

CALIFORNIA COASTAL COMMISSION

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Filed: 9/24/01
Hearing Open: 10/10/01
49th day: 11/12/01
Staff: JB
Staff report prepared: 11/29/01
Hearing date: 12/13/01

STAFF REPORT: APPEAL
SUBSTANTIAL ISSUE DETERMINATION

Local government.....	San Luis Obispo County.
Local decision.....	Approved with conditions.
Appeal number.....	A-3-SLO-01-092
Applicants.....	Gerald & Lydia deBruin
Applicant's Agent.....	Dall and Associates
Appellants.....	Ken Renshaw
Project location.....	Ogden Drive, Cambria, San Luis Obispo County APN 023-161-043.
Project description.....	Minor Use Permit/Coastal Development Permit to allow construction of a 2,374 sq.ft. single family residence with a 1,405 sq.ft. footprint.
Substantive file documents.....	County local permits D000247/D000248V; San Luis Obispo County Local Coastal Program.
Recommendation.....	No Substantial Issue

Summary: The applicant proposes to construct a 2,374 sq.ft. single family residence with a 1,405 sq.ft. footprint. The subject site is located on the east side of Ogden Drive, approximately 100 feet north of Randall Drive in the Lodge Hill area of Cambria. The County approved the project subject to 9 conditions, finding it consistent with the San Luis Obispo County General Plan/Local Coastal Program.

The standard of review is the San Luis Obispo County Local Coastal Program.

The appellant's contentions can be grouped into three categories: (1) slope calculations, (2) allowable gross structural area and footprint, and (3) water availability. First, the appellant contends that the County's approval raises issues of slope determination. The appellant contends that the slope of the subject site is over 30%, based on surveys performed by licensed engineers. The County determined the slope was less than 30%, based on the evidence before it. San Luis Obispo County's Local Coastal



California Coastal Commission
December 2001 Meeting in San Francisco

Staff: Jonathan Bishop Approved by: *J.B. 11/27/01*

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Program goes into considerable detail outlining methods for slope calculation. In this case the rules have been followed. Second, the appellant contends that allowable footprint and gross structural area are miscalculated. However, based on the criteria set forth in the Standards For Lodge Hill Lots (TableG), the proposed project is in compliance with regards to the allowable footprint and gross structural area. Third, with regard to water availability, the appellant's contention is that the will serve-letter is outdated and would not be issued today. As required by Public Works Policy 1 of the San Luis Obispo County's *Coastal Plan Policies*, all new development must demonstrate that there is sufficient water supply to serve the development. In this case, there is evidence in the County file of a valid Final Approval of Assignment Position that the project's water requirements will be adequately served.

The proposed project is consistent with the San Luis Obispo County Local Coastal Program. Therefore, it is recommended that the Commission find that this appeal does not raise a substantial issue with regard to slope calculations, allowable footprint, and water availability.

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VI. Exhibits

- Exhibit A: Notice of Final County Action
- Exhibit B: Location and Vicinity maps
- Exhibit C: Project Elevations
- Exhibit D: Project Site Plans
- Exhibit E: Appellant's Contentions
- Exhibit F: County Basic Slope Calculation
- Exhibit G: Cambria CSD – Connection Permit
- Exhibit H: Water Supply Issue Discussion

I. Local Government Action

San Luis Obispo County's Planning Commission approved a coastal development permit for the subject house on Lodge Hill in Cambria on May 24, 2001, subject to 9 conditions by a vote of 3 to 1. This action was appealed to the Board of Supervisors by Ken Renshaw. The Planning Commission action was upheld and the appeal was denied on August 28, 2001 by a vote of 4 to 1. The County also approved a Negative Declaration (of no significant environmental impacts) under the California Environmental Quality Act. There was also a variance approved for this project to allow grading on a portion of the site where the slope exceeds 30 percent.

II. Summary Of Appellant's Contentions

The appellant, Ken Renshaw, has appealed the final action taken by San Luis Obispo County on the basis that approval of the project is inconsistent with provisions of the San Luis Obispo County Local Coastal Program regarding slope calculations, allowable gross structural area and footprint, and adequacy of water availability. The appeal also claims that a variance was required, which the County did issue. The complete text of the appellant's contentions can be found in Exhibit E, along with clarifying letters.

III. Standard Of Review For Appeals

Coastal Act section 30603 provides for the appeal of approved coastal development permits in



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

The grounds for appeal under section 30603 are limited to allegations that the development does not conform to the standards set forth in the certified local coastal program or the public access policies of the Coastal Act. Section 30625(b) of the Coastal Act requires the Commission to conduct a *de novo* coastal development permit hearing on an appealed project unless a majority of the Commission finds that "no substantial issue" is raised by such allegations. Under section 30604(b), if the Commission conducts a *de novo* hearing, the Commission must find that the proposed development is in conformity with the certified local coastal program in order to approve a coastal development permit for the project. 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 first public road and the sea, which is the case with this project.

IV. Staff Recommendation On Substantial Issue

The staff recommends that the Commission determine that no substantial issue exists with respect to the grounds on which the appeals were filed pursuant to coastal Act Section 30603.

MOTION:

I move that the Commission determine that Appeal No. A-3-SLO-01-092 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 **YES** vote. Passage of this motion will result in a finding of No Substantial Issue and adoption of the following resolution and findings. If the Commission finds No Substantial Issue, the Commission will not hear the application *de novo* 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 NO SUBSTANTIAL ISSUE:

The Commission finds that Appeal No. *A-3-SLO-01-092* does not present 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

The Commission finds and declares as follows:

A. Project Description**1. Project Location**

The proposed project is located at 1760 Ogden Drive in the community of Cambria, San Luis Obispo County. West Lodge Hill is an extensive residential area located within the terrestrial habitat, south of Highway One (see Exhibit B). The topography of the West Lodge Hill area is varied with numerous ridges and gullies, steep slopes, and nearly flat areas near the marine terrace. The majority of the lots in the area are very small, typically 25 feet by 70 feet, and, therefore, historic development has been relatively dense. However, it is common for present-day proposals to consolidate two or three lots to create larger sites more appropriate for development. The subject site is approximately 5,681 square feet and consists of two lots.

The area is designated "Residential Single Family" in the San Luis Obispo County Local Coastal Plan. Combining designations include Local Coastal Plan, Archaeologically Sensitive Area, and Terrestrial Habitat.

2. Project Description

The proposed project is a two-story residence 28 feet high, with 1,405 square feet of footprint and 2,374 square feet of gross structural area (see Exhibit C). Also, included are 433 square feet of decking. The site plan shows the house located on the lower portion of the site toward Ogden Drive (see Exhibit D).

3. Project History

According to the County staff report (for 8/28/01):

This Minor Use Permit (MUP) replaces a previously issued MUP which expired. This project



was originally approved under the name of Kueter (DP70177P) on June 18, 1998. A building permit (A6275) and grading permit(A5701) were also issued for this site. When the previous owners applied for a time extension for the building permits, it was discovered that the Minor Use Permit had expired.

This previous coastal permit was not appealed to the Coastal Commission.

B.Substantial Issue Determination

The appellant's contentions can be grouped into three issues: slope calculations, allowable gross structural area and footprint, and water availability. The appeal also lists that a variance was required, which the County did issue. Following are summaries of his contentions. The full contentions included in the appeal (8/29/01) along with two explanatory letters are found in Exhibit E.

1. Slope Calculations

a. Summary of Appellant's Contentions

With regard to the slope issue, the appellant takes issue with the County determination of the slope of the subject lot being under 30%. He indicates:

Competent professional surveyors [North Coast Engineering and Wilson] have found the slope greater than 30% by the methods of Section 23.11.030 [the governing section of the local coastal program].

He contends that the methodology used by County Staff was not contained in Section 23.11.030. In observing that this methodology requires drawing a line from the highest to lowest point in order to perform the slope calculation, he contends that staff failed to follow this method.

b. Relevant Local Coastal Program Provisions

The following are the governing relevant provisions from the San Luis Obispo County Local Coastal Program:

North Coast Planning Area Standards (excerpts): Lodge Hill Standards...The following definitions shall be used in the interpretation of Table G:

c. Slope – to be determined by using one of the slope determination methods in Chapter 23.11 (Slope, Average) of the Coastal Zone Land Use Ordinance.

Section 23.11.030 of the Coastal Zone Land Use Ordinance [definitions]: Slope, Average. The characteristic slope over an area of land, expressed in percent as the ratio of vertical rise to horizontal distance. In any cluster development (see Section 23.04.036) or where the size of the proposed new parcels is 10 acres or greater, average slope is to be determined for the entire site and does not need to be determined for each proposed parcel. In all other cases, average slope is



to be determined based on the most accurate available topographic information for each proposed new lot. One of the following methods for determining average slope is to be used:

a. *Basic Method.* Where slopes are uniform, with little variation, the basic method can be used to determine average slope. Where a line is drawn between highest and lowest points on a parcel is adequate to represent direction and extent of slope for the entire parcel, the difference in elevation between the high and low points, divided by the distance between the points, will determine the average slope.

b. *Sectional Method.* Where the parcel contains distinct sections of differing slope, the average slope of each section may be determined according to the contour measurement method in (c) below. The average slope of each section is then used in proportion of the section's area to the total area to determine the average slope of the entire parcel.

c. *Contour Measurement Method.* Where varied slope conditions or complex topography exist, the most precise measurement of average slope is the contour measurement method. The following formula shall be used to determine average slope:

$$S = .00229(I \times L) / A$$

Where S = Average slope of parcel in percent

A = Total number of acres in the parcel (or section of parcel)

L = Length of contour lines in scaled feet

I = Vertical distance of contour interval in feet

C. County Action

The County approved the project based on the subject lot averaging less than 30% slope. The County staff report (for 8/28/01) notes a distinction between calculating average slope over the entire lot for the purpose of determining house size and coverage (see following finding below) and calculating whether portions of the lot are over 30% for variance purposes. The County staff report notes that a portion of the site is over 30%, therefore necessitating a variance. However, the County staff report also concludes that the average slope is less than 30%. The staff report accepted applicants' representatives calculations that the slope was less than 30%, using the "Basic Method."

As to the contended matter of where to draw the line used for calculating average slope, the staff report indicates:

As stated above, the basic method involves drawing a line between the highest and lowest points on a parcel and then dividing the elevation difference or rise by the distance or run. In the past, staff used the property lines to determine the average. Recently, however, it was determined that



a more accurate basic slope determination was achieved by scaling between the highest and lowest points making sure that the scale is perpendicular to the contours.

Furthermore, the staff presented a second calculation, illustrating that even drawing the line where the appellant said it should be drawn yielded a slope calculation of less than 30%. In considering this matter on appeal, the Board of Supervisors was presented with both sides of this issue of how to calculate average slope. By rejecting the appeal, the Board implicitly supported the staff-accepted calculations.

d. Analysis

The appellants' contentions can be analyzed in sequence.

The first question is what method to calculate slope should be used. As quoted above, there are three methods that can be used depending on circumstance. The appellant had favored a calculation using the contour method. The County chose the basic method, to be used where slopes are uniform, with little variation. A review of the topography of this site shows that the spacing between contour lines is essentially at regular intervals and does not reveal much variation. The site gradually rises from the street to the back of the lot, with no significant undulations. Thus, the slope can be considered uniform and, hence, the County is justified in picking the Basic Method (see Exhibit F).

The next question involves the accuracy of survey points and measurements. Even among those calculations that used the basic method from the highest to lowest points (southwest to northeast property corners), there were slight differences in elevations and length of the line between them. These differences were enough to result in calculations that varied from 29.8% to 32.77%, as shown in the following chart.

Surveyor	Result	Date & Source	Method
unknown	27%; 28%	In 6/19/98 staff report on earlier application	unknown
North Coast Engineering, John Sanders	30.26% slope	4/26/01 letter report	Contour Method
James Greathouse	28.2%	Unknown, presented 5/24/01	other method (using line through center of parcel)
James Greathouse	27.9%	Unknown, presented 5/24/01	other method (using western property line)
James Greathouse	23.1%	Unknown, presented 5/24/01	other method (using eastern property line)



James Greathouse	27.7%	Unknown, presented 5/24/01	other method (using line through center of parcel, extending to toe of slope in street)
James Greathouse	30.0%	Unknown, presented 5/24/01	other method (using western property line extending to toe of slope in street)
James Greathouse	23.5%	Unknown, presented 5/24/01	other method (using eastern property line extending to toe of slope in street)
Wallace & Associates, John Wallace	<30%	8/28/01 testimony	Basic Method
Appellant Ken Renshaw	30.1%	8/14/01 letter	Basic Method
Cambria Community Services District, Robert Hamilton	32.7%	Unknown	Basic Method
County staff	29.5%	8/28/01 presentation	Basic method (using perpendicular -to- contours line)
County staff	29.8%	8/28/01 presentation	basic method (using appellant's preferred line)
North Coast Engineering	>30% slope	Cited in appellant's 8/28/01 testimony	Basic Method
Wilson Land Surveys, Kenneth Wilson	31.3%	9/14/01	Basic Method

In determining whether the County's reliance on a questionable slope determination raises a substantial issue, the Commission is cognizant that a previous permit was issued for the site where the slope was said to be only 27% or 28% (both numbers appear on different sheets of the final action) and the matter was not appealed. Unfortunately, that permit expired and the new permit must be examined on its merits.



As previously described, the most appropriate way to calculate the average slope of this project site is to use the Basic Method. Certified topographic maps were requested and reviewed by Commission staff and slope calculations were verified using the highest and lowest datum points on the project site. It was concluded that the average slope using the Basic Method was calculated correctly.¹

The Commission is also aware that there are significant consequences as to the size of house that the applicant can build, as discussed in the following finding. In the larger planning context, the Commission notes that the subject parcel is located in an area of sloping terrain that is already developed with homes similar in size to what the applicant is proposing. Furthermore, the proposed home is to be located on the lower, slightly less steep portion of the lot fronting the street.²

Therefore, it is recommended that the Commission find that this appeal does not raise a substantial issue with regard to slope calculations.

2. Gross Structural Area (GSA) & Footprint

a. Summary of Appellant's Contentions

With regard to gross structural area and footprint, the appellant originally summarized his contention as follows:

The subject building site is 5,861 s.f. Table G has two footnotes pertaining to how GSA can be modified. Footnote 1 pertains to "Building sites greater than 5,250 square feet..." If this footnote is applied for the "Steep Lot" category, the allowable GSA is 703 s.f. and the footprint is 1990 s.f.

The applicant was allowed to use Footnote 2.b which pertains to "Building sites greater than 5,250 square feet..." If this footnote is applied for the "Steep Lot" category, the allowable GSA is 1055 s.f. and the footprint is 1,785 s.f.

Subsequent to the appellant's original contentions, additional detail was provided regarding the calculation of GSA and footprint. In summary, the appellant's contention is as follows:

The County staff's methods for determining allowable GSA and Footprint are inconsistent with Coastal Commission's findings on A-2-SLO-01-018 Gonyer. Those findings pertain to the adjacent lot.

The applicant recognizes that the Gonyer findings supersede his original contentions. Since the appellant has contended the lot is over 30% slope, he says that the allowable GSA and footprint need to be based on that fact. Therefore, he contends that the "Steep Lot" category and Footnote 1 should be

¹ Although the County endorses a "more accurate basic slope determination" by scaling perpendicular to the contours of the site, a strict application of the Basic Method in 23.11.030 (Slope, Average) of the Coastal Zone Land Use Ordinance does not allow such an approach. The County's second calculation reflects the correct methodology.

² The San Luis Obispo County Planning Commission directed staff in April of 2000 to require Variances when any portion of development will occur on 30% slopes or greater. As noted in their report dated August 28, 2001, staff determined that the average slope of the parcel is less than 30% but that a portion of the development would occur on portions of the site that are over 30%.



applied, resulting in an allowable GSA of 1731 sq. ft. and a footprint of 1,082 sq. ft. (see Exhibit E - Appellant's Contentions in Full, Attachment 4).

b. Relevant Local Coastal Program Provisions

The following are the governing relevant provisions from the San Luis Obispo County Local Coastal Program, North Coast Planning Area Standards:

Table G (Standards for Lodge Hill Lots)[excerpts]

B. Double Lot Category – 50' Lots (3500 Sq. Ft.)

<i>Type of Lot</i>	<i>Max Height</i>	<i>Footprint</i>	<i>Gross Structural Area</i>
4. Steep Lots (30% plus)	28'	650 sq. ft.	1,100 sq. ft.
6. Typical Lots	28'	1 story, 1,600 sq. ft. 2 story, 1,000 sq. ft.	1,600 sq. ft. 2,000 sq. ft.

C. Triple Lot Category – 75' Lots (5250 Sq. Ft.)

<i>Type of Lot</i>	<i>Max Height</i>	<i>Footprint</i>	<i>Gross Structural Area</i>
4. Steep Lots (30% plus)	28'	1,000 sq. ft.	1,600 sq. ft.
6. Typical Lots	28'	1 story, 1,800 sq. ft. 2 story, 1,300 sq. ft.	1,800 sq. ft. 2,600 sq. ft.

Table G Footnotes. Standards 1-3 below shall be used with Table G where interpreting lot sizes that do not conform exactly to base density or where a Footprint and Gross Structural Area bonus is requested.

1. *Building sites greater than 5,250 square feet may be permitted additional Footprint and Gross Structural Area equal to the percent that the site is greater than 5,250 square feet.*
2. *Building sites 5,250 or less, the permitted maximum Footprint and GSA shall be adjusted as follows:*
 - b. *Double lot category – if the lots are greater than 3,500 square feet, the Footprint and GSA may be increased by the percent that the lot is greater than 3,500 square feet.*

c. County Action

The County approved the subject residential project with a 1,405 square footprint and 2,374 square feet of gross structural area. The County staff report (for 8/28/01) responds to the appellant's contention:



The Lodge Hill standards or Table G determine allowable footprint, gross structural area (GSA) and deck square footage for single family residences based on the size and the type of the parcel. The subject site is approximately 5,681 square feet and a double lot, made up of two underlying parcels of Tract 8. The lot is considered a "typical" lot, because...the average slope of the entire lot is under 30% and there are no Monterey pine trees present on the lot. The lot is oversized, so the Lodge Hill standards allow an increase in the allowable footprint and GSA of 1.62 times the double typical criteria. The following provides the allowable and proposed square footages:

	<i>Allowable</i>	<i>Proposed</i>
<i>Footprint</i>	<i>1,620</i>	<i>1,405</i>
<i>GSA</i>	<i>3,240</i>	<i>2,374 (does not include loft/stairs 481 sq ft)</i>

In conclusion, because there was no miscalculation of average slope...the subject site qualifies for the square footage allowed by Table G for a typical lot. The proposed residence is in compliance with Table G.

d. Analysis

The appellants' contention follows from his contention about slope. The North Coast Area Plan includes specific building standards for lots within the Lodge Hill area as excerpted above. These standards establish setback, height, footprint, gross structural area and deck sizes of single family residences based on lot size, site topography and location, and whether or not trees exist on the site. Footnotes 1 and 2 of Table G (noted above) are used when the subject site is not a standard size.

The first step in assessing the project's consistency with these site development standards is to determine the maximum footprint and gross structural area allowed on the site according to the size and slope of the subject lot and the standards established by Table G.

As previously described, the project site is on a slope of 30% or less. The project site can be categorized as "Typical" based on the standards established by Table G. The site is composed of two lots that are larger than the standard lots in Lodge Hill and total 5,681. Table G limits development on the more typical 3,500 square foot double lots with steep slopes to a maximum footprint of 650 square feet and a maximum GSA of 1,100 square feet. Development on a standard triple lot of 5,250 square feet and "Typical" is limited to a maximum footprint of 1,300 square feet and a maximum GSA of 2,600 square feet. In accordance with footnotes one and two of Table G, the maximum footprint and structural area can be increased in proportion to the amount of the lot that is greater or lesser than 5,250 square feet.

In this case, footnote one of table applies to the applicant's double lot of 5,681 square feet, which is 431 square feet larger than a standard triple lot of 5,250 square feet. The County calculates the bonus footprint and GSA according to the *number of lots* involved, and thereby using footnote 2 to determine the bonus this calculation. In contrast, the Commission feels it is more appropriate to calculate bonus



footprint and GSA consistent with findings established in Gonyer (A-3-SLO-01-018). Due to this fact, bonus footprint and GSA must be based on the size of the parcel. Footnote One specifically states "Building sites greater than 5,250 square feet may be permitted additional footprint and Gross Structural Area equal to the percent of the site that is greater than 5,250 square feet". Accordingly, the applicant's 5,681 square foot site is allowed to exceed maximum GSA and footprint standards by 8.2%.

Footnote One of Table G does not, however, provide a clear formula for applying this bonus, because it does not identify the baseline GSA and Footprint to which this bonus applies. In order to rationally implement Table G, lot size, rather than the number of parcels, must be used to determine the base GSA and footprint. It is the size of the project site, rather than the number of parcels involved, which best reflects the constraints to development that need to be considered during coastal development permit review. This approach also maintains consistency with the method of determining the allowable bonus for larger than standards lots, which, as discussed above, must be determined according to lot size rather than number of lots.

Accordingly, although the applicant's 5,681 square foot site is technically a double lot, it appropriately falls into the triple lot category for determining the baseline to which the bonus applies because it exceeds the standard 5,250 square foot triple lot size. Therefore, the maximum footprint and GSA is calculated as follows:

Lot size	Allowable Footprint	Allowable GSA
5,250 sq. ft.	1,300 sq. ft.	2,600 sq. ft.
5,681 sq. ft.	$(1,300 \text{ sq. ft.} \times 1.082) = 1,407 \text{ sq. ft.}$	$(2,600 \text{ sq. ft.} \times 1.082) = 2,813 \text{ sq. ft.}$

*This calculation is based on an oversized, triple, typical lot.

