ORDINANCE NO. 776

AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, AMENDING PROVISIONS OF THE TOWN'S UNIFIED DEVELOPMENT CODE RELATING TO BUILDING HEIGHT. (BUILDING HEIGHT AMENDMENT)

WHEREAS, the Town of Payson regulates the height of buildings within the Town; and

WHEREAS, on September 24, 2009, the Town Council directed Staff to prepare possible amendments to the Town's Unified Development Code increasing the maximum building heights; and

WHEREAS, during 2009, the Planning and Zoning Commission held four public meeting seeking public input related to potentially increasing maximum building heights; and

WHEREAS, during 2009, the Design Review Board held four public meetings seeking public input related to potentially increasing maximum building heights; and

WHEREAS, during 2009, the Housing Advisory Commission held a public meeting seeking public input related to potentially increasing maximum building heights; and

WHEREAS, during 2009, the Green Valley Redevelopment Area Commission held a public meeting seeking public input related to potentially increasing maximum building heights; and

WHEREAS, on January 11, 2010, the Planning and Zoning Commission held a formal Public Hearing on the recommended amendments related to increasing building height and following such Public Hearing recommended approval; and

WHEREAS, on March 18, 2010, the Payson Town Council conducted a Public Hearing on the proposed amendments; and

WHEREAS, amendments to the Unified Development Code increasing building height and conforming amendments were declared to be a public record by Resolution 2541; and

WHEREAS, it is the desire of the Mayor and Common Council to amend the Code of the Town of Payson by amending the Unified Development Code by reference pursuant to A.R.S. § 9-802,

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

First Reading and Public Hearing MAR 18 2010 G.2

Second Reading and Public Hearing APR 15 2010 G.2.b.

Section 1. That the amendments to the Unified Development Code (relating to Building Height) set forth in Resolution 2541 were heretofore declared to be a public record by such Resolution, and that such amendments are hereby referred to and adopted by this reference as though all the provisions thereof were set forth in full in this Ordinance Number 776.

Section 2. That at least three copies of the amendment to the Unified Development Code (relating to Building Height), as adopted by this Ordinance Number 776, shall be filed in the Office of the Clerk of the Town of Payson and 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 776 are hereby repealed to the extent of such conflict.

Section 4. If any section, subsection, sentence, clause, phrase or portion of this Ordinance Number 776 is held for any reason including, but not limited to the voter approved Private Property Rights Protection Act of 2006, to be invalid or unconstitutional by the decision of any court of competent jurisdiction, the Mayor and Common Council of the Town of Payson declare that the provision or provisions of the Unified Development Code relating to such section, subsection, sentence, clause, phrase or portion predating the adoption of this Ordinance shall be in effect.

PASSED AND ADOPTED BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON this 15th day of April, 2010, by the following vote:

AYES _____ NOES _____ ABSTENTIONS _____ ABSENT _____

_____
Kenny J. Evans, Mayor

ATTEST:

_____
Silvia Smith, Town Clerk

APPROVED AS TO FORM:

_____
Samuel I. Streichman, Town Attorney

SUMMARY OF AGENDA ITEM

DATE: March 18, 2010

TO: Mayor and Council

FROM: Ray Erlandsen
Acting Community Development Director

SUBJECT: **Building Height Revisions – Ordinance 776, Resolution 2541**

PURPOSE:
This amendment to the Unified Development Code (UDC), modifying regulations for maximum building heights in multifamily, commercial and industrial zoning districts, was recommended for approval by the Planning and Zoning Commission at their January 11, 2010 meeting.

The proposed amendment is based upon a graduated approval process for increased building height; staff review for buildings slightly taller, Planning & Zoning Commission being able to grant additional height, and the Town Council having approval authority over those projects seeking the greatest increase in height.

SUMMARY:
On September 24, 2009, the Payson Town Council voted unanimously to direct staff to prepare possible amendments to the UDC to increase the maximum allowable height of buildings in multifamily and commercial zoning districts. Since that time public meetings have been held by the Green Valley Redevelopment Commission, Design Review Board, Housing Advisory Commission and the Planning and Zoning Commission. Public input was encouraged before the Planning & Zoning Commission at their October, November, December and January meetings. A link for public input has been available on the Town of Payson website. To date input has been mixed with comments about the proposed change being both favorable and unfavorable.

The UDC currently allows for buildings up to a maximum of 45 feet in height in certain areas either as of right or with an approved conditional use permit. Under the amendments drafted, buildings up to 45 feet would be allowed, subject to staff and Design Review Board approval in multifamily, commercial and industrial zoning districts.

If a project exceeds the 45' maximum height provisions, the Planning & Zoning Commission could grant relief up to 25% over the stated maximum (up to 56.25 feet) through the same process as conditional use permits, but with more stringent public noticing and application submittal requirements. Any person aggrieved by approval or denial of a decision of the Commission would still be able to appeal this decision to the Town Council.

