

**MINUTES
HEARING OFFICER
DECEMBER 20, 2016**

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
Lee Jimenez, Senior Planner
Jason Barr, Planning Intern
Paul Hickey, Planning Intern
Michael Glab, Code Inspector
Diane McGuire, Administrative Assistant II

There were 6 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
Lee Jimenez, Senior Planner
Jason Barr, Planning Intern
Paul Hickey, Planning Intern
Michael Glab, Code Inspector
Diane McGuire, Administrative Assistant II

There were 9 interested citizens present at the regular session.

Meeting convened at 5:00 PM and was called to order by Ms. MacDonald. She stated 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) calendar days, by January 3, 2016 at 3:00 PM, to the Community Development Department.

1. The following was noted:

- **Agenda Item No. 1**

December 6, 2016 Hearing Officer Minutes

Steve Abrahamson, Principal Planner, stated that the December 6, 2016 Hearing Officer Minutes had been reviewed and were approved.

- **Agenda Item No. 2**

Request to abate public nuisance items at the **CLEVELAND PROPERTY (CE161289)** located at 1808 East Concorda Drive. The applicant is the City of Tempe.

PROPERTY IN COMPLIANCE – ABATEMENT REQUEST WITHDRAWN

2. Request approval to abate public nuisance items at the **JAHIER PROPERTY (CE166329)** located at 2407 East Victory Drive. The applicant is the City of Tempe.

Michael Glab, Code Inspector, gave an overview of the case, noting that the nuisance item(s) on this property pertained to a deteriorated landscape/grass and weeds. An open abatement period of 180 days is requested.

The property owner was not present at this hearing.

Ms. MacDonald stated that she had and reviewed the staff summary report and photographs, as well as a drive by site inspection.

DECISION:

Ms. MacDonald approved the abatement for CE166329 for an open period of 180 days.

3. Request approval to abate public nuisance items at the **BROWN PROPERTY (CE167174)** located at 2512 East Del Rio Drive. The applicant is the City of Tempe.

Michael Glab, Code Inspector, gave an overview of the case, noting that the nuisance item(s) on this property pertained to a dead tree. An open abatement period of 180 days is requested.

Mr. Glab noted that the current property owners are deceased, and that there had been a prior abatement request at this site.

Ms. MacDonald stated that she had and reviewed the staff summary report and photographs, as well as a drive by site inspection.

DECISION:

Ms. MacDonald approved the abatement for CE167174 for an open period of 180 days.

4. Request approval for a use permit to allow an expansion to an existing car wash to include vacuum stations, express lane kiosks and a covered parking structure for **COBBLESTONE CAR WASH (PL160363)** located at 9969 South Priest Drive. The applicant is Keilah Casillas.

Lee Jimenez, Senior Planner, gave an overview of this case, stating the following points of information:

- Cobblestone Car Wash is operating on Lot 3 of the Tempe Crossings commercial subdivision located near the northeast corner of South Priest Drive and West Ray Road in the PCC-2, Planned Commercial Center General District.
- The car wash facility has previously operated under the names Danny's Family Car Wash, and Classic Car Auto Spa.
- According to Section 6-308(l), *Effect of Use Permit*, no use may be modified, changed, altered or increased in intensity, in a manner that conflicts with the existing use permit and/or required Conditions of approval, without approval of a new use permit.
- The applicant, Keilah Casillas of PM Design Group Inc., is requesting a new use permit to allow an intensification of the existing use by providing eight (8) new covered vacuum stations at the east end of the property, ten (10) new vacuum stations under the existing entry canopy on the south side of the property, and two (2) express lanes and kiosk equipment installed under the existing entry canopy at the north end of the property.
- Staff has received one (1) e-mail in opposition to this request. The comment comes from a resident who lives adjacent to the new vacuum stations on the east side of the property. She cites that there is already enough noise from customers blasting loud music and bass from their car stereos; something she has also noticed at other car wash facilities.
- Staff believes that this application does not meet all of the approval criteria for a new use permit, and cannot support this request. Should an affirmative action be taken on this request at tonight's hearing, approval shall be subject to the conditions provided in the staff report.

Ms. Keilah Casillas and Mr. Jesse Macias of PM Design Group Inc. were present at tonight's public hearing. They acknowledged receipt of the Staff Summary Report.

