

**Minutes
HEARING OFFICER
SEPTEMBER 21, 2010**

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
Sherri Lesser, Senior Planner
Kevin O'Melia, Senior Planner
Diana Kaminski, Senior Planner

Number of Interested Citizens Present: 14

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 October 5, 2010 at 3:00 PM to the Community Development Department.

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1. Mr. Williams approved the Hearing Officer Minutes for September 7, 2010.

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2. Mr. Williams noted that the following item(s) had been removed from this agenda:

- Request by the City of Tempe – Code Compliance Section to abate public nuisance items in violation of the Tempe City Code for the **CHANDLER PROPERTY (PL100252/ABT10021/CE102192)** (Marvin White, Inspector; William & Erica Chandler, property owners) located at 1030 East Marigold Lane in the R1-6, Single Family Residential District.
WITHDRAWN BY CODE COMPLIANCE SECTION
- Request by the City of Tempe – Code Compliance Section to abate public nuisance items in violation of the Tempe City Code for the **FEDERAL NATIONAL MORTGAGE ASSOCIATION PROPERTY (PL100260/ABT10025/CE102607)** (Jack Scofield, Inspector; Federal National Mortgage Association, property owner) located at 2108 East Gemini Drive in the R1-7, Single Family Residential District.
WITHDRAWN BY CODE COMPLIANCE SECTION

- Request by the City of Tempe – Code Compliance Section to abate public nuisance items in violation of the Tempe City Code for the **PAASCH PROPERTY (PL100257/ABT10024/CE102530)** (Jack Scofield, Inspector; David & Pamela Paasch, property owner) located at 97 East Evelyn Lane in the R1-7, Single Family Residential District.

WITHDRAWN BY CODE COMPLIANCE SECTION

- Request by the City of Tempe – Code Compliance Section to abate public nuisance items in violation of the Tempe City Code for the **HARRIS RESIDENCE (PL100256/ABT10023/CE101965)** (Brandy Zedlar, Inspector; Dennis & Ruth Harris, property owner) located at 2012 West Vineyard Road in the R1-6, Single Family Residential District.

WITHDRAWN BY CODE COMPLIANCE SECTION

3. Request by **SALT RIVER PROJECT – CLEARWIRE (PL100175)** (Jason Mendoza/SRP, Applicant; SRP, property owner) located at 1876 East Drake Drive in the R1-6, Single Family Residential District for:

ZUP10090 Use permit to allow the addition of ~~one (1)~~ **three (3)** arrays with ~~three (3)~~ **one (1)** antenna and ~~three (3)~~ **one (1)** microwave dish on an existing one hundred and thirty-two foot (132 ft) high transmission tower.

CORRECTED BY COMMUNITY DEVELOPMENT STAFF

Mr. Jason Mendoza of SRP was present to represent this case.

Steve Abrahamson, Planning & Zoning Coordinator, gave an overview of this case and stated that no further public input has been received since the staff report was issued. Two (2) phone calls and one (1) letter of opposition had been received regarding the appearance of the project.

After discussion with the applicant and review of the photo simulation(s), Mr. Williams stated that the addition(s) would result in minimal changes in the visual impact.

DECISION:

Mr. Williams approved PL100175 / ZUP10090 subject to the following Conditions of Approval:

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 devices shall be removed within 30 days of discontinuance of use.
4. A weather resistant emergency contact informational sign shall be posted on the site and shall be visible to the public.
5. The use permit is valid for the plans as approved by the Hearing Officer.
6. The proposed CMU walls of the equipment cabinet, necessary for ancillary ground equipment, shall be eight (8) feet in height and shall be of a split-faced design.

4. Request by the **UNIVERSITY PLAZA – LAW ENFORCEMENT & GOVERNMENT SALES LLC (PL100259)** (David Ginsberg, applicant; University Plaza BPT LLC, property owner) located at 1435 East University Drive, Suite No. C-104 in the GID, General Industrial District for:

ZUP10091 Use permit to allow the sale of firearms in the GID, General Industrial District.

Mr. David Ginsberg was present to represent this case.

Kevin O'Melia, staff planner, gave an overview of this case and stated that no further public input has been received since the staff report was issued. The general character of this shopping plaza was discussed.

Mr. O'Melia confirmed that the applicant has indicated that there would be no retail sales involved in this business. Mr. Williams questioned whether the applicant would be able to expand into retail sales under this use permit. Mr. O'Melia responded that would be considered to be an intensification of the use and would require a new use permit (reference assigned Condition of Approval No. 11).

Mr. Ginsberg stated that he had no questions regarding the fourteen (14) Conditions of Approval and that he understood them.

