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Prepared June 21, 2019 for July 11, 2019 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-19-0044-1 (Short-Term Rentals)

SUMMARY OF STAFF RECOMMENDATION

The City of Pismo Beach proposes to amend its Local Coastal Program (LCP) to add homestays and short-term rentals (STRs) as allowed uses in detached single-family residences in the Two- and Three-Family Residential (R-2) and Multi-Family Residential (R-3) zones, subject to the Implementation Plan's (IP's) existing STR regulations in Chapter 17.113. The amendment would also add vacation rentals as an allowed use in the downtown commercial core area of the City, specifically in the Hotel-Motel and Visitor Serving (R-4), Resort Residential (R-R), and Retail Commercial (C-1) zones, subject to the City's existing vacation rental rules in Chapter 5.22 of the Municipal Code (which is not part of the LCP). For the C-1 zone, the amendment specifies that vacation rentals are allowed in existing residences, and that for new units, vacation rentals shall only be a secondary use (i.e., on the upper floors or the rear of C-1 buildings in conjunction with a permitted business). Finally, the amendment adds a new definition of "Long Term Rental" to the IP to clarify rental housing types for operational purposes. The amendment does not propose any other changes to the City's existing STR regulations.

The amendment would allow for a small increase in the amount of STRs and homestays in owner-occupied single-family residences in the residential areas of the City, consistent with the Land Use Plan's (LUP's) vision of maintaining the City's vibrant tourism economy alongside the needs of City residents. The amendment would also clarify the distinction between STRs in single-family areas of the City and vacation rentals in Downtown Pismo Beach, and make explicit that vacation rentals are allowed and encouraged in the Downtown. As such, the amendment would be consistent with and supportive of the LUP's emphasis on the Downtown Core as the City's visitor-serving focal point. Finally, the proposed addition of the long-term rental definition would provide clarity to the existing STR regulations, largely because it specifies when a rental that otherwise appears to be a long-term rental actually qualifies as an STR. This proposed change would make more specific the existing procedural requirements

related to STRs, and would strengthen the LCP by providing greater detail on what constitutes an STR, and thus this proposed change is consistent with and adequate to carry out the LUP.

In sum, the proposed IP amendment can be found consistent with and adequate to carry out the 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 June 6, 2019. The proposed amendment affects the LCP's IP, and the 60-day action deadline is August 5, 2019. (*See Pub. Res. Code Section 30513.*) Thus, the Commission has until August 5, 2019 to take a final action on this LCP amendment unless the Commission extends the deadline to act up to one year, or August 5, 2020. (*See Pub. Res. Code Section 30517.*)

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EXHIBITS

Exhibit 1: Proposed IP Amendment

Exhibit 2: Maps 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 amendment as submitted and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

***Motion:** I move that the Commission reject Implementation Plan Major Amendment Number LCP 3-PSB-19-0044-1 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-19-0044-1 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 homestays¹ and short-term rentals (STRs)² as allowed uses in detached single-family residences in the Two- and Three-Family Residential (R-2) and Multi-Family Residential (R-3) zones, subject to the Implementation Plan's (IP's) existing STR

¹ Homestays are defined in Chapter 17.113 as “an owner-occupied, detached single-family residence where bedrooms are rented for compensation for less than thirty (30) consecutive days. In cases where an accessory dwelling unit (ADU) is located onsite, rental of the ADU for less than thirty (30) consecutive days shall qualify as a Homestay contingent upon the single-family residence being concurrently occupied by the property owner during the short-term rental period, or if the single-family residence is rented, upon the ADU being concurrently occupied by the property owner.”

