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To: Commissioners and Interested Persons

From: Kevin Kahn, Central Coast District Manager
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Subject: San Luis Obispo County LCP Amendment Number LCP-3-SLO-21-0027-1-Part F (Los Osos Vacation Rentals)

SUMMARY OF STAFF RECOMMENDATION

San Luis Obispo County proposes to amend the Local Coastal Program's (LCP) Implementation Plan (IP) regarding vacation rentals to apply specific requirements to the unincorporated community of Los Osos, which is located along the shores of Morro Bay in the 'back bay' area. The LCP currently allows vacation rentals throughout the coastal zone, with specific requirements applicable within the unincorporated communities of Cayucos, Cambria, and Avila Beach. These requirements include "good neighbor" operational standards (such as noise and guest limits, required off-street parking, and a local contact person in case of complaints) as well as density limits so as not to oversaturate particular neighborhoods or blocks with vacation rentals. The proposed amendment would add specific rules for Los Osos vacation rentals into the LCP's vacation rental provisions, including these same types of general operational standards as well as limits specific to Los Osos. On the latter, the proposed amendment would cap vacation rentals at a total of 55 in Los Osos, and would require that new vacation rentals be located at least 500 feet from other vacation rentals or from overnight lodging accommodations (such as motels, hotels, and bed-and-breakfast inns).¹

The proposed amendment's 55-unit cap and 500-foot buffer requirements raise some concerns with respect to conformance with LUP requirements to maximize public recreational access and prioritize visitor accommodations. The proposed LCP amendment is one of the more limiting versions of such caps and buffers that the Commission has considered (and is significantly more limiting than the rules that apply

¹ Staff had previously scheduled this proposed amendment for an October 2021 Commission hearing, but postponed that hearing in light of significant comments received after the staff report was distributed that made staff reconsider its recommendation (which was then for the amendment to be approved as submitted) in light of same. Staff has since reevaluated the issues and worked with County staff on solutions to identified problems, including two suggested modifications with which County staff is in agreement, all of which is described herein.

to other areas of the County).² In evaluating these concerns, including in light of comments received from interested parties, a number of issues were identified. Some of these are specific to Los Osos, but many of them are also generically issues under the LCP because the LCP structure for vacation rentals, including as it relates to the individual communities with additional standards, is the same. The main concern raised specific to Los Osos is the potential for vacation rentals to increase water demand in an area where water supply is severely limited. These concerns stem from the idea that out-of-town visitors who are not familiar with the water supply constraints of Los Osos would not conserve or reduce water the way residents do. This issue is already partially addressed by the relatively low 55 vacation rental unit cap in Los Osos, and by the fact that vacation rentals are not likely to be occupied as often as full-time residences are. And in addition, at the suggestion of some community members and the County, Suggested Modification 2 requires vacation rental permit holders to post signs inside the residence to educate the public about the importance of water conservation in Los Osos and further ensure that vacation rentals have the least impact possible on Los Osos's water supply. The other more general issues are primarily related to the way in which buffers from vacation rentals are applied and concerns that such buffers could be used to 'block' otherwise legitimate vacation rentals. This could occur by establishing a vacation rental or other visitor-serving accommodation (such as hotels, motels, and bed and breakfasts) to which a buffer must be applied, but without actually renting that unit out. In other words, using the rentals/accommodations permitting process could be used to block vacation rentals altogether.

