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**STAFF REPORT: APPEAL
SUBSTANTIAL ISSUE DETERMINATION
AND DE NOVO REVIEW**

Appeal NumberA-3-SLO-00-045
Local GovernmentSan Luis Obispo County
DecisionApproved with conditions, 03/21/00
Applicant.....Joshua Brown
AgentJohn Belsher
AppellantsShirley Bianchi
Commissioners Dave Potter and Pedro Nava
Project LocationOn the north side of Cambria Pines Road, approximately 1/2 mile east of Highway 1, north of the community of Cambria, (North Coast Planning Area), San Luis Obispo County.
Project DescriptionLot line adjustment of two parcels (117 and 80 acres) that will result in two parcels of 142 and 55 acres and designation of a future building site for the 55 acre parcel
File DocumentsSan Luis Obispo County certified Local Coastal Program; San Luis Obispo County Coastal Development Permit Numbers COAL99-0090 and S980282L.
Staff RecommendationSubstantial Issue Raised; Approval with Conditions

PROCEDURAL NOTE

The Browns challenge the Coastal Commission's appeal of San Luis Obispo County's approval of a lot line adjustment between two existing parcels (117 and 80 acres each), creating parcels of approximately 142 and 55 acres. On June 15, 2000, the Coastal Commission denied the Browns' permit for a lot line adjustment, finding that this development would have a significant impact on important coastal resources and result in the creation of a non-conforming 55 acre parcel in an area where there is an 80 acre minimum parcel size. The Browns filed a mandate petition, directing the Commission to set aside its decision. On September 18, 2001, the trial court issued

its ruling supporting three of the Coastal Commission's arguments, but granting the Browns' writ of mandate on the ground that the Commission's decision was not supported by substantial evidence, for it erroneously relied on the Local Coastal Plan instead of Coastal Zone Land Use Ordinance 23.04.025 in determining the applicable density (acreage) for the Browns' property. The trial court affirmed that the Coastal Commission: adopted proper findings by voting in a manner consistent with the its staff report; had jurisdiction over the lot line adjustment which is "development" under the Coastal Act; and, was not collaterally estopped by a prior stipulation in a case concerning a landowner adjacent (Leimert) to the Browns from asserting that the minimum parcel size is 80 acres. On October 31, 2001, the trial court issued the peremptory writ of mandate commanding the Coastal Commission vacate its decision and reconsider its action in light of the court's Statement of Decision. The Commission decided not to appeal. In January 2002, the Coastal Commission and the Browns entered a settlement agreement providing that the Coastal Commission set a hearing to reconsider the Brown's permit in light of the trial court's ruling and judgment. Pursuant to this settlement agreement, the Browns' proposed lot line adjustment is once again before the Coastal Commission.

EXECUTIVE SUMMARY

The applicant proposes to adjust the lot line between two existing parcels (currently 117 and 80 acres each), to create parcels of approximately 142 and 55 acres each. The parcels are located on the north side of Cambria Pines Road, approximately ½ mile east of Highway One, north of the community of Cambria, in San Luis Obispo County. Both parcels are within the Rural Lands land use category and are located in a Sensitive Resource Area, as designated in the LCP, due to the surrounding Monterey Pine Forest. The smaller of the two parcels (Parcel Two) is vacant, and two single-family residences currently exist on the larger parcel (Parcel One).

Staff recommends that the Commission determine that a **substantial issue** exists with respect to the grounds on which the appeal has been filed, because as approved by the County the lot line adjustment is inconsistent with provisions of the San Luis Obispo County certified Local Coastal Program (LCP) establishing minimum parcel sizes, protecting environmentally sensitive habitat areas (ESHA), and requiring evidence of adequate public services, particularly water. Neither of the parcels created by the lot line adjustment comply with LCP minimum lot size standard of 160 acres, even though the overall acreage would enable at least one of the lots to be brought into conformance with this standard through the lot line adjustment process. Moreover, the local approval designates a 20 acre building site for future development within the interior of Parcel Two that does not effectively avoid and minimize impacts on the sensitive resources of the site, particularly the Monterey Pine Forest habitats designated as ESHA by the LCP. Finally, an agreement between the applicant and the Cambria Community Services District (CCSD) states that the CCSD will provide water to serve Parcel Two only if it remains an 80-acre parcel. The proposed reduction in size of Parcel Two therefore conflicts with LCP requirements that new development demonstrate the availability of adequate public services. More broadly, the lot line adjustment fails to achieve the "equal or better" criteria for lot line adjustments established by the LCP's Real Property Division Ordinance as a result of these inconsistencies.



Staff further recommends that the Commission approve the project with conditions designed to resolve these inconsistencies. The recommended conditions require that the adjustment achieve a lot size of at least 160 acres for Parcel One, and prohibit future divisions of Parcel One and Parcel Two, as a means to carry out LCP minimum lot size standards. In accordance with LCP provisions protecting ESHA, the conditions require that the building site on Parcel two be reduced in size and relocated to the southeast corner of the site. This will cluster future development of Parcel Two adjacent to existing development (i.e., Cambria Pines Road), thereby minimizing site disturbance associated with the necessary access improvements. Containing future development of Parcel Two within this envelope will also minimize the extent to which future development will encroach within, remove, and fragment sensitive habitat on the site. It will also diminish the disruption of habitat values by future development. Finally, the recommended conditions require the applicant provide written evidence that the CCSD will provide water to Parcel Two once it is adjusted consistent with the requirements of this permit.

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1. Vicinity Map
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4. County Conditions of Approval
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6. Correspondence from Applicant's Representative
7. Memo from San Luis Obispo County Regarding Minimum Lot Size Standards
8. Illustrative Guideline for Future Delineation of Parcel Two Building Site
9. 2001 Aerial Photograph of Project Site

I. SUMMARY OF APPELLANTS' CONTENTIONS

Please see Exhibit 3 for the full texts of the appeals.

1. The North Coast Planning Area Standard for new land divisions adjacent to Cambria requires parcels in the Rural Lands land use category to be at least 80 acres and the proposed lot line adjustment would result in the creation of a non-conforming 55-acre parcel.
2. Policy 4 for Environmentally Sensitive Habitats and CZLUO Section 23.07.170(c) prohibit land divisions within environmentally sensitive habitats, "unless it can be found that the buildable area(s) are entirely outside the minimum standard setback required for that habitat." In addition, North Coast Planning Area Standard for Sensitive Resource Areas requires development to concentrate proposed uses in the least sensitive portions of the



property and retain native vegetation as much as possible. The proposed lot line adjustment would decrease the size of Parcel Two, a large portion of which is within a Sensitive Resource Area (Monterey Pines), which will further constrain the buildable area on this Parcel and may result in more tree removal at the time of development.

3. CZLUO Section 23.07.164 requires that any proposed clearing of trees or other features be the minimum necessary to achieve safe and convenient access and will not create significant adverse effects on the identified sensitive resource. CZLUO Section 23.07.176 and Policy 33 for Environmentally Sensitive Habitats further emphasize the preservation and protection of rare and endangered species of terrestrial plants and animals. The proposed lot line adjustment would create a situation in which the most likely location for an access driveway for Parcel Two would be completely within an area concomitantly designated as a Sensitive Resource Area (Monterey Pine Forest) and Terrestrial Habitat. The existing parcel configuration provides more opportunities to locate the accessway outside of these sensitive resource areas.
4. An agreement was reached between the applicant and the Cambria Community Services District (CCSD) regarding the allocation of public water service to the 80 acre parcel through the CCSD's issuance of one equivalent dwelling unit (EDU) to the site. The proposed lot line adjustment, which alters the existing 80-acre parcel, appears to violate this agreement.
5. The applicant plans to further subdivide the 117-acre parcel to include a new 20 acre building site.

II. LOCAL GOVERNMENT ACTION

The County of San Luis Obispo Subdivision Review Board denied the proposed project on October 4, 1999, and the applicant appealed their decision to the Board of Supervisor's. On January 18, 2000, the Board took a tentative motion to approve a slightly revised project and directed staff to complete an environmental determination and bring back findings for approval. A negative declaration was completed on February 25, 2000, and the Board approved the lot line adjustment, with conditions, on March 21, 2000 (see Exhibit 4 for the County's conditions).

III. STANDARD OF REVIEW FOR APPEALS

Coastal Act Section 30603 provides for the appeal of approved coastal development permits in jurisdictions with certified local coastal programs for development that is (1) between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tideline of the sea where there is no beach, whichever is the greater distance; (2) on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, or stream, or within 300 feet of the top of the seaward face of any coastal bluff; (3) in a sensitive coastal resource area; (4) for counties, not designated as the principal permitted use under the zoning ordinance or zoning district map; and (5) any action on a major public works project or energy facility. This project is appealable because it is not designated as a principal permitted



use in the LCP and contains sensitive coastal resource areas designated by the LCP for the protection of the Monterey Pine Forest and the riparian habitats of Leffingwell Creek.

The grounds for appeal under section 30603 are limited to allegations that the development does not conform to the standards set forth in the certified local coastal program or the public access policies of the Coastal Act. Section 30625(b) of the Coastal Act requires the Commission to conduct a *de novo* coastal development permit hearing on an appealed project unless a majority of the Commission finds that "no substantial issue" is raised by such allegations. Under section 30604(b), if the Commission conducts a *de novo* hearing, the Commission must find that the proposed development is in conformity with the certified local coastal program in order to issue a coastal development permit. Section 30604(c) also requires an additional specific finding that the development is in conformity with the public access and recreation policies of Chapter Three of the Coastal Act, if the project is located between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone. This project is not located between the first public road and the sea.

IV. STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE

MOTION: *I move that the Commission determine that Appeal No. A-3-SLO-00-045 raises NO substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act.*

STAFF RECOMMENDATION:

Staff recommends a **NO** vote. Passage of this motion will result in a *de novo* hearing on the application, and adoption of the following resolution and findings. The motion passes only by an affirmative vote of the majority of the appointed Commissioners present.

RESOLUTION TO ADOPT SUBSTANTIAL ISSUE:

The Commission hereby finds that Appeal No. A-3-SLO-00-045 presents a substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act regarding consistency with the Certified Local Coastal Plan.

V. SUBSTANTIAL ISSUE FINDINGS AND DECLARATIONS

A. Project Background

The proposed project involves two of three contiguous parcels originally owned by the applicant. The existing 117-acre parcel (Parcel One) still remains under the applicant's ownership; however, the existing 80-acre parcel subject to this lot line adjustment proposal (Parcel Two) was sold to the Townsend family trust in April 2000. The third parcel (78 acres), not included in this proposal, was created in 1995 and sold in 1996.



Prior to a separate lot line adjustment filed by the applicant in 1994, only one parcel fronted on, and was visible from, Highway One (the original parcel sizes were 8, 71, and 198 acres). However, after the 1994 lot line adjustment, two of the new parcels (the 117 and 78 acres parcels) became visible from Highway One; the new 80-acre parcel was completely invisible from Highway One. In an effort to reduce the visibility of future residences on the 117 and 78-acre parcels, the San Luis Obispo County staff (in consultation with the applicant) developed a Building Control Line (BCL), in order to prevent future development from causing adverse visual impacts.

The applicant received a Minor Use Permit to construct two primary residences, a guesthouse, a barn, a pool and poolhouse, and a greenhouse in 1994 on the 117-acre parcel. All structures proposed as a part of this development were on the east side (or behind) the BCL. During the processing of the Minor Use Permit on the 117-acre parcel, the applicant voluntarily recorded a Conservation Easement on the 80-acre parcel. The Easement contains important Monterey Pine Forest habitat, is contiguous with the entire property boundary, and covers 60 acres of the 80-acre parcel. The remaining 20 acres is found in the center of the parcel, which is not as heavily forested as other portions of the property, and is designated as the "building site" for the 80-acre parcel. The area with the least number of trees within the designated "building site" is at its western edge.

B. Project Location and Description

The project is located on the north side of Cambria Pines Road, approximately ½ mile east of Highway One, north of the community of Cambria, in San Luis Obispo County. Both parcels are within the Rural Lands land use category and are located in a Sensitive Resource Area, as designated in the LCP, due to the presence of sensitive Monterey Pine Forest habitat. The smaller of the two parcels (Parcel Two) is vacant, and two single family residences currently exist on the larger parcel (Parcel One). Please see Exhibit 2 for existing and proposed lot configuration.

The applicant proposes to adjust the lot line between two existing parcels. Currently, Parcel One is 117 acres and Parcel Two is 80 acres. The proposed adjustment would increase Parcel One to approximately 142 acres and reduce Parcel Two to approximately 55 acres. As part of the lot line adjustment a future "building site" for Parcel Two has been designated, as shown on page 16 of Exhibit 3.

C. Minimum Parcel Size

1. LCP Provisions Regarding Minimum Parcel Size

The appellants raise the issue of minimum parcel size as it relates to the proposed lot line adjustment by questioning the project's conformance with North Coast Planning Area Standard 2 for Rural Lands. When the Commission considered this appeal on June 15, 2000, both San Luis



Obispo County and the Commission found that this Site Planning Standard, cited below, was the appropriate standard. It establishes an 80-acre the minimum lot size for the project area as follows:

Site Planning – New Land Divisions Adjacent to Cambria: Proposed residential units at a density equivalent to a minimum of one dwelling unit per 80 acres unless a lower density is required by the Land Use Ordinance (depending upon site constraints), are to be clustered adjacent to the Cambria Urban Reserve Line to minimize the need for new road construction and service extensions; or shall be clustered in open or semi-open areas to minimize tree removal. No structural development shall be allowed on slopes greater than 20%. Water and sewer service shall be developed on-site and not via annexation to the Service District, unless the development site is brought within the Urban Service and Urban Reserve Line. Any Monterey Pines removed during construction shall be replaced. The area shall be developed through the cluster division provisions of the Coastal Zone Land Use Ordinance.

However, the trial court found that this standard “does not set a minimum zoning standard, but merely identifies which parcels are subject to the clustering requirements”, and concluded that the minimum lot size must be established in accordance with Section 23.04.025 of the Coastal Zone Land Use Ordinance (CZLUO). The Coastal Commission and the Browns entered into a settlement agreement where the Commission agreed to reconsider the Brown’s permit in light of the trial court’s ruling and judgment. Therefore, according to the terms of the agreement the Commission will analyze the minimum lot size issue in accordance with the standards established by CZLUO Section 23.04.025, which state:

23.04.025 - Rural Lands Category:

The minimum parcel size for new lots in the Rural Lands category is based upon site features including: remoteness, fire hazard and response time, access and slope. Minimum parcel size is determined by applying the following tests to the site features as described in subsections a through d of this section. The allowable minimum size is the largest area obtained from any of the tests, except as provided for cluster divisions by Section 23.04.036.

- a. Remoteness test: The minimum parcel size is to be based upon the distance of the parcel proposed for division from the nearest urban or village reserve line. Such distance is to be measured on the shortest public road route between the reserve line and the site. Private roads are to be included in such measurements only when they provide the only access to the site from a public road. When a lot proposed for division is within the distances given from more than one reserve line, the smallest parcel size is to be used as the result of this test.*



<i>Distance (Road Miles)</i>		
<i>From Urban or Village Reserve Lines</i>	<i>From Village Reserve Line</i>	<i>Minimum Parcel Size</i>
26+	16+	320acres
21-25	11-16	160
16-20	6-10	80
11-15	0-5	40
0-10	N.A.	20

- b. *Fire hazard/response time test. The minimum parcel size is to be based on the degree of fire hazard in the site vicinity, and the response time. Response time is the time necessary for a fire protection agency to receive the call, prepare personnel and fire equipment for response, dispatch appropriate equipment, and deliver the equipment and personnel to each proposed parcel from the nearest non-seasonal fire station. Fire hazard is defined by the Safety Element of the general plan; response time is determined by the fire protection agency having jurisdiction.*

<i>Response Time¹</i>	<i>MINIMUM PARCEL SIZE</i>	
	<i>Moderate Hazard²</i>	<i>High Hazard³</i>
<i>15 Minutes or Less</i>	<i>20 Acres</i>	<i>20 Acres</i>
<i>More than 15 Minutes</i>	<i>80 Acres</i>	<i>160 Acres</i>

Notes:

- 1. Determined by applicable fire protection agency.*
- 2. As defined by the Safety Element.*
- 3. Includes the high and very high fire hazard areas of the Safety Element.*

- c. *Access test:*

- (1) *General access test rules. The minimum parcel size is based upon the type of road access to the parcel proposed for division, provided that the proposed parcels will use the road considered in this test for access, either by way of individual or common*



driveways. Where access to a parcel is over roadways with differing quality of improvement, the minimum size is as required for the road with the least improvement.

- (2) *Timing of improvements and right-of-way availability. If the improvements do not exist at the time of the subdivision application, the conditions of approval for the tentative map shall require the construction of access improvements which meet the minimum requirements specified by this section. Additional right-of-way width may be required to allow for the construction of required improvements. The right-of-way required by the table in subsection c(4) of this section shall exist as either: (1) an offer to dedicate to the public or (2) as a private easement prior to acceptance of the tentative map application for processing. If the access is a private easement, it may be required to be offered for dedication to the public as a condition of approval of the tentative map.*
- (3) *Conditions of approval for improvements and maintenance. In the event that a land division application is approved, the extent of on-site and off-site road improvements required as a condition of approval, and acceptance of the new road for maintenance by the county may vary. This will depend on the parcel size proposed and the requirements of county standards and specifications in effect at the time the tentative map is approved. Paved roads will be required when:*

 - (i) *The access road is identified as a collector or arterial by the Circulation or Land Use Element; or*
 - (ii) *The road will have the potential to serve 20 or more lots or the road will have the potential to experience a traffic volume of 100 or more average daily trips (ADT), based on the capability for future land divisions and development in the site vicinity as determined by the Land Use Element. In the event it is determined by staff that a road will serve 20 or more lots, or will experience 100 ADT or more, the basis for such a determination shall be explained in the staff report on the subdivision.*
- (4) *Parcel size criteria. Minimum parcel size based on the access test shall be determined as shown in the following table (an existing road which is improved to higher standards than those specified in the table will also satisfy the following criteria).*



<i>Minimum Parcel Size</i>	<i>Access Standards</i>		
	<i>Right-of-Way</i>	<i>Surfacing</i>	<i>Maintenance</i>
<i>320 Acres</i>	<i>Private easement (Note 3)</i>	<i>Improved access (Note 3)</i>	<i>Private maintenance</i>
<i>160 Acres</i>	<i>Private easement (Note 3)</i>	<i>All weather road (Note 2)</i>	<i>Private maintenance</i>
<i>80 Acres</i>	<i>Minimum 40 foot ROW to county road</i>	<i>All weather road (Note 2)</i>	<i>Private maintenance</i>
<i>40 Acres</i>	<i>Minimum 40 foot ROW to county road</i>	<i>County standard gravel road (Note 1)</i>	<i>Organized maintenance (Note 2)</i>
<i>20 Acres</i>	<i>Minimum 40 foot ROW to county road</i>	<i>County standard gravel road (Note 1)</i>	<i>Organized maintenance (Note 2)</i>

Notes:

- 1. A County Standard Gravel Road is a road that satisfies or has been constructed to meet the specifications for a gravel road set forth in the county's "Standard Specifications and Drawings."*
 - 2. An All-Weather Road is a road which can provide year-round access with-out interruption along a public road that has been established for or is utilized by the public. Organized maintenance is by an organized group of property owners through an association which collects fees and contracts for repairs.*
 - 3. An improved access road is a road which is passable but may be subject to closure during certain times of the year. A private easement is a road that is not open to the public.*
- d. Slope test: Site slope shall be measured as defined in Chapter 23.11 (Definitions - Slope).*



Average Slope	MINIMUM PARCEL SIZE	
	Outside GSA	Inside GSA ¹
over 30%	80 Acres	160 Acres
0 - 30%	20 Acres	80 Acres

1. *Geologic Study Area combining designation.*

2. Analysis

Pursuant to the above ordinance, minimum lot sizes within the Rural Lands Designation must be determined by applying four tests regarding site features related to remoteness, fire hazard and response time, access, and slope. The allowable minimum size is the largest area obtained from any of the tests. These tests, as they apply to the project site, are analyzed below.

Remoteness Test

The distance of the project site is less than 10 miles from the Cambria Urban Services Line, resulting in a minimum lot size of 20 acres under the remoteness test.

Fire Hazard/Response Time Test

According to the Cambria Fire Department, the response time to the project site is less than 15 minutes. Thus, the minimum lot size under this test is 20 acres.

Access Test

The determination of minimum parcel size under the access test is based upon the type of road access to the parcel proposed for division. In this case, access to the parcels proposed for adjustment is obtained via a private easement that allows the owners of the land to cross private lands that separate the parcels from Cambria Pines Road (a county maintained road). This access way is not available for public use, and therefore currently qualifies as a "private easement" according to note 3 of the Table applicable to the access test and as confirmed by County planning staff (see Exhibit 7). The minimum lot size under the access test for parcels that gain access via private easements is either 160 or 320 acres, depending upon the type of road surfacing.

With respect to road surfacing, the County analysis provided by Exhibit 7 states that the existing access road is considered an "all weather road". However, the applicant asserts that the road meets the criteria of a "County Standard Gravel Road" because it "has a 20' pavement width within a 40 foot right of way and exceeds the County standards for a Standard Gravel Road" (page 28 of Exhibit 6). The difference between an "All-Weather Road" and "County Standard



Road” only comes to play in determining the minimum lot size for parcels that obtain access along a public right of way (discussed further below). For parcels that gain access via private easement, such as the subject parcels, the minimum lot size is 160 acres if the road is an “All-Weather Road” and 320 acres if the road is an “Improved Access Road”¹. In accordance with the description of an all weather road provided by note 2 of the access test table, the private easement provides year-round access between the subject parcels and a county road utilized by the public (Cambria Pines Road). Thus the minimum parcel size for both Parcel One and Two under the right-of-way and surfacing components of the access test is 160 acres.

The final component of the access test is the type of maintenance. In this case, the type of maintenance does not affect minimum parcel sizes because both parcels gain access by an All-Weather Road over a private easement and therefore have a minimum parcel size of 160 acres. It is noted, however, that the owner’s of Parcel One and Two have developed a formal road maintenance agreement (attached as pages 26 and 27 of Exhibit 6) that created the “Jordan Road Association” and qualifies as “organized maintenance” as defined by Section 23.04.025c(4)². The existence of this maintenance agreement would affect the minimum lot size of the parcels only if access to the parcels was gained along a public right of way, which is not the case; the agreement specifically states that Jordan Road is privately owned.

