



Board of Supervisors Memorandum

August 18, 2014

Resolution 2014-____
Authorizing the Abandonment and Re-plat of Blocks 4, 7 and 8

Background

On July 1, 2014, the Board of Supervisors directed staff to initiate the re-plat process for Star Valley Blocks 4, 7, and 8. A 30-day notice was sent by certified mail on July 10, 2014 advising the ownership entities, USH/SVA Star Valley, LLC and Stewart Title & Trust, of the County's intention to exercise its option to re-plat per the Assurance Agreements. The 30-day period has concluded, and the defaults cited in the notice have not been cured.

On July 24, 2014, legal counsel for USH/SVA Star Valley, LLC met with Pima County officials to discuss the defaults. Two representatives of Lennar Corporation were also present. A request was made by Lennar to postpone action on the re-plat resolution, but no solution to the defaults was reached.

On July 31, 2014, the County Attorney's office sent a letter to legal counsel for USH/SVA Star Valley, LLC summarizing the discussion and the outstanding items that needed to be addressed.

On August 6, 2014, USH/SVA Star Valley, LLC legal counsel responded, indicating they would file legal action if Pima County did not agree to cease its efforts to re-plat by Noon, on Friday, August 8, 2014. Pima County did not respond, since the County's position had been sufficiently outlined in prior correspondence.

On August 8, 2014, legal action was filed in Superior County seeking a temporary restraining order against the Pima County Board of Supervisors voting on any action related to re-platting Star Valley. An Order to Show Cause hearing has been scheduled on the temporary restraining order on Friday, August 15, 2014 at 8:30 AM.

Recommendation

Pursuant to the provisions of Board of Supervisors Policy F 53.4, Resolution 2014-____ directing the abandonment and re-plat of all or portions of Star Valley Blocks 4, 7, and 8 is recommended for approval.

Respectfully submitted

A handwritten signature in cursive script, appearing to read "C. Huckelberry".

C.H. Huckelberry
County Administrator

CHH/mjk – August 13, 2014

Attachment

RESOLUTION 2014 - _____

PIMA COUNTY RESOLUTION AUTHORIZING THE ABANDONMENT AND RE-PLAT OF SUBDIVISION PLATS FOR STAR VALLEY BLOCKS 4, 7, AND 8 TO RETURN ALL OR PORTIONS OF THE BLOCKS TO THE BOUNDARY CONFIGURATIONS AS THEY EXISTED BEFORE THE RECORDING OF THE PLATS FOR THE BLOCKS

The Board of Supervisors of Pima County, Arizona finds:

1. On December 1, 1987, in accordance with its powers and authority under A.R.S. §11-807, the Board of Supervisors adopted the Star Valley Specific Plan (as enacted by Ordinance 1987-64) recorded in Docket 8235 page 874-1047 of the Pima County Recorder's office. The Star Valley Specific Plan was adopted subject to certain conditions including but not limited to the provision of development related assurances and provision of a transportation improvement financing plan and transportation system implementation plan (collectively, "Transportation Plans").
2. On November 7, 2002, a Master Block Plat for Star Valley, Blocks 1 -30 (P1200-184), was recorded in Pima County Maps and Plats, Book 56, Page 55 after agreement was reached with Pima County on October 30, 2002 for the Department of Transportation's terms for the Transportation Plans. Assurances were posted in the form of a third-party trust agreement, Trust Numbers T-1330 and T-1440 from Title Guaranty Agency of Arizona as recorded in Docket 11922 at page 3214.
3. On December 19, 2006, Star Valley Block 4 Subdivision Plat (P1205-093) was recorded in Pima County Maps and Plats, Book 62, Page 5, creating lots 1-572 and common area. Additional assurances were posted for Trust No. T-1330 from Title Guaranty Agency of Arizona and recorded in Docket 12954, page 2527.
4. On April, 25, 2007, Star Valley Block 8 Subdivision Plat (P1205-103) was recorded in Pima County Maps and Plats, Book 62, Page 46, creating lots 1-239 and common areas. Additional assurances were posted for Trust No. T-1330 from Title Guaranty Agency of Arizona and recorded in Docket 13041, Page 2535.
5. On April, 25, 2007, Star Valley Block 7 Subdivision Plat (P1206-075) was recorded in Pima County Maps and Plats, Book 62, Page 47, creating lots 240-507 and common areas. Additional assurances were posted for Trust No. T-1330 from Title Guaranty Agency of Arizona and recorded in Docket 13041, page 3118.
6. On or about September 11, 2008, a deed was recorded transferring ownership of Star Valley Blocks 4, 7, and 8 from Title Guaranty to Stewart Title & Trust of Tucson, without Pima County's permission and in

violation of the Assurance Agreements. No new Assurance Agreements have been substituted for Blocks 4, 7, and 8 which is a violation of the Pima County Code and A.R.S. §11-821.

7. On November 29, 2012, the Department of Transportation made an initial demand for half the cost of the traffic signal at Wade Road and Valencia Road in accordance with the terms of the agreed Transportation Plans. The Star Valley development entity, USH/SVA Star Valley, LLC, has refused to pay their share of the traffic signal despite subsequent communications and notice of violations.

8. On November 29, 2012, the Department of Transportation also made an initial demand for the Star Valley development entity to design and construct Camino Verde as required by the agreed Transportation Plans. The Star Valley development entity, USH/SVA Star Valley, LLC, has refused to design and construct Camino Verde.

9. Due to traffic capacity and congestion issues on Wade Road, Pima County has proceeded with the design and is planning construction of Camino Verde and has installed a stoplight at Wade Road and Valencia Road, but will seek reimbursement from the Star Valley development entity. The Development Entity USH/SVA Star Valley, LLC is in default of its obligations under the agreed Transportation Plans.

10. Each Assurance Agreement includes paragraph 2.11 *Completion of Subdivision Improvements* which provides that subdivision improvements must be completed not more than four 4 years after the date of the agreement.

11. Each Assurance Agreement also includes Paragraph 2.13 *County's Option to Re-Plat Upon Default* which states: "At the County's sole option, if the developer defaults in its obligations, the county may re-plat all or a portion of the land, returning the land to the same boundary configurations of record which existed before the recording of the Subdivision Plat."

12. Subdivision improvements have not been completed for Star Valley Blocks 4, 7, and 8, and more than four years from the date of each Assurance Agreement has elapsed. Not only were on-site subdivision improvements not made but the off-site improvements were not made when requested under the terms of the agreed Transportation Plans.

13. On July 10, 2014, in accordance with the terms of the Assurance Agreements and Pima County Board of Supervisors Policy F 53.4, a thirty (30) day written notice was given to the development entity USH/SVA Star Valley, LLC and Stewart Title & Trust, by certified mail, advising them of the default under the Assurance Agreements and the County's intent to re-plat Blocks 4, 7 and 8.

NOW, THEREFORE, BE IT RESOLVED, that the Pima County Board of Supervisors hereby authorizes and directs the abandonment and re-plat of all or portions of Star Valley Blocks 4, 7, and 8, in accordance with the Assurance Agreements. The Board of Supervisors directs staff to take any and all steps reasonably necessary to prepare appropriate plats, schedule those plats for Pima County Board of Supervisors' approval in accordance with A.R.S. § 11-822 and Pima County Code Chapter 18.69, and recover all costs from the USH/SVA Star Valley, LLC.

PASSED AND ADOPTED by the Board of Supervisors, Pima County, Arizona, this _____ day of _____, 2014

Chair, Board of Supervisors

ATTEST:

Clerk of Board

APPROVED AS TO FORM:



Deputy County Attorney