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To: Commissioners and Interested Persons

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**Subject: City of Santa Cruz LCP Amendment Number LCP 3-STC-17-0073-2-Part B
(Short Term Rentals)**

SUMMARY OF STAFF RECOMMENDATION

The City of Santa Cruz proposes to amend the Implementation Plan (IP) component of its Local Coastal Program (LCP) by adding language regulating short-term vacation rentals (STRs), defined as a residential dwelling or habitable portion thereof that is offered for hire for periods of thirty days or less. Currently, the LCP does not explicitly regulate STRs, but the City has generally allowed them. Data provided by the City indicate that there are some 600 STRs currently operating within its jurisdiction, both in and out of the coastal zone.¹ The proposed amendment would establish a new registration and STR permit process, and would allow all existing, registered, and active STR units currently paying transient occupancy tax (TOT) to continue to operate within the new system as non-conforming, “grandfathered” uses (non-TOT paying STRs would not be so allowed). Applications for new STR permits would also be accepted in cases where the owner of the STR uses the property as his or her principal residence (“hosted” STRs), up to a cap of 250 total such permits (including grandfathered hosted units). New applications would *not* be accepted for STR units that are *not* used as the owner’s principal residence (“non-hosted” STRs, which are the more typical STRs in the coastal zone). Grandfathered non-hosted STRs would be eventually phased out through the proposed ordinance’s provisions, as would any properties currently used as STRs that are not equipped with adequate parking or that include multiple STR units onsite. All STR permits, whether new or grandfathered, would be non-transferable, and would be granted outside of the coastal development permit (CDP) process via Planning Director discretion. In all cases, grandfathered or new STR permittees would be required to pay retroactive TOT (and any penalties/fines for prior non-payment) to the City for the period of time that the unit was being used as an STR prior to the ordinance before the City will consider an STR permit application. In sum, the intent of the ordinance is to provide new regulation for STRs where the LCP is currently silent, with

¹ Exhibit 3 shows the location of 322 of these units, 217 of which (67%) are located within the coastal zone. Location data are not available for the 270 remaining units that the City estimates are also in STR use.

the critical limitations being a proposed cap on the number of hosted STRs at 250, and a proposed ban on non-hosted STRs altogether in the entire City, including in the coastal zone. Overall, the STR cap (hosted) and ban (non-hosted) provisions are designed to significantly curtail STRs of all types in the City, which the City indicates is necessary in order to increase housing stock (and affordable housing stock) as well as to address potential community character issues.

The Commission has long recognized that STRs can provide an important source of relatively-affordable visitor accommodations in the coastal zone, especially for larger families and groups, and has found that undue restrictions on this type of lodging are inconsistent with Coastal Act policies prioritizing public access and visitor-serving uses. STRs are in many ways complementary alternatives that can help coastal visitors to enjoy coastal zone opportunities when standard hotel/motel options may price them out of the market. This is particularly true in popular destination communities like Santa Cruz, where there are significant and unique visitor offerings like the ever-popular Santa Cruz Beach Boardwalk (the only major amusement park left along the coast of California, and the oldest amusement park in the State). The Boardwalk and other visitor attractions bring some four million tourists to the City annually,² and the City is a major contributor to the nearly billion-dollar tourist industry in Santa Cruz County.³ With the inland population centers of the greater Bay Area and the Central Valley relatively nearby, annual visitation to the City shows no signs of letting up, and Santa Cruz is poised to remain one of the most significant visitor draws in the entire state for years to come. And although there are around 50 hotels and motels in the area, STRs provide an important and complementary service to coastal visitors who may otherwise be unable to enjoy all that the City and the region have to offer due to the high cost of overnight accommodations within the City.

In recent years, STRs have come under fire in some communities, usually because long-term residents are concerned about their potential effect on residential community character, but also because of concerns about how STRs affect housing stock overall. Both of these issues have been raised by the City as justification for the proposed LCP amendment. Local government and the Commission have grappled with these issues up and down the state under the Coastal Act, particularly because the strong objectives and requirements of the Act to maximize public recreational access opportunities for everyone (and its explicit requirement to prioritize visitor-serving facilities over private residential uses within the coastal zone) can sometimes appear to conflict with more localized objectives. Accordingly, the Commission has provided local governments with guidance and direction on how to regulate STRs in a manner that balances these public benefits and visitor-serving requirements with their potential impacts on coastal communities.⁴ Consistent with this guidance, the Commission has been very supportive of STR-related LCP provisions that prescribe occupancy limits, parking requirements, quiet hours, complaint response processes, and other common-sense standards for STR operations. These

² City of Santa Cruz Economic Development Department 2018.

³ Visit California, “Economic Impact by State, Region, & County” (2016). Travel-related spending in Santa Cruz County was \$849.1 million, while travel-generated tax revenue was \$69.9 million, and travel-generated employment was 9,500 persons in fiscal year 2016 (the last year for which data is available), much of which is due to visitors specifically to the City of Santa Cruz.

⁴ For example, Coastal Commission STR guidance was sent to all coastal local governments in December 2016 (see Exhibit 2).

types of requirements have proven successful in other communities, and are often a critical element of appropriate regulatory programs that allow STRs while clearly addressing potential impacts of their operation.⁵ In the years since STRs have become a significant issue, however, the Commission has not approved an outright ban on STRs, or even a ban on a specific type of STR, such as would result in this case from the proposed prohibition and phase out of non-hosted STRs. In the same period of time, the Commission has approved only one LCP amendment that included a community-wide numeric cap on STRs (also proposed in this case for hosted STRs).⁶ Caps and similar tools that are more limited in geographic scope (e.g., scaled to the block level or limited to particular neighborhoods or a subset of zoning districts) have been found to be appropriate in certain cases, but only when they are focused to a particular set of geographic issues, and when STRs are otherwise allowed overall. In general, more restrictive approaches to STR regulation have been approved by the Commission only when there is clear evidence that STRs are causing specific (usually geographic) impacts that cannot be mitigated using more nuanced and targeted tools. Caps and prohibitions have otherwise not been found Coastal Act and LCP consistent.

The City's proposed amendment includes a variety of rules related to STR operation that are generally similar to other standards the Commission has approved for adjacent communities, like Santa Cruz County, and which can be found consistent with the LUP and the Coastal Act. However, the proposed ban on non-hosted STRs and the proposed cap (of 250) on hosted STRs represent a significant departure from STR policies approved by the Commission in other jurisdictions, and will significantly reduce the availability of STRs in the City if approved as submitted. By applying the ban and cap Citywide, the City makes no distinction among the variety of neighborhoods in which STRs currently operate, the relative desirability to visitors of some areas compared to others, or between STRs within and outside the coastal zone (most of the City is located out of the coastal zone) – particularly as to how all of these considerations have resulted in actual, measured impacts to community character and/or housing availability. Additionally, the proposed amendment severely restricts *both* types of STRs it defines, capping one (hosted) and banning the other (non-hosted), and the City has not provided sufficient data, analysis, or justification to show that either the cap or the ban is necessary Citywide, nor that the proposed cap and ban would serve to provide enough STRs and STR types to accommodate visitor demand for this important type of relatively-affordable coastal accommodation consistent with the LUP. All of these issues are exacerbated by the fact that Santa Cruz is one of the most significant visitor destinations in all of coastal California, where such restrictive proposals will have an oversized effect on those families and groups most in need of the economies of scale that STRs can provide. Consequently, although the proposed provisions to provide operational

⁵ For example, Santa Cruz County has one of the earliest and most successful of such LCP ordinances in the entire State. The Santa Cruz County approach allows STRs subject to explicit regulation, and provides specific limitations so as to avoid over-saturation of STRs in certain key areas. It has been used by others as a model, and it currently operates successfully with few identified issues.

