

Minutes
HEARING OFFICER
NOVEMBER 16, 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:

Vanessa MacDonald, Hearing Officer
Steve Abrahamson, Planning & Zoning Coordinator
Sherri Lesser, Senior Planner
Ryan Levesque, Senior Planner
Diana Kaminski, Senior Planner

Number of Interested Citizens Present: 8

Meeting convened at 1:30 PM and was called to order by Ms. MacDonald. She 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 November 30, 2010 at 3:00 PM to the Community Development Department.

1. Ms. MacDonald noted that the Hearing Officer Minutes for November 3, 2010 had been reviewed and approved.

2. Ms. MacDonald noted that the following cases have been removed from today's agenda:

- Request by **VINTAGE ON 8TH LLC (PL100325)** (Gavin Jacobs, applicant; Arden Properties Inc., property owner) located at 1300 East 8th Street in the GID, General Industrial, and TOD, Transportation Overlay Districts for:

ZUP10127 Use permit to allow a restaurant and bar with GID, General Industrial District, zoning.
CONTINUED TO THE DECEMBER 7, 2010 HEARING OFFICER

It was noted by Ms. MacDonald that a neighborhood meeting would be held on November 29, 2010 at 6 PM at the Escalante Community Center to offer additional information to interested parties.

3. Request by **DOS GRINGOS – A. T. & T. WIRELESS P456 (PL100321)** (Joe Engbrocks/Bechtel Communications, applicant; Dos Gringos, property owner) located at 8000 South Priest Drive in the GID, General Industrial District for:

ZUP10122 Use permit to allow a new 65' wireless telecommunication facility (permanent monopalm). (This will replace the existing temporary 65 ft cell tower at this location).

Mr. Joe Engbrocks of Bechtel Communications was present to represent this case.

Ryan Levesque, 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. Engbrocks acknowledged that he had read the Conditions of Approval and would meet those stipulations.

DECISION:

Ms. MacDonald approved PL100321 / ZUP10122 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 for a new monopalm is granted based on the plans as submitted for this request. The features of this request include a maximum 65' – 0" at the top of faux fronds.
3. Any intensification or expansion of use beyond that presented, including additional height and/or antennae, will require a new use permit.
4. Relocate the two (2) proposed palm trees to the street landscape frontage of the property. Replace all missing required street trees and parking island landscape. The palm trees are excluded from the total count of required street trees.
5. There shall be no use of razor wire or barbed wire located on site.
6. Remove the existing cell on wheels (COW) at the subject property prior to completion of this request.
7. Repair existing lighting and verify compliance with required foot-candle levels with shielded lighting. Eliminate or modify shielding lighting within the parking lot (northern most light) to comply with parking lot foot candles.
8. Accessory shed shall be removed from site prior to receipt of Certificate of Occupancy. Development Plan Review required for a storage facility on site.
9. If there are any complaints arising from the use herein permitted that are verified by a consensus of the complaining party and the City Attorney's office, the use permit may be returned to the Hearing Officer and another public hearing set to re-evaluate the use permit.

4. Request by the **PAPPANO RESIDENCE (PL100322)** (Michael Pappano, applicant/property owner) located at 207 West Alameda Drive in the R1-6, Single Family Residential District for:

VAR10010 Variance to reduce the front yard setback from 15 ft to 7 ft for an open structure (carport).

Mr. Michael Pappano 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. MacDonald noted that this property had unique circumstances that were not self-imposed (i.e. location of power lines) and that neighbors had similar structures.

DECISION:

Ms. MacDonald approved PL100322 / VAR10010 subject to the following conditions:

1. Obtain all necessary clearances from the Building Safety Division.
2. The carport is to remain an open structure; a conversion to a garage or an enclosure of any side of the addition of storage space or the storage of materials other than vehicles is prohibited.
3. Color scheme of carport to match the main dwelling trim color.
4. The setback variance is approved for the leading support post to be located at least seven (7) feet from the property line (or ten feet ten inches behind the sidewalk).

5. Request by the **BOYETT RESIDENCE (PL100332)** (Katrina Boyett, applicant/property owner) located at 8526 South Newberry Lane in the AG, Agricultural District for:

ZUP10125 Use permit standard to reduce the required side yard setback by twenty percent (20%) from 20 ft. to 16 ft. for a garage addition.

