



303 North Beeline Highway
Payson, Arizona 85541
Phone 928-474-5242
Fax 928-474-8472

MEMORANDUM

Date: October 10, 2012

To: Mayor and Council Members

From: Town Staff

Re: Item I(1) of the October 18, 2012 Agenda (Payson Community Kids Waiver Request)

Exhibits:

A – March 15, 2010 Planning and Zoning Commission Staff Memo

B – March 15, 2010 Planning and Zoning Commission Minutes

C - March 18, 2010 Notice of Action

D – August/September 2012 Correspondence

Town Staff¹ has prepared this memo to (a) provide a timeline of the Payson Community Kids' ("PCK") project; and (b) provide information re the procedural steps for the relief sought by PCK.

Timeline:

Early 2010 PCK submits a request for a Conditional Use Permit ("CUP") to allow a non residential use (after school programs, etc.) in a R3, Multifamily Zoning District. A Public Hearing before the Planning and Zoning Commission is scheduled for March 15, 2010. The PCK Tonto Street location is posted with the date of the Public Hearing; notice of the Public Hearing is in the Roundup; notice is mailed to 70 neighbors; a Citizens Participation Meeting is held; and a Citizens Participation Report is prepared.

¹ Although this Memo was drafted by the Legal Department, it is a collaborative effort by Town Staff from the Legal Department, Community Development, and Engineering.

March 15, 2010 During the Public Hearing on PCK's application before the Planning and Zoning Commission, neighbor James Cooper voiced his concerns over various items, including the condition of Tonto street. Suzy Tubbs, President of PCK, answered questions and addressed concerns from the Commission. She did not object to any of the suggested CUP conditions. There was further discussion by the Commission over various items including traffic and access for emergency services. At the end of the Public Hearing, the Commission approved the CUP with eight conditions. Condition 5 specifically required that Tonto Street (PCK's access) be improved.²

March 18, 2010 The Town sends PCK a formal Notice of Action indicating that the CUP has been approved, subject to the eight conditions listed in the Notice. No one from PCK objects to the Notice of Action or any of the conditions listed therein.

February 2011 PCK receives Design Review Board approval for its building.

April 15, 2011 PCK receives a building permit for its buildings. In PCK's application, it submitted plans to improve the roadway to Town standards, i.e., Section 15-07 of the UDC.

November 2011 LaRon Garrett, pursuant to Note 10 of Table C.1.1 (Section 15-07-02(C)), agreed to reduce the required roadway width from 33' to 24' and to eliminate the sidewalk, curb, and gutter requirements.

August/September 2012 The Town receives and responds to various correspondence from PCK Board Member Jim Luebner requesting additional reductions in the roadway standards. Mr. Luebner is requesting that PCK be allowed to "grade and pave Tonto Street: with 2" AC over Native Ground per the approved engineering plans." The Town's response is that it has already reduced the requirements and that 2" paving over 6" ABC with thickened edge is the minimum requirement. PCK finishes their 'building' but additional work is required in the areas of parking, landscaping, and the improvement of Tonto Street.

September 20, 2012 Mr. Leubner sends a letter to LaRon Garrett presenting various questions and requesting "that the Town Council Rescind Condition of Approval Number 5 of CUP 10-004."

² Condition 5 states "The existing street [i.e., Tonto Street] pavement ends prior to reaching this property. That street pavement must be extended to the south side of this property. The improvements shall include, at a minimum, a 24' wide paved roadway with a thickened edge." In addition to this explicit condition, the Unified Development Code also allows the Town to require "off site improvements for non residential uses." See 15-02-003(A)(4)(c)(2). Normally improvements for this type of use in this type of neighborhood would include 33' feet of pavement, sidewalk, and curb and gutter. These type of improvements are required to assure connectivity, improve air quality (reduction of dust), and public safety access. PCK is located on a dead end street, and although it does not have 'through traffic,' the 'turn around traffic' can be more taxing on the pavement.

September 24, 2012 LaRon Garrett replies to Mr. Leubner on three of his questions. Mr. Garrett (1) provides the Sections of the UDC addressing street section requirements; (2) indicates that PCK had the opportunity to appeal the CUP (and its conditions) within 30 days, but did not do so; and (3) informs Mr. Leubner that a citizen must have a Council Member ask for an item to be placed on a Council Agenda.

September 25, 2012 LaRon Garrett forwards copies of the August/September correspondence between him and Mr. Leubner to the Mayor and Council.

October 2, 2012 Council Member Ed Blair sends an email to Mr. Leubner, copying the Town Clerk stating “this is a formal request to put the item [i.e., PCK’s request for a waiver of Condition 5] on the Oct 18 agenda”

October 2012 PCK requests a final inspection of the vertical building aspects of its project. As of the date of this memo, the outcome of such inspection is unknown. On October 9, 2012, a zoning inspection was conducted and a Correction Notice was issued for four outstanding items. A final Certificate of Occupancy can be issued only when all vertical building, zoning, and engineering requirements are completed.

Procedural Issues:

PCK is requesting that Condition 5 of the CUP be waived. Even if Condition 5 is waived, the requirements of the Town Code would still be in effect. Thus Town Staff believes that in practicality, PCK is asking for a waiver, not only of Condition 5, but also of the governing provisions of the Town Code.

Waiver of Condition 5 – Following the approval of a CUP, any person aggrieved may appeal to the Town Council within 30 days. UDC Section 15-09-04(D)(3). If such an appeal were received, the Town would notice the Appeal before the Council and then the Council would address the appeal at a public hearing. In this manner, all interested parties would know that the CUP was subject to change.³

If a CUP is not appealed, but an applicant later desires an amendment, the applicant would file for an amendment to the original CUP or request a new CUP. This requested amendment or new CUP would then be noticed through all of the appropriate channels and a citizen participation plan and report would be prepared.⁴

³ In addition to providing notice to interested citizens, this procedure follows the Town’s UDC. If the Town were to violate its own UDC, there may be a question of legality. The Town’s authority to zone comes from State Law and zoning regulations, once adopted, must be followed.

⁴ This procedure is necessary to protect interested parties other than the applicant. Without such a procedure, the applicant could agree to terms to placate neighbors or other interested parties who have been notified, and then later, after any interest had died down, and without any notification to such neighbors or other interested person, seek relief from the Council. This scenario would allow an applicant to effectively nullify the public participation process.

Thus, if PCK is seeking an amendment to the CUP, or a waiver of a condition of the CUP, any time after 30 days, the appropriate procedure would be to go back to the Planning and Zoning Commission

Waiver of a Town Code Provision – The Town Code (including the Unified Development Code) is approved by the Town Council by Ordinance. Any amendments to the Code, or any exceptions or waivers of Code provisions,⁵ must be done by Ordinance. Ordinances normally require 2 readings/Public Hearings and do not become effective for 30 days following approval, unless the Council declares an emergency.

If directed by the Town Council, Town Staff will begin the process of amending the Town Code to allow groups such as PCK to be exempt from specific Town Code requirements.

⁵ This Memo does not address any legal issues that may arise from ‘waiving’ a code provision for one person or group, but requiring compliance from all other persons or groups. Notions of Due Process and Equal Protection could be raised. Aside from the legal issues, the practical issues of not requiring compliance with various code provisions from one group, but requiring compliance from all others (i.e., unequal application of the law) are obvious.

Exhibit A



MEMO

TO: Planning and Zoning Commission

FROM: Ray Erlandsen
Acting Community Development Director

DATE: March 15, 2010

SUBJECT: **Conditional Use Permit Amendment Request** **CUP10-004**
409 S. Tonto Street, Payson Community Kids Inc.

