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To: Commissioners and Interested Persons

From: Dan Carl, North Central Coast District Director
Stephanie Rexing, North Central Coast District Manager

Subject: Marin County LCP Amendment Number LCP-2-MAR-24-0002-1 (Short Term Rentals)

SUMMARY OF STAFF RECOMMENDATION

Marin County proposes to amend its Local Coastal Program (LCP) Land Use Plan (LUP) to identify updated provisions for short-term rentals (STRs) within residential units in the County coastal zone. Since 2018 the County has been regulating STRs in the coastal zone via certified LCP provisions that require compliance around potential use issues (e.g., related to noise, activities, etc., otherwise known as ‘good neighbor’ policies) and the collection of transient occupancy tax (TOT). The proposed amendment would provide additional STR provisions, including for the first time managing the actual numbers of STRs that would be allowed in the County’s coastal zone.¹ Specifically, the proposed amendment would: add new STR-related definitions; exempt hotels, motels, agricultural homestays, bed and breakfasts, and campgrounds from STR regulations; establish STR licensing and license transfer requirements; and add additional ‘good neighbor’ provisions (related to water use, wastewater disposal, emergency preparedness and evacuation, and parking capacity). In terms of STR numbers, the proposed amendment would also add an overall STR cap (both hosted and unhosted, between which the County would not differentiate) made up of individual caps specific to each of the ten identified coastal zone communities (or “townships” as referred to by the County), where almost all of the communities would see a decrease in allowed STRs other than Dillon Beach and Seadrift. The County indicates that these STR provisions are necessary in order to assure that STR uses do not reduce opportunities for affordable, long-term rental housing, and to address concerns in West Marin County communities about the impacts of STR uses on the availability of affordable housing for families, the workforce, and other essential community members.

The Commission has historically recognized that STRs can provide a unique and important source of visitor-serving accommodations in the coastal zone, especially for

¹ Staff notes that the County has managed STR numbers in recent times, but not via the LCP. Specifically, the County enacted an STR moratorium in 2022, prohibiting the registration of new STRs after May 1, 2022. The moratorium expires on May 23, 2024. However, that moratorium was never submitted to nor certified by the Commission, and thus is not part of the certified LCP.

larger families and groups, and has typically found that undue restrictions on this type of lodging type are inconsistent with Coastal Act and/or LCP provisions prioritizing public access and visitor-serving uses. At the same time, the Commission has also in the past recognized a need to restrict STRs in some coastal communities where evidence showed that the STR market was having impacts on coastal resources, or even significantly impacting the availability of housing. In that sense, the Commission has historically sought to accommodate a balance between these sometimes competing interests, where the appropriate balance is typically driven by the community context. Further, in all cases, the Commission has always supported 'good neighbor' operational standards, which are important tools to address use concerns (e.g., as it relates to community character) while maintaining such balance. All of these same principles apply to this Marin County case.

And as applied to this proposed amendment, although much of it provides straightforward standards designed to ensure STRs are appropriately operated and regulated (including through additional 'good neighbor' provisions and a process for licensing and compliance), the STR caps do raise some concerns as they would decrease public recreational access opportunities associated with STR options in most of the coastal communities, including reductions that could affect access to prime visitor destinations, particularly near the immediate shoreline and popular beaches. In Marin County's coastal zone, where there are both limited developed areas (essentially only in the dispersed communities, or townships) and correspondingly limited 'standard' commercial hotel/motel overnight accommodation options overall, such a decrease in opportunities can only make public access more difficult in those areas. This is especially the case because the County's often rugged coastline, while a prime visitor destination, is located fairly far from nearby populations centers, which makes day trips for such users more difficult and time consuming, in turn making overnight stays a popular and more convenient means of coastal access.

While recognizing such public access impacts, the County also feels strongly that the STR caps are an important means to safeguard community housing opportunities. The County points to residential unit stock analysis to help make its point that these communities actually provide many STR options, where units providing STRs (of one type or another, at some time during the year, and not necessarily all the time) currently make up about 16% of coastal zone housing units overall, and more in some communities (e.g., 31% of housing stock in Dillon Beach provides STRs currently). As proposed, all of the communities would see a decrease in allowed STRs and percentage of housing units used at some point for STRs, except for Dillon Beach and Seadrift, which would see an increase of both types. In short, the proposed amendment would decrease allowable STRs in all but the Dillon Beach and Seadrift communities, but the percentage of units used as STRs (of one form or another at some time or another) would still remain fairly high (50% in Dillon Beach and Seadrift, and an average of 12% in other communities). Although not the only metric used in the past, the Commission has looked to the percentage of housing units where STRs are allowed as a valid tool for helping to find the proper balance for some communities. Specifically, certified STR approaches have widely varying percentages of this sort (e.g., from 1% in Half Moon Bay to 15% in Trinidad), the proposed Marin County caps allow for percentages within the fairly standard range, and quite a bit higher in Seadrift and Dillon

Beach. Of course, there is no ‘one size fits all’ STR solution in coastal California, and there is a danger to comparing the context in West Marin County to another community with different characteristics (e.g., urbanized coastal zones in San Diego or Los Angeles for instance), which is another aspect of the County’s argument. Namely that they spent some two years on an inclusive community process to arrive at this proposal, where there were and are many supporters and opponents of STRs, and the County carved out a middle ground that appears to be not wholly supported by either side. The County further asserts the approach proposed is a balance that appropriately reflects a divided constituency on this issue. In other words, neither side necessarily got everything they wanted in this proposal, and the County believes that that hard-won balance – based on the unique attributes of the built and natural environment of West Marin – should be respected by the Commission. Staff concurs.

