

ANTHONY WALL
760 Arcady Road
Montecito, CA 93018

2017 SEP 28 PM 3:35

COUNTY OF SANTA BARBARA
CLERK OF SUPERVISORS

September 28, 2017

Santa Barbara County Board of Supervisors
105 E. Anapamu Street
Santa Barbara, CA 93101

Re: Short-Term Rental Ordinance

Dear Chair Hartmann and Members of the Board of Supervisors,

I understand that the Board of Supervisors (BoS) is considering whether to allow short-term rentals of residential property where the owner of the property is present (although I regard it as a misnomer, I will use the term "homestay"). I and my wife, Nancy, are long-term residents of Montecito. We have owned our house at 760 Arcady Road since 1998. We join with the Montecito Association in its opposition to short-term rentals of any kind, including so-called "homestays," as set forth in their letter of September 27 to the BoS. That letter noted how a homestay is a commercial operation (similar to a bed & breakfast), and as such, is an impermissible use in a residential zone. I am writing not only to concur in that, but to also give our personal experience with a nearby "homestay" residence at 2380 Sycamore Canyon. Our experience with that property confirms that even if operated as a homestay, such properties operate as a commercial enterprise inconsistent with the surrounding residential area.

Our family loves everything about our house at 760 Arcady Road, with the exception that during the last seven years the house at 2380 Sycamore Canyon adjacent to our property has been converted to a short-term "homestay" rental property by the owner (Laurie "Elle" Bolt). The house is now an active commercial business, and the impact on us and other neighboring properties is not immaterial. In retrospect, if I had known at the time I was buying our house that this was going to happen, I would have seriously reconsidered its purchase. The operations at 2380 Sycamore Canyon detract from the peaceful enjoyment of our property and serve to depress its value.

While Ms. Bolt says she lives on the property (so it would be a "homestay"), her advertisements for it (on airbnb, homeaway, etc.) note that she lives in a guesthouse-like attached residence. Ms. Bolt rents out the main house, which she advertises as accommodating 10 people. Although she lives there, she does not treat it like her "home" (which is why "homestay" is a misnomer). Her ads make clear that it is a commercial property primarily for the renter ("I do not share the pool or the main backyard" "you won't see me"). <https://www.airbnb.com/rooms/616212>.

The way Ms. Bolt promotes the property is a virtual invitation to her guests to invade the privacy of the local Montecito residents:

"Many wealthy and famous love Montecito have their homes here! Oprah's estate is right around the corner!" <https://www.airbnb.com/rooms/616212>.

On VRBO:

“The unique benefits of the Sycamore Canyon Estate are that it is located in the heart of Montecito on a large beautiful Estate amidst the movie stars and the rich! Oprah lives right around the corner.”

This owner is capitalizing on the private, residential nature of the area, effectively saying to her guests: “Just think if it, instead of being in a hotel with other tourists, you are going to be right next store to someone who is rich and famous! You can stare right into their back yard!” This owner is seeking to attract Kardashian-watching types obsessed with celebrities. She holds her house out as an opportunity to be in the private neighborhood of the rich and famous, so guests can ogle at a the local residents in the privacy of their homes. I earlier had a pointed discussion with Ms. Bolt about this, telling her that I objected to her curious renters walking up to my fence line and staring into our the side area of our property where our bedrooms and bathrooms are, where my wife and daughters take showers. Ms. Bolt pointedly told me “I can do anything I want on my property.” Her nosy guests were no doubt disappointed that the members of the Wall family that they spy on are neither rich nor famous.

If you read the comments on Ms. Bolt’s listing for the property on airbnb, she admits the problem her property causes:

“Unfortunately, I now have a pool curfew. The is due to problems in the past with guests out in the pool **at all hours of night and early morning** making a lot of noise. I have had numerous complaints about this from neighbors.” [emphasis added]

So by her own admission, her “homestay” property is an unpopular nuisance to the neighborhood (and the alleged “curfew” did not solve the problem).

