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Staff Report: Appeal Substantial Issue Determination

Application numberA-3-SLO-02-073, Hudzinski SFD

Applicant.....Robert and Francis Hudzinski

Appellants.....Commissioners Wan and Desser

Project location.....1588 Bradford Rd. (Lodge Hill), Cambria, San Luis Obispo County.

Project descriptionConstruction of a two-story 2,334 sq. ft. single-family residence.

Local approval.....The San Luis Obispo County Planning Commission approved Minor Use Permit/Coastal Development Permit D010339 for the project on August 2, 2002.

File documents.....San Luis Obispo County certified Local Coastal Program; Final Local Action Notice 3-SLO-02-422; documents and materials from the local record provided by San Luis Obispo County on September 20, 2002; Periodic Review of the San Luis Obispo County Certified Local Coastal Program.

Staff recommendation...Substantial Issue Raised

Summary: The Applicant proposes to construct a two-story, 2,334 square foot single-family residence in the Lodge Hill area of Cambria in San Luis Obispo County. The subject site is a triple, forested lot of approximately 9,844 square feet. The County approved the project subject to 10 conditions, finding it consistent with the San Luis Obispo County Local Coastal Program. The Standard of review is the San Luis Obispo County Local coastal Program.

The appellant's contentions relate to the availability of adequate water supplies in the community of Cambria. As required by Public Works Policy 1 of the San Luis Obispo County LCP's *Coastal Plan Policies*, all new development must demonstrate that there is sufficient water supply to serve the development. The appellants also contend that the project is inconsistent with LCP ESHA policies.

Staff recommends that the Commission determine that a **substantial issue** exists with respect to the grounds on which the appeal has been filed. In particular, the appeals raise a substantial issue regarding project conformance to LCP policies requiring the demonstration of adequate water availability (Public Works Policy 1).



California Coastal Commission
November 07, 2002 Meeting in San Francisco

Staff: J. Bishop Approved by: DSL

In order to find the project consistent with the LCP Public Works policies a finding must be made that there is sufficient water supply to serve the existing developed parcels in Cambria as well as the proposed project. In this case, the County accepted the Intent-to-Serve letter issued by the Cambria Community Services District (CCSD) as evidence of adequate water supply. However, this allocation was made prior to the declaration of the current water shortage. The Commission has previously recognized the serious water supply situation in Cambria and uncertainty still exists with respect to the environmental sustainability of the community's water supply. Most importantly, the burden of the uncertainty in the existing water supply must not be placed on coastal resources. Given the significant outstanding questions regarding the adequacy of the water supply available to serve existing development, the approval of new development that will increase water demand is inconsistent with Public Works Policy 1.

Substantial issues are also raised by appeal contentions that challenge the project's consistency with LCP environmentally sensitive habitat area (ESHA) policies. As approved by the County, the additional water needed to serve this development will require an increase in water withdrawals from Santa Rosa and San Simeon Creeks which has the potential to overdraft limited groundwater supplies, resulting in the disruption of sensitive riparian and wetland habitats inconsistent with LCP ESHA Policy 1, 2, 5, 18, 21, as well as Coastal Watershed Policy 1, 3, and 6. In addition, the appellants contend that a substantial issue is raised with respect to Agriculture Policy 7 and Recreation and Visitor Serving Facilities Policy 2, which give agriculture highest priority for water, consistent with the protection of aquatic habitats.

Therefore, staff recommends that the Commission find that a substantial issue is raised by the appellants' contentions, and that the de novo hearing on the project be continued to a later date to allow for further evaluation of the project under the resource protection standards of the LCP.

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Exhibits

1. Vicinity Map
2. Land Use Map
3. Site Plan
4. Appellants' Contentions
5. County Conditions of Approval

I. Local Government Action

The County of San Luis Obispo Planning Commission approved the proposed development on August 2, 2002, subject to 10 conditions (see Exhibit 4 for the County's conditions).

II. Summary Of Appellants' Contentions

Please see Exhibit 4 for the full text of the appeal.

The appellants, Commissioners Wan and Desser, have appealed the final action taken by the County Planning Commission on the basis that approval of the project is inconsistent with Public Works and ESHA policies of the San Luis Obispo County Local Coastal Program.

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 to the Coastal Commission because it involves development within Sensitive Resource Areas designated by the LCP; specifically, the project proposed development within environmentally sensitive habitats associated with the Monterey Pine forest.

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



a coastal development permit. Section 30604(c) also requires an additional specific finding that the development is in conformity with the public access and recreation policies of Chapter Three of the Coastal Act, if the project is located between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone. This project is not located between the first public road and the sea.

IV. Staff Recommendation On Substantial Issue

The staff recommends that the Commission determine that a substantial issue exists with respect to the grounds on which the appeal was filed pursuant to Coastal Act Section 30603.

MOTION:

Staff recommends a “NO” vote on the following motion:

“I move that the Commission determine that Appeal No. A-3-SLO-02-073 raises no substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act.

A majority of the Commissioners present is required to pass the motion. Failure of the motion, as recommended by staff, will result in Commission jurisdiction over the project, a *de novo* hearing on the application, and adoption of the following resolution and findings.

RESOLUTION TO ADOPT SUBSTANTIAL ISSUE:

The Commission hereby finds that Appeal No. A-3-SLO-02-076 presents a substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act regarding consistency with the Certified Local Coastal Plan.

V. Recommended Findings and Declarations

A. Project Location and Description

The project is located at 1588 Bradford Road in the community of Cambria, San Luis Obispo County. Lodge Hill is an extensive residential area located within the Monterey Pine forest terrestrial habitat, south of Highway One (Exhibit 1). The topography of the 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 project site is a triple, forested lot of approximately 9,844 square feet (please see Exhibit 2 for project plans). The proposed residence consists of the garage and living space on two levels, both above the average natural grade. The County approval authorizes the construction of anew single-family residence with 1,562 square feet of footprint, and 2,334 square feet of gross



structural area. The overall height of the proposed residence is 20 feet, as measured from the average natural grade of the site.

