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To: Commissioners and Interested Persons

From: Susan Craig, Central Coast District Manager
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Subject: De Minimis Amendment Determination for City of Morro Bay Local Coastal Program Amendment Number LCP-3-MRB-20-0050-1 (Short-Term Rentals)

Proposed LCP Amendment

The City of Morro Bay has submitted the above referenced Local Coastal Program (LCP) amendment request that would establish regulations for short-term vacation rentals (STRs) and add Chapter 17.41 to the LCP's Implementation Plan (IP) to regulate such rentals. The proposed amendment primarily differentiates between full-home¹ and home-share² STRs, places a cap on the number of full-home STRs within residential zones, adds density regulations within residential zones, and adds operational and permitting requirements for STRs. The LCP currently does not explicitly regulate STRs, and so the proposed amendment will bring these current STRs under the LCP's regulatory umbrella.³

The City developed an inclusive public process to help craft the proposed STR ordinance, including working with those that support STRs and those that would like them further restricted. Ultimately, to ensure that STRs are provided in a manner that does not oversaturate residential neighborhoods, the proposed ordinance includes

¹ A "full-home rental" means a short-term vacation rental of no more than 30 consecutive days of a home, in whole or in part, for exclusive transient use. The guest enjoys the exclusive private use of the dwelling and the host is not present.

² A "home-share rental" means a short-term vacation rental within a dwelling that is the host's primary residence, and where the host is on site throughout the guest's stay. Home-sharing rentals include guest houses when the host is on site in the primary residence throughout the guest's stay in the guest house or vice-versa, and any unit in a multifamily dwelling of no more than four units where the host lives in the primary residence or in one of the units. To be clear, a guest house is not the same as an accessory dwelling unit (ADU) under the LCP. Rather, a guest house does not include a kitchen and is more akin to a separate residential bedroom, albeit in a separate structure typically. A guest house cannot be rented out for long-term residential use.

³ The City currently allows short-term vacation rentals to operate with a business license under Chapter 5.47 of the Municipal Code, which is not part of the certified LCP.

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restrictions on the overall number and density of STRs. On the maximum number, the proposed amendment places a cap of 175 full-home STRs in residential zones,⁴ but no numerical cap on home-share STRs. This full-home STR limit is slightly above current market demand, as there are currently 168 licensed full-home STRs in the City. And with respect to density limits, the ordinance establishes a 175-foot buffer between full-home STRs in residential zones⁵ to help ensure that such rentals respect community character and do not oversaturate particular neighborhoods (no buffer applies to home-shares or full-home STRs in non-residential zones).⁶ The City found that the proposed amendment's provisions balance the need for STRs as an important type of visitor accommodation with the need to respect residential neighborhoods, both of which are key LCP objectives.

The proposed amendment also includes other provisions to run a successful STR program, including in terms of permitting requirements and "good neighbor" operational standards. Specifically, with respect to required permits, all STRs need a yearly STR permit that is subject to the following requirements: 1) permits are non-transferrable;⁷ 2) minimum yearly Transient Occupancy Tax (TOT) must be paid to the City;⁸ 3) an STR type (home-share versus full-home rental) must be identified upon application; 4) owner and host contact information must be provided; and 5) a home inspection by the City (to ensure minimum STR requirements can be met) is required. Similarly, updated operational policies include requirements for: 1) an identified local contact person for guests and neighbors at all times; 2) maximum occupancy limits; 3) minimum on-site parking requirements; 4) providing guests with a "good neighbor policy" handbook; 5) prohibiting use of ADUs and designated affordable housing units as STRs;⁹ 6) and

⁴ Single-family homes may be used as STRs in both single-family and multi-family residential zones. Multi-family developments are only allowed to be used as STRs in mixed-use or commercial zones. Multi-family developments may not be used as STRs in single-family or multi-family residential zones. The 175 STR cap does not apply to STRs located outside of these residential zones, such as the City's commercial and mixed-use areas.

⁵ This buffer applies to single-family homes in both single-family and multi-family residential zones.

⁶ The City estimates that the 175-foot buffer will make 60 to 70 current full-home STRs legal but non-conforming. These legal non-conforming STRs will be "grandfathered" and will be allowed to operate for as long as they continue to operate consistent with established rules and licensure. Over time, the City expects that these STRs will come into conformance with this buffer through attrition via home sales (i.e., the STR is terminated upon sale) or by failure to renew applicable permits. However, while some full-home STR attrition of this type is expected, the City has provided maps showing that, moving forward, it is possible to achieve the 175 full-home STRs in these residential zones when the 175-foot buffer is applied.

⁷ Permits are non-transferrable and are unique to the specific property and property owner. A permit for a property shall not be valid for a successor owner or host, including that a permit may not be passed down between family members.

⁸ The intent here is to ensure that STR permit holders actually use their permits (which should help eradicate inactive STRs), some of which can be inactive as a means of thwarting overnight use and thus negatively impacting the ability of the visiting public to make use of such overnight accommodations.

