

**CALIFORNIA COASTAL COMMISSION**

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# W17a

**DATE:** September 20, 2018

**TO:** Commissioners and Interested Persons

**FROM:** Steve Hudson, Deputy Director  
Barbara Carey, District Manager  
Jacqueline Phelps, District Supervisor

**SUBJECT:** County of Ventura Local Coastal Program Amendment No. LCP-4-VNT-18-0058-1 for Public Hearing and Commission Action at the October 10, 2018 Commission Meeting at the Wyndham Hotel San Diego Bayside.

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## DESCRIPTION OF THE SUBMITTAL

The County of Ventura is requesting an amendment to the Implementation Plan portion of its certified Local Coastal Program to add new provisions to address Temporary Rental Units (TRUs), which include homeshares and short term rentals. Specifically, the proposed amendment would modify the text of the IP to include definitions, development standards, permitting procedures, and enforcement provisions specifically relating to TRUs. As proposed, TRUs would be allowed in all residential zones with the approval of a zoning clearance (ministerial permit) subject to the standards and requirements that are proposed in the subject amendment.

The County submitted Local Coastal Program Amendment LCP-4-VNT-18-0058-1 to the Commission on July 31, 2018. The amendment proposal was deemed complete and filed on August 14, 2018. At the September 13, 2018 hearing, the Commission granted a one year time extension to act on the subject amendment pursuant to Coastal Act Section 30517 and California Code of Regulations, Title 14, Section 13535(c).

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## SUMMARY OF STAFF RECOMMENDATION

Commission staff recommends that the Commission **approve** the proposed County of Ventura LCP Amendment No. LCP-4-VNT-18-0058-1 as submitted. No modifications are necessary because the proposed amendment to the Implementation Plan (IP), as submitted, conforms with and is adequate to carry out the provisions of the certified Land Use Plan (LUP). The motion to accomplish this recommendation is found on **Page 5** of this staff report.

As described above, the County of Ventura (County) is requesting an amendment to the IP portion of its certified Local Coastal Program (LCP) to add new provisions to address Temporary Rental Units (TRUs), which include homeshares and short term rentals. The proposed amendment has been crafted by the County in order to ensure that the use of dwellings as TRUs does not adversely impact long-term housing opportunities or the composition and character of

residential neighborhoods and communities, and to ensure that TRUs are compatible with surrounding land uses. The proposed amendment would modify the text of the IP to include definitions, development standards, permitting procedures, and enforcement provisions specifically relating to TRUs. As proposed, TRUs would be allowed in all residential zones with the approval of a zoning clearance (ministerial permit) subject to the standards and requirements that are proposed in the subject amendment.

The proposed amendment includes operating requirements for TRUs in order to ensure that the use of dwellings as TRUs does not adversely impact long-term housing opportunities. Specifically, the proposed standards limit the duration of time that a TRU could be rented to no more than thirty consecutive days, and establish ownership requirements and limitations which allow the operation of one TRU per owner. The proposed standards also identify dwellings, such as accessory dwelling units or units that are subject to a County-imposed agreement restricting its use, such as farmworker housing or affordable housing units, which would be ineligible for use as a TRU.

Additionally, the subject amendment includes standards for TRUs to ensure that the composition and character of residential neighborhoods and communities are not adversely impacted. The County has established occupancy limits so that no more than ten overnight guests would be allowed in a short-term rental and no more than five overnight guests would be allowed in a homeshare. Noise limitations, including quiet hours 10:00 p.m. to 7:00 a.m., and requirements for on-site parking are also established. The proposed amendment also includes a comprehensive property management and complaint response program, as well as an inspection, compliance, and enforcement program to ensure that any noncompliance with the proposed standards is addressed in a timely manner.

The proposed amendment does not prohibit or unduly restrict the rental of residences to visitors in a manner that will diminish the public's ability to access and recreate on the coast. The proposed regulations are appropriate to avoid any adverse impacts associated with the allowance of lodging in residential areas, while ensuring that visitor serving overnight accommodations are allowed. The proposed amendment to the County's certified IP conforms to and is adequate to carry out the public access and recreation policies of the certified land use plan. As such, staff recommends that the Commission approve Local Coastal Program Amendment LCP-4-VNT-18-0058-1 as submitted.