Background

A request has been submitted by the Payson Community Kids, Inc., applicant and property owner, to allow a day care center use in a R-3 zoning district at 409 S. Tonto Street.

Analysis

Payson Community Kids Inc. is seeking approval of a day care center use to continue their program, which until recently was operating as a home-based business at 300 W. Wade Lane and on a portion of the property located at 409 S. Tonto Street. The organization no longer owns the property at 300 W. Wade Lane and is seeking to expand their use of the property at 409 S. Tonto Street.

In 2005 Lot 13 of the Mogollon Rim Addition 3 Subdivision (407 S. Tonto Street) was deeded to Payson Community Kids by Daloris Luebbers. Payson Community Kids split the property on Tonto into two parcels (see exhibit A). Lot 13B, 409 S. Tonto Street was retained by Payson Community Kids Inc. and Lot 13A, 407 S. Tonto Street was conveyed to Habitat for Humanity for construction of a single family residence.

Suzy Tubbs, President of the Payson Community Kids, Inc. governing board, has outlined the services provided by this organization in her narrative stamped 2-15-2010, which is included in this report. The proposed use is most similar to a day care center, for which the Unified Development Code (UDC) classifies as a "conditional" use in a R-3 zoning district.

Payson Community Kids, Inc. operates chiefly with the assistance of volunteers, which allows them to offer programs and services at a minimal cost. Volunteers work with the children on a regular basis by providing meals and after school programs and actively participating in fundraising projects. Future expansion of the program is planned with the addition of a recreation room facility as depicted on the site plan dated 2-5-10. This site plan is preliminary and has not yet been reviewed by the Development Services Committee. The project will need to comply with all Town of Payson Commercial Development Standards. In addition, upgrades to the roadway adjacent to this project will need to be improved to meet minimum standards.

The zoning application fee for a conditional use permit is \$1000.00. On February 18, 2010, the Town Council directed staff to waive the application fee at the request of the applicant.

Staff finds that the applicant's request could be compatible with the surrounding area, if the recommended conditions are met.

Staff Recommendation:

Approval with conditions listed below:

1. The development shall be in substantial conformance with the Preliminary Site Plan study, dated February 5, 2010.
2. Site shall comply with all Town of Payson development regulations including fire, building, design review, and water conservation measures.
3. The use shall comply with all state licensure requirements. Failure to comply with state requirements shall be grounds for revocation of the CUP.
4. Off-street parking requirements of the Unified Development Code shall be met, and all parking spaces and driving aisles must be paved.
5. The existing street pavement ends prior to reaching this property. That street pavement must be extended to the south side of this property. The improvements shall include, at a minimum, a 24' wide paved roadway with a thickened edge.
6. Storm water detention must be provided in accordance with the current Town requirements.
7. The length of this conditional use permit shall run concurrent with the use of this property. So long as the site is used for a day care center use, then this permit is valid. Expansion of the approved use, change in uses, or additional uses shall be subject to review and approval by the Planning and Zoning Commission if not expressly permitted in the R-3 zoning district.
8. Failure to comply with conditions one (1) thru five (5) above shall be grounds for zoning citations and possible revocation of the Conditional Use Permit. If alleged violations of the conditions of this CUP are brought to the attention of the Community Development Department or Public Works Engineer, with a 24 hour notification to the property owner, an inspection shall be allowed at the school. If violations of the conditions of this CUP persist, a request for review may be brought before the P & Z Commission at the discretion of the Zoning Administrator.

Suggested Motion to Approve:

"I move the Planning & Zoning Commission approve CUP10-004, a request to allow a day care center use in a R-3 zoning district at 409 S. Tonto Street, with the conditions as recommended by staff."

Neighborhood Involvement

A Citizens Participation meeting was conducted on February 25, 2010, at 409 S. Tonto Street. The Citizens Participation Report and related correspondence received by staff are attached for review.

* Note: There is a 30 day appeal period before the action of the Planning and Zoning Commission becomes effective.



**TOWN OF PAYSON
PLANNING AND ZONING COMMISSION OR
BOARD OF ADJUSTMENTS APPLICATION**

The undersigned Applicant(s) hereby applies for:

- | | | |
|--|--|---|
| <input type="checkbox"/> Abandonment Request | <input type="checkbox"/> General Plan or Land Use Plan Amendment | <input type="checkbox"/> Guest Quarters |
| <input type="checkbox"/> Administrative Appeal | <input type="checkbox"/> Minor Land Division | <input type="checkbox"/> ADU |
| <input type="checkbox"/> Code Amendment | <input type="checkbox"/> P & Z Commission Appeals | |
| <input checked="" type="checkbox"/> Conditional Use Permit | <input type="checkbox"/> Preliminary Subdivision Plat | |
| <input type="checkbox"/> Development Master Plan | <input type="checkbox"/> Temporary Use Permit | |
| <input type="checkbox"/> Devel. Agreement, PAD & SPD | <input type="checkbox"/> Variance | |
| <input type="checkbox"/> Final Subdivision Plat | <input type="checkbox"/> Zone Change | |

Aug, 2009

Project Address: 409 S Tonto Street Tax Parcel Number: 304-03-103B
 Subdivision: Magallon Rim Addition 3 Lot Number: Portion of 13
 Name of Applicant(s): Payson Community Kids Phone #: 928-978-3256
 Mailing Address: PO Box 1856 Town: Payson St: AZ Zip: 85547
 Name of Property Owner(s): Payson Community Kids Inc
 Mailing Address: PO Box 1856 Town: Payson St: AZ Zip: 85547
 Contact Person: Suzanne Tubbs Phone #: 928-978-3256 Fax #: 928-468-6290
 Payson Business License # N/A Sales Tax # 03-0376861

Detailed Description of Request:

Please see attached

(Note: Additional Description area can be included in an attachment)

Certification: I hereby certify that the data submitted on or with this application is true and correct, that I am the Owner of the property at this address, or that for the purpose of obtaining this approval I am an authorized agent in his behalf.

Suzanne Tubbs
Print Name

Suzanne Tubbs
Signature

2-11-10
Date

STAFF USE ONLY - PERTINENT DATA			
APPLICATION	DATE	INITIALS	APPLICATION FEE:
DATE FILED	2-11-10	Sld	Waived by Town Council 2.18.10 Sld
COMPLETED APPLICATION	3-3-10	Sld	
NEWSPAPER PUBLICATION	2-26-10	Sld	
300' NOTIFICATION MAILOUT	2-25-10	Sld	
POSTING DATE	2-25-10	Sld	
			CHECK NUMBER: <u>N/A</u> DATE: <u>N/A</u>

RECOMMENDATION	DECISIONS
By: _____ Date: _____	By: _____ Date: _____

The *Payson Community Kids Program* was started in 1996 to provide a supportive group to “at risk” children in Payson whose parents, for various reasons, are unable to provide adequate care, clothing, food or other essential needs to these children. As of December 2009, there are approximately seventy children that are assisted by Payson Community Kids Inc. Our goal in helping these children’s needs be met by providing: food and clothing as needed, dental and medical care when needed, school supplies to ensure the children have a chance to do well in school and positive reinforcement for good behavior, honesty, courage are an important element that these children require to succeed at home, school and in life.

