



MEMO

TO: Planning and Zoning Commission
FROM: Ray Erlandsen, Acting Community Development Director
DATE: March 15, 2010
SUBJECT: **Conditional Use Permit Request**
409 E. Rancho Road, Home-based business **CUP10-002**

Background

This case is a request by James & Lauree Connolly, property owners; for a conditional use permit (CUP) to allow a home-based business use, in-home day care, and to allow more than two customer/client visits per day at 409 E. Rancho Road.

Analysis

The applicant's property is located in a R1-10 MH zoning district. The Unified Development Code (UDC) requires approval of a Conditional Use Permit in Single Family Residential, R1 Zoning Districts for home-based business uses that 1) involve day care facilities and 2) have more than two customer/client visits per day.

The applicant is proposing to operate her daycare in a preschool type setting in that she will provide a two-hour session in the morning and a two-hour session in the afternoon on three days during the week.

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 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.

Suggested Motion to Approve:

“I move the Planning & Zoning Commission approve CUP10-002, a request to allow a home-based business use, in-home day care, and to allow more than two customer/client visits per day at 409 E. Rancho Road, subject to the conditions recommended by staff.”

Neighborhood Involvement

Application for a conditional use permit for single family residential development is exempt from completing a Citizens Participation Plan and Citizen Participation Report. Property owners and users within 300’ of the subject site were mailed notices of the public hearing for this request.

Included in this report is correspondence from a property owner within the notification area that was received by staff.

* 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 E. Rancho Rd. Tax Parcel Number: 302-41-016
 Subdivision: Rancho del Tonto, portion of Tract G Lot Number: N/A
 Name of Applicant(s): James A + Lauree L. Connolly Phone #: (928) 474-5789
 Mailing Address: 409 E. Rancho Rd. Town: Payson St: AZ Zip: 85541
 Name of Property Owner(s): James A. + Lauree L. Connolly
 Mailing Address: 409 E. Rancho Rd. Town: Payson St: AZ Zip: 85541
 Contact Person: Lauree L. Connolly Phone #: (928) 978-3412 Fax #: _____
 Payson Business License # _____ Sales Tax # _____

Detailed Description of Request:

Conditional Use Permit for a preschool - 3 mornings a week - total use 12 hrs. weekly during school year.

(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.

Lauree L. Connolly
Print Name

Lauree L. Connolly 1/11/10
Signature Date

STAFF USE ONLY - PERTINENT DATA

APPLICATION	DATE	INITIALS	APPLICATION FEE:
DATE FILED	1-14-10	Sld	Residential Conditional Use Permit Application Fee: \$250 ⁰⁰
COMPLETED APPLICATION	1-21-10	RE	
NEWSPAPER PUBLICATION	2/26/10	Sld	
300' NOTIFICATION MAILOUT	2/25/10	Sld	
POSTING DATE	2/25/10	Sld	
			CHECK NUMBER: 1567 DATE: 1/14/10

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

Gila County Parcel Information Search

Assessor Information 302-41-016

Parcel/Tax ID 302-41-016
Tax Year 2010
Site Address 409 E RANCHO RD, PAYSON
Owner Name CONNOLLY JAMES A,
Owner Address 409 E RANCHO RD PAYSON, AZ 85541
Tax Area 1053
Land Value \$18,860.00
Improvement Value \$195,959.00
Full Cash Value \$214,819.00
Assessed Full Cash Value \$21,482.00
Limited Value \$210,306.00
Assessed Limited Value \$21,030.00
Value Method Cost
Exempt Amount \$0.00
Exempt Type
Use Code 0131
Property Use 0131-SFR-010-3 URBAN-SUBDIVID
Class Code Residential
Assessment Ratio 10.000000
Sale Price
Sale Date
Instrument Type
Book
Page
Parcel Size 0.26
Township, Range, Section , ,
Legal Description RANCHO DEL TONTO PT TR G BEG COR 8 HES 446, TH N 40DEG 48MIN E 568.56'; TH N 36DEG 21MINW 324.9' TO POB; TH N 36DEG 21MIN W 94'; TH S 48DEG 28MIN W 119'; TH S 36DEG 21 MIN E 94'; TH N 48DEG 28MIN E 119' TO POB
Property Type REAL

Bldg ID	Occupancy	Built As	Quality	Sq Ft	Year	Cash Value
1	Single Family Residential	2 Story	Average	2486	1970	\$190,805.00
2	Shed - Equipment	Shed - Equipment	Average	441	1963	\$5,154.00

