

Minutes
HEARING OFFICER
SEPTEMBER 15, 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
Sherri Lesser, Senior Planner
Shawn Daffara, Planner II
Steve Abrahamson, Planning & Zoning Coordinator

Number of Interested Citizens Present: 42

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 29, 2009 at 3:00 PM to the Development Services Department.

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

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

Request by the **PIRAINO RESIDENCE (PL090281)** (Robert Klob/Robert Klob Designs Inc., applicant; Chris Piraino, property owner) located at 7736 South Willow Drive in the R1-10, Single Family Residential District for:

ZUP09114 Use permit to allow an accessory building (RV garage).

ZUP09121 Use permit standard to reduce the south street side setback by twenty percent (20%) from fifteen (15) feet to twelve (12) feet.

VAR09010 Variance to reduce the west rear yard setback from twenty-five (25) feet to twelve (12) feet.

VAR09011 Variance to reduce the on-site driveway length from twenty (20) feet to twelve (12) feet.

CONTINUED TO OCTOBER 6, 2009 HEARING OFFICER

3. Request by **RIAZZI'S ITALIAN GARDEN – A. T. AND T. MOBILITY (PL090277)** (Timothy Burmer/FM Group Inc., applicant; Riazzi Olive Lucille Trust, property owner) located at 2700 South Mill Avenue in the CSS, Commercial Shopping and Services District for:

ZUP09113 Use permit to allow a sixty-five (65) foot high monopalm.

Mr. Michael Friese (architect) was present to represent this case.

Shawn Daffara, 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. A neighborhood meeting had been held by the applicant and one homeowner had attended.

Mr. Williams questioned the stability of the monopole and asked about footings. Mr. Daffara responded that the poles are erected in accordance with Building Safety Standards (including footings) and there had never been a problem with a pole not staying erect. Building Permits are required.

Mr. Williams noted that this monopalm appears to be approximately ninety (90) feet from the nearest structure and asked if it was co-locatable. Mr. Daffara explained that monopalm are typically one user adaptability and do not usually have co-locatable capabilities.

DECISION:

Mr. Williams approved PL090277/ZUP09113 subject to the following conditions of approval:

1. Obtain all necessary clearances from the Building Safety Division.
2. Landscape planters to be installed on the north and south of enclosure, to enhance landscape around the perimeter of the enclosure. Details to be reviewed and approved during building safety plan review.
3. The new lights fixtures for the access gates shall be full cut off, dark sky compliant. Light fixture cut sheets shall be reviewed and approved during building safety plan review.
4. The monopalm shall be no greater than 60'-0" in height (to the top of the monopalm fronds) Antenna Rad Center at 53'-0".
5. The monopalm shall be designed to look like a Mexican fan palm (not Date Palm tree). Fronds and pole to be designed to match the existing Mexican Fan Palms on site.
6. Any intensification or expansion of use, including co-location of additional antennas, will require a new use permit.
7. The wireless device shall be removed within 30 days of discontinuance of use.

4. Request by the **DANELLE PLAZA - 23 WEST (PL090295)** (Rodney Hu/Huniversity Properties, applicant/property owner) located at 23 West Southern Avenue in the CSS, Commercial Shopping and Services District for:

ZUP09117 Use permit to allow live entertainment.

Mr. Rodney Hu was present to represent this case.

Sherri Lesser, staff planner, gave an overview of this case and stated that several citizens were present to speak regarding this case. She noted that the use permit request by this applicant for the Yucca Tap Room at 29 West Southern Avenue had been approved by the Hearing Officer on September 1st.

Mr. Williams noted that he had received several e-mails regarding this case, generally in support of this request. He questioned whether Mr. Hu had any particular plan for security measures in the parking lot area. Mr. Hu responded that he had been working with staff and the plan was to have a golf cart with a couple of security officers patrolling the parking lot area throughout the shows and no loitering would be allowed. Shows would typically end early around 11 PM, Mr. Hu explained.

Mr. Williams asked what the hours of operation would be; Mr. Hu responded that they would be approximately 6 PM to 12 Midnight. Mr. Williams asked the applicant to cap a specific time for closing. Mr. Hu said 11 PM would be typical. Discussion with staff planner, Sherri Lesser, suggested that 11:30 PM be the specific time.

