

CALIFORNIA COASTAL COMMISSION

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

Th7c

RECORD PACKET COPY

Filed: 11/12/02
49th day: 12/31/02
Open & Continued: 12/12/02
Substantial Issue: 01/08/03
Staff: JB-SC
Staff report prepared: 02/13/03
Hearing date: 03/6/03
Hearing item number: Th7c

APPEAL STAFF REPORT DE NOVO HEARING

Local government.....County of San Luis Obispo
Local Decision..... Local Permit # D010172P - Approved with conditions.
Appeal NumberA-3-SLO-02-093
Applicant.....Joe and Marilyn Korpiel.
AgentJeffery Lentz
AppellantsCommissioners Sara Wan and Pedro Nava
Project location.....2201 Sherwood Drive, Cambria (APN 023-041-029).
Project descriptionConstruction 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 ...**Recommend Approval with Conditions**

Summary of the Staff Recommendation: 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, blufftop 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. Because the project is located on the bluff between the first public road and the sea, the project must also be found consistent with Coastal Act Chapter 3 Public Access and Recreation policies. The LCP can provide guidance.

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.



California Coastal Commission
March 2003 Meeting in San Luis Obispo

Staff: J.Bishop Approved by: *DL*

4. Project Description.....8

5. Coastal Development Permit Determination8

 A. Public Services.....8

 1. Relevant Local Coastal Program Provisions.....8

 2. Consistency Analysis9

 3. Public Services Conclusion.....12

 B. Environmentally Sensitive Habitat Area (ESHA).....12

 1. Relevant Local Coastal Program Provisions.....12

 2. Consistency Analysis15

 3. ESHA Conclusion.....15

 C. Drainage, Sedimentation and Erosion Control.....16

 1. Relevant Local Coastal Program Provisions.....16

 2. Consistency Analysis17

 3. Drainage and Erosion Control Conclusion19

 D. Public Access and Recreation19

 1. Coastal Act and LCP Public Access and Recreation Policies19

 2. Consistency Analysis20

 3. Public Access and Recreation Conclusion.....23

 E. Hazards.....23

 1. Relevant LCP Hazards Policies23

 2. Consistency Analysis25

 3. Hazards Conclusion25

6. California Environmental Quality Act (CEQA)26

VI. Exhibits

 1. Project Vicinity Map

 2. Project Site Plan and Elevations

 3. Parcel Map

 4. Notice of Final County Action

 5. Aerial/Site Photos

 6. Correspondence

1. Staff Recommendation On Coastal Development Permit

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

MOTION: I move that the Commission approve Coastal Development Permit Number A-3-SLO-02-093 pursuant to the staff recommendation.

STAFF RECOMMENDATION OF APPROVAL: Staff recommends a **YES** vote. Passage of this motion will result in approval of the coastal development permit as conditioned and adoption of the



- a. 3,249 square foot, two-story single-family residence with: 2,127 square feet of footprint (including 456 square feet of TDC's), and a maximum height of 15 feet (measured from the centerline of the fronting street).
2. **No Net Increase in Water Use Allowed.** PRIOR TO ISSUANCE OF THE PERMIT, the applicant shall submit, for Executive Director review and approval, evidence that the anticipated water use of this development has been completely offset through the retrofit of existing water fixtures within the Cambria Community Service District's service area or other verifiable action to reduce existing water use in the service area (e.g., replacement of irrigated landscaping with xeriscaping). The documentation submitted to the Executive Director shall include written evidence that the Cambria Community Service District (CCSD) has determined that the applicant has complied with CCSD Ordinance 1-98, as approved by the CCSD Board of Directors on January 26, 1998 (attached as Exhibit 6), and further modified by CCSD Board approval on November 14, 2002 (CCSD board item VIII.B attached as Exhibit 7), subject to the limitation that no retrofit credits shall have been obtained by any of the following means: a) extinguishing agricultural water use, or b) funding leak detection programs. Evidence of compliance with CCSD Ordinance 1-98 shall be accompanied by written confirmation from the CCSD that any in-lieu fees collected from the applicant have been used to implement projects that have reduced existing water use within the service area in an amount equal or greater to the anticipated water use of the project.
3. **Drainage, and Erosion Control Plans.** PRIOR TO ISSUANCE OF THE PERMIT, the applicant shall submit, for Executive Director review and approval, a drainage and erosion control plan that incorporates the following provisions:

