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# W14f

Date: February 17, 2022

To: **COMMISSIONERS AND INTERESTED PERSONS**

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Subject: **STAFF RECOMMENDATION ON CITY OF SAN DIEGO MAJOR  
AMENDMENT NO. LCP-6-SAN-21-0046-2 (Short Term Rentals) for  
Commission Meeting of March 9, 2022**

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## SYNOPSIS

On October 8, 2021, the City of San Diego Local Coastal Program (LCP) Amendment No. LCP-6-SAN-21-0046-2 was filed in the San Diego District office as the City's second LCP submittal for 2021.

### SUMMARY OF AMENDMENT REQUEST

The proposed ordinance amends chapters 1 and 5 of the City of San Diego Municipal Code – which are not currently part of the certified Implementation Plan (IP) – to regulate and cap the number, type, and manner of short term residential occupancy (STRO) operations that may occur in the City's dwelling units, applicable to both the hosts and the online hosting platforms that list STROs. The amendment also repeals the regulations for "boarder and lodger" and "bed and breakfasts" land uses from the Land Development Code (LDC), chapters 11-15 of the municipal code, which is part of the certified IP. Only portions of two sections of Chapter 5 – Section 510.0102: Definitions and 510.0104: Short Term Rental Occupancy Regulated – are proposed to be included in the certified LCP through expansion of the certified IP to include those sections.

### SUMMARY OF STAFF RECOMMENDATION

Staff recommends that the Commission deny the LCP amendment as submitted and approve it as modified by staff.

Currently, short term rentals are largely unregulated in the City. They are considered a residential use; collection of Transit Occupancy Tax (TOT) is required, but otherwise, there are no licensing requirements, and the number, type, and location of STROs is not controlled or policed. The subject STRO ordinance adopted by the City creates an entirely new set of regulations governing all aspects of STRO activities, including the number, type, and manner in which STROs can be operated; new definitions for guests, home

shares, hosts, and other related terms; detailed licensing provisions, operating requirements, enforcement, administration and reporting requirements, and hosting platform requirements.

The majority of the STRO ordinance consists of administrative regulations and details that are not relevant to the Coastal Act or the certified Land Use Plans' (LUPs) policies, and thus are not being incorporated into the Implementation Plan. However, the licensing requirement includes a cap on the number of whole-home STRO licenses granted in the city to a percentage of the City's housing supply. Specifically, whole-home STRO licenses, which represent the dominant form of short-term rentals, will be capped at a maximum of 1% of the City's total dwelling units, excluding Mission Beach. In Mission Beach only, whole-home STRO licenses will be capped at 30% of Mission Beach's total dwelling units. Most whole-home STROs licenses will require a minimum two-night stay. There will be no cap on "home share" (the host is present on site) licenses, and there will be no minimum stay requirement.

The City has estimated that there are approximately 540,000 dwelling units in the city, with 61,070 (11.3%) dwelling units in the coastal zone, and 3,602 (0.01%) in Mission Beach specifically. A 1% cap on STROs for the City outside of Mission Beach would produce 5,364 licenses, while the 30% cap in Mission Beach would produce 1,081 licenses in that community, for a total of 6,445 STROs allowed to operate. This represents a 48% reduction in STRs city-wide and a 27% decrease in Mission Beach specifically.

Thus, the proposed amendment would have a profound impact on the availability of STROs by substantially reducing the supply of whole home STROs compared to the current demand. In isolation, this reduction could be seen as inconsistent with the LUP policies that strongly support the protection and provision of overnight accommodations. STROs provide a service to coastal visitors looking for a different, and often more affordable, type of overnight accommodations than traditional hotels can provide. STROs typically offer rooms for gatherings, multiple sleeping accommodations for larger families and groups, full kitchens, and laundry facilities. Some visitors prefer the experience of living in a community like a "local" and patronizing local business over the commercial experience of staying in a branded hotel.

However, in addition to protecting high-priority visitor-serving facilities, the Commission must also consider the housing needs and community character of San Diego's coastal neighborhoods. The intent of the proposed STRO regulations is to balance STRO and long-term housing. It is unclear the extent to which STROs impact housing price or availability; the current estimate of 12,300 STROs represents less than 2.5% of the housing stock in the city, and particularly in the coastal zone, most of the houses currently used for STROs would likely not be considered affordable to rent or buy. Nevertheless, by tying the STRO cap to the amount of housing stock in the city, the City will be able to assure that STROs never become a dominant portion of the City's housing supply, in order to support long-term housing. Regarding community character, the new ordinances have been designed improve the quality of STRO operations and lessen their impacts to long-term residents through mechanisms to cite, suspend, or revoke the license of hosts whose guests fail to follow the City's regulations.

The City has indicated that excess demand for overnight accommodations may be able to be met through a combination of hosted STRO licenses, which will not be capped, and

traditional hotels. While STROs are unique in the amenities and character they offer visitors, the hotels and motels in the city have long provided service to the millions of visitors that the city receives every year. In the city's coastal zone alone, there are 111 hotels and motels, totaling 16,375 rooms with a mean hotel size of 73 rooms. This number does not include reservoirs of hotels located just outside the coastal zone, such as "Hotel Circle" along Interstate-8 in the Mission Valley community, with over twenty hotels and motels and thousands of rooms. While travel patterns have been altered due to the ongoing COVID-19 pandemic, hotel occupancy rates in the coastal zone provided by the City indicate that there is available capacity to accommodate visitors who may not be able to rent an STRO ([Exhibit 5](#)).

Thus, while the City's proposal to cap whole home STROs will reduce the supply of visitor-serving accommodations, the City has made a reasonable attempt to balance the benefits that STROs provide to coastal visitors and communities with the adverse impacts they can have on those same communities. The subject amendment also represents a compromise between several major stakeholders. In July 2020, STRO operator Expedia Group and Unite Here 30 hospitality workers union, adopted a Memorandum of Understanding (MOU) outlining the parameters of a set of comprehensive STRO regulations in the form which, they agreed would balance the need to preserve neighborhood quality of life with protecting private property rights ([Exhibit 3](#)). The MOU was subsequently submitted to the City, and the subject amendment developed by the City is largely consistent with it.

With regard to the "carve-out" of Mission Beach, while the City's proposal to cap whole home STRO licenses in Mission Beach to 30% of the dwelling units in Mission Beach appears to be a striking contrast to the 1% cap in the rest of the City, STROs have long had a sizeable presence in the community character and development pattern of Mission Beach. There are only two hotels and two hostels within this popular community, and those who wish to stay in the vicinity have long turned to STROs. Mission Beach is not just an owner-occupied residential community; a 2018 City analysis of available data regarding private property ownership within Mission Beach found that roughly one-third of property owners in Mission Beach owned two or more dwelling units, and 309 property owners own three or more units.

