

RESOLUTION 2476

A RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE THE FIRST AMENDMENT TO THE HIGHLANDS AT THE RIM DEVELOPMENT AGREEMENT.

WHEREAS, the Town and Highlands at the Rim, L.L.C. (“Highlands”) entered into a Development Agreement dated December 21, 2000 (the “Agreement”); and

WHEREAS, on February 12, 2007, Highlands transferred its ownership rights in Lots 1-88 and Tracts A, C, and D described in the Agreement to SATR Holdings, L.L.C. (“Developer”); and

WHEREAS, the Developer has submitted a request to remove the fire sprinkler requirement on Lots 1-88 included in the Agreement (“the Requested Amendment”); and

WHEREAS, during February 2009, the Community Development Director reviewed the Requested Amendment; and

WHEREAS, on March 9, 2009, the Planning and Zoning Commission reviewed the Requested Amendment and recommended approval; and

WHEREAS, the Pursuant to Section 1.1(b) of the Agreement, the Town and Developer desire to amend the Agreement.

NOW, THEREFORE, THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON DO HEREBY RESOLVE AS FOLLOWS:

Section 1. That the First Amendment to the Highlands at the Rim Development Agreement be and is hereby approved in substantially the form set forth in Exhibit “1” attached hereto.

Section 2. That Kenny J. Evans, Mayor of the Town of Payson, be and is hereby authorized to execute the First Amendment to the Highlands at the Rim Development Agreement, in substantially the form set forth in Exhibit “1” attached hereto and made a part hereof by this reference as though set forth in full at this point.

Section 3. That the Town of Payson be and is hereby authorized to take such other and further measures and actions as are necessary or appropriate to carrying out the terms, provisions and intent of said First Amendment and this Resolution.

PASSED AND ADOPTED BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON this _____ day of _____, 2009, by the following vote:

AYES _____ NOES _____ ABSTENTIONS _____ ABSENT _____

Kenny J. Evans, Mayor

ATTEST:

APPROVED AS TO FORM:

Silvia Smith, Town Clerk

Samuel I. Streichman, Town Attorney

EXHIBIT "A"

to Resolution No. 2476

WHEN RECORDED, RETURN TO:

Silvia Smith, Town Clerk
Town of Payson
303 North Beeline Highway
Payson, Arizona 85541

FIRST AMENDMENT TO HIGHLANDS AT THE RIM DEVELOPMENT AGREEMENT

This First Amendment to the Highlands at the Rim Development Agreement (the "Amendment") is entered on this ____ day of _____, 2009, by and between the Town of Payson, a municipal corporation of the State of Arizona ("Town"), and SATR Holdings, L.L.C., an Arizona Limited Liability Company ("Developer") (collectively the "Parties").

RECITALS

- A. The Town and Highlands at the Rim, L.L.C. ("Highlands") entered into that certain Development Agreement dated December 21, 2000, and recorded in the official records of Gila County Arizona, on January 8, 2001, at recording number 2001-000274 (the "Agreement").
- B. On February 12, 2007, Highlands transferred its ownership rights in Lots 1-88 and tracts A, C, and D described in the Agreement to Developer.
- C. On February 2, 2009, the Town received a request from Developer to remove the fire sprinkler requirement Highlands had voluntarily placed on Lots 1-88 ("the Requested Amendment").
- D. During February 2009, the Community Development Director reviewed the Requested Amendment.
- E. On March 9, 2009, the Town's Planning and Zoning Commission reviewed the Requested Amendment and recommended approval of such Amendment to the Town Council.
- F. On March 19, 2009, the Mayor and Common Council of the Town of Payson approved the Requested Amendment.

G. Pursuant to Section 1.1(b) of the Agreement, the Parties desire to amend the Agreement.

NOW, THEREFORE, in consideration of the foregoing premises and the mutual promises and agreements set forth herein, the Parties hereto state, confirm and agree as follows:

- 1. Exhibit B of the Agreement is hereby amended to remove the fire sprinkler requirement for Lots 1-88 as identified on the Highlands at the Rim Final Plat.
- 2. Nothing in this Amendment or the Agreement shall be deemed to negate or waive any requirements in the now or then existing Town Fire and/or Building Codes related to sprinklers at the Highlands at the Rim Development.
- 3. All other terms and conditions of the Agreement except as specifically amended herein shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year set forth above.

