

**Minutes of the
Development Review Commission
July 14, 2015**

Minutes of the regular hearing of the Development Review Commission, of the City of Tempe, which was held at the Council Chambers, 31 East Fifth Street, Tempe, Arizona.

Present:

Paul Kent – Chair
Angela Thornton - Commissioner
Linda Spears - Commissioner
Thomas Brown- Commissioner
Andrew Jackson- Commissioner
David Lyon- Commissioner
Gerald Langston- Alt. Commissioner

City Staff Present:

Ryan Levesque, Dep. Comm. Dev. Director

Karen Stovall, Senior Planner
Sarah Adame, Comm. Dev. Admin Assistant II

Absent:

Trevor Barger- Vice Chair
Margaret Tinsley- Alt.. Commissioner
Dan Killoren- Alt. Commissioner

Guest Present: NONE

Number of Interested Citizens Present: 19

Hearing convened at 6:08 p.m. and was called to order by Paul Kent.

Consideration of Meeting Minutes: 06/23/2015 Study Session
06/23/2015 Regular Meeting

MOTION: Commissioner Spears

SECOND: Commissioner Thornton

DECISION: Approved 4-0 with Ryan Levesque stand in.

Consent Agenda: None

THE BOARD DISCUSSED THE FOLLOWING CASE(S):

1. Hold a public hearing for an appeal of the Hearing Officer decision to approve a Use Permit to allow an animal kennel and outdoor dog run for **TEMPE DOGS 24/7 (PL150115)**, located at 937 East Broadway Road, Suite 7. The appellant is John and Mary Hoyt.

John and Mary Hoyt were present to represent this case.

Staff, Karen Stovall introduced the case.

Services include dog day care, grooming, and boarding.

Dog kenneling is inside the building.

1500 square foot dog run is on the outside of the building.

Dog run is an enclosed area with an 8 foot high block wall and covered with a fabric canopy.

Appellant, John and Mary Hoyt, presented appeal request.

Mr. John and Ms. Mary Hoyt expressed their opposition to the Use Permit granted to Tempe Dogs 24/7. It does not meet the five point criteria and the inconsistencies with other use permits hearings and other "Dogs 24/7" locations.

Mr. Hoyt informed the Commission that they were there to represent the local church and surrounding neighborhood that are also in opposition of the approved Use Permit for Tempe Dogs 24/7.

Mr. Hoyt displayed documentation of the location of the business adjacent to the surrounding neighborhood including local church and a signed petition from many neighbors.

Appellants' opposition to the Use Permit Approval criteria:

- 1) Vehicular or pedestrian traffic –
 - a. Appellants' expressed concern to the expected increase in traffic to that area caused by the business's operation hours of being open 24hrs/day 7days/wk. which allows customers to pick their pets any time. Traffic would increase in the front of the business as well as in the rear of the business.
- 2) Nuisance arising from the emission of odor, dust, gas, noise, vibration, smoke, heat or glare at a level exceeding that of ambient conditions –
 - a. Appellants expressed concern about order and noise caused by dogs.
 - b. Appellants provided noise research documentation.
- 3) Contribution to the deterioration of the neighborhood or to the downgrading of property values -
 - a. Appellants expressed concern about the impact of barking dogs on property values.
 - b. Appellants expressed concern about possible decreased home resale value.
- 4) Compatibility with existing surrounding structures and uses -
 - a. Appellants expressed concern that Tempe Dogs 24/7 was not compatible with local church, surrounding businesses, and surrounding neighborhood.
- 5) Adequate control of disruptive behavior both inside and outside the premises which may create a nuisance to the surrounding area or general public -
 - a. Appellants expressed concern about the possibility of dogs getting loose.
 - b. Appellants expressed concern about the low height of the wall that divides area of project location and the local church.

Appellants' opposition to the inconsistencies use permits hearings and other "Dogs 24/7" locations:

- 1) Appellants' pointed out several inconsistencies that the Architect stated at the Hearing Officer meeting in regards to:
 - a. Business hours for drop off and pick up of dogs.
 - b. Possibility that the Chandler locations is operating outside the terms of their permits.
 - i. Provided a copy of permit.
 - c. Minimum and maximum amount of dogs housed daily and during holiday weekends.
 - d. Operational uses, time, and locations of dog runs and kennels at other locations.
 - e. Statements regarding no recorded noise complaints from locations in other cities vs. neighboring businesses.

