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## Staff Report: Appeal Substantial Issue Determination

**Local government**.....County of San Luis Obispo  
**Local Decision**..... Local Permit # D010172P - Approved with conditions.  
**Appeal Number** .....A-3-SLO-02-093  
**Applicant**.....Joe and Marilyn Korpiel.  
**Agent** .....Jeffery Lentz  
**Appellants** .....Commissioners Sara Wan and Pedro Nava  
**Project location**.....2201 Sherwood Drive, Cambria (APN 023-041-029).  
**Project description** .....Construction of a 3,249 square foot, two-story single family residence.  
**File documents**.....San Luis Obispo County certified Local Coastal Program; Coastal Development Permit D010172P.

### **Staff recommendation...Substantial Issue Raised**

**Summary:** The Applicant proposes to construct a two-story, 3,249 square foot single-family residence in the Marine Terrace area of Cambria in San Luis Obispo County. The subject site is a double lot of approximately 6,000 square feet. The County approved the project subject to 11 conditions, finding it consistent with the San Luis Obispo County Local Coastal Program. The Standard of review is the San Luis Obispo County Local Coastal Program.

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

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.



**California Coastal Commission  
January 08, 2003 Meeting in Los Angeles**

Staff: J. Bishop Approved by: *JMB* 12/19/02

The proposed residential development is included on the list of so-called "pipeline" water projects. In this case, water was obtained for the project by transferring an existing residential water meter from a historic residence located in downtown Cambria. Before the residential transfer was finalized, commercial water service was re-established at the historic downtown location. The result of this transaction is an overall net increase in water demand. The County accepted the Service Meter Transfer and Connection Permit letters issued by the Cambria Community Services District (CCSD) as evidence of adequate water supply for the new residence. 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, 19, and 21, as well as Coastal Watershed Policy 1, 3, and 6. In addition, the appellants contend that a substantial issue is raised with respect to Agriculture Policy 7 and Recreation and Visitor Serving Facilities Policy 2, which give agriculture highest priority for water, consistent with the protection of aquatic habitats.

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

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#### Exhibits

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

## I. Local Government Action

The County of San Luis Obispo County Zoning Administrator approved the proposed development on October 4, 2002, subject to 11 conditions (see Exhibit 5 for the County's conditions).

## II. Summary Of Appellants' Contentions

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

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

## III. Standard of Review for Appeals

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

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



30604(b), if the Commission conducts a *de novo* hearing, the Commission must find that the proposed development is in conformity with the certified local coastal program in order to 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:** I move that the Commission determine that Appeal No. A-3-SLO-02-093 raises NO substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act.

#### **STAFF RECOMMENDATION:**

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

#### **RESOLUTION TO FIND SUBSTANTIAL ISSUE:**

The Commission hereby finds that Appeal No. A-3-SLO-02-093 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**

#### **A. Project Location and Description**

The project is located at 2201 Sherwood Drive in the Marine Terrace area of Cambria, San Luis Obispo County. The Marine Terrace is a residential area located west of steeply sloping Lodge Hill. The topography of the area is varied with numerous ridges and gullies, steep slopes, and nearly flat areas near the marine terrace. In most areas, the bluff face of the marine terrace drops off dramatically to the rocky beaches below. The proposed project is on a relatively flat bluff top lot directly fronting the Pacific Ocean.

The project site is a double lot of approximately 6,000 square feet (please see Exhibit 3 for project plans). The proposed residence consists of the garage and living space on two levels,



with a blufftop setback of 25 feet. The County approval authorizes the construction of a new single-family residence with 2,127 square feet of footprint, and 3,249 square feet of gross structural area, and 456 square feet of transfer development credits (TDC's). The overall height of the proposed residence is 15 feet, as measured from the centerline of the fronting street (Sherwood Drive).

As mentioned, this is a "pipeline" water project. The main difference between this "pipeline" project and others already heard by the Commission is the way in which water service was obtained. To date, water projects reviewed by the Commission have possessed intent-to-serve letters from the CCSD. In this case, domestic water for the project 91 EDU) was obtained by transferring a previously existing residential water service from another location (4009 West St.), where a residential use was replaced with a commercial use (.43 EDU). Due to the fact that the transfer did not extinguish water use at the sending site, this project will result in a net increase of real water usage in Cambria (from 1 EDU to a combined 1.43 EDU).

## **B. Substantial Issue Determination**

### **1. Public Services**

#### **a. Relevant Local Coastal Program Provisions**

As required by Public Works Policy 1, all new development must demonstrate that there is sufficient water supply to serve the development:

##### ***Public Works Policy 1: Availability of Service Capacity***

*New development (including divisions of land) shall demonstrate that adequate public or private service capacities are available to serve the proposed development. Priority shall be given to infilling within existing subdivided areas. Prior to permitting all new development, a finding shall be made that there are sufficient services to serve the proposed development given the already outstanding commitment to existing lots within the urban service line for which services will be needed consistent with the Resource Management System where applicable...*

This policy is implemented by CZLUO 23.04.430:

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

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



***Agriculture Policy 7: Water Supplies***

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

***Recreation & Visitor-Serving Facilities Policy 2: Priority for Visitor-Serving Facilities***

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

Finally, The North Coast Area Plan component of the LCP contains a development standard for the Cambria Urban Area that requires:

***Reservation of Service Capacity***

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

**b. County Action**

On October 4, 2002 the San Luis Obispo County Zoning Administrator approved the Minor Use/Coastal Development Permit D010172P subject to 11 conditions. The staff report indicates that water is to be provided by Cambria Community Service District (CCSD), which extracts underflow (shallow groundwater) from both Santa Rosa and San Simeon Creeks. The County made no specific findings with regard to water availability, but rather, states that the CCSD's Active Service Transfer letter and Connection Permit are the documents attesting to the District's capabilities. The County accepted these documents as evidence of adequate water and sewer service capacity to serve the proposed project.

