

CALIFORNIA COASTAL COMMISSION

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Filed:	04/28/00
49 th Day:	06/16/00
Staff:	RB
Staff Report:	05/19/00
Hearing Date:	06/15/00

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

Appeal NumberA-3-SLO-00-045

Local GovernmentSan Luis Obispo County

DecisionApproved with conditions, 03/21/00

Applicant.....Josh Brown

AgentJohn Belsher

AppellantsShirley Bianchi
Commissioners Dave Potter and Pedro Nava

Project LocationOn the north side of Cambria Pines Road, approximately ½ mile east of Highway 1, north of the community of Cambria, (North Coast Planning Area), San Luis Obispo County.

Project DescriptionLot line adjustment of two parcels (117 and 80 acres) that will result in two parcels of 142 and 55 acres.

File DocumentsSan Luis Obispo County certified Local Coastal Program; Coastal Development Permit COAL99-0090; S980282L.

Staff Recommendation**Substantial Issue Raised; Denial**

EXECUTIVE SUMMARY

Staff recommends that the Commission determine that a **substantial issue** exists with respect to the grounds on which the appeal has been filed, and **deny** the Coastal Development Permit for the project, because it is inconsistent with provisions of the San Luis Obispo County certified Local Coastal Program (LCP) regarding minimum parcel sizes and development in environmentally sensitive habitat areas.

The project is located on the north side of Cambria Pines Road, approximately ½ mile east of Highway One, north of the community of Cambria, in San Luis Obispo County. Both parcels are within the Rural Lands land use category and are located in a Sensitive Resource Area, as designated in the LCP, due to the surrounding Monterey Pine Forest. The smaller of the two

parcels (Parcel 2) is vacant, and two single family residences currently exist on the larger parcel (Parcel 1).

The applicant proposes to adjust the lot line between two existing parcels (currently 117 and 80 acres each), to create parcels of approximately 142 and 55 acres each. Currently, each of the existing lots meets the minimum parcel size of 80 acres. However, the proposed lot line adjustment would result in the creation of a non-conforming 55-acre parcel, and would create a situation that is *not* "equal to or better" than the existing configuration.

Secondly, as approved by the County, the project would decrease the size of Parcel 2 by 25 acres and remove approximately 25% (5 acres) of a designated 20-acre building site from this smaller parcel and add it to Parcel 1, which is already built out with two primary residences. Moreover, the portion of the designated building site that would be shifted from Parcel 2 to Parcel 1 is the area with the fewest Monterey Pines, in other words, the most "developable" portion of the 20 acres. Although it is not entirely clear what portion of the site is most appropriate for development, based on the apparent density of the Pine forest, removal of these five acres greatly increases the likelihood for more tree removal and habitat loss if the remaining 15-acre building site on Parcel 2 is developed.

In addition, the 20-acre building site is currently accessible from two existing driveways. The proposed lot line adjustment would remove what is referred to as the "long" driveway from Parcel 2 and would create a situation in which the most likely location for an access driveway for the 20 acre building site would be completely within an area designated as a Sensitive Resource Area for the protection of the Monterey Pine Forest, and within an area designated as Terrestrial Habitat.

Finally, it appears that the proposed project, which reduces Parcel 2 to a 55-acre parcel, violates an agreement (which required Parcel 2 to remain as a single 80-acre parcel) reached between the applicant and the Cambria Community Services District (CCSD) regarding the allocation of water service to the 80-acre parcel. By reducing Parcel 2 to 55 acres, and thus violating the previous agreement made between the applicant and the CCSD, the necessary evidence that this parcel will be served with adequate water services in the future has been brought into question. Thus, there is no assurance that this project (specifically Parcel 2) will be provided adequate water services.



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I. SUMMARY OF APPELLANTS' CONTENTIONS

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

1. The North Coast Planning Area Standard for new land divisions adjacent to Cambria requires parcels in the Rural Lands land use category to be at least 80 acres and the proposed lot line adjustment would result in the creation of a non-conforming 55-acre parcel.
2. Policy 4 for Environmentally Sensitive Habitats and CZLUO Section 23.07.170(c) prohibit land divisions within environmentally sensitive habitats, "unless it can be found that the buildable area(s) are entirely outside the minimum standard setback required for that habitat." In addition, North Coast Planning Area Standard for Sensitive Resource Areas requires development to concentrate proposed uses in the least sensitive portions of the property and retain native vegetation as much as possible. The proposed lot line adjustment would decrease the size of Parcel #2, a large portion of which is within a Sensitive Resource Area (Monterey Pines), which will further constrain the buildable area on this parcel and may result in more tree removal at the time of development.



3. CZLUO Section 23.07.164 requires that any proposed clearing of trees or other features be the minimum necessary to achieve safe and convenient access and will not create significant adverse effects on the identified sensitive resource. CZLUO Section 23.07.176 and Policy 33 for Environmentally Sensitive Habitats further emphasize the preservation and protection of rare and endangered species of terrestrial plants and animals. The proposed lot line adjustment would create a situation in which the most likely location for an access driveway for Parcel #2 would be completely within an area concomitantly designated as a Sensitive Resource Area (Monterey Pine Forest) and Terrestrial Habitat. The existing parcel configuration provides more opportunities to locate the accessway outside of these sensitive resource areas.
4. An agreement was reached between the applicant and the Cambria Community Services District (CCSD) regarding the allocation of public water service to the 80 acre parcel through the CCSD's issuance of one equivalent dwelling unit (EDU) to the site. The proposed lot line adjustment, which alters the existing 80-acre parcel, appears to violate this agreement.
5. The applicant plans to further subdivide the 117-acre parcel to include a new 20 acre building site.

II. LOCAL GOVERNMENT ACTION

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

III. STANDARD OF REVIEW FOR APPEALS

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

The grounds for appeal under section 30603 are limited to allegations that the development does not conform to the standards set forth in the certified local coastal program or the public access



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

IV. STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE

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

STAFF RECOMMENDATION:

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

RESOLUTION TO ADOPT SUBSTANTIAL ISSUE:

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

V. STAFF RECOMMENDATION ON COASTAL DEVELOPMENT PERMIT

Staff recommends that the Commission, after the public hearing, **deny** the coastal development permit required for the proposed subdivision.

MOTION: *I move that the Commission approve Coastal Development Permit No. A-3-SLO-00-045 for the development proposed by the applicant.*

STAFF RECOMMENDATION OF DENIAL:

Staff recommends a **NO** vote. Failure of this motion will result in denial of the permit and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.



RESOLUTION TO DENY THE PERMIT:

The Commission hereby denies a coastal development permit for the proposed development on the ground that the development will not conform with the San Luis Obispo County certified Local Coastal Program. Approval of the permit will not comply with the California Environmental Quality Act because there are feasible mitigation measures or alternatives that would substantially lessen the significant adverse impacts of the development on the environment.

VI. SUBSTANTIAL ISSUE FINDINGS AND DECLARATIONS**A. Project Background**

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

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

The applicant received a Minor Use Permit to construct two primary residences, a guesthouse, a barn, a pool and poolhouse, and a greenhouse in 1994 on the 117-acre parcel. All structures proposed as a part of this development were on the east side (or behind) the BCL. During the processing of the Minor Use Permit on the 117-acre parcel, the applicant recorded a Conservation Easement on the 80-acre parcel. The Easement contains most of the intact Monterey Pine Forest on the property, is contiguous with the entire property boundary, and covers 60 acres of the 80-acre parcel. The remaining 20 acres is found in the center of the parcel, which contains the least amount of trees and is designated as the "building site" for the 80 acre parcel. The area most free of trees within the "building site" is the western end, an area approximately 5 acres in size.

