

CALIFORNIA COASTAL COMMISSION

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Th19b

DATE: December 1, 2017

TO: Commissioners and Interested Persons

FROM: Karl Schwing, Deputy Director
Charles Posner, Supervisor of Planning
Marlene Alvarado, Coastal Program Analyst

SUBJECT: Major Amendment Request No. 1-16 (LCP-5-LGB-16-0055-1 Short Term Lodging) to the City of Laguna Beach Certified Local Coastal Program, for Public Hearing and Commission Action at the December 14, 2017 meeting in Dana Point.

SUMMARY OF LCP AMENDMENT REQUEST NO. 1-16

The City of Laguna Beach (“City”) requests to amend the Implementation Plan (IP) of the certified Local Coastal Program (LCP) to limit where short-term lodgings (“STL”), or vacation rentals, would be allowed in the City. Short-term lodging generally refers to the short-term rental (30 days or less) of private dwelling units or a room in a home by tourists and other travelers visiting the area.

Presently, the City’s LCP includes a Commission-certified STL Ordinance (2008) that permits and provides for regulation of STLs in certain residential zones (R-1, R-2, R-3, VC) and commercial districts (LB/P, C-N, C-1, CH-M), which includes requirements for establishing and operating an STL. The proposed LCP amendment would modify various chapters of Title 25 – *Zoning* related to the regulation and standards for the operation STLs: Chapters 25.23 *Short-Term Lodging*, 25.10 *R-1 Residential Low Density Zone*, 25.12 *R-2 Residential Medium Density Zone*, 25.14 *R-3 Residential High Density Zone*, and 25.43 *Village Community Zone* of the Laguna Beach Municipal Code. The amendment would prohibit short-term (30 or less consecutive days) lodgings in residential zones throughout the City, but allow it in most commercial/visitor-serving districts, subject to administrative use or conditional use permits.

Changes proposed to Title 25 are reflected in City Council Ordinance No. 1617 (**Exhibit 4**), and were submitted pursuant to City Council Resolution No. 16.076 (**Exhibit 3**). No changes are proposed to the Land Use Plan (LUP) portion of the certified LCP.

Changes proposed to Chapters 25.23, 25.10, 25.12, 25.14, and 25.43 as they relate to short-term lodging units (Ordinance No. 1617) include: the continuation of existing permitted STL units to operate without expiration even within residential zones, prohibition of new short-term lodging units in residential zoning districts, and regulation of existing and new STL units in existing (LB/P, C-N, C-1, CH-M, SLV) and expanded (CBD-1, CBD-2, CBD-CB, CBD-O, CBD-VCD) allowable commercial zoning districts.

SUMMARY OF STAFF RECOMMENDATION

Staff is recommending denial of the proposed LCP amendment as submitted, and subsequent approval if modified as suggested.

Staff is recommending denial of the Local Coastal Program (“LCP”) Amendment as submitted because the prohibition of short-term lodgings (“STL”), or short-term vacation rentals, in all residential zones would significantly restrict the potential for alternate lodging opportunities for coastal visitors, limit public access, and is in conflict with the policies of the certified Land Use Plan (“LUP”). The Commission has previously found that visitor-serving overnight accommodation uses, including STL units in residential areas, maximize the opportunities provided for all the public to access the coast.

Demand for STLs is especially high in this City because of its proximity to the coast and because of its historical reputation as a popular coastal-resort community. Because of recent proliferation of STLs in Laguna Beach, the City has cited issues about the presence of STL rentals causing problems (e.g. noise, disorderly conduct, traffic congestion, excessive trash, etc.) that could negatively impact residents and communities, reducing the long-term rental housing stock, and unduly burdening City services. The City has indicated that the intent of the proposed LCP amendment is to limit these conflicts by prohibiting short-term lodging units in all residential zoning districts (with an exception for existing legally permitted units operating in residential zones), and by imposing regulation of existing and new STL units in existing (536 mixed-use lots) and expanded allowable commercial zoning districts (additional 253 mixed-use lots).

Although the proposed amendment would expand the allowable commercial districts to permit STLs where they are currently not permitted, and it would allow for the continuation of the existing legally permitted STL units currently operating in residential zones, it would still significantly reduce the total area where STLs are allowable and overwhelmingly reduce the potential number of lots for which a STL could be permitted by entirely foreclosing the possibility of such use in all residential areas, which is where a majority of the permitted short-term rentals and short-term rental possibilities exist. The outright ban of STLs in residential zones would exclude approximately 5,200 residential lots based on the allowable density and minimum lot size requirements, or approximately 8,900 residential lots if variances are granted to substandard sized lots, where STL units are currently permissible under the certified LCP. Moreover, out of the existing 36 active administrative use permits (“AUP”) granted by the City for operation of current STLs, 26 AUPs are for properties located in residentially zoned lots, demonstrating more STL rental of residences are readily offered than in the commercial zoning districts.

The certified LUP contains policy language that protects and prioritizes lower-cost visitor and recreational facilities, and requires that public coastal access be maximized. In addition, the Commission has found that visitor-serving overnight accommodation uses, including STL units in residential areas, are given preference in the LUP because they maximize the opportunities provided for all the public to access the coast. These units can increase public coastal access by providing a wider selection of overnight accommodations in the Coastal Zone to groups and families that might not otherwise be able to afford a more expensive traditional option (i.e. hotels), and by including more units in areas where residential communities directly flank the shoreline.

Based on the Commission's past actions, including the City of Carpinteria (LCP Amendment LCP-4-CPN-16-0024-1), Dana Point (LCP Amendment LCP-5-DPT-14-0105-1), and Encinitas (LCP Amendment 1-06), and Santa Cruz County (LCP Amendment 1-11 Part 3), local jurisdictions in the Coastal Zone must provide a means and a framework to appropriately regulate the establishment and operation of STLs, rather than overly restrict this use or significantly diminish their visitor-serving utility. The Commission has approved a number of LCP amendments regulating STLs in the Coastal Zone. Each of these LCP amendment cases presented their own set of unique issues considering their geographic specificity, but as a general rule the approved LCP amendments generally provided for standards for continued STL operations in private dwellings, rather than outright bans. Although the City of Laguna Beach is not proposing an outright ban, as some other non-certified Cities have done, the City's proposal to prohibit STLs in all residential zones would result in a severely reduction in the number of potential units available for overnight rental.

The City was provided samples of past Commission actions on LCP Amendments related to STLs. Staff's intent in providing the samples was to encourage the City to consider more comprehensive standards and regulation for STL operations over a prohibition in residential areas. However, the City is willing to move forward with the LCP Amendment as proposed.

In short, the City's proposal to ban STLs in all residential zones is inconsistent with LUP policies protecting public recreational and visitor-serving access. Staff recommends that the Commission find the proposed LCP amendment inconsistent with and inadequate to carry out the policies of the LUP, and that the Commission, after public hearing, deny the LCP amendment as submitted.

