

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST AREA OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060

27-4863

ING IMPAIRED: (415) 904-5200



Th8a

Filed: 08/26/97
Open/Cont: 10/10/97
49th day: 10/14/97
180th day: 02/22/97
Staff: SG
Staff Report: 10/21/97
Hearing Date: 11/04 - 11/07/97

STAFF REPORT: APPEAL
SUBSTANTIAL ISSUE

LOCAL GOVERNMENT: County of San Luis Obispo

LOCAL DECISION: Approved with conditions, 08/05/97

APPEAL NUMBER: A-3-SLO-97-072

APPLICANT: JOSHUA BROWN

APPELLANT: Richard Hawley and Jesse Arnold

PROJECT LOCATION: On the inland side of Highway One, approximately one mile north of Weymouth Street, north of the community of Cambria, San Luis Obispo County, APN: 013-381-001 and 013-081-030

PROJECT DESCRIPTION: Proposal to construct an 8200 square foot single family dwelling, a 1200 square foot single family dwelling, a 600 square foot guesthouse, a greenhouse, barn with workshop area, pool and poolhouse, tennis court with gazebo, driveway, and one of two alternative accesses.

FILE DOCUMENTS: San Luis Obispo County Certified Local Coastal Program, Administrative record for permit D940210P

SUMMARY OF STAFF RECOMMENDATION

Staff recommends that the Commission, after public hearing, find that no substantial issue exists with respect to the grounds on which the appeal has been filed. Only the two proposed access routes for the development are within the Commission's appeal jurisdiction. One accessway approved by the County would entail fill in a designated wetland and is therefore inconsistent with the LCP. However, because the applicant has agreed to abandon this access route and thus the project no longer includes this option, no substantial issue is raised. The other accessway would use an existing jeep road through environmentally sensitive Monterey Pine forest habitat. Although technically inconsistent with the LCP habitat policies that preclude non-resource dependent development in mapped ESHA, the second accessway is the environmentally-preferred alternative when on-the-ground habitat resources are evaluated. As conditioned by the County to require mitigation for limited impacts to Monterey Pine forest, no substantial issue is raised.

Exhibits

1. Appeal
 2. County Findings and Conditions
 3. Location map
 4. Vicinity map
 5. Easement document
 6. Letter of abandonment of Leffingwell Creek access
-

I. SUMMARY OF APPELLANT'S CONTENTIONS (See Exhibit 1 for the full text)

Appellants Jesse Arnold and Richard Hawley contend that the County's approval is inconsistent with the LCP for the following reasons:

1. The proposal is not consistent with Agriculture Policy 5 of the Coastal Plan Policies because the approval allows extension of new services beyond the urban-rural boundary. The proposal is inconsistent with CZLUO section 23.04.430, Availability of Water Supply and Sewage Disposal Services, because the project is outside the urban services line. Furthermore the project is not a single family dwelling but is a ranch, and the community is in a water crisis, which means that the proposal is not entitled to community water. The proposal is inconsistent with CZLUO section 23.04.432, Development Requiring Water or Sewer Service Extensions, because the proposal is creating a water trunk line extension beyond the urban services line and such development is not allowed.
2. The proposal is not consistent with Coastal Zone Land Use Ordinance (CZLUO) sections 23.04.021c(2), Minimum Parcel Size Between Urban Services and Urban Reserve Lines, and 23.04.021c(3), Land Divisions Requiring New Service Extensions, because the property was reconfigured by a lot line adjustment thereby creating different size parcels which do not meet the minimum size.
3. The proposal should have been designated and processed as a Development Plan rather than a Minor Use Permit because of the road length and width, culverting of a coastal stream and total site disturbance.

II. LOCAL GOVERNMENT ACTION

On August 5, 1997, the San Luis Obispo County Board of Supervisors (Board) denied the appeal of the Planning Commission decision approving the proposal. The Board made standard use permit findings and special findings relating to the Sensitive Resource Area on the site. Specifically, the Board found that the development would not create significant adverse effects on the natural features of the site because of site design and because construction is required to avoid environmentally sensitive areas to the maximum extent feasible. The Board also found that if Alternate access #1 (Leffingwell Creek crossing) was

selected, mitigation measures identified through environmental review of the proposal would be implemented to minimize adverse impacts, and if Alternate access #2 (over existing jeep trail through pine forest from rear of property) was selected, any pine trees removed would be replaced.

III. APPEAL PROCEDURES/STANDARD OF REVIEW

Coastal Act section 30603 allows appeal of an action taken by a local government on a coastal development permit only if the development is 1) between the sea and the first public road; or 2) within 300 feet of the inland extent of a beach or the mean high tide line or the top of the seaward face of a coastal bluff; or 3) located on tidelands, submerged lands, or public trust lands; or 4) within 100 feet of any wetland, estuary, or stream; or 5) located in a sensitive coastal resource area; or 6) not designated as the principal permitted use; or 7) a major public works project.

In this project, on the two approved access roads are appealable. One access requires a crossing of a stream and wetland; the other requires upgrading an existing jeep trail through the Monterey pine forest, a mapped sensitive coastal resource area. The remainder of the development falls outside of the Commission's appeal jurisdiction. The standard of review in this case is whether the proposed development conforms with the certified LCP.

IV. STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE

Staff recommends that the Commission, after public hearing, determine that no substantial issue exists with respect to the grounds on which the appeal has been filed.

MOTION. Staff recommends a YES vote on the following motion:

I move that the Commission determine that Appeal No. A-3-SLO-97-072 raises NO substantial issue with respect to the grounds on which the appeal has been filed.

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

V. RECOMMENDED FINDINGS AND DECLARATIONS

A. Proposal Description

This proposal is described in the County's documents as having eight parts, as follows:

1. An 8,200 square foot maximum primary single family residence with a three car attached garage (975 square feet) and a two car detached garage (625 square feet).
2. A 1,200 square foot maximum second primary residence with a 280 square foot carport and 275 square foot deck and a two car detached garage (625 square feet).

3. A 600 square foot maximum guest house with no cooking or laundry facilities located 250 feet from the main residence.
4. A 500 square foot greenhouse.
5. A 3,000 square foot barn containing a 400 square foot workshop.
6. A swimming pool and 625 square foot pool house (265 square feet enclosed, 360 square feet under trellis roof structure).
7. A tennis court with a 200 square foot gazebo.
8. Two alternate accesses: one from the front which includes a culverted creek crossing, and one from the rear over an existing jeep trail.

As approved by the County, the property could have either or both alternative accesses. The first alternative would leave a private road a few dozen yards east of Highway One, head down a slope to Leffingwell Creek, cross the creek via a culvert, and head upslope and into the Monterey pine forest. This alternative would necessitate placing fill in Leffingwell Creek, would be visible from Highway One and would require the removal of an unknown number of pines.

The second alternative provides access from the southeasterly corner of the site and requires crossing over about 100 feet of an adjoining property not owned by the applicant in order to reach Cambria Pines Road, a public road. This access would not be visible from Highway One. On the applicant's property, the access would follow an existing jeep trail through the pine forest to the building area. An unknown number of pines would have to be removed to upgrade the jeep trail to satisfy fire department requirements.

Water service to the site exists; only a lateral line is needed from the trunk line to the building site. Although outside of both the urban services line and the urban rural boundary, the property is within the Cambria Community Services District (CCSD) boundaries. The proposal would make use of the existing water meter and transfer of a water meter, approved by the CCSD, from a lot in Cambria which would then be retired.

B. Substantial Issue Discussion and Analysis

As discussed above, only a portion of the access roads to the site are under the Commission appeal jurisdiction. The houses, outbuildings, tennis court, swimming pool, and utility lines are all outside of the appeal area and thus the County's action on these developments is final. The appellants' contentions regarding these portions of the project may not, therefore, be considered as basis for finding substantial issue.