While the proposal is not without its public access impacts, it also includes some STR growth areas, and allowable STRs would only decrease in absolute number by around 50 in other areas, leaving some 320 allowable STRs still in such areas (or 12% of housing stock). This is not an inconsequential amount of STRs, especially in such smaller communities, and still would represent a fairly robust STR market under the circumstances. Further, to be clear, STR regulation is not in staff’s view an all or nothing proposition, and the key is finding a balance that makes sense for both a community and visitors to it. Ultimately, finding that balance can be an incredibly difficult process, including as the process played out here, where there must be an acknowledgement and respect of varying perspectives when deciding on the appropriate balance between what can be essentially competing objectives at times. In this case, the County’s LCP would be able to maintain a meaningful STR market, which is particularly important given the West Marin context, while also addressing the County’s West Marin housing objectives. Staff recommends that the Commission approve the County’s proposal in the manner it was submitted, and the motion and resolution to do so can be found on **page 5** below.

Staff Note: LCP Amendment Action Deadline

This proposed LCP amendment was filed as complete on March 13, 2024. The proposed amendment affects the LCP’s LUP only, and the 90 working day deadline for the Commission to take action on it is therefore July 22, 2024. Thus, unless the Commission extends the action deadline (it may be extended by up to one year), the Commission has until July 22, 2024 to take a final action on this LCP amendment.

Therefore, if the Commission fails to take a final action in this case at this Commission meeting (e.g., if the Commission instead chooses to postpone/continue LCP amendment consideration), then staff recommends that, as part of such non-final action, the Commission extend the deadline for final Commission action on the proposed amendment by one year. To do so, staff recommends a YES vote on the motion below. Passage of the motion will result in a new deadline for final Commission action on the proposed LCP amendment. The motion passes only by an affirmative vote of a majority of the Commissioners present.

Alternate Time Extension Motion: I move that the Commission extend the time limit to act on Marin County Local Coastal Program Amendment Number LCP-2-

MAR-24-0002-1 to July 22, 2025, and I recommend a yes vote.

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EXHIBITS

- Exhibit 1: Proposed LCP Amendment
- Exhibit 2: County Survey Results

1. MOTION AND RESOLUTION

Staff recommends that the Commission, after public hearing, approve the proposed LCP LUP amendment as submitted by Marin County. Thus, staff recommends a **YES** vote on the motion below. Passage of this motion will result in certification of the LUP amendment as submitted and adoption of the following resolution and findings. The motion to certify as submitted passes only upon an affirmative vote of the majority of the appointed Commissioners.

Motion: *I move that the Commission **certify** Land Use Plan Amendment Number LCP-2-MAR-24-0002-1 as submitted by Marin County, and I recommend a yes vote.*

Resolution to Certify: *The Commission hereby certifies Land Use Plan Amendment Number LCP-2-MAR-24-0002-1 as submitted by Marin County and adopts the findings set forth below on the grounds that the amendment conforms with the policies of Chapter 3 of the Coastal Act. Certification of the Land Use Plan amendment complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the plan on the environment, or 2) there are no further feasible alternatives or mitigation measures that would substantially lessen any significant adverse impacts which the amendment may have on the environment.*

2. FINDINGS AND DECLARATIONS

A. Proposed LCP Amendment

Marin County has regulated short-term rentals (STRs) since 2018 via certified Local Coastal Program (LCP) Land Use Plan (LUP) provisions that require compliance around potential use issues (e.g., related to noise, activities, etc.; ‘good neighbor’ policies), but the LCP does not currently include any other STR provisions, including those that might limit allowable STR numbers.² The County most recently indicates in its January 11, 2024 Board of Supervisors staff report that it believes that some STR usage takes place in “homes that would otherwise be an opportunity for workforce housing,” which has “reduced opportunities for affordable, long-term rental housing,” and has “led to growing concerns in West Marin communities about impacts of STRs on the availability of housing for workforce, families, and community members.” Based on such conclusions, the County embarked on process to develop new and updated STR provisions in the Fall of 2022, where the County indicates that the guiding principles were to prioritize housing supply and affordability; to assure equity in access to economic opportunities, services, and activities; to recognize historical provision of vacation opportunities; and to consider environmental constraints and quality of life, among other things. The County held numerous public meetings, conducted a County-wide survey (see **Exhibit 2**), and

² The County has managed STR numbers in recent times, but not via the LCP. Specifically, the County enacted an STR moratorium in 2022, prohibiting the registration of new STRs after May 1, 2022. The moratorium expires on May 23, 2024. However, that moratorium was never submitted to nor certified by the Commission, and thus is not part of the certified LCP.

ultimately held multiple Planning Commission and Board of Supervisor hearings and workshops on the potential LCP amendment.

