Carmel Valley Association

preserving the beauty, resources, and rural character of the Valley since 1949

Date: May 23, 2019

To: Planning Commissioners
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From: Priscilla Walton, President, Carmel Valley Association

Re: Draft Vacation Rental Ordinances establishing regulations for vacation rental (previously referred to as short-term rental) uses in the unincorporated areas of the County of Monterey (REF130043 and REF100042).

Recommendation: The Carmel Valley Association (CVA) recommends denial of the proposed draft Vacation Rental Ordinance(s). The proposed Ordinances run counter to established research on short-term rentals and ordinances related to short-term rentals (see attached bibliography), and CVA's comments throughout the process. We maintain our repeated request for restrictions requiring that all types of vacation rentals be owner-occupied, as detailed in the text below. These units (by room) must also count against

the visitor-serving accommodation cap in the Carmel Valley Master Plan (CVMP). Additionally, a moratorium on approvals for any new such uses must be imposed until such time that a verifiable visitor-serving accommodation list is provided. CVA requests that the county prepare an Initial Study for the Ordinances to identify potential environmental impacts. Finally, no commercial vacation rentals should be allowed in residential areas of Carmel Valley.

We also ask that Title 20 and Title 21 be presented separately. This would create an opportunity to look at and review the ordinances distinctly from one another, since the inland issues differ from coastal plans and concerns. We recommend that the Inland Ordinance be reviewed prior to the Coastal Ordinance.

The CVA's long-standing mission is to preserve, protect, and defend the natural beauty, resources, and rural character of Carmel Valley. CVA has prepared the following comment letter in response to the draft Ordinances for Vacation Rentals released on April 22, 2019. CVA has actively participated in the past several years to help shape the inland ordinance as it pertains to Carmel Valley. We have repeatedly asserted that the Vacation Rental ordinance must be consistent with the CVMP. We also have requested copies of past meeting minutes from the Public Hearings but have yet to receive them. The proposed ordinance does not incorporate any concepts provided in our public testimony.

Upon review, the draft Ordinances do not address several key issues that CVA has previously identified. This letter provides a summary of the primary concerns with the draft Ordinance:

- CEQA-related issues that must be addressed
- The incorrect assumption that Homestays and Limited STRs would function in practice like single-family residences

- The requirement that all types of vacation rentals be counted as visitor-serving units in the caps as stated in the CVMP
- The fact that there has not been a prioritization of hotel rooms and bed-and-breakfasts in the awarding of visitor-serving units
- Problems with definitions and requirements as they pertain to the Homestay and Limited STR options for vacation rentals
- Issues with the purpose of the Ordinance
- Enforcement problems
- Inconsistencies with Applicable Policies

Each of these points is described in detail in the following sections. Questions that need to be answered are listed in each section.

CEQA Issues

There are issues with the County's analysis (See separate letter from William Parkin, Attorney at Law). The County claims the project is exempt under (1) Section 15301 (existing facilities) and (2) the commonsense exemption, and because it is not a project pursuant to Section 15378.

1. Existing facilities: The plain language of existing facilities exception states this exception is only permitted if it involves "negligible or no expansion of existing or former use." The types of activities covered by this exception include "operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features." Here, the ordinance would alter the use of the "existing facilities" from residential to commercial, which is not just an expansion of an existing use (i.e., greater intensity of use, more noise), but a change to a new use, which is not covered by this exception. *Myers v. Board of Supervisors* (1976) 58 Cal.App.3d 413, 423, which dealt with a Class 4 exemption (minor alteration to use of land), held that a change in the

use of land from grazing to housing did not fall under that exemption. Class 4 has a similar limitation prohibiting the application of this exemption when it involves a permanent change to land use. (Ibid.: ("Exempting a land division, whether denominated major or minor, which involves an alteration in the permanent use of land is not "consistent with both the letter and the intent expressed in the classes.")

2. Common sense: The commonsense exemption only applies "[w]here it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment." (14 Cal. Code Regs. § 15061 (b)(3) (emphasis added).) The commonsense exemption can be used "only in those situations where its absolute and precise language clearly applies." (*Myers v. Board of Supervisors* (1976) 58 CalApp.3d 413,425). "If legitimate questions can be raised about whether the project might have a significant impact and there is any dispute about the possibility of such an impact, the agency cannot find with certainty that a project is exempt." (*Davidon Homes v. City of San Jose* (1997) 54 CalApp.4th 106, 117).

3. Not a project: We disagree with the County's assertion that this is not a project. "CEQA applies to discretionary projects (§ 21080, subd. (a). A project is an activity undertaken by a public agency which may cause a physical change in the environment (§ 21065, Cal. Code Regs., tit. 14, § 15378)" (Mountain Lion Foundation v. Fish & Game Com. (1997) 16 Cal.4th 105, 112). "A determining factor as to whether a project is discretionary, and subject to CEQA, is whether the approving agency or official has the ability to mitigate impacts arising from the project. (Friends of Westwood v. City of Los Angeles, supra, 191 CalApp.3d at 272-273." (Ibid.) Here, this is clearly a discretionary action. We do not believe that there is a reasonable argument that these ordinances have no potential to cause a change in the environment.

