



COUNCIL DECISION REQUEST

SUBJECT: Private use of a portion of the public right of way adjacent to 410 W. Main Street

MEETING DATE: February 20, 2014

SUBMITTED BY: LaRon Garrett, Assistant Town Manager

SUBMITTAL TO AGENDA
APPROVED BY TOWN MANAGER

AMOUNT BUDGETED: n/a

EXPENDITURE REQUIRED: n/a

[Signature]

EXHIBITS (If Applicable, To Be Attached): Applicant's proposal as presented to the Design Review Board, standard right of way agreement.

POSSIBLE MOTION

"I move to approve the use of the public right of way adjacent to this property for a covered walkway as depicted on the attached drawings and authorize staff to negotiate an agreement to use public right of way for private improvements."

SUMMARY OF THE BASIS FOR POSSIBLE MOTION: The front of the existing commercial building at 410 W. Main Street was placed at the front property line. The property owner wishes to construct a covered front porch and improve the façade in keeping with the rough sawn wood and pre 1930's historic old Main Street Era materials that reflect the "pioneer" look. The proposal would promote or enhance the overall vision and streetscape for Main Street and received Design Review Board approval on February 11, 2014. Council approval is needed to allow staff to negotiate an agreement for the use of public right of way for private improvements as permanent construction (with the exception of signage) is not specifically provided for within the Unified Development Code or Administrative Policy A102.

PROS: Promotes or enhances the overall vision and streetscape for Main Street.

CONS:

FUNDING:

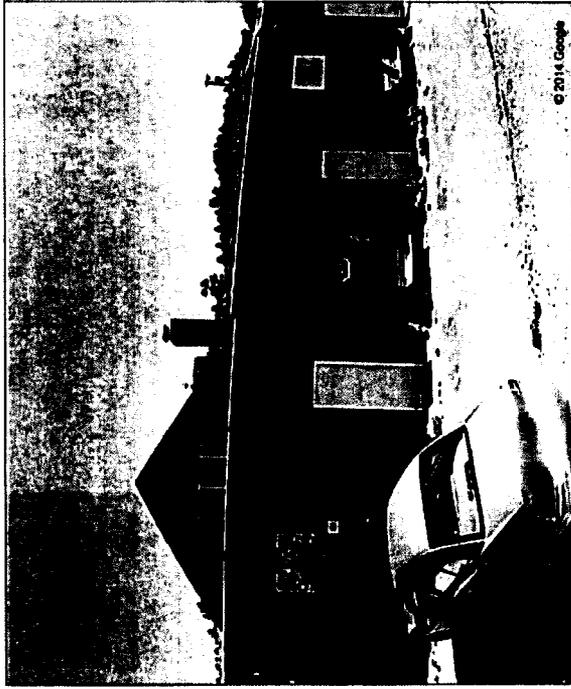
Acct:	Budget:	Available:	Expense:	Remaining:
Acct:	Budget:	Available:	Expense:	Remaining:
Acct:	Budget:	Available:	Expense:	Remaining:

FM: _____ Date: _____

FEB 20 2014 I.1



Address 487 West Main Street
Address is approximate



DESIGN REVIEW FEE
Administrative Review Fee: \$ 50.00

Payson
Town of Payson
Design Review Application

Community Development Department
303 N. Bedline Hwy
Payson, AZ 85541
Tel: (928) 444-5542; Fax: (928) 444-4900
www.paysonaz.gov

Please complete ALL fields unless otherwise noted

Site Project Address of applicant: **410 W MAIN ST.** Parcel #: **924-16-215B**

Owner: **PIETE & MARY LATINO** Owner Phone: **502-722-0727** Email: **PETE.LATINO@ONICGLASS.COM**

Address: **410 W MAIN ST.** City/State/Zip: **PAYSON AZ, 85541**

Engineer/Contractor: **BOY STOKRACH** Phone: **928-474-9228**

Contact Person: **BOY STOKRACH** Phone: **928-970-1818** Email: _____

Contact Email: _____

Description of Project: **RE-FACE STREET PRESENTS WITH METAL ROOF CANOPY & WOOD POST**