Staff is also recommending approval of the LCP amendment if it is modified as suggested in Section III of this report. The LCP amendment as proposed by the City would provide for new explicit regulations and operating standards for STLs, including maximum occupancy and parking requirements; would afford a mechanism for neighbors to report problems; and would set up fines and penalties for violation of the regulations. Staff believes that the neighborhood nuisances resulting from STL rentals in the residential zones cited by the City can be substantially regulated to assure the compatibility of STLs in the residential neighborhoods without resorting to a drastic, all-out prohibition on STLs within all residential zones. Since the City is proposing new standards and regulations to better resolve such nuisance conflicts, the proposed elimination of short-term lodgings as a permitted use in residential zones may be premature until the efficacy of carefully-crafted, targeted regulation of STLs to address neighborhood impacts is able to be evaluated. Therefore, staff recommends that the City allow itself enough time to evaluate the effectiveness of the newly proposed regulations to control the neighborhood problems that may exist with STLs. Therefore, staff is recommending suggested modification to the proposed LCP amendment to continue to allow STLs in residential zones where the use is currently permitted.

Staff is recommending that the Commission, after public hearing:

Deny the amendment request to the Implementation Plan as submitted.

Approve the amendment request to the Implementation Plan if modified as recommended.

The proposed amendment, if modified as recommended, would be in conformance with and adequate to carry out the provisions of the certified Land Use Plan. The motions and resolutions to accomplish this recommendation are found on **pages 7 & 8**.

DEADLINE FOR COMMISSION ACTION

The proposed LCP amendment was deemed complete on October 26, 2016. A request to extend the deadline to act was granted on December 7, 2016. The final date by which the Commission must act on this LCP amendment request is December 25, 2017.

ADDITIONAL INFORMATION

Copies of the staff report are available on the Commission's website at www.coastal.ca.gov. For additional information, contact *Marlene Alvarado* in the Long Beach office at (562) 590-5071.

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EXHIBITS

- Exhibit 1 – Vicinity Map
- Exhibit 2 – Zoning Map
- Exhibit 3 – City Council Resolution No. 16.076 Short-Term Lodgings
- Exhibit 4 – City Ordinance No. 1617 Short-Term Lodgings (Final Language Adopted by City)
- Exhibit 5 – Short-Term Lodgings (Strike Out/Insert Version)
- Exhibit 6 – Letters from the City
- Exhibit 7 – Letters of Opposition

I. PROCEDURAL ISSUES

A. STANDARD OF REVIEW

The standard of review for the proposed amendment to the Implementation Plan (Zoning Ordinance) of the City of Laguna Beach certified Local Coastal Program, pursuant to Section 30513 and 30514 (regarding amendments) of the Coastal Act, is whether the Implementation Plan (IP) would be in conformance with, and adequate to carry out, the provisions of the Land Use Plan (LUP) portion of the City of Laguna Beach's certified Local Coastal Program (LCP).

B. PUBLIC PARTICIPATION

Section 30503 of the Coastal Act requires public input in Local Coastal Program development. It states: "During the preparation, approval, certification, and amendment of any local coastal program, the public, as well as all affected governmental agencies, including special districts, shall be provided maximum opportunities to participate. Prior to submission of a local coastal program for approval, local governments shall hold a public hearing or hearings on that portion of the program, which has not been subjected to public hearings within four years of such submission."

Ordinance No. 1617: The proposed changes affecting Chapter 25.23, 25.10, 25.12, 25.14, and 25.43 were the subject of eight (8) related City Council public hearings: May 19, 2015, June 15, 2015, August 18, 2015, November 17, 2015, April 12, 2016, August 9, 2016, August 30, 2016 and September 27, 2016; and one (1) Planning Commission public hearing: March 16, 2016. In addition, a City Council Subcommittee held two public meetings on June 21, 2016 and July 14, 2016. Because the ordinance is of citywide effect, a 1/8th page notice was published in the local newspaper. Public testimony at the hearings included concerns regarding the prohibition of new STL units in residential zoning districts and the regulation of existing and new STL units in commercial zoning districts.

C. PROCEDURAL REQUIREMENTS

Pursuant to Section 13551(b) of Title 14 of the California Code of Regulations, the City resolution for submittal may specify that a Local Coastal Program Amendment will either require formal local government adoption after the Commission approval, or that it is an amendment that will take effect automatically upon the Commission's approval pursuant to Public Resources Code Sections 30512, 30513, and 30519. In this case, if the Commission certifies the LCP amendment as submitted, no further City Council action will be necessary. City staff has indicated that the ordinance will only become final after certification by the Commission, but no formal action is required. Should the Commission deny the LCP Amendment, as submitted, without suggested modifications, no further action is required by either the Commission or the City, and the LCP amendment is not effective. Should the Commission deny the LCP Amendment, as submitted, but then approve it with suggested modifications, then the City Council may consider accepting the suggested modifications and submitting them by resolution to the Executive Director for a determination that the City's acceptance is consistent with the Commission's action. The modified LCP Amendment will become final at a subsequent Commission meeting if the Commission concurs with the Executive Director's Determination that the City's action in accepting the suggested modifications approved by the Commission for LCP Amendment 1-16 is legally adequate. If the City does not accept the suggested modifications within six months of the Commission's action, then the LCP amendment remains uncertified and not effective within the coastal zone.

II. MOTIONS AND RESOLUTIONS

A. Denial of the IP Amendment as Submitted

MOTION I:

I move that the Commission reject the Implementation Plan Amendment No. 1-16 for the City of Laguna Beach as submitted.

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

RESOLUTION I:

The Commission hereby denies certification of the Amendment to the Implementation Plan submitted for the City of Laguna Beach certified LCP and adopts the findings set forth below on grounds that the Amendment to the Implementation Plan as submitted does not conform with and is not adequate to carry out the provisions of the certified Land Use Plan. Certification of the Amendment to the Implementation Program would not meet the requirements of the California Environmental Quality Act as there are feasible alternatives and mitigation measures that would substantially lessen the significant adverse impacts on the environment that will result from certification of the Amendment to the Implementation Program as submitted.

B. Approval of the IP Amendment if Modified as Suggested

MOTION II:

*I move that the Commission **certify** the Amendment to the Implementation Plan for the City of Laguna Beach certified LCP if it is modified as suggested in this staff report.*

Staff recommends a YES vote. Passage of this motion will result in the certification of the IP Amendment with suggested modifications and adoption of the following resolution and findings. The motion to certify with suggested modifications passes only upon an affirmative vote of the majority of the appointed Commissioners.

RESOLUTION II:

The Commission hereby certifies the Amendment to the Implementation Plan for the City of Laguna Beach certified LCP if modified as suggested and adopts the findings set forth below on grounds that the Amendment to the Implementation Plan with the suggested modifications will be in conformance with and adequate to carry out the provisions of the certified Land Use Plan. Certification of the Amendment to the Implementation Program if modified as suggested complies with the California Environmental Quality Act, because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the Implementation Plan on the

environment, or 2) there are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts on the environment.

