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Prepared May 24, 2024 for June 13, 2024 Hearing

To: Commissioners and Interested Persons

From: Stephanie Rexing, North Central Coast District Manager
Oceane Ringuette, North Central Coast District Supervisor

Subject: City of Pacifica LCP Amendment Number LCP-2-PAC-23-0023-1 (Short Term Rentals)

SUMMARY OF STAFF RECOMMENDATION

The City of Pacifica proposes to amend its Local Coastal Program (LCP) Implementation Plan (IP) to identify updated provisions for short-term rentals (STRs) within residential units. Since 2018 the City has been regulating STRs in the coastal zone via certified LCP provisions that require compliance around potential use issues (e.g., related to noise and guest safety, otherwise known as 'good neighbor' policies) and the collection of transient occupancy tax (TOT). The City now proposes to add additional provisions, including adding a 150 STR cap on STRs, prohibiting STR use in junior accessory dwelling units (ADUs are prohibited already), and establishing new permitting provisions (annual renewal requirements, revocation procedures, waitlisting once cap has been reached, etc.). The City estimates that permitted STRs have ranged from 100 to 150 in recent times, and that the 150 STR limit equates to roughly 1% of total housing stock in the City. The City indicates that these STR provisions are necessary in order to assure that STR uses do not reduce opportunities for affordable, long-term rental housing, while balancing the need to protect and enhance a range of visitor-serving accommodations.

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

As applied to this proposed amendment, the STR cap and related proposed revisions seems like reasonable restrictions that will help to balance residential and visitor needs, which is important because Pacifica is a popular visitor destination. Importantly, Pacifica will retain a viable STR market for visitors, even while keeping that market to 1% of housing stock (which is actually a fairly low percentage when compared to other communities statewide, but which matches the City's neighbor to the south, Half Moon Bay), thus also addressing the City's housing objectives. Staff recommends that the Commission approve the City's proposal in the manner it was submitted, and the motion and resolution to do so can be found on **page 4** below.

Staff Note: LCP Amendment Action Deadline

This proposed LCP amendment was filed as complete on March 22, 2024. The proposed amendment affects the LCP's IP only, and the 60 working day deadline for the Commission to take action on it is therefore June 18, 2024. Thus, unless the Commission extends the action deadline (it may be extended by up to one year), the Commission has until June 18, 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 City of Pacifica Local Coastal Program Amendment Number LCP-2-PAC-2-23-0023-1 to June 18, 2025, and I recommend a yes vote

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EXHIBITS

Exhibit 1: Proposed LCP Amendment

1. MOTION AND RESOLUTION

Staff recommends that the Commission, after public hearing, approve the proposed LCP IP amendment as submitted. Thus, Staff recommends a NO vote on the motion below. Failure of this motion will result in certification of the IP amendment as submitted and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

Motion: *I move that the Commission reject Implementation Amendment Number LCP-2-PAC-23-0023-1 as submitted by the City of Pacifica, and I recommend a no vote.*

Resolution to Certify: *The Commission hereby certifies Implementation Amendment Number LCP-2-PAC-23-0023-1 as submitted by the City of Pacifica, and adopts the findings set forth below on grounds that the amendment conforms with the provisions of the certified City of Pacifica Land Use Plan. Certification of the amendment will meet the requirements of the California Environmental Quality Act, because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the amendment on the environment, or 2) there are no further feasible alternatives or mitigation measures that would substantially lessen any significant adverse impacts on the environment that will result from certification of the amendment.*

2. FINDINGS AND DECLARATIONS

A. Background and Proposed LCP Amendment

The City of Pacifica has regulated Short Term Rentals (STRs) in its LCP since 2018 when the Commission certified its STR provisions as part of the LCP Implementation Plan (IP). Those existing LCP provisions include an STR (i.e., non-CDP) permit process; a prohibition against STRs in accessory dwelling units (ADUs), trailers, and storage sheds/garages; required payment to the City of transient occupancy tax (TOT); and “good neighbor” policies, such as guest safety requirements and noise regulations.

