

**Minutes  
HEARING OFFICER  
MARCH 4, 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  
Derek Partridge, Planner I

**Number of Interested Citizens Present:** 18

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 March 18, 2008 at 3:00 PM.

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1. Mr. Williams continued the approval the Hearing Officer Minutes for February 19, 2008 to the March 18, 2008 Hearing Officer hearing.

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2. Hold a public hearing for a request by the **HANSEN RESIDENCE (PL080022)** (Jasen Lofgreen/Encore Design Group, applicant; Robert and Susan Hansen, property owners) located at 8445 South College Lane in the R1-15, Single Family Residential District for:

**ZUP08015** Use permit to allow the expansion of a second story.

**VAR08003** Variance to reduce the front yard setback from thirty-five (35) feet to twenty-five (25) feet to intensify use by adding a second story.

Mr. Jason Lofgreen of Encore Design and Mr. Robert Hansen were present to represent this case. It was noted that a petition of support of two (2) pages had been received and signed including the neighbors adjacent to the residence.

Alan Como, staff planner, stated that no additional public input or information had been received since the staff report had been issued. The second story would be placed above the garage and requires a use permit.

Mr. Como confirmed that a variance was previously approved for a front yard setback reduction of thirty-five (35) feet to twenty-five (25) feet for a garage. The garage and the new addition are on the south side of the lot. This request meets the lot coverage allowed by the Zoning and Development Code. The proposed project does not exceed the height elevation requirements.

Mr. Williams questioned privacy issues such as windows to be installed. Mr. Como responded that the adjacent property owner was in support of the project, and that no complaints or concerns had been received.

Mr. Williams asked the distance from the property wall to the face of the garage/addition. Mr. Como responded that it is eighteen (18) feet from the east property line.

Mr. Williams asked if this project had been submitted to the Homeowners Association for approval; the applicant responded that it had been submitted and that the association had approved it verbally. He has not received a formal letter of approval from the Homeowners Association as yet.

**DECISION:**

Mr. Williams approved PL080022/ZUP08015/VAR08003 subject to the following conditions:

1. Obtain all necessary clearances from the Building Safety Division
2. Additions to be compatible in design, material and color with existing dwelling.

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3. Hold a public hearing for a request by **CHEZ MONIEUX (PL080036)** (Vance Matthews, applicant; Property Brokers LLC, property owner) located at 5004 South Price Road in the PCC-1, Planned Commercial Center District for:

**ZUP08020** Use permit to allow live entertainment (DJ, dancing, live music) ancillary to a restaurant.

Mr. Vance Mathews 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 stated that the neighbors were in support of this request based on the Conditions of Approval.

Mr. Williams asked what the hours of operation were; Mr. Daffara responded that the hours of operation would be from 10:00 AM – 2:00 AM. Live entertainment is to be completed by midnight, but the business could be open until 2:00 AM, just no live music after midnight. Two nights of live bands were anticipated, however not any particular nights.

Mr. Williams asked if this was a free standing building; it was confirmed that it was.

Frank Binkley (neighbor) of the City of Tempe spoke in support of this request.

Mr. Williams asked whether security plans were required? Mr. Daffara explained that he had discussed this issue with the applicant, and that there was a security plan in place when the liquor license was applied for.

The applicant confirmed that there was ample parking.

**DECISION:**

Mr. Williams approved PL080036/ZUP08020 subject to the following conditions:

1. The use permit is valid for "Chez Monieux" and is non-transferable. Should the business be sold, the new owners must contact the Hearing Officer staff and apply for a new use permit.
2. All permits and clearances required by the Building Safety Division shall be obtained prior to the use permit becoming effective.
3. The live entertainment shall be indoors only, no live entertainment will be allowed on the exterior patio; this is to include no outdoor speakers.
4. Live (amplified) music shall be restricted to two (2) nights a week; this is stated in the applicant's letter of explanation.
5. Within one (1) year from approval (**March 4, 2009**), the applicant shall return and meet with Development Services staff for a review of the live entertainment use permit.
6. 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.
7. The use permit is valid for the plans as submitted within this application and any expansion or intensification of the use will require review of the use permit.
8. The applicant shall adhere to the City of Tempe Noise Ordinance.
9. The rear door shall require (compliant) security lighting that meets five (5) foot candles at the door and two (2) foot candles within a 15' radius.
10. **No customer parking allowed to the rear of the building, except for staff. ADDED BY HEARING OFFICER**
11. **Rear door(s) to remain closed during live entertainment. ADDED BY HEARING OFFICER**

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4. Hold a public hearing for a request by the **MATWICK RESIDENCE (PL080037)** (Michael Matwick, applicant/property owner) located at 1733 East Louis Way in the AG, Agricultural District for:

**ZUP08021** Use permit to allow an accessory building.

Mr. Michael Matwick was present to represent this case.

