ORDINANCE NO. 733

AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, AMENDING SECTION 15-09-004 OF CHAPTER 154 (THE UNIFIED DEVELOPMENT CODE) OF THE CODE OF THE TOWN OF PAYSON. (CONDITIONAL USE PERMIT)

WHEREAS, the Town of Payson's zoning code allows for Conditional Uses in various zoning districts; and

WHEREAS, the Town desires to amend the process for obtaining a Permit for such Conditional Uses,

NOW, THEREFORE, THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, DO HEREBY ORDAIN AS FOLLOWS:

Section 1. That the amendment to Section 15-09-004 of Chapter 154 (the Unified Development Code) of the Code of the Town of Payson set forth in Resolution 2359 was heretofore declared to be a public record by such Resolution, and that the amendment to Section 15-09-004 is hereby referred to and adopted by this reference as though all the provisions thereof were set forth in full in this Ordinance Number 733.

Section 2. That at least three copies of the amendment to Section 15-09-004 of Chapter 154, as adopted by this Ordinance Number 733 shall be filed in the Office of the Clerk of the Town of Payson and the same shall be maintained and kept available for public use and inspection.

Section 3. All ordinances and parts of ordinances in conflict with the provisions of this Ordinance Number 733 are hereby repealed to the extent of such conflict.

Section 4. If any section, subsection, sentence, clause, phrase or portion of this Ordinance Number 733 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 Number 733. The Mayor and Common Council of the Town of Payson declare that they would have adopted this Ordinance Number 733 and each section, subsection, sentence, clause, phrase or portion thereof despite the fact that any one or more sections, subsections, sentences, clauses, phrases or portions would be declared invalid or unconstitutional.

1st Reading & Public Hrg. MAR 0 6 2008 G.3
2nd Reading & Public Hrg. MAR 2 7 2008 G.3

PASSED AND ADOPTED BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON this _____ day of _____, 2008, by the following vote:

AYES _____ NOES _____ ABSTENTIONS _____ ABSENT _____

_____
F. Robert Edwards, Mayor

ATTEST:

_____
Silvia Smith, Town Clerk

APPROVED AS TO FORM:

_____
Samuel I. Streichman, Town Attorney

SUMMARY OF AGENDA ITEM

DATE: **March 6, 2008**

TO: **Mayor and Council**

FROM: **Jerry Owen**
Community Development Director

SUBJECT: **Ordinance 733, Resolution 2359**
Proposed Amendment to Unified Development Code (UDC)
Section 15-09-004, Conditional Use Permit

PURPOSE:
A request by staff to amend Unified Development Code (UDC), Section 15-09-004, Conditional Use Permit, to allow more flexibility in imposing time limits when approving conditional use permits.

SUMMARY:
The current language in Section 15-09-004 of the Unified Development Code (UDC), Conditional Use Permit, contains language that places time limits on the approval of a conditional use permit:

> "1. *All Conditional Use Permits shall be considered valid if, within one year from the date of approval, all necessary building permits have been issued to allow commencement of the conditional use; and the approved use has been established.*
> 2. *An extension may be granted by the Commission and shall be valid for a maximum of six months, and no extension shall be granted to extend the permit for more than 18 months beyond the date of approval of the permit.*"

It has come to the attention of staff that these time limits are not conducive to the development of large projects or other situations which may necessitate longer time frames to plan, finance and receive approval of various boards and/or commissions, as well as plan review and approval of Town departments.

In many cases, a conditional use permit (CUP) must be approved before financial arrangements can be finalized. At least one proposed project requires capital to be raised on an on-going basis over a period of years before the project can be finalized and brought forward for approval to build. Prior to the commencement of any fund raising activity, assurances must be received as to the viability of the project; in this case, an approved conditional use permit. The current time requirements are too restrictive to accomplish the necessary steps of development for larger projects.

Staff believes that the proposed amendment to the current language safeguards any attempt to circumvent processes by requiring that any approval for a CUP must be for a specific project. That is, if the project does not proceed as submitted and approved by the Commission, the CUP would be invalidated. In addition, time limits may be set by the commission for the issuance of the certificate of occupancy as well as granting a six month extension if necessary.

Further, staff has taken this opportunity to revise current language of this section for clarification and brevity.

MAR 0 6 2008 G.3

15-09-004 Conditional Use Permit

A. Purpose and Intent

Every zoning district contains certain buildings, structures and uses of land that are normal and complementary to allowed uses in the district, but are often incompatible with adjacent activities and uses by reason of their typical physical or operational characteristics, influence on the traffic function of adjoining streets, or similar conditions.

It is the intent of this section to permit Conditional Uses in appropriate zoning districts, but only in specific locations within such districts that can be designed and developed in a manner which assures maximum compatibility with adjoining uses.

