

# Th3a-d

STATE OF CALIFORNIA - THE RESOURCES AGENCY

GRAY DAVIS, Governor

## CALIFORNIA COASTAL COMMISSION

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

## RECORD PACKET COPY



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Staff: MB-V *ja*  
Staff Report: 12/6/99  
Hearing Date: 1/11-14/00  
Commission Action:

### STAFF REPORT: CONSENT CALENDAR

**APPLICATION NOS.:** 4-98-141, -143, -144, and -145

**APPLICANTS:** Susanne O'Hara; Ira Bettelman; Irwin and Sheila Allen;  
Lloyd Bridges

**AGENT:** Gary Karinen, Asso.

**PROJECT LOCATION:** 21544, 21558, 21554, and 21540 Pacific Coast Highway,  
City of Malibu, Los Angeles County.

**PROJECT DESCRIPTION:** Installation of bracing and concrete and rebar jackets on  
existing piles supporting single family residences.

**LOCAL APPROVALS RECEIVED:** Approval in Concept, City of Malibu Planning  
Department, dated 4/29/99.

**SUBSTANTIVE FILE DOCUMENTS:** State Lands Commission, coastal development  
project review for 21540, 21544, 21554 and 21558 Pacific Coast Highway, Malibu,  
September 23, 1999; Gary Karinen Associates, letter report and calculations,  
September 15, 1999.

#### **SUMMARY OF STAFF RECOMMENDATION:**

The application is for installation of bracing and enclosure in a protective reinforced concrete jacket of the front tier of pilings under four existing single family residences in the La Costa Beach area of Malibu. Each application is proposed for a residence on a separate lot. No substantial extension is proposed seaward of the existing pile system. Staff recommends **approval** of the proposed projects with special conditions relative to assumption of risk and construction materials.

## **STAFF RECOMMENDATION:**

The staff recommends that the Commission APPROVE the permit application with special conditions.

## **MOTION**

Staff recommends a YES vote on the following motion:

I move that the Commission approve with special conditions CDPs # 4-99-141, -143, -144, and -145 per the staff recommendation as set forth below.

A majority of the Commissioners present is required to pass the motion.

## **RESOLUTION**

The staff recommends that the Commission adopt the following resolution:

### **I. Approval with Condition**

The Commission hereby grants, subject to the condition 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 Condition**

#### 1. **Assumption of Risk**

- A. By acceptance of this permit, the applicants acknowledge and agree (i) that the site may be subject to hazards from storm waves, erosion, or flooding; (ii) to assume the risks to the applicants 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.
- B. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicants 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 applicants' 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.

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

No stockpiling of construction materials or storage of equipment shall occur on the beach and no machinery will be allowed in the intertidal zone at any time. The permittee shall immediately remove from the beach area any and all debris that results from the construction activities.

## **IV. Findings and Declarations**

The Commission hereby finds and declares as follows:

### **A. Project Description and Background**

The applications are four separate applications from the same construction firm for bracing of the existing piling systems and enclosure of the pilings in a protective reinforced concrete jacket with epoxy coated rebar, for four beach houses in close proximity to one another in the La Costa Beach area of Malibu. No substantial extension development is proposed seaward of the existing piles. Only an insignificant (one foot) seaward extension of the piles will result from the project due to increased bulk, due to wrapping the existing piles in concrete and rebar. The subject sites are beachfront parcels previously developed with single family residences constructed above piling systems.

The bracing consists of new 4" by 12" beams bolted diagonally and/or by T braces across the front tier (most seaward) of the existing piles. The concrete jacket includes an inner layer of epoxy coated rebar and an outer layer of concrete. The concrete mixture is designed to withstand salt water.

According to the project engineer, construction will take place during the winter when the sand layer is approximately seven feet below the current level. The bracing will be done by hand labor. The pile wrapping will be done by hand and excavation will be by hand labor and a backhoe. The project method is to complete work during an approximate three hour "window" at low tide without the need to use shoring. Excavation will take place below beach level into sand until water is encountered. Access for the backhoe will be from a nearby vertical access point.