Implementation of Best Management Practices During Construction. The Drainage and Erosion Control Plans shall identify the type and location of the measures that will be implemented during construction to prevent erosion, sedimentation, and the discharge of pollutants during construction. These measures shall be selected and designed in accordance with the California Storm Water Best Management Practices Handbook and the criteria established by the San Luis Obispo County Resource Conservation District. Among these measures, the plans shall limit the extent of land disturbance to the minimum amount necessary to construct the project; designate areas for the staging of construction equipment and materials, including receptacles and temporary stockpiles of graded materials, which shall be covered on a daily basis; provide for the installation of silt fences, temporary detention basins, and/or other controls to intercept, filter, and remove sediments contained in the runoff from construction, staging, and storage/stockpile areas; and provide for the hydro seeding of disturbed areas immediately upon conclusion of construction activities in that area. The plans shall also incorporate good construction housekeeping measures, including the use of dry cleanup measures whenever possible; collecting and filtering cleanup water when dry cleanup methods are not feasible; cleaning and refueling construction equipment at designated off site maintenance areas; any the immediate clean-up of any leaks or spills.



6. No Future Bluff or Shoreline Protective Device.

- A (1) By acceptance of this Permit, the applicant agrees, on behalf of itself (or himself or herself, as applicable) and all successors and assigns, that no bluff or shoreline protective device(s) shall ever be constructed to protect the development approved pursuant to Coastal Development Permit No. A-3-SLO-02-093 including, but not limited to, the residence, foundations, decks, driveways, in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, bluff retreat, landslides, or other natural hazards in the future. By acceptance of this Permit, the applicant hereby waives, on behalf of itself (or himself or herself, as applicable) and all successors and assigns, any rights to construct such devices that may exist under Public Resources Code Section 30235.
- A (2) By acceptance of this Permit, the applicant further agrees, on behalf of itself (or himself or herself, as applicable) and all successors and assigns, that the landowner shall remove the development authorized by this Permit, including (describe the development, e.g., the house, garage, foundations, and septic system), if any government agency has ordered that the structures are not to be occupied due to any of the hazards identified above. In the event that portions of the development fall to the beach before they are removed, the landowner shall remove all recoverable debris associated with the development from the beach and ocean and lawfully dispose of the material in an approved disposal site. Such removal shall require a coastal development permit.

7. County Conditions. Except for Conditions 2, 4, and 7 all conditions of San Luis Obispo County's approval of the Project become conditions of this permit. All conditions of San Luis Obispo County's approval pursuant to planning authority other than the Coastal Act continue to apply.

Recommended Findings and Declarations

The Commission finds and declares as follows:

3. Project Background

The San Luis Obispo County Zoning Administrator approved the proposed project on October 4, 2002. Coastal Commissioners Sara Wan and Pedro Nava appealed this action to the Commission on November 12, 2002. On January 8, 2002 in Los Angeles, the Commission held a substantial issue hearing on the project and found that the appeal raised a substantial issue in terms of the projects consistency with the San Luis Obispo County LCP. As a result, the Commission took jurisdiction over the coastal development permit (CDP) for the project.



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 to these urban service policies, water supply for new development in Cambria must also 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.*

2. Consistency Analysis

Since passage of the Coastal Act, the Commission has recognized that Cambria's limited water supplies place a serious constraint on the buildout of this community. Concerns regarding the adequacy and reliability of Cambria's water supplies have been coupled with concerns that excessive withdrawals from San Simeon and Santa Rosa creeks will have significant adverse impacts on environmentally sensitive habitat areas. These concerns are detailed in the Commission's review of the North Coast Area Plan Update proposed by the County in 1997, and in the Periodic Review of the San Luis Obispo County LCP adopted by the Commission in July 2001 (available in project file for reference). This analysis is incorporated by reference into these findings.



associated with the full range of "pipeline projects" appears to be significantly greater than the 9,000 gallons per day estimated above.

In terms of this coastal development permit analysis, the cumulative increase in water use associated with pipeline projects, and the significant outstanding concerns regarding the adequacy of water supplies raise issues regarding compliance with LCP Public Works Policy 1, which requires that:

prior to permitting all new development, a finding shall be made that there are sufficient services to serve the proposed development given the already outstanding commitment to existing lots within the urban service line for which services will be needed

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 (1 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). Contrary to Public Works Policy 1, and as described above, it is unclear that there is adequate water available to serve both the proposed development and other outstanding commitments, and at the same time comply with LCP standards protecting ESHA. Accordingly, new development that will place additional demands on Cambria's limited water supplies cannot be approved consistent with the requirements of LCP Public Works Policy 1.