B. Project Location and Description

The project is located on the north side of Cambria Pines Road, approximately ½ mile east of Highway One, north of the community of Cambria, in San Luis Obispo County. Both parcels are within the Rural Lands land use category and are located in a Sensitive Resource Area, as designated in the LCP, due to the surrounding Monterey Pine Forest. The smaller of the two



parcels (Parcel 2) is vacant, and two single family residences currently exist on the larger parcel (Parcel 1). Please see Exhibit 2 for existing and proposed lot configuration.

The applicant proposes to adjust the lot line between two existing parcels. Currently, Parcel 1 is 117 acres and Parcel 2 is 80 acres. The proposed adjustment would increase Parcel 1 to approximately 142 acres and reduce Parcel 2 to approximately 55 acres, and would remove a portion of the designated 20 acre "building site" from Parcel 2.

C. Minimum Parcel Size

Both appellants raise the issue of minimum parcel size as it relates to the proposed lot line adjustment. The applicable LCP Standard is stated below.

North Coast Area Plan: Rural Lands Planning Area Standard (Site Planning – New Divisions Adjacent to Cambria): *Proposed residential units at a density equivalent to a minimum of one dwelling unit per 80 acres unless a lower density is required by the Land Use Ordinance (depending upon site constraints), are to be clustered adjacent to the Cambria Urban Reserve Line to minimize the need for new road construction and service extensions; or shall be clustered in open or semi-open areas to minimize tree removal.*

The North Coast Planning Area Standard for new land divisions adjacent to Cambria requires parcels in the Rural Lands land use category to be at least 80 acres. Currently, each of the existing lots (117 acres and 80 acres) meets this minimum parcel size.

The applicant's representative, John Belsher, alleges that the minimum parcel size for Rural Lands is 20 acres based on the Coastal Zone Land Use Ordinance and a trial court decision regarding the Leimert property (see Exhibit 6). Although the CZLUO would normally allow a 20-acre minimum if the proposed parcels met the tests (remoteness, fire hazard/response time, and access), pursuant to CZLUO Section 23.01.034(d), where there is a discrepancy between a Planning Area Standard and the CZLUO, the Planning Area Standard "shall prevail." Mr. Belsher's second point regarding the Leimert court case is not valid in this case because the 1992 stipulate settlement of the lawsuit applies *only* to the Leimert clustered subdivision, and not the Brown property.

In conclusion, the proposed lot line adjustment would result in the creation of a non-conforming 55-acre parcel, in conflict with the above-mentioned planning area standard, and therefore, a substantial issue is raised.

In addition, the Planning Area Standard for Rural Lands requires proposed residential units to be clustered adjacent to the Cambria Urban Reserve Line (URL) to minimize road construction and extension of services. As proposed, the building site for Parcel 2 is located on the northern half of the property, nearly one-quarter of a mile away from Cambria Pines Road. If this site were developed, the proposed accessway would need to be graded and improved to meet CDF



requirements, potentially requiring the disturbance or removal of Monterey Pines, and development would not be "clustered adjacent (or in this case, located as close as possible) to the Cambria Urban Reserve Line." Moreover, given that alternative locations for residential development exist on the site, specifically the southeast corner of the parcel, which has relatively level terrain and is cleared of Monterey Pines, the proposed project does not appear to have considered the sensitive on-site resources, let alone the standards governing the siting of development adjacent to the URL. **Thus, a substantial issue is raised.**

D. Environmentally Sensitive Habitats

Both appellants raise the issue of the potential for this project to have adverse impacts on environmentally sensitive habitats. Applicable LCP Policies and Standards are stated below.

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

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

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

The proposed lot line adjustment would decrease the size of Parcel 2 by 25 acres and remove approximately 25% (5 acres) of a designated 20-acre building site from this smaller parcel and add it to Parcel 1, which is already built out with two primary residences. Moreover, the portion of the designated building site that would be shifted from Parcel 2 to Parcel 1 is the area with the fewest Monterey Pines, in other words, the most "developable" portion of the 20 acres. Although it is not entirely clear what portion of the site is most appropriate for development, based on the apparent density of the Pine forest, removal of these five acres greatly increases the likelihood for more tree removal and habitat loss if the remaining 15-acre building site on Parcel 2 is developed. Please see Exhibit 5 for an aerial depiction of the proposed lot line adjustment.

CZLUO Section 23.07.164 – SRA Permit and Processing Requirements

(e) Required Findings: *Any proposed clearing of topsoil, trees, or other features is the minimum necessary to achieve safe and convenient access*



and siting of proposed structures, and will not create adverse effects on the identified sensitive resource.

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

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

CZLUO Section 23.07.164(e) requires that any proposed clearing of trees or other features be the minimum necessary to achieve safe and convenient access without creating significant adverse effects on the identified sensitive resource. Additionally, CZLUO Section 23.07.176 and Policy 33 for Environmentally Sensitive Habitats further emphasize the preservation and protection of rare and endangered species of terrestrial plants and animals.

The proposed lot line adjustment would create a situation in which the most likely location for an access driveway for Parcel 2 and thus, the 20 acre building site, would be completely within an area designated as a Sensitive Resource Area for the protection of the Monterey Pine Forest, and within an area designated as Terrestrial Habitat. If this site were developed, the “short” driveway would need to be graded and improved to meet CDF requirements, potentially requiring the disturbance or removal of Monterey Pines. The existing parcel configuration provides more opportunities to locate the accessway outside of these sensitive resource areas.

The proposed lot line adjustment may be inconsistent with Policy 4 for Environmentally Sensitive Habitats and CZLUO Section 23.07.170 because the proposed building site does not appear to be located in the least sensitive portion of the property. Additionally, the project appears to be inconsistent with CZLUO Sections 23.07.164 and 23.07.176 and Policy 33 for Environmentally Sensitive Habitats because alternatives may exist that will have a lesser impact on the habitat. **Thus, a substantial issue is raised by these contentions of the appeal.**

E. Water

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

Policy 1 for Public Works - Availability of Service Capacity: *New development (including divisions of land) shall demonstrate that adequate public or private service capacities are available to serve the proposed development.*



Priority shall be given to infilling within existing subdivided areas.... Permitted development outside the USL shall be allowed only if it can be serviced by adequate private on-site water and waste disposal systems.

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

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

F. Further Subdivision of Parcel 1

Appellant Shirley Bianchi raises the point that the applicant plans to further subdivide the 117-acre parcel to include a 20-acre building site. Because this intended subdivision is not part of the project approved by the County, and therefore not subject to this appeal, it is not appropriate to evaluate the applicant's intention at this time. However, it is highly likely that LCP policies and ordinances similar to those analyzed in this report would apply in such a proposal, should the applicant wish to pursue this subdivision in the future.

VII. DE NOVO FINDINGS AND DECLARATIONS

A. Minimum Parcel Size

As discussed in the substantial issue findings, the proposed lot line adjustment is inconsistent with the North Coast Planning Area Standard for new land divisions adjacent to Cambria because one of the parcels created by the project will not meet the minimum parcel size for the area. Currently, each of the existing lots (117 acres and 80 acres) meets the minimum parcel size of 80 acres. However, the proposed lot line adjustment would result in the creation of a 142-



acre parcel and a non-conforming 55-acre parcel, and would create a situation that is *not* "equal to or better" than the existing configuration.

The applicant's representative, John Belsher, alleges that the minimum parcel size for Rural Lands is 20 acres based on the Coastal Zone Land Use Ordinance and a trial court decision regarding the Leimert property (see Exhibit 6). Although the CZLUO would normally allow a 20-acre minimum if the proposed parcels met the tests (remoteness, fire hazard/response time, and access), pursuant to CZLUO Section 23.01.034(d), where there is a discrepancy between a Planning Area Standard and the CZLUO, the Planning Area Standard shall prevail. Mr. Belsher's second point regarding the Leimert court case is not valid in this case because the 1992 stipulate settlement of the lawsuit applies *only* to the Leimert clustered subdivision, and not the Brown property.

