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Th11c

Prepared April 14, 2021 for April 15, 2021 Hearing

To: Commissioners and Interested Persons

From: Susan Craig, Central Coast District Manager
Rainey Graeven, Coastal Planner

**Subject: STAFF REPORT ADDENDUM for Th11c
City of Capitola LCP Amendment Number LCP-3-CAP-20-0082-2 (Land
Use Map/IP Update)**

In the time since the staff report was published (on March 26, 2021) a number of public comments have been received, essentially all of which refer to the proposed land use and zoning changes for the Monarch Cove Inn property, and also to public noticing and outreach regarding the City of Capitola's proposed Local Coastal Program (LCP) amendment referenced above. See the submitted comments in the correspondence package for this item. Staff has reviewed the comments and does not believe that any significant new information has been presented, and herein does not modify the staff recommendation, which is still to approve the LCP amendment pursuant to the suggested modifications described in the staff report. At the same time, staff provides the following response to the comments, where such response is made part of staff's recommendation as a "response to comments" section.

Proposed Monarch Cove Inn Redesignation

The Monarch Cove Inn is an existing 11-room hotel that operates at the end of El Salto Drive in the Depot Hill neighborhood above and downcoast of Capitola Village. The Inn is located on a coastal blufftop site that backs up to the Escalona Gulch Monarch butterfly habitat area and provides sweeping views of the Monterey Bay. The site has provided visitor-serving overnight accommodations at this location in various forms for over a hundred years since it was originally developed in the 1890s. As discussed in the staff report, the City proposes to modify the basic land use and zoning designations for the Monarch Cove Inn property from visitor-serving to residential.¹ And the current

¹ Specifically, the City proposes to change the LCP's Land Use Plan (LUP) and Implementation Plan (IP) designations for the site from VS (Visitor Serving) as it exists in both the LUP and IP now to R-1 (Single-Family Residential) with a VS overlay in both cases. In other words, the City proposes to change the fundamental underlying designation for the property from visitor-serving to residential. Yes, the City also

property owners have indicated that they support the change to a residential land use, and would intend to convert the property to such residential uses if the LCP was changed as is being proposed by the City. Staff does not support changing the LCP designation for the property from visitor-serving (which supports an active hotel operation currently) to residential uses.²

As indicated in the staff report, a fundamental tenet of the Coastal Act is to facilitate the ability of the public to visit and enjoy the coast. These objectives are critical inasmuch as most Californians and other visitors to the state's beaches and shoreline are not fortunate enough to live at the shoreline areas they are trying to visit. And overnight accommodations play an oversized role in providing for public visitor-serving recreational access to the coast. All of this is applicable to the City of Capitola's coastal zone in general, as the City is a very popular visitor destination, and to the Monarch Cove Inn site specifically. To address this key Coastal Act objective, the Coastal Act specifically provides for a hierarchy of uses, stating in Section 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.** (emphasis added)*

Thus, as applied to the Monarch Cove Inn case, the Coastal Act *requires* that the Commission retain it for visitor-serving use, and does not allow it to be changed to private residential use.³ This is not only required by the Coastal Act, but it is also critical in this case as retaining the site's important visitor-serving function is important as it provides the only source of overnight accommodations in this part of Capitola. Further, and similar to the Coastal Act, the LCP's LUP also *requires* that the site be designated

proposes to apply a VS overlay to the property, but that only means that VS uses could *also* be pursued. The fundamental underlying LCP designation would be residential in the City's proposal.

² Staff recommends that the LCP's existing underlying visitor-serving designations be retained. Because the City is proposing to convert both the LUP's VS designation and the IP's VS zoning district into overlays in the proposed amendment, staff recommends that the closest and most applicable of the new proposed designations be applied to accomplish such retention. Specifically, staff recommends that the City's new proposed VA (Visitor Accommodation) LUP land use designation be applied in addition to the City's proposed VS land use designation overlay, and that for the zoning, the VS overlay would act as both the underlying zoning district and as an overlay. In that way, staff's recommendation would retain the same visitor-serving designations for the property that currently apply in the existing LCP.

