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 0 4 2010 G.3

Second Reading and Public Hearing APR 1 5 2010 G.5

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 7 NOES 0 ABSTENTIONS 0 ABSENT 0

Kenny J. Evans, Mayor

ATTEST:

Silvia Smith, Town Clerk

APPROVED AS TO FORM:

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 BE ARS S 89DEG 53MIN E 2947.62' TH S 0DEG 7MIN W265' ALNG E LN S D LOT TO POB TH S 0DEG 7MIN W 130' ALNGSD 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

SUMMARY OF AGENDA ITEM

DATE: March 4, 2010

TO: Mayor and Council

FROM: Ray Erlandsen
Acting Community Development Director

SUBJECT: **Resolution 2540 - Minor Amendment, Land Use Element - 2003 General Plan (P10-001)**
Ordinance 775 - Rezone from R1-8-MH to R3 (P10-002)

208-214 S. Clark Road/209 S. Goodnow Road

PURPOSE:
FSL Holding Properties LLC, property owners; Foundation for Senior Living, applicant, is requesting to amend the Land Use Element of the 2003 Town of Payson General Plan from medium density residential to high density residential and to rezone from R1-8 MH to R3 for the property located at 208-214 S. Clark Road and 209 S. Goodnow Road. Both properties were recently acquired by the applicant for the purpose of expanding their current Pine View Manor facility which is an age-restricted, subsidized apartment community located adjacent to and south of these properties.

SUMMARY:
As part of the minimum sixty day review process for general plan amendment requests, the applicant's request and submittal materials for this proposed amendment were disseminated November 18, 2009. The only correspondence received by the Community Development Department relative to this application was from the Sanitary District. Sanitary sewer facilities are currently available at this site development and will be required to meet the permitting requirements of the district.

The site is currently bordered by R1-8 MH zoned properties on three sides and is bordered on the south by the applicant's existing age-restricted apartment complex, which lies within an R3-MH zoning district.

The proposed density for the site is 15.6 DU/acre, which is consistent with high density residential development as defined by the Land Use Element of the 2003 Town of Payson General Plan.

The staff report and associated documents presented to and reviewed by the Planning and Zoning Commission, as well as Commission discussion may be viewed on the Town website under the February 8, 2010, P&Z Commission agenda.

Attached are the motions of recommendation to the Town Council from the P&Z Commission for the minor amendment request (P10-001) and rezoning request (P10-002).

P10-001 General Plan Amendment

P&Z Commission Motion
February 8, 2010
208-214 South Clark Road & 209 South Goodnow Road

Commissioner Meyers moved, seconded by Commissioner Scheidt, to recommend to the Town Council approval of P10-001, a request from FSL to amend the Land Use Element of the 2003 Town of Payson General Plan from medium density residential to high density residential for the properties located at 208-214 South Clark Road and 209 South Goodnow Road, Gila County tax parcel 304-04-208 and 304-04-130.

Motion carried 6-0.

P10-002 Rezoning Request – R1-8 MH to R3

P&Z Commission Motion
February 8, 2010
208-214 South Clark Road & 209 South Goodnow Road

Commissioner Scheidt moved, seconded by Commissioner Jarrell, to recommend to the Town Council approval of P10-002 a request to rezone a 1.28 acre property located at 208-214 South Clark Road and 209 South Goodnow Road, from R1-8 MH to R3 to allow for the development of 20 apartment homes subject to the conditions 1-6 listed in the staff report and as read.

These are the conditions as read:

1. Development shall comply with all Town of Payson requirements, including but not limited to Design Review, Public Works, Fire and Building code standards.

2. Development shall be in substantial conformance with the rezoning site plan submitted.

3. Development on 209 South Goodnow Road property shall be arranged so the parking for that triplex is on the east side of the structure and accessed from the east.

4. Consideration shall be given to reduction of parking based upon senior dwelling use.

5. Access to Goodnow shall be restricted to emergency access only, if required by police or fire.

6. If any of the conditions listed above cannot be met within two (2) years then the R3 zoning may revert to the original R1-8 MH zoning, pending Council action.

Motion carried 6-0.

NOTE: Conditions 3, 4, and 5 were added by the Commission at the Public Hearing on February 8, 2010.