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STATE OF CALIFORNIA -- THE RESOURCES AGENCY

### CALIFORNIA COASTAL COMMISSION

TH CENTRAL COAST AREA OUTH CALIFORNIA ST., SUITE 200 VENTURA, CA 93001 (805) 585 - 1800

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Filed: 49th Day: 5/20/02

49th Day: 180th Day:

7/8/02 11/16/02

Staff:

K. Kemmler

Staff Report: Hearing Date: 5/23/02 6/10-14/02

Commission Action:

## STAFF REPORT: PERMIT AMENDMENT

**APPLICATION NO.:** 

4-98-136-A1

APPLICANT:

Odyssey Program

AGENT:

Alan Armstrong, Steven Mecham & Jim McGlothlin

PROJECT LOCATION:

3480 Las Flores Canyon Road, Malibu (Los Angeles County)

APN NO.:

4448-029-020

**DESCRIPTION OF PROJECT PREVIOUSLY APPROVED:** 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 proposed.

**DESCRIPTION OF AMENDMENT:** Modify the classroom building into a 3,500 sq. ft. single story design to accommodate up to 60 middle school students, modify walkways and parking area, remove existing asphalt, install decomposed granite, relocate septic system, construct new 8 ft. high max. stucco/wrought iron perimeter wall and place a new 4'w x 6'l x 4'h non-illuminated Odyssey logo sign within the parking area. In addition, the proposal includes an offer to plant ten oak trees onsite.

Lot area21 acresBuilding coverage3,500 sq. ft.Pavement coverage10,770 sq. ft.Landscape coverage15,000 sq. ft.Height Above Finished Grade18 ft. 6 in.Parking spaces18

LOCAL APPROVALS RECEIVED: County of Los Angeles Department of Regional Planning, Conditional Use Permit No. 01-030-(3), February 28, 2002; County of Los Angeles Fire Department, Preliminary Fuel Modification Plan Approval, April 8, 2002; County of Los Angeles Fire Department, Oak Tree Permit No. 01-030, May 23, 2001; County of Los Angeles Environmental Health Services, Sewage Disposal System Design Approval, September 14, 2001.

SUBSTANTIVE FILE DOCUMENTS: Coastal Development Permit 4-98-136 (Odyssey Program); "Oak Tree Report," Carter Romanek Landscape Architects, Inc., February 9, 2001;

"Wetland Functional Assessment," David Magney Environmental Consulting, December 2001; Letter Re: Assessment of Coast Live Oak Tree Impacts, David Magney, May 16, 2002; Letter Re: Quercus Agrifolia No. 2 at Odyssey School, Pacific Horticulture, May 16, 2002.

**PROCEDURAL NOTE:** The Commission's regulations provide for referral of permit amendment requests to the Commission if:

- 1) The Executive Director determines that the proposed amendment is a material change,
- 2) Objection is made to the Executive Director's determination of immateriality, or
- 3) The proposed amendment affects conditions required for the purpose of protecting a coastal resource or coastal access.

If the applicant or objector so requests, the Commission shall make an independent determination as to whether the proposed amendment is material. 14 Cal. Code of Regulations Section 13166. In this case, the Executive Director has determined that the proposed amendment is a material change to the project and has the potential to affect conditions required for the purpose of protecting a coastal resource.

#### Summary of Staff Recommendation

Staff recommends *approval* of the proposed amendment with **one** (1) special condition regarding (1) oak tree restoration and monitoring.

#### STAFF RECOMMENDATION

MOTION:

I move that the Commission approve Coastal Development Permit Amendment No. 4-98-136-A1 pursuant to the staff recommendation.

#### Staff Recommendation of Approval:

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

#### **Resolution to Approve the Permit Amendment:**

The Commission hereby approves the coastal development permit amendment on the ground that the development as amended and subject to conditions, 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 amendment 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 amended development on the environment, or 2) there are no feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the amended development on the environment.