B. Substantial Issue Determination

1. Public Services

a. Relevant Local Coastal Program Provisions

As required by Public Works Policy 1, 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 CZLUO 23.04.430:

CZLUO 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 these urban service policies, water supply for new development in Cambria must be considered in light of LCP 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 LCP 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.

b. County Action

On August 2, 2002 the San Luis Obispo Planning Commission approved the Minor Use/Coastal Development Permit D010339P subject to 10 conditions. The staff report indicates that water is to be provided by Cambria Community Service District (CCSD), which extracts underflow (shallow groundwater) from both Santa Rosa and San Simeon Creeks. The County made no specific findings with regard to water availability, but rather, states that the CCSD's intent-to-serve letter is the document attesting to the District's capabilities. The County accepted this intent-to-serve letter as evidence of adequate water and sewer service capacity to serve the proposed project.

c. Analysis

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.

¹ Application 132-18.



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 un-subdivided 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 is 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.

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 this development 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.

2001 Periodic Review

The Coastal Act requires that every certified LCP be reviewed periodically to determine whether the LCP is being effectively implemented in conformity with the policies of the Coastal Act. On July 12, 2001 the Commission adopted the *Periodic Review of the San Luis Obispo County LCP*. In this report, the Commission made a number of recommendations related to environmentally-



sustainable urban development in Cambria. In terms of specific findings, the Preliminary Report highlights the problems of short and long-term growth in Cambria. The report concludes that Cambria has serious concerns related to limited groundwater supply and the protection of sensitive habitat areas with respect to the sustainability of existing and future development in an area with limited water supplies. 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 CCSD 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.

CCSD Water Moratorium

Most recently, the Cambria Community Service District (CCSD) has taken more programmatic steps towards resolving the unsustainable development trends in Cambria. On October 25, 2001 the CCSD Board of Directors considered whether to pursue the declaration of a water shortage emergency. At that meeting, the Board of Directors determined that sufficient evidence existed to consider the declaration of a water shortage emergency based on an inability to accommodate the anticipated growth of the community in the near future. At that same meeting, an additional 38 intent-to-serve letters were approved by the CCSD Board of Directors.

On November 15, 2001 the CCSD Board of Directors declared a water emergency. Part of this action included not allowing any additional intent-to-serve letters to be issued (i.e. anything beyond those that were issued during the October 25, 2001 meeting). The following list includes additional actions adopted by the CCSD to accompany the declaration of a water emergency:

- Reactivate the retro-fit program as contained in the CCSD Ordinances 1-98, 2-98, and 2-99;
- Investigate additional opportunities to implement water saving measures through the retro-fit program;
- Enforce Ordinance 4-2000 (water waste provision);



- Identify any additional opportunities to improve Ordinance 4-2000;
- Request that the County of San Luis Obispo adopt restrictions on the installation of landscaping within the Cambria CSD to minimize the impact or irrigation on water supplies;
- Develop a plan to ensure the enforcement of all restrictions and regulations regarding water usage in Cambria;
- Pursue the development of water master plan;
- Evaluate the current rate structure and develop changes and improvements.

Through the declaration of a moratorium on new water connections, the CCSD has taken a critical step in curbing short-term development potential in Cambria. Since October 25, 2001 no new intent-to-serve letters have been issued by the CCSD. The moratorium effectively limits new development in Cambria until the uncertainty with respect to water supplies can be resolved. However, the moratorium does not limit those projects declared "in the pipeline" by the CCSD. "Pipeline projects" are defined as projects that have development applications accepted for processing by the County, and are also accompanied by an intent-to-serve letter or some other form of evidence that the CCSD has committed to providing the development with water.

As of August 21, 2002, the CCSD has indicated that there were a number of "intent-to-serve" letters currently outstanding from the CCSD that have yet to complete the County permit process. These outstanding commitments include both residential and commercial development totaling 102 "Equivalent Dwelling Units" (EDU's), or approximately 9,000 gallons of water per day. The total average current daily water production by the CCSD equals 720,000 gallons of water. According to these CCSD's figures, the water use attributable to these outstanding intent-to-serve letters represent an approximate 1.25% increase in total water supplies needed to serve these outstanding commitments. There are an additional 45.7 inactive "grandfathered" EDU allocations, 13 single-family active meters in place, but not activated, and 27 connection permits that are being issued for recently processed building permits. Thus, the total increase in water use associated with "pipeline projects" can be estimated to be significantly greater.

2. Substantial Issue Analysis

The Commission has previously recognized the serious water supply situation in Cambria, and raised concern that currently-available water supplies are not sufficient to support existing and future development without harm to sensitive 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 History/Background discussion above). These concerns remain outstanding, as reflected by the Commission's most recent finding of substantial issue with respect to a new single-family residence in Cambria.²

² August 8, 2002 (A-3-SLO-02-050, Monaco).



The issue brought forth by the appellant relates to the adequacy of available water supplies to support new development. In terms of this coastal development permit analysis, the available water supply data indicates that the standards of the certified LCP to assure sustainable new development are not being met.

Specifically, Public Works Policy 1 requires that:

New development (including divisions of land) shall demonstrate that adequate public or private service capacities are available to serve the proposed development...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. Permitted development outside the USL shall be allowed only if it can be serviced by adequate private on-site water and waste disposal systems.

The subject lot is an existing legal parcel. The applicant proposes to construct a single-family residence and associated structures, which will place additional demands on Cambria's water supply. The CCSD measures this demand in terms of "equivalent dwelling units" (EDU's); the project requires one (1) additional "equivalent dwelling unit" (EDU) of water.

