

September 4, 2015

## ISSUE STATEMENT:

Should Short Term Rentals be permitted in the Big Sur Coast Planning Area?

## BACKGROUND:

In the 1995-1999 period, commercial real estate interests sought to have Monterey County permit and regulate short term rentals in the county. In 1996, the Monterey County Planning Department concluded that a proposed ordinance to accomplish this goal would not have a significant effect on the environment and a negative declaration should be adopted. The following year, the Monterey County Board of Supervisors then adopted that ordinance to the Monterey County Coastal Implementation Plan requiring administrative permits for transient commercial use of residential properties for remuneration.

The ordinance was adopted in the face of widespread opposition from the locally affected communities, CoastWatch and the Big Sur Chamber of Commerce. Further, Monterey County did not conduct an environmental impact review prior to the adoption of the ordinance. Following its adoption, CoastWatch provided the county with an analysis of the negative impacts that short term rentals would have in the Big Sur Planning Area as a CEQA challenge.

Subsequently, the California Coastal Commission reviewed the ordinance and referred it back to Monterey County with the recommendation that it be reformulated to resolve inconsistencies so that it would not have to be a local coastal program amendment. In the ensuing period, no further action was taken by Monterey County to permit or regulate short term rentals in the coastal areas.

In recent years with the impact of the inexpensive and worldwide reach of internet marketing, changes in the larger economy and culture, and Monterey County code enforcement efforts limited to complaint-based actions, the number of short term rentals in the Big Sur Planning Area has greatly expanded and continues to grow in spite of their non-permitted status.

The negative impacts of the continued and rapid expansion of non-permitted commercial destination activity in residential neighborhoods are significant and cumulative as they further contribute to reducing the remaining capacity of Highway 1, the availability of affordable long term housing and the quality of life and special culture of the local community.

The prohibition of short term rentals in the Coastal Zone of Monterey County has done little to stop their rapid growth. The significant increase in short term rentals, coupled with the lack of effective enforcement, has demonstrated the need to bring Monterey County's current implementation policies into better alignment with the original intent of the Big Sur Coast Land Use Plan (LUP), approved by the California Coastal Commission in 1984 and certified by the California Coastal Commission in 1986.

## DISCUSSION:

The Big Sur coast has been acknowledged throughout the world as a unique and special area of extraordinary environmental value, aesthetic beauty, and home to an exceptional and vibrant community whose culture and way of life are integral to protecting the environment and to enhancing the visitor experience. This widespread recognition resulted in local community and government efforts to protect the area and regulate the appropriate

uses of the land as early as the 1940's when the Monterey County Board of Supervisors went all the way to the United States Supreme Court to prohibit billboards along Highway 1.

Efforts to protect and manage the uses of the area continued with the development of the 1962 Big Sur Coast Master Plan and following the passage of the Coastal Act in 1972, the creation of local coastal programs. In 1975, the California Coastal Plan, which recognized that "The scenic Big Sur area is world-famous for its rugged beauty. Highway 1 from Carmel to San Simeon is a recreational area of national significance..." called for a Special Study Area of the Big Sur Coast from Carmel River to Cambria to resolve access issues, particularly the prioritization between recreational and residential use of the remaining capacity of Highway 1, and to establish preservation measures for the scenic landscape. (California Coastal Plan, pg. 233)

This ultimately led to the development of the Big Sur Coast Local Coastal Program including the Big Sur Coast LUP, a product of nine years effort to ensure the preservation of the area's wild beauty and opportunity for public access to the coast. Among the LUP's fundamental policies were to preserve the limited two-lane scenic highway capacity for the traveling public and prohibit development visible from Highway 1.

The California Public Resources Code (CPRC) provided guidance in crafting policies and guidelines in regard to the importance of protecting the scenic and visual qualities of the coastal areas (section 30251), defining development (section 30106), site capacity and intensity of use (sections 30106 and 30214), and ensuring natural resource protection (sections 30210 and 30240).

To achieve the goals of providing visual access for the public and preserving the environment, the policies of the LUP were designed to minimize or limit all destination activities. These residential, commercial and recreation destination activities were recognized as creating higher levels of traffic congestion, development activity, and impacts on the environment and public services than those associated with scenic driving. Therefore, the LUP guides land use away from destination activities and seeks to preserve remaining traffic capacity on Highway 1 for its use as a scenic highway which offers the greatest public access and reduced impacts on the environment and community.

