

**Minutes
HEARING OFFICER
JANUARY 4, 2011**

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
Nick Graves, Planner
Sherri Lesser, Senior Planner

Number of Interested Citizens Present: 6

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 January 18, 2011 at 3:00 PM to the Community Development Department.

1. Ms. MacDonald noted that the Hearing Officer Minutes for December 21, 2010 had been reviewed and approved.

2. Ms. MacDonald noted that the abatement case(s) would be heard first.

3. 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 (PL100407/ ABT10040/ CE103714)** (Jack Scofield, Inspector; Federal National Mortgage Association, property owner) located at 1511 East Drake Drive in the R1-7, Single Family Residential District.

No one was present to represent the property owner.

Jack Scofield, Code Inspector explained that the property has been foreclosed from the previous owner and over height grass & weeds & debris exist in the front and rear yards. Staff is requesting an open abatement period of 180 days to prevent repeated property neglect and neighborhood decline.

Ms. MacDonald noted that this request meets the criteria for properties in disrepair.

DECISION:

Ms. MacDonald approved abatement proceedings for PL100407 /ABT10040 /CE103714 for an open period of 180 days.

4. Request by **THE FIREHOUSE – LONG WONG’S (PL090404)** (Avi Sadote, applicant/property owner) located at 1639 East Apache Boulevard in the CSS, Commercial Shopping & Services and TOD, Transportation Overlay Districts for:

ZUP09142 Use permit to allow indoor live entertainment including live bands, D.J.'s, comedy acts and karaoke.

Mr. Jack Maverik, General Manager, 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 purpose of this hearing was to review the applicant's compliance with the assigned Conditions of Approval assigned by the Hearing Officer at the August 17, 2010 hearing. The applicant has been monitoring the noise levels and patron participation issues. She noted that staff wished to add three (3) additional conditions (Nos. 15, 16 & 17) as noted below.

Mr. Maverik acknowledged the conditions and concerns, and indicated that actions have been taken to mitigate the issues.

Ms. MacDonald stated that the applicant has demonstrated the ability to be a good neighbor, and that the Conditions of Approval as modified address any existing concerns.

DECISION:

Ms. MacDonald re-affirmed the approval of PL090404 / ZUP09142 subject to the following modified conditions:

1. The use permit is valid for Long Wongs and may be transferable to successors in interest through an administrative review with the **Community Development Services** Manager, or designee. **CORRECTED BY STAFF**
2. Any intensification or expansion of this use shall require the applicant to return to the appropriate decision-making body for a new use permit.
3. Noise generated from the use shall conform to the City of Tempe Noise Ordinance requirements for noise control.
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. The band and/or karaoke area to maintain a minimum 3' clearance from dining area to comply with ADA accessibility requirements.
6. The use permit is valid for the plans as submitted within the application.
7. The applicant shall work with the Tempe Police Department to create a Security Plan for the business. Contact the Crime Prevention Department at 480-858-6330. **The security plan to be updated to address security personnel at the back door and in the parking area during hours of live entertainment.** **MODIFIED BY STAFF**
8. All services doors to remain closed during times of live entertainment performances.
9. Live entertainment to cease at 12 midnight Sunday-Wednesday and 1:00 am Thursday-Saturday.
10. Live entertainment approved for indoor use only.
11. ~~Administrative review will be done in six months (December 21, 2010) to confirm adherence to compliance.~~

12. Provide sound attenuation material to the interior of the restaurant, design and details to be provided by staff. **To be completed by January 31, 2011. ADDED BY STAFF**
13. ~~Provide security personnel at back door and in the parking area during hours of live entertainment. The back door not to be propped open during hours of live entertainment. DELETED BY STAFF~~
14. To mitigate parking on adjacent properties provide an illuminated 'no parking sign' on west side of building **by January 31, 2011. ADDED BY STAFF**
15. **Remove illegal building mounted sign on the north elevation by January 18, 2011. ADDED BY STAFF**
16. **Obtain sign permits for building mounted signs on the east and west building elevations by January 18, 2011. ADDED BY STAFF**
17. **Remove all banners on property or obtain Significant Event Permit by January 18, 2011. ADDED BY STAFF**

5. Request by the **MURDOCK RESIDENCE (PL100412)** (Steve Johnson/Scrivner Design Group, applicant; Dennis Murdock, property owner) located at 1894 East Magdalena Drive in the R1-7, Single Family Residential District for:

ZUP10160 Use permit standard to reduce the street side yard setback by twenty percent (20%) from 10 feet to 8 feet to allow for an accessory building.

Mr. Dennis Murdock 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 encroachment into the setback is for a portion of a freestanding double-car garage.

Ms. MacDonald noted that this request meets the criteria for use permit standards.

DECISION:

Ms. MacDonald approved PL100412 / ZUP10160 subject to the following conditions:

1. Obtain all necessary clearances from the Building Safety Division.
2. Building addition to match existing residence in color, form and material.

6. Request by **CRICKET WIRELESS PHX-313 (PL100414)** (Scott Quinn/Quinn United Enterprise, applicant; Vista Investment Properties, property owner) located at 1002 East Vista Del Cerro Drive in the GID, General Industrial District.

ZUP10159 Use permit to allow a 68 ft wireless antenna (monopalm).

Mr. Scott Quinn 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. Quinn addressed Condition of Approval No. 3 and asked that it be modified slightly to accommodate the proposed plan(s). Ms. Lesser stated that the it would be modified to strike out the reference to material.

Ms. MacDonald stated that this application meets the criteria for a use permit.

DECISION:

Ms. MacDonald approved PL100414 / ZUP10159 subject to the following conditions:

1. Obtain all necessary clearances from the Building Safety Division.
2. The monopole (monopalm) shall be no greater than 68— 0" in height to top of fronds.
3. The proposed equipment cabinet shall be constructed of similar material and color to match the existing building. **MODIFIED BY STAFF**
4. Any intensification or expansion of use, including co-location of additional antennas, will require a new use permit.
5. The wireless device shall be removed within 30 days of discontinuance of use.

7. Request by the **ANTES RESIDENCE (PL100422)** (Carol Antes, applicant & property owner) located at 1426 West Huntington Drive in the R1-6, Single Family Residential District for:

~~ZUP10159~~ **ZUP10158** Use permit to allow parking in the front yard setback. **CORRECTED BY STAFF**

Ms. Carol Antes was present to represent this case.

Nick Graves, staff planner, gave an overview of this case and stated that no further public input has been received since the staff report was issued. He explained that this request involves converting an existing carport into livable space.

A discussion of the outside appearance of this project was discussed with Ms. Antes. Ms. MacDonald noted that the design review approval process did not apply to single family residential homes. She addressed Condition of Approval No. 5, and indicated her hope that the applicant try to match the material used on the main residence, incorporating the brick as much as possible.

DECISION:

Ms. MacDonald approved PL100422 / ZUP10158 subject to the following conditions:

1. The required parking on-site shall be used for single family residential use only.
2. Parking shall take place on impervious surfaces only.
3. Obtain all necessary clearances from the Building Safety Division.
4. All vehicles parked on the premises must be actively registered and in operable condition at all times.
5. The carport enclosure shall be compatible with the main residence in color, form, texture and material.
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 set to re-evaluate the appropriateness of the use permit.

The next Hearing Officer public hearing will be held on **Tuesday, January 18, 2011.**

There being no further business the public hearing adjourned at 2:01 PM.

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



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

SA:dm

APPROVED