According to a 2020 SANDAG Demographic and Socioeconomic Estimate ([Exhibit 7](#)), there are 3,602 dwelling units in Mission Beach, and according to current City TOT records, there are approximately 1,480 STROs operating in Mission Beach, representing 41% of dwelling units. The proposed 30% cap on STRO licenses in Mission Beach would result in a 28% decrease in the number of STROs operating in Mission Beach.

It is this history of STRO presence and pattern of multiple property ownership that the City evaluated in determining a higher cap on STRO operators is necessary and reasonable. Under the proposed amendment, STRO operators in Mission Beach would be beholden to the same good neighbor operating and tax requirements as STROs operating elsewhere in the City. Further reducing the whole-home license cap would have an adverse impact on public access and visitor recreation in this area, impacting the tourist population who have visited Mission Beach for generations.

As the City expects the number of applicants for whole-home licenses will exceed the cap, those licenses will be issued by lottery. Distribution of STRO licenses across the City (outside of Mission Beach), will be based on community planning area in proportion to the percentage of the overall applicant pool each community planning area represents. For

example, if in a particular year 15% of the applications are from La Jolla, 12% are from Pacific Beach, and 10% are from North Park, then the lottery will award an equal percentage of licenses to applicants in those community plan areas. The lottery system for Mission Beach will simply award licenses randomly up to the 30% cap for that community. This system will ensure that as long as there is a demand for whole home STRO licenses in the coastal zone, there will be licenses awarded in the coastal zone, distributed geographically based on demand.

At the time the STRO ordinance was adopted, the City was still in the process of formally adopting the administrative rules to implement the lottery. Suggested Modification No. 1 adds ordinance language requiring that Tier III licenses distributed by lottery must be proportionate to community planning area participation in the lottery application to ensure adequate distribution of STRO licenses to the coastal zone.

Due to the sheer size of the STRO market in the City and the brand-new nature of this regulatory effort, there is a certain element of uncertainty as to how all of the impacts to the general overnight accommodation market will play out. Already, the predicted decrease by half of STRO volume is substantial, and should the amendment somehow have the unforeseen consequence of reducing the volume even further, it would have a substantial adverse impact on public access. Suggested Modification No. 4 adds a sunset clause of January 1, 2030, on the portions of the ordinance being added to the certified LCP. As the City anticipates putting these STRO regulations into effect by early 2023, this will give the City and STRO market approximately seven years to learn, incorporate, and assess the amendment's requirements and impacts. At the end of the seven years, all parties will be able to review the available data to determine if the amendment met expectations and should proceed further, or if further amendments are required to ensure a proper balance between public access and community character.

The remaining suggested modifications formalize the clarify which portions of the ordinance are being incorporated into the certified Implementation Plan. Thus, the amendment can be found consistent with the certified Land Use Plans (LUPs) for the City and can be approved, if modified.

The appropriate motions and resolutions begin on page 7. The suggested modifications begin on page 8. The findings for denial of the Implementation Plan Amendment as submitted and for approval of the plan, if modified, begin on page 9.

## **BACKGROUND**

The City's first IP was certified in 1988, and the City then assumed permit authority. The IP consisted of portions of the City's Municipal Code, along with some Planned District Ordinances (PDOs) and Council Policies. In 1999, the Commission certified the City's LDC, which primarily includes Chapters 11 through 15 of the municipal code. The LDC replaced the first IP and took effect in the coastal zone on January 1, 2000. The Commission has certified many IP amendments since 2000.

## **ADDITIONAL INFORMATION**

Further information on the City of San Diego LCP Amendment No. LCP-6-SAN-21-0046-2 may be obtained from Alexander Llerandi, Coastal Planner, at (619) 767-2370 or [SanDiegoCoast@coastal.ca.gov](mailto:SanDiegoCoast@coastal.ca.gov).

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### EXHIBITS

[Exhibit 1 – Strikeout/Underline Ordinance](#)

[Exhibit 2 – San Diego Community Planning Area Map](#)

[Exhibit 3 – Expedia/Unite Here Memorandum of Understanding](#)

[Exhibit 4 – Travel Tech STRO Memo](#)

[Exhibit 5 – 2020-2021 Coastal Zone Hotel Occupancy Rates](#)

[Exhibit 6 – City Treasurer STRO License Lottery Memo](#)

[Exhibit 7 – 2020 SANDAG Mission Beach Demographics](#)

## **I. OVERVIEW**

### **A. LCP HISTORY**

The City of San Diego has a long history of involvement with the community planning process, and in 1977, requested that the Coastal Commission permit segmentation of its Land Use Plan (LUP) into twelve parts in order to conform, to the maximum extent feasible, with the City's various community plan boundaries. In the intervening years, the City has intermittently submitted all of its LUP segments, which are all presently certified, in whole or in part.

When the Commission approved segmentation of the LUP, it found that the implementation phase of the City's LCP would represent a single unifying element. This was achieved in January 1988, and the City of San Diego assumed permit authority on October 17, 1988, for the majority of its coastal zone. Several isolated areas of deferred certification remained at that time, but some have since been certified as LCP amendments. Other areas of deferred certification still remain today and will be acted on by the Coastal Commission in the future.

Since effective certification of the City's LCP, there have been numerous major and minor amendments processed by the Commission. These have included everything from land use revisions in several segments, to the rezoning of single properties, to modifications of citywide ordinances. In November 1999, the Commission certified the City's Land Development Code (LDC), and associated documents as the City's IP, replacing the original IP adopted in 1988. The LDC became effective in January 2000.

### **B. STANDARD OF REVIEW**

Pursuant to Section 30513 of the Coastal Act, the Commission may only reject zoning ordinances or other implementing actions, as well as their amendments, on the grounds that they do not conform with, or are inadequate to carry out, the provisions of the certified land use plan. The Commission shall take action by a majority vote of the Commissioners present.

### **C. PUBLIC PARTICIPATION**

Section 30503 of the Coastal Act requires local governments to provide the public with the maximum opportunity to participate in the development of the LCP amendment prior to submittal to the Commission for review. The City has held Planning Commission and City Council meetings with regard to the subject amendment request. All of those local hearings were duly noticed to the public. Notice of the subject amendment has been distributed to all known interested parties.

## **II. MOTIONS AND RESOLUTIONS**

Following a public hearing, staff recommends the Commission adopt the following resolutions and findings. The appropriate motion to introduce the resolution and a staff recommendation are provided just prior to each resolution.

### **1. MOTION:**

I move that the Commission reject the Implementation Program Amendment No. LCP-6-SAN-21-0046-2 for the City of San Diego as submitted.

