

## MARANA ORDINANCE NO. 2017.021

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RELATING TO DEVELOPMENT; APPROVING A REZONING OF APPROXIMATELY 79.1 ACRES OF LAND CONSISTING OF 37.79 ACRES FROM 'R-36' RESIDENTIAL TO 'R-6' RESIDENTIAL, 22.46 ACRES FROM 'C' LARGE LOT ZONE TO 'NC' NEIGHBORHOOD COMMERCIAL, AND 18.85 ACRES FROM 'C' LARGE LOT ZONE TO 'R-6' RESIDENTIAL, GENERALLY LOCATED NEAR THE SOUTHEAST CORNER OF TWIN PEAKS ROAD AND TANGERINE ROAD

WHEREAS The Planning Center represents nine land owners (collectively the "Property Owners") who together own approximately 79.1 acres of land generally located near the southeast corner of Twin Peaks Road and Tangerine Road, in Section 1, Township 12 South, Range 12 East, described and depicted on Exhibit "A" attached to and incorporated in this ordinance by this reference (the "Rezoning Area"); and

WHEREAS the Property Owners have submitted an application to rezone 37.79 acres of the Rezoning Area from 'R-36' Residential to 'R-6' Residential, 22.46 acres of the Rezoning Area from 'C' Large Lot Zone to 'NC' Neighborhood Commercial, and 18.85 acres of the Rezoning Area from 'C' Large Lot Zone to 'R-36' Residential (all of which is collectively referred to as "this Rezoning"); and

WHEREAS the Marana Planning Commission held a public hearing on this Rezoning on September 27, 2017, and voted four to zero (with three Commissioners absent) to recommend that the Town Council approve this Rezoning, subject to the recommended conditions; and

WHEREAS the Marana Town Council held a public hearing on this Rezoning on October 17, 2017 and determined that this Rezoning should be approved.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Town of Marana, Arizona, as follows:

**Section 1.** The zoning of the Rezoning Area is hereby changed as indicated in the depiction found on the first page of Exhibit A—37.79 acres of the Rezoning Area is hereby changed from 'R-36' Residential to 'R-6' Residential, 22.46 acres of the Rezoning Area is hereby changed from 'C' Large Lot Zone to 'NC' Neighborhood Commercial, and 18.85 acres of the Rezoning Area is hereby changed from 'C' Large Lot Zone to 'R-36' Residential.

**Section 2.** This Rezoning is subject to the following conditions, the violation of which shall be treated in the same manner as a violation of the Town of Marana Land Development Code (but which shall not cause a reversion of this Rezoning), and which shall be binding on the Property Owners, and their successors in interest (all of whom are collectively included in the term "Property Owners" in the following conditions):

1. Compliance with all applicable provisions of the Town's codes and ordinances current at the time of any subsequent development including, but not limited to, requirements for public improvements and payment of application fees and applicable development impact fees.
2. Any preliminary plat or development plan for any portion of the Rezoning Area shall be in general conformance with the tentative development plan presented to and approved by the Town Council as part of this Rezoning.
3. A master drainage study must be submitted by the Property Owners and accepted by the Town Engineer prior to Town approval of a preliminary plat or development plan for any portion of the Rezoning Area.
4. A detailed traffic impact analysis must be submitted by the Property Owners and accepted by Town staff prior to approval of a preliminary plat or development plan for any portion of the Rezoning Area.
5. A water infrastructure and phasing plan (WIP) must be submitted by the Property Owners and accepted by the Marana Water Department (the "water provider") prior to approval of a preliminary plat for any portion of the Rezoning Area. The WIP shall identify all on-site and off-site water facilities needed to serve the proposed development. The WIP shall include all information required by the water provider, such as (but not limited to) analysis of water use and fire flow requirements, and well source, reservoir, and booster station infrastructure needed to serve the proposed development. If the water provider requires a water service agreement as a condition of service to the proposed development, the Property Owners must enter into a water service agreement with the water provider consistent with the accepted WIP.
6. A master sewer plan must be submitted by the Property Owners and accepted by the Pima County Regional Wastewater Reclamation Department (the "wastewater utility") prior to the approval of any final plat or development plan for the Rezoning Area. The master sewer plan shall identify all on-site and off-site wastewater facilities needed to serve the proposed development, and shall include all information required by the wastewater utility. If the wastewater utility requires a sewer service agreement as a condition of service to the proposed development, the Property Owners must enter into a sewer service agreement with the wastewater utility consistent with the accepted master sewer plan.
7. The Property Owners must design and construct any roadway, drainage, water, and wastewater improvements, and dedicate or acquire any property rights associated with those improvements, that the Town requires based on the data and findings of the accepted traffic impact analysis, the accepted master drainage study, the accepted WIP, the accepted master sewer plan, and other studies approved in connection with the approval of a preliminary plat or development plan for any portion of the Rezoning Area.
8. The final design of required streets and circulation facilities, including gated access (if applicable) and emergency access, must be in conformance with applicable fire codes prior to Town Council consideration of a final plat for any portion of the Rezoning Area.
9. The maximum number of single-family detached residential lots within the portions of the Rezoning Area rezoned R-6 by this ordinance shall not exceed 154.
10. No approval, permit or authorization by the Town of Marana authorizes violation of any federal or state law or regulation or relieves the Property Owners from responsibility to ensure compliance with all applicable federal and state laws and regulations, including the Endangered Species Act and the Clean Water Act. The Property Owners should retain

appropriate experts and consult appropriate federal and state agencies to determine any action necessary to assure compliance with applicable laws and regulations.

