

**CALIFORNIA COASTAL COMMISSION**

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Filed: 04/11/00  
 49th Day: 05/30/00  
 180th Day: 10/08/00  
 Staff: BCM-VJK  
 Staff Report: 04/20/00  
 Hearing Date: May 9-12, 2000  
 Commission Action:

**STAFF REPORT: REGULAR CALENDAR**

**APPLICATION NO.:** 4-00-014  
**APPLICANT:** Robert Newlon  
**PROJECT LOCATION:** 3550 Las Flores Canyon Road, City of Malibu  
 (Los Angeles County)

**PROJECT DESCRIPTION:** Addition of rip-rap to the bank of the stream at a bend in Las Flores Canyon Creek below the applicant's property. The rip-rap will serve to repair the existing concrete (gunnite) and rock gabion streambank protection which is being used to stabilize the toe of the slope.

**LOCAL APPROVALS RECEIVED:** Approval in Concept -- City of Malibu Planning Department; Approval in Concept -- City of Malibu Biologist; Approval in Concept -- City of Malibu Public Works Department; Approval with Conditions -- State of California Department of Fish and Game

**SUBSTANTIVE FILE DOCUMENTS:** City of Malibu Plot Plan Review No. 97-089 -- 3550 Las Flores Cyn. Rd. (Newlon), dated May 14, 1997; City of Malibu Plot Plan Review No. 97-089 -- 3550 Las Flores Cyn. Rd. (Newlon), dated June 5, 1997; Coastal Development Permit No. 4-97-097 (Newlon); Coastal Development Permit No. 4-98-240 (Odyssey Program); *Engineering Hydrology Study RE: Boulder Riprap along Las Flores Creek located at 3550 Las Flores Canyon Road*, by Robert Newlon and Associates, dated March 21, 1999; Letter extending streambed alteration agreement 5-263-967, from the State of California Department of Fish and Game, dated March 16, 2000.

**SUMMARY OF STAFF RECOMMENDATION**

Staff recommends **approval** of the proposed project with six (6) special conditions regarding a riparian vegetation restoration plan, use of native materials, timing of construction, debris removal, required permits, and assumption of risk.

## I. STAFF RECOMMENDATION

1. Motion: *I move that the Commission approve Coastal Development Permit No. 4-00-014 pursuant to the staff recommendation.*

### 2. Staff Recommendation of Approval:

Staff recommends a YES vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

### 3. Resolution to Approve the Permit:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

## II. STANDARD CONDITIONS

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. 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 Commission staff and may require Commission approval.
4. Interpretation. Any questions of intent or interpretation of any term or 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. Riparian Vegetation Restoration and Monitoring Plan

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and approval of the Executive Director, a detailed Riparian Vegetation Restoration and Monitoring Plan, prepared by a licensed landscape architect or qualified resource specialist, for all areas of the project site disturbed by the construction activities and/or permanently displaced due to the installation of the rip rap. The plan shall identify the species, location, and extent of all plant materials to be removed or planted and shall incorporate the following criteria:

##### a. **Specifications**

The Restoration Plan shall provide for the restoration of riparian vegetation destroyed, damaged, or displaced by the proposed project. The restoration area(s) shall be delineated on a site plan and shall be located on or immediately adjacent to the project site. The vegetation shall consist of appropriate native riparian plant species as listed by the California Native Plant Society, Santa Monica Mountains Chapter, in their document entitled *Recommended List of Plants for Landscaping in the Santa Monica Mountains*, dated October 4, 1994. Invasive, non-indigenous plant species which tend to supplant native species shall not be used and shall be removed from the stream channel / riparian vegetation corridor on-site.

The plan shall include detailed documentation of conditions on site prior to the approved activity (including photographs) and shall specify restoration goals and specific performance standards to judge the success of the restoration effort. Planting shall be maintained in good growing condition throughout the life of the project and, whenever necessary, shall be replaced with new plant materials to ensure continued compliance with the applicable revegetation requirements. Successful site restoration shall be determined if the revegetation of native plant species on site is adequate to provide 90% coverage by the end of the five (5) year monitoring period and is able to survive without additional outside inputs, such as supplemental irrigation. The plan shall also include a detailed description of the process, materials, and methods to be used to meet the approved goals and performance standards and specify the preferable time of year to carry out restoration activities and describe interim supplemental watering requirements that may be necessary.

##### b. **Monitoring**

A program shall be implemented to monitor the project for compliance with the specified guidelines and performance standards. The applicant shall submit, upon completion of the restoration and enhancement planting, and on an annual basis beginning from the

date that the restoration planting is completed (but no later than December 31<sup>st</sup> each year), a written report prepared by a qualified resource specialist, for the review and approval of the Executive Director, indicating the success or failure of the restoration project. This report shall include further recommendations and requirements for additional restoration activities in order for the project to meet the specified criteria and performance standards. These reports shall also include photographs taken from pre-designated sites (annotated to a copy of the site plans) indicating the progress of recovery.

At the end of the five year monitoring period, the applicant shall submit, for the review and approval of the Executive Director, a final detailed report, prepared by a licensed landscape architect or qualified resource specialist, that certifies the on-site revegetation is in conformance with the plan approved pursuant to this Special Condition. The report shall include photographic documentation of plant species and plant coverage. If this report indicates that the revegetation project has in part, or in whole, been unsuccessful, based on the performance standards approved pursuant to this permit, the applicant, or successors in interest, shall be required to submit a revised or supplemental program to compensate for those portions of the original program which were not successful. The revised landscaping plans must be prepared by a licensed Landscape Architect or a qualified Resource Specialist and shall specify measures to remediate those portions of the original plans that have failed or are not in conformance with the original approved plans. The revised, or supplemental restoration and enhancement program shall be processed as a new coastal development permit.

