October 19, 2021

To: California State Department of Housing and Community Development (HCD), Housing Element
California State Governor’s Office of Planning and Research (OPR), General Plan Guidelines
County of San Bernardino Land Use Services Department
County of San Bernardino Community Development and Housing Department
Town of Yucca Valley Community Development Department
City of 29 Palms Community Development Department

For your consideration:

Who We Are
The Morongo Basin Conservation Association (MBCA) is a community-based non-profit that is dedicated to preserving the economic and environmental welfare of the Morongo Basin located in East Desert Region of San Bernardino County (SB County).

The Morongo Basin is a family of unique communities connected by Highways 62 and 247, bordered by Joshua Tree National Park, Sand to Snow National Monument, and the Marine Corps Air Ground Combat Center of 29 Palms. The Morongo Unified School District (MUSD) boundaries essentially align with the Morongo Basin’s and cover as much territory as the State of Rhode Island. The Basin residents number somewhere between 64,000 to 71,000 people.

The Morongo Basin includes the “Unincorporated Communities” of Morongo Valley, Yucca Mesa, Pioneertown, Rimrock, Pipes Canyon/Gamma Gulch, Landers, Flamingo Heights, Copper Mountain Mesa, Joshua Tree, and Wonder Valley. These communities are included in the current SB County Housing Element Update as well as the SB County Short-Term Rental (STR) Ordinance. You can see a listing of the 73 +/- “Unincorporated Communities” here at http://countywideplan.com/cp/ that fall under the widespread SB County Land Use Service’s jurisdiction, which is responsible for 137,487 households (as of 2019). The number is not clear, but approximately 34,555 of these are vacant vacation homes, (34,555/ 137,487 = 25% of all households).

Anchoring the Morongo Basin is The Town of Yucca Valley (pop.22,146) and the City of Twentynine Palms (pop.24,966). Both are incorporated with their own Community Development Departments managing their respective Housing Element Updates and vacation Short-Term Rental (STR) Ordinances.

Our Concern
All three jurisdictions responsible for the housing of the Morongo Basin are currently updating their Housing Elements as required. All three are currently also reviewing their Short-Term Rental (STR) Ordinances due to so many community issues stemming from the explosion of STRs in our
Basin. The identity crisis and turmoil caused by such extreme and rapid change like we have wit-nessed over these recent years, serves as a case study in how a jurisdiction’s STR Ordinance, Housing Element, and General Plan are all intricately linked and how consistency between them is crucial.

The following is a request for the State Department of Housing and Community Development (HCD) and the Governor’s Office of Planning and Research (OPR) to offer guidance and oversight for jurisdictions grappling with this complex relationship. Short-Term Rentals (STRs) were not a huge factor 8 years ago during the 5th Housing Element Cycle Update, but with the growth of smart phones, apps, and vacation rental platforms, STRs now have a significant impact on many communities across the State, directly affecting housing.

**Housing Displacement and the Loss of Community**

We have seen in our Morongo Basin a mass housing displacement of long-term renters caused by owners deciding to sell. One local rental agency, in the last 18 months, has had to make that horrible call to 33 families to inform them that they had to move because the owners were going to sell. With much effort, the agency could only re-home 12 of those families.

It is easy to blame the pandemic and that has indeed exacerbated the effects, but both the Marines and the Morongo Unified School District (MUSD) Homeless Liaison informed SB County of this housing shortage and that it was seriously impacting their respective families. This was months before the SB County STR Ordinance was adopted in November of 2019. They specifically named the shortage as being caused by the burgeoning STR market reducing available housing and increasing rents and home prices.

Later, in January 2021, the MUSD Homeless Liaison reported that a grant assisted 85 local families with housing crisis situations. Due to the lack of homes in the Basin they were forced to find housing for 6 of those families hundreds of miles away in Apple Valley, Blythe, and Needles. The crisis has accelerated since then, and that grant ran out. Displaced families are either doubling up with others or have left the Basin, and often the State, to find more affordable homes.

