

SUMMARY OF AGENDA ITEM

DATE: December 13, 2007
TO: Mayor and Council
FROM: Jerry Owen, Community Development Director
SUBJECT: 104 W. Phoenix St. – CUP-165-07A
Appeal of CUP-165-07

PURPOSE: An appeal of the Planning and Zoning Commission's decision denying Mary Suzanne Malinski's request for a conditional use permit to allow a microbrewery and outdoor commercial recreation use in a C-2 zoning district at 104 W Phoenix Street, Gila County Tax Parcel #304-17-124.

SUMMARY: The Planning and Zoning Commission heard this case on October 8, 2007. The staff report recommended approval with fourteen conditions – see the attached staff report dated October 8, 2007. The Planning and Zoning Commission denied the application on a 5-0-1 vote (Commissioner Goddard abstaining). The applicant subsequently filed a written appeal to the Town Council of the Planning & Zoning Commission's decision to deny her request (letter attached). Staff understands that the applicant may decide to cap the water well on the property. If that is the case, staff would suggest modified conditions of approval for Council's consideration as listed below:

1. The use permit shall be valid if, within one year from the date of approval, all necessary building permits have been issued to allow commencement of the conditional use.
2. Development shall be in substantial conformance with the site plan dated August 30, 2007.
3. The length of this conditional use permit shall run concurrent with the use of this property. Expansion of the approved use, changes in use, or additional uses shall be subject to review and approval by the Planning and Zoning Commission if not expressly permitted in C-2 zoning district.
4. Construction shall be subject to current Design Review Regulations
5. All driveways for two-way traffic must be at least 24' wide and all parking stalls must be at least 9' X 19'.
6. Phoenix Street and Cedar Lane adjacent to the properties shall be brought up to current standards. This is a 16' wide half street (centerline to face of curb), vertical curb and gutter, and sidewalk, connecting to the existing sidewalk at Beeline Highway, and including an appropriate taper at the west end.
7. Storm water detention shall be provided in accordance with the Town's requirements.
8. Engineered paving, grading and drainage plans prepared by an Arizona registered professional shall be required.
9. Three of the existing driveways along Beeline Highway shall be removed.
10. The property owner shall cap the well and not use the well located on the property. The property owner reserves the right to petition the Council at a later date to use the well under conditions set by the then existing Council.
11. Development shall comply with all applicable town codes in effect at the time of building permit application.
12. Existing Town Code violations on the site shall be resolved prior to submittal of a building permit application for the remodel/expansion.

DEC 13 2007 F.2.

RECEIVED

NOV 06 2007

COMMUNITY DEVELOPMENT
DEPARTMENT

This is a letter asking for an appeal for a conditional use permit, so that I can resume the project of finishing the Payson Steak House & Brewery.

For over one and a half years I have been supported & encouraged by the staff of the Town of Payson and all of our closest neighbors.

The Payson Steak House & Wild Weede Brewery is designed to recreate the historic past of the early west. The food quality will meet the high standards found in the most popular western restaurants in Arizona using the highest quality of corn feed beef & fresh trout.

The Wild Weede Brewery has already distinguished itself by receiving many awards for its quality of brew.

I would like to continue my efforts to improve the property at 1104 S. Beeline Hwy & 104 W. Phoenix St. I think this project will benefit the south end of town bringing revenue and employment.

With this appeal I sincerely hope you will find my request valued and grant me the permit.

A handwritten signature in cursive script, appearing to read "James M. Jones".



COMMUNITY DEVELOPMENT DEPARTMENT
TOWN OF PAYSON
303 N. BEELINE HIGHWAY
PAYSON, ARIZONA 85541-4306
PHONE: (928) 474-5242 X. 263 • FAX: (928) 472-7490 • TDD: (928) 472-6449

NOTICE OF ACTION

October 9, 2007

Mary Suzanne Malinski
1104 S. Beeline Highway
Payson, AZ 85541

Re: CUP-165-07, Conditional Use Permit – 104 W. Phoenix Street

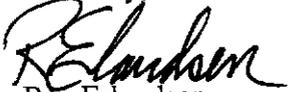
Dear Sue,

This letter serves to inform you that the Planning and Zoning Commission disapproved your application for Conditional Use Permit CUP-165-07 at a public hearing on October 8, 2007.

Section 15-09-004 D.3 of the Unified Development Code (UDC) provides for “any aggrieved person” to file a letter of appeal to the Town Council of a Commission decision within 30 calendar days of the decision. The deadline for any appeal of the Commission’s decision regarding your application would therefore be November 7, 2007. Attached is a copy of UDC Section 15-09-004 D.3.

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

Sincerely,


Ray Erlandsen
Zoning Administrator

Cc: Town Clerk
File

15-09-004: Conditional Use Permits (Procedures)

- (1) Access and Traffic; pedestrian, bicycle and vehicular circulation
 - (2) Noise, light, visual, litter and other pollutants
 - (3) Buffering provisions
 - (4) Impact on public utilities
 - (5) Signage and outdoor lighting
 - (6) Compliance with Master Plan
 - (7) Dedication and development of streets adjoining the property
 - (8) Impact on historical/archeological or natural sites
 - (9) Impact on the native vegetation and ecological character of the site
 - (10) Water and air pollution, such as fill, dust, and smoke
- c. The Conditional Use Permit shall be issued only with the stipulation that those conditions necessary to ensure the compatible and complementary development of the property in question, and to safeguard and ensure the intent and purpose of this Code, will be fulfilled.
 - d. The Conditional Use Permit shall be issued only when the stipulation that those conditions necessary to ensure the provision of the appropriate off-site improvements, will be fulfilled.
 - e. The Conditional Use Permit shall be issued only with the stipulation that any modification of the site plan imposed by the Commission will be complied with
3. Appeals: Any person aggrieved by a decision of the Commission to approve or disapprove a Conditional Use Permit may file a letter of appeal to the Council within 30 calendar days of the decision. If a decision of the Commission on a Conditional Use Permit is appealed, the Council shall conduct a public hearing as soon as is reasonably practical in accordance with provisions of the Arizona Revised Statutes pertaining to requirements for public hearings. The Council may reverse, affirm or modify the decision of the Commission following the conclusion of the public hearing. *16

