

**CALIFORNIA COASTAL COMMISSION**

SOUTH CENTRAL COAST AREA  
89 SOUTH CALIFORNIA ST., SUITE 200  
VENTURA, CA 93001  
(805) 585-1800



# F17a

**DATE:** July 19, 2018

**TO:** Commissioners and Interested Persons

**FROM:** Steve Hudson, Deputy Director  
Barbara Carey, District Manager  
Deanna Christensen, Supervising Coastal Program Analyst  
Megan Sinkula, Coastal Program Analyst

**SUBJECT:** Revised Findings on County of Santa Barbara Local Coastal Program Amendment No. LCP-4-STB-17-0086-3 (Short-Term Rentals Ordinance), for public hearing and Commission action at the August 10, 2018 Commission Hearing in Redondo Beach.

---

## SUMMARY OF COMMISSION ACTION

On May 10, 2018, the Coastal Commission denied the subject Santa Barbara County LCP amendment request to add new regulations to address short-term rentals and homestays by a vote of 7-5. Since the Commission action differed from the staff recommendation of approval with suggested modifications, this report contains revised findings to reflect the Commission's action to deny the amendment request. Commissioners who are eligible to vote on the revised findings are those from the prevailing side who were present at the May 10, 2018 hearing (Commissioners Bochco, Brownsey, Groom, Howell, Luévano, Padilla, and Aminzadeh). Changes to the findings are shown in ~~strike through~~ and underline starting on page 4.

At the May 10, 2018 hearing, the Commission found that the County's proposed amendment, if approved, would limit public access by reducing existing, and prohibiting and unduly restricting the potential for future, residential overnight accommodations for coastal visitors in an area of the Coastal Zone that has few available overnight accommodations. The Commission further found that the amendment's proposed reduction of and limitation on overnight visitor-serving opportunities was inconsistent with the LCP's policies and provisions that protect public recreational access and visitor-serving opportunities in the County's Coastal Zone, as well as the applicable policies of the Coastal Act that protect public access and visitor-serving opportunities, which have been incorporated into the County's Land Use Plan.

## STAFF RECOMMENDATION ON REVISED FINDINGS

Staff is recommending that the Commission adopt the following revised findings in support of the Commission's action on May 10, 2018, to deny Santa Barbara County's LCP amendment request No. LCP-4-STB-17-0086-3 (Short-Term Rentals Ordinance). The motion to accomplish this recommendation is found on Page 4 of this staff report.

## TABLE OF CONTENTS

<b>I. PROCEDURAL OVERVIEW .....</b>	<b>3</b>
A. STANDARD OF REVIEW .....	3
B. PUBLIC PARTICIPATION .....	3
C. PROCEDURAL REQUIREMENTS.....	3
<b>II. MOTION AND RESOLUTION.....</b>	<b>4</b>
<b>III. FINDINGS AND DECLARATIONS.....</b>	<b>4</b>
A. AMENDMENT DESCRIPTION.....	4
B. FINDINGS FOR DENIAL OF THE LCP AMENDMENT.....	11
C. CALIFORNIA ENVIRONMENTAL QUALITY ACT .....	19

### EXHIBITS

[Exhibit 1 – Vicinity Map](#)

[Exhibit 2 – Coastal Historic Overlay](#)

[Exhibit 3 – Santa Barbara County Board of Supervisors Resolution No. 17-253](#)

[Exhibit 4 – Santa Barbara County Ordinances Nos. 5016 and 5017 containing the proposed Coastal Zoning Ordinance amendment text](#)

## **I. PROCEDURAL OVERVIEW**

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

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

### **B. PUBLIC PARTICIPATION**

Section 30503 of the Coastal Act requires public input in the preparation, approval, certification and amendment of any LCP. The County of Santa Barbara held eight public hearings on the subject of this amendment request. Specifically, the Board of Supervisors considered the proposed amendment on December 6, 2016 and June 6, 2017, the County Planning Commission considered the proposed amendment on November 4, 2015, December 9, 2015, February 24, 2016, and August 3, 2016, and the Montecito Planning Commission considered the proposed amendment on November 4, 2015 and September 21, 2016. The County of Santa Barbara also conducted public outreach on the subject of this amendment at the Agricultural Advisory Committee Meetings on January 6, 2016, February 3, 2016, and July 6, 2016 and the Agricultural Preserve Advisory Committee Meetings on February 5, 2016 and July 8, 2016. The County conducted public workshops on the subject amendment on August 18, 2015 in Buellton and on August 20, 2015 in Montecito, as well as public meetings on the subject amendment on July 16, 2015 in Buellton and on July 30, 2015 in Montecito. All hearings were duly noticed to the public consistent with Sections 13552 and 13551 of the California Code of Regulations. Notice of the subject amendment was posted in a local newspaper at least ten days prior to the May 10, 2018 Coastal Commission hearing, and individual notices have been distributed to all known interested parties.

### **C. PROCEDURAL REQUIREMENTS**

Pursuant to Section 13551(b) of Title 14 of the California Code of Regulations, the County's submittal may specify that a LCP amendment will either require formal local government adoption after the Commission approval, or that it is an amendment that will take effect automatically upon the Commission's approval pursuant to Public Resources Code Sections 30512, 30513, and 30519. In this case, the County's Ordinances Nos. 5016 and 5017 state that it will take effect immediately. However, the Commission denied the LCP amendment during the May 10, 2018 hearing, and no further action is required by either the Commission or the County. The LCP amendment is not effective.

## II. MOTION AND RESOLUTION

**MOTION:** *I move that the Commission adopt the revised findings in support of the Commission’s action on May 10, 2018, concerning its denial of Implementation Plan Amendment No. LCP-4-STB-17-0086-3 submitted by the County of Santa Barbara.*

Staff recommends a **YES** vote on this motion. Passage of this motion will result in the adoption of revised findings as set forth in this staff report. The motion requires a majority vote of the members from the prevailing side present at the revised findings hearing, with at least three of the prevailing members voting. Only those Commissioners on the prevailing side of the Commission’s action are eligible to vote on the revised findings.

