
**MINUTES
HEARING OFFICER
DECEMBER 1, 2015**

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.

STUDY SESSION 4:30 PM

Present:

Vanessa MacDonald, Hearing Officer
Steve Abrahamson, Principal Planner
Dean Miller, Planner
Melissa Spriegel, Planning Intern
Diane McGuire, Administrative Assistant II
Julie Scofield, Code Compliance Inspector
Michael Spencer, Code Compliance Inspector
Michael Glab, Code Compliance Inspector

There were 5 interested citizens present at the study session.

- Staff and the Hearing Officer discussed overview and updates to the scheduled cases for this hearing.

REGULAR SESSION 5:00 PM

Present:

Vanessa MacDonald, Hearing Officer
Steve Abrahamson, Principal Planner
Dean Miller, Planner
Melissa Spriegel, Planning Intern
Diane McGuire, Administrative Assistant II
Julie Scofield, Code Compliance Inspector
Michael Spencer, Code Compliance Inspector
Michael Glab, Code Compliance Inspector

There were 18 interested citizens present at the regular session.

Meeting convened at 5:00 PM and was called to order by Ms. MacDonald. She noted that anyone wishing to appeal a decision made by the Hearing Officer would need to file a written appeal to that decision within fourteen (14) days, by December 15, 2015 at 3:00 PM, to the Community Development Department.

1. The following Minutes were approved:

- **October 20, 2015 Hearing Officer Minutes**

Ms. MacDonald noted that the October 20, 2015 Hearing Officer Minutes had been reviewed and were approved.

- **November 17, 2015 Hearing Officer Minutes**

Mr. Steve Abrahamson, Principal Planner, noted that the November 17, 2015 Hearing Officer Minutes had been reviewed and were approved.

2. Request approval to abate public nuisance items at the **KRAMER PROPERTY (CE155460)** located at 356 West Carmen Street. The applicant is the City of Tempe.

The property owner was not present at this hearing.

Michael Spencer, Code Inspector, gave an overview of this case. He noted that notices had been sent to the property owner for trash, grass, weeds, excessive animal waste and deteriorated landscaping. An open period of 180 days was requested for this abatement.

Ms. MacDonald noted that she had reviewed the verbal and written input from staff.

DECISION:

Ms. MacDonald approved the abatement for CE155460 for an open period of 180 days.

3. Request approval to abate public nuisance items at the **ALTER PROPERTY (CE157011)** located at 6831 South McKemy Street. The applicant is the City of Tempe.

The property owner was not present at this hearing.

Michael Spencer, Code Inspector, gave an overview of this case. He noted that notices had been sent to the property owner for a dead tree and dead palm fronds. The property is in the process of foreclosure, Mr. Spencer stated. An open period of 180 days was requested for this abatement.

Ms. MacDonald noted that she had reviewed the verbal and written input from staff.

DECISION:

Ms. MacDonald approved the abatement for CE157011 for an open period of 180 days.

4. Request approval to abate public nuisance items at the **WILCOXSON PROPERTY (CE154797)** located at 1923 East Huntington Drive. The applicant is the City of Tempe.

Michael Glab, Code Inspector, gave an overview of these cases. He noted that notices had been sent to the property owner for junk and debris. An open period of 180 days was requested for this abatement.

Ms. Judith Wilcoxson, property owner, was present at this hearing. She asked for additional time and explained her efforts to date to bring this property into compliance.

Ms. MacDonald stated that Ms. Wilcoxson was on the right track in working to resolve the compliance issues, however she was not quite there yet. Ms. MacDonald explained that even if the abatement was approved today, Ms. Wilcoxson would still have 15 more days to finish the cleanup and bring the property into compliance before the active abatement process would be instigated. Ms. MacDonald asked that Mr. Glab work with this property owner in bringing the property into compliance.

Ms. MacDonald noted that she had reviewed the verbal and written input from staff.

DECISION:

Ms. MacDonald approved the abatement for CE154797 for an open period of 180 days.

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5. Request approval to abate public nuisance items at the **JARAMILLO PROPERTY (CE157503)** located at 3309 South Newberry Road. The applicant is the City of Tempe.

The property owner was not present at this hearing.

Julie Scofield, Code Inspector, gave an overview of this case. She noted that notices had been sent to the property owner for over height grass, weeds and deteriorated landscaping. She explained that on January 20, 2015, the Hearing Officer had approved an abatement at this location for an open period of 180 days. Ms. Scofield stated that she had received the case in July and that the property continues to be in non-compliance. An open period of 180 days is being requested for this abatement.

