

CALIFORNIA COASTAL COMMISSION

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W12a**RECORD PACKET COPY**

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APPEAL SUBSTANTIAL ISSUE DETERMINATION & DE NOVO HEARING

Application number.....A-3-SLO-01-122, Cambria Pines Lodge Expansion

Applicant.....Pacific Cambria Inc., Attn: Dirk Winter

Appellants.....Commissioners Wan and Desser; Mrs. Judy Deertrack; Cambria Legal Defense Fund, Attn: Mr. Vern Kalshan

Project location.....2905 Burton Drive, Cambria, San Luis Obispo County (APN(s) 023-421-002, 023-425-011, 023-431-002).

Project descriptionExpansion of the Cambrian Pines Lodge including 35 new guest rooms in 9 buildings totaling 18,800 square feet; a theatre of approximately 6,138 square feet; a retail shop of approximately 1,650 square feet; tennis court; additional parking spaces; access improvements; related grading and comprehensive drainage improvements.

Local approval.....The San Luis Obispo County Board of Supervisors approved Minor Use Permit/Coastal Development Permit D980113D (November 6, 2001).

File documents.....San Luis Obispo County certified Local Coastal Program; Final Local Action Notice 3-SLO-01-613; Periodic Review of the San Luis Obispo County Certified Local Coastal Program; additional documents, materials, and correspondence provided by applicant and interested parties.

Staff recommendation ...Staff recommends a **SUBSTANTIAL ISSUE** exists with respect to the grounds on which the appeal has been filed, then **APPROVE** the project with conditions.

Summary: The project involves the expansion of the existing Cambria Pines Lodge, including 35 new guest rooms, a theatre, and a retail shop in the community of Cambria, San Luis Obispo County. The County approved the project subject to 29 conditions, finding it consistent with the San Luis Obispo County Local Coastal Program. The standard of review is the San Luis Obispo County Local Coastal Program.

The appellant's contentions can be grouped into three major areas: 1) the availability of adequate water supplies; 2) the protection of environmentally sensitive habitats; and 3) the protection of coastal watersheds. As required by Public Works Policy 1 of the San Luis Obispo County LCP's *Coastal Plan Policies*, all new development must demonstrate that there is sufficient water supply to serve the



California Coastal Commission
August 2003 Meeting in Huntington Beach

Staff: J.Bishop Approved by: *JB*

development. The appellants also contend that the project is inconsistent with LCP Environmentally Sensitive Habitat Area (ESHA) policies, which require sufficient water supplies to support the biological continuance of ESHA. In addition, proposed modifications to the site's drainage patterns may exacerbate existing erosion and sedimentation problems, adversely affecting coastal watersheds.

Staff recommends that the Commission determine that a **substantial issue** exists with respect to the grounds on which the appeal has been filed. The proposed commercial development is included on the list of so-called Cambria "pipeline" water projects. The Commission has previously recognized the serious water supply situation in Cambria and uncertainty still exists with respect to the environmental sustainability of the community's water supply. Most importantly, the burden of the uncertainty in the existing water supply must not be placed on coastal resources. Given the significant outstanding questions regarding the adequacy of the water supply available to serve existing development, the approval of new development that will increase water demand is inconsistent with Public Works Policy 1. Furthermore, the project is inconsistent with LCP Environmentally Sensitive Habitat Area (ESHA) Policies 1, 2, 5, 18, 21, due to the fact that increased water withdrawals from Santa Rosa and San Simeon Creeks needed to support the development will adversely affect sensitive riparian and wetland habitats supporting rare and important species such as the Steelhead trout, Tidewater Goby, and California Red Legged Frog. Lastly, inconsistent with Watershed Policies 9 and 10, the project will result in adverse impacts to surrounding areas due to the increases in site runoff, resulting in erosion and sedimentation.

To resolve these issues and achieve LCP consistency, staff recommends that the Commission approve the project with special conditions. To ensure that the project does not result in additional water use, the conditions require that a facilities retrofit be accomplished that completely offsets the additional water needed to serve the expansion. In this case, the applicant has agreed to retrofit existing commercial laundry facilities at the Fog Catcher Inn and the Pelican Suites Inn, for water savings in excess of 700,000 gallons per year. This is consistent with the approach taken by the Commission on other "pipeline" water projects in Cambria. Only with this condition is the project consistent with Public Works Policy 1 of the certified LCP.

Furthermore, special conditions require the preparation and implementation of final project plans, and a final drainage and erosion control plan. Specifically, they require relocating development away from sensitive forest habitat areas, and implementation of construction and post construction drainage and erosion controls that will avoid heightened erosion and the discharge of sediments and pollutants to coastal waters. This condition will ensure protection of the watershed and reduce sedimentation into Santa Rosa creek and erosion in other downslope areas. To preserve the surrounding sensitive pine forest habitat, the conditions require that revised final plans be submitted that sites new structures in a manner that avoids unnecessary encroachment into sensitive resource areas. Finally, the conditions require that the landscape plan use only native vegetation appropriate to the site, and be implemented in a manner that prevents the spread of pitch canker and/or exotic invasive vegetation.

Therefore, as conditioned, Staff recommends approval.



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1. Appeal of San Luis Obispo County Decision

A. San Luis Obispo County Action

On November 6, 2001 the San Luis Obispo County approved the Minor Use/Coastal Development Permit D980113D for 35 guest units, theatre, and retail shop expansion of the Cambria Pines Lodge, subject to 29 conditions. (See Exhibit D for the County's adopted staff report, findings and conditions on the project). The County's approval was by the Board of Supervisors following an appeal of the Planning Commission's original approval. The current Appellants in this matter before the Commission are the same persons who appealed the Planning Commission's decision to the Board of Supervisors. The County also approved a Negative Declaration (of no significant environmental impacts) under the California Environmental Quality Act.

Notice of the Board of Supervisor's action on the coastal development permit (CDP) was received in the Coastal Commission's Central Coast District Office on November 30, 2001. The Coastal Commission's ten-working day appeal period for this action began on December 3, 2001 and concluded at 5pm on December 14, 2001. Three valid appeals (see below) were received during the appeal period.

B. Appeal Procedures

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. Section 23.01.043c(3) of the San Luis Obispo Coastal Zone Land Use Ordinance specifies the sensitive coastal resource areas where development is appealable to the Coastal Commission, which includes environmentally sensitive habitat areas such as the Monterey Pine forest. This project is appealable to the Coastal Commission because it involves development within Sensitive Resource Areas designated by the LCP; specifically, the project proposed development within environmentally sensitive habitats associated with the Monterey Pine forest.

The grounds for appeal under section 30603 are limited to allegations that the development does not conform to the standards set forth in the certified local coastal program or the public access policies of the Coastal Act. Section 30625(b) of the Coastal Act requires the Commission to conduct a *de novo*



coastal development permit hearing on an appealed project unless a majority of the Commission finds that "no substantial issue" is raised by such allegations. Under section 30604(b), if the Commission conducts a *de novo* hearing, the Commission must find that the proposed development is in conformity with the certified local coastal program. 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 nearest public road and the sea and thus, this additional finding need not be made in a *de novo* review in this case.

C. Appellants' Contentions

For the full text of the appellants' contentions, please refer to Exhibit C.

In summary, the appellants contend that the project is inconsistent with provisions of the San Luis Obispo County certified LCP standards regarding water supplies, environmentally sensitive habitats, as well as with LCP policies protecting coastal watersheds. The appellants, Judy Deertrak, the Cambria Legal Defense Fund, and Commissioners Wan and Dessler, have appealed the final action taken by the County Board of Supervisors on the basis that approval of the project is inconsistent with Public Works, ESHA, Hazards, and Coastal Watershed policies of the San Luis Obispo County Local Coastal Program regarding adequacy of water availability, the potential for the project to disrupt environmentally sensitive habitat areas, and impacts to coastal watersheds due to increased erosion and sedimentation.

2. Procedural History (Post-County Action)

On November 30, 2001 the Commission's Central Coast District Office received the County's Notice of Final Local Action for local permit D980113D. The Commission's 10-day appeal period started December 3, 2001 and ran through December 14, 2001. On December 14, 2001, three separate appeals were filed based on inconsistencies with the certified SLO County Local coastal Program. Subsequent to the appeals being filed, the Applicant signed a "Waiver of 49 Day Rule for Coastal Development Appeal" on January 7, 2002. The County's administrative record on the application was subsequently received in the Commission's Central Coast District Office on February 1, 2002.

3. Staff Recommendation

A. Staff Recommendation on Substantial Issue

MOTION: *I move that the Commission determine that Appeal No. A-3-SLO-01-122 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 NO 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 by a majority of the Commissioners present.

RESOLUTION TO FIND SUBSTANTIAL ISSUE:

The Commission hereby finds that Appeal No. A-3-SLO-01-122 presents a substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act regarding consistency with the Certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.

B. Staff Recommendation on Coastal Development Permit

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

MOTION: *I move that the Commission approve Coastal Development Permit Number A-3-SLO-01-122 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL: Staff recommends a **YES** vote. Passage of this motion will result in approval of the coastal development permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION TO APPROVE THE PERMIT: *The Commission hereby approves the coastal development permit on the ground that the development as conditioned, will be in conformity with the provisions of the San Luis Obispo County certified Local Coastal Program. Approval of the coastal development permit complies with the California Environmental Quality Act because feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the amended development on the environment.*

4. Conditions of Approval

A. Standard Conditions

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the Permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.



2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the Permittee to bind all future owners and possessors of the subject property to the terms and conditions.

B. Special Conditions

1. **Revised Project Plans.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit two sets of Revised Project Plans to the Executive Director for review and approval. The final project plan shall be consistent with the following requirements:
 - (a) **Defensible Space.** The building footprint for unit #'s 34, 35, 37, 38, 39, and associated parking spaces and access paths shall be configured to allow for a "defensible space" (10' setback for parking lots and 30' for buildings) for fire protection that does not require removal of any living Monterey pine or pine forest understory. The defensible space shall be clearly identified on the plans. The plans shall also identify all parameters for maintaining the defensible space, including but not limited to: identification of what types of vegetation must be removed; what types of vegetation can remain; and the specific parameters for any tree limb removal (e.g., when such limbs shall be removed, at what limb height is removal unnecessary, etc.).
 - (b) **Tennis Court.** The proposed tennis court shall be relocated to an area within the interior of the site. For clarity, the interior area of the project site is defined as the area inside of the Lodge's primary vehicle ingress/egress roadway that frames the Main Lodge, main garden, pool area and Fireside cottages.
 - (c) **Site Runoff.** Runoff from all surfaces subject to vehicular traffic shall be filtered through an engineered filtration system specifically designed to remove vehicular contaminants. All filtered runoff shall be directed offsite in such a manner as to avoid erosion and/or sedimentation .

The Permittee shall undertake development in accordance with the approved Revised Project Plans. Any proposed changes to the approved Revised Project Plans shall be reported to the Executive Director. No changes to the approved Revised Project Plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is necessary.



- 2. No Net Increase in Water Use Allowed.** PRIOR TO ISSUANCE OF THE PERMIT, the applicant shall submit, for Executive Director review and approval, evidence that the anticipated water use of this development has been completely offset through the retrofit of existing water fixtures within the Cambria Community Service District's service area or other verifiable action to reduce existing water use in the service area (e.g., replacement of irrigated landscaping with xeriscaping). The documentation submitted to the Executive Director shall include:
- a. A detailed assessment of anticipated total water use (including water used for both domestic and landscaping purposes) of the approved development, measured in gallons per year, prepared by a qualified professional, and approved by the Cambria Community Services District. This assessment shall include the specific data and analyses used to estimate water use, including the number of bedrooms/occupants, the number and types of water fixtures and appliances, the type and extent of project landscaping, and the proposed method of landscape irrigation.
 - b. A detailed description of the water saving action(s) that have been taken to offset the amount of water that will be used by the project, and the amount of water savings expected to result from these actions in gallons per year. For retrofits, this shall include a description of the existing and replacement fixtures, their associated water flows, their estimated frequency of use, and the quantity of water savings expected as a result of the retrofits, calculated by a qualified professional. For water savings achieved by reducing landscape irrigation, the applicant shall document the landscaping to be removed, and submit a replacement landscape plan that documents the use of native drought resistant plants and water conserving irrigation techniques, and a quantification of the expected water savings calculated by a landscape professional.
 - c. The specific address/location of where the retrofits and/or landscaping changes identified in the preceding subsection took place and the dates that they were completed, including certification of successful installation by the installers.
 - d. Written verification that the Cambria Community Services District concurs that the completed retrofits and/or landscape changes will result in water savings that meets or exceeds the anticipated water use of the project.
 - e. Either (1) deed restrictions, in a form and content acceptable to the Executive Director, and executed and recorded by the owner(s) of the sites/locations identified pursuant to subsection "c" above, requiring that water conserving fixtures/landscaping installed on the project site, and on the identified non-project sites, will be maintained for the life of the project. The deed restrictions shall indicate that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of the project site and of those properties whose use of water must be reduced to offset the projected water requirements of the proposed project. The deed restriction shall include a legal description of the parcels governed or affected by this Special Condition, and shall be run with the land, binding all successors and assigns, and shall be recorded free of all prior liens that the Executive Director



determines may affect the enforceability of the restriction. Or, (2) as an alternative to deed restrictions, evidence that a monitoring system will be administered by the Cambria Community Services District to ensure that the water reduction requirements of this condition will be effectively maintained. Such a monitoring plan in lieu of deed restrictions must include adequate assurances and commitments that the Cambria Community Services District will monitor and regulate water use at the project site and retrofit sites consistent with the terms of this condition.

3. **Tree Replacement.** PRIOR TO CONSTRUCTION, the Applicant shall also provide evidence that special conditions related to tree planting and revegetation imposed by the County of San Luis Obispo have been implemented in accordance with the local approval D980113D (County Conditions 24, 25, 26, and 27). See Exhibit C for a complete text of these conditions.

Pine trees shall be replaced at a 2:1 ratio. Monterey pine replacement trees shall be one-gallon saplings grown from the Cambrian stand *Pinus radiata macrocarpa*.

4. **Landscape Material.** No invasive trees or shrubs shall be planted. California Exotic Pest Plant Control lists should be consulted prior to any landscape installations, and no plant classified as an exotic plant shall be installed. Landscape material shall be consistent with the Monterey Pine Forest habitat. Some recommended plants are listed below (not a comprehensive list). Vegetation planted within the driplines of remaining trees should not require irrigation. Rye grass should not be included in any seed mix due to its invasive nature.

Scientific Name

Common Name

Trees

Pinus radiata

Monterey Pine¹

Quercus agrifolia

Coast Live Oak

Understory Plants

Achillea millefolium

Yarrow

Arctosaphylos spp.

Manzanita²

Ceanothus spp.

Mountain lilac²

Clematis lasiantha

Virgin's bower

Heteromeles arbutifolia

Toyon

Ribes spp.

Currants and Gooseberries

Symphoricarpos mollis

Snowberry

¹ Use only those seedlings shown to be resistant to pitch canker disease

² Only those species found within Cambria should be used

All open areas of the site disturbed by project construction shall be replanted with native, drought and fire resistant species that are compatible with the habitat values of the surrounding forest. In addition, non-native, invasive, and water intensive (e.g. turf grass) new landscaping shall be prohibited on the entire site.



5. **Drainage, Erosion, and Sedimentation Control.** PRIOR TO ISSUANCE OF THE PERMIT, the Applicant shall submit, for Executive Director review and approval, Drainage, Erosion, and Sediment Control Plans that comply with County Condition of Approvals # 20, 21, 22, and 23 (see Exhibit C for a complete text of these conditions), and that incorporate the following provisions:

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

The plans shall indicate that PRIOR TO THE COMMENCEMENT OF GRADING, the applicant shall delineate that the approved construction areas with fencing and markers to prevent land-disturbing activities from taking place outside of these areas.

Post Construction Drainage. The drainage plan shall identify the specific type, design, and location of all drainage infrastructure and Best Management Practices (BMPs) necessary to ensure that post construction drainage from the project, including runoff from the roofs, parking areas, and other impervious surfaces, does not result in erosion, sedimentation, or the degradation of coastal water quality. The capacity of drainage features and BMPs shall be adequate to treat, infiltrate or filter the amount of storm water runoff produced by all storms up to and including the 85th percentile, 24-hour storm event for volume-based BMPs, and/or the 85th percentile, 1-hour storm event, with an appropriate safety factor (i.e., 2 or greater), for flow-based BMPs. In areas where rocks or other energy dissipation structure may be needed, they shall be located outside of sensitive habitat areas and natural drainage corridors to the maximum extent feasible, and shall be limited in size and footprint to the minimum necessary to achieve effective erosion control.

The applicant shall be responsible for implementing and maintaining drainage, erosion, and sedimentation control measures and facilities for the life of the project. This shall include performing annual inspections, and conducting all necessary clean-outs, immediately prior to the rainy season



(beginning October 15), and as otherwise necessary to maintain the proper functioning of the approved system.

The Permittee shall undertake development in accordance with the approved Plans. Any proposed changes to the approved Plans shall be reported to the Executive Director. No changes to the approved Plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is necessary.

6. **County Conditions.** All conditions of San Luis Obispo County's approval of the Project become conditions of this permit. Where there is a conflict between the conditions of the local approval and the terms of this permit, the terms of this permit shall control. All conditions of San Luis Obispo County's approval pursuant to planning authority other than the Coastal Act continue to apply.

Recommended Findings and Declarations

The Commission finds and declares as follows:

5. Project Description

A. Project Location

The project is proposed on a 26-acre parcel located at 2905 Burton Drive, on the east side of Highway One, in the Recreation Land Use category of Lodge Hill. Lodge Hill is an extensive residential area located within the Monterey Pine forest terrestrial habitat, west of Highway One. The topography of the area is varied with numerous ridges and gullies, steep slopes, and nearly flat areas near the interior of the parcel. Burton Drive, Martindale Road, and the intersection of Patterson Place and Yorkshire bound the parcel. There is a large swath of undisturbed and contiguous Monterey pine forest surrounding the parcel to the north and east. This area slopes dramatically to Burton Drive and Santa Rosa Creek below.

See exhibit A for location maps.

B. County Approved Project

The project involves the expansion of the Cambria Pines Lodge including 35 new guest rooms in 9 buildings totaling 18,800 square feet; a small theater of approximately 6,138 square feet; a retail shop of approximately 1,650 square feet; tennis courts; additional parking spaces; access improvements; related grading and site improvements; comprehensive drainage improvements and limited tree removal. The site plan showing the location of these project components are attached as Exhibit B. See exhibit D for the adopted County staff report, coastal permit findings and conditions approving the Applicant's proposed project.



6. Substantial Issue Findings

1. Public Services

a. Relevant Local Coastal Program Provisions

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

Public Works Policy 1: Availability of Service Capacity

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

This policy is implemented by CZLUO 23.04.430:

CZLUO Section 23.04.430 - Availability of Water Supply and Sewage Disposal Services

A land use permit for new development that requires water or disposal of sewage shall not be approved unless the applicable approval body determines that there is adequate water and sewage disposal capacity available to serve the proposed development, as provided by this section . . .

In addition, appellant Judy Deetrack contends that the project is in violation of Public Works Policy 6, requiring County implementation of the Resource Management System:

Public Works Policy 6: Resource Management System

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

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

Coastal Watershed Policy 6: Priority for Agricultural Expansion

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



Agriculture Policy 7: Water Supplies

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

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

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

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

Reservation of Service Capacity

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

b. County Action

The staff report indicates that water is to be provided by Cambria Community Service District (CCSD), which extracts underflow (shallow groundwater) from both Santa Rosa and San Simeon Creeks. The County made no specific findings with regard to water availability, but rather, states that the CCSD's "Conditional Intent to Provide Water and Sewer Service" dated October 6, 1999, and May 24, 2001 "update and extension letter" are the documents attesting to the District's capabilities. The County accepted this conditional intent-to-serve letter as evidence of adequate water and sewer service capacity to serve the proposed project. The County conditioned its approval to require the applicant to obtain a final will serve letter from the CCSD prior to the issuance of grading or building permits.

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

The Coastal Commission has been concerned with the lack of water to support new development in Cambria since the adoption of the Coastal Act. As early as 1977, in a coastal permit to allow the Cambria Community Services District (CCSD) to begin drawing water from San Simeon Creek, the Commission expressed concern about overdrafting this groundwater basin. In that permit, the Commission limited the urban service areas for this new water supply and identified the maximum number of dwelling units that could be served as 3,800¹. A condition of that 1977 coastal development permit stated that:

¹ Application 132-18.



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

LCP Certification

When the Land Use Plan of the County's LCP was certified in 1984, the concern remained that there was inadequate water to serve existing parcels within Cambria. The findings regarding Cambria stated that based on the land uses and intensities designated in the LUP for subdivided and un-subdivided land, 8,150 dwelling units could be developed; however, it was estimated that the community of Cambria had adequate water and sewage capacities to serve 5,200 dwelling units (in 1984). The findings continue to state:

Buildout of the existing subdivided parcels alone within the USL [Urban Services Line] would result in a number of dwelling units for which there is inadequate sewer and water capacity. Clearly the community does not have adequate services to supply the LUP proposed development within the USL without severely overcommitting its water supplies and sewage treatment facilities.