### **RESOLUTION TO ADOPT REVISED FINDINGS:**

*The Commission hereby adopts the findings set forth below in support of its May 10, 2018, denial of Implementation Plan Amendment No. LCP-4-STB-17-0086-3, submitted by the County of Santa Barbara, on the grounds that the findings support and accurately reflect the reasons for the Commission’s May 10, 2018, denial of the amendment.*

## III. FINDINGS AND DECLARATIONS

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

### **A. AMENDMENT DESCRIPTION**

The County of Santa Barbara (**Exhibit 1**) is requesting an amendment to the Implementation Plan/Coastal Zoning Ordinance (IP/CZO) component of its certified Local Coastal Program (LCP) to regulate short-term rentals. These proposed changes are described in detail below. The ordinance language is attached as **Exhibit 4**.

#### Definitions

The County proposes to add twelve definitions to Division 2 of Article II (Chapter 35, Section 35-58): Bed and Breakfast, Homestay, Hosting Platform, Long-term Tenant or Owner, Visitor, Residential Structure, Short-term Rental, Transient, Local, Local Contact, Managing Agency, and Operator.

Section 35-58 is proposed to be amended to include the definition of “Bed and Breakfast” as a residential structure with one or more bedrooms rented for overnight lodging, where meals may be provided subject to applicable County health regulations.

Section 35-58 is proposed to be amended to include the definition of “Homestay” as a residential structure, including portions thereof, rented for thirty consecutive days or less where the owner

or long-term tenant of the property inhabits a legal dwelling on the same lot at the same time as the transient occupant.

In order to provide greater clarity to Section 35-144S (Homestay), Section 35-58 is proposed to be amended to include the definitions of “Hosting Platform”, “Long-term Tenant or Owner”, and “Visitor.” “Hosting Platform” is defined as a marketplace which facilitates the consummation of Homestay agreements through advertising and from which, in whatever format, information is provided about or relating to a residential structure, including portions thereof, for occupancy as a Homestay. “Long-term Tenant or Owner” is defined as a person who is the owner of the property or who rents the property for 6 months or more. Additionally, “Visitor” is defined as a person who enters the property on which a Homestay is located for the purpose of visiting, seeing or communicating with the transient occupant of the Homestay.

Section 35-58 is proposed to be amended to include a definition of “Residential Structure” as a structure containing one or more dwelling units, except for a mixed use building.

Section 35-58 is proposed to be amended to include a definition of “Short-term Rental” as a structure which is rented for overnight lodging, in whole or in part and with or without the presence onsite of the owner or representative of the owner, for thirty consecutive days or less.

Section 35-58 is proposed to be amended to include a definition of “Transient” or transient occupant as any person who exercises occupancy or is entitled to occupancy by reason of concession, permit, right of access, license or other agreement for a period of thirty consecutive days or less. The definition further clarifies that any such person that occupies space in any lodging use shall be considered a transient until the expiration of thirty days or less except where there is an agreement between the owner or operator and the occupant that provides for a longer period of occupancy.

In order to facilitate the implementation of the operating standards within the Short-term Rental Coastal Historic Overlay (**Exhibit 2**), Section 35-58 is also proposed to be amended to include definitions of “Local”, “Local Contact”, “Managing Agency”, and “Operator.” “Local” is defined as belonging or relating to a particular area or neighborhood, typically within thirty miles of its center, and “local contact” is defined as a person designated by the operator of the short-term rental who shall be available during the term of any short-term rental for the purpose of responding to complaints regarding the condition or operation of the dwelling or portion thereof used as a short-term rental or the conduct of transient occupants, as well as taking remedial action to resolve such complaints. “Managing Agency” is defined as any person, enterprise, or agency representing, directly or indirectly, the property owner or operator of a dwelling which is used as a short-term rental. “Operator” is defined as a person or enterprise who is the property owner or proprietor of a dwelling, and is intended to include operators that function in the capacity of owner, lessee, sub-lessee, mortgagee in possession, and licensee (or in any other capacity). This definition clarifies that if the operator performs his or her functions through a Managing Agency or Rental Agent, the agency or agent is considered to have the same duties as its principal.

### Short-term Rentals Coastal Historic Overlay

The County proposes to amend the IP/CZO to add a Coastal Historic Overlay map as Figure No. 35-102.2.A (as shown in **Exhibit 2**) and to add the Short-term Rentals Coastal Historical Overlay to the list of overlay districts found in Section 35-53. This area would be the only *residentially* zoned location in the County where short-term rentals would be an allowed use. The Overlay encompasses the approximately 97-acre Miramar Beach community which is bordered by U.S. Highway 101 to the north, Posilipo Lane to the east, Miramar Beach to the south, and Danielson Road and Via Del Mar to the west. There are approximately 170 residential dwellings within the proposed Overlay District that could potentially obtain permits and operate as short-term rentals. Currently, there are 14 short-term rentals operating within the proposed Short-term Rentals Coastal Historic Overlay although up to 39 rentals have operated here in the past. The County is not proposing to place a cap on the number of allowable units within the Overlay District.

This residentially zoned area was selected by the County as an appropriate location for the Overlay District because the County determined that this area has a clearly documented history of short-term rental use. During the creation of the Overlay District, County planning staff gathered evidence that demonstrated a pattern of historic use of short-term rentals within the Miramar Beach neighborhood, which included interviews with residents of the neighborhood, County planning staff knowledge of signage advertising such use, and collection and analysis of historic transient occupancy tax data. Additionally, the County considers the Miramar Beach neighborhood to be an appropriate location for short-term rentals because it is within an area that contains coastal recreation areas (e.g., Miramar Beach, Hammonds Beach, Butterfly Beach), and it is in close proximity to Montecito Village and Montecito's commercial core along Coast Village Road.

