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**Prepared July 29, 2011 (for August 11, 2011 hearing)**

**To:** Coastal Commissioners and Interested Persons  
**From:** Dan Carl, District Manager  
Susan Craig, Coastal Planner

**Subject: City of Santa Cruz Major Amendment Number 1-11 (La Bahia)**

[Click here to see the staff report addendum.](#)

[Click here to see additional correspondence received.](#)

[Click here to see ex parte communications received.](#)

## Summary

The City of Santa Cruz is proposing to amend its Local Coastal Program (LCP) Land Use Plan (LUP) and Implementation Plan (IP) to modify the LUP and add a new IP district and site standards that would apply only to the historic La Bahia site in order to facilitate demolition of the La Bahia buildings and related facilities and redevelopment of the site as a condominium hotel with restaurant and conference facilities. The proposed amendment would make it clear that the LCP allows for demolition of the La Bahia under certain circumstances, and would increase the scale of development allowed on the site (from a maximum of 4 stories and 43 feet for primary structures to a maximum of 5½ stories and 61 feet for up to 60% of the site). This is a project-driven amendment, and the City has already conceptually approved the 125-unit condominium hotel/conference center project that this amendment is designed to facilitate, although final City action is pending Commission action on the amendment.

The crux of the primary issue before the Commission with the proposed LCP amendment is really two-fold: is demolition of the La Bahia appropriate and, if so, what would be the appropriate standards for redevelopment following such demolition. In terms of the former, the LCP allows for such demolition subject to certain requirements, key among them that preservation is not a reasonable alternative. There is little question that the La Bahia structures would require significant work to convert them in such a way as to provide for a functioning hotel project, including in terms of structural and utility upgrades, interior and exterior retrofitting, and accessibility limitations. Such a renovation project is not infeasible nor impossible, including as demonstrated by the previous hotel/conference center renovation project approved in 2003 (under the existing LCP) for the same Applicant that is proposing the current project, but there is little question that it presents difficulties. In terms of costs, the City's analysis indicates that a renovation project (akin to the 2003 project) would cost about \$157 per square foot and the currently proposed project would cost about \$140 per square foot. Thus, per the estimate, it would take an additional roughly \$17 per square foot (or about 12% more per square foot) to renovate the La Bahia as compared to demolishing it and constructing all new structures. The LCP does not define the term "unreasonable", but the City and Applicant have concluded that the additional cost for a renovation option, as well the concerns that the existing La Bahia buildings are not conducive to the intended use as a hotel, and that obtaining financing and insurance to renovate and redevelop the existing La Bahia buildings into a hotel would be extremely difficult, make such option unreasonable. Although clearly a judgment call, Staff concurs on this point.



In terms of the appropriate standards for redevelopment following such demolition, judging the appropriate scale and style for replacement development can be challenging and it is often a function of multiple and cross-cutting factors and differing aesthetic judgments. In this case, although the standards proposed provide for (and indeed the conceptually approved project is) a large in scale development, the standards will not result in incursion into the Santa Cruz Mountains ridgeline view, will ensure lower development nearest the beach and on Beach Street, and will concentrate development to the rear of the site where its view impacts are less than if concentrated in the front. On this point it is clear that there have been a number of opposing viewpoints expressed regarding appropriate scale during the course of consideration of the LCP amendment and the project, but the proposed standards should be sufficient in this case to protect views and character consistent with the LCP. Although development at the scale allowed will be visible from many scenic viewpoints, including along the beach and Beach Street, the Municipal Wharf, and West Cliff Drive, the views from these areas will not be substantially impacted given that the new development will be seen against the backdrop of existing development on and near to Beach Street, including the Boardwalk, the Boardwalk Casino, the Coconut Grove ballroom, the Dream Inn, and other visitor-serving and residential development that exists along this highly urbanized coastline. Yes, there are lesser scale alternatives that also appear feasible, including perhaps most compelling a less large version considered by the City and premised on some renovation and some redevelopment (even if re-conceptualized as new construction) that would explicitly be scaled similarly to the adjacent historic Casablanca Inn and Restaurant, a facility that provides perhaps the most useful scale barometer in a similar sloped setting. However, and although also clearly a judgment call, at the end of a long public process the City identified the scale proposed as appropriate for the beach area, including as softened by continuing the Spanish Colonial Revival theme of the existing La Bahia, and Staff concurs on this point as well.

In addition, the proposed LCP amendment raises questions as regards condominium hotels as opposed to standard hotels, and the way in which such ownership structure at this site and in the City can be rectified to Coastal Act requirements providing for lower-cost overnight visitor accommodations and maximizing general public use of overnight visitor accommodations otherwise. Because the LCP lacks guidance and direction on this point, including guidance and direction derived from the Commission's recent significant history associated with like issues in proposed LCP amendments and CDP applications, the proposed amendment cannot be approved without ensuring that the LCP is equipped to appropriately address this unique use type. Thus, Staff recommends modifications that define such uses, and the ways in which they can be found consistent with the Coastal Act, including in terms of requiring appropriate mitigation when lower-cost options are not included in projects and overall parameters for operation of such facilities over time.

Finally, although in large measure approvable, as described above, there are a few parts of the proposed La Bahia site standards that require some minor changes to ensure that they result in the type of project described above that will be LCP consistent, primarily in terms of clarifying certain internal inconsistencies, and ensuring that the standards result in a project that can meet LCP tests for this special location in the long run.



Staff recommends that the Commission approve the LCP amendment if modified. The required motions and resolutions (a total of four) to implement this recommendation begin on page 4.

**LCP Amendment Action Deadline:** This proposed LCP amendment was filed as complete on January 27, 2011. The proposed amendment affects both the LUP and the IP, and the original 90-day action deadline was April 27, 2011. On April 14, 2011, the Commission extended the action deadline by one year to April 27, 2012. Thus, the Commission has until April 27, 2012 to take a final action on this LCP amendment.

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## I. Staff Recommendation – Motion and Resolution

Staff recommends that the Commission, after public hearing, approve the proposed amendment only if modified. The Commission needs to make four motions in order to act on this recommendation.

### 1. Denial of Land Use Plan Major Amendment Number STC-1-11 as Submitted

Staff recommends a **NO** vote. Failure of this motion will result in denial of the amendment as submitted and adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the appointed Commissioners.

**Motion (1 of 4).** I move that the Commission **certify** Land Use Plan Major Amendment STC-1-11 as submitted by the City of Santa Cruz. I recommend a no vote.

**Resolution to Deny Land Use Plan as Submitted.** The Commission hereby denies certification of the Land Use Plan Major Amendment 1-11 as submitted by the City of Santa Cruz and adopts the findings set forth below on the grounds that the amendment does not conform with the policies of Chapter 3 of the Coastal Act. Certification of the Land Use Plan amendment would not comply with the California Environmental Quality Act because there are feasible alternatives or mitigation measures which could substantially lessen any significant adverse impact which the Land Use Plan Amendment may have on the environment.

### 2. Approval of Land Use Plan Major Amendment Number STC-1-11 if Modified

Staff recommends a **YES** vote. Passage of the motion will result in the certification of the land use plan amendment with suggested modifications and adoption of the following resolution and findings. The motion to certify with suggested modifications passes only upon an affirmative vote of the majority of the appointed Commissioners.

**Motion (2 of 4).** I move that the Commission **certify** Land Use Plan Major Amendment STC-1-11 if it is modified as suggested in this staff report. I recommend a yes vote.

**Resolution to Certify with Suggested Modifications.** The Commission hereby certifies Land Use Plan Major Amendment 1-11 to the City of Santa Cruz Local Coastal Program if modified as suggested and adopts the findings set forth below on the grounds that the Land Use Plan amendment with suggested modifications will meet the requirements of and be in conformity with the policies of Chapter 3 of the Coastal Act. Certification of the land use plan amendment if modified as suggested 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 plan on the environment, or 2) there are no further feasible alternatives or mitigation measures that would substantially lessen any significant adverse impacts which the Land Use Plan Amendment may have on the environment.



3. Denial of Implementation Plan Major Amendment Number STC-1-11 as Submitted  
Staff recommends a **YES** vote on the motion below. Passage of this motion will result in rejection of the amendment and the adoption of the following resolution and the findings in this staff report. The motion passes only by an affirmative vote of a majority of the Commissioners present.

**Motion (3 of 4).** I move that the Commission **reject** Implementation Plan Major Amendment Number STC-1-11 as submitted by the City of Santa Cruz. I recommend a yes vote.

**Resolution to Deny.** The Commission hereby **denies** certification of Implementation Plan Major Amendment Number 1-11 as submitted by the City of Santa Cruz and adopts the findings set forth in this staff report on the grounds that, as submitted, the Implementation Plan amendment is not consistent with and not adequate to carry out the certified Land Use Plan. Certification of the Implementation Plan amendment would not comply with the California Environmental Quality Act because there are feasible alternatives or mitigation measures which could substantially lessen any significant adverse effect which the Implementation Plan Amendment may have on the environment.

4. Approval of Implementation Plan Major Amendment Number STC-1-11 if Modified  
Staff recommends a **YES** vote on the motion below. Passage of this motion will result in certification of the amendment with suggested modifications and the adoption of the following resolution and the findings in this staff report. The motion passes only by an affirmative vote of a majority of the Commissioners present.

**Motion (4 of 4).** I move that the Commission **certify** Implementation Plan Major Amendment Number 1-11 if it is modified as suggested in this staff report. I recommend a yes vote.

**Resolution to Certify with Suggested Modifications.** The Commission hereby certifies Implementation Plan Major Amendment Number STC-1-11 to the City of Santa Cruz Local Coastal Program if modified as suggested and adopts the findings set forth in this staff report on the grounds that, as modified, the Implementation Plan amendment is consistent with and adequate to carry out the certified Land Use Plan. Certification of the Implementation Plan amendment if modified as suggested 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 plan on the environment; or (2) there are no further feasible alternatives or mitigation measures that would substantially lessen any significant adverse impacts which the Implementation Plan Amendment may have on the environment.



## II. Suggested Modifications

The Commission hereby suggests the following modifications to the proposed LCP amendment, which are necessary to make the requisite Coastal Act and Land Use Plan consistency findings. If the City of Santa Cruz accepts each of the suggested modifications within six months of Commission action (i.e., by February 11, 2012), by formal resolution of the City Council, the modified amendment will become effective upon Commission concurrence with the Executive Director's finding that this acceptance has been properly accomplished. Where applicable, text in ~~cross-out~~ format denotes text to be deleted and text in underline format denotes text to be added.

### 1. **Modify LUP Land Use Policy 2.16 as follows:**

The La Bahia shall be redeveloped as a visitor accommodation use available to the general public. ~~If the La Bahia is converted to visitor serving condominiums in order to fund the renovation project, restrict use of the condominiums individual owners to no more than 45 days per year.~~

### 2. **Add new LUP Economic Development Element Policy 5.2.8 (with a "wave" symbol) to address lower-cost visitor and recreational facilities as follows:**

**Economic Development Element Policy 5.2.8.** Lower-cost visitor and recreational facilities shall be protected, encouraged, and provided as part of new development projects in the City. Projects that include development of overnight accommodations shall be required to include an appropriate percentage (i.e., consistent with ensuring an appropriate mix of accommodation types and rates within the City, and consistent with statewide coastal zone direction and application) of accommodations that meet the definition of "lower-cost overnight visitor accommodations" (including over time, where any increase in rates shall be likewise tied to the same definition); or (b) shall be required to pay an in-lieu mitigation payment that is calculated to be sufficient to provide for the construction, within the City, of the same number of lower-cost units/rooms that it could be required to provide on-site (i.e., the same number of rooms that constitute the project's proportional lack of lower-cost overnight visitor accommodations); or (c) shall be required to provide a combination of lower-cost rooms and an in-lieu mitigation payment that together provide for the construction of the number of lower-cost overnight visitor accommodations units/rooms that could be required to be constructed on-site. All such payments collected shall be deposited into an interest-earning City-managed account (the lower-cost overnight visitor accommodation mitigation account) whose sole purpose is to provide funding grants, labor, and/or materials to public agencies or non-profit organizations for the provision of lower-cost overnight visitor accommodations within the City of Santa Cruz (first priority preferred) or unincorporated Santa Cruz County (second priority), including but not limited to hostel accommodations, campground accommodations, or low-cost hotel or motel accommodations.

### 3. **Lower-cost overnight visitor accommodation mitigation account management plan.** Prior to January 1, 2012, the City of Santa Cruz shall submit a management plan for the lower-cost overnight



visitor accommodation mitigation account consistent with suggested modification 2 above to the Executive Director of the Coastal Commission for review and approval. The management plan shall include, at a minimum, details of processing of the deposits into the account, investment strategies for the account to ensure a reasonable rate of return, and the guidelines that describe the manner in which the City will manage the grants and/or labor and materials to be disbursed for lower-cost overnight visitor accommodation projects (e.g., application materials for grant applicants, process for selecting grant recipients, process for ensuring that grant recipients develop lower-cost visitor accommodations, etc.). After Executive Director approval of the management plan, and upon receipt of the first deposit of a lower-cost overnight visitor mitigation charge from an applicant into this account or the provision of in-kind labor and materials, the City of Santa Cruz shall submit annual reports to the Executive Director that provide annual accounting details and a summary of the City's compliance with its management plan by June 30th of each year.

