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# W21d

Appeal Filed: 10/9/2017  
Action Deadline: None  
Staff: Katie Butler - SC  
Staff Report: 1/19/2018  
Hearing Date: 2/7/2018

## STAFF REPORT: DE NOVO HEARING

**Application Number:** A-3-SLO-17-0053

**Applicant:** Lynn Clemence-Lucas

**Project Location:** 2701 Windsor Boulevard in the Cambria area of San Luis Obispo County (APN 023-011-010)

**Project Description:** Allow use of an existing two-bedroom, 2,477-square foot single-family blufftop residence as a vacation rental and incorporate conditions 1 through 14 from San Luis Obispo County's approval of file number DRC2016-00066.

**Staff Recommendation:** Approval with Conditions

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### SUMMARY OF STAFF RECOMMENDATION

The Applicant proposes to use an existing two-bedroom, 2,477-square-foot single-family blufftop residence as a vacation rental at 2701 Windsor Boulevard in the unincorporated Cambria area of San Luis Obispo County. The application includes incorporation of San Luis Obispo County Conditions 1 through 14 from County file DRC2016-00066, which includes conditions that the County imposed on this vacation rental to address potential noise, parking, and other potential user issues.

On November 8, 2017, the Commission found that the County's action approving the project raised a substantial issue of conformance with the County's Local Coastal Program (LCP) due to questions about the residence's distance to other existing vacation rentals and took jurisdiction over the coastal development permit (CDP) application.

The Coastal Act and the LCP protect and prioritize visitor-serving uses over other uses, such as private residential uses, particularly on oceanfront properties such as this one. And the LCP's vacation rental ordinance seeks to balance the objective of providing visitor-serving uses in residentially-designated areas in a manner that protects neighborhood character by placing a series of restrictions on such rentals, including related to noise, traffic, parking, occupancy, and location. Notably, the LCP includes specific distance standards between vacation rentals in Cambria, generally requiring such rentals to be separated by minimum distances (i.e., 200 feet away from other vacation rentals on the same street, and 150 feet away from other vacation rentals overall). However, the LCP also allows for lesser distances between vacation rentals if the findings for a Minor Use Permit (MUP, which is a type of CDP under this LCP) approval are made, including that the proposed vacation rental is otherwise consistent with the LCP and with neighborhood character, will not be detrimental to health, safety, welfare, or property, will not generate unsafe traffic volumes, and is in conformity with the public access and recreation policies of the Coastal Act. In other words, the County can approve a vacation rental consistent with the LCP even if it doesn't meet the prescribed distances between vacation rentals subject to making these MUP findings.

In this case, the proposed project would be closer to four other vacation rentals than the distances identified in the LCP for Cambria,<sup>1</sup> and thus it can only be approved if the additional findings for an MUP approval are made. Staff believes that the required MUP findings to allow this vacation rental can readily be made, and are appropriate in this case because the proposed project is an allowed use in the residential land use designation; it would meet all other LCP-required standards for vacation rentals (e.g., as related to limits on tenancy (time), occupancy (number of tenants), parking vehicles, traffic, noise, appearance, signage, local contact person, TOT, etc.). And, importantly, the proposed vacation rental is consistent with the Coastal Act's public access and recreation policies that require maximization of public recreational access opportunities because it would facilitate the public's ability to access and recreate along this area of the coast, particularly given its oceanfront location, adjacency to a vertical beach access stairway and a blufftop park, proximity to the Fiscalini Ranch Preserve (a popular coastal open space and trail area), and consistency with all other applicable LCP provisions. In other words, the LCP allows for vacation rentals to be closer than identified for Cambria, and this site is a prime candidate for such proximity due to its ability to foster additional public recreational access opportunities and further key Coastal Act and LCP goals. In short, the proposed project is a high-priority visitor-serving use that will appropriately provide a means for the general public to better access and recreate in this prime visitor destination immediately adjacent to the Pacific Ocean, a public coastal park and vertical accessway to the ocean, and the Fiscalini Ranch open space trails. This site is precisely the type of site that is well-suited to vacation rental use, and it is appropriate here.

At the same time, staff recognizes that vacation rentals clearly engender unique issues and potential impacts regarding the appropriate number, location, and concentrations of vacation

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<sup>1</sup> Staff notes that such lesser distances between vacation rentals are not uncommon in San Luis Obispo County, including because most of the allowed vacation rentals in the County already existed when the LCP's vacation rental ordinance was adopted, and they were already closer than the 150-foot/200-foot standard, including throughout the area where the proposed project is located (see the map of vacation rentals in this areas in **Exhibit 3**).