Because the proposed project is in compliance based on the standards established in Table G, no substantial issue is raised by these GSA and footprint contentions.

3. Water Availability

a. Appellant's Contention

With regard to water availability, the appellant's contention is that the will-serve letter is outdated and would not be issued today (see Exhibit E Appellants' Contentions in Full).

b. Relevant Local Coastal Program Provisions

As required by Public Works Policy 1 of the San Luis Obispo County's *Coastal Plan Policies*, all new development must demonstrate that there is sufficient water supply to serve the development:

Public Works 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 existing 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 service line for which services will be needed consistent with the Resource Management System where applicable...

This policy is implemented by the following section of the San Luis Obispo County *Coastal Zone Land Use Ordinance*:

Section 23.04.430 - Availability of Water Supply and Sewage Disposal Services. A land use permit for new development that requires water or disposal of sewage shall not be approved unless the applicable approval body determines that there is adequate water and sewage disposal capacity available to serve the proposed development, as provided by this section . . .

In addition to these urban service policies, water supply for new development in Cambria must be considered in light of *Coastal Plan Policies* priorities for Agriculture and Visitor-serving development.

Agriculture Policy 7: Water Supplies Water extractions consistent with habitat protection requirements shall give highest priority to preserving available supplies for existing or expanded agricultural uses. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD.]

Recreation & Visitor-Serving Facilities Policy 2: Priority for Visitor-Serving Facilities. Recreational development and commercial visitor-serving facilities shall have priority over non-coastal dependent use, but not over agriculture or coastal dependent industry in accordance with PRC 30222. All uses shall be consistent with protection of significant coastal resources... [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD.]

Finally, the *North Coast Area Plan* component of the San Luis Obispo County local coastal program contains a development standard for the Cambria Urban Area that requires:

Reservation of Service Capacity. To allow for continued growth of visitor-serving facilities, 20% of the water and sewer capacity shall be reserved for visitor-serving and commercial uses.

c. County Action

The staff report indicates that water is to be provided by Cambria Community Services District. The County made no specific findings with regard to water availability. However, a valid Final Approval of Assignment of Position is included in the County's record.

d. Analysis

Water supply is a serious issue in Cambria. Currently-available water supplies are not sufficient to support full build-out without harm to riparian habitats. This issue has been thoroughly discussed in both the North County Update and the Periodic Review of the Implementation of San Luis Obispo



County's local coastal program (see Exhibit J). The uncertainty inherent in the water supply questions for Cambria, coupled with a focus on improving management, underscores the importance of curbing new water extractions until the many questions can be answered, and until meaningful management decisions are made.

In December of 2000, the Board of Supervisors adopted a 1% growth rate for 2001, and directed that a Resource Capacity Study be completed for review by the Board in the Spring of 2001. The County has suggested that further restrictions on new water connections await the completion of this RMS study. Although the County has initiated the scoping for the study, is unclear when such a study would be completed. More importantly, the burden of the uncertainty in the water supply must not be placed on coastal resources. Rather, a precautionary approach should be taken until such time as better knowledge is gained about both the capacity of San Simeon and Santa Rosa Creeks, including the needs of instream habitats, and about additional water supplies (e.g. a desalination plant) that might support new development. For example, without completion of instream flow studies and the newly-launched Habitat Conservation Plan to address sensitive species, the capacity of San Simeon Creek to support new development cannot be known. Fundamentally, this approach is necessary to meet the Coastal Act requirement that new development be environmentally-sustainable. It cannot reasonably be concluded at this time that new development in Cambria is currently sustainable.

Nonetheless, as recently discussed in the Commission's Periodic Review of the San Luis Obispo County Local Coastal Program, notwithstanding the compelling evidence that there is inadequate water to supply new development in Cambria, in order to provide reasonable notice to property owners in Cambria contemplating beginning the development review process, or that may not yet have received basic land use approvals, it is reasonable to allow the completion of the 1% percent growth rate for the remainder of 2001 (approximately 37 connections for the year). In addition, this approach allows the County additional time to assess the issue, from a broader planning perspective, prior to taking more proactive action with respect to single family home proposals. The Commission adopted the following recommendation in its July, 2001 Periodic Review action:

Recommendation 2.13. Continue implementation of the 1% growth rate in Cambria until 1/1/02, after which time coastal development permits for new development that would require a new water connection or that would otherwise create additional water withdrawals from Santa Rosa or San Simeon Creeks should not be approved unless the Board of Supervisors can make findings that (1) water withdrawals are limited to assure protection of instream flows that support sensitive species and habitats; (2) there is adequate water supply reserved for the Coastal Act priority uses of agricultural production, and increased visitors and new visitor-serving development; (3) a water management implementation plan is incorporated into the LCP, including measures for water conservation, reuse of wastewater, alternative water supplies, etc., that will assure adequate water supply for the planned build-out of Cambria or that will guarantee no net increase in water usage through new water connections (e.g. by actual retrofitting or retirement of existing water use); (4) substantial progress has been made by the County and the CCSO on achieving implementation of buildout reduction plan for Cambria; and



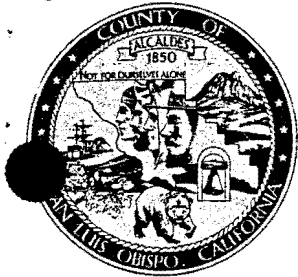
(5) there is adequate water supply and distribution capacity to provide emergency response for existing development.

Clearly, the ability to provide adequate water to existing and future development in Cambria is a significant unresolved issue. Most recently, the Cambria Community Services District (CCSD) has declared a water emergency for service within the boundary of the district. Effective midnight Nov. 15, 2001, the CCSD has suspended the issuance of any additional Intent to Serve Letters until such time as the CCSD Board has found sufficient water is available to serve current and future demands. However, the approach taken by the Commission to address this issue to date has been a programmatic one, focused on addressing the problems and unresolved questions through comprehensive planning and resource management, rather than calling for an immediate halt to all new development. As reflected in the modification to the North Coast Update, the Commission established a date certain by which it expects these planning and resource monitoring efforts to result in specific changes to the management and allocation of Cambria's limited water supply; we are now six months past that date. The Periodic Review recommendation is intended to focus the County on the necessary steps for approving new development after January 1, 2002.

Clearly, the ability to provide adequate water to existing and future development in Cambria is a substantial unresolved issue. However, the approach taken by the Commission to address this issue to date has been a programmatic one, focused on addressing the problems and unresolved questions through comprehensive planning and resource management, rather than calling for an immediate halt to all new development. As reflected in the modification to the North Coast Update described above, the Commission established a date certain by which it expects these planning and resource monitoring efforts to result in specific changes to the management and allocation of Cambria's limited water supply; we are now six months past that date. The Periodic Review recommendation is intended to focus the County on the necessary steps for approving new development after January 1, 2002. Until now, the Commission has been relying upon the CCSD's existing allocation program, and the County Resource Management Program (which limits the amount of new residential development in the Cambria Urban area to 125 residences per year), to keep new water demands in check. For example, the Commission has not been appealing the residential development being approved by the County on a routine basis in Cambria's Lodge Hill area.

In this case, the applicant has received a Connection Permit from CCSD, appropriately extended and valid thru 3/24/02 (see Attachment G). The Commission concludes that it is appropriate to acknowledge the Assignment of Position letter of the CCSD as evidence of adequate water for this project. **Therefore, for this particular case, no substantial issue is raised regarding the water supply issue.**





SAN LUIS OBISPO COUNTY
DEPARTMENT OF PLANNING AND BUILDING

FINAL LOCAL
ACTION NOTICE

REFERENCE # 3-SLO-01-457
APPEAL PERIOD 9/11-9/24/01

VICTOR HOLANDA, AICP
DIRECTOR

BRYCE TINGLE, AICP
ASSISTANT DIRECTOR

ELLEN CARROLL
ENVIRONMENTAL COORDINATOR

FORREST WERMUTH
CHIEF BUILDING OFFICIAL

NOTICE OF FINAL COUNTY ACTION

HEARING DATE: August 28, 2001

SUBJECT: .D000247P/DeBruin

LOCATED WITHIN COASTAL ZONE: ☒ YES ☐ NO

RECEIVED

SEP 10 2001

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

The above-referenced application was approved on the above-referenced date by the following hearing body:

☒ San Luis Obispo Board of Supervisors


A copy of the findings and conditions is enclosed. The conditions of approval must be completed as set forth in this document.

This action is appealable to the California Coastal Commission pursuant to Coastal Act Section 30603 and the County Coastal Zone Land Use Ordinance 23.01.043. These regulations contain specific time limits to appeal, criteria, and procedures that must be followed to appeal this action. This appeal must be made directly to the California Coastal Commission Office. Contact the Commission's Santa Cruz Office at (408) 427-4863 for further information on appeal procedures. If you have questions regarding your project, please contact your planner, Karen Ball, at (805) 781-5600. If you have any questions regarding these procedures, please contact me at (805) 781-5600.

Sincerely,

Linda Jones

Linda Jones
CURRENT DEVELOPMENT

EXHIBIT NO. A
APPLICATION NO. A-3-SLO-01-092
Final Local Action 10410
 California Coastal Commission

(Planning Department Use only)


Date NOFA original to applicant: ^{letter} 9/6/01

^{and to agent}
(letter/reco/cond) Mailed Hand-delivered

Date NOFA copy mailed to Coastal Commission: 9/6/01

Enclosed: ☒ Staff Report
☒ Resolution
☒ Findings and Conditions

e:\WPDOCS\MUP\BDNOFA.WPD

EXHIBIT NO. A
APPLICATION NO. A-3-520-01-092
Final Local Action 20410
 California Coastal Commission

IN THE BOARD OF SUPERVISORS
COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA

Tues day August 28, 2001

PRESENT: Supervisors Harry L. Ovitt, Shirley Bianchi, Peg Pinard, Michael P. Ryan,
Chairperson K.H. "Katcho" Achadjian

ABSENT: None

RESOLUTION NO. 2001-348

RESOLUTION AFFIRMING THE DECISION OF THE PLANNING COMMISSION AND
CONDITIONALLY APPROVING THE APPLICATION OF GERARD DEBRUIN FOR
MINOR USE PERMIT/COASTAL DEVELOPMENT PERMIT D000247P

The following resolution is now offered and read:

WHEREAS, on May 24, 2001, the Planning Commission of the County of San Luis Obispo
(hereinafter referred to as the "Planning Commission") duly considered and conditionally approved
the application of Gerard Debruin for Minor Use Permit/Coastal Development Permit D000247P;
and

WHEREAS, Ken Renshaw has appealed the Planning Commission's decision to the Board
of Supervisors of the County of San Luis Obispo (hereinafter referred to as the "Board of
Supervisors") pursuant to the applicable provisions of Title 23 of the San Luis Obispo County Code;
and


WHEREAS, a public hearing was duly noticed and conducted by the Board of Supervisors
on August 28, 2001, and determination and decision was made on August 28, 2001; and

WHEREAS, at said hearing, the Board of Supervisors heard and received all oral and written
protests, objections, and evidence, which were made, presented, or filed, and all persons present were
given the opportunity to hear and be heard in respect to any matter relating to said appeal; and

WHEREAS, the Board of Supervisors has duly considered the appeal and determined that
the appeal should be denied and the decision of the Planning Commission should be affirmed subject
to the findings and conditions set forth below.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED by the Board of Supervisors
of the County of San Luis Obispo, State of California, as follows:

1. That the recitals set forth herein above are true, correct and valid.
2. That the Board of Supervisors makes all of the findings of fact and determinations

EXHIBIT NO. A
APPLICATION NO. A-3-560-01-092
Final Local Action
30410
 California Coastal Commission

set forth in Exhibit A attached hereto and incorporated by reference herein as though set forth in full.

3. That the negative declaration prepared for this project is hereby approved as complete and adequate and as having been prepared in accordance with the provisions of the California Environmental Quality Act.

4. That the Board of Supervisors has reviewed and considered the information contained in the negative declaration together with all comments received during the public review process prior to approving the project.

5. That the appeal filed by Ken Renshaw is hereby denied and the decision of the Planning Commission is affirmed and that the application of Gerard Debruin for Minor Use Permit/Coastal Development Permit D000247P is hereby approved subject to the conditions of approval set forth in Exhibit B attached hereto and incorporated by reference herein as though set forth in full.

Upon motion of Supervisor Bianchi seconded by Supervisor Ovitt, and on the following roll call vote, to wit:


AYES: Supervisors Ovitt, Pinard, Ryan, Chairperson Achadjian

NOES: Supervisor Bianchi

ABSENT: None

ABSTAINING: None

the foregoing resolution is hereby adopted.

EXHIBIT NO. A
APPLICATION NO. A-3-SLO-01-09
Final Local Action 40810
 California Coastal Commission

K.H. ACHADJIAN

Chairman of the Board of Supervisors

ATTEST

Julie L. Rodewald
Clerk of the Board of Supervisors

BY: CHERIE ASPURO Deputy Clerk

[SEAL]

APPROVED AS TO FORM AND LEGAL EFFECT:

JAMES B. LINDHOLM, JR.
County Counsel

By: [Signature]
Deputy County Counsel

Dated: August 7, 2001

STATE OF CALIFORNIA) ss COUNTY OF SAN LUIS OBISPO
I, JULIE L. RODEWALD, County Clerk of the above entitled County, and Ex-Officio Clerk of the Board of Supervisors thereof, do hereby certify the foregoing to be a full, true and correct copy of an order entered in the minutes of said Board of Supervisors, and now remaining of record in my office.
Witness, my hand and seal of said Board of Supervisors this <u>8-31-01</u>
JULIE L. RODEWALD County Clerk and Ex-Officio Clerk of the Board of Supervisors
By: <u>[Signature]</u> Deputy Clerk

EXHIBIT A
FINDINGS FOR MINOR USE PERMIT (D000247P)


- A. As conditioned, the project or use is consistent with the San Luis Obispo County General Plan/Local Coastal Program because the use is a principally permitted use allowed by Table "O" of the Land Use Element/Local Coastal Plan and is consistent with all other General Plan policies.
- B. As conditioned, the project or use satisfies all applicable provisions of Title 23 of the San Luis Obispo County Code.
- C. The establishment and subsequent operation or conduct of the project or use will not, because of the circumstances and conditions applied in a particular case, be detrimental to the health and safety or welfare of the general public or persons residing or working in the neighborhood of the project or use, or be detrimental or injurious to property or improvements in the vicinity of the project or use because the project or use meets planning area standards for the Lodge Hill area, including erosion and drainage control, and footprint and gross structural area requirements.
- D. The project or use will not be inconsistent with the character of the immediate neighborhood or contrary to its orderly development because the project is a single family residence in a residential neighborhood.
- E. The project or use will not generate a volume of traffic beyond the safe capacity of all roads providing access to the project or use, either existing or to be improved with the project or use because Ogden Drive on which the single family residence is to be located is capable of carrying the additional traffic generated by the project or use.
- F. The project or use will not create significant adverse effects on the natural features of the site or vicinity that were the basis for the Sensitive Resource Area designation, and will preserve and protect such features through the site design, because no trees are proposed for removal.
- G. Natural features and topography have been considered in the design and siting of all proposed physical improvements, because the proposed structure has been designed to minimize tree removal and site disturbance.
- H. Any proposed clearing of topsoil, trees, or other features is the minimum necessary to achieve safe and convenient access and siting of proposed structures, and will not create significant adverse effects on the identified sensitive resource, because there is no tree removal proposed and site disturbance has been minimized.

EXHIBIT NO.	A
APPLICATION NO.	A-3-560-01-092
Final Local Action	5 of 10
California Coastal Commission	

- I. The soil and subsoil conditions are suitable for any proposed excavation; site preparation and drainage improvements have been designed to prevent soil erosion and sedimentation of streams through undue surface runoff, because, as conditioned, the project or use meets drainage and erosion control standards specified by the county Engineering Department.
- J. There will be no significant negative impact on the identified sensitive habitat and the project or use will be consistent with the biological continuance of the habitat, because no trees are proposed for removal.
- K. The project or use will not significantly disrupt the habitat, because it is a single family residence with minimal site disturbance.
- L. The proposed use is in conformance with the public access and recreation policies of Chapter 3 of the California Coastal Act because the project is not adjacent to the coast and the project will not inhibit access to coastal waters and recreation areas.
- M. On the basis of the Initial Study and all comments recieved, there is no substantial evidence that the project will have a significant effect on the environment.

EXHIBIT NO.	A
APPLICATION NO.	A-3-540-01-00
Final Local Action	
6 of 10	
California Coastal Commission	

EXHIBIT B
CONDITIONS OF APPROVAL

EXHIBIT NO.	A
APPLICATION NO.	A-3-560-01-092
Final Local Action	
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 California Coastal Commission	

AUTHORIZED USE

1. **This approval authorizes** the construction of a single family residence with: 1,405 square feet of footprint, 2,374 square feet of gross structural area with a 429 sq ft loft.
2. **All permits shall be consistent** with the approved Site Plan, Floor Plans, and Elevations. The maximum height of the project shall be limited to 28 feet above average natural grade.
3. **Prior to building permit site check clearance, and/or any site disturbance**, a licensed surveyor shall establish average natural grade (high and low corners staked) and set a datum point.
4. **Prior to framing inspection**, the applicant shall provide written verification to the building inspector certifying the building height. The certification shall be done by a licenced surveyor.

GRADING, DRAINAGE, SEDIMENTATION, AND EROSION CONTROL


5. **Prior to issuance of construction permits**, if grading is to occur between October 15 to April 15, a sedimentation and erosion control plan shall be submitted pursuant to Coastal Zone Land Use Ordinance Section 23.05.036.
6. **Prior to issuance of construction permits**, the applicant shall submit an engineered drainage plan for review and approved by the County Engineering Department.

ARCHAEOLOGY

7. **Prior to issuance of construction permits**, the applicant shall submit a monitoring plan prepared by a subsurface qualified archaeologist, for the review and approval of the Environmental Coordinator. The monitoring plan shall include:
 - a. List of personnel involved in the monitoring activities;
 - b. Description of how the monitoring shall occur;
 - c. Description of frequency of monitoring (e.g., full-time, part-time, spot checking);
 - d. Description of what resources are expected to be encountered;
 - e. Description of circumstances that would result in the halting of work at the project site (e.g., What are considered "significant" archaeological resources?);
 - f. Description of procedures for halting work on the site and notification procedures;

g. Description of monitoring reporting procedures.

8. **During all ground disturbing construction activities**, the applicant shall retain a qualified archaeologist, approved by the Environmental Coordinator, and Native American to monitor all earth disturbing activities, per the approved monitoring plan. If any significant archaeological resources or human remains are found during monitoring, work shall stop within the immediate vicinity (precise area to be determined by the archaeologist in the field) of the resource until such time as the resource can be evaluated by an archaeologist and any other appropriate individuals. The applicant shall implement the mitigations as required by the Environmental Coordinator.
9. **Upon completion of all monitoring/mitigation activities, and prior to occupancy or final inspection, whichever occurs first**, the consulting archaeologist shall submit a report to the Environmental Coordinator summarizing all monitoring/mitigation activities and confirming that all recommended mitigation measures have been met. If the analysis included in the Phase III program is not complete by the time final inspection or occupancy will occur, the applicant shall provide to the Environmental Coordinator, proof of obligation to complete the required analysis.

EXHIBIT NO.	A
APPLICATION NO.	A-3-540-01-09
Final Local Action	
6 OF 10	
 California Coastal Commission	

n. Nall

IN THE BOARD OF SUPERVISORS

COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA

Tuesday, August 28, 2001

PRESENT: Supervisors Harry L. Ovitt, Shirley Bianchi, Peg Pinard, Michael P. Ryan, Chairperson K.H. 'Katcho' Achadjian

ABSENT: None

In the matter of **RESOLUTION NO. 2001-348:**

This is the time set for hearing to consider an appeal by Ken Renshaw of the Planning Commission's approval of a Minor Use Permit/Coastal Development Permit, to allow the construction of a single family residence, located on the east side of Ogden Drive approximately 75 feet north of Randall Drive, Lodge Hill, Cambria; 2nd District.

Ms. Karen Nall: Planning, presents the staff report; discusses the slope calculations; describes the lot; speaks to the actions of the North Coast Advisory Council (NCAC); indicates staff's recommendation is to deny the appeal.

Mr. Ken Renshaw: Appellant, feels staff developed their own method of calculating the slope; discusses five surveys that were done by five different crews and all five found the slope greater than 30%; indicates North Coast Engineering did a survey for Alan Savage, Cambria Realty and found the lot to be 31.1%; addresses the staff report and feels staff has granted themselves a variance; states Mr. Debruin asked North Coast Engineering to verify the survey and it was still more than 30%.

Mr. Gerald Debruin: Applicant, clarifies that he never asked North Coast Engineering to verify the survey.

Mr. Terry Shubert: attorney representing the Applicant, addresses the Minor Use Permit; speaks to the methods used in calculating slope; indicates staff used the Basic Method; they ran their own numbers and found the lot to be less than 30%; states John Wallace of Wallace and Associates, also calculated the lot and found it to be less than 30%; indicates Mr. Renshaw is a neighbor and is also the Land Use Advisor for NCAC; speaks to the favorable vote of the NCAC on this project; urges the Board to deny the appeal.

Mr. John Wallace: representing the Applicant, states he reviewed this matter independently of previous studies done and used the Basic Method to find the lot to be less than 30%; addresses the five methods presented by Mr. Renshaw indicating the flaws in each.