Applicant, Grant Olds, Architect, presented his case on the approved Use Permit for Tempe Dogs 24/7.

Mr. Olds discussed the interior and exterior steps and measure built within his business to accommodate the opposition's concerns and complaints.

- 1) Designing a corridor break between facilities (Tempe Dogs business and the neighboring business)
- 2) Rebuilt business side of the wall with RGC channel and a half inch sound board then dry wall.
- 3) Stated that it's the owner's responsibility to keep dogs on a leash when picking up and dropping off.
- 4) Stated that the exterior yard is not used for a dog play area but for dogs that are not acclimated for potty inside a building.
- 5) The total time per day that the outside is used is about 2 hours/day.
- 6) The outside facility is AstroTurf and the waste is picked up and hosed off into the sewer drain.
- 7) The exterior wall is an 8 foot tall masonry wall with a cover made of sun-brella fabric with provides 80 percent shade.
- 8) The outside facility has two solid gates, one on the east and west. They are full height and required for emergency exiting.
- 9) The process for waste removal inside the building is that it is picked up and the floor is sanitized and mopped with a disinfected. The waste is sealed up and taken out to the dumpster. The dumpster is picked up five times per week.
- 10) Oder control on the inside of the facility is provided by an air conditioning sanitizer. There are five units and are all dedicated to just this facility.

Mr. Olds explained that due to the demand of this business in this neighborhood, he is targeting about 25 dogs per playroom and will still be able to have about 2 hours/day of outside facility use time.

Mr. Olds explained that business hours are 24/7. The hours for services are from 8am – 8pm. The boarding (overnight stay) hours are 24/7.

Public Comments:

Comments that were read into record were all opposing from:

John M Hoyt
James Hyde
Lori Mordarty
Eileen Spenla
Christine Brinkman

Comments that were spoken in opposition of the business were from:

Connie Vekre	Cathe Menefer	Cathrine Hoyt	Father John Bonavitacola
Mary Pivonka	Mike Medafy	Imelda Feckovics	
Mary Morgan	Patricia Drechsler	Peter Poppletou	
Todd Smith	Rob Drechsler		
Randy Spenla	Vence Herman		

Discussion & Questions from Board Members

Commissioner Langston expressed that it seems that the neighbors really don't want this business and feels that it is the responsibility of the Commission to protect them.

Commissioner Spears expressed that the Commission is acting as a quasi-judicial body and has to review the five conditions to ensure those conditions is material impacted by this business. She understands their concerns and that there is method to deal with them if they should become reality thru the review process from the Hearing Officer. The review period is January 5, 2015.

Commissioner Lyon expressed that he agrees with Commissioner Langston and Spears. He thinks that having a facility that cares about taking care of dogs in a proper fashion and is regulated in proper fashion is a benefit to the neighborhood.

Commissioner Brown expressed that in review to the site plan that the front parking is well lite and mostly like customers will park there in the early morning hours for safety concerns rather in the back where the dumpsters are. He is reassured that there will be people there all the time including outdoors when the dogs are out there. He stated that this is compatible use.

Staff, Ryan Levesque read the definition of "kennel" in the zoning code for clarification on the behalf of the Commission.

Commissioner Thornton expressed her understanding regarding the definition of kennel from the zoning code. She also confirmed with Appellant that they knew the understanding that if they won the appeal there was still going to be grooming and dog day care. She explained that she doesn't support the kennel or the dog run.

Chair Kent expressed that his general thought is that this is a needed service in demand. He supports the approval of the Hearing Officer and the review of the permit in six months.

Commissioner Johnson expressed that steps and measures that the applicant has put into place is significant. The controls for outside facility is as significant and he doesn't see anything in the design would change his opinion that he agrees with the six month review and up hold the Hearing Officer's approval.

MOTION: Commissioner Spears made a motion to deny the appeal of the appellant's Mr. John and Ms. Mary Hoyt, to overturn the Use Permit for Tempe Dogs 24/7 PL150115

Commissioner Lyon seconded the motion.

VOTE: The motion passed.

Vote 5 – 2

Commissioner Thornton and Commissioner Langston in the opposition.

DECISION: The Development Review Commission denied the appeal, thus upholding the May 5, 2015, Hearing Officer's decision to approve of the Use Permit for Tempe Dogs 24/7 PL150115 / ZUP 15042.

There being no further business the meeting adjourned at 9:09 pm.

Prepared by: Sarah Adame
Reviewed by: Ryan Levesque



Ryan Levesque, Deputy Community Development Director