

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
PHONE: (831) 427-4863
FAX: (831) 427-4877
WEB: WWW.COASTAL.CA.GOV



W13b

Filed: 5/13/2019
Action Deadline: None
Staff: Brian O'Neill - SC
Substantial Issue: 9/11/2019
Staff Report: 5/22/2020
Hearing Date: 6/10/2020

APPEAL STAFF REPORT: DE NOVO HEARING

Application Number: A-3-SLO-19-0033

Applicant: Peoples' Self-Help Housing

Project Location: Undeveloped 5.88-acre property at 2845 Schoolhouse Lane in the unincorporated community of Cambria in San Luis Obispo County (APN 013-151-034)

Project Description: Construction of a 33-unit apartment complex including 32 units to be rented at an affordable rate to qualifying low-income families for a period of 55 years, one one-bedroom manager's unit, a common building, a 61-space parking lot, and associated improvements

Staff Recommendation: Approval with Conditions

SUMMARY OF STAFF RECOMMENDATION

Peoples' Self-Help Housing, a non-profit housing developer, seeks approval for a coastal development permit (CDP) to construct a 33-unit apartment complex including 32 units that would be rented at an affordable rate to qualifying low-income families for a period of 55 years, one one-bedroom manager's unit, a common building, a 61-space parking lot, and associated improvements on a 5.88-acre undeveloped property on the inland edge of the community of Cambria in unincorporated San Luis Obispo County.

The proposed project is located in an area where existing community-serving water

A-3-SLO-19-0033 (Peoples' Self Help Housing Affordable Apartments)

extractions already have severe adverse effects on significant coastal resources, including Santa Rosa and San Simeon Creeks and associated sensitive riparian habitats. The Cambria Community Services District (CCSD) declared a water moratorium, prohibiting new connections in 2001, to help address the problem. That moratorium remains in effect. The moratorium and the applicable County Local Coastal Program (LCP) policies that were derived from it *only* allow new water service to a handful of proposed development projects that were pending before the County at the time of the moratorium and the LCP amendment. CCSD had already committed to providing water for such pending County applications (known as “pipeline projects”), and the LCP recognizes that and allows them to go forward provided they institute required offsets designed to “back out” additional demand on already oversubscribed water supplies. There are no more pipeline projects remaining, and as a result, the LCP essentially prohibits approval of new water service, taking into account the actual facts and reality on the ground.

These policies, in isolation, direct that all new water connections within Cambria must be denied until a new sustainable water source is secured. That being said, the LCP also includes policies encouraging affordable housing that support providing some level of affordable housing even in light of the community’s water supply problems if a program is developed to identify the appropriate amount of affordable housing that could be served. Although no such program has been developed, the LCP clearly recognizes the pressing need for affordable housing and clearly differentiates such affordable housing projects from other types of development, including as it relates to water supply.

Here, the proposed project is not simply a low or even moderately priced housing development that is available to any person regardless of income, nor is it a mixed-use or mixed-rate development that only provides a percentage of affordable units whereby a new water connection would serve both affordable housing and non-affordable housing purposes. Rather, this project is a true 100% affordable apartment complex, proposed by a nonprofit affordable housing developer, that would provide 32 apartment units for rent at an affordable rate to qualifying low-income families, and that would be deed restricted as affordable for a period of 55 years. The project would provide much needed affordable rental stock for the community, particularly Cambria workers who may work in lower-wage service industry jobs that support the substantial visitor-serving economy here, where Cambria is a very popular visitor destination. In short, the proposed project would meet other important LCP goals for affordable housing, including also higher-priority visitor-serving commercial employee housing, and it thus enjoys a different LCP priority than other types of development as a result.

Moreover, the Applicant has provided information that the project itself helps to address its water consumption issues through stringent water saving design, water conservation requirements, and bonafide retrofits applied to their own nearby affordable apartment properties (where the Applicant can ensure that the installed retrofits are maintained over time). Thus, this project is unlike other projects that the Commission has reviewed for development in Cambria where water supply was a key issue, and the Applicant

A-3-SLO-19-0033 (Peoples' Self Help Housing Affordable Apartments)

here is in a position to address and offset its water consumption differently than other projects.

Although the LCP-required affordable housing water supply program remains incomplete, it is clear that the LCP's intent was to provide for a limited amount of affordable housing units, even if doing so might create tension with LCP policies related to community water supply problems. The proposed project represents the type of bonafide affordable housing development that meets the intent of the LCP with respect to affordable housing. Thus, in this narrow case and this unusual circumstance, staff is recommending that the Commission approve the proposed project with conditions designed to ensure implementation of the proposed water conservation measures, including through a water conservation plan that details all of the water saving components of the project, quantifies the anticipated water consumption, and demonstrates that the proposed consumption has been, or will be, completely offset as an enforceable component of this CDP. The motion and resolution to affect this recommendation are found on page 5.

A-3-SLO-19-0033 (Peoples' Self Help Housing Affordable Apartments)

TABLE OF CONTENTS

I. MOTION AND RESOLUTION 5
II. STANDARD CONDITIONS 5
III. SPECIAL CONDITIONS..... 6
IV. FINDINGS AND DECLARATIONS..... 9
 1. Water Supply..... 10
 2. ESHA 25
 3. Water Quality 26
 4. Fire Hazards..... 27
 5. Indemnification 27
 6. California Environmental Quality Act (CEQA) 28

APPENDICES

Appendix A – Substantive File Documents

Appendix B – Staff Contacts with Agencies and Groups

EXHIBITS

Exhibit 1 – Location Maps

Exhibit 2 – Site Photos

Exhibit 3 – Proposed Project Plans

Exhibit 4 – Project Water Consumption Information

Exhibit 5 – County’s Conditions of Approval

Exhibit 6 – Applicable LCP Provisions

Exhibit 7 – Emergency Water Shortage Declaration

Exhibit 8 – Emergency Coastal Development Permit

Exhibit 9 – San Simeon Creek Levels from 1988 – Current

Exhibit 10 – CCSD Affordable Housing Program Resolution

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-19-0033 for the development proposed by the applicant, and I recommend a yes vote.

Resolution to Approve CDP: The Commission hereby approves Coastal Development Permit Number A-3-SLO-19-0033 and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of the 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 Permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
- 2. Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
- 3. Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
- 4. Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.

A-3-SLO-19-0033 (Peoples' Self Help Housing Affordable Apartments)

- 5. Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the Permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

This permit is granted subject to the following special conditions:

- 1. Approved Project.** This CDP authorizes construction of a 33-unit apartment complex including 32 units to be rented at an affordable rate to qualifying low-income families for a period of 55 years, one one-bedroom manager's unit, a common building, a 61-space parking lot, and associated improvements as shown on the plans entitled Cambria Pines People's Self Help Housing – Apartment Complex by Rea and Luker Architects, Inc. and dated received in the Coastal Commission's Central Coast District Office on June 3, 2019 – see **Exhibit 3**.
- 2. Water Conservation.** The approved project shall institute the following water conservation measures:
 - a. Water Conservation Plan.** PRIOR TO ISSUANCE OF THE CDP, the Permittee shall submit to the Executive Director, for review and approval, two copies of a Water Conservation Plan for the 33 apartment units, common building, and outdoor areas. The Plan shall, at a minimum, provide for the installation of the following water conservation features: on-demand hot water heaters; high-efficiency low-flow toilets; and other high water-efficiency appliances. In addition, the Plan shall ensure that the apartments shall make maximum use of other water conservation fixtures and equipment (including but not limited to high-efficiency washing machines and dishwashers, recirculation pumps, low-flow showerheads, shower shut-off valves, faucet aerators, etc.).
 - b. Water Offset Plan.** PRIOR TO ISSUANCE OF THE CDP, the Permittee shall submit to the Executive Director, for review and approval, two copies of a Water Offset Plan, the purpose for which is to offset the project's water use by at least 125%. The Plan shall, at a minimum, include the following:
 - 1. Water Use.** A quantification of the approved project's projected water usage in gallons per day, including a list of all water fixtures to be installed, including for outside landscaping, and their associated water flow.
 - 2. Retrofits.** A list of all retrofits installed in Cambria to offset the approved project's water use, including a breakdown of the number and type of fixtures to be retrofitted.
 - 3. Water Offsets.** A quantification of the estimated water use offset by the retrofits identified in subsection (2), including specifying water usage before and after the retrofit. The water offsets must total 125% of the total water use specified in subsection (1).