### Short-Term Rentals

The County proposes to define short-term rentals as a structure that is rented for overnight lodging, in whole or in part and with or without the presence onsite of the owner or representative of the owner, for thirty consecutive days or less. The proposed amendment distinguishes short-term rentals from homestays by having different requirements for when the owners or operators of the property are required to be present on the property. More specifically, the proposed amendment allows the owner (or representative of the owner) of a short-term rental to *be present or not present* during the rental period, whereas the owner (or representative of the owner) of a homestay *must be present* on the property during the rental period.

The County proposes to amend Sections 35-77A.3, 35-78.3, 35-80, and 35-81 of the IP/CZO to establish short-term rentals as an allowed use within the Limited Commercial, Retail Commercial, Resort/Visitor Serving Commercial, and Highway Commercial zoning districts, as well as within a proposed Short-term Rentals Coastal Historic Overlay (**Exhibit 2**) in the residentially zoned neighborhood of Miramar Beach (described above). The amendment also adds Sections 35-102.5, 35-102.6, 35-102.7, and 35-144T to include standards for the permitting and operation of short-term rentals within these zoning districts.

Sections 35-102.5, 35-102.6, 35-102.7, and 35-144T contain a number of administrative details regarding Coastal Development Permit and Land Use Permit applications and renewal requirements for the operation of short-term rentals, details regarding the potential for revocation of Coastal Development Permits, and comprehensive operating standards. Existing short-term rentals within the zoning districts where this will be an allowed use, subject to certification of this proposed amendment, must first apply for and receive a Coastal Development Permit to operate as a short-term rental within ninety days following certification of this amendment or within 333 days after the Board of Supervisors adopted this amendment, whichever is later. If a Coastal Development Permit is not issued within this given timeframe, then the use of the existing structures as short-term rentals must cease or it will be considered a violation of the LCP subject to penalties and enforcement.

Additionally, existing short-term rentals within the zoning districts that will be specifically disallowed through certification of the proposed IP/CZO amendment must cease use as short-term rentals no later than ninety days following the certification of this amendment or within 333 days after the Board of Supervisors adopted this amendment, whichever is later. If this use does not cease within the given timeframe, then the existing short-term rental will be considered a violation of the LCP and subject to penalties and enforcement.

The proposed amendment also provides comprehensive operating standards for short-term rentals, including requirements for compliance with fire, building, and health codes; prohibitions on short-term rentals within dwellings subject to restricted use agreements with the County, affordable housing units, agricultural employee housing, farmworker housing, cabañas, guest houses, as well as structures that cannot legally be used as a dwelling (e.g., agricultural accessory structures, tents, trailers, vehicles, and yurts); allowance of only one short-term rental per lot and prohibition on all signage advertising for short-term rentals; requirements for the provision of all internet listing materials to be provided to the County; requirements that establish maximum occupancy standards, which do not allow more than two persons per bedroom (excluding children under three years of age) and limitations on the number of visitors to a short-term rental to no more than two times the number of transient occupants of the rental; and provisions for parking requirements that include one parking space per bedroom, consistency with the existing certified parking requirements of the IP/CZO, and the prohibition of any on-street parking associated with the short-term rental.

In order to avoid adverse impacts and disturbance to nearby residents from short-term rentals, the proposed amendment also includes very specific limitations on noise generation from the use of short-term rentals. The amendment specifies that the volume of sound generated by the short-term rental between the hours of 8:01 a.m. and 9:59 p.m. cannot exceed 65 dB or existing ambient noise levels, whichever is greater, and between the hours of 10:00 p.m. and 8:00 a.m., the volume of sound generated by the short-term rental cannot exceed 45 dB or existing ambient noise levels, whichever is greater.

Furthermore, the proposed operating standards require the posting of a notice within each short-term rental unit that provides the contact information for the local contact assigned to the unit, the maximum number of occupants allowed within the unit, the maximum number of vehicles allowed to be parked on the property of the unit, the applicable noise standards (discussed

directly above), and a notification that failure to comply with the applicable operating standards will result in a violation of the LCP, penalties, and enforcement.

In addition, the operating standards include the requirement of a “Nuisance Response Plan” to eliminate the potential for any persistent conflict of use issues between the short-term rental and the neighboring community. Specifically, the operator, property owner, or managing agency must submit (and update) contact information for a local contact, prior to Coastal Development Permit issuance, who will be available on a 24-hour basis to respond to any complaints and to take remedial action, if necessary, to address any such complaints. The proposed amendment language notes that the failure of the local contact to respond to complaints in a “timely and appropriate” manner may result in revocation of the permit allowing the short-term rental use. The proposed amendment clarifies that a timely and appropriate manner requires the local contact to respond to any complaints within one hour from the time the initial complaint is made, and corrective action to address the complaint, if needed, is required to be undertaken within two hours from the time the initial complaint is made.

The proposed amendment also contains details regarding the permit renewal process required to operate short-term rentals. The proposed amendment states that a Coastal Development Permit issued for a short-term rental shall only be valid for one year, at which point, the owner or operator must annually obtain a Land Use Permit to continue the short-term rental use. The application for the Land Use Permit must be submitted no later than thirty days prior to the expiration of the Coastal Development Permit. If the approval of a Land Use Permit for the continuation of the short-term rental use is appealed, the validity of the Coastal Development Permit will be extended until the appeal process for the Land Use Permit concludes.

Finally, the proposed amendment provides five criteria that will serve as the basis for revocation of Coastal Development Permits and Land Use Permits to operate short-term rentals in addition to the existing certified criteria for revocation of permits found in Sections 35-169.8 and 35-178.7 of the IP/CZO. The amendment establishes that a Coastal Development Permit or Land Use Permit may be revoked if the permit applicant: (1) makes alterations to the property that do not conform to the original permit approval (e.g., removal of required parking); (2) is found to have submitted false or misleading information to the County, particularly in regards to the permit application; (3) fails to comply with conditions of the permit(s); (4) fails to comply with any other required County, state, or local permit; and/or (5) fails to comply with the requirements of the Nuisance Response Plan.