## **2. Use of Native Materials**

The applicant shall use rock material that is compatible with the color of the natural rock material that is in the stream. All exposed surfaces shall be designed / constructed to use, or at least mimic, the native materials and appearance of the natural environment (i.e.: the appearance of the natural streambank) (white tones shall not be acceptable).

## **3. Timing of Construction**

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and approval of the Executive Director, a Construction Schedule for the proposed development which provides, to the maximum extent feasible, for the protection of sensitive riparian species which may be located on site through the avoidance of construction activities during applicable seasons. Construction activity shall not occur during the rainy season (November 1 – March 31) unless the Executive Director determines that such a schedule is consistent with the intent of this condition and is necessary to minimize adverse effects to the riparian habitat.

## **4. Construction Responsibilities and Debris Removal**

The applicant, by accepting this permit, agrees to the following conditions: (a) the staging area for the proposed project shall be limited to non-riparian areas only -- no stockpiling of dirt or construction materials shall occur in any riparian areas on the subject site including the stream bed or banks; (b) measures to control erosion must be implemented at the end of each day's work; (c) no machinery will be allowed in the

streambed at any time; and (d) the permittee shall remove from the riparian area any and all debris that may result from the construction.

**5. Required Permits**

PRIOR TO COMMENCEMENT OF CONSTRUCTION, the applicant shall submit to the Executive Director a valid 404 permit from the U.S. Army Corp of Engineers for the proposed project or evidence that such a permit is not required.

**6. Assumption of Risk, Waiver of Liability, and Indemnity**

By acceptance of this permit, the applicant acknowledges and agrees: (i) that the site may be subject to hazards from fire, landsliding, earth movement, flooding, and erosion; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

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

**IV. FINDINGS AND DECLARATIONS**

The Commission hereby finds and declares as follows:

**A. Project Description and Background**

The applicant, Robert Newlon, is proposing the addition of rip-rap to the east bank of the stream at a bend in Las Flores Canyon Creek below the his property. The rip-rap will serve to repair the existing streambank stabilization which is being used to protect the toe of the slope. The applicant's property is an approximately 2.5 acre parcel located in the Las Flores Canyon area of the City of Malibu. Access to the property and the project site is from Pacific Coast Highway to Las Flores Canyon Road, a public street which borders the west side of the property. A previous coastal development permit (CDP No. 4-97-097) was obtained for the streambank stabilization repair, but the permit expired, and this work never occurred. There is an existing single family residence located at the top of the ridge on the subject property, approximately 100 feet above stream channel and the proposed site of the streambank stabilization.

The project site is located in the channel of Las Flores Canyon Creek, a United States Geological Survey (USGS) designated blue-line (intermittent) stream in the southern portion of the Santa Monica Mountains which borders the subject property on the immediate northwest. Slopes on this side of the parcel are extremely steep approaching a gradient of 1:1 (horizontal to vertical). The creek at this point makes a near ninety degree (90°) turn to the west to pass under Las Flores Canyon Road. The east bank beneath the applicant's residence has consequently begun eroding due to strong seasonal streamflows and related scouring.

Approximately 30 to 40 feet of the east streambank has been previously stabilized with a combination of grouted rip-rap at the creek channel bottom, and a second tier of gunnite material, topped by a post-and-wire gabion filled with rock from the local area. As a result of channel degradation, the grouted rip-rap has been undermined and is threatened by continued erosion and many of the existing gabion rocks have been displaced. The applicant proposes to stabilize the previous toe-of-slope repair by placing rip-rap at the base of the existing gunnite structure and along and behind the gabion basket rock-filled area. The spaces between rocks will then be planted with appropriate native riparian vegetation to achieve a "bio-engineered" solution.

Drainage from the property and from the creek flows downstream to the south eventually passing under Pacific Coast Highway and outletting at Las Flores Beach. The Las Flores Canyon Creek riparian corridor is designated as Disturbed Sensitive Resource Area in the Malibu / Santa Monica Mountains Land Use Plan (LUP). The lower portion of Las Flores Creek corridor has been extensively disturbed by previous construction of residences, businesses, streambank stabilization measures, and various development in the immediate vicinity of the stream channel. Immediately upstream of the proposed project, for instance, is the Carden School with its 80 ft. long, 5 ft. high wall facing the creek. A bridge crossing and a Caltrans storage / staging facility is located immediately downstream of the project area. The portion of the creek where the project is proposed has a typical varied cobble channel bed with sparse vegetation including fallen trees (cottonwoods, sycamores), scattered patches of grass, brush, and a few shrubs which have managed to gain a foothold in the rugged, narrow, scoured drainage course.

## **B. Hazards**

Section 30253 of the Coastal Act states (in part):

***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...***

The proposed improvement 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, flooding, earth movement, and wildfire. The prominent geomorphic features in the area

are the ridgeline of the Santa Monica Mountains to the north, the Pacific Ocean (Santa Monica Bay), La Costa and Las Flores Beaches to the south, Carbon Canyon to the west, and the Big Rock area to the east. The site is located on the bank of a United States Geological Survey (USGS) designated blue-line (intermittent) stream -- Las Flores Canyon Creek -- which eventually passes under Pacific Coast Highway and outlets at Las Flores Beach.

The proposed project would be located along the east bank of Las Flores Creek which is subject to seasonal, periodic flood and debris flows. The applicant's property adjacent to this portion of the creek is developed with a single family residence approximately 100 feet in elevation higher than the creek bed. The residence is threatened by continued lateral erosion of the creek channel which could undermine its foundations. Commission staff notes that no preferred alternatives exist which would ensure structural integrity of the streambank / slope and allow for preservation / enhancement of the riparian environment to a greater extent than the proposed project. The City of Malibu Plot Plan Review No. 97-089 -- 3550 Las Flores Cyn. Rd. (Newlon), dated June 5, 1997, states:

*There is no feasible engineering alternative to protect the top of the slope that avoids armoring of the creek bank.*

Possible alternatives to the proposed project include complete removal of the existing stabilization or increased armoring of the streambank. The application of greater materials than proposed would require heavy equipment and/or human disruption which would increase the impact to riparian areas on-site and downstream of the project. Alternatively, complete removal of the existing materials would also require the use of heavy equipment which, due to the restricted accessibility of the site, would entail substantial disturbance of the adjacent creek habitat. Removal of the streambank stabilization would also place the existing residence in increased jeopardy from toe-of-slope erosion.