**c. Analysis****1. History/Background****1977 Coastal Development Permit**

The Coastal Commission has been concerned with the lack of water to support new development in Cambria since the adoption of the Coastal Act. As early as 1977, in a coastal permit to allow the Cambria Community Services District (CCSD) to begin drawing water from San Simeon Creek, the Commission expressed concern about overdrafting this groundwater basin. In that permit, the Commission limited the urban service areas for this new water supply and identified the maximum number of dwelling units that could be served as 3,800<sup>1</sup>. A condition of that 1977 coastal development permit stated that:

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<sup>1</sup> Application 132-18.



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

### **LCP Certification**

When the Land Use Plan of the County's LCP was certified in 1984, the concern remained that there was inadequate water to serve existing parcels within Cambria. The findings regarding Cambria stated that based on the land uses and intensities designated in the LUP for subdivided and 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 CCSO to place a lot reduction ballot measure before the Cambria electorate. If these standards were not performed by



January 1, 2001, the modification required a moratorium on further withdrawals from San Simeon and Santa Rosa Creeks.

Although the County never accepted the modified amendment and this development is therefore not subject to the moratorium provision, the severity of the measures proposed reflects the gravity of the community's future if development continues to be permitted at its existing rate.

### 2001 Periodic Review

The Coastal Act requires that every certified LCP be reviewed periodically to determine whether the LCP is being effectively implemented in conformity with the policies of the Coastal Act. On July 12, 2001 the Commission adopted the *Periodic Review of the San Luis Obispo County LCP*. In this report, the Commission made a number of recommendations related to environmentally-sustainable urban development in Cambria. In terms of specific findings, the Preliminary Report highlights the problems of short and long-term growth in Cambria. The report concludes that Cambria has serious concerns related to limited groundwater supply and the protection of sensitive habitat areas with respect to the sustainability of existing and future development in an area with limited water supplies. The Commission adopted the following recommendation in its July, 2001 Periodic Review action:

*Recommendation 2.13. Continue implementation of the 1% growth rate in Cambria until 1/1/02, after which time coastal development permits for new development that would require a new water connection or that would otherwise create additional water withdrawals from Santa Rosa or San Simeon Creeks should not be approved unless the Board of Supervisors can make findings that (1) water withdrawals are limited to assure protection of instream flows that support sensitive species and habitats; (2) there is adequate water supply reserved for the Coastal Act priority uses of agricultural production, and increased visitors and new visitor-serving development; (3) a water management implementation plan is incorporated into the LCP, including measures for water conservation, reuse of wastewater, alternative water supplies, etc., that will assure adequate water supply for the planned build-out of Cambria or that will guarantee no net increase in water usage through new water connections (e.g. by actual retrofitting or retirement of existing water use); (4) substantial progress has been made by the County and the CCSD on achieving implementation of buildout reduction plan for Cambria; and (5) there is adequate water supply and distribution capacity to provide emergency response for existing development.*

### CCSD Water Moratorium

Most recently, the Cambria Community Service District (CCSD) has taken more programmatic steps towards resolving the unsustainable development trends in Cambria. On October 25, 2001 the CCSD Board of Directors considered whether to pursue the declaration of a water shortage emergency. At that meeting, the Board of Directors determined that sufficient evidence existed to consider the declaration of a water shortage emergency based on an inability to accommodate





the anticipated growth of the community in the near future. At that same meeting, an additional 38 intent-to-serve letters were approved by the CCSD Board of Directors.

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

- Reactivate the retro-fit program as contained in the CCSD Ordinances 1-98, 2-98, and 2-99;
- Investigate additional opportunities to implement water saving measures through the retro-fit program;
- Enforce Ordinance 4-2000 (water waste provision);
- Identify any additional opportunities to improve Ordinance 4-2000;
- Request that the County of San Luis Obispo adopt restrictions on the installation of landscaping within the Cambria CSD to minimize the impact or irrigation on water supplies;
- Develop a plan to ensure the enforcement of all restrictions and regulations regarding water usage in Cambria;
- Pursue the development of water master plan;
- Evaluate the current rate structure and develop changes and improvements.

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

As of August 21, 2002, the CCSD has indicated that there were a number of "intent-to-serve" letters currently outstanding from the CCSD that have yet to complete the County permit process. These outstanding commitments include both residential and commercial development totaling 102 "Equivalent Dwelling Units" (EDU's), or approximately 9,000 gallons of water per day. The total average current daily water production by the CCSD equals 720,000 gallons of water. According to these CCSD's figures, the water use attributable to these outstanding intent-to-serve letters represent an approximate 1.25% increase in total water supplies needed to serve these outstanding commitments. There are an additional 45.7 inactive "grandfathered" EDU



allocations, 13 single-family active meters in place (including the Korpiel project), 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 than that represented by the projects holding "intent to serve" letters.

