**CALIFORNIA COASTAL COMMISSION**
CENTRAL COAST DISTRICT
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
PHONE: (831) 427-4863
EMAIL: CENTRALCOAST@COASTAL.CA.GOV
WEB: WWW.COASTAL.CA.GOV

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| Staff: | Ryan Moroney - SC |
| Staff Report: | 7/24/2026 |
| Hearing Date: | 8/12/2026 |

# STAFF REPORT
# CDP APPLICATION

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| **Application Number:** | **A-3-SLO-24-0030** |
| **Applicants:** | Dirk and Bram Winter |
| **Project Location:** | 4005 and 4039 Burton Drive, between Burton Drive and Santa Rosa Creek, in the unincorporated community of Cambria in San Luis Obispo County. |
| **Project Description:** | Conversion of an unused (since 2011) former commercial structure into 8 hotel units, conversion of an existing gift shop/cafe into 3 hotel units, and construction of 3 new detached hotel buildings with 15 hotel units on an existing parking lot, to create a new hotel complex with 26 hotel units with a new 31-space surface parking lot. |
| **Staff Recommendation:** | Approval with Conditions |

## SUMMARY OF STAFF RECOMMENDATION

The Applicants propose to construct a 26-unit hotel complex with surface parking out of an unused (since 2011) former restaurant/commercial structure, an existing gift shop/cafe, and an existing surface parking lot on a 1.2-acre property in downtown Cambria adjacent to Santa Rosa Creek. On appeal of a San Luis Obispo County CDP approval for the project, the Commission on September 12, 2024 found that the County's action raised a substantial issue of conformance with the County's LCP due to questions about water supply availability (and associated habitat issues related to water extractions), adequacy of setbacks from Santa Rosa Creek, and lower cost accommodations, and took jurisdiction over the CDP application. The proposed project evaluated herein is the same as what the County previously approved and with which the Commission found substantial issue.

As described in detail in this report, the water situation in Cambria is complex, but the overall summation is that the community has suffered from well publicized water supply inadequacies for decades. Its supply is solely from two local creek systems, one of

which is only supposed to be used on an emergency basis but nevertheless has been used to augment supply essentially every year. And in addition to serving as a municipal domestic water source, these creeks are also critical habitat for listed aquatic species, where too little water remains to adequately support those species, notwithstanding permit requirements to do so. In light of these constraints, the Cambria Community Services District (CCSD) has had a moratorium on most new water connections for 25 years, and the LCP prohibits any development that will increase water demand on the creeks or otherwise adversely affect them. These issues are not new, and have been the subject of Commission deliberations and regulatory actions in various LCP amendments and CDP and appeal actions for decades. It is against this regulatory, infrastructure, and coastal resource backdrop that this proposed project is evaluated.

The County and the CCSD calculated that the project site could accommodate a proposed development that used up to about 540,000 gallons per year (gpy), or about 1,500 gallons per day (gpd). In coming to that conclusion, they calculated the amount of water that a fully operating restaurant and a fully operating plant nursery would together use at full capacity for a year. The County then determined the hotel project would use about 417,000 gpy of water (based on about 1,150 gpd, or about 44 gallons per room per day), and thus the project could be accommodated within the County/CCSD water budget for the site. However, there are numerous flaws with this analytical reasoning.

For one thing, the restaurant last operated 15 years ago in 2011, and the 'nursery' is essentially a gift shop and not an actual plant nursery, so the comparison isn't even accurate as to use. Thus, neither use is actually operating in that form, let alone at full capacity all day every day of the year. In fact, in looking at current water usage, the site actually only uses about 12,000 gpy (or about 33 gpd, which is significantly less than even <u>one</u> residence uses in Cambria). As such, there is actually quite minimal 'flowing water' at this site, and has been for some time. In fact, even when the restaurant was actually operating 15 years ago, CCSD records indicate that it used an average of about 230,000 gpy (or about 630 gpd). Put another way, when the restaurant operated and with an operating gift shop, the site would use about 242,000 gpy (or 663 gpd), which is less than half of what the County/CCSD identified. This is important because the Commission has focused on the difference between such actual water use versus estimated proposed water use (as opposed to hypothetical or 'paper' water exercises) in making these types of LCP determinations where limited water supply is leading to resource damage, both in Cambria and elsewhere.

One version of looking to actual water use is to focus on the 12,000 gpy that the site currently uses, and to focus on that as the allowable water budget for the proposed project as it is the most direct 'existing versus proposed' comparison. While probably most protective of creek resources as it limits water use to that that exists today, and dispels the need for additional water withdrawals from CCSD's overtapped creek sources, it also would not come close to providing for a viable hotel project (and actually couldn't even accommodate the water demand of even a single residence).

A different version of looking to actual water use recognizes that there is an existing building on the site that once housed, and could potentially house again, a water-using restaurant, and to recognize that restaurant's actual amount of water use as part of the 'existing' comparison. Doing so also recognizes that a purchaser of the property might reasonably presume they could use the space for restaurant use akin to what was previously the case, even if site improvements might be necessary. And because restaurants are not generally operating at full capacity 24/7, water use fluctuates, and these types of actual use numbers are much more valuable than some sort of hypothetical restaurant use at full capacity. Thus, another potential analytic way to understand the project site's water usage is to add the existing gift shop usage of about 12,000 gpy to the previous restaurant's usage of about 230,000 gpy, for a total of 242,000 gpy, where that would serve as the available water budget for the site. While not what the site is currently using, it can reasonably be understood as what the site would be using with an active restaurant as it was in the past when combined with the current gift shop use, and serves as another way to understand the site's baseline water usage for this proposed project.

Putting all of this together, there appear to be three primary ways of understanding a water budget within which proposed development must conform: (1) actual current existing water use, which would not allow for any version of the proposed project but would have the least impact on the creeks, (2) an estimate of current water use were the restaurant to be operating along with the current gift shop use, which would increase demand on the water supply system compared to current water use by about 0.7 acre-feet per year (afy); and (3) using CCSD's 'max' estimates, where the increase on the system would more than double compared to the second option (adding about 1.6 afy of new demand), and which would be expected to have the most adverse impact on LCP-protected resources. Staff believes that it would be appropriate under the current set of circumstances to focus on the second option,[1] as it represents the most accurate assessment of what the site would use if it were actually operating as a gift shop and a restaurant, and appropriately balances a reasonable understanding of water usage at the site with the ability to also provide for a high LCP priority visitor-serving overnight accommodation use in a central walkable location in town. Doing so results in a water budget of 242,000 gpy. Per CCSD's water estimates, this budget would appear capable of accommodating a 15-unit hotel project. However, the Applicants believe that they can still accommodate their proposed 26 units within this budget. They indicate that CCSD's estimate of 44 gallons per hotel room per day includes things like landscaping and laundry services, whereas this hotel does not include such elements. In fact, eliminating on-site laundry (and ensuring such off-site laundry services are outside of the San Simeon/Santa Rosa Creek systems as proposed) and not having a large pool would eliminate some of the more water-intensive features of hotels.[2] And the Applicants'

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[1] Such approach is also generally consistent with the Commission's approval of the American Tin Cannery hotel in Pacific Grove (CDP A-3-PGR-22-0004), where the Commission similarly capped water usage at 18.53 acre-feet per year based on that amount being what the site had previously used in the past and what it could reasonable use today should it be at full occupancy (although it was actually using much less than that amount in terms of actual flowing water when the Commission approved the project), thereby essentially changing the types of uses using the site's water but keeping the amount of water roughly the same.

[2] Hotels are estimated to generate about 8 pounds of laundry per room per day, and use about 2 gallons of water per pound. Meaning each of the 26 rooms would be expected to reduce their water usage by 16 gallons per day, or down to 28 gallons per day per room, without such laundry services. With other

experience in operating other hotels in Cambria gives them expertise and confidence that they can accommodate their project within the water budget.

Thus, as long as water use is below 242,000 gpy, then the Commission can find the project consistent with the LCP on this point. Put another way, the concern isn't necessarily the number of hotel units, but rather how much water they actually use. Special conditions thus cap water use to this amount, require CCSD approval that the project can be operated within such budget, and require audits and remedial measures as part of hotel operation to ensure water budget compliance over time. As proposed and conditioned, the end result is a hotel use that will match the amount of water the site has historically used, and can be found consistent with the LCP on this point.

Next, with respect to Santa Rosa Creek setbacks, the LCP requires development to be set back 100 feet from the edge of riparian vegetation, and allows for reductions under certain criteria specific to accommodating a reasonable amount of principally permitted use. The former restaurant and parking lot at the site are sited essentially at the edge of riparian vegetation, leaving no setback currently. The proposed project would redevelop the site, replacing former uses and structures with new replacement uses and structures, which requires that such development be considered as new development that is measured against all of the LCP's provisions. Given that a 100-foot setback would be infeasible to provide for a level of principal permitted use at the site commensurate with its scale, a setback reduction can be considered under the LCP, where the applicable setback reduction criteria can be boiled down to identifying the amount of setback that can accommodate that level of use while both limiting adverse creek resource impacts and offsetting those that are unavoidable to the maximum extent feasible. Considering the site-specific conditions, including topography separating the parcel from the creek centerline and the special conditions limiting impacts to the riparian corridor, a 50-foot setback restored to native vegetation would buffer sensitive creek environs and still provide adequate space for the above-described level of use.

However, this buffer would require demolition of about half of the restaurant building, which includes an LCP historic designation that would suggest that such alteration is not required, and in fact shouldn't occur. Thus, there is clearly a tension here between the LCP's creek setback and historic character requirements. Absent any other specific LCP provision that provides direction on how to resolve such competing LCP concerns, it's essentially a judgment call as to how to approach the former restaurant building under the LCP. And in this case, staff believes this approach is most consistent with the LCP to retain the restaurant in situ so as to retain its historic character, including as such character contributes to a primary reason why Cambria is such a desirable place to live and visit in the first place. Thus, and while other cases may have different conclusions, in this particular case with this fact set staff recommends that the restaurant remain in place, but all other uses on site, including ancillary structures such

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proposed water reductions, such as minimal landscaping and no pool, it appears reasonable that the Applicants can accommodate their proposed 26 units within the identified water budget.

as parking and any other existing encroachments, must satisfy the 50-foot buffer.[3] Such buffer, along with complementary provisions addressing lighting and native landscaping both within the hotel itself as well as within the enhanced riparian corridor buffer, and water quality/stormwater control measures, can ensure appropriate creek protections from water-supply, water-quality, and habitat perspectives..

Finally, in terms of lower cost accommodations, the LCP mirrors Coastal Act direction and stipulates that lower cost accommodations shall be protected, encouraged, and where feasible, provided. Here, the Applicants have identified that it would be feasible to provide 6 lower cost rooms (at no more than $150 per night, which corresponds to 75% of the statewide average peak season rate consistent with the Commission's typical methodology on this point) for a 26-unit hotel, which is roughly 25% of the rooms overall. Staff believes that such lower cost on-site rooms, especially located in downtown Cambria which is a popular visitor destination, will be an important lower cost benefit, and are consistent with the LCP.

In sum, a project conditioned in the ways identified represents a balance between providing for a higher priority visitor-serving overnight accommodation in a prime part of Cambria with recognizing the very real constraints to development in this resource-rich community. The end result is a project that better respects that balance and those constraints, and that can be found consistent with the requirements of the LCP. The motion and resolution to approve the project subject to the staff recommendation are found on page 7 of this report.

[3] Almost 10,000 square feet of parking, asphalt, and other impervious surfaces currently within the 50-foot buffer would be removed in this scenario.

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# 1. MOTION AND RESOLUTION

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

> ***Motion:*** *I move that the Commission* ***approve*** *Coastal Development Permit Number A-3-SLO-24-0030 pursuant to the staff recommendation, and I recommend a* ***yes*** *vote.*

> ***Resolution to Approve CDP:*** *The Commission hereby approves Coastal Development Permit Number A-3-SLO-24-0030 and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the San Luis Obispo County Local Coastal Program. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.*

# 2. STANDARD CONDITIONS

This permit is granted subject to the following standard conditions:

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

2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.

3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.

4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.

