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Prepared July 20, 2018 for August 10, 2018 Hearing

To: Commissioners and Interested Persons

From: Susan Craig, Central Coast District Manager
Katie Butler, Coastal Planner

Subject: City of Pismo Beach LCP Amendment Number LCP-3-PSB-18-0051-1 (Short-Term Rentals)

SUMMARY OF STAFF RECOMMENDATION

The City of Pismo Beach proposes to amend its Local Coastal Program (LCP) to add new regulations to the Implementation Plan (IP) for homestays and short-term rentals (STRs) in the Single-Family Residential (R-1), Planned Residential (P-R), and Open Space Natural Resources Protection (O-S-1) zoning districts in the City of Pismo Beach. Specifically, the amendment would allow short-term rentals of bedrooms, accessory dwelling units (ADUs), and entire residences in single-family residential properties that are the primary residence of the property owner. The amendment would prohibit such short-term rentals in all other residential zones in the City; however, the amendment would not apply in the Downtown Core (where short-term rentals are already allowed) or other non-residential zones. The amendment also includes various operational requirements for homestays and STRs, including related to occupancy, visitors, parking, noise, traffic levels, and trash.

The proposed amendment is primarily a means to provide a regulatory structure to a category of use in the single-family residential districts of the City that is not currently explicitly regulated by the LCP. The proposed amendment provides an appropriate balance that is consistent with the LUP objectives of maintaining the City's vibrant tourism economy and ensuring cooperative use of the City by both residents and visitors. The proposed amendment provides an opportunity to regulate vacation rentals in a manner that protects coastal resources and access and recreational opportunities, as well as residential communities and community character, consistent with the requirements of the LUP.

In sum, the City has succeeded in identifying appropriate vacation rental regulations that address potential visitor-resident conflicts and that satisfy the sometimes competing objectives associated with facilitating public recreational opportunities near and within residential areas of the shoreline. Under the proposed rules, vacation rentals would be expected to effectively coexist in coastal single-family residential areas with better clarity on use parameters to ensure that they do not become problematic. As such, the proposed IP amendment can be found consistent with and

adequate to carry out the certified LUP and staff recommends that the Commission approve the amendment as submitted. The required motion and resolution is found on page 4 below.

Staff Note: LCP Amendment Action Deadline

This proposed LCP amendment was filed as complete on July 2, 2018. The proposed amendment affects the LCP's IP, and the 60-day action deadline is August 31, 2018. (*See* Pub. Res. Code Section 30513.) Thus, the Commission has until August 31, 2018 to take a final action on this LCP amendment unless the Commission extends the deadline to act up to one year, or August 31, 2019. (*See* Pub. Res. Code Section 30517.)

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EXHIBITS

Exhibit 1: Proposed IP Amendment

Exhibit 2: Map of Areas Affected by Proposed IP Amendment

I. MOTION AND RESOLUTION

Staff recommends that the Commission, after public hearing, approve the proposed LCP amendment as submitted. The Commission needs to make the following motion in order to act on this recommendation.

Certify the IP Amendment as Submitted

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

***Motion:** I move that the Commission reject Implementation Plan Major Amendment Number LCP 3-PSB-18-0051-1 as submitted by the City of Pismo Beach, and I recommend a **no** vote.*

***Resolution:** The Commission hereby certifies Implementation Plan Major Amendment Number LCP 3-PSB-18-0051-1 for the City of Pismo Beach and adopts the findings set forth below on the grounds that the Implementation Plan conforms with, and is adequate to carry out, the provisions of the certified Land Use Plan. Certification of the Implementation Plan 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 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. FINDINGS AND DECLARATIONS

A. DESCRIPTION OF PROPOSED LCP AMENDMENT

The proposed amendment would add a new chapter (17.113) to the Implementation Plan (IP) to regulate homestays and short-term rentals (STRs) in the Single-Family Residential (R-1), Planned Residential (P-R), and Open Space Natural Resources Protection (O-S-1) zoning districts in the City of Pismo Beach. Specifically, the amendment would allow short-term rentals of bedrooms, accessory dwelling units (ADUs), and entire residences in single-family residential properties that are the primary residence of the property owner. The amendment would prohibit such short-term rentals in all other residential zones in the City; however, the amendment would not apply in the Downtown Core (where short-term rentals are already allowed), as defined by Planning Area K of the Land Use Plan, or other non-residential zones, meaning that such areas would not be encumbered by the ordinance's proposed limits/restrictions on STR/homestay use. The amendment also includes new text in the definitions and in the R-1, P-R, and O-S-1 sections of the IP corresponding to the new regulations.