Nonetheless, there is an interim approach for those projects deemed "in the pipeline" that would allow these projects to move forward in the development process without creating additional water withdrawals. The approach involves the existing retrofit program of the CCSD, described below. Through the retrofit program, the replacement of old plumbing fixtures with lower use modern ones would allow Cambria's finite water supply to be stretched. By doing so, existing water supplies are used more efficiently, resulting in water savings that can be used for the new "pipeline projects." To implement this approach, the conditions of this permit allow the proposed development to be constructed only if its anticipated water use is completely offset through the implementation of verifiable water conserving actions, such as by replacing existing water fixtures with water conserving fixtures, and/or replacing irrigated landscapes with landscaping that requires little to no water.

Regardless of how the water savings is achieved (e.g. by actual retrofitting or retirement of existing water use), it is important to note that the success of this condition is limited by the finite number of non-retrofitted homes, businesses, and other un-retrofitted facilities remaining in the community; there must be an adequate amount of water saving opportunities available to offset the additional water use attributable to the pipeline projects. According to the CCSD there are adequate water savings opportunities currently available to achieve this objective.

It is also important to note that the CCSD already has a retrofit program in place, which allows property owners to purchase retrofit "points". The CCSD banks these funds for future use towards water



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 and 2 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.]

In addition, the following portions of CZLUO ordinances are applicable to the proposed project:



2. Consistency Analysis

Heightened water withdrawals needed to serve the project may significantly disrupt environmentally sensitive habitat areas inconsistent with the protection afforded this resource by the LCP. Inconsistent with ESHA Policies 1, 2, 5, 18 and 21, as well as Coastal Watershed Policies 1 and 2, 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. Although the CCSD annually monitors steelhead populations within the creeks, these monitoring activities have not provided the data and analyses needed to evaluate the impacts that water withdrawals may be having on the biological productivity and continuance of these sensitive habitat areas.

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. Again, the amount of water flow needed to support lagoon habitats and the sensitive species that rely on these habitats needs to be determined through instream flow studies that have yet to be completed.

3. ESHA Conclusion

LCP ESHA policies require that impacts to ESHA be avoided, and that development not significantly disrupt ESHA resources. New water withdrawals from San Simeon and Santa Rosa creeks may have adverse impacts to ESHA resources. As such, the Commission finds that the project, as proposed, is not consistent with the LCP's ESHA policies cited in this finding.



- (1) *All runoff from impervious surfaces such as roofs, driveways, walks, patios, decks, shall be collected and detained on-site, or passed on through an effective erosion control device or drainage system approved by the County Engineer.*
- (2) *Permanent erosion control devices shall be installed prior to or concurrently with on-site grading activities.*
- (3) *If grading is to occur between October 15 to April 15, a sedimentation and erosion control plan shall be submitted per Coastal Zone Land Use Ordinance Section 23.05.036.*
- (4) *Grading, filling or site disturbance of existing soil and vegetation shall be limited to the minimum areas necessary.*
- (5) *Stockpiles and other disturbed soil shall be protected from rain and erosion by plastic sheets or other covering.*
- (6) *All areas disturbed by grading shall be revegetated with temporary or permanent erosion control devices in place.*
- (7) *Impervious surfaces such as driveways and walkways shall be limited to the smallest functional size.*
- (8) *Exterior decks shall be located to avoid trees. Solid exterior decks shall be limited to 10% of the permitted footprint, while decks of permeable construction (i.e., open wood slats) shall be limited to 30% of permitted footprint.*

In addition to specific LCP drainage provisions, the following policies also apply:

Coastal Hazards Policy2: *New development shall ensure structural stability while not creating or contributing to erosion or geological instability.*

Visual and Scenic Resource Policy 10: Development on Coastal Bluffs. *New development on bluff faces shall be limited to public access stairways and shoreline protection structures. Permitted development shall be sited and designed to be compatible with the natural features of the landform as much as feasible. New development on bluff tops shall be designed and sited to minimize visual intrusion on sandy beaches. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD].*

2. Consistency Analysis

To address non-point source pollution from urban development, LCP policies focus on controlling erosion and sedimentation, on managing drainage patterns to reduce erosion and runoff, and on siting development off steeper slopes (Watershed Policies 8, 9, and 10). The County implements these goals by requiring sedimentation or erosion control plans and/or drainage plans (CZLUO Section 23.05.036 and Section 23.05.040). The North Coast Area Plan has additional requirements for development in the Lodge Hill area of Cambria. These include 1) runoff from impervious surfaces must be collected and detained on-site or passed through an erosion control system approved by the county engineer; 2) projects must include permanent erosion control devices; 3) a sedimentation/erosion control plan is



movement of dirt. The increase in impervious surfaces that will result from the project will also impact coastal water quality by altering natural drainage patterns and providing areas where for the accumulation of pollutants that will eventually be carried into coastal waters by storm water. Inconsistent with LCP drainage, hazard, and visual resource policies, the placement of drain pipes through the bluff face that terminate on the beach have the potential to destabilize the bluff, exacerbate erosion in these locations, as well as mar the aesthetics of the beach with unnecessary infrastructure.