11. The Property Owners shall transfer to Marana, by the appropriate Arizona Department of Water Resources form, those water rights being IGR, Type I or Type II for the Town providing designation of assured water supply and water service to the Rezoning Area. If Type I or Type II is needed on the Rezoning Area, the Town and the Property Owners shall arrive at an agreeable solution to the use of those water rights appurtenant to the affected portion of the Rezoning Area.
12. Prior to the issuance of any grading permits, the Property Owners shall submit evidence to the Town that all federal permit requirements have been met through the Corps of Engineers and the State Historic Preservation Office, if federal permits are required for the development of the Rezoning Area.
13. A 100% clearance survey for the desert tortoise shall be completed by a qualified biologist at the Property Owners' expense and a survey report shall be submitted to the Town and to the Arizona Game and Fish Department (AZGFD) prior to issuance of any grading permits. If a desert tortoise is found during the survey or at any time during construction, the Property Owners shall immediately notify the Town and AZGFD, and the tortoise shall be moved in accordance with the most current AZGFD Tortoise Handling Guidelines at the Property Owners' expense.
14. The Property Owners shall not cause any further lot split of any kind without the written consent of the Town of Marana.
15. The Property Owners shall submit final covenants, conditions, and restrictions for Town review and approval prior to the Town Council consideration of a final plat for any portion of the Rezoning Area.
16. Within 60 days after the adoption of this ordinance, the Property Owners shall provide the Planning Department with six bound copies, three electronic CD copies in PDF format which will also include graphics of the conceptual land use plan in JPEG or other suitable format of the Twin Peaks Crossings Rezoning.
17. The conditions, covenants, and restrictions governing the project must include a provision stating that all natural, undisturbed open space and or/wildlife corridors shall be left entirely undisturbed and in their natural desert state, except for utility installations, constructed drainage ways and road crossings, which shall be revegetated with native species similar to those found in the surrounding area.
18. This rezoning is subject to the design standards outlined in the Twin Peaks Corridor Study adopted by Marana Resolution 2014-013.
19. Twin Peaks Crossings shall be in substantial conformance with Exhibit III.C Conceptual Land Use Plan of the Twin Peaks Crossings rezone document.
20. The Property Owners will build a reflection-area on Twin Peaks Road, general location as depicted on the Conceptual Land Use Plan attached as Exhibit "B" to and incorporated by this reference in this ordinance. The maintenance of the reflection-area will be the responsibility of the Twin Peaks Crossings Homeowners Association.
21. The Property Owners shall dedicate to the Twin Peaks Crossings Homeowners Association, for the use of the residents, a 10-foot wide trail easement between the reflection-area on Twin Peaks Road to Tangerine Road as depicted on the Conceptual Land Use Plan attached as Exhibit "B" to and incorporated by this reference in this ordinance. The Property Owners shall construct a raked-earth single track trail within the easement when 33% of the building

permits in Twin Peaks Crossings have been issued. The maintenance of the trail will be the responsibility of the Twin Peaks Crossings Homeowners Association.

- 22. The Property Owners shall dedicate to the Town a 10-foot wide trail easement from the southwest corner of the project to the reflection-area on Twin Peaks Road to accommodate future offsite trail connectivity.
- 23. The Property Owners shall construct a one-acre neighborhood park when one-half (50%) of the residential building permits in Twin Peaks Crossings have been issued.
- 24. Homes on lots 19, 20, 38, 130-132, 136 and 146-150 as designated on the Conceptual Land Use Plan attached as Exhibit "B" to and incorporated by this reference in this ordinance shall be single-story.
- 25. Before a certificate of occupancy can be issued for any dwelling unit on the property, the Property Owners shall have completed or shall provide evidence to the Town's satisfaction that the Property Owners have made a diligent effort to complete the process of having the Rezoning Area annexed into the Northwest Fire District.
- 26. All required access roadway and turning movement improvements shall be developed per the approved TIA including future signal warrant analysis for Twin Peaks Road/Angel Drive, and Tangerine Road/Saint Patrick Road.

**Section 3.** All ordinances, resolutions and motions and parts of ordinances, resolutions, and motions of the Marana Town Council in conflict with the provisions of this ordinance are hereby repealed, effective as of the effective date of this ordinance.

**Section 4.** If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

PASSED AND ADOPTED by the Mayor and Council of the Town of Marana, Arizona, this 17th day of October, 2017.

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Mayor Ed Honea

ATTEST:

APPROVED AS TO FORM:

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Jocelyn C. Bronson, Town Clerk

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Frank Cassidy, Town Attorney