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

Mr. Williams addressed the issue of lot coverage; Mr. Graves responded that it met the criteria of the Zoning and Development Code for lot coverage and setbacks.

Mr. Williams cited concern regarding that a building this size could possibly be used as a second residence. Mr. Matwick stated that he understood that there could be no cooking or kitchen facilities installed, and that it would not be used as a second residence.

**DECISION:**

Mr. Williams approved PL080037/ZUP08021 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 detached accessory building shall not be used as a separate living unit/guest quarters (no cooking facilities). Only one residential unit per lot is allowed in the AG, Agricultural Zoning District.

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5. Hold a public hearing for a request by the **ST. GEORGE RESIDENCE (PL080038)** (Michael St. George, applicant/property owner) located at 1163 East Knight Lane in the R1-7, Single Family Residential District for:

**ZUP08022** Use permit standard to reduce the rear yard setback by twenty percent (20%) from fifteen (15) feet to twelve (12) feet.

Mr. Michael St. George 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. He stated that the maximum lot coverage amounted to thirty-five percent (35%) with this addition, which was within the Zoning and Development Code criteria of forty-five percent (45%).

**DECISION:**

Mr. Williams approved PL080038/ZUP08022 subject to the following conditions:

1. Obtain all necessary clearances from the Building Safety Division.
2. Addition shall match existing structure in design, materials and color.

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6. Hold a public hearing for a request by **TEMPE MARKETPLACE – MASSAGE ENVY (PL080039)** (Stephen Cook, applicant; Vestar TM-OPCO LLC, property owner) located at 1900 East Rio Salado Parkway, Suite No. 150 in the RCC, Regional Commercial Center District for:

**ZUP08023** Use permit to allow a massage establishment.

Mr. Stephan Cook was present to represent this case.

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

**DECISION:**

Mr. Williams approved PL080039/ZUP08023 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 set to re-evaluate the appropriateness of the use permit.
6. All required State, County and Municipal permits shall be obtained or the use permit is void.
7. 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.
8. All business signs shall be Development Review approved and permits obtained.

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7. Hold a public hearing for a request by **BROADWAY SQUARE – MAXIT PAWN AND RETAIL (PL080047)** (Brad Shain, applicant; KM Main & Lindsay LLC, property owner) located at 1845 East Broadway Road, Suite Nos. 106 – 113 in the CSS, Commercial Shopping and Services District for:

**ZUP08025** Use permit to allow a pawn shop.

Ms. Tracey Amonti, Chief Operating Officer for Maxit Pawn, was present to represent this case. She submitted color photographs depicting the exterior and interior of the business.

Shawn Daffara, staff planner, stated that no additional public input or information had been received since the staff report had been issued. He confirmed in response to a question from Mr. Williams that the City did have two (2) other pawn shops in addition to the current location of Maxit Pawn, and supplied the locations and particulars of each shop. He stated that this new pawn shop would be 6,236 s.f.

Mr. Phillips Snowden of the City of Tempe Coronado Apartments spoke in opposition to this request citing safety and security concerns and that the residents were concerned about the type of customers this type of business would attract to the close proximity of their homes and the possible increase in crime. He presented a two (2) page petition with approximately sixty (60) signatures.

Ms. Rosalyn Jennings of the City of Tempe spoke in opposition to this request stating that there were already three (3) pawn shops in Tempe.

Ms. Anna Lauri, of the Red Mountain Retail Group, stated that they were the landlord for this shopping center and were in support of this request.

Mr. Williams noted that this shopping center is in a distressed area. He asked what the schedule was for the redevelopment project which involved design review approval for a new facelift for this shopping center. Mr. Williams asked what is the time frame for the construction once it starts? Mr. Daffara responded three (3) to six (6) months.