A-3-SLO-19-0033 (Peoples' Self Help Housing Affordable Apartments)

- c. Offset Confirmation.** ONE YEAR AFTER FULL OCCUPANCY OF THE APARTMENTS, the Permittee shall submit to the Executive Director, for review and approval, two copies of a report that confirms the project's actual water usage and evidence that the actual water savings from performed retrofits equals or exceeds 125% of the project's actual water use. If the total is less than 125%, the report shall describe the additional measures that will be applied to meet the required water reduction target. Annual reporting shall continue for at least three years or until the project's water usage is offset by 125% as documented in two consecutive annual reports, whichever is later.
- 3. Water Quality Protection.** PRIOR TO ISSUANCE OF THE CDP, the Permittee shall submit to the Executive Director, for review and approval, two sets of a Water Quality Protection Plan. The shall at a minimum include and provide for the following measures:

 - a. Construction Best Management Practices (BMPs).** The plan shall identify the type and location of the measures that will be implemented during construction to prevent erosion, sedimentation, and the discharge of pollutants during construction. These measures shall be selected and designed in accordance with the California Storm Water Best Management Practices Handbook Among these measures, the plans shall limit the extent of land disturbance to the minimum amount necessary to construct the project; designate areas for the staging of construction equipment and materials, including receptacles and temporary stockpiles of graded materials, which shall be covered on a daily basis; and provide for the installation of silt fences, temporary detention basins, and/or other controls to intercept, filter, and remove sediments and other pollutants from all runoff. The plan shall also incorporate good construction housekeeping measures, including the use of dry cleanup measures whenever possible; collecting and filtering cleanup water when dry cleanup methods are not feasible; cleaning and refueling construction equipment at designated off site maintenance areas; and the immediate clean-up of any leaks or spills. The plan shall indicate that prior to the commencement of grading, the Permittee shall delineate the approved construction areas with fencing and markers to prevent land-disturbing activities from taking place outside of these areas.
 - b. Post Construction Drainage Provisions.** The Plan shall include a post-construction long-term drainage plan designed to collect, control, filter and treat post-construction drainage (including all runoff from the roof, driveway, decks, and other impervious surfaces) onsite to the greatest degree feasible. The plan shall clearly identify all 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, and then directed to existing stormwater inlets/outfalls only if it is infeasible to accommodate it onsite. Infrastructure and water quality measures shall retain runoff from the project onsite to the maximum extent feasible (e.g., through the use of pervious

A-3-SLO-19-0033 (Peoples' Self Help Housing Affordable Apartments)

areas, percolation pits, storm drain systems, etc.). The drainage plan shall demonstrate that all components are sized and designed appropriately to accommodate runoff from the site produced from each and every storm event up to and including the 85th percentile 24-hour runoff event. In extreme storm situations (>85% storm) excess runoff shall be conveyed off-site in a non-erosive manner.

- c. Construction Site Documents.** Copies of the signed CDP and the approved plan shall be maintained in a conspicuous location at the construction job site at all times, and such copies shall 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 public review requirements applicable to them, prior to commencement of construction.
- d. Construction Manager.** The plan shall provide that a construction manager 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 (with message capabilities) and an email that will be made available 24 hours a day for the duration of construction, is conspicuously posted at 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 manager should be contacted in the case of questions regarding the construction (in case of both regular inquiries and emergencies). The construction manager shall record the contact information (name, phone number, email, 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. Any critical and/or significant complaints and related responses shall be reported to the Executive Director as soon as possible, and all complaints and all actions taken in response shall be summarized and provided to the Executive Director on a weekly basis.
- e. Post-Construction Requirements.** All construction areas shall be restored to their pre-construction state or better upon completion of work. Where appropriate and feasible, roads/sidewalks that were impacted by construction and are being restored shall employ stormwater management infrastructure BMPs, including bioswales, pervious pavers, garbage traps, and vegetative strips.
- f. Construction Specifications.** The construction specifications and materials (including all construction contracts) shall include appropriate penalty provisions to address non-compliance with the terms and conditions of this CDP and the approved plan, including provisions sufficient to offset the cost of retrieving or cleaning up improperly contained foreign materials, and provisions that require remediation for any work inconsistent with the terms and conditions of this CDP and the approved plan.

A-3-SLO-19-0033 (Peoples' Self Help Housing Affordable Apartments)

- g. 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.

All requirements above and all requirements of the approved plan shall be enforceable components of this coastal development permit. The Permittee shall undertake development in conformance with this condition and the approved Construction Plan. Minor adjustments to these requirements may be allowed by the Executive Director if such adjustments: (1) are deemed reasonable and necessary by the Executive Director; and (2) do not adversely impact coastal resources.

- 4. County Conditions Incorporated.** San Luis Obispo County-required DRC2012-00052 Special Conditions 5, 6, 17, 18, 29, 30, and 31 (which address biological resources (see **Exhibit 5**)) shall be adhered to as a condition of this CDP. Any materials required to be submitted to the County to meet the incorporated special condition requirements shall also be submitted to the Executive Director for review and approval, under the same review and approval criteria. For future condition compliance tracking purposes, the incorporated special conditions shall be considered subsections of this Special Condition 4. To the extent any such incorporated requirements of this Special Condition 4 conflict with the other terms and conditions of this CDP, the other terms and conditions of this CDP shall apply.
- 5. Liability for Costs and Attorney Fees.** By acceptance of this CDP, the Permittee agree to reimburse the Coastal Commission in full for all Coastal Commission costs and attorney's fees including (1) those charged by the Office of the Attorney General, and (2) any court costs and attorney's 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 permit. The Coastal Commission retains complete authority to conduct and direct the defense of any such action against the Coastal Commission.

IV. FINDINGS AND DECLARATIONS

The Commission finds and declares as follows:

A. PROJECT LOCATION

The proposed project is located on a 5.88-acre parcel on the inland edge of the community of Cambria in unincorporated San Luis Obispo County at 2845 Schoolhouse Lane. Cambria is a small residential and tourist community within the LCP's North Coast Planning Area just south of Hearst Castle. The project site is east of Highway 1 and is bounded by Monterey pine forest to the west and north, an apartment complex to the south, and Santa Lucia Middle School to the east. The project site is largely

A-3-SLO-19-0033 (Peoples' Self Help Housing Affordable Apartments)

undeveloped except for a dirt access road along the eastern edge of the property that leads to an existing single-family residence north of the project site. The site slopes to the north and is covered primarily with grassland transitioning to mixed scrub habitat, with some Monterey pine forest to the west. The parcel is zoned Residential Multi-Family (RMF), which allows for a wide range of densities and housing types. See **Exhibit 1** for project location maps and **Exhibit 2** for photos of the project site.

B. PROJECT DESCRIPTION AND HISTORY

The Applicant proposes to construct a 33-unit apartment complex. Of those 33 units, 32 would be rented at an affordable rate to qualifying low-income families and deed restricted as affordable for a period of 55 years, and one unit will be used by an on-site manager. The project includes 10 three-bedroom units, 19 two-bedroom units, 3 one-bedroom studios, and a one-bedroom manager's unit. The project also includes a common building with laundry facilities, an industrial kitchen, meeting space, and restroom facilities. A 61-space parking lot and associated landscaping improvements are also included. See the proposed project plans in **Exhibit 3**.

On January 10, 2019, the San Luis Obispo County Planning Commission approved a CDP for the proposed project (County CDP Application No. DRC2012-00052), a decision that was upheld on appeal by the County Board of Supervisors on April 23, 2019. The County's approval was subsequently appealed to the Commission. On September 11, 2019, the Commission found that the County's approval of the project raised a substantial issue with numerous San Luis Obispo County LCP provisions related to water supply, and took jurisdiction over the CDP for the proposed project. Prior to the Commission's September 2019 substantial issue determination, the Applicant exercised its one-time right to postpone the de novo hearing on the merits of the CDP application in order to provide Commission staff with additional materials regarding the project components and proposed water saving measures.