Secondly, the Planning Area Standard for Rural Lands requires proposed residential units to be "clustered adjacent to the Cambria Urban Reserve Line" (URL) to minimize road construction and extension of services. As proposed, the building site for Parcel 2 is located on the northern half of the property, nearly one-quarter of a mile away from Cambria Pines Road. If this site were developed, the proposed accessway would need to be graded and improved to meet CDF requirements, potentially requiring the disturbance or removal of Monterey Pines, and development would not be "clustered adjacent (or in this case, located as close as possible) to the Cambria Urban Reserve Line." Moreover, given that alternative locations for residential development exist on the site, specifically the southeast corner of the parcel, which has relatively level terrain and is cleared of Monterey Pines, the proposed project does not appear to have considered the sensitive on-site resources, let alone the standards governing the siting of development adjacent to the URL.

Moreover, although not a basis for denial, the Commission adopted modifications to the North Coast Area Plan in May 1998, which recommended a minimum parcel size of 160 acres on Rural Lands north of Cambria. The revised findings stated in relevant part:

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

These findings clearly reveal that not only is the Commission supportive of the requirement of an 80-acre minimum parcel size for Rural Lands, but that to further down-zone this land use designation to a 160-acre minimum parcel size would better serve the Monterey Pine Forest and the rural qualities of northern Cambria. Given this, the proposal to create a non-conforming 55-acre parcel is not only inconsistent with, but completely deviates from, the previous direction taken by the Commission.



In conclusion, the proposed lot line adjustment is inconsistent with the North Coast Planning Area Standard for new land divisions adjacent to Cambria because Parcel 2 would not meet the required minimum lot size and future development would not be clustered near the Urban Reserve Line. **Therefore, the project should be denied.**

B. Environmentally Sensitive Habitats

As discussed in the substantial issue findings, the proposed project is inconsistent with Policy 4 and 33 for Environmentally Sensitive Habitats, and CZLUO Sections 23.07.1709(c), 23.07.164(e), and 23.07.176 because of its potential to have adverse impacts on environmentally sensitive habitats.

1. Division of Parcels in ESH

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

The applicant proposes to adjust the lot line between two existing parcels (currently 117 and 80 acres each), to create parcels of approximately 142 and 55 acres each. As approved by the County, the project would decrease the size of Parcel 2 by 25 acres and remove approximately 25% (5 acres) of the building site from this smaller parcel and add it to Parcel 1, which is already built out with two primary residences. Moreover, the portion of the designated building site that would be shifted from Parcel 2 to Parcel 1 is the area with the fewest Monterey Pines, in other words, the most "developable" portion of the 20 acres. Although it is not entirely clear what portion of the site is most appropriate for development, based on the apparent density of the Pine forest, removal of these five acres greatly increases the likelihood for more tree removal and habitat loss if the remaining 15-acre building site on Parcel 2 is developed. Please see Exhibit 5 for an aerial depiction of the proposed lot line adjustment.

2. Disturbance of Terrestrial Habitat

CZLUO Section 23.07.164(e) requires that any proposed clearing of trees or other features be the minimum necessary to achieve safe and convenient access without creating significant adverse effects on the identified sensitive resource. Additionally, CZLUO Section 23.07.176 and Policy 33 for Environmentally Sensitive Habitats further emphasize the preservation and protection of rare and endangered species of terrestrial plants and animals. Finally, the following policy and ordinance serve to further protect environmentally sensitive habitats:

Policy 1 for 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 resource shall be allowed within the area.

CZLUO Section 23.07.170(d)(2) – Development Standards for Environmentally Sensitive Habitats: *New development within the habitat shall be limited to those uses that are dependent upon the resource.*

Currently, Parcel 2 and thus, the 20-acre building site, are accessible from two existing driveways. The "long" driveway is located near the western edge of existing Parcel 2 and the "short" driveway is located near the eastern boundary of Parcel 2. The proposed lot line adjustment would remove the "long" driveway from Parcel 2 and would create a situation in which the most likely location for an access driveway for the 20 acre building site would be completely within an area designated as a Sensitive Resource Area for the protection of the Monterey Pine Forest, and within an area designated as Terrestrial Habitat. This is clearly in conflict with LCP requirements prohibiting development in sensitive resource areas, especially if a project is highly likely to disturb the terrestrial habitat, when less damaging alternatives exist.

It is important to note that the County's combining designation mapping of the Sensitive Resource Area and Terrestrial Habitat for Monterey Pine Forest does not correspond to actual sensitive resources. A comparison of the combining designation map in Exhibit 1 and the aerial photo (Exhibit 5) clearly reveal that a large part of the existing forest is not mapped as ESHA. LCP Policy 1 for ESH and CZLUO Section 23.07.170(d), both stated above, relate specifically to the existence of environmentally sensitive habitats, *whether or not they are mapped as such in the LCP*, and they clearly limit development within environmentally sensitive habitats to resource dependent activities. As seen in Exhibit 5, moderately to heavily forested areas of the Monterey Pine Forest cover over half of the remaining 15 acres of the building site. Furthermore, the future accessway ("short" driveway) would be located entirely within an area mapped as Terrestrial Habitat and a Sensitive Resource Area. Based on on what is illustrated in the project plans (Exhibit 2) and what was approved by the County, the proposed development is not only *not* dependent upon the sensitive resource, it creates a situation in which disruption to, or removal of, the habitat is very likely.

The proposed lot line adjustment is inconsistent with Policy 4 for Environmentally Sensitive Habitats and CZLUO 23.07.170(c) because although a specific setback from terrestrial habitat is not stated in the LCP, the proposed building site is clearly not located in the least sensitive portion of the property. Furthermore, as approved by the County, the project is inconsistent with CZLUO Sections 23.07.164(e) and 23.07.176 and Policy 33 for Environmentally Sensitive Habitats because future improvements to the proposed accessway ("short" driveway) will have a significant impact on the sensitive habitat in this area. Finally, the development is located within an environmentally sensitive habitat area and is not dependent upon that resource; inconsistent with Policy 1 for Environmentally Sensitive Habitats and CZLUO Section 23.07.170(d)(2). **Thus, the project should be denied.**



C. Water

As discussed in the substantial issue findings, it appears that the proposed project, which reduces Parcel 2 to a 55-acre parcel, violates an agreement reached between the applicant and the Cambria Community Services District (CCSD) regarding the allocation of water service to the 80-acre parcel.

Policy 1 for Public Works clearly requires that "new development (including land divisions)...demonstrate that adequate public or private service capacities are available to serve the proposed development." By reducing Parcel 2 to 55 acres, and thus violating the previous agreement made between the applicant and the CCSD to allocate one (1) equivalent dwelling unit (EDU) of grandfathered residential water service to Parcel 2 (required to remain as a single 80-acre parcel), the necessary evidence that this parcel will be served with adequate water services in the future has been brought into question. Thus, there is no assurance that this project (specifically Parcel 2) will be provided adequate water services. **This is inconsistent with the requirements of Policy 1 for Public Works and therefore, the project should be denied.**

VIII. CALIFORNIA ENVIRONMENTAL QUALITY ACT

Section 13096 of the California Code of Regulations requires that a specific finding be made in conjunction with coastal development permit applications showing the application to be consistent with the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures that would substantially lessen any significant adverse effect that the project may have on the environment.

San Luis Obispo County certified a Negative Declaration for the project on February 25, 2000. However, as detailed in the findings of this staff report, the Commission has identified environmental impacts of the project that were not effectively addressed by the certified Negative Declaration. In particular, the Commission has found that approval of the project, without necessary measures to preserve and protect environmentally sensitive habitats, is inconsistent with coastal planning standards and resource management principals. As a result, approval of the project will have a significant adverse affect on the environment within the meaning of the California Environmental Quality Act.



