

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
89 SOUTH CALIFORNIA ST., SUITE 200
VENTURA, CA 93001
(805) 641-0142



Page: 1 of 7
Application No.: 4-98-210
Date: 9/24/98

ADMINISTRATIVE PERMIT**APPLICANT:** William ARMSTRONG**PROJECT DESCRIPTION:** After-the-fact permit to construct a 6' high by 440' long masonry and wrought iron fence, and a 3' high by 75' long timber mud flow wall.**PROJECT LOCATION:** 3504 Las Flores Canyon Road, Malibu (Los Angeles County)**EXECUTIVE DIRECTOR'S DETERMINATION:** The findings for this determination, and for any special conditions, appear on subsequent pages.

NOTE: P.R.C. Section 30624 provides that this permit shall not become effective until it is reported to the Commission at its next meeting. If one-third or more of the appointed membership of the Commission so request, the application will be removed from the administrative calendar and set for public hearing at a subsequent Commission meeting. Our office will notify you if such removal occurs.

This permit will be reported to the Commission at the following time and place:

October 13-16, 1998 9:00 A.M.
City of Oceanside
City Council Chambers
300 North Coast Hwy.
Oceanside, CA 92054

IMPORTANT - Before you may proceed with development, the following must occur:

Pursuant to 14 Cal. Admin. Code Sections 13150(b) and 13158, you must sign the enclosed duplicate copy acknowledging the permit's receipt and accepting its contents, including all conditions, and return it to our office. Following the Commission's meeting, and once we have received the signed acknowledgment and evidence of compliance with all special conditions, we will send you a Notice of Administrative Permit Effectiveness.

BEFORE YOU CAN OBTAIN ANY LOCAL PERMITS AND PROCEED WITH DEVELOPMENT, YOU MUST HAVE RECEIVED BOTH YOUR ADMINISTRATIVE PERMIT AND THE NOTICE OF PERMIT EFFECTIVENESS FROM THIS OFFICE.

PETER DOUGLAS
Executive Director

By: 
Title: Coastal Program Analyst

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 this permit is reported to the Commission. 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 in the application for permit, subject to any special conditions 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 project during its development, 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.

EXECUTIVE DIRECTOR'S DETERMINATION (continued):

The Executive Director hereby determines that the proposed development is a category of development which, pursuant to PRC Section 30624, qualifies for approval by the Executive Director through the issuance of an administrative permit. Subject to Standard and Special Conditions as attached, said development is in conformity with the provisions of Chapter 3 of the Coastal Act of 1976, will not prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter Three, and will not have any significant impacts on the environment within the meaning of the California Environmental Quality Act. If located between the nearest public road and the sea, this development is in conformity with the public access and public recreation policies of Chapter Three.

FINDINGS FOR EXECUTIVE DIRECTOR'S DETERMINATION:**A. Project Description and Background**

The applicant has constructed two walls along Las Flores Canyon Road for the protection of the property and the inhabitants. The 6' high x 440' long masonry and wrought iron fence was constructed as an extension of the permitted portion of the wall located directly in front of the Carden preschool. This fence serves to both contain the children on the east side and maintain runoff down Las Flores Canyon Road during peak wet weather periods on the west side. The 3' high by 75' long timber debris wall was recommended and designed by the LA County Department of Public Works to address potential mudflows across Las Flores Canyon Road.

The southern most portion of the 6' high masonry and wrought iron fence, extending for approximately 170', was designed, permitted and constructed at the time the Carden preschool was re-built following the 1993 firestorm under CDP 4-95-244 (Armstrong). Since that time, the applicant has extended the fence approximately 440'. This fence extends across two parcels, the southern of which lies within the City of Malibu's jurisdiction and the other, to the north, within LA County. Fences not over 6' in height do not require local permits from either jurisdiction.

B. Geologic 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, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.***

The proposed development is located in the Santa Monica Mountains, an area which 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. The Executive Director determines that as conditioned, the proposed development is consistent with Section 30253 of the Coastal Act.

During periods of significant wet weather runoff flows down the Las Flores Canyon watershed towards the creek and Las Flores Canyon Road where the subject site is located. During particularly heavy rains, water flows down Las Flores Canyon Road south, towards the mouth of the canyon. Given the subject site is located between Las Flores Canyon Road and the creek, high flows tend to drain onto the subject site. The 6' high masonry and wrought iron fence was specifically designed with a 3' base to contain this flow.

Similarly, during periods of heavy rain the canyon wall to the west of the subject site has experienced mudflows, some of which have partially blocked Las Flores Canyon Road. Following the 1993 firestorm, 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 3' timber mud flow deflector wall and noted: *"Due to the burned condition of the watershed, possible sediment flows may impact your property"*. In addition to the recommendation, the County also provided the applicant with the specific location and design.