<p><b>Additional Information:</b> For further information, please contact Jacqueline Phelps at the South Central Coast District Office of the Coastal Commission at (805) 585-1800. The proposed amendment to the County of Ventura Local Coastal Program (LCP) is available for review at the Ventura Office of the Coastal Commission.</p>
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### **EXHIBITS**

- Exhibit 1.**     [County of Ventura Board of Supervisors Resolution No. 18-95](#)
- Exhibit 2.**     [Proposed Implementation Plan Amendment Text](#)

## **I. PROCEDURAL ISSUES**

### **A. STANDARD OF REVIEW**

The Coastal Act provides:

*The local government shall submit to the Commission the zoning ordinances, zoning district maps, and, where necessary, other implementing actions that are required pursuant to this chapter.*

*...The Commission may only reject ordinances, zoning district maps, or other implementing action on the grounds that they do not conform with, or are inadequate to carry out, the provisions of the certified land use plan. If the Commission rejects the zoning ordinances, zoning district maps, or other implementing actions, it shall give written notice of the rejection, specifying the provisions of the land use plan with which the rejected zoning ordinances do not conform, or which it finds will not be adequately carried out, together with its reasons for the action taken. (Section 30513)*

*The Commission may suggest modifications... (Section 30513)*

The standard of review for the proposed amendment to the Implementation Plan of the certified Local Coastal Program, pursuant to Section 30513 and 30514 (regarding amendments) of the Coastal Act, is whether the Implementation Plan would be in conformance with, and adequate to carry out, the provisions of the Land Use Plan portion of the County of Ventura's certified Local Coastal Program.

### **B. PUBLIC PARTICIPATION**

Section 30503 of the Coastal Act requires public input in preparation, approval, certification and amendment of any LCP. The County Planning Commission held a public hearing on the subject of this amendment request on March 1, 2018. Additional public hearings were held by the Board of Supervisors on July 28, 2015, December 8, 2015, August 2, 2016, November 15, 2016, December 13, 2016, and June 12, 2018. The hearings were noticed to the public consistent with Sections 13551 and 13552 of Title 14 of the California Code of Regulations. Notice of the subject amendment has been distributed to all known interested parties.

### **C. PROCEDURAL REQUIREMENTS**

Pursuant to Section 13551 (b) of Title 14 of the California Code of Regulations, the County resolution for submittal may specify that a Local Coastal Program (LCP) Amendment will either require formal local government adoption after the Commission approval, or that it is an amendment that will take effect automatically upon the Commission's approval pursuant to Public Resources Code Sections 30512, 30513, and 30519.

In this case, if the Commission certifies the LCP amendment as submitted, no further County action will be necessary. County staff has indicated that the ordinance will only become final after certification by the Commission and upon receipt of written notice that the Commission has approved certification of the amendment, but no formal action is required. Should the Commission approve the LCP Amendment subject to suggested modifications, further County action would be required to accept the modifications. Finally, should the Commission deny the LCP Amendment, as submitted, without suggested modifications, no further action is required by either the Commission or the County, and the LCP amendment is not effective.

## **II. STAFF RECOMMENDATION, MOTION, & RESOLUTION ON THE IMPLEMENTATION PLAN AMENDMENT**

Following public hearing, staff recommends the Commission adopt the following resolution and findings. The appropriate motion to introduce the resolution and a staff recommendation is provided prior to the resolution.

### **A. APPROVAL OF THE IMPLEMENTATION PLAN AMENDMENT AS SUBMITTED**

#### **Motion:**

*I move that the Commission **reject** County of Ventura Implementation Plan Amendment LCP-4-VNT-18-0058-1 as submitted.*

Staff recommends a **NO** vote. Failure of this motion will result in certification of the Implementation Plan amendment 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.

#### **Resolution:**

The Commission hereby *certifies* County of Ventura Implementation Plan amendment LCP-4-VNT-18-0058-1, as submitted, and adopts the findings set forth below on grounds that the Implementation Plan amendment conforms with and is adequate to carry out, the provisions of the certified Land Use Plan, and certification of the Implementation Plan amendment will meet the requirements of 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 Implementation Program on the environment, or 2) there are no further feasible alternatives or mitigation measures that would substantially lessen any significant adverse impacts on the environment that will result from certification of the Implementation Program.

