

**Minutes
HEARING OFFICER
JULY 1, 2008**

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, Planning & Zoning Coordinator
Shawn Daffara, Planner II
Nick Graves, Planning Intern
Sherri Lesser, Senior Planner
Diana Kaminiski, Senior Planner

Number of Interested Citizens Present: 10

Meeting convened at 1:30 PM and was called to order by Mr. Williams. He noted that anyone wishing to appeal a decision made today by the Hearing Officer would need to file a written appeal to that decision within fourteen (14) days by July 15, 2008 at 3:00 PM to the Development Services Department.

1. Mr. Williams approved the Hearing Officer Minutes for June 17, 2008.

2. Mr. Williams noted that the following case(s) had been administratively withdrawn:

Hold a public hearing for a request by the **KLETT RESIDENCE (PL080144)** (Stan Patton, applicant; Mark & Emily Klett, property owners) located at 1136 South Ash Avenue in the R-3R, Multi-Family Residential Restricted District for:

ZUP08074 Use permit to allow an accessory building (studio/work shop).
ADMINISTRATIVELY WITHDRAWN

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 **PAOLUCCI PROPERTY (PL080188/ABT08013)** (Emma Paolucci, property owner) Complaint CE072127 located at 730 East Cavalier Drive in the R1-6, Single Family Residential District.

REQUEST WITHDRAWN BY NEIGHBORHOOD ENHANCEMENT

3. Hold a public hearing for a request for reconsideration of Condition of Approval No. 6 by the **TEMPE EAST KINGDOM HALL OF JEHOVAH'S WITNESSES (PL070190/ZUP08069)** (Lauren Leuning, applicant; Tempe East Kingdom Hall of Jehovah's Witnesses, property owner) located at 4400 South Butte Avenue in the R1-6, Single Family Residential District which reads:

"Design a screen of acceptable material to increase the height of the existing perimeter block wall to a height eight (8) feet subject to Development Plan Review. Screen is to be finished on both sides. Notification of plan review is to be made to surrounding property owners prior to approval." ADDED BY HEARING OFFICER AT JUNE 3, 2008 HEARING.

Mr. Kerry Petersen, a member of the congregation, was present to represent this case.

Sherri Lesser, Senior Planner, stated that Mr. Williams needed to decide as to whether he would hear the request for reconsideration, before the actual reconsideration request could be heard.

Mr. Williams stated that he was happy to accept the request for reconsideration.

Diana Kaminski, staff planner, gave an overview of this case, and stated that no additional public input or information had been received since the staff report had been issued. She noted that this case had originally been heard as a use permit request at the June 3rd Hearing Officer hearing at which time conditions of approval were modified by the Hearing Officer.

Mr. Petersen stated that he was a contractor by trade and had been involved with this project. He discussed the limitations on the property regarding trees, landscaping, light fixtures, etc. and the expenses to upgrade the property. He noted that one of the neighbors had expressed concerns over privacy issues. Mr. Petersen stated that the City of Tempe had rules and regulations to protect the residents of property nearby. Specifically they had been required to create a large buffer zone between their neighbors and the church property. He explained how the increased buffer and trees will create a sufficient buffer zone of 24 feet for the surrounding residents. Therefore, they did not feel it was reasonable to expect them to provide additional engineering and expense for the screen.

Mr. Williams asked that Mr. Petersen put himself in the position of the neighbor and state what he would feel was reasonable in that case. Mr. Petersen stated that he thought it would be reasonable to accept the tremendously improved situation rather than creating another hurdle – the increased buffer zone is a significant change for the better and that it would be reasonable to see how this works out before requiring additional change.

Mr. Williams requested that the landscape plan be presented on the overhead screen and the applicant did so. The position of Mr. Ramos' backyard was noted and the plants along the wall were depicted.

Ms. Lyn Tan, resident of Phoenix, Arizona spoke. She stated that all new landscaping would be installed. The trees that were located along the boundary wall behind Mr. Ramos' property would be removed, and there will be a retention area established. She confirmed that the existing plant material would be coming out and shrubs will be installed which will grow to a height of about 6 to 8 feet.

Mr. Petersen noted that the new trees would be placed away from the boundary wall to eliminate the possible of leaf debris into Mr. Ramos' yard/pool area.

Mr. Ramos, resident of Tempe, Arizona spoke noting that he had lived there for 26 years and has been dealing with the cars and trucks being parked, now that a new building is to be erected on the site, he questioned what impact it would have on his property.

Ms. Kaminski explained that the use permit request had been to add ten (10) additional parking spaces and as a result of that request the applicant was required to upgrade the landscaping and improve the parking lot to today's standards and situate the parking lot to the north side of the property.

