

ATTACHMENT #2

RESOLUTION NO. PC 2024-06

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF INDIAN WELLS, CALIFORNIA, RECOMMENDING THAT THE CITY COUNCIL ADOPT AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF INDIAN WELLS, CALIFORNIA, ADDING CHAPTER 21.32 "TIME-SHARE USES" TO TITLE 21 OF THE INDIAN WELLS MUNICIPAL CODE; DELETING SECTION 21.04.090; AND FINDING THE ACTION TO BE EXEMPT FROM CEQA UNDER CEQA GUIDELINES SECTIONS 15060(c)(2), 15060(c)(3), AND 15061(b)(3)

WHEREAS, the City of Indian Wells is a popular tourist destination, known for its world-class resorts and small town residential-resort character; and

WHEREAS, preserving the quality and character of the City has been a focal point of the City's land use planning for decades; and

WHEREAS, the City stands out in the Coachella 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, can constrain the construction of additional housing in the City; and

WHEREAS, as noted in the Housing Element of the City's General Plan, which was certified in July 2024, the City is actively seeking to address the City's housing challenges and facilitate the development of affordable housing; and

WHEREAS, these efforts have 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 the housing stock would not be converted to uses other than long-term residential uses; and

WHEREAS, to this end, in 1996, the City adopted Ordinance No. 387, which prohibited the creation of time-share projects as a use within any zone of the City, with only two exceptions for legacy projects. The City imposes this restriction because (a) the use of land and the conversion of residential dwelling units to time-share projects would reduce the availability of residential dwelling units that would otherwise be available for long-term occupancies and (b) time-share projects are 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 (because they are clearly prohibited). In recent years, however, the City began receiving complaints regarding single-family homes in the City that were being marketed and sold as "fractional ownership" or "co-ownership" homes, wherein each buyer may acquire a one-eighth interest in a limited liability company that owns the home. Under the structure through 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 project" as defined in Section 21.08.462 and a "time share program" as defined in Section 3.12.020 of the City's Municipal Code; and

WHEREAS, the City is aware of numerous complaints regarding these properties in the City and elsewhere, 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 and other jurisdictions 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 property, where those that buy into the time-share use the home for entertaining and short-term stays while

visiting golf courses and other tourist-oriented locations in Indian Wells and the surrounding Coachella 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, 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; and

WHEREAS, on August 18, 2024, the City noticed the Planning commission public hearing for the proposed ordinance in accordance with Government Code section 65090; and

WHEREAS, on August 29, 2024, the Planning Commission held a duly-noticed public hearing and considered the staff report, recommendations by staff, and public testimony concerning the proposed 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 small-scale residential-resort character of the City of Indian Wells; 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.

NOW, THEREFORE, the Planning Commission of the City of Indian Wells does resolve, determine, find and order as follows:

SECTION 1. Recitals. The foregoing recitals are true and correct and are incorporated herein as substantive findings of this resolution.

SECTION 2. 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" under 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 3. General Plan. 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 4. Recommendation. The Planning Commission hereby recommends that the City Council adopt the attached proposed ordinance entitled: "AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF INDIAN WELLS, CALIFORNIA, ADDING CHAPTER 21.32 "TIME-SHARE USES" TO TITLE 21 OF THE INDIAN WELLS MUNICIPAL CODE; DELETING SECTION 21.04.090; AND FINDING THE ACTION TO BE EXEMPT FROM CEQA UNDER CEQA GUIDELINES SECTIONS 15060(C)(2), 15060(C)(3), AND 15061(B)(3)."

PASSED, APPROVED, AND ADOPTED by the Planning Commission of the City of Indian Wells, California, at a regular meeting held on this 29th day of August 2024.


JOHN SCHLEIMER
CHAIR

CERTIFICATION FOR RESOLUTION NO. PC 2024-06


I, Jon Berg, Community Development Director of the Planning Department of the City of Indian Wells, California, **DO HEREBY CERTIFY** that the whole number of the members of the Planning Commission is five (5); that the above and foregoing Resolution was duly and regularly passed and adopted at a regular meeting of the Planning Commission of the City of Indian Wells on the 29TH day of August, 2024, by the following vote:

AYES: 3 – Bahneman, Schleimer, Schubert
NOES: 0 – None
RECUSE: 2 – Conway, Welch

ATTEST:


JON BERG
COMMUNITY DEVELOPMENT DIRECTOR

APPROVED AS TO FORM:


TODD LEISHMAN
CITY ATTORNEY