As acknowledged in the environmental analysis section of the draft Ordinance, there are other CEQA issues that could be triggered by allowing vacation rentals. Although the County asserts that most of these issues would only be raised for a "Commercial" STR, they would also be issues for both Homestays and Limited STRs, given the current content of the Ordinance and its lack of restrictions (particularly with regard to vacation rentals and owner occupancy). CVA questions the use of a categorical exemption and requests that an Initial Study be prepared.

Water: While the County asserts that the regulations have been structured to limit vacation rentals such that water consumption associated with the rental use would be consistent with water use associated with a typical residential dwelling, this is simply not true, because persons on vacation behave differently than residential users. Water generation rates for motels/hotels should be used as the measure against the baseline of a normal single-family dwelling. Vacation rentals would multiply the numbers of individuals using water, and in turn, increase overall water use. In an area such as ours with an already inadequate and unsustainable water supply, adding such an additional burden would not be in the interest of Monterey County residents.

Traffic: The County asserts that the proposed regulations limit vacation rentals to ensure they are similar in character, density, and intensity to residential uses. The Institute of Transportation Engineers (ITE) trip generation report estimate for the number of trips generated by "Single-Family Detached Housing" is approximately 10 single trips per day. The generation rates for a hotel should be used instead of the "Single Family Detached Housing" trip generation rate (approximately 9 trips per room) for a Commercial STR and/or a Motel (approximately 6 trips

per room) for a Homestay or Limited STR. Given the requirements in the CVMP for the County to implement traffic standards to provide adequate streets and highways in Carmel Valley, the most recent traffic volumes conducted by the County for key intersections must be analyzed in conjunction with the additional traffic that would be generated by the increase in use that would be generated by vacation rentals. The generation rate for a hotel/motel should be used for analysis, not the residential rate, as short-term rentals are entirely different from units subject to a rural residential trip generation rate. The locations of any proposed vacation rentals should be taken into account where there are levels of service issues along Carmel Valley Road and other locations.

CVA has commented in the past that the CVMP was carefully calibrated to not overburden infrastructure, such as roads, by limiting the number of homes and visitor-serving businesses allowed by the Land Use Plan. The explosion of STRs/Home Stays in excess of those limits has created traffic and other serious problems that harm residents and the licensed visitor-serving businesses. Additionally, it is important that all types of vacation rentals be subject to the rules and restrictions of private roads. There are certain areas where they should not be allowed at all.

Homestays, Limited STRs, and VSUs

The three types of vacation rentals defined in the Ordinance include Homestays, Limited STRs, and Commercial STRs. The issues of concern with each of these types as they apply to visitor-serving unit counts and other issues in Carmel Valley are highlighted below.

CVA's questions regarding vacation rentals that must be addressed:

1. How did the County decide that a "Homestay," which is a room that is rented to a visitor, and for which TOT would be collected, is not considered a "visitor-serving unit"?
2. Will the County put a limit on the number of Homestays allowed in Carmel Valley?
3. What is the current number of Short-Term Rentals operating with permits?
4. What is the current number of Short-Term Rentals paying TOT?
5. How did the County decide that a "commercial vacation rental" that is renting multiple rooms be considered a single visitor-serving unit?
6. Why did the County not simply ban all commercial vacation rentals from Carmel Valley?
7. Why is there no restriction limiting the number of homes that an individual can operate as an STR? This should be limited to one home per owner; otherwise, it is a commercial operation.

Homestays

The definition offered in the draft Ordinance for Homestays requires that the dwelling be concurrently occupied by the dwelling's principal resident while it is being rented as a vacation rental. The environmental analysis does not justify an exemption from the California Environmental Quality Act for this type of vacation rental:

> This use is considered residential because it is similar in character, density and intensity to a residential dwelling and would only be allowed in a legally permitted single family dwelling, duplex dwelling, or a multiple-family dwelling. The structure used as a homestay *would continue to function as a primary residence and would not likely result in the conversion or loss of long-term housing stock.* Therefore, homestays would not be subject to any applicable visitor serving caps in the respective area they would be located.

The above assertion as it relates to Homestays is incorrect, as there have been numerous studies on how vacation home rentals result in homes being taken out of the long-term rental market, causing significant changes to the character of neighborhoods. They do not function like primary residences.

Also, the definition in the Ordinance for "Principal Resident" requires only that the dwelling be occupied by the resident and be the place where the resident lives more than 50% of the year, defined as 183 days or more per calendar year. The CVA has repeatedly stated the need for the owner to be present during any Homestay or Limited STR rentals (not a hired property manager or renter), and that ownership can be verified by the County. According to the definition in the Ordinance, a Principal Resident can be anyone, such as a hired "property manager," who does not own the property and could be an employee of an LLC or absentee owner wishing to rent a home out. As described below, the owner, not the Principal Resident, must be present for a Homestay to actually function as a primary residence in a neighborhood.