Mr. John Vande Wouw: states his concern for overbuilding in Cambria; indicates the pre-rescinded the sale of the property when they found that the slope was too steep; wants to make st

EXHIBIT NO.	A
APPLICATION NO.	A-3-560-01-092
Final Local Action	
9.8.10	
California Coastal Commission	

the building fits the regulations; feels overbuilding on small lots is a bad practice.

Mr. Paul Skartvedt: Chairperson NCAC, states he likes to see people come to Cambria, build and be happy; states when the NCAC first reviewed this project it was turned down; the second time the NCAC stated they needed a certified survey by a licensed engineer; feels they received an inadequate survey; states the lot is not uniform.

Mr. Shubert: states Mr. Skartvedt forgot to mention that he and the NCAC voted to approve the MUP.

Mr. Renshaw: addresses the Basic Method to calculate the slope; indicates North Coast Engineering did come out to review the property and the result was more than 30%; states when he hired North Coast Engineering they used the Contour Method and when they came back to do the recheck they used the Basic Method; indicates he has five pieces of data that say the lot is more than 30%; states the Planning Commission based their decision on staff's original calculations that were calculated by the wrong method.

Mr. Skartvedt: explains his vote indicating he thought there was a certification on the survey submitted.

Board Members: discuss various issues, comments and concerns regarding: the boundary lines in the survey done by staff; if the property is uniform; the method used by staff.

A motion by Supervisor Bianchi to tentatively uphold the appeal and to not approve the Minor Use Permit at this time and directs that an independent survey be conducted by a third party, is discussed.

Supervisor Bianchi: withdraws her motion.

A motion by Supervisor Bianchi to continue this hearing until an independent third party survey is conducted, dies for lack of a second.

Board Members: discuss the use of the same formula for all applicants; if the method for calculating the slope is a problem it should come back as a separate discussion.

Matter is fully discussed and thereafter, on motion of Supervisor Bianchi, seconded by Supervisor Ovitt and on the following roll call vote:

AYES: Supervisors Ovitt, Pinard, Ryan, Chairperson Achadjian
NOES: Supervisor Bianchi
ABSENT: None

the Board denies the appeal; approves the Negative Declaration (ED00-410) and RESOLUTION NO. 2001-348, resolution affirming the decision of the Planning Commission and conditionally approving the application of Gerard Debruin for Minor Use Permit/Coastal Development Permit D000247P, adopted.

cc: Planning 2 - 09-04-2001 cla

EXHIBIT NO.	A
APPLICATION NO.	A-3-SLD-01-092
Final Local Action	
10-06-10	
California Coastal Commission	

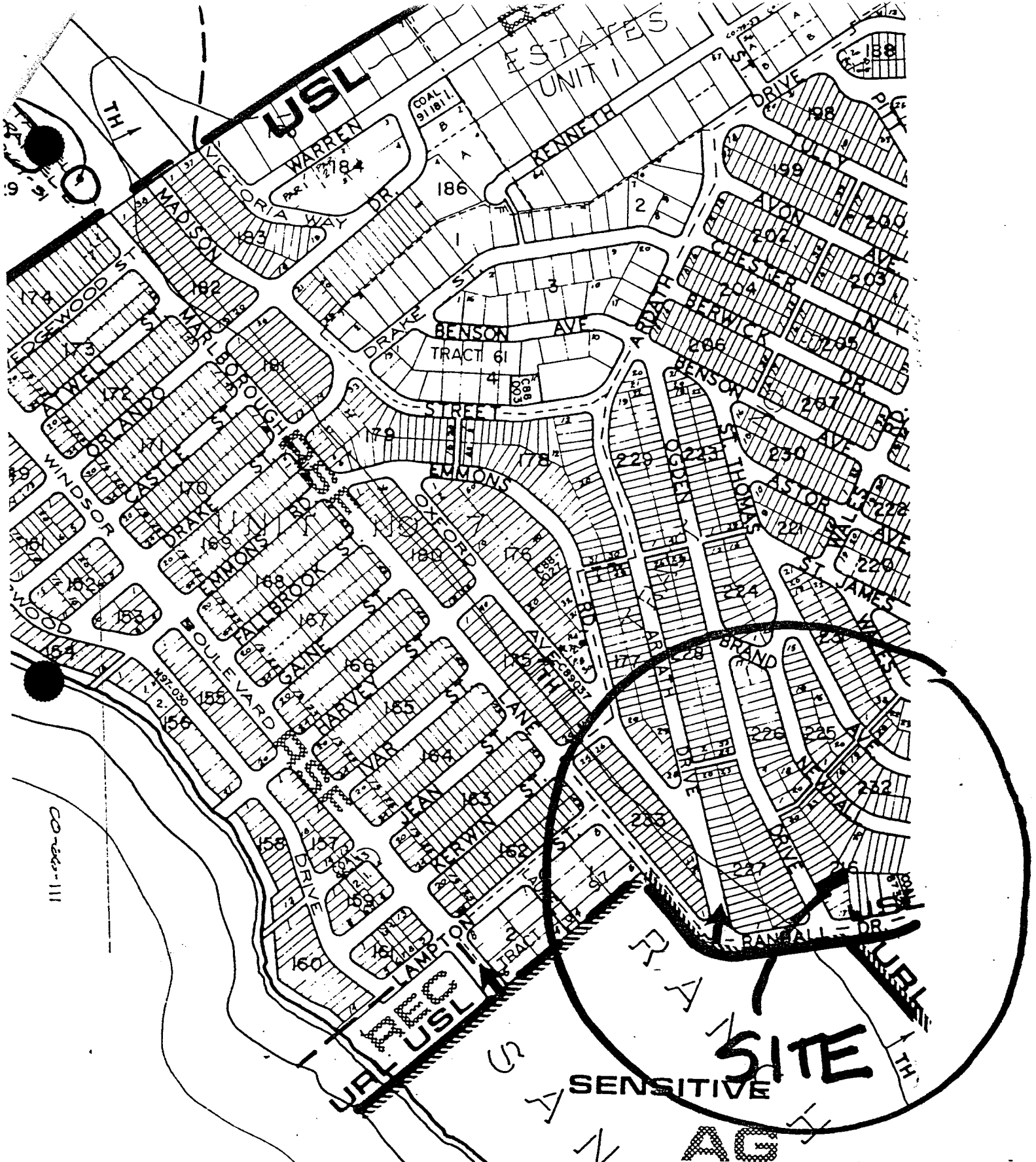

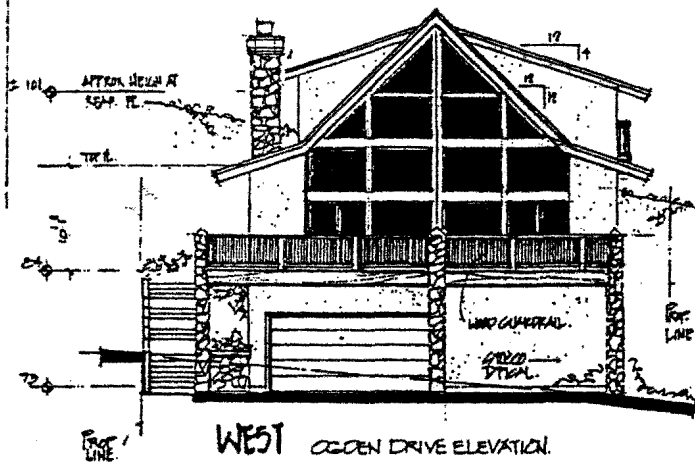
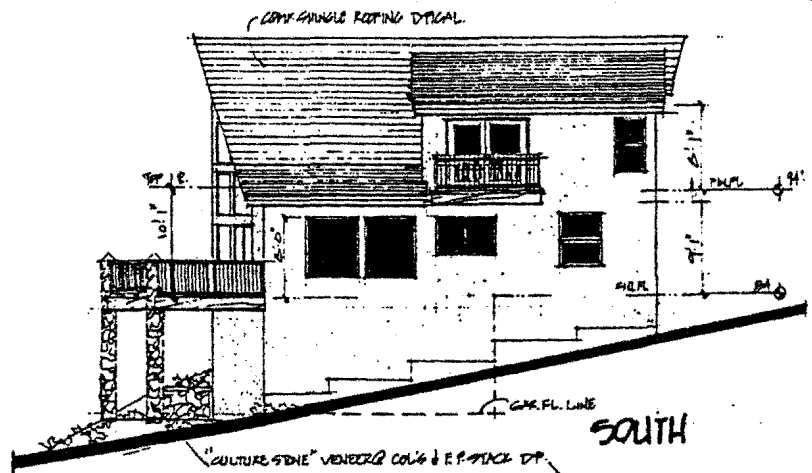
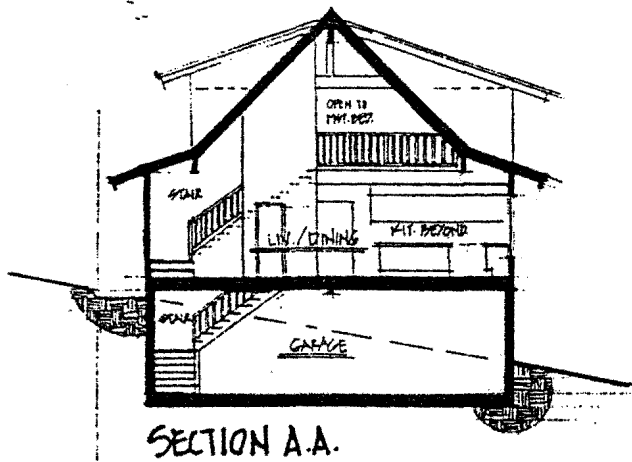
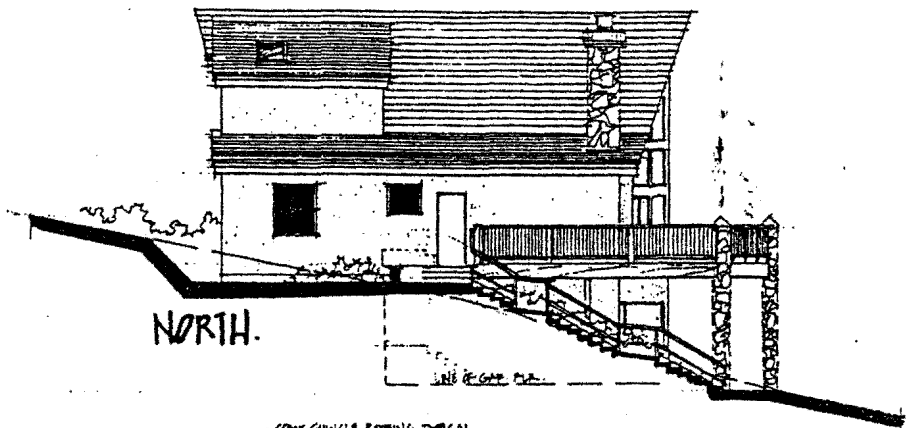
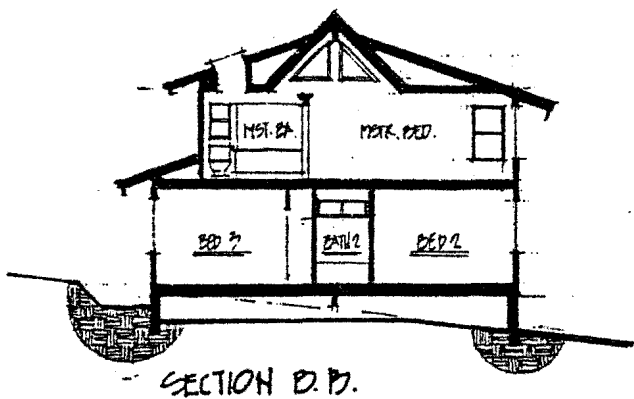


EXHIBIT NO. B
APPLICATION NO. A-3-SLO-01-042
Location/Vicinity Map 1 of 1
 California Coastal Commission

RESOURCE
2.

COAL95-019
AREA



EXTERIOR ELEVATIONS 1/8"

EXHIBIT NO. C
APPLICATION NO. A-3-560-01-092
Site Elevation 1061
California Coastal Commission

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST AREA OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
(831) 427-4863



COMMISSION NOTIFICATION OF APPEAL

DATE: September 25, 2001

TO: Pat Beck, Chief Of Permitting
County of San Luis Obispo, Planning & Building Department
County Government Center
San Luis Obispo, CA 93408

FROM: Rick Hyman, District Chief Planner

RE: Commission Appeal No. A-3-SLO-01-092

Please be advised that the coastal development permit decision described below has been appealed to the California Coastal Commission pursuant to Public Resources Code Section 30602 or 30625. Therefore, the decision has been stayed pending Commission action on the appeal pursuant to Public Resources Code Section 30623.

Local Permit #: D000247P/D000248V
Applicant(s): Gerard & Lydia Debruin
Description: Minor Use Permit/Variance/Coastal Development Permit to allow construction of a 2,374 sq.ft. single family residence (with a 1,405 sq.ft. footprint) and allow development on slopes which exceed 30%
Location: Ogden Drive, Cambria (San Luis Obispo County) (APN(s) 023-161-043)
Local Decision: Approved w/ Conditions
Appellant(s): Ken Renshaw
Date Appeal Filed: 9/24/01

The Commission appeal number assigned to this appeal is A-3-SLO-01-092. The Commission hearing date has not yet been established for this appeal. Within 5 working days of receipt of this Commission Notification of Appeal, copies of all relevant documents and materials used in the County of San Luis Obispo's consideration of this coastal development permit must be delivered to the Central Coast Area office of the Coastal Commission (California Administrative Code Section 13112). Please include copies of plans, relevant photographs, staff reports and related documents, findings (if not already forwarded), all correspondence, and a list, with addresses, of all who provided verbal testimony.

A Commission staff report and notice of the hearing will be forwarded to you prior to the hearing. If you have any questions, please contact Steve Monowitz at the Central Coast Area office.

EXHIBIT NO. E
APPLICATION NO. A-3-SLO-01-092
Appellants Contentions in Full
1 of 40

CALIFORNIA COASTAL COMMISSION

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



RECEIVED

SEP 19 2001

APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENT

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

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

SECTION I. Appellant(s):

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

Ken Renshaw
1790 Ogden Rd
Cambria, CA 93428
(805) 927 2202

Zip

Area Code Phone No.

SECTION II. Decision Being Appealed

1. Name of local/port government:

County of San Luis Obispo, Department of Planning & Building

2. Brief description of development being appealed:

Minor Use Permit / Coastal Development Permit

Single family residence

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

Site east side of Ogden Drive, approximately 100 feet
north of Randal Drive, Lodge Hill, Cambria, Ca 93428
(North Coast Area Plan) APN-023-161-043

4. Description of decision being appealed:

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

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

TO BE COMPLETED BY COMMISSION:

APPEAL NO A-3-SLO-01-092
DATE FILED: 09/24/01
DISTRICT: Central Coast

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

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

a. ☐ Planning Director/Zoning Administrator

c. ☐ Planning Commission

b. ☒ City Council/Board of Supervisors

d. ☐ Other: _____

6. Date of local government's decision: August 28, 2001

7. Local government's file number: Minor Use Permit/Coastal Dev. Permit D000247P

SECTION III Identification of Other Interested Persons

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

a. Name and mailing address of permit applicant:

_____Gerard and Lydia Debruin_____
_____2742 Hogan Pl._____
_____Livermore, CA 94550_____

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

(1) Ken Renshaw
1790 Ogden Rd.
CAMBRIDGE CA 93426

(2) _____

(3) _____

(4) _____

SECTION IV. Reasons Supporting This Appeal

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

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

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

See attached

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

SECTION V. Certification

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

KTHA RL
Signature of Appellant(s) or Authorized Agent

Date Aug 29 - 2001

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

SECTION VI. Agent Authorization

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

Signature of Appellant(s)

Date _____

There re four basis for appeal:

1. Table G of Lodge Hill Standards o the LCP states that average lot slope must be determined by section 23.11.030 the LCP (see page 8-44). When the topographic information on the subject site is evaluated according to 23.11.030 (see page 11-38) the average slope is over 30% and the "Steep Lot (30% plus)" category of Allowable GSA and Footprint should be used The county planner elected to substitute her own private method of lot slope determination (not included in 23.11.030) to conclude the lot slope was less than 30% and the allowed GSA and Footprint was that in the "Typical Lot " category of Table G..

The County staff refused to accept a signed and stamped Lot Slope Determination done by a licensed professional engineering company which showed the slope over 30%.

The lot is over 30%, we appeal this project because: the GSA and footprint allowed should be that of a "Steep Lot" category.

2. The lot is over 30%, we appeal this project because a grading variance should required.

It is approved

3. The subject building site is 5,681 s.f. Table G has two footnotes pertaining to how GSA can be modified. (See page 8-43 of the LCP attached) Footnote 1 pertains to "Building sites greater than 5,250 square feet...." If this footnote is applied for the "Steep Lot" category (page 8-42 attached), the allowable GSA is 703 s.f. and the footprint is 1190 s.f.

The applicant was allowed to use Footnote 2.b which pertains to "Building sites less than 5,250 square feet...." If this footnote is applied, the allowable GSA is 1055 s.f. and the footprint is 1,785 s.f.

We appeal this project because allowing the applicant to use the incorrect footnote is granting an informal variance, done without the state required findings, hearing and process

4. *Public Works Policy 1* requires there is sufficient (water) services. CC Staff report on Gonyer A-3-SLO-01-018, pages 13-29 discusses water availability. At line 19 of page 27 of that report it says: "It cannot reasonably be concluded at this time that new development in Cambria is currently sustainable."

We appeal this project based on there not being enough water services available in Cambria.

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST AREA OFFICE

725 FRONT STREET, SUITE 300

SANTA CRUZ, CA 95060

(415) 904-4863

HEADQUARTERS: (415) 904-5200

A-3-SLO-01-092

Applicant(s): DeBruin

Sent: 9/25/01

Memorandum**To: Persons whose City or County Development Permits Have Been Appealed to the Coastal Commission.****From: Coastal Commission****Re: Notice Concerning Important Disclosure Requirements**

On January 1, 1993, a new California law required that all persons who apply to the Coastal Commission for a coastal development permit must provide to the Commission "the names and addresses of all persons who, for compensation, will be communicating with the Commission or Commission Staff on their behalf". (Public Resources Code section 30319.) On January 1, 1994, the law also required that applicants disclose the same information with respect to persons who will communicate, for compensation, on behalf of their business partners. The law also applies to persons whose permits have been appealed to the Coastal Commission. The law provides that failure to comply with the disclosure requirement prior to the time that a communication occurs is a misdemeanor that is punishable by a fine or imprisonment. Additionally, a violation may lead to denial of the permit.

In order to implement this requirement, you are required to do two things. The first is that you must fill in the enclosed form and submit it to the appropriate Coastal Commission area office as soon as possible. Please list all representatives who will communicate on your behalf or on the behalf of your business partners for compensation with the Commission or the staff. This could include a wide variety of people such as lawyers, architects, biologists, engineers, etc.

Second, if you determine after you have submitted the enclosed form that one or more people will be communicating on your behalf or on behalf of your business partners for compensation who were not listed on the completed form, you must provide a list in writing of those people and their addresses to the Coastal Commission area office. The list must be received before the communication occurs.

List of Persons Who Will Communicate on Behalf of Persons Whose Permits Have Been Appealed To the Coastal Commission

Name of Person Whose Permit Has Been Appealed: _____

Project and Location: _____

Commission Appeal No. _____

Persons who will Communicate for Compensation on Behalf of Applicant or Applicant's Business Partners with Commission or Staff:

Names**Addresses**

(over)



SAN LUIS OBISPO COUNTY PLANNING DEPARTMENT

LAND USE ELEMENT AND LOCAL COASTAL PLAN

NORTH COAST PLANNING AREA



Site Area, Net. The gross site area minus any ultimate street rights-of-way and any easements (except open space easements) that limit the surface use of the site for building construction.

Site Area, Usable. Net site area minus any portions of the site that are precluded from building construction by natural features or hazards, such as areas subject to inundation by tides or the filling of reservoirs or lakes.

Site Coverage. See "Coverage."

Slope, Average. The characteristic slope over an area of land, expressed in percent as the ratio of vertical rise to horizontal distance. In any cluster development (see Section 23.04.036) or where the size of the proposed new parcels is 10 acres or greater, average slope is to be determined for the entire site and does not need to be determined for each proposed parcel. In all other cases, average slope is to be determined based on the most accurate available topographic information for each proposed new lot. One of the following methods for determining average slope is to be used:

- 27.11.030 Invented their own Method - don't use this*
- a. **Basic Method.** Where slopes are uniform, with little variation, the basic method can be used to determine average slope. Where a line is drawn between highest and lowest points on a parcel is adequate to represent direction and extent of slope for the entire parcel, the difference in elevation between the high and low points, divided by the distance between the points, will determine the average slope.
 - b. **Sectional Method.** Where the parcel contains distinct sections of differing slope, the average slope of each section may be determined according to the contour measurement method in (c) below. The average slope of each section is then used in proportion of the section's area to the total area to determine the average slope of the entire parcel.
 - c. **Contour Measurement Method.** Where varied slope conditions or complex topography exist, the most precise measurement of average slope is the contour measurement method. The following formula shall be used to determine average slope:

$$S = \frac{.00229(I \times L)}{A}$$

Where
 S = Average slope of parcel in percent
 A = Total number of acres in the parcel (or section of parcel)
 L = Length of contour lines in scaled feet
 I = Vertical distance of contour interval in feet.