Key results of the policies of the LUP and its implementation include the following: reduction of residential build-out by more than 90%, a cap on commercial transient occupancy build out to 300 additional units as of 1986, recreational build-out limited by strict environmental, visual, and public safety standards and the protection of the local community, its culture and critical role as guardians of the Big Sur coast.

Short term rentals represent a destination activity that is neither permitted by the LUP nor is it consistent with the goals of the LUP. They constitute additional negative and cumulative impacts in the following critical areas addressed by the LUP:

## SCENIC HIGHWAY 1

"California's last coastal wilderness, much of which was heretofore accessible only on foot and horseback, will have been penetrated at long last at a cost of nearly ten million dollars...this time and money was expended not for utility or commercialism, but for a thing of beauty." (Monterey Peninsula Herald, June 26, 1937)

The single most important public recreation facility along the Big Sur coast is Highway 1. America's first Scenic Highway, Highway 1 was built to provide not a transportation corridor, but a recreational experience. Travelling along Highway 1 has been the iconic Big Sur experience.

The Big Sur Coast Highway was declared the first State Scenic Highway in 1965. In 1996 it was designated the first All American Road under the Federal Highway Administration National Scenic Byways Program. Its role in providing affordable, readily available coastal access to millions of annual visitors is recognized in the LUP. The mandate to protect the quality of the recreational driving experience is likewise addressed in the LUP which recognizes that the traffic levels often exceed capacity (LUP 2.1, pg. 6, LUP 3.1, pg. 10, and LUP 6.1.3, pg. 118).

Management of the use and capacity of Highway 1 is essential to achieving the goals of the LUP to provide public access to the Big Sur Coast along this scenic route and the protection of the environment and quality of the visitor experience.

“Monterey County’s basic policy is to take a strong and active role in guiding future use and improvement of Highway 1 and all categories of land use related to and dependent on the highway. The County’s purpose will be to maintain and enhance the highways’ aesthetic beauty and to protect its primary function as a recreational route. The highway shall remain a two-lane road....” (LUP, 2.2.3, pg. 8)

“A primary transportation objective of the Coastal Act is to maintain Highway 1 in rural areas as a scenic two-lane road and to reserve most remaining capacity for the priority uses of the Act. The limited capacity of Highway 1 to accommodate local and recreational traffic at a level that reserves reasonable service and emergency use and allows motorists to enjoy the beauty of Big Sur’s scenic coast is a major concern. Because traffic volumes along sections of Highway 1 are at capacity during peak recreational use periods and because future demand for recreational access is expected to exceed the capacity of the highway, the capacity of the highway is a major constraint on the long range development of the coast....” (LUP, 4.1, pg. 71)

“A closely related issue is what can be done to effectively manage use levels of the highway between Carmel and Cambria, particularly as needed to protect the priority uses of the Coastal Act. This appears necessary to insure that acceptable service levels are preserved so that the highway can meet its essential functions as the sole transportation and emergency route up and down the coast, and as a safe, pleasurable scenic and recreational travel facility. (LUP, 4.1, pg. 71)

“The following density standards for inn unit development are designed to allow up to 300 new visitor-serving lodge or inn units on the Big Sur Coast, based on protection of the capacity of Highway One to accommodate recreational use, the avoidance of overuse of areas of the coast, and the need for development to respect the rural character of the Big Sur Coast and its many resources.” (LUP, 5.4.2.9, pg. 95)

“Big Sur has attained a worldwide reputation for spectacular beauty; sightseeing and scenic driving are the major recreational activities.” (LUP, 1.2, pg. 2)

“Maintenance of the quality of the natural experience along the Big Sur coast has precedence over the development of any permitted uses, whether residential, recreational, or commercial.” (LUP, 2.3, pg. 10)

The conversion of long term housing to short term rental use increases the traffic impacts on Highway 1 both directly through increased trip demands by transient occupancy, and indirectly through displacing resident employees of public agencies and private employers, who must commute on Highway 1 to and from their work places from outside of the Big Sur Planning area.