Thus, given the need to protect the property from extreme storm water runoff along Las Flores Canyon Road and potential mudflows across Las Flores Canyon Road, the Executive Director determines the project, as proposed, will minimize risks to life and property in an area of geologic and flood hazard and therefore, finds the project to be consistent with Section 30253 of the Coastal Act.

C. 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, and previously exempted after the firestorm of 1993, rises straight-up from the existing channel of the creek. Two school structures, lawn areas, an access road, fencing and concrete walkways wind in and out of the riparian zone and woodland habitat on the subject parcels. 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.

Both of the proposed fences are located on the extreme western property line of the subject site, directly adjacent the shoulder of Las Flores Canyon Road, and well over 50' from the edge of the stream channel. Neither of the fences are within 5' of the native oak or sycamore trees canopies.

Therefore, given that the proposed fences will not further degrade or disturb the remaining environmentally sensitive resources on site, or the adjacent EHSA to the north, the Executive Director determines the project as proposed would be consistent with Sections 30240(a), and 30240(b) of the Coastal Act.

D. Violation

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, 4-98-136, to secure approval for the after-the-fact relocation or removal of the two storage containers. Thus, the Commission finds: 1) the applicant has taken the necessary steps to bring the unpermitted walls into compliance through the subject application; and 2) the proposed removal and relocation of the two unpermitted storage containers are the subject of the concurrent application 4-98-136.

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.

E. Local Coastal Program

Section 30604 of the Coastal Act states that:

(a) Prior to certification of the local coastal program, a coastal development permit shall be issued if the issuing agency, or the commission on appeal, finds that the proposed

development is in conformity with Chapter 3 (commencing with Section 30200) and that the permitted development will not prejudice the ability of the local government to prepare a local coastal program that is in conformity with Chapter 3 (commencing with Section 30200).

Section 30604(a) of the Coastal Act provides that a coastal development permit shall be issued only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with Chapter 3 policies of the Coastal Act. The preceding sections provide findings that the proposed project will be in conformity with the provisions of Chapter 3 if certain conditions are incorporated into the project and accepted by the applicant. As drafted in this permit, the proposed development will not create adverse impacts and is found to be consistent with the applicable policies contained in Chapter 3.

Therefore, the Executive Director determines that approval of the proposed development will not prejudice the County of Los Angeles' ability to prepare a Local Coastal Program for this area of Malibu that is also consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

F. California Environmental Quality Act

The Coastal Commission's permit process has been designated as the functional equivalent of CEQA. Section 13096(a) of the California Code of Regulations requires approval of coastal development permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of 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 that would substantially lessen any significant adverse effects that the activity may have on the environment.

The proposed development will not cause significant , adverse environmental effects which will not be adequately mitigated by the condition imposed by the Executive Director. Therefore, the Executive Director determines that the proposed project, as conditioned in this permit to mitigate the identified impacts, is found consistent with the requirements of CEQA and the policies of the Coastal Act.