The proposed amendment would modify the LUP to: replace programmatic policies in LCP Chapter 6 (Housing) with a new LUP Appendix that establishes STR licensing requirements and includes other STR requirements; add a host of new STR-related definitions; exempt hotels, motels, agricultural homestays, bed and breakfasts, and campgrounds from STR regulations; establish STR licensing and license transfer requirements; and add additional ‘good neighbor’ provisions related to water use, wastewater disposal, emergency preparedness and evacuation, and parking capacity. But the primary difference in the proposed regulations versus the County’s current approach to regulating STRs is that the proposed ordinance would add a countywide cap on all STRs (both hosted and unhosted; between which the County would not differentiate) that would emanate from individual caps specific to each of the coastal communities (or as the County refers to them, townships, of which there are ten identified).³ Initially, the cap numbers are based on the existing number of STRs, where that number of STRs would continue to be allowed until July 1, 2025. After that date, the caps would change and be final, with all but caps in Dillon Beach and Seadrift declining. The substance of the proposed amendment is further described in more detail below, and the entirety of the proposed amendment can be found in **Exhibit 1**.

Definitions

The proposed amendment would establish common and consistent STR terminology, including definitions for “short-term rental”, STR “guest”, STR “property”, and STR “property owner”. Some of the definitions proposed are quite specific, and/or have been the source of some confusion/concern in the local process. For example, “change of ownership” is defined as a “transfer of an interest in real property that meets the definition of a change in ownership of the property under California Revenue and Taxation Code” except where such transfer of interest occurs as a result of a spouse or child inheriting a property after the owner’s death, provided this exception is only allowed once per real property. Further, “primary residence” is defined as “the dwelling in which a person lives for at least six months a year”, even though the County does not propose any STR regulation in terms of a primary residence requirement. Similarly, “host” (resides at the STR property), “hosted” (an STR that is the primary residence of a STR property owner or host) and “unhosted” (an STR that does not provide a primary residence) rentals are all defined; however no specialized regulations accrue to these different types of STRs (other than to require that unhosted STRs provide a local contact, see below under “Performance Standards”).

License and Registration Requirements

The proposed amendment would require a license to operate an STR, require that such license be issued to the property owner, and limit each property to one STR license

³ The unincorporated coastal zone communities of Bolinas, Dillon Beach, Inverness, Marshall, Muir Beach, Olema, Point Reyes Stations, Seadrift (which is a part of Stinson Beach, but which has been broken out separately from the rest of Stinson Beach in this STR planning exercise), Stinson Beach, and Tomales. These communities are all fairly small, ranging from a population of some 230 in Olema to about 1,455 in Inverness.

going forward.⁴ Each STR license term would be two years from issuance, with the option to renew for another two-year term (as long as the renewal application is submitted at least 60 days prior to expiration), with the license expiring immediately upon change of ownership (but not applicable to the one-time per real property inheritance of a license, as detailed above). The proposed amendment would also establish administrative procedures, application processes and requirements, public and tenant notification requirements, license fees, processes for suspension and revocation for violations of the regulations, and a wait list. STRs would ultimately not be allowed in units in a multi-family dwelling or condominium development, but those units currently being used for STRs (where the County estimates there are 32 such units) would be allowed to continue until their current two-year license expires.

Performance Standards

The proposed amendment would establish required STR performance standards, including: to prohibit STRs on lots without legal residential units, in legally restricted affordable housing units, in agricultural employee units, in farmworker housing units, in accessory or junior accessory dwelling units, in multi-family or condominium units (subject to allowing legally operated STRs to continue until the license expires), in non-residential developments, in recreational vehicles, and any structures without foundations (tents, yurts, etc.); to allow only one STR per property (unless multiple legal STRs were established prior to January 1, 2024, in which case the single STR license requirement applies beginning in 2026); to establish minimum parking standards (consistent with existing LCP parking requirements); to establish acceptable noise levels (consistent with Marin County's Loud and Unnecessary Noises requirements); to establish solid waste disposal, sewer, and water service requirements; to establish emergency preparedness requirements (e.g., visible addresses, smoke and carbon monoxide alarms, fire extinguishers, working landlines, emergency evacuation maps, etc.); to prohibit STR use while construction requiring a building permit is underway and/or while a code enforcement case is open on the property; to prohibit commercial events in any STR; and to require a local contact for unhosted STRs and a host in hosted STRs who can be contacted in the event of any complaints regarding the STR use.

STR Caps

As discussed above, perhaps the most locally controversial of the proposed STR provisions is the proposed cap on the number of STR licenses that can be issued, and thus the number of STRs ultimately allowed in each coastal community. Specifically, the proposal sets an overall cap for STR licenses in the County's coastal zone that is based upon individual STR caps specific to each community (see chart below), where the initial cap until July 1, 2025 represents existing STRs,⁵ and the proposed cap represents the ultimate cap proposed for that community, where each community has

⁴ If an existing licensee has multiple legal STRs established prior to January 1, 2024, those can continue to operate for a period of two years (i.e., through January 1, 2026), provided they otherwise comply with the applicable regulations, and provided that at the end of that two years they eliminate STR licenses in excess of one.

⁵ Where the number identified represents the number of STRs legally operating per community as identified by the County as of the date of the May 1, 2022 moratorium.

its own unique prescription. The County has estimated current numbers of housing units, current numbers of STRs, and proposed numbers of STRs; see Figure 1 below:

Figure 1: STRs in West Marin County Communities

Coastal Community	Housing units	Existing STRs (and initial cap until 7/1/2025)	Existing percent of housing units used for STR	Proposed STRs (after 7/1/2025)	Proposed percent of housing units used for STR	STR change (existing versus proposed)
Bolinas	624	63	10%	54	9%	-14%
Inverness	939	93	10%	86	9%	-8%
Marshall	110	28	25%	27	25%	-4%
Muir Beach	147	20	14%	19	13%	-5%
Olema	33	3	9%	3	9%	0%
Pt. Reyes Station	350	32	9%	26	7%	-19%
Stinson Beach	408	120	29%	94	23%	-22%
Tomales	135	12	9%	11	8%	-8%
Sub-total	2746	371	14%	320	12%	-14%
Dillon Beach	408	125	31%	204	50%	63%
Seadrift	296	72	24%	148	50%	106%
Sub-total	704	197	28%	352	50%	79%
Total	3450	568	16%	672	19%	18%

