

CALIFORNIA COASTAL COMMISSION

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May 24, 2018

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TO: COMMISSIONERS AND INTERESTED PERSONS

**FROM: KARL SCHWING, DEPUTY DIRECTOR, SD COAST DISTRICT
DEBORAH LEE, DISTRICT MANAGER, SD COAST DISTRICT
KAITLIN CARNEY, COASTAL ANALYST, SD COAST DISTRICT**

**SUBJECT: STAFF RECOMMENDATION ON CITY OF DEL MAR MAJOR
AMENDMENT LCP-6-DMR-17-0083-3 (Short-Term Rentals) for Commission
Meeting of June 7, 2018**

SYNOPSIS

The subject LCP Implementation Plan (IP) amendment (LCPA No. LCP-6-DMR-17-0083-3) was submitted and subsequently filed as complete on December 21, 2017. A one-year time extension was granted by the Commission on February 8, 2018. Therefore, the Commission must take action on this LCP amendment by February 19, 2019.

SUMMARY OF AMENDMENT REQUEST

The City of Del Mar proposes to amend the Implementation Plan (IP) component of its Local Coastal Program (LCP) to add language defining and regulating short-term vacation rentals (STRs), homesharing, and similar short-term, visitor accommodations in legal dwelling units for less than 30 consecutive days. Currently, the certified LCP does not explicitly define, regulate or prohibit STRs, and while they have historically existed, the City asserts that they are not an allowed use in the residential zones.

Generally, the proposed amendment would allow STRs in most of the City's commercial zones without limits. In single and multiple dwelling unit zones, STRs would be allowed as an accessory use subject to a minimum length of stay requirement (7 days) and a maximum number of rental days per year per unit (28 days). STRs would also be subject to registry requirements and additional operational standards. Homesharing, or owner-occupied room rentals, would be regulated in the same way as traditional STRs (non-owner occupied).

SUMMARY OF STAFF RECOMMENDATION

Staff is recommending that the Commission first reject the proposed amendment to the IP as submitted, and then approve it, with suggested modifications, to ensure that the

proposed amendment will be consistent with the City's certified Land Use Plan (LUP) and will not result in adverse impacts to public access, specifically overnight visitor-serving accommodations, especially more affordable opportunities.

Despite being a significant visitor-serving destination, there are only six hotels within the City offering just 355 rooms in total. With a very limited number of traditional hotel units within the City and only one motel project located directly on the oceanfront, STRs provide a significant supplement for visitor accommodations such that a severe restriction on the operation of STRs could have a significant adverse impact on promoting public access and visitor-serving opportunities. The Commission has emphasized that this type of use has historically provided and continues to be an important source of visitor accommodations by increasing the available supply of overnight accommodations. Part of the rationale for this position is that STRs provide amenities that distinguish them from other types of overnight lodging and may make them a more affordable option for overnight stays on the coast, particularly for groups and families. 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. The proposal to severely limit STRs in residential areas, by establishing a minimum 7 day length of stay and limiting the number of days a STR can be rented yearly, would significantly reduce public visitor-serving opportunities and such reduction would conflict with the LUP's objectives to provide the public with quality overnight accommodations and other visitor-serving facilities.

The City has not provided sufficient data, analysis or justification to show that the proposed restrictions are necessary, nor that the proposed restrictions would serve to provide enough STRs and STR types to accommodate visitor demand for this important type of coastal accommodation consistent with the LUP. All of these issues are exacerbated by the fact that Del Mar is a significant visitor destination and such restrictive proposals will have a more pronounced effect on those families and groups most in need of the potential availability and affordability that STRs can provide and have historically.

Staff therefore recommends two types of modifications to the proposed ordinance to address this issue. First, through **Suggested Modifications #2-12**, staff recommends that the City's proposal to require a 7-day minimum stay for STRs and homeshares be changed to a 3-day minimum, which will allow for shorter, weekend stays that are more desirable to many members of the public. Next, staff recommends **Suggested Modifications #1-12** that will change the City's proposed 28-day maximum to a 180-day maximum. Staff believes that the City's proposal to limit STRs to 28 days will severely reduce the supply of STRs within the city, and will make them less available during certain times of the year, ultimately increasing the price of STRs. Staff considered several other maximum rental options, including 90 days to cover the typical summer season, but concluded that because of the ideal weather and climate in San Diego and the year-round events offered in Del Mar, a maximum of anything less than 6 months would likely be too restrictive. However, by putting a limit on the amount of time a dwelling can operate as a STR, rather than allowing it to operate as such year-round, staff aimed to address

community concerns about neighborhood character. The 6-month restriction will discourage commercial enterprises from purchasing properties and operating them exclusively as STRs, a concern that has been brought up by residents of Del Mar. With these modifications, the proposed amendment remains consistent with the City's intent to establish language defining and regulating STRs and can be found to be consistent with goals and policies of the City's certified LUP.

The appropriate resolutions and motions begin on Page 5. The suggested modifications begin on Page 6. The findings for denial of the Implementation Plan Amendment as submitted begin on Page 12. The findings for approval of the plan, if modified, begin on Page 26.

ADDITIONAL INFORMATION

Further information on the City of Del Mar LCP Amendment LCP-6-DMR-17-0083-3 (Short Term Rentals) may be obtained from Kaitlin Carney, Coastal Planner, at (619) 767-2370.

EXHIBITS

Exhibit 1 – Proposed Ordinance/Resolution

Exhibit 2 – Strike-out/Underline Ordinance

Exhibit 3 – Commission Guidance on Short-term Vacation Rentals (December 2016)

Exhibit 4 – Commission Staff Comment Letter on STR Ordinance (September 2017)

Exhibit 5 – City STR Data

Exhibit 6 – Summary of Commission Decisions on STRs, 2000-2018

Exhibit 7 – City Council Interpretation Resolution

Exhibit 8 – Del Mar Neighborhoods Map

PART I. OVERVIEW

A. LCP HISTORY

In May 1991, the City of Del Mar submitted its Land Use Plan (LUP) for Commission action. The Commission denied the LUP as submitted, but approved it with suggested modifications in September 1991. The City did not accept the suggested modifications within six months, so the City resubmitted the same documents and the Commission again approved the LUP with suggested modifications in June 1992. This time, the City Council adopted the modifications within the prescribed time and the Commission effectively certified the LUP in March 1993. The Implementation Plan (IP) was approved with suggested modifications on March 13, 2001. On September 11, 2001, the Commission concurred with the Executive Director's determination to effectively certify the City of Del Mar Local Coastal Program (LCP).