The applicant’s representative challenges the conclusion that the minimum parcel size for Parcel One and Parcel Two is 160 acres, and asserts that the minimum lot size is 20 acres under the access test (see Exhibit 6). To support this position, he has recently shown that an offer to dedicate (OTD) a 50 foot public road that would connect Parcel Two with Cambria Pines Road was recorded as part of Tract 1804 (a subdivisions adjacent to the site known as Cambria Pines Estates). Thus, he argues that the presence of the OTD qualifies the road as a public-right-of-way and the lots for a minimum parcel size of 20 acres. This is not the case because as stated in subsection (2) of the access test, “The right-of-way required by the table in subsection c(4) of this section shall exist as either: (1) and offer to dedicate to the public or (2) as a private easement prior to acceptance of the tentative map for processing” (emphasis added). The application for the lot-line adjustment was made in 1999, prior to the recordation of the OTD on June 23, 2000. Since the type of access to Parcel One and Two at the time the lot line adjustment was accepted by the County for processing was (and still is) a private easement, the minimum lot size for the parcels ranges between 160 and 320 acres depending on the type of road surfacing.

The presence of the OTD does not change the current private status of the road because San Luis Obispo County Board of Supervisors rejected this offer without prejudice on June 20, 2000. Although the OTD still exists, it does not create a public road until accepted by the County or other appropriate management entity. Oddly enough, it is noted that Section 23.04.025c(2) would allow an unaccepted OTD to meet the criteria for a public right of way if it had been recorded prior to the filing of the application for the lot line adjustment (which, as described

¹ “Improved Access Road” is defined by the LCP as a road which is passable but may be subject to closure during certain times of the year.

² Note 2 of this ordinance states “Organized Maintenance is by an organized group of property owners through an association which collects fees and contracts for repairs”.



above, is not the case). Such an approach runs contrary to the broader planning principles typically applied when determining the appropriate size and intensity of new lots in relationship to the available circulation infrastructure. That is, smaller, more numerous lots may be appropriate where there is an adequate public road infrastructure available to serve them, while larger lots of fewer quantity should be maintained where such infrastructure does not exist. Accordingly, the determination of the appropriate intensity of land divisions should be based on the infrastructure known to be available at the time of the application (i.e, the existence of adequate public rights-of-way), and not based on an assumption that such infrastructure may be provided in the future if an offer to dedicate is accepted. In this case, the existence of an offer to dedicate that was previously rejected by the County does not ensure that there would be an adequate roadway system, with acceptable levels of environmental impact, to serve 20-acre lots on the 197 acres that is the subject of the proposed adjustment.

In addition to the existence of the OTD discussed above, the applicant's representative has argued that the minimum lot size is 20 acres because Parcel One borders Highway One, an improved public road. He has also argued that the minimum lot size under the access test is 20 acres because the existing access route from Cambria Pines Road, although only 20 feet in width, is along a 40 foot wide easement area and developed in accordance with County standards for a gravel road, and maintained pursuant to an agreement between property owners. There are numerous reasons why this is not the case. First, the applicant's representative incorrectly equates the existing private easements from Highway One and Cambria Pines Road to Parcel One and Two as "Rights of Way". As defined by Section 23.11.030 of the CZLUO, Right of Way means:

A public road, alley, pedestrian or other access right-of-way with width described in recorded documents. Also includes rights-of-way for electric power transmission, oil and gas pipelines and communications systems utilizing direct connections such as cable TV, telephone, etc. (Emphasis added.)

The easements under which access to Parcel One and Two are gained are for the exclusive use of the property owners, and therefore do not meet the LCP definition of a Right of Way because the private easements do not qualify as a public road.

Secondly, irrespective of the fact that Parcel One borders on Highway One, access to both Parcel One and Parcel Two is via the private easement between Cambria Pines Road and the properties. Pursuant to the County's approval of the development of Parcel One, access to the properties is limited to this private easement. The permit specifically required that, if feasible, access to Parcel One be obtained via Cambria Pines Road in order to avoid the adverse environmental impacts associated with the construction of an access road from Highway One, including but not limited to impacts associated with a crossing of Leffingwell Creek. Given the fact that the alternative route from Cambria Pines Road has shown to be feasible, and has already been improved pursuant to that permit, the development of a new access road from Highway One is not only unnecessary, but would conflict with LCP provisions protecting sensitive resource including riparian and terrestrial habitats and scenic corridors. It is therefore highly unlikely that the coastal development required for the improvement of such an accessway could be approved.



Finally, even if access to Parcel One and Parcel Two could be obtained from Highway One, this accessway would still constitute a private easement. The existing easement leading to Parcel One and Two from Highway One crosses an intervening property that is not owned by the applicant. In the unlikely instance that the approvals required to construct an improved access road within the easement area could be obtained, the road would still be located on a private easement. Thus, according to the chart found in CZLUO Section 23.04.025(c)(4) the minimum lot size for Parcel One and Parcel Two is 160 acres irrespective of whether access to the properties is gained from Cambria Pines Road or Highway One because access is via private easement and there was no offer to dedicate a public road that would connect the parcels to a County road at the time of application.

For the reasons detailed above, the minimum parcel size for the two parcels are 160 acres based on the fact that access is gained via private easement. If access were by public right-of-way, then the surfacing of the road and the type of maintenance would be used to determine if the minimum lot size should be 20 or 80 acres. As described above, the applicant's representative has challenged the County's determination that the road is an "All-Weather Road". In further discussions with County staff regarding this issue, Commission staff has been informed that there are additional factors beyond the road surface and width that must be applied to determine whether the existing access road meets or exceeds County standards for a "County Standard Gravel Road". To date, such an evaluation has not been completed, as engineered drawings of the road have never been submitted for County review. This is a moot point since access to the properties is via private easement, resulting in a minimum parcel size of 160 acres.

Slope Test

The Slope Test required under Section 23.04.025d of the CZLUO establishes minimum lot sizes ranging from 20 to 160 acres, depending upon the average slope of the site and whether the project is located within a Geologic Study Area combining designation (GSA). In this case, the project is not located within a GSA. As a result, the minimum lot size is 20 acres if the average slope is less than 30%, and 80 acres if the average slope is more than 30%. The applicant's representative recently submitted a slope analysis conducted by Vaughn Surveys that indicates the average slope for Parcel One is 17.21 percent, and the average slope for Parcel Two is 11.33 percent. Thus, the minimum parcel size under the slope test is 20 acres.

3. Conclusion

In accordance with Section 23.04.025 of the CZLUO, the minimum lot size for the project site is the largest area obtained from any of the four tests, which is 160 acres as determined under the access test. This means that both the existing lots, as well as the proposed lots, do not conform to LCP minimum lot size requirements (i.e., they are non-conforming lots). By establishing non-conforming lots, the project increases the intensity of development on the land beyond the intensity allowed by the LCP, which is based on a minimum lot size of 160 acres. The contentions of the appeal that challenge the project's consistency with LCP minimum lot size requirements therefore raise two substantial issues. First, the proposed adjustment does not comply with minimum parcel size for new lots in the Rural Lands Category established by



Section 23.04.025 of the CZLUO; neither parcel complies with the minimum parcel size even though there is adequate acreage for at least one of the lots to meet the 160 acre minimum parcel size standard. Second, by decreasing the size of one of the non-conforming lots in a manner that does not bring the larger lot into compliance with minimum lot size requirements, the proposed adjustment is not equal or better than the existing non-conforming situation. Therefore the appeals raise a substantial issue because the project is inconsistent with LCP minimum lot size standards.

D. Environmentally Sensitive Habitat Areas (ESHA)

1. LCP Provisions Regarding ESHA

Both appellants raise the issue of the potential for this project to have adverse impacts on environmentally sensitive habitats, challenging the projects consistency with the following LCP provisions:

Policy 4 for Environmentally Sensitive Habitats: *No divisions of parcels having environmentally sensitive habitats within them shall be permitted unless it can be found that the buildable area(s) are entirely outside the minimum standard setback required for that habitat...*

Policy 33 for Environmentally Sensitive Habitats – Protection of Vegetation: *Vegetation which is rare or endangered or serves as cover for endangered wildlife shall be protected against any significant disruption of habitat value. All development shall be designed to disturb the minimum amount possible of wildlife or plant habitat.*

CZLUO Section 23.07.164 – SRA Permit and Processing Requirements

(e) Required Findings: Any proposed clearing of topsoil, trees, or other features is the minimum necessary to achieve safe and convenient access and siting of proposed structures, and will not create adverse effects on the identified sensitive resource.

CZLUO Section 23.07.170(c): *No division of a parcel containing an Environmentally Sensitive Habitat shall be permitted unless all proposed building sites are located entirely outside of the applicable minimum setback required...*

CZLUO Section 23.07.176 – Terrestrial Habitat Protection: *Vegetation that is rare or endangered, or that serve as habitat for rare or endangered species shall be protected. Development shall be sited to minimize disruption of the habitat.*

2. Analysis

The above LCP provisions establish the following standards applicable to the project. First, ESHA Policy 1 and CZLUO Section 23.07.170(c) prohibit the creation of new lots where



building sites do not comply with LCP setback requirements. The most stringent of these setback requirements is the 100 foot setback from ESHA established by Coastal Plan Policy 1 for ESHA and Section 23.07.170 of the CZLUO. Second, Policy 33 for ESHA and CZLUO Sections 23.07.164 and 23.07.176 of the CZLUO require new development to minimize impacts to terrestrial habitats.

The parcels subject to this lot line adjustment proposal are located within the Monterey Pine Forest of Cambria; just one of four remaining native stands of the Monterey Pine on the west coast. This area is designated as a Sensitive Resource Area in the LCP, and is considered an environmentally sensitive habitat area due to the limited native range of the species and the susceptibility of Monterey Pines to the damaging effects of the pine pitch canker disease. Therefore, especially in light of the pine pitch canker threat, minimizing the loss of native Monterey Pine habitat to other causes (urbanization, recreational overuse, invasive exotic plant species) has become an important consideration in land use planning in Cambria.

As previously noted, the applicant voluntarily recorded a conservation easement over 60 acres of the 80 acre parcel (Parcel Two). The remaining 20 acres is generally located in the center of Parcel Two, and was considered to be the "building site" for future development during the County's processing of the proposed adjustment, although no analysis was conducted to evaluate whether this building site was the most protective of sensitive habitats. The applicant's action to establish a conservation easement, and thereby limit development to a specific area of the site, should not prevent full consideration of alternative sites for future development that would be more protective of the coastal resources contained on Parcel Two, even if it would require the property owner to adjust the conservation easement. However, the local record of approval for the lot line adjustment consistently recognizes the 20 acres outside of the conservation easement as the future building site, and thereby prejudices opportunities to site future development on the adjusted lot in the least environmentally damaging location as required by the LCP.

Pursuant to the County's approval, the adjustment would remove approximately 25% (5 acres) of the 20-acre "building site" from this smaller parcel and add it to Parcel One, which is already built out with two primary residences. Since the portion of the designated building site that would be shifted from Parcel Two to Parcel One is the area with the fewest Monterey Pines, appellants raise a concern that removing this area from the smaller undeveloped lot will increase the amount of trees that would have to be removed to accommodate future development within the remaining 15-acre building envelope.

Another contention of the appeal is that the construction will require the construction of a new driveway to serve the 20-acre building envelope recognized in the County's approval. As shown on the project plans (Exhibit 2), there is an existing dirt road that provides access to the 20-acre portion of the project site outside of the area placed into a conservation easement by the applicant. The proposed adjustment would remove this road from the smaller parcel, thereby requiring the construction of a new road, graded and improved to meet CDF requirements, potentially requiring the disturbance or removal of Monterey Pines.



The 1993 aerial photograph attached as Exhibit 5 is extremely helpful in the analysis of these contentions. As contended by the appellants, the photograph shows that the adjustment will in fact remove a significant portion of un-forested area from the identified building site. While it appears that there may remain adequate un-forested area within the building site to accommodate a residence that would not require the removal of trees, the adjusted lot line would clearly diminish opportunities to locate the development within the building site and comply with the required 100 foot setback from forested areas. In addition, the building site recognized by the County approval would require access improvements within sensitive forest habitat, regardless of whether the "long" or "short" driveways shown in the photograph is pursued. Thus, the appeals raise a substantial issue with respect to the project's compliance with ESHA Policy 1 and CZLUO Section 23.07.170(c).

Most significantly, the site conditions shown by the 1993 aerial photograph, as well as a 2001 aerial photograph attached as Exhibit 9, demonstrate that the "building site" recognized by the local approval is not sized or located in a manner that is most protective of coastal resources. Contrary to LCP requirements to avoid and minimize impacts to ESHA, the building site is located on the northern half of the property, nearly one-quarter of a mile away from Cambria Pines Road. A smaller building site, located closer to Cambria Pines Road would greatly reduce impacts to the forest by significantly diminishing the amount of grading, tree removal, road construction, and habitat fragmentation.³ Given that alternative less environmentally damaging locations for residential development exist on the site, specifically at the southeast corner of the parcel, the appeals raise a substantial with respect to LCP requirements calling for new development to avoid and minimize impacts on ESHA.

3. Conclusion

The lot line adjustment and associated building site approved by San Luis Obispo County is inconsistent with LCP requirements prohibiting the creation of new lots where building sites do not comply with LCP ESHA setback requirements. The adjustment would limit opportunities for future development within the building site to be adequately setback from sensitive forest habitats by removing the least forested portion of the building site from Parcel 2. Moreover, the building site recognized by the County approval of the lot line adjustment would require access improvements that would adversely impact forest habitats, and is not sized or located in a manner to avoid and minimize the impact of future development on the Monterey Pine Forest. Therefore the appeals raise a substantial issue with LCP requirements prohibiting the creation of new lots where future development would encroach within ESHA and its setbacks, as well as with LCP provisions requiring impacts to ESHA to be avoided and minimized.

³ It is noted that the building site recognized in the County approval of the lot line adjustment is outside of the area that was mapped as ESHA by the LCP in 1983, and that an alternative building site closer to Cambria Pines Road is within mapped ESHA. LCP ESHA maps do not, however, accurately depict the location and extent of ESHA as it actually occurs on the ground. Thus, the effective implementation of LCP standards protecting ESHA necessitates that a decision on the proposed development place higher priority on the protection of sensitive habitats where they actually occur, as opposed to where they have been mapped.



E. Water Supplies

1. LCP Provisions Regarding Water Supplies

Appellant contends that the proposed project violates an agreement reached between the applicant and the Cambria Community Services District (CCSD) regarding the allocation of one equivalent dwelling unit (EDU) to the 80 acre parcel. Although not specifically stated in the appellant's contention, the applicable LCP Policy states in relevant part:

Policy 1 for Public Works - Availability of Service Capacity: *New development (including divisions of land) shall demonstrate that adequate public or private service capacities are available to serve the proposed development. Priority shall be given to infilling within existing subdivided areas.... Permitted development outside the USL shall be allowed only if it can be serviced by adequate private on-site water and waste disposal systems.*

2. Analysis

Ensuring that adequate water services exist for new development is critical, especially in communities such as Cambria, where water is scarce. The applicant and the Cambria Community Services District (CCSD) entered into an agreement on July 28, 1997 (attached as pages 8-13 of Exhibit 3) that resolved a dispute regarding what obligation, if any, the CCSD has to serve the applicant's property with water services. In that agreement, the CCSD agrees to "issue the County of San Luis Obispo...an 'intent to serve' water letter for one (1) EDU [equivalent dwelling unit] of grandfathered residential water service [to Parcel 2], subject to the terms and conditions for such letters provided for in [the CCSD's] regulations." That agreement further states that "Parcel 2 will remain as a single 80 acre parcel and Owner will not subdivide Parcel 2 by way of parcel map, tentative map and final subdivision map or other procedure."

This agreement between the CCSD and the applicant, in effect, provides for adequate water services for one residential unit on the existing Parcel 2. Thus, the applicant had obtained the necessary approvals to be in conformance with the requirements of the above-mentioned LCP Policy. However, because the agreement specifically states that "Parcel 2 will remain as a single 80 acre parcel," the agreement from the CCSD to provide one (1) EDU to the site will become null and void with the proposed lot line adjustment to reduce this parcel to 55 acres. Therefore, if Parcel 2 is reduced to 55 acres, the applicant may not have the necessary approvals to ensure that adequate water services will be provided to the new development, and thus, will not be in conformance with the requirements of Policy 1 for Public Works.

3. Conclusion

The appeal raises a substantial issue regarding the project's consistency with LCP standards requiring that new development demonstrate the availability of adequate water supplies because the CCSD has agreed to provide water to Parcel 2 only if it remains 80 acres in size. By



reducing the size of this Parcel, the lot line adjustment calls into question the availability of water to serve future development on the site, and is therefore inconsistent with LCP Policy 1 for Public Works.

F. Further Subdivision of Parcel One

Appellant Shirley Bianchi raises the point that the applicant plans to further subdivide the 117-acre parcel to include a 20-acre building site. Because this intended subdivision is not part of the project approved by the County, and therefore not subject to this appeal, this contention does not raise a substantial issue. Nevertheless, the issue of future subdivisions, as it relates to minimum lot size requirements, is addressed in the De Novo component of this review. It is also worth noting that there are numerous constraints that would need to be resolved before any further subdivision of the parcels could be considered. For example, the LCP prohibits subdivisions that would create building envelopes within environmentally sensitive habitat areas or highly visible sites (e.g., CZLUO Sections 23.07.170(c) and 23.04.021c(6)). Parcel One and Two both contain, and perhaps are comprised entirely of, sensitive Monterey Pine forest and associated grassland habitats, and much of Parcel One is highly visible from scenic Highway One. In addition, the LCP prohibits land divisions that would require new service extensions (e.g., community water) beyond the urban services line (e.g., CZLUO Section 23.04.021c(3) and North Coast Area Plan Standard 2 for Rural Lands): Thus, any future subdivision of the project site (which is outside the urban services line) would need to obtain its water from a sustainable on-site source, in a manner that would not adversely affect coastal resources. It is clear that a great deal of environmental analysis would need to take place before it can be assumed that such an on-site water supply system is feasible.

VI. STAFF RECOMMENDATION ON COASTAL DEVELOPMENT PERMIT

The staff recommends that the Commission, after public hearing, **approve** a coastal development permit for the proposed development subject to the standard and special conditions below.

Motion. I move that the Commission approve Coastal Development Permit Number A-3-SLO-00-045 pursuant to the staff recommendation.

Staff Recommendation of Approval. Staff recommends a **YES** vote. Passage of this motion will result in approval of the coastal development permit 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 a Coastal Development Permit. The Commission hereby approves the coastal development permit on the ground that the development as conditioned, will be in conformity with the provisions of the San Luis Obispo County certified Local Coastal Program. Approval of the coastal development permit complies with the California Environmental Quality Act because feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the amended development on the environment.



VII. CONDITIONS OF APPROVAL

A. 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. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **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.
5. **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.

B. Special Conditions

1. **Scope of Permit/Revised Plans.** This permit authorizes the adjustment of the existing property line separating Parcel One and Parcel Two shown by Exhibit 2 in a manner that will result in a minimum parcel size of 160 acres for Parcel One. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AND PRIOR TO THE RECORDATION OF A PARCEL MAP OR CERTIFICATES OF COMPLIANCE, the applicant shall submit, for Executive Director review and approval, revised plans for the lot line adjustment that comply with this requirement. The Revised Plans shall also delineate the building site for future development on Parcel 2 in the clearing near the southeast corner of Parcel Two so that south and east boundaries of the building envelope are co-terminus with the property boundary, and the building site generally conforms to the building site illustrated by Exhibit 8. The building site shall be delineated within this general area in a manner that will avoid and minimize tree removal and other impacts to sensitive habitats posed by future development to the greatest degree possible. Future development within the designated building site shall be subject to coastal development permit review and approval, and shall be sited and designed to avoid, minimize, and mitigate impacts to sensitive habitats and other coastal resources consistent with LCP requirements. Submittal of the Revised Plans shall be accompanied by evidence that the Conservation Easement recorded on Parcel Two has been revised to exclude the building site.



2. **Compliance with Local Conditions of Approval.** All conditions of approval adopted by the San Luis Obispo County (attached as Exhibit 4) pursuant to an authority other than the Coastal Act (e.g., the Subdivision Map Act) continue to apply to the project as revised by Special Condition 1.
3. **Future Development Deed Restriction.** This permit is only for the development described in Coastal Development Permit No. A-3-SLO-00-045. Except as provided in Public Resources Code section 30610 and applicable regulations, any future development as defined in PRC section 30106, including but not limited to, a change in the density or intensity of use land, shall require a separate coastal development permit from San Luis Obispo County. No future subdivision of Parcels One and Two, or adjustment of their lot lines, other than those brought about in connection with the acquisition of land for public recreation or resource protection, or to maintain the northern property boundaries along Leffingwell Creek in their current locations, shall be permitted.

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall execute and record a deed restriction in a form and content acceptable to the Executive Director, reflecting the above restrictions on development. The deed restriction shall include legal descriptions of the parcels being restricted, and 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. The deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

4. **Water.** PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for Executive Director review and approval, written evidence verifying that the Cambria Community Services District will serve future development on Parcel Two with water.

VII. DE NOVO FINDINGS AND DECLARATIONS

A. Minimum Parcel Size and Land Division Requirements

1. LCP Provisions Regarding Minimum Parcel Size and Land Divisions

In addition to the LCP policies and ordinances identified by the appeals and cited in the Substantial Issue findings of this report, which are incorporated into these findings by reference, Section 21.02.030(c) of the Real Property Division Ordinance applies to the proposed lot line adjustment. This ordinance states:

Criteria to be Considered [for Lot Line Adjustments]. A lot line adjustment shall not be approved or conditionally approved unless the new parcels resulting from the lot line adjustment will conform with the county's zoning and building ordinances. The criteria to be considered includes, but is not limited to, standards relating to parcel design and minimum lot area. These criteria may be considered satisfied if the resulting parcels maintain a position with respect to



said criteria which is equal or better than such position prior to approval or conditional approval of the lot line adjustment.

2. Analysis

As established in the substantial issue findings, the proposed lot line adjustment is inconsistent with LCP minimum lot size standards. Neither the existing lots nor proposed lots meet the minimum parcel sizes established by Ordinance 23.04.025. The project also does not comply with the "equal or better" criteria established by Section 21.02.030(c) because it does not improve upon this non-conforming situation. Rather, by decreasing the size of one of the non-conforming lots in a manner that does not bring the larger lot into compliance with minimum lot size requirements, the proposed adjustment results in a *worsening* of the non-conforming situation. This increases the intensity of future development that can be pursued on the site consistent with LCP standards, which is based on having a minimum parcel size of 160 acres.

Effective implementation of LCP's minimum lot size standards is a critical way in which coastal resources are protected, particularly in rural areas. For example, maintaining large parcel sizes on agricultural lands is a primary way in which agricultural production activities are preserved, and the impacts of non-agricultural uses are minimized. Recent proposals to adjust lot lines on agricultural lands have therefore been carefully reviewed by the Commission. In September 2001 the Commission heard an appeal of a lot line adjustment proposed on agricultural land near the town of Harmony, where a substandard agricultural lot was proposed to be increased in size and relocated to accommodate a non-agricultural uses (Coastal Development Permit Appeal A-3-SLO-01-056). The Commission found that the relocation of the lot closer to existing non-agricultural uses would help protect agricultural lands, but denied the proposed increase in size because it would increase the amount of land converted to a non-agricultural use.