III. SUGGESTED MODIFICATIONS

Certification of the LCP Amendment is subject to the following modifications. Text added to the City's proposed zoning code by the suggested modification is **bold and underlined**, and text suggested to be deleted is ~~struck through~~. Only those subsections of the LCP Amendment for which modifications are being suggested are shown below. The underlying language consists of both the City's proposed language and some existing certified language. See **Exhibit 5** for a copy the certified language.

Suggested Modification No. 1

Modify to purpose and findings of Laguna Beach Municipal Code Section 25.23.010 related to short-term lodging:

The City Council of the City of Laguna Beach finds and declares as follows:

(A) Visitors, who rent short-term lodging units, can escalate the demand for City services and create adverse impacts in zoning districts that allow residential uses.

~~(B) Short-term lodging units are considered a commercial use, which are not permitted in residentially-zoned properties.~~

~~(B)~~ Short-term lodging units **can be associated with depletion of** the City's limited supply of multiple-family residential units.

~~(D)~~ Incidents involving excessive noise, disorderly conduct, vandalism, overcrowding, traffic congestion, illegal vehicle parking and accumulation of refuse **can be** associated with short-term lodging units, which require response from police, fire, paramedic and other City services **and can** escalate the demand for such services.

~~(D)~~ Agents and/or absentee owners operate many short-term lodgings.

~~(E)~~ The restrictions of this Chapter are necessary to prevent the burden on City services and adverse impacts on residential neighborhoods posed by short-term lodgings and to preserve the City's existing rental housing stock consistent with the adopted General Plan.

Suggested Modification No. 2

Modify Laguna Beach Municipal Code Section 25.23.030 related to permit requirements for short-term lodging:

(A) Short-term lodging units shall only be allowed within the **R-1, R-2, R-3**, LB/P, C-N, C-1 and CH-M, **and VC** Zoning Districts, and within the CBD-1, CBD-2, CBD Central Bluffs, CBD Office and CBD Visitor Commercial Districts of the Downtown Specific Plan, subject to the approval of an Administrative Use Permit as provided for in Section 25.05.020 of this title and SLV zoning district subject to approval of a Conditional Use Permit as provided in Section 25.05.030. No owner of a dwelling unit or units located outside of those zoning districts shall rent that unit or units for a short-term (30 consecutive days or less). The following information shall be included with the completed application form:

(1) The name, address and telephone number of the owner of the subject short-term lodging unit;

(2) The name, address and telephone number of the operator;

- (3) The name, address and telephone number (available 24/7) of the local contact person that will be available to physically be able, if necessary, to respond within 60 minutes of notification of a problem resulting from the short-term lodging unit;
 - (4) The address of the proposed short-term lodging unit;
 - (5) The days of the week, weeks of the month and/or months of the year that the proposed short-term lodging unit will be available for rent on a short-term basis;
 - (6) The number of bedrooms and the applicable overnight and daytime occupancy of the proposed short-term lodging unit;
 - (7) The number of parking spaces located on site;
 - (8) A site plan and floor plan, drawn to scale depicting the site layout, parking and a floor plan of the entire unit/rooms to be rented for short-term lodging purposes;
 - (9) Acknowledgement of receipt and inspection of the Good Neighbor brochure;
 - (10) Evidence that the residence/premises passed a safety inspection conducted by the Laguna Beach Fire Department;
 - (11) Evidence that the use of the property is eligible for liability insurance (homeowners or rental property insurance) in the amount of not less than \$500,000.00 to cover injuries, damages, losses and other claims associated with the short-term lodging;
 - (12) An estimate of the daily rental fee that will be charged for occupancy of the unit(s);
 - (13) An application fee established by resolution of the City Council.
- (B) A home exchange as defined in Section 25.23.020(C) shall not constitute short-term lodging for the purposes of this Chapter.
- (C) No permit shall be approved if the density of the requested short-term lodging unit(s) would be greater than the density otherwise allowed by the General Plan and/or in the underlying zone.

Suggested Modification No. 3

Modify Laguna Beach Municipal Code Section 25.23.060 related to continuation of legal short-term lodging units residential zones:

~~(A) — The operation of any legal short term lodging unit in existence as of the effective date of this ordinance and located within the R-1, R-2, R-3 or VC zoning districts may continue as a legal nonconforming use subject to (1) the requirements set forth below, (2) continuously maintaining a business license for the short term lodging unit, (3) fully and timely complying with applicable requirements for record keeping and the collection and remittance of transient occupancy taxes, and (4) complying with all other conditions of the previously approved permit. No new short term lodging may be established within those zoning districts.~~

~~(B) — The right to continue the operation of a preexisting legal short term lodging unit pursuant to the provision of subsection (A) shall run with the land.~~

~~(C) — The right to continue the operation of a preexisting legal short term lodging unit under this section shall lapse in the event that the use of the unit is abandoned or ceases for a period of twelve or more consecutive months.~~

(A) The operation of any legal short-term lodging unit in existence as of the effective date of this ordinance and located within the R-1, R-2, R-3 or VC zoning may continue as a legal conforming use subject to (1) the requirements set forth below, (2) continuously maintaining a business license for the short-term lodging unit, (3) fully and timely complying with applicable requirements for record-keeping and the collection and remittance of transient occupancy taxes, and (4) complying with all other conditions of the previously

approved permit. The establishment of new short-term lodging units within those zoning districts shall conform to the provisions of this chapter.

(B) The right to continue the operation of a preexisting legal short-term lodging unit pursuant to the provisions of subsection (A) shall run with the land.

(C) The right to continue the operation of a preexisting legal short-term lodging unit under this section shall lapse in the event that the use of the unit is abandoned or ceases for a period of twelve or more consecutive months, and the unit shall not thereafter be reestablished except as provided by this chapter.

Suggested Modification No. 4

Modify Laguna Beach Municipal Code Section 25.10.005 pertaining to uses permitted subject to an administrative use permit in the R-1 Residential Low Density Zone:

The following uses may be permitted subject to the granting of an administrative use permit as provided for in Section 25.05.020:...

(C) Short-term lodging as defined and specified in Chapter 25.23 of this title.

Suggested Modification No. 5

Modify Laguna Beach Municipal Code Section 25.12.005 Uses permitted subject to an administrative use permit in the R-2 Residential Medium Density Zone:

The following uses may be permitted subject to the granting of an Administrative Use Permit as provided for in Section 25.05.020:...

(B) Short-term lodging as defined and specified in Chapter 25.23 of this title.

~~(B)~~ (C) Parking or storage of recreational vehicles (meaning any travel trailer, boat, camper, motor home, van, travel and utility trailer or converted bus) that is more than twenty feet in length and more than six feet in height, subject to the following:...

Suggested Modification No. 6

Modify Laguna Beach Municipal Code Section 25.14.005 Uses permitted subject to an administrative use permit in the R-3 Residential High Density Zone:

The following uses may be permitted subject to the granting of an Administrative Use Permit as provided for in Section 25.05.020:...

(B) Short-term lodging as defined and specified in Chapter 25.23 of this title.

~~(B)~~ (C) Parking or storage of recreational vehicles (meaning any travel trailer, boat, camper, motor home, van, travel and utility trailer or converted bus) that is more than twenty feet in length and more than six feet in height, subject to the following:...

