

CALIFORNIA COASTAL COMMISSION

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

Th7c

RECORD PACKET COPY

Filed:	09/05/02
Open & Continue:	10/09/02
49 th Day:	10/24/02
Staff:	JB
Staff Report:	10/17/02
Hearing Date:	11/07/02

Staff Report: Appeal Substantial Issue Determination

Application numberA-3-SLO-02-074, Pelle SFD

Applicant.....Steve Pelle

Appellants.....Richard Hawley; Commissioners Wan and Desser

Project location.....1609 Burton Drive (Lodge Hill), Cambria, San Luis Obispo County.

Project description.....Construction of a two-story 3,500 sq. ft. single-family residence with attached 900 sq. ft. garage, 350 sq. ft. sun porch, 595 sq. ft. guest house, and a 2,400 sq. ft. garage/workshop.

Local approval.....The San Luis Obispo County Planning Commission approved Minor Use Permit/Coastal Development Permit D000382P for the project on August 13, 2002.

File documents.....San Luis Obispo County certified Local Coastal Program; Final Local Action Notice 3-SLO-02-429; documents and materials from the local record provided by San Luis Obispo County on September 20, 2002; North Coast Area Plan Update 1998; Periodic Review of the San Luis Obispo County Certified Local Coastal Program 2001.

Staff recommendation...Substantial Issue Raised

Summary: The Applicant proposes to construct a two-story, 3,500 square foot single-family residence with attached 900 sq. ft. garage, 350 sq. ft. sun porch, 595 sq. ft. guesthouse, and a 2,400 sq. ft. garage/workshop in the Lodge Hill area of Cambria in San Luis Obispo County. The proposed project would disturb an approximately 34,000 square foot area on a 4.5-acre parcel located east of Burton Drive. The County approved the project subject to 20 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. In addition, appellant Richard Hawley contends that the project is inconsistent with LCP Public Works Policy 6 that requires implementation of the County's Resource Management System (RMS) and protection of coastal resources. The appellants also contend that the project is inconsistent with LCP ESHA policies.



California Coastal Commission
November 07, 2002 Meeting in San Francisco

Staff: J. Bishop Approved by: *DSL*

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).

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, 2, 3, 6 and 10. 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.

Lastly, a substantial issue is raised with respect to the projects consistency with ESHA policies that protect the Monterey Pine forest terrestrial habitat. The proposed development, inconsistent with ESHA policies 1,27,28, 33, and Section 23.07.164 of the CZLUO, may degrade and fragment the forest through excessive tree removal.

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.

Staff Report Contents

- I. Local Government Action 3
- II. Summary Of Appellants' Contentions 3
- III. Standard of Review for Appeals 4
- IV. Staff Recommendation On Substantial Issue 4
- V. Recommended Findings and Declarations..... 5



- A. Project Location and Description..... 5
- B. Substantial Issue Determination..... 5
- 1. Public Services..... 5
 - a. Relevant Local Coastal Program Provisions..... 5
 - b. County Action..... 7
 - c. Substantial Issue Analysis..... 7
 - d. Substantial Issue Conclusion 14
- 2. Environmentally Sensitive Habitats..... 15
 - a. Relevant Local Coastal Program Provisions..... 15
 - b. County Action..... 20
 - c. Substantial Issue Analysis..... 21
 - d. Substantial Issue Conclusion 22

Exhibits

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

I. Local Government Action

On August 13, 2002 the San Luis Obispo Planning Commission approved the Minor Use/Coastal Development Permit D000382P for a two-story 3,500 square foot single-family residence with attached 900 sq. ft. garage, 350 sq. ft. sun porch, 595 sq. ft. guesthouse, and a 2,400 sq. ft. garage/workshop in the Lodge Hill area of Cambria. The San Luis Obispo County Board of Supervisors approved the project on August 13, 2002, subject to 20 conditions. (See Exhibit 5 for detail). The County also approved a Negative Declaration (of no significant environmental impacts) under the California Environmental Quality Act.

II. Summary Of Appellants' Contentions

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

The appellants, Richard Hawley and Commissioners Wan and Desser, have appealed the final action taken by the County Board of Supervisors 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 regarding adequacy of water availability, consistency with the LCP's Resource Management System (RMS), and the potential for the project to disrupt environmentally sensitive habitat areas.



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 is located between the first public road and the sea; and 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 (Terrestrial Habitat).

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 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-02-074 raises no substantial issue with respect to the grounds on which the appeal has been filed."

A majority of the Commissioners present is required to pass the motion. 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-02-074 presents a substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act regarding consistency with the Certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.

V. Recommended Findings and Declarations

The Commission finds and declares as follows:

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, west of Highway One (See 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.

In contrast to the typically small lots of Lodge Hill, the project site is a roughly rectangular 4.5-acre parcel located west of Highway One. The topography is moderate to steeply sloping with some gently sloping areas. The property contains a mixed high quality, dense Monterey pine and coast live oak forest with trees in all life stages. The site is designated Residential Suburban in the San Luis Obispo local coastal program. Combining designations include Terrestrial habitat, Geologic Study Area, and Sensitive Resource Area.

The County approval consists of a two-story, 3,500 square foot single-family residence with attached 900 sq. ft. garage, 350 sq. ft. sun porch, 595 sq. ft. guesthouse, and a 2,400 sq. ft. garage/workshop. The site plan is attached as Exhibit 3. Development will disturb approximately 34,000 square feet and is located 220 feet from the eastern property boundary. Roughly 2.15 acres on the western portion of the property will be put into an open space easement.

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, appellant Richard Hawley contends that the project is in violation of Public Works Policy 6, requiring County implementation of the Resource Management System:

Public Works Policy 6: Resource Management System

The county will implement the Resource Management System to consider where the necessary resources exist or can be readily developed to support new land uses. Permitted public service expansions shall ensure the protection of coastal natural resources including the biological productivity of coastal waters. In the interim, where there are identified public service limitations, uses having priority under the Coastal Act shall not be precluded by the provision of those limited services. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD.]

Moreover, water supply for new development in Cambria must be considered in light of LCP priorities for Agriculture and Visitor-serving development.

Coastal Watershed Policy 6: Priority for Agricultural 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.]

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

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.

With respect to Public Works Policy 6, the following response to Mr. Hawley's appeal was included in the County staff report to the San Luis Obispo County Board of Supervisors on August 13, 2002:

"The Resource Management System is intended primarily to indicate when and where service facilities must be expanded or extended to meet population growth demands. The subject property is located within the existing Urban Services Line boundary and is served by the CCSD. There is no public service expansion required for this project. Therefore, Public Works Coastal Plan Policy 6 does not apply."

c. Substantial Issue 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

¹ Application 132-18.



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 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 serious concern of the Commission with respect to 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

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

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



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 by 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.

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



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 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.