#### II. SPECIAL CONDITIONS

Note: Unless specifically altered by the amendment, the seven standard and eight special conditions previously applied to Coastal Development Permit 4-98-136 continue to apply. In addition, the following special condition is hereby imposed as a condition upon the proposed project as amended pursuant to CDP 4-98-136-A1.

#### 9. Oak Tree Restoration and Monitoring

The applicant shall retain the services of an independent biological consultant or arborist with appropriate qualifications acceptable to the Executive Director. The biological consultant or arborist shall be present on site during construction of the driveway and during all grading and construction activity. Temporary protective fencing shall be placed around the protected zones of the oak canopies within or adjacent to the construction area that may be disturbed during construction or grading activities (Exhibit 8). No construction, grading, staging, or materials storage shall be allowed within the fenced exclusion areas or within the protected zones of any onsite oak trees. The consultant shall immediately notify the Executive Director if unpermitted activities occur or if habitat is removed or impacted beyond the scope of the work allowed by Coastal Development Permits 4-98-136-A1. This monitor shall have the authority to require the applicant to cease work should any breach in permit compliance occur, or if any unforeseen sensitive habitat issues arise.

For the oak tree just west of the classroom building that will most likely be lost (Oak Tree no. 2 ill. on Exhibit 8) and any other oak trees on site that may be lost or suffer worsened health or vigor due to activities approved under Coastal Development Permit 4-98-136-A1, replacement seedlings, less than one year old, grown from acorns collected in the area shall be planted at a ratio of at least 10:1. The applicant shall submit, for the review and approval of the Executive Director, an oak tree replacement planting program, prepared by a qualified biologist, arborist, or other resource specialist, which specifies replacement tree locations, tree or seedling size planting specifications, and a monitoring program to ensure that the replacement planting program is successful. An annual monitoring report on the oak tree restoration and preservation shall be submitted for the review and approval of the Executive Director for each of the 10 years. Should any oak trees be lost or suffer worsened health or vigor as a result of the proposed development, the applicant shall plant seedlings, less than one year old, grown from acorns collected in the area, at a ratio of at least 10:1.

#### III. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

#### A. PROJECT DESCRIPTION AND BACKGROUND

The applicant proposes to modify the classroom building into a 3,500 sq. ft. single story design to accommodate up to 60 middle school students, modify walkways and parking area, remove existing asphalt, install decomposed granite, relocate septic system, construct new 8 ft. high max. stucco/wrought iron perimeter wall and place a new 4'w x 6'l x 4'h non-illuminated Odyssey logo sign within the parking area (Exhibits 3-10). In addition, the proposal includes an offer to plant ten oak trees onsite.

On October 13, 1998 the Commission approved with special conditions Coastal Development Permit (CDP) 4-98-136 to construct a 2,500 sq. ft., 24 foot high, one-story plus mezzanine, preschool facility and septic system to accommodate up to 60 children and temporarily install a 1,440 sq. ft. classroom trailer and a 8' x 20' storage container during construction with no grading proposed. The underlying CDP 4-98-136 permitted the above mentioned development with eight special conditions regarding an emergency preparedness plan, assumption of risk, geologic recommendations, drainage and erosion control plans, revised plans, restoration and habitat enhancement plan, future improvements, and removal and relocation of storage container.

The subject parcel is a 21 acre lot is located on the east side of Las Flores canyon Road approximately 1,700 feet north of Pacific Coast Highway and extends across Las Flores Creek and up the eastern slope of the canyon (Exhibits 1 & 2). The lot is currently developed with a looped paved driveway, 30 parking spaces, walkways, steps, chain link fencing and two basketball hoops and is currently utilized as a playground for the Odyssey Program School operated on the adjacent lot.

The proposed amendment will reduce the height of the classroom building, remove existing and previously approved asphalt from the riparian setback area and oak tree protected zones and improve safety. The proposed project, however, may result in the loss of one oak tree onsite. In order to mitigate for the impacts to the oak tree, the applicant has offered to plant ten oak trees onsite.