### **B. Public Access and Seaward Encroachment**

Coastal Act Section 30210 states that:

***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 resource areas from overuse.**

Coastal Act Section 30211 states:

**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 to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.**

Coastal Act Section 30212(a) provides that in new shoreline development projects, access to the shoreline and along the coast shall be provided except in specified circumstances, where:

- (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources.**
- (2) adequate access exists nearby, or,**
- (3) agriculture would be adversely affected. Dedicated access shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.**

Finally, 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.**

Coastal Act sections 30210 and 30211 mandate that maximum public access and recreational opportunities be provided and that development not interfere with the public's right to access the coast. Likewise, section 30212 of the Coastal Act requires that adequate public access to the sea be provided to allow use of dry sand and rocky coastal beaches.

## **1. Public Access Considerations for Beachfront Projects**

All beachfront projects requiring a coastal development permit must be reviewed for compliance with the public access provisions of Chapter 3 of the Coastal Act. In past permit actions, the Commission has required public access to and along the shoreline in new development projects and has required design changes in other projects to reduce interference with access to and along the shoreline. The major access issue in such permits is the occupation of sand area by a structure in contradiction of Coastal Act policies 30210, 30211, and 30212.

Past Commission review of shoreline residential projects in Malibu has shown that individual and cumulative adverse effects to public access include: encroachment on lands subject to the public trust (thus physically excluding the public); interference with the natural shoreline processes 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's access to and the ability to use public tideland areas.

In the case of the proposed project, the applicant has submitted a letter from the California State Lands Commission (CSLC) dated September 23, 1999 that indicates that the CSLC presently asserts no claims that the project is located on public tidelands although the CSLC reserves the right to any future assertion of state ownership or public rights should circumstances change or additional information come to their attention.

## **2. Seaward Encroachment of Development**

As a means of controlling seaward encroachment of residential structures on a beach to ensure maximum public access, protect public views, and minimize wave hazards as required by Coastal Act Sections 30210, 30211, 30251, and 30253, the Commission has, in past permit actions, developed the "stringline" policy. As applied to beachfront development, the stringline limits the seaward extension of a structure to a line drawn between the nearest corners of adjacent structures and limits decks to a similar line drawn between the nearest corners of the adjacent decks.

The Commission has applied this policy to numerous past permits involving infill on sandy beaches and has found it to be an effective policy tool in preventing further encroachments onto sandy beaches. In addition, the Commission has found that restricting new development to building and deck stringlines is an effective means of controlling seaward encroachment to ensure maximum public access as required by Sections 30210 and 30211 and to protect public views and the scenic quality of the shoreline as required by Section 30251 of the Coastal Act.

In this case, the proposed projects do not invoke the restrictions of the stringline policy because the project will only involve the repair and underpinning of existing structures landward and underneath the building footprint. All proposed underpinning will be located landward of the seaward extent ("dripline") of the existing residence. Only an insignificant (one foot) seaward extension of the piles will result from the project due to increased bulk due to wrapping the existing piles in concrete and rebar. Therefore, the Commission notes that the proposed repair project will not result in any new adverse effects to shoreline processes, the beach profile, or public access along the beach. The project will not preclude public access to any presently existing vertical or lateral public access easements or rights or adversely affect public coastal views.

For all of these reasons, the Commission finds that the proposed project will have no individual or cumulative adverse effects on public access. Therefore, the Commission finds that a condition to require lateral access is not appropriate and that the project, as proposed, is consistent with Coastal Act Sections 30210, 30211, 30212 and 30251.

C. Geologic Stability/Hazards

Section 30253 of the Coastal Act states in pertinent 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.***

Staff expressed concern with the original submittal relative the adequacy of documentation of the structural stability of the proposed design. A supplemental letter report by Gary Karinen Associates dated September 15, 1999 was received, which calculated wave forces relative to the proposed design. This was reviewed by the Commission staff engineer and found to document the soundness of the proposed design. Thus, the Commission notes that the proposed development, as submitted, is consistent with the requirements of Coastal Act Section 30253 that require the assurance of the structural integrity of proposed development.

However, the Commission further notes that the proposed developments are located on beachfront lots in the City of Malibu. The Malibu coast has historically been subject to substantial damage as the result of storm and flood occurrences, most recently, and perhaps most dramatically, during the past El Nino severe winter storm season that gave rise to the emergency permit request underlying the applicant's current proposed application.

