

ORDINANCE NO. 1107

AN ORDINANCE OF THE COMMON COUNCIL OF THE TOWN OF GILBERT, ARIZONA AMENDING THE UNIFIED LAND DEVELOPMENT CODE OF THE TOWN OF GILBERT BY AMENDING THE ZONING MAP OF THE TOWN OF GILBERT BY AMENDING ORDINANCE NO. 874 TO AMEND THE DEVELOPMENT PLAN AND CONDITIONS OF APPROVAL OF THE WARNER AND VAL VISTA PLANNED AREA DEVELOPMENT IN ZONING CASE Z98-5 TO ALLOW FENCING ALONG MESQUITE STREET; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; AND PROVIDING PENALTIES.

WHEREAS, the Mayor and Council hereby adopts the findings required by Section 1.81, Paragraph D. of the Unified Land Development Code of the Town of Gilbert.

BE IT ORDAINED by the Mayor and Council of the Town of Gilbert, Arizona, as follows:

Section I: In General

Ordinance No. 874 of the Town is hereby amended as follows:

1. Ordinance No. 874, Section I, Paragraph 2, Subparagraph b., is hereby amended by substituting the existing Exhibit 2: Agreement between Janice Phelps Andersen, Superstition Homes and CCGG, dated June 1, 1994 with new Exhibit 2: Amended Agreement between Janice Phelps Andersen, Superstition Homes and CCGG, dated April 14, 1998.

All other provisions of Ordinance No. 874 shall remain unchanged.

Section II. Repeal of Conflicting Ordinances.

All ordinances and parts of ordinances in conflict with the provisions of this Ordinance of any part of the Code adopted herein by reference, are hereby repealed.

Section III. Providing for Penalties.

Any person found guilty of violating any provisions of this Ordinance shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not to exceed Two Thousand Five Hundred Dollars (\$2500.00) or by imprisonment for a period not to exceed six (6)

months, or both such fine and imprisonment. Each day that a violation continues shall be a separate offense punishable as herein described.

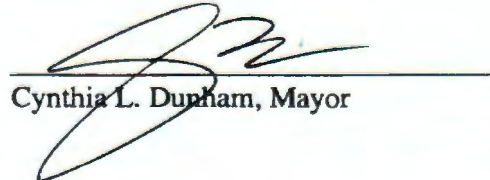
PASSED AND ADOPTED by the Mayor and Council of the Town of Gilbert, Arizona, Maricopa County, Arizona, this 26th day of May, 1998.

AYES: Mayor Dunham, Long, Crozier, Cathey, Albright, Evans, and Morrison

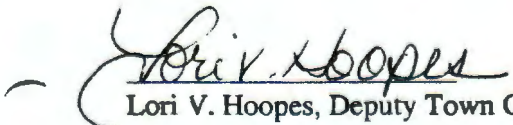
NAYES: None ABSENT: None

EXCUSED: None ABSTAINED: None

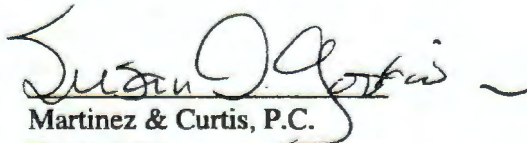
APPROVED this 26th day of May, 1998.


Cynthia L. Dunham, Mayor

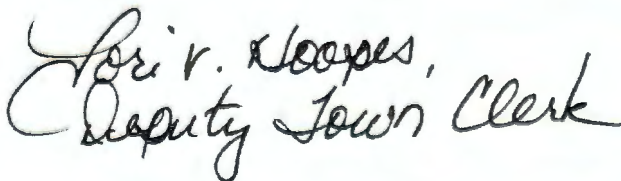
ATTEST:


Lori V. Hoopes, Deputy Town Clerk

APPROVED AS TO FORM:


Martinez & Curtis, P.C.
Town Attorneys

I, Lori V. Hoopes, certify that a true and correct copy of Ordinance No. 1107, adopted by the Mayor and Council on May 26, 1998, was posted in three places on June 5, 1998.