Mr. Williams asked the applicant what hours of operation were planned. The applicant responded that it would be Monday-Friday from the hours of 10 AM – 7 PM, Saturday from 10AM – 6 PM, and Sunday from 10 AM – 5 PM.

Mr. Abrahamson, in response to a question from Mr. Williams, stated that Tempe Pawn was the last application of this type and that it had been processed several years ago in 2001. He explained that all pawn shops are required to have a security plan.

Mr. Williams asked if the applicant would like to respond to the safety and security concerns expressed by the residents. Ms. Amonti stated that they had a good working relationship with the Tempe Police Department and that a seller has to show the staff how the equipment works. There are no firearms or adult merchandise.

Mr. Daffara noted that a new sign package will be developed, and that the shopping center has been approved for a multi-tenant free standing sign. No individual tenants would be allowed to have their own independent sign.

Mr. Williams stated that he did not believe that a pawn shop creates crime or the opportunity for it, and that this was a large operation that will have staying power in the community so he is not too concerned about the quality of this operation in Tempe. He noted that they were required to submit a security plan, and that plan would be on file with the Tempe Police Department.

Mr. Williams questioned staff as to whether a special use permit would be required for outdoor display. Mr. Daffara responded that if they wish to do outdoor display, they would be required to apply for a separate use permit.

**DECISION:**

Mr. Williams approved PL080047/ZUP08025 subject to the following conditions:

1. The use permit is valid for "Maxit Pawn and Retail" and is non-transferable. Should the business be sold, the new owners must contact the Board of Adjustment/Hearing Officer staff and apply for a new use permit.
2. All permits and clearances required by the Building Safety Division shall be obtained prior to the use permit becoming effective.
3. Within one (1) year from approval (**March 4, 2009**), the applicant shall return and meet with Development Services staff for a review of the use permit.
4. The applicant shall device a security plan with the City of Tempe Crime Prevention Unit. Please contact Sergeant Ken Harmon at (480) 350-6217.
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. Any expansion or intensification of the use will require a new use permit.
7. The use permit is valid for the plans as submitted within this application.
8. All rear exit doors require a lexan vision panel. Details to be approved through Building Safety Plan Review prior to issuance of building permit.
9. All doors shall have illumination to meet five (5) foot candles at the door and two (2) foot candles within a 15' radius. Details to be approved through Building Safety Plan Review.
10. All business signs shall receive a Sign Permit. Please contact Jeff Tamulevich at (480) 350-8331.

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8. Hold a public hearing for a request by **TEMPE VILLAGE (PL080048)** (Debbie Oleskow/ALB Industries, applicant; Alexandra Siegal, property owner) located at 9220 South Priest Drive in the AG, Agricultural District for:

**ZUP08024** Use permit to allow an off-site subdivision advertising sign.

Ms. Debbie Oleskow of ALB Industries was present to represent this case.

Derek Partridge, staff planner, stated that no additional public input or information had been received since the staff report had been issued. He confirmed that this request meet all criteria of the Tempe Zoning and Development Code.

Mr. Williams asked why there was a sign at Greentree and Priest. The applicant responded that location was the only landlord approval they received.

Steve Abrahamson stated that sign had been permitted in February of 2007 and that it has been approved for a period of two (2) years.

Ms. Oleskow addressed Condition of Approval No. 5 stating that she would like to have that condition removed.

Mr. Williams questioned the height of the sign. Ms. Oleskow responded that when the final inspection was received for the sign located at Greentree and Priest, the sign was approved at eight (8) feet in height. Mr. Williams stated that this sign was not installed in accordance with the Ordinance.

Mr. Williams noted that while he understood the applicant's position, this request would be approved based on all five (5) conditions of approval.

**DECISION:**

Mr. Williams approved PL080048/ZUP08024 subject to the following conditions:

1. The use permit is valid for Tempe Village (Debbie Oleskow/ALB Industries, applicant; Alexandra Siegal, property owner) and is not transferable.
2. The use permit is valid for two (2) years from **March 4, 2008 until March 4, 2010.**
3. The use permit is valid for the plans as submitted to and approved by the Hearing Officer.
4. The sign shall be Development Review staff approved and a sign permit obtained.
5. The previously approved sign, located at 8980 South Priest Drive, shall be removed upon installation of proposed sign.

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The next Hearing Officer public hearing will be held on **Tuesday, March 18, 2008.**

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There being no further business the public hearing adjourned at 2:44 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