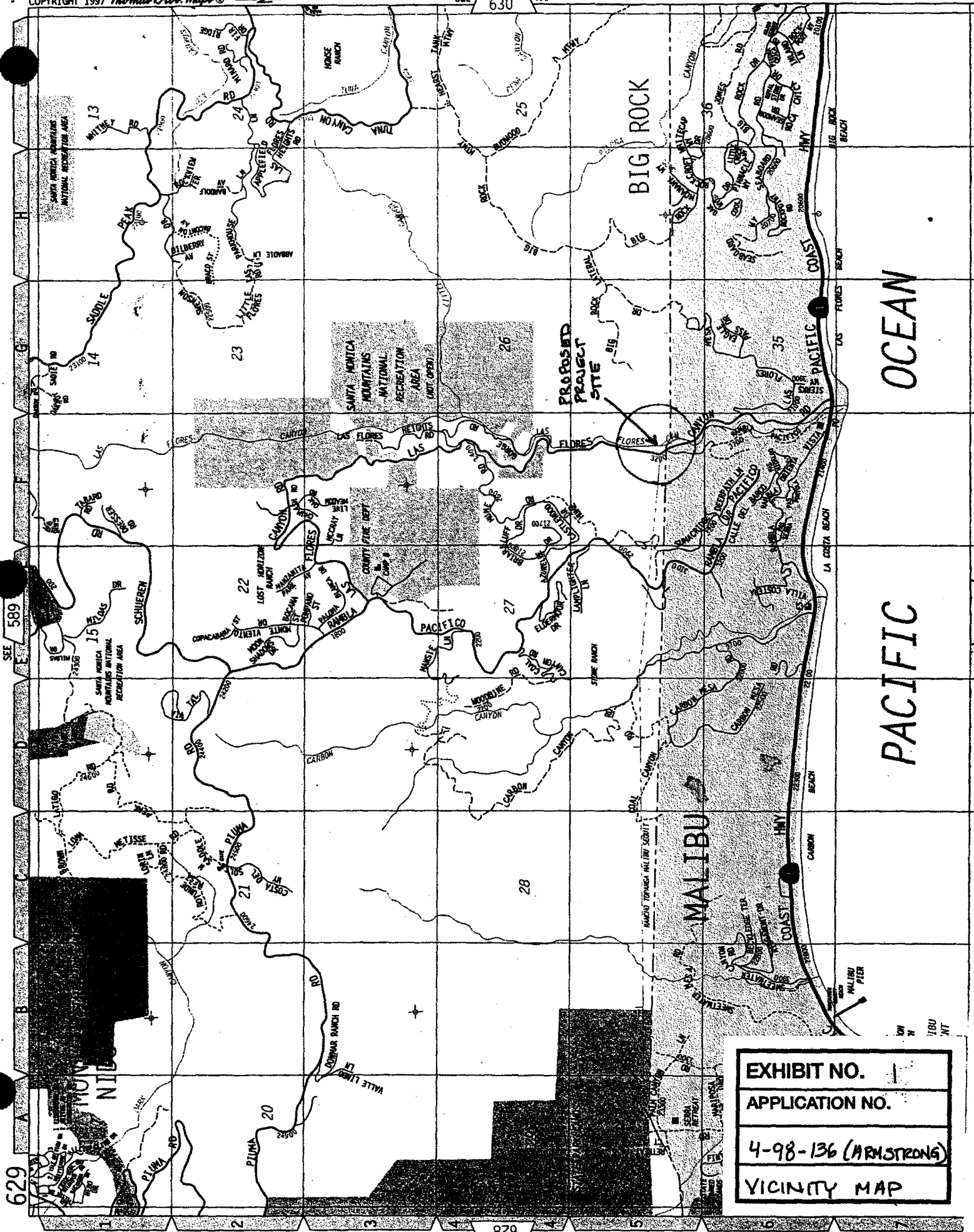

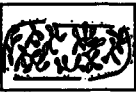


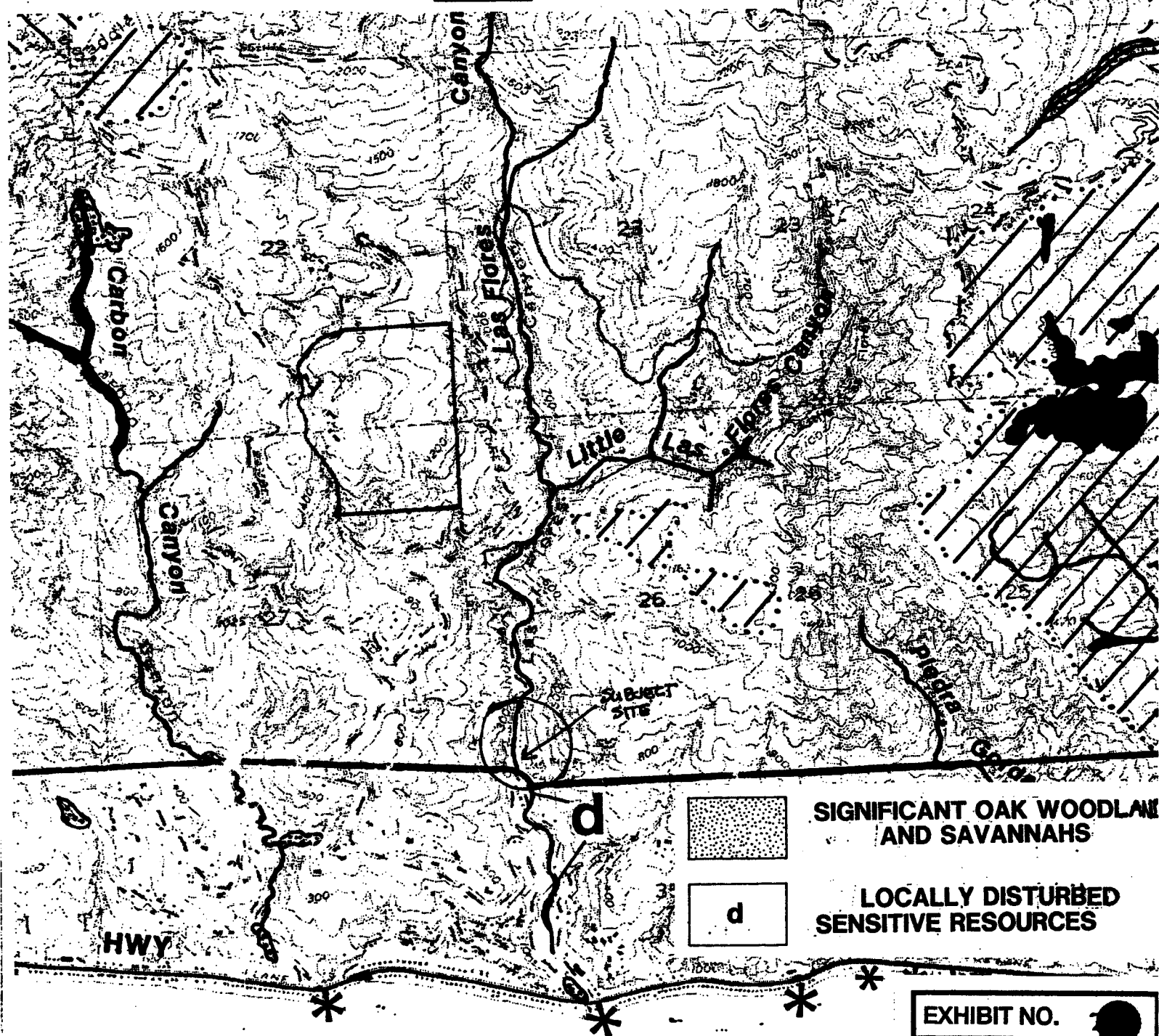


EXHIBIT NO.	1
APPLICATION NO.	
4-98-136 (ARMSTRONG)	
VICINITY MAP	

**ENVIRONMENTALLY SENSITIVE
HABITAT AREA — RESOURCE
DEPENDENT USES**

-  **INLAND**
-  **OFFSHORE —
KELP BEDS**
-  **SHORELINE —
ROCKY AREAS**
-  **SHORELINE —
