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**COASTAL DEVELOPMENT PERMIT APPEAL:
SUBSTANTIAL ISSUE DETERMINATION AND DE NOVO HEARING**

Application numberA-3-SLO-00-118, KK Ranch

Applicant.....Khosro Khaloghli

AppellantsCommissioners Wan and Nava

Project location.....7292 Exotic Gardens Drive, Cambria, San Luis Obispo County

Project description9,700 sq. ft. single family residence with attached garage; 600 sq. ft. guesthouse; 3,000 sq. ft. storage barn; 2,400 square foot horse barn; 1 acre pond filled by runoff; irrigation well

Local approval.....The San Luis Obispo County Planning Commission approved Minor Use Permit/Coastal Development Permit D990019V for the project on June 22, 2000. This action included a variance to visual resource protection standards of the North Coast Area Plan.

File documents.....San Luis Obispo County certified Local Coastal Program; Final Local Action Notice 3-SLO-00-379; documents and materials from the local record provided by San Luis Obispo County on August 17, 2000; Periodic Review of the San Luis Obispo County Certified Local Coastal Program; additional documents, materials, and correspondence provided by applicant and interested parties.

Staff recommendation ...**Staff Recommends that the Commission determine that the appeal raises a SUBSTANTIAL ISSUE with respect to the grounds on which the appeal has been filed, then APPROVE the project with conditions.**

Summary: The project involves the construction of a new residence, guest house, storage barn, horse barn, pond, and well on a 78 acre parcel in the Rural Lands category east of Highway One and north of the Cambria Urban area. Access to the site is from Highway One, at Exotic Gardens Drive, where there is an existing restaurant known as the Hamlet. Although the site is located outside the Cambria Urban Services Line, there is a pre-existing water meter that provides water to the site and currently serves an existing 3,000 square foot temporary modular residence that will be removed upon construction of the



**California Coastal Commission
December 2001 Meeting in San Francisco**

Staff: SM Approved by: *Cr7.7. 11/29/01*

new residence. The proposed well is intended to supplement the domestic water being provided by the Cambria Community Services District and to be used to irrigate livestock, gardens, and landscaping. According to the local approval, the well will be within 100 feet of Leffingwell Creek.

The appeal raises substantial issues regarding the project's conformance to San Luis Obispo County Local Coastal Program (LCP) standards protecting environmentally sensitive habitat areas (ESHA) and coastal watersheds. As approved by the County, the development has the potential to disrupt adjacent sensitive forest habitats inconsistent with LCP ESHA Policy 1. The development will introduce noise and light to the natural areas, and potentially result in the invasion of exotic vegetation and insects carrying pitch canker spores. A substantial issue is also raised with LCP ESHA Policy 27, requiring new development to protect the entire ecological community of the forest and be compatible with its continuance. The development will impact grasslands adjacent to forest habitats that contain Monterey pine saplings and other resources that support the biological productivity and regeneration of the forest. Finally, a substantial ESHA issue is raised with respect to LCP Ordinance 23.07.174 protecting riparian habitats and coastal watersheds. San Luis Obispo County's approval of the well at an unspecified location near Leffingwell Creek, without any restrictions on the amount of water that can be extracted or any requirements for monitoring, may result in adverse impacts on riparian and aquatic habitats inconsistent with 23.07.174.

Substantial issues are also raised by appeal contentions that challenge the project's consistency with LCP visual resource policies. The locally approved residence unnecessarily intrudes within the highly scenic Highway One view corridor, inconsistent with LCP Visual and Scenic Resources Policies 1, 2, 4, and 5. The project also conflicts with the LCP directive to locate new development outside of the Highway One viewshed in rural areas of the North Coast (North Coast Planning Area Standard 6). The variance approved by the County to resolve this inconsistency does not carry out LCP standards that limit variances to situations where strict application of the LCP is not feasible. In addition, the County requirement to use berms to partially screen the development conflicts with the LCP requirement to avoid the alteration of natural landforms.

To resolve these issues and achieve LCP consistency, staff recommends that the Commission approve the project with special conditions. To protect visual resources, the conditions call for the applicant to submit revised plans for the residence that ensure that no portion of the proposed structures will be visible from Highway One, without the use of berms. The dimensions of the residence shown by the revised plans must be staked on site so the Executive Director can confirm that this condition will be effectively satisfied.

To preserve the surrounding sensitive pine forest habitat, the conditions require the applicant to transplant all Monterey pine saplings within the development footprint to area of the site that will not be disturbed. In addition, the conditions require a landscape plan that uses only native vegetation appropriate to the site, and implementation of measures to prevent the spread of pitch canker and/or exotic invasive vegetation. Finally, the conditions of approval seek to protect the riparian and aquatic habitats of Leffingwell Creek by requiring well installation to be preceded by a report demonstrating, to the satisfaction of the Executive Director, that construction and use of the well will maintain the quantity



and quality of water needed to sustain the functional capacity and biological productivity of the creek and associated wetlands.

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VI. Exhibits

- Exhibit A: Project Location
- Exhibit B: Project Plans
- Exhibit C: Contentions of Appeal
- Exhibit D: Local Findings and Conditions of Approval
- Exhibit E: View Corridors
- Exhibit F: Visual Simulations
- Exhibit G: LCP Combining Designation Map
- Exhibit H: Letter from Project Geologist
- Exhibit I: Other Correspondence

I. Summary of Appellants Contentions

For the full text of the appellants' contentions, please refer to Exhibit C.

In summary, the appellants contend that the project is inconsistent with provisions of the San Luis Obispo County certified LCP protecting visual resources and environmentally sensitive habitats, as well as with LCP standards regarding water supplies.

With respect to views, the appeal asserts that the project does not conform with Visual and Scenic Resource Policies 1, 2, 4, and 5 because the project does not protect views from Highway One, and is not designed and sited to be subordinate to the rural character of the area. In addition, the appeal notes that the use of earthen berms to screen the development from Highway One, as required by San Luis Obispo County, may degrade scenic resources by altering natural land forms.

Regarding environmentally sensitive habitats, the appeal identifies that the project is adjacent to the Monterey Pine Forest, classified by the LCP as a Sensitive Resource Area and Environmentally Sensitive Habitat. Because the project has the potential to degrade and fragment the Monterey Pine Forest, the appeal questions its conformance to LCP ESHA Policy 1 prohibiting the disruption of ESHA and limiting development within ESHA to resource dependent uses. On the same grounds, the appeal challenges the project's consistency with LCP ESHA Policy 27, calling for projects adjacent to ESHA to be compatible with the continuance of the habitat and ecological community. In addition, the appeal contends that the project is inconsistent with LCP riparian setback requirements because a new well is proposed within 100 feet of Leffingwell Creek.

Finally, the appeal asserts that the project is inconsistent with the requirements of the LCP regarding water supplies. In particular, the appeal alleges that the use of municipal water to serve development outside of the Urban Services Line contradicts LCP Policy 1 for Public Works as well as Section 23.04.430 of the CZLUO. In addition, the appeal contends that the local approval of a new well, without an evaluation of its adequacy or impacts, is also inconsistent with these LCP provisions.



II. Local Government Action

The San Luis Obispo County Planning Commission approved a Minor Use Permit/Coastal Development Permit and Variance from visual resource protection requirements for the project on June 22, 2000 (San Luis Obispo County Permit File No. D990019V). The local findings and conditions of approval are attached as Exhibit D.

III. Appeal Procedures

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. Section 23.01.043c(3) of the San Luis Obispo Coastal Zone Land Use Ordinance specifies the sensitive coastal resource areas where development is appealable to the Coastal Commission, which includes environmentally sensitive habitat areas such as the Monterey Pine forest and coastal streams. As determined by the County, this project is appealable to the Coastal Commission because it involves development within Sensitive Resource Areas designated by the LCP; specifically, the project proposes development within environmentally sensitive habitats associated with the Monterey Pine forest and Leffingwell Creek, on a site with known archaeological resources¹.

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

¹ As described by San Luis Obispo County, "The project is appealable to the Coastal Commission for several reasons. The property was Wetland and Terrestrial Habitat mapped areas, both of which are considered Environmentally Sensitive Habitats (ESH's). Projects proposed on properties with ESH's are appealable to the CCC whether the project is in the mapped area or not because the project may still result in adverse impacts to resources existing but not mapped. The project site also contains a known archaeological site. Although the property is not formally designated as Archaeologically Sensitive, the project is appealable because the project [site] contains known archaeological resources and the project may result in adverse impacts to archaeological resources (either known or unknown). The project is also appealable to the CCC because the proposed landscape well is within 100 feet of the creek."



any body of water located within the coastal zone. This project is not located between the nearest public road and the sea and thus, this additional finding need not be made in a *de novo* review in this case.

IV. Staff Recommendation on Substantial Issue

MOTION: *I move that the Commission determine that Appeal No. A-3-SLO-00-118 raises NO substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act.*

STAFF RECOMMENDATION OF NO SUBSTANTIAL ISSUE:

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

RESOLUTION TO FIND SUBSTANTIAL ISSUE:

The Commission hereby finds that Appeal No. A-3-SLO-00-018 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 and/or the public access and recreation policies of the Coastal Act.

V. Recommended Findings and Declarations for Substantial Issue

A. Visual Resources

1. LCP Scenic and Visual Resources Protection Provisions

The appeal asserts that the project is inconsistent with the following LCP Policies for Visual and Scenic Resource Protection:

Policy 1: Protection of Visual and Sensitive Resources

Unique and attractive features of the landscape, including but not limited to unusual landforms, scenic vistas and sensitive habitats are to be preserved, protected, and in visually degraded areas restored where feasible.



Policy 2: Site Selection for New Development

Permitted development shall be sited so as to protect views to and along the ocean and scenic coastal areas. Wherever possible, site selection for new development is to emphasize locations not visible from major public view corridors. In particular, new development should utilize slope created "pockets" to shield development and minimize visual intrusion.

Policy 4: New Development In Rural Areas

New development shall be sited to minimize its visibility from public view corridors. Structures shall be designed (height, bulk, style) to be subordinate to, and blend with, the rural character of the area. New development which cannot be sited outside of public view corridors is to be screened utilizing native vegetation; however, such vegetation, when mature, must also be selected and sited in such a manner as to not obstruct major public views. New land divisions whose only building site would be on a highly visible slope or ridgetop shall be prohibited.

Policy 5: Landform Alterations

Grading, earthmoving, major vegetation removal and other landform alterations within public view corridors are to be minimized. Where feasible, contours of the finished surface are to blend with adjacent natural terrain to achieve a consistent grade and natural appearance.

2. Substantial Issue Analysis

The appeal contends that the project is inconsistent with the above policies because:

the proposed development is located in front of an established Building Control Line intended to protect visual resources from Highway One, and will be visible from a major public view corridor. Secondly, the design and placement of the proposed residence does not appear to be subordinate to the rural character of the area. Finally, earthen berms proposed to aid in shielding the development from the view corridor of Highway 1 may appear as an unnatural landform alteration.

In sum, the appeal asserts that the visibility of the project from Highway One, and its coinciding adverse impact on scenic resources, results in nonconformance with LCP requirements.

The project approved by San Luis Obispo County will indeed be visible from Highway One, in the highly scenic rural coastal area north of Cambria. The proposed 9,700 square foot residence has a height of 26-feet, and has been designed with a dark tan stucco exterior and dark green tile roof to minimize visual impacts (plans and elevations attached as Exhibit B). Visual analyses completed during the County's review identified that the proposed residence would be partially visible from two places along



Highway One. To a motorist traveling southbound on Highway One, the house would be visible at a distance of approximately $\frac{3}{4}$ of a mile for about a two second period. From a different viewpoint on the Highway, the residence would be visible to northbound motorists at a distance of $\frac{1}{2}$ mile, for about three seconds (see Exhibit E).

The Building Control Line (BCL) referenced by the appeal refers to a line established by San Luis Obispo County when it approved a lot line adjustment filed by the previous property owner that affected the subject site and adjacent properties. The BCL was intended to delineate the westward limit to future residential structures, so that they would not be visible from Highway One. The language of the condition did, however, allow residential development west of the BCL if "a subsequent visual analysis, prepared by a professional approved by the Environmental Coordinator, demonstrates that a residence placed on the west side of the line would not violate Planning Area Standards or result in significant adverse visual impacts". Regarding this issue, the County staff report states:

The applicant considered, for a short time, placing the structures at or behind the BCL. However, the applicant felt that placing the primary residence at or behind the BCL did not afford a reasonable view of the ocean and therefore did not meet the primary objective of the project. At that point in the process, [County] staff informed the applicant that moving the building site west of the BCL would require a variance to the planning area standard that controls the visibility of "primary sites". [County] Staff also informed the applicant that we would not support a variance unless it could be demonstrated that the project would not result in significant adverse visual impacts (to be consistent with the Conditions of Approval on the previous lot line adjustment).

Whether the County has effectively enforced the condition of the Lot Line Adjustment establishing the BCL is not directly related to the Substantial Issue question, since this was a condition of a previous permit and is not a standard of the LCP. Nevertheless, it is appropriate for the Commission to evaluate this contention to the degree that the BCL provides a means of carrying out LCP visual resource protection policies. The BCL must also be considered in light of other coastal resource issues raised by the project, and the changed circumstances since the County acted on the previous lot line adjustment. Requiring the development to be located behind (east of) the BCL may not be the most protective of coastal resources because it forces development closer to, and potentially within, sensitive forested areas of the site.

Irrespective of the BCL, the fact that the residence approved by the County unnecessarily encroaches within the highly significant Highway One view corridor of San Luis Obispo County's rural North Coast raises a substantial issue regarding project conformance to LCP Visual and Scenic Resource Policies 1, 2, and 4. Contrary to Policy 1, the project does not protect scenic features of the landscape because it intrudes within unobstructed views of open space and pine forest habitats. In conflict with Policy 2, the siting and design of the residence has not made full use of the site's topography to shield the development and minimize its visual intrusion; rather than pursuing alternative sites and designs that would prevent the development from being visible from Highway One, the project relies upon berms,



landscaping, and the use of a green roof to mitigate instead of avoid these impacts. For the same reason, the project does not carry out Policy 4, which calls for the use of vegetation to screen development only where it is not possible to site the development outside of public view corridors. Because the residence has not been effectively hidden from the public view corridor, it is not subordinate to the open space, rural character of the area, also in conflict with Policy 4. Finally, the use of earth berms to partially shield the project contradicts Policy 5's requirement to minimize the alteration of natural landforms within public view corridors.

In response to these concerns, the applicant has proposed to re-site the house eleven feet to the west, which will lower the elevation of the twenty-six foot tall residence by two feet and thereby reduce its visibility from Highway One. In addition, the applicant has planted, and will continue to plant Monterey pine trees, Cypress, and other vegetation that, when mature, will help limit the project from being visible from Highway One. Nevertheless, the visual simulations provided by applicant (attached as Exhibit F) indicate that even with these changes, the residence will still be visible from Highway One, inconsistent with LCP visual resource protection requirements.