rentals, and how vacation rentals may or may not adversely impact a community's residential and community character. The LCP's goals and vision for Cambria clearly include ensuring that its small-town character and residential nature as a beach community are appropriately protected. At the same time, the LCP specifically allows for vacation rentals, including because of the importance of providing visitor-serving uses in the coastal zone, particularly along oceanfront properties such as this project site, for which the Coastal Act and the LCP prioritize higher priority visitor-serving uses over lower-priority private residential uses. These two interests need not be inconsistent with one another, and staff believes that they are not in this case. The proposed project is allowing a particular existing single-family residence to be used as a vacation rental on the facts presented, and it is not a broader determination of whether vacation rentals generally may or may not be appropriate in residential land use categories and/or how they may or may not impact local residents on a community-wide scale. Those questions have already been settled in this case given that the LCP allows for vacation rentals in residential areas, including in closer proximity to one another if certain findings are made, and has standards for evaluating such rentals. And the proposed project includes requirements to address potential incompatibility issues through incorporation of the County's conditions, which should serve to adequately address any potential incompatibility problems in this case. Given that the LCP allows vacation rentals to be closer to each other when specific findings are made, which they can be here, and the proposed project description includes all other LCP-required standards and restrictions for vacation rentals, the project is consistent with the applicable LCP provisions regarding vacation rentals.

Therefore, as conditioned to require adherence to the LCP-required standards and restrictions for vacation rentals imposed by the County in its approval of the vacation rental (and which are now proposed as part of the project by the Applicant), and to indemnify the Commission against legal challenge, the proposed project can be found consistent with the requirements of the certified San Luis Obispo County LCP and the public access and recreation policies of the Coastal Act. The motion and resolution to approve the project subject to the staff recommendation are found on page 5 of this report.

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Exhibit 4 – San Luis Obispo County MUP Conditions from County File No. DRC2016-00066

### CORRESPONDENCE

### EX PARTE COMMUNICATION

## I. MOTION AND RESOLUTION

Staff recommends that the Commission, after public hearing, **approve** a CDP 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-17-0053 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-17-0053 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 policies and Coastal Act access and recreation policies. 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 Project.** CDP A-3-SLO-17-0053 authorizes the use of an existing single-family residence as a vacation rental as described in Section IV.A. (Project Description and Location) of this report, including the incorporation of San Luis Obispo County Conditions 1 through 14 from County file number DRC2016-00066 (as shown in **Exhibit 4**). The Permittee shall ensure that use of the vacation rental is in accordance with this approved CDP. No changes to the approved use shall occur without a Commission-approved amendment to this CDP unless the Executive Director determines that no amendment is legally required.
- 2. Liability for Costs and Attorneys' Fees.** The Permittee shall reimburse the Coastal Commission in full for all Coastal Commission costs and attorneys' fees (including but not limited to such costs/fees that are: (1) charged by the Office of the Attorney General; and (2) required by a court) 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 permit. The Permittee shall reimburse the Coastal Commission within 60 days of being informed by the Executive Director of the amount of such costs/fees. The Coastal Commission retains complete authority to conduct and direct the defense of any such action against the Coastal Commission, its officers, employees, agents, successors and assigns.

### IV. FINDINGS AND DECLARATIONS

The standard of review for the proposed coastal development permit (CDP) application is the San Luis Obispo County certified Local Coastal Program (LCP) and, because the project is located between the first public road and the sea, the public access and recreation policies of the Coastal Act.

#### A. PROJECT DESCRIPTION AND LOCATION

The proposed project is use of an existing oceanfront two-bedroom, 2,477-square-foot single-family residence as a residential vacation rental and the use of said rental pursuant to the San Luis Obispo County Conditions 1 through 14 (County file DRC2016-00066, attached as **Exhibit 4**).<sup>2</sup> These conditions include requirements for: no more than four individual tenancies per calendar month with no more than six occupants per tenancy; maintenance of the residential appearance and character of the site; no onsite advertising of the rental; traffic volume of no more than 10 vehicle trips per day; onsite (driveway or garage) parking only; compliance with

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<sup>2</sup> A residential vacation rental is defined in LCP Coastal Zone Land Use Ordinance (or CZLUO, the LCP's Implementation Plan) Section 23.08.165 as "the use of an existing residence, or a new residential structure that has been constructed in conformance with all standards applicable to residential development, as a rental for transient use. This definition does not include the single tenancy rental of the entire residence for periods of thirty consecutive days or longer."

County noise standards; designation of a local property manager or contact person who is available 24 hours per day to respond to neighborhood questions and concerns; payment of transient occupancy tax (or TOT); and recourse for violations of these conditions, including revocation of the Minor Use Permit (MUP) (which is a type of CDP).

The proposed vacation rental is located at 2701 Windsor Boulevard (APN 023-011-010) on the blufftop at the north end of the Marine Terrace neighborhood, or the West Lodge Hill area, in the unincorporated community of Cambria in San Luis Obispo County (see **Exhibit 1**). The residence is: immediately adjacent to an existing blufftop park and vertical beach access stairway at the terminus of Wedgewood Street/Sherwood Drive; approximately 100 feet from the entrance to the Fiscalini Ranch Preserve (Preserve); and across the street (Windsor Boulevard) from a Preserve's public parking area. The adjacent Preserve entrance provides direct access to the Bluff Trail, which is a popular public access amenity. The project site is located in the County's Residential Single-Family (RSF) land use category and is within the Urban Service Line (USL) of Cambria. Vacation rentals are allowed as a conditional use in the RSF land use category.