[Amended 1995, Ord. 2715]

TABLE G

STANDARDS FOR LODGE HILL LOTS (Continued)

B. DOUBLE LOT CATEGORY - 50' LOTS (3500 SQ.FT.)

TYPE OF LOT	MAX. HT.	FOOTPRINT	GROSS STRUCTURAL AREA
1. SPECIAL PROJECTS AREA 1 (Steep Canyon)			
a. 0-25% slope	25'*	750 sq.ft.	1,350 sq.ft.
b. 25% plus	25'*	600 sq.ft.	1,000 sq.ft.
2. SPECIAL PROJECTS AREA 2 (Visible Hillside)			
a. 0-25%	25'*	800 sq.ft.	1,400 sq.ft.
b. 25% plus	25'*	650 sq.ft.	1,100 sq.ft.
3. FORESTED	28'***	900 sq.ft.	1,800 sq.ft.
4. STEEP LOTS (30% plus)	28'***	650 sq.ft.	1,100 sq.ft.
5. MARINE TERRACE	22'	1 story, 1,600 sq.ft. 2 story, 1,350 sq.ft.	1,600 sq.ft. 2,000 sq.ft.
6. TYPICAL LOTS	28'***	1 story, 1,600 sq.ft. 2 story, 1,000 sq.ft.	1,600 sq.ft. 2,000 sq.ft.

C. TRIPLE LOT CATEGORY - 75' LOTS (5250 SQ.FT.)

TYPE OF LOT	MAX. HT.	FOOTPRINT	GROSS STRUCTURAL AREA
1. SPECIAL PROJECTS AREA 1 (Steep Canyon)			
a. 0-25% slope	25'*	1,000 sq.ft.	1,800 sq.ft.
b. 25% plus	25'*	800 sq.ft.	1,400 sq.ft.
2. SPECIAL PROJECTS AREA 2 (Visible Hillside)			
a. 0-25%	25'*	1,100 sq.ft.	1,900 sq.ft.
b. 25% plus	25'*	900 sq.ft.	1,500 sq.ft.

TABLE G

STANDARDS FOR LODGE HILL LOTS (Continued)

TYPE OF LOT	MAX. HT.	FOOTPRINT	GROSS STRUCTURAL AREA
3. FORESTED	28'***	1,200 sq.ft.	2,400 sq.ft.
4. STEEP LOTS (30% plus)	28'***	1,000 sq.ft.	1,600 sq.ft.
5. MARINE TERRACE		1 story, 1,800 sq.ft.	1,800 sq.ft.
	22'	2 story, 1,650 sq.ft.	2,450 sq.ft.
6. TYPICAL LOTS		1 story, 1,800 sq.ft.	1,800 sq.ft.
	28'***	2 story, 1,300 sq.ft.	2,600 sq.ft.

* 28' if the site is not visible from Highway 1

** 25' if visible from Highway One.

Table G Footnotes. Standards 1-3 below shall be used with Table G where interpreting lot sizes that do not conform exactly to base density or where a Footprint and Gross Structural Area bonus is requested.

- were used this* → 1. Building sites greater than 5,250 square feet may be permitted additional Footprint and Gross Structural Area equal to the percent that the site is greater than 5,250 square feet.
2. Building sites 5,250 sq. ft. or less, the permitted maximum Footprint and GSA shall be adjusted as follows:
- Single lot category - if the building site is greater than 1,750 square feet, the Footprint and GSA may be increased by the percent that the lot area is greater than 1,750 square feet.
 - Double lot category - if the lots are greater than 3,500 square feet, the Footprint and GSA may be increased by the percent that the lot is greater than 3,500 square feet.
- staff used this though lot → is 5681 s.f.*

Where the square footage of the building site is less than the base area (1,750 square feet for single lot, and 3,500 square feet for double lot category), the permitted Footprint and GSA shall be decreased accordingly.

3. **Footprint and GSA Bonus.** Where an applicant can clearly demonstrate that design and layout concessions have been made in order to save healthy trees, minimize site disruption, visual impact, minimize erosion, or selection of compatible building materials, and clearly goes beyond the basic requirements of these standards, the Planning Director by Minor Use Permit review may grant up to a 10% increase of Footprint and GSA as indicated on Table G.

The following definitions shall be used in the interpretation of Table G:

- Staff did not follow this footnote
- a. **Footprint** - means the area of the lot covered by residential and accessory structures including any structural overhangs, expressed in square feet, and includes living area, garages and carports. It does not include open deck area, balconies or eaves.
 - b. **Gross Structural Area** - means all interior areas, expressed in square feet of floor area, within the volume of the structure. It includes living areas, storage, garages and carports. Gross Structural Area is measured to the exterior limit of the building walls. Gross Structural Area does not include open exterior decks or interior lofts added within the height limitation to gain additional square footage.
 - c. **Slope** - to be determined by using one of the slope determination methods in Chapter 23.11 (Slope, Average) of the Coastal Zone Land Use Ordinance.
 - d. **Special Projects Areas** - refers to sensitive areas delineated on Figures 6 and 7. [Amended 1992, Ord. 2569]
 - e. **Forested Lot** - a lot containing one or more native Monterey Pine trees.
 - f. **Marine Terrace** - the area located between Marlborough Lane and Sherwood Drive.
 - g. **Steep Lot** - a lot with the average slope of 30% or greater.
 - h. **Typical Lot** - a lot that has an average slope less than 30%, contains no Monterey Pine trees, and is not located in the Marine Terrace or Special Projects Area.

12. **Sherwood Drive - Setback and Height Requirements.** The maximum height for structures between the ocean and Sherwood Drive shall be 15 feet as measured from the centerline of Sherwood Drive.

1
Ken Renshaw
1790 Ogden Rd.
Cambria, CA 93428
805-927-2202

A-3-SLO-01-092
October 12, 2001

RECEIVED

OCT 15 2001

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Steve Monowitz
Coastal Program Analyst
California Coastal Commission
Central Coast District Office
725 Front Street, Suite G
Santa Cruz, CA 95060

Dear Mr. Monowitz

1. My appeal of the Coastal Commission in A-3-SLO-01-092 has three bases:

Basis 1. SLO County Staff member, Karen Nall, substituted their own method of lot slope determination and ignored the specific methods called out in Section 23.11.030.

That led her to conclude the lot was less than 30% and approve a house much larger than allowed by Lodge Hill Standards, Table G for the "steep lot" category.

Competent professional surveyors have found the slope greater than 30% by the methods of Section 23.11.030.

There are really two issues here. Is the lot slope over 30%? The second issue pertains to the staff granting themselves variances¹ to not use the ordinances (instead of going to the Planning Commission for variances).

Basis 2. The county staff's methods for determining allowable GSA and Footprint are inconsistent with Coastal Commission's findings on A-2-SLO-01-018 Gonyer. Those findings pertain to the adjacent lot.

Basis 3. *Public Works Policy 1* requires there is sufficient (water) services. Coastal Commission's findings on A-2-SLO-01-018 Gonyer pages 15-30 discusses water availability. At line 24 of page 30 of that report it says: "...it is appropriate to acknowledge the will-serve letter of the CCSD as evidence of adequate water for this (Gonyer) project." For this (Debruin) project the will-serve letter was issued in March 1998, before the Cambria water problems were fully understood and documented. This project would not receive a will-serve today: the CCSD has not issued any will-serve letters in 2001.

¹ This may be motivated by a coverup. See attachment 5

Basis 1: Average Lot Slope Determination

1. Three classes of arguments regarding lot slope were presented in the county appeals:

- a. Analysis by a county planner, Karen Nall, who substituted her own average lot slope method for those in the ordinance.
- b. Signed and stamped reports of surveys done by professional survey and engineering firms which sent survey crews to the lot in question. These data were analyzed according to the appropriate ordinance section 23.11.030. These firms and individuals could lose their licenses and livelihood if they misrepresented the facts.
- c. "Expert" opinions offered by the North Coast Advisory Council, the appellant and experts hired by the applicants attorney. These experts gave opinions based on topographic data they did not generate themselves. About half of them had never seen the lot. Most were using a 8" x 10" plot plan of unknown source which was included in the plans. None of these experts had anything to lose if they misrepresented or incompetently interpreted the data. Their opinions should be disregarded because factual survey report data is available. The ordinance does not say that lot slope should be determined by public opinion surveys.

2. The professional surveys and engineering reports of b.) above were done according to the appropriate sections of the LCP and show the lot slope is over 30%.

Table G of the Lodge Hill Standards specifies that the methods of 23.11.030 shall be used to determine average lot slope. (See attachment 8, page 8-44, paragraph (c))

23.11.030 specifies three methods of determining average lot slope. Of the three, the "basic method" and the "contour method" are appropriate for this lot.

Wilson Land Surveys used the "basic method" and found the average lot slope to be over 30%. Their stamped and signed report is attachment 1.

North Coast Engineering used the "contour method" and found the average slope was over 30%. Their stamped and signed report is attachment 2.

3. Karen Nall, the county planner, has granted herself a variance to use a method of determining lot slope not included in 23.11.030.

This planner has a history of granting informal variances across her desk to herself and contractors who build in Cambria. Attachment 6 gives documented history of her granting informal variances in violation of the LCP.

For this project she redefined surveying practice. Surveying companies in SLO county use the methods of 23.11.030 for determining average lot slope. Karen granted herself a variance to 23.11.030 and substituted another method of slope determination as documented in attachment 3.

Her possible motivation for using a nonstandard method is speculated upon in attachment 5.

Basis 2: inconsistency with Coastal Commission Findings

The county staff's methods for determining allowable GSA and Footprint are inconsistent Coastal Commission's findings on A-2-SLO-01-018 Gonyer.

Those findings pertain to the adjacent lot. At page 8-10, included here as attachment 7 of that document they clarify and eliminate the ambiguities in the Lodge Hill Standards for determining footprint and gross structural area. Those methods are applied in Attachment 4.

The footprint and GSA in the SLO Board of Supervisors decision (under appeal here), assumes the average lot slope is less than 30%:

Footprint	1405 sq. ft.
GSA	2374 sq. ft..

If the lot slope was less than 30% and the above mention findings had been followed, the allowable footprint and GSA calculated in Attachment 4 would be:

Footprint	1407 sq. ft.
GSA	2103 sq. ft.

Since the lot slope is over 30%, the correct allowable footprint and GSA calculated in Attachment 4 is:

Footprint	1082 sq. ft.
GSA	1731 sq. ft.

The approved project exceeds the allowable footprint by 30% and the allowable GSA by 37%.



OCT 15 2001

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

**Appeal
Argument**



**Argument slot slope is less
than 30%**

SLO County planner granted
herself an illegal variance to do a
non-standard slope analysis to
make the lot slope less than 30%.
(see attachment 3)

**Argument slot slope is more
than 30%**

Professional survey done by
Wilson Land Surveying according
to 23.11.030. (see attachment 1
for signed and stamped report.)

Professional survey done by
North Coast Engineering
according to 23.11.030. (see
attachment 2 for signed and
stamped report.)

Irrelevant arguments.

All "expert" opinions offered which
are not stamped and signed by
professional engineers or
surveyors.

Attachment 1

Wilson Land Surveys

7400 Morro Road, Atascadero, CA 93422

Phone: (805) 466-2445 • Fax: (805) 466-0812 • Email: kenw@rtcengineering.com

September 14, 2001

Job Address: 1760 Ogden Avenue, Cambria CA


APN: 023-161-043

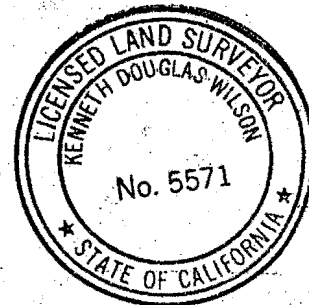
Legal Desc: Lot 20 & 21 Block 216 Tract No. 8

To: Whom It May Concern

Re: Slope Verification

A slope determination survey was performed at the above-referenced site on Friday, September 14, 2001 by Wilson Land Surveys. In the terrain, the natural ground low point is an elevation of 99.04 and the high point is an elevation of 138.17 the distance between them being 124.90 feet. Therefore using the basic slope method the slope is over 30%.

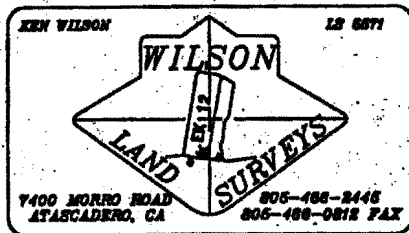
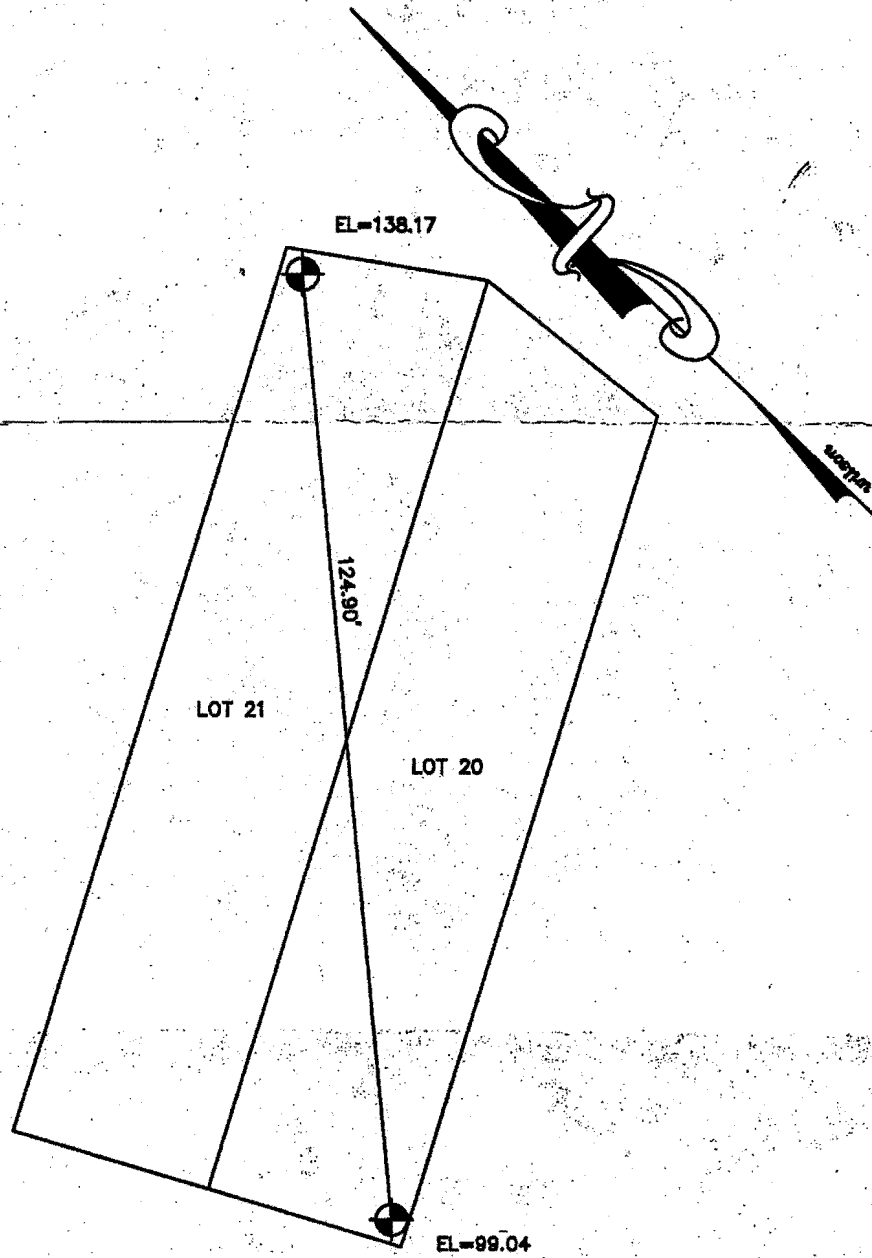

Kenneth D. Wilson
Professional Land Surveyor
Lic. No. 5571
Exp. 9-30-01



NOTE: DATUM IS ASSUMED.

Attachment 1

SCALE
1" = 20'



LOTS 20 AND 21 BLOCK 216
TRACT NO. 8 CAMBRIA
SAN LUIS OBISPO CA

Attachment 2

North Coast Engineering surveyed the lot and found the lot slope in excess of 30%. North Coast did a complete survey using the latest laser equipment in March of 2001. Their professional opinion is that the contour method of 23.11.030 is the most accurate. The following page is a copy of the North Coast Engineering Report.

North Coast Engineering resurveyed the lot and found the lot slope in excess of 30%. At the request of Mr. Debruin's agent, Mr. Greathouse, North Coast Engineering sent a different survey crew to the site to recheck the previous data taken. I observed the August 29, 2001 re-survey, talked with the crew and also talked to North Coast Engineering. They found the lot was still over 30%.



NORTH COAST ENGINEERING, INC.

Civil Engineering • Land Surveying • Project Development

AVERAGE SLOPE DETERMINATION

LEGAL DESCRIPTION:

LOT 20821
BLK 214
TRACT 8

DATE 4/24/01

JOB # 01110

AVERAGE SLOPE:

- ☐ 0% - 15%
☐ >15% - 25%
☐ <25% - 30%
☒ >30%

LOCATION:

1700 OGDEN DRIVE
CAMBRIDGE

DATA BASE:

- ☒ Field Measurement
☐ Available Topographic Data

METHOD USED: (LMO 23.11.030)

- ☐ Basic
☐ Sectional
☒ Contour Measurement

NOTE: Determination of average slope (excluding Contour Measurement Method) is based upon measurements of representative areas of the subject property, and does not represent a complete topographic survey.

COMMENTS:



John R. Sanders
John R. Sanders, P.E.
L.S. 5512

Ken Renshaw
1790 Ogden Rd.
Cambria, CA 93428
805.927.2202

August 25, 2001

Victor Hollanda
Director
Department of Planning and Building
County Government Center
San Luis Obispo, CA 93408

cc Supervisor Shirley Bianchi
Paul Skartvedt, NCAC
John Sanders, North Coast Engineering

Subject: Planning Staff Using Informal Rewrites of Ordinances.

In the August 20, 2001 meeting with Supervisor Bianchi I mentioned the problems with informal variances granted by staff. You invited me to send you specifics. On August 23 I sent you documented examples. On August 25 I received a staff report which clearly shows the staffs belief that they can rewrite ordinances and redefine professional engineering practices without approval of the Planning Commission or Board of Supervisors

The SLO Planning Department has informally rewritten section 23.11.030

Section 23.11.030 gives three specific methods of determining lot slope. The basic method is defined as follows in the ordinance:

- a. Basic Method.** Where slopes are uniform, with little variation, the basic method can be used to determine average slope. Where a line is drawn between highest and lowest points on a parcel is adequate to represent direction and extent of slope for the entire parcel, the difference in elevation between the high and low points, divided by the distance between the points, will determine the average slope.

In Karen Nall's August 28, 2001 staff report to the Board of Supervisors regarding my appeal on Application D000247P /D000248V (Debruin) she says at page 3:

As stated above, the basic method involves drawing a line between the highest and lowest points on a parcel then dividing the elevation difference or rise by the distance or run. In the past, staff used the property lines to determine the average. Recently, however, it was determined that a more accurate basic slope determination was achieved by scaling between the highest and lowest points making sure that the scale is perpendicular to the contours.

Section 23.11.030 does not say to make the measurement perpendicular to the contours. Since contour lines are not always regular patterns that is an arbitrary criterion. The attached figure shows the difference in method.

Staff has decided that they know a better way to determine slope and has granted themselves a variance to use their private rewrite of the ordinance.

I hired North Coast Engineering to give me a competent professional evaluate the lot slope. Their report is also attached. In their professional judgment the contour method is the most accurate method of determining slope on the subject lot. On page 3 of the staff report Karen says North Coast Engineering used the wrong method in using the contour method.