A review of the current water supply situation and recent information indicates that in many years, there is inadequate water to sustain existing development in Cambria consistent with the protection of sensitive riparian and wetland habitats. A recent Baseline Water Supply Analysis conducted for the CCSD in December of 2000 has concluded that the District's current water supplies cannot sustain existing levels of development. The report concludes 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). Moreover, there are a number of assumptions underlying this study that cast even more doubt on the sustainability of Cambria's current water supply. The most critical of these "assumes that there will be no impact to critical habitat based on normal year precipitation. However, potential impact to habitat during multiple year droughts is unknown." In addition to reducing water availability, sequential drought years have the potential to damage groundwater basin storage capacity. This was evidenced during the 1975-77 drought period when the Santa Rosa Creek groundwater basin was damaged through subsidence.

It is also important to note that the Baseline Water Supply Analysis was based on 3,796 existing connections in December of 1999 (3,586 residential and 210 commercial). As of October 1, 2002, there are now 3934 connections (3,729 residential and 205 commercial), an increase of 3.6%. In addition to these new connections, an increase in water demand is anticipated for existing uses and proposed public facilities (e.g. State Park restroom, SLO County Shamel Park restroom, Elementary, Middle and High School, and Camp Ocean Pines, for example). Moreover, there are additional indications that there is potential for increases in visitor-serving water use through existing connections. For example, many of Cambria's existing residences are



seasonally occupied as vacation rentals. A recently proposed LCP amendment³ (if certified) allows occupation of a vacation rental by the owner and/or his guests during the same weekly period that managed guests are staying, augmenting existing water usage at that time. It can be argued that heightened water consumption results from higher than average numbers of occupants per rental dwelling and increased use of water intensive facilities (hot tubs, jacuzzis, pools, showers, etc.) at these times. However, 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.

A number of other technical studies have been conducted to better understand the current water supply situation in Cambria. These include a CCSD funded study that examined steelhead habitat trends in San Simeon Creek⁴, a U.S. Geological Survey analysis of Santa Rosa and San Simeon Creek groundwater basins⁵, and an independent analysis submitted the United Lot Owners of Cambria⁶. One key factor not addressed in any of the studies is the potential impact to sensitive habitats (e.g. steelhead) during multiple drought years. This information is critical in the County and Commission's responsibilities to protect sensitive coastal habitats. While these studies are important in understanding the complexities of surface and groundwater flows, none of the studies draw firm conclusions about the impact of water withdrawals on sensitive in-stream habitats. In fact, one of the North Coast Area Plan 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. To date, in-stream flow studies have not been completed for both creeks.

The health of coastal creeks in San Luis Obispo is impacted by multiple uses up and downstream. A portion of water withdrawals from the Santa Rosa and San Simeon Creek groundwater basins are outside of the CCSD's control. As mentioned in the USGS technical report, municipal and agricultural pumping are the largest outflows and cause dry-season water-level declines throughout the San Simeon Basin. Therefore, the interplay between multiple users within a finite resource system must be considered in light of all LCP resource protection policies. The LCP requires that water extractions, consistent with habitat protection, give highest priority to preserving available supplies for existing or expanded agricultural uses (Coastal Watershed Policy 6, Agriculture Policy 7, and Recreation and Visitor-Serving Policy 2). As mentioned, the proposed project will require additional water withdrawals for a residential use. Due to the lack of information on future agricultural needs or current pumping levels, it remains unclear whether Agriculture will be protected and preserved if withdrawals for urban uses continue. Moreover, when the existing municipal pumping needs are combined with the

³ SLO LCPA 1-01 (Residential Vacation Rentals).

⁴ 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)*.

⁵ *Hydrology, 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)*.

⁶ Navigant Engineering, 11/28/00



potential for future agricultural needs, it is even more difficult to conclude that groundwater basins and sensitive resources are being protected.

It should be acknowledged, though, that the CCSD has been proactive in its attempts to balance its pumping regimen (balancing the use of the two aquifers) with in-stream water flows and the health of the creek habitat. For example, although the CCSD is allowed to extract 260 acre-feet from the Santa Rosa Basin during the May-October dry season, this year they have only extracted approximately 52 acre-feet. The CCSD is also moving forward with the development of a Water Master Plan to identify strategies for providing a reliable water supply to Cambria. A critical component of the Water Master Plan will be to find alternative sources of water to San Simeon and Santa Rosa Creeks.

Recreation and Visitor-Serving Policy 2 of the LCP requires that 20% of Cambria's water and sewer capacity be reserved for visitor-serving and commercial uses. In conflict with this policy, the proposed project would require additional water withdrawals to serve residential development without maintaining an adequate reserve for future visitor-serving and commercial uses. First, approval of this project calls into question whether or not reserve capacities exist for future recreation and visitor-serving development. Based on the information discussed above, there does not appear to be adequate water capacity to sustain existing development consistent with the protection of coastal resources. In the event that there was available capacity, at least 20% would need to be reserved for visitor-serving and commercial uses. Thus, the allocation of the limited water allegedly available to support this residential development, without any assurance that 20% of the available capacity will be reserved for visitor-serving and commercial development, is inconsistent with Visitor-Serving Policy 2.

A recent study on fire suppression capabilities found that Cambria is at risk should there be a major fire. These conclusions were based mainly on antiquated piping systems and needs for more storage tanks. The risk is heightened in dry weather conditions when there is limited water supply to fight a wildfire adequately; 2002 has been a dry year. Furthermore, the Chevron MTBE spill continues to threaten the Santa Rosa Creek aquifer, limiting the community's use of wells there. This additional information would lend support to the finding that water supplies in Cambria are less than adequate.

d. Substantial Issue Conclusion

Overall, a number of the critical information needs previously identified by the Commission still exist with respect to sustainable development in Cambria. These include completion of an in-stream 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. Given the uncertainty surrounding sustainable water supplies in Cambria, it is critical that performance standards be completed and a plan of action developed and implemented to address this issue.



