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CALIFORNIA COASTAL COMMISSION

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

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 Staff: MH-V
 Staff Report: 10/15/98
 Hearing Date: 11/3--6/98

**STAFF REPORT: PERMIT EXTENSION REQUEST****APPLICATION NO.: 5-91-436-E2****APPLICANT: Rancho Malibu** **AGENT: Judy Davidoff, Esq., Baker & McKenzie****PROJECT LOCATION:** Encinal Canyon Road, approximately 2.2 miles north of the intersection of Encinal Canyon Road and Pacific Coast Hwy., Malibu (Los Angeles Co.)**DESCRIPTION OF PROJECT:** Subdivision of a 254.5 net acre parcel on 8 separate parcels into 51 single-family lots plus one lot for a sewage treatment plant, one road lot, 3 open-space lots, equestrian trail, development of roads, building pads, utilities, on-site sewage treatment plant, and 830,000 cubic yards of grading (415,000 cubic yards of cut and 415,000 cubic yards of fill).**SUBSTANTIVE FILE DOCUMENTS:** Coastal Development Permits: 5-91-436 (Rancho Malibu), 5-91-436 (Remand), and 5-91-436 (Remand)-A1; Malibu/Santa Monica Mountains Land Use Plan; CEQA Environmental Findings for Conditional Use Permit 91-315 and Oak Tree Permit 91-315, Vesting Tentative Tract No. 46277 (Revised), State Clearinghouse No. 88050410, February, 1998.**PROCEDURAL NOTE:** The Commission's regulations require that permit extension requests shall be reported to the Commission if:

- 1) The Executive Director determines that due to changed circumstance the proposed development may not be consistent with the Coastal Act, or
- 2) Objection is made to the Executive Director's determination of consistency with the Coastal Act (14 C.C.R. Section 13169).

The Executive Director has previously determined that there are changed circumstances since the Commission's approval of the project on August 11, 1993. These changes arise from a proposed amendment to the project, application number 5-91-436 (Remand)-A1, scheduled for hearing on the Commission's November 1998 agenda. The Executive Director has subsequently determined that the project, as amended, is consistent with the Coastal Act and therefore, unless three (3) Commissioners object to the extension as explained below, the Executive Director will grant the extension request.

If three (3) Commissioners object to the extension on the grounds that the proposed development may not be consistent with the Coastal Act, the application shall be set for a full hearing as though

it were a new application. If three objections are not received, the permit will be extended for an additional year.

STAFF RECOMMENDATION:

The staff recommends that, unless the Commission objects, the extension should be granted for the following reason:

While there have been changed circumstances since the approval of the subject development (these changes are the subject of CDP application no. 5-91-436 (Remand)-A1, discussed below), the changes do not affect the project's consistency with the Coastal Act.

Staff Analysis:

A. Project Description

Previously Approved Project Description (CDP 5-91-436 (Remand)): Subdivision of a 254.5 net acre parcel on 8 separate parcels into 51 single-family lots plus one lot for a sewage treatment plant, one road lot, 3 open-space lots, equestrian trail, development of roads, building pads, utilities, on-site sewage treatment plant, and 830,000 cubic yards of grading (415,000 cubic yards of cut and 415,000 cubic yards of fill).

Amended Project (Pursuant to Application 5-91-436(Remand)-A1 on the Commission's November hearing agenda): Subdivision of 254.5 net acre parcel into 46 (from 51) single-family lots, 3 open space lots, 1 sewage treatment lot, and 1 road lot, and 824,200 cubic yards of grading, (412,100 cubic yards of cut and 412,100 cubic yards of fill). Total grading would be reduced by 5,800 cubic yards, evenly distributed between cut and fill; the area disturbed by development would be reduced from 38.5 acres to 38.3 acres. (See Exhibits 1-3).

B. Background and Permit History

The Commission approved 5-91-436 (Remand) on August 11, 1993. (See 5-91-436 (Remand)-A1 for a discussion of litigation that resulted in the remand to the Commission of a previous approval of the project.) Additional litigation subsequently ensued, in which the Commission was not involved as a party (La Chusa Highlands Property Owners Association, Inc. v. County of Los Angeles; Board of Supervisors of County of Los Angeles), Los Angeles County Superior Court Case No. BS039789. The applicant presently proposes to amend the approved project, as summarized herein, as the result of a settlement agreement among the parties.