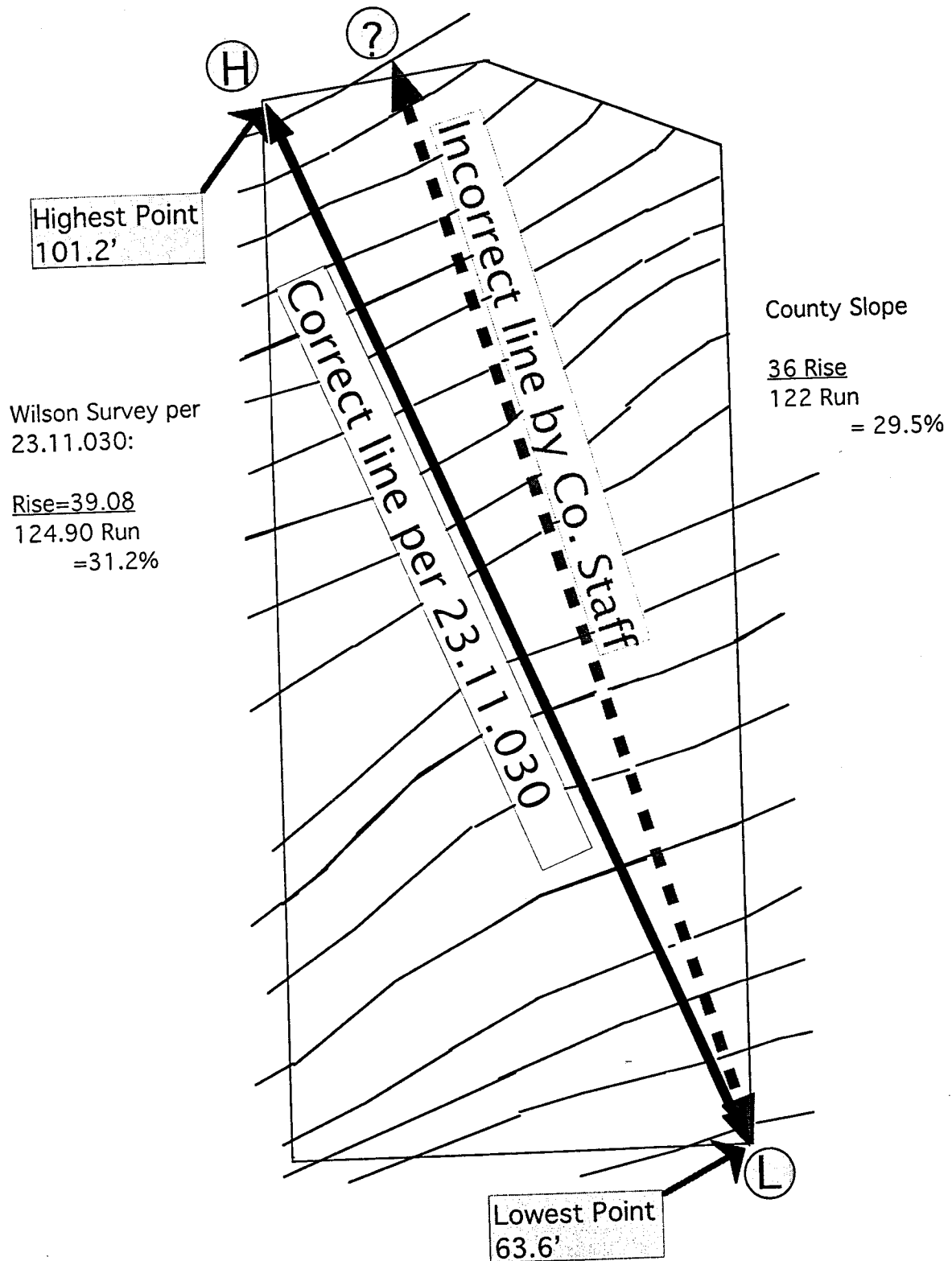
Section 23.011.030 provides the contour sectional method for sites with varied slope or complex terrain. The subject site does not have varied slope or complex terrain. Without the consent of the applicants, the appellant hired an engineer to conduct an "Average Slope Determination" on their property. The appellant's engineer concluded the site to be over 30% utilizing the contour method. (this determination was part of the appellant's testimony at the Planning Commission Meeting and is included in Attachment 8.) According to North Coast Engineering, the calculation are conducted using Autocad computer program. No topography map was prepared by North Coast Engineering so staff is unable to compare topography maps.

Even though the attached North Coast Engineering report follows standard engineering practice and is adequate for a court of law, it was rejected by Karen.

It seems staff has chosen to redefine professional surveying practice.

1. They have a "better" way to determine lot slope than written in 23.11.030
2. The lot slope determination method used by professional surveyors at North Coast Engineering is wrong.
3. A signed and stamped professional engineering report of lot slope is not competent without an accompanying topographic map.

How are all the professional surveyors in the County supposed to know they are not using the accepted technique?



Attachment 4

Project D000247P/D000248V

DeBruin

Allowable GSA and footprint calculations

Incorrect Calculation of Allowable GSA, footprint

Calculation by Karen Null in Aug. 28 Staff report to Board of Supervisors

Calculated using Table G footnote Standard 2.b.

Incorrectly assumes lot slope less than 30%

	"Typical" double 3,500 s.f. lot	2.b. adjustment 5681/3500	Allowable by Std 2.b.
F.P. (s.f.)	1000	1.620	1620
GSA (s.f.)	2000	1.620	3240

Calculation of Allowable GSA, footprint

Incorrectly assuming lot slope less than 30%

Calculated using Table G footnote Standard 1 and treating as triple lot
per Coastal Commission revised findings on A-3-SLO-01-018 Gonyer

	"Typical" triple 5250 s.f. lot	Std 1. adjustment 5681/5250	Allowable by Std 1
F.P. (s.f.)	1300	1.082	1407
GSA (s.f.)	2600	1.082	2813

Correct Calculation of Allowable GSA, footprint

Assumes lot slope greater than 30%

Calculated using Table G footnote Standard 1 and treating as triple lot
per Coastal Commission revised findings on A-3-SLO-01-018 Gonyer

	"Steep" 5,250 s.f. parcel	Std 1. adjustment 5681/5250	Allowable be Std 1
F.P. (s.f.)	1000	1.082	1082
GSA (s.f.)	1600	1.082	1731

Proposed Project

F.P. (s.f.)		1405
GSA (s.f.)		2855

Attachment 5

Are these proceedings part of a coverup?

In February 2001 I had the title of "Land Use Consultant" in the North Coast Advisory Council. I was also a member of the Land Use Committee.

What is now the Debruin project was referred to us by the County of SLO for review as a "Project to build on a slope of over 30%." The project had been for sale as a "Build Now" project with approved plans, ready to start construction. Somehow, someone had let the Land Use Permit expire and the project was going through the process of obtaining a new Land Use Permit.

Since the project was referred as a "Project to build on a slope of over 30%," I checked the lot slope from the plot plan included in the plan set. Sure enough, it was over 30%. The submitted plans were for a project on a slope less than 30%. The land use committee made a recommendation to deny the project because the footprint and GSA were too large for a lot with a slope of over 30%.

Before the NCAC meeting I talked to Jack Posemsky, the realtor who had the project listing. He introduced me to the Debruins saying they had closed escrow on the project a few days before. I told Jack that the Land Use Committee had found the slope over 30% and the submitted plans were invalid.

Jack said that was impossible. He said he had taken the Debruins to meet with Karen Nall, the county planner responsible for the project. Karen had assured them the slope was less than 30%. Mr. Debruin said they had only closed the escrow on the property after Karen assured them the slope was less than 30%.

Since that time,, no amount of engineering data, new surveys, and analysis has been able to convince Karen the lot is over 30%.

She granted herself a variance to invent a slope analysis which is not in conformance with the LCP which would show the slope to be less than 30%. (See attachment 3) She used this illegitimate analysis to defend the approval in the project in the Planning Commission and the Board of Supervisors appeals.

Karen knows that the Planning Commission and the Board of Supervisors seldom uphold appeals based on technical challenges. If the staff reports are full of technical data like survey plots, the nearly always defer to the Planning Commissions recommendations.

Is this a coverup by Karen and other members of the Planing Department? I imagine everyone's memory on the subject will be poor until after the issue is settled by the Coastal Commission. If the Commission upholds the appeal and the Debruins sue SLO County, the truth will come out as people testify under oath.

Ken Renshaw
1790 Ogden Rd.
Cambria, CA 93428
805.927.2202

August 23, 2001

Victor Hollanda
Director
Department of Planning and Building
County Government Center
San Luis Obispo, CA 93408

Subject: Informal variances granted by staff.

In the August 20, 2001 meeting with Supervisor Bianchi I mentioned the problems with informal variances granted by staff. You invited me to send you specifics.

The LCP is quite clear on how to handle exceptions to the LCP.

There are three ways to legally handle exemptions to the LCP:

1. The Board of Supervisors can amend the LCP as provided in Section 23.01.050.
2. Planning Commission can act on an application for a variance as provided in Section 23.01.045.
3. The Coastal Commission can act on an appeal as provided in Section 23.01.043c.

Section 23.01.045 says that deviations from the "strict applications of the requirements..." require variances. If an applicant desires to not meet the "strict applications of the requirements..." they must go through the formal variance application process and have a formal public hearing on the subject.

The SLO Planning Department has informal procedures for granting variances which lead to arbitrary enforcement of the LCP for Lodge Hill.

If someone walks into the Planning and Building Department and inquires about building a house on Lodge Hill, they will be given a copy of Table G and, if it is a steep lot, be given a copy of 23.11.030 to show how to determine lot slope. They will be told, "These are the rules." They will not be told there is another set of undocumented and arbitrary rules available to people who do a lot of business with the Planning Department.

Planners, in conjunction with developers and architects have developed sets of definitions and exceptions to the LCP which are the rules that are really used. The planners use their opinions, cultured by developers, on:

- "what the ordinances really mean," or
- "what they should say" and use the excuses that
- "we have always done things differently than called for in the LCP."

Informally granted exceptions to the LCP are actually informally granted variances. Three specific areas for which I have seen arbitrary informal variances are:

Lot Slope Determination: Section 23.11.030 gives specific methods of determining lot slope. Planners grant themselves variances to that section in preparing staff reports. Builders take variances and are allowed to provide do come up self-serving alternatives to Section 23.11.030.

GSA Determination: Table G provides a very concise and specific definition as to what areas are to be included in the calculation of GSA. However, staff has allowed developers an informal variance to that definition based on arguments as to "what we always have done."

Lot Scaling: The footnote gives three standards for scaling allowable GSA and footprint according to lot size. Rather than use the literal interpretation, staff grants themselves and developers variances to use other interpretations based on "what it is really supposed to mean."

Specific examples of the granting of informal variances and the resultant appeals process are shown in Attachment A

I do not necessarily object to the staff's conclusions about the above issues: I object to the private and arbitrary process that is used to grant undocumented informal variances. This process leads to conflict situations where the public is on one side trying to insist the ordinances are followed and the developer and staff are on the other side. The developers defend their "free" variances and the staff defends their right to arbitrarily grant informal variances across their desk.

The granting of informal variances shifts part of the burden of enforcing the LCP from the SLO County staff to the general public, the NCAC and the Coastal Commission.

One planner told me, in front of a witness, "Cambria developers deserve a break because the CCSD charges them an arm and a leg for fees." When the planner "gives them a break" in the form of a favorable informal variance, the only way it can be overturned is by the NCAC catching the unauthorized variance or by a general public member appealing the decision of the Planning Department.

If the issues are technical, such as the above three examples, the Planning Commission and the Board of Supervisors generally go with the staff's report and reject technical appeals. Three years ago, when I first started to get involved in land use issues, an long time member of the NCAC gave me this piece of wisdom: "If you want someone to read the ordinances, you have to take the issue to the Coastal Commission. Don't expect that from the Planning Commission and the Board of Supervisors."

I believe the Planning Commission and the Board of Supervisors shouldn't have to be dealing with many technical appeals. The staff should either enforce "strict applications of the requirements..." or have them processed as formal variances. *They should eliminate the culture of granting informal variances that result in appeals.*

Elimination of informal variances will conserve County resources.

Valuable staff time is spent preparing staff reports for appeals. Valuable Planning Commission and the Board of Supervisors time is spent hearing appeals of informal variances.

Education of new staff members and the public on "how we actually do things" as opposed to what the LCP says also takes staff time.

If formal variance processing is used, issues will be dealt with legally, formally and documented for future reference. There will be no need for staff's informal redefinition of issues on an *ad hoc* basis. The general public as well as the privileged developers would have a common set of rules to play by.

Attachment A

The following documents specific cases of County staff granting informal variances to themselves and applicants.

Lot Slope Determination Variances

Lot Slope Determination: Section 23.11.030 gives specific methods of determining lot slope. Planners grant themselves variances to that section in preparing staff reports. Builders take variances and are allowed to come up self-serving alternatives to Section 23.11.030.

Application D9900009P (Gonyer)

An April 27, 2000 Planning Commission hearing was held to determine if the lot slope was over 30%. In the staff report, staff grants themselves a variance to determine the lot slope based on the slope of the site under the foundation. (p7-5)

They also granted an informal variance to allow the applicant to submit a non-23.11.030 contour slope analysis which is shown in page 7-51. They also granted an informal variance to allow the applicant to use a "slope over five foot counter sections" method as shown at page 7-49.

I was able to argue the staff out of these analysis conclusions with the arguments documented in the staff report, pages 7-20-40

At their hearing, staff granted themselves a variance and presented another non-23.11.030 analysis based on a "slope under portions of the structure" method.

The Planning Commission ignored the technical arguments and found the lot to be over 30% because the lot had been bought from a real estate listing that said it was over 30%.

Application D000247P /D000248V (Debruin)

A May 24, 2001 Planning Commission hearing was held to determine if the lot slope was over 30%. In the staff report they grants themselves a variance to determine the lot slope based on the s "slope perpendicular to the contour lines" method. See page 8-25 of the staff report.

The staff had previously granted an informal variance to the applicant by accepting a slope analysis from the applicant which measured the slope along the lot sides and center. See page 8-26 of the staff report.

I presented a certified survey by North Coast Engineering showing the slope to be over 30%. That submission was rejected because because of an irrelevant objection: the survey was done without the owner's permission.

Based on the Assistant Director's and the staff's assurance that the Planning Department always used the non-23.11.030 "slope perpendicular to the contour lines" method, the Commission found the lot slope to be less than 30%. They "always"

granted themselves this variance! (Note: that method wasn't used in the Gonyer proceedings above.)

The Planning Department sent the project back to the NCAC for a second review on August 15, 2001 in preparation for my appeal to the Board of Supervisors scheduled for August 28, 2001. The NCAC found the slope to be over 30%.

GSA Determination Variances

GSA Determination: Table G provides a very concise and specific definition as to what areas are to be included in the calculation of GSA. However, staff has allowed developers an informal variance to that definition based on arguments as to "what we always have done."

Application D9900009P (Gonyer)

In my appeal to the Board of Supervisors, January 23, 2001, I argued that Staff allowed the applicant to ignore the Table G definition of GSA and substitute his own conventions. Again, they granted the applicant an informal variance to substitute his own definition.

My argument is reproduce on page C-2, 68 of the staff report.

The Board of Supervisors accepted staffs variance justification ("this is the way we always have done it.") and denied the appeal.

The Coastal Commission upheld my appeal of this issue in their May 7, 2001 hearing.

Lot Scaling Variances

Lot Scaling: The footnote gives three standards for scaling allowable GSA and footprint according to lot size. Rather than use the literal interpretation, staff grants themselves and developers variances to use other interpretations based on "what it is really supposed to mean."

Application D9900009P (Gonyer)

In my appeal to the Board of Supervisors, January 23, 2001, I argued that Staff allowed the applicant to use the wrong Table G footnote Standard in determining allowable GSA and footprint.

Again, they granted the applicant an informal variance to substitute his own definition. see page C-2, 3 of the staff report. They allowed his 5557 square foot lot to be treated as an "under 3,500 square foot double" lot.

The Board of Supervisors agreed that the wrong standard was being used. They decided to let this application to use the wrong footnote Standard because they were assured by staff that "this is the way we always do it." They validated the staff's informally granted variance.

The Coastal Commission upheld my appeal of this issue in their August 7, 2001 hearing. They ruled that the oversized double lot should be treated as triple lot, not as an "under 3,500 square foot double lot."

Application D000247P /D000248V (Debruin)

In correspondence with the NCAC Chair, the Planning Department staff said that they were not sure what footnote Standard of Table G to apply to the Debruin application. They wanted to grant an informal variance based on what they thought the Coastal Commission had found in the Gonyer hearing.

The NCAC passed the following motion:

“The lot size is 5681 square feet. Since the lot exceeds 5250 square feet, The table G footnote Standard 1 should be used. If the applicant does not accept the strict application of this footnote they should apply for a variance according to 23.01.045.

Motion: The GSA and footprint of the proposed project should be adjusted in accordance with Table G footnote Standard 1. If the applicant desires to use another standard, a formal 23.01.045 variance should be applied for.”

Steep Lots (30% plus) 28' 650 sq. ft. 1,100 sq. ft.

Table G Footnotes. Standards 1-3 below shall be used with Table G where interpreting lot sizes that do not conform exactly to base density or where a Footprint and Gross Structural Area bonus is requested.

1. *Building sites greater than 5,250 square feet may be permitted additional Footprint and Gross Structural Area equal to the percent that the site is greater than 5,250 square feet.*
2. *Building sites 5,250 or less, the permitted maximum Footprint and GSA shall be adjusted as follows:*
 - b. *Double lot category – if the lots are greater than 3,500 square feet, the Footprint and GSA may be increased by the percent that the lot is greater than 3,500 square feet.*

b. Site Development Analysis

(i) Setbacks

The proposed development meets all applicable setback requirements, with the provision for a front setback (sloping lot) adjustment of five feet towards the front property line.

(ii) Height

The proposed height of the residence is 28 feet, as measured from average natural grade, consistent with the North Coast Planning Area standard for residential single family development.

(iii) Footprint and Gross Structural Area

The North Coast Area Plan includes specific building standards for lots within the Lodge Hill area (referred to in the LCP as Table G and attached as Exhibit 5). These standards establish setback, height, footprint, gross structural area and deck sizes of single family residences based on lot size, site topography and location, and whether or not trees exist on the site. Footnotes 1 and 2 of Table G (noted above) are used when the subject site is not a standard size.

The first step in assessing the project's consistency with these site development standards is to determine the maximum footprint and gross structural area allowed on the site according to the size and slope of the subject lot and the standards established by Table G.

As previously described, the project site is on slopes of over 30%, and composed of two lots that are larger than the standard lots in lodge hill and total 5,557. Table G limits development on the more typical 3,500 square foot double lots with steep slopes to a maximum footprint of 650 square feet and a maximum GSA of 1,100 square feet. Development on a standard triple lot of 5,250 square feet and slopes over 30% is limited to a maximum footprint of 1,000 square feet and a maximum GSA of 1,600 square feet. In this case, the applicant's double lot is approximately 5,557 square feet. In accordance



California Coastal Commission

with footnotes one and two of Table G, the maximum footprint and structural area can be increased in proportion to the amount of the lot that is greater or lesser than the standard double lot 5,250 square feet. Because the project site is 1.587 times larger ($5,557 / 3,500$) than 3,500 square feet, the allowable footprint and gross structural area for the project may be increased accordingly, as shown in the table below:

Lot size	Allowable Footprint	Allowable GSA
3,500 sq. ft.	650 sq. ft.	1,100 sq. ft.
5,557 sq. ft.	$(650 \text{ sq. ft.} \times 1.587) = 1,031 \text{ sq. ft.}$	$(1,100 \text{ sq. ft.} \times 1.587) = 1,746 \text{ sq. ft.}$

In this case, footnote one of table applies to the applicant's double lot of 5,557 square feet, which is 307 square feet larger than a standard triple lot of 5,250 square feet. In contrast to the County's practice of calculating the bonus footprint and GSA according to the *number of lots* involved, and thereby using footnote 2 to determine the bonus, this calculation must be based on the size of the parcel. Footnote One specifically states "Building sites greater than 5,250 square feet may be permitted additional footprint and Gross Structural Area equal to the percent of the site that is greater than 5,250 square feet". Accordingly, the applicant's 5,557 square foot site is allowed to exceed maximum GSA and footprint standards by 5.8%.

Footnote One of Table G does not, however, provide a clear formula for applying this bonus, because it does not identify the baseline GSA and Footprint to which this bonus applies. In order to rationally implement Table G, lot size, rather than the number of parcels, must be used to determine the base GSA and footprint. It is the size of the project site, rather than the number of parcels involved, which best reflects the constraints to development that need to be considered during coastal development permit review. This approach also maintains consistency with the method of determining the allowable bonus for larger than standards lots, which, as discussed above, must be determined according to lot size rather than number of lots.

Accordingly, although the applicant's 5,557 square foot site is technically a double lot, it appropriately falls into the triple lot category for determining the baseline to which the bonus applies because it exceeds the standard 5,250 square foot triple lot size. Therefore, the maximum footprint and GSA is calculated as follows:

Lot size	Allowable Footprint	Allowable GSA
5,250 sq. ft.	1,000 sq. ft.	1,600 sq. ft.
5,557 sq. ft.	$(1,000 \text{ sq. ft.} \times 1.06) = 1,060 \text{ sq. ft.}$	$(1,600 \text{ sq. ft.} \times 1.06) = 1,696 \text{ sq. ft.}$

The formula proposed by the appellant also calculates the bonus in proportion with the area of the lot that exceeds the standard triple lot of 5,250 feet, but applies this bonus to the baseline footprint and GSA established for standard double lots of 3,500 square feet. The result of this approach would significantly



California Coastal Commission

penalize the owners of large double lots by reducing allowable home sizes below what would be allowed on a smaller site comprised of three parcels. This runs counter to the intent of the standards; to encourage development on large parcels and minimize development on very small individual lots. To avoid future discrepancies such as these, the Commission suggests that the County clarify the application of Table G footnotes in future LCP updates.

The next step in assessing the project's conformance with site development standards is to calculate the proposed footprint and gross structural area to confirm that they do not exceed the above maximums.

According to the North Coast Area Plan, footprint and gross structural area are defined as follows:

Footprint – means the area of the lot covered by residential and accessory structures including any structural overhangs, expressed in square feet, and includes living area, garages and carports. It does not include open deck area, balconies or eaves.

Gross Structural Area – means all interior areas, expressed in square feet of floor area, within the volume of the structure. It includes living areas, storage, garages and carports. Gross structural area is measured to the exterior limit of the building walls. Gross structural area does not include open exterior decks or interior lofts added within the height limitation to gain additional square footage.

The above definitions are somewhat vague because they do not distinguish between storage areas and mechanical rooms, and whether, in general, uninhabitable spaces should be counted. Furthermore, the definition of gross structural area (GSA) does not provide guidance in calculating the structural area of stairways (i.e. whether or not a flight of stairs should be counted as gross structural area of the main floor as well as all upper floors).

