

CALIFORNIA COASTAL COMMISSION

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

Th8d



Prepared August 9, 2011 (for August 11, 2011 hearing)

To: Commissioners and Interested Persons

From: Dan Carl, District Manager
Susan Craig, Coastal Planner

**Subject: STAFF REPORT ADDENDUM for Th8d
City of Santa Cruz Major Amendment Number 1-11 (La Bahia)**

The purpose of this addendum is to modify the staff recommendation for the above-referenced item. In the time since the staff report was distributed, staff has identified several staff report findings in need of clarification, and has reached an agreement with the City regarding the best strategy for addressing lower-cost overnight visitor accommodations in the City's coastal zone. In terms of the former, the clarifications identified here augment the findings in minor ways, but do not significantly alter the recommendation. In terms of the latter, the staff report identifies certain deficiencies in this LCP in terms of protecting and providing such facilities, and identifies a series of suggested modifications designed to ensure that the LCP is adequately equipped to address such issues, including in relation to the La Bahia. As identified in the staff report, those suggested modifications are based on the way in which the Commission has most recently addressed such issues in other locations of the state. Although applying the Commission's recent approach to this problem can resolve Coastal Act lower-cost consistency issues a solution that is tailored to the unique circumstances of the City of Santa Cruz would be preferred. Unfortunately, such a tailored solution requires additional time with which to develop the underlying facts and information to best inform such LCP planning, and to engage and facilitate public discussion and debate on specific proposals, and none of that is possible in the time before the August hearing for this item. As an alternative, staff and the City have agreed to resolve such issues through development of a separate stand-alone LCP amendment package that can thoughtfully focus on the lower-cost question in a way that better accounts for the Santa Cruz fact set and context, and should provide for more optimum LCP planning on this important issue.

Thus, on this point the staff report is modified to provide for such future LCP amendment process in relation to lower-cost overnight visitor accommodations. In terms of the La Bahia site specifically, the staff report is likewise modified to explicitly address lower-cost consistency at that site through a \$200,000 mitigation payment, as identified in the staff report currently (see staff report page 30). Thus, the staff report (dated prepared July 29, 2011) is modified as shown below (where applicable, text in underline format indicates text to be added, and text in ~~strike through~~ format indicates text to be deleted):

1. Replace the Summary on pages 1-3 of the staff report with the following:

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 site of the existing La Bahia residential apartments. The purpose of the amendment is



to facilitate demolition of the La Bahia buildings and related facilities and to allow redevelopment of the site as a condominium hotel with restaurant and conference facilities. Staff is recommending denial of the LUP and IP amendments as submitted and approval of the proposed amendments if modified as suggested. The key Coastal Act and LUP consistency issues raised here are whether the proposed amendments adequately protect community character and historical and visual resources.

The La Bahia is a designated historical structure, and the proposed LCP amendments could allow demolition of the structure if its demolition were otherwise consistent with the LCP. The existing structure has been neglected, and its aesthetic value is therefore diminished. Renovation of the La Bahia into the type of structure envisioned by the City would require such extensive remodeling that the structure would essentially need to be completely rebuilt. In addition, the existing LCP only allows demolition of historic structures if the City can make certain findings supporting demolition, and the LCP also includes numerous policies designed to protect community character and historic resources, even if a structure is demolished. Thus, any demolition and redevelopment of this site will be subject to these LCP standards and policies.

The proposed amendments would also allow an increase in the height limitations applicable to the La Bahia site, allowing a larger development to replace the existing structures. While allowing an overall increase in the height of structures, the LCP would still require that any new structures on this site step up in height as they move away from Beach Street, thus reducing the overall visual impact of a larger development. In addition, LCP policies requiring protection of community character would also still apply to this site. Thus, even with the increased height limitations, public views could be protected and the resulting development could be found consistent with the character of the area. Under the circumstances raised in this particular case, the proposed LCP Amendment, if modified as suggested herein, could be found consistent with the Coastal Act and adequate to carry out the LUP.

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 3.

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.



2. Change suggested modification 2 on page 6 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. Replace suggested modification 3 on pages 6 and 7 with the following:

Add new LUP Economic Development Element Policy 5.2.8.1 (with a “wave” symbol) to address lower-cost overnight visitor accommodations at the La Bahia site as follows:

Economic Development Element Policy 5.2.8.1. In lieu of providing on-site lower-cost overnight visitor accommodations at the La Bahia site, a \$200,000 mitigation payment to the City shall be required. All such funds shall be solely used 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.

4. Replace suggested modification 4 on page 7 with the following:

Add new LUP Economic Development Element Policy 5.2.8.2 (with a “wave” symbol) to address lower-cost overnight visitor accommodations in the City’s coastal zone as follows:

By July 1, 2012 (with the option of the Executive Director approving an extension of this deadline by six months (i.e. to January 1, 2013) for good cause), the City shall submit a complete LCP amendment package to the Coastal Commission that proposes LUP and/or IP changes to refine and more clearly identify the manner in which lower-cost overnight visitor accommodations are to be protected,



encouraged, and provided as part of new development projects in the City. Such an LCP amendment package shall at a minimum: provide a definition for lower-cost overnight visitor accommodations; identify the methodology for determining the amount of such accommodations required by the LCP in any particular circumstance; and include an implementation mechanism for any in-lieu mitigation payment allowances (e.g., account parameters, disbursement requirements, monitoring and reporting provisions, etc.). Such an LCP amendment package shall include clear information identifying current overnight accommodation stock in the City by type, location, and cost, and shall identify both attainable objectives (including the LCP preferred range of available accommodation options by price point and location) and LCP policies designed to attain such objectives (including, as applicable, zoning overlays, lower-cost project incentives, etc.). The LCP amendment package shall account for differences and similarities between the City of Santa Cruz case and other cases with which the Commission has been involved and shall explicitly address statewide coastal zone direction and application of the Coastal Act as evidenced by prior Commission action.