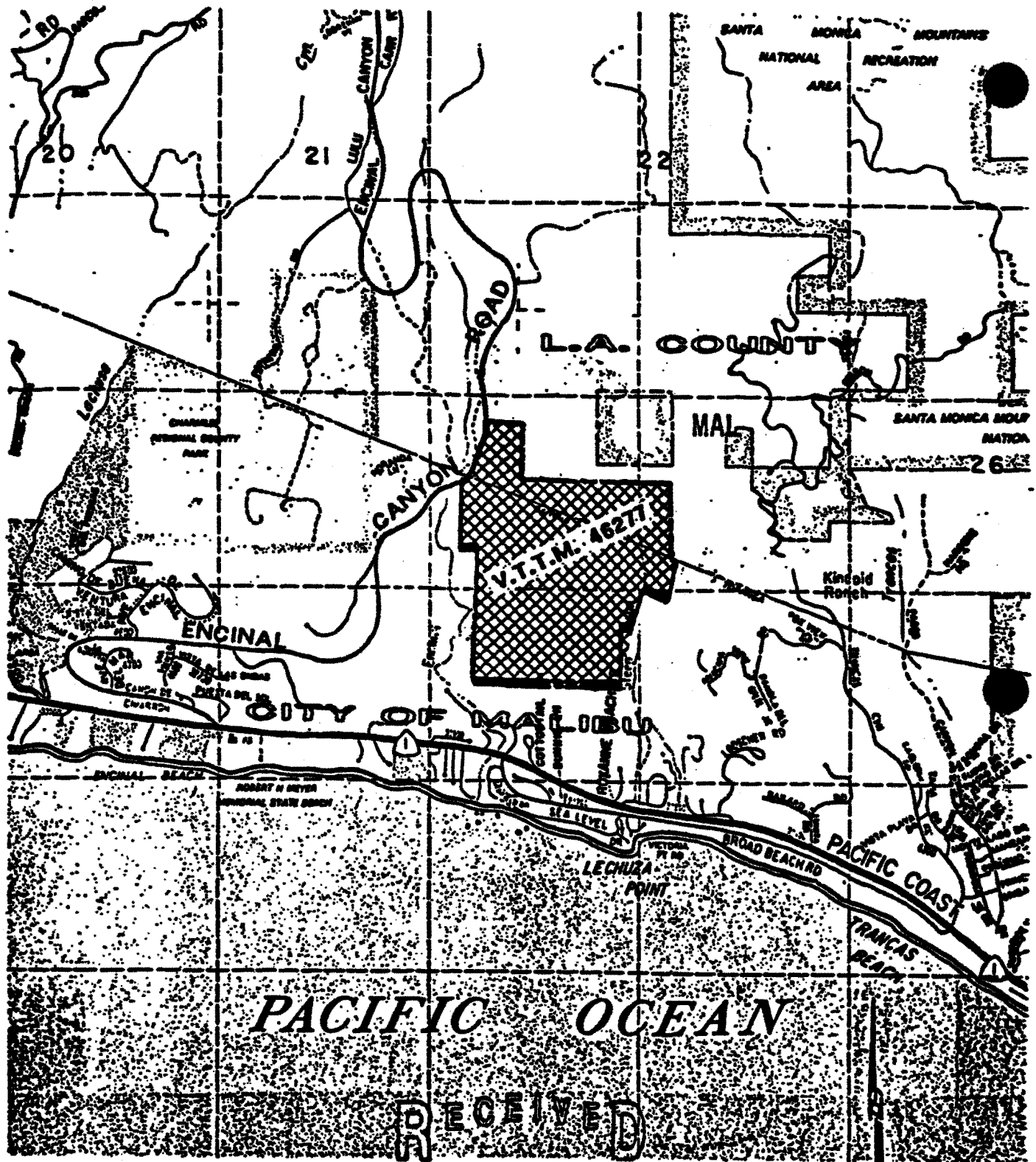
The applicant sought an extension of the permit (5-91-436 (Remand)-E1) on August 7, 1997. On October 30, 1997 the applicant requested that Commission staff confirm an automatic extension to August 11, 1998 pursuant to Government Code Section 66452.13(c). On November 12, 1997 Commission legal counsel (Exhibit 4) confirmed an automatic time extension for the project to August 11, 1998.

The pending application for an additional one-year time extension (5-91-436 (Remand)-E2) was timely submitted to the Coastal Commission on July 8, 1998.

C. Analysis and Conclusion

Staff has evaluated the proposed changes required to reduce the approved 51-lot subdivision to a 46-lot subdivision. The amendment would reduce the project's visual impacts, particularly from public parkland (Charmlee Park), further consolidate building sites (reduce the building envelope from 38.5 acres to 38.3 acres of the total 254.5-acre site), remove previously outlying building sites adjacent to environmentally sensitive habitat areas, remove a bridged crossing of a blue line stream corridor in the Steep Hill ESHA, increase development setbacks from the stream by approximately 300 feet, and reduce overall grading by 5,800 cubic yards.

