

LOCAC

Los Osos Community Advisory Council

December 20, 2011

Department of Planning & Building
Attn: John Busselle
976 Osos Street, Room 300
San Luis Obispo, CA 93408

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2011-2012**

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Dear Mr. Busselle:

On December 15, 2011 the Los Osos Community Advisory Council met to consider the changes the Planning Commission made to the Vacation Rental Ordinance since we made our initial recommendation.

While we understand, and even applaud, the Planning Commission's change in the ordinance to exclude the Cabrillo Estates neighborhood in response to residents appeals, we strongly object to the Ordinance treating one part of Los Osos differently than others. At our recent meeting, residents of Cabrillo Heights made comments supporting equal treatment for all Los Osos neighborhoods.

We have struggled with balancing the property rights of residents living near vacation rentals with the property rights of owners wishing to rent their properties. At this time we think that the current situation, where owners who wish to rent their property must go through the Minor Use Permit process to do so, to be the best solution for our entire community.

We respectfully request that the Board of Supervisors exempt all of Los Osos from the ordinance.

Sincerely,

Vicki Milledge
LOCAC Chairperson

Electronic cc: LOCAC, Board of Supervisors, Kerry Brown

January 13, 2012

Proposed Changes to Vacation Rental Ordinance 23.08.165
For review by Board of Supervisors, 2/7/2012

Honorable Supervisors:

The recommended Ordinance, as proposed by the Planning Commission LRP 2009-00005, will greatly enhance the Vacation Rental Ordinance (23.08.165) so that it can be effectively implemented to achieve its goals of protecting the quality of residential neighborhoods and offering the opportunity for vacationers to enjoy the coastal beauty of our county.

The issue of locating vacation rental homes in R-1 residential neighborhoods has been discussed, argued, reviewed by governmental bodies since 1995 when they were first sanctioned as a revision of the Bed and Breakfast Facility Ordinance. Over the course of time, many proposals have surfaced to mitigate the issue while intentionally allowing VR (vacation rentals) to exist and expand in these neighborhoods despite no effective protection for the residents living there.

This latest proposed Ordinance (LRP 2009-00005) contains the recommendations of various groups of citizens on each side of the issue. The NCAC Land Use Committee held an exhaustive review with citizen input and proposed changes for NCAC approval. Some of these changes are incorporated in the document. Your Planning Commission held an extensive review and recommended changes after careful deliberation and consideration of citizen comments. Your Planning Staff, under project planner John Busselle, crafted this document to carefully include the changes of each advisory group. This has been well researched, sliced and diced. I appreciate the concern and consideration of these groups to hear the issues.

It contains compromises so that management agencies and residents will find issues they can agree with.

- It separates the location (Subd. C) to define the needs of different communities. We particularly need the distance in Cambria to be 200 ft linearly and 150 ft radius spacing between VRs until we have a solid working mechanism to protect residents in regard to this abuse of VR businesses in R-1 neighborhoods.
- It allows agencies to best manage the tenancy (Subd. D) for occupancy at key vacation periods of the year.
- It does not shift the burden of enforcement away from neighbors and to commercial operators, but it defines an improved process that depends on the willingness of rental agencies to comply and the county to respond. I look forward to cooperation from both entities to help make this a workable Ordinance.

I urge you to accept the recommendations of your commissions and I look forward to your continued leadership to pass effective fair legislation.

Respectively,

Barbara Crowley, 1801 Ogden Dr., Cambria, CA 93428



Vacation Rental Ordinance revision
Martin Verhaegh to: jbusselle

01/12/2012 04:20 PM

From: "Martin Verhaegh" <verhae@charter.net>
To: <jbusselle@co.slo.ca.us>

Dear Mr. Busselle,
Enclosed a letter on the subject as directed to the Supervisors for your attention.
Sincerely,
Martin and Joan Verhaegh, Cambria

January 13, 2012.

Comments on the Proposed Changes to Vacation Rental Ordinance 23.08.165
For review by the Board of Supervisors, 2-7-2012

Honorable Supervisors,

We fervently support the ordinance LRP 2009-00005, as proposed by the Planning Commission, and as a very much needed improvement of the Vacation Rental Ordinance (23.08.165).

But also it reflects a small step towards the intent of the 7-9-1998 Grand Jury Report, directing this ordinance in order to protect the Life Quality of residents in the R-1 zoned residential neighborhoods.

Yes, the Grand Jury then recognized that the placement of Vacation Rentals among Residential Neighborhoods was a zoning violation. And the only remedy, short of not allowing the rentals, was their insistence on Life Quality retention for the residents.

Let us recall that during the Ordinance Formation Period more than 552 resident petitions were submitted for stringent Ordinance Language to achieve Life Quality goals. And their aims were supported by local Advisory Boards.

But during this five year period, deviant rental locations were allowed to develop without oversight, and Grandfathered into the ordinance.

For those of us who lived through that period, as we did, County government was a big disappointment. And we see the ordinance improvements as remedial.

We still salute Shirley Bianchi and Richard Macedo (may the Lord Bless his Soul) for supporting us and guiding us in those difficult years.

We urge you to accept the Planning Commission's recommendations, and are looking forward to your continued support for the needs of Residential Neighborhoods.

Sincerely,

Martin and Joan Verhaegh, 551 Dorset Street, Cambria



Feb. 7, 2012, Supervisors meeting
Elizabeth Bettenhausen to: John Busselle

01/13/2012 10:13 AM

From: Elizabeth Bettenhausen <elizabethbettenhausen@gmail.com>
To: John Busselle <jbusselle@co.slo.ca.us>

January 13, 2012

To: The Board of Supervisors

From: Elizabeth Bettenhausen

Re: LRP 2009-00005, relating to Residential Vacation Rentals, Agenda for
February 7, 2012

The Planning Commission has significantly improved the Ordinance proposed for Residential Vacation Rentals. My sister and I live in a neighborhood in Cambria filled with them—Park Hill facing the ocean. Living here is indeed a privilege, and I hope vacationers visit to enjoy the views, sounds, and ecological systems of the Central Coast.

The change in the proposed ordinance [c. Location (1) and k.1] clarifying and reducing the proximity of vacation rentals to each other is a great improvement.

Changing the language regarding vacation rental tenancy (d) to “shall not exceed four individual tenancies per month” might well make it easier for neighbors to discern how often the vacation rental is indeed rented.

I am rather amazed at the standard for Traffic (h): “normal residential traffic volume means up to 10 trips per day.” If this is indeed normal, we will need to start drilling in every backyard for oil quite soon.

The sequence of persons required to respond to complaints is a helpful clarification.

The addition of a specific list of violations is excellent, as is the explicit inclusion of “three strikes and you’re out.”

I respectfully request that you approve this revision of the Ordinance.

Elizabeth Bettenhausen

345 Plymouth Street

Cambria, CA 93428



Comment on Vacation Rental Revisions
Joseph Crowley to: jbuselle

01/13/2012 01:07 PM

From: Joseph Crowley <electro@electrostatic.com>
To: jbuselle@co.slo.ca.us

January 13, 2012

Honorable Supervisors:

I'd like to express my thanks to the staff and supervisors for the proposed revisions to the vacation rental ordinance. It includes changes that should improve relations among neighbors, owners, and agents by making the rules more explicit.

There is one potential source of confusion is the provision in Section d for "private, non-paying guests". This contradicts the next sentence in that section, which allows only "vacation rental or full time occupied unit."

There is no mechanism for a neighbor to determine whether the guests are paying or not, so they will naturally expect the management companies to respond to complaints. This puts an unfair burden on those companies and also on the neighbors who have no access to a contact person.

If a property is to be licensed as a short-term rental unit, then all transient occupancies should be subject to the same conditions.

Therefore, I request that the exception for "private, non-paying guests" be removed from the proposed revisions.

Thanks again for all the work that you have put in on these revisions.

Sincerely,

Joseph Crowley

Ogden Drive, Cambria



Amendments to North Coast Vacation Rental Ordinance (Sec. 23.08.165)

jlmcgarry to: jbusselle

01/13/2012 02:27 PM

Cc: bgibson

From: jlmcgarry@charter.net
To: jbusselle@co.slo.ca.us
Cc: bgibson@co.slo.ca.us

Mr. Busselle: Please accept this communication as the formal endorsement of my wife and i (20 year residents of 385 Jean Street, Cambria) of the initial recommendations made by the North Coast Advisory Council, as adopted by the SLO County Planning Commission on 9/22/11, of the County's North Coast Vacation Rental Ordinance (Sec. 23.08.165).

In our considered opinion, and that of many of our Marine Terrace neighbors, unless the County Board of Supervisors unconditionally ratifies the Planning Commission's Ordinance amendments, the "residential character" of our neighborhood will be radically altered to the substantial detriment of local residents.

As you are aware Marine Terrace has one of the highest concentrations per-capita of vacation rentals in Cambria and maintenance of the "residential character of the neighborhood" was to be carefully protected as stated by the Supervisors in the Preface of the Ordinance passed by the full Board in 2003.

Many thanks for your anticipated cooperation in this matter of significant concern to my wife and I.

Respectfully, Leslie and John McGarry



Fwd: Vacation Rental Ordinance
slabtown1981 to: jbuselle

01/11/2012 11:58 AM

From: slabtown1981@aol.com
To: jbuselle@co.slo.ca.us

-----Original Message-----

From: slabtown1981 <slabtown1981@aol.com>
To: jbuselle <jbuselle@co.slo.ca.us>; bgibson <bgibson@co.slo.ca.us>
Sent: Wed, Jan 11, 2012 11:52 am
Subject: Vacation Rental Ordinance

I am a Cambria resident who participated in the Planning Department's scoping sessions that contributed to what became the 2008 Vacation Rental Ordinance applicable to Cambria.

There was much resistance on the part of realtors and property managers during these sessions especially regarding distances between rentals, unit capacity and procedures for enforcing ordinance violations. The one area of general agreement was that a resulting ordinance should be subject to on-going review.

I have reviewed staff and Planning Commission current recommendations for modification to be presented to the Board of Supervisors of February 7. I believe the proposed changes that apply to Cambria are sound and equitable and should receive your continued support and Board approval

.Thank you for your diligence and work on behalf of our community.

Wayne Ryburn
1041 Warren Road
Cambria
927-4771



Comments on the Planning Commission Recommended Ordinance LRP
2009-0005

Bill Hughes to: jbussele

01/11/2012 10:59 AM

From: Bill Hughes <wmhughes@charter.net>

To: jbussele@co.slo.ca.us

John Busselle – San Luis Obispo County Planning

January 11, 2012

Bill Hughes

434 Plymouth Street

Cambria, CA 93428

805-927-2535

Dear John,

I appreciate the work you have done on the Vacation Rental Ordinance proposal. This ordinance is so essential to maintaining quality of life and preserving the character of R1 neighborhoods in Cambria. I generally agree with the proposed changes and offer you the following comments.

Respectfully,

Bill Hughes

Comments on the Planning Commission Recommended Ordinance LRP 2009-0005

23.08.165 – Residential Vacation Rentals

c. Location

*****Comments ***** Cambria - I agree with the 200ft limit on either side of the parcel on both sides of the street and the 150 radius which extends to the rear of the block. This is an excellent proposed addition to the ordinance's location standard. However, I think that the Minor Use Permit clause should be removed because it has been used to attempt to circumvent the location standard and does not serve a useful purpose other than a loophole.

d. Vacation rental tenancy

***** Comments***** - The inclusion of private non-paying guests only serves to confuse the tenancy issue. The neighbors can't tell who is a tenant and who a non-paying guest. If you are running a vacation rental business, then every one should be counted as a tenant.



Re: Los Osos Vacation Ordinance
Bruce Gibson to: Phyllis Cameron
Cc: John Busselle, Cherie Aispuro

11/23/2011 02:27 PM

Phyllis -- Thanks for the note.

I have forwarded it to John Buselle of the Planning Dept, who will make it part of the record. It would be useful for any further correspondence to get cc'd to John as well.

Bruce

"Phyllis Cameron"	Dear Supervisor Gibson -	11/22/2011 02:14:05 PM
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From: "Phyllis Cameron" <pcameron@centralcoastrealestate.com>
To: <bgibson@co.slo.ca.us>
Date: 11/22/2011 02:14 PM
Subject: Los Osos Vacation Ordinance

Dear Supervisor Gibson –

Thank you for coming to the Scenic Coast Association of Realtor's MLS meeting recently and updating us with information affecting our area of the Central Coast.

Of interest and concern to us Realtors® is the current Vacation Rental Ordinance in Los Osos. You encouraged feedback on that issue and we would very much appreciate your sharing our input with the Board of Supervisors and the Planning Commission.

Currently a minor use permit is required in Los Osos to have a vacation rental. This involves a large amount of money and time and ultimately does not guarantee a permit, which in that case, is a loss of that money to the homeowner. Other coastal areas in the past have not had this requirement. However, you also stated that consideration is being given to restructure this to a rezoning issue which would be much less costly and timely.

Please let it be known that we are overwhelmingly in favor of the vacation rental ordinance being a rezoning requirement rather than a minor use permit requirement! As stated above, please represent us on behalf of the Board of Supervisors and the Planning Commission on this matter.

