



## PLANNING COMMISSION REPORT

Planning Commission Meeting of March 1, 2022

**SUBJECT:** Ordinance Adding Chapter 17.138 "Time Share Uses" and Sections 17.138.060 to Title 17, Zoning, of the St. Helena Municipal Code, and Deleting Section 17.112.130 of the St. Helena Municipal Code.

**PREPARED BY:** Ethan Walsh, City Attorney

**REVIEWED BY:** Maya DeRosa, Planning & Building Director

**APPROVED BY:** Maya DeRosa, Planning & Building Director

**APPLICATION FILED:**

**LOCATION OF PROPERTY:** Citywide

**APN:** n/a

**GENERAL PLAN/ZONING:** n/a

**APPLICANT:** n/a

**PHONE:** n/a

### **BACKGROUND**

Over the past two years, there has been significant discussion in the community regarding Section 17.112.130 of the City's Zoning Code, which prohibits the creation of a time-share project as a means of ownership of any single-family, two-family or multiple-family dwelling or any apartment house in the City (the "Time Share Ordinance"). The City Council discussed the Time Share Ordinance at its July 14, 2020 meeting in response to concerns raised regarding a real estate listing for a fractional or partial ownership interest in a residential home in the City. The prior City Attorney discussed this issue with the City, focusing on the question of the extent to which the City Council could regulate an ownership structure through the City's zoning authority, and noted the challenges of doing so. At the conclusion of the Council's discussion of this issue, Council directed the City Attorney and staff to continue to research its options to address the concerns raised by members of the community in response to the listing of the home at issue.

In the months following the July 2020 Council meeting, the company that had been marketing that original home, now known as Pacaso, began marketing other homes in the City, and the City received additional complaints from members of the community. Based on new information that was available to the City, primarily through Pacaso's marketing materials, the City Attorney's office concluded that the properties being marketed by Pacaso were not just fractional or partial ownership structures, but were also being marketed to be used as a time share project that would be prohibited under the City's ordinance, and informed Pacaso of that conclusion. Pacaso disagreed with the City Attorney's conclusion, and initiated a lawsuit in an effort to compel the City to retract its conclusion. That litigation is ongoing.

When reviewing the Time Share Ordinance in this context, the City Attorney's office found that the substance of the Time Share Ordinance has not been updated since its adoption in 1982. The City Attorney's office concluded that the Time Share Ordinance would benefit from an update to refine the definitions to more directly address the impacts of time-share uses, to clarify the means used by the City to enforce the restrictions on time share uses, and to clarify how time share uses are treated in non-residential districts. City staff initially delayed initiating any changes to the Time Share Ordinance while the litigation was ongoing. However, due to the continued marketing of time share uses within the City, staff has decided to move forward with recommending the proposed updates to the City's ordinance.

## **PROJECT DESCRIPTION**

N/A

## **ANALYSIS**

The Analysis section of the Staff Report is organized as follows: First, the section provides a brief explanation for the City's conclusion that the homes that have been marketed by Pacaso constitute time share projects. While the City's conclusion does not directly affect the changes to the Zoning Code set forth in the proposed ordinance, it is helpful to understand that the Time Share Ordinance, both in its original form and as proposed to be amended, is intended to protect against the impacts that these homes and similar uses could have on the City's housing supply and the character of the City's residential districts. Second, this section discusses the legal basis for the City's Time Share Ordinance, the reasons why the City prohibited time share uses in residential properties, and why those reasons continue to apply today. Third, this section outlines the changes made in the proposed ordinance and the reasons for the proposed changes.

### **A. Current Time Share Ordinance and Application to Pacaso Homes**

Section 17.112.130 of the Zoning Code prohibits the creation of a time-share project as a means of ownership of any single-family, two-family or multiple family dwelling or apartment house within the City. A time-share project is defined in that section as any real property that is subject to a time-share program. A time-share program is in turn defined in part as an arrangement whereby the use, occupancy or possession of the

property circulates among purchasers according to a fixed or floating time schedule on a periodic basis for a specific period of time during any given year.

Pacaso provides a significant amount of information on its website regarding the manner in which its homes are used by the purchasers of a Pacaso home. According to Pacaso's website, the single family residences marketed by Pacaso are held by a property-specific limited liability company ("LLC"), and each co-owner purchases a 1/8 share in the LLC. (Pacaso.com/learn) Each 1/8 share entitles the co-owner to 44 stay nights within any 365 day window. Stays can be from 2 to 14 nights in duration for each 1/8 share. Back-to-back stays are not permitted. (Pacaso.com/faq/scheduling) Stays are booked on an app, with specific rules governing the number of "special dates" that each co-owner can book, and the number of stays that each owner can book during "peak seasons." (Id.) Each owner can book the residence to use themselves, or may allow guests to use the residence, whether or not the co-owner is present. (Id.) Between each stay, Pacaso conducts a thorough inspection and cleaning. ("5 reasons Pacaso is better than a timeshare." Pacaso.com/blog/better-than-resort-timeshare)

The Pacaso model grants each 1/8 owner the right to use the property for a specific period of time (44 days in a year) in increments of 2-14 days. The use, occupancy and possession of the property circulates among the co-owners according to a floating time schedule that gives each co-owner exclusive rights to the property for a specific period of time each year. This use structure fits squarely in the City's definition of a time-share program, and the properties operated by Pacaso in this manner would therefore be time-share projects under the existing Time Share Ordinance.

## B. Reasons for the Time Share Ordinance

### *1. The City's General Plan*

The City of St. Helena has long been defined by its rural, small town quality and agricultural character. In adopting the St. Helena General Plan Update 2040, the City noted that the defining, unifying goal of all the elements of the 1993 General Plan was: To protect the rural, small town quality and agricultural character of St. Helena. It is the General Plan's intent that the preservation of this small town character be the unifying philosophy that overlays all other stated goals and policies. (General Plan 2040, p. 1-2.)

While the 2040 General Plan acknowledges that this is no longer the sole, overriding focus of the General Plan, retaining the small town character of St. Helena remains a primary focus of the City's land use planning. (Id.)

A key component of retaining the City's small town character is maintaining a balance between the economic benefits that arise from visitors who come to St. Helena for its wineries, restaurants and historic downtown, and maintaining its authentic small town quality of life for the City's residents. This theme is consistent throughout the City's General Plan, and maintaining this balance is key to the City's long term viability. The General Plan notes in its Introduction that "[t]he community stands out in the Valley for its unique, historic character and its ability to attract visitors while also supporting the needs of its resident population." (General Plan p. 1-8.) The City has set goals to maintain that

balance, striving to achieve an economy that “will meet the basic needs of residents, while balancing the benefits and impacts of visitors and provide better economic opportunities. (General Plan 1-15.) The City further seeks to “promote sustainable tourism practices that allow the City to enjoy the economic benefits of visitors to the region while maintaining the authentic small-town quality of life.” (General Plan p. 3-9.)

St. Helena is a renowned tourist destination, bringing visitors from throughout the world to its wineries, restaurants and downtown, but it is also a functioning City and community, with residents who contribute to its social fabric. Like most communities throughout California, one of the key means that the City utilizes to maintain this balance is through its Zoning Ordinance. The City has commercial districts, like the Service Commercial district and the Central Business district, that provide for uses that serve both visitors and the local community, such as restaurants, retail shops and winery tasting rooms, among others, along with lodging where those visitors can stay. (St. Helena Municipal Code §§17.48.030, 17.52.030.) The City also has residential districts that provide housing for those who live in the community, at varying densities in order to provide a diversity of housing types.

## *2. Use of Zoning to Preserve Residential Areas*

The use of zoning to preserve the character of the residential districts of a City has been common for over a century. In the seminal case of *Euclid v. Ambler* the United State Supreme Court upheld the validity of comprehensive zoning that would set aside residential districts “from which business and trade of every sort, including hotels and apartment houses, are excluded.” (*Euclid v. Ambler Co.* 272 U.S. 365, 390.) The U.S. Supreme Court upheld the Village of Euclid’s zoning ordinance in that instance, noting that the inclusion of non-residential uses in residential districts may have an increasingly deleterious impact on the residential area “until, finally, the residential character of the neighborhood and its desirability as a place of detached residences are utterly destroyed.” (*Id.* at 394.)

The California Court of Appeals followed *Euclid* and subsequent cases in upholding the City of Carmel-by-the-Sea’s zoning restriction on short-term rentals. (*Ewing v. City of Carmel-By-The-Sea* (1991) 234 Cal.App.3d 1579.) In that case, the Court noted that the City’s chief purpose in adopting the short-term rental restriction was “to provide an appropriately zoned land area within the City for permanently single-family residential uses and structures and to enhance and maintain the residential character of the City.” (*Id.* at 1579.) In upholding Carmel’s short-term rental restriction, the Court found that short-term rentals “undoubtedly affect the essential character of a neighborhood and the stability of a community. Short-term tenants have little interest in public agencies or in the welfare of the citizenry. They do not participate in local government, coach little league, or join the hospital guild. They do not lead a scout troop, volunteer at the library, or keep an eye on an elderly neighbor. Literally, they are here today and gone tomorrow—without engaging in the sort of activities that weld and strengthen a community.” (*Id.* at 1591.)

