



STAFF REPORT SAN CLEMENTE PLANNING COMMISSION

Date: April 6, 2016

PLANNER: Adam Atamian, Associate Planner

SUBJECT: **Zoning Amendment 15-426 / Specific Plan Amendment 16-072, Short-term Lodging Units**, a request to consider forwarding a recommendation to the City Council to amend San Clemente Municipal Code Title 17, Zoning, and the Pier Bowl Specific Plan to establish regulations related to short-term and other transitory lodging uses.

REQUIRED FINDINGS

Before recommending the proposed amendments, the Commission must make the findings below. The draft Resolutions (Attachments 1 and 2) and the analysis section of this report demonstrate compliance with these findings.

Zoning Amendment, Section 17.16.040

1. The proposed amendment is consistent with the General Plan.
2. The proposed amendment will not adversely affect the public health, safety, or welfare

Specific Plan Amendment, Section 17.16.030

1. The proposed specific plan amendment is consistent with the goals, objectives, policies, and programs of the General Plan, and is necessary and desirable to implement the provisions of the General Plan.
2. The uses proposed in the specific plan amendment are compatible with adjacent uses and properties.
3. The proposed specific plan amendment will not adversely affect the public health, safety, and welfare.
4. The proposed specific plan amendment will not create internal inconsistencies within the specific plan.

BACKGROUND

The City has been studying the effects of short-term lodgings and other transitory lodging uses on residential neighborhoods. As the number of short-term lodging units (STLUs), such as vacation rentals, have increased, the City and Sheriff have received an increasing number of nuisance-related complaints. Reported negative effects include excessive noise, parking, litter, disorderly conduct, and concerns about security and public safety at STLUs.

To address these problems the Council adopted new regulations in Chapter 3.24, the Transient Occupancy Tax section of the Municipal Code, which establish better operational requirements for STLUs and other transitory lodging uses. The City Council also directed the Planning Commission to study and forward recommendations for new STLU zoning regulations. The Council specifically asked the Planning Commission to consider the following:

1. Zoning standards and permitted residential zones
2. Owner-residency requirements
3. Annual rental-day limits
4. Caps on total permits issued
5. Maximum-density and minimum-distancing requirements
6. Operational and development standards and regulations
7. Amortization of nonconforming STLUs

The City had also established a temporary moratorium on the establishment of sober-living homes and large alcoholism or drug abuse recovery or treatment facilities in residential zones. The purpose of the moratorium was to allow the City time to develop regulations that appropriately address negative external impacts of these types of transitory lodging uses in residential zoning districts, as well as to protect residents of group homes, and to ensure compliance with federal and state fair-housing and disability laws. The City Council has discussed these topics and has referred this issue to the Planning Commission along with development of the STLU zoning standards.

Noticing

Noticing was completed in accordance with state law and the San Clemente Municipal Code. In addition, the City has emailed notices to interested members of the public, mailed information to all registered STLU owners and to property owners within 300 feet of a registered STLU, as well as established a dedicated STLU page on the City's website where the latest report and draft ordinance is posted with other current information about public meetings and hearings.

EXECUTIVE SUMMARY

The negative impacts of short-term and other transitory lodging uses are a state-wide concern that many cities have recently regulated. To address the issues that often arise with these uses, and as seen in other jurisdictions, staff proposes the Zoning Amendment that is included as Attachment 1 and the Specific Plan Amendment that is included as Attachment 2.

The proposed amendments provide zoning regulation of short-term lodgings and longer-term transitory housing by identifying where they are allowed and prohibited. The amendments also include supplemental operational and development standards that help ensure the compatibility of these uses with other uses in the zones in which they are allowed. Additionally, these amendments establish definitions of residential and

commercial uses that address regulatory shortcomings and loop holes. Staff's proposed definitions encompass all types of lodging uses that could occur within a dwelling unit. This is critical because recent technological advancements have changed vacation rentals from a use that was arguably similar to residential uses to a more intense commercial use. These amendments are drafted in such a way that this type of "under the radar" evolution will not be possible in the future due to a lack of description in the code.

The proposed amendments will accomplish the following:

1. Defines an STLU as a lodging unit rented for on a short-term basis (for 29 or fewer days), under one rental agreement, and which does not satisfy the criteria of any other defined type of lodging facility, such as a hotel. An STLU zoning permit, processed administratively, is required for each STLU.
2. Defines a home-share as a short-term rental of a residential dwelling unit located in a multi-unit building when the owner lives in one unit of the building. A home-share requires an STLU zoning permit in a zone where STLUs are allowed, just like any other STLU. Outside of STLU-allowed areas, a home-share permit, processed through a public hearing, is required.
3. Defines a boarding house as any dwelling unit that provides *short-term* lodging under two or more rental agreements, as well as any dwelling unit that provides *long-term* housing under four or more rental agreements. The boarding-house use is restricted to zones that are compatible with the transitory nature of boarding-house operations, and a boarding house may only be established in those areas with a conditional-use permit.
4. Proposes, for clarification, a new definition and zoning for "specialty hospital." This definition identifies a use that provides specialized in-patient medical care and treatment as a commercial use, which is not allowed in residential zones.
5. Establishes zoning that permits STLUs in the City's visitor-serving focus areas of North Beach, Downtown/Del Mar, the Pier Bowl, and the South El Camino Real Corridor. Home-shares would also be allowed in these areas. Boarding houses would be permitted in the Mixed-use (MU 5), and higher-density Residential (RH and RM) zones.
6. Improves other definitions that affect the uses allowed in residential dwelling units to address the full range of potential allowed uses. They also clarify what constitutes a particular use and the types of activities associated with those uses to help identify which uses are residentially-compatible.
7. Establishes an amortization period for uses made nonconforming by the changes described above.

DISCUSSION

Zoning

Staff supports locating STLUs and similar uses in the areas that the General Plan identifies as visitor-serving. These areas consist of residential and mixed-use zones as follows:

Residential Zones:

Most of the residential properties identified in the General Plan as visitor-serving are located in the Pier Bowl Specific Plan. In contrast, the North Beach Focus Area (also identified as visitor-serving) contains only six residentially zoned properties (these properties are the residentially-zoned lots shown in the red border on the map included as Attachment 4 and in footnote 19 that is proposed in section 5 of Attachment 1, Exhibit 1). Left out of the North Beach Focus Area boundary are the residential properties located across the street from the Ole Hanson Beach Club and the Casino. Due to their unique orientation toward the North Beach commercial and recreational uses, staff recommends that they also be included in the North Beach area where STLUs are allowed. These areas where STLUs are permitted in residential zones are shown in the blue border on the map included as Attachment 4 and are identified in footnote 19 by section 1 of Attachment 2, Exhibit 1.

Mixed-Use Zones:

The mixed-use zones that are identified as visitor-serving in the General Plan and that are regulated by the Zoning Ordinance, as opposed to a Specific Plan, are the mixed-use zones in the North Beach Focus Area (MU 1 and MU 2), the Downtown/Del-Mar Focus Area (MU 3.0, MU 3.1, MU 3.3), and the South El Camino Real (East of I-5) Focus Area (MU 5). There are currently 11 STLUs in the Downtown/ Del Mar Focus Area, two in the North Beach Focus Area, and five in the South El Camino Real Focus Area. The total number of housing units in these areas is approximately 375. With no limit on the number of STLUs in mixed-use zones, there is a good opportunity for these uses to establish in the visitor-serving focus areas. These areas are shown in the maps included as Attachments 3 and 4 and described in section 7 of Attachment 1, Exhibit 1.

Pier Bowl Specific Plan:

Staff proposes that STLUs be permitted in the visitor-serving areas of the Pier Bowl Specific Plan identified in the General Plan. These areas consist of the Pier Bowl Core (MU 4.1), Residential High Density and Residential Medium Density. These areas are shown in the map included as Attachment 6 and described in section 10 of Attachment 1, Exhibit 1.

Short-term Lodging Units (STLUs)

Regulations and Standards

Staff proposes adding a new section to the Special Uses chapter of the zoning ordinance to establish STLU standards. These standards include operating standards (such as the

maximum number of rental agreements per dwelling unit and minimum rental length) and development standards (such as location requirements and maximum zone density). These standards represent the culmination of many Planning Commission study sessions and public hearings. Many of these standards have received the general support of the Planning Commission through discussions on the topic or through straw votes taken at previous public hearings. All standards are listed in section 4 of Attachment 1, Exhibit 1, for reference, and due to the straightforward nature of most of them, additional explanation is not provided here. However, there are a few standards that have not received a general consensus or which staff has identified as problematic and so require discussion. For each standard, described below, staff provides support for including it in the STLU zoning regulations or identifies additional options for the Planning Commission to consider.

- a. Rentals Per Unit – The total number of STLUs, including home-share rentals, within any dwelling unit must be limited to no more than one, otherwise an STLU or home-share could be considered a bed and breakfast or, with a large enough house, a hotel or motel. This requirement limits the number of rental agreements that can occur at the same time in an STLU or home-share and helps to control the scale and intensity of the use so that it is more compatible with residential uses. This requirement was requested by the Planning Commission for inclusion in the definition of “home-share,” but since it applies to both home-shares and STLUs, staff recommends placing it as a stand-alone requirement in the Special Uses section of the code to increase clarity. Also, by placing this requirement here, as opposed to in the definition, adherence to this standard is a requirement to maintain a STLU permit (This standard is provided as Item C.2 in Attachment 1, Exhibit 1, Section 4).

- b. Occupancy Limit and Parking – During previous Planning Commission meetings, a parking requirement was identified as a standard to address the negative impact that overflow parking from an STLU can have on its neighbors. To address this problem, the Commission supported a proposed parking standard that required a certain number of parking spaces for each STLU based on bedroom count, as described in the Table below, Number of Parking Spaces Required. The number of parking spaces required for an STLU would be in addition to parking required for other on-site uses, such as that required for any guesthouse, second residential dwelling unit, or the primary dwelling unit if the rental is a home-share. Additionally, all parking must be provided on site.

Number of Parking Spaces Required

Number of Bedrooms in STLU	Number of Parking Spaces Required
0-1	2
2	3
3	4
4	5
5 or more	7

To ensure successful implementation, staff applied the proposed parking standards to several recently approved projects and determined that the parking requirements described above are problematic for most properties. While it's generally difficult for properties to satisfy current residential parking requirements, these standards are especially difficult for properties in the older portions of the City to meet. Therefore, if these standards are applied, they would create a de facto ban on STLUs. Since these older areas of the City, such as the residential portion of the Pier Bowl, are where these uses are being considered, a conflict arises between the intent of the zoning and the difficulty of feasibly establishing the use.

One alternative that staff supports is a limit on the total number of renters based on the total legal, on-site parking spaces. Under this approach, an STLU would only be allowed to host a certain number of people as determined by the legal parking available on-site. Based on a normal passenger car, staff proposes that each parking space allow up to four occupants in the STLU. Because the STLU Permit (the one required by the transient occupancy tax, or TOT, portion of the code; which staff now recommends renaming as an STLU operating license) limits occupancy of an STLU to two renters per bedroom plus two additional, the ultimate limit on occupancy would be whichever standard is most restrictive. An example of this calculation is a four bedroom house with two legal parking spaces. The TOT ordinance's STLU Permit would limit this property to 10 renters, whereas the parking requirements proposed here would limit it to 8 renters. In this situation the property occupancy would be limited by the number of parking spaces, not bedrooms. To utilize this type of parking standard, staff would replace the parking standards with another standard, "Occupancy Limit and Parking," and provide a table demonstrating the occupancy limitations as follows:

Table 17.28.292A, Number of Renters Permitted

Number of parking spaces on-site	Number of renters and guests permitted
1	4
2	8
3 or more	12

An additional benefit of this type of standard is that it could address a maximum number of renters in any residence, whether or not the STLU has enough bedrooms to allow more. Staff supports limiting the total number of renters and guests to a maximum of 12 people regardless of the bedroom count to reduce the opportunity for large STLU properties to become “house party” rentals. This parking-ratio and occupancy-limit standard will make it feasible for STLU’s to be established in the zones they are allowed and reduce overflow parking impacts (This standard is provided as proposed subsection 17.28.292(C)(13) in Attachment 1, Exhibit 1, Section 4).