Thank you very much.

Sincerely,

Phyllis Cameron

2011 President - Scenic Coast Association of Realtors
Prudential Hunter Realty
Phone: (805) 528-7171 Ext. 142
Direct: (805) 234-2231
License #01142507

CCMA

December 21, 2011

Cayucos Advisory Council
Cayucos

The recent Draft of proposed changes is out and has been presented to you. We do understand the intent of the changes, however, there are several questions and concerns we have. Below is a list of our comments corresponding to each item number as listed in the draft.

c. Location.

We have seen the existing density standard create an unfair advantage to some property owners while increasing the number of illegal vacation rentals in our community. There is not enough staff in the county to enforce the density standard on illegal vacation rentals and the increase in this sector is actually making it more difficult to monitor and locate an owner of these units. In addition the County is losing a lot of tax revenue by not registering these rentals and being able to keep an eye on them.

(2) *Since Cayucos can have different standards based on the community, we would like to see the 200 foot density standard eliminated, reduced, and/ or at the very least make an exemption for multi-family or oceanfront homes. **Allow any home to be a vacation rental that complies with the rules of the ordinance and maintains a good track record.***

j. Noise

We believe the 3rd line should read: *"In addition, property owners and/or property manager shall **inform (as opposed to "insure that")** the occupants of the residential vacation rental do not create loud or unreasonable noise...*

Comment: who can insure that anyone will do anything? – *but* we can inform the tenants via writing or telling them not to produce this kind of noise.

Comment: What is the definition of the word "*audible*" in the 2nd to last line?

k. Local Contact Person:

Comments: regarding notification requirements on the application for the license, we think it will be more effective if the *county sends out the notification* as they do for any variance or building notification. They can charge a fee for this service and it will be a centrally located way to know that the neighbors have been notified. To require each owner or manager to compile a list of the addresses for each and every person in a 200 ft radius and send out a letter is simply going to set everyone up for failure to comply with this rule.

The county already has the software to identify everyone in a 200ft radius and mail it out. In addition, it could be an income producing service that will benefit everyone.

We also think the notice should be sent out **after** the approval of the license, as opposed to "*at the time of the application*". The reason for this is that the process does cost money and why would you be required to pay for and send the notification prior to knowing whether or not the vacation rental has been approved.

(805)-995-3680 phone * (805)-995-1306 fax

CCMA

I. Transient Occupancy Tax

Please eliminate this requirement. Requiring that all the advertising have the certificate # for each rental will cost the existing legal rentals more money to alter all their promotional and advertising materials. The illegal rentals will still operate and it only punishes rentals who are already operating legally.

m. Effect on existing residential vacation rentals.

Question: regarding the change, what is the time frame for the expiration?

n. Complaints.

This needs to be reworked. What if the complaining person does not follow the correct procedure? What protection is there for the vacation rental?

o. Violation

Comment: we would like to see more definition in the ordinance of the fine structure in place.

(4) What exactly does this line mean?

Comment: Language needs to be added that signed affidavits could be used to verify or **negate** (not just verify) the violations.

We thank you for your consideration of these comments and would like further discussion.

Kind regards,

Toni LeGras
CCMA President

(805)-995-3680 phone * (805)-995-1306 fax



January 19, 2012

Shaunna Sullivan / Principal Attorney
Megan E. Fox / Associate Attorney

Board of Supervisors
San Luis Obispo County
1055 Monterey Street, Room D-430
San Luis Obispo, CA 93408

Via Email

Re: Comments regarding proposed revisions to Vacation Home Ordinance

Dear Members of the Board of Supervisors:

This letter is written on behalf of my mother, Ruth B. Sullivan, who is fortunate enough to own a wonderful beach front home on Studio Drive in Cayucos. Unfortunately, it sits vacant as she cannot rent it under the County's ordinance prohibiting use of private homes as vacation rentals if there is another one located within a 200 foot proximity.

This is a terrible waste of a resource that could and should be utilized to further the goals of the Coastal Act, which include promoting tourism and providing low cost visitor-serving opportunities for others to enjoy our coastal resources. Indeed our community gains from the bed taxes generated and collected from vacation rentals.

Instead this home, like the majority of the other 61 homes in the Studio drive enclave, sits vacant. By this ordinance, a handful of vocal Cayucos home owners (of the approximate 10 owner-occupied homeowners) dictate their non-resident neighbors use of their homes. This home purchased in 2006 has such a high property tax that renting it on a monthly basis at fair rental value would not service this property taxes let alone the mortgage.

Unlike my mother's home, many of these homes have passed through families from generation to generation, which explains their extremely low tax base and infrequent use. Others are owned by the ultra rich and are simply not used except on an infrequent basis. To limit vacation rentals and the opportunity to promote visitor-serving homes in an existing development to protect 10 owner-occupied homes is the ultimate "Nimbyism" and certainly does not advance the goals of the Coastal Act.

The ordinance, which prohibits economic use is based on an arbitrary one vacation home per 50 to 200 foot radius or per 100 to 200 feet linear on the same block and across the street. The home on one side of my mother's is vacant, and on the other side, is a vacation house that has never presented any problems. Therefore, it is perfectly logical to have two or more vacation homes in a row and to allow vacation homes on the beach front properties

2238 Bayview Heights Drive, Suite C, Los Osos, California 93402 (805) 528-3355 / Fax (805) 528-3364
sullivanlaw@charter.net

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as there are no neighbors to be protected by a radius in front of those homes.

Under the current ordinance, it is simply impossible for my mom's house to qualify as a vacation rental. After my mother attempted to apply for the required permits and licenses, she received correspondence dated July 2, 2008, from Senior Planner, John Busselle, confirming that she could not apply for the required business license and vacation rental application as the next door neighbor had already secured a vacation rental permit and only one vacation rental within every 200 feet is allowed. The July 2, 2008 letter also advised

“You can ask for a waiver of the 200 foot limitation through a coastal Minor Use Permit (MUP) application. A MUP is a discretionary land use permit that goes to a public hearing. The fee for this is \$2,787.00. Since the ordinance went into effect in 2004, there have not been any successful waivers of the 200 foot limitation. The fee is non-refundable so there is a significant risk that you would spend the money and not receive an approval of the waiver.”

We are hoping that the Board of Supervisors will consider revisions to the ordinance to allow more permits for vacation homes while simultaneously adopting reasonable regulations to protect neighborhoods from the noise and partying issues sometimes associated with vacation homes.

After attending numerous Planning Commission hearings addressing this vacation home ordinance, it is abundantly clear that this ordinance is structured to eliminate or certainly diminish the number of vacation homes within single family residential homes zoned areas. It certainly offers no ability to increase the number of vacation homes. From my participation in those hearings, it also became evident that there is not an enforcement problem and the 5 or 6 reported complaints over the years do not support these proposed subjective onerous rules and regulations structured to jeopardize and revoke the permits.

1. Vacation Homes Further the Goals of the Coastal Act.

The Coastal Act *encourages the protection of existing and provision of new affordable housing opportunities* in the Coastal Zone. Collectively, these requirements reflect fundamental goal of the Coastal Act: protection of coastal resources by concentrating new development in existing developed areas able to accommodate it.

The Coastal Act policies set forth in Section 30213 support recreational opportunities for “*all the people*” and encourage and protect lower cost visitor and recreational facilities. Section 30221 provides “Oceanfront land suitable for recreational use shall be protected for recreational use and development, unless present and foreseeable future demand for public commercial recreational activities that could be accommodated on the property is already adequately provided for in the area”. Section 30222 further states:

“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 agricultural or coastal-dependent industry.”

While we agree with the Planning Commission’s suggestions that different densities should apply to different areas, the radius proposal simply does not work for Studio Drive or other beachfront properties. Attached hereto is a copy of a map of the Studio Drive area which consists of a long strand of homes. We suggest that the beach front properties have no density restrictions as there is no neighborhood on the seaward side of the homes to protect with a radius. Moreover, to allow only one vacation home a distance of 100 to 200 linear feet and a radius of 50 to 200 feet is a far cry from the 20% limitation of vacation homes allowed in any particular block in the recently adopted Santa Cruz vacation home ordinance approved by the Coastal Commission. This proposal purposefully seeks to eliminate, reduce and restrict vacation homes in single family zoned areas is much more akin to the recently rejected Pismo Beach ordinance. A copy of the Coastal Commission staff report addressing Pismo Beach’s and Santa Cruz’s ordinances is attached.

2. The Proposed Revisions to San Luis Obispo County Ordinance 23.08.165 Should Be Modified.

With regard to mandatory onsite parking requirements, we suggest that the same parking requirements apply as would only apply to a full time resident in a residential neighborhood. Since many of the homes have coastal access walkways, there is no way to control the parking generated by public utilization of those access ways. Renters renting homes should not be banned completely from parking on streets at any time. Moreover, it is not realistic to monitor it or to enforce such a restriction as suggested in (i).

As provided in LUP Policy PR-1, “[T]he beach should be free to the public, some

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parking and/or public transportation access to the beach shall be free to the public, and recreational needs of children, teens, adults, persons with disabilities, elderly, visitors and others shall be accommodated to the extent resources and feasibility permit." To bar any onsite parking by anyone utilizing a vacation home is unreasonable and violative of the policy which provides some parking is to be provided to the beach going public.

We also submit that CEQA has not been complied with as the proposed amendments will have a significant adverse environmental impact as the ordinance will prohibit additional vacation homes and diminish the current stock of vacation homes.

With regard to the noise standards proposed in j, we submit that the standard proposed is too subjective and requires a different standard than is applied under the regular San Luis Obispo County Noise Ordinance. If noise is an issue, that can be dealt with under current laws. Please don't set a new subjective standard of "disturbing the peace by vacationers." The same noise ordinance that applies to everyone should be the same standard applied to visitors.

With regard to the proposed n and o regarding enforcement, there needs to be notice and a hearing process identified for dispute resolution. The provision stating "[T]hree violations of subsection n as determined by the County of Planning and Building staff person or a Sheriff's Deputy, within any consecutive six month period, shall be grounds for revocation of the Zoning Clearance" is too subjective and provides no opportunity to correct the violations. For example, if over one weekend, a visitor of the tenant is parked on the street and this is documented three times, or if a contact person fails to respond within an unspecified time period, this "will cause the processing of zoning clearance revocation" and "the penalties set forth in subsection n shall apply."

While regulations are fine and should be adopted to protect the character and quiet enjoyment of the neighborhood, the goal of such regulation should not be to provide a basis to reduce the number of vacation homes in the neighborhood. If anything, we believe it should be easier not harder to have a vacation home, especially near the shore line. As pointed out by the Coastal Commission in denying Pismo Beach's severe restrictions on vacation homes, "vacation rentals provide an important visitor function that allows groups and families another option for overnight accommodations near the beach and shoreline including in areas without significant commercial overnight options where residential communities flank the immediate shoreline. We submit Planning Commission proposed amendments were largely swayed by vocal residents against vacation homes and commentary by the commissioners certainly indicated their intention to prohibit vacation rentals or to

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significantly diminish the visitor-serving accommodations rather than provide a reasonable framework to appropriately regulate their establishment and operation. We request that you delete the mandatory language of n and o and instead provide for a discretionary hearing process that affords notice and due process before imposing any penalties or the loss of a permit.

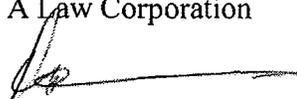
We contend the ordinance as proposed is unconstitutionally vague and serves no public policy purpose. When a statute that is so vague that people of common intelligence must necessarily guess at its meaning and differ as to its application, it violates the first essential of due process. Such vague law may trap the innocent by not providing fair warning. It also impermissibly delegates the legislative job of defining what is prohibited to police officers, judges, and juries creating a danger of arbitrary and discriminatory application. Further, it may have a chilling effect causing people to steer a wider course than necessary in order to avoid the strictures of the law. Appellants further contend that this ordinance is tantamount to a taking in violation of the Fifth Amendment of the U.S. Constitution and State Constitution. Unlike *John W. Ewing v. City of Carmel by the Sea* (1991) 234 Cal.App.3d 1579, this ordinance does not advance a legitimate state interest and it denies the economically viable use of many property owners land and property (including my mother's).

The current and proposed ordinance is unfair, unconstitutional and counter-productive to county tourism and statewide encouragement of accessible visitor-serving use of our coastal resources. It is not right that a few vocal residents obstruct all economic use of homes owned by nonresidents who have to suffer the consequences of property taxes, assessments and bed taxes dictated by the residents. I suggest that an ordinance similar to the City of Morro Bay's vacation ordinance be considered for adoption.

These resources should not be limited to a privileged few who are lucky enough to be voting residents and I submit that the Coastal Act is not furthered by further limitations on having a legal vacation home.

