

**TOWN OF PAYSON
PLANNING AND ZONING COMMISSION
MINUTES OF THE PUBLIC MEETING
October 8, 2007**

CALL TO ORDER - 3:00 p.m.

PLEDGE OF ALLEGIANCE

ROLL CALL

PRESENT: Jere Jarrell, James Scheidt, Mark Waldrop, Russell Goddard, Joel Mona, and Gary Bedsworth.

ABSENT: Hal Baas

STAFF PRESENT: Ray Erlandsen, Zoning Administrator, Jerry Owen, Community Development Director, LaRon Garrett, Town Engineer, Sheila DeSchaaf, Planner II, Buzz Walker, Public Works Director, Mike Ploughe, Town Hydrologist, and Chris Floyd, Secretary.

A. APPROVAL OF MINUTES

1. Public Meeting 09-10-07 Pages 1-11

The Commission requested that corrections be made to the minutes prior to approval.

B. PUBLIC COMMENTS - Comments concerning items not on the agenda.

Note: Those wishing to address the Planning and Zoning Commission during this time need not request permission in advance. Action taken as a result of public questions and comments shall be limited to directing staff to study the matter or rescheduling the matter and decision at a later date. There shall be no discussion regarding any issues presented.

There were no public comments.

C. SCHEDULED HEARING(S)

1. CUP-165-07 Conditional Use Permit
Filed by: Mary Suzanne Malinski, property owner
Location: 104 West Phoenix Street
Purpose: To allow a microbrewery and outdoor commercial recreation use in a C-2 zoning district.

Sheila DeSchaaf, Planner II, summarized the staff report.

Staff recommends approval with the following conditions:

1. The use permit shall be valid if, within one year from the date of approval, all necessary building permits have been issued to allow commencement of the conditional use.
2. Development shall be in substantial conformance with the site plan submitted October 8,

2007.

3. The length of this conditional use permit shall run concurrent with the use of this property. Expansion of the approved use, changes in use, or additional uses shall be subject to review and approval by the Planning and Zoning Commission if not expressly permitted in C-2 zoning district.
4. Construction shall be subject to current Design Review Regulations.
5. All driveways for two-way traffic must be at least 24' wide and all parking stalls must be at least 9' X 19'.
6. Phoenix Street and Cedar Lane adjacent to the properties shall be brought up to current standards. This is a 16' wide half street (centerline to face of curb), vertical curb and gutter, and sidewalk, connecting to the existing sidewalk at Beeline Highway, and including an appropriate taper at the west end.
7. Storm water detention shall be provided in accordance with the Town's requirements.
8. Engineered paving, grading and drainage plans prepared by an Arizona registered professional shall be required.
9. Three of the existing driveways along Beeline Highway shall be removed.
10. The owner of this property and the operator of any project located upon this property must cooperate with ADEQ in any routine or special sampling from the new well located at the southwest corner of the property.
11. Should any water quality sampling indicate that the water from this well is in excess of potable drinking water standards the use of this well for any reason shall be discontinued immediately.
12. The owner of the property and the operator of any project located upon this property must comply with all Town of Payson Resolution No. 1742 and subsequent water use restrictions and water conservation regulations of the Town of Payson as may be in effect now or in the future, regardless of the source of water used on the property.
13. Development shall comply with all applicable town codes in effect at the time of building permit application.
14. Existing Town Code violations on the site shall be resolved prior to submittal of a building permit application for the remodel/expansion.

Gary Bedsworth asked regarding the well if it could be used for human consumption within the restaurant. Buzz Walker, Public Works Director, replied that it could if it met the requirements of the state and federal laws. Mr. Bedsworth then asked the same question regarding the potential for using the well for brewing the beer at the microbrewery. Buzz Walker again replied you probably could. Mr. Bedsworth then asked if potentially the well

could be used for public consumption and brewing beer, and was tested on a regular basis, then there could be a period of time where the water could be contaminated and used for public consumption, to which Buzz Walker replied in the affirmative.

Joel Mona asked regarding the toxic plume does it extend to this property. Mike Ploughe, Water Department, replied that the plume had shrunk because of the treatment facilities in the area but in the past it was in the vicinity of this site.

Tom Torak, architect on project, gave a brief overview of the project.

Russell Goddard recused himself from this CUP.

Sue Malinski, owner of property, stated that she was approximately 750' from the contaminated site. She said that water was obtained at 190' below the surface and complied with everything the State had asked including the well being completely encased. The well has been tested but the results aren't available yet. Ms. Malinski commented that right now the well is designated only for cleaning and landscaping. It is not designated for the brewery at this time but if the test comes back clean would like to consider the possibility of using it.

There was extensive discussion regarding the possible use of the well for this project and the contaminated plume in the area. A copy of a letter from ADEQ voicing their concerns with the well was given to the Commission in their packets. The major concern is the contaminates in the area and the safe use of the well.