A strict reading of these definitions necessitates that, contrary to the County's typical practice, mechanical storage areas and crawl spaces be included as part of the Gross Structural Area, as they add to the total volume and floor area of the interior structure. Similarly, the footprint of the stairway must be considered as part of the building's structural area. However, consistent with typical industry practice and the LCP definition which states that Gross Structural Area should be expressed in square feet of floor area, it is appropriate to calculate the footprint of the stairway only once in determining gross structural area. This is because the stairway serves a single function, and does not add to the floor area of upper stories (as compared to mechanical storage areas, which can have floor area above). This methodology is consistent with state regulations for calculating square footage as part of real estate appraisals, established to prevent the exaggeration of structural floor area (see Exhibit 4). Commission staff also used this methodology in recent condition compliance review of final plans for the Victorian Inn, a development in Cayucos approved on appeal to the Commission that raised similar concerns regarding the amount of allowable square footage (please see Exhibit 6).



California Coastal Commission

1
Ken Renshaw
1790 Ogden Rd.
Cambria, CA 93428
805-927-2202

A-3-SLO-01-092
October 25, 2001

R Hyman
Coastal Program Analyst
California Coastal Commission
Central Coast District Office
725 Front Street, Suite G
Santa Cruz, CA 95060

Dear Mr. Hyman:

One of the bases of my appeal of the Coastal Commission in A-3-SLO-01-092 concerns water:

Basis 3. *Public Works Policy 1* requires there is sufficient (water) services. Coastal Commission' findings on A-2-SLO-01-018 Gonyer pages 15-30 discusses water availability. At line 24 of page 30 of that report it says: "...it is appropriate to acknowledge the will-serve letter of the CCSD as evidence of adequate water for this (Gonyer) project." For this (Debruin) project the will-serve letter was issued in March 1998, before the Cambria water problems were fully understood and documented. This project would not receive a will-serve today: the CCSD has not issues any will-serve letters in 2001.

The A-3-SLO-01-018 Gonyer findings which I recently received clarify the water issue. On page 16 of that report a coastal development permit (Application 123-18) is referenced. I request a copy of the conditions to that permit so that I can add that data to the attached preliminary analysis.

I request that the A-3-SLO-01-092 hearing be continued one month (to December or later) so that I can receive and incorporate all of the water considerations, including those conditions of Application 123-18.

Sincerely,



RECEIVED

OCT 29 2001

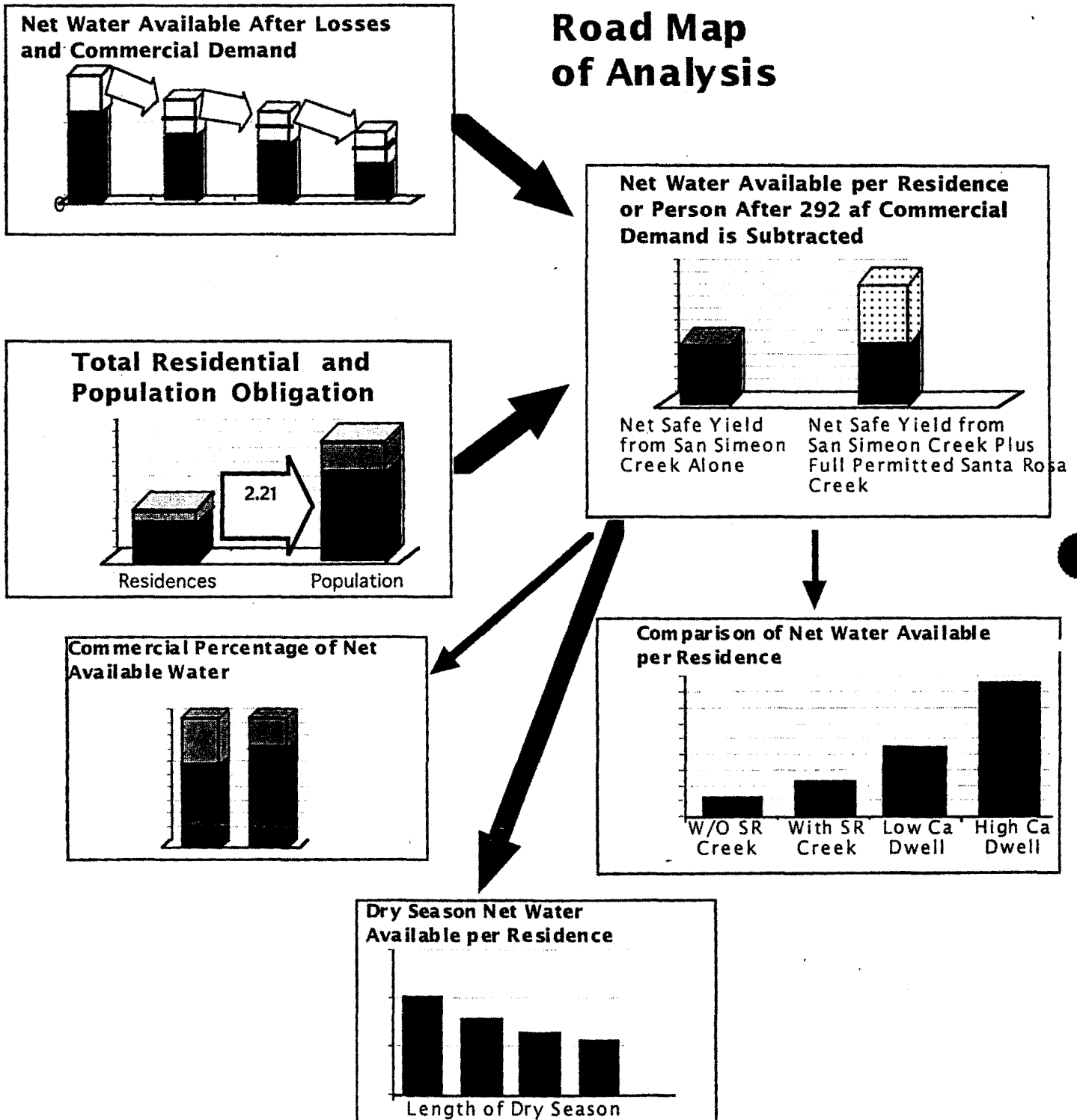
CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

34 of 40

**Water Availability Analysis by
Cambria Legal Defense Fund
Independent Validation
by Ken Renshaw**

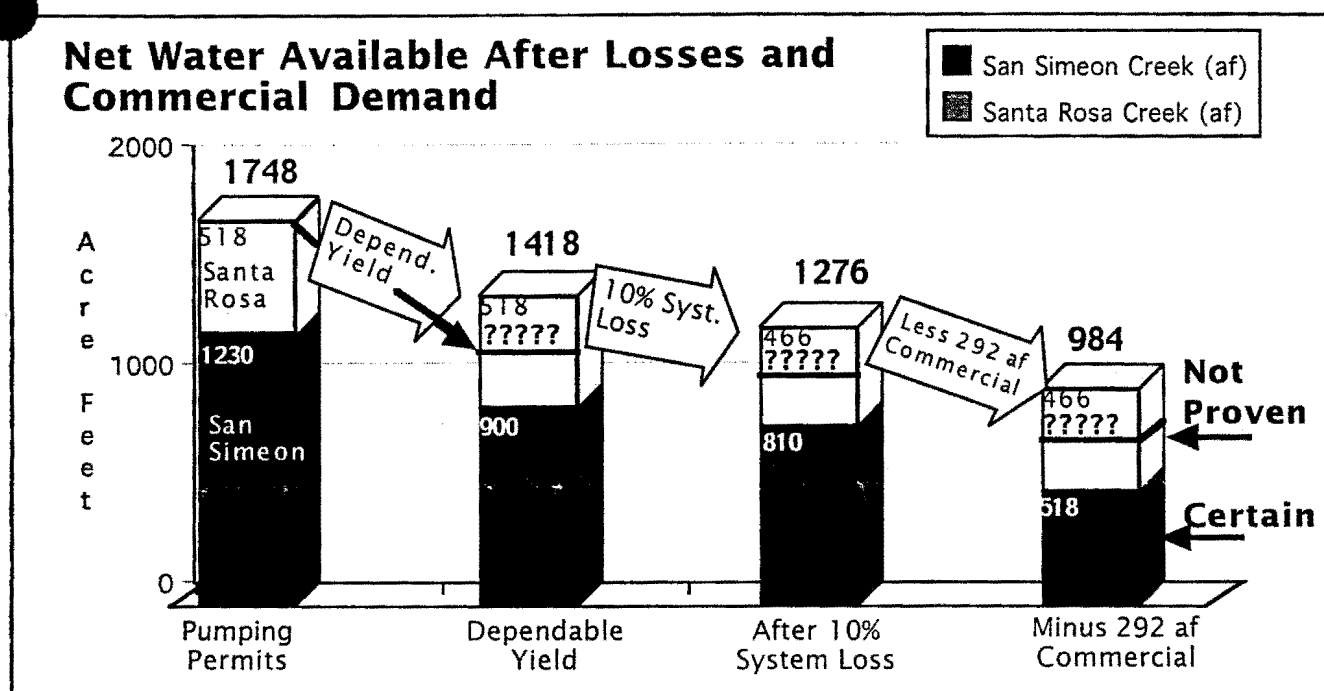
We have undertaken an independent validation of the Water Availability Report and calculations of the Cambria Legal Defense Fund, and fully concur with the provided analysis. The following figure outlines the overall approach used by the Cambria Legal Defense Fund.

Road Map of Analysis



Net Water Available

This figure shows how the permitted water is reduced by Dependable Yield which is further reduced by system losses and allowance for projected commercial demand.



The CCSD has permits from State Water Resources Control Board that limit the annual volume of water pumped from the San Simeon and Santa Rosa Creeks. These numbers are mapped in the first bar. However, the basins will not support that full pumping rate. Hydrologists have determined that the safe or dependable yield of the San Simeon Creek is less than the permitted (900 a.f. per year vs. 1230 a.f.)

The safe yield of Santa Rosa Creek has not been determined. In the figure it is shown as an undesignated line with question marks. The safe yield of Santa Rosa Creek is undoubtedly less than the permitted value. For the analysis, the Santa Rosa Creek contribution to the net available water is treated as a range of uncertainty.

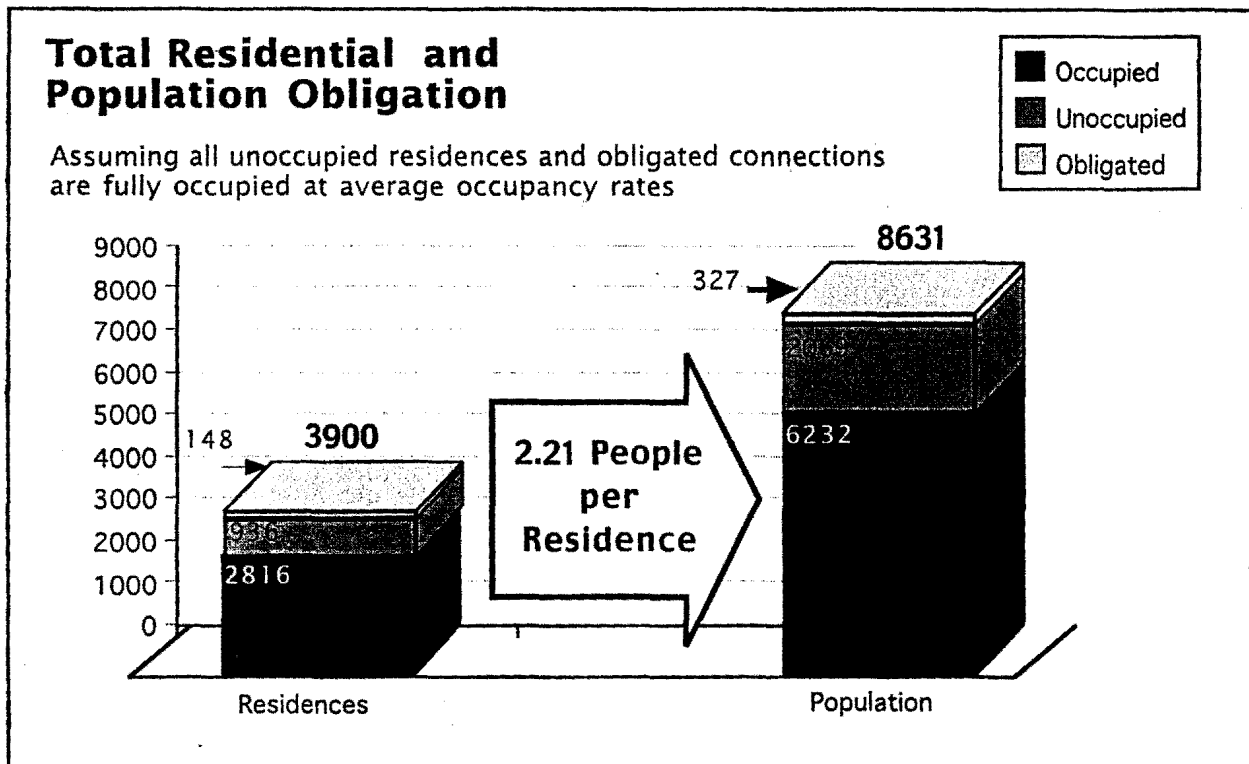
Historically, the difference between the amount of water pumped and the amount of water sold is 10%. These losses include CCSD's consumption of water in operations as well as leaks. The 10% figure is used to reduce the Dependable Yield values in the third bar. The projected commercial usage for 2001 is 292 a.f. This value is subtracted to give the last bar, the net water available after losses and commercial demand.

The net water available is in the range of 518 to 984 a.f., depending on the unknown dependable yield of Santa Rosa Creek.

Residential and Population Obligation for Service

The 2000 Census and the outstanding intent to serve and connection permits are used to calculate the total number of residences for which service is now obligated, 3900. This calculation assumes that currently unoccupied residences are obligations that must have their full share of water reserved. The legal obligation to have water available to all connected users is described in the Cambria Legal Defense Fund report.

The 2000 Census showed that the average occupancy of residences (which were occupied during the census) was 2.21 people per residence. This number is used to calculate the population potential of the current obligations, 8631 residents.

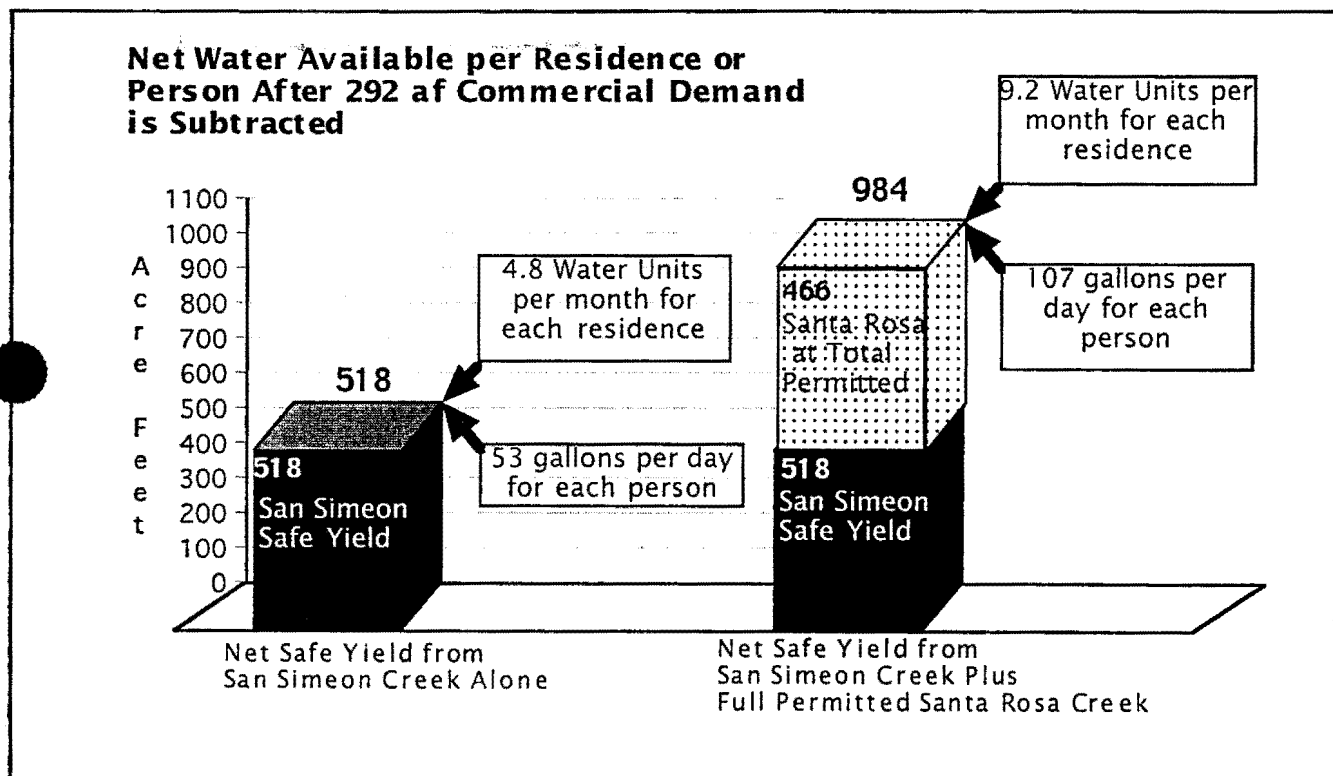


Net water Available per Residence or Person

Dividing the Net Water Available from above by the number of residences and the total population gives the following annotations to that graph. If the 518 a.f. San Simeon safe yield is divided by the number of residences, each residence will have 4.8 water units per month. That equates to 53 gallons per person per day.

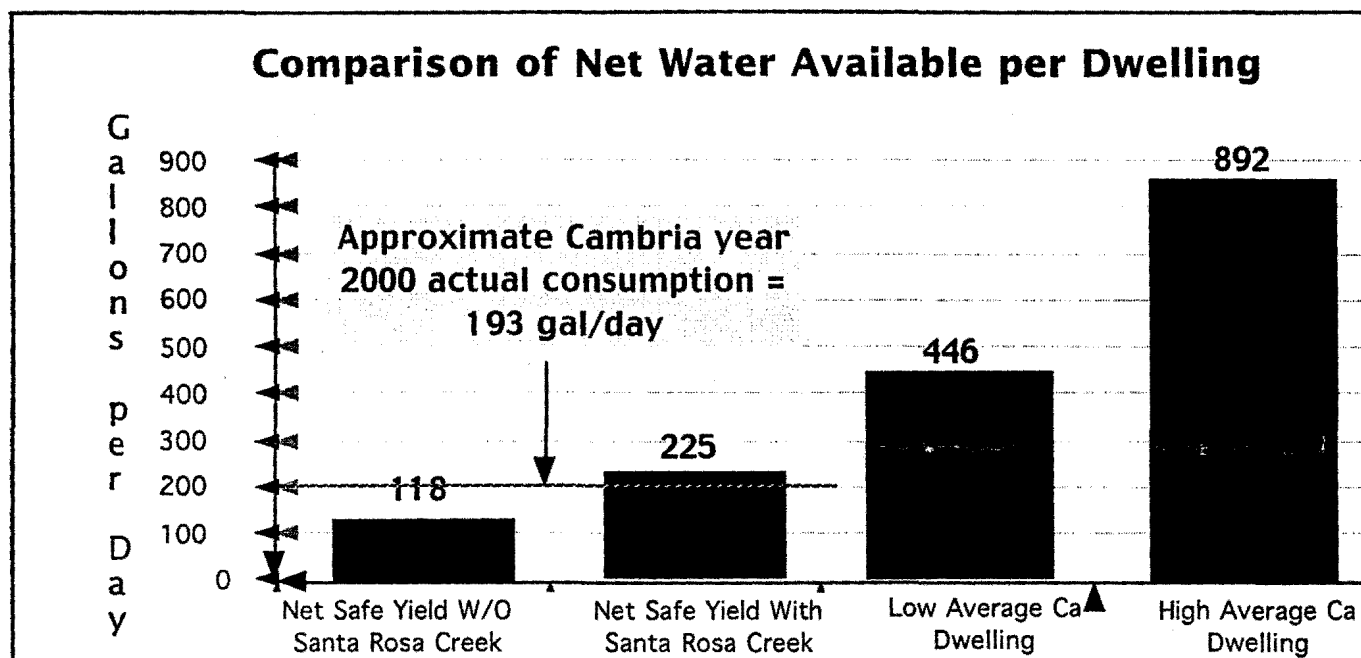
If Santa Rosa Creek was able to pump at the maximum permitted rate there would be an additional 466 a.f. to be divided. Then, the each residence would have 9.2 water units per month or 107 gallons per person per day.

Since Santa Rosa Creek cannot be pumped at the maximum permitted rate, the actual available water will be somewhere in between the two numbers: the water per residence is somewhere between 4.8-9.2 water units per month; the water per person per day is somewhere between 53-107 gallons per day.



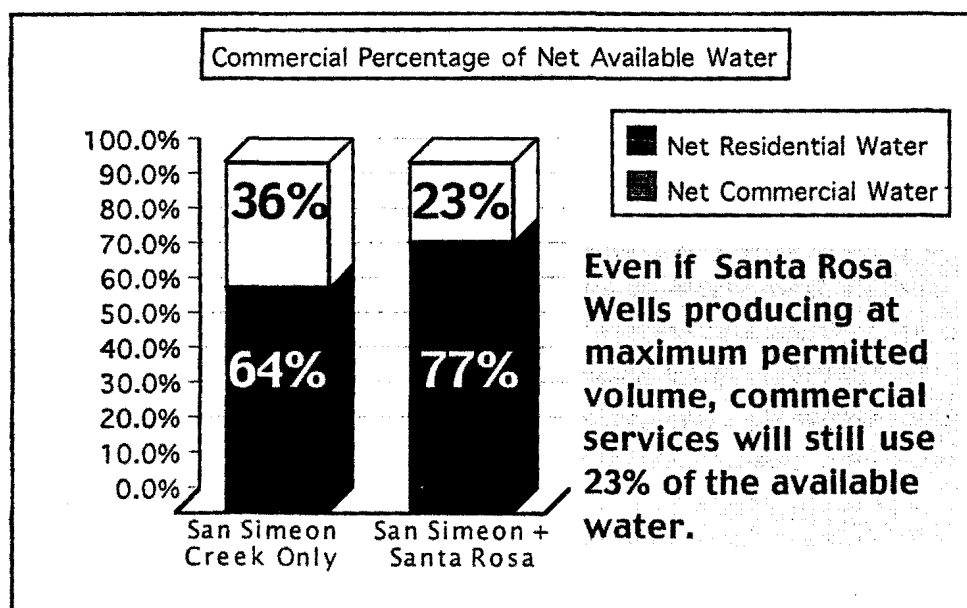
Comparison of Cambria With California Averages

This net water per residence is compared with the state averages is compared to State averages consumption in the following figure. It can be seen that Cambria's water availability is a small fraction of the average consumption in the state.