3. Drainage and Erosion Control Conclusion

Given the set of circumstances described above, it is important that onsite drainage be directed away from the blufftop to minimize the potential for increased erosion of the bluff. It is also important that storm flows be directed to a storm drains where available. In this case, conveying site drainage to Sherwood Drive is most appropriate. Condition 3, therefore, requires that the applicant submit a final drainage and erosion control plan to ensure that proper measures are taken to collect and direct rainwater and surface runoff to appropriate stormwater drains, without impacting adjoining properties, the bluff, or the beach.

With this condition, the project complies with all applicable LCP drainage and water quality protection provisions. As such, and only as conditioned, the Commission approves the project and finds it consistent with the San Luis Obispo Certified LCP.

D. Public Access and Recreation

1. Coastal Act and LCP Public Access and Recreation Policies

Section 30210

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30211.

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Section 30212.

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:

- (1) It is inconsistent with public safety, military security needs, or the protection of fragile coastal resources,*
- (2) Adequate access exists nearby, or,*



the parcel map (see Exhibit 3), the Emmons Road street end runs along the flat bluff terrace, down the bluff face and to the mean high tide line. Emmons street end is a public road created as part of the original subdivision but has never been improved. While the Emmons Road street end provides access to the bluff edge, a nearly vertical drop prohibits vertical access to the shoreline below. Approximately 15 feet to the north on the applicant's property, a small dirt pathway has been carved through use, along the edge of the bluff and into the bluff face to allow the public an opportunity to reach the rocky beach below.

The Coastal Act requires that maximum public access be provided through new development, consistent with public safety and the need to protect private property owners' rights and natural resource areas from overuse (30210). The Coastal Act further requires that new development not interfere with the public's right of access to the sea, whether acquired through use or legislative action, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation (Section 30211). Section 30212 requires new development to provide public access.

Because the site is located between the first public road and the sea, the project must be found consistent with the public access and recreation policies of Chapter 3 of the Coastal Act. The LCP is used as guidance. In general, the LCP public access policies are the same as the Coastal Act access policies 30210-30212. Access Policy 2 of the LCP requires that vertical and lateral access be provided in new development. Exceptions are allowed in cases where 1) access is inconsistent with public safety, military security needs, or protection of fragile resources; 2) adequate access exists nearby; or 3) agriculture would be adversely affected. The LCP defines "adequate access" where vertical access exists within one-quarter mile in urban areas, and one mile in rural areas. These requirements are implemented through LCP Ordinance 23.04.420. In many instances the implementing ordinances of the CZLUO repeat the Coastal Act language verbatim. Together, all of these policies strive for the maximization of public access through new development and the protection of existing access and recreational opportunities.

The County conditioned the project to record an offer to dedicate (OTD) lateral access from the toe of the bluff to the mean high tide line. A close look at this offer to dedicate reveals that it may not be adequate at this time to maximize public access as required by the Coastal Act. It appears that the applicant's westerly property line extends only to the top of the bluff (see parcel map in Exhibit 3). The property does not include the bluff face or the rocky beach below. As such, the applicant may not have legal ownership of the area at this time to be offered for public access. At some point in the future, the forces of erosion may cause bluff retreat to a point where the toe of the bluff would be included on the applicant's property. It was explained that this is an "anticipatory" offer to dedicate, thereby securing lateral public access to this beach for the future. However, for the purposes of analyzing the proposed development at this time, it does not appear that this OTD is sited in a manner that maximizes public access or mitigates for public access impacts caused by this project. Therefore, this OTD fails to provide additional access opportunities and does not maximize public access through the new development approval.



County has indicated it is in the process of working on a Countywide coastal access plan.² A comprehensive review of historic uses, informal access, and potential prescriptive rights would be important to maximize protection of existing public access opportunities. In the meantime, it is important that this new development not prejudice future systematic planning to protect existing access and provide maximum access opportunities in the future.

Most recently, "No Trespassing" signs have been installed on the site. Photos taken by the County on February 10, 2003 show newly erected signs placed directly on the existing pathways. It appears that by placing the signs at this time and location, the property owner is attempting to prevent existing and future use from occurring. It is interesting to observe that this action indicates the property owner currently recognizes public use of the site, lending further evidence to support that existing and historic uses exist.