1998 North Coast Area Plan

More recently, the Commission evaluated available water supply for Cambria in its review of the County's North Coast Area Plan update. After evaluating the availability of water in San Simeon and Santa Rosa Creek, the Commission found that existing development (1997) may be overdrafting these creeks, and adversely affecting wetlands and riparian habitats. Thus, the Commission adopted findings and a suggested modification that would require completion of three performance standards prior to January 1, 2001: completion of an instream flow management study for Santa Rosa and San Simeon Creek; completion of a water management strategy which includes water conservation, reuse of wastewater, alternative water supply, and potential off stream impoundments; and cooperation of the County and CCSO to place a lot reduction ballot measure before the Cambria electorate. If these standards were not performed by January 1, 2001, the modification required a moratorium on further withdrawals from San Simeon and Santa Rosa Creeks.



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

2001 Periodic Review

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

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

CCSD Water Moratorium

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



approved by the CCSD Board of Directors.

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

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

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

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



permits. Thus, the total increase in water use associated with "pipeline projects" can be estimated to be significantly greater.

2. Substantial Issue Analysis

The Commission has previously recognized the serious water supply situation in Cambria, and raised concern that currently-available water supplies are not sufficient to support existing and future development without harm to sensitive habitats. This issue has been thoroughly discussed in both the North County Update and the Periodic Review of the Implementation of San Luis Obispo County's Local Coastal Program (see History/Background discussion above). These concerns remain outstanding, as reflected by the Commission's most recent findings of substantial issue with respect to new single-family residences in Cambria.²

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

Specifically, Public Works Policy 1 requires that:

New development (including divisions of land) shall demonstrate that adequate public or private service capacities are available to serve the proposed development...Prior to permitting all new development, a finding shall be made that there are sufficient services to serve the proposed development given the already outstanding commitment to existing lots within the urban service line for which services will be needed consistent with the Resource Management System where applicable. Permitted development outside the USL shall be allowed only if it can be serviced by adequate private on-site water and waste disposal systems.

The applicant proposes to expand the existing Cambria Pines Lodge by adding an additional 35 guest units, a theatre, and retail shop, which will place additional demands on Cambria's water supply. The CCSD measures this demand in terms of "equivalent dwelling units" (EDU's); while the CCSD states in a recent letter that the water needed to support the new development has been previously allocated to the Lodge, the project will result in an additional demand of approximately 493,272 gallons of water per year. The Applicant has supplied these figures, and when compared with Plumbing Code water duties appear to be accurate.

A review of the current water supply situation and recent information indicates that in many years, there is inadequate water to sustain existing development in Cambria consistent with the protection of sensitive riparian and wetland habitats. A recent Baseline Water Supply Analysis conducted for the CCSD in December of 2000 has concluded that the District's current water supplies cannot sustain

² August 8, 2002 (A-3-SLO-02-050, Monaco); November 7, 2002 (A-3-SLO-02-073, Hudzinski); November 7, 2002 (A-3-SLO-02-07, Pelle); January 8, 2003 (A-3-SLO-02-093, Korpiel).



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

It is also important to note that the Baseline Water Supply Analysis was based on 3,796 existing connections in December of 1999 (3,586 residential and 210 commercial). As of October 1, 2002, there were 3934 connections (3,729 residential and 205 commercial), an increase of 3.6%. In addition to these new connections, an increase in water demand is anticipated for existing uses and proposed public facilities (e.g. State Park restroom, SLO County Shamel Park restroom, Elementary, Middle and High School, and Camp Ocean Pines, for example). Moreover, there are additional indications that there is potential for increases in visitor-serving water use through existing connections. For example, many of Cambria's existing residences are seasonally occupied as vacation rentals. A recently proposed LCP amendment³ allows occupation of a vacation rental by the owner and/or his guests during the same weekly period that managed guests are staying, augmenting existing water usage at that time. It can be argued that heightened water consumption results from higher than average numbers of occupants per rental dwelling and increased use of water intensive facilities (hot tubs, jacuzzis, pools, showers, etc.) at these times. However, there is some indication, though, that there is a trend away from vacation rentals, as more Cambria homeowners take up full time residence. This, too, will mean an increase in actual water withdrawals without any real increase in water connections.

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

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

⁴ Alley, D.W. and Associates, *Comparison of Juvenile Steelhead Production in 1994-99 for San Simeon Creek, San Luis Obispo county, California, With Habitat Analysis and an Index of Adult Returns (August, 2000).*

⁵ *Hydrology, Water Quality, Water Budgets, and Simulated Responses to Hydrologic Changes in Santa Rosa and San Simeon Creek Ground-Water Basins, San Luis Obispo County, California, U.S.G.S., Report 98-4061 (1998).*

⁶ Navigant Engineering, 11/28/00



standards adopted by the Commission in 1998, but not accepted by the County, was a requirement to conduct in-stream flow studies of both San Simeon and Santa Rosa creeks to assure that continued and future water withdrawals would not adversely impact sensitive riparian habitats. To date, in-stream flow studies have not been completed for both creeks.

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

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

Recreation and Visitor-Serving Policy 2 of the LCP requires that 20% of Cambria's water and sewer capacity be reserved for visitor-serving and commercial uses. However, based on the information discussed above, there does not appear to be adequate water capacity to sustain existing development consistent with the protection of coastal resources. In the event that there was available capacity, at least 20% would need to be reserved for visitor-serving and commercial uses. Thus, the allocation of the limited water allegedly available to support this visitor serving commercial development is theoretically consistent with Visitor-Serving Policy 2. However, it is important to note that this excess capacity may not be available as a reserve at this time.

A recent study on fire suppression capabilities found that Cambria is at risk should there be a major fire. These conclusions were based mainly on antiquated piping systems and needs for more storage tanks. The risk is heightened in dry weather conditions when there is limited water supply to fight a wildfire adequately; 2002 has been a dry year. Furthermore, the Chevron MTBE spill continues to threaten the



Santa Rosa Creek aquifer, limiting the community's use of wells there. This additional information would lend support to the finding that water supplies in Cambria are less than adequate.

While not explicitly called out in the contentions of the appeal, appellant Judy Deetrack describes in materials submitted to the Commission that the County approved project is inconsistent with Public Works Policy 6. To facilitate implementation of public works policies, the SLO LCP Public Works Policy 6 requires the use of the Resource Management System (RMS). The RMS is an important mechanism for assuring that coastal resources, particularly groundwater basins and creeks, are not adversely impacted by development.

The RMS uses three levels of alert (called Levels of Severity, or LOS) to identify potential and progressively more immediate resource deficiencies. The alert levels are meant to provide sufficient time for avoiding or correcting a shortage before a crisis develops. Level I is defined as the time when sufficient lead time exists either to expand the capacity of the resource or to decrease the rate at which the resource is being depleted. Level II identifies the crucial point at which some moderation of the rate of resource use must occur to prevent exceeding the resource capacity. Level III occurs when the demand for the resource equals or exceeds its supply.

The Resource Management System reports have consistently identified water supply as a serious concern in Cambria. Recent RMS reports have recommended that the Board of Supervisors adopt LOS III for Cambria's water supply, which would require the County to consider a development moratorium. However, the BOS has not certified the LOS III for Cambria recommended by the County staff. As mentioned, the RMS outlines specific measures that must be implemented for each Level of Service (LOS) if (emphasis added) the Board formally certifies the recommended Level. The RMS program allows, but does not require, the County to reduce or eliminate new development in this situation. As detailed in the Periodic Review of 2001, the RMS system is not providing the proactive management of resources originally envisioned, in large part due to the lack of County management responses to identified resource deficiencies. However, the County has technically satisfied Public Works Policy 6 by merely considering RMS recommendations. Therefore, while the appellant raises important issues about the shortcomings of the RMS system as currently established by the LCP, staff finds that this contention does not raise a substantial issue of project consistency with LCP policies.

d. Substantial Issue Conclusion

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



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

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

2. Environmentally Sensitive Habitats

a. Relevant Local Coastal Program Provisions

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

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

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

Policy 2: Permit Requirement

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

Policy 5: Protection of Environmentally Sensitive Habitats

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



Policy 18: Coastal Streams and Riparian Vegetation

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

Policy 21: County and State Review of Coastal Stream Projects

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

Other applicable standards include Policies 1, 2, 3, 6, and 10 for Watersheds:

Policy 1: Preservation of Groundwater Basin

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

Policy 2: Water Extractions

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

Policy 3: Monitoring Resources

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



Policy 6: Priority for Agriculture Expansion

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

Policy 10: Drainage Provision

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

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

Section 23.07.164 – SRA Permit and Processing Requirements:

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

- (a) Initial submittal: The type of land use permit application to be submitted is to be as required by Chapter 23.03 (Permit Requirements), Chapter 23.08 (Special Uses), or by planning area standards. That application will be used as the basis for an environmental determination as set forth in subsection c of this section, and depending on the result of the environmental determination, the applicant may be required to amend the application to a Development Plan application as a condition of further processing of the request (see subsection d).*
- (b) Application content: Land use permit applications for projects within a Sensitive Resource Area shall include a description of measures proposed to protect the resource identified by the Land Use Element (Part II) area plan.*
- (c) Environmental Determination:*
 - (1) When a land use permit application has been accepted for processing as set forth in Section 23.02.022 (Determination of Completeness), it shall be transmitted to the Environmental Coordinator for completion of an environmental determination pursuant to the California Environmental Quality Act (CEQA).*
 - (2) The initial study of the environmental determination is to evaluate the potential effect of the proposed project upon the particular features of the site or vicinity that are identified by the Land Use Element as the reason for the sensitive resource designation.*
 - (3) Following transmittal of an application to the Environmental Coordinator, the Planning Department shall not further process the application until it is:*
 - (i) Returned with a statement by the environmental coordinator that the project is exempt from the provision of the CEQA; or*



- (ii) *Returned to the Planning Department accompanied by a duly issued and effective negative declaration which finds that the proposed project will create no significant effect upon the identified sensitive resource; or*
- (iii) *Returned to the Planning Department accompanied by a final environmental impact report approved by the Environmental Coordinator.*

(d) Final permit requirement and processing:

- (1) *If an environmental determination results in the issuance of a proposed negative declaration, the land use permit requirement shall remain as established for the initial submittal.*
- (2) *If an environmental impact report is required, the project shall be processed and authorized only through Development Plan approval (Section 23.02.034).*

(e) Required Findings: *Any land use permit application within a Sensitive Resource Area shall be approved only where the Review Authority can make the following required findings:*

- (1) *The development will not create significant adverse effects on the natural features of the site or vicinity that were the basis for the Sensitive Resource Area designation, and will preserve and protect such features through the site design.*
- (2) *Natural features and topography have been considered in the design and siting of all proposed physical improvements.*
- (3) *Any proposed clearing of topsoil, trees, or other features is the minimum necessary to achieve safe and convenient access and siting of proposed structures, and will not create significant adverse effects on the identified sensitive resource.*
- (4) *The soil and subsoil conditions are suitable for any proposed excavation; site preparation and drainage improvements have been designed to prevent soil erosion, and sedimentation of streams through undue surface runoff.*

Section 23.07.170 – Environmentally Sensitive Habitats:

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

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



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

Section 23.07.174 – Streams and Riparian Vegetation:

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

Section 23.07.176 – Terrestrial habitat Protection:

The provisions of this section are intended to preserve and protect rare and endangered species of terrestrial plants and animals by preserving their habitats. Emphasis for protection is on the entire



ecological community rather than only the identified plant or animal.

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

(b) Terrestrial habitat development standards:

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

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

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

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

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

b. County Action

San Luis Obispo County approved the subject development subject to 29 conditions. The County did not evaluate the impacts to wetland and riparian habitats resulting from increased water withdrawals. Instead they relied on the CCSO commitment to serve the project as evidence of sufficient water supplies.

c. Substantial Issue Analysis

The appeal contends that heightened water withdrawals needed to serve the project may significantly disrupt environmentally sensitive habitat areas. Inconsistent with ESHA Policies 1, 2, 5, 18 and 21, as well as Coastal Watershed Policies 1, 3, and 6, the amount of water needed to support existing and future development in Cambria may adversely impact sensitive instream, riparian, and wetland habitats supporting rare and important species such as Steelhead trout, Tidewater Goby, Southwestern pond turtle, and California Red Legged Frog.

Steelhead Streams

The Cambria Community Services District's water is supplied from wells that extract the underflow of San Simeon and Santa Rosa Creeks. Both creeks are known to support steelhead trout. The California Department of Fish and Game lists these creeks as important steelhead habitats. However, as discussed in the Public Works Findings, and inconsistent with ESHA and Watershed Policies, the anticipated levels of water withdrawal from both urban and agricultural users may deplete surface and groundwater flows needed for healthy steelhead spawning habitat. The amount of water flow needed to support this



species can be determined through instream flow studies. The need for these studies was discussed at length in both the 1998 North Coast Update and the 2001 periodic Review. To date, these studies have not been completed.

Riparian and Wetland Habitat

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

d. Substantial Issue Conclusion

The appeal raises a substantial issue regarding project conformance to LCP ESHA Policies because the locally approved development has the potential to disrupt sensitive coastal streams, wetland and riparian habitat areas. The additional water withdrawals needed to support the development is incompatible with the health and continuance of these sensitive resources. **Therefore, a substantial issue is raised by the appellants' contentions with respect to LCP ESHA protection policies.**

3. Coastal Watersheds

a. Relevant Local Coastal Program Provision

The appeal asserts that the project is inconsistent with the following LCP Policies for Coastal Watersheds:

Policy 9: Techniques for Minimizing Sedimentation

Appropriate control measures (such as sediment basins, terracing, hydro-mulching, etc.) shall be used to minimize erosion and sedimentation. Measures should be utilized from the start of site preparation. Selection of appropriate control measures shall be based on evaluation of the development's design, site conditions, predevelopment erosion rates, environmental sensitivity of the adjacent areas and also consider costs of on-going maintenance. A site specific erosion control plan shall be prepared by a qualified soils scientists or other qualified professional. To the extent feasible, non-structural erosion techniques, including the use of native species of plants, shall be preferred to control run-off and reduce increased sedimentation. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD AND PURSUANT TO SECTION 23.05.036 OF THE CZLUO.]

Policy 10: Drainage Provisions

Site design shall ensure THAT drainage does not increase erosion. This maybe achieved either through on-site drainage retention, or conveyance to storm drains or suitable watercourses. [THIS



POLICY SHALL BE IMPLEMENTED AS A STANDARD AND PUSUANT TO SECTION 23.05.034 OF THE CZLUO.]

In addition to the above referenced policies, the Cambria Legal Defense Fund has included LCP Hazards Policy 2 regarding erosion and geologic stability in discussions surrounding runoff, erosion, and sedimentation. For clarity, this contention is grouped into the discussion of watershed protection. The policy states:

Hazards Policy 2: Erosion and Geologic Stability.

New development shall ensure structural stability while not creating or contributing to erosion or geological instability. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD AND PUSUANT TO SECTION 23.07.086

b. County Action

A major part of the County's analysis and preliminary re-design of the project involved the issue of drainage and prevention of erosion. The County staff report states that the Public Works Department, registered civil engineers from RRM DESIGN GROUP, as well as the Upper Salinas Resource Conservation District (RCD) extensively studied a preliminary drainage plan. The staff report also states that the preliminary drainage plan was revised several times and comprehensive drainage improvements were included and required with the conditions of approval.

c. Substantial Issue Analysis

To address non-point source pollution from urban development, LCP policies focus on controlling erosion and sedimentation, on managing drainage patterns to reduce erosion and runoff, and on siting development off steeper slopes (Watershed Policies 8, 9, and 10). The County implements these goals by requiring sedimentation or erosion control plans and/or drainage plans (CZLUO Section 23.05.036 and Section 23.05.040). The North Coast Area Plan has additional requirements for development in the Lodge Hill area of Cambria. These include 1) runoff from impervious surfaces must be collected and detained on-site or passed through an erosion control system approved by the county engineer; 2) projects must include permanent erosion control devices; 3) a sedimentation/erosion control plan is required if grading occurs between Oct.15-April 15; 4) construction activities must minimize fill and site disturbance; 5) disturbed soils and stockpiles must be protected from rain and erosion; 6) areas disturbed by construction must be revegetated; 7) development must minimize impervious surfaces to the smallest functional use; and 8) exterior decks shall avoid tree removal, and solid decking is limited to 10% of the permitted footprint, while permeable construction is limited to 30% of the permitted footprint. Hazards Policy 2 is also applicable here, and requires that new development not create or contribute to erosion or geological instability.

The project is located near the top of Lodge Hill. The site consists of 5-primary mini watersheds that drain offsite to the surrounding areas. Because of its overall size (26 acres) and topographical location atop a watershed, the project has a definable impact on lands below, as well as Santa Rosa Creek, a creek of major importance to the area. "Tin City", an area located below the project has flooded



recently, and adjacent drainages along Piney Way show clear signs of erosion due to runoff. An increase in impervious surfacing from roofs, parking areas, walkways, and tennis court would increase outflow from the project site to this area, and would worsen the erosion that is now already occurring.

The Upper Salinas-Las Tablas Resource Conservation District (RCD) in previous correspondences has recommended the use of detention basins capable of storing and metering out no more runoff flow than exists at the present time. This recommendation is echoed in the North Coast Area Plan standards for Lodge Hill. Instead, the Applicant has opted to install a number of engineered systems and cisterns on the property to collect stormwater and use it for onsite irrigation. There is a concern, however, that surface sheetflow may result should the cisterns become filled during peak storm events. Irrespective of which method is best to manage storm flows, the drainage plan and retention structures should be adequately sized to ensure that the development will not increase peak flows in the watershed after storms. Therefore, it will important for the final drainage plan to show flow paths of storm runoff, the methods for controlling, collecting, and conveying runoff, methods of collecting and treating typical pollutants, and hydraulic design calculations for all collection, storage and conveyance structures.

The Appellant also contends that the project is inconsistent with Hazards Policy 2 that requires new development to ensure structural stability while not creating or contributing to erosion or geological instability. With respect to geological instability, the Applicant has provided a Geologic Hazards Report (Cleath and Associates, 12/17/98) that concludes the expansion of the Lodge can occur with a "low overall risk for geologic hazard impacts."

d. Substantial Issue Conclusion

The appeal raises a substantial issue regarding project conformance to LCP Watershed Policies because the locally approved development has the potential to increase runoff, cause erosion, and increase sedimentation within the watershed. The increase in impervious surfacing from roofs, parking areas, walkways, and tennis courts would exacerbate existing drainage problems and would likely create new ones. While many drainage and control improvements have been made to the overall conceptual drainage plan, it is unclear if size, type, design and location of the various drainage improvements are adequate to handle peak wet weather flows without having adverse impacts to the watershed. Consistent with Coastal Watershed Policy 9 and 10, non-structural erosion techniques including the use of vegetated swales and detention basins should be explored further. Therefore, a substantial issue is raised by the appellants' contentions with respect to LCP Watershed protection policies.

The County approval requires a suite of geologic hazard mitigations to address the risks of seismic hazards, landslides, and soil creep. The County conditions are incorporated into this permit approval through Special Condition 6. Therefore, a substantial issue is not raised by this appeal contention.



7. Coastal Development Permit Findings

By finding a substantial issue in terms of the project's conformance with the certified LCP, the Commission takes jurisdiction over the CDP for the proposed project. The standard of review for this CDP determination is the County LCP.

A. Analysis of Consistency with Applicable Policies

The substantial issue findings above are incorporated directly herein by reference.

1. Public Services

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

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

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

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

In this case, the Applicant has agreed to offset the increase of 493,272 gallons per year by installing ozone laundry facilities at the Fog Catcher Inn, a 60 unit motel, and the Pelican Suites Inn, a 27 unit motel, both located on Moonstone Beach Drive and owned by the Applicant. The water savings of the ozone laundry facilities at the Fog Catcher Inn and the Pelican Suites Inn will be in excess of 700,000



gallons per year.⁷ The conditions of this permit specify that the water conserving actions required to offset the increase in water demand associated with the pipeline projects must be completed before the coastal development permit is issued. The terms of this condition also call for the CCSO to participate in reviewing the adequacy of the proposed water savings actions, and in ensuring that the necessary water saving actions are effectively implemented and maintained.

In addition to Public Works Policy 1, water supply for new development in Cambria must also be considered in light of LCP priorities for Agriculture and Visitor-serving development. In this situation, however, it does not appear that these priority use policies are relevant because there is no reserve capacity currently available. Only in the event that there was available capacity (which there is not), at least 20% would need to be reserved for visitor-serving and commercial uses.

Public Services Conclusion and Project Modification

By prohibiting a net increase in water use (see Special Condition 2), the project will not result in additional withdrawals and will thereby avoid adverse impacts to coastal resources. Only with this condition can the Commission approve the project consistent with the Public Works policies of the LCP, on the basis that the project will not place any new demands on public water supplies.

2. Environmentally Sensitive Habitat Areas

Increased water withdrawals needed to serve the project may significantly disrupt environmentally sensitive habitat areas inconsistent with the protection afforded this resource by the LCP. Inconsistent with ESHA Policies 1, 2, 5, 18 and 21, as well as Coastal Watershed Policies 1 and 2, the amount of water needed to support existing and future development in Cambria may adversely impact sensitive instream, riparian, and wetland habitats supporting rare and important species such as Steelhead trout, Tidewater Goby, Southwestern pond turtle, and California Red Legged Frog. In addition, the project is located in the Monterey Pine forest. Terrestrial Habitat protection policies and ordinances (CZLUO 23.07.176) require the protection of the entire ecological forest community rather than individual plant or animal species.