⁶ The Commission approved a jurisdiction-wide cap on STRs as part of Mendocino County's 2017 update of the Mendocino Town Plan (LCP-1-MEN-14-0840). In that case, described further below, the Commission also capped the total number of lodging units in the town, and found that these caps were justified by the proportionally high number of visitor serving units relative to residential units in the town, and the variety of accommodations (e.g., campgrounds, low-cost hotels and motels) available in the surrounding area. This LCP amendment also built on many years of effort to balance the town's various unique attributes, including a severely restricted water supply, with its desirability as a vacation destination.

standards for STRs are appropriate and can be approved as submitted, the proposed ban on hosted STRs and the 250-unit cap on non-hosted STRs pose consistency issues with respect to LUP and Coastal Act policies relating to maximizing public recreational access and protecting and providing visitor-serving facilities and visitor support uses within the Coastal Zone, including in terms of the explicit priority for visitor-serving facilities over private residential uses.

The City indicates that the proposed amendment was developed primarily in response to residents' concerns that STRs are impacting the stability and character of established neighborhoods (e.g., due to noise, parking, and trash impacts associated with visitor use and the reduced sense of community that can result when transient occupants outnumber full-time residents), and also in response to the City's housing shortage and the hypothesis that STRs divert housing units that would otherwise be offered on the long-term rental market. With respect to potential neighborhood impacts, there are many policies that the Commission has historically approved for local governments to address noise, parking, parties, overcrowding, and other common criticisms often made regarding STRs, as well as potential issues of STR oversaturation in particular target areas. The proposed amendment incorporates some of these best practices, and such operational regulations can be approved without issue, and can serve to address the key issue identified by the City in that regard.

However, with respect to housing availability, it is not clear that the ban and cap will have a meaningful impact on housing supply generally, and it is even less clear that they will affect the availability of affordable housing in the City. STRs make up a very small percentage of the City's overall housing stock (about 2.5%), and evidence from other jurisdictions suggests that many STRs are second homes whose owners are likely to let their properties sit vacant if they are unable to offer them to visitors as STRs. In addition, many, if not most STRs, are located in some of the most desirable areas of the City, where long-term rentals would likely be out of reach for the vast majority of people even if these houses were made available in that way; they certainly do not represent affordable housing.⁷ Many are homes offered as STRs so local residents can afford to live in the City at all.⁸ The City has not provided any evidence to suggest that the proposed amendment would lead to an increase in housing stock past rote arithmetic based on their estimates of current STRs (roughly 600) and the cap the proposed amendment would put in place (250 STRs), which suggests that 350 houses would somehow be added to the long-term rental market and this would affect housing affordability in the City. Absent data (e.g., surveys of current STR owners to determine what they would do with their properties if STR permits were not available, as have been conducted by other jurisdictions), such supposition is entirely speculative, however. Even if this arithmetic were accurate, the 350 STR units that would be eliminated (or 1.5% of the City's overall housing stock) are not the most effective place to start addressing housing availability given the relatively small potential impact of these units on housing and their important contribution to maximizing public recreational access opportunities for everyone, as directed by the Coastal Act and LCP. The City has other avenues

⁷ The City faces a different and well-documented type of problem resulting from this circumstance, since multiple adults often need to pool their resources and share a multi-room house to afford rent. Students are particularly likely to form these arrangements, and when large single-family homes are repurposed as de facto student housing, nearby residents raise the same neighborhood compatibility issues that are often discussed in relation to STRs.

⁸ For example, the City received correspondence from multiple STR hosts who use the revenue they obtain from renting a second bedroom to visitors to pay the mortgage on condos they claim they could not otherwise afford.

to pursue on this front than STR bans and caps.⁹ It is therefore not clear that STRs are a significant factor in the City's housing shortage, or that the proposed limits on STRs would make a meaningful impact on the availability of long-term rentals. What is clear is that the amendment's proposed STR cap and ban would severely restrict this important source of visitor accommodations, and cannot be found consistent with Coastal Act and LUP policies that protect such uses.

Therefore, staff recommends approving the City's proposed operational standards, but limiting its proposed 250-unit hosted STR cap and non-hosted STR prohibition to areas *outside* of the coastal zone (which, again, represents most of the City's area). With this modification, the LCP will ensure that this important type of visitor accommodation is provided in the coastal zone, subject to reasonable regulations addressing important operational issues (such as traffic, parking, occupancy, and noise) to help ensure that STRs respect the coastal zone communities in which they operate. The City can continue forward with its proposal to curtail STRs in areas where the Coastal Act and LCP, and their attendant prioritization of public access and recreation, do not apply. Staff does not believe that the City's proposed wholesale bans and severe restrictions on certain STR types are appropriate mechanisms to regulate STRs in the coastal zone, including because of the key visitor-serving goals articulated in the Coastal Act and corresponding LUP policies. The coastal zone is different than other parts of the City, and the suggested modifications to limit such bans and caps to outside the coastal zone reflect this difference. This is not to say that there are not potentially additional and other appropriate ways to address STRs in the City's coastal zone, including as evidenced by other LCPs that regulate STRs geographically to avoid oversaturation or for other issues, but the City has not been interested in exploring those alternatives in this case, and has instead repeatedly pursued their proposed ban and cap notwithstanding staff's significant efforts to engage on these issues during the entire time this LCP amendment has been pending at the City level (see staff's five letters to the City to this effect (**Exhibit 4**), which are reflective of even more meetings, emails, and phone conversations to the same point). Thus, staff here does not suggest any complementary modifications past eliminating the cap and ban in the coastal zone. If the City is interested in developing a future LCP amendment designed to further regulate STRs in a more nuanced manner, including approaches that account for specific, measured impacts to the unique neighborhoods and communities in the coastal zone, staff welcomes such collaboration. However, the City's proposed ban/cap in *this* LCP amendment contains fundamental flaws that

⁹ For example, the Commission recently approved the City's proposed "Downtown Plan" LCP amendment, which allows larger buildings in the portion of the City's downtown core that is within the coastal zone (LCP Amendment No. LCP-3-STC-17-0073-2-Part A, approved by the Commission March 8, 2018). The purpose of that amendment was to incentivize (and, by extension, increase the potential for) more intensive mixed use development, a large proportion of which is likely be residential. Given that much of Santa Cruz is built out, these types of urban infill and "smart" growth initiatives (along with requirements to include affordable units in new development and efforts to construct dedicated affordable housing, both of which the City is pursuing) have a far greater potential to address housing supply and affordability than the current proposal targeting STRs, which simply do not affect enough housing units to materially impact housing outcomes. It is also well known that much of the City's housing supply problem is driven by the fact that UCSC, located in the foothills directly above Santa Cruz proper, does not provide sufficient housing for its students and employees. With over 18,000 predominantly undergraduate students (just over half of whom reside on campus) and more than 12,000 employees currently, UCSC has a major effect on the City's housing market. For example, the City calculates its population at just over 63,000, an increase of over 5,000 people since 2010 (see Exhibit 5), and some estimate that over 80% of that growth is directly attributable to UCSC (see "UCSC Expansion Meets Santa Cruz Housing Crunch," September 26, 2017, in *GoodTimes*).

cannot be approved.

As modified, the proposed amendment is consistent with and adequate to carry out the LUP. Therefore, staff recommends that the Commission approve the amendment with suggested modifications. The required motions and resolutions are found on page 8 below.

Staff Note: LCP Amendment Action Deadline

This proposed LCP amendment was filed as complete on February 27, 2018. The proposed amendment affects the LCP's IP, and the Coastal Act-defined 60-day action deadline is April 28, 2018. (See Coastal Act section 30513.) Thus, the Commission has until April 28, 2018 to take a final action on this LCP amendment unless the Commission extends the deadline to act (i.e., the Coastal Act allows the Commission to extend the deadline by up to a year).

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EXHIBITS

- Exhibit 1: Proposed IP Amendment
- Exhibit 2: Commission Guidance on Short-Term/Vacation Rentals (December 2016)
- Exhibit 3: City’s Map of Current Vacation Rentals¹⁰
- Exhibit 4: Commission Staff Comment Letters on City’s STR Ordinance
- Exhibit 5: City Correspondence

¹⁰ Note that the City’s map only shows the 322 STRs from which the City is currently collecting TOT, and does not show an estimated 270 additional advertised units that are not remitting TOT. Additionally, the City’s map identifies “owner occupied” and “non owner occupied” STRs, relying on property tax exemptions to distinguish between the two—a different standard than that used to define hosted and non-hosted STRs in the proposed amendment. The existence of a property tax exemption does not necessarily mean that a property will meet the City’s definition of a hosted STR, so the numbers on the map are not predictive of how the City’s existing stock of STRs would be classified (and, ultimately, limited) under the proposed amendment.

