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**Prepared September 23, 2022 for October 14, 2022 Hearing**

**To:** Commissioners and Interested Persons

**From:** Stephanie Rexing, North Central Coast District Manager  
Peter Benham, North Central Coast Coastal Planner

**Subject: City of Half Moon Bay LCP Amendment Number LCP-2-HMB-21-0078-2  
(Short Term Rentals and Home Occupations)**

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## SUMMARY OF STAFF RECOMMENDATION

The City of Half Moon Bay proposes to amend its Local Coastal Program (LCP) Implementation Plan (IP) to establish regulations for short-term rentals (STRs) within residential units in the City and to update existing home occupation standards. With respect to the latter, the home occupation standards will facilitate work from home opportunities for small home businesses, while addressing their potential impacts (e.g., requirements to limit new traffic, provide adequate parking, address employees, etc.) in such a way as to avoid any significant coastal resource concerns.

The amendment primarily focuses on STRs, allowing for STRs in most dwelling units throughout a majority of the City (other than in open space and agricultural zoning districts, and in a variety of lower-cost housing settings). While the proposed amendment provides some important and necessary standards to ensure STRs are appropriately operated and regulated through a series of 'good neighbor' operational requirements (as well as registration and performance standards) the City's ordinance on the whole represents a fairly restrictive approach to STR regulation as compared to other coastal jurisdictions, in a city that already has a small STR market. First, in residential areas, the STR must be the "primary residence" of the STR operator, meaning the operator must reside in the unit a majority of the time. Second, all STRs would be classified as hosted or unhosted, where the former means the primary resident is present (and "hosting") and the latter meaning the primary resident is not present during an occupant's stay. In all areas, unhosted rentals would be limited to a maximum of 60 rental nights per calendar year (i.e., about 16% of the year), while hosted operations would have no limit on rental nights. Third, the number of people and cars allowed per STR would be limited to a max of 8 and 3 respectively, regardless of the STR's ability to accommodate more than that number of people and cars. Finally, the ordinance would prohibit STRs on subprime lots in residential zoning districts, affecting about 100 residential lots in the City. These provisions would simultaneously limit both the capacity and number of STRs near prime visitor destinations (particularly

near the immediate shoreline and popular beaches) in the City and would significantly limit the ability of STRs to provide for an important overnight accommodation option to those not fortunate enough to live in Half Moon Bay, including larger groups and families for which STRs provide a unique service not available through other types of accommodation types such as hotels or campsites.

The Commission has long recognized that STRs can provide a unique and important source of visitor-serving accommodations in the Coastal Zone, especially for larger families and groups, and has found that bans or undue restrictions on this type of lodging are inconsistent with Coastal Act and/or LCP policies prioritizing public access and visitor-serving uses. At the same time, the Commission has in some cases recognized a need to restrict STRs in some coastal communities where evidence showed that the STR market was significantly impacting the availability of housing or having other impacts on coastal resources. The Commission has always supported “good neighbor” operational standards, which are important tools to address concerns about community character while maintaining STRs as an option for overnight accommodations in coastal areas.

The LCP’s Land Use Plan (LUP) provides the standard of review for the proposed amendment and calls for a balance between facilitating short-term rentals in the City while also providing for adequate housing stock and maintaining residential community character. The City acknowledges one intent of this ordinance is to limit the number of STRs in order to preserve as many housing units in the City as possible. Encouraging housing is a legitimate purpose, but the City’s approach does not strike an appropriate balance, especially when visitor-serving uses and activities are a higher priority than residential under both the Coastal Act and the LCP. In actuality, the City’s STR market is modest, with only 29 STRs currently registered and operating in the City (a city with approximately 4,700 housing units), where 20 of these 29 STRs are primarily used for long-term residential purposes. There is a lack of evidence suggesting that existing STR operations are causing any significant coastal resource impacts, either in terms of removing available housing units from the housing market, or as it relates to inappropriate user behaviors and harm to community character. Per the City’s estimates, only roughly 9 STRs in the City are used primarily as STRs (or 0.2% of the City’s housing units). In other words, the ‘problem’ that the City’s ordinance purports to address is unclear, and the solution appears to be a poor fit for this context.

With the exception of the City’s proposed “good neighbor” section of the ordinance, the City’s STR ordinance is not consistent with the LUP’s direction to balance residential and STR uses<sup>1</sup>, nor is it consistent with the LUP’s public recreational access and visitor-serving priorities and requirements<sup>2</sup>. Staff recommends that the Commission approve the amendment with suggested modifications that remove the most severe restrictions on STRs. This is the most LUP consistent outcome based on the evidence before the Commission, and in light of the very limited STR market in the City. Even if that market were to appreciably increase (which seems unlikely inasmuch as the current market exists in the absence of LCP regulation, and introducing more regulation seems likely to

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<sup>1</sup> LUP Policy 2-76. Short-Term Rentals.

<sup>2</sup> LUP Policy 5-1. Maximum Coastal Access and Recreational Opportunities.

be a deterrent in comparison), the City's regulation and monitoring of STRs through implementation of the ordinance would put it in a position to better understand the nature of potential issues, if any, and could form the basis for future LCP amendments as needed. This outcome helps preserve at least some modicum of STRs for overnight visitors to the City however small that market is, and strikes a more appropriate balance, as required by the LUP. In addition, staff recommends suggested modifications to correct several small syntax changes and cross-references in the ordinance.

The two required motions and resolutions to approve the amendment with the staff recommended suggested modifications can be found on page 4 below.

**Staff Note: LCP Amendment Action Deadline**

This proposed LCP amendment was filed as complete on March 15, 2022. The proposed amendment affects the LCP's IP only, and the 60 working day deadline for the Commission to take action on it was June 15, 2022. However, on May 13, 2022 the Commission extended the action deadline by one year as allowed by the Coastal Act, and therefore the Commission has until June 15, 2023, to take a final action on this LCP amendment.

TABLE OF CONTENTS

**1. MOTIONS AND RESOLUTIONS..... 5**  
**2. SUGGESTED MODIFICATIONS..... 6**  
**3. FINDINGS AND DECLARATIONS..... 8**  
    A. Description of Proposed LCP Amendment ..... 8  
    B. Evaluation of Proposed LCP Amendment ..... 11  
    C. California Environmental Quality Act (CEQA)..... 23  
**4. APPENDICES..... 24**

**EXHIBITS**

Exhibit 1: Proposed LCP Amendment

## 1. MOTIONS AND RESOLUTIONS

Staff recommends that the Commission, after public hearing, approve the proposed LCP amendment with suggested modifications. The Commission needs to make two motions on the amendment in order to act on this recommendation.