## *3. Impacts of Time Share Uses on Residential Districts*

Like Carmel, the City of St. Helena strives to maintain the character of its residential areas in the face of intense demand for accommodations to serve visitors to St. Helena. The Time Share Ordinance is one of the means that the City has in place to ensure that it is able to maintain its existing and limited housing stock for use in long term residency, and to maintain the character of its residential zoning districts. When the City originally adopted the Time Share Ordinance in 1982, the City Council made specific findings based on the impact it foresaw if time share uses were to locate in the residential areas of the City. Those findings were as follows:

1. There is a critical shortage of affordable housing in the city for long-term occupancies (more than six months annually), and the availability of additional residential dwelling units is substantially restricted by the growth management system.
2. The conversion of residential dwelling units within the city to time-sharing projects eliminates residential dwelling units otherwise available for long-term occupancies (more than six months annually) in the city.
3. Time-sharing projects have the same character as commercial hotels, motels and other transient occupancy uses due to their transient nature and to the multiple short-term (less than six months annually) occupancies by those participating in time-sharing projects.
4. Such commercial or quasi-commercial like use is inappropriate in residential areas due to the increased traffic generation and multiple occupancies disturbing the peace and quiet of residential neighborhoods.
5. The city council finds and determines that this section is necessary to protect the public health, safety and welfare of the citizens of the city.

As discussed in more detail below, these findings continue to hold true in St. Helena, and continue to support the City's decision to restrict time-share uses in residential districts.

*i. Housing Shortages and Impacts of Time-Share Uses on Existing Housing Stock*

In adopting the current Time Share Ordinance, the City Council found that there was a critical shortage of affordable housing in the City for long-term occupancies. That continues to be the case, and is undoubtedly worse than was the case at the time the Time Share Ordinance was originally adopted. The most recent census data lists the median value of owner occupied homes in St. Helena at \$1,112,100 for the period of 2015-2019, while the Zillow Home Value Index estimates medial home values in St. Helena to be approximately \$1,870,000 as of February 2022. ([www.census.gov/quickfacts/sthelenacitycalifornia](http://www.census.gov/quickfacts/sthelenacitycalifornia); [zillow.com/home-values/](http://zillow.com/home-values/).) In contrast, the median household income in St. Helena from 2015-2019 was \$90,031, and the median income for a four person household in Napa County for 2021 is approximately \$109,200. ([www.census.gov/quickfacts/sthelenacitycalifornia](http://www.census.gov/quickfacts/sthelenacitycalifornia); [www.hcd.ca.gov/grant-funding/income-limits/state-and-federal-income-limits/docs/income-limits-2021.pdf](http://www.hcd.ca.gov/grant-funding/income-limits/state-and-federal-income-limits/docs/income-limits-2021.pdf).)

At the time of adoption of the City's Housing Element in 2015, the income necessary to purchase a median priced single family home was nearly \$200,000 per year, and prices have risen dramatically since then. (City of St. Helena Housing Element Update 2015-23, p. 3.) The cost of homes currently in St. Helena are well in excess of what median income residents of St. Helena can afford, as well as median income residents of Napa County generally. Further, as Erika Sklar observed in the St. Helena Housing Update Report that she prepared for the City in April 2018, "St. Helena has more local jobs than people in the labor force, demanding large numbers of commuters to fill local jobs. Workers commute daily into St. Helena, many because there is no local housing that is affordable at the incomes that they make. 36% of St. Helena households cannot afford market rents while 70% of St. Helena households cannot afford to purchase a home. Paramedics and preschool teachers cannot afford St. Helena's market rents. Teachers, registered nurses, winery and hospitality managers and non-profit directors cannot afford homeownership in St. Helena." (St. Helena Housing Update Report, p. 7 (April 2018).)

The City has made and continues to make efforts to address the need for affordable housing in the City, including providing assistance for the Brenkle Court, Turley Flats and 963 Pope Street projects. The City has also ensured that new non-residential development will assist the City in providing adequate affordable housing, as evidenced by the significant contributions to affordable housing made by the Farmstead Lodging project through its development agreement with the City. These efforts, however, have highlighted the challenges of providing housing at all income levels, with the most significant challenge being a limited supply of existing housing stock in the City, and a limited supply of available land for new housing. Given the housing shortage already in existence, losing additional housing stock will only make this problem worse.

The findings in the original Time Share Ordinance also note that the conversion of homes to time sharing projects would eliminate residential dwelling units that would otherwise be available for long term residential use. This continues to be true, as a home that is used for time share purposes will no longer be available for households to use as their long term residence. This threat to the City's existing housing stock is not insignificant. The publicity regarding Pacaso's rise as a company speaks to a pent up demand for homes that could be converted to time share use, reducing available housing stock for long term use. Pacaso's co-founder has indicated that "[t]here are tens of millions of families that aspire to own second homes but are unable to, due to reasons of cost." (Just Five Months Old, Zillow Co-founder's Pacaso Claims It's Already A Unicorn" Noah Kirsch, March 24, 2021 ([www.forbes.com/sites/noahkirsch/2021/03/24/just-five-months-old-zillow-cofounders-pacaso-claims-its-alread-a-unicorn/](http://www.forbes.com/sites/noahkirsch/2021/03/24/just-five-months-old-zillow-cofounders-pacaso-claims-its-alread-a-unicorn/).) In discussing Pacaso's model, Dan Wenholt of the venture capital firm Fifth Wall said "[t]hey were taking a previously illiquid asset, which was a timeshare, and making it affordable for the masses, also making it attainable for folks who wanted to own a second home but previously weren't able to." ("Pacaso, the Proptech Startup Founds by Zillow Alums, Raises \$125M Series C" Sophia Kunthara (September 14, 2021) ([news.crunchbase.com/news/proptech-startup-pacaso-raises-125m-series-c](https://news.crunchbase.com/news/proptech-startup-pacaso-raises-125m-series-c).) Creating a new market for these prospective buyers who otherwise would not buy second homes unquestionably increases demand for these

homes by creating an incentive for timeshare companies to buy up residences to meet this market demand. Creating more demand, and reducing supply, will further ratchet up housing costs, exacerbating the already significant housing shortage in the City.

#### *ii. Impacts to Character of the City's Residential Districts*

The City Council additionally found as part of the adoption of the original Time Share Ordinance that time-sharing projects have the same character as commercial hotels, motels and other transient occupancy uses due to their transient nature and to the multiple short-term occupancies by those participating in time-sharing projects. The Council concluded that this commercial or quasi-commercial like use is inappropriate in residential areas due to the increased traffic generation and multiple occupancies disturbing the peace and quiet of residential neighborhoods. This continues to be the case, as the nature of time share uses of residential property is different than the typical long term residential uses for which the residential districts of the City are intended.

The complaints that have been made by some local residents regarding the Pacaso homes are illustrative of the distinctions between time share uses and long term residential uses. A sampling of the email complaints received by the City are included in Attachment No. 3 to this Staff Report. The complaints received center on concerns over more intense traffic and parking issues, outdoor parties and conversations going late into the evening, sometimes as late as 2 A.M. One neighbor complained of outdoor lighting shining into her daughter's room at night. They complained of traffic and inadequate parking for the visitors to these homes. Further, neighbors have noted that with each turnover from one stay to another, cleaning and landscaping crews come to clean the unit and prepare it for the next user. While this level of maintenance is appropriate for a commercial vacation property, it impacts the residential character of the surrounding area by adding parking and noise burdens in the neighborhood. Living next door to a home where the residents turnover every 2-14 days, and professional cleaning and landscaping crews come to the property between each visit is much more akin to living by a commercial lodging project than a residential home. This is not at all surprising, given that these time share homes are used by people who are on vacation. While long term residents may have an occasional party at their home, the time share model means that these residences are constantly being used by people who are on vacation, hosting parties or celebrating special occasions. These activities by their nature are more intense than typical residential use of property.

The intensity of this use is a significant reason that these uses can change the character of a residential neighborhood. Long term residents, whether owners or renters, will occasionally have guests, and will occasionally have parties, but these time-share homes are used exclusively by people who are coming to the City on a short term basis for vacation or leisure. People will naturally stay out later, entertain more and gather in larger numbers while on vacation. That is the reason that these uses are more appropriate in non-residential areas that are intended to cater to the City's visitors and tourists. Time share uses can change the character of a residential neighborhood by having it serve not

only as a residential area but also a visitor lodging area, and subjecting it to the impacts that come with that more intense land use.

In their marketing materials, Pacaso cites this intensity of use as a benefit, indicating that having these units filled with visitors seven days a week will benefit the local economy, since these visitors will patronize local businesses. (pacaso.com/communities) However, as noted above, the City strives through its General Plan to achieve a balance between benefits to the local economy and maintaining the character of the City. The City seeks to achieve this balance by promoting “sustainable tourist practices that allow the City to enjoy the economic benefits of visitors to the region while maintaining the authentic small-town quality of life, (General Plan p. 3-9) and striving to achieve a local economy that “will meet the basic needs of residents, while balancing the benefits and impacts of visitors.” (General Plan p. 1-15.) Bringing more visitors into residential neighborhoods to improve the local economy does not help to achieve that balance. It instead tips the scales in favor of the local economy, at the expense of the residential character of these neighborhoods.

The nature of the timeshare use itself can impact the residential character of the City’s residential districts because it will ensure that the time share users can only use their property for a limited amount of time each year. In the case of Pacaso owners, each stay is limited to 2-14 days. As discussed above, in the *Ewing v. City of Carmel-by-the-Sea* case, the California Court of Appeal found that short term rentals would affect the essential character of a neighborhood and the stability of a community. The Court noted that “[s]hort term rentals have little interest in public agencies or in the welfare of the citizenry. They do not participate in local government, coach little league, or join the hospital guild. They do not lead a Scout troop, volunteer at the library, or keep an eye on an elderly neighbor. Literally they are here today and gone tomorrow—without engaging in the sort of activities that weld and strengthen a community.”