Appellant Richard Hawley contends that the County approved project is inconsistent with Public Works Policy 6. To facilitate implementation of public works policies, the SLO LCP Public Works Policy 6 requires the use of the Resource Management System (RMS). The County staff report indicates that Public Works Policy 6 is not applicable in this case because it does not involve service expansions outside of the URL. This finding is not entirely on point. The RMS is more than a tool used to identify areas for expanded capital improvements. The RMS is also an important mechanism for assuring that coastal resources, particularly groundwater basins and creeks, are not adversely impacted by 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 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. Recent RMS reports have recommended that the Board of Supervisors adopt LOS III for Cambria's water supply, which would require the County to consider a development moratorium. However, the BOS has not certified the LOS III for Cambria recommended by the County staff. As mentioned, the RMS outlines specific measures that must be implemented for each Level of Service (LOS) *if* (emphasis added) the Board formally certifies the recommended Level. The RMS program allows, but does not require, the County to reduce or eliminate new development in this situation. As detailed in the Periodic Review of 2001, the RMS system is not providing the proactive management of resources originally envisioned, in large part due to the lack of County management responses to identified resource deficiencies. However, the County has technically satisfied Public Works Policy 6 by merely considering RMS recommendations. Therefore, while the appellant raises important issues about the shortcomings of the RMS system as currently established by the LCP, staff finds that this contention does not raise a substantial issue of project consistency with LCP policies.

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 PUSUANT 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, 2, 3, 6, and 10 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 2: Water Extractions

Extractions, impoundments and other water resource developments shall obtain all necessary county and/or state permits. All pertinent information on these uses (including water conservation opportunities and impacts on in-stream beneficial uses) will be incorporated into the database for the Resource Management System and shall be supplemented by all available private and public water resources studies available. Groundwater levels and surface flows shall be maintained to ensure that the quality of coastal waters, wetlands and streams is sufficient to provide for the optimum populations of marine organisms, and for the protection of human health. (Public works projects are discussed separately.) [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.]

Policy 10: Drainage Provision

Site design shall ensure THAT drainage does not increase erosion. This may be achieved either through on-site drainage retention, or conveyance to storm drains or suitable watercourses. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD AND PUSUANT TO SECTION 23.05.034 OF THE CZLUO.]

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

Section 23.07.164 – SRA Permit and Processing Requirements:

The land use permit requirements established by Chapters 23.03 (Permit Requirements), and 23.08 (Special Uses), are modified for the SRA combining designation as follows:

- (a) Initial submittal:*** *The type of land use permit application to be submitted is to be as required by Chapter 23.03 (Permit Requirements), Chapter 23.08 (Special Uses), or by planning area standards. That application will be used as the basis for an environmental determination as set forth in subsection c of this section, and depending on the result of the environmental determination, the applicant may be required to amend the application to a Development Plan application as a condition of further processing of the request (see subsection d).*
- (b) Application content:*** *Land use permit applications for projects within a Sensitive Resource Area shall include a description of measures proposed to protect the resource identified by the Land Use Element (Part II) area plan.*
- (c) Environmental Determination:***

 - (1)*** *When a land use permit application has been accepted for processing as set forth in Section 23.02.022 (Determination of Completeness), it shall be transmitted to the Environmental Coordinator for completion of an environmental determination pursuant to the California Environmental Quality Act (CEQA).*
 - (2)*** *The initial study of the environmental determination is to evaluate the potential effect of the proposed project upon the particular features of the site or vicinity that are identified by the Land Use Element as the reason for the sensitive resource designation.*
 - (3)*** *Following transmittal of an application to the Environmental Coordinator, the Planning Department shall not further process the application until it is:*

 - (i)*** *Returned with a statement by the environmental coordinator that the project is exempt from the provision of the CEQA; or*



- (ii) *Returned to the Planning Department accompanied by a duly issued and effective negative declaration which finds that the proposed project will create no significant effect upon the identified sensitive resource; or*
 - (iii) *Returned to the Planning Department accompanied by a final environmental impact report approved by the Environmental Coordinator.*
- (d) **Final permit requirement and processing:**
 - (1) *If an environmental determination results in the issuance of a proposed negative declaration, the land use permit requirement shall remain as established for the initial submittal.*
 - (2) *If an environmental impact report is required, the project shall be processed and authorized only through Development Plan approval (Section 23.02.034).*
- (e) **Required Findings:** *Any land use permit application within a Sensitive Resource Area shall be approved only where the Review Authority can make the following required findings:*
 - (1) *The development will not create significant adverse effects on the natural features of the site or vicinity that were the basis for the Sensitive Resource Area designation, and will preserve and protect such features through the site design.*
 - (2) *Natural features and topography have been considered in the design and siting of all proposed physical improvements.*
 - (3) *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.*
 - (4) *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.*

Section 23.07.170 – Environmentally Sensitive Habitats:

The provisions of this section apply to development proposed within or adjacent to (within 100 feet of the boundary of) an Environmentally Sensitive Habitat as defined by Chapter 23.11 of this title, and as mapped by the Land Use Element combining designation maps.

- (a) **Application content:** *A land use permit application for a project on a site located within or adjacent to an Environmentally Sensitive Habitat shall also include a report by a biologist approved by the Environmental Coordinator that:*
 - (1) *Evaluates the impact the development may have on the habitat, and whether the development will be consistent with the biological continuance of the habitat. The report shall identify the maximum feasible mitigation measures to protect the*



resource and a program for monitoring and evaluating the effectiveness of the mitigation measures.

- (2) Recommends conditions of approval for the restoration of damaged habitats, where feasible.*
 - (3) Evaluates development proposed adjacent to environmentally sensitive habitats to identify significant negative impacts from noise, sediment and other potential disturbances that may become evident during project review.*
 - (4) Verifies that applicable setbacks from the habitat area required by Sections 23.07.170 to 23.07.178 are adequate to protect the habitat or recommends greater, more appropriate setbacks.*
- (b) Required findings: Approval of a land use permit for a project within or adjacent to an Environmentally Sensitive Habitat shall not occur unless the applicable review body first finds that:*
- (1) 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.*
 - (2) The proposed use will not significantly disrupt the habitat.*
- (c) Land divisions: No division of a parcel containing an Environmentally Sensitive Habitat shall be permitted unless all proposed building sites are located entirely outside of the applicable minimum setback required by Sections 23.07.172 through 23.07.178. Such building sites shall be designated on the recorded subdivision map.*
- (d) Development standards for environmentally sensitive habitats:*
- (1) New development within or adjacent to the habitat shall not significantly disrupt the resource.*
 - (2) New development within the habitat shall be limited to those uses that are dependent upon the resource.*
 - (3) Where feasible, damaged habitats shall be restored as a condition of development approval.*
 - (4) Development shall be consistent with the biological continuance of the habitat.*
 - (5) Grading adjacent to Environmentally Sensitive Habitats shall conform to the provisions of Section 23.05.034c (Grading Standards.)*

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..



Section 23.07.176 – Terrestrial habitat Protection:

The provisions of this section are intended to preserve and protect rare and endangered species of terrestrial plants and animals by preserving their habitats. Emphasis for protection is on the entire ecological community rather than only the identified plant or animal.

(a) Protection of vegetation. Vegetation that is rare or endangered, or that serves as habitat for rare or endangered species shall be protected. Development shall be sited to minimize disruption of habitat.

(b) Terrestrial habitat development standards:

(1) Revegetation. Native plants shall be used where vegetation is removed.

(2) Area of disturbance. The area to be disturbed by development shall be shown on a site plan. The area in which grading is to occur shall be defined on site by readily-identifiable barriers that will protect surrounding native habitat areas.

(3) Trails. Any pedestrian or equestrian trails through the habitat shall be shown on the site plan and marked on the site. The biologist's evaluation required by Section 23.07.170a shall also include a review of impacts on the habitat that may be associated with trails.