Submittal Materials Required
Two 24" X 36" sets and seven 11" X 17" sets of each of the following unless otherwise noted:

- Completed Town Design Review Application Checklist (This form)
- Architectural Site Plan
- Preliminary Grading & Drainage plan:
- Survey
- Landscape hardscape Plan
- Exterior Elevations
- Floor Plans
- Building Section(s)
- Roof Plan - if required by Planning Staff
- 1 colored print of all 4 exterior elevations (coordinated with color board)
- 1 copy of color and materials information with labels, mounted on 8 1/2" X 11" card stock
- Sign package
- Project Narrative
- Photographs of existing site
- Cut Sheets for proposed light fixtures - include finishes
- Lighting plan

Please explain below if any fields have intentionally been left blank.

RECEIVED

COMMUNITY DEVELOPMENT DEPARTMENT

Do not write below this line. For departmental use only.

Received By: _____ Date: _____

Revised By: _____ Date: _____

Reviewed By: _____ Date: _____

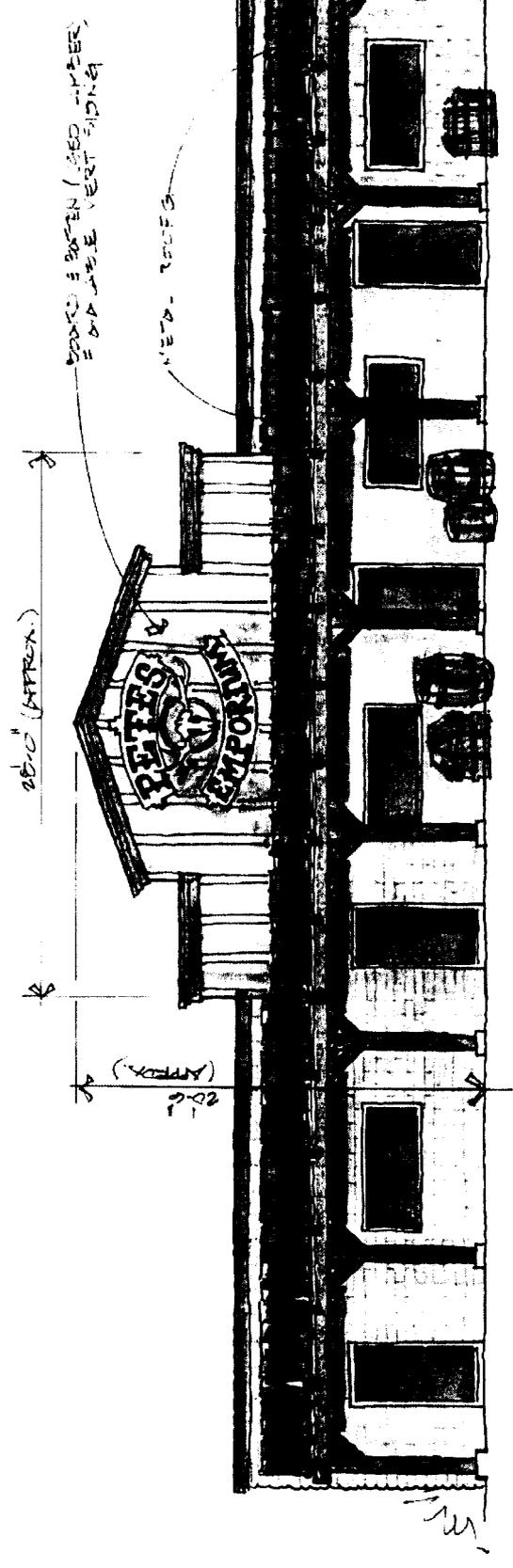
410 W. Main Street

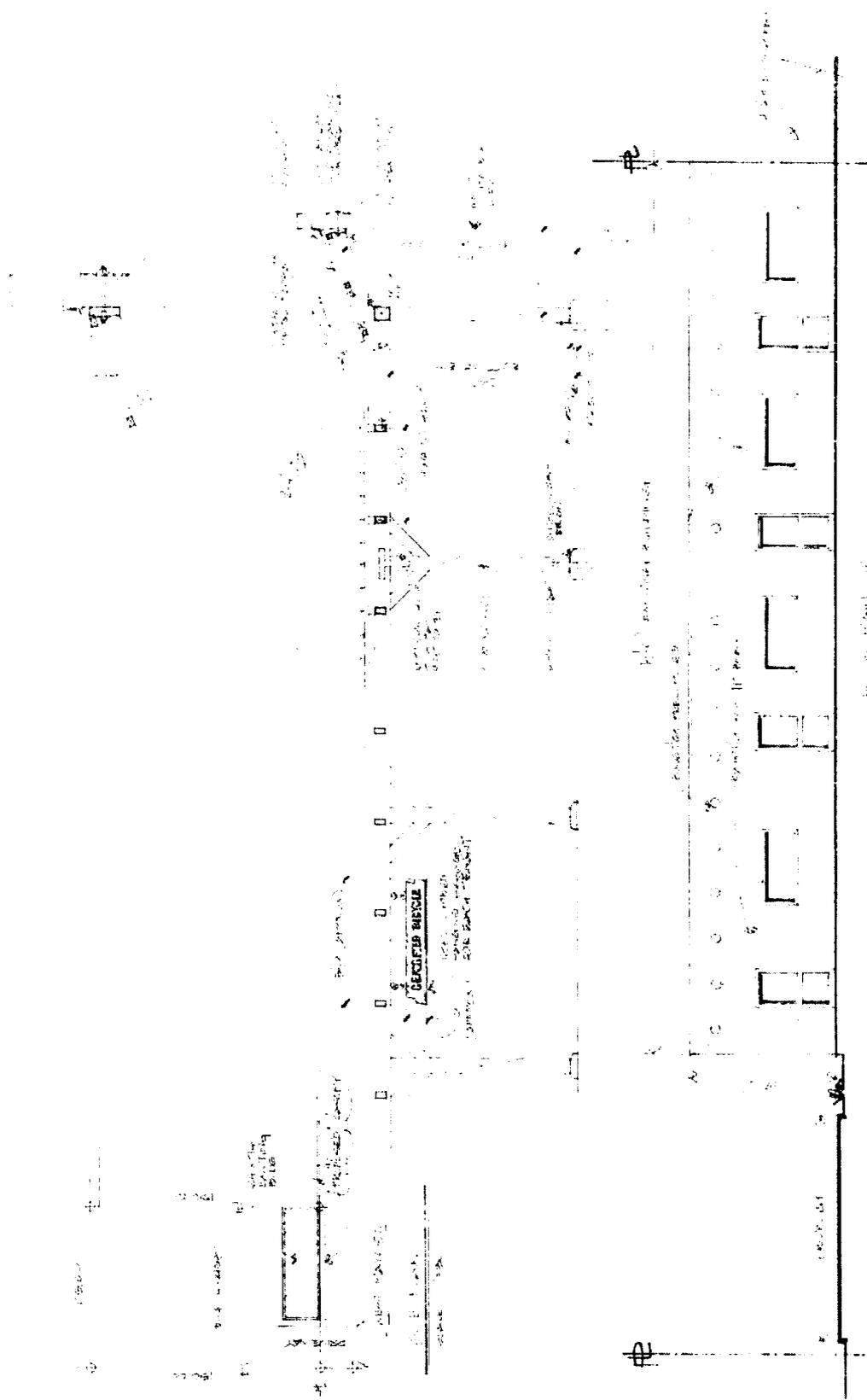


This map has been provided for informational purposes only and is not accurate for engineering design. Every effort has been made to ensure this map is as accurate as possible. The Town of Payson shall assume no liability for the base information contained in this map.