In the case of the Rural Lands category, minimum lot size standards protect the rural character of the area, which includes the protection of the important scenic open space and sensitive habitats contained in these areas. Indeed, the site of the proposed lot line adjustment supports high quality Monterey Pine forest, grassland, and riparian habitats. It also provides stunning views of these resources, available to travelers along on of the most scenic stretches of Highway One in the entire state. In recognition of these resource concerns, the Commission adopted modifications to the North Coast Area Plan in May 1998, which recommended a minimum parcel size of 160 acres be established for *all* Rural Lands north of Cambria. The revised findings stated in relevant part:

...In light of the uncertainty about the appropriate acreage threshold for sustaining Monterey Pine forest habitat, the need to clearly distinguish the transition from urban densities to agricultural densities, and the need to minimize new lots in the Cambria vicinity given water supply constraints, a substantial reduction in allowable density (i.e. 160 acre minimum parcel size) is not only warranted, but essential to insure that the amount of forest disruption is held to a level of insignificance.



The project's lack of compliance with LCP minimum lot size standards fails to achieve the protection of these significant coastal resources required by the LCP. Parcel One, the larger of the non-conforming parcels is already built out with a large residential estate while the smaller Parcel Two is undeveloped. Therefore, protection of the coastal resources contained on these parcels can best be achieved by bringing the larger already developed parcel into conformance with the minimum lot size of 160 acres, and by reducing the size of the smaller non-conforming parcel accordingly. The project falls short of achieving the minimum lot size for the larger parcel, and therefore increases the potential for future development on the smaller non-conforming parcel to adversely impact coastal resources. Moreover, as detailed in the following findings regarding ESHA, the locally approved project identifies a future building site for Parcel Two that does not effectively implement LCP requirements to avoid and minimize impacts to sensitive habitats. As a result, the lot line adjustment is not equal or better to the existing parcel configuration, in conflict with the requirements of 21.02.030(c).

To resolve this inconsistency, the special conditions of approval do two things. First it requires the adjustment be revised so that Parcel One complies with the 160-acre minimum lot size requirement, thereby improving upon the non-conforming situation by bringing Parcel One into conformance with LCP minimum lot size requirements. Second, it requires the applicant to record a deed restriction that prohibits future divisions of the parcels as a means to ensure that the 160-acre minimum lot size for Parcel One will be maintained, and the non-conforming size of Parcel Two will not be further decreased.

3. Conclusion

The proposed lot line adjustment is inconsistent with the LCP minimum parcel size standards and the requirement that lot line adjustments achieve an equal or better position of the lots prior to the adjustment. The project has therefore been conditioned to require Parcel One to be brought into conformance with the LCP minimum lot size of 160 acres, and that a restriction against future subdivisions be recorded to prevent the creation of additional non-conforming parcels. Only with these conditions does the project conform to LCP requirements for lot line adjustments.

B. Environmentally Sensitive Habitat Areas (ESHA)

1. LCP Provisions Protecting ESHA

As discussed in the substantial issue findings, the proposed project is inconsistent with Policy 4 and 33 for Environmentally Sensitive Habitats, and CZLUO Sections 23.07.1709(c), 23.07.164(e), and 23.07.176 because of its potential to have adverse impacts on environmentally sensitive habitats. These provisions are cited in the Substantial Issue section of this staff report, and incorporated herein by reference, along with the accompanying Substantial Issue findings.

Section 21.02.030(c) of the LCP's Real Property Division Ordinance requiring lot line adjustments to achieve an equal or better lot position, cited above, also applies to the evaluation of the project's impact on ESHA, as does Section 23.04.021c of the CZLUO, which establishes



the following requirement for land divisions, including lot line adjustments⁴, applicable to this project:

- c. Overriding land division requirements. All applications for land division within the Coastal Zone (except condominium conversion) shall satisfy the following requirements, as applicable, in addition to all applicable provisions of Sections 23.04.024 through 23.04.036. In the event of any conflict between the provisions of this section and those of Sections 23.04.024 through 23.04.036, this section shall prevail.*

...

(7) Location of access roads and building sites. Proposed access roads and building sites shall be shown on tentative maps and shall be located on slopes less than 20 percent.

Finally, the North Coast Area Plan establishes the following standard for the Rural Lands land use designation, within which the project site is contained:

- 2. Site Planning – New Land Divisions Adjacent to Cambria. Proposed residential units at a density equivalent to a minimum of one dwelling unit per 80 acres unless a lower density is required by the Land Use Ordinance (depending upon site constraints), are to be clustered adjacent to the Cambria Urban Reserve Line to minimize the need for new road construction and service extensions; or shall be clustered in open or semi-open areas to minimize tree removal. No structural development shall be allowed on slopes greater than 20%. Water and sewer service shall be developed on-site and not via annexation to the Service District, unless the development site is brought within the Urban Service and Urban Reserve Line. Any Monterey Pines removed during construction shall be replaced. The area shall be developed through the cluster division provisions of the Coastal Zone Land Use Ordinance.*

2. Analysis

The LCP requires that all land divisions, including lot line adjustments, identify the location of future building sites and access roads. The location of these features must be designed to protect ESHA, and be equal or better to the existing situation.

⁴ As stated in Section 21.08.020(a) of the San Luis Obispo County Real Property Division Ordinance, subdivision development means lot line adjustments, tentative parcel maps, tentative tract maps, vesting tentative maps, reversions to acreage, determinations that public policy does not necessitate the filing of a parcel map, modifications of a recorded parcel or tract map, conditional certificates of compliance under Government Code section 66499.35(b), when located in the coastal zone of the County



The parcels affected by the proposed lot line adjustment are dominated by rare and valuable biological habitats that are extremely vulnerable to adverse impacts by future development. The Monterey Pine Forest and riparian habitats supported by the site are recognized as ESHA by the LCP. The grassland habitats adjacent to the forest and riparian corridor are an integral part of this ecosystem, providing areas for foraging and forest regeneration. Future development of uses that are not dependent on these resources will diminish biological productivity by introducing light, noise, and human activity; increasing the potential spread of pitch canker and non-native invasive vegetation; and, eliminating natural areas upon which plant and animal species endemic to the pine forest and riparian habitats depend.

Currently, future development of Parcel Two would be subject to an evaluation of the least environmentally damaging building site. Although the applicant voluntarily recorded a conservation easement over the portion of Parcel Two outside of the proposed building site, that action does obviate the need for the County (or the Commission on appeal) to conduct an analysis of alternative building locations that may better protect ESHA pursuant to the California Environmental Quality Act and LCP at such a time that development of Parcel Two is proposed. The locally approved lot line adjustment negatively changes these circumstances by prescribing a future building site that does not adequately avoid and minimize the impacts of future development on ESHA. As a result, the adjustment results in a worsening of the existing situation, inconsistent with Section 21.02.030(c).

As approved by the County, the lot line adjustment designates a 20-acre building site that is located on the northern half of Parcel Two. This building site is inconsistent with LCP ESHA protection provisions (e.g., ESHA Policies 4 and 33, Sections 23.07.170(c) and 23.07.176 of the CZLUO) because it does not locate building sites outside of ESHA and their setbacks or minimize disruption of sensitive terrestrial habitats. It is also inconsistent with North Coast Planning Area Standard 2 for Rural Lands, which requires the site plan for land divisions with a density of one unit per 80 acres or less to be clustered adjacent to the Cambria Urban Reserve Line and in open areas.

As can be seen in the aerial photograph attached as Exhibit 5, as well as in the 2001 aerial photograph attached as Exhibit 9, the proposed building site contains significant stands of Monterey Pine forest and associated grassland habitats, and will require the construction of a new driveway to access the site that will impact Monterey Pine forest habitats and their setbacks. The large size of the building envelope does not effectively limit future development to the least sensitive areas of this highly sensitive site. Moreover, the location of the building site exacerbates the impacts of future development on ESHA by fragmenting forest habitat, and increasing the amount of disturbance by necessitating significant access improvements.

In order to carry out LCP ESHA protection and site planning provisions, it is essential to diminish the size of the building site, and locate it as close to Cambria Pines road as possible. The extent of sensitive habitats supported by the site necessitates that future development of non-resource dependent uses be minimized to the greatest degree possible. Accordingly, the building site must be reduced in size, located to minimize tree removal and habitat disturbance, and clustered adjacent to already developed areas. As shown in Exhibit 8, the clearing in the



southeast corner of the project site is most consistent with these criteria, as it avoids the need to construct a long driveway to access the building site, which will remove sensitive features and habitats of the site inconsistent with ESHA Policy 33 and CZLUO Sections 23.07.164(e) and 23.07.176, as well as intrude upon ESHA and its setbacks inconsistent with ESHA Policy 4 and CZLUO Section 23.07.170(c). Moreover, locating the building site in the southeast corner of Parcel Two will minimize the encroachment on non-resource dependent development into sensitive habitat areas. This will prevent the fragmentation of the habitat area minimize habitat disruption, as required by ESHA Policy 33 and CZLUO Sections 23.07.164(e) and 23.07.176, and will minimize tree removal in accordance with Area Plan Standard 2.

In accordance with the above analysis, the project has been conditioned to require revised plans that locate the building site in the southeast corner of parcel two, illustrated by Exhibit 8. Within this area, the building site must be configured to avoid and minimize tree removal and other impacts to sensitive habitats posed by future development. Only with this condition does the project conform to LCP provisions protecting ESHA and requiring lot line adjustments to achieve an equal or better configuration of parcels.

3. Conclusion

The proposed lot line adjustment does not comply with LCP ESHA protection provisions because the building envelope for Parcel Two (required to be identified pursuant to Section 23.04.021(c)) does not avoid and minimize impacts adverse impacts on terrestrial habitats, inconsistent with Coastal Plan Policy 33 for ESHA and CZLUO Sections 23.07.164(e) and 23.07.176. The adjustment is also inconsistent with Coastal Plan Policy 4 for ESHA and CZLUO Section 23.07.170(c) because future development will encroach within ESHA and its setbacks beyond what is necessary to accommodate a reasonable economic use of Parcel Two. Finally, the project is inconsistent with the Site Planning requirements of the North Coast Area Plan because it does not cluster the adjusted site in a manner that will minimize tree removal.

To address these inconsistencies, the project must be conditioned to relocate the building site to the clearing in the southeast corner of Parcel Two. Although this building envelope will be within ESHA mapped by the LCP, it represents the least damaging alternative to the resources contained on the site because it will minimize the amount of habitat disruption and fragmentation associated with future development. Only with this condition does the project comply with LCP ESHA protection provisions and the "equal to or better" criteria for lot line adjustments contained in the LCP's Real Property Division Ordinance.

C. Water Supplies

1. LCP Provisions Regarding Water Supplies

Please see Policy 1 for Public Works cited in the Substantial Issue findings and incorporated herein by reference.



2. Analysis

As detailed in the Substantial Issue findings regarding water supplies (also incorporated by reference), the project is inconsistent with LCP Policy 1 for Public Works because it has not demonstrated the availability of the public services. In accordance with an agreement between the applicant and the Cambria Community Services District (CCSD), the CCSD will provide water to Parcel Two only if it remains an 80-acre parcel. The proposal to reduce Parcel Two to 55 acres calls into question the availability of the water supply necessary to accommodate development on the proposed building site, and therefore does not conform to the requirements of Policy 1.

In order to resolve this inconsistency, the project has been conditioned to require evidence that the CCSD will provide water to Parcel Two once it is adjusted in a manner that conforms to the conditions of this permit.

3. Conclusion

Only with this condition does the project comply with Policy 1 for Public Works.

VIII. CALIFORNIA ENVIRONMENTAL QUALITY ACT

Section 13096 of the California Code of Regulations requires that a specific finding be made in conjunction with coastal development permit applications showing the application to be consistent with 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 that would substantially lessen any significant adverse effect that the project may have on the environment.

San Luis Obispo County certified a Negative Declaration for the project on February 25, 2000. However, as detailed in the findings of this staff report, the Commission has identified environmental impacts of the project that were not effectively addressed by the certified Negative Declaration. In particular, the Commission has found that the local approval of the project does not comply with LCP minimum lot size standards or effectively protect environmentally sensitive habitats, and will therefore have a significant adverse impact on the environment. To address these impacts, the Commission has conditioned its approval of the project in a manner that will prevent the lot line adjustment from having a significant adverse affect on the environment within the meaning of the California Environmental Quality Act.



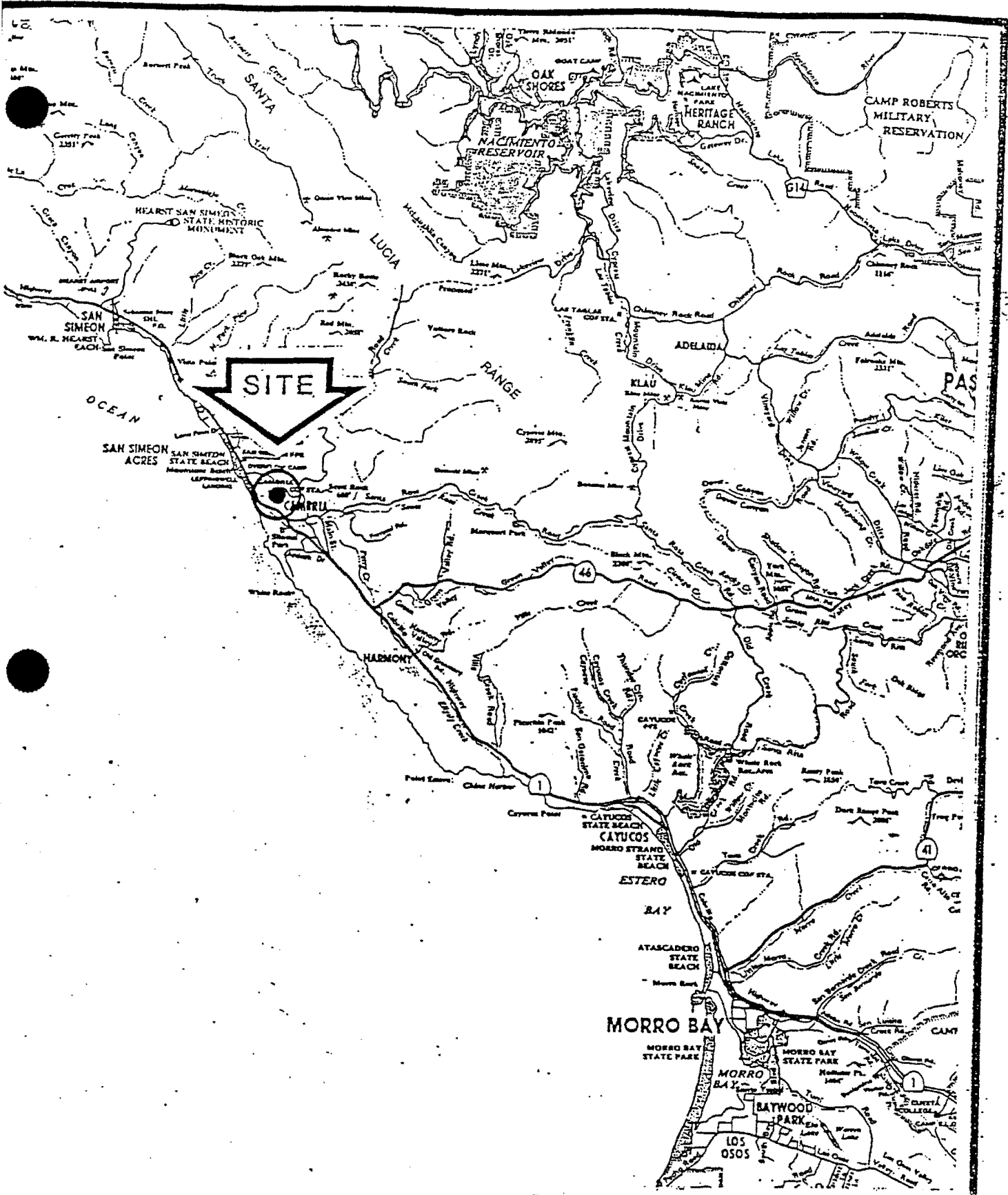


Exhibit 1
(1 of 3)

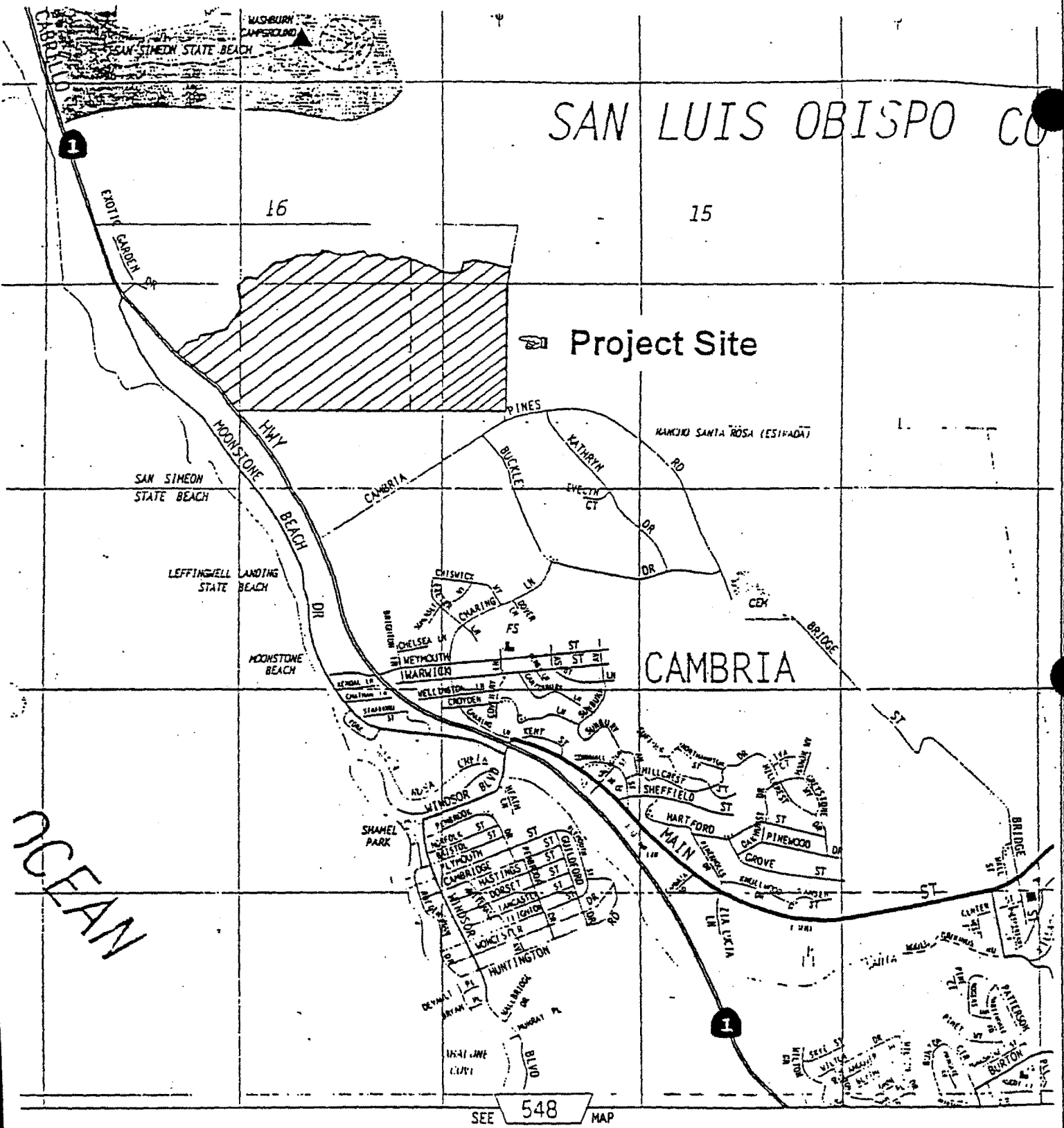
A-3-SLO-00-45

TR 1804 Cambria West

VICINITY MAP

B
27

SAN LUIS OBISPO CO



SEE 548 MAP

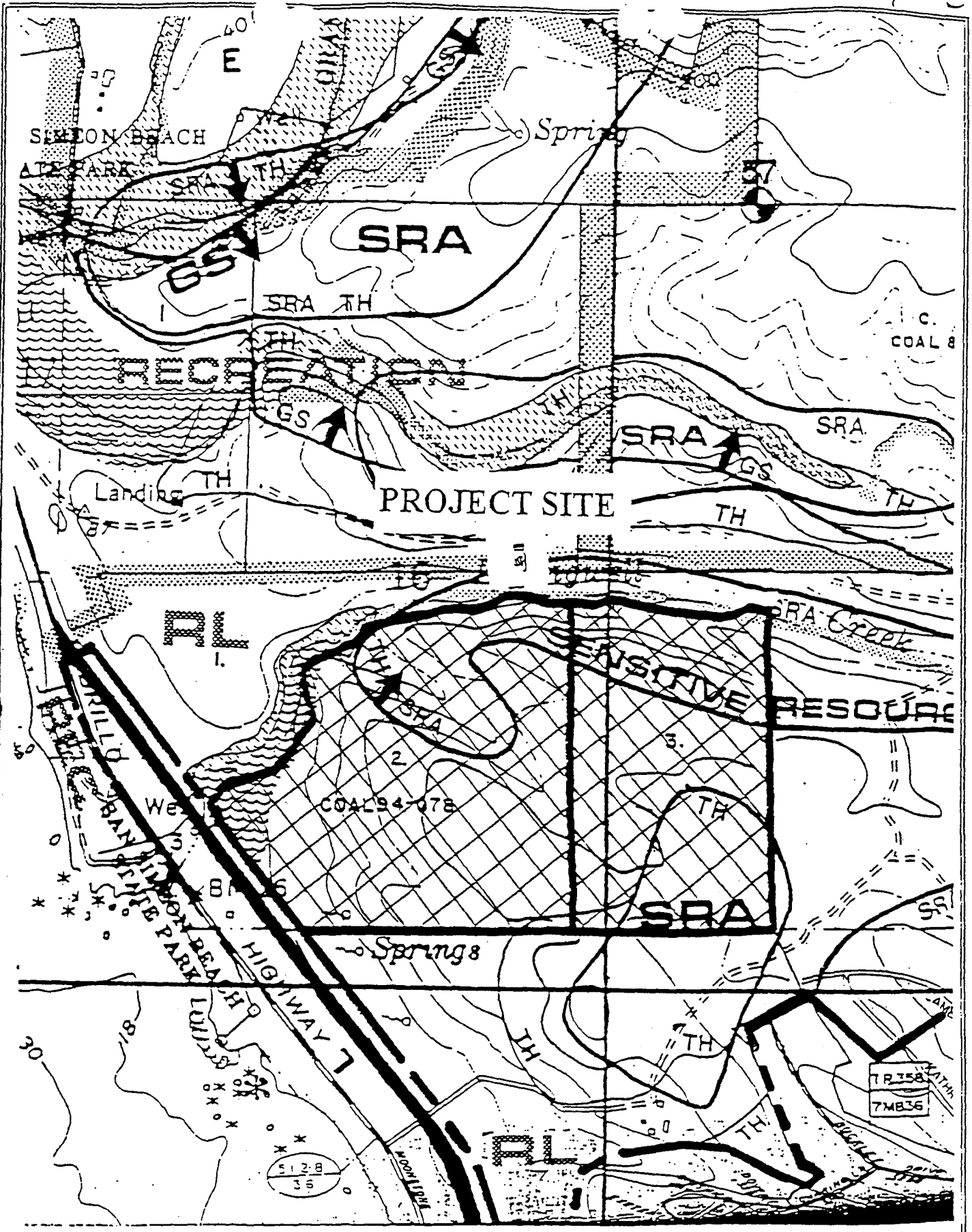
A-3-SLO-00-45

VICINITY MAP

BROWN LOT LINE ADJUSTMENT
(COAL 99-0090/S980282L)

Exhibit 1
(2 of 3)

CH



LAND USE CATEGORY MAP

BROWN LOT LINE ADJUSTMENT
(COAL 99-0090/S980282L)

Exhibit 1
(3 of 3)

A-3-SLO-00-45

Handwritten signature or initials.

