

## CALIFORNIA COASTAL COMMISSION

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

Filed: 8/12/97  
 49th Day: 9/30/97  
 180th Day: 2/8/98  
 Staff: S. Hudson *ja*  
 Staff Report: 8/21/97  
 Hearing Date: Sept. 9-12, 1997  
 Commission Action:



## RECORD PACKET COPY

## STAFF REPORT: CONSENT CALENDAR

APPLICATION NO.: 4-97-126

APPLICANT: Tivoli Cove Homeowner's Association  
 AGENT: Terry Valente

PROJECT LOCATION: APN: 4460-019-902 adjacent to 26666 Seagull Way, Pacific Coast Highway, City of Malibu; Los Angeles County.

PROJECT DESCRIPTION: Installation of 13 sets of caissons under an existing paved access road in order to remediate the effects of an active landslide which is present on site and threatens to undermine the road.

LOCAL APPROVALS RECEIVED: Approval in Concept by City of Malibu Planning Department.

SUBSTANTIVE FILE DOCUMENTS: Soils and Engineering-Geologic Investigation for Proposed Access Road Stabilization by California GeoSystems dated March 7, 1997; Engineering-Geologic Response Letter by California GeoSystems dated August 7, 1997.

**SUMMARY OF STAFF RECOMMENDATION:**

Staff recommends approval of the proposed project with three (3) special conditions regarding plans conforming to geologic recommendations, drainage and responsibility for drainage structure maintenance and assumption of risk. The project involves the placement of 13 sets of caissons under the surface of an existing paved access road in order to remediate the effects of an active landslide which is present on site and threatens to undermine the road. The project is located along that portion of Seagull Way (a private road) which is within an easement held by the Tivoli Cove Homeowner's Association on a parcel of land owned by the County of Los Angeles.

**STAFF RECOMMENDATION:**

The staff recommends that the Commission adopt the following resolution:

**I. Approval with Conditions.**

The Commission hereby grants, subject to the conditions below, a permit for the proposed development on the grounds that the development, as conditioned, will be 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, is located between the sea and the first public road nearest the shoreline and is in conformance with the public access and public recreation policies 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.

**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 staff and may require Commission approval.
4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the 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. Plans Conforming to Geologic Recommendation

All recommendations contained in the Soils and Engineering-Geologic Investigation for Proposed Access Road Stabilization by California GeoSystems dated March 7, 1997 and the Engineering-Geologic Response Letter by California GeoSystems dated August 7, 1997, shall be incorporated into all final design and construction plans including foundations, grading and drainage plans. *Prior to the issuance of the coastal development permit*, the applicant shall submit for the Executive Director's review and approval, evidence that an appropriate licensed professional has reviewed and approved all final design and construction plans and certified that each of those final plans incorporates all of the recommendations specified in the above-referenced geologic evaluations approved by the California Coastal Commission for the project site

The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. Proposed changes to the approved final plans shall not occur without a Coastal Commission-approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

#### 2. Drainage Plans and Maintenance Responsibility

Prior to the issuance of the Coastal Development Permit, the applicant shall submit for the review and approval of the Executive Director, a run-off and erosion control plan designed by a licensed engineer which assures that run-off from the reconstructed access road is collected and discharged in a non-erosive manner. Drainage from the road shall not be accomplished by sheetflow runoff. With acceptance of this permit, the applicant agrees that should the project's drainage structures fail or result in erosion, the applicant/landowner or successor interests shall be responsible for any necessary repairs and restoration.

#### 3. Assumption of Risk

Prior to permit issuance, applicant shall enter into an agreement, in a form and content acceptable to the Executive Director, with the California Coastal Commission which shall provide that: (a) the applicant understands that the site may be subject to extraordinary hazard from landsliding and erosion, and the applicant assumes the liability from such hazards; and (b) the applicant unconditionally waives any claim of liability on the part of the California Coastal Commission and agrees to indemnify and hold harmless the California Coastal Commission, its officers, agents, and employees relative to the California Coastal Commission's approval of the project for any damage from such hazards. The document shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens.