The applicant has demonstrated that the existing streambank stabilization is being undercut and therefore not adequate for future bank-full rainfall events in Las Flores Creek. Failure of the existing streambank protection would likely lead to increased slope erosion potentially undermining the foundations of the applicant's existing residence and creating a hazardous condition. As such, the proposed project is necessary to ensure the structural and geologic integrity of an existing residence and will serve to minimize risks to life and property as required by Section 30253 of the Coastal Act. Without construction of the proposed project, significant potential adverse effects to public safety could occur.

The proposed project will arrest lateral bank erosion and reduce the likelihood of failure of the slope which supports the building site on top of the applicant's property. The rip-rap placement, designed by the applicant, Robert Newlon, a registered Professional Civil Engineer in the State of California, was designed to reduce erosion, avoid negative impacts to neighboring properties, and to assure structural integrity of the streambank. However, because the proposed streambank stabilization and upslope residential development remains subject to damage from potential large-scale flooding of Las Flores Creek, it is necessary to ensure, through **Special Condition Six**, that the applicant acknowledges the hazards associated with the project site, and to hold the Commission and its agents harmless in the event of a catastrophic failure of the bank protection.

The proposed new reinforcement will be sited in approximately the same footprint as the existing toe-of-slope protection. The proposed addition of rip-rap will not be expanded to provide for additional coverage of the streambank. As such, the proposed project will not occupy a significantly larger area of the subject site than the existing slope protection and will result in relatively few new adverse effects to riparian habitat on site or downstream. The Commission finds that the proposed project, as conditioned, is consistent with Section 30253 of the Coastal Act.

### **C. Environmentally Sensitive Resources**

Section 30230 of the Coastal Act states:

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

Section 30231 of the Coastal Act states:

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

Section 30236 of the Coastal Act states:

***Channelization, dams, or other substantial alterations of rivers and streams shall incorporate the best mitigation measures feasible, and be limited to (1) necessary water supply projects, (2) flood control projects where no other method for protecting existing structures in the floodplain is feasible and where such protection is necessary for public safety or to protect existing development, or (3) developments where the primary function is the improvement of fish and wildlife habitat.***

And Section 30240 of the Coastal Act states:

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

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

The proposed project is located along a portion of the east bank of Las Flores Creek which contains seasonally intermittent flow. The riparian corridor along Las Flores Creek is a designated Disturbed Sensitive Resource Area in the Malibu / Santa Monica Mountains Land Use Plan (LUP) since it has been substantially and adversely impacted by development in Las Flores Canyon. This existing development, including Las Flores



Canyon Road and substantial residential development on steep slopes, has reduced local riparian vegetative cover, decreased runoff infiltration, increased erosion rates, and promoted greater "flashiness" in the creek's flow characteristics. Despite these human modifications, Las Flores Creek continues to provide valuable habitat for a variety of riparian species of plants and animals.

Sections 30230 and 30231 of the Coastal Act require that the biological productivity and the quality of coastal waters and streams be maintained and, where feasible, restored. In addition, Section 30240 of the Coastal Act states that environmentally sensitive habitat areas must be protected against disruption of habitat values. To assist in the determination of consistency with Sections 30230, 30231, and 30240 of the Coastal Act, the Commission has, in past coastal development permit actions in the Santa Monica Mountains, looked to the Malibu / Santa Monica Mountains Land Use Plan (LUP) for guidance. The Malibu LUP has been found to be consistent with the Coastal Act and provides specific standards for development along the Malibu coast and within the Santa Monica Mountains. In its findings regarding the certification of the Malibu / Santa Monica Mountains LUP, the Commission emphasized the importance placed by the Coastal Act on protection of sensitive environmental resources:

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

Correspondingly, Policies 84 and 94 of the LUP, in concert with the Coastal Act, provide that disturbed areas shall be revegetated with native plant species within environmentally sensitive habitat areas and significant watersheds. Any development within riparian areas may result in potentially adverse effects to resources from increased erosion, contaminated stormwater runoff, disturbance to local wildlife, and loss of riparian plant and animal habitat. The proposed new bank reinforcement will be located in approximately the same location as the existing toe protection and will not displace any riparian vegetation in the stream bed area.

The subject site is located immediately adjacent to Las Flores Creek which is characterized as a degraded riparian area due to previous development of the project site and surrounding area. Although the subject site is not located within an Environmentally Sensitive Habitat Area (ESHA), the certified Malibu / Santa Monica Mountains Land Use Plan (LUP) indicates that the site is designated as a "Disturbed Sensitive Resource Area." Although this disturbed riparian habitat does not have the same biological significance as undisturbed ESHA, it is sufficiently valuable to warrant protection of the existing resources. The riparian habitat in the vicinity of the subject portion of Las Flores Creek does contain several unique and sensitive riparian plant and animal species including Coastal Live Oak (*Quercus agrifolia*) and California Sycamore (*Platanus recemosa*).

The Commission notes that the subject site has been previously disturbed in order to protect the toe-of-slope on the applicant's property. In addition, Las Flores Creek itself is a seasonal, intermittent stream characterized by high velocity flows with significant associated scouring. Immediately upstream, the Carden school has placed an 80-foot long flood protection wall along the stream channel to protect the facility against high creek flows. The rip-rap at the proposed site will be placed at the toe of the slope along, over, and above the existing protection. The proposed rip-rap will not displace any existing riparian habitat or interfere with creek flow in the stream bank itself.