In terms of the buffer issue, the buffers in the proposed amendment apply too broadly and include types of visitor accommodations, such as homestays, that do not further the primary objective of these buffers. The primary objective of such buffers is to avoid oversaturation of whole house short-term rentals, which are identified in the LCP as vacation rentals. These whole house short-term rentals are different than when a portion of a house is rented out for a short term but the long-term residents of the house are present at the same time. These are instead considered "homestays" rather than vacation rentals per the LCP and are covered elsewhere in the LCP. Homestays have been identified as a type of short-term rental to which typical issues often ascribed to whole house short-term rentals don't accrue, such as community character issues related to noise. This is generally because the long-term residents are present at the same time. Thus, homestays have been identified as a preferred form of short-term rental that does not require the same level of oversight as whole house short-term rentals (i.e., "vacation rentals" in the LCP) and the buffers proposed should not be applicable to homestays. But the proposed LCP amendment would require buffers to be applied not only between vacation rentals, but also between vacation rentals and other visitor-serving accommodations, which include homestays and other overnight use types such as hotels, motels, and bed and breakfasts. In other words, under this construct, because the buffers would also apply to types of visitor accommodations that do not raise the sorts of issues that come with whole house short-term rentals, the

² The proposed 500-foot buffer for Los Osos is over twice as large as the 200-foot buffer used in Cambria, five to 10 times as large as the 50-foot to 100-foot buffers used in Cayucos, and 10 times as large as the 50-foot buffers used in Avila Beach.

proposed buffers will significantly reduce the space where vacation rentals can exist at all. This concern is exacerbated by how large the proposed buffers are here.

Commission staff worked closely with County staff on these issues and have identified a suggested modification that ensures that buffers are applied between vacation rentals, and not between vacation rentals and these other forms of overnight accommodations. This continues to achieve the primary objective of such buffers related to whole house short-term rentals, while also helping to ameliorate the potential for ‘blocking’ schemes to be implemented via establishing a homestay (with or without the intent of ever offering any rooms for short-term rental) through the simpler permitting process associated with that type of use (e.g., a non-CDP process). While it is true that a property owner could still establish a vacation rental with no intent to ever make it available to the public as a means of blocking other vacation rentals within the prescribed buffer, the vacation rental permitting process is much more robust/difficult (including requiring a minor use permit, which act as a CDP under the LCP), and this is likely to dissuade such potential maneuvers. Although a ‘use it or lose it’ requirement could also be applied to vacation rentals, where they are required to be rented some minimum amount to maintain their permits, County staff believes that the permitting process alone would be enough for now to address this issue, and has committed to better tracking of vacation rental usage over time to see if a subsequent LCP change would be warranted to ensure that such blocking schemes do not occur.³

Even with Suggested Modification 1 changing how the buffer applies, the buffer is still more limiting than in other communities. However, in this case, such limits can be found acceptable for Los Osos for several reasons. First, the County estimates that there are 38 vacation rentals in Los Osos, so the proposed amendment would allow an additional 17 vacation rentals, or about a 45 percent increase in vacation rentals over existing conditions. At the same time, however, the 500-foot buffer means that such rentals would actually decrease over time nearest the shoreline (including because some existing vacation rentals are already within 500 feet of others), and thus rentals may actually decrease over time unless vacation rentals were to be established in more inland locations. At any rate, it would appear that the Los Osos vacation rental market would probably at least stay at about current levels, or somewhere close to that, provided the suggested modification is applied. Thus, the cap should not pose a visitor-serving issue requiring additional modifications. And that makes sense, as the market here in Los Osos is slightly different than other communities in the County. Visitors to Los Osos are typically looking for a more low-key visitor experience focused on back bay offerings (like kayaking) and the slower pace that Los Osos generally provides, where the market has adjusted thus far to that demand at 38 units, and where it would

³ And, because the LCP is structured the same way for the other communities identified, the same issues associated with such buffers and potential blocking apply there as well. County staff indicate that they will look to make any needed corrections for those communities through a future LCP amendment. Although staff notes that it is within the Commission’s discretion to make similar changes there as are being suggested here in relation to Los Osos at the least, staff concurs with the County that the issues surrounding vacation rentals in those other communities deserve a more thorough local process that can allow the interested public in those communities to also make their views known. Therefore, staff is not recommending that such corrections be implemented in those parts of the LCP here.

thus appear that it would not be necessary to substantially increase vacation rentals limits.