### Homestays

The County proposes to define homestays as a residential structure, including portions thereof, rented for thirty consecutive days or less where the owner or long-term tenant of the property inhabits a legal dwelling on the same lot at the same time as the transient occupant. As discussed above, the proposed amendment distinguishes short-term rentals from homestays with the requirement of where the owners or operators of short-term rentals and homestays are required to be present. More specifically, the proposed amendment allows the owner (or representative of the owner) of a short-term rental to *be present or not present* during the rental period, and the owner (or representative of the owner) of a homestay *must be present* during the rental period.

The County proposes to amend Sections 35-68.3, 35-70.3, 35-71.3, 35-72.3, 35-73.3, 35-74.4, and 35-75.7 of the IP/CZO to establish homestays as an allowed use within the Agriculture I, Rural Residential, Single-Family Residential, Two-Family Residential, One-Family Exclusive Residential, Design Residential, and Planned Residential Development zoning districts. Within these zoning districts where homestays will be allowed, pursuant to certification of this amendment, there are approximately 3,350 dwellings that could potentially obtain permits and operate as homestays. Since the County proposes to allow homestays in almost all of the residential zoning districts and the proposed regulations for homestays require the owner or long-term tenant to be present on the property, but not necessarily within the same legal dwelling as the transient occupant of the homestay, occupants of properties that contain multiple legal dwellings would be able to stay within a separate legal dwelling from that of the owner or long-term tenant and homestays could, in some instances, function similarly to short-term rentals.

The only residential zoning districts within the Coastal Zone of the County where homestays will not be allowed are the Medium Density Student Residential and High Density Student Residential zoning districts in the community of Isla Vista (around the University of California Santa Barbara), due to the fact that these two zoning districts already have a higher density of residents and the County believes that incentivizing an even higher density within these areas would be unduly burdensome on public services, traffic, and parking within these already densely developed areas.

The amendment also adds Section 35-144S to include standards for the permitting and operation of homestays within these zoning districts. Section 35-144S contains a number of administrative details regarding Coastal Development Permit application and renewal requirements for the operation of homestays, details regarding the potential for revocation of Coastal Development Permits and Land Use Permits, and comprehensive operating standards. The proposed amendment specifies that regardless of the number of properties owned, a property owner cannot possess more than one homestay permit at any given time. Additionally, the amendment restricts homestays to no more than three bedrooms of a legal dwelling unit.

The proposed amendment also provides comprehensive operating standards for homestays, including requirements for compliance with fire, building, and health codes; requirement that the owner or long-term tenant must reside on the property at the same time as the transient occupant of the homestay, prohibitions on homestays within dwellings subject to restricted use agreements with the County, affordable housing units, agricultural employee housing, farmworker housing, cabañas, guest houses, as well as structures that cannot legally be used as a dwelling (e.g., agricultural accessory structures, tents, trailers, vehicles, and yurts); prohibition on all signage advertising for homestays; requirements for the provision of all internet listing materials to be provided to the County; requirements that establish maximum occupancy standards, which do not allow more than two persons per bedroom (excluding minor children) and limitations on the number of visitors to a homestay to no more than two times the number of transient occupants of the rental; and provisions for parking requirements that include consistency with the existing certified parking requirements of the IP/CZO and the requirement that all parking shall be provided on the lot on which the Homestay is located.

In order to avoid adverse impacts of short-term rentals on neighboring communities, the proposed amendment also includes very specific limitations on noise generation from the use of homestays. The amendment specifies that the volume of sound generated by the homestay between the hours of 8:01 a.m. and 9:59 p.m. cannot exceed 65 dB or existing ambient noise levels, whichever is greater, and between the hours of 10:00 p.m. and 8:00 a.m., the volume of sound generated by the homestay cannot exceed 45 dB or existing ambient noise levels, whichever is greater.

Furthermore, the proposed operating standards require the owner or long-term tenant of the homestay to provide proof of ownership or long-term tenancy with the homestay permit application. If the homestay permit application is submitted by the long-term tenant of the property, the owner of the homestay is required to sign the permit application.

In addition, the operating standards include the requirement of a “Nuisance Response Plan” to eliminate the potential for any persistent conflict of use issues between the homestay and the neighboring community. Specifically, the owner or long-term tenant must submit (and update) their contact information and be available by telephone on a 24-hour basis to respond to any calls regarding the homestay. The proposed amendment language notes that the failure to respond to calls regarding the homestay in a “timely and appropriate” manner may result in revocation of the permit allowing the homestay use. The proposed amendment clarifies that a timely and appropriate manner requires the owner or long-term tenant to respond to any complaints within one hour from the time the initial complaint is made, and corrective action to address the complaint, if needed, is required to be undertaken within two hours from the time the initial complaint is made.

The proposed amendment also contains details regarding the permit renewal process required to operate homestays. The proposed amendment states that a Coastal Development Permit issued for a homestay shall only be valid for one year, at which point, the owner or long-term tenant must annually obtain a Land Use Permit to continue the homestay use. The application for the Land Use Permit must be submitted no later than thirty days prior to the expiration of the Coastal Development Permit. If the approval of a Land Use Permit for the continuation of the homestay use is appealed, the validity of the Coastal Development Permit will be extended until the appeal process for the Land Use Permit concludes.