Currently the Payson Community Kids has an afterschool program currently open one day per week on Wednesdays from 3:00 p.m. to 5:30 p.m. available to children six to eighteen years of age. As of January 2010, we are limited to 6 children under the age of 16 without a custodial parent attending the program with them. The program is currently only open for one day per week. This makes our program very limited.

The after school program starts where they are treated to a snack when then come in the door from school and dinner before they go home. They do art, music, and positive life lesson classes. Homework is a must and tutoring is available for all children.

The afterschool program also has a job skills program for the teenagers of Payson Community Kids they are known as Student Teachers. The Student Teacher must be a beneficiary of Payson Community Kids program for no less than 6 months before entering into the job skills program. The job skills program has been very successful and, gives the Student Teacher the skills necessary to apply and hold a job giving them the responsibilities expected of them as an employee. Currently there are three Student Teachers in the program.

Goal for June 2010 is to have accommodations that would support the afterschool program of upwards to forty children on an operational daily basis of three days per week.

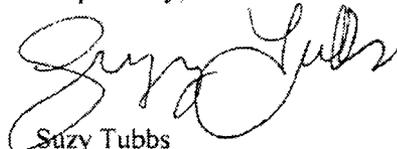
Payson Community Kids requires Community Involvement from the beneficiary’s of the program such as in community projects like “adopt a street” and celebrating grand parent’s day with the elders in Payson, assisting neighbors that may need assistance of their own.

This program helps keep these children off the streets and gives them a place of hope and care that they may not otherwise receive.

Please review the attached proposed site plan to add the additional building to be able to meet our goal to assist the children in our program. The additional building is necessary to continue this program and help the children of Payson Community Kids.

If you have any questions please feel free to give me a call at 928-978-3256.

Respectfully,



Suzy Tubbs
President
Payson Community Kids Inc,
(928) 978-3256

FEB 15 2010

**CITIZENS
PARTICIPATION
MATERIAL**

15-09-014 Citizens Participation Report

Payson Community Kids
409 S. Tonto Street
Payson, AZ 85541

Mailing:
PO BOX 1856
Payson, AZ 85547

February 8, 2010 the Notice of citizens Participation Meeting was mailed to the attached 70 neighbors. The notice provided a description of the Payson Community Kids program and what the future plans entailed. Included in the notice was an enclosure of a Preliminary drawing of an additional structure to accommodate the current program. (See attached)

The date of the Citizens Participation Meeting was Thursday, February 25, 2010 from 5:00 p.m. to 6:00 p.m. The location was 409 S. Tonto Street Payson, AZ 85541.

There were six representatives from Payson Community Kids in attendance (Suzy Tubbs, Chris Avakian, Carol Quigley, Bobby Tucker, Cherie Wait, and Laura Meidinger) to assist with answering questions and concerns.

Three neighbors (Jim Cooper, Greg DeClaire and Misti DeClaire) were in attendance in addition to a member (Lori Meyers) of the Town of Payson, Planning and Zoning Department.

The following concerns were discussed:

1. Trash bin located at the end of Tonto Street
2. Parking on street
3. Speeding cars staff, volunteers or parents
4. To early start time of operation of the program
5. Property values

Plans to address:

1. Trash bin – Trash bin is not associated with Payson Community Kids and this was discussed. Neighbor said he would discuss issue with the responsible party.
2. Parking – There will not be any parking in the street from any individual affiliated with Payson Community Kids. This will be stopped immediately. Parking spaces will be provided at point of construction to illuminate any additional parking confusion.
3. Speeding – Payson Community Kids will not tolerate speeding by staff, volunteer or parent if such action takes place consequences shall be imposed

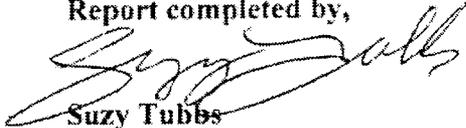
thereof. However neighbor should not hesitate to contact police if this ever occurs.

4. Time of operation – The program does not start until 2:30 p.m. and ends at 5:30 p.m. during school year. Summer and vacation time the program is open from 10:00 a.m. to 2:00 p.m.
5. Property values – The additional building will promote positive values and assist in mischief being kept off the streets of the neighborhood.

The above items were the concerns that were brought up by the attending neighbors by the end of the meeting all neighbors in attendance felt their questions were answered and appeared to be very satisfied with the response.

In conclusion there were no issues that we are aware of that we can not be unwilling or unable to address at this time.

Report completed by,



Suzy Tubbs
President,
Payson Community Kids
107 North Mogollon Trail
Payson, AZ 85541
928-978-3256

Notice of Citizens Participation Meeting

February 8, 2010

Dear Neighbor:

The Payson Community Kids Board of Directors will hold a public meeting at the Payson Community Kids Inc, Center located at: 409 S. Tonto Street, Payson, AZ 85541 at 5:00 p.m. to 6:00 p.m. Thursday, February 25, 2010. The purpose of the meeting will be to discuss our application for a **Conditional Use Permit** at 409 S. Tonto Street; Gila County Assessor's Parcel No. 304-03-103B, the Conditional Use Permit would refer to Payson Community Kids Inc, a non-profit for at risk children in Payson, Arizona.

The *Payson Community Kids Program* was started in 1996 to provide a supportive group to "at risk" children in Payson whose parents, for various reasons, are unable to provide adequate care, clothing, food or other essential needs to these children. As of December 2009, there are approximately seventy children that are assisted by Payson Community Kids Inc, Our goal in helping these children's needs be met by providing: food and clothing as needed, dental and medical care when needed, school supplies to ensure the children have a chance to do well in school and positive reinforcement for good behavior, honesty, courage are an important element that these children require to succeed at home, school and in life.

Currently the Payson Community Kids has an afterschool program currently open one day per week on Wednesdays from 3:00 p.m. to 5:30 p.m. available to children six to eighteen years of age. As of January 2010, we are limited to 6 children under the age of 16 without a custodial parent attending the program with them. The program is currently only open for one per week. This makes our program very limited.

The after school program starts where they are treated to a snack when then come in the door from school and dinner before they go home. They do art, music, and positive life lesson classes. Homework is a must and tutoring is available for all children.

The afterschool program also has a job skills program for the teenagers of Payson Community Kids they are known as Student Teachers. The Student Teacher must be a beneficiary of Payson Community Kids program for no less than 6 months before entering into the job skills program. The job skills program has been very successful and, gives the Student Teacher the skills necessary to apply and hold a job giving them the responsibilities expected of them as an employee. Currently there are three Student Teachers in the program.

Goal for June 2010 is to have accommodations that would support the afterschool program of upwards to forty children on an operational daily basis of three days per week.

Payson Community Kids requires Community Involvement from the beneficiary's of the program such as in community projects like "adopt a street" and celebrating grand parent's day with the elders in Payson, assisting neighbors that may need assistance of their own.

This program helps keep these children off the streets and gives them a place of hope and care that they may not otherwise receive.

Please review the attached proposed site plan to add the additional building to be able to meet our goal to assist the children in our program. The additional building is necessary to continue this program and help the children of Payson Community Kids.

If you are unable to attend this meeting and have questions or comments regarding this project, feel free to contact Suzy Tubbs, Payson Community Kids Inc, Board President at (928) 970-7441.

If you would like to make a monetary donation to assist in the cost of building this additional facility please checks to Payson Community Kids PO Box 1856 Payson, AZ 85547.

Respectfully,

A handwritten signature in black ink that reads "Suzy Tubbs". The signature is written in a cursive, flowing style.