Very truly yours,

Sullivan & Associates
A Law Corporation



Shaunna Sullivan

SLS:bh

cc: Ruth B. Sullivan

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
PHONE: (831) 427-4863
FAX: (831) 427-4877
WEB: WWW.COASTAL.CA.GOV

Th20b

Prepared November 17, 2011 (for December 8, 2011 hearing)

To: Commissioners and Interested Persons
From: Dan Carl, Central Coast District Manager
Daniel Robinson, Coastal Planner

Subject: Pismo Beach LCP Amendment Number PSB-1-10 Part 2 (Vacation Rentals)

Summary

The City of Pismo Beach, located in southern San Luis Obispo County, has submitted the above-referenced Local Coastal Program (LCP) Implementation Plan (IP) amendment request which would define vacation rentals and limit where they would be allowed in the City. The amendment would prohibit vacation rentals in all residential districts (R-1, R-2 and R-3), and would allow them in the commercial/visitor-serving districts, specifically as principally permitted uses within the Hotel-Motel and Visitor Serving (R-4) and Resort Residential (R-R) districts, and as a conditionally permitted use in the Retail-Commercial (C-1) districts. Currently, vacation rentals are not explicitly addressed by the LCP. Rather, they can be allowed in the above-referenced LCP districts based on LCP's broad categories of allowed use in each case; including, for residential districts, the allowed use category of 'any other use deemed compatible'. Thus, the proposed amendment would reduce areas where vacation rentals are allowed in the City, including entirely foreclosing the possibility of vacation rentals in residential areas.

Vacation rentals in Pismo Beach have raised issues similar to other areas with vacation rentals in California's coastal zone. These issues range from resident concerns that the presence of such rentals can lead to problems (undue noise, cars, garbage, etc.) that can negatively impact residents and communities, to local official concerns that such issue unduly burden already strained city services. In general, these same issues are cited by the City of Pismo Beach in this submittal. At the same time, vacation rentals provide an important visitor function that allows groups and families another option for overnight accommodations near the beach and shoreline, including in areas without significant commercial overnight options where residential communities flank the immediate shoreline. Such is particularly the case in the City's residential neighborhoods to the north-west of downtown and extending toward Avila Beach. Instead of providing for rules and standards for vacation rental operations, as many other local governments have done, the City instead has chosen to propose a prohibition in residential areas in this LCP amendment.

The prohibition on vacation rentals in the City's residential zones would significantly restrict the potential for alternate lodging opportunities for coastal visitors in these areas and is in conflict with the LCP Land Use Plan (LUP) requirements for promoting access to the City's beaches and shoreline access areas. Because the City has large areas along the coast zoned residential, particularly in its north-western half, prohibiting vacation rentals in these areas of the City limits the availability of alternate coastal lodging near the shoreline. Although it is true that Pismo Beach includes a range of visitor-serving overnight



California Coastal Commission

PSB-1-10 Part 2 (Vacation Rentals) strpt 12.8.2011 hrg

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accommodations, the options for near-shore lodging in the north-western portion of the City are generally limited to a series of large and more expensive hotels, of which only three are located north of Dinosaur Caves Park extending toward Avila Beach.¹

Staff discussed these issues with the City, encouraging the City to work with staff to develop an alternate LCP amendment that avoids a vacation rental ban and instead focuses on standards and regulations for vacation rental operations. The City informed staff that it understood and appreciated the issues raised, but still wanted to propose the current residential ban approach. Thus, staff is recommending that the Commission deny the amendment as submitted, with direction to the City to work towards a more thoughtful vacation rental regulation process, particularly as it relates to residential stock in the City. The prohibition of vacation rentals in residential districts raises potential conflicts with Coastal Act and LUP policies, and the range of possible options to revise the submittal to address these concerns and those of the community are best addressed at the local level through a revised planning process and LCP amendment. In other jurisdictions, vacation rental regulations have been developed that allow vacation rentals to effectively co-exist in coastal residential areas with better clarity on use parameters to ensure that they do not become problematic. Staff believes that appropriately regulating vacation rentals in a manner that allows an important overnight visitor function at the same time as protecting coastal resources, including access and recreational opportunities and community character, better addresses competing objectives consistent with protecting visitor-serving access per the Coastal Act and LCP.

In summary, the proposed request to ban vacation rentals in City residential zones is inconsistent with LUP policies protecting public recreational and visitor-serving access. Staff recommends that the Commission find the proposed amendment inconsistent with and inadequate to carry out the policies of the LUP, and that the Commission deny the IP amendment as submitted. The motion and resolution are found on page 3 below.

Staff Note: LCP Amendment Action Deadline

This proposed LCP amendment was filed as complete on October 15, 2010. It is IP only and the original 60-day action deadline was December 14, 2010. The Commission extended the action deadline (it may be extended by up to one year) at the November 18, 2010 hearing and thus the Commission has until December 14, 2011 to take a final action on this LCP amendment. Accordingly, the Commission must take final action on this LCP amendment at the December 2011 Commission meeting in San Francisco; lacking such action, the proposed LCP amendment would be deemed approved as submitted

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¹ The Spyglass Inn, Dolphin Bay Resort and Spa, and the Cliffs Resort. All three are located in the North Spyglass planning area, the only other visitor serving district in the City of Pismo Beach northwest of Dinosaur Caves Park.



California Coastal Commission

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I. Staff Recommendation – Motion and Resolution

Staff recommends that the Commission, after public hearing, deny the proposed amendment as submitted. The Commission needs to make one motion in order to act on this recommendation.

Denial of Implementation Plan Amendment as Submitted

Staff recommends a **YES** vote on the motion below. Passage of the motion will result in rejection of the implementation plan 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 appointed Commissioners.

Motion. I move that the Commission **reject** LCP Amendment Number 1-10 Part 2 to the City of Pismo Beach Local Coastal Program Implementation Plan as submitted by Pismo Beach. I recommend a yes vote.

Resolution to Deny the IP Amendment as Submitted. The Commission hereby denies certification of LCP Amendment Number 1-10 Part 2 to the City of Pismo Beach Local Coastal Program Implementation Plan as submitted by Pismo Beach and adopts the findings set forth below on the grounds that the amendment as submitted does not conform with, and is inadequate to carry out, the certified Land Use Plan. Certification of the Implementation Plan amendment would not meet the requirements of the California Environmental Quality Act as there are feasible mitigation measures and/or alternatives that would substantially lessen the significant adverse effects on the environment that will result from certification of the Implementation Plan amendment as submitted.

² That is, the locations where vacation rentals would continue to be allowed per the LCP amendment.



II. Findings and Declarations

The Commission finds and declares as follows:

A. Proposed Amendment Background

The City of Pismo Beach is home to some of the most beautiful coastline in California, which is treasured by local residents and tourists alike. Visitors of all ages, incomes, and lifestyles access the beach throughout the City's approximately 7 miles of coastline and have done so for generations. A variety of visitor-serving accommodations, from hotels and motels to camp sites and vacation rentals, are currently spread throughout the City from Sunset Palisades to Pismo Creek. While the City has accurate counts on the supply of hotel and motel units and camp sites in the City, it does not have the same level of accuracy when it comes to the number of vacation rentals in operation, as there is currently apparently no formal system in place to track, control, and regulate this use type. The City is aware of 38 vacation rentals in residentially zoned areas (R-1, R-2, and R-3),³ but lacking a means of quantifying such rentals citywide more systematically, it is likely that there are even more such rentals currently in the City.⁴

Although it is difficult to accurately identify the exact number of existing vacation rentals in the City, it is reasonable to presume that vacation rentals in Pismo have likely followed the same pattern as in other similarly situated coastal communities in California. As vacation rentals have generally increased over the years in such communities, the summer rentals of the past have evolved in some cases into what is now oftentimes a year-round business. This evolution and rentals more generally have sometimes caused problems for coastal residential neighborhoods and have stirred discussion regarding impacts from vacation rentals with respect to the preservation of neighborhood integrity, reductions in rental housing stock, and public safety, including in terms of objections about loud late-night parties, increased traffic and parking difficulties, garbage accumulation, and other issues that have been associated at times with vacation rentals. One reaction to such issues has been LCP amendment proposals to ban such vacation rentals in certain communities (e.g., as proposed but not approved in the City of Encinitas and the City of Imperial Beach in 2005 and 2002 respectively; see also below). However, given the conflict such bans create in terms of Coastal Act and LCP policies and objectives to protect and provide for visitor-serving opportunities, such outright bans have not been supported by the Commission. Rather, the Commission has encouraged ways of allowing and regulating vacation rentals that are based on community and area specific factors that apply.

In fact in recent years, the Commission has approved a number of LCP amendments regulating vacation

³ The City's estimate is based on information from several property management companies managing such rental stock in Pismo Beach.

⁴ Including those not managed by the property management companies used to derive the 38-unit figure but rather managed privately. As a case in example, after the Commission approved Santa Cruz County's vacation rental LCP amendment in July 2011, homeowners who had not been paying transient occupancy tax (TOT) came out of the woodwork in order to be "grandfathered" in through the new regulations, doubling what had been the estimated number of such rentals prior to the amendment.



rentals in the coastal zone, including in the City of Encinitas (LCP amendment 1-06), in Humboldt County (LCP amendment HUM-MAJ-1-98-C), in San Luis Obispo County (LCP amendment 1-01 Part A), and in Santa Cruz County (LCP amendment 1-11 Part 3). Each of these LCP amendment cases presented their own set of issues, but as a general rule the approved amendments generally provided for standards for vacation rental operations. Areas where rentals were disallowed or limited in such cases were identified for such treatment based on those individual fact sets (including related to supply, demand, carrying capacity, proliferation, etc.),⁵ and not based on outright LCP-wide bans. In short, the primary intent of these recent past cases and the Commission's most recent direction was not to prohibit vacation rentals or to significantly diminish their visitor-serving utility, but rather to provide a means and a framework to appropriately regulate their establishment and operation.

In contrast, the City's proposed LCP amendment in this case seeks an outright ban in residential areas that would reduce visitor access to the coastline. Similar types of bans have been proposed by the City of Encinitas and the City of Imperial Beach and in both instances the Commission denied such proposals as being inconsistent with LUP and Coastal Act policies protecting public recreational access and visitor-serving accommodations along the coast. In the case of the City of Encinitas, the City's request was similar to that of Pismo Beach in this case in that it proposed a prohibition on short-term vacation rentals in all residential zones. The Commission found that the proposal inappropriately restricted lodging opportunities for coastal visitors and raised significant issues with LUP requirements promoting access to the City's beaches. The Commission further found that the use of short-term vacation rentals, especially in the nearshore area, was essential for the promotion of public access to the major visitor destination beaches as required by recreation policies of the City's LUP. Lastly, the Commission found that, similar to the northern portion of the City of Pismo Beach, most of the land use designations along the shoreline in Encinitas are residential, and thus the prohibition of vacation rentals would have a significant impact on the supply of visitor-serving accommodations in these nearshore areas. Ultimately the Commission approved a modified amendment that provided for vacation rentals west of Highway 101, while prohibiting them east (and inland) of it (LCP amendment 1-06).

In terms of the City of Imperial Beach, in 2002 the Commission rejected a similar LCP amendment request by the City of Imperial Beach to ban vacation rentals in all residential zones, finding in that case that the proposal was unduly restrictive and discouraging toward tourist related uses and visitor accommodations (LCP amendment 1-02A). After working with the City, in 2004 the Commission approved a modified amendment to the City's LCP that identified vacation rentals parameters for that City that weren't an outright ban but instead provided locational and other criteria for such rentals over time. Unlike the City's initially proposed LCP amendment, the modified approved amendment did not include an explicit prohibition of short-term vacation rentals in all residential zones throughout the City.

⁵ In LCPA 1-06, the Commission's approval allows for vacation rentals in the City of Encinitas on the west side of Highway 101 only; in HUM-MAJ-1-98-C, the Commission's approval allows for vacation rentals in the Shelter Cove area of Humboldt County only. In LCPA 1-01 Part A, the Commission's approval allows for vacation rentals in residential and agricultural properties throughout San Luis Obispo County's coastal zone, with additional regulations for the Cambria and Cayucos areas of the County due to residents' concerns about the impacts of vacation rentals in these communities. In SCO-1-11 Part 3, the Commission's approval allows for certain percentage limits of vacation rentals on neighborhood blocks and cumulatively in the Live Oak beach area.



B. Proposed LCP Amendment

The proposed amendment defines and regulates vacation rentals throughout various zoning districts in Pismo Beach.⁶ The definition of a vacation rental is proposed to be added to LCP Chapter 17.006 (Definitions) as follows:

Any structure, as defined in the building code adopted in Section 15.04.010 of this code, which exists, is constructed, or which is maintained or used upon any premises for the purpose of transient lodging, which consists of four or fewer separate transient rental units. As used herein, "transient" shall have the same meaning as set forth in Section 3.20.020 of this code.

In addition, within LCP Chapter 17.08 (single-family residential) the following language would be added:

For the purposes of this section, a vacation rental shall not be deemed to be compatible with the R-1 zone and adjacent uses.

Similarly, within LCP Chapter 17.021 (two and three-family residential) the following language would be added:

For the purposes of this section, a vacation rental shall not be deemed to be compatible with the R-2 zone and adjacent uses.

And finally, within LCP Chapter 17.024 (multi-family residential) the following language would be added:

For the purposes of this section, a vacation rental shall not be deemed to be compatible with the R-3 zone and adjacent uses.