Finally, the proposed amendment provides four criteria that will serve as the basis for revocation of Coastal Development Permits and Land Use Permits to operate homestays in addition to the existing certified criteria for revocation of permits found in Sections 35-169.8 and 35-178.7 of the IP/CZO. The amendment establishes that a Coastal Development Permit or Land Use Permit may be revoked if the permit applicant: (1) makes alterations to the property that do not conform to the original permit approval (e.g., removal of required parking); (2) is found to have submitted false or misleading information to the County, particularly in regards to the permit application; (3) fails to comply with conditions of the permit(s); and/or (4) fails to comply with any other required County, state, or local permit.

## **B. FINDINGS FOR DENIAL OF THE LCP AMENDMENT**

### **1. Coastal Act Policies**

The County has incorporated all Chapter 3 policies of the Coastal Act into the certified Land Use Plan (LUP) as guiding policies of the LUP.

Coastal Act Section 30210 states:

*In carrying out the requirements 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.*

Coastal Act Section 30213 states, in relevant part:

*Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided.*

Coastal Act 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 generic commercial development, but not over agriculture or coastal-dependent industry.*

~~Coastal Act Section 30241 states, in relevant part:~~

~~*The maximum amount of prime agricultural land shall be maintained in agricultural production to assure the protection of the areas' agricultural economy, and conflicts shall be minimized between agricultural and urban land uses...*~~

~~Coastal Act Section 30242 states:~~

~~*All other lands suitable for agricultural use shall not be converted to nonagricultural use unless (1) continued or renewed agricultural use is not feasible, or (2) such conversion would preserve prime agricultural land or concentrate development consistent with Section 30250. Any such permitted conversion shall be compatible with continued agricultural use on surrounding lands.*~~

Coastal Act Section 30250(c) states:

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

## 2. Existing LUP Policies

County of Santa Barbara Land Use Plan Policy 4-6 states:

~~Signs shall be of size, location, and appearance so as not to detract from scenic areas or views from public roads and other viewing points.~~

County of Santa Barbara Land Use Plan Policy 7-1 states, in relevant part:

*The County shall take all necessary steps to protect and defend the public's constitutionally guaranteed rights of access to and along the shoreline.*

County of Santa Barbara Land Use Plan Policy 7-18, in relevant part:

*Expanded opportunities for access and recreation shall be provided in the Gaviota Coast planning area.*

County of Santa Barbara Land Use Plan Policy, in relevant part:

*Expanded opportunities for public access and recreation shall be provided in the North Coast planning area.*

County of Santa Barbara Land Use Plan Policy 7-30 states:

*Visitor-serving facilities shall be permitted in rural areas only if it is determined that approval of such development will not result in a need for major ancillary facilities on nearby lands, i.e., residences, stores, gas stations.*

Eastern Goleta Valley Community Plan Policy LUA-EGV-1.1 states:

~~Agricultural resources, agricultural land uses and operations, and distinctive urban and rural agricultural characteristics shall be preserved to the greatest extent feasible.~~

Eastern Goleta Valley Community Plan Policy LUA-EGV-1.5 states:

~~Agricultural land within the Urban Area shall be preserved for urban agricultural uses to the greatest extent feasible.~~

Eastern Goleta Valley Community Plan Policy N-EGV-1.1 states:

~~Noise impacts to interior noise sensitive land uses, such as residential, educational, medical, lodging, public meeting spaces, or others specified by the Noise Element of the Comprehensive Plan, shall be minimized.~~

Eastern Goleta Valley Community Plan Policy N-EGV-1.2 states:

~~Levels and duration of noise in existing residential neighborhoods shall be maintained consistent with the Noise Element.~~

Montecito Community Plan Policy N-M-1.1 states:

~~Noise sensitive uses (i.e., residential and lodging facilities, educational facilities, public meeting places and others specified in the Noise Element) shall be protected from significant noise impacts.~~

~~Toro Canyon Plan Policy LUA-TC-2 states:~~

~~Land designated for agriculture within Toro Canyon shall be preserved and protected for agricultural use.~~

### **3. IP/CZO Amendment Consistency Analysis**

To approve the proposed amendment to the IP/CZO, the Commission must find the IP/CZO, as amended, conforms with, and is adequate to carry out, the provisions of the County's certified Land Use Plan (LUP) pursuant to Section 30513 of the Coastal Act. Furthermore, LUP Policy 1-1 incorporates the policies of the Coastal Act as the guiding policies of the LUP.

#### Visitor-Serving Accommodations

The Commission has found that short-term vacation rentals, including those in residential areas, provide an important visitor-serving asset. These rentals can increase public access to the coast, provide large groups and families traveling together the opportunity to divide up the cost of accommodations, and in many cases, provide the facilities necessary for guests to cook their own meals and avoid the added travel expense of dining out. In some cases, these rentals offer a lower price point than expensive hotel options near the coast.

While short-term rentals have been available in the County of Santa Barbara dating back decades, the number and geographic location of short-term rentals has expanded considerably in recent years, which can increase the potential for adverse impacts on some residential neighborhoods. The County found that while short-term rentals serve as an important lodging resource and contributor to the local economy, these rentals can have negative impacts on the character of residential neighborhoods and the availability of housing. In an attempt to address these issues while still allowing this visitor-serving use, the County has proposed an amendment that substantially limits short-term rentals by allowing them only in one residential areas that the County believes is able to accommodate such use, allows short-term rentals in all commercial zoning districts, and allows the generally lower-cost use of homestays in almost all residential zoning districts, and creates a regulatory framework (detailed above) for both short term rentals and homestays that will serve to minimize the potential for adverse impacts on the residential neighborhoods where these uses will be allowed.