### **STAFF RECOMMENDATION OF REJECTION:**

Staff recommends a **YES** vote. Passage of this motion will result in rejection of Implementation Program and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

### **RESOLUTION TO DENY CERTIFICATION OF THE IMPLEMENTATION PROGRAM AMENDMENT AS SUBMITTED:**

The Commission hereby denies certification of the Implementation Program Amendment submitted for the City of San Diego and adopts the findings set forth below on grounds that the Implementation Program as submitted does not conform with, and is inadequate to carry out, the provisions of the certified Land Use Plans, and the Certification of the Implementation Program 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 Implementation Program as submitted.

### **2. MOTION:**

I move that the Commission certify the Implementation Program Amendment No. LCP-6-SAN-21-0046-2 for the City of San Diego if it is modified pursuant to the staff recommendation.

### **STAFF RECOMMENDATION:**

Staff recommends a **YES** vote. Passage of this motion will result in certification of the Implementation Program Amendment with suggested modifications and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

### **RESOLUTION TO CERTIFY THE IMPLEMENTATION PROGRAM AMENDMENT WITH SUGGESTED MODIFICATIONS:**

The Commission hereby certifies the Implementation Program Amendment for the City of San Diego if modified as suggested and adopts the findings set forth below on grounds that the Implementation Program Amendment, with the suggested modifications, conforms with and is adequate to carry out the certified Land Use Plans. Certification of the Implementation Program 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 Implementation Program 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.

### III. SUGGESTED MODIFICATIONS

Staff recommends the following suggested revisions to the proposed Implementation Plan be adopted. The underlined sections represent language that the Commission suggests be added, and the ~~struck-out~~ sections represent language which the Commission suggests be deleted from the language as originally submitted.

1. Section 510.0104(d) shall be modified as follows:

510.0104 Short-Term Residential Occupancy Regulated

[...]

(d) Tier Three License: Whole Home Short-Term Residential Occupancy Outside of Mission beach Community Planning Area.

[...]

(5) Tier Three licenses issued on a lottery basis shall be issued to each Community Planning Area in proportion to the Community Planning Area's percentage of the overall Tier Three applicant pool.

2. Section 510.0102 shall have the following language note inserted below it:

[Editor's Note: The defined terms "dwelling unit," "guest," "home share," "host," "license," "primary residence," "short term residential occupancy," and "whole home" are part of the certified Local Coastal Program for the City of San Diego. An amendment by the City of San Diego to any definition will not apply within the Coastal Overlay Zone until the California Coastal Commission certifies the change as an amendment to the Local Coastal Program and the amendment becomes effective.]

3. Section 510.0104 shall have the following note inserted below it:

[Editor's Note: Section 510.0104(b) – (e), inclusive, are part of the certified Local Coastal Program for the City of San Diego. An amendments to any section will not apply within the Coastal Overlay Zone until the California Coastal Commission certifies the change as an amendment to the Local Coastal Program and the amendment becomes effective.]

4. A new Section 510.0112 shall be added as follows:

510.0112 Sunset Clause

The provisions of Sections 510.0102 and 510.0104 that are part of the City of San Diego's certified Local Coastal Program shall be in effect in the Coastal Overlay



Zone until January 1, 2030. This section may be amended prior to the expiration date, however, if not amended by January 1, 2030, then the licensing requirement for STROs will no longer be in effect in the Coastal Overlay Zone. The January 1, 2030, deadline may be extended for good cause by the Executive Director of the Coastal Commission.

## **IV. FINDINGS FOR REJECTION OF THE CITY OF SAN DIEGO IMPLEMENTATION PLAN AMENDMENT, AS SUBMITTED, AND APPROVAL IF MODIFIED**

### **A. AMENDMENT BACKGROUND AND DESCRIPTION**

The City of San Diego has been considering the impact of short term rental occupancy (STRO) on the availability of long-term housing, tourism, and community character for a number of years. Over the years, numerous interested parties, including labor interests, short term rental operators, tourists, and community representatives have addressed the City regarding the benefits and drawbacks of STROs. Currently, short term rentals are largely unregulated in the City. They are considered a residential use; collection of Transit Occupancy Tax (TOT) is required, but otherwise, there are no licensing requirements, and the number, type, and location of STROs is not controlled or policed.

In July 2020, STRO operator Expedia Group and Unite Here 30 hospitality workers union, two groups often at odds over STROs, adopted a Memorandum of Understanding (MOU) outlining the parameters of a set of comprehensive STRO regulations in the form which, if approved by the City Council, they agreed would balance the need to preserve neighborhood quality of life with protecting private property rights (See <https://www.sandiego.gov/sites/default/files/memorandum-of-understanding-on-stv-rentals.pdf> and [Exhibit 3](#)). The MOU was subsequently submitted to the City, and the subject amendment developed by the City is largely consistent with it.

The STRO ordinance adopted by the City creates an entirely new set of regulations governing all aspects of STRO activities, including the number, type, and manner in which STROs can be operated; new definitions for guests, home shares, hosts, and other related terms; detailed licensing provisions, operating requirements, enforcement, administration and reporting requirements, and hosting platform requirements.

The approved ordinance amends various chapters of the City's Municipal Code. The City of San Diego Municipal Code consists of 15 chapters, with chapters 11 through 15 comprising the Land Development Code (LDC), which serves along with the Land Development Manual as the City's certified Implementation Plan (IP). The proposed amendment makes changes to chapters 1 (General Provisions), 5 (Public Safety, Morals, and Welfare), neither of which are part of the certified IP, as well as changes to chapters 11 (Land Development Procedures), 12 (Land Development Review), 13 (Zones), 14 (General Regulations), and 15 (Planned Districts) ([Exhibit 1](#)). The majority of the changes adopted by the City are to Chapter 5 of the municipal code – Public Safety, Morals, and Welfare – where the details of the new licensing requirements are. The main changes to the LDC are to remove existing references to “boarder and lodger” and “bed and breakfast” uses, as these will be supplanted by the STRO regulations.

The majority of the STRO ordinance consists of administrative regulations and details that are not relevant to the Coastal Act or the certified Land Use Plans' (LUPs) policies. However, some aspects of the licensing process proposed by the City as a business regulation also function as a land use regulation of a high priority use under the Coastal Act – overnight accommodations. As discussed in detail below, the licensing requirement includes a cap on the number of whole-home STRO licenses granted in the city to a percentage of the City's housing supply. This is expected to have a significant effect on the supply of STROs, which in turn impacts public access and recreation. Thus, it is important that certain key development regulations contained in the ordinance be reviewed as part of the City's IP under the Coastal Act.