This same problem is present with time-share uses. Each co-owner is in the unit on a short-term basis, and without the time to participate in the types of activities or build the relationships that create the fabric of a community. At the April 28, 2021 council meeting several Pacaso co-owners spoke of their experiences in St. Helena. All of them spoke of their affection for the community and the traditions they had established, but these were centered on attending local events and visiting shops, restaurants and wineries. These types of transactional activities are all beneficial to the City’s local economy and are what the City hopes to see from visitors to the City, but it is not the type of community involvement described in the *Ewing* case that binds and strengthens a residential community. Given the City’s desire to strike a balance between the demands of the City’s visitor and tourist economy, and retaining its small town character and quality of life, the City has an interest in maintaining housing stock in its residential districts for long-term residents who will engage in the community in the manner described by the Court in *Ewing*, to the betterment of the entire community.

### C. Proposed Amendments to the Time Share Ordinance

The proposed Ordinance would make certain changes to the City’s Existing Time Share Ordinance, as described below.



## *1. Findings and Establishment of New Chapter*

The proposed Ordinance includes detailed recitals and findings describing the policy bases for the City's regulation of time share uses. The findings are consistent with the findings made as part of the original Time Share Ordinance, but more detail has been added. The policy bases for the proposed Ordinance are discussed in the sections above, and further discussion is not necessary here.

The proposed Ordinance also relocates the restrictions on time share uses to its own chapter at Chapter 17.138. The Time Share Ordinance is currently located in Chapter 17.112, General Site Design and Development Standards. City staff believes that with the added level of detail in the Proposed Ordinance, these provisions merit being located in a separate chapter, and has changed the location of the Timeshare Ordinance accordingly.

## *2. Definitions*

The Proposed Ordinance amends the definitions that are used to define time share uses, with the new definitions set forth in Section 17.138.020. The new definitions are modeled on the definitions utilized by the state to regulate time-shares in the Vacation Ownership and Time-Share Act of 2004 (Bus. & Prof. Code §§11210-11288), but are modified somewhat to better apply in the land use regulation context.

The new ordinance includes a number of definitions that work in concert to define a time-share use. The ordinance defines a "time-share use" as the use of one or more accommodations, or any part thereof, as part of a time-share property pursuant to a time-share plan. An "accommodation" is defined in this Chapter to include a range of residential units that could potentially be used for time-share purposes. The types of residential units that can be accommodations are listed at the beginning of Section 17.138.020 in the proposed ordinance. A "time-share plan" is defined in the ordinance, and generally includes any arrangement, plan, scheme or similar device whereby a purchase receives the right to exclusive use of the accommodation, whether through the granting of ownership rights, possessory rights or otherwise, for a period of time less than a full year during any given year. A "time-share property", in turn is defined as one or more accommodations that are subject to the same time-share plan together with any property rights that are appurtenant to the accommodations. A "time-share instrument", is the document or documents that create or govern the operation of the time-share plan.

Therefore a time-share use is the use of a residential property that fits within the definition of an "accommodation" under the ordinance, pursuant to a "time-share plan", which grants each owner of the time-share property exclusive use of the property for a certain period of time each year, but not the full year.

It is important to note that not all properties with multiple owners or owned by business entities (such as LLCs) would constitute a time-share use under these definitions. The definitions focus on the manner in which the accommodation is used, not how it is owned. A time-share plan allows each owner exclusive use of the property for a specific period of time. This manner of use prevents the property from being used for long term residency, and leads to the continual cycling of visitors through the property and the more intense, constant vacation oriented use that the ordinance seeks to limit in residential districts of the City.

A property that is owned by a group of friends or extended family members, whether through a separate business entity or otherwise, will not necessarily mandate that only one owner will be able to use the property at a time. The more formal arrangement found in time-share uses increases the intensity of use, in that each individual time-share owner cycles through the property, whereas families or friends are more likely to use the property together or in groups leading to less transition in the residential neighborhood. The more formal relationship, use of professional property managers and rights to exclusive use found in time-share uses contributes to the commercial character of the property, with added traffic due to the more frequent turnover of visitors and more frequent cleaning and inspection between each user, which is common for a commercial vacation property, but not for a home owned by family or friends.

### *3. Enforcement*

The new ordinance additionally adopts a new enforcement structure for the City time-share restrictions, modeled on the City's short-term rental ordinance. The ordinance prohibits both the use of accommodations for time-share use, and the advertisement of accommodations for time-share uses. This will better allow the City to prevent time-share uses in residential neighborhoods before they occur. The proposed Ordinance also outlines the process that will be used to enforce this new Chapter, again based on the City's existing short-term rental regulations. This approach has proved to be effective in enforcing the City's short-term rental regulations, and will help the City to take a more preventative approach to enforcing its time-share regulations as well.

### *4. Time Share Uses in Service Commercial and Central Business Districts*

Finally, while the City's existing Time Share Ordinance did prohibit time-share projects within certain types of residential dwelling units within the City, it does not make distinctions based on the various zoning districts of the City. Given that the primary concerns and impacts of this use arise from the high intensity use of property that negatively impacts the residential character of residential districts within the City, this use may not have the same impacts in commercial districts where visitors can be closer to the amenities in the City that cater to visitors. The proposed new ordinance would allow time-share uses in the Service Commercial and Central Business Districts as conditional uses, provided that such time-share uses would be limited to accommodations in upper floors in conjunction with a mixed use project, would be required to provide at least one parking space for accommodations of two or fewer bedrooms, and at least two parking

spaces for accommodations of three or more bedrooms, and would be subject to such other conditions imposed by the City as part of the conditional use permit process. As part of the application for a time-share use, the applicant would have to provide specific information including a management plan and specific information on the accommodations and any ancillary uses. The City would then review the application process in accordance with its normal process for review of conditional uses. This would allow the City to address potential impacts associated with this use, similar to the approach that the City uses with hotels and other lodging accommodations in these districts.

### **CEQA DETERMINATION**

The proposed ordinance is not subject to CEQA because the adoption of this ordinance is not a “project” pursuant to Sections 15060(c)(2) and 15060(c)(3) of Title 14 of the California Code of Regulations. Specifically, this ordinance only affirms and clarifies existing regulations regarding timeshare uses within the City and merely authorizes administrative and implementation activities which will not result in a direct or reasonably foreseeable indirect physical change in the environment.

Moreover, under Section 15061(b)(3) of the State CEQA Guidelines, this ordinance is exempt from the requirements of CEQA because it can be seen with certainty that the provisions contained herein would not have the potential for causing a significant effect on the environment.

### **STAFF RECOMMENDATION**

For the reasons described above, staff recommends that the Planning Commission Adopt the Resolution Recommending that the City Council adopt an Ordinance Adding Chapter 17.138 “Time Share Uses” and Sections 17.138.010-17.138.060 to Title 17, Zoning, of the St. Helena Municipal Code and Deleting Section 17.112.130 of the St. Helena Municipal Code.

### **ATTACHMENTS**

[PC2022- 001 Timeshare Resolution 3-1-2022-c1](#)

[St. Helena Time Share Ordinance-c1](#)

[Examples of complaints received regarding timeshare properties-c1](#)

**CITY OF ST. HELENA PLANNING COMMISSION**

**RESOLUTION NO. PC2022-\_\_\_\_**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ST. HELENA, CALIFORNIA, RECOMMENDING THAT THE CITY COUNCIL ADOPT AN ORDINANCE ADDING CHAPTER 17.138 “TIME SHARE USES” AND SECTIONS 17.138.101-17.138.060 TO TITLE 17, ZONING, OF THE ST. HELENA MUNICIPAL CODE AND DELETING SECTION 17.112.130 OF THE ST. HELENA MUNICIPAL CODE**

**Recitals**

**WHEREAS**, the City of St. Helena is an popular tourist destination, known for its scenic Napa Valley location, exceptional wineries and restaurants, historic Main Street and small town agricultural character; and

**WHEREAS**, preserving the rural, small town quality and agricultural character of the City of St. Helena has been a focal point of the City’s land use planning for decades, and remains a primary focus in the City’s 2040 General Plan; and

**WHEREAS**, the City of St. Helena stands out in the Napa Valley for its ability to attract visitors while also supporting the needs of its resident population. Maintaining the balance between the quality of life for residents and those who work in the City and the visitors who help to sustain the City’s tourist economy is key to maintaining a sustainable community and a stable economy; and

**WHEREAS**, the City values and welcomes all visitors to the City and recognizes their contributions to the City’s economy, but finds that in order to maintain the City’s long term viability as a community where people not only come to visit, but also live, work and contribute to the long term betterment of the community through participation in the City’s schools, local community groups, civic government and local serving businesses, the City must maintain a balance between residential land uses and visitor serving uses; and

**WHEREAS**, the City’s existing housing stock is significantly impacted, with demand outweighing supply, resulting in extremely high housing prices as detailed in the accompanying staff report. A limited supply of suitable vacant land, exorbitantly high land costs, and limitations in the City’s existing infrastructure, among other factors, have limited the construction of additional housing in the City of St. Helena; and

**WHEREAS**, according to the U.S. Census Bureau, the current median household income in the City of St. Helena is \$90,031, while the estimated value of owner-occupied housing units from 2015-2019 was approximately \$1,112,100, with current real estate listings suggesting that prices are increasing significantly, meaning that homes in the City are not affordable to the median household in the City; and

**WHEREAS**, as noted in the St. Helena Housing Update Report prepared for the

City in April 2018, “St. Helena has more local jobs than people in the labor force, demanding large numbers of commuters to fill local jobs. Workers commute daily into St. Helena, many because there is no local housing that is affordable at the incomes that they make. 36% of St. Helena households cannot afford market rents while 70% of St. Helena households cannot afford to purchase a home. Paramedics and preschool teachers cannot afford St. Helena’s market rents. Teachers, registered nurses, winery and hospitality managers and nonprofit directors cannot afford homeownership in St. Helena”; and