SATR Holdings, L.L.C.,
an Arizona Limited Liability Company

TOWN OF PAYSON,
An Arizona municipal corporation

By _____
Doug Martin, Manager

By _____
Kenny J. Evans, Mayor

By _____
Craig Swartwood, Manager

ATTESTED BY:

Silvia Smith, Town Clerk

APPROVED AS TO FORM:

Samuel I. Streichman, Town Attorney



MEMO

TO: Planning and Zoning Commission

FROM: Ray Erlandsen, Zoning Administrator

DATE: March 9, 2009

SUBJECT: Request to Amend the Highlands at The Rim Development Agreement Development Plan (Exhibit B of the Development Agreement)

On October 12, 2000, the Town Council passed and adopted Resolution 1450 authorizing the Mayor to execute a development agreement between the Town of Payson and Highlands at The Rim, LLC. Exhibit B of the development agreement is the Development Plan which includes language that the entire development would be fully fire sprinklered. This was proposed by the developer, in part, to reduce the minimum fire flow requirement for the project.

A written request has been submitted to remove the fire sprinkler requirement for the townhome portion of the development (Lots #1-88). The request was submitted by SATR Holdings, LLC, who purchased the development from Highlands at The Rim LLC approximately two years ago. The approved development agreement allows amendments provided they are reviewed by the Community Development Director and the Planning and Zoning Commission. The Town Council must approve any amendment prior to becoming effective. Attached are excerpts from the development agreement reflecting the above as well as the written request to remove the fire sprinkler requirement.

The Town Fire Marshall and Building Official have reviewed this request and find that the current site conditions of fire flow and building separation meet the respective current fire and building codes. Any construction at a future date must comply with the codes and standards in effect at the time the building(s) permit(s) is(are) issued. As the Acting Community Development Director, I have reviewed this request, find it to be reasonable and recommend approval. After review by the Planning and Zoning Commission, a recommendation to the Town Council would be appropriate.

If the Commission finds the request to be reasonable, the following motion could be made:

“I move the Planning and Zoning Commission recommend to the Town Council approval of the request to amend the Highlands at The Rim Development Agreement “Development Plan” (Exhibit B of the Development Agreement approved by Resolution 1450) by removing the fire sprinkler requirement from the townhome portion (Lots #1 – 88) of the Development.”

Ray Erlandsen
Community Development Department
Town of Payson
303 N. Beeline Highway
Payson, AZ 85541-4306

RE: Sanctuary at the Rim

Dear Ray,

SATR Holdings, L.L.C. requests an amendment to Resolution 1450 dated October 12, 2000 and recorded January 8, 2001 between Highlands at The Rim, L.L.C, and the Town of Payson. SATR Holdings, L.L.C. purchased the townhouse portion of The Highlands at The Rim property from Highlands at The Rim, L.L.C. approximately two years ago. SATR Holdings, L.L.C. has proceeded to construct four completed townhomes and has two additional townhomes under construction pursuant to the existing Development Agreement. It has come to our attention that the subject property has a fire flow of approximately 1000 gallons per minute and has the standard fire hydrant placement for a development of this type. Therefore we respectfully request consideration to remove the fire sprinkler requirement from the townhome portion of the Highlands at The Rim Property.

Sincerely,



Doug Martin Craig Swartwood
Managing Members

RECEIVED

FEB 03 2009

COMMUNITY DEVELOPMENT
DEPARTMENT

RESOLUTION NO. 1450

A RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE A DEVELOPMENT AGREEMENT BETWEEN THE TOWN OF PAYSON AND HIGHLANDS AT THE RIM L.L.C.

WHEREAS, pursuant to A.R.S. § 9-500.05, the Town of Payson has negotiated a development agreement with Highlands at the Rim L.L.C.; and

WHEREAS, it is in the best interests of the Town of Payson to provide for the orderly development of the Highlands at the Rim property through such a development agreement,

NOW, THEREFORE, THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, DO HEREBY RESOLVE AS FOLLOWS:

Section 1. That the Mayor and Common Council find that the development agreement attached hereto as Exhibit "A" conforms with the general plan adopted by the Town of Payson.

Section 2. That the development agreement between the Town of Payson and Highlands at the Rim L.L.C., a copy of which is attached hereto as Exhibit "A" and incorporated herein as though set forth in full at this point, be and is hereby approved in substantially the form as set forth in said Exhibit "A".