### **A. Deny the Amendment as submitted**

Staff recommends a **YES** vote on the motion below. Passage of this motion will result in rejection of the City's proposed LCP Implementation Plan Amendment 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 LCP Amendment Number LCP-2-HMB-21-0078-2 as submitted by the City of Half Moon Bay, and I recommend a yes vote.*

**Resolution to Deny:** *The Commission hereby denies LCP Amendment Number LCP-2-HMB-21-0078-2 as submitted by the City of Half Moon Bay, and adopts the findings set forth below on grounds that the Amendment as submitted does not conform with, and is inadequate to carry out, the provisions of the certified Land Use Plan. Certification of the Amendment would not meet the requirements of the California Environmental Quality Act as there are feasible alternatives and mitigation measures that would substantially lessen the significant adverse impacts on the environment that will result from certification of the Amendment as submitted.*

### **B. Certify the Amendment with Suggested Modifications**

Staff recommends a **YES** vote on the motion below. Passage of this motion will result in certification of the LCP Implementation Plan Amendment if it is modified as directed by the suggested modifications and adoption of the following resolution and the findings. The motion to certify with suggested modifications passes only by an affirmative vote of a majority of the Commissioners present:

**Motion:** *I move that the Commission certify LCP Amendment Number LCP-2-HMB-21-0078-2 as submitted by the City of Half Moon Bay if it is modified as suggested pursuant to the staff recommendation.*

**Resolution to Certify:** *The Commission hereby certifies LCP Amendment Number LCP-2-HMB-21-0078-2, if modified as suggested, and adopts the findings set forth below on grounds that the Amendment with the suggested modifications conforms with, and is adequate to carry out, the provisions of the certified Land Use Plan. Certification of the Amendment if modified as suggested complies with the California Environmental Quality Act, because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the 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.*

## 2. SUGGESTED MODIFICATIONS

The Commission hereby suggests the following modifications to the proposed LCP Implementation Plan amendment, which are necessary to make the requisite LCP Land Use Plan consistency findings. If the City of Half Moon Bay accepts the suggested modifications within six months of Commission action (i.e., by April 14, 2023), by formal resolution of the City Council, the modified amendment will become effective upon the Executive Director's reporting to the Commission that this acceptance has been properly accomplished. Where applicable, text in underline format denotes text to be added by the Commission, and text in strikethrough format denotes text to be deleted by the Commission.

1. **Delete IP Section 18.06.025(G)(2)(h) (and adjust subsequent numbering/lettering accordingly).**
2. **Delete IP Section 18.06.025(G)(5)(a)(i) (and adjust subsequent numbering/lettering accordingly)**
3. **Modify IP Section 18.06.025(G)(5)(a)(ii) as follows:**

*Duplexes and triplexes: Short-term vacation rentals may operate from duplexes and triplexes under limited conditions as long as follows: ~~1. At least one unit within the duplex or triplex is the primary residence of the owner; and 2. No more than one unit in a duplex or triplex may be registered and operated for short-term vacation rental use.~~*

4. **Delete IP Section 18.06.025(G)(5)(b) (and adjust subsequent numbering/lettering accordingly).**
5. **Modify IP Section 18.06.025(G)(5)(c) as follows:**

*Maximum Number of Rental Nights Hosted versus Unhosted Short-Term Vacation Rentals. ~~An unhosted short-term vacation rental shall be operated no more than sixty (60) nights per calendar year. There are no rental night limitations for hosted short-term rentals. (i) An unhosted short-term vacation rental is defined as a short-term vacation rental use where a primary no resident is not present during the course of the rental. (ii) A hosted short-term vacation rental is defined as a short-term vacation rental use where a primary resident, who is the operator and acting as host, occupies one or more bedrooms in a dwelling unit while other areas of the unit are rented for the purpose of transient overnight lodging.~~*

6. **Modify IP Section 18.06.025(G)(5)(h) as follows:**

*Maximum Overnight Occupancy. Overnight occupancy for short-term vacation rentals shall be limited to a maximum of up to two (2) persons per bedroom ~~up to a total of eight (8) occupants.~~ For a hosted short-term vacation rental, the bedroom(s) occupied by the host shall not be used in determining the maximum overnight occupancy for guests.*

7. **Modify IP Section 18.06.025(G)(6)(e) as follows:**

*~~Parking. The maximum number of vehicles allowed overnight at the Parking for short-term vacation rental users shall be provided at a rate of at least one off-street parking space per bedroom limited to one (1) vehicle per one-bedroom unit, two (2) vehicles per two- or three-bedroom unit, and one (1) additional vehicle for four or more each additional bedrooms. On-site parking spaces shall be provided for at least fifty percent of the maximum allowed number of vehicles (half spaces shall be rounded up). No vehicles shall be used for overnight occupancy. Parking exceptions may be considered by the planning commission subject to Section 18.36.085; provided that the planning commission shall consider whether a prior parking exception was previously granted for the property. In the Commercial-Downtown zoning district, exceptions must also comply with Section 18.07.045.~~*

**8. Delete IP Section 18.06.025(G)(7) (and adjust subsequent numbering/lettering accordingly).**

**9. Modify IP Section 18.06.025(G)(9)(a)(iii) as follows:**

*That two (2) violations of the Municipal Code LCP have occurred on the property on which the short term vacation rental is located within the preceding twelve (12) months;*

**10. Modify IP Section 18.06.025(G)(9)(a)(vi) as follows:**

*As used in this Section 18.06.025, the term “violation” shall mean any violation of the Municipal Code LCP, as evidenced by a City-issued citation, unresolved notice of violation, unresolved cease-and-desist order, or other appropriate documentation. Each unique violation of the Municipal Code LCP shall constitute one (1) violation.*

**11. Modify IP Section 18.06.025(G)(10) as follows:**

*Violations. Violations of the provisions of this chapter, or other city requirements, shall be enforced according to ~~Title 4 of the Municipal Code~~ the LCP’s enforcement provisions.*

**12. Modify IP Section 18.06.025(G)(11)(a) as follows:**

*a. Short-term vacation rentals in operation for at least three (3) months at the time of the effective date of this ordinance and in compliance with all previously existing City regulations, including payment of transient occupancy tax (“Existing STVRs”), shall have six (6) months from the effective date of this ordinance to register. ~~For approved unhosted short-term vacation rental operations, the annual calendar during which up to sixty (60) days of unhosted operations may occur commences on the date of registration issuance.~~*

**13. Delete IP Section 18.06.025(G)(11)(b) (and adjust subsequent lettering accordingly).**

**14. Modify IP Section 18.02.040 definition of “Short-term vacation rental” as follows:**

*“Short-term vacation rental” means a residential or mixed-use property that contains a dwelling unit or habitable portion thereof that is offered for hire for transient occupancy for periods of thirty days or less ~~as a use that is incidental to the principal residential use of a dwelling unit or property.~~ Non-permanent housing such as for seasonal farmworker housing and short-term boarding for researchers and others employed or otherwise affiliated with agricultural uses are not short-term vacation rental ~~transient lodging~~ facilities.*

### 3. FINDINGS AND DECLARATIONS

#### **A. Description of Proposed LCP Amendment and Background**

The proposed amendment would provide new LCP short-term rental (STR) provisions in the LCP’s Implementation Plan (IP) when currently there are no such explicit IP provisions and would update existing IP home occupation provisions. In terms of the latter, the proposed amendment is intended to support work-from-home opportunities for small home-based businesses. The LCP’s current home occupation provisions limit home occupations entirely to the resident of the property, do not account for parking requirements, and restrict all retail businesses. The proposed updates would clarify requirements to limit traffic, provide adequate parking, allow for one non-resident employee (in addition to the resident) per residence that contains a home occupation, and allow for retail businesses that operate entirely by mail. The amendment to the existing ordinance also provides an allowance for limited commercial visitor vehicle trips (such as those done by vendors or clients).

