

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



W14c

A-3-SLO-21-0065 (BOOKOUT SFD, CAMBRIA) NOVEMBER 17, 2021 HEARING EXHIBITS

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San Simeon

Hearst San Simeon State Park

Project Location

6725 Cambria Pines Rd

Cambria

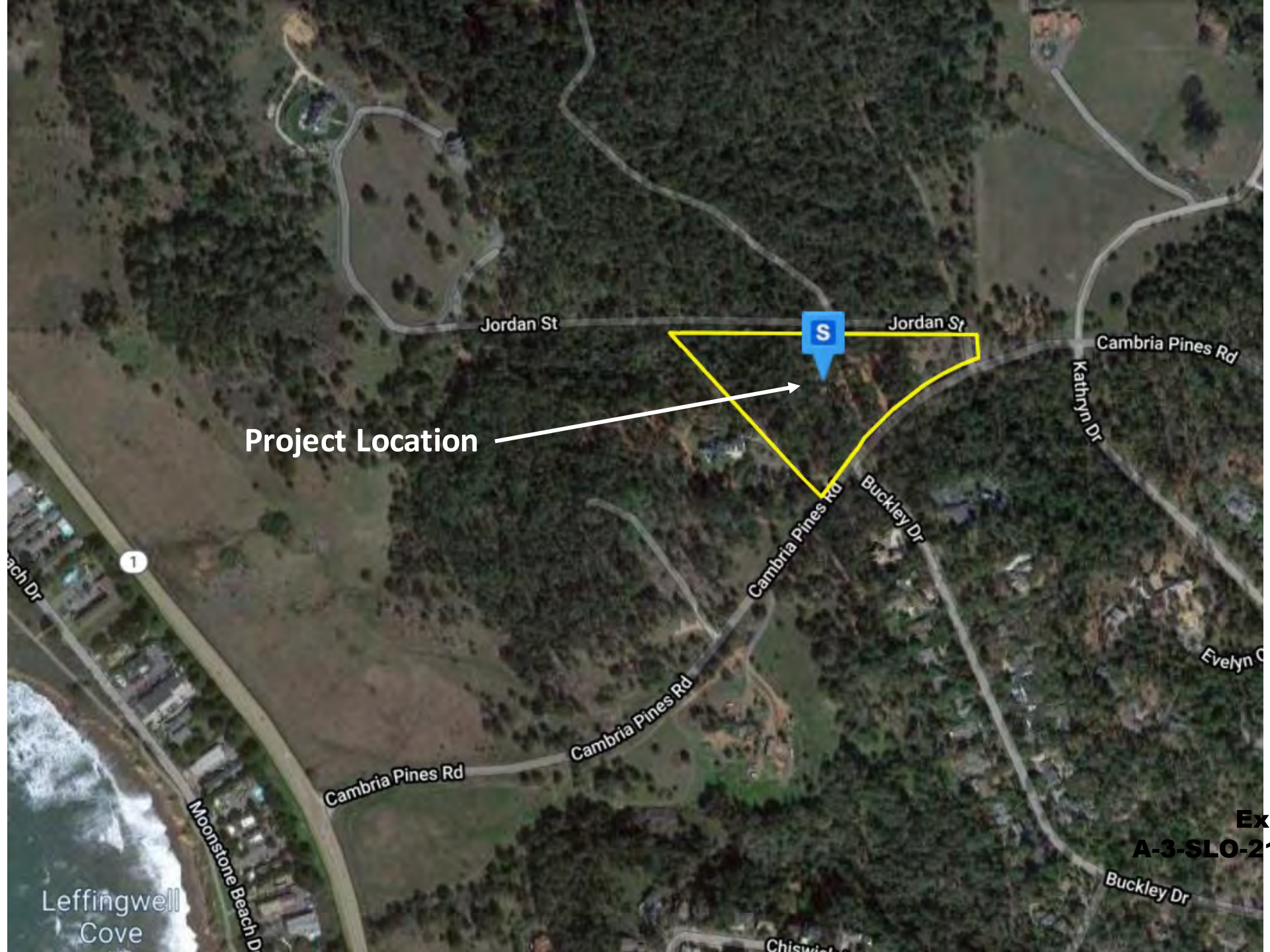
Cambria

Fiscalini Ranch Preserve

Cayucos

Data CSUMB SFML, CA OPC
Data SIO, NOAA, U.S. Navy, NGA, GEBCO

Exhibit 1
A-3-SLO-21-0065
1 of 2
Google Earth



Project Location

Exhibit 1

A-3-SLO-21-0065

2 of 2

DAVID EINUNG
SWATCH HOME DESIGN

DAVIDEINUNG.COM

Ramona

670 PINE RIDGE LN. ARROYO GRANDE 93420
805-674-2842 davideinung@gmail.com

BOOKOUT HOUSE
6725 CAMBRIA PINES RD. CAMBRIA CA.

6725 CAMBRIA PINES RD. CAMBRIA CA.

MUP PLAN SET

NOT FOR CONSTRUCTION

VERSION DATE:

VERSION: MUP APPL. **09-15-19**

REVISION: _____

REVISION: _____

REVISION: _____

REVISION: _____

REVISION: _____

REVISION: _____

REVISION: _____

REVISION: _____

REVISION: _____

REVISION: _____

APPLICANT

RALPH AND BETTY

BOOKOUT

5617 W. GROVE CT.
VISALIA CA 93291

559-250-0209

SITE LOCATION

6725 CAMBRIA PINES RD

CAMBRIA CA.
LOT 5, TRACT 1804

APN 013-085-005

SHEET

CITY PLAN

SITE PLAN

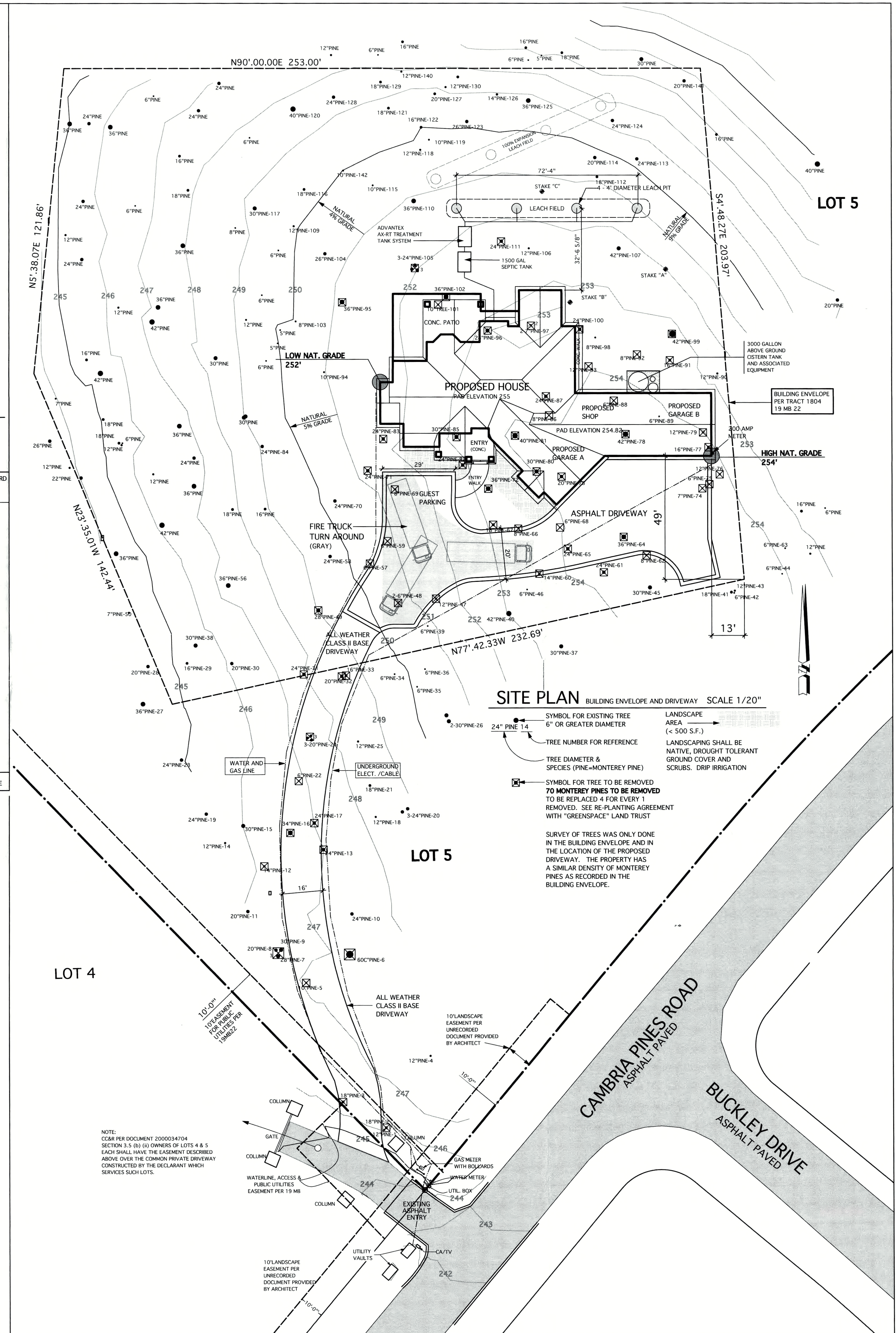
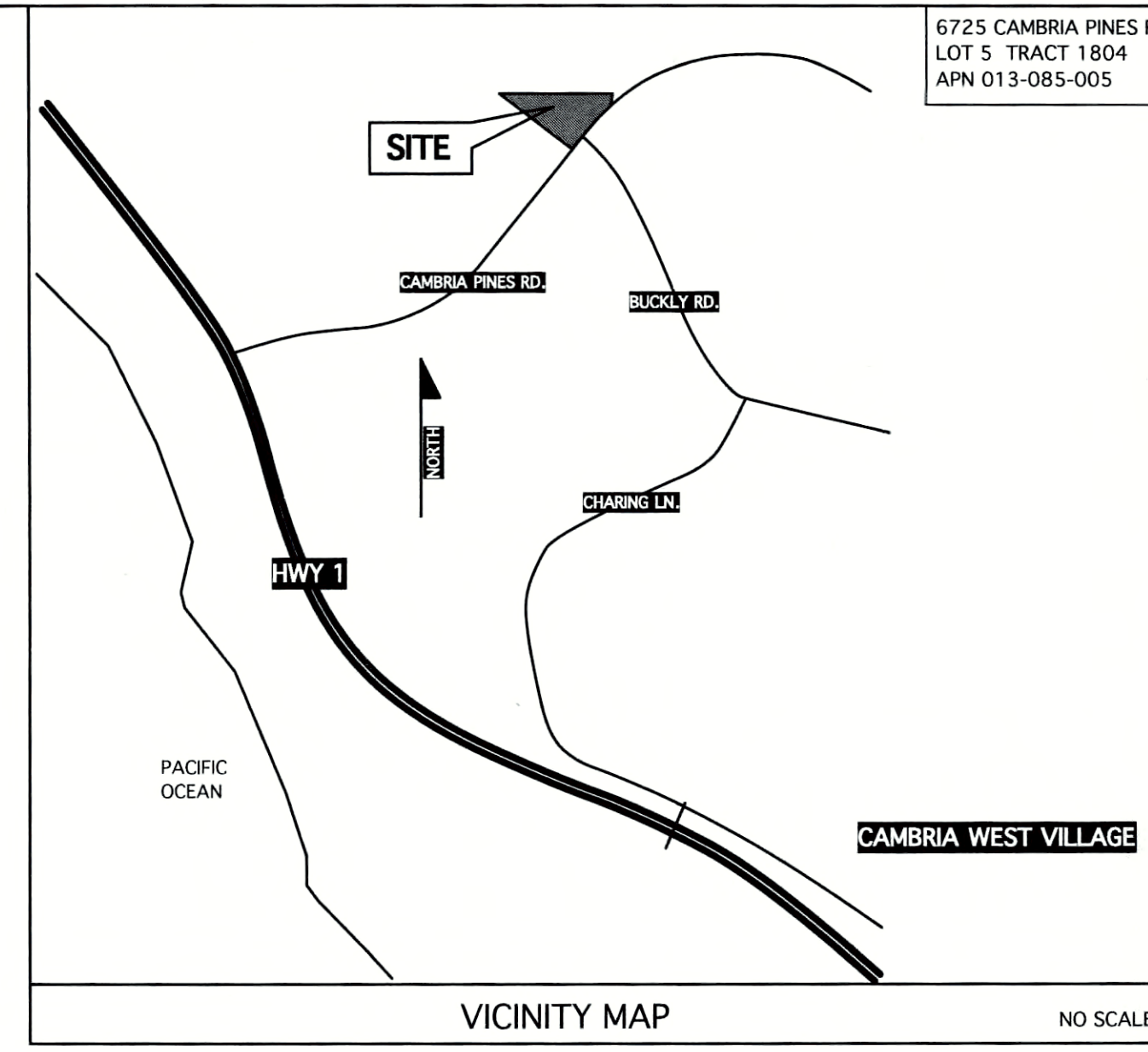
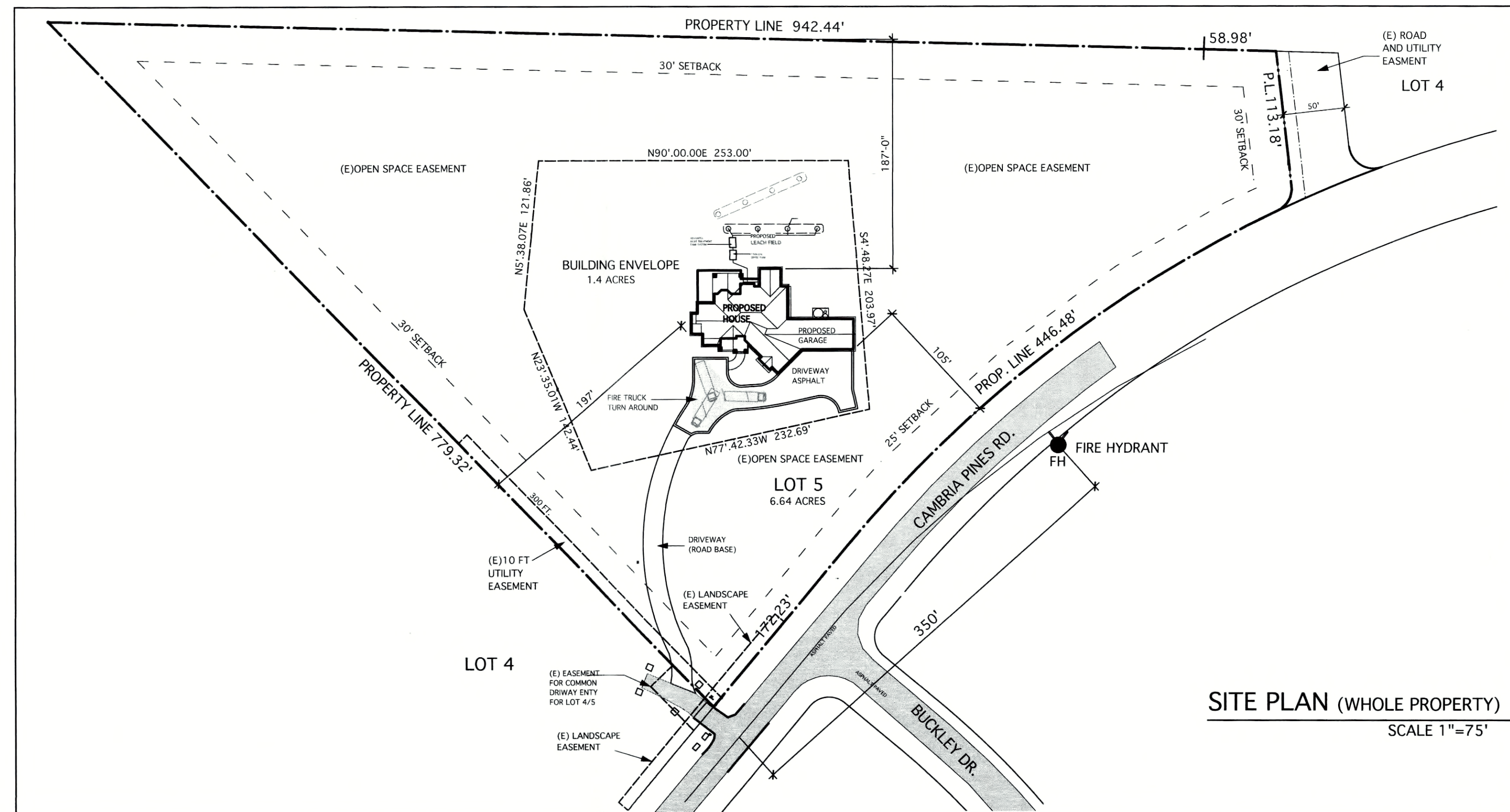
MUD 2

MUP-2

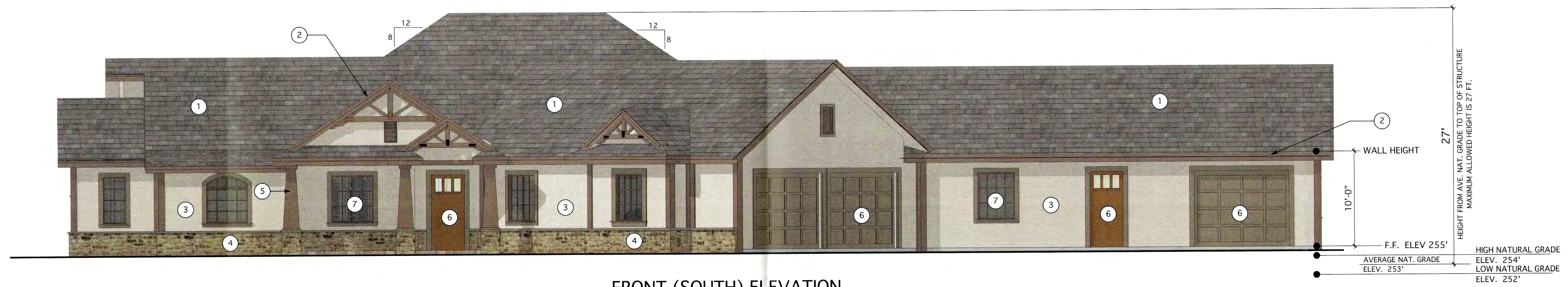
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5

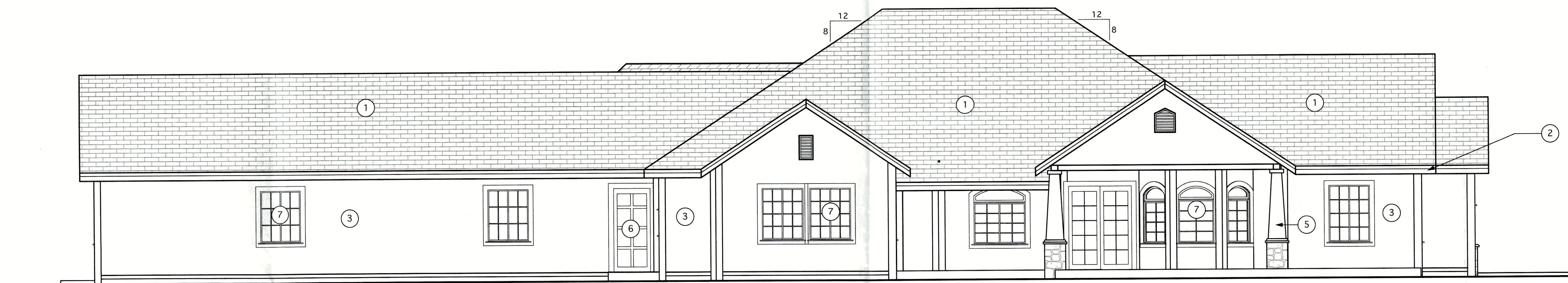
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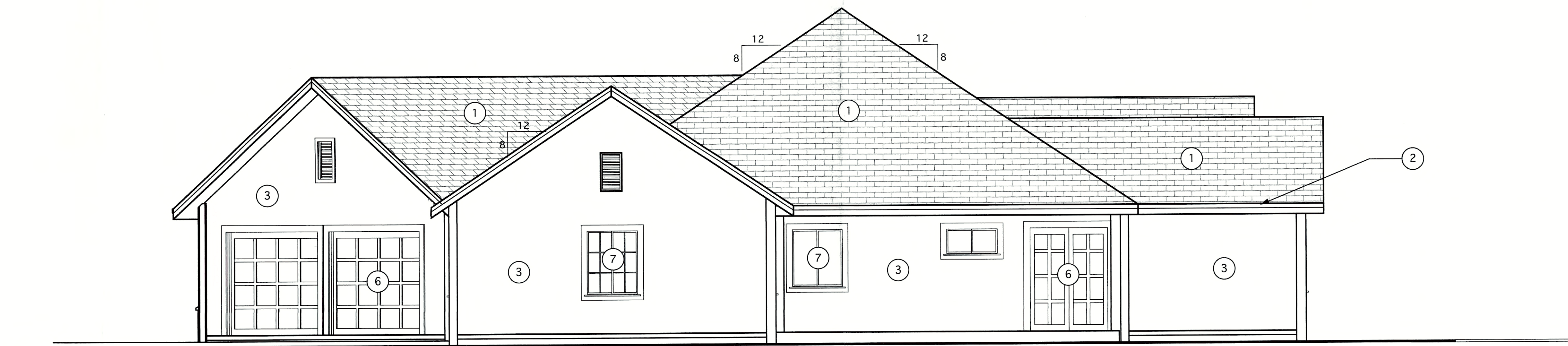
NOTE:
CC&R PER DOCUMENT 2000034704
SECTION 3.5 (b) (ii) OWNERS OF LOTS 4 & 5
EACH SHALL HAVE THE EASEMENT DESCRIBED
ABOVE OVER THE COMMON PRIVATE DRIVEWAY
CONSTRUCTED BY THE DECLARANT WHICH
SERVES SUCH LOTS.



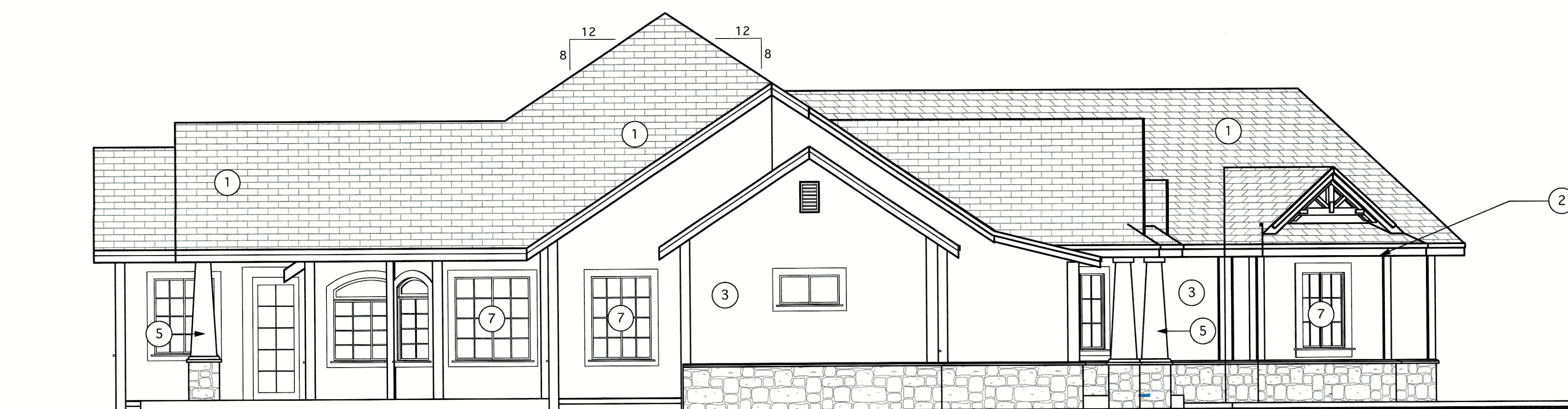
FRONT (SOUTH) ELEVATION



BACK (NORTH) ELEVATION



RIGHT (EAST) ELEVATION



LEFT (WEST) ELEVATION

EXTERIOR SPECIFICATIONS:	
① ROOFING:	ALL ROOF PITCHES 8:12 - COMPOSITION SHINGLES CERTANTEED BRAND PRESIDENTIAL SERIES "SHADOW GRAY"
② FASCIA:	-PAINT DUNN EDWARDS "PALOMINO PONY"
③ STUCCO WALL CLADDING	STUCCO: -COLOR COAT PAINT DUNN EDWARDS "CHARLESTON"
④ MANUFACTURED STONE	-ELDORADO BRAND RUSTIC LEDGE STYLE "CASCADE"
⑤ PILASTERS:	-ELDORADO BRAND RUSTIC LEDGE STYLE "CASCADE" -PAINT DUNN EDWARDS "PALOMINO PONY"
⑥ DOOR /WINDOW TRIM:	-PAINT DUNN EDWARDS "PALOMINO PONY"
⑦ WINDOWS:	-MILGARD VINYL COLOR "CLAY"

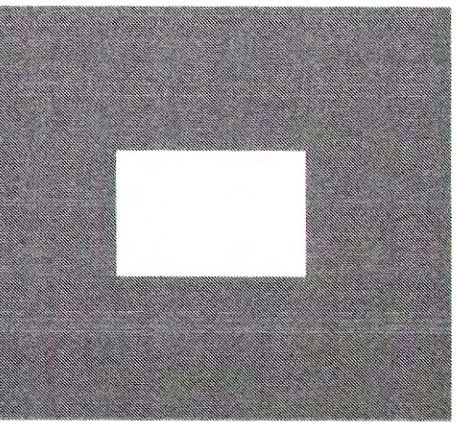


BOOKOUT HOUSE
6725 CAMBRIA PINES RD. CAMBRIA CA.

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APPLICANT	
RALPH AND BETTY BOOKOUT 5617 W. GROVE CT. VISALIA CA. 93291 559-250-0209	
SITE LOCATION	
6725 CAMBRIA PINES RD CAMBRIA CA. LOT 5 TRACT 1804 APN 013-085-005	
SHEET	



DAVID EINUNG
CUSTOM HOME DESIGN

DAVIDEINUNG.COM

David Einung
670 PINE RIDGE LN. ARROYO GRANDE 93420
805-674-2842 david@einung.com

BOOKOUT HOUSE

6725 CAMBRIA PINES RD. CAMBRIA CA.

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APPLICANT

RALPH AND BETTY
BOOKOUT
5617 W. GROVE CT.
VISALIA CA. 93291
559-250-0209

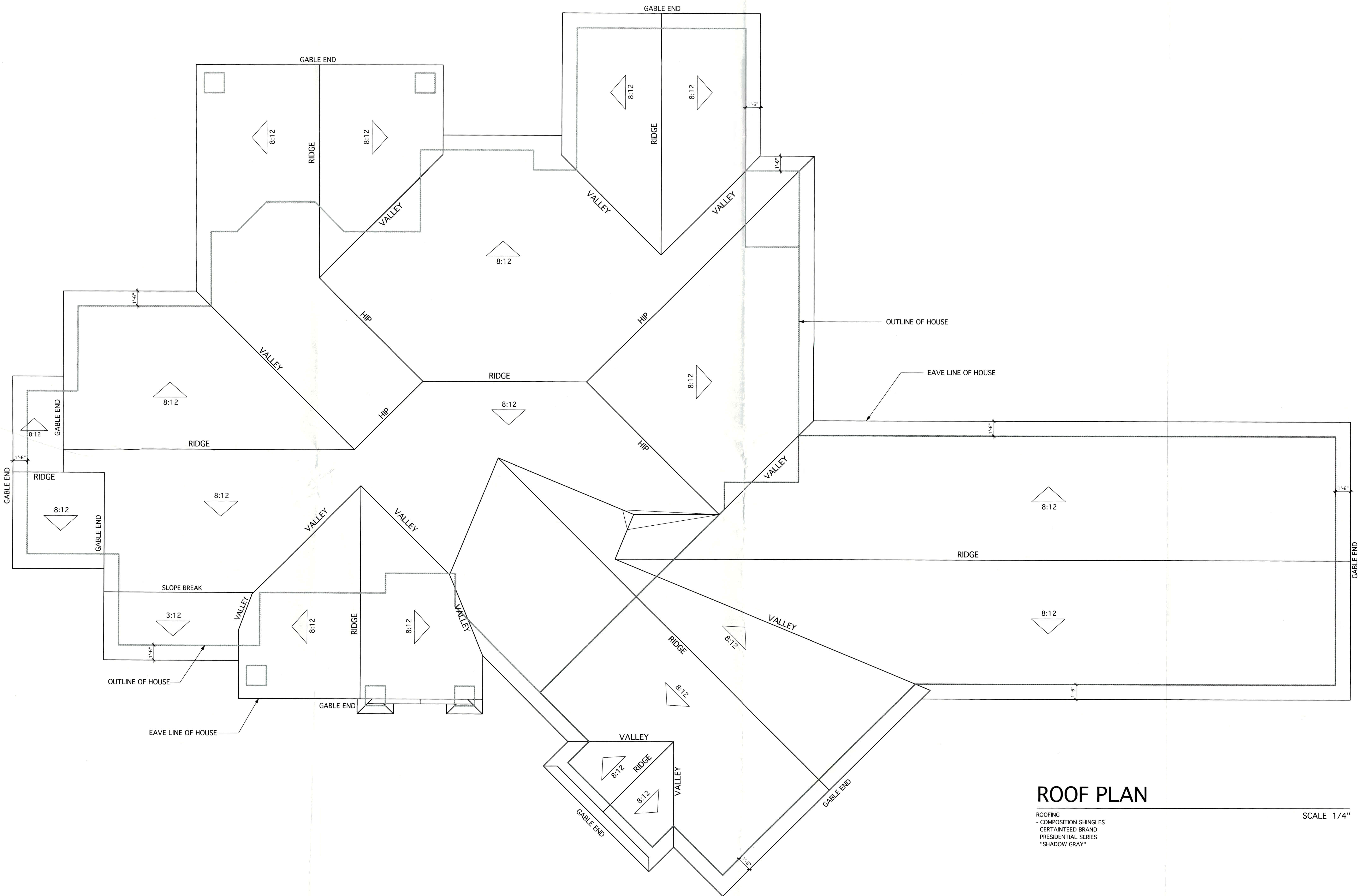
SITE LOCATION

6725 CAMBRIA PINES RD
CAMBRIA CA.
LOT 5 TRACT 1804
APN 013-085-005

SHEET

ROOF PLAN

MUP-5



ROOF PLAN

ROOFING
- COMPOSITION SHINGLES
CERTAINTED BRAND
PRESIDENTIAL SERIES
"SHADOW GRAY"

SCALE 1/4"



COUNTY OF SAN LUIS OBISPO
DEPARTMENT OF PLANNING & BUILDING
TREVOR KEITH, DIRECTOR

RECEIVED

September 21, 2021

David Einung
670 Pine Ridge
Arroyo Grande, Ca 93420

SEP 27 2021

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

FINAL LOCAL
ACTION NOTICE

REFERENCE # 3-SLO-21-0887
APPEAL PERIOD 9/28/21-10/11/21

NOTICE OF FINAL COUNTY ACTION

HEARING DATE: September 14, 2021
SUBJECT: **County File Number: DRC2019-00214**
Ralph Bookout Minor Use Permit

LOCATED WITHIN COASTAL ZONE: YES
COASTAL APPEALABLE: Yes

On September 14, 2021, the Board of Supervisors denied the appeal of Christine Heinrichs, Elizabeth Bettenhausen, and Ted Key, and the decision of the Planning Department Hearing Officer was upheld, and the application of Ralph Bookout for a Minor Use Permit/Coastal Development Permit (DRC2019-00214) is approved subject to the findings and conditions set forth by the Board of Supervisors Resolution Number 2021-200 which are enclosed for your records.

This Notice of Final Action is being mailed to you pursuant to the Land Use Ordinance Section 23.02.036(a).

This action is appealable to the California Coastal Commission, pursuant to regulations contain in Coastal Act Section 30603 and the County Coastal Zone Land Use Ordinance 23.01-043. These regulations contain specific time limits to appeal, criteria, and procedures that must be followed to appeal this action. The appeal must be made directly to the California Coastal Commission. For further information on their appeal procedures, contact the Commissions Santa Cruz Office at (831) 427-4863.

Additionally, county Coastal Zone Land Use Ordinance Section 23.01-043 and applicable sections of the Coastal Act provide the California Coastal Commission ten (10) working days to appeal the County's Final Action. This means the Applicant and County cannot act on this decision, including but not limited to, the request or issuance of a building permit, until the Coastal Commission Appeal period has expired without an appeal being filed.



COUNTY OF SAN LUIS OBISPO
DEPARTMENT OF PLANNING & BUILDING
TREVOR KEITH, DIRECTOR

An aggrieved party may obtain judicial review of this action by filing a petition for writ of mandate pursuant to California Code of Civil Procedure Section 1094.5 within the time specified in California Code of Civil Procedure Section 1094.6.

If you have questions regarding your project, please contact me at (805) 781-1006.

Sincerely,

Mia Trevelyan

Mia Trevelyan

Secretary, Planning and Building

cc: California Coastal Commission
725 Front Street #300, Santa Cruz, CA 95060, Att: Brian O'Neill

Ralph Bookout
5617 W Grove Ct.
Visalia, CA 93291

IN THE BOARD OF SUPERVISORS

County of San Luis Obispo, State of California

Tuesday, September 14, 2021

PRESENT: Supervisors John Peschong, Dawn Ortiz-Legg, Debbie Arnold and
Vice-Chairperson Bruce S. Gibson

ABSENT: Supervisor Lynn Compton

RESOLUTION NO. 2021-200

RESOLUTION DENYING THE APPEAL OF CHRISTINE HEINRICHS, ELIZABETH BETTENHAUSEN, AND TED KEY AND AFFIRMING THE DECISION OF THE PLANNING DEPARTMENT HEARING OFFICER AND APPROVING THE APPLICATION OF RALPH BOOKOUT FOR A MINOR USE PERMIT/COASTAL DEVELOPMENT PERMIT DRC2019-00214

The following resolution is hereby offered and read:

WHEREAS, on February 19, 2021 the Planning Department Hearing Officer of the County of San Luis Obispo (hereinafter referred to as the "Hearing Officer") duly considered and conditionally approved the application of Ralph Bookout for a Minor Use Permit / Coastal Development Permit DRC2019-00214 to allow a new 3,136-square-foot single-family residence with an approximately 1,000-square-foot garage, 1,000-square-foot workshop, 72-square-foot storage, and 32-square-foot shop.

WHEREAS, Christine Heinrichs, Elizabeth Bettenhausen, and Ted Key appealed the Hearing Officer decision to the Board of Supervisors of the County of San Luis Obispo (hereinafter referred to as the "Board of Supervisors") pursuant to the applicable provisions of Title 23 of the San Luis Obispo County Code; and

WHEREAS, a public hearing was duly noticed and conducted by the Board of Supervisors on September 14, 2021; and

WHEREAS, at said hearing, the Board of Supervisors heard and received all oral and written protests, objections, and evidence, which were made, presented, or filed, and all persons present were given the opportunity to hear and be heard in respect to any matter relating to said appeal; and

WHEREAS, the Board of Supervisors has duly considered the appeal and finds that the appeal should be denied and the decision of the Hearing Officer should be affirmed, and that the application (DRC2019-00214) should be approved subject to the findings and conditions of approval set forth below and attached hereto as Exhibits A and B, respectively.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED by the Board of Supervisors of the County of San Luis Obispo, State of California, as follows:

1. That the recitals set forth hereinabove are true, correct and valid.
2. The project is found to be consistent with the previously certified EIR (D910279D) for the Cambria Pines Estates Tract Map 1804 / Development Plan / Coastal Development Permit.
3. That the appeal filed Christine Heinrichs, Elizabeth Bettenhausen, and Ted Key is denied, that the decision of the Hearing Officer is affirmed, and that the application of Ralph Bookout for a Minor Use Permit / Coastal Development Permit is hereby approved for the reasons described in the findings set forth below in Exhibit A and subject to the

conditions of approval in Exhibit B.

Upon motion of Supervisor Gibson, seconded by Supervisor Ortiz-Legg, and on the following roll call vote, to wit:

AYES: Supervisors Ortiz-Legg, Peschong, Arnold and Vice-Chairperson Gibson

NOES: None

ABSENT: Supervisor Compton

ABSTAINING: None

the foregoing resolution is hereby adopted on the 14th day of September, 2021.

Bruce S. Gibson
Vice-Chairperson of the Board of Supervisors

ATTEST:

WADE HORTON
Ex-Officio Clerk of the Board of Supervisors

By: T'Ana Christiansen
Deputy Clerk

[SEAL]

APPROVED AS TO FORM AND LEGAL EFFECT:

RITA L. NEAL
County Counsel

By: /s/ Brian J. Stack
Deputy County Counsel

Dated: August 24, 2021

STATE OF CALIFORNIA) ss.
COUNTY OF SAN LUIS OBISPO)

I, **WADE HORTON**, Ex-Officio Clerk of the Board of Supervisors thereof, do hereby certify the foregoing to be a full, true and correct copy of an order entered in the minutes of said Board of Supervisors, and now remaining of record in my office.

Witness, my hand and seal of said Board of Supervisors on September 16, 2021.

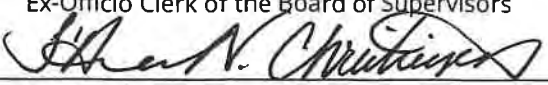
WADE HORTON,
Ex-Officio Clerk of the Board of Supervisors
By: 
Deputy Clerk

EXHIBIT A –FINDINGS
BOOKOUT (DRC2019-00214)

CEQA

- A. No subsequent changes are proposed in the project which will require important revisions of the Environmental Impact Report (EIR) previously prepared for the Cambria Pines Estates Tract Map/Development Plan/Coastal Development Permit, Tract 1804 and D910279D, due to the involvement of new significant environmental impacts not considered in the previously prepared EIR for the project.
- B. No substantial changes have occurred with respect to the circumstances under which the project is being undertaken which will require important revisions in the EIR due to the involvement of new significant environmental impacts not covered in the previously prepared EIR for the Cambria Pines Estates Tract Map/Development Plan/Coastal Development Permit, Tract 1804 and D910279D.
- C. No new information of substantial importance to the project has become available that was not known or could not have been known at the time the EIR was previously certified for the Cambria Pines Estates Tract Map/Development Plan/Coastal Development Permit, Tract 1804 and D910279D.
- D. The proposed project will not cause significant environmental effects.
- E. The project is consistent with the previously certified EIR for the Cambria Pines Estates Tract Map/Development Plan/Coastal Development Permit, Tract 1804 and D910279D.

Minor Use Permit

- F. The proposed project or use is consistent with the San Luis Obispo County General Plan and Local Coastal Plan because the use is an allowed use and as conditioned is consistent with all of the General Plan and Local Coastal Plan policies.
- G. As conditioned, the proposed project or use satisfies all applicable provisions of Title 23 of the County Code.
- H. 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 because the project does not generate activity that presents a potential threat to the surrounding property and buildings. This project is subject to Ordinance and Building Code requirements designed to address health, safety and welfare concerns.
- I. The proposed project or use will not be inconsistent with the character of the immediate neighborhood or contrary to its orderly development because the project is similar to, and will not conflict with, the surrounding lands and uses.
- J. The proposed project or use will not generate a volume of traffic beyond the safe capacity of all roads providing access to the project, either existing or to be improved with the project because the project is located on Cambria Pines Road, a collector road, constructed to a level able to handle any additional traffic associated with the project.

- K. Adequate public service capacities are available to serve the proposed development because the project is using grandfathered meter (Leimert Tract 1804 – Lot 5) and was part of the CCSD's Existing Commitment List, and the proposed project is conditioned by CCSD to provide retrofits in the District's service area for water conservation.

The subject property is located within the Leimert Tract (Tract 1804). Lots within the Tract 1804 are subject to water conservation requirements specific to individual properties within the Tract 1804. All lots within the Tract 1804 were connected to the Cambria Community Services District (CCSD) for Water service (certain lots include Sewer service) in 1999. Since that time, all lots within Tract 1804 have been subject to monthly fees by CCSD.

In 2000, the CCSD in Ordinance No. 2-2000 determined CCSD's water serve commitments ("Existing Commitments"). Existing Commitments included both Active Service Commitments and Non-Active Service Commitments. The Non-Active Service Commitments included 24 meters that had been connected to the Cambria Community Services District system but were not yet actively serving any development. These 24 meters were as known as "Grandfathered Meters". On November 15, 2001, the Cambria Community Services District adopted a moratorium prohibiting connection to the District's water system for anything other than Existing Commitments. Grandfathered meters, such as served the subject property, were therefore exempt from the moratorium.

In or about the time the moratorium was adopted, the Cambria Community Services District determined that the water demand for Existing Commitments, which are exempt from the moratorium, was 202.31 Equivalent Dwelling Units ("EDUs"). The meter for the subject property were included within the calculation of the 202.3 EDUs. The California Coastal Commission, in conjunction with Coastal Development Permit Application A-3-SLO-02-050 ("Monaco"), recognized that Existing Commitments for 202.31 EDUs were exempt from the Moratorium.

In addition, in 2007, the Coastal Commission approved the North Coast Area Plan, which included requirement that allowed for development of "water service commitment existing as of November 15, 2001" (North Coast Area Plan page 7-29 – 4. Limitation on Development (A)), whereas the proposed project is served by an Existing Commitment List.

Furthermore, the CCSD issued Conditional Confirmation of Water & Sewer Availability letter dated December 21, 2020. Therefore, the proposed project has adequate public service capability to serve proposed development.

Coastal Access

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

Sensitive Resource Area

- M. The project or use will not create significant adverse effects on the natural features of the site or vicinity that were the basis for the Sensitive Resource Area designation, and will preserve and protect such features through the site design, because tree removal is limited to 70 Monterey Pine trees, which will be replaced with 280 Monterey Pine trees.

24. **Prior to issuance of construction permits [BIO-6(b)]**, to avoid or minimize disturbance of monarch butterflies overwintering in Monterey pine forest located within Lot 5, implement the following measures recommended by Dr. Leong in the *Monarch Butterfly Study for the Cambria Pines Estates Development* (1995):

- At the time of application for construction permits on Lot 5, the applicant shall show that fireplaces or wood burning stoves will be installed that equal or exceed EPA standards for smoke emission.
- Tree removals on Lot 5 deemed necessary shall be conducted between the months of April and August when monarch butterflies are not roosting at the identified winter site.
- If tree removal must occur between September and March (during the breeding season), a Monarch butterfly survey shall be conducted on trees slated for removal by a qualified biologist approved by the San Luis Obispo County Environmental Coordinator prior to construction on Lot 5. The survey should be coordinated with California Fish and Wildlife. If the biologist determines that the trees slated for removal are not used for roosting by Monarch butterflies, the applicant must then submit this information to the County and apply for a tree removal permit.

Conditions to be completed during project construction

Building Height

25. The maximum height of the project is 27 feet from average natural grade.
- a. **Prior to any site disturbance**, a licensed surveyor or civil engineer shall stake the lot corners, building corners, and establish average natural grade and set a reference point (benchmark).
 - b. **Prior to approval of the foundation inspection**, the benchmark shall be inspected by a licensed surveyor prior to pouring footings or retaining walls, as an added precaution.
 - c. **Prior to approval of the roof nailing inspection**, the applicant shall provide the building inspector with documentation that gives the height reference, the allowable height and the actual height of the structure. This certification shall be prepared by a licensed surveyor or civil engineer.

Biology

26. **During construction [BIO-2(a)]**, disturbance of Monterey pines and coast live oaks remaining within and along the fringes of all building envelopes shall be avoided to the degree feasible. To avoid disturbance of remaining Monterey pines and coast live oaks, avoid all soil disturbance, compaction and grading activities within, and adjacent to, the associated dripline of each tree, which extends outward 15 feet from the tree's canopy. In addition, vegetation planted within the driplines of remaining trees should not require irrigation.
27. **During construction [BIO-8(a)]**, to control introduction of invasive exotic plants on-site, the following measures shall be implemented during project construction and incorporated into the design guidelines of the proposed project:
- Use only clean fill material (free of weed seeds) within the project area;

- Thoroughly clean all construction equipment prior to being moved onto and used at the site
- Prohibit planting or seeding of disturbed areas with non-native plant species; and
- Control invasive exotic weeds in all disturbed areas

28. **During construction [BIO-9(b)],** the removal of trees and other native vegetation shall be avoided to the extent feasible on a project-specific basis, per area-wide development standards identified in the North Coast Area Plan Update.

Archaeology

29. **During construction,** in the event archaeological resources are unearthed or discovered, the following standards apply:

- a. Construction activities shall cease and the Environmental Coordinator and Planning Department shall be notified so that the extent and location of discovered materials may be evaluated by a qualified archaeologist, and disposition of artifacts may be accomplished in accordance with state and federal law. The applicant shall implement the mitigation as required by the Environmental Coordinator.
- b. In the event archaeological resources are found to include human remains, or in any other case where human remains are discovered during construction, the County Coroner is to be notified in addition to the Planning Department and Environmental Coordinator so that proper disposition may be accomplished.

Conditions to be completed prior to occupancy or final building inspection /establishment of the use

Site Development

30. Landscaping in accordance with the approved landscaping plan shall be installed before final building inspection. All landscaping shall be maintained in a viable condition in perpetuity.
31. **Prior to occupancy or final inspection,** whichever occurs first, the applicant shall obtain approval and clearance letter from Cambria Community Services District, that the Demand Offset Requirement has been satisfied.

Fire Safety

32. **Prior to occupancy or final inspection,** whichever occurs first, the applicant shall obtain final inspection and approval from Cambria Fire of all required fire/life safety measures.

Development Review / Site Inspection

33. **Prior to occupancy of any structure associated with this approval,** the applicant shall contact the Department of Planning and Building to have the site inspected for compliance with the conditions of this approval and any mitigation measures that applies to Lot 5.

On-going conditions of approval (valid for the life of the project)

34. This land use permit is valid for a period of 24 months from its effective date unless time extensions are granted pursuant to Land Use Ordinance Section 23.02.050 or the land use permit is considered vested. This land use permit is considered to be vested once a construction permit has been issued and substantial site work has been completed. Substantial site work is defined by Land Use Ordinance Section 23.02.042 as site work progressed beyond grading and completion of structural foundations; and construction is occurring above grade.
35. All conditions of this approval shall be strictly adhered to, within the time frames specified, and in an on-going manner for the life of the project. Failure to comply with these conditions of approval may result in an immediate enforcement action by the Department of Planning and Building. If it is determined that violation(s) of these conditions of approval have occurred, or are occurring, this approval may be revoked pursuant to Section 23.10.160 of the Land Use Ordinance.
36. **On-going condition of approval (valid for the life of the project)**, the applicant shall remove non-native vegetation, such as Pampas grass and Scotch broom listed in the California Invasive Plant Council (Cal IPC) Invasive Plant Inventory.

Defense and Indemnity of the County

37. The applicant shall, as a condition of approval of this land use permit application, defend, hold harmless and indemnify, at his or her sole expense (including attorney's fees, with Counsel approved by the County), any action brought against the County of San Luis Obispo, its present or former officers, agents, or employees, by a third party challenging either its decision to approve this land use permit or the manner in which the County is interpreting or enforcing the conditions of this land use permit, or any other action by a third party relating to approval or implementation of this land use permit. The applicant shall reimburse the County for any court costs and attorney fees that the County may be required by a court to pay as a result of such action, but such participation shall not relieve the applicant of his obligation under this condition. Upon request of the County, the applicant shall also enter into a separate agreement with the County (the "Indemnity Agreement"), in a form approved by County Counsel, agreeing to defend, indemnify, save and hold harmless the County, its present or former officers, agents, or employees, against actions by a third party challenging either its decision to approve this land use permit or the manner in which the County is interpreting or enforcing the conditions of this land use permit, or any other action by a third party relating to or arising out of the approval or implementation of this land use permit. The agreement shall provide that the applicant will indemnify the County and reimburse it for any costs and/or attorney's fees which the County incurs as a result of such action, and that the County's participation or non-participation in any such litigation shall not relieve the applicant of his or her obligations under this condition or the agreement. The applicant shall also provide sufficient guarantees for the obligations hereunder as determined by County Counsel. Any violation of this condition, including the applicant's failure to execute the Indemnity Agreement or breach thereof, or failure to provide sufficient guarantees, is grounds for the County to rescind and/or revoke its approval of this land use permit. These defense and indemnity obligations shall survive any rescission, revocation and/or set aside of this land use permit.



**COUNTY OF SAN LUIS OBISPO
BOARD OF SUPERVISORS
AGENDA ITEM TRANSMITTAL**

(1) DEPARTMENT Planning and Building	(2) MEETING DATE 9/14/2021	(3) CONTACT/PHONE Kip Morais, Planner (805) 781-5136 Xzandrea Fowler (805) 781-5028	
(4) SUBJECT Hearing to consider an appeal (APPL2021-00002) by Christine Heinrichs, Elizabeth Bettenhausen, and Ted Key of the Planning Department Hearing Officer's approval of a request for a Minor Use Permit / Coastal Development Permit (DRC2019-00214) to allow a new 3,136-square-foot single-family residence with an approximately 1,000-square-foot garage, 1,000-square-foot workshop, 72-square-foot storage, and 32-square-foot shop. The proposed project will result in site disturbance of approximately 0.6 acres within a 6.64-acre parcel. The project site is within the Rural Lands land use category and is located at 6725 Cambria Pines Road, north of the community of Cambria. This site is in the North Coast Planning Area. District 2.			
(5) RECOMMENDED ACTION It is recommended that the Board adopt the resolution to deny the appeal of Christine Heinrichs, Elizabeth Bettenhausen, and Ted Key and uphold the decision of the Planning Department Hearing Officer to approve a Minor Use Permit / Coastal Development Permit (DRC2019-00214).			
(6) FUNDING SOURCE(S) Planning and Building Department General Fund Budget	(7) CURRENT YEAR FINANCIAL IMPACT \$0.00	(8) ANNUAL FINANCIAL IMPACT \$0.00	(9) BUDGETED? Yes
(10) AGENDA PLACEMENT <input type="checkbox"/> Consent <input type="checkbox"/> Presentation <input checked="" type="checkbox"/> Hearing (Time Est. 30 minutes) <input type="checkbox"/> Board Business (Time Est. _____)			
(11) EXECUTED DOCUMENTS <input checked="" type="checkbox"/> Resolutions <input type="checkbox"/> Contracts <input type="checkbox"/> Ordinances <input type="checkbox"/> N/A			
(12) OUTLINE AGREEMENT REQUISITION NUMBER (OAR) N/A		(13) BUDGET ADJUSTMENT REQUIRED? BAR ID Number: <input type="checkbox"/> 4/5th's Vote Required <input checked="" type="checkbox"/> N/A	
(14) LOCATION MAP Attached	(15) BUSINESS IMPACT STATEMENT? Yes	(16) AGENDA ITEM HISTORY <input checked="" type="checkbox"/> N/A Date _____	
(17) ADMINISTRATIVE OFFICE REVIEW Lisa M. Howe			
(18) SUPERVISOR DISTRICT(S) District 2			



COUNTY OF SAN LUIS OBISPO

TO: Board of Supervisors

FROM: Planning and Building
Kip Morais, Planner

VIA: Xzandrea Fowler, Division Manager

DATE: 9/14/2021

SUBJECT: Hearing to consider an appeal (APPL2021-00002) by Christine Heinrichs, Elizabeth Bettenhausen, and Ted Key of the Planning Department Hearing Officer's approval of a request for a Minor Use Permit / Coastal Development Permit (DRC2019-00214) to allow a new 3,136-square-foot single-family residence with an approximately 1,000-square-foot garage, 1,000-square-foot workshop, 72-square-foot storage, and 32-square-foot shop. The proposed project will result in site disturbance of approximately 0.6 acres within a 6.64-acre parcel. The project site is within the Rural Lands land use category and is located at 6725 Cambria Pines Road, north of the community of Cambria. This site is in the North Coast Planning Area. District 2.

RECOMMENDATION

It is recommended that the Board adopt the resolution to deny the appeal and uphold the decision of the Planning Department Hearing Officer to approve a Minor Use Permit / Coastal Development Permit (DRC2019-00214).

DISCUSSION

It is recommended that the Board adopt the resolution to deny the appeal and uphold the decision of the Planning Department Hearing Officer to approve a Minor Use Permit / Coastal Development Permit (DRC2019-00214).

Background

On February 19, 2021, the Planning Department Hearing Officer (Hearing Officer) heard and approved a request by Ralph Bookout for a Minor Use Permit / Coastal Development Permit (DRC2019-00214) to allow the construction of a new 3,136-square-foot single-family residence with an approximately 1,000-square-foot garage, 1,000-square-foot workshop, 72-square-foot storage, and 32-square-foot shop. Public testimony was heard at the February 19, 2021, Planning Department Hearing meeting. Those in opposition expressed concerns regarding water issues in Cambria. The Hearing Officer approved the project, in part, based on the May 20, 2019 will-serve letter from the water and sewer purveyor, Cambria Community Services District (CCSD) which provided confirmation of water and sewer availability for the new residence. Christine Heinrichs on February 23, Elizabeth Bettenhausen on March 1, and Ted Key on March 4, 2021, appealed the Hearing Officer's decision to the Board of Supervisors.

County Code Title 23 - Coastal Zone Land Use Ordinance (CZLUO) and the North Coast Area Plan (NCAP) establish regulations to ensure that proposed development complies with all applicable ordinance sections and planning area

standards. The proposed project is consistent with all applicable standards set forth in the CZLUO and NCAP. Refer to the Planning Department Hearing staff report (Attachment 6) for more detailed project analysis.

Water Availability Details

The proposed project is located on Lot 5 of Tract 1804. This subdivision was recorded on June 23, 2000. On November 15, 2001, the CCSD adopted a moratorium prohibiting new connections to the CCSD's water system. This project's water meter was installed on the lot before April 16, 2001 as a result of the recordation of the map. The proposed project has received a Conditional Confirmation of Water & Sewer Availability letter from the CCSD dated October 15, 2020 because the water meter on this parcel has been part of the CCSD's Existing Commitment List since April 16, 2001.

In addition, the proposed project is conditioned by CCSD to provide retrofits in the CCSD's service area for water conservation that offset the water demand of the project. The existing commitment list represents approximately 0.6% of the total number of CCSD connections.

North Coast Area Plan

In 2007, the California Coastal Commission (CCC) approved an addendum to the NCAP recognizing the CCSD water moratorium and the exempt status of the CCSD Commitment list existing as of November 15, 2001, which includes this project. The North Coast Area Plan requires assessing the impacts to Santa Rosa Creek and San Simeon Creek for projects that are not part of the CCSD Commitment list. As this property is part of the existing commitment list, there are no requirements under the certified Local Coastal Program (LCP) to assess impacts to Santa Rosa and San Simeon Creeks.

Staff has determined that the proposed project is consistent with the County's LCP, specifically, the NCAP, as the existing water meter for this project (Tract 1804, Lot 2) was installed before April 16, 2001. Based on the installation date, this project is included in the CCSD's Commitment List existing as of November 15, 2001, and the CCSD has conditioned the project to provide retrofits for water conservation within the CCSD's service area.

County's Growth Management Ordinance

The County's Growth Management Ordinance (GMO) specifically allows up to four units per fiscal year for Tract 1804 lots to be issued will-serve letters by the CCSD. The CCSD's issuance of a Confirmation of Water & Sewer Availability letter for Lot 2 is consistent with the County's Growth Management Ordinance as less than four units in Tract 1804 have been approved this fiscal year (GMO 26.01.070 [10.ii]).

Appeal

Christine Heinrichs on February 23, Elizabeth Bettenhausen on March 1, and Ted Key on March 4, 2021, appealed the Planning Department Hearing Officer's decision to the Board of Supervisors. The 21 appeal issues raised by the three appellants are centered on one main concern related to the water supply in Cambria. These appeal issues mirror the issues raised in a Coastal Commission Staff report for a previously approved project (DRC2019-00093) for a single-family residence located on a nearby parcel (APN 022-053-041) which was subsequently appealed by Commissioners Linda Escalante and Katie Rice. The Coastal Development Permit was denied by the CCC on November 13, 2019, after a public hearing on the grounds that the development was not in conformity with the San Luis Obispo County LCP. It should be noted that several land use permits were previously approved for lots within this tract up to 2018. The last permit issued for a single-family residence (DRC2018-00030) was approved on consent at the Planning Department Hearing and was not appealed by the Coastal Commission. The specifics of this appeal issue and staff's responses are provided below.

Appeal Issues:

1. The County did not determine that there was an adequate sustainable water supply to serve the project as is required by the LCP, but rather relied solely on a Cambria Community Services District (CCSD) intent-to-serve (or “will serve”) letter for this purpose.

Staff Response:

Policy 1: Availability of Service Capacity in Policies for Public Works in the Coastal Policies Document reads as follows:

Policy 1: Availability of Service Capacity: New development (including divisions of land) shall demonstrate that adequate public or private service capacities are available to serve the proposed development. Priority shall be given to infilling within existing subdivided areas. Prior to permitting all new development, a finding shall be made that there are sufficient services to serve the proposed development given the already outstanding commitment to existing lots within the urban service line for which services will be needed consistent with the Resource Management System where applicable.

This policy requires the County to make a finding of sufficient service capacities. Page 17 of the Coastal Commission Appeal Staff Report for the neighboring property (DRC2019-00093) explains the CCC’s logic for its assertion that the County must make a finding of “adequate sustainable water supply.” The Commission states that “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 that has the capacity to accommodate the development being proposed.” This understanding has not prevented the approval of other similar projects within Tract 1804 up until as recently as 2018 with no prior appeals from the CCC. Service capacities for new development are verified by the County by requiring will-serve letters from the service provider.

The property in question is part of the CCSD’s list of commitments existing as of November 15, 2001. In 2000, the CCSD in Ordinance No. 2-2000 determined CCSD’s water service commitments (Existing Commitments) included both Active Service Commitments and Non-Active Service Commitments. The Non-Active Service Commitments included 24 meters that had been connected to the Cambria Community Services District system but were not yet actively serving any development. These 24 meters were as known as “Grandfathered Meters.” On November 15, 2001, the Cambria Community Services District adopted a moratorium prohibiting connection to the CCSD’s water system for anything other than Existing Commitments. Grandfathered meters, such as the one serving the subject property, were exempt from the moratorium.

The CCSD, determined that the water demand for its existing commitments, including those exempt from moratorium, was 202.31 Equivalent Dwelling Units (EDUs). The meter for the subject property was included within the calculation of the 202.31 EDU’s. The CCC, in conjunction with the Coastal Development Permit Application A-3-SLO-02-050 (Monaco), recognized that the CCSD Existing Commitments for 202.31 EDU’s were exempt from the Moratorium. Pursuant to Policy 1, the County requires new development to demonstrate adequate public or private service capacities with the provision of a will-serve letter from the corresponding service provider. The CCSD issued a Conditional Confirmation of Water & Sewer Availability letter dated October 15, 2020, meeting the finding that there is adequate public service capacity to serve the proposed development. Therefore, the project can be found consistent with Public Works Policy 1.

2. There is not an adequate sustainable water supply to provide new water service to serve new development in Cambria (and it is not adequate even for existing development). This is a finding that has been repeatedly determined by the Commission in relation to Cambria development through multiple actions, including certification of LCP policies (specific to the present lack of available water and imposing specific water supply requirements) and CDP actions.

Staff Response:

This issue re-asserts that the County must make a finding of adequate sustainable water supply to be consistent with the LCP. As stated above in Appeal Issue #1, the LCP, as certified by the CCC, requires that the County make a finding that there are sufficient services to serve the proposed development, which are verified through a will-serve letter from the service provider.

3. The sources of Cambria's water supply (i.e., Santa Rosa and San Simeon Creeks) are environmentally sensitive habitat areas (ESHA) that are currently being adversely affected by existing water extractions to support existing development in Cambria.

Staff Response:

The NCAP Communitywide Standard 4(A) states the following:

- A. *Water Service in Cambria. Until such time as may be otherwise authorized through a coastal development permit approving a major public works project involving new potable water sources for Cambria, 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-2-SLO-02-050 and A-3-SLO-02-073), shall assure no adverse impacts to Santa Rosa and San Simeon Creeks;*

The CCC Appeal Staff Report for the neighboring property goes on to explain the Commission's position on page 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." This same report goes on to state that no more pipeline projects exist in Cambria, and as a result new development requiring provision of new water service cannot be found consistent with the LCP. However, standard 4.A. of the NCAP states, "...new development not using CCSD connections or water service commitments existing as of November 15, 2001 (including those recognized as 'pipeline projects') ... shall assure no adverse impacts to Santa Rosa and San Simeon Creeks." This standard expressly exempts new development using water service commitments existing as of November 15, 2001. While this exemption includes pipeline projects, it is not limited to only pipeline projects.

As stated under Appeal Issue #1, the property in question is part of the CCSD's list of commitments existing as of November 15, 2001 and has an installed water meter. CCSD Ordinance No. 2-2000 defines existing commitments as service commitments made to District customers including Active Service Commitments and Non-Active Service Commitments. Therefore, the proposed project can be found consistent with the LCP with regard to NCAP Planning Area Standard 4(A).

4. The County found that the project could be served by the community's already oversubscribed water supply because the CCSD agreed to serve the project in order to settle a lawsuit, but the LCP only allows allocation of water supply when it is from an adequate sustainable water supply, which it is not.

Staff Response:

See response to Appeal Issue #1.

5. Because the project would be required to comply with the CCSD's retrofit program designed to offset water use, but such offsets would be inadequate to meet LCP standards with respect to adequate water supply and the CCSD's program does not appear to actually offset such water use even if it were to be deemed an appropriate tool to meet LCP standards, which it is not."

Staff Response:

The NCAP Communitywide Standard 4(B) states the following:

Water Conservation Requirements. Unless this requirement is otherwise modified through a coastal development permit authorizing a major public works water supply project for Cambria, new development resulting in increased water use shall 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). Accordingly, all coastal development permits authorizing such development shall be conditioned to require applicants to provide to the Planning Director (or the Coastal Commission Executive Director where applicable) for review and approval prior to construction, written evidence of compliance with CCSD Ordinance 1-98, as approved by the CCSD Board of Directors on January 26, 1998, and modified on November 14, 2002, and as codified in CCSD Code Chapter 4.20 in 2004; however, no retrofit credits may be obtained by extinguishing agricultural water use, or funding leak detection programs. Such permits shall also be conditioned to require 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.

The CCSD issued a Conditional Confirmation of Water & Sewer Availability letter for development on October 15, 2020. The CCSD conditioned the project to provide retrofits in the district's service area that offset the water demand of the project. Therefore, this project is consistent with The NCAP Communitywide Standard 4(B).

6. The CSD's retrofit and rebate points mechanism lacks evidence of actual offset and enforcement. During the previously approved 2019 permit for Hadian that was appealed to the CCC, the CCC stated the County did not determine that there was adequate water supply to serve the project and relied on the CSD's will-serve letter rather than an adequate sustainable water supply to serve the project as is required by the LCP.

Staff Response:

The NCAP Communitywide Standard 4(B) states that new development resulting in increased water use shall offset that increase through the retrofit of existing water fixtures. See responses to Appeal Issue #1 and #5.

7. The County's Growth Management Ordinance allows for up to 4 units (per fiscal year) for Tract 1804 to be served by the CCSD. The CCSD must provide solid evidence that the usage on Tract 1804 now and in the future does not and will not go above 4 units annually.

Staff Response:

The Growth Management Ordinance Section 26.01.070 – General Procedures states the following, subsection (10) ii states the following:

"Grandfathered" Units in Cambria. Of the total number of dwelling units to be allowed in Cambria each year, the Cambria Community Services District shall reserve eight allocations for parcels certified by the district as having "grandfathered" right to water service and "will serve" letters will be issued to such applicants on a first-come-first-served basis. These grandfathered units shall be allocated as follows: four units for Tract 1804 and four for the remaining units on the grandfather list. This increase shall be re-

evaluated once the Cambria Community Services District has lifted the current moratorium on development that is not considered as grandfathered or active meter status.

This section is referring to the number of dwelling units allowed to be served not to units of water usage. CCSD records indicate no more than 2 permits in any given year were issued for Tract 1804. Therefore, this project is consistent with the Growth Management Ordinance Section 26.01.070.

8. The exception from the moratorium for 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.

Staff Response:

The project is exempt from the moratorium and is consistent with NCAP Communitywide Standard 4(A). See response to Appeal Issue #3.

9. Low flow fixtures do not make any difference to demand during a drought.

Staff Response:

The project is required to retrofit as a condition of the will-serve letter. As conditioned by the CCSD, the project is consistent with NCAP Communitywide Standard 4(B). See response to Appeal Issue #5.

10. The Emergency Water Supply (EWS) has not been permitted yet, and even if it is permitted it does not add any new water, it is designated to provide water to existing residences.

Staff Response:

The project is consistent with the provisions of the LCP regardless of the permitting status of the water reclamation facility because the project is consistent with the NCAP Communitywide Standards 4(A) and (B). See response to Appeal Issues #3 and #5.

11. CSD approval of permit applications does not assure that water is available, the County has to make its own determination of water adequacy. The County is required to make its own finding.

Staff Response:

Policy 1: Availability of Service Capacity in Policies for Public Works in the Coastal Policies Document requires the County to make a finding of sufficient service capacities. See response to Appeal Issue #1.

12. Excessive pumping from the aquifer could result in drawing salt water in, causing saltwater contamination of the water source.

Staff Response:

The project is consistent with NCAP Communitywide Standard 4(A). See response to Appeal Issue #3.

13. Climate change has become clearer since the 2001 Building Moratorium, more users cannot be safely added.

Staff Response:

The CCSD determined that the water demand for its existing commitments, which is exempt from moratorium, was 202.31 equivalent Dwelling Units ("EDUs"). The meter for the subject property was included within the calculation of the 202.3 EDUs. The CCC, in conjunction with the Coastal Development Permit Application A-3-SLO-02-050 (Monaco), recognized that the CCSD Existing Commitments for 202.31 EDUs were exempt from the Moratorium. See response to Appeal issue #1.

14. These existing meters have never supplied water. Adding these users will increase demand.

Staff Response:

The meter for the subject property was included within the calculation of the 202.3 EDU's. See response to Appeal issue #1.

15. The CCC is frustrated with the County approving these permits resulting in appeals to the CCC.

Staff Response:

Several permits have been issued for Tract 1804 previous to 2018 that were not appealed by the CCC. The last permit approved on this tract was DRC2018-00030, which was approved without appeal by the CCC.

16. Low flow fixtures do not make any difference to demand during a drought. More new users put the water supply in even greater jeopardy. The CSD low flow program was never adequately documented and claimed water savings is specious.

Staff Response:

As conditioned by the CCSD, the project is consistent with NCAP Communitywide Standard 4(B). See response to Appeal Issue #5.

17. The EWS has not been permitted. If permitted, the EWS provides zero water for fire suppression. Adding more construction is reckless. The plant is designated to provide water to existing residents only.

Staff Response:

The project is consistent with the provisions of the LCP regardless of the permitting status of the water reclamation facility because the project is consistent with the NCAP Communitywide Standards 4(A) and (B). See response to Appeal Issues #3 and #5.

18. Legally, the County is required to make its own determination of water adequacy.

Staff Response:

Policy 1: Availability of Service Capacity in Policies for Public Works in the Coastal Policies Document requires the County to make a finding of sufficient service capacities. See response to Appeal Issue #1.

19. Excessive pumping from the aquifer could result in drawing salt water in, causing saltwater contamination and violating some of our rancher's senior water rights.

Staff Response:

The project is consistent with NCAP Communitywide Standard 4(A). Please see response to Appeal Issue #3.

20. Climate change has become clearer since the 2001 Building Moratorium. Drought times become more likely to threaten Cambria's water supply and more users cannot be safely added.

Staff Response:

The CCSD determined that the water demand for its exiting commitments, which is exempt from moratorium, was 202.31 equivalent Dwelling Units (EDUs). The meter for the subject property was included within the calculation of the 202.3 EDU's. The CCC, in conjunction with the Coastal Development Permit Application A-3-SLO-02-050 (Monaco"), recognized that the CCSD Existing Commitments for 202.31 EDU's were exempt from Moratorium. See response to Appeal issue #1.

21. The CCC is frustrated by approving these permits resulting in appeals to the CCC.

Staff Response:

Several permits have been issued for Tract 1804 up until 2018 that were not appealed by the CCC. The last permit approved on this tract was DRC2018-00030, which was approved without appeal by the CCC.

In conclusion, staff has found the project consistent with the San Luis Obispo County General Plan and Local Coastal Plan because the development is an allowed use and as conditioned. The CCSD issued a conditional will serve letter for the project, demonstrating adequate public service capacity to serve the proposed development because the site (Leimert Tract 1804 – Lot 2) has a grandfathered meter and was part of the CCSD's Existing Commitment List, exempted from the moratorium. The proposed project is also required by the CCSD to provide retrofits in the CCSD's service area for water conservation. As conditioned, the project meets the NCAP Communitywide Standards for water service and conservation in Cambria.

OTHER AGENCY INVOLVEMENT/IMPACT

The project was referred to the Building Division of the Department of Planning and Building, Public Works, Cambria Community Services District, California Coastal Commission, and North Coast Advisory Council. A summary of the comments received is contained in the attached Planning Department Hearing staff report. County Counsel has reviewed and approved as to form and legal effect the attached Resolution with Findings and Conditions.

BUSINESS IMPACT STATEMENT

Denial of this appeal would mean the Planning Department Hearing Officer's approval of this project would stand. As a result, the applicant would be allowed to construct a new 3,136-square-foot single-family residence.