#### B. 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 30240 of the Coastal Acts states:

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

degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

The proposed amendment includes modification of the classroom building into a 3,500 sq. ft. single story design, modification of walkways and parking areas, removal of existing asphalt, installation of decomposed granite, relocation of the septic system, construction of a new stucco/wrought iron perimeter wall and placement of a new logo sign within the parking area. The proposed changes to the approved project will not result in any new adverse impacts to the Las Flores Creek riparian corridor onsite, which is a designated environmentally sensitive habitat area. The previously approved CDP required a fifty foot setback for all permanent structures as measured from the edge of the stream channel of Las Flores Creek. amendment includes the modification of the handicapped parking area, which as previously approved, lies within the riparian fifty foot setback area and encroaches into an oak tree protected zone. The modification relocates the handicap parking outside of the riparian setback area and the protected zone of the adjacent oak tree and removes the existing asphalt Boulders will be placed on the periphery of the and replaces it decomposed granite. decomposed granite parking area to prevent intrusion of vehicles into the adjacent oak tree protected zone. The amendment also includes the removal of additional existing asphalt that lies under the oak tree driplines of Oak Trees No. 3 and 4 (Exhibit 8) and replacement of a portion of the same area with a 4 foot wide decomposed granite walkway. Additionally, there are new 4 foot wide walkways proposed adjacent to the classroom building, one of which contains a small segment that extends into the fifty foot riparian setback area. The surface of this walkway will be decomposed granite. The new perimeter wall and logo sign are located outside of the riparian setback area and oak tree protected zones and thus, do not adversely impact coastal resources.

As previously stated, the proposed amendment will not result in any additional impacts to the ESHA onsite, however, it will result in the potential loss of one oak tree onsite. The impacted oak tree is located outside of the riparian corridor adjacent to Las Flores Canyon Road. The relocation of the septic system and trimming of one lateral branch in the interest of safety may adversely impact the health of Oak tree no. 2 as identified in the Oak Tree Report dated February 9, 2001 prepared by Carter Romanek Landscape Architects, Inc. (Exhibit 8).

Past Commission action typically requires that leachfields for new septic systems shall be located at least 50 ft. from the outer edge of riparian or oak tree canopies. The leachfield for the proposed septic system is located only 20 ft. from the outer edge of the nearest oak canopy. In addition, the consulting arborist suggests cutting one lateral branch of the same oak tree to avoid any safety hazard from breakage of the dying branch. As a result, the proposed development may result in the loss of one oak tree to install the septic system leachfield and prevent a safety hazard. The oak tree to be impacted is moderate in size with a trunk diameter of 21 inches and 30 feet in height. The applicant submitted a letter from a certified arborist, Donald Rodrigues of Pacific Horticulture, who conducted a site evaluation of the oak tree to be impacted by the proposed development. The consulting arborist examined this oak tree and determined that the tree is showing signs of damage from previous wildfires and dieback, among other symptoms of diminished health and vigor. Rodrigues states that the removal of the large lateral branch growing to the east would most likely allow preservation of this oak without significantly impacting the health or aesthetics of the tree. The consultant further states that with some minimal maintenance and care, this oak has the potential for increased vigor and health. The consultant also states:

It is also my opinion that it is most unlikely that the tree would be adversely impacted by the development of a new leachfield that could be installed within 20 feet outside of the dripline.

Despite the consultant's opinion that the Oak tree would not likely be adversely impacted by the development, the Commission notes that it often takes many years for oak trees to display signs of damage and it may be difficult to determine the precise cause of death or worsened health. In addition, the applicant is willing to incorporate oak tree restoration into the previously approved restoration and habitat enhancement plan to ensure no net loss of oak trees onsite. Therefore, **Special Condition No. One (1)** requires the applicant to replace this tree at a ratio of at least 10:1. Furthermore, under Special Condition No. One (1), the applicant must also submit, for the review and approval of the Executive Director, an oak tree replacement planting program, prepared by a qualified biologist, arborist, or other resource specialist, which specifies replacement tree locations, tree or seedling size planting specifications, and a monitoring program to ensure that the replacement planting program is successful. Finally, to ensure that the protected zones will not be violated due to development activities, Special Condition No. One (1) also requires that protective fencing be placed around the protected zones of the oak canopies within or adjacent to the construction area that may be disturbed during construction or grading activities.