However, construction activities and placement of the new rip-rap may result in potentially adverse effects to riparian habitat as previously noted. Therefore, in order to mitigate adverse effects to riparian habitat from the proposed project, **Special Condition One** requires the applicant to submit a detailed Riparian Vegetation Restoration and Monitoring Plan, prepared by a licensed landscape architect or a qualified resource specialist, for the project site area disturbed by construction activities due to the installation of the proposed streambank protection improvements (i.e.: rip-rap). Due to the seasonal, high-velocity nature of the creek, revegetation / restoration activities will, by necessity complement the rock rip-rap design and will focus on the streambank. The Plan shall, at a minimum, provide for the restoration of all riparian habitat destroyed or damaged by the proposed construction activities.

Invasive and non-native plant species are generally characterized as having a shallow root structure in comparison with their high surface / foliage weight. The Commission has found that such plant species do not serve to stabilize slopes and may adversely affect the overall stability of a site. Native species, alternatively, tend to have a deeper root structure and aid in preventing erosion. Furthermore, invasive, non-indigenous plant species tend to supplant species that are native to the Malibu / Santa Monica Mountains area. Increasing urbanization in this area has already caused the loss or degradation of major portions of native habitat and native plant seed banks through grading and removal of topsoil. Moreover, invasive and fast-growing trees and groundcovers originating from other continents which have been used for landscaping in this area have seriously degraded native plant communities adjacent to development.

Therefore, all invasive and non-native plant species shall be removed from the stream channel / riparian vegetation corridor on-site. The stream channel / riparian vegetation corridor disturbed by construction activities shall be revegetated with appropriate native plant species, as required by **Special Condition One**. In addition, **Special Condition One** requires the applicant to submit annual reports indicating the success or failure of the restoration effort for a period of five years in order to ensure the success of the Riparian Vegetation Restoration Plan. If the restoration effort is in part, or in whole, unsuccessful, the applicant shall be required to submit a revised or supplemental restoration program.

In addition, the Commission notes that construction activity within a stream channel, such as the proposed project, may result in the potential generation of debris and/or presence of equipment and materials that could be subject to streamflow. Further, if construction site materials are discharged into the marine environment or left inappropriately / unsafely exposed on the project site, such discharge to the marine environment would result in adverse effects to sensitive riparian habitat. To ensure that adverse effects to the marine environment are minimized, **Special Condition Four** requires the applicant to ensure that stockpiling of construction materials shall not occur in any riparian areas on the subject including the streambed or banks, that no machinery will be allowed in the streambed at any time, and that the permittee shall remove an and all excess debris resulting from the project.

Riparian habitat areas and stability of the site itself may be especially sensitive and vulnerable during the rainy season (November 1 – March 31) when rapidly moving storms produce bank-full streamflows which, combined with streambank construction activities, could lead to significantly increased erosion and adverse effects to on-site and downstream riparian habitat. Therefore, in order to ensure that adverse effects from the subject site are minimized, **Special Condition Three** requires the submittal of

a Construction Schedule for all activity which provides, to the maximum extent feasible, for the minimization of erosion and the protection of sensitive riparian species through the avoidance of construction activities during the rainy season.

The Commission notes that any development located within a stream channel requires a Streambed Alteration Agreement from the California Department of Fish and Game and approval from the United States Army Corp of Engineers. For Coastal Development Permit No. 4-97-097, the applicant submitted a Stream Alteration Agreement from the Department of Fish and Game dated September 16, 1997 for the proposed project. However, this Streambed Alteration Agreement expired on September 16, 1998. The permit was extended by the Department of Fish and Game on March 16, 2000 with the addition of four conditions:

- 1. The rip-rap shall be constructed from clean rock only, and shall not be grouted or concreted.*
- 2. The rock shall be graded so the larger rock shall be placed on the bottom and the small rocks towards the top of the bank.*
- 3. The rock shall be filled with clean dirt to allow growth of vegetation.*
- 4. The slope / bank shall be planted with native blackberries and lined with seven (7) willows and/or sycamores on the top of the bank. These plantings shall be maintained until established.*

Commission staff notes that the conditions placed on the extension of the Fish and Game permit complement and are in harmony with the Special Conditions associated with issuance of the coastal permit. The applicant has not, at this time, presented evidence of issuance of a permit from the U.S. Army Corps of Engineers because the federal agency will not issue a permit until all state and local approvals have been obtained. Therefore, **Special Condition Five** has been required to ensure that, prior to the commencement of construction, the applicant shall submit to the Executive Director a valid U.S. Army Corp of Engineers permit or evidence that such approval is not required.

Commission staff notes that Section 30236 of the Coastal Act requires alterations of streams to incorporate the best mitigation measures feasible and be limited projects where no other method for protecting existing structures in the floodplain is feasible and where such protection is necessary for public safety or to protect existing development. Alternatives to the proposed project include complete removal of the existing toe-of-slope stabilization or an increased armoring of the streambank. The application of additional materials than proposed would likely increase the potential impact to the riparian area on-site and downstream of the project. Complete removal of the existing materials would require the use of heavy equipment which, due to the restricted accessibility of the site, would entail substantial disturbance of the adjacent creek habitat. Removal of the streambank stabilization would also place the existing residence in increased jeopardy from toe-of-slope erosion.

In addition, the Commission notes that the riparian habitat on the subject site has been previously impacted by construction of the existing streambank stabilization. The proposed rip-rap reinforcement will be located in approximately the same footprint as the existing gunnite, gabion basket, and rock placement. As such, the proposed project will result in relatively few new adverse effects to the riparian habitat on site. Due to the existing development and the previous reinforcement's location on the channel

streambank, no less environmentally damaging alternatives to the proposed project are feasible.

