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Town of Prescott Valley  
7501 E. Civic Circle  
Prescott Valley, AZ 86314

## **ORDINANCE NO. 818**

AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PRESCOTT VALLEY, A MUNICIPAL CORPORATION OF ARIZONA, AMENDING THE TOWN ZONING MAP TO CHANGE THE ZONING CLASSIFICATION OF AN APPROXIMATELY NINE AND 55 HUNDREDTHS (9.55) ACRE PARCEL LOCATED AT THE SOUTHEAST CORNER OF MAIN STREET AND FLORENTINE ROAD FROM C2-PAD (COMMERCIAL; GENERAL SALES AND SERVICES - PLANNED AREA DEVELOPMENT) ZONING TO RS-PAD (RESIDENTIAL AND SERVICES - PLANNED AREA DEVELOPMENT) ZONING; AND, PROVIDING THAT THIS ORDINANCE SHALL BE EFFECTIVE THIRTY (30) DAYS AFTER ITS PASSAGE AND APPROVAL ACCORDING TO LAW.

WHEREAS, the Town of Prescott Valley annexed by Ordinance No. 287 (dated November 12, 1992) approximately 600 acres located in §§14 and 23, R1W, T14N, G&SRB&M; and

WHEREAS, a portion of said property was given a zoning classification of RCU-70 at annexation (which classification was comparable to its former County zoning classification of RCU-2A); and

WHEREAS, on March 9, 1994, the owners of approximately 70 acres located between Florentine Road and State Route 69 (bounded on the east by Lake Valley Road and on the west by Glassford Hill Road) applied for re-zoning from RCU-70 (Residential; Conditional Use Permits) to C2-PAD (Commercial; General Sales and Service) (Planned Area Development) for purposes of developing a regional commercial center; and

WHEREAS, the Prescott Valley Planning and Zoning Commission held a public hearing on said application on April 4, 1994, and voted to forward the same to the Town Council with a recommendation of approval; and

WHEREAS, the Town Council approved said re-zoning (with conditions) on April 28, 1994 by Ordinance No. 320; and

WHEREAS, on September 11, 2015, Prescott Valley Signature Entertainment, LLC ("PVSE") applied for re-zoning of a 9.55 acre parcel located at the southeast corner of Main Street and Florentine Road from C2-PAD to R2-PAD (Residential; Multiple Dwelling Units - Planned Area Development) for purposes of developing a residential apartment complex; and

WHEREAS, the Commission held a public hearing on said application at its regular meeting on August 8, 2016 and voted to forward the same to the Town Council with a recommendation of approval, with conditions (inasmuch as the application complies with the Prescott Valley General Plan); and

WHEREAS, in the course of its recommendation, the Commission impliedly approved the Preliminary Development Plan included as part of the re-zoning application; and

WHEREAS, at its regular meetings held September 8, 2016 and September 22, 2016, the Town Council considered the proposed re-zoning and voted to approve the same, with conditions, by passing this Ordinance No. 818; and

WHEREAS, the Mayor and Council find that the requested re-zoning will be beneficial to the community and is in conformity with the Prescott Valley General Plan; and

WHEREAS, the Mayor and Council find that the procedures required by ARS §§9-462.03 and 9-462.04 (and by Article 13-30 of the Prescott Valley Town Code) have been complied with in connection with this zoning action; and

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

SECTION 1. That the Zoning Map of the Town of Prescott Valley be hereby amended from C2-PAD to RS-PAD zoning for the following-described real property:

**[See Exhibit "A" attached hereto and expressly made a part hereof.]**

The above described parcel containing an area of 9.55 acres, more or less.

SECTION 2. That this amendment be hereby expressly conditioned as follows:

1. Approval by the Town Council of a Final Development Plan in accordance with Town Code Article 13-19 consistent with the Preliminary Development Plan.

2. All development shall be in conformance with all Town Code requirements, including screening and lighting requirements of Articles 13-26 and 13-26a.

3. Approval of public right-of-way dedications and roadway improvements by the Town Engineer prior to Final Development Plan approval.

4. Remitting to the Town, on a monthly basis, all monies collected as a result of the owners and/or operators of any apartment complex developed on the described real property (including any successors and assigns) applying a 2% "surcharge" against gross rents collected from occupation and use of units within any phase of the complex. Such remittance shall be made no later than the 15th day of the following month to the Town Clerk, and shall begin no

later than sixty (60) days after the issuance by the Town of any certificate permitting occupancy of any phase of the complex.

[Note: Inasmuch as that certain “Settlement Agreement, Mutual Releases and Covenants Not To Sue” dated October 16, 2014, by and among the Town and certain other settling defendants (including Fain Signature Group, LLC and PVSE), provides that revenue from any Town surcharge on gross rents collected in any residential apartment complex on the described property shall be applied towards Events Center operating and/or capital expenses, nothing herein shall preclude the Town Clerk (or other authorized officer of the Town) from directing at any time in writing that the owners and/or operators of any apartment complex on the described property directly remit the above-described monthly payments to the then-current operator or manager of the Events Center.]

*In the event of non-compliance with any of the above conditions, the zoning designation on the described property shall revert from R2-PAD back to the original designation of C2-PAD in accordance with the procedures set forth in ARS §9-462.01(E).*

SECTION 3. That this Ordinance shall be effective thirty (30) days after its passage and approval according to law.

PASSED AND APPROVED by the Mayor and Common Council of the Town of Prescott Valley, Arizona, this 22 day of September, 2016.

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HARVEY C. SKOOG, Mayor

ATTEST:

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Diane Russell, Town Clerk

APPROVED AS TO FORM:

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Ivan Legler, Town Attorney

**EXHIBIT “A”**

Legal Description