There is an assertion in the analysis that there is an "economic benefit to residential property owners" in allowing all types of vacation rentals, but the cost of these is borne by the actual residents of a neighborhood, as the character and quality of life in areas where vacation rentals are allowed is diminished. An economic benefit to the property owner, particularly when the owner can simply hire a manager who will be required to be on-premises for 183 days per year, or to a renter of a room within the home who manages the remaining rooms as rentals does not negate the fact that the quality of residential neighborhoods is being changed by vacation rentals. The draft Ordinance analysis implies this by requiring that a property manager must be available 24 hours a day during all times that the property is rented as a vacation rental to respond within 30 minutes to complaints. Why would this be required if in fact that rental was truly a Homestay with the owner actually present? As an example, previous research indicates that while Airbnb's marketing strategy presents the company as a champion of home-sharing by focusing on private and shared room listings, the reality is that the company's marketplace is dominated by entire home/apartment listings. (See attachment

with Host Compliance data.) Without regulations, this raises the stakes for the conversion of entire residential homes into private hotels.

The allowance of a Principal Resident to manage a Homestay, not the actual owner, does not address the position that CVA has maintained throughout the process of public comment prior to the draft Ordinance. The firm position of the CVA that has been repeatedly stated throughout the public process is that the community in Carmel Valley categorically opposes all non-owner hosted STRs. Again, the request is to modify the Ordinance to address the following:

- The owner must be a natural person or living trust for a natural person who is a permanent year-round resident, and the home must be his or her primary residence.

- No absentee owners, property management companies, corporations, LLCs, or other forms of ownership would be permitted.

- The owner must be required to live in and be present on site during the STR/Homestay rental period, not for only half the year, as would be the case for a Principal Resident as defined in the draft Ordinance (only 183 days, and not the owner).

- The Homestay version of STR must at all times operate as if it were a residence, and not a hotel, party house, special event location, or other use inconsistent with the zoning in which it is located.

- STRs (including Homestays) must be counted as Visitor-Serving Units (VSUs). Each bedroom of a STR or Homestay is counted as one VSU (just like for hotels) and must not exceed the remaining limits on the number of new Visitor-Serving Units under the CVMP.

As it is currently written, the Ordinance only contains the "Principal Resident" requirement for Homestays, which is already egregious, given the

definition and allowances for who would constitute a Principal Resident. To reiterate, in order for the CVA to support Homestays in Carmel Valley, the owner must be present at all times, and registered Homestays must also count toward the visitor-serving unit cap as stated in the Carmel Valley Land Use Plan, with a strong enforcement system, close supervision, and accountability.

Since up to 10 persons could be present overnight with a Homestay under the current Ordinance (and up to 15 persons during the day) 365 days a year, the restrictions on oversight and the presence of an owner must be recrafted in order for the CVA to support the proposal. The process of obtaining a ministerial permit for a Homestay or limited STR is far easier than the process to obtain a use permit for a Commercial STR. We assert that as written, the Ordinance would not preclude the commercial use of residential properties for Homestays or Limited STRs (as described below). Additional and enforceable restrictions must be added to ensure that residential neighborhoods are protected from these uses.

Limited Short-Term Rentals

The definition offered in the draft Ordinance for a Limited Short-term rental states it would be a vacation rental that is rented four (4) or fewer times within a 12-month period. The Principal Resident is not required to occupy the dwelling, nor is the dwelling required to be the principal residence of the vacation rental operator. (Definition in the summary report: Vacation Rental Ordinances – Categorical Exemption Report Page 2 REF100042 (Inland) & REF130043 (Coastal), p. 2). The discussion goes on to state that:

> In terms of land use, limited short-term rentals are considered similar to homestays as they are similar in character, density and intensity to a residential dwelling. As such, they are allowed within the same inland and coastal zoning districts without the need for a discretionary permit; ministerial approval for a Vacation Rental Operation Permit and Vacation Rental Business License would be required and the use is subject to transient occupancy tax registration. In

> addition, all other regulations and operational requirements for homestays apply to limited short-term rentals. There are, however, key differences between a homestay and a limited short-term rental: the principal resident is not required to occupy the dwelling concurrent with the limited short-term rental use and vacation rental frequency is limited to four times or fewer within 12-month period.

The analysis states that both homestay and limited short-term rental uses are similar in character, density, and intensity to residential use, are not anticipated to remove long-term housing from the market, and therefore are allowed uses, where applicable, with a business permit. However, this assertion is simply untrue, particularly as it relates to the lack of a requirement for even a Principal Resident to be present. As stated above, even if a Principal Resident is present half the year, a residence will likely change into a commercial-type use if the owner is not required to be the operator. The lack of a requirement to have any type of restriction on the type of Operator of a limited STR would necessarily mean that it has high potential to be entirely removed from the available housing stock and would be essentially a commercialized use in a residential neighborhood.

Limiting STR rentals to four or fewer per year would be unenforceable and would de facto be a rezone of a residential property into a hotel-like or commercial use. If a property is rented four times a year, assuming 29 days or fewer, that equates to 116 potential vacation rental days. No long-term renter would be renting a home that is only available about 2/3 of the year.

The fact that any commercial owner can simply hire an Operator to rent a limited STR is another factor of great concern. This further increases the potential for a residential property in a neighborhood to feel like a hotel or other type of commercial lodging and will change the character of the neighborhood.