Currently, per LCP standards, vacation rentals are allowed in each of these residential districts provided the vacation rental is deemed compatible with the specific zone and adjacent land uses.⁷ Thus, the proposed amendment text would prohibit vacation rentals under these criteria by pre-determining that they are incompatible uses in residential zones. In addition, vacation rentals are also currently allowed in the LCP's visitor-serving and commercial areas both due to their visitor-serving nature and based on the compatibility criteria identified above. The City's proposed amendment would not change this LCP visitor-serving and commercial area construct, but it would make it clearer by explicitly adding vacation rentals as line-item allowed uses in the Hotel-Motel and Visitor Serving district, the Resort Residential

⁶ City Ordinance No. O-2010-001 (see Exhibit A)

⁷ Note that the question of whether vacation rentals are an allowed use in the City under this LCP criteria was the subject of litigation against the City when the City claimed that vacation rentals were not allowed in residential districts, in that case in the R-2 zone. Ultimately, the City lost this litigation, with the Court of Appeal finding that the City had no right to shut down an existing rental unit. That lawsuit was part of the impetus for the current proposed LCP amendment.



district, and the Retail Commercial district.⁸ In short, the existing LCP allows vacation rentals citywide, and the proposed LCP amendment would limit them to the commercial and visitor-serving districts, while prohibiting them in the residential districts. See Exhibit A for the proposed IP amendment language and Exhibit B for a map of Pismo Beach and the areas where vacation rentals would and would not be allowed under the proposed amendment.

C. Consistency Analysis

1. Standard of Review

The proposed amendment affects the IP component of the City of Pismo Beach LCP. The standard of review for IP amendments is that they must be consistent with and adequate to carry out the policies of the certified LUP.

2. IP Amendment Consistency Analysis

A. Applicable Policies

The City of Pismo Beach LUP contains objectives and policies that provide for visitor-serving uses with the intent of maximizing coastal access and providing appropriate upland support facilities, such as vacation rentals, directed towards coastal zone visitors, including:

LUP Principle P-3 Resources and Open Space Belong to Everyone. Pismo Beach is an integral part of the larger California coastal community, linked by shared resources that are prized by the state, national and even international community. Congenial and cooperative use of these resources by both residents and visitors is recognized. Solutions for cooperative use shall always be based on retaining the area's fragile charm and resources.

LUP Principle P-6 The Big Three. The three primary resources and open space for Pismo Beach are:

...The Ocean - A Resource For Everyone. The ocean, coastal cliffs, and shoreline resources are vital to Pismo Beach for their wildlife habitat, recreational use, open space, scenic value and the city's overall economy. These natural assets will be protected and made available to all.

LUP Principle P-15. Visitor/Resident Balance. The California coast is an extremely desirable place to live, work and recreate that belongs to all the people. As such, congenial and cooperative use by both residents and visitors is recognized...

⁸ Vacation rentals would be allowed as a principally permitted use in the Hotel-Motel and Visitor Serving district (R-4) and the Resort Residential district (R-R), and would be allowed as a conditional use in the Retail Commercial district (C-1).



LUP Principle P-22 Parks, Recreation and Access Element. Public Shoreline Access. The continued development and maintenance of public access to the Pismo Beach coastline shall be considered an integral and critical part of the City's parks and recreation program.

LUP Policy PR-1 Opportunities for All Ages, Incomes, and Life Styles. To fully utilize the natural advantages of Pismo Beach's location and climate, park and recreational opportunities for residents and visitors shall be provided for all ages, incomes and life styles.

This means that:

- a. The beach shall be free to the public*
- b. Some parking and/or public transportation access to the beach shall be free to the public.*
- c. Recreational needs of children, teens, adults, persons with disabilities, elderly, visitors and others shall be accommodated to the extend resources and feasibility permit.*
- d. City residents need mini-parks, neighborhood parks, community parks, activity centers, special use and all purpose parks.*

LUP Policy PR-2. The ocean, beach and its environment is, and should continue to be, the principal recreation and visitor-serving feature in Pismo Beach. Oceanfront land shall be used for recreational and recreation-related uses whenever feasible.

LUP Policy CO-15 Ocean Shore - Principal Open Space Resource. The ocean shore is, and shall continue to be, the principle open space feature of Pismo Beach. Ocean front land shall be used for open space, recreation and related uses where feasible and where such uses do not deteriorate the natural resource.

B. Analysis

The City of Pismo Beach LUP is clearly premised on preserving, providing, and enhancing coastal access and recreation opportunities for the general public, including by prioritizing visitor-serving commercial facilities in some areas, including lower-cost visitor-serving facilities, and maximizing public use and enjoyment of coastal recreation resources for all people, while preserving the unique environment that attracts visitors to the City and protecting residential communities in the City. The four principles of the Land Use Element of the LUP speak to natural resource preservation, access to the immediate ocean shoreline, preserving the historic ambiance of the City, and providing an appropriate visitor/resident balance consistent with resource protection and public benefit.

The proposed amendment is designed to ban a certain type of visitor-serving use, namely vacation rentals, in the City's residential areas. In particular, this would mean that there could be no vacation rentals under the LCP in key shoreline access areas in the northern part of the City extending toward Avila Beach. Although the commercial core near downtown Pismo, as well as the Motel District south of Dinosaur Caves Park, includes a variety of overnight accommodation facilities, this large and



primarily residential northern area is underserved by such hotels and motels. Rather, this area is predominantly residential, and the only available overnight accommodations are in such residences as a general rule. The City indicates that it has to date identified 38 thus vacation rentals in such residential zones⁸ and these and other vacation rentals in residential areas would be made immediately non-conforming under the proposed amendment.⁹ The amendment is expected to significantly reduce existing and potential vacation rental stock in the City. Thus, the proposed amendment effectively prohibits the rental of residences to visitors in a manner that will diminish the public's ability to access and recreate on the coast by renting a coastal residence.

The opportunity to rent residences within California's coastal communities represents one way in which California residents and visitors enjoy the coast. In some instances, residential vacation rentals may provide a lower cost alternative to renting hotel or motel rooms for large families or groups of individuals. In all cases, vacation rentals increase the range of options available to coastal visitors, oftentimes in residential areas along the immediate shoreline where there are not other significant commercial overnight opportunities, such as northern Pismo Beach. While there are approximately 2,000 hotel and motel rooms in the City of Pismo Beach, these are all located in the hotel-motel and visitor-serving district and downtown in the commercial core.¹⁰

In addition, vacation rentals in residential areas are important for visitors seeking a more residential vacation experience. This experience, which oftentimes differs from the hotel/motel experience in the more urban/commercial core, includes having access to the full amenities of a typical residential house, including a front and/or back yard, off-street parking, and multiple floors. Residential areas also provide different coastal attractions to visit. For example, in Pismo Beach, public parks (such as Eldwayen Ocean Park, Spyglass Park, Shell Beach School Playground, and South Palisades Park) are all located in and amongst residential areas along the coast. Public staircases to the beach as well as ocean viewing spots are also located throughout the City's residential areas, and are more difficult to access from the more distant hotels and motels. Finally, accessing the coast from residential areas can also be different, with different beach and shoreline experiences to be had. Oftentimes beaches adjacent to residential areas are less crowded, less busy and more natural – characteristics that some visitors desire. This is certainly the case along the northern Pismo shoreline. Thus, a visitor can get a different experience from a vacation rental in a residential area in Pismo Beach than from a hotel, motel, or vacation rental in its more commercial area. In short, the proposal to ban vacation rentals in residential districts would reduce public visitor-serving opportunities, and such reduction would conflict with the LUP's objectives to protect public recreational access and visitor-serving opportunities in the City's coastal zone.

⁸ The City's Community Development Department has indicated that it does not have a list of all the vacation rental units in the City; however City staff was able to compile a list from several of the property management companies that oversee vacation rentals.

⁹ The City has indicated that if the amendment goes through then these rentals will be deemed illegal and reasonably shut down as complaints occur.

¹⁰ There were 1,831 hotel and motel rooms in 1990 according to the City's 1992 LUP. Approximately 175 additional overnight hotel and motel rooms have been permitted by the Coastal Commission since the early 1990s.



California Coastal Commission

As has been the case with other LCPs and LCP amendments in other coastal communities, these short-term vacation rentals in residential zones are a valuable and appropriate visitor-serving asset. Although the existing LCP and the amendment would still allow vacation rentals in the commercial visitor-serving use zones in the City,¹¹ vacation rentals in residential areas provide a significant supplement to visitor accommodations in these other areas such that a prohibition on rentals would have a significant adverse impact on promoting public access and visitor-serving opportunities.

The City indicates that vacation rentals are not appropriately located in residential neighborhoods. Although not explicitly offered by the City of Pismo Beach as justification in the LCP amendment submittal package, it is true that in some coastal communities some vacation rentals have been known to spur complaints (including for such things as noise, disorderly conduct, parking and overcrowding issues, and accumulation of refuse), some of which may even require response from police and other city personnel. Oftentimes such complaints are focused on the same individual sites over and over as opposed to all vacation rentals in a community. Other times issues can come up when many vacation rentals saturate a particular neighborhood, block, or area. When faced with such issues, regulation of vacation rentals, consistent with LUP policies, is a more appropriate approach than an outright ban. Recently approved LCP amendment cases reflect this more nuanced type of response clearly. For example, Santa Cruz County recently created a new LCP system with operational oversight and requirements for increased responsibility by the vacation rental operators (including for signage, notice, occupancy/car limits, etc.).¹² The Santa Cruz County system also includes block and area limits designed to avoid oversaturation of vacation rentals in certain locations, including quotas by block and overall for the Live Oak beach area of the County where there have historically been a high number of vacation rentals.¹³ This type of LCP system is also similar to what the Commission approved in Humboldt. In both cases, the respective municipalities effectively codified standards to allow vacation rentals to coexist with surrounding uses and development, particularly residential uses and development, without unduly impacting local residents. It would appear that a similar type of system that reflects the City's specific context could be effective in the City of Pismo Beach.

Finally, the City's proposed vacation rental definition is unclear (including atypical when compared to other such definitions elsewhere) and it includes a cross-reference to non-LCP codes. On the former, the definition does not anywhere refer to residences, which is understandable given the amendment proposes to ban vacation rentals in residential zones. However, there are also residential units in other zones, and the definition apparently excludes this possibility. Rather, it seeks to define a vacation rental as a transient lodging structure only. This could have additional impacts above and beyond that discussed above in relation to residential districts. In addition, the definition refers to a vacation rental being "four or fewer separate transient rental units". It is unclear what that portion of the definition is meant to identify, and it seems that it could lead to ban on vacation rentals in transient lodging structures

¹¹ Including the Hotel-Motel and Visitor Serving (R-4), Resort Residential (R-R) districts, and Retail-Commercial (C-1) districts.

¹² LCP amendment SCO-1-11 Part 3.

¹³ Similar in some ways to the manner in which vacation rentals in the Cambria and Cayucos areas of San Luis Obispo County are addressed differently than other coastal zone areas in the San Luis Obispo County LCP (see LCP amendment 1-01 Part A).



greater than four units. The LCP repercussions of these structures being defined in this way is only to further narrow where and when they would be allowed in the City. It could also lead to LCP implementation difficulty in interpreting its meaning.

With respect to cross-referencing non-LCP sections of the City's Code, such cross-references as a general rule are strongly discouraged. Cross-referencing in this way sets up LCP implementation confusion, including related to arguments that the non-LCP sections are made LCP sections by such reference, and the contrary arguments that the City can independently change those referenced sections without an LCP amendment because they are not explicitly part of the LCP. At a minimum, such proposed cross-referencing also leads to LCP implementation difficulty, and is not appropriate, even if the definition were otherwise appropriate.

In summary, the proposed LCP amendment would reduce public visitor-serving opportunities, and such reduction would conflict with the LUP's objectives to protect public recreational access and visitor-serving opportunities in the City's coastal zone. For this and all the other reasons discussed above, the proposed IP amendment is inconsistent with and inadequate to carry out the certified LUP, and must be denied. In place of an outright ban in residential areas that cannot be supported under the LUP, the City is encouraged to develop appropriate vacation rental regulations that could address possible visitor-resident conflicts and that could satisfy the sometimes competing objectives associated with facilitating public recreational access and visitor-serving opportunities near and within residential areas of the shoreline. Such regulations will need to respond to the local context, and are best developed through an inclusive planning process at the local level. As a result, the Commission does not here suggest modifications to the City's LCP in this regard, preferring to work with the City as it develops such regulations in the future.

D. California Environmental Quality Act (CEQA)

The Coastal Commission's review and development process for LCPs and LCP amendments has been certified by the Secretary of Resources as being the functional equivalent of the environmental review required by CEQA. Local governments are not required to undertake environmental analysis of proposed LCP amendments, although the Commission can and does use any environmental information that the local government has developed. CEQA requires that alternatives to the proposed action be reviewed and considered for their potential impact on the environment and that the least damaging feasible alternative be chosen as the alternative to undertake.

The City, acting as lead CEQA agency, adopted a Negative Declaration for the proposed IP amendment and in doing so found that the amendment would not have significant adverse environmental impacts. This staff report has discussed the relevant coastal resource issues with the proposal. All public comments received to date have been addressed in the findings above. All above findings are incorporated herein in their entirety by reference.