**WHEREAS**, the City has made significant efforts to address the need for housing at lower income levels, of which recent examples include providing assistance to local nonprofit Our Town St. Helena for the Brenkle Court development, a mutual self-help housing development providing homeownership opportunities to eight low income working families, as well as the acquisition of a home located at 963 Pope Street using a charitable sale strategy. The property at 963 Pope Street is being developed with an additional four units to provide a total of five new affordable rental units in the City; and

**WHEREAS**, further, in connection with the recently approved Farmstead lodging project, the City negotiated with the developer to contribute One Million Dollars toward the purchase of property to be used for the development of not less than twenty units of housing that will be affordable to low and very low income households, and an additional Two Million Two Hundred Thousand Dollars to be used more generally toward the development of affordable housing in the City; and

**WHEREAS**, the City additionally provided substantial financial assistance to the recently completed Turley Flats Affordable Housing development, which provides eight units of rental affordable housing in a three story building located at 1105 Pope Street; and

**WHEREAS**, these efforts have helped to address the City’s need for affordable housing, but have also highlighted the challenge of providing sufficient housing to meet demand, particularly at more affordable levels, due to the significant costs of acquiring housing or land for the development of housing in the City and the limited supply of such land; and

**WHEREAS**, the conversion of existing residential units to uses other than long-term residential use will further reduce the City’s existing long-term housing supply, causing further imbalance between the demand for housing in the City and the existing supply, not only altering the character of the City’s residential neighborhoods, but also presenting further challenges to the City’s efforts to provide affordable housing within the community; and

**WHEREAS**, the City additionally has, for many years, worked to preserve its existing housing stock for long term residential use, both to maintain the character of its residential neighborhoods and prevent residential districts from becoming visitor and tourist serving districts, and to ensure that it would not be converted to uses other than long-term residential uses; and

**WHEREAS**, to this end, in 1982 the City adopted Ordinance No. 82-07, which prohibited the creation of time-share projects as a means of ownership of any single-family, two-family or multiple-family dwelling or any apartment house within the City. This

restriction was imposed because the conversion of residential dwelling units to time-sharing projects would eliminate residential dwelling units that would otherwise be available for long-term occupancies, and were inappropriate in residential areas because those uses have the same character as commercial hotels, motels and other transient occupancy uses, and would result in increased traffic generation and multiple occupancies disturbing the peace and quiet of residential neighborhoods; and

**WHEREAS**, the City has historically not received complaints about time-sharing uses in residential neighborhoods. Commencing in 2020, however, the City began receiving complaints regarding single family homes in the City that were being sold and/or marketed as “fractional ownership” or “co-ownership” homes, wherein each buyer may acquire a one-eighth interest in a limited liability company that will own the home. Under the structure pursuant to which these dwelling units are marketed and sold, each owner gets a one-eighth share along with the right to use the home for one-eighth of each year indefinitely. During each owner’s usage period, that owner has exclusive use of the entire house. All rentals are prohibited; only owners and their guests are permitted to use the house. Each owner pays regular assessments to fund the operating costs of the home and maintenance reserves; and

**WHEREAS**, this arrangement, which provides that each purchaser is entitled to exclusive use of the property for a fixed number of days each year, is a “time-share plan” as defined in Business and Professions Code section 11212, and a “time share program” as defined in Section 17.112.130 of the City’s Municipal Code; and

**WHEREAS**, the City has received numerous complaints regarding these properties, including parking impacts from large numbers of people staying at these properties; excessive noise late into the evening due to frequent outdoor parties; traffic due to frequent visitor turnover; traffic, noise and parking concerns due to frequent visits from cleaning, landscape maintenance and pool cleaning services that come to the properties in between each stay to prepare the home for the next guest; and an inability to maintain lines of communication to set community expectations with the users of the unit, as visitors only frequent the homes for short term stays of 2 to 14 days; and

**WHEREAS**, the complaints received by the City are reflective of the reasons that the City prohibited time-share projects within residential areas of the City. The time-share uses provide a short-term, high impact vacation oriented use of the property, where those that buy into the time-share use the home for entertaining and short term stays while visiting restaurants, wineries and other tourist oriented locations in St. Helena and the surrounding Napa Valley; and

**WHEREAS**, this high impact use, combined with the frequent turnover and commercial management of these properties is not consistent with the residential districts in which they are located. It is commercial in nature, in that these time-share uses are structured as a short-term, tourist oriented, visitor serving use of the subject properties. The use of these properties as time-shares adds excessive noise and traffic to residential districts by using these properties for high impact tourist oriented uses more appropriately located in commercial districts of the City; and

**WHEREAS**, expanded use of residential properties for time-share uses will further reduce the availability of housing stock for long-term residential use, and create a new demand for time-share uses of residential properties; and

**WHEREAS**, this encroachment of tourist oriented, visitor serving uses in residential neighborhoods will not only compromise the residential character of these areas, but will also further increase the costs for housing in the City, undermining the City's efforts to provide a balance of housing for all income levels in the City; and

**WHEREAS**, the City's authority to enact zoning ordinances is based on the powers accorded cities and counties under the State constitution to make and enforce police regulations. This police power grants the City broad authority to regulate the development and use of real property within its jurisdiction to promote the public welfare; and

**WHEREAS**, pursuant to and in accordance with this authority, the City desires to reaffirm its restrictions on time-share uses in residential areas, and to update the language of the Zoning Code to provide consistency with the terminology used to define time-share uses in State law. Further, the City desires to provide greater clarity as to the zoning districts in which time-share uses are permitted as conditional uses, and the standards pursuant to which they will be reviewed in those zoning districts; and

**WHEREAS**, the City gave public notice of the public hearing for the proposed ordinance by publishing in the Napa Valley Register; and

**WHEREAS**, on March 1, 2022, the Planning Commission held a duly-noticed public hearing and considered the staff report, recommendations by staff, and public testimony concerning the proposed ordinance.

### **Resolution**

NOW THEREFORE, THE PLANNING COMMISSION OF THE CITY OF ST. HELENA DOES RESOLVE, DETERMINE, FIND AND ORDER AS FOLLOWS:

**Section 1.** This ordinance was assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines (the Guidelines), and the environmental regulations of the City. The City Council hereby finds that this ordinance is not subject to CEQA because the adoption of this ordinance is not a "project" pursuant to Sections 15060(c)(2) and 15060(c)(3) of Title 14 of the California Code of Regulations. Specifically, this ordinance only affirms and clarifies existing regulations regarding timeshare uses within the City and merely authorizes administrative and implementation activities which will not result in a direct or reasonably foreseeable indirect physical change in the environment.

Moreover, under Section 15061(b)(3) of the State CEQA Guidelines, this ordinance is exempt from the requirements of CEQA because it can be seen with certainty that the provisions contained herein would not have the potential for causing a significant effect on the environment.

**Section 2.** Based on the entire record before the Planning Commission, and all written and oral evidence presented, the Planning Commission hereby finds that the proposed ordinance is consistent with the City's adopted General Plan and does not conflict with any of the General Plan's goals or policies.

**Section 3.** The Planning Commission hereby recommends that the City Council

adopt the attached proposed ordinance entitled: “ADDING CHAPTER 17.138, TIME SHARE USES AND SECTIONS 17.138.101-17.138.060 TO TITLE 17, ZONING, OF THE ST. HELENA MUNICIPAL CODE AND DELETING SECTION 17.112.130 OF THE ST. HELENA MUNICIPAL CODE.”

**I HEREBY CERTIFY** that the foregoing recommendation to the City Council was duly and regularly approved by the Planning Commission of the City of St. Helena at a regular meeting of said Planning Commission held on March 1, 2022, by the following rollcall vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

APPROVED:

ATTEST:

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John Ponte  
Planning Commission, Chair

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Maya DeRosa, AICP  
Planning and Building Director



**CITY OF ST. HELENA**

**ORDINANCE NO. \_\_\_\_\_**

**ADDING CHAPTER 17.138 “TIME SHARE USES” AND SECTIONS 17.138.010 – 17.138.060 TO TITLE 17, ZONING, OF THE ST. HELENA MUNICIPAL CODE, AND DELETING SECTION 17.112.130 OF THE ST. HELENA MUNICIPAL CODE**

**WHEREAS**, the City of St. Helena is a popular tourist destination, known for its scenic Napa Valley location, exceptional wineries and restaurants, historic Main Street and small town agricultural character; and

**WHEREAS**, preserving the rural, small town quality and agricultural character of the City of St. Helena has been a focal point of the City’s land use planning for decades, and remains a primary focus in the City’s 2040 General Plan; and

**WHEREAS**, the City of St. Helena stands out in the Napa Valley for its ability to attract visitors while also supporting the needs of its resident population. Maintaining the balance between the quality of life for residents and those who work in the City and the visitors who help to sustain the City’s tourist economy is key to maintaining a sustainable community and a stable economy; and

**WHEREAS**, the City values and welcomes all visitors to the City and recognizes their contributions to the City’s economy, but finds that in order to maintain the City’s long term viability as a community where people not only come to visit, but also live, work and contribute to the long term betterment of the community through participation in the City’s schools, local community groups, civic government and local serving businesses, the City must maintain a balance between residential land uses and visitor serving uses; and

**WHEREAS**, the City’s existing housing stock is significantly impacted, with demand outweighing supply, resulting in extremely high housing prices as detailed in the accompanying staff report. A limited supply of suitable vacant land, exorbitantly high land costs, and limitations in the City’s existing infrastructure, among other factors, have limited the construction of additional housing in the City of St. Helena; and