Gary Bedsworth read his concerns regarding this proposed project.

"I have concerns related to this project and CUP request when the Town is forced to issue a stop work order because necessary permits were not obtained prior to construction. In addition, it appears that existing code violations have not been satisfied. I am doubly concerned when stop work orders are issued from both the building department and the engineering department of the Town of Payson.

I have even greater concerns that on August 17, 2006 the Arizona Department of Environmental Quality (ADEQ) sent you a letter advising you of environmental concerns and requesting a hydrologic study of the effects of the well would cause to the aquifer and the contaminated plume. The WQARF site water plume is contaminated with Tetrachlorethene (PCE), a hazardous substance in ground water. PCE is a chemical listed as a carcinogen which is toxic to both humans and animals. You were provided with a map of the WQARF plume and a fact sheet regarding the effects of PCE. In addition you were advised that ADEQ strongly believes that your proposed well will draw contaminated water to your well. This action would contaminate your well and require treatment prior to the use of the well. Additionally according to ADEQ, 'if groundwater in the well does become contaminated and is not treated, you may risk exposure to health hazards associated with exposure to PCE, either through ingestion, inhalation, or dermal contact. Please note that PCE is a volatile chemical, meaning that it easily becomes vapor and can be absorbed through the skin.'

In a letter dated March 29, 2007 ADEQ again requested Ms. Malinski to conduct a hydrologic study to see what effects the proposed well would have on the WQARF plume.

In a letter dated April 11, 2007 the Arizona Department of Water Resources Hydrology Division in the permit process, again recommended that a hydrologic study be performed. They also stated that your proposed well may draw contaminated water to your well and other domestic wells. The contaminated groundwater may render the water withdrawn from your well, and your neighbor's wells, unusable without expensive treatment.

As of Thursday, September 27 ADEQ had not received notification of a hydrologic study.

Ms. Malinski, your disregard for the recommendations of Arizona State Departments and requirements given to you by the Town of Payson for construction and code violations give me great concern. Your prior action would lead me to believe that you will not conform to current and future codes and requirements of the Town of Payson especially the water issues.

In conclusion, I believe that your actions have the potential to affect the health and safety of your staff, your neighbors, and the citizens of Payson. I will be voting no on your conditional use permit."

Mark Waldrop stated that in all fairness to the developer and the Commission we need to see test results.

Sue Malinski addressed the remarks that were made.

There was further discussion regarding the potential use of the well.

Chairman Scheidt opened the public hearing.

John Franklin, from the audience, asked that the Commission decline the conditional use permit. He stated there were too many variables that were not answered; noise, traffic that would be brought into the neighborhood where there are a lot of children. Mr. Franklin noted that his main concern is the brewery. He also felt that crime would rise in the area with the allowance of this proposed project.

Chairman Scheidt closed the public hearing.

Motion: Disapprove CUP-165-07, a request to allow Microbrewery/Outdoor Commercial Recreation at 104 West Phoenix Street.

Moved by Joel Mona, seconded by Gary Bedsworth.

Vote: Motion carried 5 - 0

Yes: Jere Jarrell, James Scheidt, Mark Waldrop, Joel Mona, and Gary Bedsworth.

Abstained: Russell Goddard.

2.

CUP-164-07 Conditional Use Permit

Filed by: Payson Place Investments LLC, property owners

Location: 200-208 West Cherry Street

Purpose: To allow a maximum of three stories, 35 feet of habitable/occupiable space and a maximum overall height of 45 feet in a R3 zoning district.

Jerry Owen, Community Development Director, stated that this item and the next item on the agenda were closely linked so he would combine the staff reports. Mr. Owen then summarized the staff report for the conditional use permit. It was recommended by staff that regarding the use permit, on height, that action be postponed until a further elevation study could be done that would give a cross-section through the site north/south and east/west so we could have a better idea of what the height would look like. Should the Commission wish to approve the conditional use permit today then staff does have some recommendations to be included.

Mr. Owen then summarized the staff report for the preliminary plat.

Chairman Scheidt noted that the preliminary plat was item three (3) on the agenda.

Staff recommends approval with the following conditions for the preliminary plat:

1. That the final plat shall be in substantial conformance with the preliminary plat as submitted.
2. That corrections be made to the General Notes 5, 11, 12 and 13 prior to Council consideration of the preliminary plat.
3. That an eight foot tall continuously opaque wall be installed along the north and west property boundaries.
4. That the development meets all Building and Fire code requirements including fire sprinkler ADA requirements.
5. That the applicant comply with all standard Town of Payson development requirements, including street and water line improvements and fire hydrant placement.
6. That the final plat be submitted within 12 months of Council approval of the preliminary plat.
7. That the developer provides sanitary sewer facilities in accordance with Northern Gila County Sanitary District requirements.
8. That the applicant submits a written proposal regarding their workforce housing contribution prior to Council consideration of the final plat.
9. That a landscape plan/tree preservation plan in accordance with Unified Development Code requirements be submitted with the final plat improvement plans and that the 17 inch pine near tract C be preserved.
10. That all other provisions of the Unified Development Code be met.

