

Staff Summary Report



Development Review Commission Date: 08/24/10

Agenda Item Number: ____

SUBJECT: Hold a public hearing for an appeal of the revocation of MEMO'S CAFÉ Use Permit located at 1845 East Broadway Road.

DOCUMENT NAME: DRCr_MemosAppeal

PLANNED DEVELOPMENT (0406)

COMMENTS: Request by **MEMO'S CAFE (PL080109/RVK10001)** (Ramez Rabata/Memos Cafe, applicant; Red Mountain Retail Group, property owner) to appeal the Hearing Officer's Decision of April 6, 2010 to revoke the Use Permit. Memo's Café is located at 1845 East Broadway Road, Suite No. 9, in the CSS, Commercial Shopping and Services District for

RVA10001 – To appeal the revocation of a Use Permit to allow a hookah lounge/tobacco retailer.

PREPARED BY: Shawn Daffara, Planner II (480-858-2284)

REVIEWED BY: Lisa Collins, Deputy Director, Community Development Dept./Planning (480-350-8989) 

LEGAL REVIEW BY: N/A

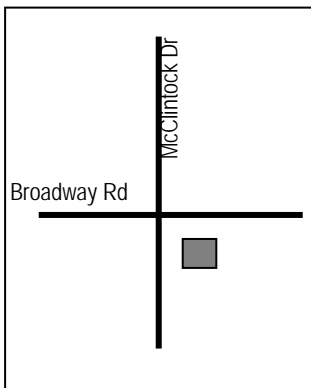
DEPARTMENT REVIEW BY:

FISCAL NOTE: N/A

RECOMMENDATION: N/A

ADDITIONAL INFO:

| | |
|---------------------|---|
| Gross/Net site area | 3.44 acres |
| Total Building area | 34,614 s.f. |
| Tenant Area | 1,136 s.f. |
| Vehicle Parking | 211 spaces (4 spaces required for this tenant) |



A neighborhood meeting was not required with this application.

The applicant is requesting an appeal of the Hearing Officer's decision of April 6, 2010 to revoke the Use Permit for Memo's Café. The applicant has received the building permit to start construction and which would provide support for the appeal.

PAGES:

1. List of Attachments
2. Revocation Comments;
3. Conditions of Approval; Reasons for Revocation; History & Facts
4. Description; Zoning & Development Code Reference

ATTACHMENTS:

1. Location Map(s)
2. Aerial Photo(s)
3. Letter of Intent for Use Permit, dated March 19, 2008
- 4-5. Use Permit Approval Letter, dated May 1, 2008
6. Code Enforcement Violation Letter, dated January 11, 2010
7. Administrative Hearing Letter, dated January 20, 2010
8. Use Permit Revocation Letter, dated April 9, 2010
- 9-10. Hearing Officer Minutes from April 15, 2008 agenda.
- 11-12. Hearing Officer Minutes from April 6, 2010 agenda.
13. Site plan
- 14-15. Staff Photograph(s)

APPEAL COMMENTS:

The applicant, Memo's Café is requesting an appeal of the Hearing Officer's decision of April 6, 2010 to revoke the Use Permit for Memo's Café. The property manager explained there had been communication problems between the landlord and the tenant (Memo's) and landlord takes full responsibility for not submitting the required Tenant Improvement plans for the required building permits. The Hearing Officer stated the hookah lounge has been operating for (1) one year without the required building permits and has shown little or no progress to full fill this requirement, therefore made the decision to revoke the use permit.

CURRENT STATUS:

The applicant has received the building permit to start construction on August 6, 2010. The business has yet to schedule any building inspection to verify construction has begun.

COMMENTS FROM DEVELOPMENT REVIEW COMMISSION JUNE 22, 2010

The mechanical engineers gave a brief update on the building safety plan review. The first plan review was completed and is with the architect for corrections; hoping plans are back into the city by June 25. The commission asked the business owner and engineer how much time they will need to complete plan review and finish construction. Engineer thought 45 days would get them close to closing out the project. The commission voted 6-1 to continue this case until August 24, 2010.

COMMENTS FROM DEVELOPMENT REVIEW COMMISSION JUNE 8, 2010:

The Development Review Commission heard from the new mechanical engineer about T.I. plans being submitted by June 10. The engineer spoke about history of this business and break down in communications between the landlord, property owner, and prior architect that caused a 2 year delay on the required building permits. The commission voted 4-3 to continue this case for two (2) weeks to see if the business has made progress on obtaining the required building permits.