Second, Los Osos is a community that continues to try to establish a sustainable water source, which has been hindered by questions regarding groundwater basin safe yield, as well as by historic nitrate contamination and seawater intrusion. As a result, new development in Los Osos, including new residential development, has been curtailed as a result of public service limitations (and other issues, such as wastewater disposal and protection of ESHA). Thus, the County here is trying to balance visitor-serving accommodation needs with the need to provide housing opportunities for longer term residential purposes in an area where development options are currently limited. Should development constraints change, it may be that the balance could be reconsidered,⁴ but at the current time this balance is appropriate. And third, homestays will continue to remain available in Los Osos without a cap. In addition, Los Osos also provides for a variety of other overnight lodging opportunities, including several small hotels and camping opportunities at nearby Montaña de Oro State Park, even if these do not add up to a significant number of overnight accommodations.

Finally, the County undertook an extensive community planning process to develop short-term rental regulations that respond to and address the unique context of Los Osos. While all such ordinances can be complex in terms of finding an appropriate balance between providing for important visitor-serving accommodations while protecting community character, housing opportunities, and coastal resources, and while reasonable people can and do disagree about where that balance is, staff believes that with the suggested modifications, the County's proposal here adequately and appropriately finds that balance given Los Osos' unique context. Commission and County staff are also in agreement on the suggested modifications. Staff thus recommends that the Commission approve the amendment with the suggested modifications, and the motions and resolutions to do so are found on page 6 below.

Staff Note: LCP Amendment Action Deadline

This proposed LCP amendment was filed as complete on September 2, 2021. The proposed amendment affects the LCP's IP, and the 60-working-day action deadline was originally on December 1, 2021. On November 17, 2021 the Commission extended the action deadline by one year, and thus the Commission now has until December 1, 2022 to take a final action on this LCP amendment.

⁴ The County has submitted a proposed Los Osos Community Plan (that would be added to the LCP's Estero Area Plan) to the Commission for consideration that is intended to provide a framework for potential future development (including increased residential development) in the community that can adequately and appropriately address water, wastewater, ESHA and other development constraints. That Plan is currently tentatively scheduled to come before the Commission in early 2022, and its final disposition could materially affect how to understand the ways in which development is to be balanced and provided in the community going forward.

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EXHIBITS

Exhibit 1: Proposed IP Amendment (shown in strikethrough and underline)

CORRESPONDENCE

1. MOTION AND RESOLUTION

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

A. Deny the IP Amendment as submitted

Staff recommends a **YES** vote on the motion below. Passage of this motion will result in rejection of the 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 Implementation Plan Amendment LCP-3-SLO-21-0027-1 Part F as submitted by San Luis Obispo County, and I recommend a yes vote.*

Resolution to Deny: *The Commission hereby denies certification of LCP Amendment Number LCP-3-SLO-21-0027-1 Part F as submitted by San Luis Obispo County and adopts the findings set forth below on grounds that the Implementation Plan 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 IP Amendment with Suggested Modifications

Staff recommends a **YES** vote on the motion below. Passage of this motion will result in certification of the Implementation Plan Amendment with suggested modifications and the adoption of the following resolution and the findings in this staff report. 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-3-SLO-21-0027-1 Part F as submitted by San Luis Obispo County if it is modified as suggested in this staff report, and I recommend a yes vote.*