Mr. Williams noted that the expected occupancy as presented by Mr. Hu was approximately 200; Mr. Hu stated that the area was about 3400 s.f. and was adequate to support this attendance.

Mr. Hu acknowledged that Danielle Plaza had had many problems in the past, however this venue would be a different type of business that would not escalate any problems. He stated that if the numbers of calls for police service were compared to the overall percentage that those pertaining to the Yucca Tap Room were only a very small percentage. Mr. Hu stated that his research indicated that over the last four (4) years, the total number of calls for police service only amounted to 79 calls, while a bar located nearby on Mill Avenue had a total of 466 calls. There will be no alcohol will be used in this venue for 23 West so underage drinking would not be an issue.

Mr. Williams asked if there would be any connection between 23 West and the Yucca Tap Room. Mr. Hu stated that they would be separated by two (2) fire walls.

Ms. Marcie Lee, Tempe resident, spoke in opposition. She stated that one of the things that makes Danielle Plaza unique is that it is not visible from the street, however if anyone was in trouble there was no way they could access the street for help or escape if there is a problem. This Plaza is not a safe place and is not a place for children. She feels that this is an extremely bad, dangerous place.

Mr. David Goodwin, Tempe resident and owner of College Times, spoke in support stating that he feels that this could be a positive venue for the area. He noted that once security is available for the parking area it will minimize the likelihood of problems. He also noted that this request/case was for 23 West and not the Yucca Tap Room and should be considered as such. He related a story where one of his employees was carded at the Yucca Tap Room who retained their ID's as it appeared they were underage. The employees had to contact the police in order to get their ID's back. . . even though they were of appropriate age, this instance indicates that the Yucca Tap Room does have stringent requirements to avoid underage drinkers. Having a place that is separate for young people to go to listen to music is a positive thing, as there are very few places available to underage people within the area, Mr. Goodwin stated, unless it is concert related. This would provide a controlled environment for the underage generation in the community.

Mr. Paul Cardone spoke in support, stating that he was a performer and that this venue would allow the underage generation an option to going out in the desert and getting into trouble. Since it is under scrutiny, it will be successful.

Ms. Garnet Lashley, spoke in support, stating that she had been a Tempe resident for twelve (12) years and that all age venues in the central Phoenix area are located in worse areas than Southern and Mill Avenues. This venue's location offers great parking and having a security force there will help to clean up the area. This will be the first time that the community will offer performers a play to place where they live.

Mr. Nicolas Kizer, Phoenix resident, spoke in support, stating that Mr. Hu runs a well regimented business and that this area would be a great area for musicians and artists to get together. The business is well run with great security.

Mr. Mathew Reveles, spoke in support, stating that this would be a great opportunity for underage kids to get together. He understands that concerns with the bar, Yucca Tap Room, being in close proximity but feels confident that the staff would be diligent in avoiding any possible problems or issues that arise with underage attendance.

Ms. Stephanie Rusnick, spoke in support, stating that she is a bartender for the Yucca Tap Room. She noted that this is a well monitored area and there is always a police presence keeping an eye on it. She feels that this is a great location for a community location exercise.

Mr. Chris Cervantes, spoke of his concern of his sixteen (16) year old daughter being exposed to second hand smoke generated by the Yucca Tap Room clientele who smoke outside, as well as exposure to the older clientele who patronize the Yucca Tap Room. He feels that the parking is limited and that this location is not a good one for this type of venue.

Ms. Michelle Donovan, a Tempe resident, spoke in support, stating that parking would be more than adequate as there is an additional parking area on the other side of the building. She noted that at the present time Tempe residents have to travel to Phoenix for this type of activity, and that this venue would be beneficial to the community. This will not just be a music venue but additional activities, such as learning to play the guitar, will be offered. She stated that 23 West will be much safer than other music venues where alcohol is passed over the line that divides those over 21 and younger because 12 West simply will not serve alcohol.

Ms. Erin Peters, stated that she was in agreement with Michelle that this would be like a community center. Regarding the concern(s) of close proximity to alcohol, because the participants of 23 West activities will be underage, they will be locked inside the venue and will not be allowed to leave and go outside and be near the bar area. This is a place, she explained, that once they are inside, they stay inside, and do not leave and come back in – this is another way of controlling the kids from being near the alcohol.