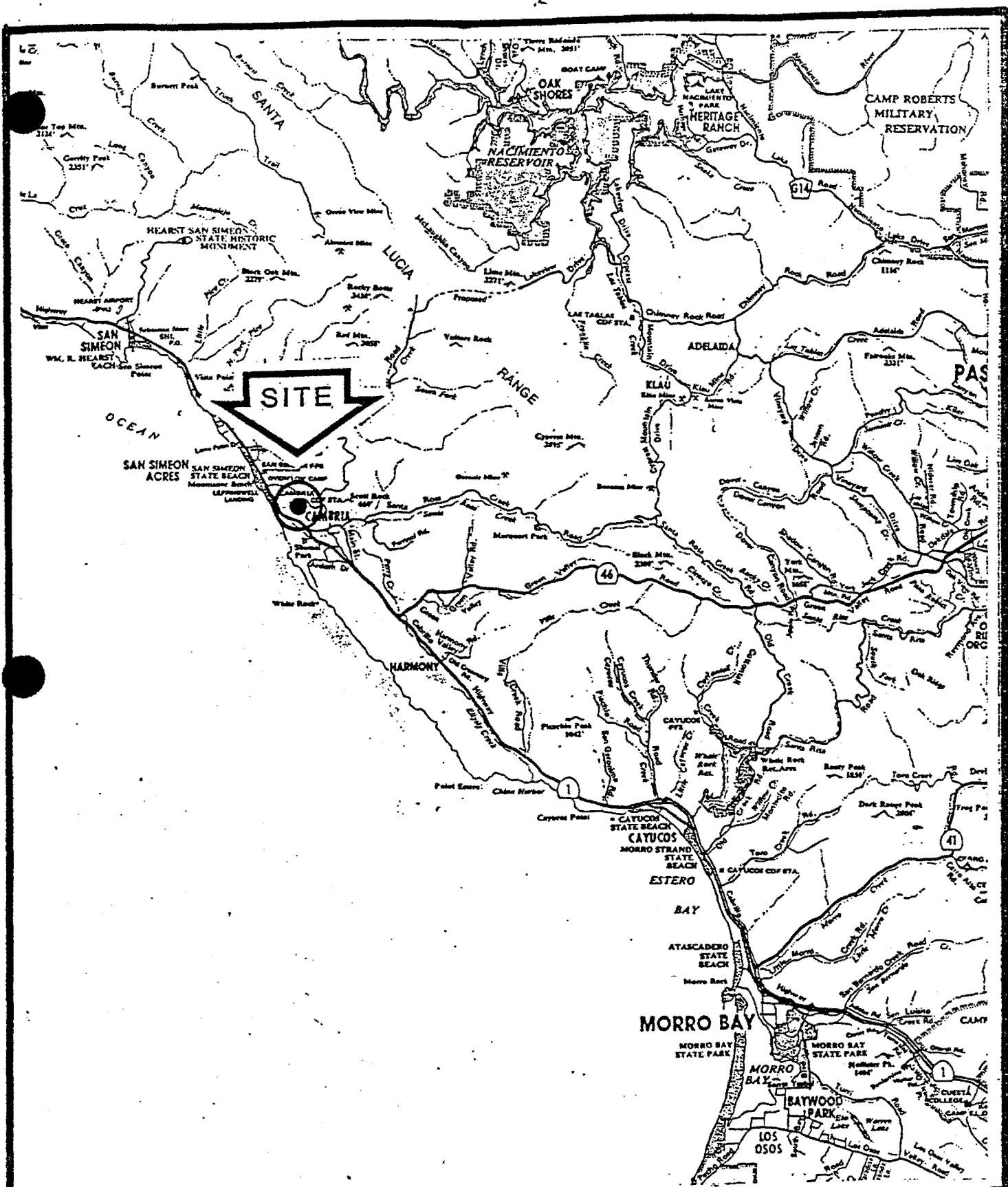
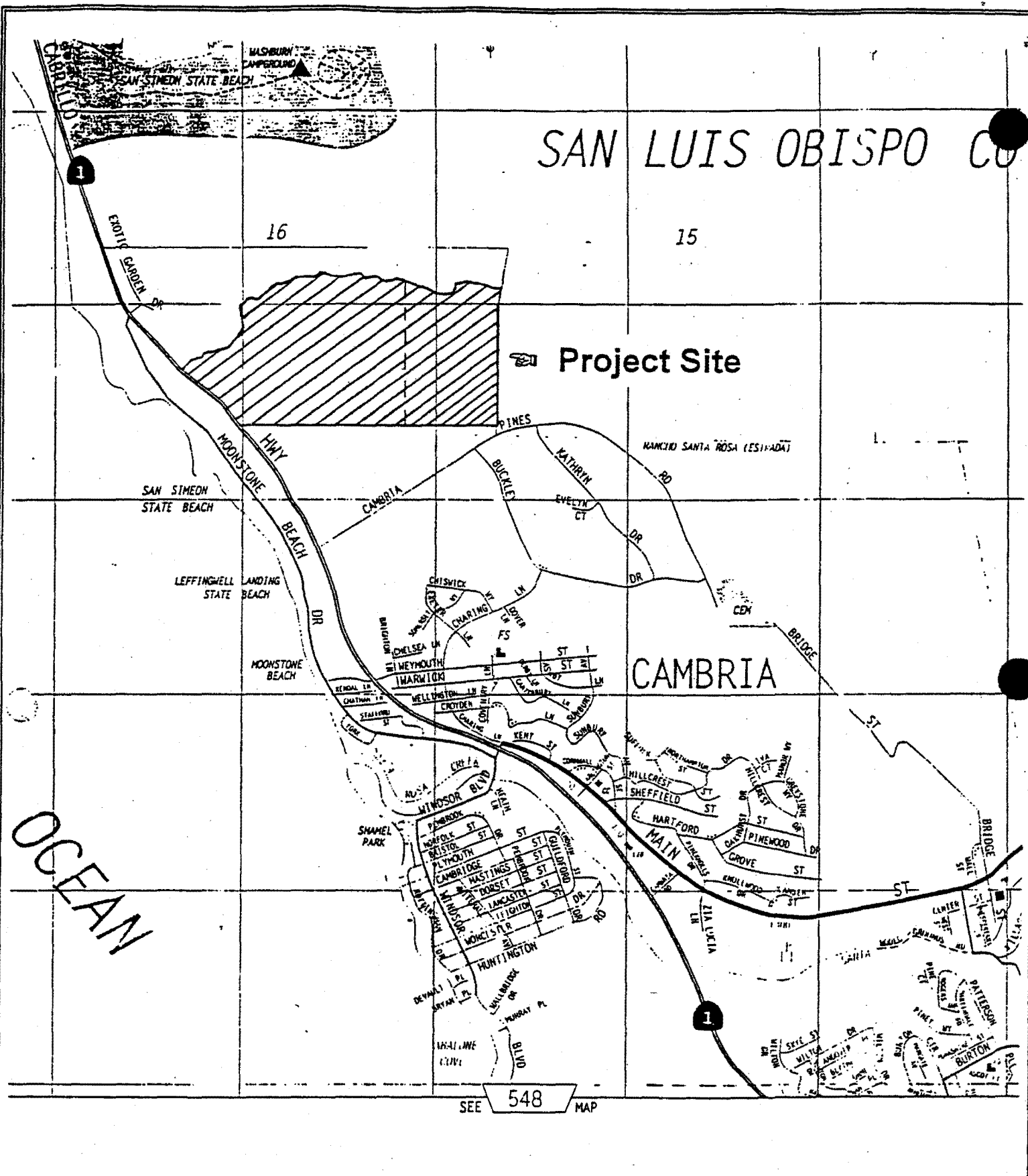