**4. Add new LUP Economic Development Element Policy 5.2.8.1 (with a “wave” symbol) to define lower-cost overnight visitor accommodations as follows:**

**Economic Development Element Policy 5.2.8.1.** Lower-cost overnight visitor accommodations are those charging 75% (or less) of the statewide average daily peak season (summer) room rate. Only rooms that meet an acceptable level of quality, including safety and cleanliness (e.g., only AAA Auto Club rated properties) shall be surveyed to determine the statewide average daily peak season room rate.

**5. Add new LUP Economic Development Element Policy 5.2.9 (with a “wave” symbol) to define visitor-serving/residential overnight accommodations as follows:**

**LUP Economic Development Element Policy 5.2.9.1.** Visitor-serving/residential overnight accommodations are those in which the unit ownership structure includes some quasi-residential private ownership (including time-share, condominium hotel/motel, private unit ownership, fractional ownership, etc.) or equivalent structure.

**6. Add new LUP Economic Development Element Policy 5.2.9.1 (with a “wave” symbol) to address visitor-serving/residential overnight accommodations as follows:**

**Economic Development Element Policy 5.2.9.** General public use of overnight accommodations shall be maximized to the greatest extent feasible possible when projects proposing time-share, condominium hotel, private unit ownership, or similar visitor-serving/residential overnight accommodations are proposed, including with respect to prioritizing general public use and accessibility during peak visitor times. All such projects shall include appropriate measures, including operational criteria, to ensure these public use parameters are realized.

**7. Modify IP Part 7C.2 (R-T(C)/PER 2: subdistrict C) as follows:**

a. **24.10.625.81(e):** “to ensure development of a quality, full-service hotel with conference facilities



in a ~~building~~ facility which incorporates the existing historical landmark La Bahia buildings or which creates a new architectural landmark in the Spanish Colonial Revival style to replace the historical La Bahia ~~Apartment~~ buildings ~~which will be if they are demolished~~ consistent with all historic resource protection standards and requirements of the LCP.”

- b. **24.10.625.83.1(a):** “Lodging, and hotel development, including visitor-serving/residential overnight accommodations, provided it incorporates a full-service restaurant and ~~not less than 5,000 square feet of~~ conference facilities.”
- c. **24.10.625.85.1:** “Heights may be increased by one-story or 11 feet with approval of a Planned Development Permit up to an overall maximum of no more than 5.5 stories and no more than 61 feet.”
- d. **24.10.625.85.1:** “Allowance of heights above 36 feet are for lodging and hotel uses only and shall be discretionary and subject to approval of the City Council. Building heights above 36 feet shall not be allowed for more than 60 percent of the site area. Buildings shall step up the slope extending away from Beach Street, where the tallest buildings and numbers of stories shall be concentrated at the rear of the property away from Beach Street. Building heights and numbers of stories at the Beach Street frontage shall be limited to no more than 36 feet (other than a primary focal architectural element, such as the historic bell tower, which may extend as high as an additional 15 feet) and shall range up to a maximum of two to three stories varied along the frontage. Proposals for...
- e. **24.10.625.85.1:** “...the proposed building provides an extraordinary ~~contribute~~ contribution to the aesthetic goals of the Beach/South of Laurel Area Plan...”
- f. **24.10.625.85.1:** “...In addition, this agreement should detail any on-site parking provisions and incorporate lease or purchase arrangements for any off-site parking which may be approved, including for conference facility parking.”
- g. **24.10.625.85.2c:** “Maximum Building Height: One additional story or 11 additional feet in height over the 4.5 story (61 and 51 foot) maximum height limit (up to an overall maximum of no more than 5.5 stories and no more than 61 feet) may be approved with a Planned Development Permit.
- h. **24.10.625.85.2d1:** “~~Uninhabitable mechanical penthouses shall be limited to 10% of the roof area and will be permitted an additional 10 foot height allowance (i.e., up to 71 feet) provided that they are set back from the face of the building by a minimum of 20 feet so as not to be visible by pedestrians.~~”
- i. **24.10.625.85.2e:** “Development on this site ~~should~~ shall be designed to encourage and support activities that unify and effectively integrate the development with Beach Street. For that reason, development of the first floor shall be required to build to the property line adjacent to Beach



Street unless a larger setback provides better utility and connection between this site and Beach Street. Significant planter boxes and other narrow-scape concepts should be used to soften this edge but provide active pedestrian access. Setbacks shall be varied depending on the street frontage and in order to achieve the Spanish Colonial Revival architectural style, including varied offsets and projections to promote visual interest, where such setbacks shall range from 0 to 6 feet or more at street level, increasing incrementally and varied as buildings increase in height and stories. as follows:

~~Beach Street — 0-6 feet required on first floor, zero allowed on upper floors ;~~

~~Main Street — 0-3 feet, varied as the building increases in height;~~

~~Westbrook Street — 0-3 feet, varied as the building increases in height;~~

~~First Street — 0-3 feet, varied as the building increases in height;”~~

- j. **24.10.625.85.2f.1:** “It is recommended that the design of all new structures be based upon “Spanish Colonial Revival” architecture as well as Mission Revival and Mediterranean architecture as described in the Design Guidelines. ~~“Fantasy-Victorian” is encouraged for recreational and entertainment development.”~~
- k. **24.10.625.85.2i.4:** “Off-site parking may be permitted ~~within this subdistrict if~~ such parking does not significantly adversely affect public parking supplies and it is either : there is adequate public parking (including the privately operated Boardwalk parking lot) to accommodate parking for conference facility requirements; or the development identifies and develops developed and maintained as a suitable permanent parking facility by the applicant;, or is developed and maintained by others and its use by the applicant is secured by ~~or the development secures and provides evidence of a long-term lease tied to the life of the applicant’s project~~ from a suitable permanent parking facility.”

**8. Add new IP Section 24.10.195 to address visitor-serving/residential overnight accommodation operations as follows:**

**Section 24.10.190. Visitor-serving/residential overnight accommodations unit operations.**

Overnight accommodation development (including but not limited to hotels, motels, inns, etc.) that includes visitor-serving/residential overnight accommodation (e.g., time-share, condominium hotel, private unit ownership, fractional ownership, or similar quasi-residential private ownership or equivalent structure, etc.) shall include an operations plan that provides for the following:

- a. **Outward Appearance and Operation.** All facilities shall appear and operate as standard operation overnight accommodation facilities without outward manifestation of the ownership structure (e.g., a hotel product shall appear and operate as a hotel structure).
- b. **Facility Owners and Unit Owners.** The ownership of all areas of proposed facilities shall be clearly defined prior to issuance of a coastal development permit. Except in unusual circumstances, unit owners will own no more than some or all individual units and, if necessary,



only those portions of the common areas that are required for ingress and egress from individual units. Overall facility owners will own everything else (e.g., lobby, front desk, offices, washing areas, maintenance areas, etc.). All such facilities shall be operated by the facility owners or facility operator.

- c. **Facility Plans.** The facility owners' component of the project shall be subject to the following: PRIOR TO COMMENCEMENT OF CONSTRUCTION, the Permittee shall submit to the City Planning Director for review and approval two copies of plans and documentation materials (facility plans) that clearly identify: all elements of the facility owners' component of the project (together the "facility"); the manner in which ownership will be applied to each element of the facility, including facility areas, common areas, and individual units; a facility operator responsible for managing the facility, including the booking of reservations for all units; the facility lobby area configuration and operational parameters; and the mechanism by which the individual units are to be booked, including at a minimum provisions for a reservation data base to be managed by the facility operator. As used in herein, the terms "book", "booked", and "booking" shall mean the confirmation of a reservation request for use of an individual unit by either the owner of the unit, the owner's permitted user, or by a member of the public, and the entry of such confirmation in the facility operator's reservation data base.

The facility shall be maintained in its approved state, and shall be managed and operated consistent with the approved facility plans.

- d. **Unit Owner Occupancy Limitations.** Each unit owner, including any individual, family, group, or partnership of owners for a given unit (no matter how many owners there are) may use his or her unit for no more than 45 days in any calendar year, and no more than 30 total days between the Saturday of the Memorial Day weekend and through the Monday of the Labor Day weekend, with a maximum of 25 days of use during any immediately preceding 50 day time period. Such occupancy limitations shall be unaffected by multiple owners of an individually owned unit or the sale of a unit to a new owner or new owners during the calendar year, meaning that all such owners of any given unit shall be collectively subject to the occupancy restrictions as if they were a single, continuous owner. Whenever any unit is not occupied by its owner(s), that unit shall be available for use by the general public on the same basis as a traditional overnight accommodation unit.
- e. **Rental Agent Allowed.** Each owner of a unit shall have the right, at his or her sole discretion, to engage a rental agent of his or her choice to serve as the rental agent for the unit, but any engagement of such agent other than the facility operator shall be on a non-exclusive basis. Whether or not the facility operator is selected as an owner's exclusive rental agent, the facility operator shall manage the booking and the reservation of all units in the facility. The facility operator shall have the right and obligation to offer any unit for general public use during all time periods not reserved by a unit owner for his or her personal use, or for the use of an owner's permitted user, or reserved for use by a public renter procured by an owner's rental agent who is



not the operator. As more fully described herein, unit owners shall report and personally certify the rental rate and terms of any rental of the owner's unit made independently of the facility operator, and the facility operator shall book all unit reservations in the operator's reservation database, a service for which the facility operator may charge the unit owner a reasonable fee.

If the facility operator is not serving as the exclusive rental agent for a unit, then the facility operator shall nevertheless have the right, working through the unit owners or their designated rental agent, to book any unoccupied room to fulfill public demand. The owner or an owner's rental agent may not withhold units from use unless they have already been reserved for use by the owner, consistent with the length of occupancy limitations identified above. In all circumstances, the facility operator shall have full access to the unit's reservation and booking schedule so that the operator can fulfill its booking and management obligations hereunder.

- f. **Unit Marketing.** The facility operator shall market all units to the general public. Owners of individually owned units may also independently market their units. Unit owners shall not discourage rental of their units nor create disincentives meant to discourage rental of their units
- g. **Facility Management.** The facility operator shall manage all aspects of the facility, including but not limited to reservation booking, mandatory front desk check-in and check-out, maintenance, and cleaning services (including preparing units for use by guests/owners, a service for which the operator may charge unit owners a reasonable fee). All unit keys shall be electronic and shall be newly created by the facility operator upon each change in user occupancy for any unit. All units shall be rented at a rate similar to that charged for traditional overnight units of a similar class or amenity level in the California coastal zone, or shall be rented at a rate that meets the definition of "lower-cost overnight visitor accommodations".
- h. **Marketing and Sale of Condominium Interests.** All documents related to the marketing and sale of condominium interests in units (including marketing materials, sales contracts, deeds, CC&Rs and similar documents, etc.) shall notify potential buyers of the following:
  - 1. Each owner of any unit is jointly and severally liable with the facility owner(s) and the facility operator for any violations of the terms and conditions of the approved coastal development permit with respect to the use of that owner's unit; and
  - 2. The occupancy of a unit by its owner(s) and their guests is restricted to a maximum of 45 days per calendar year, a maximum of 30 total days between the Saturday of the Memorial Day weekend through the Monday of the Labor Day weekend, and a maximum of 25 days of use during any immediately preceding 50 day time period. These occupancy limitations are unaffected by multiple owners of an individually owned unit or the sale of a unit to a new owner or new owners during the calendar year, meaning that all such owners of any given unit are collectively subject to the occupancy restrictions as if they were a single, continuous owner. When not in use by the owner, the unit shall be made available for rental by the



facility operator to the general public pursuant to the terms of the approved coastal development permit, which permit and the governing documents of the facility applicable to the unit contain additional restrictions on use and occupancy; and

3. Each owner of a unit who does not retain the operator of the facility as his or her rental agent shall be obligated by the governing documents of the facility to truthfully report to the facility operator (and to certify each such report) each effort, if any, he or she has made to rent his or her unit to a member of the public, and the terms and conditions of any such offer, and the terms and conditions of each rental offer which has been accepted by a member of the public.

Prior to the sale of an individual unit, the unit's seller and the facility operator (and any successors-in-interest) shall obtain a written acknowledgement from the buyer indicating that he or she understands, acknowledges, and accepts each of the above marketing and sale restrictions.