Section 23.05.064– A tree may be removed only when the tree is any of the following:

(4) Obstructing existing or proposed improvements that cannot be reasonably designed to avoid the need for tree removal.

b. County Action

San Luis Obispo County approved the subject development subject to 20 conditions. Based on the site plan submitted by the applicant, the home is sited on the north side of the proposed driveway and centered approximately 220 feet from the eastern property boundary. The approved driveway follows the southern property boundary before angling north towards the center of the parcel. A central turn-around driveway pad is shown on the approved plans with the home, guesthouse, and garage/workshop assembled around it.

The applicant submitted a Preliminary Biological Assessment (Althouse and Meade, Inc; October 2000) with an addendum (September 2001). In summary, the biologist found that the entire property contains a high quality, dense Monterey pine and coast live oak mixed forest with individuals in all life stages.

The County staff report indicates that the proposed development has been twice modified in an attempt to limit the fragmentation of the sensitive forest. The County conditioned its approval to require mitigation for the removal and disturbance of 42 healthy Monterey pine having 8-inch+ diameter and 58 healthy coast live oak trees having a 6-inch+ diameter. The total tree replacement required for the project is 69 Monterey pines and 190 Coast live oaks. The County also conditioned its approval to require submittal of a Sedimentation and Erosion Control Plan,



prepared and signed by a Registered Civil Engineer, that address both temporary and long-term sedimentation and erosion control measures (See Exhibit 5 for the full text of County Conditions).

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.

Terrestrial Habitat

The 4.5-acre project site contains a high quality, dense Monterey Pine Forest and Coast Live Oak mixed forest in various life stages. This terrestrial habitat plays an important role in supporting plant and animal species endemic to the area. The Cambria Pine forest is one of only three regions in the world supporting endemic Monterey Pine forest habitat. Thorough application of LCP ESHA protection standards in this area is critical to preserve the ecological integrity and biological functioning of the forest habitat.



The appeal contends that the project may degrade and fragment sensitive Monterey pine forest habitat, inconsistent with ESHA Policies 1, 27, 28, and 33. The ordinances implementing these policies generally rely on LCP Combining Designation Maps to identify the locations where these and other LCP standards protecting ESHA apply. The proposed development is located entirely within an area mapped in the LCP as a Terrestrial Habitat (TH) Sensitive Resource Area for the protection of the Monterey Pine Forest.

According to the County's review, the development has been limited to the front half of the subject parcel and will disturb an approximate 34,000 square foot area. However, the project will impact the forest through grading and removal of twenty-seven (27) healthy Monterey pine trees. The project will also result in the removal of thirty-seven (37) mature oak trees. Disturbance due to development within ten feet of the trunks of trees will additionally impact fifteen (15) Monterey Pines and twenty-seven (27) Coast live Oak trees. By developing in the forest habitat and removing trees, forest fragmentation may occur. In addition, the project will introduce noise, light, human activity, and, thereby diminish the biological productivity of the sensitive habitats surrounding the development. Similarly, the construction of structures and paving can create barriers to existing patterns of wildlife movement and foraging. This is inconsistent with the terrestrial habitat protection policies cited above.

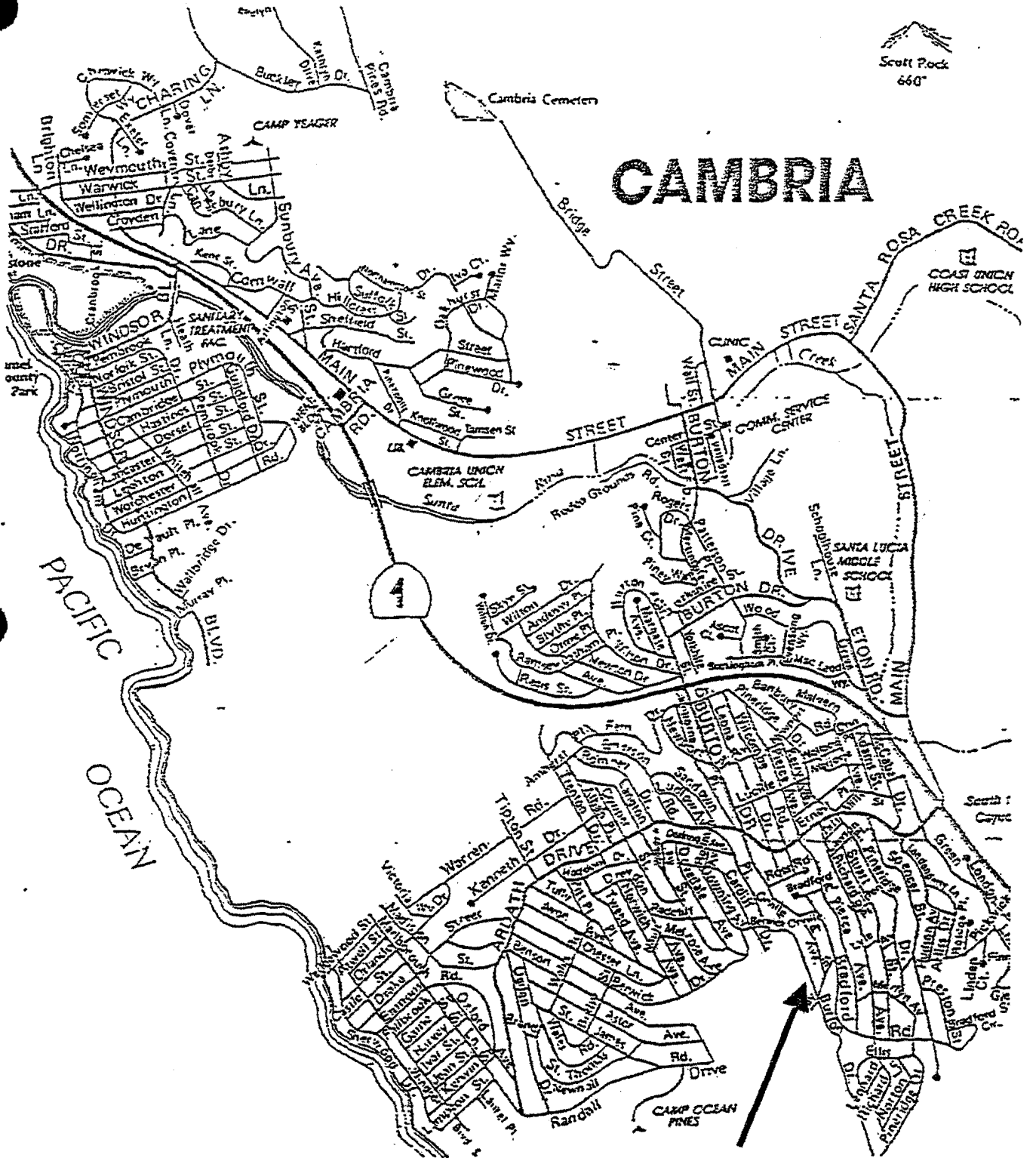
d. Substantial Issue Conclusion

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.**





CAMBRIA



SITE CCC Exhibit
(page 1 of 1 pages)