At the request of Mr. Williams, Ms. Kaminski noted on the site plan where the new apartment would be located near the church.

Mr. Ramos asked if someone would be living there full time in the new apartment as his large back yard is frequently used by his family and sometimes they play loud music since there is no one there. Will there now be complaints since there is a new apartment? Mr. Williams responded that they would have to comply with the City of Tempe's Noise Ordinance.

Mr. Ramos stated that he still wanted the perimeter fence raised three (3) feet to a height of nine (9) feet. If he installs the added footage it will only be on his side of the fence and a row of decorative block will be demolished from the top of the fence line. Mr. Ramos noted that since the Hearing Officer had ruled about a month ago that the applicant was to provide screening to raise the wall height, he thought the issue was resolved. Mr. Ramos noted that he was trying to avoid any hard feelings.

Mr. Williams reiterated that Mr. Ramos is asking to raise the fence three (3) additional feet to a height of nine (9) feet and asked whether he understood that this would probably require the existing fence to be demolished completely. Mr. Ramos did not think so as it could be made of any suitable covering that is not going to add a considerable amount of weight and which appearance would look presentable.

Ms. Kaminski stated that she wanted to take this opportunity to clarify what was required to increase the wall height for single family homes. If a church comes in and makes a request to increase a wall height, they are required to go through a design review process. That does not apply to a single family home owner; they do not have to go through a design review process like a church would. The other thing is that they cannot build beyond eight (8) feet wall height for single family home. What they have found, is that traditionally walls that are six (6) feet high cannot structurally take an additional two (2) feet of material – review of shear loads is that even when a lightweight material is used, when the wind blows it affects the material. A structural engineer would need to review any type of material that is used to increase the wall height to see if the existing wall can take the additional weight.

Mr. Williams noted that this issue had been discussed before – that the allowed wall height is eight (8) feet, that a structural analysis would need to be done, and that it would have to comply with the City of Tempe Building Code, as part of complying with the required conditions of approval.

Mr. Gus Mechamo, a resident of Tempe, Arizona, spoke and explained that a committee had been organized to find a suitable location for a parsonage apartment for a traveling overseer – the congregation of this church was very kind to allow them to have an apartment built on this property to accommodate the Spanish speaking clergy. This has added quite an expense to that congregation but the apartment has been eagerly anticipated. Mr. Mechamo stated that he wanted to take this opportunity to explain why this project was being done, and that it was to serve the greater Spanish speaking community in the Tempe and Phoenix area.

Mr. Williams asked Ms. Kaminski to explain how the apartment triggered the request for the use permit to allow the additional ten (10) parking spaces.

Ms. Kaminski noted that this site meets all of its needed parking even with the additional residence. It was the applicant's choice to add additional parking and when it was noticed that they had modified the parking lot to include these additional ten (10) parking spaces, it exceeded the code and required a use permit.

Mr. Williams stated that the apartment construction is being held up then true? Ms. Kaminski responded that yes, it was – that the parking lot improvements needed to be approved in order to get permits for construction (i.e. drainage, retention, etc.) – all needed to be approved before they can be approved for construction.

Mr. Lauren Leuning stated that the grading and paving permits have been issued, it is the use permit that is holding up the apartment construction.

Mr. Petersen stated that he has reviewed this application for a use permit and what impact this has on their neighbor – the restructuring of the parking lot moves all the parking in the east end to the north end of the site. They have had seventy-seven (77) parking spaces for 26 years at this location, and now they are going to eighty-seven (87) parking spaces – it is basically the same use as it has always been.

Mrs. Ramos spoke regarding her concerns over how long it will take the new landscape to reach mature growth and that her review of her neighborhood indicated that five (5) houses on every block have added two (2) or more feet in height to their property fences whether by permission of the city or not, and that this had been the case for at least the twelve (12) years that she has been walking her dogs in the area. The point being is that the walls do not blow over. People gather after church services, as well they should, and this still presents a privacy issue for their home when it happens at 10 PM due to the noise and cars.

Mr. Williams asked Mrs. Ramos how many days a week are there cars in the parking lot across from their house? She responded that Sundays are pretty much all day as well as several evenings a week. She is tired of looking at cars due to the proximity of the parking lot.

Mr. Williams asked what the size of the trees would be that are scheduled for installation. Ms. Tan responded that they would be hybrid palo verde trees that do not shed as much as the other palo verde trees. They would be 24" box trees. Mrs. Ramos would actually have immediate screening. Mr. Williams asked what the projected annual growth rate of the trees would be. Ms. Tan stated that they actually grow pretty fast and would grow to 8 to 12 feet in height; the annual growth rate is possibly one (1) foot. Five (5) gallon plants would be placed the required distance from the parking area as stipulated by the City – at least twelve (12) feet away.