#### IV. Findings and Declarations.

The Commission hereby finds and declares as follows:

##### A. Project Description and Background

The applicant is proposing the Installation of 13 sets of caissons under an existing paved access road in order to remediate the effects of an active landslide. The project is located along that portion of Seagull Way which is within an access easement held by the Tivoli Cove Homeowner's Association on a vacant parcel of land owned by Los Angeles County (APN: 4460-019-902). The parcel is located adjacent to and east of the 102-unit Tivoli Cove condominium complex at 26664, 26665 and 26666 Seagull Way. An active landslide is present on site and located to the south and downslope of the existing access road. The 13 sets of caissons will be installed below grade and will not be visible or result in any new impacts to visual resources.

##### B. Geologic Hazards

Section 30253 of the Coastal Act states in part that new development shall:

*(1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.*

*(2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.*

The proposed development is located in the Santa Monica Mountains, an area which is generally considered to be subject to an unusually high amount of natural hazards. Geologic hazards common to the Santa Monica Mountains include landslides, erosion, and flooding.

The applicant is proposing the installation of 13 sets of caissons under an existing paved access road in order to remediate the effects of an active landslide. The applicant's geologic and engineering consultant has determined that the proposed project is suitable from a soils and engineering standpoint for construction of the proposed project. The applicant's Soils and Engineering-Geologic Investigation for Proposed Access Road Stabilization by California GeoSystems dated March 7, 1997, states that:

##### Site Conditions

*It appears that the "active" portion of the landslide which is located downslope of the roadway has pulled away from the buttress fill removing lateral support from the downslope side of the fill...the active portion of the slide does not presently extend under the access, it is normal for a slide of this type to continue to extend upslope. Under present conditions, it appears likely that the earth materials under the access road will continue to fail resulting in significant damage and possible destruction of the roadway.*

Slope Stability

*The proposed soldier pile stabilization system should be considered to be a remedial measure intended to improve the stability for the existing access road. It should be clearly understood that the proposed soldier piles are not intended to be a permanent repair to the extensive geologic problems at the site, and that future distress in the form of cracking and settlement of the road bed may occur and require periodic maintenance. Due to the lack of habitable structures in the area, it is our conclusion that the scope of the proposed soldier pile stabilization system designed with a 1.25 safety factor is acceptable from a soils and engineering geologic standpoint.*

Recommendations

*It is the findings of this firm that the proposed remedial roadway stabilization plan will be safe for its intended use as an access road, and that the proposed soldier piles will not adversely affect the stability of the site and adjacent property, provided our recommendations are followed.*

In addition, the applicant's geotechnical response letter by California GeoSystems dated 8/7/97 states:

*This letter serves to confirm that, in the opinion of California GeoSystems, there are no other feasible alternatives for the proposed stabilization of the access road...The other methods of road stabilization evaluated included placement of buttress fill or soldier piles designed at a 1.5 safety factor. The buttress fill is economically prohibitive in addition to the complex requirements of grading below sea level, massive amount of grading yardage and significant land alteration that would be required. Soldier piles designed at a 1.5 safety factor require excessive embedment depths which are extremely difficult to install from a construction standpoint and economically prohibitive with respect to an access road.*

The proposed method of stabilization for the access road will involve the placement of soldier piles to be located entirely below grade and within the existing roadway. The installation of the soldier piles will result in only minimal site disturbance as grading is neither proposed nor required. The alternative methods of stabilization identified by the applicant's geotechnical consultant involve massive amounts of grading and significant landform alteration. As such, the proposed project is the least environmentally damaging alternative.

Further, the geologic and engineering consultant has included a number of geotechnical recommendations which will increase the stability and geotechnical safety of the site. To ensure that the recommendations of the geotechnical consultant are incorporated into the project plans, the Commission finds that it is necessary to require the applicant, as required by special condition one (1), to submit project plans certified by the consulting geotechnical engineer as conforming to their recommendations.

Due to the history and potential hazardous geologic conditions of this site, including the presence of an active landslide, the Commission can only approve the project if the applicant assumes the

liability from the associated risks as required by special condition three (3). This responsibility is carried out through an agreement between the applicant and the California Coastal Commission. The assumption of risk agreement will show that the applicant is aware of and appreciates the nature of the hazards which exist on the site and which may adversely affect the stability or safety of the proposed development and agrees to assume any liability for the same.

It should be noted that an assumption of risk deed restriction for hazardous geologic conditions is commonly required for new development throughout the greater Malibu/Santa Monica Mountains region in areas where there exist potentially hazardous geologic conditions, or where previous geologic activity has occurred either directly upon or adjacent to the site in question. However, as the underlying land is held by the County of Los Angeles, an assumption of risk deed restriction is not possible and an agreement between the applicant and the Coastal Commission is required to accomplish the same effect. The Commission has required such deed restrictions or agreements for other development throughout the Malibu/Santa Monica Mountains region.

