

# Attachment 1

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# Attachment 1 – Discussion

On November 28, 2017 staff conducted a hearing at the Planning Commission regarding a Preliminary Draft STR Ordinance for overnight accommodations in residential areas in the unincorporated area of the County, except the Big Sur Land Use Plan Area due to access issues following winter storm damage (Legistar File PC 17-096). At that meeting, the Planning Commission provided direction for three main areas for further policy development:

- 1) conduct outreach to the Land Use Advisory Committees (LUACs) and evaluate the preliminary draft STR ordinance for consistency with the local area plans;
- 2) consider incorporating agricultural zoned properties in the STR ordinance; and
- 3) return in the spring with draft ordinances (inland and coastal) accompanied with a discussion of code enforcement policy.

On January 10, 2018, staff returned to the Planning Commission to obtain input on developing regulations of short-term rentals for overnight accommodations in residential zoning designations in the unincorporated area of the Big Sur Land Use Plan Area (Legistar File PC 18-005). At this meeting the Planning Commission directed staff to include the Big Sur Land Use Plan area in the development of the STR ordinance, and to conduct outreach to the Big Sur community through the LUAC.

Upon the direction of the Planning Commission, staff attended all 12 active Land Use Advisory Committees at least once and, where public interest warranted, returned to a subset of Committees to provide additional information and gather additional public feedback. It should be noted that the Chualar Canyon Neighborhood Design Committee currently has only one member and therefore is not active.

The schedule of staff attendance at the Land Use Advisory Committees is listed below. (See Attachment 3 for the agendas, minutes and public correspondence from these meetings, where available; please note, not all Committees provided minutes and correspondence to RMA.)

<b>Committee</b>	<b>Meeting Date</b>	<b>Minutes/Correspondence Attached</b>
Big Sur Coast & South Coast	March 27, 2018	Yes
Big Sur Coast & South Coast	April 24, 2018	Yes
Big Sur Coast & South Coast	June 4, 2018	Yes
Cachagua	March 28, 2018	Yes
Carmel Unincorporated / Highlands	April 2, 2018	Yes
Carmel Valley	March 19, 2018	Yes
Carmel Valley	June 4, 2018	Yes

Castroville	April 16, 2018	No
Del Monte Forest	April 5, 2018	Yes
Greater Monterey Peninsula	April 18, 2018	No
North County	April 4, 2018	Yes
South County	May 16, 2018	Yes
Spreckels Neighborhood Design Review Committee	April 18, 2018	No
Toro	April 23, 2018	Yes

***LUAC Outreach Summary: Key Issues Raised and Policy Recommendations***

Public sentiment remains divided over short-term rentals. Based on additional evaluation of the STR policies and feedback gathered at the LUAC meetings, staff has identified key policy areas on which staff is seeking direction from the Planning Commission for developing the draft STR ordinances.

**Home Stays**

Members of the public expressed concerns about the unlimited nature of home stays, as outlined in the preliminary draft ordinance. For reference, in the preliminary draft ordinance a home stay is a rental whereby the STR operator, who must be the principal resident, rents bedrooms in his/her residence while residing at the house. The preliminary draft ordinance proposed permitting home stays through the ministerial permit process. The concerns about the unlimited nature of home stays were raised at most of the LUACs and primarily included the following suggestions:

- 1) limiting the frequency of home stays;
- 2) a preference for home stays to be owner occupied rather than occupied by a principal resident; and
- 3) limiting the maximum occupancy (and/or number of bedrooms to be rented) with home stays.

***Policy Recommendation:***

Staff acknowledges the concerns raised regarding the unlimited nature of home stays as detailed in the preliminary draft ordinance. However, staff does not recommend any additional limitations at this time. Staff analysis of the issue finds any additional limitations would pose enforcement requirements which are infeasible without additional resources.

The policy issue of STR code enforcement was presented to the Board of Supervisors at the Board’s June 19, 2018 meeting. The Board of Supervisors did not support increasing funding until an ordinance is developed, and noted the urgency to complete a draft ordinance. Staff will

present code enforcement resources required to enforce the STR ordinances based on the draft ordinance.