Some homeowners took advantage of the market to “cash out”. They then left, taking that benefit with them as opposed to reinvesting it in the community. These departures also take away much needed services and skills like in-home daycares, nursing aides, and construction laborers. Each young adult that leaves is taking all that cumulative community investment in them, with them: all the library events, soccer teams, bookfairs, and church camps. There is an immeasurable effect from such an exodus, affecting generations.

Outside commercial interests with significant financial resources, attracted by the “open” STR mar-ket, have contributed to inflating the market with their easy ability to out-bid our locals. Even those locals that have means are now priced out of benefiting from the local STR market in their own community – the community they helped build up with years of invested sweat equity and contribution.
A Neighborhood Case Study

Over just the last three years, Friendly Hills Elementary School in Joshua Tree (one of 11 elementary schools in MUSD) has dropped from the usual enrollment of 350 down to 260 – a 25% reduction, with housing displacement being the main reason. This map on the right is part of the neighborhood surrounding this school.

There are 76 permitted STRs in this view. This neighborhood is now comprised of 16% lodgings. But this is a moving target approaching 20% when accounting for homes on the market, newly purchased and newly constructed homes in the process of converting to STRs, and some lodging businesses operating illegally.

Consider the impacts on this neighborhood if a 120-room motel was built instead of all the individual STRs. Such a project would not be allowed in this residential zone without a zoning change and California Environmental Quality Act (CEQA) review of impacts and review for consistency with General Plan and Community Plan goals and policies. Imagine if to build the motel, 76 homes had to be demolished leading to a 25% reduction in the elementary school enrollment. There is little chance that this project would pass.

Unlike the 76 STRs now, the motel developer would pay a developer impact fee towards improving the already dangerous intersection at that school. This improvement has not happened with the current STRs, as Joshua Tree gets none of the Transient Occupancy Tax, but they do get all the traffic. The motel would also have to be made accessible to all of the public, following ADA regulations. Much of this neighborhood floods, and many new owners are not aware of the dangers. Some homes are literally sitting in washes. This neighborhood is dense with desert plants and wildlife, including many Joshua trees. Any development should be carefully considered.

Community Decline

The net enrollment of our Morongo Unified School District (MUSD), where 70% of the students are classified as low-income, has dropped by 400 to below 8,000, depriving the District of much needed funding. With less funding, services and options decline for students. Big Bear, our sister community up in the mountains, is closing an elementary school due to declining enrollment, as they have their own serious struggles with the STR market. There is no surer marker of a community on the decline than a shortage of workers, decreasing population, and decreasing school enrollment. According to the Census, Joshua Tree lost close to 1000 people since 2010, and according to the Draft SB County Housing Element, we have over 700 STRs.

Are we witnessing the start of a “Cycle of Decline” for the Morongo Basin?
The Role of Planning
Government planning studies are done just for this reason: to inform and forewarn communities of such negative trends, so preventive decision-making can mitigate the causes and prevent community deterioration. The Housing Element and the Annual Progress Report exist, just for this purpose.

The September 9th, 2021, San Bernardino County Planning Commission Staff Report states that the Housing Element’s “purpose is to ensure that current and future housing needs for all residents in the community are addressed. It provides goals, policies, and actions to maintain and improve existing housing, and accommodate the County’s fair share of housing growth needs.”

The Purpose of the Housing Element is to preserve existing affordable housing and to encourage planning for future affordable housing by removing or rectifying “constraints” or “barriers” to these goals. As illustrated by the Morongo Basin, unrestrained investor fueled STR markets in some communities have moved past acting as a “constraint” to affordable housing, as they are actively depleting or hijacking a community’s housing stock thereby displacing residents.

The Role of Zoning
The Housing Element, Planning Documents (General Plan, Development Code) and Zoning exist to create and protect spheres of opportunity for various scaled activities, protecting and buffering zones from incompatible uses. This maintains balance in a community while meeting its various needs, so that the community may prosper in the present and into the future.