A. Steelhead Streams

The Cambria Community Services District's water is supplied from wells that extract the underflow of San Simeon and Santa Rosa Creeks. Both creeks are known to support steelhead trout. The California Department of Fish and Game lists these creeks as important steelhead habitats. However, as discussed in the Public Works Substantial Issue Findings, and inconsistent with ESHA and Watershed Policies, the anticipated levels of water withdrawal from both urban and agricultural users may deplete surface and groundwater flows needed for healthy steelhead spawning habitat. The amount of water flow needed to support this species can be determined through instream flow studies. The need for these studies was discussed at length in both the 1998 North Coast Update and the 2001 periodic Review. To date, these

⁷ The Applicant has submitted an independent analysis of the water use reductions that are possible through the conversion of conventional laundry systems with ozone laundry systems. The report was prepared by Robert Moncrief of H2O Engineering on February 16, 2003.



studies have not been completed. Although the CCSO annually monitors steelhead populations within the creeks, these monitoring activities have not provided the data and analyses needed to evaluate the impacts that water withdrawals may be having on the biological productivity and continuance of these sensitive habitat areas.

B. Riparian and Wetland Habitat

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

C. Monterey Pine Forest

The project is located in the Monterey pine forest Terrestrial Habitat ESHA. Policy 1 for ESHA and CZLUO Section 23.07.170(d) prohibit development from significantly disrupting environmentally sensitive habitats, and 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 without creating significant adverse effects on the identified sensitive resource. In addition, ESHA Policy 27 calls for the preservation of sensitive terrestrial habitats such as the Monterey pine forest by protecting the entire ecological community. The ordinances implementing these policies (CZLUO Section 23.07.176 and NCAP Monterey Pine Preservation SRA Policy) require that new development minimize disruption of the habitat. Policies 28 and 33 for ESHA emphasize the preservation and protection of rare and endangered species of terrestrial plants and animals.

While the project is located in a mapped Sensitive Resource Area (SRA), an important distinction needs to be made with respect to which areas onsite are part of a functioning pine forest habitat. Unlike the large swath of contiguous forest on northern and eastern property boundaries (which is clearly ESHA and could not be developed), the proposed development is located in an area previously disturbed by development and is virtually devoid of any pine trees or forest understory. Adjacent housing and streets limit connectivity with other pine forest stands. Thus, the project site is evaluated as new development adjacent to ESHA.

With the exception of a small triangular shaped stand of pine trees at the very northern extent of the property line, the area proposed for development cannot be characterized as part of a functioning forest habitat area. The location of new units will not directly remove ESH, but development adjacent to ESHA still has the potential to disrupt this resource. The introduction of noise, light, and other human activity associated with this type of visitor-serving development would impact the adjacent pine forest



habitat. For example, the location of the proposed tennis court nestled into the forest periphery will have adverse impacts to adjacent ESHA. The location selected for the tennis court would more than likely necessitate additional tree removal, and the ground clearing needed to build the court would remove large amounts of valuable understory and ground cover.

In addition, this development brings with it fire suppression concerns and requirements (such as defensible clear space around the new units), resulting in the possibility of heightened tree removal and ground disturbance. It seems likely that these fire suppression concerns and/or requirements could lead to future removal of indigenous Monterey pine forest at this site. Commercial development within and adjacent to the forest resource presents a conflict with pursuing such management techniques due to concerns for commercial structures.

ESHA Conclusion and Project Modification

As previously described in the Public Services finding, the project approval is conditioned to include a special retrofitting condition to offset any additional water demands (Special Condition 2). Only with this condition, can the Commission find the project consistent with LCP Public Works and ESHA protection policies related to groundwater basins, streams, and wetland resources.

In order to maximize protection of the Monterey pine forest habitat, the project must be modified. Because the site is located adjacent to sensitive pine forest habitat, appropriate setbacks, buffer areas, and the siting of new structures must be considered. In sum, to maximize protection of the adjacent Monterey pine forest habitat, Special Condition 1 requires final project plans to include a "defensible space" between new development and the forest, as well as a relocation of the tennis court. This condition also requires that runoff from all surfaces subject to vehicular traffic shall be filtered through an engineered filtration system specifically designed to remove vehicular contaminants. Consistent with the LCP, Special conditions 3 and 4 require that only native non-invasive vegetation be planted onsite. Only with these conditions can the Commission approve the project consistent with the ESHA policies of the LCP, on the basis that the project will not significantly disrupt environmentally sensitive habitats.

3. Coastal Watersheds

The proposed site and its associated mini-watersheds are within an area of East Lodge Hill known to have serious runoff, drainage and erosion problems. The stretch of the drainage basin between the site and Santa Rosa Creek is steeply sloping and is comprised with a mix of undeveloped pine forest and urban development. Thus, any change in water quality or flow regimes resulting from new development has the potential to impact surrounding land as well as Santa Rosa Creek.

The new development proposed will require a significant amount of grading to accommodate 9 new buildings, theater, retail areas, parking areas, walkways, and tennis courts. Construction activities have a high potential to cause erosion and sedimentation of the site and surrounding area. Post-construction, lodging facilities such as parking lots will contain pollutants that have the potential to be contained in site runoff and degrade coastal water quality. Finally, the manipulation of the drainage course on site has the potential to alter natural drainage properties and cause the erosion of adjacent lands, which will



cause increased sedimentation, adversely impacting water quality.

In 2000 the State adopted new policies for protecting water quality. Specifically, post-construction BMPs (best management practices) should be designed to treat, infiltrate, and filter storm water runoff from each storm event, prior to discharge. Selected BMPs designed to achieve this requirement should be effective at removing or mitigating pollutants such as oil, grease, hydrocarbons, heavy metals, and particulates.

Coastal Watersheds Conclusion and Project Modification

Thus, to carry out the requirements of LCP protecting coastal watersheds, it is necessary that the project include standards for development of the site that will effectively address these issues and protect water quality (Special Condition 5). The drainage, sedimentation and erosion control plan required by this condition shall identify the specific type, design, and location of all drainage infrastructure necessary to ensure that post construction drainage from the project does not result in erosion, sedimentation, or the degradation of coastal water quality. Furthermore, County Conditions of Approval # 20, 21, 22 and 23, incorporated as Special Conditions of this coastal development permit by reference, requires the applicant to submit a drainage, sedimentation, and erosion control plan to address surface flow and provisions for minimizing erosion on the property. As conditioned, the proposed expansion of the Cambria Pines Lodge is consistent with LCP Coastal Watershed Policies.

B. 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.

The Coastal Commission's review and analysis of land use proposals has been certified by the Secretary of Resources as being the functional equivalent of environmental review under CEQA. This staff report has analyzed the environmental impacts posed by the project and identified changes to the project that are necessary to reduce such impact to an insignificant level. Based on these findings, which are incorporated by reference as if set forth herein in full, the Commission finds that only as modified and conditioned by this permit will the proposed project avoid significant adverse effects on the environment within the meaning of CEQA.



SAN LUIS OBISPO COUNTY

SAN LUIS OBISPO COUNTY

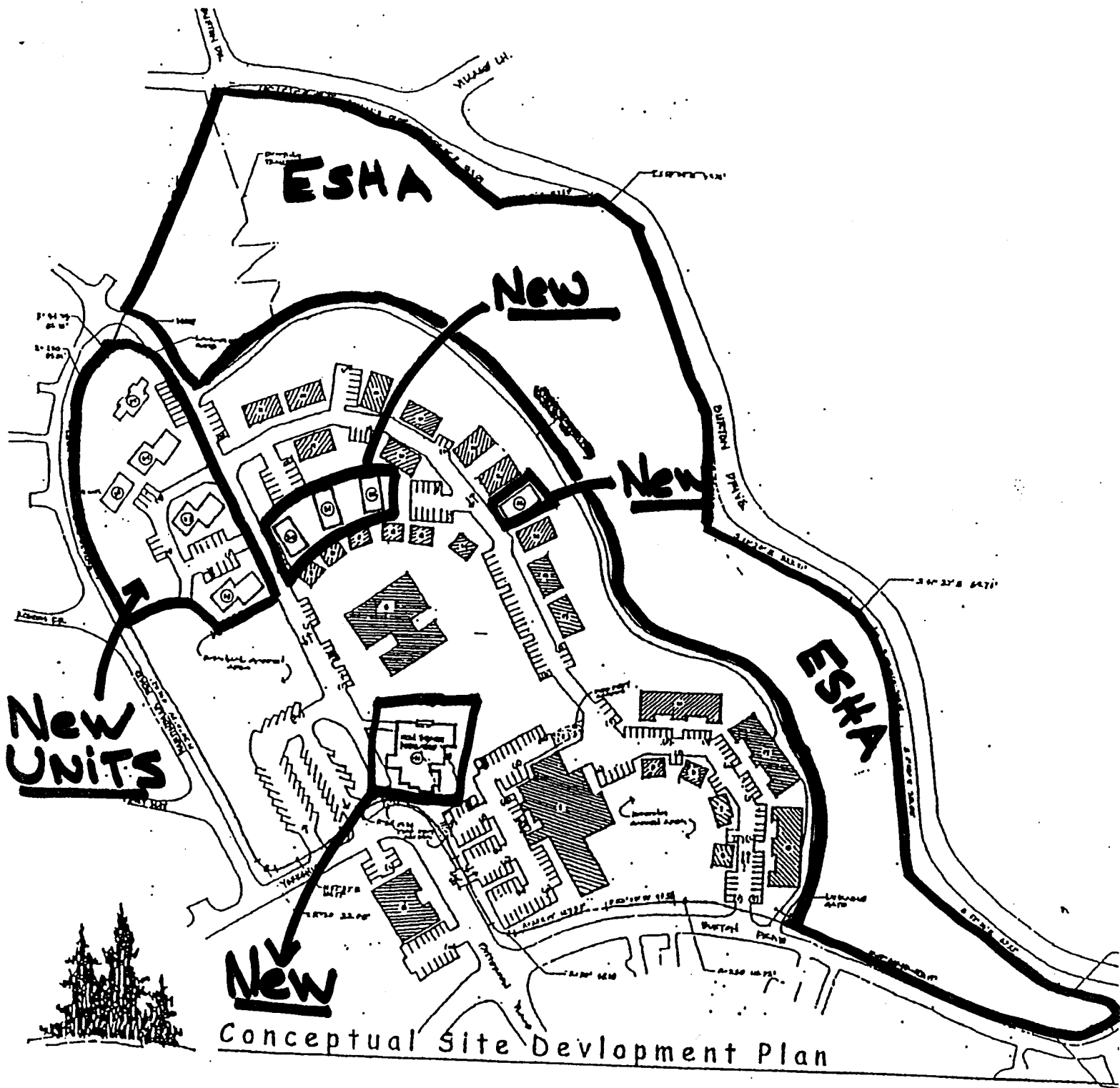
SITE

PACIFIC CAMBRIA
DEVELOPMENT PLAN
D980113D/ED 99-383

SAN LUIS OBISPO

CCC Exhibit A
(page 1 of 2 pages)





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):

Sara Wan, Chairperson

Christina L. Desser, Commissioner

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:

Expansion of the Cambria Pines Lodge, including 35 new guest rooms, a small theatre and retail shop.

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

2905 Burton Drive, Cambria. APN #'s: 023-421-002; 023-425-011; 023-431-002

4. Description of decision being appealed:

a. Approval; no special conditions: _____

b. Approval with special conditions: XX

c. Denial: _____

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

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-3-SLO-01-122

DATE FILED: December 14, 2001

DISTRICT: Central Coast

RECEIVED

DEC 14 2001

CCC Exhibit

(page 1 of 51 pages)

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

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

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

a. ☐ Planning Director/Zoning
Administrator

c. ☐ Planning Commission

b. ☒ City Council/Board of
Supervisors

d. ☐ Other: _____

6. Date of local government's decision: November 6, 2001

7. Local government's file number: Local Permit #: D980113D

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:

Dirk Winter - Cambria Pines Lodge

2905 Burton Drive

Cambria, CA 93425

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) Lila Evans

2862 Buckingham Place

Cambria, CA 93428

(2) Judy Deertrack

2862 Buckingham Place

Cambria, CA 93428

(3) Vern Kalshan - Cambria Legal Defense Fund

440 Kerwin Street

Cambria, CA 93428-4491

(4) Terry Wahler, San Luis Obispo County Department of Planning & Building

County Government Center

San Luis Obispo, CA 93408

SECTION IV. Reasons Supporting This Appeal

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

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT
Page 3

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

Please see attached "Reasons for Appeal."

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

SECTION V. Certification

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

Signed: Christine L. Dr.
Appellant or Agent

Date: December 14, 2001

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.)

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SECTION V. Certification

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

Signed: 
Appellant or Agent

Date: December 14, 2001

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 D980113D (Cambria Pines Lodge Expansion)**

The County's approval of the Cambria Pines Lodge expansion, consisting of 35 new guest rooms in 9 buildings, a 6,138 square foot theater, 1,650 square foot retail shop, tennis court, and other site improvements, is inconsistent with San Luis Obispo County LCP requirements regarding public service capacities and the protection of environmentally sensitive habitats for the following reasons:

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

San Luis Obispo County Public Works Policy 1 requires that new development demonstrate the availability of adequate public services, including domestic water supplies, prior to being permitted. In this case project construction is dependent upon obtaining a final Will Serve Letter from the CCSD. The Conditional Intent to Provide Water and Sewer Service issued by the CSD is based on a former allocation that was made without consideration of the current water shortage. In a letter regarding the project dated November 6, 2001, the CCSD District Engineer states:

"If a water shortage emergency is declared, the Board will consider restrictions and regulations on water use. At this time I do not know whether the pending Board's action will, or will not, effect this project."

Since that time, the Cambria Community Services District (CCSD) has declared a water emergency. As a result, no Intent to Serve Letters will be issued until the CCSD Board can find that sufficient water is available to serve current and future demands. Because it is not clear if and when sufficient water will be available to serve this development, the project can not be approved consistent with Public Works Policy 1.

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

The increase in water withdrawals from Santa Rosa and San Simeon Creeks needed to support the development will adversely affect sensitive riparian and wetland habitats supporting rare and important species such as the Steelhead trout, Tidewater goby, and California Red Legged Frog. In addition, proposed modifications to the site's drainage patterns may exacerbate existing erosion and sedimentation problems, adversely affecting sensitive aquatic habitats. As a result, the project is inconsistent with:

- ESHA Policy 1, prohibiting significant disruption of sensitive habitat resources;
- ESHA Policy 2, requiring development applications to demonstrate that there will be no significant impact on sensitive habitats and the proposed development or activities will be consistent with the biological continuance of the habitat;

- ESHA Policy 5, protecting natural ecological functioning and productivity of wetlands and estuaries;
- ESHA Policy 18 and Section 23.07.174 of the Coastal Zone Land Use Ordinance, protecting the natural hydrological system and ecological functioning of coastal streams;
- ESHA Policy 19 and Coastal Zone Land Use Ordinance Section 23.07.174, requiring new development within the watershed of coastal streams to be sited and designed to prevent impacts that would significantly degrade the coastal habitat and be compatible with the continuance of stream habitats;
- ESHA Policy 21 and Coastal Zone Land Use Ordinance Section 23.07.174, calling for the quality and quantity of water in streams and rivers be maintained at levels necessary to sustain the functional capacity of streams, wetlands, estuaries, and lakes.
- Coastal Watershed Policy 1, calling for the long-term preservation of groundwater basins, among other means by managing groundwater resources in a manner that preserves the biological productivity of aquatic habitats.
- Coastal Watershed Policy 3, requiring applicants to install monitoring devices and to participate in water monitoring management programs in groundwater basins where extractions are approaching groundwater limitations.
- Coastal Watershed Policy 6, Agriculture Policy 7, and Recreation & Visitor-Serving Facilities Policy 2 which give agriculture highest priority for water, consistent with the protection of aquatic habitats.

STATE OF CALIFORNIA - THE RESOURCES AGENCY

Gray Davis, Governor

CALIFORNIA COASTAL COMMISSION

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



APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENT

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

SECTION I. Appellant(s):

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

Judy Deetrack
2862 Buckingham Place
Cambria CA 93428
805/927-2902
Zip Area Code Phone No.

SECTION II. Decision Being Appealed

1. Name of local/port government:

San Luis Obispo County Board of Supervisors

2. Brief description of development being appealed:

Cambria Pines Lodge expansion including 35 new guest rooms
a small theater and retail shop - the additional
alteration of at least 107 ECU's

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

2905 Buxton Drive, Cambria 93428
Permit D980 1130
APN 023-431-002

4. Description of decision being appealed:

- a. Approval; no special conditions: _____
b. Approval with special conditions: ☒ _____
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-01-122
DATE FILED: 12-14-01
DISTRICT: Central Coast

RECEIVED

DEC 14 2001

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

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

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

a. ☐ Planning Director/Zoning Administratorc. ☒ Planning Commissionb. ☒ City Council/Board of Supervisorsd. ☐ Other: _____6. Date of local government's decision: Hearing Date: Nov 6, 2001 / FLAN 12/30/017. Local government's file number: Permit 0980130**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:

Dirk Winkler
2905 Buxton Dr.
Cambria CA

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) CCSO personnel (Bob)
Cambria, CA(2) RRM Design Group
Pat Blute, Architect
SLO

(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 Appeal)

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

SECTION V. Certification

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

Judy Dauterbach
Signature of Appellant(s) or Authorized Agent

Date December 14, 2001

NOTE: If signed by agent, appellant(s) must also sign below.

SECTION VI. Agent Authorization

I/We hereby authorize _____ to act as my/our representative and to bind me/us in all matters concerning this appeal.

Signature of Appellant(s)

Date _____

ATTACHMENT SHEET
Appeal from Coastal Permit
Decision of Local Government

Cambria Pines Lodge Expansion
Owner: Dirk Winters
Permit D980113D (APN 023-431-002)

Grounds for Appeal: "The grounds for an appeal...[of an approved project] shall be limited to an allegation that the development does not conform to the standards set forth in the certified local coastal program or the public access policies set forth...[in the Coastal Act]."

Reasons for Alleging the Project is Inconsistent with the LCP: The expansion of the Cambria Pines Lodge to include 35 new rooms, a theatre, retail shop, and other amenities is inconsistent with the Coastal Act and LCP because the expansion will require the use of at least 107 additional EDUs for the water supply.

Policies to which the CDP must conform: As required by **Public Works Policy 1**, new development shall demonstrate that adequate public or private service capacities are available to serve the proposed development. A finding is required that there are sufficient services to serve the proposed development given the already outstanding commitment to existing lots within the urban service line...consistent with the Resource Management System.... **Public Works Policy 1** is implemented by CZLUO 23.04.430.

This policy requires two different levels of water availability. The two levels are often confused. The first is water available in the system to serve the proposed project. This protects pre-existing users; coastal act resources, including the aquifers, streams, habitat, and riparian environments.

The second level of water availability is a demonstration that the development is "up to bat" for actual water allocation in a waiting list. In other words, it is the developers "turn." This affects water availability, because allocation of water in Cambria is phased and timed to allow so much per year based upon long-term population projections. Thus, the applicant must demonstrate that service capacity exists, and that the development has an Intent to Serve letter. This is not to be confused with water quantification requirements. The Intent to Serve letter does not involve a finding of actual water available in the system. It relates to phasing of new connections.

Coastal Act policies also tiers land use development priorities. The overallocation of water resources can endanger the Coastal Act's requirement of serving priority users. Therefore, the County's environmental baseline for water quantification should include pre-existing rights of priority users—which it currently does not.

The 1998 Coastal Commission **Periodic Review** of the proposed North Coast Area Plan Update identified a series of administrative acts that must be performed on water quantification before the County can make proper findings of available water in the system—because quantification is upon a long-range evaluation of safe yield concepts. The County cannot determine whether a project is consistent with LCP policy unless it programmatically has set a proper environmental

baseline that quantifies water usage. This baseline should be set by performance standards that protect the following: (1) Overdraft of aquifers and streams; (2) Habitat protection (minimum levels of streams and groundwater levels and water quality controls; (3) use of average annual rainfall to quantify water by long-range objectives; (4) the presence of senior riparian and agriculture users.

Failure to meet the Standards: The County failed to demonstrate in its findings or anywhere on the record that there is water available to serve the proposed expansion without (1) threatening or impairing the existing rights of current users; (2) without threatening or impairing riparian and biological habitat, or; (3) without further overdrafting and damaging the aquifers and streams that supply water to Cambria.

