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Staff: Daniel Robinson - SC
Staff Report: 1/26/2017
Hearing Date: 2/07/2018

APPEAL STAFF REPORT: DE NOVO HEARING

Appeal Number: A-3-SLO-09-058

Applicant: Franco DeCicco

Project Location: Northeast corner of Ocean Boulevard and Old Creek Road in the unincorporated community of Cayucos, San Luis Obispo County (APNs 064-263-025, 064-263-052, 064-263-053, 064-263-036)

Project Description: Re-subdivision of 18 lots into three lots (two residential lots and one commercial lot) and construction of a 19-room hotel, as well as an underground parking garage, and associated landscaping, drainage, and other improvements on the commercial lot.

Staff Recommendation: Approval with Conditions

SUMMARY OF STAFF RECOMMENDATION

The Applicant proposes to subdivide 18 legal lots of record (12 lots within the Commercial Retail (CR) land use category and six lots within the Residential Multi-Family (RMF) land use category) into three lots (two residential lots and one commercial lot) and to construct a 19-room hotel (the "Cayucos Del Mar Hotel") with associated underground hotel parking, landscaping, drainage, and other improvements on the one commercial lot, located at the northeast corner of Ocean Boulevard and Old Creek Road, just inland of Highway 1, in the unincorporated community of Cayucos in San Luis Obispo County. The Applicant does not propose additional development at this time on the two residential lots that would be created, and thus any development there would be the subject of additional coastal permitting at a later date.

When the Commission found substantial issue on the County's approval, the primary reason for that determination was related to Commission concerns regarding the overall mass and scale of the development in relation to public views and neighborhood compatibility. Since that time, and since the Applicant reengaged on the project in 2015, the Applicant has worked closely with Commission staff on a revised project to address the Commission's concerns. Specifically, the Applicant has reduced the number of units on the upper floor of the hotel, included variations in coloring and architecture to help break up the massing of the hotel, reduced the amount of occupancy allowed in each suite-style hotel room (to reduce parking pressure), and has located all required parking underground and beneath the hotel. All of these changes help to reduce perceived massing and potential visual compatibility concerns. The Applicant has also reduced the overall scale of the project by eliminating the previously proposed residential component of the project (originally four units), which also serves to reduce the scope of development at this location (albeit just for this project, because the Applicant (or a future owner of the residentially-zoned properties) may pursue development on the residential lots at some future time).

In terms of size, scale, and character, the proposed project would introduce an approximately 34,500-square-foot, 30-foot-tall and three-story (above ground) hotel (and an approximately 12,000-square-foot subterranean garage) to a site that currently contains an approximately 1,000-square-foot, single-story building and associated commercial-retail business. While the hotel development would be substantially larger than the existing development on the site, the proposed hotel provides for a high LCP-priority visitor-serving use along the coast for the benefit of the public, and would meet all applicable LCP development standard requirements. In addition, the proposed hotel would be located inland of Highway 1 in an area that is already fairly densely developed and where, as modified and conditioned, the hotel should be able to blend into the surrounding area. The Applicant's visual simulations show that the project would not significantly impact coastal views as seen from Highway 1. The project would certainly change the existing viewshed from Highway 1 when looking inland, but this view would be seen in the context of surrounding adjacent urban development, including existing development above the site on the surrounding hillsides and along Highway 1 itself. Proposed project elements and conditions, materials requirements, landscaping, and undergrounding of utilities should also all help to further mitigate the project's potential visual impacts to a less than significant level.

Regarding the provision of lower-cost visitor serving accommodations, the proposed hotel is specifically designed to accommodate families with an average maximum occupancy of six (ranging from a maximum occupancy of four for the studios to eight for the two largest two-bedroom suites), which can allow a family or group of visitors to take advantage of the higher occupancy allowed for in the proposed accommodations with no increase in the room rate. Furthermore, proposed room amenities, including kitchens, kitchenettes, and gas grills, will provide visitors lower-cost alternatives to having to eat meals at outside restaurants. These are amenities that make the hotel more accessible to the general public because it may allow visitors to better afford staying at these accommodations by compensating for other travel costs (e.g., food). In addition, the proposed project does not displace any existing overnight accommodations (lower cost or otherwise) and is not located in a visitor-serving overlay zoning (combining designation) district. Given all of these factors, staff believes that, in this case, and given the limited mix of similar hotel offerings in this area and the fact that the design of the hotel increases affordability for families and other groups, it would be more appropriate to

characterize the proposed project as primarily moderate-cost. In addition, four of the rooms are proposed at just below the peak season statewide average, and with the addition of kitchenettes and other offerings (as described above) as part of these rooms, it would be more appropriate to characterize these rooms as lower-cost, in this case. Thus, the project does not warrant mitigation for the loss of LCVS due to higher cost accommodations, and the proposed project increases the range of overnight accommodations opportunities across a range of costs in Cayucos, consistent with the LCP. However, in order to ensure that the rooms remain primarily moderate-cost over time, special conditions are also included to ensure that the Applicant undertakes development as proposed, including in relation to the Applicant's own proposed rate structure. Conditions also ensure that the hotel remains a standard operation hotel (and not a pseudo-residential timeshare, or fractional ownership type hotel, etc.), and that all of the rooms remain open and available to the general public.

In sum, the project as conditioned represents a significant visitor-serving addition to Cayucos, on a commercially designated lot, and one that will result in numerous visitor-serving benefits and meets core LCP and Coastal Act objectives. The project would certainly change the visual landscape in this area but not coastal views from Highway 1 (i.e. views that include Highway 1 itself and existing residential development both inland and seaward of Highway 1, but the project's revisions effectively reduce the real and perceived mass and scope of the development, and thus eliminate significant adverse visual and community compatibility issues as required by the LCP.

Thus, staff recommends that the Commission approve a conditioned CDP for the proposed project. The motion is found on page 5 below.

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APPENDICES

Appendix A – Substantive File Documents

Appendix B – Staff Contact with Agencies and Groups

EXHIBITS

Exhibit 1: Location Maps and Site Photos

Exhibit 2: Project Site Plans, including Underground Parking

Exhibit 3: Project Elevations and Perspectives

Exhibit 4: Project Landscaping Plan

Exhibit 5a: Visual Simulations of Project, seen from Highway 1

Exhibit 5b: Visual Simulations of Project, seen from Orville St., Ocean Blvd., & Old Creek Rd.

Exhibit 6: Project Proposed Hotel Rates and Amenities

Exhibit 7: Applicant’s Room Rate Data (Cayucos and Morro Bay)

Exhibit 8: Applicant’s Letter dated January 16, 2018 regarding Lower-Cost Accommodations

Exhibit 9: San Luis Obispo County Conditions

CORRESPONDENCE

EX PARTE COMMUNICATIONS

I. MOTION AND RESOLUTION

Staff recommends that the Commission, after public hearing, **approve** a coastal development permit for the proposed development. To implement this recommendation, staff recommends a **YES** vote on the following motion. Passage of this motion will result in approval of the CDP as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

***Motion:** I move that the Commission approve Coastal Development Permit Number A-3-SLO-09-058 pursuant to the staff recommendation, and I recommend a yes vote.*

***Resolution to Approve CDP:** The Commission hereby approves Coastal Development Permit Number A-3-SLO-09-058 and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with San Luis Obispo County Local Coastal Program. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.*

II. STANDARD CONDITIONS

This permit is granted subject to the following 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 Permittees 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 Permittees to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

This permit is granted subject to the following special conditions:

1. **Approved Development.** Coastal Development Permit (CDP) A-3-SLO-09-058 authorizes subdivision of 18 existing legal lots of record (and comprised of four APNs) into two Residential Multi-Family (RMF) lots and one Commercial Retail (CR) lot and construction of an 19-unit hotel and related development on the CR lot, as expressly proposed by the Applicant (including with respect to proposed hotel room rates in **Exhibit 6**) and as shown in **Exhibits 2, 3 and 4**, and as modified by the conditions of this CDP. The Permittee shall undertake development in accordance with the approved CDP. Any proposed changes to the development shall be reported to the Executive Director. No changes to the approved development shall occur without a Commission-approved amendment to this CDP unless the Executive Director determines that no amendment is legally required.
2. **Revised Final Plans.** PRIOR TO ISSUANCE OF THE CDP, the Permittee shall submit two full size sets of Revised Final Plans to the Executive Director for review and written approval. All proposed project plans shall be revised to be consistent with the terms and conditions of this CDP and the Commission's approval. The Revised Final Plans shall be prepared and certified by a licensed professional or professionals as applicable (e.g., architect, surveyor, geotechnical engineer) based on current information and professional standards and certified topographic elevations for the entire site, shall include a graphic scale, and shall be certified to ensure that they are consistent with the terms and conditions of this CDP and the Commission's approval. The Revised Final Plans shall clearly identify the development's siting and design, including through elevation and site plan views, and shall be substantially in conformance with the proposed project plans submitted to the Commission (titled Cayucos Del Mar, dated January 2018 and dated received in the Coastal Commission's Central Coast District Office on January 19, 2018; see **Exhibits 2, 3, and 4**), and shall include and reflect the following requirements:
 - (a) **Lighting.** The location and intensity of all exterior lighting, including the height and luminosity, shall be identified on the plans. All exterior lighting shall be low-wattage, non-reflective, and shielded downward to minimize illumination beyond the hotel property's boundaries.
 - (b) **Exteriors.** All exterior materials shall utilize non-reflective surfaces as much as possible, including through the use of low and non-reflective glazing or coatings. Highly reflective exterior materials (such as chrome, bright stainless steel or glossy tile) shall be prohibited on any sides of the hotel development that are visible from offsite locations.
 - (c) **Underground Utilities.** The plans shall include a utility plan that shows all existing and new utilities surrounding the project site along Ocean Avenue, Old Creek Road, and Orville Street located underground.
 - (d) **Drainage and Runoff Control.** The plans shall include a post-construction drainage and runoff control plan that is sited and designed: to collect, filter, treat, and direct all site drainage and runoff in a manner intended to protect and enhance coastal resources as much as possible; to prevent pollutants, including increased sediments, from entering

coastal waters as much as possible; to filter and treat all collected drainage and runoff to minimize pollutants as much as possible prior to infiltration or discharge from the site; to retain runoff from roofs, driveways, decks, and other impervious surfaces onsite as much as possible; to use low impact development (LID) best management practices (BMPs) as much as possible; to be sized and designed to accommodate drainage and runoff for storm events up to and including at least the 85th percentile 24-hour runoff event (allowing for drainage and runoff above that level to be likewise retained and/or conveyed in as non-erosive a manner as feasible); to direct all drainage and runoff not infiltrated on site per the approved system to inland infrastructure able to handle the flows; and to include ongoing maintenance and management procedures (including at the least provisions for annual pre-storm season and post-storm event evaluation and repair/maintenance) that meet professional standards for maintenance of such systems, and that will apply the life of the project.