Resolution to Certify: *The Commission hereby certifies LCP Amendment Number LCP-3-SLO-21-0027-1 Part F, if modified as suggested, and adopts the findings set forth below on grounds that the Implementation Plan 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 Amendment 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 Implementation Plan amendment, which are necessary to make the requisite Land Use Plan consistency findings. If the Commission certifies the LCP amendment as submitted, no further Board of Supervisors action will be necessary pursuant to Section 13544(b)(2) of Title 14 of the California Code of Regulations. Should the Commission deny the LCP Amendment, as submitted, without suggested modifications, no further action is required by either the Commission or the Board of Supervisors, and the LCP amendment is not effective, pursuant to Section 13542(f). Should the Commission deny the LCP Amendment, as submitted, but then approve it with suggested modifications, then the Board of Supervisors may consider accepting the suggested modifications and submitting them by resolution to the Executive Director for a determination that the Board of Supervisors' acceptance is consistent with the Commission's action. In that scenario, pursuant to Section 13544(c) of Title 14 of the California Code of Regulations, the modified LCP Amendment will become final at a subsequent Commission meeting if the Commission concurs with the Executive Director's Determination that the Board of Supervisors' action in accepting the suggested modifications approved by the Commission for LCP Amendment LCP-3-SLO-21-0027-1 Part F is legally adequate. If the Board of Supervisors does not accept the suggested modifications within six months of the Commission's action, then the LCP amendment remains uncertified and not effective within the coastal zone. Where applicable, text in underline format denotes proposed text to be deleted/added by the County. Text in ~~double cross out~~ and double underline denotes text to be deleted/added by the Commission's suggested modifications.

1. **Modify IP Section 23.08.165(C)(4)(iv) as follows:**

Within all residential land use categories, no residential vacation rental shall be located within 500 feet of another parcel with a residential vacation rental ~~and/or other visitor serving accommodation~~. Distances shall be measured from the closest property line of the existing residential vacation rental ~~and/or other visitor serving accommodation~~ to the closest property line of the parcel containing the proposed residential vacation rental.

2. **Add IP Section 23.08.165(C)(4)(v):**

A minimum of one water conservation sign shall be posted in each restroom and kitchen of the dwelling. Water conservation signs shall encourage occupants to reduce water usage by stating (a) the importance of conserving water in Los Osos and (b) ways in which occupants can reduce the amount of water used during the stay. Water conservation signs shall be created and posted utilizing County-approved language.

3. FINDINGS AND DECLARATIONS

A. Proposed LCP Amendment Description

The proposed amendment would modify the Local Coastal Program's (LCP) Implementation Plan (IP) to establish new regulations for vacation rentals in the unincorporated community of Los Osos, which is located along the shores of Morro Bay in the 'back bay' area. The LCP currently allows vacation rentals throughout the coastal zone, with both general "good neighbor" operational standards (such as noise and guest limits, required off-street parking, and a local contact person in case of complaints) as well as specific requirements for vacation rental use in the communities of Cambria, Cayucos, and Avila Beach (including numeric caps and distance requirements between vacation rentals and other visitor accommodations). The proposed amendment would add specific rules for Los Osos vacation rentals into the LCP's vacation rental provisions, including the same types of general operational standards as well as limits specific to Los Osos. On the latter, the proposed amendment would cap vacation rentals at a total of 55 in Los Osos, and would require that new vacation rentals be located at least 500 feet from other vacation rentals or from other overnight lodging accommodations (such as motels, hotels, bed-and-breakfast inns, and homestays).⁵ The proposed amendment requires a CDP to establish a vacation rental in Los Osos, and allows one such rental per natural person, limited liability company, or personal family trust. Finally, vacation rentals would only be allowed within existing single-family residences, and would not be allowed within accessory dwelling units, multi-family dwellings or mobile home parks. See Exhibit 1 for the proposed LCP changes.

B. Proposed LCP Amendment Consistency Evaluation

Standard of Review

The proposed amendment affects the LCP's IP, and the standard of review for IP amendments is that they must conform with and be adequate to carry out the policies of the LCP's certified LUP.

Applicable Land Use Plan Policies

The LCP's LUP contains a series of provisions encouraging visitor-serving uses as well as other types of things that support visitors, with the intent of maximizing coastal access and providing appropriate upland support facilities, such as vacation rentals, directed towards coastal zone visitors, including:

LUP Recreation and Visitor-Serving Facilities Policy 1: Recreation Opportunities. *Coastal recreational and visitor-serving facilities, especially lower-cost facilities, shall be protected, encouraged and where feasible provided by both public and private means. ...*

⁵ The LCP distinguishes between short-term rentals that occupy a whole house (i.e., identified by the LCP as "vacation rentals") and short-term rentals that do not occupy a whole house (i.e., identified by the LCP as "homestays"), which allow the rental of up to two rooms in a single-family residence for up to seven days with the remainder of the house occupied by its long-term residents. The former requires a minor use permit, which acts as a CDP under the LCP, while the latter does not require a CDP.