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

# 3. SPECIAL CONDITIONS

This permit is granted subject to the following special conditions:

1. **Final Revised Plans.** PRIOR TO ISSUANCE OF THE CDP, the Permittees shall submit two full size sets of Final Revised Plans to the Executive Director for review and written approval. The Final Revised Plans shall be prepared by a licensed professional or professionals (i.e., architect, surveyor, geotechnical engineer, etc.), shall be based on current professionally surveyed and certified topographic elevations for the entire site, and shall include a graphic scale. The Final Revised Plans shall be in substantial conformance with the proposed (see **Exhibit 2**), shall clearly show the development's siting and design, including through elevation and site plan views, and shall comply with the following requirements and changes:

   a. **Water.** Water use at the site shall be limited to no more than 242,000 gallons per year (gpy), where any water that is used to support the site from off-site sources (e.g., off-site laundry services, etc.) that depend on Santa Rosa and/or San Simeon Creeks as a water source shall be considered on-site use. PRIOR TO ISSUANCE OF THE CDP, the Permittees shall submit clear evidence (including at a minimum written evidence of concurrence from the Cambria Community Services District (CCSD), and from the San Luis Obispo County Department of Environmental Health and the Central Coast Regional Water Quality Control Board, as applicable, for any proposed water recycling/reuse measures) to the Executive Director for review and written approval demonstrating that all of the uses and facilities on the site, including the number of hotel rooms, any restaurant/café space, any retail space, meeting rooms, pool/spa space, landscaping, and all other water-using features (and documenting their respective number of toilets, showers, faucets, and any other water-using fixtures and elements) will be under this water use threshold. The number of hotel units and the amount of space dedicated to other hotel features shall be modified to be within the identified water budget of 242,000 gpy. In addition, each year for the first five years after occupancy, and once again 10 years after occupancy, the Permittees shall submit to the Executive Director evidence of the site's actual water usage. Such reporting shall be certified for accuracy by CCSD, and shall include monthly breakdowns and shall confirm that the actual water usage is within the site's maximum allocation of 242,000 gpy. If any such report indicates that actual water usage is greater than 242,000 gpy, then the Permittees shall coordinate with the Executive Director, as well as the CCSD, San Luis Obispo County, and other relevant entities to develop a water use compliance plan designed to reduce water use to no more than 242,000 gpy. In such a case, annual reporting shall continue for at least three additional years (i.e., in addition to the five-years of annual reports and the ten-year report) or until the project's water usage is within the 242,000 gpy cap as documented in two consecutive annual reports, whichever is later.

   b. **Santa Rosa Creek Setback.** All development (with the exception of the existing historic restaurant building, but including any new hotel/structural development, as well as any ancillary development such as parking spaces and utilities) other than creek setback area landscaping and related measures (see subsection d below) shall be located no closer than 50 feet from the edge of riparian vegetation along Santa Rosa Creek as identified in Exhibit 3. Such setback area shall be clearly marked as "Santa Rosa Creek Riparian Setback" on the Final Revised Plans, and shall be restored and left in a natural state per Special Condition 1(d) below.

c. **Design.** All development shall be sited and designed (including to incorporate architectural details, building articulation, and varied materials) to effectively blend in with Cambria's forest/coastal village environment. The Final Revised Plans shall clearly identify in palette form all such proposed materials and treatments, and with a particular emphasis on the use of wood and stone, and shall include visual renderings from an adequate number of public vantage points as to provide representative coverage of the project. All windows shall be non-glare glass, all other surfaces shall be similarly treated to avoid reflecting light, and all windows shall be bird-safe. All signs and related project components shall be sited and designed to limit their number and visibility in public views, to seamlessly integrate into the surrounding environment, and to be subordinate to the forest/coastal setting, all to the maximum extent feasible.

d. **Landscaping.** All landscaping shall be identified on project plans and shall consist of low water-using, native, and non-invasive species appropriate to the Cambria area (with creek setback area landscaping also required to be riparian plant species), and shall be maintained in a litter-free, weed-free, and healthy growing condition (including through replanting and/or remediation to achieve consistency with this condition). No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, or as may be so identified from time to time by the State of California, and no plant species listed as a "noxious weed" by the State of California or the U.S. Federal Government shall be planted or allowed to naturalize or persist on the site.

e. **Lighting Minimized**. Exterior lighting shall be wildlife-friendly, shall use bulbs/lamps that minimize the blue end of the visible spectrum (i.e., use correlated color temperatures ≤3000 K), and shall be limited to the minimum lighting necessary for pedestrian and safety purposes. All lighting (exterior and interior) shall be sited and designed so that it limits the amount of light or glare visible from above (i.e., ≥90 degrees above nadir), from the Santa Rosa Creek riparian corridor, and from public viewing areas to the maximum extent feasible (including through uses of lowest luminosity possible (e.g., no more than 1,000 lumens near natural areas), warm temperature lighting, prohibiting lighting that blinks or flashes, directing lighting downward, etc.). All light fixtures shall be Dark Sky International approved or equivalent. The Final Revised Plans shall be submitted with documentation demonstrating compliance with these lighting requirements.

f. **Utilities.** All utilities shall be placed underground. All interior and exterior water-using fixtures, appliances, equipment, irrigation infrastructure, and other such components (e.g., faucets, toilets, showers, ice machines, dishwashers, irrigation etc.) shall be certified for low-flow (or ultra-low flow) and high-water efficiency use, and water conservation measures (e.g., easily accessible shut off valves, recirculating pumps, drip and/or micro-spray irrigation, etc.) shall be applied to the maximum extent feasible.

g. **Drainage and Runoff.** A post-construction drainage and runoff control system shall be identified that is sited and designed: to collect, filter, treat, and direct all site drainage and runoff in a manner intended to protect and enhance coastal resources as much as possible; to prevent pollutants, including increased sediments, from entering Santa Rosa Creek as much as possible; to filter and treat all collected drainage and runoff to minimize pollutants as much as possible prior to infiltration or discharge from the site; to retain runoff from roofs, driveways, decks, and other impervious surfaces onsite as much as possible; to use low impact development (LID) best management practices (BMPs) as much as possible; to be sized and designed to accommodate drainage and runoff for storm events up to and including at least the 85th percentile 24-hour runoff event (allowing for drainage and runoff above that level to be likewise retained and/or conveyed in a non-erosive manner); to direct all drainage and runoff not infiltrated on site to CCSD infrastructure able to handle the flows, and not directly to Santa Rosa Creek (i.e., there shall be no new outfalls or other infrastructure that discharges directly into Santa Rosa Creek); and to include ongoing maintenance and management procedures (including at the least provisions for annual pre-storm season and post-storm event evaluation and repair/maintenance) that meet professional standards for maintenance of such systems, and that will apply for the life of the project.

All requirements above and all requirements of the Executive Director-approved Final Revised Plans shall be enforceable components of this CDP. The Permittees shall undertake development in accordance with this condition and the Executive Director-approved Final Revised Plans.

2. **Hotel Units.** By acceptance of this CDP, the Permittees acknowledge and agree, on behalf of themselves and all successors and assigns, as follows:

a. **General Occupancy.** All hotel units shall be open and available to the general public. No individual ownership or long-term occupancy of the hotel units shall be allowed.

b. **Length-of-Stay.** No hotel unit shall be rented to any individual, family, or group for more than 29 consecutive days, nor for more than 14 days during the period from the Friday of Memorial Day weekend and Labor Day (inclusive).

c. **Conversion Prohibited.** No hotel unit shall be converted to a limited-use overnight visitor accommodation (e.g., timeshare or fractional ownership), a full-time occupancy condominium, or any other use arrangement that differs from the approved project.

d. **Lower Cost Units – Number.** The Permittees shall designate the following number of lower cost units on the Final Revised Plans (see Special Condition 1):

(1) 6 units for an overall 26-unit hotel; or (2) 25% of the overall number of units for a hotel that has a different number of overall rooms than 26 per Special Condition 1 (where any half number or higher is rounded up). Provision of the units so identified shall constitute full compliance with this subsection, and the number shall not be subject to increase absent a CDP amendment. Each lower cost unit shall contain either one bed at least queen-sized or two twin beds, and a full bathroom. Lower cost units shall be integrated into the overall hotel layout, and guests of lower cost units shall have access to the same hotel amenities as all other guests.

e. **Lower Cost Units – Rate.** The nightly rate for a lower cost room, single or double occupancy, shall not exceed $150 in 2026 dollars, adjusted once per calendar year by no more than the annual percentage change in the California Consumer Price Index for All Urban Consumers (CPI-U). The capped rate shall include all mandatory fees imposed by the hotel (e.g., parking, cleaning, resort, or administrative fees), and shall exclude (1) government-mandated taxes, fees, and assessments (e.g., sales tax and transient occupancy tax), (2) business improvement district (BID) charges and tourism marketing district or similar assessments passed through to guests, and (3) optional guest-purchased services. Lower cost rooms may be rented by anyone, and no income verification shall be required.

f. **Lower Cost Units – Publicity.** The Permittees shall identify the availability and rate of the lower cost units, in English and Spanish, on the hotel's website. Once per year, the Permittees shall notify, by mail or email, organizations selected by the Permittees that serve underserved communities of the availability of the lower cost units. Performance of these two actions shall constitute full compliance with this subsection.

g. **Annual Report.** By March 31 of each year following the first full calendar year of project occupancy, the Permittees shall submit an informational report to the Executive Director covering the preceding calendar year, including: (1) the number of designated lower cost units; (2) the average monthly rate charged for lower cost units and for market rate units; (3) monthly occupancy for the lower cost units; (4) the lower cost rate proposed for the current year, consistent with the CPI-U cap in subsection (e); and (5) confirmation that the website posting and annual notice under subsection (f) occurred. The report is submitted for the Executive Director's records and does not require approval.

h. **Compliance and Cure.** If the Executive Director determines that the Permittees are not in compliance with subsections (d) through (g) and provides written notice describing the specific noncompliance, the Permittees shall have 60 days from receipt of such notice to cure. Timely cure shall resolve the matter, and no enforcement action shall be initiated with respect to a noncompliance that has been cured within that period.

3. **Construction Plan.** PRIOR TO COMMENCEMENT OF CONSTRUCTION, the Permittees shall submit two copies of a Construction Plan to the Executive Director

for review and written approval. The Construction Plan shall, at a minimum, include the following:

a. **Construction Areas.** The specific location of all construction areas, all staging areas, and all construction access corridors shall be identified in site plan view. All such areas within which construction activities and/or staging are to take place shall be minimized to the maximum extent feasible in order to have the least impact on public parking and other coastal resources, including explicitly in terms of Santa Rosa Creek resource values.

b. **Construction Methods.** Construction and staging zones shall be limited to the minimum area required to implement the approved project. The Construction Plan shall specify the construction methods to be used, including all methods to be used to keep construction areas separated from public use areas as much as possible (including through use of unobtrusive fencing and/or other similar measures to delineate construction areas), including verification that equipment operation and equipment and material storage will not significantly degrade public views during construction. The Construction Plan shall limit construction activities to avoid coastal resource impacts as much as possible.

c. **Daylight Work Only.** All work shall take place during daylight hours (i.e., from one-hour before sunrise to one-hour after sunset), except for interior work. Nighttime work (other than interior work) and lighting of the exterior work area are prohibited.

d. **Construction Best Management Practices (BMPs).** The Construction Plan shall also identify the type and location of erosion control/water quality BMPs that will be implemented during construction to protect coastal resources, including the following:

   1. **Runoff Protection.** Silt fences, or equivalent apparatus, shall be installed at the perimeter of the construction site to prevent construction-related runoff and/or sediment from entering into storm drains, Santa Rosa Creek, or otherwise offsite.

   2. **Equipment BMPs.** All construction equipment shall be inspected and maintained at an off-site location to prevent leaks and spills of hazardous materials at the project site.

   3. **Good Housekeeping.** The construction site shall maintain good construction housekeeping controls and procedures (e.g., clean up all leaks, drips, and other spills immediately; keep materials covered and out of the rain (including covering exposed piles of soil and wastes); dispose of all wastes properly, place trash receptacles on site for that purpose, and cover open trash receptacles during wet weather; remove all construction debris from the project site; etc.).

4. **Erosion and Sediment Controls.** All erosion and sediment controls shall be in place prior to the commencement of construction as well as at the end of each work day.

e. **Archaeological/Tribal Cultural Resource Protection.** All archaeological/tribal cultural resource protection requirements identified in Special Condition 4 shall be identified as "Required Cultural Resource Protection Measures".

f. **Construction Site Documents.** The Construction Plan shall provide that copies of the signed CDP and the approved Construction Plan be maintained in a conspicuous location at the construction job site at all times, and that such copies are available for public review on request. All persons involved with the construction shall be briefed on the content and meaning of the CDP and the approved Construction Plan, and the public review requirements applicable to them, prior to commencement of construction.

g. **Construction Coordinator.** The Construction Plan shall provide that a construction coordinator be designated to be contacted during construction should questions arise regarding the construction (in case of both regular inquiries and emergencies), and that his/her contact information (i.e., address, phone numbers, email address, etc.) including, at a minimum, a telephone number and an email that will be made available 24 hours a day for the duration of construction, is conspicuously posted at the job site where such contact information is readily visible from public viewing areas while still protecting public views as much as possible, along with indication that the construction coordinator should be contacted in the case of questions regarding the construction (in case of both regular inquiries and emergencies). The construction coordinator shall record the contact information (address, email, phone number, etc.) and nature of all complaints received regarding the construction, and shall investigate complaints and take remedial action, if necessary, within 24 hours of receipt of the complaint or inquiry.

h. **Construction Specifications.** All construction specifications and materials (including all construction contracts) shall include appropriate penalty provisions to address non-compliance with the terms and conditions of this CDP, including the approved Construction Plan, including provisions sufficient to offset the cost of retrieving or cleaning up improperly contained foreign materials, and provisions that require remediation (and potentially additional mitigation, as applicable) for any work done inconsistent with the terms and conditions of this CDP, including the approved Construction Plan.

i. **Notification.** The Permittees shall notify planning staff of the Coastal Commission's Central Coast District Office at least three working days in advance of commencement of construction, and immediately upon completion of construction.

All requirements above and all requirements of the Executive Director-approved Construction Plan shall be enforceable components of the CDP. The Permittees shall undertake development in accordance with this condition and the Executive Director-approved Construction Plan.

