

CALIFORNIA COASTAL COMMISSION

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W12b

ADDENDUM

DATE: September 6, 2022

TO: Coastal Commissioners and Interested Parties

FROM: South Coast District Staff

SUBJECT: **ADDENDUM TO ITEM W12b, APPEAL NO. A-5-DPT-22-0038 FOR THE COMMISSION MEETING ON WEDNESDAY, SEPTEMBER 7, 2022.**

The following changes and corrections are made to the staff report dated August 25, 2022. Language to be added is shown in underlined text, and language to be deleted is identified by ~~strikethrough~~.

- a) Delete the second and third sentences of the first complete paragraph on page 3 as follows:

The City's certified LCP currently allows STRs in all residential zones within the Coastal Zone. ~~Specifically, IP Section 9.09.020 allows for "recreational facilities, private" as an accessory use for all residential districts. Section 9.61.020 and Chapter 9.75 of the IP contain applicable definitions for various types of overnight accommodations.~~ A CDP is thus appropriate here as a means of regulating changes in intensity of use in residential areas of the City's Coastal Zone by placing new restrictions on STRs.

- b) Modify the last sentence of the third complete paragraph on page 4 as follows:

On July 27, 2022, appeals were filed by Miriam Rupke, Deanna Slocum, Jason Colaco, Mark Zanides, Kim Tarantino, and Bridget McConaughy (on behalf of UNITE HERE Local 11) ([Exhibit 4](#)). The appellants generally fall into two categories of "supporters" of (favoring additional) and "critics" of (~~opposing nearly all favoring fewer~~) short-term rentals within Dana Point.

- c) Modify the last sentence of the first complete paragraph under "APPELLANTS' CONTENTIONS" on page 7 as follows:

On July 27, 2022, appeals were filed by Miriam Rupke, Deanna Slocum, Jason Colaco, Mark Zanides, Kim Tarantino, and Bridget McConaughy (on behalf of UNITE HERE Local 11) ([Exhibit 4](#)). While the appellants generally fall into two categories of "supporters" (favoring additional) and "critics" (~~opposing nearly all favoring fewer~~)

short-term rentals within Dana Point, the appellants generally concur on the following concerns raised with the City-approved development:

- d) Modify the last incomplete paragraph on page 24 as follows:

The STR critics contend that the proposed cap for non-primary STR permits, and moreover the STR Program as a whole, more generally, is not allowed at all, by referring to recent case law (e.g., *Kracke v. City of Santa Barbara*, *Keen v. City of Manhattan Beach*, and *Protect Our Neighborhoods v. City of Palm Springs*). The appellants contend that per case law and the City's definitions of STRs and related terms (e.g., "transient," "residential," "guest room," etc.), that STRs are essentially "hotels" under the Dana Point Municipal Code and are thus barred in the absence of rezoning and amendment of the LCP. While it may be true that the City previously interpreted the City's Zoning Code to not allow for STRs in residentially-zoned neighborhoods, a change of circumstance, precipitated by the three aforementioned Court of Appeal opinions, now means that the City legally finds STRs to be allowable uses in residential zones. ~~More specifically, IP Section 9.09.020 allows "recreational facilities, private" as an accessory use for all residential districts. The City also cites IP Section 9.61.020 as an authority for the City to interpret its certified Zoning Code, and Chapter 9.75 contains applicable definitions for what constitutes STRs, as compared to other types of overnight accommodations.~~ Furthermore, the Commission concurs with the City's findings that despite inherent differences between the currently proposed STR Program and the program considered under the *Santa Barbara* decision, if the case were to be applied in Dana Point, it would likely be interpreted to mean that until STR regulations are approved pursuant to the Coastal Act, any residentially zoned property in the Coastal Zone could, by right, operate an STR ~~since STRs are considered accessory residential uses permitted by the City's LCP.~~ Thus, the City's STR Program, including more specifically the proposed cap for non-primary STRs throughout residentially-zoned neighborhoods in the City's Coastal Zone, is consistent with the allowable uses in the City's certified LCP.

- e) Modify the first sentence of the first complete paragraph on page 29 and delete footnote 14 as follows:

The STR critics contend that 756 additional residential units would be converted to STRs, especially through a perceived loophole in the Program's unlimited allowance for primary STRs.¹⁴

~~¹⁴The appellants arrive at this estimate by assuming that all 816 primary residences in the Coastal Zone could be converted into STRs, given that there is no cap. The appellants then subtract the number of un-hosted STRs, which they estimate to be 61. There appears to be a calculation error, and these numbers have not been verified by Commission staff.~~