

TOWN OF PINETOP-LAKESIDE

ORDINANCE NO. 09-333

AN ORDINANCE OF THE TOWN OF PINETOP-LAKESIDE, ARIZONA, AMENDING THE OFFICIAL ZONING MAP OF THE TOWN TO REZONE APN(S) 311-47-132B, D, F AND G, 311-47-228D, 311-48-025A, AND A PORTION OF APN 311-47-091 AS IDENTIFIED IN THE LEGAL DESCRIPTION, LOCATED SOUTHWEST OF WHITE MOUNTAIN BLVD. AND SWEETWATER RANCH ROAD, NAVAJO COUNTY, ARIZONA, FROM R-LOW AND R1-4 TO PLANNED UNIT DEVELOPMENT (PUD).

WHEREAS, the Planning and Zoning Commission held a public hearing on the proposed amendment May 20, 2009, and

WHEREAS, the Planning and Zoning Commission has by official action made a recommendation for approval of the Zone Change to the Town Council, and

WHEREAS, the Town Council held a public hearing on September 17, 2009 and has considered comments regarding this proposed rezoning, and

WHEREAS, the Town Council has determined that the rezoning of the subject property is appropriate and not detrimental to the public health, safety and welfare.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Town Council of the Town of Pinetop-Lakeside as follows:

Section 1: The following described property is hereby rezoned from R-Low and R1-4 to Planned Unit Development (PUD), as per Chapter 17.72 of the Pinetop-Lakeside Town Code. The parcels are situated within a portion of Section 5, Township 8 North, Range 23 East, Gila and Salt River Meridian, Navajo County, Arizona, APN(s) 311-47-132B, B, D, F and G, 311-47-228D, 311-48-025A, and the portion of APN 311-47-0901 as identified in the legal description. See the Legal Description of the properties, Exhibit "A," and the Map showing the properties, Exhibit "B," both attached and incorporated herein by this reference.

Section 2: The PUD zoning amendment is conditioned upon submittal and Planning & Zoning Commission approval of a preliminary plat, which complies with all subdivision and PUD standards within one (1) year of the hearing date. If a preliminary plat is not submitted and no extension of time has been granted the PUD zoning may revert back to R-Low and R1-4 respectively.

Section 3: The PUD zoning amendment is conditioned upon submittal by the Developer/Owner to the Town of a signed "Agreement to Waive Rights and Remedies under Arizona Revised Statutes Section 12-1134" in a form substantially similar to the Agreement attached as Exhibit "C."

Section 4: That the official Zoning Map of the Town of Pinetop-Lakeside is hereby amended and approved and shall reflect that these properties be included from the effective date of this Ordinance as Planned Unit Development (PUD) Zoning designation in accordance with this Ordinance, three (3) copies of which shall be available for public review and inspection in the Office of the Clerk, Town of Pinetop-Lakeside. See Exhibit "D," attached and incorporated herein by this reference.

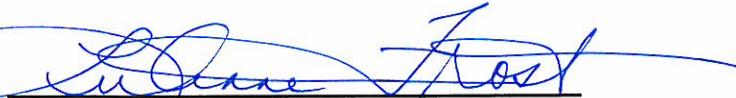
PASSED AND ADOPTED by the Mayor and Town Council of the Town of Pinetop-Lakeside, Arizona, this 17th day of September 2009, by a vote of 6 ayes, 1 nays.

TOWN OF PINETOP-LAKESIDE



LUKE S. SMITH, Mayor

ATTEST:



LU ANNE FROST, Town Clerk

APPROVED AS TO FORM:



ROSEMARY H. ROSALES, Town Attorney

LEGAL DESCRIPTION OF THE PROPERTIES TO BE REZONED

A Parcel of land lying and being situated within a portion of Section 5, Township 8 North, Range 23 East, Gila and Salt River Meridian, Navajo County, Arizona, and being more particularly described as follows:

Commencing at a "T" Post marked "LS 11758" accepted as the Northwest corner of Section 5 and POINT OF BEGINNING;

Thence South 00°06'24" West a distance of 328.49 feet;

Thence North 89°58'03" East a distance of 499.95 feet to a Rebar with cap stamped "RLS 13013";

Thence South 00°10'20" West a distance of 755.98 feet to a Rebar with cap stamped "RLS 13013";