Section 3. That Ray Schum, Mayor of the Town of Payson, be and is hereby authorized to execute such Agreement in substantially the form attached.

Section 4. That the Town of Payson be and hereby is authorized to take such other and further actions as are necessary or appropriate to carrying out the purposes of such Agreement.

Section 5. That a true and correct copy of said development agreement shall be recorded in the Office of the Gila County Recorder not later than ten (10) days after the date such development agreement is executed.

PASSED AND ADOPTED BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON this 12th day of October, 2000, by the following vote:

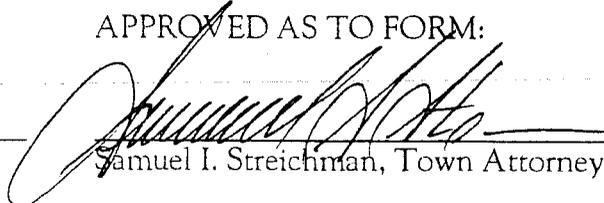
AYES 6 NOES 1 ABSTENTIONS 0 ABSENT 0


Ray Schum, Mayor

ATTEST:


Silvia Smith, Town Clerk

APPROVED AS TO FORM:


Samuel I. Streichman, Town Attorney

southern most boundary line of the Property. The Town, having exercised its discretion in approving this Agreement, agrees to consider for approval and/or issuance such permits, plans, specifications and/or plats of or for the Property as may be requested by the Developer which substantially comply with the Development Plan and Site Plan, and that comply with all applicable rules, regulations and ordinances of the Town and State of Arizona, provided that Developer pays all applicable development fees and permit fees, including without limitation, grading fees and building permit fees.

➡ (b) Amendment. The Town and the Developer acknowledge that amendments to the Development Plan or Site Plan may be necessary from time to time. In order for an amendment to become effective, the party seeking the amendment shall submit its proposed amendment in writing to the other party for review. Amendments sought by the Developer shall be reviewed by the Community Development Director and the Planning and Zoning Commission, and approved by the Town Council, prior to becoming effective. Amendments shall be signed by both parties and attached to this Agreement as addenda. Amendments shall not be necessary, so long as the preliminary plat substantially conforms to the Development Plan and Site Plan.

(c) Residential Hillside Development. The Development Plan requires implementation of development strategies that will minimize disturbance of natural vegetation and promote a project in harmony with the mountainous terrain, which is the goal of the Town's hillside ordinance. Strategies to be employed shall include the use of building envelopes and constructing two-story structures on piers to minimize the size of each building envelope, both of which strategies will result in less disturbance than is permitted by the Town's hillside ordinance. The Developer agrees to obtain grading permits prior to commencing any grading of any lot. Grading permits shall be reviewed by the Town Engineer for compliance with this Agreement, and no grading permit shall be issued until engineered grading plans for each lot are approved. In all situations, lot grading shall be limited to an area consisting of the building envelope and driveway. Mass grading shall not be permitted.

(d) Unified Development Code. Unless modified by this Agreement, the Development Plan or the Site Plan, the development of the Property shall be in conformance with the rules and regulations and provisions contained in the Payson Unified Development Code ("UDC"). The entire commercial component of the development shall be governed by and be in conformance with the UDC. Any deviations from current development standards provided for in this Agreement shall apply only to the residential component of the development.

1.2 Development Regulation/Vesting. The rules, regulations, development fees and official policies (collectively, "Regulations") of the Town applicable to and governing the development of the Property shall be those Regulations that are existing and in force for the Town as of the recording of this Agreement. In the event future land use Regulations are enacted as necessary to comply with future state and federal laws and regulations, or future land use Regulations are enacted which are reasonably necessary to alleviate legitimate and bona fide harmful and noxious uses, such affected provisions of this Agreement shall be modified as may be necessary to meet the requirements of such state and federal laws and/or regulations. This Agreement shall be subject to the future imposition of taxes or filing or review fees, or modifications thereto, or development fees, so long as such taxes or fees are imposed or charged uniformly by the Town to all persons and entities. In the event the Town creates "infill incentive districts", the fees being charged in such districts shall not be considered when determining the uniform application of fees Town wide.

**DEVELOPMENT PLAN - INTRODUCTION AND OVERVIEW
HIGHLANDS AT THE RIM - PAGE 2 OF 4**

Retail, Restaurant, and Clubhouse Facility will be of a design consistent with the office building with materials of stone, glass and pitched metal roofs to blend with the forest community.