DECISION:

Mr. Williams approved PL100259 / ZUP10091 subject to the following Conditions of Approval:

1. Repair existing screw-mount security light fixture directly over "C-104" rear person entrance door so covering is re-mounted on the fixture. Provide maximum 1,700 lumens from this fixture with an opal lens or replace the fixture with a full cut-off security light. In either case, comply with Part 4, Chapter 8 of the Zoning and Development Code.
2. Provide minimum 5.0 foot-candles of light at the base of the "C-104" rear person door sill and at center of sill of the "C-104" roll up door. Provide minimum 2.0 foot-candles of light at a 15 foot radius from the center of each door. Provide illumination continuous from dusk to dawn. Demonstrate that this illumination level is attained with existing full cut off metal halide fixtures on east elevation of building in addition to the fixture directly over the east person door. Repair existing metal halide light fixtures and if necessary, add a light fixture to this elevation to ensure minimum light levels. Provide house side shields if necessary to limit light trespass over east property line to multi-family residences beyond.
3. Place "C-104" identifier sign on exterior side of rear person door. Use vinyl dye cut characters or similar durable material. Provide characters of minimum 6" height that highly contrast with color of door.
4. Equip rear person door with two 360 degree exterior viewers along the vertical centerline of the door (one at 60" a.f.f. and one at 36" a.f.f. for disabled accessibility). Do not install a vision panel in this door.
5. Repair damaged corrugated metal canopy above "C-104" front entrance storefront on west elevation of building.
6. Absolutely no exterior storage of ordnance; equip doors including service doors with self-closing hardware and do not prop doors open at any time.
7. Do striping and equipment installations inside with doors closed to allay assembly-related noise to adjacent multi-family development.
8. Work out a Security Plan with the Tempe Police Department. Contact Bill Gallauer (Police Department / Licensing Specialist, 480-350-8749 or bill_gallauer@tempe.gov) within 30 days of approval of use permit to initiate process. Failure to complete security plan within 90 days of approval of use permit will result in initiation of proceeding by the Code Compliance Section to suspend the use permit.
9. The use permit is valid for Law Enforcement and Government Sales LLC and may be transferable to successors in interest through an administrative review with the Community Development Manager, or designee.
10. All permits and clearances required by the Building Safety Division shall be obtained prior to the use permit becoming effective.
11. Any expansion or intensification of the use will require a new use permit.

12. 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 to re-evaluate the appropriateness of the use permit. **ADDED BY STAFF**
13. All business signs shall receive a Sign Permit. Please contact Planning staff at 480-350-8331. **ADDED BY STAFF**
14. A sales tax license from the City of Tempe Tax and License Division shall be obtained prior to opening the business. **ADDED BY STAFF**

5. Request by the **MIO FRONTIERS (PL100261)** (Jai Choi/MIO Frontiers, applicant; MIO Frontiers, property owner) located at 939 South Edward Drive in the GID, General Industrial District for:

ZUP10092 Use permit to allow an instructional school with a youth camp in the GID, General Industrial District.

Ms. Renee Rolands was present to represent this case.

Diana Kaminski, staff planner, gave an overview of this case and stated that no further public input has been received since the staff report was issued.

Ms. Rolands indicated that this request would result in minimal change to the current use (educational program). Hours are generally 9 AM to 5 PM, Monday thru Friday. Ages would encompass babies to 18 yrs old. There would be no overnight use. She stated that she was representing the applicant and property owner as they were one and the same.

DECISION:

Mr. Williams approved PL100261 / ZUP10092 subject to the following Conditions of Approval:

1. The use permit is valid for MIO Frontiers and may be transferable to successors in interest through an administrative review with the Community Development Manager, or designee.
2. All business signs shall receive a Sign Permit. Please contact Planning staff at 480-350-8331.
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 to re-evaluate the appropriateness of the use permit.
4. Building Permits are required for any tenant improvements necessary for the occupancy of the building for instructional use, or occupancy of the office building for youth day camp.

6. Request by the **KIMBALL SAR RESIDENCE (PL100263)** (Megan Kimball & Chris Sar, applicants/property owners) located at 8525 South Terrace Road in the AG, Agricultural District for:

ZUP10093 Use permit standard to reduce the front yard setback by twenty percent (20%) from 40 ft to 32 ft for a home addition.

Ms. Megan Kimball and Mr. Chris Sar was present to represent this case.

Sherri Lesser, staff planner, gave an overview of this case and stated that no further public input has been received since the staff report was issued.

Mr. Williams asked if the existing trees in the front yard would be impacted. Mr. Sar responded that there is a potential for one (1) tree to be removed.

DECISION:

Mr. Williams approved PL100263 / ZUP10093 subject to the following Conditions of Approval:

1. Obtain all necessary clearances from the Building Safety Division.
2. Building addition to match existing residence in color, form and material.
3. **Any walls greater than 4 ft in height must meet the 40 ft front yard setback. ADDED BY STAFF**
4. **If mature front yard tree is removed, it shall be replaced with another tree, details to be approved by staff. ADDED BY HEARING OFFICER**

7. Request by the **LAKE COUNTRY VILLAGE - SURPLUS MANAGEMENT AUCTIONS (PL100264)** (John DeGraaf, applicant; Lake Country Village Property Inc., property owner) located at 1030 East Baseline Road, Suite No. 126 in the PCC-2, Planned Commercial Center General District for:

ZUP10094 Use permit to an auction house (resale products).