303 North Beeline Highway
Payson, Arizona 85541
(928) 474-5242 www.townofpayson.az.us
GIS Payson-GIS Master.mxd 11-28-2007







Scale 1:1000

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When recorded Return to: Silvia Smith, Town Clerk
Town of Payson
303 N. Beeline Highway
Payson, AZ 85541

AGREEMENT TO USE PUBLIC RIGHT OF WAY FOR PRIVATE IMPROVEMENTS

This agreement is entered into the _____ day of _____, 20__ between the Town of Payson, Arizona ("Town") and _____ ("Owner") for the private use of the public rights of way for Highway _____ located adjacent to _____. The Town and Owner are collectively referred to as the "Parties".

I. RECITALS

WHEREAS The Town of Payson desires to improve the appearance of the Highway 87 and Highway 260 rights of way; and

WHEREAS The Owner owns property located at _____ as described in Exhibit 'A' attached hereto ("the Property"); and

WHEREAS The Town of Payson is willing to allow the Owner to use the highway public right of way adjacent to their property as described in Exhibit 'B' attached here to ("the Right of Way") for Town beautification; and

WHEREAS The Owner desires to improve the appearance of the Right of Way; and

WHEREAS The Parties desire to work together to achieve the common goal of improving the appearance of the Town of Payson.

Therefore, in consideration of the mutual covenants expressed herein, it is agreed as follows:

II. SCOPE OF WORK

The Owner will:

1. Provide the Town with an acceptable right of way signage, landscaping and irrigation plan for approval.
2. Obtain a right of way permit from the Town of Payson prior to beginning any signage, landscape or irrigation construction.
3. Install the landscaping and irrigation system in accordance with the Town approved plans.
4. Provide water and maintenance for the permitted area.
5. Replace any dead or diseased trees or plants within 30 days of the event.
6. Keep the landscaped area free from garbage and other debris that may accumulate.
7. Agree that this Agreement will be recorded and run with the land and will bind future owners and assigns.

8. Remove some, any, or all improvements within 30 calendar days of notice from the Town.
9. Defend, indemnify and hold harmless the Town, its officers, agents, and employees from and against any and all claims, demands, causes of action, complaints, suits, losses, damages, injuries, and liabilities whatsoever (including those for costs, expenses, and attorneys' fees) arising out of Owner's maintenance and use of the Property or Owner's negligent acts or omissions in connection with this Agreement.
10. Obtain liability insurance for the term of this Agreement in minimum amounts of \$1,000,000.00 general liability per occurrence with a minimum \$2,000,000.00 general aggregate limit per occurrence. This insurance shall remain in force throughout the life of this Agreement. The Town shall be named as an "additional insured" under the liability insurance policy and shall be given at least 30 calendar days' written notice prior to cancellation or reduction in coverage. Before Owner begins any work on the property, one or more certificates of insurance evidencing coverage as described in this paragraph shall be filed with the Town.

The Town will:

1. Allow the usage of the Right of Way for commercial signage in accordance with the approved plan.
2. Issue a right of way permit based on the approved plans.
3. Record this agreement with the Gila County Recorder's Office.

III. MISCELLANEOUS PROVISIONS

1. This agreement will become effective immediately upon both Parties signing and shall remain in effect until it is cancelled by either party.
2. In the event of an emergency, the Town may remove any of the improvements without providing the required notice.
3. This Agreement may be cancelled in accordance with Arizona Revised Statutes § 38-511.
4. Either Party may cancel this agreement by notifying the other Party in writing and giving 30 calendar days notice.
5. In the event of a cancellation of this Agreement, the Owner will remove all private signage and any landscaping required to be removed by the Town within 15 days of the cancellation.
6. All notices or demands upon any party to this agreement shall be in writing and shall be delivered in person, or sent by mail, addressed as follows:

Town of Payson	Property Owner
Public Works Director	Owners Name
303 N. Beeline Highway	Owners Address
Payson, AZ 85541	Owners Address

7. In the event of any controversy between the Parties, which may arise out of this Agreement, the Parties hereto agree, in the event the same cannot be resolved through

negotiation, to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes §12-1518.

IN WITNESS WHEREOF, the Parties have executed this Agreement the day and year first written above.

TOWN OF PAYSON

PROPERTY OWNER

By: _____
Title

By: _____
Title

ATTEST:

ATTEST:

By: _____

By: _____