Suzy Tubbs
President
Payson Community Kids Inc,
(928) 970-7441

SOUTH TONTO STREET

40.00' ROW

NOT A TRUNK STREET

35.00'

VISITOR PARK (3)

STAFF PARK (3)

PLAY YARD 84' x 30'

CONCRETE BALL COURT 14' x 24' 20' x 24'

RECEPTION 20' x 27' 41 OCCUPANTS

PROPOSED 32' x 28' MFG. SLDG.

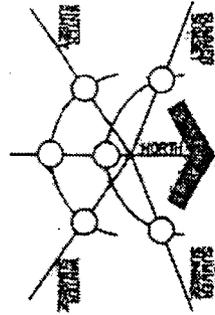
800' FAM. HOME

LOT 13A 13,498 S.F.

40.00'

21.83'

PLAY YARD 21' x 150'



800' FAM. HOME

800' FAM. HOME

ORR

103.00'

800' FAM. HOME

200.00'

800' FAM. HOME

PAYSON COMMUNITY KIDS NEIGHBORHOOD CENTER
409 SOUTH TONTO ST. PAYSON, ARIZONA

SITE STUDY
SCALE: 1"=32' 02/05/10
PRELIMINARY



Gila County, AZ
 Linda Haught Ortega, Recorder
 07/27/2005
 04:14PM
 Doc Code: WD

PIONEER TITLE AGENCY RECORDING

at the request of Pioneer Title Agency, Inc.

When recorded mail to:
PAYSON COMMUNITY KIDS, INC.
 300 W. Wade
 Payson, AZ 85541



2005-013329
 Page: 1 of 1
 07/27/2005 04:14P
 15 00

Gila County, AZ

WD

00122785-TB

Tax Code: 304-03-103

WARRANTY DEED

For the consideration of Ten Dollars, and other valuable consideration, I or we,

DALORIS A. LUEBBERS, a widow

do/does hereby convey to

PAYSON COMMUNITY KIDS, INC., an Arizona non-profit corporation

the following real property situated in Gila County, Arizona:

Lot 13. MOGOLLON RIM ADDITION PLAT THREE, according to Map No. 151, records of Gila County, Arizona.

SUBJECT TO: Current taxes and other assessments, reservations in patents and all easements, rights of way, encumbrances, liens, covenants, conditions, restrictions, obligations and liabilities as may appear of record.

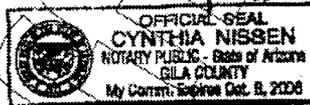
The Grantor warrants the title against all persons whomsoever.

DATED this 20th day of July, 2005

Daloris A. Luebbers
 DALORIS A. LUEBBERS

State of Arizona

County of Gila



This instrument was acknowledged before me this
20 day of July, 2005 by
DALORIS A. LUEBBERS.

Cynthia Nissen
 Notary Public

State of Arizona

County of Gila

} ss

My commission will expire 10-8-2006
 This instrument was acknowledged before me this
 ___ day of ___, 20__ by

Notary Public

My commission will expire _____



Gila County, AZ
 Linda Haught Ortega, Recorder
 87/27/2885
 84:14PM
 Doc Code: WD

PIONEER TITLE AGENCY RECORDING

at the request of Pioneer Title Agency, Inc.

When recorded mail to:
 PAYSON AREA HABITAT FOR
 HUMANITY, INC.
 1013 S. GOODFELLOW RD.
 PAYSON, AZ. 85541



2885-013330

Page: 1 of 1
 87/27/2885 DA: SAP
 15.00

Gila County, AZ

WD

00122817-TB

Tax Code: A PORTION OF 304-03-103

WARRANTY DEED

For the consideration of Ten Dollars, and other valuable consideration, I or we,

PAYSON COMMUNITY KIDS, INC., an Arizona corporation

do/does hereby convey to

PAYSON AREA HABITAT FOR HUMANITY, INC., an Arizona corporation

the following real property situated in Gila County, Arizona:

Lot 13A, as shown on that certain Record of Survey/Minor Land Division recorded as Map No. 2916, records of Gila County, Arizona, being a portion of Lot 13, MOGOLLON RIM ADDITION PLAT THREE, according to Map No. 151, records of Gila County, Arizona.

SUBJECT TO: Current taxes and other assessments, reservations in patents and all easements, rights of way, encumbrances, liens, covenants, conditions, restrictions, obligations and liabilities as may appear of record.

The Grantor warrants the title against all persons whomsoever.

DATED this 22nd day of July, 2005

PAYSON AREA HABITAT FOR HUMANITY,
 INC., an Arizona non-profit corporation

Marcy Rogers, President
 MARCY ROGERS, President

State of Arizona

County of Gila

SS

This instrument was acknowledged before me this
 22nd day of July, 2005 by
 MARCY ROGERS, as President of PAYSON
 COMMUNITY KIDS, INC., an Arizona non-
 profit corporation.

[Signature]