See **Exhibit 1** for a location map; see **Exhibit 2** for photographs of the site and surrounding area.

## **B. RESIDENTIAL VACATION RENTAL STANDARDS AND VISITOR SERVING USE**

The certified San Luis Obispo County LCP is comprised of the Coastal Zone Land Use Element (CZLUE) and the Coastal Zone Land Use Ordinance (CZLUO). The CZLUE is comprised of four parts: the Framework for Planning, the Coastal Plan Policies, the four area plans (Estero, North Coast, San Luis Bay, and South County), and the land use maps, and it constitutes the LCP's LUP. The CZLUO is the LCP's Implementation Plan (IP), and it includes a chapter on residential vacation rentals that includes various standards that they must meet, including requirements for, among other things, tenancy, appearance, signage, parking, noise, and distances to other vacation rentals. The specific distance requirements may be modified with an MUP. The MUP provisions include required findings for approval that are the same as those required for a Development Plan.<sup>3</sup> The applicable LCP requirements state:

***CZLUO 23.08.165 - Residential Vacation Rentals:** The Residential Vacation Rental is the use of an existing residence, or a new residential structure that has been constructed in conformance with all standards applicable to residential development, as a rental for transient use. This definition does not include the single tenancy rental of the entire residence for periods of thirty consecutive days or longer. Rental of a residence shall not exceed four individual tenancies per calendar month as defined in Subsection d. The use of residential property as a vacation rental within the Cambria and Cayucos and Avila Beach urban reserve lines shall comply with the following standards:*

- a. Purpose.** The purpose of this section is to establish a set of regulations applicable to residential vacation rentals. These regulations are in addition to all other provisions of this Title. In the adoption of these standards the Board of Supervisors find that residential vacation rentals have the potential to be incompatible with surrounding residential uses, especially when several are concentrated in the same area, thereby*

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<sup>3</sup> In the SLO County LCP, Minor Use Permits (or MUPs) and Development Plans are types of CDPs.

*having the potential for a deleterious effect on the adjacent full time residents. Special regulation of residential vacation rentals is necessary to ensure that they will be compatible with surrounding residential uses and will not act to harm and alter the neighborhoods they are located within.*

**b. Permit requirements.** *Zoning Clearance, Business License and Transient Occupancy Tax Registration is required for each residential vacation rental. Where water or sewage disposal is provided by a community system, evidence shall be submitted with the application for a Zoning Clearance to show that the service provider(s) has been informed of the proposed use of the property as a vacation rental, and has confirmed that there is adequate service capacity available to accommodate this use.*

**c. Location.**

*(1) Cambria. Within all residential land use categories, no residential vacation rental shall be located within (1) 200 linear feet of a parcel on the same side of the street as the vacation rental; (2) 200 linear feet of the parcel on the opposite side of the street from the vacation rental; and (3) 150 foot radius around the vacation rental. These same distances apply to other types of visitor-serving accommodation (i.e. Bed and Breakfast or Homestay.) Distances shall be measured from the closest property line of the existing residential vacation rental unit, and/or other visitor-serving accommodation, to the closest property line of the property containing the proposed residential vacation rental unit. This location standard can be modified through Minor Use Permit approval when a Development Plan is not otherwise required. (emphasis added) ...*

**d. Vacation rental tenancy.** *Rental of a residence shall not exceed four individual tenancies per calendar month. The first day of each tenancy determines the month assigned to that tenancy. No additional occupancy of the residence (with the exception of the property owner and private non-paying guests) shall occur. A residential vacation rental shall only be used for the purposes of occupancy as a vacation rental or as a full time occupied unit. No other use (i.e.: home occupation, temporary event, homestay) shall be allowed on the site.*

**e. Number of occupants allowed.** *The maximum number of occupants allowed in an individual residential vacation rental shall not exceed the number of occupants that can be accommodated consistent with the on-site parking requirement set forth in subsection i hereof, and shall not exceed two persons per bedroom plus two additional persons. The Zoning Clearance shall specify the maximum number of occupants allowed in each individual vacation rental.*

**f. Appearance, visibility and location.** *The residential vacation rental shall not change the residential character of the outside appearance of the building, either by the use of colors, materials, lighting, or by the construction of accessory structures or garages visible from off-site and not of the same architectural character as the*

*residence; or by the emission of noise, glare, flashing lights, vibrations or odors not commonly experienced in residential areas.*