The County's finding that this development poses no new demands upon the system that makes it inconsistent with the LCP cannot be supported for several reasons:

1. The County has failed to programmatically implement the recommendations of the Coastal Commission on what steps are necessary to quantify water. Until it does so, there is no adequate baseline upon which a determination can be made at the project level that the proposed development will not impair or threaten resources or existing users—nor can a finding be made that water is available to serve the project.
2. The County has historically failed to implement the phased growth protections in its Resource Management System. The failure to do so has left a serious information gap in the County system. At the time of the development decision, information is not updated or certified. This leaves the Board of Supervisors with inadequate performance standards, data or guidelines that it can act on to make its decision. This leaves the County out of compliance with the LCP.
3. The County has inappropriately delegated the responsibility for findings of water availability to CCSD. The responsibility to enforce LCP standards cannot be delegated to another agency. Further, the Intent to Serve letter used by CCSD and the County as findings of water availability has no factual connection to "water in the system." Water purveyors have the right in their Intent to Serve letters to allocate "paper water," or the issuance of priority water rights without reference to whether the water is actually present. The LCP standard requires a "quantification" standard. A standard based upon "paper rights" is not sufficient.
4. The County relied upon the testimony of Applicant and his experts that Cambria Pines Lodge is exercising "historic water rights" and as such, this water usage does not represent any "net increase" on water demands in the system. This is an insufficient evidentiary standard to meet the LCP requirements of "water availability." Habitat and aquifer protections are substantial public rights. The evidence used to support protection of critical natural resources should be substantial and independent of a "conflict of interest" position.
5. The County's position on development permits does not consider the critical fire risk to residents that has been caused by inadequate water in the system. This is a requirement that relates to "water availability" findings for a project—because the water needed for fire protection should be "reserved" (priority), and development applications should be quantified only after emergency needs are established.

6. No where in the County system has a finding been made on "water availability" that can relate to this development permit. The County has several programmatic levels that might allow it to "tier" its findings—to apply prior decisions or information to the issue at hand

(1) The RMS system allows the County to certify a finding of Levels I-III severity in resource deficiency. The County has a history of not certifying the recommendations of staff; (2) the Growth Management Ordinance is a programmatic level where the County could quantify water and determine service capacity. But the GMO hearings set an annual growth percentage without reference to availability. This growth figure is then adopted by CCSD in its "Intent to Serve Letters;" (3) The CCSD issues Intent to Serve letters (which are paper rights). As indicated, however, the responsibility to determine water availability should not be delegated; (4) The North Coast Area Plan Update is another area where water service capacity could have been established. Water quantification was not done at this level. (5) The hearing on a CDP might allow an evidentiary hearing on water availability (although cases like *Goleta II* and *Napa Citizens v. Napa County* recommend a programmatic application of information developed at earlier points to the development decision). (6) The Periodic Review of the Coastal Commission (where recommendations were made). The County did not act on the recommendations.

The County has failed to act at every available programmatic level where information could be developed. As a result, findings and compliance with the LCP are not possible at the level of the development permit.

Standing to Bring the Action:

I live within Cambria. I have an interest in long-term water supply, and also (because I use and enjoy the natural resources of the area) I have a direct interest in the implementation of the LCP policies that protect riparian habitats, plants, animals, and quality of life.

COUNTY WATER POLICY

The Staff report states, "Currently no level of severity has been formally certified by the Board of Supervisors under the County Resource Management System (RMS). A Level of Severity III has been recommended to be confirmed by a Resource Capacity Study..." (at page 3)

"The responsibility for monitoring water resources and allocating these resources rests with the Cambria Community Service District. The water allocations for the project are pre-existing, that is, they predate the application for the expansion since they are allocations "left over" from previous projects..."

"Water service is provided by CCSD and they determine availability of water. If no water is available when building permits are ready to issue and a will serve letter cannot be obtained, the building permits will not be issued and the project expansion cannot proceed." (at page 4)

"Under current policy, staff relies on the CCSD to monitor water resources and allocate water service..." "Thus, the applicant has documented water availability with this 'preliminary will serve letter' to fulfill the requirement of Public Works Policy 1." (at page 4)

"Staff agrees that water resources must be further evaluated. A re-examination of water resources in Cambria should be undertaken comprehensively with all relevant agencies, the CCSD and county departments participating, not with one individual project." (at page 10)

COMMUNITY RESOURCE CONDITIONS

I respectfully ask the Coastal Commission to consider the studies, reports, and findings it has considered under the (1) Resource Management Study; (2) California Coastal Commission Periodic Review to the North Coast Area Plan Update; (3) Gonyer appeal findings issued by the California Coastal Commission; (4) Kennedy/Jenks Report, and (5) its own Staff Report in Cambria Pines Lodge.

All of those combined studies and reports indicate that the North Coast Area is in a severe water crisis.

I also ask the Coastal Commission to consider other documents I have placed on the record before the Planning Commission and Board of Supervisors—namely, my response of July 12, 2001, letter of October 12, 2001, and response of November 6, 2001.

The **CCSD Baseline Water-Supply Report** states that "The District's current water supplies are marginal to inadequate to provide a 90 percent level of reliability."

The **Periodic Review** has documented that the "North Coast Area Plan Update is inconsistent with Coastal Act Policies-- because it provides for continued urban development that cannot be supported by existing water supplies. Estimates of available water to serve new development are based on incomplete information and do not analyze the impacts of water withdrawals on riparian/wetland habitats or agricultural activities as required by the Coastal Act."

In order to find the Land Use Plan consistent with the Coastal Act, "the updated water section must be re-written to more accurately describe the nature of the aquifer and the need for a more thorough study to determine safe yield." Planning standards are required to ensure coastal resources are adequately protected. An Instream Flow Management Study was recommended to determine the water needs of riparian and wetland species.

The **Resource Capacity Study** (SLO County) has a current recommended action of Level of Severity III that has not yet been acted upon by the County.

The **real community condition** to which this appeal is directed is the threat to current users in the North Coast. We now live in a community where the County, on its issuance of development permits, can no longer assure a viable long-term supply of water. According to Kennedy/Jenks, for an estimated one year out of ten, basic water service delivery can't be assured to our population. The natural resource base we enjoy on a daily level is threatened. The long-term sustainability of our aquifers is at risk. We are at considerable fire risk because we do not have adequate water for fire protection—and we are in a high risk area.

In response, the County has reduced growth in the North Coast area to 1% per year—a reduction of the overall County-wide level of 2.3%. This has allowed 38 water permits to be issued in 2001—without reference to an actual finding of water availability. *The management approach is based upon an assumption that water will be found in the future to accommodate the expected shortfall.* But LCP policy should not rely upon assumptions. It requires actual water quantification. This is what is missing on this decision, and what is missing programmatically.

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December 3, 2001

The Honorable Members of the
SLO County Board of Supervisors
San Luis Obispo, California

Attention: Chris Macek (for Bryce Tingle)
FAX: 805/788-2373

Re: Board of Supervisors Agenda 12/4/01
Agenda Item #D3
Annual Resource Management System
and Growth Management Ordinance
Implementation for 2002

TO WHOM IT MAY CONCERN:

Thank you for your kind consideration of my testimony to be submitted in the above hearing. I am asking the Board of Supervisors to consider the following actions prior to allowing further development in the North Coast Area:

1. A moratorium on all further development permits for the North Coast Planning Area until such time the County has implemented the land use protections set forth under Level III Resource Alert Procedure in its Coastal Zone Framework for Planning, at 3-13 et seq.
2. Action on the required advisory memorandum to determine whether a Level III Resource Severity exists with respect to (1) roads; (2) schools; (3) water; (4) sewage disposal; (5) air quality in the North Coast Area. This should occur in response to any RMS Resource Capacity Study or Annual Resource Summary Report issued by the Department of Planning.
3. A public hearing set before the Planning Commission on whether Level III severity currently exists. A second public hearing by the Board of Supervisors if a Level III severity is found.
4. If Level III is found to exist, the Board should make formal findings to that effect, and should institute all or any combination of the appropriate measures set forth on page 3-14 of its Resource Management System—including (1) "growth management or other urgency measures to initiate whatever restrictions are necessary to minimize or halt further resource depletion;" (2) "a moratorium on land development or other appropriate measures...in the area affected by the resource problem until such time that the project provides additional resource capacity to support such development."
5. Findings to determine how the Resource Management System and Coastal Development Permits (CDPs) shall meet the provisions of Coastal Act Public Works Policy 1 (and its implementing ordinance CZLUO 23.04.430) that require availability of service capacity prior to permitting new development.

6. A certification of resource deficiencies by the Board in the North Coast planning area, and the planning standards to which current development must conform in order to comply with the provisions of the local coastal plan and land use element (LCP/LUE).
7. An amendment of the Growth Management Ordinance for the County of San Luis Obispo to conform to the requirements of the RMS system—for coastal and non-coastal areas.
8. A planning requirement should be added that sets the annual growth rate for each planning area based upon the Resource Management System Level of Severity and Resource Capacity Study. (This requirement may be implied by law under the State of California General Plan Consistency Doctrine.) Counties must administer their planning systems as an integrated whole—accountable to the operative policies of the general plan and its various elements. All implementing ordinances to the general plan (and LCP), as of 1971, must further the policies, plans, and objectives set forth therein.

Programmatic review to implement growth management protections for the County of San Luis Obispo (and in particular, for the Coastal Zone) was created in the LCP/LUE through creation of the Resource Management System. The Resource Management System (RMS) was adopted as part of the County's general plan. As such, its provisions are enforceable by operation of law.¹

The legislative implementation of the RMS has created public rights to its enforcement. The RMS has also created the *planning responsibility* to keep the growth management system current, implemented, and available for the natural resource decisions that are made at the level of a Coastal Development Permit (CDP).

If this system is not current, it is impossible to make the appropriate findings on Public Works Service Capacity under Public Works Policy I (Availability of Service Capacity) in the LCP. The environmental review and consistency findings with the LCP that are required on a development application *assume* that the County is properly implementing its long-range planning system. If these two systems (programmatic review and development permits) are not kept synchronized with one another, a dangerous information gap results—and the County spirals into the very resource deficiencies the program was designed to prevent. From a planning history of the North Coast, this looks like it has happened over the last ten years.

According to the Periodic Review of the Coastal Commission, the North Coast planning area has been at recommended Levels of Severity III for over ten years in four resource areas: (1) water; (2) roads; (3) transportation, and (4) air quality. Because the County has not acted to follow the programmatic protections of the RMS, nothing has occurred to abate the resource deficiencies.

It is my understanding that when the General Plan (LCP) was adopted in 1988, the County anticipated the growth management issues. There was a purposeful overallocation of buildable lots and land use designations. In other words, if the County built out to its full capacity, it was anticipated it would exceed the natural resource limitations and the infrastructure limitations inherent to this area.

The Resource Management System was built into the LCP in order to prevent this public resource damage. I feel it is an obligation of the County to review the status of this important general plan mechanism, and to ensure that it is updated and corrected prior to allowing any further projects that compromise resource availability.

Setting these important planning constraints will aide the fiscal health of the County; it will allow the County to better comply with the mandatory provisions of the Coastal Act and its resource protections; and it will ensure that development does not outpace adequate facilities.

Thank you.

Very truly yours,

¹ *Napa Citizens for Honest Government v. County of Napa* 20 Cal. App. 4th 342 at 354-355.

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December 13, 2001

Cambria Community Services District
Cambria, California
FAX: 805/927-5584
Attn: Helen May

Re: Board Meeting 12/13/01
Subject: Moratorium on New
Water Connections

TO WHOM IT MAY CONCERN:

I am responding to the CCSD discussion and decisions that are anticipated on how this community will respond to pending water issues in Cambria. This issue is very serious because the County has documented through its Resource Management System that Cambria has been at Level III water severity for a period of years without correction. Also, according to a recent study by Kennedy/Jenks, the CCSD water system cannot currently meet the short-term or long-range water needs of current users. The findings of that report find a capacity to serve current users nine out of every ten years. The greatest threat to public safety, however, is the fire danger posed by the failure of this community to set aside adequate water provisions for firefighting.

Today's Tribune article quotes a statement from CCSD personnel, *"It is one thing to say we don't want anymore water connections and another to say we don't want anything of any type"* in the way of construction projects. This response frames the issue as though the dialogue is built around growth versus no growth. This current crisis is not a "no growth" issue.

The administrative responsibility at issue is:

1. the adequate management of water to ensure that current users are not endangered by overallocation of the resource, and that CCSD administrative policies and actions meets Coastal Act and State requirements. CCSD must act to ensure the resource is not overallocated by (a) monitoring priority users; (b) quantifying the resource; (c) identifying Coastal Act water thresholds that protect riparian and biological communities; (d) timing and phasing the issuance of permits so that growth is phased according to resource capacity—including its relationship to whether this community has been successful in bringing in new sources of water.
2. ensuring the safety of the aquifers by correcting overdrafts, subsidence problems, and salt water intrusion which occurs when the water tables are too low. Recall, subsidence addresses permanent damage to an aquifer. Chronic overdraft will reduce the aquifer's future holding capacity and is very serious.
3. Compliance with Coastal Act provisions that comport with the recommendations in the Periodic Review of the North Coast Area Plan and North Coast LCP on water recommendations;
4. Compliance with the Clean Water Act, including public safety provisions.

All of this addresses administrative adequacy of the CCSD system to issue new connections at a time where there is overwhelming evidence that CCSD is out of compliance with local, state, and federal mandates on protection of the resource and protection of human health and safety.

I believe the focus of this hearing should not be on any perceived "growth—no growth issue" which degenerates into public controversy without facing the real issue. How should the internal administrative system of CCSD be revised to meet its state/federal obligations?

My remarks are absolutely not meant as a criticism to any personnel at CCSD or any Board Members. I thank all of you for your integrity and hard work. These are very tough issues, and I realize that many of these problems have taken years to develop. I hope my comments will serve to focus the issue away from controversy and toward administrative correction of the long-term deficiencies.

Thank you.

Very truly yours,


Judy Deetrack

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Telephone: 805/927-2902

October 22, 2001

Board of Supervisors
San Luis Obispo County
County Government Center, SLO 93408

Attn: Mr. Terry Wahler
FAX: 805/781-1242

Subject: Response to Staff Report
Hearing to Consider Develop.
Permit D980113D.
Proposed Expansion of
Cambria Pines Lodge

Dear Mr. Wahler:

I want to thank you again for your generosity in meeting with the appellants to the Cambria Pines Lodge Development Plan. I compliment you for your patience and skill at incorporating our concerns as neighbors to the Lodge in the final Staff Report. All of us appreciate your hard work.

On Friday, I had promised that I would search for a good example of "vertical consistency findings," a relatively recent (1990) Supreme Court requirement that has not quite "caught on" in the planning field. In fact, I have talked with counsel from the Coastal Commission. They admit most California planning jurisdictions have not yet made this change even though it is a legal requirement. The Coastal Commission staff complimented San Luis Obispo County as being one of the best and most conscientious counties on staff reports. I have seen a lot of commitment from you, personally, and the county's planning staff.

As I know you are aware, general plan consistency was inserted into the California system in 1972, and strengthened by the Supreme Court again in 1990:

"A general plan must be integrated and internally consistent, both among the elements and within each element. Gov't Code 65300.5." (enacted in 1971)

"Since the general plan is the constitution for all future development, any decision of the city affecting land use and development must be consistent with the general plan. *Citizens of Goleta Valley v. Board of Supervisors*, 52 Cal. 3d 553, 570 (1990)." See also: *DeVita v. County of Napa*, 9 Cal. 4th 763 (1995).

"Although the consistency doctrine has been in effect since 1972, it was not until 1990 that the California Supreme Court finally held that the general plan was the 'constitution for all future developments.' California's high court confirmed the general plan as the single most important planning document in both *Leshar Communications, Inc. v. City of Walnut Creek*, 52 Cal. 3d 531 (1990) and *Citizens of Goleta Valley v. Board of Supervisors*, 52 Cal. 3d 553 (1990)."

[Curtin, California Land Use and Planning Law, at 7; 21; 8]

"An action, program or project is consistent with the general plan if, considering all its aspects, it will further the objectives and policies of the general plan and not obstruct their attainment." Governor's Office of Planning and Research, General Plan Guidelines 128 (1998).

"Before 1971, the general plan was usually considered just an advisory document. Indeed, prior to 1971, Government Code section 65860 read, 'No county or city shall be required to adopt a general plan prior to the adoption of a zoning ordinance.' Perhaps the most significant change in California planning law and practice in the past three decades is the key role played by the general plan."¹

At our Friday meeting we discussed the 1989 publication from the Governor's Office of Planning and Research (OPR), *Bridging the Gap: Using Findings in Local Land Use Decisions*. You will note that the OPR publication omphasizes the *Topanga* decision:

"The *Topanga* court defined findings as legally relevant subconclusions which expose the agency's mode of analysis of facts, regulations and policies, and which bridge the analytical gap between raw data and ultimate decision." (OPR *Bridging the Gap* at 1)

Please note that the OPR publication was 1989, one year prior to the *Leshner* and *Goleta* decisions. Therefore, the OPR publication does not appear to emphasize the "vertical consistency requirement" that was reinforced by the Supreme Court in 1990. I am arguing that there are now *three stages* to a finding requirement to demonstrate vertical consistency (consistency with the general plan at the top of the planning hierarchy as the "constitutional framework" of the decision):

Stage One is a demonstration of the general plan (and LCP) policies that are operative in the planning decision. These should be sufficiently identified to provide an adequate basis for judicial review. This is now a constitutional due process requirement because the general plan is (1) legislative; (2) constitutional; and (3) at the top of the planning hierarchy:

Stage Two (by implication) is a demonstration of the implementing ordinance provision that further specifies the operative characteristics of the planning policy.

Stage Three meets the *Topanga* requirement of the factual demonstration "which bridges the analytical gap between raw data and the decision." In other words, the county must demonstrate that *substantial evidence* supports its findings of consistency. [OPR *Bridging the Gap* at 4]

Please notice that prior to 1990, the court's emphasis was on the **factual findings** (Stage Three). The planning decision must be supportable in fact. Now (post 1990) it must be legally supportable in policy as well. This was specifically done by the courts to curb unfettered local discretion in decisionmaking. The legal change was a specific response to the troubling issues behind urban sprawl and infrastructure deficiencies. The general plan was strengthened to support growth management concepts and curb ad hoc planning decisions that occurred under heavy pressure from development.

It was understood that if counties exercised authority only from a zoning ordinance, they would not have the necessary policy flexibility. This requirement started in California in 1972 with Government Code 65300.5 (internal consistency) and was further refined in 1990 (vertical consistency).² The mechanism used to implement the consistency doctrine is the combination of (1) findings requirements (setting an

¹ Curtin, *California Land Use and Planning Law*, 2000 edition, at 7.

² Sometimes referred to as "hierarchical consistency."

appropriate record of how the general plan is being used— a demonstration of what the courts call “evidence of a planning process at work,”) and (2) judicial review.

I have enclosed the findings recently filed in the *Gonyer* appeal by the California Coastal Commission.³ Please note it is an excellent example of the Three Stages of consistency findings on water availability.

The first section notes (by citation) *Public Works Policy I*. The second section notes (by citation) the implementing ordinance—(ZLUC) 23.04.430). The third section (B. Analysis) incorporates the *Topanga* requirement of adequate factual findings—substantial evidence to support the conclusion that the decision “will further the objectives and policies of the general plan and not obstruct their attainment.” (OPR General Plan Guideline 128)

We discussed the issue of whether the staff reports would become unwieldy if it became necessary to explicitly reference the general plan policies which underlie the planning decision. Judicial review standards appear to require an explicitness. The county must demonstrate in the record its use of policy:⁴

“Generally, findings are not sufficient if they merely recite the very language of the local ordinance or state statute that requires them. (*Carmel-by-the-Sea v. Board of Supervisors of Monterey County* (1977) 71 Cal. App. 3d 84, 92.) For example, whenever a statute requires a local legislative body to find that a proposal be consistent with the local general plan, the board of council cannot discharge its responsibility by simply stating that there is consistency. The decision making body must set forth the basis for the consistency between the project and the plan. ... This same principle applies to CEQA findings. ... This documentation discloses the decisionmaker’s thinking process and satisfies the *Topanga* mandate because it provides the intermediate analytical step linking the basic data to the decision.”⁵

Application to Cambria Pines Lodge: Please note page 4 of the Staff Report⁶ under “General Plan/Land Use Element.” The County’s findings must be more explicit than the generalized reference to “a number of general ordinance standards” and the “primary development standards” for the Lodge property set out in the “North Coast Area Plan” without identifying what they are. This generalized approach does not allow a court of review to know what policies the county followed in its decision; how they were used; and whether the factual findings relate to the policies in order to meet the consistency requirement.

This findings deficiency adversely affects the development decision in Cambria Pines Lodge. For example, if the County had cited *Public Works Policy I: Availability of Service Capacity*, and its implementing ordinance (ZLUC) 23.04.430), the County would have been forced to discuss whether latent EDUs issued to Cambria Pines Lodge in prior years are still viable to sustain a building permit without a current demonstration of whether there is water availability.

This is not an issue that is under the jurisdiction of CCSD—the water purveyor—because the issue is not commercial water rights under the Water Code. Mr. Winters may have latent commercial water rights that have economic value to him. This, however, is to be distinguished from the *planning issue* (Planning Code) of whether Mr. Winters can currently exercise those rights if there are health and safety threats to a community because of a severe water shortage—or the legal and factual inability of the county to meet a water availability finding (LCP conservation requirements). If the county cannot meet its requirement of finding current water availability, it cannot issue the building permit. The higher courts of California are

³ *Gonyer Revised Findings A-3-SIO-01-018*, at 15-16.

⁴ (The staff report generally functions as the situs for recommended findings)

⁵ OPR, “*Bridging the Gap: Using Findings in Local Land Use Decisions*” at 10.