Clearly, the ability to provide adequate water to existing and future development in Cambria is a significant unresolved issue. 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, such a constraints based approach is necessary to meet the LCP requirement that new development be environmentally-sustainable. It cannot reasonably be concluded at this time that new development in Cambria is currently sustainable.

Therefore, a substantial issue is raised by this contention with respect to water availability.

2. Environmentally Sensitive Habitats

a. Relevant Local Coastal Program Provisions

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

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

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

Policy 2: Permit Requirement

As a condition of permit approval, the applicant is required to demonstrate that there will be no significant impact on sensitive habitats and that proposed development or activities will be consistent with the biological continuance of the habitat. This shall include an evaluation of the site prepared by a qualified professional which provides: a) the maximum feasible mitigation measures (where appropriate), and b) a program for monitoring and evaluating the effectiveness of mitigation measures where appropriate. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTIONS 23.07.170-178 OF THE CZLUO].

Policy 5: Protection of Environmentally Sensitive Habitats

Coastal wetlands are recognized as environmentally sensitive habitat areas. The natural ecological functioning and productivity of wetlands and estuaries shall be protected, preserved and where feasible, restored. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTIONS 23.07.170-178 OF THE CZLUO].



Policy 18: Coastal Streams and Riparian Vegetation

Coastal streams and adjoining riparian vegetation are environmentally sensitive habitat areas and the natural hydrological system and ecological function of coastal streams shall be protected and preserved. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD AND PURSUANT TO SECTION 23.07.174.]

Policy 21: County and State Review of Coastal Stream Projects

The State Water Resources Control Board and the county shall ensure that the beneficial use of coastal stream waters is protected, for projects over which it has jurisdiction. For projects which do not fall under the review of the State Water Resources Control Board, the county (in its review of public works and stream alteration) shall ensure that the quantity and quality surface water discharge from streams and rivers shall be maintained at levels necessary to sustain the functional capacity of streams, wetlands, estuaries and lakes. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD AND PUSUANT TO SECTION 23.07.174 OF THE CZLUO.]

Other applicable standards include Policies 1, 3, and 6 for Watersheds:

Policy 1: Preservation of Groundwater Basin

The long-term integrity of groundwater basins within the coastal zone shall be protected. The safe yield of the groundwater basin, including return and retained water, shall not be exceeded except as part of a conjunctive use or resource management program which assures that the biological productivity of aquatic habitats are not significantly adversely impacted. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD.]

Policy 3: Monitoring Resources

In basins where extractions are approaching groundwater limitations, the county shall require applicants to install monitoring devices and participate in water monitoring management programs. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD AND PUSUANT TO SECTION 8.40.065 OF THE COUNTY CODE (WATER WELL REGULATIONS).]

Policy 6: Priority for Agriculture Expansion

Agriculture shall be given priority over other land uses to ensure that existing and potential agricultural viability is preserved, consistent with protection of aquatic habitats. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD.]

In addition, the appeal contends that the project does not conform to the following CZLUO ordinance:

Section 23.07.174 – Streams and Riparian Vegetation:



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

b. County Action

On August 2, 2002 the San Luis Obispo Planning Commission approved the Minor Use/Coastal Development Permit D010339P subject to 10 conditions. The project was considered exempt under the California Environmental Quality Act.

c. Substantial Issue Analysis

The appeal contends that heightened water withdrawals needed to serve the project may significantly disrupt environmentally sensitive habitat areas. Inconsistent with ESHA Policies 1, 2, 5, 18 and 21, as well as Coastal Watershed Policies 1, 3, and 6, the amount of water needed to support existing and future development in Cambria may adversely impact sensitive instream, riparian, and wetland habitats supporting rare and important species such as Steelhead trout, Tidewater Goby, Southwestern pond turtle, and California Red Legged Frog. In addition, the appellants contend that the project raises substantial issue with respect to tree removal and the protection of the Monterey pine forest terrestrial habitat (TH).

Steelhead Streams

The Cambria Community Services District's water is supplied from wells that extract the underflow of San Simeon and Santa Rosa Creeks. Both creeks are known to support steelhead trout. The California Department of Fish and Game lists these creeks as important steelhead habitats. However, as discussed in the Public Works Findings, and inconsistent with ESHA and Watershed Policies, the anticipated levels of water withdrawal from both urban and agricultural users may deplete surface and groundwater flows needed for healthy steelhead spawning habitat. The amount of water flow needed to support this species can be determined through instream flow studies. The need for these studies was discussed at length in both the 1998 North Coast Update and the 2001 periodic Review. To date, these studies have not been completed.

Riparian and Wetland Habitat

The protection of riparian and wetland habitat depends on a reliable and sustainable water supply. San Simeon and Santa Rosa Creeks support rare and important species such as Tidewater Goby, Southwestern pond turtle, and California Red Legged Frog. Both of these streams form at least a seasonal lagoon/wetland area in the late spring season. As discussed previously, the heightened levels of water withdrawals needed to serve the "pipeline projects" may deplete surface and groundwater flows. Inconsistent with ESHA and Watershed Policies, new development may reduce the sustainable level and quality of water flowing in these coastal creeks and in turn may have adverse impacts to sensitive riparian and wetland habitat.

d. Substantial Issue Conclusion

The appeal raises a substantial issue regarding project conformance to LCP ESHA Policies