The certified LCP was first amended (LCPA No. 1-2000) in 2002 to incorporate the City's Multiple Species Conservation Program Subarea Plan. A second LCP amendment (DMR-MAJ-1-08), referenced as Garden del Mar, was approved with suggested modifications in March 2009 for the redesignation and rezoning of the property at the southeast corner of Camino del Mar and 10th Street. A third amendment (DMR-MAJ-1-09) was approved with suggested modifications in March 2010 to revise parking regulations to support revitalization of the City's downtown business district. A fourth amendment (DMR-MAJ-1-11) involved deleting a phrase regarding the processing for authorization of reductions in wetland setbacks so as to delete automatic deferral to California Department of Fish and Wildlife. A fifth amendment (LCP-6-DMR-16-0073-1) was approved with suggested modifications in May 2017 to add and update various sections related to off-street parking to more efficiently utilize existing spaces in commercial zones, change in-lieu fee parking program requirements, and incentivize alternative transportation options. A sixth amendment (LCP-6-DMR-17-0011-1) was approved with a suggested modification in September 2017 to add a new section to establish a process for approval of temporary uses on private property. Most recently in February 2018, the Commission approved LCP Amendment No. LCP-6-DMR-17-0062-2 to revise the City's regulations for Accessory Dwelling Units and Junior Accessory Dwelling Units to be consistent with state law.

B. STANDARD OF REVIEW

Pursuant to Section 30513 of the Coastal Act, the Commission may only reject zoning ordinances or other implementing actions, as well as their amendments, on the grounds that they do not conform with, or are inadequate to carry out, the provisions of the certified LUP. The Commission shall take action by a majority vote of the Commissioners present.

C. PUBLIC PARTICIPATION

Section 30503 of the Coastal Act requires local governments to provide the public with maximum opportunities to participate in the development of the LCP amendment prior to its submittal to the Commission for review. The City has held Planning Commission and City Council meetings with regard to the subject amendment request. All of those local hearings were duly noticed to the public. Notice of the subject amendment has been distributed to all known interested parties.

PART II. LOCAL COASTAL PROGRAM SUBMITTAL - RESOLUTIONS

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

- I. MOTION I:** *I move that the Commission reject the Implementation Program Amendment LCP-6-DMR-17-0083-3 for the City of Del Mar LCP as submitted.*

STAFF RECOMMENDATION OF REJECTION:

Staff recommends a **YES** vote. Passage of this motion will result in rejection of Implementation Program 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 TO DENY CERTIFICATION OF THE IMPLEMENTATION PROGRAM AS SUBMITTED:

The Commission hereby denies certification of the Implementation Program Amendment LCP-6-DMR-17-0083-3 submitted for the City of Del Mar LCP and adopts the findings set forth below on grounds that the Implementation Program as submitted does not conform with, and is inadequate to carry out, the provisions of the certified Land Use Plan. Certification of the Implementation Program 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 Program as submitted.

II. MOTION II: *I move that the Commission certify the Implementation Program Amendment LCP-6-DMR-17-0083-3 for the City of Del Mar LCP if it is modified as suggested in this staff report.*

STAFF RECOMMENDATION:

Staff recommends a **YES** vote. Passage of this motion will result in certification of the Implementation Program Amendment with suggested modifications 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 TO CERTIFY THE IMPLEMENTATION PROGRAM AMENDMENT WITH SUGGESTED MODIFICATIONS:

The Commission hereby certifies the Implementation Program Amendment LCP-6-DMR-17-0083-3 for the City of Del Mar if modified as suggested and adopts the findings set forth below on grounds that the Implementation Program Amendment, with the suggested modifications, conforms with and is adequate to carry out the certified Land Use Plan. Certification of the Implementation Program 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 Program 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.

PART III. SUGGESTED MODIFICATIONS

Staff recommends the following suggested revisions to the proposed Implementation Plan be adopted. The underlined sections represent language that the Commission suggests be added, and the ~~struck-out~~ sections represent language which the Commission suggests be deleted from the language as originally submitted.

1. Modify Section 5.04.050 Exemption: Dwelling Unit as follows:

This Title does not apply to the following activities within a dwelling unit: [...]

B. Home exchange

C. Home sharing or room rental

D. Short term rental of a dwelling unit as an accessory use for up to ~~28~~180 days maximum per year

2. Modify Section 30.10.040 Accessory Uses for the R1-40 Zone as follows:

[...]

C. Short Term Rental of a dwelling unit subject to the following limitations:

- 1. The rental term shall be a minimum of ~~7~~ 3 consecutive days.*
- 2. The total number of days the dwelling unit is rented as a short term rental shall not exceed ~~28~~ 180 days per calendar year.*

[...]

D. Home sharing or room rental subject to the following limitations:

[...]

4. If the rental term for the Home Sharing or room rental is less than 30 consecutive days, then the following limitations shall apply:

- a. The minimum rental term for a Home Sharing or short term rental shall be ~~7~~ 3 consecutive days.*
- b. The total number of days the dwelling unit is rented for Home Sharing or short term rental shall not exceed ~~28~~ 180 days per calendar year.*

[...]

3. Modify Section 30.11.040 Accessory Uses for the R1-14 Zone as follows:

[...]

C. Short Term Rental of a dwelling unit subject to the following limitations:

- 1. The rental term shall be a minimum of ~~7~~ 3 consecutive days.*
- 2. The total number of days the dwelling unit is rented as a short term rental shall not exceed ~~28~~ 180 days per calendar year.*

[...]

D. Home sharing or room rental subject to the following limitations:

[...]

4. If the rental term for the Home Sharing or room rental is less than 30 consecutive days, then the following limitations shall apply:

- a. The minimum rental term for a Home Sharing or short term rental shall be ~~7~~ 3 consecutive days.*
- b. The total number of days the dwelling unit is rented for Home Sharing or short term rental shall not exceed ~~28~~ 180 days per calendar year.*

[...]

4. Modify Section 30.12.040 Accessory Uses for the R1-10 Zone as follows:

[...]

C. Short Term Rental of a dwelling unit subject to the following limitations:

- 1. The rental term shall be a minimum of ~~7~~ 3 consecutive days.*

2. *The total number of days the dwelling unit is rented as a short term rental shall not exceed ~~28-180~~ days per calendar year.*

[...]

D. *Home sharing or room rental subject to the following limitations:*

[...]

4. *If the rental term for the Home Sharing or room rental is less than 30 consecutive days, then the following limitations shall apply:*

a. *The minimum rental term for a Home Sharing or short term rental shall be ~~7~~ 3 consecutive days.*

b. *The total number of days the dwelling unit is rented for Home Sharing or short term rental shall not exceed ~~28-180~~ days per calendar year.*

[...]

5. Modify Section 30.13.040 Accessory Uses for the R1-10B Zone as follows:

[...]

C. *Short Term Rental of a dwelling unit subject to the following limitations:*

1. *The rental term shall be a minimum of ~~7~~ 3 consecutive days.*

2. *The total number of days the dwelling unit is rented as a short term rental shall not exceed ~~28-180~~ days per calendar year.*

[...]

D. *Home sharing or room rental subject to the following limitations:*

[...]

4. *If the rental term for the Home Sharing or room rental is less than 30 consecutive days, then the following limitations shall apply:*

a. *The minimum rental term for a Home Sharing or short term rental shall be ~~7~~ 3 consecutive days.*

b. *The total number of days the dwelling unit is rented for Home Sharing or short term rental shall not exceed ~~28-180~~ days per calendar year.*

[...]