Coastal Act Sections 30213, 30222, and 30250(c) protect both lower cost visitor-serving facilities and visitor-serving facilities within the Coastal Zone, encourage the development of such facilities, and prioritize these facilities over private residential land uses. Section 3.7.7 of the County's certified LUP recognizes the critical function of visitor-serving overnight accommodations by stating that "visitor-serving facilities together with public parks and beaches provide the major opportunities for public access and recreation on the coast." In addition, LUP Policies 7-18 and 7-22 require the expansion of opportunities for public coastal access and recreation within the Gaviota and North Coast planning areas. As proposed, short-term rentals would be an allowed use within the Limited Commercial, Retail Commercial, Resort/Visitor Serving Commercial, and Highway Commercial zoning districts, ~~as well as within a proposed Short-term Rentals Coastal Historic Overlay (Exhibit 2) in the residentially zoned neighborhood of Miramar Beach (described above).~~ The amendment also proposes to allow homestays within

the Agriculture I, Rural Residential, Single-Family Residential, Two-Family Residential, One-Family Exclusive Residential, Design Residential, and Planned Residential Development zoning districts. However, the amendment only proposes to allow short-term rentals to operate within one residential area of the County. Specifically, the County proposes to create a Short-term Rentals Coastal Historic Overlay (Exhibit 2) within which short-term rentals would be an allowed use in the residentially zoned neighborhood of Miramar Beach (described above). The Miramar area has a history of short term rentals; however, other areas of the County's coast also have a history of short term rentals, as evidenced by the numerous letters and oral testimony provided by members of the public who have been staying in such rentals for decades.

Currently, there are 14 short-term rentals operating within the proposed Short-term Rentals Coastal Historic Overlay, and the County is not proposing to place a cap on the number of allowable units within the Overlay District or the commercial zones where this use will also be allowed. There are approximately 170 residential dwellings within the proposed Overlay District that could potentially obtain permits and operate as short-term rentals. The County was not able to provide an approximation of how many potential short-term rental units could be developed within the commercial zones. If the proposed amendment is certified, approximately 506 existing short-term rentals County-wide and 142 existing short-term rentals within the Coastal Zone would fall outside of zoning districts where such uses will be allowed, and these short-term rentals would become non-conforming uses with either ninety days following certification of this proposed amendment or 333 days after the Board of Supervisors adopted this amendment, whichever is later, to cease such use. If this use does not cease within the given timeframe, then the existing non-conforming short-term rental will be considered a violation of the LCP subject to enforcement and penalties. However, the existing short-term rentals within the Agriculture I, Rural Residential, Single-Family Residential, Two-Family Residential, One-Family Exclusive Residential, Design Residential, and Planned Residential Development zoning districts may be used for homestays, subject to the permit requirements and operating standards proposed in this amendment. Overall, the proposed amendment, if certified, would cause a significant net reduction in visitor-serving overnight accommodations.

The County has proposed the limited residential zoning area where short-term rentals would be allowed because they are concerned with purported nuisance issues that short-term rentals can have with long-term neighbors of the rentals, which mainly involve noise complaints and residential parking displacement. In addition, although the County has calculated that there are currently only a few more than 500 existing short-term rental units in the County, they are concerned that if the trend of converting existing housing and rental stock to short-term rentals continues, then the character of these communities would be adversely impacted by the loss of permanent residents. Moreover, the County is currently experiencing an extremely low vacancy rate and they believe that the short-term rental market is exacerbating the availability of affordable housing and rental housing. The low vacancy rate also determinately affects the cost of already limited housing for both affordable housing and workforce housing.

Although the County is concerned with the potential for short-term rentals to adversely impact the stock of available long-term housing within the County, the elimination of the majority of existing short-term rentals will adversely impact the stock of existing and potential future visitor-serving overnight accommodations within the County. Currently Notably, the unincorporated

County of Santa Barbara has few existing available overnight accommodations for coastal visitors aside from that provided by existing short-term rentals. ~~Currently,~~ Within the Coastal Zone, there is only one higher cost hotel (Four Seasons Resort the Biltmore Santa Barbara), no bed and breakfasts, one County-owned campsite campground (Jalama Beach ~~campground~~), one privately-owned campground (El Capitan Canyon), and three State-owned campgrounds (El Capitan, Refugio, and Gaviota ~~campgrounds~~). There is extremely high demand for the County's campground units, especially in the summer months when campsites are often completely booked many months in advance. As such, with only the limited areas where short-term rentals are proposed to be an allowed use in the subject amendment, many coastal visitors will have to visit the beach during the day and drive to an inland location to spend the night.

More specifically, the proposed amendment to restrict areas where short-term rentals will be allowed fails to protect more than one hundred existing overnight accommodations within the Coastal Zone and therefore reduces the availability of certain existing overnight accommodations. ~~However,~~ The County's proposal to allow for homestays throughout the majority of the residentially zoned areas within the County is intended ~~would serve~~ to bolster the stock of overnight accommodations while minimizing the adverse impacts typically associated with short-term rentals. In particular, the use of homestays does not adversely impact the stock of available housing and rental units within the area. However, homestays generally do not provide the space and privacy desired by families and larger groups traveling together that short-term rentals often provide. As such, the overall net reduction of available short-term rentals within the Coastal Zone has the potential to adversely impact the stock of visitor-serving overnight accommodations that are ideal for families and larger groups that want to travel to the coast together and stay overnight. This reduction in current and future overnight accommodations, including potential lower cost accommodations, is inconsistent with the mandate of

~~The County's proposed amendment contains a prohibition on the use of homestays within guest houses. In order to further maximize this type of overnight accommodation in a manner that does not cause significant adverse impacts to neighborhood character or displace existing housing stock, **Suggested Modifications Nos. 1 and 2** amend provisions of the certified IP/CZO that prohibit homestays within guest houses to allow for such use. The County originally excluded guest houses from use as homestays due to the fact that guest houses do not contain full kitchens; however, hotels and motels oftentimes do not provide kitchens, and accordingly, the lack of an available kitchen does not render overnight lodging inappropriate for such use. With or without an available kitchen, homestays can make a significant contribution to the stock of available overnight accommodations within the County, including lower-cost accommodations. Because the existing certified IP/CZO does not allow guest houses to be used for long-term rentals, allowing homestays within guest houses will also not reduce the availability of long-term rental housing opportunities.~~

