

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
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Filed: 9/14/98
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Staff: JEL-V
Staff Report: 9/24/98
Hearing Date: 10/13-16/98

**STAFF REPORT: PERMIT AMENDMENT****APPLICATION NO.: 4-95-034-A1****APPLICANT: West Pointe Homes****AGENTS: Don Schmitz**

PROJECT LOCATION: 462 Cold Canyon Road, Malibu (Los Angeles County)
(APN: 4456-012-000)

DESCRIPTION OF PROJECT PREVIOUSLY APPROVED: Construction of a 4,520 sq. ft., 35 ft. high from the existing grade single family residence with five covered parking spaces, pool, septic system and 6,721 cu. yds. of grading (4,404 cu. yds. cut and 2,317 cu. yds. fill).

DESCRIPTION OF AMENDMENT: Construct two retaining walls averaging 3' in height, for a total of 270 linear feet.

LOCAL APPROVALS RECEIVED: N/A

SUBSTANTIVE FILE DOCUMENTS: Coastal development permits: 5-87-974 (Saddle Peak Associates); 5-87-974-A1 (Saddle Peak Associates); 5-91-133 (Saddle Peak Associates); 4-95-034 (Saddle Peak Associates).

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. Admin. Code 13166.

SUMMARY OF STAFF RECOMMENDATION:

The staff recommends that the Commission determine that the proposed development with the proposed amendment is consistent with the requirements of the Coastal Act.

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

I. Approval

The Commission hereby approves the amendment to the coastal development permit, on the grounds that the development is 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 will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

NOTE: All standard and special conditions attached to the previously approved permit remain in effect.

II. Findings and Declarations.

A. Project Description

The applicant proposes the construction of two retaining walls, averaging 3' in height, for a total of 270 linear feet. The subject site is a 42,467 square foot parcel located on Cold Canyon Road, Los Angeles County. The proposed development is located adjacent to the Monte Nido small lot subdivision in an area of Malibu, know as the "Monte Nido Triangle". The site is just outside the boundary of the Malibu/Cold Creek Resource Management Area, but within an indentation surrounded on three sides by and sits within the viewsheds of Piuma, Schueren, and Saddle Peak roads.

B. Background

On April 12, 1988, the Commission approved coastal development permit 5-87-974 (Saddlepeak Associates) for the subdivision of an 8.1 acre (gross) parcel of land into seven single family residential lots with 9,500 cubic yards of grading for road and intersection improvements on, and adjacent to, the parcel. Five special conditions were attached to the permit regarding: 1) final grading plans, 2) percolation tests, 3) Commission review of future building pads, driveways and septic systems, 4) any future residential restrictions imposed by the Commission related to special condition number 3, and cumulative impact mitigation.

Following review the submittal of the special condition requirements and conceptual review by the Commission on November 11, 1988, the Coastal Permit for the seven lot subdivision was issued on June 11, 1990. The intention of the applicant, at that time, was to develop each of the lots as individual custom homes as opposed to a single development.

On September 12, 1991, the Commission approved four of the seven permits(5-91-133, 135, 137 and 138). The same special conditions of approval were attached to the four permits regarding: 1) landscaping plan, 2) revised plans, 3) future development, 4) geology, and 5) color restriction. The Commission also approved a subdivision amendment for the seven lots to reflect the change in alignment of the intersection of Cold Canyon and Piuma Road.

These four permits were extended once from 1993 to 1994. In 1994, these permits were allowed to expire. In 1995, the Commission once again approved these four projects as coastal development permits 4-95-034, 035, 036, 037. Five special conditions were attached to the permit regarding: 1) landscaping, 2) geologic, 3) fire waiver, 4) future improvements, 5) color restriction.

In order to reduce the amount of grading on the entire site of the subdivision, the applicant proposed increasing selected slopes from 2:1 to 1.5:1, which was approved by the Commission at the September 12, 1991 hearing and approved again under permit 4-95-034. During the local review process for the master grading permit, the LA County Department of Building and Safety required short retaining walls to ensure the stability of these steep fill slopes. These four small retaining walls, between 3' and 4' in height, are located on Lots 1 and 2. The subject parcel is Lot 1.

In August of 1998, the original subdivision applicant transferred ownership of all seven parcels to the current applicant indicating that final approvals had been received for all residences and for the master grading plan. The new applicant subsequently began grading the site and construction of the retaining walls in September 1998. Although the Notice of Intent to Issue a coastal development permit had been sent to the original applicant, the actual permit had not been issued due to outstanding special conditions requirements. On September 21, 1998 all of the outstanding special conditions were met and coastal development permits were issued for six of the seven lots.