FINANCIAL CONSIDERATIONS

This project is in the Coastal Zone and is not subject to an appeal fee. This appeal was processed using Department budgeted general fund support. While the Department is typically able to absorb these costs by using existing budget, costs exceeding this amount may require Board approval for increased general fund support.

RESULTS

Denial of this appeal would mean the Planning Department Hearing Officer's approval of the Minor Use Permit/Coastal Development Permit would stand. This action would be consistent with communitywide results of encouraging a safe, healthy, and livable community.

Upholding the appeal would deny the Minor Use Permit/Coastal Development Permit.

ATTACHMENTS

- 1 PowerPoint Presentation
- 2 Resolution Denying Appeal by Christine Heinrichs, Elizabeth Bettenhausen, and Ted Key and Affirming the Decision of the Planning Department Hearing Officer and Approving the Application of Ralph Bookout for a Minor Use Permit/Coastal Development Permit DRC2019-00214
- 3 Appeal Form
- 4 Notice of Final Action of Planning Department Hearing of February 19, 2021
- 5 Minutes from Planning Department Hearing of February 19, 2021
- 6 Staff Report from Planning Department Hearing of February 19, 2021 and Supporting Documentation
- 7 Graphics & Location Map
- 8 CCSD Confirmation of Water Availability



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Board of Supervisors September 14, 2021

Appeal of Bookout
Minor Use Permit / Coastal Development Permit
APPL2021-00002/DRC2019-00214



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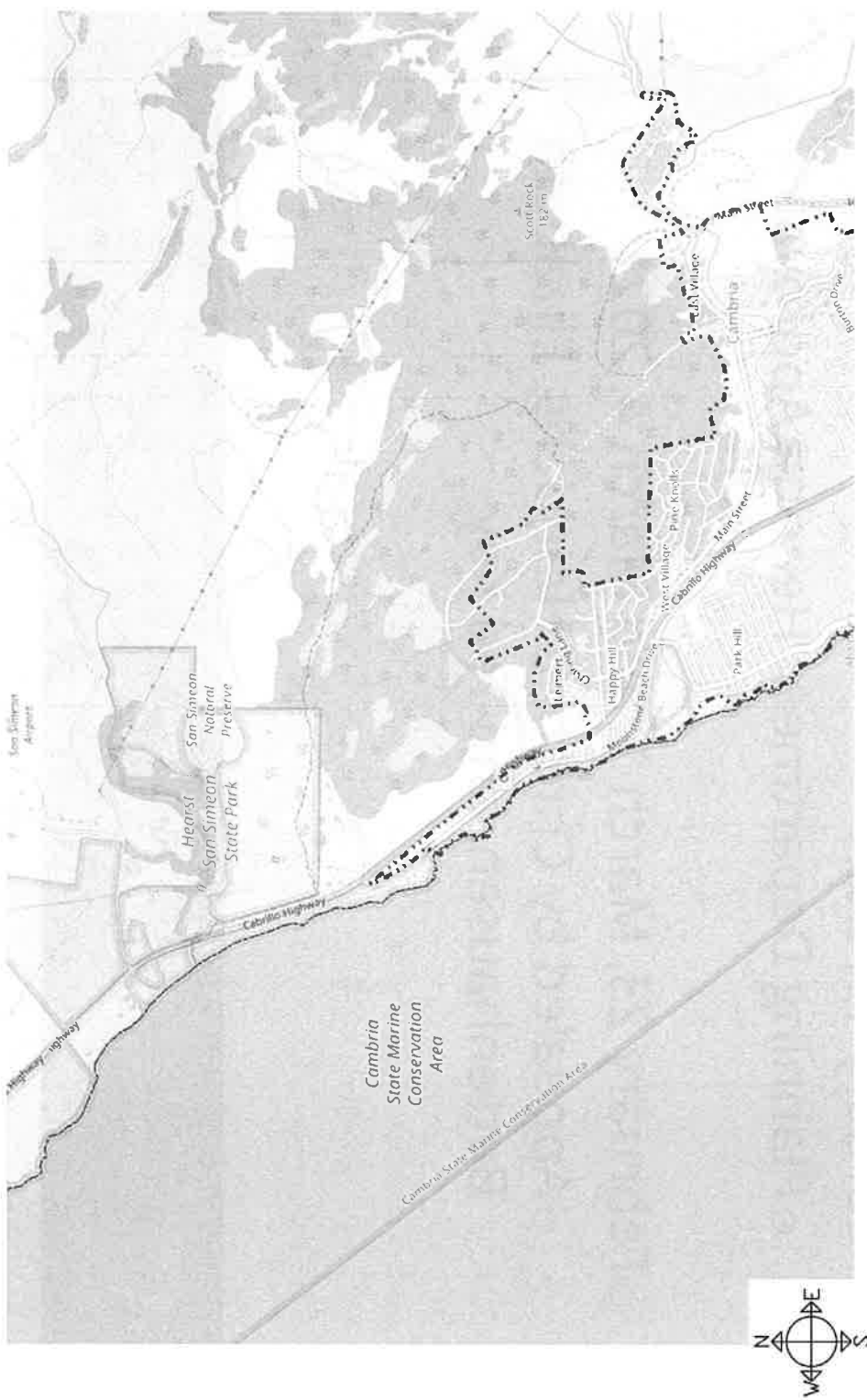
PROJECT HISTORY

- February 19, 2021
 - Planning Department Hearing Approval
- February 23, March 1, and March 4, 2021
 - Appealed by Christine Heinrichs, Elizabeth Bettenhausen, and Ted Key



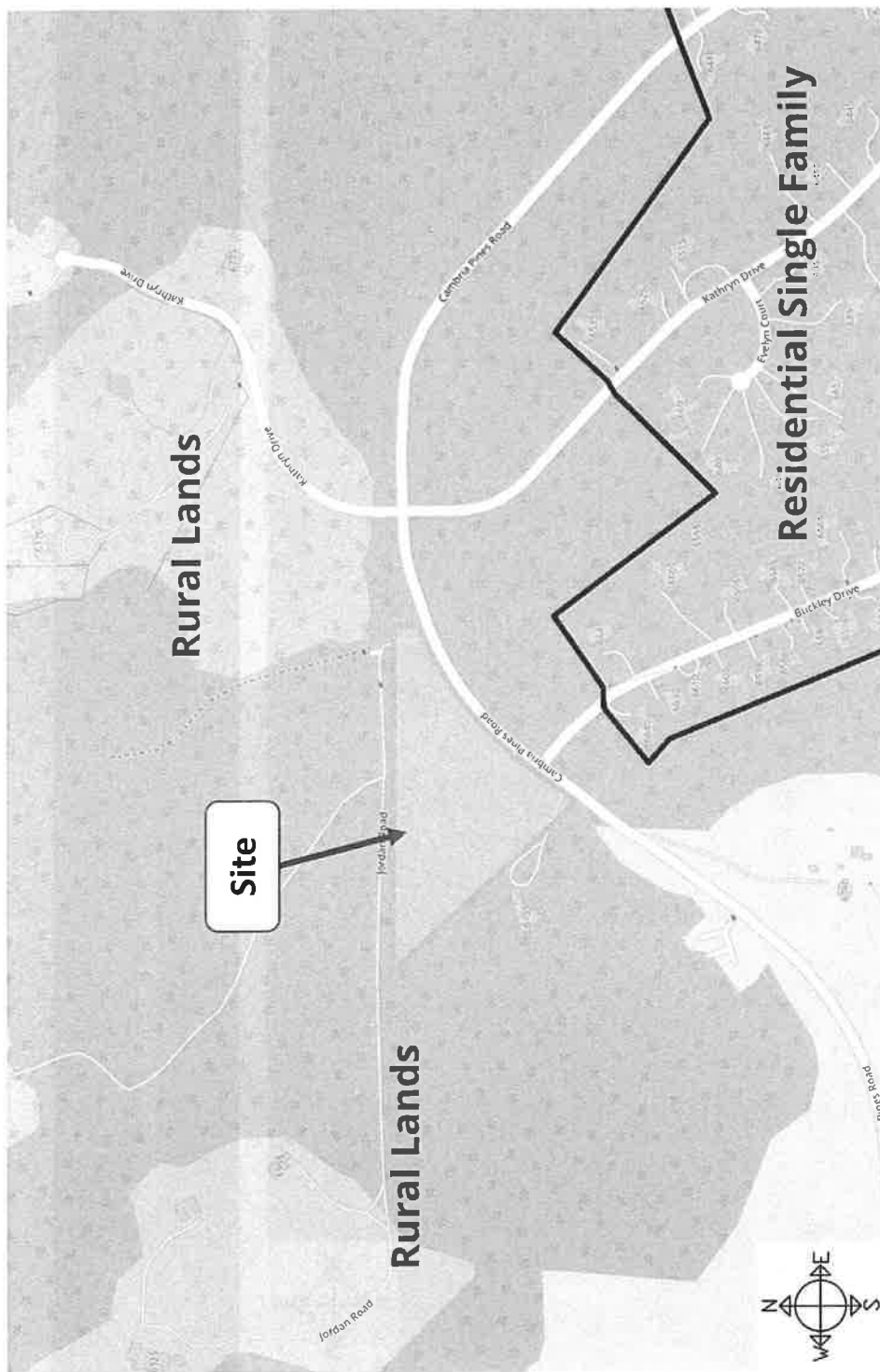
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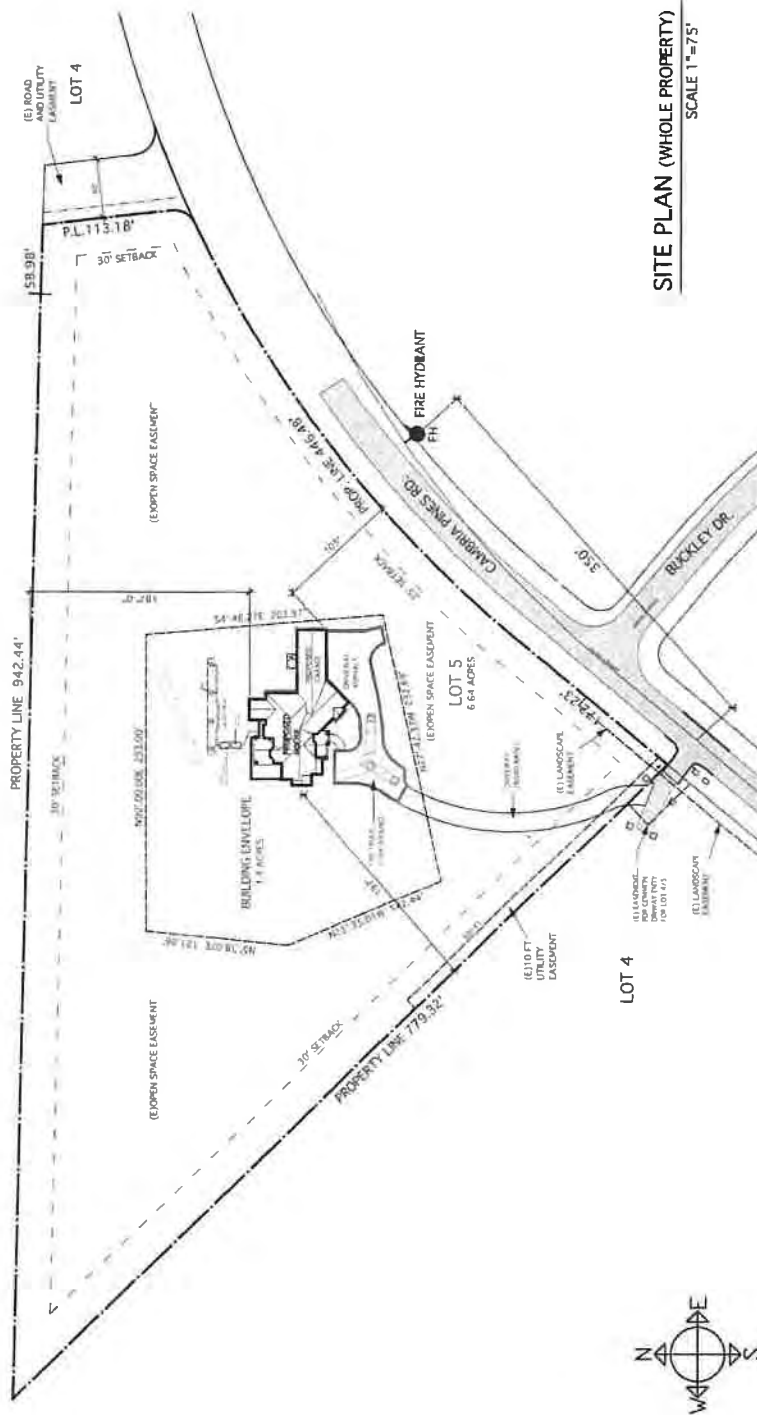
PROJECT DESCRIPTION

- Construction of a 3,136-square-foot single-family residence
 - 1,000-square-foot garage,
 - 1,000-square-foot workshop,
 - 72-square-foot storage, 32-square-foot shop
 - associated grading and site preparation.
- Removal of up to 70 Monterey pine trees
 - To be replanted at 4:1 ratio (total 280 trees)
 - Minimum 5-year monitoring and reporting program.



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SITE PLAN (WHOLE PROPERTY)
SCALE 1"=75'



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Water Availability

- Part of Tract 1804 (Leimert Tract) – water meter installed prior to 2001 moratorium.
- Grandfathered meters exempt from moratorium
- Received Conditional Will-Serve Letter (using grandfathered meter) from CCSD (May 20, 2019)



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Appeal Summary

- Finding of adequate sustainable water supply
- Water sources adversely affected
- Retrofit program is not effective
- Adding users will increase water demand
- Coastal Commission frustrated by appeal



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Appeal Issues #1, 2, 4, 6, 11, 18

- County did not determine adequate sustainable water supply

Staff Response

- LCP PW Policy 1: Required finding of sufficient services
- CCSD Will-Serve letter provided



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Appeal Issue #3, 8, 12, 19

- o Water sources are adversely affected by existing water extractions

Staff Response

- o NCAP Communitywide Standards Standard 4(A) : *"...new development not using CCSD connections or water service commitments existing as of November 15, 2001... shall assure no adverse impacts to Santa Rosa and San Simeon Creeks;"*



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Appeal Issues #5, 6, 9, & 16

- CCSD's retrofit program is inadequate to meet LCP standards and does not appear to offset water use

Staff Response

- NCAP Standard 4(B) – Retrofit Requirements
- CCSD conditioned project retrofit to offset water demand



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Appeal Issues #7, 10, 13, 14, 17, & 20

- Adding users will increase water demand

Staff Response

- Existing commitment water demand 202.31 Equivalent Dwelling Units (“EDUs”) – Moratorium Exempt
- GMO compliant



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Appeal Issues #15 & 21

- Coastal Commission frustrated by appeals

Staff Response

- Permits issued for Tract 1804 until 2018 with no appeal



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RECOMMENDATION

Adopt the resolution to deny the appeal and uphold the decision of the Hearing Officer to approve a Minor Use Permit / Coastal Development Permit (DRC2019-00214).



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IN THE BOARD OF SUPERVISORS

County of San Luis Obispo, State of California

_____ day _____, 20__

PRESENT: Supervisors

ABSENT:

RESOLUTION NO._____

RESOLUTION DENYING THE APPEAL OF CHRISTINE HEINRICHS, ELIZABETH BETTENHAUSEN, AND TED KEY AND AFFIRMING THE DECISION OF THE PLANNING DEPARTMENT HEARING OFFICER AND APPROVING THE APPLICATION OF RALPH BOOKOUT FOR A MINOR USE PERMIT/COASTAL DEVELOPMENT PERMIT DRC2019-00214

The following resolution is hereby offered and read:

WHEREAS, on February 19, 2021 the Planning Department Hearing Officer of the County of San Luis Obispo (hereinafter referred to as the "Hearing Officer") duly considered and conditionally approved the application of Ralph Bookout for a Minor Use Permit / Coastal Development Permit DRC2019-00214 to allow a new 3,136-square-foot single-family residence with an approximately 1,000-square-foot garage, 1,000-square-foot workshop, 72-square-foot storage, and 32-square-foot shop.

WHEREAS, Christine Heinrichs, Elizabeth Bettenhausen, and Ted Key appealed the Hearing Officer decision to the Board of Supervisors of the County of San Luis Obispo (hereinafter referred to as the "Board of Supervisors") pursuant to the applicable provisions of Title 23 of the San Luis Obispo County Code; and

WHEREAS, a public hearing was duly noticed and conducted by the Board of Supervisors on September 14, 2021; and

WHEREAS, at said hearing, the Board of Supervisors heard and received all oral and written protests, objections, and evidence, which were made, presented, or filed, and all persons present were given the opportunity to hear and be heard in respect to any matter relating to said appeal; and

WHEREAS, the Board of Supervisors has duly considered the appeal and finds that the appeal should be denied and the decision of the Hearing Officer should be affirmed, and that the application (DRC2019-00214) should be approved subject to the findings and conditions of approval set forth below and attached hereto as Exhibits A and B, respectively.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED by the Board of Supervisors of the County of San Luis Obispo, State of California, as follows:

1. That the recitals set forth hereinabove are true, correct and valid.
2. The project is found to be consistent with the previously certified EIR (D910279D) for the Cambria Pines Estates Tract Map 1804 / Development Plan / Coastal Development Permit.
3. That the appeal filed Christine Heinrichs, Elizabeth Bettenhausen, and Ted Key is denied, that the decision of the Hearing Officer is affirmed, and that the application of Ralph Bookout for a Minor Use Permit / Coastal Development Permit is hereby approved for the reasons described in the findings set forth below in Exhibit A and subject to the conditions of approval in Exhibit B.

Upon motion of Supervisor _____, seconded by Supervisor _____, and on the following roll call vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAINING:

the foregoing resolution is hereby adopted on the ____ day of _____, 20____.

Chairperson of the Board of Supervisors

ATTEST:

WADE HORTON

Ex-Officio Clerk of the Board of Supervisors

By: _____
Deputy Clerk

[SEAL]

APPROVED AS TO FORM AND LEGAL EFFECT:

RITA L. NEAL
County Counsel

By: 
Deputy County Counsel

Dated: August 24, 2021

**EXHIBIT A -FINDINGS
BOOKOUT (DRC2019-00214)**

CEQA

- A. No subsequent changes are proposed in the project which will require important revisions of the Environmental Impact Report (EIR) previously prepared for the Cambria Pines Estates Tract Map/Development Plan/Coastal Development Permit, Tract 1804 and D910279D, due to the involvement of new significant environmental impacts not considered in the previously prepared EIR for the project.
- B. No substantial changes have occurred with respect to the circumstances under which the project is being undertaken which will require important revisions in the EIR due to the involvement of new significant environmental impacts not covered in the previously prepared EIR for the Cambria Pines Estates Tract Map/Development Plan/Coastal Development Permit, Tract 1804 and D910279D.
- C. No new information of substantial importance to the project has become available that was not known or could not have been known at the time the EIR was previously certified for the Cambria Pines Estates Tract Map/Development Plan/Coastal Development Permit, Tract 1804 and D910279D.
- D. The proposed project will not cause significant environmental effects.
- E. The project is consistent with the previously certified EIR for the Cambria Pines Estates Tract Map/Development Plan/Coastal Development Permit, Tract 1804 and D910279D.

Minor Use Permit

- F. The proposed project or use is consistent with the San Luis Obispo County General Plan and Local Coastal Plan because the use is an allowed use and as conditioned is consistent with all of the General Plan and Local Coastal Plan policies.
- G. As conditioned, the proposed project or use satisfies all applicable provisions of Title 23 of the County Code.
- H. 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 because the project does not generate activity that presents a potential threat to the surrounding property and buildings. This project is subject to Ordinance and Building Code requirements designed to address health, safety and welfare concerns.
- I. The proposed project or use will not be inconsistent with the character of the immediate neighborhood or contrary to its orderly development because the project is similar to, and will not conflict with, the surrounding lands and uses.
- J. The proposed project or use will not generate a volume of traffic beyond the safe capacity of all roads providing access to the project, either existing or to be improved with the project because the project is located on Cambria Pines Road, a collector road, constructed to a level able to handle any additional traffic associated with the project.

- K. Adequate public service capacities are available to serve the proposed development because the project is using grandfathered meter (Leimert Tract 1804 – Lot 5) and was part of the CCSD's Existing Commitment List, and the proposed project is conditioned by CCSD to provide retrofits in the District's service area for water conservation.

The subject property is located within the Leimert Tract (Tract 1804). Lots within the Tract 1804 are subject to water conservation requirements specific to individual properties within the Tract 1804. All lots within the Tract 1804 were connected to the Cambria Community Services District (CCSD) for Water service (certain lots include Sewer service) in 1999. Since that time, all lots within Tract 1804 have been subject to monthly fees by CCSD.

In 2000, the CCSD in Ordinance No. 2-2000 determined CCSD's water serve commitments ("Existing Commitments"). Existing Commitments included both Active Service Commitments and Non-Active Service Commitments. The Non-Active Service Commitments included 24 meters that had been connected to the Cambria Community Services District system but were not yet actively serving any development. These 24 meters were as known as "Grandfathered Meters". On November 15, 2001, the Cambria Community Services District adopted a moratorium prohibiting connection to the District's water system for anything other than Existing Commitments. Grandfathered meters, such as served the subject property, were therefore exempt from the moratorium.

In or about the time the moratorium was adopted, the Cambria Community Services District determined that the water demand for Existing Commitments, which are exempt from the moratorium, was 202.31 Equivalent Dwelling Units ("EDUs"). The meter for the subject property were included within the calculation of the 202.3 EDUs. The California Coastal Commission, in conjunction with Coastal Development Permit Application A-3-SLO-02-050 ("Monaco"), recognized that Existing Commitments for 202.31 EDUs were exempt from the Moratorium.

In addition, in 2007, the Coastal Commission approved the North Coast Area Plan, which included requirement that allowed for development of "water service commitment existing as of November 15, 2001" (North Coast Area Plan page 7-29 – 4. Limitation on Development (A)), whereas the proposed project is served by an Existing Commitment List.

Furthermore, the CCSD issued Conditional Confirmation of Water & Sewer Availability letter dated December 21, 2020. Therefore, the proposed project has adequate public service capability to serve proposed development.

Coastal Access

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

Sensitive Resource Area

- M. The project or use will not create significant adverse effects on the natural features of the site or vicinity that were the basis for the Sensitive Resource Area designation, and will preserve and protect such features through the site design, because tree removal is limited to 70 Monterey Pine trees, which will be replaced with 280 Monterey Pine trees.

- N. As designed, natural features and topography have been considered in the design and siting of all proposed physical improvements.
- O. The proposed clearing of topsoil is the minimum necessary to achieve safe and convenient access and siting of proposed structures, and will not create significant adverse effects on the identified sensitive resource.
- P. The soil and subsoil conditions are suitable for any proposed excavation and site preparation, and drainage improvements have been designed to prevent soil erosion and sedimentation of streams through undue surface runoff. To ensure compliance, the project has been conditioned to submit a drainage plan to Department of Public Works at time of application for building permits.

Environmentally Sensitive Habitat

- Q. There will be no significant negative impact on the identified sensitive habitat, and the proposed use will be consistent with the biological continuance of the habitat as the project has been designed to avoid impacts to the maximum extent feasible. While the proposed project removes 70 Monterey Pine trees, the applicant is required to mitigate for the loss of the trees at 4:1 mitigation ratio (280 Monterey Pine trees), along with a monitoring program until the new Monterey Pine trees are successfully established.
- R. The proposed use will not significantly disrupt the habitat, as the property is located within approved building envelope.

**EXHIBIT B - CONDITIONS OF APPROVAL
BOOKOUT (DRC2019-00214)**

Approved Development

1. This approval authorizes:
 - a. Construction of a 3,136-square-foot single-family residence with an approximately 1,000-square-foot garage, 1,000-square-foot workshop, 72-square-foot storage, 32-square-foot shop, and associated grading and site preparation.
 - b. The project will result in the removal of 70 Monterey pine trees. The removed Monterey pine trees will be replanted at a 4:1 ratio (total 280 trees) on site with a to a minimum of five-year monitoring and reporting project.
 - c. Maximum height allowed is 27 feet from average natural grade.

Conditions required to be completed at the time of application for construction permits

Landscape / Site Development

2. **At the time of application for construction permits**, submit a landscape plan to the Department of Planning and Building for review and approval. The plan shall indicate the following and development shall be consistent with this revised and approved plan:
 - a. All areas of the site disturbed by project construction shall be revegetated with native, drought and fire-resistant species that are compatible with the habitat values of the surrounding forest. Non-native, invasive, fire prone, and water intensive (i.e. turf grass) landscaping shall be prohibited on the entire site. All landscaping and construction practices shall work to maintain and regenerate habitat values. Plant materials shall be used to mimic or enhance naturally occurring vegetation. Materials shall be propagated from appropriate native stock to ensure that the gene pool is not diluted for endemic species. This is particularly true for Monterey Pines and riparian plantings. A list of prohibited plants, such as Pampas grass and Scotch broom, is available from the Department of Planning and Building. Use of plants listed in the California Invasive Plant Council (Cal IPC) Invasive Plant Inventory is prohibited.
 - b. Fencing is not permitted on property lines. Guidance markers may be used for reference of lot boundaries. Fencing is allowed within the building envelope only.
3. **At the time of application for construction permits (BIO-1[c])**, a Monterey Pine Forest Mitigation Program for the project site must be established, to minimize the loss of Monterey pines that could potentially occur on Lot 5. This plan will primarily follow guidelines suggested for the Mitigation Bank for Monterey Pine Removal identified by RRM Design Group in a June 4, 1996 memorandum to the County, and contained in Appendix 6.1 of the EIR. Additional specific guidelines for replacing individual trees have been identified in the *County's Guidelines for Monterey Pine Forest Protection (Guidelines)*, a copy of which is located in Appendix 6.1. Proposed by the Environmental Division of the Department of Planning and Building for the protection of Monterey pine forest that is designated as SRA, the Guidelines contain specifications on development siting, site disturbance, removal of native vegetation, and replacement of vegetation. In addition, thresholds for tree replacement are identified within the Guidelines. Measures recommended as part of the proposed *Mitigation Bank for Monterey Pine Removal* should be

supplemented with specific techniques identified in the County's Guidelines for removing and replacing individual trees, as appropriate. Specific components of the proposed Monterey Pine Forest Mitigation Program are described below.

- As part of the Monterey Pine Forest Mitigation Program, appropriate measures must be implemented, as identified in the County's Guidelines for transplanting and replacing individual trees prior to and during construction of residences within Lots 1 through 5 and guidelines established as part of *Mitigation Banking for Monterey Pine Removal*. Measures recommended as part of the Monterey Pine Forest Mitigation Program are identified below.
- Prior to commencement of construction, identify all Monterey pine and coast live oak seedlings and saplings with diameters of 2 inches or smaller located within each building envelope, and determine which of the identified trees will be relocated outside of the project limits (per Guidelines C-8). Transplanted and replacement planting shall be clearly shown on construction site / landscape plan.
- Prior to commencement of construction, relocate through transplanting all identified Monterey pine saplings and coast live oak seedlings to appropriate areas located outside of each building envelope. Trees should be relocated to adjacent appropriate areas located along the margins of existing Monterey pine forest. Coast live oak seedlings should be protected with appropriate caging.
- Prior to commencement of construction at each site, identify all Monterey pine and coast live oak trees with diameters at breast height (dbh) of 6 inches or greater within each associated building envelope, and clearly identify with visible flagging, and map all trees that are proposed for removal. Impacted and/or removed Monterey pine and coast live oak trees shall be clearly shown on construction site plan.
- During project construction, replace all trees with 6 inch dbh and greater that are proposed for removal with in-kind specimens at a 4 to 1 replacement ratio. As designed, the proposed project is expected to remove 70 Monterey Pine trees, to be mitigated at 4:1 replacement ratio (280 Monterey pine trees). All replacement plantings shall be done on-site, unless evidence is demonstrated that on-site replanting is not feasible and an off-site location and replanting management is engaged.
- Use only native Monterey pines (*Pinus radiata* var. *macrocarpa*) for replanting and replacing Monterey pines removed during construction. Collect cones from Monterey pines occurring within Monterey pine forest habitat located at the Cambria Pines Estates project site.
- To replace coast live oaks removed during construction, collect acorns from the project area during August and early September and sprout.
- Plant extracted Monterey pine seeds in tubes or liners and grow at the subject property.
- Grow Monterey pine seedlings trees to approximate heights of 12 inches and plant at selected mitigation sites. Locate potential mitigation sites at appropriate locations along the margins of Monterey pine forest occurring at the project site. Potential sites should closely reflect the characteristics of on-site areas which have naturally occurring forest expansion.
- Plant trees during the late fall or early winter, as appropriate.

- Water young trees following initial planting, and later provide supplemental water on an as needed basis.
 - **At least one time per year, for a minimum of five years,** monitor the health and maintenance of all replacement vegetation for a sufficient time and frequency to ensure successful establishment of vegetation (per Guidelines F-3). Young seedling establishment should achieve an 80 percent success rate. Applicant shall provide yearly monitoring data to County of San Luis Obispo Planning Department.
4. **At the time of application for construction permits,** submitted plans shall conform to the approved site plan, floor plan, architectural plans, and elevations.
 5. **At the time of application for construction permits,** the applicant shall provide evidence to the Department of Planning and Building that onsite circulation and pavement structural sections have been designed and shall be constructed in conformance with Cal Fire, or the regulating fire agency standards and specifications back to the nearest public-maintained roadway.
 6. **At the time of application for construction permits,** the applicant shall provide details on any proposed exterior lighting, if applicable. The details shall include the height, location, and intensity of all exterior lighting. All lighting fixtures shall be shielded so that neither the lamp nor the related reflector interior surface is visible from adjacent properties. Light hoods shall be dark colored.
 7. **At the time of application for construction permits,** the applicant shall clearly delineate the building site(s) and/or building control line(s) on the project plans, as shown on the approved site plan. All new development shall be completely located within the building envelope(s) and/or within the building control line(s).

Access

8. **At the time of application for construction permits,** the applicant shall submit to the Department of Public Works an encroachment permit application, plans, fees, and post a cash damage bond to install improvements within the public right-of-way in accordance with County Public Improvement Standards. The plans are to include, as applicable:
 - a. The existing Cambria Pines Road site access shall be reconstructed in accordance with B-1a rural driveway standards.
 - b. Drainage ditches, culverts, and other structures (if drainage calculations require).
 - c. Public utility plan, showing all existing utilities and installation of all new utilities to serve the site.
 - d. Tree removal/retention plan for trees to be removed and retained associated with the required public improvements. The plan shall be approved jointly with the Department of Planning and Building.
 - e. Traffic control plan for construction in accordance with the California Manual on Uniform Traffic Control Devices (CA-MUTCD).

Drainage

9. **At the time of application for construction permits**, the applicant shall submit complete drainage plans and report for review and approval in accordance with Section 23.05.040 (Drainage) of the Land Use Ordinance.
10. **At the time of application for construction permits**, the applicant shall submit complete erosion and sedimentation control plan for review and approval in accordance with 23.05.036.
11. **At the time of application for construction permits**, the applicant shall demonstrate that the project construction plans are in conformance with their Storm Water Control Plan.
12. **At the time of application for construction permits**, if the project disturbs more than 1.0 acre or is part of a common plan of development, the applicant must enroll for coverage under California's Construction General Permit. Sites that disturb less than 1.0 acre must implement all required elements within the site's erosion and sediment control plan as required by San Luis Obispo County Codes.

Storm Water Control Plan

13. **At the time of application for construction or grading permits**, the applicant shall demonstrate whether the project is subject to post-construction stormwater requirements by submitting a Stormwater Control Plan application or Stormwater Post Construction Requirements (PCRs) Waiver Request Form.
 - a. The applicant must submit a SWCP for all regulated projects subject to Performance Requirement #2 and above. The SWCP must be prepared by an appropriately licensed professional and submitted to the County for review and approval. Applicants must utilize the County's latest SWCP template.
 - b. If post-construction stormwater control measures (SCMs) are proposed, the applicant must submit a draft Stormwater Operations and Maintenance Plan for review by the County. The plan must consist of the following Planning & Building Department forms;
 1. Structural Control Measure Description (Exhibit B)
 2. Stormwater System Contact Information
 3. Stormwater System Plans and Manuals
 - c. If applicable, following approval by the County, the applicant shall record with the County Clerk-Recorder the Stormwater Operation and Maintenance Plan and an agreement or provisions in the CCRs for the purpose of documenting on-going and permanent storm drainage control, management, treatment, inspection and reporting.
14. **Prior to acceptance of the improvements (if applicable)**, the Stormwater Operations and Maintenance plan and General Notice must be updated to reflect as-built changes, approved by the County, and re-recorded with the County Clerk-Recorder as amendments to the original document.

Fire Safety

15. **At the time of application for construction permits**, all plans submitted to the Department of Planning and Building shall meet the fire and life safety requirements of the California Fire Code. Applicant shall provide Fire Safety Plan prepared by the Cambria Fire Department at the time of application for construction permit.

Services

16. **At the time of application for construction permits**, the applicant shall provide a letter from Cambria Community Services District stating they are willing and able to service the property.

Conditions to be completed prior to issuance of a construction permit

Fees

17. **Prior to issuance of a construction permit**, the applicant shall pay all applicable school and public facilities fees.
18. **Prior to issuance of a construction permit**, the applicant shall pay North Coast Road Improvement Fee.
19. **Prior to commencing permitted activities**, and in accordance with Title 13.01 of the County Code, the applicant must pay to the Department of Public Works the North Coast Area B Road Fee Area Road Improvement Fee based on the latest adopted area fee schedule and 1.00 peak hour trips estimated for single family residence.

The fee schedule is subject to change by resolution of the Board of Supervisors. The applicant shall be responsible for paying the fee in effect at the time of issuance of building permits.

Noise

20. **Prior to issuance of construction permits [N-1(e)]**, construction traffic shall utilize Cambria Pines Road and State Route 1 and shall not access the site via Buckley Drive or Kathryn Drive.
21. **Prior to issuance of construction permits [N-1(f)]**, construction activities are limited to the hours of 7 a.m. to 6 p.m.

Biology

22. **Prior to issuance of construction permits [BIO-2(b)]**, highly visible temporary fencing must be placed around the perimeters of the driplines of all remaining Monterey pines and coast live oaks within the proposed development areas.
23. **Prior to issuance of construction permits [BIO-5(a)]**, if tree removal is determined to be necessary on Lot 5, it should be conducted between September 15 and February 15, outside of the breeding season of raptors. If tree removal must occur between February 15 and September 15 (during the breeding season) a raptor nest survey shall be conducted on trees slated for removal by a qualified biologist approved by the San Luis Obispo County Environmental Coordinator prior to construction on Lot 5. The raptor nest survey should be coordinated with California Fish and Wildlife (CDFW). If an active raptor nest is identified on-site, specific mitigation measures shall be developed in consultation with CDFW. If the biologist determines that the trees slated for removal are not used by raptors, the applicant must then submit this information to the County.

24. **Prior to issuance of construction permits [BIO-6(b)],** to avoid or minimize disturbance of monarch butterflies overwintering in Monterey pine forest located within Lot 5, implement the following measures recommended by Dr. Leong in the *Monarch Butterfly Study for the Cambria Pines Estates Development* (1995):
- At the time of application for construction permits on Lot 5, the applicant shall show that fireplaces or wood burning stoves will be installed that equal or exceed EPA standards for smoke emission.
 - Tree removals on Lot 5 deemed necessary shall be conducted between the months of April and August when monarch butterflies are not roosting at the identified winter site.
 - If tree removal must occur between September and March (during the breeding season), a Monarch butterfly survey shall be conducted on trees slated for removal by a qualified biologist approved by the San Luis Obispo County Environmental Coordinator prior to construction on Lot 5. The survey should be coordinated with California Fish and Wildlife. If the biologist determines that the trees slated for removal are not used for roosting by Monarch butterflies, the applicant must then submit this information to the County and apply for a tree removal permit.

Conditions to be completed during project construction

Building Height

25. The maximum height of the project is 27 feet from average natural grade.
- a. **Prior to any site disturbance,** a licensed surveyor or civil engineer shall stake the lot corners, building corners, and establish average natural grade and set a reference point (benchmark).
 - b. **Prior to approval of the foundation inspection,** the benchmark shall be inspected by a licensed surveyor prior to pouring footings or retaining walls, as an added precaution.
 - c. **Prior to approval of the roof nailing inspection,** the applicant shall provide the building inspector with documentation that gives the height reference, the allowable height and the actual height of the structure. This certification shall be prepared by a licensed surveyor or civil engineer.

Biology

26. **During construction [BIO-2(a)],** disturbance of Monterey pines and coast live oaks remaining within and along the fringes of all building envelopes shall be avoided to the degree feasible. To avoid disturbance of remaining Monterey pines and coast live oaks, avoid all soil disturbance, compaction and grading activities within, and adjacent to, the associated dripline of each tree, which extends outward 15 feet from the tree's canopy. In addition, vegetation planted within the driplines of remaining trees should not require irrigation.
27. **During construction [BIO-8(a)],** to control introduction of invasive exotic plants on-site, the following measures shall be implemented during project construction and incorporated into the design guidelines of the proposed project:
- Use only clean fill material (free of weed seeds) within the project area;

- Thoroughly clean all construction equipment prior to being moved onto and used at the site
 - Prohibit planting or seeding of disturbed areas with non-native plant species; and
 - Control invasive exotic weeds in all disturbed areas
28. **During construction [BIO-9(b)],** the removal of trees and other native vegetation shall be avoided to the extent feasible on a project-specific basis, per area-wide development standards identified in the North Coast Area Plan Update.

Archaeology

29. **During construction,** in the event archaeological resources are unearthed or discovered, the following standards apply:
- a. Construction activities shall cease and the Environmental Coordinator and Planning Department shall be notified so that the extent and location of discovered materials may be evaluated by a qualified archaeologist, and disposition of artifacts may be accomplished in accordance with state and federal law. The applicant shall implement the mitigation as required by the Environmental Coordinator.
 - b. In the event archaeological resources are found to include human remains, or in any other case where human remains are discovered during construction, the County Coroner is to be notified in addition to the Planning Department and Environmental Coordinator so that proper disposition may be accomplished.

Conditions to be completed prior to occupancy or final building inspection /establishment of the use

Site Development

30. Landscaping in accordance with the approved landscaping plan shall be installed before final building inspection. All landscaping shall be maintained in a viable condition in perpetuity.
31. **Prior to occupancy or final inspection,** whichever occurs first, the applicant shall obtain approval and clearance letter from Cambria Community Services District, that the Demand Offset Requirement has been satisfied.

Fire Safety

32. **Prior to occupancy or final inspection,** whichever occurs first, the applicant shall obtain final inspection and approval from Cambria Fire of all required fire/life safety measures.

Development Review / Site Inspection

33. **Prior to occupancy of any structure associated with this approval,** the applicant shall contact the Department of Planning and Building to have the site inspected for compliance with the conditions of this approval and any mitigation measures that applies to Lot 5.

On-going conditions of approval (valid for the life of the project)

34. This land use permit is valid for a period of 24 months from its effective date unless time extensions are granted pursuant to Land Use Ordinance Section 23.02.050 or the land use permit is considered vested. This land use permit is considered to be vested once a construction permit has been issued and substantial site work has been completed. Substantial site work is defined by Land Use Ordinance Section 23.02.042 as site work progressed beyond grading and completion of structural foundations; and construction is occurring above grade.
35. All conditions of this approval shall be strictly adhered to, within the time frames specified, and in an on-going manner for the life of the project. Failure to comply with these conditions of approval may result in an immediate enforcement action by the Department of Planning and Building. If it is determined that violation(s) of these conditions of approval have occurred, or are occurring, this approval may be revoked pursuant to Section 23.10.160 of the Land Use Ordinance.
36. **On-going condition of approval (valid for the life of the project)**, the applicant shall remove non-native vegetation, such as Pampas grass and Scotch broom listed in the California Invasive Plant Council (Cal IPC) Invasive Plant Inventory.

Defense and Indemnity of the County

37. The applicant shall, as a condition of approval of this land use permit application, defend, hold harmless and indemnify, at his or her sole expense (including attorney's fees, with Counsel approved by the County), any action brought against the County of San Luis Obispo, its present or former officers, agents, or employees, by a third party challenging either its decision to approve this land use permit or the manner in which the County is interpreting or enforcing the conditions of this land use permit, or any other action by a third party relating to approval or implementation of this land use permit. The applicant shall reimburse the County for any court costs and attorney fees that the County may be required by a court to pay as a result of such action, but such participation shall not relieve the applicant of his obligation under this condition. Upon request of the County, the applicant shall also enter into a separate agreement with the County (the "Indemnity Agreement"), in a form approved by County Counsel, agreeing to defend, indemnify, save and hold harmless the County, its present or former officers, agents, or employees, against actions by a third party challenging either its decision to approve this land use permit or the manner in which the County is interpreting or enforcing the conditions of this land use permit, or any other action by a third party relating to or arising out of the approval or implementation of this land use permit. The agreement shall provide that the applicant will indemnify the County and reimburse it for any costs and/or attorney's fees which the County incurs as a result of such action, and that the County's participation or non-participation in any such litigation shall not relieve the applicant of his or her obligations under this condition or the agreement. The applicant shall also provide sufficient guarantees for the obligations hereunder as determined by County Counsel. Any violation of this condition, including the applicant's failure to execute the Indemnity Agreement or breach thereof, or failure to provide sufficient guarantees, is grounds for the County to rescind and/or revoke its approval of this land use permit. These defense and indemnity obligations shall survive any rescission, revocation and/or set aside of this land use permit.

Attachment 3



COASTAL APPEALABLE FORM

SAN LUIS OBISPO COUNTY DEPARTMENT OF PLANNING AND BUILDING
976 OSOS STREET • ROOM 200 • SAN LUIS OBISPO • CALIFORNIA 93408 • (805) 781-5600

Promoting the Wise Use of Land • Helping to Build Great Communities

Please Note: An appeal should be filed by an aggrieved person or the applicant at each stage in the process if they are still unsatisfied by the last action.

PROJECT INFORMATION

Name: BookoutFile Number: DRC 2019-00214

Type of permit being appealed:

☐ Plot Plan ☐ Site Plan ☒ Minor Use Permit ☐ Development Plan/Conditional Use Permit
☐ Variance ☐ Land Division ☐ Lot Line Adjustment ☐ Other: _____

The decision was made by:

☐ Planning Director (Staff) ☐ Building Official ☒ Planning Department Hearing Officer
☐ Subdivision Review Board ☐ Planning Commission ☐ Other: _____

Date the application was acted on: 2/19/2021

The decision is appealed to:

☐ Board of Construction Appeals ☐ Board of Handicapped Access
☐ Planning Commission ☒ Board of Supervisors

BASIS FOR APPEAL

☒ INCOMPATIBLE WITH THE LCP. The development does not conform to the standards set forth in the Certified Local Coastal Program of the county for the following reasons (attach additional sheets if necessary)

Explain: see attached letter

☐ INCOMPATIBLE WITH PUBLIC ACCESS POLICIES. The development does not conform to the public access policies of the California Coastal Act – Section 30210 et seq of the Public Resource Code (attach additional sheets if necessary).

Explain: _____

List any conditions that are being appealed and give reasons why you think it should be modified or removed.

Condition Number _____ Reason for appeal (attach additional sheets if necessary) _____

APPELLANT INFORMATION

Print name: Elizabeth BettenhausenAddress: 345 Plymouth St
Cambria, CA 93428Phone Number (daytime): 1805927-0659

I/We are the applicant or an aggrieved person pursuant to the Coastal Zone Land Use Ordinance (CZLUO) and are appealing the project based on either one or both of the grounds specified in this form, as set forth in the CZLUO and State Public Resource Code Section 30603 and have completed this form accurately and declare all statements made here are true.

Signature: Elizabeth BettenhausenDate: 1 March 2021

OFFICE USE ONLY

Date Received: _____ By: _____
Amount Paid: _____ Receipt No. (if applicable): _____

COASTAL APPEAL FORM
SAN LUIS OBISPO COUNTY PLANNING & BUILDING
SLOPLANNING.ORG

PAGE 2 OF 3
APRIL 23, 2015
PLANNING@CO.SLO.CA.US

Elizabeth Bettenhausen, Ph.D.
345 Plymouth Street
Cambria, CA 93428-2716
elizabethbettenhausen@gmail.com

1 March 2021

San Luis Obispo County Board of Supervisors
via email

Re: Appeal of Planning Hearing decision on Items 6 and 7 on 19 February 2021
DRC2019-00214 and DRC2020-00107

Dear Supervisors:

I thank the Board of Supervisors for overseeing Cambria Community Services District (CCSD). When I moved here 19 years ago, little did I know how essential your oversight would be for the well-being of this community and county. Oversight often brings floods of work to meet the responsibility. This is certainly true as well for the SLO Planning Department in relation to Cambria Community Services District. I am grateful for the public service, even when I disagree with decisions.

I **appeal** the Hearing officer's decision in the SLO Dept. of Planning to approve Bookout's application for a Minor Use Permit/Coastal Development Permit DRC2019-00214.
I **appeal** the Hearing officer's decision in the SLO Dept. of Planning's to approve Hadian's application for a Minor Use Permit/Coastal Development Permit DRC2020-00107.

Today and in the future, as you oversee CCSD, please make sure the CCSD's assumption of adequate water is solidly defended and documented. Please hold the CCSD accountable for accurately documenting with clear and reliable data claims of mitigation, conservation, and sustainability. Please request that the CCSD make explicit the algorithms by which they interpret water supply and demand data. Please make sure the District makes decisions based on ecological and environmental justice. The District's public service falls short in these and other ways.

For decades Cambria Community Services District has withdrawn too much water from San Simeon Creek and Santa Rosa Creek and their aquifers. What makes it too much water? The amount has damaged and continues to damage the riparian habitat and residents, including us humans. The CCSD continues to violate the County's Coastal Zone Land Use Code in determining Availability of Water Supply and Sewage Disposal Services (Title 23, Chapter 04, Sect. 430).

After the hundreds of land purchases in Cambria in the 1980s and 90s, and toying with a Water Master Plan in the first two decades of this century, the District barely begins to understand the limits of water here. Whether in agriculture, residential indoor use and irrigation, expansion of the tourism industry, public works, commercial use, schools, preserves, and so much more—water is finite. Actual supply must set the standard.

Bettenhausen to SLO Board of Supervisors appealing Hadian DRC2020-00107 27 Feb. 2021 Page 1

What does this have to do with appealing these two rulings?

In 1998 the California Coastal Commission once again called on the CCSD to study the San Simeon Creek and Santa Rosa Creek, aquifers, and lagoons to document the CCSD's claims that water can be taken out without negative riparian environmental and other effects.¹

In 2003 the General Manager of the Cambria Community Services District reported to the Board of Directors the urgent need to rework the whole system of Equivalent Dwelling Unit measurement and the retrofit water allocations.²

The CCSD has still not done either one. The EDU system has not been revised. The retrofit and rebate points mechanism lacks evidence of actual offset and enforcement. In stream flow studies of San Simeon Creek and Santa Rosa Creek have not been done by CCSD or their consultants. Activating old meters, installed but never in operation before, endangers the well-being of current human and other-than-human residents of Cambria and surrounding area.

This has been excellently described and documented again and again, when cases have been appealed to the California Coastal Commission.

For example, in 2019 you approved a permit application by Hadian almost identical to the current application. Your decision was appealed. The staff of the California Coastal Commission described the situation this way.

The County's action raises substantial LCP water resource and sensitive habitat issues because: (1) the County did not determine that there was an adequate sustainable water supply to serve the project as is required by the LCP, but rather relied solely on a Cambria Community Services District (CCSD) intent-to-serve (or "will serve") letter for this purpose; (2) there is not an adequate sustainable water supply to provide new water service to serve new development in Cambria (and it is not adequate even for existing development), a factual finding that has been repeatedly determined by the Commission in relation to Cambria development through multiple actions, including certification of LCP policies (specific to the present lack of available water and imposing specific water supply requirements) and CDP actions; (3) the sources of Cambria's water supply (i.e., Santa Rosa and San Simeon Creeks) are environmentally sensitive habitat areas (ESHA) that are currently being adversely affected by existing water extractions to support existing development in Cambria; and (4) the County found that the project could be served by the community's already oversubscribed water supply because the CCSD agreed to serve the project in order to settle a lawsuit, but the LCP only allows allocation of water supply when it is from an adequate sustainable water supply, which it is not;

¹ North Coast Area Plan Update, San Luis Obispo County Local Coastal Program Major Amendment No. 1-97 REVISED FINDINGS, January 1998, p. 51. <https://www.coastal.ca.gov/slorevf.pdf>

² CCSD Board of Directors Agenda Packet, VII.A. for Feb. 13, 2003.

and (5) because the project would be required to comply with the CCSD's retrofit program designed to offset water use, but such offsets would be inadequate to meet LCP standards with respect to adequate water supply and the CCSD's program does not appear to actually offset such water use even if it were to be deemed an appropriate tool to meet LCP standards, which it is not. ³

Cambria does not have "an adequate sustainable water supply." Two lot owners on Tract 1804 have meters installed by CCSD more than 20 years old and never used. That does not mean that actual water is plentiful enough now to turn the meters on for the first time without increasing the ongoing riparian damage.

In 18 years of research on CCSD water usage, I have never seen documentation of actual water usage on Tract 1804. Before a water meter is activated, the CCSD must provide solid evidence that the usage on Tract 1804 now and in the future does not and will not go above 4 units annually.

The County's Growth Management Ordinance allows up to four units (per fiscal year) for Tract 1804 to be served by the CCSD. The CCSD's issuance of a Confirmation of Water & Sewer Availability letter is consistent with the County's Growth Management Ordinance as it allows up to four units in Tract 1804(GMO 26.01.070 [10.ii]).⁴

On May 15, 2014, the CCSD was awarded an Emergency Coastal Development Permit for an Advanced Water Treatment Plant on San Simeon Creek. Later that year they began to prepare the application for a Permanent Coastal Development Permit. **Seven years later, the application is still not complete.**

I attach a letter I wrote to CCSD the year after I moved here. Again and again over the years I have posed to them questions of policy and procedure regarding water usage and production. Their responses have been less than minimal.

In exercising your oversight of the Cambria Community Services District, please make sure that their claims of adequacy, sufficiency, sustainability, and accuracy are solidly grounded in completed studies, analysis, and reporting.

May you be willing to exercise well in these recurring CCSD cases the heavy and essential responsibility of elected public service.

Sincerely yours,
Elizabeth Bettenhausen [original signature available upon request]

³ <https://documents.coastal.ca.gov/reports/2019/11/W32e/w32e-11-2019-report.pdf>

⁴ in Tentative Notice of Action for both items under appeal here

Elizabeth Bettenhausen
345 Plymouth Street
Cambria, CA 93428
elizabethbettenhausen@netzero.net

4 August 2003

Cambria Community Services District
1316 Tamson Drive, Suite 201
Cambria, CA 93428

Dear Board of Directors and General Manager:

1. Using data CCSD distributed for the Utility Rate Workshop on 9/12/02, I reach the following conclusions. * Please let me know whether they accurately state the situation here in Cambria in 2000-2001.

Of 4021 "customers" 65.18% used 34.78% of the water (12 units or less);
18.13% used 23.58% of the water (13-18 units);
16.69% used 41.64% of the water (19+ units).

Thus 1/3 of Cambria customers used 2/3 of the water, and 2/3 of the customers used 1/3 of the water. Does this describe current use too?

Of the customers, how many are residences, businesses, and non-profits? A consumption profile for each group would be an excellent piece for the next issue of the CCSD Newsletter. Please include cumulative totals and percentages not only of customers but also of units of water used. This discloses information not conveyed by citing only the 12 unit "average."

* (Note: I used the chart, "Water Rates—Preliminary," and calculated the number of customers using each water unit from 19 to 50+ by viewing the "Customer/Consumption Profile" graph. My calculation was 22 short of 4021 customers, so I attributed the lowest consumption level not specified in "Water Rates—Preliminary," 17 units each, to them.)

2. In the July 24, 2003, meeting, the board passed unanimously the motion to choose the desalination plant as an additional water source, to choose Scenario 4, and incrementally to increase the "maximum goal" for residential water use from 12 to 18 units. I have several questions.

1) One reason given by the board for choosing Scenario 4: it entails the lowest number of customers needing water. The "projected water demand" already requires an "emergency" situation. **How does this rationale support increasing the "maximum goal" of permissible water use by 50%?**

2) How does increasing the "maximum goal" of water use support conservation of water in Cambria?

3) What does "maximum goal" for residential water use mean? Does it bear on the size of the desalination plant that will be specified in the project description and thus be subject to environmental analysis?

4) How can the procedure of Board meetings be changed so that the public always has an opportunity to speak on an actual motion before the vote is taken? This was not possible regarding the third element of the motion on July 24. Indeed, even the Board did not discuss the third element of the motion.

As I said in the meeting, I will send comments regarding conservation and recycling soon.

Thank you very much for your attention to the concerns raised here, to the careful protection of natural resources, and to basic human needs in Cambria and surrounding community.

Sincerely,

4 August 2003, Page 2 of 2



COASTAL APPEALABLE FORM

SAN LUIS OBISPO COUNTY DEPARTMENT OF PLANNING AND BUILDING
976 OSOS STREET • ROOM 200 • SAN LUIS OBISPO • CALIFORNIA 93408 • (805) 781-5600

Promoting the Wise Use of Land • Helping to Build Great Communities

Please Note: An appeal should be filed by an aggrieved person or the applicant at each stage in the process if they are still unsatisfied by the last action.

PROJECT INFORMATION Name: Bookout File Number: DRC 2019-00214

Type of permit being appealed:

☐ Plot Plan ☐ Site Plan ☒ Minor Use Permit ☐ Development Plan/Conditional Use Permit
☐ Variance ☐ Land Division ☐ Lot Line Adjustment ☐ Other: _____

The decision was made by:

☐ Planning Director (Staff) ☐ Building Official ☒ Planning Department Hearing Officer
☐ Subdivision Review Board ☐ Planning Commission ☐ Other: _____

Date the application was acted on: _____

The decision is appealed to:

☐ Board of Construction Appeals ☐ Board of Handicapped Access
☐ Planning Commission ☒ Board of Supervisors

BASIS FOR APPEAL

☒ INCOMPATIBLE WITH THE LCP. The development does not conform to the standards set forth in the Certified Local Coastal Program of the county for the following reasons (attach additional sheets if necessary)

Explain: see attached

☐ INCOMPATIBLE WITH PUBLIC ACCESS POLICIES. The development does not conform to the public access policies of the California Coastal Act – Section 30210 et seq of the Public Resource Code (attach additional sheets if necessary).

Explain: _____

List any conditions that are being appealed and give reasons why you think it should be modified or removed.

Condition Number _____ Reason for appeal (attach additional sheets if necessary)

APPELLANT INFORMATION

Print name: Christine Heinrichs

Address: 1900 Downing Ave. Cambria Phone Number (daytime): 805-203-5018

I/We are the applicant or an aggrieved person pursuant to the Coastal Zone Land Use Ordinance (CZLUO) and are appealing the project based on either one or both of the grounds specified in this form, as set forth in the CZLUO and State Public Resource Code Section 30603 and have completed this form accurately and declare all statements made here are true.

Signature: Christine Heinrichs

Date: 23 Feb 2021

OFFICE USE ONLY

Date Received: _____

By: _____

Amount Paid: _____

Receipt No. (if applicable): _____

COASTAL APPEAL FORM
SAN LUIS OBISPO COUNTY PLANNING & BUILDING
SLOPLANNING.ORG

PAGE 2 OF 3
APRIL 23, 2015
PLANNING@CO.SLO.CA.US

Coastal Appealable Form

Hadian File Number DRC2020-00107

Bookout File Number: DRC2019-00214

The Hadian Staff Report, <https://documents.coastal.ca.gov/reports/2019/11/W32c/w32c-11-2019-report.pdf>, has a summary of five reasons on page 2, in the Summary of Staff Recommendation, why these projects should not be given permits. I support these reasons for denying these permits:

"The County's action raises substantial LCP water resource and sensitive habitat issues because: (1) the County did *not* determine that there was an adequate sustainable water supply to serve the project as is required by the LCP, but rather relied solely on a Cambria Community Services District (CCSD) intent-to-serve (or "will serve") letter for this purpose; (2) there is *not* an adequate sustainable water supply to provide new water service to serve new development in Cambria (and it is not adequate even for existing development), a factual finding that has been repeatedly determined by the Commission in relation to Cambria development through multiple actions, including certification of LCP policies (specific to the present lack of available water and imposing specific water supply requirements) and CDP actions; (3) the sources of Cambria's water supply (i.e., Santa Rosa and San Simeon Creeks) are environmentally sensitive habitat areas (ESHA) that are *currently* being adversely affected by *existing* water extractions to support *existing* development in Cambria; and (4) the County found that the project could be served by the community's already oversubscribed water supply because the CCSD agreed to serve the project in order to settle a lawsuit, but the LCP only allows allocation of water supply when it is from an adequate sustainable water supply, which it is not; and (5) because the project would be required to comply with the CCSD's retrofit program designed to offset water use, but such offsets would be inadequate to meet LCP standards with respect to adequate water supply and the CCSD's program does not appear to actually offset such water use even if it were to be deemed an appropriate tool to meet LCP standards, which it is not."

The report elaborates on these points. The Hadian permit was already denied once by the Coastal Commission based on this report. Mr. Hadian made a few minor changes and re-applied. So while the current application is technically a new application, the project is the same one that was previously denied.

The three-page letter dated February 16, 2021, county files <https://agenda.slocounty.ca.gov/ijp/sanluisobispo/file/getfile/130338>, responds to the county's new interpretation of these projects as "pipeline" projects, which is ridiculous, as these projects were proposed in 2019 and 2020. The Coastal Commission further addresses "pipeline projects" on pages 10 and 11 of the Staff Report, emphasis added: "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...**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, and the Commission agreed to this scheme in the 2007 LCP amendment.”

The hearing officer also attempted to justify these permits based on other permits that have been issued, largely because they slipped under everyone’s radar, as recently as 2018. On page 3 of the Coastal Commission February 16, 2021 letter, Mr. O’Neill explains that “...while a handful of projects have previously been approved based on earlier erroneous conclusions that sufficient water was available, all available information gathered since 2001 suggests that Cambria’s water supply is insufficient to serve even existing development, including the 2014 water shortage emergency declaration.”

The county needs to hold itself to a higher standard than perpetuating mistakes.

Other points:

Low flow fixtures do not make any difference to demand during a drought. Adding new users puts the water supply in jeopardy for all.

The EWS has not been permitted yet. Its application for a CDP remains 13 percent complete, missing 87 percent of required information, seven months after it was submitted, going on seven years after the facility was constructed. No permit is in sight. Even if it ever gets a permit, it does not add any new water, and is designated to provide water to Existing Residents Only.

CSD approval of permit applications does not assure that water is available. The county has an affirmative duty to make its own determination of water adequacy. The county claims it is a “Pass Through” agency, which I call a Rubber Stamp. Legally, the county is required to make its own finding.

Excessive pumping from the aquifer could result in drawing salt water in, causing salt water contamination of the water source.

Climate change has become clearer since the 2001 Building Moratorium. Conditions have changed, making drought more likely and Cambria’s water supply more at risk. More users cannot be safely added.

These existing meters have never supplied water. Adding these users will inevitably increase demand.

Persisting in approving these permits despite knowing that Cambria does not have adequate water to serve them, resulting in the permits being appealed to the Coastal Commission, is wasting the Commission’s time. Commissioners expressed their frustration in the November 6 meeting, asking whether they could get a Cease & Desist Order to make you and the Cambria CSD stop, or, if not, put up a billboard saying “Don’t believe these people.” The commissioners,

the executive director and staff members are clear and vehement. Listen at about 2:37 into the meeting video.

I add my voice to theirs: Deny these permit applications now. Thank you.

Christine Heinrichs

Cambria, CA

Christine.heinrichs@gmail.com



COASTAL APPEALABLE FORM

SAN LUIS OBISPO COUNTY DEPARTMENT OF PLANNING AND BUILDING
976 OSOS STREET • ROOM 200 • SAN LUIS OBISPO • CALIFORNIA 93408 • (805) 781-5600

Promoting the Wise Use of Land • Helping to Build Great Communities

Please Note: An appeal should be filed by an aggrieved person or the applicant at each stage in the process if they are still unsatisfied by the last action

PROJECT INFORMATION Name: BOOKOUT File Number: DRC2019-00214

Type of permit being appealed:

☐ Plot Plan ☐ Site Plan ☒ Minor Use Permit ☐ Development Plan/Conditional Use Permit
☐ Variance ☐ Land Division ☐ Lot Line Adjustment ☐ Other: _____

The decision was made by:

☐ Planning Director (Staff) ☐ Building Official ☒ Planning Department Hearing Officer
☐ Subdivision Review Board ☐ Planning Commission ☐ Other: _____

Date the application was acted on: _____

The decision is appealed to:

☐ Board of Construction Appeals ☐ Board of Handicapped Access
☐ Planning Commission ☒ Board of Supervisors

BASIS FOR APPEAL

☒ INCOMPATIBLE WITH THE LCP The development does not conform to the standards set forth in the Certified Local Coastal Program of the county for the following reasons (attach additional sheets if necessary)
Explain: _____

☐ INCOMPATIBLE WITH PUBLIC ACCESS POLICIES. The development does not conform to the public access policies of the California Coastal Act – Section 30210 et seq of the Public Resource Code (attach additional sheets if necessary).
Explain: _____

List any conditions that are being appealed and give reasons why you think it should be modified or removed

Condition Number _____ Reason for appeal (attach additional sheets if necessary) _____

APPELLANT INFORMATION

Print name: TED KEY
Address: 325 DORSET ST. CHUBBIA 93426 Phone Number (daytime): 408 307 9617

I/We are the applicant or an aggrieved person pursuant to the Coastal Zone Land Use Ordinance (CZLUO) and are appealing the project based on either one or both of the grounds specified in this form, as set forth in the CZLUO and State Public Resource Code Section 30603 and have completed this form accurately and declare all statements made here are true.

Signature

Date

OFFICE USE ONLY

Date Received: _____ By: _____
Amount Paid: _____ Receipt No. (if applicable): _____

COASTAL APPEAL FORM
SAN LUIS OBISPO COUNTY PLANNING & BUILDING
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PAGE 2 OF 3
APRIL 23, 2015
PLANNING@CO.SLO.CA.US

March 4, 2021

Coastal Appealable Forms

Hadian File Number DRC2020-00107

Bookout File Number: DRC2019-00214

The Hadian Coastal Commission Staff Report, <https://documents.coastal.ca.gov/reports/2019/11/W32e/w32e-11-2019-report.pdf>, summary of Staff Recommendation, clearly explains five reasons why these projects should not be given permits. I strongly support these reasons, quoted from the summary, for denying these permits:

"The County's action raises substantial LCP water resource and sensitive habitat issues because: (1) the County did *not* determine that there was an adequate sustainable water supply to serve the project as is required by the LCP, but rather relied solely on a Cambria Community Services District (CCSD) intent-to-serve (or "will serve") letter for this purpose; (2) there is *not* an adequate sustainable water supply to provide new water service to serve new development in Cambria (and it is not adequate even for existing development), a factual finding that has been repeatedly determined by the Commission in relation to Cambria development through multiple actions, including certification of LCP policies (specific to the present lack of available water and imposing specific water supply requirements) and CDP actions; (3) the sources of Cambria's water supply (i.e., Santa Rosa and San Simeon Creeks) are environmentally sensitive habitat areas (ESHA) that are *currently* being adversely affected by *existing* water extractions to support *existing* development in Cambria; and (4) the County found that the project could be served by the community's already oversubscribed water supply because the CCSD agreed to serve the project in order to settle a lawsuit, but the LCP only allows allocation of water supply when it is from an adequate sustainable water supply, which it is not; and (5) because the project would be required to comply with the CCSD's retrofit program designed to offset water use, but such offsets would be inadequate to meet LCP standards with respect to adequate water supply and the CCSD's program does not appear to actually offset such water use even if it were to be deemed an appropriate tool to meet LCP standards, which it is not."

Based on this report the Hadian permit was already denied once by the Coastal Commission. A few minor changes and re-application is still the *same one* that was previously denied.

The hearing officer attempted to justify these permits based on other permits that have been issued, largely because they slipped under everyone's radar as recently as 2018. On page 3 of The Coastal Commission letter dated February 16, 2021, county files <https://agenda.slocounty.ca.gov/iip/sanluisobispo/file/getfile/130338>, Mr. O'Neill explains that "...while a handful of projects have previously been approved based on earlier erroneous conclusions that sufficient water was available, all available information gathered since 2001 suggests that Cambria's water supply is insufficient to

serve even existing development, including the 2014 water shortage emergency declaration.”

None of these “pipeline projects” had any finding showing absence of harm to the existing water supply from their added demand.

Additionally:

- Low flow fixtures do not make any difference to demand during a drought. More new users put the water supply in even greater jeopardy. The CSD low flow program was never adequately documented and any claimed water savings is specious at best.
- The EWS has not been permitted. Its application for a CDP remains 13 percent complete, missing 87 percent of required information, seven months after it was submitted, going on seven years after the facility was constructed. If it ever gets a permit the EWS provides *zero water for fire fighting*. We are another Paradise CA disaster just looking for a spark! Adding more construction is simply reckless. Further, the DDW designates that it produces *no new water*. *The plant is designated to provide water to existing residents only*.
- Clearly CSD approval of permit applications does not assure that water is available. The county is required to make its own determination of water adequacy rather than a “pass through” agency. *Legally, the county is required to make its own finding*.
- Excessive pumping from the aquifer could result in drawing salt water in, causing salt water contamination, not to mention violating some of our rancher’s senior water rights.
- Climate change has become clearer since the 2001 Building Moratorium. Drought times become more likely to threaten Cambria’s water supply and more users cannot be safely added.
- Approving these permits knowing that Cambria does not have adequate water to serve this new construction wastes the Commission’s time. Commissioners expressed their frustration in their November 6 meeting. The executive director and staff members are clear and vehement. Listen at 2:37 into the meeting video asking whether they could get a Cease & Desist Order to make you and the Cambria CSD stop, or if not, put up a billboard saying “Don’t believe these people.” The commissioners are clearly irritated by this “ping pong permit policy” which is an embarrassment for both our CSD and the county.

Please act appropriately and deny these permit applications now.

Ted Key
Cambria

Attachment 4



COUNTY OF SAN LUIS OBISPO
DEPARTMENT OF PLANNING & BUILDING
TREVOR KEITH, *DIRECTOR*

February 24, 2021

DAVID EINUNG
670 PINE RIDGE
ARROYO GRANDE, CA 93420

NOTICE OF FINAL COUNTY ACTION

HEARING DATE: February 19, 2021
SUBJECT: **County File Number: DRC2019-00214**
Minor Use Permit / Coastal Development Permit

LOCATED WITHIN COASTAL ZONE: YES
COASTAL APPEALABLE: YES

On **February 19, 2021**, the above referenced application was approved by the **Planning Department Hearing** based on the approved Findings, and subject to the approved Conditions, which are both enclosed for your records.

If you disagree with this action, pursuant to the County Coastal Zone Land Use Ordinance (CZLUO) Section 23.01.042, and in the manner described therein, you have the right to appeal this decision, or a portion of this decision, to the Board of Supervisors within 14 calendar days after the date of the action.

The appeal must be submitted to the Director of the Department of Planning and Building on the proper Department appeal form, as provided on the County website. The appeal form must be submitted with an original signature; a facsimile will not be accepted.

If the appeal is consistent with the standards set forth in CZLUO Section 23.01.043.d, there is no fee to file an appeal. If the appeal is not consistent with CZLUO Section 23.01.043.d, a fee, set by the current fee schedule, will be required and must be submitted with the appeal form at time of filing. If the County requires that an appellant submit a fee to file an appeal, the action may be directly appealable to the California Coastal Commission pursuant to the CZLUO Section 23.01.043, and in the manner contained therein, precluding the need to exhaust local administrative appeals.

Additionally, CZLUO Section 23.01.043 and applicable sections of the Coastal Act provide the California Coastal Commission 10 working days following the expiration of the County appeal period to appeal the County's Final Action. This means the Applicant cannot commence development and the County

cannot take any further administrative actions for the proposed development, including but not limited to, the request or issuance of a building permit, until the County appeal period and the Coastal Commission Appeal period, including any suspension of the appeal period by the Coastal Commission pursuant to CZLUO 23.02.039, have expired without an appeal being filed.

Additionally, should a local appeal be filed, and the County approves the application on appeal, that action would be appealable to the California Coastal Commission, pursuant to regulations contained in Coastal Act Section 30603 and the County Coastal Zone Land Use Ordinance 23.01.043. An appellant may include any of the following: an applicant, an aggrieved person as defined in CZLUO 23.01.043 and any two California Coastal Commissioners. CZLUO Section 23.01.043 and applicable sections of the Coastal Act provide ten (10) working days for an appellant to appeal the County's Final Action. The County Coastal Zone Land Use Ordinance and Coastal Act contain specific time limits to appeal, criteria, and procedures that must be followed to appeal this action. The appeal must be made directly to the California Coastal Commission. For further information on their appeal procedures, contact the Commission's Santa Cruz Office at (831) 427-4863.

Please note that exhaustion of local appeals at the County level is almost always required prior to appealing the matter to the California Coastal Commission. Three exceptions apply to this requirement as provided in CZLUO Section 23.01.043.b(1) (3).

If you have any questions regarding your project, please contact Young Choi at 805-781-5600.