4. **Archaeological and/or Tribal Cultural Resources.** The Permittees shall undertake the approved project in compliance with the following measures to protect archaeological and/or tribal cultural resources to the maximum extent feasible.

   a. **Notification.** At least one month prior to commencement of any ground-disturbing construction activities, the Permittees shall (1) notify the representatives of Native American Tribes listed on an updated Native American Heritage Commission (NAHC) contact list, including but not necessarily limited to the Northern Chumash Tribal Council, yak tityu tityu yak tiłhini Northern Chumash Tribe, and the Salinan Tribe of Monterey and San Luis Obispo Counties; (2) invite all Tribal representatives on that list to be present and to monitor ground-disturbing activities, where more formal monitoring shall include Tribal compensation at an appropriate rate; and (3) arrange for any invited Tribal representative that requests to monitor and/or a qualified archaeological monitor, again with compensation, to be present to observe ground-disturbing activities with the potential to impact archaeological and/or tribal cultural resources.

   b. **Monitoring.** A qualified, locally experienced archaeologist and a Tribal monitor, approved by relevant tribe(s), shall be on site to monitor all activities with the potential to impact archaeological and/or tribal cultural resources, including all ground disturbing activities, again with compensation. The monitor(s) shall have experience monitoring for archaeological resources of the local area during excavation projects, be competent to identify significant resource types, and be aware of recommended Tribal procedures for the inadvertent discovery of Tribal cultural and/or archaeological resources and/or human remains.

   c. **Discovery Protocol.** If any Tribal cultural deposits are discovered during the course of the project, all construction within 200 feet of such deposits shall cease and shall not re-commence until a qualified cultural resource specialist (which could be a person identified in subpart (a) and/or (b), above), in consultation with the relevant Tribe(s), analyzes the significance of the find and, if deemed significant, prepares a supplementary archaeological plan for the review and approval of the Executive Director that evaluates and provides suggested measures related to the discovery. The Executive Director shall review the plan and either: (1) approve it and determine that its recommended changes to the project and/or mitigation measures do not necessitate an amendment to this CDP, or (2) determine that the changes proposed therein necessitate a CDP amendment. The location of any and all identified archaeological and Tribal cultural resources shall be kept confidential, and only those with a "need to know" shall be informed of their locations.

   d. **Human Remains.** Should human remains be discovered on-site during the course of the project, immediately after such discovery, the on-site archaeologist and/or Tribal monitor shall notify the San Luis Obispo County Coroner within 24 hours of such discovery, and all construction activities shall be temporarily halted until the remains can be identified. If the County Coroner determines that the human remains are those of a Native American, the Coroner shall contact the NAHC within 24 hours, pursuant to Health and Safety Code Section 7050.5. The NAHC shall deem the Native American most likely descendant (MLD) to be invited to participate in the identification process pursuant to Public Resources Code Section 5097.98. The Permittees shall comply with the requirements of Section 5097.98 and work with the MLD person(s) to discuss and confer with the descendants all reasonable options regarding the descendants' preference for treatment. Within 5 calendar days of notification to NAHC, the Permittees shall notify the Coastal Commission's Executive Director of the discovery of human remains. The Executive Director shall maintain confidentiality regarding the presence of human remains on the project site.

5. **Future Permitting/Minor Modifications.** Any and all future proposed development related to this project, this project site (i.e., APNs 013-262-018 and 013-262-008), and/or this CDP shall be subject to the Coastal Commission's continuing CDP jurisdiction. Additional or modified development beyond that which is authorized herein in this approval shall be submitted for a determination of CDP requirements (i.e., new CDP, CDP amendment, or CDP waiver). Minor adjustments to the terms and conditions of this CDP may be allowed by the Executive Director if such adjustments: (1) are deemed reasonable and necessary; (2) do not adversely impact coastal resources; and (3) do not legally require a CDP amendment.

6. **Deed Restriction.** PRIOR TO OCCUPANCY, the Permittees shall submit to the Executive Director for review and approval documentation demonstrating that the Permittees have executed and recorded against the parcel(s) governed by this permit (i.e., APNs 013-262-018 and 013-262-008) a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this CDP, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the special conditions of this CDP as covenants, conditions and restrictions on the use and enjoyment of the property. The deed restriction shall include a legal description and site plan of the entire parcel or parcels governed by this CDP. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this CDP shall continue to restrict the use and enjoyment of the subject property so long as either this CDP or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

7. **Liability for Costs and Attorneys' Fees.** The Permittees shall reimburse the Coastal Commission in full for all costs and attorneys' fees (including but not limited to such costs/fees that are: (1) charged by the Office of the Attorney General; and/or (2) required by a court) that the Coastal Commission incurs in connection with the defense of any action brought by a party other than the Permittees against the Coastal Commission, its officers, employees, agents, successors and assigns challenging the approval or issuance of this CDP, the interpretation and/or enforcement of CDP terms and conditions, or any other matter related to this CDP.

The Permittees shall reimburse the Coastal Commission within 60 days of being informed by the Executive Director of the amount of such costs/fees. The Coastal Commission retains complete authority to conduct and direct the defense of any such action against the Coastal Commission, its officers, employees, agents, successors and/or assigns. By acceptance of this CDP and its terms and conditions, the Permittees irrevocably agree to this obligation, which shall be continuing in nature and remain in full force and effect regardless of whether this CDP approval is invalidated as the result of the litigation contemplated by this condition or otherwise changed in any way.

# 4. FINDINGS AND DECLARATIONS

## A. Project Location

The proposed project is located at 4005 (APN 013-262-018) and 4039 (APN 013-262-008) Burton Drive, between Burton Drive and Santa Rosa Creek, in the unincorporated Cambria community of San Luis Obispo County. The site is currently occupied by an unused (since 2011) former commercial structure (at 4005 Burton Drive),[4] an existing gift/plant/coffee shop (at 4039 Burton Drive),[5] and a surface parking lot altogether totaling some 1.2 acres adjacent to Santa Rosa Creek. Both parcels are partially designated Commercial Retail and partially designated Open Space (the latter for the portions of the parcels nearest the creek) by the LCP, and located just outside of Cambria's 'downtown' area along Main Street (which is about 500 feet to the north). See **Exhibit 1** for maps identifying the project location, and **Exhibit 2** for site area photos.

## B. Project Description

The proposed project includes the redevelopment of the unused former restaurant/commercial structure into 8 hotel units, conversion of the existing gift/plant/coffee shop into 3 hotel units, and construction of 3 new detached hotel buildings with 15 hotel units (2-unit, 6-unit, and 7-unit buildings, respectively), to create a new hotel complex with 26 hotel units with a new 31-space surface parking lot. See proposed project plans in **Exhibit 2**.

## C. Standard of Review

The proposed project is located entirely in San Luis Obispo County's delegated CDP jurisdiction, and thus the standard of review is the County's certified Local Coastal Program (LCP).

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[4] The currently unused commercial structure was last occupied by a restaurant called the "Brambles Dinner House", which closed in 2011.

[5] "Cambria Nursery Downtown" is operated by the Cambria Nursery and Florist, an umbrella entity that operates a number of such gift shops as well as a nursery in other locations in Cambria. The "Cambria Nursery Downtown" describes itself as a "collection of boho-inspired home decor, modern coastal goods, a showcase of local artists and creators, gorgeous house plants, and an array of planters. Think jewel tone furniture, rattan home decor, lush house plants in beautiful gold planters, handmade clay art pieces, locally-crafted beauty products and more. Plus, don't miss our inviting Cafe, where you can savor locally roasted espresso and indulge in baked treats while browsing our selection of unique decor pieces and lush house plants" (see https://www.cambrianursery.com/downtown-store/).

## D. Water Supply and Habitat Protection

### *Applicable LCP Provisions*

The San Luis Obispo County LCP is divided geographically into four areas,[6] each with its own LCP area plan that forms one component of the LCP's Land Use Plan (LUP). The LUP also includes two documents that identify provisions applicable throughout the coastal zone: one titled the "Coastal Plan Policies" (Coastal Plan) and another the "Framework for Planning" (Framework). Thus, the LCP LUP is made up of the Coastal Plan, the Framework, and the four area plans. The project site is located within the area governed by the LUP's North Coast Area Plan (NCAP). The LCP's Implementation Plan consists of the "Coastal Zone Land Use Ordinance" (CZLUO), which applies throughout all four LCP areas.

The Coastal Plan lays out the main objectives of the LCP. With respect to Public Services, LUP Public Works Policy 1 indicates projects can only be approved if there are adequate services to serve such projects. CZLUO Section 23.04.430 carries out this policy, requiring the County to find that adequate water and sewage disposal capacity exists prior to approving any new development in San Luis Obispo County. In addition, LUP Coastal Watershed Policies 1 and 2 protect the integrity of groundwater basins, including by requiring that the basin's safe yield is not exceeded. These provisions state:

> ***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. (emphasis added)*
>
> ***CZLUO 23.04.430: Availability of Water Supply and Sewage Disposal Services.*** *A land use permit for new development that requires water or disposal of sewage shall not be approved unless the applicable approval body determines that there is adequate water and sewage disposal capacity available to serve the proposed development, as provided by this section.*
>
> ***Policies for Coastal Watersheds Policy 1: Preservation of Groundwater Basin.*** *The long-term integrity of groundwater basins within the coastal zone shall be protected. The safe yield of the groundwater basin, including return and retained water, shall not be exceeded except as part of a conjunctive use or resource management program which assures that the biological productivity of aquatic habitats are not significantly adversely impacted.*

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[6] The County's four LCP areas consist of the North Coast, Estero, San Luis Bay, and South County Areas.

> ***Policies for Coastal Watersheds Policy 2: Water Extractions.*** *Extractions, impoundments and other water resource developments shall obtain all necessary county and/or state permits. All pertinent information on these uses (including water conservation opportunities and impacts on in-stream beneficial uses) will be incorporated into the data base for the Resource Management System and shall be supplemented by all available private and public water resources studies available. Groundwater levels and surface flows shall be maintained to ensure that the quality of coastal waters, wetlands and streams is sufficient to provide for optimum populations of marine organisms, and for the protection of human health.*

In addition, the LUP's NCAP includes additional guidance for the areas in and around Cambria and includes an extensive policy framework meant to protect the area's rich coastal resources. The NCAP includes 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, and provides clear protection for its creek resources, stating:

> ***NCAP Combining Designations Policy 5: North Coast Creeks.*** *Portions of Santa Rosa, San Simeon, Pico, and Little Pico, Arroyo de la Cruz, Arroyo del Padre Juan, and San Carpoforo Creeks are anadromous fish streams which should be protected from impediments to steelhead migration and spawning. Adjacent riparian and wetland areas provide important wildlife habitat. Ground water and surface waters are linked, and maintenance of the creek habitats is essential to protect many coastal resources. These creeks support a number of declining species, such as the Tidewater Goby, Striped Garter Snake, Western Pond Turtle, Red-legged Frog, and Steelhead Trout.*

> ***NCAP Planning Area Standard B.4(A): Limitation on Development.*** *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-3-SLO-02-050 and A-3-SLO-02-073, shall assure no adverse impacts to Santa Rosa and San Simeon Creeks;* ***…***

> ***NCAP Planning Area Standard B.4(B): 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 form 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.*

Finally, the LCP further protects creek resources, and prescribes specific setback requirements for these kinds of watercourses, like Santa Rosa Creek that runs along the side of the project site, stating:

***NCAP Planning Area Standard B.3(C): Creek Setbacks and Habitat Protection along Santa Rosa Creek.*** *All new development shall be set back a minimum of 100 feet from the upland edge of riparian vegetation. Setbacks of less than 100 feet are allowed in accordance with Section 23.07.174.d.2 of the Coastal Zone Land Use Ordinance. Recreational trails shall be sited outside of areas with riparian vegetation.*

***CZLUO Section 23.07.174.d.2: Riparian habitat setback adjustment****. The minimum riparian setback may be adjusted through Minor Use Permit approval, but in no case shall structures be allowed closer than 10 feet from a stream bank, and provided the following findings can first be made: (i) Alternative locations and routes are infeasible or more environmentally damaging; and (ii) Adverse environmental effects are mitigated to the maximum extent feasible; and (iii) The adjustment is necessary to allow a principal permitted use of the property and redesign of the proposed development would not allow the use with the standard setbacks; and (iv) The adjustment is the minimum that would allow for the establishment of a principal permitted use.*

Thus, the applicable LCP provisions require that development be served by adequate services,[7] including in terms of water supplies (LUP Public Works Policy 1), and

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[7] The Commission in its past LCP and CDP actions associated with the San Luis Obispo County LCP has consistently understood “adequate” services in relation to water to mean that a sustainable water supply exists to accommodate new development in a manner that will not lead to adverse coastal resource impacts. For example, in Cambria, in Commission LCP actions, see the 1998 LCP NCAP Update, the 2001 LCP Periodic Review, LCP Amendment SLO-MAJ-1-06 Part 1, and LCP-3-SLO-20-0059-2 (ADUs); and in Commission CDP/appeal actions see, for example, A-3-SLO-01-122 (Cambria Pines Lodge Expansion), A-3-SLO-02-050 (Monaco SFD), A-3-SLO-02-073 (Hudzinski SFD), A-3-SLO-13-0213 (Kingston Bay Senior Living), A-3-SLO-14-0044 (Fox SFD), A-3-SLO-19-0199 (Hadian SFD), A-3-SLO-20-0047 (Settimi SFD), A-3-SLO-21-0066 Hadian SFD), A-3-SLO-21-0065 (Bookout SFD), A-3-SLO-23-0027 (Bergen SFD Addition), and A-3-SLO-23-0028 (Lucero-Sokol SFD Addition). In addition, the Commission has made the same determinations in nearby Los Osos, a community that too had traditionally suffered from public service constraints. In Los Osos, see, for example, Commission actions in A-3-SLO-19-0180 (Shear Development SFDs), A-3-SLO-21-0004 (Wise Second Unit), A-3-SLO-21-0005 (Kimbell Second Unit), A-3-SLO-21-0007 (Bodine and Townsend Second Unit), A-3-SLO-21-0008 (Robertson Second Unit), LCP-3-SLO-21-0028-Part G (Los Osos Community Plan), A-3-SLO-24-0029

requires development that cannot be so served to be denied (CZLUO Section 23.04.430). The LCP also requires the long-term integrity of groundwater basins to be protected, prohibits extractions or other measures that exceed groundwater basin safe yields, and requires groundwater levels and surface flows to be maintained in such a way as to provide "optimum" habitat conditions (LUP Coastal Watershed Policies 1 and 2). In addition, the LCP explicitly requires that Santa Rosa and San Simeon Creeks be protected against fisheries impediments, and recognizes their values otherwise, including the link between ground and surface waters as they relate to protection of creek-related resources. These provisions are also explicit regarding the connection between the protection of these ecosystems and the protection of multiple sensitive species found in these two creek ecosystems (i.e., steelhead, goby, and red-legged frog) (LUP NCAP Combining Designations Policy 5). The LCP also requires buffers to separate development from such creek resources, where such buffers are required to be sufficient to protect creek resources and at least 100 feet, where that distance can be reduced in certain narrow circumstances (LUP NCAP Planning Area Standard B.3(C) and CZLUO Section 23.07.174.d.2).