- (e) **Landscaping.** All non-native and/or invasive plants on the site, including iceplant, shall be removed and the site kept free of such plants for as long as any portion of the approved development exists at this site. All landscaping shall be drought-resistant native or non-invasive nonnative species, and all landscaped areas on the project site shall be maintained in a litter-free, weed-free, and healthy growing condition. All irrigation systems shall limit water use to the maximum extent feasible, including using irrigation measures designed to facilitate reduced water use (e.g., micro-spray and drip irrigation). The use of reclaimed water (including gray water” systems) and rainwater catchment systems for irrigation is encouraged. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, or as may be so identified from time to time by the State of California, and no plant species listed as a “noxious weed” by the State of California or the U.S. Federal Government shall be planted or allowed to naturalize or persist on the site.

The Permittee shall undertake development in accordance with the approved Revised Final Plans. Any proposed changes to the approved Revised Final Plans shall be reported to the Executive Director. No changes to the approved Revised Final Plans shall occur without a Commission-approved amendment to this CDP unless the Executive Director determines that no amendment is legally required.

- 3. **Construction Plan.** PRIOR TO ISSUANCE OF THE CDP, the Permittee shall submit two copies of a Construction Plan to the Executive Director for review and written approval. The Construction Plan shall, at a minimum, include the following:
 - (a) **Construction Areas.** The Construction Plan shall identify the specific location of all construction areas, all staging areas, and all construction access corridors in site plan view. All such areas within which construction activities and/or staging are to take place shall be minimized to the maximum extent feasible in order to have the least impact on the coastal resources.
 - (b) **Construction Methods.** Construction activity, storage, and staging zones shall be limited to the minimum area required to implement the approved project. The Plans shall limit construction activities to avoid coastal resource impacts as much as possible, including

verification that equipment operation and equipment and material storage will not significantly degrade public views from Highway 1 during construction to the maximum extent feasible.

- (c) **Construction BMPs.** The Construction Plan shall also identify the type and location of erosion control/water quality best management practices that will be implemented during construction to protect coastal resources, including the following:
1. **Runoff Protection.** Silt fences, or equivalent apparatus, shall be installed at the perimeter of the construction site to prevent construction-related runoff and/or sediment from entering into storm drains or otherwise offsite.
 2. **Equipment BMPs.** All construction equipment shall be inspected and maintained at an off-site location to prevent leaks and spills of hazardous materials at the project site.
 3. **Good Housekeeping.** The construction site shall maintain good construction housekeeping controls and procedures (e.g., clean up all leaks, drips, and other spills immediately; keep materials covered and out of the rain (including covering exposed piles of soil and wastes); dispose of all wastes properly, place trash receptacles on site for that purpose, and cover open trash receptacles during wet weather; remove all construction debris from the project site; etc.).
 4. **Erosion and Sediment Controls.** All erosion and sediment controls shall be in place prior to the commencement of construction as well as at the end of each work day.
- (d) **Construction Site Documents.** The Construction Plan shall provide that copies of the signed CDP and the approved Construction Plan be maintained in a conspicuous location at the construction job site at all times, and that such copies be available for public review on request. All persons involved with the construction shall be briefed on the content and meaning of the CDP and the approved Construction Plan, and the public review requirements applicable to them, prior to commencement of construction.
- (e) **Construction Coordinator.** The Construction Plan shall provide that a construction coordinator be designated to be contacted during construction should questions arise regarding the construction (in case of both regular inquiries and emergencies), and that his/her contact information (i.e., address, phone numbers, email address, etc.) including, at a minimum, a telephone number and an email that will be made available 24 hours a day for the duration of construction, is conspicuously posted at the entrance to the job site where such contact information is readily visible from public viewing areas while still protecting public views as much as possible, along with indication that the construction coordinator should be contacted in the case of questions regarding the construction (in case of both regular inquiries and emergencies). The construction coordinator shall record the contact information (address, email, phone number, etc.) and nature of all complaints received regarding the construction, and shall investigate complaints and take remedial action, if necessary, within 24 hours of receipt of the complaint or inquiry.

- (f) **Notification.** The Permittee shall notify planning staff of the Coastal Commission's Central Coast District Office at least 3 working days in advance of commencement of construction, and immediately upon completion of construction.
- (g) **Hotel Garage Construction.** To minimize the amount of any necessary dewatering, construction of the hotel's underground parking garage shall be prohibited between October 15 and April 15, and this prohibition shall be placed as a written note on the final drainage and runoff control plan (see also **Special Condition 2(d)**).
- (h) **Daylight Work Only.** All exterior work shall take place during daylight hours (i.e., from one hour before sunrise to one hour after sunset). Nighttime work (other than interior work) and exterior lighting of the work area are prohibited.

The Permittee shall undertake development in accordance with the approved Construction Plan, and all requirements above and all requirements of the approved Construction Plan shall be enforceable components of this CDP. Any proposed changes to the approved Construction Plan shall be reported to the Executive Director. No changes to the approved Construction Plan shall occur without a Commission-approved amendment to this CDP unless the Executive Director determines that no amendment is legally required. Minor adjustments to the construction requirements may be allowed by the Executive Director if such adjustments: (1) are deemed reasonable and necessary; (2) do not adversely impact coastal resources; and (3) are consistent with the Commission's approval of this CDP.

4. **Hazardous Material Signoff.** PRIOR TO COMMENCEMENT OF CONSTRUCTION, the Permittee shall submit two copies of a verification (e.g., a closure letter) from the San Luis Obispo County Division of Environmental Health and the Regional Water Quality Control Board that any underground storage tanks, piping, and/or other hazardous materials, hazardous materials related equipment, lead, asbestos, contaminated soil, etc., discovered prior to construction of the approved project have been disposed of properly under the direction of Environmental Health and the Regional Board, and that the site is approved for construction activities and subsequent hotel and (future) residential use.
5. **Cultural Resources.** If an area of cultural resources is discovered during the course of the construction, all construction activity that could damage or destroy such resources shall cease immediately and the Executive Director and the Native American Heritage Commission and/or Tribal Historic Preservation Officers of the Obispeño Chumash and/or Northern Chumash Tribal Council must be notified so that the articles may be suitably protected or flagged for future research. An archaeological monitor qualified by the California Office of Historic Preservation standards and/or the Native American Heritage Commission shall be consulted in order to examine the site and obtain recommendations for subsequent measures for the protection and disposition of significant artifacts. Mitigation measures shall be developed and submitted to the Executive Director for review and approval that address and proportionately offset the impacts of the project on archaeological resources prior to recommencement of construction activity.
6. **Hotel Overnight Units.** By acceptance of this CDP, the Permittee acknowledges and agrees, on behalf of himself and all successors and assigns, that:

- (a) **Hotel Length of Stay Provisions.** All hotel rooms (including suites) shall be open and available to the general public at all times the hotel is operating. Rooms shall not be rented to any individual, family, or group for more than 29 consecutive days, and no more than 14 consecutive days between the Friday of Memorial Day weekend and Labor Day. No individual ownership or long-term occupancy of hotel rooms shall be allowed.
- (b) **Conversion Prohibited.** The conversion of any of the 19 hotel rooms (including suites) to limited-use overnight visitor accommodation units (e.g., timeshare, fractional ownership, etc.) or to full-time occupancy condominium units or to any other units with use arrangements that differ from the approved project shall be prohibited.
- (c) **Consistency with Approved Development.** All hotel units shall be maintained and operated as they have been proposed and approved herein (see also **Special Condition 1** and **Exhibit 6**).
7. **San Luis Obispo County Conditions.** The proposed development was approved by San Luis Obispo County through its action on the Tract Map/Development Plan/Variance/Coastal Development Permit Number SUB2005-00241 and DRC2006-00064 (see **Exhibit 9**). This action has no effect on conditions imposed by a local government pursuant to an authority other than the Coastal Act. Any County conditions associated with that action that are imposed pursuant to an authority other than the Coastal Act remain in effect. In the event of conflict between any conditions imposed by the County and the terms and conditions of this CDP, the terms and conditions of this CDP shall prevail.
8. **Indemnification by Permittee/Liability for Costs and Attorneys' Fees.** By acceptance of this CDP, the Permittee agrees to reimburse the Coastal Commission in full for all Coastal Commission costs and attorneys' fees (including (1) those charged by the Office of the Attorney General, and (2) any court costs and attorneys' fees that the Coastal Commission may be required by a court to pay) that the Coastal Commission incurs in connection with the defense of any action brought by a party other than the Permittee against the Coastal Commission, its officers, employees, agents, successors and assigns challenging the approval or issuance of this CDP. The Coastal Commission retains complete authority to conduct and direct the Commission's defense of any such action against the Coastal Commission, its officers, employees, agents, successors and assigns.
9. **Deed Restriction.** PRIOR TO ISSUANCE OF THE CDP, the Permittee shall submit to the Executive Director for review and written approval documentation demonstrating that the Permittee has executed and recorded against the properties governed by this CDP a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this CDP, the California Coastal Commission has authorized development on the subject property subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the special conditions of this CDP as covenants, conditions and restrictions on the use and enjoyment of the property. The deed restriction shall include a legal description of the legal parcels governed by this CDP. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this CDP shall continue to restrict the use and enjoyment

of the property so long as either this CDP or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the property.

IV. FINDINGS AND DECLARATIONS

The Commission finds and declares as follows:

A. PROJECT LOCATION

The project site is located within the southern portion of the unincorporated community of Cayucos, at the northeast corner of the intersection of Ocean Boulevard and Old Creek Road, immediately adjacent to and on the inland side of Highway 1, in San Luis Obispo County. The project site consists of 18 existing legal lots of record totaling approximately 0.64 acres (made up of APNs 064-263-025, -036, -052, and -053). The site is bordered on its eastern boundary by Orville Street, by Old Creek Road to the south, and by Ocean Boulevard along its western side. The site is currently occupied by an approximately 16-foot-tall, roughly 1,000-square-foot building located near the center of the site that is used by a local art and glass business.¹ The overall site has a relatively consistent elevation, but drops slightly in elevation from the northeast corner to the southwest corner, near the intersection of Ocean Boulevard and Old Creek Road.