The proposed amendment for STRs would allow for STRs in most dwelling units throughout a majority of the City (i.e., other than in open space and agricultural zoning districts,<sup>3</sup> and other than in a variety of lower-cost housing settings).<sup>4</sup> However, the ordinance establishes a “Primary Resident Requirement”, where the STR operator must also be the primary resident of the unit, aside from in mixed-use commercial areas<sup>5</sup>, which are typically sited further inland from the shoreline. STRs would also be classified as hosted versus unhosted, where the former means the primary resident is present (and “hosting”) with the latter meaning that the primary resident is not present during an occupant’s stay. Unhosted rentals would be limited to a maximum of 60 rental nights per calendar year and hosted rentals would have no limit on rental nights. The proposed amendment would also provide for a series of ‘good neighbor’ operational restrictions (related to noise, parking, occupancy limits, special events, etc.) as well as an overall City authorization process (including required registration, inspection, performance standards, hosting platform regulations, and a revocation and appeals process). Specific details on the proposed STR provisions follow.

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<sup>3</sup> That is, STRs would not be allowed in the Urban Reserve and Open Space Reserve zoning districts.

<sup>4</sup> For example, STRs would be prohibited in designated affordable housing units, mobile homes, farm worker housing units, and multi-family developments with four or more units.

<sup>5</sup> Commercial-Downtown (C-D), Commercial-General (C-G), or Commercial-Visitor-Serving (C-VS) zoning districts.



Application Requirements

The proposed STR provisions would require STR applications (non-CDP applications) that would include: operator identification and information (where the host for hosted STRs would be the operator), including identifying all adults for whom the property is a permanent residence; responsible party identification and information (which, for hosted STRs, would be required to be the host, but could be different people for unhosted rentals); a description addressing how the STR is or would be in compliance with the LCP STR provisions; site and floor plans including an indication of the portions of the dwelling unit to be used for the STR; HOA and/or property owner consent, as applicable; proof of operator primary residence;<sup>6</sup> consent to inspection by the City and/or other relevant agencies, as applicable; and, for a renewal of an existing STR, water use information for the preceding year where, should prior year water use exceed 300 gallons per day on average, then the application would also have to include an identification of strategies to reduce water use.<sup>7</sup> To be approved, such applications would have to be found consistent with the proposed LCP STR provisions.

Registration Requirements

STR applications would be reviewed by City staff and would be required to demonstrate there are no outstanding building and fire code violations; proof of indemnification and insurance; business license and transient occupancy tax (TOT) registration; neighbor notification;<sup>8</sup> implementation of water conservation strategies if previous records show use exceeded 300 gallons per day on average; and confirmation by City staff of no recent LCP violations at the site.

Operation Requirements

The proposed amendment would allow STRs in single-family homes and residential condominium dwelling units in nearly all zoning districts, including Planned Unit Development (PUD) districts that are substantially developed and in the Dykstra Ranch PUD district (PUD-X); in a single unit of each duplex or triplex complex; and in a single unit of mixed-use developments with two or more units in mixed-use commercial zoning districts that allow for residential use (namely, the C-D, C-G, and C-VS zoning districts). STRs would be prohibited in certain affordable housing types, including mobile homes, recreational vehicles, multi-family housing developments with four or more units, multi-family housing developments containing one or more units restricted to be affordable/lower-income housing, and farmworker housing units. STRs would also be prohibited in Accessory Dwelling Units (ADUs) (unless already authorized under the City's certified ADU regulations);<sup>9</sup> in residential units in the Urban Reserve and Open

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<sup>6</sup> To establish primary residency, the operator must prove that they live in the unit a majority of the time, that they carry on basic living activities during that time, and that they usually return to the unit in the event of travel. Supporting evidence may include utility bills, motor vehicle registration, long-term leases and other documentation of this sort. For a renter-occupied unit to be used as an STR, an operator must have resided there for at least two years.

<sup>7</sup> Where repeated years of water use exceeding 300 gallons per day is grounds for denying a renewal.

<sup>8</sup> The operator would be required to notify any neighbors within 100 feet of the STR and post a temporary sign for 30 days on the property indicating intent to register as a STR.

<sup>9</sup> ADUs that had historically been operated as STRs were essentially 'preauthorized' when the City updated its LCP ADU provisions (most recently updated and certified by the Commission in February of

Space Reserve zoning districts; and in residential units in substantially undeveloped PDs as identified in the LUP.

The proposed amendment contains additional restrictions on STRs which include a primary resident requirement, limits on the number of nights for unhosted STRs, limits on occupancy and parking, limits on the number of STRs an operator can run, and lot size limits on STRs. First, the ordinance stipulates that “no dwelling unit shall be operated for short term rental use unless the dwelling is the primary resident<sup>10</sup> of the operator.”, with only dwelling units in C-D, C-G, and C-VS districts being exempt from this requirement. For duplex and triplex complexes, only one unit at a time would be allowed to be operated as an STR. Further, while there is no restriction on the number of rental nights for hosted STRs in any of the zoning districts in which STRs are allowed, there is a 60 rental night restriction on unhosted STRs in all districts where STRs are allowed. STR operators would also be allowed to run both hosted and unhosted rentals in the same STR, as long as they do not exceed the 60 rental night limit for the unhosted portion. In addition, the amendment would limit STRs to one per operator. An operator may register different areas of a site for use as a short-term rental, but only one rental may be operated at a time. The ordinance also establishes a minimum lot size of 4,125 square feet to operate an STR in the R-1, R-2, R-3, and C-R zoning districts. This is a substandard lot size in these zones, meaning that substandard and severely substandard lots in residential areas would be excluded from STR use.<sup>11</sup> Finally, the proposed operational requirements would establish guidelines regarding parties responsible to be available to respond to complaints as well as required record keeping.

#### Performance Standards

The proposed amendment would establish performance standards including a prohibition on interior and exterior activities related to the STR that would interfere with adjacent residential use; a requirement that the operator ensures that the City STR registration number be included on all advertisements of the STR; a requirement that City STR requirements and standards be provided to guests upon booking and in a manual at the STR; a requirement that STRs must be accessory to the underlying

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this year). Namely, ADUs were allowed to continue to operate as STRs if they had been rented as a STR for at least 30 nights for 6 months prior to December 12, 2018, if they continued to operate as an STR in good standing (including payment of TOT), if they were owner occupied and only allowed hosted rentals, and if they continued to comply with all other applicable City requirements. STRs were and are otherwise prohibited in ADUs under the LCP. While the City has not provided data on whether any ADUs include such preauthorized STRs, the data provided to date would suggest that there are currently no ADUs that offer STRs in the City under these provisions.

<sup>10</sup> Primary residence" means residential property at which a person resides a majority of the time, carries on basic living activities, and the place he or she usually returns to, in the event of travel. Evidence, such as motor vehicle registration, voter registration, a homeowner's exemption on the property tax bill, long-term lease of the residential property, or other similar documentation, may be required by the City to determine whether the property is the primary residence. For a renter -occupied property, a long-term tenant must have resided for a majority of time on the property for at least two years prior to initiating short-term vacation rental use.