I. MOTIONS AND RESOLUTIONS

Staff recommends that the Commission, after public hearing, approve the proposed IP amendment with suggested modifications. The Commission needs to make two motions in order to act on this recommendation.

A. Reject the Proposed IP Amendment as Submitted

Staff recommends a **YES** vote on the following motion. Passage of this motion will result in rejection of the City's proposed 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.

***Motion to Reject:** I move that the Commission reject Implementation Plan Amendment Number LCP 3-STC-17-0073-2-Part B as submitted by the City of Santa Cruz, and I recommend a yes vote.*

***Resolution to Deny Certification:** The Commission hereby denies certification of Implementation Plan Amendment Number LCP 3-STC-17-0073-2-Part B as submitted by the City of Santa Cruz and adopts the findings set forth below on the 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.*

B. Certify the IP Amendment with Suggested Modifications

Staff recommends a **YES** vote on the following motion. Passage of this motion will result in certification of the Implementation Plan Amendment with the suggested modifications identified below, 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 to Certify with Modifications:** I move that the Commission certify Implementation Plan Amendment Number LCP 3-STC-17-0073-2-Part B for the City of Santa Cruz if it is modified as suggested in this staff report, and I recommend a yes vote.*

***Resolution to Certify with Modifications:** The Commission hereby certifies Implementation Plan Amendment Number LCP 3-STC-17-0073-2-Part B for the City of Santa Cruz if modified as suggested and adopts the findings set forth below on the grounds that the Implementation Plan 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 Implementation Plan Amendment 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.*

II. SUGGESTED MODIFICATIONS

The Commission hereby suggests the following modifications to the proposed LCP amendment, which are necessary to make the requisite Land Use Plan consistency findings. If the City of Santa Cruz accepts each of the suggested modifications within six months of Commission action (i.e., by October 8, 2018), 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. (See Commission Regulations section 13544.) Text in ~~cross-out~~ format and text in underline format denotes text to be ~~deleted~~ and added, respectively, by the Commission.

1. Modify IP Section 24.12.1720 (see page 4 of Exhibit 1) as follows:

Short-Term Rental Permits are issued at the sole discretion of the Director of Planning and Community Development, and are subject to the following conditions:

1. *The Short-Term Rental Permit is issued to one owner of the residential property ~~which is the principal residence of the owner.~~ ...*

2. Modify IP Section 24.12.1750 Subsections 3 through 5 (see page 6 of Exhibit 1) as follows:

3. *New Non-Hosted Short-Term Rentals. ~~Not Permitted.~~ Other than the existing non-hosted short-term rental permits allowed in 1, above, no new non-hosted short-term rentals shall be allowed: outside the Coastal Zone. The prohibition on new non-hosted short term rentals shall not apply within the Coastal Zone, where new non-hosted short term rentals may be allowed and are not prohibited.*
4. *New Hosted Short-Term Rentals. Commencing from the effective date of this chapter, the city shall allow up to a maximum of 250 hosted short-term rentals outside the Coastal Zone, which may be comprised of existing hosted short-term rental property and any new hosted short-term rental property. The City Council may, by resolution, modify the maximum number of short-term rentals allowed under this section. The cap of 250 hosted short-term rentals shall not apply in the Coastal Zone, where new hosted short-term rentals may be allowed and are not capped.*
5. *Application and Priority.*
 - a. *Owners of existing short-term rentals, hosted and non-hosted, shall submit all application requirements within 90 (ninety) days following the effective date of this chapter.*
 - b. *After registration of the existing short-term rental properties, hosted and non-hosted, new hosted Short-Term Rental Permit applications for properties outside the Coastal Zone will be considered on a first-come-first-served basis to issue Short-Term Rental Permits for a maximum of 250 hosted short-term rentals. When the maximum number of Short-Term Rental Permits has been issued for properties outside the Coastal Zone, further applications outside the Coastal Zone will be placed in a queue for consideration as permits become available. Applications for hosted and non-hosted*

Short-Term Rental Permits inside the Coastal Zone will be considered without restrictions associated with the outside the Coastal Zone cap and prohibition.

III. FINDINGS AND DECLARATIONS

A. DESCRIPTION OF PROPOSED LCP AMENDMENT

The City is proposing changes to the Implementation Plan (IP) component of its LCP to add a new section regulating short-term vacation rentals (STRs) (see **Exhibit 1** for the proposed amendment text). Specifically, the proposed amendment would:

- Allow all existing STRs that are currently paying transient occupancy tax (TOT) to continue to operate as grandfathered STR uses through a new registration and STR permit process.
- Distinguish between “hosted” and “non-hosted” STRs, defining the former as units that are utilized as a principal residence by the owner and the latter as units that are not used as a principal residence by the owner. A principal residence is defined in the proposed amendment as the dwelling a person occupies for the majority of the year (i.e., six months and one day) and is listed as his or her residence on at least two official documents. A unit may be considered a hosted STR regardless of whether or not the resident-owner is present on the premises when it is being rented to guests.
- Accept and process applications for new hosted STR permits to a maximum of 250 hosted permits throughout the City, including those granted to grandfathered hosted units. New hosted STRs must comply with all established standards and limitations.
- Limit STR permits to a maximum term of three years when more than one STR is owned by the same person. A person who owns more than one STR may select two STRs to operate on an ongoing basis; however, their remaining STR permits would automatically expire at the end of three years and would not be eligible for permit renewal.
- End the short-term rental use of all existing non-hosted STR units upon “transfer” of the property, and completely prohibit new non-hosted STRs throughout the City.
- Impose various operational standards on new and existing STRs, including maximum overnight occupancy rates, maximum numbers of vehicles per property, quiet hours, a prohibition on special events, and rules pertaining to storage and disposal of trash and recycling. All STRs would additionally be required to designate a local contact person capable of responding within 30 minutes to any complaint associated with the unit, and post a sign outside the unit identifying it as an STR and providing the contact’s information.
- All STR permits, whether new or grandfathered, would be non-transferable, and would be granted outside of the coastal development permit (CDP) process at the discretion of the Planning Director.
- In all cases, grandfathered or new, all STR permittees would be required to pay retroactive TOT (and any penalties/fines for prior non-payment) to the City for the period of time that

the STR was being used and no TOT was paid prior to the ordinance before the City will consider an STR permit application.

In sum, the proposed ordinance provides a grandfathering process for all existing STRs that are currently paying TOT in the City, allows new hosted STRs up to cap of 250 in the City (i.e., a total of 250 counting both grandfathered and new hosted STRs), and prohibits new non-hosted STRs (and the transfer of existing ones to new owners). Thus, the ordinance is designed to eventually eliminate non-hosted STRs within the City, while allowing up to 250 hosted STRs overall. In addition, the proposed amendment requires STRs to conform with a series of operational standards to address neighborhood compatibility (e.g., noise, traffic, trash, occupancy, contact person, penalties, etc.).

Although various planning efforts preceded it, the City's efforts to regulate STRs began in earnest in 2015 after the introduction of popular online booking sites lowered barriers for property owners to offer rentals on the short-term market, increasing the prevalence and visibility of STRs in the City and prompting resident concerns about noise, parking, and housing impacts. In response to these issues, the City adopted an ordinance prohibiting use of accessory dwelling units (ADUs) as STRs¹¹ in November 2015 and committed to explore regulation of all STRs in the LCP through a community process and comprehensive study. In 2016, while this process was still underway, the City enacted an urgency ordinance, effective for 45 days, placing a moratorium on new STRs.¹² The ordinance was extended the following month and again in May 2017; it currently expires on May 31, 2018. The ordinance proposed in this LCP amendment is intended to replace the urgency measure.

B. CONSISTENCY ANALYSIS

Standard of Review

The proposed amendment affects the IP component of the City's LCP. The standard of review for IP amendments is that they must be consistent with and adequate to carry out the policies of the certified Land Use Plan (LUP).