The applicant submitted the required Tenant Improvement (T.I.) plans on June 10, 2010.

REVOCATION COMMENTS APRIL 6, 2010:

See minutes from the April 6, 2010 Hearing Officer.

COMMENTS FROM USE PERMIT (ZUP08045) APRIL 15, 2008

See minutes from the April 15, 2008 Hearing Officer.

Use Permit

The Zoning and Development Code requires a Tobacco Retailer to obtain a use permit in the CSS, Commercial Shopping and Services District. When the use permit was approved it met applicable tests in the following manner:

Evaluating the use permit, the proposal appears to pass the use permit test listed below:

- a. Any significant increase in vehicular or pedestrian traffic in adjacent areas;
 - There will be no significant increase in vehicular or pedestrian traffic in adjacent areas.
- b. Nuisance arising from the emission of odor, dust, gas, noise, vibration, smoke, heat, or glare at a level exceeding that of ambient conditions;
 - This is a retail use, similar to others within the shopping center; there should be no nuisances.

- c. Contribution to the deterioration of the neighborhood or to the downgrading of property values which is in conflict with the goals, objectives or policies for rehabilitation, redevelopment or conservation as set forth in the City's adopted plans, or General Plan;
 - The proposed development would not contribute to neighborhood deterioration or downgrade property values. This use permit request is consistent with the General Plan 2030's Land Use Element. The requested use permit will not be detrimental to the surrounding area, but will further the General Plan Land Use Element Goals and Strategies.
- d. Compatibility with existing surrounding structures and uses;
 - The proposed use appears to be compatible with surrounding uses.
- e. Adequate control of disruptive behavior both inside and outside the premises, which may create a nuisance to the surrounding area or general public.
 - The use is confined to this suite with sole purpose of providing hookah smoking inside which should not create a nuisance to the surrounding area.

**ORIGINAL
CONDITION(S)
OF APPROVAL (ZUP08045) APRIL 15, 2008:**

1. The use permit is valid for Memo's Café and may be transferrable with approval from the Hearing Officer staff. Should the business be sold, the new owners must contact the Hearing Officer staff for review of the business operation.
2. This use shall not violate the City of Tempe Smoking Ordinance or Smoke Free Arizona Act A.R.S. §36-601.01.
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 the use shall require the applicant to return to the Hearing Officer for further review
6. The gross sale of beverages and snack items may not exceed that of tobacco and hookah products.
7. The tables outside of the café may not be used to set up hookah smoking stations. All hookah smoking must be done indoors.
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 Planning staff at (480) 350-8331.

Conclusion

In that the applicant failed to meet the conditions of approval, staff recommends denial of the appeal, thus upholding the Hearing Officer's decision to revoke the use permit.