C. COASTAL DEVELOPMENT PERMIT DETERMINATION

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

1. Water Supply

Cambria Water Supply Background

Cambria's water supply depends entirely on the groundwater aquifers associated with Santa Rosa and San Simeon Creeks (collectively "the Creeks"). The Creeks flow from their respective headwaters and both terminate into lagoons, which ultimately connect to the Pacific Ocean. In addition to the domestic and agricultural demands for water upstream, environmental demand in the form of adequate instream flows is necessary to sustain the Creeks' high-quality habitat for a variety of aquatic and terrestrial species. The United States Fish and Wildlife Service (USFWS) designates the Creeks as critical habitat because they provide habitat for federally threatened South-Central Coast steelhead and federally endangered Tidewater goby.

A-3-SLO-19-0033 (Peoples' Self Help Housing Affordable Apartments)

The Cambria Community Services District (CCSD) operates groundwater wells in the lower reaches of the Creeks to extract water from their respective groundwater aquifers to serve the demand of Cambria's urban water users. Prior to 1977, all of Cambria's water was extracted from wells along the lower reaches of Santa Rosa Creek, which produced approximately 400 acre-feet of water a year (afy). Due to contamination from high levels of total dissolved solids, this water supply was determined to be unsuitable for human consumption. Additionally, the water supply was severely limited because of a lack of in-stream flow necessary to provide adequate protection for riparian fisheries and other related resources, and water use in the community was strictly rationed to a maximum of 50 gallons per person per day.

Due to these water supply problems, the CCSD applied to the State Water Resources Control Board (SWRCB) for the rights to withdraw a total of 1,230 afy of groundwater from the nearby (i.e., just north of the community and north of Santa Rosa Creek) San Simeon Creek basin annually. According to the final EIR for that water rights application, the proposed water extractions were found to have the potential to adversely affect riparian habitat and degrade anadromous fish resources, particularly steelhead trout. Due to these identified impacts, the California Department of Fish and Wildlife¹ (CDFW) protested the CCSD's water rights application. CDFW eventually withdrew its protest when the CCSD agreed to two conditions of approval. First, CCSD agreed to maintain water levels in the basin to sustain stream flow to the lagoon to protect fish and riparian habitat. Second, the CCSD agreed to maintain irrigation facilities in order to maintain riparian vegetation. Based upon information that suggested the San Simeon Creek basin would not be able to safely and reliably produce 1,230 afy under these terms, the CCSD also sought approval to supplement this San Simeon water supply with continued withdrawals from the Santa Rosa Creek basin in order to maintain service to existing customers in times of emergency. SWRCB ultimately approved the CCSD's application for water rights to annually extract 1,230 afy total from San Simeon Creek and Santa Rosa Creek combined, subject to the CDFW's conditions.²

CCSD's groundwater extractions were then permitted by the Coastal Commission pursuant to CDP 428-10, which the Commission conditionally approved in 1977 shortly after the enactment of the Coastal Act. The Commission found that, although the proposed 1,230 afy of water withdrawals from San Simeon Creek had the potential to adversely impact biological resources, the project could be found consistent with the Coastal Act, but only because the CCSD proposed, as part of the CDP application,

¹ At the time the agency was called the California Department of Fish and Game.

² SWRCB recently reduced the amount of water that CCSD could extract from the Creeks to less than the level allowed under their original 1977 approval, particularly during the dry season (see "*Issuance of Water Right Licenses 13916 and 13917*," SWRCB, March 14, 2019). SWRCB's 2019 water right license materials reduce CCSD's allowed extractions from the Creeks to no more than 1,017 afy (i.e., a maximum of 799 afy from San Simeon Creek, where no more than 370 afy of that extraction can be during the dry season, and a maximum of 218 afy from Santa Rosa Creek where no more than 155.3 afy of that extraction can be during the dry season), all still subject to the same terms and conditions, including maintaining water levels in the basin to sustain stream flow to the lagoon to protect fish and riparian habitat.

A-3-SLO-19-0033 (Peoples' Self Help Housing Affordable Apartments)

CDFW's conditions that required the District to maintain stream flow and irrigate vegetation in order to maintain and protect riparian habitat. The primary intent of these Creek-protective measures was, and is, to ensure that adequate water remains instream to support the Creeks' sensitive riparian habitats, and to prevent overdraft of the groundwater aquifers.³ In addition to these measures to protect San Simeon Creek, the Commission found that Santa Rosa Creek is "the most important anadromous fish stream in San Luis Obispo County" and therefore required CCSD to discontinue its use of wells along Santa Rosa Creek as its primary water supply once the San Simeon Creek wells were established. Withdrawals from the Santa Rosa Creek wells are therefore *only* allowed pursuant to the CDP to *supplement* the CCSD's water supply in an emergency when water could not be safely removed from San Simeon Creek. Notwithstanding this CDP requirement and limitation, according to the CCSD's records, since 1988 water withdrawals from Santa Rosa Creek have occurred every year except one in 2000.⁴

Since the time of its initial 1977 approval of the CCSD's CDP for water extractions from the Creeks, the Commission has continually expressed concern regarding Cambria's capacity to maintain a reliable and environmentally sustainable water supply.⁵ In fact, as the Commission made clear in the 2007 LCP North Coast Area Plan Update and in multiple appeal/CDP cases,⁶ the existing water supply does not represent an adequate and sustainable supply that can serve even *existing* development in Cambria without significant resource harm, consistent with applicable LCP policies, and certainly is not an adequate water supply to also serve *new* development in addition to that. It has been well understood for many years that an additional water supply is required for Cambria to provide reliable water supply service to its existing users without significant environmental degradation, and the same necessarily holds true for new water service to support new users. Because the CCSD's sole source of water is the Creeks' underground aquifers, the water supply is also particularly vulnerable to annual and seasonal fluctuations in rainfall. Further, because of the nature and configuration of the aquifers (i.e., they are narrow, shallow, porous, and surrounded by bedrock with little capacity for water storage), even in times of abundant rain the maximum storage

³ Overdraft occurs when water is pumped beyond the safe yield of a groundwater aquifer, leading to adverse impacts, such as subsidence, in which an aquifer's geological structures compress, which may result in irreparable damage to an aquifer's capacity to store water. When such groundwater is associated with rivers and streams, other adverse impacts can include a reduction in flows necessary to sustain biological organisms, including sensitive species. Overdraft can also cause seawater to intrude into an aquifer causing degradation of the quality of the freshwater supply. All of these impacts are known to affect Santa Rosa and San Simeon Creeks and their groundwater aquifers due to CCSD's historical withdrawals.

⁴ And the Commission's enforcement unit is investigating this as a potential CDP violation.

⁵ See, for example, analyses associated with the Commission's findings for the 1998 LCP North Coast Area Plan Update and for the 2001 San Luis Obispo County LCP Periodic Review, in which the Commission analyzed these issues and problems in depth, including identifying the need for additional studies and measures to assure protection of the Creeks.

⁶ See, for example, A-3-SLO-01-122 (Cambria Pines Lodge); A-3-SLO-02-050 (Monaco); A-3-SLO-02-073 (Hudzinski); A-3-SLO-13-0213 (Kingston Bay); A-3-SLO-14-0044 (Fox); and A-3-SLO-19-0199 (Hadian).

A-3-SLO-19-0033 (Peoples' Self Help Housing Affordable Apartments)

capacity of these aquifers is inherently limited and is significantly reduced in dry months. Thus, unless and until a new water supply is secured, the sustainability and long-term security of Cambria's existing supply cannot be improved with increased rainfall and is particularly susceptible to even short-term periods of drought.