Thence North 89°58'42" West a distance of 500.08 feet to a 5/8" Rebar;

Thence South 00°11'37" West a distance of 564.85 feet to a "T" Post marked "LS 11758";

Thence South 89°50'12" East a distance of 1804.41 feet to a 5/8" Rebar with cap stamped "SGS RLS 28234";

Thence South 00°26'27" West a distance of 331.25 feet to a 5/8" Rebar with cap stamped "SGS RLS 28234";

Thence South 89°58'59" East a distance of 526.79 feet to a 5/8" Rebar;

Thence North 00°25'12" East a distance of 666.53 feet to a 5/8" Rebar with cap stamped "SGS RLS 28234";

Thence South 89°49'16" West a distance of 679.51 feet to a Rebar with cap stamped "PE 5047";

Thence North 00°07'53" West a distance of 806.66 feet to a Rebar with cap stamped "PE 5047";

Thence North 89°46'23" East a distance of 49.98 feet to a "T" Post marked "LS 11758";

Thence North 00°02'46" West a distance of 211.55 feet to a Rebar with cap stamped "PE 8418";

Thence North 89°48'00" West a distance of 49.87 feet to a Rebar with cap stamped "PE 8418";

Thence South 00°04'56" West a distance of 25.05 feet;

Thence North 89°49'07" West a distance of 768.73 feet;

Thence North 00°01'17" West a distance of 323.20 feet;

Thence North 89°52'53" West a distance of 879.10 feet to the POINT OF BEGINNING.

The above parcel of land contains 57.58 acres more or less.

EXHIBIT "A"