SEA LION HAUL OUT**



**SIGNIFICANT OAK WOODLAND
AND SAVANNAHS**

**LOCALLY DISTURBED
SENSITIVE RESOURCES**

EXHIBIT NO.

APPLICATION NO.

4-98-136 (ARMSTRONG)

ESHA MAP

REVISED

EXHIBIT "A"

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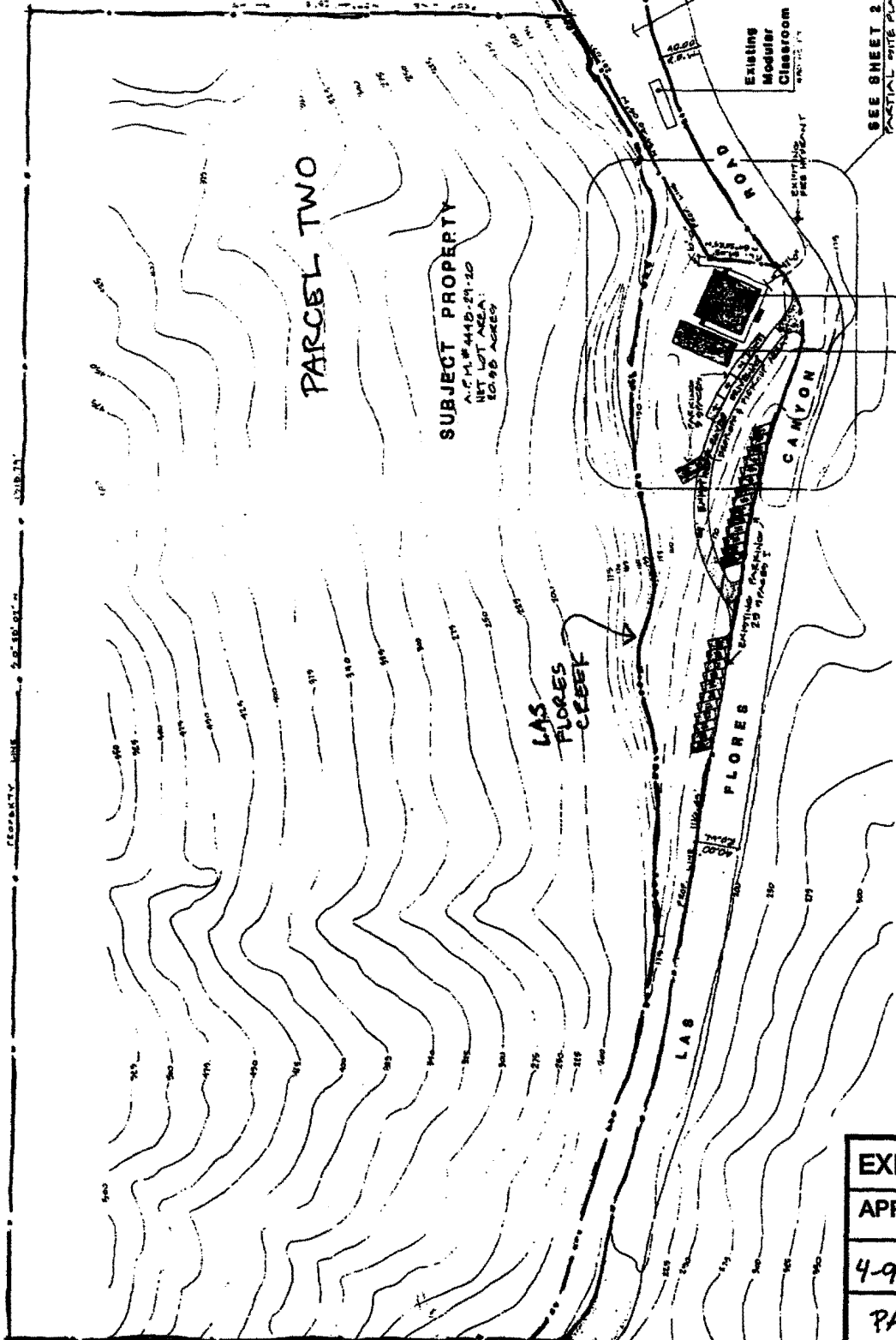
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APPLICANT'S COPY
PARCEL ONE