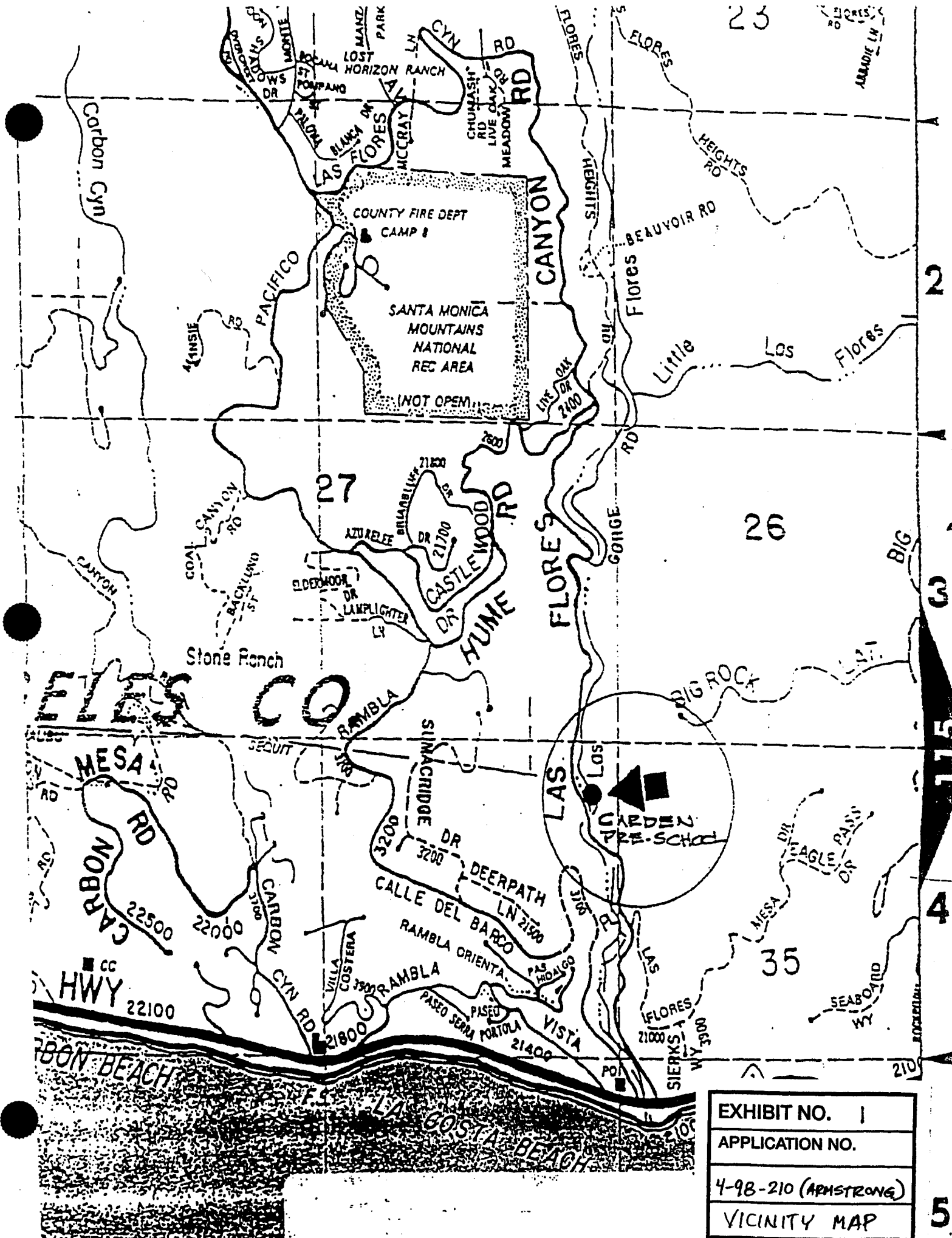


EXHIBIT NO. 1
APPLICATION NO.
4-98-210 (ARMSTRONG)
VICINITY MAP

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SEP 17 1998

COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

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EXHIBIT "A"

