

**CALIFORNIA COASTAL COMMISSION**

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## **STAFF REPORT: APPEAL**

### **SUBSTANTIAL ISSUE DETERMINATION/ DE NOVO FINDINGS**

**Local government**.....San Luis Obispo County

**Local Decision**.....D020256D, Approved with conditions (see Exhibit 3)

**Appeal Number** .....A-3-SLO-03-117

**Applicant**.....Brown Family Trust & James and Johanna Townsend

**Appellants**.....Commissioners Sara Wan and John Woolley

**Project location**.....6925 Jordan Rd., northwest of Cambria Pines Rd.; approx. 1 mile north of the community of Cambria, (North Coast Planning Area), San Luis Obispo County

**Project description**.....Land division of two existing parcels of 117.56 and 80 acres, resulting in three parcels of 97.34, 45.22, and 55 acres; and a request to convert an existing 1,200 square foot residence to storage with water meter transfer to new parcel

**File documents**.....San Luis Obispo County certified Local Coastal Program; San Luis Obispo County Coastal Development Permit Numbers S020154P/CO 02-0272 and D020256D.

**Staff recommendation** ....**Substantial Issue Raised; Denial.**

**Summary of Staff Recommendation**

Staff recommends that the Commission determine that a **substantial issue** exists with respect to the grounds on which the appeal has been filed, and that the subsequent permit be **denied** for the project as described herein.

The San Luis Obispo County approved project, which is the subject of this appeal, is a land division of two existing parcels of 117.56 (Brown) and 80 acres (Townsend). The two parcels have been subject to numerous development proposals in the past 10 years. In 1994, the County approved a lot line adjustment creating the current 2-parcel configuration. In 1997, the County approved two primary residences, a guesthouse, greenhouse, barn/workshop, pool, poolhouse, tennis court, gazebo, and access road on the Brown parcel. The smaller 80-acre parcel remains vacant. On June 15, 2000, the Coastal Commission denied the Browns' proposal for another lot line adjustment, finding that the development would have significant impact on important coastal resources and would result in the creation of a non-conforming parcel. The Brown's challenged this decision in court and a settlement agreement followed. On June 13, 2002, pursuant to the settlement agreement, the Commission approved a coastal

**California Coastal Commission****March 2004 Meeting in Monterey**Staff: J. Bishop Approved by: *[Signature]* 2/26/04

development permit for a lot line adjustment (A-3-SLO-00-045) resulting in a new reconfiguration for the parcels (152 and 55 acres), and at the same time the established the least environmentally damaging development envelope in the southeast property corner of Townsend parcel (see Project Background for more detail). As of this writing, the permit A-3-SLO-00-045 remains in effect but has not been exercised by the Applicant.

At this time, the Applicants propose to subdivide the two existing parcels (117.56 acres and 80 acres), into three parcels of approximately 97.34 acres, 45.22 acres, and 55 acres. Development envelopes of 12.25 acres, 2 acres, and 5.5 acres have been designated within each of the new parcels. Mr. Brown's existing residential compound is located within the 12.25 acres development envelope. The 2 acre and 5.5 acre envelopes would support new residential development. The remaining lands would be placed in conservation or open space easements. As a means to acquire water service for the newly created 45.22 acre parcel, the applicant is proposing to convert the smaller existing residence (1,200 sq. ft.) located on the Brown property to storage, then transfer the water meter to the new site. The larger existing residence onsite (10,000 sq. ft.) will remain in residential use. The parcels are located on the north side of Cambria Pines Road, approximately ½ mile east of Highway One, north of the community of Cambria, in San Luis Obispo County. The parcels are within the Rural Lands land use category and are located in a Sensitive Resource Area, as designated in the LCP, due to the surrounding environmentally sensitive Monterey pine forest habitat.

Staff recommends that the Commission determine that a **substantial issue** exists with respect to the grounds on which the appeal has been filed, because as approved by the County the proposed land division is inconsistent with provisions of the San Luis Obispo County certified Local Coastal Program (LCP) protecting environmentally sensitive habitat areas (ESHA), and requiring evidence of adequate water supplies.

The County approval is inconsistent with LCP Policy 1 for Environmentally Sensitive Habitat Areas (ESHA), because it creates new parcels, designates new residential building sites, and constructs access roads in ESHA. This development is not resource dependent and does not effectively avoid and minimize impacts on the sensitive resources of the site, particularly within the Monterey Pine Forest habitat designated as ESHA by the LCP. The County approval is inconsistent with ESHA Policy 4, because the County approved land division will necessitate development (building envelopes, utility extensions, and access roads) within Monterey pine forest ESHA and LCP required setback areas. The County approved project is inconsistent with ESHA Policy 33 and CZLUO Section 23.07.176 because the project allows for the unnecessary removal of up to 30 Monterey pines to support the new residential developments. In addition, the project is inconsistent with the North Coast Area Plan site planning standard for new land divisions near Cambria because the proposed development envelopes are not located near the Urban Reserve Line (URL), nor are they clustered in open areas to minimize tree removal. Instead, the County approved project locates development envelopes in the interior of the parcels, roughly one-half of a mile from the URL, requiring significant groundcover/habitat disturbance and extensive removal of endangered Monterey pine trees, particularly young Monterey pine saplings which are important to long-term forest health and future regeneration. Proposed access roads would unnecessarily fragment the habitat.



Finally, the conversion of an existing 1,200 square foot primary residence to “storage” as a way to transfer water service to a newly created parcel raises concerns with respect to the LCP requirement to demonstrate the existence of adequate water supplies in Cambria. Because any residential development, including residential accessory structures and landscaping, will likely be larger in size and use more water than the 1,200 square foot residence, this water transfer scheme could intensify water use at a time when existing water withdrawals may be adversely impacting sensitive riparian habitats, and the Cambria CSD has declared a water supply emergency.

Staff further recommends that the Commission **deny** the project due to fundamental inconsistencies with the certified LCP that cannot be resolved. There is no entitlement to subdivide here, and approval of the project would necessitate the creation of new parcels within Monterey pine forest ESHA for residential development that is not resource dependent. Furthermore, the newly proposed disturbance envelopes of 7.75 acres (which combined with the existing residential disturbance of 12.25 acres would result in 20 acres of forest disturbance), two approximately ¼ mile long driveways paved to accommodate fire access requirements, and removal of up to 30 native Monterey pine trees to support the project will degrade and fragment the surrounding Monterey pine forest and significantly disrupt the ESHA. Given the fact that the proposed subdivision, for which there is no entitlement, does not comply with the most fundamental LCP ESHA protection provisions, and in light of the fact that there is a feasible, less environmentally damaging alternative building site that the Commission has already approved for the Townsend parcel, the project must be denied.

## Staff Report Contents

Summary of Staff Recommendation.....	1
I. Local Government Action.....	5
II. Summary of Appellants' Contentions.....	5
III. Standard of Review for Appeals.....	6
IV. Staff Recommendation on Substantial Issue.....	7
V. Staff Recommendation on De Novo Permit.....	7
VI. Substantial Issue Findings and Declarations.....	8
VII. De Novo Findings and Declarations.....	9
A. Project Background.....	9
B. Project Description and Location.....	10
C. County-Approved Project.....	11
D. De Novo Findings.....	11
1. Environmentally Sensitive Habitat Areas (ESHA).....	11
a. Local Coastal Program Provisions.....	11
b. Policy Background.....	13
c. Resource Background - Status of the Monterey Pine Resource.....	13
d. ESHA Identification.....	17
e. Impacts to Monterey Pine Forest ESHA.....	21
f. Inconsistencies.....	24
g. Alternatives.....	25
h. ESHA Conclusion.....	25



2. Public Services.....	26
A. Local Coastal Program Provisions.....	26
B. Analysis.....	26
c. Public Services Conclusion.....	29
F. California Environmental Quality Act (CEQA) .....	29
IV. Exhibits	
1. Vicinity Map	
2. Land Use Designation Maps	
3. Project Plans	
4. San Luis Obispo County Final Action (includes Findings and Conditions of Approval)	
5. Appellants' Contentions	
6. Aerial Depiction of Sensitive Resource Areas (SRA's) and Site Photos	
7. Illustrative Guideline for Future Delineation of Parcel Two (Townsend) Building Site	



2. Public Services.....	26
A. Local Coastal Program Provisions.....	26
B. Analysis.....	26
c. Public Services Conclusion.....	29
F. California Environmental Quality Act (CEQA) .....	29
IV. Exhibits	
1. Vicinity Map	
2. Land Use Designation Maps	
3. Project Plans	
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## **I. Local Government Action**

The County of San Luis Obispo Subdivision Review Board approved the proposed project, with conditions, on November 3, 2003. A Negative Declaration under CEQA was completed for the project on September 19, 2003, and was approved by the Board at the same time. Notice of the Board's action on the coastal permit was received in the Commission's Central Coast District Office on November 20, 2003. The Commission's ten-working day appeal period for this action began on November 21, 2003 and concluded at 5pm on December 8, 2003. A valid appeal (see below) from Commissioners Wan and Woolley was received during the appeal period.

## **II. Summary of Appellants' Contentions**

Please see Exhibit 5 for the full texts of the appeals.

The appellants, Commissioners Wan and Woolley, have appealed the final action taken by San Luis Obispo County, on the basis that approval of the project is inconsistent with policies of the San Luis Obispo County Local Coastal Program with respect to environmentally sensitive habitat areas, and public services.

Appellants Wan and Woolley contend in part:

1. Policy 1 for Environmentally Sensitive Habitats (ESHA) and CZLUO Sections 23.07.170 – 178 require that development located within or adjacent to ESHA shall not significantly disrupt the resource, and only those uses dependent on such resources shall be allowed within the area. The County approved project would necessitate the creation of new parcels in ESHA for residential development that is not resource dependant. New building envelopes and paved access roads will degrade and fragment the surrounding Monterey pine forest and significantly disrupt environmentally sensitive habitat areas.
2. Policy 4 for ESHA prohibits land divisions within environmentally sensitive habitats, "unless it can be found that the buildable area(s) are entirely outside the minimum standard setback required for that habitat." The project is located within Monterey pine forest ESHA. Inconsistent with the LCP, the County approved project involves the division of land and future development within ESHA and sensitive resource setback areas.
3. Policy 33 and CZLUO Section 23.07.176 require that rare or endangered vegetation shall be protected and that all development shall minimize disturbance to wildlife or plant habitat. CZLUO Section 23.07.164 requires that any proposed clearing of trees or other features be the minimum necessary to achieve safe and convenient access and not create significant adverse effects on the identified sensitive resource. The County approved project does not minimize disturbance to the sensitive Monterey pine forest habitat.
4. The North Coast Area Plan Site Planning Standard for new land divisions requires that proposed residential units shall be clustered adjacent to the Cambria Urban Reserve Line to minimize the need for new road construction and service extensions; or shall be clustered in open or semi-open areas to minimize tree removal. The County approved project is not clustered adjacent to the



URL and does not minimize tree removal. Feasible alternatives are available that would avoid these impacts.

5. Public Works Policy 1 requires that new development demonstrate the availability of adequate public services, including domestic water supplies, prior to being permitted. Water for the newly created 45.22-acre parcel would be obtained by converting an existing 1,200 square foot residence on the Brown property to storage, then transferring the water meter to the new parcel. This scenario may intensify water use because any house built on the newly created parcel will likely be larger than 1,200 square feet, the proposed development may include accessory structures, and also includes landscaping. This transfer scheme raises concern particularly at a time when existing water withdrawals may be adversely impacting sensitive riparian habitats, and the Cambria CSD has declared a water supply emergency. Thus, this water meter transfer does not demonstrate the availability of adequate public services to serve new subdivisions in Cambria.

### III. Standard of Review for Appeals

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

The grounds for appeal under section 30603 are limited to allegations that the development does not conform to the standards set forth in the certified local coastal program or the public access policies of the Coastal Act. Section 30625(b) of the Coastal Act requires the Commission to conduct a *de novo* coastal development permit hearing on an appealed project unless a majority of the Commission finds that "no substantial issue" is raised by such allegations. Under section 30604(b), if the Commission conducts a *de novo* hearing, the Commission must find that the proposed development is in conformity with the certified local coastal program in order to issue a coastal development permit. Section 30604(c) also requires an additional specific finding that the development is in conformity with the public access and recreation policies of Chapter Three of the Coastal Act, if the project is located between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone. This project is not located between the first public road and the sea.



#### **IV. Staff Recommendation on Substantial Issue**

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

**MOTION:** *I move that the Commission determine that Appeal No. A-3-SLO-03-117 raises NO substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act.*

**STAFF RECOMMENDATION of SUBSTANTIAL ISSUE:** 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-03-117 presents a substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act regarding consistency with the Certified Local Coastal Plan.

#### **V. Staff Recommendation on De Novo Permit**

The staff recommends that the Commission, after public hearing **deny** a coastal development permit for the proposed development.

**MOTION:** *I move that the Commission approve Coastal Development Permit Number A-3-SLO-03-117 for the development proposed by the applicant.*

**STAFF RECOMMENDATION OF DENIAL:** Staff recommends a NO vote. Failure of this motion will result in denial of the permit and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

**RESOLUTION TO DENY THE PERMIT:** *The Commission hereby denies a coastal development permit for the proposed development on the grounds that the development will not conform with the policies of the San Luis Obispo County Local Coastal Program. Approval of the permit would not comply with the California Environmental Quality Act because there are feasible mitigation measures or alternatives that would substantially lessen the significant adverse impacts of the development on the environment.*





## **VI. Substantial Issue Findings and Declarations**

The appeals by Commissioners Wan and Woolley raise a substantial issue, because as approved by the County, the project is inconsistent with provisions of the San Luis Obispo County certified Local Coastal Program with respect to environmentally sensitive habitat areas, and public services.

### **ESHA's**

The project is located within Monterey pine forest ESHA as defined by the LCP. Inconsistent with ESHA Policy 1 and CZLUO Section 23.07.170d(2), the land division approved by the County would allow the creation of new parcels in an environmentally sensitive habitat area (ESHA) for residential development that is not resource dependant. Policy 4 for ESHA and CZLUO Section 23.07.170c specifically prohibit land divisions within environmentally sensitive habitats. Inconsistent with the LCP, the County approved project involves the division of land and future development within ESHA. New building envelopes and paved access roads will degrade and fragment the surrounding Monterey pine forest and significantly disrupt environmentally sensitive habitat areas, inconsistent with LCP requirements.

Policy 33, and CZLUO Sections 23.07.176 and 23.07.164, require that rare or endangered vegetation shall be protected and that all development shall minimize disturbance to wildlife or plant habitat. The County approved project involves the removal of up to 30 Monterey pine trees for underground utilities and driveways, as well as permanent clearing of at least 7.75 acres of grasses and forest habitat to accommodate newly created building envelopes and access roads. Inconsistent with the LCP, the size and location of the newly proposed parcels and development envelopes do not minimize disturbance to the sensitive Monterey pine forest habitat.

Finally, the North Coast Area Plan Site Planning Standard for new land divisions adjacent to Cambria requires that proposed residential units shall be clustered adjacent to the Cambria Urban Reserve Line to minimize the need for new road construction and service extensions; or shall be clustered in open or semi-open areas to minimize tree removal. The County approved project shows the proposed building envelopes in the interior of the parcel and further away from the URL than necessary. Inconsistent with the Planning Area Standard, the approved project also allows for 30 sensitive Monterey pine trees to be removed in order to accommodate the proposed access roads and utility connections. In this case, alternative siting options are available that would avoid these impacts. Thus, substantial issue is raised.

See the De Novo ESHA findings, incorporated herein by reference, for more detail.