<sup>11</sup> The ordinance also limits STRS to 10,500 square feet in the PUD-X zoning district; and the lot sizes established by the original CDP in developed PUD districts. All currently existing lots conform with this restriction.

residential use; and requirements to comply with the City's noise ordinance, building and fire codes, applicable state and local laws, and trash and recycling requirements. STRs would also be limited to a maximum of 2 people per bedroom, and a maximum of up to 8 users total and would be further limited to allowing no more than 3 vehicles per STR.<sup>12</sup> Finally, the amendment would also prohibit the use of STRs for commercial purposes (such as corporate retreats/conferences) and special events (e.g., weddings).

#### Hosting Platform Regulations/Revocations and Violations

The amendment would require hosting platforms to maintain records covering the last three years for all STRs that use their platform. Information retained would include the history of all reservations on the property, TOT payments, the length of stay per reservation, and the number of persons per reservation. Hosting platforms would also be required to prompt hosts to include City-issued registration information in their listings and to cease transactions for noncompliant STRs within five days, upon notification by the City that the listing is not in compliance. Finally, the amendment would establish a revocation and appeals process for out-of-compliance STRs and include STRs in the definition of hotels, although only for the purposes of gathering TOT. This definition would only be relevant within that context.

#### Initial Staff Recommendation of Approval

Staff originally published a recommendation to approve the proposed LCP amendment with minimal suggested modifications on April 22, 2022. This recommendation was based on the reasoning that despite the restrictive aspects of the amendment the small short-term rental market in the City meant that impacts on visitor-serving accommodations would be negligible. However, in response to that recommendation the Commission received a number of public comments raising significant concerns regarding the short-term rental portion of the LCP amendment. In response to those concerns regarding potential coastal resource issues, staff and the City have undertaken efforts to gather data and resolve those concerns before bringing a final decision to hearing.

Please see **Exhibit 1** for the full text of the proposed IP amendment.

## **B. Evaluation of Proposed LCP Amendment**

### ***Standard of Review***

The proposed amendment affects the IP component of the City of Half Moon Bay LCP only, and the standard of review for IP amendments is that they must be consistent with and adequate to carry out the policies of the certified LCP Land Use Plan (LUP).

### ***Applicable Land Use Plan Policies***

The LUP explicitly calls for a balance as it relates to STRs between facilitating this type of overnight accommodation while also providing for adequate housing stock and

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<sup>12</sup> Proposed parking requirements are as follows: One vehicle per one-bedroom unit, two vehicles per two or three bedroom unit, and one additional vehicle for four or more bedrooms. On-site parking spaces are required to equal at least 50% of the maximum number of vehicles allowed, rounded up, with a minimum of one parking space.

maintaining residential character. The LUP also provides for home occupation businesses, as long as they are compatible uses and secondary to the primary residential use of the property. Finally, there are several LUP provisions addressing the need for sufficient water, sewage, and road services for new development and redevelopment in residential and non-residential areas. Applicable provisions include:

***LUP Policy 5-1. Maximum Coastal Access and Recreational Opportunities.***

*Provide maximum coastal access and recreational opportunities for all people consistent with public safety needs and the need to protect public rights, rights of property owners, and natural resource areas from overuse.*

***LUP Policy 5-70. New Overnight Accommodations.*** *Consider the carrying capacity of the coast, visitor demand over a range of affordability levels for various accommodation types, and consistency with all applicable LCP and General Plan policies before approving any new overnight accommodation development proposals. Prioritize lower-cost visitor-serving accommodations over higher-cost lodging.*

***LUP Policy 2-7. Housing Stock Preservation.*** *Safeguard existing housing stock so that it is preserved and used as full-time housing through the establishment of programs and ordinances.*

***LUP Policy 2-72. Residential Land Use Compatibility.*** *Ensure that development, including a change in intensity of use, in residential land use designations avoids impacts on the residential living environment and the adjacent land uses, including proximate agricultural and agricultural compatible land uses, with respect to noise, lighting, parking, loading, and aesthetics. Consider other aspects of non-residential uses permitted in residential land use designations that may be impactful on a neighborhood setting or the adjacent land uses and require strategies to avoid such impacts.*

***LUP Policy 2-76. Short-Term Rentals.*** *Allow short-term rental businesses within the established neighborhoods. Short-term rental uses should be subordinate to primary residential uses such that residential units continue to be used for long-term residential occupancy. Establish land use regulations in the IP with performance standards necessary to protect coastal resources and the residential living environment of the neighborhoods, such as standards for property management, traffic, parking, noise, and trash. Short-term rental businesses shall pay transient occupancy tax to the City. Non-permanent housing such as for seasonal farmworker housing and short-term boarding for researchers and others employed or otherwise affiliated with agricultural uses are not short-term transient lodging facilities or uses and are not subject to transient occupancy tax.*

***LUP Policy 3-6. New Development Requirements and Findings.*** *Require that all new development has available municipal water and sewer services and access from a public street or over private streets to a public street where these improvements or facilities are essential to the type of development. Prior to*

*approval of a coastal development permit, the approving authority shall determine if infrastructure, including water connections, is available and adequate; and if so, shall make the finding that such development will be served with water, sewer, and road facilities, including such improvements as are provided with the development. Lack of available services or resources shall be grounds for denial of the project or reduction in the density otherwise indicated in the Land Use Plan. Some development types may be exempt from the requirements of this policy such as habitat restoration, trails and other coastal recreational uses, and many agricultural and agricultural supplemental and ancillary uses.*

**LUP Policy 3-20. Water Connections for New Development.** *Other than as described in Policies 3-21 and 3-22, new development within the urban boundary shall require a connection to the Coastside County Water District system. The City shall refer coastal development permit applications for new development or redevelopment projects to CCWD for confirmation of water supply adequacy and consistency with water connection requirements.*

**LUP Policy 3-29. Sewer Connections for New Development.** *Other than as described in Policies 3-30 and 3-31, new development within the urban boundary shall require a connection to the municipal sewer system.*

**LUP 3-25. Water Conservation Measures.** *Require water conservation measures for new development and redevelopment of residential and non-residential uses, including but not limited to, the use of high-efficiency fixtures and equipment, storm water capture, gray water collection and reuse, drip or microspray irrigation systems, and native drought-tolerant landscaping. For agricultural and horticultural business uses, water conservation policies in Chapter 4 are applicable.*

**LUP Policy 2-75. Home Occupations.** *Permit home occupations within residences for business types and activities that are compatible with the residential living environment and subservient to the primary residential use of each property. Establish performance standards in the IP for traffic, parking, noise, and other considerations with respect to home occupations.*

### **Consistency Analysis**

Taken together, these LUP objectives and policies seek to protect, provide for, and enhance coastal access and recreational opportunities for the public by prioritizing a range of accommodations including lower cost visitor-serving accommodations, while also establishing standards to preserve the unique residential environment and coastal resources that attract residents and visitors to the City. In addition, the LUP requires that such visitor-serving development be in harmony with other uses in the City such as housing (and affordable housing) stock and agriculture, be supported by adequate services (water, sewer, and road facilities), and not cause detrimental impacts to surrounding development through excessive noise, incompatible lighting, insufficient parking, or impacts from trash generation. The LUP also explicitly provides for the

allowance of home occupations for business activities if they are compatible with the residential living environment.