3. Public Access and Recreation Conclusion

Given this set of circumstances, an appropriate response is to avoid prejudice of future determinations with respect to public access (as well as to preserve opportunities for future improvements). While some quantum of evidence is available to suggest that historic public access has been provided here, the detailed analysis that would answer the questions about whether this area has been impliedly dedicated for public use has not been done. Accordingly, it is concluded that the access information for the subject parcel is indeterminate. Lacking the necessary information, the Commission is unable to find unequivocally that this property has been dedicated entirely or partly for public use. Therefore, the Commission finds that it is not authorized to require the applicant to dedicate his property for public access. Section 30211, however, requires that the Commission actions on shorefront projects shall ensure that new development does not interfere with public rights of access through use, but not necessarily formally determined by a court.

Special Condition 4 of this permit clarifies that the Commission in granting this approval does not intend any waiver of any public access rights which may exist on the site. To ensure that any public rights will be protected, it is also necessary to condition the project to limit fencing and the proposed berm along the bluff edge of the site (Special Condition 5). Therefore, to this extent, any historic rights of access which may exist, will be protected in the undeveloped area of the lot. As conditioned, public access impacts are mitigated to the extent feasible, and the project is consistent with the public access requirements of the Coastal Act.

E. Hazards

1. Relevant Local Coastal Program Provisions

As required by Hazards Policy 1, new development is to be located and designed so that shoreline protective devices will not be needed for the life of the structure. It states:

² Personal communication with Jan DeLeo 2/5/03, San Luis Obispo County Parks Division.



*CZLUO Section 23.05.090: Shoreline Structures . . .**a. Where allowed: . . .**(1) Protection of existing coastal development . . .***2. Consistency Analysis**

The San Luis Obispo County LCP allows shoreline structures only for existing development. It specifically prohibits new development that needs a shoreline structure in order to be developed and new development that includes a seawall (Hazards Policy 1 and Coastal Zone Land Use Ordinance Section 23.05.090). Furthermore, the LCP's general policy is that new development be set back from ocean bluffs a distance that would provide for protection from erosion for a minimum of 75 years (LCP Hazards Policy 6). Setbacks are necessary to protect structures from erosion of the coastal bluff for the life of the structure. On a site that has a relatively low bluff (approximately 17 feet) as this site has, the required 25-foot setback also provides protection from the damaging effects of waves, generated by large storms that may overtop the bluff. In this case, the County approved a new house consistent with the LCP required 25-foot setback.

According to the erosion rates contained in the submitted geologic information, a setback of 25 feet will prevent the need for a seawall to be constructed over a 75 year period. Such a setback is necessary to achieve project compliance with Section 23.04.118b of the CZLUO. The report suggests a number of measures that could be taken on the blufftop to protect from erosion, including reducing foot traffic, minimizing irrigation near the bluff, diverting drainage towards the street, and planting deep rooted drought resistant vegetation near to the blufftop. However, the geotechnical report recommends in conclusion "the most effective means of controlling erosion on the bluff face would be some form of wave protection along the base of the bluff ..." (Cleath and Associates, 1/16/02).

Shoreline structures protect existing houses on both sides of the subject lot and on many of the other lots in the Marine Terrace neighborhood. Some of these may have been illegally constructed in response to the major winter storms of 1983.

