

**Minutes
HEARING OFFICER
NOVEMBER 18, 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 December 2, 2008 at 3:00 PM to the Development Services Department.

1. Mr. Williams approved the Hearing Officer Minutes for November 4, 2008.

2. Mr. Williams noted that the following case(s) had been removed from today's agenda:

Request by the **GOODWILL RETAIL STORE (PL080379)** (Benjamin Barbes/Barbes-Bidanjiri & Associates, applicant; Cornerstone Center 99 LLC, property owner) located at 705 South Rural Road in the PCC-1, Planned Commercial Center Neighborhood District for:

ZUP08159 Use permit to allow a resale retailer.
WITHDRAWN BY APPLICANT

Request by **ARIZONA MILLS (PL080395)** (Todd Olson, applicant; Simon Property Group Inc., property owner) located at 5000 Arizona Mills Circle in the RCC, Regional Commercial Center District for:

ZUP08166 Use permit to allow outdoor retailing (periodic auto sales) events.
CONTINUED TO DECEMBER 2, 2008 HEARING OFFICER

3. Request by the **CORNEJO RESIDENCE (PL080401)** (Cesar Cornejo, applicant/property owner) located at 2004 East La Vieve Lane in the AG, Agricultural District for:

ZUP08167 Use permit to allow an accessory building (fireplace ramada).

ZUP08168 Use permit to allow an accessory building (spa ramada).

VAR08022 Variance to reduce the west side yard setback from twenty (20) feet to six (6) feet.

Mr. Duncan Marriott (contractor) was present to represent this case.

Shawn Daffara, staff planner, gave an overview of this case. He noted that Mr. Cornjeo had purchased the property approximately one year ago and found afterwards that there had been no building permit activity on the existing ramada(s). Four (4) letters of support had been received for this request; this afternoon one (1) letter of concern had been received regarding the west perimeter wall and related screening from the neighbor to the west.

Mr. Marriott stated that the west wall which was approximately 5 feet 6 inches was well built and attractive.

Mr. Williams expressed his concern over the noise factor for the neighbor to the west due to the close proximity of the structures. Mr. Marriott responded there is quite a bit of distance between the wall and the western residence.

Mr. Abrahamson explained that requiring the property owner to extend the wall over the existing height would require a building permit and could impose a hardship on the property owner as well as affecting the structural integrity of the existing wall.

DECISION:

Mr. Williams approved PL080401/ZUP08167/ZUP08168/VAR08022 subject to the following conditions:

1. The variance is valid for the plans as submitted to and approved by the Hearing Officer.
2. Obtain all necessary clearances from the Building Safety Division.

4. Request by **TOPS LIQUOR PLAZA – TASTE OF TOPS (PL080408)** (Michael Kelly/Michael Wilson Kelly Architects Ltd., applicant; Greg Eccles, property owner) located at 403 West University Drive, Suite No. 103 in the CSS, Commercial Shopping & Services District for:

ZUP08170 Use permit to allow a Series 7 wine and beer bar in conjunction with a liquor store.

Mr. Gary Untermeyer was present to represent this case.

Sherri Lesser, 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. She noted that staff had reviewed the parking and that there was a shared parking analysis.

Issues regarding the awning which had deteriorated and needed repair, existing graffiti that needs to be removed and dead and missing landscape were discussed.

DECISION:

Mr. Williams approved PL080408/ZUP08170 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 and Municipal liquor license 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.
9. **East and north elevation awnings shall be repaired or replaced by February 18, 2009. ADDED BY HEARING OFFICER**
10. **Replace all dead/missing landscaping by February 18, 2009. ADDED BY HEARING OFFICER**
11. **Remove graffiti from rear of the building by February 18, 2009. ADDED BY HEARING OFFICER**

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5. Request by **SOL DIABLO PIZZARIA (PL080411)** (Richard Khoshaba, applicant; NG 904 LLC, property owner) located at 904 North Scottsdale Road, Suite No. 106, in the GID, General Industrial District for:

ZUP08171 Use permit to allow a take out pizza restaurant in the GID, General Industrial District.

Mr. Richard Khoshaba 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. Only take-out and delivery is allowed due to the limited parking on-site.

DECISION:

Mr. Williams approved PL080411/ZUP08171 subject to the following conditions:

1. Obtain all necessary clearances from the Building Safety Division.
 2. All new signs to receive separate approval and permits, contact Planning Staff at (480) 350-8331.
 3. Use permit valid per submitted plans reviewed and approved by the Hearing Officer.
 4. Use permit is for take out/delivery only, no dining is allowed for this business.
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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 **TORRES RESIDENCE (PL080404/ABT08034)** (Donna Torres, property owner) Complaint CE076609 located at 2105 East Howe Avenue in the R1-6, Single Family Residential District.

No one was present to represent the property owner.

William Chesterfield, City of Tempe – Neighborhood Enhancement Inspector, stated that one (1) vehicle, a Dodge Caravan, remains in the driveway and needs to be removed.

DECISION:

Mr. Williams approved abatement proceedings for PL080404/ABT08034.

The next Hearing Officer public hearing will be held on **Tuesday, December 2, 2008.**

There being no further business the public hearing adjourned at 1:59 PM.

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



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

SA:dm