Listed below are all of the appellants' contentions with an analysis immediately following each one. Although only the first contention is based on an appealable issue, the other contentions, based on non-appealable issues, are discussed because of their importance to future sound coastal resource management in the Cambria area.

1. Appealable Issues

a. Processing Level

Appellant's assert that the proposal should have been designated and processed as a Development Plan rather than a Minor Use Permit because of the road length and width, culverting of a coastal stream and total site disturbance. Under the County's LCP, a Development Plan is required when the site disturbance of a project exceeds three acres. Whereas Minor Use Permits are heard by an administrative hearing officer, Development Plans are heard by the Planning Commission. According to the County, because of the controversial nature of the proposal, it was elevated to the Planning Commission for review and action as if it were originally a Development Plan. Therefore, the County's action was consistent with the LCP because, even though the application was taken in as a MUP, it was processed as if it were a Development Plan.

b. Environmentally Sensitive Habitat

Appellants take issue with the access roads because of the amount of disturbance involved and particularly because of the approval by the County of fill in a sensitive coastal wetland and stream habitat.

The San Luis Obispo County LCP policies and ordinances clearly limit development within Environmentally Sensitive Habitats to resource dependent activities (Policy 1; CZLUO 23.07.170(d)(2)). The proposal approved by the County would have allowed two different access roads to the proposed house. The first alternative would leave a private road a few dozen yards east of Highway One, head down a slope to Leffingwell Creek, cross the creek via a culvert, and head upslope and into the Monterey pine forest. In addition to being visible from Highway One, this alternative would necessitate placing fill in Leffingwell Creek, which is designated as both a coastal stream and a wetland on the County's combining designation maps. Although the County did require some mitigation for the road's impacts on the wetland, such a proposal is inconsistent on its face with the County's LCP. A road is not an allowable use within a wetland. Fortunately, the applicant has agreed to abandon this access route and thus the project no longer includes this option (See Exhibit 6). Therefore, no substantial issue is raised.

The second approved access road provides access from the southeasterly corner of the site and requires crossing over about 100 feet of an adjoining property not owned by the applicant in order to reach Cambria Pines Road, a public road. This access would not be visible from Highway One. On the applicant's property, the access would follow an existing jeep trail through the pine forest to the building area. An unknown number of pines would have to be removed to upgrade the jeep trail to satisfy fire department requirements. As shown on the County's combining designation maps, the road would pass through mapped terrestrial habitat.

Although technically inconsistent with the LCP habitat policies and ordinances that preclude non-resource dependent development in mapped ESHA, the second accessway is an environmentally-preferred alternative when on-the-ground habitat resources are evaluated. The County's combining designation mapping of Monterey Pine Forest does not correspond to actual sensitive resources. A large part of the existing forest is not mapped as ESHA. More

important, other alternative access roads to the proposed property would require more detrimental impacts to sensitive habitat (that is not necessarily designated on the official maps) than would use of the existing jeep road. In effect, there is no access to the property that would avoid impacts to Leffingwell Creek or pine forest habitat to some degree. The County found that the environmentally sensitive habitat of the pine forest would not be significantly disrupted by an access road. In short, impacts to the forest are minimized by using the existing road. Finally, because some trees along the jeep trail would need to be removed to upgrade the road to fire department standards, the County conditioned the project to require mitigation at a 2:1 replacement ratio for all Monterey Pines over six inches in diameter that are removed. Thus, as conditioned by the County no substantial issue is raised by the this second access alternative.

2. NON-APPEALABLE ISSUES

Although not appealable under the Coastal Act, appellants have raised a number issues concerning the proposed development's relationship to water use and other urban/rural development issues (see claims 1 and 2 above). Given the importance of these concerns in the Cambria area, a brief discussion by the Commission is warranted.

The relevant LCP guidance is as follows:

Agriculture Policy 5, Urban-Rural Boundary, states:

To minimize conflicts between agricultural and urban land uses, the urban service line shall be designated the urban-rural boundary. Land divisions or development requiring new service extensions beyond this boundary shall not be approved. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTION 23.04.432 AND 23.04.021 OF THE CZLUO]

According to the Policy Document, when a policy is implemented in ordinance, the ordinance shall prevail in case of conflict with the policy. Thus, the CZLUO sections referenced at the end of Agriculture Policy 5 must be consulted.

CZLUO section 23.04.021, Parcel Size Standards, deals exclusively with land divisions which create new parcels.

CZLUO section 23.04.430, Availability of Water Supply and Sewage Disposal Services, states that

A land use permit for new development that requires water or disposal of sewage shall not be approved unless the applicable approval body determines that there is adequate water and sewage disposal capacity available to serve the proposed development, as provided by this section. Subsections a. and b. of this section give priority to infilling development within the urban service line over development proposed between the USL and URL. In communities with limited water and sewage disposal service capacities as defined by Resource Management System alert levels II or III:

- a. *A land use permit for development to be located between an urban services line and urban reserve line shall not be approved unless the approval body first finds that the capacities of available water supply and sewage disposal services are sufficient to accommodate both existing development, and allowed development on presently-vacant parcels within the urban services line.*
- b. *Development outside the urban services line shall be approved only if it can be served by adequate on-site water and sewage disposal systems, except that development of a single-family dwelling on an existing parcel may connect to a community water system if such service exists adjacent to the subject parcel and lateral connection can be accomplished without trunk extension.*

CZLUO section 23.04.432, Development Requiring Water of Sewer Extensions, states:

To minimize conflicts between agricultural and urban land uses, development requiring new community water or sewage disposal service extensions beyond the urban services line shall not be approved.

No land division has been approved by the County on this property and no new parcels have been created; therefore CZLUO section 23.04.021 does not apply. In 1996, the County did approve a lot line adjustment on this property which adjusted the property lines among three parcels of eight acres, 71 acres, and 198 acres to result in three parcels of 78, 80, and 119 acres. The property is designated Rural Lands. Since the minimum parcel size in the Rural Lands designation is 20 acres, all three parcels are conforming as to size.

Section 23.04.430 addresses situations where there is limited water as defined by Resource Management System alert levels II and III. Level II is defined as diminishing resource capacity while Level III is defined as resource capacity met or exceeded. According to the County, CZLUO section 23.04.430 does not apply since the Board of Supervisors has not certified the existence of Level II or III with respect to water supply. Nevertheless, the community has historically experienced shortages of water and is currently under strict water conservation measures required by Community Service District emergency ordinance.

According to section 23.04.430, priority is to be given to new development inside existing urban areas, i.e., inside the urban services line. For example, Cambria is within the urban services line. It has community water and sewer and other urban services and has relatively high density of development. Section 23.04.430 directs that water and sewer service be available first to development within the urban services line. The LCP maps show another line, the urban reserve line, which sometimes coincides with the urban services line and at other times lies beyond it. The area in between these two lines is the area of second priority for water and sewer service. Beyond the urban reserve line are rural areas which typically do not have community water and sewer and which typically have relatively low densities of development. It is in the rural area that the subject site is located.

Community water and sewer service can only be extended outside of the urban services line when there is enough water to serve existing and allowed development within the urban area. However, there is one exception to this rule. If the site is outside of the urban services line and already has water service, then a single family dwelling on an existing parcel may connect to

the community water system. The property's land use category is Rural Lands which allows two single family dwellings per legal parcel.

Water is very limited in the Cambria area. According to the North Coast Area Plan Update, the area is already in fact at RMS level III for water, even though there may not be any official recognition of that fact. Cambria, within the urban services line, is only about 20 percent built-out. New water connections in the community are allowed only by an aggressive conservation/retro-fit program.