All of the proposed development, with the exception of some decomposed granite surfacing, is located outside of the oak tree protected zones and at least 50 feet from the riparian corridor, as delineated by the edge of the stream channel. As such, the Commission finds that the proposed project is adequately located and designed to minimize significant disruption of sensitive oak habitat existing at the site, and thus, as conditioned, is consistent with §30230 and §30240 of the Coastal Act.

#### C. LOCAL COASTAL PROGRAM

Section 30604(a) of the Coastal Act states:

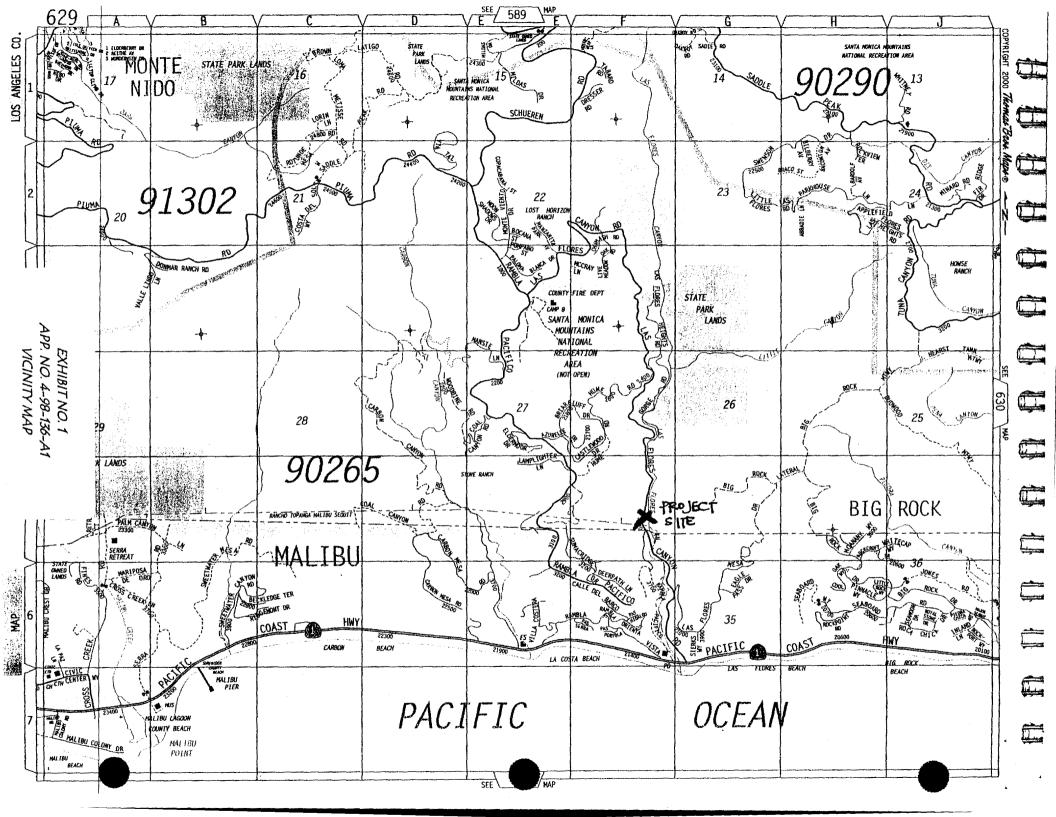
Prior to certification of the local coastal program, a coastal development permit shall be issued if the issuing agency, or the Commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) of this division and that the permitted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