### **III. FINDINGS FOR APPROVAL OF THE IMPLEMENTATION PLAN AMENDMENT AS SUBMITTED**

The following findings support the Commission’s approval of the Implementation Plan amendment as submitted. The Commission hereby finds and declares as follows:

#### **A. AMENDMENT DESCRIPTION AND BACKGROUND**

The County of Ventura (County) is requesting an amendment to the Implementation Plan (IP) portion of its certified Local Coastal Program (LCP) to add new provisions to address Temporary Rental Units (TRUs), which include homeshares and short term rentals. The proposed amendment has been crafted by the County in order to ensure that the use of dwellings as TRUs does not adversely impact long-term housing opportunities or the composition and character of residential neighborhoods and communities, and to ensure that TRUs are compatible with surrounding land uses. The proposed amendment would modify the text of the IP to include definitions, development standards, permitting procedures, and enforcement provisions specifically relating to TRUs. As proposed, TRUs would be allowed in all residential zones with the approval of a zoning clearance (ministerial permit) subject to the standards and requirements that are proposed in the subject amendment.

Specifically, the proposed amendment would add new definitions relating to TRUs, including “short-term rental” and “homeshare”, to Section 8172-1 in Article 2: Definitions, of the IP. As proposed, a short-term rental is defined as a dwelling that is rented for a period of less than thirty consecutive days when the owner is not physically present. A homeshare is also defined as a dwelling that is rented for a period of less than thirty days; however the owner of the dwelling must be physically present in the same dwelling. Additionally, Section 8174-5 of the IP in Article 4: Permitted Uses, would be modified to include a new category for short-term rental and homeshare, and would indicate that these uses would be allowed in all residential zones subject to the approval of a zoning clearance (ministerial permit).

The County also proposes to add a new Section, 8175-5.21- Temporary Rental of Dwellings, to Article 5: Development Standards/Conditions-Uses of the IP. This section contains the operational requirements and performance standards for TRUs. The following is a summary of the regulations proposed within Section 8175-5.21:

- A valid zoning clearance (ministerial permit) issued by the County is required for the operation of a TRU. Permits will be issued or renewed for a maximum of one year, and shall expire one year after the date of issuance, or upon sale or transfer of ownership. Only one TRU zoning clearance may be obtained per owner, meaning that if an individual owns more than one residence, they can only operate one as a TRU, and if there are multiple dwelling units located on a property only one of the units may be utilized as a TRU.
- Certain dwelling units cannot be utilized as a TRU, including accessory dwelling units, or units that are subject to a County-imposed agreement restricting its use, such as farmworker housing or affordable housing units.

- Overnight occupancy for short-term rentals shall be limited to two persons per bedroom occupying up to five bedrooms, plus two additional persons; however the total number of persons per night cannot exceed ten people, meaning that a five bedroom short-term rental cannot have the two additional overnight guests that a one to four room rental could have. Homeshares are limited to two bedrooms, and overnight occupancy is limited to five rental guests.
- Parking must be provided on the property, and the number of spaces that are required to be provided (one to three spaces) depends on the number of bedrooms that the TRU contains.
- Unless allowed under a separate conditional use permit, TRUs may not be used for events and activities that are attended by more persons than are allowed on the property pursuant to the occupancy limits described above. Noise standards, which include quiet hours from 10:00 p.m. to 7:00 a.m., are also required.
- Property management and owner requirements, as well as contact information for the County and property manager, are required to be posted both inside and outside of the TRU. At all times that a short-term rental is rented, a property manager must be available 24 hours per day, seven days a week, and within forty miles of the property, to ensure compliance with the standards and requirements. A process for addressing complaints and violations is also outlined.
- Legal non-conforming TRUs that do not meet the eligibility requirements of this section would be allowed to operate for a maximum of two-years from the effective date of this ordinance or until the sale or transfer of the property, whichever occurs first.

In addition to the complaint and violations standards outlined above, the County has also proposed to add a new section, 8183-7- Enforcement and Penalties for TRUs, to Article 13: Enforcement and Penalties of the IP. This section establishes the procedures for enforcement of the TRU regulations described above, including procedures for notice of violation, civil administrative penalties, appeals of violations and civil administrative penalties, hearing processes, and permit revocation.

### Background

On July 28, 2015 the Ventura County Board of Supervisors (Board) directed County staff to study the issue of TRUs in the unincorporated area of the County. Three public workshops were conducted from December 2015 – December 2016. The Board ultimately directed County staff to allow TRUs in all residential zones, and to prepare the subject ordinance. On March 1, 2018 the Planning Commission held a hearing to review the subject ordinance, and on June 12, 2018 the Board adopted the subject ordinance and directed staff to submit an LCP amendment to the Commission.