Ms. MacDonald noted that she had reviewed the verbal and written input from staff.

DECISION:

Ms. MacDonald approved the abatement for CE157503 for an open period of 180 days.

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6. Request approval for a use permit standard to reduce the front yard setback to 32 ft. and a use permit standard to reduce the east side yard setback to 16 ft. for a home addition for the **FAUCON RESIDENCE (PL150420)** located at 1007 East Buena Vista Drive. The applicant is Mike Young/A-1 Quality Home Developers LLC.

Dean Miller, Planner, gave an overview of this case. He explained that following is being requested:

1. Use Permit Standard to reduce the front yard setback by 20% from 40 ft. to 32 ft.
2. Use Permit Standard to reduce the east side yard setback by 20% from 20 ft. to 16 ft.

Mr. Miller noted that the applicant is proposing to expand the garage area by 10 ft. in front of the house, and the garage and kitchen area by 8 ft. on the east side of the house. The proposed additions will require use permit standards to reduce the setback requirements by 20% for the front and east side yard. The driveway will remain in excess of the minimum driveway length of 20 ft. as required by the Zoning and Development Code. The resident has lived in the home for more than 3 years. Mr. Miller stated that the adjacent property owners were in support of the project, and no other public input had been received regarding this request.

Mr. Mike Young of A-1 Quality Home Developers LLC was present to represent this case. He acknowledged the staff summary report and his understanding of the assigned Conditions of Approval.

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

- There will be no significant increase in vehicular or pedestrian traffic.
- There will be no nuisance arising from the emission of odor, dust, gas, noise, vibration, smoke, heat or glare at a level exceeding that of ambient conditions.
- The proposed use will not contribute to the deterioration of the neighborhood or to the downgrading of property values.
- The proposed use is compatible with existing surrounding structures and uses.
- There will be no disruptive behavior on the premises which may create a nuisance to the surrounding area or general public.

DECISION:

Ms. MacDonald approved the two (2) use permit standards for PL150420 subject to the following conditions:

1. The Use Permit Standards are valid only after a Building Permit has been obtained and the required inspections have been completed and a Final Inspector has been passed. As part of the Building Permit process, on-site storm water retention may be required to be verified or accomplished on this site.
2. The Use Permit Standards are valid for the plans as submitted within this application. Any additions or modifications may be submitted for review during building plan check process.
3. If there are any complaints arising from the Use Permit Standards that are verified by a consensus of the complaining party and the City Attorney's office, the Use Permit Standards will be reviewed by City staff to determine the need for a public hearing to re-evaluate the appropriateness of the Use Permit Standards, which may result in the termination of the Use Permit Standards.
4. The modifications shall compliment the main structure (house) through color, design and materials.

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7. Request approval for a use permit to allow an outdoor dog walking area for an existing animal hospital for **VCA TRI-CITY ANIMAL HOSPITAL (PL150446)** located at 1845 East Broadway Road. The applicant is Douglas Heller, AIA/Mullen Heller Architecture PC.

Dean Miller, Planner, gave an overview of this case. He noted that site location is at the southeast corner of McClintock Drive and Broadway Road in the CSS, Commercial Shopping and Services District. The applicant is requesting a use permit to allow a fenced-in dog walking area for an existing animal hospital. The proposal includes wrought iron fencing and a canopy, which will be reviewed through a Development Plan Review application. The fenced-in area will be located along the east property line adjacent to the perimeter wall, behind the animal hospital. The area is adjacent to an apartment community parking structure to the east. There has been no public input regarding this request. The plan is to have one person at a time with a dog on a leash in the exercise area. No public input has been received on this request.

Lauren Hewitt was present to represent this case. She acknowledged the proposed Conditions of Approval and receipt of the Staff Summary Report.

Ms. MacDonald noted that she had reviewed the verbal and written input from staff. She questioned whether there was access (i.e. a driveway) on that side of the property. Mr. Miller responded that this dog walking area would not affect the drive area at all and indicated on a site plan the locations of both areas.

Ms. MacDonald noted that this request meets the requirements for a use permit:

- There will be no significant increase in vehicular or pedestrian traffic.
- There are no known nuisances arising from this use that would exceed the ambient conditions of the commercial center.
- The proposed use is not in conflict with the General Plan or the surrounding neighborhood.
- The use is compatible with the existing structure and surrounding uses.
- The applicant is not proposing a use that would create a nuisance or create disruptive behavior.

