

**Minutes  
HEARING OFFICER  
MAY 01, 2007**

Minutes of the regular public hearing of the Hearing Officer, of the City of Tempe, which was held at the Council Chambers, 31 East Fifth Street, Tempe, Arizona.

**Present:**

David Williams, Hearing Officer  
Steve Abrahamson, Senior Planner  
Sherri Lesser, Senior Planner

**Number of Interested Citizens Present:** 30

Meeting convened at 1:30 PM and was called to order by Mr. Williams.

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1. Mr. Williams approved the Hearing Officer Minutes for April 17, 2007.

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2. Hold a public hearing for a request by the **ROWLEY RESIDENCE (PL070041)** (Steve Briggs/TEBO LLC, applicant; Chris Rowley, property owner) located at 948 South Ash Avenue in the R-3, Multi-Family Residential Limited District for:

**ZUP07016** Use permit to allow tandem parking for a multi-family project.

**VAR07006** Variance to reduce the north side yard setback from 10 feet to 3 feet.

**VAR07007** Variance to reduce the west rear yard setback from 15 feet to 4 feet.

**CONTINUED FROM APRIL 3, 2007 HEARING OFFICER**

**DECISION:**

Mr. Williams continued PL070041/ZUP07016/VAR07006/VAR07007 to the June 5, 2007 Hearing Officer hearing to allow time for the building permit process to be completed.

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3. Hold a public hearing for a request by the **AREVALOS RESIDENCE (PL070128)** (Juan Arevalos, applicant/property owner) located at 2041 East Don Carlos Avenue in the R1-6, Single Family Residential District for:

**ZUP07044** Use permit to allow parking in the front yard setback.

Mr. Juan Arevalos was present to represent this case.

Mr. Williams verified that Mr. Arevalos had received the Staff Report and was in agreement with the conditions of approval.

**DECISION:**

Mr. Williams approved PL070128/ZUP07044 subject to the following conditions:

1. The use permit is valid for the plans as submitted to and approved by the Hearing Officer.
2. All required permits and clearances shall be obtained from the Building Safety Division.
3. The addition shall compliment the main structure design, materials and color.
4. Provide a landscape plan of the front yard showing additional landscape material to screen cars on driveway. Plan to include at least one (1) 24" box tree; details to be approved by staff. Provide plan for use permit file.

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4. Hold a public hearing for a request by **CLEARWIRE (PL070139)** (Brandon Brown, Clearwire/Powder River, applicant; American Tower Corporation, property owner) located at 2404 West 12<sup>th</sup> Street in the GID, General Industrial District for:

**ZUP07045** Use permit to allow co-location of additional antennas on an existing eighty (80) foot monopole.

Mr. Brandon Brown was present to represent this case.

**DECISION:**

Mr. Williams approved PL070139/ZUP07045 subject to the following conditions:

1. Obtain all necessary clearances from the Building Safety Division.
2. Any intensification or expansion of use, including co-location of additional antennas, will require a new use permit.
3. The wireless device shall be removed within 30 days of discontinuance of use.
4. The antennas shall be painted to match the existing monopole.

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5. Hold a public hearing for a request by the **FRENCH RESIDENCE (PL070142)** (Richard French II, applicant/property owner) located at 2168 East Alameda Drive in the R1-4, Single Family Residential District for:

**ZUP07046** Use permit standard to reduce the front yard setback by twenty percent (20%) from ten (10) feet to eight (8) feet.

Mr. Richard French was present to represent this case.

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Thomas Keating, (address unknown) spoke in opposition to this request, stating that it was not in compliance with the CCR's for this neighborhood.

**DECISION:**

Mr. Williams approved PL070142/ZUP07046 subject to the following conditions:

1. Obtain all necessary clearances from the Building Safety Division.
2. The wall shall be compatible with the existing dwelling in color, **finish** and materials. **MODIFIED BY HEARING OFFICER**
3. The wall is limited to six feet (6') in height.

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6. Hold a public hearing for a request by **DIRECTBUY (PL070152)** (Michael Ricketts, applicant/property owner) located at 2000 West University Drive in the GID, General Industrial District for:

**ZUP07047** Use permit to allow a retail/wholesale showroom.

Mr. Michael Ricketts was present to represent this case.

**DECISION:**

Mr. Williams approved PL070152/ZUP07047 subject to the following conditions:

1. All permits and clearances required by the Building Safety Division shall be obtained prior to the use permit becoming effective.
2. The use permit is transferable. Should the business be sold, the new owners must reprocess for administrative review.
3. The use permit is valid for the plans and business operation as submitted to and approved by the Hearing Officer/Board of Adjustment.
4. Any expansion or intensification of use shall require a new use permit to be approved.
5. If there are any complaints arising from the use permit that are verified by a consensus of the complaining party and the City Attorney's office, the use permit will be reviewed by city staff to determine the need for a public hearing set to re-evaluate the appropriateness of the use permit.

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7. Hold a public hearing for a request by **AFTER DARK TATTOO (PL070154)** (Michael Rogers, applicant; Thanh Van Ta, property owner) located at 2101 South McClintock Road in the CSS, Commercial Shopping and Services District for:

**ZUP07048** Use permit to allow a tattoo/body piercing shop.

Mr. Michael Rogers was present to represent this case.

**DECISION:**

Mr. Williams approved PL070154/ZUP07048 subject to the following conditions:

1. Prior to the use permit becoming effective, the establishment must have written procedures on the proper handling and sterilization of equipment and demonstrate that all personnel are trained in the procedures.
2. Prior to the use permit becoming effective, all practitioners must have training in blood-borne pathogens and cross-contamination.
3. Prior to the use permit becoming effective, the establishment must post and provide to customers, upon request, written instructions on tattoo care.

