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To: Commissioners and Interested Persons

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Subject: City of Capitola LCP Amendment Number LCP-3-CAP-20-0082-2 (Land Use Map/IP Update)

SUMMARY OF STAFF RECOMMENDATION

The City of Capitola is proposing to update its Local Coastal Program (LCP) Land Use Designations map, which is a component of the LCP's Land Use Plan (LUP), as well as the LCP's zoning code map and the majority of the zoning code text, which are components of the LCP's Implementation Plan (IP). In short, the City proposes to modify one LUP map and to comprehensively update its IP.

Capitola is a coastal city seaward of Highway 1 in central Santa Cruz County, located downcoast of Pleasure Point and upcoast of the Seacliff/Aptos areas of unincorporated Santa Cruz County. The City's coastal zone is roughly one square mile, making up approximately 60% of the City, and it is primarily a mix of residential and visitor-serving commercial areas, with a significant public recreational component along the shoreline. The residential neighborhoods include the Jewel Box, the Upper Village, and Cliffwood Heights, with visitor-serving commercial and mixed-use neighborhoods centered around Capitola Village (which includes Capitola Beach and Capitola Wharf, as well as visitor-serving shops, restaurants, and overnight accommodations), and a shoreline that includes Capitola's main beach fronting the Village as well as New Brighton State Beach on the City's downcoast end. The City, and especially its Village area where Soquel Creek meets the Pacific Ocean at the City's main beach and wharf, is a very popular visitor destination, and much of its coastal economy is dependent on such visitors.

The LCP was originally certified in 1981 and has not been comprehensively updated since that time. Thus, the proposed amendment serves as the City's first comprehensive IP update since LCP adoption. Specifically, the proposed amendment would update much of the IP's zoning code with the exception of the Sign Ordinance, the Accessory Dwelling Unit Ordinance, and the Wireless Ordinance, which were recently updated and certified by the Commission, and the Non-Conforming Uses/Structures and Geologic Hazards ordinances, which will be pursued as separate

IP updates in the coming years. Broadly, the proposed IP amendments would modify the number and types of zoning districts and the zoning designations governing particular properties, slightly modify certain development standards for those zoning districts (related to height, setback, floor area ratio, and other site planning regulations), and substantially bolster and clarify coastal resource protection standards and coastal permitting requirements.

On this point, Commission staff collaborated extensively with City staff as the proposed amendment was developed and taken through the local review process, including to help craft updated standards that can better protect coastal resources in light of current challenges. The result is an improved IP that includes new and refined protections for important City coastal resources, including with respect to public views and community character, environmentally sensitive habitat areas, and archaeological/paleontological resources. These updated standards are generally structured to more clearly define, map, and identify such resources, and to specify protocols for their protection, including the findings required for LCP consistency and CDP approval. The amendment would also include new sections that mirror the Coastal Act and its implementing regulations regarding CDP procedures, including in terms of noticing, hearings, appeal processes, final local CDP action notices, and required findings to ensure that coastal resources are protected. The proposed provisions correct certain deficiencies with the current LCP in this regard, and ensure that the City's CDP processes are consistent with the law, as well as being clear and in one location in the LCP for ease of use and community understanding.

Of particular importance is a new provision that allows for the City to issue CDP waivers subject to certain criteria, including Executive Director concurrence that a waiver is appropriate. Given that Capitola is a mostly built out and fairly urban environment where many projects do not raise significant coastal resource concerns, this is an important streamlining tool, and mirrors similar LCP provisions recently certified by the Commission (including in the Marin County and City of Pacific Grove LCP updates). In sum, the proposed IP amendments would significantly strengthen coastal resource protections in the LCP while also appropriately encouraging and accommodating infill development, including new visitor-serving uses and affordable housing.

However, there are a few proposals that raise certain Coastal Act and LUP conformance issues, particularly related to specific visitor-serving properties, and staff has developed a small set of suggested modifications to address these issues. First, the City proposes to designate as residential two existing visitor-serving overnight accommodation operations (the Monarch Cove Inn and the Inn at Depot Hill). As indicated, the City is a prime visitor destination, there is no evidence to suggest that these sites are not needed to help satisfy that need, and it is not appropriate to allow them to be converted to residential uses through the City's proposals. And second, certain proposed standards associated with those two sites, as well as a third major visitor-serving site (the former Capitola Theater site in Capitola Village), require enhanced specificity and detail to ensure that development there both remains visitor serving and adequately protects public views, including iconic views associated with Capitola Village. The City does not object to these changes except as they apply to the

potential residential use at Monarch Cove Inn and at the former Capitola Theater site. Staff disagrees and does not believe that LCP changes to facilitate residential uses at either location is appropriate.

With these modifications, the LUP would conform to the Coastal Act and the IP would be consistent with and adequate to carry out the LUP, which are, respectively, the standards of review. Again, Commission and City staff worked extensively and collaboratively on the proposed update as it was being developed, and ultimately as it went through the City's local review processes, and staff very much thanks the City and City staff for their commitment to that inclusive process. Staff believes that the end result of this close collaboration is a robust proposed IP update that, with extremely limited changes to what was submitted, should serve to ably guide development and protect the City's coastal resources into the future. Again, such recommendation is borne from, and is the fruit of, the coordination process to this point, and is reflective of its success, even if there remain a few focused areas of disagreement—at least they are just a very few. Accordingly, staff recommends that the Commission approve the amendment with the identified suggested modifications. The required motions and resolutions are found on pages **5-6** below.

Staff Note: LCP Amendment Action Deadline

This proposed LCP amendment was filed as complete on February 22, 2021. The proposed amendment affects both the IP and LUP components of the LCP, and the 90-working-day action deadline is June 30, 2021. Thus, unless the Commission extends the action deadline (it may be extended by up to one year), the Commission has until June 30, 2021 to take a final action on this LCP amendment.

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EXHIBITS

- Exhibit 1: Proposed Land Use Plan Map
- Exhibit 2: Proposed IP Text Amendments
- Exhibit 3: Proposed IP Map Amendments: Zoning Map, Archaeological Sensitivity Map, and Environmentally Sensitive Habitat Map
- Exhibit 4: Existing Land Use Plan Map
- Exhibit 5: Existing IP Maps: Zoning Map, Environmentally Sensitive Zone Map, and Archaeological/Paleontological Sensitivity Areas Map
- Exhibit 6: Photos of Capitola, the Capitola Theater Site, the Monarch Cove Site, and Inn at Depot Hill site

CORRESPONDENCE

1. MOTIONS AND RESOLUTIONS

Staff recommends that the Commission, after public hearing, approve the proposed LUP and IP amendments with suggested modifications. The Commission needs to make two motions on the LUP amendment and two motions on the IP amendment in order to act on this recommendation. In each case, the proposed amendment in each category needs to first be denied, and then approved if modified, to complete the staff recommendation.

A. Deny the LUP Map Update as submitted

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

Motion: *I move that the Commission certify Land Use Plan Amendment LCP-3-CAP-20-0082-2 as submitted by the City of Capitola, and I recommend a no vote.*

Resolution to Deny: *The Commission hereby denies certification of Land Use Plan Amendment LCP-3-CAP-20-0082-2 as submitted by the City of Capitola and adopts the findings set forth below on the grounds that the Land Use Plan Amendment as proposed 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.*

B. Certify the LUP Map Update with Suggested Modifications

Staff recommends a **YES** vote on the following motion. Passage of the motion will result in certification of the LUP 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 Commissioners present.

Motion: *I move that the Commission certify Land Use Plan Amendment LCP-3-CAP-20-0082-2 for the City of Capitola if it is modified as suggested in this staff report, and I recommend a yes vote.*

Resolution to Certify: *The Commission hereby certifies Land Use Plan Amendment LCP-3-CAP-20-0082-2 for the City of Capitola 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.

C. Deny the IP Amendment as submitted

Staff recommends a **YES** vote on the motion below. Passage of this motion will result in rejection of the Implementation Plan as submitted and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

Motion: *I move that the Commission reject the Implementation Plan Amendment LCP-3-CAP-20-0082-2 as submitted by the City of Capitola, and I recommend a yes vote.*

Resolution to Deny: *The Commission hereby denies certification of LCP Amendment Number LCP-3-CAP-20-0082-2 as submitted by the City of Capitola and adopts the findings set forth below on grounds that the Implementation Plan Amendment as submitted does not conform with, and is inadequate to carry out, the provisions of the certified Land Use Plan. Certification of the Implementation Plan Amendment would not meet the requirements of the California Environmental Quality Act as there are feasible alternatives and mitigation measures that would substantially lessen the significant adverse impacts on the environment that will result from certification of the Implementation Plan Amendment as submitted.*

D. Certify the IP Amendment with Suggested Modifications

Staff recommends a **YES** vote on the motion below. Passage of this motion will result in certification of the Implementation Plan Amendment with suggested modifications and the adoption of the following resolution and findings. The motion to certify with suggested modifications passes only by an affirmative vote of a majority of the Commissioners present:

Motion: *I move that the Commission certify LCP Amendment Number LCP-3-CAP-20-0082-2 as submitted by the City of Capitola if it is modified as suggested in this staff report, and I recommend a yes vote.*

Resolution to Certify: *The Commission hereby certifies LCP Amendment Number LCP-3-SCO-20-0082-2, if modified as suggested, and adopts the findings set forth below on grounds that the Implementation Plan Amendment with the suggested modifications conforms with, and is adequate to carry out, the provisions of 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 and mitigation measures that would substantially lessen any significant adverse impacts on the environment.*

2. SUGGESTED MODIFICATIONS

The Commission hereby suggests the following modifications to the proposed Land Use Plan (LUP) amendment, which are necessary to make the requisite Coastal Act findings, and the proposed Implementation Plan (IP) amendment, which are necessary to make the requisite Land Use Plan consistency findings. If the City of Capitola accepts the suggested modification within six months of Commission action (i.e., by October 15, 2021), 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. Text in underline and ~~cross-out~~ format denotes proposed text to be deleted/added by the Commission, and the remainder of the text (i.e., not underline and not stricken) is all text proposed to be added by the City.

- 1. LUP Map changes.** Modify the proposed LUP Land Use Designations Map for the Monarch Cove Inn and the Inn at Depot Hill sites (as shown in Exhibit 1) from an R-1 (Single-Family Residential) land use designation with a VS (Visitor-Serving) zoning designation overlay to a VA (Visitor Accommodation) land use designation with a VS (Visitor-Serving) zoning designation overlay.
- 2. IP Map changes.** Modify the proposed IP Zoning Map for the Monarch Cove Inn and the Inn at Depot Hill sites from an R-1 (Single-Family Residential) zoning designation with a VS (Visitor-Serving) zoning designation overlay to just the VS (Visitor-Serving) zoning designation overlay. The VS zoning designation overlay shall act as both the underlying zoning designation and the overlay district for these properties (VS-MC for the Monarch Cove Inn and VS-G for the Inn at Depot Hill).
- 3. IP Text Changes.** Modify proposed IP Sections 17.28.010(B)(3) and (B)(5) as follows:

17.28.010(B)(3): Visitor Serving - Monarch Cove Inn (VS-MC Subzone). *Applies to the Monarch Cove Inn site (APN 036-143-31 & 036-142-27) and the portion of parcel 036-142-28 that is located between the two Monarch Cove Inn parcels. The VS zoning designation overlay on the Monarch Cove Inn site acts as both the base zoning district and an overlay district (i.e., the permitted land uses identified in Table 17.28-1 are the only permitted land uses allowable on the site and the applicable land use regulations and development standards are limited to those identified in Chapter 17.28).*

17.28.010(B)(5): Visitor-Serving - General (VS-G Subzone). *Applies to all other parcels with a Visitor Serving overlay designation. The VS zoning overlay designation on the Inn at Depot Hill site (APNs 036-121-38 & 036-121-33) acts as both the base zoning district and an overlay district (i.e., the permitted land uses identified in Table 17.28-1 are the only permitted land uses allowable on the site and the applicable land use regulations and development standards are limited to those identified in Chapter 17.28).*