Commission staff worked closely with City staff to identify the specific provisions in the new ordinance which will be incorporated into the City's certified IP. Only certain parts of two of the sections in Chapter 5 – Section 510.0102: Definitions and Section 501.0104: Short Term Residential Occupancy Regulated – need to be brought into the LCP through this amendment, with the remainder of the amendments to Chapters 1 and 5 left out of the LCP. Rather than inserting the identified language into the existing LDC chapters of the municipal code that already serve as the IP, the City has opted to instead expand their certified IP to encompass these specific provisions of Chapter 5. The parts of Sections 510.0102 and 510.0104 that will be reviewed in this amendment action for inclusion into the IP are highlighted in [Exhibit 1](#).

Under the proposed amendment, the City will begin requiring that STRO hosts obtain two-year, renewable STRO licenses, and will divide STRO licenses into four "Tiers."

- Tier I will comprise STRO operators who do either "whole home" (the host is not present on site) or "home share" (the host is present on site) rentals for aggregate 20 or fewer days per year. There is no minimum night stay associated with Tier 1 licenses, and there will not be a cap on the number of Tier 1 licenses that may be granted by the City.
- Tier II will comprise STRO operators who do just "home share" for more than 20 days per year, but the host may be absent from the residence for up to 90 days per calendar year. There is no minimum night stay associated with Tier 2 licenses, and there will not be a cap on the number of Tier 2 licenses that may be granted by the City.
- Tier III will comprise STRO operators who do "whole home" rentals for more than 20 days per year anywhere in the City except the community of Mission Beach. There is a minimum two-night stay requirement for renting under a Tier III license, and the number of Tier III licenses will be capped at a maximum of 1% of the City's total dwelling units, excluding Mission Beach. Tier I and Tier II licenses will not count toward this cap.
- Tier IV will comprise STRO operators who do "whole home" rentals for more than 20 days per year within the community of Mission Beach, only. There is a minimum two-night stay requirement for renting under a Tier IV license, and the number of

Tier IV licenses will be capped at 30% of Mission Beach's total dwelling units. Tier I and Tier II licenses granted in Mission Beach will not count toward which cap.

Thus, while Tier I and Tier II licenses will have no cap on the number of hosts who may obtain them, the number of Tier III and Tier IV licenses – which represent the dominant form of STROs – issued by the City at any one time will be capped. As housing stock increases over time, the number of STRO licenses available will increase, but never more than 1% of the City's total number of dwelling units outside of the Mission Beach, and 30% of dwelling units in Mission Beach. The City has indicated that the intent of carving out Mission Beach for a greater percentage of STROs is to reflect the large number of STROs that have historically been present in the community.

As the City expects the number of applicants for Tier III and Tier IV licenses will exceed the cap, those licenses will be issued by lottery, however, at the time the STRO ordinance was adopted, the City was still in the process of formally adopting the administrative rules to implement the lottery. Since that time, City staff drafted an administrative memorandum detailing the set of rules associated with the lottery. Regarding distribution of Tier III STRO licenses across the City outside of Mission Beach, the City will issue permits based on community planning area in proportion to the percentage of the overall applicant pool each community planning area represents. An STRO host shall be defined as a natural person who has the legal right to occupy the dwelling unit and to allow STRO of the dwelling unit. The ordinances do not distinguish between owner or renter.

There are a number of aspects of the STRO ordinance that are important but are not being incorporated into the LCP because they do not impact coastal resources or the public's access to the coast. For example, the STRO ordinance limits a host obtaining a maximum of one license at a time in one of the four license tiers. All hosts are required to comply with specific "good neighbor" policies such as posting publicly visible contact information on the STRO to respond to complaints within an hour, as well as collecting and remitting TOT to the City. These provisions are necessary for the City to implement a comprehensive regulatory scheme, but do not substantially impact the primary issues of the number, type, and location of STROs, which does affect public access.

## **B. CONFORMANCE WITH THE CERTIFIED LAND USE PLANS**

The standard of review for LCP implementation submittals or amendments is their consistency with and ability to carry out the provisions of the certified Land Use Plan(s).

In the case of the City of San Diego, the City's LUPs are comprised of community planning areas based on its established neighborhoods and future urbanizing areas. Predicated on those community planning areas, the City utilized the geographic segmentation provisions of the LCP regulations and developed its land use plan component covering twelve different communities (i.e., North City, La Jolla, Pacific Beach, Mission Beach, Ocean Beach, Peninsula, Otay-Mesa Nestor, and others). Each community plan or LCP Land Use Plan contains policies that protect public views, scenic resources, public access, recreational opportunities and sensitive coastal resources including, but not limited to, beaches, bluffs, slopes, hillsides and environmentally sensitive lands in that community. The Commission's review of the proposed amendment to the Land Development Code must ensure that development is approved only when consistent with the certified LUPs.

Listed below are representative policy excerpts contained in the certified Land Use Plan segments in the Coastal Overlay Zone for the City of San Diego.

### **La Jolla LCP Land Use Plan**

- Maintain La Jolla as a primarily residential and recreational oriented community by protecting its residential areas and historic resources, maintaining its public recreational areas, and enhancing its commercial districts.

### **Mission Beach Precise Plan and Local Coastal Program Addendum**

- The encouragement of all types of individuals and family sizes to live in Mission Beach.
- The promotion of an economically balanced community through the investigation of individual and community rehabilitation efforts, changes in taxing and assessment procedures, and the use of subsidy funds where applicable.
- The accommodation of commercial facilities necessary to serve the needs of tourists attracted to the community by the beaches.
- The accommodation of visitors to the community in a manner that minimizes their impact upon the residents.

### **Downtown Community Plan**

- Ensure that downtown zoning allows home occupation/home-based businesses in appropriate locations.

### **Ocean Beach Community Plan and Local Coastal Program**

- Encourage the addition of overnight accommodations particularly serving the low/moderate cost range in the community.

### **Pacific Beach Community Plan**

- The commercial component recommends the provision and maintenance of lodging facilities for all income levels in the Roseville/Shelter Island area. The Plan states that incentives should be developed which would preserve low- and moderate-income lodging facilities, while City-owned properties are suggested as possible locations for moderate cost visitor accommodations such as hostels and campgrounds.

## **1. FINDINGS FOR DENIAL AS SUBMITTED**

The City of San Diego is 372 square miles with a population of approximately 1.4 million people. After technology and military, the convention and tourism industry is the third largest economic driver in the city, with approximately 35 million visitors a year. As cited

above, the City has many LUP policies supporting the provision, protection, and expansion of overnight accommodations, especially lower and moderate cost facilities. While the short term rental of a dwelling unit has long been present in the city as a rental option, with the advent of Internet services such as Airbnb and VRBO simplifying the process for property owners to enter the STRO market and visitors to locate a suitable STRO, the number and frequency of STRO rentals has dramatically increased in the City.