The subject sites are clearly susceptible to flooding and/or wave damage from storm waves, storm surges and high tides. Past events have damaged existing residences and have caused property damage resulting in public costs through emergency responses and low-interest, publicly-subsidized reconstruction loans in the millions of dollars in Malibu area alone from last year's storms. In the winter of 1977-1978, storm-triggered mudslides and landslides caused extensive damage along the Malibu coast. According to the National Research Council, damage to Malibu beaches, seawalls, and other structures during that season caused damages of as much as almost \$5 million to private property alone. The El Nino storms recorded in 1982-1983 caused high tides of over 7 feet, which were combined with storm waves of up to 15 feet. These storms caused over \$12.8 million to structures in Los Angeles County, many located in Malibu. The severity of the 1982-1983 El Nino storm events are often used to illustrate the extreme storm event potential of the California, and in particular, Malibu coast. The 1998 El Nino storms also resulted in widespread damage to residences, public facilities and infrastructure along the Malibu Coast.

Thus, ample evidence exists that all beachfront development in the Malibu area is subject to an unusually high degree of risk due to storm waves and surges, high surf conditions, erosion, and flooding. The existing development on site, even after the completion of the reinforcement work, will continue to be subject to the high degree of risk posed by the hazards of oceanfront development in the future, as will the existing single family residence that the bulkhead helps to protect.

The Coastal Act recognizes that development, such as the proposed reinforcement of the existing pile system, even as designed and constructed to incorporate all recommendations of the consulting coastal engineer, may still involve the taking of some risk. When development in areas of identified hazards is proposed, the Commission considers the hazard associated with the project site and the potential cost to the public, as well as the individual's right to use the subject property.

The Commission finds that due to the possibility of liquefaction, storm waves, surges, erosion, and flooding, the applicant shall assume these risks as conditions of approval. Because this risk of harm cannot be completely eliminated, the Commission requires the applicants to waive any claim of liability against the Commission for damage to life or property which may occur as a result of the permitted development. The applicant's assumption of risk, as required by Special Condition One (1), when executed and recorded on the property deed, will show that the applicant is aware of and appreciates the nature of the hazards which exist on the site, and that may adversely affect the stability or safety of the proposed development.

In addition, Special Condition two (2) is necessary to ensure that construction material, which potentially would interfere with public access or otherwise create a hazard, is removed.



The Commission finds, for the reasons set forth above, that the proposed development, as conditioned, is consistent with Section 30253 of the Coastal Act.

**D. Local Coastal Program**

Section 30604 of the Coastal Act states that:

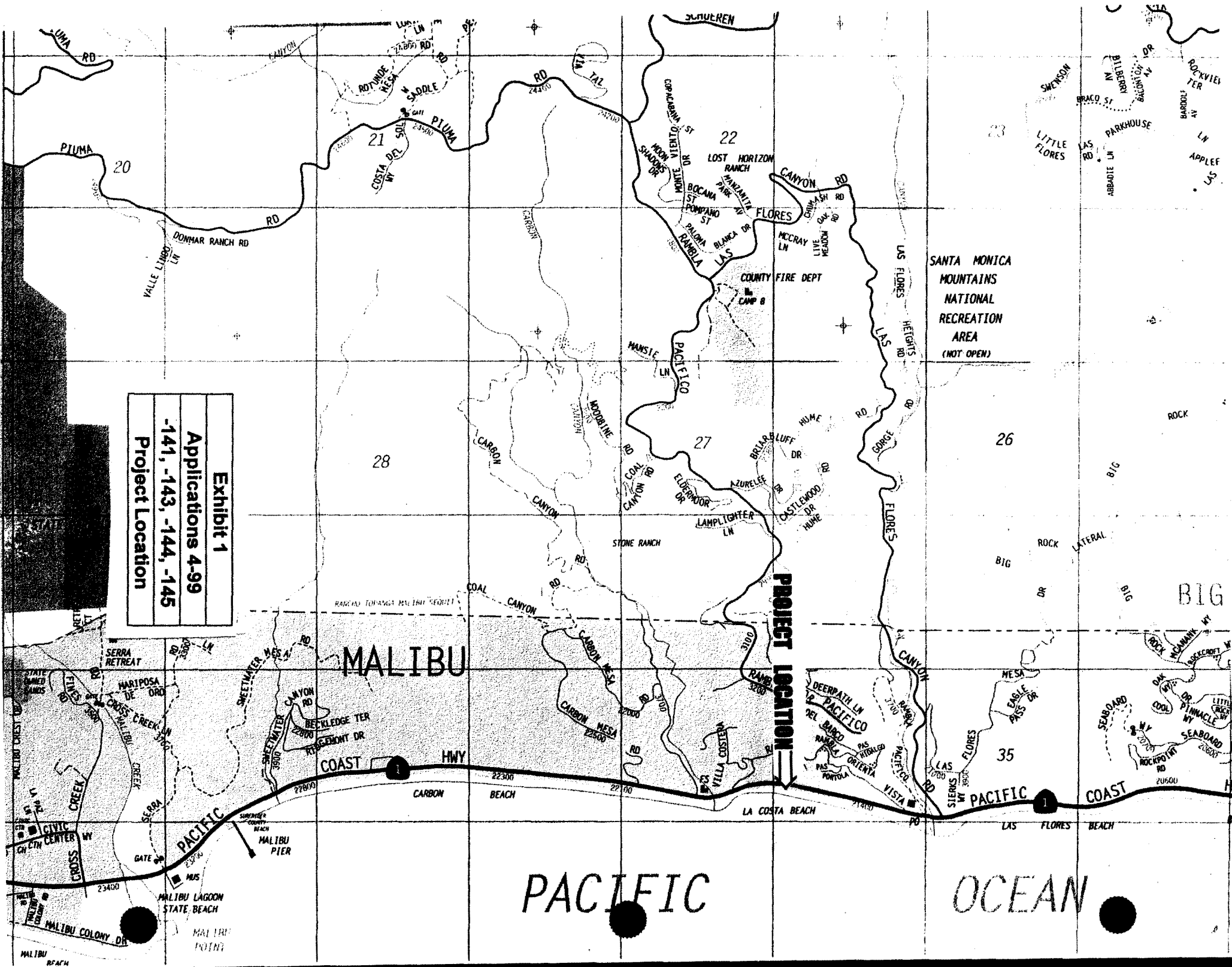
- a) Prior to certification of the local coastal program, a coastal development permit shall be issued if the issuing agency, or the commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) of this division and that the 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'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).