To put the City's proposed STR ordinance in context, the Commission has long recognized that STRs provide a unique and important source of visitor-serving accommodations in the Coastal Zone, especially for larger families and groups, and has found that outright bans or undue restrictions on this type of lodging are inconsistent with Coastal Act policies prioritizing public access and visitor-serving uses. At the same time, the Commission has in some cases recognized a need to restrict STRs in some coastal communities where evidence showed that the STR market was significantly impacting the availability of housing or having other impacts on coastal resources. Prior guidance to local governments has emphasized the need to allow but regulate STRs in a manner that balances the important public access and visitor-serving benefits of STRs with reasonable regulations to limit adverse impacts on coastal communities<sup>13</sup>. In prior actions, the Commission has approved "good neighbor" operational standards, which have proven to be an important tool to address concerns about community character while preserving STRs as an option for overnight accommodations in coastal areas.

Recent examples of Commission actions on STR ordinances include the 2018 Commission's rejection of a City of Santa Barbara STR ordinance that would significantly restrict STRs without meaningful benefits to community character or housing,<sup>14</sup> as well as the Commission's 2018 approval of a City of Santa Cruz STR ordinance that significantly restricted STRs. In the case of Santa Cruz there was a large and active market of non-primary resident STRs that had been ongoing for some time, and the case was made (through extensive data gathering made possible by previous iterations of their STR ordinance) that non-primary resident STRs had saturated the market, displacing potential housing stock.<sup>15</sup> These examples reflect that the Commission evaluates each STR ordinance on a case-by-case basis and in light of specific evidence of local context presented concerning the STR market in a particular jurisdiction and potential impacts of STRs on the local community.

### **Home Occupations**

The proposed home occupation changes are designed to help facilitate home-based businesses while addressing their potential impacts (e.g., requirements to limit new traffic, provide adequate parking, address employees, etc.) in such a way as to avoid any sort of significant coastal resource concerns. Specifically, the proposed amendment would clarify performance standards regarding traffic, parking, noise, and other

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<sup>13</sup> See, for example, Memorandum from former Chair Kinsey to Coastal Planning/Community Development Directors, dated December 2016, available at: [https://documents.coastal.ca.gov/assets/la/Short\\_Term\\_Vacation\\_Rental\\_to\\_Coastal\\_Planning\\_&\\_Dev't\\_Directors\\_120616.pdf](https://documents.coastal.ca.gov/assets/la/Short_Term_Vacation_Rental_to_Coastal_Planning_&_Dev't_Directors_120616.pdf).

<sup>14</sup> County of Santa Barbara LCP Amendment LCP-4-STB-17-0086 (among other policies) prohibited the operation of STRs when owner of the property was not present (known here as un-hosted) in residential districts. (available at: <https://documents.coastal.ca.gov/reports/2018/5/th19a/th19a-5-2018-report.pdf>)

<sup>15</sup> City of Santa Cruz LCP Amendment LCP-3-STC-17-0073-2 Part B (among other policies) prohibited all new non-primary resident STRs, set a system to phase out existing non-primary resident STRs, and set a cap on primary resident operated STRs (available at: <https://documents.coastal.ca.gov/reports/2018/4/w20a/w20a-4-2018-report.pdf>)

considerations in the IP concerning home occupations, in line with LCP Policy 2-75 which requires that home occupation uses be compatible with its surrounding environment. Despite a potentially modest increase in allowances for home occupation uses due to the proposed amendment, the City does not expect that most home occupations will operate much differently from residential uses with regards to occupancy, trip generation rates, parking demand, noise, or water demand, and thus the changes as proposed align with LUP Policy 2-75. The Commission concurs in this assessment and further sees no evidence that the proposed updated home occupation provisions would lead to any sort of significant coastal resource concerns. As a result, this portion of the proposed IP amendment can be found LUP consistent.

### **Short-Term Rentals**

The new proposed STR provisions establish several requirements that, if adopted, would make this one of the more restrictive STR ordinances along the California coast. While Half Moon Bay's ordinance does not include a general cap on the absolute number of STRs, as is commonly proposed in other areas, this amendment would establish a primary residence requirement for all STRs in residential areas, including those in areas near prime visitor destinations along the coast, a 60 rental night limit for unhosted operations, limits on the total number of people and cars allowed per STR, and would also prevent STRs from operating in substandard residential lots. While the other proposed provisions are generally appropriate under the LUP, these more restrictive provisions, both together and independent of one another, have the potential to substantially restrict the number, capacity, and usability of short-term rentals in the City, the entirety of which is in the coastal zone, in a manner that would not adequately implement the LUP's balancing of coastal access, visitor-serving uses, and housing preservation objectives.

### ***STR Operations and Good-Neighbor Policies***

The Half Moon Bay LCP establishes protections to the residential living environment, both generally with respect to new development in residential areas in LUP Policy 2-72, and specifically with regards to Short Term Rentals in LUP Policy 2-76. These two policies require impacts to the residential environment be avoided by managing noise, lighting, parking, aesthetics, and trash among other things. These policies are addressed in the proposed LCP amendment by including expansive "good neighbor provisions" outlined in the performance standards and registration requirements of the amendment. These policies regarding STRs, as proposed would limit traffic and noise, manage recycling and sewage, track and restrict water usage, prohibit special events, and require that a STR be visually indistinguishable from other residences. The ordinance also establishes a yearly registration term, where a license may be revoked if found to be in violation of any of the above requirements. These provisions more than adequately address concerns from the City and the public comments received to date regarding issues with trash, "party STRs", and noise complaints that might affect the residential character of an area and therefore the proposed good neighbor policy provisions in the LCP amendment are consistent with LUP policies requiring protection of community character.

### ***Primary Residence Requirement***

The City's proposed ordinance provides that: "No dwelling unit shall be operated for short-term vacation rental uses unless the dwelling is the **primary residence** of the operator." The ordinance defines "primary residence" as follows:

"Primary residence" means residential property at which a person resides a majority of the time, carries on basic living activities, and the place he or she usually returns to, in the event of travel. Evidence, such as motor vehicle registration, voter registration, a homeowner's exemption on the property tax bill, long-term lease of the residential property, or other similar documentation, may be required by the City to determine whether the property is the primary residence. For a renter-occupied property, a long-term tenant must have resided for a majority of time on the property for at least two years prior to initiating short-term vacation rental use.

The "primary residence" requirement applies only in residential areas, i.e., areas that do not include mixed-use commercial zones, including Commercial-Downtown, Commercial-General, and Commercial-Visitor-Serving Zoning District.