## **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 findings of substantial issue with respect to new single-family residences in Cambria.<sup>2</sup>

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. As previously discussed, the additional EDU was obtained through a water meter transfer. These transfers are negotiated between private parties and are not subject to County regulation. These types of transfers are problematic when the transaction does not extinguish the water use at the existing sender site. Instead, water use at the existing sender site was replaced with commercial water service equal to .43 EDU. When the water transaction is complete, as is the case here, the result is a net increase in overall water demand (from 1 EDU to a combined 1.43 EDU). It is also

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<sup>2</sup> August 8, 2002 (A-3-SLO-02-050, Monaco). November 7, 2002 (A-3-SLO-02-073, Hudzinski) and (A-3-SLO-02-074, Pelle).



important to note that the water meter at the sender site originally served a very small cottage. The same meter is now proposed to serve a multi bathroom, two-story single-family residence that is much larger in size and scale (3,249 GSA). It is quite likely that the new location will require greater amounts of water than that which was previously used.

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 CCSO in December of 2000 has concluded that the District's current water supplies cannot sustain existing levels of development. The report concludes that the District's current water supplies are "marginal to inadequate to provide a 90 percent level of reliability" (in one of ten years there may not be enough water for current customers). Moreover, there are a number of assumptions underlying this study that cast even more doubt on the sustainability of Cambria's current water supply. The most critical of these "assumes that there will be no impact to critical habitat based on normal year precipitation. However, potential impact to habitat during multiple year droughts is unknown." In addition to reducing water availability, sequential drought years have the potential to damage groundwater basin storage capacity. This was evidenced during the 1975-77 drought period when the Santa Rosa Creek groundwater basin was damaged through subsidence.

It is also important to note that the Baseline Water Supply Analysis was based on 3,796 existing connections in December of 1999 (3,586 residential and 210 commercial). As of October 1, 2002, there are now 3934 connections (3,729 residential and 205 commercial), an increase of 3.6%. In addition to these new connections, an increase in water demand is anticipated for existing uses and proposed public facilities (e.g. State Park restroom, SLO County Shamel Park restroom, Elementary, Middle and High School, and Camp Ocean Pines, for example). Moreover, there are additional indications that there is potential for increases in visitor-serving water use through existing connections. For example, many of Cambria's existing residences are seasonally occupied as vacation rentals. A recently proposed LCP amendment<sup>3</sup> (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 CCSO funded study that examined steelhead habitat trends in San Simeon Creek<sup>4</sup>, a U.S. Geological Survey analysis of Santa Rosa and San

<sup>3</sup> SLO LCRA 1-01 (Residential Vacation Rentals).

<sup>4</sup> 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).*



Simeon Creek groundwater basins<sup>5</sup>, and an independent analysis submitted the United Lot Owners of Cambria<sup>6</sup>. One key factor not addressed in any of the studies is the potential impact to sensitive habitats (e.g. steelhead) during multiple drought years. This information is critical in the County and Commission's responsibilities to protect sensitive coastal habitats. While these studies are important in understanding the complexities of surface and groundwater flows, none of the studies draw firm conclusions about the impact of water withdrawals on sensitive in-stream habitats. In fact, one of the North Coast Area Plan performance standards adopted by the Commission in 1998, but not accepted by the County, was a requirement to conduct in-stream flow studies of both San Simeon and Santa Rosa creeks to assure that continued and future water withdrawals would not adversely impact sensitive riparian habitats. To date, in-stream flow studies have not been completed for both creeks.

The health of coastal creeks in San Luis Obispo is impacted by multiple uses up and downstream. A portion of water withdrawals from the Santa Rosa and San Simeon Creek groundwater basins are outside of the CCSO'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 CCSO 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 CCSO 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 CCSO 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

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<sup>5</sup> *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).*

<sup>6</sup> Navigant Engineering, 11/28/00



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

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

#### **d. Substantial Issue Conclusion**

Overall, a number of the critical information needs previously identified by the Commission still exist with respect to sustainable development in Cambria. These include completion of an in-stream flow management study for Santa Rosa and San Simeon Creek; completion of a water management strategy which includes water conservation, reuse of wastewater, alternative water supply, and potential off stream impoundments; and cooperation of the County and CCSD to place a lot reduction ballot measure before the Cambria electorate. Given the uncertainty surrounding sustainable water supplies in Cambria, it is critical that performance standards be completed and a plan of action developed and implemented to address this issue.

Clearly, the ability to provide adequate water to existing and future development in Cambria is a significant unresolved issue. More importantly, the burden of the uncertainty in the water supply must not be placed on coastal resources. Rather, a precautionary approach should be taken until such time as better knowledge is gained about both the capacity of San Simeon and Santa Rosa Creeks, including the needs of instream habitats, and about additional water supplies (e.g. a desalination plant) that might support new development. For example, without completion of instream flow studies and the newly-launched Habitat Conservation Plan to address sensitive species, the capacity of San Simeon Creek to support new development cannot be known. Fundamentally, such a constraints based approach is necessary to meet the LCP requirement that new development be environmentally-sustainable. It cannot reasonably be concluded at this time that new development in Cambria is currently sustainable.

