

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
 725 FRONT STREET, SUITE 300
 SANTA CRUZ, CA 95060
 PHONE: (831) 427-4863
 FAX: (831) 427-4877
 WEB: WWW.COASTAL.CA.GOV

W10b



Appeal filed:	9/3/2009
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Staff report prepared by:	J.Bishop
Staff report approved by:	D.Carl
Hearing date:	10/7/2009

APPEAL STAFF REPORT SUBSTANTIAL ISSUE DETERMINATION ONLY

Appeal numberA-3-SLO-09-045, Hearst LLA

ApplicantsHearst Holdings LLC

Appellant.....Coastal Commissioners Patrick Kruer and Sara Wan; Sierra Club – Santa Lucia Chapter; LandWatch San Luis Obispo County.

Local governmentSan Luis Obispo County

Local decisionCoastal Development Permit (CDP) Application Number SUB2007-00161 approved by the San Luis Obispo County Board of Supervisors July 14, 2009.

Project locationA portion of the Hearst Ranch located along a 14-mile section of coast beginning approximately 1.5 miles north of San Simeon Acres and ending at Ragged Point within the rural North Coast Planning Area of San Luis Obispo County.

Project description.....Adjust the lot lines between four existing parcels of 0.17 acres, 443.18 acres, 10,180 acres, and 23,200 acres, resulting in four parcels of 93.6 acres, 1,851.71 acres, 8,837.73 acres, and 23,040.34 acres.

File documents.....Final Local Action Notice for San Luis Obispo County CDP Number SUB2007-00161; San Luis Obispo County certified Local Coastal Program (LCP); California Coastal Act Chapter 3.

Staff recommendation ...**Substantial Issue Exists**

A. Staff Recommendation

1. Summary of Staff Recommendation

San Luis Obispo County approved a coastal development permit (CDP) to adjust the lot lines between four existing parcels of 0.17 acres, 443.18 acres, 10,180 acres, and 23,200 acres, resulting in four parcels of 93.6 acres, 1,851.71 acres, 8,837.73 acres, and 23,040.34 acres on the Hearst Ranch. The Appellants contend that the County-approved project does not adequately protect and provide for public recreational access, coastal agriculture, environmentally sensitive habitat areas (ESHA), and public views consistent with the Coastal Act and the LCP.



California Coastal Commission

A-3-SLO-09-045 (Hearst LLA) stfrpt 10.7.2009 hrg.doc

One of the primary objectives of the Coastal Act and LCP is to provide and protect maximum public recreational access to and along the shoreline. The property represents a significant and critical area along the North Coast of San Luis Obispo County where maximum public recreational access has not yet been provided as envisioned by the Coastal Act and the LCP, particularly with respect to the San Simeon Point area seaward of Highway One. The County-approved lot line adjustment raises a substantial issue with the Coastal Act and the LCP because it establishes a lot configuration that could prejudice and thus undermine the provision of maximum public recreational access generally required by the Coastal Act and currently provided for in the LCP, by creating a new lot that is separate from the larger San Simeon Point area and within which a visitor-serving facility, such as a hotel, has long been contemplated. By doing so, the lot line adjustment artificially removes the San Simeon Point area property from the potential visitor-serving property, and thus establishes a possible future development review scenario for a visitor-serving development that is potentially disconnected from San Simeon Point and potential public recreational access requirements currently planned for and/or potentially required by the Coastal Act and the LCP as part of such development. The County-approved project thus reduces protection and provision of maximum public recreational access and thus raises a substantial issue concerning consistency with the Coastal Act and the LCP.

The County-approved project also raises other LCP conformance issues with respect to establishing lot configurations that could facilitate development inconsistent with protecting coastal agriculture, ESHAs, and the public viewshed.

First, this area of Hearst Ranch includes significant grazing and other agricultural land. The County's approval did not fully analyze the requirements of the LCP with respect to the division of agricultural areas or soils. The LCP requires a complete evaluation of the agricultural productivity or viability of the resulting parcels. Without such an analysis, it cannot be concluded whether the reconfigured lots are consistent with the LCP in terms of long-term agricultural productivity and viability. In addition, with respect to agricultural protection, the County-approved lot lines would be adjusted in such a way as to exclude existing developed areas that currently exist on the two largest parcels, creating two large agricultural parcels without this development. The adjustment thus may increase the potential for future development on these parcels that is incompatible with agriculture on these lots.

Second, there is insufficient analysis of the size and location of possible future building site envelopes, as required by the LCP for land divisions of parcels containing ESHA. As a result, it cannot be assured that the new lot configuration does not establish increased potential for ESHA conflicts, and it cannot be assured that it adequately protects ESHA.

Finally, this area of coastline is a critically important public viewshed area. The LCP prohibits land divisions whose only building site would be on a highly visible slope or ridgetop. The County's approval did not fully analyze this question or otherwise include conditions to assure that future building sites on the new lots would meet this requirement.

Overall, the County-approved project does not adequately protect and provide for public recreational access, coastal agriculture, ESHA, and public views consistent with the Coastal Act and the LCP. It also results in a new lot configuration and baseline that is less protective of these coastal resources than is the



existing lot configuration and baseline. Establishing such a position is also inconsistent with LCP lot line adjustment requirements. Thus, the County-approved project is inconsistent with the Coastal Act and the LCP.

For these reasons, the appeal raises substantial Coastal Act and LCP conformance issues related to public recreational access and resource protection requirements, and staff recommends that the Commission take jurisdiction over the CDP application for this project. The required motion and resolution are found directly below.

2. Staff Recommendation on Substantial Issue

Staff recommends that the Commission determine that a **substantial issue** exists with respect to the grounds on which the appeal was filed. A finding of substantial issue would bring the project under the jurisdiction of the Commission for hearing and action.

Motion. I move that the Commission determine that Appeal Number A-3-SLO-09-045 raises no substantial issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act.

Staff Recommendation of Substantial Issue. Staff recommends a **NO** vote. Failure of this motion will result in a de novo hearing on the application, and adoption of the following resolution and findings. Passage of this motion will result in a finding of No Substantial Issue and the local action will become final and effective. The motion passes only by an affirmative vote of the majority of the appointed Commissioners present.

Resolution to Find Substantial Issue. The Commission hereby finds that Appeal Number A-3-SLO-09-045 presents a substantial issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act regarding consistency with the certified Local Coastal Program and/or the public access and recreation policies of the Coastal Act.

Report Contents

A. Staff Recommendation.....	1
1. Summary of Staff Recommendation.....	1
2. Staff Recommendation on Substantial Issue.....	3
B. Findings and Declarations	4
1. Project Location	4
2. Project Description	6
3. San Luis Obispo County CDP Approval	7
4. Appeal Procedures	7
5. Summary of Appeal Contentions.....	8
6. Substantial Issue Determination	8
7. Substantial Issue Conclusion	19



C. Exhibits

Exhibit A: Project Location Maps and Aerial Photos

Exhibit B: San Luis Obispo County CDP Approval (File Number SUB2007-00161)

Exhibit C: Appeal of County's CDP Approval

Exhibit D: Correspondence Received

B. Findings and Declarations

The Commission finds and declares as follows:

1. Project Location

The proposed lot line adjustment encompasses four parcels on the Hearst Ranch totaling roughly 33,824 acres along a 14-mile section of coast beginning approximately 1.5 miles north of San Simeon Acres and ending at Ragged Point. The project is within the rural North Coast Planning Area of San Luis Obispo County. The parcels are located on both sides of Highway One and are within the LCP's Agriculture (AG), Recreation (REC), and Commercial Retail (CR) land use categories.

The LCP's Coastal Plan Policies document describes the subject property area as follows:

Rural Area of North Coast. Shoreline use within the highly scenic area of the North Coast is characterized by passive recreational activities associated with ocean viewing, walking, picnicking, etc. This access is of statewide and national significance as the southern entrance to the Big Sur area. The area north of San Simeon Point has an abundance of informal vehicular turnouts used by motorists traveling through the area, and in addition, there are two state beaches, San Simeon State Beach and the William Randolph Hearst Memorial State Beach. Both beaches have facilities and improvements for public shoreline use. Two existing visitor-serving locations provide limited day use and overnight accommodations. An additional access point would be provided should visitor-serving uses be developed in the San Carpoforo/Ragged Point area of Hearst Ranch....

San Simeon Village and San Simeon Point. San Simeon Village is presently a visitor-serving commercial center owned by the Hearst Corporation. The Sebastian store is the only existing commercial use, and is surrounded by other historic buildings associated with the development of the Hearst Castle. San Simeon Point is a highly scenic area with stands of Monterey Pine and cypress groves, tidal rock formations and scenic views of the coastline. Both of these areas have been desirable destination points for visitors seeking access to the coastline.

The San Simeon Village and point areas have been identified as appropriate for expansion of visitor-serving recreation facilities. These proposals include provisions for improvement and expansion of public access.

The following discussion is included in the agriculture section of the LUP and summarizes existing and



potential agricultural use on the Hearst Ranch:

This ranch covers 77,000 acres extending from Pico Creek north of Cambria to the Monterey County line. The ranch includes most of the coastline in the area and extends inland to the east side of the Santa Lucia range.

Topography is varied, including flat and gently-rolling shoreline terraces, narrow coastal valleys and the steep slopes of the Santa Lucia range. Most of the ranch is open, with tree and brush cover limited to relatively small areas in protected valleys and on hillsides and mountain ridges. The combination of climate and soils restricts tree and brush growth.

Existing agricultural land use consists of a cow-calf operation using horned and polled Hereford cattle. Approximately 2,500 head of cows, bulls and horses are run on the ranch with about 1,800 head of calves born each year. Most calves are separated from their mothers and sold in the spring. Around 35 acres of non-irrigated feed crops are grown in Arroyo de la Cruz for supplement.

Potential Class II soils are limited to narrow zones along the larger creeks and some coastal and inland flats. Intensive use of these areas is questionable because their small size does not appear to warrant the expense of irrigation development. Class III lands are more extensive, but the coastal climate is not favorable for most feed and grain crops. The majority of the ranch consists of Class VI and VII lands suitable only for grazing.

According to the Hearst Corporation, past experience has shown that the land is best suited for livestock operations. A variety of crops, including alfalfa, Sudan grass, barley, oats, flax and peas have been tried in the coastal flats and Arroyo de la Cruz, but these crops had very limited success because of excessive wind, fog, dampness and lack of sunshine.

Other adaptable irrigated crops are strawberries, artichokes, brussel sprouts and other cold crops in the coastal valleys and lemons and avocados in sheltered inland areas. However, such crops are unlikely because of the isolation of the ranch from available packing labor and transportation facilities.

The proposed project is located within a critically important public viewshed. As described in the LUP:

The rural areas provide major scenic corridors along public roadways. This portion of rugged coastline along Highway 1 is known internationally for its awesome beauty as the headlands to the Big Sur area. A diversity of picturesque coastal characteristics are visible from the winding drive. This area contains a variety of environmentally sensitive habitats such as the California Sea Otter Preserve, San Simeon Creek Lagoon, Piedras Blancas Dunes and the Arroyo de la Cruz wetlands. The vegetation includes low grasses and shrubs and occasional stands of Monterey Cypress, oaks and pines.

Non-agricultural development in this area is limited to the Hearst Castle State Historical Monument, Piedras Blancas Lighthouse, San Simeon Village and the visitor facilities at San Simeon Acres and Ragged Point.



The visual integrity of this area is related to the distance and range of views. The directional changes of Highway 1 allows the viewer to see the curve of the coastline for miles, with the Santa Lucia Mountains providing a backdrop to the coastal views. New, highly visible development on the ocean side of Highway 1 would detract from the spectacular ocean views and the pristine rural ambience that characterizes the area.

See Exhibit A for a location map and photos of the project area.

2. Project Description

The County approved project allows for the adjustment of lot lines between four existing parcels of 0.17 acres, 443.18 acres, 10,180 acres, and 23,200 acres, resulting in four parcels of 93.6 acres, 1,851.71 acres, 8,837.73 acres, and 23,040.34 acres. The following table illustrates the size of the parcels before and after the lot line adjustment:

Parcel	Existing Size (acres)	Proposed Size (acres)
1	0.17	93.60
2	443.18	1,851.71
3	10,180.00	8,837.73
4	23,200.00	23,040.34

The proposed lot line adjustment would bring the existing parcels into conformance with the boundaries of the Old San Simeon Village Conservation Easement area, the San Simeon Point conservation Easement area, and the Headquarters Parcel (proposed parcel 2) as established by the Hearst Ranch Conservation Plan (HRCP) and associated easements. The HRCP was completed in 2004 with funding from the State. It included, among other things, the transfer of much of the land west of Highway One to the state for public recreational and other purposes (“westside lands”) and the placement of agricultural land east of the Highway into an agricultural easement (“eastside lands”) held by the California Rangeland Trust. Although Commission staff commented on the proposed conservation plan, the Commission was not a party to the final agreement. As part of the negotiated easement, the Hearst Corporation retained the ability to pursue up to 25 new residential parcels and associated homesites in specifically identified cluster areas across the Ranch. The parcels each would be 25 acres with 5 acre building areas. Other performance standards would apply to such development as well to address the protection of sensitive biological, visual, and other resources from future residential development. In addition, for each residential development, approximately 10 existing legal lots of record on the Ranch (there are 271 identified by the County), would be merged.¹ The HRCP also includes easements held by State Parks for certain public access amenities to and along the shoreline areas, including San Simeon Point, retained by the Hearst Corporation.

According to the County, this lot line adjustment is essentially a “clean-up” which would allow the

¹ The HRCP also assumes two other residences on large ranch parcels.



applicant to describe the easement areas embodied in the HRCP as separate legal parcels, rather than different pieces of other parcels with separate certificates of compliance.

See detailed project information in the County's Final Local Action Notice attached as Exhibit B.

3. San Luis Obispo County CDP Approval

On July 14, 2009, the San Luis Obispo County Board of Supervisors approved Coastal Development Permit (CDP) Application Number SUB2007-00161. This final action was preceded by a series of County hearings over several months involving the subject application. In fact, the Subdivision Review Board approved the project on February 2, 2009, and that approval was appealed by two of the current Appellants to the Board of Supervisors. Notice of the Board of Supervisors action on the CDP was received in the Coastal Commission's Central Coast District Office on August 20, 2009. The Coastal Commission's ten-working day appeal period for this action began on August 21, 2009 and concluded at 5 p.m. on September 3, 2009. Three valid appeals (see below) were received during the appeal period.

4. Appeal Procedures

Coastal Act Section 30603 provides for the appeal to the Coastal Commission of certain CDP decisions in jurisdictions with certified LCPs. The following categories of local CDP decisions are appealable: (a) approval of CDPs for development that is located (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 tide line 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, and (3) in a sensitive coastal resource area; or (b) for counties, approval of CDPs for development that is not designated as the principal permitted use under the LCP. In addition, any local action (approval or denial) on a CDP for a major public works project (including a publicly financed recreational facility and/or a special district development) or an energy facility is appealable to the Commission. This project is appealable because it involves development that is located between the sea and the first public road paralleling the sea, is within 300 feet of the inland extent of the beach and bluffs, is within 100 feet of wetland and stream areas, is in a designated sensitive coastal resource area, and is not designated as the principal permitted use.

The grounds for appeal under Section 30603 are limited to allegations that the development does not conform to the certified LCP or to the public access policies of the Coastal Act. Section 30625(b) of the Coastal Act requires the Commission to conduct a de novo CDP 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 and ultimately approves a CDP for a project, the Commission must find that the proposed development is in conformity with the certified LCP. If a CDP is approved for a project that is located between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone, Section 30604(c) also requires an additional specific finding that the development is in conformity with the public access and recreation policies of Chapter 3 of the Coastal Act. This project is located between the nearest public road and the sea, and thus this additional finding would need to be made if the Commission approves the project following a



de novo hearing.

The only persons qualified to testify before the Commission on the substantial issue question are the Applicant, persons who made their views known before the local government (or their representatives), and the local government. Testimony from other persons regarding substantial issue must be submitted in writing. Any person may testify during the de novo CDP determination stage of an appeal.

5. Summary of Appeal Contentions

The Appellants contends that the County's CDP decision is inconsistent with certified LCP policies and ordinances related to the protection of public access and recreation, agriculture, ESHA, and visual and scenic resources; and Coastal Act public access policies. Overall, the Appellants contend that the County approved project is not consistent with Coastal Act public access requirements and does not maintain a position that is equal to or better than the existing parcel configuration relative to LCP policies and ordinances, as required by the LCP, but rather is worse with respect to LCP conformance as a result of the project.

Please see Exhibit C for the complete appeal documents, and see Exhibit D for additional correspondence received from one of the Appellants.²

6. Substantial Issue Determination

A. Public Access and Recreation

1. Applicable Coastal Act and LCP Policies

Coastal Act Sections 30210 through 30213 and 30220 through 30223 specifically protect public access and recreation. In particular:

Section 30210: *In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.*

Section 30211: *Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.*

Section 30212(a): *Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects...*

² LandWatch San Luis Obispo County submitted an appeal document within the appeal period, but that appeal document did not include any appeal contentions (see Exhibit C). After the appeal deadline, LandWatch submitted contentions (See Exhibit D). However, these contentions were not received within the appeal period, and thus these contentions are not appeal contentions validly before the Commission. They are provided as correspondence received in Exhibit D.



Section 30213: *Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred. ...*

Section 30220: *Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.*

Section 30221: *Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.*

Section 30222: *The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.*

Section 30223: *Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.*

The North Coast Area Plan (NCAP) of the LCP contains multiple requirements for addressing public recreational access in relation to the phased development of the Hearst Ranch. In particular:

Hearst Ranch Standard 1- Shoreline Access. *Public access shall be provided at the time of each phase of development (as described below) and at the improvement of turn-out/vista points pursuant to Coastal Commission Permit No 4-81-194. The accessway (unless otherwise stipulated in the following standards) may be operated via offer-of-dedication or deed restrictions, depending upon the particular location and circumstances of the accessway.*

Hearst Ranch Standard 2 – San Simeon Village. *At the time of development at the Village, dedication of a lateral easement from mean high tide to the toe of the bluff for the area from Pico Creek are to W.R. Hearst Memorial State Beach is required. This will serve to link the three state holdings in this area. Vertical easements are required for the turn-out areas which now provide access to the state park holdings within this area. Additional dedication of lateral easement extending from mean high tide to the toe of the bluff in the area of the Caltrans right-of-way (from south of Piedras Blancas Dunes to include the sandy beach south of Oak Knoll Creek) shall be required if not previously completed as required in Standard 6.*

Hearst Ranch Standard 3 – Shoreline Access – San Simeon Point. *New development at San Simeon Point is required to provide bluff top pedestrian trails to the Point and from the Point to Oak Knoll Beach north of the point, and vertical and lateral accessways to and along the sandy beach areas of San Simeon Point. The land and including maintenance for the accessways, shall be provided by the applicant at the time of issuance of a coastal development permit for the development through an offer-to-dedicate or deed restriction; however, access shall not be open to the public until agency or private association has assumed full responsibility for liability of*



the area. The bluff top trails shall be sited consistent with protection of the forest habitat and bluff stability. Disturbance should be minimized by locating trails over existing pathways. Pedestrians shall be discouraged from off-trail use by the use of fencing vegetation and by placing signs at trailheads that restrict people to the trail. Other improvements to facilitate public access in this area shall include:

- a. Parking area for the public at the village, golf course facilities, and San Simeon Point resort area or a pedestrian/bicycle path from the Village to the resort area.*
- b. Day use picnic area.*
- c. Trash receptacles and signs (include interpretive facilities).*
- d. Public restrooms within proposed visitor-serving facilities.*

Hearst Ranch Standard 4 – Shoreline Access – San Carpoforo. *With issuance of a coastal development permit of development of San Simeon Point the following access shall be provided, by a deed restriction or offer-to-dedicate, at the northern end of the Hearst Ranch, consistent with the protection of agriculture, and the avoidance of hazardous areas and sensitive habitat areas:*

- a. A total of three vista points and three areas for parking 4-5 cars located south of the mouth of San Carpoforo Creek, north of Ragged Point by “Driftwood Beach” and near post-mile 68 between Breaker Point and Yellow Hill.*
- b. Vertical public access from the proposed vista points/parking areas to the sandy beaches located near San Carpoforo Creek, “Driftwood Beach” and between Breaker Point and Yellow Hill.*
- c. Lateral public access along the sandy beaches located near San Carpoforo Creek, “Driftwood Beach” and between Breaker Point and Yellow Hill.*

The parking areas and walkways from the parking areas to the vista points and vertical accessways shall be signed and fenced to control and limit access into sensitive or hazardous areas and to minimize destruction of bluff vegetation. The provision of access improvements designed to specifications of the access improvement standards of the California Coastal Conservancy (signs, fencing, paving of parking areas, stairways to beaches) shall be the responsibility of the applicant or the owner of record (Hearst Corporation). Maintenance and liability for the accessways and parking shall be the responsibility of the public agency or private association which accepts the accessways. Although the development project shall be permitted to proceed after access has been provided by deed restriction or offer-to-dedicate, improvements and public access shall be opened within six months of the public agency or private association acceptance of full responsibility for liability and maintenance of the access areas.