Owner's Statement
 I hereby certify that the information contained in this application is true and correct to the best of my knowledge and belief.

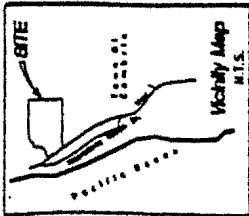
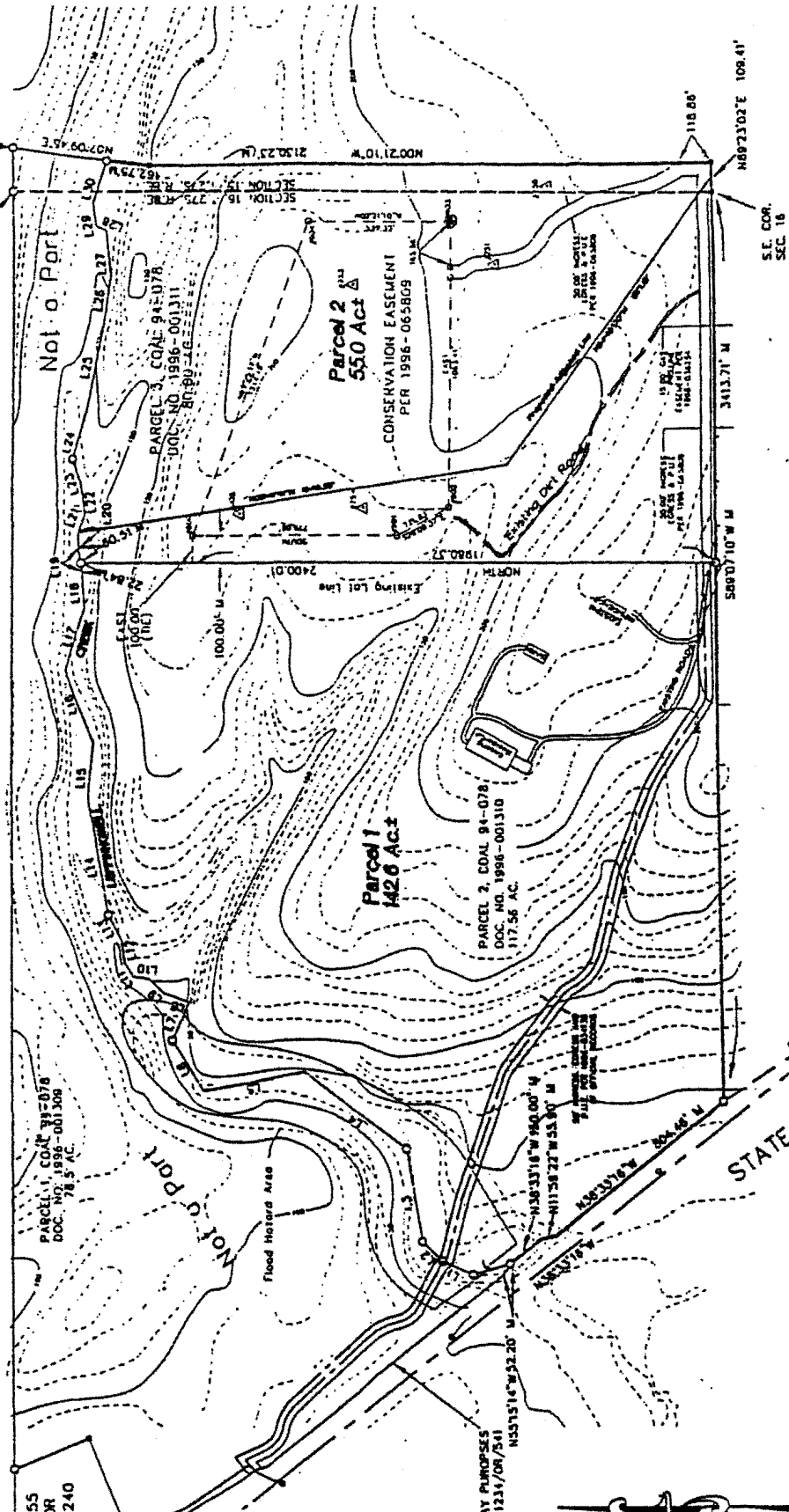


EXHIBIT NO. 2
APPLICATION NO.
A-3-SLD-00-4S
Project Plans



Prepared by
VAUGHAN SURVEYING, INC.
 801 Riverside Avenue
 P.O. Box 1000, Colton, CA 95926
 (916) 438-2727
 Fax: (916) 438-2728
 License No. 43394
 State of California
 Board of L.S.
 License No. 37420

Tentative Lot Line
Adjustment COAL 99-0080
 This is an Adjustment of the Lots in Part of Parcel 2 and 3 of COAL 94-078 as Recorded in the County of San Luis Obispo, State of California.

Prepared by: [Name]
 Date: [Date]
 Scale: [Scale]

NOTES

1. ALL DIMENSIONS SHOWN ARE IN FEET AND DECIMALS THEREOF.

2. THE BOUNDARIES AND AREA OF THE PROJECT ARE BASED ON THE DATA AND SURVEY INFORMATION PROVIDED BY THE CLIENT.

3. THE CLIENT IS RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES.

4. THE CLIENT IS RESPONSIBLE FOR OBTAINING ALL NECESSARY EASEMENTS AND RIGHTS OF WAY FROM THE ADJACENT PROPERTY OWNERS.

5. THE CLIENT IS RESPONSIBLE FOR OBTAINING ALL NECESSARY RECORDS FROM THE COUNTY CLERK'S OFFICE.

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
427-4863
HEARING IMPAIRED: (415) 904-5200



RECEIVED

APR 28 2000

APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENT

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Please review attached appeal information sheet prior to completing this form.

SECTION I. Appellant(s):

Name, mailing address and telephone number of appellant(s):

Commissioner Pedro Nava and Commissioner Dave Potter

California Coastal Commission

45 Fremont Street, Suite 2000

San Francisco, CA

94105-2219

(415) 904-5200

SECTION II. Decision Being Appealed

1. Name of local/port government:

San Luis Obispo County

2. Brief description of development being appealed:

Lot line adjustment of two parcels of 117 and 80 acres each that will result in two parcels of 142 and 55 acres each.

3. Development's location (street address, assessor's parcel number, cross street, etc.):

Cambria Pines Road, Cambria, San Luis Obispo County APN 013-081-050, -051

4. Description of decision being appealed:

a. Approval; no special conditions: _____

b. Approval with special conditions: X

c. Denial: _____

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-3-SLO-00-045

DATE FILED: 4/28/2000

DISTRICT: Central

Appellants' Contentions
Exhibit 3
(1 of 18)

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (PAGE 2)

5. Decision being appealed was made by (check one):

- a. Planning Director/Zoning Administrator
- b. City Council/Board of Supervisors
- c. Planning Commission
- d. Other: SLO Board of Supervisors Res. No. 2000-120

6. Date of local government's decision: 3-21-2000

7. Local government's file number: COAL 99-0090; S980282L; Res. No. 2000-120

SECTION III Identification of Other Interested Persons

Give the names and addresses of the following parties: (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

Josh Brown & John Belsher
1326 Tamson
Cambria, CA 93428

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearings (s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) Linda Hall Vern Kalshan, Esquire
P.O. Box 440 Kerwin
San Simeon, CA 93452 Cambria, CA 93428

(2) Cambria Legal Defense Fund
P.O. Box 516
Cambria, CA 93428

(3) John W. Belcher, Esq.
412 Marsh Street
San Luis Obispo, CA 93401

(4) Shirley Bianchi
4375 San Simeon Creek Road
Cambria, CA 93428

SECTION IV. Reasons Supporting This Appeal

Note: Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section which continues on the next page.

Exhibit 3
(1a of 18)

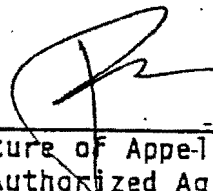
State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. Use additional paper as necessary.)

SEE ATTACHED.

Note: The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.



Signature of Appellant(s) or
Authorized Agent

Date April 27, 2000

NOTE: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

We hereby authorize _____ to act as my/our representative and to bind me/us in all matters concerning this appeal.

Exhibit 3
(16 of 18)

Signature of Appellant(s)

State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

SEE ATTACHED.

Note: The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Dave Potter

Signature of Appellant(s) or
Authorized Agent

Date April 28, 2000

NOTE: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

We hereby authorize _____ to act as my/our representative and to bind me/us in all matters concerning this appeal.

Exhibit 3
(2 of 18)

Signature of Appellant(s)

Date _____

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
408-74863



Reasons for Appeal: San Luis Obispo County Coastal Development Permit COAL
99-0090 (Josh Brown)

The proposed project to adjust the line between two existing parcels of 117 and 80 acres resulting in two parcels of 142 and 55 acres is inconsistent with the policies and ordinances of the San Luis Obispo County Local Coastal Program, as detailed below.

1. The North Coast Planning Area Standard for new land divisions adjacent to Cambria requires parcels in the Rural Lands land use category to be at least 80 acres. Currently, each of the existing lots meets this minimum parcel size. The proposed lot line adjustment would result in the creation of a non-conforming 55-acre parcel.
2. Policy 4 for Environmentally Sensitive Habitats and CZLUO Section 23.07.170(c) prohibit land divisions within environmentally sensitive habitats, "unless it can be found that the buildable area(s) are entirely outside the minimum standard setback required for that habitat." In addition, North Coast Planning Area Standard for Sensitive Resource Areas requires development to concentrate proposed uses in the least sensitive portions of the property and retain native vegetation as much as possible. The proposed lot line adjustment is inconsistent with these policies for the following reasons:
 - It would decrease the size of Parcel #2, a large portion of which is within a Sensitive Resource Area (Monterey Pines), further constraining the buildable area on this parcel by removing the most "developable" portion of the smaller parcel and attaching it to the larger parcel; and
 - It may result in more tree removal at the time of development of the remaining "building site" of the smaller parcel.
3. CZLUO Section 23.07.164 requires that any proposed clearing of trees or other features be the minimum necessary to achieve safe and convenient access and will not create significant adverse effects on the identified sensitive resource. CZLUO Section 23.07.176 and Policy 33 for Environmentally Sensitive Habitats, which are applicable due to the location of Parcel #2 within an area designated as Terrestrial Habitat, further emphasize the preservation and protection of rare and endangered species of terrestrial plants and animals. The proposed lot line adjustment would create a situation in which the most likely location for an access driveway for parcel #2 would be completely within an area designated as a Sensitive Resource Area (Monterey Pine Forest), within an apparent Conservation Easement, and partially within an area designated as Terrestrial Habitat. The existing parcel configuration provides more opportunities to locate the accessway outside of these sensitive resource areas.

Exhibit 3
(3 of 18)

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST AREA OFFICE
725 FRONT STREET, STE. 300
SANTA CRUZ, CA 95060
(831) 427-4863
HEARING IMPAIRED: (415) 904-5200

RECEIVED

APR 12 2000



APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENT

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name, mailing address and telephone number of appellant(s):

Shirley Bianchi c/o Vern Kalshian Esq.

440 Kerwin

Cambria

93428

(805) 927-1222

Zip

Area Code

Phone No.

SECTION II. Decision Being Appealed

1. Name of local/port government: San Luis Obispo County Board of Supervisors

2. Brief description of development being appealed: a lot line adjustment resulting in two parcels one of which is smaller in area than is allowed under the Local Coastal Plan

3. Development's location (street address, assessor's parcel no., cross street, etc.): north side of Cambria Pines Road, north of the community of Cambria east of Highway 1 outside the Cambria UPL

4. Description of decision being appealed:

a. Approval; no special conditions: _____

b. Approval with special conditions: SLO Co. Resolution No. 2000-120

c. Denial: _____

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-3-SLO-00-045

DATE FILED: 4/28/00

DISTRICT: Central Coast

H5: 4/88

Exhibit 3
(4 of 18)

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

- a. Planning Director/Zoning Administrator c. Planning Commission
b. City Council/Board of Supervisors d. Other _____

6. Date of local government's decision: March 21, 2000

7. Local government's file number (if any): S980282L/Goal99-0090

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

Josh Brown
1326 Tamson
Cambria CA 93428

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) Linda Hall
Post Office Box
San Simeon CA 93452

(2) Cambria Legal Defense Fund
P.O. Box 516
Cambria, CA 93428

(3) John W. Belcher, Esq.
412 Marsh Street
San Luis Obispo, CA 93401

(4) Shirley Bianchi
4375 San Simeon Creek Road
Cambria, CA 93428

SECTION IV. Reasons Supporting This Appeal

Note: Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section, which continues on the next page.

Exhibit 3 (4a of 18)

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

Please see Attachment IV

Note: The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Vern Kalshan
Vern Kalshan, Esq.
Signature of Appellant(s) or
Authorized-Agent

Date APR 03 2000

NOTE: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize Vern Kalshan to act as my/our representative and to bind me/us in all matters concerning this appeal.

Exhibit 3
(4b of 18)

Shirley Bonchi
Signature of Appellant(s)
Date APR 03 2000

Appeal to the California Coastal Commission
re Lot Line Adjustment by Brown
SLO Co Resolution 2000-120, 3-21-00

1. Reducing any parcel zoned for rural lands adjacent to Cambria to less than 80 acres violates the San Luis Obispo County North Coast Area Local Coastal Plan (LCP) as shown on page 8-18 of such LCP attached as "IV-1"; and, there is no reasonable basis for making this project an exception. The decision allows two parcels of 117 acres and 80 acres to become 142 acres and 55 acres respectively.
2. The water allocation to these parcels is one equivalent dwelling unit (EDU) to "the 80 acre parcel" only not a 55 acre parcel. The parcel requested to be reduced from 80 acres to 55 acres is Parcel 3 of COAL 94-078, San Luis Obispo County. Said 80 acre parcel had an "agricultural water meter" for cattle which was serviced by the Cambria Community Services District (CCSD). Within the last five years, the permit applicant wanted to convert this agricultural meter to a residential meter. An agreement was negotiated between said applicant and the CCSD whereby the 80 acre parcel would receive one EDU on a 20 acre building site and a conservation easement would exist on the remaining 60 acres. A map of the area subject to the agreement and the agreement is attached as "IV-2"
3. An existing road through a sensitive resource area allows access to the 20 acre building site. The resolution appealed from allows construction of another road through the sensitive resource area and a conservation easement. A map of the existing road, the proposed road, and the sensitive resource area is attached as "IV-3".
4. The applicant plans to further subdivide the 117 acre parcel to include a new 20 acre building site. A letter from applicant's counsel is attached as "IV-4".

- f. Uses located west of Highway 1 shall be limited to passive recreational activities that do not require modification on the landform and/or vegetation.
- g. Improvements to public restrooms for the day use areas in the Leffingwell Landing area.

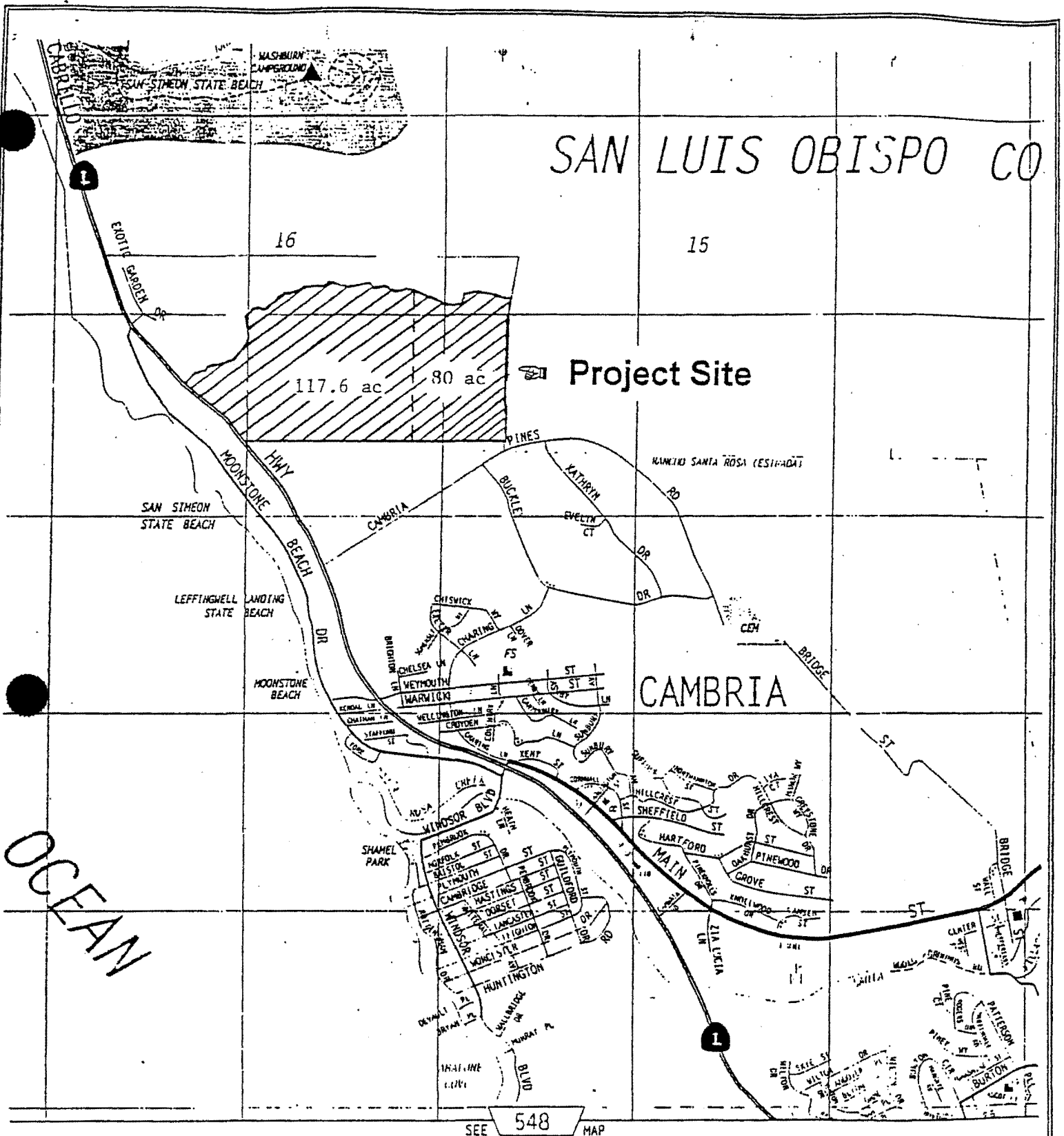
Cambria Air Force Station. Standards 33 and 34 applies only to the Cambria Air Force Station area.

- 33. **Limitation On Use.** Uses shall be limited to rural sports and group facilities (limited to public recreation activities, non-commercial conference and retreat facilities, day use activities, and related uses); hotels and motels (limited to a youth hostel); water wells and impoundment; and coastal accessways. All proposed development shall require Development Plan review and shall consider the interests of Cambria.
- 34. **Permit Requirement.** Development Plan Review is required for all uses.

RURAL LANDS: The following standards apply only to lands within the Rural Lands land use category.

- 1. **Limitation on Land Use - North of Ragged Point.** Uses shall be limited to single family residences; home occupations; residential accessory uses; coastal accessways; water wells and impoundments; and agricultural uses in accordance with Coastal Table O.
- 2. **Site Planning - New Land Divisions Adjacent to Cambria.** Proposed residential units at a density equivalent to a minimum of one dwelling unit per 80 acres unless a lower density is required by the Coastal Zone Land Use Ordinance (depending upon site constraints), are to be clustered adjacent to the Cambria Urban Reserve Line to minimize the need for new road construction and service extensions; or shall be clustered in open or semi-open areas to minimize tree removal. No structural development shall be allowed on slopes greater than 20%. Water and sewer service shall be developed on-site and not via annexation to the Services District, unless the development site is brought within the Urban Service and Urban Reserve Line. Any Monterey Pines removed during construction shall be replaced. The area shall be developed through the cluster division provisions of the Coastal Zone Land Use Ordinance.

SAN LUIS OBISPO CO



VICINITY MAP

BROWN LOT LINE ADJUSTMENT
(COAL 99-0090/S980282L)

RECORDING REQUESTED BY:
FIRST AMERICAN TITLE INSURANCE COMPANY

Doc No: 1997-043593

Rpt No: 00056386

RECORDING REQUESTED BY AND
WHEN RECORDED, MAIL TO:

Official Records
San Luis Obispo Co.
Julie L. Rodewald
Recorder
Aug 15, 1997
Time: 08:00

RF -1 52.00

Cambria Community Services District
P.O. Box 65
Cambria, CA 93428-0065

[16]

TOTAL 52.00

**COMPROMISE SETTLEMENT, MUTUAL RELEASE
AND COVENANT AND AGREEMENT RESPECTING USE
OF PROPERTY**

This COMPROMISE SETTLEMENT, MUTUAL RELEASE AND COVENANT AND AGREEMENT RESPECTING USE OF PROPERTY (hereinafter referred to as the "Agreement") is made on July 28, 1997, by and between **CAMBRIA COMMUNITY SERVICES DISTRICT ("DISTRICT")**, a community services district formed under the laws of the State of California, and **JOSHUA BROWN and CATHIE BROWN** (hereinafter collectively referred to as "OWNER") with reference to the following agreed upon facts:

RECITALS:

A. OWNER owns two (2) legal parcels located within the boundaries of DISTRICT, one of which is approximately 118 acres in size [current Assessor's Parcel No. ("APN") 013-081-050] ("Parcel 1"), more particularly described in Exhibit "A" attached hereto and incorporated herein by this reference. The second is approximately 80 acres in size [current APN 013-081-051] ("Parcel 2"), more particularly described in Exhibit "B" attached hereto and incorporated herein by this reference. Parcels 1 and 2 will hereinafter be collectively referred to as the "Property."