As can be seen in Figure 1, there are a total of 3,450 housing units of various types in the County’s coastal communities, of which 568 are providing STR services of one type or another. That is not to say that there are 568 housing units that are full time STRs, because that is not the way the County developed the data. Rather, the 568 STRs noted in Figure 1 represent the number of housing units used for STR purposes (whether hosted or unhosted) for at least some part of the year (which can vary from some units being offered a few times per year to some units being operated as an STR for most of the year). The overall number of allowed STRs would actually increase under the County’s proposal, to a total of 672 STRs. However, the increase is a bit misleading as the only actual allowed STR increases would be in the Dillon Beach and Seadrift communities (an increase there of 155 allowed STRs), where the increases are actually quite substantial, thus skewing the overall numbers in that respect. When just the other communities are considered, the allowed number of STRs overall would decrease by over 50, a decrease overall of 14%. Again, to be clear, STR use identified in Figure 1 does not mean that a unit is used as an STR 100% of the time.

Importantly, the County estimates the numbers of housing units in each community and identifies the percentage of such housing units used for STR purposes (whether hosted or unhosted) for at least some part of the year. Some communities have fairly high STR use percentages of this type (e.g., with Dillon Beach, Marshall, Seadrift, and Stinson Beach all exceeding 20% of housing stock), while others are lower (e.g., Olema, Point Reyes Station, and Tomales all at 9%). Overall, however, the percentage of STR use is 16% of housing stock in these coastal communities. As proposed, all of the communities would see a decrease in allowed STRs and percentage of housing units used at some point for STRs, except for Dillon Beach and Seadrift, which would see an increase of both types. The County’s rationale for the cap numbers is that the initial numbers (i.e., until July 1, 2025) were based on the existing number of STRs in West

Marin that have transit occupancy tax registrations; in other words, those STRs that are legally operating currently in West Marin. Then, for the proposed final cap number, the County chose to use the number of STR licenses that were registered with the County prior to the date when the STR moratorium was noticed to the public (other than for Dillon Beach and Seadrift; see below). Therefore, the proposed final cap reflects the total number of registered STR owners per those eight communities prior to May 1, 2022. The County chose this methodology because immediately after the moratorium was announced and noticed, the County saw a large uptick in STR license applications, where 70 licenses were issued the first month after the announcement. The County reasons that the proposed cap levels would thus return the County to the pre-moratorium baseline of STRs, essentially reflecting the STR market at equilibrium prior to the moratorium's effect on it. In terms of the proposed caps for Dillon Beach and Seadrift, the County's rationale for an increase in allowed STR numbers for these communities is because they have historically provided a higher concentration of vacation homes, and focusing STR efforts there would both further such overnight objectives while minimally (or at all) affecting the provision of affordable housing stock.

STR Violations

The proposed amendment would also set out suspension or revocation of license processes if STRs do not meet the other requirements set out in the regulations. Finally, if an STR has more than three verified violations of the standards and requirements during the previous license term, the STR license may not be renewed.

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

B. Coastal Act Consistency Determination

Standard of Review

The proposed amendment affects the LUP component of the Marin County LCP only, and the standard of review for LUP amendments is that they must be consistent with and adequate to carry out Coastal Act Chapter 3 provisions.

Applicable Coastal Act Provisions

The Coastal Act contains objectives and policies designed to protect and provide for maximized public recreational access opportunities, as well as to protect and encourage lower cost visitor and recreational facilities. In addition, developments providing public recreational opportunities are preferred over other types of development, and for private lands that can provide facilities capable of enhancing public recreational opportunities, the Coastal Act gives priority to such uses over private residential uses. These Coastal Act public recreational access provisions include:

Section 30210. *In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.*

Section 30211. *Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but*

not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Section 30212(a). *Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects ...*

Section 30213. *Lower cost visitor and recreational facilities shall be protected, encouraged, and where feasible, provided. Developments providing public recreational opportunities are preferred. ...*

Section 30220. *Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.*

Section 30221. *Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.*

Section 30222. *The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.*

Section 30223. *Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.*

Section 30252. *The location and amount of new development should maintain and enhance public access to the coast by: ... providing commercial facilities within or adjoining residential development ...*

Section 30254. *...Where existing or planned public works facilities can accommodate only a limited amount of new development, services to coastal dependent land use, essential public services and basic industries vital to the economic health of the region, state, or nation, public recreation, commercial recreation, and visitor-serving land uses shall not be precluded by other development.*

In addition, the Coastal Act also speaks to the need to prioritize affordable housing, stating in Section 30604 as follows:

Section 30604(f): *The commission shall encourage housing opportunities for persons of low and moderate income. ...*

Section 30604(g): *The Legislature finds and declares that it is important for the commission to encourage the protection of existing and the provision of new affordable housing opportunities for persons of low and moderate income in the coastal zone.*

In addition, the Coastal Act protects special communities that are popular visitor destinations because of their unique characteristics, such as many of the communities present in West Marin County. Section 30253 states in applicable part:

Section 30253(e). *New development shall ... Where appropriate, protect special communities and neighborhoods that, because of their unique characteristics, are popular visitor destination points for recreational uses.*

Consistency Analysis

Balancing STR and Residential Objectives

Thus, as applicable to this proposed LCP amendment, the Coastal Act requires protection and maximization of public recreational access opportunities, where such opportunities in this case are both the overnight accommodations provided to visitors via STRs, as well as the directly related opportunities that such an overnight stay can facilitate and engender (e.g., hikes, beach trips, sightseeing, etc.) (see, for example, Sections 30210, 20212 and 30213). In addition, the Coastal Act gives preference and priority to such public recreational access use/development over other types of use/development, and explicitly over private residential use, when the choice is between private use and facilities capable of enhancing public recreational opportunities (like STRs) (see, for example, Sections 30213, 30222, 30223, and 30254).