**REASON(S) FOR
REVOCATION:**

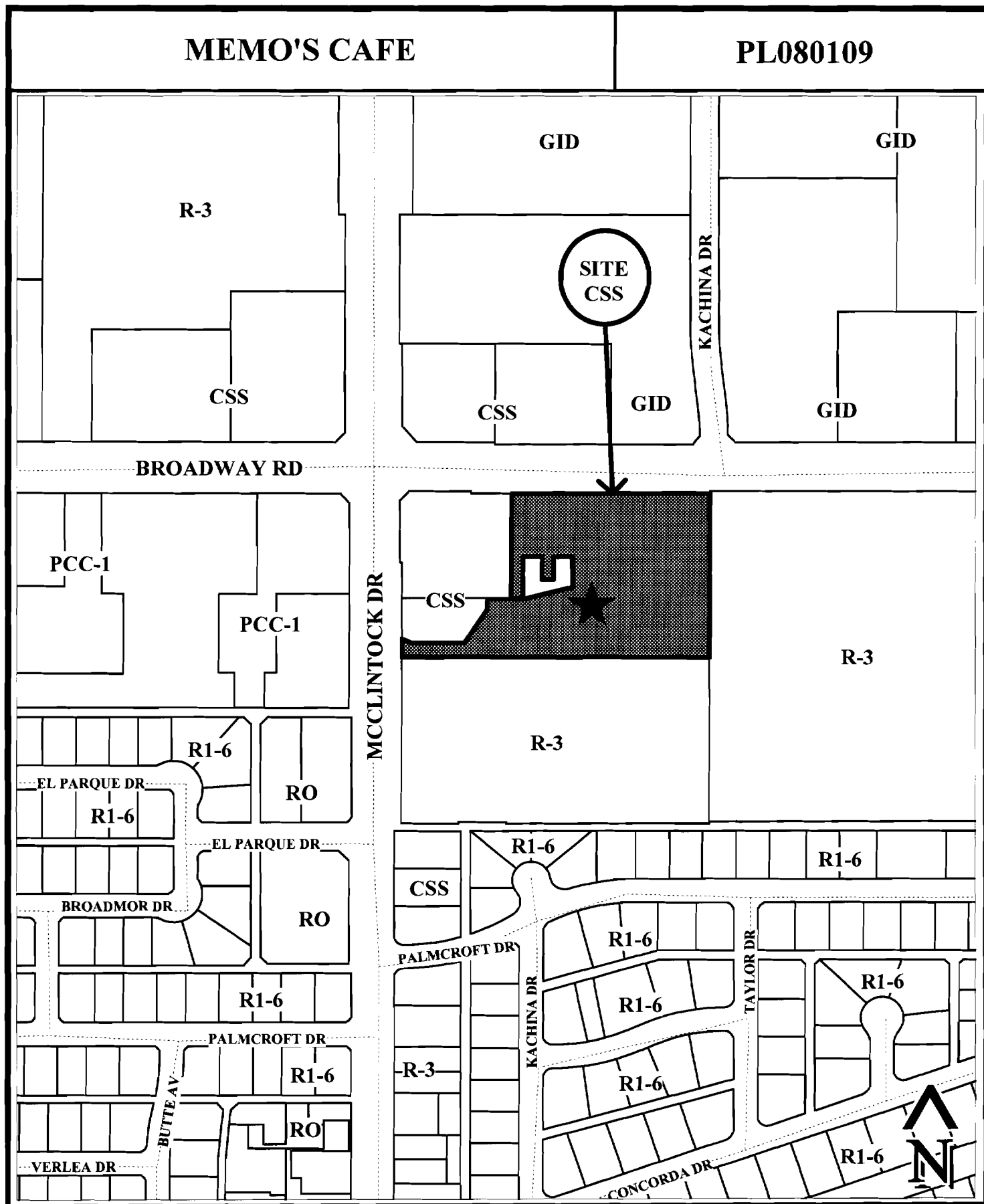
1. Non-compliance with the conditions of approval. Zoning and Development Code, Section 6-603 allows for a review and possible revocation of use permits, if conditions of approval are not met.

HISTORY & FACTS:

| | |
|------------------|--|
| April 15, 2008 | <u>ZUP08064</u> : Hearing Officer approved use permit for a hookah lounge/tobacco retailer. |
| March 17, 2009 | <u>ZUP09038</u> : Hearing Officer approved a use permit for live entertainment. |
| May 14, 2009 | <u>BP090592</u> : Tenant Improvement (TI) plans submitted for Hookah Lounge. |
| January 8, 2010 | <u>CM100035</u> : Violation of use permit condition of approval # 4 - All permits and clearances required by the Building Safety Division shall be obtained prior to the use permit becoming effective." |
| February 5, 2010 | Administrative Hearing with business owner to gain compliance. |
| April 6, 2010 | <u>RVK10001</u> : Hearing Officer revoked the use permit to allow a hookah lounge/tobacco retailer. |
| April 15, 2010 | Memo's Café filed an appeal of the Hearing Officer's decision to revoke the use permit. |
| May 25, 2010 | Memo's received a continuance, case continued until June 8, 2010. |
| June 8, 2010 | Development Review Commission granted a two (2) week extension to the applicant. Case continued to June 22, 2010. |
| June 10, 2010 | <u>BP100856</u> : Tenant Improvement (TI) plans submitted for Hookah Lounge. |
| June 22, 2010 | Development Review Commission granted a 45 day extension to the applicant. Case continued to August 24, 2010 |
| August 6, 2010 | <u>BP100856</u> : Building Permit Issued. |