B. The Property is located within DISTRICT's boundaries but outside of the Urban Reserve Line established by the County of San Luis Obispo and is currently zoned by the County as Rural Lands, which zoning designation allows limited residential use.

C. In addition to the Property described in Exhibits "A" and "B," OWNER owns an adjoining parcel which is located within DISTRICT's boundaries, but which is not subject to this Agreement.

D. There currently exists a dispute between DISTRICT and OWNER as to what obligation, if any, DISTRICT has to serve water to the Property. This dispute includes whether an existing meter serving the Property is limited to agricultural use or could allow service for residential purposes and whether that meter is properly applied to Parcel 1 or Parcel 2. The dispute also involves whether transfers of meters and "positions" on DISTRICT's water

... this instrument by request as an accommodation only and has not examined it for regularity and sufficiency or as to its effect upon the title to any real property that may be described therein.

7/19/97

Exhibit 3
(8 of 18)

connection waiting list were processed in compliance with DISTRICT's regulations (the various disputes described in this recital D. are hereinafter collectively referred to as the "Dispute").

E. DISTRICT and OWNER wish to provide for the settlement of their respective claims against each other.

F. DISTRICT finds that, based upon the covenants contained in the Agreement limiting future use of the Property, there will be a beneficial limit on the future demand upon DISTRICT's scarce water resources. Based upon the unique limitations on future uses and water demand of the Property contained in this Agreement, it is found that the "zoning" of the Property, as restricted, is the equivalent to that of the "old" parcels from which "positions" were transferred pursuant to Section 2.5-5 K. of the DISTRICT's Water and Sewer Allocation Ordinance.

NOW, THEREFORE, in consideration of the mutual promises, covenants, and conditions specified herein, the parties hereto agree as follows:

1. COVENANTS: In consideration of the mutual covenants and agreements contained herein and in order to compromise and settle all respective claims against each other, the parties agree as follows:

a. By adoption of Resolution No. 20-97 and approval of this Agreement, DISTRICT hereby includes Parcel 1 (current APN 013-081-050) as an "Existing Commitment" for one (1) grandfathered residential water equivalent dwelling unit ("EDU") and one (1) residential "position" on the DISTRICT's water connection waiting list (transferred from APN 024-281-005), all pursuant to Section 2.5-2 B. and Exhibit B of DISTRICT's Water and Sewer Allocation Ordinance. Upon request, DISTRICT will issue to the County of San Luis Obispo and other governmental agencies an "intent to serve" water letter for one (1) EDU of grandfathered residential water service, subject to the terms and conditions for such letters provided for in DISTRICT's regulations. Upon request, DISTRICT will also issue an "intent to serve" water letter for a second EDU of residential water service upon the position maturing on DISTRICT's water connection waiting list for service in accordance with DISTRICT's regulations.

b. By adoption of Resolution No. 20-97 and approval of this Agreement, DISTRICT hereby includes Parcel 2 (current APN 013-081-051) as an "Existing Commitment" for one (1) grandfathered residential EDU pursuant to Section 2.5-2B and Exhibit "B" of DISTRICT's Water and Sewer Allocation Ordinance. Upon request, DISTRICT will issue to the County of San Luis Obispo and other governmental agencies an "intent to serve" water letter for one (1) EDU of grandfathered residential water service, subject to the terms and conditions for such letters provided for in DISTRICT's regulations.

c. OWNER covenants and agrees with DISTRICT to restrict and limit use of Parcel 1 as follows:

7/9/97

2
Exhibit 3
(9 of 18)
Attachment IV-2

(1) No future water service from DISTRICT to Parcel 1, other than that authorized in Paragraph 1.a. for two (2) residential EDU's, will be requested of DISTRICT or made available by DISTRICT.

(2) Parcel 1 may be subdivided into a maximum of two (2) separate parcels if such subdivision is permitted by the North Coast Area Plan (or successor plan) of the San Luis Obispo County General Plan.

d. OWNER covenants and agrees with DISTRICT to restrict and limit use of Parcel 2 as follows:

(1) No future water service from DISTRICT to Parcel 2, other than that authorized in Paragraph 1.b. for one (1) residential EDU, will be requested of DISTRICT, or made available by DISTRICT.

(2) Parcel 2 will remain as a single 80 acre parcel and OWNER will not subdivide Parcel 2 by way of parcel map, tentative and final subdivision map or any other procedure.

e. OWNER covenants not to drill or utilize well on Parcel 1 or Parcel 2 for potable domestic use. OWNER further covenants not to supply water from a well on Parcel 1 or Parcel 2 to any property other than Parcel 1 or Parcel 2.

2. This Agreement shall run with the land, inures to the benefit of and shall be binding upon OWNER, any future owners of the Property, their successors, heirs or assigns. OWNER agrees to notify all prospective purchasers, trust deed beneficiaries, mortgagees, other persons with a legal and/or equitable interest, and/or transferee(s) of the Property of the restrictions contained herein and to include such restrictions as deed restrictions running with the land in any future deed conveying or encumbering the Property. This Agreement shall be entitled to the remedy of injunctive relief in addition to any other remedy in law or equity.

3. This Agreement and the provisions hereof are irrevocable and non-modifiable except by written amendment. DISTRICT shall have the right to enforce each and every provision hereof and the parties agree that this Agreement shall not be rescinded, revoked, modified or otherwise amended or changed, without the express written amendment of this Agreement.

4. OWNER and their successors in interest, for as long as each of them owns the Property, or any portion thereof, agree to defend, indemnify and save harmless DISTRICT, its officers, agents and employees from any and all claims, demands, damages, costs, expenses, judgments, or liability occasioned by the performance or attempted performance of the provisions hereof, or in any action arising out of this Agreement, including, but not limited to, those predicated upon theories of violation of statute, ordinance or regulation, violation of civil rights, inverse condemnation, equitable relief, or any wrongful act or any negligent act or omission to act on the part of DISTRICT or of agents, employees or independent contractors directly

7/9/97

3

Exhibit 3
(10 of 18)

Attachment IV-2

responsible to DISTRICT; provided further that the foregoing obligations to defend, indemnify and save harmless shall apply to any wrongful acts, or any passively negligent acts or omissions to act, committed jointly or concurrently by OWNER, OWNER's agents, employees, or independent contractors and DISTRICT, its agents, employees, or independent contractors.

5. Except as expressly set forth in this Agreement, OWNER and DISTRICT each, on its behalf and on behalf of its descendants, ancestors, dependents, heirs, executors, administrators, assigns, agents, servants, stockholders, employees, representatives, officers, directors and successors, hereby fully releases and discharges the other party and its descendants, ancestors, dependents, heirs, executors, administrators, assigns, agents, servants, stockholders, employees, representatives, officers, directors and successors from all rights, claims and actions which each party now has against the other party in any way arising prior to the date hereof and/or in any way arising from or in any way connected with the aforementioned Dispute or any claims in any way relating thereto.

6. This Agreement is a compromise and shall never be treated as an admission of liability by either party for any purpose.

7. It is the intention of OWNER and DISTRICT that subsequent to the execution of this Agreement, there can and will be absolutely no basis whether now known or not, for any claim or litigation between OWNER and DISTRICT relating to any event, transaction, act or omission relating to the Dispute occurring prior to the date hereof, subject to the terms of this Agreement.

8. This Agreement, notwithstanding Section 1542 of the California Civil Code which provides that:

A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor,

shall be a full settlement of any and all said disputes, claims or causes of action arising prior to the date hereof. This Agreement shall act as a release of any future claims that may arise from the above-mentioned Dispute whether such claims are currently known, unknown, foreseen or unforeseen. The parties understand and acknowledge the significance and consequence of such specific waiver of Section 1542 and hereby assume full responsibility for any injuries, damages, losses or liability that they may hereafter incur from the above-specified Dispute, subject to the terms of this Agreement.

9. In the event that any party to this Agreement should bring any action or motion relating to this Agreement, the prevailing party in such action or on such motion shall, in addition to any other relief, be entitled to reasonable attorney's fees and costs incurred in bringing or defending against such action or such motion.

7/9/97

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Exhibit 3
(11 of 18)
Attachment IV-2

10. By placing their respective signatures in the spaces designated below, the parties each represent that they have the right, power, legal capacity, and authority to enter into, and perform their respective obligations, as indicated under this Agreement. They further expressly warrant that no approvals or consents of persons other than themselves are necessary in connection with executing this Agreement.

11. Unless otherwise provided, all notices herein required shall be in writing, and delivered in person or sent by United States first class mail, postage prepaid. Notices requires to be given shall be addressed as follows:

DISTRICT: General Manager
Cambria Community Services DISTRICT
P.O. Box 65
Cambria, CA 93428-0065

With Copy to: Lyon & Carmel
District Counsel
P.O. Box 922
San Luis Obispo, CA 93406-0922

OWNER: Joshua Brown and Cathie Brown
9881 Deerhaven Drive
Santa Ana, CA 92705

With Copy to: Gregory W. Sanders
Nossaman, Guthner, Knox & Elliott, LLP
Lakeshore Towers, Suite 1800
18101 Von Karman Avenue
P.O. Box 19772
Irvine, CA 92713-9772

Provided that any party may change such address by notice in writing to the other party and thereafter notices shall be addressed and transmitted to the new address.

12. Invalidation of any one of the restrictions contained herein by judgment or court order shall in no way affect any of the other provisions which shall remain in full force and effect.

13. This Agreement is subject to, and will not become effective until, recordation of this Agreement and issuance of a standard policy of title insurance issued by First American Title Insurance Company in favor of **DISTRICT** in an amount of not less than \$50,000 insuring that all parties necessary to bind the Property to the covenants contained herein have properly executed this Agreement.

14. Masculine, feminine, a neuter gender, and the singular or plural number shall be considered to include the other whenever the context so requires. If **OWNER** consists of more

7/9/97

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Exhibit 3
(12 of 18)

Attachment IV-2

than one person, each such person shall be jointly and severally liable for performance of the terms hereof.

IN WITNESS WHEREOF, OWNER and DISTRICT have executed this Agreement as of the day and year first above written.

OWNER:

Joshua Brown
JOSHUA BROWN

Cathie Brown
CATHIE BROWN

APPROVED AS TO FORM:

Gregory W. Sanden
OWNER's Legal Counsel

DISTRICT:
CAMBRIA COMMUNITY SERVICES DISTRICT

By: *Don Villeneuve*
DON VILLENEUVE
BOARD PRESIDENT

ATTEST:

Paulette Beck
DISTRICT CLERK

APPROVED AS TO FORM:

LYON & CARMEL

By: *[Signature]*
District Counsel

PARCEL 1, COAL 94-078
DOC. NO. 1998-001309
78.5 AC.

Not a Part

Not a Part

20 acre
"building site"

60 acre
Conservation
Easement

1 Hazard Area

Parcel 1-142 acres

Parcel 2-
55 acres

"Revised" New Line

"Original" New Line

PARCEL 2, COAL 94-078.
DOC. NO 1998-001310
117.56 AC.

Existing Line

N38°33'18"W 150.00' M
N111°58'22"W 55.00' M

30' HORIZONTAL CORNER AND
PLAT FOR 1994-034128
BY DITCHEL RECORDS



"long" driveway

"short" driveway

ACCESS EASEMENT

AMBRIA PINES ROAD



BROWN LOT LINE ADJUSTMENT
(COAL 99-0090/S980282L)

COMPREHENSIVE SITE MAP

Exhibit 3
(16 of 18)
Attachment IV-3

FEB-23-00 17:32 From: FOX & S
82/23/2000 17:32 5429949

310-444-7813

T-505 P.02/03 Job-330

BELSHER BECKER

PAGE 81

BELSHER & BECKER

ATTORNEYS AT LAW
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E-MAIL ROLAW@aol.com

SANTA MARIA OFFICE

625-A EAST CHAPEL
SANTA MARIA, CALIFORNIA 95454
TELEPHONE 805-349-7929

JOHN W. BELSHER
HOWARD MARK BECKER

February 23, 2000

VIA FAX AND U.S. MAIL
(310) 444-7813

Margaret Sohagi
Fox & Sohagi, LP
10860 Wilshire Blvd., Suite 1270
Los Angeles, CA 90024

RE: Josh Brown

Dear Margaret:

This letter outlines a proposal to amend the Compromise Settlement, Mutual Release, and Covenant and Agreement Respecting Use of Property, dated July 29, 1997, entered into by and between the Cambria Community Services District and Joshua and Cathie Brown.

Background

In 1987, the Browns owned three parcels, all within the District's boundaries but outside the County's urban services line. One of these was sold to a third party (Kolugli) and is not subject to any agreement with the District. The other two parcels were retained by the Browns and are subject to the Agreement. The larger parcel ("Parcel 1") is 118 acres and has been developed with a primary residence and a second dwelling built to meet the County standards (at the County's request) for a "Granny Unit".

The second parcel ("Parcel 2") is 80 acres and is unimproved at this time. All but 20 acres of Parcel 2 has been encumbered by the Browns with a conservation easement now vested in the Land Conservancy of San Luis Obispo County. A lot line adjustment was tentatively approved by the County in January adjusting the size of these two parcels to 142 and 56 acres, respectively, reducing the 20-acre buildable area to 15 acres. The portion of Parcel 2 to be added to Parcel 1 is required to be deed restricted by the same conservation easement covering all but 15 acres of Parcel 2. A copy of the proposed lot line adjustment tentatively approved by the County is enclosed.

The Agreement settled a dispute between the District and the Browns concerning entitlements to existing and future water use. With respect to Parcel 1, The District agreed to recognize one grandfathered meter for residential use and to allow the transfer of another meter from the District's water connection waiting list. The Agreement also expressly provides that Parcel 1 can be subdivided into two parcels.

Attachment IV-4

Exhibit 3
(17 of 18)

FEB-23-00 17:33 From: FOX & SOHAG
02/23/2000 17:32 5429949

310-444-7813

T-506 P.03/03 Job-330

BELSHER BECKER

PAGE 02

Margaret Sohagi
February 23, 2000
Page 2

With respect to Parcel 2, the District agreed to recognize one grandfathered meter for residential use. The Browns agreed not to subdivide Parcel 2.

The Browns now seek to create a twenty-acre lot out of Parcel 1, as envisioned in the Agreement. See the enclosed Tentative Parcel Map 00-0052, which shows the location of the proposed new residential parcel, which parcel is out of view of Highway 1 and Laimert Drive. However, the District has determined the "Granny Unit" on Parcel 1 requires its own separate water meter, using up the Agreement's two meters allotted to Parcel 1. The Browns desire to keep the Granny Unit with the primary residence. They will therefore need another water meter in order to achieve the subdivision of Parcel 1 permitted by the Agreement. Hence this proposal is offered.

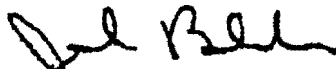
The Proposal

The Agreement expressly provides that it can be changed by written amendment agreed to by the District and the Browns. The Browns propose to amend the Agreement to provide as follows:

1. The Browns will record a conservation easement prohibiting in perpetuity residential development on that portion of their property visible from Highway 1. A map showing this proposed conservation easement area will be presented to the Board at or prior to the meeting on February 28.
2. The District would approve the transfer of one meter position from an as yet unidentified residential lot in Cambria to the potential 20-acre parcel to be carved out of Parcel 1. The Browns will donate the as yet unidentified lot to the District in fee, as part of its requirements under the meter position transfer ordinance. The lot selected would have to provide an important public benefit sufficient to satisfy the Board.

I hope this letter provides sufficient information for a discussion with the Board concerning prospects for amending the Agreement. Please advise if there is any additional information you need.

Sincerely,


John W. Belsher

JWB/ab

cc: client
brown@scheg1.03

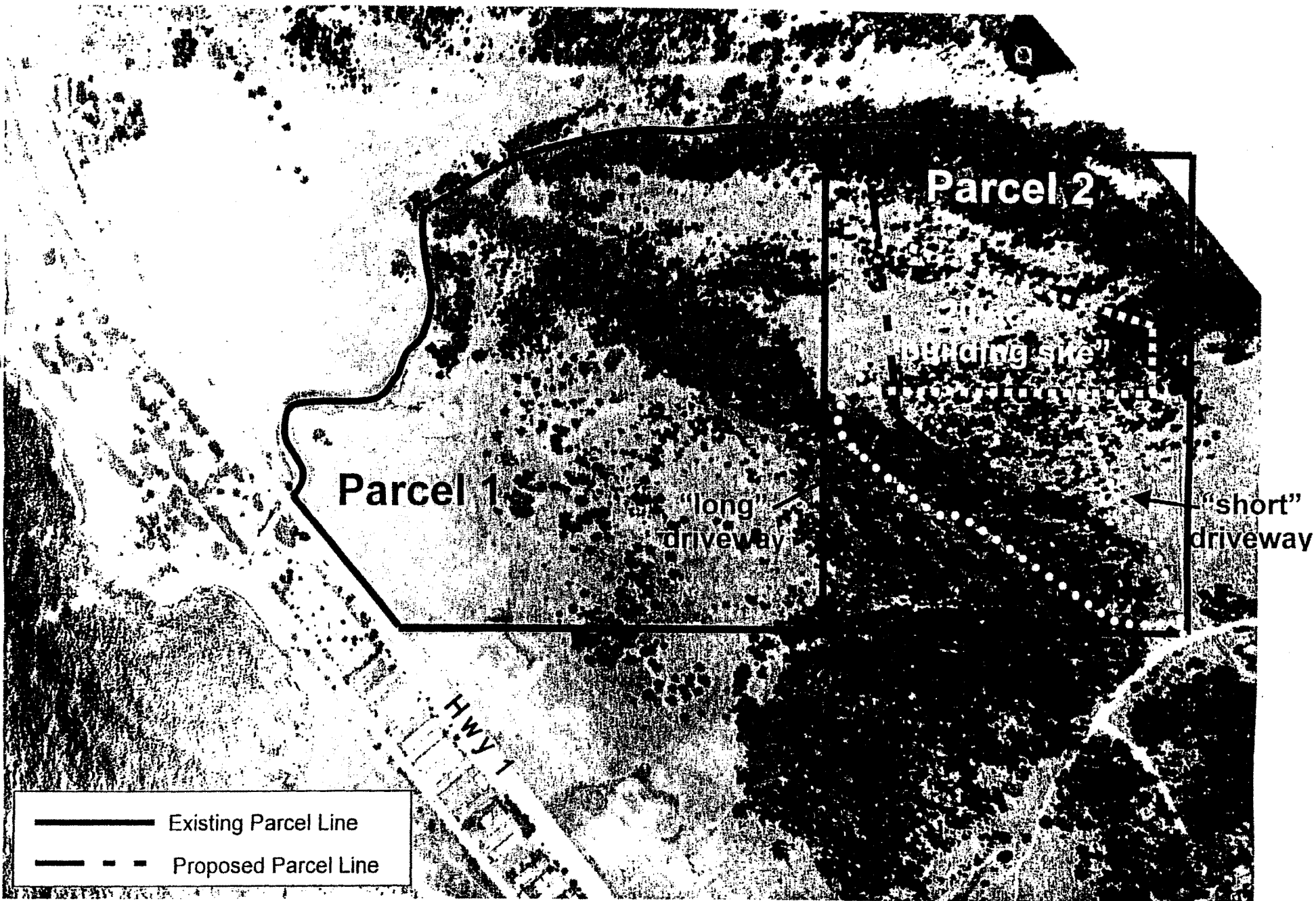
Exhibit 3
(18 of 18)

EXHIBIT B: CONDITIONS OF APPROVAL FOR CUAL 99-0090
BROWN LOT LINE ADJUSTMENT

1. This adjustment may be completed and finalized by recordation of a parcel map or by recordation of certificates of compliance.
2. If a parcel map is filed, it shall show:
 - a. All public utility easements.
 - b. All approved street names.
 - c. A tax certificate/bonding shall be provided.
 - d. All other easements (including access and conservation easements)
3. Any private easements described in the title report must be shown on the parcel map, with recording data.
4. When the parcel map is submitted for checking, or when the certificates of compliance are filed for review, provide a preliminary title report to the County Engineer or the Planning Director for review.
5. All conditions of approval herein specified are to be complied with prior to the recordation of the parcel map or certificates of compliance which effectuate the adjustment. Recordation of a parcel map is at the option of the applicant. However, if a parcel map is not filed, recordation of certificates of compliance is mandatory.
6. The parcel map or certificates of compliance shall be filed with the County Recorder prior to transfer of the adjusted portions of the property or the conveyance of the new parcels.
7. In order to consummate the adjustment of the lot lines to the new configuration when there are multiple ownerships involved, it is required that the parties involved quitclaim their interest in one another's new parcels. **Any deeds of trust involving the parcels must also be adjusted by recording new trust deeds concurrently with the parcel map or certificates of compliance.**
8. If the lot line adjustment is finalized using certificates of compliance, the applicant shall prepay all current and delinquent real property taxes and assessments collected as real property taxes when due prior to final approval.
9. After approval by the Board of Supervisors, compliance with the preceding conditions will bring the proposed adjustment into conformance with the Subdivision Map Act and Section 21.02.030 of the Real Property Division Ordinance.
10. The lot line adjustment will expire two years (24 months) from the date of the approval, unless the parcel map or certificates of compliance effectuating the adjustment is recorded first. Adjustments may be granted one extension of time. The applicant must submit a written request with appropriate fees to the Planning Department prior to the expiration date.

Exhibit 4
County Conditions of Approval

Exhibit 5
Aerial Depiction



— Existing Parcel Line
- - - Proposed Parcel Line

This graphic is intended to be illustrative and does not necessarily represent exact parcel line and driveway locations

Date of Aerial Photo 6/25/93

BELSHER & BECKER

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625-A EAST CHAPEL
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TELEPHONE 805-349-7929

JOHN W. BELSHER
HOWARD MARK BECKER

May 24, 2000

VIA FACSIMILE NO. (831) 427-4877

Rence Brooke
Staff Analyst
California Coastal Commission
Central Coast Region
726 Front Street
Santa Cruz, CA 95060

Re: Commission Appeal No. A-3-SLO-00-045 (Josh Brown Lot Line Adjustment)

Dear Ms. Brooke:

Josh and Cathy Brown are the applicants for a lot line adjustment involving two parcels in Cambria. The original (currently existing) parcels are 117 acres (Parcel 1) and 80 acres (Parcel 2). The Browns recently completed a family home on Parcel 1. The Browns also recently sold Parcel 2 to the Townsend family trust. The proposed lot line adjustment redraws the common property line to create parcels of 142 and 55 acres.