Ms. Katrina Boyett was present to represent this case.

Ryan Levesque, 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. MacDonald noted that this request met the criteria for a use permit standard.

DECISION:

Ms. MacDonald approved PL100332 / ZUP10125 subject to the following conditions:

1. All permits and clearances required by the Building Safety Division shall be obtained prior to the use permit standard becoming effective.
2. The use permit standard is granted based on the plans as submitted for this request. The 16' – 0" side setback is applicable only to the proposed garage addition.
3. The roof design shall be maintained, utilizing the existing 'hip roof' detail for the addition.
4. Any intensification or expansion of use beyond that presented, including additional length along the new setback will require a new use permit standard.

6. Request by **DANELLE PLAZA – SKY HIGH HOOKAH LOUNGE (PL100334)** (Adam Marianski, applicant; Yucca Rental Properties, property owner) located at 33 West Southern Avenue, Suite No. 102, in the CSS, Commercial Shopping and Services District for:

ZUP10126 Use permit to allow a hookah lounge/tobacco retailer.

Mr. Adam Marianski 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. MacDonald emphasized to the applicant that there were enhanced ventilation requirements for this type of request as underscored in stipulation #1. Mr. Marianski indicated that he understood the enhanced requirements and agreed to adhere to them as well as all of the other requirements outlined in the stipulations.

Ms. MacDonald explained that she did not feel that this business would be detrimental to the area, and would not increase vehicular or pedestrian traffic. It would be compatible to the surrounding structures.

DECISION:

Ms. MacDonald approved PL100334 / ZUP10126 subject to the following conditions:

1. The Use Permit is valid only after a Building Permit has been obtained and the required inspections have been completed and a Final Inspection has been passed. (i.e.: *no indoor smoking allowed until all mechanical ventilation requirements have been met and no outdoor smoking allowed until patio has been approved by all property owners and built per approved plans*).
2. The Use Permit is valid for the plans as submitted within this application, including presented hours of operations (5pm to 2am). Any additions or modifications may be submitted for review during the building plan check process.
3. The Use Permit is valid for Sky High Hookah Lounge and maybe be transferable to successors in interest through an administrative review with the Community Development Director, or designee.
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. No outdoor live entertainment or outdoor speakers shall be allowed.
6. Live entertainment requires a separate Use Permit.
7. This Use Permit is not valid until the applicant has completed a security plan within 30 days of this approval. Contact the City of Tempe Crime Prevention Unit, William Gallauer at 480-350-8372 before December 10, 2010.
8. Update the data for the parking file for this building prior to the Use Permit becoming effective. Provide information within 30 days or by December 10, 2010.
9. All business signs shall receive a Sign Permit. Contact sign staff at 480-350-8372.
10. Any intensification or expansion of use, shall require a new Use Permit.
11. All required permits and clearances shall be obtained from the Audit and Licensing Division of the City of Tempe prior to the Use Permit becoming effective.
12. The use shall not violate the City of Tempe Smoking Ordinance or Smoke Free Arizona Act A.R.S. §36-601.01. The owner/management shall adhere to the City Adopted International Mechanical Code.
13. The gross sale of beverage and snack items may not exceed that of tobacco and hookah products for the hookah lounge tax license.

7. Request by the City of Tempe – Code Compliance Section to abate public nuisance items in violation of the Tempe City Code for the **MONTANEZ PROPERTY (PL100330/ABT10031/CE103255)** (Jack Scofield, Inspector; Susan Montanez, property owner) located at 1964 East Lodge Drive in the R1-7, Single Family Residential District.

No one was present to represent the property owner.

Jack Scofield, Code Compliance Inspector, explained that this property was in foreclosure, and complaints have been received on the condition of the green pool. An open abatement period of 180 days has been requested to prevent repeated property neglect and neighborhood decline.

DECISION:

Ms. MacDonald approved abatement proceedings for PL100330 /ABT10031 /CE103255 for an open period of 180 days.

The next Hearing Officer public hearing will be held on **Tuesday, December 7, 2010.**

There being no further business the public hearing adjourned at 1:54 PM.

Prepared by: Diane McGuire, Administrative Assistant II

Reviewed by:



Steve Abrahamson, Planning & Zoning Coordinator
for Vanessa MacDonald, Hearing Officer

SA:dm

APPROVED