ZONING AND DEVELOPMENT

CODE REFERENCE: Part 3, Chapter 2, Section 3-202, Table 3-202A – Permitted Land Uses in CSS, Commercial and Shopping and Services District.
Part 3, Chapter 4, Section 3-423 – Use Separation Requirements
Part 6, Chapter 3, Section 6-308 – Use Permit
Part 6, Chapter 3, Section 6-313 – Security Plan
Part 6, Chapter 9, Section 6-902 – Revocation of Use Permit



Location Map



MEMO'S CAFE (PL080109)

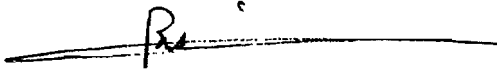
To Whom It May Concern:

3/19/08

I am currently working on opening a new hookah lounge/smoke shop. My business will consist of serving customers hookahs with their choice of a variety of flavors I will have available for them to smoke. In addition to serving hookahs, I would also have them on hand for customers to purchase along with charcoal and tobacco made specifically for the hookahs. I am also planning to serve fresh juice, water, and sodas to my customers. In the future I would like to add cold sandwiches to the menu for customers to snack on while they are smoking hookah in my lounge.

Sincerely,

Ramez Rabata

A handwritten signature in black ink, appearing to be 'Ramez', followed by a long horizontal line.

Development Services
Department
(480) 350-8331 (Phone)

May 1, 2008

FILE COPY

Mr. Ramez Rabta
7511 East Naranja Avenue
Mesa, Arizona 85209

**RE: MEMO'S CAFE
PL080109 / ZUP08045**

Dear Mr. Rabta:

You are hereby advised that at the hearing held April 15, 2008, the Hearing Officer of the City of Tempe, acting in accordance with Section 1-305, Paragraphs C and D, of the Zoning and Development Code:

Approved the request by **MEMO'S CAFE (PL080109)** (Ramez Rabata/Memos Café LLC, applicant; Red Mountain Retail Group, property owner) located at 1845 East Broadway Road, Suite 9 in the CSS, Commercial Shopping & Services District for:

ZUP08045 Use permit to allow a Hookah Lounge/ Tobacco Retailer.

Approved subject to the following conditions:

1. The use permit is valid for Memos Cafe and may be transferrable with approval from the Hearing Officer staff. Should the business be sold, the new owners must contact the Hearing Officer staff for review of the business operation.
2. This use shall not violate the City of Tempe Smoking Ordinance or Smoke Free Arizona Act A.R.S. §36-601.01.
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 the use shall require the applicant to return to the Hearing Officer for further review.
6. The gross sale of beverages and snack items may not exceed that of tobacco and hookah products.
7. The tables outside of the cafe may not be used to set up hookah smoking stations. All hookah smoking must be done indoors.
8. All rear 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 planning staff at (480) 350-8331.

Approvals are specifically conditioned upon the applicant proceeding with the proposed use(s) and/or variance(s) within twelve (12) months of the date of the approval by the Hearing Officer and required by the Zoning and Development Code.

In addition to proceeding with the approvals granted, it is understood that any and all conditions as stipulated by the Hearing Officer as indicated above, shall be fully complied with.

If the action of the Hearing Officer was required for the purposes of rectifying any violations of the Zoning and Development Code, the violations shall be the responsibility of the applicant/owner to fully correct and achieve conformance.

In sign-related violations, corrections shall be made within five (5) days of Hearing Officer action; in all other matters, corrections shall be made within fifteen (15) days of Hearing Officer action, unless specifically conditioned otherwise by the Hearing Officer.

You are further advised that the above does not waive the requirements for obtaining building permits and other clearances as may be necessary.

Sincerely,

A handwritten signature in black ink, appearing to read 'Alan Como', with a long horizontal flourish extending to the right.

Alan Como
Planner II

AC:dm

cc: Mr. Eric Nelson/Red Mountain Retail Group
File

January 11, 2010

Mr. Ramez Rabta
7511 East Naranja Avenue
Mesa, AZ 85209

RE: Zoning Violation – Memo's Café 1845 E. Broadway Rd. Tempe Suite 9

Dear Mr. Rabta:

Your business, located at 1845 East Broadway Road, continues to be in violation of the City of Tempe Zoning and Development Code section 6-308(I). The use permit approval for your Hookah Lounge/Tobacco Retailer was based on several specific conditions. Condition number four (4) of the approval letter, dated May 1, 2008, states that "All permits and clearances required by the Building Safety Division shall be obtained prior to the use permit becoming effective". Our records indicate that your business has not complied with this condition of approval.