**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)(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.



P.C.H.

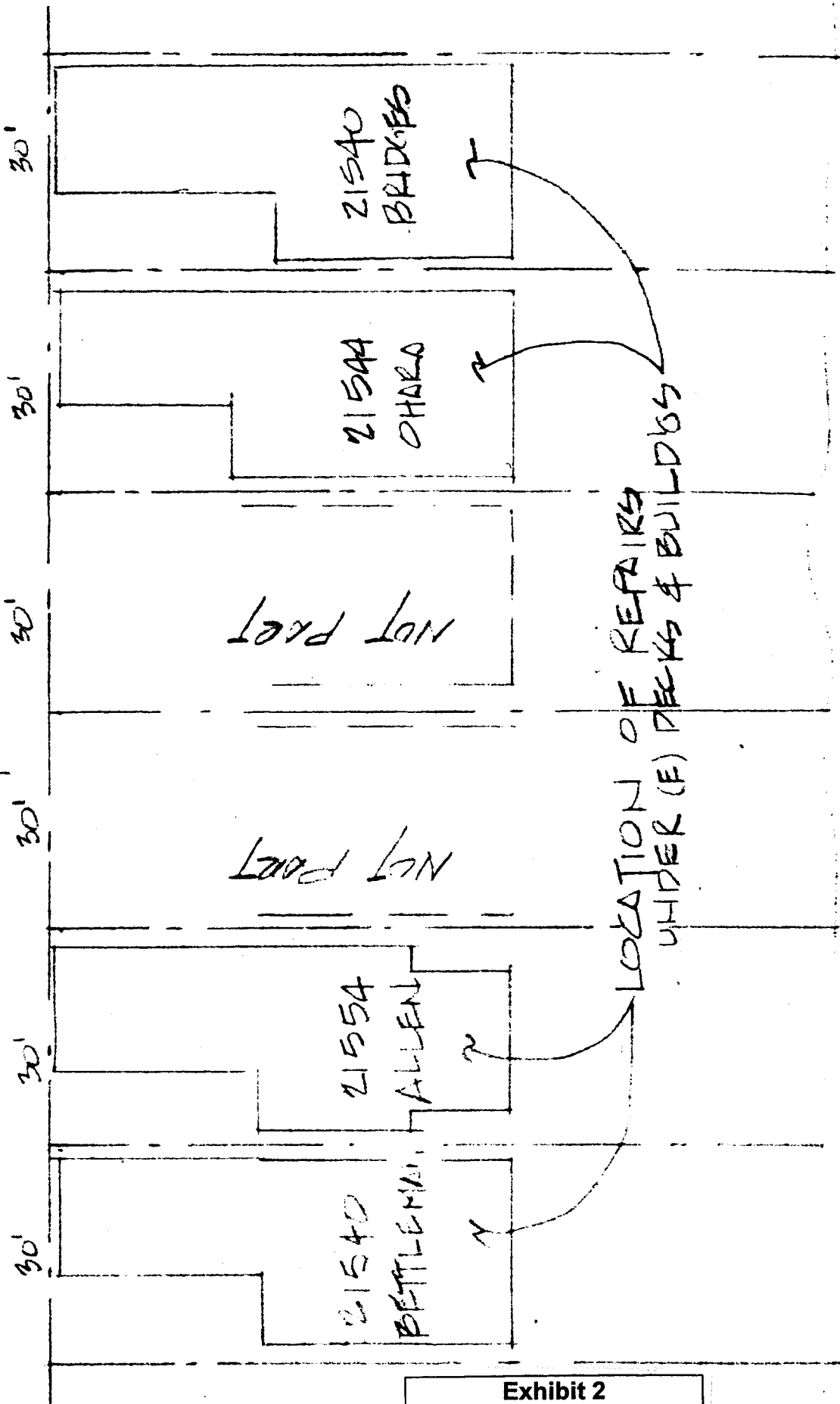
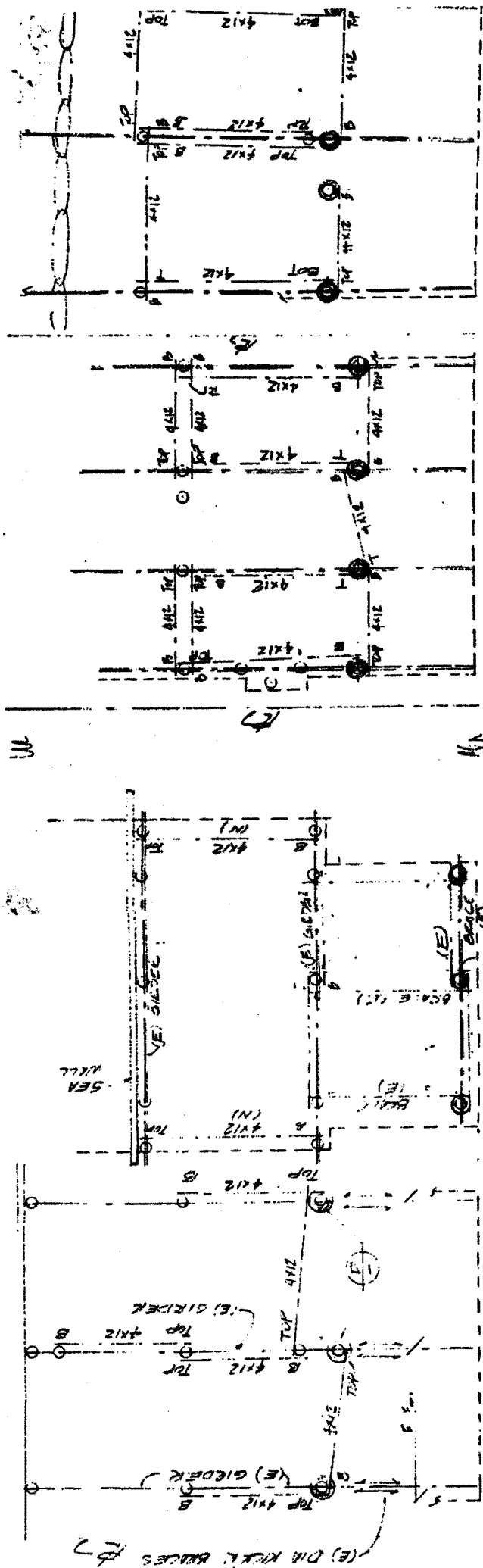


Exhibit 2
Applications 4-99
-141, -143, -144, -145
Detailed Project Location

BUILDING LAYOUT PLAN

SCALE 1" = 20' ±



#21554 PLAN AC 310

#	OWNER	PERIOD
2540	BLK 2540	LOT 2540
2541	BLK 2541	LOT 2541
2542	BLK 2542	LOT 2542

- EXISTING PILE AND - 2x12
- PILE TO BE CONC BRIDGE (12)
- EXISTING DA BRIDGE
- NEW/TAID BRIDGE (12)
- SEA WALL

DESIGNED MIX FOR SALT WATER SPLASH  
IN OF 7.5 SACKS OF CEMENT PER YARD.  
1-INCH CLEAR OF FORMS, 6 INCH CLEAR  
TO BE COATED. S.S. TIE WIRE.  
IPED GALVANIZED, BOLTS ASTM A-307,  
10X RODS PER AWS.