Thus, in sum, the LCP places a high priority on creek resource protections, both through siting and design requirements when development is located near such resources (i.e., through buffers and other such protections) and through ensuring development is served by a sustainable water supply that can accommodate such development in a manner that will not adversely affect the creek resources, including in terms of sensitive species habitat.

***Cambria Water Supply***

The Commission has long recognized that there are severe water supply limitations in Cambria, including for both human consumption as well as for natural resources. Cambria's water supply depends entirely on the groundwater aquifers associated with Santa Rosa and San Simeon Creeks (collectively "the Creeks"). Santa Rosa Creek flows through the middle of the community, and is located immediately adjacent to the project site in this case, while San Simeon Creek is located some two miles or so to the north of town. The two Creeks flow from their respective headwaters and both terminate into lagoons, which ultimately connect to the Pacific Ocean. In addition to domestic and agricultural demands for water from the Creeks, environmental demand necessary to sustain the Creeks' high-quality habitat for a variety of aquatic and terrestrial species also must be countenanced. The United States Fish and Wildlife Service (USFWS) designates the Creeks as critical habitat[8] because they provide habitat for multiple

(Owen SFD Addition); A-3-SLO-23-0014 (Morro Shores Mobile Home Park Expansion); A-3-SLO-25-0009 (Mueller SFD); A-3-SLO-25-0010 (Purewal SFD); A-3-SLO-25-0011 (Lee Motel); A-3-SLO-25-0012 (Lee Mixed Use), A-3-SLO-25-0052 (Kasson SFD), A-3-SLO-23-0020 (Dick SFD), A-3-SLO-24-0011 (Brawer Watt SFD), and A-3-SLO-26-0012 (Mammen SFD). The Commission applies that understanding again in this case as well.

[8] "Critical habitat" is defined in part as an area which is essential to the conservation of a listed species.

federally listed species, such as the threatened South-Central Coast steelhead and California red-legged frog, and the endangered tidewater goby.[9]

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 water users. Prior to 1977, all of Cambria's water was extracted from wells along the lower reaches of just Santa Rosa Creek, which produced approximately 400 acre-feet of water a year (afy). Due to contamination, including 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 instream 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, CCSD applied to the California State Water Resources Control Board (SWRCB) for the rights to withdraw a total of 1,230 afy of groundwater from the nearby (i.e., again, just north of the community and north of Santa Rosa Creek) San Simeon Creek basin annually. The final EIR for that water rights application found the proposed water extractions 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 Wildlife[10] protested CCSD's water rights application. CDFW eventually withdrew its protest when 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, 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, CCSD also sought approval to supplement this San Simeon Creek water supply with continued withdrawals from the Santa Rosa Creek basin in order to maintain service to existing customers, but only in times of emergency. SWRCB ultimately approved 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 agreed-upon CDFW conditions.[11]

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[9] All of which are listed under the Federal Endangered Species Act. In addition to their status under the Federal Endangered Species Act, the California red-legged frog is also designated by the California Department and Fish and Wildlife (CDFW) as a State Species of Special Concern (meaning it is vulnerable to extinction) with a CDFW S2S3 ranking (meaning this species is designated as "vulnerable" and "imperiled" with a moderate to high risk of extinction). South-Central Coast steelhead and tidewater goby are ranked by CDFW as S2 and S3 (meaning steelhead are designated "imperiled" and at a high risk of extinction, and goby are designated "vulnerable" and a moderate risk of extinction, respectively).

[10] At the time the agency was called the California Department of Fish and Game.

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

These CCSD's Creek-related extractions were then permitted by the Coastal Commission pursuant to CDP 132-18, 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 of CDFW's requirement that CCSD maintain instream flows and irrigate vegetation in order to maintain and protect fishery resources and riparian habitat. The primary intent of these Creek protection measures was and is to ensure that adequate water remains instream to support the Creeks' sensitive fisheries and riparian habitats, and to prevent overdraft of the underlying groundwater aquifers.[12] In addition to these measures to protect the Creeks, the Commission found that Santa Rosa Creek was "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. The CDP only allows withdrawals from the Santa Rosa Creek wells if necessary to supplement CCSD's water supply in an emergency if/when water cannot be safely removed from San Simeon Creek. Notwithstanding this CDP requirement and limitation, according to CCSD's records, water withdrawals from Santa Rosa Creek have occurred every year except one since 1987.[13] And CCSD indicates that its withdrawals have ranged up to 269 afy from Santa Rosa Creek and up to 799 afy from San Simeon Creek since 1987. Finally, based on available information it appears that CCSD is not adhering to the terms and conditions of its Commission CDP as it relates to maintaining adequate instream flows for fishery health, and to irrigating riparian areas to ensure their health as well.[14]

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.[15] In fact,

regarding maintaining water levels in the basin to sustain stream flow to the lagoon to protect fisheries and riparian habitats.

[12] 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.

[13] And the records provided by CCSD only go back until 1987, so it is not clear at this time how much water was withdrawn from these Creeks prior to that time.

[14] And the Commission is tracking this as a Coastal Act violation (see Commission Violation Case Number V-3-21-0105).

[15] 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 some depth, including identifying the need for additional studies and measures to assure protection of the Creeks given they were being over-drafted for municipal purposes.

as the Commission has made clear in multiple LCP, appeal, and CDP cases,[16] 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 it 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 CCSD 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 CCSD's sole source of water is the Creeks' underground aquifers, the water supply is also particularly vulnerable to annual and seasonal fluctuations in rainfall. Further, because of the nature and configuration of the aquifers (i.e., they are narrow, shallow, porous, and surrounded by bedrock with little capacity for water storage), even in times of abundant rain the maximum storage 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 water supply remains particularly susceptible to even short-term periods of drought.

In order to address these issues, including the Commission's concerns, CCSD enacted a moratorium on new water connections in 2001.[17] CCSD exempted from this moratorium certain proposed development projects in Cambria that were then on CCSD's water service commitment list. Ultimately, the LCP was amended six years later in 2007 (LCP Amendment SLO-MAJ-1-06 Part 1) to include additional standards in the LCP's North Coast Area Plan specific to new development proposed within Cambria to require certain projects to explicitly demonstrate that they would not adversely impact Santa Rosa and San Simeon Creeks, and to require the use of retrofits and offsets in Cambria for any otherwise LCP-consistent new water use. Specifically, NCAP Planning Area Standards B.4(A) and (B) (listed above) were added to the North Coast Area Plan, which do not allow new development that would adversely impair Santa Rosa and San Simeon Creeks (e.g., through additional water usage from these creeks to serve such new development).[18] Ultimately, the primary purpose of the amendment was to strictly limit new development requiring new water service in Cambria until the CCSD secured new water sources. At that time, 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***

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[16] Again, see Commission findings on Cambria's inadequate water supply in the 1998 LCP NCAP Update, the 2001 LCP Periodic Review, and LCP Amendment SLO-MAJ-1-06 Part 1; and see, for example, A-3-SLO-01-122 (Cambria Pines Lodge Expansion); A-3-SLO-02-050 (Monaco SFD); A-3-SLO-02-073 (Hudzinski SFD); A-3-SLO-13-0213 (Kingston Bay Senior Living); A-3-SLO-14-0044 (Fox SFD); A-3-SLO-19-0199 (Hadian SFD); A-3-SLO-20-0047 (Settimi SFD); A-3-SLO-21-0065 (Bookout SFD); A-3-SLO-21-0066 (Hadian SFD), LCP-3-SLO-20-0059-2 (ADUs), A-3-SLO-23-0027 (Bergen SFD Addition), and A-3-SLO-23-0028 (Lucero-Sokol SFD Addition).

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

[18] And which limit new development utilizing a CCSD connection to only those existing as of November 15, 2001. In other words, new development needing a new CCSD water connection is not allowable.

> ***public water supplies are not currently available for new development in Cambria.*** *(emphasis added)*

In fact, as succinctly stated by the Commission in its 2007 findings above, there was (and is) no water available for new development in Cambria.[19]

And unfortunately, in the time since the Commission's LCP amendment approval, the water supply situation has not demonstrably improved. Today, 25 years after the CCSD water moratorium and 19 years after the LCP NCAP amendment where the Commission found that there was no water to serve new development in Cambria consistent with the LCP, a new water supply has not been identified and the Creeks and their groundwater basins continue to suffer from overdraft. 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 (RMS),[20] and that alert level remains the same today. 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.

Subsequently, in 2014, CCSD declared a "Stage 3 Water Shortage Emergency"[21] and acknowledged it did not have an adequate water supply to support Cambria's existing water demand. Existing wells at that time were lower than two feet above sea level and in the absence of a new water supply, 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."[22] In response to this declared water emergency, San Luis Obispo County granted CCSD an Emergency CDP (ECDP) in June 2014 for a temporary emergency desalination plant near San Simeon Creek 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 ESHA (including ESHA where project components would be sited) and sensitive species. In fact, CCSD had previously applied for a CDP from the Commission for test wells to assess the viability of such desalination plant adjacent to San Simeon 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 ECDP based on CCSD's assessment of Cambria's critically low water supply at that time. The project

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[19] Again, see Commission adopted findings in the North Coast Area Plan update in LCP Amendment SLO-MAJ-1-06 Part 1.

[20] The RMS is a component of the LCP 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.

[21] 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.

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

intended to treat a blend of salt water, fresh water, 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 ECDP was supposed to operate only during emergency conditions and only to provide water for existing development. The facility, however, is no longer operational, in part due to a cease-and-desist order issued by the California Central Coast 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.

CCSD has since submitted a follow-up regular CDP application to the County designed to allow the emergency operation to be operated on a regular basis, albeit in a modified way, all intended to increase the Community's water security. On June 16, 2026, the County Board of Supervisors upheld a County Planning Commission CDP approval for that project on appeal, thus approving the CDP for the CCSD's project at that time. The County's CDP approval was subsequently appealed to the Commission by six parties, and is pending a Commission hearing, which is forthcoming. The project will also need to meet the requirements of numerous other agencies, including the RWQCB, CDFW, USFWS, the U.S. Army Corps of Engineers (ACOE), and the National Marine Fisheries Service (NMFS, or National Oceanic and Atmospheric Administration (NOAA) Fisheries). Until a CDP and these other agency approvals for the project are effective and implemented, the project will have no effect on the above-described water supply and habitat concerns. And, in any event, it is not clear at this point what effect the project recently approved by the County might have in that regard even if implemented, including that it is not currently intended to allow for new water connections to serve development in an LCP-consistent manner.

In sum, and as explained more below, there is not an adequate water supply,[23] and current extractions to serve existing development in Cambria do not protect the long-term integrity of the groundwater basins, do exceed groundwater basin safe yields, do not maintain groundwater levels and surface flows in such a way as to provide optimum habitat conditions, and do not protect Santa Rosa and San Simeon Creeks as is required.[24] In fact, with respect to the Creeks, numerous studies have been completed regarding the health of these ecosystems. A 2014[25] report found that both Creeks'

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[23] And in the time since the CCSD declared a Stage 3 Water Shortage Emergency, the Cambria water shortage has only gotten more severe. To that point, on July 15, 2021, and in response to a several year drought, CCSD declared a Stage 4 Water Shortage Emergency, the most restrictive in San Luis Obispo County to date. The Stage 4 declaration "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". While this declaration has since been rescinded given healthy rainfall in recent years, such declaration is representative of the community's chronic water challenges.

[24] See, for example, SLO Instream Flow Study; Santa Rosa Creek Watershed Management Plan; South-Central California Steelhead Recovery Plan.

[25] "San Luis Obispo County Regional Instream Flow Assessment (SLO Instream Flow Study)", prepared by Stillwater Sciences for the Coastal San Luis Resource Conservation District (January 2014).

instream flows in the summer of 2013[26] were inadequate to meet even the bare minimum necessary to maintain aquatic habitat systems, despite the fact that the terms and conditions of the Commission's 1977 CDP and the SWRCB water licenses only allow water extractions if the CCSD simultaneously <u>ensures</u> 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 (which the study used as the primary 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). 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.[27] The study further found that the Santa Rosa Creek lagoon conditions were "worsened by low stream flows resulting from excessive groundwater pumping and diversions[.]" The study 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." And "[w]hen 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." Similar conclusions regarding the adverse impacts of existing groundwater extractions were also reached in the 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".