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



## **2. Environmentally Sensitive Habitats**

### **a. Relevant Local Coastal Program Provisions**

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

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

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

***Policy 2: Permit Requirement***

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

***Policy 5: Protection of Environmentally Sensitive Habitats***

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

***Policy 18: Coastal Streams and Riparian Vegetation***

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

***Policy 21: County and State Review of Coastal Stream Projects***

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



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

***Policy 1: Preservation of Groundwater Basin***

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

***Policy 3: Monitoring Resources***

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

***Policy 6: Priority for Agriculture Expansion***

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

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

***Section 23.07.174 – Streams and Riparian Vegetation:***

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

**b. County Action**

The County adopted the Negative Declaration in accordance with the applicable provisions of the California Environmental Quality Act. On October 4, 2002 the San Luis Obispo County Zoning Administrator approved the Minor Use/Coastal Development Permit D010172P subject to 11 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.



### **Steelhead Streams**

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

### **Riparian and Wetland Habitat**

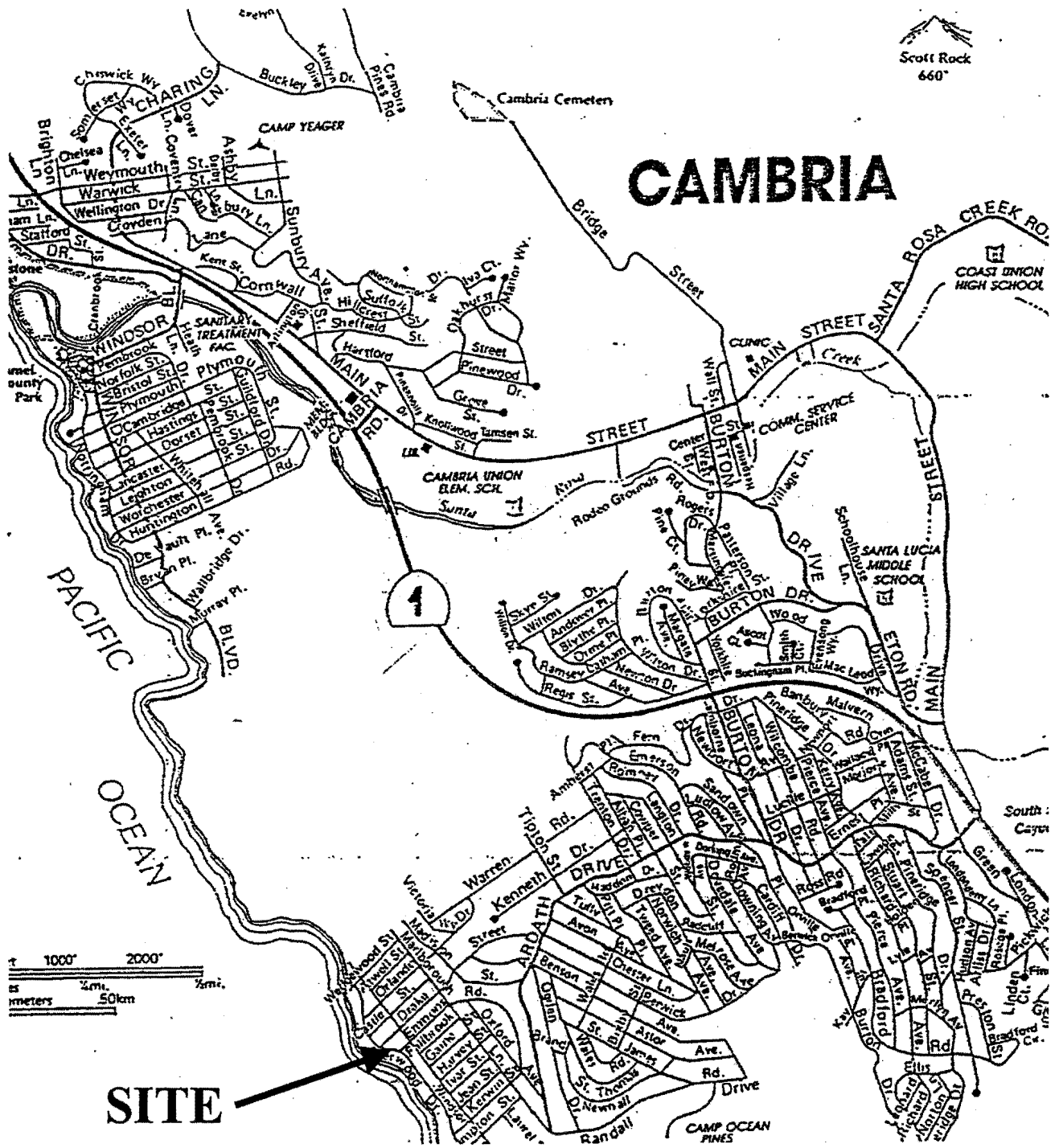
The protection of riparian and wetland habitat depends on a reliable and sustainable water supply. San Simeon and Santa Rosa Creeks support rare and important species such as Tidewater Goby, Southwestern pond turtle, and California Red Legged Frog. Both of these streams form at least a seasonal lagoon/wetland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