### **Public Services**

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, the County required that domestic water for the newly created 45.22-acre parcel be obtained by converting the existing 1200 square foot residence to storage, then transferring the water meter to the new parcel. This transfer scheme could intensify water use at a time when existing water withdrawals may be adversely impacting sensitive riparian habitats, and the Cambria CSD has declared a community-wide water supply emergency. Substantial issues are raised because it seems likely that the transfer will result in a net increase in water use.

See the De Novo Public Services findings, incorporated herein by reference, for more detail.



## VII. De Novo Findings and Declarations

The proposed land division is inconsistent with LCP Policy 1, 4, and 33 for Environmentally Sensitive Habitats; CZLUO Sections 23.07.170c, 23.07.170d, and 23.07.164; and North Coast Area Plan Rural Lands Standard 2, because of its potential to have significant adverse impacts on environmentally sensitive habitats. In addition, it has not been demonstrated that adequate public service capacities are available to serve the new parcels created through this land division (Public Works Policy 1).

### A. Project Background

The proposed project involves two parcels originally owned by the applicant Joshua Brown. The existing 117.56-acre parcel still remains under Mr. Brown's ownership, however, the smaller 80-acre parcel was sold to the Townsend family trust in April 2000. The two parcels have been subject to a number of development proposals in the past 10 years. In 1994, the County approved a lot line adjustment creating the current 2-parcel configuration. In 1997, Mr. Brown received a Minor Use Permit to construct two primary residences, a guesthouse, greenhouse, barn/workshop, pool, poolhouse, and tennis court on the 117.56-acre parcel. During the processing of this Minor Use Permit, 60 acres of the 80-acre parcel (now Townsend) was placed in a voluntary Conservation Easement by Mr. Brown. The Land Conservancy of San Luis Obispo County is the holder of this Easement. Staff has reviewed the language of the Easement and it appears that land divisions are prohibited. The Land Conservancy has yet to make a formal determination on this matter. The Easement area includes among other important habitat types, sensitive Monterey pine forest, that is contiguous with a much larger forest area, and covers 60 acres of the 80-acre Townsend parcel including the entire property boundary. The remaining 20 acres not covered by the easement is in the center of the parcel, which is not as heavily forested as other portions of the property.<sup>1</sup>

On June 15, 2000, the Coastal Commission denied the Browns' permit application for another lot line adjustment, finding that this development would have a significant impact on important coastal resources and result in the creation of a non-conforming 55-acre parcel in an area where there is an 80 acre minimum parcel size. The Browns filed a mandate petition, directing the Commission to set aside its decision. On September 18, 2001, the trial court issued its ruling supporting three of the Coastal Commission's arguments, but granting the Browns' writ of mandate on the ground that the Commission's decision was not supported by substantial evidence, for it erroneously relied on the Local Coastal Plan instead of Coastal Zone Land Use Ordinance 23.04.025 in determining the applicable density (acreage) for the Browns' property. The trial court affirmed that the Coastal Commission: adopted proper findings by voting in a manner consistent with the its staff report; had jurisdiction over the lot line adjustment which is "development" under the Coastal Act; and, was not collaterally estopped by a prior stipulation in a case concerning a landowner adjacent (Leimert) to the Browns from asserting that the minimum parcel size is 80 acres. On October 31, 2001, the trial court issued the peremptory writ of mandate commanding the Coastal Commission vacate its decision and reconsider its action in light of the court's Statement of Decision. The Commission decided not to appeal. In January 2002, the Coastal Commission and the Browns entered a settlement agreement providing that the Coastal

<sup>1</sup> It is important to note that the applicant voluntarily recorded the conservation easement over portions of the property outside of the desired 20-acre building site. This action was not part of any requirement by SLO County or Coastal Commission and does not obviate the need to conduct an analysis of alternative building sites that may better protect sensitive coastal resources.



Commission set a hearing to reconsider the Brown's permit in light of the trial court's ruling and judgment.

On June 13, 2002, pursuant to this settlement agreement, the Coastal Commission conditionally approved the Browns' proposed lot line adjustment. The Commission approved a lot line adjustment for the same properties resulting in new parcel configurations of 142 and 55 acres. In approving the lot line adjustment, the Commission made findings in support of a building site on the newly created 55-acre parcel (Townsend) located close to Cambria Pines Road that would minimize tree removal and habitat disturbance (see Exhibit 8). The Commission found that locating future development in this area would minimize the encroachment of non-resource dependent residential development into sensitive habitat areas, and prevent excessive Monterey pine forest fragmentation and disruption. Although the applicant has not formally exercised this permit, it remains valid until June 13, 2004, unless exercised or extended.

## **B. Project Description and Location**

The currently proposed project is located on the north side of Cambria Pines Road, approximately ½ mile east of Highway One, north of the community of Cambria, in San Luis Obispo County. Both parcels are within the Rural Lands land use category and overlap Sensitive Resource Areas, as designated in the LCP due to the presence of sensitive Monterey pine forest habitat. The smaller of the two parcels (Townsend) is vacant. A large residential compound currently exists on the larger 117.56-acre parcel (Brown). The residential compound encompasses roughly 12 acres of property and includes approximately 20,000 square feet of residential structures and accessory buildings. Large grassy lawns, groomed putting greens, and ornamental landscaping surround the property. A paved circular driveway links the residential compound with access to Cambria Pines Road at the southeast corner of the property.

The applicant now proposes to subdivide the two existing parcels totaling 197.56 acres (117.56 acres and 80 acres) into three parcels of 97.34 acres, 45.22 acres, and 55 acres. The proposed land division would create a new parcel (45.22 acres) between the two existing parcels. This would decrease the size of each existing parcel, as land for each is lost in the creation of the new parcel. As part of the subdivision, new access roads and future development envelopes totaling roughly 20 acres have been identified. Please see Exhibit 3 for existing and proposed lot configuration.

Currently, the Brown parcel is developed with two primary residences (10,000 s.f. and 1,200 s.f.), each with separate water meters. The Townsend parcel is vacant, but has a water meter through an agreement with the Cambria Community Services district (CCSD).<sup>2</sup> As a means to acquire water service for the

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<sup>2</sup> On July 28, 1997 the applicant (Brown) and the Cambria Community Services district (CCSD) entered into an Agreement that resolved a dispute regarding what obligation, if any, the CCSD has to serve the applicant's property with water services. In that Agreement, the CCSD agreed to issue an "intent to serve" water letter for one (1) equivalent dwelling unit (EDU) of grandfathered residential water service (to the existing Parcel 2, which is now owned by the co-applicant Townsend). The Agreement further states that "Parcel 2 will remain as a single 80 acre parcel and Owner will not subdivide Parcel 2 by way of parcel map, tentative map and final subdivision map or other procedure." At this time, however, the CCSD has stated that they do not believe this land division, which would reduce the size of Parcel 2 to less than 80 acres, would constitute a breach of the 1997 Agreement. The rationale used by the CCSD to come to this conclusion states that "since the Agreement did allow that Parcel 1 may be subdivided into a maximum of two parcels, the net result remains the same in either case (see Exhibit 7 for CCSD letter to SLO County on this issue)."



newly created 45.22 acre parcel, the applicant is proposing to convert the existing 1,200 square foot residence located on the Brown property to storage, then transfer the water meter to the new site.

### C. County-Approved Project

The County found that although the project was located within the Monterey pine forest resource, the proposed development envelopes were located in the least environmentally sensitive portions of the property. The County approved the proposed project with multiple conditions designed to address the issues highlighted by the appeal, including requirements for:

- Monterey pine tree removal not to exceed 30 trees; and replacement at a ratio of 2:1.
- Placement of 178 acres of property outside of the designated development envelopes into permanent open space and conservation easements.
- Landscaping and revegetation plans that use drought tolerant and non-invasive plants.
- Erosion and sedimentation control plans.
- Monitoring for subsurface cultural resources.
- Water conservation and evidence from the CCSD of offsetting water supply retrofitting.

See Exhibit 4 for complete text of County Findings and Conditions.

### D. De Novo Findings

#### 1. Environmentally Sensitive Habitat Areas (ESHA)

##### a. Local Coastal Program Provisions

The LCP contains the following provisions relevant to the protection of environmentally sensitive habitats:

*Policy 1: Land Uses Within or Adjacent to Environmentally Sensitive Habitats: New development within or adjacent to locations of environmentally sensitive habitats (within 100 feet unless sites further removed would significantly disrupt the habitat) shall not significantly disrupt the resource. Within an existing resource, only those uses dependent on such resources shall be allowed in the area [THIS POLICY SHALL BE IMPLEMENTED PUSUANT TO SECTIONS 23.07.170-178 OF THE COASTAL ZONE LAND USE ORDINANCE (CZLUO).]*

*Policy 4 for Environmentally Sensitive Habitats: No divisions of parcels having environmentally sensitive habitats within them shall be permitted unless it can be found that the buildable area(s) are entirely outside the minimum standard setback required for that habitat (100 feet for wetlands, 50 feet for urban streams, 100 feet for rural streams). These building areas (building envelopes) shall be recorded on the subdivision or parcel map. [THIS POLICY SHALL BE IMPLEMENTED PUSUANT TO SECTION 23.07.170 OF THE COASTAL ZONE LAND USE ORDINANCE (CZLUO).]*



**Policy 33 for Environmentally Sensitive Habitats – Protection of Vegetation:** *Vegetation which is rare or endangered or serves as cover for endangered wildlife shall be protected against any significant disruption of habitat value. All development shall be designed to disturb the minimum amount possible of wildlife or plant habitat.*

**CZLUO Section 23.07.170(c) Land Divisions:** *No division of a parcel containing an Environmentally Sensitive Habitat shall be permitted unless all proposed building sites are located entirely outside of the applicable minimum setback required by Sections 23.07.172 through 23.07.178. Such building sites shall be designated on the recorded subdivision map.*

**CZLUO Section 23.07.170(d) Development standards for environmentally sensitive habitats:**

- (1) *New development within or adjacent to the habitat shall not significantly disrupt the resource.*
- (2) *New development within the habitat shall be limited to those uses that are dependent upon the resource.*

**CZLUO Section 23.07.176 – Terrestrial Habitat Protection:** *Vegetation that is rare or endangered, or that serves as habitat for rare or endangered species shall be protected. Development shall be sited to minimize disruption of the habitat.*

In addition, the North Coast Area Plan contains the following standard that applies to lands within the Rural Lands land use category adjacent to Cambria:

**Site Planning – New Land Divisions Adjacent to Cambria.** *Proposed residential units at a density equivalent to a minimum of one dwelling unit per 80 acres unless a lower density is required by the Coastal Zone Land Use Ordinance (depending upon site constraints), are to be clustered adjacent to the Cambria Urban Reserve Line to minimize the need for new road construction and service extensions; or shall be clustered in open or semi-open areas to minimize tree removal. No structural development shall be allowed on slopes greater than 20%. Water and sewer service shall be developed on-site and not via annexation to the Services District, unless the development site is brought within the Urban Service and Urban Reserve Line. Any Monterey Pines removed during construction shall be replaced. The area shall be developed through the cluster division provisions of the Coastal Zone Land Use Ordinance.*

If questions arise about the location of any combining designation, the LCP contains procedures to resolve such questions in the event that planning area standards do not define precise boundary locations. The following ordinance is applicable here:

**CZLUO Section 23.01.041c:**

(3) *Where a boundary is indicated as approximately following a physical feature such as a stream, drainage channel, topographic contour line, power line, railroad right-of-way, street or alleyway, the boundary location shall be determined by the Planning Department, based upon the character and exact location of the particular feature used as a boundary.*



## b. Policy Background

The applicant is proposing a land division of two existing parcels totaling 197.56 acres (117.56 acres and 80 acres) into three parcels of 97.34 acres, 45.22 acres, and 55 acres. The smaller of the two parcels (Townsend) is vacant, and two single-family residences currently exist on the larger parcel (Brown). All of the parcels, including the new one, are located in native Monterey pine forest habitat, considered to be ESHA in the LCP.

The San Luis Obispo County certified LCP ESHA protection policies are included in Coastal Plan Policies Chapter 6 of the Land Use Element (Environmentally Sensitive Habitat Areas) and Coastal Zone Land Use Ordinance (CZLUO) Sections 23.07.170 through 23.07.178. In addition, The North Coast Area Plan contains specific habitat protection provisions designed to address the particular habitat needs and characteristics of distinct geographic regions.

In general, LCP policies and ordinances define and protect ESHA's, allowing only a very limited amount of development within or near these areas. The LCP is clear about limiting new development in ESHA to resource dependent uses (Policy 1 and CZLUO Section 23.07.170d(2)) and precludes land divisions/development within environmentally sensitive habitats and their required setbacks (Policy 4). Vegetation that is rare or endangered, such as native Monterey pines, must be protected and new development must minimize habitat disruptions (Policy 33 and CZLUO Section 23.07.176). The North Coast Area Plan for land divisions near Cambria requires that development be located close to the URL or in open spaces to minimize road construction, public service extensions, and reduce the need to remove native Monterey pine trees.

## c. Resource Background - Status of the Monterey Pine Resource<sup>3</sup>

### Monterey Pine Forest ESHA in Cambria

As previously stated, the project site is located within the native range of Monterey pine (*Pinus radiata*) forest. Monterey pine forest is a rare and significant environmentally sensitive plant community. Within its native range, only five populations of Monterey pine forest remain in the world, three of which are in the California coastal zone: the main native stand mantling the Monterey Peninsula; the small stand near Año Nuevo in Santa Cruz County; the Cambria stand in North San Luis Obispo County (parts of which are the least disrupted of the remaining groves); and stands on two remote Mexican islands, Guadalupe and Cedros, off the coast of Baja, California. Each stand is restricted to coastal areas typified by summer fog, poor soils and mild temperatures. Although there is some uncertainty concerning the precise historical distribution of these stands, it is clear that all of them, with the exception of perhaps the Año

<sup>3</sup> Sources for some of the information in this section include: *Monterey Pine Forest Conservation Strategy Report*, Jones & Stokes Associates, Inc., prepared for the California Department of Fish and Game, December 1996; *Monterey Pine Forest Ecological Assessment: Historical Distribution, Ecology, and Current Status of Monterey Pine*, Jones & Stokes Associates, Inc., prepared for the California Department of Fish and Game, September 12, 1994; *Pitch Canker in California*, Andrew J. Storer, Thomas R. Gordon, David L. Wood, and Paul L. Dallara (from the Pitch Canker Task Force Web Site April 1999); *Current Status of Pitch Canker Disease in California*, CDF Tree Notes #20, July 1995; *California Forestry Note #110*, CDF, November 1995; *Pitch Canker Action Plan, Appendix D to SLO County North Coast Area Plan public hearing document*, December 1996; *Pine Pitch Canker Task Force Position Paper*, California Forest Pest Council, January 23, 1997; *RFP for "Developing Programs for Handling...Infected Pine Material within the Coastal Pitch Canker Zone..."*, CDF, December 1997; *The Cambria Forest*, Taylor Coffman, Coastal Heritage Press, 1995; *Pebble Beach Lot Program Final Environmental Impact Report*, EIP Associates, June 1997; and *In situ Genetic Conservation of Monterey Pine (Pinus radiata D. Don): Information and Recommendations*. D.L. Rogers. Report No. 26, Genetic Resources Conservation Program, University of California, Davis, September 2002.



Nuevo stand, have suffered from extensive losses and fragmentation due to development over the last 50 years. The Guadalupe Island population's survival is uncertain, with no natural regeneration for decades – the result of overgrazing by introduced goats. The three remaining California stands are also threatened by habitat loss, in this case due to development (housing and resort development, golf course development, urbanization), continued fragmentation of the remaining intact forest (by roads and other development), soil compaction and erosion (road grading, recreational overuse), genetic contamination by planted non-local Monterey pines, and invasive exotic plants (genista or “broom”, pampas grass, acacia, eucalyptus, etc.). Commercial logging was an issue in the past, but today is largely confined to firewood cutters and small salvage operations. Yet the footprint of large historical logging operations remains, as many of the largest and healthiest trees have been removed, leaving the smaller or less fit trees to contribute disproportionately to the subsequent pine generations.