Applicable Policies

All LUP policies derive their authority from the Coastal Act, and a core goal of the Coastal Act is to protect the public's ability to recreate in and enjoy the coastal zone, particularly for coastal visitors not fortunate enough to live by the shoreline. The Coastal Act's access and recreation policies provide significant direction regarding not only protecting existing public recreational

¹¹ The ordinance made exceptions for existing and some new STRs in accessory dwelling units. Property owners who had paid TOT on a unit rented on a short-term basis prior to the passage of the ordinance were allowed to continue to operate that unit as an STR indefinitely. Owners who had not remitted TOT, or who offered their accessory dwelling units for short-term rental between the passage of the ordinance and the effective date, were allowed to operate those units as STRs until December 24, 2017, provided that the owners resided on the same parcel as the rented unit and paid the required taxes. The ordinance was never submitted to the Commission as an LCP amendment, and thus it is not a part of the LCP and cannot be used to regulate land use and development in the City's coastal zone.

¹² Again, this ordinance was never submitted to the Commission as an LCP amendment, and thus it is not a part of the LCP and cannot be used to regulate land use and development in the City's coastal zone.

access opportunities, but also ensuring that such access opportunities are provided and maximized. Specifically, Coastal Act Section 30210 requires that maximum public access and recreational opportunities be provided, stating:

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.

This Coastal Act direction to maximize access and recreational opportunities represents a different threshold than would an instruction to simply provide or protect such access, and it is fundamentally different from other like provisions in this respect. In other words, the Coastal Act establishes that it is not enough to simply provide access to and along the coast, and not enough to simply protect such access; rather such access must also be maximized. This terminology distinguishes the Coastal Act in certain respects, and provides fundamental direction with respect to LCP provisions affecting the coast that raise public recreational visitor access issues, such as this one.

Similarly, the Coastal Act requires that overnight accommodations, and particularly lower-cost accommodations, be protected and encouraged as a means of providing public recreational access to the coast. Section 30213 states (in part):

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

Coastal Act Section 30222 additionally establishes that private lands suitable for uses that enhance public opportunities for coastal recreation have priority over residential use. Section 30222 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.

In short, the Coastal Act is clear that public recreational access, particularly as it relates to the specific needs of the visiting public, is of critical importance and must be protected and maximized. These issues are perhaps more apparent than ever now, and more critical as they relate to overnight accommodations, as coastal visitors are increasingly priced out of the overnight accommodations market.¹³

The City's LCP must reflect Coastal Act priorities, and the existing LCP recognizes and affirms that relationship. The LUP contains numerous policies addressing the importance of and the need

¹³ See "Are Beach Vacations for Middle-Class Californians Getting Impossible to Afford?" May 7, 2017, in the *San Jose Mercury News*.

to provide visitor amenities in the Coastal Zone, including outdoor recreation and transportation to and from the coast, and prioritizing visitor-serving uses such as those that provide overnight accommodations. The following LUP policies explicitly address overnight stays:

***Land Use Element Policy 2.7.2:** Improve the character and quality of visitor-serving commercial areas to encourage more off-season and overnight visits.*

***Economic Development Element Policy 5.2.4:** Possible conversion of overnight visitor accommodations to non-visitor servicing uses shall [be] monitored to assure a no net loss of visitor accommodations in the City.*

In addition, LUP policies specific to the Beach/South of Laurel Area (i.e., the City’s primary tourist area including the Santa Cruz Beach Boardwalk and the City’s Main Beach) address visitor support uses, explicitly including a range of lodging types, in the coastal zone:

***Land Use Policy 2.13:** Extend the RTC Beach Commercial zone to the lower portion of the South of Laurel to encourage further visitor serving uses such as motels and restaurants and other visitor support uses.*

***Economic Policy 5.7:** Examine the potential to provide a broad array of lodging experiences to an expanding visitor base, and encourage Bed and Breakfasts and small inns.*

History of Commission Action on STRs

As STR activity has increased along the California coast in recent years, the Commission has emphasized that this type of use has historically provided and continues to be an important source of visitor accommodations in the state. Part of the rationale for this position is that STRs provide amenities that distinguish them from other types of overnight lodging and often make them the most affordable option for overnight stays on the coast, particularly for groups and families. For example, unlike traditional hotels, STRs usually include full kitchens and common space in which visitors can spend time together, and many allow pets. While these amenities can be obtained at some hotels, the cost of extra space and rooms, a room with a kitchen, or for pet-friendly lodging is often much higher than the price of an STR. Since many STRs contain multiple bedrooms, it is often possible to spread the cost of additional shared amenities among more visitors, and the opportunity to prepare food onsite saves visitors the significant costs associated with taking all meals at restaurants. STRs also provide a visitor experience that is unique and different from a standard hotel/motel, and many are situated in close proximity to desirable visitor destinations along the shoreline.

STRs are in many ways complementary alternatives that can help coastal visitors enjoy coastal zone opportunities when standard hotel/motel options may price them out of the market. This is particularly true in popular visitor destinations like Santa Cruz, which is located in a region defined by a nearly 1 billion dollar tourist industry,¹⁴ and where there are significant and unique

¹⁴ Visit California, “Economic Impact by State, Region, & County” (2016). Travel-related spending in Santa Cruz County was \$849.1 million, while travel-generated tax revenue was \$69.9 million, and travel-generated employment

visitor offerings like the ever-popular Santa Cruz Beach Boardwalk (the only major amusement park left along the coast of California, and the oldest amusement park in the State). The Boardwalk and other visitor attractions bring some 4 million tourists to the City annually.¹⁵ Given the City's relative proximity to the inland population centers of the greater Bay Area and the Central Valley, annual visitation to the City shows no signs of letting up, and Santa Cruz is poised to remain one of the most significant visitor draws in the entire state for years to come. Although there are around 50 hotels and motels in the area, STRs provide an important and complementary service to coastal visitors who may not otherwise be able to enjoy all that the City and the region have to offer.

In recent years, STRs have become controversial in some communities, usually because long-term residents are concerned about their potential effect on residential community character, but also because of concerns about how STRs affect housing stock overall. Local governments and the Commission have grappled with these issues up and down the state under the Coastal Act, particularly because the strong objectives and requirements of the Act to maximize public recreational access opportunities for everyone, and its explicit requirement to prioritize visitor-serving facilities over private residential uses, can sometimes appear to conflict with more localized objectives. In recognition of the unique benefits provided by STRs and the relationship of those benefits to Coastal Act goals, the Commission has historically been extremely protective of them. Accordingly, the Commission has provided local governments with guidance and direction to regulate STRs in a manner that balances these public benefits and visitor-serving requirements with their potential impacts on coastal communities. Consistent with this guidance, the Commission has been very supportive of STR-related LCP provisions that prescribe occupancy limits, parking requirements, quiet hours, complaint response processes, and other common-sense standards on STR operations.

While the Commission has supported regulations addressing potential STR impacts (as further described below), regulations proposing STR bans have generally not been supported. Prohibitions that apply only to inland areas while allowing STRs closer to the shoreline have been approved by the Commission (e.g., City of Encinitas LCP Amendment No. ENC-MAJ-1-06), but when local governments have proposed amendments that ban STRs in all geographic areas within their jurisdiction, or in all residentially zoned areas, the Commission has denied them, finding that these types of prohibitions unduly limit public coastal recreational and access opportunities inconsistent with the Coastal Act (e.g., City of Laguna Beach LCP Amendment No. LCP-5-LGB-16-0055-1; City of Pismo Beach No. LCP PSB-1-10 Part 2; and City of Encinitas LCP Amendment No. ENC-MAJ-2-05 (which was continued and ultimately withdrawn)).¹⁶

was 9,500 persons in fiscal year 2016 (the most recent year for which data are available), much of which is due to visitors specifically to the City of Santa Cruz.

¹⁵ City of Santa Cruz Economic Development Department 2018.