STROs are especially popular in the coastal zone. At the time of a September 2021 survey conducted by the Travel Technology Association (Travel Tech) on behalf of the City ([Exhibit 4](#)), there were approximately 12,300 STROs within municipal boundaries, with 84% of them being “whole home” rentals and 16% “home share,” with an average capacity of 4.8 renters. Approximately 39% (4,797) of the STROs were in the coastal zone, with 93% of them being “whole home” and 7% being “home share” and an average capacity of 5.8 renters. City TOT records indicate 1,480 STROs are in Mission Beach specifically. City-wide, the STRO average daily rate (ADR) at the time was \$216, while in the coastal zone it was \$306. In the twelve months leading up to September 2021, 1.7 million STRO nights were rented, with 42% of those nights occurring in the coastal zone. The average STRO hosted 160 nights a year, while in the coastal zone, the average STRO hosted 172 nights of the year. Average STRO occupancy is 75% for the year and peaks at 83% in the summer, while in the coastal zone, the average occupancy is 78% and peaks at 86% in the summer. The average STRO trip is 4.4 nights City-wide and 4.2 nights in the coastal zone.

As the number of STROs has increased, so have their benefits and impacts. The City points to the benefits that STROs provide in the form of increased tax and income revenue to the City, local property owners, and businesses, as well as job creation through firms and employees servicing the STRO properties through customer support, cleaning, maintenance, and managing. STROs tend to distribute tourism spending, since hotels are typically located in commercial districts, while STROs are located throughout the City. STROs are used by some homeowners to supplement their income, and some developers use STROs to finance the construction and operation of traditionally leased apartments and condominiums. STROs also provide a service to visitors to the coast looking for a different, and often more affordable, type of overnight accommodations than traditional hotels can provide. STROs typically offer rooms for gatherings, multiple sleeping accommodations for larger families and groups, full kitchens, and laundry facilities. Some visitors prefer the experience of living in a community like a “local” and patronizing local business over the commercial experience of staying in a branded hotel.

Conversely, STROs can adversely impact the surrounding community character. With increased STRO volume comes a reduction in longer term residents, creating a “hotel” environment in residentially zoned areas along with related issues of noise, litter, and parking shortages. The use of more dwelling units as STROs also removes them from the long-term rental market, and as the City states that annual population growth is 1.2% but housing growth is 0.5%, this may exacerbate the local housing crisis, where the average home price is \$891,746 and the average hourly wage is \$30.91, according to the Bureau of Labor Statistics. The City states that the intent of the proposed STRO regulations is to balance STRO and long-term housing. The City believes that the new ordinances will improve the quality of STRO operations and lessen their impacts through mechanisms to cite, suspend, or revoke the license of hosts whose guests fail to follow the City’s regulations. Regulations for the hosting platforms (e.g., Airbnb, VRBO, etc.) are also

proposed, requiring the platforms to engage in specified best practices to ensure that hosts listing on their services are properly licensed by the City and convey appropriate TOTs. As detailed above, while important to the successful operation of STROs, these are licensing requirements, not land use regulations, and thus, are not being incorporated into the LCP.

The City further argues that the amendment would also preserve the availability of long-term housing by reducing the volume of STROs by approximately half, limiting the number of STRO licenses a person can have to one, and placing a cap on the total number of whole home STRO licenses issued at any one time: 1% of dwelling units across the city outside of Mission Beach (Tier III licenses) and 30% of dwelling units in Mission Beach (Tier IV). The cap on the number of whole home STROs is the core provision of the proposed amendment. There will be no limit on the number of licenses granted for home share STROs or for whole home STROs on properties rented out for a maximum of 20 days a years. However, as previously noted, 93% of current STROs are whole home rentals. Thus, the cap on whole home STROS is the requirement with the greatest potential to adversely impact public access and recreation, which would be inconsistent with the LUP.

#### Whole Home STRO Cap (Tier III & Tier IV Licenses)

The City has not provided a specific analysis or study supporting limiting whole home STROs to 1% of the city's dwelling units or 30% of Mission Beach's dwelling units. Using dwelling unit numbers supplied by the City and sourced from the San Diego Association of Governments (SANDAG) annual Demographic and Socioeconomic Estimate, it is possible to estimate how the proposed caps will affect the provisions of STROs. There are approximately 540,000 dwelling units in the city, with 61,070 (11.3%) dwelling units in the coastal zone, and 3,602 (0.01%) in Mission Beach specifically. A 1% cap on STROs for the City outside of Mission Beach would produce 5,364 licenses, while the 30% cap in Mission Beach would produce 1,081 licenses within the Mission Beach community, for a total of 6,445 STROs allowed to operate. This represents a 48% reduction in STRs city-wide from the September 2021 Travel Tech survey, and a 27% in STROs in Mission Beach.

Thus, the proposed amendment would have a profound impact on the availability of whole home STROs by substantially reducing the supply of STROs compared to the current demand. In isolation, this reduction could be seen as inconsistent with the LUP policies supporting the protection and provision of overnight accommodations. However, the City and the Commission needs to also consider the housing needs and community character of San Diego's coastal neighborhoods.

The Commission is aware that the state has an affordable housing crisis, and this issue is only more acute in the state's coastal zone. To address this critical need, the state legislature has enacted a number of housing laws in the last several years designed to eliminate barriers to the provision of housing and to help foster additional housing units – particularly critically needed affordable units – where they can be appropriately accommodated by adequate public services and where, in the coastal zone, they will not adversely affect coastal resources. It is unclear the extent to which STROs impact housing price or availability; the current estimate of 12,300 STROs represents less than 2.5% of the housing stock in the city, and particularly in the coastal zone, most of the houses

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currently used for STROs would likely not be considered affordable to rent or buy. Nevertheless, by tying the STRO cap to the amount of housing stock in the city, the City will be able to assure that STROs never become a dominant portion of the City's housing supply, in order to support long-term housing and existing community character.

The City has indicated that excess demand for overnight accommodations may be able to be met through a combination of hosted STROs and traditional hotels. Looking to the four tiers of STRO licenses that would be created under the amendment, there will be no limit on the number of Tier I – STROs of 20 days or fewer – or Tier II – home share – licenses. While the September 2021 Travel Tech survey indicates that whole home STROs are the predominant form in the City, there will still be the opportunity for visitors to the coast to rent whole homes from Tier I and II operators. Regarding Tier II, this is because under the definition of “home share” in Section 510.0102 ([Exhibit 1](#)), the host simply has to be on the same premises as the short term renter. Thus, properties where the host has an ADU, JADU, moveable tiny house, or other dwelling unit to stay in during the rental could still rent out the whole home and be considered a Tier II home share (ADUs are prohibited by the municipal code from being rented as STROs). The prevalence of this type of property configuration among existing STRO operators is not currently known, and it is likely that it is not common enough to fully compensate for the anticipated reduction in STROs, but it will still compensate to some extent.