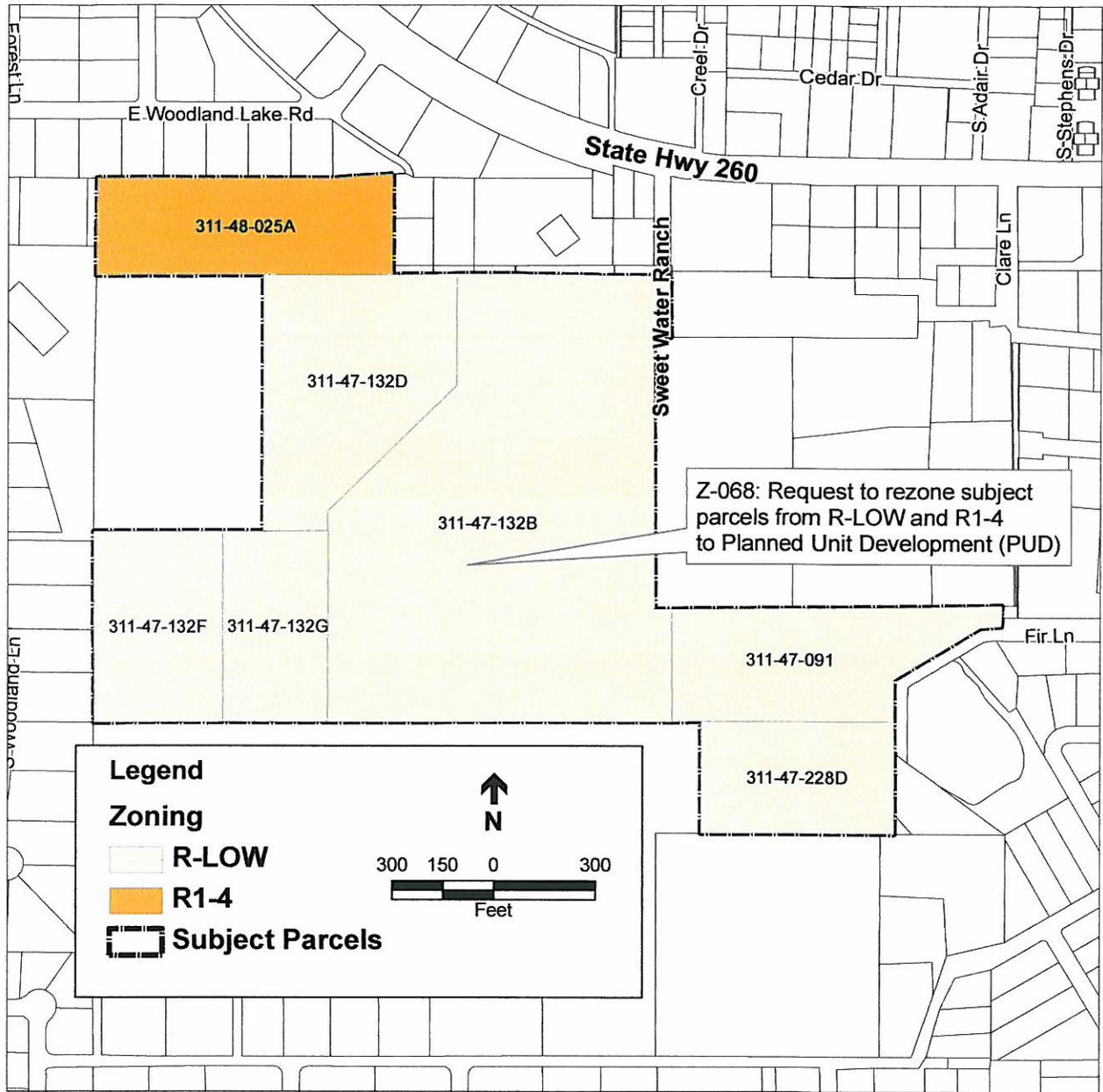


EXHIBIT "B"

When Recorded Mail to:
Lu Anne Frost, Town Clerk
Town of Pinetop-Lakeside
1360 N. Niels Hansen Lane
Lakeside, Arizona 85929

AGREEMENT TO WAIVE RIGHTS AND REMEDIES UNDER ARIZONA REVISED STATUTES §12-1134

This Agreement to Waive Rights and Remedies under Arizona Revised Statutes § 12-1134 (hereinafter, the "Agreement") is made between _____ (hereinafter, the "Owner") and the Town of Pinetop-Lakeside, an Arizona municipal corporation (hereinafter, the "Town"), Arizona, regarding the following property located at _____ and more fully described by the legal description, attached as Exhibit "A (hereinafter, the "Property").

The Owner agrees and consents to all of the conditions and stipulations imposed by the Town Council regarding the Zoning Classification for the Property contained in the Owner's [Zoning Change/Use Permit/Preliminary Plat submittal/General Plan Amendment/Variance Request/Final Site Plan Submittal/Subdivision/Ordinance] referenced in [**Ordinance Number** _____, **Application Number** _____, **Permit Number** _____] (hereinafter, the "Zoning Classification") acted upon by the Town Council.

By signing this Agreement, Owner acknowledges that Owner waives any right to claim diminution in value or pursue a claim for just compensation for diminution in value under Arizona Revised Statutes § 12-1134 related to the Zoning Classification for the Property.

This Agreement, any exhibits attached hereto, and any addenda, constitute the entire understanding and agreement of the Owner and the Town and shall supersede all prior Agreements or understandings between the Owner and Town regarding the Property or the Zoning Classification of the Property. This Agreement may not be modified or amended except by written agreement, approved and signed by the Owner and the Town.

This Agreement shall be interpreted under the laws of the State of Arizona. Venue for any lawsuits or claims arising from or related to this Agreement shall be brought in Navajo County, Arizona. The Parties may agree to resolving disputes by mediation, arbitration, or by other alternate dispute resolution methods.

Within ten (10) days after the execution of this Agreement, the Town Clerk shall file the original Agreement in the Official Records of the Navajo County Recorder's Office, Navajo County, Arizona.

This Agreement runs with the land and is binding upon all present and future owners of the Property.

This Agreement is subject to the cancellation provisions of Arizona Revised Statutes § 38-511.

The Owner warrants and represents that Owner is the Sole Owner of fee title to the Property, and that no other person has an ownership interest in the Property. The person(s) who sign on behalf of Owner personally warrants and guarantees to the Town that he or she has the legal power to bind Owner to this Agreement.

DATED and SIGNED this _____ day of _____, 200__.