¹⁶ The City of Encinitas first proposed an LCP amendment banning STRs in all areas zoned for residential use (ENC-MAJ-2-05). That proposal was continued by the Commission and subsequently withdrawn and replaced with an identical amendment (ENC-MAJ-2-051-06). Commission staff suggested modifications that allowed STRs in all zoning districts west of Highway 101 while maintaining the City's preferred regulatory strategy in the inland areas east of the freeway. The Commission approved the modified version of the proposed amendment, which expired after the City failed to adopt the suggested modifications. Several other Southern California jurisdictions have also

The Commission has acknowledged that regulation of STRs may be necessary to prevent various negative impacts on local communities, including on residential community character. In lieu of prohibiting STRs, however, the Commission has emphasized the use of targeted regulations that address the specific potential impacts at issue in particular places. For example, problems with parking availability, noise, overcrowding, and trash disposal can often be addressed through operational standards that impose requirements on owners and guests related to the operation of STR units. Common examples of operational standards include quiet hours, rules for concealing and disposing of trash, and limits on the number of vehicles that can be associated with an STR, as well as rules that provide neighbors with some recourse when they observe violations. The Commission has found that this type of regulation is a more appropriate mechanism for addressing potential negative impacts associated with STRs than eliminating them and the unique visitor opportunities and amenities they provide. These types of ordinances represent a middle ground, where STRs are allowed and regulated and the potential impacts of their operation are clearly addressed.¹⁷

The Commission has also approved LCP amendments that limit the total number of STRs allowed in particular neighborhoods or at the block level in order to avoid oversaturation of STRs (see, e.g., Santa Cruz County LCP Amendment No. 1-11 Part 3, approved as submitted and modified slightly in LCP-3-SCO-15-0008-1 Part A and LCP-3-16-0052-1; San Luis Obispo County LCP Amendment No. 1-01 Part A, approved with modifications and modified slightly in San Luis Obispo County LCP Amendment No. 1-12).¹⁸ Like operational standards (and in contrast to bans and Citywide caps), this type of regulation targets specific issues potentially

attempted to prohibit STRs in residential areas in recent years, but most of these ordinances are currently tied up in the local process or related (i.e., non-Coastal Act) litigation and have not yet been heard before the Commission. The exception is Laguna Beach (LCP-5-LGB-16-0055-1), and in that case the Commission approved the LCP amendment with modifications that removed the ban.

¹⁷ The Commission has approved several LCP amendments that rely entirely or almost entirely on operational standards to regulate STRs, including in San Mateo County (LCP-2-SMC-17-0051-2), Eureka (LCP-1-EUR-16-0046-2), Dana Point (LCP-5-DPT-MAJ-14-0105-1). Others rely on a combination of operational standards and carefully targeted caps that apply only to a subset of STR types in specific zoning districts or neighborhoods (e.g., Santa Cruz County LCP Amendment Nos. 1-11 Part 3, LCP-3-SCO-15-0008-1 Part A, and LCP-3-SCO-16-0052-1; San Luis Obispo County LCP Amendment Nos. 1-01 Part A 1-12; Carpinteria LCP Amendment No. LCP-4-CPN-16-0024-1).

¹⁸ The initial Santa Cruz County LCP amendment related to STRs (No. 1-11 Part 3) established the Live Oak Designated Area (LODA) and prohibited new vacation rentals within that district if vacation rentals exceed 20% of the residential use of any particular block, or if vacation rentals constituted more than 15% of residential stock in the LODA overall. The subsequent amendments (LCP-3-SCO-15-0008-1 Part A and LCP-3-SCO-16-0052-1) establish two new districts and impose on them the same block- and neighborhood-scale caps that apply in the LODA. All three districts are residential areas adjacent to the coast where high interest in STR conversion merited more aggressive regulation to preserve community character. The Santa Cruz County LCP ordinance is one of the earliest and most successful in the entire State. It has been used by others as a model, and it currently operates successfully with few identified issues.

Similarly, San Luis Obispo County's STR amendments (No. 1-01 Part A and No. 1-12) impose more restrictive STR limits on only those coastal areas where conflict between residential and STR uses had already become evident. Instead of neighborhood-based caps, however, prospective STRs in those areas are allowed or disallowed based on whether any other STRs already exist within a specified distance of the property. This approach was selected because the LCP regulates the density of bed and breakfasts in a similar fashion.

associated with STR activity, such as concentration of parking impacts on particular streets. It is, in other words, a more nuanced approach that takes differences between coastal and inland areas, and among neighborhoods, into account.

In the rare cases when the Commission has approved caps that apply on a broader geographic scale, other restrictions on the scope of the cap and/or unique circumstances have pertained. For example, the STR caps adopted by the City of Trinidad in 2017 (LCP-1-TRN-16-0065-1) apply only to two classes of STRs in certain zoning districts. A third class of STRs is entirely uncapped, and no caps are imposed on any of the three classes in some zoning districts.¹⁹ Significantly, these caps were adopted as part of Trinidad's second recent LCP amendment related to STRs: a more permissive amendment containing no caps was approved by the Commission as submitted in 2015 (LCP-1-TRN-14-0846-1), and the City revised its approach only when continued growth of STRs posed documented problems related to the community's extremely small size (i.e., since Trinidad's population is only about 360, conversion of residential units to STRs threatened school enrollment and governance, community organizations, the Volunteer Fire Department, and local government—a problem to which most communities are far less vulnerable). The caps the City of Trinidad proposed in response to these issues were set slightly below the number of units in active STR use at the time the amendment was proposed; however, the City was able to show that its existing stock of STRs were operating below maximum occupancy, and that occupancy rates for Trinidad STRs were low relative to those in other coastal cities. These data indicated that the proposed limits would not materially impact public access to the coast.²⁰

¹⁹ Trinidad classifies STRs into three distinct categories: Full-time (rented for at least 60 days per year; owner not present during rental operation), Resident (up to 59 nights per year and located in the owner's principal residence; owner not present during rental operation), and Homeshare (rental of a room or rooms in the owner's principal residence; permitted only when owner is present in the home during nighttime hours). The amendment places caps on the number of Full-time STRs licenses in two zoning districts and the number of Resident STR licenses allowed in one zoning district, but Homeshare licenses are allowed without caps in all zoning districts. Most of these caps were set slightly below the number of active STRs in the city at the time the amendment was proposed; however, the combined number of Full-time and Resident licenses allowed in one zoning district permitted slight growth from existing levels.

²⁰ Other cases in which the Commission approved numeric caps on STRs not scaled to the block or neighborhood include Mendocino County's 2017 update of the Mendocino Town Plan (LCP-1-MEN-14-0840) and the City of Carpinteria's 2016 STR LCP amendment (LCP-4-CPN-16-0024-1). As in the Trinidad case, unusual local circumstances were a part of the rationale for Mendocino County's caps on STRs and the total number of visitor-serving lodging units in the town of Mendocino. The Commission found these limits consistent with Coastal Act policies giving priority to visitor serving facilities because of the proportionally high number of visitor serving units relative to residential units in the town, and the variety of accommodations (e.g., campgrounds, low-cost hotels and motels) available in the surrounding area. This LCP amendment also built on many years of effort to balance the town's various unique attributes, including a severely restricted water supply, with its desirability as a vacation destination.

Circumstances in Carpinteria did not present any unique issues related to STRs, but as in Santa Cruz County and Trinidad, the scope of Carpinteria's caps are severely constrained by additional restrictions. The amendment includes multiple area-specific caps on STRs within a new Vacation Rental Overlay District, and sets the number of allowable STR permits for each sub-area slightly higher than the number of STRs in operation in that area at the time the amendment was proposed, allowing for the possibility of additional growth. Additionally, and in contrast to the proposed amendment, the overlay district and associated caps apply only to STRs in which the owner does not remain in the residential unit for the entire rental period. As in Trinidad, homeshare-type STRs are allowed in a variety of zoning districts (not only within the overlay district) and not subject to any caps.

These cases reflect the guidance given to local governments by the Commission in a 2016 letter concerning STR regulation (**Exhibit 2**). The Commission emphasized in that letter that additional *restrictions*, not bans, may be appropriate “in situations where a community already provides an ample supply of vacation rentals and where further proliferation of vacation rentals would impair community character or other coastal resources.” The Trinidad case also points to the manner in which local governments have generally approached STRs, which is to first employ operational standards, and then, after they have been able to assess the effectiveness of those standards, to identify further refinement based on lessons learned. It is more unusual for the Commission to approve a cap when the LCP doesn't yet employ operational standards, as the City has proposed in this case.