Exhibit 1
(1 of 3)
A-3-SLO-00-45

TR 1804 Cambria West

VICINITY MAP

7
27

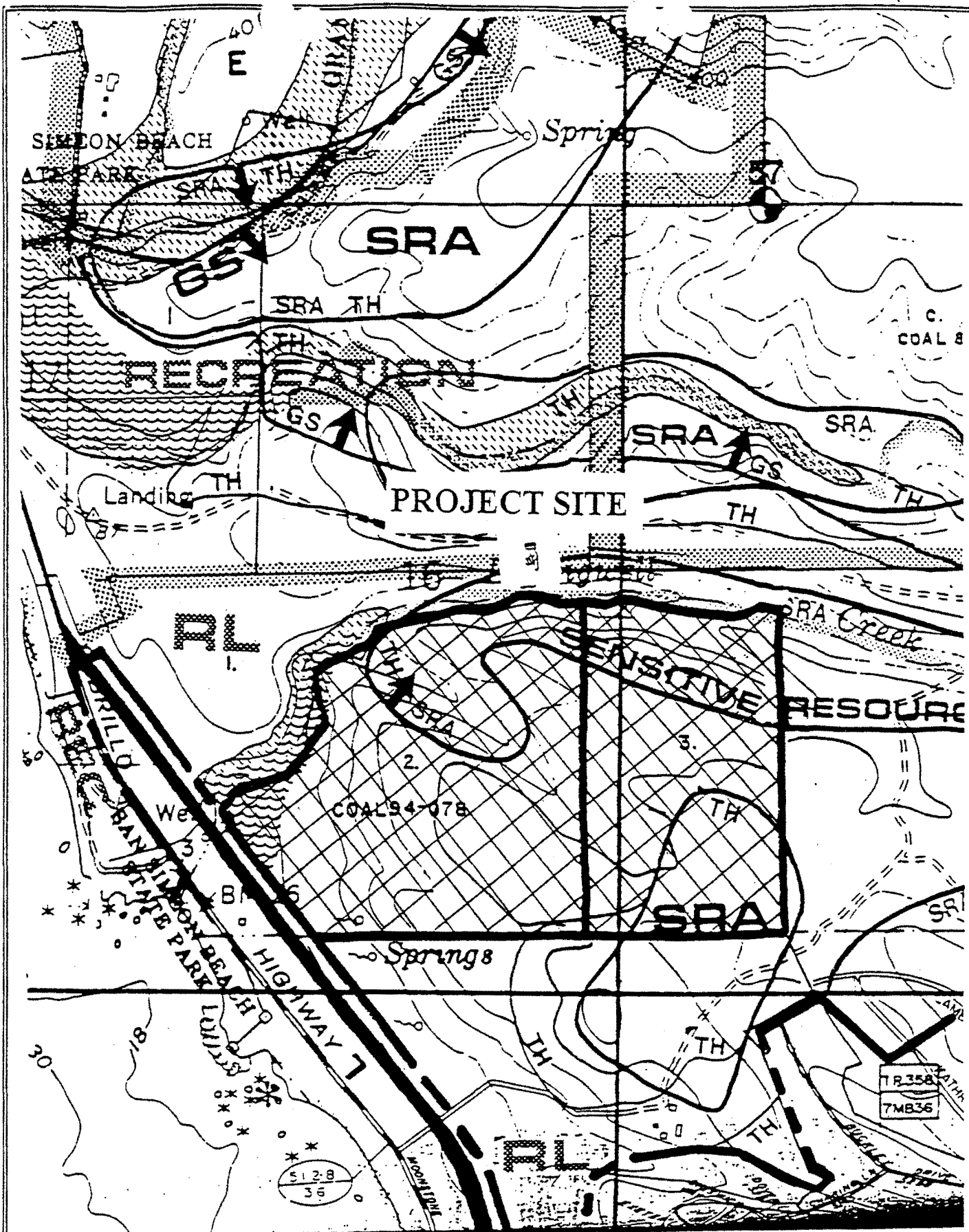


VICINITY MAP

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

Exhibit 1
(2 of 3)

CH



LAND USE CATEGORY MAP

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

Exhibit 1
(3 of 3)

Handwritten signature/initials



55A

10

NOTHING BUT THE TRUTH

THESE THINGS ARE BEING DONE TO MAKE US BETTER



00000000000000000000

THE UNIVERSITY OF CHICAGO PRESS

Abstract

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE

720 FRONT STREET, SUITE 300

SAN JOSE, CA 95060

(415) 904-4863

HEARING IMPAIRED: (415) 904-5200



RECEIVED

APR 28 2000

APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENTCALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

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

SECTION I. Appellant(s):

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

Commissioner Pedro Nava and Commissioner Dave Potter

California Coastal Commission

45 Fremont Street, Suite 2000

San Francisco, CA

94105-2219

(415) 904-5200

SECTION II. Decision Being Appealed

1. Name of local/port government:

San Luis Obispo County

2. Brief description of development being appealed:

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

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

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

4. Description of decision being appealed:

a. Approval; no special conditions: _____

b. Approval with special conditions: X

c. Denial: _____

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

TO BE COMPLETED BY COMMISSION:APPEAL NO: A-3-SLO-00-045DATE FILED: 4/28/2000DISTRICT: Central

Appellants' Contentions
Exhibit 3
(1 of 18)

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

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

a. ☐ Planning Director/Zoning
Administrator

c. ☐ Planning Commission

b. ☒ City Council/Board of
Supervisors

d. ☐ Other: SLO Board of Supervisors Res. No. 2000-120

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

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

SECTION III Identification of Other Interested Persons

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

a. Name and mailing address of permit applicant:

Josh Brown & John Belsher

1326 Tamson

Cambria, CA 93428

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

(1) Linda Hall

P.O. Box

San Simeon, CA 93452

Vern Kalshan, Esquire

440 Kerwin

Cambria, CA 93428

(2) Cambria Legal Defense Fund

P.O. Box 516

Cambria, CA 93428

(3) John W. Belcher, Esq.

412 Marsh Street

San Luis Obispo, CA 93401

(4) Shirley Bianchi

4375 San Simeon Creek Road

Cambria, CA 93428

SECTION IV. Reasons Supporting This Appeal

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

Exhibit 3
(1a of 18)

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

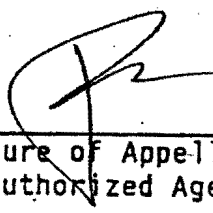
● briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

SEE ATTACHED.

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

SECTION V. Certification

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



Signature of Appellant(s) or
Authorized Agent

Date April 27, 2000

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

Section VI. Agent Authorization

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

Exhibit 3
(1b of 18)

Signature of Appellant(s)

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.)

SEE ATTACHED.

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

SECTION V. Certification

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

Dave Potter

Signature of Appellant(s) or
Authorized Agent

Date April 28, 2000

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

Section VI. Agent Authorization

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

- Exhibit 3
(2 of 18)

Signature of Appellant(s)

Date

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SAN LUIS OBISPO, CA 95060
(831) 781-8863

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

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

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

Exhibit 3
(3 of 18)

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST AREA OFFICE

725 FRONT STREET, STE. 300

SANTA CRUZ, CA 95060

(831) 427-4863

HEARING IMPAIRED: (415) 904-5200

APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENTCALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

APR 12 2000



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

SECTION I. Appellant(s)

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

Shirley Bianchi c/o Vern Kalshan Esq.440 KerwinCambria93428(805) 927-1222ZipArea CodePhone No.SECTION II. Decision Being Appealed

1. Name of local/port

government: San Luis Obispo County Board of Supervisors

2. Brief description of development being

appealed: a lot line adjustment resulting in two parcels one of which
is smaller in area than is allowed under the Local Coastal Plan3. Development's location (street address, assessor's parcel
no., cross street, etc.): north side of Cambria Pines Road, north
of the community of Cambria east of Highway 1 outside the Cambria UPL