*Other Approaches:* Other policy options for consideration include, but are not limited to:

- Limit home stays to 24 times per year and not more than twice per month. Compliance would likely require renter declarations or neighbor documentation to enforce.
- Require at least one bedroom be designated for occupancy of the home stay owner-operator and not more than two of the remaining bedrooms be eligible for home stay rental. Effectively, one bedroom homes would not be eligible for homestays, two bedroom homes would only be eligible to use one bedroom as part of the home stay rental, and homes with more than three bedrooms cannot rent out more than two rooms. This would require a floor plan identifying use of bedrooms relative to owner occupancy and rental use. Compliance would likely require witness (renter) declarations to enforce.
- Require home stays to be occupied by the property owner and be the owner's principal residence. Effectively this would mean that owners must occupy the residence for more than half of the year. Compliance could be accomplished by requiring submittal of an affidavit attesting that the home is the applicant's primary residence.

Staff estimates that all three policy options above would need to be paired with a permanent, full-time code enforcement inspector position utilizing TOT from the permitted STRs.

### **Shared Private Roads**

Members of the public whose properties are accessible only by shared private roads raised concerns with hazards and nuisances involving transient visitors on private roads, parking, liability concerns, maintenance, security and emergency vehicle access issues that could arise with the road usage by short-term renters that are unfamiliar with the roads and area. Shared private roads being used by short-term renters were of particular concern to the Big Sur and South Coast LUACs, where access is limited due to the terrain and keeping roads clear is critical due to high danger for wildfires. North County LUAC participants expressed general interest in not limiting short-term rental use on shared private roads.

### ***Policy Recommendation:***

Staff finds that short term rentals allowed with a Use Permit or Coastal Development Permit would be subject to Monterey County Code Section 21.64.320 (Attachment 7), regulations relating to applications involving use of private roads. These regulations require that all applications for development involving private roads provide proof that there is an agreement between the parties to the road allowing for access and maintenance. However, home stays and low-frequency STRs are designed such that they would not intensify the planned residential use; and therefore, could be considered exempt from these regulations under Monterey County Code Section 21.64.320.4.e.

The coastal ordinance regulating use of private roads in coastal areas has not been certified by the Coastal Commission because Commission staff determined that this regulation should not be

in Title 20 subject to CCC certification. As such, staff is processing an ordinance to place private road regulations in another Title of County Code.

*Other Approaches:* Other policy options for consideration include, but are not limited to:

- Allow STRs on shared private roads and not subject to the regulations relating to applications involving use of private roads. This option would require adding a specific exemption to Monterey County Code Section 21.64.320 for home stays; however, STRs subject to a discretionary permit would be subject to this regulation. Monterey County Code Section 21.64.320 is designed to establish a process to address, and ideally resolve, neighbor to neighbor conflict originating from shared use of private roads. STRs are particularly well suited to Monterey County Code Section 21.64.320, considering the amount of neighbor to neighbor conflicts that STRs currently generate. By requiring agreement on the use of shared roads as part of the permit application process, the policy is configured to avoid conflict, and thus potential need for code enforcement, before a STR begins operation.
- Prohibit short-term rentals on shared private roads. Proponents for STRs have raised fairness concerns regarding policy approaches that treat certain property access configurations more prohibitively than others. Additionally, a differentiation of this nature could raise property valuation concerns for the property owners affected by such a prohibition.
- Subject all STR types to the regulations relating to applications involving use of private roads; do not exempt home stays and low-frequency STRs. Enactment of this option would require the application process for home stays and low frequency STRs to be more onerous on the applicant. An overly complicated application process has been stated to possibly discourage compliance with the new STR ordinances and continue the current state of unpermitted STRs across Monterey County

### **Shared Water Systems**

Members of the public whose properties are served by shared private water systems raised concerns with high water usage by visiting renters as well as maintenance costs and concerns. STRs on shared water systems were of particular concern to some members of the public at the Cachagua and North County LUACs.

### ***Policy Recommendation:***

Staff qualitatively finds that regulations for home stays and low-frequency STRs (ministerial permit) versus commercial short term rentals (discretionary permit) are designed to set a threshold when there could be an intensification of water use. Once the STR ordinances are drafted, staff will quantitatively analyze the environmental impacts of the proposed ordinances as part of the environmental review (e.g. water, housing, traffic). Depending on the results of the environmental analysis, the draft ordinances may be modified to mitigate impacts.