In order to address these issues, including the Commission's concerns, the CCSD enacted a moratorium on new water connections in 2001,⁷ which was also ultimately reflected in the LCP via an LCP amendment (as discussed below). The CCSD exempted from this moratorium certain proposed development projects in Cambria that were then on CCSD's existing commitments list. These were projects that were in the "pipeline" so to speak, which, according to the LCP (as amended) were those projects that at the time of the moratorium: (1) had valid water allocations, generally in the form of an intent-to-serve (or "will serve") letter from the CCSD; and (2) the County had accepted the project's CDP application for processing. At that time, there were approximately 64 such "pipeline projects." Subsequently in 2007, the County submitted, and the Commission certified, an LCP amendment addressing water supply issues in Cambria, which included standards specific to new development proposed within Cambria to address the known lack of adequate water supply (LCP Amendment SLO-MAJ-1-06 Part 1). The purpose of the amendment was, in part, to recognize that CCSD moratorium and to strictly limit new development requiring new water service in Cambria until the CCSD secured new water sources. The Commission found that:

[N]ew development in Cambria cannot be accommodated consistent with the Coastal Act absent a new water supply and a comprehensive analysis of the coastal resource protection requirements of San Simeon and Santa Rosa creeks, the underlying groundwater, and other coastal resources. ... In short, adequate public water supplies are not currently available for new development in Cambria.

And in 2008, the San Luis Obispo County Board of Supervisors adopted an "Alert Level III" for Cambria's water supply under the LCP's Resource Management System.⁸ The LCP identifies an Alert Level III as the most severe constraint level, where the existing demand on the resource has met or exceeded the available supply. Cambria's water supply currently remains designated within the LCP Resource Management System as Alert Level III.

In short, Cambria has a critically short water supply, where extractions to serve the community have significant adverse impacts to important coastal resources, including Santa Rosa and San Simeon Creeks and associated sensitive riparian habitats. These

⁷ As part of the CCSD's Water Code 350 Emergency Declaration on November 15, 2001.

⁸ The Resource Management System (RMS) is a component of the LCP's Land Use Plan (LUP) that provides one of the tools for identifying and addressing identified resource constraints and capacities (e.g., water supply and wastewater treatment capacities). The main purpose of the RMS is to provide the County and the general public with a systematic means of assessing resource constraints and capacities on a regular basis, including annual reassessments that allow the County to regularly update such assessments in relation to the best available information, and to identify measures to address such issues.

A-3-SLO-19-0033 (Peoples' Self Help Housing Affordable Apartments)

impacts are explicitly prohibited by both CCSD's SWRCB water license as well as the Commission's CDP to the CCSD recognizing same. This has been brought to the attention of Commission enforcement staff who are investigating this matter as a CDP violation. The moratorium (which remains in effect today) and the LCP provisions related to the moratorium (that were submitted by the County and certified by the Commission in 2007) only allow new water service to the handful of then-proposed development projects that were pending before the County at the time of the moratorium that CCSD had already committed to providing water (i.e., "pipeline projects"), and only then subject to required offsets designed to reduce additional demand on already oversubscribed water supplies. This exception from the moratorium for these pipeline projects was not due to any finding that they would not lead to harm to the existing water supply from adding more water demand to the system, rather it was considered a matter of equity and fairness to honor CCSD commitments made at the time (with the possibility of attendant legal risk if such commitments were not recognized), provided they were strictly limited in the manner described above. The Commission agreed to this scheme in the 2007 LCP amendment.

There were originally some 64 of these grandfathered pipeline projects, but none remain today.⁹ As a result, currently the LCP effectively prohibits approval of new water service in Cambria, taking into account the actual facts and reality on the ground regarding the current state of the community's water supply.¹⁰ Further, the *ongoing* impacts to the Creeks are inconsistent with the terms and conditions of CCSD's water extraction licenses from the SWRCB and their CDP from the Commission.

In 2014 the CCSD declared a "Stage 3 Water Shortage Emergency"¹¹ and acknowledged it did not, and does not, have adequate water supply to support Cambria's *existing* water demand (see **Exhibit 7**). Existing wells at that time were lower than two feet above sea level and in the absence of a new water supply, the CCSD projected that sometime in 2014 "the community stands a real chance of literally running out of water, forcing Cambrians to shut businesses and possibly even leave homes."¹² In response to this declared water emergency, San Luis Obispo County granted the CCSD an Emergency CDP (see **Exhibit 8**) in June 2014 for a desalination plant meant

⁹ And even if there were, the approach for allowing them to proceed in the face of such water shortages was always considered interim. Nearly two decades later such issues of procedural fairness have diminished and much more is known about the extent of the water supply problem in Cambria. Thus, even if pipeline projects were to exist, which they don't, such projects could not satisfy the requirements of CZLUO Section 23.04.430 requiring adequate water.

¹⁰ The applicable LCP policy does potentially allow for new development requiring new water service that is *not* a pipeline project, but only if it is based on a water source that does not adversely impact Santa Rosa and San Simeon Creeks (NCAP Planning Area Standard 4; see Exhibit 6). Given that Cambria is served solely by the CCSD and the CCSD's only water source comes from those two Creeks and leads to adverse impacts to them, development meeting such criteria is considered non-existent at this time.

¹¹ The Stage 3 Water Shortage Emergency was declared by the CCSD Board of Directors pursuant to Water Code Section 353, which allows governing bodies to adopt regulations and restrictions on water deliveries to conserve water for the greatest public benefit.

¹² See "Cambria's Emergency Water Supply Project: Questions and Answers," CCSD. November 3, 2014.

A-3-SLO-19-0033 (Peoples' Self Help Housing Affordable Apartments)

to provide a temporary emergency water supply, despite Commission staff's articulated concerns at the time (and since) regarding the coastal resource impacts associated with such a project, including on environmentally sensitive habitat area (ESHA) (including where project components would be sited) and sensitive species. In fact, the CCSD had previously applied for a CDP from the Commission for test wells to assess the viability of such a desalination plant adjacent to Santa Rosa Creek, but the Commission denied that application due to its unmitigated and adverse coastal resource impacts. Nevertheless, the 2014 desalination project was within the County's jurisdiction and the County issued the Emergency CDP based on the CCSD's assessment of Cambria's critically low water supply at that time. The project intended to treat a blend of salt, fresh, and treated wastewater that would be stored in an effluent pond and injected back into the aquifer after several different treatment processes, including reverse osmosis. The project approved under the Emergency CDP was supposed to operate only during emergency conditions and only to provide water for existing development. The CCSD is currently facing litigation where petitioners claim that the CCSD operated the facility in non-emergency situations. The facility, however, is no longer operational, in part due to a cease-and-desist order issued by the Regional Water Quality Control Board (RWQCB) in 2017, noting over 162 violations associated with the operation, including unpermitted and uncontrolled discharge into the groundwater system.

The CCSD has submitted a follow-up regular CDP application to the County (appealable to the Commission) designed to make the emergency operation a permanent and larger water supply project to be used for all purposes, including to serve new development requiring new water sources. That application has not yet been filed as complete. That project will need to meet the requirements of numerous agencies, including the RWQCB, CDFW, USFWS, the U.S. Army Corps of Engineers, and the National Marine Fisheries Service (also known as NOAA Fisheries). All of these agencies, as well as Commission staff, have raised concerns regarding the likely environmental resource impacts from the proposed water supply project and its likely non-conformity with various elements of the LCP. There is currently no established timeline for when the CCSD might complete its CDP application, when the County might take action on it, and then when potential appeals of a County decision might be made to the Commission. Thus, it is not clear when, or even if, a facility such as currently proposed may come online, and it is not appropriate to consider as a potential water source (if ultimately approved) that could provide for new water connections to serve development in Cambria in an LCP-consistent manner.

Although the CCSD continues to pursue that desalination plant to bolster water supplies in Cambria, it is not clear when, or if, that project will be approved and/or come online, and the same water supply issues that have affected Cambria for decades (as reflected in the discussion above) continue to apply today. Even water supply to *existing* development is problematic in relation to the substantive standards of applicable LCP provisions, without even considering new development. As stated succinctly by the Commission in 2007 as part of its approval of LCP Amendment SLO-MAJ-1-06 Part 1, and still pertinent today: "adequate public water supplies are not currently available for new development in Cambria." The LCP has been amended in the past to recognize same, and to prohibit development (other than pipeline projects, of which no more exist

A-3-SLO-19-0033 (Peoples' Self Help Housing Affordable Apartments)

today) that requires new water service absent the CCSD/community finding a new sustainable water source and supply beyond the Creeks (see LCP Amendment SLO-MAJ-1-06 Part 1).