- i. **Conversion Prohibited.** The conversion of the approved units to types of limited use overnight visitor accommodation units other than those approved in the original CDP for a given development proposal or to full-time occupancy condominium units or to any other units with use arrangements that differ from the originally approved project shall be prohibited, unless it is conversion to standard operation units available to the general public at all times.
- j. **Occupancy and Use Monitoring and Recording.** The facility operator and any successors-in-interest shall monitor and record facility occupancy and use by the general public and the owners of individual units throughout each year. Such monitoring and record keeping shall include specific accounting of owner usage for each individual unit; rates paid for facility occupancy and for advertising and marketing efforts; and transient occupancy taxes (TOT) for all units. The facility operator may charge unit owners a reasonable fee for such services. The records shall be sufficient to demonstrate compliance with the restrictions set forth in Sections (a) through (i) above. All such records shall be maintained for ten years and shall be made available to the Planning Director upon request and to any auditor required by Section (k) below. Within 30 days of commencing facility operations, the facility operator shall submit notice to the Planning Director of commencement of facility operations.
- k. **Audit.** WITHIN 120 DAYS OF THE END OF THE FIRST CALENDAR YEAR OF FACILITY OPERATIONS, the facility operator shall retain an independent auditing company, approved by the Planning Director, to perform an audit to evaluate compliance with these requirements regarding occupancy restrictions, marketing and sale restrictions, management requirements, recordkeeping, and monitoring by the facility owner(s), the individual unit owners, and the facility operator. The facility operator shall instruct the auditor to prepare a report identifying the auditor's findings, conclusions and the evidence relied upon, and such report shall be submitted to the Planning Director, upon request, within six months after the conclusion of the first year of facility operations.



Within 120 days of the end of each succeeding calendar year, the facility operator shall submit a report identifying compliance with the operation plan requirements regarding occupancy restrictions, marketing and sales restrictions, management requirements, recordkeeping, and monitoring by the facility owner(s), the individual unit owners, and the facility operator to the Planning Director. The audit required after the first year of operations and all subsequent reports shall evaluate compliance by the facility operator and owners of individual units during the prior one-year period. After the first five calendar years of facility operations, the one-year reporting period may be extended to two years upon written approval of the Planning Director if each of the previous reports reveal compliance with all restrictions imposed by this special condition. The Planning Director may, by written notice to the facility operator, require a third party audit regarding the subject matter of the reports required in this section for the prior three or fewer calendar years if he or she reasonably believes that the foregoing submitted reports are materially inaccurate. The facility owner(s), each individual unit owner, and the facility operator shall fully cooperate with and shall promptly produce any existing documents and records which the auditor may reasonably request. The expense of any such audit shall be borne by the facility owner(s) and/or the facility operator.

- l. **Compliance Required.** The facility owner(s) and facility operator or any successors-in-interest shall maintain the legal ability to ensure compliance with the terms and conditions stated above at all times in perpetuity, and shall be responsible in all respects for ensuring that all parties subject to these restrictions comply with the restrictions. The facility owner(s) and the facility operator shall be jointly and severally responsible for ensuring compliance with the requirements described in this section and/or recorded against the property, as well as jointly and severally liable for violations of said requirements. Each owner of an individual unit is also jointly and severally liable with the facility owner(s) and facility operator for all violations of said requirements and for any and all violations of the terms and conditions of the approved coastal development permit with respect to the use of that owner's unit. Violations of the approved coastal development permit will result in enforcement under the LCP, and may include fines or penalties.
- m. **CC&R Declaration of Restrictions.** PRIOR TO COMMENCEMENT OF CONSTRUCTION, the Permittee shall submit for the review and approval of the Planning Director a declaration of restrictions in a recordable covenants, conditions, and restrictions (CC&R) form (CC&R Declaration of Restrictions) which shall include:
  1. All the specific restrictions listed in Sections (a) through (l) above;
  2. Acknowledgement that these same restrictions are independently imposed as condition requirements of the approved coastal development permit;
  3. A statement that the provisions of the CC&R Declaration of Restrictions that reflect the requirements of Sections (a) through (l) above, cannot be changed without Coastal



Commission certification of an LCP amendment that modifies such sections and approval of a coastal development permit amendment. If there is a section of the CC&R Declaration of Restrictions related to amendments, and the statement provided pursuant to this paragraph is not in that section, then the section on amendments shall cross-reference this statement and clearly indicate that it controls over any contradictory statements in the section of the CC&R Declaration of Restrictions related to amendments.

The approved CC&R Declaration of Restrictions described above shall be recorded against all individual property titles simultaneously with the recordation of the subdivision map for the approved project.

- n. **Implementation Plan.** PRIOR TO COMMENCEMENT OF CONSTRUCTION, the Permittee shall submit for Planning Director review and approval a plan specifying how the requirements of this section will be implemented. The plan must include, at a minimum, the form of the sale, deed and CC&R terms and restrictions that will be used to satisfy these requirements and the form of the rental program agreement to be entered into between the individual unit owners, the facility owner(s), and the facility operator. The plan shall demonstrate that the Permittee will establish mechanisms that provide the facility owner(s) and facility operator and any successor-in-interest facility owner(s) and facility operator adequate legal authority to implement the requirements of this condition. Any proposed changes to the approved plan and subsequent documents pertaining to compliance with and enforcement of the terms and conditions required by this section, including deed restrictions and CC&R Declaration of Restrictions, shall be prohibited without approval of a coastal development permit amendment.

### III. Findings and Declarations

The Commission finds and declares as follows:

#### A. Description of Proposed LCP Amendment

##### 1. Overview

The City of Santa Cruz is proposing to amend its LCP to provide for a new condominium hotel project at the site of the La Bahia residential apartments located at 215 Beach Street in the City of Santa Cruz. The LCP currently provides for the existing La Bahia structures to be redeveloped, through renovation, as a public visitor accommodation facility, and restricts the number of days that owners may stay in the facility if it is developed as a condominium hotel. LUP Policy 2.16 states:

*The La Bahia shall be redeveloped as a visitor accommodation use available to the general public. If the La Bahia is converted to visitor-serving condominiums in order to fund the*



*renovation project, restrict use of the condominiums by individual owners to no more than 45 days per year.*

As discussed in detail below, the proposed amendment would change this policy to clearly allow for the demolition of the La Bahia Apartments, as opposed to simply its renovation, as a means to redevelop the site. The amendment is also proposing changes to the certified IP, including raising the current 43 foot height limit for the site to 61 feet for primary structures.<sup>1</sup>

The City's amendment is being proposed to facilitate the property owner's current proposal to demolish the La Bahia Apartments (La Bahia) and build a new upscale condominium hotel with conference facilities and other visitor-serving amenities (see Exhibit E for the City's project summary and photographic simulations of the proposed hotel project). The City has conceptually approved the project, which would provide 125 condominium hotel rooms, available to the public for at least 320 days a year. The final City approval of that project is pending Commission action on this LCP amendment.

## 2. Background on La Bahia Project and Relation to LCP Amendment

The La Bahia is located adjacent to the Santa Cruz Main Beach, approximately 600 feet east of the Santa Cruz Municipal Wharf, and approximately 300 feet west of the Santa Cruz Beach Boardwalk (Boardwalk) amusement park. The La Bahia occupies two parcels that together total approximately 1.4 acres. See Exhibit A for the location of the La Bahia and Exhibit B for a photograph of the existing La Bahia buildings and surrounding area.

The La Bahia was designed by William C. Hays, an architect of statewide stature, who designed many structures in northern California communities. The La Bahia was originally constructed in 1926 (then called the Casa Del Rey Apartments) by the Santa Cruz Seaside Company<sup>2</sup> (Seaside Company), still the current owners.<sup>3</sup> Shortly after construction, the La Bahia was used by long-term guests of the Seaside Company and the Coast Counties Gas and Oil Company. Most recently, the La Bahia has been used as short-term apartments for University of California Santa Cruz (UCSC) students during the school year and as seasonal housing for Boardwalk employees during the summer.

The La Bahia complex occupies the entire block of Beach Street between Main Street, Westbrook Street, and First Street. The La Bahia is a City-designated historic site and historic landmark. In 1976, the "Santa Cruz City Historic Building Survey" included the La Bahia and gave it an "excellent" rating. Subsequently, the City designated the La Bahia as a historic landmark, the highest designation awarded

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<sup>1</sup> The current zoning that applies to the site allows an additional 10 feet of height (for a total height of 53 feet) for architectural elements such as chimneys, cupolas, etc., for up to 15% of the roof area. The proposed amendment would also allow a similar exception for an additional 10 feet in height for up to 15% of the roof area (for a total height of 71 feet) for these types of architectural elements.

<sup>2</sup> The Santa Cruz Seaside Company is the owner and operator of the Santa Cruz Beach Boardwalk amusement park and also owns several motels, parking lots, and other property in the vicinity of the Boardwalk.

<sup>3</sup> The Seaside Company is working with Barry Swenson Builders on the current project for the site, hereafter the Applicants for the proposed La Bahia project.



by the City for historic buildings. The structures are designed in the Spanish Colonial Revival style of architecture. The La Bahia has a rectangular plan that consists of six structures that are interconnected in places and create an L-shaped complex. The buildings are primarily two stories with the exception of the bell tower wing near Beach Street, which is three stories high. The exterior walls are covered with white textured stucco and painted white, and the roof is multi-level and covered with red Spanish tiles and rolled roofing at various sections. The roof is in a variety of styles, including gabled, hipped, flat, and shed styles. The bell tower is located on the eastern part of the facade of the building that faces Beach Street. The tower is square with four round-arch openings flanked by classical pilasters. The tower's roof has a dome with patterned, colorful tiles. See photos of the La Bahia in Exhibit B and Exhibit L.

The La Bahia also contains two courtyards that are an integral design element of the apartment complex. The "Court of the Laurels" is prominent and features a stylized stairway entrance, a central grass lawn, a fountain at the north wall, flowering trees, shrubbery, and small flowerbeds. The "Court of the Mariners" is less formal with an asymmetrical design and a water pond with lilies. Additional features such as stairways, arched entryways, balconies, a bridge ramp, as well as the scale, massing, character, and detail of the surrounding La Bahia buildings add to the significance and character of the courtyards. The site design and buildings' features with their varied levels, courtyards, balconies, and shapes evoke the feeling and appearance of a rural Andalusian village that has developed over many years.<sup>4</sup>

Since the early 1990s, the City of Santa Cruz has been interested in intensifying tourist-oriented development that promotes year-round activities in the beach area. In 1998 the City adopted the Beach and South of Laurel Comprehensive Area Plan (BSOL Area Plan) and parts of it were certified as a component of the LCP in 2002 (LCP amendment STC-MAJ-1-01 Part B, certified June 13, 2002).<sup>5</sup> The La Bahia is located within the south-central portion of the BSOL Area Plan's boundaries. Existing development within the BSOL Area Plan's boundaries is characterized by a variety of visitor-serving and residential uses. The BSOL Area Plan envisioned the La Bahia parcels as a site for a major conference facility, and two possible development scenarios were considered under the Plan: Alternative 1 would provide for a project of approximately 300 rooms on the La Bahia site as well as extending offsite to encompass adjacent Westbrook Street (which would be abandoned by the City) and the adjacent Seaside Lodge, and Alternative 2 would provide for a project of approximately 120-200 rooms on just the existing La Bahia site.

During the BSOL Area Plan process, the City hired an historic preservation firm to identify the La Bahia's primary architectural elements that would need to be incorporated into a major conference

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<sup>4</sup> Hill, W., *Historic Architecture Assessment – Beach Area/South of Laurel Street Master Plan in the City of Santa Cruz within Santa Cruz County, California*, April 1996.

<sup>5</sup> The City did not submit the entire BSOL Area Plan document for certification but instead submitted a series of policies meant to generally characterize the main goals and objectives of the BSOL Area Plan. As such, it is only the excerpted components of the BSOL Area Plan that are part of the City's certified LCP, and not the document itself. Thus, while the BSOL Area Plan document can provide relevant guidance on the excerpted policies, it is not part of the LCP and cannot be used as the basis for planning and regulation.



facility on the site.<sup>6</sup> The resulting architectural analysis found that the major contributing elements of architectural importance included the buildings' location primarily along Beach Street, as well as the scale, massing, character and detail of all of the buildings. This analysis also found that the Court of the Laurels was a major contributing element to the character and significance of the La Bahia complex and should be maintained, and that the Court of the Mariners was nearly as significant as the Court of the Laurels, but could possibly be modified or replicated without destroying the character of the entire complex. The passages into the courtyards were also deemed architecturally significant.

The final BSOL Area Plan prescription for La Bahia was to develop the site as a 250-275 room hotel and conference facility that would retain the architectural "character-defining elements" of the existing La Bahia that were identified in the City's architectural analysis. However, as proposed, the certified LCP BSOL Area Plan policies provided area-wide guidance, but did not include any explicit guidance regarding future development on the La Bahia site itself.<sup>7</sup> At the time the BSOL Area Plan LCP amendment was submitted to the Commission, though, there was a proposal to redevelop and renovate La Bahia as a condominium hotel. The Commission's 2002 LCP amendment approval, therefore, added the specific policy language of policy 2.16 cited above, requiring such condominium hotel renovation project to limit owner use of the individual condominium hotel rooms to no more than 45 days per year.

