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

To: Commissioners and Interested Persons

From: Dan Carl, Central Coast District Manager
Daniel Robinson, Coastal Planner

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

Summary

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

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

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

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

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

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

Staff Note: LCP Amendment Action Deadline

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

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

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I. Staff Recommendation – Motion and Resolution

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

Denial of Implementation Plan Amendment as Submitted

Staff recommends a **YES** vote on the motion below. Passage of the motion will result in rejection of the implementation plan amendment as submitted and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the appointed Commissioners.

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

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

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

II. Findings and Declarations

The Commission finds and declares as follows:

A. Proposed Amendment Background

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

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

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

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

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

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

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

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

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

B. Proposed LCP Amendment

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

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

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

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

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

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

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

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

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

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

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

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

C. Consistency Analysis

1. Standard of Review

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

2. IP Amendment Consistency Analysis

A. Applicable Policies

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

> ***LUP Principle P-3 Resources and Open Space Belong to Everyone.*** *Pismo Beach is an integral part of the larger California coastal community, linked by shared resources that are prized by the state, national and even international community. Congenial and cooperative use of these resources by both residents and visitors is recognized. Solutions for cooperative use shall always be based on retaining the area's fragile charm and resources.*
>
> ***LUP Principle P-6 The Big Three.*** *The three primary resources and open space for Pismo Beach are:*
>
> > *…The Ocean - A Resource For Everyone. The ocean, coastal cliffs, and shoreline resources are vital to Pismo Beach for their wildlife habitat, recreational use, open space, scenic value and the city's overall economy. These natural assets will be protected and made available to all.*
>
> ***LUP Principle P-15. Visitor/Resident Balance.*** *The California coast is an extremely desirable place to live, work and recreate that belongs to all the people. As such, congenial and cooperative use by both residents and visitors is recognized…*

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

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

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

This means that:

a. The beach shall be free to the public

b. Some parking and/or public transportation access to the beach shall be free to the public.

c. Recreational needs of children, teens, adults, persons with disabilities, elderly, visitors and others shall be accommodated to the extend resources and feasibility permit.

d. City residents need mini-parks, neighborhood parks, community parks, activity centers, special use and all purpose parks.

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

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

B. Analysis

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

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

primarily residential northern area is underserved by such hotels and motels. Rather, this area is predominantly residential, and the only available overnight accommodations are in such residences as a general rule. The City indicates that it has to date identified 38 thus vacation rentals in such residential zones[8] and these and other vacation rentals in residential areas would be made immediately non-conforming under the proposed amendment.[9] The amendment is expected to significantly reduce existing and potential vacation rental stock in the City. Thus, the proposed amendment effectively prohibits the rental of residences to visitors in a manner that will diminish the public's ability to access and recreate on the coast by renting a coastal residence.

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

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

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

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

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

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

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

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

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

[12] LCP amendment SCO-1-11 Part 3.

