

**Minutes
HEARING OFFICER
JULY 17, 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, Planning and Zoning Coordinator
Shawn Daffara, Planner II
Jon Christopher, Planner II

Number of Interested Citizens Present: 12

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

1. Mr. Williams approved the Hearing Officer Minutes for June 27, 2007.

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

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 TO THE AUGUST 7, 2007 HEARING OFFICER

3. Hold a public hearing for a request by **FIFTH STREET INDUSTRIAL PLAZA INC. (PL060569)** (James Phillips/Architect, applicant; Marvin Spaz, property owner) located at 1979 East 5th Street in the GID, General Industrial District for:

ZUP07077 Use permit to exceed 125% of the required parking (from 58 spaces to 94 spaces).

Mr. Robert Stave was present to represent this case.

Mr. Williams questioned what type of business this was; applicant responded that it was an industrial/office complex.

DECISION:

Mr. Williams approved PL060569/ZUP07077 subject to the following conditions:

1. The additional landscape material proposed for the parking area to be approved with a development plan by the Development Review Commission.
2. The applicant shall plant one (1) 24" box tree for every five (5) additional parking spaces totaling seven (7) trees. The species and planting locations are to be determined by Development Review staff. Contact staff by **August 17, 2007**.
3. The applicant shall submit a Site Plan, Lighting Plan and Landscape Plan Revision to the Building Safety Department for BP061774 and BP070735.

4. Hold a public hearing for a request by **T-MOBILE (PL070077)** (Rulon Anderson/T-Mobile, applicant; BSSC Enterprises LTD Partnership, property owner) located at 5125 South Rural Road in the PCC-2, Planned Commercial Center District for:

ZUP07078 Use permit to allow a wireless antenna ~~fifty (50) foot~~ **53 feet 6 inches (53' 6")** monopine.
MODIFIED BY HEARING OFFICER

Mr. Rulon Anderson was present to represent this case.

DECISION:

Mr. Williams approved PL070077/ZUP07078 subject to the following conditions:

1. Obtain all necessary clearances from the Building Safety Division of the Development Services Department.
2. The mono-palm shall be no greater than 53'-6" (fifty-three and half feet) in height (to the top of the mono-pine) as per plans submitted with this request.
3. Any intensification or expansion of use, including co-location of additional antennas, will require a new use permit.
4. The proposed mono-pine shall match the previously approved (Cingular) mono-pine in color, material and form.
5. The wireless device shall be removed within 30 days of discontinuance of use.
6. The landscape area to the north and east of the T-Mobile enclosure shall have two (2) 24" box pine trees installed. Details to be resolved through building permit plan review.
7. The enclosure gate shall require lighting that meets five (5) foot candles at the gate and two (2) foot candles with 15' radius.
8. All light fixtures shall be full cut off design and comply with the Zoning and Development Code, Part 4, Chapter 8.

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5. Hold a public hearing for a request by **CLEARWIRE (PL070217)** (Brandon Brown/Clearwire-Powder River, applicant; APS, property owner) located at 411 West 1st Street in the GID, General Industrial District for:

ZUP07074 Use permit to allow a sixty-six (66) foot wireless antenna (electrical pole).

Mr. Brandon Brown was present to represent this case.

DECISION:

Mr. Williams approved PL070217/ZUP07074 subject to the following conditions:

1. Obtain all necessary clearances from the Building Safety Division.
2. The electrical pole shall be no greater than 66'-0" (sixty-six feet) in height (to the top of the pole) as per plans submitted with this request.
3. Any intensification or expansion of use, including co-location of additional antennas, will require a new use permit.
4. The applicant shall contact the City of Tempe Engineering Department, Carol Martsch (480) 350-8524. This APS electrical pole is located within the city right-of-way and may require an encroachment permit.
5. The wireless device shall be removed within thirty (30) days of discontinuance of use.
6. **Applicant shall work with the planning staff to upgrade landscaping onsite. Street trees shall be required at one (1) tree per thirty (30) feet of linear frontage per Zoning and Development Code Section 4-703. ADDED BY HEARING OFFICER**

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6. Hold a public hearing for a request by the **ABER RESIDENCE (PL070230)** (Stephan Aber, applicant/property owner) located at 2011 North Van Ness Avenue in the R1-6, Single Family Residential District for:

ZUP07069 Use permit standard to reduce the front yard setback for an open structure (carport) by twenty percent (20%) from fifteen (15) feet to twelve (12) feet.

ZUP07084 Use permit to allow required parking in the front yard setback.

No one was present to represent this case.