⁹ There are currently six ADUs being rented as STRs, which will be grandfathered in until the owner sells the house or fails to reapply for an STR permit, and thus these will be subject to the same kind of attrition over time as the full-home STRs that don't meet the 175-foot buffer requirement. The proposed LCP provisions do not allow ADUs to be rented as STRs, nor do they allow the owner of the primary residence

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requiring posting of the STR permit number on all online hosting platforms as well as inside the rental.

Collectively, the intent behind these components is to provide a well-managed STR program that recognizes vacation rentals as an important means of providing overnight coastal access, while balancing the need to respect residential neighborhoods. See **Exhibit 1** for the proposed LCP text.

De Minimis LCP Amendment Determination

Pursuant to Coastal Act Section 30514(d), the Executive Director may determine that a proposed LCP amendment is “de minimis” if the amendment meets the following three criteria:

1. The proposed amendment would have no impact, either individually or cumulatively, on coastal resources, and it is consistent with Coastal Act Chapter 3.
2. The proposed amendment does not propose any change in use of land or water or allowable use of property.
3. The proposed amendment was properly noticed by the local government at least 21 days prior to submittal¹⁰ to the Commission (i.e., by posting notice on-site and off-site in the affected area, publishing notice in the local newspaper, and/or mailing notice to owners and occupants of affected and contiguous properties).

If the Executive Director determines that an amendment is de minimis, that determination must be reported to the Commission. If three or more Commissioners object to the Executive Director’s de minimis LCP amendment determination at that time, then the amendment is set for a future public hearing as a regular LCP amendment. If not, then the amendment is deemed approved and it becomes a certified part of the LCP ten days after the date it is reported to the Commission (in this case, it would be certified on September 19, 2021).

The purpose of this notice is to advise interested parties of the Executive Director’s determination that the proposed LCP amendment is de minimis.

De Minimis LCP Amendment Analysis

Each of the de minimis criteria is discussed briefly below

1. No impact to coastal resources and consistency with Coastal Act Chapter 3

While STRs are currently allowed in the City subject to STR operators obtaining a City business license, the City indicates that it needs a fully developed STR program to

to live in the ADU and rent out the primary residence for STR use. Moving forward, use of ADUs as a full-home or home-share STR will not be allowed.

¹⁰ An LCP amendment is deemed to have been “submitted” when it has been determined that it includes all of the necessary supporting documentation and information required by the Coastal Act and the Commission’s implementing regulations and is “filed” by Commission staff as complete.

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better address community concerns related to the operation of unpermitted STRs and the over-abundance of STRs in some residential neighborhoods. Thus, the impetus for the City's proposed amendment is to ensure that STRs are provided for in a manner that is protective of community character, at the same time as providing for an important overnight visitor function. Striking that appropriate balance between providing STRs as an important visitor serving accommodation and protecting community character is oftentimes the key consideration in STR provisions and is the general lens through which the Commission has reviewed other proposed STR LCP amendments throughout the state.

The opportunity to rent residences within California's coastal communities represents one way in which California residents and visitors enjoy the coast. In some instances, residential vacation rentals may provide a lower-cost alternative to renting hotel or motel rooms, especially for large families or groups. In all cases, vacation rentals increase the range of options available to coastal visitors, oftentimes in residential areas along the immediate shoreline where other significant commercial overnight opportunities are not available. However, providing overnight access in this context can sometimes compete with the need to protect the residential character of the neighborhoods where STRs are located.

In this case, the Commission finds that this STR ordinance strikes that balance between the sometimes-competing objectives of providing STRs and protecting community character. According to the City, as of April 21, 2021, there were 228 licensed STRs in Morro Bay. Of these 228 licensed STRs, 60 are home-shares, meaning there are 168 licensed full-home STRs in Morro Bay. The proposed cap of 175 full-home STRs in residential zones will allow room for managed growth while also preventing potential over-abundance of STRs, especially with the implementation of the 175-foot buffer in between full-home STRs.¹¹ Further, no cap or buffer will be implemented on STRs of any kind in mixed-use and commercial zones, which will allow for continued STR growth if need be (and this is actually an attractive place for STRs in the City as these areas include the downtown and Embarcadero areas that are prime visitor destinations). The proposed amendment thus is designed to provide STRs as a unique and sometimes less expensive overnight option for coastal visitors, while also applying reasonable regulations to protect neighborhoods and the special community character of those neighborhoods that often draws visitors in the first place. Further, the proposed full-home STR cap and buffer, as well as "good neighbor" operational requirements, are common regulations in other STR ordinances contained in LCPs. These provisions should help ensure that the City properly manages STRs and that hosts and guests of STRs are respectful of their residential settings and should allow for the continued and robust use of STRs as a unique and oftentimes lower-cost visitor-serving resource, all of which carry out Morro Bay LCP and Coastal Act Chapter 3 policies.