PROJECT

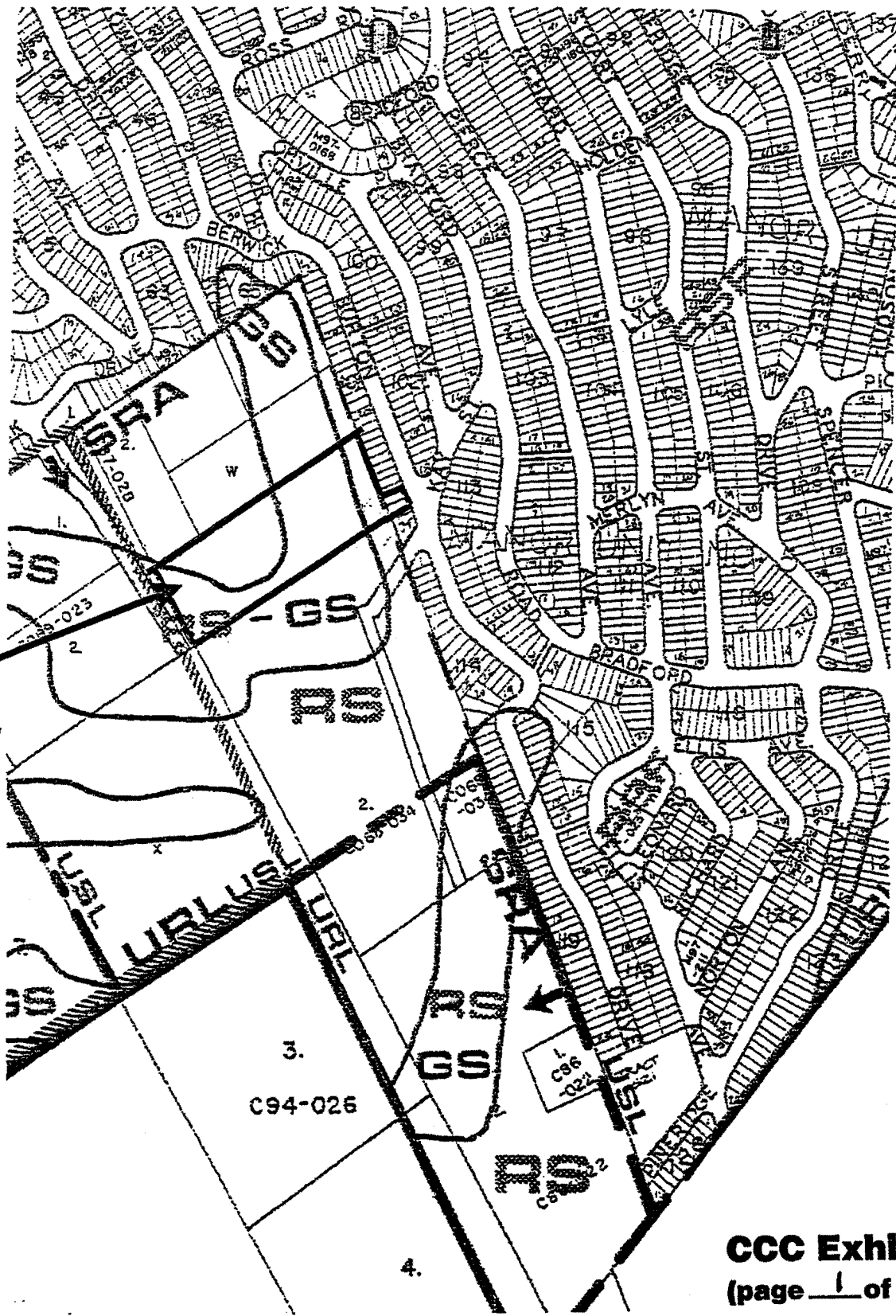
Minor Use Permit
Pelle (D000382P)



EXHIBIT

Vicinity Map

SITE



CCC Exhibit 2
(page 1 of 1 pages)

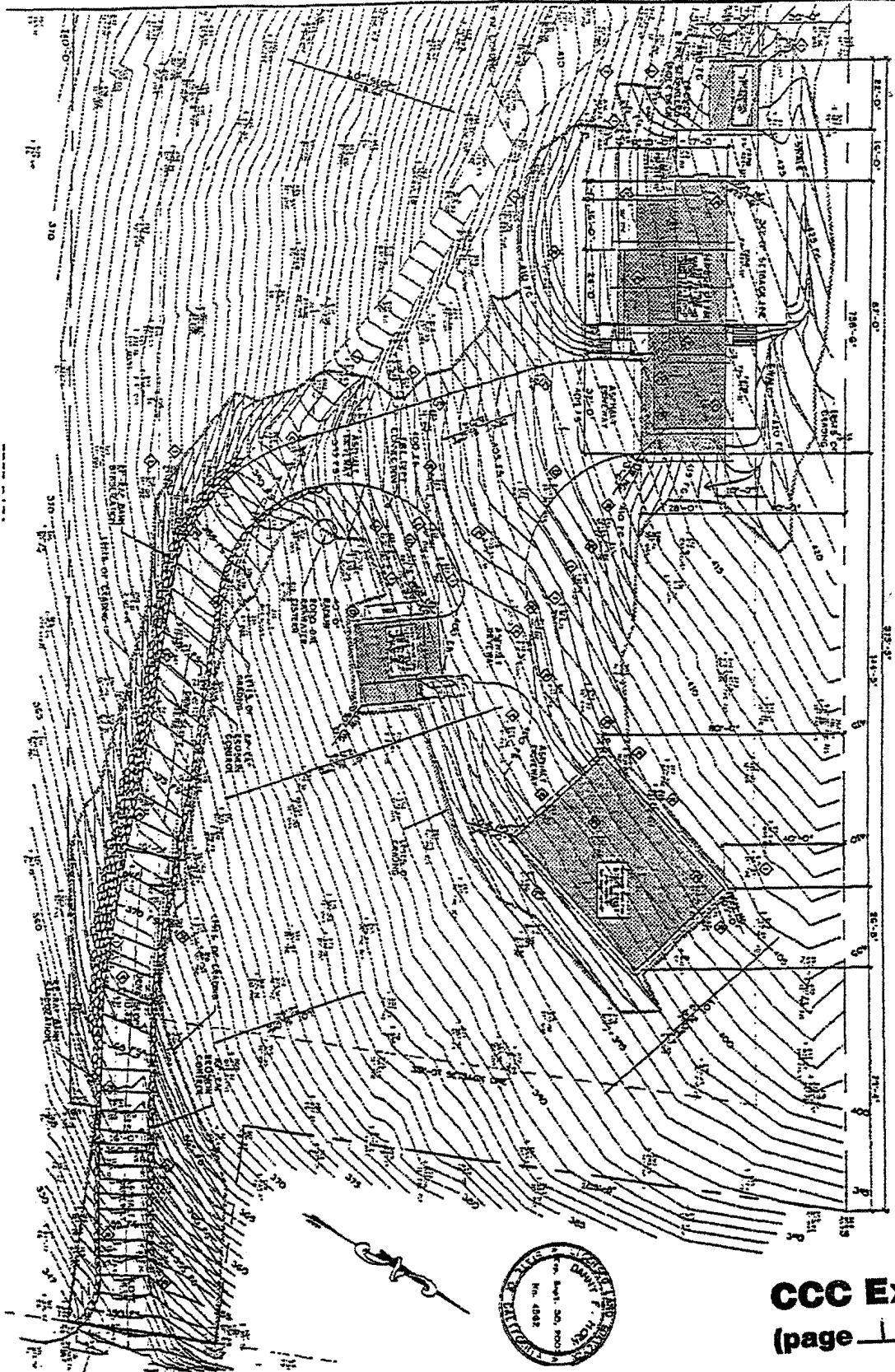
PROJECT

Minor Use Permit
Pelle (D000382P)