The position of CVA is that Limited STRs can only be operated by the actual owner, and although this may mean that the owner has to leave the premises

for short periods, it would still be a long-term residential use with actual long-term owners present. The identical owner requirements as stated above for Homestays must also apply to Limited STRs. If not, then they would also be considered a commercial use that would further eliminate the availability of housing in Carmel Valley. The notion that owners should be able to rent out their homes, as is often done during car week, the U.S. Open, and other such events, should be supported. However, the Ordinance as currently written leaves open the possibility for essentially the same types of issues that an outright Commercial STR would have.

Commercial STRs

The draft Ordinance defines a Commercial Short-Term Rental or Commercial STR as a Short-Term Rental that is rented as a vacation rental five times or more per 12-month period and where the Principal Resident is not required to occupy the dwelling, nor is the dwelling required to be the principal residence of the vacation rental operator. It goes on to state that:

> Regulation of vacation rentals is necessary because Commercial Short-Term Rentals, which may be rented at a greater frequency than Limited Short-Term Rentals and, unlike Homestays, do not have a Principal Resident residing concurrently when the unit is rented, have the potential for impacts different in character, density, and intensity than residential properties and could remove long-term housing from the market or pose hazards to public health, safety, and general welfare for known infrastructure limitations. Commercial Short-Term Rental uses therefore may be allowed, where applicable, only with a discretionary use permit, because Commercial STRs have similar land use impacts as other recreational/visitor- serving properties such as hotels, motels, and bed and breakfast facilities and deserve similar evaluation.

The Limited STR permit would also allow for rentals without a Principal Resident. The environmental analysis acknowledges that a threshold of 5+ guests would create impacts akin to those expected for a commercial hotel or other visitor-serving facility. However, we assert that the unlimited Homestay (10 persons overnight daily and up to 15 during the day for 365 days per year) is also creating the conditions that trigger the threshold of

potential neighborhood impacts. Additionally, the limitation of four or fewer for Limited STRs is essentially unenforceable.

The Commercial STRs that are available year-round, with numerous rooms and an absentee manager/operator *should be banned in residential neighborhoods, even with a discretionary permit process*. CVA requests that Carmel Valley be excluded from allowing ANY type of Commercial STRs, even with a discretionary permit. And as discussed above, additional restrictions must be written into the ordinance in order for Homestays and Limited STRs to be supported. The consistency analysis for the Ordinance asserts that "a Commercial STR shall be considered a visitor accommodation unit, and no matter the number of bedrooms, shall be counted as one (1) visitor accommodation unit." This is unacceptable. As requested in the discussion above for Homestays and Limited STRs, each <u>room</u> must count as a VSU, as it would for a hotel.

Short-Term Rentals in HOA's

Question: "How will the County enforce the restrictions imposed on HOA members by their HOAs as to minimum rental contracts effectively eliminating STRs in their associations?"

These limitations have been "legalized" in HOA CC&Rs, bylaws, and/or Rules & Regulations. The County must recognize and cooperate with the HOAs by not issuing any type of STR permits within the HOAs that regulate rentals over 30 days. Ranch House Place HOA at Carmel Valley Ranch and White Oaks HOA in Carmel Valley Village require a minimum of one-year leases/rentals. These HOAs effectively eliminate STRs. There has to be a process to register these restrictions with the County which will enforce the restrictions. The ordinance should acknowledge that HOA's (via their CC and Rs) have the potential to restrict STRs. HOAs should provide the County any such restrictions so as to alert planners considering permits. This issue

should be included in the application checklist. This question is relevant for all of Monterey County in addition to Carmel Valley.

Policy Inconsistencies

The environmental analysis for the Ordinance makes a peripheral reference to the CVMP, CV-1.15, which establishes a limitation of visitor accommodations within the master plan area. However, CVA has yet to receive a true count of the remaining available visitor accommodations based on existing buildout of the Valley. Based on informal calculations conducted by CVA members, it appears that only 50-60 visitor accommodations remain for the CVMP area. (The area west of Via Mallorca and north of Carmel River cannot exceed 175 units, and east of Via Mallorca, the cap is 110 units, including units at Carmel Valley Ranch).

The County has not provided an accounting of the baseline of existing buildout or entitled visitor-serving units versus what is allowed in the CVMP. This is a critical starting point for determining what may be permittable. The County should not allow permits for additional visitor- serving uses when the existing uses may have already approached or exceeded the cap as stated in an existing Master Plan. This Ordinance is a de facto rezone of residential properties into commercial visitor-serving uses, and this inconsistency with an applicable Master Plan limitation must be addressed in a quantitative manner that is measurable. Until such time this matter is addressed formally, a moratorium on any type of permits for vacation rentals in Carmel Valley should be required. This is based on a potential inconsistency with the CVMP policy CV-1.15.

Specifically, CVA would like the following questions addressed:

-What is the current count of Visitor-Serving Units east of Via Mallorca?

-Once the VSU cap is reached, how will the County deal with applications for permits?

A key policy in the CVMP that is not addressed in the analysis (part "b" of CV-1.15) states: "Visitor accommodation projects must be designed so that they respect the privacy and residential character of adjoining properties." Arguably, the allowance of Vacation Rentals without the proper restrictions as we have repeatedly requested is inconsistent with this existing policy. CVA also believes that vacation rentals essentially equate to a bed and breakfast type facility, which have much more stringent requirements for approval. This must also be addressed in the analysis.