6. Modify Section 30.14.040 Accessory Uses for the R1-5 Zone as follows:

[...]

C. *Short Term Rental of a dwelling unit subject to the following limitations:*

1. *The rental term shall be a minimum of ~~7~~ 3 consecutive days.*

2. *The total number of days the dwelling unit is rented as a short term rental shall not exceed ~~28-180~~ days per calendar year.*

[...]

D. Home sharing or room rental subject to the following limitations:

[...]

4. If the rental term for the Home Sharing or room rental is less than 30 consecutive days, then the following limitations shall apply:

a. The minimum rental term for a Home Sharing or short term rental shall be ~~7~~ 3 consecutive days.

b. The total number of days the dwelling unit is rented for Home Sharing or short term rental shall not exceed ~~28~~ 180 days per calendar year.

[...]

7. Modify Section 30.15.040 Accessory Uses for the R1-5B Zone as follows:

[...]

C. Short Term Rental of a dwelling unit subject to the following limitations:

1. The rental term shall be a minimum of ~~7~~ 3 consecutive days.

2. The total number of days the dwelling unit is rented as a short term rental shall not exceed ~~28~~ 180 days per calendar year.

[...]

D. Home sharing or room rental subject to the following limitations:

[...]

4. If the rental term for the Home Sharing or room rental is less than 30 consecutive days, then the following limitations shall apply:

a. The minimum rental term for a Home Sharing or short term rental shall be ~~7~~ 3 consecutive days.

b. The total number of days the dwelling unit is rented for Home Sharing or short term rental shall not exceed ~~28~~ 180 days per calendar year.

[...]

8. Modify Section 30.16.040 Accessory Uses for the RM-East Zone as follows:

[...]

C. Short Term Rental of a dwelling unit subject to the following limitations:

1. The rental term shall be a minimum of ~~7~~ 3 consecutive days.

2. The total number of days the dwelling unit is rented as a short term rental shall not exceed ~~28~~ 180 days per calendar year.

[...]

D. Home sharing or room rental subject to the following limitations:

[...]

4. *If the rental term for the Home Sharing or room rental is less than 30 consecutive days, then the following limitations shall apply:*

a. The minimum rental term for a Home Sharing or short term rental shall be ~~7~~ 3 consecutive days.

b. The total number of days the dwelling unit is rented for Home Sharing or short term rental shall not exceed ~~28~~ 180 days per calendar year.

[...]

9. Modify Section 30.17.040 Accessory Uses for the RM-West Zone as follows:

[...]

C. Short Term Rental of a dwelling unit subject to the following limitations:

1. The rental term shall be a minimum of ~~7~~ 3 consecutive days.

2. The total number of days the dwelling unit is rented as a short term rental shall not exceed ~~28~~ 180 days per calendar year.

[...]

D. Home sharing or room rental subject to the following limitations:

[...]

4. If the rental term for the Home Sharing or room rental is less than 30 consecutive days, then the following limitations shall apply:

a. The minimum rental term for a Home Sharing or short term rental shall be ~~7~~ 3 consecutive days.

b. The total number of days the dwelling unit is rented for Home Sharing or short term rental shall not exceed ~~28~~ 180 days per calendar year.

[...]

10. Modify Section 30.18.040 Accessory Uses for the RM-Central Zone as follows:

[...]

C. Short Term Rental of a dwelling unit subject to the following limitations:

1. The rental term shall be a minimum of ~~7~~ 3 consecutive days.

2. The total number of days the dwelling unit is rented as a short term rental shall not exceed ~~28~~ 180 days per calendar year.

[...]

D. Home sharing or room rental subject to the following limitations:

[...]

4. If the rental term for the Home Sharing or room rental is less than 30 consecutive days, then the following limitations shall apply:

a. The minimum rental term for a Home Sharing or short term rental shall be ~~7~~ 3 consecutive days.

b. The total number of days the dwelling unit is rented for Home Sharing or short term rental shall not exceed ~~28~~ 180 days per calendar year.

[...]

11. Modify Section 30.19.040 Accessory Uses for the RM-South Zone as follows:

[...]

C. Short Term Rental of a dwelling unit subject to the following limitations:

1. The rental term shall be a minimum of ~~7~~ 3 consecutive days.

2. The total number of days the dwelling unit is rented as a short term rental shall not exceed ~~28~~ 180 days per calendar year.

[...]

D. Home sharing or room rental subject to the following limitations:

[...]

4. If the rental term for the Home Sharing or room rental is less than 30 consecutive days, then the following limitations shall apply:

a. The minimum rental term for a Home Sharing or short term rental shall be ~~7~~ 3 consecutive days.

b. The total number of days the dwelling unit is rented for Home Sharing or short term rental shall not exceed ~~28~~ 180 days per calendar year.

[...]

12. Modify Section 30.20.040 Accessory Uses for the R2 Zone as follows:

[...]

C. Short Term Rental of a dwelling unit subject to the following limitations:

1. The rental term shall be a minimum of ~~7~~ 3 consecutive days.

2. The total number of days the dwelling unit is rented as a short term rental shall not exceed ~~28~~ 180 days per calendar year.

[...]

D. Home sharing or room rental subject to the following limitations:

[...]

4. If the rental term for the Home Sharing or room rental is less than 30 consecutive days, then the following limitations shall apply:

a. The minimum rental term for a Home Sharing or short term rental shall be ~~7~~ 3 consecutive days.

b. The total number of days the dwelling unit is rented for Home Sharing or short term rental shall not exceed ~~28~~180 days per calendar year.

[...]

PART IV. FINDINGS FOR REJECTION OF THE DEL MAR LCP IMPLEMENTATION PLAN AMENDMENT, AS SUBMITTED, AND APPROVAL, IF MODIFIED

A. AMENDMENT DESCRIPTION

The proposed amendment would allow short term rentals (STRs) in most of the City's commercial zones without limits on the length of stay or number of rental days per year. In single and multiple dwelling unit zones, STRs would be allowed as an accessory use subject to a minimum length of stay requirement (7 days) and a maximum number of rental days per year (28 days). Effectively, under the proposed ordinance, a property owner would be allowed to rent out their home as a STR for four, 1-week periods per year. STRs would also be subject to registry requirements and additional operational standards, described in more detail in Section C.2. Homeshares (owner-occupied) would be regulated in the same way as traditional STRs (non-owner occupied units).