There are three definitions that are critical to understand in terms of how the proposed ordinance will be implemented: "primary residence," "homestays," and "short-term rentals." The proposed amendment defines "primary residence" as the dwelling that is occupied by the property owner for at least 50 percent of the year (defined as 183 days or more per year). The ordinance defines "homestays" as rentals of individual bedrooms, ADUs, or entire residences as long as the

property owner is residing either in the house or in the ADU for the duration of the rental. For homestays, the ordinance does not limit the number of rental days allowed per year (again, as long as the property owner is residing on the site). The ordinance defines “short-term rental” (STR) as rental of a detached single-family residence or ADU where the rented primary residence or ADU is not being concurrently occupied by the owner. There are no limits on the frequency of STR rentals as long as the “primary residence” requirement is met (i.e., as long as the owner lives on the property for 183 days or more of that year).

The proposed ordinance requires the property owner of each homestay and STR to obtain a license from the City. As part of the licensing process, the proposed ordinance further requires that property owners located within 300 feet of the proposed homestay/STR be notified that the property will be rented for such purposes, and also requires that these nearby property owners be provided the contact information for the owner of the homestay/STR property.

Finally, the ordinance also imposes various operational requirements on homestays and STRs, including maximum overnight occupancy by each individual or group, maximum number of visitors allowed during each homestay or STR rental, the minimum number of on-site parking spaces that must be provided (based on the number of bedrooms being occupied), noise restrictions, and rules pertaining to traffic levels and trash. All homestays and STRs would also be required to provide renters with a good neighbor policy consisting of a list of rules and responsibilities that must be adhered to during their stay. Each rental would be subject to an initial inspection by the City to confirm bedroom count, on-site parking availability, and applicable safety standards, and re-inspection in the event of complaints about operations at the rental.

Please see **Exhibit 1** for the proposed IP amendment text. See **Exhibit 2** for the zoning districts affected by this amendment.

B. CONSISTENCY ANALYSIS

Standard of Review

The proposed amendment affects the IP component of the City of Pismo Beach 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).

IP Consistency Analysis

Applicable LUP Policies

The City of Pismo Beach LUP contains principles and policies that provide for use of the City and its resources by both residents and visitors alike. The LUP acknowledges the City’s long history as a popular visitor destination, and emphasizes the Downtown Core as the heart of the City’s visitor-serving resources and appeal. Applicable LUP background text, principles, and policies include:

***LUP Introduction: Characteristics of the City.** Pismo Beach has been a popular tourist destination since the 1880's when John Price moved his hotel from the Arroyo Grande/Avila Road--where it had been a failure, down to the beach--where it thrived. Price laid out the town site of El Pismo around his hotel, and with the coming of the Southern Pacific Railroad*

in 1895, and later the coastal routing of State Highway 2 (now U.S. 101) in 1912; vacationers had easy access to the new town and the broad sandy beaches of central California.

Today, a hundred years later, tourism is still the dominant economic activity in Pismo Beach. The town is relatively small--7669 residents according to the 1990 U.S. Census--but visitors swell the local population on the average by a third, and on summer holidays by two to three times. The railroad no longer stops at Pismo Beach, but the U.S. 101 Freeway now forms the spine of the city, bringing travelers along this route to their only contact with the ocean edge for some three hundred miles between San Francisco and Santa Barbara County....

LUP Principle P-3: Resources and Open Space Belong to Everyone. *Pismo Beach is an integral part of the larger California coastal community, linked by shared resources that are prized by the state, national and even international community. Congenial and cooperative use of these resources by both residents and visitors is recognized. Solutions for cooperative use shall always be based on retaining the area's fragile charm and resources.*

LUP Principle P-15: Visitor/Resident Balance. *The California coast is an extremely desirable place to live, work and recreate that belongs to all the people. As such, congenial and cooperative use by both residents and visitors is recognized. Such use should capture the best attributes of the city and creatively determine the acceptable place, scale, intensity, rate and methods for development consistent with resource protection and public benefit.*

Downtown Core – Planning Area K: *The Downtown Core area encompasses downtown Pismo Beach, an important visitor-serving center of the city... The Commercial Core is a major tourist destination in the City. The sandy beaches provide opportunity for surfing, swimming, walking, surf fishing and other beach-oriented recreational activities. The close proximity of tent camping, motels and recreational vehicle parks and related commercial services provides the necessary overnight lodging to support the attractive beach areas.*