Mr. Macias presented a power point presentation in rebuttal of the staff's indication (within the Staff Summary Report) that this request did not meet the use permit criteria as established within the Zoning and Development Code. Mr. Macias made the following points in his presentation:

- This car wash facility first opened its door in 1997, and the applicant's object is to spend time and money to achieve a sustainable design under the Cobblestone Car Wash business mantle.
- Mr. Macias noted that Cobblestone Car Wash had received awards for exterior design and architecture excellence as well as national recognition for site and building design at other locations, such as those in Laveen and Chandler.
- The original car wash operated under the name of Danny's Family Car Wash in 1997 and was part of the overall plan for the Master Retail Center.
- Classic Car Wash operated at this same location in 2005 – 2006.
- The 2008 recession impacted the facility and it became defunct.
- Cobblestone Car Wash proposed full upgrades and met with City of Tempe staff in September 14, 2016 with the proposed plans reviewed as Site Plan Review (SPR) 16105. That original proposal placed the self-serve vacuums along Ray Road. It was at City staff's request that those vacuums were relocated to the east side of the site. The SPR16105 contained a notation that otherwise the applicant was to 'provide adequate screening. Mr. Macias stated that they had planned to upgrade the landscape and vegetation.
- At the request of City staff, the plans were revised and resubmitted (SPR16105) and the review was completed on October 26, 2016. These plans moved the vacuum area to the east side of the site at the request of City staff (Dean Miller), Mr. Macias stated.

- Mr. Macias presented photo simulations of the proposed building design in both 'before' and 'after' views. He noted that they planned to take an existing facility that was negatively affecting surrounding area property values and provide a viable asset to the community.
- In addition to the current vacant facility negatively impacting surrounding property values, it also becomes a magnet for the less desirable elements of society such as transients and the homeless, Mr. Macias noted.
- It is the policy of Cobblestone Car Wash to impact adjacent neighbors as minimally as possible. It is their intent to modernize an old, tired dilapidated facility, and this will not intensify the use of the original facility which operated as a car wash.
- Mr. Macias explained that the vacuums would have negligible decibel levels with sound decibel levels at 43 DB-A at the highest. He noted that this is well below city code and compliances per Chapter 20, Section 20-6 where allowable noise levels are 65 decibels.. He indicated on his power point presentation that the Tempe City Code indicates that decibels in that range were allowable in this zoning district.

Ms. MacDonald questioned whether the use of the site by Cobblestone Car Wash would be a heavier use than a regular car wash. Mr. Macias responded that actually no, it would not be, as the use does not include a gas station on the premises and they very rarely have all stanchions full at the same time.

Ms. MacDonald noted that this applicant was encouraged by City staff to move to the east side of the site and questioned how that decision was made by City staff.

Steve Abrahamson, Principal Planner, explained that this was not the result of a Development Plan Review, but became a circumstance that due to the fact that the previous car washes located at this site (i.e. Danny's Family Car Wash and Classic Car Wash) had installed canopies on the site along Ray Road, without obtaining the necessary permits. During that period, the area between the canopies and the screen area became a location where supplies were kept and was used as a break area for the car wash employees, who used the wall to dry their detailing rags.

Mr. Abrahamson stated that the bottom line is that if this project came in as a brand new project, rather than a renovation of an existing facility, they would be asked to located the vacuums at the west side of the site. Unfortunately that is not feasible with the current situation.

Ms. MacDonald asked if anyone in the audience wished to speak on this case. The following individuals did so:

- Ms. Dawn Hocking, Tempe resident, stated that she lives in the neighborhood that backs up to the wall on the east side. There are a great number of homes right there that will be affected by the noise of the vacuums. She noted her concerns that car wash use will cause more traffic to the area and negatively impact the property values.
- Mr. Paul Quinn, Tempe resident, indicated his concern of the placement of the vacuums on the east side of the site, and asked if the Hearing Officer, Ms. MacDonald, had the authority to require the height of the wall in that area to increase to 10 ft. in height if this use permit is approved. Ms. MacDonald explained that she did not have the authority to require the applicant to do that.

Lee Jimenez stated, for the record's clarification that the use is considered an intensification of the site, not only for the additional vacuum stanchions, but also the new express lanes and kiosk installations.

Ms. MacDonald stated that this use permit is required due to the intensification of use from the previous car wash facilities that utilized this site. In her opinion the vacuum stations should be moved back to the Ray Road location and that this needs to be addressed through a Site Plan Review.

Ms. MacDonald explained that, as it stands right now, she has to agree with the staff's recommendation for denial of this use permit due to the location of the vacuum stanchions immediately adjacent to the residential community to the east.

Mr. Jimenez stated that redesign would still require a use permit.

Ms. MacDonald stated that she feels that the Ray Road area of the site is the best location for these vacuums.

Mr. Macias returned to the podium and questioned Ms. MacDonald if the site re-location of the vacuums to the Ray Road area could be accomplished tonight with Ms. MacDonald's approval.

Ms. MacDonald responded that it could not, because use permits are approved in support of the site plan submitted with the application; however this case could be continued to the next Hearing Officer public hearing which is January 3, 2017 and could be re-heard at that time based on the revised site plan.

Mr. Tuck Bettin asked to speak. He identified himself as the business owner for Cobblestone Car Wash and explained that his team had worked long and extremely hard with City staff to accommodate them and meet their criteria only to have them recommend denial of the request. He expressed frustration on the delay, and how it impacts the business plan and needed improvements. He noted his appreciation of the Hearing Officer's consideration.