B. LOCAL BACKGROUND

The renting of a residence for transient users is not a new occurrence in Del Mar. Information and testimony presented by the public at various City meetings confirms that tourists have used residential properties for vacation rentals of undetermined length in Del Mar for decades. Historically, it is well known that visitors would frequent the Del Mar area to enjoy the summer months, race track season, and the Del Mar Fair. The City's Community Plan, which is not part of its certified LCP, provides some historical background on the topic. The Community Plan recognizes a transient use in its North Beach residential neighborhoods as far back as the mid-1970's when the document was authored. The North Beach area of the City (generally the area bounded by the mouth of the San Dieguito River in the north, 17th Street in the south, the ocean on the west, and the railroad on the east) is described in the Community Plan as: "A comparatively large percentage of transient housing is available within this planning area. During the year much of this transient housing changes from occupancy by students and moderate income families in off-season months to wealthy tourists (often affiliated with the race track) or the property owners themselves during the summer" (Del Mar Community Plan, Community Development Element, pg. 56). The Community Plan also describes transient rentals in the South Beach area (from 15th Street in the north to approximately 4th Street in the south, and Camino del Mar on the east) and states "[a]s in the North Beach area, a large percentage of rental housing is available..." (pg. 55).

The City's efforts to regulate STRs began in earnest in 2016 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. In January 2017, the City Council requested a Zoning Code interpretation by the Planning Commission to determine if short term rentals are an allowed use within the City's residential zones. In February 2017, the Planning Commission determined that STRs were not defined in the Zoning Code and no interpretation could be made. This decision was appealed to the City Council; and, in April 2017, the City Council approved by resolution a formal interpretation that determined STRs are not permitted in the single and multiple dwelling unit residential zones (R1-40, R1-14, R1-10, R1-10B, R1-5, R1-5B, RM-East, RM-West, RM-Central, RM-South, and R-2), but STRs are allowed in the Residential-Commercial (RC) Zone. The City made this interpretation with findings that include, in part, 1) STR is an appropriate use in visitor-serving areas and some commercial areas, but not in residential areas, 2) The City's Community Plan has many goals and programs to separate residential areas from visitor serving and commercial areas, 3) The City Zoning Code is permissive; only those uses expressly allowed, or found to be authorized by formal interpretation, are considered allowed, 4) The use of residential dwellings as STRs is transient in nature and more similar to visitor-serving commercial uses such as a hotel, motel, or other commercial use than to a residential use and 5) A neighborhood of residents, be they owners or tenants (renting 30 days or more), is different from a neighborhood of short-term visitors. ([Exhibit 7](#))

In 2016, a series of urgency ordinances established a temporary moratorium on new STRs; however, following the Council's interpretation, the moratorium was no longer necessary. Instead, the Council directed City staff to not begin enforcement against existing, non-conforming STRs, thereby beginning a "forbearance period," until regulations for STRs could be developed.

Following their interpretation, the City Council also directed City staff to develop an ordinance regulating STRs and expressed a desire that STRs be defined as rentals for less than 30 consecutive days, STRs continue to be allowed in the Residential-Commercial (RC) zone, STRs be limited as an accessory use in all other residential zones for a maximum of 28 days per calendar year (per unit) and a minimum stay of seven days, STR activity in residential zones be subject to a simple registry requirement, and similar short-term commercial activity in a dwelling unit be regulated the same way. In September 2017, the Del Mar Planning Commission considered the proposed ordinance regulating STRs and recommended that the City Council extend the forbearance period for existing STRs for one year in order to collect data and monitor existing STRs. The Planning Commission desired additional data in order to make an informed decision and felt that the 28-day maximum and 7-day minimum may be too restrictive. In October 2017, the Del Mar City Council introduced the subject ordinance and then subsequently adopted it on November 6, 2017.

In approving the subject amendment, the City Council found that the establishment of the proposed new regulations for STRs is necessary to maintain quality of life and minimize the potential for negative effects on residential neighborhoods.

C. FINDINGS FOR REJECTION, AS SUBMITTED

The proposed amendment affects the IP component of the City's LCP. The standard of review for LCP implementation submittals or amendments is their consistency with and ability to carry out the provisions of the certified Land Use Plan (LUP).

1) Purpose and Intent of the Ordinance. The purpose of this proposed amendment is to establish regulations for STRs in order to maintain quality of life in residential zones and minimize the potential for negative effects on residential neighborhoods. The amendment is intended to establish a process for property owners to register their dwelling or a room within it if they choose to rent it short term, or participate in a short term commercial home exchange in a residential zone.

2) Major Provisions of the Ordinance. The proposed amendment would establish several new definitions, would define where short-term rentals and other similar uses are allowed in the City, and would establish operational standards for STRs.

The proposed amendment would establish new definitions for the following terms in Section 30.04: home exchange, home sharing, hotel, motel, and short term rental.

Section 30.04.010 is proposed to be amended to include the definition of "Home Exchange" as a type of accommodation in a legal dwelling unit in which two parties agree to offer exclusive use of each other's homes for living and sleeping purposes for a set period of time whereby the agreement involves the exchange of homes, and may include the use of the vehicles associated with those homes, with no additional monetary exchange or other consideration exchanged between the parties; also known as home swapping.

Section 30.04.010 is proposed to be amended to include the definition of "Home Sharing" as a type of accommodation in a legal dwelling unit whereby a room or multiple rooms are rented to guests for less than 30 consecutive days for temporary living or sleeping purposes within a portion of the primary residence of the property owner or tenant.

Section 30.04.010 is proposed to be amended to include the definition of "Hotel" as a building or group of buildings on a property in which there are six or more guest rooms used or designed to be used for sleeping purposes that are rented for less than 30 consecutive days. This term does not include time shares or fractional ownership interests.

Section 30.04.130 is proposed to be amended to include the definition of "Motel" as a group of attached or detached buildings consisting of six or more guest rooms used or designed to be used for sleeping purposes, that are rented for less than 30 consecutive days, and where a majority of the guest rooms open individually and directly to the outside. This term does not include time shares or fractional ownership interests.

Section 30.04.180 is proposed to be amended to include the definition of “Short Term Rental” as a type of visitor accommodation in a legal dwelling unit whereby the dwelling unit is rented for less than 30 consecutive days for temporary living or sleeping purposes.

The proposed amendment would allow STRs in the Residential-Commercial (RC), Visitor-Commercial (VC), Central Commercial (CC), North Commercial (NC), and Professional Commercial (PC) Zones of the City of Del Mar without limit. In single dwelling unit residential zones (R1-40, R1-14, R1-10, R1-10B, R1-5, and R1-5B) and multiple dwelling unit residential zones (R2, RM-West, RM-East, RM-Central, and RM-South), the use of a dwelling as a STR will be allowed as an accessory use with the limitation that the total number of days the dwelling unit is rented shall not exceed 28 days per calendar year and the minimum rental term shall be 7 consecutive days. In addition, the proposed amendment would clarify that the long-term renting of a residence, for 30 days or more, is an allowed use in the single and multiple dwelling unit residential zones. STRs would not be allowed in the Beach Commercial Zone, which includes a few parcels located in close proximity to the shoreline and currently developed with restaurants, a lifeguard tower, and a public parking lot. Home sharing and commercial home exchange would be regulated in the same way as a STR.