The Commission also finds that the minimization of site erosion will add to the stability of the site. Development on slopes and the use of non-permeable surfaces, such as asphalt roads, often intensifies storm runoff in a destructive manner, thereby contributing to an increased potential for erosion and landslides on property. Uncontrolled runoff over the edge or away from the access road will result in erosion and further destabilization of the project site. Therefore, to ensure that drainage is conveyed off site in a non-erosive manner, the Commission finds that it is necessary to require the applicant, as required by special condition two (2), to submit drainage plans certified by the consulting geotechnical engineer as conforming to their recommendations. In addition, to further ensure that the projects drainage structures will not contribute to further destabilization of the project site or surrounding area and that the project's drainage structures shall be repaired should the structures fail in the future, special condition two (2) also requires that the applicant agree to be responsible for any repairs or restoration of eroded areas should the drainage structures fail or result in erosion.

The Commission finds that based on the findings of the geologic and geotechnical reports and other available evidence, and as conditioned to incorporate the recommendations of the geologic consultant, the proposed project is consistent with Section 30253 of the Coastal Act.

### C. Public Access

New development on a beach or between the nearest public roadway to the shoreline and along the coast raise issue with the public access policies of the Coastal Act.

#### Section 30210

*In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resources from overuse.*

Section 30211

*Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.*

A conclusion that access may be mandated by Section 30212 does not end the Commission's inquiry. As noted, Section 30210 imposes a duty on the Commission to administer the public access policies of the Coastal Act in a manner that is "consistent with...the need to protect...rights of private property owners..." The need to carefully review the potential impacts of a project when considering imposition of public access conditions was emphasized by the U.S. Supreme Court's decision in the case of *Nollan vs. California Coastal Commission*. In that case, the court ruled that the Commission may legitimately require a lateral access easement where the proposed development has either individual or cumulative impacts which substantially impede the achievement of the State's legitimate interest in protecting access and where there is a connection, or nexus, between the impacts on access caused by the development and the easement the Commission is requiring to mitigate those impacts.

The Commission's experience in reviewing shoreline projects in Malibu indicates that individual and cumulative impacts to access by development can include among others, encroachment on lands subject to the public trusts thus physically excluding the public; interference with natural shoreline processes which are necessary to maintain publicly-owned tidelands and other public beach areas; overcrowding or congestion of such tideland or beach areas; and visual or psychological interference with the public access such as above.

In this case, the proposed development site is located approximately 260 ft. from the mean high tide line and is separated from the sandy beach by Latigo Shore Drive which is a private road (see Exhibit 3). Therefore, the proposed project will not affect lateral access along the beach. In addition, the project will not impact any vertical accessways to the beach. Therefore, the Commission finds that the proposed development will have no adverse impact on public access and is consistent with the relevant public access sections of the Coastal Act.

D. Local Coastal Program

Section 30604 of the Coastal Act states that:

*a) Prior to certification of the local coastal program, a coastal development permit shall be issued if the issuing agency, or the commission on appeal, finds that the proposed development is in conformity with 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 of Malibu's ability to prepare a Local Coastal Program which is also consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

E. CEQA

Section 13096(a) of the Commission's administrative regulations requires Commission approval of 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)(i) 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 impact which the activity may have on the environment.

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.