DECISION:

Mr. Williams approved PL070230/ZUP07069/ZUP07084 subject to the following conditions:

1. Obtain all necessary clearances from the Building Safety Division.
 2. Detached structure to be compatible in design with the main dwelling; colors to match existing dwelling.
 3. The improved parking areas located in the front and street side yard setbacks shall not be paved beyond 35% of the areas visible from the street per Tempe City Code.
 4. Provide a landscape plan of the front yard showing additional landscape material to screen cars on the 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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7. Hold a public hearing for a request by **BROADWAY VILLAGE - SCUMBAGS TATTOO AND PIERCING (PL070231)** (Phillip Bonet, applicant; Cal AZ Properties LLC, property owner) located at 818 West Broadway Road in the CSS, Commercial Shopping and Services District for:

ZUP07070 Use permit to allow a tattoo and body piercing studio.

Mr. Phillip Bonet was present to represent this case.

Ms. Lisa Roach, of 534 West 15th Street, stated that she represented the Clark Park Neighborhood Association. They have concerns about this type of business in the neighborhood and also with the name of the business.

Mr. Williams stated that this area is challenged and that he shares the concerns of the direction of the neighborhood.

DECISION:

Mr. Williams denied PL070231/ZUP07070 stating that, in this case, the neighborhood is presently too delicate. This area may be in decline, and this use permit seems to conflict with the City's adopted goals for conservation for this area.

8. Hold a public hearing for a request by the **LULLING RESIDENCE (PL070255)** (Curt Wilt/Architect, applicant; Thomas Lulling, property owner) located at 1120 East Redondo Circle in the R1-6, Single Family Residential District for:

ZUP07080 Use permit standard to reduce the rear yard setback by twenty percent (20%) from the required fifteen (15) feet to twelve (12) feet.

Mr. Curt Wilt was present to represent this case.

DECISION:

Mr. Williams approved PL070255/ZUP07080 subject to the following conditions:

1. Obtain all necessary clearances from the Building Safety Division.
2. The building addition shall match the existing residence in design, color and materials.

9. Hold a public hearing for a request by the **FRYE RESIDENCE (PL070256)** (David Frye, applicant/property owner) located at 440 West 5th Street in the R-3, Multi-Family Residential Limited District for:

ZUP07081 Use permit to allow live/work.

Mr. David Frye was present to represent this case.

DECISION:

Mr. Williams approved PL070256/ZUP07081 subject to the following conditions:

1. 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.
2. All permits and clearances required by the Building Safety Division shall be obtained prior to the use permit(s) becoming effective.
3. Employees are required to park in the subject property's drive.
4. The applicant shall follow the guidelines pursuant to the Live-Work within Section 3-414 and Appendix N. of the City of Tempe's Zoning and Development Code.

10. Hold a public hearing for a request by **PUEBLO ANOZIRA SHOPPING CENTER – STUDIO VINO (PL070257)** (Karen Zemper, applicant; Ryan Smith/Weingarten Realty Investors, property owner) located at 1825 East Guadalupe Road in the PCC-1, Planned Commercial Center District for:

ZUP07082 Use permit to allow a domestic farm winery (custom wine boutique).

Ms. Karen Zemper was present to represent this case.

DECISION:

Mr. Williams approved PL070257/ZUP07082 subject to the following conditions:

1. This use permit is valid for Studio Vino/Karen Zemper and may be transferable. Should the business be sold, the new owners must contact the Board of Adjustment/Hearing Officer staff for review of the business operations.
2. All permits and clearances required by the Building Safety Division shall be obtained prior to the use permit becoming effective.
3. 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.
4. Any expansion or intensification of the use will require review of the use permit.
5. The use permit is valid for the plans as submitted within this application.
6. Submit a security plan with the Tempe Police Department within 30 calendar days (**August 17, 2007**). Contact Officer Derek Pittam at (480) 858-6341.

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11. Hold a public hearing for a request by the **MOFFIT RESIDENCE (PL070259)** (Jake Munns/Synectic Design Inc., applicant; Karin Moffitt, property owner) located at 1309 East Steamboat Bend Drive in the R1-6, Single Family Residential District for:

ZUP07083 Use permit for a second story modification.

Mr. Lance Baker was present to represent this case.

DECISION:

Mr. Williams approved PL070259/ZUP07083 subject to the following conditions:

1. Obtain all necessary clearances from the Building Safety Division.
2. The addition shall be compatible with the existing dwelling in design, colors and materials.

12. 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 **INEZ RESIDENCE (PL070264/ABT07019)** (Romulo Inez, property owner) Complaint No. CE065776 located at 2431 East Wesleyan Drive, in the R1-6, Single Family Residential District.

No one was present to represent the property owner.

Brett Barnes, City of Tempe – Neighborhood Enhancement Department, summarized the case.

DECISION:

Mr. Williams approved abatement proceedings for PL070264/ABT07019.

The next Hearing Officer public hearing will be held on **Tuesday, August 7, 2007.**

There being no further business the public hearing adjourned at 2:18 PM.

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



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

SA:dm