Hearst Ranch Standard 5 – Vertical Access to Piedras Blancas Lighthouse. *If Piedras Blancas*



Lighthouse is acquired for public recreation use, vertical access shall be assured along the present roadway or an alternative roadway should be determined to be more appropriate.

Hearst Ranch Standard 6 – Lateral Access in the Area of the Cal Trans Right-of-Way. *At the time of development of additional turnout/vista points following certification of the Local Coastal Plan or at the time of development at San Simeon Village, dedication of lateral easement extending from mean high tide to the toe of the bluff shall be required. (This area generally extends from south of the Piedras Blancas Dunes to Oak Knoll Creek). The lateral easement shall also include the sandy beach south of Oak Knoll Creek.*

Hearst Ranch Standard 7 – Access – Arroyo de la Cruz Lagoon. *To ensure access for recreational fishing, limited vertical and lateral access paths to the lagoon of Arroyo de la Cruz Creek seaward of Highway 1 shall be provided during the open trout and salmon fishing season established by the California Department of Fish and Game. Such access shall be recorded as a deed restriction or offer-to-dedicate concurrent with the issuance of a coastal development permit for the development at the Staging Area. The accessway shall be improved by the Hearst Corporation to the access improvement standards of the California Coastal Conservancy, within six months of a public agency or private association acceptance or assumption of responsibility for liability and maintenance of the accessway.*

The LCP also contains general LUP policies and associated implementing ordinances of the LCP's Coastal Zone Land Use Ordinance (CZLUO) dealing with public access and recreation. In particular:

Policy 2: New Development

Maximum public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development. Exceptions may occur where (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources; (2) adequate access exists nearby, or; (3) agriculture would be adversely affected. Such access can be lateral and/or vertical. Lateral access is defined as those accessways that provide for public access and use along the shoreline. Vertical access is defined as those accessways which extend to the shore, or perpendicular to the shore in order to provide access from the first public road to the shoreline. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTION 23.04.420 a. AND c. OF THE CZLUO.]

Lateral accessways must be a minimum of 25 feet wide of dry sandy beach wherever possible. Where topography limits the sandy beach to less than 25 feet, the lateral access will extend from mean high tide to the toe of the bluff. More than 25 feet may be required to ensure that the public may use the sandy beach at all times.

Wherever possible, the accessway should be measured and established from a fixed line landward of and parallel to the mean high tide line, such as a parcel boundary. To assure that the public will have the ability to use some dry sandy beach at all times of the year, site review should consider: 1) variations of the high water line during the year, 2) topography of the site, 3) the location of other lateral accessways on neighboring or adjacent property, and 4) the privacy needs of the property owner.



Vertical accessways will be required at the time of new development when adequate vertical access is not available within a reasonable distance of (one-quarter mile within urban areas and one mile in rural areas) and where prescriptive rights may exist. The vertical accessways should usually be sited along the borders of the project site and should extend from the road to the shoreline (or bluff edge if access is required to reach a bluff top viewing area).

The size and location of vertical accessways should be based upon the level and intensity of proposed or existing access. Site review shall consider: safety hazards; adequate parking provisions; privacy needs of adjacent residential property owners; provisions for requiring adequate public notification of accessway; and levels of improvements or facilities necessary to provide for existing level of access.

A vertical accessway in existing subdivided areas should be a minimum of five feet and should be sited no closer than five feet to an existing or proposed residential structure. In unsubdivided areas, vertical accessways should normally be a minimum of 10 feet. Vertical bluff top access between residential structures shall be limited to pass and repass use of the accessway. This provides for public access along the shoreline but would not allow for any additional use of the vertical accessway. Access activities on these accessways are limited to walking to pass through. Pass and repass right of access is usually applied to areas where topographic constraints make use of the beach dangerous, where habitat values of the shoreline would be adversely impacted by public use of the shoreline or where the accessway may encroach closer than 20 feet to a residential structure.

In some areas of the county, access may need to be limited and controlled such that adequate protection is given to agricultural uses and sensitive habitat areas. The level and intensity of access should be consistent with the following considerations:

Within agricultural holdings, new vertical access shall be required only where the access can be sited along a property boundary (to minimize impacts on the agricultural operation) unless a more appropriate location exists.

Maximum access within new development may be inconsistent with the protection of sensitive habitats. To optimize public access while protecting resources and land uses, limited forms of access and mitigation methods should be considered. Such mitigation methods may include establishment of a monitoring and maintenance program to assess the impacts of public use and to propose protection limitations. For example, access near a sensitive habitat may be restricted to a particular time of year to avoid conflicts with nesting seasons or other seasonal conditions. In other areas, such as Dune Lakes, this may require limitation on access to scientific or educational study, at the discretion and with the permission of the property owner.

In some areas it may be appropriate to require no new vertical access. This may be where adequate access exists nearby, or where adequate mitigation cannot be given to protect agricultural operations or sensitive habitat areas.



Similarly, the CZLUO implementing ordinance requires public access for new development as follows:

23.04.420 - Coastal Access Required.

Development within the Coastal Zone between the first public road and the tidelands shall protect and/or provide coastal access as required by this section. The intent of these standards is to assure public rights of access to the coast are protected as guaranteed by the California Constitution. Coastal access standards are also established by this section to satisfy the intent of the California Coastal Act.

a. Access defined:

(1) Lateral access: Provides for public access and use along the shoreline.

(2) Vertical access: Provides access from the first public road to the shore, or perpendicular to the shore.

(3) Pass and repass: The right of the public to move on foot along the shoreline.

...

c. When new access is required. Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:

(1) Access would be inconsistent with public safety, military security needs or the protection of fragile coastal resources; or

(2) The site already satisfies the provisions of subsection d of this section; or

(3) Agriculture would be adversely affected; or

(4) The proposed new development is any of the following:

(i) Replacement of any structure pursuant to the provisions of Section 30610(g) of the California Coastal Act.

(ii) The demolition and reconstruction of a single-family residence; provided that the reconstructed residence shall not exceed either the floor area, height or bulk of the former structure by more than 10 percent, and that the reconstructed residence shall be sited in the same location on the affected property as the former structure. As used in this subsection, "bulk" means total interior cubic volume as measured from the exterior surface of the structure.

(iii) Improvements to any structure that do not change the intensity of its use, or increase either the floor area, height or bulk of the structure by more than 10 percent, which do not block or impede public access and do not result in additional seaward encroachment by the structure. As used in this subsection, "bulk" means total interior cubic volume as measured from the exterior surface of the structure.



- (iv) *The reconstruction or repair of any seawall; provided that the reconstructed or repaired seawall is not seaward of the location of the former structure.*
- (v) *Any repair or maintenance activity excluded from obtaining a land use permit by this title, except where the Planning Director determines that the use or activity will have an adverse effect on lateral public access along the beach.*
- (vi) *Nothing in this subsection shall restrict public access nor shall it excuse the performance of duties and responsibilities of public agencies which are required by Sections 66478.1 to 66478.14, inclusive, of the Government Code and by Section 4 of Article X of the California Constitution.*

Finally, for lot line adjustments specifically, the LCP requires that new lot configurations provide for equal or better coastal resource protection, including with respect to public access. Section 21.02.030(c) of Title 21 Real Property Division Ordinance of the LCP states:

***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.*

Further, section 21.08.030 requires that the County make specific findings that the lot line adjustment is “in conformity with the certified local coastal program and, where applicable, with the public access and recreation policies of the Chapter 3 of the California Coastal Act of 1976.”³

2. Analysis

One of the primary objectives of both the Coastal Act and the LCP is to provide and protect maximum public recreational access to and along the shoreline, and to ensure that shoreline land appropriate for coastal access and recreation uses and facilities be protected for that purpose. The LCP's NCAP contains multiple requirements for addressing public access on and around San Simeon Point in relation to the development of the Hearst Ranch contemplated at the time of certification (see for example NCAP Hearst Ranch Standards 1-7 cited above). Many of these requirements may be triggered by development, such as the development appealed in this case.

As described, the property in question represents a significant and critical area along the north San Luis Obispo County shoreline where maximum public recreational access is required. However, such access has not yet been provided as envisioned by the Coastal Act and the LCP, particularly with respect to the San Simeon Point area seaward of Highway One. The Commission has a long history of involvement in, and evaluation of, questions concerning the provision of public access to and along the shoreline of the Hearst Ranch. In addition to the certified LCP policies described above, the Commission has

³ Section 21.08.020 defines subdivision development, to which section 21.08.030 applies, to specifically include lot line adjustments.



conducted lengthy reviews of public access concerns in and around San Simeon Point through its 1998 review of the North Coast Area Plan Update, and in its 2001 Periodic Review.

The County-approved lot line adjustment is inconsistent with the Coastal Act and LCP because it establishes a lot configuration that could prejudice and thus undermine the provision of maximum public recreational access currently provided for in the LCP, and generally required by the Coastal Act, by creating a new lot that is separate from the larger San Simeon Point area and within which a visitor-serving facility (e.g., a hotel) has long been contemplated. By doing so, the lot line adjustment artificially removes the San Simeon Point area property from the potential visitor-serving property, and thus establishes a potential future development review scenario for a visitor-serving development (such as a hotel) that is potentially disconnected from San Simeon Point and any public access required as part of such development. The County-approved project does not otherwise include provisions to address such public access requirements as part of the lot line adjustment development either. As a result, the new lot configuration is less protective of public access than is the existing lot configuration, inconsistent with the LCP requirements specific to lot line adjustments.

Although the existence of the Hearst Ranch Conservation Plan and associated recorded easements may significantly change the possible development scenarios from what is currently provided for in the LCP, the proper sequence for implementing the Conservation Plan, to the extent it is consistent with the Coastal Act and the LCP, is through an LCP amendment that addresses the various coastal land use and resource protection issues, including public access and recreation, prior to adjusting lot lines that could facilitate development that may not achieve the requirements of the Coastal Act and LCP. Further, the County's reliance on the HRCPP as the underlying rationale for the lot-line adjustment is not appropriate. The HRCPP is not the legal standard of review; nor has it been evaluated by the Coastal Commission for consistency with the LCP or the Coastal Act. Commission staff did prepare a draft analysis of the HRCPP at the time of its drafting, but this analysis raised many questions that have yet to be resolved with respect to Coastal Act and LCP requirements, including the provision of maximum public access and recreation at San Simeon Point.

3. Public Access and Recreation Conclusion

It is clear that the property represents a significant and critical area along the north San Luis Obispo County shoreline where maximum public recreational access is required. However, provisions for such recreational access have not yet been provided as envisioned by the Coastal Act and the LCP. If the County approved lot line adjustment were to occur, it would establish a lot configuration that could prejudice and undermine the provision of maximum public recreational access. This could lead to a scenario where future development review for a visitor-serving development (such as a hotel) could be potentially disconnected from San Simeon Point, thereby reducing the protection and provision of maximum public recreational access required and contemplated under the Coastal Act and the LCP for this area. The County approved project does not otherwise perfect such access as part of the lot line adjustment development. In summary, the County approved project thus reduces protection and provision of maximum public recreational access and is inconsistent with the Coastal Act and the LCP. Thus, the Commission finds that a substantial issue is raised with respect to the grounds on which the appeal has been filed related to public access and recreation.



B. Agriculture

1. Applicable LCP Policies

The appeal raises issues with respect to establishing lot configurations that do not adequately protect agriculture and could facilitate development inconsistent with protecting coastal agriculture. The applicable LCP policies and ordinances cited are as follows:

Agriculture Policy 2 – Divisions of Land. Land division in agricultural areas shall not limit existing or potential agricultural capability. Divisions shall adhere to the minimum parcel sizes set forth in the Coastal Zone Land Use Ordinance. Land divisions for prime agricultural soils shall be based on the following requirements:

- a. *The division of prime agricultural soils within a parcel shall be prohibited unless it can be demonstrated that existing or potential agricultural production of at least three crops common to the agricultural economy would not be diminished.*
- b. *The creation of new parcels whose only building site would be on prime agricultural soils shall be prohibited.*
- c. *Adequate water supplies are available to maintain habitat values and to serve the proposed development and support existing agricultural viability.*

Land divisions for non-prime agricultural soils shall be prohibited unless it can be demonstrated that existing or potential agricultural productivity of any resulting parcel determined to be feasible for agriculture would not be diminished. Division of non-prime agricultural soils shall be reviewed on a case-by-case basis to ensure maintaining existing or potential agricultural capability.

(This may lead to a substantially larger minimum parcel size for non-prime lands than identified in the Coastal Zone Land Use Ordinance. Before the division of land, a development plan shall identify parcels used for agricultural and non-agriculture use if such uses are proposed. Prior to approval, the applicable approval body shall make a finding that the division will maintain or enhance agriculture viability.) [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD.]

The NCAP of the LCP also contains specific requirements for land divisions on the Hearst Ranch. In particular:

Policy 1 – Agriculture – Hearst Ranch. Any land division proposed in the agricultural portions of Hearst Ranch shall satisfy the following criteria:

- a. *The division shall constitute an individually viable agricultural unit, or*
- b. *The division shall improve the viability of adjacent holdings or serve a necessary public service where it can be demonstrated that the division will not otherwise significantly reduce the agricultural viability.*

Finally, as previously cited, the LCP requires that new lot configurations provide for equal or better



coastal resource protection, including with respect to agricultural protection. Section 21.02.030(c) states:

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.

2. Analysis

Subdivisions of agricultural lands (including lot line adjustments) are governed by Policy 2 of the LCP and further implemented by CZLUO Section 23.04.024. The NCAP includes requirements for land divisions specific to the Hearst Ranch (Agriculture Standard 1).

Policy 2 states that land division in agricultural areas “shall not limit existing or potential agricultural capability” and shall adhere to minimum parcel sizes. Land divisions on prime agricultural lands must comply with the following standards: 1) Division of land is prohibited unless it is demonstrated that the agricultural production of at least three crops common to the agricultural economy will not be diminished; 2) Building sites will not be created on prime soils; and 3) Adequate water supplies are available for habitat values, proposed development, and to support existing agricultural viability. For land divisions on non-prime lands, the County must find that the land division will “maintain or enhance the agricultural viability of the site (23.04.024(f)). In addition, the NCAP requires that any land division on the Hearst Ranch shall: 1) constitute an individually viable agriculture unit; or 2) improve the viability of adjacent holdings or serve a necessary public service and not significantly reduce agricultural viability.

With respect to minimum parcel sizes, existing Parcel 1 (0.17 acres) does not conform to the minimum parcel of 2.5 acres for a Commercial Retail (CR) property without community water. The proposed lot line adjustment would resolve this nonconformity by increasing the size of Parcel 1 from 0.17 acres to 93.6 acres, thereby increasing the piece of Parcel 1 in the CR category to 17.26 acres. However, the remaining 9.17 acre portion of newly proposed Parcel 1 designated Agriculture (AG) would be less than the LCP required minimum parcel size of 320 acres. The other three resulting parcels (1,851.71 acres (Parcel 2), 8,837.73 acres (Parcel 3), and 23,040.34 acres (Parcel 4)), would adhere to the minimum parcel size requirements of the LCP.

As part of the County's review for land divisions in the agricultural land use category, applicants must include an agricultural viability report, including existing land uses, annual income, site characteristics, potential for future agricultural uses, and effects of the proposed subdivision to ensure long term protection of agricultural lands (23.04.024(a)).

The County's approval did not analyze the requirements of LCP Agriculture Policy 2 with respect to the division of agricultural areas and soils, nor did it follow NCAP Agriculture Standard 1 for the Hearst Ranch. Both of which require an evaluation of the agricultural productivity or viability of the resulting



parcels. Without such an analysis, it cannot be concluded whether the proposed lots are consistent with the LCP.

In addition with respect to agricultural protection, the County approved lot lines would be adjusted to exclude existing significantly developed areas that currently exist on the two largest properties (parcels 3 and 4) in such a way as to create two large agricultural lots absent such development. Such adjustment may increase the potential for future development incompatible with agriculture on these lots. The County's approval does not directly analyze this issue.

Finally, and based on the above, the new lot configuration is less protective of agriculture than is the existing lot configuration, inconsistent with the LCP requirements specific to lot line adjustments.

3. Agriculture Conclusion

This area of the Hearst Ranch includes significant grazing and other agricultural land. The County-approved project does not clearly protect coastal agriculture, including with respect to ensuring agricultural viability in relation to potential development facilitated by the new lots, and including with respect to ensuring equal or better agricultural protection with lot line adjustments, and is therefore inconsistent with LCP agriculture provisions. Thus, the Commission finds that a substantial issue is raised with respect to the grounds on which the appeal has been filed related to agriculture.

C. Environmentally Sensitive Habitat Area (ESHA)

1. Applicable LCP Policies

ESHA Policy 1: Land Uses Within or Adjacent to Environmentally Sensitive Habitats. *New development within or adjacent to locations of environmentally sensitive habitats (within 100 feet unless sites further removed would significantly disrupt the habitat) shall not significantly disrupt the resource. Within an existing resource, only those uses dependent on such resources shall be allowed within the area. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTIONS 23.07.170-178 OF THE COASTAL ZONE LAND USE ORDINANCE (CZLUO).]*

ESHA Policy 4: No Land divisions in association with 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 (100 feet for wetlands, 50 feet for urban streams, 100 feet for rural streams). These building areas (building envelopes) shall be recorded on the subdivision or parcel map. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTION 23.07.170 OF THE CZLUO.]*

23.07.170(c) - Land divisions: *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 by Sections 23.07.172 through 23.07.178. Such building sites shall be designated on the recorded subdivision map.*

As previously cited, the LCP requires that new lot configurations provide for equal or better coastal resource protection, including with respect to ESHA protection. Section 21.02.030(c) states:



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.

2. Analysis

The North Coast Planning Area, extending from the Monterey County line along the southern extent of the Big Sur coastline to the coastal terrace north of Cayucos, includes a wide array of habitat types. These include Monterey pine forest; beaches that support populations of elephant seals, the Western snowy plover, and other rare and threatened flora and fauna; streams that support important fish species such as the Steelhead trout and tidewater Goby; wetlands; grasslands, and oak woodlands; and intertidal areas that provide habitat for countless ocean resources of statewide significance.

The NCAP identifies and describes in detail the following habitat types and identifies these areas on the Hearst property (and within the proposed project area) as Sensitive Resource Areas (SRAs) that include:

- The entire North Coast shoreline (SRA).
- Monterey Pine forest (SRA).
- San Simeon Creek Lagoon (SRA) – This estuary is located within San Simeon State Beach, and is composed of several biotic communities including salt and freshwater marshes, grasslands, Monterey pine forest, as well as estuarine habitat. The creek supports steelhead trout and other fish species. The area is a major waterfowl feeding and nesting site. Close to 190 birds species have been reported at the lagoon and in adjacent areas.
- San Simeon Point (SRA) – This picturesque setting includes Monterey pines, cypress trees, tilted rock formations, and excellent views of the bay and ocean shoreline. While not biologically unique, the combined sensitivity of vegetation and viewshed make an SRA designation appropriate.
- North Coast Creeks (SRA) – Portions of Santa Rosa, San Simeon, Pico, Little Pico, Arroyo de la Cruz, and San Carpoforo Creeks are anadromous fish streams which should be protected from impediments to steelhead migration and spawning. Adjacent riparian areas provide important wildlife habitat.

There are many LCP provisions that prohibit new development which would significantly disrupt or threaten the continuance of sensitive habitats. Among the most important is CZLUO Section 23.07.170, which specifies the application materials, required findings, and development standards for development proposed within or adjacent to an ESHA. As an additional means of avoiding adverse impacts to ESHA, part c of Section 23.07.170 prohibits land divisions in ESHA unless all proposed building sites are located outside of the minimum setbacks established by the LCP.



Other than some broad assertions indicating that because the parcels are large they can probably account for future development that can meet LCP requirements, the County did not otherwise thoroughly analyze this issue, including through identification and analysis of specific building envelopes as required by the LCP (see CZLUO Section 23.07.170(c) and NCAP Areawide Standard 5). Although the lot sizes are relatively large, and there may well be appropriate envelopes available that can avoid ESHA issues, these have not been specifically identified and evaluated as required. Without such an analysis it cannot be concluded whether the proposed lots and potential building sites within them are consistent with the LCP. As a result, it cannot be conclusively determined whether the new lot configuration is more or less protective of ESHA resources than is the existing lot configuration.

The County-approved project thus does not clearly protect ESHA resources. Absent conclusive evidence indicating that ESHA is protected as directed by the LCP, including that the lot line adjustment clearly is equal to or better than the existing lot configuration with respect to LCP ESHA requirements, and particularly in light of the scope and sensitivity of the ESHA resources involved, a cautious and conservative approach is warranted. Such approach dictates that such ESHA resources and the way the lots interact with such resources be clearly identified so as to ensure ESHA protection consistent with the LCP. The County approved project does not provide such assurance, and is thus inconsistent with these LCP provisions.