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

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

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

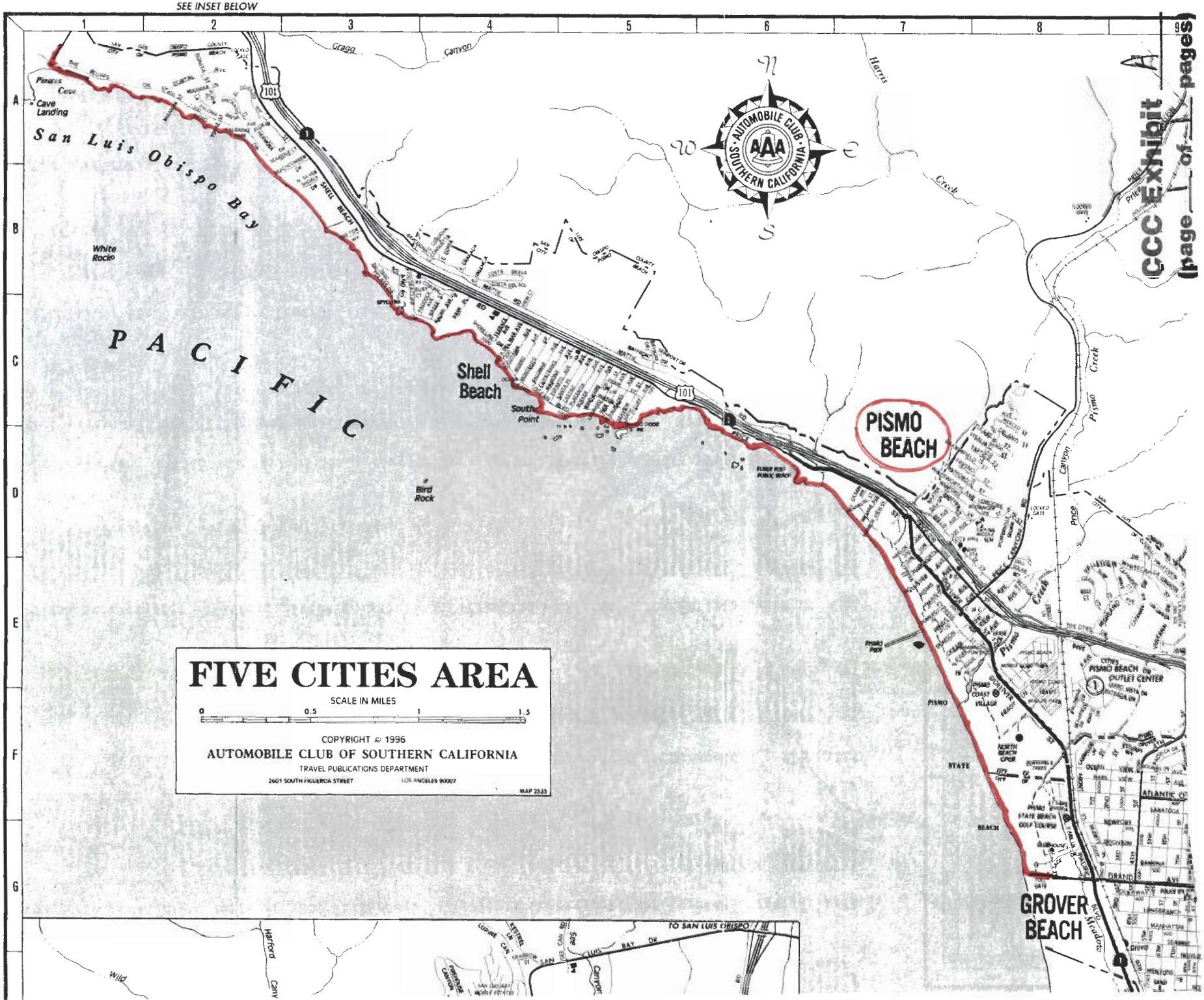
In summary, the proposed LCP amendment would reduce public visitor-serving opportunities, and such reduction would conflict with the LUP's objectives to protect public recreational access and visitor-serving opportunities in the City's coastal zone. For this and all the other reasons discussed above,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

D. California Environmental Quality Act (CEQA)

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

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

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

RECEIVED
APR 26 2010
CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

ORDINANCE NO. O-2010-001

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

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

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

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

Section 1. FINDINGS

1. The project consists of ordinance amendments amending the land use requirements in various zoning districts and establishes regulations and criteria for vacation rental uses in the City.

2. There are no site constraints or other factors that would create the potential for significant environmental impacts as a result of the project.

3. An environmental initial study was completed for the project, and the City Council finds that no further study is needed.

4. The amendments are consistent with the Coastal Act.

Section 2. ACTION

The City Council does hereby:

1. Certify that the amendments to the Local Coastal Program are intended to be carried out in a manner fully in compliance with Division 20 of the Public Resources Code, otherwise known as the Coastal Act.

2. Adopt the amendments attached as Exhibit 1.

3. Direct staff to forward the amendments to the Local Coastal Program (LCP) to the California Coastal Commission for certification following approval of the second reading. The LCP amendments shall take effect immediately upon Coastal Commission certification, consistent with Public Resources Code Sections 30512, 30513, and 30519.

CCC Exhibit B
(page 1 **of** 4 **pages)**

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

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

Approved:

Mary Ann Reiss
Mayor

Attest:

Emily Colborn, CMC
City Clerk

APPROVED AS TO FORM:

David M. Fleishman, City Attorney

CCC Exhibit B
(page 2 **of** 4 **pages)**

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

17.024.030 Uses requiring conditional use permit.

A. Rooming and boarding houses;

B. Condominiums, stock cooperatives, planned unit developments and community apartments;

C. Public utility buildings and structures;

D. Public buildings, churches, schools, parks, group care facilities, playgrounds, hospitals and family care facilities;

E. Motels, hotels;

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

G. Uses permitted in the R-1 and R-2 zones.

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

17.027.020 Permitted Uses

F. Vacation Rentals

Chapter 17.030 RESORT RESIDENTIAL (R-R) ZONE

17.030.020 Permitted Uses

C. Vacation Rentals

Chapter 17.042 RETAIL COMMERCIAL (C-1) ZONE

17.042.030 Uses requiring conditional use permits

CCC Exhibit B
(page 3 of 4 pages)