Any project seeking approval for building heights over and above that which can be granted by staff or the Planning & Zoning Commission would be required to apply for rezoning of the site under the Planned Area Development provisions of the UDC.

Attached is a memo with comments from Fire Chief Martin DeMasi.

Town of Payson Fire Department
Interoffice Memorandum

Date: January 6, 2010
To: Ray Erlandsen, Community Development Director
From: Martin deMasi, Fire Chief
Re: Building Height Restriction & Considerations

Currently in the Town of Payson buildings are restricted to be no more than 45 feet above grade so long as the building has no more than three stories and has no more than a height of 35 feet of habitable or occupiable space. It should be noted that as buildings increase in height they can and do increase in width and length. This results in buildings with increases in fire load, occupancy limits, and life-safety issues as well as more complex and complicated fire suppression issues. The decision on the size and height of future buildings in the TOP truly belongs to the citizens and their elected officials. However, the impact that these structures will have, not only the occupants but also the responders who must deal with these impacts, must be given serious deliberation.

It has been proposed, that on a case by case basis, the Planning & Zoning Commission may consider an increase in the maximum allowable building for structures through the conditional use permit (CUP) process.

The following factors shall be reviewed when considering the CUP:

- Visual impact to ridge lines/sky lines, view sheds, and light and shadow impacts
- Proposed height of the buildings from the center line of the adjacent roadway
- Preservation of native vegetation
- Scale of adjacent development
- Elimination of legal non-conforming uses, slum or blight
- Elevation of the proposed building in comparison to adjacent properties and buildings
- Privacy of adjacent property owners
- Distance of the proposed building from the edge of the property
- Community benefits derived from the additional height
- Location and size of parcel
- Height between _____ feet and _____ feet
- Increased front, side, and or rear yard setbacks
- Greater open space requirements
- Additional design review requirements (colors, etc.)
- Additional landscaping and/or larger minimum specimen sizes
- All factors listed in 15-09-004 (CUP)

Most of the discussion to date seems to have centered on the impact these taller structures will have on the sky line, landscape, native vegetation, and other aesthetic issues which will have an impact on the quality of life. Additional consideration is also needed on how high and how big of a building can be properly serviced by the current emergency services in the TOP. Their staffing, training, and equipment inventories will play a part in their ability to muster an adequate initial and sustained response.

The possibility of raising the maximum height of building heights up to 75 feet in height, in certain zoning districts, and based on a case-by-case evaluation. If 75 feet is ultimately chosen

as the maximum height, depending on building design, this could introduce 4, 5, 6, and possibly 7 story buildings into the community. Currently the Fire Department has seven personnel on duty, responding with two engines and a Battalion Chief. These units are equipped with ground ladders capable of servicing buildings not over three stories in height. Additional reach is available from an unstaffed ladder truck, which will be staffed by off-duty personnel responding from their homes. Additionally, the Fire Department receives support in the form of manpower and equipment from smaller neighboring departments that are primarily volunteer in nature. Due to the distance of Payson from any other notable population center a significant delay for additional support is virtually unavoidable.

The TOP has adopted nationally recognized codes, which have been modified by amendment and zoning ordinances, to allow buildings of height and size to be erected. These same codes could be modified to erect safer and more manageable buildings. As the TOP looks to build structures heretofore not seen it should also consider enhancements and improvements to its building and fire codes based on local conditions and limitations.

Specifically, you may wish to consider:

Modifying Table 503 Allowable Height and Building Areas
(Modify limitations, eliminate some construction types, and reduce area modification calculations; all in the interest of erecting more survivable buildings for both the resident and the responder)

Lower the applicability of the High-Rise provisions of the code from 75 feet to 60 feet. (Incorporating the life-safety devices and provisions needed by today's professional firefighters.)

Allowing the introduction of best practice elements into the structures
(Compressed SCBA refill operations, firefighter resources/boxes, etc.)

Request that all buildings over three stories regardless of occupancy type be equipped with an automatic sprinkler system.

To require all buildings over three or possibly four stories buildings to be construction Type II or better. This would allow the construction of noncombustible structures without confusing the end user with modifications to table 503 and a number of area modification calculations. Type II construction requires a noncombustible structural frame, bearing walls, and floor/ceiling assemblies. I like this suggestion, as it is simple and results in a safer and more substantial structure.

The proposal to allow the Planning & Zoning Commission to intercede, on the behalf of the residents affected on a case by case basis, regarding the maximum height of buildings appears to be in the best interest of the community. The maximum height allowed in each zoning area may be different based on variables yet to be considered. That being said, the absolute maximum height of buildings throughout the TOP should be established and the suggested modifications should be incorporated into the building and fire codes to protect the occupants, the responders as well as the value and investment in the structure.