EXHIBIT

Land Use Map

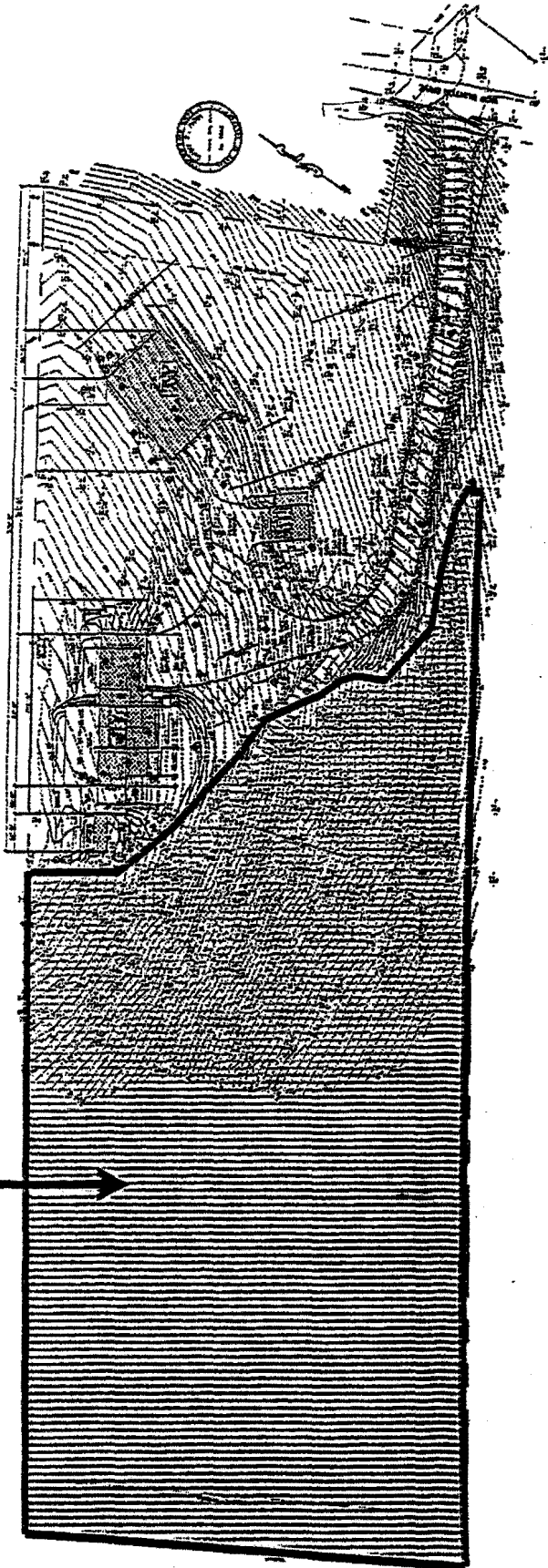


CCC Exhibit 3
 (page 1 of 2 pages)

PROJECT
 Minor Use Permit
 Pelle (D000382P)



EXHIBIT
 Enlarged Site Plan



Area to be put into open space



CCC Exhibit 3
(page 2 of 2 pages)

PROJECT

Minor Use Permit
Pelle (D000382P)



EXHIBIT

Exhibit A

CALIFORNIA COASTAL COMMISSION

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

**COMMISSION NOTIFICATION OF APPEAL**

DATE: September 9, 2002
TO: Martha Neder, Planner I I
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-02-074

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 #: D000382P
Applicant(s): Steve Pelle
Description: Construct an approx. 3,500 sq. ft. single family residence with attached 900 sq.ft. garage, 350 sq.ft. sun porch, 595 sq.ft. guest house, and a 2,400 sq. ft. garage/workshop.
Location: 1609 Burton Drive (approx. 50 ft. north of Kay St., North Coast Planning Area), Cambria (San Luis Obispo County) (APN(s) 024-202-014, 013-141-002)
Local Decision: Approved w/ Conditions
Appellant(s): Richard Hawley; California Coastal Commission, Attn: Commissioner Sara J. Wan; California Coastal Commission, Attn: Commissioner Christina Desser
Date Appeal Filed: 9/6/2002

The Commission appeal number assigned to this appeal is A-3-SLO-02-074. 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** 21 **pages)**

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 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 (425) 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 new approx. 3,500 sq.ft. single family residence with attached 900 sq.ft
garage, 350 sq.ft. sun porch, 595 sq.ft. guest house and a 2,400 sq.ft. garage/workshop.

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

1609 Burton Drive, (Lodge Hill), Cambria, San Luis Obispo County

APN 024-202-014 and 013-141-002

4. Description of decision being appealed:

- 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-02-074
DATE FILED: September 6, 2002
DISTRICT: Central

RECEIVED

SEP 06 2002

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

CCC Exhibit 4
(page 2 of 21 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

c. ___ Planning Commission

b. XX City Council/Board of
Supervisors

d. ___ Other: _____

6. Date of local government's decision: August 13, 2002

7. Local government's file number: D000382P

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:
Steve Pelle
5445 Windsor
Cambria, CA 93428

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

(1) CCSD
Box 65
Cambria, CA 93428

(2) SLO County Planning & Building Dept. Attn: Martha Neder, Planner II
County Government Center
San Luis Obispo, CA 93408

(3) Richard Hawley
PO Box 1631
Cambria, CA 93428-1631

(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.

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: 
Appellant or Agent

Date: September 6, 2002

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

Signed: _____

Date: _____

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 6, 2002

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

Signed: _____

Date: _____

(Document 2)

CALIFORNIA COASTAL COMMISSION

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

**Reasons for Appeal: San Luis Obispo County Coastal Development Permit D000382P (Pelle)**

The County's approval of a new 3,500 square foot single family residence with attached 900 square foot garage, 350 square foot sun porch, 595 square foot guest house, and a 2,400 square foot garage/workshop 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 6 of 21 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.
3. **The proposed project with associated grading and tree removal may significantly disrupt environmentally sensitive habitat areas.**

The proposed development is located entirely within an area mapped in the LCP as a Sensitive Resource Area (for the protection of Monterey Pine Forest), and may degrade and fragment the surrounding Monterey Pine Forest. The current project proposal will result in the removal of twenty-seven healthy Monterey pine trees having an eight inch diameter or larger. The project will also result in disturbance impacts to fifteen additional Monterey pine trees. As a result, the project raises issues regarding its consistency with:

- Environmentally Sensitive Habitats (ESH) Policy 1 states that development located within or adjacent to ESH shall not significantly disrupt the resource, and only those uses dependent on such resources shall be allowed within the area.
- ESH Policy 27 emphasizing the importance of protecting a sensitive habitat area as an entire ecological community.
- ESH Policy 28 requiring native trees and plants to be protected wherever possible.
- ESH Policy 33 requiring all development to be designed to disturb the minimum amount possible of wildlife or plant habitat.

The proposed development raises issues regarding its consistency with the following CZLUO Sections protecting Sensitive Resource Areas:

- 23.07.164 – requires that the development shall not create significant adverse effects on the natural features of the site that were the basis for the Sensitive Resource Area designation and shall preserve and protect features through site design.