As described in the certified North Coast Area Plan, each of the three stands in California (Año Nuevo, Monterey Peninsula, & Cambria) is geographically isolated from the others and ecologically and genetically unique. The southernmost stand in California is the 2,500 acres surrounding Cambria with another isolated 500 acres at Pico Creek. These stands are extremely important as a “gene pool” due to genetic variations found there. Relatively undisturbed stands occur on the Cambria fringe area and in isolated pockets to the north. Monterey pine forest covers most of the Cambria urban area. In recognition of this high sensitivity and uniqueness of Monterey pine, the certified SLO LCP identifies Monterey pine forest as terrestrial habitat to be treated as ESHA, and includes generalized mapping of the pine forest habitat areas known at the time of LCP certification.

Since certification of the LCP, the sensitivity of Monterey pine has been further recognized. In 1994 Monterey pine was included on the California Native Plant Society's (CNPS) 1B List, which includes native plants considered to be rare, threatened, or endangered. CNPS List 1B species meet the definitions of threatened or endangered found in Sections 2062 and 2067 of the California Endangered Species Act (CESA), administered by the California Department of Fish & Game Code, and are eligible for state listing under CESA.<sup>4</sup> CNPS also uses a system called the R-E-D Code for sensitive species that indicates the overall level of conservation concern for any particular plant, based on its rarity, endangerment, and distribution. In the case of Monterey pine, the CNPS R-E-D code is 3-3-2 (with 3 indicating highest concern) because of its limited number of restricted occurrences (only 5 locations, 3 in California), serious endangerment in California, and its rarity outside of California (but for the small pine forest populations on Guadalupe and Cedros Islands off of Baja, the R-E-D code presumably would be 3-3-3). Reflecting the high level of concern, Monterey pine has been given the highest threat ranking by the California Department of Fish and Game in its Natural Diversity Database (G1, S1.1).<sup>5</sup> In short, concern for the protection of Monterey pine is quite high. In recognition of the high conservation

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<sup>4</sup> CNPS summarizes the status of List 1B plants as follows: “The 1021 plants of List 1B are rare throughout their range. All but a few are endemic to California. All of them are judged to be vulnerable under present circumstances or have a high potential for becoming so because of their limited or vulnerable habitat, their low numbers of individuals per population (even though they may be wide ranging), or their limited number of populations. Most of the plants of List 1B have declined significantly over the last century.” *CNPS Inventory of Rare and Endangered Plants of California* (2001).

<sup>5</sup> G1 is a global condition ranking indicating that at the species or natural community level less than 6 viable element occurrences (Eos) OR less than 1,000 individuals OR less than 2,000 acres remain. S1.1 is the corresponding state ranking coupled with a threat ranking, in this case “very threatened”.





concern for Monterey pine, the species also was placed on the International Union for Conservation of Nature and Natural Resources Red List of threatened species in 1997.

The Monterey pine forest types and associated special status species also occur on different marine terrace levels both on granitic substrates and soils derived from Monterey Formation shale. This lends to a highly diverse and variable set of habitat conditions necessary for the survival of differing vegetation series within the native Monterey pine forest. Due to its unique ecology, limited extent, and its ecological value as habitat for a suite of special status plant and wildlife species, the Monterey pine forest ecosystem generally is ESHA. Still, as elaborated below, notwithstanding the general presumption of Monterey pine forest as ESHA, each site proposed for development must be individually evaluated.

As stated above, the Monterey pine forests in Cambria are threatened primarily by the direct loss of habitat due to development, soil erosion, fire suppression, and the introduction of invasive exotic plants. In addition, fragmentation, pine pitch canker, genetic contamination, and loss of genetic diversity threaten the forest. New development may result in the physical loss of trees as well as impacts to the overall forest habitat and species therein. Fragmentation of Monterey pine forest by continuing development creates small isolated pockets of pine stands, which is of concern to many resource agencies and individuals. Once a stand is fragmented, the small pockets are more subject to disease and root damage. The need to protect Monterey pine forest from fragmentation has become more apparent in the last decade.

A more recent concern for the health and viability of the native Monterey pine forest comes from the threat of an introduced pathogen, *Fusarium circinatum*, which causes pitch canker. According to the California Department of Forestry (CDF), pine pitch canker is a rapidly spreading fungal disease of pine trees and Douglas fir, which infects trees primarily through insect wounds in the bark; Monterey and Bishop pines are especially susceptible. CDF also believes that the fungal spores are unintentionally carried over long distances by conveyance of contaminated materials. In addition to transport of contaminated materials by humans, typical vectors for the pathogen include bark beetles and other insects. All three of California's native stands of Monterey pines have now become infected and have suffered severe mortality from the introduced fungus that causes pitch canker (according to recent assessments, pitch canker disease does not appear to be on the island stands in Mexico). It has been estimated that up to 85 percent of existing trees may eventually succumb to this disease.<sup>6</sup> Although the progression of the disease has proved to be less rapid than initially feared, mortality from pitch canker is nonetheless a serious threat to the continued existence of these populations. Since a proportion of individuals, perhaps on the order of 15 percent, are genetically resistant to pitch canker, it is critical to protect the maximum number of trees possible, because resistant individuals cannot be recognized until the fungus challenges them. Related to this, it is important to protect and maintain the maximum amount of habitat area to allow for natural regeneration of a healthy forest.

Pitch canker was confirmed on the Monterey Peninsula at the Pebble Beach firehouse in April 1992, and then at the Año Nuevo stand in December 1992, followed by the Cambrian stand in November 1994. CDF currently characterizes the threat to all native Monterey pine stands in California as "severe." On June 4, 1997 the State Board of Forestry defined a Pitch Canker Zone of Infestation, which includes all

<sup>6</sup> California Native Plant Society. 1999. Petition to the State of California Fish and Game Commission. Supporting information for Monterey Pine, *Pinus radiata*, D. Don.





of the coastal counties extending from Mendocino to the Mexican border. While one goal for the Zone is to slow disease spread, neither the State Board of Forestry nor CDF has the authority to impose and enforce a quarantine on the movement of infected material.

No cure for infected trees is currently available. Many thousands of trees are already dead. It is important to limit the spread of the fungus until an effective means to deal with it is discovered and disease-resistant stock can be made available. A small percentage of Monterey pine appears immune to the disease. However, of the causative species fungus (*Fusarium circinatum*), only 7 strains are currently present in California; one of these strains (or vegetative compatibility groups) consists of over 50% of the California population of the pathogen. Individual tree specimens that exhibit resistance to the one overwhelmingly prevalent strain might prove vulnerable to yet other strains that may become more widespread someday. As a result, the development of one or only a few lineages of disease-resistant stock is not likely to be sufficient to ward off the pitch canker threat.

Because the native range for Monterey pine is limited only to five isolated places on the globe, including Cambria, the main hope for the survival of the Monterey pine worldwide is that there will be enough natural diversity within the native stands so that at least some trees will have genetic disease resistance or tolerance, that these trees then can be used to propagate new trees for urban repopulation, and that larger tracts of native pine forest can be preserved and managed so that natural regeneration can take place to repopulate native pine forest habitat. As such, the native pine stands in Cambria represent a global resource for forest management for this sensitive species. Furthermore, each of the five remaining populations of Monterey pine is distinctive. Effective conservation of the diversity within the species requires that each population – including those stands in Cambria – be protected.

There is another very important reason to preserve the genetic diversity contained in the remaining Monterey Pine forests. Although the Monterey pine is of little commercial importance in the United States as a timber species, it is the most widely planted pine tree in the world. Monterey Pine plantations are of great economic importance to lumber and pulp industries in other countries such as New Zealand and Chile. The remaining native forests of Monterey pine constitute the exclusive repository of raw genetic material for developing potential genetic innovations in commercial Monterey pine. Not only is the diversity among the native forests important, but within forests there is significant genetic variation among stands on different geomorphic surfaces (e.g., marine terraces of different ages).

Indeed, until the nature of existing native pine forest immunity is understood, it is critical that the maximum genetic diversity within the native stands of Monterey pine be protected. CDF concludes:

*The restricted native ranges of Monterey pine, Torrey pine, and Bishop pine heightens concern for the effect of pitch canker on these populations. Monterey pine is the most widely planted timber species in the world, and California's native populations represent a global resource for breeding programs. Pitch canker has the potential to reduce the genetic diversity of these species and the integrity of their native stands.*

A recent and comprehensive report (D.L. Rogers, 1997) on genetic conservation of Monterey pine provides 18 recommendations towards conservation of the genetic diversity of this species. Two of these recommendations are that further significant losses of genetic diversity within each of the populations of Monterey pine should be avoided, *and further fragmentation of remaining Monterey pine forests should be avoided* (italics added).



In summary, native Monterey Pine forests are rare and play a special role in ecosystems by providing critical habitat for other rare and unusual species. Each of the five remaining populations of Monterey pine is distinctive. The native pine stands in Cambria represent an important natural resource for California. In addition, individual trees are important due to their special nature as the repository of genetic variability that is crucial for the survival of the species in the face of exotic diseases, and critical for the continued well being of the world's commercial pine plantations. Effective conservation of the diversity within the species requires that each population, especially the Cambria, be protected. Finally, Monterey Pine forests are demonstrably easily disturbed and degraded by human activities and developments. Therefore, within the native forests, those stands of Monterey pines that have not been substantially developed and urbanized meet the definition of Environmentally Sensitive Habitat Area (ESHA) under the San Luis Obispo County certified LCP.

#### **d. ESHA Identification**

The LCP (CZLUO Section 23.11.030) defines "Environmentally Sensitive Habitat" as:

*A type of Sensitive Resource Area where plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments. They include, wetlands, coastal streams and riparian vegetation, terrestrial and marine habitats and are mapped as Land Use Element combining designations.*

The certified LCP generally uses a map-based system to identify areas where new development needs to be reviewed for conformance with the LCP provisions protecting ESHA. Essentially, the LCP uses "combining designations" as geographic overlays to land use designations that identify particular resources or constraints that need to be considered during the development review process. As described in part on page 7-1 of the Framework for Planning:

*Combining designations identify areas with characteristics that are either of public value or are hazardous to the public. The special location, terrain, man-made features, plants or animals of these areas create a need for more careful project review to protect those characteristics, or to protect public health, safety and welfare.*

The combining designation applied to ESHA is the Sensitive Resource Area (SRA) combining designation that includes: wetlands (WET); coastal streams and riparian vegetation (SRV); terrestrial habitats (TH); and marine habitats (MH).

These geographic "overlays" are useful tools for identifying particular areas known to support sensitive habitats. However, in such areas, the LCP prescribes the need for more detailed project review to avoid or minimize adverse environmental impacts (Framework for Planning pg. 7-1 and CZLUO 23.07.160)

In this case, a number of factors were reviewed to determine if the proposed project site qualifies as Monterey pine forest ESHA. Factors to consider when making an ESHA determination include geomorphic surface type, general health of the forest, degree of pitch canker infestation, loss of habitat area to development, fragmentation of habitat and increased edge effects, health and species composition of the forest understory, and connectivity to other forested areas. It is important to note that Monterey pine forest needs to be understood as a complete and dynamic habitat – understory and overstory,



animals and interactions, soils and climates. A forest is a complex, interdependent web of living organisms rather than just a collective noun for a group of trees in the landscaping sense. At issue is preservation of habitat, not simply evaluation of individual tree impacts.

### Biology

The Monterey pine forest stand on the Brown/Townsend property is relatively undisturbed and is part of a much larger contiguous forest. The Monterey pine forest here supports unique plant associations with species assemblages that reflect variation in soil, slope, elevation, moisture, and distance from the ocean. The pine forest moderates local climate conditions and provides habitat for endemic plant and wildlife species. Forty special status plant species and two sensitive natural community types are listed in the CNDDDB and CNPS databases for the project area (Cambria, San Simeon, Pebblestone shut-in, Lime mountain, Cypress mountain, and Cayucos quadrangles).

As discussed, based on the current state of native Monterey pine and its habitat, it must be generally presumed that Monterey pine forest, within its historic native range, is ESHA as defined by the LCP, because it contains special status species (Monterey pine) and the habitat itself is a special status plant community, and both the individual species and the habitat are easily degraded by human activity. Nonetheless, as mentioned, other site-specific factors must be evaluated in the ESHA determination.

For example, according to biologist V.L. Holland, a comparison of the three naturally occurring mainland populations of Monterey pine shows that members of the Cambria populations have significantly larger cones than do the other populations. Along with the increased cone size there are other distinguishing features of the cones, such as larger apophyses, greater asymmetry, and larger seeds. It has also been noted that the Cambria population probably occupies the driest of the three remaining stands and that the larger cones and seeds may be an adaptation to this drier habitat. As such, the genetic uniqueness of Cambria's Monterey pine population is threatened. In Cambria, Monterey pines are often planted as ornamentals or to replace trees destroyed by construction activity. In the past, little attention has been paid to the source of the trees and they are often replaced from plantation stock, not from the indigenous stock. Accordingly, there is a real danger that the genes from plantation grown plants will dilute the genetic uniqueness of the Cambria pines.<sup>7</sup>

The implications of these findings speak directly to the LCP's requirement to protect environmentally sensitive habitat. The findings demonstrate that Monterey pine is not only a sensitive and rare species generally, but that the distinct populations of Monterey pine forest are themselves rare and sensitive and eligible for protection as environmentally sensitive habitat areas. In addition, protecting these unique subtypes of Monterey pine provides a way to preserve the genetic diversity of endemic Monterey pine forest, which contributes directly to the goal of habitat protection. Thus, a recent comprehensive report on *in situ* genetic conservation of Monterey pine presents 18 recommendations for improving conservation of the genetic diversity and thus the health of this limited species. This report includes recommendations to avoid further significant losses of genetic diversity within each of the populations of Monterey pine, and to avoid further fragmentation of remaining Monterey pine forests.<sup>8</sup> The report observes the following with respect to preserving genetic diversity of Monterey pine:

<sup>7</sup> *Biological Survey of Leffingwell Ranch Cambria, California*, V.L. Holland, Ph.D., Lynne Dee Oyler, M.S., July 30, 1994

<sup>8</sup> Rogers, Deborah L., *In Situ Genetic Conservation of Monterey Pine (Pinus radiata D. Don): Information and Recommendations*, September 2002, University of California.



*Genetic diversity underlies all biological diversity. It allows local populations of a species to adapt to a variety of niches. It provides evolutionary flexibility for the species to adjust in the long term in response to changing climates and other conditions. Thus, both spatially and temporally, genetic diversity provides a species with the potential to adjust to environmental changes.*

Another factor to be examined is forest health. According to site-specific biological and botanical studies submitted by the applicant<sup>9</sup>, a "healthy" Monterey pine forest covers a majority of the property and grasslands are found in the small forest clearings. In these clearings, young pines are growing in a variety of life stages (See photos in Exhibit 9). The forest understory is dominated with perennial herbs, shrubs, and grasses and is described as being in good condition. Both parcels contain large amounts of forest cover and according to the applicant's own botanical assessment (Althouse and Meade, 2003) the Townsend property (80 acres) "lies entirely within a Monterey pine forest community type. (*emphasis added*)"

Suitable habitat exists on the site for a wide variety of special status plant and animal species. Three rare plant species were identified on the property including, Monterey pine (*Pinus radiata*), Cambria morning-glory (*Calystegia subacaulis* ssp. *episcopalis*), and Obispo Indian paintbrush (*Castilleja dinsiflora* ssp. *obispoensis*). Field surveys revealed the presence of one rare hawk, Cooper's hawk (*Accipiter cooperi*), as well as excellent habitat for Southwestern pond turtle (*Clemmys marmorata*), and two-striped garter snake (*Thamnophis couchi*). There is some possibility that California red-legged frogs (*Rana aurora draytonii*) occur on the property in the pooling water of Leffingwell Creek.