This project will use a large amount of water. The proposed development includes two single family dwellings, a guesthouse, swimming pool, barn, and workshop. And although the actual water use of the proposal is unknown, the County did require retrofitting of existing water-using buildings in accordance with CCSD's ordinances and required the use of low flow, water conserving plumbing fixtures.

Thus, the project is able to connect to the community water service through the exception given in 23.04.430(b). This is consistent with the provisions of the existing North Coast Area Plan. The Commission will be reviewing the update to this plan in January. The staff report for the update will analyze water issues and recommend any necessary modifications to ensure consistency with the Coastal Act.

The proposed development does not require new community service extensions beyond the urban services line. A water line and meter already exist on the site. The applicant has purchased a second water meter for the second single family home to be built on the site. The property is outside the urban services line but within the boundaries of the Cambria Community Services District (CCSD). Although it is good planning to have a service district boundary coincide with the urban services or urban rural line, in this case the CCSD boundary predates the LCP and has never been changed to be coincident with the urban services or urban rural line. A water line and water meter already exist on the parcel.

VI. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Section 13096 of the California Code of Regulations requires that a specific finding be made in conjunction with coastal development permit applications showing the application to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(i) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. The County's negative declaration reviewed environmental aspects and possible impacts from the proposed development and found that all impacts from the proposal could be mitigated and that there were no significant adverse impacts associated with the proposal. The Commission finds that as approved and conditioned by the County, the proposed project will not have any significant adverse impacts on the environment and can be found consistent with CEQA.

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PETER WILSON, Governor

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST AREA OFFICE

FRONT STREET, STE. 300

SANTA CRUZ, CA 95060

427-4863

NG IMPAIRED: (415) 904-5200

SEP 10 1997



APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENT

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

[REPLACES PREVIOUS FORM
RECEIVED PRIOR TO APPEAL PERIOD.]

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

SECTION I. Appellant(s)

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

Jesse Arnold RICHARD HAWLEY
P.O. Box 1211 P.O. Box 163, CAMBRIA, CA 925-927-4964
CAMBRIA, CA 93428 (805) 927-3096
Zip Area Code Phone No.

SECTION II. Decision Being Appealed

1. Name of local/port
government: SAN LUIS OBISPO COUNTY BOARD OF SUPERVISORS

2. Brief description of development being
appealed: PROVIDING WATER SERVICE OUTSIDE THE
CCSD'S URBAN SERVICE LINE, RECONFIGURING PARCELS, WATER
ENHANCEMENT TO NON SFR PARCELS, PROJECT CREATING WATER TREATMENT
(PLEASE SEE ATTACHMENT)

3. Development's location (street address, assessor's parcel
no., cross street, etc.): IN RURAL LAND ADJACENT TO WALTER
LEWIS'S NEW SUBDIVISION ON THE NW SIDE OF CAMBRIA. PROPERTY
SHARES PROPERTY LINES WITH HIGHWAY 1, STATE PARKS, WEINERT.

4. Description of decision being appealed:

- a. Approval; no special conditions: _____
- b. Approval with special conditions: ✓
- c. Denial: _____

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

1) BE COMPLETED BY COMMISSION:

PEAL NO: A-3-510-97-072

TE FILED: 8/24/97

TRICT: Central Coast

Ex1
A-3-510-97-072

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

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

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

6. Date of local government's decision: Nov 5, 1997

7. Local government's file number (if any): D 940210P

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:

CAMBRIA COMMUNITY SERVICES DISTRICT VENITA BRIDON
BOX 65 4681 DEERHAVEN DR.
CAMBRIA, CA 93428 SANTA ANA, CA 92705

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) CAMBRIA COMMUNITY SERVICES DISTRICT
BOX 65
CAMBRIA, CA 93428
- (2) WILLIAM ALLEN
P.O. BOX 1046
CAMBRIA, CA 93428
- (3) FRIENDS OF THE RANCHES DALE BUCKMASTER
1905 EMMONS RD.
CAMBRIA, CA 93428
- (4) VENITA

SECTION IV. Reasons Supporting This Appeal

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

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

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

PLEASE ATTACHMENT — REASONS FOR APPEAL.

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.

Robert Hawley
Jesse Arnold
Signature of Appellant(s) or
Authorized Agent

Date 9/4/97

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 _____

**Appeal by Jesse Arnold and Richard Hawley of the Board of
Supervisor's of County of San Luis Obispo Approval of Minor Use
Permit D940210P for Joshua Brown**

August 18, 1997

Reasons for Appeal:

1. The proposed project does not conform with Policy 5 of the Coastal Plan Policies, Policies for Agriculture. The County Board of Supervisor's have allowed the Cambria Community Services District to act illegally in the extension of new services beyond the urban-rural boundary. Both the County Board of Supervisor's and the Cambria Community Services District are not in compliance with the Coastal Act and are creating a threat to Agriculture and promoting urban sprawl.
2. The proposed project does not conform with the Coastal Zone land use Ordinance Section 23.04.021c(2) and (3). The property was reconfigured by a lot line adjustment thereby creating different size parcels.
3. The proposed project does not conform with the Coastal Zone Land Use Ordinance Section 23.04.430. The proposed project is not a single family residence but rather a ranch as stated by the applicant in his testimony at the Board of Supervisors hearing August 5, 1997. The community of Cambria is rationing water to its existing residential and commercial users. Cambria is in a water deficit as stated by the past General Manager at a hearing to promote the need for a Desal Plant at a Board of Supervisors hearing. Whether certified by the County or not, Cambria is in a Level III Resource water crisis.
4. The proposed project does not conform with the Coastal Zone Land Use Ordinance Section 23.04.432. The Cambria Community Services District and the County Board of Supervisors are not in compliance with CZLUO. The proposed project is creating a water trunk line extension that crosses the Urban-Rural boundary.
5. The proposed project should be designated as a development permit because of the length of road (over 1/3 mile) and the width of road grading (10 ft fuel break, 16 roadway, 10 ft fuel break), and culverting and backfilling of a coastal stream that may support state and federal protected species. The proposed road will create over 72,000 sq. ft. of site disturbance. The proposed structures and associated grading will create over the 130,680 sq. ft. threshold which mandates Development Plan status. Leffingwell creek has, been identified as a drainage that supports endangered species. The fill and culvert designed crossing may be inadequate and potential environmental superior alternatives like a free spanning structure were not addressed. The proposed Highway One access road alone is in conflict with the Coastal Act.

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S.L.O. COUNTY
PLANNING DEPT.

Exhibit A
D940210P - Findings

- A. The proposed project or use is consistent with the San Luis Obispo County General Plan as the proposed project complies with the North Coast Planning Area standards regarding site selection (new development not being visible from Highway 1) and Monterey pine tree preservation and all other policies of the General Plan.
- B. As conditioned, the proposed project or use satisfies all applicable provisions of Title 23 of the County Code.
- C. The establishment and subsequent operation or conduct of the use will not, because of the circumstances and conditions applied in the particular case, be detrimental to the health, safety or welfare of the general public or persons residing or working in the neighborhood of the use, or be detrimental or injurious to property or improvements in the vicinity of the use because the project consists of residential uses in a rural lands land use category. In addition the project is subject to Ordinance and Building code requirements designed to address health, safety, and welfare concerns.
- D. The proposed project or use will not be inconsistent with the character of the immediate neighborhood or contrary to its orderly development because the project is consistent with the planning area standards and CZLUO requirements for the rural lands land use category.
- E. The proposed project or use will not generate a volume of traffic beyond the safe capacity of all roads providing access to the project, either existing or to be improved with the project because the use will not generate significant additional traffic. The traffic that currently occurs with the use on site is handled by Exotic Garden Drive, a local street capable of dealing with the traffic associated with the project. In addition, the applicant will be required to pay the standard road improvement fees as outlined in the North Coast Circulation Study.