The purpose of this letter is to inform you that if corrective actions are not taken, then the original decision making body may revoke the use permit, per City of Tempe Zoning and Development Code, Part 6, Chapter 9, Section 6-902.

Please contact me if you have any questions or concerns. Your cooperation in this matter is greatly appreciated.

Sincerely,

A handwritten signature in black ink that reads "Dean Miller". The signature is written in a cursive style with a large, stylized "D" and "M".

Dean Miller
Sr. Code Inspector
Development Services Department
480-350-8435

Copy: File
Cafe

January 20, 2010

Mr. Ramez Rabta
7511 East Naranja Avenue
Mesa, AZ 85209

**RE: Memo's Cafe- Use Permit
1845 East Broadway Road
PL080109/DS080308/ZUP08045**

Dear Mr. Rabta:

We are requesting your presence at an administrative hearing to discuss the conditions of approval for your use permit for Memo's Cafe at 1845 East Broadway Road (ZUP08045). Condition number four (4) of the approval letter dated May 1st, 2008 stated that "All permits and clearances required by the Building Safety Division be obtained prior to the use permit becoming effective". Our records indicate that this condition has not been complied with.

Please be advised that the City of Tempe Zoning and Development Code Part 6, Chapter 9, Section 6-902 states that if the applicant has not taken corrective actions to resolve the issues related to the approval, then the original decision making body may revoke the use permit. We have scheduled the hearing for Friday February 5th, 2010 at 9:00 AM in the City of Tempe Development Services Department Conference Room located at 31 E. 5th Street, Tempe. Staff recommends that you be in attendance for the hearing to provide any relevant information and/or plans for possible corrective actions that may be taken to avoid the revocation of your use permit.

Should you have questions concerning this notice, please contact me directly at (480) 350-8435.

Sincerely,



Dean Miller
Senior Code Inspector
Development Services Department
480-350-8435

Copy: File

Development Services
Planning

(480) 350-8331

April 9, 2010

Mr. Ramez Rabata
7511 East Naranja Avenue
Mesa, Arizona 85209

RE: MEMO'S CAFE
Revocation of use permit ZUP08045
PL080109 / ZUP08045

Dear Mr. Rabata:

You are hereby advised that at the hearing held April 6, 2010, the Hearing Officer of the City of Tempe did hear the following case:

Review of the following for possible revocation of the use permit per the City of Tempe Attorney office's direction due to non-compliance with the Condition of Approval No. 4, which reads, "All permits and clearances required by the Building Safety Division shall be obtained prior to the use permit becoming effective."

Request by **MEMO'S CAFE (PL080109)** (Ramez Rabata/Memos Cafe, applicant; Red Mountain Retail Group, property owner) located at 1845 East Broadway Road, Suite No. 9, in the CSS, Commercial Shopping and Services District for:

ZUP08045 Use permit to allow a hookah lounge/tobacco retailer.
(Use permit was approved by the Hearing Officer at the April 15, 2008 HO hearing.)

It was the Hearing Officer's decision to revoke the use permit for PL080109/ZUP08045.

Any appeal of the Hearing Officer's decision regarding a use permit must be made to the Development Review Commission within fourteen (14) days of the hearing. You have until **April 20, 2010** to file a formal appeal in writing to the Development Review Commission if you so desire.

If you have any questions please contact me at (480) 858-2284.

Sincerely,



Shawn Daffara
Planner II

SD:dm

cc: Mr. Jeff Tamulevich, Mr. Dean Miller, Mr. Steve Abrahamson
Mr. Eric Nelson/Red Mountain Retail Group (enelson@rmrginc.com)
File

DECISION:

Mr. Williams continued the request for the revocation for the use permit for PL080094/ZUP08063 to the April 20, 2010 Hearing Officer hearing.

9. Review of the following for possible revocation of the use permit per the City of Tempe Attorney office's direction due to non-compliance with the Condition of Approval No. 4, which reads, "All permits and clearances required by the Building Safety Division shall be obtained prior to the use permit becoming effective."

Request by **MEMO'S CAFE (PL080109)** (Ramez Rabata/Memos Cafe, applicant; Red Mountain Retail Group, property owner) located at 1845 East Broadway Road, Suite No. 9, in the CSS, Commercial Shopping and Services District for:

ZUP08045 Use permit to allow a hookah lounge/tobacco retailer.
(Use permit was approved by the Hearing Officer at the April 15, 2008 HO hearing.)