Site-specific surveys describe both parcels as containing a number of LCP defined sensitive habitat areas including Monterey pine forest, unnamed wetlands, some patches of native grasslands, and a coastal stream/riparian system along Leffingwell Creek located on the northern portion of the properties to which much of the site drains. California annual grassland habitat occurs in open meadows within the Monterey pine forest here. According to the botanical assessments, these grasslands stay moist for long periods of time and occasionally blend into wetland habitat areas that include some wetland plant species. Shallow wetland areas, including a small drainage swale in the center of the Townsend property, were identified in the vicinity of the newly proposed building envelopes. Although these shallow wetlands have been identified on the property, comprehensive wetland delineations have not been conducted for the entire project site.

The forest area proposed for development is in good health and relatively intact. The most fragmentation and disruption has occurred in the location of Mr. Brown's existing residential compound. There is healthy contiguous Monterey pine forest habitat, and thus habitat connectivity, surrounding the subject property. The aerial photos attached as Exhibit 6 are extremely helpful in showing connectivity to other forested areas.

Even smaller stands of Monterey pine forest may be considered ESHA if the health of the stand is good, particularly if there is a healthy understory with a strong assemblage of other native and sensitive plant species present. The rare and special plant species present on the project site, combined with a healthy understory and good tree condition indicate the health of the project site stand is optimal.

<sup>9</sup> *Biological Survey of Leffingwell Ranch Cambria, California*, V.L. Holland, Ph.D., Lynne Dee Oyler, M.S., July 30, 1994; *Botanical Survey on 17 of the 80-acre Townsend Property*, Althouse and Meade, Inc., September, 2003.



### Maps

As described previously, the LCP generally uses a map based system to identify areas where new development needs to be reviewed for conformance with the LCP provisions protecting ESHA and uses "combining designations" as geographic overlays that identify particular resources or constraints that need to be considered during the development review process.

The main problem with this approach is that the LCP maps are outdated and do not accurately identify the presence of sensitive habitats. For example, outside of the urban core of Cambria the Monterey pine forest groves are appropriately mapped SRA's, although other now forested areas, natural meadows and clearings which are part of the overall habitat area are not shown within the SRA boundaries. While the combining designation maps are helpful in generally identifying particular areas known to support sensitive habitat, problems occur when the maps do not accurately reflect on the ground resources. As a result, sensitive coastal resources can be overlooked and not afforded the protections they deserve under the LCP.

In this case, the LCP maps show only two areas on the project site as being covered by the native Monterey pine forest Terrestrial Habitat (TH) combining designation, when in fact, recent site-specific biological studies have identified the Monterey pine forest in this area as being part of a much larger native stand only partially mapped as ESHA in the LCP. As a result, the LCP maps do not accurately depict the location of the environmentally sensitive Monterey pine forest encompassing the project site (See exhibit 2 for the LCP map showing the SRA combining designation for the subject parcels).

Aerial photographs are extremely helpful in support of this observation. Staff has evaluated a series of aerial photographs from 1978 to present showing new growth and transformation of the onsite forest. The aerial photographs show that the two mapped ESHA areas have actually grown in size, and in some areas have merged together, resulting in greater habitat connectivity and a larger contiguous tree canopy. In some instances, solid forest canopy is easily identifiable outside of the mapped boundaries. Therefore, large portions of the existing forest resource are not mapped as ESHA.

Clearly, the map-based approach used by the County to identify sensitive habitat areas does not accurately reflect on the ground resources, particularly the endangered Monterey pine forest habitat. Per the LCP, the Monterey pine forest, grasslands, wetlands, and riparian systems are environmentally sensitive habitat areas (ESHA). The native Monterey pine (*Pinus radiata*) forest is explicitly defined by the LCP as a Sensitive Resource Area (SRA); and by virtue of this, native Monterey pine is defined by the LCP as an ESHA. Due to the rich mosaic of environmentally sensitive habitat types found onsite, which include rare and endangered plant and animal species, the project must be evaluated as a division of land entirely within an environmentally sensitive habitat area (ESHA).

### Rules of Interpretation

The conclusion that the entire site at is ESHA under the LCP is supported by the rules of interpretation in the LCP. If questions arise about the precise boundary location of any land use category or combining designation boundary, the LCP contains procedures to resolve such questions. Section 23.01.041c(3) states:



*Where a boundary is indicated as approximately following a physical feature such as a stream, drainage channel, topographic contour line, power line, railroad right-of-way, street or alleyway, the boundary location shall be determined by the Planning Department, based upon the character and exact location of the particular feature used as a boundary.*

In this case, the particular feature used as a boundary is the Monterey pine forest terrestrial habitat (TH). Thus, under the LCP the identification of the mapped TH boundary is to be based on where the resource is actually on the ground. That is the rules of interpretation further support the determination that the sensitive resource boundary needs to be determined as encompassing actual on-the-ground forest conditions.

### **ESHA Conclusion**

Native Monterey pine stands only occur in five relatively small and separate locations. Native Monterey pine forest habitat is seriously endangered in California and is rare outside of California. Monterey pine is included on CNPS's 1B List because of its rare, threatened, or endangered status. For these reasons, the proposed project's location in an area of Monterey pine forest requires that an ESHA determination be made. As discussed above, there are a number of factors that should be evaluated to determine whether the proposed project site is ESHA. These factors include evaluating the general health of the forest on the project site, determining the project site's geomorphic surface type, assessing the level of fragmentation and level of development in and around the project site, describing the health and species composition of the forest understory, and examining the level of connectivity of the project site to other nearby forested sites.

A number of factors would support the designation of the entire project site as ESHA. As described in the biological studies, all of the property contains high quality Monterey pine forest with trees in all life stages. The property is contiguous with large tracts of remaining undeveloped Monterey pine forest and supports rare and sensitive plant and animal species. The presence of seedlings on the project site indicates a healthy forest where Monterey pine regeneration is taking place. After carefully weighing all the above factors, it has been determined that the site is entirely ESHA.

### **e. Impacts to Monterey Pine Forest ESHA**

The second step in analyzing consistency of the land division with the LCP is to determine if adverse impacts to ESHA have been avoided. This is done through a combined approach of limiting allowable uses in ESHA (Policy 1 and CZLUO Section 23.07.170d(2)), and implementing LCP standards that ensure that the proposed use is compatible with the biological continuance of the ESHA. There are many LCP provisions that prohibit new development which would significantly disrupt or threaten the continuance of sensitive habitats. Among the most important with respect to land divisions is CZLUO Section 23.07.170c, which prohibits land divisions in ESHA unless all building sites are located entirely outside of the minimum setbacks established by the LCP. As described above, the subject parcels are located within a much larger indigenous Monterey pine forest and is located entirely within an ESHA. Given this fact, thorough application of LCP ESHA protection standards is essential to avoid adverse impacts to ESHA and to ensure the biological continuance of the forest habitat is protected. This is especially important given the threats to the forest posed by the Pitch Canker epidemic as well as by the pace and quantity of development taking place in portions of the Monterey pine forest habitat within Cambria.





As stated previously, an important way of avoiding impacts to ESHA is by limiting the types of uses allowed within such areas. The LCP limits new development in ESHA to resource dependant uses. LCP ESHA Policy 1 states in part:

*Within an existing resource, only those uses dependent on such resources shall be allowed within the area.*

Sections 23.07.170d(2) implements this policy and states:

*New development within the habitat shall be limited to those uses that are dependent on the resource.*

Inconsistent with the LCP, the County approved land division creates a new parcel within Monterey pine forest ESHA. It should be noted that even if the project is not evaluated as being located entirely within an ESHA, portions of the newly created parcel and access roads to serve residential non-resource dependant development are still located within mapped ESHA areas.

In addition to the creation of a new parcel in ESHA, the proposed project designates approximately 20 acres of environmentally sensitive habitat for future residential building envelopes. It is expected that large portions of the building envelopes will be covered with structures including residences, accessory buildings, barns, workshops and impermeable surfaces such as access roads, fire turnarounds, porches, walkways etc., similar to the development of the Brown site. Structural development within these areas will result in a permanent loss of habitat as well as fragmentation of the pine forest. Additional disruptions will result from residential site preparation, landscaping, and subsequent use of the site. Such activities may include: installation of a storm drain systems, utility trenching, and over the long run ordinary residential activities on the premises such as driving along access roads and allowing pets and people in the habitat area. None of these development activities are of a type that is dependent on a location within the native Monterey pine forest, and these development activities, individually and collectively, will result in a significant disruption of the environmentally sensitive forest habitat areas on site.

Even if a land division to support residential use was allowed within ESHA (which it is not), the LCP contains numerous standards to avoid adverse impacts to ESHA. Among the most important with respect to land divisions is ESHA Policy 4 and CZLUO Section 23.07.170(c), which prohibit the creation of new lots where the proposed building sites do not comply with LCP setback requirements. The most stringent of these setback requirements is the 100-foot setback from ESHA established by Coastal Plan Policy 1 for ESHA and Section 23.07.170 of the CZLUO. Inconsistent with setback requirements, the County approved site plan shows the proposed development sites directly adjacent to and abutting mapped SRA boundaries along Leffingwell Creek. The County approved site plan shows new access roads bisecting mapped Monterey pine forest ESHA. In this case, the LCP setback requirements clearly haven't been met. Forest fragmentation and disruption is unavoidable should the new access roads be developed in this location. This is evidenced in aerial photos showing the proposed access roads segmenting mapped and unmapped Monterey pine forest ESHA areas (see Exhibit 6).

Impacts to the pine forest caused by residential development go far beyond simply removing trees. The construction of new access roads and homes increase the amount of impervious surface, which can lead to increased erosion on adjacent habitats. Moreover, development can lead to the fragmentation of



previously connected habitat, and introduces light, noise, domestic pets, and other human influences that can reduce the health and biological productivity of surrounding habitats. The LCP contains standards aimed at minimizing impacts to sensitive terrestrial habitats such as Monterey pine forest terrestrial habitat (Policy 33 for ESHA and CZLUO Section 23.07.176). In addition, CZLUO Section 23.07.164 requires that any proposed clearing of trees or other features be the minimum necessary to achieve safe and convenient access and not create significant adverse effects on the identified sensitive resource. As stated in the LCP, the emphasis of CZLUO Section 23.07.176 is on the "entire ecological community" rather than only the identified plant or animal.

The proposed land division would create additional parcels within the Monterey pine forest, thereby allowing additional disturbance areas, as well as the construction of new roads graded and improved to meet CDF requirements. Higher allowable densities mean more clearing, more roads, more fragmentation, and an overall diminishment of the integrity of the forest ecosystem. A special concern addressed in the North Coast Area Plan Update of 1998 is that more residential development leads to more entryways for new houses, which in turn equates to more corridors for the spread of pitch canker disease and other undesirable invasives. There is no access route to the proposed development envelopes that avoid impacts to the forest habitat. Similarly, any residential development site, particularly in the heart of the forest, is likely to diminish the health and biological productivity of the surrounding habitats.

In addition, residential development brings with it fire suppression concerns and requirements (such as defensible clear space around the house), resulting in the possibility of heightened tree removal and ground clearing. It seems likely that the fire suppression concerns and/or requirements would lead to future removal of indigenous Monterey pine forest habitat at this site. Furthermore, as described in detail previously, prescribed and natural burns within such Monterey pine forests can be extremely important for the continued vitality of the forest resource. Residential development within and adjacent to the forest resource presents a conflict pursuing such management techniques due to concerns for residential structures.

Finally, North Coast Area Plan standards for land divisions adjacent to Cambria are used to minimize impacts to the Monterey pine forest ESHA found here. North Coast Area Plan site planning standard (Rural Lands Standard 2) states in part:

*Proposed residential units...are to be clustered adjacent to the Cambria Urban Reserve Line (URL) to minimize the need for new road construction and service extensions; or shall be clustered in open or semi-open areas to minimize tree removal.*

The County approved project raises concerns with respect to both parts of this standard. First, the County approved project shows the proposed building envelopes in the interior of the parcel, nearly one-half of a mile from the URL and roughly one-quarter mile from the nearest access on Cambria Pines Road. This is inconsistent with the LCP because the newly proposed residential units are not adjacent to the URL as required by the Rural Lands Standard 2. Second, locating building envelopes in the interior of these large parcels will require lengthy service connections and road construction. Selecting areas in the center of the forest will result in significant groundcover disturbance and extensive removal of endangered Monterey pine habitat. The County approved project allows for up to 30 sensitive Monterey pine trees to be removed in order to accommodate the proposed access roads and utility connections.





Although the applicant has submitted recent data showing that roads and services can be constructed without complete removal of mature Monterey pines, the paving of access roads with impermeable surfaces and trenching for utilities can significantly disturb surrounding trees and can cause heightened erosion to adjacent habitats. Indeed, the new building sites recognized by the County are located in forest clearings, however these open areas contain numerous smaller pine trees growing in various life stages. According to page 15 of the 2003 botanical assessment by Althouse and Meade, Inc., "Hundreds of young Monterey pines occur in the building envelope" (see Exhibit 9 for photos). While the applicant contends that mature Monterey pines (8" diameter or larger) will not be removed, the younger saplings that are important for long-term forest regeneration will be destroyed and re-growth areas will be paved over or built on.

The site conditions shown by aerial photographs, as well as site-specific biological surveys, demonstrate that the "building envelopes" recognized by the County approval are not sized or located in a manner that is most protective of coastal resources, especially in light of the fact that the Commission has already approved an appropriate building site the southeast corner of the parcel near Cambria Pines Road that is now proposed to be shifted into the heart of the forest.

#### **f. Inconsistencies**

The applicant, Brown and Townsend, propose to subdivide two existing parcels into three, and develop access roads and building sites to support future residential development. This project is fundamentally inconsistent with the San Luis Obispo County LCP and cannot be approved. LCP Policy 1 requires that development within or adjacent to ESHA shall not disrupt the resource, and only those uses dependant on the resource shall be allowed. As established in the above findings, the project is located within Monterey Pine forest ESHA. Most fundamentally, residential development in this area is not resource dependant. Furthermore, the applicant has not demonstrated that the project can be developed without significantly disrupting the sensitive Monterey pine forest habitat. Therefore, the fundamental aspect of this development is inconsistent with LCP policies protecting ESHA, which allows only resource dependent uses within the area, and consequently must be denied.

The LCP requires that all land divisions identify the location of future building sites and access roads. The location of these features must be designed to avoid ESHA impacts. The parcels affected by the proposed land division are dominated by rare and valuable biological habitats that are extremely vulnerable to adverse impacts of residential development. The Monterey pine forest and various habitats supported by the site are recognized as ESHA by the LCP. The grassland habitats adjacent to the forest and riparian corridors associated with Leffingwell Creek are an integral part of this ecosystem, providing areas for foraging and forest regeneration. Future development of residential uses that are not dependent on these resources will diminish biological productivity by introducing light, noise, and human activity; increasing the potential spread of pitch canker and non-native invasive vegetation; and, eliminating natural areas upon which plant and animal species endemic to the pine forest and riparian habitats depend.