LUP Recreation and Visitor-Serving Facilities Policy 2: Priority for Visitor Serving Facilities. *Recreational development and commercial visitor-serving facilities shall have priority over non-coastal dependent use, but not over agriculture or coastal dependent industry in accordance with PRC 30222. All uses shall be consistent with protection of significant coastal resources. The Land Use Plan shall incorporate provisions for areas appropriate for visitor-serving facilities that are adequate for foreseeable demand. ...*

LUP Recreation and Visitor-Serving Facilities Policy 3: Low Cost Facilities. *Larger visitor-serving projects shall make provisions for services which are geared to a range of costs, including low cost facilities.*

LUP Shoreline Access Policy 4: Provision of Support Facilities and Improvements. *Facilities necessary for public access shall be provided. ...*

LUP Shoreline Access Policy 8: Minimizing Conflicts with Adjacent Users. *Maximum access shall be provided in a manner which minimizes conflicts with adjacent uses. Where a proposed project would increase the burdens on access to the shoreline at the present time or in the future, additional access areas may be required to balance the impact of heavier use resulting from the construction of the proposed project.*

With respect to public services, LUP Public Works Policy 1 states that the amount, location, and rate of development must be kept within the sustainable capacity of resources, public services, and public facilities. And LUP Public Works Policy 6 provides that where there are identified public service limitations, priority uses under the Coastal Act take precedence over non-priority uses. LUP Public Works Policies 1 and 6 state:

LUP Public Works Policy 1: Availability of Service Capacity. *New development (including divisions of land) shall demonstrate that adequate public or private service capacities are available to serve the proposed development. Priority shall be given to infilling within existing subdivided areas. Prior to permitting all new development, a finding shall be made that there are sufficient services to serve the proposed development given the already outstanding commitment to existing lots within the urban service line for which services will be needed consistent with the Resource Management System where applicable.*

LUP Public Works Policy 6: Resource Management System. *The county will implement the Resource Management System to consider where the necessary resources exist or can be readily developed to support new land uses. Permitted public service expansions shall ensure the protection of coastal natural resources including the biological productivity of coastal waters. In the interim, where there are identified public service limitations, uses having priority under the Coastal Act shall not be precluded by the provision of those limited services to non-priority uses.*

And the LUP also protects special communities and their unique character, including identifying the Baywood Village commercial area of Los Osos as a special community,⁶ stating:

LUP Visual and Scenic Resources Policy 6: Special Communities and Small-Scale Neighborhoods. *Within the urbanized areas defined as small-scale neighborhoods or special communities, new development shall be designed and sited to complement and be visually compatible with existing characteristics of the community, which may include concerns for the scale of new structures, compatibility with unique or distinguished architectural historical style, or natural features that add to the overall attractiveness of the community.*

And finally, the LCP's Estero Area Plan is also a component of the LUP, and it includes additional specific standards for Los Osos, including identifying the vision for this stretch of the County's coast:⁷

Provide maximum public access, and protect existing public access, to the coast, the shoreline, the bay, and public recreation areas, consistent with the need to protect natural and agricultural resources and private property rights.

In short, mirroring the Coastal Act's same directives, the LUP seeks to maximize public recreational access by, among other things, prioritizing visitor-serving development such as overnight accommodations (particularly lower-cost ones) over other types of development, but doing so in a manner that respects community character and other coastal resources, as well as the physical capacity (e.g., water, wastewater, ESHA, circulation, etc.) of the community to sustain such use.