CCSD Continues to Issue Intent-to-Serve Letters Despite Exhaustion of Pipeline Projects List

Notwithstanding these clear points about the LCP, the CCSD has continued to offer to provide new water services for proposed new development that is not part of the original "pipeline projects" list. The CCSD has justified the issuance of some of these intent-to-serve letters for such proposed development in three main ways.

First, the CCSD asserts that it has simply made additional water commitments, notwithstanding the moratorium and the applicable LCP provisions, and estimates that there are some 32 proposed development projects currently pending that would represent new service to which it would provide intent-to-serve letters. The CCSD indicates that this number can be increased at any time through court order, settlement agreement, or resolution by the CCSD's Board of Directors (Board). However, none of these new commitments are "pipeline projects" that are recognized by the LCP, nor does such a posture evaluate whether such commitments are LCP or CDP (i.e., in terms of the Commission's CDP that allows CCSD to extract water in the first place) consistent, and certainly none of these commitments is based on there being adequate water to actually serve such projects consistent with underlying LCP/CDP requirements and the lack of water to ensure health of the Creeks more broadly.

Second, the CCSD also states that it will provide service and new connections to undeveloped vacant parcels that have purchased an "active service transfer" whereby a vacant "receiver" parcel purchases an existing water meter from a "sender" property.¹³ Although the active water meter transfer transaction may include the demolition of an existing structure and permanent retirement of the "sender" property, thus in theory offsetting the new connection of the "receiver" site, the sender property may sometimes be served by multiple water meters and is only selling an "extra" water meter without actually reducing water consumption at the "sender" site. Although the CCSD cannot currently confirm the exact number of vacant "receiver" parcels on its active water meter transfer list, the CCSD estimates approximately 12 parcels are currently on the list, and it further indicates that the number may increase at any time if additional water meter transfers are approved by the Board. The LCP does not account for nor condone such meter transfers as a method for ensuring adequate water supply, and in fact the Planning Area Standard 4(A) is based on allowing water service to continue for existing pre-moratorium customers, but not to create new customers through a type of "meter market exchange."

And finally, the CCSD in the early 1990s, the CCSD determined that it would supply new water service to affordable housing projects at a rate of six such units per year, and that the units would be carried over from year to year if not brought online. The six units per year number was chosen solely based on the perceived rate of need for new

¹⁴ The County's four LCP areas are: North Coast, Estero, San Luis Bay, and South County.

A-3-SLO-19-0033 (Peoples' Self Help Housing Affordable Apartments)

affordable housing units. In 2013 the CCSD capped the number of affordable units at 89, of which 32 were to be allotted to the current project. Although the CCSD allocation scheme described above predates both the CCSD moratorium and corresponding LCP amendment discussed above, it is not part of the LCP. Additionally, the CCSD has stated that its Board has the authority to increase the number of units at any time. Currently, the CCSD indicates that it has active applications for 32 additional new affordable housing units (not counting the 32 units currently proposed in this application).

In sum, the CCSD indicates that it would be willing to provide new water service for over 130 projects, none of which are on the pipeline list contemplated in the LCP, and none of which can be provided water service consistent with the LCP, the SWRCB water licenses, and the Commission's CDP, given the current facts and reality on the ground with respect to regional water supply. In addition, the CCSD further indicates that it has the authority to increase the number of such projects it would serve at any time and at its discretion based on its municipal code (which is not part of the LCP). All of this despite no support for same in the LCP, or in past LCP or CDP actions of the Commission or other substantial evidence that such commitments are in fact LCP consistent. In short, the CCSD is a water purveyor, and it is doing what it can to sell water, but its decisions described above should not be understood as being based on compliance with the LCP or the Commission's CDP, and/or based on coastal resource protection.

CCSD's Retrofit Program

Pursuant to LCP Policy North Coast Area Plan (NCAP) Planning Area Standard 4(B), if new development requires new water service that leads to an increase in water use, which is only allowed for pipeline projects, then such pipeline projects are required to "offset such increase through the retrofit of existing water fixtures within the Cambria Community Service District's service area, or through other verifiable actions to reduce existing water use in the service area (e.g. the replacement of irrigated landscaping with xeriscaping)." In practice, such offsets have occurred through CCSD's retrofit program. Specifically, prior to issuing an intent-to-serve letter, CCSD requires proposed CDP applicants to participate in its retrofit program in an attempt to offset the proposed water use. The program is designed to replace older water fixtures in existing homes with newer and more efficient fixtures in order to reduce water consumption (e.g., such fixtures may include showerheads, toilets, laundry machines, irrigation systems, dishwashers, etc.). Proposed development may either install their own verified retrofits or purchase "retrofit points" that have been "banked" by the CCSD.

The CCSD indicates that such retrofit points are accumulated in three main ways, all of which are required and specified in Section 4.20.020 of the CCSD Municipal Code (again, not a part of the LCP). First, whenever there is a residential sale in Cambria the buyer is required to retrofit the existing house, which is known as "Retrofit upon Resale." Second, whenever there is a remodel that includes plumbing fixtures, the property owner is required to retrofit the house. Third, whenever there is a change in use of a commercial structure, the owner or new tenant must retrofit the commercial structure. In these three situations, CCSD staff inspects the structures before the retrofits have been

A-3-SLO-19-0033 (Peoples' Self Help Housing Affordable Apartments)

installed and then 60 days after the initial inspection to confirm installation of retrofits. The identified water savings are calculated and “banked” as retrofit points. Per the CCSD, each point is intended to represent the saving of 1.47 gallons of water per day.

Much of the community of Cambria has already been retrofitted with efficient fixtures, and there are limited options available for additional retrofits. As a result, CCSD indicates that most required water use offsets are accomplished through the purchase of retrofit points, which have already been banked from retrofits that were already required to be installed, which the CCSD indicates cost \$50 per point. The CCSD maintains a “Retrofit Points Equivalency Table” that explains the number of points a particular project needs to purchase, which is updated by the CCSD Board annually. For single-family homes, the number of points needed is determined based on the number of bathrooms and square-footage of the project parcel. For multi-family units, CCSD requires 120 points per unit (or 176.4 gallons of water per day in this system), regardless of the number of bathrooms or size.

There are a variety of problems with CCSD’s retrofit program that suggest that, at best, it is unclear if it actually accomplishes what the LCP requires, namely an actual physical reduction in use of water that is equivalent to the amount of water that would be used by the pipeline project being allowed (bracketing for the moment that there are no more pipeline projects, and thus Planning Area Standard 4(B) is inapplicable to this and other projects). First, the actual retrofits that are turned into points by the CCSD are required by CCSD ordinance and would occur regardless of any point banking. In fact, when the ordinance was adopted these retrofits were not intended to be “pre-allocated mitigation” that can be “banked” for some future impact (i.e., as mitigation banks are typically structured); rather they are independently required by regulation because of the issues the community had and still has with water supply adequacy with respect to new development projects. To require them once for this purpose, and then to allow *others* to rely on them for additional offsets would appear to be a form of “double-dipping” on the benefits of the mitigation required in each case of offset. To actually offset proposed new water use, any offsetting *reductions* must be derived from the project itself and applied independently of prior actions and requirements designed to reduce water use for other purposes and projects. Further, the CCSD indicates that it does not even have a database of the existing retrofit points and does not know how many points are in its “bank.” In fact, there appears to be little to connect the purchase of retrofit points, were that even to be appropriate as an offset tool, to actual water use reduction, meaning any real reduction or even “no-net increase” of water usage based on purchase of offset credits may simply be illusory.

In addition, CCSD indicates that it does not re-inspect the installed retrofits after the initial 60-day calculation inspection. Thus, property owners could inadvertently remove the retrofits (e.g., by replacing a showerhead, removing an aerator, or installing non-drip irrigation) and the water use reduction would not necessarily actually be realized. According to CCSD’s last inventory of its retrofit bank in January 2014, over 70% of the banked retrofits were accomplished through showerhead and aerator replacements, which are the also the easiest and most common retrofits to remove. In addition, once retrofit points are purchased or retrofits are installed, CCSD does not require any further

A-3-SLO-19-0033 (Peoples' Self Help Housing Affordable Apartments)

water offsets regardless of future water consumption. In other words, if a proposed project is built and actually uses more water than originally estimated, the project is not required to offset the additional water use and the project would then lead to an overall increase in Cambria's water use (assuming that the original retrofits installed or points purchased led to an actual reduction in water consumption in the first instance, which is questionable). Because CCSD does not have an accounting of its retrofit points, including from which retrofit they were generated, it is also possible for the same structure to be retrofitted more than once, and to be deemed to have reduced the same amount of water use over and over again, and to generate additional retrofit points, even if only one water use reduction episode is possible. CCSD also does not have information regarding actual ongoing water use of retrofitted properties to determine whether the calculated water savings has led to an actual reduction in water use. CCSD also does not reduce allocated water entitlements for retrofitted structures to ensure that actual water consumption is decreased. Once the retrofits are calculated and banked, the points are available for purchase regardless of actual water savings.

