



ORDINANCE NO. 731

AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, AMENDING THE OFFICIAL ZONING MAP FOR THE TOWN OF PAYSON, AMENDING ORDINANCE NO. 466 AND AMENDING THE ZONING CODE FOR THE TOWN OF PAYSON BY REZONING CERTAIN REAL PROPERTY GENERALLY LOCATED AT 2009 NORTH MCLANE AND 215 WEST HOUSTON MESA ROAD, BEING GILA COUNTY ASSESSOR'S PARCEL NUMBERS 302-35-007A AND 302-35-252, AS MORE PARTICULARLY DESCRIBED ON EXHIBITS "A" AND "B" ATTACHED HERETO, FROM R1-175 TO R1-6 AND R3 RESPECTIVELY (MOGOLLON RIDGE).

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-344-08 to amend the Official Zoning Map and Official Zoning Code has been made by Workforce Housing Coalition, L.L.C., property owner (G. Michael Horton, representative) to the Planning and Zoning Commission and the Town Council; and

WHEREAS, the Planning and Zoning Commission held a public hearing on February 11, 2008, considered the issues, and made recommendation on Application No. P-344-08 to the Town Council; and

WHEREAS, the Town Council held a public hearing on February 21, 2008, in regard to said Application No. P-344-08 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.
- A. 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 R1-6 for that portion of the certain real property located at 2009 North McLane and 215 West Houston Mesa Road, Gila County Assessor's Parcel Numbers 302-35-007A and 302-35-252, more particularly described on Exhibit "A" attached hereto and made a part hereof by this reference.
  - B. 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 the certain real property located at 2009 North McLane and 215 West Houston Mesa Road, Gila County Assessor's Parcel Numbers 302-35-007A and 302-35-252, more particularly described on Exhibit "B" attached hereto and made a part hereof by this reference.
  - C. Collectively Exhibits "A" and "B" are "the Property."

EXHIBIT A-1

cc ptz  
american legal  
Horton 3-14-08

4,329

post 3 places  
publish 2 X's  
PD 150020  
3-19-08/32408



Section 2. That the requested rezoning and the use and density of the Property as proposed by Application No. P-344-08 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 changes in zoning shall be and are hereby specifically made contingent upon and conditional upon each of the following:

- A. Development on the Property shall comply with the current Town of Payson water requirements at the time of construction.
- B. The development shall be in substantial conformance with the rezoning application narrative/booklet and site plan, received by the Community Development February 27, 2008 and shall not exceed a total of 83 units.
- C. The developer shall provide adequate sanitary facilities, depicted in the improvement plans, which are acceptable to the Northern Gila County Sanitary District.
- D. The developer shall contribute \$200,000.00 toward the implementation of the area drainage plan prior to issuance of any on site construction permits.
- E. Street names, acceptable to the Town of Payson, shall be depicted on the Preliminary Plat.
- F. The CC&R's shall describe the maintenance responsibilities of the common open space and drainage areas.
- G. The existing overhead power line and all future utility lines be placed underground as part of the site improvements.
- H. The developer shall comply with their proposed contribution to affordable/workforce housing as set forth in Exhibit C.
- I. The developer shall construct the following improvements to comply with the Payson Area Trails Systems (PATS):
  - (1) In lieu of constructing the PATS pathway meandering through the development as per the approved PATS Construction Manual, the developer shall install six hundred (600) linear feet of eight foot wide granite pathway per the PATS standard on the west side of McLane Road immediately south of this development.
  - (2) An eight (8) foot detached compacted granite path on the North side of Houston Mesa Road starting at the North/South Street alignment and ending at a point twenty five (25) East of the Payson Pines Subdivision.



- J. If any conditions listed in this Section 3 are not 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 R1-6 and R3 rezoning may revert to the original R1-175 zoning, pending Council action.