LUP Principle P-17 Downtown Focus for Residents and Visitors. *Downtown Pismo Beach shall be a city focal point with a blend of cultural, commercial, professional, residential and recreational uses catering to both visitors and residents of all ages. Tourism and visitor services shall be emphasized, carefully and conscientiously blending shopping, recreational and cultural activities for the visitor, with housing, retail and professional services needed by the residents of the community.*

The downtown area of Pismo Beach serves residents year-round, and in this context the downtown must remain inviting and pleasant to the citizens of the community. New development and revitalization of downtown should enhance the quality of life for the residents as well as better serve the needs of visitors.

LUP Policy LU-K-3.1 Mixed Residential (MR) District. *The Mixed Residential or MR District shall permit a mixture of hotels and motels along with apartments, condominiums and other similar residential uses. Restaurants may be permitted when secondary to onsite hotel use. It is expected that the visitor-serving uses will gravitate toward the beach and the*

major thoroughfares. Small convenience markets that serve the daily needs of residents and visitors would be allowed in this district.

LUP Policy LU-K-3.3 Mixed Use (MU) District. *The Mixed Use or MU District will provide for a wide variety of land uses including visitor lodging, commercial retail, restaurants, service uses, offices, and residential uses....¹*

Background

Currently, the LCP does not explicitly regulate homestays or STRs; however, the City has generally allowed them in certain areas (namely in the Downtown Core area as well as a few others in commercially-zoned areas in the City (see **Exhibit 2** for a map of these areas)),² and collects transient occupancy tax (TOT) for such existing STRs. In the Downtown Core, although STRs are not explicitly identified in the LCP, the City treats them as being allowed “by right,” meaning that they are an existing implied allowed use under the LCP given the visitor-serving nature of the Downtown Core area.³ Thus, the LCP envisions and encourages visitor-serving uses in the Downtown Core and other commercial areas, and the proposed amendment seeks to provide standards for STR/homestay use in the R-1, P-R, and O-S-1 zoning districts.⁴

In all other areas of the City, including residential zones, the City has not considered existing STRs to be legal under the LCP because commercial uses are not allowed in areas zoned for single-family residential uses. In recent years, the City has also experienced a proliferation of investor-owned STRs in the single-family residential districts, where residences are purchased for the sole purpose of STR use, resulting in a loss of housing stock. The City conducted extensive public outreach, and in response to community concerns (namely the retention of housing stock, the commercialization of residential areas, and the uncertain legal status of existing short-term rentals), the City developed the proposed ordinance to provide standards for STRs/homestays in residential areas, while continuing to encourage STRs/homestays in the Downtown Core and other commercial areas.

¹ Both the MR and MU land use designations apply to the Downtown Core.

² In 2010, the City submitted an LCP amendment (PSB-1-10 Part 2) that would have prohibited STRs in all of its residential zoning districts. In 2011, the Commission rejected the proposed amendment because it would have significantly restricted overnight accommodation opportunities for the visiting public and conflicted with LCP requirements for promoting public access and use of the City’s resources by both residents and visitors.

³ The LUP states that the Mixed Residential area of the Downtown Core shall permit “a mixture of hotels and motels along with apartments, condominiums, and other similar residential uses.” The corresponding Resort Residential zoning district “is intended to apply to those areas of the City where it is reasonable to permit a mixture of hotels and motels along with apartments, condominiums and other similar uses.” The Downtown Core is clearly identified in the LUP as the visitor-serving center of the City, with its close proximity to commercial uses, beach-oriented activities, and ample overnight accommodations. The City regulates short-term rentals in the Downtown Core under Title 5 (Business Taxes, Licenses, and Regulations) of the municipal code. The City states that 284 TOT-paying STRs operate in the Downtown Core and up to 15 TOT-paying STRs operate in other commercial zones in the City.

⁴ The O-S-1 zoning district is primarily a natural resource protection district with minimal structural development allowed. However, the LCP includes an allowance for residential development in this district if a property owner can demonstrate that the non-structural open space uses allowed under the zoning do not permit a feasible and beneficial use of the property from an economic standpoint (IP Section 17.051.030).