- c. Annual Rental Limit – After reviewing the enforceability of certain standards, while keeping in mind the goal of establishing regulations that ensure compatibility of STLUs with neighboring residential uses, staff does not support the inclusion of a 90-day maximum annual rental limitation. Unintended consequences of this type of regulation appear to outweigh the potential benefit of restricting the amount of time a dwelling unit may be rented on a short-term basis. These unintended consequences could consist of dwelling units left vacant for a majority of the year, increasing the potential for burglaries or squatting, or the undisclosed operation of the STLU beyond 90 days of short-term rentals resulting in lost tax revenues. Additionally, it would be difficult for the City to enforce the 90-day restriction. Staff anticipates that the regulations adopted by the City Council in February 2016 related to Chapter 3.24, Transient Occupancy Tax, combined with the zoning standards proposed here will adequately ensure that STLUs are compatible with surrounding residential properties.
- d. Zone Density – The total number of STLUs in any residential zone, not including home-shares (discussed below), should be limited to a proposed maximum of 20 percent of the housing units within the boundary of a particular zone where the use is allowed. In the Pier Bowl area, 7 percent of all dwelling units are vacation rentals. In reviewing public comment, staff has identified that this area does not appear to be negatively impacted to the same degree as other residential neighborhoods, such as the Residential Low and Medium zones in the southwest portion of the City. A 20-percent cap on the number of STLUs would allow about 80 STLUs in the Pier Bowl and two in the Residential High zone in the North Beach Focus Area. This cap ensures that there is not an overconcentration of STLUs in the residential portions of the Pier Bowl and North Beach Focus Areas while allowing growth to occur where the General Plan promotes visitor-serving

uses. This requirement would not apply to mixed-use areas or to home-shares in any zone, as these situations are less impactful to traditional neighborhood settings. (This standard is provided as Item E.2 in Attachment 1, Exhibit 1, Section 4).

- e. Transfer of Conditions – To better integrate the STLU regulations in Title 3.24, Transient Occupancy Tax, with the new STLU regulations proposed for Title 17, Zoning, staff recommends importing many of the standards previously specified in section 3.24.220(B), as adopted by the City Council on February 16, 2016, into the zoning code. These standards require STLUs to be quiet and orderly, utilize on-site parking, requires STLU owners to provide a 24-hour emergency contact, requires STLU owners to notify neighbors, and prohibits special events and parties at STLUs. (These standards are in the proposed subsection 17.28.292(C) in Attachment 1, Exhibit 1, Section 4).

Permit Requirements

To provide for a more expeditious and streamlined review and approval procedure for STLUs, staff proposes the creation of a short-term lodging unit zoning permit (STLU zoning permit). This permit would be added to Chapter 17.16, Applications, of the Zoning Ordinance. Because of the proposed standards and permitted zones, staff is supportive of an administrative permit to allow STLUs within those zones identified by the General Plan as visitor-serving. The City Planner would be the final authority on the approval of this permit, unless referred to the Zoning Administrator or appealed to the City Council. Please refer to Attachment 1, Exhibit 1, Section 2 for a complete description of this permit application.

The STLU zoning permit would provide a process for City staff to verify that the use as an STLU complies with the zoning ordinance. This permit would not run with the land and would expire upon transfer of ownership. Staff recommends that this type of permit expire to maintain the connection between the property owner and the use of his or her property. Should the property owner pass on the property to their children, for example, this requirement ensures that a new holder of an STLU zoning permit is familiar with the regulations because he or she will be required to go through the application process. A covenant "RIGHT TO NOTICE OF CHANGE OF OWNERSHIP" would also be required to be recorded with the County of Orange so that the City would be notified upon a change of ownership (probably by the seller or escrow). If the standards are not maintained (e.g., the property is rented for less than five days per rental), this permit, as well as the STLU Permit (soon to be operating license) required by Title 3 of the Municipal Code, may be revoked by the City.

Home-shares

At the March 2, 2016 Planning Commission meeting, the Commission discussed the definition of "home-share" and asked staff to provide alternate definitions of *home-share*. At its core, the assumption of a home-share is that a short-term rental occurs on a property where the property owner resides. The Commission's discussion centered on whether a

home-share should include multi-family properties where a single unit is occupied by the owner and the others are rented out, as opposed to a home-share only applying to a unit that the owner lives in. Additionally, the Commission requested certain operational standards to be included in the definition. In subsequent discussions with the City Attorney's office, staff understood that the definition is not the appropriate place for these types of standards. This left the following definition, with special standards applicable only to home-shares located in the new Special Uses section of the Zoning Ordinance regulating STLUs:

“Home-share” means a type of STLU that occurs while the property owner is residing on-site during the entire short-term rental period.

Reviewing the enforceability of home-shares, City staff from multiple divisions, along with comments received from the public and discussions with Code Enforcement staff from cities where they are allowed, identified that the concept of a home-share in which a property owner resides in the dwelling unit being rented short-term is problematic. In our discussions with cities that have allowed home-shares to operate, this type of STLU has been difficult to regulate and enforce. Enforcement is difficult because the onus is placed on Code Enforcement staff to prove that the property owner is not residing on-site during the rental.

However, this same issue does not present itself in scenarios where units in a multi-family building are rented short-term while the property owner resides in a separate on-site unit. In this way, there are no blurred lines between who should be occupying which units and when, and there are no tensions between the desires of the property owner and the renters because the property is managed on-site by an owner with a vested interest in maintaining neighborhood relationships. For these reasons, staff recommends a new definition for home-share, as follows:

“Home-share” means a multi-family-dwelling structure on a single parcel, under single ownership, where individual units are rented as STLUs, and where the home-share owner, being a person that holds legal or equitable title to the property, lives on-site in one of the other units not being rented short term. A “home-share” does not apply to an STLU in a multi-family-dwelling structure where the units are under multiple, separate ownerships, such as a condominium development, unless the home-share owner owns all the units in the structure and on the parcel and resides in one of the other units not being rented short term. Multi-family-dwelling structures containing six or more STLUs, whether under individual or separate ownership, for the purposes of this title, are considered “hotels” or “motels.”

Though this definition may sound close to that of a “bed-and-breakfast inn,” it is distinct because it only allows one rental agreement within a dwelling unit at a time. A bed-and-breakfast inn occurs in one dwelling unit and involves multiple rental agreements simultaneously. The home-share would generally maintain impacts that a single family would likely have on a single dwelling unit, with the exception of a shorter stay. Bed-and-

breakfast inns on the other hand essentially allow impacts of multiple families in a single dwelling unit.

With this new definition, staff recommends that home-shares be permitted in all residential zones, with approval of a home-share permit if located in an area where STLUs are not permitted. These areas (where home-shares may be permitted) would be limited (for now) to the residential zones regulated by the general zoning ordinance, i.e., not by a specific plan other than the Pier Bowl Specific Plan. Additionally, with the regulations adopted by the City Council on February 16, 2016, all STLUs and home-shares located in areas governed by a homeowners association (HOA) require the HOA's written approval.

Home-shares would be required to comply with all of the standards listed above for STLUs, with additional standards applicable only to home-shares. These additional standards include the following:

- a. A minimum distancing requirement of 300 feet between home-shares and other STLUs, including other home-shares.
- b. A more limited definition of home-share, which limits its application to multi-family situations with the owner residing on-site, as explained above.

Staff is supportive of allowing home-shares in a larger area with a discretionary-permit process that provides the City and neighbors an ability to comment on, and, in the case of the former, modify, the project based on site and locational considerations. A home-share permit would be required for home-shares that are located outside of the visitor-serving areas where STLUs are permitted. This permit would be added to Chapter 17.16, Applications. Due to their location, these home-shares require additional review through a public hearing process to ensure that the site is suitable for the type and intensity of use, the use will not be detrimental to the public health, safety or welfare, and the use will not negatively impact surrounding land uses. The Zoning Administrator would be the final authority on home-share permits, unless referred to the Planning Commission or appealed to the City Council. Please refer to Attachment 1, Exhibit 1, Section 3 for a complete description of this permit application.

Effectively, the home-share permit requires the same review and findings as a minor conditional-use permit, except that an MCUP does not run with the land. Instead, similar to the STLU zoning permit described above, a "Right to Notice of Change in Ownership" covenant would be required to be recorded with the County of Orange so that the City would be notified upon a change of ownership, at which time the home-share permit would expire. Also, if the standards are not maintained (e.g., if the property is rented for less than five days per rental) then the home-share permit, as well as the STLU Permit (or operating license) required by Title 3 of the Municipal Code, may be revoked by the City.

Boarding Houses and Specialty Hospitals

As noted earlier, much of this zoning amendment is dedicated to ensuring that the City's definitions for land uses are sufficient to adequately anticipate all uses that could be established on residentially-zoned properties. In this effort, staff identified a number of

existing loopholes that need to be closed to ensure that any new regulations will be effectively implemented. Additionally, staff anticipated loopholes that could be applied based on new definitions created. To address both of these situations, staff proposes new definitions for “boarding house” and “specialty hospital.” Both of these definitions help maintain the residential character of dwelling units located in residential zones. The proposed regulations are also in compliance with federal and state fair-housing and disability laws.

Staff proposes that specialty hospital uses be permitted, subject to a conditional use permit, in the commercial zones most conducive to specialized in-patient health services, those being the more intensive commercial zones. These areas are described in Section 6 of Attachment 1, Exhibit 1. This is consistent with how the City regulates other medical office and hospital uses.

Boarding houses are proposed to be permitted in the Residential Medium and Residential High zoning districts that are not in a specific plan, as well as in the more intensive, yet still residentially-focused mixed-use zone (MU 5) due to the transitory nature of this type of lodging. This use’s clientele typically require greater access to transportation facilities and commercial amenities, especially those within walking distance. A proposed footnote below the table specifies a minimum distancing requirement for boarding houses of 300 feet to ensure that clusters of transitory lodging uses are not created, which would conflict with the residential and residentially focused character of the respective neighborhoods. A map showing the zones proposed to allow boarding houses are provided in Attachment 7 and described in Sections 5 and 7 of Attachment 1, Exhibit 1. Staff proposes that boarding houses require one parking space per staff plus one space per rental agreement. As noted above, the transitory nature of this type of longer-term lodging generally serves a clientele who typically require greater access to transportation facilities and commercial amenities, especially within walking distance. So the zoning takes that into account. Due to this, a parking requirement that reflects the expected parking demand for these uses is recommended (This parking standard is provided in Attachment 1, Exhibit 1, Section 8).

Amortization of Nonconforming Uses

The draft ordinance amends the Nonconforming Structures and Uses Chapter of the Zoning Ordinance to specify how nonconforming STLUs and home-shares should be treated. Staff proposes that three main conditions apply to the amortization of these uses. The first is that an amortization period of two years be applied to all nonconforming STLUs and home-shares and that a change of ownership will immediately terminate their continued operation unless the new owner requests an extension of the amortization period. The second is that during the amortization period, the STLU or home-share may be operated without correcting the development standards (i.e. unit density, location, parking, and trash), but that compliance with minimum rental lengths and occupancy limitations is required. The third condition is that upon the conclusion of the amortization period, any legally established nonconforming STLU shall cease all business and lodging operations. Finally, the fourth condition states that after the amortization period ends, any nonconforming STLUs or home-shares that are nonconforming only because they do not meet the minimum distancing or zone density requirements will be allowed to remain as

nonconforming uses until the property changes ownership or the use ceases for a period of one year. These amortization requirements are provided in Attachment 1, Exhibit 1, Section 9.G.

The proposed zoning amendment also includes an amendment to specify how nonconforming boarding houses should be treated. Staff proposes the three main conditions described above for STLUs and home-shares also be applied to the amortization of boarding houses. These amortization requirements are provided in Attachment 1, Exhibit 1, Section 9.H.

GENERAL PLAN CONSISTENCY

Table 3 summarizes how the proposed use is consistent with adopted policies outlined in the City of San Clemente General Plan.