At the same time, however, the Coastal Act also requires the Commission to encourage housing opportunities for persons of low and moderate income (Section 30604) and requires protection of special communities that are popular visitor destinations (Section 30253). On the former, there is little evidence to suggest that all housing that might be used for STRs of some type in Marin County's coastal zone would provide the type of affordable housing opportunities encouraged by the Coastal Act if such housing weren't used for STR use. Such a question is complicated, not only by the costs associated with such housing (whether rental or purchase),⁶ but also by the general lack of evidence to suggest that housing used for STRs would be put to longer-term rental or other housing uses if STRs were not allowed.⁷ Regarding special community protection, however, one of the reasons that these communities' characteristics encourage increased visitation in the first place is the visitor-serving economies (and the related businesses, facilities, etc.) associated with them. Those visitor-serving economies are dependent on workers, who are dependent on reasonably affordable and available workforce housing. Oftentimes such workers are contributors to the communities in other ways and reflect a part of its fabric and character in that sense, as well. Thus, protecting those communities as visitor destinations implicitly requires that workforce housing also be appropriately accommodated. In addition, when viewed in that light, the public recreational opportunities that are required to be protected and enhanced by other Coastal Act provisions can themselves necessarily only be achieved with adequate

⁶ The median home price in West Marin County is \$1.4 million, and the median rental price for a 2-bedroom unit is \$2,500 per month, as of January 2024 (via redfin.com and renthop.com).

⁷ Including related to second (or more) homes where owners may choose to leave them vacant if STRs aren't possible.

workforce housing.

In short, while the Commission has found STR use a higher priority than private residential use as directed by the Coastal Act, the Coastal Act also protects special communities that are visitor destinations because of their attributes, such as the coastal communities in West Marin County. In turn, the ability of such communities to accommodate and attract visitors as protected by the Coastal Act requires both workers to serve the visitor economy, where such workers require viable workforce housing, and residents that contribute to and can be a part of the character of the place. Put another way, the question of when, where, and how to accommodate STRs raises intertwined Coastal Act public recreational access and housing issues that must be harmonized and balanced as much as possible. That is not only true here in Marin, but in the coastal zone statewide.

To be clear, the Commission has long recognized that STRs provide a unique and important source of visitor-serving accommodations in the coastal zone, especially for larger families and groups, and has found that outright bans or undue restrictions on this type of lodging are inconsistent with Coastal Act policies prioritizing public access and visitor-serving uses. At the same time, the Commission has also at times recognized a need to restrict STRs in some coastal communities where evidence showed that the STR market was having impacts on coastal resources or even impacting the availability of housing, such as workforce housing of the type described above. Past Coastal Commission guidance to local governments has emphasized the need to allow, but regulate, STRs in a manner that balances the important public access and visitor-serving benefits of STRs with reasonable regulations to limit adverse impacts on coastal communities.⁸ This balanced approach has been reflected in Commission actions, where although each case has its own unique STR, housing, community character, coastal resource, and proposed policy context (and thus different outcomes due to such unique context), the Commission has consistently pushed for and arrived at what it has considered an appropriate balance.⁹

⁸ See, for example, the Commission's 2016 guidance to local governments available at: https://documents.coastal.ca.gov/assets/la/Short_Term_Vacation_Rental_to_Coastal_Planning_&_Devt_Directors_120616.pdf.

⁹ Commission actions on STR LCP amendments have varied considerably in policy and other outcomes due to unique circumstances in each case but have all included the premise of balancing at their core. See, for example: the 2018 rejection of a Santa Barbara County proposal that would have significantly restricted STRs without meaningful benefits to community character or housing (LCP-4-STB-17-0086); the 2018 approval of a City of Santa Cruz ordinance that significantly restricted STRs to facilitate greater housing opportunities (LCP 3-STC-17-0073-2-Part B); the 2022 approval of City of Dana Point STR provisions with conditions to allow for a "cap" on unhosted STRs in the coastal zone based on the approximate number of STR permits in existence when the City stopped issuing STR permits (A-5-DPT-22-0038); the 2022 approval of City of San Diego provisions that capped whole home (unhosted) rentals at various levels for varying neighborhoods and created a "lottery" for issuing STR permits (LCP-6-SAN-21-0046-2); the 2022 approval of a City of Trinidad ordinance that capped unhosted (called "full time") STRs citywide at around 15% of the city's housing stock in order to protect housing (LCP-1-TRN-22-0034-1); the 2022 rejection of the City of Malibu's STR provisions because the proposed ban on non-hosted STRs would have eliminated lower-cost overnight accommodations in the City when alternative approaches existed that could both protect such visitor-serving opportunities and affordable housing stock (LCP-4-MAL-20-0083-2); and the 2023 approval of the City of Half Moon Bay's proposal that included