3. Substantial Issue Conclusion

The appeal raises a substantial issue regarding project conformance with the LCP Visual and Scenic Resource Policies 1, 2, 4, and 5 because the development has not been sited and designed to be outside the scenic Highway One viewshed.

B. Environmentally Sensitive Habitat Areas (ESHA)

1. LCP ESHA Protection Provisions

The appeal asserts that the project is inconsistent with the following LCP Policies for Environmentally Sensitive Habitats:

Policy 1: Land Uses Within or Adjacent to Environmentally Sensitive Habitats

New development within or adjacent to locations of environmentally sensitive habitats (within 100 feet unless sites further removed would significantly disrupt the habitat) shall not significantly disrupt the resource. Within an existing resource, only those uses dependent on such resources shall be allowed in the area.

Policy 27: Protection of Terrestrial Habitats

Designated plant and animal habitats are environmentally sensitive habitat areas and emphasis for protection should be placed on the entire ecological community. Only uses dependent on the resource shall be permitted within the identified sensitive habitat portion of the site.



Development adjacent to environmentally sensitive habitat areas and holdings of the State Department of Parks and Recreation shall be sited and designed to prevent impacts that would significantly degrade such areas and shall be compatible with the continuance of such habitat areas.

In addition, the appeal contends that the project does not conform to Section 23.07.174d of the Coastal Zone Land Use Ordinance (CZLUO), which provides:

23.07.174 – Streams and Riparian Vegetation:

Coastal streams and adjacent riparian areas are environmentally sensitive habitats. The provisions of this section are intended to preserve and protect the natural hydrological system and ecological functions of coastal streams.

...

d. Riparian Setbacks: New development shall be setback from the upland edge of riparian vegetation a minimum of 50 feet within urban areas (inside the USL) and 100 feet in rural areas (outside the USL), except as provided in subsection b of this section², and as follows:

- (1) Permitted uses within the setback: Permitted uses are limited to those specified in Section 23.07.172d(1) (for wetland setbacks), provided that the findings required by that section can be made³. Additional permitted uses that are not required to satisfy those findings include pedestrian and equestrian trails, and non-structural agricultural uses.*
- (2) Riparian habitat setback adjustment: The minimum riparian setback may be adjusted through Minor Use Permit approval, but in no case shall structures be allowed closer than 10 feet from a stream bank, and provided the following findings can first be made:*

² 23.07.174b limits channelization, dams or other alteration of stream channels to:

- (1) Water supply projects, provided that the quantity and quality of water from streams shall be maintained at levels necessary to sustain functional capacity of streams, wetlands, estuaries and lakes.
- (2) Flood control projects, where such protection is necessary for public safety or to protect existing commercial or residential structures, when no feasible alternative to streambed alteration is available;
- (3) Construction of improvements to fish and wildlife habitat;
- (4) Maintenance of existing flood control channels.

23.07.174b further states that streambed alterations shall not be conducted unless all applicable provisions of this title are met, and if applicable, permit approval from the California Department of Fish and Game, the U.S. Army Corps of Engineers, and California State Water Resources Control Board.

³ Section 23.07.172d.1 allows the following uses within wetland/riparian setbacks: passive recreation, educational, existing non-structural agricultural development in accordance with best management practices, utility lines, pipelines, drainage and flood control facilities, bridges and road approaches to bridges to cross a stream and roads where it can be demonstrated that:

- (i) Alternative routes are infeasible or more environmentally damaging.
- (ii) Adverse environmental effects are mitigated to the maximum extent feasible.



- (i) *Alternative locations and routes are infeasible or more environmentally damaging; and*
- (ii) *Adverse environmental effects are mitigated to the maximum extent feasible; and*
- (iii) *The adjustment is necessary to allow a principal permitted use of the property and redesign of the proposed development would not allow the use with the standard setbacks; and*
- (iv) *The adjustment is the minimum that would allow for a principally permitted use.*

2. Substantial Issue Analysis

The appeal contends that the project may degrade and fragment sensitive Monterey pine forest habitat, inconsistent with ESHA Policies 1 and 27. The appeal also alleges that the proposed well does not comply with the 100 foot riparian setback required by Section 23.07.174 of the CZLUO.

The forest, grassland, and riparian habitats contained on the 78-acre parcel are indeed important coastal resources, interconnected with the larger ecological system unique to the San Luis Obispo County north coast. All of these habitat types play a role in supporting the rare and valuable plants and animals endemic to the area. The LCP maps developed in the 1980's to approximate the location of Sensitive Resource Areas identify both the forested areas of the site, as well as the creek and its floodplain, as ESHA (see Exhibit G). The maps do not, however, show the full extent of the ESHA on the site. As described in the Periodic Review, these maps were developed in the 1980's, and therefore do not represent current knowledge regarding the status, sensitivity, and extent of important habitat areas. For example, although not mapped by the LCP as ESHA, the site's grasslands play an important role in maintaining the health and biological productivity of the adjacent forest (see discussion below).

The large minimum parcel sizes of the Rural Lands designation, and the presence of San Simeon State Park to the north, have helped to protect the important and sensitive habitats of the area. Indeed, this rural area north of Cambria is a critical component to the larger Cambria Pine forest, which is one of only three regions in the world supporting endemic Monterey Pine forest habitat. Thorough application of LCP ESHA protection standards in this area is essential to preserve the ecological integrity and biological functioning of the forest habitat - a particularly important function given the pace and quantity of development taking place in portions of the forest within the Cambria urban area.

The issue raised by the appeal is whether the project has been sited and designed consistent with LCP policies prohibiting a significant disruption of sensitive pine forest habitat. Potential adverse impacts of the project on the sensitive forest habitat include, but may not be limited to: the removal of trees and other vegetation; the introduction of noise, light, human activity, domestic animals, and exotic invasive vegetation to the area; and the establishment of barriers (e.g., fences) to wildlife movement. Also of



concern is how the project may affect, and/or be affected by, the pitch canker epidemic. For example, the development could result in the spread of pitch canker if infected firewood or landscaping trees are brought onto the site. In addition, developing in the grassland areas adjacent to and within the forest may hamper the ability of Monterey Pine trees to recover from the current threats of Pitch Canker; these grassland areas not only provide the ecological conditions needed to support future generations of the forest, but may also support Monterey Pine saplings that are developing the genetic materials needed to establish a resistance to Pitch canker. With respect to the visual resource concerns previously discussed, pitch canker could prevent Monterey pines trees from providing an effective visual screen over the long term.

At the project site, grassland transitions to forest habitat at a distance of approximately one quarter of a mile east of Highway One. This presents another overlap between ESHA and visual resource issues: siting the development within the forest would hide the development from the Highway One viewshed, but would adversely impact sensitive forest habitats.

In an attempt to protect both scenic and habitat resources, the residence has been sited on a disturbed un-forested portion of the site, where soil had been removed and used as fill during the construction of Highway One. The lower elevation of this site, and its location behind a small hill, allows the proposed residence to be partially shielded from the Highway One viewshed. Other structural components of the project (i.e., guest house, horse barn, and storage barn) will be outside of the Highway One viewshed. The project does not necessitate the removal of any mature trees.

Notwithstanding the applicant's and County's attempts to avoid impacts to site's forest resources, there are significant outstanding concerns regarding the long-term compatibility of the proposed development with the continuance of the site's sensitive forest habitats. First, inconsistent with ESHA Policy 1, the local approval does not effectively address concerns that project landscaping materials and firewood could significantly disrupt the surrounding forest habitat by introducing exotic invasive vegetation, as well as harmful insects, genetic materials, and disease. Second, the impact of the development on grasslands adjacent to, and ecologically connected with the pine forest raises a substantial issue with respect to Policy 27 because, as discussed above, these impacts adversely affect the pine forest system and cumulatively threaten the long-term continuance of the habitat.

A substantial issue is also raised by the contentions of the appeal that challenge the consistency of the proposed well with LCP requirements that establish a 100 foot setback from the edge of the riparian vegetation. As previously noted, the County approval identifies that the project's well will be within 100 feet of Leffingwell Creek. In further discussion with the applicant, it has been clarified that the exact location of the well will be determined through additional site investigations. Given the fact that the location of the well has not been identified, the Commission must assume that it may be constructed within 100 feet of the creek, as permitted by the County.

Although the LCP allows water supply projects within riparian setback areas (see reference to CZLUO Section 23.07.174b contained in Section 23.07.174d), it specifies that such projects must maintain the quantity and quality of water necessary to sustain the creek's functional capacity (CZLUO Section



23.07.174b). Compliance with this requirement is not ensured by the local approval for various reasons. There has been no analysis of the quantity of water to be extracted from the well, and how these extractions may impact water flows in Leffingwell Creek. Nor are there any requirements to monitor for adverse impacts and reduce extractions accordingly. Finally, there are no provisions to locate and construct the well in the manner that is most protective of riparian resources (e.g., providing the maximum setback feasible, revegetating areas disturbed during construction, implementing best management practices for the protection of water quality).

3. Substantial Issue Conclusion

The appeal raises a substantial issue regarding project conformance to LCP ESHA Policies 1 and 27 because the locally approved development has the potential to disrupt sensitive Monterey pine forest habitat and be incompatible with its continuance. This is the result of inadequate provisions to avoid the introduction of invasive vegetation and harmful disease, and the absence of measures to prevent the loss of grassland habitats and Monterey pine saplings attributed to the project from resulting in a long-term reduction of the forest's biological productivity. A substantial issue is also raised regarding project consistency with Section 23.07.174 of the CZLUO because the construction and use of the proposed well has the potential to adversely impact Leffingwell Creek, such as by reducing water levels, removing riparian vegetation, and degrading water quality.

C. Water Supplies

1. LCP Water Policies

The appeal asserts that the project is inconsistent with LCP Public Works Policy 1 and Section 23.04.430 of the CZLUO, cited below:

Policy 1: 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 exiting subdivided areas. Prior to permitting all new development, a finding shall be made that there are sufficient services to serve the proposed development given the already outstanding commitment to existing lots within the urban services line for which services will be needed consistent with the Resource Management System where applicable. Permitted development outside the USL shall be allowed only if it can be serviced by adequate private on-site water and waste disposal systems.

The applicant shall assume responsibility in accordance with county ordinances and the rules and regulations of the applicable service districts or other providers of service for



costs of service extensions or improvements that are required as a result of the project. Lack of proper arrangements for guaranteeing service is grounds for denial of the project or reduction of the density that could otherwise be approved consistent with available resources.

2. Substantial Issue Analysis

The appeal contends that the project does not comply with the above LCP standards because "the proposed development is located outside the Cambria Urban Service Line and evidence has not been provided to conclude that adequate private water services exist on the site". In other words, the appeal asserts that since the project is outside the USL, it is not eligible to receive water from the community system. Instead, the project must demonstrate that a sustainable source of water, adequate to serve the project, exists on site.

Notwithstanding the fact that the project site is outside both the Urban Services Line and Urban Reserve Line, water services provided by the Cambria Community Services District (CCSD) already exists on the site due to the presence of a pre-existing water meter. The fact that the subject parcel is receiving community water service through a pre-existing connection does not necessarily address *all* of the LCP requirements regarding water supply applicable to the new residential project. Public Works Policy 1 states that there must be adequate service capacities available to serve the project, after the services needed to accommodate buildout within the urban services line has been accounted for.

Since at least 1997, when the Commission reviewed the North Coast Area Plan Update proposed by San Luis Obispo County, the Commission has consistently identified significant outstanding issues, data gaps, and resource management needs regarding the true capacity of a sustainable water supply for Cambria that is also protective of the regions riparian resources. Recognizing the complexities of this issue, the Commission has attempted to provide opportunities for the County and the CCSD to complete up to date assessments, and develop water management plans, to resolve this issue. In the mean time, development in the Cambria Urban Area has continued to occur, at rates regulated by the County Growth Management Ordinance (currently, this ordinance allows a maximum one percent growth per year within the Cambria Urban Area). Most recently, the recommendations for corrective action adopted by the Commission as part of its Periodic review of the San Luis Obispo County LCP, establishes a deadline of January 1, 2002 for the County and CCSD to develop specified resource management plans and complete the environmental evaluations needed to determine and implement a sustainable water supply for Cambria. Should this information not be developed by January 1, 2002, the adopted recommendations call for the County to not allow any new development that would require additional withdrawals from Santa Rosa or San Simeon Creek, unless particular findings can be made. Consistent with this approach, the Commission has not, to date, denied residential development projects in the Cambria area solely based on concerns regarding water supplies.



3. Substantial Issue Conclusion

The appeal does not raise a substantial issue regarding the method by which water will be supplied to the development because the project site is already receiving water from a pre-existing CSD connection. Nor is a substantial issue raised regarding the adequacy of available water supplies because approval of the project does not conflict with the process endorsed by the Commission to resolve the outstanding questions regarding the sustainable capacity of the Cambria water system. However, as explained in the De Novo findings for ESHA, evidence of a valid will serve letter verifying that the Cambria Community Services District will serve the development with water is needed to ensure that there is adequate water, particularly in light of the water emergency recently declared by the District.

VI. Staff Recommendation on CDP Application

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

Motion. I move that the Commission approve Coastal Development Permit Number A-3-SLO-00-118 pursuant to the staff recommendation.

Staff Recommendation of Approval. Staff recommends a **YES** vote. Passage of this motion will result in approval of the coastal development permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

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

IV. Conditions of Approval

A. Standard Conditions

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the Permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.



2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the Permittee to bind all future owners and possessors of the subject property to the terms and conditions.