E. Conditions for Approval

In rendering a decision on the approval of an application for a Conditional Use Permit the Commission and/or Council may as necessary attach conditions. The conditions may include, but are not limited to:

1. Limitations on size, bulk and location of structures
2. Requirements for additional landscaping or buffering
3. Provisions for adequate ingress and egress
4. Duration of the permit
5. Hours of operation
6. Time limits on construction

**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"/> Administrative Appeal | <input type="checkbox"/> Minor Land Division |
| <input type="checkbox"/> Code Amendment | <input checked="" type="checkbox"/> P & Z Commission Appeals |
| <input 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 |

RECEIVED
NOV 06 2007
COMMUNITY DEVELOPMENT
DEPARTMENT
May, 2007

Project Address: 104 W. PHOENIX Tax Parcel Number: _____
Subdivision: WOODED ESTATES Lot Number: 6 & 7
Name of Applicant(s): MARY SUZANNE MALINSKI (SUE) Phone #: 928-474-3431
Mailing Address: 1104 S. BEELINE HWY Town: PAYSON St: AZ. Zip: 85541
Name of Property Owner(s): SUE MALINSKI
Mailing Address: 1104 S. BEELINE HWY Town: PAYSON St: AZ. Zip: 85541
Contact Person: SUE MALINSKI Phone #: 928-474-3431 Fax #: _____
Payson Business License # 04-015110-A Sales Tax # 04-015110-A

Detailed Description of Request: (P48416)
APPEAL for Conditional Use Permit

(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.

MARY SUZANNE MALINSKI (SUE) [Signature] 10-29-07
 Print Name Signature Date

STAFF USE ONLY - PERTINENT DATA			
APPLICATION	DATE	INITIALS	APPLICATION FEE: \$125.00
DATE FILED	11-6-07	[Signature]	CHECK NUMBER: 190 DATE: 10/29/07
COMPLETED APPLICATION	11-6-07	[Signature]	
NEWSPAPER PUBLICATION	11-20-07	[Signature]	
300' NOTIFICATION MAILOUT	11-20-07	[Signature]	
POSTING DATE	11-15-07	[Signature]	

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



MEMO

TO: Planning and Zoning Commission
THROUGH: Jerry Owen, Community Development Director
FROM: Sheila DeSchaaf, Planner II
DATE: October 8, 2007
SUBJECT: 104 W. Phoenix St – Microbrewery/Outdoor Commercial Recreation CUP-165-07

Background

This case is a request by Mary Suzanne Malinski for a conditional use permit to allow a microbrewery and outdoor commercial recreation use in a C-2 zoning district. The applicant intends to renovate the existing building at the 1± acre site located at 104 W. Phoenix Street. The site is bordered by C-3 property on the east, which is also owned by the applicant and utilized as a retail business. The north and west side of this site borders R3-MH zoned property. The property directly south of this site is also zoned R3 with a hotel use established.

Analysis

The proposed development would expand the existing slump block office building. The expansion would include kitchen facilities as well as an outdoor patio, dining, and entertainment area. The restaurant use is an allowed use within the C-2 zoning district, the outdoor recreation area and microbrewery require an approved use permit. An additional 40± paved parking spaces are anticipated. Screening and buffering requirements must be fulfilled along the west property line as the site is adjacent to a single-family residence. All of these improvements shall be subject to Design Review regulations in accordance with UDC §15-02-014B.1.a.

104 W. Phoenix Street lies within the General Plan's Green Valley Redevelopment Growth Area and is designated for commercial and employment use. In general, the GVRA plan seeks to encourage re-investment such as proposed with this project within this area. Staff notes that within the Green Valley Redevelopment Area the playing of music, or performance, or entertainment out of doors in the late evening is allowed provided that sound related to outdoor entertainment be reasonable and not be plainly audible at a distance of three hundred feet from the property from which it emanates.

The Land Use Element (Chapter 3) of the Town of Payson General Plan designates this property as part of Employment Area #5. The General Plan states this area is well suited to mixed-use light employment, retail, office, and multi-family development.

Engineered paving, grading and drainage plans prepared by an Arizona registered professional are required for this project. Storm water detention shall be provide for all runoff generated by the new impervious surfaces (building, paving, etc) in accordance with the Town's requirements. Phoenix Street and Cedar Lane adjacent to the properties shall be brought up to current standards. This is a 16' wide half street (centerline to face of curb), vertical curb and gutter, and sidewalk, connecting to the existing sidewalk at Beeline Highway, and including an appropriate taper at the west end.

All parking area shall be surfaced with concrete or asphalt and driveways for two-way traffic must be at least 24' wide and all parking stalls must be at least 9' X 19'. The parking spaces shown on the site plan at the front of the building will not be allowed as all parking lots, except those located in residential districts, shall be entered and exited in a forward motion of the vehicle. Parking provided on site may or may not be sufficient for the development based upon final building plans. An agreement for parking on the contiguous lot at 1104 S. Beeline could fulfill any deficiency and a right of use for those parking facilities by this development would be required prior to issuance of a certificate of occupancy.

Three of the existing driveways along Beeline Highway providing access to 1104 S. Beeline are shown as being removed with the improvements for this project. The elimination of unnecessary curb cuts and continuous pavement between the existing parking area and the roadway improvements will enhance the frontage of this development and provide for landscape areas between the sidewalk and the parking facilities.

Public sanitary facilities are required. The site is currently within the Northern Gila County Sanitary District (NGCSD) boundaries and development shall comply with NGCSD standards.

Staff notes that work on this site/project began prior to obtaining necessary approvals from the affected Town of Payson departments. The project received stop work orders from both the building department and the engineering department. All existing code violations should be resolved prior to building permit application.

