

MARANA ORDINANCE NO. 2017.023

RELATING TO DEVELOPMENT; AMENDING MARANA ORDINANCE NO. 2007.09, WHICH ADOPTED THE VILLAGES OF TORTOLITA SPECIFIC PLAN, GOVERNING LAND USES ON APPROXIMATELY 1,780 ACRES OF LAND LOCATED ON THE EAST SIDE OF INTERSTATE 10 FROM ABOUT MARANA ROAD ON THE SOUTH TO ABOUT TWO-THIRDS OF A MILE NORTH OF THE PINAL COUNTY LINE; AND APPROVING AND AUTHORIZING THE MAYOR TO SIGN THE VILLAGES OF TORTOLITA DEVELOPMENT AGREEMENT

WHEREAS the Town of Marana adopted Marana Ordinance No. 2007.09 on April 3, 2007, creating The Villages of Tortolita Specific Plan, governing land uses on approximately 1,780 acres of land known as The Villages of Tortolita and located on the east side of Interstate 10 from about Marana Road on the south to about two-thirds of a mile north of the Pinal County line; and

WHEREAS TMR INVESTORS, LLC (“TMR”), an Arizona limited liability company, representing the owners of all of the land governed by The Villages of Tortolita Specific Plan (all of whom, including TMR, are collectively referred to in this ordinance as the “Property Owners”), has requested amendments to Ordinance 2007.09 to allow development of the property to begin upon TMR’s construction of roadway improvements that address transportation deficiencies in the area that includes The Villages of Tortolita; and

WHEREAS the Marana Planning Commission held a public hearing on October 25, 2017, and voted seven to zero in favor of recommending that the Town Council approve this ordinance; and

WHEREAS Town staff has negotiated the terms of The Villages of Tortolita Development Agreement with TMR, to address matters associated with this specific plan amendment, the public transportation infrastructure associated with it, and governing the development of The Villages of Tortolita; and

WHEREAS the Marana Town Council finds that The Villages of Tortolita Development Agreement, provided in the agenda materials associated with this Council agenda item, is consistent with the Marana General Plan, this specific plan amendment, and all other applicable Town regulations and policies; and

WHEREAS the Marana Town Council finds that this specific plan amendment and The Villages of Tortolita Development Agreement are in the best interest of the Town and its citizens and should be approved.

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

Section 1. The Villages of Tortolita Development Agreement is hereby approved in the form provided in the agenda materials associated with this Council agenda item, and the Mayor is hereby authorized and directed to sign it for and on behalf of the Town of Marana.

Section 2. Marana Ordinance No. 2007.09 is hereby amended as follows:

1. Effective upon TMR's satisfactory performance of its obligations under The Villages of Tortolita Development Agreement, the Property Owners' obligation to enter into a development agreement under Section 3 paragraph 2 of Ordinance 2007.09 is hereby satisfied.
2. Section 3 paragraph 9 of Ordinance 2007.09 is hereby modified by replacing "Pima County Wastewater Management and the Town Engineer" with "Marana Water Department."
3. Section 3 paragraph 11 of Ordinance 2007.09 (pertaining to the installation of a non-potable water system) is hereby deleted.
4. Effective upon TMR's satisfactory performance of its obligations under The Villages of Tortolita Development Agreement, the text of Section 3 paragraph 14 of Ordinance 2007.09 is hereby replaced with the following:
 - a. The Property Owners will be responsible to front the full cost to design and construct the Tortolita Traffic Interchange, which shall be completed prior to occupancy of the lesser of (i) one thousand homes or (ii) the number of homes whose traffic impacts can, in the reasonable opinion of the Marana Town Engineer upon review of relevant traffic studies, be safely accommodated by the Marana TI Improvements and the Adonis Road Improvements (as those terms are defined in The Villages of Tortolita Development Agreement).
 - b. The Town will reimburse up to 50% of the cost to design and construct the Tortolita Traffic Interchange, in accordance with the terms set forth in The Villages of Tortolita Development Agreement.
 - c. The Property Owners will be responsible for the design and construction of other roadway improvements as required based on the data and findings of the accepted traffic impact analysis and other traffic studies required at the platting or development plan stages of The Villages of Tortolita project.
5. The revisions set forth in Section 2 paragraphs 1 and 4 of this ordinance presume (i) execution of The Villages of Tortolita Development Agreement by TMR and the Town and (ii) execution by each of the Property Owners other than TMR of waivers in substantially the form attached as Exhibit C to The Villages of Tortolita Development Agreement. If TMR fails to sign and return The Villages of Tortolita Development Agreement and the fully executed waivers to the Town Clerk for recording within 60

days after the Marana Town Council's approval of this ordinance, the revisions set forth in Section 2 paragraphs 1 and 4 of this ordinance shall automatically and immediately revert to their original language as set forth in Section 3 paragraphs 2 and 14 of Ordinance 2007.09, and the Town Clerk shall record documentation in a form acceptable to the Marana Town Attorney giving public notice of same.

6. If TMR fails to comply with the requirements set forth in paragraph 1 of The Villages of Tortolita Development Agreement (pertaining to construction of the Marana TI Improvements and the Adonis Road Improvements), the Town Council, after notification by certified mail to the Property Owners, shall schedule a public hearing to take administrative action to extend, remove, or determine compliance with the requirements set forth in paragraph 1 of The Villages of Tortolita Development Agreement, or take legislative action to cause the revisions set forth in Section 2 paragraphs 1 and 4 of this ordinance to revert to their original language as set forth in Section 3 paragraphs 2 and 14 of Ordinance 2007.09.

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 7th day of November, 2017.

Mayor Ed Honea

ATTEST:

APPROVED AS TO FORM:

Jocelyn C. Bronson, Town Clerk

Frank Cassidy, Town Attorney