3. ESHA Conclusion

Thus, the Commission finds that a substantial issue is raised with respect to the grounds on which the appeal has been filed in relation to ESHA

D. Visual and Scenic Resources

1. Applicable LCP Policies

The appeal raises issue with the County approved parcel configuration and the potential for impacts to visual and scenic resources. Applicable cited policies are as follows:

Visual and Scenic Resource Policy 4 – New Development in Rural Areas. *New development shall be sited to minimize its visibility from public view corridors. Structures shall be designed (height, bulk, style) to be subordinate to, and blend with, the rural character of the area. New development which cannot be sited outside of public view corridors is to be screened utilizing native vegetation; however, such vegetation, when mature, must also be selected and sited in such a manner as to not obstruct major public views. New land divisions whose only building site would be on a highly visible slope or ridgetop shall be prohibited. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD AND PURSUANT TO SECTION 23.04.021 OF THE CZLUO.]*

CZLUO Section 23.04.021(6) also includes specific requirements for land divisions in highly visible sites:

(6) Highly-visible sites. *New land divisions where the only feasible building site would be on slope or ridgetop where a building would be silhouetted against the skyline as viewed from a public road shall be prohibited as required by Visual and Scenic Resources Policy 4 of the Local*



Coastal Plan.

NCAP Rural Areawide Standard 5 includes specific requirements for land division applications in areas visible from the public road:

Areawide Standard 5 – Application Contents – Land Divisions. *Land division applications in areas visible from the public road must identify potential building site envelopes. These building sites shall be in developable locations least visible from the public road.*

Again, as previously cited, the LCP requires that new lot configurations provide for equal or better coastal resource protection, including with respect to public views. Section 21.02.030(c) states:

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.*

2. Analysis

As described previously, the proposed project is located within a critically important public viewshed. Pursuant to LUP Policy 4, new land divisions whose only building site would be on a highly visible slope or ridgetop is prohibited. This LUP requirement is also identified in, and implemented by, CZLUO Section 23.04.021(6) which further prohibits divisions of land where a building site would silhouette against the skyline as viewed from a public road. Per Areawide Standard 5, applications for lot line adjustments that are located in areas that are visible from the public road, such as this case, must identify potential building envelopes. In this case, the County did not fully analyze this question or otherwise condition its approval to assure that future building sites on the new lots would meet these LCP requirements. Other than some broad assertions indicating that because the parcels are large they can probably account for future development that can meet LCP requirements, the County did not otherwise thoroughly analyze this issue, including through identification and analysis of specific building envelopes as required by the LCP (see CZLUO Section 23.04.021(6) and NCAP Areawide Standard 5). Although the lot sizes are relatively large, and there may well be appropriate envelopes available that can avoid visual issues, these have not been specifically identified and evaluated as required. Without the identification of potential building sites, as required by NCAP Areawide Standard 5 and CZLUO Section 23.04.021(6) for land divisions on highly visible sites, it is not possible to determine if these standards can be met, it not possible to ensure that the significant visual resources associated with this property are adequately protected through the new lot configuration, and it is not possible to conclusively say that the new lot configuration is better than or equal to the existing lot configuration with respect to public views. Thus, it cannot be concluded whether the proposed lots are consistent with the LCP's public view protection requirements.

3. Visual and Scenic Resource Conclusion

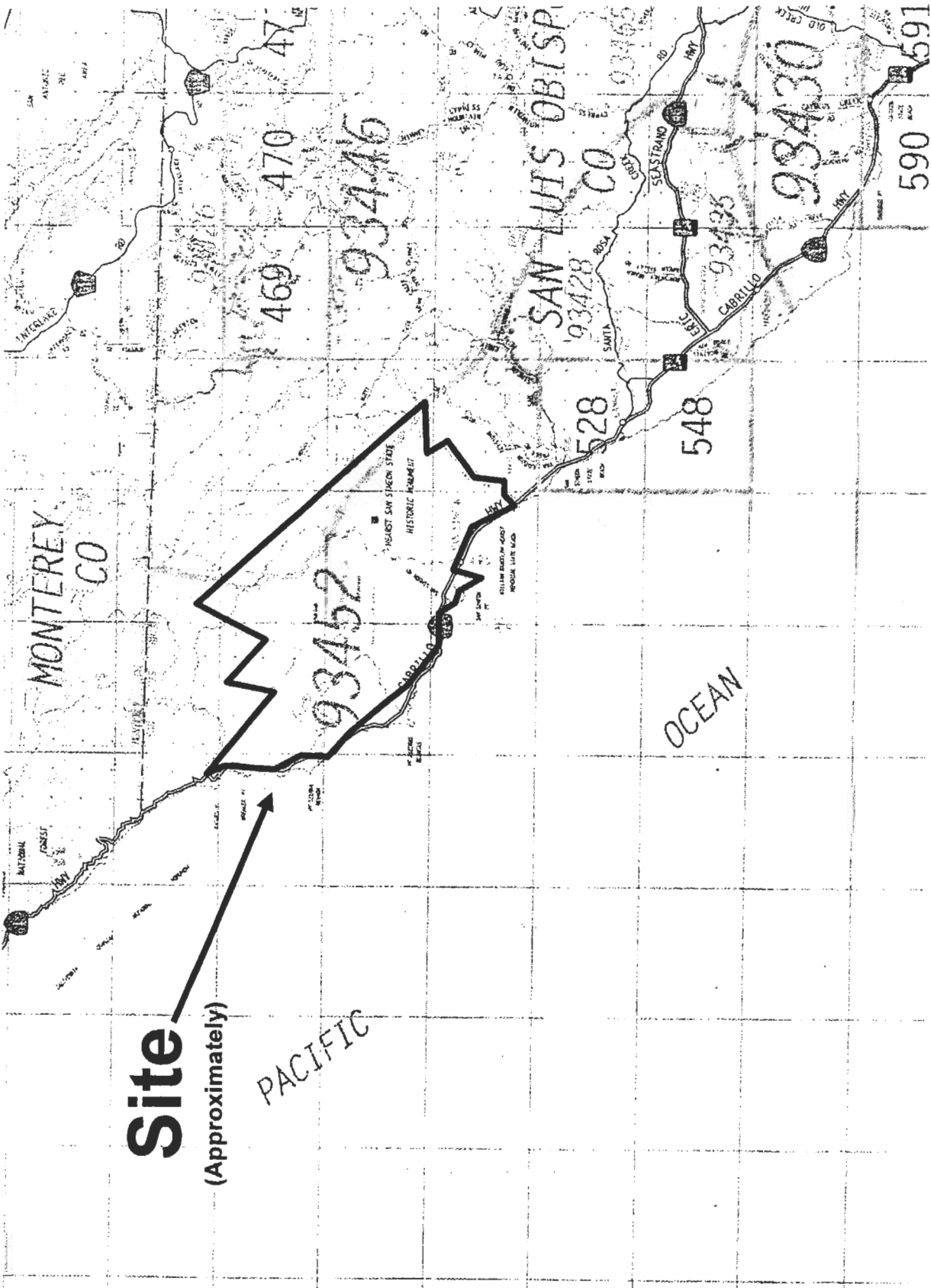


The proposed project is located in a highly scenic area visible from public roads, parks, and beaches. In this case, the County failed to identify and evaluate specific possible future building envelope areas and, as a result, the analysis of possible visual impacts is insufficient. Without this information it is not clear if the County-approved project adequately protects visual and scenic resources as required by the LCP, Absent conclusive evidence indicating that such public views are protected as directed by the LCP, including that the lot line adjustment clearly is equal to or better than the existing lot configuration with respect to LCP public view requirements, and particularly in light of the scope and sensitivity of the public views involved, a cautious and conservative approach is warranted. Such approach dictates that such public views and the way the lots interact with such views be clearly identified so as to ensure public view protection consistent with the LCP. The County approved project does not provide such assurance, and is thus it is inconsistent with the LCP. Thus, the Commission finds that a substantial issue is raised with respect to the grounds on which the appeal has been filed in terms of visual and scenic resources.

7. Substantial Issue Conclusion

In conclusion, the County-approved project does not adequately protect and provide for public recreational access, coastal agriculture, ESHA, and public views consistent with the Coastal Act and the LCP. It also results in a new lot configuration and baseline that is less protective of these coastal resources than is the existing lot configuration and baseline. Establishing such a position is also inconsistent with LCP lot line adjustment requirements. Thus, the County-approved project is inconsistent with the Coastal Act and the LCP, the Commission finds that a substantial issue is raised with respect to the grounds on which the appeal was filed, and the Commission takes jurisdiction over the coastal development permit application for this project.





Site

(Approximately)

PACIFIC

OCEAN

Project

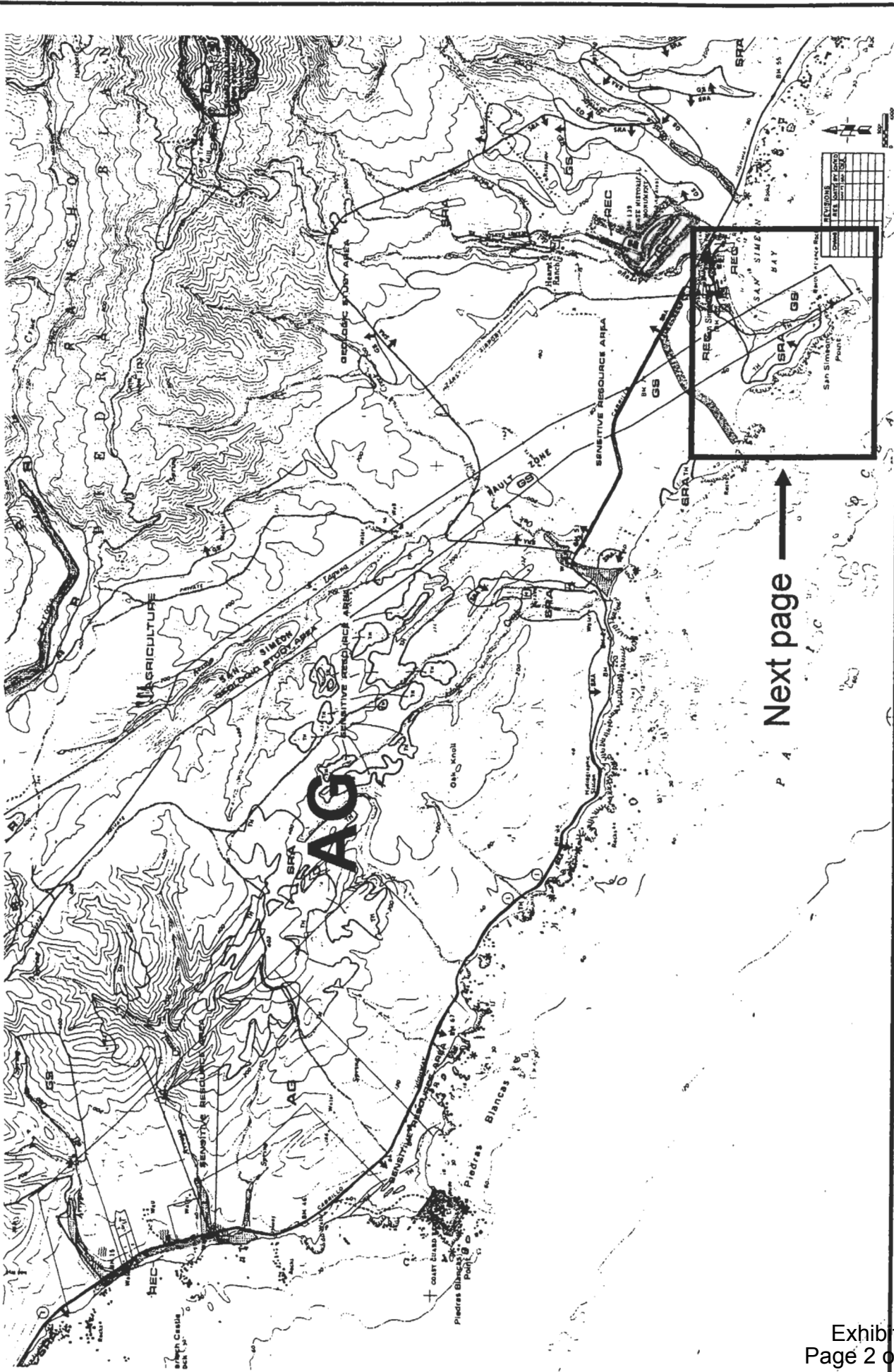
Lot Line Adjustment

Hearst Holdings/SUB2007-00161 (COAL07-0070)

Exhibit

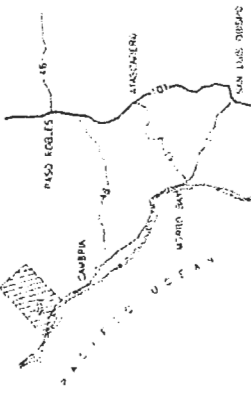
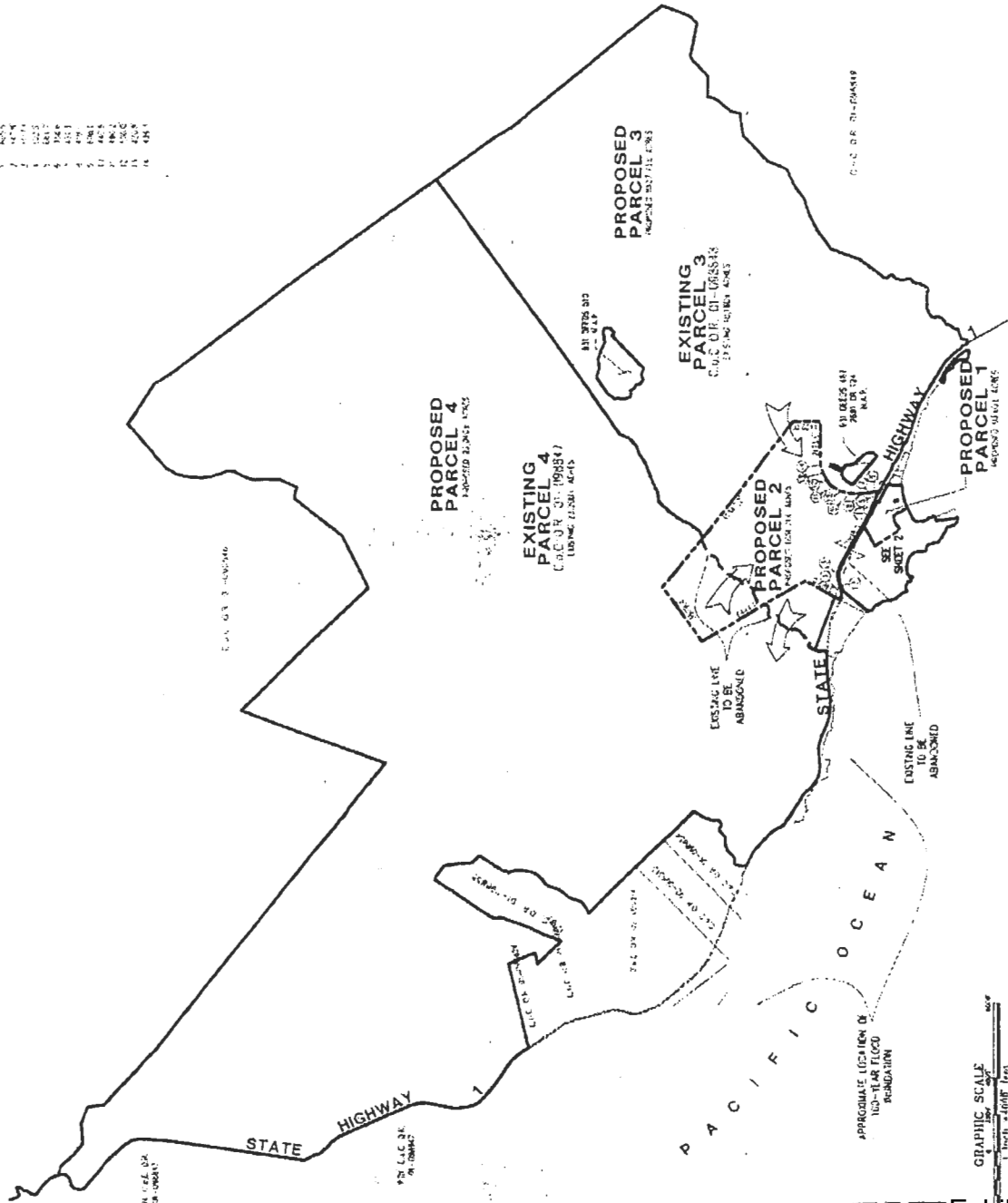
Vicinity Map





PARCEL 2 DATA

NO.	AREA (SQ. FT.)	PERCENT
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3	1474	100.00
4	1474	100.00
5	1474	100.00
6	1474	100.00
7	1474	100.00
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49	1474	100.00
50	1474	100.00



VICINITY MAP
 LEGEND
 PROPOSED PROPERTY LINE
 EXISTING PROPERTY LINE
 MAP

LOT LINE ADJUSTMENT PROJECT DATA

LOT	AREA (SQ. FT.)	PERCENT
1	1474	100.00
2	1474	100.00
3	1474	100.00
4	1474	100.00
5	1474	100.00
6	1474	100.00
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48	1474	100.00
49	1474	100.00
50	1474	100.00

PRELIMINARY LOT LINE ADJUSTMENT MAP NO. Co.A.L. 07-0070

PREPARED BY: [Firm Name]

DATE: [Date]

PROJECT: [Project Name]

OWNER: [Owner Name]

PRELIMINARY LOT LINE ADJUSTMENT MAP NO. Co.A.L. 07-0070

NEAREST ARCADE & SAN SANTIAGO AVENUE

LEGAL DESCRIPTION: [Legal Description]

DATE: [Date]



creating environments people enjoy

355 South Marine Street, Suite 102 | San Luis Obispo, California 93401

Exhibit

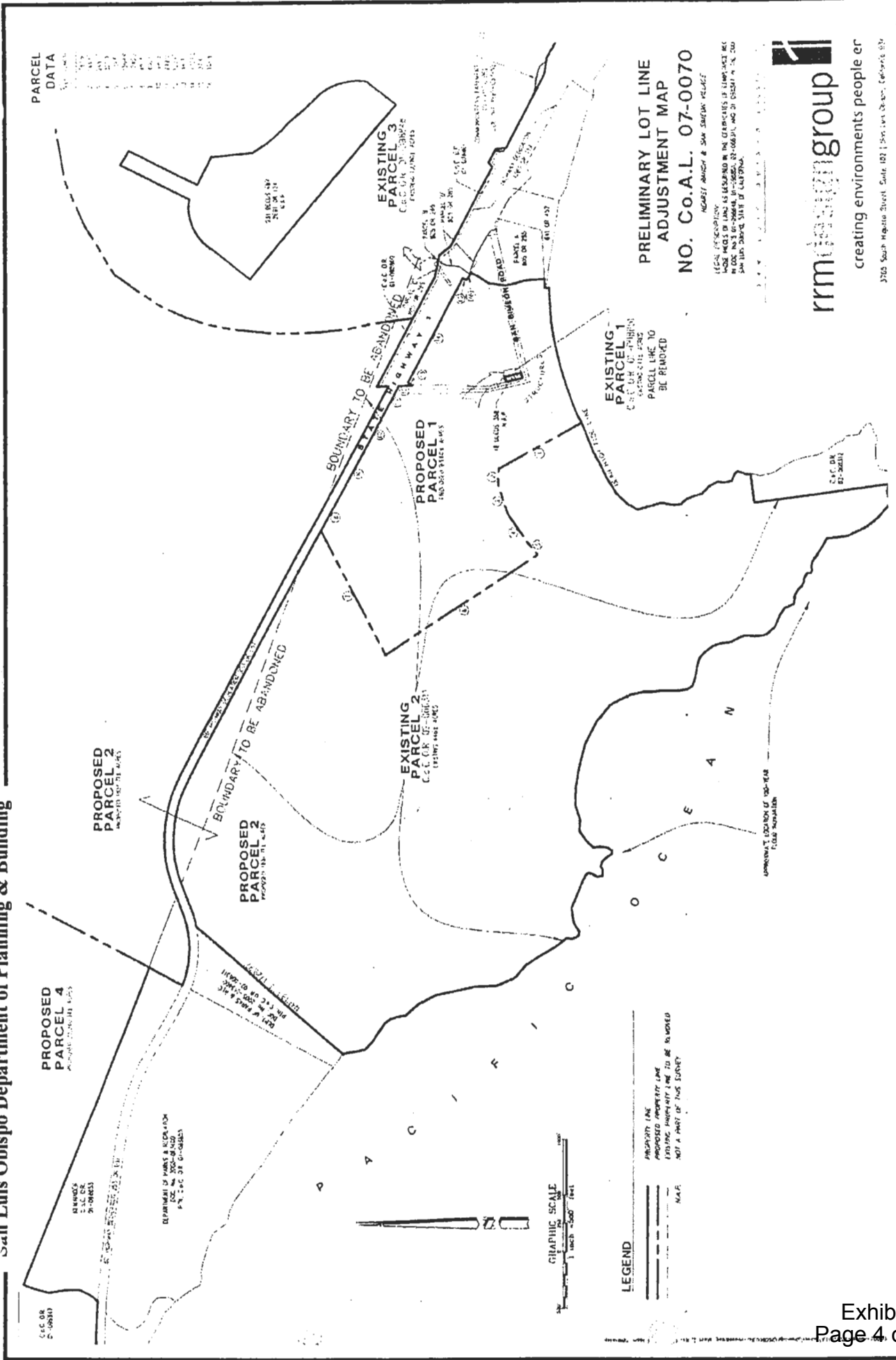
Lot Line Adjustment Map



Project

Lot Line Adjustment

Hearst Holdings/SUB2007-00161 (COAL07-0070)