4. **IP Table 17.28-1 changes.** Remove "Single-Family Dwellings" as a Conditional Use on the Monarch Cove Inn site ("VS-MC" in the table below) and clarify that residential uses are prohibited on the former Capitola Theater Site ("VS-G" in the table below) by modifying the "Residential Uses" portion of the table and its notes as follows:

TABLE 17.28-1: PERMITTED LAND USES IN THE VISITOR SERVING OVERLAY ZONE

Key P Permitted Use M Minor Use Permit required C Conditional Use Permit required - Use not allowed	VS Subzones					Additional Regulations
	VS-G	VS-R	VS-SB	VS-MC	VS-ES	
Residential Uses						
Employee Housing	C [1]	-	-	-	-	
Multi-Family Dwellings	C [2][12]	-	-	-	C [2]	
One Caretaker Unit for On-Site Security	C	C	C	C	C	
Single-Family Dwellings	C [3][12]	-	-	C [3][12] -	C [3]	

Notes:

- [1] Permitted only as an accessory use.
- [2] Multi-family dwellings shall comply with development standards in the Multi-Family Residential, Medium Density (RM-M) zoning district.
- [3] Single-family dwellings shall comply with development standards in the Single-Family Residential (R-1) zoning district.
- [4] May not be located within 200 feet of the boundary of a residential zoning district.
- [5] Drive up and car service is not allowed.
- [6] May include moderate intensity recreational uses, including tent platforms, cabins, parks, stables, bicycle paths, restrooms, and interpretive facilities.
- [7] Intensification of the primary use is not allowed.
- [8] The new use may not change the nature or intensity of the commercial use of the structure.
- [9] Permitted only to serve guests of the lodging use.
- [10] Events may not exceed 10 days and may not involve construction of permanent facilities.
- [11] Limited to a single two-day or less event per year.
- [12] Allowed in conjunction with overnight accommodation use (at least one on property) or grant of public access to a viewpoint. Prohibited on the former Capitola Theater Site (APNs 035-262-04, 035-262-02, 035-262-11, and 035-261-10) and the Inn at Depot Hill (APNs 036-121-38 and 036-121-33).

5. **IP Table 17.20-1 changes.** Add note 6 as follows, and apply the "[6]" notation to a variety of residential uses including: "Elderly and Long Term Care," "Group Housing," "Residential Care Facilities, Small and Large," "Residential Care Facilities, Large" and "Residential Mixed Use," category under the "MU-V" zoning district (as affects the Capitola Theater site) in IP Table 17.20-1:

[6] Prohibited on the former Capitola Theater Site (APNs 035-262-04, 035-262-02, 035-262-11, and 035-261-10).

6. **IP Village Hotel changes.** Modify proposed IP Sections 17.28.020(B)(2) and 17.88.080(G) as follows:

IP Section 17.28.020(B)(2) Village Hotel. The City may grant the following incentives to a proposed hotel on the former Capitola Theater site (APNs 035-262-04, 035-262-02, 035-262-11, 035-261-10):

1. An increase in the maximum permitted floor area ratio (FAR) to 3.0.

2. *An increase to the maximum permitted building height provided that:*

a. *The maximum height of the hotel (including all rooftop architectural elements such as chimneys, cupolas, etc., and all mechanical appurtenances such as elevator shafts, HVAC units, etc.) remains below the elevation of the bluff behind the hotel; and*

b. *The bluff behind the hotel remains visible as a green edge (i.e., the upper bluff (i.e., below the blufftop edge) and upper bluff vegetation shall remain substantially visible across the length of the project site) when viewed from the southern parking lot area along the bluff of Cliff Drive (i.e., the parking area seaward of Cliff Drive and closest to Opal Cliff Drive) and from the Capitola Wharf;*

c. *Existing mature trees shall be maintained on the site, except that trees that are unhealthy or unsafe may be removed; and*

d. *The rooftop shall be aesthetically pleasing and shall not significantly adversely affect public views from Cliff Avenue on Depot Hill. In addition to modifications to avoid structural incursions into this view, this can be accomplished through design features on top of the roof as well (e.g., use of a living roof, roof colors and materials that reduce its visual impacts, etc.). Rooftop appurtenances (e.g., elevator shafts, HVAC units, vents, solar panels, etc.) shall be screened from public view and integrated into/within the above-referenced rooftop design features to the greatest extent feasible.*

IP Section 17.88.080(G) Village Hotel. *In addition to the findings in Subsection A above, the City Council may approve the requested incentives for a proposed hotel on the former Capitola Theater site only if the following findings can be made:*

1. *The design of the hotel respects the scale and character of neighboring structures and enhances Capitola's unique sense of place.*

2. *The hotel will contribute to the economic vitality of the Village and support an active, attractive, and engaging pedestrian environment.*

3. *The ~~h~~Hotel siting and design will: (a) minimizes impacts to public views, including views of the beach and Village from vantage points outside of the Village, and in particular as seen from Cliff Avenue on Depot Hill the top of the bluff behind the hotel; and (b) does not adversely impact any significant public views of the coastline as identified in the LCP's Land Use Plan.*

4. *Parking for the hotel is provided in a way that minimizes vehicle traffic in the Village, strengthens the Village as a pedestrian-oriented destination, and protects public parking options.*

3. FINDINGS AND DECLARATIONS

A. Background

The City of Capitola is a coastal city seaward of Highway 1 in central Santa Cruz County, located downcoast of Pleasure Point and upcoast of the Seacliff/Aptos areas of unincorporated Santa Cruz County. The City's coastal zone is roughly one square mile, making up approximately 60% of the City, and it is primarily a mix of residential and visitor-serving commercial/recreation. This area includes a mix of residential neighborhoods (e.g., the Jewel Box, the Upper Village, and Cliffwood Heights), visitor-serving commercial and mixed-use neighborhoods centered around Capitola Village (which includes Capitola Beach and Capitola Wharf, as well as visitor-serving shops, restaurants, and overnight accommodations), and significant public recreational areas (such as at New Brighton State Beach on the City's downcoast end). The City, and especially its Village area where Soquel Creek meets the Pacific Ocean at the City's main beach and wharf, is a very popular visitor destination, and much of its coastal economy is dependent on such visitors.

The City's Local Coastal Program (LCP) was originally certified in 1981 and has not been comprehensively updated since that time. The proposed amendments include an update of the LCP's Land Use Plan (LUP) Land Use Designations map and a comprehensive update of the LCP's Implementation Plan (IP), including a majority of the chapters of the City's zoning code (Title 17 – Coastal Areas)¹ and associated IP maps. The purpose of the LUP map update is to align it with the proposed IP map changes (i.e., to update the land use designations to reflect and/or mirror the proposed zoning designations as applicable).² No other changes are proposed to the City's LUP.

The City's intent with the IP update is multi-faceted. At its core, the City seeks to create a more user-friendly zoning code for everyone (i.e., the public, decision-makers, property owners, City/Commission staff, etc.) by simplifying language, presenting development standards in table format whenever possible, adding diagrams and illustrations to clarify regulations, eliminating cross-references, and including navigational aids in the document. The City also sought to update the IP to delete sections that have become obsolete, to reflect current state or federal laws, and because the IP's zoning code, as well as the related maps, have not been comprehensively updated since the Commission certified them as part of the City's IP in 1981.

¹ All of the Chapters in Title 17 will be updated by this amendment, with the exception of Chapter 17.48 (Geologic Hazards District) and Chapter (17.72 Nonconforming Uses) (both of which the City intends to update within the next several years). In 2020, the Commission certified LCP amendments that updated Chapter 17.74 (Accessory Dwelling Units) and Chapter 17.80 (Signs), and an LCP amendment to update Chapter 17.107 (Wireless Communication Facilities) was certified by the Commission in 2017. Thus, these three chapters have been recently updated and are not included in this LCP amendment.

² The LUP addresses all land use designations through the Land Use Designation map, which is then implemented via complementary IP zoning designations.

B. Proposed LCP Amendment

Broadly, the proposed amendment includes new and modified IP zoning regulations and standards, which the City hopes will guide future development throughout the City of Capitola with an emphasis on promoting quality design, protecting neighborhood character, supporting historic preservation and economic development, and encouraging coastal protection and sustainability. The proposed amendment package also includes new and revised land use and zoning district designations, updated permitting procedures, and revisions to development standards throughout the City. Primary components of the proposed LCP amendment are described in more detail below.

CDP Procedures

The proposed amendments include repealing existing IP Chapter 17.46 (Coastal Zone Combining District) (see pages 83-107 of **Exhibit 2**) and replacing it with proposed IP Chapter 17.44 (Coastal Overlay Zone) (see pages 327-349 of **Exhibit 2**). Proposed IP Chapter 17.44 would substantially clarify, update, and reorganize the chapter governing coastal regulations and coastal permitting requirements. More specifically, proposed IP Chapter 17.44 would clarify the requirements related to CDP review, hearing, decision and appeal processes, mirroring requirements specified in the Coastal Act and its implementing regulations (including in terms of noticing, hearing procedures, and processes for appeals); and update definitions for particular coastal resource terms to better align them with relevant Coastal Act and regulation sections, including with respect to coastal bluffs, coastal-dependent uses, emergencies, environmentally sensitive habitat areas, and major public works facilities. The proposed amendments would also add a De Minimis Waiver provision to the IP to help streamline the approval of development that does not raise significant coastal resource issues; consolidate CDP approval findings for clarity; and bolster the emergency CDP section by explicitly defining what qualifies as an emergency and by identifying the noticing requirements and the conditions of approval for emergency CDPs, including the requirement to apply for a regular CDP within 30 days of emergency CDP issuance. The proposed amendment also includes enhanced violation and enforcement provisions and a new expanded section on LCP amendments (see IP Section 17.144.080 on pp. 464-466 of **Exhibit 2**).

Land Use Designations

The existing certified LUP Land Use Designations map contains seventeen different land use designations,³ while the certified IP's zoning code and associated zoning map

³ These seventeen designations are: V-S (Visitor Serving Use); a series of residential designations (based on density): R-L (low density 0-2 units/acre), R-LL (low-low density 2-5 units/acre), R-LM (low-medium density 5-10 units/acre), R-M (medium density 10-15 units/acre), R-H (high density 10-20 units/acre), and R-MH (Mobile Homes with 10-20 units/acre); a series of commercial designations: C-P (Pedestrian Commercial), C-R (Residential Commercial), C-LC (Shopping-Local), and C-SR (Shopping-Regional); IND (Industrial); four community facilities designations: SC (Schools), CC (Civic Center), PF (Public Facilities), and FS (Fire Station); and P (Parks and Open Space).

contain a total of twenty-one zoning, combining, and overlay districts.⁴ The zoning districts are meant to implement the corresponding LUP land use designations by ensuring that development is appropriately sited, including by clustering residential areas, providing for mixed uses within Capitola Village (which caters to residents and visitors alike),⁵ consolidating commercial cores, and protecting visitor-serving uses and parks and open space. The combining districts and the overlay districts act impose additional regulations beyond what is required by the underlying zoning district.

The amendment proposes to consolidate several LUP land use designations and to add several others. On the former, the six existing residential designations would be consolidated into three designations (R-1 (Single-Family), R-M (Multi-Family), and R-MH (Mobile Home)); the four existing commercial designations would be consolidated into two designations (C-R (Regional Commercial) and C-C (Community Commercial)); the four existing community facility designations would be consolidated into one designation (P/QP (Public/Quasi-Public)). In terms of new designations, the City proposes to add two new mixed-use land use designations (MU-V (Mixed-Use Village) and MU-N (Mixed-Use Neighborhood)), intended to reflect the existing mixed-use and built environment in certain areas of the City, including the Village and along Capitola Road and Capitola Avenue/Bay Avenue, respectively. The City also proposes to add a new VA (Visitor Accommodations) designation, although the City did not propose to designate any properties VA at this time. The V-S (Visitor Serving), P/OS⁶ (Parks/Open Space), and I (Industrial) land use designations remain unchanged (with the exception that the V-S land use designation would be called the VS land use overlay district). See **Exhibit 4** for the existing LUP map and **Exhibit 1** for the proposed LUP map.