The purpose of the Ordinance as stated by the County's draft is to:

1. Preserve and enhance the residential character of the zoning districts established in Title 21, and the sense of security and safety in stable neighborhoods of principal residences.

2. Provide opportunity for visitors to access public areas of the County through vacation rental opportunities, benefiting the local economy while preserving the housing supply and quality of life, and protecting public health, safety, and general welfare.

3. Establish regulations that provide opportunity for homeowners and residents to participate in the sharing economy by offering vacation rentals for visitors that have the potential to provide financial benefits to offset the high cost of living in Monterey County.

4. Establish that Homestay and Limited Short-Term Rental uses are similar in character, density, and intensity to residential use, are not anticipated to convert long-term housing out of the market, and therefore are allowed uses, where applicable, with a business permit and business license.

5. Establish that Commercial Short-Term Rental uses have the potential to have impacts different in character, density and intensity than residential uses, could convert long-term housing out of the market, or pose hazard to public health, safety and general welfare for known infrastructure limitations. Commercial Short-Term Rental uses therefore, may be allowed, where applicable, only with a discretionary use permit granted pursuant to this Section.

The draft Ordinance, as currently crafted, does not support the stated purposes above. *The purpose is poorly articulated and should be reworded to address housing supply and residential quality of life as priorities.* The allowance of all types of vacation rentals would threaten and substantially change the residential character and sense of security and safety in stable neighborhoods occupied by owners who reside in their principal residences, even with a discretionary permit process.

Vacation rentals would not benefit the local economy while preserving the housing supply and quality of life. They would instead remove housing out of the local supply and relegate it to the benefit of absentee owner investors, with non-residents renting out homes and/or rooms at rates far higher than a long-term tenant could pay. Offering vacation rentals for visitors that have the potential to provide financial benefits to investors and taking housing out of the local market in an already tight rental market only serves to increase prices and raise the already-high cost of living in Monterey County. Numerous studies in other areas (Oakland, San Francisco, Los Angeles and abroad) clearly demonstrate that this is the onerous trend that is happening everywhere vacation rentals are allowed. We have provided the County with numerous studies (via email) that support this assertion. This Ordinance is going in the complete opposite direction of local, state, national, and international cities that have created ordinances to control the proliferation of short-term rentals.

Another inconsistency that must be addressed relates to County of Monterey Chapter 5.40 Uniform Transient Occupancy Tax as amended June 19, 2007:

5.40.010 TITLE. The ordinance codified in this chapter shall be known as the Uniform Transient Occupancy Tax Ordinance of the county of Monterey. (Ord. 3668, 1993; Ord. 3651,1992; Ord. 1404, Section 1, 1965.)

5.40.020 DEFINITIONS.
Except where the context otherwise requires, the definitions given in this Section govern the construction of this Chapter.

A. *"Hotel" means any structure, or any portion of any structure, which is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes,*and includes any hotel, inn, *tourist home or house*, motel, time share or condominium conversion facility that is zoned "Visitor Serving", studio, bachelor hotel, lodging house, rooming house, apartment house, dormitory, public or private club, mobile home or house trailer at a fixed location, *or other similar structure or portion thereof.*

The fact that the County's imposes a Transient Occupancy Tax on vacation rentals is confirmation that such rentals are not residential uses. The County Code section 5.40.020(A) does not impose a transient occupancy tax on "any private dwelling, house, or other individually owned single-family dwelling unit rented only occasionally and incidentally to *the normal occupancy* by the owner or family." However, the proposed Ordinance requires all vacation rentals to obtain a transient occupancy tax registration certificate (e.g., Section 20.64.290(D)(8), (E)(8), (F)(9)). Obviously, contrary to assertions in the "environmental analysis" and other statements made by the County, vacation rentals are clearly not consistent with the "normal occupancy" of a dwelling unit. Indeed, vacation rentals are a commercial use subject to taxation.

Question: How can the County charge an occupancy tax on a residence?

Enforcement

CVA has the following key questions:

-How will the County verify that someone is the permanent resident of a property?
-How will the County verify that the permanent resident of the property is on site during a rental?
-Will the County require on-line websites which advertise vacation rentals to verify that those rentals have the required permits and licenses?

-Will the County subject owners of previously unpermitted STRs to penalties and fines before issuing new permits to those owners?
-How will the County enforce this ordinance?
-What resources (money and personnel) does the County have specifically dedicated for enforcement in the annual budget?

CVA previously requested that the County conduct a study to ensure that restrictions on vacation rentals would be enforceable. They are reiterated below:

a. Monterey County must first complete a study on required personnel and resources to enforce the ordinance, and then provide those resources.
b. Owners must provide multiple forms of proof they are year-round residents.
c. Owners must provide electronic evidence available over the internet that they physically resided at the STR during the home rental.
d. Monterey Count will take care of verification of residency.
e. Licenses for STRs/Homestays are valid only as long as Monterey County provides the personnel and financial resources to enforce the ordinance.
f. If Monterey County fails to provide adequate enforcement resources, STR/Home Stay licenses will be suspended until Monterey County remedies the situation by providing required enforcement resources.
g. The County must adopt pro-active enforcement, using Host Compliance or a similar service to locate violators, rather than relying on complaints from residents.