The associated increase in traffic impacts on scenic Highway 1 is having a damaging effect on the natural resources of the Big Sur Planning Area, reduces the quality of the visitor experience and is limiting recreational opportunities and the required protections (CPRC 30210) of the natural resource areas from overuse.

## LOW AND MODERATE INCOME HOUSING –

“The County is required by State Laws mandating the Housing Element of the General Plan, to provide programs to increase the availability of low and moderate income housing. The following policies which are based on the goals of the County Housing Element reflect those actions that will be most effective for the Big Sur Coast.” (LUP, 5.4.3.I, pg. 106)

“The County shall protect existing affordable housing in the Big Sur coastal area from loss due to deterioration, conversion or any other reason.” (LUP, 5.4.3.I, 1, a, pg. 106)

Despite the above mandate, primary residences, caretaker units, guest houses, guest rooms and other structures have been converted to short term rentals, reducing the amount of affordable housing. This has impacted the public and private sectors of Big Sur, causing increasing numbers of employees to commute from the Monterey Peninsula and beyond where they can find affordable housing. The cost and time spent commuting, often an hour or more driving time each way, further limits the availability of qualified visitor serving employees for public agencies (United States Forest Service, California Department of Parks and Recreation, California Highway Patrol, Carmel Unified School District, Big Sur Unified School District, etc.) whose staff work in Big Sur. Equally impacted are those employees of the visitor serving private sector and community serving organizations such as the Big Sur Volunteer Fire Brigade and Big Sur Health Center.

## COMMUNITY AND CULTURE –

Although the LUP clearly recognizes the importance of the Big Sur community and its contributions, the conversion of housing to short term rentals is reducing the availability of local housing. This conversion represents a change in the density or intensity of use of land, which is a function of development (CPRC 30106).

In addition, this reduction in housing directly affects all segments of the community that provide public access opportunities and needed public safety and support services attendant to that access. The loss of available housing in an area with a historically insufficient amount of housing limits the quantity and quality of available employees and residential opportunities for those who serve and complement the visitor experience.

“The special cultural characteristics of the Big Sur Coast should also be recognized as a primary resource. Man’s presence along this coast continues to reflect a pioneering attitude of independence and resourcefulness; the environment has been a special nurturing ground for individual and creative fulfillment. The community itself and its traditional way of life are resources that can help protect the environment and enhance the visitor experience.” (LUP, 2.1, pg. 6)

“The significance of the residential areas for planning purposes is that they have the capacity, to some extent, to accommodate additional residential demand. Unlike the larger properties or commercial centers, they are not well suited for commercial agriculture, commercial, or visitor uses; use of these

areas, to the extent consistent with resource protection, should continue to be for residential purposes.” (LUP, 5.1.1, pg. 81)

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#### CONCLUSION:

Short term rentals are neither permitted nor are they consistent with the letter and spirit of the LUP. Further, their exclusion as a permitted development in the Big Sur Planning Area must be supported with a successful enforcement effort. Each current and additional short term rental in the Big Sur Planning Area represents an additional increase in destination traffic impacts, a conversion of existing housing and the loss of long term community housing stock.

- The added transient visitor use resulting from short term rental conversions causes significant additional and cumulative destination traffic impacts on Highway 1, further reducing its capacity to provide for the priority scenic driving uses protected by the certified Big Sur Coast Land Use Plan.
- The vast majority of short term rentals, prior to their conversion, were affordable long term rentals. Their conversion represents a clear conflict with the county’s responsibility under the LUP to protect existing affordable housing and the State General Plan law.
- The local community that is recognized in the LUP as a key resource for the public and responsible for the care and preservation of the Big Sur coast is comprised of property owners and tenants, with the majority being tenants. The loss of housing due to short term rental conversions thus has an overwhelming negative impact on the tenant portion of our community.

#### RECOMMENDATION:

The Big Sur Coast Planning Area should be excluded from any countywide ordinance permitting short term rentals and an appropriate enforcement mandate should be adopted to make this exclusion effective.

Respectfully submitted by Kirk Gafill on behalf of the Big Sur Local Coastal Program Defense Committee.



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