- 23.07.170 – requires that new development shall not significantly disrupt the resource. This development must also be consistent with the biological continuance of the habitat.
- 23.07.176 – requires that development must be sited to minimize disruption of the habitat and that native plants shall be used when vegetation is removed.
- 23.05.064 – states that a tree may be removed only when the tree is..obstructing proposed improvements that cannot be reasonably designed to avoid the need for tree removal.

STATE OF CALIFORNIA - THE RESOURCES AGENCY

Gray Davis, Governor

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
(831) 427-4843



RECEIVED

AUG 27 2002

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):

RICHARD HAWLEY
P.O. BOX 1631
CAMBRIA, CA 93428-1631
(831) 927-4964
Zip Area Code Phone No.

SECTION II. Decision Being Appealed

1. Name of local/port government:

SAN LUIS OBISPO COUNTY BOARD OF SUPERVISORS

2. Brief description of development being appealed:

3500 # RESIDENCE W/ ATTACHED 900 # GARAGE, 350 # PORCH, 595 #
GUEST HOUSE, AND 2,400 # GARAGE

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

APN 023-172-050 LONGE HILL VALANT PARCEL
CAMBRIA, CA
MUP/COASTAL DEVELOPMENT PERMIT D0000382P

4. Description of decision being appealed:

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

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

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-3-SLO-02-074
DATE FILED: September 6, 2002
DISTRICT: Central

CCC Exhibit 4
(page 9 of 21 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

c. Planning Commission

b. City Council/Board of Supervisors

d. Other: _____

6. Date of local government's decision: AUGUST 13, 2002

7. Local government's file number: D0000382P

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:

STEVE PELLE
5445 WINDSOR
CAMBRIA, CA 93428 805-927-4148

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) CCSD
BOX 05
CAMBRIA, CA 93428

(2) SIO DEPT OF BUILDING & PLANNING
COUNTY GOV'T CENTER
SAN LUIS OBISPO, CA 93408

(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.)

PLEASE SEE ATTACHMENT A, B, & C

ALSO,

THE COUNTY OF SAN LUIS OBISPO NOTICE OF DETERMINATION AND NEGATIVE DECLARATION (CD01-214) FAILS TO CONSIDER CURRENT CONDITIONS OF CAMBRIA IN THESE AREAS UNDER CEQA

WATER RESOURCES - EVERY ITEM IS MARKED AS INSIGNIFICANT
PUBLIC SERVICES - FIRE PROTECTION MARKED AS INSIGNIFICANT
COMMUNITY WATER SUPPLY MARKED AS INSIGNIFICANT

IT IS MY INTENTION THAT THESE AREAS ARE SIGNIFICANT AND NO MITIGATION HAS OCCURRED OR HAVE THE ISSUES BEEN ADDRESSED.

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.

Richard Shonley

Signature of Appellant(s) or Authorized Agent

Date Aug 21, 2002

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.

CCC Exhibit 4
(page 11 of 21 pages)

Signature of Appellant(s)

Date _____

ATTACHMENT A

Minor Use Permit/Coastal Development Permit D0000382P Extended Comments Hand Delivered on August 12, 2002

In approving this coastal development permit, the County has violated the California Coastal Act, the SLO County Local Coastal Plan, CEQA, and California General Plan law.

The staff response to the four issues raised in my appeal and the staff recommendation to deny my appeal and approve the project are based on misrepresentations, omission of critical facts, a failure to address issues raised by my appeal, and violations of the laws I just listed.

Here are the specifics.

First, I appealed the permit based on the fact that the permit was issued in violation of Local Coastal Plan Public Works Policy 1, which **requires** a demonstration and finding of water availability to serve the project prior to issuance of a coastal development permit.

Staff states that the 'Intent to Serve' letter issued to the developer over a year and a half ago is the "official" notice that water is available for the project. The 'Intent to Serve' letter is not an official demonstration of water availability. The CCSD has made it clear that the 'Intent to Serve' letter is not a promise of water and the letter itself states explicitly, and I quote:

"This Intent to Serve letter may be revoked as a result of ...a change in availability of resources"

"The ... District reserves the right to revoke this Intent to Serve letter at any time."

The 'Intent to Serve' letter does not satisfy the requirements of the LCP for a demonstration and finding of water availability prior to permitting.

The Intent to Serve letter is issued by the CCSD at the **beginning** of the County's permitting process as a tentative and revocable showing of water availability. The County requires the 'Intent to Serve' letter as a condition for acceptance of the permit application for processing.

The demonstration of real wet water and the official finding of water availability required by Public Works Policy 1 are adopted by the County at the end of the permitting process as the certain availability of water for the project. The County and the Coastal Act require the demonstration and finding of certain water for the project as a condition for issuance of the permit.

CCC Exhibit 4
(page 17 of 21 pages)

The 'Intent to Serve' letter does not function as a showing of water to support the issuance of the permit. It functions only as a showing of indefinite water supply to support the acceptance of the permit application.

The staff response also attempts to show that the permit complies with Public Works Policy 1 by misrepresenting the findings of the CCSD's 2000 "Baseline Water Supply Analysis." Staff reflects the Study as stating that the CCSD "...had enough capacity to meet both a 90 and 95% level of reliability after increasing demands 10%." This is in direct contradiction to the study's actual findings that state:

"...the District's current water supplies are marginal to inadequate to provide 90 percent reliability for current water demands and are inadequate to provide a 95 percent reliability level."

And

"...the District's current water supplies are not adequate to provide a 90 percent or 95 percent level of reliability for (foreseeable) water demands in excess of current users."

Foreseeable here means new water hookups including intent to serve letters. These sections of the "Baseline Water Supply Analysis" were quoted in the October 25, 2001 CCSD staff report as rationale for declaration of a water shortage emergency.

In addition to this misstatement, the staff report fails to mention and completely omits analysis of the impact of Resolution 02-2002 adopted on January 24, 2002 by the CCSD Board of Directors. This adopted resolution states, and I quote:

"The current finite water supply is not adequate or certain enough to support the current and future water needs of the consumers within the Cambria Community Services District."

This adopted resolution makes it impossible for the County to make a current finding of water availability for the project as required by Public Works Policy 1. Therefore, to comply with this policy the County must recognize that the CCSD has officially declared by resolution that the District is out of water and must deny this and all other permit applications for Coastal Development Permits within the CCSD.

Second, I appealed the permit based on the fact that the permit was issued in violation of Local Coastal Plan Public Works Policy 6 that requires implementation of the County's Resource Management System and protection of coastal resources.

Here, staff misrepresents the RMS and fails to address the impact of the project on coastal resources. Chapter 3 Section B of the Framework for Planning RMS states that

"...the goal of the Resource Management System is to provide information in support of decisions about balancing land development and population growth with the resources required to support them."

The findings have no mention of the impact of the project on coastal resources and no analysis of the requirements of Public Works Policy 6 is provided in the staff response to my appeal.

My appeal is also based on the fact that the issuance of this permit violates Coastal Plan Policies for Coastal Watersheds 1, 2, and 10.

Policy for Coastal Watersheds 1 states the following:

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.

The staff response simply ignores the question of whether the long-term integrity of the Santa Rosa Creek and San Simeon Creek groundwater basins, which have been officially found to lack a water supply adequate to support current CCSD customers, would be threatened by the ongoing addition of new permanent demands for water. This issue requires analysis prior to issuance of a legal permit.