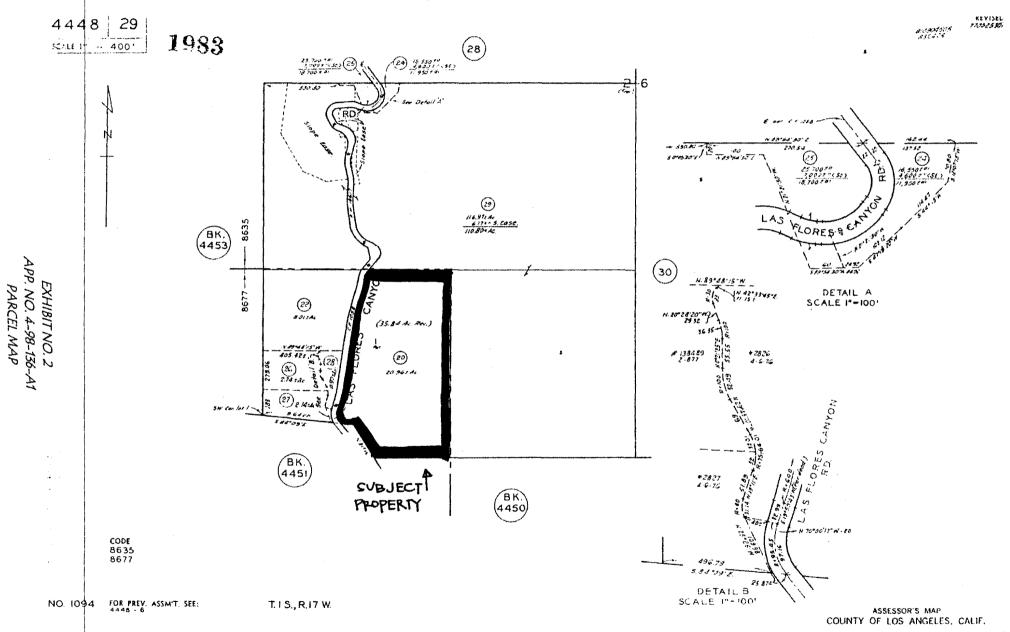
Section 30604(a) of the Coastal Act provides that the Commission shall issue a coastal permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with Chapter 3 policies of the Coastal Act. The preceding sections provide findings that the proposed amendment 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 amendment will not create adverse impacts and is found to be consistent with the applicable policies contained in Chapter 3 of the Coastal Act. Therefore, the Commission finds that approval of the proposed development, as conditioned, will not prejudice the County's ability to prepare a Local Coastal Program for Malibu/Santa Monica Mountains area which is consistent with the policies of Chapter 3 of the Coastal Act as required by §30604(a).

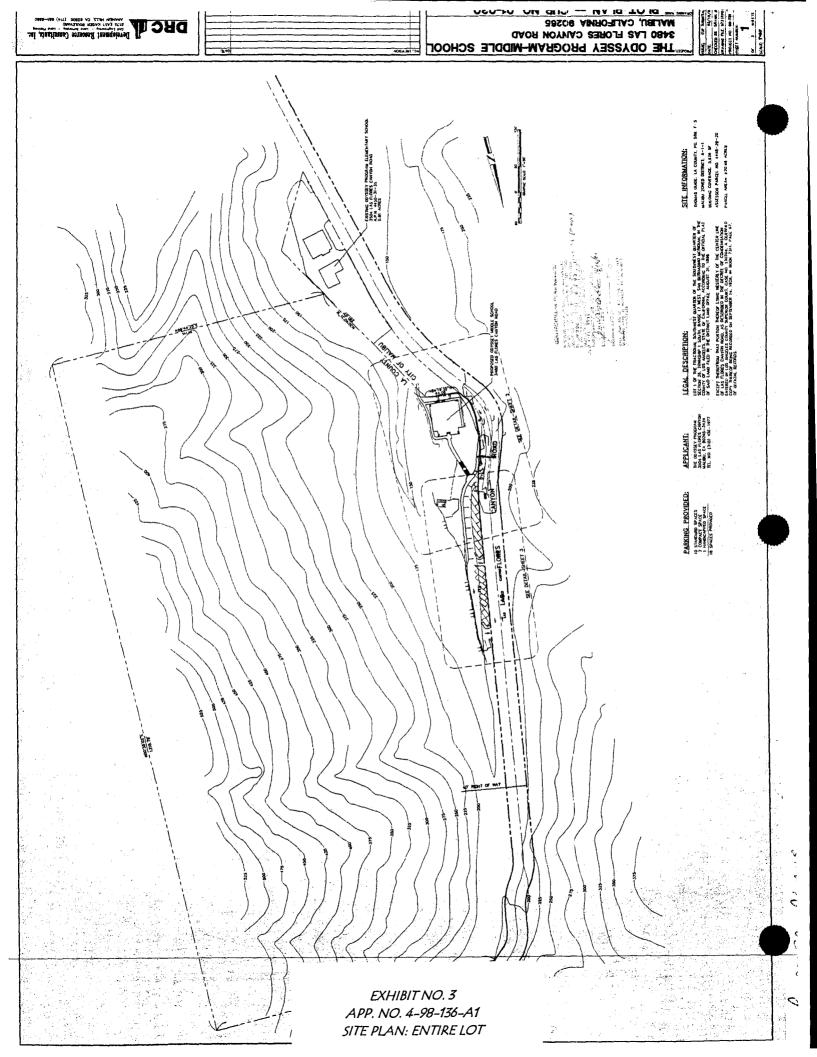
#### D. CALIFORNIA ENVIRONMENTAL QUALITY ACT