The City's rationale for the primary residence requirement is essentially twofold. First, the City concluded that such a requirement would safeguard existing housing stock, so that residences are primarily used as full-time housing, and would prevent commercial operators or investors from buying up property for the express purpose of operating an STR. Second, the City asserts that existing non-primary residence STR operations are the most problematic in terms of maintaining residential community character, and lead to complaints regarding excess noise, trash generation, and water usage. In terms of housing stock, the City did not provide data on how the primary residence requirement would preserve housing stock other than describing the existing STRs that do not currently have a primary resident (estimated by the City to be about 9 of the 29 current STRs in the City),<sup>16</sup> and there could be other STRs in the future absent adoption of the proposed restriction. In theory, such a restriction could mean that STRs that do not comply with the primary resident requirement would eventually be used for long-term housing, but that is dependent on several factors, many of which are unrelated to the proposed amendment.<sup>17</sup> As to the City's assertion that without the primary residency requirement there is the potential for individuals and/or companies to buy up housing units to use solely for STRs, two things are noted. First, beyond anecdotal observations, the City has not provided any data to support such assertions<sup>18</sup>. The fact that there are

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<sup>16</sup> Note that there was some confusion in the City's LCP amendment materials as to the number of STRs in the City, and whether that number was over 100 or 29. The correct number is 29. The proposed LCP amendment does refer to over 100 STRs, stating in Section 1(h) "More than one hundred short-term vacation rentals have operated within the city limits without benefit of compatible use regulations and registration requirements" (see Exhibit 1 page 1). According to the City, that number was meant to identify the cumulative number of STRs that operated in the City since 2017, and, as indicated above, the City estimates that 29 are legally operating now.

<sup>17</sup> For example, owners of such units might just leave them empty when they are not personally using them.

<sup>18</sup> The City has stated that they have received calls from realtors asking about purchasing property for the express use of operating the properties as STRs, and in fact performed an informal survey, calling the three major real estate companies in Half Moon Bay to determine how many inquiries these companies



only 29 STRs in the City, and only about 9 that do not currently have a primary resident, also belies the notion that such a phenomenon is occurring. It also suggests that there would be negligible potential housing stock gains (e.g., the 9 STRs that aren't primary residences only represent about 0.2% of City housing units) if it were implemented. Second, the proposed amendment includes a provision that would allow only one STR per STR operator in the City. In other words, a single entity would not be allowed to purchase and operate multiple units and use them solely for STRs, independent of the primary residence requirement.

As to the City's assertion that STRs with no primary resident are the most "problematic," the City did not provide any specific evidence to this effect beyond anecdotal observations.<sup>19</sup> Likewise, it is not clear from the City's materials how the primary residence requirement would solve such a problem were it clearly identified in the first place. As stated previously the proposed STR provisions include a series of 'good neighbor' performance standards that, irrespective of the primary residence requirement are intended to ensure that STR operations do not lead to disturbances or nuisances and do not adversely affect adjacent residential uses. Ultimately, and consistent with other LCP's STR approaches, it is these good neighbor provisions that will prevent STR operations that create disturbances or harm the character of the surrounding areas.

Thus, while it does not appear that the primary residence requirement will have much effect, if at all, on the City's available housing stock, especially more affordable housing stock,<sup>20</sup> what is clear is that the primary residence requirement would mandate that future STRs would have to be occupied by the operator "a majority of the time," limiting STRs, and as a result, limiting unhosted STRs.<sup>21</sup> In particular, owners of second homes

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were receiving about purchasing properties for STR use. Of the three companies, two stated that at least 50% of their calls had been related to STRs.

<sup>19</sup> It has not been uncommon in the Commission's experience that proposed LCP STR provisions relying on 'problematic STRs' as part of the problem definition are often based on individual and anecdotal observations, and not on data reflecting STR problems (such as documented and investigated complaints, police calls, etc.). It is no different in this case.

<sup>20</sup> STRs would actually be prohibited in a variety of lower-cost housing types, as detailed above, and thus STRs would have no effect on these affordable options. In contrast, homes that are operating as STRs are market rate homes that are located in desirable coastal areas, and would not be considered affordable if they were to be used mostly or exclusively for longer-term housing stock. For reference, the current average rental cost for a one-bedroom unit in San Mateo County (where Half Moon Bay is located) is the highest in the state (at nearly \$3,000 per month), and some two and a half times the state average (per RentData.org based on Department of Housing and Urban Development (HUD) data). Even other estimates specific to Half Moon Bay (as opposed to the broader County) show rents in the City to be some two times the state average. In addition, the median home price is roughly \$1.7 million. In other words, here in Half Moon Bay, like the rest of the greater Bay Area, the market rate is quite high, and any homes that might 'convert' from STRs into market rate should be understood in this context.

<sup>21</sup> The City has not provided information on the number of hosted versus unhosted rentals operating legally in the City, but it has generally been the Commission's experience that unhosted rentals are the predominant and most popular form of STR in most coastal communities. For reference, although a different community and different context, in the recent City of San Diego LCP amendment regarding STRs that was approved by the Commission earlier this year, it was estimated that 84% of STRs were unhosted (see LCP amendment LCP-6-SAN-21-0046-2 approved on March 9, 2022).

would unlikely be able to satisfy the primary residence requirement, because they would not be able to provide evidence (such as motor vehicle registration or voter registration) establishing that the home is where the owner “resides a majority of the time.” In other words, the proposed primary residency requirement would inform the STR market in a variety of potential ways that are difficult to predict.<sup>22</sup> However, given the City’s proposed restrictions, it seems likely that there would be even fewer STRs and unhosted STRs in Half Moon Bay going forward, including in areas near the shoreline, to the detriment of coastal visitors not fortunate enough to live in Half Moon Bay.

Consistent with the Coastal Act’s strong emphasis on providing maximum public access, the Half Moon Bay LUP contains policies that require the provision of “maximum coastal access and recreational opportunities for all people . . .” (LUP Policy 5-1). With respect to short-term rentals, Policy 2-76 specifically allows for short-term rental businesses in neighborhoods, while providing that short-term rental use “should be subordinate” to a primary residential use. The City’s proposed ordinance, while intended to implement Policy 2-76 and other policies designed to protect the City’s housing stock, simply goes too far in restricting opportunities for short-term rentals based on the evidence currently before the Commission. As a result, the Commission adopts **Suggested Modifications 1, 3, 4, 10, 13, and 14** to remove the primary residence requirement, as well as other mentions of it from the proposed ordinance.

#### ***Maximum 60-Rental Nights Per Year Requirement***

As to the 60-rental night limit for unhosted STRs, the City indicates that 60 nights was chosen based on estimated current and future STR demand, as well as the desire to ensure that STR operations were subordinate to the primary residential use. On the latter, the City believes that hosted rentals better protect the residential character of neighborhoods, such as provided for in LUP Policy 2-72. “Residential Land Use Compatibility” and lead to fewer problems because the host is present to protect against unruly or other such behaviors (e.g., big parties). Regarding this point, first, as indicated above, the City did not provide any sort of detailed information showing that any STRs (much less unhosted STRs) were causing the types of problems suggested to Commission staff as the purpose of the rental night restriction. Given the limited STR market, it would seem that the City would have concrete evidence of STR-related disturbances as there are so few STRs to monitor currently; however, no such evidence has been provided to the Commission. Second, as stated previously the City’s ordinance adequately provides for protecting residential compatibility through a series of ‘good neighbor’ provisions where there currently are no such regulations of STRs in Half Moon Bay. The result should provide an effective regulatory buttress against inappropriate STR behaviors that may exist currently, and do so for any new STRs moving forward as well. In other words, the proposed STR provisions already address this issue without the City’s stated need for a rental night limitation to address any such issues.

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<sup>22</sup> For example, under the City’s ordinance, second homes could be left vacant when not actively used by the owner, providing no housing opportunities, as opposed to providing some short-term housing opportunities through the short-term rental market that also benefits coastal access.