With respect to IP zoning districts, the amendment proposes the following:

- A new MU-N (Mixed-Use Neighborhood) district to replace the existing P-O, C-R, and C-N districts
- A new MU-V (Mixed-Use Village) district to replace the C-V district
- The existing P-F district would become the CF (Community Facility) district

⁴ These twenty-one zoning districts are made up of fifteen base districts: R-1 (Single-Family Residence), R-M (Multiple-Family Residence), MHE (Mobile Home Exclusive), P-O (Professional Office), I-P (Industrial Park), P-D (Planned Development), P-F (Public Facilities), C-R (Commercial/Residential), C-N (Neighborhood Commercial), C-C (Community Commercial), C-V (Central Village district), P/OS (Parks and Open Space), V-S (Visitor Serving), G-H (Geologic Hazard), and A-R (Automatic Review); two combining districts: C-Z (Coastal Zone) and F-P (Floodplain); and four overlay districts: A-P (Archaeological/Paleontological Resource), RRO (Riverview Avenue Residential), CAO (Cherry Avenue), and TRO (Transient Rental Use).

⁵ Capitola Village has a unique charm with its beautiful beaches and historic and colorful architecture, reminiscent of a Mediterranean village. The Village contains an eclectic mix of boutiques, restaurants, gift shops, and galleries, and also has many types of accommodations, including beach houses, hotels, and bed and breakfast inns.

⁶ The previous acronym for the Parks and Open Space designation was "P."

- The existing R-1 and MHE zoning districts would remain unchanged (with the exception that the name of the mobile home district would change from MHE to MH (Mobile Home Park))
- The R-M district would be split by density into the RM-L, RM-M, and RM-H districts (for low, medium, and high density multi-family residential).
- The AHO (Affordable Housing Overlay) district would be added and applied to an existing affordable housing development located off of Park Avenue.
- The RRO and CAO overlay districts would be consolidated into a new V-R (Village Residential) overlay district.
- The V-S district would be converted into the VS (Visitor Serving) overlay district.
- The P-D district would become the PD (Planned Development) district.
- The I-P district would become the I (Industrial) district.
- The C-Z combining district would be converted into an overlay that would be delineated on all applicable IP maps with the Coastal Zone boundary as a dotted line.
- The G-H overlay map would not be changed, although the G-H overlay district would be removed from the zoning map.
- The TRO overlay would be converted into the VRU (Vacation Rental Use) overlay.
- The existing C-C (Community Commercial) district for shopping areas located north of Capitola Road is proposed to be renamed as the C-R (Regional Commercial) district,⁷ while the shopping areas south of Capitola Road would retain the C-C zoning designation
- The P/OS district would remain unchanged
- The A-P overlay district is proposed to be eliminated and the requirements of this overlay translated into city-wide standards as part of the proposed text changes, and relatedly, the proposed Archaeological Sensitivity Map will replace the existing Archaeological/Paleontological Sensitivity Areas Map
- The P-O district and the A-R overlay district would be eliminated

In addition, existing errors in IP zoning district boundaries would be corrected to be consistent with the proposed LUP land use designations, and existing historic

⁷ The C-R zoning district is limited to properties located outside of the coastal zone.

designation errors overall would also be corrected.⁸ See **Exhibit 3** for the proposed updated IP zoning map. The proposed amendment would also replace existing environmentally sensitive habitat area (ESHA) and archeological zoning maps with updated versions (see **Exhibit 5** for the existing maps and **Exhibit 3** for the proposed maps).

Development Standards and Allowable Uses

In addition to the restructuring of the zoning designations as described above, the amendment modifies some of the designations' development standards and allowed uses.

Residential Districts

Proposed IP Chapter 17.16 (Residential Zoning Districts) (see pages 267-276 of **Exhibit 2**) consolidates the residential development standards into one chapter and includes a new zoning table (see Table 17.16-2 on page 269 of **Exhibit 2**) that specifies setback requirements, height limits, parking and loading, etc. for each of the three proposed residential zoning districts (R-1, R-M, and M-H).⁹ It also includes a new use table that specifies the principally permitted and conditional uses and permit types (minor use, condition use, or administrative permit), including making clear that a CDP is required for any development that is not exempt or excluded, within each of the three residential zoning districts, including a variety of residential, day care, community assembly, bed and breakfast/vacation rental, utilities, accessory uses and structures, home occupations, temporary uses and structures, and urban agriculture uses (see Table 17.16-1 on pages 268-269 of **Exhibit 2**).¹⁰ The proposed chapter also identifies

⁸ For example, 3865 to 4025 Brommer Street are developed residential properties that were incorrectly designated C-C (Community Commercial) in the existing LCP, but would be designated residential as part of the proposed changes. In addition, 4800 and 4820 Opal Cliff Drive, which are developed with condominiums, would be rezoned from R-1 to RM-M and redesignated from R-LM to R-M; 519 Capitola Avenue would be rezoned from R-1 to MU-N (and although it is developed with a single-family home, the properties surrounding this home are proposed to be zoned MU-N, and thus it is reasonable to rezone this parcel as M-UN); 409, 411, 413, 415, 417, 419, and 421 Capitola Avenue would now be included in the VRU overlay, consistent with surrounding properties that were previously included in the TRO overlay and will now also be included in the VRU overlay; and 500 Plum Street will be changed from P-O to M-UN because the P-O district is being eliminated.

⁹ Single-Family Residential district, Multi-Family Residential district, and Mobile Home Park district, respectively.

¹⁰ Under the existing LCP, the principally permitted uses in the R-1 district are limited to one single-family dwelling and secondary dwelling units, agriculture/horticulture/gardening, small community care residential facilities, and small family day care homes. Conditional uses are limited to private schools, churches/religious institutions, golf courses/country clubs, temporary real estate offices, construction yards/sheds, and large family daycares. Under the proposed amendment, the principally permitted uses in the proposed R-1 district would include small residential care facilities, single-family dwellings, small day cares, minor utilities, accessory uses and structures, and home gardens. The conditional uses would include large residential care facilities, accessory dwelling units, community assembly, day care centers, public pathways and coastal accessways, bed and breakfasts, major utilities and urban farms. In general, the proposed principally permitted and conditional uses generally mirror the existing principally permitted and existing uses, with the exception that some have been eliminated (golf courses/country clubs, temporary real estate offices) and others such as churches/religious institutions and construction yards/sheds have been incorporated into "community assembly" and "accessory uses and structures,"

the maximum floor area ratio (FAR) by parcel size,¹¹ specific front setbacks for the Riverview Terrace neighborhood and along Wharf Road (which are carried over from the existing IP), and open space requirements for the R-M-L, RM-M, and RM-H zoning districts.¹²

Mixed-Use Districts

Proposed IP Chapter 17.20 (Mixed Use Zoning Districts) (see pages 277-289 of **Exhibit 2**) sets forth standards for the new and consolidated mixed-use zoning districts, namely the Mixed-Use Village (MU-V) and the Mixed-Use Neighborhood (MU-N) zoning districts),¹³ and identifies the permitted land uses and the various permits and types of permits that would be required for development in these districts (e.g., administrative, minor, or conditional use permits) as applicable, including making clear that a CDP is required for any development that is not exempt or excluded. This chapter includes proposed Table 17.20-1, which identifies the principally permitted and conditional uses in these districts, including a variety of residential uses, public and quasi-public uses (e.g., community assembly, cultural institutions, day care centers, government offices, medical offices and clinics, parks and recreational facilities, public pathways/coastal access, and schools), commercial uses (e.g., liquor stores, banks, commercial entertainment and recreation, restaurants and bars, lodging, retail, and vacation rentals), and a variety of other transportation, communication, and utility uses, as well

respectively, and minor utilities, major utilities, public paths and coastal accessways, and urban gardens have been added. For the R-M zoning district, existing principally permitted uses are limited to multi-family dwellings, small community care residential facilities, and single-family dwellings. Conditional uses include schools, churches/religious institutions, lodging facilities, convalescent homes, large family day cares, nurse schools, social halls, mobile home parks, any activity triggering a historic design review permit, bed and breakfasts, transient rental use, and large community care facilities. The proposed principally permitted uses in the RM-L, RM-M, and RM-H zoning districts include: duplex homes, group housing, multi-family dwellings, small residential care facilities, single-family dwellings, small home day cares, accessory uses/structures, minor utilities, and home gardens would be principally permitted. Mobile home parks, large residential care facilities, ADUs, community assembly, day care centers, parks and recreation facilities, public pathways and coastal access, schools, bed and breakfasts, major utilities, and urban farms would be conditional uses. In general, the proposed changes include consolidating uses, updating them consistent with state laws related to housing facilities and ADUs, and adding things including parks, coastal trail, and utilities. Regarding mobile home parks, see page 268 of Exhibit 2 for the proposed principally permitted and conditional uses in the proposed MH zoning district.

¹¹ The proposed maximum FAR for the R-1 zoning district would be carried over from the existing R-1 zoning district, which varies from 0.58 for lot sizes of 2,650 square feet or less to 0.48 for lot sizes greater than 6,000 square feet. There are no existing FAR requirements for the existing R-M or MHE zoning districts, and the proposed amendment keeps this construct.

¹² The existing R-M zoning district lists specific requirements for residential open space, including that a minimum of 50% of the required rear yard be fully landscaped and accessible to residents. The proposed open space requirements are largely the same, with the exception that required common open space area available to all residents in the units would no longer be a rear yard space requirement, and instead can be provided anywhere on the site, and the open space requirements would now be presented in table format (see Table 17.16-4 on page 275 of Exhibit 2).

¹³ The MU-V zoning district will apply in the Village area of Capitola, which is the primary visitor-serving destination in the City. The MU-N zoning district will apply primarily along portions of the Capitola Road and Capitola Avenue/Bay Avenue corridors.

as miscellaneous other uses (e.g., accessory uses/structures, home occupations, temporary uses/structures and urban agriculture). Proposed Table 17.20-1 further clarifies that residential uses will generally only be allowed on MU-V zoned parcels that include a Village Residential overlay,¹⁴ except that the Village Residential overlay would not be required for elderly and long-term care facilities, group housing, residential care facilities, and residential mixed-use developments.¹⁵ The proposed chapter also contains development standards for both mixed-use districts including required setbacks, FAR, building orientation, parking and loading, and driveway/curb cut standards. Finally, the proposed chapter gives the City Council discretion to approve increased floor area and height standards for the site of the former Capitola Theater¹⁶ to facilitate development of a new hotel as envisioned in the LUP.

Commercial and Industrial Districts

Proposed IP Chapter 17.24 (Commercial and Industrial Zoning Districts) (see pages 290-301 of **Exhibit 2**) identifies the commercial zoning districts (i.e., the Community Commercial (C-C) and Regional Commercial (C-R)¹⁷ districts), as well as the Industrial (I) zoning district,¹⁸ and the permitted land uses and the various permits and types of permits that would be required for development in these districts. The proposed chapter also allows retail cannabis in the C-R zoning district subject to specific requirements; includes specific zoning standards for certain parcels fronting Capitola Road between 41st and 45th Avenues; and provides for increased floor area and height¹⁹ in both the C-C and C-R districts subject to Chapter 17.88 (Incentives for Community Benefits) (see below).

¹⁴ The existing IP includes a base V-S district, whereas the proposed amendment would convert it into an overlay district.

¹⁵ These uses are required by State law to be allowed in all zoning districts that allow residential uses (see e.g. Welfare and Institutions Code Section 5116, and various Health and Safety Code Sections (i.e., Sections 1267.8, 1267.9, 1267.16, 1568.083 – 1568.0831, 1569.82 – 1569.87, 1518, 1520.5, 1566 – 1566.8, 1567.1, 1760 – 1761.8, and 1834.23)).