*Other Approaches:* Other policy options for considerations include, but are not limited to:

- Expand the education requirements contained in the draft ordinance related to excessive water use and onsite wastewater treatment systems (OWTS) to address water

conservation and use. Staff from the Environmental Health Bureau (EHB) are evaluating water conservation guidelines for possible inclusion in the draft ordinances. Since the education required in this policy option would occur within the STR, ensuring compliance would, at best, be more of a guideline than a truly enforceable standard.

- Require submittal of water use data triggering restriction of operation where there are significant increases. Compliance could be achieved by requiring submittal of water use data for permit application and renewal.

### **Density Limits**

Certain communities and neighborhoods in Monterey County have significantly more STRs than other areas (Attachment 2). Members of the public expressed concerns about the number of STRs in any given area becoming so numerous as to detract from the residential character of their neighborhoods. Members of the public requested that density limits on STRs be included in subsequent STR ordinance drafts. RMA staff analyzed existing Monterey County land use policy mechanisms for limiting density of specific types of development.

### ***Policy Recommendation:***

Staff recommends that rentals allowed with a Use Permit or Coastal Development Permit would be subject to the density limitations, while density restrictions would not apply to rentals allowed with a ministerial permit (home stays and low-frequency rentals). Density limitations would be established using a radius of at least 300 feet around each STR within which no additional STRs would be allowed. This policy mechanism is similar to the density limits imposed on Adult Entertainment Facilities and Cannabis Dispensaries. The setback distance can be adjusted to intensify/restrict the allowed density. Compliance could be achieved through the permit application and review process, whereby staff would analyze the nearby use permits and only approve applications where no STR use permits fall within the prescribed radius.

*Other Approaches:* Other policy options for consideration include, but are not limited to:

- Consider a larger radius (e.g. 1,000 feet) around each STR within which no additional STRs would be allowed, or varying radius based on zoning (e.g. high density residential 300 ft; low density residential 1,000 ft; other?)
- Establish a new overlay district specifically for STRs and cap the number of STRs within a new overlay district, while the rest of the county has no limit on STRs. This approach would be similar to the Agricultural and Wine Corridor Plan. This approach could help address [planning] area specific issues. However, implementation of an overlay district would take time and resources to develop. Considering the pressing needs for multiple policy matters, this could take some time to implement.
- Establish a new overlay district specifically for establishing where STRs are allowed, while areas outside the STR would prohibit STRs (any type). The implementation hurdles noted above also apply to this policy approach.

- Create a new density mechanism which would establish a ratio of STR permitted dwellings to non-STR permitted dwellings allowed within a specific unit of land such as a block or acre.

Compliance could be achieved for all of the preceding policy approaches through the permitting process, as detailed above in the policy recommendation.

### **Visitor Serving Unit Caps**

Staff reviewed Area/Master/Land Use Plans with respect to short term rentals and visitor serving unit (VSU) caps, and members of the public provided input as to whether STRs should be counted towards the VSU caps of these plans, and if so how. Policies for Big Sur, Carmel Valley, Carmel Unincorporated/Highlands and Del Monte Forest contain limits on VSUs. These planning areas have shown great interest for short term rentals and have a significant proportion of the known STRs in Monterey County (Attachment 2).

#### ***Policy Recommendation:***

Based on the analysis and consideration of public input, staff recommends STRs that require a Use Permit or Coastal Development Permit should be subject to the visitor serving unit caps. Under this proposal, one STR is proposed to count as one visitor serving unit. Compliance could be achieved through the permit application and review process, whereby staff would keep a tally of permitted VSUs for each land use area where caps apply.

Additionally, staff recommends that short term rentals allowed with a ministerial permit (home stays and low-frequency STRs) not count against the visitor serving unit caps. This approach is similar to current policy on Bed and Breakfast Facilities which are not counted against visitor serving unit caps. By taking this approach, these similar land uses, all of which entail the short term rental of the proprietor's residence, are treated consistently under the regulations.