Sensitive Resource Area

- F. The development will not create significant adverse effects on the natural features of the site or vicinity that were the basis for the Sensitive Resource Area designation, and will preserve and protect such features through the site design, because all construction work shall avoid any environmentally sensitive areas to the maximum extent feasible. If Alternative access #1 is selected, mitigation measures associated with the planned culverted crossing will be implemented so that adverse impacts to the fresh water marsh, cultural resources, and Monterey pine forest will be minimized. If Alternative access #2 is selected, the project will provide for tree replacement.

Ex 2

A-3-560-97-72

- G. Natural features and topography have been considered in the design and siting of all proposed physical improvements because, as conditioned, all construction work shall avoid any environmentally sensitive areas to the maximum extent feasible. If Alternative access #1 is selected, mitigation measures associated with the planned culverted crossing will be implemented so that adverse impacts to the fresh water marsh, cultural resources, and Monterey pine forest will be minimized. If Alternative access #2 is selected, the project will provide for tree replacement.
- H. The proposed clearing of topsoil is the minimum necessary to achieve safe and convenient access and siting of proposed structures, and will not create significant adverse effects on the identified sensitive resource because, as conditioned, the project will provide for tree replacement, all construction work shall avoid any environmentally sensitive areas to the maximum extent feasible. If Alternative access #1 is selected, mitigation measures associated with the planned culverted crossing will be implemented so that adverse impacts to the fresh water marsh, cultural resources, and Monterey pine forest will be minimized. If Alternative access #2 is selected, the project will provide for tree replacement.
- I. The soil and subsoil conditions are suitable for any proposed excavation and site preparation and drainage improvements, as conditioned, will be designed to prevent soil erosion, and sedimentation of streams through undue surface runoff, because if ground disturbance or grading occurs between October 15 and April 15, or if a 30% or greater chance of rain exists, erosion and sedimentation control measures will be implemented.

Environmentally Sensitive Habitats (Wetlands, Coastal Streams and Riparian Vegetation, Terrestrial Habitat)

- J. There will be no significant negative impact on the identified sensitive habitat and the proposed use will be consistent with the biological continuance of the habitat.
- K. The proposed use will not significantly disrupt the habitat.

Archaeological

- L. The project design and development incorporates adequate measures to ensure protection of significant archaeological resources because the project complies with the recommendations of the archaeological surface survey as the applicant will delineate identified archaeological and historical resources on final grading plans and all work will avoid these areas to the maximum extent feasible.

Coastal Access

- M. The proposed use is in conformity with the public access and recreation policies of Chapter 3 of the California Coastal Act. It is not located between the first public road and the sea or the shoreline of any body of water.

Environmental finding

- N. On the basis of the Mitigated Negative Declaration (issued 1/17/97) and Addendum (issued 7/4/97) and all comments received there is no substantial evidence that the project will have a significant effect on the environment.

Exhibit B
D940210P - Conditions

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**S.L.O. COUNTY
PLANNING DEPT.**

Approved Development

1. This approval authorizes the construction of the following structures (square footages are approximate and heights are from average natural grade):

- a. An 8,200 square foot maximum primary single family residence-with a three car attached garage (975 square feet) and a two car detached garage (625 square feet)
Residence height: 35'
Detached garage height: 21'
- b. A 1,200 square foot maximum second primary residence with a 280 square foot carport and 275 square foot deck and a two car detached garage (625 square feet)
Height: 28'
- c. 600 square foot maximum guest house - No cooking or laundry facilities
Distance from main residence - 250 feet
Height: 24'
- d. 500 square foot greenhouse
Height: 20'
- e. 3,000 square foot barn containing a 400 square foot workshop
Height: 35'
- f. swimming pool and 625 square feet pool house (265 square feet enclosed, 360 under trellis roof structure)
Pool house height: 20'
- g. tennis court with 200 square foot gazebo
Gazebo height: 22'
- h. Access: Alternative 1: Front; driveway and culverted creek crossing;
Alternative 2, rear access as shown on Planning Commission Exhibits 1 and 2 dated May 8, 1997.

2. Site development shall be consistent with the approved revised site plan, elevations and floor plans.

Archaeological/Historical Resources

3. Prior to issuance of construction permits, the applicant shall delineate identified archaeological and historical resources as Environmentally Sensitive Areas (ESA's) on final grading plans for review and approval. All work shall avoid these ESA's to the

maximum extent feasible. However, it is understood that a recorded easement on the adjacent property to the north limits the applicant to cross only at the "historical crossing" over Leffingwell Creek (if the Highway 1 access alternative is selected by the applicant). The south side of the creek in this location has known cultural resources, and in an effort to protect those resources, the applicant shall:

- a. retain a qualified archaeologist (**prior to commencement of grading activities**), approved by the Environmental Coordinator, to evaluate the resources, and determine the most appropriate way to mitigate adverse impacts to those resources. The applicant shall adhere to the archaeologist's recommendations, as required by the Environmental Coordinator.
- b. submit a copy of the final archaeological report and findings prepared by the archaeologist to the Environmental Division of Planning and Building.

Biological Resources

4. Prior to issuance of grading or construction permits, the applicant shall accomplish the following:

- a. a Tree Removal Survey shall be submitted to the Environmental Division of Planning and Building for review and approval. This survey shall be prepared by a qualified individual approved by the Environmental Coordinator. This survey shall identify the type, location and approximate diameter of all trees 6 inches and greater d.b.h. to be removed. Pine saplings shall be retained to the greatest extent feasible through during the driveway design. Trees should be surveyed in the areas of both potential driveway alignments, all proposed building sites, and all other areas proposed for accessory development. Tree removal for the entire project shall be minimized to the greatest extent feasible. This survey includes all trees to be removed (trees under six inches diameter at breast height shall also be included).

1. All pine trees removed which are six inches or greater (d.b.h.) shall be replaced in-kind at a 3:1 ratio. For every ten trees removed which are less than six inches, but greater than four inches (d.b.h.), one new pine shall be planted. All new pine trees planted shall be no greater than one gallon size and from Cambia stock (*Pignus radiata macrocarpa*). A portion of the replacement trees, to be designated at the time of the replacement, can come from healthy native stock seedlings removed from the project site. Alternatively, if it is determined by the Environmental Coordinator, in consultation with the Cambia Forest Management Committee, that replanting should not be limited only to Monterey pines then other native species may be approved on a case by case basis. All replacement trees shall be maintained for three years or until established. Annual reports on the health of the trees shall be submitted to the Environmental Division for review and approval. Remediation measures to replace dead or dying trees within the three

year period shall be implemented by the applicant. The planting plan should be coordinated with the *Revegetation Plan*.