ADJOINING
SCHOOL
PROPERTY
(City of Malibu)
APPLICANT'S COPY
PARCEL TWO

REV. EX. A
CUP 1922

SITE PLAN
REVISED EXHIBIT A
C. U. P. 1922

EXHIBIT NO.	3
APPLICATION NO.	4-98-136 (ARMSTRONG)
PARCEL MAP	

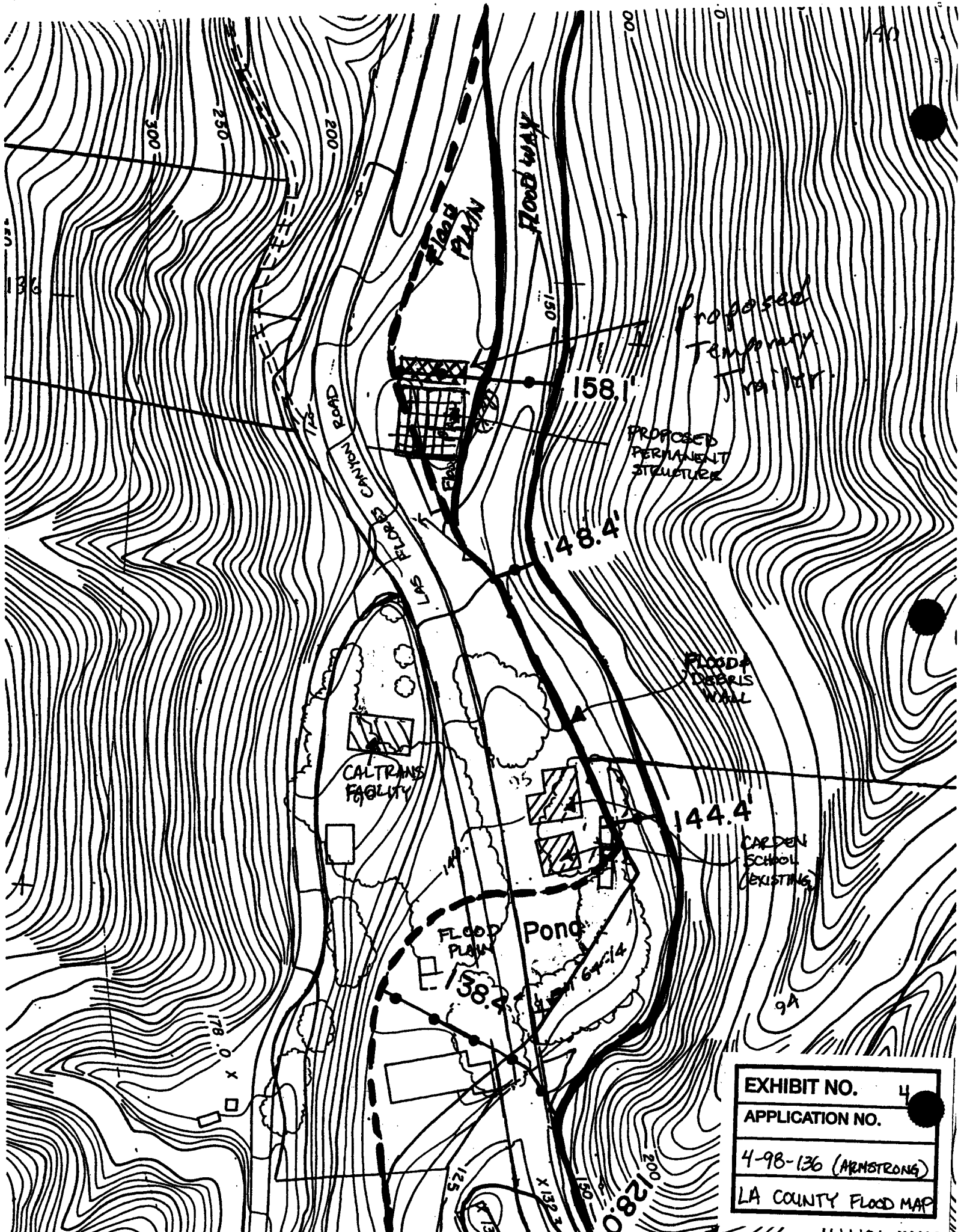
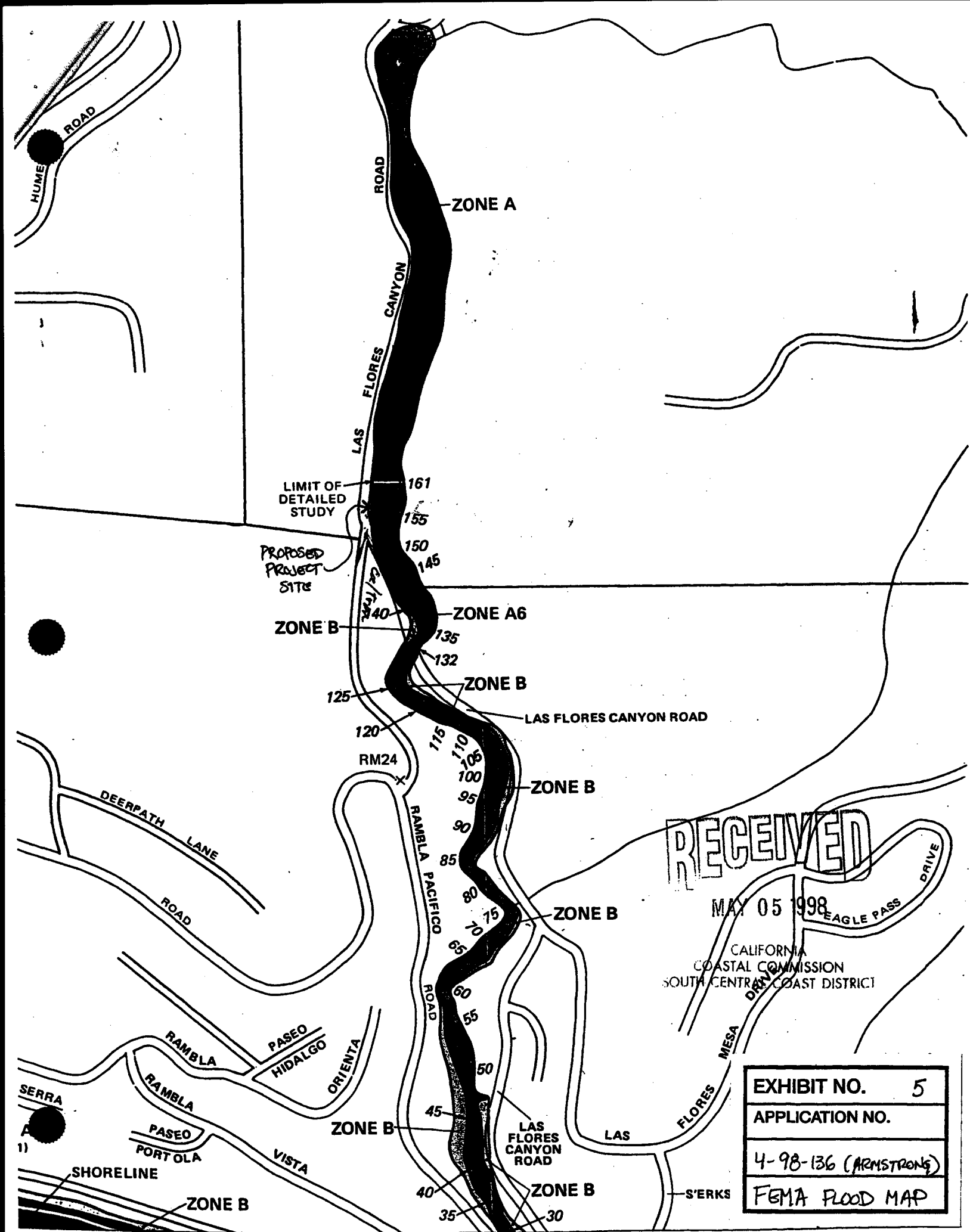


EXHIBIT NO.	4
APPLICATION NO.	
4-98-136 (ARMSTRONG)	
LA COUNTY FLOOD MAP	



APPLICANT'S COPY

REVISED

EXHIBIT "A"