APPLICANT'S COPY

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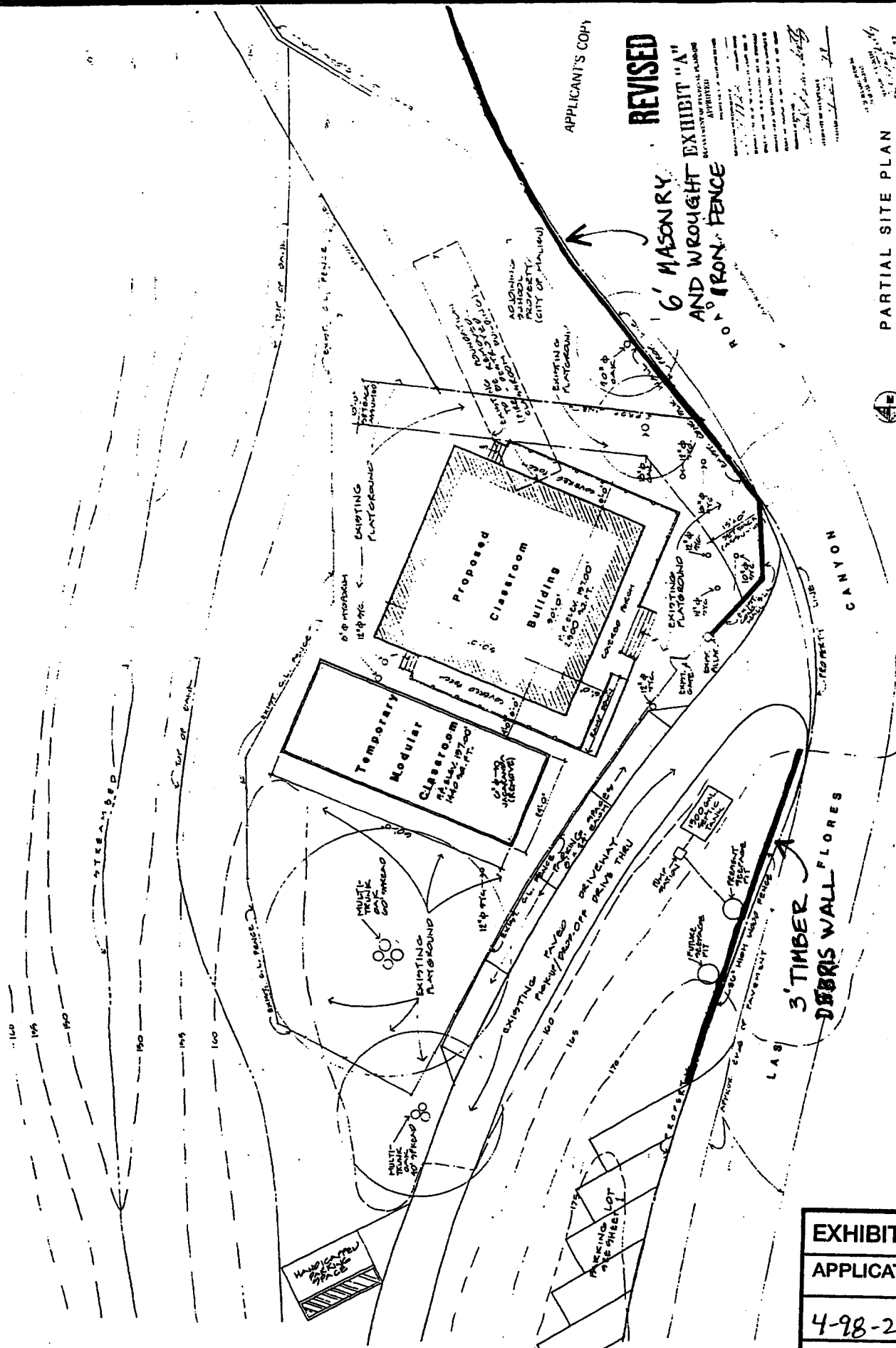
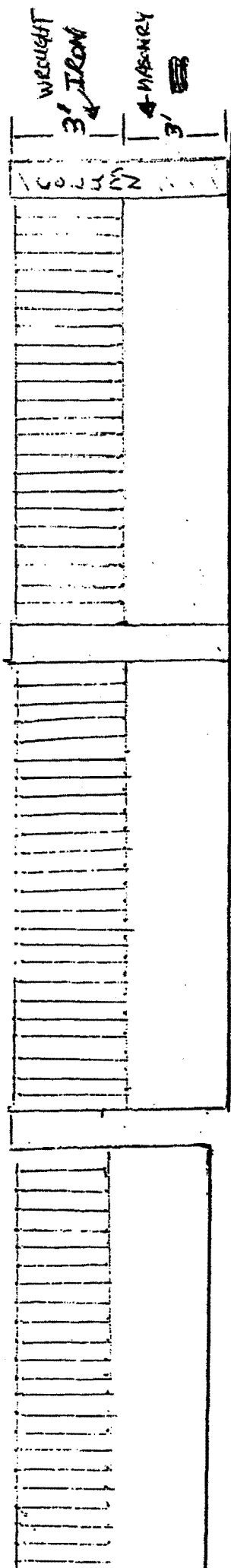


EXHIBIT NO. 3
APPLICATION NO.
4-98-210 (ARMSTRONG)
PARTIAL SITE PLAN

LAS FLORES Fence — Cement Block & Decorative Iron-6'

12, 11, 10, 9, 8, 7, 6, 5, 4, 3, 2, 1



AD-Accession To Las Vegas Canyon Road

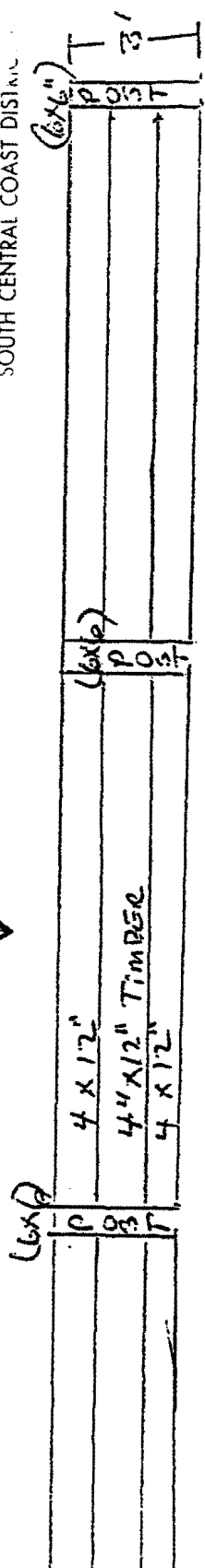
3 FOOT TIMBER DEBRIS WALL - WOOD

Typical

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CAIRO UNIVERSITY
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT



ADJACENT TO LAS FLORES CANYON ROAD

EXHIBIT NO.
APPLICATION NO.
4-98-210 (ARMSTRONG)
ELEVATIONS