The project site is bounded on three sides by residential uses (and by Highway 1 to the west) and contains both Residential Multi-Family (RMF) and Commercial Retail (CR) land use designations. The northern third of the site (APNs 064-263-025, -052 and -053) is within the RMF land use category and the remaining two-thirds of the site (APN 064-263-036) is within the CR land use category.

See **Exhibit 1** for location maps and site photos.

B. PROJECT BACKGROUND

On October 8, 2008, San Luis Obispo County approved a CDP (Tentative Tract Map 2863, Development Plan SUB2005-00241 and Variance² DRC2006-00064) authorizing a re-subdivision of the 18 lots to allow for residential and hotel development, including four multi-family residential condominium units with decks and courtyards, and an 18-unit standard operating hotel for overnight and short-term lodging by the general public, with an approximately 17,600-square-foot subterranean garage.

On August 12, 2009, the Commission determined that the project was appealable to the Commission pursuant to Coastal Act Section 30603(a)(4) and LCP Section 23.01.043(c)(4)

¹ Sunfire Gallery Art and Glass also displays their products on the project site outside of the existing building. Before this use, the site was home to a gas station.

² The variance allowed the development to be approved by the County with a “California beach-house style” of architecture instead of the “Western or Victorian-style architecture” that was required by the Estero Area Plan for the Commercial Retail land use category at that time. The Estero Area Plan was later updated through LCP Amendment No. 2-04 Part 2 and effectively certified on January 7, 2009 to change this requirement to allow for “nautical/seaside architecture.”

because the approved development included a subdivision, which is not listed as the principal permitted use in either the RMF or the CR land use categories that apply to the site.³ Subsequently, the County sent the required CDP decision notice to the Commission (received on September 28, 2009), and the County's action was appealed on October 12, 2009. On November 4, 2009, the Commission found that the County's approval raised a substantial LCP conformance issue and took jurisdiction over the coastal development permit (CDP) application. The primary reason for this determination was concerns related to the overall mass and scale of the development, but also issues associated with the fact that the underground hotel parking was to be partially located on the residentially-zoned portion of the site, questions about the hotel's operating standards, and other project issues.⁴

Following the Commission's substantial issue determination on August 12, 2009, the Applicant sued the Commission over its decision.⁵ In that lawsuit, the Applicant also contended that the project, including the subdivision portion of the project, was not appealable. Ultimately, the Commission prevailed in the Second District Court of Appeal.⁶ At that time, and due at least in part to the economic downturn subsequent to the lawsuit, the Applicant chose to not actively pursue the CDP application. In 2015, the Applicant decided to again pursue the project and reengaged with Commission staff to address Commission concerns and prepare for the de novo portion of the Commission's process. Ultimately, the Applicant modified the proposed project from what was approved by the County, including eliminating the residential component (although the re-subdivision will result in two residential lots), and now proposes a revised project as described below.

C. PROJECT DESCRIPTION

The project site is currently made up of 18 existing legal lots, where 12 lots are located in the Commercial Retail (CR) portion of the site to the south, and six lots are located in the Residential Multi-Family (RMF) portion of the site to the north. The proposed subdivision would result in three total lots, with two lots in the RMF district (0.12 acres each, totaling 0.24 acres) and one lot in the CR district lot (0.40 acres). The proposed project also includes construction of a 19-room hotel, a 22-space underground parking garage (and one handicap space on the ground level), and associated landscaping, drainage, and other improvements on the single CR lot fronting Ocean Boulevard and adjacent to Old Creek Road. The Applicant does not propose additional

³ The County initially determined the project was not appealable because the hotel was a principally permitted use in the Commercial Retail land use category, and the residential component was a principally permitted use in the Residential Multi-Family land use category. However, the project also included a subdivision of land, which is not the principally permitted use in either land use category and thus the subdivision made the project as a whole appealable. The County disagreed and the matter was scheduled for a Commission hearing to resolve the dispute. The Commission determined that the project was appealable on August 12, 2009 (see 3-09-015-EDD).

⁴ Commissioners had questions about long-term stays and the potential conversion of the hotel to timeshares. Other issues informing the SI determination related to the potential for toxins on the site, fire protection measures, and potential traffic and circulation impacts.

⁵ Franco DeCicco et al. vs. California Coastal Commission (2d Civil No. B228009, Super. Ct. No. CV090572) San Luis Obispo County.

⁶ The court found that the project, because it included a subdivision, was appealable development.

development at this time on the two RMF lots that would be created, and thus any development there would be the subject of additional coastal permitting at a later date.

The proposed hotel would include 19 standard operation (i.e., not any type of pseudo-residential timeshare or fractional ownership type hotel, etc.) hotel rooms (with amenities), underground parking, associated common area decks, courtyards, a lobby, a wine and coffee bar, a reception and lounge area, and storage, which in all would constitute approximately 34,500 square feet of aboveground development (including decks, in three-stories and a height of 30 feet⁷) and approximately 12,000 square feet of below ground development. The hotel rooms would be a mix of studios (4), two-bedroom units (13), and two-bedroom suites (2) ranging in size from a low of 433 square feet to a high of 1,230 square feet.⁸

In terms of the cost per room per night, the Applicant has proposed peak season average rates for all 19 rooms: 1) the four studios would each be proposed at \$175 per night; 2) the 13 two-bedroom units would range from \$285 to \$375 per night; and 3) the two two-bedroom suites would each be proposed at \$375 per night. Peak summer months are July and August and all holidays (see **Exhibit 6** for the full list of the Applicant's peak season average rates).

The project also includes curb and gutter, sidewalk, and adjacent road improvements, and related landscaping and drainage improvements.⁹ Vehicular access to the underground parking area for the hotel would come from Ocean Boulevard (the front side of the hotel), and the parking area would be completely situated underneath the hotel. All commercial deliveries and pick-ups (e.g., linen services and beverage deliveries), except for garbage pick-up on Orville Street, would take place primarily via the underground hotel parking area or secondarily through the main entrance to the hotel lobby, both located on Ocean Boulevard.

See **Exhibit 2** for the project site plans, including underground parking, **Exhibit 3** for the project's elevations and perspectives (including color elevations), **Exhibit 4** for the Applicant's proposed preliminary landscaping plan, **Exhibits 5a** and **5b** for visual simulations of the project, and **Exhibit 6** for the proposed hotel rates and amenities.

⁷ The LCP measures height using "average natural grade" in Coastal Zone Land Use Ordinance (CZLUO) Section 23.04.122: "The height of a building or structure is to be measured as the vertical distance from the highest point of the structure to the average of the highest and lowest points where the exterior walls would touch the natural grade level of the site." Applying this measurement, the proposed project at its highest points reaches 30 feet above average natural grade.

⁸ The four studios would range from 433 to 476 square feet; the 13 two-bedroom units would range from 924 to 1,050 square feet; and the two two-bedroom suites would each be 1,230 square feet in size and would include a family room.

⁹ The Applicant's project includes landscaping, including providing for a small public space and bench, in the County's Right-of-Way (ROW) area at the corner of Old Creek Boulevard and Ocean Avenue (see page 2 of **Exhibit 2**, and **Exhibit 3**). The landscaping in this area will be installed and maintained by the hotel owner, and will be included in the Applicant's proposal for an encroachment permit from San Luis Obispo County, which will include all improvements, such as sidewalk, curb and gutter, etc., that are located within the County's ROW.

D. COASTAL DEVELOPMENT PERMIT DETERMINATION

The standard of review for this CDP determination is the San Luis Obispo County certified LCP.

1. Scenic and Visual Resources and Community Character

Applicable LCP Provisions

The LCP requires that all new development be sited to protect ocean and scenic coastal views (Visual and Scenic Resources Policy 2) and that proposed projects or uses not be inconsistent with the character of the immediate neighborhood or contrary to its orderly development (Coastal Zone Land Use Ordinance (CZLUO) Section 23.02.034(c)(4)(iv)). Furthermore, the LCP includes additional development standard policies specific to projects proposed to be constructed within the RMF and CR land use designations, including for height, setbacks, density, parking, etc., which are designed to ensure, among other things, neighborhood compatibility and community character protection. Applicable LCP policies and standards include:

LUP Visual and Scenic Resources Policy 2: Site Selection for New Development. Permitted development shall be sited so as to protect views **to and along the ocean and scenic coastal areas**. Wherever possible, site selection for new development is to emphasize locations not visible from major public view corridors. In particular, new development should utilize slope created "pockets" to shield development and minimize visual intrusion. (emphasis added) [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD.]

CZLUO Section 23.02.034 (c)(4)(iv): Required findings. The Review Authority shall not approve or conditionally approve a Development Plan unless it first finds that: the proposed project or use will not be inconsistent with the character of the immediate neighborhood or contrary to its orderly development.

CZLUO Section 23.04.028. Minimum Parcel Size. Residential Single-Family and Multi-Family Categories: The minimum parcel size is based upon the type of public road serving the property proposed for division, terrain features, and the type of sewage disposal facilities to be used for the parcels to be created. Minimum parcel size is determined by applying the three tests of this section to the features of the parcels to be created. The allowable minimum size is the largest area obtained from any of the tests...Community water service is a prerequisite to land division in the Residential Single-Family and Multi-Family categories in every case.

a. Lot access test: Considers both the type of public roadway providing vehicular access to the site and roads to be constructed with the land division. If more than one public street would serve a proposed parcel, this access standard is to be applied only to the street that actually provides vehicular access.

ROAD TYPE ¹	MINIMUM PARCEL SIZE
Arterial	20,000 square feet
Collector	10,000 square feet
Local	6,000 square feet

b. Slope test. Site slope is to be measured as an average for each proposed parcel, as defined in Chapter 23.11 (Definitions - Slope).

AVERAGE SLOPE	MINIMUM PARCEL SIZE	
	Outside GSA	Inside GSA ¹
Over 30%	20,000 Sq. Ft.	1 Acre
16-30%	8,500 Sq. Ft.	15,000 Sq. Ft.
0-15%	6,000 Sq. Ft.	6,000 Sq. Ft.

c. Sewer test: Considers the type of sewage treatment facilities that will serve the proposed parcels.

SEWAGE FACILITY	MINIMUM PARCEL SIZE
Community Sewer	6,000 Sq. Ft.
Septic Tank Leaching Capacity: 0-5 Minutes/Inch 5+ Minutes/Inch	20,000 Sq. Ft. 1 Acre

CZLUO Section 23.04.048 - Lot Consolidation. In any residential or Rural Lands land use category, any single ownership of two or more adjoining vacant lots with continuous frontage, shall be considered a single parcel of real property and a single building site, except as otherwise provided by this section. No sale, transfer, division or development of less than all of such single parcel shall occur unless the portion or portions of the single parcel to be sold, transferred, divided or developed are in conformity with the provisions of this title as modified by this section. (1) Where sewage disposal is by community sewage system:

- (i) Minimum lot size: 3,500 square feet.
- (ii) Minimum lot width: 40 feet, measured along the front setback line....

