

ORDINANCE 749

AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, REZONING CERTAIN REAL PROPERTY GENERALLY LOCATED AT 801 NORTH GRAHAM RANCH ROAD, GILA COUNTY ASSESSOR'S PARCEL NUMBER 302-23-036T, FROM R1-175 TO R1-90 (THE MELOCHE PROPERTY).

WHEREAS, the Town of Payson from time to time amends its Official Zoning Map, Ordinance 466, and its Official Zoning Code for the purpose of accommodating zoning changes; and

WHEREAS, Application P-349-08 to amend the Official Zoning Map, Ordinance 466, and the Official Zoning Code has been made by the Meloche Family Trust, property owner (Donald and Charlotte Meloche representatives), to the Planning and Zoning Commission and the Town Council; and

WHEREAS, the Planning and Zoning Commission held a public hearing on October 13, 2008, considered the issues, and made recommendation on Application P-349-08 to the Town Council; and

WHEREAS, the Town Council held a public hearing on November 6, 2008, in regard to said Application P-349-08 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. The Official Zoning Map, Ordinance 466, and the Zoning Code for the Town of Payson be and each is hereby amended to establish a zoning district of R1-90 for that portion of the certain real property located at 801 North Graham Ranch Road, Gila County Assessor's Parcel Number 302-23-036T, 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 P-349-08 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 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 the current Town of Payson water requirements at the time of construction.

*publish 2 times  
R 160012  
12/12/08-12-19-08  
1st Reading + Public  
Hearing*

NOV 06 2008 G.5

*Second Reading & Public Hearing  
04, 73*

*cc. engineer  
American legal*

NOV 20 2008 G.4

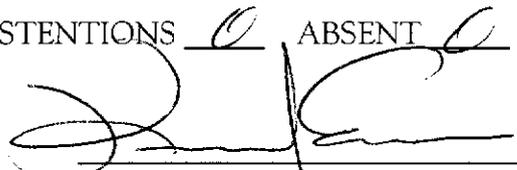
- B. The development shall be in substantial conformance with the Record of Survey - Minor Land Division map dated August 2008 and shall not exceed a total of 3 parcels.
- C. A street name, acceptable to the Town of Payson, shall be depicted on the Record of Survey - Minor Land Division map.
- D. If further development occurs involving the existing roadway, the applicant for the subdivision shall be required to dedicate a full width roadway to meet existing code requirements at that time.
- E. The applicant shall make an affordable housing contribution as described in Exhibit B attached hereto.
- F. If any conditions listed in this Section 3 are not met or the applicant has not recorded a Record of Survey - Minor Land Division splitting the Property into three parcels within two (2) years of the approval date of the zoning change, then the R1-90 rezoning may revert to the original R1-175 zoning, pending Council action.

Section 4. This Ordinance 749 shall be treated as having been adopted and the 30-day referendum period established by 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 Meloche Family Trust 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 749. If this waiver instrument is not recorded within 15 calendar days after the motion approving this Ordinance 749, this Ordinance 749 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 20<sup>th</sup> day of November 2008, by the following vote:

AYES 7 NOES 0 ABSTENTIONS 0 ABSENT 0

  
 \_\_\_\_\_  
 Kenny J. Evans, 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 749**

The Meloche Family Trust, the Owner, owns the land referred to in this instrument as "the Property," which is particularly described in Exhibit A-1 attached hereto and also in Exhibit A attached to Payson Ordinance 749 \* (the Rezoning Ordinance) and attached hereto and incorporated by this reference in this instrument. The Property is the subject of rezoning application number P-349-08, filed on behalf of the Owner, which the Payson Town Council approved with conditions on November 20, 2008 by the adoption of the Rezoning Ordinance.

The Owner on behalf of 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 waive 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 3 day of DECEMBER, 2008.

The Meloche Family Trust owners of the Property,

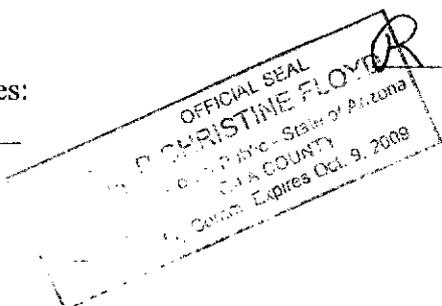
By Donald L. Meloche  
Donald L. Meloche, Trustee

\* See Exhibit "A-2"

STATE OF ARIZONA )  
 ) ss.  
County of Gila )

The foregoing Consent and Waiver was acknowledged before me this 3 day of DECEMBER, 2008, by Donald L. Meloche, the Trustee of The Meloche Family Trust, an Arizona Trust, for and on behalf of said Trust.

My Commission Expires:  
Oct. 9, 2009



Christine Floyd  
Notary Public

NON-CONFORMING - DUE TO TYPE SIZE,  
CLARITY AND/OR MARGINS THE  
RECORDER CANNOT GUARANTEE THIS  
PAGE WILL COPY SATISFACTORILY FROM



EXHIBIT A-1

NEW PARCEL 'J' OF RECORD OF SURVEY – LOT CONSOLIDATION MAP NO. 2386 GILA  
COUNTY RECORDS; SW4 SEC 35 T11N R10E OF THE GILA AND SALT RIVER MERIDIAN,  
TOWN OF PAYSON, GILA COUTY, ARIZONA  
7.22 AC M/L  
(COMB PCLS ONE AND TWO ROS 1042)



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*public hearing 2/11/09  
R. 16 04 11  
12/15/08 12:11:04  
1st Reading Public Hearing  
Hawman*

NOV 06 2008 *G.S.*

*cc. engineers  
S. Tomerlin Dalton*

NOV 20 2008 *G.4*

*Second Reading or Public Hearing*



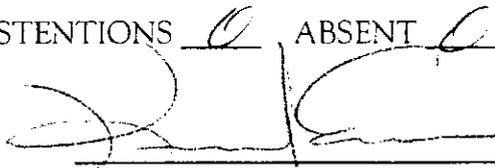
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\_\_\_\_\_  
Kenny J. Evans, Mayor



ATTEST:

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Silvia Smith, Town Clerk

  
\_\_\_\_\_  
Samuel I. Streichman, Town Attorney



EXHIBIT A TO ORDINANCE 749

PCLS 1,2 ROS 1042; SW4 SEC 35 T11N R10E

7.22 AC M/L (COMB PCLS 302-23-036J,K)

EXHIBIT B TO ORDINANCE 749

PROPOSAL FOR AFFORDABLE/ WORKFORCE HOUSING CONTRIBUTION

Re: 801 No Graham Ranch Road, Payson, AZ – 7.22 acre lot split into 3 parcels

I, Donald L Meloche and Charlotte M Meloche, hereby submit the following proposal for affordable/ workforce housing contribution required by the Town of Payson.

That upon development of each of the two (2) undeveloped lots, \$1000 per lot shall be paid to the said contribution listed above, upon the occurrence of development of each lot.

*issuance of building permit*

That upon development of each of the two (2) undeveloped lots, if we are the developers, we will use local labor and materials whenever possible, as we have done in the past.

October 13, 2008  
At Payson, Arizona (Gila County)

  
Donald L Meloche

  
Charlotte M Meloche

RECEIVED

OCT 18 2008

COUNTY CLERK