4. Description of decision being appealed:

a. Approval; no special conditions: _____

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

c. Denial: _____

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

TO BE COMPLETED BY COMMISSION:APPEAL NO: A-3-SLO-00-045DATE FILED: 4/28/2000DISTRICT: Central Coast

H5: 4/88

Exhibit 3
(4 of 18)

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

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

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

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

7. Local government's file number (if any): S980282L/Coal99-0090

SECTION III. Identification of Other Interested Persons

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

a. Name and mailing address of permit applicant:

Josh Brown
1326 Tamson
Cambria CA 93428

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

- (1) Linda Hall
Post Office Box
San Simeon CA 93452
- (2) Cambria Legal Defense Fund
P O Box 516
Cambria, CA 93428
- (3) John W. Belcher, Esq.
412 Marsh Street
San Luis Obispo, CA 93401
- (4) Shirley Bianchi
4375 San Simeon Creek Road
Cambria, CA 93428

SECTION IV. Reasons Supporting This Appeal

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

Exhibit 3 (4a of 18)

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

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

Please see Attachment IV

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

SECTION V. Certification

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

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

Date APR 03 2000

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

Section VI. Agent Authorization

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

Exhibit 3
(46 of 18)

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

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

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

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

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

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

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

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

SAN LUIS OBISPO CO

15

16

 **Project Site**

117.6 ac

80 ac

CAMBRIA

OCEAN

SEE 548 MAP

VICINITY MAP

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

RECORDING REQUESTED BY:
FIRST AMERICAN TITLE INSURANCE COMPANY

Doc No: 1997-043593

Rpt No: 00056386

RECORDING REQUESTED BY AND
WHEN RECORDED, MAIL TO:

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

Official Records
San Luis Obispo Co.
Julie L. Rodewald
Recorder

Aug 15, 1997

Time: 08:00

[16]

RF -1 52.00

TOTAL 52.00

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

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

RECITALS:

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

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

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

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

7/9/97

Exhibit 3
(8 of 18)

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

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

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

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

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

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

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

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

7/9/97

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

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

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

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

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

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

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

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

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

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

7/9/97

3

Exhibit 3
(10 of 18)

Attachment IV-2

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

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

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

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

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

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

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

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

7/9/97

4

Exhibit 3
(11 of 18)

Attachment IV-2

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

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

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

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

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

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

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

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

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

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

7/9/97

5


Exhibit 3
(12 of 18)

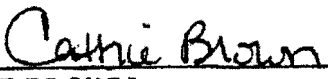
Attachment IV-2

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

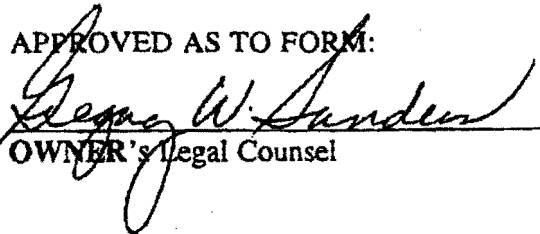
IN WITNESS WHEREOF, OWNER and DISTRICT have executed this Agreement as of the day and year first above written.

OWNER:


JOSHUA BROWN


CATHIE BROWN

APPROVED AS TO FORM:


OWNER's Legal Counsel

DISTRICT:

CAMBRIA COMMUNITY SERVICES DISTRICT

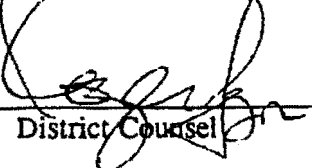
By: 
DON VILLENEUVE
BOARD PRESIDENT

ATTEST:


DISTRICT CLERK

APPROVED AS TO FORM:

LYON & CARMEL

By: 
District Counsel

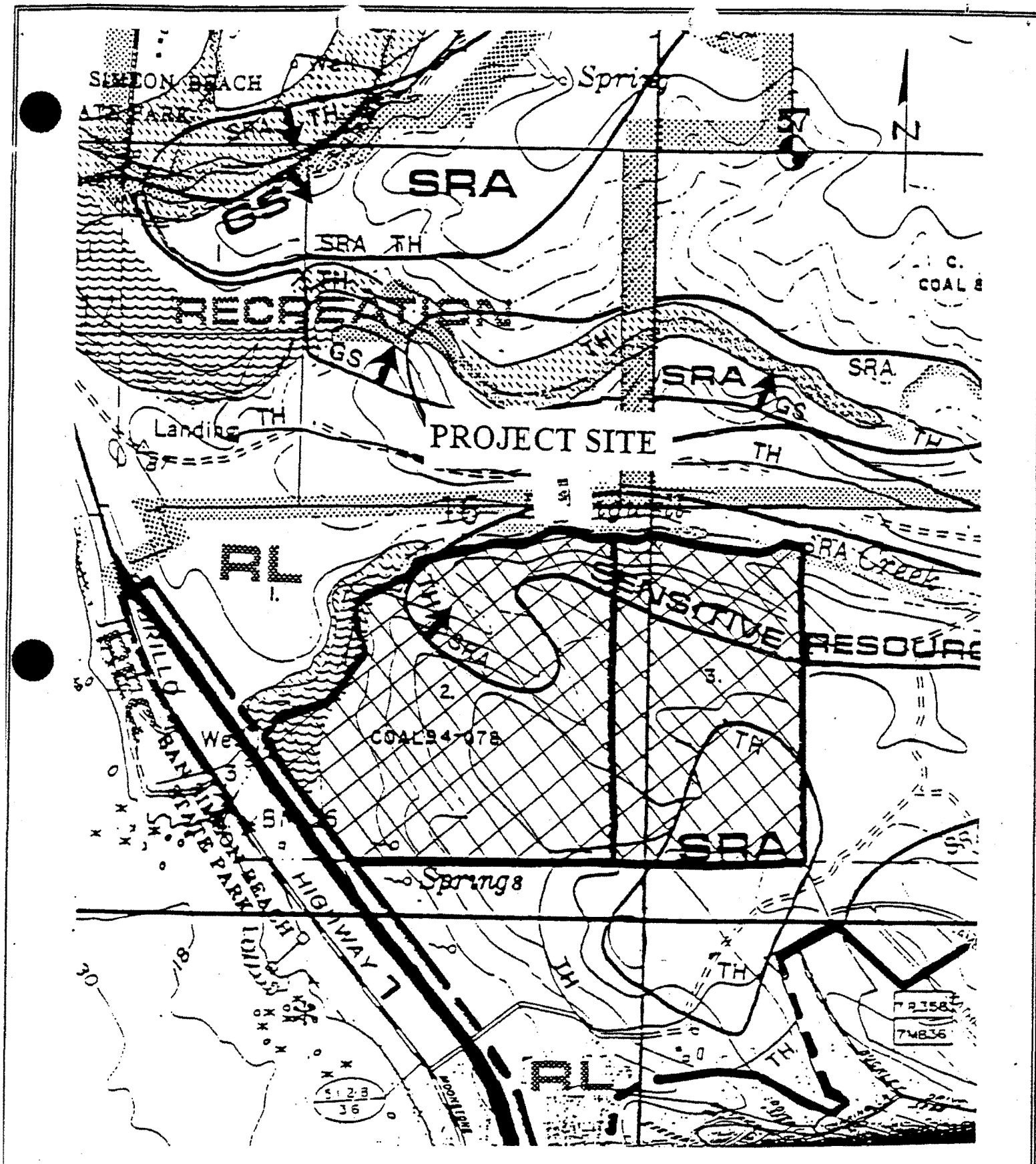
7/9/97

6

Exhibit 3
(13 of 18)

Attachment IV-2

Exhibit 3
(14 of 18)
Attachment IV-3



LAND USE CATEGORY MAP

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

Exhibit 3
(15 of 18)

Attachment IV-3

FEB-23-00 17:32 From: FOX & S
02/23/2000 17:32 6429949

310-444-7813

T-506 P.02/03 Job-330

BELSHER BECKER

PAGE 01

BELSHER & BECKER

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625-A EAST CHAPEL

SANTA MARIA, CALIFORNIA 93454

TELEPHONE 805-349-7929

JOHN W. BELSHER
HOWARD MARK BECKER

February 23, 2000

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

Margaret Sohagi
Fox & Sohagi, LP
10960 Wilshire Blvd., Suite 1270
Los Angeles, CA 90024

RE: Josh Brown

Dear Margaret:

This letter outlines a proposal to amend the Compromise Settlement, Mutual Release, and Covenant and Agreement Respecting Use of Property, dated July 28, 1997, entered into by and between the Cambria Community Services District and Joshua and Cathie Brown.