CZLUO Section 23.04.029. Commercial and Office Categories: This section establishes minimum parcel size standards for the Office and Professional, Commercial Retail and Commercial Service land use categories. The required area is based upon the availability of community services, as follows:

TYPE OF SEWAGE DISPOSAL SYSTEM	MINIMUM PARCEL SIZE	
	Community Water	Individual Well
Community Sewer	6,000 Sq. Ft.	1 Acre
Septic Tank Leaching Capacity: 0-5 Minutes/Inch 5+ Minutes/Inch	20,000 Sq. Ft. 1 Acre	2.5 Acres 2.5 Acres

Estero Area Plan. Chapter 7. Section V. Cayucos Urban Area Standards. Commercial Retail. A. Architectural Character. *New development shall include a detailed facade plan which reflects western, Victorian or nautical/seaside architecture. The facade plan shall show articulation of building facades to create relief and visual interest by using architectural elements, such as 50% wood or wood-appearing materials; detailed window trims and moldings; second-story railings and balconies; wooden porches, railings, entryways, walkways, etc.*

Estero Area Plan. Chapter 7. Section V. Cayucos Urban Area Standards. Commercial Retail. B. Building Height. *Maximum building height shall be 30 feet...*

CZLUO Section 23.04.122: Measurement of Height. *The height of a building or structure is to be measured as the vertical distance from the highest point of the structure to the average of the highest and lowest points where the exterior walls would touch the natural grade level of the site...*

Estero Area Plan. Chapter 7. Section V. Cayucos Urban Area Standards. Communitywide Planning Area Standard. F. Special Setbacks – Communitywide (East of Studio Drive, Morro Strand Area). *Minimum Setbacks (ft): Front – 10; Side – 3; Street Side – 5; Rear – 5.*

Estero Area Plan, Chapter 7. Section III. Areawide Standards Excluding Los Osos. H. Light and Glare. *...all lighting fixtures shall be shielded so that neither the lamp nor the related reflector interior surface is visible from adjacent properties. Light hoods shall be dark-colored (in part).*

CZLUO Section 23.05.120 Underground Utilities. *Utilities serving new development shall be installed underground rather than by the use of poles and overhead lines, and where applicable shall be installed in accordance with California Public Utilities Commission rules and regulation. This requirement applies to electrical service and telecommunications (including cable TV, telephone and data transmission) connections between utility company distribution lines and all proposed structures on a site, and all new installations that distribute utilities within a site.*

Analysis

The proposed project is located immediately on the inland side of Highway 1 about 400 feet from the beach in a relatively densely developed area. Former uses of the project site include a gas station and most recently a small art and glass store, which uses the existing 16-foot-tall

single-story building to conduct business. Due to the proposed project's location within the LCP's delineated Cayucos Urban Service Line (USL), the LCP defines the site as "urban," and thus some of the LCP's critical viewshed, scenic corridor, and sensitive resource area policies that apply to "rural" areas do not apply in this case. In other words, the LCP has strict public viewshed policies aimed at protecting rural landscapes and hillsides, but recognizes that those policies are not applicable in urban infill locales where development, particularly visitor-serving development near the coast and along primary transportation corridors, should be encouraged and fostered, as is the case here.

The LCP also describes visions and goals for the Cayucos area. For example, the Estero Area Plan (in Chapter 1, Section V. Vision and General Goals, Cayucos, #7) identifies a general community goal to plan for "visitor-serving and residential features of the community to coexist in harmony and to supplement each other," and to "assure that neighborhood commercial development is compatible with the scale of the surrounding residential neighborhoods" (Goal 6), and to (Goal 8):

Carefully plan for future commercial and residential development that is consistent with the current nature of the community. Since major development projects can have a devastating effect on a small community, carefully examine such proposed projects to see that they do not destroy the character of the community or so dominate it as to cause an imbalance between the residential and recreational elements of the community.

To implement these goals, the LCP requires that all development, including within urban communities, protect public views to and along the ocean and not be inconsistent with community character or contrary to its orderly development (e.g., Visual and Scenic Resources Policy 2 and CZLUO Section 23.02.034 (c)(4)(iv)). In addition, the LCP includes provisions regulating building height, density, setback, landscaping, and other siting and design requirements to meet such objectives. See **Exhibit 2** for the Applicant's proposed project site plans, **Exhibit 3** for the project's elevations and perspectives, **Exhibit 4** for the Applicant's proposed landscaping plan, and **Exhibits 5a** (from Highway 1) and **5b** (from other streets in the vicinity of the hotel) for project visual simulations.

The proposed subdivision and the proposed hotel project meet all of the LCP's quantitative development standards (including CZLUO Sections 23.04.122 and 23.04.029, and Estero Area Plan standards listed above) in terms of minimum parcel size, setbacks, and allowed height. Regarding minimum parcel size, CZLUO Section 23.04.029 and CZLUO Section 23.04.048 establish standards for determining minimum parcel sizes in the CR and RMF land use categories, respectively. The minimum parcel size in the CR land use category is based on the type of water and sewage disposal systems that will be used by new development. Given that this project will be served by community water and sewage disposal systems, the minimum parcel size for the hotel portion of the site is 6,000 square feet. The area on the CR portion of the site is approximately 17,424 square feet, which meets the LCP's minimum parcel size standard. In the RMF category, the minimum parcel size for residential lots would typically be based upon the type of public road serving the property proposed for division, terrain features, and the type of sewage disposal facilities to be used for the parcels to be created (CZLUO 23.04.028). However, in this case, because these lots are vacant with continuous frontage and in single ownership, they are subject to the County's lot consolidation ordinance (CZLUO Section 23.04.048). As a result, after re-subdivision, the resultant configuration would be comprised of two lots, one abutting

Orville Street on one side and the other fronting on Ocean Boulevard (see page 2 of **Exhibit 2**). Based on the LCP, the minimum parcel size when served by community sewer for these lots is 3,500 square feet. Each of the two proposed residential parcels would be approximately 5,250 square-feet in size (75 square feet wide by 70 square feet long), and thus the proposed residential component of the subdivision is consistent with the LCP's minimum parcel size standards.

In terms of setbacks, the hotel is set back ten feet from the property line on the project's front side (Ocean Boulevard) and five feet from the property line on the project's rear side (Orville Street). In addition, the hotel is set back five feet from the property line on the Old Creek Road side and six feet back from the property line on the northerly side (i.e., the side adjacent to the proposed two residential lots). Thus, the hotel project is consistent with Estero Area Plan, Chapter 7, Section IV, Cayucos Urban Area Standards, Communitywide Planning Area Standard F (cited above), which provides special setbacks in this area (Morro Strand Area) of Cayucos, and which further requires minimum setbacks of ten feet along the front, three feet along the side, five feet along any side that abuts a street or road, and five feet along the rear.

In terms of heights, the hotel is proposed to be built to 30 feet above average natural grade, which is the maximum height allowed for development within the CR land use category. The surrounding residences to the north are within the RMF land use category, while the homes to the east and south are within the Single-Family Residential land use category. Both of these land use categories have a maximum allowed height of 28 feet, but some homes are not built to that height at this time. Generally, there is a mix of one- and two-story residences surrounding the proposed project site. Thus, even though the hotel may appear at first to be in contrast with the one-story homes in the vicinity, it would only be two feet higher than the maximum allowed height for the surrounding residential homes, some of which have already been constructed to (or even beyond) their maximum allowed height. In any case, the project is consistent with height limits as required by Estero Area Plan, Chapter 7, Section V. Cayucos Urban Area Standards, Commercial Retail, B, Building Height, and CZLUO Section 23.04.122.

In order to address the more qualitative standards related to community character and the ability of the proposed structure to blend in with its adjacent surroundings, the Applicant eliminated one third-floor unit (so that there are now five hotel rooms on the top floor), which opens up some additional views to the sky, reduces bulk, provides additional building articulation, and reduces visual impacts as seen from Orville Street (including through providing a gap between hotel rooms). To further address massing, the project also now includes architectural "step-backs," including that the hotel units on the second floor are set back approximately three feet from the units on the ground floor, and the two 3rd floor units that face the residences on Orville Street are set back 12 and 18 feet from the property line along Orville Street (and also set back approximately three feet back from the second floor units). Finally, as mentioned above, the Applicant has eliminated the residential component of the project.

The project now also includes distinct differences in coloring and texturing for the hotel (see **Exhibit 3** for color elevations and **Exhibits 5a** and **5b** for visual simulations), all meant to reduce the perceived massing of the hotel. Specifically, the hotel would utilize multiple colors, multiple mixed materials (e.g., siding & shake), and architectural elements to articulate the elevations. In terms of texture and architecture, the design has been modified from a more generic, nondescript style to a traditional beach/nautical bungalow style, as allowed by the LCP's

Estero Area Plan for this particular site, including features and elements typically found throughout neighborhoods in Cayucos. Siding and trim materials are wood and wood-appearing with multiple gable roofs and significant detailing to reflect typical beach bungalow style architecture to reduce apparent massing. In addition, as discussed above, the portions of the project that front on Orville Street include horizontal and vertical articulation to better blend with existing streetscapes in Cayucos. By breaking up both horizontal and vertical facades of the building, the effect as viewed along the street is of a series of smaller connected buildings.

Together, all of the above-described techniques (i.e., variations in color, setbacks and step-backs, nautical/seaside beach bungalow design, removal of a third floor room, etc.) will adequately break up the massing of the development so that the hotel appears as a smaller structure, and which will be compatible with an architectural style found throughout Cayucos. Landscaping will help to mitigate any remaining visual impacts to a less than significant level. The end result is a revised project that better meets LCP requirements for siting and design on this particular infill lot than previously proposed,¹⁰ including Estero Area Plan, Chapter 7, Section V, Cayucos Urban Area Standards, A. Commercial Retail Architectural Character, and one that does not impact sensitive coastal resources.