These requests have not been included in the draft Ordinance and must be addressed.

Additionally, there are major concerns with the allowance for existing Commercial Short-term rental uses to register with the Resource Management Agency to become "legal." This is essentially encouraging a rush of County applications to legalize and permit these uses. Given the uncertainty with the existing counts that limit visitor accommodation uses in the CVMP, the process should be halted until such time a formal count (with a list of what projects were used to establish the baseline) can be presented to the public. It is clear from our repeated requests to obtain the existing visitor accommodation count that this information is not readily available and has not been properly tracked. The County cannot move forward with permitting ANY additional visitor accommodation uses until a proper baseline count (e.g., list of projects and unit numbers stemming from those projects) is presented and vetted.

Additionally, the draft Ordinance provides a mechanism for two extensions of permits that would allow for up to a 15-year long vacation rental. This extended time frame would obviously be removing housing stock from the long-term housing supply. For the County to assert that this limitation would preserve the long-term housing supply, considering the CURRENT housing supply shortage, is simply nonsensical.

Affordable housing and long-term housing availability

Vacation rentals encourage the conversion of long-term rentals to tourist use, and reduce the supply of affordable, decent, safe, long-term housing for people of all income levels. Boston, San Francisco, Los Angeles Santa Cruz, Bishop, West Hollywood, and Santa Monica, among others, have passed ordinances limiting STRs to regulated homestays because of this undesirable effect.

As the Monterey County Hospitality Association has written:

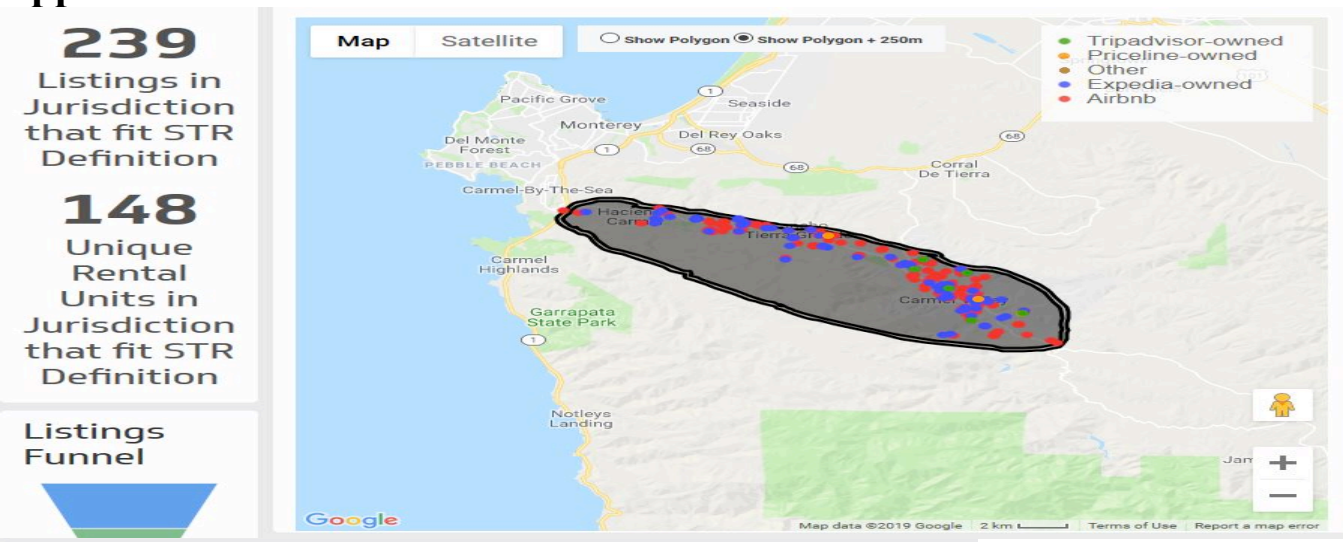
> The Monterey County Hospitality Association opposes Short-Term Rentals (STRs) in Monterey County's Cities and unincorporated areas due to the negative impact it will have on the following: Protection of community character, particularly single-family residential neighborhoods; Impacts on the limited housing stock, especially for medium to low income and workforce housing; Areas of limited resources and constrained infrastructure; Other visitor serving accommodations . . . .
>
> Rentals affect the essential character of neighborhoods and the stability of communities. As stated in Ewing v. City of Carmel-by-the-Sea, 234 Cal. App. 3d 1579,1991, "Short-term tenants have little interest in public agencies or in the welfare of the citizenry. They do not participate in local government, coach little league, or join the hospital guild. They do not lead a scout troop, volunteer at the library, or keep an eye on an elderly neighbor. Literally, they are here today and gone tomorrow — without engaging in the sort of activities that weld and strengthen a community.