In 2003, the City approved a CDP to renovate most of the existing historic La Bahia buildings while providing for demolition of one existing building and partial demolition of another building to provide for a 118-room condominium hotel. The 2003 project proposed an underground parking garage and hotel amenities such as a day spa, approximately 3,000 square feet of meeting space, and a swimming pool. The City's approval of this project in 2003 was based on the current LCP and did not require any changes to the LCP's site standards for the project site. Subsequent to this 2003 approval, the project Applicant decided not to pursue this permitted project and allowed the CDP to expire.

A new proposal for redevelopment of the La Bahia site was then developed.<sup>8</sup> The proposed project would include demolition of all of the existing La Bahia buildings<sup>9</sup> and redevelopment of the site with a 125-room condominium hotel with a maximum height of 61 feet for main structures and 71 feet for certain architectural elements, an onsite parking garage, meeting room space, a bar and a restaurant, a day spa, and a swimming pool (see Exhibit E). To accommodate this new project, the City proposes to

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<sup>6</sup> *La Bahia Apartments, Santa Cruz, California, "Architectural and Developmental Analysis"* (September 1997), Architectural Resources Group. This study was part of a larger report, "City of Santa Cruz Design Analysis" (September 1997).

<sup>7</sup> The LCP Implementation Plan (IP) includes a section referencing the BSOL Area Plan CEQA document, but even that reference is fairly broad. Section 24.10.618 regarding the purpose of the R-T(C) (Beach Commercial) zoning district was amended to state: "It is the intent of this zoning that preservation of La Bahia be conducted in accordance with the measures described in the certified final Environmental Impact Report for the Beach and South of Laurel Comprehensive Area Plan."

<sup>8</sup> The project Applicant, Barry Swenson Builder in coordination with the Santa Cruz Seaside Company, was also the applicant for the City-approved 2003 project.

<sup>9</sup> The La Bahia's historic bell tower would be removed from the existing building, restored, and reinstalled in the new development. If it were not feasible to preserve and reuse the existing bell tower due to its dilapidated condition, the bell tower would be reconstructed in-kind.



amend the LCP to clearly provide for the potential demolition of La Bahia, and to create a new IP zoning district and associated site standards that would apply to the La Bahia site only. As mentioned above, the City has also given the proposed project a conceptual CDP approval, but any final City action on the CDP for the project is pending Commission action on this LCP amendment first.

### 3. Description of Proposed LCP Amendment

The La Bahia site is currently designated RVC (Regional Visitor Commercial) in the LUP and it is zoned R-TC (Tourist Residential - Beach Commercial) in the IP. The RVC designation applies to properties meant to provide amenities to shoppers and tourists such as regional shopping centers, visitor accommodations, and other visitor attractions. Similarly the purpose of the R-TC zone is to establish standards for development of residential uses mixed with neighborhood commercial, motel, and regional tourist commercial use.

The LCP amendment would amend BSOL Area Plan Policy 2.16 cited above to allow for redevelopment of the La Bahia site through demolition as opposed to conversion/renovation. The policy would be amended as follows:

*The La Bahia shall be redeveloped as a visitor accommodation use available to the general public. If the La Bahia site is ~~converted~~ redeveloped to visitor-serving condominiums in order to fund the ~~renovation~~ project, restrict use of the condominiums by individual owners to no more than 45 days per year.*

The proposed amendment would retain the RVC LUP designation, and it would amend the IP zoning ordinance and the zoning map to create a new zoning district that would apply exclusively to the La Bahia site (R-T(C)/PER 2: Subdistrict C - Beach Commercial/Performance Overlay Zone 2/La Bahia Hotel Site). The new zoning district would establish the requirements for development of the La Bahia site under the LCP’s Planned Development<sup>10</sup> process, and would define site-specific development standards to encourage the development of a full-service condominium hotel with conference facilities on the site, including through an allowance for additional development height above LCP standards, subject to approval by the City Council, with required visual analyses and findings.

The following table shows the existing site standards for the R-TC zoning district (which currently apply to the La Bahia site and many other sites in the City’s beach area) and the proposed R-TC/PER-2 site standards that would apply exclusively to the La Bahia site.

	<b>Existing LCP standards that currently apply to the</b>	<b>Proposed LCP standards that would apply only to</b>
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<sup>10</sup> LCP Section 24.08.720 defines the LCP’s Planned Development process, and states: A Planned Development permit provides variation on district regulations, where appropriate, in the following areas: 1) Building setbacks; 2) Street standards; 3) Lot coverage; 4) Parking and loading; 5) Landscaping; 6) Open space; 7) Lot area; 8) Uses; 9) Slope regulation modifications; 10: Height, not to exceed one story or twenty percent of height (in feet) over and above zoning district regulations.



	<b>La Bahia Site</b>	<b>the La Bahia Site</b>
<b>Maximum number of stories*</b>	<b>4</b>	<b>5 ½</b>
<b>Maximum principal building height*</b>	<b>43 feet</b>	<b>61 feet</b>
<b>Maximum Accessory building height</b>	<b>15 feet</b>	<b>15 feet</b>
<b>Minimum net lot area</b>	<b>5,000 sq.ft.</b>	<b>1 acre</b>
<b>Minimum lot width</b>	<b>65 feet</b>	<b>65 feet</b>

\* The number of stories and heights shown are the maximums that may be permitted through the Planned Development process. Architectural elements (such as such as bell towers, cupolas, spires, etc.) are allowed to extend up to 10 feet above the maximum allowable heights for up to 15% of the roof area (i.e., up to 53 feet under the current standards and up to 71 feet for the proposed new site-specific standards), also through the Planned Development process, and subject to design permit review. The number of stories and building heights would be calculated based on the average grade of the site. Height would be based on a four quadrant method (i.e., where the site is made up of four equal quadrants) where the height in any quadrant would be measured from the average grade elevation to the mid-point of the roof for each building segment.

Thus, under the existing LCP standards, the maximum allowed building height on the La Bahia site is 43 feet and architectural elements can extend up to 53 feet.<sup>11</sup> Under the proposed LCP amendment, the maximum allowed building height would increase to 61 feet and architectural elements could extend up to 71 feet.<sup>12</sup> Thus, the net effect of the proposed amendment as it relates to height and stories would be to allow an additional 1.5 stories and an additional 18 feet of building and architectural element height.

The existing R-TC regulations for the site allow a variety of principally permitted uses, (including residential uses, visitor-serving lodging, small family daycare facilities within a residential use, etc.) as well as a host of conditional uses requiring a use permit. Under the proposed amendment, the uses would be limited to hotel lodging (provided it incorporates a full-service restaurant and not less than 5,000 square feet of conference facilities), retail uses, museums and art galleries, and nightclubs (with a special use permit).

The proposed amendment would retain requirements that any new development be consistent with the certified BSOL Area Plan's Design Guidelines, and would require that future development at the La Bahia site be in the Spanish Colonial Revival style (the existing La Bahia buildings are in this style with stucco walls, tile roofs, small courtyards, and other Spanish Colonial Revival style amenities), the Mission Revival style, or the Mediterranean style, and, for recreational entertainment development, the Fantasy Victorian style. Offsite parking would be allowable under the proposed amendment, similar to that of the existing R-TC regulations. However, unlike the existing R-TC regulations, the proposed amendment would specifically allow offsite parking on the adjacent Boardwalk parking lot to accommodate conference facility parking requirements.<sup>13</sup>

<sup>11</sup> A maximum building height of 36 feet under the current LCP R-TC standards, plus an additional 7 feet allowable through the Planned Development process (a total of 43 feet), and architectural elements 10 feet above that with design review.

<sup>12</sup> A maximum building height of 50 feet under the proposed La Bahia site standards, plus another 11 feet allowed through the Planned Development process, and architectural elements 10 feet above that with design review.

<sup>13</sup> The condominium hotel project that is driving the proposed LCP amendment has an estimated onsite deficiency of 43 parking spaces during peak periods when the hotel is fully occupied and there is a conference event drawing non-hotel guests.



See Exhibit C for proposed LCP amendment text and proposed zoning map change. See Exhibit D for existing LCP standards that currently apply to the La Bahia site.

## B. Consistency Analysis

### 1. Standard of Review

The proposed amendment affects the LUP and IP components of the City of Santa Cruz LCP. The standard of review for the LUP amendments is that they must be consistent with and adequate to carry out the Coastal Act; the standard of review for IP amendments is that they must be consistent with and adequate to carry out the policies of the certified LUP, as amended.

### 2. LUP Amendment Consistency Analysis

#### A. Community Character and Historic Resources

##### 1. Applicable Policies

Coastal Act Section 30253(5) requires that new development protect special communities that are popular visitor destination points for recreational uses and states:

***30253:** New development shall: (5) Where appropriate, protect special communities and neighborhoods which, because of their unique characteristics, are popular visitor destination points for recreational uses.*

As discussed below, the proposed amendment of Policy 2.16 raises the question of whether demolition of the La Bahia apartments, as opposed to renovation, is inconsistent with Section 30253.

##### 2. Analysis of Proposed LUP changes

BSOL Area Plan Land Use Policy 2.16 anticipates conversion and renovation of the existing La Bahia apartments to a visitor-serving condominium use, and this was the Commission's understanding when this policy was added to the LCP in 2002.<sup>14</sup> This policy does not envision demolition of the La Bahia buildings. Because the project that is driving this LCP amendment is based on demolishing the La Bahia structures, the LCP amendment proposes to modify Policy 2.16 language in order to clearly allow for the demolition and clearing of the site.

Protection of community character, including historic resources, is an important part of the certified LCP. Thus, the LCP embodies the requirements of Coastal Act 30253 through both LUP policies and IP ordinances that protect both community character generally, and historic resources specifically. This is clear from the LCP's list of key visions for the coastal zone of "preserving the integrity of historic

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<sup>14</sup> The Commission's findings noted that "revitalization of the La Bahia would help to transform Beach Street into a 'signature street'..."



areas”, and its definition of the community’s form as due to many factors, including explicitly in terms of history, and is perhaps most aptly summed up by the LUP’s cultural resources chapter, where it states:

*Much of Santa Cruz’ character and appeal stems from its cultural milieu. This milieu is extremely varied, reflecting the variety of people and cultural resources that are a part of Santa Cruz life. Archaeologic and historic resources provide a cultural link to the past. They exist as reminders of the City’s past and to educate the community about its history and, in the case of historic buildings and landmarks, are a major influence in how the City looks.*

The certified LCP also specifically references protection of built character including unique historic qualities, and encourages preservation of historic sites through the historic landmark designation program.

With respect to existing beach area community character, the La Bahia is located in the City’s central beach area just inland of Santa Cruz Main Beach and adjacent to Cowell Beach, the Santa Cruz Municipal Wharf, and the Boardwalk. This area is the City’s primary tourist draw and its most popular visitor destination point, drawing millions of visitors each year. This area is characterized by visitor serving commercial uses lining Beach Street and extending inland from it, including a number of hotels, inns, and motels, as well as restaurants and shops. It is also connected to Beach Hill with its historic Victorian mansions and its mixed-use and residential neighborhoods. The City has designated the La Bahia as an historical landmark, the highest designation awarded by the City for historic structures. Along with the La Bahia, the nearby Municipal Wharf and a number of Boardwalk structures (such as the Giant Dipper rollercoaster and the 100-year old Loeff Carousel) are also City-listed historical landmarks, and the Beach Hill historic district (and its many designated sites) is just inland. Altogether, the character of this area is eclectic, dominated and anchored on each side by large shoreline-hugging structures (the downcoast Boardwalk and the upcoast Dream Inn), framed inland by the topography of Beach Hill rising up from the shoreline, and defined in large measure by the scale, type, and historic pedigree of the range of structures coexisting here. The area has an established beach town atmosphere and character that takes its cues from the differences as much as the similarities in the built environment, with the La Bahia a well-established element midpoint along the immediate shoreline.

While the La Bahia is an important part of the City’s community character, including its historic resource value, when the proposed change to LUP Policy 2.16 to allow for its potential demolition is considered in the context of other LCP policies, it is not inconsistent with Coastal Act Section 30253. The LCP currently includes multiple LUP policies and IP standards that address the protection of historic resources (see Exhibit G). This includes requirements to protect structures designated as historic structures and landmarks, as well as procedures to follow in the event that a structure or landmark is proposed for redevelopment, renovation or even demolition. The currently certified LUP Policy 2.16 by itself does not explicitly prohibit the demolition of La Bahia, although the implication of its language is that La Bahia was to be protected and redeveloped through renovation, not demolition. Thus, the proposed amendment would clarify that the demolition of La Bahia is not prohibited. But the primary



LUP and IP requirements that currently govern the potential demolition of a historic structure will continue to apply to the La Bahia site. Thus, the proposed LUP change that would allow redevelopment through demolition at the La Bahia site can be found consistent with applicable Coastal Act policies for protecting character (including history) within the broader context of this LCP that already protects historic resources. The question of whether demolition of the La Bahia is appropriate must be answered by applying all of the LCP policies that address protection of historic resources to the proposed project, as discussed later in these findings.