County's Proposed Balance

Much of the County's proposed STR provisions provide straightforward standards designed to ensure STRs are appropriately operated and regulated (including through increased 'good neighbor' provisions and a process for licensing and compliance). On the other hand, the STR caps (and a few of the licensing provisions to a lesser extent)¹⁰ would likely reduce the number of actual and potential STRs, including near prime visitor destinations, and particularly near the immediate shoreline and popular beaches. This is especially the case because the County's often rugged coastline, while a prime visitor destination, is located fairly far from nearby populations centers, which makes day trips for such users more difficult and time consuming, and which subsequently also makes overnight stays a popular means of coastal access. Further, the ways in which the caps are established across communities in different ways could also raise concerns regarding the distribution of such accommodations throughout an area, including so as to mitigate against oversaturation in any one area.

According to the County, there are currently some 568 STRs operating in Marin County's coastal zone communities in one form or another, a large majority of which operate (when they operate) as unhosted (or 'whole house') STRs. Given there are about 3,500 total housing units in this area, that means that approximately 16% of overall housing units are used for STRs of one form or another at intervals (again, not necessarily 100% of the time, and could range from a few days up to the entire year). Importantly, the County estimates the numbers of housing units in each community and identifies the percentage of such housing units used for STR purposes (whether hosted or unhosted) for at least some part of the year. Some communities have fairly high STR use percentages of this type (e.g., with Dillon Beach, Marshall, Seadrift, and Stinson Beach all exceeding 20% of housing stock), while others are lower (e.g., Olema, Point Reyes Station, and Tomales all at 9%). Overall, however, the percentage of STR use is 16% of housing stock in the coastal communities. As proposed by the caps, all of the communities would see a decrease in allowed STRs and percentage of housing units used at some point for STRs, except for Dillon Beach and Seadrift, which would see an increase of both types. In short, the proposed amendment would decrease allowable STRs in all but the Dillon Beach and Seadrift communities, but the percentage of units used as STRs (in one form or another at some time or another) would still remain fairly high (50% in Dillon Beach and Seadrift, and an average of 12% in other communities; see Figure 1). Put another way, the County's prescriptions are not uniformly applied, and each community would get a different prescription.

significant restrictions on the types of allowable STRs and the number of nights allowed for hosted versus unhosted STR usage (LCP-2-HMB-21-0078-2).

¹⁰ For example, some have raised concerns regarding the potential inequities of allowing a one-time familial inheritance of an STR license when the original licensee dies, but this does not appear to be a significant Coastal Act issue. Others have raised concerns that eliminating STR uses in multi-family or condominium type units would lead to a loss of a lower-cost STR option (there are a County-estimated 32 such units in the coastal zone). While this may be true, it is also targeting units that might more likely be able to provide for more affordable options than would single-family homes in the area, which appears to more directly reflect the type of outcomes that the County is seeking to achieve in this amendment.

For Dillon Beach and Seadrift, such cap provisions would actually increase the number of STRs allowed over existing conditions, so there would actually potentially be an increase in visitor access associated with STR use in those areas should property owners decide to provide more STRs than is currently the case. Given the rich history of these areas as vacation areas with an already large percentage (as compared to housing units) of STRs, such a proposal makes sense. This is particularly the case given that the County estimates that 84% of the homes in Dillon Beach and 94% of the homes in Seadrift are second homes.¹¹ At the same time, such potential STR use, particularly as applicable to Seadrift, is actually quite expensive (e.g., a whole house rental in Seadrift can easily run over \$700 per day). So, while this aspect of the proposal could serve to allow for some increase in options for overnight visitors to those communities should new STRs be pursued there, it is more likely to be an option used by those of higher means, bracketing that groups and families may still be able to find economies of scale at STR lodging of this type, where costs are reduced compared to 'standard' hotel/motel options.

For other communities, however, the proposed provisions would reduce the number of actual and potential STRs near certain prime visitor destinations, a 14% reduction in allowed STRs (or 51 fewer STRs allowed; see Figure 1). In Marin County's coastal zone, where there are both limited developed areas (essentially only in the dispersed communities) and correspondingly limited 'standard' commercial hotel/motel overnight accommodation options overall, this loss of STR options means there would be a loss of coastal visitor opportunities to those areas that will make public access more difficult. The proposal will thus reduce access overall to these areas, ranging from a 4% reduction (in Marshall) to a 22% reduction (in Stinson Beach) of potential STR options (again, see Figure 1). At the same time, and to be clear, the reduction in these communities would be a total of 51 potential STR operations, and the proposal would still accommodate 320 STRs (of some sort and operating at least some time during the year) in this area, which represents 12% of the housing stock in such areas within which STRs would continue to be allowed.

That said, much of the feedback received by the County from opponents of more STR regulation focused on the way in which the proposed STR caps would reduce the ability of homeowners who would like to opt to be in the STR market to provide such accommodations going forward, including due to the limit on allowable STRs, unequal distribution among coastal communities, and new restrictions/requirements. Such opponents also pointed to economic realities where STR operations fund mortgages and property upkeep that allow for such property owners to retain their homes, where they may be forced to sell otherwise, and where there is no guarantee that a unit so purchased would be made available for longer-term housing by the new owner (and instead would be kept vacant when not used as a second home, for example). Some have also expressed concern that focusing allowable STRs in Seadrift will mean that the STR market for luxury, higher-priced accommodations will be enhanced at the expense of other communities that provide more affordable STR accommodations. Finally, a common theme in opposition to the proposal is that the caps will harm the

¹¹ Based on identifying properties that receive a primary home tax exemption, presumed to be primary residences, versus not, presumed to be second homes.

value coastal Marin County provides as a vacation destination and a draw for tourists to the coastal areas Marin has to offer, including in areas nearest to the shoreline, to the detriment of coastal visitors not fortunate enough to live in coastal Marin County.