Sincerely,

Daniela Chavez

Daniela Chavez, Secretary
County of San Luis Obispo
Department of Planning & Building

CC: Ralph Bookout
5617 W Grove Ct.
Visalia, CA 93291

976 Osos Street, Room 300 | San Luis Obispo, CA 93408 | (P) 805-781-5600 | 7-1-1 TTY/TRS Relay
planning@co.slo.ca.us | www.sloplanning.org

**EXHIBIT A –FINDINGS
BOOKOUT (DRC2019-00214)**

CEQA

- A. No subsequent changes are proposed in the project which will require important revisions of the Environmental Impact Report (EIR) previously prepared for the Cambria Pines Estates Tract Map/Development Plan/Coastal Development Permit, Tract 1804 and D910279D, due to the involvement of new significant environmental impacts not considered in the previously prepared EIR for the project.
- B. No substantial changes have occurred with respect to the circumstances under which the project is being undertaken which will require important revisions in the EIR due to the involvement of new significant environmental impacts not covered in the previously prepared EIR for the Cambria Pines Estates Tract Map/Development Plan/Coastal Development Permit, Tract 1804 and D910279D.
- C. No new information of substantial importance to the project has become available that was not known or could not have been known at the time the EIR was previously certified for the Cambria Pines Estates Tract Map/Development Plan/Coastal Development Permit, Tract 1804 and D910279D.
- D. The proposed project will not cause significant environmental effects.
- E. The project is consistent with the previously-certified EIR for the Cambria Pines Estates Tract Map/Development Plan/Coastal Development Permit, Tract 1804 and D910279D.

Minor Use Permit

- F. The proposed project or use is consistent with the San Luis Obispo County General Plan and Local Coastal Plan because the use is an allowed use and as conditioned is consistent with all of the General Plan and Local Coastal Plan policies.
- G. As conditioned, the proposed project or use satisfies all applicable provisions of Title 23 of the County Code.
- H. 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 because the project does not generate activity that presents a potential threat to the surrounding property and buildings. This project is subject to Ordinance and Building Code requirements designed to address health, safety and welfare concerns.
- I. The proposed project or use will not be inconsistent with the character of the immediate neighborhood or contrary to its orderly development because the project is similar to, and will not conflict with, the surrounding lands and uses.
- J. The proposed project or use will not generate a volume of traffic beyond the safe capacity of all roads providing access to the project, either existing or to be improved with the project because the project is located on Cambria Pines Road, a collector road, constructed to a level able to handle any additional traffic associated with the project.

- K. Adequate public service capacities are available to serve the proposed development because the project is using grandfathered meter (Leimert Tract 1804 - Lot 5) and was part of the CCSD's Existing Commitment List, and the proposed project is conditioned by CCSD to provide retrofits in the District's service area for water conservation.

The subject property is located within the Leimert Tract (Tract 1804). Lots within the Tract 1804 are subject to water conservation requirements specific to individual properties within the Tract 1804. All lots within the Tract 1804 were connected to the Cambria Community Services District (CCSD) for Water service (certain lots include Sewer service) in 1999. Since that time, all lots within Tract 1804 have been subject to monthly fees by CCSD.

In 2000, the CCSD in Ordinance No. 2-2000 determined CCSD's water serve commitments ("Existing Commitments"). Existing Commitments included both Active Service Commitments and Non-Active Service Commitments. The Non-Active Service Commitments included 24 meters that had been connected to the Cambria Community Services District system but were not yet actively serving any development. These 24 meters were as known as "Grandfathered Meters". On November 15, 2001, the Cambria Community Services District adopted a moratorium prohibiting connection to the District's water system for anything other than Existing Commitments. Grandfathered meters, such as served the subject property, were therefore exempt from the moratorium.

In or about the time the moratorium was adopted, the Cambria Community Services District determined that the water demand for Existing Commitments, which are exempt from the moratorium, was 202.31 Equivalent Dwelling Units ("EDUs"). The meter for the subject property were included within the calculation of the 202.3 EDUs. The California Coastal Commission, in conjunction with Coastal Development Permit Application A-3-SLO-02-050 ("Monaco"), recognized that Existing Commitments for 202.31 EDUs were exempt from the Moratorium.

In addition, in 2007, the Coastal Commission approved the North Coast Area Plan, which included requirement that allowed for development of "water service commitment existing as of November 15, 2001" (North Coast Area Plan page 7-29 - 4. Limitation on Development (A)), whereas the proposed project is served by an Existing Commitment List.

Furthermore, the CCSD issued Conditional Confirmation of Water & Sewer Availability letter dated December 21, 2020. Therefore, the proposed project has adequate public service capability to serve proposed development.

Coastal Access

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

Sensitive Resource Area

- M. The project or use will not create significant adverse effects on the natural features of the site or vicinity that were the basis for the Sensitive Resource Area designation, and will preserve and protect such features through the site design, because tree removal is limited to 70 Monterey Pine trees, which will be replaced with 280 Monterey Pine trees.

- N. As designed, natural features and topography have been considered in the design and siting of all proposed physical improvements.
- O. The proposed clearing of topsoil is the minimum necessary to achieve safe and convenient access and siting of proposed structures, and will not create significant adverse effects on the identified sensitive resource.
- P. The soil and subsoil conditions are suitable for any proposed excavation and site preparation, and drainage improvements have been designed to prevent soil erosion and sedimentation of streams through undue surface runoff. To ensure compliance, the project has been conditioned to submit a drainage plan to Department of Public Works at time of application for building permits.

Environmentally Sensitive Habitat

- Q. There will be no significant negative impact on the identified sensitive habitat, and the proposed use will be consistent with the biological continuance of the habitat as the project has been designed to avoid impacts to the maximum extent feasible. While the proposed project removes 70 Monterey Pine trees, the applicant is required to mitigate for the loss of the trees at 4:1 mitigation ratio (280 Monterey Pine trees), along with a monitoring program until the new Monterey Pine trees are successfully established.
- R. The proposed use will not significantly disrupt the habitat, as the property is located within approved building envelope.

**EXHIBIT B - CONDITIONS OF APPROVAL
BOOKOUT (DRC2019-00214)**

Approved Development

1. This approval authorizes:
 - a. Construction of a 3,136-square-foot single-family residence with an approximately 1,000-square-foot garage, 1,000-square-foot workshop, 72-square-foot storage, 32-square-foot shop, and associated grading and site preparation.
 - b. The project will result in the removal of 70 Monterey pine trees. The removed Monterey pine trees will be replanted at a 4:1 ratio (total 280 trees) on site with a to a minimum of five-year monitoring and reporting project.
 - c. Maximum height allowed is 27 feet from average natural grade.

Conditions required to be completed at the time of application for construction permits

Landscape / Site Development

2. **At the time of application for construction permits**, submit a landscape plan to the Department of Planning and Building for review and approval. The plan shall indicate the following and development shall be consistent with this revised and approved plan:
 - a. All areas of the site disturbed by project construction shall be revegetated with native, drought and fire-resistant species that are compatible with the habitat values of the surrounding forest. Non-native, invasive, fire prone, and water intensive (i.e. turf grass) landscaping shall be prohibited on the entire site. All landscaping and construction practices shall work to maintain and regenerate habitat values. Plant materials shall be used to mimic or enhance naturally occurring vegetation. Materials shall be propagated from appropriate native stock to ensure that the gene pool is not diluted for endemic species. This is particularly true for Monterey Pines and riparian plantings. A list of prohibited plants, such as Pampas grass and Scotch broom, is available from the Department of Planning and Building. Use of plants listed in the California Invasive Plant Council (Cal IPC) Invasive Plant Inventory is prohibited.
 - b. Fencing is not permitted on property lines. Guidance markers may be used for reference of lot boundaries. Fencing is allowed within the building envelope only.
3. **At the time of application for construction permits (BIO-1[c])**, a Monterey Pine Forest Mitigation Program for the project site must be established, to minimize the loss of Monterey pines that could potentially occur on Lot 5. This plan will primarily follow guidelines suggested for the Mitigation Bank for Monterey Pine Removal identified by RRM Design Group in a June 4, 1996 memorandum to the County, and contained in Appendix 6.1 of the EIR. Additional specific guidelines for replacing individual trees have been identified in the *County's Guidelines for Monterey Pine Forest Protection (Guidelines)*, a copy of which is located in Appendix 6.1. Proposed by the Environmental Division of the Department of Planning and Building for the protection of Monterey pine forest that is designated as SRA, the Guidelines contain specifications on development siting, site disturbance, removal of native vegetation, and replacement of vegetation. In addition, thresholds for tree replacement are identified within the Guidelines. Measures recommended as part of the proposed *Mitigation Bank for Monterey Pine Removal* should be

supplemented with specific techniques identified in the County's Guidelines for removing and replacing individual trees, as appropriate. Specific components of the proposed Monterey Pine Forest Mitigation Program are described below.

- As part of the Monterey Pine Forest Mitigation Program, appropriate measures must be implemented, as identified in the County's Guidelines for transplanting and replacing individual trees prior to and during construction of residences within Lots 1 through 5 and guidelines established as part of *Mitigation Banking for Monterey Pine Removal*. Measures recommended as part of the Monterey Pine Forest Mitigation Program are identified below.
- Prior to commencement of construction, identify all Monterey pine and coast live oak seedlings and saplings with diameters of 2 inches or smaller located within each building envelope, and determine which of the identified trees will be relocated outside of the project limits (per Guidelines C-8). Transplanted and replacement planting shall be clearly shown on construction site / landscape plan.
- Prior to commencement of construction, relocate through transplanting all identified Monterey pine saplings and coast live oak seedlings to appropriate areas located outside of each building envelope. Trees should be relocated to adjacent appropriate areas located along the margins of existing Monterey pine forest. Coast live oak seedlings should be protected with appropriate caging.
- Prior to commencement of construction at each site, identify all Monterey pine and coast live oak trees with diameters at breast height (dbh) of 6 inches or greater within each associated building envelope, and clearly identify with visible flagging, and map all trees that are proposed for removal. Impacted and/or removed Monterey pine and coast live oak trees shall be clearly shown on construction site plan.
- During project construction, replace all trees with 6 inch dbh and greater that are proposed for removal with in-kind specimens at a 4 to 1 replacement ratio. As designed, the proposed project is expected to remove 70 Monterey Pine trees, to be mitigated at 4:1 replacement ratio (280 Monterey pine trees). All replacement plantings shall be done on-site, unless evidence is demonstrated that on-site replanting is not feasible and an off-site location and replanting management is engaged.
- Use only native Monterey pines (*Pinus radiata* var. *macrocarpa*) for replanting and replacing Monterey pines removed during construction. Collect cones from Monterey pines occurring within Monterey pine forest habitat located at the Cambria Pines Estates project site.
- To replace coast live oaks removed during construction, collect acorns from the project area during August and early September and sprout.
- Plant extracted Monterey pine seeds in tubes or liners and grow at the subject property.
- Grow Monterey pine seedlings trees to approximate heights of 12 inches and plant at selected mitigation sites. Locate potential mitigation sites at appropriate locations along the margins of Monterey pine forest occurring at the project site. Potential sites should closely reflect the characteristics of on-site areas which have naturally occurring forest expansion.
- Plant trees during the late fall or early winter, as appropriate.

- Water young trees following initial planting, and later provide supplemental water on an as needed basis.
 - **At least one time per year, for a minimum of five years,** monitor the health and maintenance of all replacement vegetation for a sufficient time and frequency to ensure successful establishment of vegetation (per Guidelines F-3). Young seedling establishment should achieve an 80 percent success rate. Applicant shall provide yearly monitoring data to County of San Luis Obispo Planning Department.
4. **At the time of application for construction permits,** submitted plans shall conform to the approved site plan, floor plan, architectural plans, and elevations.
 5. **At the time of application for construction permits,** the applicant shall provide evidence to the Department of Planning and Building that onsite circulation and pavement structural sections have been designed and shall be constructed in conformance with Cal Fire, or the regulating fire agency standards and specifications back to the nearest public-maintained roadway.
 6. **At the time of application for construction permits,** the applicant shall provide details on any proposed exterior lighting, if applicable. The details shall include the height, location, and intensity of all exterior lighting. All lighting fixtures shall be shielded so that neither the lamp nor the related reflector interior surface is visible from adjacent properties. Light hoods shall be dark colored.
 7. **At the time of application for construction permits,** the applicant shall clearly delineate the building site(s) and/or building control line(s) on the project plans, as shown on the approved site plan. All new development shall be completely located within the building envelope(s) and/or within the building control line(s).

Access

8. **At the time of application for construction permits,** the applicant shall submit to the Department of Public Works an encroachment permit application, plans, fees, and post a cash damage bond to install improvements within the public right-of-way in accordance with County Public Improvement Standards. The plans are to include, as applicable:
 - a. The existing Cambria Pines Road site access shall be reconstructed in accordance with B-1a rural driveway standards.
 - b. Drainage ditches, culverts, and other structures (if drainage calculations require).
 - c. Public utility plan, showing all existing utilities and installation of all new utilities to serve the site.
 - d. Tree removal/retention plan for trees to be removed and retained associated with the required public improvements. The plan shall be approved jointly with the Department of Planning and Building.
 - e. Traffic control plan for construction in accordance with the California Manual on Uniform Traffic Control Devices (CA-MUTCD).

Drainage

9. **At the time of application for construction permits**, the applicant shall submit complete drainage plans and report for review and approval in accordance with Section 23.05.040 (Drainage) of the Land Use Ordinance.
10. **At the time of application for construction permits**, the applicant shall submit complete erosion and sedimentation control plan for review and approval in accordance with 23.05.036.
11. **At the time of application for construction permits**, the applicant shall demonstrate that the project construction plans are in conformance with their Storm Water Control Plan.
12. **At the time of application for construction permits**, if the project disturbs more than 1.0 acre or is part of a common plan of development, the applicant must enroll for coverage under California's Construction General Permit. Sites that disturb less than 1.0 acre must implement all required elements within the site's erosion and sediment control plan as required by San Luis Obispo County Codes.

Storm Water Control Plan

13. **At the time of application for construction or grading permits**, the applicant shall demonstrate whether the project is subject to post-construction stormwater requirements by submitting a Stormwater Control Plan application or Stormwater Post Construction Requirements (PCRs) Waiver Request Form.
 - a. The applicant must submit a SWCP for all regulated projects subject to Performance Requirement #2 and above. The SWCP must be prepared by an appropriately licensed professional and submitted to the County for review and approval. Applicants must utilize the County's latest SWCP template.
 - b. If post-construction stormwater control measures (SCMs) are proposed, the applicant must submit a draft Stormwater Operations and Maintenance Plan for review by the County. The plan must consist of the following Planning & Building Department forms;
 1. Structural Control Measure Description (Exhibit B)
 2. Stormwater System Contact Information
 3. Stormwater System Plans and Manuals
 - c. If applicable, following approval by the County, the applicant shall record with the County Clerk-Recorder the Stormwater Operation and Maintenance Plan and an agreement or provisions in the CCRs for the purpose of documenting on-going and permanent storm drainage control, management, treatment, inspection and reporting.
14. **Prior to acceptance of the improvements (if applicable)**, the Stormwater Operations and Maintenance plan and General Notice must be updated to reflect as-built changes, approved by the County, and re-recorded with the County Clerk-Recorder as amendments to the original document.

Fire Safety

15. **At the time of application for construction permits**, all plans submitted to the Department of Planning and Building shall meet the fire and life safety requirements of the California Fire Code. Applicant shall provide Fire Safety Plan prepared by the Cambria Fire Department at the time of application for construction permit.

Services

16. **At the time of application for construction permits**, the applicant shall provide a letter from Cambria Community Services District stating they are willing and able to service the property.

Conditions to be completed prior to issuance of a construction permit**Fees**

17. **Prior to issuance of a construction permit**, the applicant shall pay all applicable school and public facilities fees.
18. **Prior to issuance of a construction permit**, the applicant shall pay North Coast Road Improvement Fee.
19. **Prior to commencing permitted activities**, and in accordance with Title 13.01 of the County Code, the applicant must pay to the Department of Public Works the North Coast Area B Road Fee Area Road Improvement Fee based on the latest adopted area fee schedule and 1.00 peak hour trips estimated for single family residence.

The fee schedule is subject to change by resolution of the Board of Supervisors. The applicant shall be responsible for paying the fee in effect at the time of issuance of building permits.

Noise

20. **Prior to issuance of construction permits [N-1(e)]**, construction traffic shall utilize Cambria Pines Road and State Route 1 and shall not access the site via Buckley Drive or Kathryn Drive.
21. **Prior to issuance of construction permits [N-1(f)]**, construction activities are limited to the hours of 7 a.m. to 6 p.m.

Biology

22. **Prior to issuance of construction permits [BIO-2(b)]**, highly visible temporary fencing must be placed around the perimeters of the driplines of all remaining Monterey pines and coast live oaks within the proposed development areas.
23. **Prior to issuance of construction permits [BIO-5(a)]**, if tree removal is determined to be necessary on Lot 5, it should be conducted between September 15 and February 15, outside of the breeding season of raptors. If tree removal must occur between February 15 and September 15 (during the breeding season) a raptor nest survey shall be conducted on trees slated for removal by a qualified biologist approved by the San Luis Obispo County Environmental Coordinator prior to construction on Lot 5. The raptor nest survey should be coordinated with California Fish and Wildlife (CDFW). If an active raptor nest is identified on-site, specific mitigation measures shall be developed in consultation with CDFW. If the biologist determines that the trees slated for removal are not used by raptors, the applicant must then submit this information to the County.

24. **Prior to issuance of construction permits [BIO-6(b)],** to avoid or minimize disturbance of monarch butterflies overwintering in Monterey pine forest located within Lot 5, implement the following measures recommended by Dr. Leong in the *Monarch Butterfly Study for the Cambria Pines Estates Development* (1995):

- o At the time of application for construction permits on Lot 5, the applicant shall show that fireplaces or wood burning stoves will be installed that equal or exceed EPA standards for smoke emission.
- o Tree removals on Lot 5 deemed necessary shall be conducted between the months of April and August when monarch butterflies are not roosting at the identified winter site.
- o If tree removal must occur between September and March (during the breeding season), a Monarch butterfly survey shall be conducted on trees slated for removal by a qualified biologist approved by the San Luis Obispo County Environmental Coordinator prior to construction on Lot 5. The survey should be coordinated with California Fish and Wildlife. If the biologist determines that the trees slated for removal are not used for roosting by Monarch butterflies, the applicant must then submit this information to the County and apply for a tree removal permit.

Conditions to be completed during project construction

Building Height

25. The maximum height of the project is 27 feet from average natural grade.

- a. **Prior to any site disturbance,** a licensed surveyor or civil engineer shall stake the lot corners, building corners, and establish average natural grade and set a reference point (benchmark).
- b. **Prior to approval of the foundation inspection,** the benchmark shall be inspected by a licensed surveyor prior to pouring footings or retaining walls, as an added precaution.
- c. **Prior to approval of the roof nailing inspection,** the applicant shall provide the building inspector with documentation that gives the height reference, the allowable height and the actual height of the structure. This certification shall be prepared by a licensed surveyor or civil engineer.

Biology

26. **During construction [BIO-2(a)],** disturbance of Monterey pines and coast live oaks remaining within and along the fringes of all building envelopes shall be avoided to the degree feasible. To avoid disturbance of remaining Monterey pines and coast live oaks, avoid all soil disturbance, compaction and grading activities within, and adjacent to, the associated dripline of each tree, which extends outward 15 feet from the tree's canopy. In addition, vegetation planted within the driplines of remaining trees should not require irrigation.

27. **During construction [BIO-8(a)],** to control introduction of invasive exotic plants on-site, the following measures shall be implemented during project construction and incorporated into the design guidelines of the proposed project:

- Use only clean fill material (free of weed seeds) within the project area;

- Thoroughly clean all construction equipment prior to being moved onto and used at the site
 - Prohibit planting or seeding of disturbed areas with non-native plant species; and
 - Control invasive exotic weeds in all disturbed areas
28. **During construction [BIO-9(b)],** the removal of trees and other native vegetation shall be avoided to the extent feasible on a project-specific basis, per area-wide development standards identified in the North Coast Area Plan Update.

Archaeology

29. **During construction,** in the event archaeological resources are unearthed or discovered, the following standards apply:
- a. Construction activities shall cease and the Environmental Coordinator and Planning Department shall be notified so that the extent and location of discovered materials may be evaluated by a qualified archaeologist, and disposition of artifacts may be accomplished in accordance with state and federal law. The applicant shall implement the mitigation as required by the Environmental Coordinator.
 - b. In the event archaeological resources are found to include human remains, or in any other case where human remains are discovered during construction, the County Coroner is to be notified in addition to the Planning Department and Environmental Coordinator so that proper disposition may be accomplished.

Conditions to be completed prior to occupancy or final building inspection /establishment of the use

Site Development

30. Landscaping in accordance with the approved landscaping plan shall be installed before final building inspection. All landscaping shall be maintained in a viable condition in perpetuity.
31. **Prior to occupancy or final inspection,** whichever occurs first, the applicant shall obtain approval and clearance letter from Cambria Community Services District, that the Demand Offset Requirement has been satisfied.

Fire Safety

32. **Prior to occupancy or final inspection,** whichever occurs first, the applicant shall obtain final inspection and approval from Cambria Fire of all required fire/life safety measures.

Development Review / Site Inspection

33. **Prior to occupancy of any structure associated with this approval,** the applicant shall contact the Department of Planning and Building to have the site inspected for compliance with the conditions of this approval and any mitigation measures that applies to Lot 5.

On-going conditions of approval (valid for the life of the project)

34. This land use permit is valid for a period of 24 months from its effective date unless time extensions are granted pursuant to Land Use Ordinance Section 23.02.050 or the land use permit is considered vested.

This land use permit is considered to be vested once a construction permit has been issued and substantial site work has been completed. Substantial site work is defined by Land Use Ordinance Section 23.02.042 as site work progressed beyond grading and completion of structural foundations; and construction is occurring above grade.

35. All conditions of this approval shall be strictly adhered to, within the time frames specified, and in an on-going manner for the life of the project. Failure to comply with these conditions of approval may result in an immediate enforcement action by the Department of Planning and Building. If it is determined that violation(s) of these conditions of approval have occurred, or are occurring, this approval may be revoked pursuant to Section 23.10.160 of the Land Use Ordinance.
36. **On-going condition of approval (valid for the life of the project)**, the applicant shall remove non-native vegetation, such as Pampas grass and Scotch broom listed in the California Invasive Plant Council (Cal IPC) Invasive Plant Inventory.

Attachment 5

SAN LUIS OBISPO PLANNING DEPARTMENT HEARING MINUTES FOR THE MEETING OF Friday, February 19, 2021

Minutes of the Regular Meeting of the County Planning Department Hearings held in the Board of Supervisors Chambers, County Government Center, San Luis Obispo, California, at 9:00 a.m.

The meeting is called to order at 9:00 a.m. by Ryan Foster, Department Hearing Officer.

The following action minutes are listed as they were acted upon by the Department Hearing Officer of the Planning Department Hearings and as listed on the agenda for the Regular Meeting of , together with the maps and staff reports attached thereto and incorporated therein by reference.

HEARINGS ARE ADVERTISED FOR 9:00 A.M. THIS TIME IS ONLY AN ESTIMATE AND IS NOT TO BE CONSIDERED AS TIME GUARANTEED. THE PUBLIC AND APPLICANTS ARE ADVISED TO ARRIVE EARLY.

Ryan Foster, Department Hearing Officer: opens meeting.

PUBLIC COMMENT PERIOD

1. Members of the public wishing to address the Planning Department Hearing Officer on consent agenda items and matters other than hearing items may do so at this time, when recognized by the Hearing Officer. Presentations are limited to three minutes per individual.

Ryan Foster, Department Hearing Officer: opens and closes public comment with no one coming forward.

CONSENT AGENDA

2. Unless pulled from the consent agenda by the Planning Department Hearing Officer for separate action, the following items will be acted on collectively because individual public hearings were not requested or required pursuant to Land Use Ordinance Section 22.062.050B.4.b. or Coastal Zone Land Use Ordinance Sections 23.02.033b.(2)(ii) and 23.02.033b.(4)(ii):
3. A request by **Chris and Kelly Hay** for a Minor Use Permit to allow the construction of an approximately 6,299-square-foot two-story single-family residence, 598-square-foot guesthouse, and 1,159-square-foot detached garage. The project would result in approximately 34,390 square feet of site disturbance on an approximately 1.03-acre parcel. A Minor Use Permit is required by conditions of approval for Tract 2292. The project is located in the Residential Rural Land Use Category/Sensitive Resource Area Combining Designation located on Lot 11 of Tract Map 2292, on Paseo de Caballo west of Highway One, approximately one-half mile west of Stenner Creek Road, west of the City of San Luis Obispo, in the San Luis Obispo Planning Area. Also to be considered is the environmental determination. The Environmental Coordinator finds that the previously adopted Mitigated Negative Declaration for Tract 2292 is adequate for the purposes of compliance with CEQA because no substantial changes are proposed in the project which will require major revision of the previous Negative Declaration, no substantial changes occur with respect to the circumstance under which the project is undertaken which will require major revision of the previous Negative Declaration, and no new information of substantial importance has been identified which was not known at the time that the previous Negative Declaration was adopted.

County File Number: DRC2020-00029

Supervisory District: 2

Project Manager: Ian Landreth

Assessor Parcel Number: 073-333-012

Date Accepted: September 22, 2020

Recommendation: Approval

Thereafter, on motion of the Department Hearing Officer, the request by Chris and Kelly Hay for a Minor Use Permit (DRC2020-00029) is granted based on the Findings A. through J. in Exhibit A and subject to the Conditions 1 through 24 in Exhibit B.

4. A request by **Monica Chudgar** for a Minor Use Permit/Coastal Development Permit (DRC2020-00156) to allow the construction of a 161 square-foot addition to a single-family residence. The project will result in the disturbance of approximately 200 square feet on a 6,250 square foot parcel. The proposed project is within the Commercial Retail land use category and is located at 1192 3rd Street, near the intersection of Santa Ysabel and 3rd Street, in the community of Los Osos. The site is in the Estero planning area. Also to be considered is the determination that this project is categorically exempt from environmental review under CEQA.

County File Number: DRC2020-00156

Supervisory District: District 2

Project Manager: Young Choi

Assessor Parcel Number: 038-022-010

Date Accepted: December 29, 2020

Recommendation: Approval

Thereafter, on motion of the Department Hearing Officer, the request by Monica Chudgar for a Minor Use Permit / Coastal Development Permit (DRC2020-00156) is granted based on the Findings A. through G. in Exhibit A and subject to the Conditions 1 through 14 in Exhibit B.

HEARING ITEMS

5. Hearing to consider a request by **Steven Cruz** for a Minor Use Permit / Coastal Development Permit to allow the construction of a 646-square-foot deck addition to an existing 387-square-foot deck. The project would result in minimal site disturbance on the approximately 11,325-square-foot parcel. The proposed project is within the Residential Single Family land use category and is located at 280 Travis Drive, in the community of Los Osos, in the Estero Planning Area. Also to be considered is the determination that this project is categorically exempt from environmental review under CEQA.

County File Number: DRC2020-00150

Supervisory District: 2

Project Manager: Ian Landreth

Assessor Parcel Number: 074-451-003

Date Accepted: October 8, 2020

Recommendation: Approval

Ian Landreth, Planning Staff: presents Staff Report via PowerPoint.

Ryan Foster, Department Hearing Officer: opens Public Comment.

Sam Crizer, Agent: speaks.

Ryan Foster, Department Hearing Officer: closes Public Comment.

Thereafter, on motion of the Department Hearing Officer, the request by Monica Chudgar for a Minor Use Permit / Coastal Development Permit (DRC2020-00156) is granted based on the Findings A. through G. in Exhibit A and subject to the Conditions 1 through 11 in Exhibit B.

6. A request by **Ralph Bookout** for a Minor Use Permit / Coastal Development Permit (DRC2019-00214) to allow a new 3,136-square-foot single-family residence with an approximately 1,000-square-foot garage, 1,000-square-foot workshop, 72-square-foot storage, and 32-square-foot shop. The proposed project will result in site disturbance of approximately 0.6 acres within a 6.64-acre parcel. The project site is within the Rural Lands land use category and is located at 6725 Cambria Pines Road, north community of Cambria. This site is in the North Coast Planning Area. Also to be considered is the environmental determination. The Environmental Coordinator finds that the previously certified Final Environmental Impact Report (FEIR) is adequate for the purposes of compliance with CEQA because no substantial changes are proposed in the project which will require major revision of the previously certified FEIR, no substantial changes occur with respect to the circumstance under which the project is undertaken which will require major revision of the previously certified FEIR, and no new information of substantial importance has been identified which was not known at the time that the previous FEIR was certified.

County File Number: DRC2019-00214 **Assessor Parcel Number: 013-085-005**
Supervisory District: 2 **Date Accepted: October 27, 2020**
Project Manager: Young Choi **Recommendation: Approval**

Young Choi, Planning Staff: presents Staff Report via PowerPoint.

Ryan Foster, Department Hearing Officer: asks project questions with Mr. Choi responding.

Ryan Foster, Department Hearing Officer: opens Public Comment.

Tina Dickason, Christine Heinrichs, Elizabeth Bettenhausen, and Crosby Swartz speak.

Ryan Foster, Department Hearing Officer: closes Public Comment.

Ryan Foster, Department Hearing Officer: deliberates.

Thereafter, on motion of the Department Hearing Officer, the request by Ralph Bookout for a Minor Use Permit / Coastal Development Permit (DRC2019-00214) is granted based on the Findings A. through R. in Exhibit A and subject to the Conditions 1 through 36 in Exhibit B.

7. A request by **Al Hadian** for a Minor Use Permit/Coastal Development Permit (DRC2020-00107) to allow a new 4,000-square-foot single-family residence with a detached 2,200-square-foot garage/workshop, 350-square-foot gazebo, 420-square-foot shop, 520 square-foot of covered porch/deck, and 1,425-square-foot of open deck. The proposed project will result in site disturbance of approximately 0.8 acres within a 24.32-acre parcel. The project site is within the Rural Lands land use category and is located at 6785 Cambria Pines Road, north of community of Cambria. This site is in the North Coast Planning Area. Also to be considered is the environmental determination. The Environmental Coordinator finds that the previously certified Final Environmental Impact Report

(FEIR) is adequate for the purposes of compliance with CEQA because no substantial changes are proposed in the project which will require major revision of the previously certified FEIR, no substantial changes occur with respect to the circumstance under which the project is undertaken which will require major revision of the previously certified FEIR, and no new information of substantial importance has been identified which was not known at the time that the previous FEIR was certified.

County File Number: DRC2020-00107 Assessor Parcel Number: 013-085-002
Supervisory District: 2 Date Accepted: December 2, 2020
Project Manager: Young Choi **Recommendation: Approval**

Young Choi, Planning Staff: presents Staff Report via PowerPoint.

Ryan Foster, Department Hearing Officer: opens Public Comment.

Elizabeth Bettenhausen, Tina Dickason, Christine Heinrichs, Laura Swartz: speak.

Ryan Foster, Department Hearing Officer: closes Public Comment.

Ryan Foster, Department Hearing Officer: deliberates.

Thereafter, on motion of the Department Hearing Officer, the request by Al Hadian for a Minor Use Permit/Coastal Development Permit (DRC2020-00107) is granted based on the Findings A. through R. in Exhibit A and subject to the Conditions 1 through 40 in Exhibit B.

ADJOURNMENT: 9:50 a.m.

Next Scheduled Meeting: March 5, 2021, in the County Board of Supervisors Chambers, County Government Center, San Luis Obispo, CA.

Daniela Chavez, Secretary
Planning Department Hearings

Minutes will be Received and Filed at the March 19, 2021 Planning Department Hearing Meeting.



**COUNTY OF SAN LUIS OBISPO
DEPARTMENT OF PLANNING AND BUILDING
STAFF REPORT**

Tentative Notice of Action

Promoting the wise use of land

Helping build great communities.

MEETING DATE February 19, 2021	CONTACT/PHONE Young Choi Planner / (805) 788-2086	APPLICANT Ralph Bookout	FILE NO. DRC2019-00214
LOCAL EFFECTIVE DATE March 5, 2021	APPROX FINAL EFFECTIVE DATE ychoi@co.slo.ca.us		
SUBJECT A request by Ralph Bookout for a Minor Use Permit/Coastal Development Permit (DRC2019-00214) to allow a new 3,136-square-foot single-family residence with an approximately 1,000-square-foot garage, 1,000-square-foot workshop, 72-square-foot storage, and 32-square-foot shop. The proposed project will result in site disturbance of approximately 0.6 acres within a 6.64-acre parcel. The project site is within the Rural Lands land use category and is located at 6725 Cambria Pines Road, north community of Cambria. This site is in the North Coast Planning Area.			
RECOMMENDED ACTION Approve Minor Use Permit DRC2019-00214 based on the findings listed in Exhibit A and the conditions listed in Exhibit B.			
ENVIRONMENTAL DETERMINATION The proposed project is consistent with the previously certified Environmental Impact Report for the Cambria Pines Estates Tract Map 1804/ Development Plan / Coastal Development Permit D910279D.			
LAND USE CATEGORY Rural Lands	COMBINING DESIGNATION Local Coastal Plan/Program (Coastal Zone), Terrestrial Habitat, Sensitive Resource Area	ASSESSOR PARCEL NUMBER 013-085-005	SUPERVISOR DISTRICT(S) 2
PLANNING AREA STANDARDS: Site Selection, Terrestrial Habitat, Coastal Zone <i>Does the project meet applicable Planning Area Standards: Yes - see discussion</i>			
LAND USE ORDINANCE STANDARDS: Local Coastal Program, Appeals to the Coastal Commission, and Environmentally Sensitive Habitat <i>Does the project conform to the Land Use Ordinance Standards: Yes - see discussion</i>			
FINAL ACTION This tentative decision will become the final action on the project, unless the tentative decision is changed as a result of information obtained at the administrative hearing or is appealed to the County Board of Supervisors pursuant Section 23.01.042 of the Coastal Zone Land Use Ordinance; effective on the 10th working day after the receipt of the final action by the California Coastal Commission. The tentative decision will be transferred to the Coastal Commission following the required 14-calendar day local appeal period after the administrative hearing. The applicant is encouraged to call the Central Coast District Office of the Coastal Commission in Santa Cruz at (831) 427-4863 to verify the date of final action. The County will not issue any construction permits prior to the end of the Coastal Commission process.			
ADDITIONAL INFORMATION MAY BE OBTAINED BY CONTACTING THE DEPARTMENT OF PLANNING & BUILDING AT: COUNTY GOVERNMENT CENTER γ SAN LUIS OBISPO γ CALIFORNIA 93408 γ (805) 781-5600 γ FAX: (805) 781-1242			

EXISTING USES: Vacant / undeveloped	
SURROUNDING LAND USE CATEGORIES AND USES: North: Rural Lands/undeveloped East: Rural Lands/residence South: Rural Lands/Residential Single Family West: Rural Lands	
OTHER AGENCY / ADVISORY GROUP INVOLVEMENT: The project was referred to: North Coast Advisory Council, Public Works, Building Division, Cal Fire/ County Fire, 2 nd District Legislative Assistant, Cambria Community Services District (Fire, Water and Sewer), and the California Coastal Commission	
TOPOGRAPHY: Nearly level to moderately sloping	VEGETATION: Coast live oak and Monterey pine
PROPOSED SERVICES: Water supply: Cambria Community Service District Sewage Disposal: Cambria Community Service District Fire Protection: Cambria Fire	ACCEPTANCE DATE: August 6, 2019

DISCUSSION

PROJECT DESCRIPTION:

The applicant, Ralph Bookout, is requesting a Minor Use Permit/Coastal Development Permit to construct a new 3,136-square-foot single-family residence with 997-square-foot garage space, 991-square-foot shop, 72-square-foot storage, and 32-square-foot shop. The proposed project is located within 1.4 acres building envelope on a 7.19-acre undeveloped lot.

The project is located on Lot 5 of Tract 1804. This previously approved 18-lot residential subdivision is located within a dense Coast live oak and Monterey pine forest. The lots range in size from 1.3 to 91.1 acres and contain smaller building envelopes that are established to focus development in the least environmentally sensitive areas of the property. The area outside of the building envelopes (approximately 337 acres) is under a permanent open space and conservation easement.

PROJECT ANALYSIS AND ENVIRONMENTAL REVIEW:

Development Plan D910279D (Tract 1804) / Environmental Review

Tract 1804 and Development Plan authorized a cluster division consisting of 18 lots with designated building envelopes. The area outside of the designated envelopes is approximately 342 acres in size and within an Open Space Easement granted to the County of San Luis Obispo, dated June 20, 2000. The total tract acreage is 380 acres. The subject property is Lot 5, consisting of 6.64 acres and a building envelope of 1.4 acres, with a proposed area of disturbance totaling 0.6 acres. The area of disturbance is in a Monterey pine forest area and impacts to the oak and pine trees shall be mitigated through the conditions of approval.

The majority of the conditions and mitigation measures were implemented prior to recordation of Tract 1804. Conditions and mitigation measures related to construction vehicles, fencing, tree mitigation, and compliance with the Cambria Pines Estates Design Guideline Manual (dated March of 1996) are discussed in detail below.

The Environmental Impact Report (EIR) for the previous subdivision/development plan contained various mitigation measures. While the majority of these measures were implemented before Tract 1804 was recorded, other measures must be satisfied before construction permits are issued for development on the individual lots. These measures (included in the attached conditions of approval) are described below:

Environmental Mitigations

Tract 1804 EIR Mitigation Measure BIO-5 requires pre-construction surveys for raptor and avian species. If tree removal must occur between February 15 and September 15, raptor bird nest surveys shall be conducted prior to construction on Lot 5. Mitigation Measure BIO-6(b) of the Tract 1804 EIR requires pre-construction surveys for overwintering Monarch Butterfly. Mitigation Measure BIO-2(a), BIO-2(b), and BIO-9(b) requires protection of existing Monterey pines and coast live oaks on site, as well as maintenance of existing native vegetation. Mitigation Measure BIO-8(a) requires controlling and limiting possible introduction of invasive exotic plants on-site.

Mitigation Measure BIO-1(a) of the Tract 1804 EIR requires the perimeter of building envelopes to be clearly marked and staked during construction. The use of construction equipment and vehicles is restricted to areas within the building envelope. Tract 1804 EIR Mitigation Measure BIO-1(b) requires that construction access routes to be clearly marked with highly visible flagging placed on stakes. Mitigation Measure N-1(e) requires that all construction vehicles utilize Cambria Pines Road and State Route 1 and shall not access the site via Buckley Drive or Kathryn Drive.

Staff comments: The project is conditioned to comply with these requirements.

Cambria Pines Estates Design Guidelines

The EIR for Tract 1804 included the Cambria Pines Estates Design Guidelines. These guidelines apply to all development within Tract 1804 and address development siting, building design, landscape design, and tree protection. The guidelines also require Design Review Committee approval for all new development.

Staff comments: North Coast Advisory Council has reviewed the proposed design. The applicant is proposing a single-story residence, consisting of natural wood, and stone siding, compatible with the tranquil, rustic, and natural forest settings.

The following summary describes the project's compliance with applicable design guidelines:

Site Plan Elements

- Site plan elements (structures, landscaping, and circulation) shall be arranged on the site so that activities are integrated and harmonious with the neighborhood and surrounding area and are arranged to produce an attractive, efficient, and cohesive development.

Staff comments: The project meets this guideline because the proposed residence and garage would be substantially screened from public view by an existing stand of pine trees. Moreover, the applicant's proposed natural wood, complimentary natural stone, and stucco color scheme will blend with the surrounding pine forest and are also consistent with the rural, pastor character of the surrounding neighborhood.

Building Envelope

- All structures shall be located within the designated building envelope.

- Land outside of the building envelope is open space and shall not be developed.

Staff comments: The project meets these guidelines because all proposed improvements would be located completely within the designated 1.4 acre building envelope. The applicant submitted a grading plan, which shows that most of grading and site disturbance would occur entirely within the designated building envelope. The project proposes minor site disturbance outside of the building envelope to grade and prepare for the driveway. The Open Space Easement allows owners to construct, develop, and maintain road (access) to the residence.

Slope and Grading

- The natural landscape characteristics of all individual lots shall be recognized and respected. Careful consideration of the orientation and location of all proposed structures to the landform shall be a high priority.
- Grading is only allowed in building envelopes.
- Proposed structures shall be located and constructed with minimal disturbance to the natural landforms and vegetation.
- Grading shall be localized in the area of construction. All grading transitions from existing to proposed landforms must be gradual and reflect the gradients of the existing natural slopes of the immediate area.

Staff comments: The project meets these guidelines because grading will be limited to areas within the building envelope and will follow the natural topography as much as possible. The project proposes minor site disturbance outside of the building envelope to grade and prepare for the driveway.

Drainage

- All drainage is to be directed away from the structures and towards existing site drainage channels and swales.
- Under no circumstances should any new drainage be directed onto an adjacent lot except as allowed by County Ordinance.

Staff comments: The project is conditioned to comply with these requirements.

Setbacks

- Structures shall be located at least 15 feet from the dripline of existing Monterey pine trees. The design guidelines allow for an exception to this standard when the applicant submits evidence from a qualified professional that the development would not adversely impact the health of pine trees. The whole parcel is covered in Monterey Pines, and it will be impossible for them not to disturb the trees.
- Structures shall be located within the building envelope and 20 feet from front lot line; 30 feet from side lot line; 30 feet from rear lot line.

Staff comments: The proposed structures meet the required setbacks of the Design Guidelines.

Garages and Accessory Structures

- To promote a useful and attractive arrangement of structures, consider the relationship of the garage and accessory structures to the house.
- Garages, whenever possible, should avoid facing the street. Garages behind the main

structure or with side entrances shall be encouraged.

Staff comments: The proposed project meets these guidelines because although the garage is not located behind or to the side of the residence, the proposed residence, and garage would be screened from public view (Cambria Pines Road) by an existing grove of pine trees.

Building Form and Massing

- The form and massing of houses should not dominate or overpower the site, but blend in both scale and design.
- Simple, clean forms with low silhouettes are best suited to the rustic character, with architectural accent features such as unique windows or stonework providing the detail.
- Terracing of the structures with upper-level step-backs on the downhill side of the house is strongly encouraged.
- Vertical and horizontal articulation should be used in order to add richness and variety of scale to the overall mass of the building.

Staff comments: The project meets these guidelines because the proposed residence and garage have a variety of horizontal and vertical wall and roof articulation and include colors and material textures that are compatible with the rustic character of the surrounding area. The residence is also visually screened by a grove of Monterey Pine Trees that lie between the residence and Cambria Pines Road.

Allowable Floor Area

- The maximum allowable floor area for the main residence for lots 1-10 is 4,000 square feet.

Staff comments: The project meets this standard because the proposed residence at 3,136 - square-feet.

Height Limitations

- The maximum allowable height for lots 1-11 is 27 feet.

Staff comments: The project meets this standard because the proposed residence is 25 feet as measured from average natural grade.

Exterior Materials, Finishes, Colors, and Roofing

- Natural exterior materials that complement their surroundings are most appropriate. The careful combination of materials to enhance the environment is strongly encouraged. Materials such as brick, stone, wood, lightly textured and split face concrete block are best suited to the desired character.
- The color schemes chosen for the structures shall be responsive to those predominant in the surrounding forest and meadows. Subtle, warm, earth-tones such as browns, grays, and dark greens with complimentary accents are compatible with a tranquil, rustic, natural forest atmosphere.
- Suitable roofing materials include flat unglazed concrete or clay roofing tiles, slate, dimensional architectural grade asphalt shingles, and dark color standing seam metal roofs. All roofing materials must be non-combustible. Wooden roofs of any form will not be allowed for fire safety reasons.

Staff comments: The project meets these guidelines. The applicant submitted a letter describing the project's compliance with the relative design guidelines. In this letter, the applicant noted that the exterior of the residence will be stucco and wood frame with a natural wood grain look that would complement natural stone cladding. The roof will be brown/ black shingles. These materials are compatible with the tranquil, rustic, natural forest setting of the surrounding area.

PLANNING AREA STANDARDS:

Combining Designations

Monterey Pine Forest Terrestrial Habitat (SRA) (TH)

The purpose of these standards is to minimize tree removal and avoid impacts to the sensitive Monterey pine forest habitat. All development within Monterey pine forest (TH) shall include the following minimum standards:

- A. **Establishment of a 'project limit area.'** A project limit area shall be established in a manner that avoids Monterey pine forest impacts to the maximum extent feasible, is located on the least sensitive portion of the site, and safeguards the biological continuance of the habitat. The project limit area shall include all areas of the site where vegetation will need to be trimmed or removed for fire safety purposes.
- B. **New Development siting.** Applications for new development within the Monterey pine forest shall demonstrate that no native vegetation outside the "project limit area" shall be removed, except for trees identified as hazardous by a qualified professional.
- C. **Plan Requirements.** All site, construction and grading plans submitted to the County shall identify by species and diameter all Monterey pine trees that are six inches or more in diameter 4.5 feet above ground and oak trees four inches or more in diameter 4.5 feet above ground identified by species and diameter. The plans shall indicate which trees are to be retained and which trees are proposed for removal.
- D. **Construction Practices.** Construction practices to protect Monterey pines, oak trees and significant understory vegetation shall be implemented.
- E. **Replacement of Vegetation.** Any Monterey pine trees that are six inches or more in diameter 4.5 feet above the ground shall be replaced at a 4:1 ratio for each tree removed, and at a 2:1 ratio for each tree impacted but not removed. Any oak trees that are four inches in diameter 4.5 feet above ground shall be replaced at a 6:1 ratio for each tree removed, and at a ratio of 3:1 ratio for each tree impacted but not removed. All open areas of the site disturbed by project construction are to be seeded with native, drought and fire-resistant species that are compatible with the habitat value of the surrounding forest.
- F. **Understory Vegetation Removal.** No understory vegetation shall be removed until a permit has been issued or unless an immediate hazardous condition exists. Understory vegetation removal to create, improve, or maintain adequate defensible space and Fire Hazard Fuel Reduction shall be the minimum necessary.

The dead and dying trees in Cambria pose a significant threat to life and property in forested communities. In recognition of these hazards, the applicant has removed dead Monterey Pine trees prior to the application of the permit. Such action was permissive under the Department's streamlined hazardous tree removal process. The applicant has provided the receipt of the replacement seedling, identical to Cambria-area 'pinus radiata var. macrocarpa' through Greenspace (The Cambria Land Trust).

In addition, the proposed project complies with these standards because the project will result in the additional removal of up to 70 Monterey Pine trees and will be mitigated at a 4:1 ratio (280 Monterey Pine trees). In addition, the proposed project is conditioned to provide annual monitoring by a County-approved professional for five years, and to be continued until replacement trees are successfully established.

LAND USE ORDINANCE STANDARDS

Section 23.07.120: Local Coastal Program

The project site is located within the California Coastal Zone as established by the California Coastal Act of 1976, and is subject to the provisions of the Local Coastal Program.

Section 23.01.043: Appeals to the Coastal Commission (Coastal Appealable Zone)

The project is appealable to the Coastal Commission because the proposed development is within Sensitive Coastal Resource Area, Terrestrial Habitat.

Section 23.07.170.e (1-5) Environmentally Sensitive Habitat Area (ESHA) Development Standards

1. New development within or adjacent to the habitat shall not significantly disrupt the resource.
2. New development within the habitat shall be limited to those uses that are dependent upon the resource.
3. Where feasible, damaged habitats shall be restored as a condition of development approval.
4. Development shall be consistent with the biological continuance of the habitat.
5. Grading adjacent to Environmentally Sensitive Habitats shall conform to the provisions of Section 23.05.034.c (Grading Standards.)

Staff comments: The proposed single-family residence meets these standards because the project will not significantly disrupt the Monterey Pine forest). Although the project will remove up to 70 Monterey pines, the project is conditioned to replant at a 4:1 ratio (280 Monterey pine trees). In addition, the proposed project is conditioned to provide annual monitoring by a County-approved professional for five years, and to be continued until replacement trees are successfully established.

WATER AVAILABILITY:

The proposed project is located on Lot 5 of Tract 1804. This subdivision was recorded on June 23, 2000. As a result of the recordation of the map, the water meter was installed on the lot before April 16, 2001.

The proposed project has received a Conditional Confirmation of Water & Sewer Availability letter from the Cambria Community Services District (CCSD) dated December 21, 2020. This project is using a grandfathered meter (Leimert Tract 1804 – Lot 5) and it has been part of the CCSD's Existing Commitment list since April 16, 2001. In addition, the proposed project is conditioned by the CCSD to provide retrofits in the district service area for water conservation.

On November 15, 2001, the CCSD adopted a moratorium prohibiting new connection to the District's water system. The CCSD existing non-active service commitment which were already connected to the District water system (grandfathered meters) such as this property were exempt from the moratorium.

In 2007, the Coastal Commission approved an addendum to the North Coast Area Plan recognizing the CCSD water moratorium and the exempt status of the CCSD Commitment list existing as of November 15, 2001, such as this project. The North Coast Area Plan only requires assessing the impacts to the Santa Rosa Creek and San Simeon Creek, if the projects are not part of the CCSD Commitment list. As this property is part of the existing commitment list, there are no requirement to assess the impacts to Santa Rosa Creek and San Simeon Creek.

Staff has determined that the proposed project is consistent with the County's Local Coastal Plan, specifically, the North Coast Area Plan, as the existing water meter for this project (Tract 1804 Lot 5) was installed before April 16, 2001 and is part of the CCSD's Commitment List existing as of November 15, 2001. Lastly, CCSD has conditioned the project to provide retrofits for water conservation within the District's service area.

The County's Growth Management Ordinance allows up to four units (per fiscal year) for Tract 1804 to be served by the CCSD. The CCSD's issuance of a Confirmation of Water & Sewer Availability letter is consistent with the County's Growth Management Ordinance as it allows up to four units in Tract 1804 (GMO 26.01.070 [10.ii]).

COASTAL PLAN POLICIES:

Shoreline Access:	<input checked="" type="checkbox"/> N/A
Recreation and Visitor Serving:	<input checked="" type="checkbox"/> N/A
Energy and Industrial Development:	<input checked="" type="checkbox"/> N/A
Commercial Fishing, Recreational Boating & Port Facilities	<input checked="" type="checkbox"/> N/A
Environmentally Sensitive Habitats:	<input checked="" type="checkbox"/> Policy No(s): 1, 3, 29, and 30
Agriculture:	<input checked="" type="checkbox"/> N/A
Public Works:	<input checked="" type="checkbox"/> Policy No(s): 1
Coastal Watersheds:	<input checked="" type="checkbox"/> Policy No(s): 7, 8, and 10
Visual and Scenic Resources:	<input checked="" type="checkbox"/> N/A
Hazards:	<input checked="" type="checkbox"/> Policy No(s): 1, and 2
Archeology:	<input checked="" type="checkbox"/> N/A
Air Quality:	<input checked="" type="checkbox"/> N/A

This project is in compliance with the Coastal Plan Policies. The most relevant policies are discussed below:

Environmentally Sensitive Habitats:

Policy 1: Land Uses Within or Adjacent to Environmentally Sensitive Habitats: New development within or adjacent to locations of environmentally sensitive habitats (within 100 feet unless sites further removed would significantly disrupt the habitat) shall not significantly disrupt the resource. Within an existing resource, only those uses dependent on such resources shall be allowed within the area.

Staff comments: The proposed project is consistent with this policy because the 70 Monterey pines, the project is conditioned to replant at a 4:1 ratio (280 Monterey pine trees). In addition, the proposed project is conditioned to provide annual monitoring by a County-approved professional for five years, and to be continued until replacement trees are successfully established.

Policy 3: Habitat Restoration: The county or Coastal Commission should require the restoration of damaged habitats as a condition of approval, when feasible.

Staff comments: The proposed project is consistent with this policy because the project is conditioned to replant 70 Monterey pines at a 4:1 ratio (280 Monterey pine trees). In addition, the proposed project is conditioned to provide annual monitoring by a County-approved professional for five years, and continued until replacement trees are successfully established.

Policy 29: Protection of Terrestrial Habitats: Designated plant and wildlife habitats are environmentally sensitive habitat areas and emphasis for protection should be placed on the entire ecological community. Only uses dependent on the resource shall be permitted within the identified sensitive habitat portion of the site.

Staff comments: The project is consistent with this policy because the proposed residence is a permitted use on the site. The proposed project is consistent with this policy because the project is conditioned to replant 70 Monterey pines at a 4:1 ratio (280 Monterey pine trees). In addition, the proposed project is conditioned to provide annual monitoring by a County-approved professional for five years, and continued until replacement trees are successfully established.

Policy 30: Protection of Native Vegetation: Native trees and plant cover shall be protected wherever possible. Native plants shall be used where vegetation is removed.

Staff comments: The proposed project is consistent with this policy because the 70 Monterey pines, the project is conditioned to replant at a 4:1 ratio (280 Monterey pine trees). In addition, the proposed project is conditioned to provide annual monitoring by a County-approved professional for five years, and to be continued until replacement trees are successfully established.

Public Works:

Policy 1: Availability of Service Capacity: New development (including divisions of land) shall demonstrate that adequate public or private service capacities are available to serve the proposed development. Priority shall be given to infilling within existing subdivided areas. Prior to permitting all new development, a finding shall

be made that there are sufficient services to serve the proposed development given the already outstanding commitment to existing lots within the urban service line for which services will be needed consistent with the Resource Management System where applicable.

Staff comments: This property is part of the CCSD's Commitment List existed as of November 15, 2001 and in conformance with the County's LCP. The CCSD determined that the water demand for its existing commitments, exempt from moratorium was 202.31 Equivalent Dwelling Units ("EDU's"). The California Coastal Commission, in conjunction with the Coastal Development Permit Application A-3-SLO-02-050 (Monaco) recognized that the CCSD Existing Commitments for 202.31 EDU's were exempt from the Moratorium. Therefore, there are sufficient services to serve the proposed development.

Coastal Watersheds:

Policy 7: Siting of new development: Grading for the purpose of creating a site for a structure or other development shall be limited to slopes of less than 20 percent

Staff comments: The project complies with this policy because the proposed development will be located on an existing lot of record in the Rural Lands land use category on slopes less than 20%.

Policy 8: Timing of new construction: Land clearing and grading shall be avoided during the rainy season if there is a potential for serious erosion and sedimentation problems. All slope and erosion control measures should be in place before the start of the rainy season. Soil exposure should be kept to the smallest area and the shortest feasible period.

Staff comments: The project is consistent with this policy because the project is required to have an erosion and sedimentation control plan and all sedimentation and erosion control measures will be in place before the start of the rainy season.

Policy 10: Drainage Provisions: Site design shall ensure that drainage does not increase erosion. This may be achieved either through on-site drainage retention, or conveyance to storm drains or suitable watercourses.

Staff comments: The project is consistent with this policy because the project is required to have a drainage plan that shows the construction of the residence, garage, and workshop will not increase erosion or runoff.

Visual and Scenic Resources:

Policy 1: Protection of Visual and Scenic Resources. Unique and attractive features of the landscape, including but not limited to unusual landforms, scenic vistas and sensitive habitats are to be preserved protected, and in visually degraded areas restored where feasible.

Staff comments: The proposed project complies with this policy, as the project will be developed on a residential lot. The proposed project is in character and scale with the surrounding neighborhood and will not significantly block existing scenic vistas.

- Policy 2: Site Selection for New Development. Permitted development shall be sited so as to protect views to and along the ocean and scenic coastal areas. Wherever possible, site selection for new development is to emphasize locations not visible from major public view corridors. In particular, new development should utilize slope created "pockets" to shield development and minimize visual intrusion.

Staff comments: The proposed project complies with this standard, as the proposed residence will be developed on an existing residential lot, and the development will not block existing public views.

Hazards:

- Policy 1: New Development: All new development proposed within areas subject to natural hazards from geologic or flood conditions (including beach erosion) shall be located and designed to minimize risks to human life and property. Along the shoreline new development (with the exception of coastal-dependent uses or public recreation facilities) shall be designed so that shoreline protective devices (such as seawalls, cliff retaining walls, revetments, breakwaters, groins) that would substantially alter landforms or natural shoreline processes, will not be needed for the life of the structure. Construction of permanent structures on the beach shall be prohibited except for facilities necessary for public health and safety such as lifeguard towers.

Staff comments: The proposed project is consistent with this policy because it is located and designed to minimize risks to human life and property.

- Policy 2: Erosion and Geologic Stability: New development shall ensure structural stability while not creating or contributing to erosion or geological instability.

Staff comments: The proposed project is consistent with this policy because the structure is required to be designed to ensure structural stability while not creating or contributing to erosion of geological instability.

Does the project meet applicable Coastal Plan Policies: Yes, as conditioned

COMMUNITY ADVISORY GROUP COMMENTS:

The North Coast Advisory Council (NCAC) considered this item at their October 16, 2019 regular meeting. The NCAC voted to recommend approval with recommendations. NCAC recommended that the property owner consider utilizing permeable paving material paving for driveways and turnarounds.

AGENCY REVIEW:

Building Division – Per attached referral response, the proposed project shall meet Building Division requirements. (Mike Stoker, October 1, 2019)

Public Works – Per attached referral response, Public Works will review the project during building permit process. (David Grimm, October 2, 2019)

Cambria Community Services District (Water) – CCSD has provided Conditional Confirmation of Water & Sewer Availability letter. (Melissa Bland, December 21, 2020)

California Coastal Commission – See attached referral response. Additional correspondence will be attached when received. (Brian O'Neill, October 15, 2019)

LEGAL LOT STATUS:

The lot 5 was legally created by Tract 1804 at a time when that was a legal method of creating lots.

Staff report prepared by Young Choi, and reviewed by reviewed by Schani Siong.

EXHIBIT A –FINDINGS
DRC2019-00214 Bookout Minor Use Permit / Coastal Development Permit

CEQA

- A. No subsequent changes are proposed in the project which will require important revisions of the Environmental Impact Report (EIR) previously prepared for the Cambria Pines Estates Tract Map/Development Plan/Coastal Development Permit, Tract 1804 and D910279D, due to the involvement of new significant environmental impacts not considered in the previously prepared EIR for the project.
- B. No substantial changes have occurred with respect to the circumstances under which the project is being undertaken which will require important revisions in the EIR due to the involvement of new significant environmental impacts not covered in the previously prepared EIR for the Cambria Pines Estates Tract Map/Development Plan/Coastal Development Permit, Tract 1804 and D910279D.
- C. No new information of substantial importance to the project has become available that was not known or could not have been known at the time the EIR was previously certified for the Cambria Pines Estates Tract Map/Development Plan/Coastal Development Permit, Tract 1804 and D910279D.
- D. The proposed project will not cause significant environmental effects.
- E. The project is consistent with the previously-certified EIR for the Cambria Pines Estates Tract Map/Development Plan/Coastal Development Permit, Tract 1804 and D910279D.

Minor Use Permit

- F. The proposed project or use is consistent with the San Luis Obispo County General Plan and Local Coastal Plan because the use is an allowed use and as conditioned is consistent with all of the General Plan and Local Coastal Plan policies.
- G. As conditioned, the proposed project or use satisfies all applicable provisions of Title 23 of the County Code.
- H. 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 because the project does not generate activity that presents a potential threat to the surrounding property and buildings. This project is subject to Ordinance and Building Code requirements designed to address health, safety and welfare concerns.
- I. The proposed project or use will not be inconsistent with the character of the immediate neighborhood or contrary to its orderly development because the project is similar to, and will not conflict with, the surrounding lands and uses.
- J. The proposed project or use will not generate a volume of traffic beyond the safe capacity of all roads providing access to the project, either existing or to be improved with the project because the project is located on Cambria Pines Road, a collector road, constructed to a level able to handle any additional traffic associated with the project.
- K. Adequate public service capacities are available to serve the proposed development because the project is using grandfathered meter (Leimert Tract 1804 – Lot 5) and was

part of the CCSD's Existing Commitment List, and the proposed project is conditioned by CCSD to provide retrofits in the District's service area for water conservation.

The subject property is located within the Leimert Tract (Tract 1804). Lots within the Tract 1804 are subject to water conservation requirements specific to individual properties within the Tract 1804. All lots within the Tract 1804 were connected to the Cambria Community Services District (CCSD) for Water service (certain lots include Sewer service) in 1999. Since that time, all lots within Tract 1804 have been subject to monthly fees by CCSD.

In 2000, the CCSD in Ordinance No. 2-2000 determined CCSD's water serve commitments ("Existing Commitments"). Existing Commitments included both Active Service Commitments and Non-Active Service Commitments. The Non-Active Service Commitments included 24 meters that had been connected to the Cambria Community Services District system but were not yet actively serving any development. These 24 meters were as known as "Grandfathered Meters". On November 15, 2001, the Cambria Community Services District adopted a moratorium prohibiting connection to the District's water system for anything other than Existing Commitments. Grandfathered meters, such as served the subject property, were therefore exempt from the moratorium.

In or about the time the moratorium was adopted, the Cambria Community Services District determined that the water demand for Existing Commitments, which are exempt from the moratorium, was 202.31 Equivalent Dwelling Units ("EDUs"). The meter for the subject property were included within the calculation of the 202.3 EDUs. The California Coastal Commission, in conjunction with Coastal Development Permit Application A-3-SLO-02-050 ("Monaco"), recognized that Existing Commitments for 202.31 EDUs were exempt from the Moratorium.

In addition, in 2007, the Coastal Commission approved the North Coast Area Plan, which included requirement that allowed for development of "water service commitment existing as of November 15, 2001" (North Coast Area Plan page 7-29 – 4. Limitation on Development (A)), whereas the proposed project is served by an Existing Commitment List.

Furthermore, the CCSD issued Conditional Confirmation of Water & Sewer Availability letter dated December 21, 2020. Therefore, the proposed project has adequate public service capability to serve proposed development.

Coastal Access

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

Sensitive Resource Area

- M. The project or use will not create significant adverse effects on the natural features of the site or vicinity that were the basis for the Sensitive Resource Area designation, and will preserve and protect such features through the site design, because tree removal is limited to 70 Monterey Pine trees, which will be replaced with 280 Monterey Pine trees.
- N. As designed, natural features and topography have been considered in the design and siting of all proposed physical improvements.

- O. The proposed clearing of topsoil is the minimum necessary to achieve safe and convenient access and siting of proposed structures, and will not create significant adverse effects on the identified sensitive resource.
- P. The soil and subsoil conditions are suitable for any proposed excavation and site preparation, and drainage improvements have been designed to prevent soil erosion and sedimentation of streams through undue surface runoff. To ensure compliance, the project has been conditioned to submit a drainage plan to Department of Public Works at time of application for building permits.

Environmentally Sensitive Habitat

- Q. There will be no significant negative impact on the identified sensitive habitat, and the proposed use will be consistent with the biological continuance of the habitat as the project has been designed to avoid impacts to the maximum extent feasible. While the proposed project removes 70 Monterey Pine trees, the applicant is required to mitigate for the loss of the trees at 4:1 mitigation ratio (280 Monterey Pine trees), along with a monitoring program until the new Monterey Pine trees are successfully established.
- R. The proposed use will not significantly disrupt the habitat, as the property is located within approved building envelope.

EXHIBIT B - CONDITIONS OF APPROVAL
DRC2019-00214 Bookout Minor Use Permit / Coastal Development Permit

Approved Development

1. This approval authorizes:
 - a. Construction of a 3,136-square-foot single-family residence with an approximately 1,000-square-foot garage, 1,000-square-foot workshop, 72-square-foot storage, 32-square-foot shop, and associated grading and site preparation.
 - b. The project will result in the removal of 70 Monterey pine trees. The removed Monterey pine trees will be replanted at a 4:1 ratio (total 280 trees) on site with a to a minimum of five year monitoring and reporting project.
 - c. Maximum height allowed is 27 feet from average natural grade.

Conditions required to be completed at the time of application for construction permits

Landscape / Site Development

2. **At the time of application for construction permits**, submit a landscape plan to the Department of Planning and Building for review and approval. The plan shall indicate the following and development shall be consistent with this revised and approved plan:
 - a. All areas of the site disturbed by project construction shall be revegetated with native, drought and fire-resistant species that are compatible with the habitat values of the surrounding forest. Non-native, invasive, fire prone, and water intensive (i.e. turf grass) landscaping shall be prohibited on the entire site. All landscaping and construction practices shall work to maintain and regenerate habitat values. Plant materials shall be used to mimic or enhance naturally occurring vegetation. Materials shall be propagated from appropriate native stock to ensure that the gene pool is not diluted for endemic species. This is particularly true for Monterey Pines and riparian plantings. A list of prohibited plants, such as Pampas grass and Scotch broom, is available from the Department of Planning and Building. Use of plants listed in the California Invasive Plant Council (Cal IPC) Invasive Plant Inventory is prohibited.
 - b. Fencing is not permitted on property lines. Guidance markers may be used for reference of lot boundaries. Fencing is allowed within the building envelope only.
3. **At the time of application for construction permits (BIO-1[c])**, a Monterey Pine Forest Mitigation Program for the project site must be established, to minimize the loss of Monterey pines that could potentially occur on Lot 5. This plan will primarily follow guidelines suggested for the Mitigation Bank for Monterey Pine Removal identified by RRM Design Group in a June 4, 1996 memorandum to the County, and contained in Appendix 6.1 of the EIR. Additional specific guidelines for replacing individual trees have been identified in the *County's Guidelines for Monterey Pine Forest Protection (Guidelines)*, a copy of which is located in Appendix 6.1. Proposed by the Environmental Division of the Department of Planning and Building for the protection of Monterey pine forest that is designated as SRA, the Guidelines contain specifications on development siting, site disturbance, removal of native vegetation, and replacement of vegetation. In

addition, thresholds for tree replacement are identified within the Guidelines. Measures recommended as part of the proposed *Mitigation Bank for Monterey Pine Removal* should be supplemented with specific techniques identified in the County's Guidelines for removing and replacing individual trees, as appropriate. Specific components of the proposed Monterey Pine Forest Mitigation Program are described below.

- As part of the Monterey Pine Forest Mitigation Program, appropriate measures must be implemented, as identified in the County's Guidelines for transplanting and replacing individual trees prior to and during construction of residences within Lots 1 through 5 and guidelines established as part of *Mitigation Banking for Monterey Pine Removal*. Measures recommended as part of the Monterey Pine Forest Mitigation Program are identified below.
- Prior to commencement of construction, identify all Monterey pine and coast live oak seedlings and saplings with diameters of 2 inches or smaller located within each building envelope, and determine which of the identified trees will be relocated outside of the project limits (per Guidelines C-8). Transplanted and replacement planting shall be clearly shown on construction site / landscape plan.
- Prior to commencement of construction, relocate through transplanting all identified Monterey pine saplings and coast live oak seedlings to appropriate areas located outside of each building envelope. Trees should be relocated to adjacent appropriate areas located along the margins of existing Monterey pine forest. Coast live oak seedlings should be protected with appropriate caging.
- Prior to commencement of construction at each site, identify all Monterey pine and coast live oak trees with diameters at breast height (dbh) of 6 inches or greater within each associated building envelope, and clearly identify with visible flagging, and map all trees that are proposed for removal. Impacted and/or removed Monterey pine and coast live oak trees shall be clearly shown on construction site plan.
- During project construction, replace all trees with 6 inch dbh and greater that are proposed for removal with in-kind specimens at a 4 to 1 replacement ratio. As designed, the proposed project is expected to remove 70 Monterey Pine trees, to be mitigated at 4:1 replacement ratio (280 Monterey pine trees). All replacement plantings shall be done on-site, unless evidence is demonstrated that on-site replanting is not feasible and an off-site location and replanting management is engaged.
- Use only native Monterey pines (*Pinus radiata* var. *macrocarpa*) for replanting and replacing Monterey pines removed during construction. Collect cones from Monterey pines occurring within Monterey pine forest habitat located at the Cambria Pines Estates project site.
- To replace coast live oaks removed during construction, collect acorns from the project area during August and early September and sprout.
- Plant extracted Monterey pine seeds in tubes or liners and grow at the subject property.

- Grow Monterey pine seedlings trees to approximate heights of 12 inches and plant at selected mitigation sites. Locate potential mitigation sites at appropriate locations along the margins of Monterey pine forest occurring at the project site. Potential sites should closely reflect the characteristics of on-site areas which have naturally occurring forest expansion.
 - Plant trees during the late fall or early winter, as appropriate.
 - Water young trees following initial planting, and later provide supplemental water on an as needed basis.
 - **At least one time per year, for a minimum of five years,** monitor the health and maintenance of all replacement vegetation for a sufficient time and frequency to ensure successful establishment of vegetation (per Guidelines F-3). Young seedling establishment should achieve an 80 percent success rate. Applicant shall provide yearly monitoring data to County of San Luis Obispo Planning Department.
4. **At the time of application for construction permits,** submitted plans shall conform to the approved site plan, floor plan, architectural plans, and elevations.
 5. **At the time of application for construction permits,** the applicant shall provide evidence to the Department of Planning and Building that onsite circulation and pavement structural sections have been designed and shall be constructed in conformance with Cal Fire, or the regulating fire agency standards and specifications back to the nearest public maintained roadway.
 6. **At the time of application for construction permits,** the applicant shall provide details on any proposed exterior lighting, if applicable. The details shall include the height, location, and intensity of all exterior lighting. All lighting fixtures shall be shielded so that neither the lamp nor the related reflector interior surface is visible from adjacent properties. Light hoods shall be dark colored.
 7. **At the time of application for construction permits,** the applicant shall clearly delineate the building site(s) and/or building control line(s) on the project plans, as shown on the approved site plan. All new development shall be completely located within the building envelope(s) and/or within the building control line(s).