The current 80-acre parcel is already subject to a 60-acre conservation easement due to the Brown's voluntary gift in 1996 to the SLO Land Conservancy. The remaining 20 acres is designated as a building envelope. The proposed lot line adjustment adds 25 acres to the 117-acre parcel, on which the Browns have built their family home. All 25 acres (including 5 acres of the former 20-acre building envelope) remain subject to the conservation easement. The net gain of 5 acres to the conservation easement allows the Browns more privacy and reduces the possibility that there could one day be a subdivision of Lot 1.

The Browns offer the following comments in opposition to the finding of a substantial issue in the matter of the referenced appeal and in opposition to the appeal itself.

1. The minimum zoning for these properties is 20 acres, not 80 acres.

The appellants incorrectly assume the minimum zoning for this rural land zoned property is 80 acres. This is derived from a mistaken reading of a paragraph in the North Coast Area Plan dealing with clustering. The minimum for rural lands zoning in the Coastal Zone Land Use Ordinance is 20 acres. CZLUO Section 23.04.025. The reference to 80 acres in the North Coast Plan is not a zoning minimum but a direction to cluster on those properties with at least 80 acres. The paragraph reads:

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(1 of 34)

Renee Brooke
May 24, 2000
Page 2

"Site Planning – New Land Divisions Adjacent to Cambria. Proposed residential units at a density equivalent to a minimum of one dwelling unit per 80 acres unless a lower density is required by the Coastal Zone Land Use Ordinance (depending upon site constraints), are to be clustered adjacent to the Cambria Urban Reserve Line to minimize the need for new road construction and service extensions; . . ."

The literal reading of this section indicates that the County and Commission sought to require "proposed residential units" on larger parcels zoned rural lands "adjacent to the Cambria Urban Reserve Line" to "cluster" near the Urban Reserve Line in order to minimize the need for new road construction and service extensions. Obviously 20-acre properties would already be near the Urban Reserve Line infrastructure. The "Site Planning" requirement appears to have been an attempt to prevent "sprawl" on larger rural lands parcels.

A literal reading of the section would also exempt the Brown property from its application. As shown in the maps provided in the record, and the Leimert subdivision map attached to the Order enclosed herewith, the Leimert property separates the Brown properties from the Cambria Urban Services Line, such that Parcels 1 and 2 are not adjacent to the Urban Reserve Line.

The language makes no sense as an Area-wide density standard since many of the parcels zoned rural lands do not border on the Cambria Urban Services Line. These parcels, including Parcels 1 and 2 are literally unable to meet the proffered "requirement" of "clustering adjacent to the Cambria Urban Reserve Line."

Had the County and the Commission intended to impose an area standard "density" of one per 80 acres, it would have put such a requirement under a heading such as "Density Limitations". See e.g. page 90 of the North Coast Area Plan; See also the Estero Planning Area Land Use Element and Local Coastal Plan, page 78 ("Minimum Parcel Size") and pages 86, 103, 104, 105, 110, 111 ("Density").

Instead the North Coast Plan uses a heading of "Site Planning" to describe criteria for lot development, such as clustering. See e.g. page 65 of the North Coast Plan; See also pages 74 and 75 ("Site Planning") and page 105 ("Site Planning Criteria") of the Estero Area Plan.

The County conceded in 1992 that the minimum zoning parcel size for rural lands property in this area is 20 acres when the SLO County Superior Court entered an order pursuant to a County Stipulation re: Settlement and Dismissal of Action with next door property owner Walter Leimert. Pertinent pages from the Court document are enclosed.

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Page 3

Leimert applied to subdivide (and has since developed) a large tract of property zoned rural lands next door to the Browns into 20-acre parcels. When the County tried to claim Leimert was subject to 80-acre zoning minimum parcel size, he sued. The County gave up on the argument, stipulating in Court as follows:

"The parties stipulate and agree that the applicable provisions of the San Luis Obispo County Coastal Zone Land Use Ordinance and Land Use Element and Local Coastal Plan permit a density of one unit per twenty acres for the property that is the subject of Leimert's development plan. . . ."

The general plan for the County shows no distinction among the few properties zoned rural lands. The Court determination is conclusive and binding on the County and on the Coastal Commission. It is also consistent with a straight forward reading of the North Coast Area Plan passage cited above. A Commission determination finding a 80-acre minimum would be directly contrary to the plain language of the North Coast Plan, the Court's Order and the County's Stipulation.

2. The lot line adjustment regulations of the County permit an adjustment to acreage resulting in lots below minimum zoning parcel sizes.

Even if we assume the minimum lot size for this property is 80 acres instead of 20 acres, the County has the legal authority to adjust parcels with resulting parcels being below the 80-acre minimum.

The Real Property Division Ordinance, Title 21 of the County Code, specifically addresses the processing of lot line adjustments in the County. It is cited in CZLUO Section 23.01.030 as governing lot line adjustments. Section 23.01.030 c. states in its entirety:

"This title (including applicable planning area standards adopted by reference as part of this title by Section 23.01.022) determines the minimum parcel size for new land divisions. Title 21 of this code contains the specific procedures and requirements for the land division process, including compliance with coastal development permit requirements."

I am informed by County officials that the Coastal Commission was provided a complete copy of Title 21 at the time Title 23 was considered and approved. Moreover, I am informed that the provisions of Title 21 relating to lot line adjustments for parcels with less than the minimum

Exhibit 6
(3 of 34)

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Page 4

zoning acreage existed long before adoption of the CZLUO. Accordingly, the provisions of Title 21 addressing lot line adjustments are part of the governing regulations which comprise the Local Coastal Program for the County.

Title 21 provides that a lot line adjustment can be approved where it is found that the resulting parcels are equal to or better than the original parcels in relationship to the County's zoning and building ordinances, notwithstanding that resulting parcels are below the zoning parcel size minimum for subdivision purposes. Section 21.02(c) states:

"A lot line adjustment shall not be approved or conditionally approved unless the new parcels resulting from the lot line adjustment will conform with the county's zoning and building ordinances. The criteria to be considered includes, but is not limited to, standards relating to parcel design and minimum lot area. These criteria may be considered satisfied if the resulting parcels maintain a position with respect to said criteria which is equal to or better than such position prior to approval or conditional approval of the lot line adjustment."

Applying this section of Title 21 (which is similar to many throughout the State), it is not a violation of County law (or State law) to approve a lot line adjustment of parcels where one or more end up being below a zoning minimum lot size. As a practical matter, such adjustments are useful and accomplished throughout the State on a regular basis. The utility of lot line adjustments is reflected in the State law which excludes lot line adjustments from the Subdivision Map Act prohibits imposition of conditions on the granting of such adjustments.

The findings that the resulting project is equal to or better than the prior parcel configuration are set forth in the County's approval. Most importantly, the lot line adjustment will result in an additional five acres being removed from the building envelope on Parcel 2 and added to the conservation easement, guaranteeing additional permanent protection in this area of important Pine habitat and reducing development pressure on Parcel 2. Secondly, the adjustment will result in use of the "short" driveway depicted in the Commissioners' appeal, which will result in virtually no disturbance to Pine trees. Finally, since there is no increase in density or intensity of use, the resulting parcels are at least equal to the original parcels in terms of land use impacts.

3. The reliance on the proposed "short" driveway does not involve tree removal and, therefore, there are no impacts on the Sensitive Resource Area ("SRA").

Reference to the aerial photos in the record as well as the maps in the appeal file show that the lot line adjustment will not cause any development impacting an environmentally sensitive habitat, as claimed in the appeal. The "habitat" in this case refers to Monterey pines. The "short"

Exhibit 6
(4 of 34)

Renee Brooke
May 24, 2000
Page 5

driveway shown in the appeal record is an existing jeep trail. Its improvement for a driveway need not involve removal of any trees.

Appellants have raised a confusing argument that the reduction of the building envelope to 15 acres will cause more tree removal. Reference to an aerial photo does not show this to be the case. More importantly, the building envelope is outside the SRA. The two driveways are the only aspect of future development which will involve the SRA.

The argument that keeping a 20-acre rather than a 15-acre building envelope would protect more Pines is baffling. The argument appears to be that keeping the 20-acre building envelope would allow use of the "long" driveway. However, the "long" driveway would cut through the SRA initially, then travel through a thick Pine forest and cross over a wetland. The existing jeep trail in this area would have to be re-built in this "sensitive" area, causing substantial impacts never evaluated by either County or Commission staff. Improvement of the "long" driveway would have far more impacts due to its length and the terrain through which it would travel.

Moreover, there is plenty of room on the remaining 15-acre building envelope to site a residence without significant impacts on the pines. The house would have to undergo a coastal permit review process, where these issues would be addressed.

4. The reduction in size of the building envelope from 20 acres to 15 acres results in more land being unavailable for development.

At the hearing on the lot line adjustment, the applicant agreed that the five acres removed from the building envelope on Parcel 2 would be added to the 60 acre conservation easement. This eliminates any argument that this lot line adjustment somehow improves the chances of the owner of Parcel 1 to pick up an additional building site. The only purpose in the lot line adjustment is to provide a buffer between the two parcels. That buffer is subject to a conservation easement which the Browns imposed in perpetuity on themselves when they owned Parcel 2.

Appellants are incorrect in asserting that the building envelope is in any way within the SRA mapped on the property. There are no "minimum setbacks" for Terrestrial Habitat SRAs. Accordingly, the "minimum setbacks" required by Section 23.07.170 are satisfied.

Exhibit 6
(5 of 34)

Renee Brooke
May 24, 2000
Page 6

5. The water agreement issues with the Cambria Community Services District do not involve a Coastal Act issue.

Appellant Bianchi claims the lot line adjustment should be denied because of an agreement between the Browns and the Services District concerning water service.. In fact, this is a matter between the District and the Browns (or their successors in interest). There is already a water meter on Parcel 2 providing all necessary water supply needs for the single home which is allowed on that Parcel. That should be the end of the discussion as far as water supply goes.

The lot line adjustment is not a development. The County (and on appeal, the Coastal Commission) can and will review the merits of a development when and if it occurs. The water supply can and will be once again verified at that time. Supposition about what the Services District might or might not do in the future to divest an owner of water rights already installed on the property cannot serve as a basis for appeal under the Coastal Act. As it stands today, there is water to Parcel 2 and no Coastal Act issue on this point.

6. There is no Coastal Commission jurisdiction since this lot line adjustment does not change the density or intensity of use of the site and therefore is not a "Development".

The project which was appealed is a lot line adjustment. "Development" under the Coastal Act includes "divisions" of land. Public Resources Code Section 30106. Recent court decisions include lot line adjustments in the definition of "development" under the Coastal Act where the lot line adjustment "changed the density and intensity of the use of the land." La Fe, Inc. v. County of Los Angeles (1999) 73 Cal. App.4th 231, n.4.

In this case there is no change in the density or intensity of the use of the land. Parcel 1 is already improved with the maximum number of residential units allowed. Parcel 2 can build one home whether the parcel is 80 acres or 55 acres. Accordingly, the density or intensity of use does not change. Under La Fe, the lot line adjustment is not a "development" and is not subject to Coastal Commission jurisdiction.


Appellants claim of the Browns' "plan" to further subdivide the 117 acre parcel is not accurate. The Services District rejected any such possibility at its February, 2000 meeting. As the Bianchi appeal notes, water meter restrictions on Parcel 1 clearly prevent any such "plan", more so now that the Services District has declined to accept any revision to the existing recorded agreement. Since the five acres to be severed from the building envelope on Parcel 1 will be encumbered by a conservation easement, the idea that the lot line adjustment could assist in a future resubdivision of Parcel 1 is not tenable.

Exhibit 6
(6 of 34)

Renee Brooke
May 24, 2000
Page 7

The Commission is asked to carefully consider whether there is in fact a substantial issue pertinent to the Coastal Act concerning the referenced appeal. If so, the Commission is further requested to continue the matter to a full hearing on another date and to direct staff to thoroughly explore the issues raised on appeal and in this response and particularly to verify the environmental impacts claimed to result from approval of the lot line adjustment.

Sincerely,



John W. Belsher

cc: Josh and Cathy Brown

Exhibit 6
(7 of 34)

(ENDORSED)

FILED

FEB 27 1992

FRANCIS M. COONEY, COUNTY CLERK
By Julie Rodowald
DEPUTY CLERK

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2 Raymond A. Biering, #89154
Deputy County Counsel
3 County of San Luis Obispo
County Government Center, Room 386
4 San Luis Obispo, CA 93408
Telephone: (805) 549-5400

5 ERNST & MATTISON
6 A Law Corporation
Don. A. Ernst, #065726-3
7 Raymond E. Mattison, #071850-5
Patricia Gomez, #122536
8 1020 Palm Street
P.O. Box 1327
9 San Luis Obispo, CA 93401
(805) 541-0300

10 Attorneys for Defendants and Respondents
11 COUNTY OF SAN LUIS OBISPO, et al.

12 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
13 IN AND FOR THE COUNTY OF SAN LUIS OBISPO

15	WALTER H. LEIMERT CO.)	No. 68734
16	and CAMBRIA WEST,)	
17	Plaintiffs and)	STIPULATION RE:
18	Petitioners,)	SETTLEMENT AND
19	v.)	DISMISSAL OF ACTION;
20	COUNTY OF SAN LUIS OBISPO,)	ORDER THEREON
21	a political subdivision of the)	
22	State of California, et al.,)	
	Defendants and)	
	Respondents.)	

23 IT IS HEREBY STIPULATED AND AGREED by and between the
24 parties hereto, WALTER H. LEIMERT CO. and CAMBRIA WEST
25 (hereinafter referred to collectively as "LEIMERT") and COUNTY
26 OF SAN LUIS OBISPO, et al. (hereinafter referred to
27 collectively as "COUNTY"), as follows:

28 1. COUNTY agrees to accept for processing LEIMERT's

Exhibit 6
(8 of 34)

1 development plan and vesting subdivision applications for an
2 eighteen (18) lot cluster subdivision. Said applications will
3 be processed by the COUNTY in accordance with the requirements
4 set forth in San Luis Obispo County Coastal Zone Land Use
5 Ordinance (CZLUO) Section 23.04.030; policies and provisions of
6 the County Local Coastal Program including Framework for
7 Planning, the North Coast Area Plan, and the Coastal Zone
8 Policy Document; and all other requirements set forth in State
9 laws and County ordinances applicable to the proposed cluster
10 subdivision. [The parties stipulate and agree that the
11 applicable provisions of the San Luis Obispo County Coastal
12 Zone Land Use Ordinance and Land Use Element and Local Coastal
13 Plan permit a density of one unit per twenty acres for the
14 property that is the subject of LEIMERT's development plan,
15 except as provided below under CZLUO Section 23.04.025.]
16 COUNTY's agreement to process LEIMERT's eighteen (18) lot
17 cluster subdivision is based upon unconfirmed calculations and
18 surveys with regard to the remoteness test, fire
19 hazard/response time test, access test, and slope test
20 established by CZLUO Section 23.04.025 for the calculation of
21 minimum parcel sizes in the Rural Lands category applicable to
22 the subdivision; such tests specified in the CZLUO to be made
23 for determining the allowable minimum parcel size for which the
24 property may be subdivided, thereby establishing the maximum
25 number of clustered lots that may be proposed. In the event
26 that the actual calculations and surveys to be submitted by
27 LEIMERT through the application process anticipated by this
28 stipulation establish that the number of lots which may be

Exhibit 6²⁻
(9 of 34)

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27
28

2/11/92

ERNST & MATTHEWSON

By:

Patricia Gomez
PATRICIA GOMEZ

Attorneys for Defendants and Respondents

ORDER

IT IS SO ORDERED:

DATED:

2/27/92

, 1992.

/s/ BARRY HAMMER

JUDGE OF THE SUPERIOR COURT

0833.ch/PLN

-9-
Exhibit 6
(10 of 34)

21.48

65940, which specify in detail information required to be submitted prior to the determination by the planning department that an application is complete.

- (6) **Coastal zone.** For lot line adjustments within the coastal zone, include two copies of a list of names and addresses of all residents and property owners within one hundred feet of the exterior boundaries of the parcels to be adjusted. The names and addresses shall be typed on gummed labels, and submitted to the planning department. [Added 1988, Ord. 2343; Amended 1992, Ord. 2582]
- (c) **Criteria to be considered.** A lot line adjustment shall not be approved or conditionally approved unless the new parcels resulting from the lot line adjustment will conform with the county's zoning and building ordinances. The criteria to be considered includes, but is not limited to, standards relating to parcel design and minimum lot area. These criteria may be considered satisfied if the resulting parcels maintain a position with respect to said criteria which is equal to or better than such position prior to approval or conditional approval of the lot line adjustment. [Amended 1993, Ord. 2602]
- (d) **Action by subdivision review board.** The subdivision review board is delegated the authority to approve, conditionally approve, or disapprove lot line adjustment applications. Notice of hearing shall be given pursuant to Section 21.48.095 for all lot line adjustments. Provided, however, for lot line adjustments within the coastal zone, notice and hearing requirements shall be as set forth in Sections 21.48.095 and 21.48.260 of this title. The subdivision review board shall not impose conditions or exactions on its approval of a lot line adjustment except to conform to the provisions of Title 19 and Title 22 or Title 23 of this code, or except to facilitate the relocation of existing utilities, infrastructure, or easements. The decision of the subdivision review board shall be final unless appealed to the board of supervisors pursuant to Section 21.48.098 of this title: [Amended 1988, Ord. 2343; Amended 1992, Ord. 2582]
- (e) **Final processing.** The lot line adjustment shall be reflected in a deed which shall be recorded when all conditions of approval have been satisfied. Any applicable deeds of trust shall be revised in a recorded document or documents to conform to the new-configuration of the resulting parcels. The lot line adjustment shall be completed and finalized by the filing of a certificate of compliance for each of the resulting parcels. Provided, however, at the discretion of the applicant, the lot line adjustment may be completed and finalized by the filing of a parcel map pursuant to this title and the Subdivision Map Act. Any such parcel map may be based on compiled record data when sufficient information exists on filed maps to locate and retrace the exterior boundary lines on the parcel map. The determination as to whether sufficient information exists shall be made by the county surveyor.

34. Permit Requirement. Development Plan Review is required for all uses.

RURAL LANDS: The following standards apply only to lands within the Rural Lands land use category.

1. Limitation on Land Use - North of Ragged Point. Uses shall be limited to single family residences; home occupations; residential accessory uses; coastal accessways; water wells and impoundments; and agricultural uses in accordance with Coastal Table O.
2. Site Planning - New Land Divisions Adjacent to Cambria. Proposed residential units at a density equivalent to a minimum of one dwelling unit per 80 acres unless a lower density is required by the Coastal Zone Land Use Ordinance (depending upon site constraints), are to be clustered adjacent to the Cambria Urban Reserve Line to minimize the need for new road construction and service extensions; or shall be clustered in open or semi-open areas to minimize tree removal. No structural development shall be allowed on slopes greater than 20%. Water and sewer service shall be developed on-site and not via annexation to the Services District, unless the development site is brought within the Urban Service and Urban Reserve Line. Any Monterey Pines removed during construction shall be replaced. The area shall be developed through the cluster division provisions of the Coastal Zone Land Use Ordinance.
3. Site Planning - San Carpoforo. New development proposals except for additions to existing visitor-serving facilities north of San Carpoforo Creek shall be sited inland of Highway 1. Additions to existing visitor-serving developments shall be sited so as not to obstruct views of the ocean from Highway 1 and shall not exceed 14 feet in height if seaward of Highway 1.

Received at Commission
Meeting

JUN 15 2000

From: _____

JOHN W. BELSHER
HOWARD MARK BECKER

BELSHER & BECKER

ATTORNEYS AT LAW
412 MARSH STREET
SAN LUIS OBISPO, CALIFORNIA 93401
TELEPHONE 805-542-9900
FAX 805-542-9949
E-MAIL SLOLA W@aol.com

12E

SANTA MARIA OFFICE

625-A EAST CHAPEL
SANTA MARIA, CALIFORNIA 93454
TELEPHONE 805-349-7929

June 15, 2000

California Coastal Commission
Central Coast Region
726 Front Street
Santa Cruz, CA 95060

Re: Commission Appeal No. A-3-SLO-00-045 (Josh Brown Lot Line Adjustment)

Dear Commission Members:

With respect to the referenced appeal, there are additional legal points in response to the staff report for today's hearing not raised in my letter of May 24, 2000, which letter is included in the staff report.

1. The Commission is legally bound by the 20-acre minimum parcel size determination on the adjacent Leimert property.

The adjacent rural lands property was the subject of a lawsuit entitled Leimert v. County of San Luis Obispo. In that suit the Court entered a judgment finding the minimum zoning parcel size to be 20 acres. This order collaterally estops the Commission from contesting the minimum zoning. The Commission's staff was consulted by the plaintiffs in that case and were aware of the litigation. That they chose not to intervene cannot be used as a shield to the Court's decision. There cannot be two zonings for adjacent properties within the same land use category unless there has been a general plan amendment. These properties have identical criteria for calculation of minimum lot size. If the minimum zoning for Leimert is 20 acres, the adjacent Brown property is also 20 acres.

Following the Court's order, the County approved a subdivision map for Leimert with 18 lots over 342 acres, a density of approximately one lot per 20 acres. The notice of this action was mailed to the Commission on July 25, 1997. The County record of this notice of final action (NOFA) is enclosed. The Commission again chose not to intervene. The doctrine of administrative res judicata prevents the Commission from taking a contrary position with respect to the minimum parcel size for adjacent Rural Lands-zoned properties.

Exhibit G
(14 of 34)

001085

2. The language of County Title 21 allowing adjustment of lot lines to lot sizes below the minimum parcel size on a showing the resulting lots are equal to or better than the current situation has been considered part of the Local Coastal Plan since the time of its adoption.

Since certification of the County's Local Coastal Program (LCP), there have been several lot line adjustments approved by the County for lots below the minimum parcel size based on the findings found in Title 21, Section 21.02(c). None of these have been challenged by the Commission. By the above doctrine of contemporaneous administrative construction and collateral estoppel, the Commission cannot now re-write the Local Coastal Plan by eliminating lot line adjustments as a planning tool.

Recently the Coastal Commission approved Morro Bay Limited (Ormsby), a very large lot line adjustment near Cambria involving numerous parcels below the minimum parcel size. A partial list of other lot line adjustments which have been approved with lot sizes below the minimum parcel size for the zone in which they are located include:

Morro Bay Limited (Ormsby)
Dalideo (near Ormsby)
Tim Winsor/Frith (COAL 97-0141)
Mildred Handy/Machado (COAL 91-166 and COAL 94-044)
John Prian (COAL 97-109)

These approvals establish an administrative record applying the LCP to allow lot line adjustments with resulting parcels below the minimum acreage for new land divisions set forth in the Land Use Element.