B. Special Conditions

1. **Scope of Permit.** The development authorized by this permit is limited to construction of the following, subject to Executive Director review and approval of final plans and compliance with all conditions below.
 - a. 8,400 square foot residence with a 1,300 square-foot attached garage and maximum height of 26 feet (measured in accordance with Section 23.04.122 of the CZLUO);
 - b. 600 square foot guesthouse;
 - c. 3,000 square foot storage barn;
 - d. 2,400 square foot horse barn;
 - e. one acre pond; and,
 - f. a water well (subject to Special Condition 6, below).
2. **Compliance with Local Conditions of Approval.** All conditions of approval adopted by the San Luis Obispo County Planning Commission on June 22, 2000 (attached as Exhibit D) pursuant to an authority other than the Coastal Act continue to apply to the project (e.g., local conditions 3 and 4 regarding the protection of archaeological resources, required pursuant to the California Environmental Quality Act, and local condition 7 requiring compliance with County fire safety requirements). Where there is a conflict between the conditions of the local approval and the terms of this permit, the terms of this permit shall prevail.
3. **Final Plans.** PRIOR TO ISSUANCE OF THE PERMIT the applicant shall submit, for Executive Director review and approval, final project plans that include the following:



- a. **Final Site Plan** that shows the exact location and footprint of all project components listed by Special Conditions 1 (except the well, which is addressed by Special Condition 5). The siting of the development shall be consistent with the site plan included in Exhibit B of this report, except where changes are needed to prevent structures from being visible from Highway One, provided that such changes do not result in the removal of mature trees.
- b. **Structural Plans and Elevations** for the residence and attached garage, guest house, storage barn and horse barn. Final plans for the project shall include revisions to the plans attached to this report as Exhibit B that will prevent any portion of the structures from being visible from Highway One, without the construction of berms. Such changes shall include, but may not be limited to, a reduction in building height, lowering the finished floor elevations, and/or shifting the site of the residence further to the west so that it will be shielded from Highway One views by existing vegetation and topographical features of the site. Upon submission of the final plans for the residence, and prior to Executive Director approval of the plans, the applicant shall stake the exterior dimensions of the structure, and extend orange construction fencing between the stakes to show the height and profile of the structure, in order to demonstrate, to the satisfaction of the Executive Director, that the structure will not be visible from Highway One. The Executive Director may require similar staking for other structures, prior to approving the final plans, if there are outstanding questions regarding their visibility from Highway One.
- c. **Landscape Plan** prepared by a qualified professional familiar with resource management principles of the Cambria Monterey Pine forest that details the type and location existing vegetation and future plantings that may screen the project from Highway One. The plan shall identify that all vegetation to be planted on the site shall be species native to the area, propagated from the seeds or cuttings of local stocks. The plan shall also provide for the transplant of all Monterey pine saplings within the development's footprint to other locations on site which provide appropriate growing conditions.

The landscape plan shall also include a detailed on-going monitoring and maintenance program to preserve vegetation that screens the residence from Highway One for the life of the project. At a minimum, the monitoring and maintenance program shall specify planting and irrigation schedules, provide for bi-annual inspections, restrict vegetation trimming and removal to that which will not increase the visibility of the residence, and include provisions for the immediate replacement of any dead or diseased vegetation that provides visual screening.

- d. **Lighting Plan** that identifies the type and location of all exterior lights, which shall be limited to that which is necessary to illuminate driveways, pathways, and entrances to structures. Such lighting shall be provided by low-level light sources that prevent light and glare from extending beyond the immediate area to be illuminated.



- e. **Grading, Drainage, and Erosion Control Plans** that satisfy the requirements of CZLUO Sections 23.05.024 – 23.05.050 and prohibit ground disturbing activities between October 15 and April 1. The plans shall also identify that ground disturbing activities are also prohibited when the National Weather Service reports a 30% or greater chance of rain. The Grading, Drainage and Erosion Control Plans shall identify the type and capacity of the measures and facilities that will be implemented and/or installed to minimize and control erosion and sedimentation, and to protect coastal water quality, both during and after project construction, to the satisfaction of the Executive Director. To the degree feasible, this should include the detention of runoff from impervious areas in the pond. The Plans shall also include provisions to filter and/or treat runoff from parking areas and livestock facilities (e.g., horse storage barn) to prevent the discharge of bacteria and pollutants into coastal waters. The applicant shall be responsible for implementing and maintaining the drainage and erosion control plans for the life of the project.

PRIOR TO THE COMMENCEMENT OF GRADING, the applicant shall delineate the limits of grading with construction fencing, and prohibit grading activities outside of these areas.

4. **Pitch Canker Controls** To prevent or reduce the spread of disease from pitch canker, bark beetles, or other diseases affecting the forest, the following measures shall be followed:
- a. Cutting or pruning tools shall be cleaned with a disinfectant prior to use on uninfected branches or other trees.
 - b. All firewood and landscaping materials shall be inspected and confirmed to be free of pitch canker or other diseases prior to being transported to the property. All firewood to be stored on site shall be covered by a clear plastic tarp.
 - c. Prior to the cutting or removal of infected trees, the Permittee shall submit a plan, for review and approval of the Executive Director, for the transportation and relocation of the diseased material. The plan shall identify the chosen site to which the material will be relocated (areas free of the disease are prohibited) and shall ensure that any material taken off the site will be covered or enclosed to avoid dispersal of contaminated bark beetles.
5. **Construction and Use of Water Well. PRIOR TO THE DRILLING OF THE WATER WELL**, the applicant shall submit, for Executive Director review and approval, a report prepared by a qualified professional that:
- evaluates in-stream flows and identifies the extent and location of the riparian and wetland habitats dependent upon such flows;
 - identifies the exact location of the well, which shall be as far from the riparian corridor as feasible;



- quantifies the maximum amount of water to be extracted from the well and evaluates the impact that such extractions may have on riparian and wetland habitats;
- provides pumping schedules and restrictions designed to prevent well use from adversely impacting riparian and wetland habitats and that assures that the functional capacity of the creek will be sustained; and,
- includes measures to monitor for reductions in creek water flows or impacts to riparian habitats resulting from use of the well, and identifies a process to corrective actions if adverse impacts are observed. This shall include the submission of an annual report to the Executive Director that identifies the quantity of water extracted on a monthly basis, describes monitoring results including stream gauge measurements, and proposes any corrective actions needed to prevent adverse impacts to riparian and wetland habitat for the review and approval of the Executive Director.

UPON EXECUTIVE DIRECTOR REVIEW AND APPROVAL OF THE ABOVE REPORT AND PRIOR TO THE DRILLING OF THE WELL, the applicant shall submit, for Executive Director review and approval, final plans showing the location and design of the well approved by the San Luis Obispo County Department of Health, accompanied by construction plans that include measures to prevent well construction activities from adversely impacting sensitive habitats and coastal water quality. Such measures shall include, but not me limited to, minimizing the amount of area disturbed during well installation, immediately revegetating of all areas disturbed during well installation, and implementing best management practices to prevent erosion, sedimentation, or the discharge of any materials into coastal waters during well construction.

6. **Deed Restriction.** This permit is only for the development described and conditioned by Coastal Development Permit No. A-3-SLO-00-118. Except as provided in Public Resources Code section 30610 and applicable regulations, any future development as defined in PRC section 30106, including but not limited to, a change in the density or intensity of use land, shall require a separate coastal development permit from San Luis Obispo County. No future subdivision of the property, or adjustment of lot lines, other than those brought about in connection with the acquisition of land for public recreation or resource protection, shall be permitted.

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall execute and record a deed restriction in a form and content acceptable to the Executive Director, reflecting the above restrictions on development, and committing the applicant and all future owners of the property to full implementation of the Landscape Plan and Pitch Canker Controls required by Special Conditions 3c and 4 above. The deed restriction shall also limit construction and use of the water well in accordance with Special Condition 5. The deed restriction shall include a legal description of the parcel being restricted, and shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the



enforceability of the restriction. The deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

7. **Removal of Modular Home and Trailer.** WITHIN ONE YEAR FROM THE DATE ON WHICH CONSTRUCTION COMMENCES, the applicant shall submit to the Executive Director evidence that the 3000 square foot modular home installed on the site has been removed from the property.
8. **Water.** PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director a valid "Intent to Serve" letter from the Cambria Community Services District, verifying that the CCSD will serve the development with water.

V. Recommended Findings and Declarations for Coastal Development Permit Approval

The Commission finds and declares as follows:

A. Project Description

1. Project Location

The project is proposed on a 78 acre parcel located at 7292 Exotic Gardens Drive, on the east side of Highway One, in the Rural Lands category north of the Cambria urban area (see Exhibit A). The parcel is bounded by San Simeon State Park to the North, undeveloped private land to the east, and a few residential estates (i.e., the Brown estate and the Leimert subdivision) to the south/southeast, all of which have been sited and designed to be outside of the Highway One viewshed. There is an existing restaurant ("The Hamlet") adjacent to the northwest corner of the site, which also gains access from Exotic Gardens Drive and fronts on Highway One. Leffingwell creek, a perennial stream, forms the southern boundary of the property.

The parcel has a generally long and thin configuration, with the widest part of the property fronting on Highway One for a distance of approximately 1,400 feet. The parcel tapers down to a narrow strip about 600 feet wide at its eastern end, which is about 3,600 feet inland of Highway One (Exhibit A). The wider, western half of the site is comprised mainly of grasslands, while the narrower eastern portion contains high quality Monterey Pine forest. Leffingwell creek (the southern property boundary) supports riparian and wetland habitats. The location and extent of the Monterey Pine forest, riparian and wetland habitat types on the site are approximated by the LCP's Combining Designation map, attached as Exhibit G.

The project site and surrounding area, like other rural areas of San Luis Obispo County's northern coastline, supports important scenic and ecological resources of statewide significance. As detailed in



the Periodic Review of the San Luis Obispo County LCP, current threats to the long term preservation of these resources necessitates rigorous regulatory review of new development proposals, and stringent implementation of existing and updated LCP standards.

2. Project Description

The project involves the construction of a 8,400 square foot residence with a 1,300 square foot attached garage, and the removal of an 3,000 square foot modular home previously installed on the site. The project also proposes construction of a 600 square foot guesthouse, a 3,000 square foot storage barn, a 2,400 square foot horse barn, a one acre pond, and a well near Leffingwell Creek. As conditioned by the County, the project also involves the construction of two eight-foot tall visual earth berms, designed to partially screen the residence from the Highway One viewshed. The site plan showing the location of these project components, along with the plans for the residence, are attached as Exhibit B. Plans for project components other than the residence, beyond the overall site plan, were not contained in the local file materials provided by the County.

B. Coastal Development Permit Determination

1. Visual and Scenic Resources

a. LCP Visual and Scenic Resource Standards

In addition to the visual and Scenic Resource Policies cited on 6-7 of this report, the North Coast Area Plan Standard for Site Design and Building Construction addresses site selection criteria for lands outside of urban and village reserve lines as follows:

6. Site Selection. Primary site selection for new development shall be locations not visible from Highway 1 as follows:

- a. Sites shall be selected where hills and slopes would shield development unless no alternative location exists or the new development provides visitor-serving facilities.*
- b. New development shall be located so that no portion of a structure extends above the highest horizon line of ridgelines as seen from Highway 1.*
- c. Where single ownership is on both sides of Highway 1, building sites shall be located on the east side of Highway 1 except for identified visitor-serving development*
- d. Development proposals for sites with varied terrain are to include design provisions for concentrating developments on moderate slopes, retaining steeper slopes visible from public roads undeveloped.*



b. Analysis

As detailed in the substantial issue findings regarding visual resources, incorporated herein, the locally approved project does not comply with LCP requirements to protect scenic features of the landscape because the siting and design of the residence has not adequately shielded the residence from two significant Highway One view corridors. This results in project inconsistencies with LCP Policies 1, 2, 4, and 5, as well as with North Coast Area Plan Standard 6 cited above.

To resolve these inconsistencies, the site and/or design of the residence must be revised to prevent the development from being visible from Highway One. There are various alternatives available to the applicant to satisfy this requirement.

First, the residence could be relocated a short distance to the west northwest so that, in coordination with some design changes, it would be shielded from Highway One by an existing hill. In response to staff's request to consider this option, the applicant consulted the project geologist. Their evaluation did not adequately address this option because it was limited to the saddle area between the two hills, and did not consider sites further west, on the inland side of the western hill, which would screen the house from Highway One. The geologist's February 24, 2001 letter regarding the saddle area (Exhibit H) states:

The saddle area is not as suitable [as the currently proposed site] for a residential structure for the following reasons: surface drainage will be an issue since it is the lowest lying area, design for a wastewater system will be more difficult since the effluent may require pumping to lift it to an area where the disposal site would not create a problem for building footprints. There is also a good possibility that perched water occurs in this low lying area which would necessitate the instillation of sub-surface drains. Foundations may need to be deeper due to a greater thickness of loose material in the saddle.

The surface drainage issues were particularly noted during the rains over the past few days when flooding has occurred.

Therefore, based on geologic and hydrologic considerations, the building site should not be located within the saddle area. The existing site has fewer constraints relating to constructing a residence and will require fewer site modifications.

While the saddle may not be a suitable site from a geologic and drainage standpoint, locations further west, on the inland side of the hill west of the proposed site, would avoid these problems by maintaining the residence at a safe elevation above the saddle. Most importantly, in combination with some design modifications to the proposed residence, it would be possible to better hide the residence from the Highway One viewshed at this location, without causing adverse impacts to the Monterey Pine forest.



Second, the height of the residence could be reduced to prevent it from being visible from Highway One. The standard height limit for Rural Lands is 35 feet per Section 23.04.124 of the CZLUO. However, this ordinance is subordinate to the Area Plan and Coastal Plan Policy Standards that require development to be sited and designed to protect scenic resources. As approved by San Luis Obispo County, the height of the residence is limited to 26 feet. According to the local review, this height, at the proposed location, would necessitate the construction of a 17.5-foot tall berm to screen the residence from the Highway One northbound view, and a 34.1-foot tall berm to screen the residence from the southbound view. Stating that the construction of such berms was unreasonable, the local approval called for the use of 8-foot and 15-foot tall berms to partially screen the residence, and the use of earth tone colors and landscaping to minimize the impact of the visible portions of the structure. According to the County's analysis, the end result would be that only the green roof would be visible from the northbound view, and that more than just the roof would be visible from the southbound view (visual simulations of project approved by the County are attached as Exhibit F). Thus, it follows that a structure with a lower height could be completely hidden from the northbound view. Protecting the southbound view, however, may require both a reduction in height and a re-design to avoid the structure from encroaching within this view corridor, depending on the ability of the trees planted by the applicant to screen the residence (discussed further below).

The option of lowering the height of the structure is not a question of feasibility; clearly, it is possible to design a residence with a height significantly less than 26 feet. However, the applicant opposes a requirement to reduce the height of the structure because of the way it would impact the design of the residence, particularly by limiting ocean views from the residence. The applicant did consider reducing the height of the structure to 23 feet, but abandoned this idea on the basis that it would not result in any significant change in the visibility of the structure after comparing the visual simulations of a 26 foot tall residence with a 23 foot tall residence (see Exhibit F).

Rather than lower the height of the structure, the applicant has proposed to shift the footprint of the residence 11 feet to the west, which would reduce the elevation of the structure by two feet. While this proposal is not adequate to achieve consistency with LCP requirements calling for new development in rural areas of the North Coast to not be visible from Highway One (as shown by the submitted visual simulations, the residence will still be visible), a more significant lowering of the finished floor elevation of the house is another tool that can be used to bring the project into conformance with LCP requirements. As discussed above, it may not be feasible to shift the house to lower elevations further to the west, due to drainage and geologic issues. However, it would be possible to reduce the elevation of the residence by lowering the elevation of the finished floor level through grading. This could be accomplished either at the currently proposed location, or at a different location that made better use of the site's existing topography to shield the development from Highway One.