Access

8. **At the time of application for construction permits,** the applicant shall submit to the Department of Public Works an encroachment permit application, plans, fees, and post a cash damage bond to install improvements within the public right-of-way in accordance with County Public Improvement Standards. The plans are to include, as applicable:
 - a. The existing Cambria Pines Road site access shall be reconstructed in accordance with B-1a rural driveway standards.
 - b. Drainage ditches, culverts, and other structures (if drainage calculations require).

- c. Public utility plan, showing all existing utilities and installation of all new utilities to serve the site.
- d. Tree removal/retention plan for trees to be removed and retained associated with the required public improvements. The plan shall be approved jointly with the Department of Planning and Building.
- e. Traffic control plan for construction in accordance with the California Manual on Uniform Traffic Control Devices (CA-MUTCD).

Drainage

- 9. **At the time of application for construction permits**, the applicant shall submit complete drainage plans and report for review and approval in accordance with Section 23.05.040 (Drainage) of the Land Use Ordinance.
- 10. **At the time of application for construction permits**, the applicant shall submit complete erosion and sedimentation control plan for review and approval in accordance with 23.05.036.
- 11. **At the time of application for construction permits**, the applicant shall demonstrate that the project construction plans are in conformance with their Storm Water Control Plan.
- 12. **At the time of application for construction permits**, if the project disturbs more than 1.0 acre or is part of a common plan of development, the applicant must enroll for coverage under California's Construction General Permit. Sites that disturb less than 1.0 acre must implement all required elements within the site's erosion and sediment control plan as required by San Luis Obispo County Codes.

Storm Water Control Plan

- 13. **At the time of application for construction or grading permits**, the applicant shall demonstrate whether the project is subject to post-construction stormwater requirements by submitting a Stormwater Control Plan application or Stormwater Post Construction Requirements (PCRs) Waiver Request Form.
 - a. The applicant must submit a SWCP for all regulated projects subject to Performance Requirement #2 and above. The SWCP must be prepared by an appropriately licensed professional and submitted to the County for review and approval. Applicants must utilize the County's latest SWCP template.
 - b. If post-construction stormwater control measures (SCMs) are proposed, the applicant must submit a draft Stormwater Operations and Maintenance Plan for review by the County. The plan must consist of the following Planning & Building Department forms;
 - 1. Structural Control Measure Description (Exhibit B)
 - 2. Stormwater System Contact Information
 - 3. Stormwater System Plans and Manuals

- c. If applicable, following approval by the County, the applicant shall record with the County Clerk-Recorder the Stormwater Operation and Maintenance Plan and an agreement or provisions in the CCRs for the purpose of documenting on-going and permanent storm drainage control, management, treatment, inspection and reporting.
14. **Prior to acceptance of the improvements (if applicable)**, the Stormwater Operations and Maintenance plan and General Notice must be updated to reflect as-built changes, approved by the County, and re-recorded with the County Clerk-Recorder as amendments to the original document.

Fire Safety

15. **At the time of application for construction permits**, all plans submitted to the Department of Planning and Building shall meet the fire and life safety requirements of the California Fire Code. Applicant shall provide Fire Safety Plan prepared by the Cambria Fire Department at the time of application for construction permit.

Services

16. **At the time of application for construction permits**, the applicant shall provide a letter from Cambria Community Services District stating they are willing and able to service the property.

Conditions to be completed prior to issuance of a construction permit

Fees

17. **Prior to issuance of a construction permit**, the applicant shall pay all applicable school and public facilities fees.
18. **Prior to issuance of a construction permit**, the applicant shall pay North Coast Road Improvement Fee.
19. **Prior to commencing permitted activities**, and in accordance with Title 13.01 of the County Code, the applicant must pay to the Department of Public Works the North Coast Area B Road Fee Area Road Improvement Fee based on the latest adopted area fee schedule and 1.00 peak hour trips estimated for single family residence.

The fee schedule is subject to change by resolution of the Board of Supervisors. The applicant shall be responsible for paying the fee in effect at the time of issuance of building permits.

Noise

20. **Prior to issuance of construction permits [N-1(e)]**, construction traffic shall utilize Cambria Pines Road and State Route 1, and shall not access the site via Buckley Drive or Kathryn Drive.
21. **Prior to issuance of construction permits [N-1(f)]**, construction activities are limited to the hours of 7 a.m. to 6 p.m.

Biology

22. **Prior to issuance of construction permits [BIO-2(b)]**, highly visible temporary fencing must be placed around the perimeters of the driplines of all remaining Monterey pines and coast live oaks within the proposed development areas.
23. **Prior to issuance of construction permits [BIO-5(a)]**, if tree removal is determined to be necessary on Lot 5, it should be conducted between September 15 and February 15, outside of the breeding season of raptors. If tree removal must occur between February 15 and September 15 (during the breeding season) a raptor nest survey shall be conducted on trees slated for removal by a qualified biologist approved by the San Luis Obispo County Environmental Coordinator prior to construction on Lot 5. The raptor nest survey should be coordinated with California Fish and Wildlife (CDFW). If an active raptor nest is identified on-site, specific mitigation measures shall be developed in consultation with CDFW. If the biologist determines that the trees slated for removal are not used by raptors, the applicant must then submit this information to the County.
24. **Prior to issuance of construction permits [BIO-6(b)]**, to avoid or minimize disturbance of monarch butterflies overwintering in Monterey pine forest located within Lot 5, implement the following measures recommended by Dr. Leong in the *Monarch Butterfly Study for the Cambria Pines Estates Development* (1995):
- o At the time of application for construction permits on Lot 5, the applicant shall show that fireplaces or wood burning stoves will be installed that equal or exceed EPA standards for smoke emission.
 - o Tree removals on Lot 5 deemed necessary shall be conducted between the months of April and August when monarch butterflies are not roosting at the identified winter site.
 - o If tree removal must occur between September and March (during the breeding season), a Monarch butterfly survey shall be conducted on trees slated for removal by a qualified biologist approved by the San Luis Obispo County Environmental Coordinator prior to construction on Lot 5. The survey should be coordinated with California Fish and Wildlife. If the biologist determines that the trees slated for removal are not used for roosting by Monarch butterflies, the applicant must then submit this information to the County and apply for a tree removal permit.

Conditions to be completed during project construction

Building Height

25. The maximum height of the project is 27 feet from average natural grade.
- a. **Prior to any site disturbance**, a licensed surveyor or civil engineer shall stake the lot corners, building corners, and establish average natural grade and set a reference point (benchmark).
 - b. **Prior to approval of the foundation inspection**, the benchmark shall be inspected by a licensed surveyor prior to pouring footings or retaining walls, as an added precaution.
 - c. **Prior to approval of the roof nailing inspection**, the applicant shall provide the building inspector with documentation that gives the height reference, the allowable height and the actual height of the structure. This certification shall be prepared by a licensed surveyor or civil engineer.

Biology

26. **During construction [BIO-2(a)]**, disturbance of Monterey pines and coast live oaks remaining within and along the fringes of all building envelopes shall be avoided to the degree feasible. To avoid disturbance of remaining Monterey pines and coast live oaks, avoid all soil disturbance, compaction and grading activities within, and adjacent to, the associated dripline of each tree, which extends outward 15 feet from the tree's canopy. In addition, vegetation planted within the driplines of remaining trees should not require irrigation.
27. **During construction [BIO-8(a)]**, to control introduction of invasive exotic plants on-site, the following measures shall be implemented during project construction and incorporated into the design guidelines of the proposed project:
- Use only clean fill material (free of weed seeds) within the project area;
 - Thoroughly clean all construction equipment prior to being moved onto and used at the site
 - Prohibit planting or seeding of disturbed areas with non-native plant species; and
 - Control invasive exotic weeds in all disturbed areas
28. **During construction [BIO-9(b)]**, the removal of trees and other native vegetation shall be avoided to the extent feasible on a project-specific basis, per area-wide development standards identified in the North Coast Area Plan Update.

Archaeology

29. **During construction**, in the event archaeological resources are unearthed or discovered, the following standards apply:
- a. Construction activities shall cease and the Environmental Coordinator and Planning Department shall be notified so that the extent and location of discovered materials may be evaluated by a qualified archaeologist, and disposition of artifacts may be accomplished in accordance with state and federal law. The applicant shall implement the mitigation as required by the Environmental Coordinator.
 - b. In the event archaeological resources are found to include human remains, or in any other case where human remains are discovered during construction, the County Coroner is to be notified in addition to the Planning Department and Environmental Coordinator so that proper disposition may be accomplished.

Conditions to be completed prior to occupancy or final building inspection /establishment of the use**Site Development**

30. Landscaping in accordance with the approved landscaping plan shall be installed before final building inspection. All landscaping shall be maintained in a viable condition in perpetuity.

31. **Prior to occupancy or final inspection**, whichever occurs first, the applicant shall obtain approval and clearance letter from Cambria Community Services District, that the Demand Offset Requirement has been satisfied.

Fire Safety

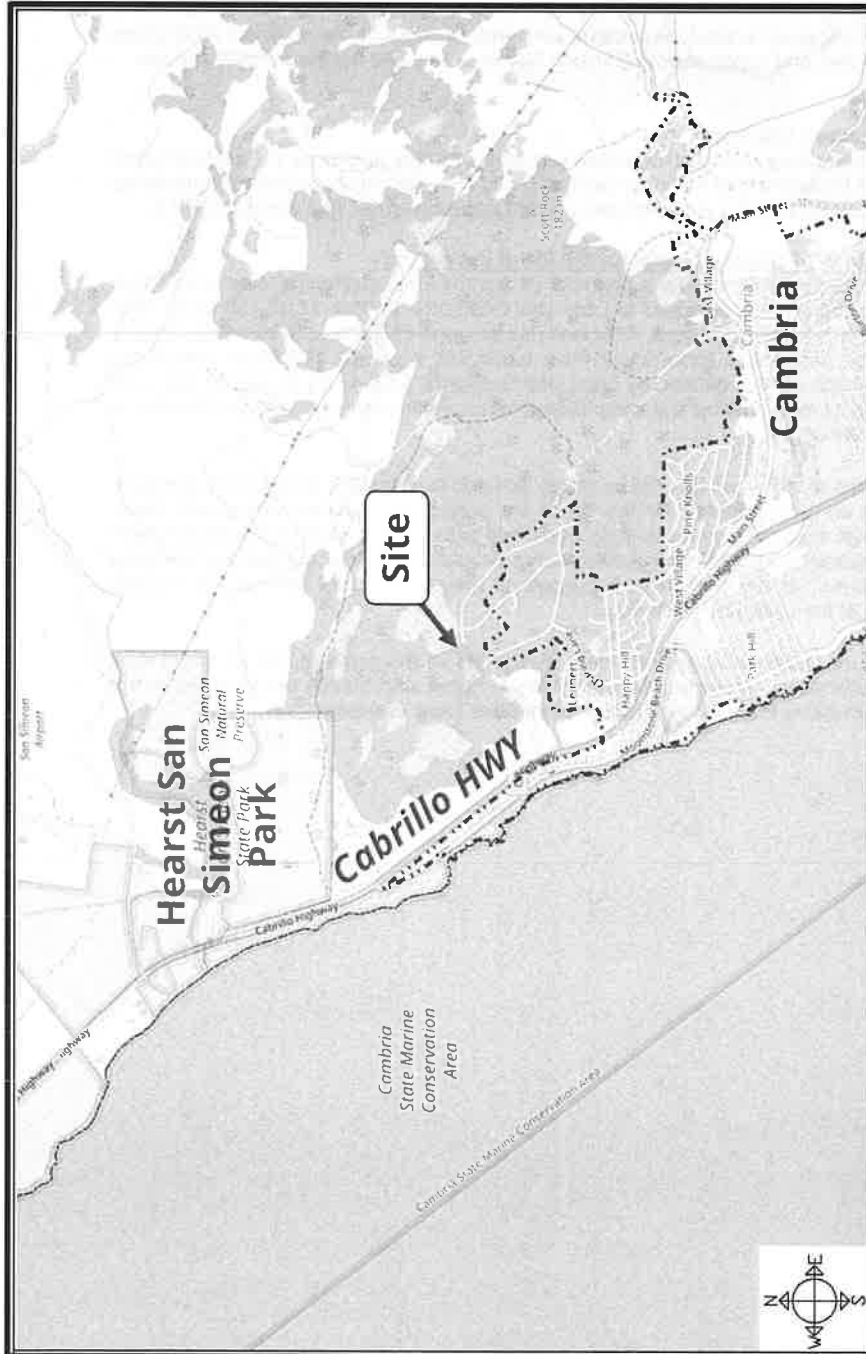
32. **Prior to occupancy or final inspection**, whichever occurs first, the applicant shall obtain final inspection and approval from Cambria Fire of all required fire/life safety measures.

Development Review / Site Inspection

33. **Prior to occupancy of any structure associated with this approval**, the applicant shall contact the Department of Planning and Building to have the site inspected for compliance with the conditions of this approval and any mitigation measures that applies to Lot 5.

On-going conditions of approval (valid for the life of the project)

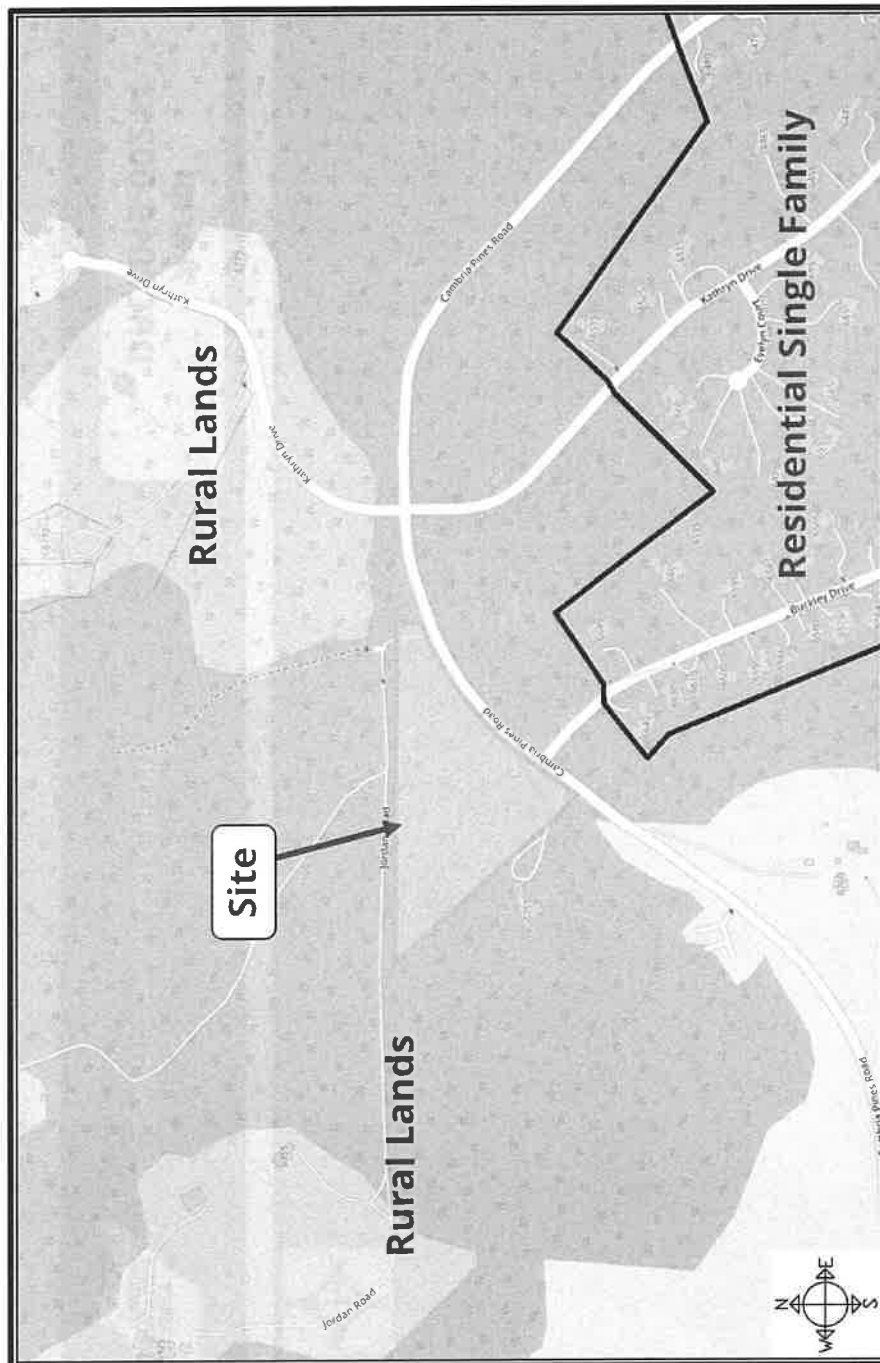
34. This land use permit is valid for a period of 24 months from its effective date unless time extensions are granted pursuant to Land Use Ordinance Section 23.02.050 or the land use permit is considered vested. This land use permit is considered to be vested once a construction permit has been issued and substantial site work has been completed. Substantial site work is defined by Land Use Ordinance Section 23.02.042 as site work progressed beyond grading and completion of structural foundations; and construction is occurring above grade.
35. All conditions of this approval shall be strictly adhered to, within the time frames specified, and in an on-going manner for the life of the project. Failure to comply with these conditions of approval may result in an immediate enforcement action by the Department of Planning and Building. If it is determined that violation(s) of these conditions of approval have occurred, or are occurring, this approval may be revoked pursuant to Section 23.10.160 of the Land Use Ordinance.
36. **On-going condition of approval (valid for the life of the project)**, the applicant shall remove non-native vegetation, such as Pampas grass and Scotch broom listed in the California Invasive Plant Council (Cal IPC) Invasive Plant Inventory.



Vicinity Map
DRC2019-00214

COUNTY OF SAN LUIS OBISPO

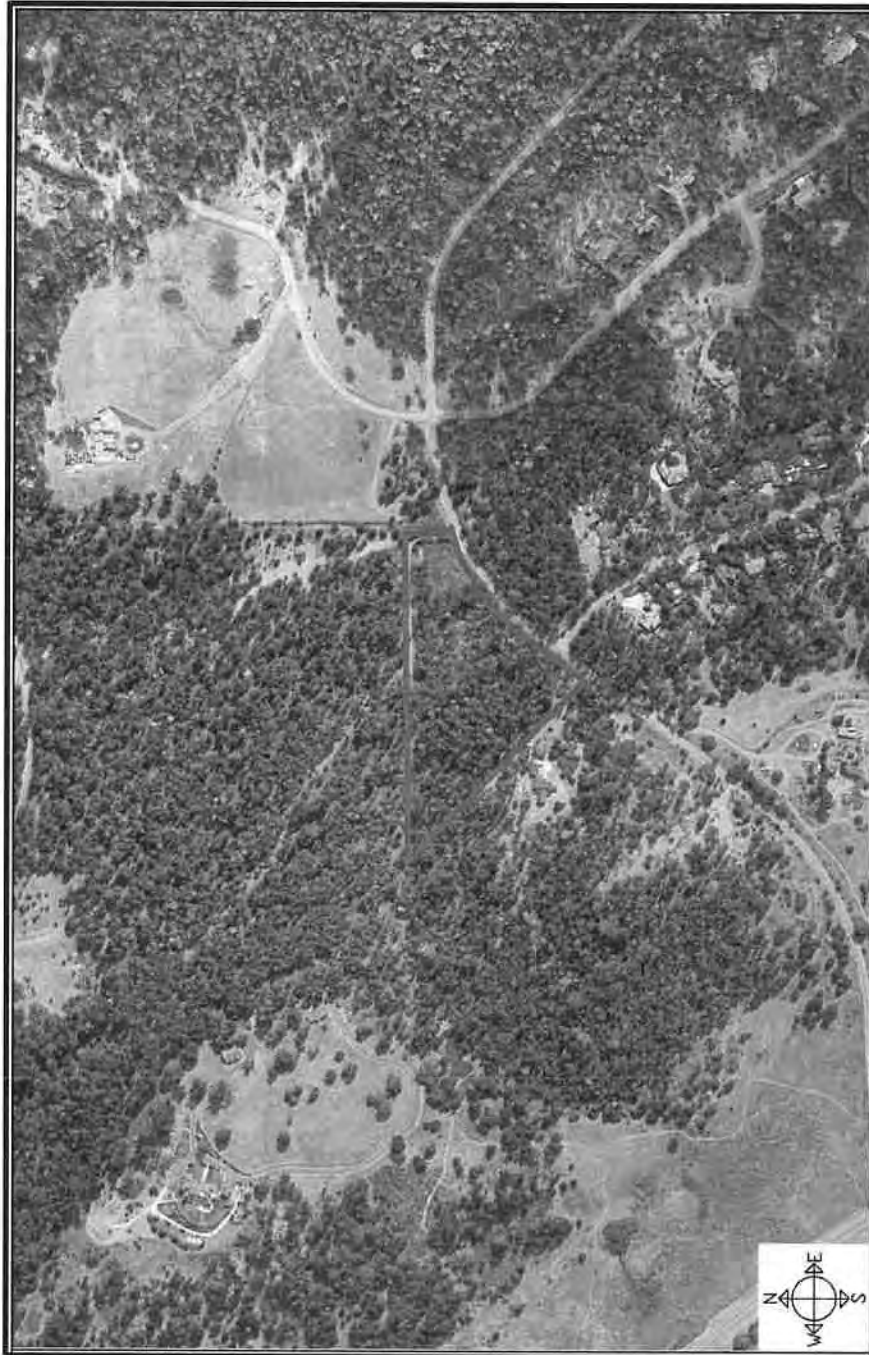




Land Use Category Map
DRC2019-00214

COUNTY OF SAN LUIS OBISPO

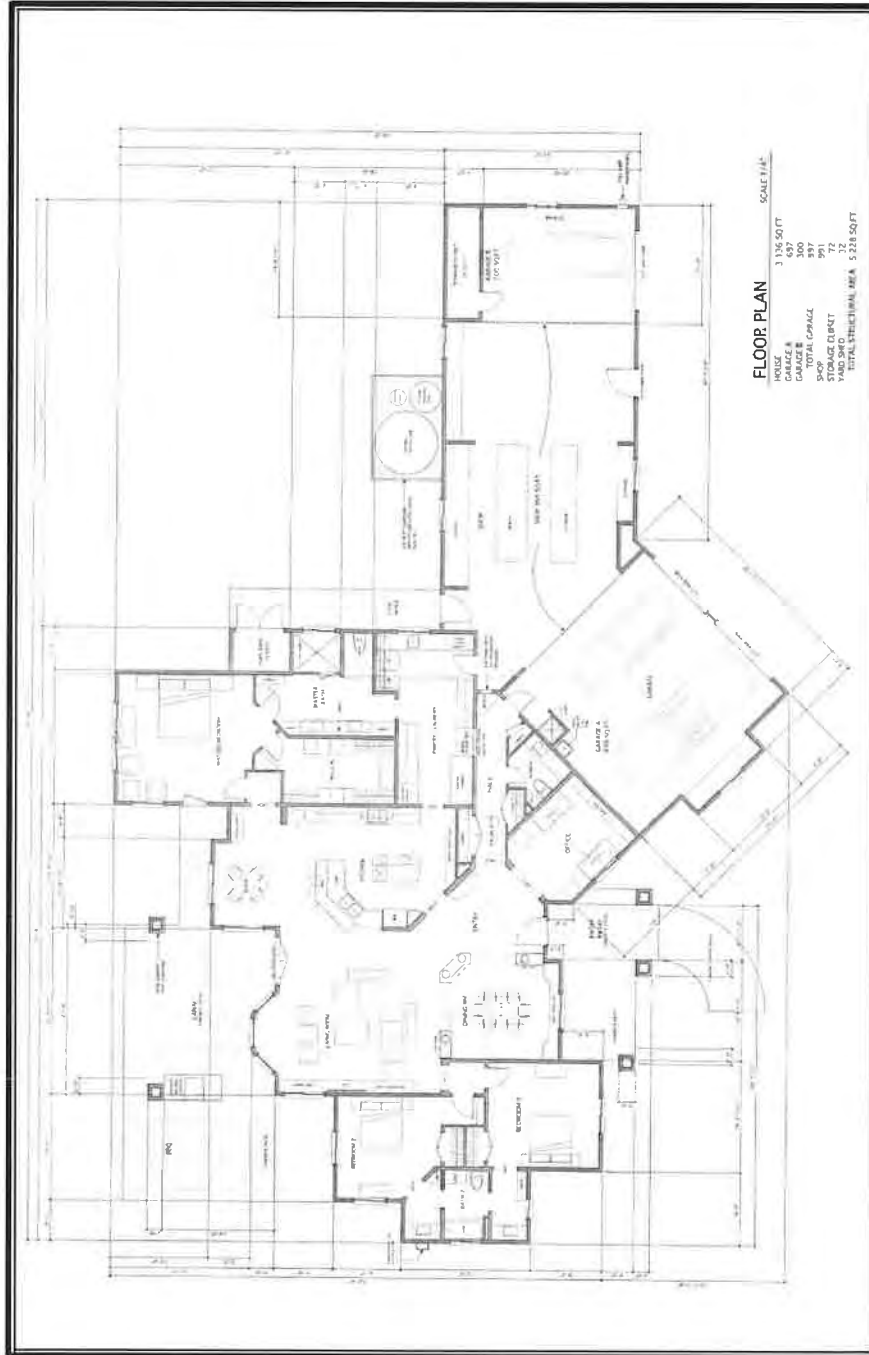




Aerial
DRC2019-00214

COUNTY OF SAN LUIS OBISPO





Floor Plans DRC2019-00214

COUNTY OF SAN LUIS OBISPO





**COUNTY OF SAN LUIS OBISPO
DEPARTMENT OF PLANNING & BUILDING**

Consistency With Previous Environmental Impact Report

DATE: December 18, 2020
TO: File DRC2019-00214
FROM: Young Choi, Planner
SUBJECT: Environmental Determination for Minor Use Permit / Coastal Development Permit DRC2019-00214

PROJECT/ENTITLEMENT: Bookout Minor Use Permit / Coastal Development Permit (DRC2019-00214)

APPLICANT NAME: Ralph Bookout
ADDRESS: 5617 W. Grove Court Visalia, CA 93291
PHONE: (559) 250-0209

PROPOSED USES/INTENT: A request by Ralph Bookout for a Minor Use Permit/Coastal Development Permit (DRC2019-00214) to allow a new 3,136-square-foot single-family residence with an approximately 1,000-square-foot garage, 1,000-square-foot workshop, 72-square-foot storage, and 32-square-foot shop. The proposed project will result in site disturbance of approximately 0.6 acres within a 6.64-acre parcel. The project site is within the Rural Lands land use category.

LOCATION: The project is located is located located at 6725 Cambria Pines Road, north community of Cambria. This site is in the North Coast Planning

FINDINGS: The Final Environmental Impact Report (EIR) and CEQA findings prepared and certified for the Cambria Pines Estates Tract Map 1804 / Development Plan / Coastal Development Permit D910279 was determined to adequately address impacts associated with the previous project, D910279. The proposed Minor Use Permit / Coastal Development Permit (DRC2019-00214) is designed to be consistent with the previously certified EIR, and the County has determined the project is within the scope of the previous CEQA analysis, determination, and applicable mitigation requirements made with D910279. Therefore, no new environmental determination is necessary because this project includes mitigation measures from the above referenced EIR which lessen potential impacts to a less than significant level, consistent with the allowances provided under Section 15162(a) of the State CEQA Guidelines.

The proposed project has been determined to be within the scope of the above referenced EIR, therefore the proposed project is consistent with the previously certified EIR. None of the conditions described in Section 15162(a) occur associated with this project therefore no subsequent EIR will be required. A copy of the complete certified Final EIR is available upon request at the Environmental Division (805-781-5600).

976 Osos Street, Room 300 | San Luis Obispo, CA 93408 | (P) 805-781-5600 | 7-1-1 TTY/TRS
planning@co.slo.ca.us | www.sloplanning.org

As authorized by Section 753.5(e)(3) of the California Code of Regulations, only one Department of Fish and Game filing fee is required when an existing certified EIR is used for multiple project approvals that would result in no additional effect to fish and wildlife. All potential impacts associated with the proposed project have been addressed in the above referenced EIR.

The applicant has agreed to incorporate measures into the project description that will lessen the potential impacts to a less than significant level consistent with the requirements of the certified EIR. The project will be subject to the applicable mitigation measures that were included as conditions of approval when Cambria Pines Estates Tract Map 1804 / Development Plan / Coastal Development Permit D910279 was approved.

CAMBRIA COMMUNITY SERVICES DISTRICT

DIRECTORS:
DAVID PIERSON, President
HARRY FARMER, Vice President
AMANDA RICE, Director
CINDY STEIDEL, Director
DONN HOWELL, Director



OFFICERS:
PAAVO OGREN, Interim General Manager
MONIQUE MADRID, Assistant General Manager
TIMOTHY J. CARMEL, District Counsel

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

May 20, 2019

Ralph Bookout
5617 W Grove Ct
Visalia, CA 93291

Requires CCSD Retrofit Inspection prior to Permit Finalization

Subject: CONDITIONAL CONFIRMATION OF WATER AVAILABILITY FOR NEW CONSTRUCTION
ASSESSOR'S PARCEL NO. 013-085-005
SINGLE FAMILY RESIDENCE (1 EDU)

Dear Mr. Bookout,

Cambria Community Services District (CCSD) has reviewed the plans provided to San Luis Obispo County for a Permit to remodel/improve the above property. San Luis Obispo County requires written assurance that water service is available from the CCSD. **Said project is authorized with the conditions as indicated below:**

Approval Conditions (Required if Checked)

- ☒ Owner must provide CCSD with a copy of county **building permit** issued for this project.
- ☒ **All new water fixtures** must meet current standard under Title 4 of District Code. CCSD plumbing code is more stringent than the Cal Green Plumbing Code. Visit <https://www.cambriacsd.org/retrofits-remodels> for more information.
- ☐ Applicants must work with Cambria Fire Department & CCSD's Water Department staff to determine water meter size requirement to serve this project (if applicable).
- ☒ Applicant must go online to schedule a retrofit inspection before permit finalization. Visit <https://www.cambriacsd.org/water-fixture-retrofit-program> to schedule.
- ☐ Provide proof that the underlying lots are one legal parcel, or otherwise complete a lot merger of the underlying lots **within 90 days** of this notice.
- ☐ Requires **PARCEL MERGER** to allow water service across lot line. Please email mbland@cambriacsd.org for more information.
- ☐ Under CCSD regulations, remodels must not change the existing water service status of the property by creating additional separate dwelling units. **WARNING! A GUEST UNIT MAY NOT BE RENTED AS A SEPARATE DWELLING.**

Please note if fire sprinklers are required for the above project and as a result the existing water meter and/or water service line need to be increased, a separate agreement between the Applicant and CCSD will be required. All costs associated with increasing water meters and water service lines are the responsibility of the Applicant.

Approval of the above referenced project is valid for 3 years from the date of issuance of this notice. After this date, Applicant must re-apply for approval of the project, subject to the standards of CCSD's Municipal Code at the time of re-submission.

If you have any questions concerning this matter, please call this office for assistance.

Sincerely,
CAMBRIA COMMUNITY SERVICES DISTRICT



Melissa Bland
Management Analyst
Engineering Department

Encl. Demand Offset Letter
New Construction Requirements for Water Use Efficiency

CAMBRIA COMMUNITY SERVICES DISTRICT

DIRECTORS:

DAVID PIERSON, President
HARRY FARMER, Vice President
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May 20, 2019

Ralph Bookout
5617 W Grove Ct
Visalia, CA 93291

RE: Water demand offset verification for proposed Bookout residential project (APN 013-085-005)

Dear Mr. Bookout,

This letter and its attachment confirms water conservation measures have been completed within our service area, which are required by the Local Coastal Program for our area to offset the future potable water demand from your proposed residential home project at APN 022-085-005 at 6725 Cambria Pines Road. We have also included demand offset letter approval conditions.

Please contact us should you have any questions.

Sincerely,

Melissa Bland
Management Analyst
Engineering Department

Attachments (2): Demand offset approval conditions
Proof of demand offset summary

DEMAND OFFSET APPROVAL CONDITIONS

1. The conditions contained in this potable water demand offset letter are in addition to any and all conditions imposed on the original Intent to Serve Letter for this parcel, and any previously issued Intent to Serve (ITS) extensions. In the event of any conflict between conditions in the ITS letter(s) and this demand offset approval letter, the provisions in this demand offset approval letter shall take precedence.
2. No water service lines may extend beyond the property line for this project. Any subsequent need to serve adjacent properties shall require a property merger. No secondary housing units shall be served potable water as the result of this project.
3. All fixtures and appliances shall comply with the most recent CCSD water efficiency standards and requirements.
4. The demand offset was estimated based on plans dated 04/17/2019 from David Einung for a new residence at 6725 Cambria Pines Rd., Cambria, CA. Any subsequent changes to this design, which may add fixture units, add square footage, or change the intended use, shall be resubmitted for additional review to further assess the accuracy of this estimate. The applicant shall bear the cost for an additional design review time and the subsequent need to purchase or complete any additional demand offsets.
5. The applicant shall reimburse the CCSD for the costs of plan checking, construction inspection, project administration and legal assistance of any CCSD related improvement associated with the project. For all services rendered by CCSD personnel, the applicant shall be charged and pay to the CCSD the actual cost. The CCSD will invoice the applicant, and any amounts unpaid 30 days from the date of the invoice shall bear interest at the rate of 1 ½ % per month beginning 30 days after the date of said invoice.
6. The applicant expressly grants the CCSD, or its authorized agent, permission to enter upon the land that is the subject of the project for the purpose of inspection of any and/or all work related to the water and sewer improvements.
7. The applicant must agree to grant any required utility or access easements that may be reasonably required by the CCSD.
8. The applicant shall defend, indemnify and hold harmless the CCSD, its officers, agents, representatives and employees from any and all claims, demands, damages, costs expenses or liabilities, including attorney fees, occasioned by the performance or attempted performance of the provisions contained in the this demand offset approval letter.
9. In granting this demand offset letter, the CCSD, makes no determination as to required environmental mitigations and land use entitlements required for the proposed project, and the issuance shall not be construed to be an expression of CCSD's position regarding the proposed project's environmental mitigations or use or intensity of use of the development property.
10. The applicant agrees to pay all CCSD connection fees prior to connecting to the water system, and agrees to pay all monthly water service charges.

RETROFITS COMPLETED TO OFFSET NEW CONSTRUCTION

PROJECT NAME: Bookout / 6725 Cambria Pines Rd. PARCEL #: 013-085-005

Project Description: 5228 sq ft residence on 6.64 acres

Retrofit requirement: 230 points

2596 Leona	Retrofits Upon Resale	13.90
815 Main	Retrofits Upon Resale	5.8
321 Fallbrook	Retrofits Upon Resale	28.30
2494 Yorkshire	Retrofits Upon Resale	33.80
1897 Dorking	Retrofits Upon Resale	10.30
3313 Ramsey	Retrofits Upon Resale	49.40
685 Huntington	Retrofits Upon Resale	2.40
211 Devault	Retrofits Upon Resale	2.40
1000 Warren Rd	Retrofits Upon Resale	12.00
5249 Pembroke	Retrofits Upon Resale	20.60
1745 Arliss	Retrofits Upon Resale	16.80
3280 Bradford Cir.	Retrofits Upon Resale	19.20
5297 Hillcrest	Retrofits Upon Resale	2.90
2397 Kerry	Retrofits Upon Resale	13.90

Total Points 231.70

1 point = .72 annual water unit or 1.47 gallons per day
1 water unit = 748 gallons

This Project's Points	Annual Water Units	Retrofit Offset Points	Annual Water Saved
230.00	165.60	231.70	166.82

Approved by:


Melissa Bland, Management Analyst, Engineering

CCSD Water Conservation and Water Use Efficiency Requirements for New Construction¹

All new construction projects must be exclusively serviced with high-efficiency water-use plumbing and plumbing fixtures. See CCSD Municipal Code 4.16.030 for more information. Failure to install and maintain high-efficiency water-use plumbing and plumbing fixtures or unauthorized replacement with low-efficiency alternatives is a misdemeanor offense under California Water Code Section 377.

2016 CALGreen Code Mandatory Measures. Unless there is a conflict with CCSD requirements, the following CALGreen mandatory measures shall be followed: Sections 4.303.1 and 4.303.2. In cases of conflict, the provisions of the CCSD shall be followed.

CCSD Exceptions and Additions to 2016 CALGreen Code Measures:

FIXTURES	RETROFIT REQUIREMENT
<u>SHOWER HEADS</u>	Shall limit the maximum flow to 1.5 gallons per minute and shall have a shutoff valve located on or near the showerhead.
<u>PRESSURE REGULATORS</u>	Shall be installed and set at 50 pounds per square inch maximum at all locations served by the District's water distribution system.
<u>FAUCETS</u>	Kitchen/Bar/Utility sinks shall be equipped with faucet aerators and be of a design that limits the maximum flow to 1.5 gallons per minute .
	Lavatory (bathroom) sinks shall be equipped with faucet aerators that limit the maximum flow to 0.5 (one-half) gallons per minute .
	Hose bibs shall be equipped with restrictor and anti-siphon valves (vacuum breakers) that limit the maximum flow to 4.0 gallons per minute .
<u>DISHWASHERS & WASHING MACHINES</u>	Residential/Commercial ² clothes washers shall be ENERGY STAR certified and have an integrated water factor of no greater than 4.0 . Residential dishwashers shall be ENERGY STAR certified and shall use no more than 3.5 gallons per cycle . Commercial dishwashers shall be reviewed with by the CCSD prior to installation. Visit www.energystar.gov/products/ to search for appliances that meet the above requirements.
<u>POINT OF USE RECYCLED WATER</u>	Separate black and grey water sewer systems shall be installed. Separate potable and non-potable water lines shall be installed. Grey water shall be treated and disinfected using a point-of-use recycled water system prior to reuse for toilet flushing and other non-potable uses. Point-of-use recycled water systems shall be reviewed and approved by the CCSD prior to installation. A reduced-pressure backflow preventer shall be installed on all water services entering the property. Cross connection testing between potable and non-potable systems shall be completed to the CCSD's satisfaction prior to operation.
<u>OUTDOOR WATER USE</u>	No potable irrigation water shall be allowed for outdoor irrigation. Use of native, drought-tolerant plants is recommended to minimize irrigation from non-potable water.

For questions about this handout please contact the CCSD at (805) 927-6223.

¹ Per Title 4, Chapter 4 of the CCSD District Code Including changes adopted by Ordinance 03-2013 approved on 8/22/2013.

² See CCSD Code for Commercial applications using machines with greater than 20 pounds of laundry capacity per load.

CCSD CODE EXHIBIT "B" to 8.04.030 (A)(2) (3) Existing Commitments [Updated 1/17/2020]

Parcel Designation	APN	Location	Status / Notes
Unimproved Single-family Residential Meters	013.051.018	San Simeon Creek Rd.	1.88 EDU, water only (Molinari Agreement)
	013.084.005	Kathryn Dr.	ITS transferred from 024.262.028 11/2000; ITS exchanged for Grandfather from 023.041.045 10/2008
	013.122.005	900 Pineridge Dr. #2	Vacant; Too far from sewer line.
	013.151.023	Schoolhouse Ln.	Vacant, Water
	013.232.004	Wall St.	Vacant, Water + Sewer; Carson Agreement, non-transferrable
	013.323.008	Windsor Blvd.	Transferred Grandfathered Water Service from 024.363.007 6/8/2012. Vacant, Water + Sewer
	013.331.041	Buckley Dr.	Vacant, Water, Meter In Ground
	022.083.033	Canterbury Ln.	Vacant, Water
	022.151.061	Windsor Blvd.	Vacant, Water
	022.283.017	Windsor Blvd.	Vacant, Water
	022.292.003	Leighton St.	Vacant, Water + Sewer
	024.312.026	Linden Ct. (Special Project Area 2)	Vacant, Water + Sewer; 1 EDU Granted by Board Action
Section Total	12		
EDU Total	12		
Unimproved Commercial Each APN is assigned one (1) commercial EDU unless otherwise noted.	013.101.046	Main St.	Vacant, Water; 1 Commercial EDU
	013.101.072	Main St. Across from Vets Hall	Vacant, Water + Sewer; 3 Commercial EDUs; CCSD Owned
	013.131.038	Rodeo Grounds Rd.	Vacant, Water; 1 Commercial EDU; CCSD
	013.251.011	Adjacent to 1880 Main St.	Vacant, Water; 1 Commercial EDU
Section Total	4		
EDU Total	6		
Unimproved Multi-family Residential	023.441.008	Burton Dr.	Vacant, Water + Sewer; 0.72 Commercial EDUs
Section Total	1		
EDU Total	0.72		
Cambria West Tract 1804. Service is subject to the terms and service conditions of the Settlement Agreement and Full Mutual Release dated July 12, 1999, between the District and Cambria West/Leimert ("Leimert"), including payment of connection fees and surcharge fees prior to installation of meters. Satisfaction of the District's Water Conservation and Retrofit Ordinance requirements for retrofit or in-lieu retrofit fees will be required prior to issuance of building permits for residential uses.	013.085.001	6795 Cambria Pines Rd.	Vacant, Water
	013.085.002	6785 Cambria Pines Rd.	Vacant, Water
	013.085.003	6775 Cambria Pines Rd.	Vacant, Water
	013.085.005	6725 Cambria Pines Rd.	Vacant, Water
	013.085.009	6188 Brighton Ln.	Vacant, Water + Sewer
	013.085.012	6735 Kathryn Dr.	Vacant, Water
	013.085.014	6825 Kathryn Dr.	Vacant, Water
	013.085.018	6730 Kathryn Dr.	Vacant, Water
Section Total	8		
EDU Total	8		
Parks/Landscape/Irrigation Service Commitments No EDUs assigned Cannot be used for construction.	013.101.081	Tamson Dr.	Irrigation meter
	013.101.083	Knollwood Dr.	Irrigation
	013.181.025	Rancho Marino	Stockwater, per easement
	022.341.034	Worcester Dr.	Andy's Garden
	013.264.023	Center St.	Irrigation
Section Total	5		
EDU Grand Total	26.72		



Date: October 2, 2019 (revised December 17, 2020)
To: Young Choi, Project Planner
From: David E. Grim, Development Services
Subject: DRC2019-00214 Bookout MUP 6725 Cambria Pines Rd., Cambria, APN 013-085-005

Thank you for the opportunity to provide information on the proposed subject project. It has been reviewed by several divisions of Public Works, and this represents our consolidated response.

Public Works Comments:

- A. The project site is located on Cambria Pines Road, a County maintained roadway, using an existing driveway on an adjacent parcel for access (easement).
- B. The proposed project is within the North Coast Area B Road Fee Area. Payment of Road Improvement Fees is required prior to building permit issuance.
- C. The proposed project is within a drainage review area. A drainage plan is required to be prepared by a registered civil engineer and will be reviewed at the time of Building Permit submittal by Public Works. The applicant should review Chapter 23.05.040 of the Land Use Ordinance prior to future submittal of development permits.
- D. This project may be a regulated project as it is located in a Stormwater Management Area and is therefore required to submit a Stormwater Control Plan (SWCP) Application or Stormwater Post Construction Requirements (PCRs) Waiver Request Form at time of construction permits.
- E. If the project site disturbs 1.0 acre or more the applicant must enroll for coverage under California's Construction General Permit, which may require preparation of a project Stormwater Control Plan even if it is located outside a Stormwater Management Area.

Recommended Project Conditions of Approval:

Fees

1. **Prior to commencing permitted activities**, and in accordance with Title 13.01 of the County Code, the applicant must pay to the Department of Public Works the North Coast Area B Road Fee Area Road Improvement Fee based on the latest adopted area fee schedule and 1.00 peak hour trips estimated for single family residence.

The fee schedule is subject to change by resolution of the Board of Supervisors. The applicant shall be responsible for paying the fee in effect at the time of issuance of building permits.

Drainage & Flood Hazard

2. **At the time of application for construction permits**, the applicant may be required to submit complete drainage plans for review and approval in accordance with Section 23.05.040 of the Land Use Ordinance.

3. **At the time of application for construction permits**, the applicant shall submit complete erosion and sedimentation control plan for review and approval in accordance with Section 23.05.036 of the Land Use Ordinance.
4. **At the time of application for construction permits**, the applicant shall demonstrate that the project construction plans are in conformance with their Stormwater Control Plan, if one is required.

Stormwater Pollution Prevention Plan (SWPPP)

5. **At the time of application for construction permits**, if the project disturbs more than 1.0 acre or is part of a common plan of development, the applicant must enroll for coverage under California's Construction General Permit. Sites that disturb less than 1.0 acre must implement all required elements within the site's erosion and sediment control plan as required by San Luis Obispo County Codes.

Stormwater Control Plan (SWCP):

6. **At the time of application for construction or grading permits**, the applicant shall demonstrate whether the project is subject to post-construction stormwater requirements by submitting a Stormwater Control Plan application or Stormwater Post Construction Requirements (PCRs) Waiver Request Form.
 - a. The applicant must submit a SWCP for all regulated projects subject to Performance Requirement #2 and above. The SWCP must be prepared by an appropriately licensed professional and submitted to the County for review and approval. Applicants must utilize the County's latest SWCP template.
 - b. If post-construction stormwater control measures (SCMs) are proposed, the applicant must submit a draft Stormwater Operations and Maintenance Plan for review by the County. The plan must consist of the following Planning & Building Department forms:
 1. Structural Control Measure Description (Exhibit B)
 2. Stormwater System Contact Information
 3. Stormwater System Plans and Manuals
 - c. If applicable, following approval by the County, the applicant shall record with the County Clerk-Recorder the Stormwater Operation and Maintenance Plan and an agreement or provisions in the CCRs for the purpose of documenting on-going and permanent storm drainage control, management, treatment, inspection and reporting.
7. **Prior to acceptance of the improvements (if applicable)**, the Stormwater Operations and Maintenance plan and General Notice must be updated to reflect as-built changes, approved by the County, and re-recorded with the County Clerk-Recorder as amendments to the original document.

G:\Development\DEVserv Referrals\Land Use Permits\MUP\DRC2019\DRC2019-00214 Bookout MUP 6725 Cambria Pines Rd., Cambria\DRC2019-00214 Bookout MUP 6725 Cambria Pines Rd. Cambria_correctedDEG.docx

Young L. Choi

From: Michael Stoker
Sent: Tuesday, October 01, 2019 11:03 AM
To: Young L. Choi
Cc: Cheryl Journey; Don C. Moore
Subject: Re: DRC2019-00214 BOOKOUT, Project Summary / Referral*, Minor Use Permit, Cambria

Young,

Please find buildings recommendations for DRC2019-00214 below. Please let me know if you have any questions.

In regards to this preliminary review, a building permit is required. The drawings specify the work to be completed consists of the construction of a 3178 SF single family dwelling, attached 2092 SF garage, and associated driveway, underground utilities, and septic/leach system. The project shall comply with current codes adopted by the County of San Luis Obispo (Current version of the California Building Standards Codes and Title 19 of the SLO County Codes).

While a thorough plan review will be conducted at time of building permit application, the following items are noted to assist design review;

1. Construction shall comply with the current version of the California Residential Code (CRC)
2. Specify the occupancy and type of construction on the cover sheet of the plans.
3. Separate building permits will be required for the structure, fire sprinklers and major grading.
4. The design of the openings, projections, wall rating based on fire separation distance will need to be shown on the plans to comply with CRC Section 302, including Table 302.1(2) for buildings with sprinklers.
5. Provide plans which clearly show the structural design to verify compliance with the prescriptive requirements of the current version California Residential Code or any structural element not complying with the prescriptive requirements will need to be prepared by a California Licensed Design Professional (Architect or Engineer) justifying the structural design
6. Provide details on the plans for the design of the stairs, handrails, and guards to verify compliance with the California Residential Code.
7. Label all egress windows on the plans to verify compliance with size and height per the California Residential Code.
8. Provide electrical plans with notes to show the location of the main electrical panel, sub-panels, receptacles, lights, switches, and smoke detectors and Co alarms to verify compliance with the current version of the California Electrical Code.
9. Provide notes and information on the plans for the plumbing fixtures requirements, design of the waste lines, vents, and water lines will all need to comply with the current version of the California Plumbing Code.
10. Energy calculation will need to be submitted to verify compliance with the current version of the California Energy Code.
11. The plans will need show compliance with the current version of the California Green Building Code and the County of San Luis Obispo's Green Building Ordinance.

12. Fire sprinklers will be required under a separate permit application. Provide plans showing the design and layout for the sprinkler system.
13. A soils report will be required for the project.
14. The septic design will need to comply with Tier I requirements of the California Onsite Wastewater Treatment Systems design criteria or the design will need to be submitted to RWQCB for review and approval.

Thanks

Michael Stoker, CASp
Building Division Supervisor
County of San Luis Obispo
Planning and Building Department
(p) 805-781-1543
(f) 805-781-1242
mstoker@co.slo.ca.us



COUNTY OF SAN LUIS OBISPO
DEPARTMENT OF PLANNING AND BUILDING

The information contained in this e-mail, including any attachments, may be privileged, confidential, and/or exempt under applicable law, and covered by the Electronic Communications Privacy Act, 18 U.S.C. sections 2510-2521. This email is intended only for the use of the individual(s) or entity to which it is addressed, and the privileges and exemptions are not waived by virtue of this having been sent by e-mail. If the person actually receiving this e-mail or any other reader of the e-mail is not a named recipient or the employee or agent responsible to deliver it to a named recipient, any use, dissemination, distribution or copying of the communication is strictly prohibited. If you have received this communication in error and/or are not the intended recipient, do not read, distribute or reproduce this transmission. Please contact the sender of this email at the above e-mail address and permanently delete the message and any attachments from your system.

From: Mail for PL_Referrals Group <plreferrals@co.slo.ca.us>
Sent: Tuesday, September 24, 2019 5:13 PM
To: Young L. Choi <ychoi@co.slo.ca.us>
Cc: Schani Siong <:ssiong@co.slo.ca.us>
Subject: DRC2019-00214 BOOKOUT, Project Summary / Referral*, Minor Use Permit, Cambria

**** The process for accessing referral information has changed; please review all of the following details carefully ****

**County of San Luis Obispo
Department of Planning & Building**

An application was recently filed with the Planning Department. Because this application may be of interest or concern to your department, agency, or community group we are notifying you of the availability of a referral (project summary) for the proposed project application, and are requesting your review. Please click the direct hyperlink below titled "Project Summary / Referral":

2

DRC2019-00214 BOOKOUT, Project Summary / Referral*, Minor Use Permit, Cambria
APN(s): 013-085-005

**** For general referral questions, hyperlink or technical issues, or to update your agency/department's contact and e-mail information, please send an e-mail to Hilary Brown (hbrown@co.slo.ca.us) or call 805-788-2009**
VIEW ADDITIONAL PROJECT INFO for this application or search for other plans and permits on our [CSS Portal](#)
[\(Citizen Self Service\)](#) -- users can search by plan #, permit #, address, or APN.

Please comment on all issues associated with this project within 14 days of receiving this e-mail (Community Advisory Groups: please respond within 60 days)

Direct comments on this application to the project manager(s):
Young Choi (805-788-2086 or ychoi@co.slo.ca.us)

Referral Response:

As part of your response to this referral, please consider the following questions:

- Are there significant concerns, problems or impacts in your area of review?
- If Yes, please describe the impacts along with any recommendations to reduce the impacts in your response.
- If your community has a "vision" statement in the Area Plan - does the community feel this project helps to achieve that vision? If No, please describe.
- What does the community like or dislike about the project or proposal?
- Is the project compatible with surrounding development, does it fit in well with its surroundings? If No, are there changes in the project that would make it fit in better?
- Does the community believe the road(s) that provide access to the site is(are) already overcrowded?
- Does the community wish to have a trail in this location?
- If the proposal is a General Plan Amendment, does the community feel the proposed change would encourage other surrounding properties to intensify, or establish intense uses that would not otherwise occur?
- Please feel free to include information or questions other than those listed above. You may also choose to respond that you have no comments regarding the proposal.

**All information and/or material provided in the linked Referral Package is valid for 90 days after this correspondence. If current or additional information is needed, please contact the Project Manager for the most updated information*

From: O'Neill, Brian@Coastal <Brian.O'Neill@coastal.ca.gov>
Sent: Tuesday, October 15, 2019 12:04 PM
To: Young L. Choi
Subject: [EXT]RE: Cambria SFR Projects

ATTENTION: This email originated from outside the County's network. Use caution when opening attachments or links.

Thank you for the heads up! While I understand that the County needs to continue processing applications, you may want to inform applicants of the recent appeals. They may be better off waiting a few months until the Commission takes a final action and provides direction on development in Cambria.

~Brian

From: Young L. Choi [<mailto:ychoi@co.slo.ca.us>]
Sent: Tuesday, October 15, 2019 11:20 AM
To: O'Neill, Brian@Coastal
Subject: Cambria SFR Projects

Hi Brian,

I just wanted to let you know that I am currently processing another Leimert Tract SFR (DRC2019-00214). There is another project from a while ago for Settimi DRC2018-00002. Both are currently on information hold letter, but I will be making sure to resend a referral to your department once the projects are accepted.

Just to give you a information for Settimi DRC2018-00002 - this is a rerun of Fox project that Coastal Commission denied few years ago.

I just wanted to give you a heads up on projects in Cambria (new sfr's), and that I will be rereferring these files to your office once projects are accepted for processing.

Thanks!

Young Choi
Planner
(p) 805-788-2086
ychoi@co.slo.ca.us

COUNTY OF SAN LUIS OBISPO
DEPARTMENT OF PLANNING & BUILDING



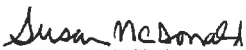
P. O. Box 533
Cambria, CA 93428
northcoastadvisorycouncil.org

Date: October 17, 2019

Schani Siong
County of San Luis Obispo Planning Department
976 Osos Street #300
San Luis Obispo, CA 93408

Dear Ms. Siong:

The North Coast Advisory Council on July 17, 2019, voted unanimously to recommend approval of the Minor Use Permit application, DRC2019-00214 Bookout, noting a recommendation that the property owner use permeable paving for driveways and turnarounds.
Sincerely,


Susan McDonald, Chair
North Coast Advisory Council

cc: Young Choi – ychoi@co.slo.ca.us

*The NCAC strives to develop a unified, cooperative effort among
individuals, organizations and public institutions.*

From: O'Neill, Brian@Coastal
<Brian.O'Neill@coastal.ca.gov>
Sent: Friday, February 05, 2021 2:33 PM
To: Young L. Choi
Subject: RE: [EXT]DRC2019-00214 (Bookout) and DRC2020-00107 (Hadian)

Hello Young,

While I do not have time to finalize a formal response on CCC letterhead, I thought I would provide a response to the County's position now. I will provide a formal letter prior to the County's action on the proposed projects. As you explained below, our understanding is that the County believes that "pipeline" projects are separate and distinct from the "existing commitments" list. The County further believes that neither pipeline projects or existing commitment projects must adhere to the "no adverse impacts to Santa Rosa and San Simeon Creeks" standard. We disagree.

First, we understand that "pipeline" projects are a specific subset of the larger category of "existing commitments" and that these are not two distinct categories. We do agree that pipeline projects are those that had secured a will-serve letter prior to November 15, 2001 and that the County had accepted an application for processing. However, our understanding is that all of these pipeline projects were also included in the CCSD existing commitments list that was in existence in 2001. In other words, all pipeline projects are existing commitments, but not all existing commitments are pipeline projects. We have long requested a list of pipeline projects from both the CCSD and the County, but this list has still not been provided. Our understanding is that there are no pipeline projects left. The two projects at issue here were proposed in 2019 and 2020. Thus even if there were pipeline projects remain, these projects are clearly not in the pipeline project category as they did not have a will serve letter and application in process in 2001.

Second, we disagree that existing commitments do not need to meet the "no adverse impacts to Santa Rosa and San Simeon Creeks" standard. This policy states that "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 clearly differentiates between projects **using** water connections and those that are not. We recognize that there were a handful of non-pipeline projects that were approved between 2001 and 2007. The intent of this policy is to capture the projects that actually connected to the water system and began using water service between the 2001 moratorium and the 2007 EAP update. All other new development must meet the "no adverse impacts" standard, which in our view is not currently possible. The only exception was for pipeline projects, of which these projects do not qualify and of which there are no projects remaining. We also note that the CCSD has continued to add projects to the "existing commitments" list after 2001 and do not agree that the list you provided constitutes the correct. The existing commitments list is finite and only includes projects that were on the list in 2001. The list you provided in from 2020 and was not in existence in 2001.

Finally, as we have explained in the staff report, even if pipeline projects were to exist, other LCP coastal resource protection policies (e.g. those related ESHA, Groundwater Basins, Watersheds, Coastal Streams and Riparian Habitats, etc.) are all applicable to the project and no new connections in Cambria would be able to be found consistent with these policies. Moreover, the EAP states that the pipeline project

allowance was based, in part, on the CCSD's "reliability conclusions of the CCSD's Water Supply Analysis during a November 15, 2001 meeting." In other words, the CCSD believed at the time that there was sufficient water to serve the remaining pipeline projects without adverse impacts. The overwhelming evidence gathered since that time suggests that the CCSD's 2001 conclusions were incorrect and there is not sufficient water to serve even existing development. Additionally, any issues of procedural fairness as an exception for pipeline projects has substantially diminished over the years, as almost 20 years has passed since the moratorium was enacted and all Cambrians have been well aware of the community's water scarcity issues for years.

In short, our office has not changed our opinion that new connections in Cambria cannot be found consistent with the LCP and must be denied. During the last Commission denial of a Cambria project, several Commissioners expressed strong frustration that the County and CCSD continues to approve projects when the Commission's direction has been overwhelmingly clear. These two projects, if approved, are very likely to be appealed and denied. We would strongly encourage the County and the CCSD to focus on securing a new sustainable water supply for the community, rather than continue to waste staff time and energy on individual projects that have very little chance of success.

Hopefully this helps clarify our position.

Thanks,
Brian

From: Young L. Choi <ychoi@co.slo.ca.us>
Sent: Thursday, February 4, 2021 2:54 PM
To: O'Neill, Brian@Coastal <Brian.O'Neill@coastal.ca.gov>
Subject: RE: [EXT]DRC2019-00214 (Bookout) and DRC2020-00107 (Hadian)

I can check with CCSD to see if there are any updated list, but this list was sent over to me sometime in October, 2020.

My understanding of these "existing commitment" list is that no new APNs can be added on. This existing commitment list complies the list of "meters installed on the ground prior to November 15, 2001", therefore, no new APN should be added in to this list.

I'm hoping this answered your questions.

Young Choi
Planner
(p) 805-788-2086
ychoi@co.slo.ca.us

COUNTY OF SAN LUIS OBISPO
DEPARTMENT OF PLANNING & BUILDING

From: O'Neill, Brian@Coastal <Brian.O'Neill@coastal.ca.gov>
Sent: Thursday, February 04, 2021 2:46 PM
To: Young L. Choi <ychoi@co.slo.ca.us>
Subject: RE: [EXT]DRC2019-00214 (Bookout) and DRC2020-00107 (Hadian)

Thanks, one last question. The "existing commitments" list that you provided states that it was updated as of 1/17/2020. Is this list final and static?

In other words, can projects be added to this list or is the attached document the only projects that fit within the existing commitments category?

From: Young L. Choi <ychoi@co.slo.ca.us>
Sent: Thursday, February 4, 2021 2:35 PM
To: O'Neill, Brian@Coastal <Brian.O'Neill@coastal.ca.gov>
Subject: RE: [EXT]DRC2019-00214 (Bookout) and DRC2020-00107 (Hadian)

We do not – I am hoping CCSD would compile those list so that we can review how many project would still qualify under "pipeline".

Young Choi
Planner
(p) 805-788-2086
ychoi@co.slo.ca.us

COUNTY OF SAN LUIS OBISPO
DEPARTMENT OF PLANNING & BUILDING

From: O'Neill, Brian@Coastal <Brian.O'Neill@coastal.ca.gov>
Sent: Thursday, February 04, 2021 2:34 PM
To: Young L. Choi <ychoi@co.slo.ca.us>
Subject: RE: [EXT]DRC2019-00214 (Bookout) and DRC2020-00107 (Hadian)

Does the County have a list of projects that had a CCSD will-serve letter prior to November 15, 2001?

From: Young L. Choi <ychoi@co.slo.ca.us>
Sent: Thursday, February 4, 2021 2:04 PM
To: O'Neill, Brian@Coastal <Brian.O'Neill@coastal.ca.gov>
Subject: RE: [EXT]DRC2019-00214 (Bookout) and DRC2020-00107 (Hadian)

Hi Brian,

We would define them as projects that had CCSD's commitments (will-serve letter) prior to the Moratorium (Nov 15, 2001).

Best,

Young Choi
Planner

(p) 805-788-2086

ychoi@co.slo.ca.us

COUNTY OF SAN LUIS OBISPO
DEPARTMENT OF PLANNING & BUILDING

From: O'Neill, Brian@Coastal <Brian.O'Neill@coastal.ca.gov>
Sent: Thursday, February 04, 2021 12:14 PM
To: Young L. Choi <ychoi@co.slo.ca.us>
Subject: RE: [EXT]DRC2019-00214 (Bookout) and DRC2020-00107 (Hadian)

Thanks Young, that is helpful. Can you provide clarity as to what projects constitute a "pipeline" project.

~Brian

From: Young L. Choi <ychoi@co.slo.ca.us>
Sent: Thursday, February 4, 2021 11:37 AM
To: O'Neill, Brian@Coastal <Brian.O'Neill@coastal.ca.gov>
Subject: RE: [EXT]DRC2019-00214 (Bookout) and DRC2020-00107 (Hadian)

Hi Brian,

Please see my response in red, below.

Best,

Young Choi
Planner

(p) 805-788-2086

ychoi@co.slo.ca.us

COUNTY OF SAN LUIS OBISPO
DEPARTMENT OF PLANNING & BUILDING

From: O'Neill, Brian@Coastal <Brian.O'Neill@coastal.ca.gov>
Sent: Wednesday, February 03, 2021 1:10 PM
To: Young L. Choi <ychoi@co.slo.ca.us>
Subject: RE: [EXT]DRC2019-00214 (Bookout) and DRC2020-00107 (Hadian)

Hello Young,

Thanks for checking in. I am closing to submitting comments. However, I just want to clarify the County's new position. It appears that the County is putting proposed residential development into essentially three categories: 1) existing service commitments; 2) "pipeline" projects; and 3) new non-affordable housing residential development. Is that correct?

To clarify further, the County believes that existing service commitments do not need to offset their water use and do not need to meet the "no adverse impacts" to the Santa Rosa and San Simeon creeks standard. Can you please identify what projects fit into this category?

[Young Choi] Existing residences / connections already served before November 15, 2001, as well as CCSD's "Existing Commitments". I have attached Existing Commitments from CCSD Code Exhibit "B" to 8.04.030 (A)(2)(3). All Tract 1804 are included in these "Existing Commitments" list. Since these projects have existing commitments prior to November 15, 2001, these projects do not have to meet the "no adverse impacts to the Santa Rosa/San Simeon Creeks" standards set forth in North Coast Area Plan (Limitation on Development). In addition, existing service commitments would still need to comply with CCSD's retrofit program.

The County also believes that the "pipeline" projects do not need to meet the no adverse impacts to the creeks standard, but do need to offset their water use. Can you please identify what projects fit into this category? ***[Young Choi] Correct – as standards set forth in NCAP (Limitation on Development), both Existing Commitment & "Pipeline projects" are not subject to "no adverse impact to the Santa Rosa/San Simeon Creeks" standard.***

Finally, new non-affordable residential projects would need to meet the no adverse impacts standards and, assuming this standard could be met, would also need to offset their water use. ***[Young Choi] Correct – review of the impacts & offset compliance is managed through CCSD and conditions on the will-serve commitment letters.***

If I am off base on the County's interpretation, please feel free to correct my understanding.

Thanks,
Brian

From: Young L. Choi <ychoi@co.slo.ca.us>
Sent: Tuesday, February 2, 2021 11:10 AM
To: O'Neill, Brian@Coastal <Brian.O'Neill@coastal.ca.gov>
Subject: RE: [EXT]DRC2019-00214 (Bookout) and DRC2020-00107 (Hadian)

Hi Brian –

Hope you are staying safe and healthy. Just checking on to see when we can expect to see the comment for these two projects.

Thanks!

Young Choi
Planner
(p) 805-788-2086
ychoi@co.slo.ca.us

COUNTY OF SAN LUIS OBISPO
DEPARTMENT OF PLANNING & BUILDING

From: O'Neill, Brian@Coastal <Brian.O'Neill@coastal.ca.gov>
Sent: Thursday, January 21, 2021 11:34 AM
To: Young L. Choi <ychoi@co.slo.ca.us>
Subject: RE: [EXT]DRC2019-00214 (Bookout) and DRC2020-00107 (Hadian)

That should work fine and I will try to get something to you as soon as I can. I appreciate your accommodation.

~Brian

From: Young L. Choi <ychoi@co.slo.ca.us>
Sent: Thursday, January 21, 2021 10:02 AM
To: O'Neill, Brian@Coastal <Brian.O'Neill@coastal.ca.gov>
Subject: RE: [EXT]DRC2019-00214 (Bookout) and DRC2020-00107 (Hadian)

Thanks Brian -

I am looking into our hearing calendar, and with the internal due dates, we are mostly looking for 2/19 PDH. Let me know if this is a problem for you.

I hope you are staying safe and healthy.

Best,

Young Choi
Planner
(p) 805-788-2086
ychoi@co.slo.ca.us

COUNTY OF SAN LUIS OBISPO
DEPARTMENT OF PLANNING & BUILDING

From: O'Neill, Brian@Coastal <Brian.O'Neill@coastal.ca.gov>
Sent: Thursday, January 21, 2021 9:43 AM

To: Young L. Choi <ychoi@co.slo.ca.us>

Subject: RE: [EXT]DRC2019-00214 (Bookout) and DRC2020-00107 (Hadian)

Hi Young,

I don't think it would take me more than a few days for us to write a response, I just do not have time to formulate a response before tomorrow's hearing. I can probably send you something next week.

~Brian

From: Young L. Choi <ychoi@co.slo.ca.us>

Sent: Wednesday, January 20, 2021 5:04 PM

To: O'Neill, Brian@Coastal <Brian.O'Neill@coastal.ca.gov>

Subject: RE: [EXT]DRC2019-00214 (Bookout) and DRC2020-00107 (Hadian)

Hi Brian –

You can give me a call tomorrow. I'd like to know your timeline so that we can continue this item to give you & the County sufficient time to review your comment letter.

Let me know when the best time for your phone call would be.

Thank you,

Young Choi

Planner

(p) 805-788-2086

ychoi@co.slo.ca.us

COUNTY OF SAN LUIS OBISPO

DEPARTMENT OF PLANNING & BUILDING

From: Young L. Choi

Sent: Wednesday, January 20, 2021 2:21 PM

To: O'Neill, Brian@Coastal <Brian.O'Neill@coastal.ca.gov>

Subject: RE: [EXT]DRC2019-00214 (Bookout) and DRC2020-00107 (Hadian)

Hi Brian –

Could you give me a quick call? I'm available today, with exception from 3:00-4:00. I'd like to know your timeline for the review/comments.

Thanks!

Young Choi
Planner

(p) 805-788-2086
ychoi@co.slo.ca.us

COUNTY OF SAN LUIS OBISPO
DEPARTMENT OF PLANNING & BUILDING

From: O'Neill, Brian@Coastal <Brian.O'Neill@coastal.ca.gov>
Sent: Wednesday, January 20, 2021 1:04 PM
To: Young L. Choi <ychoi@co.slo.ca.us>
Subject: [EXT]DRC2019-00214 (Bookout) and DRC2020-00107 (Hadian)

ATTENTION: This email originated from outside the County's network. Use caution when opening attachments or links.

Hello Young,

I saw that at some point yesterday or today a staff memo for the two Cambria SFD projects (DRC2019-00214 (Bookout) and DRC2020-00107 (Hadian)) was posted for Friday's planning department hearing. The memo attempts to address the availability of water to serve the projects and do not accurately reflect the Commission's prior actions. Due to the close proximity of the Friday's hearing, our office may not have sufficient time to respond. We would respectfully request the item be continued until we have adequate time to review the new materials and respond accordingly.

Thank you,
Brian

Daniela Chavez

From: Elizabeth Bettenhausen <elizabethbettenhausen@gmail.com>
Sent: Thursday, January 21, 2021 8:54 AM
To: Daniela Chavez
Subject: [EXT]Hearing Item 6, Jan 22, 2021
Attachments: Planning Hadian 20Jan2021.pdf

ATTENTION: This email originated from outside the County's network. Use caution when opening attachments or links.

Good morning, Ms. Chavez:

Attached is my written public comment on the hearing on Jan. 22, 2021 regarding the application for a Minor Use Permit DRC2020-00107.

I would be grateful were you to forward it to the pertinent parties.

Thank you!

Elizabeth Bettenhausen
345 Plymouth St.
Cambria, CA 93428

elizabethbettenhausen@gmail.com

Elizabeth Bettenhausen, Ph.D.
345 Plymouth St.
Cambria, CA 93428
elizabethbettenhausen@gmail.com

20 January 2021

Re: SLO Planning Hearing 22 January 2021
Agenda Item 6: DRC2020-00107

SLO County Planning Department:

I request that you do not approve Minor Use Permit DRC2020-00107 for these reasons.

The environmental conditions along the central coast of California, including Cambria, have significantly changed since the initial agreement between Walter Leimert and Cambria Community Services District (CCSD) in 1985 and the subsequent agreement in 1999.