Suggested Modification No. 7

Modify Laguna Beach Municipal Code Section 25.43.030 Uses permitted subject to an administrative use permit in the Village Community Zone:

Uses permitted in the Village area include all uses permitted in the R-1 Zone, subject to the standards of the R-1 Zone, except as modified in this Chapter. **Short-term lodging, as defined and**

specified in Chapter 25.23 of this title, may be permitted subject to the granting of an administrative use permit as provided for in Section 25.05.020 of this title.

IV. FINDINGS

The Commission hereby finds and declares as follows:

A. AMENDMENT DESCRIPTION

The City of Laguna Beach has requested to amend only the Implementation Plan (“IP”) portion of the certified Local Coastal Program (“LCP”). The main document comprising the City’s certified Implementation Plan is Title 25 *Zoning*, the City’s Zoning Code, but the certified IP also includes a number of other documents. However, in this case, the City is only proposing to modify Title 25 *Zoning*. The changes proposed are reflected in Ordinance No. 1617, which was submitted for Commission action via City Council Resolution No. 16.076 (**Exhibits 3 & 4**). This new ordinance proposes modifications to various chapters of Title 25 – *Zoning* related to the regulation and standards for the operation of STL’s: Chapters 25.23 *Short-Term Lodging*, 25.10 *R-1 Residential Low Density Zone*, 25.12 *R-2 Residential Medium Density Zone*, 25.14 *R-3 Residential High Density Zone*, and 25.43 *Village Community Zone* of the Laguna Beach Municipal Code.

Chapter 25.23 *Short-term Lodging* sets forth the currently certified standards for the short-term lodging use. “Short-term Lodging” (“STL”) is currently defined in Chapter 25.23 as: “*occupancy of a lodging unit¹ for a period of thirty consecutive calendar days or less.*”

Section 25.23.030 identifies the zones in which short-term lodging is allowed and prohibits the use in all other zones. Currently, short-term lodgings are allowed in the following zones: Residential Low Density R-1, Residential Medium Density R-2, Residential High Density R-3, Local Business/Professional LB/P, Commercial Neighborhood C-N, Local Business C-1, Commercial Hotel-Motel CH-M, Village Community V-C, and South Laguna Village Commercial SLV.

As proposed, LCP Amendment No. 1-16 would revise the standards and impose limits on STLs, and would eliminate these rentals as an allowable use in the R-1, R-2, R-3, and VC residential zones. Under the proposed ordinance, pre-existing legally permitted STLs within these residential zones would be allowed to operate and continue as a legal non-conforming use. Out of the existing 36 active administrative use permits (“AUP”) granted by the City for operation of current STLs, 26 AUPs are for properties located in residentially zoned lots; the right to continue operation of the STL units permitted by the 26 AUPs would run with the land.

The ordinance approving the proposed LCP revisions would also expand the allowable commercial zoning districts where STLs would be permitted to include most commercial zoning districts. The STL use is currently allowed within the Business/Professional LB/P, Commercial Neighborhood C-N, Local Business C-1, Commercial Hotel-Motel CH-M, and South Laguna Village Commercial SLV commercial zoned districts. The proposed amendment would add the following zones located within the Laguna Beach Central Business District (“CBD”) as districts where STLs would be allowed: Residential Serving CBD-1, Downtown Commercial CBD-2, Central Bluffs CBD-CB, Office CBD-O and Visitor Commercial Districts CBD-VCD, which represents most of the

¹ “Lodging unit” or “unit” is defined as: *same as a “dwelling unit,” which is a room or suite of rooms with a single kitchen used for the residential use and occupancy of one family, and which is rented to person(s) other than the owner.* (Municipal Code Section 25.23.020).

remaining commercial zoning districts within the City. Short-term lodging units would be still be subject to the approval of Administrative Use Permits, or Conditional Use Permits if located in the SLV Zoning District. However, the current proposal would require all new STLs to be subject to more detailed standards and restrictions that were not previously imposed.

The LCP amendment would impose a number of administrative details regarding application requirements and operating standards, including maximum occupancy standards and parking requirements. See Table 1 below for a comparison summary of both the currently certified and the proposed STL regulations.

Table 1. Comparison of certified STL regulations and proposed STL regulations (**Exhibits 4 & 5**).

	Existing Certified STL Regulations	Proposed STL Regulations
Require Business License	Yes	Yes
Require Transient Occupancy Registration Certificate	Yes	Yes. Also requires that every Administrative Use Permit or Conditional Use Permit holder for short-term lodging submit a quarterly return, whether or not the short-term lodging unit was rented during the quarter and/or Transient Occupancy Tax was collected.
License Transferability	Yes – There currently are no limits on license transferability	No conveyance or transfer of an administrative use permit or conditional use permit for short-term lodging would be allowed
Number of Occupants Allowed	Number of occupants shall not exceed that permitted by the provisions of Titles 14 (Building and Construction) and 15 (Fire) of this code	Maximum of two persons per bedroom
Number of Visitors Allowed	No	Additional daytime guests would be allowed between the hours of 7:00 a.m. and 10:00 p.m. with the maximum daytime guests not to exceed two persons per bedroom with a maximum of 20 guests allowed for five bedrooms or more.
Parking Requirement	No	Each short-term lodging unit must have a minimum of two off-street parking spaces.
Good Neighbor Brochure	No	Yes
Require Posting of Valid Permit in conspicuous location onsite	No	Yes
Revocation	Failure to comply with any of the imposed conditions may be grounds for possible revocation of the administrative use permit for short-term lodging	Three or more confirmed violations of large or unruly gatherings would result in an automatic hearing for revocation of the Administrative Use Permit
Code Violations	No	Yes – Additional conditions; Permit modification, suspension and revocation; Administrative Citations
Permit Expiration	No	Permits valid for a maximum of two (2) years from the date of approval of the permit. Within sixty days prior to the expiration of permit, owner may apply for a permit renewal
Inspections	No	Evidence that the residence/premises

		passed a safety inspection conducted by the Laguna Beach Fire Department
Liability Insurance	No	Evidence that the use of the property is eligible for liability insurance (homeowners or rental property insurance) in the amount of not less than \$500,000.00 to cover injuries, damages, losses and other claims associated with the short-term lodging
Require Strict Adherence to Density Requirements	Variances could be applied for properties exceeding maximum density requirement	No permit would be approved if the density of the requested short-term lodging unit(s) exceeds maximum density requirement in underlying zone.
Require local contact person available on 24-hour basis	No	Yes

As previously indicated, the currently certified ordinance defines “Short-Term Lodging” within in Chapter 25.23 as:

“Occupancy of a lodging unit for a period of thirty consecutive calendar days or less.”

The proposed ordinance would provide a revised definition of Short-Term Lodging within Chapter 25.23:

“Short-term Lodging”: occupancy of a lodging unit for a period of thirty consecutive calendar days or less. "Short-term" shall include the rental of a lodging unit for a period of more than thirty consecutive days to an entity, person or group of persons and said entity, person or group of persons sublets or otherwise makes available the unit to another entity, person or group of persons whereby separate occupancy durations are established for the other entity, person or group of persons for a period of thirty calendar days or less.

