

ORDINANCE 15-08

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE TOWN OF FOUNTAIN HILLS, ARIZONA, AMENDING THE TOWN OF FOUNTAIN HILLS OFFICIAL ZONING DISTRICT MAP FOR APPROXIMATELY 3.3 ACRES GENERALLY LOCATED AT THE NORTHWEST CORNER OF VERDE RIVER DRIVE AND PAUL NORDIN PARKWAY AS SHOWN IN CASE NO. Z2015-05, FROM TCCD (TOWN CENTER COMMERCIAL DISTRICT) TO MORNINGSTAR PAD.

WHEREAS, the Mayor and Council of the Town of Fountain Hills (the “Town Council”) desires to amend the Town of Fountain Hills Official Zoning District Map (the “Zoning Map”) pursuant to ARIZ. REV. STAT. § 9-462.04, to change the zoning description for a 3.3 acre parcel of real property from TCCD (Town Center Commercial District) to Morningstar PAD (the “Zoning District Map Amendment”); and

WHEREAS, the Zoning District Map Amendment proposed by this ordinance is consistent with the Fountain Hills General Plan 2010, as amended; and

WHEREAS, pursuant to ARIZ. REV. STAT. § 9-462.04 the Town of Fountain Hills Planning and Zoning Commission (the “Commission”) (i) held a public hearing on the proposed Zoning District Map Amendment on June 11, 2015, and (ii) provided notice of such hearing by publication in the *Fountain Hills Times* on May 27, 2015, and June 3, 2015; and

WHEREAS, pursuant to ARIZ. REV. STAT. § 9-462.04 the Town Council (i) held a public hearing on the proposed Zoning District Map Amendment on June 18, 2015, and (ii) provided notice of such hearing by publication in the *Fountain Hills Times* on May 27, 2015, and June 3, 2015; and

WHEREAS, the Commission recommended approval of this Ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE TOWN OF FOUNTAIN HILLS as follows:

SECTION 1. The recitals above are hereby incorporated as if fully set forth herein.

SECTION 2. The 3.3 acre parcel of real property generally located at the northwest corner of Verde River Drive and Paul Nordin Parkway, as more particularly described and depicted on Exhibit A, attached hereto and incorporated herein by reference, is hereby rezoned from TCCD (Town Center Commercial District) to Morningstar PAD, subject to (i) the Town’s adopted codes, requirements, standards and regulations for property zoned TCCD, except as specifically modified by the Morningstar PAD document file stamped 2402109.2, as included in case no. Z2015-05 and (ii) the time condition set forth in Section 3 below.

SECTION 3. Approval of the Morningstar PAD zoning is conditioned on development of the project commencing within three years of the effective date of this Ordinance, subject to the following:

1. Prior to the expiration of the three-year time condition, the property owner or authorized representative may submit an application for an extension to the Town. Submittal of an application for extension of the three-year time condition does not toll the running of the time condition. Should the three-year time condition expire between the submittal of an application for a time extension and the public hearing on the requested extension, the Morningstar PAD shall be subject to reversion as set forth below. Upon receipt of a request for extension, the Town's Zoning Administrator shall submit the request to the Town Council for consideration at a public hearing held as set forth below.
2. The Town Council shall, after notices via certified mail to the property owner and authorized representative have been provided at least 15 days prior to the date of the scheduled hearing, hold a public hearing on the extension request. The Town Council may, in its sole discretion, grant an extension of the time condition, subject to the limitation on the number of extensions set forth below. If the public hearing is held after expiration of the time condition, the Town Council may also, at that public hearing, take action to revert the zoning on the property to its prior zoning classification.
3. In the event the project has not commenced within the three-year time period and no request for time extension has been received as provided above, the Zoning Administrator may submit the Morningstar PAD to the Town Council for consideration of reversion, pursuant to the hearing procedure set forth below.
4. The Zoning Administrator shall notify the property owner and authorized representative by certified mail of the Town Council's intention to hold a hearing to determine compliance with the three-year time condition, and to revert the zoning on the property to its former classification if the condition is determined by the Town Council to have not been met. All such notices shall be made at least 15 days prior to the date of the scheduled hearing. The Town Council may, in its sole discretion, either grant an extension of the time condition, subject to the limitation on the number of extensions set forth below, or revert the zoning on the property to its prior zoning classification.
5. The Town Council may grant up to four one-year extensions of the time condition.
6. Following the commencement of the project, the Zoning Administrator shall monitor the project to ensure it continues to completion. Upon the Zoning Administrator's initial determination that the project is not being actively pursued, no further review or approval of any project site plan or plat shall occur until it is determined that good cause exists for delay in the construction of the project.