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

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

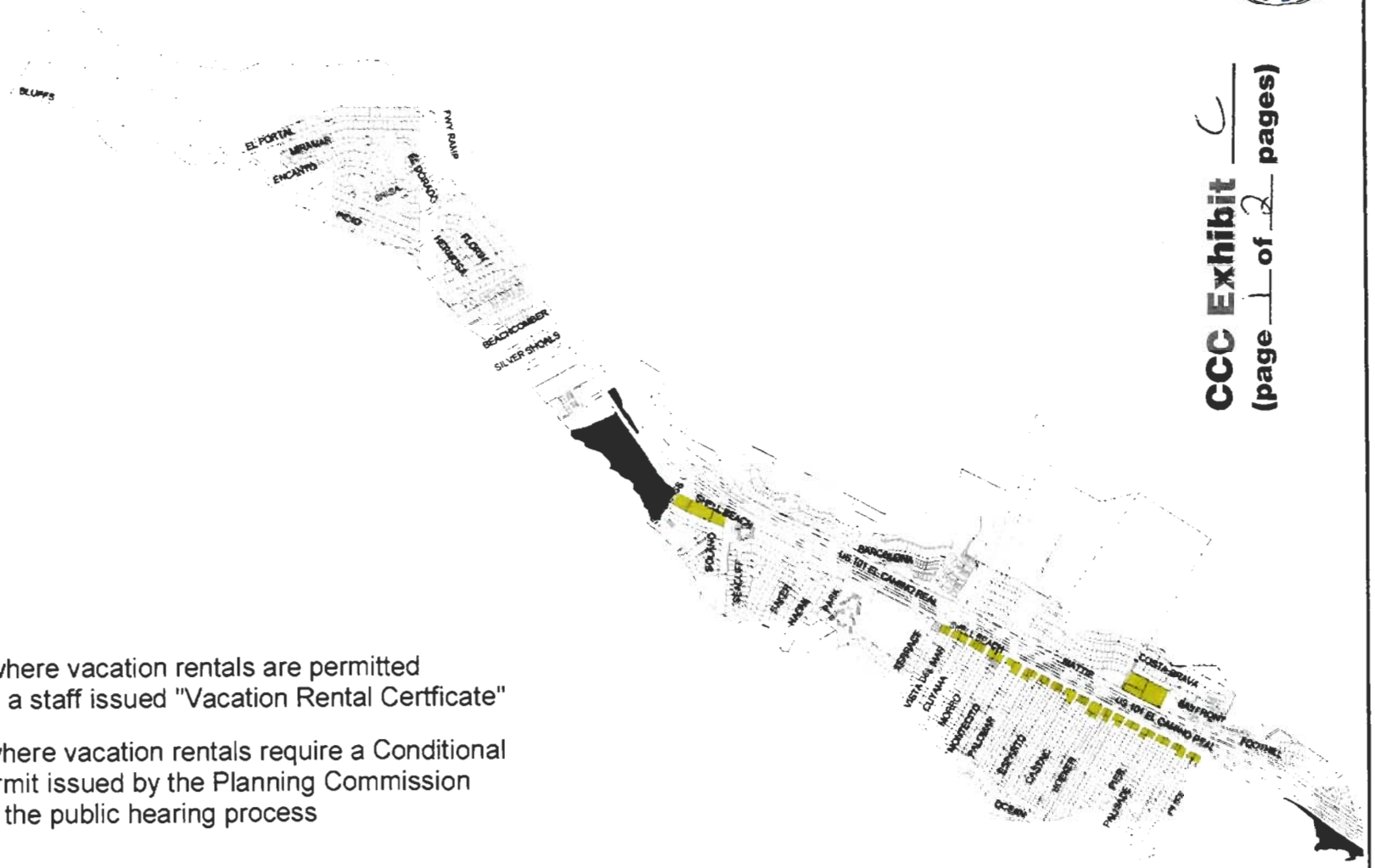
I, Emily Colborn, the City Clerk of the City of Pismo Beach, California, do hereby certify that the attached is a true and correct copy of **Ordinance No. O-2010-001** and was duly posted in three public places within the City within 15 days of adoption thereof, pursuant to the requirements of Government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

Dated this 25th day of February 2010.

