

**Minutes  
HEARING OFFICER  
JANUARY 15, 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  
Alan Como, Planner II  
Nick Graves, Planning Intern

**Number of Interested Citizens Present:** 19

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

1. Mr. Williams approved the Hearing Officer Minutes for January 3, 2008.  
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  2. Mr. Williams noted that the following case(s) had been continued:
    - Hold a public hearing for a request by **PHASE FOUR STUDIOS (PL060645)** (Jon Harris, applicant/property owner) located at 1700 West Drake Drive in the GID, General Industrial District for:  
**ZUP06074** Use permit to allow a nightclub/concert venue including live entertainment.  
**CONTINUED TO FEBRUARY 5, 2008 HEARING OFFICER**
    - Hold a public hearing for a request by the **KERBER RESIDENCE (PL070497)** (Gregory Kerber, applicant/property owner) located at 401 East Hermosa Circle in the R1-6, Single Family Residential District for:  
**ZUP07184** Use permit to park in the front yard setback.  
**VAR07030** Variance to reduce the front yard setback from fifteen feet (15') to seven feet (7') for an open structure.  
**CONTINUED TO FEBRUARY 5, 2008 HEARING OFFICER**
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3. Hold a public hearing for a request by **SIGNATURE HEALTH CARE (PL070519)** (Jason Allen/Skyline Consultants LLC, applicant; Signature Health Care LLC, property owner) located at 6350 South Maple Avenue, in the GID General Industrial District for:

**ZUP07198** Use permit to allow a hospital in the GID, General Industrial District.

Mr. Jason Allen and Mr. Brian Karl of Skyline Consultants LLC were present to represent this case.

Shawn Daffara, staff planner, stated that no additional public input or information had been received since the staff report had been issued.

Mr. Williams asked if there had been any communication from the multi-family across the street; Mr. Allen stated that there had not been input.

**DECISION:**

Mr. Williams approved PL070519/ZUP07198 subject to the following conditions:

1. The use permit is valid for the plans and business operations as submitted to and approved by the Hearing Officer.
2. This use permit is not transferable. Should the business be sold, the new owners must process through the Hearing Officer for a new use permit.
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. All permits and clearances required by the Building Safety Division shall be obtained prior to the use permit becoming effective.
5. Any intensification or expansion of this use shall require that a new use permit be applied for and obtained.
6. Applicant shall meet with City of Tempe Crime Prevention Unit for a required Security Plan. Please contact Sergeant Ken Harmon at (480) 858-6217.
7. Upgrade lighting at all entrance and exit doors. Lighting at doors to meet five (5) foot candles and two (2) foot candles within a fifteen (15) foot radius. This lighting improvement will be reviewed during building permit plan review.
8. Replace all dead and missing landscape at the property. The north parking lot is missing the required landscape island trees. New trees shall be "Willow Acacia" or similar species, 24" box size. Landscape Plan will be reviewed during Building Safety plan review.

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4. Hold a public hearing for a request by **SPRINT (PL070534)** (Brandon Brown/Reliant Land Services, applicant; Fairmont 1224 LLC, property owner) located at 1224 West Fairmont Drive in the GID, General Industrial District for:

**ZUP07202** Use permit to allow the addition of antennas on an existing monopole.

Mr. Brandon Brown of Reliant Land Services was present to represent this case.

Shawn Daffara, staff planner, stated that no additional public input or information had been received since the staff report had been issued.

**DECISION:**

Mr. Williams approved PL070534/ZUP07202 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 the existing antennas on the site.
4. The wireless device shall be removed within 30 days of discontinuance of use.

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5. Hold a public hearing for a request by **ALL TERIORS CABINETS AND MILLWORK (PL070535)** (Tina Rose, applicant; DCT-AZ 2004 RN Portfolio LLLC, property owner) located at 1233 West Geneva Drive in the GID, General Industrial District for:

**ZUP07203** Use permit to allow woodworking/manufacturing in the GID, General Industrial District.

Ms. Tina Rose was present to represent this case.

Shawn Daffara, staff planner, stated that no additional public input or information had been received since the staff report had been issued.