In addition to ignoring the question, the response that the staff does provide is completely irrational. Even though the County issued the permit with the knowledge that the CCSD had adopted a resolution that the water supply is not adequate to provide for current users, the staff response states that in issuing the permit "...the County relies on the statements of the CCSD as to whether the District can provide resources to support new development..."

Finally, the County response reveals an utter lack of awareness of the County's responsibility for implementation of the certified Local Coastal Plan when it states that the issue of compliance with Policy for Coastal Watersheds 1 is "...not related to the County's jurisdiction over the Minor Use/Coastal Development Permit."

Policy for Coastal Watersheds 2 "Water Extractions" states the following:

"...Groundwater levels and surface flows shall be maintained to ensure that the quality of coastal waters, wetlands and streams is sufficient to provide

for optimum populations of marine organisms, and for the protection of human health."

As stated above, Resolution 02-2002, adopted by the CCSD on January 24, 2002 states unequivocally that the District lacks adequate water for current users. Again, the staff response ignores the question entirely. No mention is made of the impacts additional demands on the system might have on groundwater levels and surface flows or on how the new extraction might impact the quality of coastal waters and the health of marine organisms and humans.

And again, the staff response relies on the same statements made above that

"...the County relies on the statements of the CCSD as to whether the District can provide resources to support new development..." and that the issue of compliance with Policy for Coastal Watersheds 1 is "...not related to the County's jurisdiction over the Minor Use/Coastal Development Permit".

Coastal Watershed Policy 10 states the following:

Site design shall ensure that drainage does not increase erosion. This may be achieved either through on-site drainage retention, or conveyance to storm drains or suitable watercourses.

According to California General Plan law the California Coastal Act Public Resources Code §30604(b) the coastal development permit must be issued if the issuing agency *finds* on appeal that the proposed development is in compliance with the Local Coastal Plan.

In "Bridging the Gap – Using Findings in Local Land Use Decisions" the Governor's Office of Planning and Research states that

"...findings are not sufficient if they merely recite the very language of the local ordinance..."

This OPR document also clarifies that a board or council "...cannot discharge its responsibility by simply stating that there is consistency. The decision making body must set forth the basis for the consistency between the project and the plan".

In response to my allegation that the permit violates this policy, the County merely recites the language of the ordinance provisions to which the project must comply.

There is no finding that the project is consistent with the Local Coastal Plan or Plan Policies in general or with the Policies that I have cited in particular.

Finding J, informs the decision maker and the public that "...site preparation and drainage improvements *have been designed* to prevent soil erosion and sedimentation of streams through undue surface runoff..."

Finding J is, however, revealed to be a *false statement* by Conditions of Approval 17 and 18 that make it clear that the Sedimentation and Erosion Control Plan and the Drainage Plan, the source of these designs, have yet to be submitted. No information is available to make a finding that the project will ensure that drainage does not increase erosion as required.

CCC Exhibit 4
(page 16 **of** 21 **pages)**

ATTACHMENT B

Follows this page

**THE INTENT TO SERVE LETTER
IS NOT
THE DEMONSTRATION OF WATER OR FINDING OF WATER AVAILABILITY
REQUIRED BY THE LCP PUBLIC WORKS POLICY 1**

INTENT TO SERVE LETTER IS...	DEMONSTRATION OF WATER AND FINDING OF WATER AVAILABILITY REQUIRED BY LCP PUBLIC WORKS POLICY 1 IS...
issued by CCSD....	adopted by County...
at the beginning of the permitting process....	at the end of the permitting process...
as a tentative and revocable approval of water availability	as final determination, demonstration and official finding of actual water availability for the project...
as condition for acceptance of permit application	as condition for issuance of permit

ATTACHMENT B

ATTACHMENT C

Follows this page

CCC Exhibit 4
(page 19 of 21 pages)

ATTACHMENT C



RESOLUTION 02-2002
DATED: JANUARY 24, 2002
RESOLUTION OF THE BOARD OF DIRECTORS OF THE
CAMBRIA COMMUNITY SERVICES DISTRICT
ADOPTING FINDINGS SUPPORTING ITS DECLARATION OF A
WATER CODE SECTION 350 WATER SHORTAGE EMERGENCY CONDITION
IN THE CAMBRIA COMMUNITY SERVICES DISTRICT

WHEREAS, the Board of Directors of the Cambria Community Services District held a duly noticed public hearing at its November 15, 2001 regular board meeting; and

WHEREAS, at the meeting the Board of Directors received and considered the reports and testimony of District staff, the testimony of the public, and received any and all submissions of documents for consideration by the Board regarding its consideration of a Water Code Section 350 water shortage emergency condition; and

WHEREAS, the Board of Directors duly considered all the evidence, statements, protests, and concerns; and

WHEREAS, The Board of Directors of the Cambria Community Services District declared on November 15, 2001 that a water shortage emergency condition prevails in the area served by the Cambria Community Services District;

Now, Therefore, the Board of Directors of the Cambria Community Services District adopts the following findings based upon the evidence, statements, protests and concerns submitted:

1. The current water availability, storage, and delivery system is insufficient to supply water for the current and future fire protection needs of the District.

The evidence which supports this finding is that the current production and storage capacity for the system provides less than 50% of the water that would be required for a major fire event. This evidence is based upon the standards of the Uniform Fire Code, 1997 edition, Table A.-III-A-1. This standard as applied to the District does not consider the flora, topography, and dry season, which increases the

fire danger within the District and adds to the inadequacy of water available for fire protection.

2. The current finite water supply is not adequate or certain enough to support the current and future water needs of the consumers within the Cambria Community Services District.

The evidence that supports this finding is the current sole water supply is groundwater from two coastal aquifers with finite water. The Cambria Community Services District's ability to pump water from these aquifers is restricted by State Permits, private agreements, State and Federal laws regarding water rights, and State and Federal laws regarding habitat and species protection. The safe yield of water from these aquifers is also impacted by weather conditions. Historical analysis of drought conditions in the region indicate that the District's current water supplies are marginal to inadequate to provide the accepted standard of reliability for current water demands. (District staff reports, Kennedy/Jenks Baseline Water Supply Analysis).

In addition, MTBE contamination has forced the indefinite closure of the Santa Rosa Creek wells. Though a temporary replacement well is operating, the District's ability to secure long-term use and permits for this replacement well are uncertain.

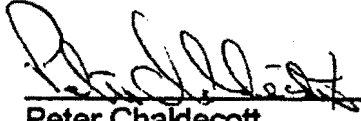
On the motion of Director Funke-Bilu, seconded by Director May, and the following roll call vote, to wit:

AYES: Funke-Bilu, May, Villeneuve, Chaldecott

NOES: None

ABSENT: Fitzgerald

Resolution No. 02-2002 is hereby adopted.


Peter Chaldecott
President, Board of Directors

ATTEST:


Kathy Choate, District Clerk

CCC Exhibit 4
(page 21 of 21 pages)

2 of 2

EXHIBIT B
CONDITIONS OF APPROVAL -D000382P

Approved Development

1. This approval authorizes the construction of an approximately 3,500 square foot single family residence with attached 900 square foot garage, 350 square foot sun porch, 595 square foot guest house, and a 2,400 square foot garage/workshop.
2. Site development shall be consistent with the approved site plan, floor plans and elevations.