### **d. Substantial Issue Conclusion**

The appeal raises a substantial issue regarding project conformance to LCP ESHA Policies because the locally approved development has the potential to disrupt sensitive coastal streams, wetland and riparian habitat areas. The impacts associated 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.**







**PROJECT**

Minor Use Permit  
Korpiel (D010172P)

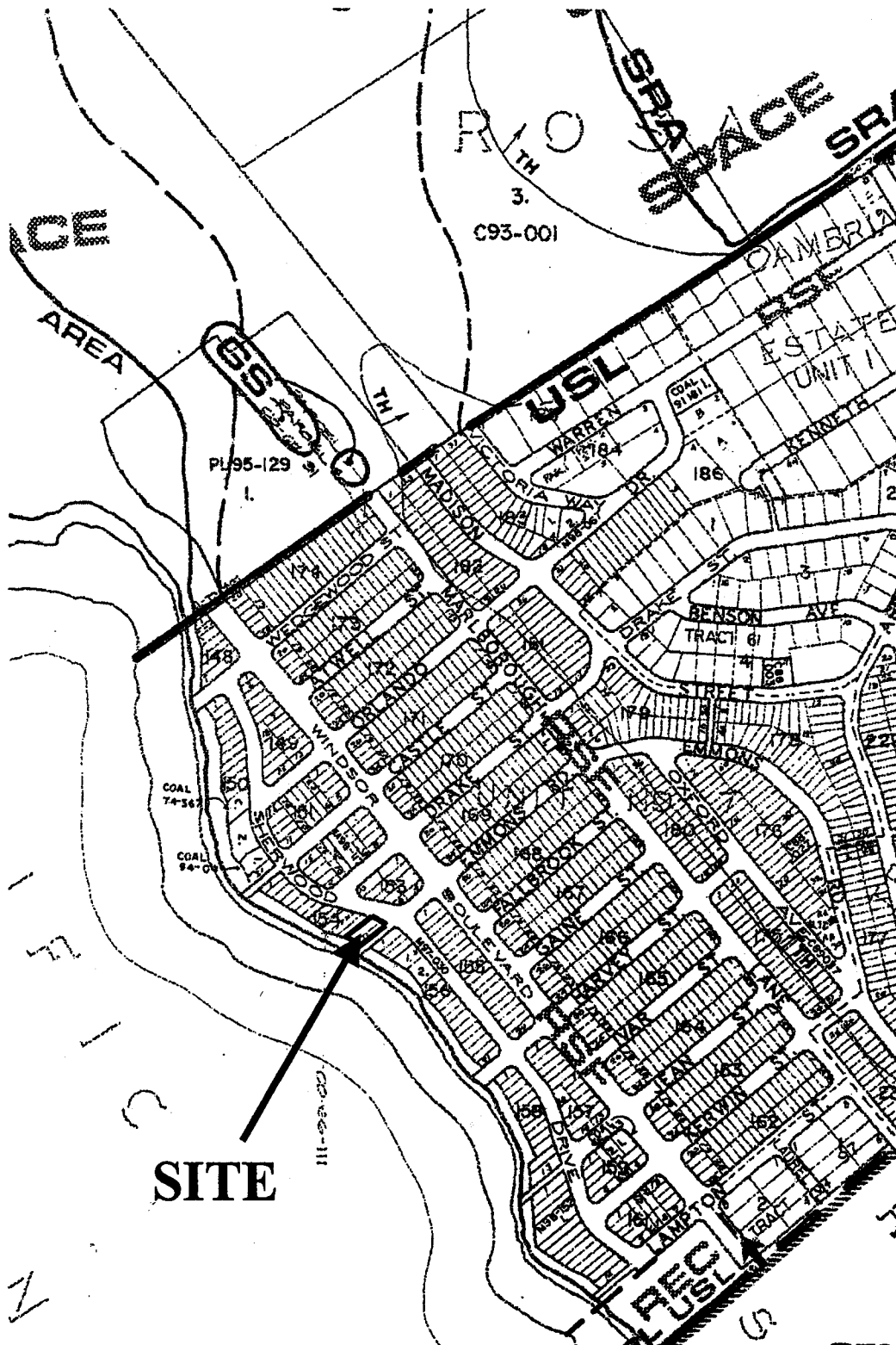


**EXHIBIT**

Vicinity Map

**CCC Exhibit**

(page 1 of 1 pages)



**PROJECT**

Minor Use Permit  
Korpiel (D010172P)