In particular and crucially, the climate change is bringing about drought more frequently and increased temperatures of air and ocean. This is affecting the ESHA which is the location of San Simeon Creek and aquifer, as well as the Santa Rosa Creek and aquifer, the sources of CCSD's water withdrawal. In addition, CCSD's withdrawal of water from these sources has already caused environmental damage. No new residential or commercial customers should be added to the water service program of CCSD for the foreseeable future.

The CCSD has not provided reliable data on water conservation, including the alleged water-saving via the retrofit and water use offset program. I have followed this since moving here in 2002 and have submitted PRRs for the data now and again. Reliable data must be collected and available to the public—individuals and agencies—to show that retrofit points are in fact accompanied by no increase in water use by a particular customer for at least two years. Otherwise the conservation is rhetorical but not actual.

CCSD repeatedly makes claims about grandfathered Intent to Serve permits. The list changes about once a year, increasing or decreasing the grandparents.

No matter what the current claim by the CCSD, the legal standing of Intent to Serve water permits must be discussed in relation to the actual limits of the water supply now.

The California Coastal Commission has taken up this issue again and again. Please take serious account of the staff reports and Commission's disapproval of the earlier Hadian application on 13 November 2019 (<https://documents.coastal.ca.gov/reports/2019/11/W32e/w32e-11-2019-report.pdf>) for example. I can see in your Agenda Item 6 for 22 Jan. 2021 no reason to proceed with the current version of the application.

I will not impose upon you more of my analysis of the situation in Cambria. SLO County Planning and Cambria Community Services District can and should take a more prudent course of action. The urgency of the climate crisis begs you and them to attend to environmental threats in much more careful ways than has been the case so far.

Thank you for your serious consideration of this matter. Should you approve this application, I will appeal your decision.

Daniela Chavez

From: Christine Heinrichs <christine.heinrichs@gmail.com>
Sent: Saturday, January 23, 2021 10:14 AM
To: Daniela Chavez
Subject: [EXT]Re: January 22 Planning Department Public Hearings

ATTENTION: This email originated from outside the County's network. Use caution when opening attachments or links.

Hello, Daniela --

The comments I submitted to Friday's Planning Department meeting on the Hadian and Bookout permits did not have my name and contact information. Could you replace the posted comments with this copy, which adds my name and contact? Or simply add

Christine Heinrichs

Cambria, CA

Christine.heinrichs@gmail.com

Thank you.

On Wed, Jan 20, 2021 at 11:13 AM Christine Heinrichs <christine.heinrichs@gmail.com> wrote:
Ms. Chavez:

I also intend to attend Friday's public hearing and speak to Consent Agenda Items 4 and 6. Thank you.

--
Christine Heinrichs

--
Christine Heinrichs

January 22 2021 Planning Department public hearings Hadian and Bookout:

To the Planning Department:

I ask the Planning Department to remove both the Hadian and Bookout permits from the Consent Agenda and consider them individually. Both should be denied.

The Coastal Commission has acted on a previous, similar, permit for Hadian, and denied it. I attach those documents.

From the Staff Report on the previous Hadian permit, which was essentially identical to the permit under consideration:

“The County’s action raises substantial LCP water resource and sensitive habitat issues because: (1) the County did *not* determine that there was an adequate sustainable water supply to serve the project as is required by the LCP, but rather relied solely on a Cambria Community Services District (CCSD) intent-to-serve (or “will serve”) letter for this purpose; (2) there is *not* an adequate sustainable water supply to provide new water service to serve new development in Cambria (and it is not adequate even for existing development), a factual finding that has been repeatedly determined by the Commission in relation to Cambria development through multiple actions, including certification of LCP policies (specific to the present lack of available water and imposing specific water supply requirements) and CDP actions; (3) the sources of Cambria’s water supply (i.e., Santa Rosa and San Simeon Creeks) are environmentally sensitive habitat areas (ESHA) that are *currently* being adversely affected by *existing* water extractions to support *existing* development in Cambria; and (4) the County found that the project could be served by the community’s already oversubscribed water supply because the CCSD agreed to serve the project in order to settle a lawsuit, but the LCP only allows allocation of water supply when it is from an adequate sustainable water supply, which it is not; and (5) because the project would be required to comply with the CCSD’s retrofit program designed to offset water use, but such offsets would be inadequate to meet LCP standards with respect to adequate water supply and the CCSD’s program does not appear to actually offset such water use even if it were to be deemed an appropriate tool to meet LCP standards, which it is not.”

The Coastal Commission has addressed the issue of “grandfathered” water meters in several permit appeals, the following section again from Hadian:

“There were originally a limited number of these ‘grandfathered’ pipeline projects, but there are no more such pipeline projects pending today. As a result, the cumulative effect of the moratorium and the certified LCP is that currently the LCP effectively prohibits approval of new water service in Cambria, taking into account the actual facts and reality on the ground, and does so in this case.”

The Commission found that “the County’s action raises a substantial LCP conformance issue and that the Commission take jurisdiction over the CDP application. Due to the above LCP water supply inconsistencies, and the lack of available water to serve even *existing* development in Cambria let alone new water service to facilitate new development.”

But you know all this. I hope you have also listened to the commission's frustration with the county and the Cambria CSD for continuing to approve these new construction permits, as voiced at the November 6 hearing on the Settimi permit, which was also denied. If not, please view it at 2:37 into Cal Span video at <https://cal-span.org/unipage/?site=cal-span&owner=CCC&date=2020-11-06>.

One commissioner suggested that the county's intransigence regarding its refusal to follow the laws and the commission's decisions is to put up a billboard saying These People Are Not Telling the Truth. Approving these permits at the county level and requiring action at the Coastal Commission level is even more difficult at this time of pandemic, when Coastal Commission staff is working remotely and under furlough.

I ask the department to change course, reject its planner's recommendation for approval, and deny this permit application. Thank you.

CALIFORNIA COASTAL COMMISSION

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W32e

Filed: 11/9/2019
Action Deadline: 12/20/2019
Staff: Brian O'Neill - SC
Staff Report: 10/25/2019
Hearing Date: 11/13/2019

APPEAL STAFF REPORT: SUBSTANTIAL ISSUE DETERMINATION & DE NOVO HEARING

Application Number: A-3-SLO-19-0199

Applicant: Alireza Hadian

Appellants: Commissioners Linda Escalante and Katie Rice

Local Government: San Luis Obispo County

Local Decision: San Luis Obispo County Coastal Development Permit Application Number DRC2019-00093, approved by the San Luis Obispo County Planning Department on September 6, 2019.

Project Location: Undeveloped property at 6775 Cambria Pines Road in the unincorporated community of Cambria in San Luis Obispo County (APN 022-053-041).

Project Description: Construction of a 4,000-square-foot two-story single-family residence, 480-square-foot covered deck, 383-square-foot covered porch, detached 1,000-square-foot garage, and 750-square-foot workshop on a 2.94-acre vacant parcel in the community of Cambria.

Staff Recommendation: Substantial Issue Exists; Denial

Important Hearing Procedure Note: The Commission will not take testimony on this "substantial issue" recommendation unless at least three Commissioners request it. The Commission may ask questions of the Applicant, any aggrieved person, the Attorney General or

the Executive Director prior to determining whether or not to take testimony regarding whether the appeal raises a substantial issue. If the Commission takes testimony regarding whether the appeal raises a substantial issue, testimony is generally (and at the discretion of the Chair) limited to three minutes total per side. Only the Applicant, persons who opposed the application before the local government (or their representatives), and the local government shall be qualified to testify during this phase of the hearing. Others may submit comments in writing. If the Commission finds that the appeal raises a substantial issue, the de novo phase of the hearing will follow, unless it has been postponed, during which the Commission will take public testimony.

SUMMARY OF STAFF RECOMMENDATION

San Luis Obispo County approved a coastal development permit (CDP) for the construction of a 4,000-square-foot two-story single-family residence, 480-square-foot covered deck, 383-square-foot covered porch, detached 1,000-square-foot garage, and 750-square-foot workshop on a 2.94-acre vacant parcel on the northern edge of the community of Cambria in unincorporated San Luis Obispo County. The Appellants contend that the County's action is inconsistent with numerous policies and standards in the County's certified Local Coastal Program (LCP), including primarily those related to water supply and sensitive habitats. Following review of the local record, staff recommends that the Commission find that the County's approval of the project raises a substantial LCP conformance issue, that the Commission take jurisdiction over the CDP application, and that the Commission deny that CDP application due to significant LCP inconsistencies.

The County's action raises substantial LCP water resource and sensitive habitat issues because: (1) the County did *not* determine that there was an adequate sustainable water supply to serve the project as is required by the LCP, but rather relied solely on a Cambria Community Services District (CCSD) intent-to-serve (or "will serve") letter for this purpose; (2) there is *not* an adequate sustainable water supply to provide new water service to serve new development in Cambria (and it is not adequate even for existing development), a factual finding that has been repeatedly determined by the Commission in relation to Cambria development through multiple actions, including certification of LCP policies (specific to the present lack of available water and imposing specific water supply requirements) and CDP actions; (3) the sources of Cambria's water supply (i.e., Santa Rosa and San Simeon Creeks) are environmentally sensitive habitat areas (ESHA) that are *currently* being adversely affected by *existing* water extractions to support *existing* development in Cambria; and (4) the County found that the project could be served by the community's already oversubscribed water supply because the CCSD agreed to serve the project in order to settle a lawsuit, but the LCP only allows allocation of water supply when it is from an adequate sustainable water supply, which it is not; and (5) because the project would be required to comply with the CCSD's retrofit program designed to offset water use, but such offsets would be inadequate to meet LCP standards with respect to adequate water supply and the CCSD's program does not appear to actually offset such water use even if it were to be deemed an appropriate tool to meet LCP standards, which it is not.

The proposed project is located in an area where existing water extractions to serve the community already and significantly adversely affect significant coastal resources, including Santa Rosa and San Simeon Creeks and associated sensitive riparian habitats. The CCSD

declared a water moratorium prohibiting new connections in 2001 as a means to help address the problem, and that moratorium remains in effect. The moratorium and the applicable LCP provisions based on it that were certified by the Commission in 2007 *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 and that the CCSD had already committed to provide water for (known as “pipeline projects”), and only when such pipeline projects institute required offsets designed to “back out” such 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 Creeks from adding more water demand to the system; rather it was considered a matter of equity and fairness to honor commitments made at the time (with potential attendant legal risks if such commitments were not recognized), provided they were strictly limited in the manner described above, and the Commission agreed to this scheme in the 2007 LCP amendment. There were originally a limited number of these “grandfathered” pipeline projects, but there are no more such pipeline projects pending today. As a result, the cumulative effect of the moratorium and the certified LCP is that currently the LCP effectively prohibits approval of new water service in Cambria, taking into account the actual facts and reality on the ground, and does so in this case.

Notwithstanding these clear points about the LCP, the CCSD has continued to offer to provide new water services for proposed development that do not constitute “pipeline projects,” as it did here, and the County has on occasion approved development based on CCSD intent-to-serve letters to that effect, as it did here. There are significant precedential LCP interpretation and coastal resource concerns with the County’s approach to approving projects given the context of inadequate regional water supply, including the effect of same leading to new water extraction demands on already oversubscribed Santa Rosa and San Simeon Creeks. This is particularly concerning as the CCSD has indicated that it would provide intent-to-serve letters to provide new water service to over *130 additional new projects* not on the pipeline projects’ list, and the CCSD further indicates that it believes it has the authority to increase that number as much as it wants. And because the County has stated that it deems such intent-to-serve letters as sufficient to determine that there is adequate water to serve new development, notwithstanding LCP provisions to the contrary that are specific to Cambria’s water supply, the County’s action in this case raises serious issues regarding LCP water resource and sensitive habitat protections, including in terms of the effect of the County’s position on interpretation of the LCP in future Cambria projects, where some 130 intent-to-serve letters (or more) await future County action.

Staff recommends that the Commission find that the County’s action raises a substantial LCP conformance issue and that the Commission take jurisdiction over the CDP application. Due to the above LCP water supply inconsistencies, and the lack of available water to serve even *existing* development in Cambria let alone new water service to facilitate new development, staff further recommends that the Commission, on de novo review, deny the CDP. The motions and resolutions to do so are found on page 5 below.

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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 – Approved Project Plans and County’s Conditions of Approval

Exhibit 4 – County’s Final Local CDP Action Notice

Exhibit 5 – Appeal Contentions

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 – 1999 Settlement Agreement

I. MOTIONS AND RESOLUTIONS

A. Substantial Issue Determination

Staff recommends that the Commission determine that a **substantial issue** exists with respect to the grounds on which the appeal was filed. A finding of substantial issue would bring the CDP application for the proposed project under the jurisdiction of the Commission for de novo hearing and action. To implement this recommendation, staff recommends a **NO** vote on the following motion. Failure of this motion will result in a de novo hearing on the CDP application, and adoption of the following resolution and findings. Passage of this motion will result in a finding of no substantial issue and the local action will become final and effective. The motion passes only by affirmative vote of a majority of the Commissioners present.

***Motion:** I move that the Commission determine that Appeal Number A-3-SLO-19-0199 raises no substantial issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act, and I recommend a no vote.*

***Resolution to Find Substantial Issue:** The Commission hereby finds that Appeal Number A-3-SLO-19-0199 presents a substantial issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act regarding consistency with the certified San Luis Obispo County Local Coastal Program.*

B. CDP Determination

Staff recommends that the Commission, after public hearing, **deny** a coastal development permit for the proposed development. To implement this recommendation, staff recommends a **NO** vote on the following motion. Failure of this motion will result in denial of the CDP 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-19-0199 for the development proposed by the applicant, and I recommend a no vote.*

***Resolution to Deny CDP:** The Commission hereby denies Coastal Development Permit Number A-3-SLO-19-0199 on the grounds that the development will not be in conformity with the San Luis Obispo County Local Coastal Program. Approval of the permit would not comply with the California Environmental Quality Act because there are feasible mitigation measures and/or alternatives that would substantially lessen the significant adverse effects of the development on the environment.*

II. FINDINGS AND DECLARATIONS

The Commission finds and declares as follows:

A. PROJECT LOCATION

The proposed project is located on a 2.94-acre vacant parcel on the northern edge of the community of Cambria in unincorporated San Luis Obispo County at 6775 Cambria Pines Road. 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 vacant and consists of Monterey Pine forest. The parcel is zoned Rural Lands, which allows for single-family residential development at low densities in order to preserve wildlife habitat areas while providing for a low-density residential use. See **Exhibit 1** for project location maps and **Exhibit 2** for photos of the project site.

B. PROJECT DESCRIPTION

The County's approval authorized the construction of a 4,000-square-foot two-story single-family residence, 480-square-foot covered deck, 383-square-foot covered porch, detached 1,000-square-foot garage, 750-square-foot workshop, associated grading, and removal of 20 Monterey pine trees on a 2.94-acre vacant parcel. The project would result in disturbance of 0.6 acres of the site. See the County's conditions of approval and approved project plans in **Exhibit 3**.

C. SAN LUIS OBISPO COUNTY APPROVAL AND APPEAL HISTORY

On September 6, 2019 San Luis Obispo County approved a CDP for the proposed project (County CDP Application No. DRC2019-00093). Notice of the County's final action on the CDP was received in the Coastal Commission's Central Coast District Office on September 25, 2019 (see **Exhibit 4**). The Coastal Commission's ten-working-day appeal period for this action began on September 26, 2019 and concluded at 5 pm on October 9, 2019. One valid appeal was received during the appeal period. See **Exhibit 5** for the full text of the appeal.

D. APPEAL PROCEDURES

Coastal Act Section 30603 provides for the appeal to the Coastal Commission of certain CDP decisions in jurisdictions with certified LCPs. The following categories of local CDP decisions are appealable: (a) approval of CDPs for development that is located (1) between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide line of the sea where there is no beach, whichever is the greater distance, (2) on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, or stream, or within 300 feet of the top of the seaward face of any coastal bluff, or (3) in a sensitive coastal resource area; and (4) for counties, approval of CDPs for development that is not designated as the principal permitted use under the LCP. In addition, any local action (approval or denial) on a CDP for a major public works project (including a publicly financed recreational facility and/or a special district development) or an energy facility is appealable to the Commission. The County's approval of this project is appealable because the proposed development is located within a designated sensitive coastal resource area under the LCP. The project is also appealable because the zoning district for the project designates more than one principally permitted use and thus all "principally permitted uses" are appealable per Coastal Act section 30603(a)(4).

The grounds for appeal under Section 30603(b)(1) are limited to allegations that the development does not conform to the certified LCP and/or to the public access policies of the Coastal Act. Section 30625(b)(2) of the Coastal Act requires the Commission to consider a CDP for an appealed project de novo unless a majority of the Commissioners present finds that “no substantial issue” is raised by such allegations. Under Section 30604(b), if the Commission conducts the de novo portion of an appeal hearing (following a determination of “substantial issue”) the Commission must approve a CDP if it finds the proposed development consistent with the certified LCP. If a CDP is approved for a project that is located between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone, Section 30604(c) also requires an additional specific finding that the development is in conformity with the public access and recreation policies of Chapter 3 of the Coastal Act. This project is not located between the nearest public road and the sea (or the shoreline of a body of water located within the coastal zone), and thus this additional finding would not need to be made if the Commission were to approve the project following a de novo hearing.

The only persons qualified to testify before the Commission on the substantial issue question are the Applicant (or the Applicant’s representatives), persons opposed to the project who made their views known before the local government (or their representatives), and the local government. Testimony from other persons regarding substantial issue must be submitted in writing. Any person may testify during the de novo CDP determination stage of an appeal.

E. SUMMARY OF APPEAL CONTENTIONS

The appeal contends that the County-approved project is inconsistent with numerous San Luis Obispo LCP groundwater resources and water supply provisions, including those that prohibit new development in Cambria that will impact Santa Rosa and San Simeon Creeks, and that require new development to demonstrate an adequate water supply to serve it. The appeal also states that the water retrofits that were installed for the project are inadequate to offset the proposed water use. See **Exhibit 5** for the Appellants’ appeal documents and contentions.

F. SUBSTANTIAL ISSUE DETERMINATION

The term substantial issue is not defined in the Coastal Act. The Commission’s regulations simply indicate that the Commission will hear an appeal unless it “finds that the appeal raises no significant question.” In previous decisions on appeals, the Commission has considered the following factors in making such determinations: (1) the degree of factual and legal support for the local government’s decision that the development is consistent or inconsistent with the certified LCP and with the public access policies of the Coastal Act; (2) the extent and scope of the development as approved or denied by the local government; (3) the significance of the coastal resources affected by the decision; (4) the precedential value of the local government’s decision for future interpretation of its LCP; and (5) whether the appeal raises only local issues, or those of regional or statewide significance. Even where the Commission chooses not to hear an appeal, Appellants nevertheless may obtain judicial review of the local government’s CDP decision by filing a petition for a writ of mandate pursuant to Code of Civil Procedure, Section 1094.5.

In this case, for the reasons discussed further below, the Commission determines that the County’s approval of a CDP for the project raises a substantial LCP conformance issue.

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.

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, including 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

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

CCSD's groundwater extractions were then permitted pursuant to CDP 428-10, as amended, which the Commission initially 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 because the CCSD proposed as part of the project 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 cannot 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.

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.⁴ In fact, as the Commission has made clear in the 2007 LCP North Coast Area Plan Update and in multiple appeal/CDP cases,⁵ 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),

subject to the same terms and conditions, including regarding maintaining water levels in the basin to sustain stream flow to the lagoon to protect fish and riparian habitat.

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.

⁴ 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 the issues and the problems in depth, including identifying the need for additional studies and measures to assure protection of the Creeks.

⁵ See, for example, A-3-SLO-01-122 (Cambria Pines Lodge Expansion); A-3-SLO-02-050 (Monaco); A-3-SLO-02-073 (Hudzinski); A-3-SLO-13-0213 (Kingston Bay Senior Living); and A-3-SLO-14-0044 (Fox SFD).

even in times of abundant rain the maximum storage 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 2001,⁶ 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:

...new 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.⁷ The LCP identifies an Alert Level III as the most severe constraint level, where the existing demand of the resource has met or exceeded the available capacity. 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 significantly adversely affect significant coastal resources, including Santa Rosa and San Simeon Creeks and associated sensitive riparian habitats. These impacts are explicitly prohibited by both CCSD's SWRCB water license as well as the Commission's CDP to the CCSD recognizing same. The moratorium (which remains in effect today) and the applicable LCP provisions based on it (that were submitted by the County and certified by the Commission in 2007) *only* allow

⁶ As part of the CCSD's Water Code 350 Emergency Declaration on November 15, 2001.

⁷ The RMS is a component of the 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.

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, and the Commission agreed to this scheme in the 2007 LCP amendment. There were originally some 64 of these grandfathered pipeline projects, but there are no more such pipeline projects remaining today.⁸ 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.⁹ 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, and allowing new water service in that context cannot be allowed consistent with either.

In 2014 the CCSD declared a “Stage 3 Water Shortage Emergency”¹⁰ 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.”¹¹ 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 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 a such desalination plant adjacent to Santa Rosa Creek, but the Commission denied that application due to its unmitigated and adverse coastal resource impacts. Nevertheless, the project was within the County’s jurisdiction and the County issued the Emergency CDP based on the CCSD’s

⁸ And even if there were, the approach for allowing them to proceed in the face of such water shortages was always considered interim. Some 18 years 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, such projects could not satisfy the requirements of CZLUO Section 23.04.430 requiring adequate water.

⁹ 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 further given that 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. Certainly, at least in this case, the project in question cannot be found consistent with this LCP policy allowance since approval is premised on water service being provided by the CCSD.

¹⁰ 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.

¹¹ See “*Cambria’s Emergency Water Supply Project. Questions and Answers.*” CCSD, November 3, 2014.

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 anyway, 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, but that application has not yet been filed as complete. The project will need to meet the requirements of numerous agencies, including the RWQCB, the California Department of Fish and Wildlife, the USFWS, the U.S. Army Corps of Engineers, and the National Marine Fisheries Service. 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 is currently proposed may eventually come online, and it is not appropriate to countenance it in relation to whether such water source (if ultimately approved) could provide for new water connections to serve development, particularly the current proposal, in an LCP-consistent manner.

Thus, the CCSD continues to pursue at least that project to bolster water supplies in Cambria, but it is not clear when or if that project will be approved and/or come online, and thus the same water supply issues that have affected Cambria for decades (as reflected in the discussion above) 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. In fact, 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." And the LCP has been amended in the past to recognize same, and to prohibit development (other than pipeline projects, of which no more exist today) that requires new water service absent the CCSD/community finding a new sustainable water source and supply beyond the Creeks (LCP Amendment SLO-MAJ-1-06 Part 1).

CCSD Continues to Provide Intent to Serve Letters Despite Exhaustion of Pipeline Project 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, as it did here, and the County has on occasion approved development based on CCSD intent-to-serve letters to that effect, as it did here. There are significant LCP interpretation and coastal resource concerns with the County's approach. The CCSD has justified the issuance

of intent-to-serve letters in three main ways. First, the CCSD 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 (including A-3-SLO-19-0033 (Peoples' Self-Help Housing Affordable Apartments), for which the Commission recently found substantial issue on appeal, and A-3-SLO-19-0195 (Swift SFD), currently on appeal to the Commission). 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 actually LCP consistent.

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.¹² Although the active water meter transfer transaction may include permanent retirement of the "sender" property, thus in theory offsetting the new connection of the "receiver" site, often the sender property is served by multiple water meters and sells an "extra" water meter without actually reducing water consumption, as is the case here. 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 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. In 2013 the CCSD capped the number of affordable units at 89, of which 33 were to be allotted to the People's Self-Help Housing Affordable Apartments project that the Commission in September 2019 found raised a substantial issue of LCP conformance on appeal (A-3-SLO-19-0033). None of these allocations consider the impact of the new units on the CCSD's limited water supply, nor the impact of additional withdrawals from San Simeon and Santa Rosa Creeks. In fact, the allocation scheme described above predates both the CSD moratorium and corresponding LCP amendment discussed above. Again, although the LCP does encourage the provision of affordable housing, it does not provide a means for new water service past the pipeline projects' list unless and until a new water source comes online that can serve new development without adverse impacts to water supply. Currently, the CCSD indicates that it has active applications for 32 additional new affordable housing units (not counting the 33 units proposed under de novo application number A-3-SLO-19-0033).

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

¹² See Section 8.04.100 of the CCSD Municipal Code. The CCSD Municipal Code is not part of the LCP.

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. While this is problematic, the County, not the CCSD, implements the LCP, and the CCSD's current unfounded positions would not in and of themselves lead to LCP inconsistencies. However, because the County has stated that such intent-to-serve letters by the CCSD are sufficient to determine that there is adequate water to serve new development, notwithstanding LCP provisions to the contrary that are specific to Cambria's water supply, the CCSD's posture with respect to water supply issues (by way of the County's reliance on the CCSD's representations in approving development under the LCP) raises serious issues regarding LCP water resource and sensitive habitat protections.

CCSD's Retrofit Program

Pursuant to LCP Policy 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 the proposed development 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 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. 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 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, the 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 this project, the

CCSD determined that the 4,000-square-foot four-bathroom house on a 2.94 acre parcel required 230 retrofit points, which equates to a payment of \$11,500 and a supposed savings of 338 gallons per day. The Applicant satisfied the retrofit requirements solely through the purchase of banked "Retrofit upon Resale" points.

There are a variety of problems with the 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 project). 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. All of the water offsets for this project were from the purchase of banked retrofit points that were required under the CCSD's code for other projects warranting water use reduction efforts at some prior time. 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, the 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 the 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, the CCSD does not require any further 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 the 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. The 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. The 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. The in-lieu fees paid by project Applicants to purchase retrofit points are not specifically 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. In any event, neither the County nor the Applicant have demonstrated that any in-lieu fees paid by the Applicants for the purchase of retrofit points have been used by the CSD to implement water projects that reduce existing water use within the service area.

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, and 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 LCP is divided geographically into four areas,¹³ each with its own LCP area plan. The LCP also includes an LUP, titled the Coastal Zone Framework, and Implementation Plan, titled the Coastal Zone Land Use Ordinance (CZLUO), which are applicable throughout all LCP four 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 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.¹⁴ 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.

Specifically, 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

¹³ The County’s four LCP areas are: North Coast, Estero, San Luis Bay, and South County.

¹⁴ Including as identified and specified in the terms and conditions applicable to both the SWRCB water licenses and the Commission’s 1977 CDP for water extractions.

(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 that has the capacity to accommodate the development being proposed.¹⁵ As described above, such adequate water supply does not exist in Cambria to serve even *existing* development, and thus *new* development requiring provision of new water service necessarily cannot be found consistent with this LCP policy with respect to water 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 *only* where such pipeline projects offset their 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 that were 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 an 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 accepted by the County) as of November 15, 2001 (i.e., the date of the moratorium), then the project may *only* be 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 a policy that did *not* stand for a premise that an individual project could assure “no adverse impacts” to the Creeks solely via offsets specific to its own water use. Rather, the Commission’s intent was to only allow for new water connections to serve new development when water withdrawals to serve the community generally were shown to no longer have adverse impacts to the Creeks.¹⁶ 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

¹⁵ See, for example, A-3-SLO-13-0213 (Kingston Bay Senior Living) and A-3-SLO-14-0044 (Fox SFD).

¹⁶ 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.”

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, no more pipeline projects exist 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 to qualify as a pipeline project, the LCP contains no provisions exempting such pipeline 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 an approach was always considered interim and such projects were allowed as a matter of procedural fairness (with potential attendant legal risks if such commitments were not recognized). This type of approach, when allowed, was always considered interim, including until more information regarding the effect water withdrawals were having on coastal stream and related resources was better understood. 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 18 years later, such issues of procedural fairness have diminished as much more is known about the extent of the water supply problem in Cambria. Thus, even if pipeline projects were to exist, such projects could not satisfy the requirements of CZLUO Section 23.04.430 requiring adequate water and therefore would not be allowed under a current understanding of the LCP.

Overall, these LCP provisions are meant to implement applicable Coastal Act policies that require new development to be served by adequate public services (Section 30250(a)), and in a manner that protects groundwater and creek resources (Sections 30231) and other coastal resources (Section 30250(a)) (see **Exhibit 6**). The LCP’s CZLUO and the NCAP mirror these Coastal Act requirements and applies them to the specific water resource context in Cambria. In short, there is not adequate public water in Cambria that can be allotted to new water service in a manner that protects groundwater, creek, and other coastal resources. The LCP provisions appropriately recognize that and strictly limit the provision of new water service in Cambria to pipeline projects that offset their water use, absent a change in the circumstances regarding adequacy of public water service in Cambria. Given that no such pipeline projects remain, the LCP simply does not allow for approval of any new development in Cambria that requires new water service from the Santa Rosa and San Simeon Creeks at this time considering the facts and reality on the ground in regards to regional water supply.

Appeal Contentions

The appeal contends that the County-approved project is inconsistent with these aforementioned LCP groundwater resources and water supply policies. Specifically, the appeal states that Cambria’s water supply is severely inadequate to serve even existing development and because Cambria’s sole sources of water are already overdrafted and extracted at levels that have been found to impact sensitive habitats associated with Santa Rosa and San Simeon Creeks, the proposed project is inconsistent with the LCP. Furthermore, the appeal contends that the retrofits applied by the County are inadequate to offset the project’s future water demands, and that the

project will lead to increased water use and further adverse impacts to the Creeks. See the complete appeal documents in **Exhibit 5**.

Analysis

The County found the project consistent with the LCP because the project secured an intent-to-serve letter from the CCSD and paid retrofit credits in accordance with the CCSD's retrofit program. Because the project participated in the retrofit program, the County determined that the project would not increase water use and therefore would not have an impact on Santa Rosa and San Simeon Creeks.

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 applicable approval body determines that there is adequate water.*" In other words, a lack of adequate water is grounds for denial and the LCP requires the County to make a finding that there is adequate water to serve the development. 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 County must find that there is adequate water to serve any proposed development prior to approval.

Intent-to-Serve Letters

As a threshold matter, the CCSD's intent-to-serve letter is not substantial evidence to determine whether adequate water exists to serve the development. The LCP requires the County to independently determine that adequate water exists. The County's reliance on the CCSD's intent-to-serve letter is insufficient and the County failed to make an actual finding that the project has adequate water as required by the LCP. The County's approval included no evidence to demonstrate that the water supply in Cambria has substantially improved since the time the CCSD declared a water emergency and placed a moratorium on new development in 2001, as reflected in the LCP. Without additional evidence supporting the County's mere reliance on the CCSD's intent-to-serve letter as demonstrating that adequate water exists to serve the development,¹⁷ the approval raises a substantial issue of conformance with regard to whether there is adequate water to serve the development.

Additionally, as explained above, the CCSD has stated that it would potentially provide an additional over 130 intent-to-serve letters (or more, at their discretion) for new water service in Cambria to support other new development there. The CCSD provides intent-to-serve letters based upon their Municipal Code and Board resolutions, which are *not* part of the LCP and have *not* been approved by the County or the Commission (and thus the CCSD does not necessarily take into account LCP concerns such as adequacy of water supply as described in this report when providing an intent-to-serve letter pursuant to its legal authorities). The CCSD does not make LCP consistency findings prior to issuing such letters. Rather, the CCSD is a water purveyor that sells water, and its intent-to-serve letters are not determinative of LCP compliance,

¹⁷ As discussed above, 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 for purposes of CZLUO Section 23.04.430 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.

in part due to the reasons identified above regarding the apparent flaws and oversights in relation to ensuring commitment of water service is actually done in a manner that ensures the protection of the regional water supply in relation to Santa Rosa and San Simeon Creeks. Rather such letters just indicate that the CCSD is willing to provide water service to a particular proposed development and is consistent with the CCSD regulations, which are not part of the LCP. The County's use of a water intent-to-serve letter as proof of LCP consistency regarding the adequacy of water supplies is not appropriate for the reasons discussed above, and does not qualify as substantial evidence in this case of demonstrating CZLUO Section 23.04.430 consistency.

Settlement Agreement

The project site was part of a 1997 subdivision that created 18 separate lots. Because the subdivision was outside of the CCSD's designated service boundaries, the district would not provide the parcels with intent-to-serve letters at the time when the subdivision was approved by the County. Following the initiation of litigation by the then-owner of the subdivided property,¹⁸ the CCSD and the property owner entered into a settlement agreement (see **Exhibit 10**) that required the CCSD to provide intent-to-serve letters for the 18 newly created lots in exchange for the payment of connection fees and the conveyance to the CCSD of fee titled for four lots located elsewhere in Cambria. Although the settlement agreement, in which the CCSD agrees to serve the newly created lots, was executed prior to the 2001 moratorium on new water connections, the application for this project was not submitted to the County until 2019 and the CCSD did not issue the intent-to serve letter for the development until 2019, both well past the date of the 2001 moratorium and the 2007 LCP amendment that incorporated the moratorium into the North Coast Area Plan. Thus this particular project does not constitute a "pipeline project" and is therefore ineligible to connect to the CCSD water system until an adequate public water supply that does not impact the Creeks is secured.

Even though the LCP states that new connections in Cambria are prohibited until an adequate public water supply that does not impact the Creeks is secured, the County failed to make findings in this project approval regarding the adequacy of Cambria's water supply. Rather, the County relied solely on an August 6, 2019 intent-to-serve letter from the CCSD to determine that adequate water exists. The County's findings also state that the CCSD was required to provide that intent-to-serve letter due to the 1999 settlement agreement. However, the settlement agreement did not consider whether there was adequate water to serve this project or whether future projects would be consistent with the LCP. Relying on a private settlement agreement between two private parties as evidence of LCP consistency is problematic, particularly because neither the County nor the Commission was a party to the lawsuit or to the settlement agreement. The County is not bound by the settlement agreement in any way and is in fact required by the LCP to independently make findings regarding the adequacy of public services. Thus the County's sole reliance on an intent-to-serve letter pursuant to the settlement agreement raises a substantial issue. In addition to the fact that the settlement agreement did not include the Coastal Commission (and thus is not binding on the Commission), the Applicant has been on notice for at least the last 12 years (since the LCP amendment), and arguably the last 18 years (since the CCSD moratorium on new water connections), that sustainable water supply adequacy issues

¹⁸ The Walter H. Leimert Company owned all 18 lots at the time of the settlement agreement. Leimert Land LLC sold the subject lot to the current owner, Al Hadian, in 2019.

may affect the approvability of any proposed development at the project site as a matter of LCP consistency, notwithstanding the existence of the settlement agreement.

Adequacy of Water

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. Neither the CCSD nor the County has provided evidence to suggest that as a factual matter the water supply in Cambria has changed from the conditions at the time the development moratorium was put into place. And the Commission has consistently found that the existing water supply is inadequate to serve even *existing* development, and further has expressly found that there is an inadequate water supply to serve new development in the context of the adoption of LCP Amendment SLO-MAJ-1-06 Part 1, which incorporated the development moratorium into the LCP, stating that "*adequate public water supplies are not currently available for new development in Cambria.*" The County did not provide nor develop any independent information for the approved project that suggests that the existing water supply for Cambria is adequate (i.e., that there exists a sustainable water supply that is not leading to adverse coastal resource impacts to Santa Rosa and San Simeon Creeks), or that there is available water to provide new water service for new development in Cambria.

The evidence that is available suggests quite the opposite, including the CCSD's water moratorium enacted in 2001, the County's declaration of an Alert Level III (i.e., the most severe level in which existing demand for the resource has met or exceeded the available capacity) for Cambria's water supply under the LCP's Resource Management System in 2008, and most recently the CCSD's declared Stage 3 Water Shortage Emergency in 2014. Due to the Creek system's limited capacity for water storage and seasonal droughts, such water shortages are the norm and are not unique to periods of extended drought. The CCSD's own well-level reports (see **Exhibit 9**) demonstrate that severe water shortages, such as the one declared in 2014, have occurred repeatedly over the past three decades and well levels have dropped to such emergency levels as experienced in 2014 an additional 18 times. Additionally, as a condition of the 1977 CDP approval of the CCSD's water system, the Commission required the CCSD to discontinue its use of wells along Santa Rosa Creek, except in emergencies when water cannot be safely removed from San Simeon Creek. According to the CCSD's records, since 1988 water withdrawals from Santa Rosa Creek have occurred every year except one, demonstrating that the community is consistently in an emergency situation and the water supply is inadequate to serve even existing users. Further, there is a lack of evidence to suggest that even *existing* withdrawals can be found consistent with the terms and conditions of the SWRCB water licenses and the Commission's companion water extraction CDP, including regarding maintaining water levels in the basins to sustain stream flows to protect fish and riparian habitat. In fact, just the opposite appears true here. The County has not supported its approval with evidence that adequate water exists for the project, beyond mere reliance on the CCSD's intent-to-serve letter and a requirement for retrofitting offsets (without proven efficacy), which itself does not address any of the aforementioned issues and thus represents a substantial issue with respect to LCP water supply consistency.

Impacts to Santa Rosa and San Simeon Creeks

In addition to the requirements of CZLUO Section 23.04.430, as detailed further above NCAP Planning Area Standard 4(A) requires new development in Cambria that is not a pipeline project

(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 NCAP Planning Area Standard 4, Coastal Watersheds Policies 1 and 2, and ESHA Policies 2, 7, and 20 (see **Exhibit 6**). NCAP Planning Area Standard 4A requires that development “assure no adverse impacts to Santa Rosa and San Simeon Creeks.” Coastal Watersheds Policy 1 provides that the “long-term integrity of groundwater basins within the coastal zone shall be protected.” In addition, Coastal Watershed Policy 2 states that “[g]roundwater levels and surface flows shall be maintained to ensure the quality of coastal waters, wetlands and streams is sufficient to provide for optimum populations of marine organisms, and for the protection of human health.” ESHA Policy 7 adds: “Coastal wetlands are recognized as environmentally sensitive habitat areas. The natural ecological functioning and productivity of wetlands and estuaries shall be protected, preserved and where feasible, restored.” Finally, ESHA Policy 20 provides: “Coastal streams and adjoining riparian vegetation are environmentally sensitive habitat areas and the natural hydrological system and ecological function of coastal streams shall be protected and preserved.” CZLUO Section 23.04.430, in conjunction with these LCP coastal resource policies, demonstrates the strong emphasis that the LCP places on ensuring that instream flows are adequate to protect groundwater aquifers, wetlands, and sensitive riparian habitats – including, importantly, the Santa Rosa and San Simeon Creeks.

In the time since the LCP NCAP update, additional studies have been completed regarding the health of these ecosystems (Santa Rosa and San Simeon Creeks). One such study was released in January 2014: “*San Luis Obispo County Regional Instream Flow Assessment (SLO Instream Flow Study)*”, prepared by Stillwater Sciences for the Coastal San Luis Resource Conservation District.¹⁹ In the SLO Instream Flow Study, scientists found that both of the Creeks’ instream flows in the summer of 2013 were inadequate to meet even the bare minimum necessary to maintain aquatic habitat systems, despite the fact that the terms and conditions of the 1977 CDP and the SWRCB water licenses only allow water extractions if the CCSD simultaneously ensures there is adequate stream flow in order to protect fisheries and other riparian habitat resources. The study states that Environmental Water Demand (EWD) is only the “minimum values to maintain aquatic systems, and should not be interpreted as ‘enough’ water to support long-term, sustainable steelhead populations or the complex ecosystems in which they live.” The study found that the observed instream water flows were inadequate to meet the Creeks’ estimated required EWDs to support steelhead, i.e. the indicator species. To illustrate, in lower Santa Rosa Creek, the estimated spring EWD was 3.0 cubic feet per second (“cfs”); however, the actual observed EWD was only 1.62 cfs. Lower Santa Rosa Creek’s estimated summer EWD was 0.75 cfs, but the observed EWD was 0.0 cfs (meaning wetted with no water velocity). The San Simeon Creek’s estimated EWD for the spring was 1.5 cfs; however, only 0.99 cfs was observed. Thus, the instream flows in both Creeks were well below the minimum necessary to maintain aquatic systems, and these habitat impacts are explicitly prohibited by both CCSD’s SWRCB water licenses as well as the Commission’s CDP to the CCSD recognizing same.

The study expressed particular concern for Santa Rosa Creek, which had no flow in the summer of 2013, rendering the creek incapable of providing steelhead habitat during that time. The study further found that the Santa Rosa Creek lagoon conditions were “worsened by low stream flows

¹⁹ See Appendix A.

resulting from excessive groundwater pumping and diversions...” The SLO Instream Flow Study further explained that “[r]educed freshwater inflows result in water temperatures and dissolved oxygen levels in the lagoon, particularly at the bottom, that can frequently exceed lethal limits for steelhead in the summer and the fall,” and that “entire sections of the lower lagoon dried up, reducing the area of suitable steelhead rearing habitat.” When Santa Rosa Creek lagoon inflows ceased entirely in summer 2013, steelhead (adults and presumably juveniles) were observed trapped in a pool that decreased dramatically in extent and water quality.”²⁰ Similar conclusions regarding the adverse impacts of existing groundwater extractions were also reached in California Department of Fish and Wildlife’s February 2012 “*Santa Rosa Creek Watershed Management Plan*” and National Marine Fisheries Service December 2013 “*South-Central California Steelhead Recovery Plan*” (see **Appendix A**)

In sum, 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 is inadequate water to sustain the Creeks’ sensitive riparian habitats. Thus available evidence would suggest that, until a new water supply is secured or existing water extractions are dramatically decreased, *any and all* new water service to new development in Cambria will be unable to demonstrate that the proposed development will not adversely impact the Creeks. Thus this project raises a substantial issue of LCP conformity with NCAP Planning Area Standard 4(A), Coastal Watersheds Policies 1 and 2, and ESHA Policies 2, 7, and 20.

Retrofits and Water Offsets

If new development is able to demonstrate an adequate water supply and no adverse impacts to the Creeks, the NCAP Planning Area Standard 4(B) also requires new development that leads to a water use increase to “offset such increase through the retrofit of existing water fixtures within the CCSD’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).” This policy also 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.”

As explained above, the CCSD does not verify that installed retrofits are maintained over time (thus ensuring a permanent reduction in water usage as would be expected of a retrofit in theory/on paper), nor does the CCSD confirm that installed retrofits lead to actual water use reductions in retrofitted structures (in part, because, as discussed above the CCSD does not adequately account for “bank” retrofit/offset credits, so any purported benefit of a retrofit may be “double-dipped” by a project proponent purchasing an offset credit; and also, in part, because, as discussed above, the CCSD does not track retrofitted development over time to ensure that actual water usage does not exceed proposed water usage, even accounting for reductions due to retrofits). Although the project here participated in the CCSD’s retrofit program, the program itself appears inadequate to ensure that the proposed water increase would *in fact* be adequately offset as required by the LCP to ensure reduction in existing water use in the service area.

Additionally, the project offset its water through the purchase of retrofit credits. Despite the requirement that any in-lieu fees are used to implement water savings projects that reduce

²⁰ See Appendix A *SLO Instream Flow Study* at pp. 17-19, 30-31.

existing water use within the service area in an amount equal or greater to the anticipated water use of the project, the CCSD has not provided written confirmation that it has implemented such projects, and all retrofit credit fees are placed into the CCSD's Water Operations Department fund (according to the CCSD Fiscal Year 2018/2019 Budget). Thus, even if there were adequate water (which there is not, for the reasons discussed above), and even if the County had demonstrated that there are no adverse impacts to the Creeks from water supply activities (which it did not, as discussed above) the project also raises a substantial issue with regard to whether the water increase associated with the project would be adequately offset as required by the LCP and whether the retrofit credit fees collected were used to implement water savings projects.

In short, adequate public water supplies are not currently available for new development in Cambria and therefore any new development that requires new water service, including the current project, raises a substantial issue of conformance with the LCP.

3. The Five "Substantial Issue" Factors

When considering a project that has been appealed to it, the Commission must first determine whether the project raises a substantial issue of LCP conformity, such that the Commission should assert jurisdiction over a de novo CDP for such development. At this stage, the Commission has the discretion to find that the project does or does not raise a substantial issue of LCP conformance. The Commission has in the past considered the following five factors in its decision of whether the issues raised in a given case are "substantial": the degree of factual and legal support for the local government's decision; the extent and scope of the development as approved or denied by the County; the significance of the coastal resources affected by the decision; the precedential value of the County's decision for future interpretations of its LCP; and, whether the appeal raises only local issues as opposed to those of regional or statewide significance.

In this case, these five factors, considered together, strongly support a conclusion that the County's approval of this project raises a substantial issue of LCP conformance. Most importantly for making the substantial issue determination in this case, regarding the first factor, the County found the development consistent with applicable LCP water supply and groundwater resources policies based almost entirely on the CCSD issuing an intent-to-serve letter and merely requiring retrofit offsets (without proven efficacy). The County also stated that it relied on a settlement agreement between the then-owner of the subdivided property and the CCSD to determine whether to approve the project when the LCP requires the County to independently determine whether adequate public services exist to serve the project based on the facts on the ground, whereas the settlement agreement has no bearing on this question. The County provided no independent analysis regarding the adequacy of Cambria's water supply generally (with the term "adequacy" to be understood, as discussed above, 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), in consideration of the CCSD intent to serve letter or the water meter exchange, even though the LCP requires the County to make such a finding. And the overwhelming evidence is to the contrary, namely that there is *not* an adequate water supply available to serve this development (including CCSD's water moratorium enacted in 2001, the corresponding LCP amendment reflecting this moratorium, the County's declaration of an Alert Level III for Cambria's water supply under the LCP's Resource Management System

in 2008, and most recently CCSD's declared Stage 3 Water Shortage Emergency in 2014, all of which are still currently in effect; the findings of the SLO Instream Flow Study; Commission LCP and CDP actions consistent with the above evidentiary findings; etc.).

Further, the LCP provides a series of standards for allowing such new water service, and the County did not provide evidence to suggest that the project meets *any* of these standards. Specifically, the approved project is not a pipeline project so it is not allowed new water service under that criteria,²¹ and, even if it were allowable under one or the other of those criteria, the project's water use was not offset appropriately, as would also be required (NCAP Planning Area Standard 4(B)). The County's approval does not provide any evidence to address these points in a manner that demonstrates that the project on appeal was approved in a manner consistent with the LCP. On the contrary, the available facts and evidence suggest that the LCP requires project denial. Thus, the County has not provided adequate factual or legal support for its decision to allow a new water service connection in an area of known water shortage, where even existing water extractions for existing development are leading to significant adverse coastal resource impacts.

Regarding the second factor, the extent and scope of the development as approved by the County supports a finding of substantial issue because, although the project itself is fairly limited in scope (a 4,000 square-foot single-family residence with associated accessory structures on a 2.94 acre vacant parcel), approval of the project at all would result in a new water connection in an area of known water shortage, further exacerbating already significant adverse coastal resource impacts.²² In short, under these circumstances approval of *any* new development, regardless of extent and scope, which would require water from the Santa Rosa and/or San Simeon Creeks should be deemed significant. Regarding the third factor, the proposed project is located in an area where the depletion of groundwater adversely affects significant coastal resources, including Santa Rosa and San Simeon Creeks and associated sensitive riparian habitats. Per the LCP, Santa Rosa and San Simeon Creeks are, in and of themselves, ESHA. Furthermore, the significance of these Creeks as coastal resources is also based on the fact that these are the only sources of water availability for development within the Cambria community. This factor supports a finding of substantial issue. Regarding the fourth factor, because the project raises such coastal resource protection concerns, including interpreting the LCP to allow for new water connections in an area with a severe water shortage as LCP consistent merely by reliance on a CSD will serve letter and retrofit offsets (of unproven efficacy), a finding of no substantial issue would create an adverse precedent for future interpretation of the LCP, particularly considering the significant lack of factual or legal basis justifying the County's decision, as discussed above for the first factor. Moreover, this precedential interpretation issue is also particularly concerning as the

²¹ Per NCAP Planning Area Standard 4(A), water supply activities currently adversely impact Santa Rosa and San Simeon Creeks, thus the project is not allowed because it cannot demonstrate lack of such adverse impact.

²² As discussed above, the CCSD enacted a water moratorium in 2001, the County declared an Alert Level III for Cambria's water supply under the LCP's Resource Management System in 2008, and the CCSD declared a Stage 3 Water Shortage Emergency in 2014. Further, the base SWRCB water licenses and the base Commission CDP for water extractions share similar terms and conditions that limit allowable extractions to that which can be accomplished while at the same time maintaining adequate in-stream flows to protect Creek resources, which is not even currently the case with existing water withdrawals. Thus, the significance of these actions with respect to the water shortage in Cambria also informs the significance of the extent and scope of the proposed development, which would necessarily use water from the water system.

CCSD has stated that it would provide service to over 130 (or more) projects beyond this project, which would implicate the exact same LCP water supply issues as identified for this project for a large number of projects within the County, all proposed to rely on water from the Santa Rosa and San Simeon Creeks.

Finally, regarding the fifth factor, the project raises issues of regional and statewide significance due to statewide concerns regarding water resources, the importance of groundwater resources in San Luis Obispo County, and growth and development issues in Cambria and the County more broadly, considering the severe regional water supply shortage. In short, the County-approved project does not adequately address LCP coastal resource protection requirements, and the five factors on the whole support a finding of substantial issue.

4. Substantial Issue Determination Conclusion

When considering a project that has been appealed to it, the Commission must first determine whether the project raises a substantial issue of LCP conformity, which determines whether the Commission will assert jurisdiction over a de novo CDP application for such development. At this stage, the Commission has the discretion to find that the project does or does not raise a substantial issue of LCP conformance, including when evaluated in light of the five factors discussed above.

For the reasons stated above, the Commission finds that the County's approval of the project raises a substantial LCP conformance issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act, and therefore the Commission takes de novo jurisdiction over the CDP application for the proposed project.

G. COASTAL DEVELOPMENT PERMIT DETERMINATION

The standard of review for this CDP determination is the San Luis Obispo County certified LCP. All Substantial Issue Determination findings above are incorporated herein by reference.

1. Project is Inconsistent with LCP Groundwater Resources and Water Supply Policies

As described in the "Substantial Issue Determination" section above, the Commission finds the project inconsistent with the San Luis Obispo County certified LCP for the same reason that the Commission determined the project raised a substantial issue: namely, the LCP requires that adequate public services be available to serve new development and that this type of development assure no adverse impacts to Santa Rosa and San Simeon Creeks.

CZLUO Section 23.04.430 prohibits approval of new development unless it has been demonstrated that an adequate water supply is available to serve the proposed development. The Commission, in previous appeals, has consistently interpreted Section 23.04.430's water supply adequacy requirement as meaning that the community has a water supply capable of serving proposed new development in a manner that is consistent with the LCP's protection of coastal resources and coastal priority uses.²³ Thus, Section 23.04.430 must be read in conjunction with

²³ See, for example, A-3-SLO-01-122 (Cambria Pines Lodge Expansion); A-3-SLO-02-073 (Hudzinski SFD); A-3-SLO-03-050 (Monaco SFD); A-3-SLO-02-073 (Hudzinski); A-3-SLO-04-048 (Berge CCOC).

other relevant LCP policies pertaining to the protection of such coastal resources as sensitive riparian habitats, groundwater aquifers, wetlands, and lagoons – and in particular here, Santa Rosa and San Simeon Creeks. In addition, NCAP Planning Area Standard 4 specifically requires that development assure no adverse impacts to Santa Rosa and San Simeon Creeks. As discussed above, it is not possible to make this finding for the proposed project based on the facts and evidence in the record. See **Exhibit 6** for all LCP provisions cited in this section.

The community of Cambria does not have an adequate water supply available to serve its existing users, much less a new water connection proposed in the current project.²⁴ Given the lack of water to serve even existing needs, it is apparent that there is also not adequate water to supply new development such as this project in a manner that is consistent with the protection of sensitive riparian habitats, groundwater aquifers, wetlands, and lagoons – including Santa Rosa and San Simeon Creeks. Best available information suggests that even existing water extractions have adverse impacts to Santa Rosa and San Simeon creeks.²⁵ In short, Cambria does not have adequate water to serve new development based on applicable LCP provisions as informed by the facts and reality on the ground.

Moreover, the LCP only allows for new water connections for a limited number of pipeline projects, of which there are none remaining. An application for development on this lot was not submitted and the CCSD did not issue an intent-to-serve letter until 2019, 18 years after the 2001 moratorium on new connections was put in place and 12 years after the LCP was updated to formally reflect this moratorium. The project is not a pipeline project and thus cannot be found consistent with the LCP policy prohibiting new connections unless there is an adequate water supply. All new development must demonstrate that there is adequate water supply to serve the project and all new development in Cambria must demonstrate that the project will have no adverse impacts to Santa Rosa and San Simeon Creeks. The CCSD did not issue an intent-to-serve letter for this project based upon a finding that adequate water exists to serve the development, but rather due to a settlement agreement stemming from litigation, which itself did not address the adequacy of sustainable water supply either. As explained above, any new development, including the proposed project, cannot meet the LCP requirement of no adverse impacts to the Creeks based on the facts and evidence in the record.

Unless and until Cambria solves its water supply problem and there is adequate water to serve existing and new development in a manner that does not adversely impact coastal resources, new water service to serve new development is simply not LCP compliant. As such, denial in this case is required by the LCP.

2. CDP Determination Conclusion

As discussed above, the proposed project is inconsistent with the LCP's provisions that require new development to ensure that adequate water is available to serve the project and that the

²⁴ See, for example, CCSD's water moratorium enacted in 2001, the County's declaration of an Alert Level III for Cambria's water supply under the LCP's Resource Management System in 2008, CCSD's declared Stage 3 Water Shortage Emergency in 2014, San Simeon Creek Well Levels 1988-Current, etc.).

²⁵ See, for example, *SLO Instream Flow Study*; *Santa Rosa Creek Watershed Management Plan*; *South-Central California Steelhead Recovery Plan*.

project will not have adverse impacts to environmentally sensitive habitat areas, including Santa Rosa and San Simeon Creeks. Thus the project must be denied. Typically, the proposed project would need to be evaluated for consistency with other relevant LCP policies and standards, such as those related to visual resources, tree removal, archaeology and cultural resources, hydrology and water quality, parking and traffic, and land use and zoning. However, because the project is being denied due to substantial inconsistency with the LCP's groundwater resources and water supply policies, these issues are not evaluated in this de novo review.

3. Takings

In addition to evaluating the proposed development for consistency with the certified LCP, the Commission must also evaluate the effect of a denial action with respect to takings jurisprudence. In enacting the Coastal Act, the Legislature anticipated that the application of development restrictions could deprive a property owner of the beneficial use of his or her land, thereby potentially resulting in an unconstitutional taking of private property without payment of just compensation. To avoid an unconstitutional taking, the Coastal Act provides a provision that allows a narrow exception to strict compliance with the Act's regulations based on constitutional takings considerations. Coastal Act Section 30010 provides:

The Legislature hereby finds and declares that this division is not intended, and shall not be construed as authorizing the commission, port governing body, or local government acting pursuant to this division to exercise their power to grant or deny a permit in a manner which will take or damage private property for public use, without the payment of just compensation therefore. This section is not intended to increase or decrease the rights of any owner of property under the Constitution of the State of California or the United States.

Although the judiciary would be the final arbiter on constitutional takings issues, the Coastal Act, as well as the State and Federal Constitutions, enable the Commission to assess whether its action might constitute a taking so that the Commission may take steps to avoid this result. If the Commission concludes that its action does not constitute a taking, then it may deny the project with the confidence that its actions are consistent with Section 30010 and constitutional takings jurisprudence. If the Commission determines that its action could constitute a taking, then the Commission could conversely find that application of Section 30010 would require it to approve some amount of development in order to avoid an uncompensated taking of private property. In this latter situation, the Commission could propose modifications to the development to minimize its Coastal Act inconsistencies while still allowing some reasonable amount of development.

The remainder of this section evaluates whether, for purposes of compliance with Section 30010, denial of the proposed project could constitute a taking. As discussed further below, the Commission finds that under these circumstances, denial of the proposed project likely would not, because the takings claim is not yet ripe, and denial of the project is due to the factual circumstance of lack of adequate water, rather than a regulatory prohibition.

General Principles of Takings Law

The Takings Clause of the Fifth Amendment of the United States Constitution provides that private property shall not “be taken for public use, without just compensation.”²⁶ Similarly, Article 1, Section 19 of the California Constitution provides that “[p]rivate property may be taken or damaged for public use only when just compensation...has first been paid to, or into court for, the owner.” Despite the slightly different wordings, the two “takings clauses” are construed congruently in California, and California courts have analyzed takings claims under decisions of both state and federal courts (*San Remo Hotel v. City and County of San Francisco* (2002) 27 Cal. 4th 643, 664.). The “damaging private property” clause in the California Constitution is not relevant to the current analysis. Because Section 30010 is a statutory bar against an unconstitutional action, compliance with state and federal constitutional requirements concerning takings necessarily ensures compliance with Section 30010.

The United States Supreme Court has held that the taking clause of the Fifth Amendment proscribes more than just the direct appropriation of private property (*Pennsylvania Coal Co. v. Mahon* (1922) 260 U.S. 393, 415 (“*Pennsylvania Coal*”)) [stating “The general rule at least is that while property may be regulated to a certain extent, if regulation goes too far it will be recognized as a taking”]]. Since *Pennsylvania Coal*, most of the takings cases in land use law have fallen into two categories (*Yee v. City of Escondido* (1992) 503 U.S. 519, 522-523). The first category consists of those cases in which government authorizes a physical occupation of property (*Loretto v. Teleprompter Manhattan CATV Corp.* (1982) 458 U.S. 419, 426). The second category consists of those cases whereby government “merely” regulates the use of property and considerations such as the purpose of the regulation or the extent to which it deprives the owner of economic use of the property suggest that the regulation has unfairly singled out the property owner to bear a burden that should be borne by the public as a whole (*Yee*, 503 U.S. at 522-523). Moreover, a taking is less likely to be found when the interference with property is an application of a regulatory program rather than a physical appropriation (*Keystone Bituminous Coal Ass’n. v. DeBenedictis* (1987) 480 U.S. 470, 488-489, fn. 18). Here, because the current development proposal does not involve physical occupation of the applicant’s property by the Commission, the Commission’s actions are evaluated under the standards for a regulatory taking.

The U.S. Supreme Court has identified two circumstances in which a regulatory taking may occur. The first is the “categorical” formulation identified in *Lucas v. South Carolina Coastal Council* (1992) 505 U.S. 1003, 1015. In *Lucas*, the Court found that regulation that denied all economically viable use of property was a taking without a “case specific” inquiry into the public interest involved. (*Id.* at 1015). The *Lucas* court suggested, however, that this category of cases is narrow, applicable only “in the extraordinary circumstance when no productive or economically beneficial use of land is permitted” or the “relatively rare situations where the government has deprived a landowner of all economically beneficial uses” (*Id.* at 1017-1018 (*emphasis in original*); *Riverside Bayview Homes*, (1985) 474 U.S. 121, 126 (regulatory takings occur only under “extreme circumstances.”²⁷)).

²⁶ The Fifth Amendment was made applicable to the States by the Fourteenth Amendment (see *Chicago, B. & Q. R. Co. v. Chicago* (1897) 166 U.S. 226, 239).

²⁷ Even where the challenged regulatory act falls into this category, government may avoid a taking if the restriction inheres in the title of the property itself; that is, background principles of state property and nuisance law would have allowed government to achieve the results sought by the regulation (*Lucas, supra*, 505 U.S. at pp. 1029).

The second circumstance in which a regulatory taking might occur is under the multi-part, *ad hoc* test identified in *Penn Central Transportation Co. (Penn Central) v. New York* (1978) 438 U.S. 104, 124. This test generally requires at a minimum an examination into the character of the government action, its economic impact, and its interference with reasonable, investment-backed expectations (*Id.* at 124; *Ruckelshaus v. Monsanto Co.* (1984) 467 U.S. 986, 1005). In *Palazzolo v. Rhode Island* (2001) 533 U.S. 606, 617, the Court again acknowledged that the *Lucas* categorical test and the three-part *Penn Central* test were the two basic situations in which a regulatory taking might be found to occur. (*See Id.* at 632 (rejecting *Lucas* categorical test where property retained value following regulation but remanding for further consideration under *Penn Central*).)

However, before a landowner may seek to establish a taking under either the *Lucas* or *Penn Central* formulations, it must demonstrate that the taking claim is “ripe” for review. This means that the takings claimant must show that government has made a “final and authoritative” decision about the use of the property (*MacDonald, Sommer & Frates v. County of Yolo* (1986) 477 U.S. 340, 348). Likewise, a “final and authoritative determination” does not occur unless the applicant has first submitted a development plan which was rejected and also sought a variance from regulatory requirements which was denied. (*Kinzli v. City of Santa Cruz* (9th Cir. 1987) 818 F.2d 1449, 1453-54.) An applicant is excepted from the “final and authoritative determination” requirement if such an application would be an “idle and futile act.” (*Id.* at 1454.) Relying on U.S. Supreme Court precedence, the Ninth Circuit has acknowledged that at least one “meaningful application” must be made before the futility exception may apply, and “[a] ‘meaningful application’ does not include a request for exceedingly grandiose development’.” (*Id.* at 1455.) Furthermore, the Ninth Circuit has suggested that rejection of a sufficient number of reapplications may be necessary to trigger the futility exception. (*Id.* at 1454-55.)

The Commission’s Denial of the Proposed Project Would Not Result in a Regulatory Taking

The Commission’s denial of the proposed project would not result in a regulatory taking because any such claim is premature and denial of the project is due to the factual circumstance of lack of adequate water, rather than a regulatory prohibition. As analyzed above, application of CZLUO Section 23.04.430 requires denial of the proposed development on the grounds that Cambria lacks sufficient water supply and NCAP Planning Area Standard 4(A) further requires denial as existing water extractions have known adverse impacts to San Simeon and Santa Rosa Creeks. Thus, it could be potentially argued that the regulation results in an unconstitutional taking of the Applicant’s private property. However, based on the law and facts analyzed below, it is unlikely that such a temporary denial of development due to the present factual circumstances (which are subject to change, and thus would allow for project approval) would constitute an unconstitutional taking in this case.

At this time, application of CZLUO Section 23.04.430 and NCAP Planning Area Standard 4(A) has the practical effect of a moratorium on new development in Cambria that requires new water service. The United States Supreme Court has upheld certain development moratoriums when challenged on the basis of a regulatory takings. (*Tahoe-Sierra Preservation Council, Inc., et. al. v. Tahoe Regional Planning Agency et. al.*, (2002) 535 U.S. 302 (*Tahoe-Sierra*).) In the *Tahoe-Sierra* case, the Court reasoned that, “Logically, a fee simple estate cannot be rendered valueless by a temporary prohibition on economic use, because the property will recover value as soon as

the prohibition is lifted.” (*Id.* at 332.) The Court also explained that land use planners widely use moratoriums to preserve the status quo while formulating a more permanent development strategy. (*Id.* at 337.) “In fact, the consensus in the planning community appears to be that moratoria, or ‘interim development controls’ as they are often called, are an essential tool of successful development.” (*Id.* at 337-38.) Here, CZLUO Section 23.04.430 and NCAP Planning Area Standard 4(A) have the effect of a temporary prohibition on economic use, and as soon as the water supply is adequate the prohibition would be deemed lifted. Moreover, Section 23.04.430 and NCAP Planning Area Standard 4(A) are essential components of a comprehensive LCP planning tool that ensures that growth in Cambria is efficient and sustainable, not exceeding the community’s resource carrying capacity. It also ensures the protection of significant resources, such as sensitive riparian habitat, and is intended to protect groundwater aquifers from adverse impacts such as seawater intrusion and subsidence. Thus, Section 23.04.430 and NCAP Planning Area Standard 4(A) as “interim development controls” ensure that successful development which does not run afoul of takings concerns, as recognized by *Tahoe-Sierra*.

This position is also consistent with the California Court of Appeal for the Fourth District reasoning in *Charles A. Pratt Construction Co., Inc., v. California Coastal Commission*, (2008) 162 Cal. App. 4th 1068 (“*Pratt*”). In *Pratt*, the plaintiff argued that the Coastal Commission’s decision to deny a CDP based on lack of water, due to the requirements of the San Luis Obispo County LCP in that case as well, was an unconstitutional taking. The Court of Appeal upheld the Commission’s denial of the CDP and found that it was not an unconstitutional taking. It stated that the plaintiff-applicant failed to cite any authority that: (1) denial of a development permit because of water supply constitutes a taking; or (2) the setting of priorities for water use in the face of an insufficient supply constitutes a taking. The court stated, “Even where the lack of water deprives a parcel owner of all economically beneficial use, it is the lack of water, not a regulation, that causes the harm.” (*Id.*) The court also found that an “intent-to-serve letter” from a community water supplier did not change the result because there is no rule that the water company’s determination is definitive. (*Id.*) “It is undisputed,” the court continued, “that there is substantial evidence from which the Commission could conclude the groundwater basin from which the water would come is in overdraft.” (*Id.*) The court further reasoned that the plaintiff-applicant failed to demonstrate with sufficient certainty that his development would have adequate supply of water. As in *Pratt*, in this case it is the factual circumstance of lack of water in Cambria, not the regulation, that has delayed the Applicant’s ability to develop the site.

In context of the legal authorities discussed above, any claim of a taking at this time would be premature at this time because the Commission’s denial of the proposed development is not a “final and authoritative determination” of the effect of CZLUO Section 23.04.430, NCAP Planning Area Standard 4(A), and other relevant LCP policies on the proposed development, as the proposed development *could* be found consistent with the LCP provisions if the factual circumstances change so as to support the necessary findings. As recognized in *Tahoe-Sierra*, the Applicant’s property is not rendered valueless due to the temporary, *de-facto* moratorium on new development requiring new water service due to lack of adequate water, and such moratoria as interim development controls are valid planning tools. Moreover, as recognized in *Pratt*, it is the factual circumstance of lack of adequate water that warrants denial of the proposed development of this time, rather than the regulatory nature of the applicable LCP provisions. In other words, if and when the factual circumstances change such that a finding can be made that adequate water supply exists for the proposed development, then the project would be able to be found

consistent with CZLUO Section 23.04.430, NCAP Planning Area Standard 4(A), and other relevant LCP provisions.

In sum, it is unlikely that the Commission's decision to deny a CDP for the proposed development, on the grounds that the proposed development is inconsistent with CZLUO Section 23.04.430 and NCAP Planning Area Standard 4(A), considering the facts and evidence in the record, would result in an unconstitutional taking. Although the regulation's effect is a *de facto* moratorium on new development requiring new water service in Cambria at this time, this effect of the regulation is temporary in nature and caused by the factual circumstance of insufficient water resources in Cambria.

H. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Public Resources Code (CEQA) Section 21080(b)(5) and Sections 15270(a) and 15042 (CEQA Guidelines) of Title 14 of the California Code of Regulations (14 CCR) state in applicable part:

CEQA Guidelines (14 CCR) Section 15042. Authority to Disapprove Projects. [Relevant Portion.] A public agency may disapprove a project if necessary in order to avoid one or more significant effects on the environment that would occur if the project were approved as proposed.

Public Resources Code (CEQA) Section 21080(b)(5). Division Application and Nonapplication....(b) This division does not apply to any of the following activities: ... (5) Projects which a public agency rejects or disapproves.

CEQA Guidelines (14 CCR) Section 15270(a). Projects Which are Disapproved. (a) CEQA does not apply to projects which a public agency rejects or disapproves.

14 CCR Section 13096(a) requires that a specific finding be made in conjunction with CDP applications about the consistency of the application with any applicable requirements of CEQA. This report has discussed the relevant coastal resource issues with the proposed project. All above findings are incorporated herein in their entirety by reference. As detailed in the findings above, the proposed project would have significant adverse effects on the environment as that term is understood in a CEQA context.

Pursuant to CEQA Guidelines (14 CCR) Section 15042 "a public agency may disapprove a project if necessary in order to avoid one or more significant effects on the environment that would occur if the project were approved as proposed." Section 21080(b)(5) of CEQA, as implemented by Section 15270 of the CEQA Guidelines, provides that CEQA does not apply to projects which a public agency rejects or disapproves. The Commission finds that denial, for the reasons stated in these findings, is necessary to avoid the significant effects on coastal resources that would occur if the project was approved as proposed. Accordingly, the Commission's denial of the project represents an action to which CEQA, and all requirements contained therein that might otherwise apply to regulatory actions by the Commission, do not apply.

APPENDIX A – SUBSTANTIVE FILE DOCUMENTS

- “*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
- State Water Resources Control Board

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



February 16, 2021

Planning Department
976 Osos St., Room 300
San Luis Obispo, CA 93408

Re: Agenda Item 6 and 7. Coastal Development Permits DRC2019-00214
(Bookout) and DRC2020-00107 (Hadian)

Dear Planning Department Hearing Officer,

Thank you for providing our office with the opportunity to comment on the above-referenced agenda items regarding two proposed residences in Cambria. As the County is aware, the Commission has appealed and denied several proposed residences in Cambria the last few years, including a 2019 denial of a residence proposed by Mr. Hadian. This letter is in response to the County's new interpretation of the North Coast Area Plan (NCAP) policies and the applicants representative's February 10, 2021 letter. Namely, the County and the applicants both assert that "pipeline projects" are separate and distinct from the "existing commitments" list maintained by the Cambria Community Services District (CCSD). The County and applicants further state that existing commitments, including all projects within the Leimert Tract, are exempt from the NCAP policy that requires new development in Cambria to show the project will have "no adverse impacts to Santa Rosa and San Simeon Creeks" and all other applicable LCP policies. We disagree, as explained in more detail below.