Background

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

The second parcel ("Parcel 2") is 80 acres and is unimproved at this time. All but 20 acres of Parcel 2 has been encumbered by the Browns with a conservation easement now vested in the Land Conservancy of San Luis Obispo County. A lot line adjustment was tentatively approved by the County in January adjusting the size of these two parcels to 142 and 58 acres, respectively, reducing the 20-acre buildable area to 15 acres. The portion of Parcel 2 to be added to Parcel 1 is required to be deed restricted by the same conservation easement covering all but 15 acres of Parcel 2. A copy of the proposed lot line adjustment tentatively approved by the County is enclosed.

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

Attachment IV-4

Exhibit 3
(17 of 18)

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

310-444-7813

T-506 P.03/03 Job-330

BELSHER BECKER

PAGE 02

Margaret Sohagi
February 23, 2000
Page 2

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

→ The Browns now seek to create a twenty-acre lot out of Parcel 1, as envisioned in the Agreement. See the enclosed Tentative Parcel Map 88-0052, which shows the location of the proposed new residential parcel, which parcel is out of view of Highway 1 and Lalmert Drive. However, the District has determined the "Granny Unit" on Parcel 1 requires its own separate water meter, using up the Agreement's two meters allotted to Parcel 1. The Browns desire to keep the Granny Unit with the primary residence. They will therefore need another water meter in order to achieve the subdivision of Parcel 1 permitted by the Agreement. Hence this proposal is offered.

The Proposal

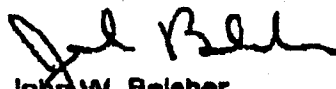
The Agreement expressly provides that it can be changed by written amendment agreed to by the District and the Browns. The Browns propose to amend the Agreement to provide as follows:

1. The Browns will record a conservation easement prohibiting in perpetuity residential development on that portion of their property visible from Highway 1. A map showing this proposed conservation easement area will be presented to the Board at or prior to the meeting on February 28.

2. The District would approve the transfer of one meter position from an as yet unidentified residential lot in Cambria to the potential 20-acre parcel to be carved out of Parcel 1. The Browns will donate the as yet unidentified lot to the District in fee, as part of its requirements under the meter position transfer ordinance. The lot selected would have to provide an important public benefit sufficient to satisfy the Board.

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

Sincerely,


John W. Belsher

JWB/ab

cc: client
brownsohagi.03

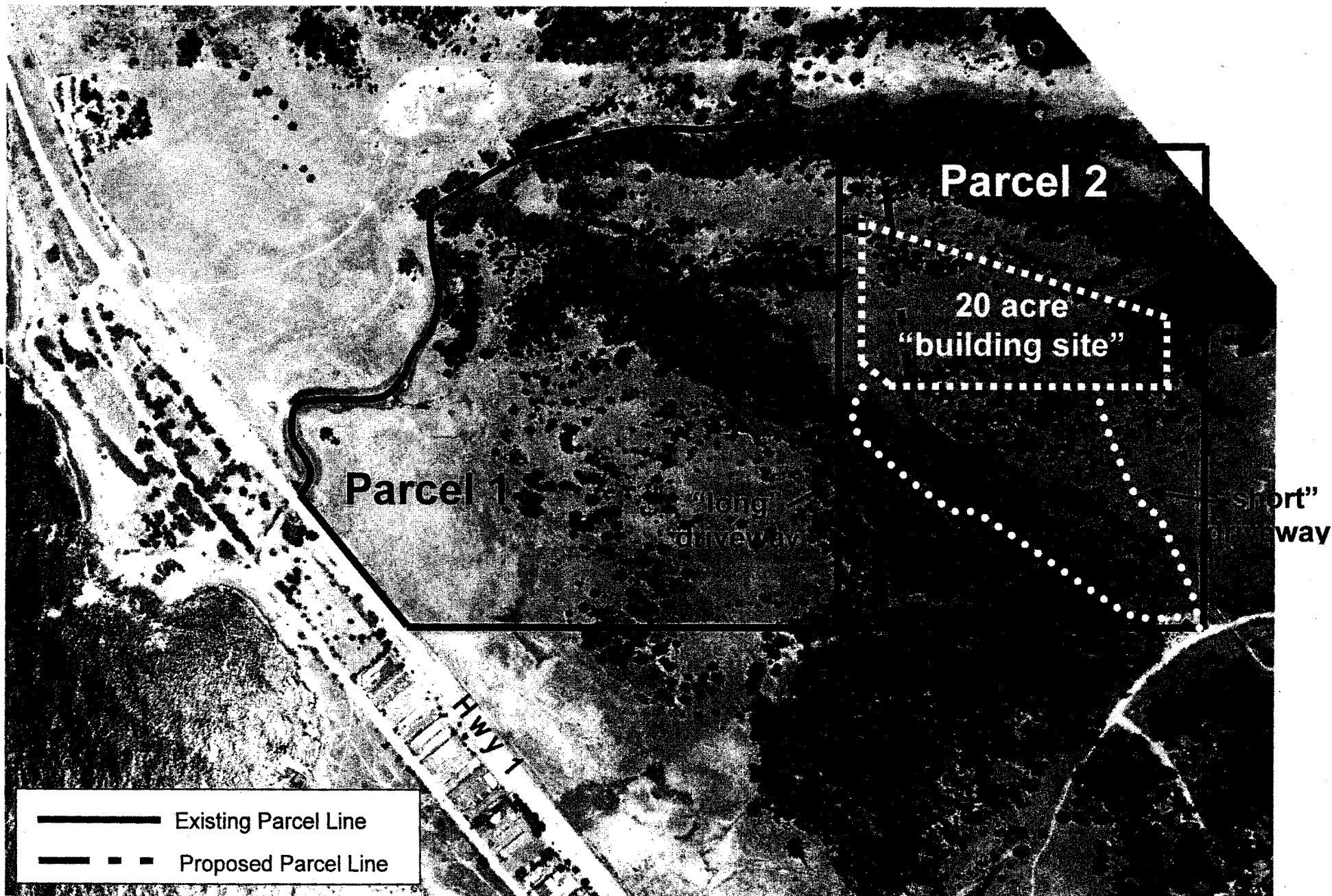
Exhibit 3
(18 of 18)

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

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

Exhibit 4
County Conditions of Approval

Exhibit 5
Aerial Depiction



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

Date of Aerial Photo 6/25/93

BELSHER & BECKER

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625-A EAST CHAPEL

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TELEPHONE 805-349-7929

JOHN W. BELSHER
HOWARD MARK BECKER

May 24, 2000

VIA FACSIMILE NO. (831) 427-4877

Renee Brooke
Staff Analyst
California Coastal Commission
Central Coast Region
726 Front Street
Santa Cruz, CA 95060**Re: Commission Appeal No. A-3-SLO-00-045 (Josh Brown Lot Line Adjustment)**

Dear Ms. Brooke:

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

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

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

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

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

Exhibit 6
(1 of 13)

Renee Brooke
May 24, 2000
Page 2

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

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

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

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

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

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

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

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(2 of 13)

Renee Brooke

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Page 3

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

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

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

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

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

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

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

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

Exhibit 6
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Page 4

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

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

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

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

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

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

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

Exhibit 6
(4 of 13)

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May 24, 2000
Page 5

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

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

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

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

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

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

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

Exhibit 6
(5 of 13)

Renee Brooke
May 24, 2000
Page 6

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

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

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

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

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

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


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

Exhibit 6
(6 of 13)

Renee Brooke
May 24, 2000
Page 7

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

Sincerely,


John W. Belsher

cc: Josh and Cathy Brown

Exhibit 6
(7 of 13)

(ENDORSED)

FILED

FEB 27 1992

FRANCIS M. COONEY, COUNTY CLERK

By Julie Rodewald
DEPUTY CLERK

JAMES B. LINDHOLM, JR., #43513
County Counsel
Raymond A. Biering, #89154
Deputy County Counsel
County of San Luis Obispo
County Government Center, Room 386
San Luis Obispo, CA 93408
Telephone: (805) 549-5400

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

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

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN LUIS OBISPO

WALTER H. LEIMERT CO.
and CAMBRIA WEST,

Plaintiffs and
Petitioners,

v.