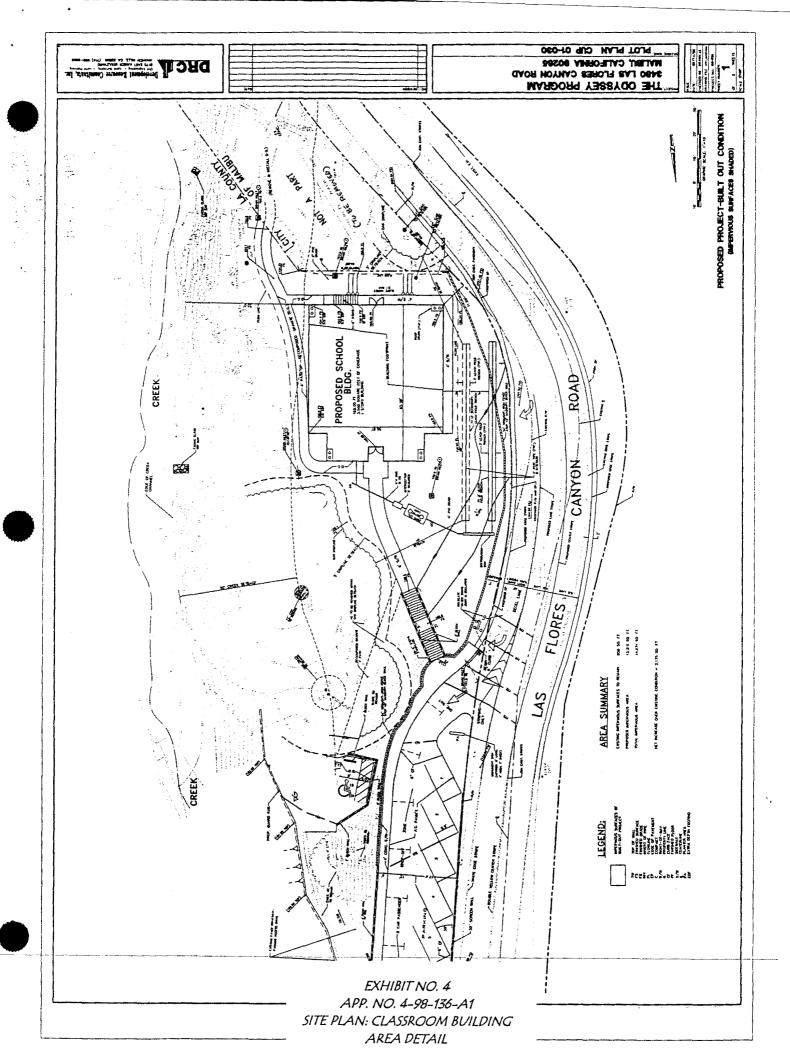
Section 13096(a) of the Commission's administrative regulations requires Commission approval of a Coastal Development Permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California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