Thus, there are at least three ways in which the applicant can revise the project to comply with LCP visual protection standards: reducing the height of the residence, selecting a site that is hidden from Highway One by existing topographical features, and/or lowering the finished floor elevation of the residence. To date, the applicant has not agreed to such changes because it is his opinion that the trees



he has planted will hide most of the residence, and that the structure's green roof and earth tone colors will prevent the structure from being noticed by motorists on Highway One. Although the applicant believes that the proposed project's visual impacts are insignificant, the Commission must consider the proposal in light of the direct and potential cumulative impacts, (i.e., the impacts that would result from allowing similar development elsewhere on the scenic north coast to encroach within public viewsheds) and in the context of LCP requirements to avoid impacts if possible.

The Commission has recognized the statewide significance of San Luis Obispo County's scenic resources, particularly in the County's rural north coast, on many occasions, including in its January 1998 review of a proposed update to the North Coast Area Plan, and in its July 2001 adoption of the Periodic Review. The rural north coast is the southern gateway to the Big Sur coast, and provides unique opportunities for residents and visitors to experience the natural beauty and majestic scenery of this largely undeveloped section of coastline. The Commission has consistently found that preservation of this resource is of utmost importance. Accordingly, the LCP calls for new development to *avoid* encroachment within public viewsheds wherever feasible, as opposed to minimizing the impacts of such encroachment through the use of natural colors. Failure to stringently apply LCP visual protection standards by allowing new residential development to encroach within these highly important public viewsheds would undermine efforts to protect this important resource because, on both an individual and cumulative basis, such development will change the character and degrade the scenic quality of this unique coastal area. Even if individual projects are sensitively designed to minimize (rather than avoid) visual impacts, the combined impact of the projects would diminish the open-space, natural, and agricultural character of the area that makes it so scenic.

Concerns regarding cumulative impacts are heightened by the fact that in some instances, it is not possible to site and design development to not be visible from Highway One. Such was the case in the Todd project (CDP No. A-3-SLO-00-119), where implementation of LCP visual protection standards could have precluded the applicants from being able to make an economic use of their property. To accommodate an economic use on this site and carry out LCP standards to the greatest degree feasible, the Commission approved a residence with conditions that limited its height to 10 feet 9 inches above average natural grade. Recognizing that there will be similar cases underscores the importance of implementing LCP requirements whenever feasible. Failure to do so would significantly increase the cumulative impacts of development along this highly scenic stretch of coastline, and be inconsistent with the Commission's stringent application of LCP visual protection standards to other applications for development in this region.

Therefore, to carry out the LCP visual protection standards cited in this report, it is necessary to require the applicant to submit revised plans that ensure the development will not be visible from Highway One. As described above, there are various options available to the applicant to comply with this requirement, such as hiding the residence behind the hill to the west of the currently proposed site, reducing the height of the residence, and/or lowering the finished floor elevation of the structure.



Regarding the use of vegetation and landscaping to screen the residence, it is important to note that Standard 6 of the North Coast Area Plan calls for new development to be sited behind hills and slopes, rather than vegetation, where feasible. Similarly, Policy 4 calls for the use of vegetative screening only where development can not be sited outside of public view corridors. There are important reasons for this. First, the fact that vegetation has a limited life span may prevent it from effectively shielding development from public view over the life of the project. This is especially a concern when the vegetation being relied upon for visual protection is Monterey Pine trees (as is the case with the subject project), since these trees are vulnerable to fire and disease. Second, the planting of vegetation to shield new development can impact visual resources where the vegetation would be inconsistent with the natural surrounding (e.g., grasslands) or block scenic views of coastal resources (e.g., views of the ocean or inland mountain ranges). Finally, it may take several years for landscaping to mature to the point where it will provide effective screening.

In this case, it is not clear that it would be possible to completely prevent the development from being visible from Highway One using topographical features only. While the site contours do provide additional opportunities to minimize the visibility of the proposed residence from Highway One, it may not be possible to completely hide the residence from Highway One, even with a re-design. Given these constraints, the combined use of site contours and landscaping to screen the development is consistent with LCP requirements. The use of native vegetation as a screening tool is consistent with the forested character of the site, and the planting needed to screen the development will not block other important coastal views. The applicant has already planted numerous Monterey Pine and Cypress trees, many of which are mature enough to help to shield the development from Highway One. However, there is a risk that the vegetation may be lost to pitch canker or fire, or that the vegetation may be trimmed in a manner that would increase the visibility of the residence. There are also outstanding questions regarding how effectively existing and planted trees will screen the residence from Highway One.

The conditions of approval address these concerns in the following ways. First, the conditions require the applicant to stake the dimensions of the residence, so the Executive Director can confirm that the final plans effectively hide the residence from Highway One. This will ensure that any trees being relied upon for screening are mature and dense enough to provide effective visual protection at the time the residence is constructed. Second, the conditions require protection of vegetation being relied upon for visual screening through the development and implementation of a landscape monitoring and maintenance program, as well as an exotic vegetation and pitch canker control plan.

c. Conclusion

The San Luis Obispo County LCP requires new development in rural areas of the north coast to be sited and designed so that it is not visible from Highway One. To comply with this requirement, plans for the proposed residence must be revised so the structure will not be visible from Highway One. The dimensions of the residence shown by the final plans must be staked on site so the Executive Director can confirm that this condition has been satisfied. In addition, to protect vegetation being relied upon for screening, the project must be accompanied by a landscape plan, a landscape monitoring and maintenance



program, and an exotic vegetation and pitch canker control plan approved by the Executive Director. Only with these conditions does the project comply with LCP standards for visual resource protection.

2. Environmentally Sensitive Habitat Areas

A. LCP ESHA Protection Standards

Please see the LCP provisions cited on 9-11 of this report.

B. Analysis

As described in the Substantial Issue findings, incorporated herein, the project is in conflict with LCP provisions protecting ESHA in the following ways:

- landscaping materials and firewood can disrupt the surrounding forest habitat by introducing exotic invasive vegetation, disease, and harmful insects and genetic materials;
- the loss of grasslands adjacent to, and ecologically connected with the environmentally sensitive pine forest can adversely affect it's ecological system and cumulatively threaten the long-term continuance of the habitat; and,
- construction and use of the proposed well could adversely impact the sensitive riparian habitat values of Leffingwell creek by reducing water levels, removing riparian vegetation, and degrading water quality.

The project is further inconsistent with Section 23.07.174 of the CZLUO because there have not been adequate water quality controls built into the project's design and construction to ensure the protection of riparian resources. Construction activities can adversely impact coastal water quality by discharging debris and pollutants into watercourses, and by causing erosion and sedimentation through the removal of vegetation and the movement of dirt. The increase in impervious surfaces that will result from the project will also impact coastal water quality by altering natural drainage patterns and providing areas where for the accumulation of pollutants that will eventually be carried into coastal waters by storm water. Finally, drainage from the proposed horse barn may contain bacteria and nutrients that could degrade coastal water quality. To resolve these inconsistencies, special conditions have been attached to the project approval.

To prevent the introduction of exotic vegetation, the conditions require a landscape plan that uses species native to the area, propagated from the seeds or cuttings of local stocks. The landscape plan must also include provisions to maintain the landscaping, such as by removing any exotic invasive vegetation that may be found on the site. In addition, the conditions require implementation of a pitch canker and exotic vegetation control plan, to ensure that the development will be compatible with the continuance of the surrounding pine forest habitat.



To address the impacts that developing the grasslands may have on the long-term health of the surrounding forest, the conditions require Monterey pine saplings within development footprints to be transplanted to other appropriate areas on the site. This will preserve future generations of pine trees, as well as the forest's genetic diversity, and thereby protect the ecological community and the continuance of the pine forest habitat.

To protect forest habitats from impacts associated with light and glare, the Special Conditions require the applicant to submit a lighting plan for Executive Director review and approval. Pursuant to these conditions, exterior lights must be limited to that which is necessary to illuminate driveways, pathways, and entrances to structures, and provided by low-level light sources that prevent light and glare from extending beyond the immediate area to be illuminated.

In response to the outstanding concerns regarding the proposed well, the applicant has agreed to locate the well as far from Leffingwell creek as feasible and restore areas disturbed during well installation. These precautions are not, however, adequate to ensure that the well will protect the creek water quantity and quality needed to sustain the functional capacity and biological productivity of the stream and associated wetlands. To address these concerns, the Special Conditions make the construction and use of the well contingent upon Executive Director review and approval of a report that can provide the necessary assurance that the well can be installed and used in a manner that will maintain riparian and wetland habitats. Specifically, the report must:

- evaluate in-stream flows and identify the extent and location of the riparian and wetland habitats dependent upon such flows;
- identify the exact location of the well, which shall be as far from the riparian corridor as feasible;
- quantify the maximum amount of water to be extracted from the well and evaluates the impact that such extractions may have on riparian and wetland habitats;
- provide pumping schedules and restrictions designed to prevent well use from adversely impacting riparian and wetland habitats and to assure that the functional capacity of the stream is sustained; and,
- include measures to monitor for reductions in creek water flows or impacts to riparian habitats resulting from use of the well, and identifies a process to corrective actions if adverse impacts are observed. This shall include the submission of an annual report to the Executive Director that identifies the quantity of water extracted on a monthly basis, describes monitoring results including stream gauge measurements, and proposes any corrective actions needed to prevent adverse impacts to riparian and wetland habitat for the review and approval of the Executive Director.

In the event that the above requirements are satisfied, the condition further requires the applicant to submit final plans showing the location and design of the well approved by the San Luis Obispo County



Department of Health, accompanied by construction plans that include measures to prevent well construction activities from adversely impacting sensitive habitats and coastal water quality. Such measures must include minimizing the amount of area disturbed during well installation, immediately revegetating of all areas disturbed during well installation, and implementing best management practices to prevent erosion, sedimentation, or the discharge of any materials into coastal waters during well construction

As another means of protecting the functional capacity of coastal streams consistent with Section 23.07.174, Special Condition 8 requires the applicant to submit a valid will-serve letter from the Cambria Community Services District, verifying that the District has the capacity to serve the development. This is especially important given the water emergency declared by the District.

C. Conclusion

The project approved by San Luis Obispo County does not conform to the LCP ESHA protection provisions cited by this report because it has the potential to adversely impact sensitive forest and riparian habitats. The special conditions attached to this permit are necessary to ensure that the development is carried out in a manner that will be compatible with the continuance of these habitats, as required by the LCP.

C. California Environmental Quality Act (CEQA)

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

The Coastal Commission's review and analysis of land use proposals has been certified by the Secretary of Resources as being the functional equivalent of environmental review under CEQA. This staff report, which is incorporated into this finding in its entirety, has discussed the relevant coastal resource issues with the proposal, and has recommended appropriate mitigations to address adverse impacts to said resources. Accordingly, the project is being approved subject to conditions which implement the mitigating actions required of the applicant by the Commission (see Special Conditions). As such, the Commission finds that only as modified and conditioned by this permit will the proposed project not have any significant adverse effects on the environment within the meaning of CEQA.