In addition, the following language is proposed to be added within LCP Chapter 25.23:

(B) Short-term lodging units are considered a commercial use, which are not permitted in residentially-zoned properties.

(C) Short-term lodging units deplete the City's limited supply of multiple-family residential units.

The LCP amendment would specifically modify Chapters 25.10, 25.12, 25.14, and 25.43 of the zoning code pertaining to R-1, R-2, R-3, and VC residential zones by deleting the following language from each chapter: *“Short-term lodging as defined and specified in Chapter 25.23 of this title.”*

Although Chapter 25.23 is currently silent on the matter of home shares, the proposed new STL regulations would characterize “Home sharing” as a form of STL, which would be subject to the prohibition of any new STLs in residential districts but allowed within most commercial districts. Specifically, it would define “Home sharing” as *“a rental in a residential unit for 30 consecutive days or less during which the host lives on-site for the entirety of the visitor's stay.”*²

² Unlike home shares, the proposed LCP amendment would allow “Home exchanges” as a permissible use within residential zones and would not characterize them as a type of STL. The new STL regulations would define *“Home exchange”* as *“the simultaneous exchange of homes by one owner with another owner in a different city for short*

In short, the LCP currently allows STLs in most residential zones, but the proposed LCP amendment would allow them within most the commercial and visitor-serving districts, while banning them in all residential districts, and would require implementation of new regulations.

B. BACKGROUND

The City's Land Use Plan ("LUP") was certified with suggested modifications on June 11, 1985, and effectively certified on March 13, 1986. The LUP consists of the Coastal Land Use Element, the Open Space/Conservation Element, and the Coastal Technical Appendix. The Coastal Land Use Element was updated and replaced in its entirety via LCPA 1-10 in 2012.

An Implementation Plan for the City was certified in 1993, with the City assuming coastal development permit issuing authority at that time. The certified IP is comprised of a number of different documents, but the main document is the City's Title 25 *Zoning Code*. The Open Space/Conservation Element, and Title 25 have been amended a number of times since original certification.

1. Setting

The City of Laguna Beach lies almost exclusively within the Coastal Zone, with a total area of 8.8 square miles. Geographically, the City of Laguna Beach is surrounded by open space/wilderness parks, and is comprised of three main parts: the shoreline, the coastal plain, and the hillsides and canyons (**Exhibit 1**). The City's shoreline extends for approximately 6.2 linear miles. Most of the City's shoreline is fronted by bluffs, with areas of pocket beaches. The shoreline includes two large sandy beaches: Main Beach adjacent to the City's downtown area, at the mouth of Laguna Canyon; and, Aliso Beach in South Laguna at the mouth of Aliso Canyon. Only two roads provide access into and out of the City (Coast Highway and Laguna Canyon Road), which establish a physical separation from other regions.

2. History of Short-Term Lodging Regulation in Laguna Beach

Since the late 1800s, the surrounding Pacific coastline, hillsides, and canyons have made this City a highly desirable picturesque seaside community and prime tourist destination, with the Laguna Beach Hotel having been constructed in 1895³. Early 20th century photographs/aerials of Laguna Beach show canvas tents set up on the beach affording visitors overnight accommodations directly along the coast. A variety of visitor-serving accommodations, from hotels and motels, bed-and-breakfast inns, and vacation rentals, are available throughout the City.

Historically, short-term lodgings have operated in the City of Laguna Beach. In response to concerns raised by Laguna Beach residents about the effects of unregulated vacation rentals in the City, the City began discussing short-term lodging (or vacation rental) regulations in the 1990s. The City first adopted a Short-Term Lodging ("STL") ordinance in 1999. On April 10, 2008, the Commission effectively certified the STL ordinance through LCPA No. 1-07C, modifying the IP of the LCP and adding Chapter 25.23 *Short-Term Lodging*. The STL ordinance permits and provides

periods of time, for not less than one week and not more than two times in total per calendar year, by written agreement between both parties to exchange homes without any exchange of compensation or other consideration."

³ Laguna Beach Historical Society, "Chronology of Laguna Beach"
<http://www.lagunabeachhistory.org/chronology/> (accessed November 20, 2017)

for regulation of STL's in certain residential zones (R-1, R-2, R-3, VC) and commercial districts (LB/P, C-N, C-1, CH-M), and includes requirements for establishing and operating an STL.

On October 19, 2011, the Commission approved LCPA No. 2-10 to correct an inadvertent discrepancy between Chapter 25.23 *Short-Term Lodging* and Chapter 25.10 *R-1 Zone* in LCPA No. 1-07C relating to which permit type is required (administrative or conditional use permit) to implement short-term lodging uses; STL units in the R-1 Zone are subject to administrative use permits.

In 2012, the Commission approved LCPA No. 2-11B with suggested modification requiring that short-term lodgings continue to be an allowable use in the South Laguna Village Zone (SLV).

On November 15, 2013, the Commission approved LCPA No. 1-12 to add language to Chapter 25.17 *Second Residential Units* to prohibit short-term rentals of second residential units, which are allowed in R-1 zones, as a means to provide affordable housing within the City.

Recently, however, the City has noted a significant increase in the number and location of short-term rentals, and has raised concerns about the potential adverse impacts to residential neighborhoods resulting from the unregulated growth of short-term rentals, loss of rental housing stock, enforcement issues, altered residential community character, and parking and traffic congestion. The current STL ordinance includes no limits on the overall number of STLs in the City. There are 36 active administrative use permits granted by the City, which encompass a total of 81 legally operating STL units. Therefore, the City is aware of 81 legally permitted STLs; however, based on online advertisement postings, more such rentals likely operate in the City. The City has estimated that at least 200 residences are currently advertised for STLs throughout Laguna Beach.

The City Council found that while STLs serve an important lodging resource, they can have negative impacts on the character of residential neighborhoods and availability of housing. Therefore, on May 19, 2015, the City passed a 45-day moratorium on issuance of new STL licenses until additional regulations or prohibitions could be implemented to minimize these potential impacts. On June 15, 2015, the City extended the moratorium for 90 days; and on August 18, 2015, the City further extended the moratorium for one-year period, which has now expired as of October 1, 2016.

Since the expiration of the moratorium approximately six applications were submitted to the City for operations of new STL units in residential zones, and two in commercial zones.

Numerous public hearings were held before the Laguna Beach Planning Commission and City Council on the subject of STLs within the City. Additional public meetings were also held before a City Council Subcommittee. The approved subject LCP Amendment was submitted to the Commission on October 21, 2016. After the submittal of additional information requested by Commission staff, the amendment proposal was deemed complete and filed on October 26, 2016. At the December 7, 2016 hearing, the Commission granted a one-year time extension to act on the subject amendment pursuant to Coastal Act Section 30517 and California Code of Regulations, Title 14, Section 13535(c).