² Short-term rentals (STRs) are defined in Chapter 17.113 as “the rental of a detached single-family residence or accessory dwelling unit (ADU) for less than thirty (30) consecutive days where the primary residence is not being concurrently occupied by the owner.” STRs and homestays are allowed only at single-family properties that are the primary residence of the owner. Primary residence is defined by Chapter 17.113 as “the dwelling owned and occupied as the property owner’s principal place of residence, where the owner lives more than 50% of the year...”

regulations in Chapter 17.113. The amendment would also add vacation rentals³ as an allowed use in the downtown commercial core area of the City, specifically in the Hotel-Motel and Visitor Serving (R-4), Resort Residential (R-R), and Retail Commercial (C-1) zones, subject to the City’s existing vacation rental rules in Chapter 5.22 of the Municipal Code (which is not part of the LCP). For the C-1 zone, the amendment specifies that vacation rentals are allowed in existing residences, and that for new units, vacation rentals shall only be a secondary use (i.e., on the second floor or rear of C-1 buildings in conjunction with a permitted business). Finally, the amendment adds a new definition of “Long Term Rental” to the IP to clarify rental housing types for operational purposes. The amendment does not propose any other changes to the City’s existing STR regulations.

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). (*See* Pub. Res. Code Sections 30513 and 30514(b).)

IP Consistency Analysis

Applicable LUP Policies

The City of Pismo Beach’s 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

³ Vacation rentals are defined in the City’s Municipal Code Chapter 5.22 as “any structure, as defined in the building code adopted in Section 15.04.010 of this code, which exists, is constructed, or which is maintained or used upon any premises for the purpose of transient lodging which consists of four or fewer separate transient rental units.” Vacation rentals are distinct from STRs and homestays in that they do not have a primary residence requirement and can be used full-time as visitor-serving accommodations.

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....⁴

Background

In August 2018, the Coastal Commission approved regulations and standards for STRs and homestays in the City's single-family residential zones (R-1 (Single-Family Residential), P-R (Planned Residential), and O-S-1 (Open Space Natural Resources Protection)).⁵ These regulations, located in IP Chapter 17.113, allow short-term rentals of bedrooms, accessory dwelling units (ADUs), and entire residences on single-family residential properties that are the primary residence of the property owner.⁶ The regulations prohibit such short-term rentals in all other residential zones in the City; however, the STR rules do not apply in the Downtown Core (where the City deemed vacation rentals, which are distinct from STRs primarily in that they are full-time visitor accommodations with no primary-owner residence or owner-occupancy stipulations, to be already allowed "by right") or other non-residential zones. IP Chapter 17.113 also includes various operational requirements for homestays and STRs, including related to occupancy, visitors, parking, noise, traffic levels, and trash.

During the City's process of approving the STR regulations in 2018, at least one owner of a single-family residence in the R-2 zone requested that the City add the R-2 and R-3 zones to those where STRs in detached single-family homes are allowed. The City was not opposed to adding R-2 and R-3 to the zones where STRs would be allowed but, because of timing constraints, was not able to make this change to the proposed ordinance at the time of that LCP amendment. Therefore, the City Council directed City staff to come back with a subsequent amendment to add the R-2 and R-3 zones to those that allow STRs and homestays.

With respect to the proposed clarification of vacation rentals in the Downtown Core as part of this LCP amendment, the existing STR regulations (under IP Section 17.113.030) explicitly state that "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." Vacation rentals are instead regulated by Chapter 5.22 of the Municipal Code, which is not part of the LCP. As described in the Commission's 2018 staff report for adoption of the City's STR regulations, to date the City has treated vacation rentals in the Downtown Core 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. In order to make this use explicit, the City now proposes to clarify the distinction between STRs in the residential zones and vacation rentals in the Downtown commercial core, and explicitly add vacation rentals to the list of primarily allowed uses in the

⁴ Both the MR and MU land use designations apply to the Downtown Core.

⁵ LCP-3-PSB-18-0051-1.

⁶ Chapter 17.113 defines "primary residence" as "the dwelling owned and occupied as the property owner's principal place of residence, where the owner lives more than 50% of the year, defined herein as 183 days or more per year. For purposes of Short-Term Rental or Homestay licensing, a person can have only one Primary Residence at any time."

applicable Downtown core zoning districts (in IP Sections 17.027.020, 17.030.020, and 17.042.020) (see **Exhibit 2** for a map of these areas).

Finally, the City has identified an operational issue under the existing STR program wherein some property owners and advertising platforms have attempted to avoid the STR license requirement by advertising rentals as a monthly (30 days or more) rental, and then allowing a renter to sublet to others within the 30-day contract period or cancel early, leaving the remainder of the month available to new renters. To help address this issue, the City proposes to add a new definition of “Long-Term Rental” that the City intends will provide the basis for prohibiting these practices without an STR license.