The Town of Payson Water Department has concerns over activity occurring on the site relative to a private water well recently drilled at this site because of the proximity of this site to the Payson PCE Site, a Water Quality Assurance Revolving Fund-designated contaminated groundwater area. Comments from the Town of Payson Water Superintendent, the Arizona Department of Water Resources (ADWR), and the Arizona Department of Environmental Quality (ADEQ) are attached to this report. The Water Department asks that the Commission stipulate that the owner of this property and the operator of any project located upon this property shall cooperate with ADEQ in any routine or special sampling from the new well located at the southwest corner of the property. Should any water quality sampling indicate that the water from this well is in excess of potable drinking water standards the use of this well for any reason shall be discontinued immediately. The owner of the property and the operator of any project located upon this property must comply with all Town of Payson Resolution No. 1742 and subsequent water use restrictions and water conservation regulations of the Town of Payson as may be in effect now or in the future, regardless of the source of water used on the property.

Staff Recommendation:

Approval with conditions listed below;

1. The use permit shall be valid if, within one year from the date of approval, all necessary building permits have been issued to allow commencement of the conditional use.
2. Development shall be in substantial conformance with the site plan dated August 30, 2007.
3. The length of this conditional use permit shall run concurrent with the use of this property. Expansion of the approved use, changes in use, or additional uses shall be subject to review and approval by the Planning and Zoning Commission if not expressly permitted in C-2 zoning district.
4. Construction shall be subject to current Design Review Regulations.
5. All driveways for two-way traffic must be at least 24' wide and all parking stalls must be at least 9' X 19'.

6. Phoenix Street and Cedar Lane adjacent to the properties shall be brought up to current standards. This is a 16' wide half street (centerline to face of curb), vertical curb and gutter, and sidewalk, connecting to the existing sidewalk at Beeline Highway, and including an appropriate taper at the west end.
7. Storm water detention shall be provided in accordance with the Town's requirements.
8. Engineered paving, grading and drainage plans prepared by an Arizona registered professional shall be required.
9. Three of the existing driveways along Beeline Highway shall be removed.
10. The owner of this property and the operator of any project located upon this property must cooperate with ADEQ in any routine or special sampling from the new well located at the southwest corner of the property.
11. Should any water quality sampling indicate that the water from this well is in excess of potable drinking water standards the use of this well for any reason shall be discontinued immediately.
12. The owner of the property and the operator of any project located upon this property must comply with all Town of Payson Resolution No. 1742 and subsequent water use restrictions and water conservation regulations of the Town of Payson as may be in effect now or in the future, regardless of the source of water used on the property.
13. Development shall comply with all applicable town codes in effect at the time of building permit application.
14. Existing Town Code violations on the site shall be resolved prior to submittal of a building permit application for the remodel/expansion.

Any other conditions the commission deems necessary.

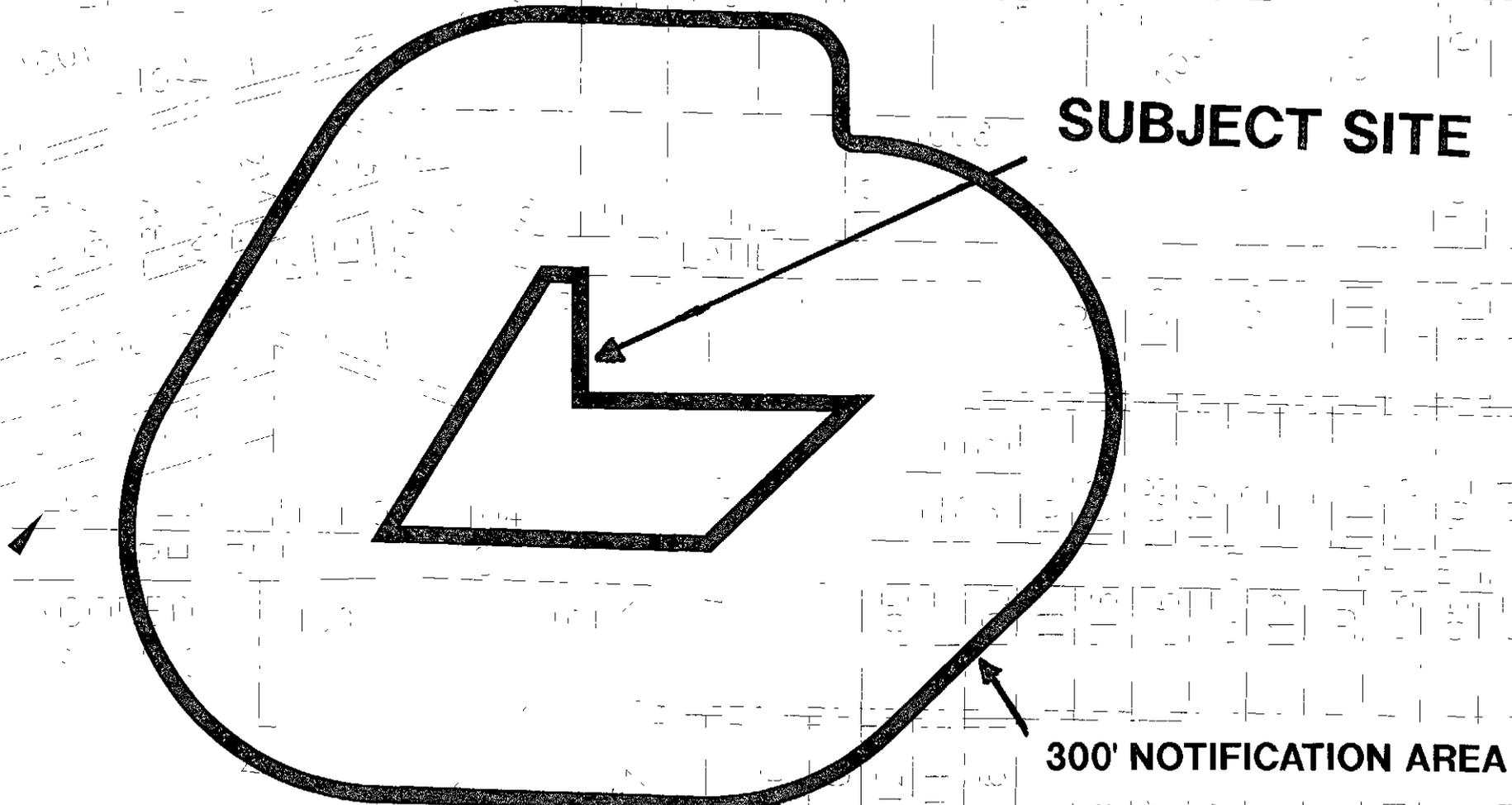
Suggested Motion to Approve:

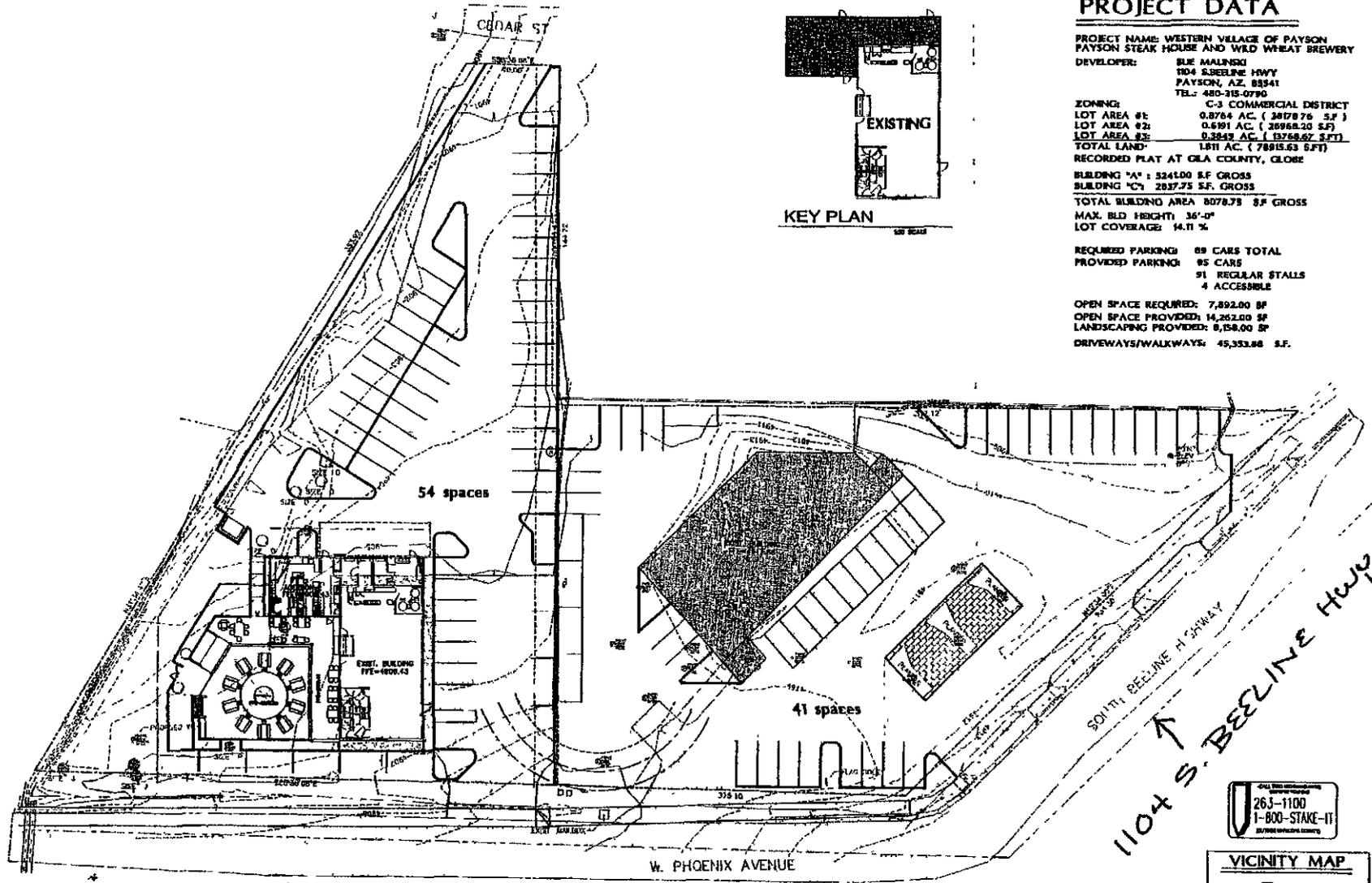
"I move the Planning & Zoning Commission approve CUP-165-07, a request to allow Microbrewery/Outdoor Commercial Recreation at 104 W. Phoenix Street subject to the conditions recommended by staff."

Neighborhood Involvement

A citizen's participation meeting concerning this request was held on August 27, 2007. Information regarding that meeting is attached to this report.

104 W. PHOENIX STREET PAYSON STEAK HOUSE & WILD WEED BREWERY





PROJECT DATA

PROJECT NAME: WESTERN VILLAGE OF PAYSON
 PAYSON STEAK HOUSE AND WILD WHEAT BREWERY
 DEVELOPER: BUE MALINSKI
 1104 S.BEELINE HWY
 PAYSON, AZ, 85541
 TEL: 480-315-0790

ZONING: C-3 COMMERCIAL DISTRICT
 LOT AREA #1: 0.8764 AC. (3878.76 SF)
 LOT AREA #2: 0.6191 AC. (26958.20 SF)
 LOT AREA #3: 0.3849 AC. (16768.67 SF)
 TOTAL LAND: 1.8804 AC. (78815.63 SF)

RECORDED PLAT AT GILA COUNTY, GLOBE
 BUILDING 'A': 5241.00 SF GROSS
 BUILDING 'C': 2837.75 SF GROSS
 TOTAL BUILDING AREA 8078.75 SF GROSS
 MAX. BLD HEIGHT: 35'-0"
 LOT COVERAGE: 14.11 %

REQUIRED PARKING: 69 CARS TOTAL
 PROVIDED PARKING: 95 CARS
 51 REGULAR STALLS
 4 ACCESSIBLE

OPEN SPACE REQUIRED: 7,892.00 SF
 OPEN SPACE PROVIDED: 14,252.00 SF
 LANDSCAPING PROVIDED: 8,158.00 SF
 DRIVEWAYS/WALKWAYS: 45,353.88 SF.