3. Proposed Amendment Background

As in other coastal communities in California, STLs have proliferated over the years. What may have been predominantly summer and holiday vacations rentals have evolved into what is now in some cases a year-round business. The unregulated explosion of such STLs have stirred discussion regarding impacts to the preservation of neighborhood integrity, reductions in rental housing stock, and public safety, increased traffic and parking difficulties, garbage accumulation, and other issues that have sometimes been associated with STLs.

As a reaction to such issues, LCP amendment proposals have been submitted to the Commission to ban STLs in certain communities (e.g. outright ban in all residential zones). However, such bans can conflict with the Coastal Act and LCP policies and objectives to protect and provide for visitor-serving opportunities and coastal public access. Moreover, rather than supporting restrictive bans of such uses, the Commission has encouraged allowance and more targeted, responsive regulations of STLs that are based on applicable community and area specific factors.

In this case, the City of Laguna Beach is seeking an outright ban in residential areas that would reduce visitor access to the coastline in addition to expanding STLs within most commercial zoning areas in the City. Similar types of bans have been proposed by the City of Encinitas, City of Imperial Beach, and the City of Pismo Beach, and in all of these 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 the subject proposal in that it proposed a prohibition on STLs 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 STLs, 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 northernmost and southern portions of the City of Laguna Beach, most of the land use designations along the shoreline in Encinitas are residential, and thus the prohibition of STLs 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 STLs 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 STLs 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 STL parameters for that City that were not 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 STLs in all residential zones throughout the City. In addition, the Commission found that unlike other beach communities, Imperial Beach has a supply of lower-cost visitor accommodations in its existing hotels and motels.

Regarding the City of Pismo Beach, the City proposed to prohibit STLs in all residential districts but would allow them in the commercial/visitor-serving districts, much like the subject proposal.

The Commission denied the City’s proposal on December 8, 2011. The Commission found that the prohibition on STLs in the City’s residential zones would significantly restrict the potential for alternate lodging opportunities for coastal visitors, particularly because the City has large areas along the coast zoned residential; and, therefore, the proposal would be in conflict with the LCP Land Use Plan (LUP) requirements for promoting coastal access.

C. DENIAL OF THE LCP AMENDMENT AS SUBMITTED

As described above, the standard of review for the proposed amendment to the Implementation Plan of the certified Local Coastal Program (“LCP”) is whether the Implementation Plan, as amended, would be in conformance with, and adequate to carry out, the policies of the certified Land Use Plan (“LUP”) portion of the certified LCP. (See Coastal Act sections 30513, 30514.)

The City of Laguna Beach’s certified LUP contains objectives and policies that provide for visitor-serving uses with the intent of maximizing coastal access. Below are the relevant City of Laguna Beach certified LUP policies:

The Coastal Land Use Plan Technical Appendix segment of the certified LUP incorporates the following Coastal Act policies regarding public access and visitor serving uses:

Section 30210

In carrying out the requirement of Section 2 of Article XV of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30213 (in part)

Lower cost visitor and recreational facilities...shall be protected, encouraged and where feasible provided. Developments which provide public recreational opportunities are preferred.

Section 30222

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

In addition, the Coastal Element Land Use Plan portion of the certified LUP contains the following policies:

Policy 4.2 *Promote policies to accommodate visitors, reduce conflicts between visitor-serving uses/infrastructure and residents, and reduce impacts on the City’s natural resources.*

Policy 6.2 *Preserve and encourage an increase of the City's stock of affordable motel and hotel rooms available for short-term visitors. Protect, encourage, and where feasible, provide affordable overnight accommodations.*

Policy 6.9 *Provide public access to designated public areas wherever safe and legally and environmentally appropriate.*

Implementation Plan of the certified LCP states, in relevant part:

Section 25.07.012 Procedures.

(F) Review Criteria. To ensure compliance with the certified local coastal program, the following criteria shall be incorporated into the review of all applications for coastal development permits:

(3) The development will not adversely affect recreational or visitor-serving facilities or coastal scenic resources

Priority Uses

Section 30213 of the Coastal Act (adopted by the City as a Land Use Plan policy) requires that lower-cost visitor and recreation facilities be protected, encouraged, and where feasible provided. Section 30222 of the Coastal Act (adopted by the City as a Land Use Plan policy) places a higher priority on the provision of visitor-serving uses designed to enhance public opportunities for coastal recreation over residential, industrial, or general commercial uses.

Short-Term Lodgings

The purpose and intent of the proposed LCP amendment to the Implementation Plan (IP) of the certified LCP is to ban the use of residential properties for short-term (30 consecutive days or less) lodgings, or vacation rentals, which is a certain type of visitor-serving use. However, short-term lodgings would be allowed in most of the commercial/visitor-serving districts.

According to the City, short-term lodgings ("STL") should be classified as a commercial use as they function much like hotels. The City's position is that such commercial establishments should not be permitted in residentially zoned areas and should only be permitted in commercial zones. Thus, as explained by the City, the intent of the proposed amendment is not to eliminate an existing, legally established use, but to clarify those STL units should no longer be permitted in residential zones in order to maintain the integrity of the residential zones and neighborhoods and to prevent the burden on City services. In addition, the City is concerned about the reduction in its long-term housing stock consequent to STLs in residential areas.

The City is essentially requesting authorization to prohibit STLs throughout the City except in the commercial/visitor-serving districts. This proposed restrictive ban of STLs in residential areas would reduce visitor access to the coastline. The provision of overnight visitor accommodations, such as short-term lodgings, serves a significant purpose as a subset of visitor-serving uses that promotes public coastal access and provides California residents and visitors one way to enjoy the coast. Overnight visitor accommodations allow public members whom do not reside within a day's journey to the coast an opportunity to enjoy the coastline.

In some instances, STL rentals of residences may provide a lower cost alternative to renting hotel or motel rooms for large families or groups of individuals. The City's LUP includes strong support for visitor serving uses including lower cost overnight accommodations such as can be provided with

short-term rentals. Policy 6.2 of the certified Coastal Element Land Use Plan requires that affordable overnight accommodations be protected, encouraged and, where, feasible, provided. The certified Coastal Technical Appendix incorporates Coastal Act Section 30213 which requires that lower cost visitor facilities be protected, encouraged, and where feasible provided.

The City has provided an inventory of existing accommodation types (i.e. hotel/motel rooms) in various price ranges, including the number of rooms in each accommodation and averages of 2015-2016 nightly room rates. These range from high-end hotels such as the Montage where the rate varies upward to over \$1,000 per night, to the Laguna Brisas Hotel where rates range from \$120 to \$180 per night. The rates range depending upon, among other things, the time of year (generally highest during summer weekends and lowest during winter weekdays). Based on 2015-2016 nightly room rate information, the average nightly weekday rental rate for the existing hotel and motel rooms averaged approximately \$292 and \$350 during weekends. While a number of visitor serving overnight accommodations exist in the City of Laguna Beach, there are presently no hostels, campgrounds, or other types of accommodations that are generally considered to be ‘lower cost’ available in the City.