DEPARTMENT OF EDUCATION

APPROVED

DATE

BY

FOR

THE

STATE

OF

CALIFORNIA

DATE

BY

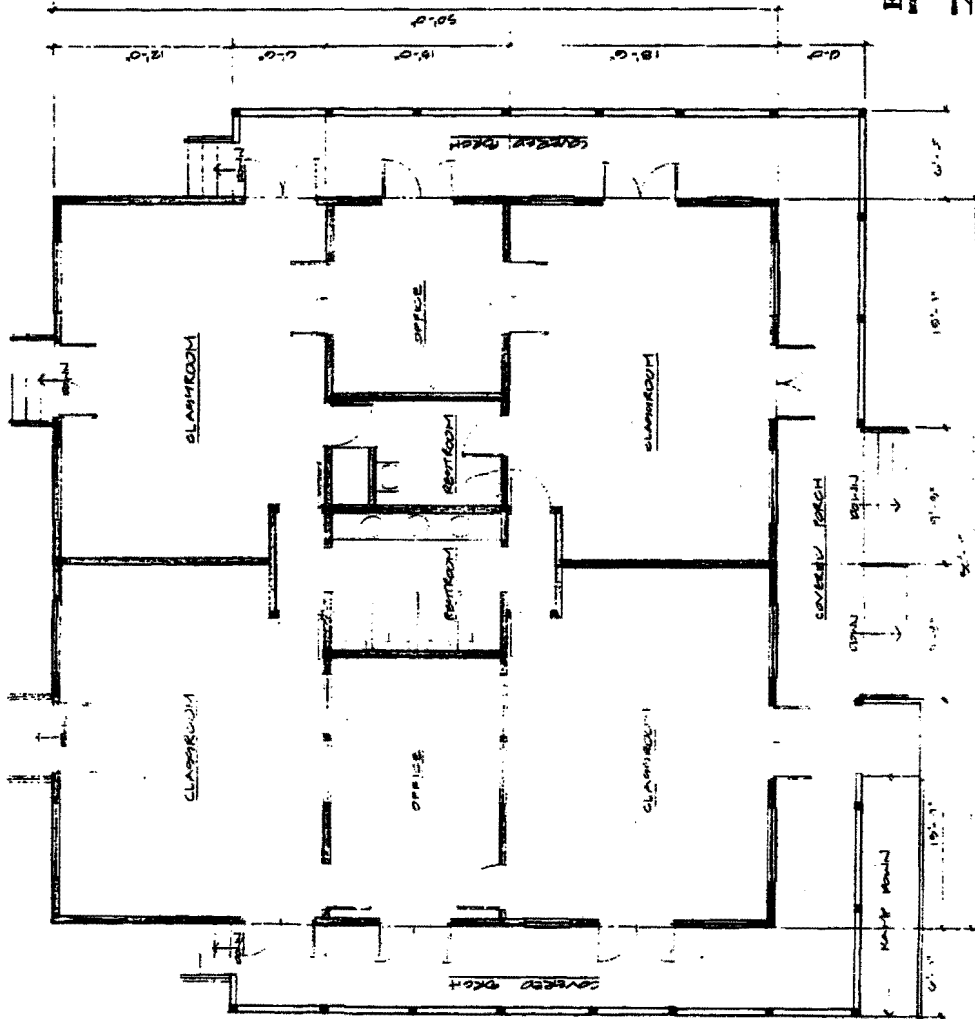
FOR

THE

STATE

OF

CALIFORNIA



PROPOSED CLASSROOM BUILDING
A) FLOOR PLAN 2900 SQ. FT.
SCALE: 1/8" = 1'-0"

EXHIBIT NO.	67
APPLICATION NO.	
4-98-136 (ARMSTRONG)	
FLOOR PLAN	

APPLICANT'S COPY

REVISER

EXHIBIT "A"
DEPARTMENT OF BUSINESS, FLORIDA

03/07/20

Send by air postage is insured.

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RESEARCH

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EAST ELEVATION

NORTH ELEVATION / SOUTH OPP. HAND

WEST ELEVATION

PROPOSED CLASSROOM BUILDING

EXHIBIT NO.	8
APPLICATION NO.	
4-98-136 (ARMSTRONG)	
ELEVATIONS	

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REVISED

EXHIBIT "A"

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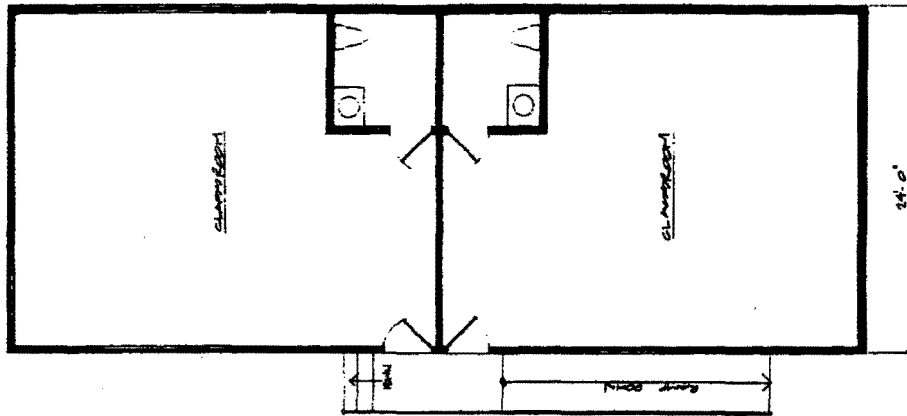
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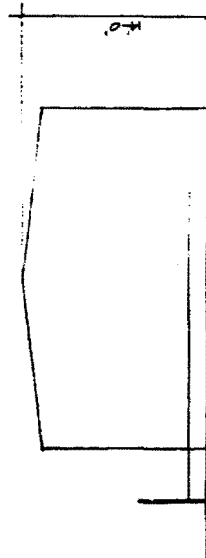
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FLOOR PLAN
SCALE: 1/4" = 1'-0"

TEMPORARY MODULAR CLASSROOM



WEST ELEVATION
SCALE: 1/4" = 1'-0"



NORTH ELEVATION
SCALE: 1/4" = 1'-0"

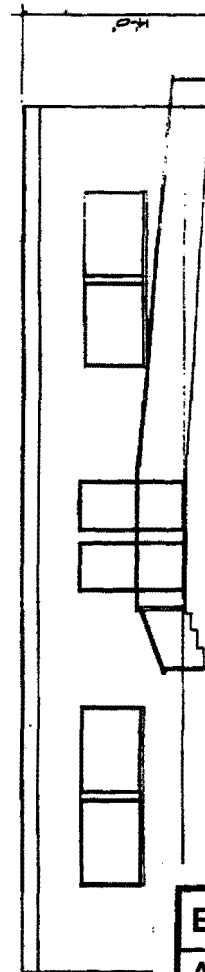


EXHIBIT NO. 9

APPLICATION NO.

4-98-136 (ARMSTRONG)

TRAILER

CARDEN SCHOOL
3480 LAS FLORES CANTON RD.
MALIBU, CA 90265

CLASSROOM:	34 F.U.'s (N)
	14 F.U.'s (Temporary Modular)
SEPTIC TANK:	1500 Gallon (N)
PRESENT:	1 - 3' X 50' Leach Trench with 2' Extra Rock (N)
FUTURE:	100Z
PERC RATE:	5 minutes/inch

NOTES:

1. Temporary Modular Classroom shall have 14 fixture units (i.e. 2 water closets and 2 lavatories).
2. Proposed Classroom Building shall have 34 fixture units (i.e. 5 water closets and 4 lavatories).
3. Temporary Modular Classroom shall be removed upon issuance of the Certificate of Occupancy for the Classroom Building.
4. This approval is valid for one year or until Los Angeles County Uniform Plumbing Code and/or Administrative Policy changes render it noncomplying.