Percentage of Water for Commercial Users

The California Coastal Commission has mandated that 20% of Cambria water must be allocated to visitor-serving facilities. Since nearly all of the commercial users in Cambria are visitor-serving facilities, the CCSD commercial category of service can be used to see if the CCSD is meeting the mandate. The following graph shows that CCSD is providing more than the mandated water to commercial services. The percentage is between 23% and 36%, depending on Santa Rosa Creek production.

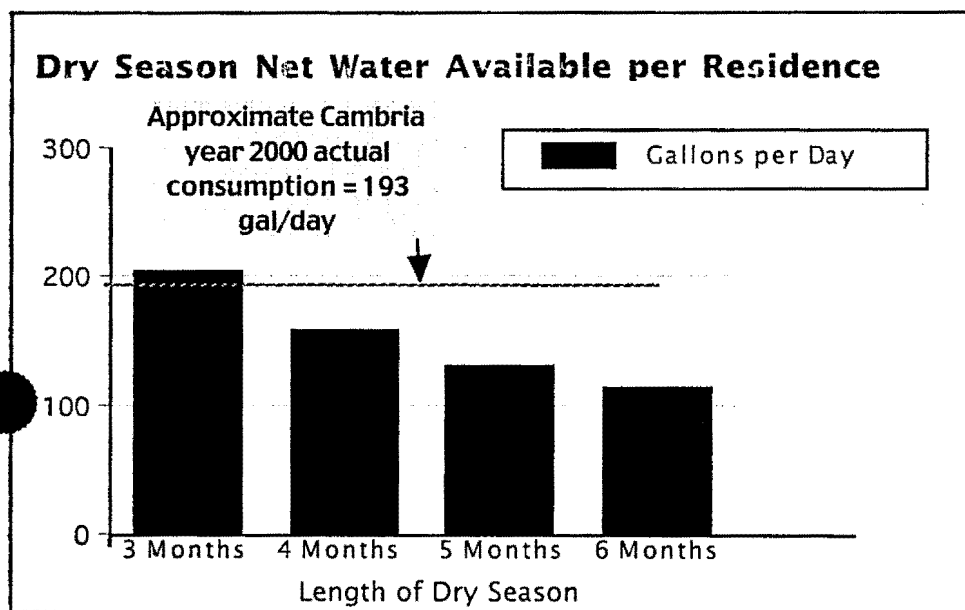


Impact of Dry Season Length on Water availability.

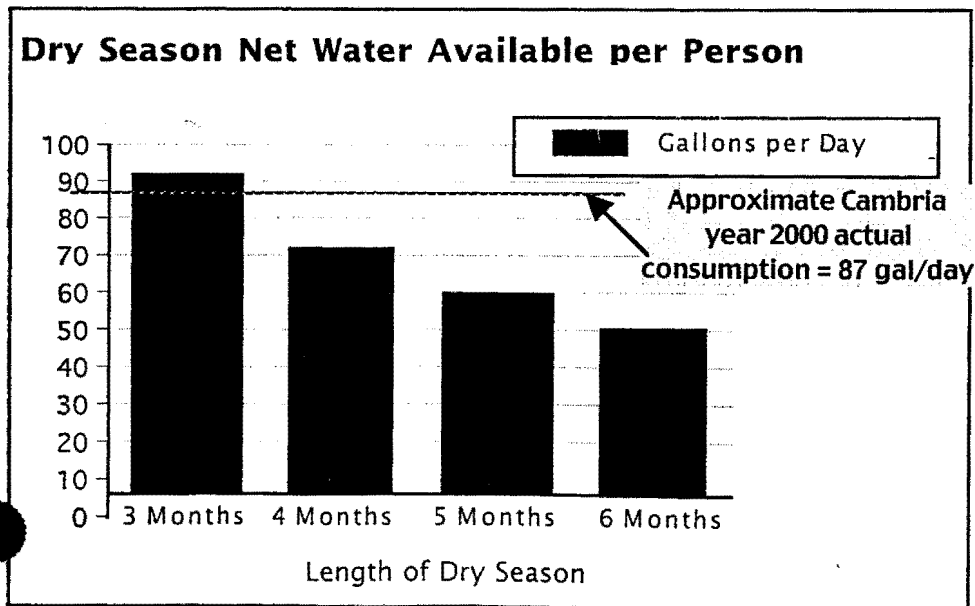
The State Water Resources Control Board limits the amount of water which can be pumped during the dry season. For each of the two creeks, this number specifies the maximum amount of water that can be pumped between the time in spring or summer that the creek flow drops below a minimum value and the first fall or winter rain which restores creek flow.

For example, the San Simeon Creek, dry season pumping is limited to 370 a.f. If the dry season is six months the permitted monthly pumping is $370/6=61.6$ a.f. If the dry season is three months, the permitted monthly pumping can be $370/3=123.3$ a.f.

The net water available during the dry season is reduced by the 10% losses and the commercial demand to get the net water available. The calculation is performed for dry season lengths of three, four, five and six months. These available numbers are divided by the number of residences as in the above. This gives the following graph.

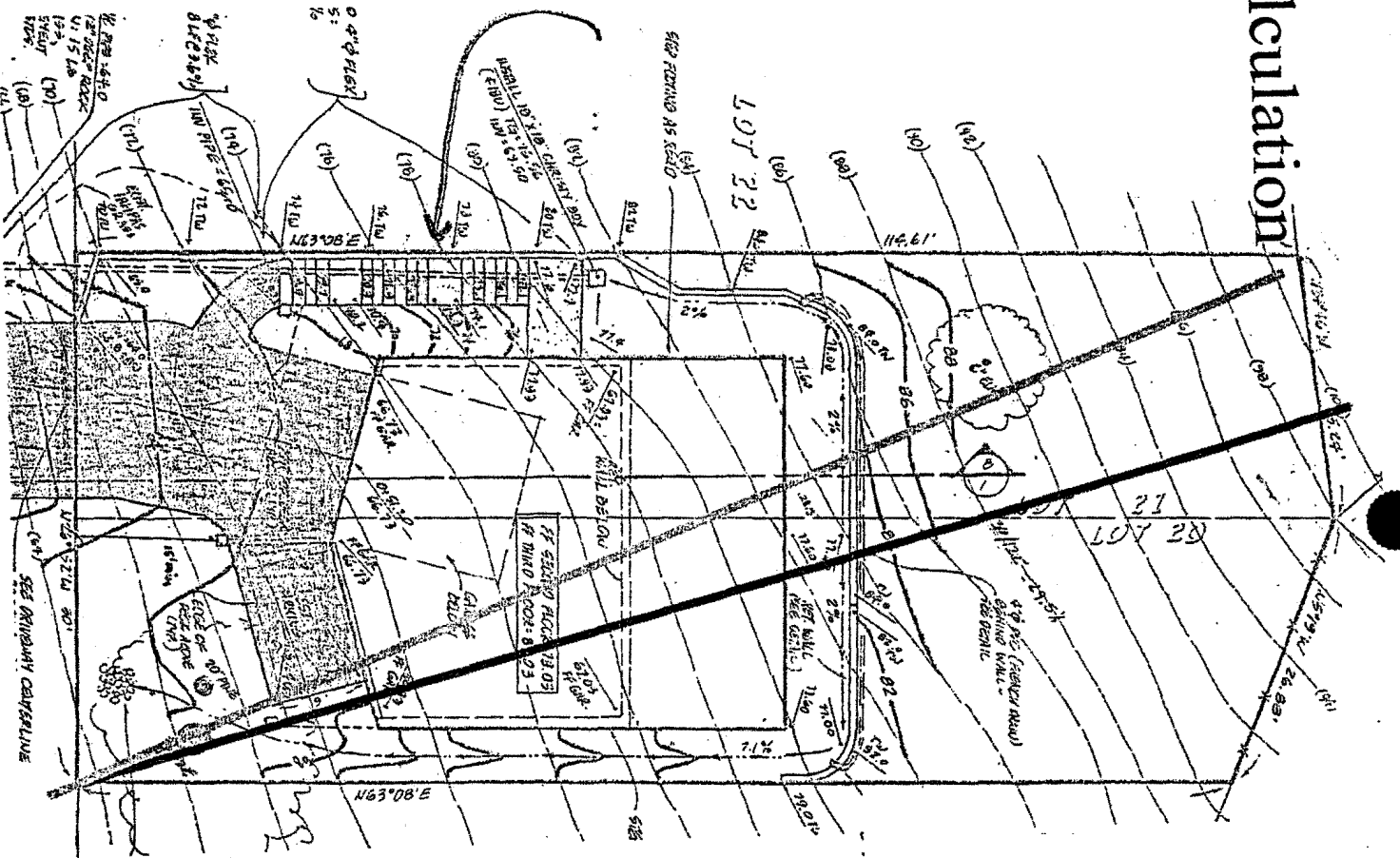


Which can be equated to Gallons per Person per Day in the following:



Basic Slope Calculation

36 feet (rise) /
120.5 feet
(run) =
29.8%



36 feet (rise) /
122 feet (run)
=
29.5%

EXHIBIT NO. F
APPLICATION NO.
A-3-SLO-01-092

Basic Slope Calculation
1081
California Coastal Commission

CAMBRIA COMMUNITY SERVICES DISTRICT

DIRECTORS:

HELEN MAY, President
PETER CHALDECOTT, Vice President
GREG FITZGERALD
ILAN FUNKE-BILU
DONALD VILLENEUVE

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1316 Tamson Drive, Suite 201 • P.O. Box 65 • Cambria CA 93428

Telephone (805) 927-6223 • Facsimile (805) 927-5584

February 23, 2001

Patrick & Alice Man
132 Bayview Dr.
San Carlos, CA 94070

Re: FINAL APPROVAL OF ASSIGNMENT OF POSITION
APN: 023.161.043

- Per your request, the **ASSIGNMENT** of your:
 - ☐ Water and Sewer Waiting List Position #:
 - ☐ "Intent to Serve" Letter (Valid thru ☐)
 - ☒ Connection Permit (Valid thru 3/24/02)for the above-referenced parcel HAS BEEN COMPLETED AS OF THIS DATE.
- Your "POSITION" has been assigned to:
Gerard & Lydia De Bruin, 2742 Hogan Pl., Livermore CA 94550

If you have any questions please contact me at (805) 927-6223.

Sincerely,

A handwritten signature in cursive script, appearing to read "Joyce Hannum".
Joyce Hannum
Senior Clerical Assistant

cc: Gerard & Lydia DeBruin

EXHIBIT NO. <i>G</i>
APPLICATION NO. <i>A-3-SLO-01-012</i>
Assignment Position
<i>1081</i>

CALIFORNIA COASTAL COMMISSION

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



BACKGROUND TO WATER AVAILABILITY FINDING

1. History/Background

1977 Coastal Development Permit

The Coastal Commission has been concerned with the lack of water to support new development in Cambria since the adoption of the Coastal Act. As early as 1977, in a coastal permit to allow the Cambria Community Services District (CCSD) to begin drawing water from San Simeon Creek, the Commission expressed concern about overdrafting this groundwater basin. In that permit, the Commission limited the urban service areas for this new water supply and identified the maximum number of dwelling units that could be served as 3,800¹. A condition of that 1977 coastal development permit stated that:

use of all District wells on Santa Rosa Creek shall be discontinued when water production from San Simeon Creek has been established. Any continued permitted use of the Santa Rosa Creek wells shall be limited to the supplementing of San Simeon Creek well production in years when the 1230 acre feet cannot be safely removed. Except in the emergency situations defined below, the withdrawal of water from Santa Rosa Creek shall not exceed 260 acre feet during the dry season which normally extends from July 1 through November 20 and shall not exceed 147 acre feet per month at any other time. At no time shall the combined withdrawal from San Simeon Creek and Santa Rosa Creek exceed the 1230 acre feet annually. In addition, the following emergency situations shall be permitted: fire or any emergency use authorized by the State Water Resources Control Board or the State Health Department. Until the San Simeon Creek wells are functioning, no new water permits shall be permitted in the District.

LCP Certification

When the Land Use Plan of the County's LCP was certified in 1984, the concern remained that there was inadequate water to serve existing parcels within Cambria. The findings regarding Cambria stated that based on the land uses and intensities designated in the LUP for subdivided and unsubdivided land, 8,150 dwelling units could be developed; however, it was estimated that the community of Cambria had adequate water and sewage capacities to serve 5,200 dwelling units (in 1984). The findings continue to state:

Buildout of the existing subdivided parcels alone within the USL [Urban Services Line] would result in a number of dwelling units for which there inadequate sewer and water capacity. Clearly the community does not have adequate services to supply the LUP proposed development within the USL without severely overcommitting its water supplies and sewage treatment facilities.

In anticipation of growth related resource demands, the County created the Resources Management System, which is intended primarily to indicate when and where service facilities (water supply, sewage disposal, roads, schools, and air quality) must be expanded or extended to meet population growth demands. The RMS is designed to be a growth management tool; however, it is oriented toward finding services to support development and does not factor impacts on natural systems into the search, nor does it propose limits on growth in recognition of the limits of the lands ability to supply water for new development.

The RMS uses three levels of alert (called Levels of Severity, or LOS) to identify potential and progressively more immediate resource deficiencies. The alert levels are meant to provide sufficient time for avoiding or correcting a shortage before a crisis develops. Level I is defined as the time when sufficient lead time exists either to expand the capacity of the resource or to decrease the rate at which the resource is being depleted. Level II identifies the crucial

¹ Application 132-18.

point at which some moderation of the rate of resource use must occur to prevent exceeding the resource capacity. Level III occurs when the demand for the resource equals or exceeds its supply.

The Resource Management System reports have consistently identified water supply as a serious concern in Cambria. In 1990, the RMS report recommended that the Board of Supervisors consider a development moratorium. The RMS outlines specific measures that must be implemented for each LOS if the Board formerly certifies the recommended level. However, the BOS has never certified any LOS for Cambria. Most recently, the RMS recommended a LOS III.

1998 North Coast Area Plan

More recently, the Commission evaluated available water supply for Cambria in its review of the County's North Coast Area Plan update. After evaluating the availability of water in San Simeon and Santa Rosa Creek, the Commission found that existing development (1997) may be overdrafting these creeks, and adversely affecting wetlands and riparian habitats. Thus, the Commission adopted findings and a suggested modification that would require completion of three performance standards prior to January 1, 2001: completion of an instream flow management study for Santa Rosa and San Simeon Creek; completion of a water management strategy which includes water conservation, reuse of wastewater, alternative water supply, and potential off stream impoundments; and cooperation of the County and CCSD to place a lot reduction ballot measure before the Cambria electorate. If these standards were not performed by January 1, 2001, the modification required a moratorium on further withdrawals from San Simeon and Santa Rosa Creeks.

Although the County never accepted the modified amendment and is therefore not subject to the moratorium provision, the severity of the measures proposed reflects the gravity of the community's future if development continues to be permitted at its existing rate. More important, since the 1998 Commission action, the water supply situation has been further constrained by MTBE contamination of Santa Rosa Creek.

2. Water Production Trends

Over the years, the Cambria Community Services District (CCSD) has investigated various potential additional water supplies, including importing water from Nacimiento Reservoir, building dams on coastal streams in the Cambria vicinity, and using treated effluent for groundwater recharge. All of these were rejected, due to environmental, financial, or engineering concerns. In 1993, the district began investigating the possibility of desalination of seawater. The CCSD applied for a permit in 1995 to construct a desalinization plant, which would supply 1,129 AFY water at full capacity. Although the County approved the permit as well as a subsequent permit for the construction of connecting pipe to San Simeon, to date the plant has not yet been built and the permits have expired. The CCSD is still pursuing a revised desalination plant proposal and has recently received grant funding toward that end.

The CCSD has been aggressively pursuing other water conservation measures, including requiring onsite cisterns for larger residential developments. Most recently, the CSD funded and completed a Baseline Water Supply Analysis that concludes that the District's water supply is marginal to inadequate to provide 90% reliability (in one of ten years there may not be enough water for current customers). In addition, if the recent discovery of MTBE in groundwater near the District's Santa Rosa wells prevents use of this source, the report concludes that the District's supplies are inadequate.²

The CCSD also has implemented an off-site retrofit program since 1990. The retrofit program requires new units to be constructed with low water use fixtures and provide low water-use plumbing fixtures in existing dwellings. Under this program over 500 hookups were added to the CCSD system and over 2,500 existing homes were retrofitted with low water use fixtures. While the retrofit program has been somewhat successful in reducing per capita demand, it has been less effective than originally envisioned, because it allows the payment of an "in-lieu" fee rather than an

² As of this writing, an emergency well was being installed upstream of the contamination point to alleviate this situation.

actual retrofit of older existing development; and because it was not designed to reduce the amount of water used to irrigate residential landscapes. Additionally, the program provides no long-term solutions for the continued disparity between water sources and ultimate buildout because the existing development available for retrofits will be exhausted long before buildout.

The Source of Water

The CCSD's water is supplied from a total of six wells that tap the underflow of San Simeon and Santa Rosa Creeks. Most recently, however, the three wells along Santa Rosa Creek have become inoperable due to MTBE groundwater contamination. The CCSD is currently constructing an emergency well upstream of the contamination plume.

Santa Rosa Creek

Santa Rosa Creek winds through the town of Cambria, extending +13 miles from its headwaters in the Santa Lucia Mountains to the Pacific Ocean. The estimated safe yield of this creek is given in the North Coast Update (1998) as 2,260 acre feet per year (AFY) based on a 1994 preliminary study by the United States Geologic Survey. A review of this document does not, however, provide a definitive safe yield figure and although it includes information regarding existing water demand for agricultural and municipal uses, it does not factor in the water needs for the preservation of riparian and wetland habitats.

The CCSD has a permit from the State Water Resources Control Board to extract a maximum of 518 AFY from Santa Rosa Creek. Of this total, only 260 AFY can be extracted between May 1 and October 31. This summer limit has never been reached for two reasons; 1) in times of plentiful streamflow, the District prefers to use water from San Simeon Creek because it is of much better quality and requires less treatment, and; 2) in dry years, Santa Rosa Creek is incapable of supplying this amount of water. As an example, in the drought of 1976-77, less water than allocated by the State Water Resources Control Board could be withdrawn before the wells went dry. Overpumping during that period also caused significant subsidence, potentially damaging the ability of the aquifer to recharge.

Thus, in summary, while the Santa Rosa Creek safe yield of 2,260 AFY implies an adequate water supply to serve Cambria's needs, a closer look reveals that the basis for that number is not well grounded, does not consider impacts on habitat values, does not factor in the ability of the aquifer to actually produce water during a drought nor the potentially damaging effects of attempting to do so on the aquifer structure. Since development uses water on a year round basis and, in fact, water use in Cambria is up by 40% during the summer months, it is imperative that the water supply is sufficient to meet urban needs during these months and during periods of drought. Likewise, the protection of riparian and wetland habitat depends on a reliable and sustainable water supply.

San Simeon Creek

San Simeon Creek, located two miles north of Cambria, is the preferred source of municipal water. This creek too has its headwaters in the Santa Lucia Range and flows westward for over nine miles to the Pacific Ocean. Safe yield for San Simeon Creek is estimated to be 900 acre-feet per year in the North Coast Update. Similar to the figure for Santa Rosa Creek, this estimate relies on the 1994 USGS report and is subject to the same flaws. Riparian agricultural users in the basin consume approximately 450 AF per year. The CCSD has a permit from the State Water Resources Control Board that allows the District to withdraw a maximum of 1,230 AF per year. Of this total, only 370 AF may be withdrawn during the dry period, which is defined as that time between the cessation of surface run-off at the Palmer Flats Gaging Station and October 31 each year. Typically this is a six or seven month period. The permit also requires the District to supply riparian users when municipal pumping lowers the aquifer to the point where riparian users pumps run dry (Board Order WR 88-14, October 1988).

Several uncertainties exist with respect to the reliable, long term amount of water which can be supplied by San Simeon Creek. The first issue is the soundness of the 900 AFY safe yield figure. It is unclear how this figure was determined and whether it was calculated to include a reservation of water for the preservation of riparian and wetland habitat. The changing water needs of senior, riparian users must also be addressed. These users have priority over appropriators such as CCSD and are thus entitled to be served before the District. They may also divert

additional water if fallow, riparian fields are brought into production. Finally, the multiple disparities between estimated safe yield, State Water Board allocations and current production are also of concern. One apparent conflict is that even if one one accepts an estimated safe yield of 900 AFY, the existing State Water Resources Control Board permit allows one of the users, the CCSD, to withdraw a maximum of 1,230 AFY; 330 acre-feet over safe yield, not including existing riparian withdrawals. Another concern is that with the exception of 1991 extractions, the combined riparian and the CCSD withdrawals have exceeded the estimated safe yield figure since 1980. In 1996, for example, the CCSD withdrew 717 AF and riparian users withdrew \pm 450 AF from San Simeon Creek, for a total of 1,167 AF; 267 AF in excess of the estimated safe yield of 900 AFY given in the plan.