**WHEREAS**, according to the U.S. Census Bureau, the current median household income in the City of St. Helena is \$90,031, while the estimated value of owner-occupied housing units from 2015-2019 was approximately \$1,112,100, with current real estate listings suggesting that prices are increasing significantly, meaning that homes in the City are not affordable to the median household in the City; and

**WHEREAS**, as noted in the St. Helena Housing Update Report prepared for the City in April 2018, “St. Helena has more local jobs than people in the labor force, demanding large numbers of commuters to fill local jobs. Workers commute daily into St. Helena, many because there is no local housing that is affordable at the incomes

that they make. 36% of St. Helena households cannot afford market rents while 70% of St. Helena households cannot afford to purchase a home. Paramedics and preschool teachers cannot afford St. Helena's market rents. Teachers, registered nurses, winery and hospitality managers and nonprofit directors cannot afford homeownership in St. Helena"; and

**WHEREAS**, the City has made significant efforts to address the need for housing at lower income levels, of which recent examples include providing assistance to local nonprofit Our Town St. Helena for the Brenkle Court development, a mutual self-help housing development providing homeownership opportunities to eight low income working families, as well as the acquisition of a home located at 963 Pope Street using a charitable sale strategy. The property at 963 Pope Street is being developed with an additional four units to provide a total of five new affordable rental units in the City; and

**WHEREAS**, further, in connection with the recently approved Farmstead lodging project, the City negotiated with the developer to contribute One Million Dollars toward the purchase of property to be used for the development of not less than twenty units of housing that will be affordable to low and very low income households, and an additional Two Million Two Hundred Thousand Dollars to be used more generally toward the development of affordable housing in the City; and

**WHEREAS**, the City additionally provided substantial financial assistance to the recently completed Turley Flats Affordable Housing development, which provides eight units of rental affordable housing in a three story building located at 1105 Pope Street; and

**WHEREAS**, these efforts have helped to address the City's need for affordable housing, but have also highlighted the challenge of providing sufficient housing to meet demand, particularly at more affordable levels, due to the significant costs of acquiring housing or land for the development of housing in the City and the limited supply of such land; and

**WHEREAS**, the conversion of existing residential units to uses other than long-term residential use will further reduce the City's existing long-term housing supply, causing further imbalance between the demand for housing in the City and the existing supply, not only altering the character of the City's residential neighborhoods, but also presenting further challenges to the City's efforts to provide affordable housing within the community; and

**WHEREAS**, the City additionally has, for many years, worked to preserve its existing housing stock for long term residential use, both to maintain the character of its residential neighborhoods and prevent residential districts from becoming visitor and tourist serving districts, and to ensure that it would not be converted to uses other than long-term residential uses; and

**WHEREAS**, to this end, in 1982 the City adopted Ordinance No. 82-07, which prohibited the creation of time-share projects as a means of ownership of any single-family, two-family or multiple-family dwelling or any apartment house within the City. This restriction was imposed because the conversion of residential dwelling units to time-sharing projects would eliminate residential dwelling units that would otherwise be available for long-term occupancies, and were inappropriate in residential areas because those uses have the same character as commercial hotels, motels and other transient occupancy uses, and would result in increased traffic generation and multiple occupancies disturbing the peace and quiet of residential neighborhoods; and

**WHEREAS**, the City has historically not received complaints about time-sharing uses in residential neighborhoods. Commencing in 2020, however, the City began receiving complaints regarding single family homes in the City that were being sold and/or marketed as “fractional ownership” or “co-ownership” homes, wherein each buyer may acquire a one-eighth interest in a limited liability company that will own the home. Under the structure pursuant to which these dwelling units are marketed and sold, each owner gets a one-eighth share along with the right to use the home for one-eighth of each year indefinitely. During each owner’s usage period, that owner has exclusive use of the entire house. All rentals are prohibited; only owners and their guests are permitted to use the house. Each owner pays regular assessments to fund the operating costs of the home and maintenance reserves; and

**WHEREAS**, this arrangement, which provides that each purchaser is entitled to exclusive use of the property for a fixed number of days each year, is a “time-share plan” as defined in Business and Professions Code section 11212, and a “time share program” as defined in Section 17.112.130 of the City’s Municipal Code; and

**WHEREAS**, the City has received numerous complaints regarding these properties, including parking impacts from large numbers of people staying at these properties; excessive noise late into the evening due to frequent outdoor parties; traffic due to frequent visitor turnover; traffic, noise and parking concerns due to frequent visits from cleaning, landscape maintenance and pool cleaning services that come to the properties in between each stay to prepare the home for the next guest; and an inability to maintain lines of communication to set community expectations with the users of the unit, as visitors only frequent the homes for short term stays of 2 to 14 days; and

**WHEREAS**, the complaints received by the City are reflective of the reasons that the City prohibited time-share projects within residential areas of the City. The time-share uses provide a short-term, high impact vacation oriented use of the property, where those that buy into the time-share use the home for entertaining and short term stays while visiting restaurants, wineries and other tourist oriented locations in St. Helena and the surrounding Napa Valley; and

**WHEREAS**, this high impact use, combined with the frequent turnover and commercial management of these properties is not consistent with the residential districts in which they are located. It is commercial in nature, in that these time-share

uses are structured as a short-term, tourist oriented, visitor serving use of the subject properties. The use of these properties as time-shares adds excessive noise and traffic to residential districts by using these properties for high impact tourist oriented uses more appropriately located in commercial districts of the City; and

**WHEREAS**, expanded use of residential properties for time-share uses will further reduce the availability of housing stock for long-term residential use, and create a new demand for time-share uses of residential properties; and

**WHEREAS**, this encroachment of tourist oriented, visitor serving uses in residential neighborhoods will not only compromise the residential character of these areas, but will also further increase the costs for housing in the City, undermining the City's efforts to provide a balance of housing for all income levels in the City; and

**WHEREAS**, the City's authority to enact zoning ordinances is based on the powers accorded cities and counties under the State constitution to make and enforce police regulations. This police power grants the City broad authority to regulate the development and use of real property within its jurisdiction to promote the public welfare; and

**WHEREAS**, pursuant to and in accordance with this authority, the City Council desires to reaffirm its restrictions on time-share uses in residential areas, and to update the language of the Zoning Code to provide consistency with the terminology used to define time-share uses in State law. Further, the City desires to provide greater clarity as to the zoning districts in which time-share uses are permitted as conditional uses, and the standards pursuant to which they will be reviewed in those zoning districts; and

**WHEREAS**, the Planning Commission of the City of St. Helena held a duly noticed public hearing on March 1, 2021, as required by law to consider all the information presented by staff, and public testimony presented in writing and at the meeting; and

**WHEREAS**, on \_\_\_\_\_, 2021, the Planning Commission of the City of St. Helena recommended that the City Council adopt this Ordinance amending the Municipal Code as described herein; and

**WHEREAS**, on \_\_\_\_\_, 2021, the City Council held a duly noticed public hearing, accepting testimony from the public, and discussed the proposed amendments and staff's recommended approval of this Ordinance; and

**WHEREAS**, the proposed zoning amendments are consistent with the General Plan goals, policies and implementation programs as the Ordinance will continue to preserve the agricultural, small town character of the City of St. Helena; will preserve the City's residential districts for residential uses; and will help to preserve the City's existing housing stock for long term residential uses, to avoid further exacerbating the existing impacts on the City's housing supply; and

**Now, therefore, the City Council of the City of St. Helena does hereby ordain as follows:**

**SECTION 1:** The above recitals are hereby incorporated as though set forth in this section.

**SECTION 2:** Chapter 17.138 and sections 17.138.010 – 17.138.060 are hereby added to Title 17 of the St. Helena Municipal Code, to read as follows:

**“Chapter 17.138**

**TIME-SHARE USES**

**17.138.010 Purpose and Findings**

**17.138.020 Definitions**

**17.138.030 Time-share Uses Restricted to Service Commercial (SC) District**

**17.138.040 Application Process and Development Standards**

**17.138.050 Violations, Enforcement and Civil Penalties**

**17.138.010 Purpose and Findings**

A. There is a critical shortage of permanent, long-term housing in the City of St. Helena.

B. A limited supply of suitable vacant land, land values, and market demand for land for other uses, including but not limited to use of property for vineyards, have limited the construction of additional housing in the City of St. Helena.

C. St. Helena is a popular tourist destination known for its scenic Napa Valley location, exceptional wineries and restaurants, historic Main Street and small town agricultural character.

D. The City of St. Helena stands out in the Napa Valley for its ability to attract visitors while also supporting the needs of its resident population. Maintaining the balance between the quality of life for residents and those who work in the City and the visitors who help to sustain the City’s tourist economy is key to maintaining a sustainable community and a stable economy.

E. Time-share uses are not an appropriate land use in the City’s residential districts due to the multiple occupancy of time-share properties, the short-term, tourist oriented use of such property and commercial management of time-share facilities, all of which create increased traffic generation, excessive noise, disruption to residential

communities through commercial-level maintenance of the time-share facilities, and therefore are appropriately confined to commercial zoning districts.

F. Conversion of permanent housing to time-share facilities removes existing housing units from the City's existing stock and exacerbates an already severe housing shortage.

G. It is therefore in the public interest to prohibit conversions of existing housing units into time-share facilities, as to do so eliminates needed housing stock by diverting those units to a tourist-oriented, commercial use.

### **17.138.020 Definitions**

For purposes of this Chapter, the following words and phrases shall have the meaning respectively ascribed to them by this Section:

"Accommodation" means any dwelling unit, apartment, condominium or cooperative unit, hotel or motel room, or other structure constructed for residential use and occupancy, including but not limited to a single family dwelling, or unit within a two family dwelling, three family dwelling, multiple family dwelling, or townhouse dwelling as defined in Section 17.04.160.