The problem will not be solved by the BofS allowing homestays “with restrictions.” We all know “rules are meant to be broken,” and they will be most frequently broken when the operator has an economic incentive to do so, as a homestay operator does. There cannot be effective monitoring and enforcement. As an example, after frequent complaints by neighbors, Ms. Bolt began putting in her advertisements “no parties,” no doubt hoping that would keep the neighbors at bay. However, what does she do in fact? She rents her “up to 10 guests” property to bachelorette groups, as shown by the guest comments on airbnb:

“Thanks so much for hosting my sisters and I for a lovely bach weekend!” Shauna, June 2017

“It was perfect for our large group of women for a friends bachelorette party” Christine, September 2016

“My friends & I stayed at Elle's Sycamore Canyon home for the weekend to celebrate my sister's bachelorette weekend.”

There was a recent such group at the property this last summer. I was over by that side of my property gardening. This large group of women were around the pool, talking loudly, all obviously drunk in the middle of the day, with virtually every other word an “F-bomb.” Nice for my youngest daughter to hear.

This owner also rents to other large groups:

“ . . .there was plenty of space for all 10 of us ladies!” Shirley October 2014

“The house was perfect for our 4 couples.” Judy September 2016

Ms. Bolt has also listed the property for sale at various times. Does she list it as a residence? No, she has listed it as it truly is, an operating business property:

“INVESTORS!! THE MONTECITO SYCAMORE CANYON ESTATE HAS BEEN A SUCCESSFUL, IN DEMAND VACATION RENTAL FOR 6 YEARS!! IT IS ALREADY ALL SET UP!”

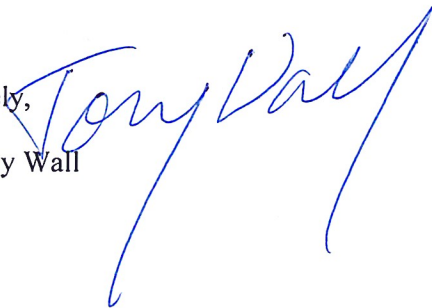
Allowing a “homestay” exception to the ban on short-term rentals, will allow all the problems created by short-term rentals. As an example, if I have some friends over for drinks at my house on Arcady, that is fine. But if I advertise that every weekend I am opening up my house as a bar with music, open to the public and charging money for drinks, I would be shut down as an illegal commercial business in a residential neighborhood. So why does it make any difference if I say I am operating it as a “home bar,” noting that I, the owner, will be on the property serving up those drinks?

There is a particular problem with allowing short-term rentals (whether homestays or not) in Montecito. Santa Barbara in general is close to L.A. That proximity lends itself to “weekend party houses” for L.A. people. In addition, properties in Montecito are on average relatively large, so they can accommodate groups and parties, and that is why a lot of people looking for a weekend party house rent them. This last year, my eldest daughter was living in an apartment in downtown urban Manhattan (Greenwich Village). She was at our house during the summer, she heard the ruckus from the partying vacationers next to us and remarked “Wow, what a bummer, it’s less noisy at my place in downtown New York City.”

Please do not allow this to continue.

Sincerely,

Anthony Wall



Lenzi, Chelsea

From: Jeff <jeff@jeffnelsonlaw.com>
Sent: Thursday, September 28, 2017 3:44 PM
To: sbcob
Subject: Comment on STR Hearing Oct 3, 2017
Attachments: Nelson Vacation Rental letter w Picture-Oct 3 hearing.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Please distribute this to the Supervisors and add this to the Public comments and the Administrative Record.
Thank you.

Jeff Nelson
The Nelson Law Firm
21 E. Carrillo Street, Suite 200
Santa Barbara Ca.
jeff@jeffnelsonlaw.com

undevelopable. This resulted in the “Takings” decision against the County by the Superior Court.

There is no lawful or rational basis for allowing Miramar Area Coastal vacation rentals and not allowing this Isla Vista vacation rental. Both provide the same coastal access and fit into their exact contexts. The “Miramar Historic Area” is a concept that only originated at the last Supervisor’s hearing.

This Isla Vista property was developed after a 15 year regulatory battle whereby the County endeavored to prevent this and an adjacent home from being developed. Upon having finally built this home, we did not trust students to occupy it pursuant to a standard student rental, as the property would clearly be subject to greater deterioration and damage than if we actively controlled management of the house. This active management of the property is vastly more in keeping with achieving a quality neighborhood than handing over a property to students as a student rental.