Notary Public

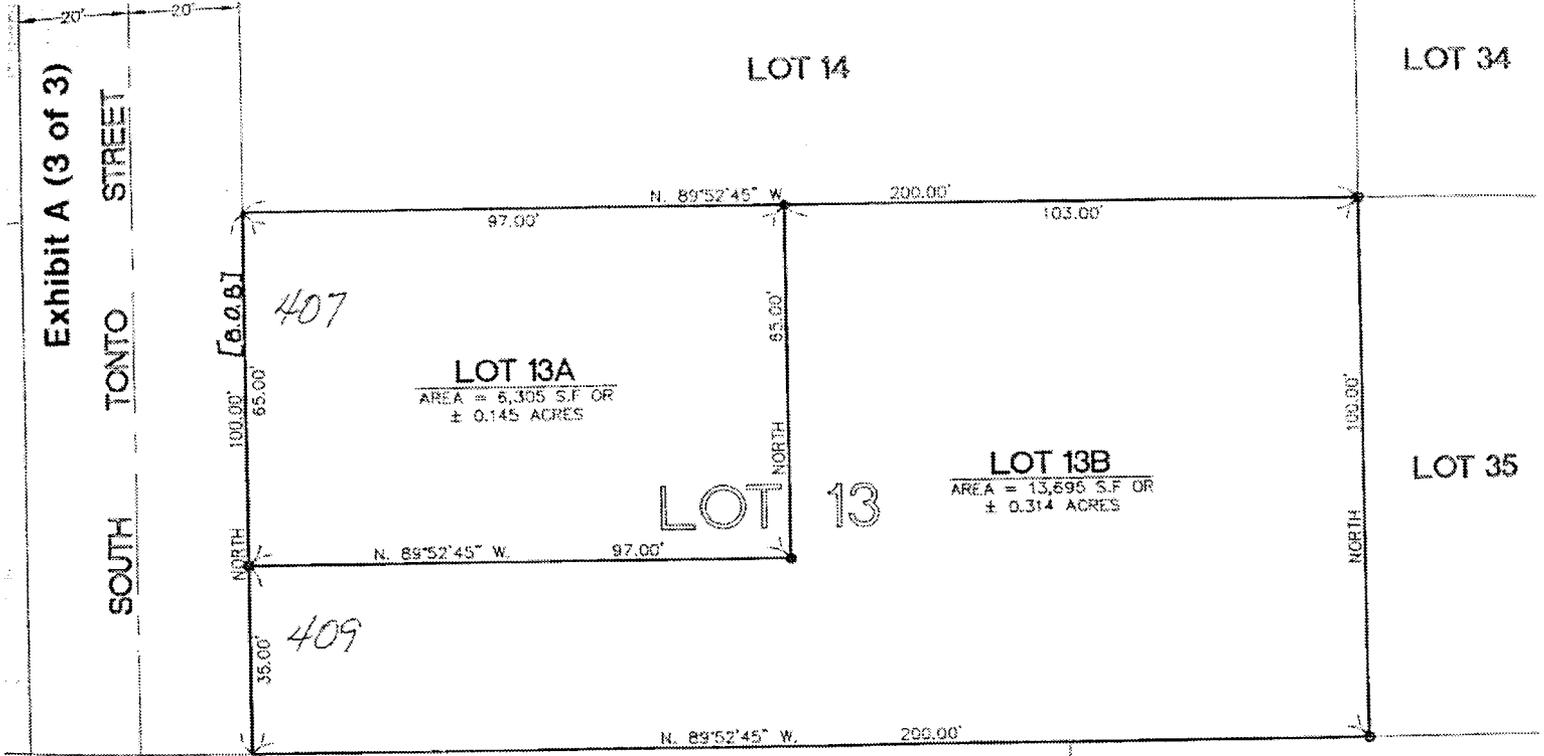
My commission will expire _____



TONI GERMAN
 Notary Public - State of Arizona
 MARICOPA COUNTY

Exhibit A (3 of 3)

SOUTH TONTO STREET



125
A

125
K

Exhibit B

**TOWN OF PAYSON
PLANNING AND ZONING COMMISSION
MINUTES OF THE PUBLIC MEETING
March 15, 2010**

Chairman Goddard called the duly posted public meeting of the Planning and Zoning Commission to order at 3:00 p.m. in the Town Council Chambers.

PLEDGE OF ALLEGIANCE

ROLL CALL

PRESENT: James Scheidt, Russell Goddard, Lori Meyers, and Clark Jones.

ABSENT: Jere Jarrell, Joel Mona, and Jeff Loyd

STAFF PRESENT: Ray Erlandsen, Acting Community Development Director, Tim Wright, Deputy Town Attorney, and Chris Floyd, Executive Assistant.

A. APPROVAL OF MINUTES

1. Public Meeting 2-8-2010 Pages 1-6

Minutes were approved as submitted.

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. CUP10-003 Conditional Use Permit
Filed by: Safeway Inc., property owner
Location: 401 East Highway 260
Purpose: To allow outside display or storage of merchandise use in a C-2 zoning district.

Ray Erlandsen, Acting Community Development Director, summarized the staff report.

Staff recommends approval with the following conditions:

1. Display area shall be limited to the areas depicted on the site plan as submitted, sealed February 10, 2010.
2. Commodities displayed on the exterior of the store shall be similar to grocery type commodities allowed to be stored or offered for sale within the store, with the exception of bundled firewood contained on the display rack as shown in "D. Firewood Display" of the accompanying submittal materials. Seasonal displays not specifically depicted in the submittal materials, and other special event displays shall comply with all adopted fire code standards. Where uncertainty exists, the decision of the Fire Marshal shall govern.
3. The length of this conditional use permit shall run concurrent with the use of this property. So long as the display area is used for display of products typically carried on the interior of a grocery store, then this permit is valid. Expansion of the approved use, change in uses, or additional uses shall be subject to review and approval by the Planning and Zoning Commission if not expressly permitted in the C-2 zoning district.
4. Failure to comply with the above conditions shall be grounds for zoning citations and possible revocation of the Conditional Use Permit. If alleged violations of the conditions of this CUP are brought to the attention of the Community Development Department, with a 24 hour notification to the property owner, a zoning inspection shall be allowed at the site. If violations of the conditions of this CUP persist, a request for review may be brought before the P & Z Commission at the discretion of the Zoning Administrator.

Chairman Goddard opened the public hearing.

Chairman Goddard closed the public hearing.

Motion: Approve CUP10-003, a request to allow outside display of merchandise in a C-2 zoning district at 401 East Highway 260 subject to the conditions recommended by staff and read.

Moved by James Scheidt, seconded by Lori Meyers.

Vote: Motion carried 4 - 0

Yes: James Scheidt, Russell Goddard, Lori Meyers, and Clark Jones.

Absent: Jere Jarrell, Joel Mona, and Jeff Loyd.

2. CUP10-002 Conditional Use Permit
Filed by: James & Lauree Connolly, property owners
Location: 409 East Rancho Road
Purpose: To allow a home-based business use, in-home day care, and to allow more than two customer/client visits per day in a R1-10 MH

zoning district.

Chairman Goddard noted that staff had received a letter from the applicant requesting the postponement of this application until the next meeting. He stated that the Commission would still take public comment on this application.

Tim Wright, Deputy Town Attorney, stated that the Commission should open the public hearing and then the Commission could decide whether to postpone the decision until the next meeting.

Ray Erlandsen, Acting Community Development Director, summarized the staff report.

Staff recommends approval with the following conditions:

1. The number of children being cared for within the facility shall not exceed 5.
2. The applicant shall comply with all State of Arizona and Town of Payson licensing requirements.
3. Off-street parking requirements of the Unified Development Code must be met. If the applicant requests the use of adjacent property to fulfill this requirement, a copy of the signed and recorded right of use shall be provided to the Zoning Administrator prior to recordation of the use permit.
4. The length of this conditional use permit shall run concurrent with the use of this property. So long as the home is used for a home-based day care use with more than 2 customer/client visits per day, then this permit is valid. Expansion of the approved use, change in uses, or additional uses shall be subject to review and approval by the Planning and Zoning Commission if not expressly permitted in the R-1 zoning district.
5. Failure to comply with the above conditions shall be grounds for zoning citations and possible revocation of the Conditional Use Permit. If alleged violations of the conditions of this CUP are brought to the attention of the Community Development Department, with a 24 hour notification to the property owner, a zoning inspection shall be allowed at the site. If violations of the conditions of this CUP persist, a request for review may be brought before the P & Z Commission at the discretion of the Zoning Administrator.

Chairman Goddard opened the public hearing.

Several members of the audience voiced their concerns regarding the traffic, drainage, and road erosion on Pettet Lane.

Chairman Goddard asked if something could be worked out regarding parking at the church would the neighbors be agreeable. The main concern of the neighbors was compliance with the parking situation. Ray Erlandsen, Acting Community Development Director, stated that today's meeting was based on a complaint.

Commissioner Scheidt asked if the street (Pettet Lane) met the Town requirements to which the reply was that it is not a Town street. Tim Wright, Deputy Town Attorney, commented that one thing the Commission would consider is traffic and ingress/egress for this land use.

Chairman Goddard closed the public hearing.

James Scheidt moved, seconded by Clark Jones, to postpone CUP10-002 until April 12 to make a decision on this application.

Motion carried 4-0.

3. CUP10-004 Conditional Use Permit
Filed by: Payson Community Kids Inc., property owner
Location: 409 South Tonto Street
Purpose: To allow a day care center use in a R-3 zoning district.

Ray Erlandsen, Acting Community Development Director, summarized the staff report.

Staff recommends approval with the following conditions:

1. The development shall be in substantial conformance with the Preliminary Site Plan study, dated February 5, 2010.
2. Site shall comply with all Town of Payson development regulations including fire, building, design review, and water conservation measures.
3. The use shall comply with all state licensure requirements. Failure to comply with state requirements shall be grounds for revocation of the CUP.
4. Off-street parking requirements of the Unified Development Code shall be met, and all parking spaces and driving aisles must be paved.
5. The existing street pavement ends prior to reaching this property. That street pavement must be extended to the south side of this property. The improvements shall include, at a minimum, a 24' wide paved roadway with a thickened edge.
6. Storm water detention must be provided in accordance with the current Town requirements.
7. The length of this conditional use permit shall run concurrent with the use of this property. So long as the site is used for a day care center use, then this permit is valid. Expansion of the approved use, change in uses, or additional uses shall be subject to review and approval by the Planning and Zoning Commission if not expressly permitted in the R-3 zoning district.