In terms of public views, the hotel development is located inland of Highway 1, and thus it would not have an effect on views out towards the ocean. As described earlier, the project site is not within an LCP-mapped Critical Viewshed, Scenic Corridor, or Sensitive Resource Area due to its location within the Cayucos USL. Further, the hotel project site is located in the CR (hotel) land use category, which envisions and allows for this type of visitor-serving development at this location, as opposed to more rural development that would warrant further visual protections per the LCP. The Applicant has provided visual simulations (see **Exhibits 5a** and **5b**, from Highway 1 and roads surrounding the hotel, respectively), which show that the proposed project will generally blend in with the developed nature of the surrounding area and be consistent with CZLUO Section 23.02.034 (c)(4)(iv), which requires that the project not be inconsistent with the character of the immediate neighborhood or contrary to its orderly development. Thus, even though the hotel development would be different from the existing single-story 1,000-square-foot structure on the site, it would consist of infill development located in an urban area, and be consistent with the CR land use category's development standards, which envision commercial development at this location. In sum, the proposed project, as revised by the Applicant, is intended to achieve compliance with the LCP's built environment, visual resources, and community character policies and standards for this urban area of Cayucos, including Visual and Scenic Resources Policy 1, Visual and Scenic Resources Policy 2, and CZLUO Section 23.02.034(c)(4)(iv). See **Special Condition 1**.

Though the project modifications and design revisions made to the hotel since the Applicant's last proposal do help facilitate compliance with identified LCP policies, further measures can be taken to reduce the appearance of bulk and mass in the proposed project, further mitigate the

¹⁰ Infill development is often described as new construction on vacant or underutilized lots in established neighborhoods and business districts within a community. Infill sites are typically located closer to the center of a community and are already served by public infrastructure, such as roads, water and sewer lines, thereby reducing the costs of serving new development compared to non-infill areas. Infill development has many benefits including replacing brownfields and abandoned industrial areas with functioning assets, and reduces the need to expand into adjacent suburban or rural land with new development.

visual impacts, and help to further ensure that the project will not be inconsistent with the character of the immediate neighborhood or contrary to its orderly development, as required by Visual and Scenic Resources Policy 2, CZLUO Section 23.02.034(c)(4)(iv), Estero Area Plan, Chapter 7, Section III Areawide Standards Excluding Los Osos. H., related to lighting, and CZLUO Section 23.05.120 related to undergrounding of utilities. Therefore, the project is conditioned to require revised final plans that require all exterior lighting to be downward facing and designed to minimize illumination offsite (**Special Condition 2a**), that prohibit highly reflective windows and siding materials (**Special Condition 2b**), and that require undergrounding of all utilities as part of the project (**Special Condition 2c**). These special conditions ensure such requirements are implemented and will result in a project that is as protective of the adjacent community character and residential built environment as required by the LCP.

In summary, the hotel project will provide a visitor-serving use, designed in compliance with all of the LCP's development standards for height, setbacks, and requirements ensuring visual protection and community and neighborhood character. The project, as revised and conditioned, meets the LCP's quantitative and qualitative policies and standards for the site (and the Estero area Plan's visions and goals), and will provide for a Coastal Act and LCP-priority visitor-serving use on an infill urban and developed site.

2. Lower-Cost Visitor and Recreational Facilities

Applicable LCP Policies

The San Luis Obispo County LCP includes several policies to ensure that lower-cost facilities, which include overnight accommodations, are protected and encouraged:

***LUP Recreation Policy 1. Recreation Opportunities.** Coastal recreational and visitor-serving facilities, especially lower-cost facilities, shall be protected, encouraged and where feasible provided by both public and private means.*

***LUP Recreation Policy 3. Low Cost Facilities.** Larger visitor-serving projects shall make provisions for services which are geared to a range of costs, including low cost facilities.*

Background

LCP Policies and Coastal Act Section 30213

The LCP policies related to the provision of lower-cost facilities require developments to protect, encourage, and, where feasible, provide for low-cost visitor serving facilities. Recreation Policy 1 parallels Coastal Act Section 30213, which states that lower cost visitor and recreational facilities shall be protected, encouraged, and where feasible, provided.¹¹ Recreation Policy 3 requires that larger visitor serving projects include provisions for services, such as low-cost facilities, geared to a range of costs as part of the project. Thus, even though Coastal Act Section

¹¹ Coastal Act Section 30213 also states that the Commission shall not: (1) require that overnight room rentals be fixed at an amount certain for any privately owned and operated hotel, motel, or other similar visitor-serving facility located on either public or private land; or (2) establish or approve any method for the identification of low or moderate income persons for the purpose of determining eligibility for overnight room rentals in any such facilities.

30213 is not directly applicable in this case because the project is not located between the first public through road and the sea (see Coastal Act Section 30603(a)(1)), it is clear that the County's LCP policies are based on and implement Coastal Act 30213, and they mandate that lower-cost facilities shall be protected, encouraged and provided if feasible, and that larger visitor-serving projects shall provide services targeting a range of costs, including low-cost facilities.¹²

When the Commission evaluates project consistency with Coastal Act Section 30213 and the LCP policies in various local jurisdictions that implement Coastal Act section 30213, the Commission has often focused on projects involving overnight accommodations because permit applicants have typically requested that the Coastal Commission and LCP-certified local governments approve higher-cost overnight accommodations on land zoned for visitor-serving uses (some instances in which lower-cost accommodations are already situated on the land) rather than pursuing lower-cost accommodations (e.g., economy hotels). Additionally, applications to the Commission for the conversion of hotels and motels to, or the construction of hotels and motels as, time shares, condominium ownership, and similar pseudo-residential or fractional ownership frameworks and combinations have become more common. Often such facilities are more akin to residential uses – sometimes they are categorized as “quasi-visitor-serving” or “quasi-residential” or “limited use overnight visitor accommodation” or “visitor serving residential” – and thus these types of developments can reduce opportunities for publicly available overnight accommodations, including lower-cost facilities. Overall, the Commission's past history permitting overnight accommodations in the Coastal Zone confirms the need to guard against the loss or preclusion of lower-cost overnight accommodations along the coast, as recognized in Coastal Act section 30213 and the LCP policies in various local jurisdictions based on Coastal Act section 30213.

The Commission has also responded to the changing marketplace for visitor-serving and residential land uses. By the 2000s, the concern for the impact of condominium hotels and hotel conversions was growing at a Statewide level. In August 2006 the Commission held a workshop on condominium-hotel construction and conversion that included the subject of overnight visitor affordability. Background research for the workshop showed that only 7.9% of the overnight accommodations in nine popular coastal counties were considered lower cost, affirming the ongoing need for more effective implementation of Coastal Act Section 30213 and LCP equivalents.

Thus, in order to continue to facilitate lower-cost facilities, the two primary methods by which the Commission has implemented Section 30213 and corresponding LCP requirements in the past are through requiring that higher-cost accommodation projects (a) provide lower-cost accommodations onsite as some portion of the proposed project, and/or (b) provide “in-lieu”

¹² Coastal Act Section 30213 has its origins in the 1975 California Coastal Plan (i.e., the precursor to the 1976 Coastal Act). Based on extensive public input in the early 1970s, the Coastal Plan found that few tourist facilities for persons of low and moderate income were being built in many parts of the coastal zone, and that many such low- and moderate-cost facilities were being replaced by facilities that had higher costs, including particularly in terms of overnight accommodations. The Coastal Act addressed these findings in part by including the specific Section 30213 mandate to protect, encourage, and where feasible provide lower cost visitor and recreational facilities.

funds to be paid for new lower-cost accommodations to be constructed elsewhere, in either case based on their impacts on availability of lower-cost visitor accommodations. To do either, as a practical matter the Commission must first: 1) define what is and is not a low-cost unit; and 2) determine how many units per a given proposed project should be reserved as lower cost. Under either approach, the basis for requiring lower-cost accommodations (or an in-lieu fee payment) as mitigation is premised on the affirmative requirement that lower cost facilities be encouraged, and where feasible, provided, and the need to mitigate the adverse impacts that the higher-cost accommodations, if approved, would have either on the existing stock of lower-cost accommodations or the availability of space for lower-cost accommodations in the future. Thus, given the Commission's mandate to protect, encourage, and, where feasible, provide lower-cost accommodations, visitor-serving projects such as this one are carefully analyzed to ensure a consistent LCP and/or Coastal Act outcome. In this case, the determination of lower-cost room/fee mitigation is explained below, but for reasons discussed further below, lower-cost room/fee mitigation is not required as part of this project.

Defining Low, Medium/Moderate, and High Cost Accommodations

The first step to implement Coastal Act 30213 and corresponding LCP requirements is to define what is and is not a lower-cost unit. In a constantly changing market, it can be difficult to define what price point constitutes low, moderate, and high-cost accommodations for a given area. As such, the Commission has utilized different approaches over time to define such terms, including by considering the unique factual circumstances for each particular project. In previous actions, the Commission has addressed what are appropriate terms for defining low-cost and high-cost hotels, including applying a quantitative methodology for determining what is considered "lower cost" in the geographic area in question.¹³ More recent Commission actions have used a formula to determine low and high-cost overnight accommodations for a specific part of the coast.¹⁴ The formula is based on California hotel and motel accommodations (single room up to double occupancy), and does not account for hostels, RV parks, campgrounds or other alternative accommodations into the equation, as these facilities do not typically provide the same level of accommodation as hotels and motels. Rather, hostels and campgrounds are generally inherently lower cost, and are the type of facilities that a mitigation measure for the loss of lower-cost overnight accommodations would generally require. The formula compares the average daily peak rate (generally July and August) of lower-cost hotels and motels in a specific coastal zone area (e.g., a city or defined urban area) with the average daily rates of hotels and motels across the entire State of California. Under this formula, low cost is determined as the average daily room rate for all hotels within a specific area that have a room rate less than the statewide average daily room rate. To obtain data inputs for the formula, statewide average daily room rates are collected monthly by Smith Travel Research (STR)¹⁵ and are available on the "Visit California" webpage.¹⁶ To be most useful, peak season (summer) rates are utilized for the formula, and to ensure that the lower cost hotels and motels surveyed meet a minimally-

¹³ Including CDPs 5-04-291, 5-88-062, 5-84-866, 5-81-554, 5-94-172, 5-06-328, A-253-80, A-69-76, A-6-IMB-07-131, 3-07-002, and 3-07-003.

¹⁴ Including LCP amendment SBV-MAJ-2-08 and CDP amendment 5-98-156-A17, and LCP amendment LCP-6-CAR-16-0015-2 Part A.

¹⁵ Smith Travel Research room rate data is widely used by public and private organizations.