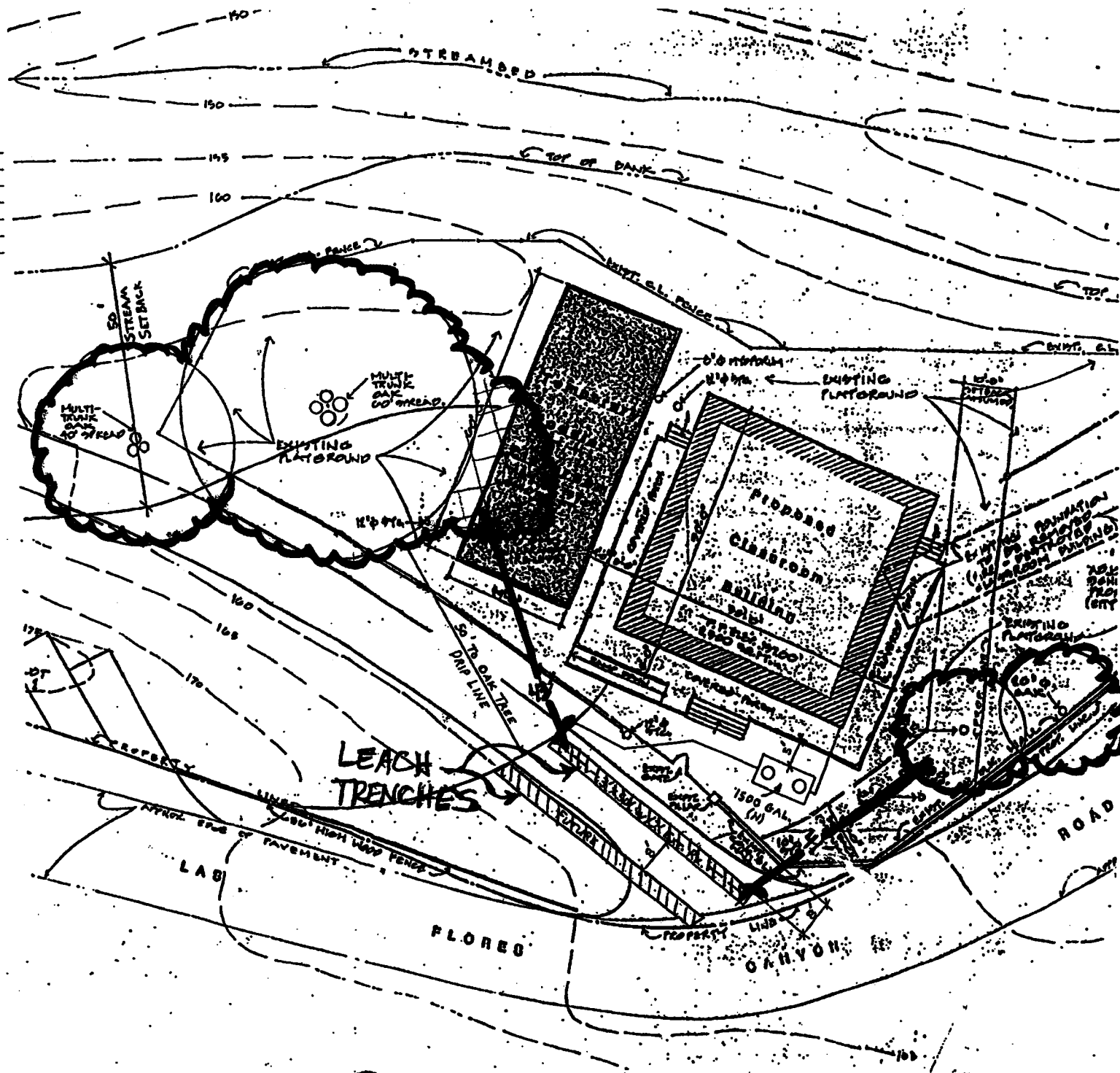
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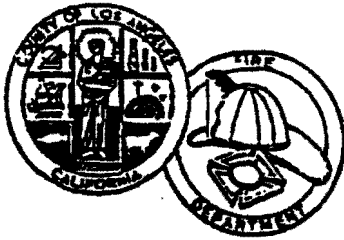
Date

Method of Sewage Disposal approved.
This approval relates only to the minimum requirements of the Plumbing Code and does not include an evaluation of geological problems.

[Signature]
County of Los Angeles
Department of Health Services

EXHIBIT NO. 10
APPLICATION NO.
4-98-136 (MAY 1988)
SEPTIC SYSTEM APPROVAL





COUNTY OF LOS ANGELES

FIRE DEPARTMENT

1320 NORTH EASTERN AVENUE
LOS ANGELES, CALIFORNIA 90063-3294

FIRE SPRINKLERS REQUIRED

TO: MARK PESTRELLA BUILDING OFFICIAL
LA COUNTY BUILDING & SAFETY OFFICE
RE: 3504 LAS FLORES CITY Malibu

Building plans have been approved for the address shown above. The applicant is required to install a Fire Department approved interior fire sprinkler system. The issuance of a building permit by the Building Official may proceed in accordance with established policy. This is not an occupancy release, waiver or modification of any Fire Department requirement.

To ensure the fire sprinkler system is installed according to Fire Department regulations, we are requesting the file of this occupancy be flagged for Fire Department inspections at the following times:

- X When rough plumbing is ready for inspection
- X When occupancy is ready for final approval

Following each inspection, the Fire Department inspector will forward an inspection form to the Building & Safety office stating whether the system has been approved or disapproved. This occupancy is required to have Fire Department approval of all on-site fire protection and life safety systems in accordance with approved building plans. These systems shall be inspected and approved by the Fire prevention Inspector prior to granting final occupancy approval by the Building & Safety Office. Required fire protection facilities, such as public fire hydrants and vehicular access, shall be provided and maintained prior to and throughout construction.

Please call 310-317-1351 if you have any questions regarding this matter. Thank you for your cooperation. Please allow three days for inspection.

D. A. Baker
Inspector

9/10
Date

FIRE SPRINKLERS
REQUIRED

EXHIBIT NO. 11
APPLICATION NO.
4-98-136 (ARMSTRONG)
FIRE APPROVAL

David Magney Environmental Consulting

P.O. Box 1346, Ojai, California 93024-1346 * E-mail: dmagney@aol.com
805/646-6045 Voice * 805/646-6975 FAX

Memo

Date: 3 September 1998
To: Alan ^WArmstrong, Carden Malibu School
CC: Sherman Stacey
From: David Magney ^{DS}
RE: Biological Resources Assessment at Proposed Carden Malibu School Site

David Magney Environmental Consulting (DMEC) has been retained to conduct an assessment of the biological resources of the Carden Malibu School site and determine what impacts, if any, the proposed project would have on biological resources of the project site.

The proposed development includes installing a temporary modular trailer next to the large Coast Live Oak tree, constructing a permanent classroom building in the center of the playground area, and installing septic system leach lines. Constructing the buildings also requires complying with Los Angeles County Fire Department fire hazard mitigation. Each of these components of the proposed project has the potential to adversely affect the biological resources of the project site and are the focus of this assessment report.