Moreover, the LCP requires "written confirmation from the CCSD that any in-lieu fees collected from the applicant have been used to implement projects that have reduced existing water use within the service area in an amount equal or greater to the anticipated water use of the project." However, as explained above, the retrofit points available for purchase are banked from retrofits that are already required and have already been installed by CCSD customers at their own expense. In the past, the in-lieu fees paid by project applicants have not specifically been reserved to implement water savings projects as required by the LCP, but such fees are instead deposited into the CCSD's "Water Operating Department" fund, which is not specifically reserved for water saving projects.

Thus, the retrofit program suffers from a series of issues that appear to indicate that it does not actually serve to offset water use in the manner required by the LCP. Per the language of LCP Policy NCAP Planning Area Standard 4(B), the CCSD's retrofit program is not a *verifiable* action that actually reduces water use in the service area for the reasons discussed above. In addition, and just as important, the LCP only allows the use of offsets for projects on the pipeline projects' list, and there are no such projects remaining in existence. Thus its use for LCP conformance is not even applicable to the current project or to new proposed development requiring new water service within Cambria generally.

Applicable LCP Provisions

The San Luis Obispo County LCP is divided geographically into four areas,¹⁴ each with its own LCP area plan. The LCP also includes an LUP, titled the Coastal Zone Framework, and an Implementation Plan, titled the Coastal Zone Land Use Ordinance (CZLUO), which are applicable throughout all four LCP areas. The subject property is located within the area governed by the North Coast Area Plan (NCAP). The NCAP includes an extensive policy framework meant to protect the area's rich coastal resources, including through policies that protect groundwater and associated riparian

¹⁴ The County's four LCP areas are: North Coast, Estero, San Luis Bay, and South County.

A-3-SLO-19-0033 (Peoples' Self Help Housing Affordable Apartments)

areas, require an adequate water supply to serve new development, limit growth to areas with adequate public services, and direct development to existing developed areas best able to accommodate it. The NCAP acknowledges that Cambria has a severely limited water supply that has long been recognized as inadequate to serve new development.¹⁵ The NCAP provides more detailed policies and provisions applicable to potential development in Cambria that are in addition to the more general LUP and IP provisions that apply to this project, and that take precedence over these more general provisions when they provide more detail and/or there are any questions of internal LCP consistency.

CZLUO Section 23.04.430 requires the County to find that “adequate” public services exist prior to approving any new development in San Luis Obispo County in general (see **Exhibit 6** for this and other referenced and applicable LCP policies and provisions). The Commission in its past LCP and CDP actions associated with the San Luis Obispo County LCP has consistently understood “adequate” public services in relation to water to mean that there exists a sustainable water supply that is not leading to adverse coastal resource impacts and that has capacity to accommodate the development being proposed.¹⁶ As described above, such an adequate water supply does not exist in Cambria to serve even *existing* development, and thus *new* development requiring provision of new water service typically cannot be found consistent with this LCP policy with respect to water supply and use in Cambria.

At the same time, the NCAP *does* allow for some limited new development to be accommodated in Cambria notwithstanding Section 23.04.430 limitations, but only where such new development is one of the aforementioned pipeline projects, and if such pipeline project offsets its water use. Specifically, NCAP Planning Area Standard 4(A) states:

New development not using CCSD connections or water service commitments existing as of November 15, 2001 (including those recognized as “pipeline projects” by the Coastal Commission on December 12, 2002 in coastal development permits A-3-SLO-02-050 and A-3-SLO-02-073), shall assure no adverse impacts to Santa Rosa and San Simeon Creeks.

This policy was explicitly added to the LCP by the Commission through suggested modifications (and accepted by the County) for the above-referenced 2007 LCP amendment to track the CCSD moratorium and pipeline projects, and to recognize that there is not adequate water supply available to provide new water service in Cambria. The policy was proposed and accepted as part of the LCP based on the understanding that for a project proponent who is *not* an existing CCSD water-using customer (i.e., using then existing CCSD connections) or is not pursuing a pipeline project (i.e., having a CCSD water service commitment for a CDP application then accepted by the County) as of November 15, 2001 (i.e., the date of the moratorium), then the project may *only* be

¹⁵ Including as identified and specified in the terms and conditions applicable to both the SWRCB water licenses and the Commission’s 1977 CDP to the CCSD for water extractions.

¹⁶ See, for example, A-3-SLO-13-0213 (Kingston Bay Senior Living) and A-3-SLO-14-0044 (Fox SFD).

A-3-SLO-19-0033 (Peoples' Self Help Housing Affordable Apartments)

approved as having adequate water service where no adverse impacts are occurring to Santa Rosa and San Simeon Creeks. On that latter point, the Commission was clear in adopting these policies that they did *not* stand for the premise that an individual project could assure “no adverse impacts” to the Creeks via offsets specific to its own water use, but rather that water service to serve new development in Cambria generally could only be provided if such adverse impacts to the Creeks were no longer occurring.¹⁷ In other words, pipeline projects that offset their water use (via offset requirements of NCAP Planning Area Standard 4(B)) are allowed and do not need to meet the standard of no impacts to the Creeks, but any other proposed projects are not allowed unless there are no adverse impacts to the Creeks. Given that there are existing significant adverse impacts to the Creeks from existing water extractions to provide water service to serve even *existing* Cambria development, NCAP Planning Area Standard 4(A) *only* allows for water service to new development in Cambria (absent some new water source other than Santa Rosa and San Simeon Creeks) if it is to serve a pipeline project. As detailed above, there are no more pipeline projects in Cambria. As a result, new development requiring provision of new water service in Cambria cannot be found consistent the LCP because no new adequate water supply has been identified, and Santa Rosa and San Simeon Creeks remain oversubscribed to their detriment.

In addition, even if a project were approvable under the LCP, the LCP contains no provisions exempting projects from satisfying the requirements of CZLUO Section 23.04.430. Although the Commission and the County have in certain cases allowed “pipeline projects” to proceed as long as they verified their water demand offsets (which was initially required as a condition of approval and was later codified in the LCP as a development standard), such projects were only allowed as a matter of procedural fairness. This approach, when allowed, was always considered interim and contingent on the development of a better understanding of the effects of water withdrawals on coastal streams and related resources. In other words, it was acknowledged that there was a water supply problem, and a subset of no-net increase projects would be allowed in the short term, until more information about the depth of the water supply problem was known. Some two decades later, such issues of procedural fairness are no longer present, and if they were they would hold less weight at this later point in time. Much more is also known now about the depth of the water supply problem in Cambria. Thus, even if pipeline projects were to exist, such projects could not satisfy the adequate water requirements of CZLUO Section 23.04.430 and would require denial.

Despite these constraints on new development, the NCAP also recognizes the importance of affordable housing and includes distinct policies that are specific to water supply as it relates to affordable housing in Cambria. The policies are meant to ensure affordable housing projects “aren’t unnecessarily delayed because of water allocation

¹⁷ In the 2008 LCP NCAP Update, the Commission focused on the water constraints in Cambria generally, stating the Commission’s direction was that “new development in Cambria not be approved without a more serious effort to address the water supply constraints, including the provision of adequate storage and delivery. This also included recommending that the in-stream flows and riparian habitat requirements of the creeks be fully evaluated, and that the County and community complete a water management strategy with recommendations incorporated into the LCP.”