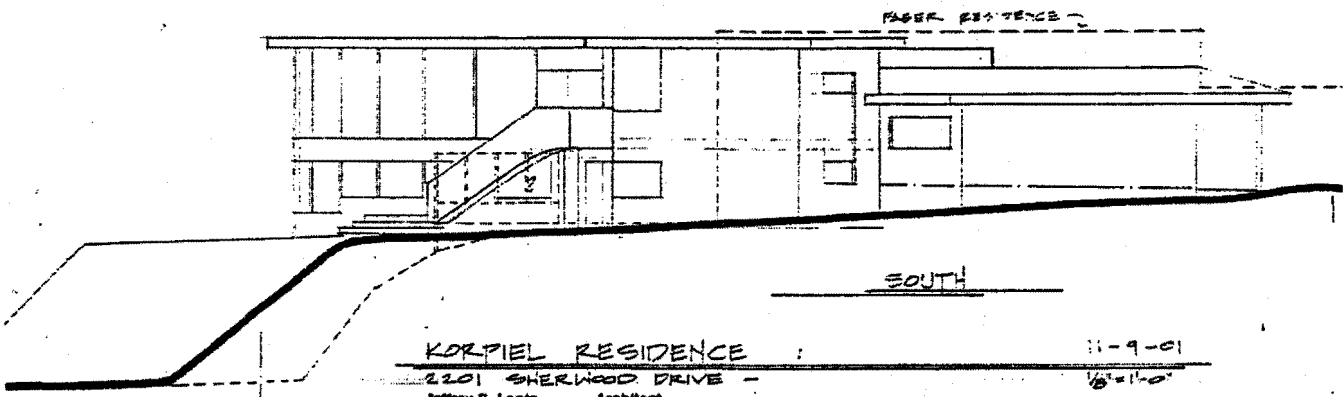
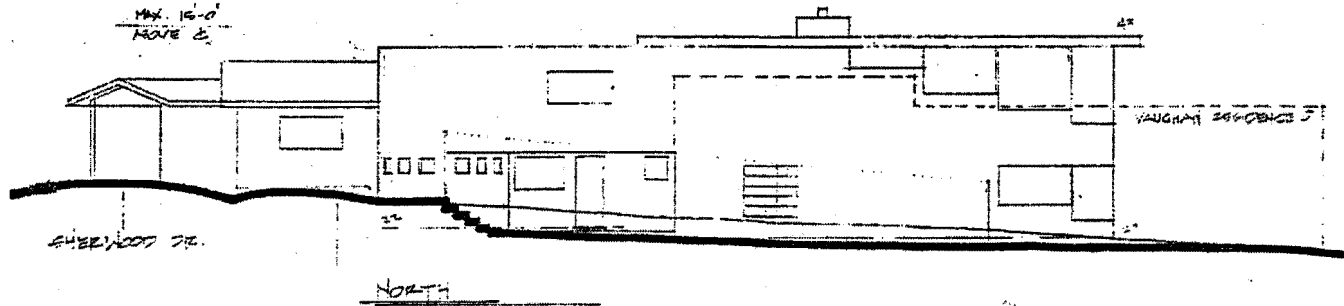
**EXHIBIT**

Land Use Map

**CCC Exhibit**

(page 1 of 1 pages)





KORPIEL RESIDENCE

2201 SHERWOOD DRIVE

Jeffrey B. Lentz, Architect  
610 Warren Road License C 9114  
Cambria, CA 93428 (805) 927-4877

PROJECT

Minor Use Permit  
Korpiel (D010172P)



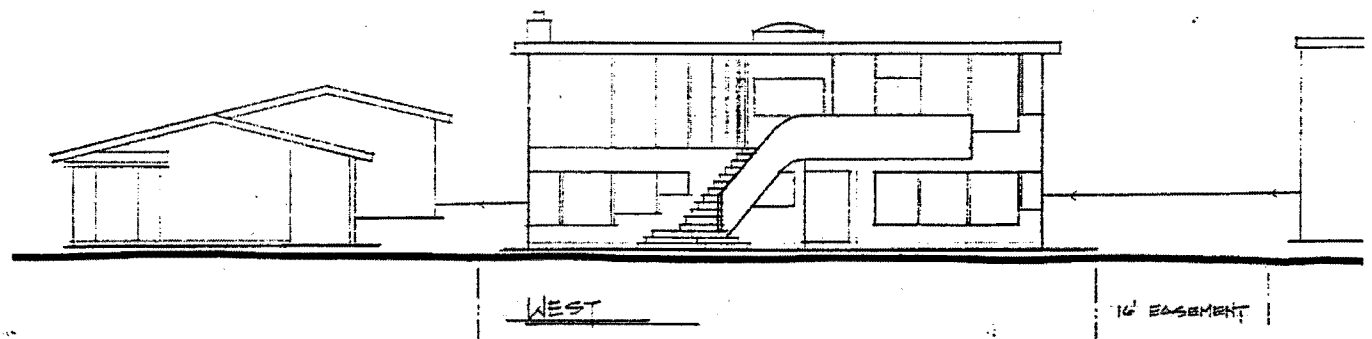
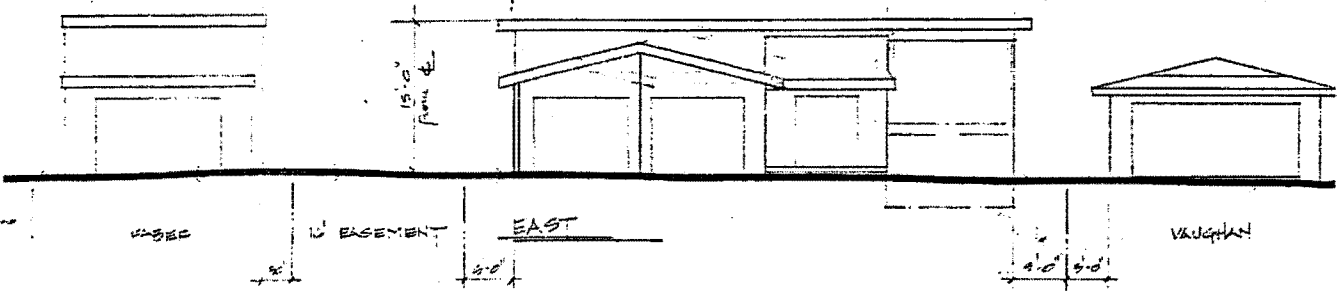
EXHIBIT

