



Council Agenda Report

To: Mayor Silverstein and Honorable Members of the City Council

Prepared by: Richard Mollica, Planning Director

Approved by: Steve McClary, City Manager

Date prepared: March 31, 2023

Meeting date: April 10, 2023

Subject: Initiate Amendments to MMC and LCP to Address Home Sharing

RECOMMENDED ACTION: 1) Receive a report from staff; and 2) Adopt Resolution No. 23-16 initiating an amendment to the Malibu Municipal Code (MMC) and initiating an amendment to the Local Coastal Program Local Implementation Plan to address timeshare use in the City and finding the action exempt from the California Environmental Quality Act.

WORK PLAN: This is not included in the Adopted Work Plan for Fiscal Year 2022-2023.

FISCAL IMPACT: There is no fiscal impact associated with the recommended action.

DISCUSSION: Similar to other communities, the City has been 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. As a result of this ownership structure, Sonoma and Monterey Counties and the City of Palm Springs have issued cease and desist orders to these fractional ownership or co-ownership property management companies. In addition, jurisdictions such as the Town of Truckee, Carmel by the Sea, City of Sonoma, City of St. Helena, and the City of North Haven have adopted or updated their time-share ordinances to address fractional or co-ownership of homes.

Under the fractional ownership or co-ownership structure pursuant to which these dwelling units are marketed and sold, each owner receives 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/property. Rentals are prohibited; only owners and their guests are permitted to use the house under the structure of the

agreement. Each owner pays regular assessments to fund the operating costs of the home and maintenance reserves.

This arrangement, which provides that each purchaser is entitled to exclusive use of the property for a fixed number of days each year, meets the definition of a “time-share plan” as defined in Business and Professions Code section 11212. Time-share uses are not specifically permitted in any zoning district and are therefore currently prohibited in all zoning districts (MMC Section 17.04.050).

Time-share use has a negative impact on housing stock in the City and runs counter to the City’s efforts, over many years, to preserve its existing housing stock for long term residential use. It removes property that could be used for long term residents and instead limits the property’s use to a part time vacation home.

The conversion of existing residential units to uses other than long-term residential use also reduces the City’s existing long-term housing supply and causes further imbalance between the demand for housing in the City and the existing supply. In addition, such use could also alter the character of the City’s residential neighborhoods, and present challenges to the City’s efforts to provide affordable housing within the community.

Proposed Zoning Text Amendment and Local Coastal Program Amendment

Staff proposes to bring forward a draft ordinance which will confirm the City’s prohibition on time-share use and aid enforcement of that prohibition.

Recommendation: Staff recommends that the Council provide comment and adopt Resolution 23-16 initiating a Zone Text Amendment and Local Coastal Program Amendment to further regulate time-share use in the City. Staff will then present a draft ordinance to ZORACES for comments prior to bringing the draft ordinance to the Planning Commission for recommendations.

ATTACHMENT: Resolution No. 23-16

RESOLUTION NO. 23-16

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MALIBU INITIATING AN AMENDMENT TO THE MALIBU MUNICIPAL CODE (MMC) AND INITIATING AN AMENDMENT TO THE LOCAL COASTAL PROGRAM (LCP) LOCAL IMPLEMENTATION PLAN (LIP) ADDRESSING TIME SHARE USES IN THE CITY AND FINDING THE ACTION EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.

The City Council of the City of Malibu does hereby find, order, and resolve as follows:

SECTION 1. Recitals.

A. On April 10, 2023, the City Council held a duly noticed public hearing and approved a motion to 1) initiate a Zone Text Amendment (ZTA) and Local Coastal Program Amendment (LCPA) to address time-share uses in the City and 2) direct the Planning Commission to schedule a public hearing regarding the ZTA and LCPA and provide a recommendation to the Council whether to approve, modify, or reject the amendment.

SECTION 2. Initiation.

Pursuant to MMC Chapter 17.74, the City Council hereby initiates an amendment to address time-share use in the City.

Pursuant to LIP Chapter 19, the City Council hereby initiates an amendment to the LCP and directs staff to issue a Notice of Availability consistent with LIP section 19.3.1. The amendment shall include provisions to address time share use within the City.

SECTION 3. Hearings.

A. The Zoning Ordinance and Code Enforcement Revisions Subcommittee is hereby directed to consider the amendments and provide direction to staff.

B. The Planning Commission is hereby directed to conduct a duly noticed public hearing in accordance with Chapter 19 of the Malibu LIP. Following the public hearing, the Planning Commission shall recommend to the City Council whether it should approve, modify, or deny the proposed amendments. The Planning Commission's recommendation shall be made by resolution carried by the affirmative vote of not less than the majority of the entire Planning Commission.

SECTION 4. Certification.

The City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

PASSED, APPROVED, and ADOPTED this 10th day of April 2023.

Bruce Silverstein, Mayor

ATTEST:

KELSEY PETTIJOHN, City Clerk
(seal)

APPROVED AS TO FORM:

THIS DOCUMENT HAS BEEN REVIEWED
BY THE CITY ATTORNEY'S OFFICE

Trevor Rusin, Interim City Attorney