In addition to the restrictions on timing, a new Chapter 30.96 imposes operational standards on STRs and requires property owners to register their STR with the City. STR operators must identify the property owner name and address, indicate the dates the STR will be used as a STR, and provide a 24-hour contact for complaints/emergencies in accordance with the “good neighbor” policy best practices. As proposed in the ordinance, STRs must also comply with California Building Code occupancy requirements and shall generally not exceed two people per bedroom, or a total of two people per bedroom plus an additional two people for the dwelling unit as a whole. The maximum number of cars per STR cannot exceed the number of off-street parking spaces.

3) Adequacy of the Ordinance to Implement the Certified LUP Segments.

The standard of review for any proposed IP or an amendment to a certified IP is whether or not the proposed IP provision conforms with, and is adequate to carry out, the provisions of the certified LUP.

The City’s LCP reflects Coastal Act priorities. The LUP contains policies addressing the importance of and the need to provide visitor facilities in the Coastal Zone for all segments of the population, including quality overnight accommodations that provide citizens and visitors with a better variety and availability, and that are compatible with the surrounding community.

The applicable LUP policies to consider are as follows:

GOAL IV-A Provide physical and visual access to coastal recreation areas for all segments of the population without creating a public safety concern,

overburdening the City's public improvements, degrading the City's natural resources, or causing substantial adverse impacts to adjacent private properties.

GOAL II-B: Focus major retail and office activity into an economically-viable, pedestrian-oriented area that serves the needs of both residents and visitors.

[...]

Policy II-6 Encourage visitor-serving and recreation-oriented businesses that blend harmoniously with the traditional small-town character of the community.

GOAL V-B Provide the public with quality overnight accommodations and other visitor-serving facilities which enhance the unique village character of the community.

[...]

Policy V-9 The City shall encourage the development of recreation related commercial activities within other appropriately zoned areas of the City in order to provide the citizens and visitors of the community a better variety and availability of recreational opportunities.

Policy V-10 The City shall ensure that development of visitor-serving facilities is compatible with surrounding development and is consistent with the policies of this Land Use Plan intended to preserve environmentally sensitive resources.

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 near the shoreline. The Coastal Act's public access and recreation policies provide significant direction regarding not only protecting existing public recreational 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 opportunities or 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 30221 establishes that oceanfront land shall be protected for recreational use and states:

Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.

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.¹

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 by increasing the available supply of overnight accommodations. Part of the rationale for this position is that STRs provide amenities that distinguish them from other types of overnight lodging and may make them a more affordable option for overnight stays on the coast, particularly for groups and families. STRs also provide a visitor experience that is unique and different

¹ See “Are Beach Vacations for Middle-Class Californians Getting Impossible to Afford?” May 7, 2017, in the *San Jose Mercury News*.

from a standard hotel/motel, and many are situated in close proximity to desirable visitor destinations along the shoreline.

In recent years, STRs have become controversial in some communities, usually because long-term residents are concerned about the potential effect of STRs on residential community character. Local governments and the Commission have grappled with these issues up and down the state. This results, in part, because the strong objectives and requirements of the Act to maximize public recreational access opportunities for everyone and the explicit requirement to prioritize visitor-serving facilities over private residential uses 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 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. Local jurisdictions in the Coastal Zone must provide a means and a framework to appropriately regulate the establishment and operation of STRs, rather than overly restrict this use or significantly diminish their visitor-serving utility.

Jurisdictions proposing STR bans or regulations that put undue restrictions on the operation of STRs have generally not been supported. 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., County of Santa Barbara LCP Amendment No. LCP-4-STB-17-0086-3), City of Laguna Beach LCP Amendment No. LCP-5-LGB-16-0055-1, City of Pismo Beach No. LCP PSB-1-10 Part 2, City of Imperial Beach LCP Amendment No. IMB-MAJ-1-02-A, and City of Encinitas LCP Amendment No. ENC-MAJ-2-05 (continued and then withdrawn) and ENC-MAJ-2-051-66 (which expired before local adoption of the Commission's suggested modifications)).

In lieu of prohibiting STRs, however, the Commission has emphasized the use of targeted regulations that specifically address the 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 STRs. Common examples of operational standards include quiet hours, rules for containing 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 the potential negative impacts associated with STRs, rather than eliminating STRs and the unique visitor opportunities and amenities they provide (e.g., 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)). These types of ordinances represent a middle ground, where STRs are allowed and regulated and the potential impacts of their operation are clearly addressed.

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 (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). Like operational standards (and in contrast to bans and citywide caps), this type of regulation targets specific issues potentially 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.

Within San Diego County, the City of Encinitas proposed a prohibition on STRs in all residential zones in 2006. The Commission found that the proposal inappropriately restricted lodging opportunities for coastal visitors and raised significant issues with LUP requirements promoting access to the City's beaches. The Commission further found that the use of STRs, especially in the nearshore area, was essential for the promotion of public access to the major visitor destination beaches as required by the recreation policies of the City's LUP. Lastly, the Commission found that, similar to Del Mar, most of the land use designations along the shoreline in Encinitas are residential, and thus the prohibition of STRs would have a significant impact on the supply of visitor-serving accommodations in these nearshore areas. Ultimately, the Commission approved a modified amendment that provided for STRs west of Highway 101, while prohibiting them east (and inland) of it (LCP Amendment 1-06).

In 2002, the Commission rejected an LCP amendment request by the City of Imperial Beach to ban STRs in all residential zones, finding in that case that the proposal was unduly restrictive and discouraging toward tourist-related uses and visitor accommodations (LCP Amendment 1-02A). After working with the City, in 2004, the Commission approved a modified amendment to the City's LCP that identified STR parameters that were not an outright ban, but instead provided locational and other criteria for such rentals over time. Unlike the City's initial proposal, the modified amendment was supported because it did not include an explicit prohibition of STRs in all residential zones throughout the City. In addition, the Commission found that unlike other beach communities, Imperial Beach had a supply of lower-cost visitor accommodations in its existing hotels and motels.

In more recent Commission actions, the City of Laguna Beach proposed to prohibit STRs in residential zones, but allow them in most commercial/visitor-serving districts, subject to administrative use or conditional use permits. The Commission found that such a ban was inconsistent with the LUP and the Coastal Act and the amendment was approved in December 2017 with suggested modifications to allow STR in residential zones with operational standards that more narrowly target issues raised by STRs.

In April 2018, the Commission approved as submitted an LCP amendment for the City of Santa Cruz that established a registration and permit process for STRs and put a limit on

the total number of STRs allowed in the City (LCP Amendment No. LCP-3-STC-17-0073-2-Part B). The City made a distinction between “hosted” and “non-hosted” STRs. “Hosted” STRs are often otherwise referred to as “home-shares” and the owner of the residence is present in the STR but may rent out one or more rooms. “Non-hosted” are the more common form of STR in which a guest or group rents the entire residence and the property owner is not present. Under the Santa Cruz ordinance, all existing, active STRs currently paying Transient Occupancy Tax (TOT) would be “grandfathered” and could continue to operate. Applications for new “hosted” STRs would be accepted up to a cap of 250 total permits. The 250 unit cap also includes grandfathered “hosted” and “non-hosted” units. No new “non-hosted” unit applications would be accepted. The City argued that the cap was necessary because of an extreme housing crisis facing the City. The proposed amendment would allow for some STR operations in the city, including those STRs currently present.