Table 3 - General Plan Consistency

Policies and Objectives	Consistency Finding
<p>Land Use Element Primary Goal number 1, which states, “The Land Use Plan seeks to retain and enhance established residential neighborhoods, commercial and industrial districts, recreational resources, community-activity areas and amenities, and open spaces that improve the community’s quality of life, enhance the appeal of our many attractions, maintain our small-town character, and ensure long-term environmental and fiscal health.”</p>	<p>Consistent. The disturbances caused by commercial lodging uses, such as STLUs and boarding houses, in many residential neighborhoods are a threat to the public health, safety, general welfare, and quiet enjoyment of residential property, and the proposed amendment limits the use of residential property for commercial lodging purposes to a level of impact that maintains compatibility with surrounding residential neighborhoods.</p>
<p>Land Use Element Primary Goal number 5, which states, “The Land Use Plan seeks to preserve and enhance coastal recreation, resources, access and amenities.”</p>	<p>Consistent. The proposed amendment allows for the focused continuation of short-term lodging uses within close proximity to coastal resources to provide access for visitors.</p>

Policies and Objectives	Consistency Finding
<p>Land Use Element Policy LU-1.01, General, which states, “We accommodate the development of a variety of housing types, styles, tenure and densities that are accessible to and meet preferences for different neighborhood types (e.g., mixed use pedestrian environments and traditional suburban neighborhoods), physical abilities and income levels, pursuant to the Land Use Plan and Housing Element.”</p>	<p>Consistent. The proposed amendment allows for the maintenance of a diverse spectrum of housing opportunities, including affordable low- and medium-density residential neighborhoods, while permitting commercial lodging uses and transitory lodging facilities that are compatible with residentially-focused neighborhoods.</p>
<p>Land Use Element Policy LU-2.03, Neighborhood Compatibility, which states, “We require that commercial projects abutting residential neighborhoods be designed and operated to protect residents from the effects of noise, light, odors, vibration traffic, parking and other operational impacts.”</p>	<p>Consistent. Short-term lodging units, being taxed similarly to hotels, motels, and other commercial lodging units, are by definition not residential projects, and the proposed amendment requires that these commercial lodging uses maintain compatibility with surrounding residential neighborhoods, and also limit the density of short-term lodging units and transitory lodging facilities within those neighborhoods.</p>
<p>Land Use Element Policy LU-3.05, Stand Alone Residential Uses, which states, “In Mixed Use areas MU3.1, MU3.3, and MU5, stand-alone residential uses are permitted. In these areas, we require stand-alone dwellings to be compatible with adjacent commercial and mixed uses and with adjacent neighborhoods....”</p>	<p>Consistent. The proposed amendment permits commercial lodging uses that could occupy stand-alone residential structures and contribute more to a mixed-use zone than residential uses.</p>

Policies and Objectives	Consistency Finding
<p>Land Use Element Policy LU-10.16, Residential Buffers, which states, “While entertainment and cultural uses are focuses of the [North Beach] Area’s revitalization, we require new development to be compatible with nearby residential uses through horizontal distance requirements and building and site design standards established by the Zoning Ordinance and Specific Plan.”</p>	<p>Consistent. The proposed amendment encourages short-term lodging uses to locate within mixed-use, visitor-serving areas which help provide a buffer between more intense commercial uses and less intense residential neighborhoods.</p>
<p>Land Use Element Policy LU-11.03, Flexibility, which states, “We allow flexibility to accommodate market changes for the mix of uses identified in the Del Mar/T-Zone Mixed Use Guide, if doing so promotes achieving the Area’s vision and improves livability, reduces vehicular trips, creates community gathering places and activity nodes, or helps strengthen the its character and identity.”</p>	<p>Consistent. The proposed amendment provides for the enhancement of that area’s visitor-serving focus and provides opportunities for commercial lodging within close proximity to activity nodes.</p>
<p>Land Use Element Policy LU-12.07, Economic Development, which states, “We leverage Del Mar/T-Zone and Pier Bowl and Pier economic development efforts and special events to enhance regional appeal and encourage visitors to visit both destinations. The City will support efforts to develop tools that aid in the Area’s revitalization.”</p>	<p>Consistent. The proposed amendment permits short-term lodging uses within the Pier Bowl and Del Mar/T-Zone Focus Areas, which encourages the visitation and revitalization of both areas due to the attractiveness of STLUs to visitors.</p>
<p>Economic Development Policy ED-1.04, Long-Term Benefits, which states, “We consider long-term benefits, not just short-term returns, in our decision-making processes.”</p>	<p>Consistent. The proposed amendment exemplifies the balance necessary to ensure the long-term attractiveness and viability of the City’s residential neighborhoods with the ability to generate more tax revenue at their expense.</p>

Policies and Objectives	Consistency Finding
Coastal Element Policy C-1.14, Overnight Accommodations, which states, "We protect, encourage and, where feasible, provide low cost overnight accommodations in the Coastal Zone, including the possibility of a youth or elder hostel."	Consistent. The proposed amendment provides for the continuation of visitor-serving short-term lodging accommodations within the Coastal Zone.

ENVIRONMENTAL REVIEW/COMPLIANCE (CEQA):

On February 13, 2014, the San Clemente City Council certified the Final Environmental Impact Report (EIR), State Clearinghouse No. 2013041021, for the Centennial General Plan. The EIR evaluated, disclosed and mitigated, to the extent feasible, all environmental impacts of the City’s General Plan update. Staff has reviewed the proposed zoning code amendment regarding short-term lodging units and has determined that it is consistent with the General Plan for which an EIR was certified. Therefore, pursuant to Public Resources Code section 21083.3 and State CEQA Guidelines section 15183, the proposed amendments do not require additional environmental review. Additionally, no further environmental review is required under Public Resources Code section 21166 or State CEQA Guidelines section 15162 because no substantial changes are proposed which will require major revisions of the prior EIR, no substantial changes have occurred with regard to the circumstances under which the project is being undertaken, and no new information of substantial importance that shows one or more new, or more severe environmental impacts, has come to light.

CALIFORNIA COASTAL COMMISSION REVIEW

Certain parts of the commercial and mixed use zones discussed in these amendments are located entirely or in part within the Coastal Zone. For these areas, the zoning amendments discussed in this report will be subject to California Coastal Commission review and will be considered during the Coastal Commission’s review of the City of San Clemente Local Coastal Program. City staff contacted Coastal Commission staff regarding the proposed zoning changes to assess potential Coastal Commission support. Based on this preliminary conversation, Coastal Commission staff stated that if the City provides a balanced approach and does not ban STLUs outright, the proposal is likely to receive Coastal Commission approval.

ALTERNATIVES; IMPLICATIONS OF ALTERNATIVES

1. The Planning Commission can concur with staff and recommend approval of the proposed amendments.

This action would result in the project moving forward for review and consideration by the City Council.

2. The Planning Commission can, at its discretion, add, modify or delete provisions of the proposed amendments.

This action would result in any modifications being reviewed and considered by the City Council.

3. The Planning Commission can recommend denial of the proposed amendments.

This action would result in the Commission's recommendation being forward for review and consideration by the City Council.

RECOMMENDATIONS

STAFF RECOMMENDS THAT the Planning Commission recommend that the City Council approve Zoning Amendment 15-426 / Specific Plan Amendment 16-072, forwarding a recommendation to the City Council to amend San Clemente Municipal Code Title 17, Zoning, and the Pier Bowl Specific Plan to establish regulations related to short-term lodging units, as specified in Exhibit 1 of Attachment 1.

STAFF RECOMMENDS THAT the Planning Commission recommend that the City Council approve Zoning Amendment 15-426 with the following modification: That the the area in North Beach where STLUs are allowed be expanded to also include Lots 31 through 46 of Block 4 of Tract 821, as specified in Exhibit 1 of Attachment 2

Attachments:

1. Resolution No. PC 16-007
Exhibit 1 - Proposed Zoning Amendment and Specific Plan Amendment
2. Resolution No. PC 16-011
Exhibit 1 - Addition to Proposed Zoning Amendment
3. Map of Proposed Zones Permitting STLUs in Downtown/Del Mar Focus Area
4. Map of Proposed Zones Permitting STLUs in North Beach Focus Area
5. Map of Proposed Zones Permitting STLUs in Pier Bowl Focus Area
6. Map of Proposed Zones Permitting STLUs in South El Camino Real Focus Area
7. Maps of Proposed Zones Permitting Boarding Houses

ATTACHMENT 1

RESOLUTION NO. PC 16-007

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SAN CLEMENTE, CALIFORNIA, RECOMMENDING THAT THE CITY COUNCIL APPROVE ZONING AMENDMENT 15-426 AMENDING TITLE 17, ZONING, AND SPECIFIC PLAN AMENDMENT 16-072 AMENDING THE PIER BOWL SPECIFIC PLAN TO ESTABLISH REGULATIONS RELATED TO SHORT-TERM LODGING UNITS

WHEREAS, the municipal code has long prohibited all primarily commercial uses, such as hotels, hospitals, and medical offices, in residential zones; and

WHEREAS, on July 7, 2015, the City Council imposed a temporary moratorium, subject to reasonable accommodation, and directed the study and review of potential changes to the zoning code to address nuisance and other impacts that had arisen in the context of sober-living homes and large alcoholism and drug abuse recovery or treatment facilities; and

WHEREAS, in addition, on February 2, 2016, the Council directed the Planning Commission to consider specific zoning standards and regulations that would the same kinds of impacts arising in the context of lodging uses and to provide a recommendation to the Council; and

WHEREAS, on November 18, 2015, December 3, 2015, January 20, 2016, February 3, 2016, and February 10, 2016, the Planning Commission held study sessions regarding potential zoning and specific-plan amendments and provided comments and direction to staff regarding the same; and

WHEREAS, the Planning Commission has reviewed and considered the agenda reports prepared in connection with those study sessions, as well as written and oral testimony received in those sessions; and

WHEREAS, the City Council, beginning with Ordinance No. 463, adopted on July 1, 1964, has adopted various ordinances relating to the levy and collection of transient-occupancy tax and the licensing of hotels and vacation rentals; and

WHEREAS, the Council also initiated amendments to the tax and license portions of the municipal code to address the negative impacts of short-term-lodging businesses, which efforts resulted in Ordinance No. 1617, adopted February 16; and

WHEREAS, as part of this zoning recommendation, the Planning Commission recommends consolidating and cross-referencing the definitions used in those tax and license enactments with those in the zoning code to provide more clarity and consistency in the application and enforcement of the code and to use modern parlance for terms or use descriptions that might have become anachronistic; and

WHEREAS, the Planning Commission desires to address the adverse external effects of short-term and other transitory lodgings and other commercial uses in residential zones. Specifically, the Commission desires now to recommend land-use regulations (1) that are tailored to the common impacts of commercial transitory uses in residential zoning districts, (2) that distinguish between areas that are appropriate for residential recovery services and areas that are more appropriate for businesses and medical treatment or recovery services, and (3) that comply with federal and state fair-housing and disability laws; and

WHEREAS, the Planning Commission desires the zoning code to better delineate the appropriate scope, intensity, and duration of incidental business, home occupations, short-term rental, medical, and commercial recovery uses in residential homes, which are now subject to ad hoc and sometimes varying interpretations by owners and neighbors; and

WHEREAS, the Planning Commission desires to prescribe regulations for the location and operation of lodging and other commercial uses in accordance with federal and state fair-housing and disability laws; and

WHEREAS, on February 17, 2106, and February 24, 2016, March 2, 2016, March 16, 2016, and April 6, 2016, the Planning Commission held duly noticed public hearings on the subject amendments and considered evidence presented by City staff and others; and

WHEREAS, the Planning Commission has reviewed and considered the agenda reports prepared in connection with those hearings (including the policy considerations discussed therein) and the written and oral testimony received in those hearings.

WHEREAS, approval of the proposed resolution is exempt from the California Environmental Quality Act ("CEQA") under section 15301 (Existing Facilities) of the State CEQA Guidelines because allowing lodgings that meet the standards adopted herein will not involve an expansion of use beyond that currently existing. Further, approval of the resolution is also exempt under Guidelines section 15061(b)(3) because it can be seen with certainty that it will not result in a physical change in the environment: If an ordinance is adopted by the Council as recommended in this resolution, implementation of the ordinance will not increase residential density or the intensity of use because the standards proposed herein are consistent with otherwise allowable residential uses and activities; and

NOW THEREFORE, the Planning Commission of the City of San Clemente hereby resolves as follows:

Section 1. Each recital above is incorporated here by reference and is adopted as a finding by the Planning Commission.

Section 2. With regard to ZA 15-426, the Planning Commission finds as follows:

1. The proposed Zoning Amendment, detailed in Exhibit 1, is consistent with the General Plan because it provides for the fulfillment of the Centennial General Plan's intent and policies, including:
 - A. Land Use Element Primary Goal number 1, which states, "The Land Use Plan seeks to retain and enhance established residential neighborhoods, commercial and industrial districts, recreational resources, community-activity areas and amenities, and open spaces that improve the community's quality of life, enhance the appeal of our many attractions, maintain our small-town character, and ensure long-term environmental and fiscal health," in that the disturbances caused by short-term and interim lodging uses (which are inherently commercial) in many residential neighborhoods are a threat to the public health, safety, general welfare, and to the quiet enjoyment of residential property, and the proposed amendments limits the use of residential property for lodging purposes to a level of impact that maintains compatibility with surrounding residential neighborhoods.
 - B. Land Use Element Primary Goal number 5, which states, "The Land Use Plan seeks to preserve and enhance coastal recreation, resources, access and amenities," in that the proposed amendment allows for the focused continuation and potential expansion of short-term lodging uses in close proximity to coastal resources to provide access for visitors.
 - C. Land Use Element Policy LU-1.01, General, which states, "We accommodate the development of a variety of housing types, styles, tenure and densities that are accessible to and meet preferences for different neighborhood types (e.g., mixed use pedestrian environments and traditional suburban neighborhoods), physical abilities and income levels, pursuant to the Land Use Plan and Housing Element," in that the proposed amendment allows for the maintenance of a diverse spectrum of housing opportunities, including workforce and affordable low- and medium-density residential neighborhoods, while permitting short-term and interim lodging uses that are compatible with the residential uses around them.
 - D. Land Use Element Policy LU-2.03, Neighborhood Compatibility, which states, "We require that commercial projects abutting residential neighborhoods be designed and operated to protect residents from the effects of noise, light, odors, vibration traffic, parking and other operational impacts," in that short-term and interim lodging units are commercial uses, and the proposed amendments require that these lodging uses maintain compatibility

with surrounding residential neighborhoods and limit the density of short-term lodging units within those neighborhoods.