In terms of the City's assertion that a 60 rental night cap is tied to estimated current and future STR demand, the City did not present any information regarding existing or prospective STR demand with its amendment request. Rather, the City suggested that 60 nights was equivalent to 30 two-night weekend stays or 20 three-night weekend stays, and that such a limit would mean that STRs would be subordinate to residential uses for purposes of LUP Policy 2-76 (i.e., per the City's analysis, 30 weekends out of 52 weekends per year is more than half the weekends). First, it is unclear why 50% unhosted STR use as a general concept is the correct standard for determining that STR uses are 'subordinate' to residential uses under LUP Policy 2-76. For example, another standard for determining that STR uses are subordinate to residential uses could be that STRs are regulated and operated to essentially function and appear as a residential use, and do not outwardly present as anything other than that and that STR activities do not adversely affect adjacent residential uses, both requirements of the City's ordinance. In addition, it is noted that the LUP suggests that STRs "should" be subordinate to residential uses (LUP Policy 2-76), but the LUP does not mandate it, and LUP Policy 2-76 does not specify how STR operations would satisfy the policy's objective<sup>23</sup>. The LUP also requires the provision of maximum coastal access and recreational opportunities, which reasonably encompasses overnight accommodations sufficient to accommodate coastal visitors (LUP Policy 5-1). In other words, the LUP does not mandate that in all cases STRs shall be subordinate to residential uses, a perspective that perhaps presents a false choice between STRs and longer-term housing. The more accurate LUP framing of all of the LUP's policies is that the LUP objective is to strike an appropriate balance that protects housing and also maximizes public access to the coast.

In terms of matching rental night limits to demand, while anecdotally it makes sense that there may be more STR demand on weekends,<sup>24</sup> STRs can also provide a place to stay during the week, and it is not clear that weekends are the proper metric for this type of analysis in the first place. Using the City's hotel data as a proxy, it appears that the City has fairly high occupancy year-round (almost 70%), which could suggest the same applies to STRs.<sup>25</sup> Even using weekends, with a 50% threshold at 26 weekends, applying two-night stays would mean that 52 rental nights would be more on point, and applying three-night stays would equate to 78 rental nights. Second, if weekends are not used, but rather a 50% threshold over a whole year (365 days), that would equate to 182 rental nights to be just under 50% over the year.<sup>26</sup> It appears that the City considered several different rental night limitations as the amendment was developed locally, including ultimately debating between allowing 90 versus 60 unhosted rental

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<sup>23</sup> Residential use also does not necessarily mean that the house is lived in by a full-time occupant. For example, in *Keen v. City of Manhattan Beach* (2022) 77 Cal.App.5th 142, 149, the Court of Appeals explained that "It is possible to reside somewhere for a night, a week, or a lifetime."

<sup>24</sup> The City cites to Half Moon Bay Chamber of Commerce data showing that hotel occupancy was 68% on average for the past 8 years, with higher occupancy on weekends.

<sup>25</sup> While obviously different places, again, the City of San Diego's recently approved STR LCP provisions help provide some context. In that case, the City's submittal documented STR occupancy at 78% with a peak of 86% in the summer.

<sup>26</sup> In the same City of San Diego LCP amendment case, the average STR stay was estimated to be 4.2 nights.

nights per year, but the 60-night restriction does not appear to be a number that is tied to the existing or expected STR market, as the City asserts.<sup>27</sup> In short, it is probably best to understand the proposed 60-rental night limitation for unhosted rentals for what it is; namely, a somewhat randomly developed number and a fairly restrictive restriction as LCP STR provisions go. Further, it is a restriction that limits unhosted STR use in any particular STR to about 16% of the nights each year. Such restrictions have the potential to severely affect current and future STR operators, making it less economically desirable to operate an STR, as well as limiting overall capacity and creating the potential for adverse impacts on visitor-serving accommodation availability in the City. Therefore, **Suggested Modifications 5 and 12** are necessary to remove the 60-night limit, and mention of it, to assure preservation of existing visitor-serving accommodations and not overly restrict STR accommodations in contradiction with the LUP's overall objective to balance public access to the coast, visitor-serving accommodations, and preservation of housing.

Finally, regarding hosted and unhosted rentals, the City asserts that the proposed ordinance contains no limits on the hosted rentals, either in the number of rental nights, or the total number allowed in Half Moon Bay. They make the argument that unhosted, or "whole house" rentals are often quite expensive when compared to hosted STRs, and restricting the former and encouraging the latter will allow for more hosted STRs in Half Moon Bay and therefore allow for more lower-cost visitor-serving accommodation. First, while information provided by Half Moon Bay in communication with staff for rental rates for whole house STRs appear at first glance to be quite high cost, there is no current standard for estimating what constitutes "low-cost" visitor-serving accommodation from city to city. Whole house STRs provide a unique form of coastal accommodation containing amenities that a hotel or campground cannot provide, and while they may be "high cost" for a single person to rent, they may be considered affordable when rented by a group of people or by two or more families, especially when compared to the alternative, such as renting out multiple hotel rooms. The fact is, there is no equivalent accommodation to "whole house" or unhosted STRs on the coast and restricting the operation of this unique form of accommodation may actually increase the price of other types of accommodations, which could actually operate to reduce the total supply in the coastal zone. A hosted STR cannot provide the same service as an unhosted one, and one cannot be substituted for the other. Finally, since there is no process at this time to determine whether STRs constitute low-cost visitor-serving accommodation, or which types of STRs might constitute low-cost visitor-serving accommodations, **Suggested**

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<sup>27</sup> On this point it is noted that the City also suggests that the 60-rental night limitation and the primary residency requirement are common approaches certified by the Commission in LCPs, and should be supported for that reason. However, that is not correct. In fact, these types of approaches are atypical, and the Commission appears to have only approved one other LCP amendment that included a primary residency requirement (in the City of Santa Cruz), and even there, existing STRs were preauthorized and were not required to meet the rental night limitation requirement in that case. Further, the Commission appears to have only approved three LCP amendments with rental night limitations (i.e., a 90-night limit for a very limited tier of STRs in San Diego (where most STRs were unlimited), a 100-night limit in the City of Del Mar, and a 180-night limit in San Mateo County), where such limits were in the context of jurisdictions with much larger STR markets. This differs significantly from the 29 STRs in the Half Moon Bay market. Thus, it is probably better to characterize the City's proposed LCP planning approach here as fairly novel, and very restrictive in relative terms, in the coastal zone.

**Modification 8** is needed to make sure that STRs are not automatically categorized as a non-coastal act priority use, since they *could* be identified as low-cost visitor-serving accommodation, which is a Coastal Act priority.

***Maximum 8-person and 3-car Requirements***

The restrictions on the number of people per STR (2 per bedroom, with a total maximum of 8), and the number of cars (one (1) for one bedroom, two (2) for two or three bedrooms, and one (1) additional car for four (4) bedrooms), while potentially appropriate for most STRs in the City, does not adequately account for residences that have the capacity for larger groups of people or parking. The City indicates that these proposed maximum use levels are designed to help the STR use function more like a residential use, and to limit the impacts on water use, circulation, and parking from larger groups. The City also points to the need to protect on-street parking for day-use coastal visitors, particularly in the City's western neighborhoods that are closer to the beach and where there is also generally a higher number of STRs. Further, the City indicates that while some houses may be able to fit more users and cars, the majority of housing in Half Moon Bay consists of homes with less than 8 occupants and with two-car garages/driveways. While this may be the case, there does not appear to be a logical reason for capping or restricting larger groups of people or additional cars should the residence have the capacity for visitors (additional bedrooms) or larger off-street private parking areas. If the desire for capping the total number of visitors to 8 is to avoid "party" or "problem" STRs, there needs to be information to support that a large group of STR users are consistently the cause of complaints by the neighbors. In fact, larger groups of people could just as well include an extended family with children looking for affordable accommodation on the coast as it could a so-called "party" STR. Further, such concerns about impacts from "party" or "problem" STRs are addressed by the proposed "good neighbor" provisions.