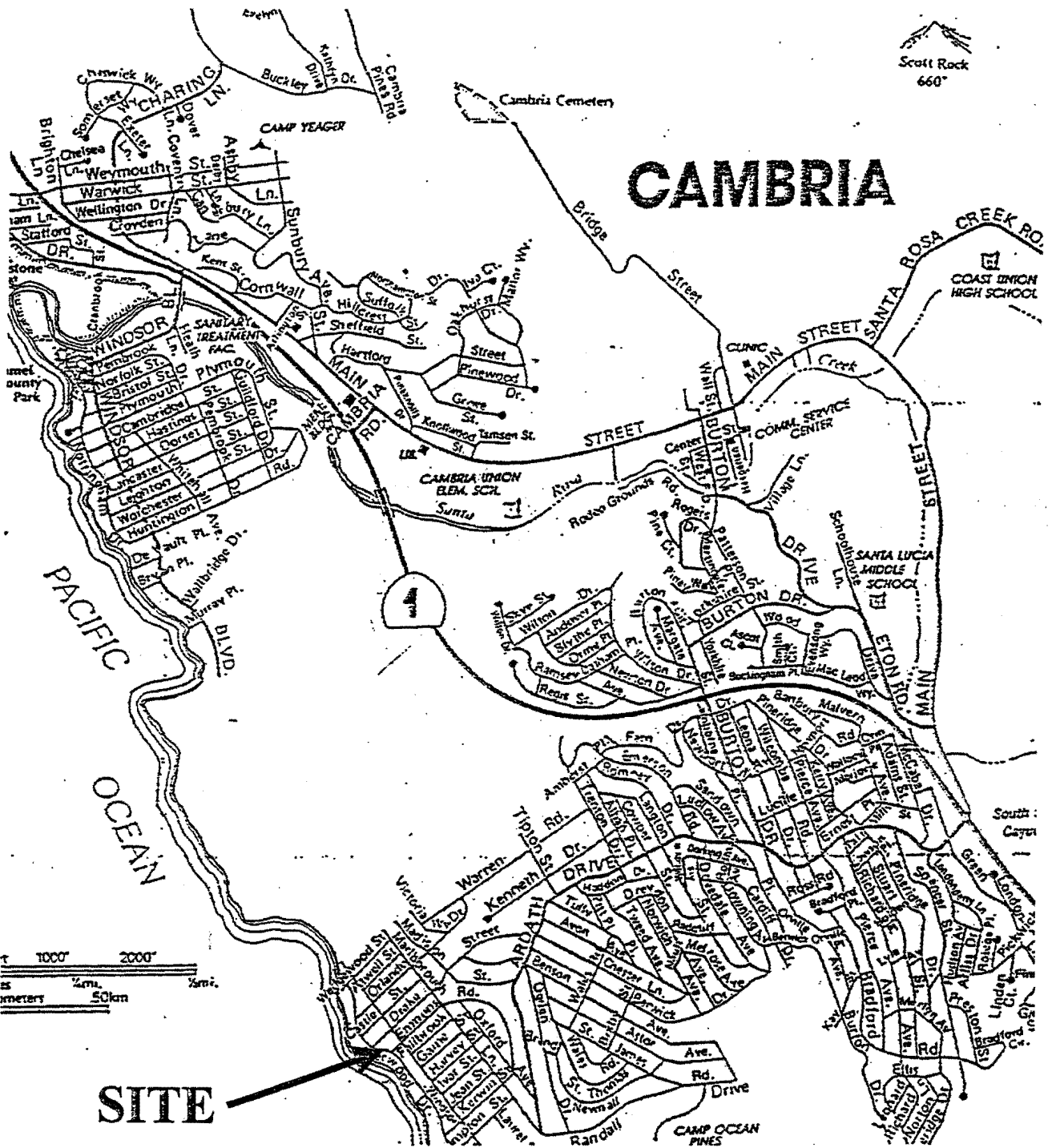
3. Hazards Conclusion

The LCP is very clear in requiring a 25-foot blufftop setback along the Cambria waterfront. The purpose of these policies are to insure that new development will not require the installation of shoreline protection for the its economic life (in this case assumed to be 75 years) and, more broadly, to effectuate the Coastal Act section 30253 policy goal of avoiding shoreline protection construction for new development. As described above, the setback of 25 feet as proposed by the applicant appears to be adequate. However, given the inherent geologic uncertainty as well as significant risks associated with blufftop development, further assurance that no future shoreline protection will be required on this site is needed to meet the requirement of the LCP. In light of this fact, and the need to assure structural stability without future shoreline protection, this permit is conditioned to require the applicant to record a deed restriction that (1) addresses the assumption of risk from hazards associated with waves and erosion and that (2) prohibits construction of any shoreline protective device(s) for the purpose of protecting the development authorized by this permit for a period of 100 years. Therefore, the





CAMBRIA



SITE

PROJECT

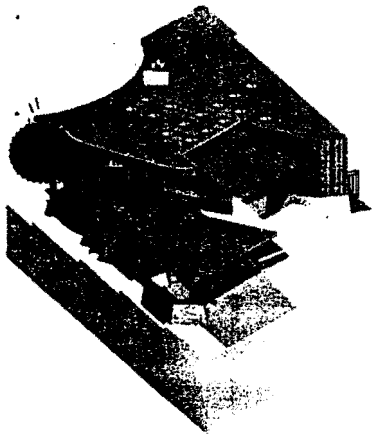
Minor Use Permit
Korpiel (D010172P)



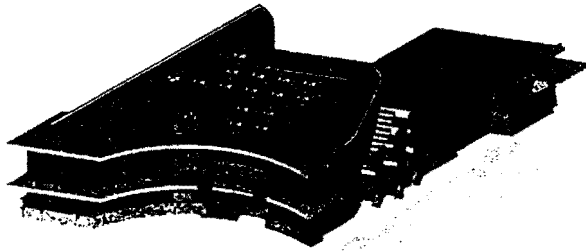
EXHIBIT

CCC Exhibit

Vicinity Map (page 1 of 1 pages)



