ORDINANCE NO. 878

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF PAYSON, ARIZONA, AMENDING ORDINANCE 466, THE ZONING MAP, AND THE ZONING CODE FOR THE TOWN OF PAYSON BY REZONING CERTAIN REAL PROPERTY GENERALLY LOCATED AT 208 E. BONITA STREET, AS MORE PARTICULARLY DESCRIBED ON EXHIBIT A, FROM C-1 COMMERCIAL ONE (NEIGHBORHOOD SERVICES DISTRICT) TO R-3, (MULTIPLE FAMILY RESIDENTIAL), AND PROVIDING PROP 207 NOTICE TO APPLICANT.

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 P16-001 to amend the Official Zoning Map and Official Zoning Code has been made by Town staff to the Planning and Zoning Commission and the Town Council; and

WHEREAS, the Planning and Zoning Commission held a Public Hearing on May 2, 2016, considered the Application, and made recommendation on the Application to the Town Council; and

WHEREAS, the Town Council held public hearings on May 19th and June 2nd, 2016, in regard to the Application and has considered the issues relating thereto,

NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE MAYOR AND TOWN COUNCIL OF PAYSON, ARIZONA, AS FOLLOWS:

Section 1: Ordinance No. 466 of the Town of Payson, the Official Zoning Map and Payson's Zoning Code are amended to establish a change of zoning for that real property generally located at 208 E. Bonita Street, more particularly described on Exhibit A attached hereto (the property).

Section 2: The requested rezoning of the Property as proposed by Application P16-001 is consistent with the Town of Payson General Plan, as required by A.R.S. § 9-462.01(F).

Section 3: This change in zoning is specifically made contingent upon and conditional upon each of the following:

A. The front portion of this property encumbered by the 25 foot roadway easement shall be dedicated to the Town of Payson for E. Bonita Street Phase II improvements.

B. A Slope and Drainage Easement shall be granted over the front 14' feet of the site after any necessary right of way has been dedicated.

First Public Hearing MAY 19 2016 G.5
Second Public Hearing JUN 02 2016 G.2

C. The applicant shall grant a temporary construction easement to the Town of Payson in conjunction with E. Bonita Street Phase II improvements as shown in the proposed improvement plans for that project.

Section 4: In addition to the provisions of Section 5 below, 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 the Property owner 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) 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 14 calendar days after this Ordinance is approved, this Ordinance shall be void and of no force and effect.

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

PASSED AND ADOPTED BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON this ____ day of _____, 2016, by the following vote:

AYES ___ NOES ___ ABSTENTIONS ___ ABSENT ___

_____
Kenny J. Evans, Mayor

ATTEST:

_____
Silvia Smith, Town Clerk

APPROVED AS TO FORM:

_____
Hector M. Figueroa, Town Attorney

Town of Payson Legal Department
HMF:dkk 5/6/2016 10:25 AM
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EXHIBIT A

to Ordinance No. 878

Legal Description
for Rezoning 208 E Bonita:

Lot 10, of Earl Russell Subdivision, according to the plat of record in the office of the County Recorder of Gila County, Arizona, recorded in Map No. 73, Except the East 261.0 feet and the West 226.55 feet.