Lori V. Hoopes,
Deputy Town Clerk

**Exhibit 1: Amended Agreement Between Janice Phelps Anderson,
Superstition Homes and CCGG**

LAW OFFICES OF

Z98-5

April 14, 1998

BERENS, EHINGER & BERENS, PLC

A Professional Limited Liability Company

*Matthew R. Berens*3636 N. Central Avenue
Suite 1050
Phoenix, Arizona 85012
Telephone (602) 230-0155
Facsimile (602) 230-9277

June 1, 1994

Bill Hobson, Esq.
Yen Hobson Pilch & Ringler
3030 N. Central Avenue, Suite 1107
Phoenix, AZ 85012

Re: Agreement Between Janice Phelps Andersen and Superstition Homes, Inc.
("Owner" and "Developer" respectively) and Concerned Citizens for a
Greener Gilbert ("CCGG")

Dear Mr. Hobson:

This letter sets forth the agreement between the above-referenced parties with respect to the current zoning application being made for the 64.7 acre property located on the northwest corner of Val Vista Drive and Warner Road excluding the 12 acres designated as "Commercial Site" (the "Property"). This agreement has been reached through meetings between the CCGG and the Owner with the Developer in attendance. This letter documents the agreement and should be executed where indicated below by the parties and an accurate membership list for CCGG should be included as an attachment.

Based upon the meetings between the parties, CCGG has requested the following items:

1. That the lot lines of the residential lots backing homes on Pandora Drive and the lot lines fronting Mesquite Street and the open space delineated on Mesquite Street shall be as set forth per the plan attached hereto as Exhibit A (the "Plan").
2. That the Developer agrees that the smallest lot size shall be 9,600 square feet as set forth on the Plan.
3. That the project will be categorized under the new Town of Gilbert General Plan low density, and the overall lot density shall not exceed 134 lots set forth and specified on the Plan. Owner agrees to cause any future purchaser of the Property to become a signatory of this Agreement until the Property has been developed in accordance with the Plan.
4. That Lots 119 through 134, inclusive, shall be limited to single story residences.
5. That irrigation shall be provided for lots 119 through 130, inclusive, so long as irrigation is otherwise available from the appropriate irrigation district. Lots 131 through 134 shall not be irrigated due to the impracticability thereof as set forth on Exhibit "B" attached hereto.

Bill Hobson, Esq.
June 1, 1994
Page Two

6. That the residences for lots facing Mesquite Street shall be oriented such that the homes face and enter from Mesquite Street, except for Lot 130, which shall have the residence face and enter from the interior of the subdivision.
7. That there shall be no wall or fence along Mesquite Street, except for the rear of Lot 130 and adjacent to the stables along Mesquite Street.
8. There shall be a bridle path along Mesquite Street.

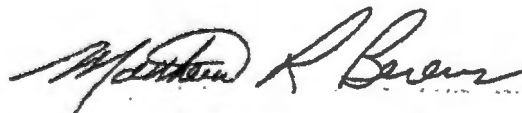
In exchange for Owner and Developer agreeing to develop the property in accordance with the Plan, subject to minor modifications in the platting process, and in exchange for Owner and Developer agreeing to incorporate the above eight (8) enumerated items as part of the Plan, CCGG and its members agree to actively support the zoning application and any subsequent action before the Town of Gilbert with respect to the passage of the zoning ordinances (including any necessary variances) to enact the Plan and agree that CCGG and its members will take no referendum action, appeal action or otherwise protest the zoning granted in accordance therewith. In the event the above eight (8) enumerated items are not fulfilled and/or the Plan is modified or amended in any substantial manner by Owner or Developer, the CCGG and its members shall be authorized and allowed full rights to protest the Plan and to take such other actions to nullify any zoning proposals or ordinances by whatever legal means available, including a referendum action.

Note, Exhibit B will be attached by Mr. Brad Homer. Please have someone from the CCGG execute the agreement and deliver a copy to Mr. Homer of Eagle Rock Realty. His office will obtain any other necessary signatures in counterpart and send you and I copies.

The Developer and the Owner are pleased that an agreement has been reached with CCGG and look forward to seeing the Property developed in accordance with the Plan as soon as the appropriate zoning ordinance has been adopted by the Town of Gilbert.

If you have any questions, please do not hesitate to call.

Sincerely,



Matthew R. Berens, Esq.
Attorney for Superstition Homes, Inc.
(Approved as to Form)

MRB:sf
Enclosure

FINDINGS OF FACT

**Z98-5: AN AMENDMENT TO THE WARNER AND VAL VISTA
PLANNED AREA DEVELOPMENT**

- 1) The development proposed is in substantial harmony with the General Plan of the Town of Gilbert, and can be coordinated with existing and planned development of surrounding areas;
 - 2) The streets and thoroughfares proposed are suitable and adequate to serve the proposed uses and the anticipated traffic which will be generated thereby;
 - 3) The development will constitute a residential environment of sustained desirability and stability; and be in harmony with the character of the surrounding area; and that sites proposed for public facilities, such as schools, playgrounds and parks are adequate to serve the anticipated population.
 - 4) Public input sought prior to public hearings in accord with section 7.14 of the Unified Development Code.
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