5. Change text on pages 25 and 26 as follows:

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 not 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. In addition, suggested modification 3 identifies lower-cost visitor overnight accommodation mitigation requirements specific to the La Bahia site (see also findings below), and suggested modification 4 requires the City to submit an LCP amendment package to the Commission that proposes LUP and/or IP changes to refine and more clearly identify the manner in which lower-cost overnight visitor accommodations are to be protected, encouraged, and provided as part of new development projects in the City, taking into account the fact set and context applicable to the City's coastal zone. Such an amendment can ensure an appropriate mix of accommodation types and rates within the City, consistent with statewide coastal zone direction in a way that clearly accounts for the Santa Cruz fact set and context. To ensure its maximum applicability and utility to future cases, such an amendment package must be completed and submitted to the Commission by July 1, 2012, including though 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



6. Change text on pages 30 and 31 as follows:

...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~~ 3 provides ~~s~~ additional specificity on application of such a mitigation fee approach, and suggested ~~3~~ modification 4 requires the City to submit an LCP amendment package to the Commission that can refine the way in which such payments, as applicable, are required and used in future cases (see also previous findings), including the way that such mitigation payments would 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, both specific to the La Bahia case and for future developments in the City's coastal zone. 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 These suggested modifications are 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 policies of Chapter 3 of the Coastal Act.

7. Revise Modification 5 on staff report page 7 as follows:

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

8. Revise Modification 6 on staff report page 7 as follows:

Add new LUP Economic Development Element Policy 5.2.9.~~4~~ (with a “wave” symbol) to address visitor-serving/residential overnight accommodations as follows: ... (remainder unchanged)

9. Revise Modification 7(i) on staff report pages 8-9 as follows:

(i). ~~24.10.625.85.2e~~. Development on this site 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 with varied setbacks~~ as buildings increase in height and stories.



10. Revise Modification 8(a) on staff report page 9 as follows:

(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).~~ and shall be prohibited from using signs or other development on the exterior of the facilities that identifies them as visitor-serving/residential facilities. The facilities shall be required to look like standard hotel facilities.

11. Delete Modification 8(i) on staff report page 12 and renumber the remaining subsections of Modification 8 on staff report pages 12-14 accordingly, as follows:

~~**(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. i. 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)~~ (h) 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)~~ j. below. Within 30 days of commencing facility operations, the facility operator shall submit notice to the Planning Director of commencement of facility operations.

~~**k. j. Audit...**~~ (remainder unchanged)

~~**l. k. Compliance Required...**~~ (remainder unchanged)

~~**m. l. 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 ~~(j)~~ (k) 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 ~~(j)~~ (k) 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. m.~~ **Implementation Plan...** (remainder unchanged)

12. Revise the findings on staff report page 21 as follows:

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 Looff 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 is a well-established element midpoint along the immediate shoreline of this area, but its upkeep has been neglected recently, adversely impacting its aesthetic value.



13. Revise the findings on pages 21-22 of the staff report as follows:

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, which are designed to protect community character and historical resources, even when a building is allowed to be demolished, 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~~ These policies 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 and requires that specific findings be made before those resources are demolished. 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.

14. Revise the findings on pages 32-33 of the staff report as follows:

Is Demolition of the La Bahia Appropriate?

Approval of this LCP Amendment, with staff's suggested modifications, does not mean that the La Bahia is required to be demolished. In fact, as explained below, some of the proposed modifications to the IP clarify that any CDP approved for this project must still meet all of the LCP policies designed to protect community character and historical resources. Because this IP amendment contemplates the possibility of demolition, however, when this was not explicitly allowed before, the Commission must still consider whether such amendments are consistent with and adequate to carry out the LUP. 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. 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



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.

15. Revise footnote 32 on page 33 of the staff report as follows:

³² 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.

16. Revise the findings on page 34 of the staff report as follows:

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." Based on the City's analyses, renovation of the La Bahia into the type of development envisioned would require an entirely new foundation, which would likely damage the exterior, a new roof, removal of exterior stucco, and replacement of essentially all electrical, plumbing drainage and mechanical systems. It would also need to be remodeled to be ADA compliant. ~~On this point, t~~ The EIR also 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," but given that the renovation envisioned for this project would essentially require reconstruction of the entire La Bahia complex, 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.

17. Revise the findings on pages 34-35 of the staff report as follows:

Based on the information in the record, the Commission concurs with the City's and the Applicant's 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 finding the Commission notes that the City's tentative approval for the underlying project is likely not consistent with the above-referenced LCP policies in that it 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.³³ ~~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.~~ Given the potential for such a situation to arise, particularly knowing that it has happened under similar circumstances, for a coastal development permit allowing demolition of the La Bahia to be consistent with LCP policies protecting community character, visual resources and historical resources, it would need to include conditions protecting such resources post-demolition. For example, the CDP could require the applicant to post a bond prior to demolition that would provide funds for at least stabilization or landscaping of the site, if the site were not developed with the proposed hotel within a certain reasonable amount of time. The CDP could also require evidence that the applicant has obtained sufficient funding to construct the entire project before demolition is allowed to proceed. These, or similar conditions, are needed to find the proposed demolition of La Bahia consistent with the City’s LCP.

18. Revise footnote 39 on page 41 of the staff report as follows:

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.