In summary, the Commission has generally not supported STR bans, and has not approved a ban on a particular class of STRs (such as is proposed in this case for non-hosted STRs) in the years since online platforms have reduced barriers to this use. The Commission has supported STR caps only in very limited circumstances, such as for certain types of STRs in very small towns (e.g., Trinidad), or at the neighborhood scale. In nearly all cases in which the Commission has approved a cap, limits on STRs in one area (or on one type of STR) have been balanced with more relaxed standards in other areas (and/or for other types of STRs). In general, more restrictive approaches to STR regulation have been approved by the Commission only when there is clear evidence that STRs are causing specific (usually geographic) impacts that cannot be mitigated using more nuanced and targeted tools, and caps and prohibitions have not been found Coastal Act and LCP consistent.

The City's Proposed LCP Amendment

Currently, the LCP does not explicitly regulate STRs, but the City has generally allowed them, as evidenced by the fact that it collects TOT from STRs. The City estimates that nearly 600 STRs are currently operating within its jurisdiction, both inside and outside of the coastal zone, and is currently collecting TOT on 322 of these units (see **Exhibit 3**).²¹ To address STRs, the City proposes to add a section to the LCP that includes both operational standards and caps and prohibitions on certain STR types. With respect to the former, the proposed IP amendment establishes a variety of regulations for STRs intended to limit neighborhood impacts from parties, noise, trash disposal, parking, and other related issues that are often raised in terms of STRs and community character. To this end, the proposed amendment also establishes an STR permit program to bring STRs under the City's regulatory umbrella programmatically. These proposed operational standards are generally similar to other standards the Commission has approved for adjacent communities, such as for Santa Cruz County and San Luis Obispo County, and are reasonable regulations to address potential STR issues. These types of standards have proven suitable in other communities – including the communities surrounding the City – for establishing a system in which STRs are allowed and regulated, and the potential impacts of their operation are clearly addressed. Santa Cruz County, for example, has what has been considered to be a very successful STR program in this regard, and it has been operating for over ten years with limited issues. The City's proposed new operational and related standards can be found

²¹ Most of the City is located outside of the coastal zone. 217 of the City's 322 TOT-paying STRs (67%) are located within the coastal zone; however location data are not available for the remainder of the City's STRs.

consistent with LUP policies relating to preservation of community character and do not violate Coastal Act and LUP protections for public recreational access and visitor serving uses and facilities.

However, the ordinance's proposed ban on non-hosted STRs and its Citywide 250-unit cap on hosted STRs pose serious consistency issues with respect to City LUP policies and the Coastal Act. The proposed ban and cap represent a significant departure from STR policies approved by the Commission in other jurisdictions, and will significantly reduce the availability of STRs in the City's coastal zone if approved as submitted. In contrast to jurisdictions that have capped one or two types of STRs while allowing others to operate without limits, the proposed amendment severely restricts *both* types of STRs it defines, capping one and banning the other. By applying the ban and cap Citywide, the City makes no distinction among the variety of neighborhoods in which STRs currently operate, the relative desirability to visitors of some areas compared to others, or between STRs within and outside the coastal zone (most of the City is located out of the coastal zone). Given that there are roughly 600 STRs operating now, and that the proposed amendment does not bring all of these units under its new LCP provisions, the amendment does not even maintain the current level of STRs in the City. Instead, it will result in a significant reduction of STRs, leading to reduced options for the people who most need the economies of scale that STRs can offer to groups and families. This is inconsistent with LCP Policy 2.7.2 that requires "a no-net loss of visitor accommodations in the City," since STRs lost under the proposed amendment cannot be easily replaced by new hotel units, as the City argues: the two types of accommodations serve different visitor needs, as described above. Thus, the proposed program cannot be found consistent with Coastal Act and LUP provisions that require maximizing public recreational and access opportunities (particularly in relation to the role that overnight accommodations play in providing such opportunities), prioritize visitor serving facilities over private residential uses, and require no net loss of accommodations. Simply put, the cap and ban in the proposed LCP amendment do not adequately protect STRs as a valuable visitor-serving accommodation (that can often be low-cost) within the coastal zone. Consequently, they restrict opportunities for those who must travel from inland locations to enjoy a day at the beach.

Further, while other Commission-approved LCP amendments that include more limited STR caps have been justified by evidence that the cap provides enough STRs, or enough STRs of an appropriate type, to serve the public demand (see, e.g., Trinidad), the City's proposal to cap hosted STRs at 250 is not based on any study of the demand for this type of accommodation; rather, the number appears to have been selected arbitrarily. The City provides no demand information to justify its proposed prohibition non-hosted STRs, either. Neither the cap nor the ban is supported by any type of evidence of high or low demand in specific geographic areas; both are intended to apply indiscriminately Citywide. It is therefore not clear that the 250 hosted STRs that will eventually be permitted under the proposed amendment, and that are intended to represent *all* of the STRs in the City under the program eventually (i.e., as grandfathered non-hosted STRs are sold), constitute the "ample supply" of such rentals that the Commission has directed local governments to provide before instituting harsh restrictions (see **Exhibit 2**). In the absence of evidence that demand for STRs in Santa Cruz could be met by the 250 hosted units

allowed under the proposed amendment, the proposed cap is inconsistent with Coastal Act and LCP protections for public recreation access and visitor serving needs.²²

Also in contrast to other Commission-approved LCP STR regulatory programs, the City's proposed amendment applies caps and bans on a Citywide basis. The City's approach consequently makes no distinction among the variety of neighborhoods in which STRs currently operate, some of which are beach-adjacent and primarily visitor-serving. Many of the City's existing STRs are located in neighborhoods that are immediately adjacent to the shoreline and that offer little or no commercial overnight options (see **Exhibit 3**). Consequently, the proposed limits on STRs would significantly restrict the stock of overnight accommodations near such coastal access and recreation opportunities and destinations.²³ The proposed amendment also makes no distinction between inland parts of the City and the coastal zone. In other words, the proposed amendment applies uniform treatment to the entire City, and does not provide the type of nuanced policies for particular blocks or neighborhoods that are features of other STR regulatory programs described previously. Additionally, residences in prime visitor-serving, beach-adjacent areas are not given any STR permit priority, which hinders the public's ability to access and recreate in these areas.

This undifferentiated approach to STR regulation is also inconsistent with LUP policies for the Beach/South of Laurel (BSOL) Area (i.e. the City's primary visitor destination zone including the Santa Cruz Beach Boardwalk and the City's Main Beach), which favor the *expansion* of visitor-serving uses, including overnight accommodations and "other visitor support uses", in specific parts of that area (see BSOL Land Use Policy 2.13), and express a preference for providing a "broad array of lodging experiences to an expanding visitor base" in addition to traditional hotels (BSOL Economic Policy 5.7). In recognition of these areas' relationship to visitor demand, the City's LUP *already directs* the development of more overnight lodging in areas near the coast, establishes the importance of providing an array of accommodation types to visitors, and overall recognizes that it is important to accommodate and expand visitor support uses such as STRs in these areas. By identifying specific areas where overnight accommodations can and should be *expanded* to support visitors, the LUP already directs the type of more nuanced approach to STR regulation that the Commission has long supported. However, the proposed amendment does not take this approach, inconsistent with these LUP policies.

As the foregoing analysis illustrates, the proposed amendment is inconsistent with existing Coastal Act and LUP policies related to visitor support uses and overnight lodging, as well as the Commission's record of interpreting the Coastal Act with respect to STRs. Nevertheless, the City makes a variety of arguments as to why the ban and cap in the proposed amendment are an appropriate mechanism for managing STRs within the coastal zone. Chief among these is the

²² It may also raise questions of consistency with the Equal Protection Clause provisions of the 14th Amendment to the United States Constitution that does not allow regulations to treat similar situated people differently. Under the proposed amendment, different classes of property owners are defined and then treated differently based on the amount of time they reside at the property. This issue has been raised in some jurisdictions with respect to similarly-designed STR regulations (e.g., in the City of San Diego, where the Commission has not acted on an STR-related LCP amendment because the City Council is still debating prospective ordinances).