- g. Signs.** *Availability of the rental unit to the public shall not be advertised on site.*
  - h. Traffic.** *Vehicles used and traffic generated by the residential vacation rental shall not exceed the type of vehicles or traffic volume normally generated by a home occupied by a full time resident in a residential neighborhood. For purposes of this section, normal residential traffic volume means up to 10 trips per day.*
  - i. On-site parking required.** *All parking associated with a Residential Vacation Rental shall be entirely on-site, in the garage, driveway or otherwise out of the roadway, in accordance with subsection e., above. Tenants of Residential Vacation Rentals shall not use on-street parking at any time.*
  - j. Noise.** *All residential vacation rentals shall comply with the standards of Section 23.06.040 et seq. (Noise Standards). No residential vacation rental is to involve on-site use of equipment requiring more than standard household electrical current at 110 or 220 volts or that produces noise, dust, odor or vibration detrimental to occupants of adjoining dwellings. In addition, property owners and/or property managers shall insure that the occupants of the residential vacation rental do not create loud or unreasonable noise that disturbs others and is not in keeping with the character of the surrounding neighborhood. Loud and unreasonable noise shall be evaluated through field observations by a County Sheriff, County Code Enforcement or other official personnel, based upon a threshold of noise disturbance related to the residential vacation rental use that is audible from a distance of 50 feet from the property lines of the rental property.*
  - k. Local contact person.** *All residential vacation rentals shall designate a local property manager. The local property manager shall be available 24 hours a day to respond to tenant and neighborhood questions or concerns. Where a property owner lives within the same urban or village area as the residential vacation rental, the property owner may designate themselves as the local contact person. All the requirements enumerated in this section shall continue to apply.*
- (1)** *A notice shall be submitted to the Department of Planning and Building, the local Sheriff Substation, the main county Sheriff's Office; the local fire agency and supplied to the property owners within a 200 foot radius of the proposed residential vacation rental site. Distances shall be measured as a radius from the exterior property lines of the property containing the residential vacation rental unit. This notice shall state the property owner's intention to establish a residential vacation rental and shall include the name, address and phone number of the local contact person and the standards for noise, parking and maximum number of occupants. A copy of the notice, a form certifying that the notice has been sent and a list of the property owners notified shall be supplied to the Planning and Building Department at the time of application for the Zoning*

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*Clearance, Business License and Transient Occupancy Tax Certificate for the residential vacation rental.*

*(2) The name, address and telephone number(s) of the local contact person shall be permanently posted in the rental unit in a prominent location(s). Any change in the local contact person's address or telephone number shall be promptly furnished to the agencies and neighboring property owners as specified in this subsection. In addition, the standards for parking, maximum occupancy and noise shall be posted inside the residential vacation rental unit and shall be incorporated as an addendum to the vacation rental contracts.*

- l. **Transient Occupancy Tax.** Each residential vacation rental unit shall meet the regulations and standards set forth in Chapter 3.08 of the County Code, including any required payment of transient occupancy tax for each residential vacation rental unit. The Transient Occupancy Tax Certificate number shall be included in all advertising for the residential vacation rental.*
- m. **Effect on existing residential vacation rentals.** If a Business License issued for a residential vacation rental, expires pursuant to Title 6 of the County Code, a new Zoning Clearance and Business License shall be required and shall be subject to all standards as set forth in this Section.*
- n. **Complaints.** Complaints about possible violations of these standards should first be directed to the local contact person. If the local contact person is unavailable or fails to respond, the complaining party should contact the County Sheriff's Department (Dispatch). Sheriff Dispatch will attempt to reach the local contact person. If Sheriff Dispatch is unable to reach the local contact person because the contact person is not available or because current contact information has not been provided to the Sheriff's Department, the Sheriff's Department shall inform County Code Enforcement staff. During normal business hours, complaints may also be submitted to County Code Enforcement staff. County staff will attempt to reach the contact person or will visit the property as appropriate. Complaints about alleged violations shall be documented by a County Code Enforcement Officer. County staff shall prepare a written report which describes the nature of the violation, when it occurred and how it came to the attention of County officials. In some cases, a report may also be written by the Sheriff's deputy responding to the complaint.*
- o. **Violation - vacation rental.** It is unlawful for any person to use or allow the use of property in violation of the provisions of this section. The penalties (including fines) and process for addressing a violation of this section are set forth in Chapter 23.10 of this Title (Enforcement). Additional penalties for violation of this section may include revocation of the Zoning Clearance and Business License. Violations that will cause the processing of Zoning Clearance revocation include:
  - (1) Failure to notify County staff when the contact person, or contact information, changes.**

- (2) *Violation of the residential vacation rental tenancy standards as set forth in Subsection d.*
- (3) *Violation of the residential vacation rental maximum occupancy, parking and noise requirements as set forth in Subsections e, i and j.*
- (4) *The inability of County staff or the Sheriff's Dispatch to reach a contact person.*
- (5) *Failure of the local contact person, or property owner, to respond the complaint. Three verified violations of Subsection o, as determined by a County Planning and Building staff person, within any consecutive six month period, shall be grounds for revocation of the Zoning Clearance. Signed affidavits by members of the community may be used to verify violations. Revocation of the Zoning Clearance shall follow the same procedure used for land use permit revocation as set forth in Section 23.10.160 of the Coastal Zone Land Use Ordinance. The Director of Planning and Building will hold the initial revocation hearing.*

**CZLUO 23.02.033(c)(1) – Minor Use Permit approval or disapproval; Criteria for approval:** *A Minor Use Permit shall be approved only where the proposed use satisfies all applicable provisions of this title, including but not limited to the findings in Section 23.02.034c.*