RANCHO ROAD

CHURCH PARKING LOT

CHURCH SIDEWALK

PICKUP + DROP OFF AREA

GATE

DRIVE WAY

PORECH

MAIN HOUSE

STORAGE SHED

PORECH

PRE SCHOOL AREA

CEILING

SINK

PORECH

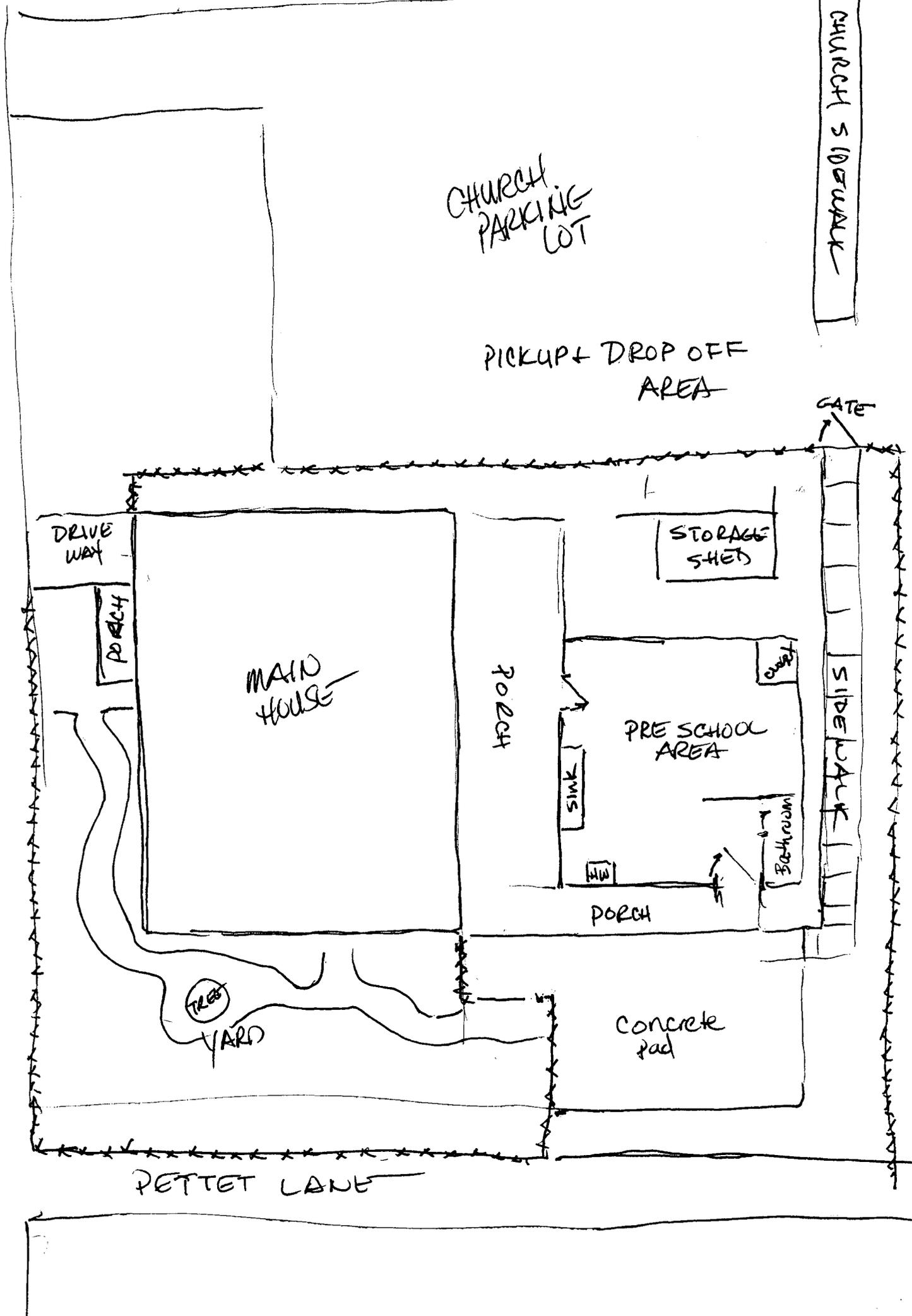
Bathroom

SIDEWALK

TREE YARD

Concrete pad

PETTET LANE



BUSINESS LICENSE/OCCUPANCY PERMIT APPLICATION

SECTION 1: BUSINESS INFORMATION

Please Check All Boxes that Apply

EXISTING NEW CHANGE OF OWNERSHIP NAME CHANGE LOCATION CHANGE

Business Name: Little Scholars
409 E. Rancho Rd. Suite# _____ Payson AZ 85541
Physical Address City State Zip
Mailing Address (if different from physical) Suite# _____ City State Zip
(928) 978-3412 (928) 474-5789 Laureelee@hotmail.com
Business Phone# Alternate Phone# E-Mail Address