- b. a Wildlife Survey shall be submitted to the Environmental Division of Planning and Building for review and approval. This survey shall be prepared by a qualified individual approved by the Environmental Coordinator. This survey shall evaluate the potential for adverse impacts to bird species which may be roosting in areas where tree removal is to occur. Trees should be surveyed in the areas of both potential driveway alignments, proposed building sites, and all other areas proposed for accessory development. The applicant shall adhere to the recommendations of the wildlife biologist, as required by the Environmental Coordinator.
- c. a Revegetation Plan shall be submitted to the Environmental Division of Planning and Building for review and approval. This survey shall be prepared by a qualified individual (e.g. arborist, landscape architect, etc.) approved by the Environmental Coordinator. This plan should clearly delineate the location, species, and total number of trees to be planted on the subject parcel. This plan shall also include specifications for erosion control and revegetation associated with all cut and fill slopes resulting from grading for the driveway, residences, and accessory structures.
- d. proof of completed permits, or permit waiver, from the following agencies shall be submitted to the Environmental Division of Planning and Building for review and approval:
 - 1. Prior to issuance of grading or construction permits, the applicant shall obtain approval or issuance of a Section 1601 permit from the California Department of Fish and Game. If the applicant contends the project is exempt from a Section 1601 permit, the applicant shall submit a letter from the California Department of Fish and Game concurring with his interpretation that the project is exempt and no permit is required.
 - 2. Prior to issuance of grading or construction permits, the applicant shall obtain approval or issuance of a Section 404 permit from the United States Army Corp of Engineers. If the applicant contends the project is exempt from a Section 404 permit, the applicant shall submit a letter from the United States Army Corp of Engineers concurring with his interpretation that the project is exempt and no permit is required.
 - 3. Prior to issuance of grading or construction permits, the applicant shall obtain approval or issuance of a Section 401 permit from the State Regional Water Quality Control Board. If the applicant contends the project is exempt from a Section 401 permit, the applicant shall submit a letter from the State Regional Water Quality Control Board

concurring with his interpretation that the project is exempt and no permit is required.

4. Prior to issuance of grading or construction permits, the applicant shall submit a permit or approval of the project from the United States Fish and Wildlife Service. If no permit or approval is required, the applicant shall submit a letter from the United States Fish and Wildlife Service concurring in this determination.

No grading activities shall commence on the stream crossing of Leffingwell Creek without proper agency permits and/or written clearance to proceed from all permitting agencies. The applicant shall adhere to all agency permit conditions and recommendations, including revegetation, as required by the permitting agency and the Environmental Coordinator.

- e. no fencing shall occur within Leffingwell Creek. This includes the creek bottom and one hundred feet up from the "ordinary high water mark" (as specified by the ACOE) of the creek channel. If fencing is to occur near the creek, one hundred feet shall be the minimum setback.
- f. the construction activities associated with the planned culverted crossing shall be implemented so that adverse impacts to the fresh water marsh and Leffingwell Creek are to be minimized to the greatest extent feasible. Culverts shall be sized properly to match the Highway 1 culvert flow rates.

Erosion Control & Sedimentation

5. No ground disturbing activities shall take place between October 15 and April 15, or if a 30% or greater chance of rain exists (as reported by the National Weather Service). Permanent erosion and sedimentation control measures shall be implemented at the project site. These measures may include the following; hay bales, straw punching, water bars, hydroseeding, jute netting, revegetation and soil guard. These erosion control measures shall be consistent with criteria established by the Resource Conservation District and shall be maintained in perpetuity, unless otherwise approved by the Planning Director and Environmental Coordinator.

Visual Resources

6. No residential structures shall be constructed on the west side of the *Building Control Line* (as recorded by COAL94-078;ED94-176). The driveway, if access from Highway 1 is selected by the applicant, will be the only development associated with this project on the west side of the *Building Control Line*.
7. Prior to issuance of construction permits,
 - a. the applicant shall submit a *Color Palette* for all proposed structures to the Environmental Division of Planning and Building for review and approval. A

description of exterior building materials shall be included. Colors and materials which blend with the natural surroundings shall be selected.

- b. the applicant shall further show on the construction plans how all exterior lighting shall be shielded so that the lamp is not visible from Highway 1. This applies to lighting associated with any of the accessory structures or facilities (e.g., tennis court, pool and pool house, barn, etc.). In addition, no lighting shall be allowed along any part of the driveway visible from Highway 1.
 - c. the applicant shall further demonstrate how the driveway will be screened from Highway 1 such that significant adverse visual impacts do not result. This measure shall be consistent and coordinated with the preparation of the *Revegetation Plan*.
8. No trees which act as existing natural screening from Highway 1 shall be removed or trimmed beyond the size that existed on the date of final project approval. This measure applies to all trees which screen any part of the proposed development from travelers on Highway 1. Removal or trimming shall only be approved under the direction of the Environmental Division of Planning and Building after submittal of a report from a qualified individual (e.g., arborist, landscape architect/contractor, etc.). In the event the natural tree screening is reduced due to fire or disease, the permit holder shall expeditiously submit and implement a tree screening replacement plan prepared by a qualified individual subject to the review and approval of the Environmental Division of the Planning Department. The intent of this measure is long term protection of the forest which provides visual screening from Highway 1.

Water Resources

9. Prior to issuance of construction permits, the applicant shall verify they have community water service from CCSD.

Each of the two primary residences require CCSD verification of a water will serve letter dated subsequently to March 27, 1997. A will serve letter will be provided prior to the issuance of construction permits for each of the primary residences as required by section 19.20.238 (Building and Construction Ordinance).

Prior to issuance of construction permits, if an on-site private well for domestic water supply is necessary, it shall be subject to approval by CCSD (as the building site is located inside the service boundary of this community water system) and the County Chief Building Official as required by Section 19.20.236 of the Building and Construction Ordinance and shall be approved by the County Health Department after a static recovery well test has been completed.

Fire Safety

10. Prior to issuance of a certificate of occupancy or final inspection, the applicant shall comply with the fire safety requirements of the Cambia Fire Department.

Landscaping Plan

11. Prior to issuance of construction permits, the applicant shall provide a drought tolerant landscaping plan in accordance with CZLUO section 23.04.186 for all setbacks and areas not proposed for development which are not to be maintained in native vegetation.

Utilities

12. All utility lines shall be undergrounded.

Wetland Open Space Easement

13. Prior to issuance of construction permits, the applicant shall submit a *Wetlands Delineation Survey* to the Department of Planning and Building for review and approval. All areas near the crossing and delineated as being wetlands shall be recorded, in a form acceptable to County Counsel, in an open space easement, in perpetuity.

Subdivision Map Act

14. In order to comply with the Subdivision Map Act, the renting or leasing of the residences individually shall be prohibited, unless the entire property is the subject of the rental agreement or lease.

Water Conservation Measures

15. Prior to final inspection or certificate of occupancy, whichever comes first, a letter shall be submitted to the Department of Planning and Building prepared by a qualified individual that indicated the following items have been completed:
 - a. Gray water systems constructed according to local and State regulations as well as a system of rain gutters and cisterns shall be installed for use in irrigating landscaping.
 - b. Low-flush toilets will be installed (see Section 17921.3 of the Health and Safety Code).
 - c. Low-flow showers and faucets will be installed (California Code of Regulations, Title 24, Part 6, Article 1, T20-1406F)
 - d. Laundry facilities will include water-conserving models of washers.
 - e. Kitchens will include water conserving models of dishwashers.
 - f. Landscaping will include low water-consuming and/or native plants wherever feasible. Turf area will be minimized to comply with the water conserving landscape ordinance (CZLUO section 23.04.186c(4)(vi).
 - g. Install efficient watering systems which minimize runoff and evaporation and maximize the water which will reach plant roots.