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[26] In 2013 CCSD extracted 593 af of water from San Simeon Creek and 140 af of water from Santa Rosa Creek, for a total of 733 af.

[27] Again, as described above, in approving the CDP for CCSD's creek withdrawals, 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. Thus, the CDP only allows withdrawals from the Santa Rosa Creek wells if necessary to supplement CCSD's water supply <u>in an emergency</u> if/when water cannot be safely removed from San Simeon Creek. Notwithstanding this CDP requirement and limitation, according to CCSD's records, water withdrawals from Santa Rosa Creek have occurred every year except one since 1987 (and records provided only go back to 1987, so it could not be verified before then). And, as described, such withdrawals are only allowed where these fishery habitats are protected and the viability of riparian habitat is ensured via supplemental irrigation, neither of which are occurring here.

More recently, a 2019 report[28] found that Santa Rosa and San Simeon Creeks both had high potential to ecologically benefit from flow enhancement. Santa Rosa Creek did not meet its predicted EWD in the summers of 2015 and 2016, and middle and lower San Simeon Creek did not meet its EWD during all measured summers (2016-2018) which included the "very wet" year of 2017. Most recently, the CCSD commissioned the San Simeon Creek Instream Flows Assessment in August 2024.[29] The assessment modeled various groundwater extraction and aquatic habitat scenarios, including in relation to steelhead migration. The report stated that "the population of steelhead in the San Simeon Creek watershed has been identified as a Core 1 population, which means it has the highest priority for recovery actions, has a known ability or potential to support viable populations, and has the capacity to respond to recovery actions. One critical recovery action listed by NMFS includes the implementation of operating criteria to ensure streamflow allows for essential steelhead habitat functions." The report's modeling concluded that at lower passage flow thresholds needed for juvenile steelhead migration and "at the maximum CCSD extraction rate, during several years, the estimated maximum reduction in passage days [for migrating juvenile steelhead] was greater than 10%." This is significant because it demonstrates that pumping within the CCSD's extraction capacity, even without accounting for private well pumping in the area, can negatively impact this special status species.

In sum, the most pertinent and recent scientific studies independently demonstrate that under existing water extractions, or within existing extraction capacity, to serve existing development in Cambria, there is inadequate water to sustain the Creeks' sensitive riparian habitats across all water year types, and that both Creeks would benefit from flow enhancement. Thus, available evidence suggests that until a new water supply is secured, and/or existing water extractions are dramatically decreased, any and all new water service to new development (including increases in water use at existing development) in Cambria will be unable to demonstrate that the proposed development will not adversely impact the Creeks as is required of NCAP Standard B.4(A). As a result, currently the LCP effectively prohibits approval of new water use in Cambria.

***Recent Water Use Evaluations***

Based on these facts regarding LCP requirements and the conditions and impacts associated with Cambria's water supply, the Commission has taken several actions. With respect to CDPs and appeals, in the past seven years alone, the Commission, on appeal, has denied all four County-approved new single-family residences on vacant lots in Cambria.[30] In addition, in 2022, the Commission approved an LCP amendment[31] that prohibited ADUs in Cambria for similar reasons. In doing so, the Commission continued its consistent stance that new water using development, including new single-

[28] "San Luis Obispo County Low Flow Monitoring Report (2015-2018)", prepared by Creek Lands Conservation for the Wildlife Conservation Board (June 2019).

[29] Stillwater Sciences 2024. San Simeon Creek Instream Flows Assessment. Final Report. Prepared by Stillwater Sciences, Morro Bay, California, for Cambria Community Services District, Cambria, California.

[30] CDPs A-3-SLO-19-0199 (Hadian SFD); A-3-SLO-20-0047 (Settimi SFD); A-3-SLO-21-0065 (Bookout SFD); and A-3-SLO-21-0066 (Hadian SFD).

[31] LCP Amendment No. LCP-3-SLO-20-0059-2, approved February 2022.

family residences and ADUs (i.e., independent individual residential units), was not permissible consistent with the LCP in Cambria. To make these points clear to all parties, including the County, CCSD, and the general public, Commission staff sent a letter to County staff articulating these points (see the letter titled "New Development in Cambria" dated April 19, 2022 and sent to the County's Director of Planning and Building, Trevor Keith in Appendix A). The letter codified the Commission's previous findings, including imploring the County to stop approving new development in Cambria. The letter stated:

> *In sum, in our view brand new water-using development (such as a new single-family dwelling or an ADU) cannot meet LCP water supply tests, and CDP applications for such development should not be accepted for processing nor approved.*

In addition to new, individual, independent residential units, the letter also stated that, unless and until there is evidence to suggest that such development does not intensify water use, projects that modify existing development on a site should also not be accepted for processing nor approved:

> *Similar, CDP applications for development that increases water use on a site (including explicitly guesthouses, hotel/motel expansions, and large use/structural intensifications (at least until a body of evidence is provided to demonstrate that such development does not actually lead to additional water use on such sites)) should also not be accepted for processing nor approved for similar reasons.*

The latter point was intended to address how to approach projects that affect existing development, including expansions and additions of existing water-using residential and commercial development. These types of projects, particularly residential additions and guesthouses,[32] were (and are) much more ubiquitous than proposals to develop new units on vacant lots. At the time, the County had been approving such remodel/expansion development based on the reasoning that there was an existing water-using use, and such remodels/expansions did not change that, and thus did not increase water usage, including because all such development was required to contribute to offsite retrofits. However, past that hypothesis, the County had not developed any data to support such a conclusion, and thus the 2022 Commission staff letter had advised the County to develop evidence and facts to justify its findings when evaluating these types of projects.

[32] To be clear, a guesthouse, as defined and regulated by the LCP (see CZLUO Section 23.08.032), is not an independent residential unit, despite the name implying as much. Rather, a guesthouse in LCP terms is a detached residential expansion, but it must be associated with the existing residence on site, and cannot be used for separate and independent living (including it is limited to less than 640 square feet in size and up to two bedrooms and one bathroom, it cannot include cooking or laundry facilities, it cannot have separate utility connections, and it cannot be rented or occupied separately from the primary single-family dwelling). In short, guesthouses under the LCP are <u>not</u> independent residential units, and may be best described as a detached addition that is not meant to or legally can be used as a separate independent living facility.

Since that time, County staff has worked with the CCSD to develop data that might allow for decision makers to better understand the way in which residential water usage changes when changes are made to an existing residential unit. The County and CCSD focused on residential water use data collected for a sample of roughly 200 homes (or nearly 10% of the overall unit count),[33] which averaged to roughly 3 bedrooms, 2.7 bathrooms, and 2.2 residents, which was fairly representative of the overall community.[34] For 2020-2022, homes in the sample set used about 90 gallons per day (gpd), and when water use was compared to bedrooms and bathrooms, water use didn't fluctuate much for homes up to four bathrooms. In fact, the average water use for a two bathroom home didn't deviate very much from a home with four bathrooms, with the former averaging about 64 gpd and the latter 69 gpd. Conversely, the average water use for a five bathroom house was significantly higher at 120 gpd. In other words, the County/CCSD evaluation showed that residential units with between one and four restrooms used similar amounts of water, and that a project that increased a unit's restroom count up to four does not result in a significant increase in water use. While not determinative, of course, it does provide a proxy of sorts for helping to determine a 'bright line' for when a residential project represents "new water using development".[35] While this analysis is helpful to analyze water use for existing residential units, data has not been compiled and analyzed for commercial uses within the community, such as the project on appeal here.

In sum, the water situation in Cambria is complex, but the overall summation is that the community has suffered from well publicized water supply inadequacies for decades. Its supply is solely from two local creek systems, one of which is only supposed to be used on an emergency basis but nevertheless has been used to augment supply essentially every year. And in addition to serving as a municipal domestic water source, these creeks are also critical habitat for listed aquatic species, where there is just too little water left in the system to adequately serve such species and their related riparian habitats, notwithstanding permit requirements to do so. In light of these constraints, CCSD has had a moratorium on most new water connections for 25 years, and the LCP prohibits any development that will increase water demand on the creeks or otherwise adversely affect them. It is against this regulatory, infrastructure, and coastal resource backdrop that this proposed project is evaluated.

***Proposed Project Water Use***

The proposed project relies on a both a CCSD "will serve"[36] letter to the Applicants and related CCSD water use calculations as proof that there is adequate water for the proposed project. As mentioned above, and because of the rather severe

[33] The sample size was 207 homes, and, according to Census data, there are approximately 2,739 households in Cambria.

[34] Which, according to CCSD, County Assessor, and Census data is similar to the average overall in Cambria (i.e., roughly 3 bedrooms, 2.5 bathrooms, and 2.5 people per household).

[35] And such information served as the rationale behind the Commission's No Substantial Issue determinations for two residential additions in Cambria in 2023 (see CDP Appeals A-3-SLO-23-0027 (Bergen SFD Addition) and A-3-SLO-23-0028 (Lucero-Sokol SFD Addition)).

[36] A "will serve" letter is typically something that a water purveyor provides to an applicant to indicate that they are willing to provide water service to their project, and CCSD provided just such a letter in this case.

circumstances surrounding water availability and water supply impacts to resources in Cambria as a whole, a will serve letter is not adequate evidence to demonstrate a project can be served by an adequate and sustainable water supply, and the Commission has continually noted as much for proposed development in Cambria.[37] That is because the LCP requires an actual analysis of water supply, demand, and any associated resource impacts associated with the proposed project, and a will serve letter does not represent such an analysis. Rather, a will serve letter is simply a statement/commitment that the applicable water provider can and will provide water services to a proposed use, rather than an evaluation under the LCP of resource constraints and impacts. Yes, it is fair to consider it as a piece of evidence in the required LCP evaluation, but it cannot by itself suffice to find LCP consistency on this point.

As to the CCSD water use calculations relied on by the County in its initial CDP approval, those too are insufficient for this purpose as well. Specifically, the analysis in the County's approval that was appealed to the Commission allowed for the proposed new hotel use based on a CCSD estimate of the amount of water that a hypothetical restaurant and a hypothetical plant nursery might use at full capacity over the course of a year, and then presumed that that was the water use baseline for understanding the proposed project. Using that data, the County concluded that because the former commercial structure once housed a restaurant (over 15 years ago), and because the existing gift/plant/coffee shop could be considered a plant nursery, that those two uses combined use more water than the new hotel would use, and thus the proposed hotel could be found consistent with the LCP since it was not increasing water demand at the site. However, as explained below and also as explained in the Commission's Substantial Issue determination on this same matter, these conclusions raise a series of concerns.

More specifically, the County and CCSD's estimated site water budget was based on a calculation that identified the <u>highest</u> amount of water that could be used on the site were it to be used at full capacity as a fully operating restaurant and a fully operating nursery, suggesting that that hypothetical mix of uses would use up to 444,570 gallons per year (gpy) attributable to a restaurant use and up to 95,265 gpy attributable to a nursery use, or a total of 539,835 gpy, equivalent to some 1,479 gallons per day. Based on that calculation, and based on an estimate that the hotel would use 416,516 gpy (or about 1,141 gallons per day, or about 44 gallons per room per day),[38] the County concluded that the proposed hotel project could be accommodated within the County/CCSD water budget for the site, and thus could be found LCP consistent. However, there are numerous flaws with this analytical reasoning.

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[37] Ibid (see past Commission actions on water related cases cited in earlier footnotes).

[38] It's worth noting that the County's calculation here is incorrect and reflects an arithmetic error of about 10,000 gallons per year. Specifically, the County used CCSD's estimate that the 26-unit hotel would use 1,141.14 gallons per day to arrive at the 426,515 gpy estimate. However, 1,141.14 gallons per day multiplied by 365 days in a year is actually 416,516.1 gpy. The Commission uses this 416,516.1 number is this report's analyses.

For one thing, the restaurant last operated 15 years ago in 2011, and the 'nursery' is essentially a gift shop and not an actual plant nursery, so the comparison isn't even accurate as to use. Thus, neither are actually operating in that form, let alone at full capacity all day every day of the year. In fact, in looking at current water usage, the site actually only uses about 12,000 gpy (or about 33 gpd, which is significantly less than even <u>one</u> residence uses in Cambria[39]).[40] As such, there is actually quite minimal 'flowing water' at this site, and has been for some time. And even when the restaurant was actually operating 15 years ago, CCSD records indicate that it used an average of about 230,000 gpy (or about 630 gpd).[41] Put another way, with an actual operating restaurant and an actual operating gift shop the site uses about 242,000 gpy (or 663 gpd), which is less than half of what the County/CCSD identified. This is important because the Commission has focused on the difference between such actual water use versus estimated proposed water use (as opposed to hypothetical or 'paper' water exercises) in making these types of LCP determinations where water supply is limited and leading to resource damage, both in Cambria and elsewhere.[42]

Put another way, the calculation cited by the County as the reason to find the project consistent with LCP water supply and habitat protection provisions is simply a hypothetical exercise that doesn't actually demonstrate on-the-ground conditions nor evaluate the types of impacts attributed to this proposed water-using development in Cambria. This type of an LCP water supply and habitat protection analysis is not supported by any of the above described LCP provisions, all of which are premised on analyzing actual water usage based on an actual proposed project (i.e., new development) to understand whether new water will be used, and not a hypothetical of what a different project would use.