PRELIMINARY LOT LINE
ADJUSTMENT MAP
NO. Co.A.L. 07-0070

NEAREST ADJACENT & SAN LUIS OBISPO PARCELS
LEGAL DESCRIPTION
BLOCK 100, LOT 100, AS SHOWN IN THE CERTIFICATES OF TITLE, LOTS 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000

rrm **group**
creating environments people er
3705 South Highway Street, Suite 102 | San Luis Obispo, California 93401

Exhibit

Parcels 1 and 2 Enlarged



Project
Lot Line Adjustment
Hearst Holdings/SUB2007-00161 (COAL07-0070)

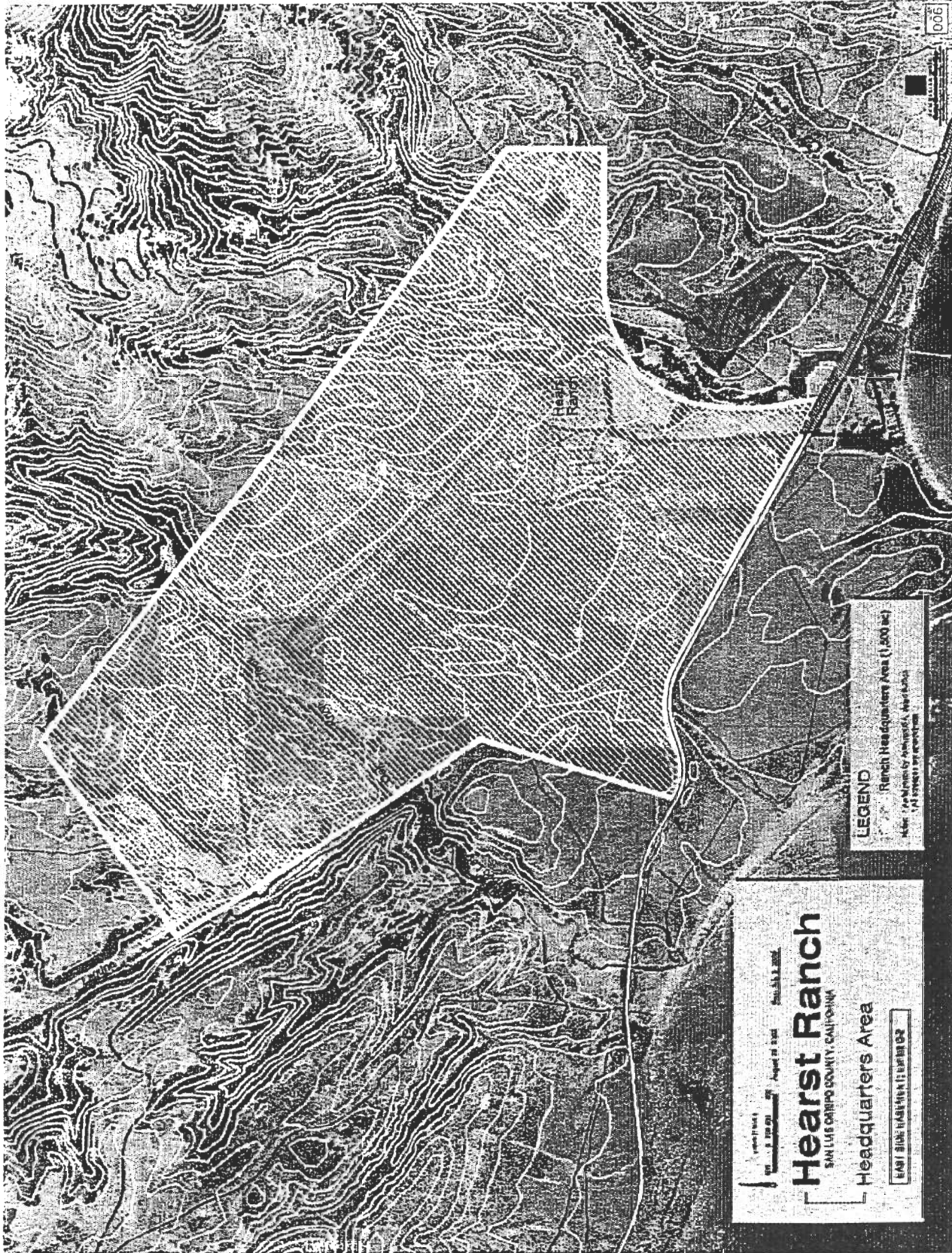
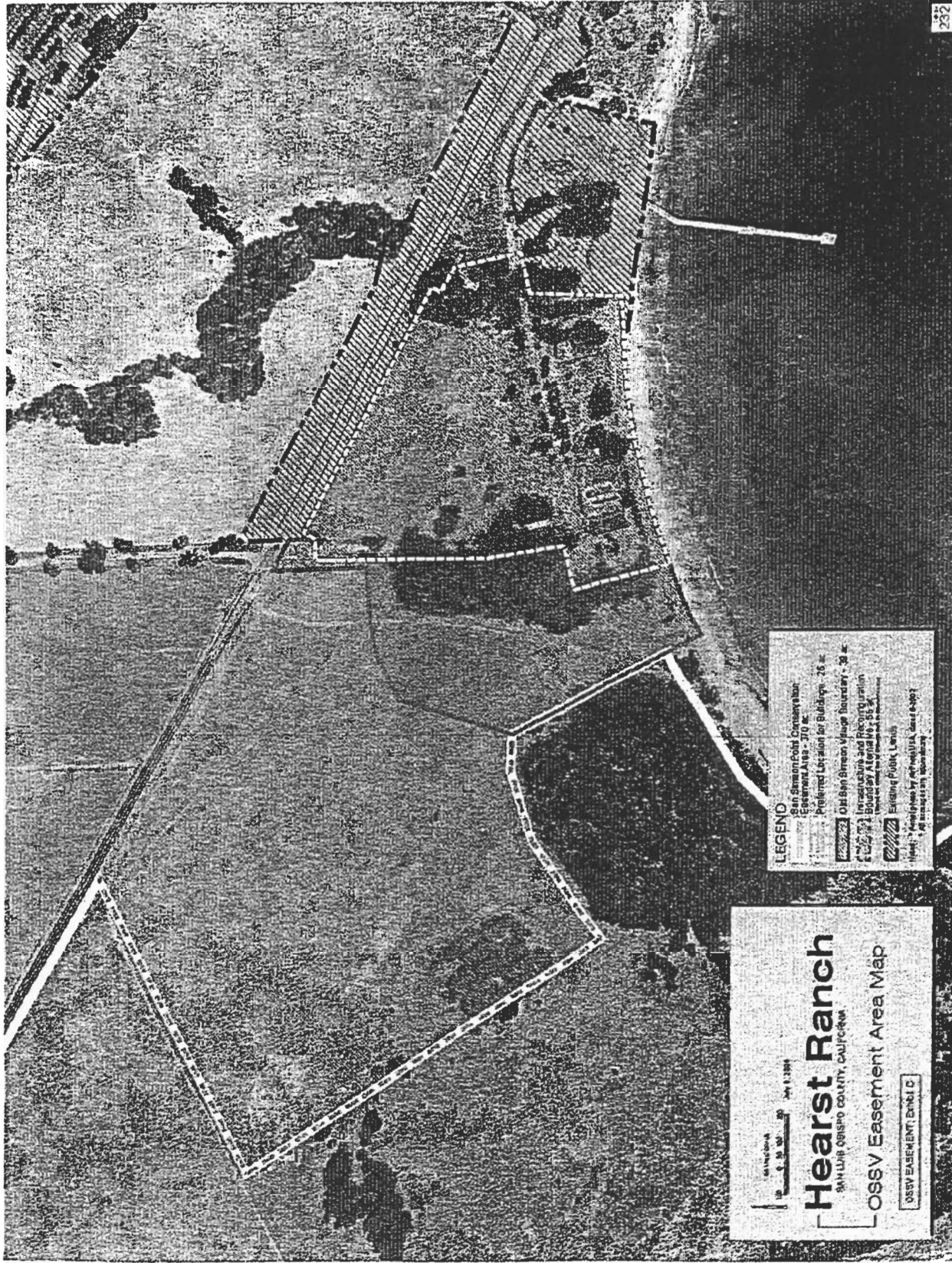


Exhibit
Headquarters Area

Project
Lot Line Adjustment
Hearst Holdings/SUB2007-00161 (COAL07-0070)



232



Exhibit
Old San Simeon Village Area

Project
 Lot Line Adjustment
 Hearst Holdings/SUB2007-00161 (COAL07-0070)



SAN LUIS OBISPO COUNTY
DEPARTMENT OF PLANNING AND BUILDING

VICTOR HOLANDA, AICP
DIRECTOR

August 17, 2009
**FINAL LOCAL
ACTION NOTICE**
REFERENCE # 3-SLO-09-233
APPEAL PERIOD 8/21-9/3/2009

Hearst Holdings
c/o Marty Cepkauskas
5 Third Street #200
San Francisco, CA 94103

RECEIVED

AUG 20 2009

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

NOTICE OF FINAL COUNTY ACTION

HEARING DATE: July 14, 2009

SUBJECT: County File No. – SUB2007-00161
Lot Line Adjustment/Coastal Development Permit

LOCATED WITHIN COASTAL ZONE: YES

The above-referenced application was approved by the Board of Supervisors, based on the approved Findings and Conditions, which are attached for your records. This Notice of Final Action is being mailed to you pursuant to Section 23.02.033(d) of the Land Use Ordinance.

This action is appealable to the California Coastal Commission pursuant to regulations contained in Coastal Act Section 30603 and the County Coastal Zone Land Use Ordinance 23.01.043. These regulations contain specific time limits to appeal, criteria, and procedures that must be followed to appeal this action. The regulations provide the California Coastal Commission ten (10) working days following the expiration of the County appeal period to appeal the decision. This means that no construction permits can be issued until both the County appeal period and the additional Coastal Commission appeal period have expired without an appeal being filed.

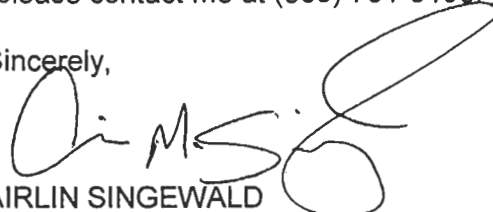
Exhaustion of appeals at the county level is required prior to appealing the matter to the California Coastal Commission. This second appeal must be made directly to the California Coastal Commission Office. Contact the Commission's Santa Cruz Office at (831) 427-4863 for further information on their appeal procedures.

If the use authorized by this Permit approval has not been established, or if substantial work on the property towards the establishment of the use is not in progress after a period of twenty-four (24) months from the date of this approval or such other time period as may be designated through conditions of approval of this Permit, this approval shall expire and become void unless an extension of time has been granted pursuant to the provisions of Section 23.02.050 of the Land Use Ordinance.

If the use authorized by this Permit approval, once established, is or has been unused, abandoned, discontinued, or has ceased for a period of six (6) months, or conditions have not been complied with, such Permit approval shall become void.

If you have questions regarding your project, please contact me at (805) 781-5198

Sincerely,



AIRLIN SINGEWALD
Coastal Planning and Permitting

cc: California Coastal Commission,
725 Front Street, Suite 300, Santa Cruz, California 95060
Andrew Christie, Sierra Club, P.O. Box 15755, San Luis Obispo, CA 93406
Landwatch San Luis Obispo County, P.O. Box 174, Cambria, CA 93428
Roger Lyon, P.O. Box 316, Cayucos, CA 93406

(Planning Department Use Only – for California Coastal Commission)

Date NOFA copy mailed to Coastal Commission: August 18, 2009

Enclosed: X Staff Report
 X Resolution with Findings and Conditions

FINDINGS - EXHIBIT A

Environmental Determination

- A. The Environmental Coordinator, after completion of the initial study, finds that there is no substantial evidence that the project may have a significant effect on the environment, and the preparation of an Environmental Impact Report is not necessary. Therefore, a Negative Declaration (ED08-091), pursuant to Public Resources Code Section 21000 et seq., and California Code of Regulations, Title 15, Section 15000 et seq., has been issued on December 26, 2008 for this project.
- B. The proposed project would not result in direct or reasonably foreseeable indirect changes to the environment because it does not involve physical development of the property or new or different land uses; nor would it facilitate new development, allow development at a greater intensity than what is currently possible, or significantly limit the locations where future development could be sited.
- C. The proposed lot line adjustment would not lead to any development associated with the Hearst Conservation Plan because this development does not necessitate a lot line adjustment (i.e. the current parcel configuration would accommodate this development), and this development is not allowed by the current provisions of the County General Plan and LCP. A general plan and LCP amendment would be required for the applicant to realize the development that is allowed by the Conservation Plan.

Lot Line Adjustment

- D. The proposed lot line adjustment satisfies the criteria for approval set forth in the provisions of Section 21.02.030(a) of the Real Property Division Ordinance because the proposed adjustment conforms to the County's General Plan, the Local Coastal Program, including the North Coast Area Plan, and the zoning and building ordinances:
 - i. The proposed parcel configuration maintains a position equal to the existing configuration relative to the minimum parcel size requirements of *CZLUO Section 23.04.020*. Existing parcel 1 does not conform to the minimum size of 2.5 acres for a CR parcel without community water. The proposed lot line adjustment would resolve this nonconformity by increasing the piece of parcel 1 in the CR category to 17.26 acres. The 9.17 acre AG piece of proposed parcel 1 would be less than the minimum parcel size of 320 acres; however, this piece of AG land is in the same position before the lot line adjustment.
 - ii. The proposed parcel configuration conforms to *CZLUO Section 23.04.021(c)(6)*, which prohibits the creation of parcels where the only feasible building site would be on a ridgeline where development would silhouette against the sky, because the proposed parcels contain many relatively level building sites where development would not silhouette against the sky.

- iii. The proposed parcel configuration conforms to *CZLUO Section 23.01.021(c)(7)*, which requires access roads and building sites to be located on slopes less than 20 percent, because the proposed parcels would not require new access improvements and still contain many potential building sites on slopes less than 20 percent.
 - iv. The proposed parcel configuration conforms to *Agriculture Coastal Plan Policy 2(b): Division of Land*, which prohibits the creation of new parcels whose only building sites would be on prime agricultural soils, because official NRCS maps show many building sites on the proposed parcels which would not contain prime (NRCS class 1 and 2) soils.
 - v. The proposed lot line adjustment conforms to *County Agriculture Policy 16*. This policy encourages efforts by conservation organizations to protect agricultural lands. The proposed lot line adjustment would bring the existing parcel boundaries into conformance with the various easement areas established by the Hearst Conservation Plan. This plan granted an approximately 80,000 acre easement (Eastside Conservation Easement) to the California Rangeland Trust.
 - vi. The proposed lot line adjustment conforms to *County Agriculture Policy 24*. This policy discourages the conversion of agricultural lands to non-agricultural uses. The proposed lot line adjustment would not result in a conversion of agricultural lands to non-agricultural uses and would bring the existing parcel boundaries into conformance with the various easement areas of the Hearst Conservation Plan. This plan granted an approximately 80,000 acre easement (Eastside Conservation Easement) to the California Rangeland Trust.
 - vii. The proposed lot line adjustment conforms to the minimum structure setback requirements of *CZLUO Section 23.04.100* because the applicant submitted aerial photographs showing all existing structures on the subject property relative to the proposed parcel boundaries and the closest building to a proposed parcel boundary was setback an approximate distance of 390 feet, which is significantly greater than the minimum setback requirement of 30 feet.
- E. The proposed lot line adjustment is consistent with the goals of the designated Sensitive Resource Areas (SRAs) on the site, including the North Coast Creeks, North Coast Shoreline, and San Simeon Point SRAs because it would not result in new development or limit future development to more sensitive areas of the site. Any future development on the site would be required to comply with applicable LCP policies and standards to minimize impacts to sensitive resources, including, but not limited to, visual and biological resources.
- F. The proposed lot line adjustment would not require new access or other utility improvements. The proposed parcel configuration would be serviced by existing access roads, which are adequate in size and capacity for the existing uses of the site.

Coastal Access

- G. The proposed lot line adjustment is in conformity with the public access and recreation policies of Chapter 3 of the California Coastal Act because the project does not involve any physical development and would not inhibit public access to or along the shoreline. In addition, the property already provides for public access in accordance with the Deed of Public Access Conservation Easement, which the applicant granted to the State Department of Parks and Recreation during the Hearst Conservation Plan. Official notice is taken of this document that was recorded as Document Number 2005-013399 on February 18, 2005, in the office of the County Recorder of the County of San Luis Obispo.
- H. Future physical development of this property will be required to comply with the coastal access requirements of *Coastal Zone Land Use Ordinance Section 23.04.420*. This would include, but not be limited to, offers of dedication for lateral access along the two dry sandy beach areas on the west and east sides of San Simeon Point. These would be the most appropriate areas to require lateral access as they already adjoin established public beaches, can be safely accessed, and provide sufficient dry sandy beach for practical and safe public use without adversely impacting coastal resources. At this point in time, since no development is currently being proposed on the property, staff is unable to establish the constitutionally required essential nexus or rough proportionality that would be required under *Nollan v. California Coastal Commission* and *Dolan v. City of Tigard* to impose a requirement for an offer of dedication of a lateral coastal access easement.
- I. In accordance with *Coastal Zone Land Use Ordinance 23.04.420(c)(2)*, the proposed project does not require additional vertical access because the site already satisfies the provisions for vertical coastal access. Specifically, there is an existing vertical access point at the W.R. Hearst Memorial State Beach immediately to the east of Old San Simeon Village and the property immediately to the west of San Simeon Point is already owned by the State. In addition, the applicant previously granted a Deed of Public Access Conservation Easement to the State Department of Parks and Recreation, which provides for controlled public access from San Simeon Road to various coastal lookout points along San Simeon Point.
- J. The subject property already contains coastal access provisions, including an area along Highway 1 for the California Coastal Trail and various trails along San Simeon Point. In compliance with *Coastal Zone Land Use Ordinance Section 23.04.420(b)*, the proposed project would not interfere with this or any other existing public access.
- K. The only portion of the subject property between Highway 1 and the ocean is the San Simeon Point/Old San Simeon Village area. There is existing public coastal access on the south end of San Simeon Point at the William Randolph Hearst Memorial State Beach and on the north end of San Simeon Point on State land at Oak Knoll Creek.
- L. The proposed lot line adjustment would bring the existing lot boundaries into conformance with the various easement areas established by the Hearst Conservation Plan, including a public access conservation easement. This

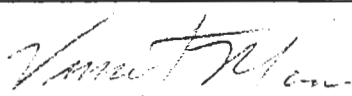
easement grants to State Parks public access rights, including a system of existing trails and various lookout points on San Simeon Point and a continuous segment of the California Coastal Trail along the coastal side of the Ranch.

- M. The entire coastal area between Highway 1 and the shoreline from the San Simeon Point area to the Ragged Point area is under public ownership. This land was transferred from the Hearst Corporation to the State as part of the Hearst Conservation Plan.

CONDITIONS - EXHIBIT B

1. This adjustment may be effectuated by recordation of a parcel map or 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; and
 - c. A tax certificate/bonding shall be provided.
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 Surveyor 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 is multiple ownerships involved, it is required that the parties involved quitclaim their interest in one another 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, prior to final approval 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. 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 a single one-year extension of time. The applicant must submit a written request with appropriate fees to the Planning Department prior to the expiration date.
10. All timeframes on completion of lot line adjustments are measured from the date the Review Authority approves the lot line adjustment map, not from any date of possible reconsideration action.