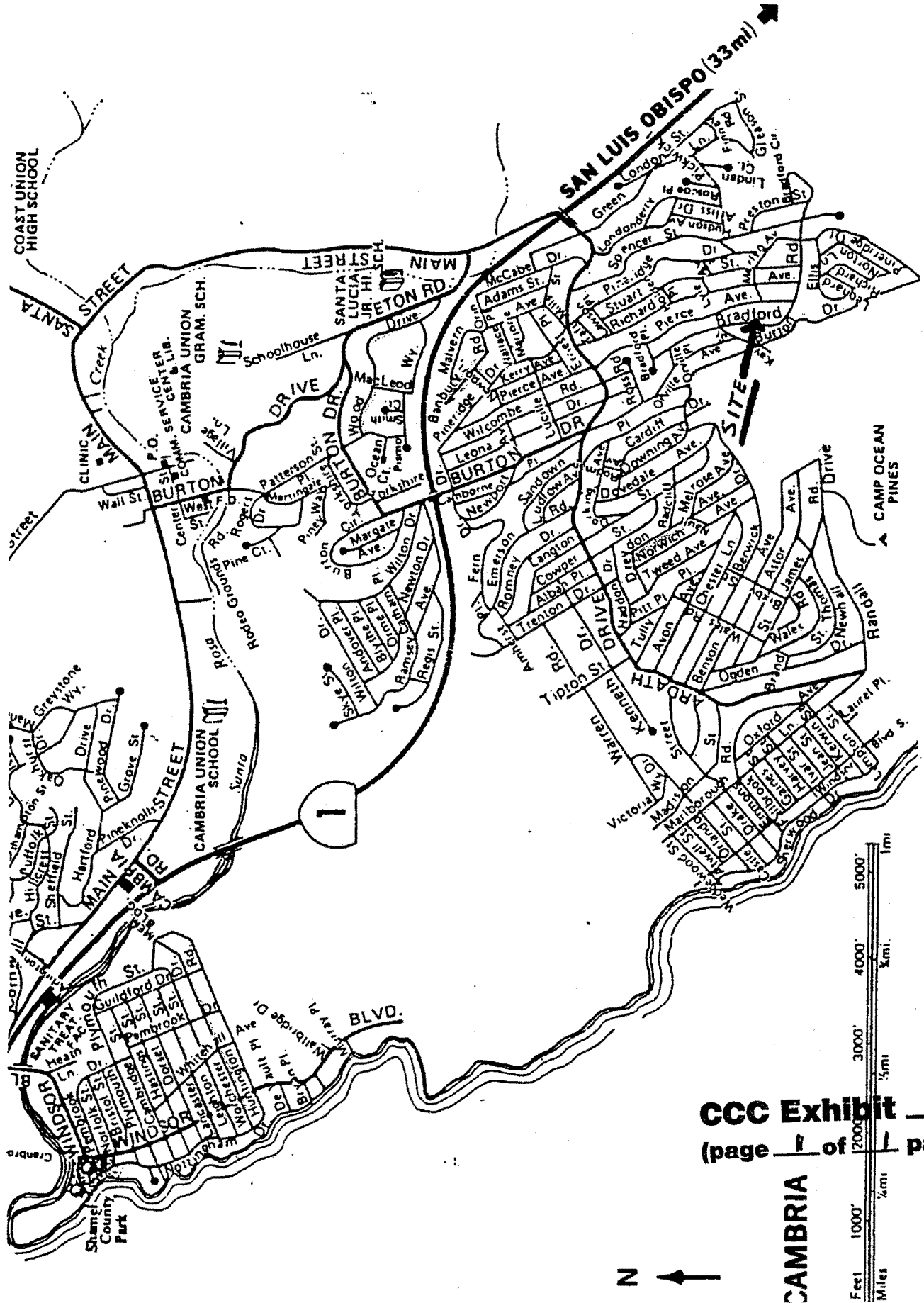
because the locally approved development has the potential to disrupt sensitive Monterey pine forest habitat, sensitive coastal streams, wetland and riparian habitat areas. The project construction impacts coupled with the additional water withdrawals needed to support the development may be incompatible with the health and continuance of these sensitive resources. **Therefore, a substantial issue is raised by the appellants' contentions with respect to LCP ESHA protection policies.**



VICINITY MAP

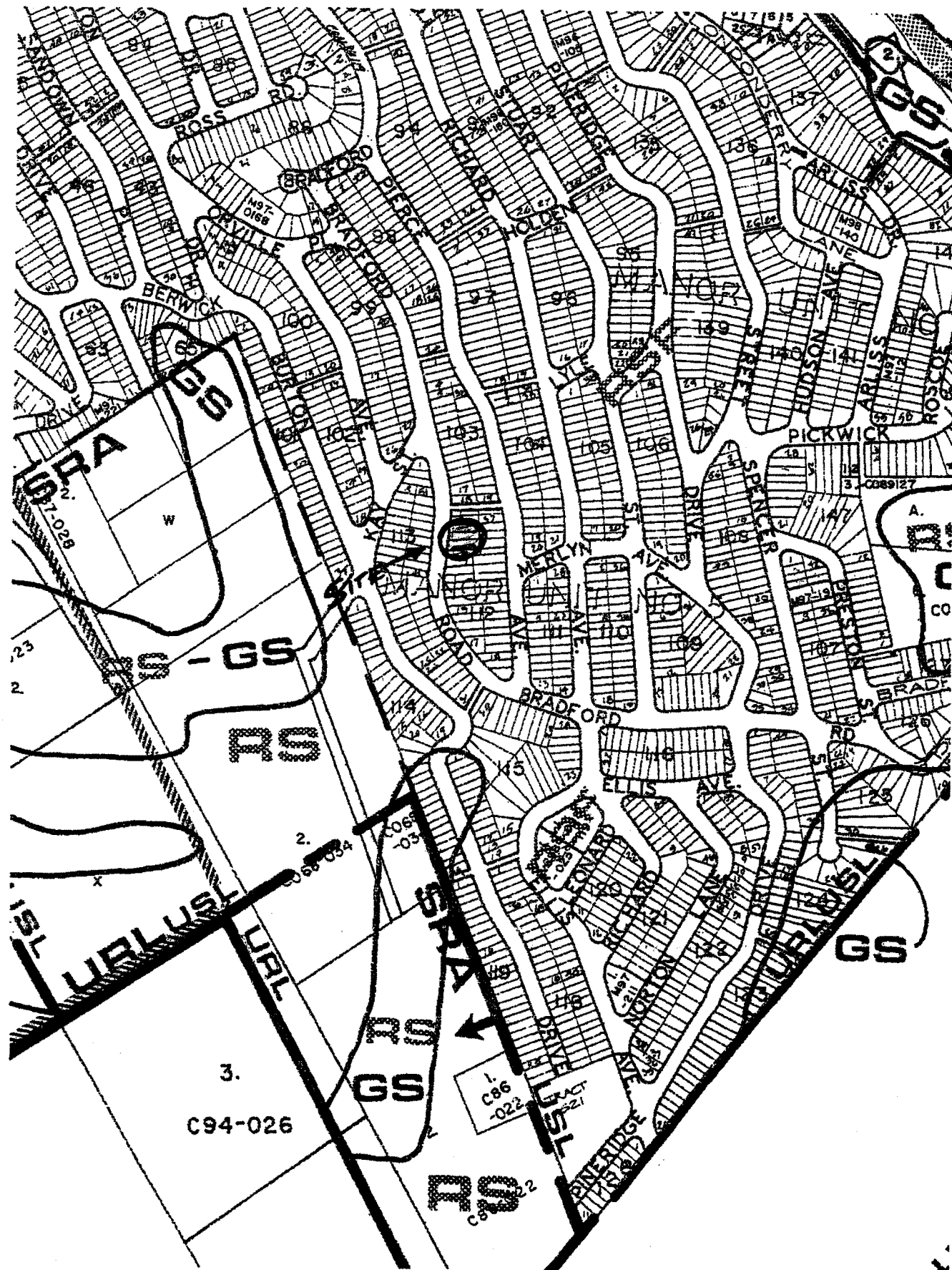
Hudzinski Project, Bradford Road, Cambria