- E. Land Use Element Policy LU-3.05, Stand Alone Residential Uses, which states, “In Mixed Use areas MU3.1, MU3.3, and MU5, stand-alone residential uses are permitted. In these areas, we require stand-alone dwellings to be compatible with adjacent commercial and mixed uses and with adjacent neighborhoods...,” in that the proposed amendments allow lodging uses to occupy stand-alone residential structures, which, as commercial uses, contribute more to a mixed-use zone than residential uses.
- F. Land Use Element Policy LU-10.16, Residential Buffers, which states, “While entertainment and cultural uses are focuses of the [North Beach] Area’s revitalization, we require new development to be compatible with nearby residential uses through horizontal distance requirements and building and site design standards established by the Zoning Ordinance and Specific Plan,” in that the proposed amendment encourages short-term lodging uses to locate within mixed-use, visitor-serving areas, which helps provide a buffer between more intense commercial uses and residential neighborhoods.
- G. Land Use Element Policy LU-11.03, Flexibility, which states, “We allow flexibility to accommodate market changes for the mix of uses identified in the Del Mar/T-Zone Mixed Use Guide, if doing so promotes achieving the Area’s vision and improves livability, reduces vehicular trips, creates community gathering places and activity nodes, or helps strengthen the its character and identity,” in that the proposed amendment provides for the enhancement of that area’s visitor-serving focus and provides opportunities for lodging uses within close proximity to activity nodes.
- H. Land Use Element Policy LU-12.07, Economic Development, which states, “We leverage Del Mar/T-Zone and Pier Bowl and Pier economic development efforts and special events to enhance regional appeal and encourage visitors to visit both destinations. The City will support efforts to develop tools that aid in the Area’s revitalization,” in that the proposed amendment permits short-term and interim lodging uses within the Pier Bowl and Del Mar/T-Zone Focus Areas, which encourages the visitation and revitalization of both areas due to the attractiveness of short-term lodgings to visitors.
- I. Economic Development Policy ED-1.04, Long-Term Benefits, which states, “We consider long-term benefits, not just short-term returns, in our decision-making processes,” in that the proposed

amendment appropriately balances the long-term attractiveness and viability of the City's residential neighborhoods with the ability to generate more tax revenue at their expense and the vitality of visitor-serving commercial uses.

J. Coastal Element Policy C-1.14, Overnight Accommodations, which states, "We protect, encourage and, where feasible, provide low cost overnight accommodations in the Coastal Zone, including the possibility of a youth or elder hostel," in that the proposed amendment provides for the continuation and potential expansion of visitor-serving short-term lodging accommodations within visitor-focused areas of the Coastal Zone.

2. The proposed Zoning Amendment, detailed in Exhibit 1, will not adversely affect the public health, safety, or welfare, in that the proposed amendment achieves the goals of the General Plan as they relate to residential and mixed-use zones for the reasons listed above. Additionally, the proposed amendment assuages the negative impacts created by new, internet-based technologies that have dramatically altered the nature of the short-term-rental industry in terms of the offering and acquisition of rentals, the types of clientele attracted to short-term rentals in residential zones, and the impact these uses have on traditional residential neighborhood settings by appropriately restricting short-term-lodging uses to maintain compatibility with surrounding residential neighborhoods. The proposed amendment also mitigates the negative impacts created by non-residential commercial uses operating in residential zones. Furthermore, the negative impacts of short-term lodgings and other interim uses are not a problem that is isolated to the City but are a worldwide issue and which many cities have recently regulated. The problem has regional implications affected by the regulatory actions of neighboring cities that could escalate the negative impacts of short-term lodgings in residential zones if the City does not adopt appropriate zoning standards to promote the health, safety, and general welfare of its residents. The proposed amendment limits lodging uses in residential zones to the extent necessary to maintain compatibility with traditional neighborhood environments, while also limiting the potential for lodging uses to expand into areas of the City that are less appropriate.

Section 3. With regard to Specific Plan Amendment 16-072, the Planning Commission finds as follows:

1. The proposed Specific Plan Amendment, detailed in Exhibit 1, is consistent with the goals, objectives, policies, and programs of the General Plan and is necessary and desirable to implement the provisions of the General Plan because it provide for the fulfilment of the Centennial General Plan's intent and policies, including:

- A. Land Use Element Primary Goal number 1, which states, “The Land Use Plan seeks to retain and enhance established residential neighborhoods, commercial and industrial districts, recreational resources, community-activity areas and amenities, and open spaces that improve the community’s quality of life, enhance the appeal of our many attractions, maintain our small-town character, and ensure long-term environmental and fiscal health,” in that the disturbances caused by lodging uses (which are inherently commercial) in many residential neighborhoods are a threat to the public health, safety, general welfare, and quiet enjoyment of residential property, and the proposed amendment limits the use of residential property for lodging purposes to maintain compatibility with surrounding residential neighborhoods.
- B. Land Use Element Primary Goal number 5, which states, “The Land Use Plan seeks to preserve and enhance coastal recreation, resources, access and amenities,” in that the proposed amendment allows for the focused continuation and potential expansion of short-term lodging uses in close proximity to coastal resources to provide access for visitors.
- C. Land Use Element Policy LU-1.01, General, which states, “We accommodate the development of a variety of housing types, styles, tenure and densities that are accessible to and meet preferences for different neighborhood types (e.g., mixed use pedestrian environments and traditional suburban neighborhoods), physical abilities and income levels, pursuant to the Land Use Plan and Housing Element,” in that the proposed amendment allows for the maintenance of a diverse spectrum of housing opportunities while permitting lodging uses that are compatible with the residential uses around them.
- D. Land Use Element Policy LU-2.03, Neighborhood Compatibility, which states, “We require that commercial projects abutting residential neighborhoods be designed and operated to protect residents from the effects of noise, light, odors, vibration traffic, parking and other operational impacts,” in that short-term lodging units, being operated and taxed similarly to hotels, motels, and other commercial lodging units, are by definition not residential projects, and the proposed amendment requires that these lodging uses maintain compatibility with surrounding residential neighborhoods, and also limits the density of short-term lodging units within those neighborhoods.
- E. Land Use Element Policy LU-12.07, Economic Development, which states, “We leverage Del Mar/T-Zone and Pier Bowl and Pier economic development efforts and special events to enhance

regional appeal and encourage visitors to visit both destinations. The City will support efforts to develop tools that aid in the Area's revitalization," in that the proposed amendment permits short-term and interim lodging uses within the Pier Bowl and Del Mar/T-Zone Focus Areas, which encourages the visitation and revitalization of both areas due to the attractiveness of short-term lodgings to visitors.

F. Economic Development Policy ED-1.04, Long-Term Benefits, which states, "We consider long-term benefits, not just short-term returns, in our decision-making processes," in that the proposed amendment appropriately balances the long-term attractiveness and viability of the City's residential neighborhoods with the ability to generate more tax revenue at their expense and the vitality of visitor-serving commercial uses.

G. Coastal Element Policy C-1.14, Overnight Accommodations, which states, "We protect, encourage and, where feasible, provide low cost overnight accommodations in the Coastal Zone, including the possibility of a youth or elder hostel," in that the proposed amendment provides for the continuation and potential expansion of visitor-serving short-term lodging accommodations within visitor-focused areas of the Coastal Zone.

2. The proposed Specific Plan Amendment, detailed in Exhibit 1, will not alter the general nature of uses permitted within the Pier Bowl Specific Plan; rather, it encourages visitor-serving uses to locate where they have the best access to visitor-focused amenities and are most compatible with adjacent development.
3. The proposed Specific Plan Amendment will not adversely affect the public health, safety or welfare, in that the proposed amendments do not alter the general nature of uses permitted and existing within the Pier Bowl Specific Plan area. The Pier Bowl Focus Area has a tradition of being a visitor-serving area, identified in the General Plan as a, "an attractive and easily accessible, pedestrian-oriented center of resident and visitor activities which capitalizes on its history and coastal location." Additionally, the proposed amendment allows for the focused continuation and potential expansion of short-term and interim lodging uses in close proximity to coastal resources to provide access for visitors, which is consistent with the other goals and policies of the General Plan for this specific plan area.
4. The proposed Specific Plan Amendment, will not create internal inconsistencies within the specific plan, in that the modifications proposed to the specific plan only relate to the express inclusion of existing uses to provide for the specific regulation of short-term lodgings, and they do not provide for any additional uses beyond what currently exists. This is consistent with General Plan Governance Element Policy G-1.11, Keeping the General Plan

and Specific Plans Current, which states, "The City amends the General Plan to reflect new information, changing conditions, needs and community preferences. This may require updating one or more specific plans and other regulatory documents to maintain consistency." The proposed amendments represent a complete approach to ensure that the goals and policies of the General Plan are reflected in the Specific Plan. The proposed amendment maintains the City's multiple regulatory documents as current and relevant.

Section 4. The Planning Commission of the City of San Clemente recommends that the City Council approve Zoning Amendment 15-426 and Specific Plan Amendment 16-072, which amend Title 17, Zoning, and the Pier Bowl Specific Plan, respectively, to establish regulations of short-term lodging units and related uses, subject to the findings above.

Section 5. The Planning Commission also recommends that the City Council repeal Ordinance No. 1602, effective with the ordinance enacting the amendments described in Section 4.

[Continued on next page]

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the City of San Clemente on April 6, 2016.

Chair

TO WIT:

I HEREBY CERTIFY that the foregoing resolution was duly adopted at a regular meeting of the Planning Commission of the City of San Clemente on April 6, 2016, and carried by the following roll call vote:

- AYES: COMMISSIONERS:**
- NOES: COMMISSIONERS:**
- ABSTAIN: COMMISSIONERS:**
- ABSENT: COMMISSIONERS:**

Secretary of the Planning Commission

EXHIBIT 1

Section 1. Chapter 17.88 of the municipal code, Definitions, is hereby amended to add or revise the following definitions to read in their entirety as follows:

“Bed-and-breakfast inn” means a structure wherein the owner of the property lives and at least two lodging units without individual kitchens are rented on a short-term basis under separate oral or written contracts and where at least one meal is provided daily in a common dining area.

“Boarding house” means either of the following:

1. A dwelling unit or any portion thereof used to provide long-term lodging under four or more individual contracts or rental agreements.
2. Any short-term lodging use that it is not a hotel, motel, bed-and-breakfast inn, or STLU (including home-share).

“Dwelling unit” means a habitable room or group of habitable rooms (e.g., living room, bedroom, den, library, recreation, studio, etc.) with no more than one kitchen; designed for occupancy by one or more persons living as a single housekeeping unit (as defined in this chapter); and with common interior access to all living, kitchen, and bathroom areas.

“Guest,” when used in reference to an STLU, means any person (including an invitee) visiting a renter of a lodging unit but not authorized by the lease to sleep or stay overnight in the unit.

“Home-share” means a multi-family-dwelling structure on a single parcel, under single ownership, where individual units are rented as STLUs, and where the home-share owner, being a person that holds legal or equitable title to the property, lives on-site in one of the other units not being rented short term. A “home-share” does not apply to an STLU in a multi-family-dwelling structure where the units are under multiple, separate ownerships, such as a condominium development, unless the home-share owner owns all the units in the structure and on the parcel and resides in one of the other units not being rented short term. Multi-family-dwelling structures containing six or more STLUs, whether under individual or separate ownership, for the purposes of this title, are considered “hotels” or “motels.”

“Hotel” means a building, or group of buildings on the same parcel, containing six or more short-term lodging units, whether under single or separate ownership, that has the following characteristics: access is provided through a common entrance lobby to lodging units; the lodging units have no cooking facilities; they are accompanied by commercial or recreational facilities that are incidental and accessory to the principal hotel use and that are a minimum of 1,000 square feet. Such accessory uses include, but are not limited to, gift shops, clothing stores, and other similar retail uses; beauty parlor, barber shop, and other similar personal services; ticket, travel, stock brokers, and other similar agencies; restaurants, coffee shops, cocktail lounges, and other similar food and beverage services; meeting rooms, convention centers, and other similar places for public assembly; athletic clubs, health spas, exercise rooms, and

other similar recreational facilities, and any other accessory uses which the decision-making authority deems appropriate in conjunction with the principal hotel use. For the purposes of this title, "hotel" does not include those terms, defined in this chapter, that describe other specific types of lodging uses or arrangements with six or more lodging units.

"Lodging unit" means a structure, or any portion of a structure, that is occupied, designed, or permitted for paid occupancy for lodging or temporary sleeping purposes, excluding a single housekeeping unit.

"Long term" means a period of 30 or more consecutive calendar days. When applied to lodging, "long-term" refers to the duration of occupancy.

"Motel" means a building, or group of buildings on the same parcel, containing six or more short-term lodging units having no cooking facilities, a majority of which have individual entrances from the outside. It is a hotel for purposes of chapter 3.24.

"Renter," when used in reference to an STLU or boarding house, means a person that rents or occupies a lodging unit and who is authorized to sleep and stay there overnight.

"Short term" means for a period of 29 or fewer consecutive calendar days. When applied to lodging, "short-term" refers to the duration of occupancy.