⁶ At page 4, July 12, 2001, Cambria Pines Lodge, D980113D.

replete with cases that hold development rights secondary to the police powers of municipalities to plan for the common welfare of its locality. Where policy is explicit, it must either be *followed* (under the consistency doctrine), or result in a *general plan amendment*. (See the *Leshner Communications* decision)

Thank you, Mr. Wahler, for giving me the opportunity to meet with you. I do hope the county gives serious consideration to these recommendations and legal points. I feel it would aide greatly in clarifying major issues, not only with Cambria Pines Lodge, but other planning decisions. I do hope you get a chance to discuss these issues with County counsel.

With due regard,

Judy Deertrack

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November 6, 2001

Board of Supervisors
San Luis Obispo County
County Government Center, SLO 93408

Subject: Response to Staff Report
November 6, 2001
Hearing to Consider Develop.
Permit D980113D,
Proposed Expansion of
Cambria Pines Lodge

To The Honorable Members of the Board of Supervisors:

PROJECT

This project involves the expansion of the Cambria Pines Lodge, including 35 new guest rooms, a small theatre and retail shop. The project expansion has been allocated water entitlements of approximately 107 EDU's. The testimony and staff reports emphasize that this project does not entail new water permits, because Mr. Winters is using water that was allocated approximately ten years ago—therefore, there is no increased water usage to the system—and no "significant environmental effects" to be concerned with in the environmental assessment. (Negative Declaration Checklist).

COUNTY WATER POLICY

The Staff report states, "Currently no level of severity has been formally certified by the Board of Supervisors under the County Resource Management System (RMS). A Level of Severity III has been recommended to be confirmed by a Resource Capacity Study...." (at page 3)

"The responsibility for monitoring water resources and allocating these resources rests with the Cambria Community Service District. The water allocations for the project are pre-existing, that is they predate the application for the expansion since they are allocations "left over" from previous projects...."

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"Staff agrees that water resources must be further evaluated. A re-examination of water resources in Cambria should be undertaken comprehensively with all relevant agencies, the CCSD and county departments participating, not with one individual project." (at page 10)

COMMUNITY RESOURCE CONDITIONS

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All of those combined studies and reports indicate that the North Coast Area is in a severe water crisis.

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The Periodic Review has documented that the "North Coast Area Plan Update is inconsistent with Coastal Act Policies-- because it provides for continued urban development that cannot be supported by existing water supplies. Estimates of available water to serve new development are based on incomplete information and do not analyze the impacts of water withdrawals on riparian/wetland habitats or agricultural activities as required by the Coastal Act."

In order to find the Land Use Plan consistent with the Coastal Act, "the updated water section must be rewritten to more accurately describe the nature of the aquifer and the need for a more thorough study to determine safe yield." Planning standards are required to ensure coastal resources are adequately protected. An Instream Flow Management Study was recommended to determine the water needs of riparian and wetland species.

The Resource Capacity Study (SLO County) has a current recommended action of Level of Severity III that has not yet been acted upon by the County.

The real community condition to which this appeal is directed is the threat to current users in the North Coast. We now live in a community where the County, on its issuance of development permits, can no longer assure a viable long-term supply of water. According to Kennedy/Jenks, for an estimated one year out of ten, basic water service delivery can't be assured to our population. The natural resource base we enjoy on a daily level is threatened. The long-term sustainability of our aquifers is at risk. We are at considerable fire risk because we do not have adequate water for fire protection--and we are in a high risk area.

In response, the County has reduced growth in the North Coast area to 1% per year—a reduction of the overall County-wide level of 2.3%. This has allowed 38 water permits to be issued in 2001—without reference to an actual finding that water is available. *The management approach is based upon an assumption that water will be found in the future to accommodate the expected shortfall.*

(1) THE COUNTY'S DUTY TO ACT:

General Plan Adequacy/General Plan Consistency

The County's primary responsibility is to ensure that its planning decisions take into account the health, safety, and general welfare of the citizens within its jurisdiction. The County must act reasonably and promptly to incorporate vital public information, studies, reports, and community conditions into the general plan, ordinances, and other administrative systems that comprise municipal government. This obligation is founded upon State Planning Law that requires planning jurisdictions to "periodically review, and revise, as necessary, the general plan." Government Code Section 65103(a).

"The California Court stated there is an implied duty to keep the general plan current. *DeVita v. County of Napa* 9 Cal 4th 763, 792 (1995) (citing *Garat*). In *Garat*, the court concluded there is no statutory

requirement that a general plan be updated at any particular time (except for the housing element). This statement was qualified, however, in footnote 28 of the opinion:

'This conclusion does not preclude a court from looking at the results of a public entity's failure to update its entire plan or any parts thereof, i.e., the failure to update a plan and/or its parts may cause a general plan or mandatory element to not be in compliance with the statutory requirements ("legally inadequate") which, in turn, if properly challenged in a timely manner, may subject the entity to an attack on its validity pursuant to those proceedings provided in section 65750 et seq. Garat, 2 Cal App 4th at 296 n. 28.'¹

The requirement of an adequate general plan is intimately tied to its constitutional function. Prior to 1971, the general plan was an advisory document. It is now "the constitution for all future developments. "The propriety of virtually any local decision affecting land use and development depends upon consistency with the applicable plan and its elements."²

"The consistency doctrine has been described as 'the linchpin of California's land use and development laws; it is the principle which infuses the concept of planned growth with the force of law.'³

A general plan is inadequate when it is so deficient in information that the County cannot make proper findings on the record in a development permit because (1) the studies and recommendations that serve as a basis for the decision have not yet been incorporated into the planning system and acted upon; (2) policies in response to critical information have not been developed which create standards for the development decision; (3) The County has no Programmatic response, which adversely affects the tiering of an environmental analysis. In other words, the information cannot be considered by the County at the proper level of review.

The failure to incorporate planning information into the structure of the general plan leaves a county unable to use that document in the manner prescribed by law—as the organizing principle to which all land use decisions must conform—and as a reasonably complete expression of community conditions and viable community responses.

Failure to Act:

The County has failed to adopt the recommendations of the California Coastal Commission in a timely manner. It has failed to incorporate the environmental findings on water shortage into its North Coast Area Plan and Conservation Element so that development standards can be set. The Resource Management System has not been adapted to issue development standards for the area based upon actual water availability rather than a mandatory growth cap that assumes water availability.

As a result of this, Cambria Pines Lodge was evaluated under an environmental assessment that was devoid of information that was "assessed by the county" and "in place." What appears on the record is a series of statements that reflect the County has not yet responded to the studies and reports on a critical long-term and short-term water condition. Thus, the Negative Declaration states that the Cambria Pines Lodge development poses no "substantial environmental effect." Under the County's policies of deferring the issue of water availability and avoiding the implications of its reports—this finding has consistently appeared in a series of development decisions—leaving a serious, uninspected cumulative impact.

¹ Curtin's California Land Use and Planning Law, 2000, at pages 19-20.

² Napa Citizens For Honest Government v. County of Napa 20 Cal App 4th 342 at 354-355.

³ Napa Citizens, supra, at 354-355.

(2) THE COUNTY'S DUTY TO ACT:

The California Environmental Quality Act:

The heart of CEQA is its mandate to "afford the fullest possible protection to the environment within the reasonable scope of its statutory language." The validity of environmental review, therefore, "depends in large part upon whether it provides the information necessary for the Board and the public to understand the nature and environmental consequences of the Project."⁴

"The failure to provide enough information to permit informed decision-making is fatal. 'When the informational requirements of CEQA are not complied with, an agency has failed to proceed in 'a manner required by law' and has therefore abused its discretion.'" [citation]⁵

It has been held that an EIR is inadequate if it fails to identify at least a potential source for water. (Stanislaus Natural Heritage Project v. County of Stanislaus (1996) 48 Cal. App. 4th 182.

It has also been held that an EIR is inadequate if the project intends to use water from an existing source but it is not shown that the existing source has enough water to serve the project and the current users. (Santiago County Water District v. County of Orange (1981) 118 Cal App 3d 818.

Failure to Act:

Duties of the Lead Agency: CEQA defines a lead agency as "the public agency which has the principle responsibility for carrying out or approving a project which may have a significant effect upon the environment." Public Resources Code Section 21067

"So significant is the role of the lead agency that CEQA proscribes delegation. This prohibition was articulated in Kleist v. City of Glendale (1976) 56 Cal App 3d 770, 779: 'Neither the CEQA nor the state guidelines authorize the city council to delegate its review and consideration function to another body. Delegation is inconsistent with the purpose of the review and consideration function since it insulates the members of the council from public awareness and possible reaction to the individual members' environmental and economic values. Delegation is inconsistent with the purposes of the EIR.'"⁶

Thus, wherever the County has relied upon CCSD to make water availability findings, and where it has not exercised independent review of those conditions, the County is in violation of CEQA. In interviews with CCSD managers and Board Members, CCSD has repeatedly emphasized that their Intent to Serve letter and water connections are not based upon any findings of water availability. This is supported in the record by a reading of the Conditional Intent to Serve letter issued to Dirk Winters.

"Shortage precipitates conflict, In this state, when water is the commodity in short supply, the conflict threatens the most basic interests of competing stakeholders."⁷

"The hopes and dreams upon which entitlements are based do not create a greater annual supply of water."⁸

⁴ Napa Citizens, supra, at 355-357.

⁵ Napa Citizens, supra, at page 361.

⁶ Planning and Conservation League v. Department of Water Resources (2001) 83 Cal App 4th 892 at 907.

⁷ Planning and Conservation League, supra, at 908.

⁸ Planning and Conservation League, supra, at 919.

In the recent case of *Planning and Conservation League* [cited supra] the Department of Water Resources operated under a contract provision that acted as policy. It provided for a mechanism to reduce water allocations during times of shortage. The appellate court found that the removal of this policy was a "significant environmental impact" to be considered prior to amendment of the contract and elimination of the policy.

Its import was the threat that planning jurisdictions would assume that most of their entitlement would be available for new development. "Thus, where land use planning determinations can be made on the basis of entitlement rather than real water, development can outpace the availability of water, leading to detrimental environmental consequences, excessive groundwater pumping, and pressure to develop additional water supplies." [Planning and Conservation League at 914]

Community Service Districts have the legal power to create what the court of appeals called "paper water"—water allocations that exist independently of whether or not there is actual water in the system. The service district is not prohibited by law from doing so—and therefore, its Intent to Serve letters have no relevance to available water in the system. They are not proper evidence of water availability!

The Planning & Conservation League court did hold the environmental assessment deficient because "the EIR provides no discussion of the environmental consequences associated with land use planning based on project entitlement rather than actual yield." The threat that counties would overallocate their water supply on reliance of "paper water figures" was held to be a significant environmental threat.

Cambria Pines Lodge is in environmental review. The County operates under LCP policies that *mandate*—"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..." CZLU() Section 23.04.430. [In furtherance of Public Works Policy I]

This policy is enforceable under the provisions of the Consistency Doctrine. The findings made by the County of San Luis Obispo are deficient because (1) they are made without reference to proper evidence on water availability rather than water entitlements; (2) the responsibility for findings was improperly delegated to CCSD; (3) the County has a legal responsibility to independently review any conclusions of water availability by CCSD and it did not do so; (4) the County did no independent assessment. (5) it made findings without proper evidentiary support (6) By doing so, it did not follow the mandate of the Public Works Policy I.

Thank you for your kind attention. With the patience of all people involved—the County, CCSD, and our community—hopefully we will be able to correct these administrative conditions and give our community the love, attention, and support it so well deserves. Thank you for your hard work to that end.

Very truly yours,

Judy Deertrack

Enclosures: 2

STATE OF CALIFORNIA - THE RESOURCES AGENCY

Gray Davis, Governor

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
 725 FRONT STREET, SUITE 300
 SANTA CRUZ, CA 95060
 (531) 427-4863



**APPEAL FROM COASTAL PERMIT
 DECISION OF LOCAL GOVERNMENT**

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

SECTION I. Appellant(s):

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

Cambria Legal Defense Fund

c/o Vern Kalshan, Attorney

440 Kerwin

Cambria, CA 93428

(805) 927-1222

Zip

Area Code Phone No.

SECTION II. Decision Being Appealed

1. Name of local/port government:

San Luis Obispo County Board of Supervisors

2. Brief description of development being appealed:

Expansion of Cambria Pines Lodge to include 35 more motel units, shops, a tennis court, and a theatre

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

2905 Burton Drive, Cambria, CA 93428

APN's 023-421-002 and 023-431-002

Burton Drive and Patterson Way

4. Description of decision being appealed:

a. Approval; no special conditions: _____

b. Approval with special conditions: x

c. Denial: _____

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

TO BE COMPLETED BY COMMISSION:

APPEAL NO: _____

DATE FILED: _____

DISTRICT: _____

RECEIVED

DEC 14 2001

CALIFORNIA
 COASTAL COMMISSION
 CENTRAL COAST AREA

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

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

a. ☐ Planning Director/Zoning
Administratorc. ☐ Planning Commissionb. ☒ City Council/Board of
Supervisorsd. ☐ Other: _____6. Date of local government's decision: November 6, 20017. Local government's file number: D980113D**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:

Pacific Cambria, Inc.2905 Burton DriveCambria, CA 93428

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

(1) Please see attachment III b.

(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.)

Please see attachment IV

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.

Cambria Legal Defense Fund
by Suzzy L. Tucker Director
Signature of Appellant(s) or Authorized Agent

Date DEC 13 2001

NOTE: If signed by agent, appellant(s) must also sign below.

SECTION VI. Agent Authorization

I/We hereby authorize Vern Kalshan, Attorney to act as my/our representative and to bind me/us in all matters concerning this appeal.

Cambria Legal Defense Fund
by Suzzy L. Tucker Director
Signature of Appellant(s)

Date DEC 13 2001

ATTACHMENT III b

- (1) Judy Deertrack
2862 Buckingham Place
Cambria, CA 93428
- (2) Lila Evans
2862 Buckingham Place
Cambria, CA 93428
- (3) Pat Blote
3765 South Higuera Street Suite 102
San Luis Obispo, CA 93401
- (4) Dirk Winter
2905 Burton Drive
Cambria CA 93428
- (5) Carmelle Dowdle
2910 Burton Drive
Cambria, CA 93428
- (6) Peter Whitman
3171 Rogers Dr.
Cambria, CA 93428
- (7) Helen May
2127 Andover
Cmbria, CA 93428
- (8) Eric Greening
- (9) Cambria Legal Defense Fund
c/o Vern Kalshan, Attorney
440 Kerwin
Cambria, CA 9328

Section IV**Appeal from SLO D980113D**

**COASTAL ZONE APPEAL
OF
DEVELOPMENT PLAN / COASTAL DEVELOPMENT PERMIT D980113D**

**SUBMITTED BY THE
CAMBRIA LEGAL DEFENSE FUND**

1. Appealable Development

This development for this permit will occur on APN 023-421-002 and 023-431-002. This permit is appealable to the Coastal Commission because:

1. APN 023-431-002 is within 100 feet of Santa Rosa Creek,
2. APN 023-431-002 is adjacent to the "Cambria Rodeo Grounds" which is now owned by the Cambria Community Services District and has been designated to be developed as an active recreation "Community Park" for which the County of San Luis Obispo contributed \$500,000 towards its acquisition along with adjoining parcels.
3. APN 023-431-002 is designated a visitor serving area "V",
4. APN 023-431-002 lies in a Terrestrial Habitat "TH".

2. Grounds for Appeal

This appeal involves the following Coastal Plan Policies:

POLICIES FOR 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. Permitted development outside the USL shall be allowed only if it can be serviced by adequate private on-site water and waste disposal systems.

The applicant shall assume responsibility in accordance with county ordinances or the rules and regulations of the applicable service district or other providers of services for costs of service extensions or improvements that are required as a result of the project. Lack of proper arrangements for guaranteeing service is grounds for denial of the project or reduction of the density that could otherwise be approved consistent with available resources. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTION 23.04.021c OF THE CZLUO.]

POLICIES FOR COASTAL WATERSHEDS

Section IV**Appeal from SLO D980113D****Policy 9: Techniques for Minimizing Sedimentation**

Appropriate control measures (such as sediment basins, terracing, hydro-mulching, etc.) shall be used to minimize erosion and sedimentation. Measures should be utilized from the start of site preparation. Selection of appropriate control measures shall be based on evaluation of the development's design, site conditions, predevelopment erosion rates, environmental sensitivity of the adjacent areas and also consider costs of on-going maintenance. A site specific erosion control plan shall be prepared by a qualified soil scientist or other qualified professional. To the extent feasible, non-structural erosion techniques, including the use of native species of plants, shall be preferred to control run-off and reduce increased sedimentation. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD AND PURSUANT TO SECTION 23.05.036 OF THE CZLUO.]

Policy 10: Drainage Provisions

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

POLICIES FOR HAZARDS**Policy 2: Erosion and Geologic Stability**

New development shall ensure structural stability while not creating or contributing to erosion or geological instability. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD AND PURSUANT TO SECTION 23.07.086 OF THE CZLUO.]

3. Conditions for "Intent to Serve Letter" have not been satisfied

The proposed development is prohibited because the developer has not complied with the requirements of the "Covenant and Agreement Restricting Use of Property" between developer and the Cambria Community Services District.

In March of 1991 the developer Dirk Winter signed a covenant with the Cambria Community Services District entitled "Covenant and Agreement Restricting Use of Property" (attached). The covenant is attached to an adopted CCSD ordinance entitled "Regarding Transfer of Water and Sewer Positions or Transfer of Existing Water and Sewer Connections" and puts restrictions on the proposed development. We point out that the proposed development is not in compliance with the requirements of this covenant and, by the terms of the agreement, must be prohibited.

The Cambria Legal Defense Fund believes that ordinances and covenants made by the CCSD are made for public benefit and to provide for and protect the public health and safety and that ordinances and covenants placing restrictions and conditions on development must be respected and adhered to by the County of San Luis Obispo. We propose that the County of San Luis

Section IV**Appeal from SLO D980113D**

Obispo relies on the Cambria Community Services District for the orderly allocation of water and sewer services as a method of implementing the San Luis Obispo Coastal Zone Land Use Element and Land Use Ordinance.

Page 4 of the November 6, 2001 staff report discussion states that "Under current policy, staff relies on the CCSD to monitor water resources and allocate water service." We allege that the County must then adhere to the requirements placed on proposed development by the CCSD and that adherence to the requirements of CZLUE and CZLUO depends on the County's adherence, when permitting new development, to the requirements placed on development by the CCSD.

The development proposal at issue involves 26 acres known as the Cambria Pines Lodge. The 26 acres encompasses 2 parcels - one 6 acre parcel and one 20 acre parcel. In the covenant we are describing the 6 acre parcel is referred to as the "Old Property" and the 20 acre parcel is referred to as the "Adjacent Property".

By the terms of the covenant Mr. Winter was allowed to transfer his "position" for water and sewer services from the 6 acre parcel (the "Old Property") to a parcel on Moonstone Beach Drive. Mr. Winter used that "position" and the resulting Intent to Serve Letter to build a new motel on the Moonstone Beach Drive parcel, thus effectively using the water that once was allocated to the 6 acres.

As part of this transaction, the CCSD required the "retirement" of the 6 acres. The covenant made by Mr. Winter and the CCSD allowing Mr. Winter to move the water and sewer services explicitly prohibits development on the 6 acre Old Parcel unless certain requirements are met. These requirements have not been met. We maintain that since the requirements have not been met by the developer, that the proposed project is not in compliance with CCSD requirements, and that development is therefore prohibited on the 6 acre Old Property.

Section 1(a) of the covenant states in relevant part as follows:

Development of the Owner's Old Property may be allowed only if all the following conditions are met:

- (1) The Old Property is consolidated pursuant to the Subdivision Map Act with the Owner's Adjacent Parcel of Approximately twenty (20) acres located in the County of San Luis Obispo....so that Owner's Adjacent Parcel and the Old Parcel would be one consolidated legal parcel (hereinafter referred to as the "Consolidated Parcel");
- (2) Development of the Consolidated Parcel will be limited in density to that allowable by

Section IV**Appeal from SLO D980113D**

the County of San Luis Obispo for just the Adjacent Parcel, although that density may be spread over both the Old Parcel and Adjacent Parcel;

(4) Before any development and/or water service is allowed on the Old Parcel, owner shall obtain certification from the District of compliance with Conditions (1) through (3) stated above, which certification shall be recorded prior to any development or provision of water service on the Old Parcel.

As to Section 1(a)(1), according to the San Luis Obispo Assessor's Office the Old Property has not been consolidated with the Adjacent Property. Both lots - APN 023-421-002 (the 6 acre Old Property) and APN 023-431-002 (the 20 acre Adjacent Property) - are still listed separately. The County staff report contains no reference to this requirement and no finding relating to compliance with the CCSD's requirements for development.

Since this consolidation has not taken place, development on the 6 acre site is prohibited by the CCSD ordinance and the CCSD covenant with the developer.

As to Section 1(a)(2), the County staff report and attached materials and documents consistently refer to the 26 acre site with no reference to, or analysis of allowable density for the 20 acre site. The evidence evaluated as a basis for approval of the project does not include a determination of allowable density for the 20 acre site. No finding is made to show that the project is consistent with this requirement.

Without a determination by the County of what is the allowable development for the 20 acres, it is impossible to conduct an adequate public hearing on the issue and impossible to establish whether the development exceeds the requirements of the CCSD ordinance and covenant with the developer. Again, without this compliance, development on the 6 acre site is prohibited.

As to Section 1(a)(4), since the parcels have not been consolidated and there is no finding that the proposed development is limited to allowable development for the 20 acre parcel, it is impossible for the developer to obtain and record with the county recorder certification that these requirements have been accomplished.