Consistency Analysis

The opportunity to rent residences or portions of residences within California's coastal communities represents one way in which California residents and visitors enjoy the coast. In some instances, such short-term rental opportunities may also provide a lower-cost alternative to renting hotel or motel rooms, particularly for large families or groups of individuals. In all cases, these short-term rentals increase the range of options available to coastal visitors, oftentimes in residential areas along the immediate shoreline where there may not be other significant commercial overnight opportunities, thus helping to facilitate visitor access to the coast overall. In this context, proposals to regulate short-term rentals have the potential to conflict with the LUP's objectives to protect access and recreational opportunities, and to also conflict with the LUP's prioritization of visitor-serving opportunities. Proposals to regulate such rentals, though, also can be vehicles to help ensure that such rental uses appropriately address other LCP objectives as well, such as protecting community character. Thus, the regulation of residential short-term rentals plays an important role in implementing LUP policies by

⁶ IP Section 23.11 defines special communities as "Areas and communities with unique, visually pleasing characteristics which serve as visitor destination points and include: ... South Bay - Baywood Village Commercial area ..."

⁷ Estero Area Plan Vision and General Goals A.1, Page 1-7.

ensuring that type of visitor-serving use is conducted in a manner that protects access, coastal resources, and the integrity of residential communities.

As with other communities across the state developing short-term rental regulations, the County undertook an extensive community planning process, including through the Los Osos Community Advisory Council,⁸ to help understand the community's perspective about issues raised by such rentals, and to help solicit community ideas on ways to regulate them in Los Osos. While some community members advocated for more short-term rentals, and some for none, many others in the community looked to ways to allow short-term rentals while addressing the types of issues they can present in residential settings, including in terms of residential housing stock. Ultimately, the Advisory Council recommended including a 55 unit cap on whole house short-term rentals (or "vacation rentals" under the LCP),⁹ no cap on short-term rentals for rooms in a house when the residents are present (or "homestays" under the LCP), and a 500-foot buffer between vacation rentals and other visitor-accommodations. The Board of Supervisors ultimately agreed with these provisions, even though they were significantly more restrictive than similar LCP vacation rental provisions applicable to the unincorporated Cambria, Cayucos, and Avila Beach areas.

As an initial matter, the proposed amendment's 55-unit cap and 500-foot buffer requirements raise some concerns with respect to conformance with LUP requirements to maximize public recreational access, including in terms of prioritizing visitor accommodations, including as it is one of the more limiting versions of such caps and buffers that the Commission has considered (and is significantly more limiting than the rules that apply to other areas of the County).¹⁰ In evaluating these concerns, including in light of comments received from interested parties, a number of issues were identified. Some of these are specific to Los Osos, but many of them are also generically issues under the LCP because the LCP structure for vacation rentals, including as it relates to the individual communities with additional standards, is the same. The main concern raised specific to Los Osos is the potential for Vacation Rentals to increase water demand in an area where the water supply is severely limited. These concerns stem from the idea that out-of-town visitors who are not familiar with the water supply constraints in Los Osos would not conserve or reduce water the way residents do. These concerns also appear to assume that short-term rentals would be occupied for as many days a year as a normal rental, which seems unlikely. This issue is already partially addressed by the relatively low 55 vacation rental unit cap in Los Osos, and by the fact that vacation rentals are not likely to be occupied as often as full-time residences are. And in addition, at the suggestion of some community members and the County, Suggested Modification 2 requires vacation rental holders to post signs

⁸ The Los Osos Community Advisory Council is an 11-member volunteer group that advises the San Luis Obispo County Board of Supervisors, the County's Planning Commission, and County planning staff on land use planning and other important issues that affect Los Osos.

⁹ According to the County there are approximately 5,500 single-family residences in Los Osos, and thus 55 units represents up to 1% of such residences.