Thus, the Commission finds that the proposed project, as conditioned, is consistent with Sections 30230, 30231, 30236, and 30240 of the Coastal Act.

#### **D. Visual Resources**

Section 30251 of the Coastal Act states that:

*The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinated to the character of its setting.*

The proposed project involves the reinforcement of an existing toe-of-slope protection / streambank stabilization in a suburban area of Malibu using rip-rap in approximately the same location as a previous repair. The proposed new streambank stabilization will serve to increase the structural stability of the slope on the subject site and ensure public safety by preventing the undermining of the existing residence upslope of the stream channel. However, the Commission also notes that the new rip-rap, which will be visible from Las Flores Canyon Road, may be more extensive in appearance and less consistent with the rural / suburban nature of the area surrounding the project site than the existing toe-of-slope protection in place. Therefore, in order to ensure that any adverse effects to public views resulting from the proposed development are minimized, **Special Condition Two** requires that the stones or rocks used for the rip-rap materials include, or at least mimic, the approximate size, color, and texture of native materials and appearance of the natural environment. The Commission therefore finds that the proposed development, as conditioned, will not result in any adverse effects to public views and is consistent with Section 30251 of the Coastal Act.

#### **E. Water Quality**

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

*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.*

As described above, the proposed project includes the addition of rip-rap to the bank of the stream at a bend in Las Flores Canyon Creek below the applicant's property. The rip-rap will serve to repair the existing streambank stabilization which is being used to protect the toe of the slope. The addition of rip-rap to the existing streambank stabilization may increase both the velocity of stormwater runoff. If not mitigated by the planting of native vegetation to revegetate the slope, this runoff may result in increased erosion, affect site stability, and impact downslope water quality.

The placement of rip-rap effectively "hardens" the stream channel thereby increasing the rate and volume of runoff, potentially causing increased erosion and sedimentation. When runoff is channeled or deflected by impervious surfaces, pollutants in suspension are quickly conveyed further downstream and eventually may reach the ocean. Thus, changes to the stream channel can cause cumulative impacts to the hydrologic cycle of an area by increasing and concentrating runoff, leading to further stream channel destabilization, increased flood potential, increased concentration of pollutants, and reduced groundwater levels.

Such cumulative impacts can be minimized through the implementation of a revegetation plan. In order to help minimize the volume, velocity, and pollutant load of stormwater traversing the site thereby ensuring that adverse impacts to coastal water quality do not result from the proposed project, the Commission finds it necessary to require the applicant, through **Special Condition One**, to submit a riparian vegetation restoration plan, which incorporates native vegetation to help intercept and potentially help infiltrate runoff on-site. Such a plan will allow for some filtering of runoff from upstream and adjoining developed areas. Additionally, the applicant must monitor and maintain the riparian vegetation to ensure that it continues to function as intended throughout the life of the development. The Commission therefore finds that the proposed project, as conditioned, is consistent with Section 30231 of the Coastal Act.

## **F. Local Coastal Program**

Section 30604(a) of the Coastal Act states (in part):

*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 program that is in conformity with Chapter 3 (commencing with Section 30200). ...*

Section 30604(a) of the Coastal Act stipulates that the Commission shall issue a Coastal Permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with Chapter 3 policies of the Coastal Act. The preceding sections provide findings that the proposed project will be in conformity with the provisions of Chapter 3 if certain conditions are incorporated into the project and accepted by the applicant. As conditioned, the proposed development will not create significant adverse impacts and is found to be consistent with the applicable policies contained in Chapter 3 of the Coastal Act. Therefore, the Commission finds that approval of the proposed development, as

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

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

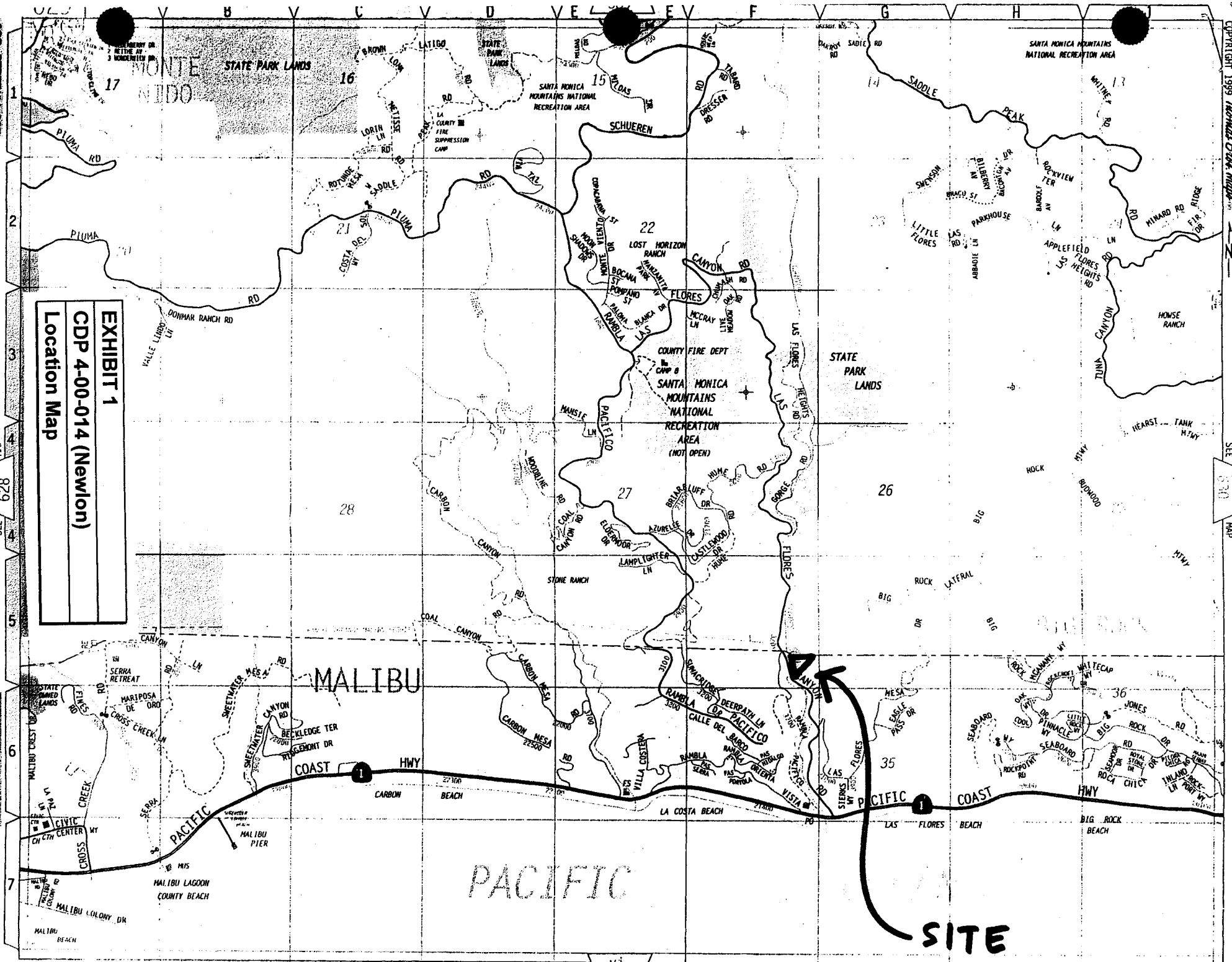
Section 13096(a) of the Coastal Commission's administrative regulations requires Commission approval of a Coastal Development Permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the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