Mr. John DeGraaf was present to represent this case.

Sherri Lesser, staff planner, gave an overview of this case and stated that no further public input has been received since the staff report was issued. Ms. Lesser requested that two (2) additional conditions be added to address outdoor displays and promotional signs. These issues were incorporated into Conditions of Approval Nos. 7 and 8.

Mr. DeGraaf explained that most of the auctions would take place on-line.

DECISION:

Mr. Williams approved PL100264 / ZUP10094 subject to the following Conditions of Approval:

1. The use permit is valid for SAM Auction House and may be transferable to successors in interest through an administrative review with the Community Development Manager, or designee.
2. All permits and clearances required by the Building Safety Division shall be obtained prior to the use permit becoming effective.
3. Any expansion or intensification of the use will require a new use permit.
4. 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 to re-evaluate the appropriateness of the use permit.
5. All business signs shall receive a Sign Permit. Please contact Planning staff at 480-350-8331.
6. A sales tax license from the City of Tempe Tax and License Division shall be obtained prior to the use permit becoming effective.
7. **Any outdoor display requires an additional use permit. ADDED BY STAFF**
8. **Any promotional signs must adhere to the requirements of the Zoning & Development Code. ADDED BY STAFF**

8. Request by **SRP – PERA SUBSTATION – A. T. & T. (PL100265)** (Brendan Thomson/SRP, applicant; SRP, property owner) located at 2808 North College Avenue in the AG, Agricultural District for:

ZUP10095 Use permit to allow the replacement of nine (9) antennas on an existing monopole and to increase the overall height of the monopole from 72 feet 3 inches to 74 feet.

Mr. Brendan Thomson of SRP was present to represent this case.

Steve Abrahamson, Planning and Zoning Coordinator, gave an overview of this case and stated that no further public input has been received since the staff report was issued. He noted that this is a co-location of antennas on an existing site.

DECISION:

Mr. Williams approved PL100265 / ZUP10095 subject to the following Conditions of Approval:

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 devices shall be removed within 30 days of discontinuance of use.
4. The use permit is valid for the plans as approved by the Hearing Officer.
5. The antennae shall be painted to match the existing monopole.
6. A weather resistant emergency contact informational sign shall be posted on the site and shall be visible to the public.

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9. Request by **ENVIRONMENTAL RECYCLING (PL100275)** (Phyllis Sorkin/Environmental Recycling, applicant; Boyle Revocable Trust, property owner) located at 1931 East Rio Salado Parkway in the GID, General Industrial District.

ZUP10097 Use permit to allow a recycling business.

Mr. James Hall was present to represent this case.

Sherri Lesser, staff planner, gave an overview of this case and stated that no further public input has been received since the staff report was issued. She noted that the Conditions of Approval stipulated that the property upgrades must be completed within a specified period of time. There are some grandfathered rights regarding outdoor storage use. Outdoor screening requirements were discussed.

Mr. Williams asked Mr. Hall whether an 8 ft. screening wall would be erected. Mr. Hall responded that although they did not have any objections to the wall, at this time it would present a financial hardship to erect. For the present they would like to erect a shade screen instead of the wall.

Mr. Hall explained that the recycling business now located down the street would be closed as of October 1st. This property would offer much easier access and egress than their current location. They would be leasing this property.

Mr. Williams questioned what the land owner's intentions were for this property. Ms. Lesser responded that he would like to lease the land for 3 to 5 years. Mr. Williams indicated his concern with long term use of a salvage yard so close to Tempe Marketplace and Rio Salado Parkway on which significant money was spent on upgrades.

DECISION:

Mr. Williams denied PL100275 / ZUP10097 as he did not feel this was an appropriate use at this location.

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10. Request by the City of Tempe – Code Compliance Section to abate public nuisance items in violation of the Tempe City Code for the **PRATOR RESIDENCE (PL100254/ABT10022/CE101915)** (Jack Scofield, Inspector; John Prator, property owner) located at 2118 East Carson Drive in the R1-6, Single Family Residential District.

No one was present to represent the property owner.

Jack Scofield, Code Compliance Inspector, explained that there was a dead tree (Eucalyptus) in the front yard and the rear yard fence had deteriorated. He noted that the property owner did not appear for his court date.

Mr. Williams noted that this is an expensive abatement, however due to the lack of progress on the part of the property owner and missed court date, he would approve this abatement.

DECISION:

Mr. Williams approved abatement proceedings for PL100254 /ABT10022 /CE101915.

The Hearing Officer public hearing scheduled for Tuesday, October 5, 2010 has been cancelled. The next Hearing Officer public hearing will be held on **Tuesday, October 19, 2010**.

There being no further business the public hearing adjourned at 2:38 PM.

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



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

SA:dm