These are all valid points, and the County concedes that the proposed approach would have a dual effect of reducing STRs in most of West Marin County, while creating an unequal distribution of such STR use focused in Dillon Beach and Seadrift. This unequal distribution raised concerns for the County because both Dillon Beach and Seadrift are vulnerable to emergency situations, have difficult or limited emergency evacuation capacity, are limited in terms of public infrastructure availability (like water and wastewater services), and at least in the case of Seadrift, are more subject to extreme coastal hazards like wave uprush and coastal flooding. The County also recognized that there may be individual circumstances for property owners when these regulations go in effect that may adversely impact individuals personally, and that some visitors would no longer be able to visit the County coast in the way they had in the past.

However, while recognizing such public access impacts and other concerns, the County also feels strongly that the STR caps are an important means to safeguard community housing opportunities. In fact, the County concluded in its January 11, 2024 Board of Supervisors staff report that while some STRs take place in vacation/second homes, other STRs are in homes that would otherwise provide opportunities for workforce housing if STRs weren't allowed there, and "therefore, the STR option has reduced opportunities for affordable, long-term rental housing" which has led to "growing concerns in West Marin communities about impacts of STRs on the availability of housing for workforce, families, and community members." What is not abundantly clear from the County's data and/or its justification is whether the proposed STR caps would actually create additional housing opportunities, especially in terms of affordable housing. While it might be presumed that less STRs would lead to more such housing opportunities, the County cannot mandate that property owners rent or sell their properties if STRs aren't allowed there. In addition, the housing stock in question is expensive, with median home prices in this area hovering around \$1.4 million, and rents going for around \$3,300 per month. Even if the law of supply and demand would suggest that making more housing stock available for long-term housing would correspondingly lead to lower costs for such housing, the actual mechanisms by which that might happen are complicated, and are further complicated by individual property owner circumstances that may or may not suggest that a property would be offered for rent or sale if an STR is not possible there.¹² The County has no data that identifies expectations for such property owners when confronted with such circumstances, and thus it is not entirely clear to what extent the proposed STR restrictions will lead to additional longer term housing opportunities.¹³

¹² The County did hear from some STR operators who made it clear that the manner by which they afforded to own and maintain their properties was via offering it at times as an STR, so presumably some subset of such property owners would elect to rent or sell if they couldn't use STR income to help offset their ownership costs.

¹³ On this point it is noted that Dr. David Wachsmuth from McGill University in Montreal presented the conclusions of some of his research regarding the impact of STRs on housing availability in the City of Los Angeles (prepared for Better Neighbors LA) and in other large urban/metropolitan areas of the United

However, the County reasoned that over the last decade only minimal new housing has been built in coastal Marin, while STR usage has become increasingly more prevalent. The concern with this trend from the County's perspective is that any conversion of a property from long-term residential use to STR use of some sort could reduce housing stock, and this was especially concerning in the smaller coastal communities where housing supply is already limited¹⁴. By way of an example, the County stated that an analysis of STR impacts in Bolinas conducted by the Bolinas Community Land Trust showed "of the 49 vacation rentals currently listed on Airbnb and VRBO in Bolinas, 43 are entire home listings. At least 10 of these 43 houses can be verified as a previously

States to the Commission in December 2023, framing his presentation as "how best to regulate STRs from a pro-housing perspective". At that time, Dr. Wachsmuth suggested that the proliferation of STRs in Los Angeles and other dense urban areas of the U.S. has taken homes there off the long-term rental market and raised rents in housing not used for STRs. It is worth noting, however, that Dr. Wachsmuth's research focused on exploring the relationship between STR's and housing stock in large urbanized metropolitan areas (and thus the references to Los Angeles) and does not appear to consider potentially significant distinctions between observed trends in those dense urban areas and trends that may be present in dissimilar built environments (such as more rural and sparsely developed West Marin County in this case). It would appear that additional research is needed to explore the extent to which the conclusions of such STR research focused on urban areas (e.g., Dr. Wachsmuth indicated that the foundational research that has been done to date was based on the "100 largest metro areas in the United States") are transferable and applicable to areas that don't share that same context. It would also appear that that distinctions need to be more fully explored between such STR markets (related to primary residency requirements, hosted versus unhosted STRs, limitations on allowed STRs nights per year, etc.) and the type of housing markets in question (whether predominantly single-family residential or units in multi-family settings, owned versus rented, etc.) to be as useful as possible in the Commission's STR regulation efforts, as well as distinctions emanating from the Coastal Act itself that are relevant (e.g. requirements to maximize public access). In any case, as applicable here, given the very different housing characteristics of West Marin as compared to Los Angeles and other significant U.S. metropolitan areas, it is not clear that the data is transferable for that reason alone. In light of these issues and questions, and as a means of fleshing out points made and their relevance to individual STR regulation cases like this one, Commission staff reached out to Dr. Wachsmuth multiple times since his December 2023 presentation in order to try to better understand his research and its potential implications in the coastal zone, but to date Dr. Wachsmuth has not yet responded to these inquiries.