Furthermore, while it was discussed above that STROs are somewhat unique in the amenities and character they offer visitors, the hotels and motels in the city have long provided adequate service to the millions of visitors that the city receives every year. In the city's coastal zone alone, there are 111 hotels and motels, totaling 16,375 rooms with a mean hotel size of 73 rooms. This number does not include reservoirs of hotels located just outside the coastal zone, such as “Hotel Circle” along Interstate-8 in the Mission Valley community, with over twenty hotels and motels and thousands of rooms. While travel patterns have been altered due to the ongoing COVID-19 pandemic, hotel occupancy rates in the coastal zone provided by the City indicate that there is available capacity to accommodate visitors who may not be able to rent an STRO ([Exhibit 5](#)).

The proposed amendment is also lenient with regards to minimum night stays. Tier I and Tier II licenses have no minimum night stay requirement, while Tier III and Tier IV have only two-night minimum stays. This allows both STRO operators and guests extensive flexibility to be able to plan extended visits to the coast and ensure that a broad range of visitation types can be accommodated.

Thus, while the City's proposal to cap whole home STROs will reduce the supply of visitor-serving accommodations, the City has made a reasonable attempt to balance the benefits that STROs provide to coastal visitors and communities with the adverse impacts they have on those same communities. However, the proposed provision for capping STROs in Mission Beach at 30% of that community's dwelling units, compared to 1% in the rest of the City, requires closer examination.

### Mission Beach

While STROs have been present in the city to some extent for decades, with regards to Mission Beach, the most densely developed community in San Diego and located on a peninsula two miles long and .25-miles wide between the Pacific Ocean and Mission Bay,

STROs have long had a sizeable presence in the community character and development pattern. According to a 2020 SANDAG Demographic and Socioeconomic Estimate ([Exhibit 7](#)), there are 3,602 dwelling units in Mission Beach, and according to current City TOT records, there are approximately 1,480 STROs operating in Mission Beach, representing 41% of dwelling units. While the City's proposal to cap whole home STRO licenses in Mission Beach to 30% of the dwelling units in Mission Beach appears to be a striking contrast to the 1% cap in the rest of the City, it is important to understand that this cap would represent a 28% *decrease* in the number of STROs operating in Mission Beach.

The presence of Belmont Park amusement area, the boardwalk, eateries, beaches, Mission Beach, and park space have long made Mission Beach one of the top coastal destinations for both locals and tourists alike. Due to its narrow topography, parking and traffic have long been an issue in the community and impacted the ability of the public to visit this part of the coast unless they are staying at a residence, which is required to have two off-street parking spaces. As discussed above, there are only two hotels and two hostels within this popular community, and those who wish to stay in the vicinity have long turned to STROs.

The certified LUP for the community, the Mission Beach Precise Plan, was locally adopted in 1974 and identified even then that large volumes of visitors “are housed in fully equipped summer rental units” and “[m]any of these units rent...nine months of the year, and are rented out to tourists at much higher rates the other three months.” In the section titled “Impact of Summer Visitor Housing,” the LUP states:

Mission Beach is a haven for tourists in the summer months. There are, however, only about 200 motel and hotel units scattered throughout the community. The majority of summer visitors occupy permanent dwelling units that are rented out as tourist accommodations. During the summer many units in Mission Beach are used as summer rentals. This has a sizeable impact upon the population of the community. The affected residents are forced to move out for these months of the year. This situation is tolerable only to a very transient population.

Because the nine-month school year dovetails with the winter residence period, however, students provide a sizeable market for these units during the non-tourist period. Rents during the summer months are extraordinarily high, compared to the rates the rest of the year...These summer rentals, because of their value during the summer months, also tend to encourage absentee ownership...”

With regards to the community-specific 30% cap on STROs, referred oftentimes by the public as a “carve out,” a 2018 City analysis of available data regarding private property ownership within Mission Beach found that roughly one-third of property owners in Mission Beach owned two or more units, and 309 property owners own three or more units. It is this history of STRO presence and pattern of multiple property ownership that the City points to in applying the higher cap on STRO operators. STRO operators in Mission Beach would be beholden to the same good neighbor operating and tax requirements as STROs operating elsewhere in the City.

Thus, due to the high popularity of Mission Beach as a coastal destination, its long history of STRO use, limited hotel supply within the community, and chronic public parking and



traffic issues, capping STROs at 30% of community dwelling units is reasonable. Further reducing the cap would likely have an adverse impact on public access and visitor recreation in this area, impacting the tourist population who have visited Mission Beach for generations.

### Deletion of “Boarder and Lodger” and “Bed and Breakfast”

While the proposed amendment does amend every chapter of the LDC, all of the changes are to delete the existing land uses of “boarder and lodger” and “bed and breakfast” along with their related regulations. The City is doing this because those uses have largely been supplanted by STROs, and the regulations governing them are out of date and do not reflect current visitation patterns (for example, boarders and lodgers has a seven-day minimum stay requirement).

While the deletion of overnight accommodation types from an LCP can be a cause for concern due to the reduction in options for extended visits to the coast, as discussed above, the presence of STROs has greatly expanded over the preceding years and become a dominant form of accommodation for visitors wishing to rent residential facilities for their stay. With the above Suggested Modifications incorporating the necessary aspects of the STRO regulations into the LCP, the deletion of “boarders and lodgers” and “bed and breakfasts” from the IP should not have an adverse impact on public access.

### License Lottery (Tier III & Tier IV Licenses)

With regards to the lottery, as described in the “Amendment Background and Description” section, based on the predominant form of STROs in the city being “whole home” rentals, the City expects the applications for Tier III licenses will be greater than the number of licenses issued, and will utilize a lottery to distribute them across the City except for Mission Beach, which will have its own Tier IV lottery. After approval of the STRO ordinance, the City established a process intended to ensure two things: first, that “bad actors” are eliminated from eligibility, and second, that the whole home licenses granted would be distributed through the City in proportion to demand. The first component is detailed in a January 7, 2022, memo from the City Treasurer ([Exhibit 6](#)), which explains that the lottery eligibility methodology will incorporate prioritization for “good actors,” defined as a host that has registered for and paid TOT, has more than 90 days of STRO booking history per year, and no verified complaints in the past two years. Lottery prioritization will be based on a weighted scale with points assigned per a table in the memo. While certainly important to a successfully functioning STRO program, the detailed provisions for which individuals are awarded licenses (and how many) are administrative, managerial regulations that do not affect the land use aspects of the STROs, and thus are not being incorporated into the LCP or being reviewed by the Commission.