In 2022, the City of Pacifica began a local process to determine how best to further regulate STRs to appropriately balance competing City objectives related to housing and their visitor-serving economy. That process concluded locally in early 2023, and the City now proposes adding a cap of 150 maximum STRs (whether hosted or unhosted rentals, between which the LCP would not differentiate) throughout the City (both in and out of the coastal zone), adding junior ADUs to the types of housing not allowed an STR use, establishing a permit renewal deadline of October 31st annually, allowing the City to revoke STR permits if the permittee has failed to renew their license each year, and creating a waitlist for permits if the cap has been met. The proposal would also update definitions, such as for permit, short-term rental, permittee, and short-term rental permit cap.

According to the City, Pacifica has 14,652 total housing units, with the 12,078 of those units (or roughly 82%) being located outside the coastal zone, and 2,574 of those units

(or roughly 18%) being located in the coastal zone.¹ In determining their proposed STR cap, the City decided to limit allowable STRs to roughly 1% of total housing stock, concluding that that number assured the City's desired balance between housing availability and visitor serving accommodations. The City estimated that 149 STRs were operating in the City during the fourth quarter of 2022, when the City's local process was in full swing, but now estimates that there are 100 registered and compliant STR permits in the City, with 44 in the coastal zone. Thus, the proposed cap would allow all permitted STRs in good standing to continue operating but would limit future STRs.

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

B. Consistency Determination

Standard of Review

The proposed amendment affects only the IP component of the City's LCP. The standard of review for IP amendments is that they must be consistent with and adequate to carry out LCP LUP provisions.

Applicable LUP Provisions

The City of Pacifica certified LUP 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, as well as protect and provide for housing opportunities for persons of low and moderate income. These LUP public recreational access provisions include:

LUP Policy 1: *Maximum access 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 property-owners, and natural resource areas from overuse.*

LUP Policy 2: *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.*

LUP Policy 4: *Wherever appropriate and feasible, public facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate against the impacts, social and otherwise, of overcrowding or overuse by the public of any single area.*

LUP Policy 5: *Lower cost visitor and recreational facilities and housing opportunities for persons of low and moderate income shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred. New housing in the coastal zone shall be developed in conformity with the standards, policies, and goals of the local conformity with the standards, policies, and the goals of the local housing*

¹ U.S. Census Bureau, 2020 Census Redistricting Data (Public Law 94-171) Table H1.

elements adopted in accordance with the requirements of subdivision (c) of Section 650302 of the Government Code.

LUP Policy 6: *Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.*

LUP Policy 7: *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.*

LUP Policy 8: *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.*

LUP Policy 9: *Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.*

LUP Policy 26: *New development shall: ... (e) Where appropriate, protect special communities and neighborhoods which, because of their unique characteristics, are popular visitor destination points for recreational uses.*

LUP Policy 27: *New or expanded public works facilities shall be designed and limited to accommodate needs generated by development or uses permitted consistent with the provisions of this policy; provided, however, that it is the intent of the Legislation that State Highway Route 1 in rural areas of the coastal zone remain a scenic two-lane road. Special districts shall not be formed or expanded except where assessment for, and provision of, the service would not induce new development inconsistent with this policy. 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 servicing land uses shall not be precluded by other development.*

Consistency Analysis

Balancing STR and Residential Objectives

Thus, as applicable to this proposed IP amendment, the LUP 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.). In addition, the policies give 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, Policies 5, 7, 8, and 27).

At the same time, however, the LUP also requires the City to protect and encourage housing opportunities for persons of low and moderate income (Policy 5) and requires protection of special communities that are popular visitor destinations (Policy 26). On the former, there is little evidence to suggest that all housing that might be used for STRs of some type in the City of Pacifica's coastal zone would provide the type of affordable housing opportunities encouraged by the LCP 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),² 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.³ 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 LUP provisions can themselves necessarily only be achieved with adequate workforce housing.

In short, while the Commission has found STR use a higher priority than private residential use as directed by the Coastal Act, and here by the LCP's LUP policies, these policies also protect special communities that are visitor destinations because of their attributes, such as the coastal beaches and communities of Pacifica. In turn, the ability of such communities to accommodate and attract visitors as protected by the LUP 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 LUP public recreational access and housing issues that must be harmonized and balanced as much as possible. That is not only true in Pacifica, 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

² The median home price in Pacifica is \$1.1 million, and the median rental price for a 2-bedroom unit is \$2,800 per month, as of March 2024 (via [redfin.com](https://www.redfin.com) and [rentcafe.com](https://www.rentcafe.com)).

³ Including related to second (or more) homes where owners may choose to leave them vacant if STRs aren't possible.