At a prior hearing, there was discussion about Home Owners’ Associations governing vacation rentals. Associations can, at the smallest democratic level, address this issue amongst themselves. That issue impacts some proposed vacation rentals but not this IV property.

Impact on the Housing Stock

A Supervisor said at the prior hearing that he wanted to protect homes for the housing stock for working people to live in. Each property has its own facts as to this issue. As to this property, when the County spent a decade trying to thwart the development of this home in Isla Vista, the County never once considered or stated if it was built, it would expand the housing or rental pool. You cannot now use the finding that a vacation rental for this one home reduces the potential housing or rental pool.

The County had Legal Liability for Unjustified Regulation of this property previously

In the County’s long effort to thwart the development of this house, The County was found by the Superior County of Santa Barbara to have unlawfully denied development and unlawfully regulated this specific property which finding led to economic liability by the County. (Santa Barbara Superior Court CASE NUMBER: 229404).¹

Contrary to the recited assumption by Supervisors that the Planning Commission had vetted all of this first, the Planning Commission never addressed this one IV property identified above. We were not given notice like the County gave to other TOT payers; The County should have notified us of the applicable PC hearing, as the TOT certificate had been filed for well before the hearing

¹As to a separate legal issue, CIVIL CODE SECTION 1954.50-1954.535 ‘the Costa-Hawkins Rental Housing Act protects rental of recently developed properties and may protect this property against County regulation of the length of rentals.

date. The County never doubled back on its notice list so that new TOT certificate applications were noticed as well. This was a Due Process violation.

It is uncontested in our view that the facts in our specific property and context defeat every single finding you would make in support of regulating this property, and ending its current lawful status as a vacation rental.²

Vacation Rentals are More Family Friendly than Student Rentals

Our experience is that, unlike hotel or motel rooms, vacation rental properties are specifically targeted by groups larger than a couple, where its design allows for interaction of the participants and its location presents something unique or special as an experience. Vacation rentals appeal to a different group use than a hotel. It is usually family or other friends or business groups who want the shared common space of a vacation rental that is more attractive than gathering and sharing time in a hotel lobby.

The zoning regulations for R-1, Single Family Residential Zones “are applied to areas appropriately located for one-family living at a reasonable range of population densities, consistent with sound standards of public health, safety, and welfare. This zone is intended to protect the residential characteristics of an area and to promote a suitable environment for family life.” *Santa Barbara County Land Use and Development Code Section 35.23.020 C* (emphasis added)

In Isla Vista, uniquely, the Nelson short term rental tenants have met this definition of targeted *family life* behavior more than do the surrounding student rentals.

Every community plan area is different in the context of how a vacation rental would relate to surrounding other uses. In our unique context, we are an advantageous and desirable addition to the neighborhood. We have even had permanent resident neighbors rent our house for others that they were bringing to a gathering.

This Property provides Affordable Access to the Coast.

This property appears to have the single best access to the beach between the Biltmore and the Bacara of any vacation rentals you are considering regulating.

It is clear that the cost savings by STR occupants being able to control their own food and drink costs is a material benefit to making those venues more cost effective than motel or hotel rooms. Additionally, most families renting the vacation rental property would have to rent two or three hotel rooms, at much greater cost, in order to accommodate their entire group. Our property is one of the few on the south coast where you can access the beach without crossing a road or railroad track. It does provide cost effective access to the coast, which is the #1 goal of the Coastal Act.

² We incorporate by reference into the administrative record all prior submittals made to the County on behalf of this property.

There's no question that denying vacation rentals in the Coastal area constrains peoples access to the coast. This is a primary coastal act policy. In a recent program on Coast Issues³ Susan Jordan of the Coastal Protection Network gave a presentation on affordable access to the Coast under the Coastal Act. As to the role of Airbnb in this issue, her comments included "When you can cook, that lowers the cost of a vacation. Airbnb has grown because they are addressing a much needed piece that we are losing."

The coastal use is real as the property has an active tar removal station for visitors walking bare foot on the adjacent beach. Many people own nice properties, including coastal properties, and do not share them with others. You should continue to allow this desirable use in contexts such as ours. To impose regulations on the Isla Vista vacation rental property while grandfathering in existing uses in Montecito coast is unwarranted and unsupportable.

