

ORDINANCE NO. 18-03

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 5.74 ACRES GENERALLY LOCATED AT THE NORTHWEST CORNER OF SAGUARO BOULEVARD AND TREVINO DRIVE AS SHOWN IN CASE NO. Z2017-14, FROM HEMINGWAY PAD TO FOUNTAIN HILLS SENIOR LIVING 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 5.74 acre parcel of real property from Hemingway PAD to Fountain Hills Senior Living 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, all due and proper notices of public hearings on the Zoning District Map Amendment held before the Town of Fountain Hills Planning and Zoning Commission (the "Commission") and the Town Council were given in the time, form, substance and manner provided by ARIZ. REV. STAT. § 9-462.04; and

WHEREAS, the Commission held a public hearing on March 24, 2018 on the Zoning District Map Amendment, after which the Commission recommended denial;

WHEREAS, the Town Council held an additional public hearing regarding the Zoning District Map Amendment on June 5, 2018.

WHEREAS, the Fountain Hills Senior Living Planned Area Development (PAD) was declared a public record by Resolution No. 2018-04 and is hereby incorporated by reference;

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 5.74 acre parcel of real property generally located at the northwest corner of Saguaro Boulevard and Trevino Drive as shown in case no. Z2017-14, as more particularly described and depicted on Exhibit A, attached hereto and incorporated herein by reference, is hereby rezoned from Hemingway PAD to Fountain Hills Senior Living PAD, subject to (i) the Town's adopted codes,

*DENIED
6-5-18*

requirements, standards and regulations, except as specifically modified in the Fountain Hills Senior Living PAD and (ii) the time condition set forth in Section 3 below.

SECTION 3. Approval of the Fountain Hills Senior Living PAD zoning is conditioned on development of the project commencing within three years of the effective date of this Ordinance.

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. A 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 Fountain Hills Senior Living 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 Fountain Hills Senior Living 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 Fountain Hills Senior Living 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 Fountain Hills Senior Living PAD zoning. If the Town Council determines that good cause exists, it may amend the Fountain Hills Senior Living 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 5, 2018.

FOR THE TOWN OF FOUNTAIN HILLS:

ATTESTED TO:

Linda M. Kavanagh, Mayor

Bevelyn J. Bender, Town Clerk

REVIEWED BY:

APPROVED AS TO FORM:

Grady E. Miller, Town Manager

Mitesh Patel, Interim Town Attorney
Dickinson Wright PLLC

EXHIBIT A
TO
ORDINANCE No. 18-03

[Legal Description and Map]
See following pages.

Legal Description:

That portion of the South half of the Northwest quarter and the North half of the Southwest quarter of Section 26, Township 3 North, Range 6 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, more particularly described as follows:

Commencing at the monument line intersection of Shea Boulevard and Saguaro Boulevard from which the West quarter corner of said Section 26 bears North 58 degrees 04 minutes 18 seconds West, a distance of 1388.31 feet and also from which a Maricopa County Highway Department Brass Cap Monument for P.O.C. 243-83.30, 22 feet RT. Bears North 50 degrees 10 minutes 58 seconds West, a distance of 724.56 feet;

Thence North 42 degrees 50 minutes 00 seconds East along the centerline of Saguaro Boulevard, a distance of 775.00 feet;

Thence North 47 degrees 10 minutes 00 seconds West, a distance of 55.00 feet to the Northwesterly right-of-way line and the POINT OF BEGINNING, said point also being the Southeast corner of lot 6, Block 4, FOUNTAIN HILLS FINAL PLAT NO 403-B;

Thence South 42 degrees 50 minutes 00 seconds West along said right-of-way line, a distance of 330.45 feet to the beginning of a tangent curve being concave Northerly and having a radius of 20.00 feet;

Thence departing from said right-of-way and along the arc of said curve through a central angle of 87 degrees 25 minutes 23 seconds and an arc length of 30.52 feet to a point of reverse curvature, said point being on the Northeasterly right-of-way of a road being 50.00 feet in width and being more commonly known as Trevino Drive, said point also being at the beginning of a curve being concave Southerly and having a radius of 425.00 feet and a radial line passing through said point bears North 40 degrees 15 minutes 23 seconds East;

Thence along said right-of-way and along the arc of said curve through a central angle of 44 degrees 49 minutes 23 seconds and an arc length of 332.48 feet;

Thence South 85 degrees 26 minutes 00 seconds West, a distance of 111.13 feet to the beginning of a tangent curve being concave Northerly and having a radius of 175.00 feet;

Thence along the arc of said curve through a central angle of 42 degrees 51 minutes 31 seconds, and an arc length of 130.90 feet to a point of reverse curvature, a radial line passing through last said curve bears South 38 degrees 17 minutes 31 seconds West, said reverse curve being concave Southerly and having a radius of 7047.49 feet;

Thence along the arc of said curve through a central angle of 00 degrees 58 minutes 12 seconds and an arc length of 119.30 feet to a point of reverse curvature, a radial line passing through said point bears North 37 degrees 19 minutes 19 seconds East, said reverse curve being concave Easterly and having a radius of 20.00 feet;

Thence along the arc of said curve through a central angle of 89 degrees 35 minutes 41 seconds and an arc length of 31.27 feet to a point on the Easterly right-of-way line of Burkemo Drive, said point also being on the Easterly line of said FOUNTAIN HILLS FINAL PLAT NO. 403-B, North 36 degrees 55 minutes 00 seconds East, a distance of 69.89 feet from the Southeasterly corner of said FOUNTAIN HILLS FINAL PLAT NO. 403-B;

Thence North 36 degrees 55 minutes 00 seconds East, a distance of 260.77 feet to the beginning of a tangent curve being concave Westerly and having a radius of 230.00 feet;

Thence along the arc of said curve through a central angle of 15 degrees 21 minutes 52 seconds and an arc length of 61.68 feet to a point of cusp with a curve concave to the Northeast and having a radius of 20.00 feet a radial line passing through said point bears North 68 degrees 26 minutes 52 seconds West;

Thence Southeasterly along the arc of said curve through a central angle of 81 degrees 57 minutes 08 seconds and an arc length of 28.61 feet to a point on the Southerly line of said FOUNTAIN HILLS FINAL PLAT NO. 403-B;

Thence continuing along said line South 60 degrees 24 minutes 00 seconds East, a distance of 12.75 feet to the beginning of a tangent curve being concave Northeasterly and having a radius of 185.00 feet;

Thence along the arc of said curve through a central angle of 28 degrees 20 minutes 00 seconds and an arc length of 91.48 feet;

Thence South 88 degrees 44 minutes 00 seconds East, a distance of 99.71 feet to the beginning of a tangent curve being concave Southerly and having a radius of 715.00 feet;

Thence along the arc of said curve through a central angle of 41 degrees 34 minutes 00 seconds and an arc length of 518.72 feet to a point of reverse curvature, said curve being concave Northerly and having a radius of 20.00 feet, a radial line passing through said point bears South 42 degrees 50 minutes 00 seconds West;

Thence along the arc of said curve through a central angle of 90 degrees 00 minutes 00 seconds and an arc length of 31.42 feet to the POINT OF BEGINNING.

Town of Fountain Hills

Rezoning (C-1 to Fountain Hills Senior Living PAD)

MCR 20110399571