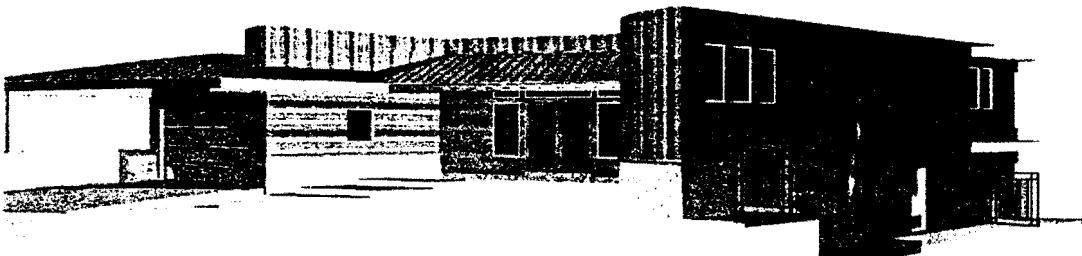
FRONT RIGHT ISOMETRIC
SOUTHEAST



RIGHT REAR ISOMETRIC
SOUTHWEST



RIGHT REAR PERSPECTIVE
SOUTH



FRONT RIGHT PERSPECTIVE
EAST

THESE VIEWS ARE MEANT TO CONVEY OVERALL VISUAL CONCEPTS OF THE STRUCTURE. THEY ARE NOT TO SCALE. EXTERIOR MATERIALS AND DETAILING MAY CHANGE.

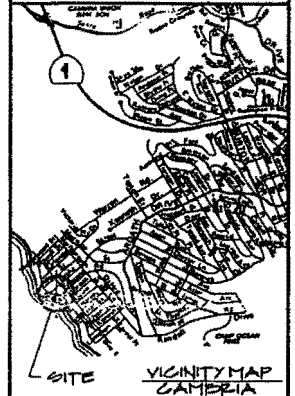
THESE DRAWINGS ARE INSTRUMENTS OF SERVICE AND ARE THE PROPERTY OF JEFFREY B. LENTZ. ALL DECISIONS AND OTHER INFORMATION ON THESE DRAWINGS FOR USE ON THE SPECIFIED PROJECT AND ANY OTHER PROJECT SHALL BE USED OR REPRODUCED WITHOUT THE EXPLICIT WRITTEN CONSENT OF JEFFREY B. LENTZ. WRITTEN DIMENSIONS ON THESE DRAWINGS SHALL HAVE PRECEDENCE OVER SCALED DIMENSIONS. CONTRACTORS SHALL VERIFY AND BE RESPONSIBLE FOR ALL DIMENSIONS AND CONDITIONS SHOWN BY THESE DRAWINGS.

JENTZ

JEFFREY B LENTZ
& ASSOCIATES

ARCHITECT C-9114

610 WARREN ROAD
CAMBRIA CA 93428
PH (805) 927-4877



PROJECT DESCRIPTION

NEW SINGLE FAMILY RESIDENCE WITH:
3 BEDROOM
3 1/2 BATHS
2-CAR GARAGE

PROJECT DATA

LOT SIZE 6109 SQ FT
FRONT SET BACK 5'-0"
REAR SETBACK 25' FROM BLUFF
SIDE SETBACKS 5'-0"

HOUSE SIZE
* ALLOWED GSA 3244 SF
PROPOSED GSA 3236 SF
* ALLOWED FP 2557 SF
PROPOSED FP 2124 SF

* INCLUDING 449 SF OF TDCS

FIRST FLOOR LIV 1170 SF
SECOND FLOOR LIV 1564 SF

TOTAL LIVING 2734 SF
GARAGE 472 SF
GSA 3236

ROOF DECKS 245 SF
WATERPROOF DECKS 177 SF

SEALING DATA LESS THAN 50 CU. YDS

GUT LESS THAN 24'

FILL LESS THAN 36'

BUILDING HEIGHT

MAX ALLOWED HEIGHT ABOVE C OF STREET 15'-0"

CENTER LINE OF STREET 25'-3"

MAX ALLOWED HEIGHT ACTUAL HEIGHT ELEV. 43'-3"

OWNER

JOE KORPIEL
317 WEDGEWOOD ST
CAMBRIA, CA 93428
805-927-1244 (H)

SITE DATA

2201 SHERROD DRIVE, CAMBRIA CA
LOTS 18 & 14
CIPM NO. 7
APN 025-041-025

CCC Exhibit 2
(page 2 of 5) PERSPECTIVE ELEVATIONS pages

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

1140
**FINAL LOCAL
ACTION NOTICE**

REFERENCE # 3-20-02-550

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 4
(page 1 of 5 pages)

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.