The land division designates roughly twenty acres, or 10% of the total property, to development envelopes that are located in the interior of the project site. The Brown site is already developed with a building envelope of roughly twelve acres. Thus, the proposed project will commit roughly eight additional acres or 4% of the site to future development envelopes. These building sites are inconsistent



with LCP ESHA protection provisions (e.g., ESHA Policies 4 and 33, CZLUO Sections 23.07.170-178 and 23.07.164 of the CZLUO) because it does not locate building sites outside of ESHA and their setbacks or minimize disruption of sensitive terrestrial habitats. It is also inconsistent with North Coast Planning Area Standard 2 for Rural Lands, which requires the site plan for land divisions to be clustered adjacent to the Cambria Urban Reserve Line and in open/semi-open areas. As shown in site photos, the semi-open areas selected by the applicant for future residential development are critical to the long-term health and regeneration of the forest habitat.

The proposed building sites contain significant stands of Monterey Pine forest habitat. Residential development will impact Monterey pine forest habitats and their setbacks. The large sizes of the building envelopes do not effectively limit future development to the least sensitive areas of this highly sensitive site. Moreover, the location of the building site exacerbates the impacts of future development on ESHA by fragmenting forest habitat, and increasing the amount of disturbance by necessitating significant access improvements.

### **g. Alternatives**

There is no entitlement to subdivide here, and given the numerous site constraints creation of a third parcel in this area would not be allowed under the LCP. The Brown parcel is already developed with a large residential compound and the Townsend parcel has already been subject to an evaluation of the least environmentally damaging building site (A-3-SLO-00-045). In this evaluation the Commission found it essential to diminish the size of the building site, and locate it as close to Cambria Pines road as possible. This location minimized tree removal and habitat disturbance, and clustered adjacent to already developed areas. As shown in Exhibit 8, the clearing in the southeast corner of the project site is most consistent with ESHA protection standards, as it avoids the need to construct a long driveway to access the building site, which will remove sensitive features and habitats of the site inconsistent with ESHA Policy 33 and CZLUO Section 23.07.176, as well as intrude upon ESHA and its setbacks inconsistent with ESHA Policy 4 and CZLUO Section 23.07.170(c). Moreover, locating a building site in the southeast corner of the Townsend parcel will prevent the fragmentation of the habitat area and minimize habitat disruption, as required by CZLUO Sections 23.07.170(d) and 23.07.176. The already approved building site is located closer to the URL and public access roads and will minimize tree removal in accordance with Area Plan Standard 2. This site has a water meter and there does not appear to be any constraints that would not permit the site to be developed with a single-family home.

### **h. ESHA Conclusion**

The proposed land division to support additional residential structures is not dependent on siting within the ESHA and does not meet any of the other tests for allowing development within ESHA. The land division approved by San Luis Obispo County is inconsistent with LCP requirements prohibiting residential development in ESHA and the creation of new lots where building sites do not comply with LCP ESHA setback requirements. Moreover, the building sites recognized by the County approval require access improvements that would adversely impact forest habitats, and the envelopes are not sized or located in a manner to avoid and minimize the impact of future development on the Monterey pine forest habitat. The clearing of trees, understory, and groundcover, is not the minimum necessary to achieve safe and convenient access. This development will create significant adverse effects on the sensitive Monterey pine forest. Therefore, the appeal raises a substantial issue with respect LCP



requirements prohibiting the creation of new lots where future development would encroach within ESHA and its setbacks, as well as with LCP provisions requiring impacts to ESHA to be avoided and minimized. For all of the reasons discussed above, the project must be denied.

## **2. Public Services**

### **A. 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...*

### **B. Analysis**

#### **Background**

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. This analysis is incorporated by reference into these findings.

Recent events have reaffirmed the tenuous situation of Cambria's water supply. On October 25, 2001 the CCSO 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 this same meeting the Board voted to approve thirty-eight (38) intent-to-serve letters.

On November 15, 2001 the CCSO 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. This action, in turn, has generally limited County approval of coastal development permits in Cambria to those projects that obtained a commitment of water services prior to November 15, 2002.

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, according to CCSD calculation, approximately 9,000 gallons of water per day. The total average current daily water production by the CCSD equals 720,000 gallons of water. Accordingly, based on 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.

In addition to outstanding intent-to-serve letters, there are an additional 45.7 inactive "grandfathered" EDU allocations, 13 single-family active meters in place, but not activated, and 27 connection permits that are being issued for recently processed building permits. Thus, the potential increase in water use associated with the full range of "pipeline projects" appears to be significantly greater than the 9,000 gallons per day estimated above.

### **Analysis**

LCP Public Works Policy 1 requires that new development demonstrate the availability of adequate public services, including domestic water supplies, prior to being permitted. In terms of this coastal development permit analysis, the creation of new parcels through land divisions such as this, coupled with the significant outstanding concerns regarding the adequacy of water supplies for existing commitments in Cambria, raise issues regarding compliance with LCP Public Works Policy 1, which



states:

*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...*

Contrary to this Policy, 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, particularly the creation of new developable parcels, that will place additional demands on Cambria's limited water supplies cannot be approved consistent with the requirements of LCP Public Works Policy 1

In this case, the County required that domestic water supplies for the newly created 45.22-acre parcel be obtained by converting an existing 1,200 square foot residence on Mr. Brown's parcel to "storage", then transferring the water meter to the new parcel.

First, this raises concern with respect to the long-term enforceability of the County's requirement. As discussed, the existing 1,200 SFD would be converted to "storage" and the water meter transferred. The water meter will then be used to serve the newly created 45.22-acre parcel and support new residential development. Because there is another active water meter serving a larger residence on the Brown site enforcement of the condition requiring the permanent conversion of the existing SFD to storage may be somewhat problematic.

More importantly, this water transfer scheme will result in additional water use. A comparison of water use between the two existing residences shows that the smaller 1,200 square foot SFD uses considerably less water than the larger 10,000 square foot SFD. Bi-monthly water bills supplied by the County show that the larger 10,000 SFD used anywhere between 32 and 277 units of water, whereas the smaller 1,200 square foot SFD used between 9 and 33 units of water.<sup>10</sup> This is likely due to the fact that it is relatively much smaller size, as well as the fact that the meter is not accounting for all of the accessory uses and amenities associated with the larger estate home, such as barns, workshops, ponds, fountains, and ornamental landscaping for lawns and putting greens. All of these uses and amenities require significant amounts of water. Zoning in the Rural Lands category would allow for multiple residential and accessory uses on the newly created "receiver site." It is likely that the new building site would be developed to its maximum potential and the amount of water demanded would be similar to that of the larger existing residential estate development on the Brown site (approximately 3 to 20 times that of the typical Cambria SFD).

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<sup>10</sup> 1 unit of water = 748 gallons. This range (32-277) represents considerably more water use than a typical SFD in Cambria. A typical SFD in Cambria uses 10- 12 units of water bi-monthly. Thus the large residence is using from 3 to 20 times the amount of water most homes in Cambria use.



### **c. Public Services Conclusion**

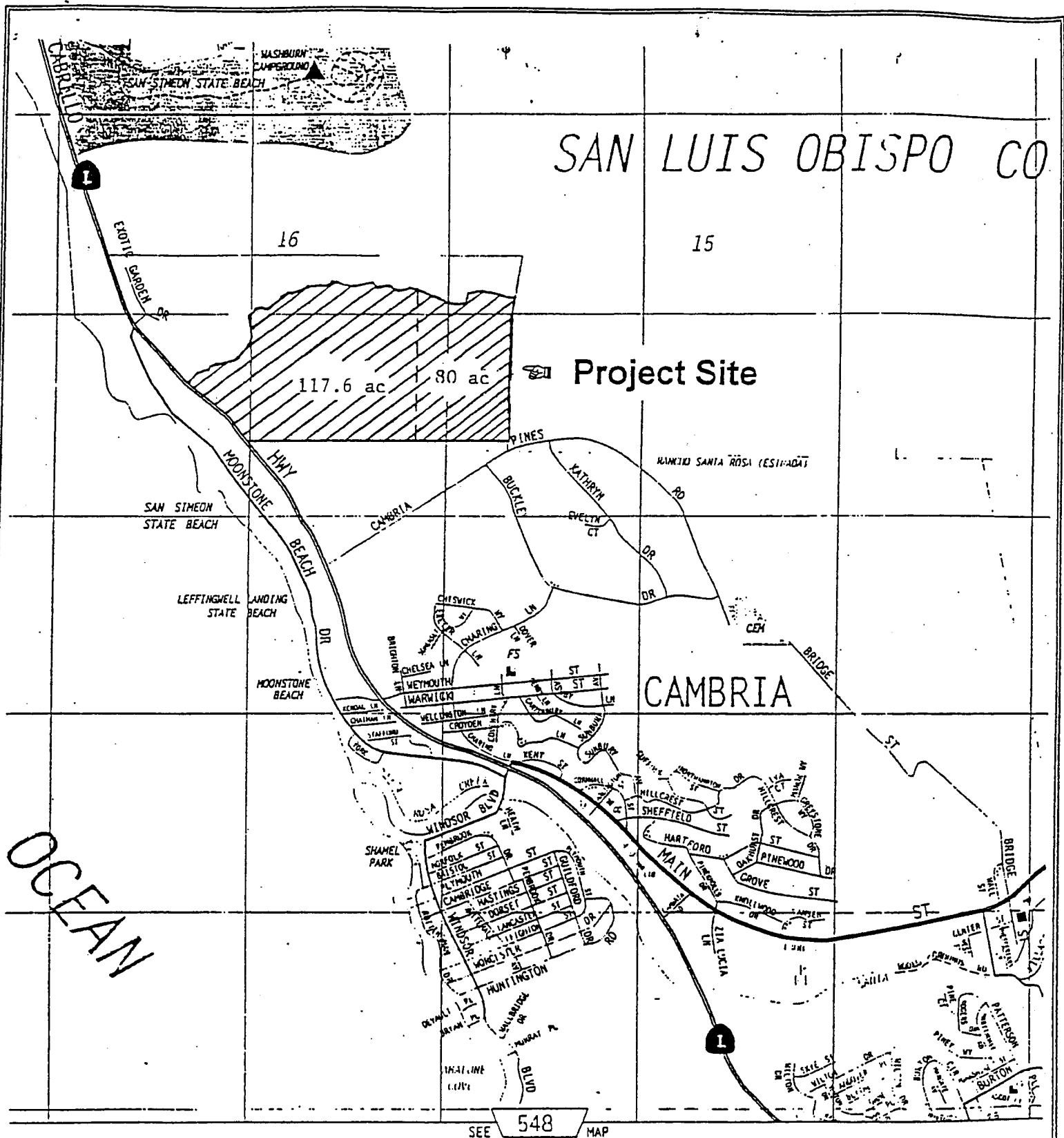
Clearly, the anticipated water use for a newly created parcel with multiple residential structures would be much greater than that of the single 1,200 square foot primary residence from which the water meter was transferred. The result of this transfer scheme is a substantial net increase in water demand. Given the uncertainty of sustainable water supplies in Cambria combined with the large number of already outstanding commitments, the appropriateness of this transfer scheme is called into question. This is especially true when used to allow new land divisions and development of large residential estates at a time when the community is in a water supply shortage. This transfer scheme does not demonstrate the availability of adequate public services to serve new subdivisions, particularly when there is considerable uncertainty about sustainable water supplies to serve existing lots in Cambria. This project is fundamentally inconsistent with Public Works Policy 1, and should be denied.

### **F. California Environmental Quality Act (CEQA)**

Section 13096 of the California Code of Regulations requires that a specific finding be made in conjunction with coastal development permit applications showing the application to be consistent with any applicable requirements of CEQA. Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

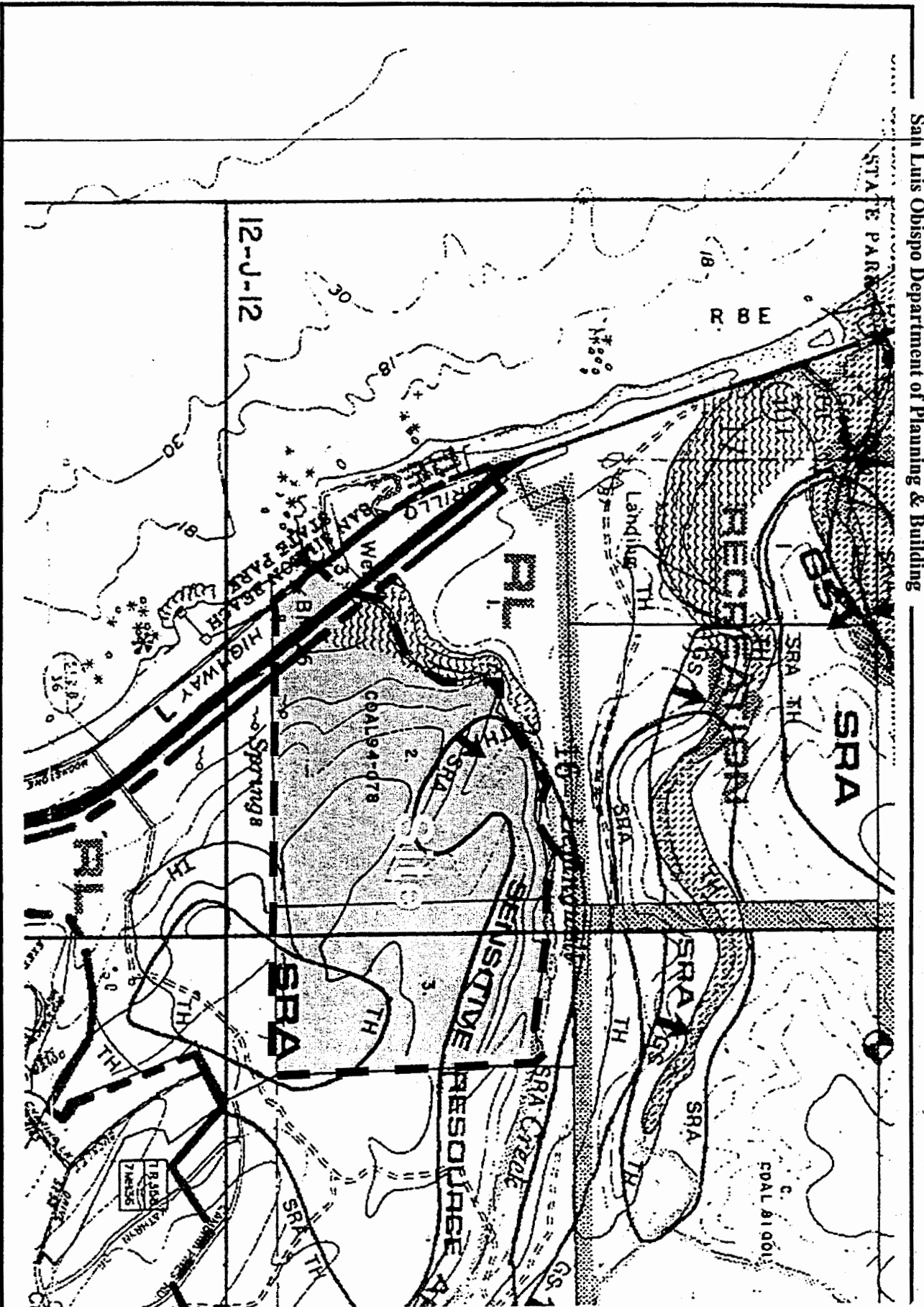
San Luis Obispo County adopted a Negative Declaration for the project on November 3, 2003. However, as detailed in the findings of this staff report, the Commission has identified environmental impacts of the project that were not effectively addressed by the adopted Negative Declaration. In particular, the Commission has found that the local approval of the project does not effectively protect environmentally sensitive habitats or show evidence of adequate public services, and will therefore have a significant adverse impact on the environment. As designed and sited, the project would not be the least environmentally damaging feasible project that could occur on the site. Therefore, the Commission finds that there are additional feasible alternatives and feasible mitigation measures available which would substantially lessen any significant adverse environmental effects which approval of the proposed project would have on the environment within the meaning of CEQA. Thus, the proposed project will result in significant environmental effects for which feasible mitigation measures have not been employed inconsistent with CEQA Section 21080.5(d)(2)(A). Therefore, the project is not approvable under CEQA and is denied