THESE PLANS AND SPECIFICATIONS ARE THE PROPERTY OF TAMAS TOROK ARCHITECT AND SHALL REMAIN THE PROPERTY OF TAMAS TOROK ARCHITECT. NO PART OF THESE PLANS OR SPECIFICATIONS SHALL BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF TAMAS TOROK ARCHITECT. ANY VIOLATION OF THESE TERMS SHALL BE CONSIDERED A BREACH OF CONTRACT AND SHALL BE SUBJECT TO LEGAL ACTION.

**TAMAS
 TOROK
 ARCHITECT**
 480-330-9517

Professional Engineer in the State of Arizona
 License No. 10000
 State of Arizona
 Board of Professional Engineers
 1998

**PAYSON STEAKHOUSE
 AND WILD WHEAT BREWERY**
 1104 S.BEELINE HWY., PAYSON, AZ



OVERALL SITE

VICINITY MAP

Scale: AS SHOWN
 Project: TOROK
 Date: _____

DATE: _____

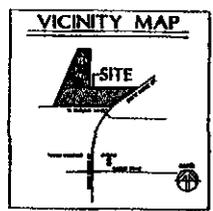
104 W PHOENIX

SITE PLAN

1:20 SCALE



263-1100
 1-800-STAKE-11
 WWW.STAKE-11.COM



**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"/> Administrative Appeal | <input type="checkbox"/> Minor Land Division |
| <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 |

May, 2007

Project Address: 104 W. PHOENIX ST. Tax Parcel Number: ~~#050~~ 30A-17-124
 Subdivision: WOODED ESTATES Lot Number: 657
 Name of Applicant(s): MARY SUZANNE MALINSKI (SUE) Phone #: 928-474-3431
 Mailing Address: 1104 S. BEELINE HWY Town: PAYSON St: AZ. Zip: 85541
 Name of Property Owner(s): SUE MALINSKI
 Mailing Address: 1104 S. BEELINE HWY Town: PAYSON St: AZ. Zip: 85541
 Contact Person: SUE MALINSKI Phone #: 928-474-3431 Fax #: _____
 Payson Business License # PY8416 Sales Tax # 04-015110A

Detailed Description of Request:

TO ADD KITCHEN - STORAGE - WALKIN REFRIG. - BREWERY SPACE
DEVELOPE BACKYARD FOR EATING SPACE - DEVELOPE PARKING
AND PLANTING AREA

(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.

MARY SUZANNE MALINSKI  8/30/07
 Print Name Signature Date

STAFF USE ONLY - PERTINENT DATA			
APPLICATION	DATE	INITIALS	APPLICATION FEE: <u>Conditional Use Permit</u> <u>Other than SFR</u> <u>\$325.00</u> CHECK NUMBER: 1139 DATE: 8/30/07
DATE FILED	<u>8/30/07</u>	<u>Sld</u>	
COMPLETED APPLICATION	<u>8/31/07</u>	<u>Sld</u>	
NEWSPAPER PUBLICATION	<u>9/21/07</u>	<u>Sld</u>	
300' NOTIFICATION MAILOUT	<u>9/18/07</u>	<u>Sld</u>	
POSTING DATE	<u>9/18/07</u>	<u>Sld</u>	

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



Water Department

303 N. Beeline Highway
Payson, AZ 85541
Phone (928) 474-5242
Fax (928) 474-7052

Memo from Buzz Walker, Water Superintendent

Date: September 14, 2007
To: Ray Erlandsen, Zoning Administrator
Re: 104 W. Phoenix St. CUP

Please note that the private water well recently drilled at this address is located within a Water Quality Assurance Revolving Fund-designated contaminated groundwater area. It is important to note that the State of Arizona issued permission to drill this well only because it did not have the authority to deny the permit. That situation has been remedied with passage recently of legislation that could have prevented the issuance of a permit for this well. I have attached correspondence from the Arizona Dept. of Environmental Quality and the Arizona Dept. of Water Resources evidencing their concern about the use of this well.

The Payson Water Department shares these concerns that the use of this well may cause the spread of contamination of the local contaminated groundwater plume. We request that any Conditional Use Permit issued for this property include the conditions that:

1. The owner of the property and the operator of any project located upon this property cooperate with the Arizona Department of Environmental Quality in any routine or special sampling from the new well located at the southwest corner of the property.
2. Should any water quality sampling indicate that the water from this well is in excess of potable drinking water standards the use of this well for any reason shall be discontinued immediately.
3. The owner of the property and the operator of any project located upon this property comply with all Town of Payson Resolution No. 1742 and subsequent water use restrictions and water conservation regulations of the Town of Payson as may be in effect now or in the future, regardless of the source of water used on the property.

SEP 14 2007

**ARIZONA DEPARTMENT OF WATER RESOURCES
HYDROLOGY DIVISION**

3550 North Central Avenue, Phoenix, Arizona 85012-2105

Telephone 602 771-8500

Fax 602 771-8686



Janet Napolitano
Governor

Herbert R. Guenther
Director

April 11, 2007

Ms. Sue Malinski
Western Village
1104 South Beeline Highway
Payson, AZ 85541

SUBJECT: Notice of Intent to Drill a Well; ADWR registration #55-214979

Dear Ms. Malinsky:

Enclosed is a copy of the Notice of Intention (NOI) to Drill, Deepen, Replace, or Modify a Well, which you recently filed with this Department pursuant to A.R.S. §45-596. The Department has approved the NOI and has mailed a drilling card authorizing the drilling of the well to your designated well drilling contractor. The driller may not begin drilling until he has received the drilling card, which he must keep in his possession at the well site during drilling.

The Department has received a copy of a letter sent to you by the Arizona Department of Environmental Quality (ADEQ), dated March 29, 2007. In the letter, ADEQ informed you that your proposed well is within 300 feet of the Payson Water Quality Assurance Revolving Fund (WQARF) site. Groundwater at this site is contaminated with tetrachloroethene, commonly referred to as PCE. ADEQ suggested that you perform a hydrologic study to determine the effects your proposed well will have on the local aquifer and contaminant plume. The Department also recommends that a hydrologic study be performed. Your proposed well may draw contaminated groundwater to your well and other nearby domestic wells. The contaminated groundwater may render the water withdrawn from your well, and your neighbors' wells, unusable without expensive treatment.