Mr. Joseph Prutaudi, spoke in support stating that this venue will improve the quality of life for residents.

Ms. Kelly Wilson, spoke in support, noting that for the past eight (8) years she has been working as a nightlife writer for the East Valley Tribune and Get Out Magazine and she has been to more bars than anyone else in the room. She has seen a lot of shady stuff but not at the Yucca Tap Room. She feels that this venue is a safe place, and that no one needs to worry about the children.

Mr. Samira Myra spoke in opposition. He stated that the idea is great but that this location is wrong. There is not enough parking and there is too much traffic. Two (2) people have been killed and there are too many homeless in the area. This is a bad place for this venue.

Ms. Ami Johnson, spoke stating that she lives around the corner. She is the former manager of Modified Arts in Phoenix and feels that this venue could be a good thing.

Mr. Shane Matsumoto, stated that he has been a Tempe resident for the past few years. He feels that the concerns that this is a bad area will be alleviated by the increased security relative to this venue. There is a definite separation between this venue and the bar and, as the father of two (2) daughters, he supports this

request. He noted the Mr. Hu has made many contributions to the community and that he is a reputable individual and business owner.

Mr. Mike Jigs, stated that he has been a Tempe resident since 1996. He feels that Mr. Hu has gone above and beyond in giving the community kids under age 21 a place to play even though it may not be a money making venture.

Ms. Cyndi Calender, of the Tempe Police Department, Mr. Williams noted that he had received a ten (10) page report of police calls. Not just Yucca Tap Room calls but all business – problem is with the location – have addressed with Mr. Hu and his proposed security team. Safety is the concern, not the cultural benefit or who is going to make money, that is why Tempe Police Department is asking that this request be denied at this location. This request is located right next to a bar that just received an extension to expand their bar. The kids are going to have to walk by the Yucca Tap Room to reach 23 West. There is also a Circle K nearby that has the third highest beer run rate for the City of Tempe. Transit problems and a smoke shop nearby, along with cars, coupled with kids it is an unsafe place for this venue even if alcohol is not served there. Also certain types of music draw very violent crowds and there are statistics to back that up. Mr. Hu had previously stated at this hearing that they had only had 79 calls for service, Ms. Calender stated that this is incorrect – that in the past four (4) years they have had 158 calls for service (which included calls for disturbances and assault calls).

Mr. Williams questioned Ms. Calender as to how the number of these service calls compare to bars of similar square footage within the City. Ms. Calender responded that the report submitted by Tempe Police Department was not based on square footage but on similar types of bars. Mr. Williams asked if Ms. Calender felt that anything specific in particular was unacceptable about this site for this venue. An site aerial was reviewed and the location of the Circle K and related businesses pointed out by Ms. Calender. Mr. Williams stated that rather than adjacent businesses, was there something specific on this particular piece of property that Ms. Calender was concerned about. She responded that it was the proximity to the Yucca Tap Room. Ms. Lesser responded to a question from Mr. Williams that the recent allowed expansion of the Yucca Tap Room was to the west of its present location. Ms. Calender stated that it had been explained during a site visit to the Yucca Tap Room that they intended to have a garage door that would open to the outside during business hours.

Ms. Ellen Riseland, stated that although she is a resident of Phoenix she manages the Art of Tempe Gift Shop which is located within Danielle Plaza. She related that on Saturday night she was closing her store along with her teenage staff member. After closing and shutting off the lights, when she exited she observed four (4) young men waiting outside which frightened her. It was a scary moment and she feels that this typifies the current unsafe situation at Danielle Plaza.

Ms. Pamela Adams, stated that she owns the preschool, Kids are Special, on the west end of Danielle Plaza. She wanted to state her opposition to this request as it would increase traffic in an area which would intensify the existing problems within the area as stated in earlier concerns at this hearing.

Ms Darlene Justus, long time Tempe resident, spoke in opposition to this request. She noted that this Plaza is notorious for its problems and secluded location due to the way the buildings are situated. While she applauds the musicians and the owner for wanting to have a safe place for kids of this nature, this is not the place. One of the most notorious places in Tempe is not the place to have a gathering of teenagers and underage people.

