

March 18, 2022

Jeremy,

Apologies in advance for the length of this note and thank you for engaging with us on the matter of timeshare ownership in areas zoned Single Family where such ownership is prohibited. As a starting point, there is a reason why the city has zoned neighborhoods for permitted uses and prohibited uses. In Aerie, both timeshares and nightly rentals are prohibited. We think the city wisely made these zoning decisions because timeshares and nightly rentals are incompatible uses with such neighborhoods. We believe (see analysis below) that the Pacaso model is prohibited by code and request the City take action to prevent further violations by Pacaso or other similar businesses who seek to create timeshares in areas where they are prohibited by Park City's zoning ordinances. As the City performs its own analysis, we would encourage the City to remember why single family zoning exists and not permit uses inconsistent with the zoning intent.

The PACASO model is, by Park City code, a Timeshare Conversion and, therefore, prohibited in Aerie and other neighborhoods where timeshares are prohibited:

A Timeshare Conversion is defined as "the conversion into a Timeshare Project of any Property and the existing Structure(s) attached thereto." § 15-15-1. A Timeshare Project is "[a]ny Property that is subject to a Timeshare Instrument, including a Timeshare Conversion." § 15-15-1. A Timeshare Instrument is "[a]ny instrument whereby the Use, occupancy, or possession of real Property has been made subject to either a Timeshare Estate or Timeshare Use, and whereby such Use, occupancy, or possession circulates among three (3) or more purchasers of the Timeshare Intervals according to a fixed or floating time schedule on a periodic basis occurring annually over a period of time in excess of three (3) years in duration." § 15-15-1. A Timeshare Use is "[a]ny contractual right of exclusive occupancy created by a Timeshare Instrument which does not fall within the definition of "Timeshare Estate", including, without limitation, a vacation license, general partnership interest, limited partnership interest, vacation bond, or beneficial interest in a trust, and the documents by which the right of exclusive occupancy is transferred, excluding Private Residence Club Use." § 15-15-1. A Timeshare Estate "means a small, undivided fractional fee interest in real property by which the purchaser does not receive any right to use an accommodation except as provided by contract, declaration, or other instrument defining a legal right." Utah Code § 57-19-2(26).

Given the foregoing definitions, the Pacaso LLC's operating agreement constitutes a Timeshare Instrument and the LLC's ownership became a Timeshare Use (and as a result a Timeshare Conversion) once there were three or more members of the LLC.

There was one other subject that we thought merited serious consideration as well. In some of the information you sent, there was the following language:

*Fractional ownership of single-family homes has not presented adverse impacts and mirrors other LLC ownership models which third parties estimate make up nearly a third of current ownership of single-family residences in Park City.*

First, the Pacaso model meets the definition of a timeshare and is prohibited by code. As importantly, the city has never seen a commercial business come in to Single Family zoned neighborhoods with the express goal of upending single family ownership by converting homes into 8 timeshare units. Unlike neighborhoods where transient overnight traffic is permitted through nightly rentals or timeshare, the impact of permitting such transient overnight traffic in single family neighborhoods will be profound and adverse.

1. Pacaso homes are intended to be used in ways that are fundamentally different from historic single family usage:
  - a. The sense of neighborhood and community that prevails in single family zoned areas will be destroyed. Areas where neighbors know each other, take in each other's garbage cans or collect packages will be replaced by a rotating cast of unrelated people with no connection to the neighborhood.
    - i. This change will be permanent, as once homes are converted into 8 timeshares, the likelihood that they will ever revert to historic single family home ownership is all but eliminated as it would take persuading 8 entities to sell.
  - b. Home utilization will create occupancy patterns that are prohibited in Single Family zoned areas as Pacaso homes will change occupancy up to 3 times per week:
    - i. Where nightly rentals are prohibited, the minimum rental term is 30 days. Per the Pacaso website, the maximum continuous stay in a Pacaso for a 1/8 share owner is capped at 14 days and back to back stays are prohibited. 1/8 share owners are allowed to book 6 stays and any stay greater than 7 days counts as two stays, incurring 2 – 7 day stays.
      1. Pacaso neighborhoods will bring frequent blitzes of cleaning/maintenance crews in order to support the constant turnover, increasing attendant activity and traffic.
  - c. To further illustrate how unlike the Pacaso model is from single family home owners, Pacaso owners don't store personal items inside the home but are provided storage units. In discussion with Pacaso, garages are a common location to accommodate the required 8 storage units, which can make the garage unusable for parking, requiring use of driveways and streets.
  - d. Lastly, anyone who has participated in shared property management, via an HOA or any other mechanism, understands that this model can be very difficult. Every Pacaso property will become its own "HOA" and Pacaso's assertion that they will provide professional management is illusory. Per the Pacaso website, Pacaso can be terminated as the property manager and "the owner group can ... self-manage the property." It is not hard to imagine reasons to terminate Pacaso – poor performance, an effort to save management fees - and the resulting potential downside of 8 unrelated owners having to agree on upkeep, maintenance and repairs, leading to poorly maintained properties with no responsible entity required to take action. Imagine broad swaths of single family zoned neighborhoods with such properties.
2. In addition to the negative impact to single family home neighborhoods, the Pacaso model will have a negative effect on the single family home market.

- a. Pacaso is exacerbating the current housing shortage by taking prime single family units off the market, reducing inventory that is already in short supply and creating more pressure to build.
- b. In addition to reducing stock for single family ownership, Pacaso is overheating an already expensive real estate market, making housing for those who would like to live here less affordable. On their website, Pacaso lists the “whole house price” along with the “1/8 share price” with the timeshare prices being 17% to 20% higher than the whole house price.
  - i. For 1555 Aerie Circle, the combined 1/8 share price is 17.5% higher than the whole house price.
  - ii. For 1135 Norfolk Avenue, the combine share price is 20% higher.
  - iii. Of interest, Pacaso’s website lists homes as “prospects” and will do so without the current owner’s permission.
    1. One such “prospect”, 576 Woodside, is listed at \$3.5M. The combined 1/8 price under Pacaso ownership would be \$4.176M, 19.3% higher.

Jeremy, thanks again for be willing to engage with us on this topic. We believe if the City does not take action to enforce our zoning laws and prevent this timeshare ownership model from taking over single family zoned neighborhoods, the sense of community will be irreparably harmed. We are happy to engage further with you or others in the city government on this topic.

Respectfully,