A-3-SLO-19-0033 (Peoples' Self Help Housing Affordable Apartments)

issues.” Specifically, NCAP Chapter 2 Standard C(2) notes that over 50 acres of vacant land are potentially available for up to 616 additional affordable housing units “provided that public service constraints can be resolved and LCP resource protection policies can be met by such development.” NCAP Chapter 7 Standard 2(B) further states that the CCSD “shall reserve available water” for certain high priority uses, including the following:

The CCSD shall reserve sufficient water and sewer capacity to serve affordable housing. Prior to issuance of any further water will-serve letters, the District shall propose to the County a program to accommodate a limited number for affordable housing units each year. The program shall be consistent with definitions of affordable housing in the County Housing Element. The exact number shall be determined based on unmet housing needs, and availability of water.

In short, Standard 2(B) indicates that prior to the issuance of will serve letters there must be an “available” water supply and an approved program designed to allocate the reserved supply for affordable housing units based, in part at least, on available water. As stated above, there does not appear to be an “available” water supply in Cambria and the CCSD has not created and submitted to the County an affordable housing allocation program based the identified available supply. The NCAP policies clearly differentiate between high priority affordable housing projects and all other types of development in Cambria. Under this policy, if and when there exists available water supply, that available supply should be prioritized for, among other things,¹⁸ affordable housing.

However, this policy is *not* some form of exemption that would allow for affordable housing projects notwithstanding the provisions of CZLUO Section 23.04.430 and NCAP Planning Area Standard 4(A) that require a determination of adequate water supply (per CZLUO Section 23.04.430) with no adverse impacts to Santa Rosa and San Simeon Creeks (per NCAP Planning Area Standard 4(A)). Again, the only projects that were originally allowed new water service in Cambria per the LCP despite the requirement of no impact to the Creeks were pipeline projects, of which there are none.

The LCP, when revised over a decade ago in 2007, envisioned a planning effort in the near term to holistically identify the communitywide water supply constraints and allow for a very limited number of affordable housing units, so long as the LCP resource protection policies could be met. However, neither the CCSD or the County has undertaken that effort despite the fact that the need for affordable housing has reached the level of a statewide crisis.

Analysis

As explained above, CZLUO Section 23.04.430 states that a “permit for new development that requires water or disposal of sewage *shall not be approved unless the*

¹⁸ Standard 2(A) also prioritizes allocating available water supplies to visitor serving uses as a priority use.

A-3-SLO-19-0033 (Peoples' Self Help Housing Affordable Apartments)

applicable approval body determines that there is adequate water.” Although the NCAP also includes additional standards for development within Cambria, the requirements of CZLUO Section 23.04.430 are broadly applicable to all development (and the more specific NCAP standards are not inconsistent with CZLUO Section 23.04.430), thus the Commission must find that there is adequate water to serve the proposed development prior to approval. With respect to whether adequate water exists, as evidenced above, Cambria’s water supply is limited and it has been difficult to sustainably support even existing demand for decades.

In addition to the requirements of CZLUO Section 23.04.430, as detailed further above NCAP Planning Area Standard 4(A) requires new (non-pipeline) development in Cambria (such as the project proposed here) to show that there are no adverse impacts to Santa Rosa and San Simeon Creeks from water supply activities. Protection of these important coastal resources is further supported in numerous LCP policies, such as Coastal Watersheds Policies 1 and 2, and ESHA Policies 2, 7, and 20 (see **Exhibit 6**). Since the LCP NCAP update, the most recent scientific studies independently demonstrate that the CCSD’s existing water extractions to serve even existing development have adverse impacts to the Creeks and there are inadequate instream water flows to sustain the Creeks’ sensitive riparian habitats (see **Appendix A**). If new development is able to demonstrate an adequate water supply and no adverse impacts to the Creeks, NCAP Planning Area Standard 4(B) also requires new development that leads to a water use increase to offset that increase through the retrofit of existing water fixtures. Due to the uncertainties and flaws in the CCSD’s retrofit program explained above, participation in this program alone is insufficient to meet the LCP offset requirement.

These policies require that new water connections within Cambria must be denied until such time as a new sustainable water source is secured. The LCP also includes policies encouraging affordable housing, even in light of the community’s water supply problems. In fact, the LCP indicates that affordable housing projects should not be unnecessarily delayed because of water allocation issues and provides an avenue to create an affordable housing water allocation program. In other words, the LCP includes specific policies than the policies related to water availability that recognize the pressing need for affordable housing and differentiate such projects from other types of development, including as they relate to water supply.

In addition, the proposed project is not a low or even moderately priced housing development that is available to any person regardless of income, nor is it a mixed-use or mixed-rate development that only provides a percentage of affordable units whereby a new water connection would serve both affordable housing and non-affordable housing purposes. Rather, this project is a true virtually 100% affordable housing apartment complex, proposed by a nonprofit affordable housing developer, that would provide 32 apartment units for rent at an affordable rate to qualifying low-income families, and that would be deed restricted as affordable for a period of 55 years. The project would provide much needed affordable rental stock for the community, particularly Cambria workers who may work in lower-wage service industry jobs in visitor serving industries. The proposed project would meet other important LCP goals

A-3-SLO-19-0033 (Peoples' Self Help Housing Affordable Apartments)

for affordable housing, as well as higher-priority visitor-serving commercial employee housing, and enjoys a different LCP priority than other types of development as a result.

Moreover, the Applicant has provided information (see **Exhibit 4**) that the project itself helps to address its water consumption issues through stringent water saving design, water conservation requirements, and bonafide retrofits applied to their own nearby affordable apartment properties (where the Applicant can ensure that the installed retrofits are maintained over time). The project incorporates advanced water saving designs to limit water consumption, including through use of the most modern water savings fixtures available, and a 168,000-gallon rainwater reclamation cistern that will provide all the water necessary for outdoor irrigation. The Applicant estimates that the project will consume between 2,846 and 3,649 gallons of water per day.

Finally, this project is also unique because it is proposed by a non-profit developer that owns and operates other apartment buildings within Cambria. In addition to the purchase of retrofit credits from CCSD (representing 3,890 gallons of water use per day, which would equate to a total fee of \$194,500 to the CCSD), the Applicant also installed water saving fixtures within its existing apartment complex at 2825 Schoolhouse Lane in Cambria (located just south of the currently proposed project). Given the Applicant already purchased CCSD retrofit credits, these additional retrofits were not required by CCSD as a condition of the will-serve, and would not have been legally required to be installed other than to offset the proposed project. Additionally, because the retrofitted apartment complex remains under the ownership of the Applicant, it can ensure that the installed retrofits are maintained over time. In that sense, this project is unlike other projects that the Commission has reviewed for development in Cambria where water supply was a key issue, because the Applicant here is uniquely positioned to offset its water consumption differently than other projects through actual retrofits maintained over time rather than simply payment of an in-lieu fee.

Although the LCP-required affordable housing water supply program remains incomplete, it is clear that the LCP's intent was to provide for a limited amount of affordable housing units in Cambria even if doing so might lead to inconsistencies with the general LCP policies related to community water supply problems. The proposed project represents the type of bonafide affordable housing development that meets the intent of the specific LCP policies related to affordable housing. Thus, even though it raises water supply concerns, the project itself can be approved in this narrow case and this unusual circumstance because of the above-described factors.

In order to ensure that the proposed water conservation measures are appropriately implemented, **Special Condition 2** requires the Applicant to provide a water conservation plan that details all of the water saving components of the project, quantifies the anticipated water consumption, and demonstrates that the proposed consumption either has been or will be completely offset as an enforceable component of this CDP. Additionally, because this information is solely based on estimated projections rather than actual water use, **Special Condition 2(c)** requires the Applicant to submit confirmation one year after the apartments are occupied that the project actually offsets its water use by 125% (providing a 25% buffer to address uncertainties),

A-3-SLO-19-0033 (Peoples' Self Help Housing Affordable Apartments)

or describe the additional measures necessary to ensure that is the case. Annual reporting will be required for at least three years or until the project's water usage is offset by 125% as documented in two consecutive annual reports, whichever is later.