Project Location

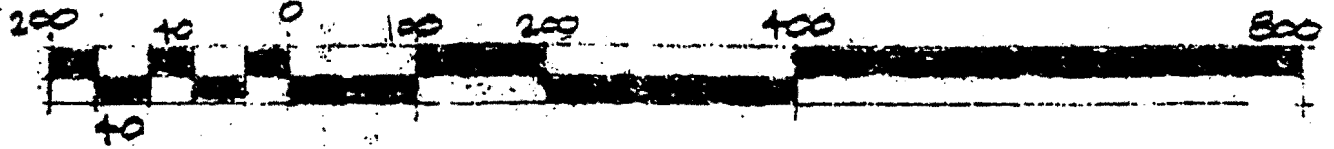
EXHIBIT NO. A, p. 1

APPLICATION NO.
A-3-560-00-115

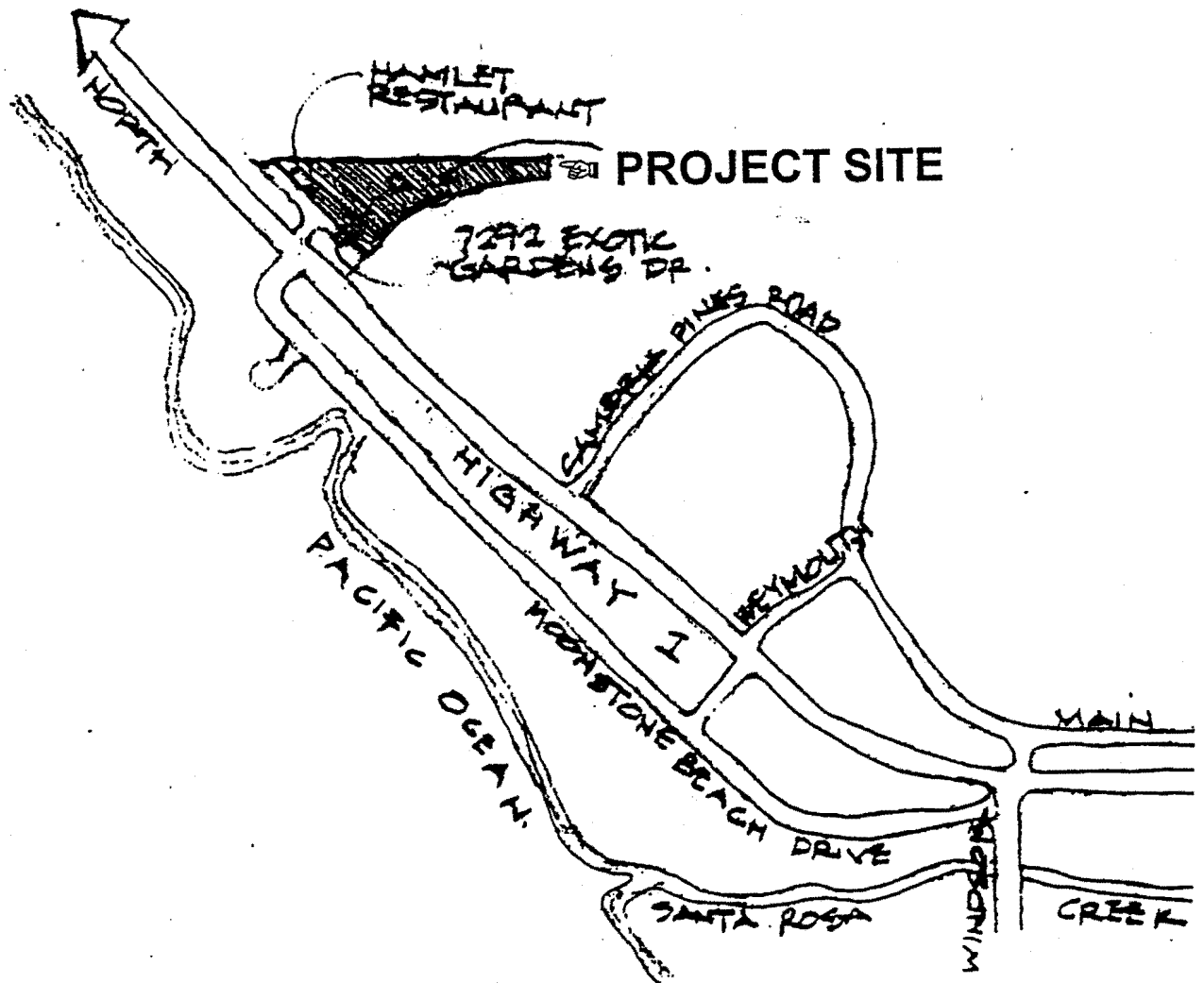
Regional Location

 California Coastal Commission

MORRO BEACH
LILA KEISER PARK
MORRO DUNES TRAIL



SITE AREA IS 78 ACRES



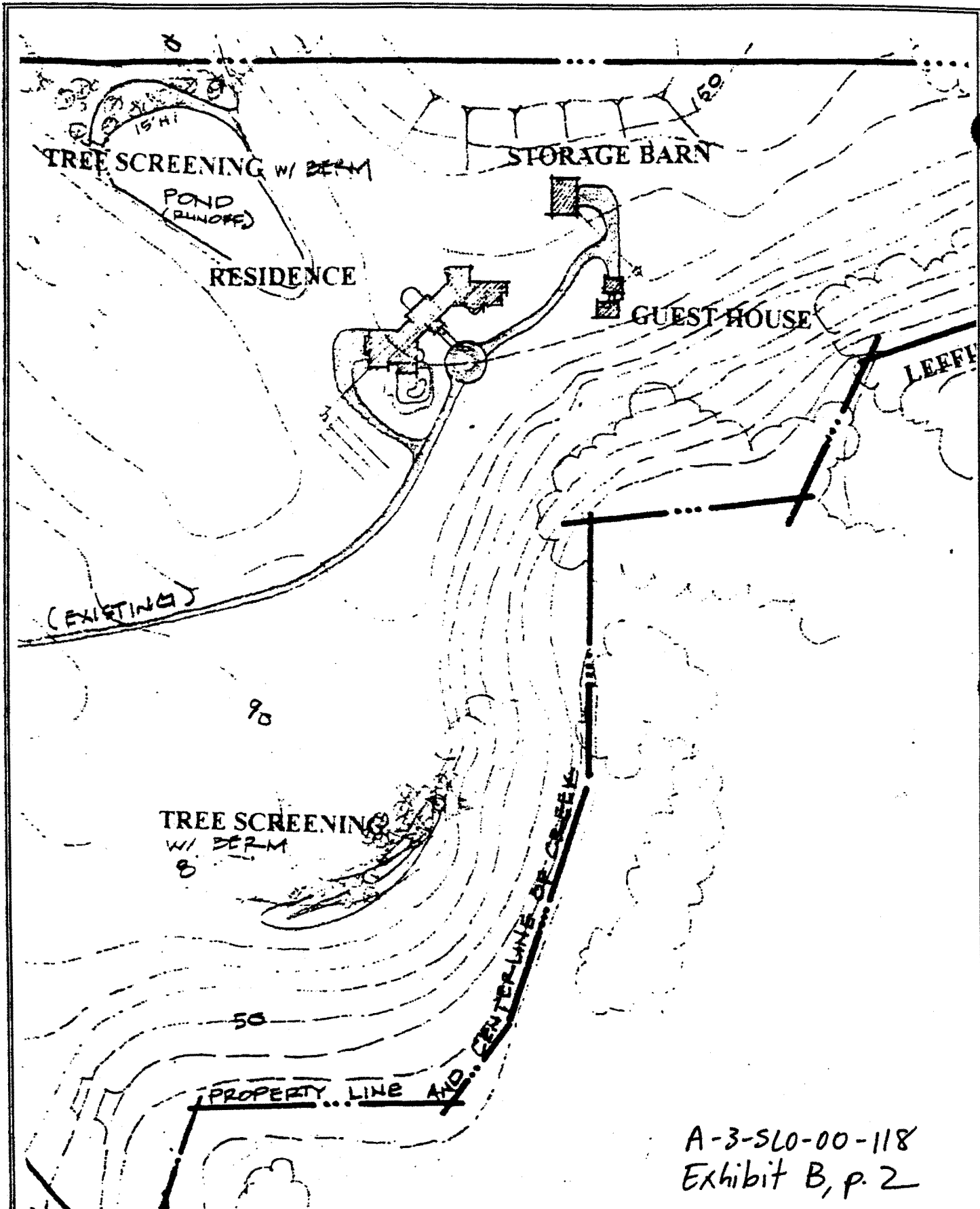
VICINITY MAP

EXHIBIT NO. A, p. 2

APPLICATION NO.
A-3-SLO-00-118

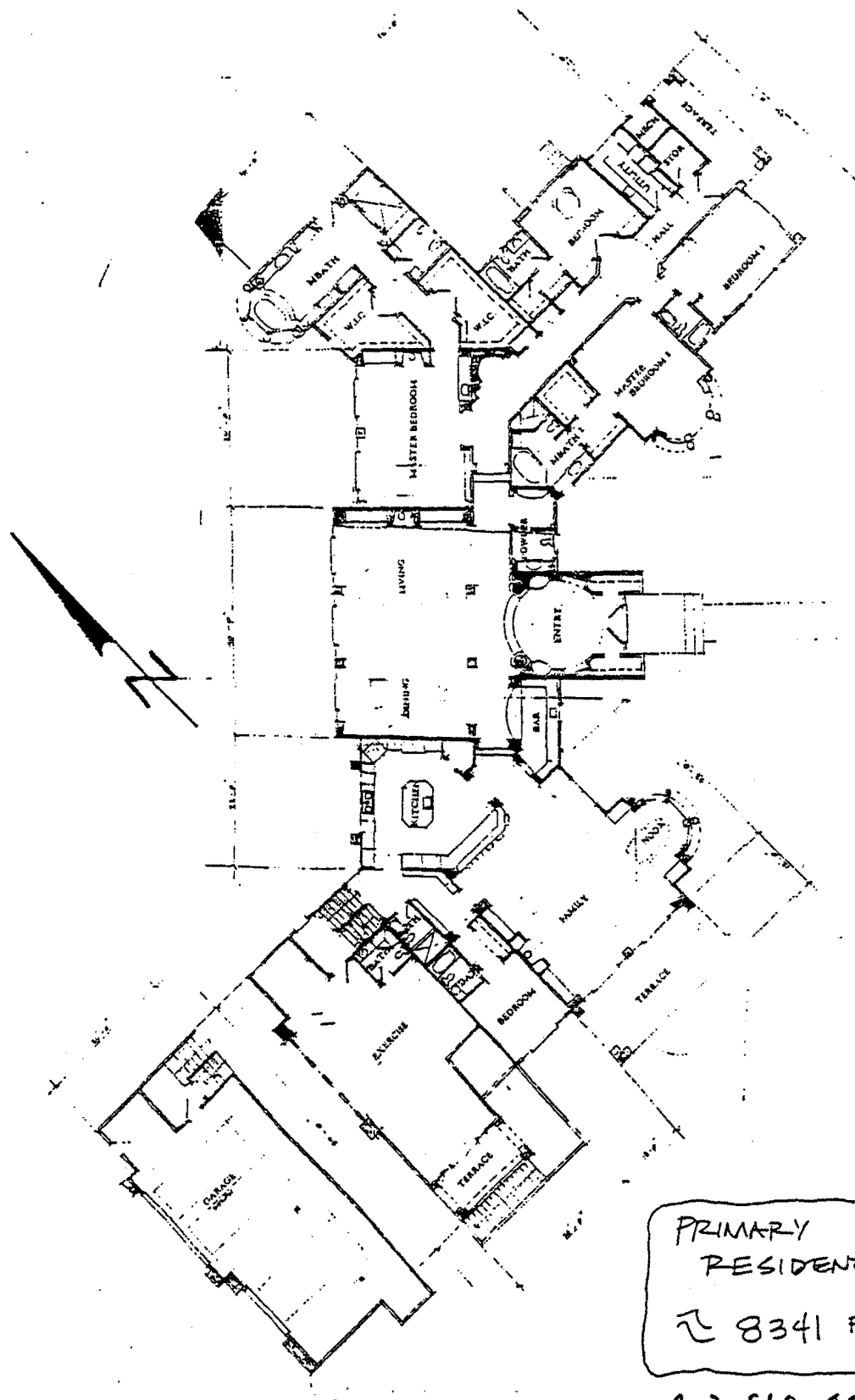
Site location

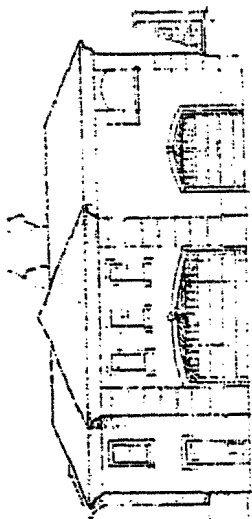
California Coastal Commission



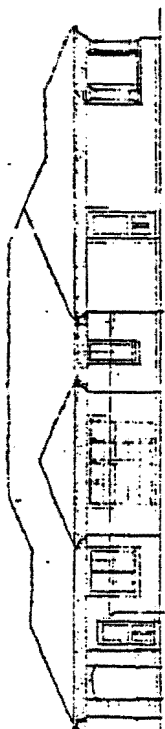
A-3-SLO-00-118
Exhibit B, p. 2

DETAILED SITE PLAN

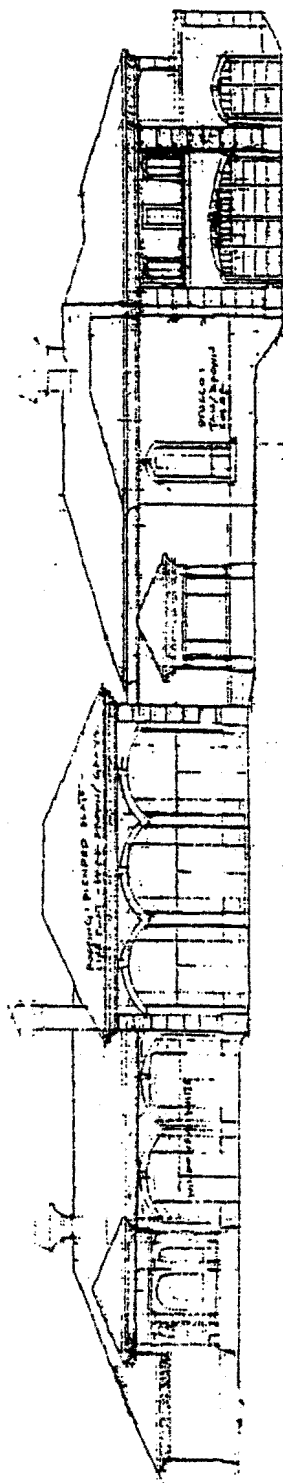




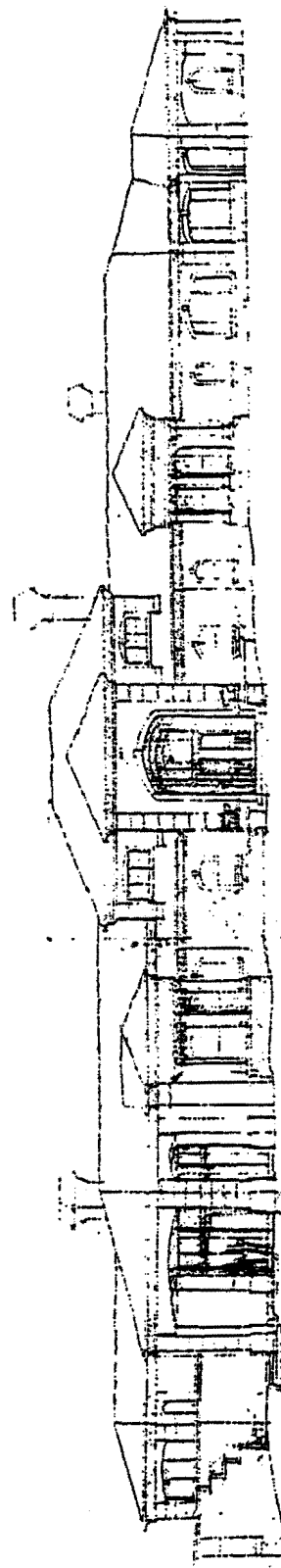
WEST ELEVATION



EAST ELEVATION



NORTH ELEVATION



SOUTH ELEVATION

A-3-SLO-00-118
Exhibit B, p. 4

CALIFORNIA COASTAL COMMISSION

LOCAL COAST DISTRICT OFFICE
FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
(408) 27-4863



Reasons for Appeal: San Luis Obispo County Coastal Development Permit D990019V (Kahloghli)

The proposed construction of an approximately 9,700 square foot single family dwelling with attached garage, 600 square foot guesthouse, 3,000 square foot storage barn, requiring a variance to a visibility planning area standard, is inconsistent with the policies and ordinances of the San Luis Obispo County Local Coastal Program, as detailed below.

1. Visual and Scenic Resources Policy 1, 2, 4, and 5 serve to protect visual resources by requiring new development to be located in areas not visible from major public view corridors, be subordinate to the rural character of the area, and minimize landform alterations. The proposed development is located in front of an established Building Control Line intended to protect visual resources from Highway 1, and will be visible from a major public view corridor. Secondly, the design and placement of the proposed residence does not appear to be subordinate to the rural character of the area. Finally, earthen berms proposed to aid in shielding the development from the view corridor of Highway 1 may appear as an unnatural landform alteration.
2. Environmentally Sensitive Habitats (ESH) Policy 1 states that development located within or adjacent to ESH shall not significantly disrupt the resource, and only those uses dependent on such resources shall be allowed within the area. Additionally, ESH Policy 27 emphasizes the importance of protecting a sensitive habitat area as an entire ecological community, and requires development adjacent to environmentally sensitive habitat areas and holdings of the State Department of Parks and Recreation to be sited to prevent impacts that would significantly degrade such areas and be compatible with the continuance of the habitat. The proposed development is located near an area mapped in the LCP as a Sensitive Resource Area (for the protection of Monterey Pine Forest), is located near, and potentially in, an environmentally sensitive habitat area, and may degrade and fragment the surrounding Monterey Pine Forest.
3. San Luis Obispo County LCP Public Works Policy 1 and CZLUO Section 23.04.430 require new development to demonstrate that adequate public or private service capacities are available to serve the proposed development. Additionally, permitted development outside the USL shall be allowed only if it can be serviced by adequate private on-site water and waste disposal systems. The proposed development is located outside the Cambria Urban Services Line and evidence has not been provided to conclude that adequate private water services currently exist on-site.
4. San Luis Obispo County Coastal Zone Land Use Ordinance Section 23.07.174d requires new development to be setback a minimum distance of 100 feet from the upland edge of riparian vegetation. A proposed landscape well, which is not a permitted use within the setback, is located within this designated riparian setback area.