**CZLUO 23.02.034(c) – Development Plan approval or disapproval; Required findings:** *The Review Authority shall not approve or conditionally approve a Development Plan unless it first finds that:*

- (i) *The proposed project or use is consistent with the Local Coastal Program and the Land Use Element of the general plan; and*
- (ii) *The proposed project or use satisfies all applicable provisions of this title; and*
- (iii) *The establishment and subsequent operation or conduct of the use will not, because of the circumstances and conditions applied in the particular case, be detrimental to the health, safety or welfare of the general public or persons residing or working in the neighborhood of the use, or be detrimental or injurious to property or improvements in the vicinity of the use; and*
- (iv) *The proposed project or use will not be inconsistent with the character of the immediate neighborhood or contrary to its orderly development; and*
- (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.*

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(vi) *The proposed use or land division (if located between the first public road and the sea or the shoreline of any body of water), is in conformity with the public access and recreation policies of Chapter 3 of the California Coastal Act.*

(vii) *Any additional findings required by planning area standards (Part II of the Land Use Element), combining designation (Chapter 23.07), or special use (Chapter 23.08).*

The certified LCP also contains policies that protect and encourage, and give certain priorities to, visitor-serving accommodations in the Coastal Zone, including:

***LCP Coastal Plan Recreation and Visitor-Serving Facilities 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. ...*

***LCP Coastal Plan Recreation and Visitor-Serving Facilities Policy 2. Priority for Visitor Serving Facilities.*** *Recreational development and commercial visitor-serving facilities shall have priority over non-coastal dependent use, but not over agriculture or coastal dependent industry in accordance with PRC 30222. All uses shall be consistent with protection of significant coastal resources. The Land Use Plan shall incorporate provisions for areas appropriate for visitor-serving facilities that are adequate for foreseeable demand.*

### **Analysis**

LCP Coastal Plan Recreation and Visitor-Serving Facilities Policies 1 and 2 encourage and protect visitor-serving facilities, and state that visitor-serving facilities shall be prioritized over non-coastal dependent use such as private residential use. The purpose of the County's vacation rental ordinance is to provide for Coastal Act and LCP priority visitor-serving facilities and uses, particularly adjacent to the coast, but also in a manner that ensures vacation rentals "will not act to harm and alter the neighborhoods they are located within" or have a "deleterious effect on the adjacent full time residents" (CZLUO Section 23.08.165(a)). As described in CZLUO Section 23.08.165(a), the LCP recognizes that "residential vacation rentals have the potential to be incompatible with surrounding residential uses" and that because of this potential "special regulation of these uses is necessary to ensure that they will be compatible with surrounding residential uses." This section also recognizes that high concentrations of vacation rentals in the same geographic area have the potential to cause incompatibility. As such, the LCP's vacation rental ordinance seeks to balance the objectives of providing visitor-serving uses in a manner that protects residential community character by including numerous standards and restrictions on such rentals, including on noise, traffic, occupancy, and location.

In addition to limits on tenancy (time), occupancy (number of tenants), vehicles and traffic, noise, appearance, and signage that serve to address community character and neighborhood compatibility concerns, the LCP also identifies locational standards for vacation rentals for the prime visitor destinations of Cambria, Cayucos, and Avila Beach. Specifically for Cambria, the LCP indicates that vacation rentals are to be located 200 feet away from other vacation rentals on the same street, and 150 feet away from other vacation rentals overall (CZLUO Section 23.08.165(c)(1)). The LCP also allows for vacation rentals to be closer together in those areas if

allowed through a MUP approval when a development plan is not otherwise required, as is the case here.<sup>4</sup>

The LCP does not elaborate on what, if any, specific considerations must be made to allow vacation rentals to be closer together than identified other than to reference to the MUP approval findings themselves. CZLUO Section 23.02.033(c)(1) provides the criteria for approval of MUPs, stating that MUPs shall be approved only where the proposed use satisfies all applicable provisions of the title, including but not limited to the findings for Development Plans in CZLUO Section 23.02.034(c) (even if no Development Plan is required for the project). That section requires the decision-making body to make the following seven approval findings: that the project or use: (1) is consistent with the LCP; (2) satisfies all applicable provisions of the CZLUO; (3) will not be detrimental to the health, safety, or welfare of the public or nearby workers or residents, or be detrimental to nearby property or improvements; (4) will not be inconsistent with the character of the immediate neighborhood or contrary to its orderly development; (5) will not generate unsafe traffic volumes; (6) is in conformity with the public access and recreation policies of Chapter 3 of the Coastal Act if seaward of the first public road (as is the case here); and (7) any additional findings required by planning area standards, combining designation, or special use (none of which are applicable here).