*Other Approaches:* Other policy approaches for consideration include, but are not limited to:

- Do not count any STRs against the VSU caps.
- Count each short-term rental operation, whether allowed with a ministerial permit or discretionary permit, as one VSU.
- Count each bedroom permitted/allowed as a short-term rental as one VSU. For example, using two bedrooms would count as two VSUs, similar to a hotel unit.

### **Land Use Plans**

Staff conducted preliminary analysis of consistency of the preliminary draft short-term rental regulations with the County's Land Use Plans and Master Plans, and facilitated public input through the LUACs. While each land use planning area has its own unique community and characteristics, staff has identified two Land Use/Master Plan areas that warrant further consideration for limitations to ensure the draft short term rental ordinance is consistent with the existing policies: Big Sur Land Use Plan (BSLUP); and Del Monte Forest Land Use Plan (DMFLUP).

### Big Sur Land Use Plan

Availability of housing in Big Sur for its residents and workers is a critical constraint identified in the BSLUP. Existing policies limit the number of caretaker units (now Accessory Dwelling Units) in non-commercial zones, (Rural Residential, and Watershed and Scenic Conservation), to a maximum of 50 units within the Big Sur planning area. Staff's analysis of potential housing impacts of STRs, presented at a Planning Commission STR Workshop on November 9, 2016 (Legistar File No. PC 16-069), suggests that STRs will likely have an impact on the long-term housing market and can have an impact on affordable housing (especially for workforce housing) in remote communities such as Big Sur, especially with a limitation on the number of accessory units.

#### ***Policy Recommendation:***

Based on the preliminary analysis and consideration of public input, staff recommends the following limitations apply to the BSLUP area:

- Home stays are consistent with the BSLUP and should be allowed;
- "Low-frequency STRs", which may be rented up to 12 times per year and not more than 2 times per month, should be allowed in Big Sur only when they are the owner's principal residence;
- STRs that would require a Coastal Development Permit should not be allowed.

*Other Approaches:* At this time, staff does not have other options to present but invites the Planning Commission to propose other options.

### Del Monte Forest Land Use Plan

The DMFLUP Policy 120 prohibits timeshare residential uses and quasi-residential visitor-serving uses (including condominium hotels, private unit ownership, fractional ownership, and similar use and ownership structures). Policy 119 specifies that the County shall encourage the expansion of housing opportunities for low and moderate-income households. Coastal Commission staff has in the past indicated their support for STRs as being affordable forms of coastal access. However, STRs in DMF are generally not rented within what would be considered an "affordable" range.

#### ***Policy Recommendation:***

Based on the preliminary analysis of the DMFLUP and consideration of public input, staff recommends the following limitations apply to the DMFLUP area:

- Homestays, and low-frequency STRs are consistent with the DMFLUP and should be allowed. This analysis is based on Policy 119 as well as feedback received through public comment which asserted that many low and moderate income households use these forms of STRs as a supplemental income, in part, to afford housing. Further, staff recognizes that these forms of STRs do not remove units from the permanent housing market and thus do not contribute to the housing shortage in Monterey County.
- STRs that would require a Coastal Development Permit should not be allowed. This analysis is based on Policy 120 because staff considers these types of uses quasi-residential visitor serving.

*Other Approaches:* Other policy approaches for consideration include, but are not limited to:

- Allow limited discretionary permits for STRs during specific, large-scale events, such as the golf tournaments (e.g. Pebble Beach Pro-Am and US Open), or car shows (e.g. Pebble Beach Concours d'Elegance). These discretionary permits would be an option for houses that do not meet the residential class R-3 standard (5 or fewer bedrooms) applied to qualify for low-frequency STR ministerial permits. Under this option, a recurring STR land use would be permitted, however only on a limited basis for the duration of specified events.
- Allow limited ministerial permits for STRs during specific, large-scale events, as detailed above. Under this option, houses which do not meet the residential class R-3 standard would be eligible for one-time STR use permits for specific events and time frames. Under this option, the RMA would identify a list of qualifying large-scale events on an annual basis and property owners would apply for ministerial permits to allow STRs during the identified dates only.