EXHIBIT NO. C

APPLICATION NO.
A-3-SLO-001115

Appeal

California Coastal Commission

Approved Development

1. This approval authorizes a variance to a visibility planning area standard in the North Coast Planning Area to allow the construction of:
 1. a 8400 square foot primary residence with a 1300 square foot attached garage and a maximum height of 26 feet (as measured from average natural grade),
 2. a 600 square foot guesthouse,
 3. a 3000 square foot storage barn,
 4. a 2400 square foot horse barn,
 5. two visual screening berms (north and south of the primary residence),
 6. a pond,
 7. a well, and
 8. the guesthouse being greater than 50 feet away from the primary residence
2. Site development shall be consistent with the approved site plan and elevations.

Archaeological Resources

3. Prior to issuance of construction permits, the applicant shall delineate identified archaeological resources as *Environmentally Sensitive Area (ESA's)* on final grading plans for review and approval. All work shall avoid these ESA's.
4. In the event archaeological resources are unearthed or discovered during any construction activities, the following shall occur:
 1. Construction activities shall cease, and the Environmental Coordinator and Planning Department shall be notified so that the extent and location of discovered materials may be recorded by a qualified archaeologist, and disposition of artifacts may be accomplished in accordance with state and federal law.
 2. In the event archaeological resources are found to include human remains, or in any other case when human remains are discovered during construction, the County Coroner is to be notified in addition to the Planning Department and Environmental Coordinator so that proper disposition may be accomplished.

EXHIBIT NO. D, p. 1

APPLICATION NO.
A-3-SLO-00-118

Local Conditions

0-12

Biological Resources

5. **Prior to issuance of construction permits**, the applicant shall delineate identified biological resources (including officially mapped and unmapped yet existing wetlands, riparian vegetation, and Monterey Pine Forest) as *Environmentally Sensitive Area (ESA's)* on final grading plans for review and approval. All work shall avoid these ESA's.

Erosion Control & Sedimentation

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

Fire Safety

7. **Prior to issuance of a certificate of occupancy or final inspection**, the applicant shall comply with the fire safety requirements of the Cambria Fire Department as specified in the Fire Safety Plan (dated September 5, 1999).

Visual Impacts

8. **Prior to the issuance of a construction permit for the primary residence**, the applicant shall implement the proposed berm according the Berm Layout Plan. In addition, a licenced surveyor shall provide evidence that the two screening berms have been constructed in the correct locations and to the specified heights.
9. **Prior to final inspection of the primary residence**, the applicant shall implement the proposed berm landscape planting plan as per the Berm Layout Plan. In conjunction with the implementation of the landscaping plan, the applicant shall submit a letter, prepared by a qualified individual (e.g. arborist, landscape architect, etc.) to the Environmental Division of the County Department of Planning and Building stating that the installation of the berm landscaping has been completed.
10. To guarantee the success of the landscaping, the applicant shall retain a qualified individual (e.g., arborist, landscape architect, etc.) to monitor the new vegetation until successfully established, on an annual basis, for no less than three years. The first report shall be submitted to the County Environmental Division one year after the initial planting and thereafter on an annual basis until the monitor, in consultation with the County, has determined that the newly planted vegetation is

A-3-SLO-00-118
Exhibit D, p. 2

successfully established. Any newly planted trees, shrubs, and/or groundwater identified as being unhealthy or dead shall be replanted. This maintenance program shall also include the caging of plants from browsing animals (e.g., deer, rodents, etc.) and watering by a drip-irrigation system. The applicant, and successors-in-interest, agree to complete any necessary remedial measures identified in the report and approved by the County Environmental Division.

11. **No trees** planted as part of the visual screening berms shall be removed or trimmed for the life of the project. In the event the any of the newly planted trees die due to fire or disease, the landowner shall expeditiously submit and implement a tree screening replacement plan prepared by a qualified individual subject to the review and approval of the Environmental Coordinator. The intent of this measure is to ensure adequate screening of the proposed residence from Highway 1 (equal to or better than the level of screening approved as part of this application).
12. **Prior to final inspection**, the applicant shall implement the proposed colors and exterior finish materials as shown on the Color Chart contained in the file. The exterior colors of the residence (including the roof) shall be muted earth tones (greens and browns specifically).
13. **Prior to final inspection**, the applicant shall submit a set of plans showing that the exterior lighting on all the proposed structures is for the purpose of illumination only, and not to be designed for or used as a sign or advertising display. In order to lessen the impacts to the surrounding areas, the applicant agrees to do the following:
 1. Design and adjust low-level light sources so that light is directed away from any road or street, and away from any dwellings outside the boundaries of the applicant's parcel.
 2. Prevent light or glare from being harmful, detrimental, or visible to persons occupying surrounding properties, particularly the Highway 1 viewshed.
14. **No trees** which currently act as natural screening of the primary residence from Highway 1 shall be removed or trimmed beyond the size that existed on the date of final project approval. In the event the natural tree screening is reduced due to fire or disease, the landowner shall expeditiously submit and implement a tree screening replacement plan prepared by a qualified individual subject to the review and approval of the Environmental Coordinator. The intent of this measure is long term protection of the existing trees which provide screening of the structure from Highway 1.

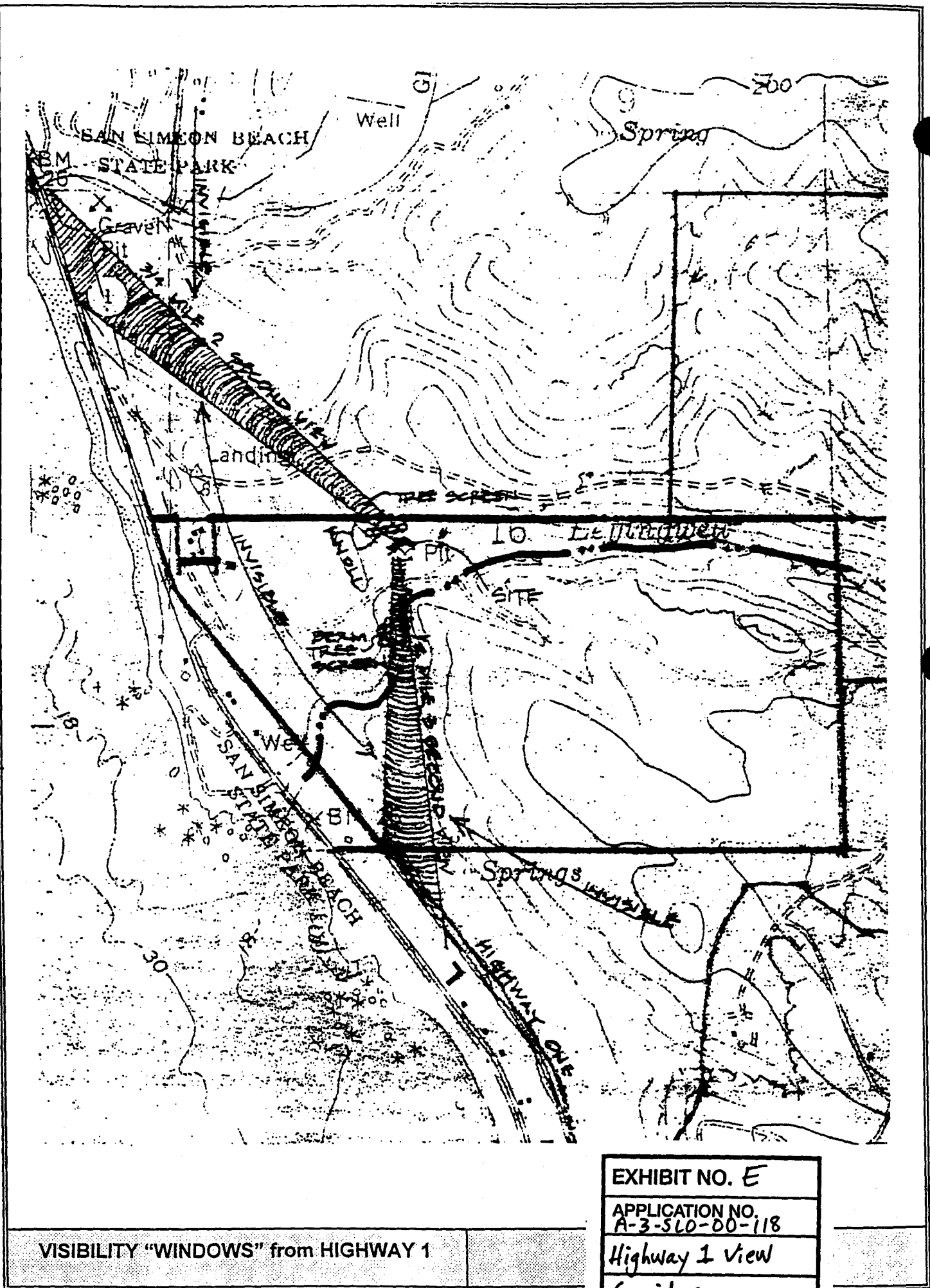
Water Resources

15. **Prior to issuance of construction permits**, the applicant shall submit evidence in the form of a "will-serve letter" that domestic water will be supplied by the Cambria Community Services District.

A-3-SLO-00-118
Exhibit D, p. 3

Miscellaneous

16. Prior to final inspection, the applicant shall submit evidence that the 3000 square foot "temporary" modular home has been removed from the property.



Top of House 26 ft.

Front Door

Small Sign

Old Left Edge of House

White Sign

Front Door

Red Sign

Right Edge of House

Driving north House at 26ft without trees

EXHIBIT NO. F, p. 1

APPLICATION NO.
A-3-560-00-118

Visual Simulations
by Applicant

Top of House 26 ft.

Front Porch

Shut in Window

White Sign

Front Door

Red Sign

Right Edge of House

Old Left Edge of House

Driving north House at 26ft with trees

A-3-500-00-118
Exhibit F, p. 2

Top of House 23 ft.

Old Left Edge of House

Driving north

se at 23ft without trees

Right Edge of House

Red Sign

Front Door

White Sign

South side of hill

A-3-SLO-00-118
Exhibit F, p. 3

Top of House 23 ft.

Old Left Edge of House

Driving north House at 23ft with trees

Red Sign

Right Edge of House

A-3-SLO-00-118
Exhibit F, p. 4

Left Edge of House

Front Door

Old Right Edge of House

Driving south House at 26ft without trees

Front Door

Left Edge of House 26ft

A-3-SLO-00-118
Exhibit F 5

A-3-SLO-00-118
Exhibit F, p. 6



House shifted 11 ft to right

Driving south House at 26ft with trees

Top of House 25 ft

First floor

Old Right Edge of House

Front Door

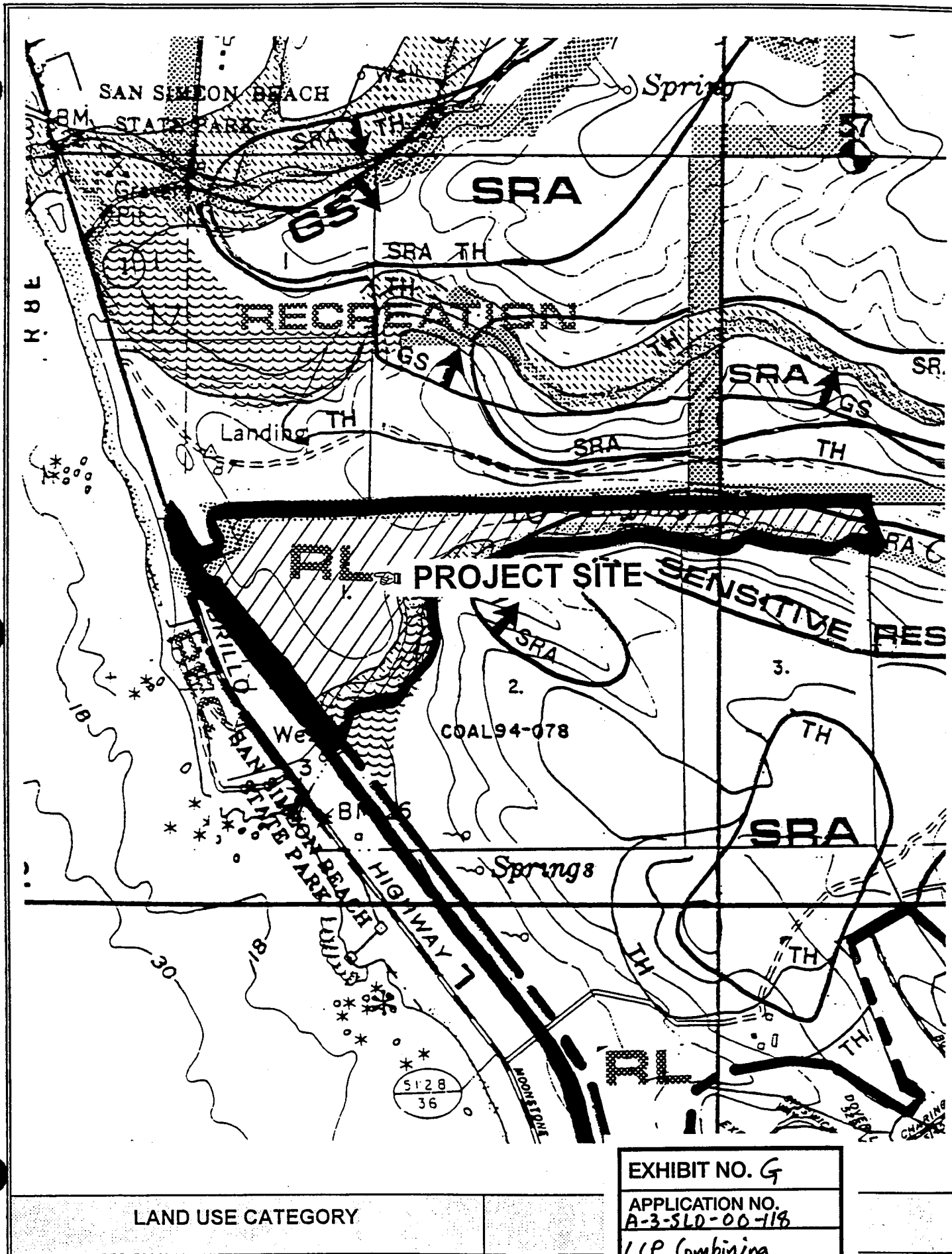
Left Edge of House

Driving south House 23ft without trees

A-3-SLO-00
Exhibit F, p. 8



Driving south House at 23ft with trees



LAND USE CATEGORY

EXHIBIT NO. G

APPLICATION NO.
A-3-SLD-00-118

LLP Combining
Designation (ESHA) map

February 24, 2001

Mr. David M. Brown, Architect
P.O. Box 123
Cambria, California 93428

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MAR 09 2001

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Cleath & Associates
Engineering Geologists
Ground Water
(805) 543-1413
1390 Oceanaire Drive
San Luis Obispo
California 93405

SUBJECT: Site Reconnaissance for Identifying issues related to the siting of a proposed residence at APN 013-081-052, Cambria, California

Dear Mr. Brown:

In response to your request, I have visited the proposed Khosro Khaloghli residence site at APN 013-081-052 and herein provide some comments related to specific house site considerations. Currently, the residence is proposed to be located on a gently sloping rise adjacent to a former rock quarry. Oceanward of the proposed site is a saddle between two hills which is about two feet lower in elevation than the lowest point of the proposed residence footprint. The site is shown on the attached photographs and has been laid out on the attached reduced site map.