Building Height

3. The maximum height of the project is 28 feet.
 - A. **Prior to any site disturbance**, a licensed surveyor shall establish average natural grade (high and low corners staked) and set a reference (benchmark) point.
 - B. **Prior to framing inspection**, the applicant shall provide written verification to the building inspector certifying the building height, including the actual and allowable building heights. The certification shall be done by a licensed surveyor.

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:

4. The applicant shall limit tree removal to no more than 27 healthy pine trees having a eight inch diameter or larger at four feet from the ground and no more than 37 oak trees having a six inch diameter or larger at four feet from the ground. Construction plans shall clearly delineate all trees within 50 feet of the proposed project, and shall show which trees are to be removed or impacted, and which trees are to remain unharmed.
5. **Prior to issuance of a construction permit**, the applicant shall fence the proposed area of disturbance and clearly tag which trees are to be removed or impacted. The trees tagged in the field shall be consistent with the trees delineated on the construction plans. Tree removal, Grading, utility trenching, compaction of soil, or placement of fill shall not occur beyond the fenced disturbance area. **The fencing shall remain installed until final inspection.**
6. **Prior to issuance of a construction permit**, the applicant shall submit a revegetation plan for review and approval of the Planning and Building Department. The revegetation plan shall reflect recommendations in the Althouse and Meade, Inc correspondence dated January 14, 2002.

CCC Exhibit 5
(page 1 of 4 pages)

7. **Prior to final inspection**, the approved revegetation plan shall be implemented.
8. **Prior to final inspection**, the **twenty-seven (27)** Monterey pine trees and **thirty-seven (37)** Coast live oak trees removed as a result of the grading for the driveway and residence shall be replaced at a 2:1 ratio for the pine trees and at a 4:1 ratio for the oak trees. The **fifteen (15)** Monterey pine trees and **twenty-one (21)** Coast live oak trees located within 10 feet of disturbance shall be replaced at a 1:1 ratio for pine trees and at a 2:1 ratio of oak trees. A total of **69** Monterey pine trees and **190** Coast live oak trees shall be planted. Monterey pine replacement trees shall be one gallon saplings grown from the Cambrian stand; *Pinus radiata macrocarpa*. Replacement Coast live oak trees shall also be at least one gallon container sizes.
9. 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 system). 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 (e.g., landscape contractor, arborist, nurseryman, botanist) 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.

10. To promote the success of the new trees, the applicant shall retain a qualified individual (e.g., arborist, landscape architect/ contractor, nurseryman) to monitor the new trees until successfully established, on an annual basis, for no less than three years. The first report shall be submitted to the County Environmental Coordinator one year after the initial planting and thereafter on an annual basis until the monitor, in consultation with the County, has determined that the newly planted vegetation is successfully established. The applicant and successors-in-interest agree to complete any necessary remedial measures identified in the report and approved by the Environmental Coordinator.
11. It is preferable that the replacement trees be planted on the subject property. However, if the revegetation can not be implemented entirely on the subject property, the revegetation may occur on other property in the Cambria area owned or managed by the County of San Luis Obispo, Land Conservancy, Nature Conservancy, other government or appropriate non-profit agencies. If an off-site replanting is chosen, the replanting must occur with the review and approval of the Environmental Coordinator in an area chosen by the appropriate agency or organization (i.e. property owner or manager) and shall be verified by submittal of a letter from the appropriate agency or organization to the Environmental Coordinator. (The verification letter should indicate whether plantings occurred on and/or off site, or both). All replacement conditions and monitoring measures (e.g. number of trees, maintenance, etc.) shall apply.
12. Oak trees provide an essential component of wildlife habitat and visual benefits. The applicant recognizes this and agrees to minimize trimming of the remaining oak trees. If trimming is necessary, the applicant agrees to either use a skilled arborist or apply accepted arborist's techniques when removing limbs. Unless a hazardous or unsafe

situation exists, trimming shall be done only during the winter for deciduous species. Smaller trees (6 inches diameter and smaller) within the project area are considered to be of high importance, and when possible, shall be given similar consideration as larger trees.

13. **Prior to issuance of a construction permit**, the applicant shall record an open space easement in a form acceptable to County Council. The open space easement will be across the western portion of the property, approximately 360 linear feet in length and 2.15 acres in size (as shown in Exhibit A).

Miscellaneous

14. **Prior to issuance of a construction permit**, the applicant shall apply to merge parcels 024-202-014 & 013-141-002.
15. **Prior to final building inspection**, the applicant shall record voluntary lot merger.
16. **Prior to issuance of a construction permit**, the applicant shall provide verification the Cambria Fire Department has reviewed and approved the proposed project.

Drainage, Erosion, and Sedimentation Control

17. **Prior to any site disturbance or issuance of grading permits or building permits**, the applicant shall submit a Sedimentation and Erosion Control Plan, prepared and signed by a Registered Civil Engineer, that addresses both temporary and long-term sedimentation and erosion control measures. The plan shall include but not be limited to the following measures:

- **Slope surface stabilization:** Temporary mulching, seeding or other suitable stabilization measures approved by the County Engineer shall be used to protect exposed erodible areas during construction. Earth or paved interceptors and diversions shall be installed at the top of cut or fill slopes where there is a potential for erosive surface runoff.
- **Erosion and sedimentation control devices:** In order to prevent sedimentation discharges, erosion and sediment control devices shall be installed as necessary for all grading and filling. Control devices and measures may include, but are not limited to, energy absorbing structures or devices to reduce the velocity of runoff water.
- **Final erosion control measures:** All surfaces disturbed by vegetation removal, grading, or other construction activity are to be revegetated to control erosion within 30 days after completion of grading, unless the graded areas are covered with impervious or other improved surfaces authorized by approved plans.
- **Control of off-site effects:** All grading activity shall be conducted to minimize the effects of erosion, sediment production and dust on the site and on adjoining properties.

CCO Exhibit 5
(page 3 of 4 pages)

18. **Prior to any site disturbance**, the applicant shall submit to the County a Drainage Plan, prepared by a Registered Civil Engineer, that evaluates: 1) the effects of the project's projected runoff on adjacent properties and existing drainage facilities and systems; and 2) estimates of existing and increased runoff resulting from the proposed improvements.
19. **Prior to occupancy or final inspection, whichever occurs first**, the Registered Civil Engineer shall verify that the recommendations of the Drainage Plan and the Sedimentation and Erosion Control Plan have been incorporated into the final design and construction. This verification shall be submitted in writing to the Department of Planning and Building for review and approval. If required by the County Engineer, the applicant shall execute a plan check and inspection agreement with the County, so the drainage, sedimentation and erosion control facilities can be inspected and approved before a certificate of occupancy is issued.

Indemnification

20. The applicant shall as a condition of approval of this minor use permit defend, at his sole expense, any action brought against the County of San Luis Obispo, its present or former officers, agents, or employees, by a third party challenging either its decision to approve this minor use permit or the manner in which the County is interpreting or enforcing the conditions of this minor use permit, or any other action by a third party relating to approval or implementation of this minor use permit. The applicant shall reimburse the County for any court costs and attorney's fees which the County may be required by a court to pay as a result of such action, but such participation shall not relieve the applicant of his obligation under this condition.

CCC Exhibit 5
(page 4 of 4 pages)