CONTRACTOR LICENSE # _____ SALES TAX # _____

****Handyman Only:** I acknowledge the limitation for a handyman business not licensed through the State Registrar of Contractors and understand that this application does not authorize a handyman to work on projects that require a building permit or those that exceed \$1000 valuation total labor and material.

Initials: _____

SECTION 2: CONTACT INFORMATION

Lauree L. Connolly 978-3412 laureelee@hotmail.com
Contact Name Contact Phone Contact E-Mail
409 E. Rancho Rd. Payson AZ 85541
Contact Mailing Address City State Zip

LANDLORD INFORMATION:

For In-Town Businesses where you do not own the property, please complete Landlord/Property Manager Information:

Landlord's Name [Signature] Landlord's Phone _____
Landlord Mailing Address _____ Suite # _____ City State Zip

OFFICE USE ONLY:

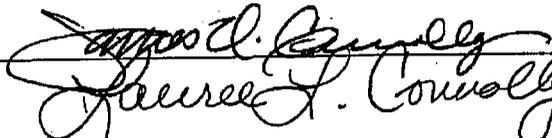
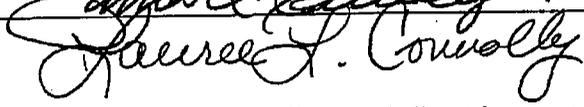
Assessor # _____ Zoning District _____ Date of BOP: _____

B License#: 749163 Staff Initials: _____

SECTION 3: BUSINESS INFORMATION

1. Description of Business: Pre school ~~3 days~~ 3 days @ week 9 mos. out of year
2-2 hr sessions per day 6 hrs per wk. per child
2. Please describe equipment used in your business operation: N/A
3. Will the proposed business use or create any hazardous substances? (If Yes, please describe)
N/A
4. Describe any activities to be conducted outside. (i.e. equipment storage, display or sale of merchandise)
outside play in fenced yard weather permitting
5. Do you have employees that do not live on the premises? NO
6. What type of structure are you planning to locate this business in? Factory Built Site Built
7. What type of outdoor lighting is proposed for this business? NONE
8. Is the site currently served by: Sanitary Sewer Septic None
9. Describe inside and outside water use at the business: bathroom - (toilet sink)
10. Is new signage planned for the building? Yes No (if yes, a sign permit will be required)
11. Number of parking spaces provided? is the parking paved? yes is the driveway paved? yes
12. Will the site or building be modified in any way? Yes No (If yes, please see a Community Development Representative for plan submittal requirements)

APPLICANTS NAME (CLEARLY PRINTED OR TYPED) JAMES A. + Lauree L. Connolly

APPLICANTS SIGNATURE:  DATE 01/11/10
 01/11/10

I understand that issuance of a business occupancy permit, or license shall not be construed as permission to operate a business in violation of any law. Any material, false statements in this application may be a class 2 misdemeanor per ARS 13-2704. A business occupancy permit and license must be issued before you can lawfully engage in business in the Town of Payson.

ALL FEES ARE NON-REFUNDABLE / NON TRANSFERABLE

SECTION 4: HOME BASED BUSINESSES

The following is a reprint of the Home Based Business Section 15-02-004 of the Town's Unified Development Code. All Home Based Business Applicants must review and sign the certification at the end of this section.