DECISION:

Ms. MacDonald approved the use permit for PL150446 subject to the following conditions:

1. This Use Permit is valid only after a Building Permit has been obtained and the required inspections have been completed and a Final Inspection has been passed. As part of the Building Permit process, on-site storm water retention may be required to be verified or accomplished on this Site.
2. The Use Permit is valid for the plans as submitted within this application. Any additions or modifications may be submitted for review during building plan check process.
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, which may result in termination of the Use Permit.
4. Any non-conforming lighting shall be upgraded to meet the current light levels in parking, pedestrian areas and at doorways for the safety of customers and staff prior to the Use Permit becoming effective. Additional lighting may be required to properly illuminate the dog walk area.
5. Replace all dead or missing landscape material on site prior to the Use Permit becoming effective.

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8. Request approval for a use permit to allow a hookah lounge/tobacco retailer for **MAZAJ HOOKA LOUNGE (PL150447)** located at 1630 East Apache Boulevard, Suite No. 103. The applicant is Nabil Ali/Brother s Investment Group.

Dean Miller, Planner, gave an overview of this case. He noted that the proposed site is located on East Apache Boulevard, west of South McClintock Drive. The site is within the CSS, Commercial Shopping and Services District. There was a previous Hookah Lounge with live entertainment at this location, however the use permit for that establishment had been revoked due to violations and illegal activity both inside and outside of the establishment. The current applicant will have no live entertainment. Mr. Miller noted that a letter of opposition had been received from the Chairperson of the University Heights Neighborhood Association that addressed specific areas of concern based on the problems resulting from the previous hookah lounge activity.

Mr. Nabil Ali of Brothers Investment Group was present to represent this case. He acknowledged the proposed Conditions of Approval and receipt of the Staff Summary Report for this case.

Ms. MacDonald noted that she had reviewed the verbal and written input from staff. She asked the applicant, Mr. Ali, how he had arrived at this location for his business. Mr. Ali responded that he wanted the hooka lounge to be located in Tempe for the international students.

Ms. MacDonald noted that the previous use permit at this location for another hookah lounge (Midnight Hookah) had been revoked because issues related to the non-conformance of the use permit could not be resolved. She referred to the letter of intent submitted by Mr. Bischoff that indicated that those issues would not 're-surface' and care had been taken to eliminate the problems encountered with the previous establishment. In particular, Ms. MacDonald stated, the letter indicated that there will be no loitering or congregating of groups in the immediate vicinity, and that signs would be posted pertaining to these activities as well as outdoor smoking.

Mr. Chuck Buss of the University Heights Neighborhood Association spoke in opposition to this case. He explained the neighborhood's concerns based on their experience with the previous hookah lounge occupancy. He noted that the problems included the proximity to the residential area which is only about 20 ft. away and that the noise generated was a constant problem to residents. There was also an area of about 6 or 7 ft. between the building and the block wall where transients would congregate, and that several of the light fixtures were in non-working order. He stated that this strip mall is frequently 100% vacant and the owner does little maintenance that leaves the property looking abandoned and derelict as well as a location for noise and crime problems.

Ms. MacDonald noted that Condition of Approval No. 11 addresses the issues of building lighting.

The issue of noise was discussed. It was noted that the applicant's letter of intent indicated that although there would be no live entertainment, music would be played thru 8 inch speakers. The allowable decibel of sound was indicated by Dean Miller to be 55 db day time use/45 db night time use in for standard residential areas, and for commercial areas it is 65 db day time use and 55 db night time use according to the Zoning and Development Code. Although the applicant's letter of intent indicated the volume would be no higher than 85 db, the applicant stated that it would be much less than that. Mr. Miller noted that the police can come out and monitor the applicant's adherence to the allowable level of sound.

Ms. MacDonald stated that she was on the fence as to whether the vibration from the speakers would be an issue. She referred to Condition of Approval No. 6 which states no outdoor live entertainment or outdoor speakers were allowed. Mr. Miller confirmed that live entertainment requires a separate use permit.

Ms. MacDonald reviewed the Conditions of Approval and noted that Condition of Approval No. 5 requires the applicant to return to the Hearing Officer in 6 months following the opening of his business to review whether the Conditions of Approval are being adhered to. This gives the applicant ample time to prove that the establishment will remain in conformance to the established criteria.

Ms. MacDonald stated that there is a learning curve when a new business goes into operation. The applicant needs to do whatever he can to correct detrimental situations and become operational. She explained that there will be a lot of eyes on this operation.