Directions: Hwy 1 to Ardath Drive, left on Burton Drive, left on Orville Avenue, left on Orville Place, right on Bradford Drive, approximately 175 feet south of Kay Avenue (left side of road).



CCC Exhibit 1
(page 1 of 1 pages)

CAMBRIA

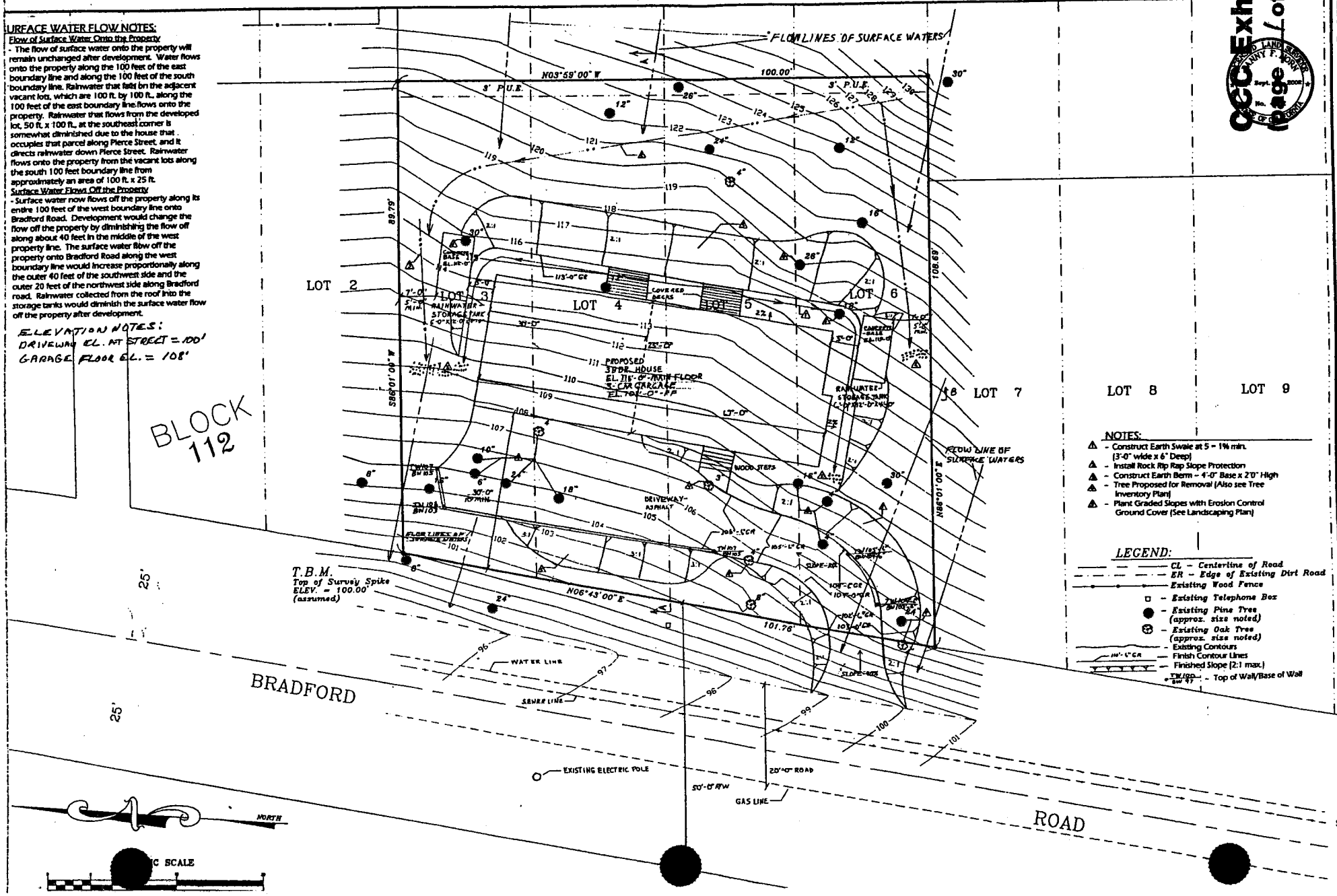


SURFACE WATER FLOW NOTES:
Flow of Surface Water Onto the Property
 - The flow of surface water onto the property will remain unchanged after development. Water flows onto the property along the 100 feet of the east boundary line and along the 100 feet of the south boundary line. Rainwater that falls on the adjacent vacant lots, which are 100 ft. by 100 ft., along the 100 feet of the east boundary line flows onto the property. Rainwater that flows from the developed lot, 50 ft. x 100 ft., at the southeast corner is somewhat diminished due to the house that occupies that parcel along Pierce Street, and it directs rainwater down Pierce Street. Rainwater flows onto the property from the vacant lots along the south 100 feet boundary line from approximately an area of 100 ft. x 25 ft.

Surface Water Flows Off the Property
 - Surface water now flows off the property along its entire 100 feet of the west boundary line onto Bradford Road. Development would change the flow off the property by diminishing the flow off along about 40 feet in the middle of the west property line. The surface water flow off the property onto Bradford Road along the west boundary line would increase proportionally along the outer 40 feet of the southwest side and the outer 20 feet of the northwest side along Bradford road. Rainwater collected from the roof into the storage tanks would diminish the surface water flow off the property after development.

ELEVATION NOTES:
 DRIVEWAY EL. AT STREET = 100'
 GARAGE FLOOR EL. = 108'

BLOCK
 112



- NOTES:**
- ▲ - Construct Earth Swale at 5 - 1% min. (3'-0" wide x 6" Deep)
 - ▲ - Install Rock Rip Rap Slope Protection
 - ▲ - Construct Earth Berm - 4'-0" Base x 2'-0" High
 - ▲ - Tree Proposed for Removal (Also see Tree Inventory Plan)
 - ▲ - Plant Graded Slopes with Erosion Control Ground Cover (See Landscaping Plan)
- LEGEND:**
- CL - Centerline of Road
 - ER - Edge of Existing Drtl Road
 - Existing Wood Fence
 - - Existing Telephone Box
 - - Existing Pine Tree (approx. size noted)
 - - Existing Oak Tree (approx. size noted)
 - Existing Contours
 - - Finish Contour Lines
 - - Finished Slope (2:1 max.)
 - - Top of Wall/Base of Wall

REVISIONS

Owner: Robert A. Hudzinski

Scale 1" = 1'

SITE PLAN/GRADING & DRAINAGE PLAN

**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 9, 2002
TO: Kerry O'Neill, Planner
County of San Luis Obispo, Planning & Building Department
County Government Center
San Luis Obispo, CA 93408
FROM: Diane Landry, Acting District Manager
RE: **Commission Appeal No. A-3-SLO-02-073**

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 #: D010339P
Applicant(s): Robert & Frances Hudzinski
Description: Construction of two-story, 2,334 sq.ft. single family residence.
Location: 1588 Bradford (Lodge Hill), Cambria (San Luis Obispo County)
(APN(s) 024-261-029, 024-261-026)
Local Decision: Approved w/ Conditions
Appellant(s): California Coastal Commission, Attn: Sara J. Wan; California Coastal Commission, Attn: Christina Desser
Date Appeal Filed: 9/5/2002

The Commission appeal number assigned to this appeal is A-3-SLO-02-073. The Commission hearing date has been tentatively set for October 8-11, 2002 in Eureka. 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 Jonathan Bishop at the Central Coast Area office.

CCC Exhibit 4