Importantly, the LCP does not allow for modifications to any other parts of the vacation rental ordinance, only to the locational standards. In other words, the MUP findings process was identified only for allowing vacation rentals to be closer together than the identified distances, and it cannot be used to change any of the other vacation rental requirements designed to address potential incompatibility issues (e.g., related to occupancy, parking, noise, use, local contact persons, TOT, etc.). All of those other standards cannot be changed and must be met for all vacation rentals in all cases, and the LCP ordinance was not constructed to allow changes to them, but the LCP does explicitly allow for changes to the distances between vacation rentals. Whether that is considered a good or a bad idea by some, that is how the LCP was drafted and certified, and thus property owners are fairly seeking to comply with the LCP as drafted when they propose vacation rentals that are closer than the 150-foot/200-foot distance, as is the case here.

The proposed vacation rental in this case would be located within a 150-foot radius of four existing vacation rentals located at the following addresses: 2757 Windsor Boulevard (which is also on the same side of the street and less than 200 feet from the proposed project), 306 Wedgewood Street, and 2675 and 2698 Sherwood Drive) (see **Exhibit 3**).<sup>5</sup> As such, the proposed vacation rental is closer than the distance identified by the LCP for nearby vacation rentals in

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<sup>4</sup> In this case, a Development Plan type of CDP is not required because the project does not constitute a “significant land use proposal” (pursuant to CZLUO Section 23.02.034) that would necessitate Development Plan approval. A MUP, which is required by CZLUO Section 23.02.033 “to satisfy the notice and public hearing requirements established by the California Coastal Act for Plot Plans and other appealable land use permits...” is the appropriate LCP CDP type for this proposal.

<sup>5</sup> Such lesser distances between vacation rentals are not uncommon in San Luis Obispo County, including because most of the allowed vacation rentals in the County already existed when the LCP’s vacation rental ordinance was adopted, and they were already closer than the 150-foot/200-foot standard, including throughout the area where the proposed project is located (see **Exhibit 3**).

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Cambria. Accordingly, it can only be approved if the additional seven approval findings (as described above) are made. In this case, such findings are appropriately made to allow a vacation rental as proposed.

For the first two findings, the decision-making body is required to find the project or use consistent with the LCP (including the LUP and CZLUO). The proposed use of the residence for short-term residential vacation rental on a residentially-zoned parcel in a residentially-zoned neighborhood would be consistent with the LCP, which allows for this use. And the LCP allows for vacation rentals to be located in closer proximity when these findings can be made, and thus the proposed project satisfies the first two required findings.

Regarding the third finding, the proposed project would allow for rental of a two-bedroom 2,477-square-foot single-family residence in an existing residential neighborhood for no more than four individual tenancies per calendar month and not exceeding six persons total per tenancy. As proposed, and consistent with LCP requirements for vacation rentals, the residential character of the outside appearance of the building (either by the use of colors, materials, lighting, or the emission of noise, glare, flashing lights, odors, etc. not commonly experienced in residential areas) would remain unchanged and consistent with the residential character of the neighborhood. In addition, as proposed, no onsite advertising would be located on the property; the traffic generated would not exceed the type of vehicles and volume normally generated by a home occupied by a full-time resident in a residential neighborhood; and all parking will be entirely onsite, in the garage or driveway. Finally, as proposed, the vacation rental would comply with the County's noise standards and would not be allowed to generate loud or unreasonable noise that disturbs others, and thus would be in character of the surrounding neighborhood. As such, the use of this existing residence as a vacation rental would not be detrimental to the health, safety or welfare of the public or persons residing in the neighborhood, or to property in the vicinity. The residence would not be used for other uses (e.g., general commercial, manufacturing, industrial, etc.) that would have the potential to be detrimental to the health, safety, and welfare of others in an established residential neighborhood. Thus, the proposed project satisfies the third required finding as well.

Similarly, as required by the fourth finding, the short-term rental of the property would not be inconsistent with the character of the immediate neighborhood, which is entirely residential other than the nearby Fiscalini Ranch Preserve. Although various tenants would come and go to the residence, it would serve as a place to sleep, eat, and reside, just like any other residence in the neighborhood, albeit on a short-term basis for visitors. As such, and including because of the conditions included with the project, the project and its use would not be inconsistent with the character of the neighborhood or contrary to its orderly development. Thus, the proposed project satisfies the fourth required finding as well.

Regarding the fifth finding, because the tenancy would be limited to six persons, the rental would not generate a traffic volume beyond the safe capacity of roads providing access to the site because this amount of people is no greater than what could and would otherwise be accommodated in this single-family residence on a long-term basis. The incorporated County conditions also limit traffic volume to no more than 10 vehicle trips per day. Furthermore, all vehicles associated with the rental will be parked onsite. The existing driveway and garage can

support up to at least six vehicles. Such an amount is not inconsistent with residential use and would not generate traffic beyond the safe capacity of roads in the area. As such, the proposed project also satisfies the fifth required finding.

The sixth finding requires the decision-making body to find that the proposed use is in conformity with the public access and recreation policies of Chapter 3 of the Coastal Act because it is located seaward of the first through public road. The proposed project is a visitor-serving use in a prime public recreational access destination, and it would provide a new overnight visitor-serving accommodation that would facilitate the public's ability to access this area of the coast, consistent with the public access and recreation policies of Chapter 3, including those that require development to maximize public recreational access opportunities. The proposed project is a higher priority use under both the Coastal Act and the LCP than is a residential use, and it will increase public recreational access opportunities as directed by the Act. The proposed project satisfies the sixth required finding.