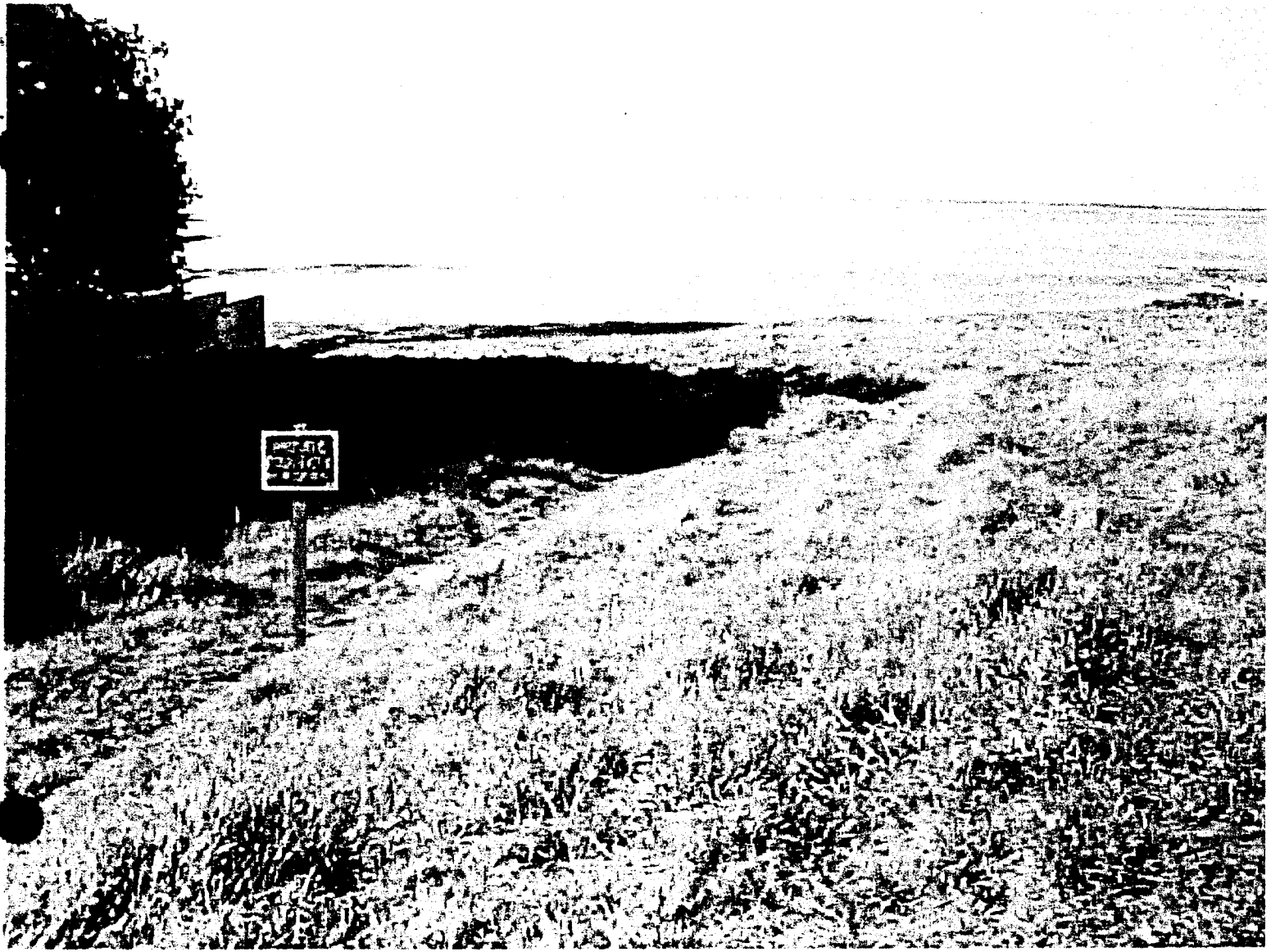
7. **Prior to the issuance of a construction permit**, the applicant shall provide a drainage plan to the Public Works Department for review and approval, subject to Section 23.05.040 of the Coastal Zone Land Use Ordinance and consistent with the preliminary drainage plan. Drainage from the proposed 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.

2002

2



CCO Exhibit
Stage 2002



SITE 2/11/03

CCC Exhibit 5
(page 4 of 4 pages)