~~The proposed amendment allows for the use of homestays throughout all residential zoning districts with the exception of the high density residential zoning districts within the Isla Vista community surrounding the University of California Santa Barbara. If the proposed amendment is certified, there are approximately 3,350 dwellings that could potentially obtain permits and operate as homestays. The addition of homestays, including homestays in guest houses, as an allowed use in residential zones throughout the County's residential neighborhoods will create a~~

~~net increase in visitor-serving accommodations and will offer comparable visitor-serving opportunities to that of short-term rentals, consistent with the requirements of Coastal Act Sections 30222 and 30250(c) and LUP Policies 7-18 and 7-22. **Suggested Modifications Nos. 1 and 2** will further ensure that homestays provide a comparable experience to that of short-term rentals, as transient occupants will be allowed to stay within guest houses without the presence of the owner (or representative of the owner) within the same structure. Therefore, the use of guest houses as homestays will allow for transient occupants to enjoy privacy similar to that of staying within a short-term rental. Similarly, on properties that contain multiple legal dwellings, the proposed amendment would allow for transient occupants to rent the principal dwelling as a homestay while the owner (or representative of the owner) resides within the residential second unit on the property. In addition, homestays are often significantly more affordable than short-term rentals, particularly in the residential coastal communities of the County. As such, the addition of homestays as an allowed use within the County, if modified as suggested, is consistent with the requirement of Coastal Act Section 30213 to provide lower cost visitor accommodations and the requirement of the LUP to expand opportunities for access and recreation in the Gaviota and North Coast planning areas.~~

Further, Coastal Act Section 30210 requires the provision of maximum public coastal access and recreational opportunities that are consistent with public safety, the protection of both public rights and private property rights, and the protection of natural resources. In addition, LUP Policy 7-1 requires the County to take all necessary measures to protect and defend the public's right of access to and along the shoreline. The Commission has found that short-term rentals within the Coastal Zone can provide an opportunity for the public to stay at a location where they can have access to the coast. ~~If modified as suggested, the County's amendment to allow short-term rentals within the commercial zoning districts and the residential zoning district of Miramar Beach, and to allow homestays within all but two residential zoning districts and the Agriculture I-zoning district, However, in this case the Commission finds that the proposed amendment is inconsistent with LUP Policy 7-1 and Section 30210's requirement of protecting and maximizing public coastal access and recreational opportunities, while also ensuring the protection of private property rights through the avoidance of significant adverse impacts to neighborhood character because the amendment does not maximize public access to the coast or protect the public's right of access to and along the shoreline. Instead, the proposed amendment, if certified, would cause a significant net reduction in the existing stock of visitor-serving overnight accommodations in the Coastal Zone of the County. As described above, this would reduce opportunities to stay near the coast, prevent many families and individuals who have been coming to coastal Santa Barbara County from being able to return, and likely either force visitors to stay at inland locations or discourage them from coming to the coast at all.~~

~~LUP Policy 4-6 requires the regulation of signage to avoid any adverse impacts of signage upon public scenic views. Additionally, Eastern Goleta Valley Community Plan Policies N-EGV-1.1, N-EGV-1.2, and Montecito Community Plan Policy N-M-1.1 all require the regulation of noise levels and duration of noise within residentially zoned areas. In order to achieve consistency with these requirements of the LUP, the Eastern Goleta Valley Community Plan, and the Montecito Community Plan, the County's proposed amendment prohibits all signage advertising for short-term rentals and homestays and sets specific noise limit levels (detailed above), based upon what would be appropriate for the time of day, for transient occupants of short-term rentals and~~

homestays. The proposed amendment also places maximum occupancy limitations on the use of short-term rentals and homestays to reduce the potential for excessive noise generated by the rentals. Further, the proposed Nuisance Response Plan (detailed above) ensures that any exceedance of the noise limits set by the proposed amendment will be quickly remediated, and the requirement for annual permit renewal, as well as the criteria for revocation of permits for short-term rentals and homestays, ensure that rentals that demonstrate a pattern of violating the noise limits will be required to cease use. Lastly, the County's proposed requirement of posting the noise standards within short-term rentals will ensure that transient occupants of the rentals are aware of the noise limits during their usage of the rental. Therefore, the County's proposed regulatory framework for short-term rentals and homestays is consistent with, and adequate to carry out, these requirements of the certified Land Use Plans.

### Agriculture

The County proposes to allow homestays within the Agriculture I zoning district. Coastal Act Section 30241 requires the protection of the maximum amount of prime agricultural land and the minimization of conflicts of use between agricultural and urban land uses. Coastal Act Section 30242 prohibits the conversion of agricultural land uses to non-agricultural land uses unless such a conversion would preserve the agricultural land and would be compatible with continued agricultural use in the surrounding area. Furthermore, Eastern Goleta Valley Community Plan Policies LUA-EGV-1.1 and LUA-EGV-1.5 and Toro Canyon Plan Policy LUA-TC-2 require the preservation of agricultural resources and land uses, particularly within urban areas. In addition, LUP Policy 7-30 only allows visitor-serving facilities to be developed in rural areas if such development would not result in the need for major commercial facilities. Although the County is proposing to allow a visitor-serving use on agriculturally zoned properties, the allowance of homestays on such properties will occupy only portions of existing development and does not involve new development beyond that which is allowed pursuant to the applicable LCP policies and provisions, and therefore, the proposed amendment does not have the potential to convert existing agricultural lands to a non-agricultural use. In addition, the proposed amendment specifically prohibits the use of agricultural employee housing, farmworker housing, and agricultural accessory structures for use as homestays to ensure that the allowance of homestays within Agriculture I zoning districts does not create any significant adverse impacts on agricultural productivity or conflict with the agricultural protection policies of the Coastal Act and LUP. Therefore, the proposed amendment to allow homestays on agriculturally zoned properties is consistent with the Policies 30241, 30242, LUA-EGV-1.1, LUA-EGV-1.5, and LUA-TC-2. The proposed amendment is also consistent with the requirements of LUP Policy 7-30 because the use of portions of existing development as homestays within rural, agricultural areas will not require the development of major ancillary commercial facilities.