## B. Visitor-Serving Uses

### 1. Applicable Policies

Coastal Act Sections 30213 and 30222 protect priority visitor-serving uses in the coastal zone, including lower-cost visitor-serving facilities. In particular:

**30213:** *Lower-cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred. The commission shall not: (1) require that overnight room rentals be fixed at an amount certain for any privately owned and operated hotel, motel, or other similar visitor-serving facility located on either public or private lands; or (2) establish or approve any method for the identification of low or moderate income persons for the purpose of determining eligibility for overnight room rentals in any such facilities.*

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

### 2. Analysis of Proposed LUP changes

#### Background

The Coastal Act policy to protect lower-cost visitor serving land uses has its genesis in the California Coastal Plan. 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 facilities were being replaced by higher-cost apartments, condominiums, and hotels. The Coastal Act addressed these findings in part by including the specific Section 30213 mandate to protect lower-cost visitor and recreational facilities.

Over the years, permit applicants have requested that the Coastal Commission and LCP-certified local governments approve high-end hotel complexes on land zoned for visitor-serving uses, and in some cases on land already containing lower-cost accommodations. Other applicants have proposed non-visitor-serving accommodation uses on sites of existing lower-cost accommodations. Additionally, applications for the conversion of hotels and motels to, or the construction of hotels and motels as, time



shares, condominium ownership, and similar ownership frameworks and combinations have generally increased. Often such facilities are more akin to residential uses – sometimes they are categorized as “quasi-visitor-serving” or “quasi-residential” or “limited use overnight visitor accommodation” or “visitor serving residential” – and thus these types of developments can reduce opportunities for publicly available overnight accommodations, especially lower-cost facilities. Overall, the Commission’s permit experience confirms the need to guard against the loss or preclusion of lower-cost overnight accommodations along the coast.

One way that the Commission has implemented Section 30213 is by requiring that lower-cost accommodations be provided as part of a project or by requiring in-lieu fees to be paid for new lower-cost accommodations to be constructed elsewhere.

The Coastal Commission also has addressed the changing marketplace for visitor-serving and residential land uses. By the 2000s, the concern for the impact of condominium hotels and hotel conversions was growing. On August 9, 2006 the Commission held a workshop on condo-hotel construction and conversion which encompassed the topic of overnight visitor affordability. Background research for the workshop showed that only 7.9% of the overnight accommodations in nine popular coastal counties were considered lower-cost, affirming the ongoing need for more effective implementation of Coastal Act Section 30213. The increased attention on this issue also generated a more detailed examination of the methods for determining when and to what degree the protection or provision of lower-cost overnight accommodations was necessary in any specific case. In a July 2008 report on a proposed LCP amendment, the Commission applied a quantitative methodology for determining what is considered “lower-cost” in the geographic area in question.

#### Defining Lower-cost

In a constantly changing market, it can be difficult to define what price point constitutes low-cost and high-cost accommodations for a given area. In its previous actions, the Commission has addressed what are appropriate terms for defining low-cost and high-cost hotels.<sup>15</sup> More recent Commission actions have used a formula to determine low and high-cost overnight accommodations for a specific part of the coast.<sup>16</sup> The formula is based on California hotel and motel accommodations (single room up to double occupancy), and does not incorporate hostels, RV parks, campgrounds or other alternative accommodations into the equation, as these facilities do not typically provide the same level of accommodation as hotels and motels. Hostels, RV parks and campgrounds are generally inherently lower-cost, and are the type of facilities that a mitigation charge for the loss of affordable over-night accommodations would generally support.

The formula compares the average daily rate of lower-cost hotels in a specific coastal zone area (e.g., a city or defined urban area) with the average daily rates of hotels and motels across the entire State of

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<sup>15</sup> Including CDPs 5-04-291, 5-88-062, 5-84-866, 5-81-554, 5-94-172, 5-06-328, A-253-80, A-69-76, A-6-IMB-07-131, 3-07-002, and 3-07-003.

<sup>16</sup> Including LCP amendment SBV-MAJ-2-08 and CDP amendment 5-98-156-A17.



California. Under this formula, low-cost is defined as the average room rate for all hotels within a specific area that have a room rate less than the statewide average room rate.

To determine the statewide average daily room rate, Commission staff surveyed average daily room rates for hotels in California. Statewide average daily room rates are collected monthly by Smith Travel Research,<sup>17</sup> and are available on the California Travel and Tourism Commission's website under the heading "California Lodging Reports."<sup>18</sup> To be most meaningful, peak season (summer) rates were utilized for the formula. To ensure that the lower-cost hotels and motels surveyed meet an acceptable level of quality, including safety and cleanliness, only AAA Auto Club rated properties were included in the survey. According to the AAA website, "to apply for (AAA) evaluation, properties must first meet 27 essential requirements based on member expectations – cleanliness, comfort, security and safety." AAA assigns hotels ratings of one through five diamonds.

When referring to any overnight visitor accommodations, the Commission has typically defined lower-cost overnight facilities as any facility with room rates that are below 75% of the Statewide average room rate, and higher-cost facilities as any facility with room rates that are 125% above the Statewide average room rate.<sup>19</sup> The Statewide average daily room rate in California in 2010 for the month of July was \$116.09, and 75% of \$116.09 is \$87.06. Within the City of Santa Cruz, three AAA-rated motels charge less than \$87.06, and they total 122 rooms or 13.7% of the total rooms in the City. With the addition of the 125 hotel rooms that the current amendment facilitates, the percentage of low-cost rooms would drop to 12%.

#### City of Santa Cruz History with Respect to Lower-cost Visitor-Serving Uses

As stated above, in 2002 the Commission approved an LCP amendment that replaced the policies of the former Beach Area Plan with new policies based on the Beach/South of Laurel (BSOL) Area Plan. In that approval, the Commission made the following findings regarding visitor accommodations in this area of the City:

*Visitor accommodations are an important use in the BSOL area. There are a total of 24 hotel/motels in the area: ten in the Beach Commercial area, nine in the Beach Hill area, three in Beach Flats, and two in the South of Laurel area along Pacific Avenue (there are also bed and breakfast facilities in the Beach Hill and Beach Commercial areas). These hotels and motels are often interspersed with residential use. **Approximately 80% of the lodging facilities are budget class or below and many would benefit from a thorough renovation. [emphasis added]***

Given that the City's lodging stock (within and outside of the coastal zone) has historically consisted of budget class motels, the City's certified LUP does not contain a policy that specifically implements

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<sup>17</sup> Smith Travel Research data is widely used by public and private organizations.

<sup>18</sup> See <http://www.visitcalifornia.com>.

<sup>19</sup> Statewide average room rates can be calculated by the Smith Travel Research website ([www.visitcalifornia.com](http://www.visitcalifornia.com)) or other analogous method used to arrive at an average Statewide room rate value.



Coastal Act Section 30213 with respect to requiring lower-cost visitor-serving uses. Instead, the City's LUP contains policies, such as LUP Economic Development Policies 5.2, 5.2.1-5.2.3, which encourage redevelopment and upgrading of existing hotel stock:

***Economic Development Policy 5.2:** Encourage upgrades of existing hotel facilities and attract quality hotel and conference facilities in locations and scale appropriate to the City's character to enhance the quality of visitor-serving areas and promote development of the conference tourism market.*

***Economic Development Policy 5.2.1:** encourage the development of facilities that would help accommodate conference users in conjunction with existing hotels or new hotel development*

***Economic Development Policy 5.2.2:** Investigate the attraction of a top-end, full-service hotel to expand and improve the year-round conference segment of the tourism market.*

***Economic Development Policy 5.2.3:** Assess the impacts of an over-supply of inferior hotel/motel rooms and develop incentives to encourage owners to upgrade existing hotel/motel facilities while also ensuring the retention of moderately-priced accommodations.*

Lodging in the City continues to consist of, for the most part, older budget-class motels and a few newer/remodeled moderately priced hotels. However, the City has recently approved demolition of three dated budget class motels in the BSOL area to allow for development of a new Marriott Hotel. The City currently has an application pending for a new Hyatt Place hotel to be located just outside the coastal zone near Ocean Street, which is the gateway to the beach and Boardwalk areas of the City. In the last several years, a new Holiday Inn Express was constructed at the base of Ocean Street (outside the coastal zone).

Thus, the City's hotel stock is slowly redeveloping and expanding to include more mid-range and upper-range types of lodging uses in terms of cost. The project that is driving the proposed LCP amendment would be a high-end condominium hotel. As discussed below, the project also does include a lower-cost visitor-serving component, directly raising the concern. Given that the proposed LUP amendment would allow new higher-cost visitor serving overnight accommodations to be constructed, without the necessary policies that would require protection of lower-cost accommodations, it cannot be found consistent with Coastal Act sections 30213 and 30222 and must be rejected as submitted. To address this deficiency, Suggested modification number 4 adds a definition of "lower-cost overnight visitor accommodations" to the City's LCP. In addition, suggested modification 2 requires that the City protect, encourage, and provide lower-cost visitor overnight accommodations in the City, including through actual provision and construction of such units, and through mitigation fees that can be applied to provision/construction offsite. To ensure that any mitigation fees are appropriately collected and distributed, this approval is also based on the City developing a lower-cost overnight visitor accommodation mitigation account management plan (see suggested modification 3). These modifications provide consistency of the proposed LUP changes with Coastal Act Section 30213



regarding protection of lower-cost visitor-serving uses.

#### Condo-Hotel Use

The proposed amendment to LCP Land Use Policy 2.16 maintains the language of the certified policy with respect to requiring that the site be used for “visitor accommodation use available to the general public.” This requirement will ultimately lead to an increase in the availability of visitor-serving overnight accommodation uses in this highly visited area of the City, consistent with Coastal Act Section 30222, which requires that visitor-serving facilities have priority over residential facilities (the La Bahia’s current use). However, with this LUP language, there is the potential that the site could be developed with a condominium hotel, a timeshare, or other limited use overnight facility. In fact, the currently proposed project for this site proposes to redevelop La Bahia as private condominium units that would be rented out to the general public. Thus, as proposed, this amendment could allow the site to be used for semi-residential purposes. To maintain the visitor-serving use of the site, as designated in the LUP, the Commission previously limited use by the owners of any future condominium units on the site to a maximum of 45 days per year by adding LUP Policy 2.16 to the LCP in 2002.<sup>20</sup> The Commission, however, did not limit the use by owners during the peak summer period (i.e., an owner of a condominium on the site would be able to use the condominium for 45 days during the peak summer season between Memorial Day weekend and Labor Day, or for about half of the peak summer season it is possible that individual condominiums would not be available for use by the general public) nor did the Commission at that time identify any more specific length of stay requirements otherwise.

In the time since the Commission’s 2002 LCP amendment approval, the Commission has reviewed a series of projects and LCP amendments for which timeshare/condo-hotel issues were central, and has learned a great deal about their operation and the way in which to understand such projects in light of Coastal Act and LCP requirements protecting public use of overnight accommodations. The main thrust of what the Commission has learned and applied in the intervening years has focused on refining the way in which condo owners can use the condos versus general public use, and the way in which the hotels themselves operate. To ensure that the hotel operates in a way that protects general public use consistent with the Coastal Act, the LUP needs a policy addressing timeshares, condo-hotels, and other residential use types within the overnight accommodations category, including to protect lower-cost use (as described above) as well as general public use during the peak summer season. Provided it also applies to the La Bahia site, such stand alone policy can address both the site and the rest of the City’s coastal zone. Thus, in addition to the suggested modifications described above, suggested modification 1 eliminates the La Bahia-specific reference of LUP Policy 2.16 (see also preceding community character findings related to LUP Policy 2.16). Suggested modification 5 defines “visitor-serving/residential overnight accommodations” so the LCP includes a clear indication of that use versus standard overnight

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<sup>20</sup> 45 days was identified based on review of the Commission’s history at that time (17 LCP certifications/LCP amendments; 27 CDPs) in terms of length-of-stay limitations placed on the owners of timeshares and condo-hotels as of 2002. The limitations identified at that time ranged from no limitations on the number of days per year that an owner could use the timeshare/condominium (in 9 prior LCPs/amendment and 19 CDP cases) up to a maximum of 90 days of allowable use by the owner per year (in 2 LCPs/amendments and 3 CDP cases). For the La Bahia site, the Commission adopted a mid-range limitation of 45 days per year.



accommodations (including because the LCP does not include any such direction), and suggested modification 7 adds that as an allowed use to the La Bahia site (it is not currently in the LCP, nor in the proposed IP amendment). Suggested modification 6 provides a statement that the objective when these types of units are proposed remains to maximize general public use of overnight accommodations to the greatest extent feasible. And finally, suggested modification 8 provides the framework for maximizing lower-cost public use when such projects are considered, including substantial detail on operation over time. See suggested modifications.

With these modifications, the proposed amendment is consistent with Coastal Act Section 30222 with respect to maintaining priority visitor-serving uses and limiting private residential uses when these types of quasi-residential overnight accommodations projects are considered in the City, including specifically at the La Bahia site. In addition, complementary requirements to implement these policies are required in the IP as well (see LUP consistency analysis findings that follow).