Town of Pinetop-Lakeside

[Owner]:

Luke S. Smith, Mayor

ATTEST:

Lu Anne Frost, Town Clerk

APPROVED AS TO FORM:

Rosemary H. Rosales, Town Attorney

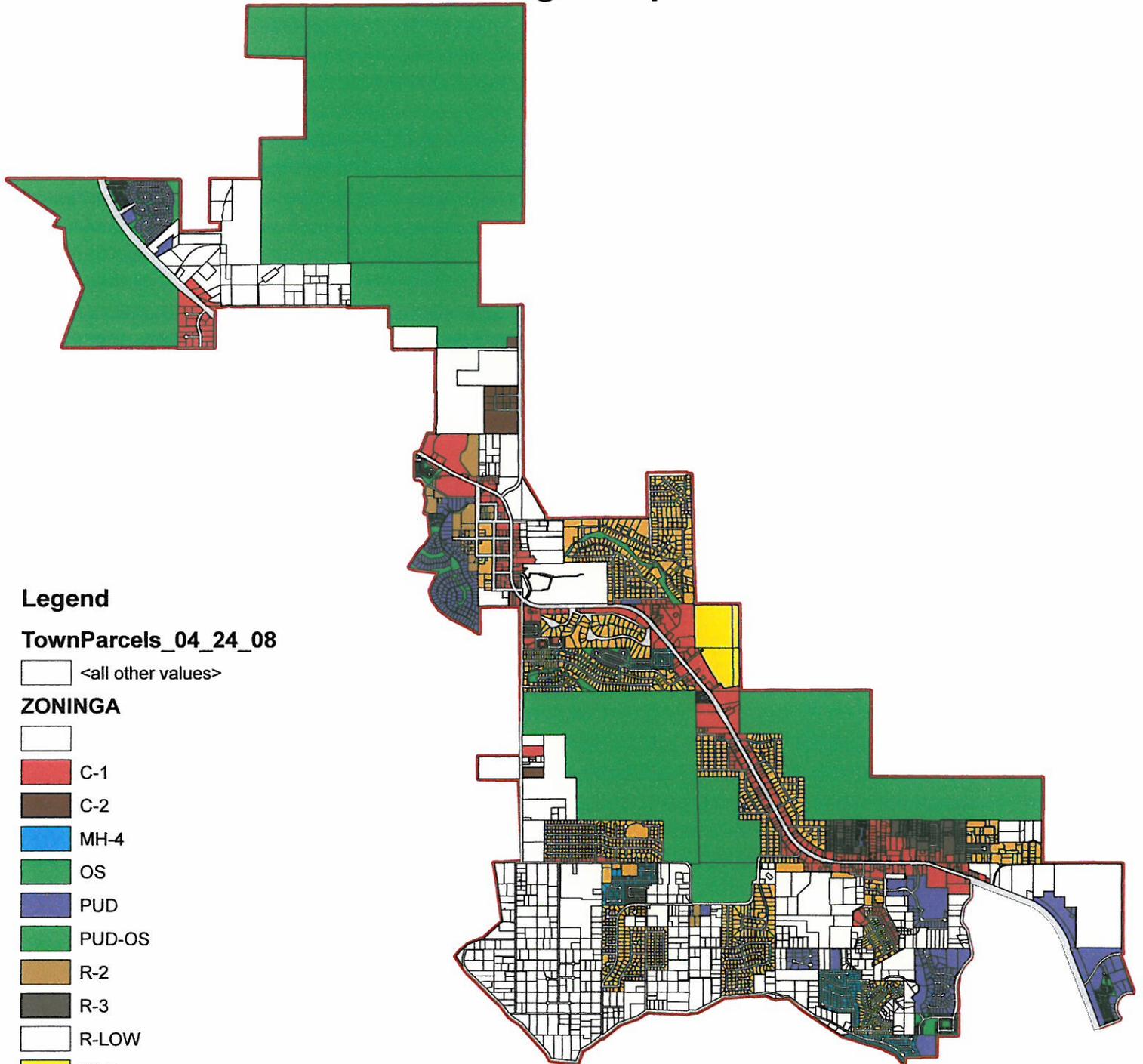
State of Arizona)
) ss
County of Navajo)

SUBSCRIBED AND SWORN to before me this _____ day of _____
_____, 200__ by _____ and _____
who are the Owner(s) or the authorized representatives of the Owner(s), and who are either known
to me or have shown satisfactory identification.

Notary Public

My commission expires:

Town of Pinetop-Lakeside Zoning Map



Legend

TownParcels_04_24_08

<all other values>

ZONING

- <all other values>
- C-1
- C-2
- MH-4
- OS
- PUD
- PUD-OS
- R-2
- R-3
- R-LOW
- R1-2
- R1-4
- STR
- PL_Streets_2008
- 2008_-boundary

EXHIBIT "D"