Proposed IP Amendment

The intent of the existing STR rules is to regulate STRs and homestays on single-family residential properties, the majority of which are located in the R-1, P-R, and O-S-1 zones of the City (see **Exhibit 1** for the proposed amendment language). As described by the City, the higher-density residential zones (including R-2 and R-3) also include detached single-family residences in addition to higher-density housing. Specifically, the R-2 and R-3 zones include approximately 300 properties, 100 of which are developed with detached single-family residences. Of those, less than 20 were identified as owner occupied, which is a primary requirement for STRs under the existing ordinance. The City seeks to allow STRs and homestays under the existing IP Chapter 17.113 regulations on those 20 or so owner-occupied properties in the R-2 and R-3 zones.

The addition of STRs and homestays as an allowed use in detached single-family residences in R-2 and R-3 zones would expand the area in which STRs and homestays are allowed in the City. The Commission previously found that the City’s STR regulations, including the allowance for STRs and homestays in owner-occupied single-family residences only, provide 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 addition of a relatively minimal amount of potential STRs and homestays in the City’s residential areas remains consistent with this balance, and is otherwise consistent with and adequate to carry out the LUP.

Next, the proposed addition of vacation rentals as a permitted use in the R-4 (Hotel-Motel and Visitor Serving), R-R (Resort Residential), and C-1 (Retail Commercial) zones in the Downtown Core not only makes explicit that this use is allowed and encouraged in the Downtown Core, but also helps to clarify the distinction between STRs in single-family areas of the City and vacation rentals in Downtown Pismo Beach.⁷ According to the City, 284 transient occupancy-tax-paying vacation rentals operate in the Downtown Core, almost all of which are not the primary residences of the owners and are strictly vacation-rental-only uses. The proposed amendment

⁷ Again, the primary distinction is that vacation rentals are full-time visitor accommodations with no primary-owner residence or owner-occupancy stipulations, while STRs and homestays can occur only in the residentially-zoned areas of the City in single-family homes that are the primary residence of the owner.

would clarify the regulatory framework and provide continued encouragement for this use in the Downtown area. 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 proposed amendment is consistent with LUP provisions that emphasize the Downtown as the visitor-serving center of the City and that state “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 Downtown Core – Planning Area K). The amendment is also consistent with LUP Policy LU-K-3.1, which states that the Mixed Residential area shall permit “a mixture of hotels and motels along with apartments, condominiums, and other similar residential uses,” as well as with Policy LU-K-3.3, which states that the Mixed Use District “will provide for a wide variety of land uses including visitor lodging, commercial retail, restaurants, service uses, offices, and residential uses....” This proposed change is entirely consistent with and adequate to carry out the LUP.

Finally, the proposed addition of the long-term rental definition would provide clarity to the existing STR regulations, largely because it specifies when a rental that otherwise appears to be a long-term rental actually qualifies as a STR. This proposed change would make more specific the existing procedural requirements related to STRs, and would strengthen the LCP by providing greater detail on what constitutes an STR, and thus this proposed change is consistent with and adequate to carry out the LUP.

In sum, the proposed amendment would: add two residential zoning districts to those where STRs and homestays are allowed; clarify the distinction between STRs and vacation rentals, and make vacation rentals an allowed use in the Downtown Core; and add a definition of “long-term rental” to help with implementation of the City’s STR program. The amendment would not make any other changes to the City’s existing STR rules or regulations. In general, the amendment would allow for a small increase in the amount of STRs and homestays in owner-occupied single-family residences in the residential areas of the City and would improve the existing licensing process, consistent with the LUP’s vision for maintaining tourism in the City alongside the needs of residents. It would also be consistent with and supportive of the LUP’s emphasis on the Downtown Core as the visitor-serving focal point of the City with the addition of vacation rentals as an explicitly permitted use in the applicable zoning districts. For these reasons, the proposed IP amendment can be found consistent with and adequate to carry out the 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).