(page 1 **of** 8 **pages)**

CALIFORNIA COASTAL COMMISSION

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



APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENT

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

SECTION I. Appellant(s):

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

Commissioner Sara J. Wan	Commissioner Christina Desser
California Coastal Commission	California Coastal Commission
45 Fremont St., Suite 2000	45 Fremont St., Suite 2000
San Francisco, CA 94105	San Francisco, CA 94105
(415) 904-5200	(415) 904-5200

SECTION II. Decision Being Appealed

1. Name of local/port government:

San Luis Obispo County

2. Brief description of development being appealed:

Construction of a two-story, 2,334 sq.ft. single family residence.

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

1588 Bradford (Lodge Hill area), Cambria, San Luis Obispo County APN 024-261-029/026

4. Description of decision being appealed: **X**

- a. Approval; no special conditions: _____
- b. Approval with special conditions: XX
- 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-02-073
DATE FILED: September 5, 2002
DISTRICT: Central

RECEIVED

SEP 05 2002

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

CCC Exhibit 4
(page 2 **of** 8 **pages)**

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

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

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

6. Date of local government's decision: August 2, 2002

7. Local government's file number: D010339P

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:
Robert & Frances Hudzinski
3149 Bern Drive
Laguna Beach, CA 92651

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) Kerry O'Neill, Planner II
SLO County Planning & Building Dept.
County Government Center
San Luis Obispo, CA 93408
- (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: Reasons for Appeal

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

SECTION V. Certification

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

Signed: *Sara J. Wan*
Appellant or Agent

Date: September 5, 2002

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

Signed: _____

Date: _____

(Document2)

CCC Exhibit 4
(page 5 of 8 pages)

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: Reasons for Appeal

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

SECTION V. Certification

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

Signed: Christina Dem
Appellant or Agent

Date: September 5, 2002

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

Signed: _____

Date: _____

(Document2)

CCC Exhibit 4
(page 6 **of** 8 **pages)**

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
(408) 427-4863

**Reasons for Appeal: San Luis Obispo County Coastal Development Permit D010339P (Hudzinski)**

The County's approval of a new 2,334 square foot single family residence in the community of Cambria, is inconsistent with San Luis Obispo County LCP requirements regarding public service capacities and the protection of environmentally sensitive habitats for the following reasons:

1. The development relies on a speculative water supply, inconsistent with Public Works Policy 1.

San Luis Obispo County Public Works Policy 1 requires that new development demonstrate the availability of adequate public services, including domestic water supplies, prior to being permitted. The Intent to Provide Water and Sewer Service issued by the Cambria Community Service District (CCSD) is based on a former allocation that was made without consideration of the current water shortage.

