ORDINANCE NO. 803

AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, AMENDING ORDINANCE NO. 466 THE ZONING MAP AND THE ZONING CODE FOR THE TOWN OF PAYSON BY REZONING CERTAIN REAL PROPERTY GENERALLY LOCATED AT 1601 E. UNDERWOOD LANE, BEING GILA COUNTY ASSESSOR'S PARCEL NUMBER 302-84-023, AS MORE PARTICULARLY DESCRIBED ON EXHIBIT "A" ATTACHED HERETO, FROM R1-90 TO R1-44 (TUSCANY ESTATES).

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

WHEREAS, Application No. P11-001 to amend the Official Zoning Map and Official Zoning Code has been made by Patrick and Barbara Underwood, property owners, to the Planning and Zoning Commission and the Town Council; and

WHEREAS, the Planning and Zoning Commission held a public hearing on April 11, 2011, considered the issues, and made recommendation on Application No. P11-001 to the Town Council; and

WHEREAS, the Town Council held a public hearing on May 5, 2011, in regard to said Application No. P11-001 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 and the Zoning Code for the Town of Payson be, and each is hereby, amended to establish a zoning district of R1-44 for that portion of the certain real property located at 1601 E. Underwood Lane, Gila County Assessor's Parcel Number 302-84-023, 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. P11-001 are hereby made contingent upon those conditions set forth in Section 3 below, and 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 Site Plan dated March 7, 2011, and shall not exceed a total of 12 lots.

MAY 0 5 2011 G.3

FIRST READING AND PUBLIC HEARING

SECOND READING AND PUBLIC HEARING

B. A note shall be added to the final plat stating: "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."

C. Adequate sanitary facilities shall be designed in accordance with Northern Gila County Sanitary District standards prior to submittal of the Final Plat.

D. Storm water detention/retention shall be provided in accordance with the Town of Payson Requirements.

E. If a subdivision sign is planned, a sign easement shall be created on the lot where the subdivision sign will be placed.

F. The developer shall comply with the pedestrian circulation contribution outlined in Exhibit B attached hereto.

G. All applicable Town standards for development shall be met.

H. If any conditions listed in this Section 3 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 R1-44 rezoning may revert to the original R1-90 zoning, pending Council action.

Section 4. In addition to the provisions of Sections 5 and 6, hereunder, this Ordinance shall not become effective until the Town files with the Gila County Recorder an instrument (in a form acceptable to the Town Attorney), executed by Patrick and Barbara Underwood 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 above, 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 shall become effective only upon a favorable vote of three-fourths of all members of the Town Council.

PASSED AND ADOPTED BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON this _____ day of May, 2011, by the following vote:

AYES _____ NOES _____ ABSTENTIONS _____ ABSENT _____

_____
Kenny J. Evans, Mayor

ATTEST:

_____
Silvia Smith, Town Clerk

APPROVED AS TO FORM:

_____
Timothy M. Wright, Town Attorney

Prepared by Town of Payson Legal Department, April 18, 2011 (9:30am)
C:\Documents and Settings\twright\My Documents\aa Tim Wright\aa Tim Wright Word Perfect Documents\ORDINANCES\803 Tuscany Estates Rezoning.wpd

EXHIBIT A TO ORDINANCE 803

1601 - 1801 E. Underwood Ln.

Lot 20B, of Payson three Unit One, according to the plat of record in the office of the County Recorder of Gila County, Arizona, recorded in Map No. 655 through 655C.

EXHIBIT B TO ORDINANCE 803

To be provided by applicant at second reading or before.