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

**BCM/bcm**

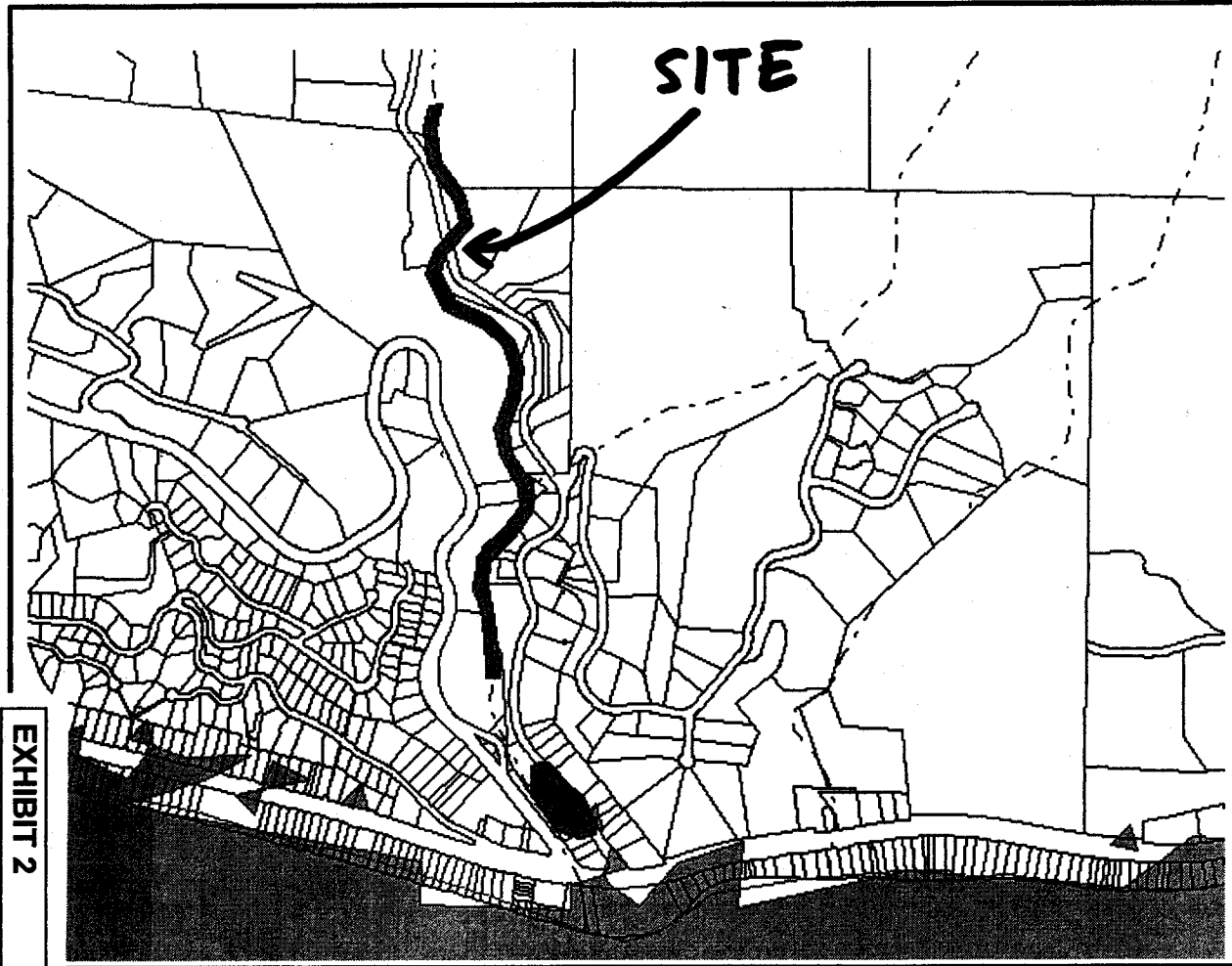
File: D:\BCM\permits\4-00-014 Newlon

**EXHIBIT 1**  
**CDP 4-00-014 (Newlon)**  
**Location Map**



**SITE**

4-00-014 Newlon (3550 Las Flores Canyon Rd.)