Proposed IP Amendment

To address operational issues associated with STRs/homestays, 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 throughout the coastal zone. These proposed operational standards are generally similar to other standards the Commission has approved for other communities, such as for San Luis Obispo County, Santa Cruz County, and the City of Santa Cruz, and are reasonable regulations to address potential STR issues. These types of standards have proven suitable in other communities for establishing a system in which STRs are allowed and regulated, and the potential impacts of their operations are clearly addressed. The City's proposed new operational and related standards can be found consistent with the above-cited LUP policies relating to preservation of community character, as well as with LUP provisions (e.g. LUP Principles P-3 and P-15) that protect public recreational access and visitor-serving uses and facilities.

To address the location and amount of STRs and homestays, the City proposes to add a section to the LCP that regulates STRs in the Single-Family Residential (R-1), Planned Residential (P-R), and Open Space Natural Resources Protection (O-S-1) zoning districts, and prohibits them in all other residential zones outside of the Downtown Core. The proposed regulations would not apply to the Downtown Core or other non-residential zones where STRs will continue to be allowed by right.⁵ In the R-1, P-R, and O-S-1 districts, homestays, short-term rentals of ADUs, and short-term rentals of entire residences would be allowed on single-family residential properties that are the primary residence of the property owner (as defined above); homestays and STRs would not be allowed in single-family residential properties that are not the primary residence of the owner.⁶ Furthermore, the proposed ordinance places no limits on the number, location, or rental frequency of STRs in the single-family residential districts as long as the primary residence requirement is met.

In general, the proposed amendment is primarily a means to provide a regulatory structure to a category of use in the single-family residential districts of the City that is not currently explicitly regulated by the LCP. The proposed amendment provides an appropriate balance that is consistent with the LUP's vision of maintaining the City's vibrant tourism economy as well as the LUP's core principles that allow for determination of the acceptable place, scale, and intensity of use of the City by both residents and visitors (LUP Principle P-15) and that recognize congenial and cooperative use of the City's resources by both residents and visitors (LUP Principles P-3 and P-15). The proposed rules are not a prohibition or a ban and are not structured to reduce the utility of vacation rentals for lower-cost users (e.g., the rules do not include a required length of stay). Rather, establishing vacation rentals with a primary residence requirement as an allowed use in the single-family residential zoning districts where stand-alone

⁵ The proposed ordinance states: "To the extent that vacation rentals, short-term rentals, or equivalent uses are permitted in the Downtown Core, as defined by Planning Area K of the General Plan, or other non-residential zones, such rentals shall not be subject to this Chapter."

⁶ The City indicates that almost all of the 284 existing STRs in the Downtown Core are not the primary residences of the owners and are strictly vacation-rental-only homes, so this type of rental would continue to exist in the City's mix of available overnight accommodation options in the Downtown Core along with the primary-residence rentals in the single-family zoning districts.

residential use is allowed protects coastal access and recreation opportunities and is consistent with the LUP's balancing of visitor and resident needs. The proposed amendment provides an opportunity to regulate vacation rentals in a manner that protects coastal resources and access and recreational opportunities, as well as residential communities and community character, consistent with the requirements of the LUP.

In sum, the City has succeeded in identifying appropriate vacation rental regulations that address potential visitor-resident conflicts and that satisfy the sometimes competing objectives associated with facilitating public recreational opportunities near and within residential areas of the shoreline. Under the proposed rules, vacation rentals would be expected to effectively coexist in coastal single-family residential areas with better clarity on use parameters to ensure that they do not become problematic. For all the reasons discussed above, the proposed IP amendment can be found consistent with and adequate to carry out the certified LUP.

C. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

The Coastal Commission's review and development process for LCPs and LCP amendments has been certified by the Secretary of Resources as being the functional equivalent of the environmental review required by CEQA. (14 CCR Section 15251(f).) Local governments are not required to undertake environmental analysis of proposed LCP amendments (Pub. Res. Code Section 21080.9), although the Commission can and does consider any environmental information that the local government has developed in evaluating LCPs and LCP amendments. CEQA generally requires that alternatives to a proposed action be reviewed and considered for their potential impact on the environment and that the least damaging feasible alternative be chosen as the alternative to undertake.

The City of Pismo Beach found under Section 15061(b)(3) of the State CEQA Guidelines that the proposed LCP amendment was exempt from the requirements of CEQA because it would not have the potential for causing a significant effect on the environment. This report has discussed the relevant coastal resource issues with the proposal. All above findings are incorporated herein in their entirety by reference.

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).