One version of looking to actual water use is to focus on the roughly 12,000 gpy that the site currently uses, and to focus on that as the allowable water budget for the proposed project as it is the most direct 'existing versus proposed' comparison. When comparing today's actual flowing water (about 12,000 gpy, or about 33 gallons per day) with the County/CCSD estimated hotel's water demand (at about 417,000 gpy, or about 1,142 gallons per day), the project would therefore use roughly 405,000 gpy <u>over</u> the current baseline. This is an enormous amount of additional water demand (enough to provide water to about 17 single-family homes in Cambria[43]) placed on a community that has an already overtapped water supply, and clearly that additional water use would lead to significant habitat degradation of the type described above, including as it all comes from the same creek-based water supply system. While probably most protective of

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[39] CCSD water use indicates that at typical home in Cambria uses about 65 gpd, or 23,725 gpy, of water.

[40] CCSD water use data indicates that the 10-year (2013-2023) average annual water use at the gift shop was 12,042 gpy, with essentially no water usage at the restaurant and parking lot in this timeframe (again, the restaurant last operated in 2011).

[41] CCSD water use data indicates that from 2009 to 2011, the restaurant used an average of 229,885 gpy.

[42] Ibid (see past Commission actions on water related cases cited in earlier footnotes).

[43] As noted, a typical home in Cambria uses about 65 gpd, or 23,725 gpy. 405,000/23,725 equals 17.1 homes.

creek resources as it limits water use to current levels, and dispels the need for additional water withdrawals from CCSD's overtapped creek sources, it also would not come close to providing for a viable hotel project (and actually couldn't even accommodate the water demand of even a single residence).

A different version of looking at actual water use recognizes that there is an existing building on the site that once housed, and could potentially house again, a water-using restaurant, and to recognize that restaurant's actual amount of water use as part of the 'existing' comparison. Doing so also recognizes that a purchaser of the property might reasonably presume they could use the space for restaurant use akin to what was previously the case, even if site improvements might be necessary. And because restaurants are not generally operating at full capacity 24/7, water use fluctuates, and these types of actual use numbers are much more valuable than some sort of hypothetical restaurant use at full capacity. Thus, another potential analytic way to understand the project site's water usage is to add the existing gift shop usage of about 12,000 gpy to the previous restaurant's usage of about 230,000 gpy, for a total of 242,000 gpy, where that would serve as the available water budget for the site. While not what the site is currently using, it can reasonably be understood as what the site would be using with an active restaurant as it was in the past when combined with the current gift shop use, and serves as another way to understand the site's baseline water usage for this proposed project.

Putting all of this together, there appear to be three primary ways of understanding a water budget within which proposed development must conform: (1) actual current existing water use, which would not allow for any version of the proposed project but would have the least impact on the creeks, (2) an estimate of current water use were the restaurant to be operating along with the current gift shop use, which would increase demand on the water supply system compared to current water use by about 0.7 acre-feet per year (afy); and (3) using CCSD's 'max' estimates, where the increase on the system would more than double compared to the second option (adding about 1.6 afy of new demand), and which would be expected to have the most adverse impact on LCP-protected resources. The Commission believes that it would be appropriate under the current set of circumstances to focus on the second option, as it represents the most accurate assessment of what the site would use if it were actually operating as a gift shop and a restaurant, and appropriately balances a reasonable understanding of water usage at the site with the ability to also provide for a high LCP priority visitor-serving overnight accommodation use in a central walkable location in town. Doing so results in a water budget of 242,000 gpy. Thus, again, while capping water use at existing flowing amounts would clearly be more protective strictly from a water supply/aquatic resource perspective, using the 242,000 gallons per year number helps to also meet other key LCP goals for this site.

Per CCSD's water estimates, this budget would appear capable of accommodating a 15-unit hotel project.[44,45] However, the Applicants believe that they can still accommodate their proposed 26 units within this budget. They state that CCSD's water calculations of 44 gallons per hotel room per day include things like landscaping and laundry services, whereas this hotel does not include such elements.[46] In fact, eliminating on-site laundry (and ensuring such off-site laundry services are outside of the San Simeon/Santa Rosa Creek systems as proposed) and not having a large pool complex eliminates some of the more water-intensive features of hotels.[47] And the Applicants' experience in operating other hotels in Cambria gives them expertise and confidence that they can accommodate their project within the water budget.

Thus, as long as water use is below 242,000 gpy, then the Commission can find the project consistent with the LCP on this point. Put another way, the concern isn't necessarily the number of hotel units, but rather how much water they actually use. **Special Condition 1** thus limits the approved project to that water amount, and requires the CCSD to provide written concurrence that the approved project in its totality (inclusive of all hotel rooms, restaurants, spa amenities, and any other water-using development, and not offering 'credit' for off-site water use that draws from the same creek resources (e.g., laundry services) given they result in the same types of impacts as on-site water use) is within such water budget.[48] It also requires audits of actual water usage so as to ensure compliance with such water budget over time, and remedial measures if such usage is in excess of this limit, up to and including reducing the number of operating hotel units. As proposed and conditioned, the end result is a hotel use that will match the amount of water the site has historically has used, and can be found consistent with the LCP on this point.

***Santa Rosa Creek Setbacks***

The proposed project also raises LCP compliance questions regarding potential

[44] Per the CCSD, Cambria hotel units use about 44 gallons per day, or 16,060 gallons/hotel room/year. Dividing 242,000 gallons/year by 16,060 gallons/hotel room/year, equals 15.1 hotel rooms.

[45] Such approach is also generally consistent with the Commission's approval of the American Tin Cannery hotel in Pacific Grove (CDP A-3-PGR-22-0004), where the Commission similarly capped water usage at 18.53 acre-feet per year based on that amount being what the site had previously used in the past and what it could reasonable use today should it be at full occupancy (although it was actually using much less than that amount in terms of actual flowing water when the Commission approved the project), thereby essentially changing the types of uses using the site's water but keeping the amount of water roughly the same.

[46] The Applicants state that the project does not include on-site laundry, and such laundry services will be undertaken off-site and outside of the Santa Rosa/San Simeon Creek water supply basin.

[47] Hotels are estimated to generate about 8 pounds of laundry per room per day, and use about 2 gallons of water per pound. So each of the 26 rooms would be expected to reduce their water usage by 16 gallons per day, or down to 28 gallons per day per room, without such laundry services. With other proposed water reductions, such as minimal landscaping and no pool, it appears reasonable that the Applicants can accommodate their proposed 26 units within the identified water budget.

[48] To be clear, this condition requires total water consumption to be within 242,000 gpy. If the Applicants identify viable (including via signoff by requisite agencies, as required of **Special Condition 1(a)**) water saving measures that reduce demand, then such reduced demand could be understood in relation to the water budget, potentially accommodating more use/development (e.g., more hotel rooms).

adverse impacts from its location adjacent to Santa Rosa Creek. As noted, the LCP requires a 100-foot setback from Santa Rosa Creek's riparian corridor (per NCAP Planning Area Standard B.3(C)), where a setback reduction below 100 feet (but no less than 10 feet) is only allowed if alternative siting and design is infeasible or more environmentally damaging, if project redesign to accommodate a principally permitted use outside of the required 100-foot buffer is not possible, if the adjustment is the minimum necessary to accommodate a principal permitted use, and if all adverse environmental effects are mitigated to the maximum extent feasible (per IP Section 23.07.174.d.2).

The former restaurant/commercial space and parking at the site are sited essentially at the edge of riparian vegetation, leaving no setback currently.[49] The proposed project would redevelop the site, replacing former uses and structures with new replacement uses and structures,[50] which requires that such development be considered as new development that is measured against all of the LCP's provisions, including with respect to required creek setbacks. However, in this case, it should also be noted that the former restaurant building is also designated as a historic resource under the LCP,[51] where the LCP generally requires that such structures' historic character be protected from significant degradation, including from demolition (see NCAP Chapter 6[52] and IP Section 23.07.102(d)(1), which states):

> *Required findings for approval. A land use permit application within an Historic Site combining designation shall be approved only where the review authority first makes all the following findings: (1) Historic structures, landmarks and districts. Where an Historic Site combining designation is applied to identify historic structures, landmarks, or districts, project approval shall require the following findings: (i) The height, bulk, location, structural materials, landscaping and other aspects of the proposed use will not obstruct public views of the historic structure or of its immediate setting; (ii) Any proposed alteration or removal of structural elements, or clearing of landscaping or natural vegetation features* ***will not damage or destroy the character of significant historical features and settings****; (iii)* ***Any proposed remodeling or demolition is unavoidable*** *because it is not structurally or economically feasible to restore or retain existing structures or features.*

Thus, it's important to understand how the required setbacks would affect the historic

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[49] And therefore are considered by the LCP to be nonconforming structures with respect to Santa Rosa Creek setbacks, where the IP defines structures as "Any artifact constructed or erected, the use of which requires attachment to the ground, including any building, but not including fences or walls six feet or less in height."

[50] Including in terms of the existing structures on the site (including the former restaurant building, the gift shop, and parking areas) as they will be physically modified and repurposed for new uses.

[51] The NCAP adds the Historic Combining Designation ("H") to the former restaurant.

[52] The building is one of 26 north coast sites so identified in the NCAP, where it is referred to as "Also known as the Mora/Lowell House, the original three bedroom structure was built in the mid-1870's. In the early 1900's, Dr. Lowell lived in the house and ran his practice from a porch added on to the left side. (Located at 4005 Burton Drive, reference APN 013-264-014)" (at LCP NCAP 6-8).

nature of the former residence (now restaurant). In that analysis, while the existing gift shop (that would be redeveloped as hotel units) and one of the new proposed hotel buildings (nearest Burton Drive) are located outside of the required 100-foot riparian buffer, and while the other two new proposed hotel buildings (on the northeast of the site) are almost outside of the 100-foot riparian buffer (and could probably fairly readily be modified to meet that requirement), the entire former restaurant (that would be redeveloped for eight hotel units as proposed) and almost all of the proposed parking lot are located within the required 100-foot setback (ranging from a 0-foot setback (former restaurant) to about a 15-foot setback (parking lot)) (see Exhibit 3). None of which meets the LCP-required 100-foot setback requirements (nor even the minimum 10-foot setback allowed with a qualifying setback adjustment), and thus the proposed project is inconsistent with the LCP on this point.

In terms of potential setback reductions, it would appear that it would be infeasible to provide for a level of principal permitted use at the site commensurate with its scale and potential development expectations completely outside of the 100-foot setback, including because of the way that the site is configured in relation to the prescribed setback, with most of it (and all of the former restaurant building) located in the setback (again, see Exhibit 3). In addition, essentially any setback would require at least partial demolition of the former restaurant building, which raises questions given its historic combining designation. Thus, a setback reduction can be considered under the LCP, where the applicable setback reduction criteria can be boiled down to identifying the amount of setback that can accommodate that level of use while both limiting adverse creek resource impacts and offsetting those that are unavoidable to the maximum extent feasible, and also respecting the former restaurant building’s historic character.

In such an exercise it is important to understand the resource values at stake, where Santa Rosa Creek is one of the most important habitat features in all of Cambria, and where setbacks offer important habitat protections, including to protect such habitats from adjacent development impacts (e.g., due to development noise, activity, lighting, runoff, and other sorts of habitat incompatibilities). The Applicants’ biological report documents the riparian corridor’s vegetation as a composition of black cottonwood forest and other riparian species, as well as the presence of several bird species and evidence of use by larger mammals such as coyote, further demonstrating the creek’s role as a wildlife corridor. Santa Rosa Creek is also known to support South-Central Coast steelhead and California red-legged frog, both of which are federally-listed as threatened under the Endangered Species Act.

Given that a 100-foot setback would be infeasible to provide for a level of principal permitted use at the site commensurate with its scale, and considering the site-specific conditions, including topography separating the parcel from the creek centerline and the special conditions limiting impacts to the riparian corridor, a 50-foot setback restored to native vegetation would buffer sensitive creek environs and still provide adequate space for the above-described level of use. However, as noted above, this (or any) buffer would require demolition of the restaurant building and raise LCP conformance questions with respect to protecting historic structures. While an argument can certainly be made that such removal is “unavoidable” to meet LCP creek setback requirements, and thus would be a permissible reason to remove portions of the structure per the

LCP's historic standards (see IP Section 23.07.102(d)(1)(iii) above), doing so still results in significant alteration of a structure protected by its LCP Historic Combining Designation, and would also preclude about 8 hotel units and jeopardize the project's overall feasibility. Thus, there is clearly a tension here between the LCP's creek setback and historic character requirements. Absent any other specific LCP provision that provides direction on how to resolve such competing LCP concerns, it's essentially a judgment call as to how to approach this former restaurant building. And in this case, the Commission chooses to retain the restaurant in situ so as to retain its historic character, including as such character contributes to a primary reason why Cambria is such a desirable place to live and visit in the first place. Thus, and while other cases may have different conclusions, the Commission finds in this particular case with this fact set that the restaurant may remain in place, but all other uses on site, including ancillary structures such as parking and any other existing encroachments, must satisfy the 50-foot buffer.[53] Such buffer, along with complementary provisions addressing lighting and native landscaping both within the hotel itself as well as within the enhanced riparian corridor buffer, and water quality/stormwater control measures (see below), can ensure appropriate creek protections from both a water supply, water quality, and habitat perspective. As such, Special Condition 1(b) requires the final revised plans to show all development but for the restaurant building to be outside of the requisite 50-foot buffer.