Mr. Williams asked Ms. Kaminiski what the City limitations are on plantings close to the parking lot. Ms. Kaminiski responded that there is a height limitation within twelve feet of a parking area.

Specific trees planned for the landscape plan were discussed as well as related leaf droppings. It was noted that the trees scheduled to be placed near the Ramos' property was to enhance screening while providing minimal droppings.

Mr. Williams noted that this was a difficult case to resolve to everyone's satisfaction. The parking has been moved to the north side of the property to provide relief to the Ramos, however it may be that the vehicles will be move visible in that location. It does move the cars away from the property wall which he sees as an improvement.

DECISION:

Mr. Williams removed the previous Condition of Approval No. 6 and noted that PL070190/ZUP08069 is approved subject to the following condition(s) of approval:

1. The additional landscape material proposed for the parking area to be approved by Building Safety Division Plan Review.
2. The applicant shall provide a minimum of twelve percent (12%) of the surface area as landscaping, measuring around the perimeter of all parking spaces and maneuvering areas.
3. Lighting and landscape plans as well as site plan as approved through staff review of DPR07088 must be approved through Building Safety Division Plan Review.
4. The eighteen (18) parking spaces along the southeast perimeter shall be limited to automobile (car) parking only (south tier of spaces near the common wall). **ADDED BY HEARING OFFICER**
5. High profile vehicles (i.e. buses, RV's) will be limited to the northernmost tier of parking spaces adjacent to the freeway wall. **ADDED BY HEARING OFFICER**
6. ~~Design a screen of acceptable material to increase the height of the existing perimeter block wall to a height eight (8) feet subject to Development Plan Review. Screen is to be finished on both sides. Notification of~~

~~plan review is to be made to surrounding property owners prior to approval. ADDED BY HEARING OFFICER~~

6. **Replace Sissoo tree with hybrid Palo Verde and set shrub plantings a minimum of (6) feet from the residential wall for the portion of the site that is adjacent to the residence located at 4408 South Alder Drive. ADDED BY HEARING OFFICER**

4. Hold a public hearing for a request by **GROVE COMMONS INDUSTRIAL PARK - VERIZON WIRELESS (PL080209)** (Steven Ciolek/SRES, applicant; Grove Commons Industrial Park, property owner) located at 1522 West Todd Drive in the GID, General Industrial District for:

ZUP08099 Use permit to allow additional antennas on an existing forty-eight foot (48') tall monopole.

Mr. Steven Ciolek of SRES was present to represent this case.

Nick Graves, staff planner, gave an overview of this case, and stated that no additional public input or information had been received since the staff report had been issued. He confirmed that there are two (2) monopoles located at this site, and that the one under consideration today is located in the northeast corner of the site close to Priest Drive.

DECISION:

Mr. Williams approved PL080209/ZUP08099 subject to the following conditions:

1. Obtain all necessary clearances from the Building Safety Division of the Development Services Department.
2. Any intensification or expansion of use, including co-location of additional antennas, will require a new use permit.
3. The proposed antennas shall match in color the existing communications facility.
4. The wireless devices shall be removed within 30 days of discontinuance of use.

5. 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 **BERGER RESIDENCE (PL080199/ABT08012)** (Louis Berger, property owner) Complaint CE083086 located at 4418 South Stanley Place in the R1-6, Single Family Residential District.

No one was present to represent the property owner.

Ms. Julie Scofield, City of Tempe – Neighborhood Enhancement Department, stated that property has a very green pool as well as a problem with weeds and grass. Currently they are trying to get some volunteer groups to work on the landscaping. In the event the volunteers are able to resolve these problems, the abatement contractor will not be used. Ms. Scofield responded to a question from Mr. Williams about the volunteer group, stating that it was a local church group. April 14, 2008 was when the Department began dealing with this property which is owned by an elderly property owner.

Ms. Scofield confirmed that the pool is a public safety issue and that the County had been contacted.

Mr. Williams stated that he would like to give the volunteer group time to resolve the issues. Ms. Scofield responded that she was pretty positive that the volunteer group would follow thru with the landscaping issues.

DECISION:

Mr. Williams approved abatement proceedings only for the pool issue for PL080199/ABT08012.

The next Hearing Officer public hearing will be held on **Tuesday, July 15, 2008**.

There being no further business the public hearing adjourned at 2:50 PM.

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

A handwritten signature in blue ink that reads "Steve A. Abrahamson". The signature is written in a cursive style and is placed on a light blue rectangular background.

Steve Abrahamson, Planning and Zoning Coordinator
for David Williams, Hearing Officer

SA:dm