And, most recently in May 2018, the Commission denied the County of Santa Barbara’s LCP Amendment which would have allowed STRs within legal dwellings in most of the County’s commercial zones and within a proposed Short-term Rentals Coastal Historic Overlay in the small residentially-zoned neighborhood of Miramar Beach. Outside of this overlay, STRs would not have been allowed within the County’s residential zones. The proposed amendment would, however, allow homestays (owner present on the property) in the majority of the County’s residential zones. The Commission found that the County’s proposal was too restrictive given the low supply of traditional overnight accommodations within the County and their high costs. The Commission found that the amendment, as proposed by the County, would result in a reduction of visitor-serving overnight accommodations, and therefore was inconsistent with the County’s LCP and the Coastal Act.

Similar to the amendment proposed by the City of Del Mar under review here, only one LCP provision has been approved by the Commission in which STRs are limited to a seven-day minimum stay. In March 2012, the Commission approved the City of Solana Beach’s Land Use Plan which permits short-term vacation rentals in all residential zones but specifies a minimum seven-day stay. The Commission found the City’s small size and the lack of services and activities typically associated with a vacation destination in its residential neighborhoods were distinguishing factors. The Commission also noted that while the restriction on short-term rentals to a minimum of 7 days could limit their use by vacationers who cannot afford the time and expense of a weekly rental, a 7-day minimum still ensures some vacation rental opportunities in Solana Beach. However, unlike the present proposal for Del Mar, the City of Solana Beach does not restrict the total number of days per year a STR unit can be rented; and, therefore, a STR in Solana Beach could potentially be rented out every week in a year.

While not limiting STRs by length of stay, in 2002, the Commission approved the County of San Luis Obispo’s LCP Amendment, which authorized STRs in most land use categories with operational standards (LCP Amendment No. 1-01 Part A). In an attempt to allow STRs in a way that would ensure compatibility with residential communities and neighborhoods by limiting turn-over, the approved amendment included a standard that

prohibited the frequency of rentals from exceeding one tenancy within seven consecutive calendar days. The County also proposed a minimum rental period of four days; however, the unit would not be required to be occupied for the entire four-day period. The Commission found that the four-day minimum stay requirement would unduly restrict the coastal access and recreation opportunities supported by STRs. Therefore, the LCPA was approved with modifications to delete the minimum 4-day stay requirement and instead imposed restrictions on the overall density and number of rentals allowed consistent with existing standards for Bed and Breakfast facilities.

These cases reflect the guidance given to local governments by the Commission in a 2016 letter concerning STR regulation ([Exhibit 3](#)). 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.” In this case, the City of Del Mar is not seeking an outright ban in residential areas, but is imposing such severe restrictions that they would reduce visitor access to the coastline.

In summary, the Commission has generally not supported overly restrictive regulation of STRs or bans. The Commission has approved a minimum length of stay requirement in only one other city, and in that case did not allow for a restriction on the total number of rental days per year. 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 that there are sufficient accommodations to maximize access. Caps and blanket prohibitions have not been found to be consistent with the Coastal Act and certified LCPs because of the broad mandate to maximize coastal access and provide affordable accommodations and support facilities to ensure general public access and use of the coastal zone.

STRs in Del Mar

As described previously, STRs have been a historic practice in the City of Del Mar, especially in the North and South Beach areas. While short term rentals have increased significantly nationwide since the advent of Internet booking sites in around 2008, it is unclear if the same increase has occurred in the City of Del Mar. According to data provided by the City and gathered by Host Compliance, there were 283² unique STRs listed on various websites as of August 2017 ([Exhibit 5](#)). Host Compliance data indicates that 95% of the listings were for an entire residence, while just 3% were for a partial home, or home share. Host Compliance reported a median nightly rate of \$331 per STR. AirBnb submitted additional information specific to their operations and indicates that it had 150 properties listed as of August 2017. AirBnB estimates that 5,000 guests visited the City of Del Mar over the year prior to August 2017 through STRs listed on its website and stays averaged 5 days in length. Of the rentals posted on AirBnB, 91% were for the

² This number may include some listings located outside city-limits; however, the estimate does account for duplicative STR listings that are advertised across multiple sites.

entire residence and 9% were for a private room within a home, or homestay. Del Mar properties listed on AirBnB were rented for an average of 24 nights a year. Although this appears to align with the City's proposed cap of 28 days per year, the Commission has concerns with the lack of detailed information provided by the City on STR operations and the potential demand for visitor accommodations over time.

The City's Proposed LCP Amendment

As described above, in 2017, the City determined that STRs are not a permitted use in the City's single and multiple dwelling unit residential zones. There are no policies within the LUP that would specifically prohibit residential units from being rented as STRs and the Community Plan provides historical background acknowledging that homes in Del Mar, especially those in the North Beach area, have historically been used as STRs. With a very limited number of traditional overnight accommodations within the City (approximately 355 rooms), including only one motel with 43 rooms located directly on the oceanfront, STRs provide a significant resource for visitor accommodations such that a severe restriction on the operation of STRs could have a significant adverse impact on promoting public access and visitor-serving opportunities. The proposal to severely limit STRs in residential districts would reduce public visitor-serving opportunities and such reduction would conflict with the certified LUP's objectives to provide the public with quality overnight accommodations and other visitor-serving facilities.

The City's proposed amendment includes a variety of rules related to STR operation, including parking, occupancy, and nuisance responsiveness, that are generally similar to other standards the Commission has approved for other jurisdictions and which can be found consistent with the LUP and the Coastal Act. However, the proposed restrictions on the number of days a STR can be rented over the course of a year and the minimum length of stay represents a departure from STR policies approved by the Commission in other jurisdictions and will significantly reduce the availability of STRs in the City. By applying the restrictions to all residential zones citywide, the City makes no distinction among the variety of neighborhoods in which STRs currently operate or have historically operated, or the relative desirability to visitors of some areas compared to others. The City has provided no analysis for these blanket restrictions.

In some jurisdictions, local governments have made the argument that STRs reduce the supply of affordable housing; however, it is unlikely that STRs will have a significant effect on housing availability and affordability in Del Mar. As described in more detail in the *Location* section below, many properties in Del Mar are likely not occupied by local owners. Local ownership ranges from 41-74%, depending on the neighborhood. Many STRs are second homes whose owners reside in them seasonally or intermittently, and the presence of a long-term renter would preclude this type of use. When STRs are prohibited, units that would otherwise have been offered to visitors often sit vacant so that their owners can maintain the option to visit occasionally. In addition, given the high cost of housing in Del Mar, it is unlikely that STRs will have a significant effect on housing affordability and even if the homes were converted to long-term rentals, they would likely be out of reach for the vast majority of people.