Elevations

CCC Exhibit

(page 2 of 3 pages)

3



PROJECT

Minor Use Permit  
Korpiel (D010172P)



EXHIBIT

Elevations

CCC Exhibit 3  
(page 3 of 3 pages)

**CALIFORNIA COASTAL COMMISSION**

CENTRAL COAST DISTRICT OFFICE  
725 FRONT STREET, SUITE 300  
SANTA CRUZ, CA 95080  
(831) 427-4863

**Reasons for Appeal: San Luis Obispo County Coastal Development Permit****D010172P (Korpiel)**

The County's approval of a Minor Use Permit/Coastal Development Permit for the construction of a single family residence in the community of Cambria, is inconsistent with San Luis Obispo County LCP requirements regarding public service capacities and the protection of environmentally sensitive habitats for the following reasons:

1. The development approval does not sufficiently demonstrate that there will be an adequate water supply for the project as required by 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. In this case domestic water for the project was obtained by transferring a previously existing residential water service from another location (4009 West St.), where a residential use was replaced with a commercial use. Due to the fact that this transfer did not extinguish water use at the sending site, this project will result in a net increase of real water usage in Cambria. As detailed in the Periodic Review of the San Luis Obispo County Local Coastal Program adopted by the Commission in July 2001, there are significant outstanding concerns regarding the availability of sustainable water supplies and the impact that additional withdrawals will have on sensitive species, habitats, and Coastal Act priority uses. Because it is not clear that there is sufficient water available to serve this development, the project cannot be approved consistent with Public Works Policy 1.

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

The increase in water withdrawals from Santa Rosa and San Simeon Creeks needed to support this and other new development will adversely affect sensitive riparian and wetland habitats supporting rare and important species such as the Steelhead trout, Tidewater goby, and California Red Legged Frog. Although requested by the Commission in January 1998, 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 have not been completed. As a result, the project is inconsistent 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;

**CCC Exhibit** 4  
**(page** 1 **of** 2 **pages)**

- 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;
- ESHA Policy 19 and Coastal Zone Land Use Ordinance Section 23.07.174, requiring new development within the watershed of coastal streams to be sited and designed to prevent impacts that would significantly degrade the coastal habitat and be compatible with the continuance of stream habitats;
- 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.

COUNTY OF SAN LUIS OBISPO  
PLANNING AND BUILDING DEPARTMENT  
COUNTY GOVERNMENT CENTER  
SAN LUIS OBISPO, CALIFORNIA 93408

1100

**FINAL LOCAL  
ACTION NOTICE**

REFERENCE # 3-80-02-550

APPEAL PERIOD 10/29-11/12/02

October 22, 2002

**RECEIVED**

Jeffrey B. Lentz, Architect  
610 Warren Road  
Cambria, CA 93428

OCT 28 2002

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

**NOTICE OF FINAL COUNTY ACTION**

HEARING DATE: October 4, 2002

SUBJECT: D010172P - KORPIEL - Document No. 2002-229

LOCATED WITHIN COASTAL ZONE: YES

The above-referenced application was approved by the Zoning Administrator. Pursuant to Section 23.02.033(d) of the Land Use Ordinance, we are enclosing approved Findings in Exhibit A and approved Conditions in Exhibit B, which are attached for your records.

This action is appealable to the Board of Supervisors within 14 days of this action. If there are Coastal grounds for the appeal there will be no fee. If an appeal is filed with non coastal issues there is a fee of \$474.00. This action may also be appealable to the California Coastal Commission pursuant to regulations contained in Coastal Act Section 30603 and the County Coastal Zone Land Use Ordinance 23.01.043. These regulations contain specific time limits to appeal, criteria, and procedures that must be followed to appeal this action. The regulations provide the California Coastal Commission 10 working days following the expiration of the County appeal period to appeal the decision. This means that no construction permits can be issued until both the County appeal period and the additional Coastal Commission appeal period have expired without an appeal being filed.

Exhaustion of appeals at the county level is required prior to appealing the matter to the California Coastal Commission. This second appeal must be made directly to the California Coastal Commission Office. Contact the Commission's Santa Cruz Office at (831) 427-4863 for further information on their appeal procedures.

**CCC Exhibit 5**  
**(page 1 of 5 pages)**



If the use authorized by this Permit approval has not been established or if substantial work on the property towards the establishment of the use is not in progress after a period of twenty-four (24) months from the date of this approval or such other time period as may be designated through conditions of approval of this Permit, this approval shall expire and become void unless an extension of time has been granted pursuant to the provisions of Section 23.02.050 of the Land Use Ordinance.

If the use authorized by this Permit approval, once established, is or has been unused, abandoned, discontinued, or has ceased for a period of six (6) months or conditions have not been complied with, such Permit approval shall become void.