Mr. Stephen Chilton, stated that he has been doing events for the last ten (10) years in the Tempe area. These changes proposed by Mr. Hu are part of changing the neighborhood into the vibrant safe area it is becoming. He expressed his opinion that this all ages venue can be a big component in turning around this neighborhood in a positive manner. The security issues addressed by earlier speakers are due to the fact that it is a somewhat

abandoned plaza and this new venue will help to accomplish a better security in the area and adding more businesses. Most of the security concerns addressed earlier had nothing to do with Yucca Tap Room, and the murders that occurred in that area were not related to Yucca Tap Room, he stated.

Mr. Hu spoke again, thanking those speakers in support of his request and the acknowledgements of his charity efforts in the community. He referred to the calls for service to the Yucca Tap Room and that based on the information he received from the Tempe Police Department it was not 158 calls but only 79 calls as he stated earlier and that this is much lower than business of similar type. He reiterated that this request is part of his efforts to do something positive for the community in general.

Mr. Williams stated that he is not too concerned over calls such as false 911 calls, or ordinary calls for service that any business would get, as those are not critical.

Mr. Hu asked the community's support to let him try this venue, if it doesn't work the permit can be pulled at any time.

Mr. Williams asked Mr. Hu how often shows would be produced. Mr. Hu responded that since this business is not motivated by the sale of alcohol, since only soft drinks will be served, although he would like to have it open seven (7) days a week, it will only be open when shows can be scheduled.

Mr. Williams noted that the question of smoking had been addressed and that patrons of the Yucca Tap Room smoked outside. Mr. Hu confirmed that this was the case and that although the original idea was to have an outdoor patio this had been eliminated as too difficult and expensive. Mr. Williams asked if Mr. Hu would be willing to have a designated smoking area outside. Mr. Hu stated absolutely if that is what was required. Mr. Williams stated that his preference would be that this issue be worked out with Tempe Police Department.

Mr. Williams thanked the community for their participation in today's hearing. He noted that having a sixteen (16) year old son himself, he could relate to their concerns for safety and the issues that were addressed. The activity and character of this neighborhood was not taken lightly which has a history that is not very positive for placing a kid venue in that area. Mr. Williams does feel that this venue would be in a location that would be controllable. He does have concern that other businesses in the shopping center be allowed to function normally, and not be interfered with as to parking, etc. and asked for Mr. Hu's cooperation on those issues. Mr. Williams stated that he is in support of this request at this time based on the Conditions of Approval with added conditions to address the concerns for public safety and potential problems. Ms. Lesser offered her input on the wording for three (3) additional conditions. It was agreed that a six (6) month review of this use permit would be held and that the hearing and notification given so the public could attend and address any issues they felt were warranted.

DECISION:

Mr. Williams approved PL090295/ZUP09117 subject to the following conditions of approval:

1. No noise shall emanate beyond the walls of the building. The door leading to the rear of the suite of Danielle Plaza shall be monitored at all times for security purposes.
2. The use permit is valid for 23 West and may be transferable to successors in interest through an administrative review with the Development Services Manager, or designee.
3. All permits and clearances required by the Building Safety Division shall be obtained prior to the use permit becoming effective.
4. Any intensification or expansion of the use shall require a new use permit to be approved.
5. The use permit is valid for the plans and business operation as submitted to and approved by the Hearing Officer/Board of Adjustment.

6. Submit a security plan with the City of Tempe Police Department within 30 calendar days (October 15, 2009). Contact the Tempe Police Crime Prevention Unit (480-858-6027).
7. Applicant shall provide adequate lighting as required per standards (Chapter 8, Section 4-803) to the existing suite.
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 set to re-evaluate the appropriateness of the use permit.
9. Any new business signs are to have Development Plan Review approval, and permits are to be obtained prior to the installation of signs.
10. This use shall not violate the State Smoking Ordinance www.smokefreearizona.com.
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. **All events shall end at midnight. ADDED BY STAFF**
13. **Designated smoking areas shall be created outside the business of both Yucca Tap Room and 23 West. ADDED BY STAFF**
14. **This use permit will be reviewed in six (6) months from opening by the Hearing Officer in a public hearing process with applicable notices. ADDED BY STAFF**

5. Request by the **LIND RESIDENCE (PL090302)** (Kevin Lind, applicant/property owner) located at 626 East Taylor Street in the R1-6, Single Family Residential District for:

ZUP09122 Use permit to allow an accessory building (studio/workshop).