"Short-term lodging unit" or "STLU" means any lodging unit that is occupied or intended or designed to be occupied on a short-term basis other than a hotel, motel, bed-and-breakfast inn. "STLU" includes (1) Home-shares, subject to special regulations specified in Chapter 17.28.292 of this title and (2) home-exchanges, where homeowners temporarily occupy one another's property simultaneously during the same short-term period without rent or other exchange of money more than once in any 12-month period.

"Single housekeeping unit" means that the residents of a dwelling unit satisfy the following criteria:

1. They have established ties and familiarity and interact with each other
2. Membership in the single housekeeping unit is fairly stable as opposed to transient or temporary.
3. They share meals, household activities, expenses, and responsibilities.
4. All adult residents have chosen to jointly occupy the entire premises of the dwelling unit; and they each have access to all common areas.
5. If the dwelling unit is rented, all adult residents are named on and party to a single written lease that gives them each joint use and responsibility for the premises.

6. Membership of the household is determined by the residents, not by a landlord, property manager, or other third party.

7. The residential activities of the household are conducted on a nonprofit basis.

8. They do not have separate entrances or separate food-storage facilities, such as separate refrigerators.

“Specialty Hospital” means any facility, place, or building which is maintained and operated exclusively to provide 24-hour paid in-patient services for the specialized treatment and recovery of chronic health conditions or elective procedures or treatments. Services provided may include, but are not limited to, food service, nutrition counseling, acupuncture, massage, fitness and physical therapy, and pharmaceutical and medical attention. This type of facility is distinct from an acute care, general hospital and from a residential use where these services are occasional or otherwise incidental to a primarily residential occupancy.

Section 2. Section 17.16.145, is hereby added to the municipal code, to read as follows:

17.16.145 – Short-term lodging unit (or STLU) zoning permit.

- A. Purpose and Intent. The STLU zoning permit process prescribed in this Chapter is to provide for a more expeditious and streamlined review and approval procedure for STLUs that are consistent with the standards of this title.
- B. Authority. The City Planner is the final authority on STLU zoning permits, subject to the concurrent review and appeal provision of Section 17.12.090, Consideration of Concurrent Applications, and Section 17.12.140, Appeals of an Action. The City Planner has the discretion to refer applications to the Zoning Administrator for review and final action. If an application is referred to the Zoning Administrator, a public hearing and notification is required per Section 17.12.100.
- C. Submittal Requirements. STLU zoning permit applications shall be as prescribed by Section 17.12.040, Filing an Application, and Section 17.12.060, Applications Requiring Additional Information.
- D. Review Procedures. Following receipt of a completed application, the City Planner shall review the application for compliance with the Zoning Ordinance. When a Minor/ Site Plan Permit, Minor/ Architectural Permit, or Minor/ Conditional Use Permit is approved for the property, STLU zoning permit Applications are also reviewed to ensure they are consistent with plans approved through the discretionary review process.
- E. Recordation. As a condition of every STLU zoning permit, the STLU owner must cause to be recorded with the County Clerk–Recorder, at the owner’s expense, a “CITY’S RIGHT TO NOTICE OF CHANGE IN OWNERSHIP” covenant. It must

state that the property owner covenants to give the City notice of any change in ownership upon conveyance of the property. Notice must be by the owner or by the owner's escrow agent. The STLU zoning permit is void as of the date of conveyance.

- F. Appeals. Appeals of decisions on STLU zoning permits shall be reviewed in accordance with Section 17.12.140, Appeals of an Action.
- G. Modifications Requested by the Applicant. Modifications requested by the applicant to approved STLU zoning permits shall be reviewed in accordance with Section 17.12.180, Modifications of an Approved Application, of this title.
- H. Modifications or Revocations Initiated by the City. The City may change or revoke STLU zoning permits as provided in Section 17.12.175 of this Code. The City may also impose penalties and revoke STLU zoning permits and/or STLU operating licenses pursuant to Sections 3.24.050 through 3.24.067 pursuant to the procedures found therein.
- I. Required Findings. Prior to the approval of an application for a STLU Zoning Permit, all of the following findings shall be made:
 - 1. The owner has fully complied with the provisions of this chapter.
 - 2. The STLU property has not previously been the subject of an STLU zoning permit that was revoked under this title within the previous 24 months, and
 - 3. The STLU owner has not previously held a STLU zoning permit or STLU operating license that was later revoked under this Code.
 - 4. The STLU meets the minimum operating standards of Subsection 17.28.292(C) and (D).
 - 5. The STLU qualifies for an STLU operating license pursuant to Chapter 3.24.
- J. Other Review Requirements. The development review process for STLU zoning permit applications, such as time limits on approvals and time extensions, shall be those prescribed by Chapter 17.12, Development Review Process, for general application processing.
- K. STLU Zoning Permit Approval Does Not Run with the Land. An STLU zoning permit is owner-specific and does not run with the land. Any change of ownership terminates an existing STLU zoning permit and requires issuance of a new STLU zoning permit to the new owner and/or operator for continued operation of the STLU. A change of ownership shall include, but not be limited to, the sale of at least 50 percent of the shares in any type of corporation, or a change in any of the principal officers in a corporation as determined by the City Manager or his or

her designee. Notwithstanding the foregoing, if the permittee is a partnership and one or more of the partners should withdraw, one or more of the remaining partners may acquire, by purchase or otherwise, the interest of the partner or partners who withdrew without effecting a change in ownership, and in such case, the permittee shall be deemed to be the surviving partner(s).

Section 3. Section 17.16.146 is hereby added to the municipal code to read as follows:

17.16.146 – Home-share permit.

- A. Purpose and Intent. It is the purpose of the Home-share permit process to provide for the streamlined review of uses that may have an impact on the surrounding environment and require discretionary review, but due to their nature, scale or location, do not require discretionary consideration by the Planning Commission. The Home-share permit process has as its purpose the same goals for uses described for the Minor Conditional Use Permit process included in Section 17.16.060(A), Conditional Use Permits, Purpose and Intent, of this chapter, with the exception of the owner-specific nature of the permit not running with the land.
- B. Authority. The Zoning Administrator is the final authority on Home-share Permits, subject to the concurrent review and appeal provisions of Sections 17.12.090, Consideration of Concurrent Applications, and 17.12.140, Appeals of an Action. The Zoning Administrator has the discretion to refer applications to the Planning Commission for review and final action.
- C. Applicability. Home-share Permits are required for all Home-shares located in residential zones where STLUs are not permitted, as indicated by the use tables in Chapters 17.32, Residential Zones and Standards through 17.48, Public Zones and Standards.
- D. Use Requirements. The standards for STLU uses prescribed in Section 17.28.292 shall apply to Home-share permits.
- E. Submittal Requirements. The submittal requirements for Home-share permit applications shall be those required under Section 17.12.040, Filing an Application, and Section 17.12.060, Applications Requiring Additional Information.
- F. Application Filing, Processing, and Review.

1. Application Filing. The review process is initiated when the Planning Division receives an application package. The application package shall include the required information and materials specified in the application and any additional information required by the City Planner or review authority to conduct a thorough review of the proposed project.
2. Application Review. Each application shall be reviewed to ensure that proposals are consistent with the purpose of this chapter; applicable development standards, policies, regulations, and guidelines.
 - a. Development Management Team Review. The Development Management Team reviews an application to determine if it is complete and complies with applicable development standards, policies, regulations, and guidelines. Within 30 calendar days of application filing, the applicant is notified if their application is complete or if information is needed to complete the application and resume the review process. The Development Management Team also makes comments and recommendations to provide helpful information to applicants and notify them when a proposal does not comply with development standards, policies, regulations, and guidelines.
 - b. Environmental Review. After an application is complete, the project shall be reviewed in compliance with the California Environmental Quality Act to determine if environmental studies are required. If studies are required, then they shall be completed at the applicant's expense, which may require consultant services.
3. Public Hearing and Appeal Provisions.
 - a. Public hearing is required. A public hearing and notification shall be conducted in compliance with Section 17.12.100.
 - b. The review authority shall review the proposed project and approve, approve with conditions, or deny the application at a public hearing based on an ability to meet required findings.
 - c. The review authority's decision may be appealed per Section 17.12.140.

G. Required Findings. Prior to approval of an application for a Home-share Permit, all of the following findings shall be made:

1. The proposed use is permitted within the subject zone pursuant to the approval of a Home-share Permit and complies with all the applicable

provisions of this title, the San Clemente General Plan and the purpose and intent of the zone in which the use is being proposed.

2. The site is suitable for the type and intensity of use that is proposed.
 3. The proposed use will not be detrimental to the public health, safety or welfare, or materially injurious to properties and improvements in the vicinity.
 4. The proposed use will not negatively impact surrounding land uses.
 5. The use meets the minimum operating and development standards of Subsections 17.28.292(E) and (F).
 6. The Home-share qualifies for an STLU operating license pursuant to Chapter 3.24.
- H. Recordation. As a condition of every STLU zoning permit, the STLU owner must cause to be recorded with the County Clerk–Recorder, at the owner’s expense, a “CITY’S RIGHT TO NOTICE OF CHANGE IN OWNERSHIP” covenant. It must state that the property owner covenants to give the City notice of any change in ownership upon conveyance of the property. Notice must be by the owner or by the owner’s escrow agent. The STLU zoning permit is void as of the date of conveyance.
- I. Modifications Requested by the Applicant. Modifications to approved Home-share Permits shall be reviewed in accordance with Section 17.12.180, Modifications of an Approved Application.
- J. Modifications or Revocations Initiated by the City. The City may change or revoke STLU zoning permits as provided in Section 17.12.175 of this Code. The City may also impose penalties and revoke STLU zoning permits and/or STLU operating licenses pursuant to Sections 3.24.050 through 3.24.067 of this Code pursuant to the procedures found therein.
- K. Other Review Requirements. The development review process for STLU zoning permit applications, such as time limits on approvals and time extensions, shall be those prescribed by Chapter 17.12, Development Review Process, for general application processing.
- L. Approval Does Not Run with the Land. A Home-share Permit is owner-specific and does not run with the land. Any change of ownership terminates an existing STLU zoning permit and requires a new STLU zoning permit to be issued to the new owner for continued operation of the STLU. A change of ownership shall include, but not be limited to, the sale of at least 50 percent of the shares in any

type of corporation, or a change in any of the principal officers in a corporation as determined by the City Manager or his or her designee. Notwithstanding the foregoing, if the permittee is a partnership and one or more of the partners should withdraw, one or more of the remaining partners may acquire, by purchase or otherwise, the interest of the partner or partners who withdrew without effecting a change in ownership, and in such case, the permittee shall be deemed to be the surviving partner(s).

Section 4. Section 17.28.292 is hereby added to the municipal code to read as follows:

17.28.292 – Short term lodging units.

- A. Purpose and Intent. The purpose of this section is to provide standards for Short-term Lodging Units (“STLU”) and Home-shares, where allowed in compliance with Title 17, Zoning, and Chapter 3.24, Transient Occupancy Tax, of the municipal code. STLUs and Home-shares are lodging uses (which are inherently commercial), typically located within structures designed for long-term residential tenancy. As such, special consideration must be given to STLUs and Home-shares to ensure that the existing character of residential neighborhoods are preserved and not adversely impacted.
- B. Applicability. This section applies to STLUs and Home-shares, as those terms are defined in this title. STLU uses, including Home-shares, are permitted only within certain visitor-serving mixed-use and residential neighborhoods, as provided in the use tables in Chapters 17.32, Residential Zones and Standards, and 17.40, Mixed-Use Zones and Standards, of this title, and on terms consistent with the requirements of Chapter 3.24 and Title 17 of the municipal code.
- C. Operating Standards for STLUs. The following operational standards apply to STLUs:
 - 1. Architectural Treatment. The exterior architectural appearance of any building utilized as an STLU, including any accessory structures, shall be maintained in a residential character and shall be architecturally compatible with the neighborhood in which it is located. No building shall be constructed or altered, nor shall the operation of the STLU or Home-share be such that the structure may be recognized as serving a nonresidential use, either by color, materials, construction, lighting, signage, landscaping, or by other similar effects.
 - 2. Rentals Per Unit. The maximum number of STLUs allowed within any single dwelling unit is one.
 - 3. Minimum Rental Length. If the STLU is located in a residential zone, the

STLU shall not be rented for stays of less than five consecutive calendar days in duration.

