

**Minutes  
HEARING OFFICER  
AUGUST 18, 2009**

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  
Derek Partridge, Planner I  
Nick Graves, Planning Intern  
Steve Abrahamson, Planning & Zoning Coordinator

**Number of Interested Citizens Present: 6**

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 September 1, 2009 at 3:00 PM to the Development Services Department.

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1. Mr. Williams approved the Hearing Officer Minutes for August 4, 2009.

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2. Request by the **AUSTIN RESIDENCE (PL090228)** (Tessa Jones/the Phactory, applicant; Jon & Hiroko Austin, property owners) located at 1440 East Secretariat Drive in the AG, Agricultural District for:

**ZUP09107** Use permit to allow an accessory building (ramada).

Ms. Tessa Jones of The Phactory was present to represent this case.

Steve Abrahamson, staff planner, gave an overview of this case and stated that no additional public input had been received since the staff report had been issued. He noted that an accessory building (pool house) was approved at the July 21<sup>st</sup> Hearing Officer, however due to a clerical error this ramada had not been advertised in time to be heard at that same hearing.

**DECISION:**

Mr. Williams approved PL090228/ZUP09107 subject to the following conditions of approval:

1. Obtain all necessary clearances and permits from the Building Safety Division.
  2. Ramada to complement other structures in color, form and material.
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3. Request by **ARIZONA BRONZE (PL090251)** (Tom Bollinger, applicant/property owner) located at 227 South Rockford Drive in the GID, General Industrial District for:

**ZUP09109** Use permit to allow a foundry/casting business in the GID, General Industrial District.

Mr. Tom Bollinger was present to represent this case.

Nick Graves, staff planner, gave an overview of this case and stated that no additional public input had been received since the staff report had been issued. He explained that this was basically an artist studio and has been in business in the Tempe area for 31 years. A couple of phone calls of inquiry had been received as to what the exact nature of this business entailed.

Mr. Williams asked whether this business had obtained a use permit for its Third Street location. Mr. Graves responded that the origin of this business was 31 years ago and there was nothing in the files for that period. Mr. Williams asked if there had been any complaints against this business at its Third Street location. Mr. Graves responded that he had not discovered a record of any complaints, that this did not involve what most people thought of when discovering it was a foundry. It is a artistic studio casting artwork rather than a large commercial enterprise. He confirmed that the applicant is aware that the addition of an exterior canopy would require a Development Plan Review by staff.

Mr. Bollinger explained that he had purchased Arizona Bronze eleven (11) years ago. The reason for this request for a use permit is due to the downturn in the economy, but relocating they will be able to downsize. Currently they pour metal every two to three weeks and this is done outdoors.

Mr. Richard Short, an industrial neighbor of this proposed location, spoke of his concern about outdoor casting and related environmental issues. He stated that he had never seen molten metal that did not give off some type of gas.

Mr. Williams noted that this business had been in operation a number of years without any complaints however staff has included a condition of approval that if there are complaints that a hearing can be held to discuss them.

**DECISION:**

Mr. Williams approved PL090251/ZUP09109 subject to the following conditions of approval:

1. The addition of an exterior canopy shall require a Development Plan Review and permits must be obtained prior to installation.
2. The use permit is valid for Arizona Bronze and may be transferable with approval from the Board of Adjustment staff. Should the business be sold, the new owners must contact the Board of Adjustment staff for review of the business operation.
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.

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4. Request by the **COLE RESIDENCE (PL090252)** (Joseph Cole, applicant/property owner) located at 1112 East Malibu Drive, in the R1-6, Single Family Residential District for:

**ZUP09110** Use permit to allow required parking in the front yard setback.

Mr. Joseph Cole was present to represent this case.

Derek Partridge, staff planner, gave an overview of this case and stated that no additional public input had been received since the staff report had been issued. He explained that recent review had determined that if an adjustment was made to the site plan this use permit would not be necessary.

Mr. Cole stated that he would like to withdraw his request for this use permit due to the adjusted design.

**DECISION:**

Mr. Williams noted PL090252/ZUP09110 was withdrawn at the request of the applicant.

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5. Request by **SKINDUSTRIES TATTOO (PL090264)** (David Noggle, applicant; Cal Eaton Properties) located at 2011 East 5<sup>th</sup> Street, Building B, Suite No. 6, in the GID, General Industrial District for:

**ZUP09111** Use permit to allow a tattoo studio.

Mr. David Noggle was present to represent this case.

Nick Graves, staff planner, gave an overview of this case and stated that no additional public input had been received since the staff report had been issued. This request does meet all the City requirements for a tattoo parlor.

Mr. Noggle stated that he had owned a tattoo studio in Phoenix for the past 3 ½ years which he recently sold to an employee. He stated that he has established clientele to keep him busy by himself. He has two (2) work stations in order to allow an apprentice to work with him.

**DECISION:**

Mr. Williams approved PL090264/ZUP09111 subject to the following conditions of approval:

1. Prior to the use permit becoming effective, the establishment must have and thereafter maintain written procedures on the premises, the property handling and sterilization of equipment and demonstrate that all personnel are trained in the procedures.
2. Prior to the use permit becoming effective, all practioners must have training in blood-borne pathogens and cross-contamination. Current verification of such shall be maintained on the premises at all times.
3. Prior to the use permit becoming effective, the establishment must post and thereafter maintain and provide to customers, upon request, written instructions on tattoo care.
4. All hypodermic needles shall be immediately disposed within a proper container of single-use contaminated needles that is then shipped back to the appropriate company for further disposal. Needles and other similar equipment shall not be placed within the facility's refuse container outside of the business.
5. All business signs shall require a Development Plan Review and permits must be obtained prior to installation.
6. The use permit is valid for the plans and business operation as submitted to and approved by the Hearing Officer.

7. The use permit is valid for Skindustries Tattoo and may be transferable with approval from the Board of Adjustment staff. Should the business be sold, the new owners must contact the Board of Adjustment staff for review of the business operation.
8. 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.
9. All permits and clearances required by the Building Safety Division shall be obtained prior to the use permit becoming effective.
10. Any intensification or expansion of this use shall require that a new use permit be applied for and obtained.
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 applicant shall devise a security plan in conjunction with the City of Tempe – Crime Prevention Department at 480.858.6027 prior to the use permit becoming effective.

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6. Request by the **STAPLEY RESIDENCE (PL090266)** (Tom Stapley, applicant/property owner) located at 2049 East Orange Street in the R1-6, Single Family Residential District for:

**ZUP09112** Use permit to allow required parking in the front yard setback.

There was no one was present to represent this case.

Derek Partridge, staff planner, gave an overview of this case and stated that no additional public input had been received since the staff report had been issued.

Mr. Williams noted that the criteria he uses for requests of this nature (i.e. parking in the front yard setback) is the integrity and character of the existing neighborhood. In reviewing this location, this request was very consistent since there were several homes with garages that had been converted to living spaces.

**DECISION:**

Mr. Williams approved PL090266/ZUP09112 subject to the following conditions of approval:

1. Parking shall take place on impervious surfaces only.
2. All vehicles parked on the premises must be actively registered and in operable condition at all times.
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.

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The next Hearing Officer public hearing will be held on **Tuesday, September 1, 2009.**

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There being no further business the public hearing adjourned at **2:00 PM.**

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



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

SA:dm

APPROVED