- a. Definition - A home-based business is any business, occupation or commercial activity undertaken within a residential structure that is incidental and secondary to the use of that structure as a dwelling unit.
- b. Intent / Purpose - The Town of Payson desires to enable its residents to use their residence for home-based business activities to facilitate economic development, but also recognizes the need to protect surrounding areas from potential adverse impacts generated by business activities. The action of approving a home-based business contains a finding that the use will not generate impacts different from the use of the property as a residential dwelling unit.
- c. Licensing & Inspections - A home-based business must secure and maintain a Payson Business License and a Transaction Privilege Tax License from the Arizona Department of Revenue. As a condition of issuing and maintaining a Business License, a home-based business licensee must allow inspections to be conducted by representatives of the Community Development and Fire Departments to verify compliance with standards and limits prescribed by this Code and stipulations of Conditional Use Permits. Such inspections shall occur between the hours of 8 AM and 5 PM and only upon 24 hours notice to the licensee.
- d. Use of the Residence - A home-based business must be conducted within the principal residential structure and permitted accessory structures. Only an occupant-owner or occupant-lessee of a premise may own and operate a home-based business. The use must not change the character of the dwelling unit. The use must be conducted entirely within an enclosed structure with no outside business activities or outside storage, unless authorized by a conditional use permit.
- e. Prohibited Home-Based Businesses - The following uses are prohibited in the residential zoning districts:
 - (1) Barber shops and beauty salons
 - (2) Motor vehicle repair services
 - (3) Kennels, stables, pet grooming services, veterinarian clinics
 - (4) Medical and dental clinics
 - (5) Restaurants, clubs and drinking establishments
 - (6) Undertaking and funeral parlors
 - (7) Adult entertainment establishments, adult retail establishments, adult theaters
 - (8) Taxi services; transit, express mail or package carriers
 - (9) Storage of firewood for sale
- f. Home-Based Business Operational Standards
 - (1) Operating Limits - No visible or audible indications of business activities, other than those typical of a residential dwelling unit, shall be permitted before 8:00 AM or after 8:00 PM.
 - (2) Advertising - Advertising signs on the exterior of the premises of a home-based business are prohibited, except for identification signs on one motor vehicle that may be parked on the premises.
 - (3) Vehicles
 - (a) No person operating a home-based business shall use or cause delivery vehicles to visit their premises except for passenger vehicles, mail carriers and express carriers, such as vehicles used by United Parcel Service and Federal Express.
 - (b) Home-based businesses are not required to provide parking beyond what is required for residential use; but on-street parking is prohibited.
 - (c) A home-based business shall be limited to the parking or storage of one vehicle on the premises that is used in the business, but it may not exceed one-ton capacity.
 - (4) Employees - A home-based business shall have no nonresident employees on the premises at any time, unless authorized by a conditional use permit.
- g. Limits on Equipment / Operation Nuisances - The operation of home-based business equipment, not typically used in residential dwelling units shall not:
 - (1) Create vibrations, heat, glare, dust, odors, or smoke discernable at the property lines;

- (2) Generate noise discernable by the human ear at the property lines;
 - (3) Create electrical or magnetic interference off the premises of the dwelling unit; or,
 - (4) Consume utility quantities that negatively impact the delivery of those utilities to surrounding properties.
- h. Fire Code Compliance - A home-based business shall conform to the requirements set forth in the adopted Fire Code. No flammable liquids or hazardous materials may be handled, used or stored incidental to a home-based business.
- i. Approval Authority -
- (1) A home-based business may be approved administratively by the Community Development Director, his or her designee, with an application for a Business License, if the owner/operator provides written certification that the business use of a dwelling unit will comply with this Code. Such written certification shall be incorporated and made part of the Business License.
 - (2) Approval of a Conditional Use Permit is required for any of the following home-based business uses:
 - (a) Day Care Centers
 - (b) Uses that have more than two customer/client visits per day
 - (c) Uses that have outside business activities or outside storage
 - (d) Uses requiring more off-street parking spaces than required for residential use
 - (e) Uses desiring a nonresident employee on the premises; (in no case shall home-based business employ more than one nonresident employee)
 - (f) Bed and Breakfast establishments which shall be owner-occupied and have no more than four (4) units. *86
 - (3) In considering an application for a Conditional Use permit for a home-based business, the Planning and Zoning Commission shall review the size and zoning of the parcel, the size of the principal residential structure and accessory structures. Larger parcels and structures in low density zoning districts may more reasonably accommodate uses enumerated at subparagraph (2) of this section, than such uses on smaller parcels and structures in high density zoning districts.
 - (4) Stipulations to a Conditional Use Permit for a home-based business may include requirements for screening, additional dust-free parking spaces, requirements to relocate additional parking spaces outside of the front and side yard setback areas and other measures consistent with the purpose of maintaining the residential character of the dwelling unit.
- j. Enforcement -
- (1) The Town of Payson will not enforce subdivision covenants, conditions and restrictions (CC & R's) that may be more or less restrictive than standards and limits prescribed by this Code. Subdivision covenants, conditions and restrictions are terms of contracts between private property owners. CC & R's and provisions of this Code are independently enforceable against the property owner in a court of jurisdiction.
 - (2) Complaints alleging violations of home-based business standards and limits prescribed by this Code or stipulations of a Conditional Use Permit shall be submitted to the Community Development Department for potential enforcement action.
 - (3) The Community Development Department will attempt to hold the identity of complainants confidential unless court enforcement is necessary. In a court proceeding, the complaining party usually must be made known to the offending party and subpoenaed as a witness in court, where he or she may be confronted and cross-examined.
 - (4) A violation of this Code or a stipulation of a Conditional Use Permit shall be cause for revocation of a Business License.