Following the issuance of the intent-to-serve letter for this and other projects, the Cambria Community Services District (CCSD) declared a water emergency. As a result, no additional intent-to-serve letters will be issued until the CCSD Board can find that sufficient water is available to serve current and future demands. Because it is not clear if and when sufficient water will be available to serve this development, the project raises an issue regarding consistency with Public Works Policy 1.

2. The increase in water withdrawals needed to serve the project may significantly disrupt environmentally sensitive habitat areas.

The increase in water withdrawals from Santa Rosa and San Simeon Creeks needed to support the development may adversely affect sensitive riparian and wetland habitats supporting rare and important species such as the Steelhead trout, Tidewater goby, and California Red Legged Frog. As a result, the project raises issues regarding its consistency with:

- ESHA Policy 1, prohibiting significant disruption of sensitive habitat resources;
- ESHA Policy 2, requiring development applications to demonstrate that there will be no significant impact on sensitive habitats and the proposed development or activities will be consistent with the biological continuance of the habitat;
- ESHA Policy 5, protecting natural ecological functioning and productivity of wetlands and estuaries;
- ESHA Policy 18 and Section 23.07.174 of the Coastal Zone Land Use Ordinance, protecting the natural hydrological system and ecological functioning of coastal streams;

CCC Exhibit 4
(page 7 of 8 pages)

- ESHA Policy 21 and Coastal Zone Land Use Ordinance Section 23.07.174, calling for the quality and quantity of water in streams and rivers be maintained at levels necessary to sustain the functional capacity of streams, wetlands, estuaries, and lakes.
- Coastal Watershed Policy 1, calling for the long-term preservation of groundwater basins, among other means by managing groundwater resources in a manner that preserves the biological productivity of aquatic habitats.
- Coastal Watershed Policy 3, requiring applicants to install monitoring devices and to participate in water monitoring management programs in groundwater basins where extractions are approaching groundwater limitations.
- Coastal Watershed Policy 6, Agriculture Policy 7, and Recreation & Visitor-Serving Facilities Policy 2, which give agriculture highest priority for water, consistent with the protection of aquatic habitats.

FINAL ACTION: This tentative decision will become final action on the project, unless the tentative decision is changed as a result of information obtained at the administrative hearing or is appealed to the County Board of Supervisors pursuant Section 23.01.042 of the Coastal Zone Land Use Ordinance; effective on the 10th working day after the receipt of the final action by the California Coastal Commission. The tentative decision will be transferred to the Coastal Commission following the required 14 calendar day local appeal period after the administrative hearing.

FINDINGS - D010339P

- 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 the 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 the 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 the local street 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 proposed use in conformity 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.
- G As conditioned, the development will not create significant adverse effects on the natural features (Monterey Pine trees) of the site or vicinity that are the basis for the Sensitive Resource Area designation, and will preserve and protect such features through site design because the project has been designed to avoid extensive tree removal and the project is conditioned to design the foundation to protect addition resources.
- H Natural features and topography have been considered in the design and siting of all proposed physical improvements.
- I 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.

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

CONDITIONS OF APPROVAL - D010339P

AUTHORIZED USE

1. This approval authorizes the construction of a new single family residence with: 1,562 square feet of footprint and 2,334 square feet of gross structural area.
2. All permits shall be consistent with the approved Site Plan, Floor Plans, and Elevations.

GRADING, DRAINAGE, SEDIMENTATION, AND EROSION CONTROL

3. **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.
4. **Prior to issuance of construction permits**, the applicant shall submit a drainage plan for review and approval by the County Public Works Department.

PUBLIC WORKS

5. **Prior to issuance of a building permit**, the applicant meet all requirements of the County Public Works Department.

TREE PROTECTION/REPLACEMENT

In an effort to protect individual oak and pine trees, the mixed forest habitat, and the species that depend upon that habitat, the following measures shall be implemented:

6. **Within 90 days of occupancy, nine (9) Monterey pine tree** will be removed as a result of the grading for the driveway and residence shall be replaced at a 2:1 ratio for pine trees. A total of 18 Monterey pine trees shall be planted. Monterey pine replacement trees shall be one gallon saplings grown from the Cambrian stand, *Pinus radiata macrocarpa*.

7. These newly planted trees shall be maintained until successfully established. This shall include caging from animals (e.g., deer, rodents), periodic weeding and adequate watering (e.g., drip-irrigation). If possible, planting during the warmest, driest months (June through September) shall be avoided. In addition, standard planting procedures (e.g., planting tablets, initial deep watering) shall be used. Once the replacement trees have been planted, the applicant shall retain a qualified individual to prepare a letter stating the above planting and protection measures have been completed. This letter shall be submitted to the Department of Planning and Building.
8. All trees to remain on-site that are within ten feet of construction or grading activities shall be marked for protection (e.g., with flagging) and their root zone fenced prior to any grading. The outer edge of the tree root zone is 1-1/2 times the distance from the trunk to the drip line of the tree. Grading, utility trenching, compaction of soil, or placement of fill shall be avoided within these fenced areas. If grading in the root zone cannot be avoided, retaining walls shall be constructed to minimize cut and fill impacts. Care shall be taken to avoid surface roots within the top 18 inches of soil.

VOLUNTARY MERGER

9. **Prior to issuance of a building permit**, applicant shall apply to merge lots 3, 4, 5, and 6.
10. **Prior to final building inspection**, the applicant shall record voluntary lot merger.

