

ORDINANCE NO. 772

AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, AMENDING THE OFFICIAL ZONING MAP FOR THE TOWN OF PAYSON, ORDINANCE NO. 466 AND THE ZONING CODE FOR THE TOWN OF PAYSON BY REZONING CERTAIN REAL PROPERTY GENERALLY LOCATED AT 1014 EAST CANYON DRIVE, BEING GILA COUNTY ASSESSOR'S PARCEL NUMBER 302-23-015R, AS MORE PARTICULARLY DESCRIBED ON EXHIBIT A ATTACHED HERETO, FROM R1-90 TO R1-35. (1014 E CANYON DRIVE REZONING)

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-359-09 to amend the Official Zoning Map and Official Zoning Code has been made by J. Fred & Alyce Hollobaugh, property owners, to the Planning and Zoning Commission and the Town Council; and

WHEREAS, the Planning and Zoning Commission held a public hearing on August 10, 2009, considered the issues, and made recommendation on Application No. P-359-09 to the Town Council; and

WHEREAS, the Town Council held a public hearing on September 10, 2009, in regard to said Application No. P-359-09 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 R1-35 for that portion of certain real property located at 1014 East Canyon Drive, Gila County Assessor's Parcel Number 302-23-015R, 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-359-09 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 change in zoning shall be and are hereby specifically made contingent upon and conditional upon each of the following:

- A. Prior to application for a minor land division, separate public water service shall be provided to each of the existing dwelling units.
- B. Prior to application for a minor land division, each parcel shall have a separate waste disposal system approved by the Gila County Health Department or the Northern

*2<sup>nd</sup> Reading and Public Hearing*

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Gila County Sanitary District.

- C. If any of the conditions listed in this Section 3 cannot be met or the applicant has not recorded an approved minor land division survey map within two (2) years of the approval date of the zoning change, then the R1-35 zoning may revert to the original R1-90 zoning, by Council action.

Section 4. In addition to the provisions is Sections 5 and 6, hereunder, this ordinance shall not become effective until the Town files with the Gila County Recorder instrument(s) (in a form acceptable to the Town Attorney), executed by J. Fred & Alyce Hollobaugh 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. If this waiver instrument is not executed and provided to the Town for recording within 7 calendar days after the motion approving this ordinance, this ordinance shall be void and of no force and effect.

Section 5. Pursuant to A.R.S. §19-142 and §30.54 of the Code of the Town of Payson, this ordinance if not otherwise void pursuant to Section 4 hereinabove, shall not become operative until 30 days after its passage.

Section 6. A protest (pursuant to A.R.S. §9-462.04(H)) has been filed. The provisions of this Ordinance 742 shall only become effective upon a favorable vote of three-fourths of all members of the Town Council.

Section 7. 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 \_\_\_\_\_, 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 ORDINANCE 772

TAX PARCEL 302-23-015R

Legal Description: POR PCL C ROS 851;POR SW4 SW4 SEC 35 T11N R10E;COMM SW COR SEC 35 TH S89D45'48 E 432.91';TH N0D1'29 E 50' POB;TH CONT N0D1'29 E 406 .53';TH S89D44'38 E 197.13';TH S0D1'29 W 406.56';TH N89D45'48 W 197.13' POB;=1.84 AC M/L (OUT OF 302-23-015P) (AKA PCL C ROS 851)