**COUNTY OF SAN LUIS OBISPO BOARD OF SUPERVISORS
AGENDA ITEM TRANSMITTAL**

(1) DEPARTMENT Planning and Building	(2) MEETING DATE July 14, 2009	(3) CONTACT/PHONE Airlin M. Singewald / (805) 781-5198
(4) SUBJECT Continued hearing to consider an appeal by LandWatch San Luis Obispo County and an appeal by the Sierra Club of the Subdivision Review Board approval of a request by Hearst Holdings, Inc. for a Lot Line Adjustment/Coastal Development Permit (COAL07-0070) to adjust the lot lines between four existing parcels of 0.17 acres, 443.18 acres, 10,180 acres, and 23,200 acres. The adjustment will result in four parcels of 93.6 acres, 1,851.71 acres, 8,837.73 acres, and 23,040.34 acres. The proposed project is within the Agriculture, Recreation, and Commercial Retail land use categories, and is located along the approximately 14-mile section of the North Coast beginning approximately 1.5 miles north of San Simeon Village and ending at Ragged Point, excluding some lands near the Piedras Blancas light station. The site is in the Rural North Coast and Nacimiento planning areas. Supervisorial District: 2.		
(5) SUMMARY OF REQUEST On February 2, 2009, the Subdivision Review Board approved a Lot Line Adjustment/Coastal Development Permit application by Hearst Holdings Inc. to adjust the lines between four existing parcels. The County received appeals of this decision by Sierra Club on February 11, 2009 and by LandWatch on February 18, 2009. The appeals contend that: 1) the project application is incomplete; 2) staff's analysis does not evaluate the project for compliance with LCP policies and standards; 3) the proposed negative declaration is inadequate; 4) and the Subdivision Review Board's adopted findings are not supported by evidence in the record and its decision was based on the project's consistency with the Hearst Conservation Plan, rather than the LCP. This appeal was originally scheduled for a Board hearing on May 5, 2009 and was continued to July 14, 2009 at the applicant's request. The applicant requested this continuance because of a scheduling conflict.		
(6) RECOMMENDED ACTION Adopt and instruct the chairperson to sign the resolution affirming the decision of the Subdivision Review Board and conditionally approving the application of Hearst Holdings, Inc. for Lot Line Adjustment/Coastal Development Permit COAL 07-0070 (SUB2007-00161) based on the findings set forth in Exhibit A and the conditions set forth in Exhibit B.		
(7) FUNDING SOURCE(S) Department budget	(8) CURRENT YEAR FINANCIAL IMPACT N/A	(9) ANNUAL COST N/A
(10) BUDGETED? <input type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A		
(11) OTHER AGENCY INVOLVEMENT/IMPACT (LIST): California Coastal Commission; North Coast Advisory Council		
(12) WILL REQUEST REQUIRE ADDITIONAL STAFF? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes, How Many? _____ <input type="checkbox"/> Permanent _____ <input type="checkbox"/> Limited Term _____ <input type="checkbox"/> Contract _____ <input type="checkbox"/> Temporary Help _____		
(13) SUPERVISOR DISTRICT(S) <input type="checkbox"/> 1st, <input checked="" type="checkbox"/> 2nd, <input type="checkbox"/> 3rd, <input type="checkbox"/> 4th, <input type="checkbox"/> 5th, <input type="checkbox"/> All	(14) LOCATION MAP <input checked="" type="checkbox"/> Attached <input type="checkbox"/> N/A	(15) Maddy Act Appointments Signed-off by Clerk of the Board <input checked="" type="checkbox"/> N/A
(16) AGENDA PLACEMENT <input type="checkbox"/> Consent <input checked="" type="checkbox"/> Hearing (Time Est. <u>60 minutes</u>) <input type="checkbox"/> Presentation <input type="checkbox"/> Board Business (Time Est. _____)	(17) EXECUTED DOCUMENTS <input checked="" type="checkbox"/> Resolutions (Orig) <input type="checkbox"/> Contracts (Orig + 3 Copies) <input type="checkbox"/> Ordinances (Orig) <input type="checkbox"/> N/A <input checked="" type="checkbox"/> Email Resolution and Ordinance to CR_Board_Clerk (in Word)	
(18) NEED EXTRA EXECUTED COPIES? <input type="checkbox"/> Number: _____ <input type="checkbox"/> Attached <input checked="" type="checkbox"/> N/A	(19) BUDGET ADJUSTMENT REQUIRED? <input type="checkbox"/> Submitted <input type="checkbox"/> 4/5th's Vote Required <input checked="" type="checkbox"/> N/A	
(20) OUTLINE AGREEMENT REQUISITION NUMBER (OAR) _____	(21) W-9 <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes	(22) Agenda Item History <input type="checkbox"/> N/A Date <u>May 5, 2009</u>
23) ADMINISTRATIVE OFFICE REVIEW 		



SAN LUIS OBISPO COUNTY
DEPARTMENT OF PLANNING AND BUILDING

VICTOR HOLANDA, AICP
DIRECTOR

TO: BOARD OF SUPERVISORS
FROM: AIRLIN M. SINGEWALD, CURRENT PLANNING
VIA: WARREN HOAG, AICP, DIVISION MANAGER, CURRENT PLANNING
DATE: JULY 14, 2009

SUBJECT: CONTINUED HEARING TO CONSIDER AN APPEAL BY LANDWATCH SAN LUIS OBISPO COUNTY AND AN APPEAL BY THE SIERRA CLUB OF THE SUBDIVISION REVIEW BOARD APPROVAL OF A REQUEST BY HEARST HOLDINGS, INC. FOR A LOT LINE ADJUSTMENT/COASTAL DEVELOPMENT PERMIT (COAL07-0070) TO ADJUST THE LOT LINES BETWEEN FOUR EXISTING PARCELS OF 0.17 ACRES, 443.18 ACRES, 10,180 ACRES, AND 23,200 ACRES. THE ADJUSTMENT WILL RESULT IN FOUR PARCELS OF 93.6 ACRES, 1,851.71 ACRES, 8,837.73 ACRES, AND 23,040.34 ACRES. THE PROPOSED PROJECT IS WITHIN THE AGRICULTURE, RECREATION, AND COMMERCIAL RETAIL LAND USE CATEGORIES, AND IS LOCATED ALONG THE APPROXIMATELY 14-MILE SECTION OF THE NORTH COAST BEGINNING APPROXIMATELY 1.5 MILES NORTH OF SAN SIMEON VILLAGE AND ENDING AT RAGGED POINT, EXCLUDING SOME LANDS NEAR THE PIEDRAS BLANCAS LIGHT STATION. THE SITE IS IN THE RURAL NORTH COAST AND NACIMIENTO PLANNING AREAS. SUPERVISORIAL DISTRICT: 2.

RECOMMENDATION

Adopt and instruct the chairperson to sign the resolution affirming the decision of the Subdivision Review Board and conditionally approving the application of Hearst Holdings, Inc. for Lot Line Adjustment/Coastal Development Permit COAL 07-0070 (SUB2007-00161) based on the findings set forth in Exhibit A and the conditions set forth in Exhibit B.

DISCUSSION

This appeal was originally scheduled for a Board hearing on May 5, 2009 and was continued to July 14, 2009 at the applicant's request because of a scheduling conflict. On February 2, 2009, the Subdivision Review Board approved a Lot Line Adjustment/Coastal Development Permit application by Hearst Holdings Inc. to adjust the lines between four existing parcels of 0.17 acres, 443.18 acres, 10,180 acres, and 23,200 acres. The adjustment will result in four parcels of 93.6 acres, 1,851.71 acres,

8,837.73 acres, and 23,040.34 acres. The project area is located between San Simeon Village and Ragged Point. The area includes San Simeon Point and Old San Simeon Village, but no other land west of Highway 1. The purpose of the lot line adjustment is to bring the existing lot configuration into conformance with various easement boundaries of the Hearst Conservation Plan. These easements significantly limit development potential on the Hearst Ranch. The proposed lot line adjustment would not result in physical development or facilitate development that is not already possible on the project site.

The County received two appeals of this decision by Sierra Club on February 11, 2009 and by LandWatch on February 18, 2009. The appeals contend that: 1) the lot line adjustment application is incomplete; 2) staff's analysis of the project does not adequately evaluate the project for compliance with applicable Local Coastal Program (LCP) policies and standards; 3) the proposed negative declaration does not adequately consider the project's cumulative impacts; 4) and the Subdivision Review Board's adopted findings are not supported by evidence in the record and its decision was based on the project's consistency with the Hearst Conservation Plan, rather than the LCP.

Standard of Review

The County's review of a lot line adjustment is limited to a determination of whether or not the resulting parcels conform to the County's General Plan, LCP, zoning (Title 23), and building ordinances (Title 19). In cases where the resulting parcels do not conform to General Plan and LCP standards, the resulting parcels must maintain a position with respect to these standards which is equal to or better than the existing parcels:

A lot line adjustment shall not be approved or conditionally approved unless the new parcels resulting from the lot line adjustment will conform to the County's General Plan, Specific Plan, Local Coastal Program, and 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 – *County Real Property Division Ordinance (Title 21) Section 21.02.030(c)*.

In addition, the County can only impose conditions on a lot line adjustment to comply with applicable building and zoning requirements or to facilitate the relocation of utilities, infrastructure or easements:

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 23 of this code, or except to facilitate the relocation of existing utilities, infrastructure, or easements – *Title 21 Section 21.02.030(d)(1)*.

A lot line adjustment is also exempt from the requirements of the California Subdivision Map Act and is not considered a "land division" by the County Real Property Division Ordinance:

This division shall be inapplicable to...a lot line adjustment between four or fewer existing adjoining parcels, where the land taken from one parcel is added to an adjoining parcel, and where a greater number of parcels than originally existed is not thereby created... – *Map Act Section 66412(d)*.

"Land division" division refers to any real property which is divided into two or more parts or parcels for any purpose – *Title 21 Section 21.01.020(h)*.

Project Description

The applicant is proposing to adjust the lot lines between 4 legal parcels as follows:

Parcel	Existing Size (acres)	Proposed Size (acres)
1	0.17	93.6
2	443.18	1,851.71
3	10,180	8,837.73
4	23,200	23,040.34

The proposed lot line adjustment would bring the existing parcels into conformance with the boundaries of the Old San Simeon Village Conservation Easement area, the San Simeon Point Conservation Easement area, and the Headquarters Parcel as established by the Hearst Conservation Project. This lot line adjustment is essentially "clean-up" which would allow the applicant to describe the aforementioned easement areas as separate legal parcels, rather than different pieces of other parcels with separate certificates of compliance.

The following describes the proposed lot line adjustment's relationship to these easement areas:

Old San Simeon Village Conservation Area (Proposed Parcel 1 – 93.6 acres)

Proposed parcel 1 would coincide with the boundaries of the Old San Simeon Village Conservation Easement area. This area, located on the west side of Highway 1, surrounds Sebastian's Store and contains the historic Julia Morgan buildings north of W.R. Hearst Memorial State Beach. This easement area limits development to a 100-unit hotel and associated infrastructure. The use limitations of the LCP would not allow a hotel at this location; therefore, in addition to a development plan/coastal development permit, the applicant would require a general plan amendment to develop the hotel. The proposed lot line adjustment is not necessary for, and would not facilitate, the development of this hotel.

San Simeon Point Conservation Area (West side of Proposed Parcel 2 - 351.71 acres)

The section of proposed parcel 2 on the west side of Highway 1 would coincide with the boundaries of the San Simeon Point Conservation Easement area. This area is within the Cal Trans Scenic Protection Easement. The purpose of this easement is to protect views from Highway 1, a National Scenic Byway, to the west towards the ocean. The conservation easement limits development in this area to incidental ranch facilities, excluding new buildings over 200 square feet; public access facilities (including a segment of the California Coastal Trail); temporary structures (outside of the Highway 1 viewshed); and signs to control unauthorized access. The easement limits uses to grazing, public access, and temporary events. These limitations prevent the applicant from developing the 250-unit resort that the LCP allows on San Simeon Point. The proposed lot line adjustment would not facilitate development at this location.

Headquarters Parcel (East side of Proposed Parcel 2 - 1,500 acres)

The section of proposed parcel 2 on the east side of Highway 1 would coincide with the boundaries of the Headquarters Parcel, authorized under the Hearst Conservation Plan. This 1,500-acre parcel contains various existing facilities at the Hearst Ranch, including an aircraft runway and associated facilities, warehouses, agricultural accessory structures, and other ranching facilities. The proposed lot line adjustment would not facilitate development at this location.

Analysis

The following analysis shows that the proposed parcel configuration conforms to applicable standards and policies of the General Plan and LCP, or maintains a position that is equal to or better than the existing configuration relative to these standards (**see Standard of Review, pages 2-3**):

Minimum Parcel Size – Coastal Zone Land Use Ordinance (CZLUO) Section 23.04.020

The minimum parcel size requirements of the CZLUO is critical in the County's review of a lot line adjustment. The proposed parcel configuration would not completely conform to these requirements; however, the proposed parcels maintain a position that is equal to the existing configuration relative to parcel size requirements of the CZLUO.

As mentioned in LandWatch's appeal, the SRB staff report for this project used incorrect information about the amount of land in the CR category at Old San Simeon Village. This was due to a mapping error which showed approximately 24 acres of CR land, when 7 of these acres were actually in the AG category, according to the official Land Use Element maps. The total amount of CR land at Old San Simeon Village is approximately 17 acres. This change affects the minimum parcel size analysis in the SRB staff report. Following are updated tables showing the amounts of land in the CR, AG, and REC categories on each parcel before and after the adjustment:

Parcel 1

Land Use Category	Minimum Size (acres)	Existing (acres)	Proposed (acres)
CR	2.5 (CZLUO)	0.17	17.26
REC	1 – 20 (LUE)	0.00	67.17
AG	320	0.00	9.17
Total		0.17	93.6

Existing parcel 1 does not conform to the minimum size of 2.5 acres for a CR parcel without community water. The proposed lot line adjustment would resolve this nonconformity by increasing the piece of parcel 1 in the CR category to 17.26 acres. At 67.17 acres, the REC piece of proposed parcel 1 would conform to the minimum parcel size of 1 – 20 acres. The 9.17 acre AG piece of proposed parcel 1 would be less than the minimum parcel size of 320 acres; however, this piece of AG land is in the same position before the lot line adjustment.

Parcel 2

Land Use Category	Minimum Size (acres)	Existing (acres)	Proposed (acres)
CR	2.5 (CZLUO)	17.26	0.00
REC	1 – 20 (LUE)	197.79	130.62
AG	320 (CZLUO)	228.13	1,721.09
Total		443.18	1,851.71

The 228.13 acre piece of existing parcel 2 in the AG category does not conform to the minimum parcel size of 320 acres for an Agriculture parcel used for livestock grazing. The proposed lot line adjustment would resolve this nonconformity by increasing the AG piece of parcel 2 to 1,721.09 acres; however, since this land would still be crossed by Highway 1 with 228.13 acres on the west side and the remainder on the east side of Highway 1, the adjustment would not actually change the parcel's viability for agricultural uses (e.g. grazing).

Parcel 3

Land Use Category	Minimum Size (acres)	Existing (acres)	Proposed (acres)
AG	320 (CZLUO)	10,180.00	8,837.73

Parcel 4

Land Use Category	Minimum Size (acres)	Existing (acres)	Proposed (acres)
Agriculture	320 (CZLUO)	23,200.00	23,040.34

The adjustment would reduce the sizes of parcels 3 and 4 since pieces of these parcels would be connected with San Simeon Point to form proposed parcel 2. After the adjustment, these parcels are still significantly larger than the minimum AG parcel size.

Site Access and Driveway Requirements – CZLUO Section 23.05.104

This section of the ordinance states that no development shall be approved for any site unless the site has legal access and all-weather physical access to a public road. The proposed lot line adjustment conforms to this standard because the resulting parcels would have legal access along Highway 1 and San Simeon Road. Future physical development of the property would be required to provide any necessary access or driveway improvements.

Coastal Access Requirements – CZLUO Section 23.04.420

This section of the ordinance requires development between the first public road and the ocean to provide lateral (along shoreline) and vertical (from first public road to shoreline) coastal access dedication as follows:

Lateral access dedication: All new development shall provide a lateral access dedication of 25 feet of dry sandy beach available at all times during the year. Where topography limits the dry sandy beach to less than 25 feet, lateral access shall extend from the mean high tide to the toe of the bluff. Where the area between the mean high tide line (MHTL) and the toe of the bluff is constrained by rocky shoreline or other limitations, the County shall evaluate the safety, and other constraints and whether alternative siting of accessways is appropriate. This consideration would help maximize public access consistent with the LCP and the California Coastal Act – CZLUO Section 23.04.420(d)(3).

This standard would apply to the Old San Simeon Village and San Simeon Point areas, which are the only areas of the project site between the first public road and the shoreline. This excludes the tip of San Simeon Point, which is a separate parcel (Certificate of Compliance O.R. 02-066312) that is not a part of this project. Based on staff's field visits and review of aerial photography, the majority of the shoreline around San Simeon Point is comprised of hazardous shear cliffs with only small and isolated areas of dry sandy beach. Public access in these areas would be inconsistent with public safety and the protection of fragile coastal resources. In addition, the applicant previously granted a Deed of Public Access Conservation Easement to the State Department of Parks and Recreation, which provides for controlled public access from San Simeon Road to various coastal lookout points along San Simeon Point. In consideration of these factors, there are only two dry sandy beach areas on the west and east sides of San Simeon Point appropriate to be considered for lateral access at the time when future development is applied for and considered on the property as they already adjoin established public beaches, can be safely accessed, and provide sufficient dry sandy beach for practical and safe public use without adversely impacting

coastal resources. At this point in time, since no development is currently being proposed on the property, staff is unable to establish the constitutionally required essential nexus or rough proportionality that would be required under *Nollan v. California Coastal Commission* and *Dolan v. City of Tigard* to impose a requirement for an offer of dedication of a lateral coastal access easement. As a result, no lateral access is being required at this time.

Vertical access dedication: In rural areas where no dedication or public access exists within one mile, or if the site has more than one mile of coastal frontage, an accessway shall be provided for each mile of frontage – *CZLUO Section 23.04.420(d)(2)*.

The project meets this standard because there is an existing vertical access point at the W.R. Hearst Memorial State Beach immediately to the east of Old San Simeon Village and the property immediately to the west of San Simeon Point is already owned by the State. In addition, the applicant previously granted a Deed of Public Access Conservation Easement to the State Department of Parks and Recreation, which provides for controlled public access from San Simeon Road to various coastal lookout points along San Simeon Point. Official notice is taken of this document that was recorded as Document Number 2005-013399 on February 18, 2005, in office of the County Recorder of the County of San Luis Obispo. Therefore, in accordance with CZLUO Section 23.04.420(c)(2), the proposed project does not require additional coastal access because the site already satisfies the provisions for vertical coastal access.

Building Setback Requirements – CZLUO Section 23.04.100

The following required building setbacks are established at CZLUO Section 23.04.100:

Land Use Category	Front (feet)	Rear (feet)	Side (feet)
CR	10	0	0
REC	10	10	30
AG	30	30	30

The applicant submitted aerial photographs (**see Attachment 6**) with an overlay of the proposed parcel boundaries to show that all existing buildings would meet the required setbacks after the adjustment. The closest building to a proposed parcel boundary is setback 390 feet, which is significantly greater than the minimum setback requirement of 30 feet.

Highly visible sites - CZLUO Section 23.04.021(c)(6)

This standard prohibits the creation of parcels where the only feasible building site would be on a slope or ridgetop where a building would be silhouetted against the skyline. The proposed parcels meet this standard. The large size of the proposed

parcels (the smallest is 93.6 acres) offers a variety of alternative building sites that are adequately screened by vegetation and topography. LCP standards would require future physical development of the property to be screened from public view.

Location of access roads and building sites – CZLUO Section 23.04.021(c)(7)

Proposed access roads and building sites shall be located on slopes less than 20 percent. The proposed parcels meet this standard. The lot line adjustment would not require new access improvements and would still contain many potential building sites on slopes less than 20 percent. LCP standards would require future development to be located on slopes less than 20 percent.

Agriculture Coastal Plan Policy 2(b): Division of Land

This policy prohibits the creation of new parcels whose only building site would be on prime agricultural soils. The 33,823-acre site includes approximately 600 acres of prime (NRCS class 1 and 2) soils. These areas are scattered in relatively small patches across the property. The proposed parcels meet this standard. According to official NRCS maps, the proposed parcels would contain many potential building sites that are not on prime soils. LCP standards would prohibit future physical development on prime soils.

The project was referred to the County Department of Agriculture. In a response, dated May 23, 2008, the Agriculture Department stated that the proposed lot line adjustment is consistent with its objective of long-term protection of agricultural resources.

Environmentally Sensitive Habitat Area (ESHA) Policy 4: New Land Divisions in ESHA

This policy prohibits the creation of parcels containing ESHA unless the proposed parcels contain building areas located entirely outside of ESHA. According to the California Diversity Database and the background report for the Hearst Conservation Plan, the subject property contains a significant variety of sensitive biological resources, including sensitive plant and animal species and habitat areas that would meet the LCP's definition for ESHA.

The proposed parcels conform to this policy. The large size of the proposed parcels (the smallest is 93.6 acres) offers many alternative building sites that are located outside of ESHA. Any future physical development on the property would be subject to all applicable ESHA policies and standards of the LCP. These policies and standards would require the applicant to submit a biological assessment, locate development outside of ESHA, and mitigate any potential impacts to ESHA to the maximum extent possible.