VICINITY MAP





12-J-12

Project  
Brown Parcel Map S020154P (CO02-0272); Development  
Plan/Coastal Development Permit



Exhibit  
Land Use Map-Rural Lands



2 Acre Building Envelope

5.5 Acre Building Envelope

Parcel 1-  
117 acres

Parcel 3-  
80 acres

12.5 Acre Building Envelope

Cambria Pines  
Road

CCC Exhibit 3  
(page 1 of 3 pages)

Project

Brown Parcel Map S020154P (CO02-0272); Development  
Plan/Coastal Development Permit

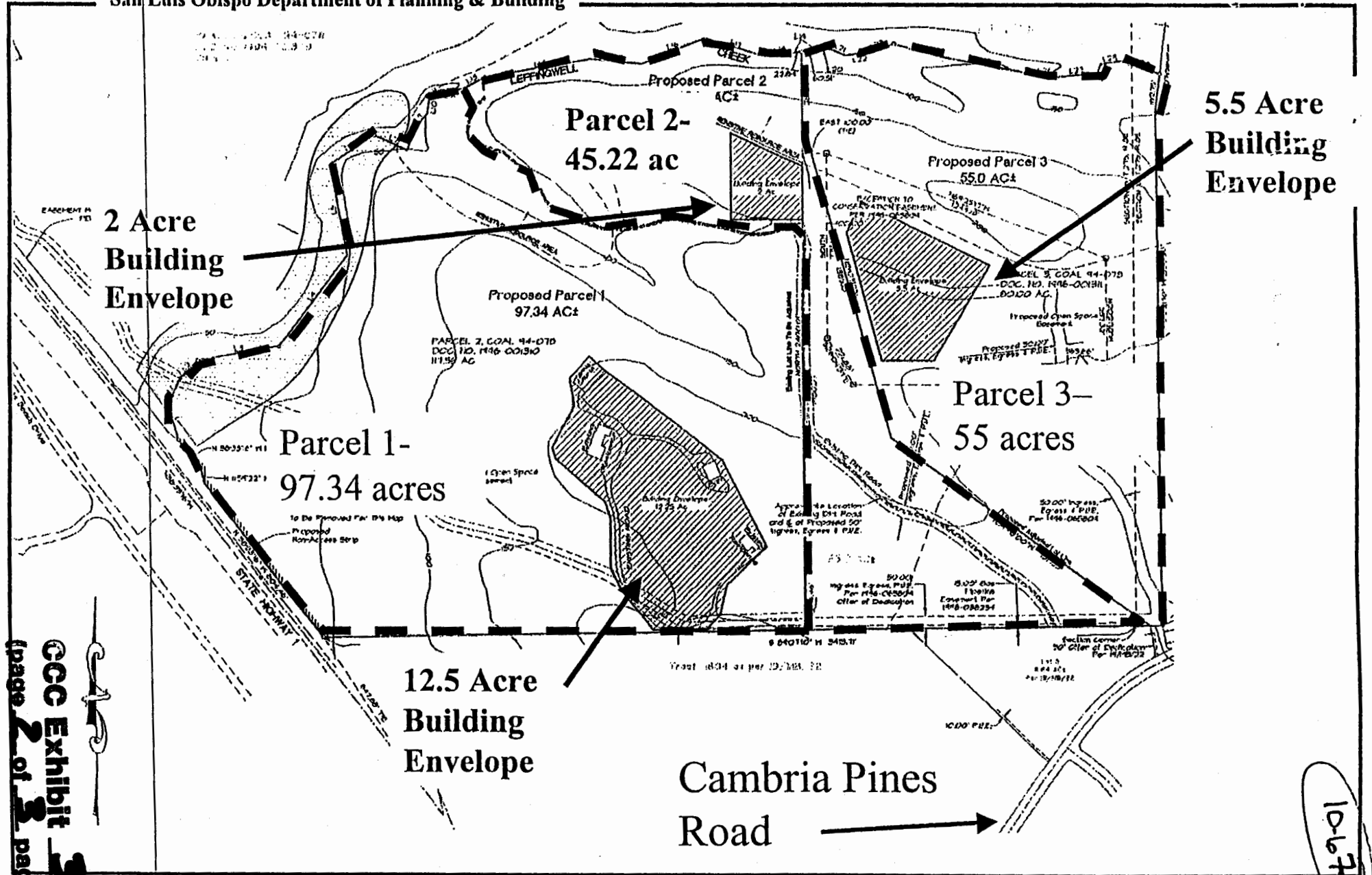


Exhibit

Existing Parcels and Lot Lines

Vegetation  
Parcel  
Being  
COAL  
San L  
Proposed  
April 18

10-66

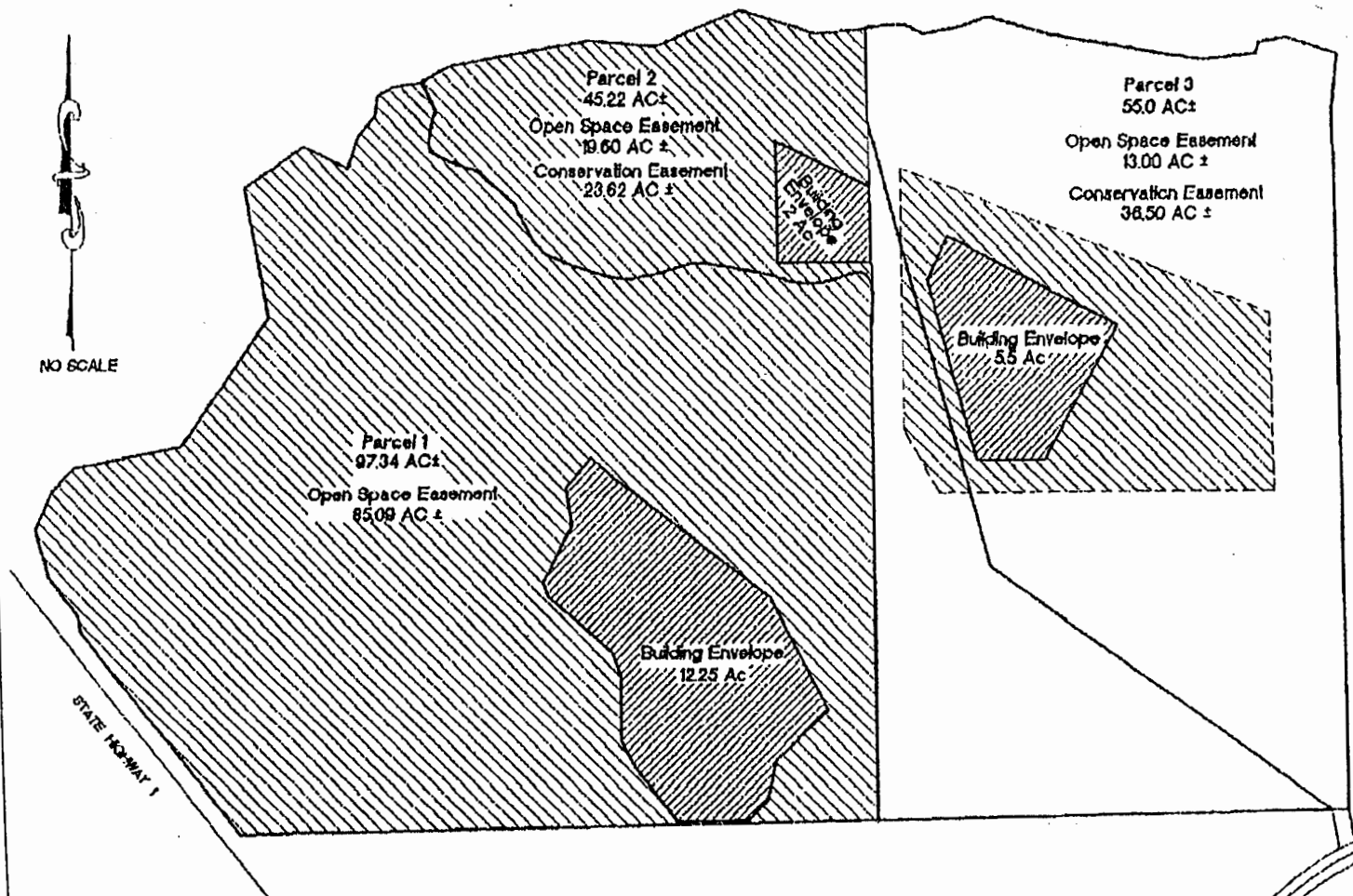


Project  
Brown Parcel Map S020154P(CO02-0272;  
Development Plan/Coastal Development Permit






Exhibit  
Proposed Parcels and Lot Lines

1067



EXISTING PARCEL	EXISTING PARCEL SIZE	PROPOSED PARCEL	PROPOSED PARCEL SIZE	PROPOSED BLDG ENVELOPE	PROPOSED CONSERVATION EASEMENT	PROPOSED OPEN SPACE
1	117.56 ACRES	1	97.34 ACRES	12.25 ACRES	0 ACRES	85.09 ACRES
2	50.00 ACRES	2	45.22 ACRES	2.0 ACRES	23.62 ACRES	19.6 ACRES
		3	55.00 ACRES	5.5 ACRES	36.5 ACRES	13.00 ACRES
		TOTAL	197.56 ACRES	19.75 ACRES	60.12 ACRES	117.61 ACRES

-  Proposed Open Space Easement
-  Proposed Building Envelope
-  Existing Conservation Easement



15-60



SAN LUIS OBISPO COUNTY  
DEPARTMENT OF PLANNING AND BUILDING

VICTOR HOLANDA, AICP  
DIRECTOR

November 6, 2003

FINAL LOCAL  
ACTION NOTICE

REFERENCE # 3-SLO-03-427  
APPEAL PERIOD 11/21-12/8/03

RECEIVED

NOV 20 2003

Vaughan Surveys, Inc  
(re: Brown Fam Trust)  
1101 Riverside Ave  
Paso Robles, CA 93446

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

NOTICE OF FINAL COUNTY ACTION

HEARING DATE: NOVEMBER 3, 2003

SUBJECT: Document Number: 2003-060  
S020154P/CO 02-0272 & D020256D  
BROWN FAMILY TRUST AND JAMES & JOHANNA TOWNSEND

LOCATED WITHIN COASTAL ZONE: YES

The above-referenced application was approved on the above-referenced date by the San Luis Obispo County Subdivision Review Board. A copy of the findings and conditions are enclosed. The conditions of approval must be completed as set forth in this document.

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.

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 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

CCC Exhibit 4  
(page 28) - 5 of 12 pages

procedures that must be followed to appeal this action. 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 is required prior to appealing the matter to the California Coastal Commission. This 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 appeal procedures. If you have questions regarding your project, please contact your Project Manager, **MARSHA LEE**, at (805) 781-5600. If you have any questions regarding these procedures, please contact me at (805) 781-5612.

Sincerely,



Chris Macek  
County Subdivision Review Board

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(Planning Department Use only)

Date NOFA copy mailed to Coastal Commission:

Enclosed: ☒ Staff Report  
☒ Findings and Conditions

## FINDINGS - EXHIBIT A

### ***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 Mitigated 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 19, 2003 for this project. Mitigation measures are proposed to address Cultural, Aesthetic, Biological, and Water resources and are included as conditions of approval.

### ***Tentative Map***

- B. The proposed map is consistent with applicable county general and specific plans because it complies with applicable area plan standards and is being subdivided in a consistent manner with the Rural Lands land use category.
- C. The proposed map is consistent with the county zoning and subdivision ordinances because the parcels meet the minimum parcel size set by the Land Use Ordinance and the design standards of the Real Property Division Ordinance.
- D. The design and improvement of the proposed subdivision of the proposed subdivision are consistent with the applicable county general and specific plans because required improvements will be completed consistent with county ordinance and conditions of approval and the design of the parcels meets applicable policies of the general plan and ordinances.
- E. The site is physically suitable for the type of development proposed because the proposed parcels contain adequate area for development of residential uses.
- F. The site is physically suitable for the proposed density of the development proposed because the building envelopes can adequately support a primary dwelling and allowed uses.
- G. The design of the subdivision or the proposed improvements will not cause substantial environmental damage or substantially and avoidably injure fish or wildlife habitat because development is limited to building envelopes that are identified in open areas away from sensitive resources.
- H. The design of the subdivision or the type of improvement will not conflict with easements acquired by the public at large for access through or use of property within the proposed subdivision.
- I. The proposed map complies with Section 66474.6 of the State Subdivision Map Act, as to methods of handling and discharge of waste.

### ***Coastal Access***

- J. The proposed use is in conformity with the public access and recreation policies of Chapter 3 of the California Coastal Act, because the project is not adjacent to the coast and the project will not inhibit access to the coastal waters and recreation areas.



***Sensitive Resource Area Findings***

- K. The development will not create significant adverse effects on the natural features and resources of the site or vicinity that were the basis for the Sensitive Resource Area designation, and will preserve and protect such features through the design of the parcels and building envelopes, because development is limited to building envelopes that are identified in open areas away from sensitive resources.
- L. Natural features and topography have been considered in the design and siting of all proposed physical improvements because development is limited to building envelopes that are identified in open areas away from sensitive resources, and sensitive resources are evaluated at the site specific level for Land Use Permit/Coastal Development Permit required for specific construction requests.
- M. The proposed clearing of topsoil, trees, is the minimum necessary and will not create significant adverse effects on the identified sensitive resource, because there is no removal of native vegetation, and sensitive resources are evaluated at the site specific level for Land Use Permit/Coastal Development Permit required for specific construction requests.
- N. The soil and subsoil conditions are suitable for any proposed excavation and site preparation and drainage improvements have been conditioned for preparation prior to construction activities to prevent soil erosion and sedimentation of streams through undue surface runoff.

***Archaeology Findings***

- O. The project design and development incorporate adequate measures to ensure that archeological resources will be acceptably and adequately protected because monitoring will be required for all construction work that disturbs the soil for this project and an existing previously trenched area will be used to route utilities to the equipment pad.

***Adjustments*** to standards set forth in Section 21.03.010 (c) (1) - average depth of parcel 2 is greater than three times the average width of the parcel:

- P. There are special circumstances or conditions affecting the subdivision because the division of the parent parcel in a north-south direction eliminates development visibility of Parcel 2 as seen from Highway 1, and the western boundary of Parcel 2 is sited along an existing road which provides access for both parcels 1 and 2.
- Q. The granting of the adjustment will not have a material adverse effect upon the health or safety of persons residing or working in the neighborhood of the subdivision because the adjustment to the lot depth to width ratio for Lot 2 meets the parcel size standard for the land use category and is similar to adjacent development.
- R. That the granting of the adjustment will not be materially detrimental to the public welfare or injurious to other property or improvements in the neighborhood of the subdivision because the granting of the adjustment is based on the fact that access is provided to parcel 1 and 2 along an existing road which reduces overall site disturbance by eliminating the need for additional roads.

## EXHIBIT B - CONDITIONS OF APPROVAL

### Approved Project

1. This approval authorizes the division of two existing parcels of 117.56 acres and 80 acres into three new parcels of approximately 97.34 acres (with a 12.25 acre building envelope), 45.22 acres (with 2 acre building envelope), and 55 acres (with a 5.5 acre building envelope).
2. Conversion of existing 1200 square foot residence to a 1200 square foot workshop.
3. No tree removal is authorized with this approval, except for a maximum of 30 trees to be removed for underground utilities for Parcel 2 and the removed trees will be replaced at a ratio of 2:1.
4. All residential development shall be limited to the design building envelopes as shown on the Vesting Tentative Parcel Map.