Additionally, the County believes that agricultural parcels are appropriate for the homestay use because agricultural parcels are larger in size than traditionally zoned parcels, which would allow for parking on-site to be easily accommodated and would create a larger buffer that would reduce noise impacts from transient occupants of the homestays on long-term neighbors. As such, the County's proposed amendment to allow homestays within Agriculture I zoning districts is consistent with, and adequate to carry out, the requirements of the certified Land Use Plans regarding the protection of agricultural resources.

### Public Comment Received

Staff has received ten emails and six letters in support of the County's proposed amendment without any suggested modifications, and Staff has received ~~seventeen~~ 168 emails and ~~five~~ ~~fourteen~~ letters from interested parties in opposition to the proposed LCP amendment. In addition, a letter was also received from Santa Barbara County Supervisor Das Williams indicating his belief that the Short-Term Rental Coastal Historic Overlay should be expanded. At the May, 10<sup>th</sup> hearing, numerous members of the public also spoke in opposition to the proposed amendment. These public comment emails and letters are attached as **Exhibit 5** of the staff report. The primary issues raised by the twenty-three emails/letters received from members of the public in opposition to the proposed LCP amendment include the concern that the proposed amendment would result in adverse impacts to public coastal access and recreational amenities due to the limited area covered by the Short-Term Rental Coastal Historic Overlay and loss of lower-cost overnight accommodations. In addition, the public comments and testimony state that although the amendment would allow for homestays in the majority of residential zoning districts throughout the County, they believe that homestays do not provide comparable overnight accommodations to that of full short-term rentals.

Many of the emails/letters received, as well as some of the testimony, have pointed out that short-term rentals, in particular in areas near the coast that do not provide public accessways and contain only private accessways that are used by the neighboring community, can provide members of the public that rent these homes with public access to the coast. These emails/letters therefore assert that restricting the residential zoning districts where short-term rentals will be an allowed use will have adverse impacts on public access to the coast. These comments and this testimony demonstrate the impacts that the proposed amendment would have on coastal access. ~~In response to this, Staff would note that the County has proposed a balanced approach that will allow for different forms of short term vacation rentals, including short term rentals in one residential zoning district and homestays within all but two residential zoning districts in these coastal communities. Homestays, and if modified as suggested, homestays within guest houses, in these particular coastal communities would allow transient occupants to enjoy otherwise private accessways to the beach during their stay.~~

Staff has also received one public comment that requests the Commission to require all short-term vacation rentals to become compliant with the current standards of the Americans with Disabilities Act. Staff would note that the Commission is not responsible for assuring that each development that would be permitted subject to the proposed amendment complies with federal and state disability laws. Rather, the public agencies and private parties seeking permits and approvals from the Commission, the County, or operators of such facilities, are themselves responsible for assuring that their projects comply with relevant statutes. The Commission does have a separate obligation, pursuant to the Coastal Act, to maximize public access. ~~However, as described in this report, the proposed IP/CZO amendment, as modified, is in conformance with Coastal Act access policies.~~

## **4. Conclusion**

The County's certified LUPs, including Coastal Act policies incorporated therein, protect visitor-serving accommodations and recreational facilities, in addition to coastal resources such as public access, within the County. ~~If modified as suggested, The proposed amendment does not prohibit or and unduly restricts the rental of residences to visitors in a manner that will significantly impact the public's ability to access and recreate on the coast. The proposed changes to the IP/CZO do not conflict with the provision of priority land uses identified in the LUP for the protection of public access and recreational land uses over the protection of residential development, and therefore, nor do the proposed changes raise issue with regard to the public access policies of the LUP. Rather, the proposed amendment, if modified as suggested, strikes a balance between ensuring the availability of short-term rentals for coastal visitors and providing long-term housing for local residents. Therefore Accordingly, the Commission finds that the subject sections of the proposed amendment, if modified as suggested, do not conform to and are inadequate to implement the LUP policies, and the proposed amendment to regulate the use of short-term rentals and homestays is denied.~~

### C. CALIFORNIA ENVIRONMENTAL QUALITY ACT

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

Specifically, pursuant to CEQA and the Commission's regulations (*See* 14 C.C.R. Sections 13540(f), 13542(a), and 13555(b)), the Commission's certification of this LCP amendment must be based in part on a finding that it meets the CEQA requirements listed in PRC Section 21080.5(d)(2)(A). That Section requires that the Commission not approve or adopt an LCP "if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment."

As outlined in this staff report, the Implementation Plan amendment as submitted would reduce the number of certain, existing overnight visitor accommodations within the Coastal Zone and would not encourage or maximize public access and recreational opportunities. ~~However, if modified as suggested, the proposed amendment would be in conformity with, and adequate to carry out, the provisions of the Land Use Plan component of the certified LCP, including provisions calling for protection and provision of access and recreational and visitor serving opportunities.~~ Therefore, the proposed amendment is not in conformity with, or adequate to carry out, the provisions of the Land Use Plan component of the certified LCP, including provisions calling for protection and provision of access and recreational and visitor-serving opportunities. The Commission finds that approval of the LCP amendment will ~~not~~ result in significant adverse environmental impacts within the meaning of the California Environmental Quality Act.

In addition, Section 21080(b)(5) of CEQA, as implemented by Section 15270 of the CEQA Guidelines, provides that CEQA does not apply to projects which a public agency rejects or disapproves. Accordingly, the Commission's denial of the proposed amendment represents an action to which CEQA, and all requirements contained therein that might otherwise apply to regulatory actions by the Commission, do not apply.