The County should allow this valuable coastal access vacation rental to remain so as a recognized historic exemption.

Very Truly Yours,

A handwritten signature in black ink that reads "Jeffrey C. Nelson". The signature is written in a cursive, flowing style.

Jeffrey C. Nelson

Enclosed: Pictures of 6851 Del Playa

³ California Coastal Law CLE September 22, 23 2016 Los Angeles.

6851 Del Playa Part Time Vacation Rental



Pictures of the Ocean View from the Deck and ocean facing elevation of 6851 Del Playa



Lenzi, Chelsea

From: Karla Bonoff <seegrape@icloud.com>
Sent: Thursday, September 28, 2017 5:04 PM
To: sbcob
Cc: Williams, Das; Elliott, Darcel
Subject: Short term Homestays in Montecito

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Board Of Supervisors.

I am writing to express my concern about allowing Homestays in Montecito.

I own a one acre property above East Valley Road.. My driveway is an easement through the property in front of me On this property they are renting out 4 cottages as well as a room in their house.The are listed on Facebook as a "hotel" When this house was built they did not comply with their original permit and remove the non-permitted structures. The Building department has been unable to get them to comply and there are violations on the parcel.

They have been renting these non-permitted structures for over ten years. It is essentially a hotel. Constant noise and different people all the time who are unaware they are in non-permitted housing.

At most times there are at least four to five extra cars besides the owners cars going in and out of the shared driveway. This is a narrow driveway and I'm sure this must be a fire hazard, not to mention the fact of the danger of having to back out on to East Valley Road if another car is exiting when you are coming in.This driveway is 14 ft wide.

I did not move to Montecito to be living in a commercial zone. My house is my biggest investment and this is depreciating the value of my home, not to mention ruining the original peaceful, quiet Montecito feel that I invested in. I think if Homestays are going to be allowed there should be a limit to renting one unit with one additional car.

Thank you for your attention to this very critical matter that will affect the future of our community and our property values.

Karla Bonoff

Lenzi, Chelsea

From: Bob Field <bfield1745@icloud.com>
Sent: Thursday, September 28, 2017 6:27 PM
To: sbcob
Subject: Fwd: Comments for 10/3 BOS hearing on STR

Follow Up Flag: Follow up
Flag Status: Flagged

Hello -- this is my second attempt to submit comments for the 10/3 BOS hearing on STR's, I believe I sent the first attempt to the wrong address. Would you please see that this gets included. Also, due to the doubt I created, if possible would you please confirm by email that they have made it into the record?

Thanks, Bob Field

Sent from my iPhone

Begin forwarded message:

From: Bob Field <bfield1745@icloud.com>
Date: September 26, 2017 at 5:19:06 PM PDT
To: "Michael (COB) Allen" <allen@co.santa-barbara.ca.us>
Subject: Comments for 10/3 BOS hearing on STR

Honorable Supervisors:

"In the real world it means nothing to pass a law. In the real world it means everything to enforce a law." (Legal scholar Noah Feldman)

Rarely will you have a proposed ordinance before you about which the above statement is more true:

1) even though everyone conducting STR's knows they owe TOT to the County, 1/2 to 2/3rd's of the operators continue to actively evade this responsibility

2) through a letter to you from Theo Kracke you have been told of the intention to take this commercial activity underground

For any bans or conditional allowances, enhanced enforcement tools -- certainly including subpoena powers such as those wisely adopted by the city of Santa Barbara -- are mandatory. Because of the astonishing rate of growth of this inappropriate commercial activity, these tools should be adopted at the earliest possible time.

Meanwhile, the following should be incorporated into the ordinance you adopt at this time:

1) if homestays are to be allowed, they must be limited to two guests per bedroom, no more than one bedroom rented, and no more than four visitors to the property at one time.

2) homestays must only be conducted while the owner of the property is on the premises -- allowing long term tenants to conduct this activity is a loophole you could take a train through sideways

3) any "grace period" allowed for current STR operations must only be allowed to operators who are currently registered with the County and paying TOT -- it would be outrageous for you to reward the illegal behavior of the outlaws by looking the other way any longer.

Thank you for finally addressing this problem which has been eroding the quality of our neighborhoods, and thank you for considering these comments.