**SMH-VNT**

File: SMH/4-97-126



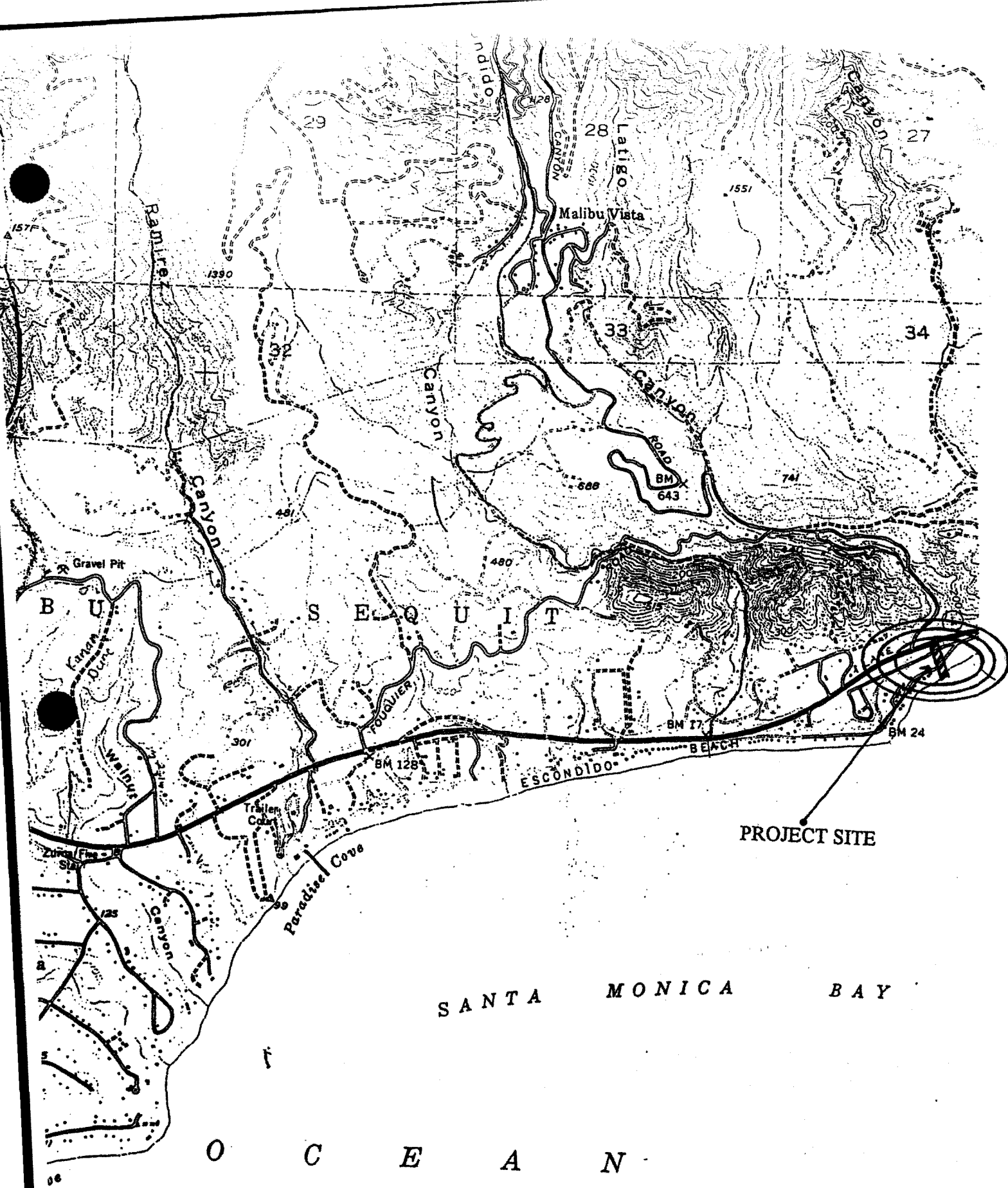


Exhibit No. 1: (4-97-126) Location Map

4-460 | 19  
SHEET 1  
SCALE 1" = 400 FEET

PROJECT SITE

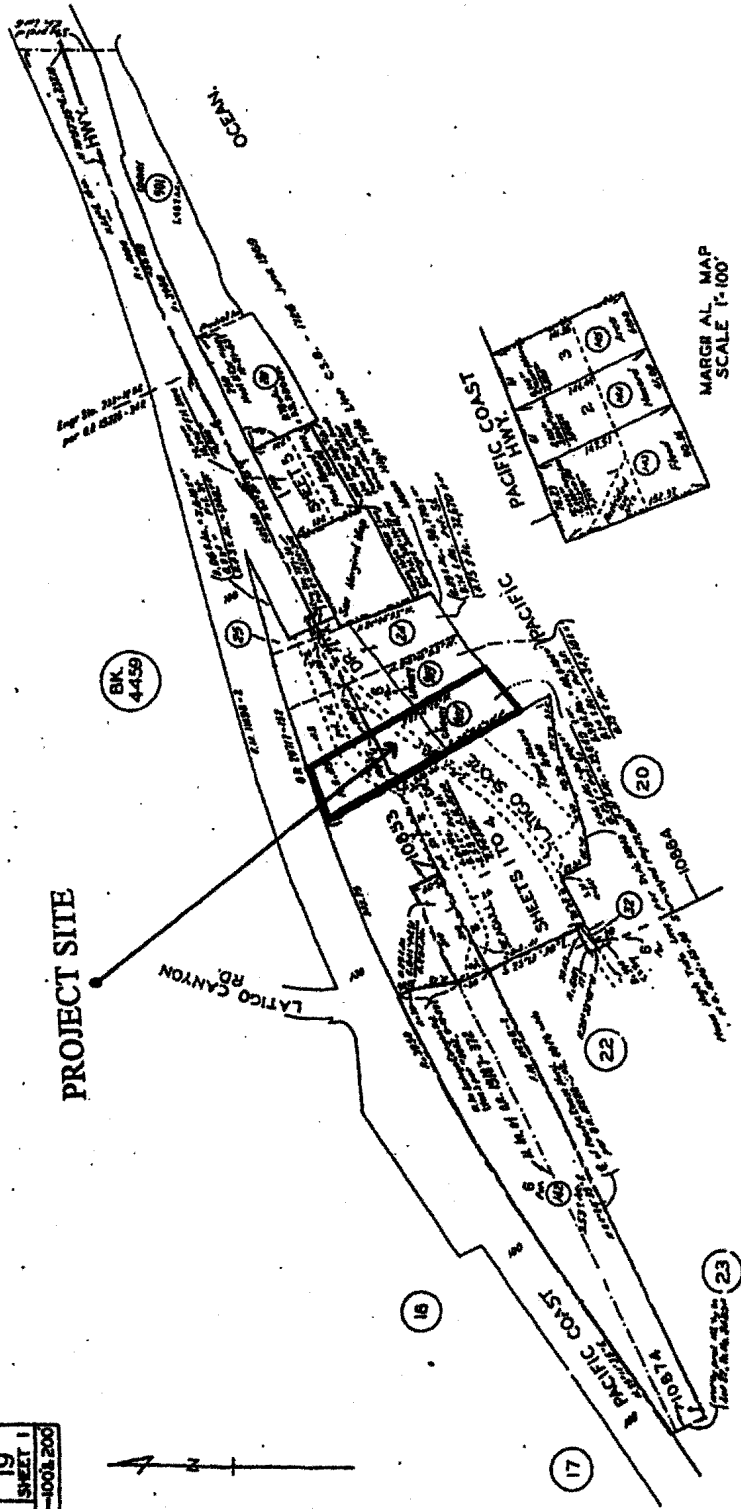
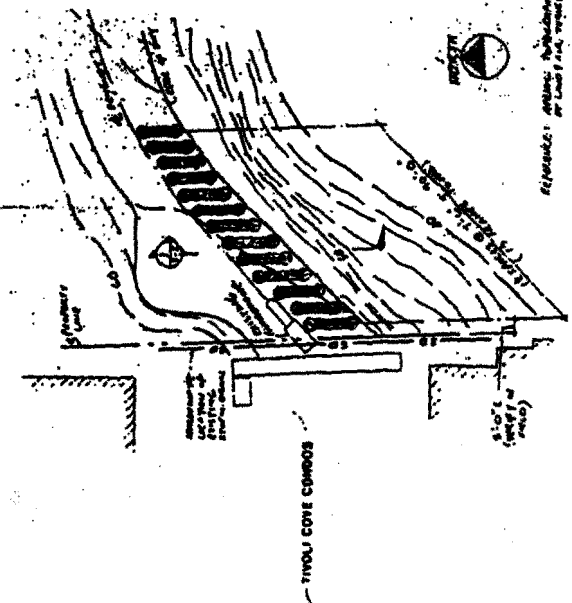


Exhibit No. 2: (4-97-126) Parcel Map for Project Site





NOTES:  
1. EXISTING UTILITIES AND STRUCTURES TO REMAIN SHALL BE SHOWN ON THE SITE PLAN.  
2. ALL UTILITIES SHALL BE DEEPENED TO A MINIMUM OF 48" BELOW FINISHED GRADE.  
3. ALL UTILITIES SHALL BE PROTECTED BY A MINIMUM OF 18" OF CONCRETE OR 24" OF BRICK.