³ The Coastal Act, including Section 30222, is the standard of review for the proposed LUP changes that would change the Monarch Cove Inn site from visitor-serving to residential use in the LUP. The Monarch Cove Inn is private land that not only is suitable for overnight accommodations that can help to enhance public recreational access opportunities, but it has also provided same for over a hundred years and operates as a 11-room hotel today. Thus, Section 30222 mandates (i.e., the "shall" represents a mandatory and non-discretionary requirement) that such visitor-serving use has priority over the private residential uses that are proposed, thus requiring the Commission to retain the current LCP's visitor-serving designations that currently apply to the property.

visitor-serving (and *not* be changed to residential as the City proposes).⁴ Specifically, LUP Policy IV-1 requires that certain properties be reserved for visitor-serving and/or recreation uses, including the Monarch Cove Inn property (encompassed in the reference to the “El Salto Resort properties” below),⁵ stating:

*LUP Policy IV-1 [in relevant part]: The City **shall designate** the following areas as visitor-serving and/or recreation uses: The Capitola Village commercial area (retail, restaurants, lodging, etc.); ... **El Salto Resort properties**; ...*

*Implementation: **Revise Zoning Ordinance to include a visitor-serving designation** and designate these locations identified in the Land Use Policies consistent with Policy IV-2. (emphasis added)*

Again, the LUP places a mandatory obligation to designate the Monarch Cove Inn for visitor-serving and/or recreational uses (i.e., it states “shall designate”), and requires that it be zoned for visitor-serving uses in the zoning ordinance (i.e., the LCP’s IP). There is no discretion in that obligation, which makes sense as it emanates from the Section 30222 requirements above that are also mandatory on this point. Further, LUP Policy IV-1’s reference to LUP Policy IV-2 only reinforces that obligation.

Specifically, LUP Policy IV-2 requires that areas designated for visitor-serving uses (such as the Monarch Cove Inn site, as established above) be reserved for visitor support services or recreation uses, including explicitly for overnight accommodations, which means that that is *required* for the Monarch Cove Inn. Further, it distinguishes between non-Monarch Cove Inn portions of El Salto Resort that had by then been legally converted to residential use (and designated in the LCP for dual designation visitor-serving/residential use) as opposed to the rest of the El Salto Resort, indicating that residential uses were allowable in such non-Monarch Cove Inn areas. If the policy were intended to provide for residential uses for other portions of the El Salto Resort, like the now Monarch Cove Inn properties, the fact that policy drafters knew how to provide for such allowance but did not is only more evidence that the LUP requires the Monarch Cove Inn site to be visitor-serving. LUP Policy IV-2 states:

LUP Policy IV-2: Areas designated as visitor serving and/or recreational shall be reserved for visitor support services or recreational uses. Permissible uses include, but are not limited to hotels, motels, hostels, campgrounds, food and drink service establishments, public facilities, public beaches, public recreation areas or parks, and related rental and retail establishments. Residential uses are also permitted on dual designated “visitor-serving/residential” parcels;

⁴ The LUP is the standard of review for proposed IP changes, including the proposed change for the Monarch Cove Inn site from visitor-serving to residential zoning. To be approvable, a proposed zoning change must be found consistent with and adequate to carry out the LUP.

⁵ The current Monarch Cove Inn property was originally part of a larger property known as the El Salto Resort. At the time these LUP policies were written, all of the properties were called out as the “El Salto Resort” properties. Accordingly, when the existing LUP refers to the “El Salto Resort properties” it also encompasses the Monarch Cove Inn site.

specifically, a portion of the El Salto Resort, and in the Village area. Development can be accomplished through private or public means.

In short, the LUP *requires* that the Monarch Cove Inn site remain designated for visitor-serving uses, and it does not provide the discretion requested by the City to change it to residential use.