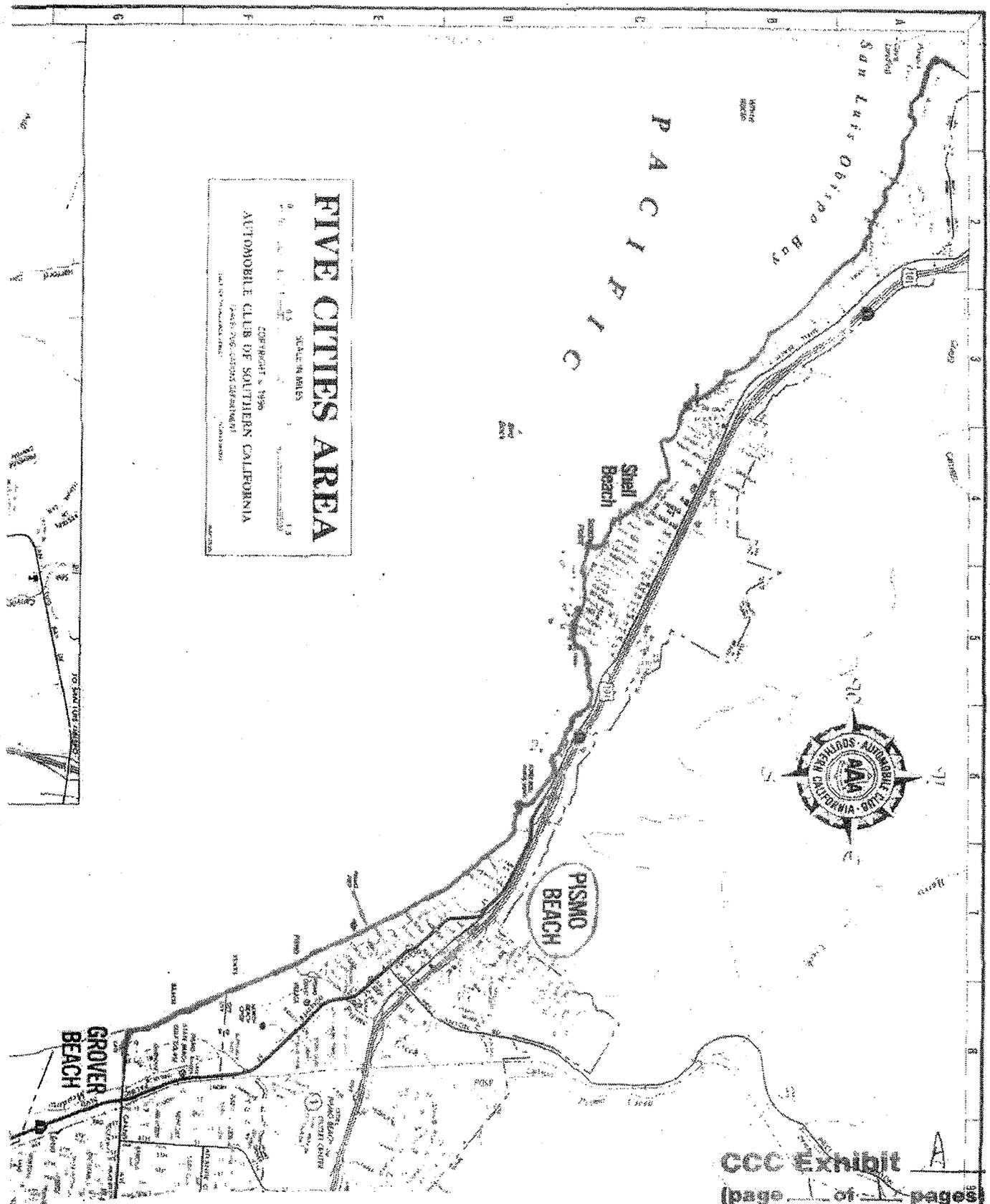


California Coastal Commission

The proposed amendment to the City of Pismo Beach LCP Implementation Plan is inconsistent with and inadequate to carry out the policies of the certified LCP Land Use Plan. The amendment would have an adverse impact on public recreational access and visitor-serving opportunities, including specifically visitor-serving accommodations and lower-cost recreational facilities. Therefore, the Commission finds that a significant unmitigable environmental impact within the meaning of CEQA will result from the approval of the proposed LCP amendment. Thus, the proposed amendment will result in significant environmental effects for which feasible mitigation measures have not been employed consistent with CEQA Section 21080.5(d)(2)(A).



California Coastal Commission



APR 16 2010

ORDINANCE NO. O-2010-001

AN ORDINANCE AMENDING MULTIPLE SECTIONS OF THE MUNICIPAL CODE AND LOCAL COASTAL PROGRAM (LCP) RELATED TO VACATION RENTALS, SPECIFICALLY: TITLE 17, THE 1983 ZONING CODE/LCP LAND USE PROGRAM AND AMENDING THE 1998 ZONING CODE

WHEREAS, the City of Pismo Beach ("Applicant") has initiated ordinance amendments to the 1983 and 1998 zoning code, to the municipal code, and to the Local Coastal Program related to vacation rentals ("the project"); and

WHEREAS, the City Council held a duly noticed public hearing on February 2, 2010, at which all interested persons were given the opportunity to be heard.

NOW, THEREFORE, the City Council of the City of Pismo Beach, California does ordain as follows:

Section 1. FINDINGS

1. The project consists of ordinance amendments amending the land use requirements in various zoning districts and establishes regulations and criteria for vacation rental uses in the City.
2. There are no site constraints or other factors that would create the potential for significant environmental impacts as a result of the project.
3. An environmental initial study was completed for the project, and the City Council finds that no further study is needed.
4. The amendments are consistent with the Coastal Act.

Section 2. ACTION

The City Council does hereby:

1. Certify that the amendments to the Local Coastal Program are intended to be carried out in a manner fully in compliance with Division 20 of the Public Resources Code, otherwise known as the Coastal Act.
2. Adopt the amendments attached as Exhibit 1.
3. Direct staff to forward the amendments to the Local Coastal Program (LCP) to the California Coastal Commission for certification following approval of the second reading. The LCP amendments shall take effect immediately upon Coastal Commission certification, consistent with Public Resources Code Sections 30512, 30513, and 30519.

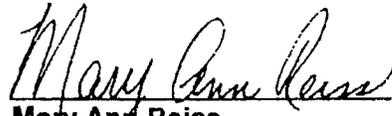
CCC Exhibit 8
(page 1 of 4 pages) 1

Ordinance No. O-2010-001

SECOND READING at a regular meeting of the City Council held this 16th day of February, 2010, on motion of Councilmember Vardas, seconded by Councilmember Ehring, and on the following roll call vote, to wit:

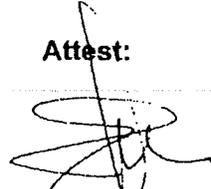
AYES: 3 Councilmembers: Vardas, Ehring, Higginbotham
NOES: 2 Councilmembers: Waage, Reiss
ABSENT: 0
ABSTAIN: 0

Approved:



Mary Ann Reiss
Mayor

Attest:



Emily Colborn, CMC
City Clerk

APPROVED AS TO FORM:



David M. Fleishman, City Attorney

Ordinance No. O-2010-001

CCC Exhibit B
(page 2 of 4 pages) ₃

Chapter 17.024 MULTI-FAMILY RESIDENTIAL (R-3) ZONE

17.024.030 Uses requiring conditional use permit.

- A. Rooming and boarding houses;
- B. Condominiums, stock cooperatives, planned unit developments and community apartments;
- C. Public utility buildings and structures;
- D. Public buildings, churches, schools, parks, group care facilities, playgrounds, hospitals and family care facilities;
- E. Motels, hotels;
- F. Other similar uses deemed compatible to the R-3 zone and adjacent land uses.
For the purposes of this section, a vacation rental shall not be deemed to be compatible with the R-3 zone and adjacent uses.
- G. Uses permitted in the R-1 and R-2 zones.

Chapter 17.027 HOTEL-MOTEL AND VISITOR SERVING (R-4) ZONE

17.027.020 Permitted Uses

F. Vacation Rentals

Chapter 17.030 RESORT RESIDENTIAL (R-R) ZONE

17.030.020 Permitted Uses

C. Vacation Rentals

Chapter 17.042 RETAIL COMMERCIAL (C-1) ZONE

17.042.030 Uses requiring conditional use permits

Ordinance No. O-2010-001

CCC Exhibit B
(page 3 of 4 pages) 5

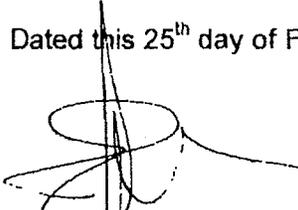


From the Office of the City Clerk
760 Mattie Road
Pismo Beach, CA 93449
(805) 773-4657
(805) 773-7006 Fax

STATE OF CALIFORNIA }
 }
COUNTY OF SAN LUIS OBISPO} SS

I, Emily Colborn, the City Clerk of the City of Pismo Beach, California, do hereby certify that the attached is a true and correct copy of **Ordinance No. O-2010-001** and was duly posted in three public places within the City within 15 days of adoption thereof, pursuant to the requirements of Government Code Section 40806.

Dated this 25th day of February 2010.



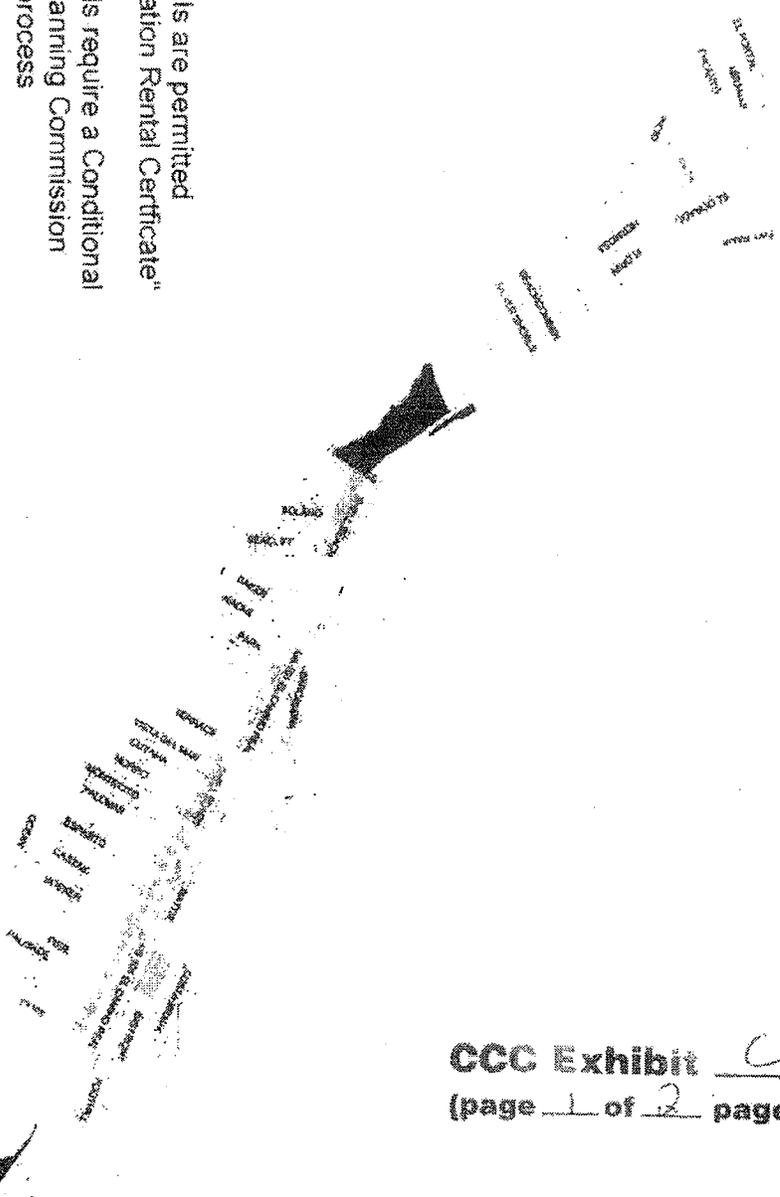
Emily Colborn, CMC
City Clerk

CCC Exhibit B
(page 4 of 4 pages)

Vacation Rental Map After LCP Amendment



CCC Exhibit C
(page 1 of 2 pages)



- Areas where vacation rentals are permitted through a staff issued "Vacation Rental Certificate"
- Areas where vacation rentals require a Conditional Use Permit issued by the Planning Commission through the public hearing process

Note: Vacation Rentals are prohibited in all other areas of the City.



CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
PHONE: (831) 427-4863
FAX: (831) 427-4877
WEB: WWW.COASTAL.CA.GOV

W6b

Prepared June 23, 2011 (for July 13, 2011 hearing)

To: Commissioners and Interested Persons
From: Dan Carl, Central Coast District Manager
Susan Craig, Coastal Planner

Subject: Santa Cruz County LCP Amendment Number 1-11 Part 3 (Vacation Rental Regulations). Proposed major amendment to the Santa Cruz County certified Local Coastal Program to be presented for public hearing and California Coastal Commission action at the Marin County Board of Supervisors Chambers, 3501 Civic Center Drive, Room 330, in San Rafael.