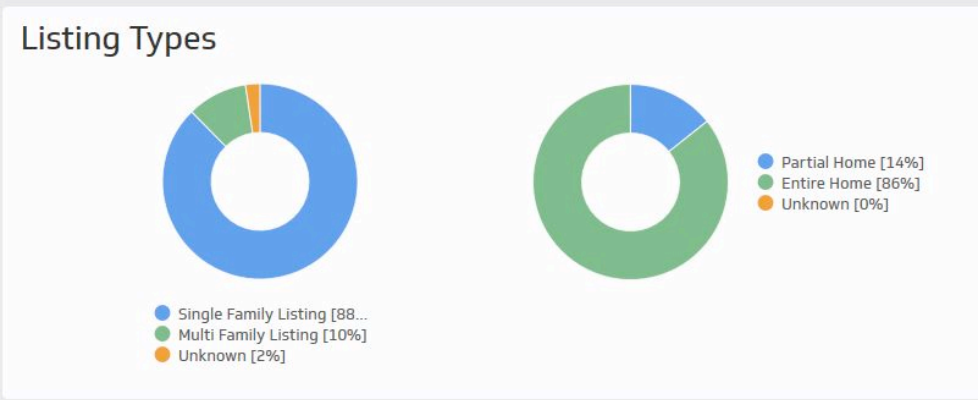
Conclusion:

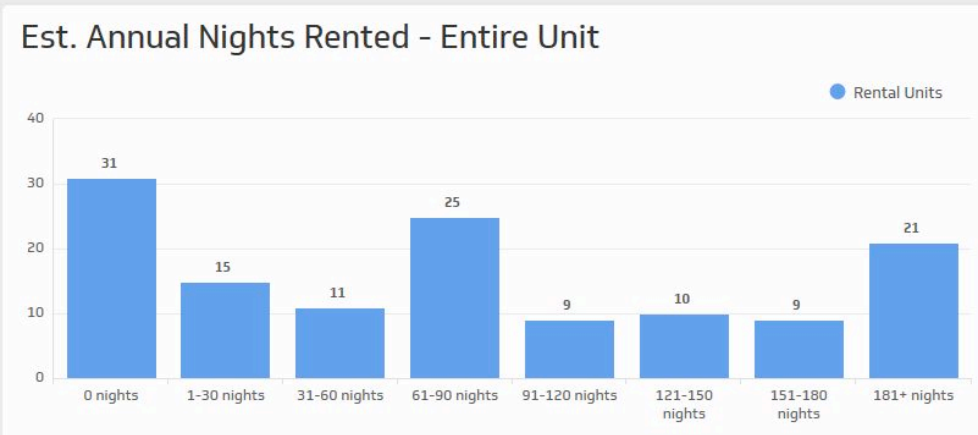
In conclusion, we strongly believe that vacation rentals will increase rents for residents and reduce the supply of affordable and long-term housing in Monterey County through conversion and commercialization of what should remain residential uses. In effect, what the inland ordinance does is informally rezone residential neighborhoods into commercial zones. As discussed above, we have grave and concrete concerns about the draft Ordinance as it is currently crafted. We appreciate your consideration of these comments and look forward to your responses to our questions.

See Appendices A, B, and C Below:

Appendix A:







Appendix B:

Short-Term Rental Bibliography

emily.alpert@latimes.com, tim.logan@latimes.com & ben.poston@latimes.com, March 11, 2015 Airbnb and other short-term rentals worsen housing shortage.

Bivens,Josh, January 30, 2019, The economic costs and benefits of Airbnb.

Bernard, Monica, October 2, 2018 "The Impact of Airbnb on our cities: gentrification and "disneyfication" 2.0, the Urban Media.

Gant, A. C., 2016, "Holiday Rentals: The New Gentrification Battlefront", in «Sociological Research Online», 21(3), pp. 1-9.

Carbajal, Mia, December 2015, FOR COMMUNITY ECONOMICS, INC AND EAST BAY HOUSING ORGANIZATIONS, "THE IMPACT OF SHORT-TERM RENTALS ON AFFORDABLE HOUSING IN OAKLAND: A REPORT And RECOMMENDATIONS.

Cox, Murray, March 1, 2017" The Face of Airbnb, New York City, Airbnb as a Racial Gentrification Tool.

Cox, Murray, January 30, 2018, A Report by Murray Cox "A Year later: Airbnb as a Racial Gentrification Tool.

Christina House / For The Times Tim , Emily Alpert Reyes and Ben Poston, Contact Reporters, "Landlords in Venice and other tourist-friendly areas are converting units into short-term rentals, worsening the area's housing shortage, a study says.

HOM Editor, How Short-term Rentals Impact Your Neighborhood. asktheexpert@shriolefson.com.

Keep Neighborhoods First, “The Problem with Commercialized Short-term Rentals,INC Zoning and Planning Sub-committee for Short term Rental Issues, December 6, 2014, Analyzing the Impact to Denver’s Neighborhoods Regarding Short-Term Rentals Including Short Term Vacation, Denver Colorado.

Lee, D., 2016, “How Airbnb Short-Term Rentals Exacerbate Los Angeles’s Affordable Housing Crisis: Analysis and Policy Recommendations”, in « L. & Pol’y Rev», 10, pp. 229-255.

Mead, Rebecca, April 22, 2019, The New Yorker, “The Airbnb Invasion of Barcelona: In the tourist- cogged city some locals see the service as pestilence, pages .

Mai Thi Nguyen, A Roadmap to Regulating Airbnb and Short-Term Rentals March 26, 2015, CURS Faculty Fellow Center for Regional and Urban Studies

John O’Neill, MAI, ISHC, Ph.D., Professor of Hospitality Management and Director of the Center for Hospitality Real Estate Strategy at Pennsylvania State University and examined activity on Airbnb between October 2014 and September 2015. WASHINGTON, D.C., September 14, 2016.