The subject LCP Amendment was submitted to the Commission on July 31, 2018. The amendment proposal was deemed complete and filed on August 14, 2018. At the September 13, 2018 hearing, the Commission granted a one year time extension to act on the subject

amendment pursuant to Coastal Act Section 30517 and California Code of Regulations, Title 14, Section 13535(c).

## **B. CONSISTENCY ANALYSIS**

Section 30210 of the Coastal Act, as incorporated into the County of Ventura's certified Land Use Plan, states:

*In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.*

Section 30213 of the Coastal Act, as incorporated into the County of Ventura's certified Land Use Plan, states (in relevant part):

*Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.*

Section 30222 of the Coastal Act, as incorporated into the County of Ventura's certified Land Use Plan, states:

*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.*

Coastal Act Section 30250(c), as incorporated into the County of Ventura's certified Land Use Plan, states:

*Visitor-serving facilities that cannot feasibly be located in existing developed areas shall be located in existing isolated developments or at selected points of attraction for visitors.*

The standard of review for the proposed amendment to the Implementation Plan (IP) of the certified Local Coastal Program (LCP), pursuant to Section 30513 and 30514 (regarding amendments) of the Coastal Act, is whether the IP would be in conformance with, and adequate to carry out, the policies of the Land Use Plan (LUP) portion of the County of Ventura's certified LCP.

The County of Ventura LUP includes policies that protect lower cost visitor and recreational facilities, prioritize visitor-serving recreational facilities, and prohibit removal or conversion of



visitor-serving development. The LUP also requires the protection, enhancement, and provision of public access and recreation.

The Commission has found that Temporary Rental Units (TRUs), including short-term vacation rentals and homeshares, including those in residential areas, can provide an important visitor-serving asset. These rentals can increase public access to the coast, provide large groups and families traveling together the opportunity to divide up the cost of accommodations, and in many cases, provide the facilities necessary for guests to cook their own meals and avoid the added expense of dining out. In many cases, these rentals offer a lower price point than expensive hotel options near the coast. Additionally, they can provide local jurisdictions with increased revenues (through the payment of transient occupancy taxes).

The Commission also recognizes that TRUs can result in a number of adverse impacts, including loss of affordable housing, enforcement issues, altered residential neighborhood character, and parking and transportation impacts. In past actions the Commission has endorsed and approved provisions by local governments that regulate the manner in which short-term rentals are implemented, including but not limited to: limits to maximum occupancy of individual units, parking limits, licensing requirements, short term rental signage requirements, provisions for a dispute resolution process, and requirements for onsite management or contacts. The proposed amendment includes all of these regulatory tools, and they are proposed to be applied in a way that is similar to the regulatory solutions previously approved by the Commission in other LCPs.

Specifically, the County has proposed to add definitions for short-term rental and homeshare, and identifies them as uses that may be permitted in all residential zones subject to the issuance of a zoning clearance (ministerial permit). A zoning clearance authorizing a TRU would be issued by the Planning Director, and the operational standards and property management requirements proposed in the subject amendment would be incorporated into every permit. Permits for TRUs would be issued and renewed on a yearly basis, and could be subject to revocation for violation or noncompliance.

The proposed amendment also includes operating requirements for TRUs in order to ensure that the use of dwellings as TRUs does not adversely impact long-term housing opportunities. Specifically, the proposed amendment would limit the duration that a TRU could be rented to no more than thirty consecutive days and establish ownership requirements and limitations to allow the operation of one TRU per owner. The County has proposed to allow one TRU per owner to address the potential issue of an owner purchasing multiple short-term rental properties through separate LLCs, which could result in reduced availability of long-term housing opportunities. Furthermore, the proposed standards identify dwellings, such as accessory dwelling units or units that are subject to a County-imposed agreement restricting its use, such as farmworker housing or affordable housing units, which would be ineligible for use as a TRU.

Additionally, the subject amendment includes standards for TRUs to ensure that the composition and character of residential neighborhoods and communities are not adversely impacted, and to ensure that TRUs are compatible with surrounding land uses. The proposed amendment would set occupancy limits so that no more than ten guests would be allowed overnight in a short-term

rental and no more than 5 guests would be allowed overnight in a homeshare. Noise limitations, including quiet hours 10:00 p.m. to 7:00 a.m., are also established. The proposed amendment also includes standards that address on-site parking requirements for TRUs to ensure that TRU visitors do not impact off-street parking available for members of the public to use to access nearby beach areas. Specifically, parking must be provided on the TRU property as follows: one space is required for short-term rentals in a studio or one bedroom unit; two spaces are required for homeshares and short-term rentals with two to four bedrooms; and three spaces are required for homeshares and short-term rentals with five bedrooms.