"Building" shall have the meaning ascribed to it by Section 17.04.160.

"Dwelling unit" shall have the meaning ascribed to it by Section 17.04.160.

"Managing entity" means the person who undertakes the duties, responsibilities and obligations of the management of a time-share plan.

"Person" means a natural person, corporation, limited liability company, partnership, joint venture, association, estate, trust, or other legal entity, or any combination thereof.

"Time-share instrument" means one or more documents, by whatever name denominated, creating or governing the operation of a time-share plan and includes the declaration dedicating accommodations to the time-share plan.

"Time-share interest" means the right to exclusively occupy a time-share property for a period of time on a recurring basis pursuant to a time-share plan, regardless of whether or not such right is coupled with a property interest in the time-share property or a specified portion thereof.

"Time-share plan" means any arrangement, plan, scheme, or similar device, whether by membership agreement, bylaws, shareholder agreement, partnership agreement, sale, lease, deed, license, right to use agreement, or by any other means, whereby a purchaser, in exchange for consideration, receives the right to exclusive use of an accommodation or accommodations, whether through the granting of ownership rights, possessory rights or otherwise, for a period of time less than a full year during any given

year, on a recurring basis for more than one year, but not necessarily for consecutive years.

“Time-share property” means one or more accommodations subject to the same time-share plan, together with any other property or rights to property appurtenant to those accommodations.

“Time-share use” means the use of one or more accommodations or any part thereof, as a time-share property pursuant to a time-share plan.

### **17.138.030 Time-share Uses Restricted to Service Commercial (SC) and Central Business (CB) Districts**

Time-share uses are conditional uses within the City’s Service Commercial (SC) District and Central Business (CB) District, subject to approval of a conditional use permit applied for and approved in conformance with this Chapter. Time-share uses are not permitted in all other Zoning Districts in the City.

### **17.138.040 Application Process and Development Standards**

A. Application Process. Approval of a conditional use permit for time-share uses in the Service Commercial District or Central Business District shall be required in accordance with the requirements of Chapter 17.168. In addition to the application requirements contained in Chapter 17.168, an application for a time-share use shall be accompanied by the following documents which shall be subject to the approval of the planning director:

1. Management Plan. A management plan shall describe the methods employed by the applicant to guarantee the future adequacy, stability, and continuity of a satisfactory level of management and maintenance of the time share use.

2. Application Requirements. In addition to any application requirements established by this section and any other applicable requirements of this code, the following information shall be submitted as part of any application to develop or establish a time-share use:

- a. Typical floor plans for each accommodation.
- b. The phasing of the construction of the accommodations on the time-share property, if applicable.
- c. A description of any ancillary uses which are proposed in conjunction with the time share use.
- d. A description of the method of management of the time share use and indication of the management entity for the time-share property.
- e. Any restrictions on the use or occupancy of the accommodations.

f. Any other information or documentation the applicant, city staff or commission deems reasonably necessary to the consideration of the time-share use, including any required environmental documents.

B. Development Standards and Operational Requirements. Notwithstanding any other provision of this chapter, the following conditions must be met by any time-share use in any conditionally permitted zone. Additional requirements may be attached to a conditional use permit or development agreement if found to be necessary to assure that the time-share use meets the intent of this chapter:

1. Time-share uses developed in the Service Commercial District or Central Business District shall be limited to accommodations in upper floors in conjunction with a mixed-use project.

2. No existing residential use in the Service Commercial or Central Business District shall be converted to a time-share use.

3. Development Standards. The time-share use shall comply with all development standards for the zone in which it is located.

4. Parking. Parking shall be provided as follows:

a. For accommodations of two or fewer bedrooms, one parking space shall be provided for each accommodation.

b. For accommodations of three or more bedrooms, two parking spaces shall be provided for each accommodation.

5. Modification or Waiver of Standards. The planning commission may modify or waive one or more of the regulations contained in this section if it determines that strict compliance is not necessary to achieve the purpose and intent of this section.

#### **17.138.060 Violations, Enforcement and Civil Penalties**

A. Any responsible person, including but not limited to an owner of a time-share interest, management entity, agent, or broker who uses, or allows the use of, or advertises or causes to be printed, published, advertised or disseminated in any way and through any medium, the availability for sale or use of an accommodation in violation of this chapter is guilty of a misdemeanor for each day in which such accommodation is used, allowed to be used, or advertised for sale or use in violation of this chapter. Such violation shall be punishable pursuant to Chapter [1.20](#).

B. Time-share use, and/or advertisement for time-share use, of an accommodation in violation of this chapter is a threat to public health, safety or welfare and is thus declared to be unlawful and a public nuisance. Any such nuisance may be abated and/or restored by the enforcement official and also may be abated pursuant to Chapter [1.12](#), except that the civil penalty for a violation shall be one thousand dollars (\$1,000.00). Each day the violation occurs shall constitute a separate offense.



C. Any responsible person who violates this chapter shall be liable and responsible for a civil penalty of one thousand dollars (\$1,000.00) per violation per day such violation occurs. The city may recover such civil penalty by either civil action or administrative citation. Such penalty shall be in addition to all other costs incurred by the city, including without limitation the city's staff time, investigation expenses and attorney's fees.

1. Where the city proceeds by civil action, the court shall have discretion to reduce the civil penalty based upon evidence presented by the responsible person that such a reduction is warranted by mitigating factors including, without limitation, lack of culpability and/or inability to pay. Provided, however, that in exercising its discretion the court should consider the purpose of this chapter to prevent and deter violations and whether the reduction of civil penalties will frustrate that purpose by resulting in the responsible person's enrichment or profit as a result of the violation of this chapter. In any such civil action the city also may abate and/or enjoin any violation of this chapter.

2. Where the city proceeds by administrative citation, the city shall provide the responsible person notice of the right to request an administrative hearing to challenge the citation and penalty, and the time for requesting that hearing.

a. The responsible person shall have the right to request the administrative hearing within forty-five (45) days of the issuance of the administrative citation and imposition of the civil penalty. To request such a hearing, the responsible person shall notify the city clerk in writing within forty-five (45) days of the issuance of the citation. The appeal notification shall include all specific facts, circumstances and arguments upon which the appeal is based.

b. The city manager is hereby authorized to designate a hearing officer to hear such appeal. The city hearing officer shall conduct a hearing on the appeal within ninety (90) days of the request for the hearing unless one of the parties requests a continuance for good cause. The hearing officer shall only consider those facts, circumstances or arguments that the property owner or responsible person has presented in the appeal notification.

c. The hearing officer shall render a decision in writing within thirty (30) days of the conclusion of the hearing. The hearing officer shall have discretion to reduce the civil penalty based upon evidence presented by the property owner or responsible person that such a reduction is warranted by mitigating factors including, without limitation, lack of culpability and/or inability to pay. Provided, however, that in exercising its discretion the hearing officer should consider the purpose of this chapter to prevent and deter violations and whether the reduction of civil penalties will frustrate that purpose by resulting in the property owner's or responsible person's enrichment or profit as a result of the violation of this chapter.

d. Any aggrieved party to the hearing officer's decision on the administrative appeal may obtain review of the decision by filing a petition for writ

of mandate with the Napa County superior court in accordance with the timelines and provisions set forth in Government Code Section [53069.4](#).

e. If, following an administrative hearing, appeal, or other final determination, the owner of the property is determined to be the responsible person for the civil penalty imposed by this section, such penalty, if unpaid within forty-five (45) days of the notice of the final determination, shall become a lien to be recorded against the property on which the violation occurred pursuant to Chapter [1.12](#). Such costs shall be collected in the same manner as county taxes, and thereafter the property upon which they are a lien shall be sold in the same manner as property now is sold for delinquent taxes.

D. Any violation of this chapter may also be abated and/or restored by the enforcement official and also may be abated pursuant to Chapter [1.12](#), except that the civil penalty under Chapter [1.12](#) for a violation shall be one thousand dollars (\$1,000.00).

E. Each day the violation of this chapter occurs shall constitute a separate offense.

F. The remedies under this chapter are cumulative and in addition to any and all other remedies available at law and equity.”

### **SECTION 3: Deletion of Section 17.112.130**

Section 17.112.130 is hereby deleted in its entirety.

### **SECTION 4: CEQA**

This ordinance was assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines (the Guidelines), and the environmental regulations of the City. The City Council hereby finds that this ordinance is not subject to CEQA because the adoption of this ordinance is not a “project” pursuant to Sections 15060(c)(2) and 15060(c)(3) of Title 14 of the California Code of Regulations.

Moreover, under Section 15061(b)(3) of the State CEQA Guidelines, this ordinance is exempt from the requirements of CEQA because it can be seen with certainty that the provisions contained herein would not have the potential for causing a significant effect on the environment.

### **SECTION 5: Effective Date**

This ordinance shall take effect 30 days after its final adoption, and a summary of this ordinance shall be published once with the names of the members of the Council voting for and against the ordinance in the St. Helena Star, a newspaper of general circulation published in the City of St. Helena.