¹⁰ The proposed 500-foot buffer for Los Osos is over twice as large as the 200-foot buffer used in Cambria, five to 10 times as large as the 50-foot to 100-foot buffers used in Cayucos, and 10 times as large as the 50-foot buffers used in Avila Beach.

inside the rental explaining the importance of water conservation in Los Osos. The intent is to educate the public of water supply issues in the community and further ensure that vacation rentals have the least impact possible on Los Osos's water supply. The other more general issues are primarily related to the way in which buffers from vacation rentals are applied and concerns that such buffers could be used to 'block' otherwise legitimate vacation rentals. This could occur by establishing a vacation rental or other visitor-serving accommodation (such as hotels, motels, and bed and breakfasts) to which a buffer must be applied, but without actually renting that unit out. In other words, using the rentals/accommodations permitting process could be used to block vacation rentals altogether.

In terms of the buffer issue, the buffers in the proposed amendment apply too broadly and include types of visitor accommodations, such as homestays, that do not further the primary objective of these buffers. The primary objective of such buffers is to avoid oversaturation of whole house short-term rentals, which are identified in the LCP as vacation rentals. These whole house short-term rentals are different than when a portion of a house is rented out for a short-term but the long-term residents of the house are present at the same time. These are instead considered "homestays" rather than vacation rentals per the LCP and are covered elsewhere in the LCP. Homestays have been identified as a type of short-term rental to which typical issues often ascribed to whole house short-term rentals don't accrue, such as community character issues related to noise. This is generally because the long-term residents are present at the same time. Thus, homestays have been identified as a preferred form of short-term rental that does not require the same level of oversight as whole house short-term rentals (i.e., "vacation rentals" in the LCP) and the buffers proposed should not be applicable to homestays. But the proposed LCP amendment would require buffers to be applied not only between vacation rentals, but also between vacation rentals and other visitor-serving accommodations, which include homestays and other overnight use types such as hotels, motels, and bed and breakfasts. In other words, under this construct, because the buffers would also apply to types of visitor accommodations that do not raise the sorts of issues that come with whole house short-term rentals, the proposed buffers will significantly reduce the space where vacation rentals can exist at all. This concern is exacerbated by how large the proposed buffers are here.

To address this issue, Suggested Modification 1 would ensure that buffers are applied between vacation rentals, and not between vacation rentals and these other forms of overnight accommodations. This continues to achieve the primary objective of such buffers related to whole house short-term rentals, while also helping to ameliorate the potential for 'blocking' schemes to be implemented via establishing a homestay (with or without the intent of ever offering any rooms for short-term rental) through the lesser/easier permitting process associated with that type of use (e.g., a non-CDP process). While it is true that a property owner could still establish a vacation rental with no intent to ever make it available to the public as a means of blocking other vacation rentals within the prescribed buffer, the vacation rental permitting process is much more robust/difficult (including requiring a minor use permit, which act as a CDP under the LCP), and this is likely to dissuade such potential maneuvers. Although a 'use it or lose it' requirement could also be applied to vacation rentals, where they are required to be rented some minimum amount to maintain their permits. County staff believes that the

permitting process alone would be enough for now to address this issue, and has committed to better tracking of vacation rental usage over time to see if a subsequent LCP change would be warranted to ensure that such blocking schemes do not occur.¹¹

Even with Suggested Modification 1 changing how the buffer applies, the buffer is still more limiting than in other communities. However, in this case, such limits can be found acceptable for Los Osos for several reasons. First, the County estimates that there are 38 vacation rentals in Los Osos, which will continue to be allowed to operate irrespective of potential buffer issues,¹² so the proposed amendment would allow an additional 17 vacation rentals, or about a 45 percent increase in vacation rentals over existing conditions. At the same time, however, the 500-foot buffer means that such rentals would actually decrease over time nearest the shoreline (i.e., due to 19 of the 38 vacation rentals already being within 500 feet of each other in this area), and thus it may be that rentals actually decrease over time unless vacation rentals were to be established in more inland locations. At any rate, it would appear that the Los Osos vacation rental market would probably stay about at current levels at the least, or somewhere close to that, provided the suggested modification is applied, and thus the cap should not pose a visitor-serving LUP issue requiring additional modifications. And that makes sense, as the market here in Los Osos is slightly different than other communities in the County, where visitors to Los Osos are typically looking for a more low-key visitor experience focused on back bay offerings (like kayaking) and the slower pace that Los Osos generally provides, where the market has adjusted thus far to that demand at 38 units, and where it would thus appear that it would not be necessary to substantially increase vacation rentals limits.