The currently proposed site is in a geologically stable area, underlain by a veneer of alluvial terrace deposits on sandstone. The gently sloping rise on which the current site is proposed will not require significant slope stabilization measures. The current site has good drainage characteristics and allows for gravity wastewater disposal piping to areas where disposal leach lines can be placed.

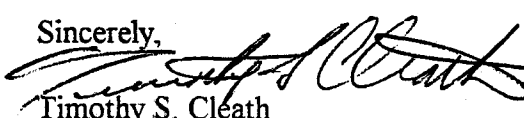
The saddle area is not as suitable for a residential structure for the following reasons: surface drainage will be an issue since it is the lowest lying area, design for a wastewater system will be more difficult since the effluent may require pumping to lift it to an area where a disposal site would not create problems for the building footings. There is also a good possibility that perched water occurs in this low lying area which would necessitate the installation of subsurface drains. Foundations may need to be deeper due to a greater thickness of loose material in the saddle.

The surface drainage issues in the saddle area were particularly noted during the rains over the past few days when flooding has occurred.

Therefore, based on geologic and hydrologic considerations, the building site should not be located within the saddle area. The existing site has fewer constraints related to constructing a residence and will require fewer site modifications.

If you have questions regarding this letter, please call.

Sincerely,


Timothy S. Cleath
Certified Engineering Geologist #1102

Fax Copy to Khosro Khaloghli

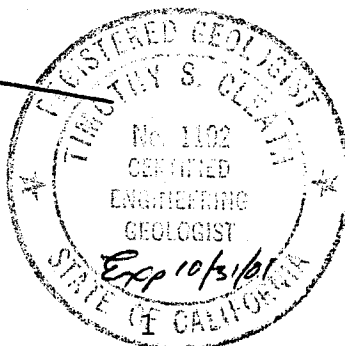


EXHIBIT NO. 14

APPLICATION NO.
A-3-560-00-118

Letter from Project
Geologist

Khosro Khaloghli
26741 Portola Pky #1E-331
Foothill Ranch, CA 92610-1713
(949) 338-4604 -cell, (949) 719-7245- work, (949) 716- 0650 - home
October 23, 2001

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OCT 25 2001

Mr. Steve Munowitz
California Coastal Commission
Central Coast District
725 Front Street, Suite 300
Santa Cruz, CA 95060

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Re: Case No. A-3-SLO-00-118
7292 Exotic Gardens, Cambria

Dear Steve:

Congratulations on your new baby boy and I hope he will grow up just like you!

Thank you very much for returning my call of today October 22nd. Knowing that you have taken several weeks off to be with your newborn son and your family, I appreciate your call even more.

I am sending you this package to provide you with the last bit of information you required before making your final decision. As you can see from the "Visual View from both south and north of the Highway 1", the house is moved 11 ft toward the hill. Please find enclosed the two renderings; one for 23 feet and one for 26 feet, the reduction of the height from 26 feet to 23 feet produces minimal change and it can be hardly noticed, especially when the trees are grown. However, such reduction will make a big difference in the design of my house and as you know 26 feet was the height that we compromised with the county to build our house. The height limitation for normal circumstances is 35 feet and the property that was approved and built that is directly adjacent to mine has 35 feet height.

I really appreciate your understanding and your help in this matter.

Additionally, with the trees that have been planted, most of what is currently shown as visible, will disappear behind them.

The view from the North is very minimal and as you can see, it also will disappear behind the trees. These trees have already been planted and some are over 8 feet tall. Also many trees and the Hamlet Restaurant building will completely cover my house.

EXHIBIT NO. I, p. 1
APPLICATION NO. A-3-SLO-00-118
Correspondence

I hope I do not sound like a broken record, but in reality, even these visual studies do not reflect the reality that these sights are only visible for fleeting seconds for cars driving past at 60-70 MPH.

I also have some information in regards to our water well usage. The breakdown on how much water we will need for our trees, landscaping, animals, and vegetable garden will depend greatly on the climate especially in case of the plants. As I have mentioned to you before, we are not planning to undertake a major agriculture here; we want just enough water to keeping things green and rural with animals and groves. Therefore, in honesty, our engineer's calculation is based on the worst scenarios.

Per your recommendation, I contacted the agricultural advisor and his comment was that his estimate is based on higher average use, which is projected at the total usage of 5 gallons per minute (7200 gallons per day). He could not specify the use by a category, such as agricultural, domestic, etc. inasmuch as the use is calculated on the high side and that we might not use this amount at all, especially in the rainy season.

Further when I asked him about the effect of the well water to the creek water flow for the plant, animal, etc., his opinion was that this underground water supply has no direct relationship with the water above. In his opinion, the amount of water being utilized at this level has no impact on the creek flow and it's environment and that the underground water supply is independent of how much water the creek holds. He further added that there is no guarantee that the well water supply exists directly beneath or around the creek and that we may have to dig a well elsewhere in the ranch.

I am open to your suggestions and as I told you in our phone conversation I am always eager to figure out a solution and compromises that we can both live with. I do not wish to have this water and well-use issue to be a stumbling block to proceeding with my house after all these years. So, if you have any other advice or recommendation, I would very much appreciate it and will work with you on it.

Again, I appreciate your coming in to work on my project in the midst of your vacation and please convey my deep appreciation to your wife and your family.

As always, please feel free to call for any information or clarification,

Yours sincerely,



Khosro Khaloghli

P.S. I also would want to make sure that you will be able to attend the hearing, as it is important for me personally to have you there, as you know the project and the history. If for any reason, you cannot be there to present my case, I would like to wait until you are able to do so. Let me know if you plan to be away for a great length of time.

A-3-SLO-00-118
Exhibit I, p.2

Khosro Khaloghli
3400 Irvine Ave. #203
Newport Beach, CA 92660
949-263-8896, 949-263-8895, Fax

RECEIVED

Aug 2, 2001

AUG 07 2001

Mr. Steve Munowitz
California Coastal Commission
Central Coast District
725 Front Street, Suite 300
Santa Cruz, CA 95060

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Re: Case No. A-3-5LO-00-118
7292 Exotic Gardens, Cambria

Dear Steve:

Thank you very much for returning my call.

Per your request I am sending you a few pictures that I took this weekend (July 28, 2001). These are the trees I have planted to prevent the top of my rooftop of the house to be seen from the distant highway.

As you can see they have grown up to 10 - 11 feet tall already and will continue to grow taller and wider. I hope you will agree with me that there is no need to build any berm since these trees are much more natural looking and will be more pleasing to see from the road.

I thank you again for all the advice and assistance you have given us during the year of working together. I honestly believe this is the most reasonable and attractive solution to our goal of hiding the roof top.

Please call if you have any further questions.

Yours sincerely,



Khosro Khaloghli

A-3-5LO-00-118
Exhibit I, p. 3



This is my wife who is 5 ft 1 in. Trees look huge!



This is me- much taller. You can see that trees are already 10 ft tall. 8 foot berm is not needed since trees are planted in two rows in zig zag fashion -so there is no gap between the trees.

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AUG 07 2001

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

A-3-SLO-00-118
Exhibit I, p. 4



This shows two rows of trees where the berm would have been.



This photo shows the 2 rows of trees and my van parked next to them to show the height and the coverage provided by these trees.

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AUG 07 2001

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

A-3-SLO-00118
Exhibit I, p. 5



A-3-SLO-00-118
Exhibit I, p. 6



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AUG 07 2001

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Khosro Khaloghli
3400 Irvine Ave. #203
Newport Beach, CA 92660
949-263-8896, 949-263-8895, Fax

RECEIVED

JUL 16 2001

July 9, 2001

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Mr. Steve Munowitz
California Coastal Commission
Central Coast District
725 Front Street, Suite 300
Santa Cruz, CA 95060

Re: Case No. A-3-5LO-00-118
7292 Exotic Gardens, Cambria

Dear Steve:

Per our telephone conversation of last week, I am sending you a brief chronological summary of events since your office has filed an appeal to the Development Permit issued by the County of San Luis Obispo. This quick update should help you fill in the blanks since the departure of Ms. Renee Brooke.

Where do I start? Should I go back to the very beginning, when I was born in the small village where my father farmed and my mother took care of her four children, 26 chickens, 5 caws and 3 donkeys? Upon my wife's stern advise, I will save this story for another day....and keep my promise not to tell you a sad story of epic proportion.

Early 1995 - We started to process our development permit with County of San Luis Obispo.

June, 2000 - The development permit (reference NO. D990019V) was unanimously approved on June 22, 2000.

Almost 5 years later, after making over 200 round trips - of 600 miles per trip from Orange County - and tons of meetings, I received an unanimous approval from Planning Commission of San Luis Obispo to build my home. This was especially rewarding for me personally since unanimous approval represented many meetings and compromises not only with the planning staffs, but also with various local and regional groups. Such meetings included on-site visits and discussions with members of North Coastal Advisory Committee and CCSD. Each group had different concerns, which I was able to mitigate and address to their full satisfaction. After having spent more time and money than I had dreamed possible at the beginning of this undertaking, I was finally at the end of a long trial.

August 7, 2000 - On the last date available for an appeal, Coastal Commission filed the appeal. We have complied with the requests for more information and documents promptly and fully. Shortly thereafter, I was contacted by you for a meeting on site.

A-3-5LO-00-118
Exhibit I, p. 7

Early September of 2000 – I met with Ms. Renee Brooke and you at the Ranch in Cambria. It was a very helpful meeting and after visiting and reviewing the site, several additional study/information were requested.

September 12, 2000 - I mailed a letter plus information requested which included:

1. A copy of photograph with a computer generated home on site without the berms.
2. A copy of water well drilling information with results of various tests on various locations, including one that went 650+/- feet deep without hitting any water.
3. A copy of legal documents regarding existing water rights for the property.

September 22, 2000 – I received a call from Mrs. Brooke to sign a 49-day waiver form in order to give Coastal Commission enough time to prepare a report. I signed the waiver and mailed it to your office immediately.

December 14, 2000 – I sent a letter to Ms. Brooke requesting her to contact me and to inquire if a hearing date was set. It has been over 120 days since the appeal was filed.

January 5, 2001 – I placed several calls to Ms. Brooke and after finally connecting with her on this day, she informed me that she wanted to have another on-site visit and review the issues. No time or date was set in this conversation.

January 21, 2001 – I wrote another letter to Ms. Brooks to see if we could set a date.

Mid - February 2001 – Sometimes between Jan. 21st and March 1st, I met again with Ms. Brooke and you at the site and spent some time going over additional changes.

March 2, 2001- I sent a letter with a report from the engineer and photographs of the a large lake that developed after a good rain. These documents showed that moving the house any more than 10 feet closer to the hillside will drop the house in the middle of the flood zone. This letter also touched upon the possibility of design and other changes in order to eliminate the need for the berms.

April 4, 2001 – I called Ms. Brooke and asked when we could expect a hearing. She requested further information.

May 10, 2001 – I sent a letter and all the documents with a new visual study to illustrate my new proposal for moving the house 10 feet closer toward the hill, which is as far as I can move it without dropping it in the flood zone. This move will lower the height of the house by 2 feet and I proposed to reduce another 3 feet from the height by redesigning the height of my house if Coastal Commission will agree to eliminate the berms. I have planted over 100 trees on the location where the berms would have been, and the trees have grown already over 6 feet tall. The trees will continue to

A-3-SLO-00-118
Exhibit I, p. 8 x

grow much taller and would provide a more effective and natural screen over the house than gigantic and artificial berms.

The visual study of the house in the new location shows that the only thing visible would be a few feet of the rooftop only to the motorist traveling at 60 mph on a remote highway. I also pointed out that the color of the roof will be in neutral tone, designed to blend into the background, not an accent color as used in the study to illustrate a point.

May 20, 2001 – After many attempts, I was able to get through briefly to Ms. Brooke. She confirmed that now the file was complete and that she could move forward. It was just unfortunate, however, that she was leaving a post with Coastal Commission and that she did not know who would be taking over the case.

It was a relief to discover that you would be taking over the file as you were already familiar with the property. Steve, as you know I have worked diligently and in full cooperation with your office. I have provided what was asked promptly and completely. It is my sincere desire that after having reviewed complete documents in the file, you will see that we have resolved all the issues. I am sure you will be comfortable in supporting what we have accomplished together and be able to recommend the approval of my plans, including the location of the home, water well, the storage, etc.

I would also like to reiterate the point that after the compromises I have offered, the need for the berm does not exist. We are creating this massive structure to hide a few feet of rooftop that is only partially visible to a motorist on a distant highway. The reason for the elimination is that the design has been modified to reduce the height, the building site has been moved to a lower terrain, rooftop will be in a neutral tone to blend with the nature, and that over 100 trees have been planted to provide additional cover.

The berm is an instant and artificial barrier, with contours unlike the natural hills. It may be that the visual effect of the immediate neighbors and passers-by are sacrificed for the possible visual offenses to the motorist on remote highways. Further this massive and impermeable walls are proposed just to cover up a few feet of rooftops in the areas that are already dotted with commercial enterprises and homes at much higher density.

My future home will not be visible to the motorist traveling directly in front of my property; they will only see the restaurants and motels as my residence will be hidden behind the natural hill. Directly in front of my home is a famous Hamlet Restaurant (a two story structure) and San Simian Resort, a largest motel in the City of Cambria is located directly across the street. A construction of a single family residence in this 80-acre parcel would not be out of character for this area as evidenced by a unanimous support by the various local planning groups.