Finally, the seventh finding requires that the decision-making body must make any additional findings required by planning area standards (Part II of the Land Use Element, which includes the LCP's area plans), combining designations (CZLUO Chapter 23.07), or special uses (CZLUO Chapter 23.08). On the first point, Cambria is located within the boundaries of the North Coast Area Plan, which includes requirements for various things associated with residential use in Cambria, such as Monterey pine forest protection, water supply restrictions, and design standards. However, there are no additional findings required under the North Coast Area Plan applicable to this project. On the second point, the project site is within the following combining designations: archaeologically sensitive area, coastal appealable zone, flood hazard, geologic study area, local coastal plan, and sensitive resource area. However, the applicable restrictions and potential findings that adhere attach to initial development and use of the existing residence, and not to the proposed use of the residence as a vacation rental. And finally, the only section in CZLUO Chapter 23.08 on special uses that is applicable to this project is Section 23.08.165, which applies to residential vacation rentals and is the very section that is used in the analysis here. No additional special use findings apply to the proposed project. Thus, the proposed project satisfies the seventh required finding.

Thus, all of the findings necessary to allow a vacation rental at this location, including in relation to its distance to nearby vacation rentals, are appropriately made in this case. Although some may argue that the LCP should be changed to more explicitly and quantitatively address where vacation rentals are allowably located, and the Commission is sympathetic to that issue, the LCP currently allows for vacation rentals such as this to be located as is proposed when the above findings are made. The proposed project is a high priority visitor-serving use that will appropriately provide a means for the general public to better access and recreate in this prime visitor destination immediately adjacent to the Pacific Ocean, a public coastal park and vertical accessway to the ocean, and the Fiscalini Ranch Preserve open space trails. This site is precisely the type of site that is well suited to vacation rental use, and it is appropriate here.

In conclusion, the Commission recognizes that vacation rentals engender unique issues and potential impacts regarding the appropriate number, location, and concentrations of vacation rentals, and how vacation rentals may or may not adversely impact a community's residential

and community character. It is also recognized that the LCP's goals and vision for Cambria clearly include ensuring that its small-town character and residential nature as a beach community are appropriately protected. At the same time, the LCP specifically allows for vacation rentals, including because of the importance of providing visitor-serving uses in the coastal zone, particularly along oceanfront properties such as this project site, which both the Coastal Act and the LCP prioritize for higher-priority visitor-serving uses over lower-priority private residential uses. The proposed project is allowing a particular existing single-family residence to be used as a vacation rental, and it is not a broader determination of whether vacation rentals generally may or may not be appropriate in residential land use categories nor how they may or may not impact local residents on a community-wide scale. Those questions have already been settled in this case as the LCP allows for vacation rentals, including in closer proximity to one another if certain findings are made. And the proposed project includes requirements to address potential incompatibility issues through incorporation of the County's conditions, which should serve to adequately address any potential problems in this case. As such, the project is consistent with the applicable LCP provisions. **Special Condition 1** requires adherence to the LCP-required standards and restrictions that were imposed by the County in its approval of the rental and that are proposed by the Applicant for this CDP.

### **C. PUBLIC ACCESS AND RECREATION**

Coastal Act Section 30604(c) requires that every CDP issued for any development between the nearest public road and the sea "shall include a specific finding that the development is in conformity with the public access and public recreation policies of [Coastal Act] Chapter 3." The proposed project is located seaward of the first through public road (Windsor Boulevard). The following cited Coastal Act sections are applicable to the project.

***Section 30210:** In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.*

***Section 30211:** Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.*

***Section 30212(a):** Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where: (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, (2) adequate access exists nearby, or, (3) agriculture would be adversely affected. ...*

***Section 30213:** Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred. ...*

***Section 30221:** Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for*

*public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.*

**Section 30222:** *The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.*

**Section 30223:** *Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.*

Consistent with public access policies contained within the Coastal Act, the County's LCP also requires that public recreational access be protected and maximized through a variety of policies, including:

**LUP Shoreline Access Policy 1.** *Protection of Existing Access. Public prescriptive rights may exist in certain areas of the county. Development shall not interfere with the public's right of access to the sea where acquired through historic use or legislative authorization. These rights shall be protected through public acquisition measures or through permit conditions which incorporate access measures into new development.*

**LUP Shoreline Access Policy 2.** *Maximum public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development. Exceptions may occur where (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources; (2) adequate access exists nearby, or; (3) agriculture would be adversely affected. Such access can be lateral and/or vertical. Lateral access is defined as those accessways that provide for public access and use along the shoreline. Vertical access is defined as those accessways which extend to the shore, or perpendicular to the shore in order to provide access from the first public road to the shoreline.*