²³ As shown in Exhibit 3, the neighborhoods adjacent to West Cliff Drive and the Seabright neighborhood south of Murray Street are hot spots for STRs generally and what the City calls "non-owner occupied" STRs particularly.

contention that the City is experiencing a housing crisis, and the City has provided extensive documentation of the shortage of long-term rentals as justification for the proposed amendment. While it is clear that the City needs more housing to address rising housing costs and housing demand, the City has not shown that STRs are the cause of the housing shortage or are significantly impacting housing availability. In fact, the high-end estimate of active STRs in the City (i.e., including those that are not remitting TOT) represents a mere 2.5% of the City's total housing stock, and the 322 TOT-paying STRs are an even smaller (1.4%) fraction.²⁴ These figures suggest that the impact of STRs on the City's housing supply and the potential rental market is negligible.

It is also not clear that restricting STRs will motivate owners of residential properties to shift units to the long-term rental market, as the City appears to assume. In fact, many STR properties are second homes whose owners reside in them seasonally or intermittently, and the presence of a long-term renter precludes this type of use. When STRs are banned, units that would otherwise have been offered to visitors often sit vacant so that their owners can maintain the option to visit occasionally. For example, in a 2016 survey of STR owners conducted by vacation rental advocates in the City of Pacific Grove, where 45% of all dwelling units are classified as second homes, only 5.9% of respondents stated that they would offer their unit as a long-term rental if STRs were completely banned. While self-reported data may overstate owners' disinterest in renting out second homes on the long-term market, it is clear that a majority of such owners would not do so. Furthermore, Pacific Grove's Director of Community and Economic Development came to a similar conclusion about the negligible impact of STRs on housing availability, noting that many second home owners in that community spend as much as two months per year in their STR units.

In addition, many if not most STRs are located in some of the most desirable areas of the City, where long-term rental would likely be out of reach for the vast majority of people even if these houses were made available in that way; they certainly do not represent affordable housing.^{25,26} Many more are homes offered as STRs so local residents can afford to live in the City at all.²⁷

Consequently, while Santa Cruz is clearly experiencing a housing shortage and an affordable housing crisis, the City did not provide evidence either that STRs are a significant contributor to the problem or that the ban and cap in the proposed amendment would meaningfully increase the availability of housing stock and long-term rentals, or affect affordable housing in the least. The 1.4% of the City's overall housing stock currently known to be in STR use (or even the 2.5%

²⁴ According to the City's 2017 Housing Conversation Kit, the City's total housing stock consists of 23,499 units.

²⁵ The City faces a different and well-documented type of problem resulting from this circumstance, since multiple individuals often need to pool their resources to afford rent. This is often the case for students in particular, and when large single-family homes are repurposed as multi-roommate houses, nearby residents raise the same neighborhood compatibility issues that are often discussed in relation to STRs.

²⁶ The City here argues that opening up these expensive units to the long-term market would lead to "trickle down" effects that would ultimately increase the supply of affordable housing: As higher-means renters take higher-end units over other available options in the City, more affordable units will be freed up for renters of lesser means. The theory— sometimes called "trickle down housing"— is controversial, and supporting data seems elusive at best.

²⁷ For example, the City received correspondence from multiple STR hosts who use the revenue they obtain from renting a second bedroom to visitors to pay mortgage on condos they claim they could not otherwise afford.

estimated total) is not the appropriate place to start addressing housing availability in the City, especially given the extent to which these accommodations contribute to maximizing public recreational and access opportunities within the coastal zone, as directed by the Coastal Act and LCP. The City has other avenues to pursue on this front that would address housing issues far more effectively than STR bans and caps.²⁸ The proposed amendment would not go far toward the City's goal of providing housing for residents, but it would severely restrict the supply of an entire category of visitor-serving accommodations that provide relatively affordable access to the coast for families and groups.

The City has also argued that by grandfathering existing non-hosted units into the STR permit program, the proposed amendment allows for an initial *increase* in the available number of STRs Citywide. In actuality, however, it is not possible to accurately predict the immediate effect of the proposed ordinance on STR supply based on the data the City has provided. As of September 26, 2017, the City estimated that 322 properties were currently paying TOT and operating as STRs, and that another 270 were operating as STRs in the City but not currently paying TOT. Using tax exemption records from the County Assessor's Office, the City has classified each of the 322 TOT paying units as either "owner-occupied" (116 total) or "non-owner occupied" (206 total). The City assumes that their identified 206 non-owner occupied units would count as non-hosted STRs under the proposed amendments (making them eligible for "grandfathered" STR permits), and that only their identified 116 owner-occupied units would be eligible for the hosted STR permits that count toward the 250-unit cap. The City calculates that it would be able to distribute as many as 134 permits for new, hosted STRs if these assumptions are met, bringing the Citywide total to 456 hosted- and non-hosted units. However, the City's estimates of owner-occupied and non-owner-occupied STRs are based on tax information filed by property owners; they are *not* based on the definitions of the two classes of STRs in the proposed LCP amendment. Under the proposed amendment, status as a hosted or non-hosted STR is determined by the number of days per year that the owner uses the property as a primary residence—a different standard. Unless the City develops more detailed data on whether existing STRs would qualify as hosted or non-hosted units under the proposed amendment, it is unclear how many existing STR units would count toward the proposed cap, and how many new units would be able to obtain permits to operate as hosted STRs. At a macro level, there are an estimated 600 STRs operating currently, and the regulatory program proposed ultimately intends to reduce that

²⁸ For example, the Commission recently approved the City's proposed "Downtown Plan" LCP amendment, which allows larger buildings in the portion of the City's downtown core that is within the coastal zone (LCP Amendment No. LCP-3-STC-17-0073-2-Part A, approved by the Commission March 8, 2018). The purpose of that amendment was to incentivize (and, by extension, increase the potential for) more intensive mixed use development, a large proportion of which is likely be residential. Given that much of Santa Cruz is built out, these types of urban infill and "smart" growth initiatives (along with requirements to include affordable units in new development and efforts to construct dedicated affordable housing, both of which the City is pursuing) have a far greater potential to address housing supply and affordability than the current proposal targeting STRs, which simply do not affect enough housing units to materially impact housing outcomes. It is also well known that much of the City's housing supply problem is driven by the manner in which UCSC, located in the foothills directly above Santa Cruz proper, provides (or doesn't provide) sufficient housing for its students and employees. With over 18,000 predominantly undergraduate students (just over half of whom reside on campus) and more than 12,000 employees currently, UCSC has a major effect on the City's housing market. For example, the City calculates its population at just over 63,000, an increase of over 5,000 people since 2010 (see Exhibit 5), and some estimate that over 80% of that growth is directly attributable to UCSC (see "UCSC Expansion Meets Santa Cruz Housing Crunch," September 26, 2017, in *GoodTimes*).

number to 250, irrespective of any hypothetical increase related to current TOT-paying STRs. By any estimate, that is a reduction in STR availability to the visiting public.

Moreover, and regardless of how many of the City's existing, currently registered and TOT paying STRs would be classified as hosted or non-hosted units, it is clear that the proposed amendment would greatly reduce the number of STRs in the City relative to what is allowed under the current LCP. As discussed above, the existing LUP is silent on STRs. The existing IP also makes no mention of them: current restrictions on STRs were made through urgency ordinances, and the Coastal Commission has not approved any of these ordinances through the LCP process. Technically, then, the existing LCP allows as many STRs as property owners are willing to offer to visitors. In 2017, the City found nearly 600 residential units that were being advertised as STRs on various online platforms—more than twice the number that would be allowed by the proposed amendment after all grandfathered non-hosted units turn over, and over 100 units more than the City's high-end estimate of initial STR supply under the proposed amendment. If the amendment is adopted, the subset of those units that are currently legal under the LCP but not allowed under municipal code will be illegal under the LCP, as well—an immediate loss of nearly 300 STR units.