Mr. Ernest Kurscht, real estate agent renting this property, spoke, stating that the previous experience with the other hookah lounge was unfortunate. He acknowledged that there had been problems in the past but explained that a vacant store escalates problems. Mr. Kurscht noted that there is an area where people like to congregate between the business and the nearby store locations.

Mr. Ali stated that at 1:45 AM he tells people to leave the building and that he also has an establishment in Chandler. He noted that he hires a Manager to oversee the business. Ms. MacDonald responded that sometimes when an actual owner delegates duties to a manager, that manager does not put forth the same effort as a property owner would and a noncompliant situation is allowed.

Mr. Kurscht referred to another location (strip mall) that he handles rentals for located at Apache and McClintock, and that there are still problems with homeless people wanting to go there and sleep when the businesses are closed.

Ms. MacDonald stated that part of this use permit pertains to behavior. She indicated that the applicant and property owner should do what they can to elevate the standards of the business operations. Adherence to the assigned Conditions of Approval will make the location attractive for future tenants. She stated that she would add an additional Condition of Approval that signs are to be posted by the applicant to discourage loitering/congregating in the parking lot and outdoor smoking (as indicated in the applicant's letter of intent). Patrons should leave the premises if they are not inside the hooka lounge. There should not be any congregating in the parking lot. She noted that the applicant is responsible for behavior outside the building as well as inside.

Ms. MacDonald noted that this request meets the requirements for a use permit:

- There will be no significant increase in vehicular or pedestrian traffic.
- There are no known nuisances arising from this use that would exceed the ambient conditions of the commercial center.
- The proposed use is not in conflict with the General Plan or the surrounding neighborhood.
- The use is compatible with the existing structure and surrounding uses.
- The applicant is not proposing a use that would create a nuisance or create disruptive behavior.

DECISION:

Ms. MacDonald approved the use permit for PL150447 subject to the following conditions:

1. This Use Permit is valid only after a Building Permit has been obtained and the required inspections have been completed and a Final Inspection has been passed. As part of the Building Permit process, on-site storm water retention may be required to be verified or accomplished on this Site.
2. The Use Permit is valid for the plans as submitted within this application. Any additions or modifications may be submitted for review during building plan check process.
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, which may result in termination of the Use Permit.
4. Any intensification or expansion of use shall require a new Use Permit.
5. Return to the Hearing Officer for review of compliance with conditions of approval within six (6) months. The timing for the six month review period to commence begins when the business is in full operation. Advise Planning staff when in full business operation. If the full business activity is not initiated within one year, the use permit will lapse.
6. No outdoor entertainment or outdoor speakers shall be allowed.
7. The applicant shall contact the City of Tempe Crime Prevention Unit for a security plan within 30 days of this approval (**January 1, 2016**). Contact Nathan Ryberg at 480-858-6409 to schedule a meeting.
8. Live entertainment requires a separate Use Permit.
9. An occupancy inspection and clearance from the Tempe Fire Department shall be obtained prior to the use permit becoming effective.
10. Hours of operation to end no later than 2:00 AM weekdays and 3:00 AM weekends.
11. All nonconforming building lighting shall be removed and replaced with compliant light fixtures. Details can be resolved during Building Safety Plan Review.
12. Replace all dead or missing trees along the landscape areas and in the landscape islands on the subject property; along with any other missing landscape material.
13. All rear exit doors require a Lexan vision panel. Details to be approved through Building Safety Plan Review.
14. Provide bicycle parking racks per City of Tempe Public Works Department bicycle rack detail T-578 standard.
15. Update the data for the parking file for this building prior to the Use Permit becoming effective. Provide information within 14 days (**by December 15, 2015**).
16. Applicant shall post signs outside the establishment pertaining to the smoking ordinance as well as no loitering. **ADDED BY HEARING OFFICER**

9. Request approval for a use permit to allow a wireless communication facility including a monopole and related equipment for **VERIZON WIRELESS PHO PELICAN (PL150406)** located at 4507 South McClintock Drive. The applicant is Steve Mabry/Shaw and Associates PLC.

Melissa Spriegel, Planning Intern, presented an overview of this case. She noted that the site is located in the Right-of-Way just to the east of a commercial building on the southeast corner of McClintock Drive and the US 60. The proposal is for a new 50 ft. high monopole and equipment shelter. There was previously a monopole at this site. She presented a site plan depicting the proposed location. There has been no public input.