¹⁶ This site, which is proposed to be zoned MU-V, is located in the Village near visitor-serving shops and restaurants and within a short walking distance to Capitola Beach. See Exhibit 6 for photos of the former theater site and other locations in Capitola.

¹⁷ As indicated above, all properties currently zoned C-R are located outside of the coastal zone, and no new C-R designations are proposed in this amendment.

¹⁸ The proposed “I” zoning district would replace the existing I-P zoning district.

¹⁹ Currently the height limit in these commercial areas of the City is 40 feet for C-C zoned parcels and 27 feet for C-R zoned parcels; the proposed amendments would maintain a 40-foot height limit for C-C zoned parcels and increase the maximum height for C-R zoned parcels (none of which are currently in the coastal zone) to 40 feet; however, additional height above these height limits may be granted pursuant to proposed IP Chapter 17.88. There are currently no FAR requirements in either the C-R or C-C zoning districts; the proposed amendments would add a maximum 1.0 FAR for parcels in the C-C zoning district and a maximum 1.5 FAR for C-R zones parcels; however, increased FAR for these zoning districts also may be granted pursuant to proposed IP Chapter 17.88.

Visitor-Serving Overlay

The LUP Land Use Designations Map, the IP's zoning map, and the IP text amendments would convert the V-S District into a VS Overlay Zone. Proposed IP Chapter 17.28 (Visitor Serving Overlay Zones) (see pages 302-307 of **Exhibit 2**) establishes five visitor-serving subzones within this overlay district, including Visitor-Serving General (VS-G), Visitor-Serving Rispin (VS-R),²⁰ Visitor-Serving Shadowbrook (VS-SB),²¹ Visitor-Serving Monarch Cove Inn (VS-MC), and Visitor-Serving El Salto (VS-ES),²² with specific allowable uses for each subzone. The VS-G overlay would apply to New Brighton State Beach (including its campground atop the bluffs) and a portion of the Village, including the Capitola Theater site where a hotel is envisioned. Whereas the other subzones are intended to correspond to specific developed sites that serve or have the potential to serve visitors, including the historic Rispin Mansion site, the Monarch Cove Inn site, the Shadowbrook Restaurant on the banks of Soquel Creek, and on a portion of the former El Salto property on Depot Hill. For a complete list of the proposed allowable uses in each of these subzones see Table 17.28-1 on pages 304-305 of **Exhibit 2**. See **Exhibit 6** for photos of these areas.

Of significance is that the VS-G subzone, which includes the former Capitola Theater/future hotel site,²³ would also allow for residential uses (including employee housing, multi-family dwellings, and single-family dwellings) subject to a conditional use permit. The VS-MC subzone would allow the Monarch Cove Inn site to be used as a single-family residence in conjunction with an overnight accommodation use "or granting of public access to a viewpoint," (i.e. views of the ocean), whereas under the current LCP the only allowed residential use is for a "caretaker unit." The proposed chapter also sets forth development standards for the VS overlay district subzones including setbacks, landscaping and lighting requirements, minimum parcel area, maximum impervious surface coverage, and maximum height.

Community Benefit Incentives

Proposed new IP Chapter 17.88 (Incentives for Community Benefits) (see pages 417-421 of **Exhibit 2**) is intended to facilitate the development and redevelopment of sites

²⁰ The Rispin Mansion was constructed on the upcoast bank of Soquel Creek in 1921 by Henry Allen Rispin, an oil baron. When Rispin lost his fortune in 1929, he was forced to sell the property at auction. It was purchased by Robert Hays Smith, who never lived in the mansion but sold it to the Catholic Order the Oblates of St. Joseph. The Order used it as a convent until 1957. The mansion has been vacant ever since and has been vandalized over time. However, the mansion is on the "National Register of Historic Places in Santa Cruz County" and the City has made improvements to the mansion in recent years and hopes to open the site as a park in the future.

²¹ The Shadowbrook Restaurant is an historic restaurant located on the upcoast bank of Soquel Creek. The restaurant is accessed from the bluff above via a paved walkway that winds its way down the hillside through lush gardens, or via a ride in a funicular.

²² The El Salto Resort site traces its history back to the late 1800s when it was first established as a series of guest cottages. It has provided overnight accommodations to visitors atop Depot Hill ever since.

²³ The existing zoning for the former Capitola Theater site is C-V (Central Village), which allows for mixed uses, including residential on the first or second floor; however, it does not allow for exclusive residential use.

by allowing exceptions to the underlying zoning standards, such as increased FAR or increased height, in exchange for the provision of substantial community benefits. This chapter would primarily apply to sites located outside of the coastal zone (such as C-R zoned properties). But it would also apply to certain inland sites within the coastal zone with more limited coastal resource constraints, including those sites in the C-C zoning district that front the commercial corridor along Capitola Road (primarily between Clares Street and 42nd Avenue).²⁴ This chapter would also apply to the Capitola Theater site in the Village where potential resource constraints are not so limited (and where the City envisions a future hotel).

The proposed chapter identifies what qualifies as a substantial community benefit as something that is not otherwise required by the zoning code or other local, state, or federal laws; and something that significantly advances General Plan/LCP goals and/or significantly exceeds the City's minimum requirements. The proposed amendment language in this chapter then provides some examples of substantial community benefits, including creation of public open space (e.g., plazas, courtyards, other gathering spaces, etc.); improvements to public infrastructure (e.g., sidewalks, curbs, sanitary and storm sewers, trees, lighting, etc.); provision of enhanced pedestrian/bicycle pathways, low-cost visitor-serving amenities, and increased transportation options to reduce greenhouse gas emissions; the preservation, restoration, or rehabilitation of historic resources; provision of enhanced public parking; provision of green building and sustainable development features that exceed the City's green building award status; public art; and childcare facilities, all when these things would not otherwise already be required. In other words, when a project provides enhanced community benefit above and beyond what is already required, it may be eligible for some reduced standards to facilitate the project. Importantly, any incentive is only allowable if they otherwise meet LCP requirements, including all of its coastal resource protection standards. The proposed chapter also explicitly states that the incentives allowed by the chapter are allowed in addition to any development incentives provided by the State's Density Bonus Law, which also do not override LCP coastal resource protection standards.

The proposed chapter also identifies what incentives may be granted to the potential Village Hotel project in exchange for the provision of community benefits (e.g., an increase in the maximum FAR from 2.0 to 3.0 and an increase in the maximum allowable 27-foot building height provided that all rooftop architectural elements remain below the elevation of the bluff behind the hotel, and that the bluff behind the hotel would remain "visible as a green edge when viewed from the southern parking lot along the bluff of Cliff Drive and the Capitola Wharf" (see page 419 of **Exhibit 2**, proposed IP Section 17.88.050(B)).

The proposed chapter also outlines the application submittal and review process for such exceptions to the underlying zoning standards (i.e., an applicant must submit a request to the City Council; there must be a Conceptual Review that goes before both

²⁴ This is the primary commercial area of the City (and this area also serves as an important commercial hub for Santa Cruz County in general). This area is located about a half-mile from the shoreline.

the Planning Commission and the City Council, and the Planning Commission shall make a recommendation to the City Council, who would then review and act on any other permits required). Finally, the proposed chapter also states that the Planning Commission or the City Council may require story poles on the Capitola Theater site to demonstrate height and mass prior to approval of any project.

ESHA

Proposed IP Chapter 17.64 (Environmentally Sensitive Habitat Areas (ESHA)) (see pages 373-378 of **Exhibit 2**) would replace existing IP Chapter 17.95 (Environmentally Sensitive Habitats) (see pages 203-207 of **Exhibit 2**), and, relatedly, would replace the existing Environmentally Sensitive Zone Map (which does not clearly delineate ESHA) with an updated Existing Environmentally Sensitive Habitat Map. The proposed chapter defines and identifies Capitola's known ESHA, such as wetlands, coastal streams, riparian vegetation, and terrestrial ESHA, including plants and animal species listed under the Federal or California Endangered Species Acts. This chapter and the associated map specifically identify Soquel Creek and its lagoon and associated riparian corridor as ESHA, as well as the Noble Gulch riparian corridor, the Tannery Gulch riparian corridor, and all Monarch butterfly habitat, including specifically in the vicinity of the Rispin Mansion site adjacent to Soquel Creek and in the Escalona Gulch area. Importantly, the maps and designations do not constitute a list and/or map of all ESHAs in the City, rather it designates known ESHA as of now and in light of current information. In any particular development case, ESHA issues are required to be evaluated if there is evidence that ESHA may be impacted, regardless of the maps and designations.

The proposed chapter also states that only resource-dependent uses (e.g., low intensity public access and recreation, nature study, and habitat restoration) are allowable in ESHA; and that any allowable development is required to be sited and designed to prevent impacts that would significantly degrade ESHA and be done in a manner to provide for the long-term protection of ESHA. The proposed chapter also identifies allowable construction periods for the Monarch butterfly habitat sites; includes tree protection standards; clarifies setback requirements and biological report requirements; and includes new ESHA protection provisions, specifically along the Soquel Creek riparian corridor and in the above-described Monarch butterfly habitat areas. These are best understood as minimum requirements that set the 'floor' for ESHA protection. Again, in all cases the facts surrounding a particular ESHA will be developed as part of that project review, and case-specific information may dictate that different and more protective standards may be required.

Other

- Addition of IP Chapter 17.72 (Landscaping) (see pages 379-384 of **Exhibit 2**), which clarifies that landscaping may trigger CDP requirements and generally seeks to enhance the aesthetic appearance of Capitola and promote installation of water-efficient landscaping
- Repeal of IP Chapter 17.51 (Parking and Loading) (see pages 129-135 of **Exhibit 2**) and replacement with IP Chapter 17.76 (Parking and Loading) (see pages 385-407),

which sets forth parking standards throughout the City, with new provisions related to electric vehicles, including that electric vehicle charging stations shall be provided for new structures or uses required to provide at least 25 parking spaces and additions or remodels that increase an existing parking lot of 50 or more spaces by 10% or more (see proposed IP Section 17.76.040(F)), and some flexibility in parking requirements to support multi-modal transportation and sustainability goals (including new bicycle parking requirements) (see IP Section 17.76.080)

- Repeal of Chapter 17.87 (Historic Features) (see pages 191-192 of **Exhibit 2**), which primarily set forth the procedures for establishing or designating historic structures (where standards for modifications to historic structures were located throughout different sections of the zoning code), and replacement with IP Chapter 17.84 (Historic Preservation) (see pages 408-416 of **Exhibit 2**), which establishes procedures for classifying historic resources and requirements for altering those resources, and broadly seeks to preserve and enhance Capitola's historic character while allowing property owners reasonable improvements and modifications to historic structures
- Repeal of IP Chapter 17.70 (Procedures for Reasonable Accommodation) (see pages 178-180 of **Exhibit 2**) and replacement with IP Chapter 17.140 (Reasonable Accommodations) (see pages 459-461 of **Exhibit 2**), which establishes the procedures for requesting reasonable accommodation for persons with disabilities seeking equal access to housing under the Federal Fair Housing Act and the California Fair Employment and Housing Act
- Addition of Chapter 17.144 (Zoning Code Amendments and Local Coastal Program Amendments) (see pages 462-466 of **Exhibit 2**), which establishes the procedures for amending the IP, including the process and requirements for an LCP amendment. The proposed chapter would significantly increase transparency and clarity of the LCP amendment process, including by explicitly identifying the Coastal Act requirements and the Coastal Commission's regulations regarding noticing, resolutions, and required analysis for LCP amendments
- And repeal of IP Chapter 17.03 (Definitions) (see pages 2-14 of **Exhibit 2**) and replacement with IP Chapter 17.160 (Glossary) (see pages 474-491 of **Exhibit 2**), which contains a much more comprehensive compilations of key words used throughout the IP (compared to the existing "Definitions" chapter), including bluff/cliff, coastal zone, development, structure, geologic hazard, and zoning terms such as floor area and floor area ratio (FAR), setback, and tandem parking.