The San Luis Obispo North Coast Plan Area Standards at page 8-33 limit density at the Cambria Pines Lodge to 26 units per acre on land with less than 20% slopes. While the County staff report informs us that the Area Plan contains "...specific density limitations and design parameters that must be followed", there is no evidence in the form of data or analysis to show that the project actually conforms to this standard and to show if the project is within the combined density constraints of this standard and the covenant with the CCSD.

Section IV**Appeal from SLO D980113L****3. CCSD has declared a "Water Shortage Emergency"**

On November 15, 2001, the Cambria Community Services District has declared a "water shortage emergency" (Water Code §350). Notwithstanding that the CCSD Board stated that it would honor certain "Intent to Serve Letters" outstanding, among them such letter for this expansion, the attached spreadsheet analysis by this appellant indicates that there is no water available for this expansion.

The attached spreadsheet adopts such District's Engineer's basis that there are 3900 residential water meters in service and pending with current "Letters of Intent to Serve" which were also exempted from the water shortage emergency. The spreadsheet does not include the water that would be used by this Lodge expansion.

At the water shortage hearing such District's Engineer believed that there was about 121 EDU's of water left to issue based upon actual historical usage which includes seasonal variation. The Engineer did not take into account the Safe Water Drinking Act which requires the district to follow Title 22, Section 64562 of the Administrative Code which provides as follows:

Sufficient water shall be available from the sources and distribution reservoirs to supply adequately and safely the total requirements of all users under maximum demand conditions before agreement is made to permit additional service connections to a system.

This spreadsheet provides analysis of the maximum conditions by using the District's published monthly maximum use per meter, residential and commercial each, per month and multiplying by 12. The Code does not provide for seasonal variations.

4. Project's Intent to Serve Letter is only conditional

The project proponent has maintained throughout this process and stated in public hearings that the water needed for the project has already been allocated by the Cambria Community Services District (CCSD) and has been historically owned by the property owner. Indeed, the developer testified at the November 6, 2001 Board of Supervisor's hearing at which the development plan and the negative declaration were approved, that the water allocation which he had was like a "grandfathered" meter. Discussion at that meeting indicated that the decisions to approve the development plan and the negative declaration turned in part on the guarantee of the developer that water for the project was already allocated.

We point out that the public record contradicts the claims that water for the project has already been allocated and that the project proponent owns historic water allocations for the project's total needs.

Section IV**Appeal from SLO D980113D**

An October 6, 1999 letter from the CCSD to the developer shows that the developer does not hold the Intent to Serve Letter required by the County of San Luis Obispo as a prerequisite to issuance of a development permit. This letter indicates the following:

1. The developer holds a Conditional Intent to Serve Letter.
2. The developer does not hold an Intent to Serve Letter.
2. Issuance of the Intent to Serve Letter is subject to significant conditions.
3. Each and every condition must be met prior to issuance of permits.

These conditions which must be met prior to issuance to an Intent to Serve Letter have not been met. The first condition requires "compliance with the 1991 agreement" described above with which the developer has not complied.

In other words, until the developer complies with the 1991 agreement he cannot get an Intent to Serve Letter, and until he gets an Intent to Serve Letter issuance of the development permit is inconsistent with County ordinances.

The October 6, 1999 letter makes the fact that the developer has no commitment for water in all capital letters:

"PLEASE BE ADVISED THAT THE ISSUANCE OF THIS CONDITIONAL INTENT LETTER IS NOT A BINDING COMMITMENT TO PROVIDE WATER AND SEWER SERVICE."

While the CCSD staff report for the May 24, 2001 meeting of the CCSD states that the Conditional Intent to Serve Letter relates to EDUs (equivalent dwelling units) consigned to the Cambria Pines Lodge under the 1991 covenant discussed above, it confirms that this historic consignment is conditional, that issuance of an Intent to Serve Letter will only occur upon fulfillment of all conditions, and that the Cambria Pines Lodge must enter into a new covenant and agreement with the CCSD before this water is allocated.

Documents required as prerequisites to issuance of a development permit have not been produced. The November 6, 2001 Board of Supervisors materials which served as the basis for public hearing and approval of the permit do not include:

1. An affidavit from the CCSD stating that the applicant has met the conditions contained in Exhibit B of the Conditional Intent to Serve Letter.
2. An affidavit from the CCSD stating that the applicant has met the conditions of the 1991 covenant with the CCSD.
3. An intent to serve letter.

Section IV**Appeal from SLO D980113D**

Indeed, the Board of Supervisor's Resolution Exhibit B, Condition of Approval 28 which requires the Intent to Serve Letter prior to issuance of grading and building permits confirms that the applicant has yet to obtain the Intent to Serve Letter and the affidavit.

The record shows that the decision by the Board to issue the development permit and approve the negative declaration turned on whether water for the project was already allocated and that their final decision was based in large part on the testimony of the developer that water for the project was historic water owned by the developer.

We believe that the statement of the developer introduced misinformation because the Conditional Intent to Serve Letter held by the project proponent is not a binding commitment by the CCSD to provide additional water to the site, is not the equivalent of a water connection permit, is subject to expiration, and is subject to conditions which have not been met and which must be met by the project proponent prior to issuance of a permit for new water.

The Intent to Serve Letter is required to be submitted to the County with the permit application. Cambria Community Services District Ordinance 1-2000 addresses water and sewer allocation procedures and confirms that Intent to Serve Letters are for the purpose of "...processing permit applications with the County."

**5. Permitting the project without a finding of water availability
is inconsistent with the Safe Drinking Water Act.**

The Cambria Legal Defense Fund contends that issuance of a development permit based on a conditional consignment of "equivalent dwelling units" made 10 years ago in the absence of a contemporary finding of water availability is inconsistent with the California Safe Drinking Water Act.

A finding of water availability has not been made by the CCSD or the County of San Luis Obispo. The findings upon which project approval and adoption of the Negative Declaration were made contain no discussion of water availability for the project. The developer has not demonstrated that water is available for the project.

The Court of Appeals of California, First Appellate District, Division Four, in its decision in *Residents for Adequate Water v. Redwood Valley County Water Dist.* (1995) 34 Cal.App.4th 1801 [41 Cal.Rptr.2d 123] commented as follows:

"...The California Waterworks Standards-the administrative regulations promulgated pursuant to the Safe Drinking Water Act-specifically provide that sufficient water shall be available from

Section IV**Appeal from SLO D980113D**

water sources and distribution reservoirs to supply adequately, dependably and safely the total requirements of all users under maximum demand conditions before agreement is made to permit additional service connections to a system. (Cal. Code Regs., tit. 22, § 64562, subd. (a); see Cal. Code Regs., tit. 22, ch. 16.) A new service connection may be added to a distribution system only if the water system will comply with section 64562 after the new service connection is added. (Cal. Code Regs., tit. 22, § 64568.) These statutes and regulations clearly impose an obligation on the district to determine whether an adequate water supply exists to serve existing needs before new service connections may be added and prohibit new service connections if these state requirements are not met."

The holding of the Court of Appeals of California, First Appellate District, Division Four, in its decision in *Gilbert v. State of California* (1990) 218 Cal.App.3d 234 substantiates the requirements of the California Waterworks Standards as follows:

"These standards require that "[s]ufficient water shall be available from the water sources and distribution reservoirs to supply adequately, dependably and safely the total requirements of all users under maximum demand conditions before agreement is made to permit additional service connections to a system." Finally, the standards provide that requirements for the public water system shall be determined from total source capacity, storage volume and number of service connections, and set forth procedures for determining needed source capacity and needed storage volume. (Cal. Code Regs., tit. 22, §§ 64562, subd. (c)(1), 64564"

**6. Permitting the project without a finding of water availability is
in violation of the San Luis Obispo County Land Use Element and Local Coastal Plan.**

Local Coastal Program Coastal Plan Policies for Public Works Policy 1 (page 8-6) states the following:

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

The Resource Management System (a component of the Coastal Zone Land Use Element) includes requirements for analysis and monitoring of water supplies in relation to water quantity and delivery capacity.

In response to our comment to the County that, to maintain legal consistency with state and local laws, the County must make a finding of water availability as a prerequisite to permit approval,

Section IV**Appeal from SLO D980113D**

the staff report referred the reader to an attachment entitled "Special Environmental Considerations" for a purported "detailed discussion" of the water resource availability issue.

This attachment states that since water in the form of equivalent dwelling units was conditionally consigned 10 years ago by the CCSD then water must be available. Here, in lieu of a determination of water availability based on total source capacity, storage volume and number of service connections as required by California Code of Regulations, title 22, section 64562(a), the County rests project approval on:

1. "Paper water" in the form of conditionally consigned "Equivalent Dwelling Units".
2. An antiquated consignment based on water availability as it was 10 years in the past.

A statement that "paper water" has been allocated by the CCSD in the form of Conditional Intent to Serve Letters, Intent to Serve Letters, or Equivalent Dwelling Units is not enough to satisfy State and local laws and does not relieve the County of the statutory duty of making a finding of the availability of actual water.

The findings adopted by the Board of Supervisors as the grounds for approval of the development permit and the negative declaration include no finding of water availability as required by Public Works Policy 1.

There is no analysis of water resources and no evidence that water is available for the project. The discussion provided to the Board of Supervisors and the public contained no reference to applicable State laws or County policies or ordinances to which the project must comply. There is no data in the record relating to baseline environmental conditions or to water availability for the project that would further an informed decision making process relating to compliance of the project with applicable policies and ordinances.

We maintain that issuance of a permit without the required finding of water availability, without reference to policies and the necessary evidentiary support for such a finding amounts to an abuse of the Board's discretion.

7. Availability of water for the project has not been demonstrated as required because the public record shows that the Cambria Community Services District does not have adequate water for new development.

The "Baseline Water Supply Analysis" produced by Kennedy / Jenks for the CCSD states in relevant part the following:

"...public water utilities should have water supply reliability between 90 to 100 percent."

Section IV**Appeal from SLO D980113E**

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

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

"Foreseeable water demands" include "...the District's wait list, intent to serve letters...and pending connection permits."

The report states that the report does not address additional water requirements for fire suppression critical to public health and safety and for the habitat requirements imposed by the Endangered Species Act and the pending Habitat Conservation Plan. The District has also stated that water usage has increased since the above referenced report and that water reliability percentages as set forth in the report are overstated due to the fact that they are based on outdated data.

The CZLUE Framework for Planning Resource Management System annual report has for the past 10 years placed Cambria at a level III of severity in terms of depletion of water resources indicating that Cambria has met or exceeded the maximum safe yield of its water supply.

Far from having sufficient water available "...to supply adequately, dependably and safely the total requirements of all users under maximum demand conditions...", the attached spreadsheet analysis of the Cambria Community Services District indicates that there are 3752 residential connections in service and another 186 connections pending to produce a deficit of 11.52 acre feet of water a year with only a 10% system loss. The current system loss is greater than 10%. Graphs distilling the spread sheet data are attached.

The findings upon which approval of the project is based do not include a finding of water availability.

8. Denial by the County of San Luis Obispo of responsibility for the monitoring and allocation of water resources in Cambria is inconsistent with the CZLUE and CZLUO.

In their approval of the project the County has stated that "The responsibility for monitoring water resources and allocating these resources rests with the Cambria Community Services District." Page 4 of the November 6, 2001 staff report discussion states that "Under current policy, staff relies on the CCSD to monitor water resources and allocate water service."

The Cambria Legal Defense Fund argues that these statements misrepresent adopted policies.

Section IV**Appeal from SLO D980113D**

While the staff report refers to current "policy", this policy is neither quoted or cited. The public and the decision makers have no way of referring to the policy and of linking the policy to the evidence or to the action taken.

Chapter 3 of the CZLUE Framework for Planning Resource Management System clarifies that the County must evaluate resource availability and capacity within each community, must evaluate the effects of community development, and must take steps to correct the situation when a community is perceived to have a resource problem. (page 3-1)

Historic and current evidence of water demands and availability including well readings, number of service connections, historic water volumes pumped, and recent studies of source capacity is in the public record at the Cambria Community Services District. We submit that a finding of water availability by the County must be made at the level of coastal development permit approval and that the finding must be based on information as required by the California Code of Regulations, title 22, section 64562(a) and the County's Coastal Zone Framework for Planning Resource Management System.

In their approval of this development permit the County Board of Supervisors did not refer to the data on water availability kept as public record by the CCSD and they did not make a finding of water availability.

**9. The conceptual drainage plan does not conform to the Land Use Element
or to the Land Use Ordinance.**

Coastal Plan Policy 10 "Drainage Provisions"(page 9-9) states the following:

"Site design shall ensure that drainage does not increase erosion. This may be achieved either through on-site drainage retention, or conveyance to stormdrains or suitable watercourses. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD...] (Caps included in policy.)

Chapter 8 of the North Coast Land Use Element (page 8-1) states the following:

"Standards are mandatory requirements for development..." "These standards apply to the planning and development of new land uses, and must be satisfied for a new land use permit to be approved..." (Emphasis ours)

The requirements for drainage systems are mandatory. The land use permit was approved prior to a showing that the project will adhere to these requirements, prior to development of a plan that ensures that drainage will not increase erosion.

Section IV**Appeal from SLO D980113L**

The November 6, 2001 report to the Board of Supervisors states on page 5 that "(T)he CZLUO requires a preliminary drainage plan be submitted with projects of this type." (Emphasis ours) Section 23.05.042 of the CZLUO tells us the following:

"No land use or construction permit (as applicable) shall be issued for a project where a drainage plan is required, unless a drainage plan is first approved pursuant to section 23.05.046." (Emphasis ours)

Under this section drainage plans are required for projects that are (among other things) in an area identified as having a history of flooding or erosion, or that will result in an area of disturbance of more than 40,000 square feet. According to the project description the area of disturbance is planned to be approximately 57,000 square feet, and based on analysis provided by the Upper Salinas Las Tablas Resource Conservation District (US-LT RCD) the current development at the Cambria Pines Lodge causes significant drainage and erosion problems to adjacent lands. Reports provided by the US-LT RCD are attached.

According to this CZLUO ordinance issuance of the development permit was improper and must not occur until the drainage plan has been submitted and approved.

Section 23.05.046 states that prior to permit issuance the drainage plan must be formally approved and that the approval is subject to public appeal.

"All drainage plans are to be submitted to the County Engineer for review, and are subject to the approval of the County Engineer, prior to issuance of a land use or construction permit, as applicable. Actions of the County Engineer on drainage plans may be appealed to the Board of Supervisors ..."

That the required drainage plan has not been submitted is made clear by three facts. First, the drainage plan is entitled a "Conceptual" plan. Second, Condition of Approval 21 requires the applicant - after issuance of the development permit and prior to site disturbance or to issuance of a grading or building permit - to prepare and submit a Drainage Plan which must address the "...effects of the project's projected runoff on adjacent properties and existing drainage facilities and systems..." and "...estimates of existing and increased runoff resulting from the proposed improvements." Third, the US-LT RCD report makes comment on a "note" within the "Conceptual Grading and Drainage Plan" which states "Contractor to evaluate drainage conveyances between units to determine need for minor drainage enhancements." The US-LT RCD comments on the lack of a "formal drainage plan".

The SLO CZLUO requires that a drainage plan for this project must be submitted and approved prior to issuance of a development permit for the project. The CZLUO also requires a public

Section IV**Appeal from SLO D980113D**

hearing for consideration of the approval of the drainage plan which is appealable.

The County has issued the development plan prior to submission and approval of the drainage plan in contradiction of the requirements of the CZLUO and in so doing has illegally omitted the required public hearing process, precluded the opportunity for the public to review and comment on the effects the project would have on adjacent properties and on public resources of Santa Rosa Creek, and omitted the required opportunity for appeal of the yet-to-be-written drainage plan.

It must be made clear that the "Conditions of Approval" are not conditions that must be met for approval of the development permit to be final. The conditions upon which the development plan was approved refer to actions that are required by the developer prior to receiving subsequent permits. They are really conditions which must be met prior to issuance of future permits not requirements upon which approval of the development permit are contingent.

10. A finding upon which the project is approved contains inaccurate information.

As shown above, a drainage plan has not been produced, submitted, or approved as required by the CZLUO.

Knowing that the drainage plan does not exist, and knowing that the estimates of increased runoff resulting from the development and the effects of the projects projected runoff on adjacent properties have not yet been determined, "Exhibit A Findings" states that

"the project includes a comprehensive drainage plan that addresses existing drainage, proposed drainage associated with the Lodge expansion and the existing drainage adjacent to the site, reducing drainage impacts to a level of insignificance."

According to the California courts a findings are "...legally relevant subconclusions which expose the agency's mode of analysis of facts, regulations, and policies, and which bridge the analytical gap between raw data and ultimate decision." (Topanga Association for a Scenic Community v. County of Los Angeles (1974) 11 Cal.3d 506) And the Governor's Office of Planning and Research adds that "...findings are the legal footprints local administrators and officials leave to explain how they progressed from the facts through established policies to the decision".

We submit that the knowing approval of a false and misleading legal finding upon which a land use decision is made is a serious violation of state laws including the Coastal Act and of the public trust.

11. Recommendations made by the Upper Salinas Las Tablas Resource Conservation

Section IV**Appeal from SLO D980113D****District were not, as claimed by the County, incorporated into the project.**

Also in response to our comments to the Board of Supervisors the staff report justifies approval of the development permit by stating that the "detailed recommendations" provided by the Resource Conservation District have been "...incorporated into the project...".

This statement contradicts the facts as reported which show that important observations and recommendations made by the Resource Conservation District were not considered and were not incorporated into the project.

The Resource Conservation District report identifies distinct "mini watersheds" or drainages that will be affected by increased runoff from the proposed Lodge expansion. For each of these drainages the report recommends construction of a retention basin.

For example, the report states that "...the only practical way to preclude any increase in runoff flow from the lodge property, due to recent and new development, is to install a retention basin through which present and increased runoff would be routed and then metered out through a pipe at the same flow rate as exists at the present time."

This recommendation, submitted as the "only practical way" to preclude increased runoff, was not incorporated into the project because, as stated in the staff response, "...an on-site retention basin will not work because eventually the basin will overflow with the larger storms". Designing the retention basin as recommended to meter out the collected runoff through a pipe was not addressed or referred to in discussion by the County.

The Resource Conservation District comments on the proposal within the "Conceptual Grading and Drainage Plan" for improvement of an existing swale on Martindale Road. After visiting the site the Resource Conservation District reports that there is no swale in the vicinity and "to cut into the well vegetated stable slope draining onto the road, to create a swale or ditch, would create a greater problem than now exists..."

This recommendation is not incorporated into the project and seems to have been disregarded by the County. Contrary to the claim of integrating into the project the detailed recommendations of the RCD, Exhibit B, Conditions of Approval 21 d) and e) require the bowling out "...around the existing inlet adjacent to Martindale road..." and the improvement of "...the up-slope swale paralleling Martindale Road ..." in direct contradiction to the RCD recommendations.

12. The Negative Declaration relies on the presumed success of mitigation measures that have not been formulated and on false information within a finding.

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The Cambria Legal Defense Fund maintains that it is not legal to adopt the negative declaration when:

- The negative declaration requires the applicant to comply with non-existent mitigation plans.
- The negative declaration relies on the presumed success of mitigation plans that have not yet been produced.
- The mitigation plans required to be submitted by the applicant in the future were not available for public review and comment during circulation of the negative declaration.

Sundstrom v. County of Mendocino (1988) established that a mitigated negative declaration cannot be used when at the time of project approval the negative declaration relies on the success of mitigation measures that are to be formulated in the future. Gentry v. City of Murrieta (1995) confirms that a mitigation measure used to support a negative declaration may not be formulated in the future.

Here the County Board of Supervisors approved the development plan and negative declaration for this project based on mitigation measures that will be prepared and submitted by the applicant in the future for drainage, erosion and sedimentation impacts.

Exhibit B Condition of Approval 20 states that the applicant is required to prepare and submit a Sedimentation and Erosion Plan prior to site disturbance or issuance of grading permits or building permits.

In the Conditional Intent to Provide Water and Sewer Service dated October 6, 1999 (attached to the November 6, 2001 County staff report), the Cambria Community Services District describes in Exhibit B plans that must be developed in the future. Condition 3. k. requires development of a "fire hazard reduction program" which is to be produced and approved by the CCSD prior to construction.

Condition of Approval 21 requires the applicant to prepare and submit a Drainage Plan which must address the "...effects of the project's projected runoff on adjacent properties and existing drainage facilities and systems..." and "...estimates of existing and increased runoff resulting from the proposed improvements." And while these sections include specific requirements that the plans must include, the plans themselves were, at the time of approval of the project and the negative declaration, non-existent.

The County of San Luis Obispo approved the project and the negative declaration before these final mitigation plans for fire safety, drainage, and erosion control have been produced.

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The negative declaration and the development plan rely on the presumed success of these non-existent plans as a criteria for approval.

As pointed out above, "Exhibit A Findings" goes beyond relying on non-existent plans by misleading the public into believing that the plans actually exist. The Findings state that "the project includes a comprehensive drainage plan that addresses existing drainage, proposed drainage associated with the Lodge expansion and the existing drainage adjacent to the site, reducing drainage impacts to a level of insignificance."