Summary

Santa Cruz County has submitted the above-referenced Local Coastal Program (LCP) amendment request which would define vacation rentals, allow them as principally permitted uses within residential units, and add Section 13.10.694 to the LCP's Implementation Plan (IP) to regulate such vacation rentals, which are currently not explicitly regulated by the LCP. The proposed vacation rental regulations would allow vacation rentals in all zoning districts that allow stand-alone residential uses and would require: 1) a permitting/registration process; 2) payment of Transient Occupancy Tax (TOT) to the County; 3) signage identifying a structure as a vacation rental, including the name and phone number of a local contact person responsible for responding to complaints; 4) a dispute resolution process, and; 5) that the property owner be subject to enforcement provisions. The proposed regulations also limit the number of guests allowed in a vacation rental unit at any one time, and the number of vehicles allowed per vacation rental unit. The regulations would not apply to the Pajaro Dunes area and would include additional requirements within the Live Oak Designated Area (LODA) (essentially the Live Oak beach area between the Santa Cruz Harbor and 41st Avenue) that would prohibit new vacation rentals if vacation rentals exceed 20% of the residential use of any particular block or if vacation rentals constitute more than 15% of residential stock in the LODA overall.

The presence of vacation rentals in certain parts of Santa Cruz County has raised issues for years, mostly in terms of resident concerns that such rentals at times have led to problems (excessive noise, cars, garbage, etc.) that negatively impact residents, particularly in the Live Oak coastal area where there have been many such rentals. At the same time, vacation rentals provide an important visitor function that allows groups and families another option for overnight accommodations near the beach and shoreline, including in areas without significant commercial overnight options and where residential communities flank the immediate shoreline. Because the LCP did not explicitly regulate vacation rentals, the County embarked on a long and inclusive planning process to develop rules that could effectively strike an appropriate balance to allow vacation rentals but limit their number in vacation-rental-saturated areas, and to provide needed rules for their operation.

The proposed amendment does not prohibit, or unduly restrict, the rental of residences to visitors in a



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manner that will diminish the public’s ability to access and recreate on the coast by renting a coastal residence. Rather, the proposed amendment provides a means to appropriately regulate vacation rentals in a manner that continues to provide an important overnight visitor function at the same time as protecting coastal resources, including access and recreational opportunities and community character, consistent with the requirements of the LCP’s Land Use Plan (LUP), which is the standard of review. Under the proposed rules, vacation rentals would be expected to continue to effectively co-exist in coastal residential areas with better clarity on use parameters to ensure that they do not become problematic. Also, the proposed addition of vacation rentals as a principally permitted use in existing residences in certain zoning districts would not result in additional significant adverse impacts to coastal resources because the existing LCP would continue to govern the appropriateness of residential use in the County’s coastal zone, and vacation rentals would only be allowed in residential uses that are themselves consistent with the LCP.

Commission staff worked closely with County staff as the proposed ordinance made its way through the local review process, and believes that the County has ultimately succeeded in identifying appropriate vacation rental regulations that address potential visitor-resident conflicts and that satisfy the sometimes competing objectives associated with facilitating public recreational opportunities near and within residential areas of the shoreline. Staff recommends that the Commission find the proposed amendment consistent with and adequate to carry out the policies of the LUP, and that the Commission approve the IP amendment as submitted. The motion and resolution are found on page 3 below.

Staff Note: LCP Amendment Action Deadline

This proposed LCP amendment was filed as complete on June 7, 2011. The proposed amendment includes IP changes only, and the 60-day action deadline is August 6, 2011. Thus, unless the Commission extends the action deadline (it may be extended by up to one year), the Commission has until August 6, 2011 to take a final action on this LCP amendment.

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vacation rentals with respect to the preservation of neighborhood integrity, rental housing stock reduction, and public safety, including in terms of complaints about loud, late-night parties, increased traffic and parking difficulties, garbage accumulation, and other issues that have been associated with vacation rentals.

The County has a permitting process and related operational requirements for hotels, motels, and bed and breakfast operations, including requirements for the payment of Transient Occupancy Taxes (TOT). However, vacation rentals in Santa Cruz County are not explicitly regulated and there are no operational permits or standards applied to them. The County is proposing this amendment to establish a set of regulations for vacation rentals to protect the integrity of neighborhoods and to ensure the collection of TOT, while continuing to allow vacation rentals to help provide a range of visitor-serving overnight opportunities in the County's coastal areas. The proposed regulations would apply throughout the County's coastal zone, except for in the Pajaro Dunes area,² and would include more specific regulations within the "Live Oak Designated Area" (LODA) (see Exhibit B).

In recent years, the Commission has approved a number of LCP amendments regulating vacation rentals in the coastal zone, including in the City of Encinitas (LCPA 1-06), in Humboldt County (LCPA HUM-MAJ-1-98-C), and in San Luis Obispo County (LCPA 1-01 Part A).³ Similar to the proposed amendment, the primary intent of these past cases was not to prohibit vacation rentals or to significantly diminish their visitor serving utility, but rather to provide a means and a framework to appropriately regulate their establishment and operation.

² Pajaro Dunes is a gated coastal community, which has permanent residences and vacation rentals, and is located adjacent to the Pajaro River at the County's southern border. Vacation rentals in Pajaro Dunes are already governed by existing Covenants, Conditions and Restrictions (CC&Rs). Any issues related to vacation rentals at Pajaro Dunes are addressed through the Pajaro Dunes Homeowners' Association and the associated management company and private security. Because Pajaro Dunes is a large development with its own management company, homeowners' association, and private security, and because it is isolated from any other residential development, the County did not feel it was necessary to apply the vacation rental regulations at Pajaro Dunes, i.e. unlike other areas that may be part of a larger neighborhood, Pajaro Dunes is self-contained and any issues regarding noise, etc., from vacation rentals there can be quickly and effectively dealt with by the management company and the private security.

³ In LCPA 1-06, the Commission's approval allows for vacation rentals in the City of Encinitas on the west side of Highway 101 only; in HUM-MAJ-1-98-C, the Commission's approval allows for vacation rentals in the Shelter Cove area of Humboldt County only. In LCPA 1-01 Part A, the Commission's approval allows for vacation rentals in residential and agricultural properties throughout San Luis Obispo County's coastal zone, with additional regulations for the Cambria and Cayucos areas of the County due to residents' concerns about the impacts of vacation rentals in these communities (similar to the proposed amendment's additional restrictions for the LODA).



B. Proposed LCP Amendment

The proposed amendment establishes regulations applicable to certain residential dwellings⁴ that are allowed to be rented as vacation rentals for periods of not more than 30 days at a time. The proposed amendment would allow vacation rentals in all zoning districts that allow “stand-alone” residential uses, i.e. residential uses that are not subordinate to another type of use.⁵ Vacation rentals would be allowed as a principally permitted use subject to a level 2 approval (administrative, plans required)⁶ in all zoning districts that allow stand-alone residential use, including the Residential, Agricultural, Parks and Recreation, and Timber Production zoning districts.⁷ Also, the proposed amendment would allow vacation rentals in the Special Use zoning district if the underlying LUP designation allows stand-alone residential use.

The proposed amendment would regulate vacation rentals in the coastal zone countywide (other than in Pajaro Dunes) and would require: 1) a permitting/registration process; 2) payment of TOT to the County; 3) exterior signage identifying a structure as a vacation rental, including the name and phone number of a local contact person responsible for responding to complaints; 4) limitations on the maximum number of users and vehicles; 5) a dispute resolution process with neighbors; and 6) posting of all associated rules and regulations within the rental itself.

The proposed amendment includes a separate permitting process for existing vacation rentals and for new vacation rentals.⁸ Each vacation rental permit would constitute a CDP that would run with the land in perpetuity, except that each vacation rental permit issued for a vacation rental located in the LODA would have an expiration date of five years from the date of issuance, at which time the owner of such a property may apply for renewal of the permit (see page 6 of Exhibit A for the LODA permit renewal process). Also, the proposed amendment would prohibit *new* vacation rentals in the LODA if parcels with existing vacation rentals on the same block equal 20 percent or more of the total residential parcels on that block, or if vacation rentals constitute more than 15 percent of all the residential parcels in the

⁴ Per the proposed amendment, a vacation rental may be located in a single-family dwelling unit, a duplex or triplex (including condominium and townhouse units), but may not be located in apartments or manufactured homes in a mobile home park.

⁵ Examples of zoning districts in Santa Cruz County where stand-alone residential use is not allowed include the commercial zoning districts, which allow residential use only as part of a mixed commercial-residential use with limits on the percentage of residential use allowed in the project.

⁶ The LCP is structured with approval levels from 1 to 7, with 1 being the lowest level of review and 7 being the highest (requiring Board of Supervisors approval).

⁷ The zoning districts that do not allow stand-alone residential use are the Commercial, Industrial, and Public and Community Facilities districts. Under the proposed amendment, vacation rentals would not be permitted in these zoning districts unless an existing dwelling in one of these zoning districts was used as a vacation rental prior to April 5, 2011 and the owner of such a property submits an application to the Planning Department (along with documentation that includes evidence that there has been prior vacation rental use of the unit, among other requirements) within 90 days of certification of this LCP amendment by the Commission.

⁸ The proposed amendment defines an *existing* vacation rental as a dwelling unit that was used as a vacation rental prior to April 5, 2011; a *new* vacation rental is defined as a dwelling unit that was not used as a vacation rental prior to April 5, 2011 (see page 2 of Exhibit A).



entire LODA (see pages 4-5 of Exhibit A). Notwithstanding these maximums, each block in the LODA that allows residential use may have at least one vacation rental.

The amendment does not identify specific required findings for vacation rentals, and is more aptly described as a procedural tool for regulating such rentals. All other applicable LCP policies would continue to apply to vacation rental permit decisions. All vacation rental permits would be subject to revocation as provided for in LCP section 18.10.136.

See Exhibit A for the proposed IP amendment language and Exhibit B for the location of the "Live Oak Designated Area."

C. Consistency Analysis

1. Standard of Review

The proposed amendment affects the IP component of the Santa Cruz County LCP. The standard of review for IP amendments is that they must be consistent with and adequate to carry out the policies of the certified LUP.

2. IP Amendment Consistency Analysis

A. Applicable Policies

The Santa Cruz LUP contains objectives and policies that provide for visitor-serving uses with the intent of maximizing coastal access and providing appropriate upland support facilities, such as vacation rentals, directed towards coastal zone visitors, including:

LUP Objective 2.16 – To provide for a variety of temporary residential uses in both urban and rural areas which provide for visitor needs while preserving the unique environmental settings that attract visitors to the County and protecting residential communities in the County.

LUP Policy 2.22.1 – Priority of Uses within the Coastal Zone. Maintain a hierarchy of land use priorities within the Coastal Zone:

First Priority: Agriculture and coastal-dependent industry

Second Priority: Recreation, including public parks; visitor serving commercial uses; and coastal recreation facilities.

Third Priority: Private residential, general industrial, and general commercial uses.

LUP Objective 7.7a Coastal Recreation. To maximize public use and enjoyment of coastal recreation resources for all people, including those with disabilities, while protecting those resources from the adverse impacts of overuse.



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B. Analysis

The LUP is clearly premised on protecting, providing, and enhancing coastal access and recreation opportunities for the general public, including by prioritizing visitor-serving commercial facilities, including lower cost visitor-serving facilities, and maximizing public use and enjoyment of coastal recreation resources for all people, while preserving the unique environment that attracts visitors to the County and protecting residential communities in the County.

The opportunity to rent residences within California's coastal communities represents one way in which California residents and visitors enjoy the coast. In some instances, residential vacation rentals may provide a lower cost alternative to renting hotel or motel rooms for large families or groups of individuals. In all cases, vacation rentals increase the range of options available to coastal visitors, oftentimes in residential areas along the immediate shoreline where there are not other significant commercial overnight opportunities. In this context, proposals to regulate vacation rentals have the potential to conflict with the LUP's objectives to protect access and recreational opportunities, and to conflict with the LUP's prioritization of visitor-serving commercial facilities.

The proposed amendment is primarily a means to provide a regulatory structure to a category of use and development that is not currently explicitly regulated by the LCP. The proposed rules are not a prohibition or a ban and are not structured to reduce the utility of vacation rentals for lower cost users (e.g., the rules do not include a required length of stay). Rather, establishing vacation rentals as an allowed use in all zoning districts where stand-alone residential use is allowed protects coastal access and recreation opportunities and is consistent with the LUP's prioritization of visitor-serving commercial facilities. The proposed amendment does not prohibit or unduly restrict the rental of residences to visitors in a manner that will diminish the public's ability to access and recreate on the coast. Instead, the proposed amendment provides an opportunity to regulate vacation rentals in a manner that protects coastal resources and access and recreational opportunities, as well as residential communities and community character, consistent with the requirements of the LUP. For example, the proposed amendment limits the number of vehicles allowed at a vacation rental, which will minimize the impact of vacation rentals on other beach users with regard to parking. The proposed amendment also limits the number of guests allowed at each vacation rental, which will help protect the adjacent residential community from overuse (and concomitant noise and other problems) of oversubscribed vacation rentals.