Availability

San Diego County is a popular visitor destination with over 15 billion dollars generated by the tourist industry each year. The City of Del Mar provides significant and unique visitor offerings, including the Del Mar Fairgrounds, which hosts nearly 350 events throughout the year, including the San Diego County Fair and the Del Mar Thoroughbred Club racing seasons. The City estimates that the Fairgrounds and other visitor attractions bring some 4 million tourists annually. Despite being a significant visitor-serving destination, there are only six hotels within the City offering just 355 rooms in total. Within one mile of city limits, there are an additional four hotels.

While the City does provide a significant amount of land area for visitor-serving uses, including the fairgrounds and public parks, *overnight* accommodations are a specific coastal resource that must be protected. The potential for new overnight accommodations in the City is limited, notwithstanding *low-cost* overnight accommodations, without the allowance of STRs. The City has a limited number of parcels zoned for visitor-serving overnight accommodations and those parcels are developed with overnight accommodations currently. Because of Del Mar's small size, and the limited amount of area zoned for overnight visitor-serving commercial, the existing and future use of residential structures for STRs provides a significant supplement to the City's inventory of overnight visitor-serving accommodations.

The City's proposed regulations put a severe limit on the potential operation of STRs. Within the Central Commercial (CC), North Commercial (NC), and Professional Commercial (PC) zones, one dwelling unit is allowed as accessory to and on the same site as that of a permitted use. As proposed, this accessory dwelling could be used as a STR within these zones. The Visitor Commercial Zone allows uses including hotels, motels, and boardinghouses, but it does not allow residential dwelling units, as an accessory use or otherwise. The Residential-Commercial (RC) zone is the only commercial zone that allows for development of a site with only a residential dwelling. The RC Zone would allow STR without limits; however, there are only 8 parcels with this designation and 5 of them are already developed with restaurants, offices, or other commercial uses. The Beach Commercial (BC) zone includes just a few parcels located in close proximity to the shoreline and that are currently developed with restaurants, a lifeguard tower, and a public parking lot. This zone would not allow STRs at all. Therefore, it is unlikely that these commercial zones will support a significant number of STRs.

The areas of the City that have the greatest potential for supporting STRs are the single and multiple dwelling unit residential zones. Within these zones, the proposed amendment limits the availability of a STR to just 28 days maximum per year with 7-day minimum stays. Restricting a homeowner's ability to rent out their house as a STR to 28 days is likely a significant reduction from historic practices and will reduce the available supply of STRs. Not only will this provision reduce access by lowering the supply overall, but by only allowing a dwelling to be rented for 28 days per year, it is likely that STRs will be concentrated in the months in which they can collect the highest rates,

limiting the available supply of STRs in the winter months or non-horse race season. So, in addition to limiting the options available to potential visitors, the constraints on supply will likely raise the overall costs of securing a short-term rental in the City. With an ideal climate and weather, Del Mar and San Diego County are popular destinations year-round. People visit the area during the summer, spring break, and winter holidays. The City's proposed amendment will reduce the availability of STRs and limit the ability of the public to visit and stay in Del Mar.

Affordability

Hotel room rates in the City of Del Mar average \$314 per night (Del Mar 2017 Comprehensive Annual Financial Report, p. 138). The statewide average daily hotel rate is approximately \$160; therefore, hotels in Del Mar would likely not be considered lower or even moderate cost by the Commission's standards (VisitCalifornia; November 2016 CCC Public Workshop: Lower Cost Visitor Serving Accommodations). There are also presently no hostels, campgrounds, or other types of accommodations within the city that are generally considered to be 'lower cost.'

As it has been pointed out, many STRs rent at average nightly rates similar to local hotel rooms. Host Compliance reports a median nightly STR rate of \$331 and the City reports an average nightly hotel room rate of \$314, year-round. Information provided by local STR proponents indicates that hotel room rates can reach an average high of \$387 during peak summer weekends (not including additional taxes or fees) and STRs cost an average of \$194 per bedroom during similar peak summer periods. Proponents assert that STRs provide the ability to accommodate more people than a standard hotel room, thereby reducing costs for groups or families. However, cost comparison of STRs and hotels is inherently imperfect because they provide different amenities. Despite their nightly rate, STRs can provide a lower-cost option than a traditional hotel depending on site-specific circumstances, and comparison of nightly rates alone is not adequate. Of the listings analyzed by Host Compliance, 95% were for an entire residence, while just 3% were for a private room. Renting an entire home, which likely contains more than one bedroom, is much less expensive when shared amongst a family or group. Rather than pay for multiple hotel rooms, a group or family may split the cost of a STR, making the cost less per person. In addition, STRs offer additional amenities not provided by a typical hotel room. For example, STRs usually include full kitchens and common space in which visitors can spend time together, and many allow pets. The opportunity to prepare food onsite saves visitors the significant costs associated with taking all meals at restaurants. 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 higher than the price of a STR. By reducing the availability of STRs through a yearly cap, and a cap that is also particularly low, the proposed ordinance would be reducing the supply of a potentially more affordable overnight accommodations. And as the supply of STRs goes down, it is likely that rates will increase proportionate with visitor demand.

The City's proposed ordinance would limit STR stays to a minimum of 7 days, eliminating any opportunities for weekend and other shorter term vacation rentals. The strict prohibition on STRs to a minimum of 7 days could be prohibitive for many

vacationers who cannot afford the time and expense of a weekly rental. Given the proposed amendment, a person would not be able to stay in a STR in Del Mar for a weekend getaway, which may be the only time he/she can take off from work or school and spend time on the coast. In addition, when compared to hotels, which have no minimum stay requirements, a STR with a seven-day minimum stay may be more expensive, even considering the additional bedrooms and amenities.

Further, by imposing a restriction that only allows a property owner to rent their home as a STR for a maximum of 28 days per year, it is likely that STR operators will concentrate rentals in the months in which they can collect the highest rates, further exacerbating costs associated with overnight accommodations in Del Mar.

Location

In all cases, STRs increase the range of options available to coastal visitors, especially in residential areas along the immediate shoreline where there are limited commercial overnight opportunities, such as along the North and Main Beaches of Del Mar. Many of the City's existing STRs are located in neighborhoods that are immediately adjacent to the shoreline and that offer few or no commercial overnight options. The City's existing hotels are located primarily along Camino del Mar and, because of the topography of the area and the railroad, most don't provide immediate, walkable access to the beach. The Del Mar Motel on the Beach is the only oceanfront accommodation and it provides just 43 guest rooms. A large majority of the remaining beachfront is occupied by private residential development. In many cases, STRs in these residential areas will provide visitors with the only immediate, walkable access to the beach.

STRs in residential areas are also important for visitors seeking a more residential vacation experience, which oftentimes differs from the hotel/motel experience in the more downtown/commercial core. This experience includes having access to the full amenities of a typical residence, including a front and/or backyard, a kitchen and dining area, convenient and free parking, and expanded floor area. Thus, the experience from renting a STR in a residential area can vastly differ from that of a hotel, motel, or vacation rental in a commercial area.