The trees will continue to grow, my home is being moved back and is redesigned to be lower in height. The rooftop visible to the motorist in the distant highway is not likely to be distinct enough to be recognized. The massive berm like the Disneyland tunnel is

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Exhibit I, p.9

x

much more likely to be noticeable and offensive to some. People may wonder, a few years from now when the trees are 15 to 20 feet high, why in the world this wall-like structure was ever built.

I have discussed this specific issue with North Coastal Advisory Committee and other members of the community; and I can provide additional letter of support. However, I believe your office has all the evidence needed to make a common sense determination. Your office had not 49 days but almost 330 days to arrive at a reasoned decision. I am in full agreement that the additional development should be in keeping with the area, but totally unchanged we cannot be, even as I have changed the design and location of my dream home. As I have stated before, I will not have the energy to build my retirement home if I have to wait too much longer. Driving 600 miles between the two homes can get very exhausting even if you are not over 60 years old.

I hope this will help you in reviewing the files and satisfy your concerns.
Looking forward to hearing from you soon.

Yours sincerely,


Khosro Khaloghli

A-3-SLO-00-118
Exhibit I, p. 10

3400 Irvine Ave. #203
Newport Beach, CA 92660
949-263-8896, 949-263-8895, Fax

RECEIVED

May 10, 2001

MAY 15 2001

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Ms. Renee Brooke ✓
Mr. Steve Munowitz
California Coastal Commission
State of California
725 Front Street, Suite 300
Santa Cruz, CA 95060

Dear Ms. Brooke and Mr. Munowitz:

In compliance with your request, I am sending you a new visual study based on our conversation of April 23, 2001.

As you can see from the enclosure, I am moving the house site another 11 feet closer to the hillside, which is the maximum distance the home can be moved without dropping it in the flood zone. The geological report dated 2-24-01 and the photograph of the lake that developed after a good rain, demonstrate why the house cannot be moved any further. Both the report and the pictures have been forwarded to you with my letter on March 2nd.

I have also dropped the height of the house 3 more feet.

Therefore, at this point, I believe that the reason for the berm no longer exist and that it should be eliminated. After all, both sides of the highway in this vicinity are dotted with small motels, restaurants, and more inns. In fact, there is a well-known restaurant right in front of my property (Hamlet Restaurant) and the largest resort in the city of Cambria (San Simian Resort) with many rooms across the highway on the ocean side of the land. There is a small possibility that a few feet of my roof top is visible to the distant highway motorists, traveling at 60 MPH. The berm does block the view but this rather huge mound of artificial hill should be weighed against the picturesque woods and natural hillsides that may reveal a few inches of the roof top view from the distance.

The area is not a virgin forest or complete wilderness. Having a home tucked away in a distant hill may be more picturesque and more attractive than looking at the berm- wall as they travel down the highway.

I have moved the house 11 feet closer to the hill, dropped the height of the house another 3 feet, and planted more than 100 trees that have been growing very fast and will eventually be very tall, in the areas near the berm location. Further, you can be assured that the color of the roof will not be a bright red or blue but that it will be a blend of muted colors. The colors used in the visual study is bright on purpose to emphasize the

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Exhibit I, p.11

areas in discussion, but in reality nothing will stand out like that. We will attempt to melt away into the surroundings. For the foregoing reasons, I urge you to review the total picture and concur that the berm may be an over-kill and should be eliminated as a condition.

As you know, I have been at this for 7 years. I have worked diligently to comply with all the additional conditions, since obtaining the approvals from various committees at City of Cambria and planning staff at the County of San Louis Obispo. I might add that obtaining the local approval was a long and arduous process as many meetings and compromises had to take place before everyone was satisfied. Ultimately, as a result of this hard work, we had a plan that was approved unanimously.

A decision by the Coastal Commission, and more specifically your recommendation to approve the plan will be a very welcomed relief. I will continue to cooperate and do all I can to incorporate the various concerns you have as I have been doing in the past. If after all the discussion, the berm is the only contingency, I will even build the 5-foot berm.

Unfortunately, years of maintaining two properties and two payments for the upkeep and taxes are beginning to wear heavily on me as I near the retirement age. It is now a hardship to continue this double payments and to keep on putting off this major undertaking.

I appreciate the fact that you have your job to do. But in consideration for my age and my limited resources, I need to have your decision by June 15th of this year, and I hope it will be a decision that approves my plan.

Thank you again for giving me the time and consideration and I look forward to hearing from you soon.

Yours sincerely,



Khosro Khaloghli

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Exhibit I, p. 12

PROPOSED NEW LOCATION HOUSE SHIFTED 11 FT TO HILL & HEIGHT OF THE HOUSE REDUCED 3 FT

TOP OF THE HOUSE

TOP OF BERM 5 FT

TOP OF DOOR

EDGE OF WHITE FLAG

NEW FLAG

SHIFT 11 FT TO HILL
EDGE OF THE HOUSE

WHITE SIGN

3400 Irvine Ave. #203
Newport Beach, CA 92660
949-263-8896, 949-263-8895, Fax

RECEIVED

March 2, 2001

MAR 09 2001

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Ms. Renee Brooke
Mr. Steve Munowitz
California Coastal Commission
State of California
725 Front Street, Suite 300
Santa Cruz, CA 95060

Dear Ms. Brooke and Mr. Munowitz:

This is to thank you for coming out to Cambria at 7292 Exotic Gardens for the second visit.

Per your advise from our first meeting at the Ranch to move the house closer to the hill in front of the house, we have worked diligently with engineers and architect to move the homesite. As a result, we have been able to move it between 10 to 15 feet closer, which is as far as we could move the house without placing it in the flood zone.

The new location drops the house at least 2 feet more in elevation from the original height due to drop in topography. Also in compliance with your request, I am enclosing a copy of the letter from the Engineer/Geologist, which state that the building site cannot be located within the saddle area and flood zone..

I have also enclosed photos of the site underwater, after the recent rain. As you can see from the photos, the homesite cannot be moved further in front without getting into the flood zone. I hope that this will help you with your decision-making process.

As I have indicated to you in our meeting, I am trying everything I can to work with you in order to build my home, in the way that will have the minimum impact on the coastal line and the beauty of the area.

The last thing that comes to my mind is to drop the height of my home another 2 to 3 feet which will make the house almost invisible from north and south of the highway. This will result in dropping of the height in total of about 4 to 5 feet from the original design. In addition, we have planted over 100 trees in the area north and south.

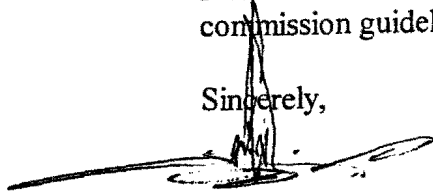
I hope that these adjustments of height, planting of the trees that will grow, and the relocation of the house will allow the lowering of the burm to 4 feet or less. The home will be hardly visible with these changes, especially as these trees grow over the years.

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Exhibit I, p. 14

I know how busy you are with other commitments and I appreciate your visit at the ranch and the opportunity to work with your staff on this matter.

Please let me know if I can do anything else to enhance the viability and the coastal commission guideline.

Sincerely,



Khosro Khaloghli

A-3-560-00-118
Exhibit I, p.15

3400 Irvine Ave. #203
Newport Beach, CA 92660
949-263-8896, 949-263-8895, Fax

January 21, 2001

Ms. Renee Brooke
California Coastal Commission
725 Front Street, Suite 300
Santa Cruz, CA 95060

RE: A-3-SLO-00-118

Dear Ms. Brooke:

I have written to you on December 14th, requesting a meeting following the waiver I have signed in September. The waiver was signed per your request so that your agency is not restricted to compile a report within the 49-day time constraint. However, I had hoped that we will continue to have a dialogue and resolution of some sort in 30-60 days. Well, it has been almost 120 days since and 170 days or 6 months from the date of your appeal. It is a long wait for a man of my age, especially since I have already spent 6 years obtaining all the necessary approvals from the City and the County. I am completely stopped not only from building my home but also from doing anything in my ranch, including the drilling of my water well. building a barn, etc.

As we have discussed in our telephone conversation of January 5th, to hopefully meet this month and move this project forward, I am still waiting to hear from you. I hope all is well with you and hope that you will remember that every day that goes by is a hardship for me. Please let me know when you think I can expect some type of a feedback from your office.

Looking forward to hearing from you soon.

Yours sincerely,



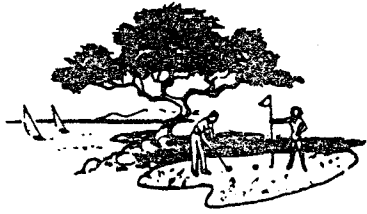
Khosro Khaloghli

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JAN 24 2001

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COASTAL COMMISSION
CENTRAL COAST AREA

A-3-SLO-00-118
Exhibit I, p. 16



San Simeon Pines

SEASIDE RESORT

BUSINESS OFFICE

15918 LA CALMA DR.

WHITTIER, CALIF. 90603

Tami Grove, District Director
California Coastal Commission - Santa Cruz
725 Front St. Suite 300
Santa Cruz, CA 95060

Dec. 20, 2000

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DEC 18 2000

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Re: 8,000+ Sq. Ft. Home on 78 Acres
7292 Exotic Gardens Dr. Cambria, CA.
Khosro Kahloghli, Applicant
David M. Brown, Architect

Dear Ms Grove,

We would like to reaffirm our objection to the location and size of the Kahloghli project.

As was stated in our letter to you on April 20, 2000, we feel that the size and the number of buildings located in front of the 'non development line', approved by the San Luis Obispo Planning Department, should not be allowed.

We feel that the mitigation that the applicant has proposed would be too easily removed in the future. The applicant has made it clear from the beginning that he wants to "see the ocean".

Mr. Kahloghli is only one of three owners of this piece of property. Can we be sure the other two owners do not want to live there also?

We have felt since the beginning that the two permits, (one for the Manufactured House and one for a garage/workshop), issued to the applicant without hearings in front of the non-building line were not proper.

Since April the applicant has finished setting up his Triple Wide Manufactured Home with a large deck. And moved a trailer to a location just north of where the building site is located. It is our understanding that the applicant did not get any approval or permits for this trailer, and we also understand there is a second septic tank installed near where the proposed garage/workshop is going to be. The trailer is visible from Highway One and from the State Park south of Leffingwell Cove. The proposed new home will also be visible from these locations.

Enclosed you will find some photos that were taken Nov. 2, 2000 showing how visible these structures are at this time.

While the applicant signed a permit dated 2/15/2000 regarding lighting limitations, he has installed parking lot style lights on the Manufactured Home that can be seen from the highway as well as the State Park.

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Exhibit I, p. 17

We are also concerned about the proposed water well in the application. It was indicated that the water well would be located near or at the cut in the hill side where a creek crossing was located in the past, about 300 feet east of Highway One and on the north side of Leffingwell Creek. Leffingwell Creek does not run all year and we feel that taking any amount of water from that location would impact the creek bottom adjacent to this well. It has never been made clear what the applicant wants to do with this water, but the concern is that they would use the water to supplement water for the proposed pond located near the building site and not just for irrigation.

The applicant seems to be ignoring many of the ordinances and building codes from the very beginning. We feel that this attitude will not get any better with time and we feel that his application for the house at this highly visible location be denied.

Sincerely,



William Bonser, President
San Simeon Pines Corp.

CC:

Victor Holanda-San Luis Obispo Planning Director
Hon. Shirley Bianchi-SLO County Supervisor, North Coast Area

A-3-SLO-00-118
Exhibit I, p.18



DEPARTMENT OF PARKS AND RECREATION
San Simeon District
750 Hearst Castle Road
San Simeon, CA 93452-9741
(805) 927-2065 Phone
(805) 927-2031 Fax
kstur@parks.ca.gov

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CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

September 28, 2000

Renee Brooke, Coastal Program Analyst
California Coastal Commission
725 Front Street, Suite 300
Santa Cruz, CA 95060

Re: Kahloghli Coastal Permit Variance (D990019V)

Dear Ms. Brookes:

The California Department of Parks and Recreation (CDPR), San Simeon District has reviewed the Kahloghli Coastal Permit Variance (D990019V). We appreciate the opportunity to provide comments on the proposed project.

The CDPR is a trustee agency as defined by the California Environmental Quality Act (CEQA). State Parks' mission in part is to provide for the health, inspiration, and education of the people of California by preserving the state's extraordinary biodiversity and creating opportunities for high quality outdoor recreation.

As the office responsible for the stewardship of San Simeon State Park (SSSP), we have an interest and concern about contemplated alterations of land use adjacent to the Park. The long-term health of SSSP is dependent on the health of the regional ecosystems because the biotic boundaries of the Park extend beyond its jurisdictional boundaries.

We feel that the proposed project could have impacts to visual resources, biological resources and natural drainage patterns. These issues warrant further analysis.

The main San Simeon State Park trail runs adjacent to the subject property. We feel that the proposed project will impact the viewshed from the Park. The "temporary house", which San Simeon District was not notified of, is visible from this trail. Having these structures within the Park viewshed will diminish the high quality outdoor recreational opportunities which our visitors currently experience.

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San Simeon District recommends that there be additional setbacks for the proposed project so that the public view corridor will be preserved.

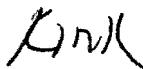
The land surrounding the proposed project is designated a Sensitive Resource Area. Invasive exotic plants used in landscaping near the Park's boundaries have the potential to cause the loss and degradation of native plant communities within the Sensitive Resource Area. San Simeon District recommends designating plantings that do not self sow in order to prevent exotic plant infestations. In addition, exotic animal species in the proposed pond also have the potential to impact native animal species (e.g., the Federally Threatened California Red-legged Frog). San Simeon District recommends that exotic animals not be introduced into the proposed pond.

The proposed berms have the potential to alter natural drainage patterns which flow onto State Park property. There is also the potential for erosion damage as a result of runoff from the development. We recommend that a monitoring program by an independent ecologist be established to detect and remedy adverse impacts.

In addition, the permit conditions should state that there are to be no access points on to State Park property from the proposed project property. Uncontrolled access points create a greater challenge for rangers to proactively diminish undesirable activities within the Park. Unofficial trailheads also degrade the ecosystem as adjunct trails may slice through sensitive habitat.

Thank you again for the opportunity to comment and for your serious consideration. We look forward to working with the Coastal Commission and the project proponent to resolve these issues. For further discussion, please feel free to contact our District Resource Ecologist, Greg Smith, at (805) 927-2119.

Sincerely,



Kirk B. Sturm
Museum Director-Superintendent

cc: Greg Smith, District Resource Ecologist

A-3-560-00-118
Exhibit I, p.20