

Minutes
HEARING OFFICER
NOVEMBER 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
Sherri Lesser, Senior Planner
Shawn Daffara, Planner II
Nick Graves, Planning Intern

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 November 18, 2008 at 3:00 PM to the Development Services Department.

1. Mr. Williams approved the Hearing Officer Minutes for October 21, 2008.

2. Mr. Williams noted that the following case(s) had been withdrawn:

Request by the City of Tempe – Neighborhood Enhancement Department to abate public nuisance items in violation of the Tempe City Code for the **TILLEY RESIDENCE (PL080358/ABT08030)** (Felix Tilley, Jr., property owner) Complaint CE086028 located at 23 West Fairmont Drive in the R1-6, Single Family Residential District.
WITHDRAWN BY NEIGHBORHOOD ENHANCEMENT DEPARTMENT

3. Request by **TEMPE MARKETPLACE – JON RIC INTERNATIONAL SALON AND DAY SPA (PL080381)** (Jennifer Wells, applicant; Vestar, property owner) located at 2040 East Rio Salado Parkway, Suite No. 105 in the RCC, Regional Commercial Center District for:

ZUP08160 Use permit to allow a massage therapist as part of a spa.

Ms. Jennifer Wells was present to represent this case.

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

DECISION:

Mr. Williams approved PL080381/ZUP08160 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. 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 Plan Review approved and permits obtained.

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4. Request by **TEMPE TOWNE PLAZA – BROKEN INDUSTRIES LLC d.b.a. ITS ALL GOODZ (PL080382)** (Michael Moore, Esquire, applicant; Tempe Towne Associates, property owner) located at 933 East University Drive in the CSS, Commercial Shopping and Services District for:

ZUP08161 Use permit to allow a tobacco retailer.

Mr. Juan Sayegh was present to represent this case.

Shawn Daffara, staff planner, gave an overview of this case, and stated that no additional public input or information had been received since the staff report had been issued. This applicant meets separation requirements as determined by the Zoning and Development Code. It was confirmed by Mr. Abrahamson that the applicant was aware that no smoking was allowed on the premises.

DECISION:

Mr. Williams approved PL080382/ZUP08161 subject to the following conditions:

1. The use permit is valid for Its All Goodz and may be transferable 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. Should smoking be permitted on the premises, the owner/management is responsible to adhere to the 2003 International Mechanical Code.
5. Any intensification or expansion of the use shall require the applicant to return to the Hearing Officer for further review.
6. All rear exit doors require a lexan vision panel or a 180 degree rotatable viewer.. Details to be approved through Building Safety Plan Review prior to issuance of building permit.
7. 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.
8. All business signs shall receive a Sign Permit. Please contact Planning staff at (480) 350-8331.
9. The applicant shall contact City of Tempe Crime Prevention Unit for a Security Plan within 30 days of this approval. Contact Crime Prevention at (480) 858-6330 before December 4, 2008.

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5. Request by the City of Tempe – Neighborhood Enhancement Department to abate public nuisance items in violation of the Tempe City Code for the **BREWER RESIDENCE (PL080357/ABT08031)** (Brad Brewer, property owner) Complaint CE084219 located at 4027 South Hazelton Lane in the R1-6, Single Family Residential District.

No one was present to represent the property owner.

Mr. Brett Barnes, City of Tempe – Neighborhood Enhancement Inspector, stated that a unregistered, inoperable vehicle (Cadillac) remains in the driveway. The Department has been working with this property owner for the past three (3) months to resolve abatement issues.

DECISION:

Mr. Williams authorized abatement proceedings for PL080357/ABT08031.

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6. Request by the City of Tempe – Neighborhood Enhancement Department to abate public nuisance items in violation of the Tempe City Code for the **CRUZ-CASAS RESIDENCE (PL080377/ABT08032)** (Pedro Crus-Casas, property owner) Complaint CE086368 located at 3520 South Shafer Drive in the R1-6, Single Family Residential District.

No one was present to represent the property owner.

Mr. Jody Benson, City of Tempe – Neighborhood Enhancement Inspector, stated that the notices sent to the property were returned as undeliverable. This house has been vacant for several months. Mr. Benson requested that this abatement be approved for an open period of six (6) months (180 days).

DECISION:

Mr. Williams approved abatement proceedings for PL080377/ABT08032 for an open period of 180 days.

7. Request by the City of Tempe – Neighborhood Enhancement Department to abate public nuisance items in violation of the Tempe City Code for the **MOORE PROPERTY (PL080378/ABT08033)** (Marilyn Moore, property owner) Complaint CE086797 located at 438 West Hermosa Drive in the R1-6, Single Family Residential District.

No one was present to represent the property owner.

Mr. Jody Benson, City of Tempe – Neighborhood Enhancement Inspector, stated that this property appears to have been vacant since late 2004/early 2005 and has been abated twice previously. Attempts to reach the owner have failed – phone calls were unreturned; mail notices were returned as undeliverable. Mr. Benson request that this abatement be approved for an open period of six (6) months (180 days).

DECISION:

Mr. Williams approved abatement proceedings for PL080378/ABT08033 for an open period of 180 days.

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

There being no further business the public hearing adjourned at 1:54 PM.

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



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

SA:dm