4. Insurance. All STLU owners shall obtain property insurance that covers the commercial lodging use of the site. Proof of insurance shall be provided to the City upon request by the Community Development Director or his or her designee.
5. Noise and Disorderly Conduct. STLU renters and their guests shall not create unreasonable noise or disturbances, engage in disorderly conduct, or violate provisions of this code or any state or federal law or regulation, including, but not limited to, those pertaining to noise, disorderly conduct, the consumption of alcohol, or the use of illegal drugs. The STLU owner shall ensure compliance with this provision.
6. Responsive Contact. The STLU owner shall provide a 24-hour emergency contact that will respond, on-site if requested, within 30 minutes to complaints about the condition, operation, or conduct of STLU renters or their guests.
7. Compliance. The STLU owner shall comply with all applicable codes regarding fire, building construction and safety, and all other relevant laws, regulations and ordinances. The City's failure to inspect STLUs does not constitute a waiver of its right to perform future inspections.
8. Posting the Permit. The STLU owner shall post a copy of the permit and house rules that comply with the conditions set forth in this section in a conspicuous place in the STLU.
9. No Events. An STLU may only be used for overnight lodging. It shall not be used for a wedding, bachelor or bachelorette party, or other party, conference, or any other similar event.
10. Notice. Each STLU owner shall, upon issuance of any STLU zoning permit or upon any approved change to an existing STLU zoning permit, provide written notice to the Community Development Director and to all neighboring property owners (within a radius of 300 feet of the STLU property) the following information:
 - a. The names of the STLU owner and of the STLU operator (if not the owner), including telephone numbers at which those parties may be reached on a 24-hour basis.
 - b. The City's Code Enforcement telephone number by which members of the public may report violations of this chapter.
 - c. The maximum number of renters that are permitted to stay in the unit.

- d. The maximum number of vehicles that are allowed to be parked at the property.
11. An STLU zoning permit is valid for 12 months from the date issued. A new STLU zoning permit must be applied for and secured each year to continue to operate. The notice requirements in subsection 17.28.292(B)(10) above must be satisfied each year with each new permit issuance or change.
 12. The Community Development Direct may request access to an STLU or to records related to the use and occupancy of the unit for the purpose of inspection or audit to determine that the objectives and conditions of this chapter are being fulfilled. On such request, the STLU owner shall provide access to the Director during normal business hours.
 13. **Occupancy Limit and Parking.** The number of renters and guests permitted in each STLU shall be limited based on the number or legal, on-site parking spaces as listed in Table 17.28.292A, Number of Renters Permitted. The number of parking spaces available for an STLU shall include only those parking spaces not required for other on-site uses, such as that required for any guesthouses, second residential dwelling units, the primary dwelling unit if the rental is a Home-share, or any other uses that require additional parking. All parking shall be provided on site, and any parking spaces used to calculate the maximum number of renters and guests for an STLU, including Home-shares, shall be maintained so that they are unobstructed and accessible at all times during a short-term rental. Legal parking spaces in front of a garage may be counted if the parking spaces with the garage are not counted.

Table 17.28.292A, Number of Renters Permitted

Number of parking spaces on-site	Number of renters and guests permitted
1	4
2	8
3 or more	12

The maximum number of renters and guests in an STLU may not exceed the lesser of (1) the occupancy limits specified in this subsection or (2) two persons per legal bedroom plus two persons. In no event may it exceed the maximum allowed under Title 15 of the code. The STLU owner shall, by written agreement with the renter, limit overnight occupancy of the STLU to the maximum number of guests. The number of renters is limited by the number approved in the STLU operating license and STLU zoning permit, whichever is lower.

14. Upon notification that an STLU renter or a renter's guest has violated subsection 17.28.292(C)(5) [noise and disorderly conduct] or 17.28.292(C)(13) [occupancy limit and parking] above, the STLU owner shall promptly notify the renter of the violation and take such action as is necessary to prevent a recurrence. It is not intended that the owner act as a law-enforcement officer or place himself or herself in harm's way.

D. Additional Operational Standard for Home-shares. In addition to the operating standards for STLUs specified in subsection (C) of this section, the following operating standard applies to home-shares: A home-share owner must own and operate the home-share and must sleep within a habitable room in a unit on the property every night that some unit in the home-share is rented for short-term lodging purposes.

E. Minimum Development Standards for STLUs.

1. Location. STLUs are permitted according to the limitations and requirements of the use tables in Chapters 17.32, Residential Zones and Standards, and 17.40, Mixed-Use Zones and Standards, of this title, and the City's specific plans. In mixed-use zones, STLUs, including home-shares, are only permitted in the residential portion of mixed-use developments or in residential structures if the zone allows stand-alone residential uses. An STLU may not operate in a dwelling unit that has an affordable-housing restriction in place or that is currently included in the City's Inclusionary Housing Program.
2. Zone Density. The number of STLUs, excluding home-shares, in any residential zone shall be limited to a maximum of 20 percent of the total housing units within that particular zone's boundary.
3. Trash. In addition to the requirements specified in Chapter 8.28, Collection and Disposal of Solid Waste, of the municipal code, STLUs with three or more bedrooms shall provide a minimum of two 90-gallon waste containers for trash and two 90-gallon waste containers for recycling, or equivalent volume. No trash container may be left in view of the public right-of-way, except in authorized containers for the purpose of collection by the City's authorized waste hauler on the subject site's scheduled trash-collection days in compliance with the requirements specified in Chapter 8.28, Collection and Disposal of Solid Waste.

F. Additional Development Standards for Home-shares. In addition to the development standards for STLUs specified in subsection (E) of this section, the following development standard applies to home-shares: In a zone that allows home-shares but not STLUs, a home-share must be located at least 300 feet from every other home-share or other STLU. This distance shall be measured by following a straight line, without regard to intervening buildings, from the nearest point of the parcel on which the proposed home-share is to be located to the nearest point of the parcel from which the proposed home-share is to be separated. In a situation where two home-shares would

be located on the same legal parcel in separately owned structures, the distance shall be measured by following a straight line from the nearest point of the portion of the enclosed building in which the proposed home-share is to be located to the nearest point of the enclosed building from which the proposed home-share is to be separated.

Section 5. Section 2 of Table 17.32.030, Residential Zone Uses, of the municipal code is hereby amended to read as follows:

Use	RVL	RL	RML	RM	RH
2. Lodging					
Bed-and-breakfast Inn ²					
a. 5 or Fewer Guest Rooms	C	C	MC	MC	MC
b. 6 or More Guest Rooms	C	C	C	C	C
Boarding House				C	C
STLU ¹⁸				O ¹⁹	O ¹⁹
Home-share ²⁰	O	O	O	O	O

Footnotes 18, 19 and 20 under Table 17.32.030, Residential Zone Uses, are hereby added to read as follows:

- 18 Refer to section 17.28.292, STLUs, of this title for special provisions for STLUs, including home-shares.
- 19 STLUs are only permitted on Lots 49 through 54 of Block 1 of Tract 821.
- 20 Home-shares are permitted in all zones where STLUs are permitted with an STLU zoning permit in accordance with section 17.16.145. Home-shares that are located in residential zones where STLUs are not permitted require a home-share permit in accordance with section 17.16.146.

Section 6. Section 2 of Table 17.36.020, Commercial Zone Uses, of the municipal code is hereby amended to read as follows:

2. Hospital Uses	NC 1.1	NC 1.2	NC 1.3	NC 2	NC 3	CC 1	CC 2	CC 3	CC 4	RMF 1	NOTE
Ambulance Services							C	C	C	C	
Accessory Uses to Hospital (e.g. laboratories, medical offices, florists, and parking lots).										P	2
Hospital										C	
Specialty Hospital			C	C	C		C		C		

Section 7. Section 2 of Table 17.40.030, Mixed-Use Zone Uses, of the municipal code is hereby amended to read as follows:

Use	MU 1	MU 2	MU 3.0	MU 3.1	MU 3.2	MU 3.3	MU 5	NOTE
2. Lodging								
Bed-and-breakfast Inn:								2
a. Five or Fewer Guest Rooms	O	P	O	P	P	P	P	2
b. Six to 10 Guest Rooms	O	MC	O	MC	MC	MC	MC	2
c. Over 10 Guest Rooms	C	C	C	C	C	C	C	
Boarding House							C	30
STLU	O	O	O	O		O	O	31
Home-share	O	O	O	O		O	O	31
Hotel and Ancillary Uses	C	C	C	C	C	C	C	
Motels					C		C	
Timeshares	C	C	C	C	C	C	C	

Footnote 30 under Table 17.40.030, Mixed-Use Zone Uses, is hereby added to read as follows:

- 30 A boarding house may not be located within 300 feet of any other boarding house, measured by following a straight line without regard to intervening buildings from the nearest point of the parcel on which the proposed boarding house is to be located to the nearest point of the parcel that contains the existing boarding house.

- 31 Refer to Section 17.28.292, Short-Term Lodging Units, of this title for special provisions for STLUs and home-shares.

Section 8. Part 4 of Table 17.64.050 - Number of Parking Spaces Required, of the municipal code is hereby amended to read as follows:

4. Lodging	
Bed-and-breakfast Inn	Please refer to Section 17.28.090, Bed and Breakfast Inns.
Boarding House	1.0 per guest room
Hotel or Motel	Please refer to Section 17.28.170, Hotels and Motels.
Timeshare	1.2 per unit

Section 9. New subsections 17.72.060(G), Nonconforming STLUs, and (H), Nonconforming Boarding Houses, are hereby added to the municipal code, to read as follows:

G. Nonconforming STLUs.

- 1. Any STLU or home-share that was legally established but that does not conform to the development standards of subsections 17.28.292(E) and (F) is subject to an amortization period of two years, or until the sale or transfer of the property, whichever occurs first, as long as that STLU or home-share is operated according to the operational standards of subsections 17.28.292(C) and (D) and with a valid STLU operating license under chapter 3.24. A change of ownership includes, but is not limited to, the sale of at least 50 percent of the shares in any type of corporation or a change in any of the principal officers in a corporation as determined by the City Manager or his or her designee. Notwithstanding the foregoing, if

the permittee is a partnership and one or more of the partners withdraws, one or more of the remaining partners may acquire, by purchase or otherwise, the interest of the partner or partners who withdrew without effecting a change in ownership, and in such case the permittee is deemed to be the surviving partner(s).

2. The owner/operator, or purchaser of a legal nonconforming STLU may apply for an extension of the amortization period by making a written request to the Community Development Director. Such request shall be made before the amortization period ends unless the Community Development Director determines that good cause is shown for late submission of the request.
3. The owner or operator of a legal nonconforming STLU may apply for a waiver of certain operating standards during the amortization period by making a written request to the Community Development Director, accompanied by evidence demonstrating that enforcement of the standard or standards creates an exceptional hardship. The operating standards subject to possible waiver are limited to those found in subsections 17.28.292(C)(3) [minimum rental length] and (16) [occupancy and parking].
4. Upon the conclusion of the amortization period, any legally established nonconforming STLU shall cease all business and lodging operations. This does not prevent the dwelling unit from being used as a long-term residential rental.
5. All STLUs and home-shares that are nonconforming at the end of the amortization period for no reason other than they do not meet the requirements specified in subsections 17.28.292(E)(2) [zone density] or (F) [minimum distancing] of this title, may remain a nonconforming use in compliance with the general standards for nonconforming uses specified in subsections B through D of this section; but any change of ownership, as described in subsection (G)(1) of this section, shall immediately require that the use of the property as a STLU or home-share be terminated.

H. Nonconforming Boarding Houses

1. Any boarding house that was legally established but that does not conform to the standards in this title that govern boarding houses is subject to an amortization period of two years, or until the sale or transfer of the property, whichever occurs first. A change of ownership includes, but is not limited to, the sale of at least 50 percent of the shares in any type of corporation or a change in any of the principal officers in a corporation as determined by the City Manager or his or her designee. Notwithstanding the foregoing, if the permittee is a partnership and one or more of the partners withdraws, one or more of the remaining partners may acquire,

by purchase or otherwise, the interest of the partner or partners who withdrew without effecting a change in ownership, and in such case the permittee is deemed to be the surviving partner(s).

2. The owner/operator, or purchaser of a legal nonconforming boarding house may apply for an extension of the amortization period by making a written request to the Community Development Director. Such request shall be made before the amortization period ends unless the Community Development Director determines that good cause is shown for late submission of the request.
3. The owner or operator of a legal nonconforming boarding house may apply for a waiver of applicable zoning standards during the amortization period by making a written request to the Community Development Director, accompanied by evidence demonstrating that enforcement of the standard or standards creates an exceptional hardship.
4. Upon the conclusion of the amortization period, a legally established nonconforming boarding house shall cease all business and lodging operations. This does not prevent the dwelling unit from being used by a single housekeeping unit.

Section 10. The following sections of the Pier Bowl Specific Plan are hereby amended to read as follows:

Chapter 4, Land Use Development Standards, section 402, Pier Bowl Core Standards, is hereby amended to add subsection (B)(6) as follows:

6. Short-term Lodging Units (“STLU”) and home-shares, in accordance with section 17.28.292 et seq. of the municipal code. STLUs and home-shares are only permitted in the residential portion of mixed-use developments.

Chapter 4, Land Use Development Standards, section 408, Pier Bowl High Density Residential Standards, is hereby amended to add subsection (B)(3) as follows:

3. Short-term Lodging Units (“STLU”) and home-shares, in accordance with section 17.28.292 et seq. of the municipal code.