Additionally, the Department's minimum well construction standards may not adequately protect the aquifer and avoid possible vertical cross-contamination within the aquifer; therefore, special well construction requirements apply when drilling near the Payson WQARF site. The proposed well construction shall include a seal from the ground surface to twenty-five (25) feet into the fractured granite, or approximately 100 feet below the ground surface, as discussed with your driller on April 10, 2007. The design is shown on the revised well diagram provided to the Department by your driller. This construction will reduce the potential for vertical cross-contamination if contaminated groundwater is drawn to the well.

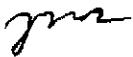
Well drilling activities must be completed within one year after the date the NOI was filed with the Department. If drilling is not completed within one year, you must file a new NOI before proceeding with further drilling. If it is necessary to change the location of the proposed well, you may not proceed with drilling until you properly file an amended NOI with the Department. An amended drilling card will then be issued and must be in the possession of the well drilling contractor before drilling begins.

A standard Well Driller Report and Well Log form (DWR form 55-55) is being furnished to the well drilling contractor. This form must be filed with the Department within thirty (30) days after drilling and installing the well. A Pump Installation Completion Report form (DWR form 55-56) is being furnished to you as the owner of a well where a pump installation is authorized. The Pump Installation Completion form must be submitted to the Department by the well owner within thirty (30) days of installing a pump, as required by A.R.S. §45-600. If during the drilling process, you determine that your well must be abandoned, it must be properly abandoned and a Well Abandonment Completion Report (DWR form 55-58) must be submitted to the Department according to Arizona Administrative Code R12-15-816(F). Please make assurances that you and your driller submit these forms to the Department timely.

Please be advised that A.R.S. §45-593(C) requires the person to whom a well is registered to notify the Department of a change of ownership of the well and/or information pertaining to the physical characteristics of the well, in order to keep the well registration file current and accurate. Any change in well information or a request to change well driller must be filed on a Request to Change Well Information form (DWR form 55-71A), which is enclosed for your future use.

If you have any questions, please contact David Christiana at (602) 771-8548, or me at (602)771-8561.

Sincerely,
Arizona Department of Water Resources



John Mawarura, Hydrologist
Water Quality Unit

Enclosures

c: J. Riemenschneider, ADEQ w/o enclosures



Janet Napolitano
Governor

ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY

1110 West Washington Street • Phoenix, Arizona 85007
(602) 771-2300 • www.azdeq.gov



Stephen A. Owens
Director

March 29, 2007

RPU 07, 305

Mary Sue Malinski
1104 S. Beeline Hwy
Payson, AZ 85541

RECEIVED

APR 3 2007

Re: Proposed Non-Exempt Well
104 West Phoenix Street, Payson, Arizona.

AZ DEPT OF WATER RESOURCES
HYDROLOGY DIV

Dear Ms. Malinski:

The Arizona Department of Environmental Quality (ADEQ) sent a letter dated August 17, 2006, as a follow up to the meeting that was held in Payson, Arizona on August 8, 2006 to discuss the permit you filed with the Arizona Department of Water Resources (ADWR) to install a non-exempt well (well) on the property at 104 W. Phoenix Street, Payson, Arizona. ADEQ expressed concerns with regard to the installation of the well and strongly suggested that you perform a hydrologic study on the affects the well would cause on the aquifer and the contamination plume. Since that time, ADEQ has not received any correspondence from you on the matter.

Recently, ADWR received another permit to install a non-exempt well on the property at the above referenced address. ADEQ again expresses the following concerns in regards to the proposed well:

- ADEQ is quite concerned regarding this proposed well because it is installed approximately 300 feet south of the Payson Water Quality Assurance Revolving Fund (WQARF) site.
- The WQARF site consists of a contaminated plume of tetrachloroethene (PCE), a hazardous substance, in the groundwater.
- PCE is a chemical listed as a carcinogen which is toxic to both humans and animals.
- ADEQ provided you with a fact sheet regarding the effects of PCE and a map indicating where the WQARF plume is relative to the location to your proposed well.
- ADEQ strongly believes that your proposed well will draw the contaminated groundwater over to your well.
- This action would contaminate your well and require treatment prior to the use of that water.
- If the groundwater in the well does become contaminated, and it is not treated, then you may risk exposure to health hazards associated with exposure to PCE, either through ingestion, inhalation or dermal contact. Please note that PCE is a volatile chemical, meaning that it easily becomes vapor and can be inhaled or absorbed through the skin.

Northern Regional Office
1801 W Route 66 • Suite 117 • Flagstaff, AZ 86001
(928) 779-0313

Southern Regional Office
400 W Congress Street • Suite 433 • Tucson, AZ 85701
(520) 628-6733

- While ADEQ was visiting your property, you indicated to us several exempt drinking water wells existed in close proximity to your proposed well.
- ADEQ indicated that they would ask ADWR, prior to approving the proposed well, to require you to conduct a hydrologic study to see what effect the proposed well would have on the WQARF plume.

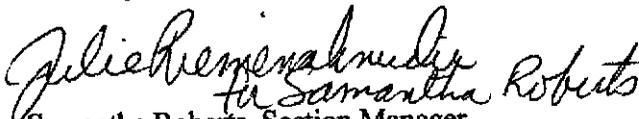
ADEQ believes that a hydrologic study would show that your proposed well will pull the contaminated groundwater to your well. ADEQ also believes that this action could not only affect your proposed well but could also contaminate the groundwater wells of your neighbors.

Actions which contribute to the spread of groundwater contamination may subject a person to liability to the State of Arizona for remedial action costs in responding to the release. At a minimum, ADEQ will be obligated to commence water quality monitoring of your well and the wells of your neighbors, for which you may be held liable.

ADEQ strongly recommends that prior to installing this well you hire an environmental consultant to conduct a hydrologic study. ADEQ would be willing to work with you and your consultant on what issues should be studied and addressed.