***Prior to recordation of the final map, the following conditions shall be met:***

### Access and Improvements / Public Works

5. **Prior to recordation of the final map**, a private easement shall be reserved on the map for access to lots 2 and 3.
6. **Prior to recordation of the final map**, the applicant shall enter into an agreement with the county for the cost of checking the map, the improvement plans if any, and the cost of inspection of any such improvements by the county or its designated representative.
7. **Prior to recordation of the final map**, the applicant shall provide evidence from CCSD that the water meter has been moved from Parcel 1 to Parcel 2.
8. **Prior to recordation of the final map**, the applicant shall provide evidence that the existing 1200 square foot residence is converted to a workshop.

### Open Space Easement - For Parcels 1, 2, and 3

9. **Prior to recording of the final parcel map**, all areas not designated for development shall be surveyed to be included in an open space easement. The site shall contain an open space easement of approximately 118 acres (which includes all areas outside of the building envelopes, and excludes the 60 acres currently in Conservation Easement with the San Luis Obispo Land Conservancy). The open space easement includes the approximately 14.5 acre remainder of the 20 acre Land Conservancy building envelope (central area) in the Conservation Easement. The total open space/conservation easement will be at least 90% of the total site area, approximately 177.81 acres. The purpose of the open space easement is protection of the environmentally sensitive resources of the site.
  - a. The easement shall be recorded in a form acceptable to County Counsel.
  - b. The easement shall remain in perpetuity for the subject parcel.



**Open Space Resource Management Plan - For Parcels 1, 2, and 3**

10. Prior to recording of final parcel map, the applicant shall provide an Open Space Resource Management Plan for the proposed Open Space Easement to maintain the natural resources in a viable condition on a continuing basis into perpetuity and indicate who will be responsible for the maintenance.

**Visual Restoration Plan for Parcel 1**

11. Prior to recordation of the final parcel map, the applicant shall meet all conditions pursuant to CZLUO Section 23.01.034c (Compliance with Standards Required/Application where violation exists), the applicant shall implement a Monterey Pine forest revegetation plan to meet the intent of Condition #8 (D940210P, final approval date May 8, 1996. The intent of this condition is to maintain and enhance the screening effect of the forest nearest to the 10,000 square foot primary residence, not the ROW of trees along Highway 1 the applicant has planted on his own. Condition #8 was not intended to encourage additional planting along Highway 1 because it violates Policy #4 of the County Coastal Policy Document.

**Existing Conservation Easement on Parcels 2 and 3**

12. Prior to recordation of the final parcel map, the applicant shall provide written verification from the Land Conservancy of San Luis Obispo of consistency with the Deed of Conservation Easement dated December 27, 1996 and the Forest Range Management Plan dated to the Department of Planning and Building, signed March 12, 1998.

**Standard Conditions of Approval for Subdivisions using Community Water and Septic Tanks**

13. Community water and fire protection shall be obtained from the community water system.
14. Operable water facilities from an approved community water source shall be assured prior to the filing of the final map. A "final will serve" letter shall be obtained and submitted to the county Health Department for review and approval stating there are operable water facilities immediately available for connection to the parcels created. Water main extensions, laterals to each parcel and related facilities (except well(s)) may be bonded for subject to the approval of county Public Works, the county Health Department and the public water utility.
15. No residential building permits are to be issued until the community (public) water system is operational with a domestic water supply permit issued by the county Health Officer.
16. In order to protect the public safety and prevent possible groundwater pollution, any abandoned wells on the property shall be destroyed in accordance with the San Luis Obispo County Well Ordinance Chapter 8.40, and county Health Department destruction standards. The applicant is required to obtain a permit from the county Health Department.

17. When a potentially operational or operational auxiliary water supply in the form of an existing well(s) is located on the parcels created and approved community water is proposed to serve the parcels, the community water supply shall be protected from real or potential cross-contamination by means of an approved cross-connection control device installed at the meter or property line service connection prior to occupancy. (Chapter 8.30, San Luis Obispo County Ordinance)
18. On-site systems that are in conformance with the county-approved Central Coast Regional Water Quality Control Board basin plan will be an acceptable method of sewage disposal, until public sewers may become available.
19. No sewage disposal system installations are to be placed closer than 100 feet from the top of any perennial or continuous creek banks, drainage swales or areas subject to inundation.
20. For parcels created with approved community (public) water but no community sewers, the approved on-site sewage disposal systems shall be designed, where feasible, for ease in ultimate sewerage.
21. Sewage disposal systems shall be separated from any individual domestic well and/or agricultural well, as follows: 1) leaching areas, feed lots, etc., one hundred (100) feet and bored seepage pits (dry wells), one hundred and fifty (150) feet. Domestic wells intended to serve multiple parcels or 25 or more individuals at least 60 days out of the year shall be separated by a minimum of two hundred (200) feet from a leachfield, two hundred and fifty (250) feet from seepage pits or dry wells.
22. Sewage disposal systems installed on slopes in excess of 20% shall be designed and certified by a registered civil engineer or geologist and submitted to the county Planning and Health Departments for review and approval prior to the issuance of a building permit. Consultants shall determine geologically stable building sites and sewage disposal for each parcel, including evaluations of hillside stability under the most adverse conditions including rock saturation and seismic forces. Slopes in excess of 30% are not considered suitable or practical for on-site subsurface sewage disposal.
23. An encroachment permit shall be obtained from county Public Works for any work to be done within the county right-of-way.
24. An encroachment permit be obtained from the California Department of Transportation for any work to be done on the state highway.
25. Any existing reservoir or drainage swale on the property shall be delineated on the map.
26. Prior to submission of the map "checkprints" to county Public Works, the project shall be reviewed by all applicable public utility companies and a letter be obtained indicating required easements.
27. Required public utility easements be shown on the map.
28. Approved street names shall be shown on the map.
29. The applicant shall comply with state, county and district laws/ordinances applicable to fire protection and consider increased fire risk to area by the subdivision of land proposed.

30. The developer submit a preliminary subdivision guarantee to county Public Works for review prior to the filing of the map.
31. Any private easements on the property shall be shown on the map with recording data.
32. All conditions of approval herein specified, unless otherwise noted, are to be complied with prior to the filing of the map.
33. After approval by the Review Authority, compliance with the preceding conditions will bring the proposed subdivision in conformance with the Subdivision Map Act and county ordinances.
34. A map shall be filed in accordance with Subdivision Map Act and county ordinance prior to sale, lease, or financing of the lots proposed by the subdivision.
35. Development plan and tentative map will expire 24 months from the effective date of the approval. Tentative maps may be extended. Written requests with appropriate fees shall be submitted to the Planning Department prior to the expiration date. The expiration of tentative maps will terminate all proceedings on the matter.

#### **Miscellaneous**

##### **Utilities**

36. All utilities shall be placed underground.

##### **Fire Safety**

37. Prior to recordation of the final parcel map, the applicant shall obtain fire safety clearance letter from Cambria Community Service District establishing fire safety requirements.

##### **Covenants, Conditions and Restrictions**

38. The developer shall submit proposed covenants, conditions, and restrictions for the subdivision to the county Department of Planning and Building for review and approval. The CC&R's shall provide at a minimum the following provisions:
  - a. Maintenance of all driveways within the subdivision.
  - b. Notice that monitoring is required pursuant to the information specified on the additional map sheet.
  - c. Maintenance of Open Space Easements

##### **Parks and Recreation (Quimby) Fees**

39. Unless exempted by Chapter 21.09 of the county Real Property Division Ordinance or California Government Code section 66477, prior to filing of the final parcel or tract map, the applicant shall pay the in-lieu" fee that will be used for community park and recreational purposes as required by Chapter 21.09. The fee shall be based on the total number of new parcels or remainder parcels shown on the map that do not already have legal residential units on them.

**Affordable Housing Fee**

40. Prior to filing the final parcel or tract map, the applicant shall pay an affordable housing in-lieu fee of 3.5 percent of the adopted public facility fee effective at the time of recording for each residential lot. This fee shall not be applicable to any official recognized affordable housing included within the residential project.

**Improvement Plans**

41. Improvement plans shall be prepared in accordance with San Luis Obispo County Improvement Standards and Specifications by a Registered Civil Engineer and submitted to the Department of Public Works and the county Health Department for approval. The plan is to include:

Public utility plan, showing all existing utilities and installation of all utilities to serve every lot.

42. The applicant shall enter into an agreement with the county for the cost of checking the map, the improvement plans if any, and the cost of inspection of any such improvements by the county or its designated representative.
43. The Registered Civil Engineer, upon completion of the improvements, must certify to the Department of Public Works that the improvements are made in accordance with all conditions of approval, including any related land use permit conditions and the approved improvement plans. All public improvements shall be completed prior to occupancy of any new structure.

***Additional Map Sheet -  
for conditions after the recording of the final map  
and prior to any site disturbance***

Prior to recordation of the final map, the applicant shall prepare an additional map sheet, to be approved by the Director of Planning and Building and recorded with the final map.

The following mitigation measures address impacts that may occur as a result of the initial development of the project:

**Site Development**

44. No development associated with a homesite shall be visible from Highway 1.

**Parcel 2 future development**

45. Prior to any development, including, but not limited to, driveway and utility improvements, and as a part of the application for Land Use Permits required for development on Parcel 2, the applicant shall identify impacted trees, trees to be removed (a maximum of 30 trees), and prepare a tree replacement plan at a ratio of 2:1.

**Parcel 3 future development**

46. As a part of the application for Land Use Permits required for development on Parcel 3, the applicant shall prepare a wetland delineation and protection plan.

Landscape

47. All landscaping at proposed building sites for Parcels 2 and 3 shall be drought tolerant vegetation and no CCSD water shall be used to water turf at building sites for parcels 2 and 3.

Erosion and Sedimentation ControlRevegetation

48. Prior to site disturbance, an erosion and sedimentation control plan shall be submitted to the Department of Planning and Building for approval. All disturbed areas shall be restored as soon as possible. A native seed mix shall be used to revegetate the restored area (see following list). The same revegetation treatment shall apply for any areas to be left undisturbed for more than 30 days.

"COASTAL DUNE SCRUB" SEED MIX<sup>(1)</sup>

<u>Species</u>	<u>lbs/acre</u>
<i>Abronia umbellata</i> (pink sand verbena)	0.25
<i>Artemisia californica</i> (California sagebrush)	0.25
<i>Ceanothus cuneatus</i> (buckbrush)	1.00
<i>Corethrogyne filaginifolia</i> (California aster)	0.25
<i>Croton californicus</i>	0.20
<i>Eriogonum parvifolium</i> (buckwheat)	0.20
<i>Eriophyllum confertiflorum</i> (golden yarrow)	0.20
<i>Eschscholzia californica</i> (California Poppy)	0.50
<i>Horkelia cuneata</i>	0.20
<i>Lotus scoparius</i> (deerweed)	1.20
<i>Mimulus aurantiacus</i> (bush monkeyflower)	0.25
<i>Rhamnus californica</i> (coffeeberry)	0.20
<i>Salvia mellifera</i> (black sage)	0.50
<i>Nasella (Stipa) pulchra</i> (purple needlegrass)	1.50

- (1) This seed mix is intended to provide general guidelines when revegetating within riparian habitat. Variations of the mix may be appropriate, as recommended by the County Planning and Building Department or county-approved qualified individual, where unique biological conditions exist or seed availabilities are limited. When ordering, local seed stock should be specified and used whenever available.

49. If it is shown to the County that the above-recommended native seed mix is not feasible or applicable, the following process shall be used:
- Prepare the disturbed area by raking or disking across or perpendicular to the slope to create small furrows that will: create a seedbed for broadcast seeds from nearby plants, as well as slow surface water runoff (and increase percolation into the soils)
  - Barley seed shall be planted (at 90 lbs./acre) over entire disturbed area;
  - Fertilize with Ammonium Phosphate fertilizer labeled 16-20-0 (16% nitrogen, 20% phosphoric acid, 0% potash) at 250 lbs./acre;
  - Mulch with straw (barley, if possible) [ @ 100 lbs. per 1,000 sq. ft of disturbance]; straw distribution should even over entire scraped area;
  - Seed shall be watered regularly until 1) the seed "head" of the barley plant has emerged, and 2) there is at least 80% successful coverage over area planted; at least 80% success rate must be achieved on all slopes exceeding 10%;
  - Additional seeding, watering and possibly soil amending shall be completed immediately if at any point during this rainy season the initial barley planting fails

or is removed/ disturbed.

### Drainage

50. Submit complete drainage calculations to the Department of Public Works for review and approval.
51. If calculations so indicate, drainage must be retained/detained in a drainage basin on the property. The design of the basin to be approved by the Department of Public Works, in accordance with county standards
52. If a drainage basin is required, the drainage basin along with rights of ingress and egress be:  
offered for dedication to the public by certificate on the map with an additional easement reserved in favor of the owners and assigns.

### Utilities

53. All utilities are to be installed underground

### Cultural Resources

54. **Prior to issuance of construction permits**, the applicant shall submit a monitoring plan prepared by a subsurface qualified archaeologist, for the review and approval of the Environmental Coordinator. The plan shall have considered the information from pertinent cultural reports including A Cultural Resources Survey and Impact Assessment for Leffingwell Ranch, San Luis Obispo County, California was prepared by Clay A. Singer and John E. Atwood dated August 8, 1994, and shall include observation and inspection by an archaeologist of the vegetation removal and surface disturbance. The plan shall provide for verification by the archaeologist (or his/her designated field monitor) that no construction activities are occurring within the designated environmentally sensitive area. The monitoring plan shall include:
  - a) list of personnel involved in the monitoring activities.
  - b) description of how the monitoring shall occur
  - c) description of frequency of monitoring (e.g., full-time, part time, spot checking)
  - d) description of what resources are expected to be encountered
  - e) description of circumstances that would result in the halting of work at the project site (e.g., what is considered 'significant' archaeological resources)
  - f) description of procedures for halting work on the site and notification procedures
  - g) description of monitoring reporting procedures
  - h) retention of excavated cultural soils on-site

If 'significant' archaeological resources are discovered, the monitoring plan shall be revised to the satisfaction of the Environmental Coordinator to incorporate measures necessary to mitigate the impact to cultural resources.
55. **Prior to final inspection and upon completion of all monitoring/mitigation activities**, the consulting archaeologist shall submit a letter to the Environmental Coordinator summarizing all monitoring / mitigation activities and confirming that all recommended mitigation measures have been met.

**Miscellaneous**

56. **Prior to issuance of construction permits**, a soils report shall be conducted identifying percolation rates and groundwater depth adequate for septic system design and installation.
57. All public improvements (roads, drainage, utilities) shall be completed prior to occupancy of any new structure. This notice shall be included on an additional information sheet for any map recorded before improvements are complete.
58. This subdivision is also subject to the standard conditions of approval for all subdivisions using community water and sewer.

59. **Water Conservation**

**Prior to issuance of construction permit on the new Parcel 3**, the applicant shall submit, for the Planning 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 Planning 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, and further modified by CCSD Board approval on November 14, 2002 (CCSD board item VIII.B), 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.

Staff report prepared by Marsha Lee and reviewed by Matt Janssen



## CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE  
725 FRONT STREET, SUITE 300  
SANTA CRUZ, CA 95060  
(831) 427-4863  
HEARING IMPAIRED: (415) 904-5200



APPEAL FROM COASTAL PERMIT  
DECISION OF LOCAL GOVERNMENT

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

SECTION I. Appellant(s):

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

Commissioner Sara J. Wan

Commissioner John Wooley

California Coastal Commission

California Coastal Commission

45 Fremont Street, Suite 2000

45 Fremont Street, Suite 2000

San Francisco, CA 94105-2219

San Francisco, CA 94105-2219

(415) 904-5200

(415) 904-5200

SECTION II. Decision Being Appealed

1. Name of local/port government:

San Luis Obispo County

2. Brief description of development being appealed:

Minor land division of two existing parcels of approximately 117.56 acres and 80 acres resulting in three parcels of 97.34 acres, 45.22 acres, and 55 acres; and a request to convert an existing 1,200 square foot residence to storage.