#### Mitigation Requirement

As stated above, Section 30213 of the Coastal Act provides for the protection and provision of lower-cost visitor and recreational facilities. Section 30222 of the Coastal Act states that the use of private lands suitable for visitor-serving commercial recreational facilities shall have priority over private residential or general commercial development. Visitor-serving commercial development is considered a priority use under the Coastal Act. The public access policies of the Coastal Act require that a range of affordable facilities, including overnight accommodations, be provided in new development along the coast.

Generally, the few remaining low to moderately priced hotel and motel accommodations in the coastal zone tend to be older structures that become less economically viable as time passes. As more recycling occurs (which is taking place in the City of Santa Cruz), the stock of low-cost overnight accommodations tends to be reduced, since it is generally not economically feasible to replace these structures with accommodations that will maintain the same lower rates. As a result, the Commission sees more proposals for higher-cost accommodations, including limited-use overnight accommodations. If this development trend continues, the stock of affordable overnight accommodations will eventually be depleted.

The loss of affordable overnight accommodations within the coastal zone is also an important issue for the Commission because lodging opportunities for more budget-conscious visitors to the coast are increasingly limited. As the trend to demolish or convert low-cost hotels/motels continues, and primarily new first class luxury hotels are being built, persons of low and moderate incomes will make up fewer of the guests staying overnight in the coastal zone. Without low-cost lodging facilities, a large segment of the population will be excluded from overnight stays at the coast. By forcing this economic group to lodge elsewhere (or to stay at home), there will be an adverse impact on the public's ability to access beach and coastal recreational areas. Therefore, by protecting and providing lower-cost lodging a larger segment of the population will have the opportunity to visit the coast. Access to coastal recreational



facilities, such as the beaches, harbor, piers, and other coastal points of interest, is enhanced when affordable overnight lodging facilities exist to serve a broad segment of the population.

Given that condo-hotels could be permitted at this site under the City's LUP and that the City envisions redevelopment of the site with a quality hotel with conference and restaurant facilities, the resulting visitor-serving development likely to be a high-end use. Historically, the Commission has approved new hotel developments along the coastline because they are visitor-serving facilities. These hotels, however, are often exclusive because of their high room rates, particularly in recent years. Typically, the Commission has secured public amenities when approving these hotels (e.g., public accessways, public parking, open space dedications, etc.) to address Coastal Act priorities for public access and visitor support facilities. The Commission has also required mitigation for the use of land that would have been available for lower-cost and visitor serving facilities (e.g., see LCP amendment NPB-MAJ-1-06A). The expectation of the Commission, based upon several recent decisions, is that developers of sites suitable for overnight accommodations will provide facilities which serve the public with a range of incomes.<sup>21</sup> If the development cannot provide for a range of affordability on-site, the Commission has required off-site mitigation, such as payment of an in-lieu mitigation charge, to fund construction of lower-cost overnight accommodations such as youth hostels and campgrounds.

Although the actual provision of lower-cost accommodations in conjunction with a specific project is preferable, in past action, the Commission has also found that when this approach is unwieldy, then the requirement of in-lieu charges to provide new lower-cost opportunities constitutes adequate mitigation for the loss, reduction, and/or lack of provision of affordable overnight accommodations. Recent Commission decisions for individual development projects have required the payment of an in-lieu charge of \$30,000 paid for each required replacement room as a part of the mitigation package.<sup>22</sup> In other cases, the Commission has also required lesser amounts of in-lieu mitigation fees based on the particular fact set, including in terms of the unit of measurement for the fee.<sup>23</sup> For high-cost overnight visitor accommodations where low-cost alternatives are not included onsite, a mitigation charge of \$30,000 per room has typically been required for twenty-five percent (25%) of the high-cost rooms constructed.<sup>24</sup>

The \$30,000 per room in-lieu charge amount was established based on figures provided by Hostelling

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<sup>21</sup> See, for example, LCP amendments HNB-MAJ-2-06 (Huntington Beach Timeshares), SBV-MAJ-2-08 (Ventura), RDB-MAJ-2-08 (Redondo Beach), and LOB-MAJ-1-10 (Downtown Shoreline), and CDPs A-6-PSD-8-004/101 (Lane Field), A-5-RPV-2-324 (Long Point), and 5-98-156-A17 (Long Beach Pike).

<sup>22</sup> See, for example, CDPs 6-92-203-A4 and A-6-ENC-07-51, and LCP amendments Oceanside 1-07 and Redondo Beach 2-08.

<sup>23</sup> For example, in 2007 in Pismo Beach and Morro Bay, the Commission required a mitigation fee based on applying \$13,860 to 25% of the new rooms in Morro Bay and to 10% of the new rooms in Pismo Beach (see CDPs 3-07-002, 3-07-003, and A-3-PSB-06-001), where the \$13,860 was based on the projected costs of constructing new campground facilities (at the Harbor Terrace site in Port of San Luis) including the extension of necessary utilities and the construction of restrooms and other campground amenities. The Port estimated the cost of each new tent campsite at roughly \$13,860 per site in 2002 (San Luis Obispo County LCP Amendment 1-05 (Part 1)).

<sup>24</sup> See, for example, CDP amendment 5-98-156-A17 and LCP amendment LOB-MAJ-1-10.



International in a letter to the Commission dated October 26, 2007. The figures provided are based on two models for a 100-bed, 15,000-square-foot hostel facility in the coastal zone, and utilize experience from the existing 153-bed Hostelling International San Diego Downtown Hostel. Both models include construction costs for the rehabilitation of an existing structure and factor in both “hard” and “soft” construction and start up costs, but do not include costs associated with ongoing operations.<sup>25</sup> Based on these figures, the total cost per bed ranged from \$18,300 for a leased facility to \$44,989 for a facility on purchased land. This model is not based on an actual project, and therefore the actual cost of the land/building could vary significantly, and therefore the higher-cost scenario could represent an inflated estimate. In order to take this into account, the Commission has found that a cost per bed located between the two model results is most supportable and conservative.

In light of these trends in the market place and along the coast, the Commission is faced with the responsibility to protect and to provide lower-cost overnight accommodations as required by Section 30213 of the Coastal Act. Research conducted as part of the Commission’s 2006 workshop on hotel-condominiums showed that only 7.9% of the overnight accommodations in nine popular coastal counties were considered lower-cost.<sup>26</sup> Although statewide demand for lower-cost accommodations in the coastal zone is difficult to quantify, there is no question that camping and hostel opportunities are in high demand in coastal areas, and that there is an on-going need to provide more lower-cost opportunities along California’s coast. For example, the Santa Monica hostel occupancy rate was 96% in 2005, with the hostel being full more than half of the year, and the California Department of State Parks estimates that demand for camping increased 13% between 2000 and 2005 with nine of the ten most popular State Park campgrounds being on the coast.<sup>27</sup>

The City’s LCP does not explicitly track or provide for the types of mitigation more recently made part of approval packages in relation to this issue statewide. As such, the LCP is not well positioned to address a condo-hotel project of the type identified in LUP Policy 2.16 for this site, nor in relation to the pending project that is driving this LCP amendment. As discussed above, the City of Santa Cruz has tentatively approved a project for the La Bahia site that includes demolition of existing structures and replacement with a facility of 125 rooms, a spa, and conference facilities. In their conceptual CDP approval action,<sup>28</sup> the City required the developer to pay \$200,000 worth of construction labor and materials or \$200,000 cash funding for a low-cost visitor-serving facilities project in the County, with priority being given to the Santa Cruz Hostel Society for projects at the Carmelita Cottages, which is a hostel located on Beach Hill near the La Bahia (see page 33 of Exhibit F). In terms of sites, the Carmelita Cottages, however, have recently completed all necessary construction upgrades and renovations to the hostel buildings, and there are no proposed projects pending at that site. The City is

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<sup>25</sup> Where “hard” costs include, among other things, the costs of purchasing the building and land and construction costs, and “soft” costs include closing costs, architectural and engineering contracts, construction management, permitting fees, legal fees, furniture and other equipment costs.

<sup>26</sup> Coastal Commission Hotel-Condominium Workshop, August 9, 2006.

<sup>27</sup> See City of Long Beach LCP Amendment LOB-MAJ-1-10.

<sup>28</sup> Id (City has not taken final CDP action yet).



currently in preliminary discussions with State Parks staff regarding using the \$200,000 for potential upgrades at Seacliff State Beach and/or New Brighton State Beach in Santa Cruz County to reduce or prevent closures of the camping areas at these parks due to winter storms.<sup>29</sup>

In terms of the necessary amount for an in-lieu charge, the \$200,000 mitigation payment is substantially less than what would be required if a payment of \$30,000 for 25% of the rooms were applied, per the Commission's recent history and methodology. Applying this methodology to the project that is driving this LCP amendment yields a mitigation requirement that is almost \$1 million.<sup>30</sup>

As previously stated, the La Bahia currently provides a residential use for UCSC students during the school year and for Boardwalk employees during the summer months. The proposed amendment will disallow this residential use on the site and require that the site be used for visitor-serving accommodation and other visitor-serving uses. The project would include a quasi-residential component, the condo-hotel rooms during certain times of the year, but as a general premise the proposed amendment (and the project that is driving the amendment) will not result in the loss of any visitor-serving uses (low-cost or otherwise) but instead will increase the number of visitor-serving hotel rooms in the City.<sup>31</sup> Thus, under the unique facts of this case, although the \$200,000 mitigation payment is substantially less than what the Commission has required in the past, such payment can be found to be adequate, given that the proposed amendment will facilitate the development of new accommodations in the City in a prime beachfront location that is currently used for residential use. To ensure that appropriate mitigation is effectively implemented, though, the LUP requires some modification. Specifically, suggested modification 2 provided additional specificity on application of such a mitigation fee approach, and suggested 3 modification requires that such mitigation payments be managed by the City of Santa Cruz. Together, these suggested modifications effectively ensure that such fees be used to provide funding grants or in-kind labor and materials to public agencies or non-profit organizations for the provision of lower-cost overnight visitor accommodations within the City of Santa Cruz and Santa Cruz County, including but not limited to hostel accommodations, campground accommodations, or low-cost hotel or motel accommodations. The suggested modification includes a provision that requires the City to submit a management plan for the lower-cost overnight visitor accommodation mitigation account to the Executive Director of the Commission for approval, prior to January of 2012. This in-lieu mitigation program is appropriate and necessary coastal zone wide, and also specifically necessary to the La Bahia site to mitigate adverse impacts to public recreation caused by the loss of opportunities to provide for lower-cost overnight accommodations. If modified as suggested, the proposed LUP amendment will meet the requirements of the public access and recreation

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<sup>29</sup> During the winter months, bluff erosion at Seacliff State Beach and the toppling of non-native trees at New Brighton State Beach has resulted in the extended closure of the campgrounds in these parks for safety reasons. The City and State Parks staff are contemplating possible projects that would address these safety issues such that the existing campgrounds would remain open and useable by the general public during the winter months.

<sup>30</sup> That is, 25% x 125 units = 31.25 units; 31.25 units x \$30,000 per unit = \$937,500.

<sup>31</sup> After the maximum amount of residential ownership use of the 125 units is removed, this equates to adding 15 overnight units to the stock available in the City that would be available year round.



policies of Chapter 3 of the Coastal Act.

### 3. IP Amendment Consistency Analysis

#### A. Community Character, Historic, and Visual Resources

The proposed LCP amendment includes an entire new chapter specific only to the La Bahia site that would provide site-specific standards for development contemplated there (see Exhibit C). The purpose of the new chapter is to promote the development of a regional visitor serving use in the Beach Area and specifically on the La Bahia site. To this end, the intent of the zone includes encouraging the development of a full-service hotel, allowing a flexible development response to market conditions, to promote an appropriate density of development for a quality beachfront hotel, and encouraging design with a appropriate relationship to adjacent residential and commercial areas. Notably, the intent also includes ensuring the incorporation of the existing characteristics of the historic La Bahia into a new development, or development of a new architectural landmark to replace the La Bahia apartments which the new section indicates will be demolished. The IP changes also include specific design and use permit standards to achieve these goals, and the specific height, lot area, setbacks, etc. to govern new development on the site. The standard of review for such proposed IP changes is consistency with and adequacy to carry out the LUP.

#### 1. Applicable Policies

As discussed above, the LUP includes a very strong historic resource protection mandate (see Exhibit G for the LCP's policies and certified BSOL Design Guidelines that protect historic resources and community character). In addition, while not the standard of review for the proposed IP changes, certified IP Sections 24.12.400 through 24.12.450 (Historic Preservation), Sections 24.08.900 through 24.08.940 (Historic Alteration Permit), and Sections 24.08.1000 through 24.08.1040 (Historic Demolition Permit) include relevant standards that provide an important context for understanding the proposed IP changes in this case, including with respect to standards associated with evaluating proposed demolition of historic structures and landmarks.