If you have any questions or concerns regarding this letter you can reach me at (602) 771-7655 or (800) 234-5677 extension 771-7655 or Chris Gamache at (602) 771-4176.

Sincerely,


for Samantha Roberts
Samantha Roberts, Section Manager
Remedial Projects Section

Cc: Chris Gamache, Project Manager, ADEQ
Julie Riemenschneider, Unit Manager, ADEQ
Anthony Young, Assistant Attorney General
Dave Christiana, Unit Manager, ADWR
Buzz Walker, Payson Water Department
Reading File

CITIZENS
PARTICIPATION
MATERIAL

**Participation Report to the Schedule
Hearing 8-27-2007 @ 10:00 A.M. for
A Conditional Use Permit.**

Architect Tomas Torok and Sue Malinski conducted the meeting starting at 10:00A.M. Monday morning. About 10:45 two gentlemen arrived and showed a concern over water run off and noise volume. The complete set of engineering plans were displayed and all details were explained at this time. The one gentleman was concerned only with the Architect referring to Payson as a City and expressed concern that we become aware of this, and when all was in agreement with the fact that Payson was a Town the issue was dropped. The second gentlemen concerns were given much more depth in explaining in detail the plan for the music and was told that all music would end at 10:00 P.M. and that the music would be low key and old traditional Western mood music. Tomas explained how we would build the 12 foot, sound proof wall and that a row of new trees would be planted along the fence line on the restaurant side, he also explained how the property line extended past the fence line towards his house 12 more feet and that we were not planning on moving the fence over, he also explained, how we removed the road that was first designed along the same fence line and I explained that my intention was to create a park like atmosphere threw out the whole parking lot as well as the entire village and this would become a site that Payson would be proud of. He took notes and I gave him a sheet of paper in which I asked if he would take the time to write his concerns down and present them at the town meeting. When he left we were in agreement that he understood all details and that all his questions were answered. He also asked for a copy of the letter for a person he had talked to and she felt she should have received, but didn't. He said he would make a copy of his letter and give it to her, I showed him the 3 letters that were returned, but he could not remember her name. I explained how the Town of Payson gave me the list I was to mail my request for a meeting to. He seemed pleased with our plans and that he would ask the Town if he had any other questions. He took notes through out the whole time so I expect he will. I showed the plans to Motel 6 owners and also gave them a letter to express any and all concerns and they told me that they wanted us to please hurry up the building process and that they were behind all I was doing and were very happy with the plans. We closed at 3:30 PM.



Western Village

Art & Antique Corral

The City of Payson has asked me to explain my proposal for a new Steak House and the Wild Weed Brewery, located at 104 W. Phoenix, in the old Simmons Insurance building.

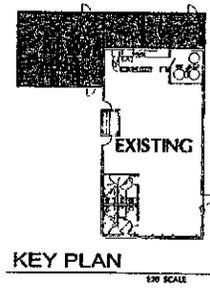
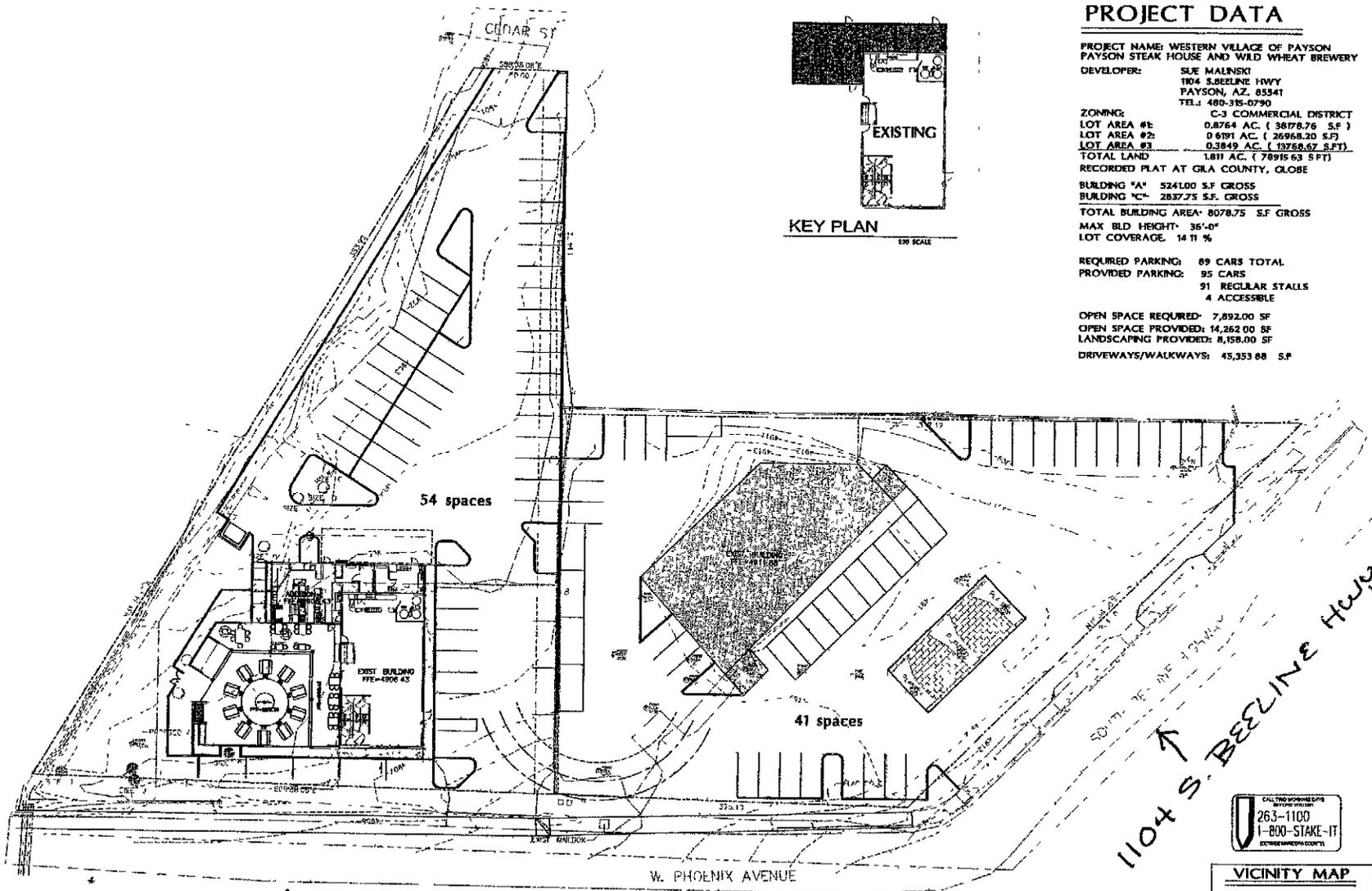
I would like to provide an opportunity to discuss my proposal on Monday Aug.27, 10:00 AM at Western Village, 1104 S. Beeline Hwy. This will give you an opportunity to express any concerns, issues or problems you may have with my proposal in advance of the Public Hearing for my application for a Conditional Use Permit.