Shawn Daffara gave an overview of this case and stated that no further public input has been received since the staff report was issued. Initial application for a Building Permit was made on May 14, 2009. Due to lack of progress this Building Permit application is due to expire due to lack of progress.

Ms. Lorance stated that the application for this Building Permit is due to expire on May 14, 2010 if it is not approved. Redline comments were last issued on September 17, 2009. Presently it is going thru its 3rd resubmittal; if it is not approved this time, the business owner will be subjected to starting the process over again.

Jeff Tamulevich, Code Compliance Administrator, gave an overview of this case noting that Condition of Approval No. 4 had never been complied with. City staff held an administrative hearing on February 5, 2010 to work with the business owner and/or their representatives to resolve this issue, and at that time they were given 30 days to bring the property into compliance. To date the building plans remain unapproved, and the business owner is in violation.

Mr. Eric Nelson, representing the property owner, stated that they would ensure that the tenant adheres to the requirement(s) within a specified period of time. He spoke with the tenant who informed him that they would not be able to meet the March 14, 2010 target date and that it would be 3 wks before they could finish their submittal with an additional 40 days to complete the work necessary. Mr. Nelson asked for a minimum 30 day continuance of this revocation process in order to make appreciable progress. A new architectural/engineering team has been hired to ascertain that the next submittal will meet City requirements if a continuance is granted.

Mr. Williams asked why 18 to 20 months have passed without appreciable progress. Mr. Nelson responded that it was his understanding that it was due to problems between the architect and tenant. He noted that he felt that it is his role to help this tenant to resolve these issues in a timely manner.

Mr. Williams noted that he appreciated Mr. Nelson presence at today's hearing however the applicant must be held accountable and that other applicants in the same situation have brought their properties into near compliance. He stated that he does not see imminent improvement on this particular case and that he is revoking this use permit.

DECISION:

Mr. Williams revoked the use permit for PL080109/ZUP08045.

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10. Review of the following for possible revocation of the use permit per the City of Tempe Attorney office's direction due to non-compliance with the Condition of Approval No. 4, which reads, "All permits and clearances required by the Building Safety Division shall be obtained prior to the use permit becoming effective."

Request by **KING TUT CAFE – MISHA'S SHEESHAS (PL080122)** (Kareem Kassel, applicant; Kassel Corporation, property owner) located at 1125 East Apache Boulevard, in the CSS, Commercial Shopping and Services District for:

ZUP08064 Use permit to allow a hookah lounge/tobacco retailer.
(Use permit was approved by the Hearing Officer at the May 6, 2008 HO hearing.)

Shawn Daffara gave an overview of this case and stated that no further public input has been received since the staff report was issued. Plans were submitted to Building Safety for plan review on February 27, 2009. Since that time the applicant has been going thru the inspection/approval process. They have been making progress over the past 6 months. The property has 4 corrections to be made; at this time, Mr. Daffara stated that 2 of those corrections remain outstanding.

Ms. Lorange stated that as of February 8, 2010 there were 4 outstanding code violations. Plans were resubmitted on March 30, 2010 and final review is scheduled to be complete on April 7, 2010.

Jeff Tamulevich, Code Compliance Administrator, gave an overview of this case noting that Condition of Approval No. 4 had never been complied with. City staff held an administrative hearing on February 5, 2010 to work with the business owner and/or their representatives to resolve this issue, and at that time they were given 30 days to bring the property into compliance. To date the building plans remain unapproved, and the business owner is in violation.

Ms. Kassel spoke of her efforts to bring the property into compliance.

Mr. Williams noted that improvements/progress had been made. He asked Ms. Kassel if 14 days was long enough to complete the necessary improvements and bring the property into compliance. She responded that 30 days would be appreciated.

DECISION:

Mr. Williams continued revocation proceedings for the use permit for PL080122/ZUP08064 for 30 days. This case will be reheard at the May 19, 2010 Hearing Officer hearing.

The next Hearing Officer public hearing will be held on **Tuesday, April 20, 2010.**

There being no further business the public hearing adjourned at 3:12 PM.

Nick Graves, staff planner, gave an overview of this request, and stated that no additional public input or information had been received since the staff report had been issued. Staff has suggested to the applicant that he apply for a use permit standard that would allow a 8 foot setback that staff would recommend approval. Staff has recommended denial of this variance request.