2. ESHA

As detailed above, Cambria's water supply is extracted exclusively from Santa Rosa and San Simeon Creeks, which are both identified as ESHA. NCAP Planning Area Standard 4(A) requires new development in Cambria to show that there are no adverse impacts to these important creek ecosystems. Protection of these important coastal resources is further supported in numerous LCP policies, such as NCAP Planning Area Standard 4, Coastal Watersheds Policies 1 and 2, and ESHA Policies 2, 7, and 20 (see **Exhibit 6**).

As described in the preceding finding, the most recent scientific studies independently demonstrate that CCSD's existing water extractions to serve even existing development have adverse impacts to the Creeks and there are inadequate instream water flows to sustain the Creeks' sensitive riparian habitats (see **Appendix A**). As explained in more detail above, although the LCP generally prohibits new water connections when such conditions exist in order to limit the impacts of water withdrawals, the LCP also prioritizes affordable housing projects such as the one proposed here. In that context, the proposed project, as conditioned for water conservation (see **Special Condition 2**) to ensure it backs out its water use at 125% would not lead to new impacts on these Creeks.

Additionally, the proposed project is located within an area that is mapped as containing Monterey pine forest. As the southernmost stand in California, Monterey pine forest occupies roughly 2,300 acres in and around Cambria, with most of the remaining intact stand of Monterey pine forest located north of town. The LCP recognizes this context, and includes provisions to protect native Monterey pine forest, including through a Terrestrial Habitat (TH) designation that applies to most of Cambria, including the project site.¹⁹

The fact that the TH designation applies to both intact forest areas and fairly developed areas reflects the fact that the entire Cambria area was historically part of the larger native Monterey pine forest in Cambria, even though the remaining intact native forest stands are mostly located on the more rural edges of the town. The TH Monterey pine

¹⁹ The LCP includes a hierarchy of protections for Monterey pine forest. All Monterey pine forest in Cambria is designated Terrestrial Habitat (TH), including the project site, and given certain protections, including as described in Cambria Urban Area Standard B.1. Some Monterey pine forest, however, can be designated as an environmentally sensitive habitat area (ESHA) and subject to stricter criteria (particularly if part of a larger, contiguous forest habitat), including that only resource-dependent uses are allowed within the habitat. In this case, the project site includes a larger contiguous area of forest habitat that is being preserved as open space. The proposed structural development is clustered entirely within an area of disturbed grassland that avoids the densely forested area, which does not rise to the level of ESHA and instead is reviewed under the specific TH standards listed in Cambria Urban Area Standard B. 1.

A-3-SLO-19-0033 (Peoples' Self Help Housing Affordable Apartments)

forest designation in the center of town thus does not identify “forest” per se, but rather an area where pines continue to persist amongst residential development, and the County and Commission have historically addressed Monterey pine issues in these areas through avoiding denser tree stands, minimizing individual tree removal, and requiring pine tree replanting when individual trees are removed. (see **Exhibit 6**).

In this case, the project identifies a project limit area sited in a roughly 2-acre portion of the site that consists of non-native grasses and is not part of the contiguous protected Monterey pine forest ESHA (see **Exhibit 2** for site photos), and the remainder of the site that includes such forest (roughly 3.5 acres) would be preserved as open space to ensure the biological continuance of this habitat area. The project does include removal of five smaller pines, but these pines are outliers that are not part of the protected forest area (i.e., only pine forest is considered ESHA, not necessarily individual pine trees that are not part of contiguous forest). The Applicant would plant 20 new native Monterey pine trees as required by the LCP to offset their removal. The project meets the LCP's tests for Monterey pine forest ESHA, including being adequately set back from the forest to ensure the biological continuance of the habitat; identifying a “project limit area” that minimizes and clusters development in the least sensitive areas of the site; retaining native vegetation outside the project area; and replacing the removed trees removed at a 4:1 ratio. Further, any potential fire safety defensible space requirements would not be expected (or allowed) to impact the adjacent ESHA (see also fire safety finding that follows).

Finally, the Mitigated Negative Declaration that was prepared for the project, including conditions that were incorporated as conditions of San Luis Obispo County's original approval of the project, identified a series of mitigation measures to ensure that the adjacent habitat areas are protected during construction and that no individual biological species are impacted. **Special Condition 4** incorporates those biological protections measures into this CDP approval as enforceable components of the project.

As proposed to avoid adjacent habitat areas and as conditioned to protect such areas during construction, the project will not significantly disrupt, and is consistent with, the biological continuance of the habitat. Therefore it can be found consistent with the LCP with respect to ESHA.

3. Water Quality

Because the site is currently undeveloped, the proposed project would significantly increase the amount of impervious surface due to the construction of the apartments, common building, and parking areas. The increase in impervious surfaces may alter natural drainage patterns at the site and potentially contribute sediments and pollutants into nearby waterways, particularly during construction. Construction activities can also adversely impact coastal water quality by causing erosion and sedimentation through the removal of vegetation and the movement of dirt. The LCP requires all new residential development to control water runoff pollution through CZLUO Section

A-3-SLO-19-0033 (Peoples' Self Help Housing Affordable Apartments)

23.05.050, which requires the implementation of best management practices (BMPs) to protect water quality.

The primary mechanisms to address the proposed project's water quality impacts during construction are to require erosion and sediment BMPs, while post-construction drainage plans can control runoff in the long term. **Special Condition 3** requires the submission of a plan that implements both construction BMPs and post-construction drainage plans designed to accommodate runoff from the site up to and including the 85th percentile for a 24-hour runoff event. To ensure that such measures are implemented, **Special Condition 3** also requires that a copy of the plans are maintained on the site at all times and that a construction manager is designated to oversee the project and respond to any complaints. As conditioned, the proposed project would maintain water quality and would not adversely impact coastal waters; and, as such, is consistent with the LCP water quality protection provisions.

4. Fire Hazards

The project is located within Cambria and fire risks are ubiquitous within the community. The LCP does not prohibit development in high fire risk areas, although the LCP does require such risks to be minimized through implementation of CZLUO Section 23.05.080, which requires new development to adhere to current fire safety standards and develop a fire safety plan that must be approved by a fire protection agency (see **Exhibit 6**).

With respect to fire hazards, the project has the same sorts of risks that apply to any other development in Cambria. The project includes a fire plan that satisfies all current fire safety standards and was approved by the Cambria Fire Department as required by the LCP. The fire plan identified evacuation routes in case of emergency, provides for fire sprinkler systems in all buildings, includes the installation of three new fire hydrants, and also provides for emergency vehicle access. Thus, the project appropriately satisfies the LCP requirements to minimize such fire risks and can be found consistent with the LCP in this regard.

5. Indemnification

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. Therefore, consistent with Section 30620(c), **Special Condition 5** requires the Applicant to reimburse any costs and attorney 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.

A-3-SLO-19-0033 (Peoples' Self Help Housing Affordable Apartments)

6. California Environmental Quality Act (CEQA)

Section 13096 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 that the activity may have on the environment.

The Coastal Commission's review and analysis of CDP applications has been certified by the Secretary of the Natural Resources Agency as being the functional equivalent of environmental review under CEQA. The preceding CDP findings discuss the relevant coastal resource issues with the proposal including with respect to water supply, ESHA, water quality, and fire hazards, and the CDP terms and conditions identify appropriate modifications to avoid and/or lessen any potential for adverse impacts to said resources.

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 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 DOCUMENTS²⁰

- “*Water Use Efficiency Plan*,” Cambria Community Services District. February 21, 2013.
- “*Groundwater Management Plan*,” Cambria Community Services District. November 19, 2015.
- “*Issuance of Water Right Licenses 13916 and 13917*,” State Water Resources Control Board. March 14, 2019.
- “*Cambria’s Emergency Water Supply Project: Questions and Answers*,” Cambria Community Services District. November 3, 2014.
- “*San Luis Obispo County Regional Instream Flow Assessment (SLO Instream Flow Study)*,” January 2014.
- “*Santa Rosa Creek Watershed Management Plan*,” California Department of Fish and Wildlife. February 2012.
- “*South-Central California Steelhead Recovery Plan*,” National Marine Fisheries Service. December 2013.

APPENDIX B – STAFF CONTACT WITH AGENCIES AND GROUPS

- San Luis Obispo County Planning and Building Department
- Cambria Community Services District
- Peoples' Self-Help Housing

²⁰ These documents are available from the Commission’s Central Coast District office.