**PARTIAL PLAN**

1  
S-1

**GENERAL NOTES:**

1. All existing utility lines in the Tivoli Cove Building and all other structures shall be shown on the site plan.
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**CONSTRUCTION NOTES:**

1. The proposed site work shall be completed before starting work on the building.
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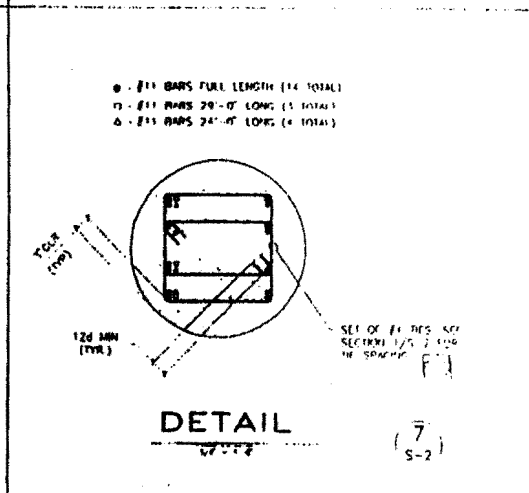
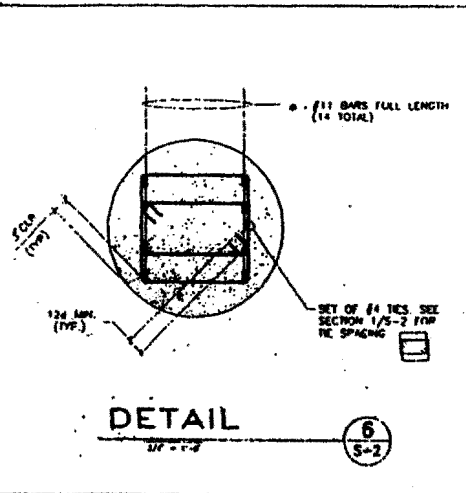
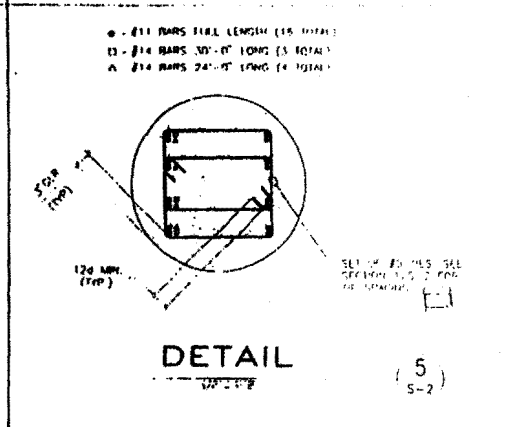
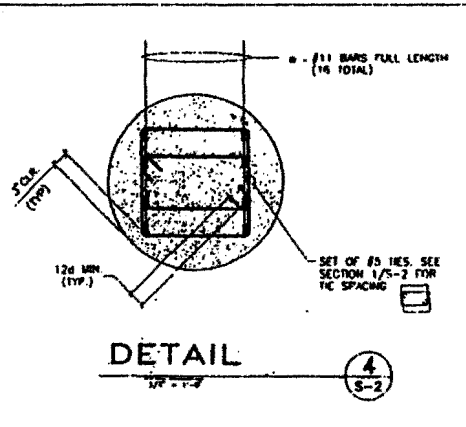
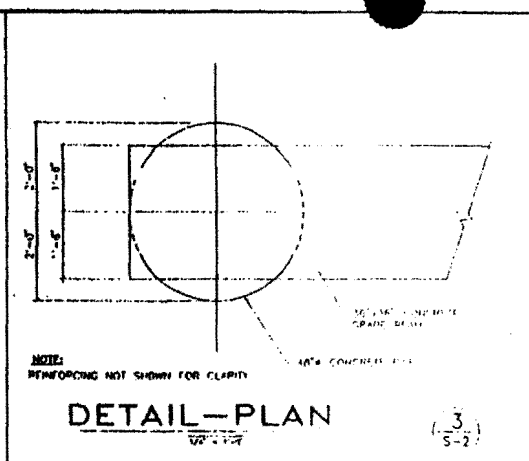
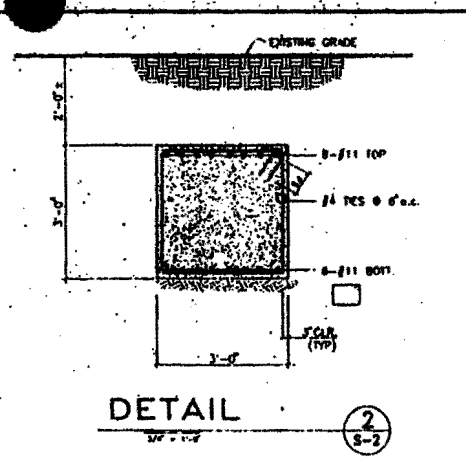
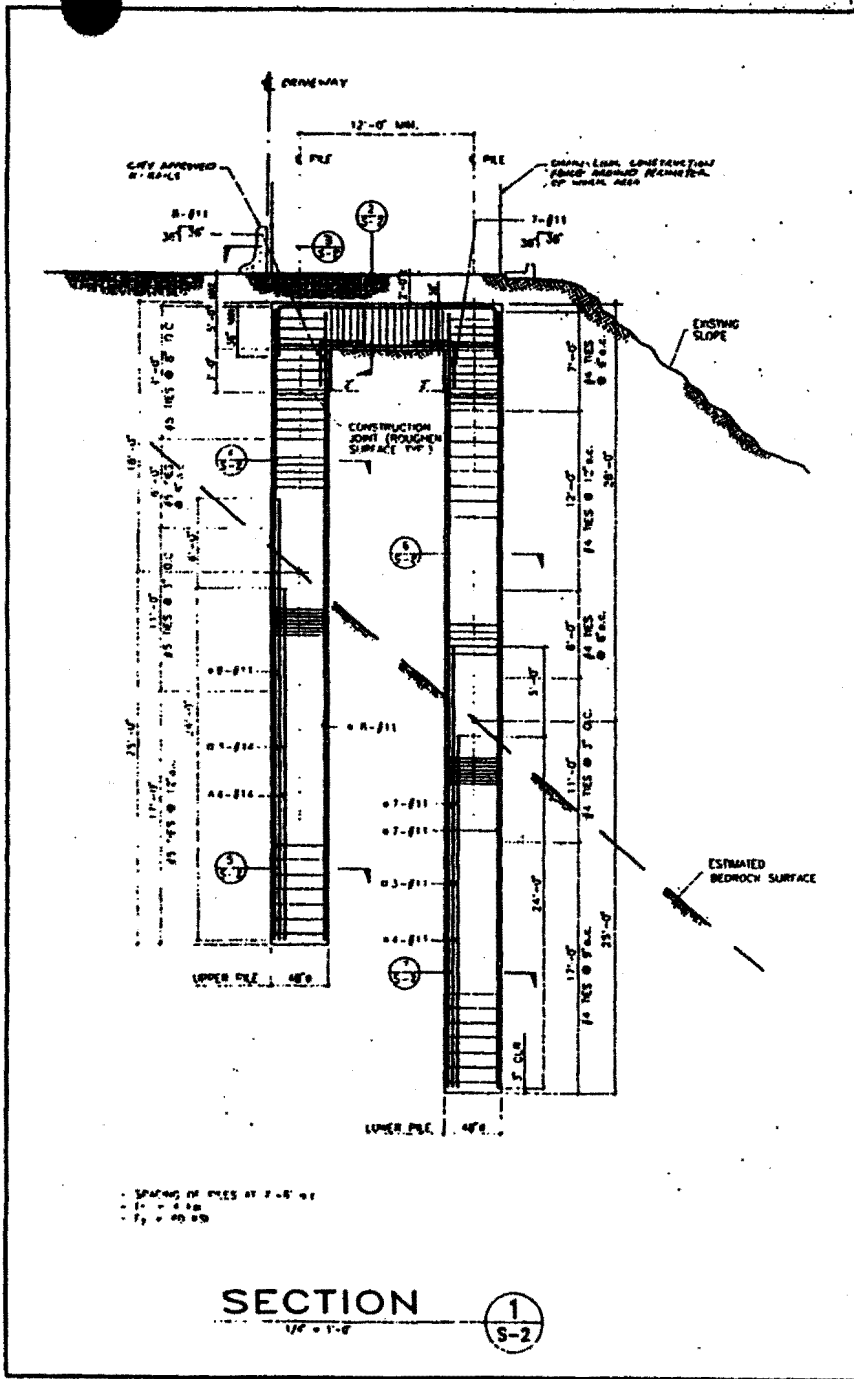
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TIVOLI COVE CONDOS ROADWAY STABILIZATION  
 SHORING FRAME SECTION AND

Exhibit No. 5: (4-97-126) Cross Section of Proposed Project