COUNTY OF SAN LUIS OBISPO,
a political subdivision of the
State of California, et al.,

Defendants and
Respondents.

No. 68734

STIPULATION RE:
SETTLEMENT AND
DISMISSAL OF ACTION;
ORDER THEREON

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

1. COUNTY agrees to accept for processing LEIMERT's

Exhibit 6
(8 of 13)

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

Exhibit 6²⁻
(9 of 13)

ERNST & MATTHESON

By: *Patricia Gomez*

PATRICIA GOMEZ

Attorneys for Defendants and
RespondentsORDER

IT IS SO ORDERED:

DATED: 2/27/92, 1992. /s/ BARRY HAMMERJUDGE OF THE SUPERIOR COURT

0833.ch/PLN

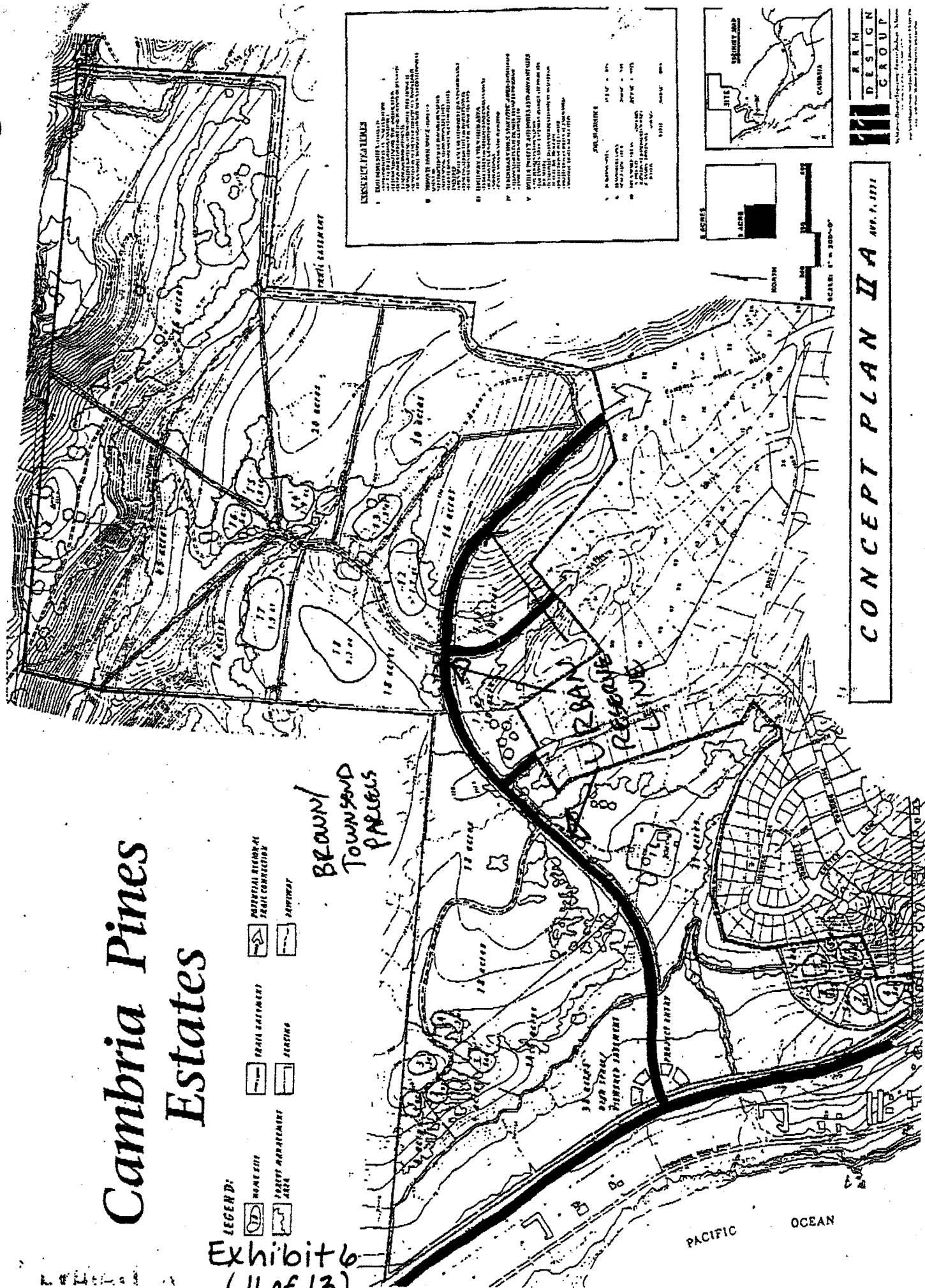
Cambria Pines Estates

Exhibit 6
(11 of 13)

LEGEND:

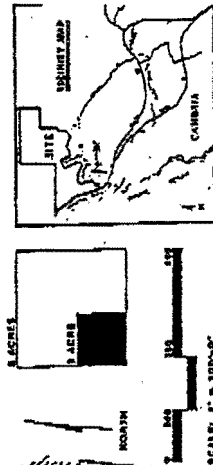
- BOUNDARY
- EASEMENT
- POTENTIAL REGIONAL ROAD CONNECTION
- ACCESS
- ROADWAY

BROWN
TOWNSEND
PARCELS



ANNECTED FEATURES

- 1. EXISTING ROADWAY - 10' WIDE
- 2. EXISTING ROADWAY - 10' WIDE
- 3. EXISTING ROADWAY - 10' WIDE
- 4. EXISTING ROADWAY - 10' WIDE
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CONCEPT PLAN II A

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

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

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

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

1. Limitation on Land Use - North of Ragged Point. Uses shall be limited to single family residences; home occupations; residential accessory uses; coastal accessways; water wells and impoundments; and agricultural uses in accordance with Coastal Table 0.
2. Site Planning - New Land Divisions Adjacent to Cambria. Proposed residential units at a density equivalent to a minimum of one dwelling unit per 80 acres unless a lower density is required by the Coastal Zone Land Use Ordinance (depending upon site constraints), are to be clustered adjacent to the Cambria Urban Reserve Line to minimize the need for new road construction and service extensions; or shall be clustered in open or semi-open areas to minimize tree removal. No structural development shall be allowed on slopes greater than 20%. Water and sewer service shall be developed on-site and not via annexation to the Services District, unless the development site is brought within the Urban Service and Urban Reserve Line. Any Monterey Pines removed during construction shall be replaced. The area shall be developed through the cluster division provisions of the Coastal Zone Land Use Ordinance.
3. Site Planning - San Carpoforo. New development proposals except for additions to existing visitor-serving facilities north of San Carpoforo Creek shall be sited inland of Highway 1. Additions to existing visitor-serving developments shall be sited so as not to obstruct views of the ocean from Highway 1 and shall not exceed 14 feet in height if seaward of Highway 1.