Casey Spiegel of Shaw and Associates PLC was present to represent this case. He acknowledged receipt of the Staff Summary Report and understanding of the assigned Conditions of Approval, however he asked for clarification on the following Conditions:

- Condition of Approval No. 3 which references possible complaints arising from a Use Permit and possible revocation of same. Mr. Shaw questioned if, once the monopole and related equipment had been installed could a complaint require them to abandon the expensive installation. Ms. MacDonald noted that this is a standard condition which did not appear to be appropriate to this request. Mr. Abrahamson, Principal Planner, acknowledged that also. It was agreed that this Condition would be removed.
- Condition of Approval No. 6 which indicated that equipment shelter would be 'restored'. Mr. Shaw noted that there is no actual building involved and questioned the terminology of the word 'restored'. He referred to the site plan notes on Sheet A-2. It was agreed to reword this Condition to indicate the word 'repurpose' rather than 'restored'.

Mr. Elevis Delgadillo spoke in opposition to this request. He explained that he lived adjacent to this location and it would be at the back of his property. He felt it was detrimental to his property values having a large piece of equipment such as this nearby and affect his enjoyment of his property. He suggested that perhaps this monopole could be re-evaluated and changed to a monopalm to be more accommodating to the existing neighborhood area.

Mr. Abrahamson explained that the proposed plans would have to be submitted to Building Safety for plan check before the applicant could proceed with construction. He noted that Mr. Delgadillo had two options:

1. He could meet with the applicant in order to process a change to the existing plans during the review process.
2. He could appeal the approval of the use permit to the Development Review Commission.

Ms. MacDonald noted that there are several cell phone towers in the area and that research has shown that cell phone towers do not negatively impact property values. She said that people think that they do, but research has shown that they do not. This request meets the criteria established by the Zoning and Development Code and she is required to approve the request, however Mr. Delgadillo does have the right to appeal that decision.

Ms. MacDonald noted that this request meets the requirements for a use permit:

- There will be no significant increase in vehicular or pedestrian traffic.
- There are no known nuisances arising from this use that would exceed the ambient conditions of the commercial center.
- The proposed use is not in conflict with the General Plan or the surrounding neighborhood.
- The use is compatible with the existing structure and surrounding uses.
- The applicant is not proposing a use that would create a nuisance or create disruptive behavior.

DECISION:

Ms. MacDonald approved the use permit for PL150406 subject to the following conditions:

1. This Use Permit is valid only after a Building Permit has been obtained and the required inspections have been completed and a Final Inspection has been passed. As part of the Building Permit process, on-site storm water retention may be required to be verified or accomplished on this Site.
2. The Use Permit is valid for the plans as submitted within this application. Any additions or modifications may be submitted for review during the building plan check process.
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, which may result in termination of the Use Permit.~~ **CONDITION DELETED BY HEARING OFFICER**
4. Any intensification or expansion of use shall require a new Use Permit.
5. The monopole shall be no greater than 50 ft. 0 in. in height to the top of structure (arrays).
6. The proposed equipment shelter shall be ~~restored~~ repurposed. **MODIFIED BY HEARING OFFICER**
7. The proposed monopole shall maintain a twenty foot (20 ft.) separation from any existing tree.
8. A weather resistant emergency contact information sign shall be posted on the site and shall be visible to the public.

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10. Request approval for a use permit to allow a Series 6 bar in the PCC-1 District for **BASELINE SPORTS BAR (PL150346)** located at 201 East Baseline Road. The applicant is Amy Nations/Seven Thirteen Inc.

Melissa Spriegel, Planning Technician, gave an overview of this case. She noted that the site is located on East Baseline Road and east of Mill Avenue in the PCC-1, Planned Commercial Center Neighborhood District. The restaurant has been operating since 2005 and food sales diminished which requires a change in use from a restaurant to a bar. A Shared Parking Study has been completed and approved requiring a ratio of 1 parking spot to every 50 s.f. Currently the site does not meet the required bicycle parking for the proposed use.

Ms. Amy Nations was present to represent this case. She acknowledged receipt of the Staff Summary Report and understanding of the Conditions of Approval, however she requested clarification on the Conditions as follows:

- Condition of Approval No. 1 . This business has been in operation for a number of years and, as such, will not require a Building Permit. It was agreed that this Condition was not appropriate for this case and would be deleted.
- Condition of Approval No. 5, requiring a 6 month review for compliance. Again, as Ms. Nations, noted, this business has been in operation for a number of years and has had no negative police reports during that period. It was agreed that this Condition would be deleted.