Mr. Williams asked if staff had visited the site and questioned outdoor storage of materials (such as tile); Shawn Daffara stated that the site visit indicated a minimal need for a block wall around the property.

**DECISION:**

Mr. Williams approved PL070535/ZUP07203 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 to re-evaluate the appropriateness of the use permit.
6. The vent, stack, chimney, and exposed mechanical equipment shall not exceed the parapet of the existing building. If the equipment exceeds the parapet, you will need a secondary screen wall that will have to be approved by applying to Development Plan Review. Details can be worked out during the Building Permit Plan Review process.

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6. Hold a public hearing for a request by the **APOLONIO RESIDENCE (PL070543)** (Francisco Apolonio, applicant/property owner) located at 2057 East 10<sup>th</sup> Street in the R1-6, Single Family Residential District for:

**ZUP07204** Use permit to allow parking in the front yard setback.

No one was present to represent this case.

Shawn Daffara, staff planner, stated that no additional public input or information had been received since the staff report had been issued.

**DECISION:**

Mr. Williams approved PL070543/ZUP07204 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 enclosed carport area shall match the existing home in color, form and material.
4. The property owner shall plant one (1) shade canopy tree, near the driveway. Details to be worked out with planning staff.

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7. Hold a public hearing for a request by **SPRINT NEXTEL (PL070549)** (Corey Alvin/Sprint Nextel, applicant; Vista Real Estate Investments, property owner) located at 8980 South McKemy Street in the GID, General Industrial and SWO, Southwest Overlay Districts for:

**ZUP07208** Use permit to allow the addition of antennas on an existing monopole.

Mr. Corey Alvin was present to represent this case.

Shawn Daffara, staff planner, stated that no additional public input or information had been received since the staff report had been issued. He noted that the sketch indicated the additional antenna(s) would match the existing antenna(s).

**DECISION:**

Mr. Williams approved PL070549/ZUP07208 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 the existing antennas on site.
4. The wireless device shall be removed within thirty (30) days of discontinuance of use.

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8. Hold a public hearing for a request by **SPRINT NEXTEL (PL070550)** (Corey Alvin/Sprint Nextel, applicant; 101 202 Holdings LLC, property owner) located at 2150 East Rio Salado Parkway in the HID, Heavy Industrial District for:

**ZUP07207** Use permit to allow the addition of antennas on an existing monopole.

Mr. Corey Alvin was present to represent this case.

Shawn Daffara, staff planner, stated that no additional public input or information had been received since the staff report had been issued.

**DECISION:**

Mr. Williams approved PL070550/ZUP07207 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 the existing antennas on site.
4. The wireless device shall be removed within thirty (30) days of discontinuance of use.

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9. Hold a public hearing for a request by **VASTOLA-SOLEY RESIDENCE (PL070551)** (Wes Helbert/Sanctuary Builder, applicant; Sam Vastola, property owner) located at 2007 East La Vieve Lane in the AG, Agricultural District for:

**ZUP07209** Use permit to allow a two story home.

Mr. Wes Helbert of Sanctuary Builder was present to represent this case.

Alan Como, staff planner, stated that no additional public input or information had been received since the staff report had been issued. One (1) interested citizen reviewed the elevations but had no opposition.

Mr. Williams questioned the height of this project; Mr. Como responded that the height of the proposed project was 27 feet 9 inches to the top of the ridge; the maximum allowed building height in the AG District is 30 feet.

**DECISION:**

Mr. Williams approved PL070551/ZUP07209 subject to the following conditions of approval:

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.

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10. Hold a public hearing for a request by the **MORENO RESIDENCE (PL070552)** (Timothy Penrose/Penrose Drafting, applicant; Tony Moreno, property owner) located at 808 East Carver Road in the R1-10, Single Family Residential District for:

**ZUP07206** Use permit to allow an accessory building (ramada).

Mr. Tony Moreno was present to represent this case.

Alan Como, staff planner, stated that no additional public input or information had been received since the staff report had been issued.

Mr. Williams questioned the size of the project; Mr. Moreno stated the size of the ramada would be 23 feet by 24 feet; he confirmed that the City posting sign had been in place until yesterday when the wind blew it down.