8. Failure to comply with conditions one (1) thru seven (7) above shall be grounds for zoning citations and possible revocation of the Conditional Use Permit. If alleged violations of the conditions of this CUP are brought to the attention of the Community Development Department or Public Works Engineer, with a 24 hour notification to the property owner, an inspection shall be allowed at the day care center. If violations of the conditions of this CUP persist, a request for review may be brought before the P & Z Commission at the discretion of the Zoning Administrator.

Chairman Goddard opened the public hearing.

James Cooper voiced his concerns with the condition of the street, traffic, no lighting or sidewalks in the area, and parking.

Suzy Tubbs, President of Payson Community Kids, answered questions regarding the number of children and the fact that it is an after school program. For now it's only one day a week but would like to expand it to three days.

There was further discussion regarding the parking, traffic, access for emergency services, and privacy fencing.

Chairman Goddard closed the public hearing.

Motion: Approve CUP10-004, a request to allow a day care center use in a R-3 zoning district at 409 South Tonto Street, with the conditions as recommended by staff.

Moved by Lori Meyers, seconded by Clark Jones.

Vote: Motion carried 3 - 1

Yes: Russell Goddard, Lori Meyers, and Clark Jones.

No: James Scheidt.

Absent: Jere Jarrell, Joel Mona, and Jeff Loyd.

D. SCHEDULED DISCUSSION/POSSIBLE ACTION

There are no items in this section.

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

F. INFORMATION TO COMMISSION (Not for Discussion)

- 1. Future Code Amendments to the Unified Development Code (UDC)
 - a. Design Review Board recommendation -Landscaping and Lighting
 - b. Flag lot requirements

Ray Erlandsen, Acting Community Development Director, stated that there would be an April meeting.

He stated that the Design Review Board was working on proposed revisions to the landscaping and lighting section of the UDC that will be coming before the Commission.

A request has also been received regarding flag lot requirements.

ADJOURNMENT

4:27 p.m.

.....
Russell Goddard, Chairman	Approved

.....
Chris Floyd, Executive Assistant

Exhibit C

10015

NOTICE OF ACTION

March 18, 2010

Payson Community Kids Inc
P O Box 1856
Payson, AZ 85547

Re: CUP10-004, Conditional Use Permit – 409 South Tonto Street

Dear Suzy:

This letter serves to inform you that the Planning and Zoning Commission approved the conditional use permit (CUP10-004) for 409 South Tonto Street on March 15, 2010, subject to the following conditions:

1. The development shall be in substantial conformance with the Preliminary Site Plan study, dated February 5, 2010.
2. Site shall comply with all Town of Payson development regulations including fire, building, design review, and water conservation measures.
3. The use shall comply with all state licensure requirements. Failure to comply with state requirements shall be grounds for revocation of the CUP.
4. Off-street parking requirements of the Unified Development Code shall be met, and all parking spaces and driving aisles must be paved.
5. The existing street pavement ends prior to reaching this property. That street pavement must be extended to the south side of this property. The improvements shall include, at a minimum, a 24' wide paved roadway with a thickened edge.
6. Storm water detention must be provided in accordance with the current Town requirements.
7. The length of this conditional use permit shall run concurrent with the use of this property. So long as the site is used for a day care center use, then this permit is valid. Expansion of the approved use, change in uses, or additional uses shall be subject to review and approval by the Planning and Zoning Commission if not expressly permitted in the R-3 zoning district.
8. Failure to comply with conditions one (1) thru five (5) above shall be grounds for zoning citations and possible revocation of the Conditional Use Permit. If alleged violations of the conditions of this CUP are brought to the attention of the Community Development Department or Public Works Engineer, with a 24 hour notification to the property owner, an inspection shall be allowed at the school. If violations of the conditions of this CUP persist, a request for review may be brought before the P & Z Commission at the discretion of the Zoning Administrator.

Note: Approval or disapproval of a conditional use permit application is subject to a 30-day appeal period. If there are no appeals within 30 days of the approval, this Conditional Use Permit will be effective April 15, 2010. After the effective date, the applicant shall be required to sign the Conditional Use Permit, have it notarized and submit it to the Town for recordation.

If you have any questions, please feel free to contact me at your convenience.

Sincerely,

Ray Erlandsen
Acting Community Development Director

Exhibit D

10015

August 30, 2012

Mr. LaRon Garrett, P.E.
Assistant Town Manager
Town of Payson
303 N. Beeline Hwy.
Payson, AZ 85541

Re: Two issues: 1) Legal basis to require Tonto Street to be paved; & 2) Required pavement section of
2" AC on 6" ABC

LaRon,

I, on behalf of Payson Community Kids (PCK) Board of Directors, am requesting that you review the two "Subject" issues: 1) the legal mechanism (Code, Ordinance, etc.) that gives the Town of Payson the authorization to require a developer to provide street improvements on an unimproved "Public Street"; and 2) the logic and rationale for the Town of Payson to require a standard structural Local Road pavement section on a very sub-standard dead-end street.

Your November 9, 2011 e-mail directed me to have PCK use a 2" AC on 6" ABC Tonto Street pavement section per the Payson Unified Development Code and was in response to my request that you allow PCK to pave per existing site conditions (24 ft. wide & match existing pavement structural section). This same e-mail also indicated that you were able to exclude the sidewalk, curb and gutter requirements based on an exemption that may be used in the Town Code. While that is true, imposing those extra improvements would have been excessive and not a prudent engineering decision as there would never be a future connecting sidewalk on Tonto Street and a new curb and gutter on a dead-end street would serve no reasonable drainage function - just by itself. Town Codes, Standards, and Guidelines are needed to assure municipalities that public improvements are designed and constructed according to high standards to minimize future maintenance costs. Unfortunately, this segment of Tonto Street is not an example of high construction standards.

I truly understand and respect your right to request that we abide by Town Codes and Engineering Standards as I also required developers to comply with town, city, state, and national engineering regulations for 20 years. However, there are instances when modifications or compromise to regulations can be a more rational decision and still meet each party's needs. The following paragraphs will explain my stance on the issues and why I do not agree with the "Subject" requirements.