### ***Agricultural Zoned Properties***

The topic of integrating agricultural zoned properties into the STR ordinance was discussed at the LUAC meetings, and staff also attended the Agricultural Advisory Committee (AAC) on February 22, 2018. In Cachagua, North County, and South County LUACs, the point was raised that larger rural lots are more isolated from resource and nuisance concerns. Input received through public outreach provided general support and interest to allow transient or short term rental use on agricultural zoned properties, and some specific policy ideas were raised including, but not limited to: continuing to allow existing or future hunting and fishing facilities on agriculturally zoned parcels; prohibiting farm labor housing for transient/short-term uses; updating Williamson Act allowable uses to allow (and define); ensuring adequate enforcement resources; and that traffic, dust and food safety issues be considered for any transient uses allowed in agricultural zones.

Staff also analyzed the Monterey County agricultural zoning codes and conducted research of “farm stay” policies of neighboring counties (Attachment 3). Based on feedback gathered and policy analysis, staff has identified a number of key policy questions to be addressed, and is scheduled to attend the Ad Hoc Subcommittee of the AAC on July 9, 2018 to seek feedback on the following:

- Preserving the agricultural uses of Farming (F), Rural Grazing (RG), and Permanent Grazing (PG) zoned properties should short term rentals be permissible.
- Distinguishing farm stays from short term rentals (as detailed in preliminary draft ordinance), and how these definitions should apply in larger acreage parcels (40 acres or larger for F zones, 160 acres or larger for PG or RG) versus smaller, previously subdivided parcels.
- Limitations under consideration:
  - Requiring an owner, family member, or manager be on-site during any rental occupancy as a matter of safety
  - Excluding cannabis farming operations

- Excluding farm labor housing.
- Regulatory pathway for farm stays: Ministerial or discretionary?
- Additionally, staff reviewed the Agricultural Wine Corridor Plan (AWCP), Chapter 9-J, of the 2010 General Plan. While the AWCP does not call out farm stays it is a plan that was intended to simplify the permitting process for properties located within the plan boundaries.

Staff will present the outcome of the AAC Ad Hoc Subcommittee meeting at the Planning Commission Workshop on July 11, 2018.

***Stakeholder Outreach***

Certain groups/organizations have requested meetings with staff to discuss opportunities and issues with the preliminary draft short term rental ordinance and/or proposals that were under consideration and shared at the advisory committees, including: Big Sur Local Coastal Plan Defense Committee (BSLCPD Committee) via Supervisor Adams’ Office; Carmel Valley Association (CVA); Monterey County Vacation Rental Alliance (MCVRA); Pebble Beach Company (PBC); and a collective of groups/individuals from the Carmel Valley, unincorporated Carmel and Highlands, Big Sur, and Arroyo Seco. Information provided to staff as part of those meetings is included in the public correspondence record (Attachment 5).

***Code Compliance during Ordinance Development***

On January 31, 2018 staff presented this issue to the Commission (Legistar File No. PC 18-009). The Planning Commission heard public testimony regarding STR activities and sent a letter to the Board of Supervisors requesting policy direction related to enforcement of current STR regulations. (See Attachment 8 – Planning Commission Letter to the Board of Supervisors regarding STR Code Enforcement)

On March 27, 2018, Supervisor Adams submitted a referral (Referral No. 2018.10) requesting RMA formulate a response from the Monterey County Board of Supervisors to the January 31, 2018 Planning Commission letter.

The RMA’s response was presented to the Board on June 19, 2018 (Legistar File No. 18-619). At this meeting, the Board passed a motion to use the third-party venter Host Compliance to track STR code compliance and focus on STR violations that raise to a Priority 1, particularly those involving nuisances such as noise, parking and trash, and directed staff to return to the Board with a proposal. In addition to discussing and providing direction regarding current STR code compliance at the hearing, the Board also emphasized the importance for the STR ordinance to advance quickly and come before the Board for decision by fall or as soon as possible.

***Next Steps***

Staff requests direction from the Planning Commission on the policy issues and recommendations detailed above. Staff plans to use this policy direction to complete draft STR

ordinances. Staff tentatively plans to return with a draft ordinance for Planning Commission consideration in Fall 2018, followed by a recommendation to the Board of Supervisors.