The location and distribution of STRs is also important in terms of community character. Even for a relatively small city, Del Mar shows variation and neighborhood differences. The Del Mar Beach neighborhood (R1-10B, R1-5B, RM-East, and RM-West) is one area of the city with zones of similar characteristics and location. This area has historically provided vacation rentals. Based on data collected by the City in October 2017 comparing the number of owners located outside the 92014 zip code and the total number of owners, just 41% of the properties in this area are occupied by local residents. The neighborhoods surrounding the downtown Del Mar Village/Camino Del Mar (R1-5, R2, RM-Central, RM-South) also appears to include more of a split between local and out of town property ownership with 53% local owners. In contrast, the very low and low density neighborhoods more remotely located in the hills and furthest from the beach (R1-40, R1-14, R1-10) appear to be predominately occupied by local owners (approximately 74%). ([Exhibit 8](#))

The proposed limits on STRs would significantly restrict the stock of overnight accommodations near immediate coastal access and recreation opportunities and shoreline destinations. The proposed amendment makes no distinction between inland parts of the City and the shoreline and the City's blanket prohibition is broad and overly restrictive. In other words, the proposed amendment applies uniform treatment to all single and multiple dwelling unit zones of the City, and does not provide the type of nuanced policies for particular blocks or neighborhoods that are features of other STR regulatory programs elsewhere in the state. Additionally, residences in prime visitor-serving, beach-adjacent areas are not given any priority for use as a STR, which hinders the public's ability to access and recreate in these nearshore areas.

Conclusion

The City has not provided sufficient data, analysis, or justification to show that the proposed restrictions are necessary, nor that the proposed restrictions would serve to provide enough STRs and STR types to accommodate visitor demand for this important type of coastal accommodation consistent with the LUP. All of these issues are exacerbated by the fact that Del Mar is a significant visitor destination and such restrictive proposals will have a more pronounced effect on those families and groups most in need of the potential availability and affordability that STRs can provide and have historically provided.

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 or when the demand for overnight accommodations simply exceeds the supply. This is particularly true in popular visitor destinations like Del Mar, which sees a high number of visitors each year but has a small supply of overnight accommodations. STRs provide an important and complementary service to coastal visitors who may not otherwise be able to enjoy all that the City and the coastal region have to offer.

The proposed language restricting STR stays to a minimum of 7 days and a maximum of 28 rental days per year per STR unit will significantly reduce the availability and affordability of STRs in Del Mar. Therefore, the amendment as proposed by the City cannot be found to be consistent with the City's certified LUP.

PART V. FINDINGS FOR APPROVAL OF THE DEL MAR LCP IMPLEMENTATION PLAN AMENDMENT, IF MODIFIED

The City's proposed regulations for STRs were not found to conform with, and adequate to carry out, the certified LUP goals and policies as submitted. Therefore, staff is recommending the adoption of suggested modifications that would change the proposed minimum stay requirement and maximum number of rental days per year for STRs/homeshares in each of the residential zones.

The certified LUP contains policy language that protects and prioritizes visitor accommodations and recreational facilities, and requires that public coastal access be provided. In addition, the Commission has previously found that visitor-serving overnight accommodation uses, including STRs, are given preference because they maximize the opportunities provided for all the public to access the coast. As described above, these STR units can increase public coastal access by providing a wider selection of overnight accommodations in the Coastal Zone to groups and families that might not otherwise be able to afford a more expensive traditional option (i.e. hotels), and by including more units in areas where residential communities directly flank the shoreline.

Short-term rentals can, when not adequately regulated and enforced, result in impacts to the quality of life for permanent residents. Vacationers do not always have the same goals and incentives to be good neighbors as do long-term residents. Operational standards, such as those proposed by the City, can be used to limit potential conflicts between visitors and permanent residents and have been approved previously by the Commission. However, the proposed restrictions, a 7-day minimum stay and maximum 28 rental days per year, will result in reduced availability of STRs and will likely lead to increased STR rates, thereby eliminating opportunities for STRs to serve as a more affordable overnight accommodation.

Therefore, **Suggested Modifications #1-12** modify the proposed amendment to allow a property owner to rent their home for 180 days, rather than the proposed 28 days. This will result in a larger supply of STRs and will reduce the likelihood that STRs will become concentrated in the high seasons, promoting a range of opportunities and rates. By allowing a property owner to rent their home as a STR for 6 months, the limited number of hotels will be supplemented by STRs and will provide a better supply and variety of recreational opportunities and quality overnight accommodations, consistent with the LUP. In response to local concerns over neighborhood character, the 6-month restriction will prohibit commercial enterprises from purchasing properties and operating them exclusively as a STR on a year-round basis, thereby supporting the neighborhood character while still allowing an appropriate balance of overnight accommodations. Because of the ideal weather and climate in San Diego and the year-round events offered in Del Mar, a rental maximum of anything less than 6 months would likely be too restrictive. However, by putting a limit on the amount of time a dwelling can operate as a STR, rather than allowing it to operate as such year-round, concerns about neighborhood character are addressed.

Suggested Modifications #1-12 modify the minimum stay from 7 days to 3 days, which will allow for shorter, weekend stays that are more accessible to many members of the public. A minimum 3-day stay will allow for weekend stays and other shorter stays that may be all a visitor can afford in terms of time or expense. Sensitive to neighborhood concerns, the 3-day minimum provides for fewer turnovers than a 1-night stay would, while still affording visitor access.

With these modifications, the proposed amendment is consistent with the City's intent to establish regulations for STRs and with LUP goals to provide quality overnight

accommodations that provide citizens and visitors with a better variety and availability, and that are compatible with the surrounding community. Therefore, as modified, the Commission finds the LCP amendment consistent with the certified land use plan and approves it.

PART VI. CONSISTENCY WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Section 21080.9 of the California Environmental Quality Act (CEQA) exempts local government from the requirement of preparing an environmental impact report (EIR) in connection with its local coastal program. The Commission's LCP review and approval program has been found by the Resources Agency to be functionally equivalent to the EIR process. Thus, under CEQA Section 21080.5, the Commission is relieved of the responsibility to prepare an EIR for each LCP submission. The City prepared an initial study on August 17, 2017 and concluded that the proposed amendment is exempt from CEQA (Section 15301(Existing Facilities) and Section 15303 (New Construction or Conversion of Small Structures)) because the proposed regulations involve a negligible or no expansion of existing use and do not authorize or facilitate any construction or grading to occur.

Nevertheless, the Commission is required in an LCP submittal or, as in this case, an LCP amendment submittal, to find that the LCP, or LCP, as amended, does conform with CEQA provisions. In this particular case, the LCP amendment, with incorporation of the suggested modifications, will not have any significant adverse effects on the environment and there are no feasible alternatives or feasible mitigation measures available that would substantially lessen any significant adverse impact on the environment. The suggested modifications will ensure that adequate public access is provided and there will be no significant adverse impacts on coastal resources. Therefore, the Commission finds the subject LCP IP, as amended, conforms with CEQA provisions.