First, we understand that pipeline projects are a specific subset of the larger category of existing commitments and that these are not two distinct categories of development. We do agree that pipeline projects are those that had secured a CCSD will-serve letter and that the County had accepted an application for processing prior to November 15, 2001. However, our understanding is that all pipeline projects were included in the CCSD existing commitments list.¹ In other words, all pipeline projects are existing commitments, but not all existing commitments are pipeline projects. We have long requested a list of pipeline projects from both the CCSD and the County, but this list has still not been provided. Our understanding is that there are no pipeline projects left. The two projects at issue here were proposed in 2019 and 2020. Thus, even if there were

¹ We also note that the CCSD has continued to add projects to the "existing commitments" list after 2001 and do not agree that the list previously provided constitutes the correct list. The existing commitments list is finite and only includes projects that were on the list in 2001. The list that was recently provided by the County was created in 2020 and was not in existence in 2001.

pipeline projects remaining, these projects are clearly not in the pipeline project category as they did not have a will serve letter and application in process in 2001.

Second, we disagree that existing commitments do not need to meet the NCAP "no adverse impacts to Santa Rosa and San Simeon Creeks" standard. This policy states that "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" (emphasis added). This policy clearly differentiates between projects **using** water connections and those that are not. We recognize that there were a handful of non-pipeline projects that were approved between 2001 and 2007. The intent of this policy is to capture all development that had connected to the water system and began using water service by the time the 2007 NCAP update was approved. All other new development not actively utilizing water service must meet the "no adverse impacts" standard, which all evidence suggests is not currently possible. The only exception to the NCAP "no adverse impacts to Santa Rosa and San Simeon Creeks" standard was for pipeline projects, of which these projects do not qualify and of which there are no projects remaining.

Finally, as we have explained in prior staff reports, even if pipeline projects were to exist, other LCP coastal resource protection policies (e.g. those related ESHA, Groundwater Basins, Watersheds, Coastal Streams and Riparian Habitats, etc.) are all applicable to the project and no new connections in Cambria would be able to be found consistent with these policies. Compliance with all LCP policies and standards is required by CZLUO sections 23.01.033 and 23.01.033.034. Moreover, the NCAP states that the pipeline project allowance was based, in part, on the CCSD's "reliability conclusions of the CCSD's Water Supply Analysis during a November 15, 2001 meeting." In other words, the CCSD believed at the time that there was sufficient water to serve the remaining pipeline projects without adverse impacts. The overwhelming evidence gathered since that time suggests that the CCSD's 2001 conclusions were incorrect and there is not sufficient water to serve even existing development. Additionally, any issues of procedural fairness as an exception for pipeline projects has substantially diminished, as almost 20 years has passed since the moratorium was enacted and all Cambrians have been aware of the community's water scarcity issues during this time.

The applicants representatives' February 10 letter states that they are dumbfounded by the Commission's position. However, the Commission has repeatedly and consistently made it's perspective clear. In the 2002 appeal staff report for the project referenced in the NCAP policy, A-3-SLO-02-050, the Commission found that "[t]he "pipeline projects" list presents a starting point when analyzing individual projects for recommendation to the Commission. It is important to note, however, that **being on this list does not**

ensure approval by the Commission. Each project on the list must be evaluated on its individual merits. All projects included must be analyzed for the amount of water used and **for consistency with the complete spectrum of governing LCP policies and ordinances.**" As explained above, while a handful of projects have previously been approved based on earlier erroneous conclusions that sufficient water was available, all available information gathered since 2001 suggests that the Cambria's water supply is insufficient to serve even existing development, including the 2014 water shortage emergency declaration.

We will note that it is Cambria's lack of water, not the Commission, that has prevented new development from being approved in the community. The Commission has continued to evaluate new development based on substantial evidence regarding the reliability of Cambria's water supply, as should the County in the current proposals. Should Cambria secure a new sustainable water supply or conduct acceptable instream flow studies to demonstrate that existing water supplies are adequate to serve new development, as the Commission has suggested for decades, new development could potentially be approved.

In short, our office has not changed our opinion that new connections in Cambria cannot be found consistent with the LCP and must be denied. During the last Commission denial of a Cambria project, several Commissioners expressed strong frustration that the County and CSSD continues to approve projects when the Commission's direction has been overwhelmingly and unanimously clear. These two projects, if approved, are very likely to be appealed and denied. We would strongly encourage the County and the CCSD to focus on securing a new sustainable water supply for the community, rather than continue to waste staff time and energy on individual projects that have very little chance of success. Hopefully this helps clarify our position.

Sincerely,

DocuSigned by:

E107683DD61A470...
Brian O'Neill
Coastal Planner

Daniela Chavez

From: Crosby Swartz <crobyswartz99@gmail.com>
Sent: Thursday, February 18, 2021 11:11 AM
To: Daniela Chavez
Subject: [EXT]Planning Department Hearing 2-19-21 Public Comment
Attachments: Crosby Swartz Comments at Planning Department Hearing 2-19-21.docx

ATTENTION: This email originated from outside the County's network. Use caution when opening attachments or links.

Daniela,
Attached please find my written comments on Hearing Items 6 and 7 for the Planning Department Hearing on February 19, 2021.
Thank you,
Crosby Swartz
Cambria Resident

Crosby Swartz, Cambria, Comments at Planning Department Hearing 2-19-21

Subject: Hearing Item 6, DRC2019-00214 BOOKOUT and Hearing Item 7, DRC2020-00107 HADIAN

The main problem with these two permit applications is lack of available water for additional new users. Cambria's lack of available water occurs during drought conditions, which can occur at the end of the dry season each year if rainfall occurs later than normal or it does not fully recharge the two aquifers which supply drinking water to the community.

The demand offset measures referenced in the referral packages for these two projects do not reduce water usage during drought conditions, and do not offset increased usage by these new added consumers.

During water shortage conditions the district imposes maximum water allocations on each customer, who must reduce their water usage to their maximum water allocation. The total water demand on the district water supply is equal to the number of customers multiplied by their individual bi-monthly water allocation. Adding new customers will add more water demand during critical drought conditions.

This additional water demand is not offset by low-flow plumbing fixtures. The water "saved" during non-drought months is not actually saved for use during dry periods. It flows downstream into the ocean.

These projects should be put on hold until the CCSD provides an analysis of their ability to supply potable water to current residents during dry conditions when maximum water allocations are in effect.

From: Elizabeth Bettenhausen <elizabethbettenhausen@gmail.com>
Sent: Thursday, February 18, 2021 1:54 PM
To: Daniela Chavez
Subject: [EXT]SLO Planning Hearing Feb. 19, 2021
Attachments: Planning Hadian Bookout and Hadian 18Feb21 pdf.pdf

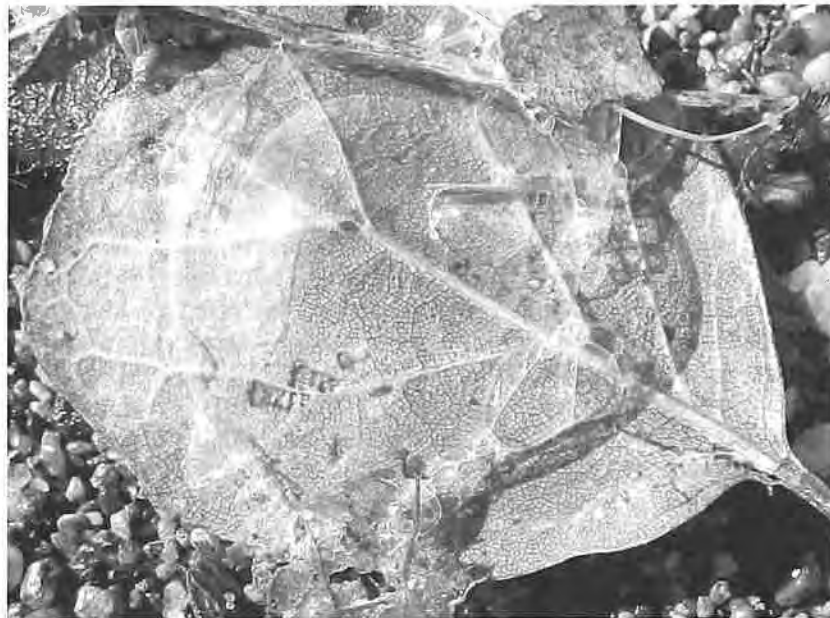
ATTENTION: This email originated from outside the County's network. Use caution when opening attachments or links.

Re: Hearing Items 6 and 7, 19 Feb. 2021

Hello, Ms. Chavez!

Please see the attached correspondence pertinent to the hearing tomorrow.

Thank you!
Elizabeth Bettenhausen



Elizabeth Bettenhausen, Ph.D.
345 Plymouth St.
Cambria, CA 93428
elizabethbettenhausen@gmail.com

18 February 2021

Re: SLO Planning Hearing 19 February 2021
Agenda Item 6. DRC2019-00214)
Agenda Item 7: DRC2020-00107

SLO County Planning Department:

I request that you do not approve Minor Use Permit / Coastal Development Permit DRC2019-00214 (Bookout) and Minor Use Permit/Coastal Development Permit DRC2020-00107 (Hadian).

The environmental conditions along the central coast of California, including Cambria, have significantly changed since the initial agreement between Walter Leimert and Cambria Community Services District (CCSD) in 1985 and the subsequent agreement in 1999.

In particular and crucially, the climate change is bringing about drought more frequently and increased temperatures of air and ocean. This is affecting the ESHA which is the location of San Simeon Creek and aquifer, as well as the Santa Rosa Creek and aquifer, the sources of CCSD's water withdrawal. As new reports of the effects of the climate crisis come to our attention daily, these effects must be taken into account in policy decisions about water supply in community services districts. Monitoring the water supply for the presence of Per & Polyfluoroalkyl Substances, the consultant hired by Cambria Community Services District detected PFAS in the CCSD our system (CCSD Board of Directors Agenda, 2/18/21, p. 165). The recent 10-15" downpour over three days has brought the need for special management of both water and wastewater infrastructure in CCSD. No new residential or commercial customers should be added to the water service program of CCSD for the foreseeable future.

As I said in my letter to you about this in January 2021, the CCSD has not provided reliable data on water conservation, including the alleged water-saving via the retrofit and water use offset program. I have followed this since moving here in 2002 and submitting PRRs for the data now and again. Such data must be available to the public, individuals and agencies, to show that retrofit points are in fact accompanied by no increase in water use by a particular new customer for at least two years. Otherwise the conservation is rhetorical but not actual.

CCSD repeatedly makes claims about grandfathered Intent to Serve permits. The list changes about once a year, increasing or decreasing the grandparents.

No matter what the current claim by the CCSD, the legal standing of Intent to Serve water permits must be discussed in relation to the actual limits of the water supply now, *not two decades ago*.

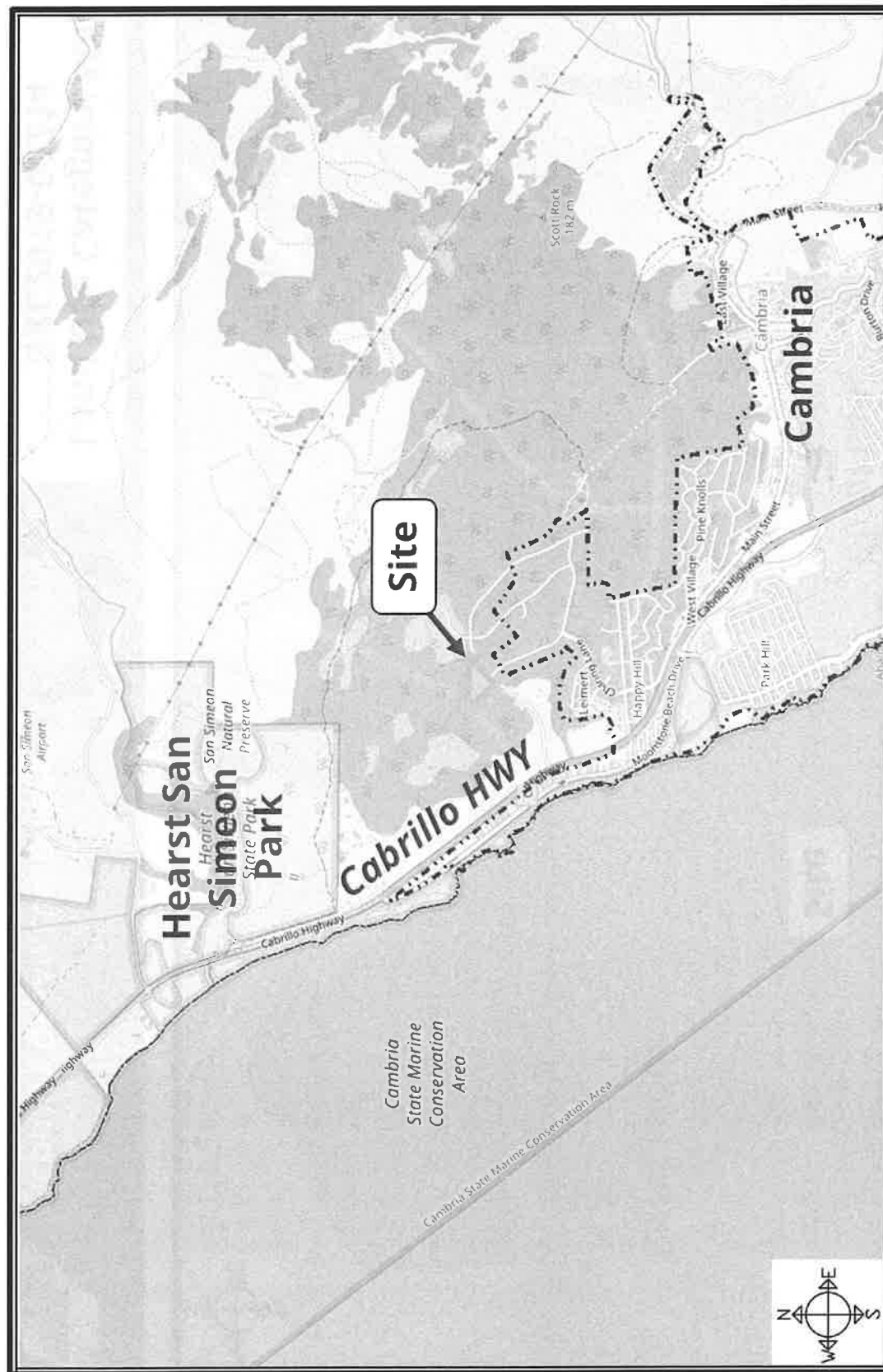
The California Coastal Commission has taken up this issue again and again. Please take serious account of the staff reports and Commission's disapproval of the earlier Hadian application on 13 November 2019, for example (<https://documents.coastal.ca.gov/reports/2019/11/W32e/w32e-11-2019-report.pdf>).

Regarding Item 6 and Item 7 before you on 19 Feb. 2021, the 16 Feb. 2021 letter to you from Brian O'Neill, Coastal Planner for the Central Coast District of the California Coastal Commission, astutely and precisely presents the policy issues and program decisions germane to these two applications.

SLO County Planning and Cambria Community Services District can and should take a more prudent course of action. The urgency of the climate crisis begs you and them to attend to environmental threats in much more careful ways than has been the case so far. The need grew more obvious over the past month.

Thank you for your serious consideration of this matter. Should you approve this application, I will appeal your decision.

Signature available upon request



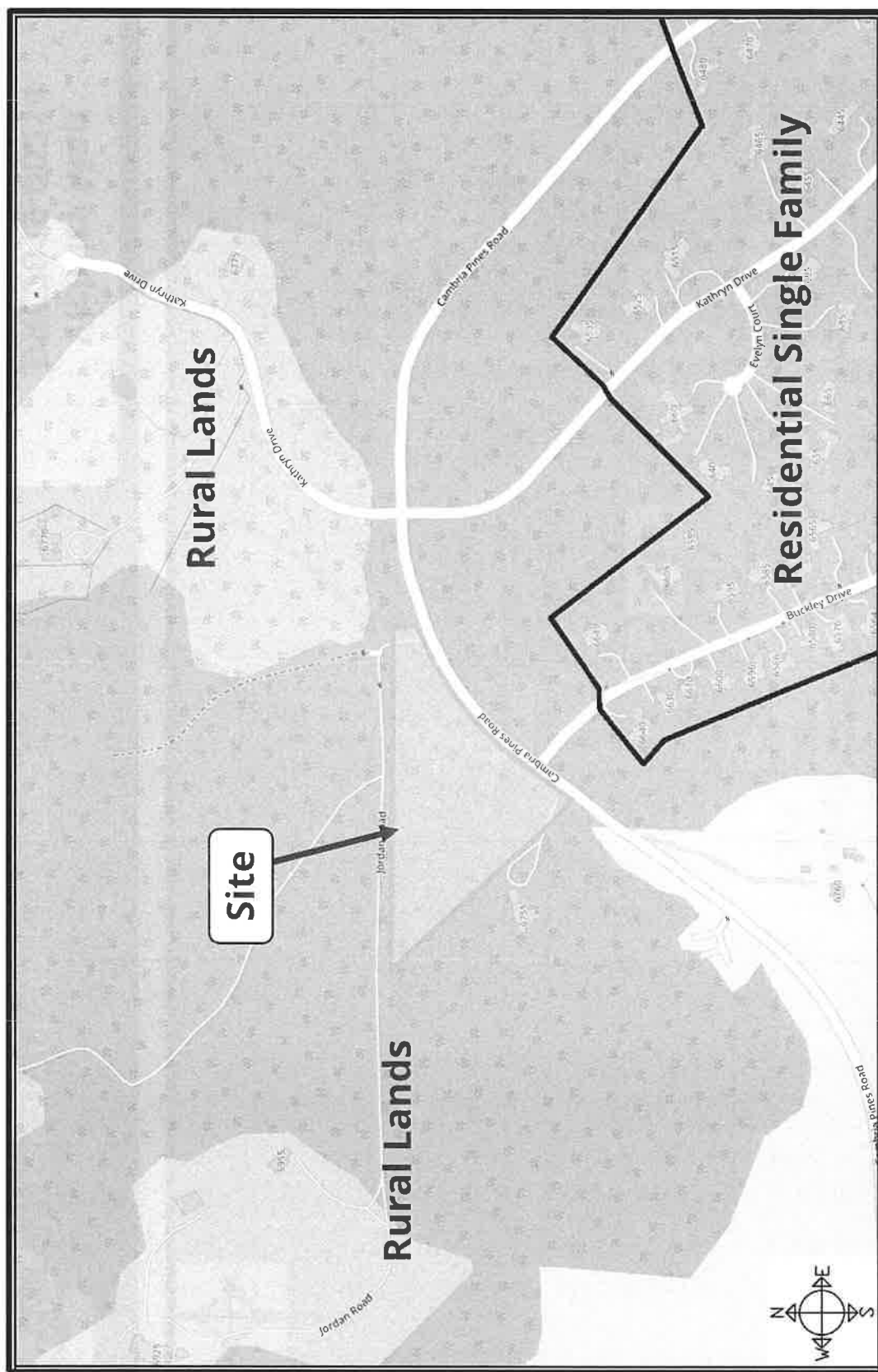
Vicinity Map
DRC2019-00214

COUNTY OF SAN LUIS OBISPO



Exhibit 3

A-3-SLO-21-0065
185 of 240



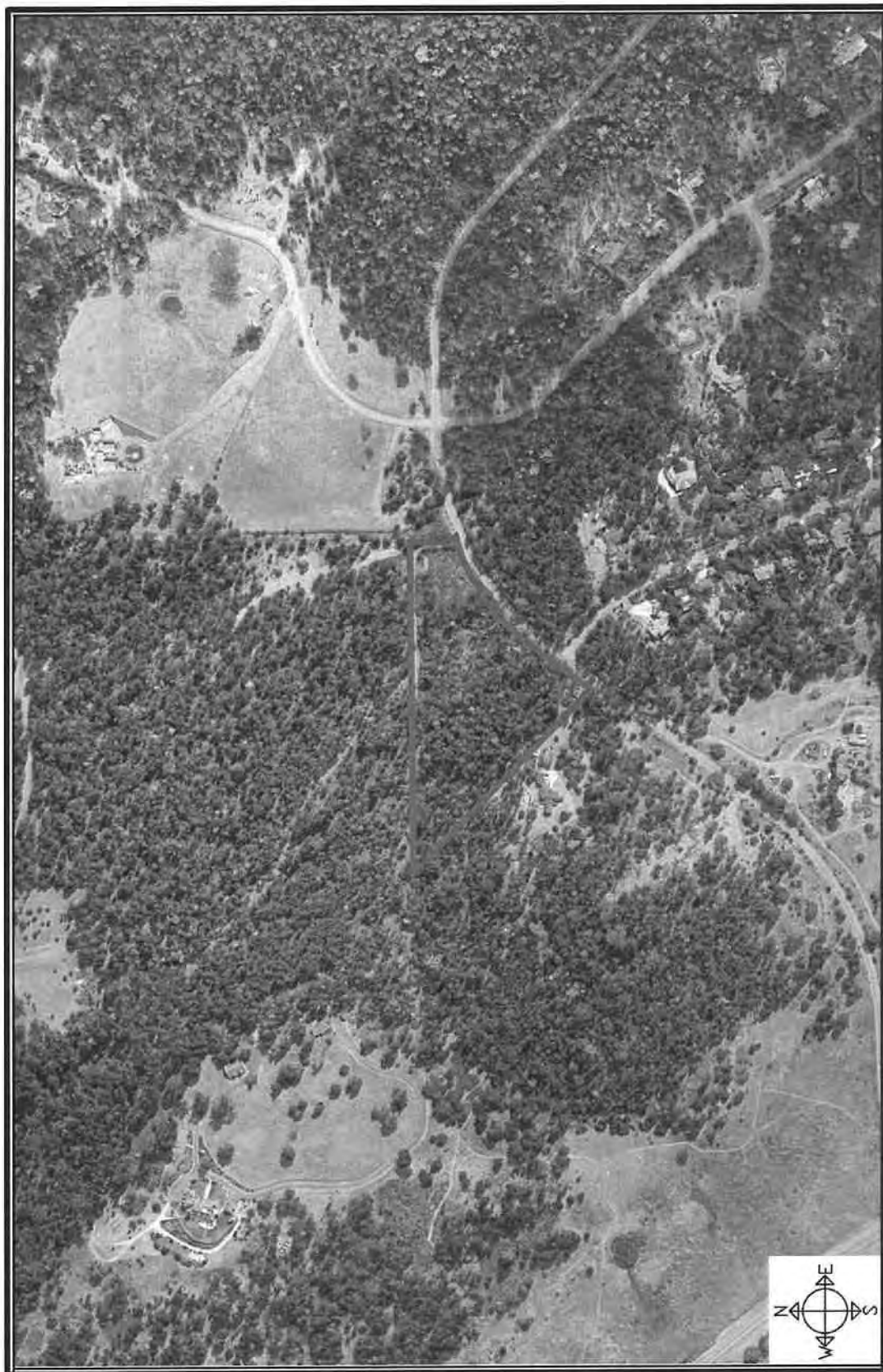
**Land Use Category Map
DRC2019-00214**

COUNTY OF SAN LUIS OBISPO



Exhibit 3

**A-3-SLO-21-0065
186 of 240**

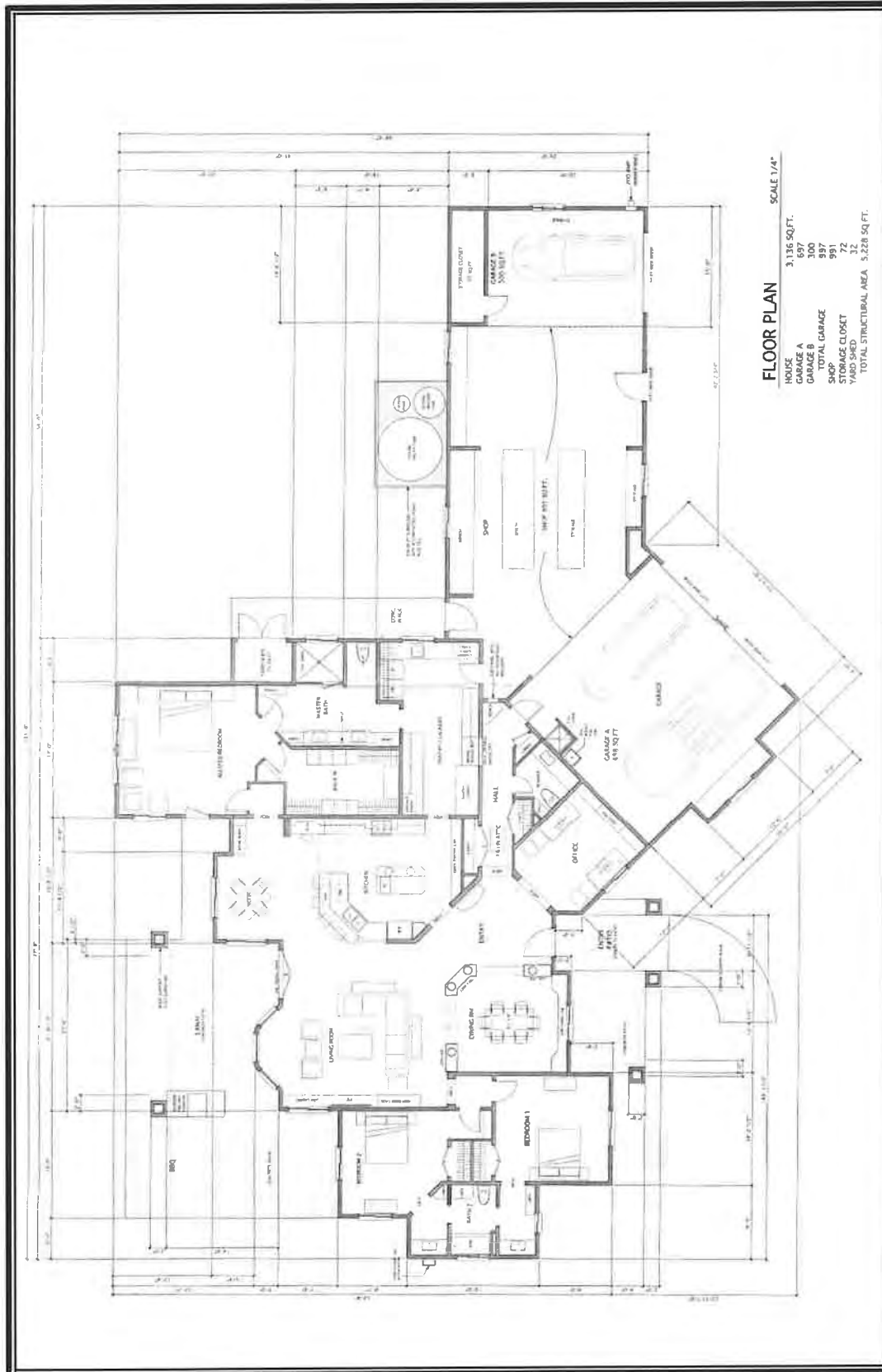


Aerial
DRC2019-00214

COUNTY OF SAN LUIS OBISPO

Exhibit 3

A-3-SLO-21-0065
187 of 240



Floor Plans DRC2019-00214

COUNTY OF SAN LUIS OBISPO



Exhibit 3

A-3-SLO-21-0065
189 of 240

CAMBRIA COMMUNITY SERVICES DISTRICT

DIRECTORS:
DAVID PIERSON, President
HARRY FARMER, Vice President
AMANDA RICE, Director
CINDY STEIDEL, Director
DONN HOWELL, Director



OFFICERS:
PAAVO OGREN, Interim General Manager
MONIQUE MADRID, Assistant General Manager
TIMOTHY J. CARMEL, District Counsel

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

May 20, 2019

Ralph Bookout
5617 W Grove Ct
Visalia, CA 93291

Requires CCSD Retrofit Inspection prior to Permit Finalization

Subject: **CONDITIONAL CONFIRMATION OF WATER AVAILABILITY FOR NEW CONSTRUCTION**
ASSESSOR'S PARCEL NO. 013-085-005
SINGLE FAMILY RESIDENCE (1 EDU)

Dear Mr. Bookout,

Cambria Community Services District (CCSD) has reviewed the plans provided to San Luis Obispo County for a Permit to remodel/improve the above property. San Luis Obispo County requires written assurance that water service is available from the CCSD. **Said project is authorized with the conditions as indicated below:**

Approval Conditions (Required if Checked)

- ☒ Owner must provide CCSD with a copy of county **building permit** issued for this project.
- ☒ **All new water fixtures** must meet current standard under Title 4 of District Code. CCSD plumbing code is more stringent than the Cal Green Plumbing Code. Visit <https://www.cambriacsd.org/retrofits-remodels> for more information.
- ☐ Applicants must work with Cambria Fire Department & CCSD's Water Department staff to determine water meter size requirement to serve this project (if applicable).
- ☒ Applicant must go online to schedule a retrofit inspection before permit finalization. Visit <https://www.cambriacsd.org/water-fixture-retrofit-program> to schedule.
- ☐ Provide proof that the underlying lots are one legal parcel, or otherwise complete a lot merger of the underlying lots **within 90 days** of this notice.
- ☐ Requires **PARCEL MERGER** to allow water service across lot line. Please email mbland@cambriacsd.org for more information.
- ☐ Under CCSD regulations, remodels must not change the existing water service status of the property by creating additional separate dwelling units. **WARNING! A GUEST UNIT MAY NOT BE RENTED AS A SEPARATE DWELLING.**

Please note if fire sprinklers are required for the above project and as a result the existing water meter and/or water service line need to be increased, a separate agreement between the Applicant and CCSD will be required. All costs associated with increasing water meters and water service lines are the responsibility of the Applicant.

Approval of the above referenced project is valid for **3 years from the date of issuance** of this notice. After this date, Applicant must re-apply for approval of the project, subject to the standards of CCSD's Municipal Code at the time of re-submission.

If you have any questions concerning this matter, please call this office for assistance.

Sincerely,
CAMBRIA COMMUNITY SERVICES DISTRICT



Melissa Bland
Management Analyst
Engineering Department

End. Demand Offset Letter
New Construction Requirements for Water Use Efficiency

CAMBRIA COMMUNITY SERVICES DISTRICT

DIRECTORS:
DAVID PIERSON, President
HARRY FARMER, Vice President
AMANDA RICE, Director
CINDY STEIDEL, Director
DONN HOWELL, Director



OFFICERS:
PAAVO OGREN, Interim General Manager
MONIQUE MADRID, Assistant General Manager
TIMOTHY J. CARMEL, District Counsel

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

May 20, 2019

Ralph Bookout
5617 W Grove Ct
Visalia, CA 93291

RE: Water demand offset verification for proposed Bookout residential project (APN 013-085-005)

Dear Mr. Bookout,

This letter and its attachment confirms water conservation measures have been completed within our service area, which are required by the Local Coastal Program for our area to offset the future potable water demand from your proposed residential home project at APN 022-085-005 at 6725 Cambria Pines Road. We have also included demand offset letter approval conditions.

Please contact us should you have any questions.

Sincerely,

Melissa Bland
Management Analyst
Engineering Department

Attachments (2): Demand offset approval conditions
Proof of demand offset summary

DEMAND OFFSET APPROVAL CONDITIONS

1. The conditions contained in this potable water demand offset letter are in addition to any and all conditions imposed on the original Intent to Serve Letter for this parcel, and any previously issued Intent to Serve (ITS) extensions. In the event of any conflict between conditions in the ITS letter(s) and this demand offset approval letter, the provisions in this demand offset approval letter shall take precedence.
2. No water service lines may extend beyond the property line for this project. Any subsequent need to serve adjacent properties shall require a property merger. No secondary housing units shall be served potable water as the result of this project.
3. All fixtures and appliances shall comply with the most recent CCSD water efficiency standards and requirements.
4. The demand offset was estimated based on plans dated 04/17/2019 from David Einung for a new residence at 6725 Cambria Pines Rd., Cambria, CA. Any subsequent changes to this design, which may add fixture units, add square footage, or change the intended use, shall be resubmitted for additional review to further assess the accuracy of this estimate. The applicant shall bear the cost for an additional design review time and the subsequent need to purchase or complete any additional demand offsets.
5. The applicant shall reimburse the CCSD for the costs of plan checking, construction inspection, project administration and legal assistance of any CCSD related improvement associated with the project. For all services rendered by CCSD personnel, the applicant shall be charged and pay to the CCSD the actual cost. The CCSD will invoice the applicant, and any amounts unpaid 30 days from the date of the invoice shall bear interest at the rate of 1 ½ % per month beginning 30 days after the date of said invoice.
6. The applicant expressly grants the CCSD, or its authorized agent, permission to enter upon the land that is the subject of the project for the purpose of inspection of any and/or all work related to the water and sewer improvements.
7. The applicant must agree to grant any required utility or access easements that may be reasonably required by the CCSD.
8. The applicant shall defend, indemnify and hold harmless the CCSD, its officers, agents, representatives and employees from any and all claims, demands, damages, costs expenses or liabilities, including attorney fees, occasioned by the performance or attempted performance of the provisions contained in the this demand offset approval letter.
9. In granting this demand offset letter, the CCSD, makes no determination as to required environmental mitigations and land use entitlements required for the proposed project, and the issuance shall not be construed to be an expression of CCSD's position regarding the proposed project's environmental mitigations or use or intensity of use of the development property.
10. The applicant agrees to pay all CCSD connection fees prior to connecting to the water system, and agrees to pay all monthly water service charges.

RETROFITS COMPLETED TO OFFSET NEW CONSTRUCTION

PROJECT NAME: Bookout / 6725 Cambria Pines Rd. PARCEL #: 013-085-005

Project Description: 5228 sq ft residence on 6.64 acres

Retrofit requirement: 230 points

2596 Leona	Retrofits Upon Resale	13.90
815 Main	Retrofits Upon Resale	5.8
321 Fallbrook	Retrofits Upon Resale	28.30
2494 Yorkshire	Retrofits Upon Resale	33.80
1897 Dorking	Retrofits Upon Resale	10.30
3313 Ramsey	Retrofits Upon Resale	49.40
685 Huntington	Retrofits Upon Resale	2.40
211 Devault	Retrofits Upon Resale	2.40
1000 Warren Rd	Retrofits Upon Resale	12.00
5249 Pembroke	Retrofits Upon Resale	20.60
1745 Arliss	Retrofits Upon Resale	16.80
3280 Bradford Cir.	Retrofits Upon Resale	19.20
5297 Hillcrest	Retrofits Upon Resale	2.90
2397 Kerry	Retrofits Upon Resale	13.90

Total Points 231.70

1 point = .72 annual water unit or 1.47 gallons per day
1 water unit = 748 gallons

This Project's Points	Annual Water Units	Retrofit Offset Points	Annual Water Saved
230.00	165.60	231.70	166.82

Approved by:


Melissa Bland, Management Analyst, Engineering

CCSD Water Conservation and Water Use Efficiency Requirements for New Construction¹

All new construction projects must be exclusively serviced with high-efficiency water-use plumbing and plumbing fixtures. See CCSD Municipal Code 4.16.030 for more information. Failure to install and maintain high-efficiency water-use plumbing and plumbing fixtures or unauthorized replacement with low-efficiency alternatives is a misdemeanor offense under California Water Code Section 377.

2016 CALGreen Code Mandatory Measures. Unless there is a conflict with CCSD requirements, the following CALGreen mandatory measures shall be followed: Sections 4.303.1 and 4.303.2. In cases of conflict, the provisions of the CCSD shall be followed.

CCSD Exceptions and Additions to 2016 CALGreen Code Measures:

FIXTURES	RETROFIT REQUIREMENT
<u>SHOWER HEADS</u>	Shall limit the maximum flow to 1.5 gallons per minute and shall have a shutoff valve located on or near the showerhead.
<u>PRESSURE REGULATORS</u>	Shall be installed and set at 50 pounds per square inch maximum at all locations served by the District's water distribution system.
<u>FAUCETS</u>	Kitchen/Bar/Utility sinks shall be equipped with faucet aerators and be of a design that limits the maximum flow to 1.5 gallons per minute.
	Lavatory (bathroom) sinks shall be equipped with faucet aerators that limit the maximum flow to 0.5 (one-half) gallons per minute.
	Hose bibs shall be equipped with restrictor and anti-siphon valves (vacuum breakers) that limit the maximum flow to 4.0 gallons per minute.
<u>DISHWASHERS & WASHING MACHINES</u>	Residential/Commercial ² clothes washers shall be ENERGY STAR certified and have an integrated water factor of no greater than 4.0. Residential dishwashers shall be ENERGY STAR certified and shall use no more than 3.5 gallons per cycle. Commercial dishwashers shall be reviewed with by the CCSD prior to installation. Visit www.energystar.gov/products/ to search for appliances that meet the above requirements.
<u>POINT OF USE RECYCLED WATER</u>	Separate black and grey water sewer systems shall be installed. Separate potable and non-potable water lines shall be installed. Grey water shall be treated and disinfected using a point-of-use recycled water system prior to reuse for toilet flushing and other non-potable uses. Point-of-use recycled water systems shall be reviewed and approved by the CCSD prior to installation. A reduced-pressure backflow preventer shall be installed on all water services entering the property. Cross connection testing between potable and non-potable systems shall be completed to the CCSD's satisfaction prior to operation.
<u>OUTDOOR WATER USE</u>	No potable irrigation water shall be allowed for outdoor irrigation. Use of native, drought-tolerant plants is recommended to minimize irrigation from non-potable water.

For questions about this handout please contact the CCSD at (805) 927-6223.

¹ Per Title 4, Chapter 4 of the CCSD District Code Including changes adopted by Ordinance 03-2013 approved on 8/22/2013.

² See CCSD Code for Commercial applications using machines with greater than 20 pounds of laundry capacity per load.

Version dated 4/12/2018; subject to change per CCSD, local, state and federal ordinance.
p:\admin\conservation & permits\retrofit\2018 04 12 Water Use Efficiency Reqs for New Construction

Fw: [EXT]Fwd: Appeal Planning Dept. Hearing Officer decision

AD-Board-Clerk <ad_board_clerk@co.slo.ca.us>

Wed 9/8/2021 10:09 AM

To: Vicki Janssen <vjanssen@co.slo.ca.us>; Micki Olinger <molingerchavez@co.slo.ca.us>; Caleb Mott <cmott@co.slo.ca.us>; Blake Fixler <bfixler@co.slo.ca.us>; Lynn Compton <lcompton@co.slo.ca.us>; Bruce Gibson <bgibson@co.slo.ca.us>; Dawn Ortiz-Legg <dortizlegg@co.slo.ca.us>; Sarah Sartain <ssartain@co.slo.ca.us>; District 3 <district3@co.slo.ca.us>

 3 attachments (6 MB)

Hadian appeal 1March2021.pdf; Bookout appeal 1March2021.pdf; letter to accompany appeal of Hadian and Bookout 1 March 2021.pdf;

Correspondence received.

Sincerely,

Clerk of the Board Team

Administrative Office, County of San Luis Obispo
1055 Monterey St., Ste. D430 | San Luis Obispo, CA 93408
Tel: (805) 781-1045 | Fax: (805) 781-5023

From: Kip J. Morais <kmorais@co.slo.ca.us>

Sent: Wednesday, September 8, 2021 10:05 AM

To: AD-Board-Clerk <ad_board_clerk@co.slo.ca.us>

Cc: Annette Ramirez <aramirez@co.slo.ca.us>; Tessa Cornejo <tcornejo@co.slo.ca.us>

Subject: FW: [EXT]Fwd: Appeal Planning Dept. Hearing Officer decision

Hello,

I am forwarding the following items as official correspondence for hadian and bookout appeals (Item #35 and #36).

Please confirm receipt.

Thank you,



KIP MORAIS
PLANNER
Planning and Building
County of San Luis Obispo
Tel: (805) 781-5136
kmorais@co.slo.ca.us

From: Elizabeth Bettenhausen <elizabethbettenhausen@gmail.com>

Sent: Tuesday, September 7, 2021 10:24 AM

To: Kip J. Morais <kmorais@co.slo.ca.us>

Cc: Bruce Gibson <bgibson@co.slo.ca.us>

Subject: [EXT]Fwd: Appeal Planning Dept. Hearing Officer decision

ATTENTION: This email originated from outside the County's network. Use caution when opening attachments or links.

Exhibit 3
A-3-SLO-21-0065
Received and Posted: September 8, 2021
Page 1 of 16

Good morning, Mr. Moralis:

As you see below, I tried sending this to Ms. Christiansen, the Deputy Clerk for the Board of Supervisors.

That email was blocked.

So, I send this along to you, with the same question: Do I need to submit any other information, as an appellant?

I hope you enjoy Great Egrets.

Elizabeth Bettenhausen

----- Forwarded message -----

From: **Elizabeth Bettenhausen** <elizabethbettenhausen@gmail.com>

Date: Tue, Sep 7, 2021 at 10:14 AM

Subject: Fwd: Appeal Planning Dept. Hearing Officer decision

To: T'Ana Christiansen <t'anachristiansen@co.slo.ca.us>

Cc: Bruce Gibson <bgibson@co.slo.ca.us>

-Good morning, Ms. Christiansen:

I have appealed to the Board of Supervisors County File Numbers DRC2019-00214 and DRC2020-00107, on the Board Of Supervisors Agenda for Sept. 14, 2021.

Please see the attached appeal forms and the letter that applies to both of them. I would appreciate your acknowledgement of receipt.

Do I need to submit any other information, as an appellant?

I hope your days are full of good health and entrancing sightings of Earth creatures.



Great Egret fishing Santa Rosa Creek Beach, Cambria
28 Feb. 2021 photo: Elizabeth Bettenhausen

Thank you!
Elizabeth Bettenhausen
Cambria, CA
elizabethbettenhausen@gmail.com

Elizabeth Bettenhausen, Ph.D.
[REDACTED]
[REDACTED]
elizabethbettenhausen@gmail.com

1 March 2021

San Luis Obispo County Board of Supervisors
via email

Re: Appeal of Planning Hearing decision on Items 6 and 7 on 19 February 2021
DRC2019-00214 and DRC2020-00107

Dear Supervisors:

I thank the Board of Supervisors for overseeing Cambria Community Services District (CCSD). When I moved here 19 years ago, little did I know how essential your oversight would be for the well-being of this community and county. Oversight often brings floods of work to meet the responsibility. This is certainly true as well for the SLO Planning Department in relation to Cambria Community Services District. I am grateful for the public service, even when I disagree with decisions.

I **appeal** the Hearing officer's decision in the SLO Dept. of Planning to approve Bookout's application for a Minor Use Permit/Coastal Development Permit DRC2019-00214.

I **appeal** the Hearing officer's decision in the SLO Dept. of Planning's to approve Hadian's application for a Minor Use Permit/Coastal Development Permit DRC2020-00107.

Today and in the future, as you oversee CCSD, please make sure the CCSD's assumption of adequate water is solidly defended and documented. Please hold the CCSD accountable for accurately documenting with clear and reliable data claims of mitigation, conservation, and sustainability. Please request that the CCSD make explicit the algorithms by which they interpret water supply and demand data. Please make sure the District makes decisions based on ecological and environmental justice. The District's public service falls short in these and other ways.

For decades Cambria Community Services District has withdrawn too much water from San Simeon Creek and Santa Rosa Creek and their aquifers. What makes it too much water? The amount has damaged and continues to damage the riparian habitat and residents, including us humans. The CCSD continues to violate the County's Coastal Zone Land Use Code in determining Availability of Water Supply and Sewage Disposal Services (Title 23, Chapter 04, Sect. 430).

After the hundreds of land purchases in Cambria in the 1980s and 90s, and toying with a Water Master Plan in the first two decades of this century, the District barely begins to understand the limits of water here. Whether in agriculture, residential indoor use and irrigation, expansion of the tourism industry, public works, commercial use, schools, preserves, and so much more—water is finite. Actual supply must set the standard.

What does this have to do with appealing these two rulings?

In 1998 the California Coastal Commission once again called on the CCSD to study the San Simeon Creek and Santa Rosa Creek, aquifers, and lagoons to document the CCSD's claims that water can be taken out without negative riparian environmental and other effects.¹

In 2003 the General Manager of the Cambria Community Services District reported to the Board of Directors the urgent need to rework the whole system of Equivalent Dwelling Unit measurement and the retrofit water allocations.²

The CCSD has still not done either one. The EDU system has not been revised. The retrofit and rebate points mechanism lacks evidence of actual offset and enforcement. In stream flow studies of San Simeon Creek and Santa Rosa Creek have not been done by CCSD or their consultants. Activating old meters, installed but never in operation before, endangers the well-being of current human and other-than-human residents of Cambria and surrounding area.

This has been excellently described and documented again and again, when cases have been appealed to the California Coastal Commission.

For example, in 2019 you approved a permit application by Hadian almost identical to the current application. Your decision was appealed. The staff of the California Coastal Commission described the situation this way.

The County's action raises substantial LCP water resource and sensitive habitat issues because: (1) the County did not determine that there was an adequate sustainable water supply to serve the project as is required by the LCP, but rather relied solely on a Cambria Community Services District (CCSD) intent-to-serve (or "will serve") letter for this purpose; (2) there is not an adequate sustainable water supply to provide new water service to serve new development in Cambria (and it is not adequate even for existing development), a factual finding that has been repeatedly determined by the Commission in relation to Cambria development through multiple actions, including certification of LCP policies (specific to the present lack of available water and imposing specific water supply requirements) and CDP actions; (3) the sources of Cambria's water supply (i.e., Santa Rosa and San Simeon Creeks) are environmentally sensitive habitat areas (ESHA) that are currently being adversely affected by existing water extractions to support existing development in Cambria; and (4) the County found that the project could be served by the community's already oversubscribed water supply because the CCSD agreed to serve the project in order to settle a lawsuit, but the LCP only allows allocation of water supply when it is from an adequate sustainable water supply, which it is not;

¹ North Coast Area Plan Update, San Luis Obispo County Local Coastal Program Major Amendment No. 1-97 REVISED FINDINGS, January 1998, p. 51. <https://www.coastal.ca.gov/slorevf.pdf>

² CCSD Board of Directors Agenda Packet, VII.A. for Feb. 13, 2003.

and (5) because the project would be required to comply with the CCSD's retrofit program designed to offset water use, but such offsets would be inadequate to meet LCP standards with respect to adequate water supply and the CCSD's program does not appear to actually offset such water use even if it were to be deemed an appropriate tool to meet LCP standards, which it is not. ³

Cambria does not have "an adequate sustainable water supply." Two lot owners on Tract 1804 have meters installed by CCSD more than 20 years old and never used. That does not mean that actual water is plentiful enough now to turn the meters on for the first time without increasing the ongoing riparian damage.

In 18 years of research on CCSD water usage, I have never seen documentation of actual water usage on Tract 1804. Before a water meter is activated, the CCSD must provide solid evidence that the usage on Tract 1804 now and in the future does not and will not go above 4 units annually.

The County's Growth Management Ordinance allows up to four units (per fiscal year) for Tract 1804 to be served by the CCSD. The CCSD's issuance of a Confirmation of Water & Sewer Availability letter is consistent with the County's Growth Management Ordinance as it allows up to four units in Tract 1804(GMO 26.01.070 [10.ii]).⁴

On May 15, 2014, the CCSD was awarded an Emergency Coastal Development Permit for an Advanced Water Treatment Plant on San Simeon Creek. Later that year they began to prepare the application for a Permanent Coastal Development Permit. **Seven years later, the application is still not complete.**

I attach a letter I wrote to CCSD the year after I moved here. Again and again over the years I have posed to them questions of policy and procedure regarding water usage and production. Their responses have been less than minimal.

In exercising your oversight of the Cambria Community Services District, please make sure that their claims of adequacy, sufficiency, sustainability, and accuracy are solidly grounded in completed studies, analysis, and reporting.

May you be willing to exercise well in these recurring CCSD cases the heavy and essential responsibility of elected public service.

Sincerely yours,

Elizabeth Bettenhausen [original signature available upon request]

³ <https://documents.coastal.ca.gov/reports/2019/11/W32e/w32e-11-2019-report.pdf>

⁴ in Tentative Notice of Action for both items under appeal here

Elizabeth Bettenhausen

elizabethbettenhausen@netzero.net

4 August 2003

Cambria Community Services District
1316 Tamson Drive, Suite 201
Cambria, CA 93428

Dear Board of Directors and General Manager:

1. Using data CCSD distributed for the Utility Rate Workshop on 9/12/02, I reach the following conclusions.* Please let me know whether they accurately state the situation here in Cambria in 2000-2001.

Of 4021 "customers" 65.18% used 34.78% of the water (12 units or less);
18.13% used 23.58% of the water (13-18 units);
16.69% used 41.64% of the water (19+ units).

Thus 1/3 of Cambria customers used 2/3 of the water, and 2/3 of the customers used 1/3 of the water. Does this describe current use too?

Of the customers, how many are residences, businesses, and non-profits? A consumption profile for each group would be an excellent piece for the next issue of the CCSD Newsletter. Please include cumulative totals and percentages not only of customers but also of units of water used. This discloses information not conveyed by citing only the 12 unit "average."

* (Note: I used the chart, "Water Rates—Preliminary," and calculated the number of customers using each water unit from 19 to 50+ by viewing the "Customer/Consumption Profile" graph. My calculation was 22 short of 4021 customers, so I attributed the lowest consumption level not specified in "Water Rates—Preliminary," 17 units each, to them.)

2. In the July 24, 2003, meeting, the board passed unanimously the motion to choose the desalination plant as an additional water source, to choose Scenario 4, and incrementally to increase the "maximum goal" for residential water use from 12 to 18 units. I have several questions.

1) One reason given by the board for choosing Scenario 4: it entails the lowest number of customers needing water. The "projected water demand" already requires an "emergency" situation. **How does this rationale support increasing the "maximum goal" of permissible water use by 50%?**

2) How does increasing the "maximum goal" of water use support conservation of water in Cambria?

3) What does "maximum goal" for residential water use mean? Does it bear on the size of the desalination plant that will be specified in the project description and thus be subject to environmental analysis?

4) How can the procedure of Board meetings be changed so that the public always has an opportunity to speak on an actual motion before the vote is taken? This was not possible regarding the third element of the motion on July 24. Indeed, even the Board did not discuss the third element of the motion.

As I said in the meeting, I will send comments regarding conservation and recycling soon.

Thank you very much for your attention to the concerns raised here, to the careful protection of natural resources, and to basic human needs in Cambria and surrounding community.

Sincerely,

4 August 2003, Page 2 of 2



COASTAL APPEALABLE FORM

SAN LUIS OBISPO COUNTY DEPARTMENT OF PLANNING AND BUILDING
976 OSOS STREET • ROOM 200 • SAN LUIS OBISPO • CALIFORNIA 93408 • (805) 781-5600

Promoting the Wise Use of Land • Helping to Build Great Communities

Please Note: An appeal should be filed by an aggrieved person or the applicant at each stage in the process if they are still unsatisfied by the last action.

PROJECT INFORMATION

Name: Bookout

File Number: DRC 2019-00214

Type of permit being appealed:

- ☐ Plot Plan ☐ Site Plan ☒ Minor Use Permit ☐ Development Plan/Conditional Use Permit
☐ Variance ☐ Land Division ☐ Lot Line Adjustment ☐ Other: _____

The decision was made by:

- ☐ Planning Director (Staff) ☐ Building Official ☒ Planning Department Hearing Officer
☐ Subdivision Review Board ☐ Planning Commission ☐ Other: _____

Date the application was acted on: 2/19/2021

The decision is appealed to:

- ☐ Board of Construction Appeals ☐ Board of Handicapped Access
☐ Planning Commission ☒ Board of Supervisors

BASIS FOR APPEAL

☒ INCOMPATIBLE WITH THE LCP. The development does not conform to the standards set forth in the Certified Local Coastal Program of the county for the following reasons (attach additional sheets if necessary)

Explain: See attached letter

☐ INCOMPATIBLE WITH PUBLIC ACCESS POLICIES. The development does not conform to the public access policies of the California Coastal Act – Section 30210 et seq of the Public Resource Code (attach additional sheets if necessary).

Explain: _____

List any conditions that are being appealed and give reasons why you think it should be modified or removed.

Condition Number _____ Reason for appeal (attach additional sheets if necessary)

APPELLANT INFORMATION

Print name: Elizabeth Bettenhausen

Address: 345 Plymouth St
Cambria, CA 93428

Phone Number (daytime): 1-805-927-0659

I/We are the applicant or an aggrieved person pursuant to the Coastal Zone Land Use Ordinance (CZLUO) and are appealing the project based on either one or both of the grounds specified in this form, as set forth in the CZLUO and State Public Resource Code Section 30603 and have completed this form accurately and declare all statements made here are true.

Signature: Elizabeth Bettenhausen

Date: 1 March 2021

OFFICE USE ONLY

Date Received: _____

By: _____

Amount Paid: _____

Receipt No. (if applicable): _____

COASTAL APPEAL FORM
SAN LUIS OBISPO COUNTY PLANNING & BUILDING
SLOPLANNING.ORG

PAGE 2 OF 3
APRIL 23, 2015
PLANNING@CO.SLO.CA.US

Exhibit 3
A-3-SLO-21-0065
Meeting Date: September 2, 2021
Received and Posted: 205 of 240
Page 9 of 16



COASTAL APPEALABLE FORM

SAN LUIS OBISPO COUNTY DEPARTMENT OF PLANNING AND BUILDING

976 OSOS STREET • ROOM 200 • SAN LUIS OBISPO • CALIFORNIA 93408 • (805) 781-5600

Promoting the Wise Use of Land • Helping to Build Great Communities

Please Note: An appeal should be filed by an aggrieved person or the applicant at each stage in the process if they are still unsatisfied by the last action.

PROJECT INFORMATION

Name: Hadian

File Number: DRC2020-00107

Type of permit being appealed:

- ☐ Plot Plan ☐ Site Plan ☒ Minor Use Permit ☐ Development Plan/Conditional Use Permit
☐ Variance ☐ Land Division ☐ Lot Line Adjustment ☐ Other: _____

The decision was made by:

- ☐ Planning Director (Staff) ☐ Building Official ☒ Planning Department Hearing Officer
☐ Subdivision Review Board ☐ Planning Commission ☐ Other: _____

Date the application was acted on: 2/19/2021

The decision is appealed to:

- ☐ Board of Construction Appeals ☐ Board of Handicapped Access
☐ Planning Commission ☒ Board of Supervisors

BASIS FOR APPEAL

☒ INCOMPATIBLE WITH THE LCP. The development does not conform to the standards set forth in the Certified Local Coastal Program of the county for the following reasons (attach additional sheets if necessary)

Explain: see attached letter

☐ INCOMPATIBLE WITH PUBLIC ACCESS POLICIES. The development does not conform to the public access policies of the California Coastal Act – Section 30210 et seq of the Public Resource Code (attach additional sheets if necessary).

Explain: _____

List any conditions that are being appealed and give reasons why you think it should be modified or removed.

Condition Number _____ Reason for appeal (attach additional sheets if necessary) _____

APPELLANT INFORMATION

Print name: Elizabeth Bettenhausen

Address: 345 Plymouth St
Cambria, CA 93428

Phone Number (daytime): 1-805-927-0659

I/We are the applicant or an aggrieved person pursuant to the Coastal Zone Land Use Ordinance (CZLUO) and are appealing the project based on either one or both of the grounds specified in this form, as set forth in the CZLUO and State Public Resource Code Section 30603 and have completed this form accurately and declare all statements made here are true.

Elizabeth Bettenhausen
 Signature

1 March 2021
 Date

OFFICE USE ONLY

Date Received: _____

By: _____

Amount Paid: _____

Receipt No. (if applicable): _____

COASTAL APPEAL FORM
 SAN LUIS OBISPO COUNTY PLANNING & BUILDING
 SLOPLANNING.ORG

PAGE 2 OF 3
 APRIL 23, 2015
 PLANNING@CO.SLO.CA.US

Exhibit 3
 Agenda Item No: 35
A-3-SLO-21-0065
 Meeting Date: September 8, 2021
 Received and Posted: September 8, 2021
206 of 240
 Page 10 of 16

Fw: [EXT]Hadian and Bookout Appeals Items 35-36 14 September Agenda

AD-Board-Clerk <ad_board_clerk@co.slo.ca.us>

Wed 9/8/2021 12:07 PM

To: Vicki Janssen <vjanssen@co.slo.ca.us>; Micki Olinger <molingerchavez@co.slo.ca.us>; Caleb Mott <cmott@co.slo.ca.us>; Blake Fixler <bfixler@co.slo.ca.us>; Lynn Compton <lcompton@co.slo.ca.us>; Bruce Gibson <bgibson@co.slo.ca.us>; Dawn Ortiz-Legg <dortizlegg@co.slo.ca.us>; Sarah Sartain <ssartain@co.slo.ca.us>; District 3 <district3@co.slo.ca.us>

1 attachments (80 KB)

Hadian Bookout appeal BoS September 2021.pdf;

Correspondence received.

Sincerely,

Clerk of the Board Team

Administrative Office, County of San Luis Obispo
1055 Monterey St., Ste. D430 | San Luis Obispo, CA 93408
Tel: (805) 781-1045 | Fax: (805) 781-5023

From: Christine Heinrichs <christine.heinrichs@gmail.com>

Sent: Wednesday, September 8, 2021 10:38 AM

To: AD-Board-Clerk <ad_board_clerk@co.slo.ca.us>; Kip J. Morais <kmorais@co.slo.ca.us>

Subject: [EXT]Hadian and Bookout Appeals Items 35-36 14 September Agenda

ATTENTION: This email originated from outside the County's network. Use caution when opening attachments or links.

Hadian File Number DRC2020-00107

Bookout File Number: DRC2019-00214

14 September 2021

To the Supervisors:

The board should take action today, in accord with Coastal Commission reports and recommendations, and good sense, to deny these permits.

The Hadian application is essentially similar to the previous permit application, which the Cambria CSD and the Board of Supervisors approved, and was then, on the basis of sound legal and scientific reasoning, denied by the Coastal Commission. See the Staff Report on that permit, <https://documents.coastal.ca.gov/reports/2019/11/W32e/w32e-11-2019-report.pdf>. It gives five reasons on page 2, in the Summary of Staff Recommendation, why these projects should not be given permits. I support these reasons for denying these permits:

“The County’s action raises substantial LCP water resource and sensitive habitat issues because:

(1) the County did *not* determine that there was an adequate sustainable water supply to serve the project as is required by the LCP, but rather relied solely on a Cambria Community Services District (CCSD) intent-to-serve (or “will serve”) letter for this purpose;

(2) there is *not* an adequate sustainable water supply to provide new water service to serve new development in Cambria (and it is not adequate even for existing development), a factual finding that has been repeatedly determined by the Commission in relation to Cambria development through multiple actions, including certification of LCP policies (specific to the present lack of available water and imposing specific water supply requirements) and CDP actions;

(3) the sources of Cambria's water supply (i.e., Santa Rosa and San Simeon Creeks) are environmentally sensitive habitat areas (ESHA) that are *currently* being adversely affected by *existing* water extractions to support *existing* development in Cambria; and

(4) the County found that the project could be served by the community's already oversubscribed water supply because the CCSD agreed to serve the project in order to settle a lawsuit, but the LCP only allows allocation of water supply when it is from an adequate sustainable water supply, which it is not; and

(5) because the project would be required to comply with the CCSD's retrofit program designed to offset water use, but such offsets would be inadequate to meet LCP standards with respect to adequate water supply and the CCSD's program does not appear to actually offset such water use even if it were to be deemed an appropriate tool to meet LCP standards, which it is not."

The report elaborates on these points. The Hadian permit was already denied once by the Coastal Commission based on this report. Mr. Hadian made a few minor changes and re-applied. So while the current application is technically a new application, the project is the same one that was previously denied.

The three-page letter dated February 16, 2021, county file

<https://agenda.slocounty.ca.gov/ip/sanluisobispo/file/getfile/130338>, responds to the county's new interpretation of these projects as "pipeline" projects, which is ridiculous, as these projects were proposed in 2019 and 2020. The Coastal Commission further addresses "pipeline projects" on pages 10 and 11 of the Staff Report, emphasis added:

"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... **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, and the Commission agreed to this scheme in the 2007 LCP amendment."

The hearing officer also attempted to justify these permits based on other permits that have been issued, largely because they slipped under everyone's radar, as recently as 2018. On page 3 of the Coastal Commission February 16, 2021 letter, Mr. O'Neill explains that

"...while a handful of projects have previously been approved based on earlier erroneous conclusions that sufficient water was available, all available information gathered since 2001 suggests that Cambria's water supply is insufficient to serve even existing development, including the 2014 water shortage emergency declaration."

The county needs to hold itself to a higher standard than perpetuating mistakes.

Other points:

Low flow fixtures do not make any difference to demand during a drought. Adding new users puts the water supply in jeopardy for all.

The EWS has not been permitted yet. Its application for a CDP remains 13 percent complete, missing 87 percent of required information, more than a year after it was submitted, going on eight years after the facility was constructed. No permit is in sight. Even if it ever gets a permit, it does not add any new water, and is designated to provide water to Existing Residents Only.

CSD approval of permit applications does not assure that water is available. The county has an affirmative duty to make its own determination of water adequacy. The county claims it is a "Pass Through" agency, which I call a Rubber Stamp. Legally, the county is required to make its own finding, as the Coastal Commission has affirmed.

Excessive pumping from the aquifer could result in drawing salt water in, causing salt water contamination of the water source.

Climate change has become clearer since the 2001 Building Moratorium. Conditions have changed, and Cambria, the county and the entire state are in a drought. Cambria's water supply is more at risk than ever. More users cannot be safely added.

These existing meters have never supplied water. Adding these users will inevitably increase demand.

Persisting in approving these permits despite knowing that Cambria does not have adequate water to serve them, resulting in the permits being appealed to the Coastal Commission, is wasting the Commission's time. Commissioners expressed their frustration in the November 6 meeting, asking whether they could get a Cease & Desist Order to make you and the Cambria CSD stop, or, if not, put up a billboard saying "Don't believe these people." The commissioners, the executive director and staff members are clear and vehement. Listen at about 2:37 into the meeting video.

Subsequent to that chastening, the Cambria CSD voted to suspend a few Intent to Serve letters at its July 15 meeting, pending results of the Instream Flow Study, projected to provide data about Cambria's water supply by the end of 2021. The CSD Board will also act to hear all applications for service on the Existing Commitments List and extensions to Intent to Serve letters in public. Please take notice of this change in the district's approach to new construction permits.

I add my voice to the Coastal Commission's: Deny these permit applications now. Thank you.

Christine Heinrichs
Cambria, CA
Christine.heinrichs@gmail.com

--

Christine Heinrichs

Coastal Appealable Form

Hadian File Number DRC2020-00107

Bookout File Number: DRC2019-00214

14 September 2021

To the Supervisors:

The board should take action today, in accord with Coastal Commission reports and recommendations, and good sense, to deny these permits.

The Hadian application is essentially similar to the previous permit application, which the Cambria CSD and the Board of Supervisors approved, and was then, on the basis of sound legal and scientific reasoning, denied by the Coastal Commission. See the Staff Report on that permit, <https://documents.coastal.ca.gov/reports/2019/11/W32e/w32e-11-2019-report.pdf>. It gives five reasons on page 2, in the Summary of Staff Recommendation, why these projects should not be given permits. I support these reasons for denying these permits:

“The County’s action raises substantial LCP water resource and sensitive habitat issues because:

(1) the County did *not* determine that there was an adequate sustainable water supply to serve the project as is required by the LCP, but rather relied solely on a Cambria Community Services District (CCSD) intent-to-serve (or “will serve”) letter for this purpose;

(2) there is *not* an adequate sustainable water supply to provide new water service to serve new development in Cambria (and it is not adequate even for existing development), a factual finding that has been repeatedly determined by the Commission in relation to Cambria development through multiple actions, including certification of LCP policies (specific to the present lack of available water and imposing specific water supply requirements) and CDP actions;

(3) the sources of Cambria’s water supply (i.e., Santa Rosa and San Simeon Creeks) are environmentally sensitive habitat areas (ESHA) that are *currently* being adversely affected by *existing* water extractions to support *existing* development in Cambria; and

(4) the County found that the project could be served by the community’s already oversubscribed water supply because the CCSD agreed to serve the project in order to settle a lawsuit, but the LCP only allows allocation of water supply when it is from an adequate sustainable water supply, which it is not; and

(5) because the project would be required to comply with the CCSD’s retrofit program designed to offset water use, but such offsets would be inadequate to meet LCP standards with respect to adequate water supply and the CCSD’s program does not appear to actually offset such water use even if it were to be deemed an appropriate tool to meet LCP standards, which it is not.”

The report elaborates on these points. The Hadian permit was already denied once by the Coastal Commission based on this report. Mr. Hadian made a few minor changes and re-applied. So while the current application is technically a new application, the project is the same one that was previously denied.

The three-page letter dated February 16, 2021, county file <https://agenda.slocounty.ca.gov/iip/sanluisobispo/file/getfile/130338>, responds to the county's new interpretation of these projects as "pipeline" projects, which is ridiculous, as these projects were proposed in 2019 and 2020. The Coastal Commission further addresses "pipeline projects" on pages 10 and 11 of the Staff Report, emphasis added:

"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... **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, and the Commission agreed to this scheme in the 2007 LCP amendment."

The hearing officer also attempted to justify these permits based on other permits that have been issued, largely because they slipped under everyone's radar, as recently as 2018. On page 3 of the Coastal Commission February 16, 2021 letter, Mr. O'Neill explains that

"...while a handful of projects have previously been approved based on earlier erroneous conclusions that sufficient water was available, all available information gathered since 2001 suggests that Cambria's water supply is insufficient to serve even existing development, including the 2014 water shortage emergency declaration."

The county needs to hold itself to a higher standard than perpetuating mistakes.

Other points:

Low flow fixtures do not make any difference to demand during a drought. Adding new users puts the water supply in jeopardy for all.

The EWS has not been permitted yet. Its application for a CDP remains 13 percent complete, missing 87 percent of required information, more than a year after it was submitted, going on eight years after the facility was constructed. No permit is in sight. Even if it ever gets a permit, it does not add any new water, and is designated to provide water to Existing Residents Only.

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I add my voice to the Coastal Commission’s: Deny these permit applications now. Thank you.

Christine Heinrichs
Cambria, CA
Christine.heinrichs@gmail.com

Fw: [EXT]Agenda Sept. 14, 2021, Items 35 and 36

AD-Board-Clerk <ad_board_clerk@co.slo.ca.us>

Thu 9/9/2021 10:52 AM

To: Vicki Janssen <vjanssen@co.slo.ca.us>; Micki Olinger <molingerchavez@co.slo.ca.us>; Caleb Mott <cmott@co.slo.ca.us>; Blake Fixler <bfixler@co.slo.ca.us>; Lynn Compton <lcompton@co.slo.ca.us>; Bruce Gibson <bgibson@co.slo.ca.us>; Dawn Ortiz-Legg <dortizlegg@co.slo.ca.us>; Sarah Sartain <ssartain@co.slo.ca.us>; District 3 <district3@co.slo.ca.us>; Kathleen Goble <kgoble@co.slo.ca.us>

1 attachments (136 KB)

EAB to BOS 9 Sept 21.pdf;

Correspondence received.

Sincerely,

Clerk of the Board Team

Administrative Office, County of San Luis Obispo

1055 Monterey St., Ste. D430 | San Luis Obispo, CA 93408

Tel: (805) 781-1045 | Fax: (805) 781-5023

From: Elizabeth Bettenhausen <elizabethbettenhausen@gmail.com>

Sent: Thursday, September 9, 2021 10:44 AM

To: AD-Board-Clerk <ad_board_clerk@co.slo.ca.us>; Kip J. Morais <kmorais@co.slo.ca.us>

Subject: [EXT]Agenda Sept. 14, 2021, Items 35 and 36

ATTENTION: This email originated from outside the County's network. Use caution when opening attachments or links.

Please distribute the attached document to the addressees.

Thank you!



photo: Elizabeth Bettenhausen

9 September 2021

TO: SLO County Board of Supervisors - ad_board_clerk@co.slo.ca.us.

Cc: Kip J. Morais kmorais@co.slo.ca.us

FROM: Elizabeth Bettenhausen - elizabethbettenhausen@gmail.com

Re: Agenda, Sept. 14, 2021, Items 35 and 36

I request that you table Appeals APPL2021-00002 and APPL2021-00003 and the accompanying applications for Minor Use Permit/Coastal Development Permit (DRC2020-00107) and Minor Use Permit/Coastal Development Permit (DRC2019-00214) until such time as

- the Cambria Community Services District completes the instream flow study and other major requirements in their application for a Coastal Development Permit for the Water Reclamation Facility at San Simeon Creek,
- that CCSD application is approved, and
- the Cambria Community Services District provides comparative data over at least two years of bimonthly water usage in residences that have been awarded retrofit points for alleged diminished usage.

I sent you germane comments in March 2021 and again last week. In addition I point to a crucial element in the Staff Response to the first Appeal Issue in both Agenda 35 and 36. The staff writes,

The CCSD, determined that the water demand for its existing commitments, including those exempt from moratorium, was 202.31 Equivalent Dwelling Units (EDUs). The meter for the subject property was included within the calculation of the 202.31 EDU's. (Agenda, Sept. 9, 2021, Item 35, p. 4, 7, 8 and Item 36, p. 4, 7, 8).

In August 2002 that demand estimate of EDUs was **6.7% of CCSD's** total water production. **In August 2021 it would be 11.5%** of total water production in Cambria. based on August 2021. (The CCSD has not published the actual water usage accountable through meters since the end of April 2021. This is also cause for serious concern.) Effectively doubling the ratio of estimated EDUs for "existing commitments" to total water production has not been discussed by CCSD Board of Directors in public since the drought began in 2013.

The staff's response to issues 4 & 5 concerning the retrofit program provides actual data to support the CCSD's stipulated conditions in the will-serve letters they issued in May 2019 and Oct. 2020. While an actual 2:1 offset would be commendable, the CCSD does not have a system to monitor this regularly and publicly. Until the CCSD reliably gathers such data for at least two years running, using this 2:1 ratio to defend new flowing water service is unreasonable.