In short, the proposed amendment constitutes a comprehensive update of the IP, including modifying zoning districts and applying them to new properties, modifying development standards (e.g., related to height, setback, open space, FAR, etc.) and allowable uses in those districts, and updating resource protection requirements and corresponding maps, including related to ESHA, archaeological protection, and historic preservation. It also significantly updates the procedures to carry out the LCP's coastal

resource protection framework, including by updating CDP procedures and LCP amendment protocols.

Please see **Exhibit 2** for the proposed IP amendment text (denoted in underline) and the existing zoning code (i.e., the language proposed to be replaced, denoted in ~~strikethrough~~). See **Exhibit 3** for the proposed LUP Land Use Designations Map and **Exhibit 3** for the proposed IP Zoning Map, Archaeological Sensitivity Map, and Environmentally Sensitive Habitat Areas Map.

C. Evaluation of Proposed LCP Amendment

The proposed amendment affects the LCP's LUP Land Use Designations map and most of its IP, including the zoning and other IP maps as well as the majority of the chapters of the IP zoning code. The standard of review for the LUP map changes is that they must be consistent with and adequate to carry out the requirements of Chapter 3 of the Coastal Act; the standard of review for the IP changes is that they must be consistent with and adequate to carry out the policies of the certified LUP, as amended.

1. Proposed Land Use Plan Amendment

Applicable Coastal Act Policies

Coastal Act Section 30250(a) requires new residential, commercial, and industrial development to be located within, contiguous with, and in close proximity to existing development, or in other areas where it will not have significant adverse impacts, either individually or cumulatively, on coastal resources. Coastal Act Section 30221 protects oceanfront lands that are suitable for recreational uses. For otherwise allowable development, Coastal Act Section 30222 gives priority to the use of land suitable for visitor-serving recreational facilities over private residential, general industrial, or general commercial development. Therefore, the proposed LUP map amendment must include appropriate land use designations to ensure that development is concentrated within already developed areas by promoting infill development; must further ensure that visitor-serving uses, such as restaurants, shops, and lodging, are adequately provided for; and must protect oceanfront land, such as beaches, for recreational uses. Coastal Act Sections 30250(a), 30221, and 30222 specifically state:

Section 30250(a). *New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.*

Section 30221. *Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future*

demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.

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.*

Analysis

The proposed LUP map update consolidates the land use designations into fewer designations, therefore simplifying the LUP map while, in most cases, still providing appropriate LUP designations for commercial, residential, visitor-serving, mixed use, and other uses. This includes by continuing to apply the Parks and Open Space designation to the City's beaches and to New Brighton State Beach, which is located in the most downcoast area of the City. The proposed LUP map also corrects errors in the existing LUP map as described earlier, thus providing better clarity and accuracy. The proposed map is generally sufficient to ensure that the types, kinds, and intensities of proposed use are appropriately prescribed in the City's coastal zone consistent with Coastal Act Chapter 3 directives.

However, the proposed LUP map applies residential land use designations to several properties that currently provide overnight accommodations for visitors, including the Monarch Cove Inn and the Inn at Depot Hill sites, where the City is proposing to redesignate the properties from their current "Visitor-Serving" land use designation²⁵ to an "R-1" (single-family residential) land use designation with a VS (visitor-serving) overlay. The proposed LUP map amendments would also remove the VS designation from a number of the former El Salto Resort parcels adjacent to (i.e., immediately west of) the Monarch Cove Inn. See **Exhibit 1** for the proposed LUP map and the locations of these two properties. The proposed re-designations at the Monarch Cove Inn and the Inn at Depot Hill would provide for full residential conversion on these important visitor-serving properties, thereby raising Coastal Act conformance issues as more fully discussed below.

As background, the Monarch Cove Inn is located on Depot Hill, just downcoast from Capitola Village on top of approximately 80-foot tall bluffs that offer beautiful sweeping views of the Monterey Bay. The history of the Monarch Cove site dates back to the late 1800s when two English families seeking a summer retreat locale bought lots throughout Depot Hill and built a settlement called "The English Cottages," which included Victorian era bungalows as well as traditional English gardens. The property was leased in 1909 to a San Franciscan when the owners returned to England for an extended stay—he ultimately purchased the property in 1911 and renamed the property

²⁵ The Inn at Depot Hill consists of two separate parcels, with the vegetated street frontage parcel currently designated as "P" (Parks and Open Space) and the parcel upon which the inn is situated currently designated as VS. The proposed amendment would designate both parcels as R-1 on the land use map, with a VS overlay.

“El Salto,” and enlarged the El Salto estate throughout the 1920s, adding guest cottages, staff living quarters, fruit orchards, and a four-car garage. That owner then sold the property to a local Capitola resident who remodeled the units so that they could be used as summer rentals. The property was sold again in 1960 to an investment group, and then two years later Elizabeth Blodgett acquired title to a majority of the original state. In the late 1970s, Elizabeth Blodgett purportedly proposed a number of development projects that never came to fruition. By 1982, succumbing to financial difficulties, Elizabeth sold a number of the lots, and a fire destroyed some cottages. In 1989, the City deemed the resort unsafe, and the resort closed temporarily. Elizabeth then purportedly began to dispose of additional property, leading her son, Robert Blodgett, to acquire most of the remaining buildings, complete renovations, and then reopen the resort in 1989. Elizabeth Blodgett operated her portion of the resort until 1998 when she sold the last of her property (the three lots immediately west of her son’s parcels).

The former El Salto Resort diminished in size over time as properties were sold as some buildings were lost to fire, etc. with the exception of a portion of the El Salto Resort (then renamed as the Monarch Cove Inn), which became an 11-room bed and breakfast inn with two separate stand-alone cottages and an outdoor deck area used for weddings. While located about a 15-minute walk to the Village, the Monarch Cove Inn’s location on Depot Hill offers sweeping, unparalleled views of the Monterey Bay and coastline and, if visited during the monarch butterfly migration (mid-October through mid-January), large clumps of monarch butterflies may be witnessed hanging from the adjacent eucalyptus trees. The site has a long history of operating as overnight accommodations for Capitola visitors, both before and since adoption of the Coastal Act. It offers a unique visitor accommodation experience that cannot be found elsewhere in the City or within greater Santa Cruz County.

The Inn at Depot Hill was originally home to the Southern Pacific Railroad Depot, which was built in 1901, and has been a legend in Capitola history for generations. The Monarch Cove Inn, renamed when it re-opened in 1991, now offers 12 guest rooms and suites uniquely designed to recreate the refined luxury of the bygone era of train travel. Each guest room and suite is reminiscent of European destinations rich in train travel history (such as St. Tropez, Paris, and Portofino). The Inn at Depot Hill is situated just uphill from the Village, which is a prime visitor destination.

At Monarch Cove, the City indicates that the change is proposed because the current owner wants to live at the site, and the City wants to be able to accommodate him, particularly given his long contributions to the community. However, LUP planning is not about who owns which pieces of property and how their personal circumstances may engender requests for unique LUP provisions, such as this. Rather, LUP planning is based on what can be found Coastal Act consistent, including with respect to land use priorities. And that evaluation requires an analysis of whether there are adequate visitor-serving overnight accommodations under the LCP such that this site is not necessary to be retained under that designation. This analysis is particularly important because LCP redesignations from visitor-serving accommodations to residential are fairly common in the state’s coastal zone while the reverse is hardly ever true. When such visitor-serving

sites are “lost” they are rarely, if ever, replaced, as has been the case with all of the other former El Salto Resort properties. Moreover, retaining the VS land use designation on the Monarch Cove Inn parcels is all the more important given the number of former El Salto Resort parcels that have converted to residential use and have been re-designated for residential use, including via the proposed amendments.

And the same evaluation applies to the Inn at Depot Hill site, where the City indicates that the proposed R-1 designation is appropriate because it is immediately adjacent to single-family residential development. However, it is also located on Monterey Avenue, which has a variety of commercial uses; and it is within a few blocks of the Village and Capitola Beach, Capitola’s prime visitor hub. And again, LUP planning is based on what can be found Coastal Act consistent, including with respect to land use priorities, and the conversion of visitor-serving land uses to residential land uses cannot be found consistent with the either the Coastal Act or the LUP.

The proposed residential designations at these two sites would mean that the LCP would prioritize them for residential use with the *allowance* for visitor-serving use, as opposed to the existing designation that prioritizes them for visitor-serving overnight accommodations uses with the allowance for ancillary residential/caretaker units. It is also worth noting that in late 2004/early 2005, the City sought to change the land use designation of these same Monarch Cove Inn parcels (as well as three other former El Salto Resort parcels) from VS to a dual VS/R-LM (Visitor-Serving/Residential Low-Medium Density); however, the Commission denied the proposed dual land use re-designation²⁶, and thus the land use designation remained (and is currently) VS.²⁷ In taking that action the Commission noted that:

“The Monarch Cove Inn parcels currently provide an exclusively visitor-serving accommodation use. In addition, the Monarch Cove Inn site contains historic structures, including a Victorian carriage house, which contains eight guest rooms. In addition, the City recently approved relocation of an historic cottage from 709 El Salto Drive to the Monarch Cove for use as visitor-serving lodging at the Monarch Cove Inn.

The City of Capitola is a popular overnight visitor destination for visitors to the Central Coast. Currently, the Monarch Cove Inn provides the only exclusively visitor-serving accommodation use in the Depot Hill neighborhood area of Capitola (the Inn at Depot Hill is located on Monterey Avenue on the eastern edge of Depot Hill adjacent to the main Depot Hill neighborhood area, and within two blocks of the Central Village). Given this and the historic nature of the Monarch Cove Inn parcels, the Commission finds it necessary to maintain the exclusive VS (Visitor Serving) designation on the Monarch Cove Inn parcels.”

²⁶ The Commission also added a conditional use on the Monarch Cove Inn properties; namely, that “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 6 guest bedrooms are available for visitor-serving use within the three parcels.”

²⁷ See City of Capitola LCP Amendment 2-04 (CAP-MAJ-2-04).

And the same applies equally today. As proposed, these re-designations to R-1 would be inconsistent with Coastal Act Section 30222, which prioritizes visitor-serving uses over residential uses. Redesignation from VS to R-1 could lead to permanent loss of the overnight accommodations at these sites (as has been the case with the other former El Salto cottages), and the City has not provided evidence to suggest that a conversion of this type is appropriate. On the contrary, the City of Capitola, and especially the Village and its adjacent beach area, is a very popular overnight visitor destination for visitors to the Central Coast, and the Monarch Cove Inn to this day remains the only exclusively visitor-serving accommodation use in the Depot Hill area of Capitola. Similarly, the Inn at Depot Hill provides a unique overnight accommodations experience within a short walking distance to Capitola Beach and the Village. **Suggested Modification 1** is thus necessary to ensure retention of these sites for visitor-serving overnight accommodations. **Suggested Modification 1** would apply the new VA (Visitor Accommodations) designation to reflect the visitor accommodation uses at these sites, while retaining the existing VS land use overlay for both sites, consistent with Coastal Act Section 30222.²⁸

The remainder of the proposed LUP Map update is consistent with Coastal Act Sections 30221, 30222, and 30250(a) because it accurately reflects the densely built environment of the City of Capitola, with concentrated areas of residential development, commercial development, and mixed-use areas, and because the map also appropriately designates the City's visitor-serving and open space areas, including Capitola Beach and New Brighton State Beach. Accordingly, the proposed LUP Map update with the suggested modification can be found consistent with the Coastal Act.