Section 4. This Ordinance 731 shall be treated as having been adopted and the 30-day referendum period established by Arizona Revised Statutes section ("A.R.S. §") 19-142(D) and §30.54 of the Code of the Town of Payson shall begin when the Town files with the Gila County Recorder an instrument (in a form acceptable to the Town Attorney), executed by the Workforce Housing Coalition, L.L.C. 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 731. If this waiver instrument is not recorded within 15 calendar days after the motion approving this Ordinance 731, this Ordinance 731 shall be void and of no force and effect.

Section 5. 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 6 day of March, 2008, by the following vote:

AYES 5 NOES 0 ABSTENTIONS 0 ABSENT 0

F. Robert Edwards, Mayor

ATTEST:

APPROVED AS TO FORM:

Silvia Smith, Town Clerk

Samuel I. Streichman, Town Attorney



WHEN RECORDED, RETURN TO:  
Silvia Smith, Town Clerk  
Town of Payson  
303 North Beeline Highway  
Payson, Arizona 85541



CONSENT TO CONDITIONS OF REZONING AND WAIVER OF CLAIMS FOR  
POSSIBLE DIMINUTION OF VALUE RESULTING FROM  
TOWN OF PAYSON ORDINANCE 731

Workforce Housing Coalition, LLC, an Limited Liability Company, (the "Owner") owns the land referred to in this instrument as the "Property," which is particularly described in Exhibits A and B attached to Payson Ordinance 731 (the "Rezoning Ordinance") and attached hereto (Exhibit A-1) and incorporated by this reference in this instrument. The Property is the subject of rezoning application number P-344-08, filed on behalf of the Owner, which the Payson Town Council approved with conditions on March 6, 2008 by the adoption of the Rezoning Ordinance.

The Owner on behalf of his/her/its self, its agents, successors, transferees, and assigns, hereby agrees and consents to all of the conditions imposed by the Payson Town Council in conjunction with the approval of the Rezoning Ordinance and waives any right to compensation for diminution in value pursuant to Arizona Revised Statutes § 12-1134 that may now or in the future exist as a result of the approval of the Rezoning Ordinance. The Owner also consents to the recording of this document in the office of the Gila County Recorder, to give notice of this instrument and its effects to successors in interest of the Property, who shall also be bound by it.

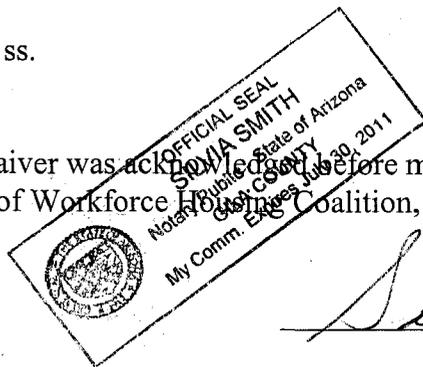
Dated this 7<sup>th</sup> day of March, 2008.

Workforce Housing Coalition, LLC,  
an Arizona Limited Liability Company

By [Signature]  
G. Michael Horton, its Manager

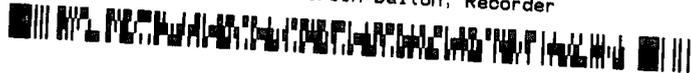
STATE OF ARIZONA        )  
  ) ss.  
County of Gila)

The foregoing Consent and Waiver was acknowledged before me this 7<sup>th</sup> day of March, 2008, by G. Michael Horton, the Manager of Workforce Housing Coalition, LLC, on behalf of the LLC.



[Signature]  
Notary Public

My Commission Expires:  
July 30, 2011



**EXHIBIT "A"**  
To Ordinance 731

**LEGAL DESCRIPTION**  
**MOGOLLON RIDGE**  
**R1-6 ZONE AREA**

A portion of Government Lot 5 located in Section 28, T11N, 10E, of the Gila and Salt River Meridian, Gila County, Arizona, more particularly described as follows:

Commencing at the southeast corner of Government Lot 5;