On this point it is also important to note that the proposal to change the Monarch Cove Inn site to residential use is not the first time it has been proposed by the City. In fact, in 2005 the Commission denied the same request for much the same reasons.⁶ Ultimately the Commission also found in that action that allowing the Monarch Cove Inn site to be redesignated residential would inappropriately result in the loss of important visitor-serving overnight accommodation potential in this area. And to be clear, the same arguments being made in 2005 by the City and the property owners (the same property owners as today) in that Commission denial are again being made now in support of the changes today.

One of the primary reasons for the proposed redesignation is that the property owners would like to use the site for their own residential use, and not be “forced” to operate a hotel business. On this point, three things should be noted. One is that both the currently certified IP and the proposed updated IP allow for a residential use on the site, namely a caretaker unit for the property.⁷ Thus, there is nothing stopping the owners from residing on the property as its caretakers (and it is staff’s understanding that they do not currently so reside on the property).

Second, there is nothing in the proposed updated IP that would require the property owners to operate a business. That is generally not the nature of LCP land use planning, rather it is to identify what kinds, locations, and intensities of use are *allowed* in the coastal zone. The LCP does not require the property owners to operate the Monarch Cove Inn (nor does it require any other private entity to operate any other type of business in the City), but it does prescribe for the site what is allowable there under the Coastal Act, including reflecting the fact that this site has provided for commercial overnight accommodations for over a hundred years, and is currently operating as an 11-unit hotel today.

And third, the existing IP actually includes additional allowances for residential development on the site, where up to three additional residential units⁸ may be allowed, but only for the owners and their family, provided that at least six overnight

⁶ See LCP amendment LCP Amendment CAP-MAJ-2-04. At the same time, and as referenced in LUP Policy IV-2 above, the Commission allowed for some of the former El Salto Resort properties to have dual visitor-serving and residential designations to reflect the fact that they had already legally converted to residential uses (these properties were located on the upcoast side of the former El Salto Resort, and are currently upcoast of the Monarch Cove Inn).

⁷ Specifically, existing IP Section 17.30.047 allows for one caretaker unit for the purpose of providing on-site security, and proposed IP Table 17.28 carries this forward (see page 304 of Exhibit 2).

⁸ That is, three additional residential units on top of the caretaker’s unit.

accommodations continue to be provided.⁹ This allowance was added to the IP in the 2005 LCP amendment action in an attempt to get at some of the same issues being raised today. If it were to be pursued under that existing IP provision, the property owners *would be* required to provide at least 6 overnight units (and thus operate that version of a hotel), but only if the property owners were to avail themselves of the unusual opportunity (limited to just them and their family members) to reside in up to three units on the property. While admittedly an odd accommodation within an LCP, it has also not been something that the owners have pursued to date,¹⁰ and the City has proposed to eliminate it in the updated IP.¹¹ The City also proposes to retain the caretaker unit accommodation, which staff supports, and would appear to provide a means to allow the property owner to also live on the property, as is their identified objective.¹²

In short, the Coastal Act and the LUP *require* that the visitor-serving designation be retained for the Monarch Cove Inn property, and the Commission lacks discretion in this action to change it to residential as is requested by the City and the Monarch Cove Inn property owners. The underlying reasons for this are that the Coastal Act prioritizes such visitor-serving use for this site over private residential uses, and recognizes that such facilities are in short supply and critically important to support visitor access to the shoreline for those not fortunate enough to live in coastal Capitola. Staff continues to recommend that the visitor-serving designations be retained,¹³ as would be the outcome

⁹ Existing LCP IP Section 17.30.047 identifies the following allowed use for the property: “residential use by the owners and their family members of up to one unit per parcel on the three parcels, as long as a minimum of six guest bedrooms are available for visitor-serving uses within the three parcels” (see page 66 of Exhibit 2). [The Monarch Cove Inn site is made up of three parcels.]

¹⁰ And they have indicated to Commission staff that they do not support this provision, including because of the way in which it prescribes that at least six overnight accommodation units must be provided to allow the three additional residential units.