Thus, as previously discussed, the LCP protects historic resources, including through the historic area, structure, and landmark designation process, each with a higher degree of historic status in order. These resources are clearly considered by the LCP to be important components to preserve and protect the City's coastal zone character. That said, the LCP allows for demolition of historic structures and landmarks, but only in the circumstances where specific findings can be made, including that the demolition is necessary to correct an unsafe condition and that there are no reasonable alternatives to the demolition of the historic structure. When demolition of historic landmark is contemplated, the LCP require the process identified in IP Section 24.08.1014 be applied. Section 24.08.1014 states:

*24.08.1014 Demolition of Buildings Listed in the Historic Building Survey – Findings.*

*1. Prior to approval or modified approval, the historic preservation commission shall find that:*



- a. *The action proposed is consistent with the purposes of historic preservation as set forth in Section 24.12.400 of this title and in the Cultural Resources Element of the General Plan; or*
  - b. *The applicant has demonstrated that the action proposed is necessary to correct an unsafe or dangerous condition on the property pursuant to Section 24.08.1040; or*
  - c. *The applicant has demonstrated the denial of the application will result in immediate and substantial economic hardship; or*
  - d. *There are no reasonable alternatives to the demolition as of the time of the hearing.*
2. *Prior to denial, the historic preservation commission shall find that:*
- a. *There are reasonable alternatives to the demolition as of the time of the hearing as demonstrated by specific facts in the record.*

Because the IP changes proposed (and indeed the whole LCP amendment package and the project that is driving it) are premised on demolition of the La Bahia, the IP analysis question must focus on the consistency of the proposed demolition of the La Bahia with the LUP, understanding that the IP allows for such demolition in certain circumstances. If the potential demolition of the La Bahia as anticipated by the amendment is consistent with the LUP, the Commission must then evaluate whether the proposed redevelopment standards are consistent with and adequate to carry out the LUP.

## 2. Analysis of Proposed IP changes

### Is Demolition of the La Bahia Appropriate?

Under the LCP, a historic landmark like the La Bahia may only be demolished in certain circumstances and subject to certain requirements, key among them that preservation is not a reasonable option (see IP Section 24.08.1014 cited above). The City prepared an EIR for the proposed project that is driving the proposed LCP amendment and that is intended to replace the existing La Bahia buildings.<sup>32</sup> The EIR provides a discussion of the Applicant's rationale for demolition of the historic La Bahia buildings, including an independent review of the rationale. This review also included estimates by a structural engineering firm with historic rehabilitation experience regarding the cost of restoring the existing La Bahia buildings versus demolishing the buildings and constructing a new hotel (see page 3 of Exhibit E, and pages 19-20 of Exhibit F). In summary, the rationale for demolition notes that the buildings are in a deteriorated condition and would have to be demolished due to issues associated with weather damage, structural system and building code requirements, and accessibility issues. The rationale further indicates that: the existing buildings have developed cracks (from small to significant) in the exterior

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<sup>32</sup> The City's certification of the EIR was challenged under CEQA, primarily as regards the same basic question before the Commission of whether preservation is a more appropriate alternative to demolition. The City prevailed in Santa Cruz County Superior Court, but that decision has been appealed and is awaiting briefing at the Court of Appeal.



wall finishes due to water damage; there is evidence of structural wood framing deterioration due to water penetration; the buildings would need to be seismically upgraded; the existing buildings are constructed on sandy soil, have un-reinforced concrete foundations and the roof and floor construction have very little bracing value; the existing mechanical, plumbing, drainage, and electrical systems are inadequate to meet current codes and the needs of the proposed project; and the existing building entrances are not accessible to the disabled, the majority of the existing walkways do not provide adequate railings and ramps, and all of the existing second floor rooms are inaccessible to the disabled.

To address the above issues to allow the existing La Bahia buildings to be converted to a visitor-serving use, the Applicant and City believe that the following apply: 1) all the water-damaged material would have to be removed and replaced; 2) to prevent further weather damage, the buildings would have to be insulated, which would require removal of all of the existing exterior stucco; 3) seismic retrofitting would require removal of interior and exterior stucco in affected areas; 4) the existing roof would need to be removed to install new roof sheathing and waterproofing, and then a new roof would need to be installed; 5) all of the existing mechanical, plumbing, drainage, and electrical systems would need to be replaced to meet building code requirements; and 6) regarding accessibility, there is no practical solution to address the problem of second-floor accessibility, and therefore the second floor of the buildings would remain inaccessible to the disabled. The Applicant for the project has indicated that it would be very costly to address the necessary upgrades to create a safe and healthy condominium hotel complex, and that these upgrades would be more costly than demolishing the existing buildings and constructing a new project (again, see the City's rationale in Exhibits E and F).

In addition, the financing of the proposed project is based on selling hotel rooms as commercial condominiums for limited stay use by each owner. During those periods that rooms would not be used by their respective owners, the rooms would be made available to the general public as conventional hotel rooms. A hotel management company must be able to rent rooms in the same standard group an equal amount of times. Thus, the Applicant indicates that the differences between all of the existing rooms (accessibility to the disabled, size, quality, etc.) in the event that the La Bahia was simply rehabilitated, would hinder the hotel management company's ability to meet these standards.

To verify the validity of the demolition rationale, a structural analysis report was prepared, which found that retrofitting the existing La Bahia buildings for hotel use would require extensive modifications to the structural systems of the buildings. This report indicates that although the majority of the vertical load system of the existing building may meet the requirements of the current code, it would require extensive modifications to meet the needs of the proposed project. In addition, the report further indicates that the lateral load resisting system and the foundations do not meet the requirements of the current code. Also, it indicates that as a result of the high potential for liquefaction on the site during an earthquake, the existing foundation would need to be replaced. In addition to the cost, the report finds that temporary support of the existing structures during the foundation removal and installation of new foundations would likely damage the existing finishes.

In short, there is little question that the La Bahia structures would require significant work to convert



them in such a way as to provide for a functioning hotel. The City and Applicant analyses bear this out. The IP provides that historic buildings may be demolished if renovation would be “an unreasonable alternative.” On this point, the EIR includes an independent cost estimate comparing the relative cost of the City-approved 2003 project (which maintained most of the existing La Bahia buildings) and the project that is driving the proposed LCP amendment (and includes demolition of all of the existing buildings). The results of this cost estimate found that the 2003 project would cost \$156.90 per square foot and the currently proposed project would cost \$140.17 per square foot. Thus, per the estimate, it would take an additional \$16.73 per square foot to renovate the La Bahia as compared to demolishing it and constructing all new structures (see pages 19-20 of Exhibit F). This equates to about 12% more per square foot to renovate as opposed to demolish the La Bahia. The LCP does not define the term “unreasonable” and the City and Applicant have concluded that the additional cost for a renovation option is unreasonable. In addition, they have cited their concern that the existing La Bahia buildings are not conducive to the intended use as a hotel, and that obtaining financing and insurance to renovate and redevelop the existing La Bahia buildings into a hotel would be extremely difficult.

Based on the information in the record, the Commission concurs with the City and the Applicant judgment that the potential demolition of La Bahia that is contemplated by the IP amendments is not inconsistent with the LUP and IP policies and procedures for considering the demolition of historic landmarks. In making this find the Commission notes that the City did not require that the demolition of the existing La Bahia buildings be tied to actual development of the site (i.e., the City did not condition the tentatively approved project to state that demolition can only take place subject to assurances that funding is in place and reconstruction will commence in short order). Without such assurance, it is possible that the buildings could be demolished and no replacement project would take place for years, if ever, leaving a “hole” in the built environment at a critical location.<sup>33</sup> The Commission is of the understanding that any demolition of the existing La Bahia buildings will coincide with the completion of construction of a new hotel on the site within two years of the demolition.

What are the appropriate standards for redevelopment following demolition?

The IP amendment proposes various new standards for redevelopment of the La Bahia site. The amendment raises issues related to protection of community character and visual resource protection, including protection of historic character.

The City’s LCP includes numerous policies that provide for the protection of important public views and that protect community character through the implementation of high quality building design that provides compatibility with community character through architectural style, mass and form, building materials and colors. See Exhibit G for these policies and for the applicable BSOL Area Plan Design Guidelines.

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<sup>33</sup> An example of this type of demolition without redevelopment is the historic Miramar-by-the-Sea Hotel in Montecito (Santa Barbara County). The property sold in 1998 to a developer who received approval from the County to demolish the historic hotel and rebuild a new hotel on the site. The Hotel was partially demolished in 2000, but no new development took place. Since then, the property has changed hands twice and development of a new hotel on the site has not yet commenced.



The La Bahia site is located on Beach Street within the Beach Commercial area of the BSOL Area Plan. The visual character of the area is dominated by the Boardwalk, the Coconut Grove ballroom, the Casino arcade building, the City's Municipal Wharf, and other visitor-serving commercial uses, including several older motels and retail buildings. A majority of the buildings in this area reflect the architectural character of the 1940s and 1950s (e.g., they have a low profile, are relatively small in scale, and tend to have long, flat roofs). Buildings that step up Beach Hill tend to have a cascading character with multi-level rooflines. Also located in this area, the Dream Inn is a higher profile pre-Coastal Act ten-story hotel that is located on the bluff along West Cliff Drive, upcoast of the La Bahia site and the Wharf fronting Cowell Beach. This area also has a number of surface parking lots that account for over one-half of its land area.

The La Bahia site is visible from many public viewing locations, including four designated scenic viewpoints identified in the City's LCP: the Municipal Wharf, the pedestrian path along West Cliff Drive, Oceanview Park, and the bluff where the San Lorenzo River meets East Cliff Drive (see page 2 of Exhibit A). The La Bahia site is also visible from the Main Beach and from Beach Hill. The sloping topography of the La Bahia site contributes to the site being highly visible throughout the beach area, including specifically from the above locations.

Under the existing R-TC zoning regulations, the maximum allowable height on the La Bahia site is 43 feet (36 feet under the standard R-TC regulations, plus an additional 20% in height (7 feet in this case) allowable through the Planned Development process). Architectural elements such as bell towers, cupolas, spires, etc., are allowed to extend up to 10 feet above the height limitation (i.e., up to 53 feet) for up to 15% of the roof area, subject to design permit review. Under the proposed LCP amendment, the allowable building height would be a maximum of 61 feet (50 feet allowed for principal buildings, plus another 11 feet allowed with approval of a Planned Development Permit). Architectural elements would be allowed to extend 10 feet above the height limitation, (i.e., up to 71 feet) for up to 15% of the roof area, subject to design permit review. Building heights over 36 feet would be allowed for up to 60 percent of the site area. Additional findings pertaining to visual impacts of development heights over 36 feet would be required.

The main impact of the proposed IP amendment would be on the allowable mass and scale on the site. The maximum height on the site would be increased from 43 feet to 61 feet for main structures, and to 71 feet for architectural elements, such as chimneys, cupolas, etc. The proposed amendment limits development on the site that is greater than 36 feet in height to no more than 60% of the site. Thus, the replacement development would yield a significantly larger structure than the existing La Bahia, and a significantly larger structure than was previously approved via CDP for the prior renovation project in 2003 (see Exhibit B for a photo of the existing La Bahia buildings and Exhibit E for photo simulations of the proposed project) pursuant to the current LCP standards. The project driving this LCP amendment provides a relevant example of what might be expected in this regard (as shown in Exhibit E).<sup>34</sup> The project is limited to three stories along Beach Street, only one story higher than the existing buildings.

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<sup>34</sup> And this is particularly relevant because the City has conceptually approved a CDP for the project.



The taller portions of the buildings (up to 5 stories and 61 feet for main structures) will step up the sloping site, which will lessen the visual impact of the development on the surrounding area and avoid the appearance of a uniform wall mass.

Judging the appropriate scale for a replacement structure in any given community can be challenging and it is often a function of multiple and cross-cutting factors and judgments. In this case numerous factors are relevant for consideration. First, the La Bahia site fronts Beach Street and the beach, and this frontage is the most prominent in the public viewshed. Second, the site slopes up Beach Hill way from the beach, and elements further inland will appear larger, including in the prominent ocean fronting viewshed. Third, the site is located adjacent to the Casablanca Inn and Restaurant just across the street on the upcoast side, which is also a City-designated historic resource.<sup>35</sup> The La Bahia steps up the hillside, but the tallest portion of the site is the bell tower wing along Beach Street, which is three stories, with the bell tower extending about 14 feet above the third story (see Exhibit B). The Casablanca in many ways provides an important scale parameter inasmuch as it too is sited in largely the same kind of location as La Bahia, it is prominent in all the same views, it is the largest structure<sup>36</sup> immediately adjacent to La Bahia, and any development at La Bahia needs to also protect the character and integrity of this site too, including in terms of its own historic status. Fourth, it should be recognized that the pre-Coastal Act and historic Boardwalk Casino/Cocoanut Grove building comprise a “book-end” on this section of Beach Street and constitute a fairly large and tall structure right on the edge of the beach.<sup>37</sup> Likewise, the pre-Coastal Act Dream Inn, which is located about 0.2 miles from the La Bahia on the downcoast side of the wharf, is 10 stories tall as seen from the beach. Both the Boardwalk Casino/Cocoanut Grove building and the Dream Inn also help to provide a relative scale, although slightly less directly relevant compared to the Casablanca due to distance from the site and intervening development. Fifth, the La Bahia is prominent in wharf views, and the wharf is also a primary public attraction. Sixth, views from inland of the site toward the ocean, albeit lesser public views due to relatively lesser public use on these more inland roads, will be blocked by almost any redevelopment of the site beyond a re-creation (i.e., currently ground level parking is in the rear of La Bahia, and view blockage is minimal, but additional structures further up the hill will quickly block views). Seventh, Beach Street and the La Bahia figure prominently in the view from West Cliff Drive, another primary visitor destination, as one moves toward the site. And finally, eighth, development along Beach Hill and at La Bahia are framed in many of the seaward and West Cliff views against the backdrop of the Santa Cruz Mountains, which though distant are also an important component of these views.