- Thence: N 40°06'58" W along the southwesterly line of Government Lot 5, 304.62 feet to the POINT OF BEGINNING.
- Thence: Continuing N 40°06'58" W along the southwesterly line of Government Lot 5, 593.54 feet to a point on the easterly right-of-way line of North McLane Road;
- Thence: N 17°38'25" E along said right-of-way line, 33.34 feet;
- Thence: N 26°28'58" E continuing along said easterly right-of-way line, 88.15 feet;
- Thence: N 07°20'10" E continuing along said easterly right-of-way line, 8.28 feet;
- Thence: S 89°18'02 E, 120.17 feet;
- Thence: S 00°42'10" W, 39.39 feet;
- Thence: Along a tangent curve to the left, concave to the east, having a radius of 125.00 feet and a central angle of 40°49'05" for an arc length of 89.05 feet;
- Thence: S 40°06'58" E, 304.96 feet;
- Thence: Along a tangent curve to the left, concave to the northeast, having a radius of 125.00 feet and a central angle of 39°11'40" for an arc length of 85.51 feet;
- Thence: S 10°41'22" W, 25.00 feet;
- Thence: Along a non-tangent curve to the left, concave to the north, whose center bears N 10°41'22" E, having a radius of 150.00 feet and a central angle of 05°54'09" for an arc length of 15.45 feet;
- Thence: S 04°47'13" W, 25.00 feet;
- Thence: S 00°38'29" W, 123.85 feet;
- Thence: N 89°21'31" E, 93.22 feet to the TRUE POINT OF BEGINNING.

Said parcel contains 2.34 acres more or less.



**EXHIBIT "B"**  
To Ordinance 731

**LEGAL DESCRIPTION**  
**MOGOLLON RIDGE**  
**R-3 ZONE AREA**

A portion of Government Lot 5 located in Section 28, T11N, R10E, and a portion of Government Lot 1 located in the Southwest ¼ of Section 27, T11N, R10E, of the Gila and Salt River Meridian, Gila County, Arizona, more particularly described as follows:

Beginning at the northeast corner of Government Lot 5;

- Thence: S 89°22'15" E along the north line of Parcel 1 as shown on Record of Survey 2680, Gila County Records, 300.00 feet to the northeast corner of said Parcel 1;
- Thence: S 00°34'57" W along the east line of said Parcel 1, 678.17 feet to the southeast corner of said Parcel 1;
- Thence: N 89°21'34" W along the south line of said Parcel 1, 299.79 feet to the southwest corner of said Parcel 1, said point also being on the east line of Government Lot 5;
- Thence: S 00°33'35" W along the east line of Government Lot 5, 254.14 feet to the southeast corner of Government Lot 5;
- Thence: N 40°06'58" W along the southwesterly line of Government Lot 5, 304.62 feet;
- Thence: S 89°21'31" E, 93.22 feet;
- Thence: N 00°38'29" E, 123.85 feet;
- Thence: N 04°47'13" E, 25.00 feet;
- Thence: Along a non-tangent curve to the right, concave to the northeast, whose center bears N 04°47'13" E, having a radius of 150.00 feet and a central angle of 05°54'09" for an arc length of 15.45 feet;
- Thence: N 10°41'22" E, 25.00 feet;
- Thence: Along a non-tangent curve to the right, concave to the northeast, whose center bears N 10°41'22" E, having a radius of 125.00 feet and a central angle of 39°11'40" for an arc length of 85.51 feet;
- Thence: N 40°06'58" W, 304.96 feet;
- Thence: Along a tangent curve to the right, concave to the east, having a radius of 125.00 feet and a central angle of 40°49'05" for an arc length of 89.05 feet;
- Thence: N 00°42'10" E, 39.39 feet;
- Thence: N 89°18'02" W, 120.17 feet to a point on the east right-of-way line of North McLane Road;
- Thence: N 07°20'10" E along said east right-of-way line, 133.90 feet to a point on the north line of Government Lot 5;
- Thence: S 89°18'02" E along the north line of Government Lot 5, 520.38 feet to the POINT OF BEGINNING.

Said parcel contains 10.05 acres more or less.