In contrast, the process for determining the geographic distribution of the licenses is directly relevant to the protection of overnight accommodations in the coastal zone. If the city-wide lottery were to simply award licenses randomly, a fluke of probability could result in a particular year’s distribution of licenses entirely excluding the coastal zone. Conversely, there could be a year where one community, coastal or inland, would be disproportionately awarded licenses, thereby overwhelming the area with STROs. Therefore, the City has developed a system wherein the lotteries will distribute Tier III licenses to the various community planning areas (CPAs) of the city, including areas both

inside and outside the coastal zone ([Exhibit 2](#)), in proportion to their percentage of the overall applicant pool. For example, if in a particular year 15% of the applications are from La Jolla, 12% are from Pacific Beach, and 10% are from North Park, then the lottery will award an equal percentage of licenses to applicants in those community plan areas. The lottery system for Mission Beach will simply award licenses randomly up to the 30% cap for that community. This system will ensure that as long as there is a demand for whole home STRO licenses in the coastal zone, there will be licenses awarded in the coastal zone, distributed geographically based on demand.

It is worth noting that nothing in this lottery system identifies or prioritizes the awarding of licenses to whole home STROs based on affordability. In any given year, only high-end accommodations could be available, however, this is equally true under the current, unregulated situation. The proposed restriction on the number of STROs decreases the inventory and thus may decrease the likelihood that some will be lower cost. This underscores the importance of the City supporting and regulating the preservation of traditional existing lower-cost accommodations (motels, hostels, campgrounds, etc.), requiring mitigation for the loss of such facilities and requiring new overnight accommodations to incorporate a lower-cost component into the development. Considering the overall program and provision of STROs proposed, the lottery system proposed by the City is consistent with the LUP policies protecting overnight accommodations in the coastal zone. However, while this system is described in City administrative documents, it is not part of the proposed ordinance language, and thus could potentially be changed without further review or input from the Commission to a methodology that does not ensure adequate distribution of licenses in the coastal zone. Thus, the amendment as submitted is not consistent with the LUP.

### Municipal Code Chapter 5

With regards to the proposed STRO ordinances being in Chapter 5 of the municipal code, which is currently not part of the certified LCP, most of the new ordinances are business licensing regulations as opposed to development regulations, such as application, enforcement, record keeping, and tax requirements. As such, there is no need for these provisions to be part of the certified Land Development Code. However, the parts of the amendment that do directly affect coastal development and public access are the definition of certain key terms in Section 510.0102, specifically “dwelling unit,” “home share,” “host,” “license,” “primary residence,” “short term residential occupancy,” and “whole home,” as well as the four STRO license tiers in Section 510.0104, all of which are highlighted in [Exhibit 1](#). The City has agreed that these portions of Sections 510.0102 and 510.0104 as shown in [Exhibit 1](#) should be included as an expanded IP. However, as submitted, there is no language identifying the highlighted portions as now being part of the LCP, and thus it is unclear that the selected ordinance sections are part of the certified LCP and require Coastal Commission authorization to be removed or amended. Thus, as submitted, the amendment is not consistent with the Land Use Plan.

### Further Review and Evaluation of STRO Licensing

The City of San Diego is the largest jurisdiction in the coastal zone and one of the most popular coastal destinations in the country, with a large volume of STROs present in response to that visitation. The proposed amendment represents the first attempt to

comprehensively regulate the industry in the city, and as noted, it is expected to reduce the volume of STROs city-wide by approximately half. STROs are a unique form of overnight visitor accommodation in that they provide the amenities of a residence, including kitchen and laundry facilities, that cannot usually be found at hotels and motels. This form of accommodation is especially suited for large visitor groups, such as extended families, for which renting multiple hotel rooms would be burdensome and inefficient, with fewer opportunities for group socializing. The tier system and lottery allocation are designed to strike a balance between the provision of high priority overnight accommodations and housing and community character, but as a new program, the full impact and scope of the program is not known at this time. Thus, it is appropriate to establish a trigger for reevaluation of the ordinance to ensure that any unexpected adverse impacts to public access, housing, or community character are evaluated and the program adjusted as necessary. As submitted, the amendment does not provide for any such mandatory reevaluation, and thus is not consistent with the coastal resource and public access policies of the LUP.

Thus, as proposed, the amendment does not contain necessary provisions to ensure that STRO licenses are distributed proportionately to coastal zone communities, to identify the manner in which the certified IP will be expanded to Chapter 5, or provisions requiring the amending or re-evaluation of the ordinance should it have unexpected impacts on STROs. The lack of the above provisions is not in conformance with the public access, visitor serving, and community character policies of the certified LUPs and the amendment must be denied as submitted.

## **2. FINDINGS FOR APPROVAL IF MODIFIED**

### License Lottery, LCP Expansion, and Sunset Clause

As discussed in detail above, while the proposed amendment is expected to result in a decrease in the volume of STROs city-wide by approximately half, when analyzed in the context of the amendment's provisions and the City's overall overnight visitor-serving accommodations, the decreased volume should not lead to a substantial adverse impact on the public's ability to visit the coast for extended period while improving the quality of STROs provided to the public and better protecting community character. While the City's proposed regulatory regime governing appears reasonable, as discussed in the preceding section, it is missing several necessary provisions to ensure that certain aspects will operate in the manner that the City has indicated and will protect public access to the greatest extent feasible.

The proposed lottery system will distribute Tier III license to the various community planning areas (CPAs) of the city including areas both inside and outside of the coastal zone ([Exhibit 2](#)) in proportion to their percentage of the overall pool. This program will ensure that as long as there is a demand for STRO licenses in the coastal zone, there will be licenses awarded in the coastal zone, distributed geographically in proportion to CPA demand. Suggested Modification No. 1 inserts new ordinance language that will be part of the LCP, ensuring that whenever Tier III licenses are distributed by lottery, it shall be by the aforementioned proportionate CPA methodology to ensure adequate distribution to coastal communities.

Regarding placement of the STRO regulations within chapters of the municipal code outside of the certified IP, mainly Chapter 5, as discussed above, the portions of the new ordinance that clearly affect and regulate the land use aspects of STROs consist of key definitions and the licensing tier system identified in [Exhibit 1](#). The City has requested that rather than move or duplicate these provisions by inserting them into the existing chapters 11-15 of the municipal code that constitute the current LCP IP (the Land Development Code), that suggested modifications expand the IP to encompass them. In order to achieve this, Suggested Modifications Nos. 2 and 3 add "Editor's Notes" in the style used elsewhere in the Land Development Code to identify the relevant sections that are being added to the LCP and the requirement of Coastal Commission approval of any amendments to them.