THE FOREGOING ORDINANCE was introduced at a regular meeting of the St. Helena City Council on the \_\_\_\_\_ day of \_\_\_\_\_, 2021, and was adopted at a regular meeting of the St. Helena City Council on the \_\_\_\_\_ day of \_\_\_\_\_, 2021, by the following vote:

Mayor Ellsworth: \_\_\_\_\_  
Vice Mayor Dohring: \_\_\_\_\_  
Councilmember Chouteau: \_\_\_\_\_  
Councilmember Hardy: \_\_\_\_\_  
Councilmember Hall: \_\_\_\_\_

APPROVED:

\_\_\_\_\_  
Geoff Ellsworth, Mayor

ATTEST:

CITY OF ST. HELENA

\_\_\_\_\_  
Cindy Tzafopoulos, City Clerk

**From:** Mari Jansdotter <mjansdotter@yahoo.com>  
**To:** Anna Chouteau  
**Sent:** 6/8/2021 7:25:45 AM  
**Subject:** Re: [External] 1242 Madrona pictures Re: Pacaso

Thank you, Anna, for your kind reply.

I'm sorry you all have to go through this lawsuit by Pacaso and hope the judge find in your favor.

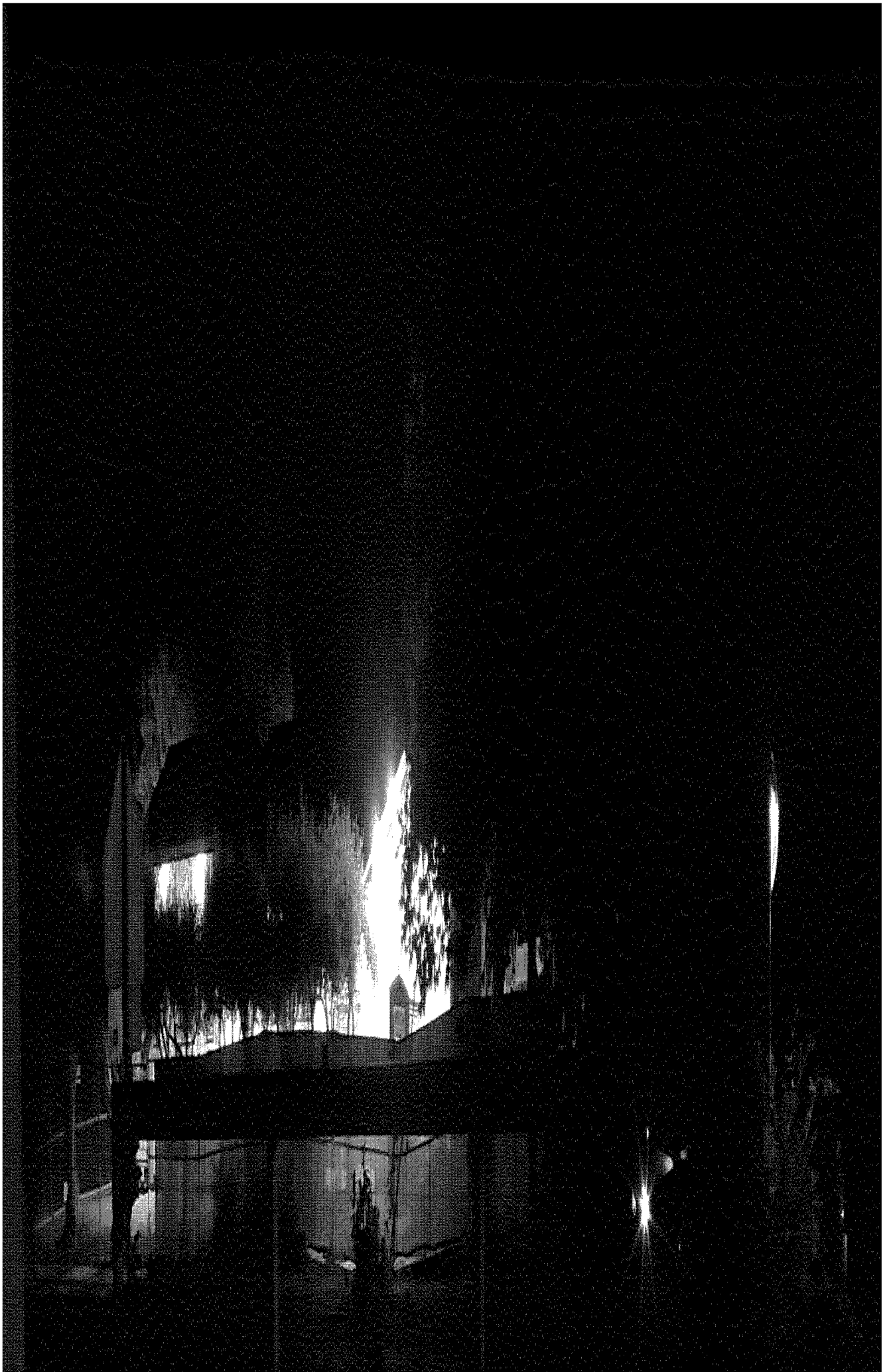
I have a follow-up question. Do you know who I should address it to?

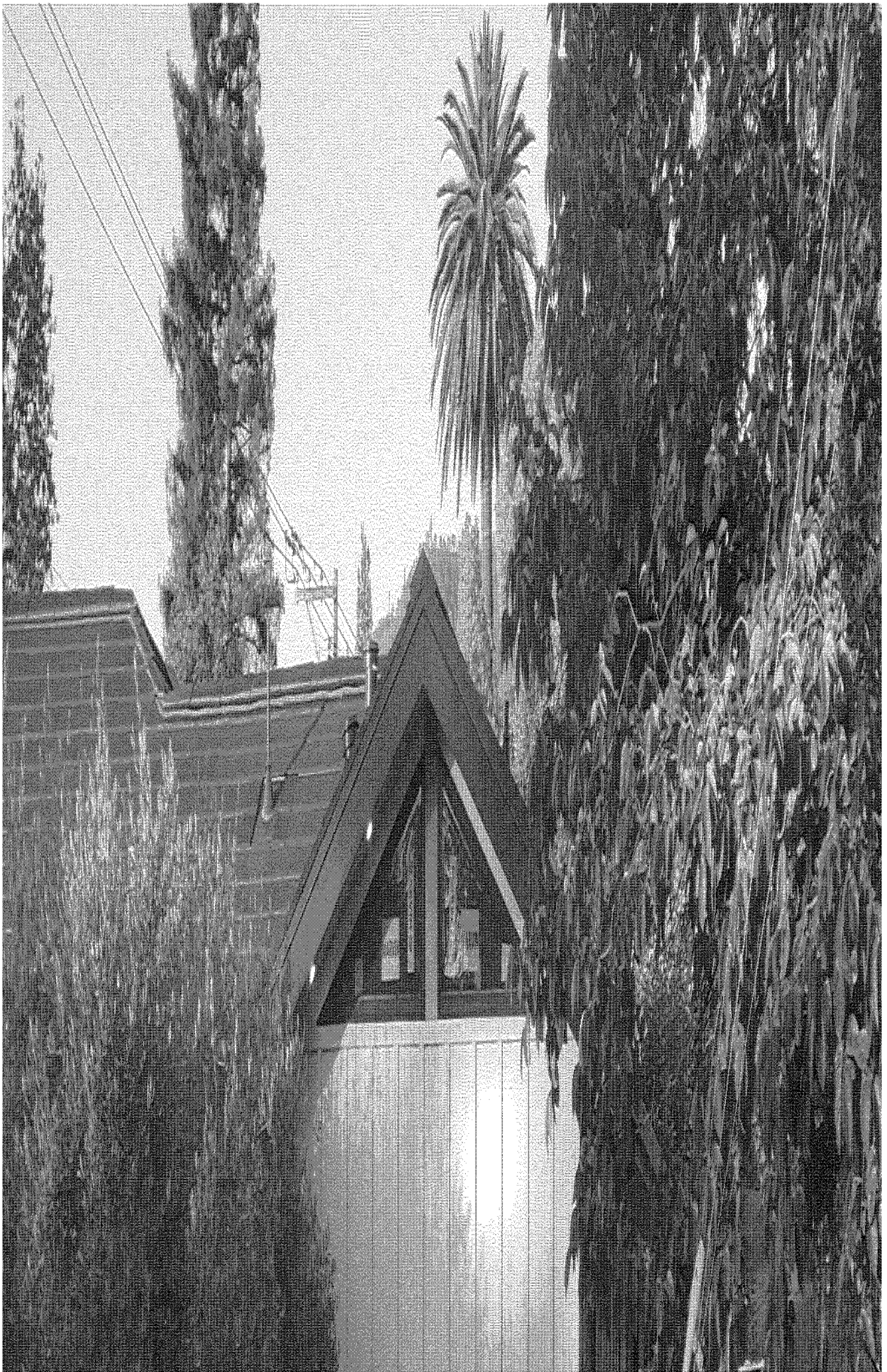
The Pacas house building on Kearney across the street from us has installed lights under the roofline that are on all night and installed in such a way they shine straight into our house, especially my daughter's bedroom.

Are there any ordinances that I could refer to that help me ask them to please cover / redirect those lights or at least turn them off after 10 p.m?

Thank you!

Best  
Mari





Sent from Yahoo Mail on Android

On Tue, Jun 8, 2021 at 7:12 AM, Anna Chouteau  
<AChouteau@cityofsthelena.org> wrote:

Hi Mari,

Thank you for your email. I forwarded your email to City staff about the specific permitting questions. Our planning director is out of the office this week.

We are defending ourselves in the lawsuit. Our City Attorney filed an anti-SLAPP motion that is now public information and the hearing will be coming up this summer.

All my best,  
Anna

Sent from my iPad

On Jun 7, 2021, at 6:01 PM, Mari Jansdotter <mjansdotter@yahoo.com> wrote:

To clarify, do they have permit allowing the new structure going up at 1242 Madrona?