If you have questions regarding your project, please contact your planner at (805) 781-5600. If you have any questions regarding these procedures, please contact me at (805) 781-5612.

Sincerely,

LONA FRANKLIN, Secretary  
PLANNING DEPARTMENT HEARINGS

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(Planning Department Use Only)

Date NOFA copy mailed to Coastal Commission: after October 18, 2002

Enclosed:              X   Staff Report  
                           X   Findings and Conditions

## EXHIBIT A - FINDINGS

### *Environmental Determination*

- A. The Environmental Coordinator, after completion of the initial study, finds that there is no substantial evidence that the project may have a significant effect on the environment, and the preparation of an Environmental Impact Report is not necessary. Therefore, a Negative Declaration (pursuant to Public Resources Code Section 21000 et seq., and CA Code of Regulations Section 15000 et seq.) has been issued on September 6, 2002 for this project.

### *Minor Use Permit*

- B. The proposed project or use is consistent with the San Luis Obispo County General Plan because the use is an allowed use and as conditioned is consistent with all of the General Plan policies.
- C. As conditioned, the proposed project or use satisfies/does not satisfy all applicable provisions of Title 23 of the County Code.
- D. The establishment and subsequent operation or conduct of the use will not, because of the circumstances and conditions applied in the particular case, be detrimental to the health, safety or welfare of the general public or persons residing or working in the neighborhood of the use, or be detrimental or injurious to property or improvements in the vicinity of the use because the project does not generate activity that presents a potential threat to the surrounding property and buildings. This project is subject to Ordinance and Building Code requirements designed to address health, safety and welfare concerns.
- E. The proposed project or use will not be inconsistent with the character of the immediate neighborhood or contrary to its orderly development because the project is similar to, and will not conflict with, the surrounding lands and uses.
- F. The proposed project or use will not generate a volume of traffic beyond the safe capacity of all roads providing access to the project, either existing or to be improved with the project because the project is located on a road constructed to a level able to handle any additional traffic associated with the project.
- G. The proposed use is in conformity with the public access and recreation policies of Chapter 3 of the California Coastal Act and structure will not preclude public access to and along the coast where an accessway is consistent with the provisions of Section 23.04.420 (Coastal Access Required) because as conditioned the applicant will provide a lateral access dedication from the mean high tide to the toe of the bluff. Vertical coastal access exists via the Emmons Road street end.
- H. The project design and development incorporates adequate measures to ensure protection of significant archaeological resources because no indications of prehistoric resources or early historic archaeological resources were found during the preliminary surface survey.

## EXHIBIT B - CONDITIONS OF APPROVAL

### Approved Development

1. This approval authorizes the construction of a new single family residence with approximately 2,127 square foot of footprint, 3,249 of gross structural area, and 456 square feet of TDC's.
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 15 feet from the centerline of the fronting street.
  - A. **Prior to setting foundation forms (and foundation inspection)** applicant's contractor shall call for a "building height point of measure verification" by setting a height point of measure stake and requesting a field verification by a county building inspector. Maximum height is 15 feet as measured from the center line of the fronting street (Sherwood Drive) at a point midway between the two side property lines projected to the street center line, to the highest point of the roof.
  - B. **Prior to approval of the roof nailing inspection**, the applicant shall provide the building inspector with documentation that gives the height reference, the allowable height and the actual height of the structure. This certification shall be prepared by a licensed surveyor or civil engineer.

### Coastal Access

4. **Prior to issuance of construction permits**, the applicant shall provide the County's Parks Division with a recorded offer to dedicate lateral access. Prior to recording an offer to dedicate lateral coastal access, a draft offer to dedicate shall be reviewed and approved by County Counsel and the Parks Division. The lateral offer to dedicate shall include the area of the subject parcel from toe of bluff to mean high tide line.

### Archaeology

5. In the event archaeological resources are unearthed or discovered during any construction activities, the following standards apply:
  - A. Construction activities shall cease and the Environmental Coordinator and Planning Department shall be notified so that the extent and location of discovered materials may be recorded by a qualified archaeologist, and disposition of artifacts may be accomplished in accordance with state and federal law.
  - B. In the event archaeological resources are found to include human remains, or in any other case where human remains are discovered during construction, the County Coroner is to be notified in addition to the Planning Department and Environmental Coordinator so that proper disposition may be accomplished.

### Miscellaneous

6. **Prior to the issuance of a construction permit**, the applicant shall submit a plan which shows drip irrigation and drought tolerant vegetation.

7. **Prior to the issuance of a construction permit**, the applicant shall provide a drainage plan to the Public Works Department for review and approval, subject to Section 23.05.040 of the Coastal Zone Land Use Ordinance and consistent with the preliminary drainage plan. Drainage from the proposed residence shall not be directed to the Emmons Road street end. The drain line shall be designed to minimize visual impacts.
8. **Prior to issuance of a construction permit**, the applicant shall pay all applicable school and public facilities fees.
9. **Prior to occupancy of any structure associated with this approval**, the applicant shall contact the Department of Planning and Building to have the site inspected for compliance with the conditions of this approval.
10. This permit is valid for a period of 24 months from its effective date unless time extensions are granted pursuant to Land Use Ordinance Section 22.02.050.
11. **Prior to final inspection**, the applicant shall obtain final inspection and approval from the Cambria Fire Department.