APPEAL ISSUES

The following summarizes the appeal issues:

Appeal Issue 1: *The lot line adjustment application did not describe the planned future development on the property, and the project staff report did not analyze this development for consistency with applicable General Plan and LCP policies. Therefore, the public and decision-makers do not have adequate information to review and decide on the proposed project, and the required findings of consistency with General Plan and LCP policies and standards are not supported by evidence in the record.*

Staff Response: The applicant satisfied the application content requirements of Title 21 by describing the purpose of the proposed lot line adjustment (to bring existing parcel boundaries into conformance with various easement areas established by Hearst Conservation Plan) and future uses of the property (continuation of existing uses and potentially those uses allowed by the current General Plan and LCP policies and standards and easement limitations). The applicant did not describe the development allowed by the Hearst Conservation Plan because this development would require a general plan and LCP amendment, and it's speculative to assume that the County and Coastal Commission would approve such a request.

As described above (**see Standard of Review, pages 2-3**), your Board's purview relative to this application is to determine whether or not the resulting parcel configuration would conform to the applicable General Plan and LCP policies and standards. Your Board is not being asked to determine what future physical development may occur on the site and whether or not that development would be consistent with General Plan and LCP policies and standards.

Appeal Issue 2: *The lot line adjustment application was incomplete because submitted maps did not identify all existing structures, wells, septic tanks, driveways and other improvements located on the property, as required by the Real Property Division Ordinance. In addition, the applicant did not submit a copy of the Hearst Ranch Conservation Easement or adequately describe existing uses on the property. Without this information, the public and decision-makers cannot adequately review and decide on the proposed project.*

Staff Response: The submitted application and preliminary lot line adjustment map provide adequate information for staff's review of this project. Given the large parcel sizes, the footprints of every existing building, structure, and utility improvement is not necessary to determine whether the proposed parcel configuration conforms to General Plan and LCP policies and standards. To verify that all existing buildings would still meet required setbacks, the applicant submitted aerial photographs (**see Attachment**

6) with an overlay of the proposed parcel boundaries. The closest building to a proposed parcel boundary is setback 390 feet, which is significantly greater than the minimum setback requirement of 30 feet.

Regarding the contention that the applicant did not provide a copy of the Hearst Conservation Plan, staff requested a copy of this plan, and the applicant's agent explained that there is no single conservation plan under one cover, but rather the plan consists of the many separate recorded easement documents, which can be found on the State Resource Agency website: http://www.resources.ca.gov/hearst_ranch.html.

Appeal Issue 3: *The North Coast Area Plan of the County Land Use Element was last updated in 1988, and contains no current baseline resource data on which findings of consistency with resource protection requirements can be made. The County cannot possibly make a consistency finding with an antiquated general plan.*

Staff Response: This issue refers to the rural portion of the North Coast Area Plan, which has not been updated since 1988. This should not be confused with the Cambria and San Simeon Community Plan (i.e. urban areas of the North Coast Area Plan), which was updated and certified by the Coastal Commission in 2008.

Since the adjustment would not directly result in, or facilitate, new physical development or a change of land use, it would not result in additional water usage or impact environmental resources. Currently staff has adequate information to make the determination that the proposed parcels conform to General Plan and LCP policies and standards (see **Standard of Review, pages 2-3**).

Any future physical development on the property would require additional discretionary approvals and environmental review under CEQA. At the time when such development proposals are submitted for review, staff will require the applicant to submit any technical studies (e.g. biological, archaeological, etc.) that are necessary to identify "baseline resource data" and to evaluate these proposals for consistency with applicable General Plan and LCP policies and standards. In addition, future development of this area would require a general plan/LCP amendment. This amendment would have to include significant updates to the rural area component of the North Coast Area Plan.

Appeal Issue 4: *The staff report explains that the planned future development would require a general plan amendment. The County should not approve "piecemealed" development by approving a lot line adjustment, which would lead to development that is not allowed under the current General Plan and LCP.*

Staff Response: The question before your Board is whether the requested lot line adjustment results in a parcel configuration that conforms to General Plan and LCP

policies and standards. Staff's analysis shows that the requested lot line adjustment meets this standard.

This appeal issue alludes to the development on the property that is allowed by the Hearst Conservation Plan. This development is not a reasonably foreseeable result of the lot line adjustment. Although the proposed lot line adjustment would establish parcel boundaries consistent with the various easement areas of the conservation plan, it would not facilitate the development that is allowed by the conservation plan. The development described in the conservation plan would require a general plan/LCP amendment and other local, state, and federal entitlements, but not a lot line adjustment.

Appeal Issue 5: *The project is in a designated sensitive resource area (SRA). The staff report did not analyze the project's potential impacts to these areas or include the information required by the Coastal Zone Land Use Ordinance Section 23.07.164 for development in an SRA.*

Staff Response: The North Coast Area Plan of the County Land Use Element identifies the North Coast Shoreline, North Coast Creeks, and San Simeon Point SRAs on the project site. The purpose of SRA designations is to require that proposed development be designed with consideration of the identified sensitive resource and the need for their protection. CZLUO Section 23.07.164 requires land use permit applications for development within a designated SRA to describe proposed measures to protect the identified resource. This requirement does not apply to a lot line adjustment application. However, the following shows that the proposed parcel configuration is consistent with the purpose of these SRAs:

North Coast Shoreline SRA

This SRA designation covers most of the Rural North Coast shoreline, including the portion of the project site at San Simeon Point. This SRA recognizes the shoreline as a valuable scenic and natural resource which must be protected from excessive and unsightly development. As part of the conservation plan, Hearst Holdings, Inc. transferred fee ownership of the entire coastline from the San Simeon Point area to the Ragged Point area to the State. The only portion of the project area on the west side of Highway 1 is San Simeon Point and Old San Simeon Village. The San Simeon Point Conservation Easement effectively prohibits any development from occurring on San Simeon Point. Future development at Old San Simeon Village would be subject to applicable LCP policies and planning area standards to minimize the visibility of development.

North Coast Creeks SRA

This SRA covers portions of Santa Rosa, San Simeon, Pico, Little Pico, Arroyo de la Cruz, Arroyo del Padre Juan, and San Carpofofo Creeks and associated wetlands and

riparian areas. These are environmentally sensitive habitat areas (ESHA) for various sensitive fish and wildlife species. The property includes Pico and Little Pico creeks, Arroyo de la Cruz, and several other creeks not specifically addressed by this SRA, such as Arroyo del Puerto and Arroyo Laguna. The resulting parcel configuration is consistent with the goal of this SRA because it would include many potential building sites outside of these sensitive areas. Any future development within 100 feet of these creeks and associated riparian areas and wetlands would be subject to specific development standards at CZLUO Section 23.07.170. These standards would require a biological assessment to evaluate potential impacts to the identified resource and limit allowable uses within 100 feet of any identified ESHA to those uses that are dependent on the identified resource.

San Simeon Point SRA

This SRA identifies San Simeon Point as a picturesque setting that includes Monterey pines, cypress trees, tilted rock formations, and excellent views of the bay and ocean shoreline. While not biologically unique, the combined sensitivity of vegetation and viewshed resulted in the SRA designation for this site. Nonetheless, proposed development could be sited to avoid impacts to vegetation and the viewshed with appropriate mitigation measures. The proposed lot line adjustment changes the parcel configuration at San Simeon Point to reflect the boundaries of the Old San Simeon Village and San Simeon Point conservation easement areas. This proposed configuration would not limit building sites in such a way that would conflict with the purpose of this SRA.

Appeal Issue 6: *The staff report did not adequately analyze the project's conformance with applicable general plan and LCP policies, land use and planning area development standards, or building code regulations, as required by the Real Property Division Ordinance.*

The standard of review for a lot line adjustment does not authorize the County to speculate about future development on the site and whether or not that development would conform to the General Plan and LCP. Rather, the County's authority is to review the resulting parcel configuration for conformance with the General Plan and LCP. Staff's analysis (**see pages 4 – 8**) shows that the proposed lot line adjustment meets this standard.

The appeal also references the *North Coast Area Plan, Areawide Standard 5*, which requires new applications for land divisions to show building envelopes in the least visible areas of the site. This standard does not apply because the proposed project is not a "land division" as defined in the Real Property Division Ordinance and Map Act. Nonetheless, current LCP policies and standards will require future development to be sited in the least visible areas of the property.

Appeal Issue 7: *The staff report did not adequately analyze the project for conformance with applicable combining designation requirements.*

Staff Response: The subject property contains the following combining designations:

Archeologically Sensitive Area (AS)

This designation identifies rural and urban areas known for the potential to contain cultural resources. Applicants of development proposals in these areas are required to obtain a records check and possibly a surface survey prior to approval, and comply with the applicable standards in CZLUO Section 23.07.104. These standards would not be applicable to the proposed lot line adjustment because it does not include any physical development of the property. Future development will require archeological investigations and be required to mitigate potential impacts to cultural resources.

Coastal Appealable Zone (CAZ)

The designation indicates that the project is appealable to the Coastal Commission because it is partially located between the ocean and the first public road paralleling the ocean.

Local Coastal Program (LCP)

This designation indicates that the project site is located within the California Coastal Zone as established by the California Coastal Act of 1976, and is subject to the provisions of the County's certified LCP.

San Simeon Fault (GSA)

The San Simeon Fault Zone traverses the coastal area from San Simeon Point to the north side of the mouth of San Carpoforo Creek. In 1986, the State geologist determined this fault zone to be active and designated it a special studies zone. This fault line runs northwest through the subject property from San Simeon Cove to the Ragged Point area. Any future physical development on the property would be subject to extensive geologic review and appropriate mitigation for potential seismic hazards.

Flood Hazard (FH)

The Flood Hazard combining designation is applied to specific parcels where terrain characteristics would present new developments and their users with potential hazards to life and property from potential inundation by a 100-year frequency flood or within coastal high hazard areas. The proposed lot line adjustment is consistent with the purpose of this combining designation because it does not involve physical

development of the property and the resulting parcels contain many potential building sites outside of the 100-year flood plain.

Historic Site (H)

This combining designation recognizes the historic Hearst Ranch Headquarters, which includes buildings dating back to the early part of the 20th Century. The project site also contains historic buildings designed by Julia Morgan and surrounds Hearst Castle and the Sebastian Store. The proposed project does not involve physical development of the property and would not alter or otherwise impact these historic sites.

Appeal Issue 8: *The County's proposed negative declaration for the lot line adjustment fails to consider the cumulative environmental effects of the whole of the project. CEQA Guidelines specifically prohibit this sort of "piecemealing" of the environmental determination process.*

Staff Response: One of the first and most important steps in the environmental review process is to define the scope of the project and then identify the resulting environmental effects. CEQA defines a "project" as an activity which may cause either a direct change in the environment, or a reasonably foreseeable indirect change in the environment (CEQA Statutes, Section 21065).

The proposed ND for this project concludes that the project would not result in "direct" or "reasonably foreseeable indirect" changes to the environment. Since the lot line adjustment proposal does not include any physical development, it clearly would not have a direct environmental effect. Moreover, staff determined that the project would not have a reasonably foreseeable indirect environmental effect for the following reasons:

The project would not change allowable development intensity. The lot line adjustment does not affect the underlying land use categories of the parcels; it only changes the shape and size of the parcels. Any development that could occur on these parcels after the adjustment could just as easily occur today without the adjustment. It's important to note, however, that the limitations of the various conservation easements combined with the current LCP designations and standards for this property, significantly limit what development could occur on the property without a general plan/LCP amendment.

The project would not reduce building site alternatives. The main focus of the lot line adjustment is at San Simeon Point where a small (approximately 7,400 square feet) parcel would significantly increase in size to approximately 96 acres and where 1,500 acres of the large inland parcels (3 and 4) would connect to San Simeon Point. Although these parcels contain environmentally sensitive areas, they are large enough that they provide numerous alternative building sites. Applicable LCP policies and

standards will require the applicant to site future development in the least sensitive areas of the parcels.

Appeal Issue 9: *The ND implicitly defers the development of mitigation measures for the project's cumulative environmental impacts until a later time after the environmental review process is complete.*

Staff Response: This appeal issue states that the County has piecemealed the environmental review and thus defers mitigation for the project's cumulative environmental effects to a later time. As described is staff's response to Appeal Issue 8, the proposed lot line adjustment would not have a reasonably foreseeable indirect environmental effect, and no mitigation measures are necessary.

Any future development on the property will require discretionary entitlements and a CEQA determination. During the environmental review for future development, staff will evaluate the impacts of such development and identify appropriate mitigation measures to reduce those impacts to the maximum extent feasible.

Appeal Issue 10: *The proposed project requires approval of a general plan amendment because it would change the use of land in proposed parcel one by creating 7 new acres of the CR land use category.*

Staff Response: The proposed lot line adjustment would not change the land use categories of the parcels. The only way to change the underlying land use categories would be through the general plan/LCP amendment process.

The appellant correctly points out an error on the Rural Land Use Category map in the North Coast Area Plan, which shows approximately 7 more acres of land in the CR category compared to what the official Land Use Element maps show (see Attachment 3). This 7 acre piece of land is actually in the Agriculture category, according to official maps. This error does not affect staff's analysis or recommendation.

Appeal Issue 11: *The staff report's analysis of the project and Subdivision Review Board's adopted findings rely on the Hearst Ranch Conservation Plan as the standard of review, rather than the County's General Plan and LCP.*

Staff Response: Staff's discussion of the Hearst Conservation Plan is important background information to help your Board understand the purpose of the lot line adjustment as well as the significant development limitations on the property. In addition, many aspects of the conservation plan clearly forward the LCP's goals of protecting coastal resources. Staff's recommendation on this project, however, is clearly based on the determination that the resulting parcel configuration would conform to

General Plan and LCP policies and standards. The basis for this determination is described in detail on pages 4 – 7 of this staff report.

OTHER AGENCY INVOLVEMENT

This project is appealable to the California Coastal Commission.

FINANCIAL CONSIDERATIONS

The appeal fee is not required for Coastal issues, pursuant to our adopted policy and procedure.

RESULTS/IMPACT

Adopting the resolution denying the appeals and affirming the decision of the Subdivision Review Board will allow the applicant to adjust lot lines on the subject property.

ATTACHMENTS

1. Resolution
 - A. Findings
 - B. Conditions of Approval
2. Vicinity Map
3. Land Use Category Map (3 pages)
4. Lot Line Adjustment Map – Overall
5. Lot Line Adjustment Map – Parcels 1 and 2 enlarged
6. Lot Line Adjustment Map – Showing setbacks to structures
7. Appeal from Sierra Club, February 10, 2009
8. Appeal from LandWatch, February 18, 2009
9. Subdivision Review Board staff report, February 2, 2009
10. Proposed Negative Declaration, December 26, 2009

CALIFORNIA COASTAL COMMISSION

SEP 08 2009

SOUTH CENTRAL COAST DISTRICT OFFICE
 89 SOUTH CALIFORNIA STREET, SUITE 200
 VENTURA, CA 93001-4508
 VOICE (805) 585-1800 FAX (805) 641-1732

CALIFORNIA
 COASTAL COMMISSION
 CENTRAL COAST AREA

**APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT****Please Review Attached Appeal Information Sheet Prior To Completing This Form.****SECTION I. Appellant(s)**

Name: California Coastal Commission; Commissioners Patrick Kruer and Sara Wan

Mailing Address: 45 Fremont Street, Suite 2000

City: San Francisco, CA

Zip Code: 94105-2219

Phone: (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 to adjust the lot lines between four existing parcels of 0.17 acres, 443.18 acres, 10,180 acres and 23,040.34 acres resulting in four parcels of 93.6 acres, 1,851.71 acres, 8,837.73 acres and 23,040.34 acres.

3. Development's location (street address, assessor's parcel no., cross street, etc.):

Along a 14-mile section of the coast beginning approximately 1.5 miles north of San Simeon Village and ending at Ragged Point, in the North Coast Planning Area, San Luis Obispo County.

4. Description of decision being appealed (check one.):

- Approval; no special conditions
 Approval with special conditions:
 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-09-045

DATE FILED: September 3, 2009

DISTRICT: Central Coast

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

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

- Planning Director/Zoning Administrator
- City Council/Board of Supervisors
- Planning Commission
- Other

6. Date of local government's decision: July 14, 2009

7. Local government's file number (if any): SUB2007-00161; COAL 07-0070

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:

Hearst Holdings, Inc.
c/o Marty Cepkauskas
5 Third Street #200
San Francisco, CA 94103

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) Andrew Christie
Sierra Club, Santa Lucia Chapter
P.O. Box 15755
San Luis Obispo, CA 93401

(2) Cynthia Hawley
LandWatch San Luis Obispo County
P.O. Box 174
Cambria, CA 93428

(3) Airlin M. Singewald, Planner and Nancy Orton, Permit Chief
San Luis Obispo County Planning and Building Department
976 Osos St., Room 300, San Luis Obispo, CA 93408

(4) San Luis Obispo County Board of Supervisors
County Government Center, Suite D340
San Luis Obispo, CA 93408

(5) Roger Lyon, P. O. Box, 316, Cayucos, CA 93406

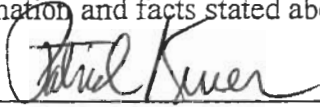
State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

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.

Signed: 
Appellant or Agent

Date: 9/3/2009

Agent Authorization: I designate the above identified person(s) to act as my agent in all matters pertaining to this appeal.

Signed: _____

Date: _____

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Page 5

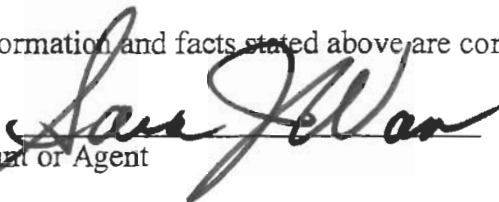
State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

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SECTION V. Certification

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

Signed: 
Appellant or Agent

Date: 9/3/2009

Agent Authorization: I designate the above identified person(s) to act as my agent in all matters pertaining to this appeal.

Signed: _____

Date: _____

Reasons for Appeal: San Luis Obispo County Coastal Development Permit Number SUB2007-00161/COAL07-0070 (Hearst Holdings, Inc.)

San Luis Obispo County approved a coastal development permit to allow Hearst Holdings, Inc. to adjust the lot lines between four existing lots of 0.17 acres, 443.18 acres, 10,180 acres, and 23,200 acres, to result in four new lots of 93.6 acres, 1,851.71 acres, 8837.73 acres, and 23,040.4 acres. The lots in question are located in the Local Coastal Program's (LCP's) Agriculture, Recreation, and Commercial Retail land use categories and are located along approximately 14 miles of shoreline in the North Coast Area of San Luis Obispo County. The County-approved project raises LCP and Coastal Act conformance issues as follows:

One of the primary objectives of both the Coastal Act and the LCP is to provide and protect maximum public recreational access to and along the shoreline (including but not limited to Coastal Act Sections 30210-30224, LCP Shoreline Access Policy 2, and Coastal Zone Land Use Ordinance (CZLUO) Section 23.04.420). The property in question represents a significant and critical area along the north San Luis Obispo County shoreline where maximum public recreational access has not yet been provided as envisioned by the Coastal Act and the LCP, particularly with respect to the San Simeon Point area seaward of Highway One. The LCP's North Coast Area Plan (NCAP) contains multiple requirements for addressing public access on and around San Simeon Point in relation to the phased development of the Hearst Ranch contemplated at the time of certification (e.g., see NCAP Hearst Ranch Standards 1-7). The County-approved lot line adjustment is inconsistent with the Coastal Act and LCP because it establishes a lot configuration that could prejudice and thus undermine the provision of maximum public recreational access currently provided for in the LCP, and generally required by the Coastal Act, by creating a new lot that is separate from the larger point area and within which a visitor serving facility (e.g., a hotel) has long been contemplated. By doing so, the lot line adjustment artificially removes the point area property from the potential visitor serving property, and thus establishes a potential future development review scenario for a visitor-serving development (such as a hotel) that is potentially disconnected from the point and potential public recreational access requirements currently planned for and/or potentially required as part of such development. The County-approved project thus reduces protection and provision of maximum public recreational access and is thus inconsistent with the Coastal Act and the LCP. Although the existence of the Hearst Ranch Conservation Plan and associated recorded easements may significantly change the possible development scenarios from what is currently provided for in the LCP, the proper sequence for implementing the Conservation Plan, to the extent it is consistent with the Coastal Act and LCP, is through an LCP amendment that addresses the various coastal land use and resource protection issues, including public access and recreation, prior to adjusting lot-lines that could facilitate development that may not achieve the requirements of the Coastal Act and LCP.