The rendering from original sales listing shows a trellis (see attached) but a structure looking like a live-on unit close to (and taller than) the Oak neighbour' fence is being built. See pictures from today

<20210607\_175202.jpg>

<20210607\_175219.jpg>

Sent from Yahoo Mail on Android

On Mon, Jun 7, 2021 at 5:38 PM, Mari Jansdotter  
<mjansdotter@yahoo.com> wrote:

Thank you for doing all you can to stop Pacaso!

I am not o.k. with Pacaso's violation of city ordinance and I support the city's legal fight.

In addition to signing the petition and putting a No Pacaso sign outside my home, what else can we on the community do to help, please?

I finally afforded my dream home after moving several times the last 10 years, only to a year later have 4! of these Pacaso 'time share' like vacation LLC/commercially owned houses popping up in my neighborhood.

I'm devastated - this is supposed to be a residential area!!

I am very worried about my family's safe & peaceful living situation, now that I'll be impacted by 4 of these houses (one across the street) - each with 8 groups of owners and/or their guests circulating in and out all year round.

Many Pacaso have 4 bedrooms that easily accommodate 8+ people, and pool in the backyards with outdoor areas for gatherings/parties.

It's a huge difference having your neighbor throwing an occasional party versus non-stop having a new group of people next door visiting for their token time of vacation / partying.

Pacaso houses also come with increased parking problems as these properties tend not have garages or driveways (often transformed into addl bedroom).

Specifically would you mind looking into building code the one at 1242 Madrona / Oak? Looks like they're adding a guest house with vary narrow set back from the oak side neighbor. Is that an approved building? Maybe they're getting around that by making it a partial garage?

Add to that, the 4 Pacaso houses are all in close proximity of RLS with kids walking / biking to and from school.

What are the safety concerns that this is imposing with new people circulating in and out all year round and increased car traffic? Worst case scenario there will be a liability situation that will put a stop to Pacaso.

Please, please stop Pacaso before we even get close to that.

Respectfully,

Mari Jansdotter

Sent from Yahoo Mail on Android



## PACASO = PARTY HOUSES!

Debbie Polverino 5/11/2021

To the members of the City Council. In the recent Napa Register article, Austin Allison agrees that short term rentals are a problem, that commercial Timeshares are a problem- that's not what Pacaso is he said. Yet, Pacaso listed the Valley View Street "Pool House" as a 1/8 Timeshare Ownership property. After the city was notified by several concerned citizens and myself regarding "timeshares" listed for sale in residential zoned areas, Pacaso changed its online marketing from "1/8 Timeshare Ownership to 1/8 Shared Ownership. Owners who purchase still share the property in available time slots just like a timeshare.

Living next door to a Pacaso home has been living next door to a full-time party house! The constant music with speakers blaring, loud conversations until 2 am and later, noise violations along with excessive vehicles parked on the street or in front of our homes. The additional noise of gardeners blowing dirt and leaves into our yard, Pool service, catering trucks, housekeeping scheduled more frequently. Open houses are held with statements made with, "this is a great place for pool parties and entertaining, it's a perfect place to bring friends and extended family."

This home on Valley View Street was a weekend getaway home for the previous owners who had loud weekend parties. It was a constant nightmare and all the homes nearby complained. Now the property has been split up to 8 owners. The Saint Helena P.D. has already been to this home at least 3 times for noise violations after 10pm. There must be a way to stop these repeated violations and offenders.

Pacaso's has written policies for its owners on their website that they must adhere to. No parking on the street, no parties, no noise after 9pm to 7am, no dogs over 80 pounds. Policies have been broken several times already from each group including the Pacaso's owners.

According to Mr. Allison, Saint Helena is running a dishonest campaign against Pacaso. Pacaso claims discrimination of outside ownership which is not the case. As we all know we welcome all people the opportunity to live in our quiet small town. Pacaso selling an 1,100 square foot home which is smallest of any home on our street for \$1.7M is dishonest in my opinion. This is what he says is affordable housing for second home buyers who are paying in full, plus maintenance fees?

When commercial companies buy a dozen homes in Napa Valley and plans additional purchases to be split up to 8 shares it is not committed to the community or our quiet neighborhoods. Zoning is in place for a reason. Commercial companies operating in full time residential streets should adhere to the rules that are in place and only buy up in areas where other vacation homes are abundant and not a disruption.

What happens should we decide to sell our home? How will people feel about buying next door to a home owned by 8 owners who don't know each other and all come at different time slots for as little as 2 days at a time? We will have to disclose this information. This put a negative mark on our property. This is something I want you to think about! Say NO to Pacaso! Thank you.

**From:** Amy Caldarola <amycal@comcast.net>  
**To:** Paul Dohring  
**CC:** Anna Chouteau; Lester Hardy; Eric Hall  
**Sent:** 5/23/2021 1:04:24 PM  
**Subject:** [External] Picaso

Dear Council Members,

This is Amy Caldarola here. I am very concerned about Picaso buying property in our residential neighborhoods under the guise of democratizing home ownership. This is not affordable housing. Picaso properties are time-shares and short-term rentals which violate municipal code provisions. The presence of these properties in residential neighborhoods is inappropriate and will degrade the quality of life. It has already done so with Picaso's property on Valley View; those neighbors are suffering with loud noise, music, and parties that go on to after midnight; even calling the police does not seem to stop them. I support the city in doing everything possible to defeat them. I also support a counter law suit against them if it makes legal sense. With that said, we are fighting for the soul of our community and this needs to be a number one priority. Picaso is in Napa, Sonoma, Healdsburg, and probably will move into Calistoga and Yountville. This is a fight worth fighting. It might be helpful for the affected counties and municipalities to join their resources together to oppose them. Please outline for me what the city is doing and what the plan is.

Thank you. I really appreciate you taking the time to keep me informed on this very important and pressing issue. We must act now!

Sincerely,  
Amy Caldarola

May 11, 2021

Good evening City Council members. My name is Clare Barr and I live in St. Helena. Tonight I would like to speak about the Pacaso Vacation Share homes.

I listened carefully to the public comments of Pacaso Share owners made at our last City Council meeting. They sounded sincere in their desire to be a part of the St. Helena community. The problem is they have bought into a business model that will make that nearly impossible.

To be a part of a real community means forming bonds with neighbors. How can that come about with a home next door that has possibly dozens of strangers coming and going, with visits no longer than 14 days at a time, a few times a year? And with the likelihood of visits gifted by other share owners, and a cleaning crew who appears before each arrival, the number swells. With the result that a Pacaso share owner, is viewed by their neighbors as only one in a sea of unfamiliar faces.

And though the intentions of some of the share buyers might be good, can we say the same for all 7 of the remaining shareowners? One of whom might gift a weekend to his brother for a blowout bachelor party? Or as was the case in Napa, a single shareowner who conducted retreats in which close to a dozen visitors would come and go within one stay. That particular shareowner was charging her guests, which is a complication on an entirely different level.

Pacaso would have us believe that their sharebuyers are families who simply want a quiet, lovely getaway. But in actuality, a Pacaso home is built for partying. Their own website says of one offering "This home takes entertaining to new heights". And yet another listing says that a

particular home “has been completely re-imagined to accommodate families, friends, and large groups”. Another listing offers “year round fun and adventure”.

Now, none of us resent the visitor who wants to have fun. Indeed, our beautiful valley is an ideal place for celebration. And we all do that on occasion. But when you realize that every single visitor owning a Pacaso share has been wooed with the promise of “fun and adventure” within a house “built for entertaining”, then you have the possibility of major partying with each and every visitor, all crammed into stays that last from 2-14 days. This is transient occupancy in our residential neighborhoods that cannot possibly be regulated under the Pacaso system.

There is a reason why we have ordinances in place that designate where tourists and visitors can stay. It allows us to appreciate our visitors, giving them the space and accommodations in which to party and celebrate, while we ourselves can conduct our daily lives in the sanctuary of our residential neighborhoods. Which in turn, are places where we know our neighbors so well that we trust them with our keys, our pets, and even our children. With whom we share joy and sometimes sorrow, and whom are quick to lend a hand in times of crisis.

And if we have learned anything in the last few years, it is that the ability to know and rely on our neighbors is the very thing that sustains our community through thick and thin. A vacation home with a parade of visitors coming and going, does not belong in our residential neighborhoods. Please Say No to Pacaso.

Clare Barr  
St. Helena

**From:** Beth Gray <bgray14@gmail.com>  
**To:** Geoff Ellsworth  
**Sent:** 5/22/2021 3:01:13 PM  
**Subject:** [External] Pacaso

Dear Mr. Mayor,

I am writing to express my strong opposition against the infiltration of Pacaso and their timeshare strategy in the city of Saint Helena. As a full-time resident here in the city (and as your neighbor), I find it atrocious that the city has not been able to stop the infiltration of this community destroying business model. This business will do nothing but destroy our community. As an example, I witnessed the dumping of water from the pool into the creekbed from a home purchased by Pacaso right on the corner of Sylvaner/Reisling as they began to redevelop the home and expect to list it as fractional ownership. Illegal dumping of the pool water with disregard to any of the environmental consequences demonstrates their utter lack of care about the community. Similarly, hearing from the neighbors who live next to a Pacaso home on Valley View, I can only shake my head and sympathize with the poor neighbors having to deal with multiple cars showing up and loud music being played at all hours.

One of the reasons I moved from San Francisco to Saint Helena was to enjoy the quiet sounds of nature, the beautiful outdoors - not to listen to vacationers who only want to party for the two weeks that they have their time in the home. Please protect our city from these timeshares.

I understand the city is being sued. I hope that we can collectively put the necessary resources behind this lawsuit to stop Pacaso from any more timeshares in St. Helena.

Respectfully,  
Beth Gray