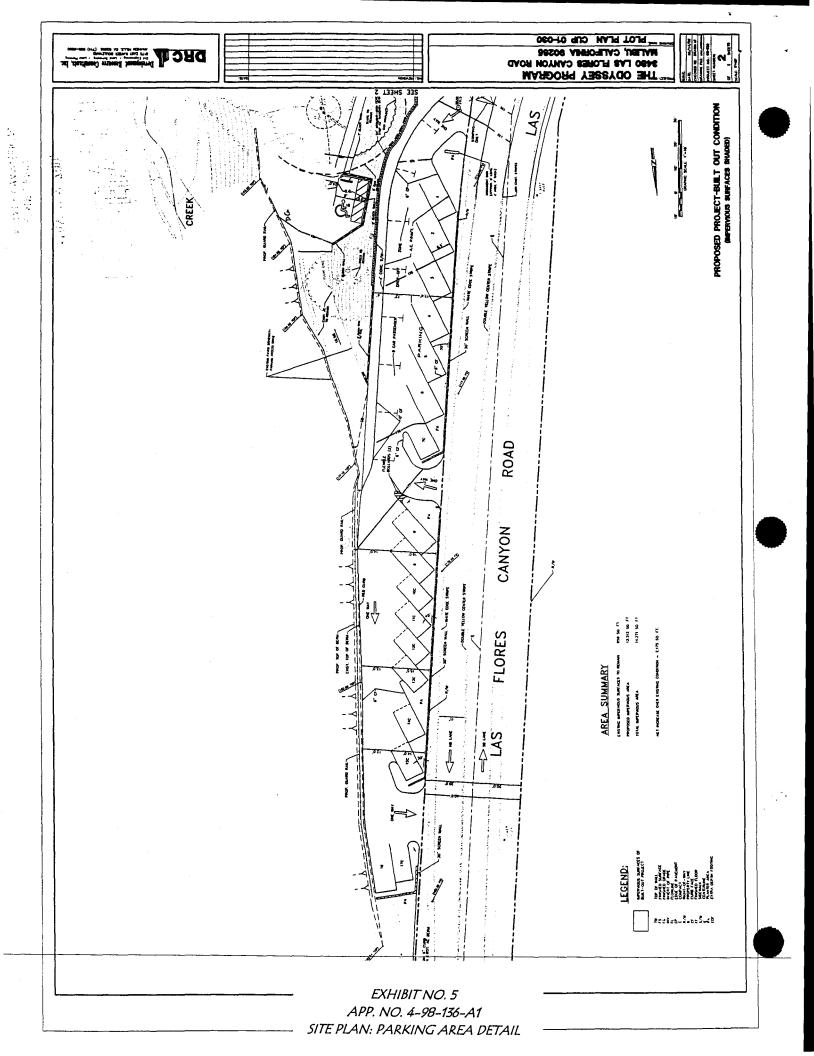
The Commission finds that, the proposed amendment, as conditioned, will not have any significant adverse effects on the environment, within the meaning of the California Environmental Quality Act of 1970. Therefore, the proposed project, as conditioned, has been adequately mitigated and is determined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