The County-approved project also raises other LCP issues with respect to establishing lot configurations that could facilitate development inconsistent with protecting coastal agriculture, environmentally sensitive habitat areas (ESHAs), and the public viewshed (including but not limited to LCP Policies 2 and 4, and the NCAP standards applicable to this area, including specifically to the Hearst Ranch). First, this area of coastline is a critically important public viewshed area. The LCP prohibits land divisions whose only building site would be on a highly visible slope or ridgetop (see LCP Visual and Scenic Resources Policy 4). The County did not fully analyze this question or otherwise condition its approval to assure that future building sites on the new lots would meet this requirement. Second, this area of the Hearst Ranch includes significant grazing and other agricultural land. The County's approval did not analyze the requirements of LCP Agriculture Policy 2 with respect to the division of agricultural areas and

soils or NCAP Agriculture Standard 1 for the Hearst Ranch, both of which require an evaluation of the agricultural productivity or viability of the resulting parcels. Without such analysis, it cannot be concluded whether the proposed lots are consistent with the LCP. In addition with respect to agricultural protection, lot lines would be adjusted in such as way as to exclude existing significantly developed areas that currently exist on the two largest properties in such as way as to create two large agricultural lots absent such development. Such adjustment may increase the potential for future development incompatible with agriculture on these lots. This question was not directly addressed by the County's approval. Finally, there is no identification or evaluation of the size and location of possible future building site envelopes as required by the LCP for land divisions of parcels containing ESHA (see NCAP Rural Areawide Standard 5 and CZLUO Section 23.07.170(c)). The County-approved project thus does not clearly protect coastal agriculture, ESHA, and public views, including with respect to ensuring agricultural viability in relation to potential development facilitated by the new lots, and is thus inconsistent with these LCP provisions.

In summary, the County-approved project does not adequately protect and provide for public recreational access, coastal agriculture, ESHA, and public views consistent with the Coastal Act and the LCP. It also results in a new lot configuration and baseline that is less protective of these coastal resources than is the existing lot configuration and baseline, and this is also inconsistent with LCP lot line adjustment requirements. Thus, the County-approved project is inconsistent with the Coastal Act and the LCP.

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CALIFORNIA COASTAL COMMISSION

JUL 23 2009

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060-4508
VOICE (831) 427-4863 FAX (831) 427-4877

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA



APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

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

SECTION I. Appellant(s)

Name: Sierra Club - Santa Lucia Chapter

Mailing Address: P.O. Box 15755

City: San Luis Obispo

Zip Code: 93406

Phone: 805-543-8717

SECTION II. Decision Being Appealed

1. Name of local/port government:

San Luis Obispo County

2. Brief description of development being appealed:

Hearst Holdings, Inc. Lot Line Adjustment/coastal development permit

3. Development's location (street address, assessor's parcel no., cross street, etc.):

14 miles of the North Coast, from 1.5 miles north of San Simeon Village to Ragged Point, in Rural North Coast and Nacimiento Planning Areas.

4. Description of decision being appealed (check one.):

- Approval; no special conditions
- Approval with special conditions:
- 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-09-045

DATE FILED: September 3, 2009

DISTRICT: Central Coast

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

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

- Planning Director/Zoning Administrator
- City Council/Board of Supervisors
- Planning Commission
- Other

6. Date of local government's decision: 7/14/09

7. Local government's file number (if any): COAL 07-0070 (SUB2007-00161)

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:

Hearst Holdings, Inc.
5 Third St. #200
San Francisco, CA 94103

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) LandWatch
P.O. Box 174
Cambria CA 53428

(2)

(3)

(4)

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

SECTION IV. Reasons Supporting This Appeal

PLEASE 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.
- 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.)
- This 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.

Incorrect standard of review: The County states that "The proposed lot configuration would be equal to or better than the existing configuration because it would bring the existing lot boundaries into conformance with the boundaries of the various easements established by the Hearst Conservation Plan. The Conservation Plan forwards the goals and policies of the General Plan," which "ensures protection of various coastal resources...by significantly limiting potential development on the subject property...." (SLO Subdivision Review Board, COAL07-0070/Hearst Holdings Inc., 2/02/09). The Hearst Ranch Conservation Plan is a conservation/development agreement between private parties that contemplates a level and intensity of development in the Coastal Zone in excess of that allowed under the LCP and the Coastal Act. The HRCP is not a substitute for normal regulatory review of land uses described in the HRCP, nor does it create entitlements to lands uses anticipated in the HRCP. The LCP should be the standard of review.

ESHA Policy 1 - Land Uses Within or Adjacent to Environmentally Sensitive Habitats: See above. County claims that bringing "existing lot line boundaries into conformance with the various easement areas established by the Hearst Conservation Plan" is sufficient to assure conformity with this policy.

Unstated/inadequate purpose of LLA: The County states that intended future uses and anticipated future development of the reconfigured lots are represented as "unknown" or "unforseeable" and thus failed to evaluate cumulative impacts of LLA as part of reasonably foreseeable development.

Protection of agriculture: Applicant and the County did not explain how expanding the boundaries of Parcel One, zoned CR, from 0.17 acres to the proposed 24.35 acres will meet the LCP requirement to protect and maintain agriculture.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

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

Andrew Christie, Sierra Club

Signature of Appellant(s) or Authorized Agent

Date: 7/17/09

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

Section VI. Agent Authorization

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

Signature of Appellant(s)

Date: _____

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060-4508
VOICE (831) 427-4883 FAX (831) 427-4877



APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

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

SECTION I. Appellant(s)

Name: LandWatch San Luis Obispo County

Mailing Address: P.O. Box 174

City: Cambria

Zip Code: 93428

Phone: 805-927-5102

SECTION II. Decision Being Appealed

RECEIVED

SEP 03 2009

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

1. Name of local/port government:

San Luis Obispo County

2. Brief description of development being appealed:

Lot Line Adjustment by the Hearst Corporation - Hearst Holdings, Inc. - which is proposed to create new lot lines among four parcels that collectively add up to 33,823.35 acres.

3. Development's location (street address, assessor's parcel no., cross street, etc.):

Lots by assessor's parcel numbers are 011-242-012, 011-242-019, 011-251-017, 011-181-018. According to the County's staff report, the proposed project extends 14 miles along the north coast of San Luis Obispo County from Old San Simeon Village to Ragged Point.

4. Description of decision being appealed (check one.):

- Approval; no special conditions
- Approval with special conditions:
- 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-3-312-09-045
DATE FILED	September 3, 2009
DISTRICT	Central Coast

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

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

- Planning Director/Zoning Administrator
- City Council/Board of Supervisors
- Planning Commission
- Other

6. Date of local government's decision: July 14, 2009

7. Local government's file number (if any): Coastal Dev. Permit COAL07-0700

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:

LandWatch San Luis Obispo County, P.O. Box 174, 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) Santa Lucia Chapter of the Sierra Club, P.O. Box 15755, San Luis Obispo, CA 93406

(2)

(3)

(4)

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

SECTION IV. Reasons Supporting This Appeal

PLEASE 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.
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See Attachment

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

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: 9-3-09

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

Section VI. Agent Authorization

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

Signature of Appellant(s)

Date: _____

Jonathan Bishop

From: Cynthia Hawley [cynthiahawley@att.net]
Sent: Thursday, September 03, 2009 5:19 PM
To: Jonathan Bishop
Subject: hearst

ATTACHMENT TO APPEAL OF SAN LUIS OBISPO COUNTY
 COASTAL DEVELOPMENT PERMIT COAL07-0700
 HEARST HOLDINGS, INC. LOT LINE ADJUSTMENT
 SUBMITTED BY
 LANDWATCH SAN LUIS OBISPO COUNTY

Introduction and background

According to SLO County staff reports, the purpose of the lot line adjustment is to conform existing parcels to the parcels described within the private Conservation Easement Agreement between Hearst Holdings, Inc. and the American Land Conservancy. As you know, the lot lines and development described and allowed in the private easement have not undergone analysis for consistency with the SLO Local Coastal Program and the Coastal Act. Conformance with the terms of the easement and the development allowed by the easement is monitored privately by the Rangeland Trust.

Note that at page 8 of Exhibit A the website “Hearst Ranch Conservation Project” misinforms the public that the Coastal Act – the legislated policies and statutes that set forth required procedures for approval of development to ensure protection of public coastal resources – are only “guidelines” and makes the following statement regarding development of the Hearst Ranch under the Coastal Act:

The Hearst Corporation already has the zoning required for major development, and if they were to pursue the standard planning process under their current zoning, their development proposals would likely be approved.

The “Contact Us” (Exhibit B) page on this site lists Bruce Gibson, Chairman of the SLO Board of Supervisors, as one of two people to contact with comments and questions.

This appeal describes the ways in which the Hearst Corporation did not pursue the standard, i.e. legal, planning process and instead introduced privatization of land use planning on a grand scale – planning based on private agreements within its easements and approval by the San Luis Obispo County Board of Supervisors based on conformance of the proposed LLA with the easement plans. By so acting the Board supported and engaged in this privatization of coastal planning and in multiple violations of the Coastal Act and the SLO LCP in an a series of abuses of its discretion. Its discretion as you know is explicitly limited by §21.02.030(d) of the San Luis Obispo County Real Property Division as follows:

The county shall limit its review and approval to a determination of whether or not the parcels resulting from the lot line adjustment will conform to the general plan, local coastal program, and zoning and building ordinances.

The first and most fundamental violation is the false representation of the lot line adjustments as not being accompanied by and associated with planned development such that the analyses of conformance as described in §21.02.030(d) was entirely evaded.

Exhibit D
Page 1 of 14

County's repeated statements that "no development is currently being proposed on the property" (p. C-3 8), that "development is not a reasonably foreseeable result of the lot line adjustment" (p. C-3 12), and "[T]he proposed project does not involve physical development of the property" (p. C-3 15) are not true. The private easement shows otherwise. (Exhibit C, Pages 5 and 6 of the Deed of Conservation Easement and Agreement Concerning Easement Rights (Old San Simeon Village) between Hearst Holdings, Inc. and the American Land Conservancy)

The private easement calls for proposed parcel 1 to accommodate 93.60 acres of development at San Simeon Cove within which a 39 acre area would be developed into visitor serving uses including retail stores (staff at hearing) 100 room hotel, roads and parking facilities. The remaining 55 acres is an "infrastructure and reconfiguration boundary" for possible reconfiguration of the 39 acre envelope and for infrastructure including "water, electrical distribution, sewage treatment system and distribution pipelines."

In other words, development as defined by the Coastal Act is planned for the whole 94 acre parcel. The "preferred location of buildings" is displayed in the easement's Exhibit C and the "architecture, scale, colors, and massing" for the development described in the Julia Morgan Plans for development are described in the easement's Exhibit D. (see Exhibit D to this appeal) These plans have been intentionally withheld from public review. And the County promulgated the fiction that no development is planned and literally analyzed the LLA as having no more effect than lines on paper.

This is bungling sleight of hand dealing at its worst, a showing of bad faith by the County and the Hearst Corporation, and an indication of the corporate privatization of land use "planning" in store for development of the Hearst Ranch – land that embraces the irreplaceable resources of one of California's most important rural coastlines.

Significantly, after LandWatch requested that the plans for physical development referred to in the easement be provided and considered in the LLA approval process, County staff refused to produce the plans based on the Hearst Corp's nonsensical pretext that the plans cannot be provided because they are not under one cover but consist of many separate documents. (Staff report page C-3, 11) The report refers LandWatch to a web site where the easement can be found. However, the requested plans are withheld from that site as well. While the web version of the easement section cited above refers to "attached" plans as Exhibits C and D, the plans are not attached – only pages that say the parties to the easement have copies. (Exhibit D) Thus, the development maps and plans are truly private and withheld from the public for public review of the impacts the planned development will have on coastal resources.

In direct contradiction to statements that no development is currently planned for the site, staff attempted to justify the withheld plans on grounds that the development that is planned would be allowed with the existing lots such that review of the planned physical development would not make any difference in the outcome. Thus, the County admits (multiple times) that the plans exist and that the County Board of Supervisors and staff are familiar with them. Both the County and the Hearst Corporation know the level of public outcry that will occur once plans for development of the spectacular coastal resource of San Simeon Cove and Point are made public.

Refusing to disclose the plans for development and denying that development plans exist are apparently part of the "standard planning process" the Hearst Corporation decided not to pursue. As the facts show, this private process has been one of covering up the facts in a piecemealed, developer-driven attempt to begin development in a void of public review based solely on its compliance with the private easement. This tactic has thus far allowed the County and the developer to evade proper review and analysis of

conformance of the whole project with the public policies, standards, and ordinances designed to protect public coastal resources under the Coastal Act and the San Luis Obispo County LCP.

Two other factors are critical about the easement. First, it contains no definite limit to development and, second, a conservation easement is not “in perpetuity”. These are critical matters because the existing North Coast Area Plan certified in 1988 currently allows a tourist recreation complex with a 250 room resort lodge, restaurant, cocktail lounge, convention facilities, tourist cottages, golf course, swimming pool, and tennis courts. Commercial retail visitor-serving developments are planned for and allowed on San Simeon Cove (Old San Simeon Village) and on San Simeon Point. (See North Coast Area Plan p. 4-7) An electronic copy of the section of the easement related to development at Old San Simeon Village is attached to this application and entered into the administrative record along with this appeal.

While the “Hearst Conservation Easement NOW” web site touts preservation of San Simeon Point by reduction of development within the easement, no definite limit on development is set and a private easement can be changed as shown by the Cambria Community Services District’s development of a water tank on land “protected” by a conservation easement.

While this appeal focuses on the LLA and development planned for the west side of Hwy 1 at San Simeon Cove and Point, it should be kept in mind that no information was provided and no deliberation occurred related to the reasons for, and the impacts of ballooning parcel 2 out into agricultural land on the east side of Hwy 1. The facts and considerations below are meant to extend by reference as relevant to the proposed LLA development on the east side of Hwy 1.

The letter of the coastal act and the San Luis Obispo LCP must be imposed on any development proposed for the North Coast of SLO County. This diminishing resource of rural coastal California with open vistas, clean water, marine wildlife, and still-living streams would be devastated by the urban development planned for this site alone. Sebastian’s store is hardly a “node” of development around which this complete transformation from rural to urban can be justified.

The application must be denied because of the misrepresentations and violations related to the proposed development, and the cumulative development of the Hearst Ranch as it is known and described within its private easement should be subjected to a specific plan as the only way to protect public coastal resources from the cumulative impacts that the whole development will cause.

Hearst Holdings left out critical required information in its application for the LOA and the County accepted and processed the incomplete application in violation of CZLUO §23.02.022.

Land Use Ordinance §23.02.022 requires the planning director to determine whether a land use permit application is complete and, when the application is incomplete, to notify the applicant by letter the parts of the application that are incomplete. In violation of §23.02.022 and instead of properly requiring a completed application for processing, the County accepted and processed the incomplete application and in so doing set the stage for evading review and analyses of project elements, existing sensitive resources and impacts of those elements on resources.

The application submitted by the Hearst Corp. (Exhibit E) left a blank after the question “what will the property be used for after division?”

Thus began the fiction that “[T]he proposed project does not involve physical development of the property”. (p. C-3 15)

The application submitted by Hearst Holdings failed to provide specific information required by Real

Property Division §21.02.030.

Real Property Division Section 21.02.030 requires specific information to be included in an application for a lot line adjustment. This section requires the applicant to locate, identify and draw to scale all existing structures, wells, septic tanks, driveways and other improvements located on the original parcels. None of this data was provided, reviewed or analyzed. The application must also provide the locations, purpose and width of all existing and proposed easements. The purposes of the LLA were not provided.

The project is in a sensitive resource area and the application did not include the information required by Coastal Zone Land Use Ordinance (CZLUO) section 23.07.164 so that impacts to sensitive resources were not analyzed.

Section 23.07.164 of the CZLUO requires the application to include “a description of measures proposed to protect the resource identified by the Land Use Element (Part II) area plan.” Even though the project is in a sensitive resource area, the application proposes no measures to protect sensitive resources. Based on its original false premise, in this void of information and in an abuse of its discretion the Board of Supervisors finds that the project is consistent with sensitive resource protection policies “because it would not facilitate new development.” No analyses supported by evidence in the record were provided to show whether the project is or is not consistent with requirements for protection of sensitive resource areas.

The application submitted contains incorrect information.

In response to the General Application Form requirement to “[D]escribe current uses, existing structures, and other improvements and vegetation on the property” the applicant states the single word “vacant”. The land involved in the proposed lot line adjustments is not vacant. As described in the North Coast Area Plan at page 4-8, the site of Old San Simeon Village has multiple historic buildings including the Sebastian Store and historic buildings associated with the development of Hearst Castle including historic ware houses, a school house, and homes designed by Julia Morgan. The Sebastian Store and the Post Office currently provide services to visitors and local residents.

This failure to describe uses, structures, improvements and vegetation served to preclude discussion and analysis of the project’s consistency with the Local Coastal Program.

The County Board of Supervisors was not provided with information to analyze whether the whole project as contemplated by the applicant is consistent with the Local Coastal Program and failed to support its findings with evidence in the record.

Requirements for specific information on a development application are not mere formalities or technicalities. They are mandatory. This information is the foundation for LCP compliance without which coastal resources cannot be protected.

The only way to determine whether the LLA conforms to the LCP and thus the only way to implement the Coastal Act’s protection of coastal resources is to analyze it within the context of the development that is planned for the lots, the existing development, and the resources that will be affected. When this required information is, as it was here, left out of an application, analysis is evaded and the resource is threatened, harmed, or destroyed by the development. The County Board of Supervisors allowed this information to be omitted and abused its discretion by making findings that are not supported by facts and analyses.

Consequently, the project negative declaration at page 9 provides a single paragraph to describe “Mitigation/Conclusion” of impacts to biological resources at the site: “[T]he proposed project would not result in potentially significant biological resource impacts and therefore does not require mitigation.”

The Board of Supervisors violated Coastal Act section 30604 because the Board based its issuance of the coastal development permit for the LLA on conformance with the private easement and not on conformity with the certified LCP.

In light of the above, it is clear that Board of Supervisors did not base its decision to approve the LLA on conformance with the LCP because it was impossible to do so. It did not have – it excluded – the information by which conformance could be analyzed and that decision could be made.

As described in more detail below, the Board as a body and two of its current members as individuals had previously announced their support of the Hearst Conservation Easement project (Exhibit F) and, after excluding all data and information that might impede realization of the easement project, the Board approved the project based on its conformance with the easement it had already validated – the only basis for approval it had.

Also as described below, the Board also engaged in multiple abuses of its discretion by approving the project in the face of important violations of the Coastal Act and LCP in order to maintain its apparently undivided support of the easement project. Unless this appeal is upheld these violations will translate directly into harms to, and destruction of coastal resources.

The proposed lot line adjustment is unlawful because it changes the use of agricultural land to commercial and recreational uses in violation of Title 23 Coastal Zone Land Use Ordinance.

Government Code section 65850 authorizes a city or county to regulate land use by adoption of an ordinance. Changes in land use are a legislative decision and can be made only through an amendment of the zoning ordinance. *City of Sausalito v. County of Marin* (1970) 12 Cal.App. 3d 550, 564. Consistent with state law, Coastal Zone Land Use Ordinance §23.01.030 states that it “shall be unlawful and a violation of this code for any person to establish, construct, alter, replace, operate or maintain any building, structure, use of land or body of water, contrary to or without satisfying all applicable provisions of this title.”

Coastal Table O of the Land Use Element Framework for Planning identifies the “allowable uses” of land within each land use category, or zone. Section 23.01.022(1)(B) of the San Luis Obispo County Land Use Ordinance (LUO) includes Table O into the LUO by reference and describes Table O as “[T]he charts showing the uses of land which may be established in the land use categories”

The lot line adjustment changes the use of 9.17 acres of agricultural land to commercial retail and infrastructure uses. The plot of ag land is shown within the nearly 94 acre development envelope on pages 15 and 20 of the July 14, 2009 staff power point presentation. The change in use caused by the LLA was glossed over at that hearing with the statement that the LLA does not change the land use categories which would, staff states correctly, require an amendment of the North Coast Area Plan (NCAP). This is true – but evades the issue.

The issue is not a change of land use category, not a zoning change without an amendment. The issue is the change in use of agricultural land to commercial retail and development infrastructure uses (sewage treatment, water, streetlights, roadways, etc.) without satisfying the applicable provisions of Title 23 in violation of Coastal Zone Land Use Ordinance §23.01.030.

Table O shows that the only recreational uses on nonprime agricultural land are passive recreation, rural recreation and camping and temporary events. Chapter 6 B. Hotels are not allowed on agricultural land. Restaurants are allowed only after application of special requirements set out in LUO §23.08.200.

The proposed lot line adjustment does not create a better or equal situation with respect to conformance with LCP policies as required by Real Property Ordinance §21.02.030(c).

Section (c)(1) of Real Property Ordinance §21.02.030 states as follows:

Lot line adjustments are limited to four or fewer parcels. A lot line adjustment shall not be approved or conditionally approved unless the new parcels resulting from the lot line adjustment will conform to the county's general plan, specific plan, local coastal program, and 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.

As previous Coastal Commission staff reports have made clear, the §21.02.030 test must be applied, analyzed, and met for each coastal resource issue in this Sensitive Resource Area. The test was not applied to any resource issue.

In this case it is impossible to apply the test and to evaluate the impacts the LLA will have on coastal resources because, as described above, the easement's plans for the "preferred location of buildings" the "architecture, scale, colors, and massing" for the development described in the Julia Morgan Plans were intentionally withheld from public review. No review and analyses of the project's impacts to coastal resources were done because the County promulgated the fiction that no development is planned and literally viewed the LLA as having no more effect than lines on paper.