Emily Colborn, CMC
City Clerk

CCC Exhibit B
(page 4 **of** 4 **pages)**

Vacation Rental Map
After LCP Amendment



Areas where vacation rentals are permitted through a staff issued "Vacation Rental Certficate"

Areas where vacation rentals require a Conditional Use Permit issued by the Planning Commission through the public hearing process

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

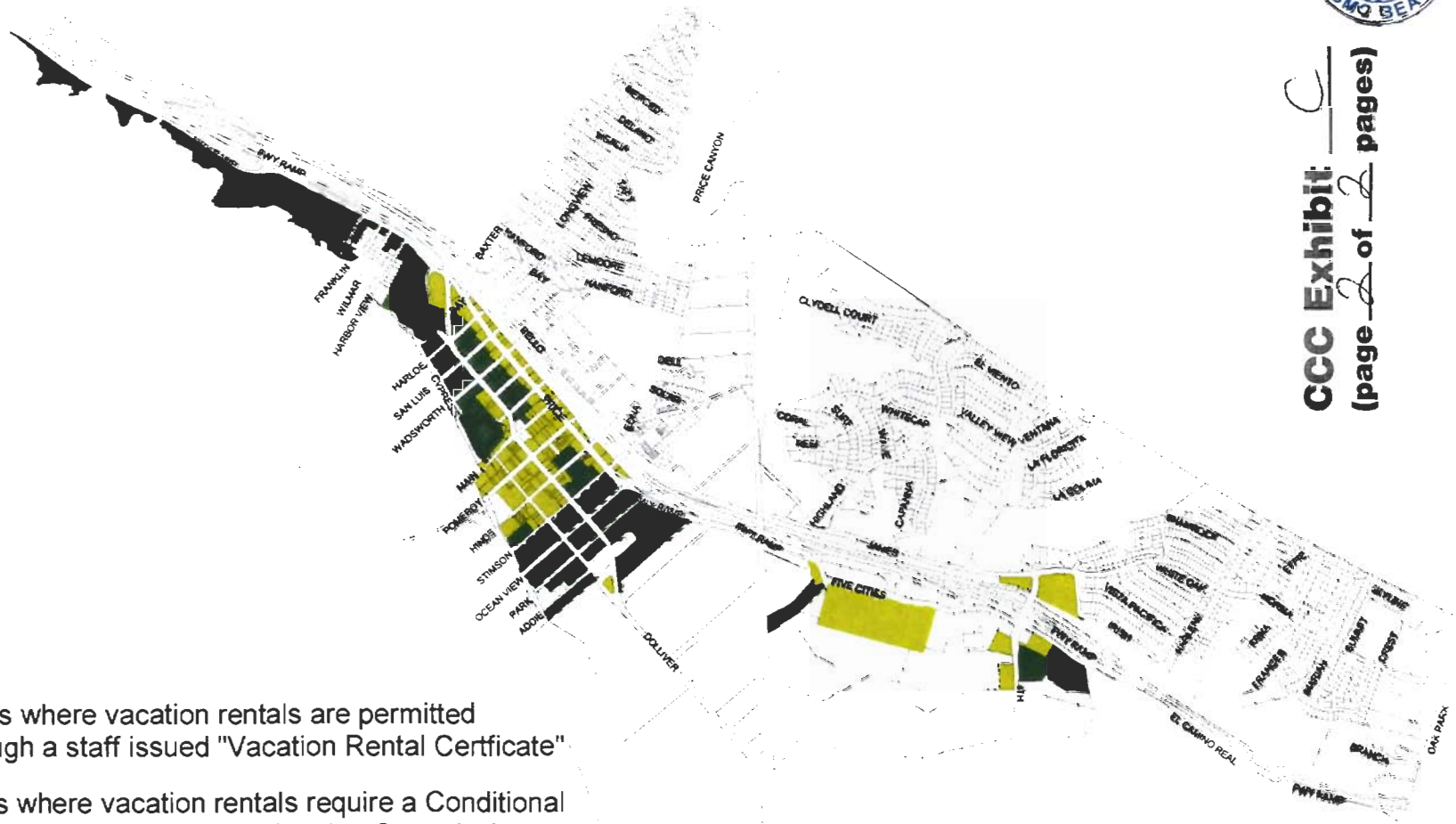
Scale

1 0 1 Miles

N

CCC Exhibit 6
(page 1 of 2 pages)

Vacation Rental Map
After LCP Amendment



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Scale

1 0 1 Miles

N

CITY OF PISMO BEACH

CCC Exhibit: C
(page 2 of 2 pages)