

ORDINANCE NO. 775

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 208-214 SOUTH CLARK AND 209 SOUTH GOODNOW ROAD, BEING GILA COUNTY ASSESSOR'S PARCEL NUMBERS 304-04-208 AND 304-04-130, AS MORE PARTICULARLY DESCRIBED ON EXHIBIT A ATTACHED HERETO, FROM R1-8MH TO R3. (FOUNDATION FOR SENIOR LIVING 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. P10-002 to amend the Official Zoning Map and Official Zoning Code has been made by FSL Holdings Properties LLC to the Planning and Zoning Commission and the Town Council; and

WHEREAS, the Planning and Zoning Commission held a public hearing on February 2, 2010, considered the issues, and made recommendation on Application No. P10-002 to the Town Council; and

WHEREAS, the Town Council held a public hearing on March 4, 2010, in regard to said Application No. P10-002 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 R3 for that portion of certain real property located at 208-214 South Clark and 209 South Goodnow Road, Gila County Assessor's Parcel Numbers 304-04-208 and 304-04-130, 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. P10-002 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).

First Reading and Public Hearing MAR 04 2010 G, 3

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

- A. Development on the Property shall comply with all Town of Payson requirements, including, but not limited to, Design Review, Public Works, Fire and Building code standards.
- B. Development on the Property shall be in substantial conformance with the rezoning site plan submitted at the February 2, 2010 Planning and Zoning Commission Meeting except as provided in conditions C, D, and E below.
- C. Development on the 209 South Goodnow Road portion of the Property shall be arranged so that the parking for the triplex is on the east side of the structure and accessed from the east.
- D. Consideration shall be given to reduction of parking based upon senior dwelling use.
- E. Access to the Property from Goodnow shall be restricted to emergency access only as may be required for police and/or fire access.
- F. If any of the conditions listed in this Section 3 cannot be met or the applicant has not received building permits for all of the structures within two (2) years of the approval date of the zoning change, then the R3 zoning may revert to the original R1-8MH zoning, by Council action.

Section 4. In addition to the provision of Section 5, 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 FLS Holding Properties LLC 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 such waiver instrument(s) 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. 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 15th day of April, 2010, 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 775

Gila County Parcel Numbers

304-04-208 and 304-04-130

Legal Descriptions

RUSSELL SUB PT LOT 7; BEG AT NE COR SD LOT 7 WH E4 COR SEC 3 BEARS S 89DEG 53MIN E 2947.62' TH S 0DEG 7MIN W 265' ALNG E LN S D LOT TO POB TH S 0DEG 7MIN W 130' ALNG SD E LN TH N 89DEG 53MIN W 327.51' TO PNT ON W LN SD LOT 7; N 0DEG 7MIN E 130' ALNG SD W LN TH S 89DEG 53MIN E 327.51' TO POB CONT .977AC

DUDLEY SUB MAP #140 LOT 5 353/484 A/A 2004;1985 26X56 HIVAL MH VIN#AS13479X-UDKT 633/620