As the City has pointed out, many of the STLs rent at similar average rates as the local hotel rooms, but there is wide variation in prices, as evidenced by an on-line search. Depending on site-specific circumstances, short-term rental of a residence can provide a lower cost option than a traditional hotel. For instance, this can be true when traveling with extended family or other larger groups, where renting a single residence is less expensive than renting multiple traditional hotel rooms.⁴ Short-term residential rental units also typically include full kitchen facilities, which allow overnight visitors the option of preparing meals in, a more affordable option than dining out. Furthermore, STL rentals of residential units allow visitors the option of extended stays (under thirty days) at rates often more affordable than an equivalent duration stay in a traditional hotel.

In all cases, STLs increase the range of options available to coastal visitors, oftentimes in residential areas along the immediate shoreline where there are few or no commercial overnight opportunities, such as nearshore areas along southern Laguna Beach, but also in residential areas located further inland within the coastal zone with the most affordable STL units, where a coastal visitor may rent a lower-cost inland STL unit but still easily access the coast.

STLs in residential areas are important for visitors seeking a more residential vacation experience, which oftentimes differs from the hotel/motel experience in the more urban/commercial core. This experience 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 Laguna Beach, public parks (such as Nita Carman Park, Bluebird Park, and Crescent Bay Point 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, which offer more direct coastal access. In addition, beaches adjacent to residential areas are oftentimes less crowded and more pristine – characteristics often desired by visitors. This is certainly the case along the northernmost and

⁴ Even though the LCP amendment, as amended with the Commission’s suggested modifications, would still limit the maximum number of occupants per bedroom in a STL to two persons per bedroom, where a STL constitutes an entire house comprising multiple rooms, it is likely the case that rental of an entire multi-room house as an STL would be more cost-effective than renting multiple hotel or motel rooms for an extended family or large groups.

generally southern Laguna Beach shoreline. Thus, the experience from renting an STL in a residential area in Laguna Beach can vastly differ from that of a hotel, motel, or vacation rental in a commercial area. In short, the proposal to ban STLs 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.

Although the currently certified LCP and the proposed amendment would allow STLs in the commercial visitor-serving use zones in the City, including additional commercial zones where STL units were not previously permitted, this expansion of STLs within *one* type of zoning does not adequately mitigate the significant adverse impacts on public access, visitor accommodations, and recreation which would result from banning STLs within all residential zones in the City.

As discussed above, STLs in residential areas provide a significant supplement to visitor accommodations in a *qualitatively fundamentally* different way than STLs within commercial zones that simply cannot be replicated through numerical replacement such that a prohibition on rentals in these areas would have a significant adverse impact on promoting public access and visitor-serving opportunities within the City. While there are approximately 1,305 hotel and motel rooms in the City of Laguna Beach, these are all located in the Downtown commercial core and hotel-motel and visitor-serving districts. Geographically, the commercial and visitor-serving districts are primarily located along Coast Highway and in the downtown area (**Exhibit 2**). Most of the development seaward of Coast Highway is residentially zoned. Thus, as proposed, the IP amendment would prohibit short-term rental of all the primary residential units within these zones that currently retain the option to be rented on a short-term basis. Consequently, a significant number of residential units would no longer be available to provide short-term overnight visitor accommodations.

The City has indicated that it would understand that a concern regarding a complete ban of STLs citywide would be justifiable, but asserts that is not the case here as STLs would still be allowed in most commercial zones; and there is sufficient housing stock available within the mixed use area of the commercial districts to meet demand for STLs in the City. The City states approximately 728 residential units encompassed within a total of 282 mixed-use lots are currently located within the subject commercially zoned districts, which could accommodate STLs without the need for any future development. As characterized by the City, a total of approximately 789 mixed-use lots in commercial zones have the potential to accommodate approximately 2,800 STL units under the proposed LCP Amendment. However, the suggested maximum STL potential of over 2,800 future STL units in the commercial zoning districts are not guaranteed because these "potential" units do not currently exist, which have not yet been constructed and would require future development.

Moreover, the certified LCP Technical Appendix states,

"Since the aforementioned commercial zones allow a range of commercial uses, some not visitor-serving in nature, properties found suitable for visitor-serving uses may compete against other commercial uses. The City consequently has no control or assurance that such property will be reserved for visitor-serving purposes. These commercial zones also permit residential uses..."

Therefore, there is no assurance that properties in commercial zones will be reserved for visitor-serving purposes because of the competitive uses within these zones. Therefore, the City's assertion

that 789 mixed-use lots in commercial zones means that 2,800 STL units will be available under the City's proposed LCP amendment may be overstated and may not necessarily be borne out.

It is important that the proposed LCP amendment avoids creating a disincentive to provide or significantly restrict such a use within the coastal zone. As proposed, the LCP amendment would result in a net decrease in visitor-serving assets. Although the proposed amendment would expand the allowable commercial districts to permit STLs where they are currently not permitted, and it would allow for the continuation of the existing legally permitted STL units currently operating in residential zones, it would still reduce the total area where STLs are allowed and overwhelmingly reduce the potential number of lots for which an STL could be permitted by entirely foreclosing the possibility of these rentals in all residential areas, which is where a majority of the permitted short-term rentals exist. The outright ban of STLs in residential zones would exclude approximately 5,200 residential lots based on the allowable density and minimum lot size requirements, or approximately 8,900 residential lots if variances are granted to substandard sized lots, where STL units are currently permitted under the certified LCP. (Even assuming 2,800 STL units will become available within the commercial zoning districts per the City's proposed LUP amendment, which as discussed above is speculative, this would still represent a *net reduction* in countless potential STLs as compared to existing conditions.) Moreover, out of the existing 36 active administrative use permits ("AUP") granted by the City for operation of STLs, which encompass a total of 81 STL units, 26 AUPs (72%) are for properties located in residentially zoned lots, demonstrating more STL rentals of residences are readily offered as compared to commercially-zoned STLs.

Another concern raised by the subject LCP Amendment is that the proposed "grandfathering" of existing legally permitted STLs in residential zone may be limited and may not serve to protect their visitor-serving utility. The ordinance approving the proposed LCP revisions identifies that any existing STL will be allowed to continue subject to the non-conforming use regulations of the certified LCP. While the City ordinance allows for existing STLs to continue as a legal non-conforming use within residential zones, the application of these non-conforming use regulations over time may reduce the number of these vacation rentals as these STLs lose their legal nonconforming status due to cessation of use.