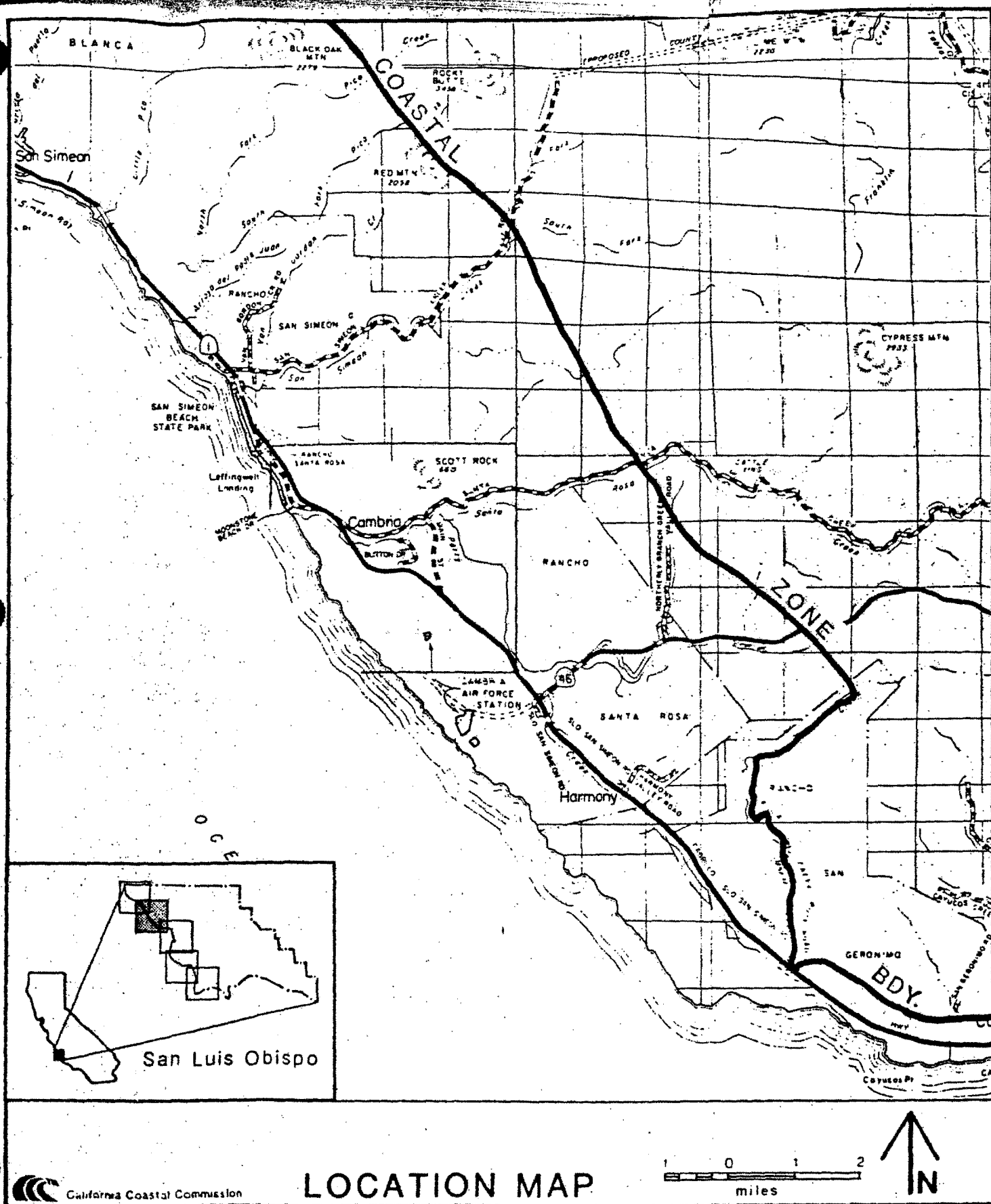
- h. Mulch will be used extensively in all landscaped areas.
- I. To the extent feasible preserve and protect existing trees and shrubs in areas not proposed for development.
- j. Limit water used for washing decking and driveways.
- k. Use covers for pools when not in use to reduce evaporation losses.

Encroachment Permit

- 16. Prior to issuance of construction permits, the applicant shall obtain an encroachment permit from the County Engineering Department for the driveway connection to Exotic Gardens Drive or Cambria Pines Road.

Access

- 17. Alternate 1: front access driveway culverted and creek crossing, and as shown on exhibit 2. If access 2 is chosen the precise location would be reviewed and approved by the Planning Director prior to issuance of any construction permits.



County of San Luis Obispo

Ex 3
A-3-slo-97-72

Sheet 2 of 5



UNIVERSITY OF CALIFORNIA

State Highway 1

NRI-A PART

ALTERNATE ACCESS #1

PARCEL 2
118.8 AC

ALTERNATE ACCESS #2

State Highway 1

VISUAL BUILDING
CONTROL LINE

Exhibit 1
MAY 8, 1997

Owner's Statement

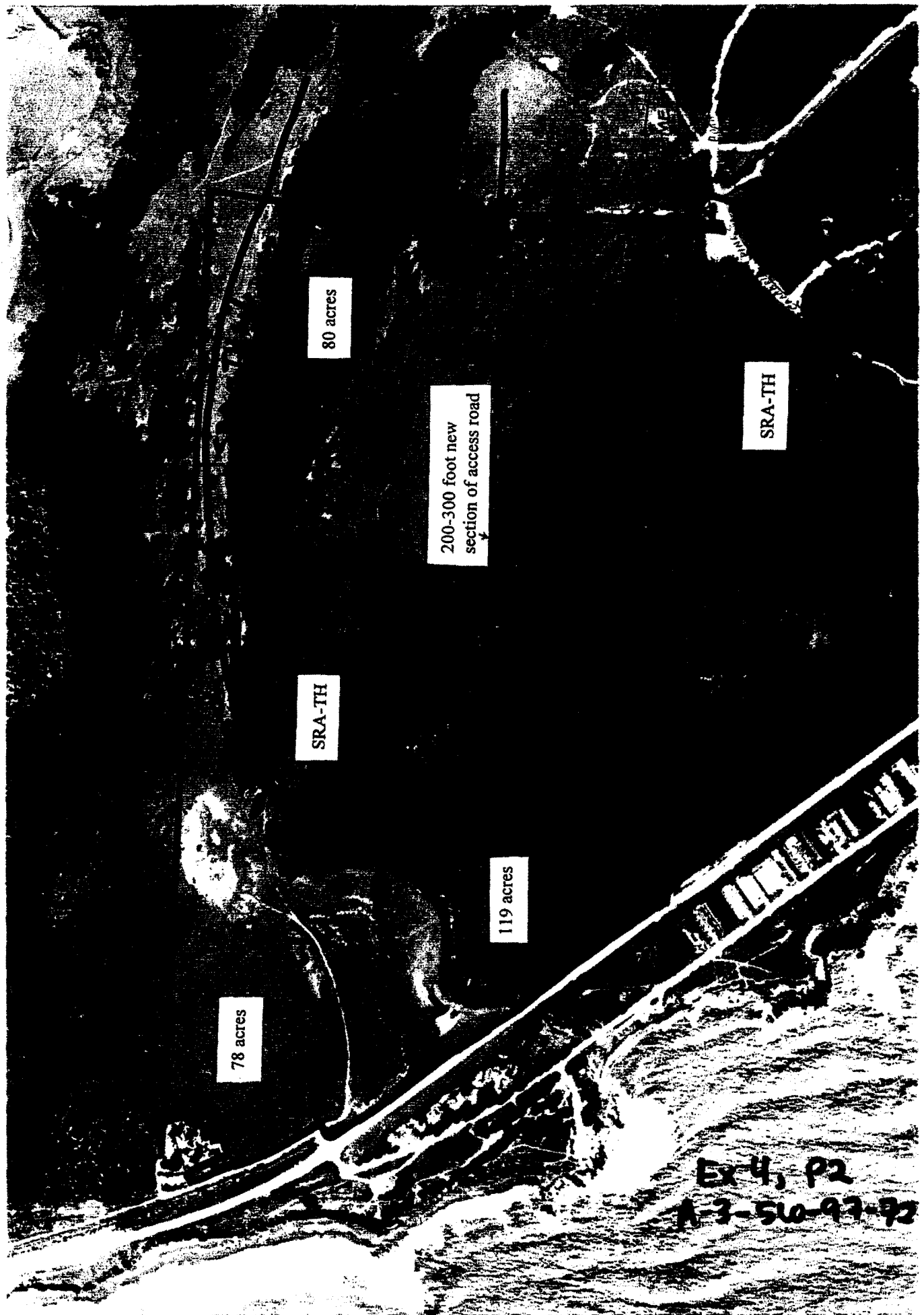
I hereby request approval of
this project and I hereby agree to
the conditions of the project.