Should the project fail to proceed, a public hearing shall be held by the Town Council to determine the cause of the delay. At the public hearing on the matter, if the Town Council determines that there is not good cause for the delay, it may impose additional conditions on the Morningstar PAD to ensure compliance. If such additional conditions are not met, the Zoning Administrator may set the matter for public hearing, according to the process set forth in subsection above, on a possible reversion of the Morningstar PAD zoning. If the Town Council determines that good cause exists, it may amend the Morningstar PAD development schedule.

7. For purposes of this Section, the terms “commence,” “commencing” and “commencement” shall mean physical vertical construction activity in accordance with a valid building permit issued by the Town.

SECTION 4. If any provision of this Ordinance is for any reason held by any court of competent jurisdiction to be unenforceable, such provision or portion hereof shall be deemed separate, distinct and independent of all other provisions and such holding shall not affect the validity of the remaining portions of this Ordinance.

SECTION 5. The Mayor, the Town Manager, the Town Clerk and the Town Attorney are hereby authorized and directed to take all steps necessary to carry out the purpose and intent of this Ordinance.

PASSED AND ADOPTED by the Mayor and Council of the Town of Fountain Hills, June 18, 2015.

FOR THE TOWN OF FOUNTAIN HILLS:

ATTESTED TO:


Linda M. Kavanagh, Mayor


Bevelyn J. Bender, Town Clerk

REVIEWED BY:

APPROVED AS TO FORM:


Kenneth W. Buchanan, Town Manager


Andrew J. McGuire, Town Attorney

EXHIBIT A
TO
ORDINANCE No. 15-08

(Legal Description and Map)

See following pages.