VAR09012 Variance to reduce the north rear yard setback from fifteen (15) feet to ~~zero (0)~~ **twelve (12) feet. MODIFIED BY HEARING OFFICER**

Mr. Kevin Lind was present to represent this case.

Sherri Lesser, 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.

Ms. Darlene Justus, Tempe resident, spoke in support of this request.

Mr. Lind stated that he was ok with the modification of the variance as the project had been redesigned to meet the assigned setbacks.

Mr. Williams noted that during his site review of this property he had noticed that there are two or three tents and questioned whether these would be removed by the applicant once the accessory building was completed. Mr. Lind confirmed that they would be.

DECISION:

Mr. Williams approved PL090302/VAR09012 as modified to read:

VAR09012 Variance to reduce the north rear yard setback from fifteen (15) feet to ~~zero (0)~~ **twelve (12) feet. MODIFIED BY HEARING OFFICER**

Mr. Williams approved PL090302/ZUP09122 subject to the following conditions of approval:

1. Obtain all necessary clearances and permits from the Building Safety Division.

2. Accessory building to complement the main residence in color, form and material.
3. Accessory building not to be used for sleeping or living purposes and shall have no cooking facilities'.
4. The accessory building not to be rented separately from the main residence as an office or accessory unit.
5. Provide a set of plans for the file with site data listing the height of existing dwelling and the proposed accessory building. The height of accessory building not to exceed the height of existing residence.
6. The rear yard setback approved for a reduction to twelve (12) feet as measured from midpoint of the alley or two (2) feet from the north property line.

6. Request by the **BOULDERS ON BROADWAY (PL090305)** (Erick Geryol/Rock Junction Inc., applicant/property owner) located at 530 West Broadway Road in the CSS, Commercial Shopping and Services District for:

ZUP09123 Use permit to allow live entertainment (live bands and small acoustical ensembles).

Mr. Erick Geryol 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 asked if nearby neighborhoods had been notified of this request. Mr. Partridge confirmed that everyone located within 300 ft of this business had received a notification. He also noted that this business was currently in operation.

DECISION:

Mr. Williams approved PL090305/ZUP09123 subject to the following conditions of approval:

1. The use permit is valid for Boulders on Broadway and may be transferable to successors in interest through an administrative review with the Development Services Manager, or designee.
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. 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. No outdoor speakers associated with the live entertainment use will be allowed.
5. Live entertainment is approved during regular business hours.
6. The applicant or business owner shall contact the City of Tempe Police Department, Crime Prevention Unit, to implement/update a Security Plan for the business. Please contact the Crime Prevention Department at 480-858-6027.

7. Request by the **GOODWILL DONATION EXPRESS CENTER (PL090307)** (Jason Morris/Withey Morris PLC, applicant; Weingarten Nostat Inc., property owner) located at 937 East Broadway Road, Suite No. 1, in the PCC-1, Planned Commercial Center Neighborhood District for:

ZUP09124 Use permit to allow a donation center.

Mr. Jason Morris 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.

Mr. Williams questioned whether this business included an on-site donation drop-off box. Mr. Abrahamson responded that it did not, that in fact the applicant had indicated that there is an outdoor camera monitoring system that is activate if someone steps into the area. It also issues a tape recorded message stating that items are not to be dropped off during non-business hours.

Mr. Morris explained the operation and particulars of this business, as well as the camera operation and security measures.

Ms. Deborah Brennand of Weingarten Realty stated that the property manager is in support of this request.

DECISION:

Mr. Williams approved PL090307/ZUP09124 subject to the following conditions of approval:

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 valid for Goodwill Industries of Central Arizona 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.
3. No outdoor storage of inventory or donations will be allowed.
4. All business signs shall receive a Sign Permit. Please contact Planning staff at (480) 350-8331.
5. Any intensification or expansion of the use, including the modification to a resale retail 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 180 degree rotatable viewer. Details to be approved through Building Safety Plan Review prior to issuance of building permit.
7. 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.

8. Request by the **SHIEVITZ RESIDENCE (PL090310)** (Jerry Tedrow/J.Tedrow Construction, applicant; Mark Shievitz, property owner) located at 1308 West 14th Street in the R1-6, Single Family Residential District for:

ZUP09125 Use permit to allow an accessory building (workshop/garage).