As indicated above, the proposed scale is quite a bit larger than the existing scale, and has raised significant concerns for many years. As a result, the City considered a number of alternatives to the version now proposed (and conceptually approved by the City). These included a less large version premised on some renovation and some redevelopment (Alternative 4 from the project EIR) that would

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<sup>35</sup> The Casablanca consists of the Spanish style buildings located across the upcoast side-street from the La Bahia (and seen above the “Beach Street” notation in the photograph in Exhibit B).

<sup>36</sup> Portions of the Casablanca reach about 40 feet in height and 3 stories in its central building core, and are smaller than that elsewhere.

<sup>37</sup> The peak of the dome of the Cocoanut Grove is about 62 feet in height (not including the flagpole).



explicitly be scaled similarly to the Casablanca. Even if re-conceptualized as new construction, this version scale-wise most fits with the character established by the Casablanca, and would likely best blend in with this historic structure; the City dismissed this alternative because it would not meet other objectives for providing a large conference hotel at the site.

The EIR for the project also evaluated reducing the proposed project by another story at the rear of the site relative to that currently proposed, and eliminating some of the massing in the center of the structure in the rear to make it appear less imposing in critical views. However, this alternative was also dismissed by the City and the project Applicant for economic reasons. Similarly, the EIR's "no project" alternative and an alternative based on the 118-room project the City approved in 2003 (discussed in the "Background" section above) were also dismissed by the City and the project Applicant.

Ultimately, the City found the proposed standards (including as expressed in the conceptually approved CDP) consistent in terms of scale with the LUP requirements protecting views and community character at this location. The Commission concurs. Although the standards proposed provide for (and indeed the conceptually approved project is) a large in scale development, the standards will not result in incursion into the Santa Cruz Mountains ridgeline view, will ensure lower development nearest the beach and on Beach Street, and will concentrate development to the rear of the site where its view impacts are less than if concentrated in the front. On this point it is clear that there have been a number of opposing viewpoints expressed regarding appropriate scale during the course of consideration of the LCP amendment and the project, but the proposed standards should be sufficient in this case to protect views and character consistent with the LCP. Although development at the scale allowed will be visible from scenic viewpoints, including along the beach and Beach Street, the Municipal Wharf, and West Cliff Drive, the views from these areas will not be substantially adversely impacted given that the new development will be seen against the backdrop of existing development on and near to Beach Street, including the Boardwalk, the Boardwalk Casino, the Cocoanut Grove ballroom, the Dream Inn, and other visitor-serving and residential development that exists along this highly urbanized coastline. Yes, there are lesser scale alternatives that also appear feasible, including perhaps most compelling a less large version scaled similarly to the adjacent historic Casablanca Inn and Restaurant, but at the end of a long public process the City identified the scale proposed as appropriate for the beach area, including as softened by continuing the Spanish Colonial Revival theme of the existing La Bahia, and the Commission concurs.

In particular, because the La Bahia site is located on the inland side of Beach Street, any future development undertaken pursuant to the proposed amendment standards will not impact significant public views of the ocean. From Beach Hill, although some views across the site of the beach and ocean will most certainly be lost, views of the ocean will still be available at street intersections. Although the development will be visible from the scenic viewpoints of the Municipal Wharf, the San Lorenzo River levee, and the West Cliff Drive pedestrian path, the views from these areas will not be substantially impacted given that the new development will be seen against the backdrop of existing development on and near to Beach Street, including the Boardwalk, the Casino, the Cocoanut Grove ballroom, the Dream Inn, and other visitor-serving and residential development that exists along this highly urbanized



coastline.

In addition, as tentatively approved by the City, redevelopment of the site will include many of the elements suggested by the City's Historic Preservation Commission in order to replicate certain historic features or elements found in the existing La Bahia buildings. In addition, the historic bell tower will be restored (if possible) and used in the new project, or reconstructed in kind. Furthermore, the City's tentative approval of the project that is driving the LCP amendment includes a condition to require that the developer work with City staff and qualified historic architects and others to technically review and refine exterior design details to assure they include appropriate Spanish Colonial elements (as required by the certified BSOL Area Plan Design Guidelines) and sufficiently incorporate the character-defining features of the original La Bahia structure (see Condition 64 on page 30 of Exhibit F). Such conditions are required to fulfill LUP policies designed to protect historic resources. Thus, any new project on this site would be required to incorporate unique elements that will mimic the historic flavor of the La Bahia buildings and will maintain the special community character of the BSOL Area. Given all the above, the proposed IP amendment can be found consistent with the LUP with respect to scale and character protection.

Finally, it is important to observe that the proposed amendment will facilitate redevelopment of a rather deteriorated site located in the heart of the City's visitor-serving area. For all of these reasons, the proposed amendment can be found consistent with the LCP's visual protection policies, including Land Use Element Policies 1.6, 2.7.2, and 3.51.

As discussed, in the event of demolition, the LUP requires that the historic resource being demolished be emulated to the maximum extent possible. Such outcome is most likely to preserve existing character, as it requires new development to be similar to the existing built environment. To the extent additional square footage is deemed appropriate and warranted, such re-creation could potentially include additions that can expand square footage but that aren't themselves re-creations so much as structures that complement the re-creation. This is akin to the manner in which Secretary of Interior standard work in relation to additions to historic structures. Namely, the intent is to make the addition look like an addition, and not part of the historic structure itself.<sup>38</sup> The proposed amendment requires that any future development on the site be in the Spanish Colonial style (the existing La Bahia buildings are in the Spanish style with stucco walls, tile roofs, small courtyards, and other Spanish-style amenities). The project that is driving the proposed LCP amendment strives to emulate many of the design details from the existing La Bahia buildings, including plaster walls, tile roofs, retention or replication of the existing bell tower, arched windows, interior courtyards, etc. (see Exhibit E). Even if this specific project weren't constructed, the proposed new zoning district includes design standards that would require these elements on this site. Any new building design on this site must include features that will maintain a balance of scale, form, and proportion, including landscaped setbacks along street frontages, parking

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<sup>38</sup> And in fact, the City's conceptual CDP approval appears to embrace this type of approval where it requires the La Bahia to be "faithfully reconstructed as much as possible", but it is clear from the City's record of decision that they mean this requirement to mean a development like the currently proposed project and not, strictly speaking, a re-creation of the existing La Bahia.



hidden within and below building facades, courtyards, and the use of varying tower, parapet, roof, and terrace elements to provide articulation. With respect to the style, it seems clear that emulating the existing La Bahia design aesthetic pays homage to the historic landmark, and would be appropriate for the site. Given the eclectic nature of design in this area, it is conceivable that a different style could also work, but it would seem most LUP consistent and appropriate to continue the Spanish Colonial Revival style at this site.

Finally, although in large measure approvable, as described above, there are a few parts of the proposed La Bahia site standards that require some minor changes to ensure that they result in the type of project described above that will be LCP consistent, primarily in terms of clarifying certain internal inconsistencies, and ensuring that the standards result in a project that can meet LCP tests for this special location in the long run. See suggested modification 7.

An additional challenge presented by the proposed amendment is that it only applies to the La Bahia site. Concern has been raised, therefore, that the amendment constitutes spot-zoning that sets an adverse precedent for future potential changes in the Beach area. Although the Commission is supportive of LCP changes to facilitate redevelopment of the La Bahia site as currently envisioned, and believes that the amendment is not inconsistent with the LUP with respect to scale and size, the question of whether such a scale and intensity of development is appropriate elsewhere along Beach Street and in the beach area is an open one. Indeed, before any such changes are considered elsewhere in this vicinity, it will be important for the City to prepare a comprehensive update and assessment of redevelopment options for the area, particularly so that the cumulative impacts of any proposed redevelopment at a scale greater than that currently allowed by the LCP is well-understood. With this understanding, the Commission finds that the proposed IP amendment for the La Bahia site is consistent with the LCP's Community Design policies (including Community Design Policy 2.2 and 2.2.1) and with the certified BSOL Area Plan's Design Guidelines regarding protecting community character.

## B. Visitor-Serving Uses

The City's LCP protects visitor-serving uses and encourages improving the character and quality of visitor-serving uses, including by upgrading hotel facilities, to promote more overnight visits to the City. See Exhibit G for these policies.

The La Bahia site is located on Beach Street, which is the major roadway leading to the beach and Boardwalk attractions and to motels and other visitor-serving uses in this area of the City. The existing R-TC regulations for the La Bahia site allow a wide variety of principally permitted uses, including residential uses, visitor-serving lodging, small family daycare facilities within a residential use, etc., as well as a host of conditional uses requiring a use permit (see Exhibit D). A number of these existing allowable uses are not priority visitor-serving uses (e.g., residential uses). Under the proposed amendment, the allowable uses on the site would be limited to visitor-serving uses, such as hotel lodging (provided it incorporates a full-service restaurant and not less than 5,000 square feet of conference facilities), retail uses, museums and art galleries, and nightclubs (with a special use permit). Non-



priority residential uses would no longer be allowed on the site.

The project that is driving the proposed LCP amendment will replace a non-priority residential use (i.e. the existing 44-unit apartment building) with a large full-service condo-hotel. As such, the proposed amendment is consistent LCP Land Use Policy 2.72 regarding improving the character and quality of visitor-serving commercial areas, and with LCP Economic Development Policy 5.2, which encourages upgrades of hotel facilities to attract quality hotel and conference facilities, and with BSOL Area Plan Land Use Policy 2.6, which calls for redevelopment of underused land in the Beach Commercial area that will provide visitor-serving uses.

The potential for a condominium hotel to be constructed raises important issues regarding the types of uses allowed in the proposed zoning district and in the RVC designation. It is the intent of the LCP to ensure the public's ability to use and access the shoreline in this area. BSOL Area Plan Policy 2.16 allows for condo-hotel use on the la Bahia site. In this case, the developer has stated that the project that is driving the proposed LCP amendment is not a condominium in the classic sense of being completely residential, but rather a 125-room hotel project that requires condominium financing. A completely residential condominium project would be inconsistent with the LCP in any case. The developer asserts that this type of financing, including that all 125 units need a condominium component, is necessary for the project to succeed. Because a condominium dwelling unit in the traditional sense is specifically designated for permanent occupancy, but such a development would be inconsistent with the LCP, it is important to provide terms in the IP that make any future facility on the La Bahia site non-exclusively residential (see suggested modification 8 and related modifications necessary that define such uses, and the ways in which they are appropriate under the LCP, including in terms of requiring appropriate mitigation when lower-cost options are not included in projects and overall parameters for operation of such facilities over time). These terms include limitations on the length of stay by any unit owner, comprehensive management and liability provisions to assure adequate compliance and enforcement of the general visitor-serving requirements of the approval, and operational standards overall. Regarding this issue, it should be noted that the proposed amendment will facilitate future development that will partly provide a new coastal priority, visitor-serving use that will also include amenities to support public access and recreation. As modified, the proposed IP amendment can be found consistent with the visitor-serving policies of the LUP (as amended).

### C. California Environmental Quality Act (CEQA)

The Coastal Commission's review and development process for LCPs and LCP amendments has been certified by the Secretary of Resources as being the functional equivalent of the environmental review required by CEQA. Therefore, local governments are not required to undertake environmental analysis of proposed LCP amendments, although the Commission can and does use any environmental information that the local government has developed. CEQA requires that alternatives to the proposed action be reviewed and considered for their potential impact on the environment and that the least



damaging feasible alternative be chosen as the alternative to undertake.

The City, acting as lead CEQA agency, evaluated the project that is driving this LCP amendment under CEQA, and submitted an EIR document in support of the proposed LCP amendment.<sup>39</sup> This staff report has discussed the relevant coastal resource issues with the proposal, and has recommended appropriate suggested modifications to avoid and/or lessen any potential for adverse impacts to said resources. All public comments received to date have been addressed in the findings above. All above Coastal Act findings are incorporated herein in their entirety by reference.

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

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<sup>39</sup> The City's certification of the EIR was challenged under CEQA, primarily as regards the same basic question before the Commission of whether preservation is a more appropriate alternative to demolition. The City prevailed in Santa Cruz County Superior Court, but that decision has been appealed and is awaiting briefing at the Court of Appeal.