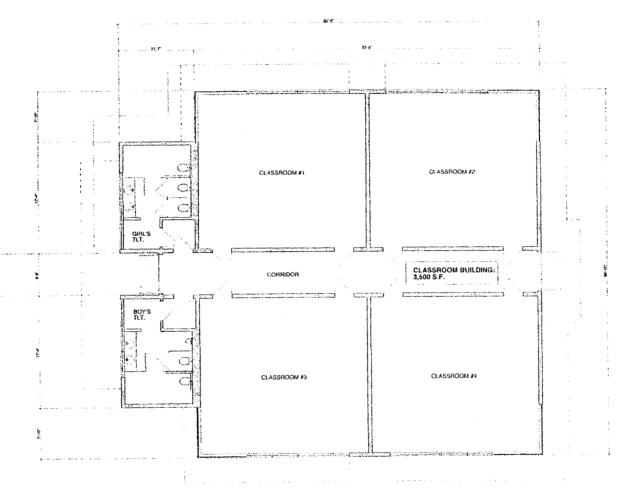












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Carter, Romanek Landscape Architects, Inc. 540 Polizades Drive Portic Polizades, CA 90272 (310) 230-9691 FAX (310) 230-9231 Lic. #0284 Clerota ODYSSEY SCHOOL PROPOSED DOYSSEY ODYSSEY MIDDLE SCHOOL MAN LAN PLOYER CANTON ROAD MAJEL CA BOOM EXISTING TREE TO BE REMOVED REFER TO TABLE DELOW (TYF) FLORES CANYON ROAD LAS FLORES CANYON ROAD APP. NO. 4-98-136-EXHIBIT NO. TREE SURVEY CONDITION
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TREE SURVEY

Carter, Romanek Landscape Architects, Inc. 540 Palisades Drive Pacific Palisades, CA 90272 (310) 230-9691 FAX (310) 230-9231 Exc. #0284 ODYSSEY SCHOOL ODYSSEY APP. NO. 4-98-136-A1 MIDDLE SCHOOL SOM LAS PLONES CANTON HOME MALINE CA NORM FUEL MODIFICATION -ZONE "D" APPROX. LIMIT OF RIPARIAN ENHANCEMENT AREA #1. REFER TO RIPARIAN HABITAT MITIGATION RIPARIAN ENHANCEMENT ZONE: FOR PLANTING MATERIALS IN THIS ZONE REFER TO RIPARIAN HABITAT MITIGATION PLAN DATED FEBRUARY 1999. PLAN DATED FEBRUARY 1999 "HERITAGE OAK TREE" REPLACEMENT SYCAMORE TREES 5 GAL HABITAT ENHANCEMENT EXISTING SYCAMORE TO RÉMAIN REPLACEMENT OAK TREE QUERCUS AGRIFOLIA COAST LIVE OAK 115 GALI EXISTING SYCAMORES DO NOT DISTURB GROUND TO REMAIN APPROX LIM! OF RIPARIAN ENHANCEMENT AREA 12 REFER TO RIPARIAN HABITAT MITIGATION PLAN DATED SEBRUARY 1999 PLOWERING ACCENT S FUEL MODIFICATION. ZONE "A" CUNDING SHRUB ----LIMIT OF FUEL 1.G S MODIFICATION ZONE "A" EVERGREEN SCREEN SHRUB SODCED LAWN FLOWERING SHRUE EXISTING OAK TREE TO BE PROTECTED THROUGHOUT SHTIRE CONSTRUCTION PERIOD EXISTING TREE TO BE REMOVED (TYP) **FLORES** CANYON ROAD JUGLANS CALIFORNICA LAS FLORE -EXISTING TREE TO REMAIN (TYP.) CALIFORNIA BLACK WALNUT NOISE ATTENUATION PLANTING REPLACEMENT OAK TREE E.G. HETEROMELES ARBUTIFOLIA QUERCUS AGRIFOLIA COAST LIVE OAK (15 GAL) TOYON (15 GAL) PLANTED 6 ON CENTER Date: 4-1-02 LOW SHRUB PLANTING TO MAINTAIN SIGHT LINES UNDERPLANT OAKS W. DROUGHT TOLERANT NATIVE E.G. SALVIA SPATHACEA (1 GAL) SALVIA SPATHACEA (1 GAL) HYDROSEED MIX ITYP, FOR ALL 2:1 SLOPES Denous Title: -2.1 SLOPE - PLANTING TO MATCH NATIVE SHRUBS ON WEST SIDE OF LAS FLORES CANYON PRELIMINARY LANDSCAPE PLAN PL-1

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# THE DYSSEY PROGRAM

EXHIBIT NO. 10 APP. NO. 4-98-136-A1 LOGO SIGN