3. The State law provisions allowing lot line adjustments cannot be re-written by the Commission under the doctrine of preemption.

State law allows lot line adjustments upon a finding that certain conditions are met. The County made the required findings. This is a matter of State law, which the Commission may not re-write by adopting the new policy recommended by staff. The existing LCP for the County of San Luis Obispo is silent on this issue. Therefore, the State law governs and the Browns are entitled to pursue their lot line adjustment request irrespective of whether the resulting parcels are in conformity with the minimum parcel sizes for subdivision of land found in the LCP.

Exhibit G
(15 of 34)

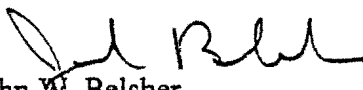
The applicant hereby incorporates by reference the following documents and files into this hearing record:

- A. The County files for Tract 1804 (copies of portions of which are enclosed herewith);
- B. The Commission files for Tract 1804;
- C. The entire Court file in Leimert v. County of San Luis Obispo, Superior Court Case No. 68734 (portions of which have previously been provided to the Commission); and
- D. The Commission file on the San Luis Obispo County LCP, including communications from and with San Luis Obispo County, such as those transmitting the provisions of Title 21 to Coastal Commission staff.
- E. The Commission and the County files on the following lot line adjustments:

Morro Bay Limited (Ormsby)
Dalideo (next to the Ormsby project)
Tim Winsor/Frith (COAL 97-0141)
Mildred Handy/Machado (COAL 91-166 and COAL 94-044)
John Prian (COAL 97-109)

The Commission is requested to move from the legal points into a consideration of the planning concerns with respect to this matter. The applicants submit the adjustment of the parcels as proposed is good planning and protects sensitive environmental areas. As such, it is equal to or better than the existing configuration and should be approved.

Respectfully submitted,


John W. Belsher

cc: Josh and Cathie Brown

Exhibit 6
(16 of 34)

PLANNING COMMISSION
COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA

Thursday, July 10, 1997

PRESENT: Commissioners David Fitzpatrick, Don Keefer, Pam Murray, Pat Veasart,
Chairman Shirley Bianchi

ABSENT: None

RESOLUTION NO. 97-45
RESOLUTION RELATIVE TO THE GRANTING
OF A TENTATIVE TRACT MAP

WHEREAS, The County Planning Commission of the County of San Luis Obispo, State of California, did, on the 10th day of July, 1997, grant a Tentative Tract Map to CAMBRIA WEST/LEIMERT to allow subdivision of a 380 acre property into 18 clustered lots, ranging in size from approximately 1.5 to 76 acres, with open space areas totalling a minimum of 342 acres, in the Rural Lands Land Use Category. The property is located in the county on the east side of Highway 1 at the intersection with Cambria Pines Road, approximately 1/2 mile north of the intersection of Hwy 1 and Windsor Blvd. in the community of Cambria, APN: 013-081-38, 39, 47, 49, in the North Coast Planning Area. County File Number: Tract 1804.

WHEREAS, The Planning Commission, after considering the facts relating to said application, approves this Permit subject to the Findings listed in Exhibit A.

WHEREAS, The Planning Commission, after considering the facts relating to said application, approves this permit subject to the Conditions listed in Exhibit B.

NOW, THEREFORE, BE IT RESOLVED, That the Planning Commission of the County of San Luis Obispo, State of California, in a regular meeting assembled on the 10th day of July, 1997, does hereby grant the aforesaid Permit, No. Tract 1804.

Exhibit 6
(17 of 34)

001988

MITIGATED NEGATIVE DECLARATION

EXHIBIT A
BROWN ADDENDUM TO

109' x 50' PROPOSED EASEMENT -
BROWN & LEIMERT PROPERTIES

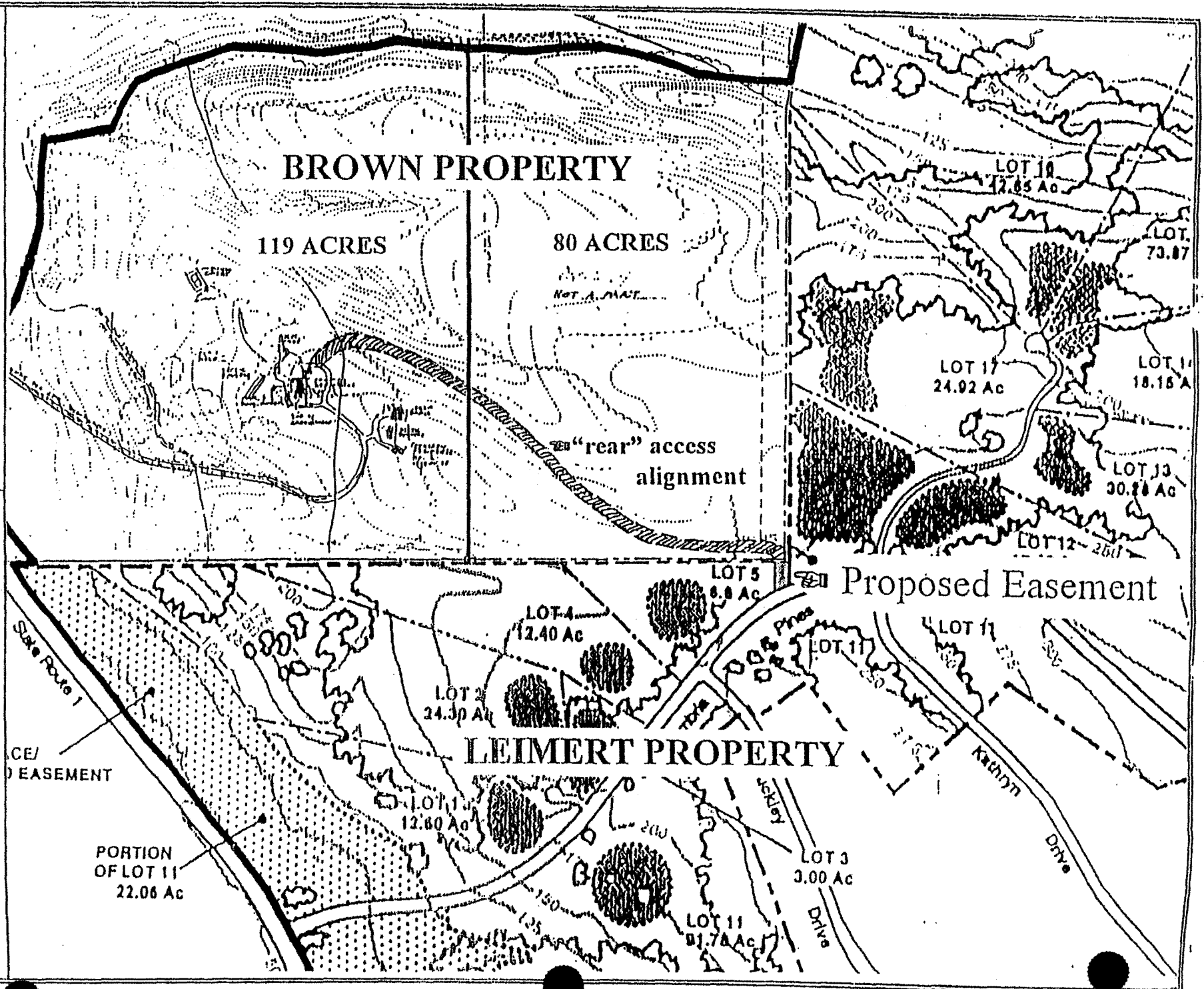
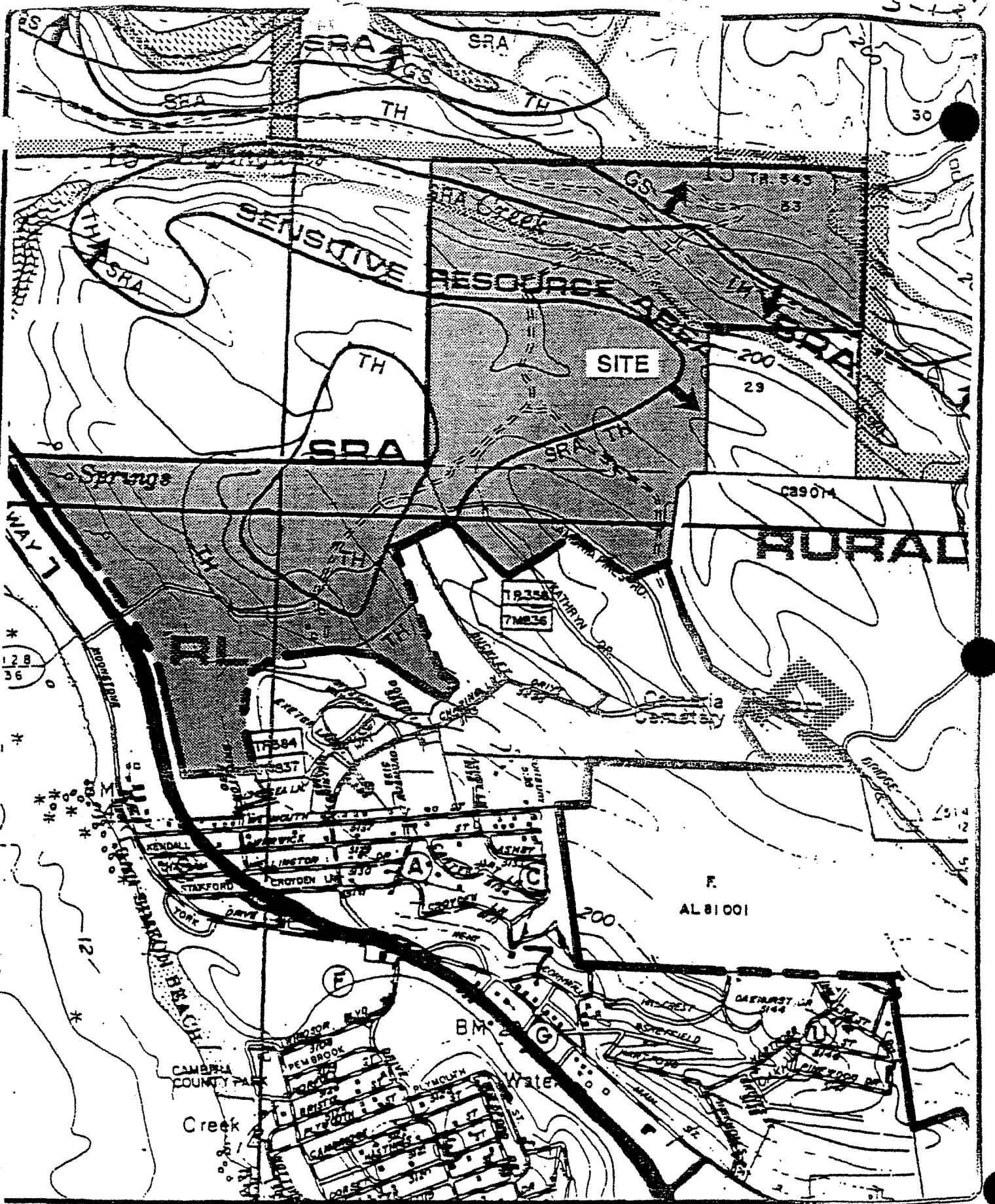


Exhibit A
(18 of 34)

001080



SAN LUIS OBISPO COUNTY DEPARTMENT OF PLANNING AND BUILDING

LAND USE CATEGORY MAP



EX. 6
(20 of 34)

CAMERIA PINES ESTATE
TRACT 1008

001991

5-14

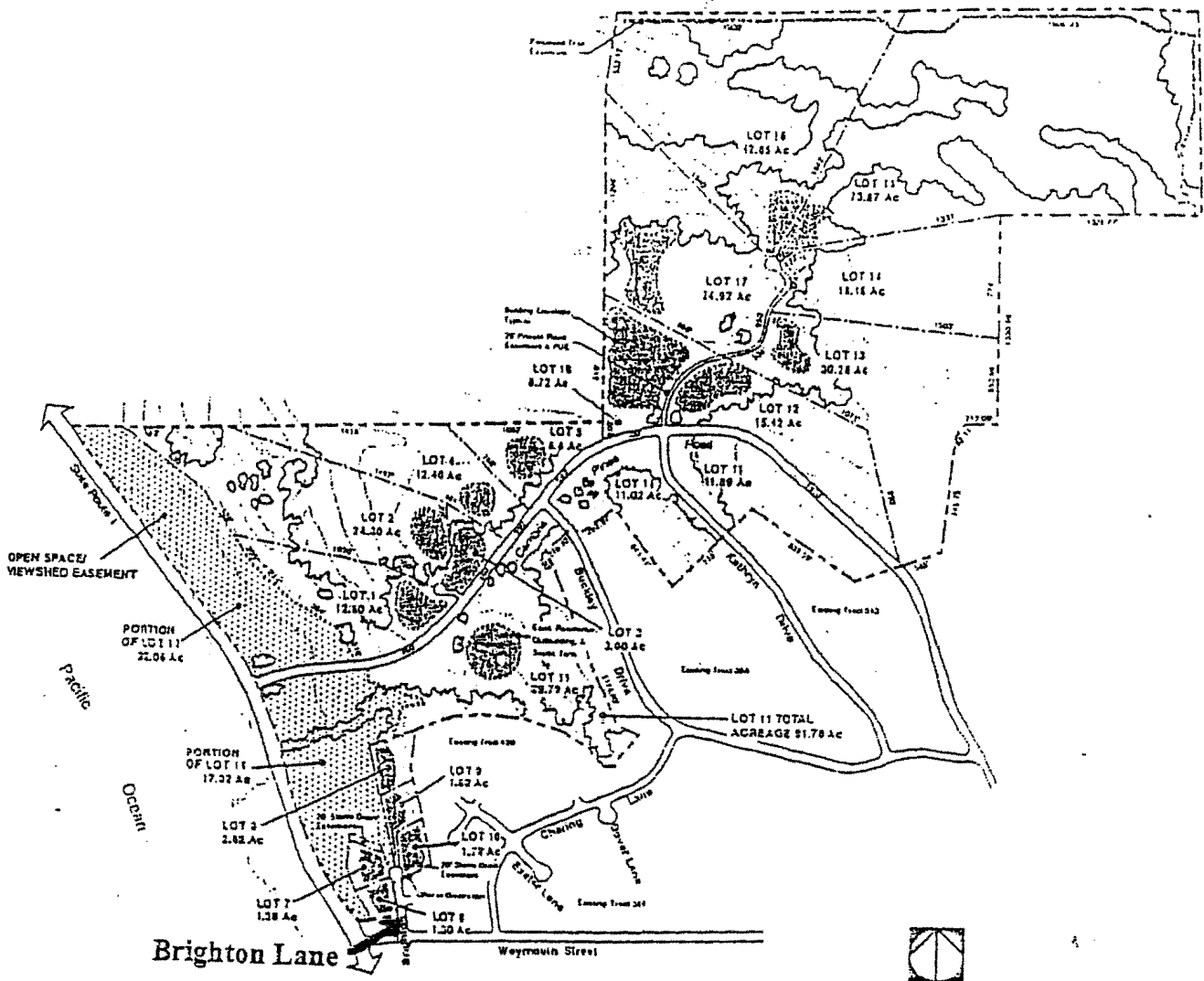


Exhibit G
(21 of 34)

Project

Tract 1804 Road Exception Request; S990146P



Exhibit

Tract 1804

001092

SRA

RA TH

C. CPAL 81 001

23
CS100F

SRA

SRA

SRA

TH

TH

16

GS

TR. 543

53

SENSITIVE RESOURCE AREA

2.

3.

COAL94-078

TH

200

29

SRA

SRA TH

Springs

HIGHWAY 7

PL 86-249

7L96-249

CSB-014

TR 358
7MB36

Camden Cemetery

PL 86-249

PL

5128
36

TR 384
MB37

Exhibit 6
(22 of 34)
F.

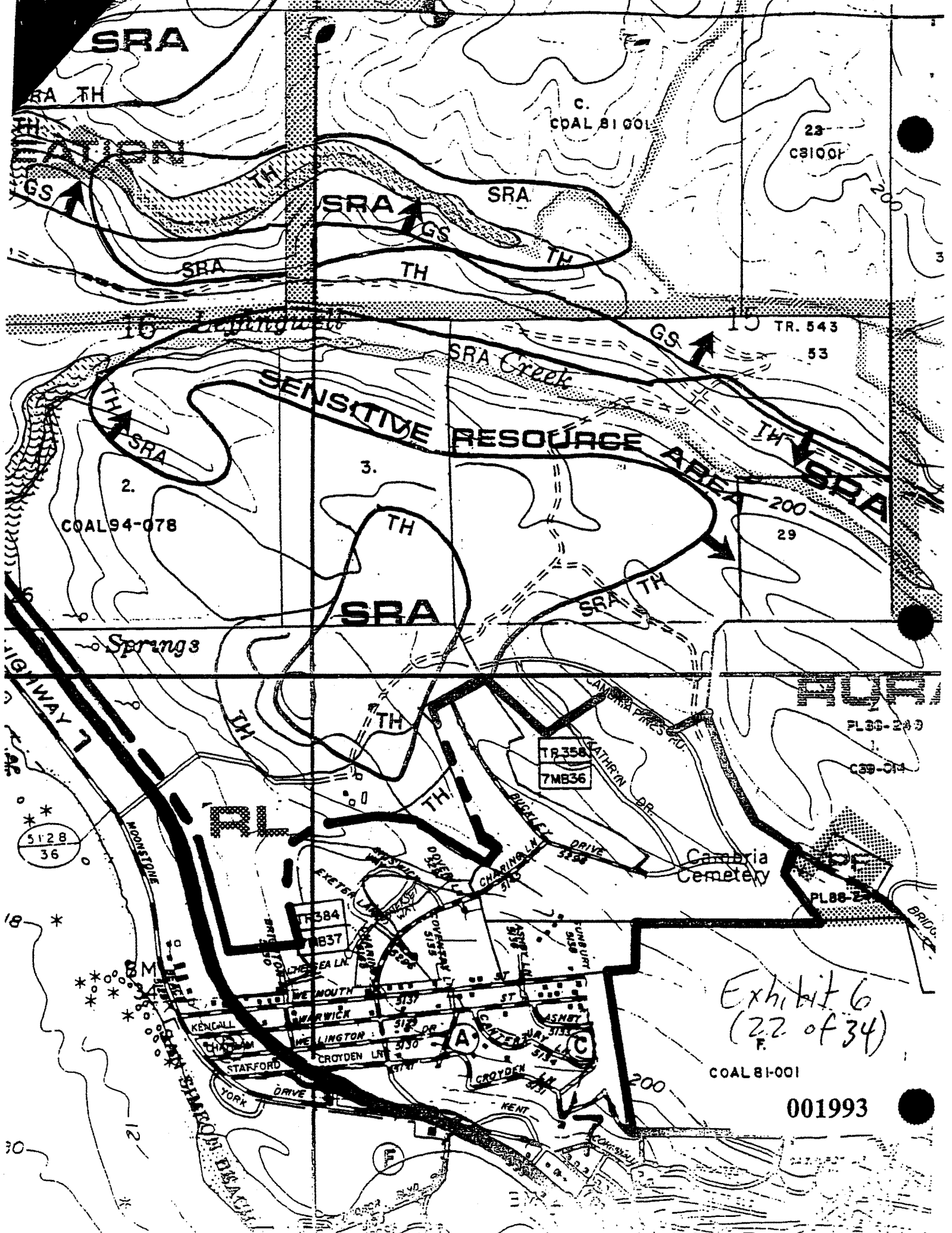
COAL 81-001

001993

18 *
12 *
30 *

12

30



ACT PROJECT: S890315 T STRUCTURE:
APV TYPE OF ACTION INITIATED RESOLVED COMMENTS

A P P R O V A L S

258	CK	PUB COMMENT TIME CLO	11/26/96	207	02/03/97	E65	
261	CL	ADMIN F-EIR COMPLETE	11/26/96	207	04/01/97	E65	
264	CF	FINAL EIR COMPLETED*	11/26/96	207	04/10/97	E65	
267	CM	PREPARE EIR FINDINGS	11/26/96	207	04/12/97	E65	
270	PC	P C HEARING APPV *	11/26/96	207	07/10/97	E65	
280	PA	APPROV/NOFA NOTIF	11/26/96	207	07/25/97	E65	<i>n Pollock</i>
300	T1	TIME EXT REQUEST REC	04/15/99	340	04/15/99	340	1ST REQ/\$153
303	ME	TIME EXT FEE PAYMT*	04/15/99	340	04/16/99	G95	AC203162-SM
306	D1	PLANNER ASSIGNMENT	04/15/99	340	04/24/99	585	NR

P R O J E C T

OWNER: LEIMERT INVESTMENT CO
LOCATION: 6680 BUCKLEY DR RNC
PROJECT TYPE: TRACT MAP COASTAL
COMMENTS:

PF6 =MASS SIGNOFF

PRESS (PF8) KEY FOR STANDARD FUNCTIONS PRESS ENTER FOR ADDITIONAL ENTRIES

*Exhibit 6
(23 of 34)*

ACTION: BROWSE (A=ADD, B=BROWSE, C=CHANGE, D=DELETE)
 PROJECT: S890315 TYPE: T TRACT MAP COASTAL CAMBRIA WEST
 MAP: TR89-1804 VEST: NOT VESTED RECR DATE: BK: PG:
 <- NUM FROM SIZE TO SIZE AC/SQ EXISTING LOTS-4 LOT GROUPS ALLOWED->
 > 0 0.00 - 0.00 0 0.00 - 0.00
 > 0 0.00 - 0.00 0 0.00 - 0.00
 NUMBER EXISTING LOTS: 0
 TOTAL SIZE EXISTING LOTS: 0.00
 <- NUM SIZE AC/SQ (ACRE/SQFT) PROPOSED LOTS-8 LOT GROUPS ALLOWED->
 > 0 > 0.00 > 0 > 0.00 >
 > 0 > 0.00 > 0 > 0.00 >
 > 0 > 0.00 > 0 > 0.00 >
 > 0 > 0.00 > 0 > 0.00 >
 TOTAL OP SP: 0.00 IN 0 LOT(S)
 TOTAL PROPOSED/OPEN LOTS: 0 TOTAL EASE: 0.00 >

J. Rollins

OPT: ACR AGT APV ASM FEE HLD LIC PHP RFL WKS RFP LCO LNO LAE LPP LSC LPD
LGP LCC LAP ENS EST ESD EGD HLP

PRESS (PF8) KEY FOR STANDARD FUNCTIONS

Exhibit 6
(24 of 34)

JOHN W. BELSHER
HOWARD MARK BECKER
STEVEN P. ROBERTS

BELSHER & BECKER

ATTORNEYS AT LAW
412 MARSH STREET
SAN LUIS OBISPO, CALIFORNIA 93401

TELEPHONE (805) 542-9949
FAX (805) 542-9949
E-MAIL slolaw@belsherandbecker.com

March 13, 2002

VIA FAX & U.S. MAIL
831-427-4877

California Coastal Commission
Attn: Steve Monowitz
725 Front St., Suite 300
Santa Cruz, CA 95060

RE: Brown v. California Coastal Commission
COAL 99-0090-S980282L

Dear Steve:

Pursuant to our discussions, you have indicated slope and access to be the outstanding issues regarding application of the land division standards to the pending lot line adjustment.