DECISION:

Ms. MacDonald continued the request for a use permit for PL160363 to the January 3, 2017 Hearing Officer public hearing.

5. Request approval of a use permit to allow a resale and consignment store for **WHATEVER STORES (PL160416)** located at 933 East Broadway Road. The applicant is Paul Fan.

Paul Hickey, Planning Intern, gave an overview of this case. He noted that the site is located with the PCC-1, Planned Commercial Center Neighborhood District on the southeast area of East Broadway Road and South Rural Road. The applicant is requesting a use permit to allow a resale retail store offering new and used items with an estimated ratio of 60% used and 40% new merchandise. The business will also be providing consignment services as well as receiving donations from the public. There has been no public input to this request. Staff supports this request subject to the assigned Conditions of Approval.

Mr. Paul Fan was present to represent this case. He acknowledged receipt of the Staff Summary Report and his understanding of the assigned Conditions of Approval.

Ms. MacDonald noted that this request meets the criteria for a use permit is as follows:

- There will be no significant increase in vehicular or pedestrian traffic. This is a retail use located in a shopping center.
- No nuisance arising from the emission of odor, dust, gas, noise, vibration, smoke, heat or glare at a level exceeding that of ambient conditions.
- No contribution to the deterioration of the neighborhood or the downgrading of property values. The applicant has developed policies regarding the consignment process that protect against the possibility of receiving stolen goods.
- Compatibility with existing surrounding structures and uses. The business is compatible with other retail uses within the center.
- Adequate control of disruptive behavior both inside and outside the premises which may create a nuisance to the surrounding area or general public.

DECISION:

Ms. MacDonald approved the request for a use permit for PL160416 subject to the following Conditions of approval:

1. 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.
2. 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.
3. Any intensification or expansion of use shall require a new use permit.
4. Hours of operation to end no later than 8:00 p.m. on a daily basis.
5. Provide adequate lighting at the rear service doors. Details can be resolved during Building Safety Plan Review.
6. All rear exit doors require a compliant vision panel. Details to be approved through Building Safety Plan Review.
7. All deliveries and donation items to be transported into the store through the rear service door. The drop off area shall be clearly marked and maintained in a neat and orderly manner.
8. No outside storage of merchandise or equipment shall be allowed.
9. All permits and clearances required by the Building Safety Division shall be obtained prior to the use permit becoming effective.
10. The applicant shall contact the City of Tempe Department Crime Prevention Division (480-858-6409) prior to the start of business operations to discuss crime prevention techniques.

6. Request approval of a use permit to allow an amusement business for **THE SLEUTH BOX (PL160426)** located at 2400 West Medtronic Way, Suite No. 105. The applicant is Lindsey Wilkins.

Jason Barr, gave an overview of this case. He noted that the site is located at 2400 West Medtronic Way, Suite No. 105 within the GID, General Industrial District at the intersection of South Park Lane and West Medtronic Way on the northwest corner. The applicant is proposing a live room escape activity where groups of people come to be locked in a room and work together to solve a series of puzzles to get themselves out of the room within a set time limit (the door is not actually locked). The hours are outside of normal business hours for the center and therefore will not impact the surrounding area. There has been no public input to this request. Staff supports this request subject to the assigned Conditions of Approval.

Ms. Lindsey Wilkins was present to represent this case. She acknowledged receipt of the Staff Summary Report and her understanding of the assigned Conditions of Approval. She stated that she wanted to clarify that the contestants are no actually in a locked room

Ms. MacDonald noted that this request meets the criteria for a use permit is as follows:

- 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.
- There will be no contribution to the deterioration of the neighborhood or the downgrading of property values.
- The use is compatible with existing surrounding structures and uses.
- There is adequate control of disruptive behavior both inside and outside the premises which may create a nuisance to the surrounding area or general public.

DECISION:

Ms. MacDonald approved the request for a use permit for PL160426 subject to the following Conditions of approval:

1. The use permit is valid only after a building permit has been obtained, the required inspections have been completed, and a final inspection has been passed.
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. All required State, County and Municipal permits shall be obtained or the use permit is void.
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 to re-evaluate the appropriateness of the use permit, which may result in termination of the use permit.
5. The applicant shall contact the City of Tempe Crime Prevention Unit for a security plan within 30 days of this approval. Contact 480-858-6409 before January 20, 2017.
6. An occupancy inspection and clearance from the Tempe Fire Department shall be obtained prior to the use permit becoming effective.

ANNOUNCEMENTS

- The next Hearing Officer public hearing is scheduled for Tuesday, January 3, 2017 at 5:00 PM with a study session scheduled for 4:30 PM.
- Mr. Abrahamson acknowledged Vanessa MacDonald's service as Hearing Officer for the City of Tempe for the past 5 years. He stated that her professionalism and dedication were appreciated by City staff.

With no further business, the public hearing adjourned at 6:10 PM.

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



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