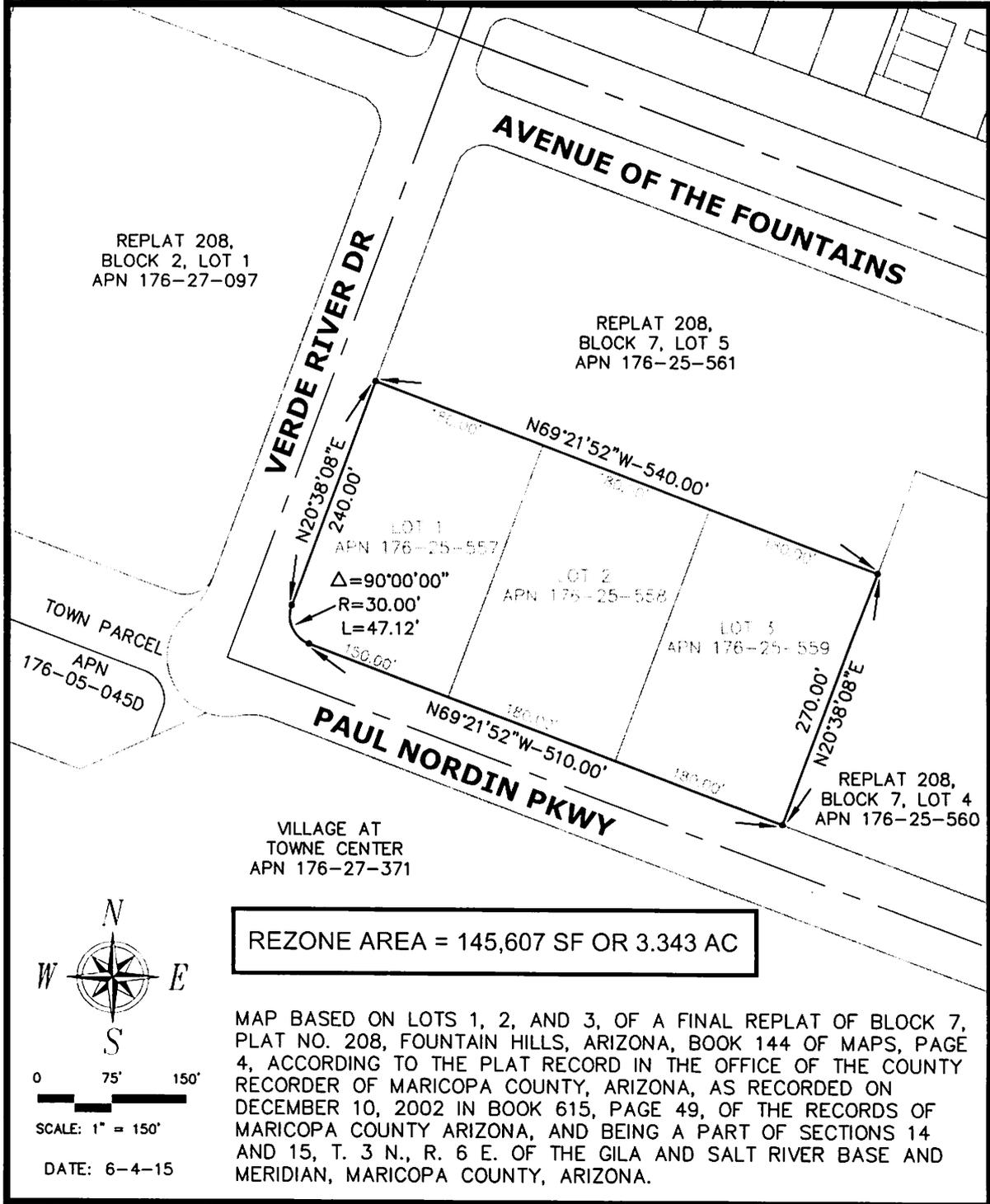
LEGAL DESCRIPTION

LOTS 1, 2 AND 3 OF A FINAL REPLAT OF BLOCK 7, PLAT 208

Lots 1, 2, and 3, of a Final Replat of Block 7, Plat No. 208, Fountain Hills, Arizona, Book 144 of Maps, Page 4, according to the Plat of record in the office of the County Recorder of Maricopa County, Arizona, as recorded on December 10, 2002 in Book 615, Page 49, of the records of Maricopa County Arizona, and being a part of Sections 14 and 15, Township 3 North, Range 6 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona.

TOWN OF FOUNTAIN HILLS REZONING (TCCD TO MORNINGSTAR PAD)

LOTS 1,2 &3 OF A FINAL REPLAT OF BLOCK 7, PLAT 208



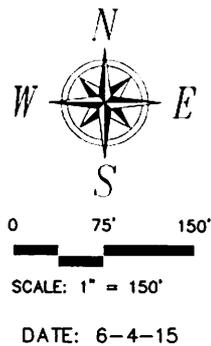
REPLAT 208,
BLOCK 2, LOT 1
APN 176-27-097

REPLAT 208,
BLOCK 7, LOT 5
APN 176-25-561

TOWN PARCEL
APN
176-05-045D

VILLAGE AT
TOWNE CENTER
APN 176-27-371

REZONE AREA = 145,607 SF OR 3.343 AC



MAP BASED ON LOTS 1, 2, AND 3, OF A FINAL REPLAT OF BLOCK 7, PLAT NO. 208, FOUNTAIN HILLS, ARIZONA, BOOK 144 OF MAPS, PAGE 4, ACCORDING TO THE PLAT RECORD IN THE OFFICE OF THE COUNTY RECORDER OF MARICOPA COUNTY, ARIZONA, AS RECORDED ON DECEMBER 10, 2002 IN BOOK 615, PAGE 49, OF THE RECORDS OF MARICOPA COUNTY ARIZONA, AND BEING A PART OF SECTIONS 14 AND 15, T. 3 N., R. 6 E. OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA.

DATE: 6-4-15