The subject of this application is to authorize the after-the-fact construction of the two retaining walls on Lot 1, as required by LA County. In addition, the applicant has concurrently submitted a permit applicant, CDP 4-98-199, for the one outstanding permit.

C. Visual Resources and Landform Alteration

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 subordinate to the character of its setting.

In addition, the certified Malibu/Santa Monica Mountains LUP includes the following policies regarding protection of visual resources, which are used as guidance and are applicable to the proposed development. These policies have been applied by the Commission as guidance, in the review of development proposals in the Santa Monica Mountains.

- P129** ***Structures should be designed and located so as to create an attractive appearance and harmonious relationship with the surrounding environment.***
- P125** ***New development shall be sited and designed to protect public views from LCP-designated scenic highways to and along the shoreline and to scenic coastal areas, including public park lands. Where physically and economically feasible, development on sloped terrain should be set below road grade.***
- P130** ***In highly scenic areas and along scenic highways, new development (including buildings, fences, paved areas, signs, and landscaping) shall:***
- ***be sited and designed to protect views to and along the ocean and to and along other scenic features, as defined and identified in the Malibu LCP;***
 - ***minimize the alteration of natural land forms;***
 - ***be landscaped to conceal raw-cut slopes;***
 - ***be visually compatible with and subordinate to the character of its setting;***
 - ***be sited so as not to significantly intrude into the skyline as seen from public viewing places.***
- P131** ***Where feasible, prohibit placement of structures that will break the ridgeline view, as seen from public places.***

- P134** ***Structures shall be sited to conform to the natural topography, as feasible. Massive grading and reconfiguration of the site shall be discouraged.***
- P135** ***Ensure that any alteration of the natural landscape from earthmoving activity blends with the existing terrain of the site and the surroundings.***
- P138b** ***Buildings located outside of the Malibu Civic Center shall not exceed three (3) stories in height, or 35 feet above then existing grade, whichever is less.***

In addition, the Malibu/Santa Monica Mountains Land Use Plan protects specific visual resources in the Santa Monica Mountains. In this particular case, the site is within the "significant viewsheds" of Piuma, Schueren, and Saddle Peak roads. The building site is located on a 4,2467 square foot parcel on Cold Canyon Road. The subject property has recently been graded and includes a building pad and two retaining walls, one averaging 3' high by 130' along and above the southern portion of the driveway, and the other averaging 3' high by 140' along the southern property to reinforces the toe of the slope above the subject site. Both of the retaining walls are constructed of masonry brick, finished with an earth tone color, consistent with the surrounding terrain.

The Commission typically examines the building site, any proposed grading, and the size of the structure when considering visual resource and landform alteration issues. In approving the amendment to the master grading permit, CDP 5-87-974-A1 (Saddle Peak Associates) the Commission approved a reduction in the amount of grading, to be accomplished in part by an increase in slope gradient, at selected locations, from 2:1 to 1.5:1. Thus, the construction of these small retaining walls was designed helping to minimize the amount of landform alteration that would be necessary to accommodate the proposed building site.

Staff conducted a site visit of the site and found the proposed retaining walls to be the most appropriate location given the necessity to provide toe support for both the southern portion of the driveway and 1.5:1 slope along the southern property line.

Given the amount of grading that has occurred on the other six sites, the natural topography, and the limited height and earth tone color of the walls consistent with the natural landscape, the Commission finds the retaining walls to be the best alternative for minimizing further grading and landform alteration.

To assess any potential visual impacts of this project to the public, the Commission also reviews the publicly accessible locations where the proposed development is visible, such as parks and trails. The proposed site is visible from Malibu Creek State park as well as the Backbone Trail, which is located approximately 1,000 feet to the south and above the proposed site. However, the relatively short, earth tone retaining walls, however, will not adversely impact views from public view areas.

Therefore, the proposed project, as proposed, will not adversely impact the scenic public views in this area of the Santa Monica Mountains. Thus, the Commission finds that the proposed project is consistent, as conditioned, with Section 30251 of the Coastal Act.

D. Geologic Stability and 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 geologic hazards, as follows:

- P147 Continue to evaluate all new development for impact on, and from, geologic hazard.***
- P148 Continue to limit development and road grading on unstable slopes to assure that development does not contribute to slope failure.***
- 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.***
- P150 Continue Hillside Management procedures as contained in Ordinance No. 82-0003 for proposed development on sites with an average slope greater than 25 percent (4:1). Grading and/or development-related vegetation clearance shall be prohibited where the slope exceeds 2:1, except that driveways and/or utilities may be located on such slopes where there is no less environmentally damaging feasible alternative means of providing access to homesites located on slopes of less than 50%, where no alternative homesites exist on the property, and where maximum feasible mitigation measures are taken.***

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. 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.

