

**Minutes
HEARING OFFICER
JUNE 21, 2011**

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:

Vanessa MacDonald, Hearing Officer
Steve Abrahamson, Planning & Zoning Coordinator
Nick Graves, Planner

Number of Interested Citizens Present: 1

Meeting convened at 1:30 PM and was called to order by Ms. MacDonald. She 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 July 5, 2011 at 3:00 PM to the Community Development Department.

1. Ms. MacDonald noted that the Hearing Officer Minutes for June 7, 2011 had been reviewed and approved.

2. Ms. MacDonald noted that the following case(s) had been removed from today's agenda:
 - Request by the City of Tempe – Code Compliance Section to abate public nuisance items in violation of the Tempe City Code for the **BAC HOME LOAN SERVICING PROPERTY (PL110194 /ABT11014 /CE111020)** (Michael Spencer, Inspector; BAC Home Loan Servicing, property owner) located at 1143 North Oleander Street in the R-2, Multi-Family Residential District.
WITHDRAWN BY CODE COMPLIANCE

 - Reconsideration of the May 17, 2011 Hearing Officer approval of Use Permit ZUP11030 to allow live entertainment for **CENTERPOINT - FAT TUESDAY (PL110127)** (Michael Kelly/M W Kelly Architects Ltd, applicant; Centerpoint Holdings LLC, property owner) located at 680 South Mill Avenue, Suite No. 106, in the CC, City Center District.
WITHDRAWN BY COMMUNITY DEVELOPMENT STAFF

3. Request by the City of Tempe – Code Compliance Section to abate public nuisance items in violation of the Tempe City Code for the **HAZELTON PROPERTY (PL110193/ABT11013/CE101373)** (Shawn Daffara, Inspector; Patrick Hazelton, property owner) located at 1219 South Maple Avenue in the R-2, Multi-Family Residential District.

No one was present to represent the property owner.

Shawn Daffara, Code Inspector explained that there have been complaints regarding deteriorated landscaping (over height weeds and grass) and graffiti on the house and garage. The property is located in the Maple/Ash Neighborhood and has had repeated complaints and abatement issues. Staff is requesting an open abatement period of 180 days to prevent repeated property neglect and neighborhood decline.

Ms. MacDonald noted that this request meets the criteria for properties in disrepair.

DECISION:

Ms. MacDonald approved abatement proceedings for PL110193 /ABT11013 /CE101373 for an open period of 180 days.

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4. Request by the City of Tempe – Code Compliance Section to abate public nuisance items in violation of the Tempe City Code for the **ROGERS PROPERTY (PL110197 /ABT11015 /CE111123)** (Michael Spencer, Inspector; Phillip Rogers, property owner) located at 301 East Pierce Street in the R1-6, Single Family Residential District.

No one was present to represent the property owner.

Michael Spencer, Code Inspector explained that there is overgrown grass & weeds in the desert landscape of the front and west side yard, and over height weeds in the backyard. The property is in pre-foreclosure proceedings. Staff is requesting an open abatement period of 180 days to prevent repeated property neglect and neighborhood decline.

Ms. MacDonald noted that this request meets the criteria for properties in disrepair.

DECISION:

Ms. MacDonald approved abatement proceedings for PL110197 /ABT11015 /CE111123 for an open period of 180 days.

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5. Request by **PETER PIPER PLAZA – LUCKY BREAK (PL110198)** (Dennis Erickson/Devils Hideaway LLC, applicant; Pollack Investments, property owner) located at 1807 East Baseline Road, Suite No. 101, in the PCC-1, Planned Commercial Center Neighborhood District for:

ZUP11044 Use permit to allow an entertainment use (billiards/pool hall).

Mr. A. J. Edelstein was present to represent this case.

Nick Graves, staff planner, gave an overview of this case. Ms. MacDonald asked if there was currently an existing use permit for live entertainment that would be transferred to this new entity. Mr. Graves explained that the applicant needs to submit an application for the use permit transfer before processing can be done.

Condition No. 10 (for special events) and No. 11 (for an outdoor patio) were discussed.

Mr. Edelstein acknowledged understanding of the Conditions of Approval. He noted for the record that Nick Graves and Steve Abrahamson were extraordinarily helpful in the processing of this request.

Ms. MacDonald stated that this request meets the criteria for a use permit.

DECISION:

Ms. MacDonald approved PL110198 / ZUP11044 subject to the following conditions:

1. The use permit is valid for Lucky Break and may be transferable to successors in interest through an administrative review with the Community Development Manager or designee.
2. Obtain all necessary clearances from the Building Safety Division.
3. Any intensification or expansion of the use would require the use permit to be reheard by the Hearing Officer.
4. Apply for a use transfer in order to transfer the existing use permit to allow live entertainment to Lucky Break within 30 days of this approval by July 21, 2011.
5. If there are any complaints arising from the use permit that are verified by a consensus of the complaining party and the City Attorney's office, the use permit will be reviewed by city staff to determine the need for a public hearing for re-evaluate the appropriateness of the use permit.
6. The live entertainment use shall take place inside only. No live entertainment will be allowed outside.
7. Music/sound/noise generated from the use shall conform to the City of Tempe code requirements for noise control.
8. The applicant shall work with the Tempe Police Department to implement/update a Security Plan for the business. Please contact William Gallauer at 480-350-8749 by July 21, 2011.
9. Any new business signs shall receive a Sign Permit. Please contact Planning staff at (480) 350-8372.
10. No special events allowed on the exterior of the building or within the parking area. All special events that extend beyond the interior of the business shall obtain approval from the Recreation Services Division. Please contact the Special Events Office at 480-350-5180.
11. A Development Plan Review (DPR) is required for a patio addition.

The next Hearing Officer public hearing will be held on **Tuesday, July 5, 2011.**

There being no further business the public hearing adjourned at 1:44 PM.

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



Steve Abrahamson, Planning & Zoning Coordinator
for Vanessa MacDonald, Hearing Officer
SA:dm