¹⁶ See <http://industry.visitcalifornia.com/Research/> for STRs latest California Lodging Report.

acceptable level of quality, including safety and cleanliness, standard use of the formula only includes AAA Auto Club-rated properties.¹⁷ Once the low-cost rate is identified, the Commission has used different approaches over time to define medium and high-cost rooms, including that high cost is determined as the equivalent cost percentage above the statewide average room rate as low cost is determined to be below the statewide average. In other words, if \$100 was the statewide average room rate, and low-cost rooms across a certain geographic area were determined to be 20% less (or \$80), then high cost in that same area would be defined as those rooms 20% above the statewide average, or \$120. This approach was used in 2008¹⁸ and also in the Commission's approval of an LCP amendment authorizing a hotel in the City of Carlsbad in 2016.¹⁹

This formula is based solely on rates for standard, double occupancy rooms (equivalent to AAA one- or two-diamond rated hotels). However, the Commission has grappled with recognizing and accounting for rooms that are not standard double occupancy rooms and has sometimes reached differing conclusions depending on the particular facts of a specific project. For example, the Commission relied on standard, double occupancy room rates in making a high-cost determination and required mitigation (in-lieu fee payment of \$13,860 per room for 25% of the total number of rooms proposed) for a proposed hotel in Morro Bay, finding that all seven of the proposed rooms were high cost despite the Applicant's assertion that they were larger rooms with kitchens designed for families (CDP 3-07-003, League). Conversely, for a proposed hotel in Venice, the Commission did not require any lower-cost mitigation, despite the fact that all 30 proposed hotel rooms were determined to be a mix of medium/moderate and high cost, in part because the hotel provided suite-like rooms designed for families and included extensive free amenities (CDP 5-14-1932, Lambert, Venice, City of Los Angeles). And for another example in which the Commission considered factors in addition to standard double-occupancy room rates in making a high-cost determination, in 2009 the City of Carlsbad submitted a proposed LCP amendment to add a hotel as an identified use in Legoland (Legoland Hotel, Carlsbad LCPA No. 1-09B). Considering just the projected average cost of a room (\$225 per night) the proposed hotel accommodations would have been deemed high cost. However, consideration of fact-specific factors that made the hotel more accessible to the general population allowed the Commission to determine that the accommodations were medium-cost. In particular, the proposed suite rooms were specifically designed to accommodate families (four to six people per room), with the ability to increase occupancy (up to seven people per room). Therefore, instead of needing to reserve two traditional hotel rooms at market rate for single, double-occupancy rooms, a family of four (or groups of families and/or friends) could take advantage of one suite, thereby resulting in reduced actual cost and better value. In short, these suite rooms were not evaluated on the same basis as single, double-occupancy rooms, and the rooms as designed were determined to be accessible to the broader public (and thus, consistent with the LCP).

¹⁷ According to the AAA website, "to apply for (AAA) evaluation, properties must first meet 27 essential requirements based on member expectations – cleanliness, comfort, security and safety." AAA assigns hotels ratings using a "diamond" classification, with one being the lowest and five being the highest.

¹⁸ A-6-IMB-07-131 (Pacifica Companies and Pacifica Hosts, Inc., City of Carlsbad).

¹⁹ LCP amendment LCP-3-CAR-16-0015-2 Part A (Westin Hotel and Timeshare), approved by the Commission in July 2016.

Thus, to summarize, the Commission has in the past: 1) defined low-cost hotel rooms as the average daily room rate for economy hotels within a specific geographic area that have a room rate less than the statewide average; and 2) responded to the unique attributes of each particular hotel accommodation project proposed, and in some cases used the *value* of suites, kitchens, or other included amenities to help define a proposed hotel project as being low or medium/moderate cost.

Number of Low-Cost Units

After defining the project as low-, medium/moderate-, or high-cost, the Commission must next determine how many lower cost rooms/units should be provided for a given project as mitigation for impacts to lower-cost visitor accommodations. In the past the Commission has required mitigation for at least 25% of the number of new proposed high-cost rooms. If provision of lower-cost accommodation units/rooms onsite is found to be infeasible, the Commission has alternatively required “in-lieu” mitigation payments for the construction of an equivalent number of lower-cost rooms/units offsite.²⁰ In implementing Coastal Act Section 30213 and corresponding LCP policies, the Commission has in the past not required mitigation in the form of an in-lieu fee for low or medium/moderate cost rooms.

Analysis

Proposed Project and Lower-Cost Facilities

As mentioned above, the proposed project includes a three-story, 19-unit hotel with rooms ranging from a 433-square-foot studio to a 1,230-square-foot two-bedroom suite. Specifically, the proposed hotel project component comprises four studios, thirteen two-bedroom units, and two two-bedroom suites. Peak season average room rates (for the months of July and August) are proposed to range from \$175 per night for the studios to \$375 per night for the suites (see page 1 of **Exhibit 6** for the Applicant’s proposed peak season room rates). Thus, this hotel would be uniquely suited to families and other groups, based on size, and across a broad range of costs. The Commission is also unaware of any other hotel facilities in this immediate area that provide such facilities and, while the hotel component of the project is located on land intended and zoned for commercial uses, it should be noted that a wide range of projects could be proposed (and constructed) on this site that do not include visitor-serving accommodations.

Using the methodology that the Commission has used in the past, as described above, to define the lower-cost room price threshold, the Applicant submitted data on room rates at various hotels and motels within the immediate coastal zone areas of Cayucos and Morro Bay (see **Exhibit 7** for the Applicant’s Cayucos and Morro Bay room rate data). Instead of just providing economy hotel and motel room rates, the Applicant’s data included a wide mix of lower- and higher-cost accommodations. Starting with this data, Commission staff then analyzed and cross-checked the various room rates submitted, and also researched additional economy accommodations in the

²⁰ In terms of the feasibility of providing lower-cost accommodation units onsite, the Applicant here has not provided a feasibility analysis given that the Applicant argues that the proposed hotel does not require low-cost facility mitigation because of reasons that will be explained below (see Applicant’s room rate data for Cayucos and Morro Bay in **Exhibit 7**).

area online and via phone calls. **Table 1** below presents the result of this research and lists the accommodations in the area that have average peak season rates below the July 2017 statewide average of \$176.38.²¹ Based on this data, staff determined lower-cost accommodation rooms within the Cayucos and Morro Bay area to average no more than \$145 per night in July and \$146 in August, or an average of \$145.50. Low-cost hotel rooms in the Cayucos and Morro Bay area are therefore no more than 82% of the statewide average (\$145.50/\$176.38), or 18 percent below the statewide average. It is important to note that all of the accommodations evaluated in **Table 1** constitute single-room double-occupancy accommodations.

<i>Table 1 Economy Class Hotels in the Cayucos/Morro Bay Coastal Zone with Room Rates Less than State Peak Average*</i>					
	Hotel Name	Address	Area	July Avg	August Avg
1	Cypress Tree Motel	125 S. Ocean Ave.	Cayucos	94.50	94.50
2	Seaside Motel	42 S. Ocean Ave.	Cayucos	155	155
3	Cayucos Beach Inn	333 S. Ocean Ave.	Cayucos	155	155
4	Cayucos Motel	20 S. Ocean Ave.	Cayucos	150	150
5	Estero Bay Motel	25 S. Ocean Ave.	Cayucos	129	129
6	Dolphin Inn	399 S. Ocean Ave.	Cayucos	144	154
7	Motel 6	298 Atascadero Rd.	Morro Bay	147	120
8	Holland Inn	2630 Main St.	Morro Bay	154	N/A
9	Bay View Inn	225 Harbor St.	Morro Bay	145	150
10	Morro Crest Inn	670 Main Street	Morro Bay	145	152.50
11	Seaside Inn	220 Beach St.	Morro Bay	N/A	159
12	Days Inn	1095 Main St.	Morro Bay	N/A	159
13	Sundown Inn	640 Main St.	Morro Bay	154	154
14	The Breakers	780 Market Ave.	Morro Bay	N/A	161
15	Pacific Shores Inn	890 Morro Ave.	Morro Bay	165	N/A
Average				\$145	\$146
* All rates are calculated for single-room, double-occupancy accommodations 82% and below = low-cost; \$145.50 and below 118% and above = high-cost; \$197.88 and over 82%-118% = moderate range; \$145.51-\$197.87					

Based on rate only, *none* of the Applicant's proposed rooms would qualify as low-cost, but all four studios would be close to, and just below, the statewide average. The lowest-cost rooms, i.e. the four studios, have an average peak season rate of \$175, which is just below the July 2017 Statewide average of \$176.38.

²¹ Again, see STR's California Lodging Report at <http://industry.visitcalifornia.com/Research/>.

However, application of the rate-only methodology here does not account for the fact that the average low-cost room rates calculated in **Table 1** were based on single-room double-occupancy accommodations, whereas room rates for 15 of the 19 rooms proposed for this hotel are based on accommodations intended for at least six people and with a maximum capacity of up to eight people (in the two two-bedroom suites). The Applicant has acknowledged that, based on cost alone, the proposed hotel does not offer *any* lower-cost rooms. However, the Applicant also asserts that no mitigation for the lack of lower-cost rooms is required in this case due to a variety of factors (see Applicant's letter to Commission staff in **Exhibit 8**). First, the project provides new accommodations on a site that currently has none (and none in the immediate vicinity), and thus is introducing a new Coastal Act and LCP priority land use without displacing any existing lower-cost rooms. Second, the project is not a standard single-room double-occupancy hotel, but rather is designed for families and even groups of families given that it includes much larger rooms than traditional hotel rooms. As the Applicant has proposed, these larger rooms will provide lodging for between six to eight people per room at the proposed room rate at no additional charge. Through the provision of sofa beds and rollaway beds, the Applicant states that the rooms' maximum occupancy ranges from four people in the studios, six people in the two-bedroom units, and eight people in the two-bedroom suites. Based on such maximum occupancies allowed, the average *per person* cost would \$50.42 per night (between \$43.75 per person the studios, and up to \$62.50 per person for some of the two-bedroom units). Third, the rooms are all designed with a variety of amenities, such as kitchens and kitchenettes (in the studios), dishwashers, washers and driers, gas grills, and other amenities for guests which allow guests to reduce other travel costs (*e.g.*, meals) by cooking in their hotel units (see page 2 of **Exhibit 8**). In general, the Applicant argues that the hotel rooms are "affordable to families" and that the project meets the intent of Coastal Act Section 30213 and the LCP's low-cost facilities policies.

As discussed previously, the Commission has used multiple approaches in determining low-cost room rates, including relying on the cost of standard double-occupancy rooms in some cases and recognizing the "value" of the proposed accommodations in others, depending on the unique fact set of the specific case. For this project, the Applicant argues that a cost-per-person approach is the best metric to analyze the proposed units for low- or high-cost determinations. However, there are flaws with this methodology, in that such a metric is premised on an assumption that each room is always at maximum capacity, including crowding four guests into a 433-square-foot studio room. Further, these assumptions are also premised on free rollaway beds and sofa beds, which are relatively common amenities provided at hotels, although the Applicant includes these features as components of the unique value offered in this proposed hotel.