¹¹ And replace it with a provision that would allow residential use of the site if one overnight unit were provided on the property or if the property owners were to provide a public access easement to a blufftop viewing area on the property. On that latter, the property owner is currently proposing exactly that so that they can pursue residential use of the site unencumbered. While it is true that such an access easement and viewing areas would be a benefit to the public, albeit mostly for local residents, such viewing area easement cannot resolve the underlying Coastal Act and LCP inconsistencies, neither of those provisions can be found Coastal Act or LCP consistent for the reasons described herein, and the staff recommendation would eliminate them.

¹² And if that is not the objective, then it only further argues against changing the designation to residential because it is reasonably foreseeable that that would result in complete conversion to multiple residential units (e.g., there exists three parcels at the site, as indicated above) without any reservation for the Coastal Act and LUP required visitor-serving use applicable to the site.

¹³ Staff also notes that although there was significant City and Commission staff coordination on the proposed LCP amendments as they were being drafted and considered at the City level, the City did not actually provide or share the proposed updated LUP land use designation and IP zoning maps as part of such early coordination efforts, and they were not actually submitted with the initial LCP amendment package (and were only received earlier this year). As a result, the issues regarding Monarch Cove Inn designation changes, which possibly could have been better resolved in that early coordination effort, were not as clearly discussed as they could have been. That said, staff consistently and clearly expressed concern for the proposed IP use charts applicable to the site, which at one point proposed to allow multi-family dwellings and single-family dwellings, and then just single-family dwellings, until the

should the Commission adopt the staff recommendation and its suggested modifications.¹⁴

Public Notice

Some of the comments received, particularly from Depot Hill residents, suggest that the City and Commission did not adequately notice the proposed LCP amendment, including as it relates to issues pertaining to the Monarch Cove Inn. Staff does not believe this to be a valid concern. In fact, the City held dozens of workshops, and multiple Planning Commission and City Council hearings on the IP Update since 2015, including an entire City Council meeting on March 25, 2021 where the topic was consideration of Commission staff's preliminary suggested changes (i.e., essentially the recommended suggested modifications in the staff report). The City's hearings were noticed via paper notices to relevant agencies and Tribes, the City's electronic noticing list of interested persons (that includes 287 email addresses), as well as in the local newspaper in advance of each hearing. The proposed LCP amendment materials were also made available at City Hall prior to each local hearing.

For the April 15, 2021 Coastal Commission hearing, the Commission published a notice in the Santa Cruz Sentinel that ran on Sunday, April 4, 2021, sent notice via email to all of the known interested parties (i.e., the City's electronic mailing list and persons who had commented electronically on the LCP amendment otherwise), and sent paper notices to the City and relevant agencies and Tribes, all within the prescribed time limits for providing such notice as required by the Commission's implementing regulations. Thus, this proposed City LCP amendment matter has been appropriately noticed as required, and is properly before the Commission for consideration.

current proposal that would allow for single-family dwellings in conjunction with at least one overnight accommodation or a grant of public access to a viewpoint. None of which can address the above identified Coastal Act and LUP inconsistencies.

¹⁴ In addition, in response to comments that the site provides an incompatible use next to nearby residential uses also on Depot Hill, arguing that it should be changed to residential as the City proposes to be more compatible, staff points to the fact that this commercial overnight accommodations use has existed for over a hundred years at the Monarch Cove Inn site, well before most of the current nearby houses were ever built, which suggests that commentors at best have it backwards. And, as indicated above, private residential use is a lower priority under the Coastal Act than visitor-serving commercial uses, should choices need to be made. Further, the site is governed by a City Conditional Use permit that provides a series of operational standards and requirements for the Monarch Cove Inn, all of which are intended to address the types of noise and other inconveniences identified in some of the comments (e.g., limits on special events, limits on noise, limits on event durations, requirements for parking on-site and for shuttles for larger events, etc.). Staff does not find these commentors' compatibility arguments compelling, and notes that any potential operational compatibility issues are readily addressed through the City's existing permit and processes.