Current Water Production

The Cambria Community Services District's boundaries include most of the land within the urban boundary defined in the LUP, yet the District also serves approximately 300 to 500 acres outside the urban boundary.

A LCP Planning Area Standard for the Cambria urban area requires that 20% of the CCSD's permitted water production capacity be reserved for visitor-serving and commercial uses. Based on a dry-season (May 1 through October 31) entitlement from both the San Simeon and Santa Rosa Creek basins of 630 AFY, this leaves 504 AFY for residential use during the dry season. The community's average water consumption rate in 1997-98 was approximately 217 gallons per dwelling unit per day (0.24 AFY per dwelling unit). Applying this water consumption figure to the total dry season residential allocation of 504 acre-feet indicates that approximately 4,120 dwelling units could be served during the dry season (NCAP Project Description, 2000). By October 1999, 3,777 units had been developed in Cambria, and about 130 new residential units were in the plan approval and construction process.

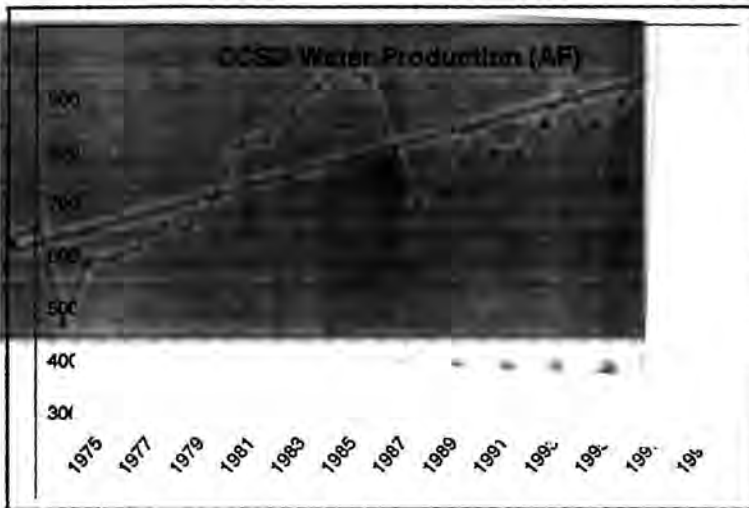
The RMS system has recommended a LOS II or III for Cambria's water supply almost since LCP certification. Since 1990, the RMS has also recommended various conservation measures, including consideration of a moratorium on development. In recognition of the LOS III for 1999, the Board of Supervisors reduced the allowable growth rate in Cambria to 1% or approximately 37 units/year.

The County estimates a total of 11,701 units at build-out (pop. 26,327), meaning that only one third (32%) of the development potential of Cambria has been realized.³ The thousands of vacant lots remaining in Cambria raise a variety of coastal resource planning issues. First and foremost is the challenge of reducing the build-out potential of the many small lots within the Urban Services Line. The County currently has a Transfer of Development Credit program in place in an effort to reduce the number of potential building sites in Cambria.

Notwithstanding the efforts being made by the CSD, water production in Cambria continues to increase. As shown in the chart above, while the rate of increase since 1990 is not as great as previous years, water withdrawals from San Simeon and Santa Rosa Creeks nonetheless are still climbing. Based on data through 1998, the annual water demand for Cambria in 2000 was estimated at 800 AFY (Cambria Elementary School DEIR, 2001). This figure, however, does not account for water shortages during the dry season, or any of the outstanding commitments the CCSD has made to future development. For example, as of October 1999, there were about 130 new residential units (demanding an additional 31 AFY) in the plan approval and construction process⁴. Currently, a waiting list representing over 700 residential units (expected demand of approximately 168 AFY) exists for people wishing to build within the CCSD service area. In addition, the proposed Cambria Elementary School, located outside of the

³ This assumes full occupancy rate. At the current occupancy rate, buildout population would be 19,305. *NCAP Update—Revised Buildout Estimates; Background Report September 1999.*

⁴ North Coast Area Plan Project Description, January 2000.



USL, is expected to increase the overall water usage by more than 13 AF per year. The County projects the need for more than a doubling of current water production (approx. 1,500 AFY) in Cambria by 2020.⁵

Thus, although the CCSD has an entitlement to a water supply that may be sufficient to support a modest amount of additional development in years when rainfall is average or better, it may not be adequate to meet even the existing demand in a year when precipitation is much below average (NCAP Project Description, 2000).

3. Consistency Analysis

Over three years have past since the Commission's finding in the 1998 NCAP Update that aggressive action was needed to address the inadequate water supply for urban development in Cambria. In that action, the Commission recommended that the County's LCP be modified to include a requirement that if certain performance standards to address habitat protection, development of a water management strategy, and buildout reduction in Cambria weren't met by January 1, 2001, that no further development that would draw on Santa Rosa and San Simeon Creeks be allowed. These standards have yet to be met.

It should be acknowledged, though, that since 1998 the CCSD has made progress on a number of fronts to address both short and long-term water supply issues in Cambria. First and foremost, a Baseline Water Supply Analysis has been completed that provides a report on the capacities of Santa Rosa and San Simeon Creeks (see below). The CSD is also moving forward with the development of a Water Master Plan, including a build-out reduction analysis, to identify long run strategies for providing a reliable water supply to Cambria. Last year the CSD also adopted two updated ordinances (3-2000; 4-2000) establishing an emergency water conservation program and strengthening prohibitions against water waste. The CSD has also been pursuing a revised desalination plant proposal (the Commission's previous coastal development permit approval for a plant has expired), and the Congress has authorized (but not yet appropriated) \$10 million to begin the initial studies and environmental review. In terms of denying new water connections, though, the CCSD has stated that it is constrained under California Water Code sections 350-59 to first declare a water shortage emergency (based on "insufficient water for human consumption, sanitation, and fire protection") before adopting restrictions on water use. Under Water Code 356, such restrictions may include denial of new service connections.⁶

⁵ Taking into account the Cambria Area Plan Standard established by the Coastal Commission requiring 20% of water supply to be reserved for priority uses (e.g. non-residential), the County has estimated that the CCSD could serve a total of 4,120 dwelling units with its current water supply—only 35% of total buildout.

⁶ Water Code 350 states:

The governing body of a distributor of a public water supply, whether publicly or privately owned and including a mutual water company, may declare a water shortage emergency condition to prevail within the area served by such distributor whenever it finds and determines that the ordinary demands and requirements of water consumers cannot be satisfied without depleting the water supply of the distributor to the extent that there would be insufficient water for human consumption, sanitation, and fire protection.

Even a brief review of the current water situation and recent information makes it apparent that serious action must be taken immediately to assure that new development in Cambria is sustainable. As described in the *Preliminary Report*, a recent Baseline Water Supply Analysis conducted for the CCSD has concluded that the District's current water supplies are "marginal to inadequate to provide a 90 percent level of reliability" (in one of ten years there may not be enough water for current customers).⁷ When all of the foreseeable water commitments of the CSD are considered, including pending construction permits, intent to serve letters previously issued, and the CSD's water waiting list, the report concludes that the water supply is "inadequate to provide either a 90 or 95 percent level of reliability." This is consistent with the Commission's 1998 NCAP Update findings that the North Coast Area Plan, as proposed for amendment by the County, was inconsistent with the Coastal Act because it provided for continued urban development that could not be supported by existing water supplies.⁸ Of particular note in that action was the emphasis on the potential for another drought similar to the 1975-77 period when the Santa Rosa Creek groundwater basin was damaged through subsidence and Cambria's population was much lower than it is now.

The new water supply study also supports a finding that the standards of the certified LCP to assure sustainable new development are not being met. Specifically, Public Works Policy 1 requires that:

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 service line for which services will be needed

At face value, the conclusion that the existing water supply for Cambria is inadequate to provide either a 90 or 95 percent level of reliability for foreseeable water commitments does not meet this LCP requirement for sufficiency. Moreover, there is considerable uncertainty, and a variety of assumptions underlying the Baseline Supply study, that cast even more doubt on the sustainability of Cambria's current water supply.

First, the Baseline Water Supply analysis was based on 3,796 existing connections in December of 1999 (3,586 residential and 210 commercial). As of April, 2001, there are now 3891 connections (3,678 residential, 213 commercial), an increase of 2.5%. In addition, according to the CSD, there are an additional 150 outstanding will-serve commitment letters, including 45 with connection permits. Assuming these all result in new water connections, the total number of water connections in Cambria will have increased by 6.5% since the Baseline Water Supply Analysis. This also does not account for the 650 remaining CSD customers on the waiting list for a water connection.

Second, and critical to the County's and Commission's responsibilities to protect sensitive coastal habitats, the Baseline Water Supply Analysis does not address the question of whether there are sufficient in-stream flows to maintain and protect sensitive species and their habitats. The study states:

*The District intends to evaluate the appropriate minimum groundwater levels to avoid adverse environmental impacts to downgradient habitats. Accordingly, it is recommended that the assumed minimum groundwater levels be reviewed when these evaluations have been completed.*⁹

In addition, the California Department of Fish and Game has asserted that prior dry season pumping of the Santa Rosa creek wells has had negative impacts on habitats for sensitive species, including tidewater goby, red-legged frog, and steelhead trout.¹⁰ In more recent months, the U.S. Fish and Wildlife has initiated discussions with the CCSD about preparing a multi-species Habitat Conservation Plan for sensitive habitats of the North Coast, including steelhead and red-legged frog.

⁷ Baseline Water Supply Analysis, Cambria Community Services District, December 8, 2000, p. ES-1.

⁸ North Coast Area Plan Update, Adopted Findings, California Coastal Commission (1998) p. 51.

⁹ *Id.*, 2-5.

¹⁰ *Id.*, A-6.

One of the NCAP performance standards adopted by the Commission in 1998, but not accepted by the County, was a requirement to conduct in-stream flow studies of both San Simeon and Santa Rosa creeks to assure that continued and future water withdrawals would not adversely impact sensitive riparian habitats. This modification adopted by the Commission mirrors an existing condition of the CCSD permit for water withdrawals from Santa Rosa Creek that required that instream flow study be initiated to determine necessary water levels to protect steelhead.¹¹ As mentioned above, instream flow studies have not been completed for either Santa Rosa or San Simeon creek.

The CCSD has funded a study that examined steelhead and habitat trends in San Simeon Creek. Nonetheless, this study does not directly address the relationship between the pumping of San Simeon Creek underflows and steelhead and other sensitive species habitats.¹² The study, though, does show correlations between reduced base stream flows and sedimentation on one hand, and reduced relative abundances of juvenile steelhead on the other. The study is also a limited time series (six years), making it difficult to draw firm conclusions about the impact of CSD municipal withdrawals on instream habitats. Even so, the study concludes:

*The persistence of the San Simeon Creek steelhead population has become more tenuous, with the further deterioration of non-streamflow related aspects of habitat from sedimentation . . . , combined with reduced summer baseflow and likely increased streamflow diversion from well pumping by new streamside development in the heretofore perennial reaches.*¹³

Again, this conclusion does not speak directly to the question of how Cambria's urban water withdrawals may be impacting in-stream habitats. It also indicates that the habitat values of the coastal creeks in San Luis Obispo are impacted by multiple uses up and downstream. Nonetheless, until more systematic habitat and in-stream flow study is completed, it is difficult to conclude that the County's approval of new development that relies on water withdrawals from San Simon and Santa Rosa creeks are consistent the certified LCP.

Third, the sustainability of the current Cambria water situation is also drawn into question when one considers that the certified LCP requires that 20% of Cambria's water and sewer capacity be reserved for visitor-serving and commercial uses. In terms of actual water consumption, the CSD appears to be meeting this goal, due to the high level of water consumption per commercial connection compared to residential connections. Thus, of the approximate 800 acre-feet of water produced in 2000, less losses to the system, nearly 25% was delivered to non-residential (primarily visitor-serving) with 75% going to residential uses. However, in order to meet the 20% visitor-serving reservation standard in new development approvals, a finding would need to be made that the actual water available at the time of a residential permit approval is 25% higher than that normally required for a residential use. In other words, the conclusion of the Baseline Water Supply Analysis underestimates the actual water needed for urban sustainability in Cambria if one takes into account Coastal Act priority uses in the approval of new developments.

Fourth, to implement the Coastal Act priority for agriculture, the LCP also requires that water extractions, consistent with habitat protection, give highest priority to preserving available supplies for existing or expanded agricultural uses (Agriculture Policy 7). No systematic monitoring or data is available concerning agricultural production water needs or pumping in the Santa Rosa and San Simeon Creek Basins. Although State Water Resources Control Board water permits require the CSD to deliver water to upstream riparian users if their wells become unusable, it is unclear whether Agriculture will be protected if withdrawals for urban uses continue, particularly during severe drought years. Moreover, the findings of the Baseline Water Supply study are based on an assumption that agricultural water use remains similar to historical volumes and patterns. As discussed by the Commission in its recent Periodic Review of the SLO County LCP, water use for agricultural land uses can vary and change quickly,

¹¹ CSD Water Diversion and Use Permit 20387, Condition 18.

¹² Alley, D. W. and Associates, *Comparison of Juvenile Steelhead Production in 1994-99 for San Simeon Creek, San Luis Obispo County, California, With Habitat Analysis and an Index of Adult Returns* (August, 2000).

¹³ *Id.*, p. 36.

depending on agricultural markets, weather, etc. When current and potential urban and agricultural water needs are combined, it is by no means clear that groundwater basins are being protected. In fact, as discussed by the Commission in 1998, there is some data that shows that past combined withdrawals have exceeded the supposed safe annual yield of San Simeon Creek.¹⁴

Fifth, also as discussed in the recent Periodic Review, the CCSD has also been responding to an MTBE emergency contamination situation near its Santa Rosa Creek wells, which has placed severe stress on its ability to meet Cambria's water needs. The District is currently unable to pump from its Santa Rosa wells due to the proximity of the MTBE plume. Although the CSD has drilled an emergency supply well further upstream, this well is not yet ready for use, and in any event will only provide an emergency water supply. The unavailability of the Santa Rosa Creek wells puts additional stress on San Simeon Creek. The Baseline Water Supply study concludes that without Santa Rosa Creek, the CSD's current water supplies are inadequate to meet current demands.¹⁵

Sixth, although visitor-serving uses are a priority use under the LCP, the potential for increases in visitor-serving water use through existing connections adds still more uncertainty to the conclusions about available supply. Current water demand in Cambria peaks in the summer months, due to both increased visitors in the commercial sector (restaurants and overnight accommodations), and increased residential landscape irrigation. It is unclear as to how future increases in visitors to Cambria may lead to actual increases in water pumpage from San Simeon and Santa Rosa Creeks, notwithstanding that no new connections may be added. This point has been made by many concerned about the State Park's effort to increase off-season visitation to Hearst Castle, which would no doubt place added demands on Cambria's infrastructure. In addition, many of Cambria's existing residences are not occupied by full-time residents but rather, serve as vacation rentals to weekend or summer visitors. There is some indication, though, that there is a trend away from vacation rentals, as more Cambria homeowners take up full-time residence. This, too, will mean an increase in actual water withdrawals without any real increase in water connections.¹⁶

Finally, it should be noted that the United Lot Owners of Cambria have submitted to the Commission an independent analysis of existing water information from Navigant that concludes that water supply in Cambria "can be managed to support an approximate 10 percent increase in use."¹⁷ Although every detailed comment of the Navigant review cannot be analyzed here, a few observations are needed. First, even if the Navigant study is correct in its 10 percent estimated buffer, there are currently 3891 connections and 800 outstanding commitments (150 will-serve letters and 650 on the waiting list). Thus, an increase of over 20% in supply would be needed to serve outstanding commitments, as required by Public Works Policy 1.

Second, the overall conclusion of this independent analysis relies heavily on a recently published U.S. Geological Survey analysis of Santa Rosa and San Simeon Creek groundwater basins.¹⁸ The USGS report presents a simulated water budget for the two creeks for the period April 1988 through March 1989. This budget shows that the net water flow into each basin is negative (-50 acre feet for Santa Rosa and -10 for San Simeon), meaning that more water is flowing out of the basin through withdrawals and creek seepage than is flowing back into the basin through rainfall, seepage, irrigation return-flows, etc. The USGS study is careful to point out that the water budget is simulated for a "dry year", and has a certain margin of error, and thus should not be interpreted as necessarily showing a long-term deficit or imbalance in the groundwater basins.

¹⁴ *North Coast Area Plan Update Findings*, p. 47.

¹⁵ *Baseline Water Supply Analysis*, p. 3-4.

¹⁶ The County's recent LCP amendment submittal states that there is no reliable survey data as to the exact number of vacation rentals in Cambria, although some data has been presented from the industry suggest at least 150 rentals producing 5000 days per year or approximately 33 days a year per unit.

¹⁷ See Correspondence from Navigant, 11/28/00, Exhibit x, p. x.

¹⁸ *Hydrogeology, Water Quality, Water Budgets, and Simulated Responses to Hydrologic Changes in Santa Rosa and San Simeon Creek Ground-Water Basins, San Luis Obispo County, California*, U.S.G.S., Report 98-4061 (1998).

The Navigant review analyzes the USGS water budget analysis, but it does so by aggregating the data for the two creeks, and by substituting a 760 acre-foot municipal pumpage number for the 800 acre-foot number of actual pumpage in 1988. In aggregate, this analysis shows a total deficit of only 10 acre-feet. Factoring in error, the Navigant study asserts that "from a groundwater management standpoint, an increase in municipal pumpage of approximately ten percent is considered reasonable, and should have a minimal impact on the local hydrologic system." The USGS model, though, actually shows a deficit of 50 acre-feet for Santa Rosa Creek and 10 acre-feet for San Simeon Creek (60 acre-feet if aggregated). Moreover, the USGS model was simulated for a year when the CSD was withdrawing water from both creeks (250 afy from Santa Rosa and 550 afy from San Simeon). In more recent years, the CSD has been pumping mostly from San Simeon Creek, with recent production exceeding 700 afy from San Simeon Creek alone. Although this could be better for Santa Rosa Creek, it raises significant uncertainty for San Simeon Creek, particularly concerning the protection of in-stream habitats. In addition, the CSD again reached 800 afy of pumping in 2000. As discussed, although significant gains in efficiency of use have been made since 1988, aggregate water use has continued to rise with the steady increase in new connections.

The Navigant review cites other findings of the USGS report to support a more optimistic view of Cambria's water supply, including analyses that show the likelihood of consecutive "extremely dry years" to be very low (e.g. one every 430 years in San Simeon Creek basin). These citations, though, are selective and indeed, do not address the various factors discussed above that create additional uncertainty about the available supply. In particular, groundwater basin damage from excessive withdrawals can occur, as they did in 1976, in dry years that do not meet the USGS study definition of an extremely dry year (2 or more consecutive years with incomplete basing recharge).¹⁹ Nor do they directly address the Coastal Act policy requirements of protecting groundwater basins and sensitive habitats. Moreover, the USGS report itself draws overall conclusions that at best are neutral with respect to available supply and at worst, support the finding that there is inadequate water to support new development. These conclusions include the following:

- The most significant long-term trend in water levels has been a gradual increase in the amount of dry-season water-level decline in the San Simeon Basin. This change is the result of increases in municipal and agricultural pumping during the dry season (p. 98). [As shown in the Baseline Water Supply Analysis, since 1988 (the last data year of the USGS study), dry-season water levels in San Simeon Creek have continued to be drawn down to near sea-level. At these levels, damage to the groundwater basin and seawater intrusion become an issue, to say nothing of threats to instream habitats.]
- Municipal pumpage affects water levels throughout the San Simeon Basin (100).
- Simulations indicated that at 1988 agricultural and municipal pumping rates, water levels decline almost to the threshold at which some subsidence could occur in the Santa Rosa Basin even during dry seasons with a recurrence interval of only 5 years (101).
- Incomplete basin recharge was estimated at every 18 years for Santa Rosa and every 25 years for San Simeon. In light of the "considerable uncertainty" with these estimates, though, these recurrence levels are short enough to warrant consideration during water-supply planning (101).
- Simulated effects of a winter without streamflows showed wells in both basins going dry, subsidence in Santa Rosa, and seawater intrusion in San Simeon Creek basin (101).

Overall, the weight of the evidence, including analysis of water use trends and available information about safe-yields of the two creeks, still supports a finding that there is currently insufficient water supply to support new development served by the Cambria CSD, particularly given the uncertainty in weather patterns and critical

¹⁹ *Id.*, p. 86: "Land subsidence and ground deformation occurred in Cambria in the summer of 1976 and could occur again if the minimum dry-season water is close to or less than the record low level reached that year."

shortages that may occur in dry years. Indeed, based on interpretation of the 127 year rainfall record for San Luis Obispo County, one local water expert has concluded that the current demand for water would have exceeded the carrying capacity of San Simeon Creek four times (see Exhibit 9). Although the Navigant review finds that from a "groundwater management standpoint" there is a 10% buffer in available supply, this finding appears to be based not only on aggregate data (as opposed to individual groundwater basin analysis), but also on assumptions about the error inherent in the available data.²⁰ The Navigant review does not explain what is meant by a "groundwater management standpoint," although presumably it means that additional water to support new development could be squeezed out of the system through better management and conservation. Again, the Navigant study does not address sensitive habitat concerns.

²⁰ Moreover, if the intent is to simply identify a margin of error in the analyses of available supply, it is just as likely that the error is in the other direction also – i.e. 10% less water than identified.