2. Proposed Implementation Plan Amendment

The City's proposed IP changes modify certain zoning district development standards, rezone certain properties in the coastal zone to implement corresponding amendments to the LUP land use designations map, replace the existing the archaeology/paleontology map and the ESHA map with new maps, continue to provide coastal resource protection standards for land uses and development throughout the coastal zone, and update procedures for the processing and issuing of CDPs, as discussed in more detail below.

a. Zoning Map Changes

As discussed in the LUP amendment section above, the amended LUP Land Use Designations map has been streamlined to provide for eleven LUP land use designations and one LUP overlay designation (compared to the existing seventeen land use designations).²⁹ As also described above, the LUP's land use designations are

²⁸ The existing zoning designation currently allows one of the units on the site to be used as a caretaker's unit, and this allowance for a caretaker's unit would be retained under the proposed amendments. And thus, the proposed modifications would not affect the ability of the owners to reside on the property as caretakers.

²⁹ The amended LUP map contains three residential, two commercial, two mixed-use, and one designation each for visitor accommodations, parks/open space, public/quasi-public, industrial, and one visitor-serving overlay.

entirely a function of the map, and thus the amended LUP map forms the basis for understanding the proposed IP zoning map changes.

The proposed IP zoning map (see **Exhibit 3**) implements the amended LUP map through the provision of thirteen zoning districts³⁰ and five overlay zones³¹ that provide specific details on the types of uses allowed in each district in a manner that is generally consistent with the amended LUP map. All uses must still meet all applicable LCP standards, including those for each zoning district (e.g., height, setbacks, density, etc.), those for the specific land use (e.g., design and location standards), and those that apply coastal zone-wide (e.g., requirements for ESHA, wetlands, public views, etc.). Therefore, the proposed zoning district map generally sets forth a framework that mirrors and implements the requirements set forth in the amended LUP map, with certain exceptions.

As discussed above, **Suggested Modification 1** to the LUP map replaces the R-1 land use designation with a VA designation at the Monarch Cove Inn and the Inn at Depot Hill properties to ensure retention of these sites as visitor-serving overnight accommodations under the LCP. As background, when the City sought to re-designate the land use designation of the Monarch Cove Inn and the adjacent former El Salto Resort parcels from VS to VS/R-LM through CAP-MAJ-2-04, as discussed above, the Commission denied that change, and the Commission also certified the IP zoning designation for the Monarch Cove Inn and the adjacent former El Salto Resort parcels (along with the Rispin Mansion and the Shadowbrook properties) for the first time.³² At the time, the City proposed a VS-R-1 (Visitor-Serving/Single-Family Residential) dual zoning designation for the Monarch Cove Inn site and the former El Salto Resort parcels,³³ but the Commission ultimately approved only VS as both the land use and zoning designations for the Monarch Cove Inn, finding that adding R-LM to the land use designation and applying an R-1 zoning to the Monarch Cove Inn would be inconsistent with the Coastal Act's public access and recreation policies and with LUP Policies IV-1

³⁰ The proposed IP zoning map includes five residential, two mixed-use, two commercial, and one zoning district each for parks/open space, community facility, planned development, and industrial uses.

³¹ The four proposed IP overlay districts are Affordable Housing, Coastal Zone (which is shown on the zoning map as a boundary line), Vacation Rental Use, Village Residential, and Visitor Serving.

³² The LUP land use designations of the Monarch Cove Inn, the Rispin Mansion, and the Shadowbrook properties were all certified visitor-serving when the original LUP was certified in 1981. However, the IP zoning designations for these properties were not certified when the original IP was certified in 1989 because the Commission determined that the proposed IP visitor-serving zoning ordinance section lacked adequate standards. Thus, these areas were areas of deferred LCP certification (and subject to Commission jurisdiction under the Coastal Act) until the IP was amended to provide IP zoning designations and applicable standards in 2004/2005.

³³ For the adjacent former El Salto Resort properties, the Commission did approve the dual VS/R-1 zoning designation and a dual VS-R-LM land use designation, finding that although these properties were being used as residential, they were historically visitor accommodations, and could potentially convert back into visitor accommodations in the future with the dual designations. Fast forward to today, the El Salto Resort properties are still used as residential. The City in the proposed amendment proposes to remove the "VS" dual designation on the single inland former El Salto Resort cottage, but retain the dual designation on the seaward residential fourplex (i.e., an R-1 zoning designation with a VS overlay).

and IV-2, respectively. The Commission did, however, approve the dual VS-R-1 designation for the properties immediately west of the Monarch Cove Inn (i.e., former El Salto Resort properties). The Commission found that the dual designation was appropriate on these three parcels immediately adjacent to the Monarch Cove Inn because they were already being used as residences and because the VS-R-1 dual designation would retain the potential for a visitor-serving use on the parcels in the future. However, those properties have remained in residential use and thus the proposed amendment would remove the VS designation on two of the parcels adjacent to the Monarch Cove Inn (and they would be designated solely as R-1), but would maintain the VS-R-1 designation on the third seaward-most parcel where there is a residential four-plex that has the greatest potential for use as visitor-serving accommodations in the future.

In terms of LUP consistency, the LUP policies specifically state that the Monarch Cove Inn properties (formerly referred to in the LUP as the “El Salto Resort” properties) shall be designated for visitor-serving and/or recreation uses, and that “areas designated for visitor-serving and/or recreation shall be reserved for visitor support services or recreational uses” and that permissible uses include “hotels, motels, hostels, campgrounds [...]”, etc. (see these LUP Policies below).

In short, as discussed above in the Proposed Land Use Plan Amendment section, the proposed changes to the LUP Map require modifications to be found consistent with the Coastal Act. Here, **Suggested Modification 2** makes the corresponding change to the proposed IP zoning map that **Suggested Modification 1** does to the proposed LUP land use designations map, i.e., for the Monarch Cove Inn and the Inn at Depot Hill sites, the proposed R-1 zoning would be removed and replaced with a VS zoning designation. This ensures that these sites shall be maintained as visitor serving and not residential.³⁴ Accordingly, the proposed zoning map update with the suggested modification can be found consistent with the LUP map, as amended.

b. Resource Protection Standards

Applicable Land Use Plan Policies

The LUP contains policies and implementation strategies related to maximizing public access and recreation; protecting archaeological/paleontological resources and environmentally sensitive habitat areas; protecting the character of the Village (including via development standards related to size, bulk, and articulation); protecting public views, including to and along the immediate shoreline; encouraging and requiring smart development via use of best management practices (related to energy efficiency, low water use fixtures, minimizing runoff, etc.); and protecting visitor-serving uses, including by ensuring that sites designated for visitor-serving uses and recreation (e.g., visitor-serving overnight accommodations such as hotels, motels, and campgrounds, food/drink establishments, rental facilities, and beaches/parks) remain designated for such uses. These policies include:

³⁴ The VS zoning designation will act both as the base zoning and an overlay district for these two properties.

Archaeological/Paleontological Resources

LUP Policy I-3: *It shall be the policy of the City of Capitola to provide for the protection, preservation, and proper disposition (where necessary) of archaeological, historical and paleontological resources within Capitola. This policy shall be implemented in cooperation with the landowners, developers, State Historic Preservation Office and the Archaeological Research Center. (See Map I-1)*

Implementation: *a) Develop an ordinance that ensures the protection of archaeological and paleontological resources. b) Identify regionally and locally significant historical resources and develop a new historical structure preservation provision of the Zoning Ordinance or use the existing one.*

Public Access and Recreation

LUP Policy II-1: *It shall be the policy of the City of Capitola to provide safe and adequate pedestrian access to and along the shoreline as designated in the Shoreline Access Plan (see Maps II-1,2, and 3).*

Implementation: *a) Develop an ordinance to require dedications to implement the shoreline access plan. b) Use available coastal access and open space grant programs for acquisition and development (i.e. Coastal Conservancy and State Parks and Recreation).*

Environmentally Sensitive Habitat Areas

LUP Policy II-18: *Because of environmental sensitivity of the natural ecosystem along the creek, the City will maintain existing pathways and park sites for public use but will prevent further disruption that might occur because of expansion of path systems along Soquel Creek.*

Implementation: *Develop an ordinance that requires scenic conservation easements or land dedications to preserve the open space/habitat qualities of Soquel Creek.*

LUP Policy VI-1: *It shall be the policy of the City of Capitola to take measures within its purview to preserve and improve the quality of the waters of Monterey Bay, to support Marine Habitats, public recreation, and commercial pursuits consistent with sound resource management principles.*

LUP Policy VI-2: *It shall be the policy of the City of Capitola to protect, maintain and, where possible, enhance the environmentally sensitive and locally unique habitats within its coastal zone, including dedication and/or acquisition of scenic conservation easements for protection of the natural environment. All developments approved by the City within or adjacent to these areas must be found to be protective of the long-term maintenances of these habitats.*

Implementation: Prepare specific guidelines and regulation for development along Soquel Creek, Noble Gulch, Escalona Gulch and other environmentally sensitive habitats with specific emphasis on Monarch Butterfly habitats.

LUP Policy VI-3: It shall be the policy of the City of Capitola to maintain the maximum amount of native vegetation along Soquel Creek and other riparian areas, and to strongly support the California Department of Fish and Game in requiring a minimum flow that will support a healthy riparian habitat and permanent fishing resource in Soquel Creek.

LUP Policy VI-8: The City shall maintain and, as feasible, continue to enhance the habitat values of Soquel Creek through the use of the Automatic Review Zone for the Soquel Creek Riparian Corridor and Lagoon (as designated on Map VI-1). When considering or granting a permit in this area, the City shall give special consideration to the environmental sensitivity of this area, including dedication of scenic conservation easements. In addition, the City shall encourage the use of appropriate native local riparian vegetation.

Implementation: Prepare specific guidelines and regulations for development along Soquel Creek, Noble Gulch, Escalona Gulch and other environmentally sensitive habitats with specific emphasis on Monarch Butterfly habitats.

LUP Policy VI-10: It shall be the policy of the City of Capitola to protect the winter resting sites of the Monarch Butterfly in the eucalyptus groves of Escalona Gulch, New Brighton Gulch, and Soquel Creek as designated on Map VI-2 by requiring detailed analysis of the impacts of development on the habitat.

Implementation: a) Prepare specific guidelines and regulations for development along Soquel Creek, Noble Gulch, Escalona Gulch, and other environmentally sensitive habitats with specific emphasis on Monarch Butterfly habitats. b) It is the goal of the City to preserve the Monarch Butterfly overwintering site in the area known as Escalona Gulch. Preservation, based on the information presented in the Environmental Impact Report dated March 1991 prepared for the site, requires that development be limited to 6,000 square feet and does not have a total footprint of more than 4,000 square feet. The building(s) shall be located and designed so that they do not have a significant adverse impact on the Monarch butterfly habitat. The habitat, and area around it necessary to preserve the habitat, shall be placed in a conservation easement at the time of development. Any significant change in the site conditions, relevant new scientific information, or change in proposal shall be reviewed through a supplemental environmental evaluation and could require an amendment to this policy.

Public Views

LUP Policy III-1: It shall be the policy of the City of Capitola to maintain the natural features, visual resources, and unique character of the Capitola Village. This includes maintenance of the particular scale and character of Capitola Village, retaining its special ability to serve both Capitola residents and visitors,

protecting its natural features and views, and recognizing its historical continuity extending from the Camp Capitola period through the present. A commitment shall be made to maintaining the level of current activity in the Central Village area and/or intensifying activity and increasing capacity only in ways consistent with the current scale and character of Capitola Village.