Enclosed find a slope analysis by Vaughan Surveys for the two properties comprising the above application. The analysis shows these parcels qualify for 20-acres, as they are well under 30% average slope.

In addition, I have researched the issue of "access". According to senior County member staff, Kami Griffen, this test is satisfied due to the fact the property borders Highway One, a public road with an obviously substantial improved right-of-way. You may confirm this with Kami at (805) 781-5193. In addition, access issues are not a basis for denial, but one to be addressed by condition. See §23.04.025c(2). As you are aware, the improved access to both parcels, which meets County road standards, is an alternative to accessing Highway One directly. This alternative was chosen per County staff request when the larger parcel was developed so as to minimize impacts on Highway One traffic flow. Enclosed find a statement by Tim Winsor as to the condition of this existing access ("Jordan Road") and a road maintenance agreement between Josh Brown and Jim Townsend.

I believe this should be sufficient information to conclude the tests for 20-acre parcels in the Rural Lands category have been satisfied.

Sincerely,



John W. Belsher

JWB/ab

cc: client

F:\Angelas File\John's clients\BROWN\Coastal Commission (Monowitz) 01.wpd

Exhibit 6
(25 of 34)

When Recorded Mail To:
Joshua Brown
6975 Jordan Rd
Cambria, CA 93428
805-924-1000

APNs: 013-081-090; 013-081-081

JORDAN ROAD ASSOCIATION ROAD MAINTENANCE AGREEMENT

WHEREAS, Jordan Road exists in the County of San Luis Obispo, from Cambria Pines Road to its terminus at Parcels 1 and 2 of Parcel Map 99-0090; and

WHEREAS, the undersigned property owners use Jordan Road, in the County of San Luis Obispo, for access to and from their properties; and

WHEREAS, said road is privately owned and requires occasional maintenance by private parties; and

WHEREAS, the owner/owners of parcel 1 and 2 of Parcel Map 99-0090 desire to create a road maintenance agreement.

NOW THEREFORE, the undersigned agree as follows:

1. There is hereby created the Jordan Road association, an unincorporated association established to maintain Jordan Road ("Association")
2. The Association shall meet at least annually to elect officers, to review maintenance needs of Jordan Road, to collect fees for maintenance and to enter into contracts for repairs and maintenance of Jordan Road. The Association shall adopt Bylaws to govern its procedures for the membership and procedures.
3. Membership in the Association shall be open to any property owner using Jordan Road for access to his or her property and shall include, at a minimum, the undersigned property owners (or their successors in interest). A quorum shall constitute two members, including at least one owner of either parcel 1 or 2.
4. The owners of Parcels 1 and 2, as well as any subdivisions created in the future with respect thereto, shall each take access to each of their respective parcels from Jordan Road.
5. Any roadways existing or created along Jordan Road and upon the easements referred to herein as it relates to access to Parcel 1 and Parcel 2, shall be maintained in a good, clean, sanitary, and attractive condition, and the owners hereby agree to repair and/or reconstruct or replace end of the surface of said roadway as may be required from time to time.
6. Brown has improved Jordan Road at his sole cost and expense as required by the County in conditions of approval for Parcel Map 99-0090 referenced hereinbefore. Now that these improvements are complete, Brown and any successors-in-interest of Parcels 1 and 2 shall share in the costs of the maintenance and repair of the easements and the roadways. It is not the intent of this Road Maintenance Agreement to obviate or extinguish, in any way, any property owners' obligation to share in the costs or expense of maintaining Jordan Road under applicable provisions of California Civil Code Section 843.
7. Except as specifically provided for herein, any dispute between the owners using Jordan Road as to maintenance costs shall be governed by the applicable provisions of California Civil Code Section 843 and/or any successor statute that take the place of that statute.

Exhibit G
(26 of 34)

[Handwritten signature]

- 8. Any Successors-in-interest to the undersigned and/or any subdivision of said owners' property agree to be equally liable for their share of the cost of the maintenance of the roadways to be created in conjunction of this agreement, and if a dispute arises between owners of their successors-in-interest over the payment or non-payment of such costs, the prevailing party in the event of any litigation or arbitration shall be entitled to all legal and court costs arising from said suit including reasonable attorney's fees as may be allowed by such court of competent jurisdiction. The foregoing, notwithstanding, the parties hereto may pursue, if necessary, contributions from other property owners who use Jordan Road as provided by California Civil Code Section 845.
- 9. The owners of Parcels 1 and 2 shall advance any funds for the Association to accomplish the foregoing, reserving any rights to collect such costs from other property owners pursuant to California Civil Code Section 845.
- 10. This Agreement in its entirety as recorded is binding notice to the benefit of the owners and future owners of the property herein affected, including any subdivisions thereof, as well as heirs, beneficiaries, legatees and successors-in-interest of the parties to the instant Agreement.

IN WITNESS WHEREOF, the parties hereto have entered into this above set forth Agreement, the effective date of same to be 2/26, 2002.

DATED: 2-24, 2002

PARCELS 1 AND 2 OF PARCEL
MAP APN 013-081-050

Josh Brown
Josh Brown

Cathryn Brown
Cathryn Brown

DATED: 2-26, 2002

APN 013-081-051

James Townsend
James Townsend
John Townsend
John Townsend

Exhibit G
(27 of 34)

P. O. Box 555
Cambria, California 93428
(805) 927-3321
Fax (805) 927-9540
E-mail: winsorconstruction@thegrid.net
CA License No. 747281
— Established 1973 —



Leach Rock
Red Rock
Sand
Base Rock
Lot Clearing
Top Soil
Rip Rap
Demolition
Beach Gravel
Hauling
Wood Recycling

Joshua Brown
6975 Jordan Road
Cambria, CA 93428

February 14, 2002

Re: Jordan Road

Dear Mr. Brown:

My company, Winsor Construction, builds roads throughout San Luis Obispo County. We are familiar with the road construction standards for San Luis Obispo County.

I supervised construction of the private road known as Jordan Road, which road links the County road Cambria Pines Road with Lots 2 and 3 of COAL 94-078 (proposed Parcels 1 and 2 of COAL 99-0090). Jordan Road has a 20' pavement width within a 40' right of way and exceeds County standards for a Standard Gravel Road.

Sincerely,

Tim Winsor, President
Winsor Construction

Exhibit 6
(28 of 34)

VAUGHAN SURVEYS, INC.

1101 Riverside Avenue • Paso Robles, CA 93446
(805) 238-5725 • FAX (805) 238-5835

February 8, 2002

Belsher & Becker
Attn: Mr. John Belsher
412 Marsh Street
San Luis Obispo, CA 93401

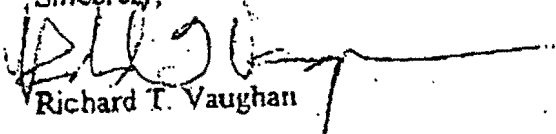
Dear Mr. Belsher,

Per your request the Average Slope for Lot 2 and Lot 3 of COAL 94-0078 is as follows:

- The Average Slope for Lot 2 of COAL 94-0078 is 17.21
- The Average Slope for Lot 3 of COAL 94-0078 is 11.33

Attached are the Slope Calculation Worksheets for your reference.

Sincerely,



Richard T. Vaughan

Enclosure

Post-it® Fax Note	7671	Date	3/13/02	# of pages	3
To	John Belsher	From	Tom Vaughan		
Co/Dept.		Co.			
Phone #		Phone #	238-5725		
Fax #	542-9949	Fax #	238-5835		

Exhibit 6
(29 of 34)

Job # 94-073
 Parcel or Lot #
 Contour Length
 80 230.19
 90 925.46
 100 1537.7
 110 2276.34
 120 2738.6
 130 2957.24
 140 2898.56
 150 2479
 160 1845.23
 170 2615.31
 180 3808.34
 190 4041.2
 200 4251.16
 210 2570.58
 220 2047.16
 230 2048.8
 Lot Area 80.00

Slope Calculation Worksheet
 Josh Brown
 Parcel 3 of COAL 94-0078

VAUGHAN SURVEYS
 DPR
 02/07/02

Contour Length 240 521 Contour Length Contour Length Contour Length Contour Length

Contour Interval 10.00 Total Length 39591.85 Average Slope 11.33

*Exhibit 6
 (30 of 34)*

Job # 94-073
 Parcel or Lot #
 Slope Calculation Worksheet
 Josh Brown
 Parcel 2 of COAL 94-0078

VAUGHAN SURVEYS
 DPR
 02/07/02

Contour Length	Contour Length	Contour Length	Contour Length	Contour Length	Contour Length
20	398.43	180	3133.07		
30	1070.46	190	2832.81		
40	2266.96	200	3340.25		
50	3106.72	210	2797.75		
60	3447.68	220	2268.35		
70	4582.7	230	1405.45		
80	5007	240	448.67		
90	5133.2				
100	5808.69				
110	6174.26				
120	6320.58				
130	6335.79				
140	6322.17				
150	6374.05				
160	5898.42				
170	4897.89				

Lol Area 118.90
 Contour Interval 10.00
 Total Length 89368.35
 Average Slope 17.21

*Exhibit 6
 (31 of 34)*

SM

BELSHER & BECKER

JOHN W. BELSHER
HOWARD MARK BECKER
STEVEN P. ROBERTS

ATTORNEYS AT LAW
412 MARSH STREET
SAN LUIS OBISPO, CALIFORNIA 93401

TELEPHONE (805) 542-9900
FAX (805) 542-9900
E-MAIL slolaw@belsherandbecker.co

May 16, 2002

VIA FAX & U.S. MAIL
831-427-4877

California Coastal Commission
Attn: Steve Monowitz
725 Front St., Suite 300
Santa Cruz, CA 95060

RECEIVED

MAY 20 2002

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

RE: Brown v. California Coastal Commission
COAL 99-0090-S980282L

Dear Steve:

My client has reviewed your Staff Report of March 22, 2002. That Staff Report determines that because the access to the properties subject to the lot line adjustment is a "private easement" the minimum lot size under the County's access test in this case 160 acres. In fact, the access to the properties to be adjusted has been offered to the public by virtue of the recordation of Tract 1804, recorded at Page 22 of Book 19 of Maps in San Luis Obispo County. A copy of said Tract Map is enclosed. You will note at Detail I, Sheet 4 of 9, there is a 50 foot-wide offer of dedication for road purposes for "Jordan Road". You will recall that we have previously provided evidence that said Jordan Road has been improved to County standards and further been provided to your office an organized maintenance agreement for said road. This road exceeds the County Standard Road requirements because it is paved. (See letter from Tim Winsor of Winsor Construction dated February 14, 2002.)

Since Jordan Road is in fact offered for public purposes, it meets the requirements of the right-of-way access standards for 20-acre minimum, pursuant to the analysis you have provided in your March 22, 2002 report. Note that the Zoning Ordinance expressly states "the Right-of-way required by the table in subsection C(4) of this section shall exist as either: (1) An offer to dedicate to the public..." CSLUO Section 23.04.025 c(2) (enclosed). Accordingly, we anticipate that staff will have no choice but to recommend approval of the lot line adjustment, as the Commission has no discretion to deny this lot line adjustment on the grounds of "equal to or better than". There is no balancing tests regarding the past or the present situation to be undertaken by the Coastal Commission at this point.

By the Staff Report's own admission, there is a significant portion of unforested area within the identified building site in which to accommodate a residence. The issue of whether a long or a short driveway will be built has apparently been decided in favor of a short driveway. We will provide evidence that the short driveway to the existing building envelope will have less or equal impacts to the proposed building envelope.

The Staff Report further raises issues on water service. This is a moot question. Parcel 2 already has water service from CCSD, including a meter. Parcel 1 is similarly already served by a water meter from CCSD. Proof in the form of CCSD billing is in the record. There is no remaining water issue to be raised or analyzed with respect to these two properties.

The Staff Report finally analyzes future subdivision possibilities. As the staff notes, this contention does not raise a substantial issue since it is not before the Commission.

Exhibit G
p. 32 of 34

Steve Monowitz
May 16, 2002
Page 2

It is recommended that the staff recommendation for approval of the Coastal Development Permit again may be re-stated in a revised Staff Report. The description of future subdivision, Item 3 on Page 19 of the March 22, 2002 Staff Report, should be deleted as the present minimum acreage is a 20-acre minimum. Item 4 is unnecessary as Parcel 2 already has a water meter. Evidence thereof is enclosed herewith. Special Condition No. 1 should be revised to delete the requirement providing the building site at the southeast corner of Parcel 2 and to leave the building envelope at its present location. Future development within Parcel 2 will address the requirements for advising the roadway access to the build-able parcel. Moreover, this condition of approval is unavailable to the Commission and to the Applicant, since the area other than the building envelope has already been dedicated to the San Luis Obispo Land Conservancy and accepted by them. Accordingly, the proposed Condition #1 is not possible of performance by the Applicant. Since the Commission has no authority to require such a condition, requiring cooperation from an outside agency, the condition would be invalid and illegal.

I look forward to learning of your confirmation the road access test for 20-acre minimums has been met. Perhaps we can then meet to review the driveway issue.

Sincerely,



John W. Belsher

JWB/ab
Encl

cc: client (w/out encls)
Tom Vaughan, Surveyor (w/out encls)

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Exhibit 6
p. 33 of 34

- b. Fire hazard/response time test.** The minimum parcel size is to be based on the degree of fire hazard in the site vicinity, and the response time. Response time is the time necessary for a fire protection agency to receive the call, prepare personnel and fire equipment for response, dispatch appropriate equipment, and deliver the equipment and personnel to each proposed parcel from the nearest non-seasonal fire station. Fire hazard is defined by the Safety Element of the general plan; response time is determined by the fire protection agency having jurisdiction.

MINIMUM PARCEL SIZE		
Response Time ¹	Moderate Hazard ²	High Hazard ³
15 Minutes or Less	20 Acres	20 Acres
More than 15 Minutes	80 Acres	160 Acres

Notes:

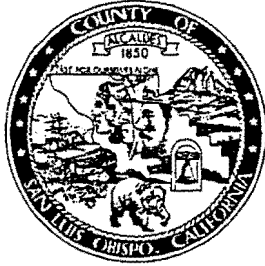
1. Determined by applicable fire protection agency.
2. As defined by the Safety Element.
3. Includes the high and very high fire hazard areas of the Safety Element.

c. Access test:

- (1) **General access test rules.** The minimum parcel size is based upon the type of road access to the parcel proposed for division, provided that the proposed parcels will use the road considered in this test for access, either by way of individual or common driveways. Where access to a parcel is over roadways with differing quality of improvement, the minimum size is as required for the road with the least improvement.
- (2) **Timing of improvements and right-of-way availability.** If the improvements do not exist at the time of the subdivision application, the conditions of approval for the tentative map shall require the construction of access improvements which meet the minimum requirements specified by this section. Additional right-of-way width may be required to allow for the construction of required improvements. The right-of-way required by the table in subsection c(4) of this section shall exist as either: (1) an offer to dedicate to the public or (2) as a private easement prior to acceptance of the tentative map application for processing. If the access is a private easement, it may be required to be offered for dedication to the public as a condition of approval of the tentative map.

A-3-SLO-00-045

CL
JB
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San Luis Obispo County

Department of Planning and Building **RECEIVED** Memorandum

NOV 19 2001

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

DATE: NOVEMBER 8, 2001
TO: CHARLES LESTER, CALIFORNIA COASTAL COMMISSION
FROM: MATT JANSSEN, SLO COUNTY PLANNING
SUBJECT: BROWN LOT LINE ADJUSTMENT (S980282L/COAL 99-0090)

On March 21, 2000, the San Luis Obispo County Board of Supervisors upheld an appeal by the applicant of our Subdivision Review Board's denial of the above-referenced project (i.e., the proposed lot line adjustment was approved). However, Planning staff's opinion is that the proposed project violates the planning area standard in the existing North Coast Area Plan which sets the minimum parcel size for Rural Lands parcels north of Cambria at 80 acres (Rural Lands; #2-Site Planning-New Land Divisions Adjacent to Cambria, page 8-18).

We understand the court has determined that the 80 acre minimum parcel size, pursuant to the planning area standard, should not apply to the Brown property (even though this is in direct conflict with our adopted Coastal Framework for Planning which directs us to use the minimum parcel size set by planning area standard when there is a conflict between a section of the CZLUO and a planning area standard). However, if this is the case, then Section 23.04.025 of the Coastal Zone Land Use Ordinance (CZLUO) should be used to determine minimum parcel size.

Section 23.04.025 of the CZLUO utilizes a series of four tests to determine minimum parcel size. The four tests are in the areas of remoteness, fire response, access, and slope. The minimum parcel size is "the largest area obtained from any of the tests...". After applying each of the tests to the Brown property, access is the test that determines the "the largest area obtained...". Because the Brown property utilizes an private easement (109 feet long across the Leimert property to the south) to access a County maintained road (Cambria Pines Road), and is considered to be an "all-weather road", the minimum parcel size should be set at 160 acres (CZLUO; page 4-16, table at top of page). If this section of the CZLUO is used to determine minimum parcel size, both existing parcels would be considered non-conforming with this section (at 117 and 80 acres), and a reduction in the size of smaller parcel would constitute a worsening of the situation from our perspective. Lastly, if the access across the property to the north (Khaloghli) were developed instead of the existing access point to the south (Leimert), it would still result in a 160 acre minimum parcel size because it would also constitute a "private easement", not a public or County maintained road.

Please call or e-mail if you have any additional questions regarding this property and our existing plans, ordinances, and policies.

Exhibit 7



Exhibit 8

Approximate dimensions for Parcel 2 Building Site.

Exhibit 8: Building Site for Parcel 2

This exhibit approximates the existing exterior boundaries of Parcel 1 and Parcel 2 on an aerial photograph of the site taken June 25, 1993 (the existing property line between Parcel One and Parcel 2 that will be adjusted is not shown in this exhibit, but is approximated in Exhibit 5). It also provides an illustrative guideline for delineating the building site for Parcel 2 in accordance with the parameters established by Special Condition 1. Future development within the building envelope must comply with all applicable LCP requirements, including but not limited to the protection of environmentally sensitive habitat areas.

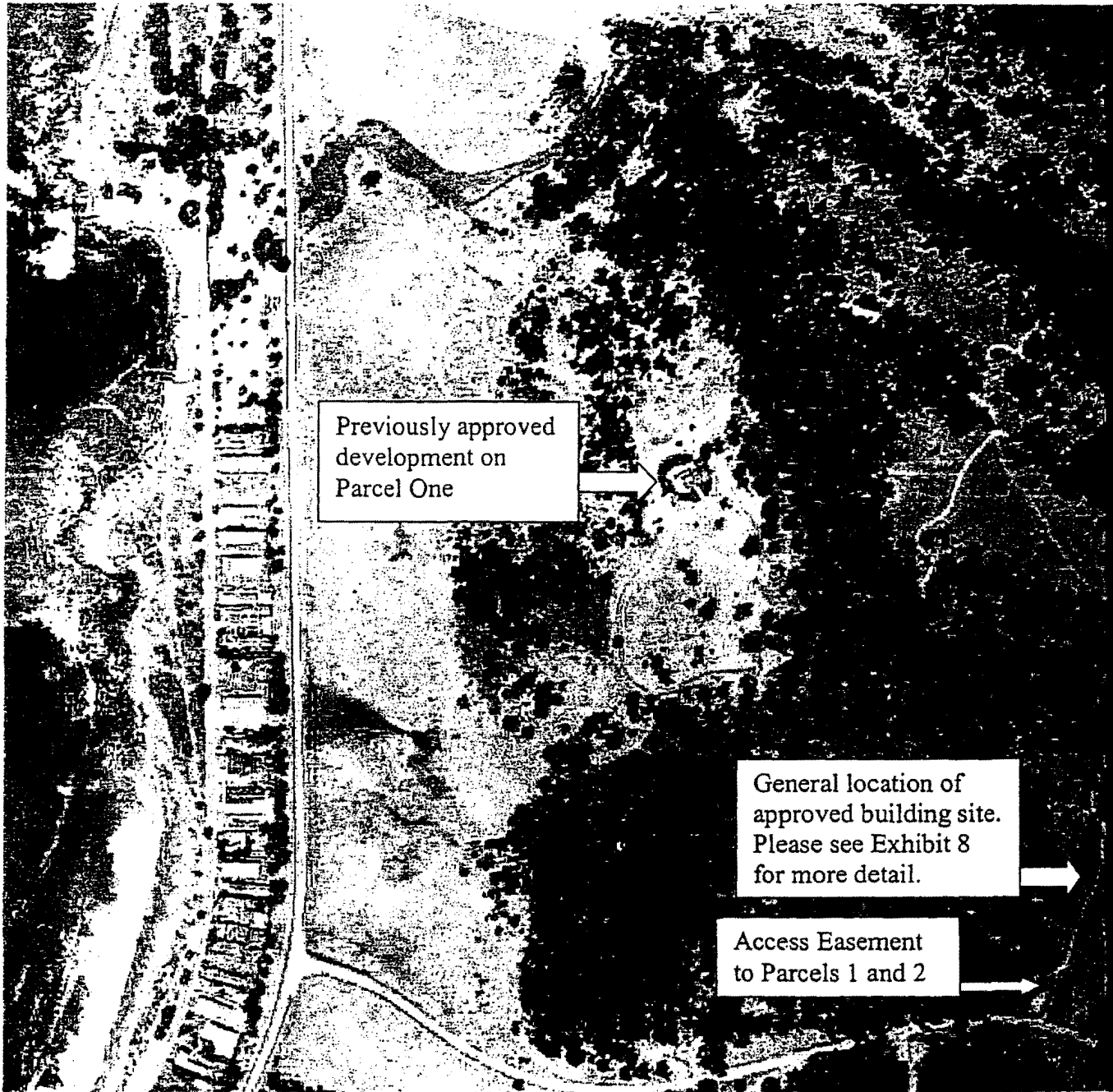


Exhibit 9: Aerial Photograph of Project Site taken September 26, 2001

Note: Entirety of Parcel 2 is not shown in this photograph.

Exhibit 9