With respect to the LODA, the proposed block and area limits for new vacation rentals are appropriately designed to ensure that entire blocks – and indeed the entire LODA area – do not convert into vacation rentals.⁹ Over time, vacation rentals have become a prominent component of many Live Oak beach areas and, according to the County, a significant bulk of the complaints received regarding vacation rentals are focused in the LODA (excessive noise, cars, garbage, etc.). Accordingly, the proposed limits for new vacation rentals in the LODA seem reasonable, especially because there are already numerous

⁹ Similar in some ways to the manner in which vacation rentals in the Cambria and Cayucos areas of San Luis Obispo County are addressed differently than other coastal zone areas in the San Luis Obispo County LCP (see LCPA 1-01 Part A).



vacation rentals there that allow for access and recreational opportunities and such existing uses will not be reduced through this IP amendment.

Finally, the addition of vacation rentals as a principally permitted use in existing residences located in the zoning districts described above would not result in significant adverse impacts to coastal resources, including because the existing LCP would continue to govern the appropriateness of residential development in the County's coastal zone, and vacation rentals could only be permitted in residences that are themselves consistent with the LCP. In other words, vacation rentals would not be added independently as a principally permitted use. Rather, vacation rentals could only be sited in residential structures that meet all other applicable provisions of the LCP. This is particularly important with respect to the County's rural properties, where specific siting and design criteria limit residential development as a conditional use to protect rural agricultural lands. If the vacation rental use were intended to be permitted on its own as a separate principally permitted use, rather than solely in conjunction with existing or proposed residential uses, in these types of more sensitive areas, this would indeed be problematic under the LUP because it could lead to inappropriate residential development couched as vacation rentals where such development was principally permitted. This could also result in inappropriate intensification of use and development under the auspices of vacation rental homes because an applicant might propose a vacation rental that would later be used solely as a residence in the long run, sans the vacation rental use. Adding vacation rentals as a use contingent on residential development already consistent with the LCP eliminates this concern, and would be expected to have negligible resource impacts past the residential impacts themselves. Thus, because the vacation rental would be required to meet the same standards as any other residential use, the proposed IP amendment can be found consistent with the LUP.

If a *new* residential development to include a vacation rental use were proposed in any of the above zoning districts, development of the new residential structure would have to conform to all applicable LCP requirements regarding coastal resource protection (including protection of agriculture, environmentally sensitive habitat, visual resources, the priority use requirements of the zoning district, etc.). For example, if a person or persons proposed to construct a new residence on agricultural land that would include a vacation rental use, the proposed residential development would be required to comply with the LCP's certified agricultural policies and zoning code requirements, which recognize agriculture as a priority land use, require the preservation of agricultural uses on agricultural lands, and limit residential development accordingly (e.g., LUP Chapter 5 Agriculture policies and IP Sections pertaining to development on agricultural land, including but not limited to Sections 13.10.313 and 13.10.510, et seq., and IP Chapter 16.50). As is currently the case, any such residential development on agricultural land use would also be a conditional use, thus making any decision on such a residential project appealable to the Coastal Commission.

In summary, the County has succeeded in identifying appropriate vacation rental regulations that address potential visitor-resident conflicts and that satisfy the sometimes competing objectives associated with facilitating public recreational opportunities near and within residential areas of the shoreline. Under the proposed rules, vacation rentals would be expected to continue to effectively co-



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exist in coastal residential areas with better clarity on use parameters to ensure that they do not become problematic. For all the reasons discussed above, the proposed IP amendment can be found consistent with and adequate to carry out the certified LUP.

D. California Environmental Quality Act (CEQA)

The Coastal Commission's review and development process for LCPs and LCP amendments has been certified by the Secretary of Resources as being the functional equivalent of the environmental review required by CEQA. Therefore, local governments are not required to undertake environmental analysis of proposed LCP amendments, although the Commission can and does use any environmental information that the local government has developed. CEQA requires that alternatives to the proposed action be reviewed and considered for their potential impact on the environment and that the least damaging feasible alternative be chosen as the alternative to undertake.

The County, acting as lead CEQA agency, adopted a Negative Declaration for the proposed IP amendment and in doing so found that the amendment would not have significant adverse environmental impacts. This staff report has discussed the relevant coastal resource issues with the proposal. All public comments received to date have been addressed in the findings above. All above findings are incorporated herein in their entirety by reference.

As such, there are no additional feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse environmental effects which approval of the amendment would have on the environment within the meaning of CEQA. Thus, the proposed amendment will not result in any significant environmental effects for which feasible mitigation measures have not been employed consistent with CEQA Section 21080.5(d)(2)(A).



California Coastal Commission

ORDINANCE NO. 5092

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**ORDINANCE ADDING VACATION RENTALS AS A USE TO SECTION 13.10.322(b),
 ADDING NEW SECTION 13.10.694, AND ADDING A DEFINITION TO SECTION
 13.10.700-V OF THE SANTA CRUZ COUNTY CODE RELATING TO THE REGULATION
 OF VACATION RENTALS**

The Board of Supervisors of the County of Santa Cruz ordains as follows:

SECTION I

Section (b) of Section 13.10.312 of the Santa Cruz County Code is hereby amended to add the use "Vacation rental" to the agricultural uses chart after the use "Stands for the display and sale of agricultural commodities produced on site**", to read as follows:

USE	CA	A	A-P
Vacation rentals (subject to Section 13.10.694)	2P	2P	2P

SECTION II

Section (b) of Section 13.10.322 of the Santa Cruz County Code is hereby amended to add the use "Vacation rental" to the Visitor accommodations category of the residential use chart after the use "Bed and breakfast inns (subject to Section 13.10.691)", to read as follows:

USE	RA	RR	R-1	RB	RM
Vacation rentals (subject to Section 13.10.694)	2P	2P	2P	2P	2P

SECTION III

Section (b) of Section 13.10.352 of the Santa Cruz County Code is hereby amended to add the use "Vacation rental" to the Visitor accommodations category of the PR uses chart after the use "Type B, pursuant to Section 13.10.353(b), such as group quarters, tent camping, recreational vehicle camping", to read as follows:

USE	PR
Vacation rentals (subject to Section 13.10.694)	2P

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SECTION IV

Section (b) of Section 13.10.372(b) of the Santa Cruz County Code is hereby amended to add the use "Vacation rental" to the Visitor accommodations category of the TP uses chart after

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the use "Small-scale, in the Coastal Zone, upon conversion of an existing structure (subject to Chapter 13.20 and VA District regulations Section 13.10.330 et seq.", to read as follows:

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USE	TP
Vacation rentals (subject to Section 13.10.694)	2P

SECTION V

The Santa Cruz County Code is hereby amended by adding paragraph 4 to Subsection (a) of Section 13.10.382, "Uses in the Special Use 'SU' District", to read as follows:

4. Vacation rentals are allowed in the Special Use "SU" District where the underlying General Plan land use designation allows residential uses with no requirement to have any other use. The applicable General Plan land use designations that allow residential uses with no requirement to have any other use are the Agricultural (AG) land use designation, the Existing Park, Recreation and Open Space (O-R) land use designation, the Urban Open Space Lands (O-U) land use designation, and all residential land use designations (R-M, R-R, R-S, R-UVL, R-UL, R-UM, and R-UH).

SECTION VI

The Santa Cruz County Code is hereby amended by adding Section 13.10.694 to read as follows:

13.10.694 Vacation Rentals.

(a) The purpose of this section is to establish regulations applicable to dwellings that are rented as vacation rentals for periods of not more than thirty days at a time. These regulations are in addition to all other provisions of this Title. This section does not apply to Pajaro Dunes where vacation rentals are governed by an existing development permit.

(b) Vacation rentals are allowed in all zone districts that allow residential use with no requirement for any other use, except that any vacation rental meeting the requirements of (c)1 and (d)1, below, may be permitted in any zone district.

(c) For the purposes of this section, the following terms have the stated meanings.

(1) Existing vacation rental means a dwelling unit that was used as a vacation rental prior to April 5, 2011.

(2) New vacation rental means a dwelling unit that was not used as a vacation rental prior to April 5, 2011.

(3) The "Live Oak Designated Area" means the Yacht Harbor Special Community (as described in the General Plan – Local Coastal Program and depicted on the General Plan – Local Coastal Program map) and that portion of Live Oak that lies

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east and south of East Cliff Drive and Portola Drive from the intersection of 9th Avenue and East Cliff Drive to the intersection of Portola Drive and 41st Avenue, as depicted in Figure LODA, attached hereto.

(4) "Block" means the properties abutting both sides of a street extending from one intersecting street to another or to the terminus of the street.

(d) Permit requirements. A vacation rental permit and Transient Occupancy Tax registration are required for each residential vacation rental. Each vacation rental permit shall run with the land in perpetuity, except that each vacation rental permit issued for a vacation rental located in the Live Oak Designated Area shall expire five years from the date of issuance of the original permit. If an application for renewal has been submitted and is deemed complete prior to the expiration date, the expiration of the permit will be stayed until final action on the renewal application. No application for renewal of a vacation rental permit shall be accepted more than 180 days before the expiration date. The Planning Director may approve extensions of permit expiration dates or application submittal dates based on demonstrated hardship to the applicant or for other good cause. Approval of a vacation rental permit does not legalize any non-permitted use or structure. Vacation rental permits are subject to revocation as provided for in County Code Section 18.0.136.

(1) Existing vacation rental. An initial permit shall be obtained. No public hearing shall be required and no notice of an application for a permit for an existing vacation rental shall be given. For an existing vacation rental to be considered a legal use the applicant shall provide the following to the Planning Department within 90 days after the certification of this ordinance by the California Coastal Commission:

(A) Completed application form

(B) Plans, which do not need to be drawn by a professional, drawn to scale including the following:

(i). Plot plan showing location of all property lines, location of all existing buildings, and location of dimensioned on-site parking spaces

(ii). Floor plan showing all rooms with each room labeled as to room type

(C) Non-refundable application fee as established by the Board of Supervisors, but no greater than necessary to defray the cost incurred by the County in administering the provisions of this Chapter

(D) Copy of a rental/lease agreement, which shall include, but not necessarily be limited to, the following: number of guests allowed (2/bedroom + 2, children under 12 not counted; for celebrations and gatherings between 8:00 a.m. and 10:00 p.m., the maximum number of people allowed is twice the maximum number of guests allowed); number of vehicles allowed (not to exceed the number of existing on-site parking spaces, plus two additional on-street); noise,

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illegal behavior and disturbances, trash management (e.g., trash to be kept in covered containers only).

(E) Proof that a dwelling unit was being used as a vacation rental prior to April 5, 2011. Such proof may consist of, among other things, the following items:

(i) Documentation that the owner paid County of Santa Cruz Transient Occupancy Tax for the use of the vacation rental; or

(ii) Documentation that there has been vacation rental use of the unit. This could include the following: the owner allowed transient guests to occupy the subject property in exchange for compensation and the applicant furnishes reliable information, including but not limited to, records of occupancy and tax documents, guest reservation lists, and receipts, showing payment and dates of stay.

(F) Retroactive payment of Transient Occupancy Tax. For those applicants who provide adequate documentation that a dwelling unit was used as a vacation rental prior to April 5, 2011, but where the owner has not registered and paid Transient Occupancy Tax, proof of retroactive payment of the Transient Occupancy Tax amount due to the County to the extent allowed by law for the time during which a dwelling unit was being used as a vacation rental shall be submitted.

(G) Number of people allowed. The maximum number of guests allowed in an existing individual residential vacation rental shall not exceed two people per bedroom plus two additional people, except for celebrations and gatherings between 8:00 a.m. and 10:00 p.m., when the maximum number of people allowed is twice the maximum number of guests allowed. Children under 12 are not counted toward the maximums.

(2) New vacation rental. Except as provided in County Code Section 18.10.124(b), no public hearing shall be required and action on these applications shall be by the Planning Director or designee, with notice of the proposed action provided not less than 10 calendar days before issuance of the permit, pursuant to County Code Section 18.10.222(c) and (d). Appeals of the proposed action on the application may be made by the applicant or any member of the public. Pursuant to County Code Section 18.10.124(b), the Planning Director may refer the application to the Zoning Administrator or Planning Commission for a public hearing.

(A) When a public hearing is required, notice of such a public hearing shall be provided not less than 10 calendar days before the public hearing, pursuant to County Code Section 18.10.223.

(B) In the Live Oak Designated Area, no new vacation rental shall be approved if parcels with existing vacation rentals on the same block total 20 percent or more of the total parcels on that block that allow residential use, excluding those parcels in the Mobile Home Park Combining Zone District. In

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addition, no more than 15 percent of all of the parcels that allow residential use in the Live Oak Designated Area, excluding those parcels in the Mobile Home Park Combining Zone District, may contain vacation rentals. Notwithstanding these maximums, each block in the Live Oak Designated Area that has parcels that allow residential use, excluding those parcels in the Mobile Home Park Combining Zone District, may have at least one vacation rental.

(C) Applicants for a permit for a new vacation rental shall provide the following to the Planning Department:

(i) Completed application form.

(ii) Non-refundable application fee as established by the Board of Supervisors, but no greater than necessary to defray the cost incurred by the County in administering the provisions of this Chapter, except that if the application requires a public hearing due to referral of the application to the Zoning Administrator or Planning Commission, then the application will be converted to an "at cost" application and the applicant will be billed for staff time associated with processing the application.