David Magney and Carl Thelander conducted a biological assessment of the school site in Las Flores Canyon, Malibu, on 19 August 1998. Our assessment found that the building site is located in a former riparian floodplain of Las Flores Creek. The building site is highly disturbed and consists primarily of nonnative ornamental plant species. However, the site does contain a heritage-quality Coast Live Oak (*Quercus agrifolia*) tree, a few younger Coast Live Oak trees, and several relatively young California Sycamore (*Platanus racemosa*) trees, some of which have resprouted from stumps after the most recent wildfire. Las Flores Canyon Road is immediately west of the building site; a public road pullout is to the north (with ornamental and native Coastal Sage Scrub plants on the associated slope); sparse riparian vegetation to the east, associated with Las Flores Creek; and has disturbed landscaping to the south at the Odyssey Program site. The hillside slope east of Las Flores Creek is dominated by native Coastal Sage Scrub plant species, dominated by California Sagebrush (*Artemisia californica*), California Buckwheat (*Eriogonum fasciculatum*), and Laurel-leaf Sumac (*Malosma laurina*).

The proposed building site area, within the fenced area, contains almost no native plant species, except for the Coast Live Oak and California Sycamore trees. Other native plants in this area included Common Horsetweed (*Coryza canadensis*) and California Brickellbush (*Brickellia californica*). All other plants within the fenced area were either planted ornamentals or invasive ornamental plants included Jacaranda (*Jacaranda acutifolia*), Tobira (*Pittospor* Honeyuckle (*Tecomaia capensis*), Coral Tree (*Erythraea* sp.), Marguerite (*Ch*

EXHIBIT NO. 12
APPLICATION NO.

4-98-136 (ARMSTRONG)

BIOLOGICAL ASSESSMENT

Myoporum (*Myoporum laetum*), Avocado (*Persea americana*), Sword Fern (*Polypodium* sp.), Lily-of-the-Nile (*Agapanthus africanus*), Eugenia/Spanish-Stopper (*Eugenia foetida*), Purple Nightshade (*Solanum rantonetti*), and Cape Leadwort (*Phumbago auriculata*). Nonnative invasive exotics species that have become naturalized onsite include Sweet Fennel (*Foeniculum vulgare*), Castor Bean (*Ricinus communis*), Summer Mustard (*Hirschfeldia incana*), Smilo Grass (*Piptatherum miliacea*), Tree Tobacco (*Nicotiana glauca*), and Australian Saltgrass (*Atriplex semibaccata*).

Native plants observed within the riparian corridor within the banks of Las Flores Creek include: Red Willow (*Salix lucida* ssp. *lasianдра*), Arroyo Willow (*S. lasiolepis*), California Sycamore (*Platanus racemosa*), Mulefat (*Baccharis salicifolia*), Bush Mallow (*Malacothamnus* sp.), Laurel-leaf Sumac, California Brickellbush (*Brickellia californica*), Mugwort (*Artemisia douglasiana*), Scarlet Monkeyflower (*Mimulus cardinalis*), Narrowleaf Cattail (*Typha domingensis*), Cudweed Everlasting (*Gnaphalium palustre*), and Common Horsetail (*Coryza canadensis*). Nonnative plants observed along Las Flores Creek include Myoporum (*Myoporum laetum*), Summer Mustard (*Hirschfeldia incana*), White Sweetclover (*Melilotus alba*), and Rabbitsfoot Grass (*Polypogon monspeliensis*). The western bank of the creek onsite contains an old wire and rock gabion and riprap, and is sparsely vegetated. The creekbed contained flowing water (at a low level) and had exposed bedrock and cobbles and boulders, with little vegetative cover.

Wildlife observed onsite on 19 August 1998 consist of only birds, including: Turkey Vulture, California Quail, Mourning Dove, Anna's Hummingbird, Western Wood-Pewee, Scrub Jay, Bewick's Wren, Wrenit, Rufous-sided Towhees, Brown Towhee, American Goldfinch, and House Finch. These birds represent a typical assemblage of birds for the region. Also observed along Las Flores Creek were a Cabbage White butterfly and an Orange Skimmer dragonfly. No special-status species of plants or animals are reported or expected to occur onsite or the immediate vicinity and the proposed project.

The proposed leach lines will be located 50 feet from Las Flores Creek and completely outside the dripline of the large Coast Live Oak tree. DMEC does not believe the leach lines will adversely affect the biological resources, or the oak tree, onsite.

The temporary modular classroom trailer is proposed to be placed immediately south of the large Coast Live Oak tree, and near the edge of Las Flores Creek. Since no grading or trenching will occur within the dripline of this tree and no supplemental irrigation will be provided, DMEC does not believe this temporary facility will adversely affect the tree or the riparian habitat along Las Flores Creek or have any impact on sensitive wildlife species.

The permanent classroom building will be constructed entirely within the existing playground area of the site. Up to two 12-inch-dbh California Sycamore trees may have to be removed to satisfy Los Angeles County fire hazard regulations and a fire-damaged limb of one small Coast Live Oak tree may have to be trimmed. These actions will reduce the number of California Sycamore trees onsite but would not significantly affect the biodiversity or habitat structure of the site. The applicant has stated that he will replace any trees removed with like species onsite, but not within 30 feet of the building. DMEC suggests that trees planted to mitigate losses could be planted along Las Flores Creek, which is only sparsely vegetated. A few resprouting California Sycamore trees (now only about 15 feet high)

will need to be trimmed to just one trunk each, which should improve the long-term health of these fire-damaged trees.

Based on our experience and observations of onsite conditions, DMEC does not believe the proposed project will significantly affect the biological resources of the site or adjacent areas. DMEC recommends planting replacement trees to mitigation for removal of existing California Sycamore trees onsite to satisfy fire hazard conditions placed on the project by Los Angeles County. DMEC recommends that supplemental plantings along the western bank of Las Flores Creek to increase structural diversity for wildlife habitat, using native riparian plants, such as California Sycamore, Mulefat, and Arroyo Willow. DMEC also recommends that invasive exotic plants, such as Castor Bean, Sweet Fennel, and Myoporum, be removed from the property. DMEC suggests that nest boxes for cavity-nesting birds could be placed at several locations onsite, including boxes for bats.

In summary, the project site's natural biological features have been degraded for several decades and the site contains numerous ornamental plants. The proposed buildings are not expected to adversely affect habitat to wildlife currently using the project site or adjacent areas. Removal of native California Sycamore trees can be mitigated by planting California Sycamore trees elsewhere onsite, such as along Las Flores Creek. The heritage Coast Live Oak tree will not be adversely affected by either installing the temporary trailer or the leach lines.

John / File

July 3, 1998

The California Coastal Commission
South Central Coast Area
89 South California Street, 2nd floor
Ventura, CA 93001

Re: Carden School

Attn: Chuck Damm and Gary Tims

RECEIVED
JUL 7 1998

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

Gentlemen:

This letter is on behalf of the Carden Malibu Country School's efforts to rebuild their facilities (lost in the 1993 fire) in time to reopen on September 14, 1998.