There is likely a fairly small number of units in the City that are large enough to handle more than 8 people at 2 persons per bedroom (i.e., 5 or more bedroom units), and an even smaller subset of those that might provide STR use, and thus any effect from STR users of that size party would be expected to be negligible overall. Therefore, it appears to be a proposed restriction that is not narrowly tailored to a problem. Because these caps on parking and visitors could have an adverse effect on visitor-serving accommodations in Half Moon Bay, especially for larger groups, such as families with children, a standard for occupancy and parking tied more to objective performance standards (i.e., a maximum of 2 people and 1 off-street parked vehicle allowed per bedroom) is more appropriate. Therefore, **Suggested Modification 6** allows for the number of visitors to be tied to the number of bedrooms, but does not put a cap on the total number of visitors, should a residence have more than four (4) bedrooms. In the same vein, **Suggested Modification 7** allows one additional car for each additional bedroom past four bedrooms, resulting in no cap on the number of cars should a residence have more than four (4) bedrooms, and still be able to accommodate parking on-site as required by the ordinance (at least 50% of the maximum number of cars allowed must be accommodated on-site). These suggested modifications would preserve on-street parking for day-use visitors and assure larger groups of visitors can be adequately accommodated by the STR, without overly restricting capacity.

### ***Minimum Lot Size***

The City's explanation for prohibiting STRs in substandard and severely substandard lots is that STR usage would exceed the site capacity of a lot that is already developed to the limit of the capacity allowed in the IP. However, this ordinance also establishes a series of performance standards for trash, recycling, septic, and water usage which should limit the usage of such substandard lots to the site capacity of the lot. Indeed, if an STR exceeds the specified water usage for the previous year, the operator could lose their registration. In addition, given that STRs would be limited to two people per room, the site capacity should not be exceeded, as smaller lots typically have smaller houses with fewer rooms. This restriction must be weighed against the potential impact, which although relatively small, still is significant for lots in residential areas. The City estimates that there are currently 110 substandard and severely substandard lots in Half Moon Bay that would be affected by this ordinance, which is about 4% of the 2,900 lots developed with single-family homes or located on vacant infill sites in the single-family Residential (R-1, R-2, and R-3), Commercial Residential (C-R), and Planned Unit Development (PUD and PUD-X) zoning districts in Half Moon Bay. Given the lack of an apparent need for this restriction, and the small potential for impact to residential areas, **Suggested Modification 2** is necessary to remove the prohibition of STR operation on substandard lots.

### ***STR conclusion***

The LCP's LUP provides the standard of review for this proposed IP amendment and it calls for a balance between facilitating short-term rentals in the City while also preserving housing stock and maintaining residential community character. As detailed above, the City's proposal applies a number of measures designed to severely curtail STRs, and it would significantly limit STRs in the City. The City indicates its ordinance is intended to restrict STRs in order to protect as many housing units in the City as possible. While the Commission is sympathetic to the City's goal in that regard, the Commission does not believe that the ordinance as proposed strikes the necessary LUP balance, especially when visitor-serving uses and activities are a higher priority than residential under both the Coastal Act and the LCP. The City's STR market is fairly modest, with a total of some 29 STRs currently registered and operating in the City (a City with some 4,700 housing units), where two-thirds of these 29 STR operations are mostly used for long-term residential purposes and not STRs in any case. There is simply a lack of evidence to suggest that STR operations in these 29 units are leading to any type of significant issues, including as it relates to inappropriate user behaviors. Per the City's estimates, only about 9 STRs in the City are used primarily as STRs (or 0.2% of the City's housing units). In other words, the 'problem' that the City's 'solution' purports to address is unclear, and the solution appears to be a poor fit for this context.

In particular, while much of the proposed amendment provides rational standards designed to ensure STRs are appropriately operated and regulated (including through 'good neighbor' provisions and a process for City STR permitting and monitoring), the primary residency requirement, the rental night limitation, the person/vehicle limits, and the lot size limitations together have the potential to significantly limit STRs even further than the existing limited 29 STR market. These provisions would simultaneously limit both the capacity and number of STRs near prime visitor destinations (particularly near

the immediate shoreline and popular beaches) in the City, and would significantly limit the ability of STRs to provide an important and unique overnight accommodation option to those not fortunate enough to live in Half Moon Bay, including larger groups and families for which STRs sometimes make overnight access possible at all.

The Commission does not believe that these types of measures are supported by evidence of a problem in need of correction, does not believe them to be consistent with the LUP's direction to balance residential and STR uses, and does not believe them to be consistent with the LUP's public recreational access and visitor-serving priorities and requirements. For these reasons, the Commission can only approve the amendment if these restrictions are removed and other conforming changes are made (see **Suggested Modifications 1-14**). In addition other cross-references need to be updated to reference the LCP rather than the municipal code (see **Suggested Modifications 9 and 11**). This is the most LUP appropriate outcome based on the evidence currently before the Commission, including in light of the very limited STR market in the City. Even if that market were to appreciably increase (which seems unlikely since the current market exists in the absence of LCP regulation, and introducing more regulation seems likely to be a deterrent in comparison), the City's regulation and monitoring of STRs through the ordinance modified as suggested would put it in a position to better understand the nature of potential issues, if any, and could form the basis for future LCP amendments to refine the program as needed. Such an outcome helps preserve at least some modicum of STRs for overnight visitors to the City, however small that market is, and strikes a more appropriate balance, as required by the LUP. This approach also helps to ensure better access for all to prime coastal zone visitor destinations in Half Moon Bay by adding to the mix of overnight accommodation options, particularly for families and larger groups not fortunate enough to be able to live in Half Moon Bay for whom STRs may provide a form of lodging that better serves their needs.

In conclusion, with the suggested modifications outlined above, the Commission finds that the IP amendment regarding home occupations and STRs conforms with, and is adequate to carry out, the certified LUP.

### **C. 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 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 (existing facilities), 15305 (minor alterations to land use limitations), and 15301(b)(3) (common sense exemption)).

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, has addressed all comments received, and has concluded that the proposed LCP amendment is expected to result in significant environmental effects, including as those terms are understood in CEQA, if it is not modified to address the coastal resource issues identified herein. Accordingly, it is necessary for the Commission to suggest modifications to the proposed LCP amendment to ensure that it does not result in significant adverse environmental effects. Thus, the proposed LCP amendment as modified 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).

#### 4. APPENDICES

##### **A. Substantive File Documents**

- LCP Amendment File for LCP-2-HMB-21-0078-2

##### **B. Staff Contact with Agencies and Groups**

- City of Half Moon Bay Community Development Department