RECEIVED

Exhibit 3

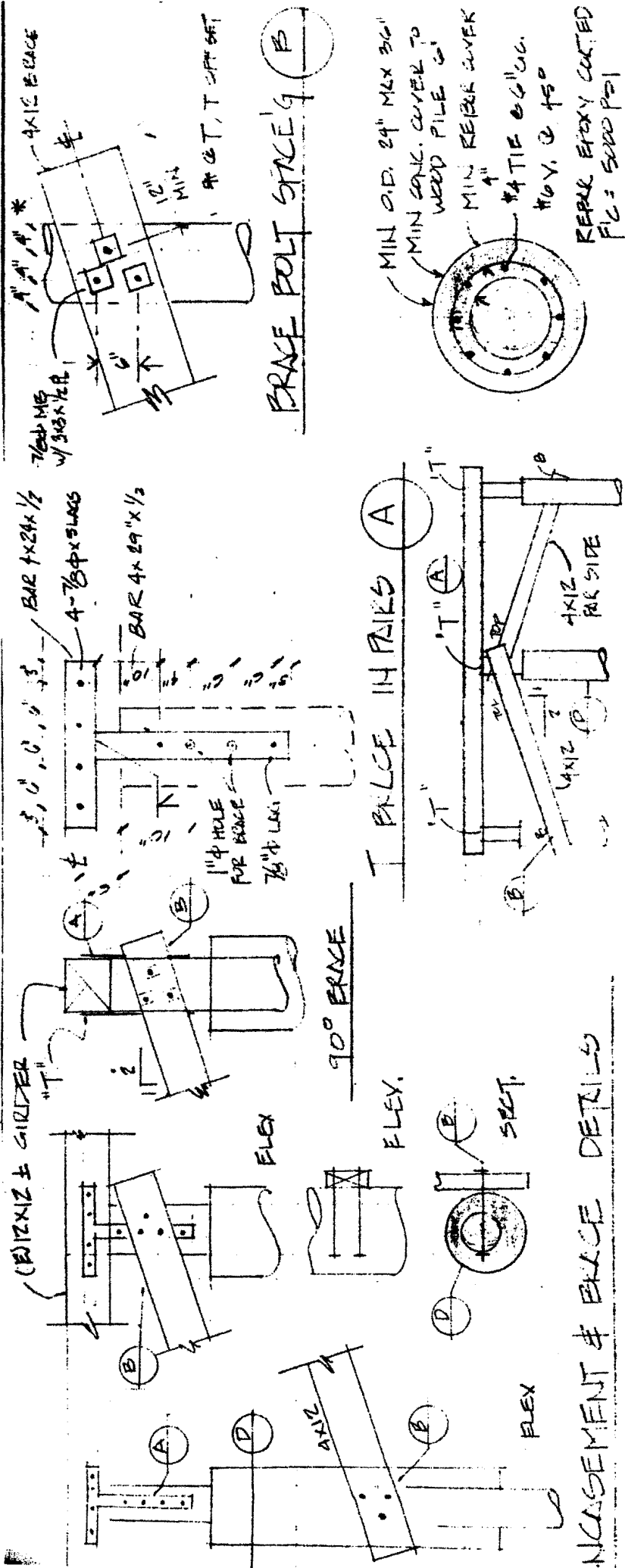
Applications 4-99

-141, -143, -144, -145

Site Plan

CONCRETE  
ONE. 3/  
EASR AS  
P SOIL,  
LL STEEL  
TEEL AS

Exhibit 4
Applications 4-99
-141, -143, -144, -145
Project Detail



TYP. BRIDGE LAYOUT (C) FILE CONC. (D)

ENCASSEMBLEMENT & BRIDGE DETAILS

BRIDGE BOLT SPACE (B)

T BRIDGE IN PILES (A)