Bob Field, Santa Ynez

Sent from my iPhone

Lenzi, Chelsea

From: Angela Slater <amsgrandmeadows@gmail.com>
Sent: Thursday, September 28, 2017 9:47 PM
To: sbcob
Subject: Regulating Short Term Rentals
Attachments: 9.28.17.Dear Santa Barbara Board of Supervisors.docx

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Board of Supervisors,

Thank you for your attention to this important issue.

Sincerely,

Angela Slater
1651 Ballard Canyon Road
Solvang, CA 93463

Dear Santa Barbara Board of Supervisors,

Commercial and Mixed-Use Zone

I support, as per my previous letters and speaking at the many meetings, for “regulated” effective, balance and workable and economic regulations and close attention to permitting STRs in certain Commercial zone and Mixed-Use zone districts where transient lodging is currently permitted.

Coastal Historic Overlay

I would like to also encourage the SB BOS to review the future promise and economical impact by allowing and implementing STRs , with regulation, in historic, coastal areas.

Homestays

- Allow and implement responsible owner regulations for farm-stays in residential and AG-1 zone districts – limit them to certain number of days/month, onsite or off site property manager, sound regulators inside of property.
- Develop a “farm-stay” program within the Agricultural Tiered Permit process that would encourage and allow STR “farm-stays” that would

provide a popular alternative to hotel stays and compliment the variety of tourist choices for visitors and improving/increasing revenue for both local and county through more choice and desire for attracting visitors.

I implore the County staff to seriously consider the above and the long-term effects for the evolving economic resource it provides the SB county and property owners.

The importance and effects for the SB County staff/planners to consider and implement enforceable, reasonable codes for Farm-stays on Agricultural Tiered properties and implementing permits for these type of uses on such properties cannot be ignored for the economic progress for SB County, local businesses, property owners, who are dependent in many cases, due to the ever increasing costs of maintaining/improving/ and maintaining ownership of Ag-1, agricultural properties that require large revenues.

Tourism in Santa Ynez will continue to grow. The reasons for banning/eliminating STR on agricultural properties such as noise, nuisances, increased traffic can be easily enforced with a responsible permit and practical regulations

Agricultural properties are economically challenging to maintain and thrive. I ask the Santa Barbara Board of Supervisors to responsibly regulate STR that will help agricultural property owners generate *alternative* income....and help agricultural properties stay viable in Santa Ynez for the future.

Thank you, Angela Slater – 20 years Solvang resident

Lenzi, Chelsea

From: Metzger, Jessica
Sent: Friday, September 29, 2017 9:49 AM
To: sbcob
Subject: STR comment
Attachments: doc06605620170929094732.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Good Morning!

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

From: PADsbLRPcopier@countyofsb.org [mailto:PADsbLRPcopier@countyofsb.org]
Sent: Friday, September 29, 2017 9:48 AM
To: Metzger, Jessica <jmetzger@co.santa-barbara.ca.us>
Subject:

Document was scanned-to-email from Planning and Development TASK alfa 5550ci copier (PADsbLRPCopier)

Lenzi, Chelsea

From: Susan M. Basham <sbasham@ppplaw.com>
Sent: Friday, September 29, 2017 10:32 AM
To: sbcob
Subject: October 3, 2017 Board of Supervisors -- STRs
Attachments: Basham letter to Hartmann and BOS 170928.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Mike,

Please see that the attached letter is distributed to the Board of Supervisors in advance of the October 3, 2017 hearing and entered into the public record.

We would be glad to provide hard copies by hand delivery if that would be helpful – just let me know.

Thanks,

Susan Basham



Susan M. Basham
Price, Postel & Parma LLP
200 East Carrillo Street, Suite 400
Santa Barbara, CA 93101
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J. Terry Schwartz
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Fax (805) 965-3978

September 28, 2017

VIA ELECTRONIC DELIVERY TO CLERK OF THE BOARD

Ms. Joan Hartmann, Chair
and Board of Supervisors
County of Santa Barbara
105 East Anapamu Street
Santa Barbara, CA 93101

Re: October 3, 2017 Agenda
Case Nos. 16ORD-00000-00012 and 17ORD-00000-00008
(Article II Amendments)
Objections and Recommendations Concerning Proposed
“Short-Term Rentals -- Coastal Historic Overlay District”

Dear Chair Hartmann and Supervisors:

On October 3, 2017 you are scheduled to consider the several short-term rental ordinances that Planning and Development staff, in consultation with Long Range Planning staff, has prepared in response to your request and direction at the June 6, 2017 hearing. Among the proposed ordinances are those amending the Coastal Zoning Ordinance to create a new “Short Term Rentals – Coastal Historic Overlay District” and to adopt related land use regulations.