¹⁴ It should be noted that the County does have many tools available to more concretely encourage housing opportunities generally, and more affordable housing specifically, that do not relate to STRs, such as prioritizing denser infill housing; 'upzoning' to encourage multi-family housing; incentivizing denser multi-family development and disincentivizing more dispersed single-family development; and/or deed restricting more housing as required affordable housing, none of which would likely unduly and adversely impact unique forms of visitor-serving accommodations such as STRs. While such approaches to housing are generally encouraged by the Coastal Act (e.g., locating new development contiguous with, or in close proximity to existing developed areas; see Coastal Act Section 30250), they also raise concerns for some about the way in which they could lead to changes in the single-family residential built environment, which is the predominant form of housing in the County's coastal zone (and the coastal zone more broadly) and which dominates the residential built environment (both here and statewide). It is clear that more inroads of this type are necessary by coastal zone local governments if the needle is going to be moved on housing stock and affordability in the coastal zone, including in Marin County. In fact, while the County's focus in this proposal is on STRs and their relationship to 'freeing up' affordable housing stock, it is not clear that the direct hypothesis identified (i.e., that fewer STRs will lead to more affordable housing options) is actually going to be borne out by the changes proposed, and in fact the data available suggests that that is unlikely to be the case. Put another way, STRs versus housing units is not a zero sum game: the proposal will reduce allowable STRs in most of the County's coastal communities, but that doesn't directly or even necessarily result in those same units being available as affordable housing options.

long-term rental or full-time residence in the last 10 years." Further the County indicates that the Land Trusts are reporting to the County that it is increasingly difficult to find inventory for deed restricted affordable housing, where revenues from STRs are leading to higher property values with that use in place, and such pricing exceeds the purchasing power of nonprofit organizations.

The County also points to residential unit stock analysis to help make its point that these communities have too many STR offerings, where units providing STRs (of one type or another and at one time or another) currently make up 16% of coastal zone housing units overall, and more in some communities (e.g., 31% of housing stock in Dillon Beach provides STRs currently). The proposed caps would reduce these numbers as a general rule, but the ratio of STRs to housing units would still be at 12% in the non-Dillon Beach/Seadrift communities after the caps were fully realized. Although not the only metric that has been employed over time, the Commission has in the past looked to the percentage of housing units where STRs are allowed as a valid tool for helping to find the proper balance for some communities. Although approved LCPs have widely varying percentages of this sort (e.g., from 1% in Half Moon Bay to 15% in Trinidad), the proposed percentages are within the fairly standard range, and quite a bit higher in Seadrift and Dillon Beach. Of course, there is no 'one size fits all' STR solution in coastal California, and there is a danger to comparing the context in West Marin County to another community with different characteristics (e.g., urbanized coastal zones in San Diego or Los Angeles for instance), which is another part of the County's argument. Namely that they spent about two years on an inclusive community process to arrive at this proposal, where there were and are many supporters and opponents of STRs, and the County carved out a middle ground that appears to be not wholly supported by either side. In other words, neither side necessarily got everything they wanted in this proposal, and the County believes that hard-won balance – based on the unique attributes of the built and natural environment of West Marin – should be respected by the Commission. The Commission concurs.

While the proposal is not without its public access impacts, it also includes some STR growth areas, and STRs would only decrease by around 50 units in other areas, leaving some 320 allowable STRs still in such areas (or 12% of housing stock). This is not an inconsequential amount of STRs, especially in such smaller communities, and still would represent a fairly robust STR market under the circumstances. Further, to be clear, STR regulation is not an all or nothing proposition, and the key is finding a balance that makes sense for both a community and its visitors. Finding that balance can be an incredibly difficult process, including as it played out here, where that process demands some acknowledgment and deference when deciding on the appropriate balance between what can be truly competing objectives at times. In this case, if updated the County's LCP would maintain a meaningful STR market, particularly important here given the West Marin context, while also addressing the County's West Marin housing objectives.

In conclusion, the Commission finds that the proposed LCP amendment conforms with and is adequate to carry out the Coastal Act.

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 Sections 15301(b)(3) (common sense exemption)).

The Coastal Commission is *not* exempt from satisfying CEQA requirements with respect to LCPs and LCP amendments, but the Commission's LCP/LCP amendment review, approval, and certification process has been certified by the Secretary of the Natural Resources Agency as being the functional equivalent of the environmental review required by CEQA (CCR Section 15251(f)). Accordingly, in fulfilling that review, this report has discussed the relevant coastal resource issues with the proposal, has addressed all comments received, and has concluded that the proposed LCP amendment is not expected to result in significant environmental effects, including as those terms are understood in CEQA.

Accordingly, it is unnecessary for the Commission to suggest modifications (including through alternatives and/or mitigation measures) as there are no significant adverse environmental effects that approval of the proposed amendment would necessitate. Thus, the proposed amendment will not result in any significant adverse environmental effects for which feasible mitigation measures have not been employed, consistent with CEQA Section 21080.5(d)(2)(A).

3. APPENDICES

A. Substantive File Documents

- LCP Amendment File for LCP-2-MAR-24-0002-1

B. Staff Contact with Agencies and Groups

- Marin County Community Development Agency
- West Marin Access Coalition
- Dillon Beach Access Group
- Stinson Beach STR Operators
- Stinson Beach Visitors Association
- Airbnb