I CERTIFY THAT I UNDERSTAND AND WILL COMPLY WITH THE REQUIREMENTS LISTED ABOVE AS LISTED IN THE TOWN OF PAYSON, UNIFIED DEVELOPMENT CODE.

Lauree Lee Connolly Lauree Lee Connolly 01/11/10
 PRINT-OWNER/OPERATOR NAME SIGNATURE-OWNER/OPERATOR DATE

Phillip and Audra Daugherty
1404 N. Pettet Lane
Payson, AZ 85541
928-978-0270

February 26, 2010

To: Town of Payson Planning and Zoning Committee

Re: 409 E. Rancho-Conditional Use Permit

We, as neighbors of the subject property, respectfully request you to deny the Conditional Use Permit to Lauree Connolly based on the following:

- 1) She has been operating this pre-school without proper licensing since approximately 2001. It is common knowledge that all businesses are required to get a Business License and she has conducted business illegally for many years. I have spoken with parents of her past students and they were not happy to find out she wasn't licensed when their children were in her care. Also, think of lost revenues to the Town of Payson for all the years she was not licensed.
- 2) Her pre-school does NOT have sufficient parking to accommodate all the parents dropping off their children at one time. Her only parking spot is on Pettet Lane, which is a one lane, Dead End, private street. We have had numerous issues over the years with the parents ending up parking on Pettet Lane completely blocking our access to Rancho Road or they end up coming down Pettet Lane and turning around in our private driveways. Most of the neighbors keep their gates closed or put up a rope to discourage parents from turning around in our driveways but then there is no where for them to turn around and they have to figure out how to back up and down the street and get around other parents blocking them! Many times there have been traffic jams where cars are stacked up on Pettet Lane with no where to go and there are cars waiting on Rancho to turn in. There is no on street parking for the pre-school on Rancho Road either.
- 3) We have asked Lauree to tell the parents not to come down Pettet Lane but it continues to occur showing a blatant disregard for her neighbors.
- 4) Currently, the parents are parking in the Shiloh Christian Fellowship parking lot (501 E. Rancho Rd.) but in the past that hasn't worked either and when that happens the parents end up back on Pettet Lane. She should have sufficient parking to accommodate the parents dropping off children on her own property and not rely on a neighboring property. Does she have their written permission? Has she taken insurance issues under consideration on the neighboring property?
- 5) The exterior character of the residence looks like a commercial operation, not a private residence. The business is not entirely contained within the structure and that also detracts from this being a private residence. The property owner's on Pettet Lane wish to keep the neighborhood residential, quiet and private. We all moved to this quiet, one lane road for that reason.

- 6) Pettet Lane is a privately owned street. Our property lines go to the middle of Pettet Lane. The maintenance costs are the responsibility of the landowner's. As neighbors, we have asked that the Connolly's contribute to the cost and they refused to pitch in the requested \$100. They have not contributed financially or with their own funds or labor to do any maintenance even though they have the majority of traffic on Pettet Lane.

We have enclosed some pictures showing the narrowness of Pettet Lane, the current road condition in front of her property and the exterior of her home/Pre-School and the lack of parking on Rancho Road.

Because she has been in business for over 9 years we already know what the problems are. We don't have to speculate what the problems might be as in the case of a brand new business. We have years of experience in dealing with what the issues are. Unless Loree Connolly has come up with solutions to address these numerous issues, we request that you deny her Conditional Use Permit at this time.

Thank you for your time and consideration.

Sincerely,

Phillip and Audra Daugherty
Phillip Daugherty

Audra Daugherty