As noted above in the background section, these 3' high retaining walls are the result of local requirements by the LA County of Building and Safety Division of the Public Works Department to ensure the toe of those slopes with a 1.5 gradient are geologically stable. Thus, the Commission finds that the retaining walls, as proposed, are consistent with Section 30253 of the Coastal Act.

E. Violation

The applicant is seeking after-the-fact approval for two minor retaining walls. The retaining walls were a safety requirement imposed by the LA County Division of Building and Safety, to ensure the stability of selected 1:5 to 1 slopes which were previously approved under the underlying permit 4-95-034.

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.

F. 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. 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 adverse impacts and is found to be consistent with the applicable policies contained in Chapter 3.

Therefore, the Commission finds that approval of the proposed development, as conditioned, will not prejudice the City's ability to prepare a Local Coastal Program for

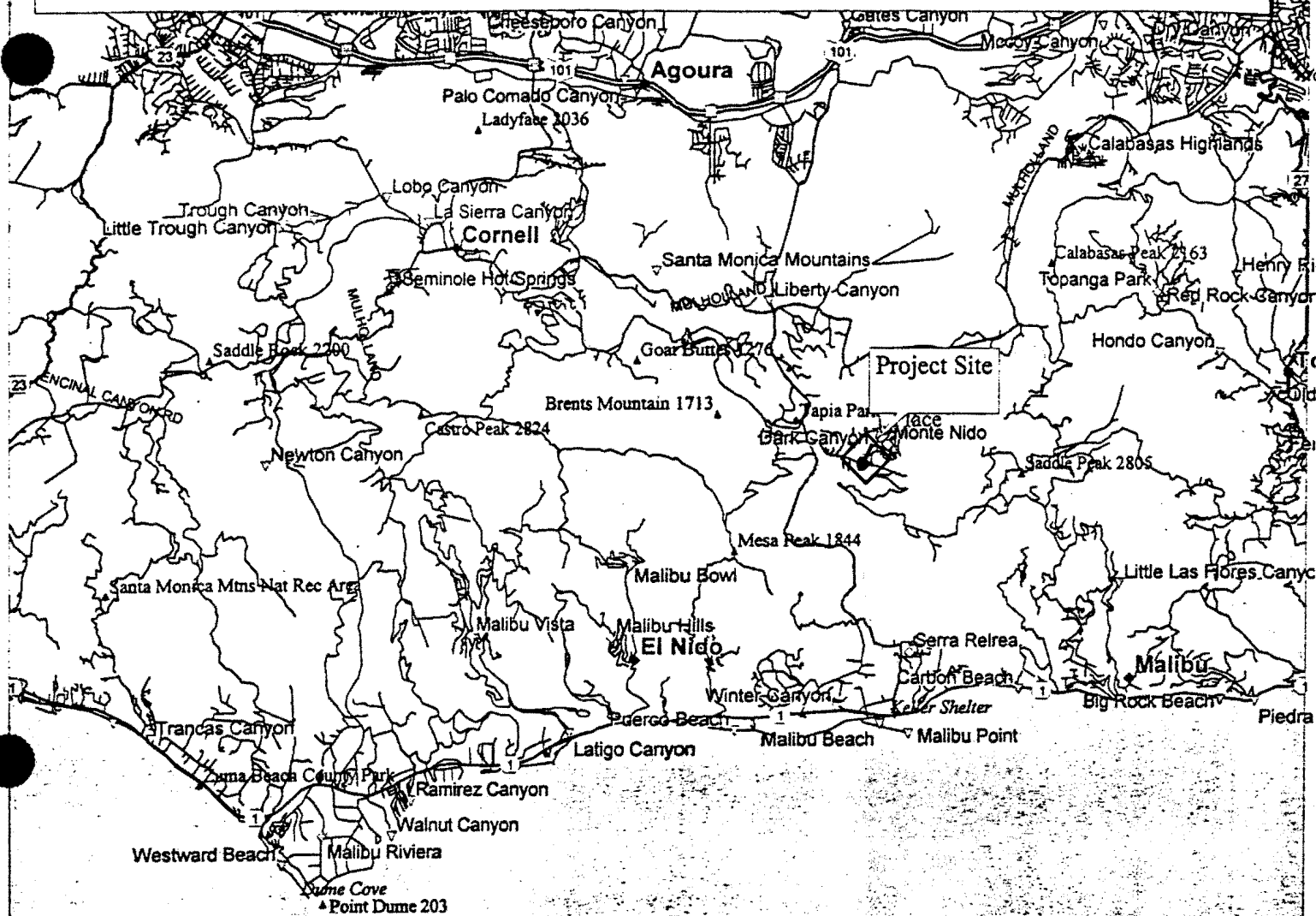
Malibu which is also consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

G. 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 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.

VICINITY MAP/PROJECT SITE



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COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