Mr. Jerry Tedrow was present to represent this case.

Sherri Lesser, 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.

DECISION:

Mr. Williams approved PL090310/ZUP09125 subject to the following conditions of approval:

1. Obtain all necessary clearances and permits from the Building Safety Division.
2. Structure to match dwelling in color, form and material.
3. Bring property into compliance with TCC Chapter 21 Nuisance and Enhancement; regarding appearance of property, parking on property, storage of materials and inoperable vehicles/motorcycles.

4. Auto/motorcycle restoration limited to personal vehicles; auto/motorcycle restoration or repair is not allowed as a home occupation.
5. **Structure shall not be used as a second living unit. ADDED BY STAFF**

9. Request by **TEMPE CITY CENTER – SOUTHWEST INSTITUTE OF HEALING ARTS (PL090312)** (K C Miller/SW Institute of Healing Arts, applicant; Judy Roberts/Tempe City Center LLC, property owner) located at 1460 East Southern Avenue in the PCC-2, Planned Commercial Center General District for:

ZUP09126 Use permit to allow an instructional school (college) in the PCC-2, Planned Commercial Center General District.

Mr. John Paskitti was present to represent this case.

Sherri Lesser, 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.

DECISION:

Mr. Williams approved PL090312/ZUP09126 subject to the following conditions of approval:

1. The use permit is valid for the Southwest Institute of ~~Natural Aesthetics~~ **Healing Arts** 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. **CORRECTED BY STAFF**
2. Any intensification or expansion of the use shall require the applicant to return to the Hearing Officer/Board of Adjustment for further review.
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.
4. Any new business signs are to have Development Plan Review approval, and permits are to be obtained prior to the installation of signs.

10. Request by the **MAZZACAVALLO RESIDENCE (PL090313)** (Guy Mazzacavallo, applicant/property owner) located at 8033 South Mill Avenue in the R1-10, Single Family Residential District for:

ZUP09127 Use permit to allow an accessory building (ramada).

No one was present to represent this case.

Sherri Lesser, 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.

Ms. Lesser noted that although the applicant was not present at this hearing, Nick Graves had spoken with him and he was aware of the Conditions of Approval. Staff had no objection to this case being approved without the presence of the applicant.

DECISION:

Mr. Williams approved PL090313/ZUP09127 subject to the following conditions of approval:

1. Obtain all necessary clearances and permits from the Building Safety Division.
2. Ramada to complement main residence in color, form and material.
3. Height of ramada not to exceed height of the main residence.

11. Request by **KYRENE COMMERCEPLEX - ASPIRE VOLLEYBALL CENTER (PL090317)** (Scott Lloyd/Lloyd Technologies LLC, applicant; Thom Blumer/EJM Development Company, property owner) located at 8350 South Kyrene Road, Suite No. 107, in the GID, General Industrial, HID, Heavy Industrial and the SWOD, Southwest Overlay Districts for:

ZUP09128 Use permit to allow a sports facility (volleyball courts/training center) in an Industrial Zoning District.

Mr. Carlos Flys was present to represent this case.

Sherri Lesser, 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 questioned whether staff had reviewed the parking; Ms. Lesser responded that there is ample parking to support this request.

In response to a question from Mr. Williams, Mr. Flys stated that this location would be for practice only, no tournaments would be held. Practice would be held from 5 PM to 10 PM on weekdays and also on weekends.

DECISION:

Mr. Williams approved PL090317/ZUP09128 subject to the following conditions of approval:

1. The use permit is valid for Aspire Volleyball Center and may be transferable to successors in interest through an administrative review with the Development Services Manager, or designee.
2. Obtain all necessary clearances from the Building Safety Division.
3. Any intensification or expansion of the use shall require the use permit to be reheard by the Hearing Officer.
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 set to re-evaluate the appropriateness of the use permit.
5. The use permit is valid for the plans as submitted within this application.
6. All business signs shall receive a Sign Permit. Please contact Planning staff at (480) 350-8331.

The next Hearing Officer public hearing will be held on **Tuesday, October 6, 2009**.

There being no further business the public hearing adjourned at **3:15 PM**.

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

A handwritten signature in blue ink that reads "Steve A. Abrahamson". The signature is written in a cursive style with a light blue background behind it.

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

SA:dm

APPROVED