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

6975 Jordan Road, Cambria, San Luis Obispo County APN(s) 013-081-050 and -051.

4. Description of decision being appealed:

a. Approval; no special conditions: \_\_\_\_\_

b. Approval with special conditions: XX

c. Denial: \_\_\_\_\_

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

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-3-SLO-03-117

DATE FILED: 12/8/03

DISTRICT: Central

RECEIVED

DEC 05 2003

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

Exhibit 5  
(page 1 of 6 pages)

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

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

a. ☐ Planning Director/Zoning  
Administrator

c. ☐ Planning Commission

b. ☐ City Council/Board of  
Supervisors

d. ☒ Other: Subdivision Review Bd.

6. Date of local government's decision: November 3, 2003

7. Local government's file number: S020154P/CO 02-0272

**SECTION III Identification of Other Interested Persons**

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

a. Name and mailing address of permit applicant:

Brown Family Trust & James & Johanna Townsend

C/o Vaughan Surveys, Inc.

1101 Riverside Ave., Paso Robles, CA 93446

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

(1) Vern Hamilton

Cambria Community Services District

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

(2) \_\_\_\_\_

(3) \_\_\_\_\_

(4) \_\_\_\_\_

**SECTION IV. Reasons Supporting This Appeal**

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

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT  
Page 3

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

See Attached.

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

SECTION V. Certification

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

Signed:   
Appellant or Agent

Date: 12/5/03

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

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Page 3

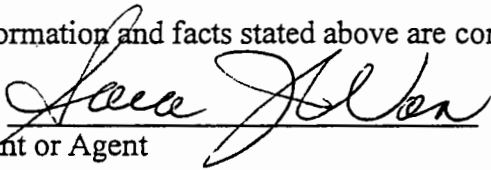
State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

See Attached.

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Appellant or Agent

Date: 12/5/03

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

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

**CALIFORNIA COASTAL COMMISSION**

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

**Reasons for Appeal: San Luis Obispo County Coastal Development Permit D020256D (Brown & Townsend)**

The County approved project includes subdividing two existing parcels totaling 197.56 acres (117.56 acres and 80 acres) into three parcels of 97.34 acres, 45.22 acres, and 55 acres. Building envelopes of 12.25 acres, 2 acres, and 5.5 acres have been identified on each of the new parcels respectively. Currently, the 117.56-acre parcel is developed with an 8,200 square foot SFD, a 1,200 square foot SFD, a 600 square foot guesthouse, a greenhouse, a barn with workshop, a pool and poolhouse, and a tennis court with gazebo, and driveways. The 80-acre parcel is undeveloped. In addition, the County approved project allows the conversion of the existing 1200 square foot SFD to a storage space as a way to move the water meter onto the newly created 45.22 acre parcel. The approved subdivision is inconsistent with San Luis Obispo County's LCP requirements regarding the protection of environmentally sensitive habitats and public service capacities for the following reasons:

**1. The proposed subdivision will allow non-resource dependant development within ESHA, which will significantly disrupt sensitive resources.**

Policy 1 for Environmentally Sensitive Habitats (ESHA) and CZLUO Sections 23.07.170-178 require that development located within or adjacent to ESHA shall not significantly disrupt the resource, and only those uses dependent on such resources shall be allowed within the area. The proposed development is located within ESHA. Portions of the existing parcels are mapped in the LCP as Terrestrial Habitat (TH) Sensitive Resource Areas for the protection of the Monterey pine forest, and the applicant's biologist has determined that the 80-acre parcel lies entirely within the Monterey pine forest habitat. LCP combining designations for the site includes wetlands, coastal streams and riparian vegetation, all of which have been identified in the project area. The County approved project would necessitate the creation of new parcels in ESHA for residential development that is not resource dependent. New building envelopes totaling 19.75 acres and 20 foot wide paved access roads to serve the newly created building areas will degrade and fragment the surrounding Monterey pine forest and significantly disrupt environmentally sensitive habitat areas, inconsistent with LCP requirements.

**2. The County approved land division will necessitate development within ESHA and the LCP required setback areas.**

Policy 4 for ESHA prohibits land divisions within environmentally sensitive habitats, "unless it can be found that the buildable area(s) are entirely outside the minimum standard setback required for that habitat." The project is located within Monterey pine forest ESHA as defined by the LCP. According to the botanical survey performed on a portion of the project site, the proposed 55-acre property and building envelopes are located "entirely within a Monterey pine forest community type." In addition, sensitive wetlands and other habitat types have been identified in the project area and adjacent to proposed access roads. Inconsistent with the LCP, the County approved project involves the division of land and future development within ESHA. Furthermore, the approved site plan shows newly created building envelopes and access roads within sensitive resource setback areas.

**3. The new development does not minimize disturbance to rare or endangered habitats.**

Policy 33 and CZLUO Section 23.07.176 require that rare or endangered vegetation shall be protected and that all development shall minimize disturbance to wildlife or plant habitat. CZLUO Section 23.07.164 requires that any proposed clearing of trees or other features be the minimum necessary to achieve safe and convenient access and not create significant adverse effects on the identified sensitive resource. In addition, North Coast Planning Area Standard for Sensitive Resource Areas requires development to concentrate proposed uses in the least sensitive portions of the property and retain native vegetation as much as possible. The project is located in the environmentally sensitive Monterey Pine forest terrestrial habitat area (TH). The County approved project involves the removal of 30 trees for underground utilities and driveways, as well as, additional clearing of grasses and forest habitat to accommodate newly created building envelopes. Inconsistent with the LCP, the subdivision does not minimize disturbance to the sensitive Monterey pine forest habitat.

**4. The newly created development envelopes are not located near the URL, nor are they clustered to minimize tree removal.**

The North Coast Area Plan Site Planning Standard for new land divisions requires that proposed residential units shall be clustered adjacent to the Cambria Urban Reserve Line to minimize the need for new road construction and service extensions; or shall be clustered in open or semi-open areas to minimize tree removal. In fact, in 2000 the Commission approved a lot line adjustment for the same parcels that designated a building envelope near the access road entrance and along the property boundary adjacent to the URL to minimize habitat disturbance. In this case, however, the County approved project shows the proposed building envelopes in the interior of the parcel and further away from the URL. Inconsistent with the Planning Area Standard, the approved project allows for 30 sensitive Monterey pine trees to be removed in order to accommodate the proposed access roads and utility connections. As approved by the Commission in 2000, other siting options are available that would avoid these impacts.

With respect to adequate public services, the project is inconsistent with Public Works Policy 1 of the LCP for the following reasons:

- 5. 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, the County required that domestic water for the newly created 45.22-acre parcel be obtained by converting the existing 1200 square foot residence to storage, then transferring the water meter to the new parcel. First, this raises concern with respect to the long-term enforceability of the County's requirement. More importantly, this scenario may intensify water use at a time when existing water withdrawals may be adversely impacting sensitive riparian habitats, and the Cambria CSD has declared a water supply emergency. Although the County approved project requires offsetting water conservation retrofits, the appropriateness of this approach to enable new subdivisions does not demonstrate the availability of adequate public services to serve new subdivisions, as required by Public Works Policy 1.**



2003



Existing  
PARCEL  
Boundries  
(Approx.)

Approx.  
LOCATION OF  
SRA Bounche  
FOR MONTERE  
Pine Forest  
in LCP

NOTE:  
GROWTH OF  
YOUNG Monterey  
Pines in  
Development  
AREAS



Photo 1. The proposed building envelopes are located in this grassy meadow surrounded by Monterey Pine Forest.



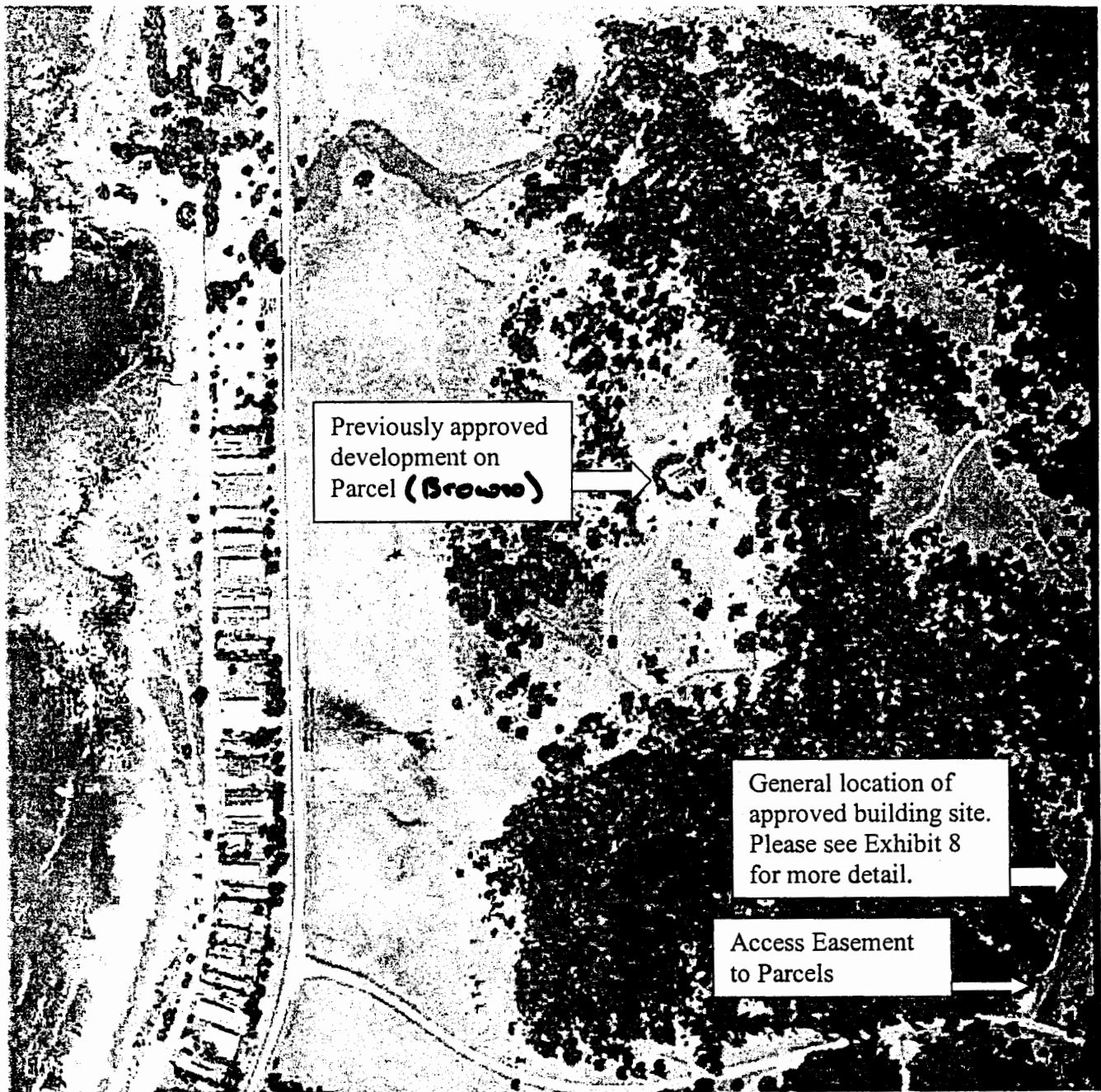
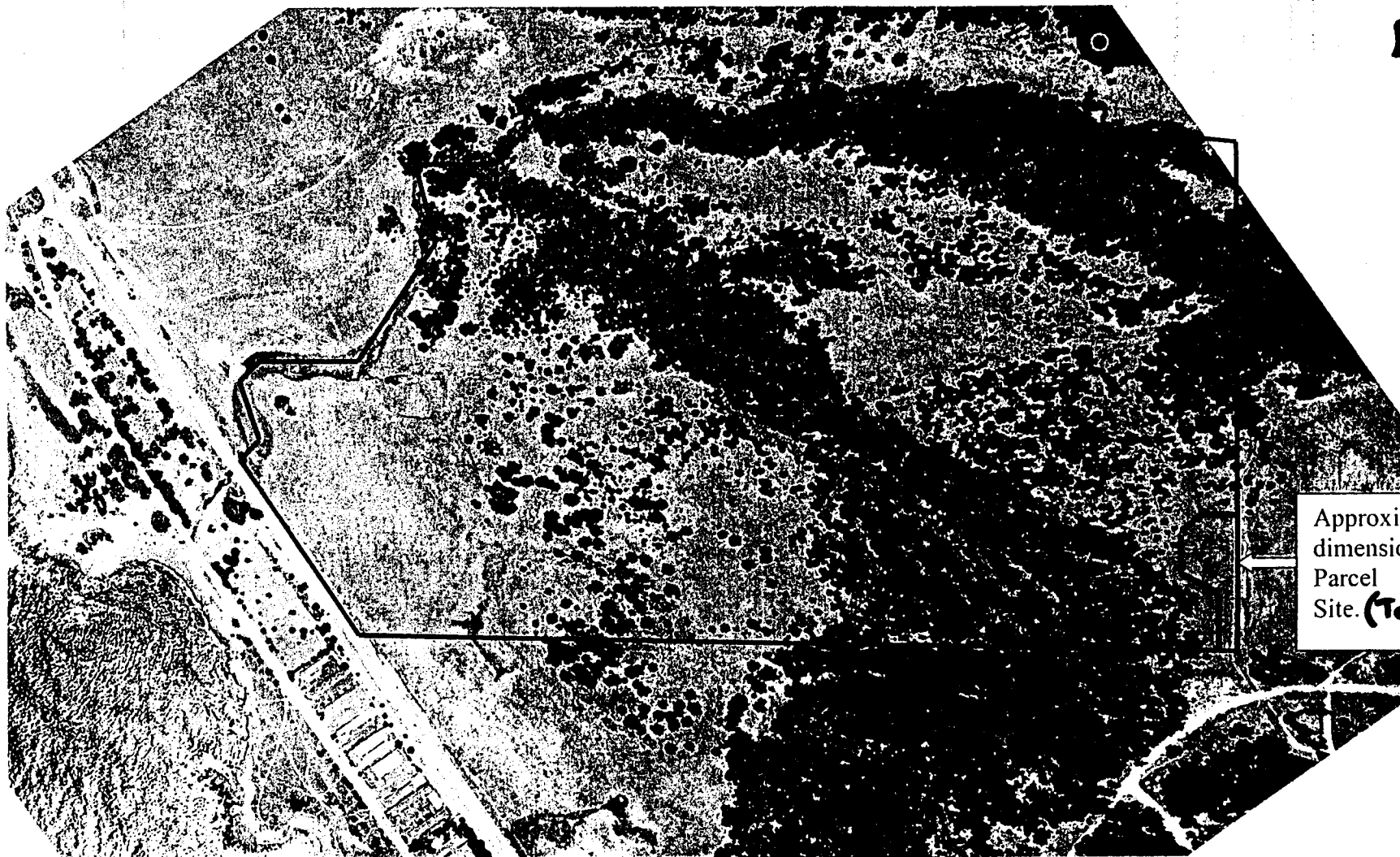


Exhibit 9: Aerial Photograph of Project Site taken September 26, 2001

Note: Entirety of Parcel • is not shown in this photograph.



Approximate  
dimensions for  
Parcel Building  
Site. (Townsend)

(A-3-S10-00-045)

Exhibit 8: Building Site (Townsend)  
Approved by CCC in 2002  
(A-3-S10-00-045)