Carden's application for a permit and Coastal Commission approval will stand or fall on its own merits, all I ask for is expedited consideration in order to hopefully meet their September '98 scheduled opening.

The Armstrong's are long-time, highly respected and valued members of the Malibu community who feel that the school's very existence is largely dependent on a timely issuance of Coastal approval and a permit.

Any assistance your office might render in this regard will be greatly appreciated.

Sincerely

Raymond Singer

EXHIBIT NO. 13

APPLICATION NO.

4-98-136 (ARMSTRONG)

CORRESPONDENCE

RECEIVED

JUL 22 1998

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

6800 Wildlife Road
Malibu, California 90265
July 20, 1998

California Coastal Commission
South Central Coast Area
Att: Mr. Gary Tims
89 South California Street, 2nd Floor
Ventura, California 93001

Re: Carden Malibu Country Preschool

Dear Mr. Tims:

We have been residents of Malibu for the past 49 years on Point Dume property we bought in 1948. Through the years we have seen the development of schools, churches and nursery schools to fill the needs of our exploding population. The west end of Malibu now has nursery schools at the Methodist Church, Saint Aiden's Church and a private nursery school at the Community Center on Point Dume. The Presbyterian Church has a nursery school which services the middle Malibu area, but other than the Carden Nursery School, there are no nursery schools to service the East End of Malibu.

We have been advised that the Carden Nursery School may not be able to operate this year due to delays in the processing of certain permits even though L. A. County Regional Planning approval for a 2,500 square foot building and a temporary classroom trailer was received in April of this year. It would be a tragedy if the school were unable to operate this year because of permit delays.

Carden Malibu Country Preschool has met the needs of Malibu residents for many years. We feel that it has served our community well by its high standards. We ask that you please consider the needs of the community and do what you can to facilitate the current permitting process so that the school can continue to operate. Be assured that your support will be greatly appreciated.

Sincerely yours,

Henry A. Burr Margaret G. Burr
Henry A. & Margaret G.

EXHIBIT NO.
APPLICATION NO.
4-98-136 (ARMSTRONG)
CORRESPONDENCE

To: Chuck Damm and Gary Tims--California Coastal Commission
Re: Save the Carden Malibu Country Preschool
From: Ronald E. Merriman, Retired Principal-SMMUSD

Dear Chuck Damm and Gary Tims:

The Carden Malibu School has served our community well these past 33 years. I remember when Mae Carden spoke at the opening of our Malibu Carden School in 1965. The Armstrong family has pursued the outstanding merits of the Carden system most diligently. They have provided both an excellent learning system for pre-schoolers and students grades K-8, and they have uniquely given the time necessary to supervise children whose parents work long hours. Our public schools in Malibu, for the most part, have been limited in providing this kind of supervision. During the years of my principaling career in Malibu, I have treasured the professional relationship I have held with Virginia Armstrong in serving the educational needs of our Malibu students.

I heartily urge you and the Coastal Commission to allow for the building of the new preschool facility on the remaining portion of the Malibu Carden School property. This is needed immediately to meet the needs of many of our Malibu children.

Sincerely,

Ron Merriman

Ronald E. Merriman
6749 Zumirez Drive
Malibu, California

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JUL 20 1993

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

EXHIBIT NO.	15
APPLICATION NO.	
4-98-136 (ARMSTRONG)	
CORRESPONDENCE	

James F. Lotspeich
25346 Malibu Road
Malibu, CA 90265
310-456-6273

John / File

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July 6, 1998
JUL 7 1998

Mr. Gary Tims
California Coastal Commission
South Central Coast Area
89 So. California St. 2nd Floor
Ventura, CA 93001

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

Dear Mr. Tims,

This letter relates to the Carden Malibu School and the issues relating to issuance of their request for a rebuild permit following the major fire of 1993. As an interested resident of Malibu, I recognize that the Carden School has served our community faithfully for the past 33 years. The immediate and critical needs of this school are pressing, in order that their rebuilding plans may fulfill the overall scholastic services that they have traditionally provided. This is especially relevant to their needs for permanent Preschool facilities.

Your recognition of these needs and your assistance in expediting any related clearances thereto is strongly urged and respectfully requested.

Yours truly,

James F. Lotspeich
James F. Lotspeich

EXHIBIT NO.	101
APPLICATION NO.	
4-98-186 (ARMSTRONG)	
CORRESPONDENCE	

WOLF, SEIDER, ABRAMS & WOLF, LLP

A Limited Liability Law Partnership Including a Professional Corporation

Michael S. Abrams*
Dennis J. Seider
Ellen Kaufman Wolf
John H. Wolf

Stella H. Ling

Of Counsel:

Justice (ret.) Marcus M. Kaufman
Steven J. Kahn
Kevin M. Fillo (Affiliated Ventura Office)

*A Professional Corporation

July 30, 1998

California Coastal Commissioners
89 South California Street, 2nd Floor
Ventura, California 93001

Re: Carden Malibu Country Preschool
Application # CDP 4-98-136
3405 Las Flores Canyon Road
Malibu, California 90265
Hearing scheduled for August 11, 1998

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JUL 31 1998

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

Dear California Coastal Commissioners:

The following is being written to enlist your support for the captioned application to re-build a preschool at the above listed address where a permitted preschool has existed for over 30 years and is now threatened with closure.

I am a neighbor of Diana Armstrong, the pre-school's director, and have known her for 20 years. She has taught at the Carden School and been head of the preschool at the above address for the past seven years.

I am also familiar with the Carden operation from the years I served on the Board of Directors and as President of Malibu Jewish Center & Synagogue which also ran a preschool similar to that of the Carden Preschool.

I know the Carden facility to be an excellent preschool, meeting all county and state guidelines for a preschool. It enjoys an excellent reputation for the care and safety it has offered its preschool students.

Furthermore, it is unique in the East Malibu area, there being no other preschool facility available there. In other words, if it were not there, it would require working parents to travel a considerable distance on Pacific Coast Highway to an alternative site at a considerably greater danger to the commuters. For example, Malibu Jewish Center's preschool the closest alternative preschools available is about 1 northwest along Pacific Coast Highway.

EXHIBIT NO. 17

APPLICATION NO.

4-98-136 (ARMSTRONG)

CORRESPONDENCE

WOLF, SEIDER, ABRAMS & WOLF, LLP

California Coastal Commissioners

July 30, 1998

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I also know the pre-school building that Carden had was recently leased to another pre-school group. In fact, I assisted Alan and Diana Armstrong, informally, in reviewing the lease and at the time I asked them what arrangements had been made to continue the Carden school. Alan Armstrong, Diana's husband, told me that he had received all of the assurances he needed to house the Carden students in a temporary facility on an existing foundation on an adjoining parcel pending approval of the plans and permits to build another permanent facility. Alan reminded me that Carden had previously secured and enjoyed a CUP for the site for up to 200 students. Unfortunately the permission Alan received from the Coastal Commission and the City of Malibu to build this new preschool facility, utilizing the old foundation for the modular classroom, was actually on the wrong side of the new, recently agreed City/County line. This technicality, which was not in mind at the time the Coastal Commission and the city authorized the rebuilding, has now effectively stalled the project and the 40 Carden students presently have no where to go in September when the new school year starts, unless you help Carden now.