PROJECT
D940210P/BROWN



EXHIBIT
SITE PLAN

EX4 A-3-SW-97-72



Ex 4, P2
A-3-510-97-92

RECEIVED

OCT 08 1997

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

RECORDING REQUESTED BY
CHICAGO TITLE INSURANCE COMPANY

~~RECORDING REQUESTED BY~~
AND WHEN RECORDED MAIL TO:

Doc No: 1997-049718

Rpt No: 00064104

Walter H. Leimert, III
606 North Larchmont Blvd.
Suite 302
Los Angeles, CA 90004-1395

Official Records
San Luis Obispo Co.
Julie L. Rodewald
Recorder
Sep 12, 1997
Time: 11:40

RF -1 64.00

20

TOTAL 64.00

GRANT OF EASEMENT

I. Identification and Parties.

This Grant of Easement is made and entered into this 8th day of SEPTEMBER, 1997 by Walter H. Leimert Co., a California corporation and Cambria West, a joint venture composed of Cambria Properties Limited, a limited partnership, and Walter H. Leimert Company, a California corporation, a.k.a Walter H. Leimert Co., a California corporation (collectively, "Grantors") and Joshua Brown and Cathie Brown (collectively, "Grantees").

2. Recitals.

2.1. Grantors are the owners of that certain real property located in San Luis Obispo County, California legally described in Exhibit "A" hereto (the "Burdened Lot").

2.2. Grantees are owners of that certain real property described in Exhibit "B" hereto (the "Benefited Property"). The Benefited Property is adjacent to and lies to the north of the Burdened Lot.

2.3. In consideration of the premises and the mutual promises contained herein, and for other good and valuable consideration the receipt of sufficiency of which are hereby acknowledged and subject to all of the terms and provisions hereof, Grantors desire to grant to Grantees an exclusive forty (40) foot easement over a portion of the Burdened Lot for construction and maintenance of paved roadway and underground utilities, both of which will serve the Benefited Property and shall at all times be appurtenant thereto.

Ex 5

A-3-510-97-72

1997

049718

3. Grant of Easement.

Subject to all of the terms, conditions and requirements hereof, Grantors hereby grant to Grantees, and their respective heirs, successors, and assigns, an exclusive easement ("Easement") for a paved roadway and underground utilities over and under that certain forty (40) foot wide strip of land ("Easement Area") constituting a portion of the Burdened Property. The Easement Area is legally described in Exhibit "C" hereto and is depicted on the sketch attached as Exhibit "D".

4. Conditions.

The grant of Easement set forth in Section 3 is subject to each of the following conditions:

4.1. Grantees may use the Easement Area only for a paved roadway for vehicular ingress and egress to and from the Benefited Property and for underground utilities serving the Benefited Property. Under no circumstances may the Easement Area be used for any other purpose, including, without limitation, entry features, gates, and the like.

4.2. The roadway constructed in the Easement Area shall serve no more than nine (9) residential structures or equivalent dwelling units plus related non-commercial accessory buildings (such as garages and barns) and commercial agricultural improvements located on the Benefited Property and may not be used as a means of ingress or egress to or from any commercial or other non-residential activities conducted on or about the Benefited Property. If more than nine (9) residential structures or if any unpermitted non-residential improvements are constructed on any portion of the Benefited Property, Grantees shall take such actions as are reasonably required by Grantors to prevent the Easement from being used by the owners of any offending improvements.

4.3. Grantees will construct and pave the roadway in the Easement Area prior to December 31, 1998. The roadway shall be no wider than two (2) lanes or twenty-four (24) feet and shall be paved prior to December 31, 1998, and at all times maintained in accordance with

all requirements of San Luis Obispo County. In addition, Grantees will, prior to December 31, 1998, pave the first two hundred (200) feet of the roadway on the Benefited Property.

4.4. Grantees shall be solely responsible for paying upon demand all costs of constructing (including surveying and engineering costs incurred by Grantor) and maintaining all improvements located on or under the Easement Area, and shall indemnify Grantors and hold them harmless with respect to any such costs as provided in Section 4.8. Grantees shall not construct any improvements of any nature on, about, or under the Easement Area without Grantors' prior written approval of plans and specifications therefor which will not be unreasonably withheld. Grantors may condition their approval upon Grantees' agreement to construct and maintain certain landscaping in the vicinity of Grantees' roadway; provided that the cost of the same will not exceed Five Thousand Dollars (\$5,000). Once Grantors have approved Grantees' plans and specifications, Grantees will construct all improvements in accordance therewith and will not suffer or permit any deviation therefrom without Grantors' prior written approval.

4.5. Grantees will construct and at all times maintain in good condition and repair all improvements in, under or about the Easement Area in accordance with all applicable laws, ordinances, rules, regulations, and requirements of all governmental agencies and entities with jurisdiction.

4.6. In constructing any roadway and in constructing and hooking up any utility installations in or about the Easement Area, Grantees shall promptly at their sole cost and expense, repair, restore, and replace any damage to any landscaping, streets, utility installations, fences, or other improvements on, under or about the Burdened Lot.

4.7. Grantors shall not be liable for any damage or injury to the person, business, goods, wares, or other property of any person using the Easement arising out of any cause other than the gross negligence or wilful misconduct of Grantors. As a material part of the consideration to Grantors, Grantees assume all risk of damage to property or injury to persons in or about the Easement Area arising from any cause. Grantees hereby waive all claims in respect thereof against Grantors and accept and assume all responsibility therefor.

1-999-77

004077-8

4.8. Grantees agree to indemnify Grantors against, and hold Grantors harmless from and against, all costs, claims or liability arising from Grantees' use or improvement of the Easement Area or any other acts or omissions of Grantees or other person using the Easement or exercising any rights to enter the Burdened Property. Grantees shall defend Grantors against all such costs, claims, and liabilities at Grantees' sole expense with counsel reasonably acceptable to Grantors.

4.9. At all times, Grantees shall at their sole cost and expense maintain a policy of commercial general liability insurance insuring Grantees against liability for bodily injury, property damage (including loss of use of property) and personal injury arising out of the operation, use, or occupancy of the Easement Area. Grantees shall name Grantors as additional insureds under such policy. The initial amount of such insurance shall not be less than One Million Dollars (\$1,000,000) per occurrence and shall be subject to periodic increase based upon inflation, increased liability awards, recommendation of Grantors' professional insurance advisers, and other relevant factors. The liability insurance obtained by Grantees under this Section 4.9 shall (i) be primary and non-contributing, (ii) contain cross-liability endorsements, and (iii) insure Grantors against Grantees' performance under Section 4.8 if the matter is giving rise to such indemnity results from the negligence or act of Grantees, their successor, or assigns. The amount and coverage of such insurance shall not limit Grantees' liability hereunder nor relieve any Grantees of any other obligation hereunder. Grantors may at Grantors' sole cost, but shall not be obligated to, obtain a comprehensive public liability insurance in an amount and with coverage determined by Grantors insuring Grantors against liability arising out of ownership, operation, use, or occupancy of the Burdened Lot. Any policy obtained by Grantors shall be contributory and shall not provide primary insurance.