Chairman Scheidt asked that the Conditional Use Permit be addressed first.

Doug Duncan, manager & a principle, gave a brief overview of the project.

Chairman Scheidt opened the public hearing.

Janice and Jerry Moores, an adjacent property owner, did a model of the project as it relates to their property. They are opposed to the condo unit closest to their home. Mrs. Moores asked the Commission to consider the condos being lowered to two (2) stories and moved forward a total of 20' on the west side.

Laura O'Brien, Tetra Tech, stated that the building on the west couldn't be dropped to much because of the drainage issues on the property. She commented that the buildings on the north could be dropped a little more.

Clarification was given for the current height regulation and what the new 45' regulation would do for this proposed project, if this conditional use is approved. This conditional use request is mainly for the roof-line.

The question was asked if this project would go through design review, to which the reply was no if it proceeds in a timely manner.

Russell Goddard suggested lowering the garage units into the grade more and keep the entire structure from finished floor to the roof peak 35' on the west side units.

Dan McKeen, from the audience, stated that he appreciated the developer coming into this neighborhood and choose to upgrade and refurbish this area. He commented that we have an opportunity for the developer to come in here one time and do it right.

Chairman Scheidt closed the public hearing.

Motion: Approve CUP-164-07, with Conditions 1-4 in the staff report, adding Condition 5 "The height exception shall only apply to Units 1-20." and Condition 6 "The overall height of Units 21-24 shall not exceed 35' from finished floor to the peak of the roof. These units should be set in the ground as much as possible yet still achieve proper drainage."

Moved by Russell Goddard, seconded by Jere Jarrell.

Vote: Motion carried 6 - 0

Yes: Jere Jarrell, James Scheidt, Mark Waldrop, Russell Goddard, Joel Mona, and Gary Bedsworth.

3. S-143-07 Preliminary Plat Request (Payson Place)
Filed by: Payson Place Investments LLC, property owners
Location: 200-208 West Cherry Street
Purpose: To determine how a request for the preliminary plat of a 24 unit residential condominium subdivision shall be recommended to Town Council.

Chairman Scheidt opened the public hearing.

Laura O'Brien, Tetra Tech, gave a brief overview of the project.

Jerry Owen, Community Development Director, clarified that the existing fence would come down and that an 8' screen wall would be built and the setback will be 20' from property line but only 16' from the fence.

Chairman Scheidt closed the public hearing.

Motion: Recommend to the Town Council approval of S-143-07, request from DDA Investments for preliminary plat approval of Payson Place, a 24 unit condominium project located on 1.43 acres at 200 to 208 West Cherry Street subject to the 10 conditions listed in the staff report.

Moved by Jere Jarrell, seconded by Mark Waldrop.

Vote: Motion carried 6 - 0

Yes: Jere Jarrell, James Scheidt, Mark Waldrop, Russell Goddard, Joel Mona, and Gary Bedsworth.

4. P-342-07 UDC Amendment Request

Filed by: Town of Payson

Location: All of Payson

Purpose: A request to add Section 15-03-006, Fences, to the Unified Development Code.

Chairman Scheidt noted staff had provided additional information to the Commission showing a drawing of what the fence requirement would be.

Ray Erlandsen, Zoning Administrator, clarified the clear view triangle drawing should be 15' in the driveway section.

The Commission asked questions, which were answered by staff.

Motion: Recommend approval to the Town Council with the amendment as just discussed (razor wire not allowed in the Town of Payson).

Moved by Gary Bedsworth, seconded by Russell Goddard.

Vote: Motion carried 6 - 0

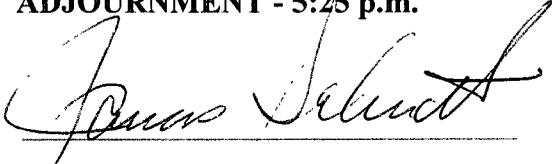
Yes: Jere Jarrell, James Scheidt, Mark Waldrop, Russell Goddard, Joel Mona, and Gary Bedsworth.

D. REQUESTS TO STAFF FOR THE PLACEMENT OF ITEMS ON FUTURE PLANNING & ZONING COMMISSION AGENDAS

Chairman Scheidt asked the Commission to review the brochure on the Boards and Commission conference and then let someone in Community Development know if they plan on attending.

E. DIRECTOR'S COMMENTS

ADJOURNMENT - 5:25 p.m.



James Scheidt, Chairman

12-10-07

Approved



Chris Floyd, Secretary