Finally, while the Commission appreciates the effort the City has put into establishing a coalition of interested parties that agree to the STRO ordinance as proposed, the City of San Diego is the largest jurisdiction in the coastal zone and has long has a large presence of STROs among its spectrum of overnight visitor accommodations. While the City is taking a measures and balanced approach between local and visitor interest, it is anticipated that the law will result in a marked reduction in STROs across both the City and Mission Beach. It is difficult to predict exactly what ramifications such a profound shift will have on the STRO market specifically and overnight accommodations in general, and the risk of substantial adverse impacts on coastal access does exist. Given the long timeline and strong effort needed to bring this amendment forward, it is possible that even if adverse impacts are later identified, the resources and will to address them may not be present if there is not a clear requirement built into the LCP to allow the City, the public, and the Commission the opportunity to re-evaluate the program after several years of implementation. Therefore, Suggested Modification No. 4 adds a new Section 510.0112 placing a sunset clause of January 1, 2030, on the portions of Sections 510.0102 and 510.0104 being added to the certified LPC. As the City anticipated putting STRO regulations into effect by 2023, this will give the City and STRO marker approximately seven years to learn, incorporate, and assess the amendment's requirements and impacts. Seven years is a sufficient time period to encompass various market trends and events, and allow adequate time for the City to process and the Commission to review an updated LCP amendment. At that time, all parties will be able to review the available data to determine if this amendment, as modified, met expectations and should proceed in its current form, or if further amendments are required to ensure a proper balance between public access and community character.

### Public Comments

The Commission has received a high volume of public comment regarding this amendment, both in support and opposition. Proponents of the amendment believe that it will improve the local STRO market by weeding out negligent hosts while formalizing the ability of residential property owners to operate STROs. Several long-term STRO operators have commented that, in addition to the monetary benefit they bring to the city, they have clients such as families who traditionally rent their properties for annual visits to San Diego would likely go elsewhere in the state if STROs were not available.

Opponents of the amendment generally consist of STRO operators who believe there should not be a limit on the number of STROs due to the impacts it will have on local

operators who do not win the lottery, and long-term residents who believe that STROs should be further restricted, if not outright prohibited, due to their impacts on neighbors. The STRO operators opposed to any limit on STRO licenses believe that the issue of negligent hosts can simply be addressed through better enforcement of violations by negligent hosts from the City. While it is true that the largely unregulated state of STROs in the City has contributed in part to the adverse impacts they have had on surrounding communities, under the new STRO ordinances (that are not being added to the LCP in this action), the City will be hiring additional enforcement staff and implementing a tiered violation system that can result in revocation of STRO licenses for repeat offenders and prohibition from participating in the subsequent license lottery for hosts with outstanding violations. However, the Commission finds that better future enforcement of violations by the City nevertheless supports a cap on STRO licenses, as even responsibly managed STROs can have an impact through the frequent turnover of guests and increased traffic. Thus, limiting the number of STROs operating at any one time in the City, within reason, is supportable.

Opponents who are long term residents, especially those who live in areas of the City where STROs are concentrated, such as the coastal communities, believe that the lottery distribution will still result in their communities bearing the brunt of STRO volume and related impacts, and believe the licenses should be evenly distributed (rather than proportionally distributed), either within each community planning area or among the nine city council districts. However, such a distribution of STRO licenses across the City would have substantial adverse impacts on public access to the coast. The city is 375 square miles, and its eastern neighborhoods are as far as 15 miles from the coast. Distributing the limited STRO licenses evenly across the City would result in licenses being allocated to areas where there is little STRO volume currently (mostly outside the coastal zone), making it likely that the total number of operating STROs would be lower than even the cap allowed under the amendment. Furthermore, as the City's coast and bayfront are among its main draws, forcing STRO guests to choose to stay such a far distance from the coast would make it unreasonably burdensome and likely deter them from visiting the City in the first place. By-rote distribution then would fail to maximize access to the coast.

With regards to Mission Beach specifically, long term residents there oppose the City's "carve out" of their neighborhood for application of a 30% STRO license cap, and argue that they should either be included in the city-wide 1% cap or have a lower separate cap, such as 15%, applied. The residents argue that they have borne the brunt of the surge in STROs over the past decade and that their community character is being irrevocably degraded as more properties become year-round STROs that either frequently rotate between short term renters or experience prolonged periods of vacancy. As noted, on the surface, a 1% city-wide cap, and a 30% cap in Mission Beach, appears to be a disproportional allocation.

However, as noted above, the City's TOT records indicate that there are currently 1,480 STROs operating in Mission Beach. The amendment's 30% cap for the community would equate to 1,081 STROs, a 27% decrease, which will be a substantial reduction in STRO volume. Mission Beach can be a very difficult community for visitors to reach due to its peninsula topography and limited primary roads, especially during the summer months, and has limited hotel and hostel inventory. Further decreases in STRO volume would produce greater impacts on the ability of visitors to conduct extended stays by this area of the coast. Furthermore, with regards to the request to remove the 30% cap and have

Mission Beach included in the city-wide 1% cap, that lottery, as described above, will distribute licenses proportionate to each community planning area's percentage of applications in the overall pool. If Mission Beach were included in the city-wide pool for STRO licenses, then due to licenses being distributed proportionally by area, high demand for licenses in Mission Beach could result in Mission Beach being allocated licenses totaling more than 30% of dwelling units there. Thus, separating out Mission Beach and allowing a 30% cap on STROs in that community is consistent with both the preservation of visitor serving amenities and the historical community character of Mission Beach.

Thus, with the above suggested modifications addressing identified shortfalls in the STRO ordinances as proposed by the City, the amendment can be found to be consistent with the certified LUPs for the City of San Diego and approved, as modified.

## **V. CONSISTENCY WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

Section 21080.9 of the California Environmental Quality Act (CEQA) exempts local government from the requirement of preparing an environmental impact report (EIR) in connection with its local coastal program. Instead, the Coastal Commission acts as lead agency for the purposes of fulfilling CEQA. The Commission's LCP review and approval program has been found by the Resources Agency to be functionally equivalent to the EIR process. Thus, under CEQA Section 21080.5, the Commission is relieved of the responsibility to prepare an EIR for each LCP submission.

For the City's action, an environmental impact report (EIR No. 96-0333) was completed for the original adoption of the Land Development Code, and a Program EIR (No. 104495) was prepared and certified for the General Plan Update. The City has previously utilized these documents for CEQA compliance in association with other code amendments. The City determined that this action would not result in new significant, indirect, or cumulative impacts over and above those disclosed in the aforementioned documents.

Nevertheless, the Commission is required in an LCP submittal or, as in this case, an LCP amendment submittal, to find that the LCP, or LCP, as amended, does conform to CEQA provisions. In this particular case, the LCP amendment will not have any significant adverse effect on coastal resources, and there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact on the environment. In summary, no adverse impacts to coastal resources are anticipated and approval of the proposed amendment is consistent with CEQA.