First Issue: Legal basis to require Tonto Street to be paved

- 1) *I would have thought that since all lots fronting Tonto Street are developed, the responsible Developer(s) would have been required to pave all of Tonto Street. Why was this section of Tonto Street never paved? Is PCK obligated to construct these improvements based on previous conditions of approval? If not, what legal basis (Code, Ordinance, or other Town Standards) is there that obligates PCK to pave Tonto Street especially when they do not own any portion of Tonto Street?*
 - *If PCK had owned to the half street right-of-way line on Tonto Street, I could understand the requirement.*

Second Issue: Required pavement section of 2" AC on 6" ABC

- 1) *This is a Dead End street and the only traffic utilizing this area of new pavement is Payson Community Kids. I believe a pavement design Precedent was set many years ago by Gila County and Indirectly agreed to by the Town since no other Improvements or upgrades have been made to Tonto Street: i.e. sidewalk, curb and gutter, or re-construct the street at 2" AC over 6" ABC. Why is our project required to pave Tonto Street as a Standard Local Street section of 2" AC over 6" ABC and is this really necessary?*
 - My research & field inspection resulted in the following facts on Tonto Street & its pavement:
 - Tonto Street Right-of Way is 40 feet wide and owned by the Public.
 - Existing street pavement section is ± 2" AC on native dirt----there is no Sub-Base (See attached photos)
 - Street pavement is not in good condition anywhere but especially along the pavement edges. (See attached photo)
 - Street pavement width is ±24 ft
 - There is a 20 ft long by 24 ft. wide unpaved section of Tonto Street in front of the residence at 407 Tonto Street. (Why didn't that street area get paved when this building was finalized in 2006?)
 - There is no curb and gutter or sidewalk
 - There is no street pavement crown, minimum slope, or street drainage system.
 - There is no room for legal parking on Tonto Street
 - There is no temporary or permanent Fire Department compliant turn-around at the end of Tonto Street. The existing 40 Ft. right-of-way is too narrow to allow an adequate turn-around.

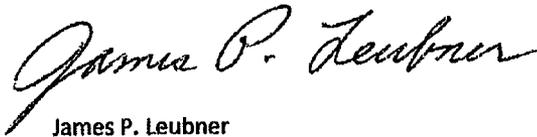
Basically, I summarized what you already know and that is, that Tonto Street was constructed under Gila County Standards and the road is not in compliance with the Town of Payson Local Street Standards or for that matter, most any other municipal government's Engineering and Public Works standards.

In summary, if the Town of Payson has the legal right to require PCK to pave Tonto Street including the 480 Sq Ft. in front of 407 Tonto Street, then Payson Community Kids requests that we be allowed to pave Tonto Street per the following design criteria:

- PCK will grade and pave Tonto Street: with 2" AC over Native Ground per the approved engineering plans.

Thank you for your consideration on this item and I look forward to your reply.

Sincerely,



James P. Leubner
Payson Community Kids - Board Member
(928) 474-5000 ext.8127 (W)



Payson Kids <paysoncommunitykids@gmail.com>

Tonto Street Paving---409 S. Tonto Street, Payson, AZ

5 messages

James leubner <leubs48@npgcable.com>

Wed, Aug 29, 2012 at 8:40 PM

To: "Garrett, LaRon" <LGarrett@paysonaz.gov>

Cc: Payson Kids <paysoncommunitykids@gmail.com>, laura meidinger <dsmeidinger@juno.com>, carol quigley <accountingforyoullc@yahoo.com>, chris avakian <jon.avakian@gmail.com>, Patrece I Mills <patreceimills@yahoo.com>, James leubner <leubs48@npgcable.com>

LaRon,

Please review the attached letter and photos. Thank You.

Jim Leubner

Payson Community Kids – Board Member

4 attachments



DSCN2372.JPG
4259K

DSCN2369.JPG
4268K

DSCN2368.JPG
4620K

To: LGarrett@paysonaz.gov, James leubner <leubs48@npgcable.com>

Here is the letter sent by Jim on August 29th, 2012.

[Quoted text hidden]

[Quoted text hidden]

4 attachments



DSCN2372.JPG
4259K



DSCN2369.JPG
4268K



DSCN2368.JPG
4620K

 **TOP tonto street paving.pdf**
1830K



Town of Payson
Public Works Department
303 N. Beeline Highway
Payson, Arizona 85541-4306

Town Hall (928) 474-5242
Fax (928) 472-7490

September 13, 2012

Mr. James P. Luebner
Payson Community Kids
P.O. Box 1856
Payson, AZ 85547

RE: Tonto Street Pavement

Dear Mr. Luebner;

This letter is in response to your letter dated August 30, 2012.

Requirement number 5 of the Conditional Use Permit approved on March 15, 2010 states:

“The existing street pavement ends prior to reaching this property. That street pavement must be extended to the south side of this property. The improvements shall include, at a minimum, a 24’ wide paved roadway with thickened edge.”

This stipulation was agreed to by representatives of the Payson Community Kids in accepting the Conditional Use Permit.

As you are aware, this requirement is much lower than the standard street cross-section of 29 feet of asphalt with curb and gutter on both sides and sidewalk on one side. The Payson Unified Development Code allows the Public Works Department to reduce the roadway cross-section under certain conditions. This project qualified for the reduction to only a 24’ of strip pavement with thickened edges.

The standard pavement structural section for a local road is 2” of Asphaltic Concrete on 6” of ABC roadway base. This is a minimal section to provide service with low maintenance costs. This location is at the end of the street where all of the vehicles will be turning which adds additional stress to the pavement. In my opinion, this structural section, or one equivalent to it, is not negotiable. The fact that the remaining pavement to the north is of lower quality is irrelevant. It was placed there at another time under different standards. One area of a road being

sub-standard does not justify continuing to build a sub-standard road that will require more maintenance funds.

I believe there are four options available to determine the pavement structural section for the area shown on the plans to complete the project. Those options are as follows:

1. Install the pavement as shown on the approved improvement plans using the Town's minimum structural section of 2"AC over 6"ABC.
2. Install a full depth asphalt pavement section of 5" of AC on compacted native material. This would reduce the amount of excavation required to install the pavement.
3. Contract with a registered Geotechnical Engineer to design an alternate pavement section that will meet the same structural properties as the 2"AC over 6"ABC.
4. Submit a request for a waiver to the Town Council justifying why you should not be required to install the standard minimum pavement section.

If you have any questions please contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "LaRon G. Garrett". The signature is fluid and cursive, written over a white background.

LaRon G. Garrett, P.E.
Assistant Town Manager

September 20, 2012

Mr. LaRon Garrett, P.E.
Assistant Town Manager
Town of Payson
303 N. Beeline Hwy.
Payson, AZ 85541

Re: Request to Rescind Condition Number 5 of Conditional Use Permit (CUP10-004)

Mr. Garrett,

I am requesting to be placed on the October 4, 2012 Town Council Agenda per the "Subject Issue" and that the Town Council Rescind Condition of Approval Number 5 of CUP10-004.

Thank you for your response to my letter of August 30, 2012 (Attachment #1). Per your comments, it is more than apparent that the Town is not willing to alter their position on: 1) requiring pavement for Tonto Street and 2) that the pavement shall be 2" AC on 6" ABC with a thickened edge. I do believe that there still is room for more discussion on this issue and that is why I am taking this item to the Town Council for further review and action.

Upon further review of your letter dated September 13, 2012 (Attachment #2), I am extremely disappointed that you chose not to review and address two specific issues and questions that I presented within my August 30, 2012 letter and these are: 1) *what is the legal Mechanism (Code, Ordinance, etc.) that gives the Town of Payson the authorization to require a developer to provide street improvements on an unimproved "Public Street" and 2) why were the previous developers not required to pave this Dead End Road segment of Tonto Street? --- even for the most recent Building Permit at 407 Tonto Street (a 20 ft by 24 ft. area).*

I am requesting that the Town of Payson substantiate the legal basis per (Town Code, Ordinances, Arizona Revised Statutes, &etc.) that gives the Town the ability to require street improvements through the application process for a Conditional Use Permit.

The following paragraphs provide the basis of my request for the Town of Payson to Rescind Condition of Approval #5 of Conditional Use Permit CUP10-004.