¹¹ Currently, some neighborhoods in Morro Bay include many STRs, and the buffer is intended to spread out full-home STRs over time to help relieve what many in Morro Bay perceive is a pressure on such neighborhoods and their character.

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In sum, the proposed amendment would continue to ensure appropriate levels of vacation rentals that can serve overnight visitor accommodation needs in the City's coastal zone, which is both a Coastal Act and LCP priority use as well as a valuable tool for accommodating public coastal access and visitors, especially when such visitors are an integral part of the City's tourist-oriented economy. Here, the City has succeeded in identifying appropriate STR 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. Ultimately, the proposed amendment will not adversely affect coastal resources; it is consistent with Coastal Act Chapter 3; and it meets the first de minimis LCP amendment criterion.

2. No change in use of land or allowable use of property

STRs are currently allowed to operate out of residential structures in the City's coastal zone subject to obtaining a City business license. The proposed amendment provides additional STR operational and use standards but does not by itself change allowable use parameters. Thus, the proposed amendment does not change any LCP-allowed uses of land or LCP-allowed uses of property, and it meets the second de minimis LCP amendment criterion.

3. Provision of public notice

The City provided public notice via newspaper notice in advance of both the Planning Commission hearings (held on August 18, 2020 and September 1, 2020) and the City Council meetings (held on October 13, 2020 and October 27, 2020).¹² In addition, a certified copy of the proposed text of the amendment was available for public inspection on the City's website in advance of the October 27, 2020 City Council meeting. The Planning Commission and City Council hearings were also preceded by community outreach and involvement, including via an STR Community Committee comprised of Morro Bay residents.¹³ The proposed amendment was subsequently received by the Commission on December 22, 2020 and filed as complete on June 21, 2021 roughly one year after it was last noticed locally. Therefore, the 21-day noticing requirement has been satisfied, and the proposed amendment meets the third and final de minimis LCP amendment criterion.

California Environmental Quality Act (CEQA)

CEQA Section 21080.5(d)(2)(A) prohibits a proposed LCP or LCP amendment from being approved if there are feasible alternatives and/or feasible mitigation measures available that would substantially lessen any significant adverse effect that the LCP or LCP amendment may have on the environment. Although local governments are not required to satisfy CEQA in terms of local preparation and adoption of LCPs and LCP amendments, many local governments use the CEQA process to develop information

¹² The proposed amendment was noticed via a newspaper notice on August 7, 2020, prior to the Planning Commission hearing, and on October 22, 2020, prior to the City Council meeting.

¹³ The STR Community Committee was comprised of three owners/operators of STRs, three community members concerned about the number of STRs in Morro Bay and their effect on community character, one hotel owner, and one Planning Commissioner.

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about proposed LCPs and LCP amendments, including to help facilitate Coastal Act review. In this case, the City exempted the proposed amendment from environmental review (citing CEQA Sections 15301 and 15061(b)(3)), asserting that the proposed amendment maintains the status quo and there is no possibility that it might have a significant adverse effect on the environment.

The Coastal Commission is not exempt from satisfying CEQA requirements with respect to LCPs and LCP amendments, but the Commission's LCP/LCP amendment review, approval, and certification process has been certified by the Secretary of the Natural Resources Agency as being the functional equivalent of the environmental review required by CEQA (CCR Section 15251(f)). Accordingly, in fulfilling that review, this report has discussed the relevant coastal resource issues with the proposal and has concluded that approval of the proposed amendment is not expected to result in any significant environmental effects, including as those terms are understood in CEQA. All public comments received by the Commission have been addressed, and all above findings area incorporated herein. Accordingly, it is unnecessary for the Commission to suggest modifications (including through alternatives and/or mitigation measures) as there are no significant adverse environmental effects that approval of the proposed amendment would necessitate. Thus, the proposed amendment will not result in any significant adverse environmental effects for which feasible mitigation measures have not been employed, consistent with CEQA Section 21080.5(d)(2)(A).

Coastal Commission Concurrence

The Executive Director will report this de minimis LCP amendment determination, and any comments received on it, to the Coastal Commission at its September 9, 2021 virtual meeting. If you have any questions or need additional information regarding the proposed amendment or the method under which it is being processed, please contact Esme Wahl at the Coastal Commission's Central Coast District Office by email at esme.wahl@coastal.ca.gov. If you wish to comment on the proposed amendment and/or object to the proposed de minimis LCP amendment determination, please do so via regular mail (directed to the Central Coast District Office) or email (by emailing centralcoast@coastal.ca.gov) by 5:00 p.m. on Friday September 3, 2021.

Procedural Note - LCP Amendment Action Deadline

This proposed LCP amendment was filed as complete on June 21, 2021. The proposed amendment affects the LCP's IP only, and the 60-working-day deadline for the Commission to take action on it is September 15, 2021. Thus, unless the Commission extends the action deadline (it may be extended by up to one year by the Commission per the Coastal Act), the Commission has until September 15, 2021 to take a final action on this LCP amendment.

Exhibits

Exhibit 1: Proposed LCP Amendment Text