The City indicates that the STL use is not appropriate for residential neighborhoods. While it is true that in certain coastal communities some STLs have been known to spur complaints (including for such things as noise, disorderly conduct, parking and overcrowding issues, and accumulation of refuse), oftentimes such complaints are mostly limited to repeat offenders as opposed to all STLs in a community. Other times issues can come up when many STLs saturate a particular neighborhood, block, or area. When faced with such issues, targeted and responsive regulation of STLs, consistent with LUP policies, is a more appropriate approach than all-out restrictive bans. 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 STL operators (including for signage, notice, occupancy/car limits, etc.).⁵ The Santa Cruz County system also includes block and area limits (caps) designed to avoid oversaturation of STLs in certain locations, including quotas by block and overall for the Live Oak

⁵ LCP Amendment SCO-1-11 Part 3.

beach area of the County where there have historically been a high number of STLs.⁶ This type of LCP system is also similar to what the Commission approved in Humboldt County. In both cases, the respective municipalities effectively codified standards to allow STLs to coexist with surrounding uses and development, particularly residential uses and development, without unduly impacting local residents by effectively imposing targeted regulations responsive to community concerns regarding residential STLs. Other effective regulatory measures presently being utilized by other coastal communities to address residential concerns about STLs include: overlay zones⁷ identified based on site specific fact sets (including supply, demand, carrying capacity, proliferation, etc.), increased licensing requirements, limitations on the number of guests that could be housed in a given unit, limitations on type of STL allowed (e.g. home sharing), and provisions for dispute resolution process. It would appear that a similar type of system that reflects the City's specific context could be effective in the City of Laguna Beach.

In summary, the proposed LCP amendment would result in a net decrease of properties permitted to have STLs and, thereby, would reduce public visitor-serving opportunities, and such reduction would conflict with the LUP's objectives to protect and maximize public access and visitor-serving opportunities in the City's coastal zone. For this and all the other reasons discussed above, the proposed LCP amendment is inconsistent with and inadequate to carry out the certified LUP, and must be denied. In place of an restrictive ban in residential areas that cannot be supported under the LUP, the City is encouraged to apply appropriate STL regulations that could strike a balance between possible visitor-resident conflicts to better satisfy the sometimes competing objectives associated with facilitating public recreational access and visitor-serving opportunities near and within residential areas of the shoreline. As a result, the Commission is recommending suggested modifications to the City's LCP in this regard, described in detail in Section III and IV(D) below.

D. CERTIFY THE LCP AMENDMENT WITH SUGGESTED MODIFICATIONS

Public Access and Visitor-Serving Overnight Accommodations

The proposed LCP amendment would result in the elimination of short-term lodgings, or vacation rentals, as an allowable use within the R-1, R-2, R-3, and Village Community residential zones. Short-term lodging opportunities are important in the coastal zone as they provide a source, in some instances a more affordable one, for visitor-serving overnight accommodations. As discussed in greater detail in Section IV(C) above, a complete ban on short-term lodgings (STLs) in all residential zones throughout the City would have significant adverse impacts on visitors, particularly for the residential zones located along the shoreline, and would conflict with the certified LUP requirements for promoting and maximizing access to the City's coastline.

The City estimates that there are approximately 200 existing STL rentals city-wide, including unpermitted units. This number may vary widely over time. Commission staff has surveyed the internet for advertised STLs within the City of Laguna Beach and has found that a majority of advertised STLs are located within residential zoned areas. As proposed, the amendment would eliminate a source of one type of overnight visitor accommodations, some of them lower cost.

⁶ This is similar in some ways to the manner in which STLs 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).

⁷ For example, the City of Carpinteria permits only home shares (or home stays - rental of a portion of an entire residential unit) in residential zones. Vacation rentals (rental of an entire residential unit) are limited to a specific "Vacation Rental Overlay District".

Regardless of the cost, overnight accommodations are a higher priority use because they allow for enhanced public access to the area. Thus, the proposed limits cannot be found to be consistent with or adequate to carry out the City's certified LUP policies regarding visitor serving use, lower cost overnight accommodations, and public access. However, if the LCP amendment is modified as recommended to continue to allow short-term lodging use within the residential zones (R-1, R-2, R-3, and VC), then the LCP amendment can be found to be consistent with and adequate to carry out the certified LUP policies regarding visitor serving use, lower cost overnight accommodations, and public access.

In addition, although the use of STL rental of residences are essential for the promotion of public access to the City's major visitor destination beaches, it is recognized that STLs may result in conflicts, such as has been identified by the City, if the use is not regulated. To address this concern, the LCP amendment proposes to impose a number of administrative regulations regarding application requirements and operating standards that were not previously imposed by the certified IP chapter pertaining to short-term lodgings.

See Table 1 in Section IV(A) above for a comparison summary of the currently certified and proposed STL regulations. The ordinance proposed with this LCP Amendment would establish a procedure for applying for administrative use permits for new STLs and would include: explicit maximum occupancy standards; parking requirements; 24/7 local contact person to register complaints about any nuisance; strict adherence to density and minimum lot size requirements; proof of liability insurance; evidence of safety inspection; strict curfew for usage of audible devices; prohibition of large parties; noticing and posting requirements; permit expiration condition; and fines and penalties for violation of the regulations. Ultimately, if violations are not resolved or are excessive, the use of a nuisance residence as an STL can be stopped. In recommending certification of the proposed LCP amendment with suggested modifications, the Commission does not propose changes to these targeted administrative regulations proposed by the City.

Therefore, if the amendment is modified as recommended, the City will be afforded time to evaluate the effectiveness of the City-proposed regulations to control the problems that may exist with STLs, making the proposed eliminations of short-term lodgings as a permitted use in residential zones citywide premature and unnecessary. With a limited number of lower-cost visitor-serving uses within the City, particularly near the shoreline, STLs provide a significant supplement for visitor accommodations such that a prohibition on short-term rentals of residences could have a significant adverse impact on promoting public access and visitor-serving opportunities.

In conclusion, the proposed amendment, if modified, could strike a balance between the protection of residential areas and the accommodation of visitor-serving facilities, consistent with the policies of the certified LUP. STLs will continue to be allowed in residential zones, except now there will be improved standards and regulations to assure any nuisance conflict that occurs as result of the short-term rental of the residence(s) can be quickly and effectively controlled. Thus, as modified, the LCP amendment conforms with, and is adequate to carry out, the certified land use plan.

E. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

As set forth in Section 21080.9 of the California Public Resources Code, the California Environmental Quality Act (CEQA) exempts local governments from the requirement of preparing an environmental impact report (EIR) in connection with its activities and approvals necessary for the preparation and adoption of a local coastal program (LCP). The Commission's LCP review and

approval program has been found by the Resources Agency to be functionally equivalent to the EIR process. (14 CCR § 15251(f).) Nevertheless, the Commission is required in approving an LCP submittal to find that the LCP does conform with the provisions of CEQA, including the requirement in CEQA section 21080.5(d)(2)(A) that the amended LCP will not be approved or adopted as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment.

As outlined in this staff report, the proposed LCP Amendment if modified as suggested is a feasible mitigation measure which will be consistent with the policies of the LUP and substantially lessen significant adverse impacts which the proposed LCP amendment will have with respect to coastal impacts to public access, visitor accommodations, and recreation. Thus, the Commission finds that the LCP Amendment, if modified as suggested, is in conformity with and adequate to carry out the land use policies of the certified LUP. Therefore, the Commission finds that approval of the LCP Amendment as modified will not result in significant adverse environmental impacts under the meaning of CEQA. Therefore, the Commission certifies LCP Amendment request No. 1-16 if modified as suggested herein.