Finally, drainage and stormwater runoff from the site, both during and after construction, has the potential to degrade coastal water quality and diminish biological productivity by contributing sediments and pollutants to Santa Rosa Creek, and ultimately to the ocean. Specifically, such runoff is known to carry a wide range of pollutants (including nutrients, sediments, trash and debris, heavy metals, pathogens, petroleum hydrocarbons, and synthetic organics such as pesticides) and it can also alter the physical, chemical, and biological characteristics of water bodies to the detriment of aquatic and terrestrial organisms.[54] **Special Condition 3** requires the Applicants to adopt best management practices (BMPs) that the Commission has typically required during construction, including providing direction to construction contractors related to prevention of leaks, spills, sediment runoff from the site, and general good housekeeping, all to protect water quality and the adjacent habitat. In addition, **Special Condition 1** also requires a post-construction drainage and runoff control system that is sited and designed to collect, filter, treat, and direct all site drainage and runoff in a manner intended to protect and enhance coastal resources as much as possible; to prevent pollutants, including increased sediments, from entering Santa Rosa Creek as much as possible; to filter and treat all collected drainage and runoff to minimize pollutants as much as possible prior to infiltration or discharge from the site; to retain runoff from roofs, driveways, decks,

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[53] Almost 10,000 square feet of existing parking, asphalt, and other impervious surfaces currently within the 50-foot buffer would be removed when the buffer is respected in this way.

[54] Pollutants of concern found in runoff include, but are not limited to: sediments; nutrients (nitrogen, phosphorous, etc.); pathogens (bacteria, viruses, etc.); oxygen demanding substances (plant debris, animal wastes, etc.); petroleum hydrocarbons (oil, grease, solvents, etc.); heavy metals (lead, zinc, cadmium, copper, etc.); toxic pollutants; floatables (litter, yard wastes, etc.); synthetic organics (pesticides, herbicides, PCBs, etc.); and physical changed parameters (freshwater, salinity, temperature, dissolved oxygen).

and other impervious surfaces onsite as much as possible; to use low impact development (LID) BMPs as much as possible; to be sized and designed to accommodate drainage and runoff for storm events up to and including at least the 85th percentile 24-hour runoff event (allowing for drainage and runoff above that level to be likewise retained and/or conveyed in a non-erosive manner); to direct all drainage and runoff not infiltrated on site to CCSD infrastructure able to handle the flows, and not directly to the Creek; and to include ongoing maintenance and management procedures (including at the least provisions for annual pre-storm season and post-storm event evaluation and repair/maintenance) that meet professional standards for maintenance of such systems, and that will apply for the life of the project.

In addition, **Special Condition 1** also requires certain performance measures the Commission has typically imposed on similar scale projects to address resource issues, including final plans that specify parameters for landscaping (e.g., only using native and non-invasive species, both to protect habitat in the setback area and to provide for visual softening and screening of structural development otherwise to match community character), signage (e.g., limiting their number and visibility, and using natural materials and earth tones to effectively blend in with the surrounding aesthetic), lighting (e.g., using wildlife friendly lights facing downward and shielded to prevent light spill and glare), utilities (e.g., placing them underground or away from public view), windows (e.g., using non-glare and bird safe glass), and overall design to be compatible with the overall forest/coastal village design aesthetic that embodies Cambria.

As revised per the special conditions, the project can be found consistent with the LCP's water supply and creek health provisions.

## E. Lower Cost Overnight Accommodations

### *Applicable LCP Provisions*

Similar to Coastal Act Section 30213,[55] the LCP requires that lower cost visitor and recreational facilities be protected, encouraged, and where feasible, provided. The LCP states:

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

This policy evinces a strong intent to ensure that lower cost visitor and recreational facilities are protected and provided along the San Luis Obispo County coast, including as it relates to lower cost overnight visitor accommodations, so as to ensure that the coastal zone is as accessible as possible to all, including those not fortunate enough to live near the shoreline. When understood in relation to the Coastal Act's directives to ensure that such facilities are meant to serve the diverse California populace as well as visitors to the State, it becomes clear that both the Coastal Act and LUP require new

[55] Section 30213 states in applicable part "Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred."

hotels to provide amenities and accommodations for those of lesser means.[56] The question then becomes how to do so, which is explained subsequently.

***Analysis***

Coastal Act Section 30213 and LCP Recreation Policy 1 have their origins in the 1975 California Coastal Plan (the precursor to the 1976 Coastal Act). Based on extensive public input in the early 1970s, the Coastal Plan found that few tourist facilities for persons of low and moderate income were being built in many parts of the coastal zone, and that many such low-cost and moderate-cost facilities were being replaced by facilities that had higher costs, particularly in terms of overnight accommodations. The Coastal Act addressed these findings in part by including the specific Section 30213 mandate to protect, encourage and, where feasible, provide lower cost visitor and recreational facilities. And when LCPs were first certified and since, they incorporated similar policies towards this end as well, as was and is the case in the County LCP.

Over the years, ensuring the provision of lower cost overnight accommodations in the coastal zone has been especially important because permit applicants have typically requested that the Commission and LCP-certified local governments approve higher-cost overnight accommodations on land zoned for visitor-serving uses (in some instances where lower cost accommodations were already situated on the land) rather than pursuing lower cost accommodations, such as economy hotels, resulting in the loss of either potential or actual lower cost accommodations in appropriately zoned areas. Overall, the Commission's history of permitting overnight accommodations in the coastal zone confirms the need to guard against the loss or preclusion of lower cost overnight accommodations along the coast, as recognized both in the Coastal Act and the LCPs that implement it.

As more high-cost hotels are developed, the remaining lower cost to moderate cost hotel accommodations in the coastal zone tend to be older structures that become less economically viable as time passes. Further, as more redevelopment occurs, the stock of lower cost overnight accommodations tends to be reduced, since it tends to be more lucrative for developers to replace these structures with higher-cost accommodations or to build new higher-end facilities on parcels that historically have not included visitor accommodations. Commission staff prepared a study for a 2016 Commission workshop on lower cost accommodations, which reviewed statewide data about such lower cost units in the coastal zone since 1989. In its report to the Commission in 2016, staff found that out of six "cost" categories ranging from "economy" to "luxury," a total of 24,720 economy rooms had been lost[57] since the late 1980s, compared to a loss of a combined

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[56] Courts have held that LCP provisions must be understood in relation to the relevant Coastal Act section or sections from which LCP provisions derive their authority. See, for example, *McAllister v. Cal. Coastal Com'n* (2008) 169 Cal.App.4th 912, 930-932, which held that: "Although local governments are responsible for drafting the 'precise content' of their local coastal programs, those subdivisions must, at a minimum, conform to and not conflict with the resource management standards and policies of the [Coastal] Act," and as such, any ambiguities must be interpreted as being consistent with the Coastal Act standards. This legal point can be traced to Section 30512(c) of the Coastal Act, which requires that an LUP "meet the requirements of, and is in conformity with, the policies of Chapter 3."

[57] "Loss" includes: demolition of lower cost accommodations (without replacement), demolition of lower cost accommodations and replacement with high-cost, and simple conversion of lower cost

11,247 rooms in the remaining five classes. In other words, economy rooms were lost over the same time period at over twice the rate of all other cost categories combined. Thus, all told, nearly 70% of all overnight rooms that were lost in the coastal zone between 1989 and 2016 were attributable to lost economy rooms, whereas less than 10% of the rooms lost have been in the upscale and luxury categories, and less than 0.2% have been lost in the luxury category. Such trends have made it much more difficult for lower cost visitors to access the coast.

Such reduction in lower cost and moderate-cost overnight accommodations in the coastal zone is also an environmental justice issue. Section 30604(h) of the Coastal Act provides that "when acting on a coastal development permit, the issuing agency, or the commission on appeal, may consider environmental justice, or the equitable distribution of environmental benefits." As defined in Section 30107.3(a) of the Coastal Act, "environmental justice" means "the fair treatment and meaningful involvement of people of all races, cultures, incomes and national origins, with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies," and, pursuant to Coastal Act Section 30013, the Commission and all public agencies are charged with advancing environmental justice principles when implementing the Coastal Act. Thus, environmental justice considerations are also relevant to the Commission's review of new overnight accommodation proposals, like this one.

The Commission's Environmental Justice Policy, adopted in March 2019, indicates that the Commission shall "strive for a no-net-loss of lower-cost facilities in the coastal zone, while implementing a longer term strategy to increase the number and variety of new lower-cost opportunities."[58] In California, equitable coastal access and recreation opportunities for all populations have not been realized to date due to historic and social factors, such as discriminatory land use and economic policies and practices, with greater barriers to access experienced by low-income communities, communities of color, and underserved communities.[59] Spatial analysis of 2010 Census data shows a majority of Californians (70.9%) live within 62 miles of the coast, but populations closest to the coast are disproportionately white, more affluent, and older than those who live farther inland,[60] meaning that more economically disadvantaged communities and communities of color are significantly underrepresented in terms of living in coastal areas compared to statewide population demographics. This holds true for Cambria, where, depending on the particular census tract, the population is 67-81% white and

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accommodations to high-cost through simple site improvements (or sometimes, even by just charging a higher rate where market demand could support such higher rates).

[58] See "California Coastal Commission Environmental Justice Policy", published by the Commission on March 8, 2019.

[59] See "Free the Beach! Public Access, Equal Justice, and the California Coast", Robert Garcia & Erica Flores Baltodano, 2 Stanford Journal of Civil Rights and Civil Liberties, 143 (2005); "Report on Coastal Act Affordable Housing Policies and Implementation", published by Commission staff on February 10, 2015; and "Report on the Historical Roots of Housing Inequity and Impacts on Coastal Zone Demographic Patterns", published by Commission staff on June 9, 2022.

[60] See "Coastal Access Equity and the Implementation of the California Coastal Act", Reineman, et al., (2016) Stanford Environmental Law Review Journal, v. 36. Pages 96-98.

nearly half of the population is over 65 years old.[61] This area is also ranked in the 5th percentile on the CalEnviroScreen 4.0 mapping tool, which shows that it faces less environmental burdens than poorer inland communities within the County.[62] Put another way, while those who live nearest the coast in Cambria can have relatively easy access to coastal public recreational opportunities, those who aren't fortunate enough to live near the coast in Cambria, and by definition more economically disadvantaged communities and communities of color, can't have those same sorts of coastal opportunities.[63] And when a trip to the coast involves a longer transit time from these more inland communities, the cost to make such a trip is increased as compared to those who can afford to live near the coast, and it can also require and/or be facilitated by overnight stays. But if there aren't affordable overnight options, then those more inland residents are only further deterred from equitable access. All of which means that the environmental benefits and burdens of a lack of lower cost options are being borne more acutely by more economically disadvantaged communities and/or communities of color, which is a classic environmental injustice. As succinctly stated in the *King/Jenkins* study:

> *As the California population continues to grow, especially inland where summer temperatures are increasingly hot, beach trips will likely become even more popular, but only if Californians can afford to visit. Access to the coast is threatened by rising costs. A 2017 study found that 62% of California families felt that a visit to the coast is simply too expensive (Christensen & King 2017, 3). These families are primarily concerned with the high costs of parking and lodging along the coast, a problem which is especially concerning for minority residents and residents of inland counties (Christensen & King 2017, 3). The high cost of a*

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[61] Per most recent United States Census data.

[62] The California Office of Environmental Health Hazard Assessment (OEHHA) CalEnviroScreen 4.0 Model ranks census tracts within California based on their pollution burden. Generally, tracts within lower percentiles experience less of a pollution burden than those in higher percentiles. Further results can be viewed at https://experience.arcgis.com/experience/11d2f52282a54ceebcac7428e6184203/page/CalEnviroScreen-4_0/.

[63] See, for example, the previously referenced *Reineman et al* (2016) study, as well as "Unequal Access: Protecting Affordable Accommodations Along the California Coast," by Dr. Philip G. King and Sarah Jenkins (2020). To this point, *King/Jenkins* states as follows: "Rising housing costs have displaced many middle- and low-income residents inland. This means that many Californians, including nurses, police, teachers, and service workers, cannot afford to live where they work and must suffer long commutes. This displacement often results in a concentration of exclusive wealth and resources along the accessible only by the wealthy. … Several key studies by the California Coastal Conservancy, the Coastal Commission, and others have highlighted this access issue and all point out that the increased cost of coastal access falls disproportionately on low- and moderate- income households as well as communities that have been historically excluded or discouraged from going to the coast, such as Latino residents and people of color. Latino Californians in particular desire to visit the coast but are especially sensitive to the high costs of travel and accommodation. … For many inland families, the cost of a necessary overnight stay is a major impediment to visiting the beach. Indeed, California's coast has become increasingly inaccessible—with the majority of areas far more affluent, less diverse, and older than the state overall. This exclusivity produces an inequity that runs counter to the aims of the California Coastal Act. Access to the resources and opportunities associated with California's coast is not distributed fairly among California's diverse population. Often, those who can afford to spend the least to visit the coast must spend the most as lower income communities inland face the highest travel costs and accommodation burdens."