Nonetheless, relying on the standard double-occupancy room rate fails to account for some of the proposal's bona fide unique hotel offerings, including that 15 of the 19 rooms are essentially relatively large two-bedroom rooms ranging from 924 to 1,230 square feet, whereas average low-cost accommodations for this area were calculated based on single-bedroom, double-occupancy accommodations (see **Table 1**). Considering these facts, the Applicant's proposal is somewhat analogous to the Legoland Hotel in Carlsbad (Carlsbad LCPA No. 1-09B) in which the Commission determined the accommodations to be medium-cost, in part due to the suite room design and amenities which afforded better value than a standard, double-occupancy room and which made the hotel more accessible to the general public. As in the Legoland Hotel, the

Applicant's proposed hotel here is specifically designed to accommodate families with a maximum occupancy ranging from four for the studios to eight for the two largest rooms (the two-bedroom suites), with six being the average across all rooms. Instead of needing to reserve multiple standard, double-occupancy rooms at market rate, a family or group of visitors can take advantage of the higher occupancy rate allowed for in the proposed accommodations.

Furthermore, proposed room amenities including kitchens, kitchenettes, and gas grills provide visitors lower-cost alternatives to having to eat meals at outside restaurants (again, see page 2 of **Exhibit 8**). These are amenities that make the hotel more accessible to the general public because it may allow visitors to afford to stay at these accommodations by compensating for other travel costs (e.g., food). Given all of these factors, the Commission agrees that, in this case, and given the limited mix of similar hotel offerings in this area, the design of the hotel increases affordability for families and other groups, and therefore, it would be more appropriate to characterize the proposed project as primarily medium/moderate cost, and not high cost. In addition, four of the rooms (the studios) are proposed at just below the statewide average, and with the addition of kitchenettes and other offerings (as described above) as part of these rooms, it would be more appropriate to characterize these rooms as lower-cost, in this case.

Conclusion

Therefore, the Commission finds that no in-kind or in-lieu fee mitigation is required because the project provides a unique offering of mostly medium/moderate-cost one- and two-bedroom rooms that can accommodate families and other groups on a site and in an area where such accommodations are not currently available. In addition, the proposed project does not displace any existing overnight accommodations and is not located in a visitor-serving overlay zoning (combining designation) district (i.e., the site could be developed with non-visitor-serving general commercial development as opposed to the high priority visitor-serving development proposed here). Thus, the proposed project increases the range of opportunities for overnight accommodations here. However, to ensure that the rooms remain primarily moderate cost over time, **Special Condition 1** is necessary to ensure that the Applicant undertakes development as proposed, including in relation to the Applicant's own proposed rate structure as shown in **Exhibit 6**. Any substantial deviation from such proposed rates that convert the hotel into a higher cost hotel will require an amendment to this CDP, unless the Executive Director determines that no amendment is legally required. In addition, **Special Condition 6** requires that all hotel rooms (including the suites) be open and available to the general public, that rooms shall not be rented to any individual, family, or group for more than 29 consecutive days and that no individual ownership or long-term occupancy of hotel rooms shall be allowed. To further ensure that the hotel operates as proposed and approved, **Special Condition 6** prohibits the conversion of any of the hotel overnight rooms (including suites) to limited use overnight visitor accommodation units (e.g., timeshare, fractional ownership, etc.) or to full-time occupancy condominium units or to any other units with use arrangements that differ from the approved project. Thus, for all of the reasons described above, the proposed project can be found consistent with LCP Recreation Policies 1 and 3 with respect to the protection and provision of services which are geared to a range of costs, including lower-cost facilities.

3. Water Quality

Applicable LCP Policies

The County's LCP protects against water quality impacts, including during construction. Applicable LCP provisions include the following:

LUP Policy 8: Timing of Construction and Grading. Land clearing and grading shall be avoided during the rainy season if there is a potential for serious erosion and sedimentation problems. All slope and erosion control measures should be in place before the start of the rainy season. Soil exposure should be kept to the smallest area and the shortest feasible period. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD AND PURSUANT TO SECTION 23.05.036 OF THE CZLUO.]

LUP 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.]

LUP 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.]

Analysis

The LCP includes numerous water quality protections, including LUP Policies 8, 9, and 10 cited above, which prohibit development from degrading water quality, and also require that development prevent erosion and limit grading. In addition, these LCP policies protect against the potential adverse impacts of toxic substances on coastal resources and water quality through requirements to protect groundwater basins and to minimize erosion and sedimentation (e.g., required drainage plans and timing of construction). The proposed construction work to develop the hotel would occur inland of Highway 1; however, construction activity in areas which can drain to the ocean via drainage or other means always has the potential to cause adverse impacts. Thus, with respect to construction activities, **Special Condition 3** requires submission and maintenance of a Construction Plan to ensure that Best Management Practices (BMPs) are implemented during construction to avoid water quality and other impacts during construction, to utilize good housekeeping, minimize sediment erosion, to limit construction work to daylight hours only, and to require that copies of the signed CDP be maintained in a conspicuous location at the site and that a construction coordinator to be available to respond to any inquiries that arise during construction.

The proposed project would be constructed on the site of a former gas station. Thus, beyond impacts associated with normal construction activities, there is the added potential for impacts due to the potential presence of toxics already on the site. During construction and excavation to construct the underground parking, there is the potential to uncover, unearth or otherwise disturb contaminants which would then have the potential to leach from the site to nearby creeks and watercourses. Potential contamination of the site has been studied via a previous underground storage tank investigation, a new Phase I Environmental Site Assessment completed during the preparation of the Mitigated Negative Declaration, and County Environmental Health Division recommendations, which conclude that the site will be safe to construct on with their required recommendations. However, based on these analyses the potential still exists that: the site contains an underground storage tank associated with the former gas station; lead and asbestos may be present in the existing building; and volatile organic compounds may be present in the soil. To ensure the site is appropriately remediated for the proposed project, **Special Condition 4** addresses the issue of subsurface toxics and hazardous materials that may be discovered on the site during construction. **Special Condition 4** requires that the site remediation be signed off by the County Environmental Health Division and the Regional Water Quality Control Board.

Finally, after construction, in order to ensure that the development includes appropriate water quality protections, **Special Condition 2d** requires stormwater and drainage infrastructure and related water quality measures (e.g., pervious pavements, etc.), with preference given to natural BMPs (e.g., bioswales, vegetated filter strips, etc.). Such infrastructure and water quality measures shall provide that all project area stormwater and drainage is filtered and treated to remove expected pollutants prior to discharge, and directed to public stormwater and drainage facilities that are able to handle the flows expected, including during extreme storm events. The condition requires runoff from the project to be retained onsite to the maximum extent feasible, including through the use of pervious areas, percolation pits, and engineered storm drain systems. Infrastructure and water quality measures shall be sized and designed to accommodate runoff from the site produced from each and every storm event up to and including the 85th percentile 24-hour runoff event, which is a standard water quality protection metric. In extreme storm situations (>85th percentile, 24-hour runoff event storm) where such runoff cannot be adequately accommodated on-site through the project's stormwater and drainage infrastructure, any excess runoff shall be conveyed off-site in a non-erosive manner. To ensure minimization of any dewatering necessary to construct the underground parking garage for the hotel component of the project, which could lead to water quality impacts, **Special Condition 3g** prohibits construction of the underground garage during the rainy season (i.e., between October 15 and April 15).

Thus, as conditioned, the project can be found consistent with the above-cited LCP water quality protection policies.

4. Cultural Resources

Applicable LCP Policy

The County's LCP recognizes that archaeological and cultural resources are an important and fragile coastal resource. To protect these resources, the LCP includes the following policy:

LUP Conservation and Open Space Element Policy CO-6 Construction Suspension.

Should archaeological or paleontological resources be disclosed during any construction activity, all activity that could damage or destroy the resources shall be suspended until a qualified archaeologist has examined the site. Construction shall not resume until mitigation measures have been developed and carried out to address the impacts of the project on these resources.

Analysis

The LCP requires suspension of construction if cultural resources are found during construction activities. According to the project's Mitigated Negative Declaration (MND, 2008), the project is located adjacent to Willow Creek and the Pacific Ocean – areas that would be considered culturally sensitive and associated with prehistoric occupation – in an area historically occupied by the Obispeño Chumash tribe. A number of cultural resource sites have been identified in the immediate vicinity of the project site. However, according to the MND, no historic structures are present and no paleontological resources are known to exist on the site.

The project's geotechnical investigation reports that the project would involve significant excavation into native soils (GSI, 2006) but because the project is not expected to encounter bedrock (test bores to 20 feet below the surface did not encounter bedrock), it is unlikely that paleontological resources of value will be disturbed by the project. In addition, a Phase I (surface) survey was conducted by a qualified consultant (Parker, 2005). However, the majority of the project site is covered with fill, asphalt, concrete or the existing structure, making inspection of native soils difficult. As a result, the investigation was inconclusive. **Special Condition 5** thus requires that construction activities will be suspended if any archeological or paleontological resources are discovered during construction, and provides for a methodology to recommence construction, all as required by the LCP. Therefore, as conditioned, the project can be found consistent with the LCP with respect to archaeological resources.

5. Other

Traffic and Pedestrian Circulation

CZLUO Section 23.02.034(c)(4)(v) requires that a proposed use or project 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, stating:

CZLUO Section 23.02.034(c)(4)(v). Required findings. *The Review Authority shall not approve or conditionally approve a Development Plan unless it first finds that: ... (v) The proposed use or 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.*

The original traffic study prepared for the project (TPG Consulting, 2007) and submitted by the Applicant concludes that no project-specific mitigation measures are necessary (including no need to alter the roadway or traffic signals in the area). The County Public Works Department at that time also reviewed this study and agreed with its conclusions. This study analyzed a four-unit apartment complex (with each unit having three bedrooms) and an 18-room hotel (two bedrooms in each hotel unit), which is similar to the current project (except that no residential development is now proposed and 19 hotel rooms are proposed). The study evaluated four

intersections adjacent to the hotel under three scenarios (existing, existing plus project, and 2030 with project). Under all three scenarios, all four intersections adjacent to the project site were projected to operate above adopted level of service standards. More recently, the Applicant's traffic consultant completed an updated traffic study and comparison of current conditions and project changes. The study, dated October 23, 2015, evaluated both 18-room and 21-room hotel options, along with the previously-evaluated four residential units. This study found that there has been a slight reduction in traffic at the four locations evaluated in the 2007 study by 15% to 20%. Furthermore, the project as revised also includes new sidewalks on three sides of the project site, which will enhance non-vehicular pedestrian opportunities. Thus, the level of service for traffic is not anticipated to fall below the appropriate adopted level of service standard, and thus the project meets applicable LCP traffic requirements.