4. All business signs must be Development Review approved and permits obtained prior to installation.
5. The use permit is valid for the plans and business operation as submitted to and approved by the Hearing Officer.
6. This use permit is transferable. Should the business be sold, the new owners must process through the ~~Hearing Officer~~ **city staff for administrative approval of a new use permit. CORRECTED BY DEVELOPMENT SERVICES**
7. If there are any complaints arising from the use permit that are verified by a consensus of the complaining party and the City Attorney's office, the use permit will be reviewed by city staff to determine the need for a public hearing set to re-evaluate the appropriateness of the use permit.
8. All permits and clearances required by the Building Safety Division shall be obtained prior to the use permit becoming effective.
9. Any intensification or expansion of this use shall require that a new use permit be applied for and obtained.

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8. Hold a public hearing for a request by the **COTTRELL RESIDENCE (PL070162)** (Craig & Andrea Cottrell, applicants/property owners) located at 923 East Carver Road in the AG, Agricultural District for:

**VAR07015** Variance to reduce the front yard setback from forty (40) feet to ~~twenty-four (24)~~ **thirty-two (32)** feet to allow for a garage. **MODIFIED BY HEARING OFFICER**

Ms. Andrea Cottrell was present to represent this case. Staff presented the Hearing Officer with the summary of the neighborhood meeting and attendance sheet. Ms. Cottrell noted that the only access is through the east side of the property, otherwise, this would be built on top of the septic tank.

**DECISION:**

Mr. Williams approved PL070162/VAR07015, as modified, noting that the lot is one (1) acre and that he would approve based on the use permit standard of a 20% reduction, subject to the following conditions:

1. Obtain all necessary clearances from the Building Safety Department.
2. Obtain all necessary clearances from the Public Works Department for on-site retention for expansion of pavement in front yard.
3. Per Tempe City Code, improved paved areas shall not exceed 35% of the front and side areas visible from the street.

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9. Hold a public hearing for a request from **THE SETS (PL070167)** (Hamid Hekmatian, applicant; Ethan Christopher LLC, property owner) located at 93 East Southern Avenue in the CSS, Commercial Shopping and Services District for:

**ZUP07042** Use permit to allow a billiard parlor and sports bar with live entertainment previously granted on March 21, 2006, and required to return for review after one year.

Mr. Hamid Hekmatian was present to represent this case. He stated that the present building safety occupancy allowance is 931, and requested continuation of the use permit through the end of the lease (2013).

Staff indicated that one (1) phone call of opposition had been received, and that the business currently operates as a pool hall/nightclub not a concert venue. Discussion on calls for service from the Police Department was held. Mr. Williams noted concern that a Police Department representative was not present at this hearing.

**SUPPORT:**

Matt Watters, of 114 East Pebble Beach Drive, and Michael Garcia, of the same address, spoke in support of this request, stating that they had no issues to address.

Elan Chen, of 114 East Pebble Beach Drive, stated that he did not have a problem with the noise, however he has heard gunshots.

**OPPOSITION:**

Steve Bonaguidi, of 126 East Pebble Beach Drive, stated that the low frequency (bass) noise travels and that he had contacted police on a regular basis regarding additional noise in the smoking patio area and gunshots. He asked that the Hearing Officer not renew the use permit.

Chris Summers, of 132 East Pebble Beach Drive, spoke in opposition stating problems with the noise levels and gunshots.

Paul Bennewitz, of 120 East Pebble Beach Drive, stated that he was in opposition to this request due to the noise generated by this business.

**REBUTTAL:**

Mr. Hekmatian refuted comments from the opposition and evidence regarding complaints from the neighbors.

Kimberly LaBowe, stated that she was the entertainment coordinator for The Sets. A recent 'special' event, the Fetish Revolution, was discussed.

**DECISION:**

Mr. Williams continued PL070167/ZUP07042 to the May 15, 2007 Hearing Officer hearing to allow a representative of the Police Department to be present and report.

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10. Hold a public hearing for a request by the City of Tempe – Neighborhood Enhancement Department to abate public nuisance items in violation of the Tempe City Code for the **CUPP RESIDENCE (PL070051/ABT07006)** (Dolly Cupp, property owner) Complaint No. CE064967 located at 226 East Pebble Beach Drive in the R1-6, Single Family Residential District.

**CONTINUED FROM APRIL 3, 2007 HEARING OFFICER**

The City of Tempe Neighborhood Enhancement Department withdrew this request for abatement, stating that the property has been brought into compliance.

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11. Hold a public hearing for a request by the City of Tempe – Neighborhood Enhancement Department to abate public nuisance items in violation of the Tempe City Code for the **CONNELL RESIDENCE (PL070150/ABT07011)** (Corinne Connell, property owner) Complaint CE065415 located at 421 East Pegasus Drive in the R1-6, Single Family Residential District.

Barry Kissell, City of Tempe Neighborhood Enhancement Department Inspector, summarized the case, noting that progress has not been made.

Ms. Nancy Brock, the property owner's daughter was present at this hearing. She explained that her mother has dementia and is dealing with several issues due to her health. She requested a continuance.

**DECISION:**

Mr. Williams continued abatement proceedings for PL070150/ABT07011 to the June 5, 2007 Hearing Officer hearing.

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The next Hearing Officer public hearing will be **Tuesday, May 15, 2007.**

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There being no further business the public hearing adjourned at 3:02 PM.

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Prepared by: Diane McGuire, Administrative Assistant II  
Reviewed by:



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Steve Abrahamson, Senior Planner  
for David Williams, Hearing Officer

SA:dm