**DECISION:**

Mr. Williams approved PL070552/ZUP07206 subject to the following conditions:

1. Obtain all necessary clearances from the Building Safety Division.
2. Detached structure to be compatible in design, materials and color with main (existing) dwelling.

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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 **ROWE RESIDENCE (PL070487/ABT07029)** (Richard Rowe, property owner) Complaint CE073237 located at 1405 North Rose Street in the R1-6, Single Family Residential District.

Andres Lara, City of Tempe – Neighborhood Enhancement Department, confirmed that this case had been continued from the December Hearing Officer hearing. He stated that still a lot of cleaning up needed to be done. Several items of debris on the south side of the yard need to be completed. Vehicles still need to be removed.

Mr. Richard Rowe was present to represent the property owner. He feels that a lot of progress had been made. He has lived on the property for 40 years and it is the first time he has been cited. Mr. Rowe stated that the pictures attached to the staff report were from six months ago, and offered photographs that were just taken. He is modifying the enclosure/screening for the vehicle(s). Materials on the back patio are being taken care of; he stated he has spent \$800 in cleaning the property.

Mr. Williams questioned what Mr. Rowe's intention was regarding the Motor home and 1965 Chevy Truck. Mr. Rowe stated that he was told by the inspector during a conversation at his location, that if he enclosed one of the vehicles it would be acceptable. City allows two vehicles; one has to be enclosed – couldn't cover with a tarp but it would be acceptable as long as it was enclosed within a building and you could not tell what it was — Mr. Rowe stated that he had spent \$200 for a storage bldg.

Mr. Williams questioned staff as to whether a use permit would be required for the storage building; Shawn Daffara responded that as long as the structure is under 8 feet 9 inches it is acceptable.

Mr. Williams questioned if the property owner is allowed to have two (2) vehicles that are unregistered as long as the property owner has a structure that houses it completely. Mr. Lara stated that the camper shell is over height and that it is not just a screening issue. Mr. Rowe responded that he was not informed of any height specifications and that it is not a camper shell but a motor home.

Mr. Williams stated that he liked the progress Mr. Rowe has made to date. If Mr. Rowe agrees to get rid of the motor home, Mr. Williams will continue the case; if he does not agree to remove the motor home the abatement will be approved today. Mr. Rowe responded that he had spent \$1000 this month to comply with the City codes and that if it was necessary to remove the motor home he would do so.

Mr. Williams asked if there had been any additional complaints in the last thirty (30) days. Mr. Lara stated that he had received a call last week from the neighbors regarding the status of the cleanup.

Mr. Rowe had several questions regarding what is considered acceptable mulch by the City. It was suggested that Mr. Rowe meet with Development Services staff since they are located right next door to the Council Chambers to get an specific definition of what is acceptable mulch.

Mr. Williams noted that Mr. Rowe should get any conversation/directions by City inspectors in writing so there is no confusion over what is required.

**DECISION:**

Mr. Williams stated that since Mr. Rowe is moving in the right direction and has agreed to remove the motor home, he would continue abatement proceedings for PL070487/ABT07029 to February 19, 2008 Hearing Officer to give Mr. Rowe another month to remove the motor home vehicle that cannot be screened, and complete cleanup.

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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 **SINES PROPERTY (PL070537/ABT07032)** (Renate Sines, property owner) Complaint CE073201 located at 1143 East McKellips Road in the R1-6, Single Family Residential District.

No one was present to represent the property owner.

Andres Lara, City of Tempe – Neighborhood Enhancement Department, stated that owner is in process of cleaning the back yard. He will be re-inspecting the property tomorrow. Pool is still draining.

Mr. Williams noted for public information that a permit is required to drain pool into public right-of-way.

**DECISION:**

Mr. Williams continued abatement proceedings for PL070537/ABT07032 to the February 5, 2008 Hearing Officer hearing.

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The next Hearing Officer public hearing will be held on **Tuesday, February 5, 2008.**

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There being no further business the public hearing adjourned at 1:17 PM.

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



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

SA:dm