

ORDINANCE NO. 715

AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, AMENDING THE OFFICIAL ZONING MAP FOR THE TOWN OF PAYSON, AMENDING ORDINANCE NO. 466 AND AMENDING THE ZONING CODE FOR THE TOWN OF PAYSON BY REZONING CERTAIN REAL PROPERTY GENERALLY LOCATED AT 900, 1100, AND 1101 NORTH TYLER PARKWAY, BEING GILA COUNTY ASSESSOR'S PARCEL NUMBERS 302-23-0038C AND 302-23-039A, AS MORE PARTICULARLY DESCRIBED ON EXHIBIT "A" ATTACHED HERETO, FROM R1-175 to R1-35PAD (MOGOLLON VIEWS).

WHEREAS, the Town of Payson from time to time amends its Official Zoning Map and Official Zoning Code for the purpose of accommodating zoning changes; and

WHEREAS, Application No. P-336-07 to amend the Official Zoning Map and Official Zoning Code has been made by MTS Development, L.L.C., property owner (EJD West Development applicant, David West, representative) to the Planning and Zoning Commission and the Town Council; and

WHEREAS, the Planning and Zoning Commission held a public hearing on April 7, 2007, considered the issues, and made recommendations on Application No. P-336-07 to the Town Council; and

WHEREAS, the Town Council held a public hearing on May 3, 2007, in regard to said Application No. P-336-07 and has considered the issues relating thereto,

NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, AS FOLLOWS:

Section 1. Ordinance No. 466 of the Town of Payson, the Official Zoning Map for the Town of Payson and the Zoning Code for the Town of Payson be and each is hereby amended to establish a zoning district of R1-35PAD for that portion of the certain real property located at 900, 1100, and 1101 North Tyler Parkway, Gila County Assessor's Parcel Numbers 302-23-0038C and 302-23-039A, more particularly described on Exhibit "A" attached hereto and made a part hereof by this reference (the "Property").

Section 2. That the requested rezoning and the use and density of the Property as proposed by Application No. P-336-07 are hereby made contingent upon those conditions set forth in Section 3 below, and are found to be consistent with the General Plan of the Town of Payson, as required by A.R.S. § 9-462.01(F).

Section 3. The foregoing changes in zoning shall be and are hereby specifically made contingent upon and conditional upon each of the following:

A. The development shall be in substantial conformance with the Rezoning Application and Narrative, dated April 9, 2007 and shall not exceed a total of 114 units.

1st Reading & Public Hearing MAY 03 2007 G.4

2nd Reading & Public Hearing JUN 21 2007 G.8

JUL 05 2007 G.3

- B. The final plat and CC&R's shall detail the location of building envelopes.
- C. A note shall be added to the final plat stating: "Areas outside the designated building envelopes shall not be disturbed in any manner except for defensible space thinning/maintenance and pathways through the common open space areas. Any accessory structures, including fences, shall be located within the designated building envelope. Driveway widths outside the building envelope, on all lots, shall be limited to a maximum of 14 feet wide unless a greater width is needed to meet Fire Department requirements."
- D. The developer shall construct a fitness path/trail (in a location and according to specifications of the Town of Payson Trails Plan) along Tyler Parkway to eventually connect with the proposed Tyler Parkway pathway.
- E. Adequate sanitary facilities shall be designed in accordance with Northern Gila County Sanitary District standards prior to submittal of the final plat.
- F. A public access easement shall be created over the perimeter trail on the final plat. Further, trail construction shall be a required public improvement for the subdivision.
- G. A public access easement shall be created between lots 54 and 55 to allow for a future non-vehicular connection from the west side of the project to the east.
- H. Common open space areas shall be available for use by all residents within the development.
- I. The Final Plat and the CC&R's shall describe the maintenance responsibilities of the common open space and drainage areas.
- J. Development on the custom home lots on the west side of Tyler Parkway is limited to single story construction with the option of a walkout basement.
- K. Building envelopes will be kept off the ridge lines and peaks.
- L. The developer shall comply with the affordable/workforce housing contribution outlined in its letter dated \_\_\_\_\_, 2007 attached as exhibit B.
- M. Storm water detention/retention shall be provided in accordance with the then existing Town of Payson Requirements.
- N. Preliminary elevations of the condominium units shall be provided prior to preliminary plat approval.

- O. The Developer shall create a 50 foot wide common open space area along the east property line adjacent to Siena Creek subdivision.
- P. If any conditions above cannot be met or the applicant does not have an approved Final Plat within two (2) years of the approval date of the zoning change, then the R1-35 PAD rezoning may revert to the original R1-175 zoning, pending Council action.

Section 4. This Ordinance 715 shall be treated as having been adopted and the 30-day referendum period established by Arizona Revised Statutes section ("A.R.S. §") 19-142(D) and §30.54 of the Code of the Town of Payson shall begin when the Town files with the Gila County Recorder an instrument (in a form acceptable to the Town Attorney), executed by the MTS Development, L.L.C. and any other party having any title interest in the Property, that waives any potential claims against the Town under the Arizona Property Rights Protection Act (A.R.S. § 12-1131 et seq., and specifically A.R.S. § 12-1134) resulting from changes in the land use laws that apply to the Property as a result of the Town's adoption of this Ordinance 715. If this waiver instrument is not recorded within 30 calendar days after the motion approving this Ordinance 715, this Ordinance 715 shall be void and of no force and effect.

Section 5. A protest (pursuant to A.R.S. §9-462.04(H)) has been filed. The provisions of this Ordinance 715 shall only become effective upon a favorable vote of three-fourths of all members of the Town Council.

Section 6. All ordinances and parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict.

**PASSED AND ADOPTED BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON** this \_\_\_\_ day of \_\_\_\_\_, 2007, by the following vote:

AYES \_\_\_\_ NOES \_\_\_\_ ABSTENTIONS \_\_\_\_ ABSENT \_\_\_\_

\_\_\_\_\_  
F. Robert Edwards, Mayor

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Silvia Smith, Town Clerk

\_\_\_\_\_  
Samuel I. Streichman, Town Attorney