The evidence used to support this finding - that drainage impacts have been reduced to a level of insignificance by the requirements of a drainage plan - is false. As discussed above, the evidence shows that the comprehensive drainage plan does not yet exist and that drainage associated with the proposed project has not yet been adequately investigated in terms of estimates of runoff and the effects the yet-to-be analyzed runoff will have on adjacent properties. This evidence is supported further in the CCSD's condition 5.c. that requires approval of a drainage system that will reduce runoff impacts to the existing District sewer easement, sewer pump station, and water facilities.

A finding that drainage impacts have been reduced to a level of insignificance cannot possibly be made, yet the Board of Supervisors approved that finding.

These mitigation plans which the applicant is required to produce in the future were obviously not made available to the public for review and comment at the time of circulation of the negative declaration. In addition, page 5 of the November 6, 2001 staff discussion makes it clear that the mitigation plans to be produced in the future, upon which the County proposes to rely to reduce drainage impacts to a level of insignificance, will never be made available to the public for review and comment. The staff discussion states that the final drainage plan will be reviewed by the County Public Works Department in conjunction with the Cambria Community Services district Engineer.

13. The proposed project requires an Environmental Impact Report.

First, based on the above discussion we believe that the project requires an Environmental Impact Report because the public has been denied review and comment on proposed mitigation measures and that mitigation has been illegally deferred by misleading the public and by reliance on the presumed success of non-existent mitigation plans as a criteria for approval.

Second, substantial evidence shows that the proposed project may have multiple significant adverse impacts on the environment. Comments by community members and expert opinions have documented significant adverse impacts relating to traffic, drainage, erosion and sediment.

Section IV**Appeal from SLO D980113D**

fire suppression, water availability, noise, and degradation on the residential character of the surrounding neighborhoods.

CEQA requires a lead agency to produce an EIR when substantial evidence supports a "fair argument" that a project may have significant adverse impacts on the environment. The "fair argument" standard is a very low threshold. Overwhelming evidence is not required. The California courts have held that citizen testimony relating to impacts that the citizens are personally familiar with is enough and that any substantial evidence in the record that shows that the proposed project may have adverse impacts requires the lead agency to produce an EIR.

The record speaks for itself. The record contains comments (some of which are addressed above) from citizens, citizens groups, the Upper Salinas Las Tablas Resource Conservation District, the Cambria Community Services District, and Jud Consultants Transportation Planners that provide overwhelming evidence that the proposed project will have significant adverse impacts on the environment.

Third, we point out that an EIR is required because failure of the Board of Supervisors to certify Cambria's level III of severity of resource shortages within the CZLUE Framework for Planning Resource Management System has resulted in a lack of programmatic review required to support a finding of resource availability for the project. Because programmatic review in the form of certification by the Board of Supervisors of the level III of resource shortages has not taken place there is a void in the planning process that has resulted in an information gap which effectively precludes accurate findings of resource availability in the Negative Declaration.

14. The findings lack legal relevance.

Findings are intended by law to be legally relevant conclusions which show an analysis of facts, regulations and policies and indicate the progression from facts through application of policies to ultimate decision. According to guidelines provided by the State of California, "...findings are not sufficient if they merely recite the very language of the local ordinance or state statute that requires them.....The decision making body must set forth the basis for the consistency between the project and the findings."

Find B states "As conditioned the project or use satisfies all applicable provisions of Title 23 of the San Luis Obispo County Code." Finding C states that the project "...will not...be detrimental...because the buildings associated with the project are subject to the requirements of the Coastal Zone Land Use Ordinance and Building Code to address health safety, and welfare concerns."

The findings for this project are not supported by an analysis of applicable policies and evidence.

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is not provided to support the findings. The findings provide conclusions and only cursory reference to relevant Coastal Plan Policies or ordinances. No information or discussion about the requirements of relevant policies and ordinances, and no analysis of the projects consistency with relevant policies and ordinances is provided. In addition, as mentioned above, findings relating to critical area resource issues such as water are entirely missing.

The Cambria Legal Defense Fund maintains that analysis of the project lacks evidence in support of findings and that the findings as provided are therefore incapable of supporting a decision to allow the proposed project.

15. The County of San Luis Obispo must comply with General Plan consistency requirements prior to approval of development projects.

The County is required to include data on water availability within the mandatory Conservation Element and to integrate into that document data provided by local water agencies. The County is required to make resource management decisions based on current data within the record. The Resource Management System as it applies in the Coastal Zone does not contain adequate data for resource management purposes.

The Conservation Element and the data in the Conservation Element must be consistent with the policies and requirements of other General Plan elements including the Coastal Zone Framework for Planning Resource Management System. Based on State General Plan laws and the County's Coastal Zone Land Use Element Framework for Planning Resource Management System, the County is responsible for protecting the resources of the County including areas within the Coastal Zone and is responsible for determining resource availability based in part on information provided by local water agencies.

The County's Conservation Element has not been updated since 1974. It contains antiquated information, is not consistent with other General Plan and Coastal Zone documents, and is not used as a planning tool. The Conservation Element is functionally nonexistent and as such represents a major gap in the mandatory General Plan elements within San Luis Obispo County's land use planning and resource management system. We believe that it is impossible to make findings relating to resource availability with a functionally nonexistent Conservation Element and that compliance with CEQA and Coastal Act requirements is therefore infeasible.

Rows 3 & 9 - Annual Permitted water from San Simeon and Santa Rosa Creeks or San Simeon Creek alone

Rows 4 & 10 - Annual Permitted water from Santa Rosa Creek

Rows 5 & 11 - Annual Dependable Yield of water from San Simeon Creek

Rows 6 & 12 - Annual Dependable Yield of water from San Simeon Creek & total permitted water from Santa Rosa Creek

	A	B	C	D	E	F	G	H	I	J	K	L	M
	estimated 2001 connected residential meters	pending residential meters	total residential meters	TOTAL annual permitted acre feet of water using both creeks per 1977 Coastal Permit	Maximum annual withdraw from San Simeon Creek in af/yr per Water Resources Control Board	Maximum annual withdraw from Santa Rosa Creek af/yr per Water Resources Control Board and 1977 Coastal Permit	San Simeon Creek dependable annual yield af/yr Framework for Planning	permits and yields af/yr less 10% system loss	maximum actual demand in acre feet in a month per commercial meter	projected maximum annual demand in acre feet for commercial meters (215 meters in use in December 2001)	maximum actual demand in acre feet in a month per residential meter	projected maximum annual demand in acre feet for residential meters	projected annual surplus or deficit (-) for permitted water in af/yr
1	Staff Rpt 11-15-01	Staff Rpt 11-15-01	A+B	Application 132-18	Permit 17287	Permit 20387	Page 2-8	.9x E, F, or G	Staff Rpt 7-5-01	Ix215x12	Staff Rpt 7-5-01	CxKx12	H-J-L
2	3712	188	3900	1230	1230			1107.00	0.112	288.96	0.0175	819	-0.96
3	3712	188	3900			518		466.20	0.112	288.96	0.0175	819	-641.76
4	3712	188	3900				900	810.00	0.112	288.96	0.0175	819	-297.96
5	3712	188	3900			330	900	1107.00	0.112	288.96	0.0175	819	-0.96
6								permits and yields af/yr less 15% system loss					
7								.85x E, F, or G					
8	3712	188	3900	1230	1230			1045.50	0.112	288.96	0.0175	819	-62.46
9	3712	188	3900			518		440.30	0.112	288.96	0.0175	819	-667.66
10	3712	188	3900				900	765.00	0.112	288.96	0.0175	819	-342.96
11	3712	188	3900			330	900	1045.50	0.112	288.96	0.0175	819	-62.46

12/14/01

by Vern Kalshan, phone 927-1222, fax 5380

NO. 103 P. 24/25

NO. 103

VERN KALSHAN 18059275380

3:55PM

DEC. 14. 2001

12/14/01

by Vern Kalshan, phone 927-1222, fax 5380

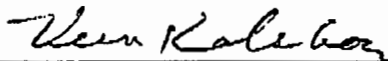
PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF SAN LUIS OBISPO,

I am employed in the County of San Luis Obispo, State of California. I am over the age of 18 and not a party to the within action; my business address is 440 Kerwin Street, Cambria, California, 93428. On December 14, 2001, I served the foregoing document described as APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT D980113D on the applicant's representative by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

Pat L. Blote
RRM Design Group
3765 South Higuera Street, Suite 102
San Luis Obispo, A 93401

I caused such envelope with "first class" or higher postage thereon fully prepaid to be placed in the United States mail at Cambria, California on such date. I am a member of the bar of this court. Executed on December 14, 2001, at Cambria, California. I declare under penalty of perjury under the laws of the State of California that the above is true and correct.



Vern Kalshan



SAN LUIS OBISPO COUNTY
DEPARTMENT OF PLANNING AND BUILDING

FINAL LOCAL
ACTION NOTICE

REFERENCE # 3-SLO-01-613
APPEAL PERIOD 12/3-12/14/01

11/28/01

VICTOR HOLANDA, AICP
DIRECTOR

BRYCE TINGLE, AICP
ASSISTANT DIRECTOR

ELLEN CARROLL
ENVIRONMENTAL COORDINATOR

BARNEY MCCAY
CHIEF BUILDING OFFICIAL

PATRICK BRUN
ADMINISTRATIVE SERVICE OFFICER

NOTICE OF FINAL COUNTY ACTION

HEARING DATE: Nov 6, 2001

SUBJECT: D980113D/ Pacific Comoria INC

LOCATED WITHIN COASTAL ZONE: (YES) NO

RECEIVED

NOV 30 2001

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

The above-referenced application was approved on the above-referenced date by the following hearing body:

/ San Luis Obispo Board of Supervisors

A copy of the findings and conditions is enclosed. The conditions of approval must be completed as set forth in this document.

This action is 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 procedures that must be followed to appeal this action. This appeal must be made directly to the California Coastal Commission Office. Contact the Commission's Santa Cruz Office at (408) 427-4863 for further information on appeal procedures. If you have questions regarding your project, please contact your planner, Tommy Walker, at (805) 781-5600. If you have any questions regarding these procedures, please contact me at (805) 781-5600.

Sincerely,

Linda Jones

Linda Jones

CURRENT DEVELOPMENT

CCC Exhibit D
(page 1 of 15 pages)

(Planning Department Use only)

Date NOFA original to ^{agent} applicant: Pat BLOYE, RRM, 11/28/01

Mailed Hand-delivered

Date NOFA copy mailed to Coastal Commission: 11/28/01

Enclosed:

☒ Staff Report *B/S, letter from Judy Deerback, letter from Vern Kalshan*
☒ Resolution
☒ Findings and Conditions

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CCC Exhibit D
(page 2 of 15 pages)

Exhibit A
D980113D - Findings

- A. As conditioned the proposed project is consistent with the Local Coastal Program and the Land Use Element of the general plan because:
- i. Transient occupancy uses (motels) and retail trade are use groups listed in the Recreation land use category as "Special Uses/Principally Permitted". Theaters are "Allowed" uses in the Recreation land use category. The land uses proposed are therefore consistent with Table "O". The proposed uses are also consistent with all other elements of the general plan.
 - ii. The North Coast Area Plan standards also require all proposed uses in the Recreation land use category be considered through review and approval of a Development Plan application. The Area Plan identifies uses and design criteria that are allowed for this specific site in the Recreation land use category in Cambria and the project has been designed accordingly.
 - iii. The project has been designed to be consistent with the applicable Coastal Policies by minimizing impacts to coastal resources, avoiding forested portions of the site, providing drainage improvements to reduce potential drainage impacts and by providing documentation of water availability from the Cambria Community Services District.
- B. As conditioned, the project or use satisfies all applicable provisions of Title 23 of the San Luis Obispo County Code because the project was designed in accordance with applicable Sections of the CZLUO.
- C. The establishment and subsequent operation or conduct of the use will not, because of the circumstances and conditions applied in this particular case, be detrimental to the health, safety or welfare of the general working public or persons residing or working in the neighborhood of the use, or be detrimental or injurious to property or improvements in the vicinity of the use because:
- i. the project includes a comprehensive drainage plan that addresses existing drainage, proposed drainage associated with the Lodge expansion and the existing drainage adjacent to the site, reducing drainage impacts to a level of insignificance,
 - ii. the project is required to contribute to the area-wide circulation fee program, and
 - iii. the buildings associated with the project are subject to the requirements of the Coastal Zone Land Use Ordinance and Building Code to address health, safety, and welfare concerns.

- D. The proposed project or use will not be inconsistent with the character of the immediate neighborhood or contrary to its orderly development because the project is designed to be compatible with nearby land uses by using relatively small buildings in groups at a similar land use intensity as surrounding residential neighborhoods.
- E. The project will not generate a volume of traffic beyond the safe capacity of all roads providing access to the project, either existing or to be improved with the project because the area's streets are constructed to a level to be able to handle any additional traffic associated with the project and the applicant is required to pay area-wide circulation fees to improve the circulation system.
- F. The site is located on a ridge overlooking the Village of Cambria in excess of one mile from the ocean, is not located between the *first public road* and the ocean, and therefore, it is not physically possible or appropriate for a public coastal access way to be provided by this project. The project currently provides a trail through the site down the hill to the Village with a potential connection to a future trail system in Cambria. The nearest existing public pedestrian access-way is located in excess of one mile from the site. Thus, the project is consistent with the public access and recreation policies of Chapter 3 of the California Coastal Act.
- G. The project has substantially avoided the heavily forested portions of the site and will replace the two Monterey Pine trees proposed for removal with four trees. The project is therefore consistent with CZLUO Section 23.07.176 because native plants will be provided where vegetation is removed and there will be no significant negative impact on the identified sensitive habitat and the proposed use will be consistent with the biological continuance of the habitat.
- H. Site disturbance is *not* located in close proximity to the coastal stream and although the project will result in an increase in storm-water run-off it is an indirect insignificant off-site impact, and the project will provide extensive drainage improvements to ensure that run-off reaches the creek in a non-erosive manner, largely by filtering run-off through the heavily vegetated hillsides as sheet flow. The project is therefore sited and designed to protect the habitat and is compatible with the continuance of the habitat, consistent with CZLUO Section 23.07.174.
- I. Revisions in the project plans and mitigation measures agreed to by the applicant, included in the project description and proposed negative declaration, avoid the effects or mitigate the effects to a point where clearly no significant effect on the environment would occur. There is no substantial evidence in light of the whole record before the public agency that the project, as revised, may have a significant effect on the environment.
- J. Pursuant to Local Coastal Plan Public Works Policy 1 the project has demonstrated that water and sewer service is available by obtaining a "Conditional Intent to

Provide Water and Sewer Service" from Cambria Community Services District, the agency responsible for monitoring water resource availability and allocating water services, and a final will serve letter is required prior to issuance of building permits and the project is therefore consistent with this policy.

- K. Pursuant to Local Coastal Plan Coastal Watershed Policy 1 the projects has been designed to reduce drainage impacts by providing a comprehensive drainage plan that collects storm-water run-off from roof drains, parking lots and other impervious surfaces and disperses run-off in a non-concentrated flow to a heavily vegetated hillside on site to allow for absorption of storm water by the pine forest and thus preventing concentrated, erosive release of storm water. The project is therefore consistent with this policy.
- L. Pursuant to Local Coastal Plan Visual and Scenic Resources Policies 1, 2 and 7 the project has been designed to minimize impacts to the Monterey Pine Forest and site buildings so that they are screened from key viewing areas, thus preserving visual and scenic resources, and the project is therefore consistent with this policy.
- M. Pursuant to Local Coastal Plan Hazards Policies 1, 2 and 3 the project included a geologic study that evaluated the site's geologic hazards and made recommendations to avoid and mitigate these concerns, and the project was designed to avoid slopes over 20% and is therefore consistent with these policies.
- N. Pursuant to Local Coastal Plan Environmentally Sensitive Habitat Policy for Coastal Streams 19 the project's drainage plan was designed to avoid directing concentrated flows of storm water and thus preventing potential impacts to Santa Rosa Creek, located below the project site. Therefore the project is consistent with this policy.
- O. Pursuant to Local Coastal Plan Environmentally Sensitive Habitat Policy for Terrestrial Habitats Policy 27, 28 and 33 the project was designed to avoid the Monterey Pine Forest and will involve the removal of only two pine trees, subject to replacement, and therefore the project is consistent with these policies.

EXHIBIT B
CONDITIONS OF APPROVAL - D980113D

APPROVED DEVELOPMENT

Project Definition

1. This approval authorizes the expansion of the Cambria Pines Lodge including:
 - a) 35 new guests rooms in 9 buildings (totaling 18,800 square feet),
 - b) a small theater (of approximately 6,138 square feet);
 - c) a retail shop (of approximately 1,650 square feet);
 - d) 1 tennis court, subject to Cambria Pine tree mitigation limitation (cond.1h);
 - e) additional parking spaces; access improvements;
 - f) related grading and site improvements;
 - g) comprehensive drainage improvements
 - h) limited tree removal, not to exceed 2(two) Monterey pine
 - i) retaining walls (constructed prior to development plan approval)
 - j) cisterns (constructed prior to development plan approval)
 - k) parking areas (constructed prior to development plan approval)
 - l) The theater shall provide a 20 foot setback from the site's perimeter property-lines.
 - m) No temporary events are allowed without first obtaining the required land use permit for the specific temporary event.
 - n) Site development and construction drawings for permits shall be consistent with the approved *revised* site plan, floor plans, elevations, final landscaping and fencing plan, lighting plan and sign plan. The ingress and egress at Yorkshire and Patterson may be revised to allow entry at Patterson and either no entry at Yorkshire or fire safety access only, subject to written approval by the Cambria Fire Department and County Public Works.
 - o) Prior to issuance of building permits the applicant shall prepare a Parking Management Plan to include specific measures that Lodge employees will take to respond to guests parking off-site along public roads where Lodge parking is not allowed. Plan to include notification of guests, posting of signs, as well as the identification of appropriate responses to be taken by Lodge employees.
 - p) All new parking lots associated with the expansion (including the existing one adjacent to Patterson Place shall have a minimum 10 foot front yard setback.

The development plan approval is valid for a period of two years pursuant to CZLUO Section 23.02.040. Time extensions must be submitted in writing to the

Department of a Planning and Building prior to expiration of the development plan, and may be approved for a period of one year, based on the circumstances at the time of the request pursuant to CZLUO Section 23.02.050.

Operations

2. The project includes the following operational elements of the project so that the Lodge operates as a visitor serving use which is compatible with surrounding residential neighborhoods.
 - a) All commercial deliveries shall be made via the Burton Drive entrance not the Yorkshire entrance. The operator of the motel and restaurant on this property shall limit commercial pickup and delivery between the hours of 7:00 a.m. and 10:00 p.m.
 - b) Check-in/Check-out shall be handled at the main Lodge building, not the theater
 - c) No banquet or conferences shall be allowed in the buildings associated with the expansion beyond those uses currently allowed as ancillary to the existing restaurant
 - d) No bus parking, loading or unloading will be allowed west of the Patterson Road entry drive to minimize conflicts with the surrounding residential neighborhood
 - e) No temporary events are allowed on the site without first obtaining the required land use permit for the specific temporary event proposed
 - f) No lighting of tennis courts is allowed
 - g) No construction vehicle allowed to park off site.

Condition Compliance

3. Prior to issuance of a grading or construction permit the applicant shall satisfy all the conditions of approval enumerated herein, and submit all required plans, reports and permits required for the construction of the proposed project.
 - a) Final Drainage Plan (to be jointly reviewed and approved by CCSD and County Public works Department)
 - b) Final Landscaping Plan (see specific requirements below)
 - c) Pine Forest Enhancement & Revegetation Plan
 - d) Color Board
 - e) Sign Plan
 - f) Lighting Plan
 - g) Final Phasing Plan
 - h) A Performance Agreement for installation of Drainage Improvements
 - i) A Performance Agreement for installation of landscaping and Monterey Pine Forest revegetation and enhancement

Building Phasing and Improvements Schedule

4. Prior to issuance of a grading or construction permit the applicant shall submit a

phasing schedule that at minimum will include the following:

- a) Comprehensive Drainage Improvements (upgrades) for the existing portions of the Lodge, drainage facilities associated with the new access roads and parking areas, and all improvements associated with the over-all development shall be installed prior to finaling the first building.
- b) Building-Specific Drainage Improvements for individual buildings shall be installed prior to finaling each individual building.
- c) Comprehensive Landscaping (enhancements & Monterey Pine tree replacement) for the forested portions of the site shall be installed prior to finaling the first building.
- d) Building-Specific Landscaping for individual building may be installed prior to finaling each individual building.
- e) All project-wide access roads and fire safety improvements shall be constructed prior to finaling the first building permit.

Agency Review

- 5. **Prior to issuance of a grading or construction permit** the applicant shall obtain written verification from (at minimum) the following agencies/departments indicating that they have satisfied their requirements:
 - a) **Cambria Community Services District** - Including water service, sewer service, fire safety and all other areas of purview (Fire Safety Plan, Water and Sewer Service & improvements, and Drainage Plan Review)
 - b) **County Public Works Department**
- 6. **Prior to final inspection**, the applicant shall provide written clearance that all improvements and facilities have been constructed in accordance with the requirements of the following agencies/departments:
 - a) **Cambria Community Services District** - Including water service, sewer service, fire safety and all other areas of purview (Fire Safety Plan, Water and Sewer Service & improvements, and Drainage Plan Review)
 - b) **County Public Works Department**

Site Development

- 7. Site development shall be consistent with the approved revised site plan, drainage plan, floor plans and elevations.