(iii) Plans, which do not need to be drawn by a professional, drawn to scale including the following:

I. Plot plan showing location of all property lines, location of all existing buildings, and location of dimensioned on-site parking spaces.

II. Floor plan showing all rooms with each room labeled as to room type.

(iv) Copy of a rental/lease agreement, which shall include, but not necessarily be limited to, the following: number of guests allowed (2/bedroom + 2, children under 12 not counted; for celebrations and gatherings between 8:00 a.m. and 10:00 p.m., the maximum number of people allowed is twice the maximum number of guests allowed); number of vehicles allowed (not to exceed the number of existing on-site parking spaces, plus two additional on-street); noise, illegal behavior and disturbances, trash management (e.g., trash to be kept in covered containers only).

(v) Copy of a County of Santa Cruz Transient Occupancy Registration Certificate for the purpose of the operation of a vacation rental.

(D) Number of people allowed. The maximum number of guests allowed in a new residential vacation rental shall not exceed two people per bedroom plus two additional people, except for celebrations and gatherings between 8:00 a.m. and 10:00 p.m., when the maximum number of people allowed is twice the maximum number of guests allowed. Children under 12 are not counted toward the maximums.

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(3) Renewal of vacation rental permits in the Live Oak Designated Area. In the Live Oak Designated Area only, vacation rental permits must be renewed every five years. An application to renew a permit for a vacation rental in the Live Oak Designated Area shall be made no sooner than 180 days before expiration of the existing permit. Determination that the application is complete shall stay the expiration of the existing permit until final action is taken on the renewal application. Except as provided in County Code Section 18.10.124(b), no public hearing shall be required and action on permit renewal applications shall be by the Planning Director or designee, with notice of the proposed action provided not less than 10 calendar days before issuance or denial of the permit, pursuant to County Code Section 18.10.222(c) and (d). Appeals of the proposed action on the renewal application may be made by the applicant or any member of the public.

(A) If a public hearing is required, the Planning Director shall schedule the public hearing before either the Zoning Administrator or the Planning Commission, at the Planning Director's discretion. Notice of such a public hearing shall be provided not less than 10 calendar days before the public hearing, pursuant to County Code Section 18.10.223.

(B) Applicants for renewal of a permit for a vacation rental in the Live Oak Designated Area shall provide the following to the Planning Department:

(i) Completed application form.

(ii) Non-refundable application fee as established by the Board of Supervisors, but no greater than necessary to defray the cost incurred by the County in administering the provisions of this Chapter, except that if the application requires a public hearing due to referral of the application to the Zoning Administrator or Planning Commission, then the application will be converted to an "at cost" application and the applicant will be billed for staff time associated with processing the application.

(iii) Proof of payment of Transient Occupancy Tax for the use of the dwelling as a vacation rental and a summary of the dates the unit was used as a vacation rental between the time of issuance of the existing permit and the date of application for the renewal. Renewal applications must show significant rental use of the unit for two of the previous five years.

(C) The renewal process shall include a staff review of County records and other pertinent information specific to complaints, if any, that have been received about the particular vacation rental. Approval of a vacation rental renewal permit shall be based on affirmative findings as set forth in County Code Section 18.10.230(a). Denial of an application for renewal shall be based on one or more of the required findings not being able to be made, as set forth in County Code Section 18.10.230(a).

(e) Local contact person. All vacation rentals shall designate a contact person within a 30-mile radius of the vacation rental. The contact person shall be available 24 hours a

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day to respond to tenant and neighborhood questions or concerns. A property owner who lives within a 30-mile radius of the vacation rental may designate himself or herself as the local contact person. ⁰⁵⁸⁵

The name, address, and telephone number(s) of the local contact person shall be submitted to the Planning Department, the local Sheriff Substation, the main county Sheriff's Office, the local fire agency, and supplied to the property owners of all properties located within a 300 foot radius of the boundaries of the parcel on which the vacation rental is located. The name, address and telephone number(s) of the local contact person shall be permanently posted in the rental unit in a prominent location(s). Any change in the local contact person's address or telephone number shall be promptly furnished to the agencies and neighboring property owners as specified in this subsection.

(f) Signs. All vacation rentals shall have a sign identifying the structure as a permitted vacation rental and listing a 24-hour local contact responsible for responding to complaints and providing general information, which shall be placed no more than 20 feet back from the nearest street. The sign may be of any shape, but may not exceed 216 square inches. There is no minimum sign size so long as the information on the sign is legible from the nearest street.

(g) Posting of rules. Vacation rental rules shall be posted inside the vacation rental in a location readily visible to all guests. The rules shall include, but not necessarily be limited to, the following: number of guests allowed (2/bedroom + 2, children under 12 not counted; for celebrations and gatherings between 8:00 a.m. and 10:00 p.m., the maximum number of people allowed is twice the maximum number of guests allowed), number of vehicles allowed (not to exceed the number of existing on-site parking spaces, plus two additional on-street), noise, illegal behavior and disturbances, trash management (e.g., trash to be kept in covered containers only).

(h) Noise. All residential vacation rentals shall comply with the standards of Chapter 8.30 of the County Code (Noise) and a copy of that chapter shall be posted inside the vacation rental in a location readily visible to all guests. No use of equipment requiring more than standard household electrical current at 110 or 220 volts or activities that produce noise, dust, odor, or vibration detrimental to occupants of adjoining dwellings is allowed.

(i) Transient Occupancy Tax. Each residential vacation rental owner shall meet the regulations and standards set forth in Chapter 4.24 of the County Code, including any required payment of transient occupancy tax for each residential vacation rental unit.

(j) Dispute resolution. By accepting a vacation rental permit, vacation rental owners agree to engage in dispute resolution and act in good faith to resolve disputes with neighbors arising from the use of a dwelling as a vacation rental. Unless an alternative dispute resolution entity is agreed to by all parties involved, dispute resolution shall be conducted through the Conflict Resolution Center of Santa Cruz County.

(k) Violation. It is unlawful for any person to use or allow the use of property in violation of the provisions of this section. The penalties for violation of this section are

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set forth in Chapter 19.01 of this Title (Enforcement). If more than two documented, significant violations occur within any 12-month period a permit may be reviewed for possible amendment or revocation. Evidence of significant violations includes, but is not limited to, copies of citations, written warnings, or other documentation filed by law enforcement; and copies of Homeowner Association warnings, reprimands, or other Association actions, or other documents which substantiate allegations of significant violations.

(l) It is unlawful to make a false report to the Sheriff's Office regarding activities associated with vacation rentals.

SECTION VII

Section 13.10.700-V of the Santa Cruz County Code is hereby amended by adding a definition for "Vacation rental" following the definition of "VA" to read as follows:

Vacation Rental. A single-family dwelling unit, duplex, or triplex (including condominium and townhouse units, but not including apartments or manufactured homes in a mobile home park), rented for the purpose of overnight lodging for a period of not more than thirty (30) days other than (a) ongoing month-to-month tenancy granted to the same renter for the same unit, (b) one less-than-thirty day period per year, or (c) a house exchange for which there is no payment. Habitable accessory structures, non-habitable accessory structures, second units constructed under the provisions of County Code Section 13.10.681, and legally restricted affordable housing units shall not be used as vacation rentals.

SECTION VIII

This ordinance shall take effect on the 31st day after the date of Final Passage, or upon certification by the California Coastal Commission, whichever date is later.

PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Cruz this 3rd day of May, 2011, by the following vote:

AYES: SUPERVISORS Leopold, Pirie, Coonerty, Stone
NOES: SUPERVISORS Caput
ABSENT: SUPERVISORS none
ABSTAIN: SUPERVISORS

MARK W. STONE

CHAIRPERSON, BOARD OF SUPERVISORS

ATTEST: TESS FITZGERALD
Clerk of the Board

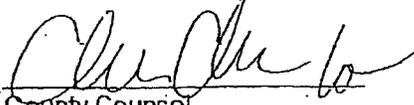
CCC Exhibit A
(page 8 of 9 pages)

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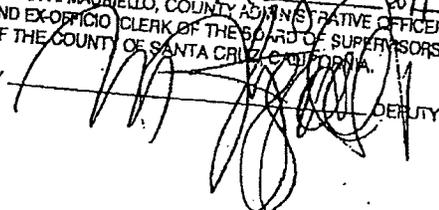
ATTACHMENT 5

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APPROVED AS TO FORM:

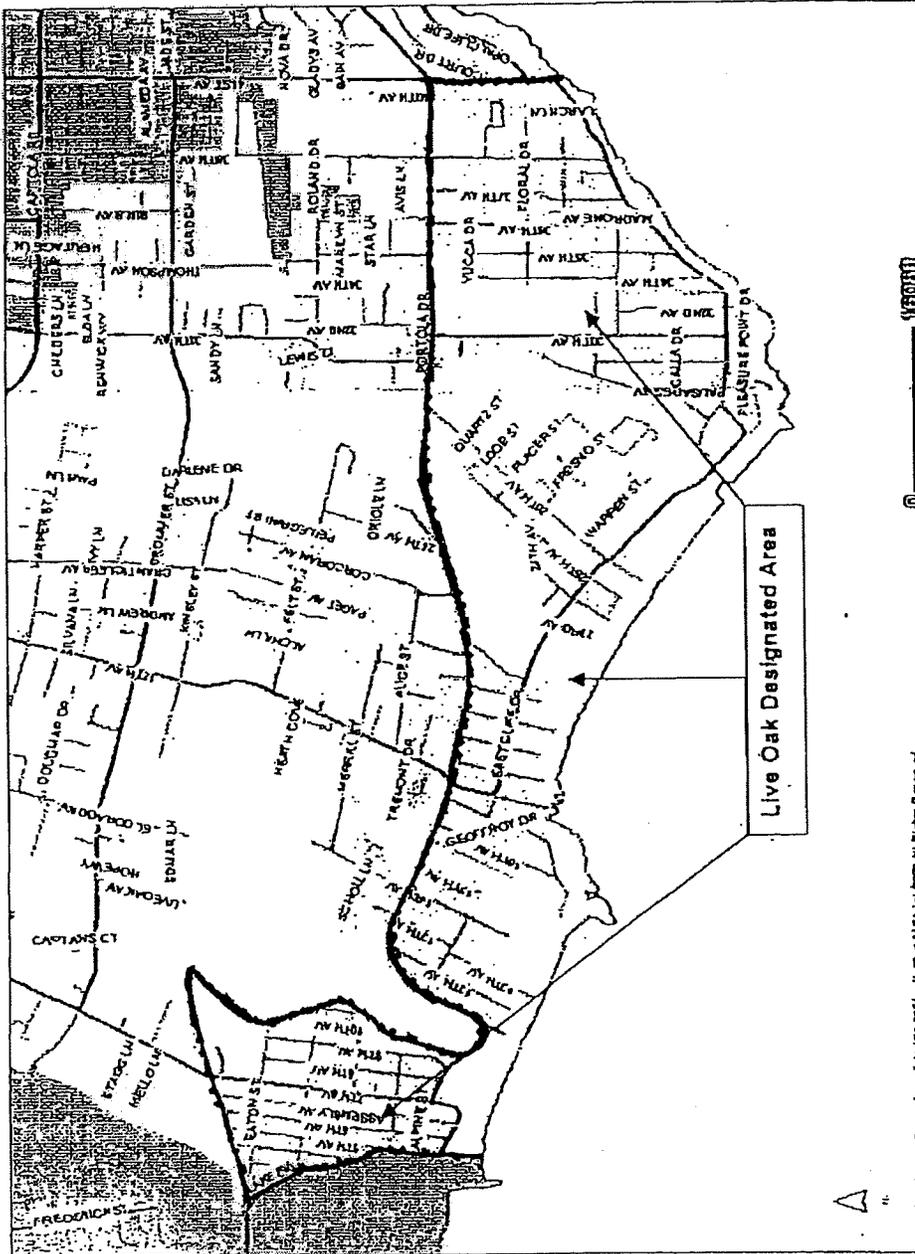

County Counsel

Copies to: Planning
County Counsel
Coastal Commission

I HEREBY CERTIFY THAT THE FOREGOING INSTRUMENT
IS A CORRECT COPY OF THE ORIGINAL ON FILE IN THE
OFFICE ATTEST MY HAND AND SEAL THIS 14 DAY
OF MAY 2011
SUSAN A. MAUBIELLO, COUNTY ADMINISTRATIVE OFFICER
AND EX-OFFICIO CLERK OF THE BOARD OF SUPERVISORS
OF THE COUNTY OF SANTA CRUZ, CALIFORNIA.
BY  DEPUTY

CCC Exhibit A
(page 9 of 9 pages)

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ATTACHMENT 2 - LIVE OAK DESIGNATED AREA MAP

0
100'
200'

THIS MAP IS PREPARED FOR
ASSESSMENT PURPOSES ONLY.

MORO STRAND UNIT NO. 3, R.M. Bk. 3, Pg. 112

CAYUCOS MAP COUNTY OF
ASSASSOR S. MAP
SAN LUIS OBISPO, CA.
BOOK 064 PAGE 41