- 1) CUP 10-004 Condition of Approval Number 5 states: "The existing street pavement ends prior to reaching this property. That street must be extended to the south side of this property. The improvements shall include, at a minimum, a 24' wide paved roadway with thickened edge."
 - a) Conditions of Approval need to be specific to help the applicant understand the financial obligations required of their project. **This one is general and strongly implies to the common person that the new pavement would match the existing site conditions.**
 - b) During the Building Plan Review Phase, there were no comments telling PCK what the Tonto Street Structural Pavement Section would be. In fact, the actual approved plans just stated "New Asphalt Pavement per Town of Payson Requirements". **That is unfortunate because that gives all the leverage to the Town whereas this issue should have been brought up at the CUP process allowing the applicant a chance to discuss and maybe reverse the Town's decision.**
 - c) On November 9, 2011 I had sent an e-mail to you requesting that the Town provide me the street requirements such that I could go out for bids on this paving project (Attachment #3). Per this e-mail, I was directed to have PCK use a 2" AC on 6" ABC Tonto Street pavement section per the Payson Unified Development Code. It was only then that we knew what the paving requirements were to be for Tonto Street ----**almost 20 months after the CUP10-004 was approved.** This street pavement section of 2" AC on 6" ABC was a surprise, even for me, as I did not expect that stiff of a requirement on such a poorly constructed dead-end street. PCK has had two estimates for paving Tonto Street per the Town's design criteria: 1) one estimate is +\$6,500 (excluding tax) and the second estimate is \$10,373 (with tax). These costs are for paving only 1500 Square feet of Tonto Street of which 480 Sq. Ft does not even front PCK property.
- 2) Your letter also stated that the representatives for Payson Community Kids agreed with CUP10-004 Condition of Approval #5. You are correct in that Payson Community Kids did not argue the legal basis of the Town Requiring Condition of Approval Number 5 for CUP10-004. However, all that implies is that they were and are not knowledgeable in the "Entitlement Phase" of land development processes and they did not have a representative to assist them on this issue. Did any Town Staff person explain the basis and why these conditions of approval were required?
- 3) I believe that the Town is not that concerned about Tonto Street because it is in such poor condition and it appears there have been no recent upgrades or maintenance. Since you had not addressed in your September 13, 2012 letter the legal basis for requiring Condition of Approval #5 of CUP10-004, it makes me feel as if we are being "Bullied" into complying with this condition of approval.
- 4) It appears to me, from my perspective, that Gila County and/or the Town of Payson missed their previous opportunities to get this road segment paved or gave a developer(s) a free pass on this issue. This now is the last chance for the Town to have someone else pave this dead-end street. Is this ethical and morally correct to ask a Non-Profit Organization or anyone else to cover for a Municipal Government's mistake or poor decision?

Each year the Town approves various projects and during the review process, there usually is some negotiation with the developer especially if their project is bringing in revenue and jobs to the Town and Gila County.

Payson Community Kids does not make widgets, provide new jobs or create tax revenue for the Town but here is what we do that helps our community:

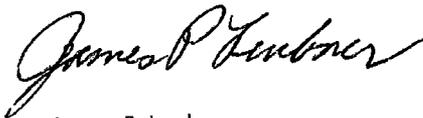
- **Payson Community Kids nurtures children by providing: food and clothing; school supplies; school homework help; classes on crafts, art, music, sports, and gardening; a safe haven for children after school; leadership skills; supervision teaching the children ethics and good behavior, and a listening ear to those in need.**

In summary, I ask that the Town Council and Staff review this request from Payson Community Kids with an open mind and compassionate heart. We provide a certain group of children in our community with critical services not provided by others and funds donated to us are used to assist and help these KIDS.

Payson Community Kids (PCK) Organization has been blessed with generous Professionals and Contractors who have reduced or waived (design fees and labor costs) and also donated or discounted costs of materials such that PCK has been able to cut building costs by +\$15K. The Town was also kind enough to waive \$1,744.22 in Plan Review Fees.

It will be unfortunate if we must now spend our saved money of +\$15K on street improvements when it could be utilized in a more helpful manner for the KIDS.

Sincerely,



James P. Leubner
Payson Community Kids - Board Member

Cc: Mayor
Council Members

Atch: Attachment #1
Attachment #2
Attachment #3



Town Hall (928) 474-5242
Fax (928) 472-7490

Town of Payson
Public Works Department
303 N. Beeline Highway
Payson, Arizona 85541-4306

September 24, 2012

Mr. James P. Luebner
Payson Community Kids
P.O. Box 1856
Payson, AZ 85547

RE: Tonto Street Pavement

Dear Mr. Luebner;

In reply to your request concerning the specific section of the Town Code that allows the Town to require access improvements, I refer you to Section 15.02-003-A 4 c (2) of the Unified Development Code which states: "The Public Works Director may require off-site street improvements necessary to safely accommodate increased traffic to the site, and these improvements shall be in accordance with the "Street Design Standards of the Town of Payson", as adopted, Section 15-07 of this code, and otherwise specified in this code."

Your letter of September 20, 2012 states that it is a "Request to Rescind Condition No. 5 of Conditional Use Permit (CUP 10-004)". Since a Conditional Use Permit is approved by the Planning and Zoning Commission, a request to appeal their decision to the Town Council must be submitted within 30 days of the decision. Otherwise, it may be resubmitted to the Planning and Zoning Commission for the requested revision.

I believe what you are actually requesting is a waiver of Conditional Use Permit 10-004 Condition No. 5. After reviewing this with the Mayor and Town Manager it was determined that for this request to be presented to the Town Council in accordance with the Council's "Rules of Procedure" it must be requested by a member of the Town Council. Section 7.1 of those Rules of Procedure reads as follows:

7.1 AGENDA ITEM SUBMITTALS: REGULAR/SPECIAL/WORK SESSION
Items may be placed on the Agenda of regular Town Council meetings in the following manner:

A. Town Departments: The Department shall submit a Council Decision Request to the Town Manager for approval. After approval, the Council Decision Request shall be submitted to the Town Clerk.

B. Mayor and Town Council Members: The mayor or any Council Member may make a written request to the Town Clerk to have an item placed on an agenda. The Mayor or Council Member shall also submit supporting documentation with the request for inclusion in the agenda packet.

C. Town Manager and Town Attorney: The Town Manager or Town Attorney may place an item on an agenda. The Town manager or Town Attorney shall submit appropriate documentation to the Town Clerk for inclusion in the agenda packet.

D. Public: Any member of the public may request a member of the Town Council, including the Mayor, to submit an item pursuant to 7.1B above.

If you have any questions please contact me.

Sincerely,

A handwritten signature in cursive script, appearing to read "Laron G. Garrett".

Laron G. Garrett, P.E.
Assistant Town Manager

10015



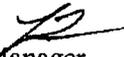
Town Hall (928) 474-5242
Fax (928) 472-7490

Town of Payson
Public Works Department
303 N. Beeline Highway
Payson, Arizona 85541-4306

MEMORANDUM

DATE: September 25, 2012

TO: Mayor Kenny Evans
Town Council Members
Debra Galbraith, Town Manager

FROM: LaRon G. Garrett 
Assistant Town Manager

SUBJECT: Payson Community Kids

Recently I have received a lot of correspondence concerning the paving of a portion of Tonto Street to access the new building at Payson Community Kids. Currently, they are not willing to install the required pavement in accordance with the Town Code. They have requested staff to reduce the requirements which we cannot do. Members of that organization may be contacting Council members concerning this request. I have attached copies of the latest correspondence between staff and the organization so you will have some background information if you are contacted.

Please contact me if you have any questions.