Mr. Marshall Lewis stated that the back yard is only about 625 s.f. and while he appreciates the recommendation to extend that patio area and that this variance request would affect his home in a positive environmental manner by reducing his cooling costs.

Mr. Williams questioned the design of the structure; Mr. Lewis responded that the design consisted of 4 x 4 vertical support posts and 2 x 8 joists. Mr. Lewis noted, in response to a question from Mr. Williams that his neighbors to the west were in support of this request.

Mr. Williams explained to the applicant that variances were granted when properties contained a unique feature that required the use of a variance to accommodate an applicant's request. He noted that he was trying to understand what was unique about this property that constituted a hardship to the applicant if the variance was not granted.

Mr. Lewis stated that there were approximately 134 homes in his neighborhood and he would venture a guess that about 75% of them had patio covers.

Mr. Williams noted that variances are pretty narrow as a tool to allow encroachments into setbacks. The dimensions of this patio cover looks like it is 11 feet deep – it would have to be 6 x 6 to comply with the 20% use permit standard rule.

Staff planner, Shawn Daffara, responded to a question from Mr. Lewis that the setback is measured to the support post but that the roof can overhang that post.

DECISION:

Mr. Williams stated that he would approve this request modified as follows to allow a nine (9) feet six (6) inches encroachment:

VAR08007 Variance to reduce the rear yard setback from ten (10) feet to three (3) five (5) feet (patio cover).
MODIFIED BY HEARING OFFICER

Mr. Williams approved PL080107/VAR08007 subject to the following conditions:

1. Obtain all necessary clearances from the Building Safety Department.
2. The patio cover shall match the main residence in color, design and materials.

-
7. Hold a public hearing for a request by **MEMO'S CAFE (PL080109)** (Ramez Rabata/Memos Café LLC, applicant; Red Mountain Retail Group, property owner) located at 1845 East Broadway Road, Suite 9 in the CSS, Commercial Shopping & Services District for:

ZUP08045 Use permit to allow a Hookah Lounge/ Tobacco Retailer.

Mr. Toni Rabata was present to represent this case.

Alan Como, staff planner, gave an overview of this request, and stated that no additional public input or information had been received since the staff report had been issued. He noted that staff had concern that no outdoor smoking be allowed as the entrance to other suites was nearby the outdoor entrance to this business.

Mr. Williams asked what where the hours of operation; Mr. Rabata responded that the hours of operation would be from 10 AM to 2 AM.

Ms. Anna Lauri, of the Red Mountain Retail Group, noted that the advertised suite did not appear to be correct, that the correct suite is Suite No. 8. Mr. Williams asked Mr. Abrahamson if there was an advertising issue; Mr. Abrahamson responded that he did not feel there was a problem as the address was correct even if the suite number has changed.

Mr. Abrahamson noted that the staff report indicated, based on the information submitted by the applicant, that the hours of operation were to be 5 PM to 2 AM not 10 AM to 2 AM. Mr. Abrahamson noted that a condition of approval did not need to be added, however documentation needed to indicate the correct hours of operation.

DECISION:

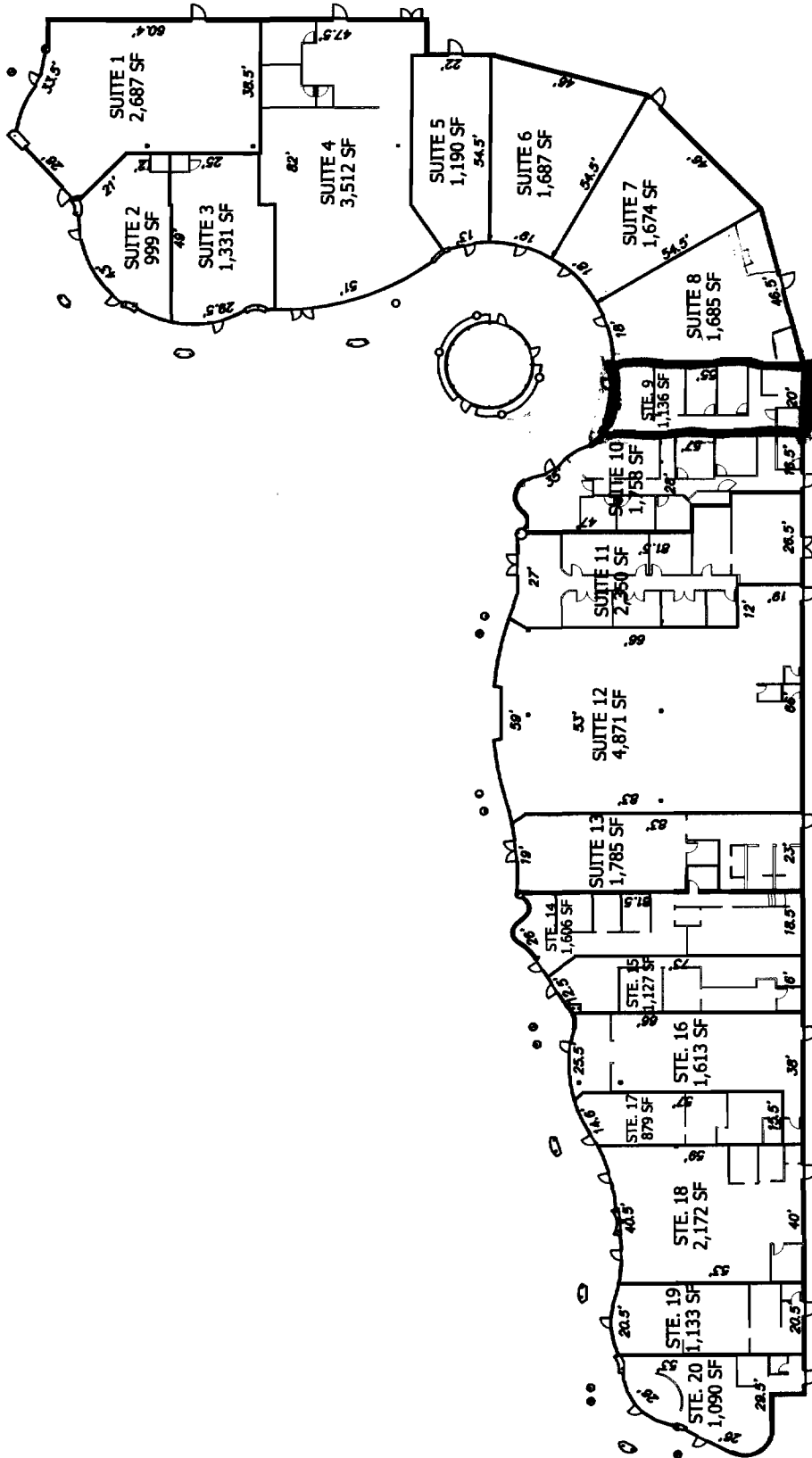
Mr. Williams approved PL080109/ZUP08045 subject to the following conditions:

1. The use permit is valid for Memos Cafe and may be transferrable with approval from the Hearing Officer staff. Should the business be sold, the new owners must contact the Hearing Officer staff for review of the business operation.
2. This use shall not violate the City of Tempe Smoking Ordinance or Smoke Free Arizona Act A.R.S. §36-601.01.
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 the use shall require the applicant to return to the Hearing Officer for further review.
6. The gross sale of beverages and snack items may not exceed that of tobacco and hookah products.
7. The tables outside of the cafe may not be used to set up hookah smoking stations. All hookah smoking must be done indoors.
8. All rear 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 planning staff at (480) 350-8331.

-
8. Hold a public hearing for a request by **THREE ROOTS COFFEE HOUSE (PL080106)** (Robin Bundy & Albert Quhuis/The Mat Corner Inc., applicant/property owner) located at 1020 South Mill Avenue in the CC, City Center District for:

ZUP08046 Use permit to allow live entertainment (poetry, live acoustic and amplified music).

Mr. Yuri Bundy was present to represent this case.



Date: 11-12-2007
By: PERCY CHENG
Scale: 1"=30'-0"

LEASE PLAN - A
D0760LP07-1112



BROADWAY ROAD & MCCLINTOCK DRIVE
TEMPE, ARIZONA

LEASE PLAN



MEMO'S CAFE

1845 E BROADWAY RD, SUITE NO. 9

PL080109

FRONT OF BUSINESS





MEMO'S CAFE

1845 E BROADWAY RD, SUITE NO. 9

PL080109

OUTER COURTYARD OF BUSINESS