The residential zoning designation exists in order to preserve a neighborhood for housing and to safely maintain the well-being and quality of life for the residents. Zoning establishes a guardrail which protects residential scaled activities carried out by individuals with residential scaled incomes and resources from being “steam-rolled” by commercial interests fueled by the power of their commercial scaled resources.

In the commercial sphere, for a local business to thrive, or even exist, it cannot compete with Walmart for the same piece of land. That is why in SB County we have a “Neighborhood Commercial” zone as distinct from “General Commercial” zone, to buffer incompatible uses and to protect spheres of opportunity for various sized businesses. Residential zones also exist to protect a residential sphere of opportunity for family-scaled home-based businesses. A lodging business in a residential zone, to be compatible with its residential neighbors, must be on the scale of a local business owned by local residents.

Communities should be able to decide if STRs will work for them, and to what extent. They can specify parameters that suit their specific neighborhoods and codify these decisions in their Community Plans and General Plans. Land use distinctions are designated for a reason, and similar distinctions can be written and adopted for short-term rentals, so their benefits outweigh their impacts on a community. There is potentially a good balance to be found.
“Consistency” Oversight
To achieve this ideal planning balance, all Elements, Goals, and Policies of the General Plan and Community Plans, and Implementation in the Development Codes, Zoning, and all Planning Decisions and Actions are legally required to be internally and externally consistent within themselves and with each other. You cannot advocate for housing preservation in one document, and then create the conditions for mass evictions and housing displacement in another.

The Housing Element is a required Element of the General Plan for all jurisdictions. A County or City must have an adopted and certified Housing Element to qualify for housing programs and funds from the State. HCD has oversight and approval authority over jurisdictions’ Housing Element Update and Annual Progress Reports for just this reason: to protect housing.

If a STR Ordinance removes the protective guardrail between zones and directly, or indirectly, gives commercial interests incentive to steam-roll residential community members’ opportunities and causes mass displacement, the Ordinance subverts those protections inherit in zoning. The Ordinance may be in violation of Planning Law and is certainly out of consistency with the Housing Element.

With this clear inconsistency, we question how the State can approve that jurisdiction’s Housing Element until they revise their STR Ordinance into consistency with the Housing Element per the “consistency requirement” encoded in State law.

If a STR Ordinance is currently contributing to significant housing displacement, the HCD has the responsibility to recommend that those jurisdictions place a moratorium on new short-term rental permits, stopping the cycle of decline before it can take full root. A grace period to extend the Housing Element Update deadline would relieve jurisdictions of the threat of funding loss and encourage the timely review of their STR Ordinance so that they can correct any inconsistency and bring the STR Ordinance into balance with the Housing Element.

Points and Recommendations
Please consider these points and recommendations to strengthen the Housing Element Update and Annual Progress Report (APR) requirements in order to achieve more beneficial results:

1. STRs are “lodging” for tourists not “housing” for community members.

2. STRs are not “vacant” houses sitting there waiting for community members to move into. STRs must be a specific category in the Housing Element Update and on APRs, separated from the “vacant” category, so that there is no confusion as to the quantity of housing that is indeed available for homebuyers or long-term renters to find shelter in, in a community. This misrepresentation could mislead those not familiar with the true circumstances, and thus decrease funding opportunities meant to alleviate the very problems the STRs are creating.
3. STRs require their own specific line item in the “Tenure” Table.

“Tourist-Occupied STR Lodging/Vacation Home” could be added on the fifth line of the below Table 2-14 from the “SB County Draft Housing Element 2021-2029”. 34,555 would be shown in the new line. It is unclear if all those vacation homes are also STRs. The “Vacant (other vacant)” would then represent the reality that there are only 5,000 units (per the text, page 12 to 13, of the Draft Housing Element) sitting vacant for potential housing. This would clarify that a full 25% of the Unincorporated Communities’ housing stock is now lodging, not housing.