Furthermore, the proposed amendment includes a comprehensive property management and complaint response program, as well as an inspection, compliance, and enforcement program to ensure that any noncompliance with the proposed standards is addressed in a timely manner. Specifically, contact information for the County and property manager, and a listing of the standards of this section, including occupancy limits and quiet hours, are required to be posted both inside and outside of each TRU. At all times a short-term rental is rented, a property manager must be available 24 hours per day, seven days a week, and within forty miles of the property, to address any reported noncompliance with the subject standards and requirements.

TRUs have been available in the County dating back decades, but the number and geographic location of short-term rentals has expanded in recent years. Within the County area, TRUs are predominately located in the Central Coast Area adjacent to Hollywood and Silverstrand Beaches, although they are located throughout the North and South Coast areas as well. To address issues relating to TRUs while still allowing this visitor-serving use, the County has proposed the subject amendment which, as described above, allows for TRUs in all residential zones and creates a regulatory framework that will serve to minimize the potential for adverse impacts. Coastal Act Sections 30213, 30222, and 30250(c), as incorporated into the County of Ventura LUP, protect lower cost visitor-serving facilities within the Coastal Zone, encourage the development of such facilities, and prioritize these facilities over private residential land uses. As proposed, the standards included within the subject amendment strike a balance between ensuring availability of short-term rentals for coastal visitors and providing long-term housing for local residents.

Furthermore, Coastal Act Section 30210, as incorporated into the County of Ventura LUP, requires the provision of maximum public coastal access and recreational opportunities that are consistent with public safety, the protection of both public rights and private property rights, and the protection of natural resources. The Commission has found that short-term rentals within the Coastal Zone can provide an opportunity for the public to stay at a location where they can have access to the coast. The subject amendment, as proposed by the County, is consistent with Section 30210's requirement of protecting and maximizing public coastal access and recreational opportunities, while also ensuring the protection of private property rights through the avoidance of significant adverse impacts to neighborhood character.

As described above, the County's certified LUP protects visitor-serving accommodations and recreational facilities, in addition to coastal resources such as public access. The proposed amendment does not prohibit or unduly restrict the rental of residences to visitors in a manner

that will diminish the public's ability to access and recreate on the coast. In addition, the proposed changes to the IP do not conflict with the provision of priority land uses identified in the LUP, nor do the proposed changes raise issue with regard to the public access and recreation policies of the LUP. Rather, the proposed amendment strikes a balance between ensuring the availability of short-term rentals for coastal visitors and providing long-term housing for local residents. Therefore, the Commission finds that the subject amendment, as submitted, conforms with and is adequate to implement the certified LUP policies.

### **C. CALIFORNIA ENVIRONMENTAL QUALITY ACT**

Section 21080.9 of the California Public Resources Code (PRC) - within the California Environmental Quality Act (CEQA) - exempts local governments from the requirement of preparing an environmental impact report (EIR) in connection with their activities and approvals necessary for the preparation and adoption of a local coastal program (LCP). Instead, the CEQA responsibilities are assigned to the Coastal Commission. However, because the California Natural Resources Agency found the Commission's LCP review and approval program to be functionally equivalent to the EIR process (see 14 C.C.R. Section 15251(f)), PRC Section 21080.5 relieves the Commission of the responsibility to prepare an EIR for its actions on proposed LCP amendments. Nevertheless, some elements of CEQA continue to apply to this review process.

Specifically, pursuant to CEQA and the Commission's regulations (see 14 C.C.R. Sections 13540(f), 13542(a), and 13555(b)), the Commission's certification of this LCP amendment must be based in part on a finding that it meets the CEQA requirements listed in PRC Section 21080.5(d)(2)(A). That section requires that the Commission not approve or adopt an LCP:

*...if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.*

The proposed amendment is to the Implementation Plan (IP) portion of the County of Ventura's certified LCP. For the reasons discussed in this report, the IP amendment has been found to be in conformity with, or adequate to carry out, the provisions of the Land Use Plan (LUP) portion of the certified LCP. The Commission finds that approval of the LCP amendment will not result in significant adverse environmental impacts within the meaning of the California Environmental Quality Act.

The Commission finds that for the reasons discussed in this report, there are no additional feasible alternatives or feasible mitigation measures available that could substantially reduce any significant adverse environmental impacts. The Commission thereby finds that the proposed LCP amendment is consistent with CEQA.