Chapter 4, Land Use Development Standards, section 409, Pier Bowl High Density Residential Standards, is hereby amended to add subsection (B)(3) as follows:

3. Short-term Lodging Units (“STLU”) and home-shares, in accordance with Section 17.28.292 et seq. of the Zoning Ordinance.

Section 11. Ordinance 1605 (titled *Interim Urgency Ordinance of the City of San Clemente Extending the Temporary Moratorium on Permitting or Establishment in Residential Zones of (1) Sober Living Homes and (2) Large Alcoholism or Drug Abuse Recovery or Treatment Facilities, Subject to Reasonable Accommodation, to Allow Time for Consideration of Appropriate Amendments to the City Municipal Code*) is hereby repealed.

Section 12. Severability. If any part of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have adopted each part of this ordinance, irrespective of the fact that any other part or parts thereof might be declared invalid or unconstitutional.

ATTACHMENT 2

RESOLUTION NO. PC 16-011

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SAN CLEMENTE, CALIFORNIA, RECOMMENDING THAT THE CITY COUNCIL APPROVE ZONING AMENDMENT 15-426 TO AMEND TITLE 17, ZONING, TO ESTABLISH REGULATIONS RELATED TO SHORT-TERM LODGING UNITS

WHEREAS, the municipal code has long prohibited all primarily commercial uses, such as hotels, hospitals, and medical offices, in residential zones; and

WHEREAS, on July 7, 2015, the City Council imposed a temporary moratorium, subject to reasonable accommodation, and directed the study and review of potential changes to the zoning code to address nuisance and other impacts that had arisen in the context of sober-living homes and large alcoholism and drug abuse recovery or treatment facilities; and

WHEREAS, in addition, on February 2, 2016, the Council directed the Planning Commission to consider specific zoning standards and regulations that would the same kinds of impacts arising in the context of lodging uses and to provide a recommendation to the Council; and

WHEREAS, on November 18, 2015, December 3, 2015, January 20, 2016, February 3, 2016, and February 10, 2016, the Planning Commission held study sessions regarding potential zoning and specific-plan amendments and provided comments and direction to staff regarding the same; and

WHEREAS, the Planning Commission has reviewed and considered the agenda reports prepared in connection with those study sessions, as well as written and oral testimony received in those sessions; and

WHEREAS, the City Council, beginning with Ordinance No. 463, adopted on July 1, 1964, has adopted various ordinances relating to the levy and collection of transient-occupancy tax and the licensing of hotels and vacation rentals; and

WHEREAS, the Council also initiated amendments to the tax and license portions of the municipal code to address the negative impacts of short-term-lodging businesses, which efforts resulted in Ordinance No. 1617, adopted February 16; and

WHEREAS, as part of this zoning recommendation, the Planning Commission recommends consolidating and cross-referencing the definitions used in those tax and license enactments with those in the zoning code to provide more clarity and consistency in the application and enforcement of the code and to use modern parlance for terms or use descriptions that might have become anachronistic; and

WHEREAS, the Planning Commission desires to address the adverse external effects of short-term and other transitory lodgings and other commercial uses in residential

zones. Specifically, the Commission desires now to recommend land-use regulations (1) that are tailored to the common impacts of commercial transitory uses in residential zoning districts, (2) that distinguish between areas that are appropriate for residential recovery services and areas that are more appropriate for businesses and medical treatment or recovery services, and (3) that comply with federal and state fair-housing and disability laws; and

WHEREAS, the Planning Commission desires the zoning code to better delineate the appropriate scope, intensity, and duration of incidental business, home occupations, short-term rental, medical, and commercial recovery uses in residential homes, which are now subject to ad hoc and sometimes varying interpretations by owners and neighbors; and

WHEREAS, the Planning Commission desires to prescribe regulations for the location and operation of lodging and other commercial uses in accordance with federal and state fair-housing and disability laws; and

WHEREAS, on February 17, 2106, and February 24, 2016, March 2, 2016, March 16, 2016, and April 6, 2016, the Planning Commission held duly noticed public hearings on the subject amendments and considered evidence presented by City staff and others; and

WHEREAS, the Planning Commission has reviewed and considered the agenda reports prepared in connection with those hearings (including the policy considerations discussed therein) and the written and oral testimony received in those hearings.

WHEREAS, approval of the proposed resolution is exempt from the California Environmental Quality Act ("CEQA") under section 15301 (Existing Facilities) of the State CEQA Guidelines because allowing lodgings that meet the standards adopted herein will not involve an expansion of use beyond that currently existing. Further, approval of the resolution is also exempt under Guidelines section 15061(b)(3) because it can be seen with certainty that it will not result in a physical change in the environment: If an ordinance is adopted by the Council as recommended in this resolution, implementation of the ordinance will not increase residential density or the intensity of use because the standards proposed herein are consistent with otherwise allowable residential uses and activities; and

NOW THEREFORE, the Planning Commission of the City of San Clemente hereby resolves as follows:

Section 1. Each recital above is incorporated here by reference and is adopted as a finding by the Planning Commission.

Section 2. With regard to ZA 15-426, the Planning Commission finds as follows:

1. The proposed Zoning Amendment, detailed in Exhibit 1, is consistent with the General Plan because it provides for the fulfillment of the Centennial General Plan's intent and policies, including:
 - A. Land Use Element Primary Goal number 1, which states, "The Land Use Plan seeks to retain and enhance established residential neighborhoods, commercial and industrial districts, recreational resources, community-activity areas and amenities, and open spaces that improve the community's quality of life, enhance the appeal of our many attractions, maintain our small-town character, and ensure long-term environmental and fiscal health," in that the disturbances caused by short-term and interim lodging uses (which are inherently commercial) in many residential neighborhoods are a threat to the public health, safety, general welfare, and to the quiet enjoyment of residential property, and the proposed amendments limits the use of residential property for lodging purposes to a level of impact that maintains compatibility with surrounding residential neighborhoods.
 - B. Land Use Element Primary Goal number 5, which states, "The Land Use Plan seeks to preserve and enhance coastal recreation, resources, access and amenities," in that the proposed amendment allows for the focused continuation and potential expansion of short-term lodging uses in close proximity to coastal resources to provide access for visitors.
 - C. Land Use Element Policy LU-1.01, General, which states, "We accommodate the development of a variety of housing types, styles, tenure and densities that are accessible to and meet preferences for different neighborhood types (e.g., mixed use pedestrian environments and traditional suburban neighborhoods), physical abilities and income levels, pursuant to the Land Use Plan and Housing Element," in that the proposed amendment allows for the maintenance of a diverse spectrum of housing opportunities, including workforce and affordable low- and medium-density residential neighborhoods, while permitting short-term and interim lodging uses that are compatible with the residential uses around them.
 - D. Land Use Element Policy LU-2.03, Neighborhood Compatibility, which states, "We require that commercial projects abutting residential neighborhoods be designed and operated to protect residents from the effects of noise, light, odors, vibration traffic, parking and other operational impacts," in that short-term and interim lodging units are commercial uses, and the proposed amendments require that these lodging uses maintain compatibility

with surrounding residential neighborhoods and limit the density of short-term lodging units within those neighborhoods.

- E. Land Use Element Policy LU-10.16, Residential Buffers, which states, "While entertainment and cultural uses are focuses of the [North Beach] Area's revitalization, we require new development to be compatible with nearby residential uses through horizontal distance requirements and building and site design standards established by the Zoning Ordinance and Specific Plan," in that the proposed amendment encourages short-term lodging uses to locate within mixed-use, visitor-serving areas, which helps provide a buffer between more intense commercial uses and residential neighborhoods.
 - F. Economic Development Policy ED-1.04, Long-Term Benefits, which states, "We consider long-term benefits, not just short-term returns, in our decision-making processes," in that the proposed amendment appropriately balances the long-term attractiveness and viability of the City's residential neighborhoods with the ability to generate more tax revenue at their expense and the vitality of visitor-serving commercial uses.
 - G. Coastal Element Policy C-1.14, Overnight Accommodations, which states, "We protect, encourage and, where feasible, provide low cost overnight accommodations in the Coastal Zone, including the possibility of a youth or elder hostel," in that the proposed amendment provides for the continuation and potential expansion of visitor-serving short-term lodging accommodations within visitor-focused areas of the Coastal Zone.
2. The proposed Zoning Amendment, detailed in Exhibit 1, will not adversely affect the public health, safety, or welfare, in that the proposed amendment achieves the goals of the General Plan as they relate to residential and mixed-use zones for the reasons listed above. Additionally, the proposed amendment assuages the negative impacts created by new, internet-based technologies that have dramatically altered the nature of the short-term-rental industry in terms of the offering and acquisition of rentals, the types of clientele attracted to short-term rentals in residential zones, and the impact these uses have on traditional residential neighborhood settings by appropriately restricting short-term-lodging uses to maintain compatibility with surrounding residential neighborhoods. The proposed amendment also mitigates the negative impacts created by non-residential commercial uses operating in residential zones. Furthermore, the negative impacts of short-term lodgings and other interim uses are not a problem that is isolated to the City but are a worldwide issue and which many cities have recently regulated. The problem has regional implications affected by the regulatory actions of neighboring cities that

could escalate the negative impacts of short-term lodgings in residential zones if the City does not adopt appropriate zoning standards to promote the health, safety, and general welfare of its residents. The proposed amendment limits lodging uses in residential zones to the extent necessary to maintain compatibility with traditional neighborhood environments, while also limiting the potential for lodging uses to expand into areas of the City that are less appropriate.

Section 3. The Planning Commission of the City of San Clemente hereby recommends that the City Council approve the attached additional portion of Zoning Amendment 15-426, to amend Title 17, Zoning, to establish regulations related to short-term lodging units and related uses, subject to the findings above.

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the City of San Clemente on April 6, 2016.

Chair

TO WIT:

I HEREBY CERTIFY that the foregoing resolution was duly adopted at a regular meeting of the Planning Commission of the City of San Clemente on April 6, 2016, and carried by the following roll call vote:

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSTAIN: COMMISSIONERS:

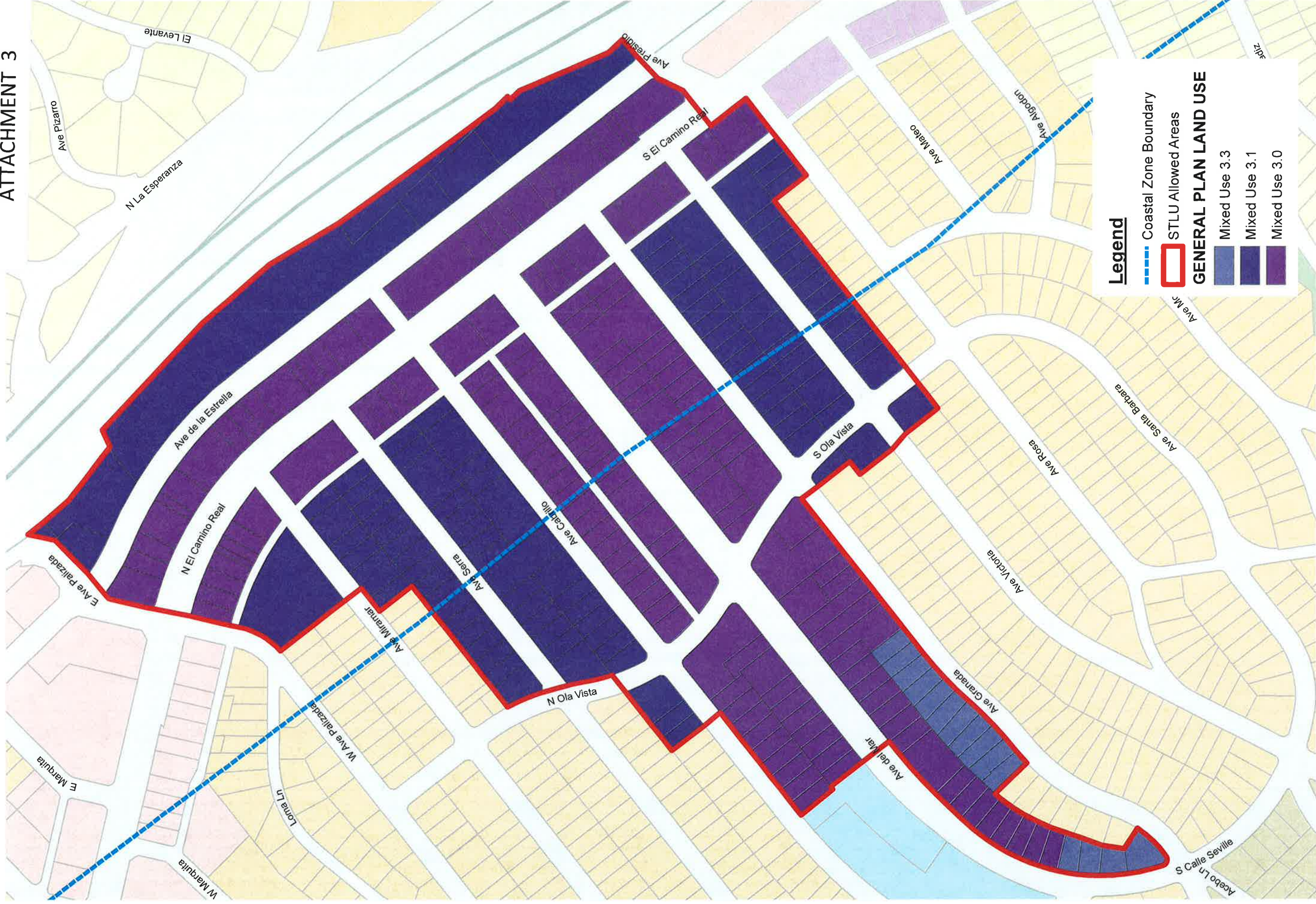
ABSENT: COMMISSIONERS:

Secretary of the Planning Commission

EXHIBIT 1

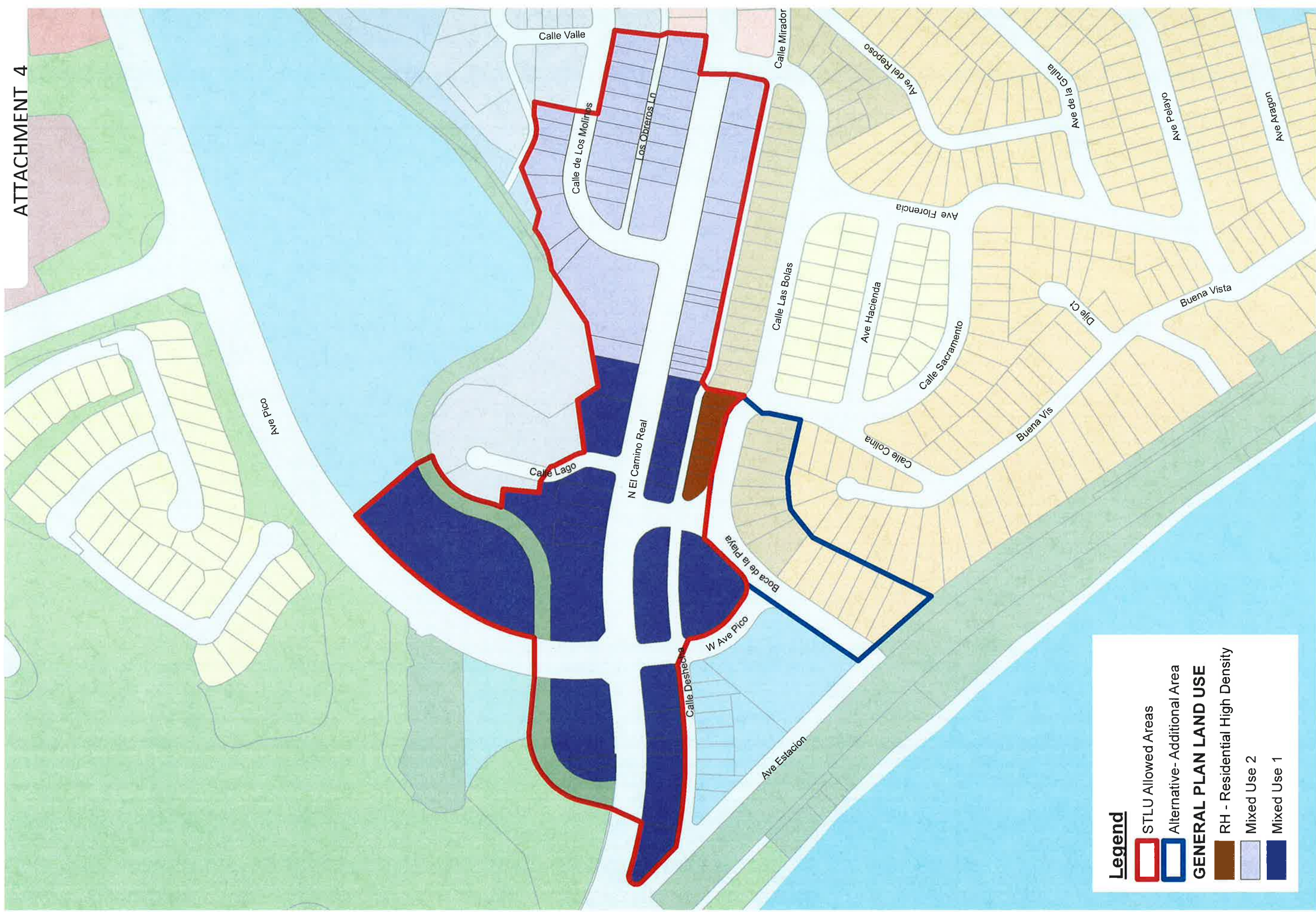
Section 1. Footnote 19 under Table 17.32.030, Residential Zone Uses, is amended to add the phrase “and Lots 31 through 46 of Block 4 of Tract 821” at the end of the sentence, so that it reads in its entirety as follows:

- 19 STLUs are only permitted on Lots 49 through 54 of Block 1 of Tract 821, and Lots 31 through 46 of Block 4 of Tract 821.



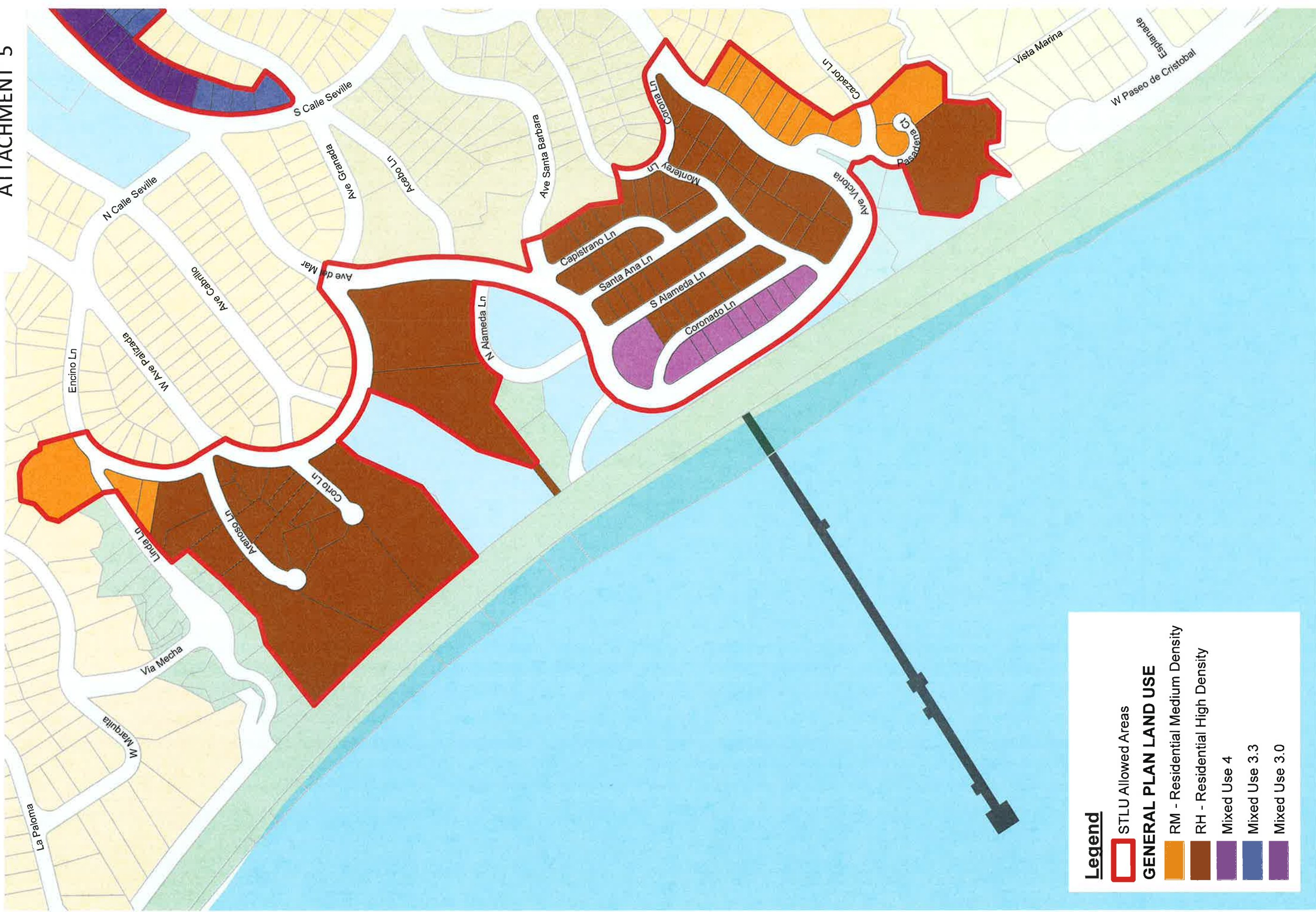
STLU Allowed Areas - Downtown





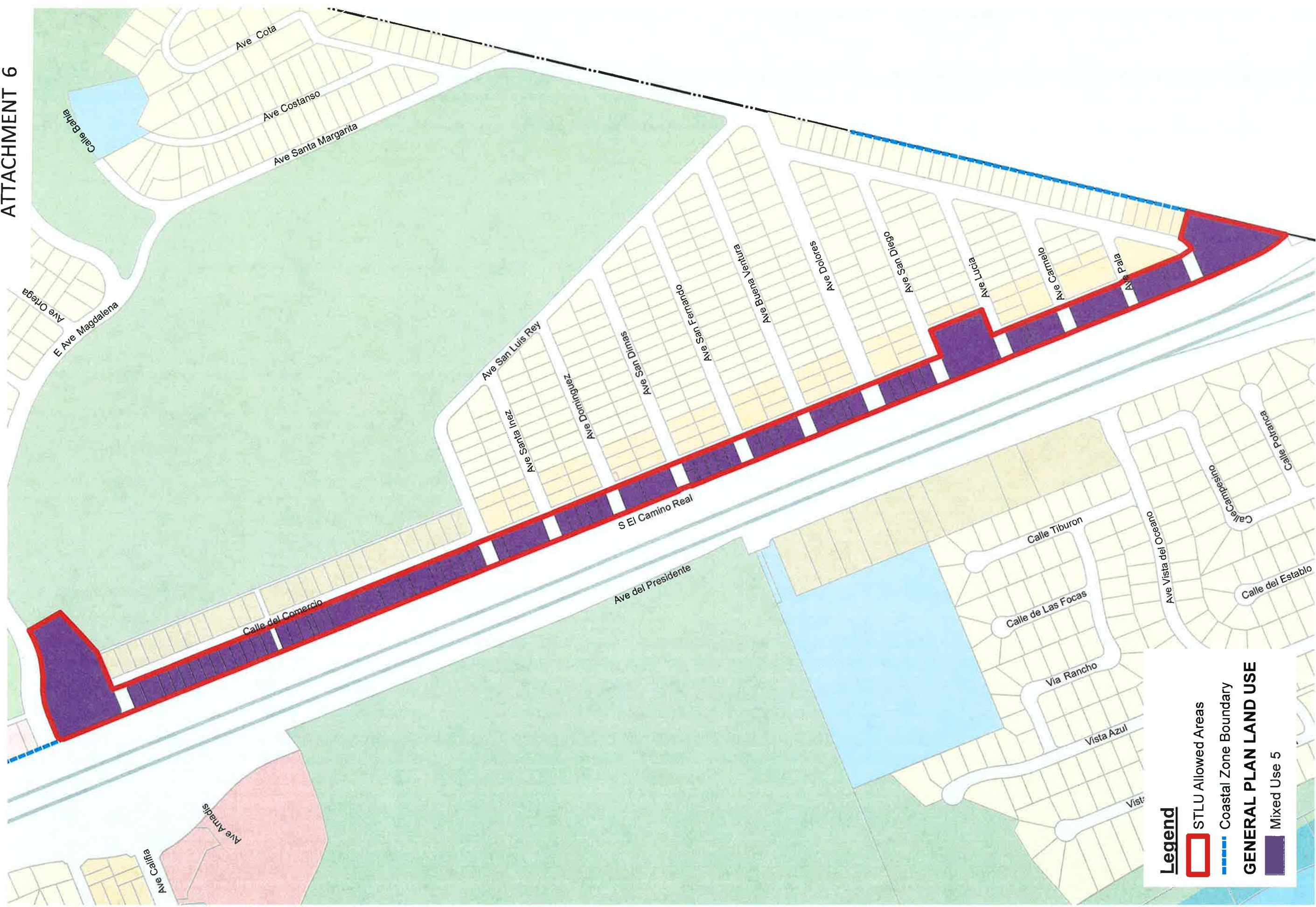
STLU Allowed Areas - North Beach





STLU Allowed Areas - Pier Bowl





Legend

- STLU Allowed Areas
- Coastal Zone Boundary

GENERAL PLAN LAND USE

- Mixed Use 5



STLU Allowed Areas - South El Camino Real



Boarding House Areas

Zones MU5, RH, RM