Ms. MacDonald referred to Condition of Approval No. 6 and noted that since the business had been in operation for 10 years, the security plan needed to be updated. Ms. Nations concurred.

Ms. MacDonald stated that a Condition requiring the inclusion of bicycle parking would be added so that the site would be in conformance. This will be Condition of Approval No. 7.

Ms. MacDonald noted that this request meets the requirements for a use permit:

- There will be no significant increase in vehicular or pedestrian traffic.
- There are no known nuisances arising from this use that would exceed the ambient conditions of the commercial center.
- The proposed use is not in conflict with the General Plan or the surrounding neighborhood.
- The use is compatible with the existing structure and surrounding uses.
- The applicant is not proposing a use that would create a nuisance or create disruptive behavior.

DECISION:

Ms. MacDonald approved the use permit for PL150346 subject to the following Conditions of Approval:

1. ~~This Use Permit is valid only after a Building Permit has been obtained and the required inspections have been completed and a Final Inspection has been passed. As part of the Building Permit process, on-site storm water retention may be required to be verified or accomplished on this Site.~~ **DELETED BY HEARING OFFICER**
2. The Use Permit is valid for the plans as submitted within this application. Any additions or modifications may be submitted for review during the building plan check process.
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, which may result in termination of the Use Permit.
4. Any intensification or expansion of use shall require a new Use Permit.
5. ~~Return to the Hearing Officer for review of compliance with conditions of approval within six (6) months. The timing for the six month review period to commence begins when the business is in full operation. Advise Community Development staff when in full business operation. If the full business activity is not initiated within one year, the use permit will lapse.~~ **DELETED BY HEARING OFFICER**
6. Updated security plan, contact Nathan Ryberg/Tempe Police Department at (480)-858-6409.
7. **Provide bicycle parking racks per City of Tempe Public Works Department bicycle rack Detail T-578 standard. ADDED BY HEARING OFFICER**

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11. Request approval of a use permit standard to reduce the east side yard setback by 20% from 7 ft. to 5 ½ ft. for the **HARGIS RESIDENCE (PL150418)** located at 1887 East Lodge Drive. The applicant is Ernie Frazee / Western Luxury Living LLC.

Dean Miller, Planner, gave an overview of this case. He noted that the site is located on East Lodge Drive, east of South Los Feliz Drive, in the R1-7, Single Family Residential District. The applicant is requesting to reduce the east side yard setback to expand the garage and closet areas of his home. A letter of support has been received from the adjacent property owners to the east. No other public input has been received.

Mr. Ernie Frazee of Western Luxury Living LLC was present to represent this case. He acknowledged receipt of the Staff Summary Report and understanding of the Conditions of Approval.

Ms. MacDonald emphasized that it was important that very careful measurements be done as the current request of a setback reduction to 5 ½ ft. would be very close to the property lines. She noted that if it was over 5 ½ ft. the request would have to be a variance rather than a use permit standard.

Mr. Frazee responded that they are aware of that stipulation and that they know exactly where the property line is located.

Ms. MacDonald noted that this request meets the requirements for a use permit:

- There will be no significant increase in vehicular or pedestrian traffic.
- There are no known nuisances arising from this use that would exceed the ambient conditions of the commercial center.
- The proposed use is not in conflict with the General Plan or the surrounding neighborhood.
- The use is compatible with the existing structure and surrounding uses.
- The applicant is not proposing a use that would create a nuisance or create disruptive behavior.

DECISION:

Ms. MacDonald approved the use permit standard for PL150418 subject to the following conditions:

1. This Use Permit Standard is valid only after a Building Permit has been obtained and the required inspections have been completed and a Final Inspection has been passed. As part of the Building Permit process, on-site storm water retention may be required to be verified or accomplished on this Site.
2. The Use Permit Standard is valid for the plans as submitted within this application. Any additions or modifications may be submitted for review during building plan check process.
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, which may result in the termination of the Use Permit.~~ **DELETED BY STAFF**
4. The modifications shall compliment the main structure (house) through color, design and materials.

ANNOUNCEMENTS

- The Hearing Officer public hearing scheduled for Tuesday, December 15, 2015 has been cancelled.
- The next Hearing Officer public hearing is scheduled for Tuesday, January 5, 2016 at 5:00 PM with a study session scheduled for 4:30 PM.

With no further business, the public hearing adjourned at 6:45 PM.

Prepared by: Diane McGuire, Administrative Assistant II

Reviewed by:

 12.10.15

Steve Abrahamson, Principal Planner
for Vanessa MacDonald, Hearing Officer
SA:dm