Although we appreciate staff’s effort to distinguish among coastal areas on the basis of their history of short-term rentals (“STRs”), the draft ordinances and overlay map, and the rationale provided by staff in the Board Letter for October 3, 2017 (“Board Letter”), reveal a contrived and unworkable notion of ‘history’ that has resulted in a coastal overlay excluding the entire developed coastline except Miramar Beach, and in ordinances that impose extensive

Ms. Joan Hartmann, Chair
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requirements for obtaining an expiring Coastal Development Permit, regardless of whether a particular property was ever historically used for short-term rentals. In short, staff made a judgment about what is “historical” as a rationale for severely limiting eligibility to even apply for a permit to operate a vacation home rental going forward, under an ordinance that does not distinguish or acknowledge any individual property’s existing or historical use in any way.

We take issue with the proposed use of the CDP/LUP process for issuing expiring permits, which would be far more appropriately handled under a licensure process specific to an owner, but we will not spend time here challenging the regulations. Our focus, and yours, must be on the flawed and discriminatory premise that the only properties eligible even to apply for such permits are those at Miramar Beach because the County Treasurer-Tax Collector did not issue TOT certificates anywhere else along the coast in 2005.

Throughout your process of considering the proposed short-term rental ordinances, we have represented Dr. Steven Mosby who, as the trustee of the Mosby Family Trust, owns an oceanfront home in Summerland. By letter dated November 17, 2016, and in our oral presentation at the December 6, 2016 hearing, we lodged Dr. Mosby’s opposition to the initial ordinances forwarded by the County Planning Commission, particularly as they would affect properties in the Coastal Zoning Ordinance area, and we called attention to the differences between “home stays” popularized by “Airbnb” and similar peer-to-peer services, and the long-standing, stable and well-managed rentals of coastal vacation homes that happen to be for fewer than 31 days per stay. In our letter, we suggested an “overlay” for coastal residential areas where short-term vacation rentals have existed and reasonably should continue. We suggested that this approach would acknowledge the history and unique beach vacation environment of properties like that of the Mosby Trust without disturbing residential restrictions elsewhere.

Given our recommended approach, Dr. Mosby and we were particularly pleased when your Board, at the June 6, 2017 hearing, directed staff to prepare an ordinance that would be based on a coastal overlay along the south coast where short term rentals would be permissible under new short-term rental regulations. Staff’s work product, however, has segregated one part of the coastline – Miramar Beach – for exceptional treatment without the slightest acknowledgment of the common features all of coastal properties – among them the fact that many of these properties are vacation homes for owners who live elsewhere most of the year, and who could not afford to own them without the option of short-term rentals. Dr. Mosby and we have become aware, through your hearing process, of numerous other similarly-situated property owners outside the Miramar Beach area who now find themselves excluded from the opportunity to continue the rental of their homes to beach vacationers. We suggest that there is no rational basis for depriving them of rights and opportunities that the County is willing to extend to Miramar Beach owners.

The map of the proposed overlay area excludes the entire coastline south of Miramar Beach – all of Fernald Point, Summerland, Loon Point, Padaro Lane, Sandyland, Sandyland Cove

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and, south of Carpinteria, Rincon Point. All of these areas have in common with Miramar Beach the fact that they have coastal residential properties that provide access to the coast for visitors to our County. Vacation rentals are both common and an important part of life in these areas.

Nevertheless, for its notion of historical use, staff decided to rely upon a chart (Attachment 11 to the Board Letter) which depicts “the distribution of properties for which the Treasurer-Tax Collector issued TOT certificates for the use of property as a Short-term Rental, by Inland and Coastal Areas, and by year beginning in 2005.” Adding the launching of Airbnb in 2008, staff apparently wants to show that TOT certificates increased overall in 2009 and thereafter, but they increased in both coastal and inland areas, and the inland certificates have outpaced coastal certificates each year -- more than double since 2014. More to the point, the chart provides no information that would support staff’s arbitrarily picking 2005 as the year when all acknowledged coastal history began.