It is the purpose of this section to establish principles and procedures essential to proper guidance and control of such uses. Conditional uses shall be compatible with land uses permitted in a zoning district, and may require the imposition of specific conditions in order to ensure that the number of such uses, their location, design and configuration as may be determined by the Planning and Zoning Commission. Only uses which are authorized as conditional in Section 15-12 of this Code may be approved as conditional uses. Each proposed conditional use shall be evaluated by the Commission for compliance with the standards and conditions set forth in this section and for each zoning district.

B. Application and Review Process

1. An application for a Conditional Use Permit shall be submitted along with the required number of development plans to the Community Development Director on forms provided by the Town with all the supporting applicable requirements of Sections 15-09-008 and 15-09-009.
2. Each application shall be reviewed by the Community Development Director in conjunction with other appropriate Town Departments. The Director shall forward a staff report and recommendation to the Commission.
3. The Commission shall hold a public hearing on the application for the Conditional Use Permit. Within 30 days of the public hearing unless additional time is necessary, the Commission shall approve with or without conditions, or disapprove the application and shall forward its decision to the applicant in writing.

C. Standards of Review

To ensure that the proposed use will be compatible with the surrounding area, to ensure the provision of the appropriate off-site improvements and that any modification of the development plan imposed by the Commission will be complied with, a Conditional Use Permit shall be issued only when the Commission finds that the applicant has adequately addressed the following:

1. Access and traffic; pedestrian, bicycle and vehicular circulation
2. Noise, light, visual, litter and other pollutants
3. Buffering provisions
4. Impact on public utilities
5. Signage and outdoor lighting
6. Compliance with General Plan
7. Dedication and development of streets adjoining the property
8. Impact on historical/archeological or natural sites
9. Impact on the native vegetation and ecological character of the site

10. Water and air pollution, such as fill, dust, and smoke
11. Any other factors necessary to assure that the proposed use is compatible and not detrimental to the surrounding land uses.

D. Decision, Effect, Appeal

1. Decision

The Commission may disapprove or approve with conditions an application for a Conditional Use Permit. The conditions may include, but are not limited to:

a. Limitations on size, bulk and location of structures
b. Requirements for additional landscaping or buffering
c. Provisions for adequate ingress and egress
d. Duration of the permit
e. Hours of operation
f. Time limits on the issuance of a certificate of occupancy. An extension may be granted by the Commission and shall be valid for a maximum of six months.
g. Mitigation of any adverse impacts
h. Any other condition that furthers the General Plan or policies adopted by the Council

2. Effect of Approval

a. Issuance of a permit for a Conditional Use shall apply only to the particular use and site plan for which issued, and such approval shall be deemed to run with the land. The applicant shall be required to follow the provisions of this section for any additional applicable permits prior to proceeding with development or implementation of additional uses for subject property.
b. All such conditions and approvals shall be binding on the applicant(s), their successors and assigns. The applicant shall also be required to sign the Conditional Use Permit, have it notarized and recorded by the Town in the office of the Gila County Recorder.

3. Appeals

Any person aggrieved by a decision of the Commission to approve or disapprove a Conditional Use Permit may file a letter of appeal to the Council within 30 calendar days of the decision. If a decision of the Commission on a Conditional Use Permit is appealed, the Town Council shall conduct a public hearing as soon as is reasonably practical in accordance with provisions of Section 15-09-009. The Town Council may reverse, affirm or modify the decision of the Commission following the conclusion of the public hearing.

E. Compliance Review

The Community Development Director shall review all Conditional Use Permits and report to the Commission if the conditions of the permit have not been met. If the conditions have not been met the Commission shall notify the permit holder and shall set the matter for a public hearing. If at the conclusion of the public hearing the Commission finds that the conditions have not been met the Conditional Use Permit may be modified or revoked.

LEGAL NOTICE

The Town of Payson Town Council will hold a public hearing at 5:30 P.M. on Thursday, March 6, 2008, in the Town Council Chambers at 303 North Beeline Highway on the following:

- **P-343-07** Request filed by Town staff to amend Section 15-09-004, Conditional Use Permit, of the Unified Development Code to allow revisions for simplification and clarification.

All interested persons are invited to attend this hearing and comment on these requests. Material relating to the above-referenced hearing items are available at the Town of Payson website, www.ci.payson.az.us or at the Community Development Department at 303 N. Beeline Highway, Payson, Arizona 85541, 48 hours prior to the scheduled hearing. This department will accept written comments at the address listed above.

The Town of Payson endeavors to make all public meetings accessible to persons with disabilities. With 48 hours advance notice, special assistance can also be provided for sight and/or hearing impaired persons at public meetings. Please call 474-5242 (voice) or 472-6449 (TDD) to request an accommodation to participate in the meeting.

PUBLISH PAYSON ROUNDUP: February 19, 2008

Jerry Owen, Community Development Director