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October 6, 2022

**Via Electronic Mail Only**

Monterey County Housing and Community  
Development Department  
Attn: Melanie Beretti, AICP, Principal Planner  
1441 Schilling Place, 2nd Floor South  
Salinas, CA 93901  
Email: [CEQAcomments@co.monterey.ca.us](mailto:CEQAcomments@co.monterey.ca.us)

Re: Vacation Rental Ordinances Draft EIR NOP Scoping Comments

Dear Ms. Beretti:

On behalf of this firm's client, the Big Sur Local Coastal Program Defense Committee ("BSDC"), I write regarding the County of Monterey's Notice of Preparation of a Draft Environmental Impact Report ("DEIR") for the Vacation Rental Ordinance Project ("Proposed Ordinance"). As you know, the BSDC is a group of residents and business owners concerned for the preservation of the cultural and natural values of Big Sur and the land use plan that protects such values for the public to enjoy. The BSDC has been carefully tracking the County's consideration of a vacation rental ordinance.

Generally, the BSDC continues to support the concept of Limited Vacation Rentals ("LVRs") proposed for Big Sur in the Proposed Ordinance, provided that the County is able to implement thorough and effective enforcement mechanisms to ensure that these standards are actually complied with. The DEIR should include discussion of the County's proposed enforcement program, and carefully evaluate the potential impacts of different enforcement strategies. Lax enforcement will result in adverse environmental impacts, including to natural resources, public safety, traffic congestion, and affordable housing availability. For instance, the NOP assumes that vacation rentals will not increase the risk of wildland fire because they will be required to comply with Fire Safe Regulations. NOP at 1-22. However, unless there is appropriate enforcement of compliance, this result cannot be assured. In addition, the BSDC continues to request that the modifications suggested in the attached letter be incorporated into the Proposed Ordinance, to help ensure that the County's intent of ensuring that LVRs are similar in character, density, and intensity to residential use.

The BSDC is also alarmed by the California Coastal Commission’s July 28, 2022 correspondence regarding short-term rentals in the Monterey County Coastal Zone, and the potential impact of that correspondence on the Proposed Ordinance. In that correspondence, Commission Staff states that the County’s Proposed Ordinance must “allow[] an appropriate number of STRs in appropriate locations and subject to appropriate LCP operational and other provisions in the coastal zone” and must “strike a balance” between access, housing, and community needs. However, this correspondence does not take into account the unique provisions in the Big Sur Land Use Plan, which was certified by the Commission and remains in effect. The BSDC believe that the Land Use Plan clearly supports the County’s Proposed Ordinance with respect to LVRs in Big Sur. The Commission’s task in certifying any County vacation rental ordinance will be to evaluate whether the ordinance is consistent with the existing land use plans, so these provisions are highly relevant to the County’s development of the Proposed Ordinance.

Specifically, the Big Sur Land Use Plan supports LVRs in at least three ways. First, the LUP is clear that visitor serving uses must not be located in residential areas. Section 5.1.1 provides that residential areas “are not well suited for . . . visitor uses” and that they should continue to be used solely for residential purposes. Likewise, Policy 5.4.3(G)(2) states that “development in designated rural residential areas *shall continue to be limited to residential uses* in order to protect residents from unwanted intrusion by other incompatible activities and because neither vacant land, water, nor roads are adequate to support more intensive uses.” (emphasis added). The LUP has already determined where adequate visitor-serving accommodations can be located on the Big Sur Coast, and that visitor-serving accommodations and residential purposes are generally incompatible.<sup>1</sup>

Second, even though the LUP was certified almost 40 years ago, it contains strong provisions to protect affordable housing. The need for affordable housing to support visitor-serving uses like hotels, motels, campgrounds, and restaurants was apparent in 1986 (*see* LUP at 73), and has only grown over time. Adequate residential supply is not just necessary to allow the house the Big Sur community, but critical to allow the *visiting* public safe, enjoyable, and affordable access to the California Coast. Specifically, Section 5.4.3(I)(1) of the LUP provides that the County must “protect existing affordable housing in the Big Sur coastal area from loss due to . . . conversion.” *See also* 5.4.3(I)(2)(c) (County must “encourage the use of caretaker’s accommodations as an appropriate means of providing affordable housing”). A significant number of lower-cost cabins, caretaker,

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<sup>1</sup> These policies are different than other jurisdictions, which have relied on the prohibition of general *commercial* activity in residential areas to limit STR use.

or second units are threatened with conversion to short-term rental use in the Big Sur area; these units must be protected per the LUP.