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.⁴ 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.⁵

City's Proposed Balance

The City's current STR provisions provide straightforward standards designed to ensure STRs are appropriately operated and regulated (including through existing certified 'good neighbor' provisions and a process for licensing and compliance). The new proposal would also further specify and refine many of those straightforward regulations, where the most substantive of these moving forward is the proposed 150 STR cap. As indicated, the City chose 150 for the cap because it equates to roughly 1% of Citywide housing stock, and would accommodate all 100 existing STRs (44 in the coastal zone) in good standing.⁶ Given the popularity of Pacifica as a visitor destination, such outcome appears to be an appropriate balance, and can help round out visitor options in addition to the City's approximately 330 hotel and motel rooms, providing what can be a more affordable option for larger groups and families.

What is not clear from the City's data and/or its justification is whether the proposed STR cap would actually create additional longer term housing opportunities, especially

⁴ 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.

⁵ 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. This reflects the reason why the Coastal Act has Local Coastal Programs, so that each local government can tune the implementation of the Coastal Act to their own communities. 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); the 2023 approval of the City of Half Moon Bay's proposal that included 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); and the 2024 approval of Marin County caps on STRs, specific to each coastal community in the County, based on the context of each.

⁶ This would accommodate the upper end of the STR market inasmuch as the City indicates that the number of STRs in the City in recent times has varied from a high of 149 in 2022 to the current low of 100.

in terms of affordable housing. While it might be presumed that less STRs would lead to more such housing opportunities, the City cannot mandate or assure that property owners will rent or sell their properties if STRs aren't an allowed use. Even if the law of supply and demand would suggest that making more housing stock available for long-term housing could correspondingly lead to lower costs for such housing overall, the housing stock in question is actually quite expensive (with median home prices in this area hovering around \$1.1 million, and 2-bedroom rentals going for around \$2,800 per month), and the degree to which such housing availability, if it were to become available due to City STR actions, might 'trickle down' and help reduce costs/rents at the lower end of the market is unclear, and unlikely in the short term.⁷ In addition, the actual mechanisms by which that might happen are complicated, not the least of which is the inability to predict 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 in the unit. The City 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.⁸

It should be noted that the City 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 City'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 the City of Pacifica. In fact, while the City'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 limit allowable STRs, but that doesn't directly or even necessarily result in units that would otherwise provide STRs but that are over the 150 STR cap being available as affordable housing options.

⁸ 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 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. 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

However, the City reasons that it is still appropriate to provide some meaningful STR limitations via the proposed cap, if for no other reason than to draw the line on the number of houses that may be used as STRs at any one time as opposed to housing, even if they lack an enforceable mechanism to require any particular property owner to rent their unit as opposed to leaving it empty if they can't operate an STR. The City has determined that a roughly 1% cap meets their community's housing objectives in that regard. Although approved LCPs have widely varying percentages of this sort (e.g., from 1% in Half Moon Bay to 15% in Trinidad, all the way up to 50% in certain Marin County coastal areas like Dillon Beach), and although 1% is at the lower end of that range, there is no 'one size fits all' STR solution in coastal California. That the City has found its balance in this regard at 1%, which still accommodates an STR market while addressing housing concerns, shows appropriate balancing as directed by the LUP. Put another way, STR regulation is not an all or nothing proposition, as some might have us believe, 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, where that process demands some acknowledgment and deference given what can be truly competing objectives at times. The Commission here agrees with the City's proposal in that regard and finds that the proposed LCP amendment conforms with and is adequate to carry out the LCP LUP as submitted.

C. California Environmental Quality Act (CEQA)

CEQA Section 21080.5(d)(2)(A) prohibits a proposed LCP or LCP amendment from being approved if there are feasible alternatives and/or feasible mitigation measures available that would substantially lessen any significant adverse effect that the LCP or LCP amendment may have on the environment. Although local governments are not required to satisfy CEQA in terms of local preparation and adoption of LCPs and LCP amendments, many local governments use the CEQA process to develop information about proposed LCPs and LCP amendments, including to help facilitate Coastal Act review. In this case, the City exempted the proposed amendment from environmental review (citing 15061(b)(3) (no significant environmental impact)).

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

(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 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.

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-PAC-23-0023-1

B. Staff Contact with Agencies and Groups

- City of Pacifica Planning Department