4.10. Within ten (10) days of the date hereof, Grantees shall deliver to Grantors a copy of the policy of insurance which Grantees are required to maintain under Section 4.9. At least thirty (30) days prior to the expiration of such policy or any subsequent renewal policy, Grantees shall deliver to Grantors a renewal of such policy. All insurance which Grantees are required to maintain hereunder shall include a provision which requires the insurance carrier to give

Grantors not less than thirty (30) days' written notice prior to any cancellation or modification of coverage. Grantees shall maintain all insurance required hereunder with companies reasonably acceptable to Grantors.

4.11. If at any time real property taxes, charges, or assessments are levied against the owner of the Burdened Lot by reason of any improvements constructed on, under or about the Easement Area, the owner of the Benefited Property shall pay promptly when due all taxes, charges, or assessments attributable to such improvements and shall indemnify the owner of the Burdened Lot from any liability as a result thereof.

5. Effect of Violation.

Should Grantees, or any successor, materially breach any of their obligations under Article 4 and if such breach is not cured within thirty (30) days after written notice, then Grantor shall be entitled to exercise all rights and remedies available at law or in equity.

6. Existing Condition.

Grantees accept the Easement Area in its condition as of the date hereof, subject to all recorded matters, laws, ordinances, governmental regulations and orders, and similar matters. Except as provided herein, Grantees acknowledge that neither Grantors nor any of their agents have made any representation as to the condition of the Burdened Lot or the suitability of the Easement Area for Grantees' intended use. Grantors represent that they own the Burdened Lot subject to no monetary liens or monetary encumbrances. Grantees represent and warrant that they have made their own inspection and inquiry regarding the condition of the Burdened Lot and are not relying on any representation of Grantors with respect thereto.

7. Grant of Fee.

Grantees may for a period of five (5) years from the date of recordation of this Grant of Easement at their sole cost to process the approval of a lot line adjustment or parcel map so that the Easement Area is a separate legal parcel. Grantors will promptly execute any documents

reasonably required to accomplish the same at no cost or expense to Grantors. If the Easement Area becomes a separate legal parcel, then for and in consideration of the payment of One Hundred Dollars (\$100), Grantors will convey fee title to the Easement Area to the Grantees whereupon the Easement shall terminate, except that the restrictions contained in Section 4.1 through 4.8 will be set forth in deed restrictions. Grantees will be responsible for all recording costs and transfer taxes incurred in connection with such conveyance. If Grantors fail to complete such lot line adjustment or parcel map division within such ^{Five (5)} ~~two (2)~~ year period, then this Section 7 will become null and void, but the balance of this document will remain in full force and effect.

8. Miscellaneous.

8.1. The Easement granted hereby is expressly intended to be appurtenant to and for the benefit of all present and future owners of the Benefited Property and, subject to the provisions of Section 4.2, may be enforced by any such present or future owner.

8.2. The Easement and conditions set forth in this Grant of Easement shall be binding upon and inure to the benefit of both Grantors and Grantees and their respective heirs, successors, and assigns, including, without limitation, each present and future owner of record of the Benefited Property (subject to the provisions of Section 4.2) and the Burdened Lot.

8.3. Should it be necessary for either party to commence any legal action to enforce the terms or conditions hereof, the prevailing party in such action shall be entitled to recover from the unsuccessful party all costs and expenses incurred by it in the prosecution or defense of such action, including reasonable attorneys' fees.

8.4. This Agreement is the entire agreement of the parties with respect to the subject matter hereof and supersedes any and all prior understandings or agreements, all of which are incorporated herein in their entirety. This Agreement may not be amended except by a written instrument duly executed by all parties having interests in both the Benefited Property and the Burdened Lot.

8.5. Grantors will execute such other documents and instruments and render such consents as are reasonably necessary to effectuate the purposes of this Agreement provided that they do not impose any additional obligations or liabilities on Grantors.

"Grantors"

WALTER H. LEIMERT CO.,
a California corporation

By: Walter H. Leimert
Title: V.P.

CAMBRIA WEST, a joint venture

By: CAMBRIA PROPERTIES LIMITED,
a limited partnership,
Its Joint Venturer

By: Walter H. Leimert
Its: partner

By: WALTER H. LEIMERT COMPANY,
a California corp., a.k.a Walter
H. Leimert Co., a California Corp.,
Its Joint Venturer

By: Walter H. Leimert
Its: V.P.

"Grantees"

Joshua Brown
JOSHUA BROWN

Cathie Brown
CATHIE BROWN

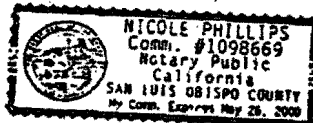
11-09-97 02:49:11

STATE OF CALIFORNIA

COUNTY OF SAN LUIS OBISPO

On Sept. 10, 1997 before me, Nicole Phillips, a Notary Public, personally appeared JOSHUA BROWN & Cathie Brown personally known to me OR ☒ proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that ~~he~~ executed the same in authorized capacity, and that by signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.



Nicole Phillips
Notary Public

STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

On , 1997 before me, , a Notary Public, personally appeared , ☐ personally known to me OR ☐ proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that executed the same in authorized capacity, and that by signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Notary Public

STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

On 11 September, 1997, before me, Kenneth M. Levitt, a Notary Public, personally appeared Walter H. Leimert III, ☒ personally known to me OR ☐ proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.



Kenneth M. Levitt
Notary Public

STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

On _____, 1997, before me, _____, a Notary Public, personally appeared _____, ☐ personally known to me OR ☐ proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that _____ executed the same in _____ authorized capacity, and that by _____ signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Notary Public

1997-11-04

Exhibit D



Lot 53
Tr 543

IP, RE 7720

Area of
Description

Lot 1
Tr 480

40°

Cambria Pines Road

Offer of Dedication
Dec 1997-023379

Offer of Dedication
Tract 543 12 M 93

Lot 53
Tr 543

Lot 1
Tr 480

80' wide
Drainage Easement
Per Tract 543

October 7, 1997

RECEIVED

OCT 08 1997

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Alex Hinds
Director of Planning & Building
County Government Center
San Luis Obispo, CA 93408

Dear Alex:

I wanted to update you as to the entrances to our home and our minor use permit that the board of supervisors has approved. As you know, at the time of the board of supervisor hearing, I had not concluded my negotiations with Walter Leimert. Since that time, I have been able to conclude my negotiations with Walter Leimert and have recorded a dedicated easement off of Cambria Pines Road.

I have had several discussions with Matt Janssen, Jessica Kahel and Kim Murray who have also given me permission to red rock that road from Cambria Pines Road so that I could enter my property during the winter months. We are currently red rocking the two jeep trails that allows us to access our property for agricultural purposes during the winter season. Because of our success with Mr. Leimert, I am advising you that I will not be utilizing the Leffingwell Creek crossing that was also approved.

I want to thank you for your wisdom in this matter and your understanding that I needed both these crossings at the time of the board of supervisors meeting. Because of the newly acquired easement, we will not be using the Leffingwell Creek crossing as it pertains to our approved minor use permit by the board of supervisors.

Actually, it was never our intent to utilize the Leffingwell crossing but it has taken us over 2 ½ years to reach a conclusion with Mr. Leimert.

Ex 6

A-3-56-97-72

Alex Hinds
October 7, 1997
Page 2

Lastly, as you recall, Mr. Leimert's subdivision is contingent upon dedicating a road from Cambria Pines Road to our property. If we had not been successful in purchasing an easement, we would have utilized this dedicated road to access our property.

Please contact me if you have any questions regarding this matter and thank you very much for your assistance with our project to date.

Cordially,

A handwritten signature in dark ink, appearing to read "Josh Brown", with a stylized, flowing script.

Josh Brown

JB/sjh
cc: Matt Janssen
Jessica Kahel
Steve Guiney