Staff concludes that although there have been no changes to the project site since the Commission's approval of CDP 5-91-436 (Remand), there are changed circumstances concerning the project in the form of a revised subdivision proposal. Staff has evaluated the project in light of the changes posed by the amendment request number 5-91-436 (Remand)-A1 (scheduled for Commission hearing on the November, 1998 agenda) and has determined for the reasons noted above that the changes do not affect the project's consistency with the Coastal Act. Accordingly, if the Commission does not object to the requested extension described herein, the Executive Director intends to grant the applicant's request for a one year time extension as requested in application number 5-91-436 (Remand)-E2.



RECEIVED

EXHIBIT NO. 1

APPLICATION NO.

5-91-436

Vicinity Map



California Coastal Commission

DDC

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CALIFORNIA
COASTAL COMMISSION
SOUTH COAST DISTRICT

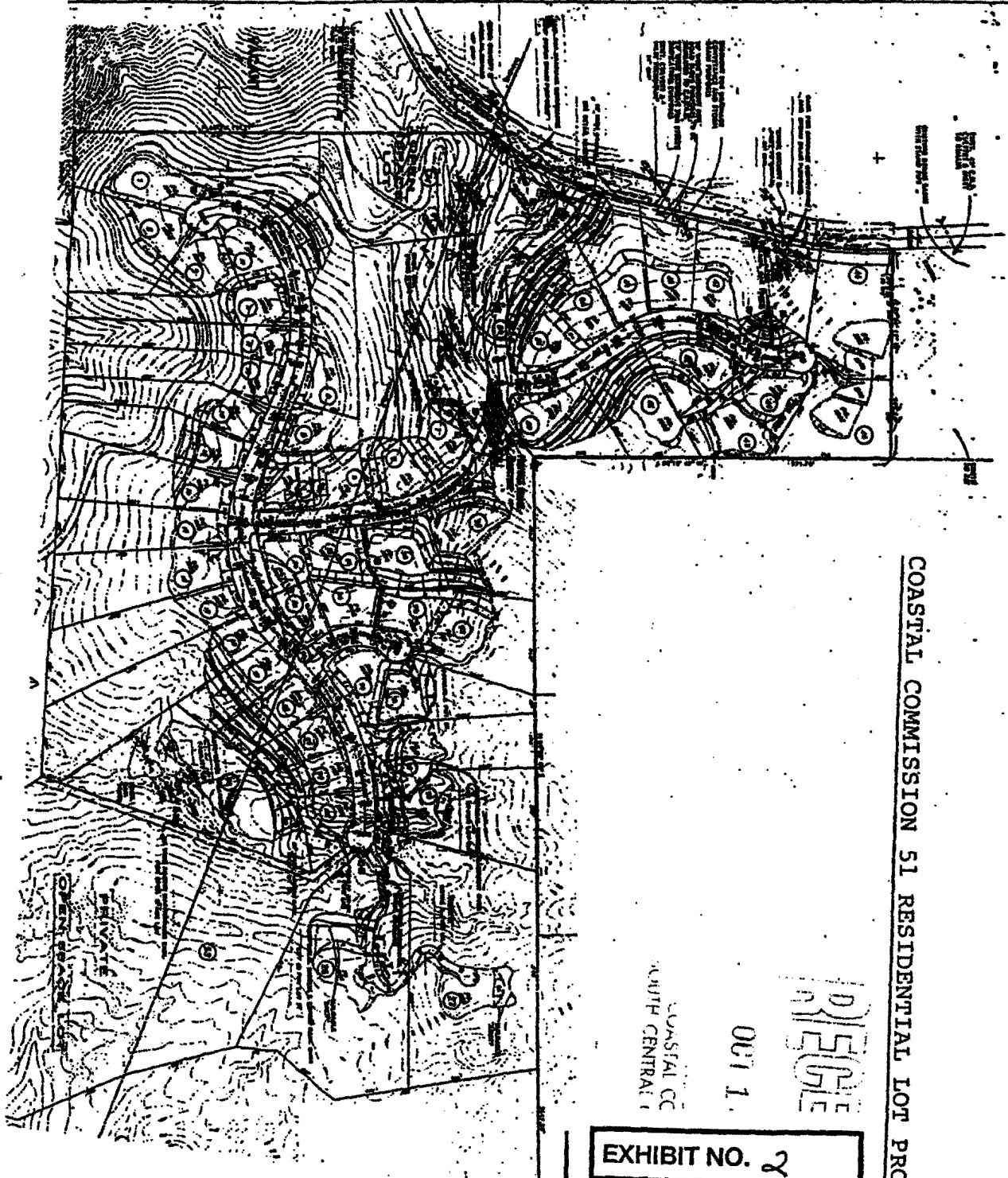
VICINITY MAP

EXHIBIT NO. 1

APPLICATION NO.
Rancho Malibu

5-91-436-E2

Vicinity Map



COASTAL COMMISSION 51 RESIDENTIAL LOT PROJECT

REGRE

OCT 1

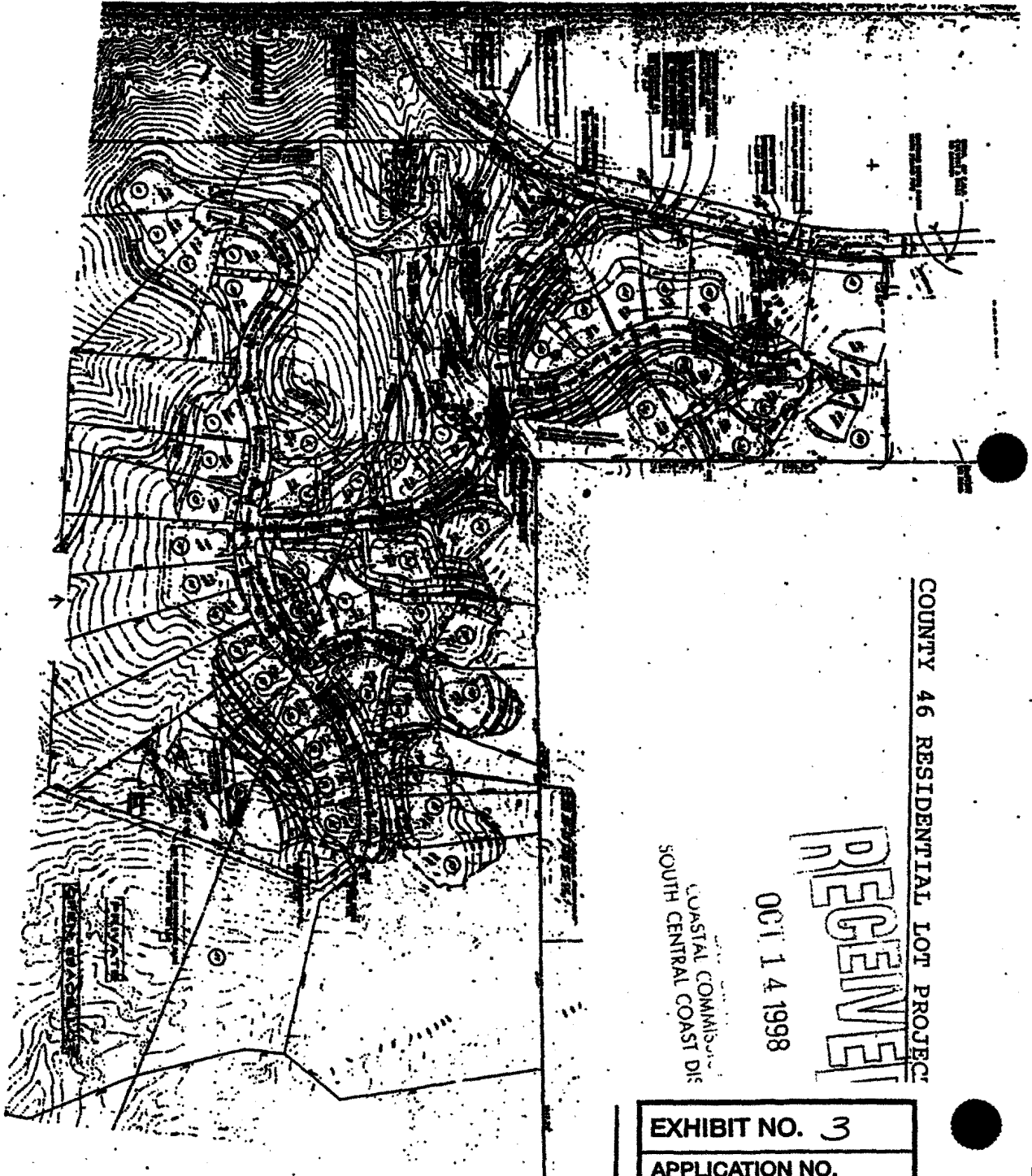
COASTAL CC
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EXHIBIT NO. 2