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- Thence: Along a tangent curve to the left, concave to the northeast, having a radius of 125.00 feet and a central angle of 39°11'40" for an arc length of 85.51 feet;
- Thence: S 10°41'22" W, 25.00 feet;
- Thence: Along a non-tangent curve to the left, concave to the north, whose center bears N 10°41'22" E, having a radius of 150.00 feet and a central angle of 05°54'09" for an arc length of 15.45 feet;
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Said parcel contains 2.34 acres more or less.

**EXHIBIT A TO ORDINANCE 731**



**LEGAL DESCRIPTION  
MOGOLLON RIDGE  
R-3 ZONE AREA**

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**EXHIBIT B TO ORDINANCE 731 (page 1)**



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Thence: N 89°18'02" W, 120.17 feet to a point on the east right-of-way line of North McLane Road;

Thence: N 07°20'10" E along said east right-of-way line, 133.90 feet to a point on the north line of Government Lot 5;

Thence: S 89°18'02" E along the north line of Government Lot 5, 520.38 feet to the POINT OF BEGINNING.

Said parcel contains 10.05 acres more or less.

**Exhibit C to Ordinance No. 731  
Mogollon Ridge / Flowing Wells**

Our approach to providing workforce housing is to develop programs unique to the private sector and to participate in the various financing programs offered by traditional institutions and private sector investment groups.

In terms of the more traditional approaches, we plan to utilize the Mortgage Revenue Bond Program. This program assists first-time home buyers. It provides 30 year fixed rate mortgages at below market rates for those buyers who qualify for FHA, VA, Fannie Mae and Freddie Mac conventional loans. Discount points cannot exceed 1%. This type of loan can be combined with the Arizona Department of Housing Down Payment and Closing Cost Assistance program.

We will also participate in the Mortgage Credit Certificate program for first time home buyers. In this program the borrower receives a 20% tax credit of the annual interest paid or accrued on his mortgage loan. Gila County is one of the target areas for this type of program.

In addition to the programs mentioned above, we are developing, in conjunction with a private investment group, a program that will be a shared equity program. We will be expending substantial legal fees and time to develop a program that meets the investment objectives of the investors and meets the financial needs of prospective homeowners. Guidelines to be developed are the mortgage structures, how equity is to be shared and for how long, what happens at resale, when is resale allowed, yield to the investors and how is that yield paid, what happens in an inflationary or deflationary economic cycle, how long must an individual remain in the home, how long will the home remain in the specialized program, how will the program be managed and monitored, who is the target market and how is it defined, how can this program work with the other institutional programs, how does such a program impact private property rights, how does such a program impact an individual's ability to build wealth with the equity in his home, and how does this private program interface with the Town's affordable housing needs and programs.

One approach currently under discussion is that a part of the purchase price would be paid by the investor group and at time of resale the portion of the purchase price paid by the investor would be repaid plus some percentage of the increase in value at the time of sale. Additionally, a private investor might provide a low or deferred interest loan and then participate in the increased equity at time of sale. Neither of these approaches is totally original, but a private sector approach will provide more flexibility in meeting market fluctuations.

As we develop the various financing programs, we will provide the Town with the information and structures as we develop them. We anticipate that there should be substantial potential to both interface and integrate our programs with the Town's.

As discussed at the February 28, 2008 Housing Advisory Commission meeting, Workforce Housing Coalition, LLC agrees to make four units in the Flowing Wells subdivision affordable to families at 130% or less of area median income (currently \$59,410 for a family of four) and that the private shared equity documents we develop be provided to the Housing Advisory Commission in a timely manner with periodic updates. Further, that the Housing Advisory Commission and the Town of Payson have our permission to make use of these documents to further their purpose of encouraging affordable and workforce housing.

  
G. Michael Horton  
Managing Member  
Workforce Housing Coalition, LLC

2008-003263 MISC Page: 10 of 10  
03/07/2008 10:54:38 AM Receipt #: 08-0537  
Rec Fee: \$18.00 Town Of Payson  
Gila County, Az. Sadie Tomerlin Dalton, Recorder



Addendum To: MAR 06 2008 G-2