Defining "adequate" and "sustainable" water in actual usage challenges Cambria's ratepayers, CCSD directors and staff, and now you. I humbly ask you to table these two Agenda items until the CCSD takes the minimal essential steps stated above to deal with the more frequent and persistent drought, changing climate conditions, and growing stress on our environments. Thank you for your consideration and public service.

FW: [EXT]Bookout-APPL2021-00002 and Hadian-APPL2021-00003

Board of Supervisors <Boardofsups@co.slo.ca.us>

Fri 9/10/2021 08:48 AM

To: BOS Legislative Assistants Only <BOS_Legislative-Assistants-Only@co.slo.ca.us>; AD-Board-Clerk <ad_board_clerk@co.slo.ca.us>

 1 attachments (52 KB)

Vern Hamilton Email 2002doc014001.pdf;

For your review, this email was forwarded to all Supervisors and Board- Clerk. Thank you.

Sincerely,

Lisa Marie Estrada

Administrative Assistant III-Confidential

Board of Supervisors

www.slocounty.ca.gov

Direct Line: (805)781-4335

From: Jack Posemsky <jack@jackposemsky.com>

Sent: Thursday, September 9, 2021 2:31 PM

To: Board of Supervisors <Boardofsups@co.slo.ca.us>

Cc: Jack Posemsky <jack@jackposemsky.com>

Subject: [EXT]Bookout-APPL2021-00002 and Hadian-APPL2021-00003

ATTENTION: This email originated from outside the County's network. Use caution when opening attachments or links.

Dear Board of Supervisors,

Regarding: Hearing on September 14 at 1:30 pm, agenda numbers 35 and 36 (Bookout-APPL2021-00002 and Hadian-APPL2021-00003).

My name is Jack Posemsky, a real estate broker in Cambria and the realtor that represented these 2 applicants when they bought lots 3 and 5 in Tr 1804 of the Leimert Tract.

All 18 lots in tract 1804 were granted active water service in the early 1990's by the Cambria Community Services District (CCSD) and all with California Coastal Commission approval. The documents are of record and in your files.

All 18 lots have active water meters installed in the ground, and all pay a bi monthly water bill to the CCSD. Based on this alone these applicants should be able to move forward with building their homes just as the other lot owners in this tract have done since this phase 3 of the Leimert Tract was approved by the county.

While these 2 lots were in contract to be sold Lot 10 (6178 Brighton Ln) was already under construction having both CCSD and Coastal Commission approved plans. Lot 10 as these 2 lots have the same water meters installed at the same time.

From my past conversation and email exchanges with CCSD general manager Vern Hamilton (2002) these water meters and their water usage was factored into the water consumption tables of CCSD and had no negative affect on Cambria's water supply (see attached pdf).

I support Tract 18 building projects. These water meters are exempt from the current building moratorium that only affects lot owners on the CCSD water wait list not Tract 1804. The issue of water supply does not come into play with these lots as they already have paid all retrofit fees per CCC and CCSD and are active water customers paying for a service that they have not yet used.

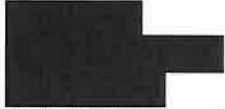
I request that the board approve these applicants building permits. These are paying water customers and have the right to use the water they're already paying for. Water that is already calculated into Cambria's water supply.

Thank you for your time.

Respectfully,

Jack Posemsky

Jack Posemsky Real Estate
DRE# 01184353



jack@jackposemsky.com
www.jackposemsky.com

Vern Hamilton

From: Vern Hamilton [vhamilton@cambridgesd.org]
Sent: Wednesday, August 21, 2002 11:41 AM
To: 'Steve Monowitz (E-mail)'; 'jeuphrat@co.slo.ca.us'
Cc: 'Shirley Bianchi (E-mail)'; 'Peter Chaldecott (E-mail)'; 'Ilan Funke-Bilu (E-mail)'; 'Joan T. Cobin (E-mail)'; 'Don Villeneuve (E-mail)'
Subject: Just the Facts (as of 8-21-02).

Because I happen to be working with these numbers today, it occurred to me that you may find them interesting or helpful. Also, I hear a lot of numbers thrown around on this topic and believe that we should all be working with the same base statistics. Number of single family "intent to serve" letters currently outstanding from the CCSD = 37; Number of multi-family units with current "intent to serve" letters from the CCSD = 17 units; Number of commercial EDUs currently allocated with "intent to serve" letters = 48. Total EDUs allocated with intent to serve letters that have not completed the permit process = 102. Total increased system demand resulting from 102 EDUs (if activated) = approximately 9000 gallons per day (anticipates no change in conservation levels within the community, including new residents). Total average current daily production by CCSD = approximately 720,000 gallons. Percent increase in production needed to accommodate 102 additional EDUs = approximately 1.25%. In addition, there are currently 36 single family "grandfathered" meters on the books that are not active; there are 3 inactive multi-family "grandfathered" units, and 6.72 inactive "grandfathered" EDUs for a total of 45.7 inactive "grandfathered" EDU allocations. There are 13 single family active service meters in place, but not activated. 21 single family connection permits are being processed for recently processed building permits in addition to connections for 6 multi-family units (not included in the above totals.). There are approximately 670 outstanding single family waiting list positions on the CCSD water service wait list, along with 24 multi family units, for a total of 694 units.. VLH.

FW: [EXT]Agenda item # 35

Board of Supervisors <Boardofsups@co.slo.ca.us>

Fri 9/10/2021 01:13 PM

To: BOS_Legislative Assistants Only <BOS_Legislative-Assistants-Only@co.slo.ca.us>; AD-Board-Clerk <ad_board_clerk@co.slo.ca.us>

 1 attachments (14 KB)

Board of Supervisors.docx;

For your review, this is a District 2 constituent. This email was sent to all Supervisors and the Board-Clerk. Thank you.

Sincerely,

Lisa Marie Estrada

Administrative Assistant III-Confidential

Board of Supervisors

www.slocounty.ca.gov

Direct Line: (805)781-4335

From: Susan Burchiel <burchiels98@gmail.com>

Sent: Friday, September 10, 2021 12:47 PM

To: Board of Supervisors <Boardofsups@co.slo.ca.us>

Subject: [EXT]Agenda item # 35

ATTENTION: This email originated from outside the County's network. Use caution when opening attachments or links.

Please see attached document for the Board of Supervisors Meeting Tues 9/14/21

Thank you,

Richard Burchiel

Introduction:

My name is Richard Burchiel. I am a resident of the Leimert Subdivision in Cambria.

1. I am here to offer my support for the building project that Ralph Bookout proposes on his 6-acre lot in the Leimert Subdivision.
2. Ralph and his wife Betty are honest, upstanding citizens and have plans to build a state-of-the-art fire-resistant home which is arguably safer than leaving the 6 acres unimproved during this period of climate change and global warming.
3. Discovery of recent drug activities under the cover of the dense forest canopy is disturbing. This particular stand of Monterey Pines extends from Highway 1 up Cambria Pines Road to Jordan Rd and is all privately owned, and is part of Leimert Estates. Development of these remaining few lots that total approximately 50 acres would be an enhancement to the community and a deterrent to illegal activities.
4. As the building and planning department have approved this action the board of supervisors should follow the advice of their experts.

Thank you for your consideration, Richard Burchiel Cambria CA.

FW: [EXT]Weekly Meeting - September 14, 2021 - Agenda Item #35

Board of Supervisors <Boardofsups@co.slo.ca.us>

Mon 9/13/2021 12:28 PM

To: BOS_Legislative Assistants Only <BOS_Legislative-Assistants-Only@co.slo.ca.us>; Kathleen Goble <kgoble@co.slo.ca.us>; AD-Board-Clerk <ad_board_clerk@co.slo.ca.us>

For your review, this is a District 2 constituent. This email has been forwarded to all Supervisors and the Board-Clerk. Thank you.

Sincerely,

Lisa Marie Estrada

Administrative Assistant III-Confidential

Board of Supervisors

www.slocounty.ca.gov

Direct Line: (805)781-4335

From: Rita Burton <gn4abtn@gmail.com>

Sent: Sunday, September 12, 2021 6:38 PM

To: Board of Supervisors <Boardofsups@co.slo.ca.us>

Subject: [EXT]Weekly Meeting - September 14, 2021 - Agenda Item #35

ATTENTION: This email originated from outside the County's network. Use caution when opening attachments or links.

September 12, 2021

My husband, Stephen, and I are taking this opportunity to write in support of Mr. Ralph Bookout's application to build a residence on his vacant lot situated on Cambria Pines Road, adjacent to Highway 1 in Cambria.

We have owned two residences in Cambria. The first in Lodge Hill, purchased in 2009. Since 2018 we have resided at 6430 Cambria Pines Road, Cambria.

We feel that Mr. Bookout and his wife Betty will be excellent stewards of their property, and active in the conservation of this fine town.

Respectfully submitted,

Rita A. Burton

Stephen A. Burton

[Redacted Signature]

FW: [EXT]BOS meeting tomorrow, Sept. 14 - Agenda Item 35

Board of Supervisors <Boardofsup@co.slo.ca.us>

Mon 9/13/2021 12:42 PM

To: BOS_Legislative Assistants Only <BOS_Legislative-Assistants-Only@co.slo.ca.us>; Kathleen Goble <kgoble@co.slo.ca.us>; AD-Board-Clerk <ad_board_clerk@co.slo.ca.us>

For your review, this is a District 2 constituent. This email has been sent to all Supervisors and the Board-Clerk. Thank you.

Sincerely,

Lisa Marie Estrada

Administrative Assistant III-Confidential

Board of Supervisors

www.slocounty.ca.gov

Direct Line: (805)781-4335

From: Mike Lyons <mr.mikelyons@outlook.com>

Sent: Monday, September 13, 2021 9:04 AM

To: Board of Supervisors <Boardofsup@co.slo.ca.us>

Subject: [EXT]BOS meeting tomorrow, Sept. 14

ATTENTION: This email originated from outside the County's network. Use caution when opening attachments or links.

Re Agenda Item 35 on Sept. 14, 2021 Board of Supervisors meeting:

Re: APPL2021-00002 Bookout,

I am urging the Board to approve this permit for the construction of a single family residence, upholding the authority of Cambria's Community Services District to determine matters of water availability. The Cambria Community Services District has confirmed that the grandfathered and active water meter at this site is approved for development.

The appeal filed against this permit undermines and damages the authority of the CCSD, an organization whose board of directors are publicly elected and fully accountable to the ratepayers of Cambria for decisions such as this.

Mike Lyons,

Cambria

Home:

Cell:

Exhibit 3

Agenda Item No: 35

Meeting Date: September 14, 2021

Received and Posted: September 13, 2021

Page 2 of 20

A-3-SLO-21-0065

222 of 240

Fw: [EXT]Agenda Sept. 14, 2021, Items 35 and 36

AD-Board-Clerk <ad_board_clerk@co.slo.ca.us>

Mon 9/13/2021 09:43 AM

To: Vicki Janssen <vjanssen@co.slo.ca.us>; Micki Olinger <molingerchavez@co.slo.ca.us>; Caleb Mott <cmott@co.slo.ca.us>; Blake Fixler <bfixler@co.slo.ca.us>; Lynn Compton <lcompton@co.slo.ca.us>; Bruce Gibson <bgibson@co.slo.ca.us>; Dawn Ortiz-Legg <dortizlegg@co.slo.ca.us>; Sarah Sartain <ssartain@co.slo.ca.us>; District 3 <district3@co.slo.ca.us>; Kathleen Goble <kgoble@co.slo.ca.us>

📎 1 attachments (136 KB)

EAB to BOS 9 Sept 21.pdf;

Correspondence received.

Sincerely,

Clerk of the Board Team

Administrative Office, County of San Luis Obispo
1055 Monterey St., Ste. D430 | San Luis Obispo, CA 93408
Tel: (805) 781-1045 | Fax: (805) 781-5023

From: Kip J. Morais <kmorais@co.slo.ca.us>
Sent: Monday, September 13, 2021 09:42 AM
To: AD-Board-Clerk <ad_board_clerk@co.slo.ca.us>
Subject: FW: [EXT]Agenda Sept. 14, 2021, Items 35 and 36

Hello,

Please confirm receipt.

Thank you,



KIP MORAIS
PLANNER
Planning and Building
County of San Luis Obispo
Tel: (805) 781-5136
kmorais@co.slo.ca.us

From: Elizabeth Bettenhausen <elizabethbettenhausen@gmail.com>
Sent: Thursday, September 9, 2021 10:45 AM
To: AD-Board-Clerk <ad_board_clerk@co.slo.ca.us>; Kip J. Morais <kmorais@co.slo.ca.us>
Subject: [EXT]Agenda Sept. 14, 2021, Items 35 and 36

ATTENTION: This email originated from outside the County's network. Use caution when opening attachments or links.

Please distribute the attached document to the addressees.

Thank you!



photo: Elizabeth Bettenhausen

9 September 2021

TO: SLO County Board of Supervisors - ad_board_clerk@co.slo.ca.us.

Cc: Kip J. Morais kmorais@co.slo.ca.us

FROM: Elizabeth Bettenhausen – elizabethbettenhausen@gmail.com

Re: Agenda, Sept. 14, 2021, Items 35 and 36

I request that you table Appeals APPL2021-00002 and APPL2021-00003 and the accompanying applications for Minor Use Permit/Coastal Development Permit (DRC2020-00107) and Minor Use Permit/Coastal Development Permit (DRC2019-00214) until such time as

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In August 2002 that demand estimate of EDUs was **6.7% of CCSD's** total water production. **In August 2021 it would be 11.5%** of total water production in Cambria. based on August 2021. (The CCSD has not published the actual water usage accountable through meters since the end of April 2021. This is also cause for serious concern.) Effectively doubling the ratio of estimated EDUs for "existing commitments" to total water production has not been discussed by CCSD Board of Directors in public since the drought began in 2013.

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FW: [EXT]BOS September 14, 2021 -- Agenda Items 35 and 36

Board of Supervisors <Boardofsup@co.slo.ca.us>

Mon 9/13/2021 11:23 AM

To: BOS_Legislative Assistants Only <BOS_Legislative-Assistants-Only@co.slo.ca.us>; Kathleen Goble <kgoble@co.slo.ca.us>; AD-Board-Clerk <ad_board_clerk@co.slo.ca.us>

 1 attachments (1 MB)

Agenda 35 and 36 -- In support of Hadian and Bookout projects.pdf;

For your review. I was unable to find this constituent in Voter Reg. This email was forwarded to all Supervisors and the Board-Clerk. Thank you.

Sincerely,

Lisa Marie Estrada

Administrative Assistant III-Confidential

Board of Supervisors

www.slocounty.ca.gov

Direct Line: (805)781-4335

From: ASHKAN H HADIAN <ahadian29@ucla.edu>

Sent: Saturday, September 11, 2021 9:25 PM

To: Board of Supervisors <Boardofsup@co.slo.ca.us>

Subject: [EXT]BOS September 14, 2021 -- Agenda Items 35 and 36

ATTENTION: This email originated from outside the County's network. Use caution when opening attachments or links.

Hello,

Hope you're doing well! My name is Ashkan Hadian, and I am sending this email in support of Agenda Items 35 and 36 on September 14, 2021.

You can reach me at:

ahadian29@ucla.edu



Thank you and best regards,
Ashkan

I am supporting these two applicants' project permit because their county CDP approval is in conformance with the certified 2007 LCP amendment. It is important to understand some historical millstone events as they relate to the Cambria moratorium and what transpired in November 15, 2001 – that the CCSD was able to successfully enact a moratorium without any legal challenges.

To enact a successful moratorium, the CCSD conducted a water allocation study in collaboration with the County and the Coastal Commission to include all its commitments (active and inactive) as part of the study. The study concluded that the CCSD had adequate water to cover its commitments but new applicants had to wait until additional sources of water were available.

On November 15, 2001, the CCSD enacted the Cambria moratorium and exempted its strongest commitments (which are referred to as grandfathered meter lots) from the moratorium (those lots that already had water meter connection to the CCSD and were paying the CCSD bi-monthly water service fee before the moratorium was enacted). The CCSD went further and also exempted projects that had a will-serve letter from the CCSD and a pending permit at the County to apply for a water meter installation. These classes of exempt properties were later referred to by the Coastal Commission as "pipeline projects."

Between 2001 and 2007, the three agencies (the County, the CCSD, and the coastal commission) in charge of issuing new-development permits in Cambria were working on a new policy to prohibit new development in Cambria until other sources of water were made available. They also recognized and exempted all the CCSD commitments existing at the time of moratorium (November 15, 2001) from the no-new-development in Cambria, including pipeline projects. This close cooperation resulted in an agreement in the form of an amendment to the LCP among the three agencies (the County, the CCSD and the coastal commission) called "the Certified 2007 LCP Amendment."

This amendment created a clear path forward for all new developments in Cambria. All agencies relied on this amendment ever since to enforce the moratorium and to uphold the exemption of all the CCSD commitments that were so clearly defined as follows:

CERTIFIED 2007 LCP AMMENDMENT (NCAP-4A)
<p>"Until such time as may be otherwise authorized through a coastal development permit approving a major public works water supply project for Cambria, <u>new development not using CCSD connection 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-02-50 and A-3-02-073) shall assure no adverse impacts to Santa Rosa and San Simeon Creeks.</u>"</p>

Every single CCSD exempt property in Cambria that applied for permit was approved and was developed between 2007 and 2019 with no exception and in conformance with the 2007 LCP Amendment. That's 100 percent of all the CCSD exempt properties that applied in accordance with the data available from the County planning department. These developments were permitted with the Coastal Commission's full knowledge as it is required by law that every

county approved CDP has to be submitted to the Commission right after, and therefore, no CDP approval will ever get finalized without the full knowledge of the Commission.

In 2019, a grandfathered meter project's CDP was appealed by two commissioners for the very first time since the moratorium. These two commissioners obviously not familiar with the language of the Certified 2007 LCP Amendment were falsely persuaded by the Coastal Staff that only pipeline projects were exempted from the moratorium. As such, the Commissioners denied the CDP of a grandfathered meter project for the first time since 2007 LCP amendment, which is in direct violation of the LCP.

These two current projects are also the CCSD grandfathered meter commitments existing as of November 15, 2001. They are in fact, the CCSD's strongest commitment because their water meters were already installed and connected to the CCSD before moratorium. The CCSD started to supply them with potable water and have been billing them as of April 16, 2001, nearly 7 months before the moratorium (please see the attached CCSD confirmation letter and the pictures of running water).

Grandfathered meter exemptions are known to be the pillar of the Cambria moratorium. All three agencies at the time were in agreement that without exempting the CCSD commitments, a legal moratorium in Cambria will not be possible. The risk to deny these two grandfathered meter projects development in violation of the LCP could result in a devastated court ruling to call the moratorium null and void. Thousands of opportunist properties are waiting in Cambria to jump on the smallest window of opportunity to push their development plans forward.

These two properties' CDPs have been issued by the planning department in conformance with the Certified 2007 LCP Amendment. They are currently using their water for irrigation and erosion control in their properties. They will not have any negative impact to the Cambria water resources as their water consumption had been part of the CCSD actual water allocation for the past two decades.

Please vote to approve their permits to uphold the LCP and to honor the binding contract among the County, the CCSD and the Coastal Commission that has been in place and honored by all three agencies since the certification of 2007 LCP amendment.

Please see the attachments on the following pages (CCSD Confirmation + pictures of running water at Hadian's lot):

CAMBRIA COMMUNITY SERVICES DISTRICT

DIRECTORS:
HELEN MAY, President
PETER CHALDECOTT, Vice President
GREG FITZGERALD
ILAN FUNKE-BILU
DONALD VILLENEUVE



OFFICERS:
KENNETH C. TOPPING, General Manager
LEAH CONNELLY, Executive Assistant
MARGARET SOHAGI, Legal Counsel

April 16, 2001

Ms. Georgette Willhoit
Subdivision Consultant
Ford-Donagan and Associates, Inc.
[Redacted]

Subject: Tract 1804, Cambria Pines Estates

Dear Ms. Willhoit:

This letter is confirm that the water and sewer (where applicable) systems have been installed. The Cambria Community Services District (CCSD) is now supplying potable water and fire protection service to Lots 1-18, and sewer service to Lots 6-10, Tract 1804. The lot owners are now being billed for these services.

If you have any questions, please feel free to call me at (805) 927-6223.

Sincerely,
CAMBRIA COMMUNITY SERVICES DISTRICT

A handwritten signature in cursive script, reading "Robert W. Hamilton".

Robert W. Hamilton
Utilities Manager

cc: Joyce Hannum
Walter Leimert

\\Server\\users\\bhamilton\\from old\\My Documents\\Leimert Tract 1804 services letter.doc



FW: [EXT]In Support of agenda numbers 35 & 36 (9/14/2021 meeting)

Board of Supervisors <Boardofsups@co.slo.ca.us>

Mon 9/13/2021 11:47 AM

To: BOS_Legislative Assistants Only <BOS_Legislative-Assistants-Only@co.slo.ca.us>; Kathleen Goble <kgoble@co.slo.ca.us>; AD-Board-Clerk <ad_board_clerk@co.slo.ca.us>

For your review. I was unable to find this constituent on Voter Reg. This email has been sent to all Supervisors and the Board-Clerk. Thank you.

Sincerely,

Lisa Marie Estrada

Administrative Assistant III-Confidential

Board of Supervisors

www.slocounty.ca.gov

Direct Line: (805)781-4335

From: Kiarash Shirani <kiarash.shirani@gmail.com>

Sent: Sunday, September 12, 2021 7:51 PM

To: Board of Supervisors <Boardofsups@co.slo.ca.us>

Subject: [EXT]In Support of agenda numbers 35 & 36 (9/14/2021 meeting)

ATTENTION: This email originated from outside the County's network. Use caution when opening attachments or links.

Dear Honorable Board of Supervisors,

I take exception to the appellant's disrespectful comment accusing the County planning department staff of an attempt to waste the Commissioners time by approving these two project's CDP.

The County staff are undoubtedly working extremely hard with utmost dignity and fairness to uphold the rule of law under some very difficult circumstances and bombardment of misinformation. They have been unfairly targeted by the appellants and Commissioners that failed miserably in fulfilling their own responsibilities to hold their own staff accountable for perpetrating meritless reports and testimonies. They need to make sure those under their watch are held to a higher standard to work with the same integrity and fairness as the county in fulfilling their duties in serving the public.

I also have a message for those Commissioners who seem to be frustrated with the County for doing their job properly and those Commissioners asking if they could get a Cease & Desist order against the county or putting a "County lies" billboards up. My message to them is to please use all this good energy and creativity toward a positive and preventive measure that can actually help with improving equal justice for all and to prevent violation of citizen's constitutional rights by those who vow to uphold the law but instead abandoning that oath right in front of you and under your watch. Having said that, I believe the Commissioners are also the victims here but the difference is that they have the power to demand accountability and to stop these types of fiasco from happening again. I am sure once they become aware of the problem they will move quickly to correct the situation.

Hadian-2019 CDP was the first and the only grandfathered meter project that was denied by the Commissioners after moratorium and under some very unusual and troubling circumstances. The Commissioners decision was based on misinformation and its outcome was in violation of LCP. This was a decision that the commissioners will regret making for a long time to come. I am confident if they knew the truth the outcome would have been the opposite but I hope their previous wrong is not exploited by a few to encourage more wrong.

Those who take the time to read the former coastal staff report (Hadian-2019 appeal) will find his report so off the mark in its analysis that you will wonder if this report was actually prepared for Hadian's project, or it was just copied from an unrelated old project with some unknown motive. The Hadian-2019 appeal analysis report mainly concentrates and covers the general description of the water situation in Cambria but it is extremely lean on the project's specifics itself. A few specific description of the project that were mentioned in the staff report were mostly false, invalid and did not apply to Hadian-2019 project, for instance:

a) The staff analysis incorrectly indicates Hadian did not have a water meter connection (staff report page 12, 17 ...). On the contrary, Hadian has a two decades old water meter connection to the CCSD. He has running potable water that he uses for irrigation and erosion control on his property and pays his water bill to the CCSD just like any other household in Cambria.

b) The staff analysis of the Hadian-2019 also indicates that the property owner is in the process of purchasing a water meter from another property to relocate to his property (staff report page 13). This statement is of course totally fabricated and false. Please see (item-a) above.

c) The staff also referred to past similar grandfathered meter projects that were permitted between 2007 and 2019 as those that "fell in the crack". This is another false statement as 100 percent of every grandfathered meter project that applied was permitted with full knowledge of the Commission. The commission did not appeal any of the previous CDP's approval because they were issued in conformance with LCP.

Neither of the above conditions applies to Hadian or any other grandfathered meter project in Cambria. Hadian's project (same as any other grandfathered meter project) has a two decade old water meter and the CCSD has been supplying him with potable water and billing him since April 16, 2001. All grandfathered meter lots are exempt from moratorium and free to develop their property. They will not add any negative impact to water resources as their impact is already figured into the CCSD water allocation calculations. In reality, they will have a positive impact on the water resources by implementing rain water harvesting and water conservation measures.

Obviously, it is clear that the former Coastal staff (Mr. O'Neill) was not confident to rely on his analysis to support his recommendation to deny Hadian-2019 CDP so he felt he needed to resort to unconventional spread of misinformation to ramp up fake evidences to support his biased position as described above. His recommendation to deny Hadian's CDP violated LCP and a citizen's constitutional vested right and caused the victim severe pain and sufferings for the past two years.

Even though, as I understand it, this former coastal staff in early 2021 took back in writing his core opposing argument that he heavily relied on to support his recommendation for denying Hadian-2019 CDP, but the damage was already done and as soon as the former Coastal staff began to realize the magnitude and extend of the damages that he has caused his victim, he abruptly resigned from the Commission earlier this year.

Those opposing these two developments unfortunately are relying entirely on the same misinformation from the Coastal staff 2019 report to support their claim. They are assuming a huge risk at the expense of the Cambrians that they do not represent. The next victim may not be so conscientious to just reapply but instead sue the commission for violating the LCP and the breach of contract (certified 2007 LCP amendment) with the County and the CCSD, causing a possible court order to invalidate the validity of the Cambria's moratorium. This disastrous outcome will open the flood gate of developments in Cambria. At the end the Cambrians and the Coastal resources will be the true victim of this type of adventurism by a few.

Cambrians are represented by the North Coast Advisory Council. The NCAC has voted unanimously to approve and recommend these two projects development to the County planning department. Unfortunately, appellants are subjecting the Cambrians that they don't represent to a tremendous but unnecessary risk of a court order to call the Cambria moratorium invalid. They are wasting taxpayers funds and the County Board of Supervisors time by filling this frivolous appeal. Please vote "yes" to approve these two developments and to uphold the rule of law.

Thank you.

Kia Shirani

FW: [EXT](Item No. 35) and (item No. 36)

Board of Supervisors <Boardofsups@co.slo.ca.us>

Mon 9/13/2021 11:50 AM

To: BOS_Legislative Assistants Only <BOS_Legislative-Assistants-Only@co.slo.ca.us>; Kathleen Goble <kgoble@co.slo.ca.us>; AD-Board-Clerk <ad_board_clerk@co.slo.ca.us>

For your review. I was unable to find this constituent in Voter Reg. This email was sent to all Supervisors and the Board-Clerk. Thank you.

Sincerely,

Lisa Marie Estrada

Administrative Assistant III-Confidential

Board of Supervisors

www.slocounty.ca.gov

Direct Line: (805)781-4335

From: Nadare Shirani <nadereh.shirani20@gmail.com>

Sent: Sunday, September 12, 2021 8:37 PM

To: Board of Supervisors <Boardofsups@co.slo.ca.us>

Subject: [EXT](Item No. 35) and (item No. 36)

ATTENTION: This email originated from outside the County's network. Use caution when opening attachments or links.

The Dear County Board Of Supervisors,

Thirty five acres of dense and neglected forest is in desperate need of some badly overdue TLC and these two applicants are putting up their money to clean it up and revive it. I support these two developments without any hesitation as should anyone with a passion for life and nature. The challenge today is how to prevent a wildfire and the focus should be to protect lives, homes and communities. The very first and the most important step to prevent wildfire is to clean up and remove dry fire fuels vegetation from forest ground and haul it away from this populated area. Developments of these forest lots are of absolute necessity to improve the neighborhood's safety and to protect resident's lives and livelihoods from real possibility of a devastating wildfire.

These two developments are welcome to this neighborhood. This community doesn't share views of those voicing against it. Those living in the city and away from the rural north Cambria may have developed a wrong sense of wildfire immunity but wildfire respects no boundaries, it will destroy everything that comes in its path. We are into this together and we need to work together to prevent a devastating wildfire. This community of rural north Cambria recognizes these challenges and is focused on what serves the best interest of this community. Our community's true representatives, the North Coast Advisory Council (NCAC) understands the risk of wildfires that is threatening this entire region and how this community will benefit from these two new developments. NCAC voted and is in full support of these two projects approval. NCAC is confident these two project developments will improve the safety condition of the entire region and in particular the rural north Cambria neighborhood. Preventing wildfire saves lives and protects wildlife. We support these applicants and wish them the best of luck with their good deeds. Wildfire collateral damages are irreplaceable.

Both applicants are using their water for irrigation. Their development's potable water use is already part of the CCSD water use calculations and therefore it will not add any additional strain to water resources. These applicants may be willing to consider additional measures to add an even more positive impact to water resources if they decide to collect and store their roof rain water during the rainy season to use for irrigation in lieu of the potable water they are using now. This will result in having a net positive impact to our water resources. This neighborhood needs these development investments for safety improvement. Additions of these two single family homes to this neighborhood will be a win, win situation for all.

Illegal camping and illegal campfires pose additional threats to this community. These campers will increase the chance of starting a wildfire either accidentally or intentionally putting our coastal resources as well as our lives and properties in grave danger. The recent organized illegal camping in this area has posed a major sanitary and security threat to this neighborhood as well.

Every summer many tents will be illegally erected on these very sites. When the inland temperature goes up during summer time, Cambria forest will become camper's favorite destination. The mess they leave behind due to lack of sanitation facilities and littering creates a devastated environmental disaster and health hazard for the residents of this community. Illegal camping will bring illegal guns and drugs to this neighborhood, further undermining the safety and security of the residents. Occupied lots will put an end to these illegal activities and will give us a more secure and safer neighborhood.

I support these two projects because I support improving the safety and security of the community. Please vote to approve these two developments. It will be the best you can do to improve your constituent's safety and security and it is greatly appreciated by all the law abiding Cambrians. Please vote yes to approve these two projects and save this community from the danger of a devastating wildfire.

Nadereh Shirani

nadereh.shirani20@gmail.com

FW: [EXT]Items No. 35 and No. 36

Board of Supervisors <Boardofsup@co.slo.ca.us>

Mon 9/13/2021 12:24 PM

To: BOS_Legislative Assistants Only <BOS_Legislative-Assistants-Only@co.slo.ca.us>; Kathleen Goble <kgoble@co.slo.ca.us>; AD-Board-Clerk <ad_board_clerk@co.slo.ca.us>

 1 attachments (573 KB)

Scott Bird.pdf;

For your review. I was unable to find this constituent in Voter Reg. This email was sent to all Supervisors and the Board-Clerk. Thank you.

Sincerely,

Lisa Marie Estrada

Administrative Assistant III-Confidential

Board of Supervisors

www.slocounty.ca.gov

Direct Line: (805)781-4335

From: Scott Bird <sbird366@gmail.com>

Sent: Sunday, September 12, 2021 10:13 PM

To: Board of Supervisors <Boardofsup@co.slo.ca.us>

Subject: [EXT]Items No. 35 and No. 36

ATTENTION: This email originated from outside the County's network. Use caution when opening attachments or links.

Good afternoon,

My name is Scott Bird. I am submitting this written correspondence to the Board of Supervisors in Support of Hadian and Bookout projects CDP approval.

Please don't hesitate to contact me should you require additional information or clarifications.

Thanks,

Scott Bird

sbird366@gmail.com

I would like to share with you my (5-5-5) reasons to support these two project developments as follows:

A) Five reasons, these two projects are in conformance with LCP and exempt from moratorium:

1- They are both in conformance with LCP and exempt from moratorium to build per the CCSD moratorium exemption list and the certified 2007 LCP amendment (NCAP-4A) stating:

“New development not using CCSD connection 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-02-50 and A-3-02-073) shall assure no adverse impacts to Santa Rosa and San Simeon Creeks.”

2- They both have two decades of connected water meters and are using their water for irrigation and erosion control (Pictures attached).

3- The CCSD has been supplying both potable water and billing for it since April 16, 2001 (copy of the CCSD water service confirmation letter is attached).

4- The first and the only grandfathered meter lot's CDP that was appealed and denied by two Commissioners was Hadian-2019 under very suspicious circumstances and due to the Coastal staff fake evidence and misleading statements to support his false recommendation.

5- The Coastal Commission staff report (Monaco 2002, Page-9, dated 07/05/02) identifies every single exempt from moratorium property in the CCSD list including Bookout's and Hadian's projects (Copy of page-9 attached).

B) Five false and most troubling statements made by the former Coastal staff (Brian O'Neill) in Hadian-2019 appeal.

1- He misrepresented the LCP to limit the CCSD commitments existing as of November 15, 2001 (exempt projects from moratorium) to just pipeline projects. Pipeline projects were those projects that didn't have a water meter connection at the time of moratorium but only a will serve letter from the CCSD to take it to the county to get a permit so they could get a water meter sometimes after moratorium. He denied the grandfathered meters vested exemption rights. Grandfathered meters are the strongest commitment the CCSD had as of November 15, 2001 because they already had a connected water meter and were paying their water bill to the CCSD and were specifically exempt from moratorium and the certified 2007 LCP amendment.

2- The Coastal staff wrote and testified that Hadian did not have a water meter and needed a new water connection. (Not true) See attached.

3- The Coastal staff said Hadian was planning to purchase a new water meter from another lot to relocate to his lot. (Not true). Hadian has a two decade old running water service and didn't need a new water meter.

4- The Coastal staff said the CCSD issued Hadian a new will-serve letter in August 2018. (Not true). The CCSD issued confirmation of their water service commitments which dates back to before moratorium and it is still in effect.

5- The Coastal staff claimed all other similar grandfathered meters that were permitted to be built after moratorium and up until 2019 "fell in the crack". (Not true). Every single CCSD commitment existing as of November 15, 2001 that applied for permit was approved with full knowledge of the Coastal Commission and in conformance with LCP between 2007 and 2019.

C) Five most positive impacts these two projects development will have on their neighborhood and community.

1- They will be required to build in a county pre-designated small corner of their property in clusters with other existing homes to protect the forest characteristics. In essence, they will be designated as "forest caretaker" on their own property. They will not be allowed to alter the forest natural settings or to erect fences around their property. This is to assure the wildlife free movement and to preserve the wildlife natural habitat.

2- They will be required by the county to mitigate four healthy trees for every tree they remove and they will be obligated to professionally look after the mitigated trees for five years to assure healthy growth to revive the forest.

3- They will be required by the Fire Department to clean and remove decades of fire fuel pileups from the site to prevent wildfire and to improve the safety and security of the neighborhood.

4- They will be required to have a continuous fire fuel management strategy in place to assure wildfires protection in continuous bases.

5- They will put an end to illegal camping so common on these sites during the hot summer season. This will improve the neighborhood's sanitary condition as well as the safety and security.

The North Coast Advisory Council (NCAC) that represents this community of Cambria has unanimously voted to approve and

officially recommended approval of these two projects development to the county planning department. I strongly believe, in the name of justice and to uphold the rule of law, every law-abiding citizen and authorities having permit approval jurisdiction should support these two project's CDP approval.

Thank you for allowing me to share with you my thoughts.

Best Regards,
Scott Bird

FW: [EXT]Agenda item numbers 35,36

Board of Supervisors <Boardofsups@co.slo.ca.us>

Mon 9/13/2021 12:51 PM

To: BOS_Legislative Assistants Only <BOS_Legislative-Assistants-Only@co.slo.ca.us>; Kathleen Goble <kgoble@co.slo.ca.us>;
AD-Board-Clerk <ad_board_clerk@co.slo.ca.us>

 1 attachments (13 KB)

BOS Item No. 35,36.docx;

For your review. I was unable to find this constituent in Voter Reg. This email has been forwarded to all Supervisors and the Board-Clerk. Thank you.

Sincerely,

Lisa Marie Estrada

Administrative Assistant III-Confidential

Board of Supervisors

www.slocounty.ca.gov

Direct Line: (805)781-4335

From: Gabi d'arcy Cooper <gabi_dc71@yahoo.com>

Sent: Monday, September 13, 2021 10:00 AM

To: Board of Supervisors <Boardofsups@co.slo.ca.us>

Subject: [EXT]Agenda item numbers 35,36

ATTENTION: This email originated from outside the County's network. Use caution when opening attachments or links.

Good day BOS staff,

Hope you are having a nice day. Attached is intended for the Board Of Supervisors review in regards to item numbers 35 & 36 on their tomorrow's meeting agenda.

Thank you for helping to make sure they will get it.

Thanks,

Gabi Cooper

I am in support of these two project developments. I was one of those skeptics at first and until I researched and paid close attention to the truth about these two properties and how their plan investments to prevent wildfires in this rural north Cambria forest neighborhood will assure all Cambrians and visitors alike a safer and more secure place to live or visit to enjoy. Monterey Pines Forest of rural north Cambria is world famous and one of the Cambria's most precious Coastal resources. It is the main habitat of numerous different wild animals and species that their lives and their very survival depend on a healthy forest. The survival of this unique forest and the wildlife is tied together and it is seriously threatened by a number of natural and human caused problems. These threats are ranging from the Monterey Pines Pitch Canker disease that has devastated this forest recently to drought and other byproducts of ever increasing global warming.

Thousands of pine trees are lost to this disease every year. The down dead and diseased trees has resulted in a huge pile up of dry vegetation on the forest floor over the years of neglect, waiting for a spark to engulf this entire forest and the region that could quickly get out of control with our limited resources available to fight it's quick expansion.

The risk of a wildfire is extremely high with the current condition of this forest. The forest local Pitch Canker pine tree disease has greatly contributed to this fiery condition. It is a serious safety and security concern and a danger to lives and properties. The coastal water resources during a wildfire will be exhausted to the point of a true disaster as well. Any proposed strategy to protect our coastal water resources will not be feasible without first protecting and saving our coastal forest. Cambrian have voiced their support for these two project developments through their representatives at the North Cambria Advisory Council, not only because these two projects are legally entitled to develop their property in conformance with LCP but also for their tremendous positive impact to our community's safety and security.

Whatever the cause of climate change is at this point, it is happening and it is making a difference here in Cambria. One thing the wildfires experts and the global warming scientists learned from Paradise and Dixie wildfires is that the threat of drought and the ever increasing global warming is the "new normal". The new normal condition demands expanded views of our changing environment based on science and not emotions in search of viable solutions. Priorities will continue to change as our environment changes and so should we in order to cope and live peacefully under a new normal environment. Priorities will change so should our evaluation standards of any proposed new project's overall impact to this community. Those communities that are stuck in the old time thinking of one formula fits all will be the first victim of the new normal threats.

Preventing wildfire or reducing its intensity is to help protect our water resources. Wildfire prevention will add a tremendous positive impact to our water resources on a scale that no one could imagine before. These two projects will be required by both the county and the Fire department to heavily invest in this rural community resulting in a safer, more secure Cambria. We welcome these private investments so their investment can save this once world famous Cambria Monetary pines forest and bring it back to life. These diseased trees are consuming and converting this beautiful Monterey pines forest to a fire fuel depot waiting for a spark to burst into an inferno taking everything in its path and destroying every single coastal resource we have.

The North Coast Advisory Council (NCAC) representing our community voted unanimously to recommend approval of both these projects to the county planning department. They understood the risk of wildfire in this community and the positive role these two projects developments will play in drastically limiting a devastated wildfire risk. I hereby challenge all those that are opposing these two projects to join me and the NCAC in good faith to support these two developments that are proven to serve the best interest of all the residents and visitors in Cambria. These few remaining grandfathered meter lots already have vested interest in this community's safety by using their potable water for irrigation and erosion control. We are so anxious and looking forward to seeing the start of their developments as quickly as possible. We want them to start working toward improving this neighborhood safety as quickly as possible. There is no time for delay and no time for excuses anymore. This community will be the first to realize the full potential benefits and the positive impact of these developments. Support your fellow Cambrian's safety while being a true advocate for protecting all our coastal resources.

Please vote to approve these two projects. Your approval vote will save lives.

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

**COASTAL COMMISSIONER APPEAL FORM**

Appeal of a Local Government Coastal Development Permit Action

1. Filing information

Appeal number: A-3-SLO-21-0065
Date appeal filed: 10/8/2021
District: Central Coast District
Commissioner: Commissioner Linda Escalante
Commissioner: Commissioner Dr. Caryl Hart

RECEIVED**OCT 08 2021**

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

2. Local CDP decision being appealed

Local government: San Luis Obispo County Board of Supervisors
CDP application number: DRC2019-00214
CDP decision: Approval with Conditions
Date of CDP decision: 9/14/2021
Project location: 6725 Cambria Pines Rd., Cambria, CA 93428 (APN: 013-085-005)
Project description: Allow construction of a new 3,136 square-foot, single-family residence with an approximately 1,000 square-foot garage, a 1,000 square-foot workshop, 72 square feet of storage, and a 32 square-foot shop. The proposed project will result in the disturbance of approximately 0.6 acres within a 6.64-acre parcel.

3. Applicant information

Applicant: Ralph Bookout

Applicant address: 5617 W. Grove Ct., Visalia, CA 93291

4. Grounds for this appeal

See attached statement.

5. Commissioner appellant certification

I attest that to the best of my knowledge, all information and facts in this appeal are correct and complete.

Commissioner name: Linda Escalante

Commissioner signature: 
CF7DAD369066480...

Date of signature: 10/07/2021

6. Commissioner appellant certification

I attest that to the best of my knowledge, all information and facts in this appeal are correct and complete.

Commissioner name: Caryl Hart

Commissioner signature:  TEE2DCAAA0834D7...

Date of signature: 10/07/2021

Appeal Contentions: San Luis Obispo County CDP DRC2019-00214 (Bookout SFD) approval

San Luis Obispo County approved a coastal development permit (CDP) authorizing the construction of a roughly 3,100 square-foot single-family residence, 1,000 square-foot garage, 1,000 square-foot workshop, 72 square-foot storage, 32 square-foot shop, and related development (including grading and other site preparation) on a nearly 7-acre vacant property in the community of Cambria. The County's approval raises questions of consistency with County Local Coastal Program (LCP) policies related to water supply and environmentally sensitive habitat areas (ESHA).

LCP Public Services Policy 1 requires all development to be served by adequate water and requires denial of a CDP for a proposed project should such services not be available. The community of Cambria has long suffered from an inadequate water supply. Cambria's water is supplied by the Cambria Community Services District (CCSD) and depends entirely on the groundwater aquifers associated with Santa Rosa and San Simeon Creeks, which are designated ESHA. The LCP prohibits new water service for new development that will impact Santa Rosa and San Simeon Creeks, and the creeks are separately protected by numerous LCP policies related to watersheds, wetlands, and ESHA. Multiple and recent scientific studies have found that instream flows in these creeks are inadequate to meet even the bare minimum necessary to maintain aquatic habitat systems, and that such low stream flows are a result of excessive groundwater pumping and diversions. In addition, it is not clear that CCSD is even allowed to pump water at current levels,¹ let alone to pull such water from these impacted creek systems to support water use associated with new residential development such as this. In short, it is not at all clear that water can be supplied to this project in an LCP-consistent and legal manner.

And, to be clear, the Commission has long expressed concern regarding Cambria's capacity to maintain a reliable and environmentally sustainable water supply, and these are not new issues. In fact, CCSD enacted a moratorium on new water connections in 2001 (and it remains in effect today), which was also ultimately reflected in the LCP, in part due to the Commission's identified concerns from that time. And as the Commission has made clear time and time again through numerous LCP, CDP, and CDP appeal cases, the existing Cambria water supply does not represent an adequate and sustainable supply that can serve even *existing* development in Cambria without significant resource harm, and it certainly is not an adequate water supply to also serve new development in addition to that. The main purpose of the moratorium and related LCP provisions was to protect Santa Rosa and San Simeon Creeks by strictly limiting

¹ In 1977 the Commission approved CDP 428-10 that allowed for CCSD to pump water from the creeks' aquifers, but only under specific conditions and subject to specific terms and conditions. First, CCSD is only allowed to withdraw from the Santa Rosa Creek wells to supplement CCSD's water supply in an emergency when water cannot be safely removed from San Simeon Creek. 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. However, and notwithstanding this CDP requirement and limitation, CCSD records since 1988 indicate that water withdrawals from Santa Rosa Creek have occurred every year for over three decades except for one year. And second, water withdrawals from the either of the creeks' wells are only allowed by CDP 428-10 if adequate water remains in the creeks to protect habitats and fisheries there. As indicated, that is not currently the case, and it would appear that CCSD is withdrawing more water than it is permitted to withdraw by the CDP even for current development, let alone new development such as this.

new water using development in Cambria unless/until CCSD secured new water sources. A handful of potential water using projects then in process in 2001 with CCSD and the County were identified that might be able to proceed if they could use offsets to reduce their demand on already oversubscribed water supplies,² but CCSD has not developed any new water supplies and the situation remains dire. And it is not clear that this project would qualify as one of those pre-2001 projects, and, more importantly, it is not clear that any new water using projects like this, with or without offsets,³ can be found LCP consistent at the current time given our current understanding of the issues affecting Cambria's water supply and the health of Santa Rosa and San Simeon Creeks.

Thus, the County's approval raises significant questions regarding LCP compliance with respect to water supply and ESHA, and it warrants Commission consideration of these important LCP conformance issues.

² And several projects were initially approved as a matter of procedural fairness for such pre-2001 pending applications.

³ Although this project participated in CCSD's retrofit program (by purchasing retrofit 'points' from CCSD to 'offset' its demand on the water supply system), there are a number of issues with that program that suggest, at best, it is unclear whether it actually offsets such water use. And again, that question is actually secondary to whether the proposed project can be found to have an adequate and sustainable water supply.

CALIFORNIA COASTAL COMMISSION

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**APPEAL FORM****Appeal of Local Government Coastal Development Permit****Filing Information (STAFF ONLY)**

District Office: Central Coast

Appeal Number: A-SLO-21-0065Date Filed: 10/4/21Appellant Name(s): Elizabeth Bettenhausen**RECEIVED**

OCT 04 2021

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA**APPELLANTS**

IMPORTANT. Before you complete and submit this appeal form to appeal a coastal development permit (CDP) decision of a local government with a certified local coastal program (LCP) to the California Coastal Commission, please review the appeal information sheet. The appeal information sheet describes who is eligible to appeal what types of local government CDP decisions, the proper grounds for appeal, and the procedures for submitting such appeals to the Commission. Appellants are responsible for submitting appeals that conform to the Commission law, including regulations. Appeals that do not conform may not be accepted. If you have any questions about any aspect of the appeal process, please contact staff in the Commission district office with jurisdiction over the area in question (see the Commission's contact page at <https://coastal.ca.gov/contact/#/>).

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Appeal of local CDP decision

Page 2

1. Appellant information¹

Name: Elizabeth Bettenhausen
Mailing address: 345 Plymouth Street, Cambria, CA 93428-27
Phone number: 805-927-0659
Email address: elizabethbettenhausen@gmail.com

How did you participate in the local CDP application and decision-making process?

☐ Did not participate ☒ Submitted comment ☒ Testified at hearing ☐ Other

Describe: I have asked the Cambria Community Services District many times over the years not to issue will serve, intent to serve, or equivalent letters until the water supply is adequate. I wrote to San Luis Obispo County Department of Planning opposing the Bookout application and spoke against the application at the hearing 22 Jan. 2021. I wrote to the SLO County Board of Supervisors and spoke at the meeting on 14 Sept. 2021 opposing the same permit.

If you did *not* participate in the local CDP application and decision-making process, please identify why you should be allowed to appeal anyway (e.g., if you did not participate because you were not properly noticed).

Please identify how you exhausted all LCP CDP appeal processes or otherwise identify why you should be allowed to appeal (e.g., if the local government did not follow proper CDP notice and hearing procedures, or it charges a fee for local appellate CDP processes).

Describe: I have presented reasons not to approve the permit application at every stage of the official considerations.

¹ If there are multiple appellants, each appellant must provide their own contact and participation information. Please attach additional sheets as necessary.

Appeal of local CDP decision

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2. Local CDP decision being appealed²

Local government name: San Luis Obispo County
Local government approval body: Board of Supervisors
Local government CDP application number: DRC2019-00214
Local government CDP decision: ☒ CDP approval ☐ CDP denial³
Date of local government CDP decision: 14 September 2021

Please identify the location and description of the development that was approved or denied by the local government.

Describe:

a new 4,000-square-foot single-family residence with a detached 2,200-square-foot garage/workshop, 350-square-foot gazebo, 420-square-foot greenhouse, 1,200 square-foot covered porch/deck, 700-square-foot pergola deck, and 1,900-square-foot open deck. The proposed project will result in site disturbance of approximately 0.8 acres within a 24.32-acre parcel. The project site is within the Rural Lands land use category and is located at 6785 Cambria Pines Road, north of the community of Cambria. District 2.

² Attach additional sheets as necessary to fully describe the local government CDP decision, including a description of the development that was the subject of the CDP application and decision.

³ Very few local CDP denials are appealable, and those that are also require submittal of an appeal fee. Please see the [appeal information sheet](#) for more information.

Appeal of local CDP decision

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3. Applicant information

Applicant name(s): Ralph Bookout

Applicant Address: 5617 W. Grove Ct., Visalia, CA 93291

4. Grounds for this appeal⁴

For appeals of a CDP approval, grounds for appeal are limited to allegations that the approved development does not conform to the LCP or to Coastal Act public access provisions. For appeals of a CDP denial, grounds for appeal are limited to allegations that the development conforms to the LCP and to Coastal Act public access provisions. Please clearly identify the ways in which the development meets or doesn't meet, as applicable, the LCP and Coastal Act provisions, with citations to specific provisions as much as possible. Appellants are encouraged to be concise, and to arrange their appeals by topic area and by individual policies.

Describe: see attached 5 pages, "Elizabeth Bettenhausen appealing San Luis Obispo County CDP approval of DRC2019-00214 (Bookout)"

Separate file is attached in my email that submits this appeal.

⁴ Attach additional sheets as necessary to fully describe the grounds for appeal.

Appeal of local CDP decision

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On a separate page, please provide the names and contact information (i.e., mailing and email addresses) of all persons whom you know to be interested in the local CDP decision and/or the approved or denied development (e.g., other persons who participated in the local CDP application and decision making process, etc.), and check this box to acknowledge that you have done so.

☐ Interested persons identified and provided on a separate attached sheet

5. Appellant certifications

I attest that to the best of my knowledge, all information and facts in this appeal are correct and complete.

Print name Elizabeth Bettenhausen



Signature

Date of Signature 1 October 2021

6. Representative authorization⁶

While not required, you may identify others to represent you in the appeal process. If you do, they must have the power to bind you in all matters concerning the appeal. To do so, please complete the representative authorization form below and check this box to acknowledge that you have done so.

N/A

☐ I have authorized a representative, and I have provided authorization for them on the representative authorization form attached.

⁵ If there are multiple appellants, each appellant must provide their own certification. Please attach additional sheets as necessary.

⁶ If there are multiple appellants, each appellant must provide their own representative authorization form to identify others who represent them. Please attach additional sheets as necessary.

Elizabeth Bettenhausen appealing San Luis Obispo Co. CDP approval of DRC2019-00214 (Bookout)

I frequently visit Santa Rosa Creek Lagoon in Cambria and the Pacific beach over the sand berm. In a tiny tidepool at the very top of the splash zone, a Rough Limpet, a Speckled Turban, and small Green Excelsior algae live. Periwinkles sometimes visit them.

Depending on the level of tide and surf, sea water might not enter the tide pool for days, or all the water might be flushed out and replaced every minute. In fact, I've started studying the animals' fecal pellets, too. They sometimes get flushed out to the sand, to the pleasure of sand fleas and others. On other days, the pellets pile up in the tide pool.

Studying the tiny tide pool, I often wonder. What does "**adequate water and sewage disposal capacity**"¹ mean in Santa Rosa Creek and San Simeon Creek? The question has been on my mind since I moved to Cambria in 2002. Water from those creeks flows to the faucets in my house.

The western pond turtle sometimes appears in the wetlands of San Simeon Creek. Seeing it always brings the Cambria Community Services District to mind. In August of this year CCSD withdrew 32 Acre Feet of water from the upstream wells. Unpumped, the 10.5 million gallons would have stayed in the creek, aquifer, groundwater, and lagoon.² Some water would have reached the ocean.

Studies of these watersheds and creeks have often focused on the sensitive habitat of the tidewater goby, steelhead rainbow trout, California red-legged frog, western pond turtle, and two-striped garter snake, all threatened or endangered animal species, as well as plants.³ Their habitats are seriously disrupted by the amount of water we Cambrians use and sometimes also by the treated wastewater we send back to percolate there.

For decades, "adequate" has been a steady theme in California Coastal Commission's decisions about development of new housing for humans in Cambria. Fortunately, the Commission has always understood habitats' well-being as essential to many species, not only humans. For example, in 2017 the Staff Report for the Orellana case stated:

¹ Title 23 Coastal Zone Land Use 23.04.430 - Availability of Water Supply and Sewage Disposal Services

https://library.municode.com/ca/san_luis_obispo_county/codes/county_code?nodeId=TIT23COZOLAUS

² <https://www.cambriacsd.org/files/21f94f5fd/2021+Prod+Summaries.pdf>

³ Some examples: a. Letter from California State Parks, San Simeon District, on April 28, 1994, to David Andres, General Manager of Cambria Community Services District, discusses the natural preserves of San Simeon Creek and Santa Rosa Creek wetlands, declared by the State Park Commission in 1990.

b. Becker, G. S., K. M. Smetak, and D. A. Asbury. (2010). Southern Steelhead Resources Evaluation: Identifying Promising Locations for Steelhead Restoration in Watershed South of the Golden Gate. Cartography by D. A. Asburey. Center for Ecosystem Management and Restoration. Oakland, CA

http://www.opc.ca.gov/webmaster/ftp/project_pages/salmon_and_steelhead/CEMAR/Southern_Steelhead_Resources_Evaluation.pdf.

c. San Simeon and Santa Rosa Creeks and Wildlife Downloads re: threatened and endangered species

<https://greenspacecambria.org/coastal-creeks> d. Recovery Plan For the Tidewater Goby (Eucyclogobius newberryi), Pacific Region

U. S. Fish and Wildlife Service, Portland, Oregon;

<https://www.fws.gov/arcata/es/fish/goby/documents/2006%20Final%20Recovery%20Plan%20for%20the%20Tidewater%20Goby.pdf>

Water Supply Conclusion

At a very fundamental level, Cambria has a severely inadequate water supply for existing development, let alone new development, and has actually been on the brink of running out of water, resulting in the need to construct an emergency desalination plant to augment supply. And this lack of water for community consumption is in addition to the deleterious effects already-occurring withdrawals are having on the community's creeks, riparian habitats, and other natural coastal resources. For these reasons, the County-approved project raises substantial LCP conformance issues.⁴

The CCSD's emergency plant still does not have a Coastal Development Permit, because the application for Emergency Water Supply facility's permanent standing, started in 2014, is not yet complete.

Last year the California Coastal Commission Staff Report for the de novo hearing on Application No. A-3-SLO-20-004,⁷ (Settimi, Cambria, San Luis Obispo Co.), gave carefully researched, articulate, and historically thorough analysis of the inadequacy of water in Cambria and the negative effects CCSD's water diversion has on sensitive environmental habitats. That discussion of the impacts to San Simeon and Santa Rosa Creeks concludes with this:

In sum, 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 is inadequate water to sustain the Creeks' sensitive riparian habitats. Thus, available evidence would suggest that, until a new water supply is secured or existing water extractions are dramatically decreased, any and all new water service to new development in Cambria will be unable to demonstrate that the proposed development will not adversely impact the Creeks. Thus, the proposed project does not conform with NCAP Planning Area Standard 4(A), Coastal Watersheds Policies 1 and 2, and ESHA Policies 2, 7, and 20.⁵

The Staff recommended denial of the Application, and the Commissioners agreed unanimously.⁶

Might the recent decision by Cambria Community Services District finally to do an **instream flow study** bring relief to the western pond turtles along San Simeon Creek and steelhead in the creeks? Many Cambrians have repeatedly asked for substantive updates of the instream flow study; we have been told they are forthcoming, eventually. One aspect of current proposal for the study is especially worrying.

Mobilization of a Technical Advisory Committee (TAC) which will ideally consist of qualified staff from California State Parks, California Coastal Commission, CDFW, County of San Luis Obispo, and the Upper Salinas Las Tablas Resource Conservation District.

Other agencies not listed here may also be invited to participate.⁷

CCSD often uses this kind of description to give the impression of action. Three words alert me once again: ideally, qualified, and advisory. I am not confident that California State Parks, California Coastal

⁴ <https://documents.coastal.ca.gov/reports/2017/9/th22c/th22c-9-2017-report.pdf>

⁵ <https://www.coastal.ca.gov/meetings/agenda/#/2020/11>; pp. 19-22.

See also the Commission's denial (13 November 2019) of an earlier an application by Hadian. (<https://documents.coastal.ca.gov/reports/2019/11/W32e/w32e-11-2019report.pdf>).

⁶ <https://documents.coastal.ca.gov/reports/2020/12/W19/W19-12-20.pdf>

⁷ <https://www.cambriacsd.org/files/4b8d7801b/2021+08+19+Final+Regular+Meeting+Agenda+Packet+Reduced.pdf>, p. 174. The Board also approved hiring Stillwater Sciences; they developed Santa Rosa Creek Watershed Management Plan in 2018. <https://greenspacecambria.org/srcwmp>

Commission, California Fish and Wildlife and others will be represented on this Technical Advisory Committee. Until the Technical Advisory Committee fully engages necessary state agencies, and until the instream flow study's current Tasks 1 and 2 are completed with TAC's agreement, it is unlikely that a sufficient instream flow study can be completed before the middle of 2022 or later. No development of additional housing should be permitted until then, at the earliest. If a completed and approved instream flow study, judged adequate and sufficient by TAC, shows no disruption or damage to the environmental sensitive habitats, only then could development of additional housing in Cambria be considered for approval.

"But wait!" I hear CCSD and SLO County calling, "These **meters are already in the ground**, so they are active meters!" This is the kind of definition of adequacy that probably makes the tidewater goby shake their heads as they try to stay away from the Danger sandbars developing already. "Active" in the CCSD glossary does not mean actual water is flowing from the creeks, through the meter, to the user. The Agreement made in July 1999 between Leimert and CCSD assumes that the creeks will supply actual water to all 18 meters in the Leimert real estate property in perpetuity.⁸

The Agreement made no reference to the well-being of San Simeon Creek and Santa Rosa Creek and environs. No reference was made to drought. No reference was made to the climate crisis. No reference was made to the burgeoning hospitality industry in Cambria. Today they all demand attention.

So now we humans are confronted with a clash. The July 1999 letters sitting in the archives of the California Department of Real Estate (Agreement, Section 3) and SLO County (Agreement, Section 4) state that "the district is ready, willing, and able to provide water service to the lots within Tract 1804."

However, in 2021 the District cannot provide water service of actual water flowing through the meters into new houses without further "adversely impact[ing] the Creeks. Thus, the proposed project does not conform with NCAP Planning Area Standard 4(A), Coastal Watersheds Policies 1 and 2, and ESHA Policies 2, 7, and 20" (see footnote 5, CCC Settimi and Hadian decisions).

The CCSD recently adopted the **Water Shortage Contingency Plan**, required by California.⁹ Given the current extreme drought, the Board of Directors of CCSD declared a Stage 4: Water Shortage Emergency. The well levels are approaching Stage 5: Extreme Water Shortage Emergency. Unless it rains solidly in October, CCSD will have to reduce water allocation for permanent residents, commercial water use, and water use by vacation rentals. If the District provides actual water to the two proposed development in Leimert, that water will lower the creeks even further and threaten the already lowered allocations for current customers.

A crucial part of the analysis by the California Coastal Commission staff consistently calls the CCSD to account for documenting actual water, not simply **paper water**. For example, in the Staff Report on the 2019 Hadian case, this conclusion was reached after a thorough 3-page analysis: "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."¹⁰

⁸ Settlement Agreement and Full Mutual Release, July 1999, "Cambria West, Walter H. Leimert Company, Cambria Properties Limited, and Leimert Investment Company, and Cambria Community Services District.

⁹ <https://www.cambriacsd.org/water-shortage-contingency-plan>

¹⁰ <https://documents.coastal.ca.gov/reports/2019/11/W32e/w32e-11-2019-report.pdf>, pp. 14-16.

Paper water never increases groundwater, but it does function as a behind-the-scenes pipe that actually diminishes the water. "Retrofit Requirements" are in the 1999 Settlement Agreement: "...the lot owner shall satisfy the District's water conservation and retrofit requirements..." (see footnote 8, Section B.1.e.).

CCSD General Manager Weigold sent letters to Mr. Hadian on October 15, 2020, and to Mr. Bookout on Dec. 21, 2020, stating,

Cambria Community Services District (ccsd) has reviewed the plans provided to San Luis Obispo County for a Permit to improve the above property. San Luis Obispo requires written assurance that water and sewer service is available from the CCSD. Said project is authorized with the conditions as indicated below...."¹¹

The service is "available," but the applicant "must go online to schedule a retrofit inspection before permit finalization." Reading a letter from CCSD Management Analyst Melissa Bland of May 20, 2019, to Mr. Bookout, I tentatively conclude that retrofit points had been awarded to Mr. Bookout's proposed development. In the letter to Mr. Hadian an additional condition is stated: "Demand Offset Required." No record of completed retrofits accompanies the letter.

If actual monitoring and verification by the CCSD of the conservation by all parties in this retrofit system exist, they have not been made available to the public by the CCSD

This month the CCSD has rejuvenated the paper retrofit points system.¹² I am familiar with this move, because the sorry condition of the retrofit points system comes up regularly in CCSD. In my advancing years I admit and confirm that an aging digestive system can occasion the use of many more gallons of toilet water with a low flush toilet than the 1.6 toilet or 2.3 did back in my youth. I have repeatedly and unsuccessfully urged the CCSD establish a system to verify actual water use over at least two years in homes or businesses that have retrofitted plumbing and used retrofit points for purported demand offset.

The 2:1 ratio of water use offset applauded by CCSD and SLO County needs to document actual water use by both the customer who retrofitted and the recipient of the paper points. SLO County takes an easy route to decide whether there is adequate and sustainable water in the creeks from which CCSD diverts potable water. They rely on the CCSD's will-serve, intent to serve, or Conditional Confirmation of Water & Sewer Availability letter, and they claim such a letter proves there is adequate and sustainable water.¹³

¹¹ Letters are available from CCSD.

¹² "Work is underway to update the 2013 Water Use Efficiency Plan, including an in-depth analysis of water efficient fixtures in the community and available retrofit capacity to offset interim development under the Affordable Housing Program or for properties included on the list of existing commitments. As part of this effort, staff will be expanding on the analysis performed for the Urban Water Management Plan (UWMP) to factor in the water demand impacts of possible demographic changes in Cambria and an increase in Accessory Dwelling Units" 130).

<https://www.cambriacsd.org/files/ab3b709fe/2021+09+16+Amended+Final+Regular+Meeting+Agenda.pdf>

¹³ See, for a recent example, the SLO Dept. of Planning Response to the Appeals on p. 5 of the Item documents for #35 and #36 in the Agenda for the Board of Supervisors on 14 Sept. 2021.

<https://agenda.slocounty.ca.gov/iip/sanluisobispo/file/getfile/135864>

Without making any claims of dereliction, I note that not checking the verifiability of CCSD claims exempts SLO County Supervisors from judging the adequacy of water claims made by unincorporated towns in the county.

Finally, another CCSD definition of “adequate water” for Tract 1804 was included in 202.31 EDUs of running water in 2002. This definition of adequacy was included in the hearings on the Hadian and Bookout permits before the SLO County Planning Department and the Board of Supervisors in 2021. It appears seven times in the staff document for the Supervisors’ hearing on 14 Sept. 2021. The first reference states:

The CCSD determined that the water demand for its existing commitments, which is exempt from moratorium, was 202.31 equivalent Dwelling Units (EDUs). The meter for the subject property was included within the calculation of the 202.3 EDU’s. The CCC, in conjunction with the Coastal Development Permit Application A-3-SLO-02-050 (Monaco), recognized that the CCSD Existing Commitments for 202.31 EDU’s were exempt from Moratorium.¹⁴

The Monaco Agenda item, in 2002, states, “In Cambria, an Equivalent Dwelling Unit (EDU's) is equal to approximately 217 gallons (.24 acre feet) per dwelling unit.”¹⁵ In 2021, the EDU equals 12 ccf bimonthly per dwelling.¹⁶ The numbers provided by the CCSD in 2002 do not make mathematical sense. They also understate the actual usage of water by Cambrians. The CCSD must examine the correlation of the current definition of an EDU and actual water usage. I have been asking for this since 2003.

The **climate crisis creates** drought more frequently and steadily increasing temperatures of air and ocean along California’s central coast. This affects San Simeon Creek and aquifer, as well as the Santa Rosa Creek and aquifer, the two sources of CCSD’s water “diversion.”

In Cambria we already use too much water. Our usage has increased steadily and annually after the dramatic decrease in the 2014 year of drought.¹⁷ This affects San Simeon Creek and Santa Rosa Creek.

The climate crisis increases the daily acidification of the ocean. The climate crisis stares in our face everywhere. I will stop here, because the high surf and tide the past few days have prevented me from checking on the tide pool. Attending to Earth-teacher is crucial in these times.¹⁸

The limpets, turban snails, Mastocarpus alga, sea stars, crabs, *Veleva veleva*, sea otters, western pond turtles, among so many more Earth inhabitants, have taught me lessons to keep in mind as a resident of Cambria, California. If I did not appeal this approval of the CDP by the San Luis Obispo County Board of Supervisors, it would mean I am an inattentive student who all too readily ignores the climate crisis. **I appeal their approval on 14 September 2021 of CDP for DRC2019-00214 (Bookout).**

¹⁴ <https://agenda.slocounty.ca.gov/iip/sanluisobispo/file/getfile/135864>, pp. 8 and 4 and 7.

¹⁵ <https://documents.coastal.ca.gov/reports/2002/8/Th8a-8-2002.pdf>, p. 9. The CCSD claimed that the 124 outstanding commitments as of Oct. 25, 2021, would use 202.31 EDUs or “48.55 acre-feet of water.” No time period is given for the usage of the EDU. One bimonthly use of 202.31 EDUs at 217 gallons each by 124 customers would equal 43,901 gallons or 0.13 acre-feet of water. A year would see 4.9 acre feet. What was the EDU actually in 2002?

¹⁶ <https://www.cambriacsd.org/glossary-of-terms>

¹⁷ Using CCSD data, I have documented water usage by the four major categories of residential and commercial customers from 1 Jan. 2013 to 31 August 2021, as well as the percentage of unaccounted water in the amount pumped by the CCSD. I would be happy to send the Table, upon request: elizabethbettenhausen@gmail.com

¹⁸ See “Call for Emergency Action to Limit Global Temperature Increases, Restore Biodiversity, and Protect Health” in New England Journal of Medicine, <https://www.nejm.org/doi/full/10.1056/NEJMe2113200>;

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**APPEAL FORM****Appeal of Local Government Coastal Development Permit****Filing Information (STAFF ONLY)**

District Office: Central Coast

Appeal Number: A-SLO-21-0065Date Filed: 10/5/21Appellant Name(s): TED KEY**RECEIVED****OCT 05 2021**

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

APPELLANTS

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Appeal of local CDP decision..

Page 2

1. Appellant information¹

Name: Ted Key

Mailing address: 325 Dorset St., Cambria, CA 93428

Phone number: 408-307-9617

Email address: Bxtream@aol.com

How did you participate in the local CDP application and decision-making process?

☐ Did not participate ☒ Submitted comment ☒ Testified at hearing ☐ Other

Describe: I appealed this permit at the San Luis Obispo County Board of Supervisors hearing September 14, 2021.

If you did *not* participate in the local CDP application and decision-making process, please identify why you should be allowed to appeal anyway (e.g., if you did not participate because you were not properly noticed).

Describe:

Please identify how you exhausted all LCP CDP appeal processes or otherwise identify why you should be allowed to appeal (e.g., if the local government did not follow proper CDP notice and hearing procedures, or it charges a fee for local appellate CDP processes).

Describe: The initial decision by the Commission lead me to believe the matter was settled. When this issue emerged yet again I took the opportunity to file my appeal and testify before the San Luis County Board. I have given sound reasoning and information as to why this permit should not be approved at this time.

¹ If there are multiple appellants, each appellant must provide their own contact and participation information. Please attach additional sheets as necessary.

**Appeal of local CDP decision
Page 3**

2. Local CDP decision being appealed:

Local government name: San Luis Obispo County
Local government approval body: Board of Supervisors
Local government CDP application number: DRC2019-00214
Local government CDP decision: ☒ CDP approval ☐ CDP denial³
Date of local government CDP decision: 14 September 2021

Please identify the location and description of the development that was approved or denied by the local government.

Describe: New 3,136-square-foot single-family residence with
approximately 1,000-square-foot garage, 1,000-square-foot workshop,
72-square-foot storage, and 32-square-foot shop.
The proposed project will result in site disturbance
of approximately 0.6 acres within a 6.64-acre parcel.
6725 Cambria Pines Road, north of Cambria

² Attach additional sheets as necessary to fully describe the local government CDP decision, including a description of the development that was the subject of the CDP application and decision.