Third, the LUP is very clear that the capacity of the Big Sur Coast is limited, even with respect to Coastal Act priority uses such as visitor-serving accommodations. *See, e.g.,* LUP at 10-11. Limitations on both development and use are required in order to protect Coastal Act resources, including the natural scenic areas, natural resources, and coastal access (especially via highway capacity). LUP at 75-76; Policy 5.4.1 (“Future land use development on the Big Sur coast should be extremely limited, in keeping with the larger goal of preserving the coast as a scenic natural area. In all cases, new land uses must remain subordinate to the character and grandeur of the Big Sur country.”). The LUP implements these policies through caps on both residential and visitor-serving units. *See* Policies 5.4.2(8) and (9). These limitations must be taken into consideration when decided whether to allow vacation rentals in Big Sur.

Finally, we note that the Commission has indicated that Monterey County’s Proposed Ordinance must be supported by “clear and accurate information” and data. As previously communicated, the BSDC stands ready to help assist the County document the current availability of overnight accommodations in Big Sur, including lower-cost accommodations, as well as the potential impacts of expanded short-term rental use on the affordable housing market. We note that the affordable housing crises has been most severe for lower-income workers, most of whom are valuable and necessary members of the community’s existing visitor serving uses.

Thank you for your consideration.

Very truly yours,

SHUTE, MIHALY & WEINBERGER LLP



Sara A. Clark

Attachment

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May 24, 2021

**Via Electronic Mail Only**

Chair Supervisor Wendy Root Askew  
Monterey County Board of Supervisors  
168 West Alisal Street, 1st Floor  
Salinas, California 93901  
Email: RMAcomments@co.monterey.ca.us

Re: Comments of the Big Sur Defense Committee on the Monterey  
County Vacation Rental Ordinance

Dear Chair Root Askew and Members of the Board:

On behalf of this firm's client, the Big Sur Local Coastal Program Defense Committee ("BSDC"), I write regarding the Board of Supervisor's consideration of the proposed Monterey County Vacation Rental Ordinance. As you know, the BSDC is a group of residents and business owners concerned for the preservation of the cultural and natural values of Big Sur and the land use plan that protects them for the public to enjoy. The BSDC has been carefully tracking the County's consideration of a vacation rental ordinance.

While the County provided relatively little time for the public to review the current draft, the BSDC appreciates the effort made by County Staff and the Board to respond to the unique conditions in Big Sur. The BSDC is generally supportive of the concept of Limited Vacation Rentals ("LVRs") proposed for Big Sur in the draft ordinance, provided that the County is able to implement thorough and effective enforcement mechanisms to ensure that these standards are actually complied with.

The BSDC also requests three modifications to the proposal to help ensure that the County's intent of ensuring that LVRs are similar in character, density, and intensity to residential use. *First*, the staff report asks whether the Vacation Rental Operation Permit ("VROP") regulations should be reduced for LVRs. As the VROP regulations are the County's mechanism for ensuring that vacation rentals of any type

remain consistent with residential uses, the BSDC would oppose any direction to relax these requirements.

*Second*, the BSDC is concerned about the significant lag time that will result from the implementation plan discussed in the vacation rental ordinance and staff report. As proposed, the vacation rental ordinance still needs to be considered in formal public hearings by the Planning Commission and Board of Supervisors (which could take months). Once approved, the regulations for LVRs in Big Sur would need to be certified by the Coastal Commission, which could take six months or a year. Then, the proposed amortization program would become effective, giving existing operators another year. Finally, the proposed enforcement program would start with education and outreach, with true code enforcement not proposed until year three. All in all, it could be *four years* until the County is actively ensuring that current commercial operators in Big Sur come into compliance. This is far too long.

The BSDC requests two modifications to address this issue. First, the amortization program found in proposed Section 20.64.290(F) should not apply in Big Sur. Because of the lengthy Coastal Commission certification process, existing operators will have sufficient notice that commercial operations in Big Sur will no longer be allowed. An additional 1 year phase-out period after certification is unnecessary. Moreover, the phase out language only contemplates the scenario where an owner or operator needs time to bring an existing operation through the discretionary permitting process. Because Commercial Vacation Rentals will not be allowed in Big Sur, no time is necessary for them to come “into compliance” with such regulations. Commercial Vacation Rental use should immediately cease once the Coastal Commission acts.

*Third*, the County has not provided adequate justification for exempting LVRs from the Visitor Serving Unit caps found in the Big Sur Land Use Plan. The VSU caps are mandatory for all overnight visitor serving uses. *See* Big Sur LUP, Table 1; *see also* Big Sur Coastal Implementation Plan § 20.145.140(B)(1)(c)(5). Even if the LVR regulations are sufficiently protective to justify counting LVRs as a ½ unit, which they may be, the fact remains that LVRs will likely be used most frequently at peak periods, such as holidays. Consequently, application of the VSU caps is necessary to ensure that LVRs do not overburden the already-constrained infrastructure in Big Sur.

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Thank you for your time and attention on this important matter.

Very truly yours,

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Sara A. Clark