The City argues that it will replace the lost capacity by adding additional hotel space, noting that more than 400 new rooms have been approved or are currently under construction, and that this increase in supply will also drive down the price of overnight lodging during the peak season. The City has not demonstrated that expected price reductions due to supply expansion will be sufficient to offset the higher cost of hotel stays relative to STRs, however, and replacing a considerable proportion of the City's STR stock with traditional hotels is inconsistent with LUP policies that support the provision of a variety of lodging types. Again, for many families and groups, it is prohibitively expensive to stay at traditional hotel/motel properties, and STRs provide the means by which they are able to recreate on the coast at all.

The City has also emphasized that the proposed amendment is the result of an extensive process with many opportunities for public involvement, as though this fact alone should persuade the Commission to approve the ordinance. Commission staff is well aware of the extent of the City's efforts to engage interested stakeholders on this issue; indeed, the Commission provided the City with input at multiple stages of the City's process (see **Exhibit 4** for staff's five letters to the City to this effect, which are reflective of even more meetings, emails, and phone conversations to the same point). In short, the City was made aware throughout its local process that the Commission has consistently opposed blanket bans on STRs in the coastal zone while supporting balanced approaches to STR regulation that apply targeted restrictions in response to specific, documented problems, and thus Commission staff could not recommend approval of its proposed approach. However, the City has not been interested in exploring those alternatives in this case, and has instead repeatedly pursued their proposed ban and cap notwithstanding staff's significant efforts to engage on these issues during the entire time this LCP amendment has been pending at the City level. Thus, while it is clear that the City had an extensive process, it is also fair to say that the City decided not to engage the Coastal Act and LCP issues identified herein in that process in a meaningful way, preferring to focus on perceived housing supply and affordable housing issues. While these issues are of great import to the Commission as well, they cannot be used to override the requirements of the Coastal Act and the LCP when it comes to public recreational

access and visitor-serving opportunities, including because one of the core Coastal Act goals is protection of these essential visitor needs.

Finally, the City has argued that its proposed limits on STRs are necessary because operational restrictions alone cannot restore the sense of community that is lost when established residential neighborhoods become dominated by transient guests. As discussed above, however, operational standards have proven very effective in this regard in many coastal communities, including adjacent Santa Cruz County. The City has not to date even tried to implement such operational standards to see if they could work in the same way. Thus the proposed bans and caps seem overly restrictive approaches to addressing such potential compatibility issues, particularly as the initial form of STR regulation for this community. Focused geographically-based limits on the percentage of dwelling units in STR use have been adopted in other communities and approved by the Commission as a tool for addressing this issue without unduly restricting public access and recreation, but the City here has chosen a blanket cap and a blanket ban Citywide, and not something more nuanced. The City could also pursue innovative regulatory approaches such as STR rate limits. This type of policy would reduce property owners' incentive to put residential units into STR use while also ensuring that those units that are offered on the short-term market remain affordable.

These are just some of the more nuanced tools for regulating STRs at the City's disposal—tools the City has elected not to use in favor of policies that will severely restrict public access to the coast. It is also important to note that many of the provisions in the proposed amendment *do* reflect the more nuanced approach to STR regulation advocated by the Commission, and may be adequate to address the City's concerns about STRs without the use of caps and bans. For example, the operational standards may be all that is required to prevent noise, parking, trash, and other potential STR impacts. Restrictions on the number of STR permits that can be held by one owner will prevent companies from purchasing multiple residential properties for use as STRs. For this reason, the City has been encouraged to consider a phased approach to STR regulation that uses these more targeted tools before resorting to Citywide caps and bans. The City argues that the proposed amendment does represent a phased approach because it does not completely ban STRs, because it allows the City to increase the number of hosted STR permits in the future, and because the accompanying resolution contains language testifying to the City's intention to evaluate the STR program after a period of 18 to 24 months. However, future review of the proposed program is not likely to result in reduced restrictions on STRs if the operative regulations prevent the City from gathering information on which to base such a decision. A truly phased approach would begin with less restrictive policies and increase constraints on STRs if those interventions proved insufficient. The City would thus avoid unnecessary restrictions on visitor-serving accommodations and have the opportunity to develop the data necessary to ensure that any future limits were based on an accurate accounting of the demand for and impacts of STRs. The Commission here recommends that the City re-think their approach, and that they allow the operational standards and the overall STR permitting program to be put in place through this amendment without the caps and bans in the coastal zone (see Suggested Modifications 1 and 2).

Conclusion

In summary, the proposed amendment's ban on new non-hosted STRs and cap of 250 hosted STRs place broad and significant restrictions on a type of visitor accommodation that the Commission has recognized as relatively affordable and supportive of public access to the coast inconsistent with the Coastal Act and the LUP. The Commission's record with respect to STRs is clear that a balanced approach is required, and the Commission has encouraged local governments to adopt nuanced and data-driven regulatory programs for STRs rather than bans on certain STR types that apply jurisdiction-wide. In this case, the City proposes these blanket Citywide bans and caps, thereby severely restricting this important visitor-serving use, without adequate evidence to justify them. In this case the City's proposal diverges markedly from the standards the Commission has applied to other jurisdictions, is not adequate to carry out applicable Coastal Act and LUP policies, and thus cannot be approved as submitted.

As such, the Commission here approves the proposed LCP amendment only if it is modified as directed by Suggested Modifications 1 and 2, which remove the proposed ordinance's 250-unit hosted STR cap and non-hosted STR ban from being operational in the coastal zone; they can still be effective in the remainder of the City. The modifications serve to ensure that this important visitor support use is provided in the coastal zone subject to reasonable regulations addressing important issues such as traffic, parking, occupancy, and noise. These regulations should help ensure that STRs respect the communities in which they operate. However, wholesale bans and/or similarly severe restrictions of certain STR types are not appropriate mechanisms to regulate STRs in the City's coastal zone, including because of the key visitor-serving goals and requirements articulated in the Coastal Act and corresponding LUP policies. The coastal zone is different than other parts of the City (considering that special protections are afforded to it through the Coastal Act and the LCP), and the suggested modifications reflect this difference. This is not to say that there are not other appropriate ways to address STR amounts in the City's coastal zone, including as evidenced by other LCPs that regulate the number of STRs on particular blocks or that preclude STRs from being within certain distances of each other. If the City is interested in developing a future LCP amendment that is designed to further regulate STRs in a more nuanced manner, including accounting for the unique neighborhoods and communities in the coastal zone, the Commission welcomes such a collaboration. However, the City's proposed ban/cap in *this* LCP contains fundamental flaws that cannot be approved as proposed.

C. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Section 21080.9 of the California Public Resources Code (within CEQA) exempts local governments from the requirement of preparing environmental review documentation under CEQA in connection with its activities and approvals necessary for the preparation and adoption of an LCP, including LCP amendments. Therefore, local governments are not required to prepare any CEQA environmental review document in support of their proposed LCP amendments, although the Commission can and does use any environmental information that the local government submits in support of any proposed amendment in carrying out its duties under CEQA and the Coastal Act when evaluating the amendment. The Commission's LCP review and approval program has been found by the Resources Agency to be the functional equivalent of the environmental review required by CEQA, pursuant to CEQA Section 21080.5. Therefore the Commission's review and analysis of the City's proposed LCP amendment in this report

satisfies CEQA environmental review requirements.

Nevertheless, the Commission is required, in approving an LCP amendment, to find that the approval of the proposed LCP, as amended, does conform with certain CEQA provisions, including the requirement in Section 21080.5(d)(2)(A) that the amended LCP will not be approved or adopted as proposed if there are feasible alternative or feasible mitigation measures available that would substantially lessen any significant adverse impact which the activity may have on the environment (see also, CEQA Guidelines Sections 13542(a), 13540(f), and 13555(b)).

The City's LCP amendment consists of an Implementation Plan (IP) amendment. As part of its local action on the proposed amendment, the City issued an exemption from CEQA as specified under CEQA Guidelines Section 15061(b)(3) (the so-called "common sense" exemption) and Categorical Exemption Section 15301 (Existing Facilities). The project was determined to be exempt because it consists of ordinance amendments that do not propose development or alterations to the built environment.

As such, there are no additional feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse environmental effects which approval of the amendment would have on the environment within the meaning of CEQA. Thus, the proposed amendment will not result in any significant environmental effects for which feasible mitigation measures have not been employed consistent with CEQA Section 21080.5(d)(2)(A).