While we do not disagree that the history of TOT certificates could be useful information, the willingness (or lack thereof) of property owners to register to be taxed is not a proxy for the history of development and short-term rental use along the coastline. Perhaps more telling is staff’s analysis provided in support of its presentation at an earlier hearing. Looking at all TOTs in existence as of FY 2015-2016, staff found that 161 TOT certificates had been issued for properties subject to the Coastal Zoning Ordinance. Viewed by coastal community plan areas, staff found that Summerland had 36 certificates or 7% of the total, Toro Canyon had 30, or 6% of the total, and the coastal area of Montecito had 64, representing 12% of the total. In other words, the area that includes Summerland, Loon Point, Padaro Lane, Sandyland and Sandyland Cove represents 13% of the total certificates if viewed by community plan areas, and the entire coastal area of the Montecito Community Plan area, which includes Butterfly Beach and Fernald Point as well as Miramar Beach, accounts for only 12% of the total. We commend this analysis to you, in addition, as evidence of the revenue loss embedded in staff’s recommendation.

If the issuance of TOT certificates is viewed as a proxy for ongoing vacation rental activity along the coast, it shows unquestionably that such activity exists in all of the beach communities. It simply cannot be true that such pervasive vacation rental activity commenced only in 2005 and only in the Miramar Beach area. All of our beach communities developed over time, beginning with modest beach cottages “south of the tracks” in the early part of the 20th century and, later, with substantial year-round homes. Oceanfront property has become some of the county’s most valuable real estate. Even if staff or property owners could determine the details of past rental activity, there is no magic threshold number of properties or percentage of properties that have been rented, or the amount of time they have been rented, or when the rentals occurred. Surely neither your Board nor staff wants to get “into the weeds” to that extent. Inevitably, even in Miramar Beach, some properties have rental history and some do not, but staff apparently is willing to offer all of them eligibility for STRs by viewing the area as a composite. It should be enough to say that historically all of the beach communities have had vacation rental activity, and

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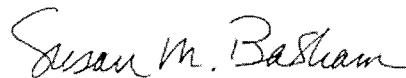
therefore, in fairness, all should be within the overlay area if the overlay is defined on an “historical use” premise.

We suggest, however, that the County would be in a far stronger legal position if the overlay were defined solely and inclusively by its coastal location, without trying to find a basis for distinguishing one coastal area from another. The Coastal Commission, in its letter to your Board dated November 30, 2016, advised that “short-term rentals increase the options available to coastal visitors, oftentimes in residential areas along the immediate shoreline where there are no other significant commercial overnight opportunities.” While the Commission has “historically supported” vacation rental regulations that minimize impacts on residential areas, the Commission has not supported “amendments that prohibit or unduly restrict the rental of residences to visitors in a manner that will diminish the public’s ability to access and recreate on the coast.” Staff’s recommendation that you prohibit all vacation rentals in all coastal residential areas except Miramar Beach flies in the face of the Coastal Commission’s admonition. The County will be vulnerable to challenge if it discriminates among similarly-situated coastal property owners, depriving some of them the right to rent on a short-term basis merely because they happen to be located outside Miramar Beach.

In summary, the proposed coastal overlay and related ordinances do not reflect a genuine effort to address the unique history and circumstances of Santa Barbara County’s coastal communities and vacation properties. Instead staff’s effort reveals an unfortunate and untenable overarching goal – to impose a blanket restriction on STRs in coastal areas, just like in other residential areas of the County, and then to allow as few exceptions as they can rationalize. We ask you to reject the flawed Miramar Beach “historical” overlay and instead define the coastal overlay solely by location so as to make all coastal residential properties eligible, limiting the ordinances to provisions that will encourage application and compliance so that regulatory goals can be achieved going forward.

We will attend your hearing and look forward to your deliberations.

Very truly yours,



Susan M. Basham
for PRICE, POSTEL & PARMA LLP

cc: Client
California Coastal Commission