Implementation: *Develop project review criteria to preserve trees and other vegetation along Cliff Avenue and Prospect Avenue, along Soquel Creek and within the Village.*

LUP Policy III-5: *Permitted development shall not block or detract from public views to and along Capitola's shoreline.*

Implementation: *Incorporating policy direction in Planning Commission review of projects along shoreline.*

Community Character

LUP Policy III-2: *It should be recognized that the historical continuity of development in Capitola Village is an evolutionary process that doesn't stop in the present. New styles of architecture may be as appropriate now as they have proved to be in the past. Capitola will continue to evolve as it has before but should maintain a consistency of scale and a variety of architectural types to support the goal to preserve the special scale and character of historical Capitola Village.*

Implementation: *Develop design review guidelines and a development review process for new construction and rehabilitation to ensure that building materials including siding, roofing, doors and windows are appropriate for the building design and the Village character.*

LUP Policy III-7: *To ensure the maintenance of the special scale and character of Capitola Village development proposals within the Village area shall be subject to Arch & Site and Planning Commission Review with emphasis placed on the following design particulars: a) Building bulk, width, height and roofscape (the overall building envelope and the scale of the pieces within this envelope). b) Architectural thematic units including: 1. Window size and scale and frame materials. 2. Color variety. 3. Materials variety. 4. Signage. 5. Scale of articulation. c) Street thematic units including: 1. Trees, ground cover and foliage. 2. Street, path and public space lighting. 3. Paving patterns and paving materials. 4. Traffic and parking furniture (directional signs, directional islands, bicycle racks, etc.). 5. Signage. d) A continuing program for the removal of utility poles and undergrounding of overhead wires.*

Implementation: *Incorporate policy direction in Planning Commission and Arch & Site Review of projects in the Village Area consistent with Policies III-7, III-9 & III-14.*

LUP Policy III-8: *Where replacement of structures is permitted, new buildings need not necessarily be copies of older ones, but should be built with scale, materials, and a sensitivity to the spirit of adjacent buildings and the prior structure.*

Implementation: *Incorporate policy direction in Planning Commission and Architectural & Site Review of projects in Village area consistent with this policy.*

LUP Policy III-13: *A high level of business activity should continue to be encouraged in accordance with Capitola Village scale and character. Commercial activity should serve both Capitola residents and visitors: a balance, which currently exists, should be maintained in the Central Village area between coastal visitor-related uses and services and those serving permanent residents*

LUP Policy III-14: *Commercial buildings in areas of particular public interest, because of natural features adjacent to them, shall be required to take advantage of these features and allow the public to do so as well. Mechanical equipment should be kept under cover, because views from the cliffs above are important. Structures along the Esplanade should allow views through from the Esplanade to the ocean, where possible, and recognize that they have a public face on the ocean side that is at least as important as the facade on the street side.*

Visitor-Serving

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.*

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

Water Quality/Water Conservation

LUP Policy VI-1: *It shall be the policy of the City of Capitola to take measures within its purview to preserve and improve the quality of the waters of Monterey Bay, to support marine habitats, public recreation, and commercial pursuits consistent with sound resource management principles.*

LUP Policy VI-4: *Parking lot and stream drains, and storm water run-off culverts shall be improved by installing energy dissipators and sand traps or other types of grease/sediment traps in conjunction with new development or intensification of use.*

LUP Policy VI-5: *The City shall, as a condition of new development, ensure that run-off does not significantly impact the water quality of Capitola's creeks and wetlands through increased sedimentation, biochemical degradation or thermal pollution.*

LUP Policy VI-6: *The City shall enact regulations to control erosion and runoff.*

LUP Policy VI-11: *The City shall encourage energy and water conservation by supporting public education programs and shall require low water use fixtures in new developments, as well as, encouraging energy conservation techniques in site development and construction.*

Implementation: *a) Develop regulations to require the use of water conservation fixtures in all new development. b) Develop ordinances protecting solar access rights and encourage new and existing developments to utilize solar resources. c) Encourage energy efficient site planning, construction methods, and building material for new and redevelopment.*

Analysis

Taken together, these LUP policies and implementation strategies seek to protect public views; to preserve public access/recreation opportunities, including visitor-serving uses; protect the City's paleontological/archaeological resources and environmentally sensitive habitat areas, particularly Monarch butterfly habitat and Soquel Creek, its lagoon and the creek's riparian corridor; encourage compatible development that protects the Village/neighborhood character and is visually appealing; and generally encourage smart development with an emphasis on best management practices including low-water use, water quality protection, and green building standards.

General Coastal Resource/Public Access and Recreation Protection

Overall, the proposed IP update meets many of the LUP's coastal resource protection goals and strategies. It better reflects Coastal Act standards and regulations compared to the existing IP, including by strengthening the IP to ensure that it is most protective of coastal resources. Notably, proposed Chapter 17.44 (see pages 327-349 of **Exhibit 2**) includes introductory provisions including that the chapter shall be interpreted in a manner that "protects, maintains, and where feasible, enhances and restores the overall quality of the coastal zone environmental and its natural and artificial resources," and also incorporates the public access/recreation policies of Chapter 3 of the Coastal Act, which broadly seek to maximize public access and recreational opportunities for everyone (see proposed IP Section 17.44.010 on pages 327-328 of **Exhibit 2**). Proposed Chapter 17.44 also simplifies and enhances the requisite coastal permitting findings, including by requiring that proposed development must maintain or enhance public views, vegetation, natural habitats, natural resources, low-cost public recreational

access (including to the beach and ocean), and opportunities for visitors. It includes a required finding that “the project is consistent with the LCP goal of encouraging appropriate coastal development and land uses, including coastal priority development and land uses (i.e., visitor-serving development and public access and recreation) (see proposed IP Section 17.44.130 on pages 342-243 of **Exhibit 2** for the complete list of required CDP findings). As such, the proposed amendment includes appropriate language to ensure the protection of public access and recreation in the City, consistent with LUP Policy II-1.

ESHA Protection

The proposed amendments are also consistent with and adequate to carry out the LUP’s ESHA resource protection provisions. Most notably, the proposed amendment defines ESHA,³⁵ whereas existing Chapter 17.95 (see pp. 203-207 of **Exhibit 2**) does not define ESHA and instead limits regulations to specifically identified environmentally sensitive habitats.³⁶ In other words, proposed IP Chapter 17.64 (Environmentally Sensitive Habitat Areas (ESHA) (see pages 373-378 of **Exhibit 2**) clarifies and expands upon what is considered ESHA under the City’s LCP in a manner consistent with the Coastal Act and LUP, fixing an existing LCP deficiency on this critical issue. Proposed IP Chapter 17.64 also includes broad language ensuring the protection of Capitola’s ESHA, and similar to existing Chapter 17.95, identifies specific regulations and requirements for Soquel Creek and its lagoon and riparian corridor, as well as the Noble Gulch and Tannery Gulch riparian corridors, and the Monarch butterfly habitat (located in the vicinity of the Rispin Mansion and in Escalona Gulch), which are all considered ESHA under the proposed amendment. The proposed amendment will also replace the existing ESHA map (which does not clearly delineate known ESHA areas within the City) with an updated ESHA map (see **Exhibit 5** for the existing ESHA map and **Exhibit 3** for the proposed ESHA map).³⁷

³⁵ Proposed IP Section 17.64.040 (see page 373 of Exhibit 2) defines ESHA as “any areas in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments. ESHA includes wetlands, coastal streams and riparian vegetation, and terrestrial ESHA, including habitats of plant and animal species listed under the Federal or California Endangered Species Act. In addition, the following areas are categorically ESHA as identified in Capitola’s LCP: 1) Soquel Creek, Lagoon, and Riparian Corridor; 2) Noble Gulch Riparian Corridor; 3) Tannery Gulch Riparian Corridor; [and] 4) Monarch butterfly Habitat – Rispin-Soquel Creek and Escalona Gulch.”

³⁶ Existing IP Chapter 17.95 specifically calls out Soquel Creek and the lagoon; the Soquel Creek riparian corridor; the Noble Gulch riparian corridor; Tannery Gulch Riparian corridor; and the Soquel Creek/Escalona Gulch Monarch butterfly habitat.

³⁷ Proposed Chapter 17.64 establishes that the ESHA map identifies properties in the general location of sensitive habitats but clarifies that the precise location of sensitive habitats within a site shall be identified by a biological study. It makes it clear that ESHA may not be limited to the map designations, but rather entails “any areas in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments. ESHA includes wetlands, coastal streams and riparian vegetation, and terrestrial ESHA, including habitats of plants and animal species listed under the Federal or California Endangered Species Act” regardless of whether it is mapped and/or identified explicitly as ESHA in the LCP (see proposed IP Section 17.64.020) on page 373 of Exhibit 2).

The proposed chapter further clarifies that only resource-dependent uses (e.g., low-intensity public access and recreation, nature study, and restoration) are allowed within ESHA; that allowable development be sited and designed to prevent impacts which would significantly degrade the habitat and be sited, designed, and maintained to achieve long-term protection of the habitat area; and that no new development (with the exception of restoration and resource protection and enhancement activities) be allowed to encroach into Soquel Creek and its lagoon, or be sited within the root zone of riparian or butterfly host trees, or trigger the removal of trees in Monarch butterfly habitat (see proposed IP Section 17.64.030 on pages 373-377 of **Exhibit 2**). The proposed chapter also goes on to identify required resource setback requirements (which are generally carried over from existing IP Chapter 17.95) with the exception that “Other ESHA” (such as any wetlands, coastal streams, riparian vegetation, terrestrial ESHA, etc.) is now included; and explicitly identifies biological report requirements,³⁸ whereas existing IP Chapter 17.95 only requires a biological report to aid in determining the precise location of any natural area and the effect of the proposed development project on the health of that area.

In general, proposed IP Chapter 17.64 substantially improves the resource protection provisions compared to existing IP Chapter 17.95 through the new and improved ESHA map and the expanded ESHA definition, and its expanded biological report requirements and habitat protection standards. All of these protocols reflect Commission best practices on the identification and protection of ESHA. Accordingly, proposed IP Chapter 17.64 adequately implements and is consistent with the LUP’s habitat protection policies, including specifically LUP Policies V-2, V-3, V-8, and VI-10.

Archaeological/Paleontological Protection

The proposed amendments are also consistent with and adequate to carry out the LUP’s archaeological/paleontological resource protection provisions. The proposed amendments include an updated archaeological resources map, which more clearly identifies where potential archaeological/paleontological resources (e.g., sensitive prehistoric resources including fossils)³⁹ may be found, and expands upon when a report is required compared to existing IP Chapter 17.11

(Archaeological/Paleontological Resources Districts) (pages 21-22 of **Exhibit 2**). More specifically, existing IP Chapter 17.11 requires an archaeological/paleontological resources report only when the proposed development site is identified on the existing map, within 750 feet of an existing known resource, or in an area with known

³⁸ Proposed IP Section 17.64.020(G) (see pages 375-376 in Exhibit 2) establishes the biological study/report requirements as follows: “field surveys to determine the presence and location of any sensitive habitats/sensitive plant or animal species; vegetation maps; a list of all observed native plant and animal species, an evaluation of other sensitive species which were not observed but have the potential to occur on the site; an impact analysis; recommendations for avoiding, minimizing, or mitigating impacts; appropriate building and other setbacks, appropriate use, restoration; development standards within setbacks, wetland buffers, landscape recommendations; and mitigation monitoring and reporting requirements as appropriate.”

³⁹ Along the Depot Hill bluff face (and on the adjacent beach due to bluff erosion), the bluff sediments are rich in fossils in the yellow-brown sandstones of the Purisima formation. The fossils date from the Pliocene epoch.

archaeological and/or paleontological probability as determined by the planner's site visit, whereas proposed IP Chapter 17.56 (Archaeological and Paleontological Resources) (pages 365-367 of **Exhibit 2**) also includes properties within 100 feet of a bluff edge. Proposed IP Chapter 17.56 also expands upon and further clarifies report requirements, including a survey plan and mitigation plan requirements, and it sets forth protocols for unexpected discovery of resources (which are not specified in existing IP Chapter 17.11). In short, the proposed provisions more clearly specify the process for identifying archeological and paleontological resources and the standards for protecting these important resources. Proposed IP Chapter 17.56 can therefore be found consistent with and adequate to carry out LUP Policy I-3, which provides for the protection, preservation, and proper disposition of the City's archaeological and paleontological resources.