> *coastal visit can mean that middle- and low-income families cannot afford coastal access at all. …*
>
> *Despite the California Coastal Act's promise of access for all, inequity persists and is perhaps more pervasive than in recent decades. The high cost of living in coastal counties has pushed lower and moderate-income Californians inland. This has resulted in longer drives and in many cases, requires an overnight stay if families wish to visit the coast. Desire to visit the coast is relatively high among all of California's diverse demographics, yet important barriers to access persist which make visits to the coast too costly for lower income communities. In fact, one study found 62% of California voters perceive coastal access as a problem (Christensen & King 2017, 3). Historically, public access has been unequally distributed among different groups. High land costs and explosive economic growth on and near the coast have exacerbated this situation. While the Coastal Act aimed to remedy these issues, it has fallen short.*

*King/Jenkins* goes on to state:

> *Minority populations historically have faced both cultural and legal barriers to beach access. These barriers have carried over into feelings of marginalization and being unwelcome, resulting in a lower desire to visit. Medford (2018, 1) found evidence of this phenomenon, noting that Black and Asian populations on average visit the beach less. More significant than race alone, however, was "travel cost." Minority groups were on average more responsive to high travel costs. Higher sensitivity to travel cost suggests these populations derive a lower consumer surplus, or benefit, from their visits. In order to ensure access for all Californians, these preferences need to be taken into account.*
>
> *Latino residents in particular consider the cost of accommodation as a major barrier to visiting the coast. Christensen and King (2017) found that Latino voters rated affordable accommodation a major issue and were on average able to pay $16 less per night than respondents overall. This is especially significant during the summer holidays when demand for coastal recreation is at its peak and prices are the highest. Latino populations are especially vulnerable to the lack of affordable coastal accommodations given that Latinos in California have a 52% lower median income, at $51,853 in 2017, compared to the median income for white, non-Latino residents of $78,903 according to the latest numbers (US American Community Survey, 2017).*

Studies such as the ones above bolster what is already fairly obvious to most: those who live closer to the coast have an easier time accessing the coast, and thus have more and easier coastal public recreational access opportunities, and those who live further away have a more difficult time and less opportunities, relatively speaking. These studies also show that those who are fortunate to live nearer to the coast are relatively wealthier, whiter, and older than those who live further away, and in comparison to the demographics of the state as a whole. All of which points to the fact that more economically disadvantaged communities and communities of color have less – and more difficult – coastal public recreational access opportunities. All of which means that the LCP requirement to provide lower cost facilities where feasible to do so is only amplified when also considered through an environmental justice lens.

Given hotel developers predominantly pursue higher cost and luxury hotels, including in many cases where such higher cost offerings take the place of existing lower cost options along the coast, it is becoming increasingly important to focus on protecting and providing lower cost overnight accommodations in the coastal zone as required by the Coastal Act and LCPs. Absent an adequate number and type of lower cost lodging facilities, a large segment of the population will be effectively excluded from overnight stays at the coast. To this point, "financial reasons" was listed as the number one barrier to staying overnight at the coast, as identified by respondents to a State Coastal Conservancy-commissioned survey in 2017.[64] By forcing this more limited means economic group to lodging out of the coastal zone (or forcing them to stay at home), there is an adverse impact on the general public's ability to access the beach and coastal recreational areas. Such trends have thus made it more difficult for visitors of more limited means to access the coast; with many of these visitors traveling from fairly far inland locations where they cannot easily make the trip to the coast and back home again in a single day. Therefore, by protecting and providing lower cost lodging for the price sensitive visitor, the Commission and its local government partners, here San Luis Obispo County, can help to remove barriers and to increase access to a segment of the population facing inequities when visiting the coast. This in turn enhances access to our collective public coastal commons, helping to ensure true access for all.

While the Commission has taken various approaches to implement Coastal Act Section 30213 and corresponding LCP provisions, it has generally identified lower cost overnight accommodations as 75% or less of the statewide average,[65] higher cost accommodations as 125% or greater than the statewide average, and medium-cost as falling in between. Once such rates are identified, as mitigation for the imposition of higher cost/luxury rooms, the Commission has typically required that 25% of the overall accommodations be provided at a lower cost rate.[66] This can be in the form of on-site accommodations, off-site ones, an in-lieu fee commensurate with the cost of construction and operation of such units elsewhere, or some

[64] See "Explore the Coast Overnight - An Assessment of Lower Cost Accommodations", published by the California Coastal Conservancy on January 8, 2019.

[65] The statewide hotel average is found by collecting statewide peak season (summer) average daily room rates for standard, double occupancy rooms. To ensure that the lower cost hotels and motels surveyed meet a minimally acceptable level of quality, including safety and cleanliness, standard use only includes AAA Auto Club-rated properties that are rated one-diamond and two-diamond rated hotels.

[66] See, for example, CDPs A-3-PGR-22-0004 (American Tin Cannery Hotel Resort), approved by the Commission in April 2024 ); A-3-STC-24-0016 (Cruz Hotel), approved by the Commission in September 2024; 3-24-0149 (801 Embarcadero Restaurant/Hotel), approved by the Commission in June 2024; 2-20-0018 (Dillon Beach Resort), approved by the Commission in February 2021; CDP A-3-SNC-98-114 (Monterey Bay Shores Resort), approved by the Commission in April 2014; and CDP 3-16-0287 (Front Street Cottages), approved by the Commission in May 2017. See also LCP Amendment MCO-1-12 Part 1 (Del Monte Forest Update and Pebble Beach Company Concept Plan), approved by the Commission in May 2012; LCP-3-PGR-18-0093-1 (Pacific Grove LCP Certification), approved by the Commission in November 2019; and LCP-3-MRB-22-0059-2 (Morro Bay IP Update), approved by the Commission in March 2024.

combination. The Commission has in the past not typically required mitigation in the form of lower cost rooms or a corresponding in-lieu fee for lower or medium/moderate cost rooms, but instead has ensured the project includes other forms of public access enhancements and amenities (e.g., bike rentals, public plazas, etc.) so as to ensure an array of such enhancements/amenities, including focusing on lower cost or free enhancements/amenities in such an exercise. By protecting and providing lower and moderate cost lodging for the price-sensitive visitor, a broader segment of the population will have the opportunity to visit the coast.

The first step in this analysis is to identify the minimum number of required lower cost overnight accommodation units to comply with LCP requirements. Such analysis requires an evaluation of the type of units proposed, and whether they are low, moderate, or high cost. As noted above, the Commission in past actions has required 25% of the number of rooms to be lower cost (and the County in approving the Applicants' proposed project before it was appealed to the Commission required the same in this case). In this case, the Applicants have evaluated the feasibility of providing lower cost rooms within a 26-unit hotel project, and have concluded that they can provide 6 such rooms (roughly 25% of the overall rooms) at no more than $150 per night.[67] Providing such lower cost units on site is important under the LCP, especially because the hotel would be in a prime central Cambria location LCP-designated as Commercial Retail that emphasizes its importance in helping facilitate coastal recreation and access for all. This is also consistent with the Commission's preference for such lower cost units to be on site, where the Commission has been trending towards on-site lower cost units being a key part of any proposed lower cost package, including recently in Pacific Grove, Santa Cruz, and Half Moon Bay.[68]

As such, Special Condition 2(d) requires the Applicants to provide 6 hotel rooms at no more than $150 for a 26-unit hotel (or at least 25% of the rooms at $150 if there are a fewer number of units in the hotel per Special Condition 1), which rate may be modified by no more than the increase in the California Consumer Price Index for Urban Consumers one time per calendar year (e.g., in 2026, 2027, and so on), and where the above costs shall be inclusive of all services and other fees (e.g., parking, cleaning, resort, administrative) but may be exclusive of any government-mandated fees (e.g., sales tax, transient occupancy taxes). All such rooms and related facilities (e.g.,

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[67] Using the Commission's typical methodology to define cost thresholds above, the statewide average daily rate (ADR) for standard, double occupancy rooms during the peak-season (July/August 2025 is the most recent datapoint) was about $200. 75% of this amount (i.e., the lower cost threshold) would be approximately $150, and 125% of this amount (i.e., the higher cost threshold) would be approximately $250.

[68] As part of the Commission's April 2024 approval of the American Tin Cannery hotel resort in Pacific Grove, where 18 such lower cost units and a 16-unit/64-bed hostel facility were proposed within the 206 high-cost unit hotel; as part of the Commission's September 2024 CDP approval of the Cruz Hotel in Santa Cruz, where 20 such lower cost units (and a series of other lower cost accommodations provisions) were proposed on site; and in a July 2026 CDP approval where 22 on-site lower cost on-site units were provided in the Hyatt Hotel case in Half Moon Bay. The Commission also discussed this preference in the July 2024 Informational Briefing on Lower Cost Overnight Accommodations: https://documents.coastal.ca.gov/reports/2024/7/Th7/Th7-7-2024-exhibits.pdf.

entrances, common areas) shall be effectively integrated into the overall hotel layout in a way that maximizes their utility, shall be clearly identified on the Final Revised Plans per Special Condition 1, and all users of such rooms shall have access to all the same hotel amenities as all other hotel guests.

In addition Special Condition 2(f) also requires that the Applicants actively market and promote the lower cost units, ensuring adequate outreach via established marketing channels to both English and Spanish speakers, including specifically to underserved communities such as lower income communities, communities of color, and other communities that have been historically marginalized and face greater barriers to coastal access in nearby and inland counties. Also required are annual reports that provide clear evidence of the marketing and operation of the lower cost rooms in compliance with all requirements of the condition. Additionally, as the Commission typically requires for overnight accommodations projects to ensure that the function as generally available overnight accommodations (and don't turn into something that provides for longer term, or even more residential, stays), Special Condition 2 requires that all overnight accommodations be open and available to the general public, that rooms not be rented to any individual, family, or group for more than 29 consecutive days, and that no individual ownership or long-term occupancy of hotel rooms is allowed. To further ensure that the hotel operates as a standard operation hotel as proposed and approved, Special Condition 2 also prohibits the conversion of any of the hotel overnight rooms to limited-use overnight visitor accommodation units (e.g., timeshare, fractional ownership, etc.) or to full-time occupancy condominium units or to any other units with use arrangements that differ from the approved project, and requires annual monitoring reports to ensure same.

***Conclusion***

In conclusion, the project as conditioned will include lower cost units in a prime coastal locale. With the implementation of the above special conditions, the project can be found consistent with applicable LCP provisions pertaining to lower cost overnight accommodations.

## F. Other

***Archaeological/Cultural***

IP Section 23.07.104 outlines procedures and requirements to apply to development within archaeologically sensitive areas. These include the definition of an archaeologically sensitive area, the requirement of a preliminary survey, and a description of when a mitigation plan is required.

The site is located in a County mapped archeological sensitive area. San Luis Obispo County was historically occupied by two Native American tribes: the northernmost subdivision of the Chumash, the Obispeño (after Mission San Luis Obispo de Tolosa); and the Salinan. However, the precise location of the boundary between the Chumashan-speaking Obispeño Chumash and their northern neighbors, the Hokan-speaking Playanos Salinan, is not known, as those boundaries may have changed over time. Special Condition 4 includes the Commission's typical archaeological protection protocols, including potential stop work orders during construction should artifacts/human remains be uncovered, and which must be identified on all required construction plans.

***Minor Modifications***

The Commission herein fully expects to review any future proposed development at and/or directly related to this project and/or project area, including to ensure continued compliance with the terms and conditions of this CDP through such future proposals, but also to ensure that any such future proposed development can be understood in terms of same. In addition, although a great deal of thought and planning has gone into the proposed project, including as it is affected by CDP terms and conditions, oftentimes minor unforeseen issues present themselves in complicated projects of this nature, particularly as construction gets underway, and it is important that the CDP is nimble enough to account for potential minor changes. Thus, minor adjustments to special condition requirements that do not require a CDP amendment or a new CDP (as determined by the Executive Director) may be allowed by the Executive Director if such adjustments (1) are deemed reasonable and necessary; (2) do not adversely impact coastal resources; and (3) do not legally require a permit amendment (see **Special Condition 5**).

***Deed Restriction***

The terms and conditions of this approval are perpetual and run with the land, thus binding any future buyers and owners of the properties subject to this CDP. This approval is also conditioned for a deed restriction to be recorded against the property involved in the application (see **Special Condition 6**). This deed restriction will record the conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the property.

***Indemnification***

Coastal Act Section 30620(c)(1) authorizes the Commission to require applicants to reimburse the Commission for expenses incurred in processing CDP applications. Thus, the Commission is authorized to require reimbursement for expenses incurred in defending its actions on the pending CDP applications in the event that the Commission’s action is challenged by a party other than the Permittees. Therefore, consistent with Section 30620(c), the Commission imposes **Special Condition 7** requiring reimbursement for any costs and attorney fees that the Commission incurs in connection with the defense of any action brought by a party other than the Permittees challenging the approval or issuance of this CDP, or challenging any other aspect of its implementation, including with respect to condition compliance efforts.

## G. California Environmental Quality Act (CEQA)

CEQA Section 21080.5(d)(2)(A) prohibits a proposed development from being approved if there are feasible alternatives and/or feasible mitigation measures available that would substantially lessen any significant adverse effect that the development may have on the environment. San Luis Obispo County, acting as lead CEQA agency, determined that the proposed project is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment and that it can be seen with certainty that there is no possibility that this project may have a significant effect on the environment (CEQA Guidelines Section 15061(b)(3)).

The Commission's review, analysis, and decision-making process for CDPs and CDPAs has been certified by the Secretary of the Natural Resources Agency as being the functional equivalent of the environmental review required by CEQA (CCR Section 15251(c)). Accordingly, in fulfilling that review, this report has analyzed the relevant coastal resource issues with the proposal, including with respect to comments received to date, and has identified appropriate and necessary modifications to address adverse impacts to such coastal resources. All above findings are incorporated herein in their entirety by reference.

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

# 5. APPENDICES

## A. Appendix A – Substantive File Documents[69]

- County File C-DRC2021-00009 (Winter)

## B. Appendix B – Staff Contact with Agencies and Groups

- San Luis Obispo County
- Cambria Community Services District

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