What is known, as described above, is that the use of 9.17 acres of agricultural land directly adjacent to and on both sides of Hwy 1 would be changed by the LLA from agricultural uses to urban development as described by staff and in the easement including a 100 unit hotel, retail shops, restaurants, and supporting infrastructure including a sewage treatment plant. Because plans for the building locations and massing, etc. of the development have been withheld it must be assumed that all locations within the envelope of Parcel 1 are subject to this development including that area designated as agricultural on both sides of the highway.

None of the planned uses – other than restaurants based on special requirements – are allowed on agricultural land. This unlawful change in land use to prohibited uses is not equal to or better than the current use of this agricultural land.

In addition, known ESHA on and adjacent to the site includes, among other things, a lagoon, stream, riparian areas, marine resources, and monarch butterfly habitat. The development of the 93.60 acre proposed lot 1 will have direct impacts to these resources and ongoing indirect impacts to EHSA will include, to name a few, erosion from grading, runoff from dramatic addition of impervious surfaces to the site, air pollution, light pollution – none of which is reviewed or analyzed. No mention is made in the staff analysis of a planned source of water for the development. Impacts to resources related to the LLA were not described or analyzed. At the very least, this stunning coastal view shed would be, unless prevented by the Coastal Commission, eliminated by the development described in the easement.

The County's finding of conformance with §21.02.030 is a hollow conclusion without support of facts or analyses. The §21.02.030 test has not been met because the LLA places the land and resources in a worse position, threatens agricultural land with development and provides less resource protection than the current lot configuration.

The LLA should be denied because the development planned for the proposed new lots is not allowed by the LCP .

The County staff report states that the development planned for the Parcel 1 development envelope – the 93.60 acres of development adjacent to both sides of Hwy 1 including hotel, retail shops and restaurants, and associated infrastructure including a sewage treatment plant – is not allowed by the LCP on the site. Where the development planned for Parcel 1 does not conform to the Local Coastal Program, the lot configuration associated with that use does not conform must be denied.

The County did not analyze whether the project conforms to mandatory standards and failed to impose the standards.

According to the Planning Area Standards for the North Coast Area Plan, standards are mandatory requirements that must be satisfied for a new land use permit to be approved. Page 7-4. The County Board of Supervisors does not have the authority to decide whether an applicant may or may not comply with any standard. Nor does the Board have the discretion to delegate its authority to any other person or entity. Failure to impose standards is an abuse of the Board's discretion. In an abuse of its discretion, the County Board of Supervisors failed to analyze whether the proposed lot line adjustments conform to applicable mandatory standards including but not limited to the following and failed to impose the standards.

The LLA violates ESHA Policy 4.

Policy 4 for Environmentally Sensitive Habitats requires that:

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 (100 feet for wetlands, 50 feet for urban streams, 100 feet for rural streams). These building areas (building envelopes) shall be recorded on the subdivision or parcel map. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTION 23.07.170 OF THE CZLUO.]

The area involved contains, according to the staff report, significant sensitive biological resources including ESHA. While the area is designated as a Sensitive Resource Area and the staff report applies Policy 4 to the LLA, it concludes without supporting evidence that “the proposed parcels conform to this policy.” The County does not make the finding and defers this buildable areas finding, however, to “future physical development” even though Policy 4 prohibits a lot line adjustment without the finding.

Policy 4 also clarifies that mapped plans for the development that is proposed for newly formed parcels, lots divided into new configurations, are to be included in the analysis of the conformance of the new lots to the LCP.

Planning Area Standard 2 for commercial retail land uses within Chapter 7 of the North Coast Area Plan (page 7-8) states that “Development Plan approval is required for all new or expanded commercial uses.” It is well established that a lot line adjustment is “development”. And as shown above, the creation of parcel 1 expands commercial uses onto over nine acres of agricultural land.

The proposed lot line adjustment is just one element of development of nearly 94 acres of new commercial retail uses and infrastructure. This change represents new and expanded commercial uses and requires a development permit. Standards in the SLO LCP are mandatory, not discretionary so that

the applicant must, based on Standard 2, start over with the development permit process.

North Coast Rural Areawide Standard number 5 for North Coast Area Plan (p.7-5) requires that land division applications in areas visible from the public road must identify potential building site envelopes. This is repeated in the Land Division Application Package – which includes lot line adjustments – at page 7 where a visual analyses is required for applications that propose development along significant visual corridors such as Hwy 1.

These building sites shall be in developable locations least visible from the public road. The application submitted by Hearst Holdings did not identify potential building site envelopes, did not include a visual analysis to show conformance with Standard 5. In fact, as mentioned in this appeal, the applicant did not even disclose what the property will be used for after the lot line adjustment as required by the permit application.

Areawide standard number 9 is specific to the Hearst Ranch and requires Hearst Ranch development proposals to include provisions for organized services with the most critical identified as water supply, sewage disposal, and solid waste disposal. No provision for these critical services was provided by the applicant or analyzed for conformance and this standard was not applied.

Agriculture standard number 1 is specific to the Hearst Ranch and requires the following.

Any land division proposed in the agricultural portions of Hearst Ranch shall satisfy the following criteria:

- a. The division shall constitute an individually viable agricultural unit, or
 - b. The division shall improve the viability of adjacent holdings or serve a necessary public service where it can be demonstrated that the division will not otherwise significantly reduce the agricultural viability.

No information or analyses was provided and no conclusion was reached as to whether the proposed lot line adjustments conform to this mandatory standard and the standard was not applied. Specifically, this standard is not applied to the proposed changed use of agricultural land to commercial retail uses.

Commercial standards discussed on pages 7-8 and 7-9 of the Planning Area Standards for the North Coast Area Plan limit the uses of the area within the proposed lot line adjustment and describe phases within which development is to occur. No information or analyses has been provided to show that the lot line adjustments conform to these use limits and these standards are not applied.

Planning Area Standard 3 for commercial retail land uses requires that specific information must be included in a development plan application for development at Old San Simeon and this information was not included. The project should be denied because it fails to conform to Planning Area Standard 3 for commercial retail uses within Chapter 7 of the North Coast Area Plan (page 7-9) which requires that development plan applications for development at Old San Simeon must indicate, among other things:

- ◆ How the new proposal will be integrated with the total existing development.
- ◆ Identification of historic buildings to be retained or removed.
- ◆ Identification of proposed buildings, pedestrian links and other features.
- ◆ Landscape plans must include screening for all parking areas and new developments visible from Highway 1.

This information was not included in the application and – again – as a result no analysis of the impacts of planned development on coastal resources was provided.

Because they are mandatory, the San Luis Obispo Board of Supervisors does not have the discretion or authority to approve a development that violates these standards. In this case the standards were not even applied to the LLA and analyzed for conformance. Consequently, the findings that the proposed LLA conforms to the general plan and North Coast Area Plan are not supported by evidence in the record. The application must thus be denied and no development including lot line adjustments should be approved without evidence and analyses demonstrating that the proposed development conforms to all standards.

The County Board of Supervisors did not analyze whether the project conforms to combining designations.

Page 4-5 of the North Coast Area Plan states that:

Additional facilities are planned on Hearst Ranch, including both campgrounds and resort lodge centers, but the number of sites are limited to protect coastline resources. *All the undeveloped shoreline of the planning area is classified as Sensitive Resource Area in the combining designations to ensure review of all proposed projects.* Areas of unique environmental interest should be preserved in their natural state with managed public access and recreation use limited to nature trails with interpretive signs. (Emphasis added)

Page 1-11 explains that combining designations are areas of hazards, sensitive resource areas, environmentally sensitive habitat areas, historic and archaeologically sensitive areas, and public facilities designated within the North Coast Area.

Page 2 of the negative declaration states that the combining designations that apply to the project area include flood hazard, coastal access, sensitive resource area, geologic study area, historic area, and archaeologically sensitive area.

Even though the Area Plan states explicitly that all of the undeveloped shoreline of the entire planning area is classified as a sensitive resource area combining designation to ensure special review of all proposed projects, no special review was provided. No discussion or analysis was provided to determine whether the area affected by the lot line adjustments is an area of unique environmental interest that should be preserved. No analyses based on evidence in the record was provided to demonstrate whether the proposed lot line adjustment conforms to the combining designation requirements.

San Luis Obispo's North Coast and the San Simeon Cove and Point in particular are known to be of unique environmental interest due to the coastal streams, riparian areas, sensitive marine areas and species, wildlife and monarch butterfly habitat, the striking scenic beauty of the area and the priceless opportunity to enjoy the rural beach environment free of pollutants and urban sprawl. To maintain consistency with this standard the area west of Hwy 1 between San Simeon Beach State Park and Arroyo Laguna must be preserved in its natural state with managed public access and recreation limited to nature trails and interpretive signs.

Combining designation standard for sensitive resource areas number 9 requires recreational uses to be situated to minimize adverse impacts on marine resources. Whether the lot line adjustments will affect where recreational land uses will be situated and whether the adjustments will result in adverse impacts on marine resources is not discussed and was not taken into account in the County Board of Supervisors' decision to approve the proposed lot line adjustments.

The North Coast Area Plan is nonfunctional and no valid planning tool exists by which it can be determined whether the proposed LLA would be protective of coastal resources.

The North Coast Area Plan was written in 1980 and certified by the Coastal Commission in 1988. It contains no current baseline resource data on which findings of consistency with resource protection requirements can be made. This area plan is not a functional planning tool and reliance on it defeats the purpose of the Coastal Act to protect coastal resources. Far reaching changes have occurred during the last 21 years in the North Coast Planning Area in terms of, among other things, population, land use, traffic, water resources, growth of visitor serving commercial facilities, and impacts to biological resources including terrestrial, riparian, and marine habitats and species. The fact that a proposed development conforms to a zoning or land use designation is not enough. The current land use designations reflect resource and environmental conditions of nearly 30 years ago. Proposed projects including lot line adjustments must be found to conform to the policies and requirements for resource protection embodied by the Coastal Act and a functioning Land Use Plan with currently applicable land use designations.

In the case of the antiquated and legally inadequate North Coast Area Plan, no publically reviewed and approved baseline data is available from which applicable policies, standards and combining designations may be developed and from which informed decisions about land use and resource uses may be made. Without up-to-date baseline resource data, the effects of any project on these coastal resources cannot be known let alone analyzed, and existing standards, policies and requirements are rendered useless.

The Courts have held that it is impossible to find a project to be consistent with an outdated and nonfunctioning general plan and the lot line adjustment should thus be denied until the North Coast Area Plan is updated to contain, among other things, current baseline resource and environmental data. A comprehensive update of the Area Plan for the rural North Coast including area-wide planning based on up-to-date data on resources and full environmental review must be in place before any development including any lot line adjustments can be validly and realistically approved.

Piecemeal, private planning-by-easement, developer-driven amendments to the North Coast Area Plan must be prevented.

Page C-3, 4 of the July 14, 2009 County Board of Supervisors staff report states that the LCP does not allow the development planned for Parcel 1 as described in the Hearst Conservation Easement and that approval of the development would require a general plan amendment. Piecemeal approval of the lot line adjustment to accommodate nonconforming development amounts to a tacit approval of the general plan amendment needed to carry out the development associated with the LLA.

The private easement-driven planning process will come full circle and sweep aside the public planning process and the intent of the Coastal Act to protect public coastal resources when the County approves a future LCP amendment to conform the LCP to the development within the already approved LLA. This is made explicit at page C-3 4 of the July 14, 2009 staff report which recommends LLA approval even though the planned 100 room hotel is nonconforming and then informs the applicant that an LCP amendment would need to accompany a coastal development permit for the planned hotel.

And, as pointed out above, since no functioning planning documents exist for the Rural North Coast Area in violation of both the Coastal Act and General Plan law, all land use designations reflect resource and environmental conditions of 1980, when the existing Area Plan was written. No current resource or environmental data exist as baselines from which the impacts of any proposed project can be determined. In this void of data and appropriate land use designations the County of San Luis Obispo leaves it up to the developer on a project by project basis to provide resource and environmental data upon which the

County makes its decisions and to generate the zoning amendments to conform the LCP to the development.

The private planning-by-easement of the whole Hearst Ranch, of which this LLA approval is a single element, should be converted to the public planning process within a specific plan.

By giving their stamp of approval to the private land use planning by easement in a void of public planning by LCP, the Board of Supervisors has initiated a mechanism for privatization of land use planning. If allowed by the Coastal Commission, this first step to development of the Hearst Ranch will be a tacit but real invitation to an ongoing pattern of abuse of the Coastal Act and LCP protections of public coastal resources and of public participation by which the Hearst Ranch could be developed in serial, developer-driven LCP amendments.

Development of the Hearst Ranch as it is planned in the easements represents major cumulative impacts to all coastal resources along miles of the rural undeveloped North Coast of San Luis Obispo County and the gateway to Big Sur. To protect coastal resources, the distribution, location, type, and intensity of development must be known for the entire ranch development. Piecemeal development would have disastrous impacts to water resources, marine resources affected by runoff and sewage treatment, sensitive habitats such as coastal creeks and riparian areas, and scenic resources to name a few.

Protection of coastal resources requires that water resources, sewage collection and treatment, drainage, traffic circulation, air quality, and sensitive species and habitats will be considered and planned for as a whole for the entire ranch.

Development of the Hearst Ranch should be considered within the format of a specific plan to assure protection of public coastal resources from the cumulative impacts of that development. The easements describe the planned development for the entire ranch and those plans should be presented and analyzed for cumulative impacts.

Zoning and lot line adjustments should not be approved that allow development that is prohibited by the Land Use Element. This application and approval process is an example of the violations, confusion, and consequent resource-threatening land uses that are approved by multiple development-driven Area Plan amendments that result in inconsistencies within the planning documents, unplanned development, and loss of public coastal resources.

The appeal should be upheld and the project denied because current County documents show inconsistent land use designations for the affected land.

While the July 14, 2009 staff report states that parcel 2 contains 17.26 acres designated as commercial retail land use and 197.79 acres of land designated as recreational, Department of Planning and Building land use maps available on the County's web site (Exhibit J) show that three existing parcels involved in the LLA (except for the .17 acre commercial retail parcel 1) are designated as agricultural. In addition, the assessor's parcel map for the proposed parcel 1 shows that the entire area slated for development in existing parcel 2 is under a conservation easement. These discrepancies should be resolved before a permit is issued to change the configuration of the parcels on the site.

The action taken by the Board of Supervisors to approve the lot line adjustment is in violation of Coastal Act §30006.

Section 30006 states as follows:

The Legislature further finds and declares that the public has a right to fully participate in decisions affecting coastal planning, conservation and development; that achievement of sound coastal conservation and development is dependent upon public understanding and support; and that the continuing planning and implementation of programs for coastal conservation and development should include the widest opportunity for public participation.

The Board's previous decision to support the Hearst Conservation Easement precluded participation in the decision.

While the Board provided time on its July 14, 2009 agenda for the public to comment on the proposed lot line adjustment, the public was denied its right to full participation in the decision because the Board had made its decision to approve the LLA already, therefore precluding full participation in the decision itself. Where the purpose of public participation is achievement of sound coastal conservation and development, the very purpose of the coastal act is violated when public participation at the hearing itself is in fact of no consequence because the decision has already been made.

The attached printout from the hearstranchconservation.org web site entitled "Supporters of the Hearst Ranch Project" (Exhibit F) shows that, as a public body, the County Board of Supervisors is listed as a supporter of the project indicating that the Board had decided to support the project prior to the public hearing. Supervisors Katcho Achadjian and Frank Mecham also decided before the hearing to support the project as individuals.

In addition, the Board's current Chairman, Bruce Gibson, plays an active leadership role in the association "Hearst Ranch Conservation NOW" and has authored promotional documents for the Hearst Ranch Conservation Project including a rebuttal to the August 5, 2004 analysis of the Hearst Ranch Conservation Plan by Coastal Commission staff. (Exhibit H) Supervisor Gibson was asked by LandWatch to recuse himself from voting on the issue but refused. This site makes clear the extent of Supervisor Gibson's involvement in the Hearst project. Exhibit I provides Supervisor Gibson's name as one of three individuals to contact about the Hearst Ranch Conservation Project. In addition, the site states that Hearst Ranch Conservation NOW endorsed candidate Gibson for supervisor. (Exhibit K)

As a result of this significant bias – overtly expressed as publically stated support for the project by the Board of Supervisors and individual supervisors – statutory public participation was denied in that vote at the hearing was merely a memorialization of the prior commitments and the hearing was a pretence without actual consequence or effect in coastal conservation and development in violation of §30006.

Closed door consideration of information withheld from the public prevented public understanding of the project and public participation.

The Board made their decision on information that was not provided to the public – that was in fact withheld from public review and analysis. While the Board refused to provide information and maps of the planned development, denied that such planned development existed, and did not discuss the plans for development known to exist within the easement, the Board made its decision based on that information. A number of times in the staff report the statement is made that the planned development is not dependent on the LLA – indicating that the County staff had analyzed the plans.

The courts have made it clear that due process depends on a board or council making its decision on information that is available to the public and the parties involved and that it is a denial of a fair hearing when a decision is made on information that the public does not have the opportunity to controvert.

Clark v. City of Hermosa Beach ([1996] 48 Cal App. 4th 1152), *English v. City of Long Beach* ([1950] 35 Cal. 2d 155) According to the Court, this is a hearing in form only and not in substance. In this case

it is also a violation of §30006 and a threat to sound coastal conservation and development because the lack of information precluded public understanding and participation in review of the missing information.

The applicant should be required to start over and a fair hearing should be provided within which the decision is made based on information that is available to the public as well as to the staff and decision making body.

The County piecemealed approval of the lot line adjustments as if they were unconnected to development and thus failed to consider the cumulative effect of the whole development project.

It is well established that CEQA requires analysis of the cumulative effects of a project. The Court in *San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1994) 27 Cal.App. 4th 713, 740 stated as follows:

CEQA requires an EIR to discuss the cumulative effect on the environment of the subject project in conjunction with other closely related past, present and reasonably foreseeable probable future projects. (Pub. Resources Code, § 21083, subd. (b); State CEQA Guidelines, § 15130, n11 15355.) The term " '[c]umulative impacts' refer[s] to two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts." (State CEQA Guidelines, § 15355.) If an identified cumulative impact is not determined to be significant, an EIR is "required to at least briefly state and explain such conclusion." (*Citizens to Preserve the Ojai v. County of Ventura* (1985) 176 Cal.App.3d 421, 432 Cal.Rptr. 247[.]) The importance of the cumulative effect analysis was explained in *Las Virgenes Homeowners Federation, Inc. v. County of Los Angeles* (1986) 177 Cal.App.3d 300, 306 [223 Cal.Rptr. 18]: "The purpose of this requirement is obvious: consideration of the effects of a project or projects as if no others existed would encourage the piecemeal approval of several projects that, taken together, could overwhelm the natural environment and disastrously overburden the man-made infrastructure and vital community services. This would effectively defeat CEQA's mandate to review the actual effect of the projects upon the environment."

In this case the County avoided discussion of cumulative impacts altogether and piecemealed the lot line adjustments from the planned development by certifying an unmitigated negative declaration on the finding that the lot line adjustments alone "COULD NOT" (emphasis in original) have a significant effect on the environment.

The County must consider the cumulative effects of the lot line adjustments as a part of the foreseeable development of the area of the lot line adjustments as well as a part of all foreseeable development on the Hearst Ranch in order to avoid overwhelming the North Coast environment including but not limited to coastal, riparian, and marine sensitive resource areas, historical resources, archeological resources, water resources, traffic impacts, and coastal viewsheds. This can only be accomplished by way of a comprehensive update of the North Coast Area Plan which should, under the circumstances, be accompanied by a specific plan for analysis of a comprehensive development plan for the Hearst Ranch.

Mitigation measures addressing the cumulative impacts of the project have been implicitly deferred.

Because environmental review of the project has been segmented to the point that the lot line

adjustments are being treated as if they were nothing more than lines on paper, a negative declaration was issued on the ground that the project could not possibly have any significant impacts on the environment. This piecemealing has eliminated all analysis of cumulative impacts that would require mitigation and thus has deferred development and approval of appropriate mitigation measures until after the development is approved.

Findings of impacts in the negative declaration are not supported by evidence in the record.

As described above, the discussions and findings within the negative declaration are not supported by evidence in the record. For example, at page 7 the statement is made that the project is consistent with the general level of development anticipated and projected in the Clean Air Plan, but there is no information about what level of development is planned.

In addition, the statement is made that any future development on the project site would require extensive geologic review and necessary mitigation. However, the conclusion is that proposed project would not result in potentially significant impacts and does not require mitigation.

While the negative declaration is based on the fiction that the lot line adjustment is not associated with development, it also discusses and cites vague elements of planned development. LandWatch is concerned that later project specific development proposals will receive limited environmental review based on the findings of no significant impacts within this negative declaration.

Based on the above, LandWatch San Luis Obispo County requests that the Board of Supervisors uphold this appeal and deny the proposed lot line adjustment and coastal development permit.

Cynthia Hawley
LandWatch San Luis Obispo County