Mountain Villas. (88 townhomes) Duplex attached units each with 2-car garages.

Forest Homes. (38) Single family homes each with 2-car garages.

All single family residences shall be built on concrete piers (sauna tubes). The residence can accommodate hillside conditions; the hillside slopes work with the post and beam design system without the need for mass grading. In fact, the residence can be situated on a hillside with little grading outside the footprint of the structure. By parking under the residence, no additional area is needed for garage, preserving a greater forested area on each lot.

 In addition, we propose to have Payson's first fully fire sprinkled community. Both commercial and residential units will be sprinkled. We are providing these systems for fire protection for our owners, potentially reducing homeowners' insurance cost and saving 50% of water required for fire flow. This provides a superior product and will provide peace of mind to our buyers as well as possible long-term savings on insurance costs.

Since we are building the residences, we can create a greater harmony in design. Our goal is to maintain a forest setting, featuring native trees and maintaining a native natural environment. Homes shall be designed and placed within building envelopes with each lot being reviewed by our architect to complement views of the Rim and concern for rock outcroppings, trees and solar orientation. Large glass walls characterize a home that brings the outdoors in. The decks and porches create an outdoor recreation area for each home.

Development Standards

The property will be developed pursuant to the site plan, which is attached to the Development Agreement as an Exhibit.

Residential Streets

Excluding Tyler Parkway, residential streets shall be designed to maximize native forest. This 24' width is similar to Rim Club and Chaparral Pines streets. The Payson Fire Department has approved the site plan for emergency vehicle access and fire hydrant number and locations. The roadways within the project are intended to be private and will be designed using the development standards depicted in the site plan which is an Exhibit of the Development Agreement. The design intent is to minimize pavement width and to

(Exhibit B of Development Agreement)

Excerpt of Development Plan

Erlandsen, Ray

From: Erlandsen, Ray
Sent: Wednesday, March 04, 2009 11:21 AM
To: Galbraith, Debra; Lockhart, Robert; DeSchaaf, Sheila; Floyd, Chris; Tim Wright
Cc: Garrett, LaRon; Lahaye, Ray
Subject: Additional Information - Highlands at The Rim Request

All,

Requests for additional information have been received regarding the proposed amendment to the Development Agreement between the Town of Payson and Highlands at The Rim LLC as to whether or not this request will affect existing infrastructure and building code requirements. LaRon Garrett, Public Works Director and Ray LaHaye, Building Official, have responded by email explaining that the request will not affect requirements. Their emails are attached.

Ray Erlandsen

Acting Community Development Director
Town of Payson
(928) 474-5242, ext. 264
rerlandsen@ci.payson.az.us

From: Garrett, LaRon
Sent: Monday, March 02, 2009 10:43 AM
To: DeSchaaf, Sheila; Erlandsen, Ray
Subject: RE: Questions for March p&z meeting

Hopefully this will answer the questions concerning the existing fire flow at the east half of Highlands at the Rim (now called Sanctuary at the Rim). The water system, including fire hydrants were installed in accordance with the Town of Payson requirements which are the same regardless of whether the structures are sprinkled or not. The east half of Highlands at the Rim development is served by a 12" gravity line in S. Rim Club Parkway. There are two 8" connections that feed into this subdivision to the east, one at each roadway entrance. All fire hydrants are on either a looped or dead end 8" line. The hydrants on the loop have a fire flow ranging from 2430 gpm to 2555 gpm. The one hydrant on a dead end on E. Rainbow Trail has a flow of 1712 gpm.

Per the Fire Marshall, Bob Lockhart, the required fire flow in this development is 75% of 1750 gpm or a total requirement of 1312.5 gpm. Based on this information, the existing fire flow in this development is adequate without the structures being sprinkled.

The original developer volunteered to install fire sprinklers in all of the structures. While the Town did not oppose the installation of the fire sprinklers, they did not require them.

LaRon G. Garrett, P.E.
Town of Payson
Public Works Director

From: Lahaye, Ray
Sent: Wednesday, March 04, 2009 9:55 AM
To: Erlandsen, Ray
Subject: RE: Staff report - Amendment 03-09-09.doc

Hi Ray,

The Building Division has reviewed the project for approval without sprinklers and due to the fact that these structures are being built with the required firewalls, that would be required if the building was not sprinklered, the sprinkler system is not needed to make the structures code compliant.

If you have further questions, please let me know.

Ray LaHaye