**CZLUO Section 23.04.420(b)** *Protection of existing coastal access. Development shall not interfere with public rights of access to the sea where such rights were acquired through use or legislative authorization. Public access rights may include but are not limited to the use of dry sand and rocky beaches to the first line of terrestrial vegetation.*

### **Analysis**

Section 30210 of the Coastal Act requires the Commission to provide the general public maximum access and recreational opportunities, while respecting the rights of private property owners. Section 30211 prohibits development from interfering with the public's right of access to the sea. In approving new development, Section 30212 requires new development to provide access from the nearest public roadway to the shoreline and along the coast, save certain limited exceptions, such as existing adequate nearby access. And Section 30213 requires that lower-cost visitor facilities be protected, encouraged, and where feasible provided. Sections 30221 and 30223 speak to the need to protect ocean-fronting and upland areas such as the project site for recreational use and development. And Section 30222 prioritizes visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation over private

residential developments. And the LCP includes and amplifies these same type of Coastal Act requirements. Finally, the Coastal Act Section 30210 (and corresponding LCP Shoreline Access Policy 2) direction to maximize access represents a different threshold than to simply provide or protect such access, and is fundamentally different from other like provisions in this respect. In other words, it is not enough to simply provide access to and along the coast, and not enough to simply protect access; rather such access must also be maximized. This terminology distinguishes the Coastal Act, and provides fundamental direction with respect to projects along the California coast that raise public access issues, like this one.

As described above, the existing residence that is proposed for use as a vacation rental is located on the blufftop above the Pacific Ocean. The site is immediately adjacent to an existing blufftop park and beach access stairway at the terminus of Wedgewood Street/Sherwood Drive and is approximately 100 feet from an entrance to the Fiscalini Ranch Preserve and its Bluff Trail, which is a popular public access amenity (see photos in **Exhibit 2**). The Preserve (and the Bluff Trail specifically) is a well-known, well-established, and heavily-used public access amenity in Cambria and the official trail map (as of October 2017) for the Preserve identifies the northern terminus of South Windsor Boulevard (across and diagonal from the project site) as a designated limited public parking area. The project site is located within the Cambria urban area and is immediately adjacent (i.e., less than 20 feet) from an existing vertical beach access stairway.

The proposed project does not block, impede or otherwise impact existing public access as required by Section 30211. On the contrary, the proposed project would provide a new visitor-serving use in an existing residence with nearby beach and Preserve access in an area dominated by single-family residences. It would allow for the overnight visiting public to experience this area and have direct access to the shoreline and the Preserve for access and recreational opportunities. The addition of a new vacation rental at this location is particularly appropriate given the direct access to these public amenities, and it would help to maximize public recreational access opportunities directed by Coastal Act Section 30210 and LCP Shoreline Access Policy 2. And approval of the project protects ocean-fronting and upland areas such as the project site for recreational use and development as required by Sections 30221 and 30223. Similarly, Section 30222 prioritizes visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation over private residential developments, and approval maintains consistency with that policy as well. In sum, the project facilitates the visiting public's ability to access the coast and provides a new option for overnight accommodation on the immediate shoreline that is appropriate and consistent with Coastal Act and LCP mandates to protect and maximize public recreational access, and to prioritize higher-priority visitor-serving uses over lower-priority private residential uses in the coastal zone. The approved project, as conditioned, is consistent with the above-described Coastal Act and LCP access and recreation policies.

#### **D. OTHER**

Coastal Act Section 30620(c)(1) authorizes the Commission to require Applicants to reimburse the Commission for expenses incurred in processing CDP applications. 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 other than the

Applicant. In this case, opposition parties have been active, involved, and organized against this application since its initial phase at the County and it is possible that they could bring action against the Commission in its approval of the application. 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 2**).

## **E. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

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

San Luis Obispo County, as the lead CEQA agency, concluded that the development was categorically exempt (Class 1) under CEQA Section 15301 because the project consists of the operation and leasing of an existing residence as a residential vacation rental, involving negligible or no expansion of the use beyond that existing at the time of the CEQA determination. The Coastal Commission's review and analysis of land use proposals has been certified by the Secretary of the Natural Resources Agency as being the functional equivalent of environmental review under CEQA. The Commission has reviewed the relevant coastal resource issues associated with the proposed project, and has identified no significant adverse impacts to the environment within the meaning of CEQA. All public comments received to date (which expressed concern with neighborhood compatibility (noise, parking, etc., oversaturation of vacation rentals, and inconsistency with locational standards)) have been addressed in the findings above. All above findings are incorporated herein in their entirety by reference.

As such, there are no additional feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse environmental effects which approval of the proposed project, as conditioned, would have on the environment within the meaning of CEQA. Thus, if so conditioned, the proposed project would 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).

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**APPENDIX A – SUBSTANTIVE FILE DOCUMENTS<sup>6</sup>**

- San Luis Obispo County Planning and Building Department File Number DRC2016-00066

**APPENDIX B – STAFF CONTACT WITH AGENCIES AND GROUPS**

- San Luis Obispo County Planning and Building Department Staff

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<sup>6</sup> Available for review in the Commission's Central Coast District office.