When the Armstrongs discovered that the permitting entities had overlooked the City/County line issue, they were required to take a new look at the project and for the first time the Coastal Commission staff recommended against approving the project, despite prior approvals and promised permits, principally because of perceived geological and fire hazards in the canyon.

While not denying legitimate concern for site specific risks (all sites have some risk) in fact, no students have come to harm in the 34 years that this preschool has been in this location. The fact that there has been no injury at the site as a consequence of fire or geologic hazard or flood, all of which have occurred in the last 34 years, lends considerable credence to the claim of the applicants that adequate remediation measures can be taken to assure the children's safety.

There are many points on both sides that can be argued, including the fact that the preschool, in its proposed location, will be located only 1500 feet from Pacific Coast Highway. However argument alone, though it can be illuminating, is not productive.

What I would urge you to do, instead, is to carefully look at the problems cited in the coastal staff report and find a viable way of remediating the perceived threats so that the net benefit to all of us is an improved facility that serves the needs of the families already there (half of the preschool's

WOLF, SEIDER, ABRAMS & WOLF, LLP

California Coastal Commissioners
July 30, 1998
Page 3

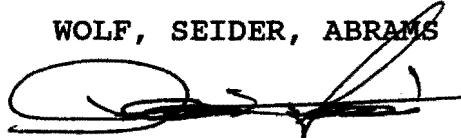
enrollment of 40 students actually comes from further up Las Flores Canyon) and minimize the risk of having working parents or their housekeepers transporting children in the early morning hours during rush hour up and down Pacific Coast Highway in order to find a facility that is miles away and very likely subject to almost identical hazards.

I am not suggesting that the Coastal staff be asked to abandon its support of the Coastal Act but instead to work with you and the applicant to remediate the problems listed in the staff report so that this facility can be safely built in a manner consistent with coastal preservation. Maybe some benefit could be secured by the donation of a conservation easement on part of the balance of this 21 acre parcel.

Please use your office and the creative talent of your staff to find a solution that meets all of these needs. Certainly riparian habitat and children who learn there should not be mutually exclusive.

Thank you very much for your assistance.

WOLF, SEIDER, ABRAMS & WOLF, LLP

A handwritten signature in black ink, appearing to read "Dennis J. Seider", written over a horizontal line.

DENNIS J. SEIDER

DJS:laf

LEAH ELLENBERG, Ph.D

CLINICAL PSYCHOLOGY • NEUROPSYCHOLOGY

9401 WILSHIRE BOULEVARD, SUITE 730

BEVERLY HILLS, CALIFORNIA 90212

(310) 273-2701 FAX: (310) 273-1127

July 30, 1998

California Coastal Commission
South Central Coast Area
89 South California Street, Suite 200
Ventura, California 93001

Re: Carden Malibu Country School
Application #CDP 4-98-136
3405 Los Flores Canyon Road
Malibu, California 90265

Dear Coastal Commissioner:

I have been a resident of Malibu for over 20 years and am raising 3 children in our community. I have also been on the Board of Education of the Malibu Jewish Center for 10 years and its president for 5 years, from 1991 through 1997. As mother of 3 children, as well as in my capacity as president of the Malibu Jewish Center, I am familiar with all of the pre-schools in the area. Carden Malibu Country Pre-school has been a vital part of our community for all the years that I have lived in Malibu. To begin with, it is the only pre-school in East Malibu. In addition, it is well known in the community as a nurturing, safe environment which fosters creativity, love of nature and individual development.

I am writing now in support of Carden Malibu Country Pre-school's application to build a structure on their property to house their pre-school. It is very important for the community to have a pre-school to serve East Malibu. The Malibu Jewish Center is the closest pre-school to East Malibu that offers a full day care program. Parents who formerly used Carden Malibu Pre-school would have to drive their children to the Malibu Jewish Center which is 10 minutes further away in each direction, thereby necessitating an additional 40 minutes of travel time on Pacific Coast Highway per day to drop off and pick up a child. For harried working parents, this is a great burden. In addition, the setting of Carden Malibu Country Pre-school is incomparable among the pre-schools in Malibu. For children to enjoy the natural environment in a beautiful, park-like setting, there is not another choice to compare.

Professionally, I am a pediatric neuropsychologist. As such, I evaluate children with special learning needs. In Malibu, there have been few choices for children who would benefit from a creative environment which involves a small teacher/pupil ratio. I was therefore elated to learn that with the opening of

EXHIBIT NO. 18

APPLICATION NO.

4-98-136 (ARMSTRONG)

CORRESPONDENCE

California Coastal Commission
-July 30, 1998
Page Two

the Los Flores Canyon site, there would be such a school to refer my patients to. It would be ideal if both Carden Pre-school and Odessey could share the site thereby providing our community with two very important services, a pre-school for East Malibu and a school in Malibu for students who would benefit from a small teacher/pupil ratio currently unavailable in any secular elementary school in Malibu.

Please consider the needs of our community in making your decision. While child safety and environmental protection are vital concerns to all of us, there are many reasons for believing that children can be safely taught at the Los Flores Canyon site - which certainly seems safer than forcing parents from East Malibu to spend 40 minutes a day on PCH to send their children to another pre-school.

Please feel free to call me for any further information.

Respectfully submitted,

Leah Ellenberg, Ph.D.

Leah Ellenberg, Ph.D.
Board Certified in Clinical Neuropsychology, ABPP
Clinical Associate Professor of Pediatrics,
USC School of Medicine

LE/br

cc: Pete Wilson, Governor
Sheila Kuehl, Assembly - 41st District

S. WILLIAM DOWEY
5823 Filaree Hgts., Malibu CA 90265

July 18, 1998

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JUL 23 1998

Chuck Damm and Gary Tims
California Coastal Commission
89 S California St.
Ventura, CA 93001

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

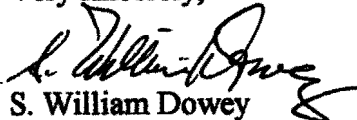
I am writing this letter in behalf of the Carden School to urge you to give favorable consideration to their fire rebuild plans, which include a 2500 square foot building and a temporary classroom trailer to be used until the building is completed. I am a 40-year resident of Malibu and have known the Armstrongs and the Carden School for all of its 33 years of existence. It has been a godsend to this community and in my opinion it deserves every consideration you can give it to assure its survival.

With the great increase in school-age population in Malibu it would be the height of irony if the Carden School were forced out of existence at this time by some legal technicalities. They have a waiting list of applicants which in itself is a testimonial to their fine reputation in the community. Their academic excellence is a matter of record.

Please grant them a fair hearing, which I believe can only result in a favorable judgement.

Thank you for your many years of public service.

Very sincerely,


S. William Dowe

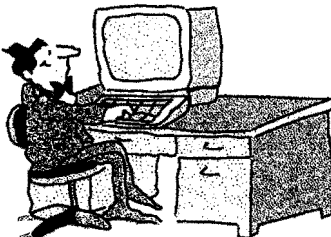


EXHIBIT NO. 19
APPLICATION NO.
4-98-136 (ARMSTRONG)
CORRESPONDENCE