Marine Resources/Water Quality and Supply Protection

With respect to water quality and marine resource protection, proposed IP Section 17.64.030(J) (see page 376 of **Exhibit 2**) requires that all development conform to federal, state, and local water quality and erosion control standards; that grading only take place during the dry season; that erosion control measures be implemented during construction (including limiting removal of vegetation, minimizing exposure of bare soils, replanting disturbed soils with suitable native species, controlling runoff, and preventing sedimentation from entering drainages); and that temporary drainage retention measures during construction be incorporated into all projects. These standards are consistent with and will provide clear guidance on how to carry out LUP Policy VI-1, which protects water quality, including as it relates to habitat areas and the offshore Monterey Bay.

In terms of green building standards and water efficiency, proposed IP Section 17.76.070(H) (see page 404 of **Exhibit 2**) encourages the creation of green parking lots (i.e., lots that incorporate solar panels, bioswales, etc.); meanwhile proposed IP Chapter 17.88 (Incentives for Community Benefits, see pages 417-421 of **Exhibit 2**) incentivizes green building (including with respect to storm water management) and water efficiency in exchange for relaxed zoning requirements related to increased floor area and height, consistent with LUP Policies VI-5 and VI-11. Proposed IP Chapter 17.72 (Landscaping, see pages 379-384 of **Exhibit 2**) also limits water use through drought-tolerant landscaping requirements, design requirements to group plants by hydrozone, and by limiting watering to between the hours of 8:00 p.m. and 10:00 a.m., all of which is consistent with and adequate to carry out LUP Policies VI-4, VI-5, and VI-6 related to water efficiency and green building.

Public View Protection

The zoning standards for each zoning district include provisions to protect community character and visual resources. Such zoning standards must be consistent with above-cited LUP Policies III-1, III-2, III-5, III-7, III-8, III-13, III-14. As a whole, much of the proposed IP zoning code changes strengthen the LCP's visual resource protection standards compared to the existing code, with sections peppered through the proposed IP calling for the protection of public views, visual resources, and community character, generally highlighting the visual/historic sensitivity of Capitola, and including new

specific protocols and requirements for visual resource protection. However, there is one site in the City where the proposed visual resource protections are not adequate to carry out the LUP given its visual sensitivity; namely the former Capitola Theater Site, which currently serves as a parking lot, but has been slated for hotel development for quite some time now. This site is located in the Village near the beach and is also located directly seaward and below a public path and overlook area on Depot Hill. The overlook area currently offers sweeping views of the City, including Capitola Beach, the Village, and Capitola Wharf (see **Exhibit 6**), as well as the shoreline and the Monterey Bay. Future development of the site with a hotel (depending on the scale, massing, articulation, and design of any proposed hotel) could potentially adversely impact these views without the proper LCP protections in place.

The IP as proposed calls for the protection of visual resources, including as it relates to the Hotel Village site, but uses ambiguous and overly broad language by stating that the hotel design shall “minimize impacts” to views and that the “green edge” behind the hotel shall remain visible. The proposed language is not clear on how much the hotel development would be allowed to impede upon the public viewshed, or what is meant by a “green edge.” Commission and City staff explored all of these provisions to understand both their objectives and potential means to provide the required public view protections in a manner that as was clear and enforceable in the LCP as possible.

Accordingly, the modifications identified in **Suggested Modification 6** collectively help ensure that future hotel development at the Capitola Theater Site will not adversely impact coastal views by providing more objective standards related to viewshed impacts and the character and scale of the Village. More specifically, **Suggested Modification 6** clarifies the City’s proposed visual resource protection standard for the hotel by explaining what is meant by protecting the “green edge,” which is an otherwise ambiguous and difficult to apply standard, by instead further defining it as “the upper bluff and upper bluff vegetation.” The suggested modification also clarifies the viewpoints from which the green edge is to be evaluated. **Suggested Modification 6** also ensures that rooftop elements (such as the elevator shaft, HVAC, and the rooftop in general) are aesthetically sited and designed because the roof of the site would be directly visible from the viewpoint on Cliff Drive, which offers sweeping views of the Village. Finally, **Suggested Modification 6** also clarifies and expounds upon the visual protection standards of the Cliff Drive viewpoint behind the hotel, all of which ensure that the community character and visual resource protection provisions of the LUP (i.e., LUP Policies III-1, III-2, III-5, III-7, III-8, III-13, and III-14) are upheld. These changes more clearly define the visual resource protection standards for this important site, while simultaneously retaining some flexibility in an effort to encourage appropriately scaled and visually attractive hotel development at the site.

Visitor-Serving Protection

The proposed IP zoning code includes changes that are inconsistent with the LUP’s directive to protect visitor-serving uses (see LUP Policies IV-1 and IV-2). Specifically, as discussed in more detail above, the City proposed to re-zone and re-designate two existing visitor-serving overnight accommodations, the Monarch Cove Inn and the Inn at Depot Hill, to R-1 (for both the land use and zoning designations) with VS overlays (on

both the land use and zoning), raising visitor-serving conversion issues. Therefore, **Suggested Modifications 1 and 2** changed the proposed land use map designation to VA (Visitor Accommodations) as described previously, and also makes the corresponding zoning map designation changes to VS (VS-MC for the Monarch Cove Inn and VS-G for the Inn at Depot Hill), to reflect the existing visitor-serving/accommodation use on these properties.

In addition to these changes, the proposed IP zoning map changes affecting the former Capitola Theater site (which will be zoned MU-V (Mixed-Use Village)⁴⁰ with a VS-G (Visitor-Serving General) zoning overlay) would allow a variety of residential uses on the site. However, LUP Policy IV-1 states that sites in the Capitola Village commercial area shall be reserved for visitor-serving uses. The former theater site has long been envisioned for future hotel development. However, the proposed MU-V zoning and VS-G overlay districts allow for residential uses, which are not appropriate on this site because it is in the heart of the Village and is one block from Capitola Beach, and would not appropriately carry out the LUP's visitor-serving use provisions applicable to the site.⁴¹

The proposed amendments would also allow single-family residential use as a conditional use on the Monarch Cove Inn and Inn at Depot Hill sites. In other words, the IP zoning charts as proposed would allow these sites to be used exclusively for residential use, which could lead to loss of the existing visitor-serving overnight accommodations in the LCP, and which is not approvable under the LUP, for the same reasons as articulated above.

Accordingly, **Suggested Modifications 4 and 5** would clearly establish that residential uses allowable elsewhere in the MU-V (Mixed-Use Village) zoning district (e.g., elderly and long-term care facilities, group housing, small and large residential care facilities, and mixed-use residential development) would be prohibited on the Capitola Theater site. **Suggested Modifications 3 and 4** would also eliminate the proposed R-1 use on the Monarch Cove Inn and Inn at Depot Hill sites,⁴² thereby helping to ensure that these areas remain designated for visitor-serving overnight accommodations under the LCP, and to avoid conversion into single-family residential use. The modifications identified in

⁴⁰ The City also chose to apply the MU-V (Village Mixed-Use) LUP land use designation (instead of the VA (Visitor Accommodations designation)) to the former theater site because of its location in the Village and because the site has long been envisioned for future hotel development that may also include other visitor-serving uses such as restaurants, bars, retail shops, etc., and because it is surrounded by properties with the MU-V LUP designation.

⁴¹ The current owner of the former theater property, Swenson Builders, recently submitted a letter to the City Council arguing that explicitly prohibiting residential use on their property could be construed as a taking; however, the suggested modifications reflect the existing VS (Visitor Serving) LUP land use designation for the site and the LUP's requirements to preserve lands designated for VS uses as such (the existing C-V zoning designation for the former Capitola theater site does allow for limited residential uses (R-1) and RM-LM (low to medium density multi-family residential), but this allowance for residential is inconsistent with the existing VS LUP land use designation and the associated LUP policies related to the protection of visitor-serving uses).

⁴² A residential caretaker unit would continue to be allowed on these sites pursuant to IP Table 17.28-1.

Suggested Modification 3, 4, and 5 are thus necessary to ensure that existing lands designated for visitor-serving uses are protected for such uses, consistent with LUP Policies IV-1 and IV-2. Thus, the proposed IP amendments to the zoning tables with the suggested modifications can be found consistent with the certified Land Use Plan.

c. CDP Procedures

As previously discussed, proposed IP Chapter 17.44 (Coastal Overlay Zone) (see pages 327-349 of **Exhibit 2**) would substantially clarify, update, and reorganize the chapter governing coastal regulations and coastal permitting requirements. The new sections mirror the Coastal Act and its implementing regulations regarding CDP procedures, including in terms of noticing, hearings, appeal processes, final local CDP action notices, and the required findings necessary to approve a CDP. The proposed language corrects certain LCP deficiencies in this regard, and it ensures that the City's CDP processes are fully consistent with the law, as well as being clear and in one singular place for ease of use. Of particular importance is the new provision for the allowance for CDP waivers, whereby the City may waive the requirement for an otherwise required CDP subject to certain criteria, including that the Commission's Executive Director agrees that the development will not lead to any type of significant coastal resource impacts. Given that Capitola is a mostly built out urban environment where many projects do not raise significant coastal resource concerns, this is an important streamlining tool, and mirrors similar provisions recently approved by the Commission (including in the Marin County and City of Pacific Grove LCP updates).

The proposed amendments also include enhanced violation and enforcement provisions, including newly specifying that the City has the ability to enforce its LCP and the Coastal Act pursuant to Coastal Act Sections 30809 and 30810; that the Commission retains the authority to enforce the LCP/Coastal Act under the same provisions; and that anyone found in violation of a CDP or in violation of the LCP may be found civilly liable pursuant to Coastal Act Section 30820. Finally, the proposed amendments also include a new expanded section on LCP amendments (see IP Section 17.144.080 on pp. 464-465 of **Exhibit 2**), which identifies the procedures and requirements related to LCP amendments, consistent with Coastal Act implementing regulation sections 13551 and 13552.

Therefore, proposed IP Chapter 17.46 and related sections will ensure that LCP provisions related to CDP procedures and processing are implemented consistent with the Coastal Act and its implementing regulations and the LUP, and thus this chapter can be approved as submitted.

D. California Environmental Quality Act (CEQA)

CEQA Section 21080.5(d)(2)(A) prohibits a proposed LCP or LCP amendment from being approved if there are feasible alternatives and/or feasible mitigation measures available that would substantially lessen any significant adverse effect that the LCP or LCP amendment may have on the environment. Although local governments are *not* required to satisfy CEQA in terms of local preparation and adoption of LCPs and LCP amendments, many local governments use the CEQA process to develop information about proposed LCPs and LCP amendments, including to help facilitate Coastal Act

review. Here, the City of Capitola prepared and certified an EIR and an EIR addendum, including because components of its LCP amendment action affect legal requirements other than the LCP and therefore fall outside the scope of Section 21080.9.

The Coastal Commission is *not* exempt from satisfying CEQA requirements with respect to LCPs and LCP amendments, but the Commission's LCP/LCP amendment review, approval, and certification process has been certified by the Secretary of the Natural Resources Agency as being the functional equivalent of the environmental review required by CEQA (CCR Section 15251(f)). Accordingly, in fulfilling that review, this report has discussed the relevant coastal resource issues with the proposal and has concluded that the proposed LCP amendment is expected to result in significant environmental effects, including as those terms are understood in CEQA, if it is not modified to address the coastal resource issues identified herein. Accordingly, it is necessary for the Commission to suggest modifications to the proposed LCP amendment to ensure that it does not result in significant adverse environmental effects. Thus, the proposed LCP amendment as modified will not result in any significant adverse environmental effects for which feasible mitigation measures have not been employed, consistent with CEQA Section 21080.5(d)(2)(A).

4. APPENDICES

A. Substantive File Documents⁴³

- Existing LCP
- EIR & EIR Addendum

B. Staff Contacts with Agencies and Groups

- City of Capitola
- Muwekma Ohlone Indian Tribe of SF Bay Area
- California Native American Heritage Commission

⁴³ These documents are available for review from the Commission's Central Coast District office.