Parking

The LCP requires parking spaces as follows:

CZLUO Section 23.04.166(c)(9): Transient Lodging. Hotels & Motels: 2 [parking] spaces, plus 1 space per unit, plus 1 space per ten units.

CZLUO Section 23.04.162(a): Off-Street parking Required. Compact Car Spaces: Lots with 20 or more spaces may substitute compact car spaces for up to 20% of the total number of required spaces. Compact car spaces are to be a minimum of 8 by 14 feet in size.

CZLUO Section 23.04.162(b): Off-Street Parking Required. Motorcycle parking: Lots with 20 or more spaces may replace regular spaces with motorcycle spaces. One regular space may be replaced with a motorcycle space for each 20 required spaces. Motorcycles spaces are to be a minimum of size of four by eight feet.

The project includes one handicap parking space on the ground level (near the entrance along Ocean Boulevard) and a 22-space underground parking structure (including one motorcycle and one additional handicap parking space) to serve the proposed hotel. CZLUO Section 23.04.166(c)(9) requires 19 spaces for the 19 rooms, plus two additional spaces, plus one additional space for every ten units, for a total of 23 spaces,²² with one of these spaces allowed to be a motorcycle space (CZLUO Section 23.04.162(a)) and four of the spaces allowed to be compact parking spaces (CZLUO Section 23.04.162(b)). Thus, the hotel component of the project is consistent with the LCP's parking requirements (see page 7 of **Exhibit 2** for the project plans showing the hotel parking layout).

As described above, the project provides LCP consistent parking to serve the hotel. In addition, because the maximum number of occupants in each type of hotel room has been reduced from

²² CZLUO Section 23.01.041(b)(5), Rounding of Quantities, provides for rounding up, or down, of quantities, in this case parking spaces: "Whenever this title requires consideration of distances, numbers of dwelling units, parking spaces or other aspects of development expressed in numerical quantities that are fractions of whole numbers, and this title uses such quantities in the form of whole numbers only, such numbers are to be rounded to the next highest whole number when the fraction is .5 or more, and to the next lowest whole number when the fraction is less than .5; provided, however, that quantities expressing areas of land are to be rounded only in the case of square footage, and are not to be rounded in the case of acreage."

prior project iterations (to an average maximum of six persons per room),²³ parking demands on the hotel and surrounding residential streets, as spillover if needed, are also decreased. In summary, the proposed project includes the LCP-required amount of onsite parking, which helps to reduce conflicts with, and to maintain adequate parking offsite for, adjacent parking in the neighborhood, and is thus consistent with the LCP's parking requirements.

Adequate Public Services

The LCP states as follows:

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... 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 (DIVISIONS OF LAND), 23.04.430 AND 23.04.432 (OTHER DEVELOPMENT) OF THE CZLUO.]*

In terms of adequate water capacity, San Luis Obispo County issued a Conditional Water Will-Serve letter (last dated August 26, 2015) for the hotel project, which states that County Service Area 10A (CSA 10A) is ready and willing to provide water service to the subject project provided several conditions are met, prior to issuing the Applicant a final water will-serve letter.²⁴ CSA 10A will provide up to three acre-feet of water per year for the entire project site. Expected water demand for the proposed project is expected to range from 2.57 to 2.97 acre-feet per year based on demand rates from the Public Works Department and an analysis in the Mitigated Negative Declaration. The County's latest Resource Summary Report, for the years 2014-2016, states that there is no resource constraint "Level of Severity" for the Cayucos Valley Groundwater Basin, nor for the affected water purveyor (i.e., CSA 10A).²⁵ In addition, a new and larger CSA 10A water line has been installed in the vicinity serving the project area, and a new 210,000-gallon water storage tank is scheduled to be constructed in March 2018, bringing the

²³ Previous iterations of the proposed project on *de novo* review included maximum occupancy numbers of up to ten people in the two-bedroom suites, with an average maximum occupancy of 8 people across all rooms (up to 6 in the suites and up to 8 in the two-bedroom units) As described earlier in the report, the maximum occupancy number has been reduced in each room to reduce parking pressure and traffic.

²⁴ The Applicant is currently in the process with the San Luis Obispo County Public Works Department (c/o Doug Bird) to secure a time extension for this letter.

²⁵ The County uses a level of severity scale (I, II, or III, where the higher numbers mean a greater scarcity/level of resource constraint) to identify differing levels of resource deficiencies. In this case, the County has not identified a need to designate the Cayucos water supply resource even at a level of severity I. For this area, the County indicates that it continues to support efforts to improve water conservation, the efficient use of water, and water re-use; that it continues to collect development impact fees for the construction of water supply infrastructure; and that it supports efforts to develop sustainably.

total future water storage volume to 420,000 gallons in Cayucos,²⁶ from an existing capacity of approximately 210,000 gallons.

However, any new development impacts water supply in some manner, and new developments should, if not required, institute various water conserving features to reduce a project's impact on the County's water resources. Water conservation features for new development are a critical component in curbing water demand during drought emergencies and otherwise. The proposed project incorporates water conservations measures pursuant to the California Green Code (CALGreen), which requires a number of water efficiency measures for non-residential uses for both fixture units and outdoor water use. The proposed hotel will be using drought-tolerant plant materials serviced by a drip system or micro-mist irrigation systems and will be utilizing LID best management practices for handling storm water runoff via a drainage and runoff control plan (See **Special Condition 2e** and **2d**, respectively).

With regard to sewage disposal, the Cayucos Sanitary District has stated that it has adequate capacity to serve the proposed project. The community sewage treatment system is operating at acceptable levels, has the capacity to support existing commitments in addition to the proposed project, and is not operating at any Level of Severity.

In terms of fire safety and services, on August 31, 2006 a Fire Safety Plan was prepared by the Cayucos Fire Protection District for the proposed project. More recently, the Applicant has retained the services of Collings and Associates (Registered Fire Protection Engineering Firm) to evaluate the project in view of water flow data from County Service Area 10A. The Collings evaluation has been completed and their report indicates that satisfactory flows exist to the project site subject to installing sprinklers for the entire structure and providing two additional fire hydrants. The project is also proposed to include a monitored water and fire flow alarm. In this case, **Special Condition 7** incorporates all of the County's conditions that are pursuant to an authority other than the Coastal Act (such as fire safety requirements) into this project approval (see **Exhibit 9** and additional finding below).

Thus, the proposed project is consistent with Public Works Policy 1 (and corresponding CZLUO requirements) for fire, water, and sewer services.

Future Notice

The terms and conditions of this approval are meant to be perpetual. In order to inform future owners of the requirements of the permit, this approval is conditioned to require recordation of deed restrictions that will record the project conditions against the affected properties (see **Special Condition 9**).

Indemnification

Coastal Act Section 30620(c)(1) authorizes the Commission to require applicants to reimburse the Commission for expenses incurred in processing CDP applications.²⁷ Thus, the Commission is authorized to require reimbursement for expenses incurred in defending its action on the pending CDP application in the event that the Commission's action is challenged by a party

²⁶ Emails from the Applicant's representative, dated July 8, 2016 and August 22, 2016, with information from Nola Engelskirger, San Luis Obispo County Public Works Department, regarding Cayucos's water storage.

²⁷ See also California Code of Regulations Title 14 Section 13055(g).

other than the Applicant. Therefore, consistent with Section 30620(c), the Commission imposes a condition requiring reimbursement for any costs and attorneys' fees that the Commission incurs in connection with the defense of any action brought by a party other than the Applicant challenging the approval or issuance of this permit (**Special Condition 8**).

County's Non-Coastal-Act Conditions

Finally, the Commission's action on this CDP has no effect on conditions imposed by the County of San Luis Obispo pursuant to an authority other than the Coastal Act, including the conditions of the San Luis Obispo County tentative tract map/coastal development permit (Tract 2863, Development Plan SUB2005-00241 and Variance DRC2006-00064 – see **Exhibit 9** and **Condition 7**).

E. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Section 13096 of Title 14 of the California Code of Regulations requires that a specific finding be made in conjunction with CDP 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 Environmental Coordinator of San Luis Obispo County, after completion of the initial study, found that there was no substantial evidence that the project may have a significant effect on the environment and that the preparation of an Environmental Impact Report was not necessary. Therefore, San Luis Obispo County, acting as lead CEQA agency, conducted an environmental review for the proposed project as required by CEQA and issued a Mitigated Negative Declaration on February 21, 2008, and a Revised Mitigated Negative Declaration on May 29, 2008.

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. (14 CCR § 15251(c).) The Commission has reviewed the relevant coastal resource issues associated with the proposed project, and has identified appropriate and necessary modifications to address adverse impacts to such coastal resources. All above findings are incorporated herein in their entirety by reference.

The Commission finds that only as modified and conditioned by this CDP will the proposed project avoid significant adverse effects on the environment within the meaning of CEQA. As such, there are no additional feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse environmental effects that approval of the proposed project, as modified, would have on the environment within the meaning of CEQA. If so modified, the proposed project will not result in any significant environmental effects for which feasible mitigation measures have not been employed consistent with CEQA Section 21080.5(d)(2)(A).

APPENDIX A – SUBSTANTIVE FILE DOCUMENTS²⁸

- *Revised Mitigated Negative Declaration*, dated May 29, 2008.
- *Phase I Site Assessment*, Franco DeCicco Property (APN's 064-263-025, -036, -052, -053). 2991 South Ocean Boulevard, Cayucos, California.
- *Geotechnical Evaluation*, GeoSolutions, Inc., 2006.
- *Traffic Impact Study*, TPG Consulting, November 2007.
- *Updated Traffic Impact Study*, C2 Consultants, October 23, 2015.
- *Traffic Report Update for the Cayucos Del Mar Development*, Department of Public Works, December 16, 2015.
- *Visual Impact Assessment*, November 2007. Morro Group, Inc. Environmental Services.
- *Photo Simulations*, January 2018.
- *2012-2014 Resource Summary Report*, San Luis Obispo County General Plan, May 5, 2015.

APPENDIX B – STAFF CONTACT WITH AGENCIES AND GROUPS

- San Luis Obispo County Planning and Building Department
- San Luis Obispo County Public Works Department
- San Luis Obispo County Division of Environmental Health

²⁸ These documents are available for review in the Commission's Central Coast District office.