APPLICATION NO.
Bancho Malibu

5-91-436-E2

51-lot subdivision



COUNTY 46 RESIDENTIAL LOT PROJECT

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OCT 14 1998

COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

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| EXHIBIT NO. 3 |
| APPLICATION NO. <i>Barcho Malibu</i> |
| <i>5-91-436-E2</i> |
| <i>14-lot Subdivision</i> |

CALIFORNIA COASTAL COMMISSION

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VOICE AND TDD (415) 904-3200

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| EXHIBIT NO. 4 ^(2 pages) |
| APPLICATION NO. Rancho Malibu |
| 5-91-436-EO Coastal Commission letter dated 11/12/97 |

November 12, 1997

VIA FACSIMILE (415) 576-3099

Timothy A. Tosta
Baker & McKenzie
Two Embarcadero Ctr., 24th Floor
San Francisco, CA 94111

RE: Coastal Development Permit No. 5-91-436;
Rancho Malibu Project, Los Angeles County;
Pending Extension Request

Dear Mr. Tosta:

This letter responds to yours of October 30, 1997 to Gary Timm (and the additional materials sent to me on November 10, 1997) concerning the above-referenced pending extension request and the potential effect of Government Code section 66452.13 on this request.

You requested confirmation of whether this section applies to the subject permit and, if so, whether it extends the permit's expiration date. Section 66542.13 provides for an automatic, 12-month extension for tentative subdivision maps which had not expired as of May 15, 1996, the effective date of the statute. If the section applies, the maps are extended by 12 months, measured from the map's prior expiration date. The section also provides that any associated permits issued by the State of California are automatically extended along with the tentative map extension. In order for the section to apply in this case, both the tentative subdivision map and the Commission's coastal development permit approving the subdivision must have been unexpired as of May 15, 1996.

Permit No. 5-91-436. Permit No. 5-91-436 was approved by the Commission on July 18, 1991. After litigation ensued over the original Commission action, a subsequent Commission approval took place on August 11, 1993, with an original expiration date set for August 11, 1995. Gary Timm's letter of January 19, 1994 to Judy Davidoff of your firm confirmed that the permit's expiration date was extended by previous legislation to August 11, 1997. The currently pending extension request was submitted to the Commission on August 11, 1997. The permit was, therefore, unexpired as of May 15, 1996, the effective date of Government Code section 66452.13.

Tentative Subdivision Map. The conclusions set forth in this letter pertaining to the tentative map are based upon the facts you have relayed to us, as confirmed by the documents and correspondence you have submitted.

Timothy Tosta
November 12, 1997
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Los Angeles County approved the original tentative tract map for the subdivision (Map No. 46277) for this project on or about September 25, 1990, with an original expiration date set for September 25, 1992. On September 15, 1992, the County approved a 1-year extension of the map until September 25, 1993, confirmed by John Schwarze of the County's letter of September 16, 1992 to Engineering Service Corp. On September 1, 1993, the County approved another 1-year extension of the map until September 25, 1994, confirmed by John Schwarze of the County's letter of September 1, 1993 to Land Design Consultants, Inc. On November 8, 1994, John Hartman of the County informed Land Design Consultants, Inc. by letter that the map's expiration date had been extended until September 25, 1996 by operation of Government Code section 66452.11. On September 2, 1997, the County approved another 1-year extension of the map until September 25, 1998, confirmed by John Schwartz of the County's letter of September 3, 1997 to Land Design Consultants. Thus, it appears from the information submitted that the map was valid and unexpired as of May 15, 1996 for the purposes of the application of Government Code section 66452.13.

Extended Permit Expiration Date. Because there was an unexpired coastal development permit and an unexpired tentative map as of May 15, 1996, the permit-extension provision of A.B. 771 (Government Code section 66452.13(c)) applies in this case. The expiration date of the permit was extended by operation of section 66452.13(c) from August 11, 1997 to August 11, 1998.

If you wish, you may elect to withdraw at this time your client's pending extension application. However, your client will need to timely submit a new extension application before the new expiration date of the permit should it wish to pursue this development. Please feel free to contact the Commission's Ventura office at (805) 641-0142 with questions about the application process. Should you have questions about this letter, please give me a call.

Very truly yours,


CATHERINE E. CUTLER
Senior Counsel

cc: Charles Moore, Esq.
Ralph Faust
Gary Timm
Jack Ainsworth
John Ledbetter

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