³ Very few local CDP denials are appealable, and those that are also require submittal of an appeal fee. Please see the [CDP Appeal Process](#) for more information.

Appeal of local CDP decision
Page 4

3. Applicant information

Applicant name(s):

Ralph Bookout

5617 W. Grove Ct., Visalia, CA 93291

Applicant Address:

4. Grounds for this appeal⁴

For appeals of a CDP approval, grounds for appeal are limited to allegations that the approved development does not conform to the LCP or to Coastal Act public access provisions. For appeals of a CDP denial, grounds for appeal are limited to allegations that the development conforms to the LCP and to Coastal Act public access provisions. Please clearly identify the ways in which the development meets or doesn't meet, as applicable, the LCP and Coastal Act provisions, with citations to specific provisions as much as possible. Appellants are encouraged to be concise, and to arrange their appeals by topic area and by individual policies.

Describe: See attached

⁴ Attach additional sheets as necessary to fully describe the grounds for appeal.

September 30, 2021

Coastal Appealable Forms

Hadian File Number DRC2020-00107

- Bookout File Number: DRC2019-00214

Coastal Commission and Staff:

The basis of previous decisions by the Commission for Hadian DRC2020-00107 are directly applicable to Bookout DRC2019-00214 so my attached appeal letters will apply for both cases.

The following points express my basis for denial of these permits:

1. Clearly Cambria Community Services District (CCSD) approval of permit applications does not assure that water is available. The county is required to make its own determination of water adequacy rather than a “pass through” agency. *Legally, the county is required to make its own finding which it did not.*
2. Approving these permits knowing that Cambria does not have adequate water to serve this new construction wastes the Commission’s time. Commissioners have expressed their frustration in their November 6, 2020 meeting, clearly irritated by this “ping pong permit policy” which is an embarrassment for both our CSD and the county.
3. The EWS/WRF has not received a final Coastal Development Permit. Its application for a CDP remains 13 percent complete, missing 87 percent of required information, seven months after it was submitted, going on seven years after the facility was constructed.
4. Climate change has become clearer since the 2001 Building Moratorium. Drought is currently threatening Cambria’s water supply and more users cannot be safely added. While the current water levels are the same as when we were told in 2013 that “sand was going to come out of our faucets” the district continues to refuse to operate the EWS/WRF.

5. Excessive pumping from the aquifer could result in drawing salt water in, causing salt water contamination, not to mention violating some of our ranchers' senior water rights.
6. In Cambria, our EWS/WRF injection site being below grade of the production wells will send half the production water from the beleaguered system out to sea beyond capture.
7. If it ever gets a permit, the EWS provides *zero water for fire fighting*. We are another Paradise CA disaster just looking for a spark! Adding more construction is simply reckless. Further, the DDW designates that it produces no *new water*. *The plant is designated to provide water to existing residents only.*

Based on the The Hadian Coastal Commision Staff Report, the permit was denied previously by the Coastal Commission. A few minor changes and re-application are still the *same ones* that were previously denied. <https://documents.coastal.ca.gov/reports/2019/11/W32e/w32e-11-2019-report.pdf>, summary of Staff Recommendation, clearly explains five reasons why these projects should not be given permits. I continue to strongly support these reasons, quoted from the summary, for denying these permits:

"The County's action raises substantial LCP water resource and sensitive habitat issues because: (1) the County did *not* determine that there was an adequate sustainable water supply to serve the project as is required by the LCP, but rather relied solely on a Cambria Community Services District (CCSD) intent-to-serve (or "will serve") letter for this purpose; (2) there is *not* an adequate sustainable water supply to provide new water service to serve new development in Cambria (and it is not adequate even for existing development), a factual finding that has been repeatedly determined by the Commission in relation to Cambria development through multiple actions, including certification of LCP policies (specific to the present lack of available water and imposing specific water supply requirements) and CDP actions; (3) the sources of Cambria's water supply (i.e., Santa Rosa and San Simeon Creeks) are environmentally sensitive habitat areas (ESHA) that are *currently* being adversely affected by *existing* water extractions to support *existing* development in Cambria; and (4) the County found that the project could be served by the community's already oversubscribed water supply because the CCSD agreed to serve the project in order to settle a lawsuit, but the LCP only allows allocation of water supply when it is from an adequate sustainable water supply, which it is not; and (5) because the project would be required to comply with the CCSD's retrofit program designed to offset water use, but such offsets would be inadequate to meet LCP standards with respect to adequate water supply and the CCSD's program does not appear to actually offset such water use even if it were to be deemed an appropriate tool to meet LCP standards, which it is not."

The hearing officer attempted to justify these permits based on other permits that have been issued, largely because they slipped under everyone's radar as recently as 2018. On page 3 of The Coastal Commission letter dated February 16, 2021, county files

<https://agenda.slocounty.ca.gov/iip/sanluisobispo/file/getfile/130338>,

Mr. O'Neill explains that:

"...while a handful of projects have previously been approved based on earlier erroneous conclusions that sufficient water was available, all available information gathered since 2001 suggests that Cambria's water supply is insufficient to serve even existing development, including the 2014 water shortage emergency declaration."

None of these "pipeline or grandfathered projects" had any finding showing absence of harm to the existing water supply from their added demand.

Additionally low flow fixtures do not make any difference to demand during a drought. More new users put the water supply in even greater jeopardy. The CSD low flow program was never adequately documented and any claimed water savings is specious at best. The Commission has commented at length about this in previous decisions:

<https://documents.coastal.ca.gov/reports/2019/11/W32e/w32e-11-2019-report.pdf>

CCSD's Retrofit Program

Pursuant to LCP Policy 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 the proposed development 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 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. 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 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, the 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 this project, the CCSD determined that the 4,000-square-foot four-bathroom house on a 2.94 acre parcel required 230 retrofit points, which equates to a payment of \$11,500 and a supposed savings of 338 gallons per day. The Applicant satisfied the retrofit requirements solely through the purchase of banked “Retrofit upon Resale” points.

There are a variety of problems with the 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 project). 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. All of the water offsets for this project were from the purchase of banked retrofit points that were required under the CCSD’s code for other projects warranting water use reduction efforts at some prior time. 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, the 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 the 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, the CCSD does not require any further 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 the 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. The 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. The 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. The in-lieu fees paid by project Applicants to purchase retrofit points are not specifically 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. In any event, neither the County nor the Applicant have demonstrated that any in-lieu fees paid by the Applicants for the purchase of retrofit points have been used by the CSD to implement water projects that reduce existing water use within the service area.

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, and 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.

The District engineer and project manager claim this situation is resolved; however, after all this time it is still a work in progress and even if it were, using the retrofit program to permit new construction is not allowed.

Finally, while EWS/WRF permitting etc. has stalled for going on a decade, water recovery hasn't stood still. I want to introduce the Commission to a new disruptive technology soon to be installed in the town of Piru, Ventura County (project WW20-50, \$3.25M). This zero liquid discharge system by Global Water Innovations

<https://www.globalwaterinnovations.org> is going to change everything pertaining to water recovery throughout California and possibly the nation. The new system will recover up to 99% of Piru's wastewater discharge through new methods at a price point of around six cents a gallon. Piru will be recharging their aquifer, disposing of the remaining sludge in local landfill, and ***no ocean effluent outfall***. A design for a complete solar power unit is in process using new battery technology.

Water storage for sustainability and fire fighting could and should be created by building a 700 acre-foot reservoir on the Warren Ranch, in the non-blue line canyon directly across the street from the existing CCSD production wells. Adding the new Global Innovations system, even behind the current one, we'll recover almost all of our 550 acre-feet of waste discharge. Combined with rain catchment, the reservoir will be refilled on a continuous basis *without ocean outfall*. I hope the Commission will take note that this solution would benefit many coastal locations.

The Commission was correct in its previous decisions to deny new construction permits until Cambria has adequate water to serve them.

Please act appropriately and deny both Hadian and Bookout permit applications until such time as Cambria develops sustainable water.

Ted Key
Cambria

Appeal of local CDP decision

Page 5

5. Identification of interested persons

On a separate page, please provide the names and contact information (i.e., mailing and email addresses) of all persons whom you know to be interested in the local CDP decision and/or the approved or denied development (e.g., other persons who participated in the local CDP application and decision making process, etc.), and check this box to acknowledge that you have done so.

☐ Interested persons identified and provided on a separate attached sheet

6. Appellant certifications

I attest that to the best of my knowledge, all information and facts in this appeal are correct and complete.

Print name TED KEY

Signature Ted Key

Date of Signature 10/2/21

7. Representative authorizations

While not required, you may identify others to represent you in the appeal process. If you do, they must have the power to bind you in all matters concerning the appeal. To do so, please complete the representative authorization form below and check this box to acknowledge that you have done so.

☐ I have authorized a representative, and I have provided authorization for them on the representative authorization form attached.

5 If there are multiple appellants, each appellant must provide their own certification. Please attach additional sheets as necessary.

6 If there are multiple appellants, each appellant must provide their own representative authorization form to identify others who represent them. Please attach additional sheets as necessary.

CALIFORNIA COASTAL COMMISSION

455 MARKET STREET, SUITE 300
SAN FRANCISCO, CA 94105-2219
VOICE (415) 904-5200
FAX (415) 904-5400

**DISCLOSURE OF REPRESENTATIVES**

If you intend to have anyone communicate on your behalf to the California Coastal Commission, individual Commissioners, and/or Commission staff regarding your coastal development permit (CDP) application (including if your project has been appealed to the Commission from a local government decision) or your appeal, then you are required to identify the name and contact information for all such persons prior to any such communication occurring (see Public Resources Code, Section 30319). The law provides that failure to comply with this disclosure requirement prior to the time that a communication occurs is a misdemeanor that is punishable by a fine or imprisonment and may lead to denial of an application or rejection of an appeal.

To meet this important disclosure requirement, please list below all representatives who will communicate on your behalf or on the behalf of your business and submit the list to the appropriate Commission office. This list could include a wide variety of people such as attorneys, architects, biologists, engineers, etc. If you identify more than one such representative, please identify a lead representative for ease of coordination and communication. You must submit an updated list anytime your list of representatives changes. You must submit the disclosure list before any communication by your representative to the Commission or staff occurs.

Your Name _____

CDP Application or Appeal Number _____

Lead Representative

Name _____

Title _____

Street Address. _____

City _____

State, Zip _____

Email Address _____

Daytime Phone _____

Your Signature _____

Date of Signature _____

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT ST., SUITE 300
SANTA CRUZ, CA 95060-4508
(831) 427-4863
CENTRALCOAST@COASTAL.CA.GOV

**APPEAL FORM****Appeal of Local Government Coastal Development Permit****Filing Information (STAFF ONLY)**

District Office: Central Coast

Appeal Number: A-3-SLO-21-0065Date Filed: 10/5/21Appellant Name(s): CHRISTINE HEINRICHS**RECEIVED**

OCT 05 2021

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA**APPELLANTS**

IMPORTANT. Before you complete and submit this appeal form to appeal a coastal development permit (CDP) decision of a local government with a certified local coastal program (LCP) to the California Coastal Commission, please review the appeal information sheet. The appeal information sheet describes who is eligible to appeal what types of local government CDP decisions, the proper grounds for appeal, and the procedures for submitting such appeals to the Commission. Appellants are responsible for submitting appeals that conform to the Commission law, including regulations. Appeals that do not conform may not be accepted. If you have any questions about any aspect of the appeal process, please contact staff in the Commission district office with jurisdiction over the area in question (see the Commission's contact page at <https://coastal.ca.gov/contact/#/>).

Note regarding emailed appeals. Please note that emailed appeals are accepted **ONLY** at the general email address for the Coastal Commission district office with jurisdiction over the local government in question. For the North Coast district office, the email address is CentralCoast@coastal.ca.gov. An appeal emailed to some other email address, including a different district's general email address or a staff email address, will be rejected. It is the appellant's responsibility to use the correct email address, and appellants are encouraged to contact Commission staff with any questions. For more information, see the Commission's contact page at <https://coastal.ca.gov/contact/#/>.

Appeal of local CDP decision

Page 2

1. Appellant information¹

Name: Christine Heinrichs

Mailing address: 1800 Downing Ave., Cambria, CA 93428

Phone number: 805-203-5018

Email address: christine.heinrichs@gmail.com

How did you participate in the local CDP application and decision-making process?

☐ Did not participate ☒ Submitted comment ☒ Testified at hearing ☐ Other

Describe: I asked the Cambria CSD Board of Directors not to allow
staff to approve this permit. I appeared at the SLO County Planning
department hearing and testified against it January 22, 2021.
I appealed this permit at the Board of Supervisors hearing 14 September 2021.

If you did *not* participate in the local CDP application and decision-making process, please identify why you should be allowed to appeal anyway (e.g., if you did not participate because you were not properly noticed).

Describe: _____

Please identify how you exhausted all LCP CDP appeal processes or otherwise identify why you should be allowed to appeal (e.g., if the local government did not follow proper CDP notice and hearing procedures, or it charges a fee for local appellate CDP processes).

Describe: I have taken every opportunity when this permit was considered
by appropriate governing units to give decision makers
information as to why this permit should not be approved.

¹ If there are multiple appellants, each appellant must provide their own contact and participation information. Please attach additional sheets as necessary.

Appeal of local CDP decision

Page 3

2. Local CDP decision being appealed²

Local government name: San Luis Obispo County
Local government approval body: Board of Supervisors
Local government CDP application number: DRC2019-00214
Local government CDP decision: ☒ CDP approval ☐ CDP denial³
Date of local government CDP decision: 14 September 2021

Please identify the location and description of the development that was approved or denied by the local government.

Describe: New 3,136-square-foot single-family residence with
approximately 1,000-square-foot garage, 1,000-square-foot workshop,
72-square-foot storage, and 32-square-foot shop.
The proposed project will result in site disturbance
of approximately 0.6 acres within a 6.64-acre parcel.
6725 Cambria Pines Road, north of Cambria

² Attach additional sheets as necessary to fully describe the local government CDP decision, including a description of the development that was the subject of the CDP application and decision.

³ Very few local CDP denials are appealable, and those that are also require submittal of an appeal fee. Please see the [appeal information sheet](#) for more information.

Appeal of local CDP decision

Page 4

3. Applicant information

Applicant name(s):

Ralph Bookout

Applicant Address:

5617 W. Grove Ct., Visalia, CA 93291

4. Grounds for this appeal⁴

For appeals of a CDP approval, grounds for appeal are limited to allegations that the approved development does not conform to the LCP or to Coastal Act public access provisions. For appeals of a CDP denial, grounds for appeal are limited to allegations that the development conforms to the LCP and to Coastal Act public access provisions. Please clearly identify the ways in which the development meets or doesn't meet, as applicable, the LCP and Coastal Act provisions, with citations to specific provisions as much as possible. Appellants are encouraged to be concise, and to arrange their appeals by topic area and by individual policies.

Describe: See attached

⁴ Attach additional sheets as necessary to fully describe the grounds for appeal.

Christine Heinrichs

Bookout DRC2019-00214

San Luis Obispo County

The Bookout application is next to the Hadian property, the permit for which I am also appealing. The Bookout permit should not be approved, based on the same criteria.

The Hadian permit is essentially similar to the previous permit application, which the Cambria CSD and the Board of Supervisors approved, and was then, on the basis of sound legal and scientific reasoning, denied by the Coastal Commission. See the Staff Report on that permit, <https://documents.coastal.ca.gov/reports/2019/11/W32e/w32e-11-2019-report.pdf>. It gives five reasons on page 2, in the Summary of Staff Recommendation, why these projects should not be given permits. I support these reasons for denying these permits:

“The County’s action raises substantial LCP water resource and sensitive habitat issues because:

- (1) the County did *not* determine that there was an adequate sustainable water supply to serve the project as is required by the LCP, but rather relied solely on a Cambria Community Services District (CCSD) intent-to-serve (or “will serve”) letter for this purpose;
- (2) there is *not* an adequate sustainable water supply to provide new water service to serve new development in Cambria (and it is not adequate even for existing development), a factual finding that has been repeatedly determined by the Commission in relation to Cambria development through multiple actions, including certification of LCP policies (specific to the present lack of available water and imposing specific water supply requirements) and CDP actions;
- (3) the sources of Cambria’s water supply (i.e., Santa Rosa and San Simeon Creeks) are environmentally sensitive habitat areas (ESHA) that are *currently* being adversely affected by *existing* water extractions to support *existing* development in Cambria; and
- (4) the County found that the project could be served by the community’s already oversubscribed water supply because the CCSD agreed to serve the project in order to settle a lawsuit, but the LCP only allows allocation of water supply when it is from an adequate sustainable water supply, which it is not; and
- (5) because the project would be required to comply with the CCSD’s retrofit program designed to offset water use, but such offsets would be inadequate to meet LCP standards

with respect to adequate water supply and the CCSO's program does not appear to actually offset such water use even if it were to be deemed an appropriate tool to meet LCP standards, which it is not."

The report elaborates on these points. The Hadian permit was already denied once by the Coastal Commission based on this report. Mr. Hadian made a few minor changes and re-applied.

The three-page letter dated February 16, 2021, county file <https://agenda.slocounty.ca.gov/iip/sanluisobispo/file/getfile/130338>, responds to the county's new interpretation of these projects as "pipeline" projects, which is ridiculous, as these projects were proposed in 2019 and 2020. The Coastal Commission further addresses "pipeline projects" on pages 10 and 11 of the Staff Report, emphasis added:

"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 CCSO; and (2) the County had accepted the project's CDP application for processing... **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 CCSO 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, and the Commission agreed to this scheme in the 2007 LCP amendment."

The hearing officer also attempted to justify these permits based on other permits that have been issued, largely because they slipped under everyone's radar, as recently as 2018. On page 3 of the Coastal Commission February 16, 2021 letter, Mr. O'Neill explains that

"...while a handful of projects have previously been approved based on earlier erroneous conclusions that sufficient water was available, all available information gathered since 2001 suggests that Cambria's water supply is insufficient to serve even existing development, including the 2014 water shortage emergency declaration."

The county needs to hold itself to a higher standard than perpetuating mistakes.

Other points:

Low flow fixtures do not make any difference to demand during a drought. Adding new users puts the water supply in jeopardy for all.

The EWS has not been permitted yet. Its application for a CDP remains 13 percent complete, missing 87 percent of required information, more than a year after it was submitted, going on

eight years after the facility was constructed. No permit is in sight. Even if it ever gets a permit, it does not add any new water, and is designated to provide water to Existing Residents Only.

CSD approval of permit applications does not assure that water is available. The county has an affirmative duty to make its own determination of water adequacy. The county claims it is a "Pass Through" agency, which I call a Rubber Stamp. Legally, the county is required to make its own finding, as the Coastal Commission has affirmed.

Excessive pumping from the aquifer could result in drawing salt water in, causing salt water contamination of the water source.

Climate change has become clearer since the 2001 Building Moratorium. Conditions have changed, and Cambria, the county and the entire state are in a drought. Cambria's water supply is more at risk than ever. More users cannot be safely added.

These existing meters have never supplied water. Adding these users will inevitably increase demand.

Appeal of local CDP decision.

Page 5

5. Identification of interested persons

On a separate page, please provide the names and contact information (i.e., mailing and email addresses) of all persons whom you know to be interested in the local CDP decision and/or the approved or denied development (e.g., other persons who participated in the local CDP application and decision making process, etc.), and check this box to acknowledge that you have done so.

☐ Interested persons identified and provided on a separate attached sheet

6. Appellant certifications

I attest that to the best of my knowledge, all information and facts in this appeal are correct and complete.

Print name Christine Heinrichs

Christine Heinrichs
Signature

Date of Signature 17 September 2021

7. Representative authorizations

While not required, you may identify others to represent you in the appeal process. If you do, they must have the power to bind you in all matters concerning the appeal. To do so, please complete the representative authorization form below and check this box to acknowledge that you have done so.

N/A

☐ I have authorized a representative, and I have provided authorization for them on the representative authorization form attached.

⁵ If there are multiple appellants, each appellant must provide their own certification. Please attach additional sheets as necessary.

⁶ If there are multiple appellants, each appellant must provide their own representative authorization form to identify others who represent them. Please attach additional sheets as necessary.

CALIFORNIA COASTAL COMMISSION

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**DISCLOSURE OF REPRESENTATIVES**

If you intend to have anyone communicate on your behalf to the California Coastal Commission, individual Commissioners, and/or Commission staff regarding your coastal development permit (CDP) application (including if your project has been appealed to the Commission from a local government decision) or your appeal, then you are required to identify the name and contact information for all such persons prior to any such communication occurring (see Public Resources Code, Section 30319). The law provides that failure to comply with this disclosure requirement prior to the time that a communication occurs is a misdemeanor that is punishable by a fine or imprisonment and may lead to denial of an application or rejection of an appeal.

To meet this important disclosure requirement, please list below all representatives who will communicate on your behalf or on the behalf of your business and submit the list to the appropriate Commission office. This list could include a wide variety of people such as attorneys, architects, biologists, engineers, etc. If you identify more than one such representative, please identify a lead representative for ease of coordination and communication. You must submit an updated list anytime your list of representatives changes. You must submit the disclosure list before any communication by your representative to the Commission or staff occurs.

Your Name _____

CDP Application or Appeal Number _____

Lead Representative

Name _____

Title _____

Street Address. _____

City _____

State, Zip _____

Email Address _____

Daytime Phone _____

Your Signature _____

Date of Signature _____

Additional Representative (as necessary)

Name _____
Title _____
Street Address. _____
City _____
State, Zip _____
Email Address _____
Daytime Phone _____

Name _____
Title _____
Street Address. _____
City _____
State, Zip _____
Email Address _____
Daytime Phone _____

Name _____
Title _____
Street Address. _____
City _____
State, Zip _____
Email Address _____
Daytime Phone _____

Name _____
Title _____
Street Address. _____
City _____
State, Zip _____
Email Address _____
Daytime Phone _____

Your Signature _____

Date of Signature _____

RESOLUTION NO. 26-2021

July 15, 2021

A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE CAMBRIA COMMUNITY SERVICES DISTRICT
DECLARING A STAGE 4 WATER SHORTAGE EMERGENCY

WHEREAS, the Board of Directors of the Cambria Community Services District ("CCSD") has declared a Water Code Section 350 Water Shortage Emergency; and

WHEREAS, pursuant to Water Code Section 353, the Board of Directors may adopt such regulations and restrictions on the delivery of water which will conserve the water supply for the greatest public benefit; and

WHEREAS, in addition to Water Code Section 353, Water Code Section 375 provides that a public entity which supplies water may, after holding a public hearing, adopt and enforce water conservation programs to reduce the quantity of water used by the persons within the entity's service area or jurisdiction for the purpose of conserving the entity's water supplies; and

WHEREAS, after holding a duly noticed public hearing on June 17, 2021 the Board of Directors adopted Resolution 24-2021 adopting the Water Shortage Contingency Plan (WSCP); and

WHEREAS, CCSD staff have analyzed the status and condition of existing supplies and compared them to the water shortage criteria contained within the WSCP to recommend that the Board take action to declare a water shortage and direct staff to implement the appropriate shortage response actions contained within the WSCP.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Cambria Community Services District as follows:

1. Based upon the existing water supply conditions as described in the staff report for agenda item 6 A presented to the Board of Directors at today's meeting and in light of the drought currently impacting much of the West Coast and classified locally as "Extreme" by the U.S. Drought Monitor, the Board of Directors hereby finds that the demands and requirements of water consumers cannot be satisfied without depleting the water supply of the CCSD to the extent that there would be insufficient water for human consumption, sanitation and fire protection and that, based on the condition, the Board of Directors hereby declares a Stage 4 Water Shortage Emergency.
2. Resolution 18-2017 is hereby repealed and replaced by this Resolution. The Water Shortage Response Actions set forth in Exhibit "A" which is attached hereto and incorporated herein, shall be effective immediately and apply within the jurisdictional boundaries of the Cambria Community Services District until rescinded or modified by the Board of Directors. All other CCSD water conservation rules, regulations, restrictions, definitions, enforcement procedures, violation provisions and appeal procedures which are in force shall remain in force, except where they may conflict with the Water Shortage Response Actions set forth in this Resolution.
3. The General Manager is hereby authorized and directed to implement the Water Shortage Response Actions set forth in Exhibit "A" including establishing administrative procedures to carry out the requirements in an effective and equitable manner. Monthly meter readings shall be suspended and commercial water use allocations shall be based on 2019 meter usage.

Exhibit 5

A-3-SLO-21-0065

1 of 6

4. CCSD staff is hereby directed to continue to monitor and evaluate current water and drought conditions on an ongoing basis and report back to the Board of Directors on a monthly basis.
5. The Board Secretary shall publish this Resolution in full within 10 days of its adoption in accordance with the provisions of Water Code Section 376(a). After such publication, and in accordance with the provisions of Water Code Section 377, violation of the Water Shortage Response Actions set forth in Exhibit "A" is a misdemeanor and punishable as set forth in Water Code Section 377.
6. Within fourteen (14) days from the date of this Resolution, the General Manager is hereby directed to provide notice to all water customers of the Stage 4 Water Shortage condition and the Water Shortage Response Actions as set forth herein as well as consequences for a violation thereof. The General Manager is further directed to pursue a vigorous public information program about water supply conditions and the need to reduce water consumption, through local newspapers and other media, mailings to customers, by handouts and by such other means deemed appropriate by the General Manager.

PASSED AND ADOPTED THIS 15th day of July, 2021, by the following vote:

Ayes: Steidel, Howell, Farmer, Dean, Gray

Nays: 0

Absent: 0

Abstain: 0

DocuSigned by:

Cindy Steidel

FC05957325F041F...

Cindy Steidel, President
Board of Directors

ATTEST:

DocuSigned by:

Ossana Terterian

DC3E1DD0C7A84D1

Ossana Terterian
Board Secretary

APPROVED AS TO FORM:

DocuSigned by:

Timothy J. Carmel

B04B40A50AA141E...

Timothy J. Carmel
District Counsel

8.4 Shortage Response Actions

CCSD Municipal Code Chapter 4.08 entitled “Waste of Water,” prohibits water waste at all times, regardless of whether there may a particular water conservation stage in place. This approach was originally adopted by the CCSD Board during 2000 as Ordinance 4-2000, which has since been codified within the CCSD Municipal Code.

As mentioned above, there are long-term and short-term water supply shortages with significant overlap in regard to stages, mandatory prohibitions, and consumption reduction methods as described in the following sections. **Table 8-2** summarizes the possible actions identified by CCSD staff to implement during a water shortage as well as the criteria that would trigger each water shortage stage. This table of actions is designed as a menu of options; CCSD is not required to implement each action for each stage. Actions identified in earlier stages may also be used in later stages (e.g., actions identified in Stages 1-3 may be implemented in Stage 4 as well as other Stage 4 actions, etc.).

Table 8-2. Shortage Response Actions

STAGE	CRITERIA	SUGGESTED ACTIONS
1 – UP TO 10% WATER USE REDUCTION	<p>Baseline - Water Use Efficiency is a Way of Life</p> <p>Dry season starts in June or later</p> <p>Rainfall at 86-100% of normal</p> <p>Average SS well levels at or above 100% of normal (≥20.1 ft)</p> <p>WBE/WBW well levels at or above 100% of normal (WBE is ≥5.6 ft and WBW is ≥5.6 ft)</p> <p>9P2/SS4 gradient at or above 100% of normal (≥3.0 ft)</p>	<p>THE FOLLOWING ARE PROHIBITED AT ALL TIMES UNDER CHAPTER 4.08 OF THE CCSD MUNICIPAL CODE:</p> <p>The watering of grass, lawns, ground-cover, shrubbery, open ground, crops, and trees herein after collectively called "landscape or other irrigation," in a manner or to an extent which allows excess water to run-off the area being watered. Every water user is deemed to have under his or her control at all times his or her water distribution lines and facilities and to know the manner and extent of his or her water use and excess run-off;</p> <p>The watering of grass, lawns, ground-cover, shrubbery, open ground, crops or trees or other irrigation within any portion of the district in violation of the following schedule and procedures: a. Watering shall be accomplished with a person in attendance; b. Watering shall not take place between the hours of ten a.m. and six p.m.; and c. Watering shall be limited to the amount of water necessary to maintain landscaping.</p> <p>The washing of sidewalks, walkways, driveways, parking lots, windows, buildings, and all other hard-surfaced areas by direct hosing unless utilizing high-pressure, low-volume systems;</p> <p>The escape of water through breaks or leaks within the water user's plumbing or distribution system for any substantial period of time within which such break or leak should reasonably have been discovered and corrected. Water must be shut off within two hours after the water user discovers such leak or break or receives notice from the district of such leak or break, whichever occurs first. Such leak or break shall be corrected within an additional six hours;</p> <p>The serving of water to customers by any eating establishment except when specifically requested;</p> <p>Except as approved in advance in writing by the general manager of the district, the use of water by governmental entities or agencies for: (1) routine water system flushing for normal maintenance, (2) routine sewer system flushing for normal maintenance, and (3) fire personnel training;</p> <p>Washing vehicles by use of an unrestrained hose. Use of a bucket for washing a vehicle and rinsing with a hose with a shutoff at the point of release is permitted subject to non-wasteful applications. Vehicle is defined as any mechanized form of transportation including, but not limited to, passenger cars, trucks, recreational vehicles (RVs), campers, all-terrain vehicles (ATVs), motorcycles, boats, jet skis, and off-road vehicles;</p>

STAGE	CRITERIA	SUGGESTED ACTIONS
		<p>Use of potable water from the district's water supply system for compacting or dust control purposes;</p> <p>Using unmetered water from any fire hydrant, except as required for fire suppression;</p> <p>It is unlawful for any consumer to remove, replace, alter, or damage any water meter or components thereof.</p> <p>Landscape irrigation using non-potable water sources is encouraged; no restrictions.</p> <p>Irrigation of parks, school ground areas, and road median landscaping will not be permitted more than twice a week.</p> <p>Irrigation of ornamental turf on public medians with potable water is prohibited.</p> <p>No application of potable water to outdoor landscapes (turf and ornamental landscapes) within 48 hours before, during, or after a rainfall event with measurable rainfall. Measurable rainfall for the region is defined as greater than or equal to 0.5 inches.</p> <p>New landscaping should be limited to native or drought tolerant plants when a Stage 1 water conservation program is in effect.</p> <p>Limits on watering duration. Watering or irrigating of lawns, landscape or other vegetated area with potable water using a landscape irrigation system or a watering device that is not continuously attended is limited to no more than 15 minutes per day per station. This subsection does not apply to landscape irrigation systems that exclusively use high efficiency irrigation equipment, very low-flow drip type irrigation systems when no emitter produces more than two gallons of water per hour, and weather-based controllers or high-efficiency stream rotor sprinklers.</p> <p>Operators of hotels, motels, and other commercial establishments offering lodgings shall post in each room a notice of water shortage conditions, encouraging water conservation practices.</p> <p>Lodging establishment must offer opt out of linen service.</p> <p>Require covers for pools and spas.</p> <p>Watering to maintain the level of water in swimming pools shall occur only when essential.</p>
2 – UP TO 20% WATER USE REDUCTION	<p>Drought Watch</p> <p>Dry season starts in June or later</p> <p>Rainfall at 71-85% of normal</p> <p>Average SS well levels at 91-100% of normal (18.2-20.1 ft)</p> <p>WBE/WBW well levels at 91-100% of normal (WBE is 5.2-5.6 ft and WBW is 5.1-5.6 ft)</p> <p>9P2/SS4 gradient at 91-100% of normal (2.8-3.0 ft)</p>	<p>Up to 3 days per week landscape irrigation when using potable water; no more than 15 minutes per day per station.</p> <p>Car washing is only permitted using a commercial carwash that recirculates water or by high pressure/low volume wash systems.</p> <p>Commercial car wash and laundry systems. Installation of new or replacement non re-circulating water systems in commercial conveyor car wash or commercial laundry systems is prohibited.</p> <p>Use of graywater, as that term is defined in the California Health & Safety Code, or recycled water for irrigation is permitted on any day and at any time, subject only to any permits issued by the County.</p> <p>Construction operations receiving water from a construction meter or water truck shall not use water unnecessarily for any purpose other than those required by regulatory agencies. Construction projects requiring watering for new landscaping materials shall adhere to the designated irrigation requirements set forth in this plan and shall only install native or drought-tolerant plant species.</p> <p>District will commence public outreach campaign regarding water shortage watch restrictions including presentations and/or materials provided to local schools and street signage.</p>

STAGE	CRITERIA	SUGGESTED ACTIONS
3 – UP TO 30% WATER USE REDUCTION	Water Shortage Warning	Irrigation on public medians with potable water is prohibited.
	Dry season starts in May or later	Decorative water features that use potable water must be drained and kept dry. Wash only full loads of laundry and/or dishes.
	Rainfall at 56-70% of normal	Filling, refilling, or replenishing swimming pools, spas, ponds, streams, and artificial lakes is prohibited. Tune-up irrigation system by checking for and repairing leaks and damaged sprinklers.
	Average SS well levels at 81-90% of normal (16.1-18.1 ft)	Up to two days per week of landscape irrigation when using potable water; no more than 15 minutes per day per station. Shorten showers and turn off faucets while brushing teeth or shaving.
	WBE/WBW well levels at 81-90% of normal (WBE is 4.6-5.1 ft and WBW is 4.6-5.0 ft)	District will expand outreach campaign to include a staffed booth at the weekly Farmer's Market. Water efficient product giveaways will be provided, budget permitting. Fix leaky faucets, toilets, showerheads, pipes, and other water plumbing immediately.
	9P2/SS4 gradient at 81-90% of normal (2.5-2.7 ft)	
4 – UP TO 40% WATER USE REDUCTION	Drought Emergency	Up to one day per week of landscape irrigation when using potable water; no more than 10 minutes per day per station.
	Dry season starts in April or later	Maintenance of existing landscaping necessary for fire protection as specified by the Fire Chief of the Cambria CSD Fire Department; if fire-protection landscaping is not sustainable by irrigation one (1) days per week, irrigation may be increased to not more than two (2) days per week;
	Rainfall at 41-55% of normal	Maintenance of existing landscaping for erosion control; if erosion-control landscaping is not sustainable by irrigation one (1) day per week, may be irrigated up to two (2) days per week.
	Average SS well levels at 71-80% of normal (14.1-16.0ft)	Implement monthly meter reading; customer notification re: percentage of allocation used
	WBE/WBW well levels at 71-80% of normal (WBE is 4.1-4.5 ft and WBW is 4.0-4.5 ft)	Existing pools shall not be emptied and refilled using potable water unless required for public health and safety purposes. No new will serves for projects including pool or spa installation will be permitted. Staff directed to communicate with water users in the 90th percentile of their customer class to help reduce consumption.
	9P2/SS4 gradient at 71-80% of normal (2.2-2.4 ft)	Previous waivers for watering or water use in excess of drought restrictions will be revoked. Washing of personal vehicles at home (including autos, trucks, trailers, motor homes, boats, or others) is prohibited. Water use allocation per permanent resident: 3 units per month. Commercial water use allocation: 3 units per EDU or fraction thereof; or average of last 12 months water use, whichever is less. Vacation rental allocation: 3 units per month. Upon the declaration of a water shortage emergency, no new water meters allowed, except for health and safety, unless water demand is offset to a net zero increase. Achieving net zero water increase is when potable water use of proposed development is no greater than current demand within the District's service area prior to installation of the new meters. The District will separately develop a "Net Zero Water Increase Program." The objective of the Program shall be to provide a means to continue sustainable growth during continuing water shortage conditions. No new temporary construction meter permits will be issued by the District.

STAGE	CRITERIA	SUGGESTED ACTIONS
		<p>The District will suspend consideration of annexations to its service area unless the annexation increases the water supply available to the District by more than the anticipated demands of the property to be annexed.</p> <p>Staff directed to prepare WRF for operation.</p>
5 – UP TO 50% WATER USE REDUCTION	<p>Extreme Drought Emergency</p> <p>Dry season starts in March or earlier</p> <p>Rainfall at 26-40% of normal</p> <p>Average SS well levels at 61-70% of normal (12.1-14.0 ft)</p> <p>WBE/WBW well levels at 61-70% of normal (WBE is 3.5-4.0 ft and WBW is 3.4-3.9 ft)</p> <p>9P2/SS4 gradient at 61-70% of normal (1.9-2.1 ft)</p>	<p>No irrigation of turf, landscapes and/or ornamental gardens with potable water sources.</p> <p>Water use for public health and safety purposes only. Customer rationing may be implemented.</p> <p>No new construction meters will be issued.</p> <p>Dedicated irrigation meters will be locked by CCSD staff.</p> <p>Staff directed to perform mandatory water audits for water users in the 90th percentile.</p> <p>No replacement water may be provided for ponds or lakes. Aeration equipment should be managed in such a way as to eliminate evaporative loss of water.</p> <p>Water use allocation per permanent resident: 2 units per month. Commercial water use allocation: 2 units per EDU or fraction thereof; or 75% of average of last 12 months water use, whichever is less. Vacation rental allocation: 2 units per month.</p> <p>Penalty charges for violation of water use allocations. Water use that exceeds allocation by less than 25% will be subject to a five-hundred percent (500%) surcharge levied on all usage above the customer's allocation. Water use that exceeds allocation by more than 25% will be subject to a one-thousand percent (1000%) surcharge levied on all usage above the customer's allocation. The tiered penalty structure is designed to acknowledge those customers who make a good faith effort to reduce consumption but go over their allocation by a small amount.</p> <p>Staff directed to operate WRF.</p> <p>No water for commercial car washes.</p> <p>No planting of new landscaping (seed, sod, or other plant materials).</p>
6 – GREATER THAN 50% WATER USE REDUCTION	<p>Exceptional Drought Emergency</p> <p>Dry season starts in March or earlier</p> <p>Rainfall at <25% of normal</p> <p>Average SS well levels at <60% of normal (≤ 12.0 ft)</p> <p>WBE/WBW well levels at <60% of normal (WBE is ≤ 3.4 ft and WBW is ≤ 3.3 ft)</p> <p>9P2/SS4 gradient at <60% of normal (≤ 1.8 ft)</p>	<p>All landscape and non-essential outdoor water use for all Customers in all areas of the District's retail water service area shall be prohibited.</p> <p>Water rationing and penalties for exceeding allocations to remain in effect.</p> <p>Water use for public health and safety purposes only.</p> <p>Staff directed to operate WRF.</p>

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CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

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Email: green@ammcglaw.com

September 15, 2021

VIA EMAIL

Forest Donovan
725 Front Street, Suite 300
Santa Cruz, CA 95060
Email: forest.donovan@coastal.ca.gov

Re: Hadian 6785 Cambria Pines Road, Cambria (DRC2020-00107) &
Bookout 6725 Cambria Pines Road, Cambria (DRC2019-00214)

Dear Mr. Donovan:

This firm represents (i) Al Hadian, the owner of property located at 6785 Cambria Pines Road, Cambria (DRC2020-00107); and (ii) Ralph Bookout, the owner of property located at 6725 Cambria Pines Road, Cambria (DRC 2019-00214). Both properties are single-family residential lots and represent two of the eight lots that remain undeveloped within the West Cambria Tract 1804 (“the Leimert Tract”). Both properties were connected to Cambria Community Services District’s (“CCSD”) water system in April 16 2001. The CCSD has since been supplying them with potable water and they have continued to pay a monthly water service fee to the CCSD. As such, both properties are referred to by the CCSD as “grandfathered meters” and they were specifically exempted from the Cambria Water Moratorium Ordinance adopted on November 15, 2001 (the “Moratorium”). They were also expressly recognized as such by the Coastal Commission in its approval of the North Coast Area Plan Amendment in 2007. Most importantly, both properties could be damaged by a misreading of the North Coast Area Plan Amendment which would result in the elimination of their vested rights in “grandfathered meters” (2019-A-3-SLO-19-0199 “Hadian-2019 appeal”). As “grandfathered meters”, Mr. Bookout’s and Mr. Hadian’s properties represent the CCSD water service commitments existing as of November 15, 2001 (“existing commitments”) and therefore are exempt from the Moratorium and the obligation to assure no adverse impacts on water resources. Thus, despite the clear language of the North Coast Area Plan Amendment, the Coastal Commission, through its Staff, has revised the North Coast Area Plan to limit exempt properties, resulting in a loss of vested rights by our clients. The Coastal Commission Staff’s position violates the North Coast Area Plan, as adopted, the Moratorium, and the constitutionally protected rights of the holders of existing commitments (e.g., “grandfathered meters”). We respectfully request that the rights of these “grandfathered meters” be recognized, as required by law, and find no substantial issue with respect to these “grandfathered meters” lots developments.¹

¹ We find it inexplicable that 100% of every Leimert Tract lot that applied for a permit were approved and developed after the Moratorium, between 2007 and 2019, with the latest approved in 2019. It would seem that sometime prior to denial of Mr. Hadian’s previous application, the Coastal Commission, for some unspecified reason, has changed its position as to the Leimert Tract lots in violation of the 2007 NCAP amendment.

While there is a long history underlying attempts to restrict development within the Cambria Community, it is best for our purposes to begin with the adoption of the CCSD's water allocation ordinance ("Ordinance No. 2-2000") by which the CCSD sought to allocate its limited water resources while balancing the interests of a water shortage with the rights of property owners with existing commitments from the CCSD. In doing so, the CCSD Board essentially found that it lacked the water resources to serve all potential developments within its jurisdiction. In that light, based on a thorough water resource study and by working with the Coastal Commission, on October 23, 2000, the CCSD adopted Ordinance No. 2-2000. By the Ordinance, the CCSD essentially found that it had water resources available only to provide for its "Existing Commitments," but that other potential development (those without a water commitment existing) would have to wait until the development of additional resources. Existing Commitments is defined in Ordinance 2-2000 as follows:

"Existing Commitments"- Service commitments made to District customers, including Active Service Commitments, Non-Active Service Commitments, and Parks/Landscaping/Irrigation Commitments, as established by Exhibit B inventories Non-Active Service Commitments and Parks/Landscaping/Irrigation Commitments. (Bold added).

The Ordinance 2-2000 goes on to define "Non-Active Service Commitments" as:

This category consists of parcels with what the District has determined have pre-existing (grandfathered) commitments for service, but which do not have active service uses. Non-Active Service parcels are listed by current Assessor Parcel Number ("APN"), prior APN (if applicable), address, account number (if any) and status, including the type (single-family residential, multi-family residential, commercial, or affordable housing) and number of EDUs assigned. (Bold Added)

Based on the CCSD lists provided at the time², the breakdown of properties that were entitled to be served under Ordinance No. 2-2000 was as follows:

Outstanding Service Commitments (Will-Serve Letters Issued):	65
Active Service Meters:	14
Connection Permits:	20
Grandfathered Meters:	25
Total:	124

Thus, at the time of the CCSD adoption of Ordinance No. 2-2000 in October 23, 2000, there were only 124 properties exempted from the Moratorium and entitled to water connection, based on

² Coastal Commission Monaco staff Report (A-3-SLO-02-050) dated 7/8/02 on page-9 also describes the CCSD exempt properties "At the time the moratorium was declared, there were 124 outstanding commitment letters remaining, including 14 with active service meters, 20 with connection permits, 25 grandfathered meters (defined as those projects established prior to the development of the 1991 CCSD waiting list, these meters with an existing service commitments, or those projects with water meters already in place at the time of the moratorium), and 65 previously issued intend-to-serve letters."

the available water supply. **The Leimert Tract, which includes the Hadian and Bookout properties, make up 18 of the 124 entitled properties.** All properties in the Leimert Tract were deemed “existing service commitments” with a more refined definition of “grandfathered meters” at the time the Ordinance 2-2000 was adopted. On April 16, 2001 “grandfathered meters” water meters of all 18 lots at Leimert Tract were installed and connected to the CCSD. On November 15, 2001 the CCSD enacted the moratorium ordinance and excluded all its commitments existed to date from moratorium. In 2007 the Coastal Commission approved the CCSD moratorium and its exempted commitments known as “certified 2007 NCAP amendment”. As such, the plain meaning of “grandfathered” is that the moratorium ordinance being enacted in November 15, 2001 does not apply to the “grandfathered meters” and the grandfathered meter lots are in conformance with the 2007 NCAP amendment to develop. Attached to the CCSD Ordinance 2-2000 (as Exhibit B) is the comprehensive list of exempted properties from the Ordinance. Included on this list of exemptions are all properties in the Leimert Tract (Including Hadian and Bookout).

Taking a more focused look at the exemptions from the Moratorium, however, we find that the real crux of the CCSD’s decision was based on the number of Equivalent Dwelling Units (“EDUs”) generated by the exempted properties.

Except as provided in Section 2.5-2(A)(3) (Parks/Landscape/Irrigation Commitments), Equivalent Dwelling Units (EDUs) shall be used as the basis for the allocation of water and sewer connections by the District...

At the time the Moratorium was adopted, the estimated amount of “committed” or exempt EDUs was 202.31. The specifics of this EDU commitment are set forth at pages 9-10 of Staff Report for Coastal Development Permit Application A-3-SLO-02-050 (“Monaco-7/18/02”). We have attached pages 9-10 for convenience but summarized, it spells out the exempt properties on page 9 and in a graph on page 10 erroneously labeled as “Outstanding ‘Pipeline’ Projects After CCSD Connection Moratorium.”³ In that graph, which appears to have been created and certainly relied on by the Commission, “grandfathered” single-family residential “committed” EDUs are shown at 25. Those 25 include the undeveloped Leimert lots, including Mr. Hadian’s and Mr. Bookout’s properties.

In 2007, the Coastal Commission adopted changes to the North Coast Area Plan (“NCAP”) which added the following as a new Communitywide LCP Standard (certified 2007 LCP amendment).

1. ***Water Service in Cambria. Until such time as may be otherwise authorized through a coastal development permit approving a major public works water supply project for Cambria, new development not using CCSD connection or water service commitments existing as of November 15, 2001 (including those recognized as “pipeline projects” by***

³ The reason the title is erroneous is that “pipeline projects” seems to be a term that is used loosely by the Commission Staff and, as herein later mentioned, was misused in an attempt to redefine exempt properties. None of the Leimert Tract properties, at least to our knowledge, fall within the narrow definition of “pipeline properties” later applied by the Coastal Commission Staff.

the Coastal Commission on December 12, 2002 in coastal development permits A-3-SLO-02-050 and A-3-02-073, shall assure no adverse impacts to Santa Rosa and San Simeon Creeks. (Bold added).

Therefore, taking the plain meaning of the NCAP, there are two types of commitments that are not subject to the Moratorium. One is new projects not using CCSD connection (meaning those projects that can secure their potable water use from any other source but the CCSD connection). The second is new projects with a water service commitment existing as of the date of the Moratorium which **includes, but is not limited to**, “pipeline projects”. As noted above, in Monaco staff report (A-3-SLO-02-050) the Coastal Commission staff recognized that there are certain existing water commitments, including those for the Leimert Tract, totaling 202.31 EDUs. Therefore, under the plain meaning of the NCAP amendment, a “water service commitment” (e.g. Hadian and Bookout) supports development without the need to assure “no adverse impacts to Santa Rosa and San Simeon Creeks.” Those commitments were included in the CCSD’s water demand commitment and therefore the subject properties are free to develop under the Moratorium and are not required to analyze impacts on Santa Rosa Creek and San Simeon Creek. Development occurring in conjunction for those commitments does not raise a substantial issue or create any ability in the Coastal Commission to intervene in their development process based on water service.

The misreading of the NCAP by Coastal Staff, referenced in the opening paragraph of this letter, is evidenced in the application filed by Mr. Hadian and denied by the Coastal Commission in 2019-A-3-SLO-19-0199 (“Hadian-2019 Appeal”). In the appeal, the Coastal Commission Staff seems to ignore the actual language of the NCAP amendment and, instead, limits the exemptions only to “pipeline projects” which it defines as projects that, as of November 15, 2001, had a will-serve letter from the CCSD and a project application before the County of San Luis Obispo. Staff contends that these very limited exemptions were created out of a sense of fairness and goes on to say that there are no longer any “pipeline projects”.

This position to limit the CCSD commitments to just pipeline projects completely misconstrues both the Moratorium and the NCAP amendment, neither of which limit the exemption to “pipeline projects.” In fact, as noted by the Commission Staff, “pipeline projects” were projects **without an existing water** commitment (meaning without a CCSD water meter) but which had a will serve letter from the CCSD and a development application pending with the County. It is important to recognize that *the definition of a “pipeline project” is irrelevant and has absolutely no bearing on properties, such as the Hadian and Bookout properties, which had their water meters in place and were connected to the CCSD as of November 15, 2001 and were clearly recognized as “water service commitments” by the CCSD and the Coastal Commission through the plain language of the 2007 amendment to the North Coast Area Plan.* “Water service commitments”, by the express terms of the NCAP, are simply exempt from the Moratorium and, under the North Coast Area Plan, are, as a matter of law, allowed to develop without regard to the impact on San Simeon Creek or Santa Rosa Creek. In essence, the impact of those two categories of development were “baked into” the Moratorium and the NCAP, both of which recognized that such projects constituted part of the 202.31 EDUs outstanding CCSD water commitment. That outcome is mandated by the language of the NCAP and it is somewhat befuddling that the Coastal Commission Staff changed the narrative so that

the exemption is limited to pipeline projects. (This new limitation is even more curious when it is realized that 100% of every lot at Leimert Tract that applied for permit were approved and developed after the Moratorium, between 2007 and 2019).

Further, the Commission's attempt to redefine "pipeline projects" as all-encompassing is blatantly inconsistent with more accurate statement made by Coastal Commission Staff in a letter to County Planning Staff on February 16, 2021. In that letter, Commission Staff writes:

We understand that pipeline projects are a specific subset of existing commitments and the larger categories of development In other words, all pipeline projects are existing commitments, but not all existing commitments are pipeline projects.

Commission Staff's recognition that "existing service commitments" is a broader category than simply pipeline projects, is a welcome recognition of the legal and historic status of water service rights within the CCSD. As noted by the Coastal Commission in its denial of Mr. Hadian's previous application, pipeline projects were a creation based on fairness and an attempt to avoid litigation by those applicants who had a will serve letter in hand and an application before the County. However, what the Commission failed to recognize in the previous application is the broader category of users who, at the time the Moratorium was adopted, were connected to CCSD water service. Those connections were recognized as having vested rights and defined appropriately as "grandfathered" connections. Hadian and Bookout are two of that small group of grandfathered connections (most of which have been built out) and are entitled to be treated as such and, in fact, were treated as such for nearly two decades while the majority of the Leimert Tract was developed. There is no legitimate argument otherwise and there is certainly no substantial issue for consideration by the Commission.⁴

We believe that Coastal Staff might seek some traction on the fact that the CCSD is issuing a new "confirmation of water availability" letter to Mr. Hadian and Mr. Bookout and contend that such new letters are somehow proof that there was no water meter connection in April 16, 2001. However, these new letters are requested by the County and provided by the CCSD to confirm that the CCSD water service connection, which has been in place since April 16, 2001, is still active. (A copy of Mr. Hadian's "Confirmation of water availability for new construction with grandfather meter" letter is attached). This new letter simply confirms what is apparent from a review of the documents; the remaining eight undeveloped lots in the Leimert Tract were connected to the CCSD in April 16, 2001 and the CCSD has been supplying them potable water ever since. They have been paying their monthly water services fee for the past two decades.⁵ It is worth mentioning that both Hadian and Bookout are using their potable water currently for irrigation and erosion control of their properties.

⁴ We want to emphasize that the previous denial of Hadian's property on the basis that it wasn't a "pipeline project" and only pipeline projects are exempt from the moratorium was completely erroneous. Hadian and Bookout (as grandfathered meter properties) have vested rights to a water connection that are far superior to any rights that may have gone with pipeline project status. We urge the Commission not to repeat its error but, rather, to recognize that there is no substantial issue raised by these single-family residential projects.

⁵ The Leimert Tract properties some retrofit obligations under an existing settlement agreement.

Forest Donovan
Sept. 15, 2021
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The exemptions in the Moratorium and NCAP were created to avoid a challenge that the imposition of the Moratorium would deprive those connected and with commitments of their private property rights due process or without the payment of just compensation. Read by their plain language, those exemptions afford exactly that protection to the CCSD. However, if the Coastal Commission is going to change its position (in violation of NCAP) to ignore the existing commitment exemption and create, by fiat, a narrow definition of exempt development, the Coastal Commission is opening up both itself and the CCSD to an action that will ultimately uphold the rights of those impacted property owners, such as Mr. Hadian and Mr. Bookout, and result in significant damage awards. We urge the Coastal Commission Staff to remain consistent with the Moratorium and NCAP and find no substantial issue with respect to the subject development applications.

Very truly yours,

ADAMSKI MOROSKI MADDEN
CUMBERLAND & GREEN LLP



THOMAS D. GREEN

TDG:jac-tlg
Enclosure

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Sept. 15, 2021
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Kip Morais
County of San Luis Obispo Planner
Email: kmorais@co.slo.ca.us

Lot - 2
10-19-2020

CAMBRIA COMMUNITY SERVICES DISTRICT

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October 15, 2020

Al Hadian
18581 Caspian Court
Granada Hills, CA 91344

Requires CCSD Retrofit Inspection prior to Permit Finalization

Subject: **CONDITIONAL CONFIRMATION OF WATER & SEWER AVAILABILITY FOR DEVELOPMENT
USING GRANDFATHERED METER (LEIMERT TRACT 1804 – LOT TWO)¹**
ASSESSOR'S PARCEL NO. 013-085-002
6785 CAMBRIA PINES ROAD – NEW SFR WITH DETACHED GARAGE/WORKSHOP

Cambria Community Services District (CCSD) has reviewed the plans provided to San Luis Obispo County for a Permit to improve the above property. San Luis Obispo County requires written assurance that water and sewer service is available from the CCSD. **Said project is authorized with the conditions as indicated below:**

Approval Conditions (Required if Checked)

<input checked="" type="checkbox"/>	Demand Offset Required. Upon issuance of a county-approved building permit, Applicant shall have the obligation to provide retrofits in the district's service area that offset the water demand of the project, as represented by the required number of points as determined by district staff. The district may permit all or a portion of the required points to be satisfied by payment of in-lieu fees for points from the points bank. A connection permit will not be issued until compliance with the retrofit program is achieved.
<input checked="" type="checkbox"/>	All existing and new water fixtures must meet current standard under Title 4 of District Code. CCSD plumbing code is more stringent than the Cal Green Plumbing Code. Visit https://www.cambriacsd.org/retrofits-remodels for more information.
<input checked="" type="checkbox"/>	Applicant must go online to schedule a retrofit inspection before permit finalization. Visit https://www.cambriacsd.org/water-fixture-retrofit-program to schedule.
<input checked="" type="checkbox"/>	Applicants must work with Cambria Fire Department & CCSD's Water Department staff to determine water meter size requirement to serve this project (if applicable).
<input type="checkbox"/>	Provide proof that the underlying lots are one legal parcel, or otherwise complete a lot merger of the underlying lots within 90 days of this notice.
<input type="checkbox"/>	Under CCSD regulations, remodels must not change the existing water service status of the property by creating additional separate dwelling units. WARNING! A GUEST UNIT MAY NOT BE RENTED AS A SEPARATE DWELLING.

¹ APN 013-085-002 is one of eighteen lots granted water service via the July 12, 1999 Settlement Agreement and Full Mutual Release executed between the CCSD and Cambria West/Leimert. Connection fees were satisfied, and water systems were installed at all eighteen lots by April 16, 2001. Eight of the original eighteen lots, including Lot Two, remain on the CCSD's Existing Commitment List as of the date of this letter.

Exhibit 6

A-3-SLO-21-0065

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

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

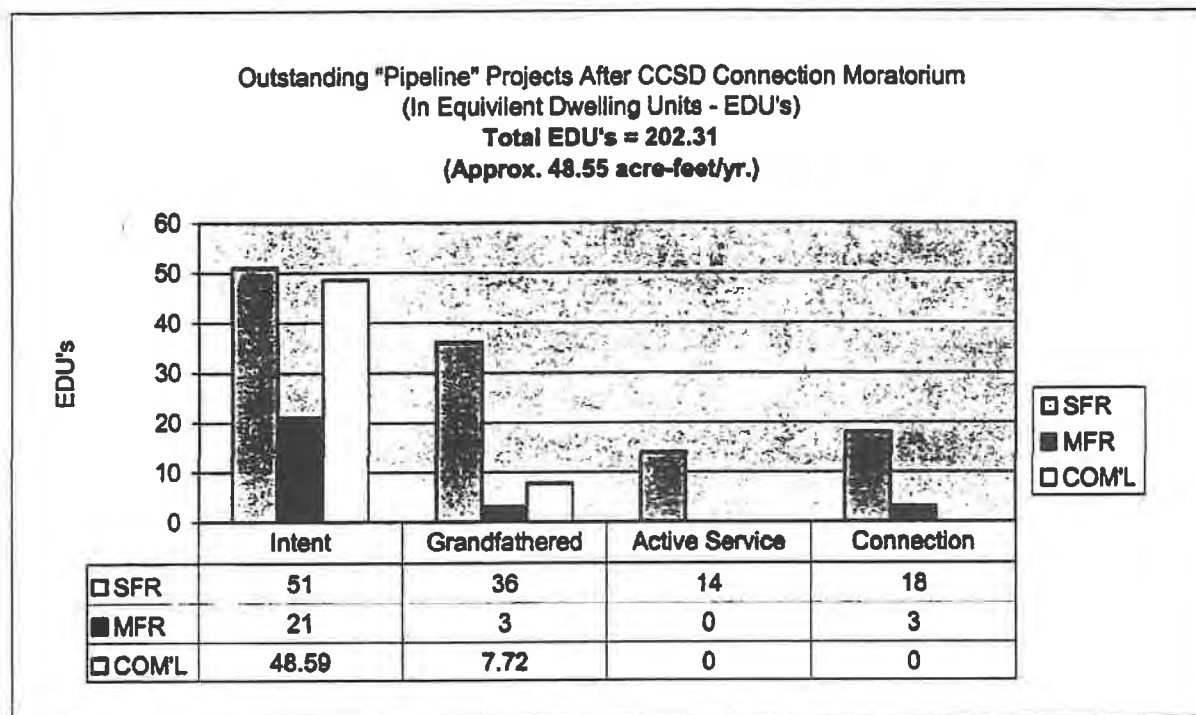
As mentioned, the CCSD declared a water emergency on November 15, 2001. At the time the moratorium was declared, there were 124 outstanding commitment letters remaining, including 14 with active service meters, 20 with connection permits, 25 grandfathered meters², and 65 previously issued intent-to-serve letters (including the 38 approved commitments of the Oct 25, 2001 CCSD Board Meeting). These outstanding commitments include both residential and commercial development totaling 202.31 "Equivalent Dwelling Units"(EDU's)³, or approximately 48.55 acre-feet of water. In 2000, the CCSD supplied a total of 798 acre-feet of water. Based on these figures, the total "pipeline projects" represent an approximate 6.1% increase in total water supplies needed to serve these outstanding commitments.

The following graphic represents the outstanding "pipeline project" commitments displayed in equivalent dwelling units (EDU's) following the declaration of a moratorium on new water connections by the CCSD.

² Grandfathered meters are defined as those commitments established prior to the development of the 1991 CCSD waiting list, those meters with an existing service commitment, or those projects with water meters already in place at the time of the moratorium.

³ In Cambria, an Equivalent Dwelling Unit (EDU's) is equal to approximately 217 gallons (.24 acre feet) per dwelling unit.





The "pipeline projects" list presents a starting point when analyzing individual projects for recommendation to the Commission. It is important to note, however, that being on this list does not ensure approval by the Commission. Each project on the list must be evaluated on its individual merits. All projects included must be analyzed for the amount of water used and for consistency with the complete spectrum of governing LCP policies and ordinances.

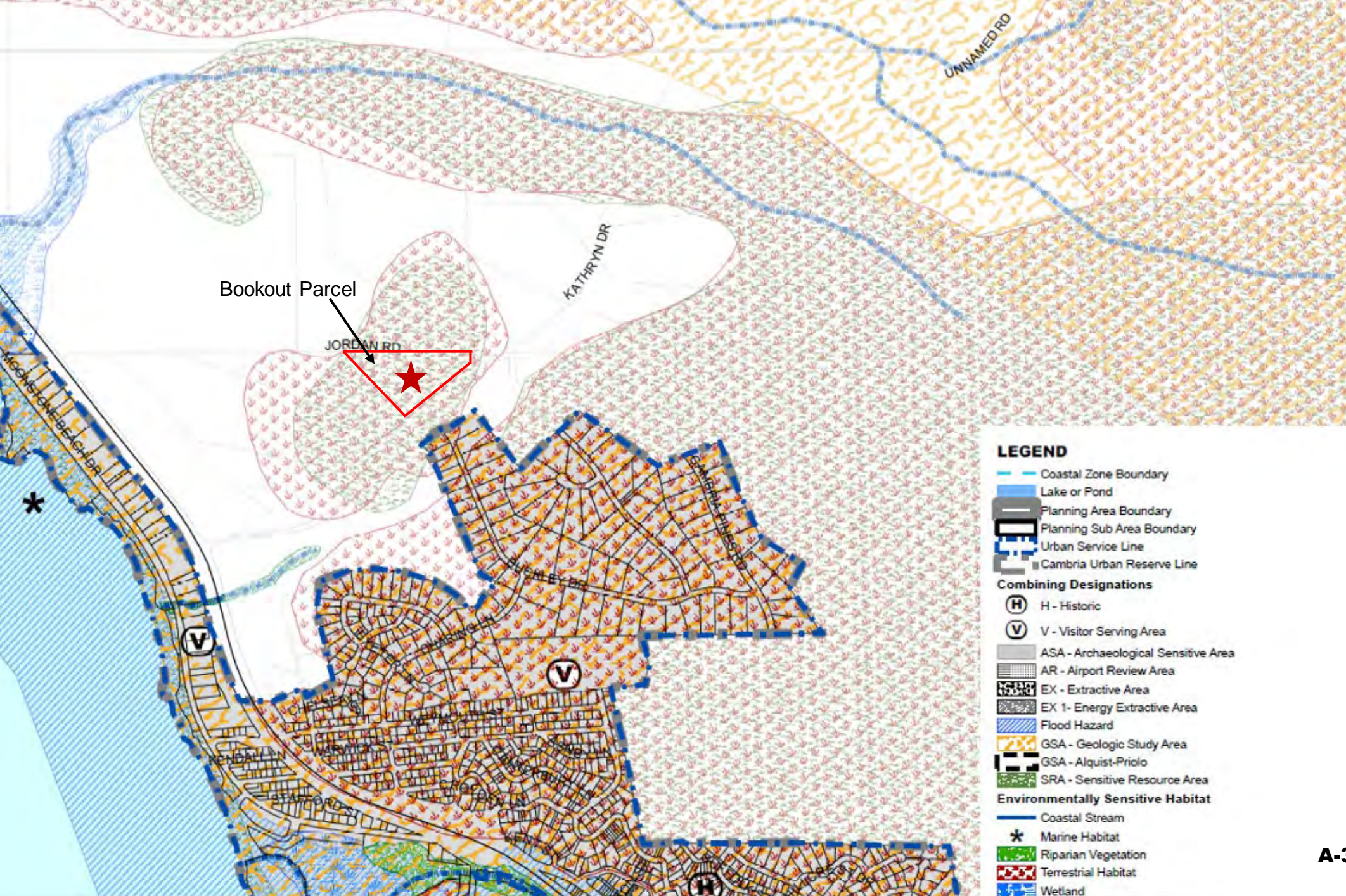
2. Substantial Issue Analysis

The issue brought forth by the appellant relates to the adequacy of available water supplies to support new development. In terms of this coastal development permit analysis, water supply data presented supports a finding that the standards of the certified LCP to assure sustainable new development are not being met. Specifically, Public Works Policy 1 requires that:

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

The subject lot is an existing legal parcel. The issue presented here is whether there is adequate water to serve this parcel as well as all of the existing developed parcels in Cambria, as it is clear there is not enough water to serve all of the existing developed and all of the vacant parcels (build-out). The CCSD has, by allocating water service to this project found that adequate water is available for this project





CALIFORNIA COASTAL COMMISSION

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February 16, 2021

Planning Department
976 Osos St., Room 300
San Luis Obispo, CA 93408

Re: Agenda Item 6 and 7. Coastal Development Permits DRC2019-00214
(Bookout) and DRC2020-00107 (Hadian)

Dear Planning Department Hearing Officer,

Thank you for providing our office with the opportunity to comment on the above-referenced agenda items regarding two proposed residences in Cambria. As the County is aware, the Commission has appealed and denied several proposed residences in Cambria the last few years, including a 2019 denial of a residence proposed by Mr. Hadian. This letter is in response to the County's new interpretation of the North Coast Area Plan (NCAP) policies and the applicants representative's February 10, 2021 letter. Namely, the County and the applicants both assert that "pipeline projects" are separate and distinct from the "existing commitments" list maintained by the Cambria Community Services District (CCSD). The County and applicants further state that existing commitments, including all projects within the Leimert Tract, are exempt from the NCAP policy that requires new development in Cambria to show the project will have "no adverse impacts to Santa Rosa and San Simeon Creeks" and all other applicable LCP policies. We disagree, as explained in more detail below.

First, we understand that pipeline projects are a specific subset of the larger category of existing commitments and that these are not two distinct categories of development. We do agree that pipeline projects are those that had secured a CCSD will-serve letter and that the County had accepted an application for processing prior to November 15, 2001. However, our understanding is that all pipeline projects were included in the CCSD existing commitments list.¹ In other words, all pipeline projects are existing commitments, but not all existing commitments are pipeline projects. We have long requested a list of pipeline projects from both the CCSD and the County, but this list has still not been provided. Our understanding is that there are no pipeline projects left. The two projects at issue here were proposed in 2019 and 2020. Thus, even if there were

¹ We also note that the CCSD has continued to add projects to the "existing commitments" list after 2001 and do not agree that the list previously provided constitutes the correct list. The existing commitments list is finite and only includes projects that were on the list in 2001. The list that was recently provided by the County was created in 2020 and was not in existence in 2001.

pipeline projects remaining, these projects are clearly not in the pipeline project category as they did not have a will serve letter and application in process in 2001.

Second, we disagree that existing commitments do not need to meet the NCAP "no adverse impacts to Santa Rosa and San Simeon Creeks" standard. This policy states that "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" (emphasis added). This policy clearly differentiates between projects **using** water connections and those that are not. We recognize that there were a handful of non-pipeline projects that were approved between 2001 and 2007. The intent of this policy is to capture all development that had connected to the water system and began using water service by the time the 2007 NCAP update was approved. All other new development not actively utilizing water service must meet the "no adverse impacts" standard, which all evidence suggests is not currently possible. The only exception to the NCAP "no adverse impacts to Santa Rosa and San Simeon Creeks" standard was for pipeline projects, of which these projects do not qualify and of which there are no projects remaining.

Finally, as we have explained in prior staff reports, even if pipeline projects were to exist, other LCP coastal resource protection policies (e.g. those related ESHA, Groundwater Basins, Watersheds, Coastal Streams and Riparian Habitats, etc.) are all applicable to the project and no new connections in Cambria would be able to be found consistent with these policies. Compliance with all LCP policies and standards is required by CZLUO sections 23.01.033 and 23.01.033.034. Moreover, the NCAP states that the pipeline project allowance was based, in part, on the CCSD's "reliability conclusions of the CCSD's Water Supply Analysis during a November 15, 2001 meeting." In other words, the CCSD believed at the time that there was sufficient water to serve the remaining pipeline projects without adverse impacts. The overwhelming evidence gathered since that time suggests that the CCSD's 2001 conclusions were incorrect and there is not sufficient water to serve even existing development. Additionally, any issues of procedural fairness as an exception for pipeline projects has substantially diminished, as almost 20 years has passed since the moratorium was enacted and all Cambrians have been aware of the community's water scarcity issues during this time.

The applicants representatives' February 10 letter states that they are dumbfounded by the Commission's position. However, the Commission has repeatedly and consistently made it's perspective clear. In the 2002 appeal staff report for the project referenced in the NCAP policy, A-3-SLO-02-050, the Commission found that "[t]he "pipeline projects" list presents a starting point when analyzing individual projects for recommendation to the Commission. It is important to note, however, that **being on this list does not**

ensure approval by the Commission. Each project on the list must be evaluated on its individual merits. All projects included must be analyzed for the amount of water used and ***for consistency with the complete spectrum of governing LCP policies and ordinances.***” As explained above, while a handful of projects have previously been approved based on earlier erroneous conclusions that sufficient water was available, all available information gathered since 2001 suggests that the Cambria’s water supply is insufficient to serve even existing development, including the 2014 water shortage emergency declaration.

We will note that it is Cambria’s lack of water, not the Commission, that has prevented new development from being approved in the community. The Commission has continued to evaluate new development based on substantial evidence regarding the reliability of Cambria’s water supply, as should the County in the current proposals. Should Cambria secure a new sustainable water supply or conduct acceptable instream flow studies to demonstrate that existing water supplies are adequate to serve new development, as the Commission has suggested for decades, new development could potentially be approved.

In short, our office has not changed our opinion that new connections in Cambria cannot be found consistent with the LCP and must be denied. During the last Commission denial of a Cambria project, several Commissioners expressed strong frustration that the County and CSSD continues to approve projects when the Commission’s direction has been overwhelmingly and unanimously clear. These two projects, if approved, are very likely to be appealed and denied. We would strongly encourage the County and the CCSD to focus on securing a new sustainable water supply for the community, rather than continue to waste staff time and energy on individual projects that have very little chance of success. Hopefully this helps clarify our position.

Sincerely,

Brian O’Neill
Coastal Planner