Organization for Economic Co-operation and Development Copyright OECD, 2000. REDUCING THE RISK OF POLICY FAILURE: CHALLENGES FOR REGULATORY COMPLIANCE

Richter, Wolf, August 23, 2018 “Here Comes the 2nd Wave of Big Money in the Buy to Rent Scheme” Wolf Street Copyright © 2011 - 2018 Wolf Street Corp.

Stephen Sheppard and Andrew Udell. January 1, 2018, Do Airbnb properties affect house prices?" Williams College Department of Economics, 24 Hopkins Hall Drive, Williamstown, MA
SHORT-TERM RENTALS, The Associated Press Thursday, 03/14/2019 Pag.A003Airbnb, HomeAway lose legal challenge to Santa Monica rulesep Media Lab.

Sperri, Alice, Vice News.com, pdf, April 24, 2014, "Airbnb will probably get you evicted and priced out of the city.", critics say *Times staff writer Sandra Poindexter contributed to this report.*

Wachsmuth, David, David Chaney, Danielle Kerrigan, Andrea Shilola,and Robin Basalaev, January 30, 2018, "The High Cost of Shor-Term Rentals in New York City, " A Report from the Urban Politics and Governance Research Group School of Urban Planning, McGill University

Appendix C:

Executive Summary of Wachsmuth article (cited above)

This report provides a comprehensive analysis of Airbnb activity in New York City and the surrounding region in the last three years (September 2014 - August 2017). Relying on new methodologies to analyze big data, we set out to answer four questions:

1. Where is Airbnb activity located in New York, and how is it changing?
2. Who makes money from Airbnb in New York?
3. How much housing has Airbnb removed from the market in New York?
4. Is Airbnb driving gentrification in New York?

KEY FINDINGS:

. Two Thirds of Revenue from Likely Illegal Listings: Entire-home/apartment listings account for 75% ($490 million) of total Airbnb revenue and represent 51% of total listings. 87% of entire-home reservations are illegal under New York State law, which means that 66% of revenue ($435 million) and 45% of all New York Airbnb reservations last year were illegal.

. 13,500 Units of Lost Housing: Airbnb has removed between 7,000 and 13,500 units of housing from New York City's long-term rental market, including 12,200 frequently rented entire-home listings

that were available for rent 120 days or more and 5,600 entire-home listings available for rent 240 days or more.

. $380 More in Rent: By reducing housing supply, Airbnb has increased the median long-term rent in New York City by 1.4% over the last three years, resulting in a $380 rent increase for the median New York tenant looking for an apartment this year. In some Manhattan neighborhoods the increase is more than $700.

. 4,700 Ghost Hotels: There are 4,700 private-room listings that are in fact “ghost hotels” comprising many rooms in a single apartment. These ghost hotels have removed 1,400 units of housing from the long-term rental market, and are a new tactic for commercial Airbnb operators to avoid regulatory scrutiny.

. 28% of Revenue: Commercial operators that control multiple entire-home/apartment listings or large portfolios of private rooms are only 12% of hosts but they earn more than 28% of revenue in New York City.

. Top 10% of Hosts: The top 10% of hosts earned a staggering 48% of all revenue last year, while the bottom 80% of hosts earned just 32%.

. 200% and $100K More: The median host of a frequently rented entire-home/apartment 3 listing earned 55% more than the median long-term rent in its neighborhood last year. This disparity between short-term and long-term rents is driving Airbnb-induced housing loss and gentrification. Nearly 300 unique listings earned $100,000 or more last year.

. Racialized Revenue: White neighborhoods make systematically more money on Airbnb than non-white neighborhoods. Neighborhoods with high existing Airbnb revenue (generally in Midtown and Lower Manhattan) are disproportionately white. But the fastest-growing neighborhoods for Airbnb (particularly Harlem and Bedford-Stuyvesant) are disproportionately African American.

. 72% of the Population: Nearly three quarters of the population in neighborhoods at highest risk of Airbnb-induced gentrification across New York is non-white, as Airbnb continues to have a strongly racialized impact across the city.

“Airbnb as a Racial Gentrification Tool”: In March 2017, InsideAirbnb.com released a report that categorized host photographs in all predominantly Black NYC neighborhoods. That report’s key findings have been cited in this new report: Across all 72 predominantly Black New York City neighborhoods, Airbnb hosts are 5 times more likely to be white. In those neighborhoods, the Airbnb host population is 74% white, while the white resident population is only 14%.

White Airbnb hosts in Black neighborhoods earned an estimated $160 million, compared to only $48 million for Black hosts—a 530% disparity.

The loss of housing and neighborhood disruption due to Airbnb is 6 times more likely to affect Black residents, based on their majority presence in Black neighborhoods, as residents in these neighborhoods are 14% white and 80% Black.

Wachsmuth, David, David Chaney, Danielle Kerrigan, Andrea Shilola,and Robin Basalaev, January 30, 2018, “The High Cost of Shor-Term Rentals in

New York City, ” A Report from the Urban Politics and Governance Research Group School of Urban Planning, McGill University