- Malibu City Boundary
- LA-Ventura County Boundary
- Trails - LA County LUP
- Blue Line Streams
- shoreline
- czbdy
- laprcis
- esha
- Small lot subdivisions
- Ocean

EXHIBIT 2  
CDP 4-00-014 (Newlon)  
Location Map



CARDEN  
MALIBU  
SCHOOL

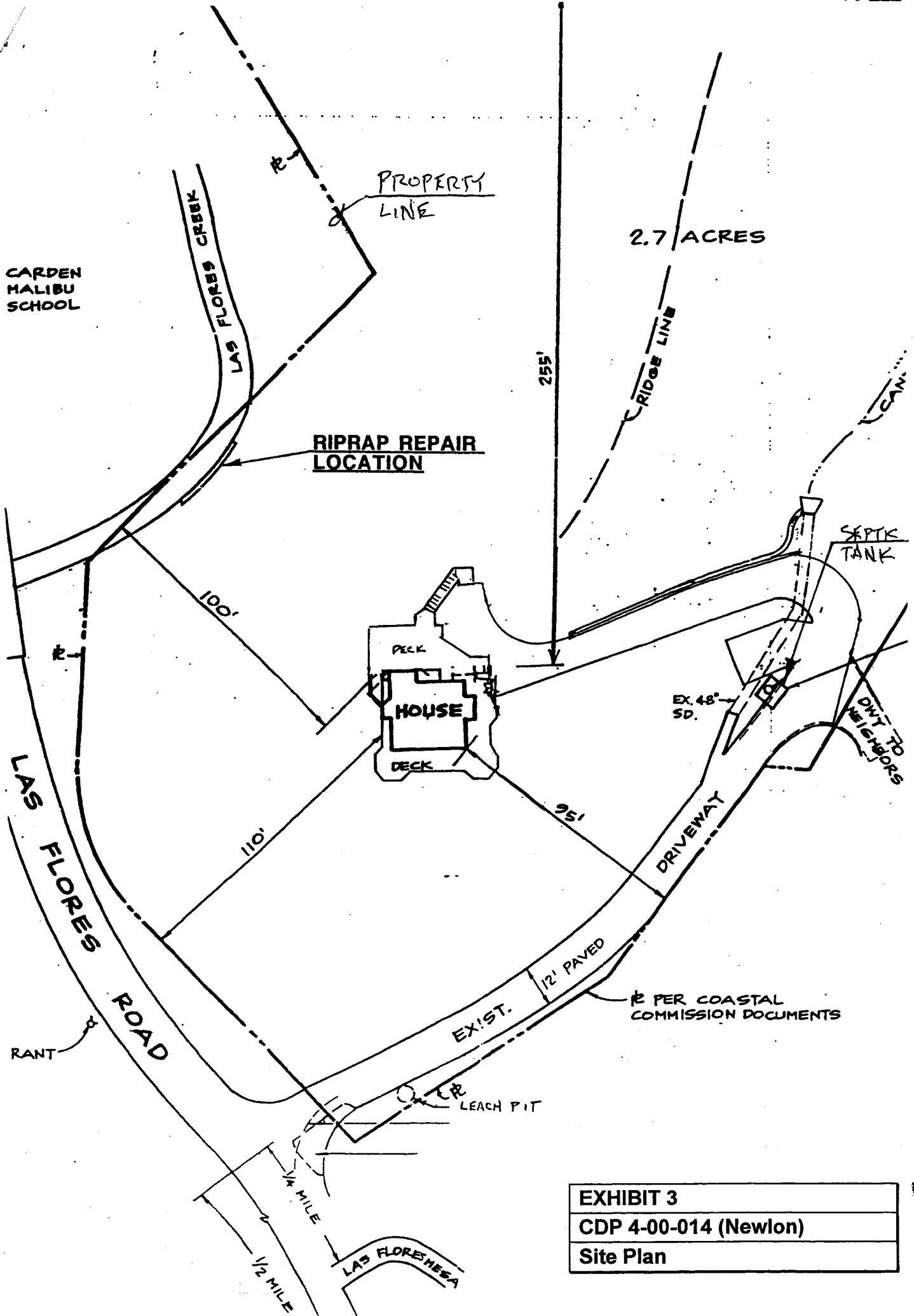
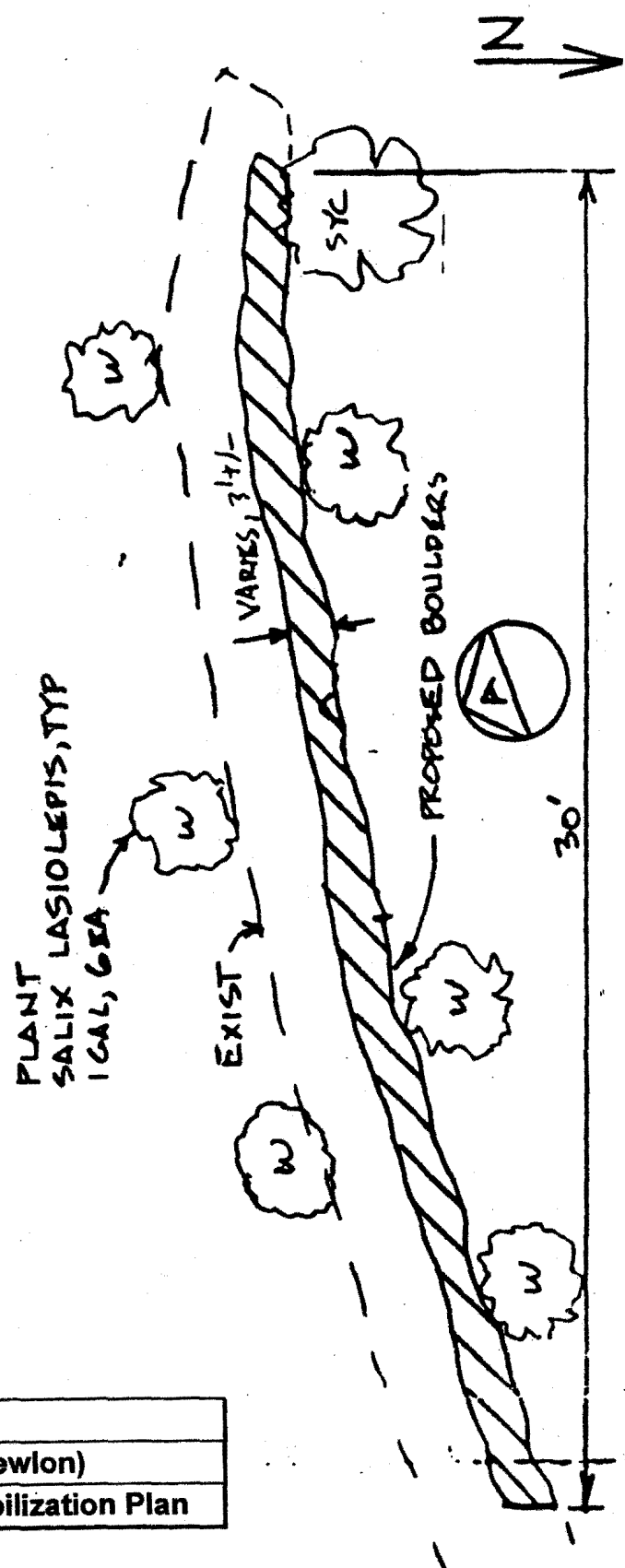