8. **Prior to issuance of a construction permit**, final colors and materials shall be submitted to the Department of Planning and Building for review and approval. Colors and materials will be substantially the same as those to be reviewed and approved by the Development Review Section when submitted by the applicant.

Building Height

9. Building height shall not exceed 29 feet for the Theater and 26 feet for motel units, measured from average natural grade, and shall substantially conform to the height shown on the approved plans. Prior to setting forms and foundation inspection, the applicant shall have a qualified professional set a control point for verification of height measurement. The control point shall be inspected by a building inspector prior to pouring footings or retaining walls.

Sign Plan and Lighting Plan

10. **Prior to issuance of a construction permit**, the applicant shall submit a sign plan and lighting plan for the proposed project. The signs shall be consistent with the sign provisions of the Coastal Zone Land Use Ordinance (CZLUO). Lighting of signs shall be the minimum necessary. All light sources shall be directed away from any road or street, and away from surrounding residential neighborhoods, so as to minimize the affect of glare. All lighting shall be consistent with CZLUO Section 23.04.300.

Landscape/Fencing/Parking

11. **Prior to the issuance of any construction permits**, submit final landscape, irrigation and landscape maintenance plans in accordance with Section 23.04.180 through 23.04.186 of the Coastal Zone Land Use Ordinance to the Development Review Section of the Planning and Building Department for review and approval. Plans shall include location, species and container size of all proposed plant materials and method of irrigation. All proposed plant material shall be of a drought tolerant variety and be sized to provide a mature appearance within three years of installation. The landscape plan shall include the following:
- a) utilize native-type plants, as specified by the CZLUO.
 - b) provide parking lot trees in accordance with Section 23.04.168f
 - c) indicate the location of all existing trees (to be preserved as elements of the landscaping)
 - d) all landscape medians between public roads and parking lots shall include 3 foot earthen berms where existing grade allows
 - e) indicate location and height of all proposed fencing in conformance with Section 23.04.190 including typical fencing elevation details
 - f) location of required bicycle racks
 - g) parking spaces and parking lot configuration as required by Section 23.04.160 et seq.

12. **Prior to final building inspection** for each building landscaping and fencing shall be installed or bonded for. Comprehensive site landscaping shall be as specified in condition #4 above. If bonded for landscaping shall be installed within 90 days after final inspection of each building or for a time interval specified by the Planning Director if special circumstances prevail, and shall be maintained in a viable condition on a continuing basis.
13. **At the time of application for building permits**, the applicant shall submit a lighting plan, in conjunction with final landscape plans for both the parking lots and building exteriors, that demonstrates compliance with section 23.04.320 of the Coastal Zone Land Use Ordinance.

Undergrounding of Utilities

14. All utilities shall be located underground.

Drainage

15. **Prior to issuance of a construction permit**, the applicant shall submit a drainage plan to the County Public Works Department and CCSD for review and approval. The plan shall incorporate Best Management Practices to handle the runoff from the site and shall include provisions agreed to in the Developer's Statement.

Grading Permit

16. **Prior to issuance of building permits** submit grading, sedimentation and erosion control plans in accordance with CZLUO Section 23.05.034 through 23.05.050, prepared by a registered civil engineer. Grading permits shall address at minimum earthwork for cisterns and tennis courts

ENVIRONMENTAL MITIGATION

Geology

17. **Prior to any site disturbance or issuance of grading permits or building permits**, the following conditions shall be implemented with and included on all building plans and grading plans:
- a) A Certified Engineering Geologist shall review construction plans, including all plans for site grading and soil excavation for building foundations and provide written recommendations regarding all grading, structures and drainage plans relative to slope stability, soil creep and drainage relative to erosion control. The Certified Engineering Geologist shall review all soil excavation with respect to conformance with the recommendations of the engineering geology report.

- b) The Certified Engineering Geologist shall inspect work on-site and verify that building construction, including all foundation work, has been performed in a manner consistent with the intent of the plan review and engineering geology report.
- c) The Certified Engineering Geologist shall issue a final engineering geology compliance report as required by the Uniform Building Code which identifies changes observed during construction, recommendations offered for mitigation, and confirmation that construction was completed in compliance with the intent of the engineering geology report.
- d) A final report prepared by a Geotechnical Engineer and/or Civil Engineer shall be submitted to the County's building official stating that all work performed is suitable to support the intended structure. Such report shall include any field reports, compaction data, etc.
- e) Should the services of the Certified Engineering Geologist be terminated prior to final inspection and/or issuance of occupancy permits, the applicant shall submit a transfer of responsibility statement to the County Planning Department from the new Certified Engineering Geologist as per the Uniform Building Code.
- f) The applicant shall implement all recommendations in Observation and Testing Programs prepared by project Civil Engineer(s), Geotechnical Engineer(s), and /or Certified Engineering Geologist(s). The Observation and Testing Program may include, but not be limited to any of the following tasks:

- Review of Final Project Plans
- Review of stripping and clearing of vegetation
- Review of cut and fill slopes
- Review of preparation of soil to receive fill
- Review of fill placement and compaction
- Review of subsurface drainage control
- Review of footing excavations
- Review of pre-moistening of subslab soils
- Review of erosion control measures

- 18. **During project construction/ground disturbing activities**, the applicant shall retain a Certified Engineering Geologist of record and shall provide the Engineering Geologist's written certification of adequacy of the proposed site development for its intended use to the Department of Planning and Building.
- 19. **Prior to occupancy or final inspection, whichever occurs first**, the Engineering Geologist of record shall verify that construction is in compliance with the intent of the Geologic Hazards Report for Proposed Addition to Cambria Pines Lodge, Cambria, San

Luis Obispo County, APN 023-431-002, prepared by Timothy S. Cleath, CEG 1102, of Cleath and Associates, dated December 17, 1998. The Engineering Geologist shall verify that the Report's recommendations have been incorporated into the final design and construction. This verification shall be submitted in writing to the Department of Planning and Building for review and approval.

Drainage

20. **Prior to any site disturbance or issuance of grading permits or building permits,** the applicant shall submit a Sedimentation and Erosion Control Plan, prepared and signed by an erosion control specialist, that addresses both temporary and long-term sedimentation and erosion control measures. The plan shall include but not be limited to the following measures:
- a) **Slope surface stabilization:** Temporary mulching, seeding or other suitable stabilization measures approved by the County Engineer shall be used to protect exposed erodible areas during the period from October 15 through April 15. Earth or paved interceptors and diversions shall be installed at the top of cut or fill slopes where there is a potential for erosive surface runoff.
 - b) **Erosion and sedimentation control devices:** In order to prevent sedimentation discharges, erosion and sediment control devices shall be installed as necessary for all grading and filling. Control devices and measures may include, but are not limited to, energy absorbing structures or devices such as straw bales, straw waddles, silt fences and other protective measures to reduce the velocity of runoff water.
 - c) **Final erosion control measures:** During the period from October 15 through April 15, all surfaces disturbed by vegetation removal, grading, or other construction activity are to be revegetated to control erosion within 10 days after completion of grading, unless the graded areas are covered with impervious or other improved surfaces authorized by approved plans.
 - d) **Control of off-site effects:** All grading activity shall be conducted to prevent damaging effects of erosion, sediment production and dust on the site and on adjoining properties.
21. **Prior to issuance of grading and building permits and prior to any additional site disturbance,** the applicant shall submit to the County Department of Planning and Building, Department of Public Works and the Cambria Community Services District a Drainage Plan, prepared by a Registered Civil Engineer, that addresses: 1) the effects of the project's projected runoff on adjacent properties and existing drainage facilities and systems; and 2) estimates of existing and increased runoff resulting from the proposed improvements. The drainage plan shall include but not be limited to the following provisions and improvements:

- a) all (comprehensive) site drainage improvements shall be installed prior to finaling the first building permit except for those improvements associated only with new buildings which shall be installed in conjunction each building permit
- b) erosion control measures shall be installed prior to commencement of work in accordance with grading and building permits or immediately after grading has been completed as is deemed warranted by the Department of Planning and Building in consultation with County Public Works Department, based on the extent of grading in each sub-area, the time of year and the potential for erosion
- c) grading associated with the parking lot at the corner of Yorkshire Street and Martindale Road shall not result in finish grades in excess of 2:1 slopes
- d) construct a rip-rap energy dissipater & bowl out around the existing inlet adjacent to Martindale Road to provide more storm-water capacity
- e) improve the up-slope swale paralleling Martindale Road at the drainage inlet across from Piney Way as determined by the County Public Works Department through the review of the final drainage plan
- f) collect storm-water from roof drains and convey away from Martindale Road as shown on the preliminary drainage plan or other measures approved by county Public Works Department such as french drains along the rear yards of new buildings with roof down-spouts connected to the french drain system to allow for soil absorption of rainwater and to prevent rapid runoff from roof drains to adjacent areas
- g) construct a small rock energy dissipater southeasterly from the intersection of Rogers Drive and Martindale Road at the point of connection with the private fire safety access road to control run-off from the access road to public roadways
- h) enlarge the swales between buildings (e.g. buildings 16 & 29 and 21 & 22) and armor swales with rocks as shown on the preliminary grading and drainage plan
- i) add small rock rip-rap along the interior site access road between building 26 and 36 as shown on the preliminary grading and drainage plan
- j) construct a shallow reverse french drain or other flow dispersion measures downslope of existing buildings as needed (e.g. building 36) and connect roof drains to it to prevent concentrated runoff and enhance absorption of rainwater into the soil as shown on the preliminary grading and drainage plan
- k) install a new drain inlet at the parking lot south of building 29 to prevent un-directed run-off from the interior site access road and parking lot and direct runoff to adjacent drainage swale as shown on the preliminary grading and drainage plan

- l) parking lot surfaces to use pervious material such as turf block or pavers or cobbles to allow for percolation
 - m) install tie in roof drains on existing buildings as determined by County Public Works Department
 - n) additional improvements as identified by County Public Works Department with the review of the Final Drainage Plan submitted with Grading and Building Permits
22. **Prior to occupancy or final inspection, whichever occurs first**, the Registered Civil Engineer shall verify that the recommendations of the Drainage Plan and the Sedimentation and Erosion Control Plan have been incorporated into the final design and construction. This verification shall be submitted in writing to the Department of Planning and Building for review and approval. If required by the Public Works Department, the applicant shall execute a plan check and inspection agreement with the County, so the drainage, sedimentation and erosion control facilities can be inspected and approved before a certificate of occupancy is issued.

Storm water best management practices

23. **Prior to issuance of grading or building permits** a best management practices implementation plan shall be submitted to the Department of Planning and Building for review and approval. The project shall use best management practices (BMPs) to control and prevent pollutants from entering the storm drain system. BMPs shall be chosen and sized to meet the guidance of the California Storm Water Best Management Practices Handbook. Such measures shall include both source control and treatment control practices that insure contaminants do not leave the site. Restaurant and other commercial cleaning practices that can impact water quality (such as floor mat rinsing and vehicle cleaning) by introducing chemicals to storm drain systems (detergents, oils and grease and corrosive chemicals) shall provide designated areas that collect and dispose of this runoff through sanitary septic system. Street sweeping and cleaning shall use BMPs outlined in the above referenced handbook or the Model Urban Runoff Program to keep contaminants and cleaning products from entering the storm drain system. Such measures shall include but not be limited to oil/water separators and grease traps for parking lots and grass-lined swales where appropriate. Impervious surfaces shall be kept to the minimum necessary, use of turf-block, pavers, gravel and similar more pervious surface treatments shall be used through-out the project except where demonstrated to be inappropriate.

Tree protection/replacement

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

24. **Within 90 days of occupancy**, the (2) Monterey Pine trees removed as a result of grading shall be replaced at a 2:1 ratio. A total of (4) Monterey pine trees shall be

planted. Monterey pine replacement trees shall be one gallon saplings grown from the Cambrian stand; *Pinus radiata macrocarpa*.

25. These newly planted trees (4) Monterey Pines shall be maintained until successfully established. This shall include caging from animals (e.g., deer, rodents), periodic weeding and adequate watering (e.g., drip-irrigation system). If possible, planting during the warmest, driest months (June through September) shall be avoided. In addition, standard planting procedures (e.g., planting tablets, initial deep watering) shall be used.

Once the replacement trees have been planted, the applicant shall retain a qualified individual (e.g., landscape contractor, arborist, nurseryman, botanist) to prepare a letter stating the above planting and protection measures have been completed. This letter shall be submitted to the Department of Planning and Building.

26. To promote the success of the new trees, the applicant shall retain a qualified individual (e.g., arborist, landscape architect/contractor, nurseryman) to monitor the new trees until successfully established, on an annual basis, for no less than three years. The first report shall be submitted to the County Environmental Coordinator one year after the initial planting and thereafter on an annual basis until the monitor, in consultation with the County, has determined that the newly planted vegetation is successfully established. The applicant and successors-in-interest agree to complete any necessary remedial measures identified in the report and approved by the Environmental Coordinator.
27. All trees to remain on-site that are within fifty feet of construction or grading activities shall be marked for protection (e.g., with flagging) and their root zone fenced prior to any grading. The outer edge of the tree root zone is 1-1/2 times the distance from the trunk to the drip line of the tree. Grading, utility trenching, compaction of soil, or placement of fill shall be avoided within these fenced areas. If grading in the root zone cannot be avoided, retaining walls shall be constructed to minimize cut and fill impacts. Care shall be taken to avoid surface roots within the top 18 inches of soil.

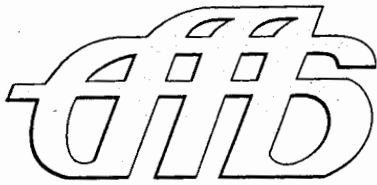
Water and Sewer Service

28. **Prior to issuance of any grading or building permits** the applicant shall obtain a final will serve letter from the Cambria Community Services District and a letter of release that clearly indicates that the District's requirements have been met and permits can be issued in accordance with the "Conditional Intent to Provide Water and Sewer Service" dated October 6, 1999, and May 24, 2001, update and extension letter.

Fire Safety

29. **Prior to issuance of any grading or building permits** the applicant shall obtain a final fire safety plan and clearance letter from the Cambria Fire Department / Cambria Community Services District that clearly indicates that the District's requirements have been met and permits can be issued in accordance with the "Conditional Intent to Provide Water and Sewer Service" dated October 6, 1999.





gary michael swauger architect

20 February 2003

Jonathan Bishop
California Coastal Commission, Central Coast Area
725 Front Street Suite 300
Santa Cruz, CA 95060

re: Cambria Pines Lodge Appeal Water usage issues

RECEIVED

FEB 24 2003

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Dear Jonathan:

As per our phone conversation, the metered water usage for calendar year 2002 at the Cambria Pines Lodge was 8542 cubic feet (units), or 6,389,416 gallons. This is based on Cambria Community Services District (CCSD) bi-monthly billings for calendar year 2002.

With the proposed addition of 26 new units and the theater which replaces the existing hair salon, the water usage will be 9201.5 units or 6,882,688 gallons per year. The theater will use less water than the existing salon, based on a CCSD allocation of 1.05 equivalent dwelling units (EDU's) for the salon and 0.44 EDU's for the theater. The motel unit increase in water usage is based on water usage of the Cypress Cove Inn, a 22 unit motel on Moonstone Beach Drive also owned by Dirk Winter which used 558 units or 417,384 gallons in 2002. The new units at the Lodge will be similar in size and amenities to the Cypress Cove Inn units. The per unit usage of the Cypress Cove Inn is 417,384 gallons/year divided by 22 motel units or 18,972 gallons per year. The 26 units would use 18,972 gallons per year multiplied by 26 units for a total of 493,272 gallons per year.

The increase of 493,272 gallons per year will be offset by installing ozone laundry facilities at the Fog Catcher Inn, a 60 unit motel, and the Pelican Suites Inn, a 27 unit motel, both located on Moonstone Beach Drive and owned by Dirk Winter. The water savings of the ozone laundry facilities at the Fog Catcher Inn and the Pelican Suites Inn will be in excess of 700,000 gallons per year, see attached report from H2O Engineering dated 16 February 2003.

The Inn at Morro Bay uses an ozone system for their laundry of 640 loads per month. They calculated their overall utilities cost reduction at 33% and chemicals cost reduction at 40% for an actual annual savings of \$20,683.20, making their laundry retrofit cost effective in less than 2 years. The installation of the retrofitted laundry systems for the Fog Catcher and Pelican Suites motels is estimated by the manufacturer to be \$80,000.00, with annual maintenance for both systems at \$3000.00. Using the current CCSD rates, saving over 950 units of water will result in an annual savings of \$8445.00 in water and sewer fees. The reduced energy and chemical savings will be approximately \$7783.00 per year. Without factoring in the reduced labor costs per load or the reduction in linen replacement costs, the laundry retrofits will be cost effective in 6 years.

Page 2 of 2

Jonathan Bishop
re: Cambria Pines Lodge Appeal Water usage issues

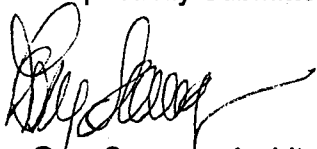
Documentation attached:

- 1]. CCSD water service billings for calendar year 2002 for the Cambria Pines Lodge and Cypress Cove Inn
- 2]. H2O Engineering report dated 16 February 2003.
- 3]. Westland Engineering water report, previously submitted.

Conditions of approval

- 1]. Agreement to retrofit laundry of the Fog Catcher Inn and the Pelican Suites inn prior to occupancy of the proposed 26 units at the Cambria Pines Lodge.
- 2]. Agreement to maintain the ozone laundries, or more efficient systems in future, for the life of the proposed 26 units at the Cambria Pines Lodge.

Respectfully Submitted,



Gary Swauger Architect C-15960



Upper Salinas-Las Tablas Resource Conservation District

65 Main Street, Suite 108, Templeton, CA 93465 / (805) 434-0396 ext 4/fax 434-0284

Erosion Control Assistance Program ECAP

June 30, 2003

Jonathan Bishop
California Coastal Commission
Central Coast District
725 Front Street, Suite 300
Santa Cruz, CA 95060

RE: Cambria Pines Lodge Expansion
Site Location, 2905 Burton Dr., Cambria. Owner: Pacific Cambria, Inc.

Dear Jonathan,

We received your fax of the materials for the Cambria Lodge permit conditions and findings. Regarding your questions about drainage and erosion issues, several of the conditions that the Resource Conservation District recommended were deleted or modified by the County. We did not review the latest plans submitted by the applicant. However, we think that the issues related to drainage and erosion can be adequately addressed by requiring adequate erosion control and sufficient detention basins.

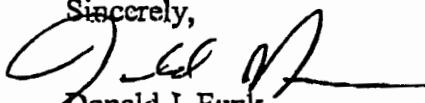
The surrounding area below the lodge has been negatively affected by increased runoff from the development of the lodge, streets, and nearby residences. The small drainages have been impacted by the additional peak flows. "Tin City" has been the recipient of recent flooding. The drainage along Piney Way has begun to erode severely because of the added flows and because of the lack of energy dissipating rock at the drainage outlet pipe across the street from the project. The recently constructed parking lots and the new proposed buildings add to the problem.

In previous meetings and correspondence, we had recommended the construction of detention basins. These basins could be incorporated into the landscaping. Other erosion control can also be incorporated into the plans. We recommend that you condition offsite flow (q) to be reduced to a level equal to or less than predevelopment levels (site in natural state).

We further suggest that final coastal permit conditions include the review of drainage and erosion control by the Resource Conservation District prior to issuance of grading and building permits.

If you have any questions, please contact us.

Sincerely,


Donald J. Funk
Executive Director

CCC Exhibit F
(page 3 of 4 pages)

DIRECTORS:

PETER CHALDECOTT, President
ILAN FUNKE-BILU, Vice President
JOAN COBIN
HELEN MAY
DONALD VILLENEUVE

**OFFICERS:**

VERN HAMILTON, General Manager
TAMMY RUDOCK, Assistant General Manager
KATHY CHOATE, District Clerk
ARTHER MONTANDON, District Counsel

1316 Tamson Drive, Suite 201 • P.O. Box 65 • Cambria CA 93428
Telephone (805) 927-6223 • Facsimile (805) 927-5584

October 31, 2002

Mr. Dirk Winter
Moonstone Hotel Properties
2905 Burton Drive
Cambria, CA 93428

Re: Water allocation for Cambria Pines Lodge.

Dear Mr. Winter,

This letter will summarize our conversation regarding the allocation for water service to the Cambria Pines Lodge and the need for additional "Intent to Serve" letters for that property.

The Cambria Pines Lodge has a current allocation of 107.85 EDU as summarized below:

152 motel rooms @ 0.6 EDU per room (91.2)
70 seat restaurant @ 0.07 EDU per seat (4.9)
225 seat banquet room @ 0.07 per three seats (5.25)
1 spa complex (3.0)
4 conference rooms @ 0.39 per room (1.56)
35 seat bar @ 0.43 per 10 seats (1.51)
1 retail shop (0.43)
Total allocation: 107.85

Any alterations to the uses at the Cambria Pines Lodge that do not increase the water usage above the current allocation should not require an additional "Intent to Serve" letter from the CCSD.

If you have any questions, or if you need additional information on this matter, please feel free to contact me.

Sincerely,

V.L. Hamilton
General Manager

CCC Exhibit F
(page 4 of 4 pages)