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Fri Jul 10 13:48 1998

Scale 1:125,000 (at center)

2 Miles

2 KM

- Local Road
- Primary State Route
- Interstate/Limited Access
- Major Connector
- State Route
- Exit
- Utility/Pipe
- ◆ Small Town

- ▲ Summit
- ▽ Geographic Feature
- ▲ Park/Reservation
- ◇ Locale
- ◆ City
- Cemetery
- County Boundary
- Land

EXHIBIT NO. !
APPLICATION NO.
(WEST POINT)
4-95-034-A1
VICINITY MAP

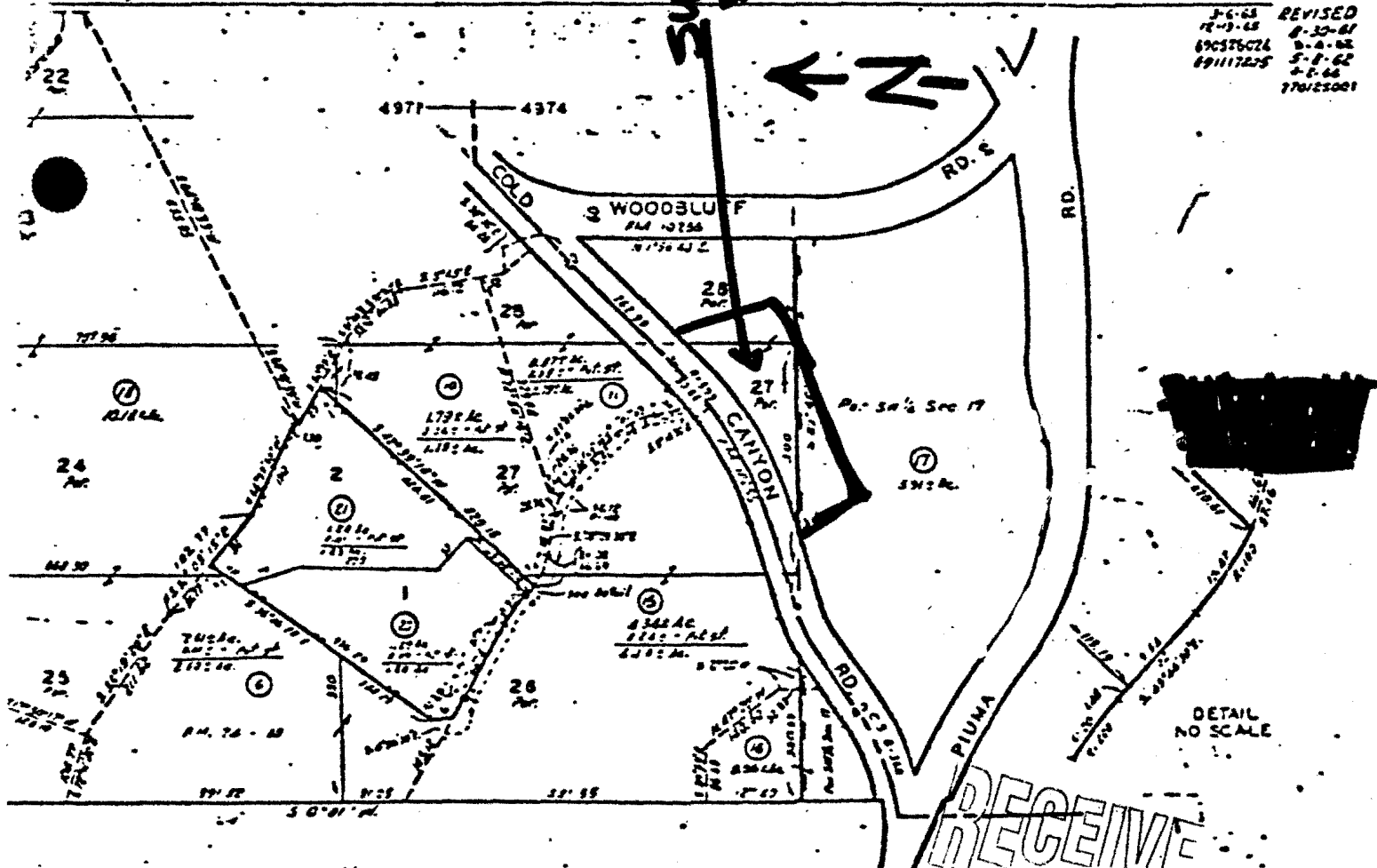
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M.B. 30-44-45

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DETAIL
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PARCEL MAP

P.M. 73-77

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EXHIBIT NO.	2
APPLICATION NO.	
4-95-03411 (WEST POINT)	
PARCEL MAP	