EXHIBIT 3
CDP 4-00-014 (Newlon)
Site Plan

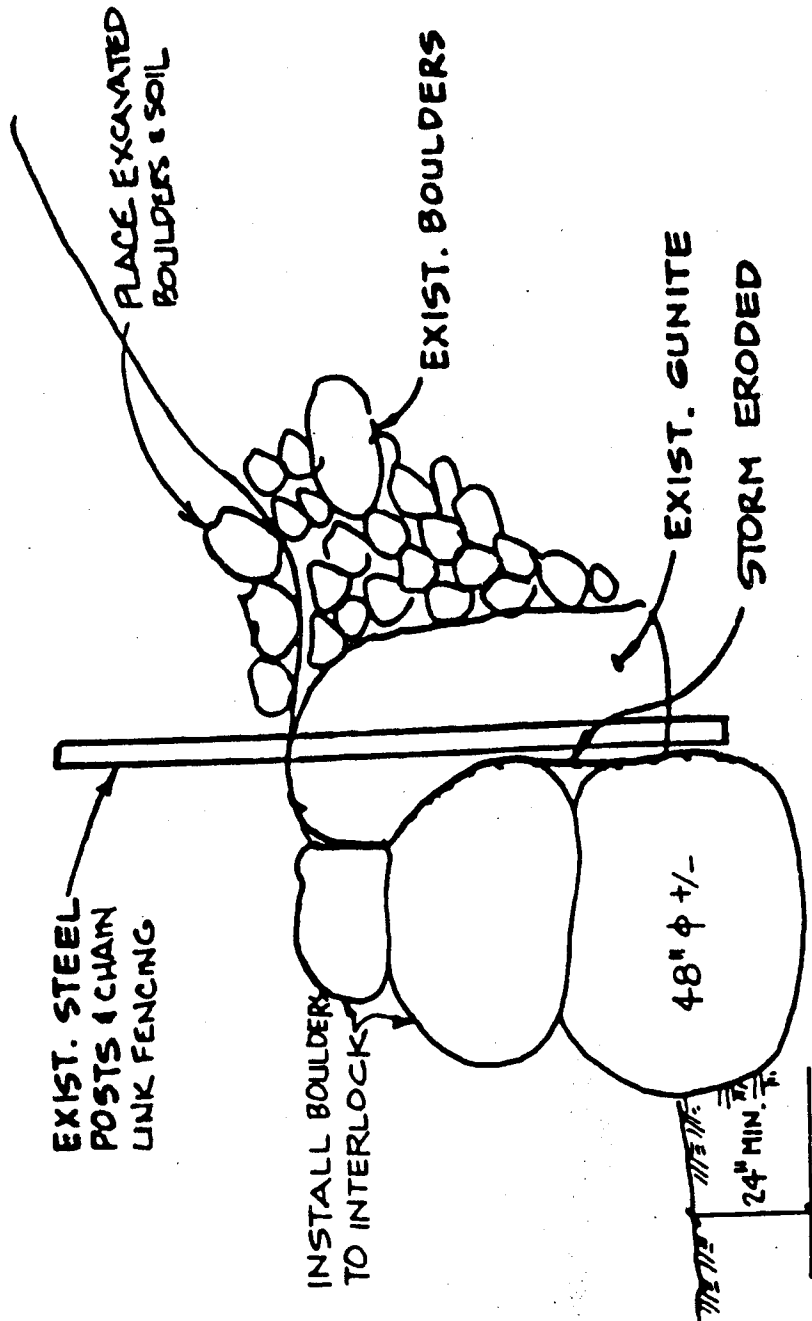
EXHIBIT 4
CDP 4-00-014 (Newlon)
Streambank Stabilization Plan



# PLAN

ALL PLANTS SHALL BE IRRIGATED BY A TEMPORARY IRRIGATION SYSTEM.

← PLANT  
 1 GAL  
 PLATANUS  
 RACEMOSA,  
 2 EA, OUT  
 OF CREEK  
 CHANNEL



**DETAIL**

EXHIBIT 5
CDP 4-00-014 (Newlon)
Streambank Stabilization Detail



EXHIBIT 6

CDP 4-00-014 (Newlon)

Photographs (looking South)



RECEIVED

EXHIBIT 7
CDP 4-00-014 (Newlon)
Photographs (looking East)