If you are unable to attend at this time, but would like to have some questions answered, please call me and I will schedule another meeting for you.

Thank You

Sue Malinski
928-474-3431

Sue Malinski
1104 S. Beeline Hwy
Payson, AZ 85541
(928) 474-3431
Email. suem@cbiwireless.com



PROJECT DATA

PROJECT NAME: WESTERN VILLAGE OF PAYSON
 PAYSON STEAK HOUSE AND WILD WHEAT BREWERY
 DEVELOPER: SUE MALINSKI
 1104 S. BEELINE HWY
 PAYSON, AZ, 85541
 TEL: 480-315-0790

ZONING: C-3 COMMERCIAL DISTRICT
 LOT AREA #1: 0.8764 AC. (3878.76 S.F)
 LOT AREA #2: 0.6191 AC. (26968.20 S.F)
 LOT AREA #3: 0.3849 AC. (16758.67 S.F)
 TOTAL LAND: 1.8811 AC. (78915.63 SFT)
 RECORDED PLAT AT GILA COUNTY, GLOBE

BUILDING 'A': 5241.00 S.F GROSS
 BUILDING 'C': 2837.75 S.F. GROSS
 TOTAL BUILDING AREA: 8078.75 S.F GROSS
 MAX BLD HEIGHT: 36'-0"
 LOT COVERAGE: 14.11 %

REQUIRED PARKING: 89 CARS TOTAL
 PROVIDED PARKING: 95 CARS
 91 REGULAR STALLS
 4 ACCESSIBLE

OPEN SPACE REQUIRED: 7,893.00 SF
 OPEN SPACE PROVIDED: 14,262.00 SF
 LANDSCAPING PROVIDED: 8,158.00 SF
 DRIVEWAYS/WALKWAYS: 45,353.88 SF

↑
104 W PHOENIX

SITE PLAN

1:20 SCALE



CALL TROPICSPRING
 263-1100
 1-800-STAKE-IT
 (COURTESY OF TROPICSPRING.COM)



OWNER: TROPICSPRING
 PROJECT: PAYSON STEAK HOUSE AND WILD WHEAT BREWERY
 ARCHITECT: TAMAS TOROK ARCHITECT
 480-330-9517

**PAYSON STEAKHOUSE
 AND WILD WHEAT BREWERY**
 1104 S. BEELINE HWY., PAYSON, AZ



OVERALL SITE

As Shown: GROUND
 As Shown: AS SHOWN
 Detail: TOPICK
 Project: TOPICK

DATE: _____
 DRAWN BY: _____
 CHECKED BY: _____

Attendance August 27, 2007

Jeanie Langham
called 8.28.07

Marc & Patricia Allen

Christopher Miller

Jason Phillimore

Gayle A. LaPerle

BJQ*DMP

Robert Henley

Lee Qiaoling

CRW Construction

RICSI

Pradeep K. & Asha P. Patel

James & Betty Henson

Stanley-Potts

Charles & Virginia. Brening

Otto Roger Lee

Tine Ridge Properties

Cedar Property

Alden & Vonacile Balle

Herbster Family Trust

CFI

Constance Chubinski

Dorcas Byrd McDaniel

McLean Trust

American Lifestar

**Ralph & Thelma Lindo
And Stephanie Diaz**

Robert M. Siegel

**Edward Corson & Kenrick &
Susan Francis**

Shirley & Robert Mathews

Jesse M. Causer

Judy L. Hegrenes

Benjamin Plumb

Howard W. Hamer

John & Michelle Franklin

Gaspar Coronado

Alma M. Gates

Donald Leas/Dleas Trust

If you have any comments or questions you would like to make, please put them in writing and we will try to answer them to your satisfaction. We would like to know your opinion and appreciate any and all suggestions.

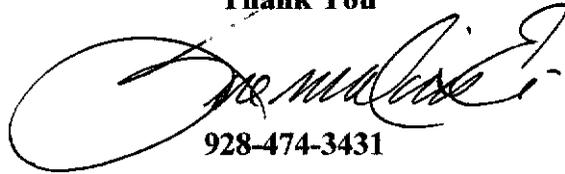
Thank You

A handwritten signature in cursive script, appearing to read "S. Me".

Your comments and written questions will be submitted to the city, so they can review and prepare for their review *in 30 days.*

THE Meeting today for the Proposal of the Payson Steak House and Wild Weed Brewery starting at 10:00 A.M. is now closed at 3:00 P.M. If you have any questions, please do not hesitate to call for an appointment.

Thank You

A handwritten signature in black ink, appearing to read "James E. McQuinn". The signature is fluid and cursive, with a large initial "J" and "M".

928-474-3431

Monday 27 August

If you have any comments or questions you would like to make, please put them in writing and we will try to answer them to your satisfaction. We would like to know your opinion and appreciate any and all suggestions

Thank You



Something like this would re-vitalize
this end of the town - there are
no businesses down this end.

- MOTEL 6.

Your comments and written questions will be submitted to the city, so they can review and prepare for their review *in 30 days.*