As it is now, the vacancy rate looks tremendously high at 31% at first glance*. This is very different from the reality that the actual available vacant housing and rentals rates are around 1 to 2% each. This shows a very tight and thus inflated market. A healthy optimal “vacancy” rate for housing and rentals is given of 2% and 6%, respectively, established as a guideline to assure there are housing options for both renters and homebuyers of various income levels.

<table>
<thead>
<tr>
<th>Table 2-14 Housing Tenure and Vacancy in 2019</th>
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<tr>
<td>Unincorporated Area</td>
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<tr>
<td>Housing Tenure/Status</td>
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<tr>
<td>Owner occupied</td>
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<tr>
<td>Renter occupied</td>
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<tr>
<td>Total occupied</td>
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<td>Vacant (unoccupied)</td>
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<td>Vacant (for rent)</td>
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<td>Vacant (for sale)</td>
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<td>Vacant (other vacant)</td>
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Source: American Community Survey, 2015-2019 Estimates


* It seems the % are not correct in this chart. The Owner Occupied is 45% + Renter Occupied is 24% = Total Occupied is 69%. Total Vacant is 31%: The STR Lodging is 25%. Vacant for rent is 1.2%, Vacant house for sale is 1.7%, Vacant Other is 3.6% +/-

4. Account for STRs within a community and/or regional framework, so that the impacts to that specific community are clear and not diluted. The housing/rental/STR situation in the Mountains does not directly affect the Morongo Basin, so our numbers should be shown separately from the Mountain, the Valley, and the North Desert Region which is many miles away.

5. Current rents and current housing prices must be utilized on the APR form, to determine real world affordability. Affordability is based on what can be earned in that community to pay rent or mortgage, and what the costs of living are there. The standard utilized for measure of affordability in the Housing Element should not assume that all families must be “cost burdened” nor should it assume they must live in an “overcrowded” living situation, per HUD definitions.

6. New construction must declare its use (single family residence, garage, barn, office) when applying for a permit. If the new construction is intended to be an STR, it should be declared as
such. That new structure would be listed on the APR specifically as an STR. If it converts to housing, that change of use can be updated in future APRs or Housing Elements.

7. In order to identify ideal sites for new affordable housing, group sites by community in the Site Inventory of the APR. The sites can then be more efficiently compared and considered alongside the hazards, local conditions, and goals of that community as shown in their General Plan and Community Plan.

8. We encourage OPR/HCD to provide guidance on how jurisdictions can integrate STRs responsibly into their existing community fabric and economies. For example, the balance that may work best for the Morongo Basin could be allowing only resident owned STRs. This would still provide the jobs afforded by the STRs but would slow the bleeding of our precious community-built equity to outside commercial interests. Profits would stay local and get reinvested in other local businesses on a daily basis, as well as engender contributions to sports teams, schools, churches, animal shelters, etc. Local owners, who are directly accountable to their neighbors, tend to have years, if not generations, invested in the community and have the shared interest of protecting their community as do surrounding neighbors. Locally owned STRs create more interesting, “grounded”, character-fueled unique opportunities for tourists of various economic levels.

9. Guidance can assist jurisdictions in analyzing all factors, short-term and long-term benefits and costs, of STRs on the community. Help the communities look at the STRs in terms of maintaining a healthy jobs/housing balance, along with staying within the vision of the community.

Protecting the well-being of their own community’s residents and workforce is the primary responsibility of Cities and Counties. The Department of Housing and Community Development has the authority to act, Cities and Counties have the power to zone, the Attorney General and citizens can litigate for this same protective reason. Planning Law exists to avoid housing disasters and community decline just like our Morongo Basin is now experiencing.

We hope these points offer suggestions in a more positive and productive direction.

Sincerely,

The Morongo Basin Conservation Association

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MBCA is a 501(c)3 non-profit, community based, all volunteer organization