Second, Los Osos is a community that continues to try to establish a sustainable water source, which has been hindered by questions regarding groundwater basin safe yield, as well as by historic nitrate contamination and seawater intrusion. As a result, new development in Los Osos, including new residential development, has been curtailed as a result of public service limitations (and other issues, such as wastewater disposal)¹³

¹¹ And, because the LCP is structured the same way for the other communities identified, the same issues associated with such buffers and potential blocking apply there as well, and County staff indicate that they will look to make any needed corrections for those communities through a future LCP amendment. Although it is within the Commission's discretion to make similar changes there as are being suggested here in relation to Los Osos at the least, the issues surrounding vacation rentals in those other communities deserve a more thorough local process that can allow the interested public in those communities to also make their views known, and such corrections are not here and now implemented in those parts of the LCP too for this reason.

¹² The County indicates that 19 of the 38 vacation rentals are currently located within the proposed 500-foot buffer. Under this amendment, those rentals could still continue to operate as long as their permits remained valid (and would thus be 'grandfathered' as legal non-conforming uses/development moving forward) and until such properties changed hands, at which time their permits would no longer be effective and would need to be reestablished (if they could meet the 55 unit cap and the 500-foot buffer requirements at that time).

¹³ Coastal Commission CDP A-3-SLO-09-055/069, which authorized the construction of a wastewater treatment plant in Los Osos in 2010, also prohibits wastewater service to serve new growth in Los Osos and instead only allows connections for existing development unless and until the LCP is amended to identify appropriate and sustainable development controls for Los Osos. The County has submitted a proposed Los Osos Community Plan (that would be added to the LCP's Estero Area Plan) to the

and protection of ESHA). Thus, the County here is trying to balance visitor-serving accommodation needs with the need to provide housing opportunities for longer term residential purposes in an area where development options are currently limited. Should circumstances change with respect to development constraints it may be that the balance could be reconsidered (e.g., through the afore-mentioned Los Osos Community Plan), but at the current time this balance is appropriate.

Third, homestays (again, where visitors rent a room or rooms in a home occupied by the long-term owners/residents) will continue to remain available in Los Osos without a cap). In addition, while not in significant numbers, Los Osos provides for a variety of other overnight lodging opportunities, including several small hotels and camping opportunities at nearby Montaña de Oro State Park.

Finally, as described above, the County undertook an extensive community planning process to develop short-term rental regulations that respond to and address the unique context of Los Osos. While all such ordinances can be complex in terms of finding an appropriate balance between providing for important visitor-serving accommodations while protecting community character, housing opportunities, and coastal resources, and while reasonable people can and do disagree about where that balance is, staff believes that with the suggested modifications, the County's proposal here adequately and appropriately finds that balance given Los Osos' unique context. Thus, for all the reasons discussed above, with the suggested modifications, the proposed IP amendment can be found consistent with and 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 County exempted the proposed amendment from environmental review, citing CEQA Section 15061(b)(3) (i.e., where CEQA applies only to projects which have the potential for causing a significant effect on the environment, and the County determined that no possibility exists that the amendment may have a significant 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

Commission for consideration that is intended to provide just such a framework for potential future development (including increased residential development) in the community that can adequately and appropriately address water, wastewater, ESHA and other development constraints. That Plan is currently tentatively scheduled to come before the Commission in early 2022, and its final disposition could materially affect how to understand the ways in which development is to be balanced and provided in the community going forward.

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 (all above findings are incorporated herein in their entirety by reference). 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).