

**Minutes  
HEARING OFFICER  
AUGUST 16, 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  
Sherri Lesser, Senior Planner  
Cavan Noone, Planning Intern

**Number of Interested Citizens Present: 6**

**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 August 30, 2011 at 3:00 PM to the Community Development Department.**

1. Ms. MacDonald noted that the Hearing Officer Minutes for August 2, 2011 had been reviewed and approved.  
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2. Ms. MacDonald noted that the following items 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 **ALPHA SIGMA HOUSING CORPORATION PROPERTY (PL110266 /ABT11031 /CE111791)** (Michael Spencer, Inspector; Alpha Sigma Housing Corporation Inc., property owner) located at 717 East Alpha Drive in the GID, General Industrial District.  
**CONTINUED TO SEPTEMBER 6, 2011 HEARING OFFICER AT REQUEST OF CODE COMPLIANCE**
  - Request by the City of Tempe – Code Compliance Section to abate public nuisance items in violation of the Tempe City Code for the **CYKLOWSKI PROPERTY (PL110274 /ABT11029 /CE111792)** (Jack Scofield, Inspector; John & Sarah Cyklowksi, property owners) located at 6755 South Kenneth Place in the R1-6, Single Family Residential District.  
**ABATEMENT REQUEST WITHDRAWN AT THE REQUEST OF CODE COMPLIANCE**
  - Request by **W. E. RECYCLING (PL110279)** (Dennis Collins, applicant; Brock Properties LLC, property owner) located at 2150 East Rio Salado Parkway in the HID, Heavy Industrial District for:

**ZUP11072**      Use permit to allow a recycling center.  
**CASE WITHDRAWN BY COMMUNITY DEVELOPMENT STAFF**

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3. Request by the **NETHERCOTT RESIDENCE (PL110205)** (Bill Henry/DC Restoration, applicant; Donald Nethercott Trust, property owner) located at 108 East Vista Del Cerro Drive in the R1-6, Single Family Residential District for:

**ZUP11070** Use permit to allow required parking in the front yard setback.

**VAR11005** Variance to reduce the south side yard setback from 5 ft. to 4 ft.

Mr. Bill Henry was present to represent this case.

Sherri Lesser, staff planner, gave an overview of this case. The house was constructed prior to 1960 and the current owner is in the process to obtain a permit for the illegally enclosed carport structure to livable space by the prior owner. The enclosed carport does not comply with the current ZDC ordinance nor was a previous use permit granted to allow the parking to encroach into the front yard setback. Mr. Nethercott, the current owner, has made this application to rectify the previous violations. Staff is recommending approval of both the use permit and variance, as special circumstances exist due to the placement of the house on the lot relative to the property lines. A neighborhood meeting was held on July 26, 2011.

Mr. Henry confirmed that these requests are to rectify work done by previous owners without appropriate permits.

Ms. MacDonald reviewed the criteria for a use permit and noted that this request meets those requirements and was compatible with the surrounding structures in the neighborhood. She noted that the granting of the variance will not provide a special privilege or right not enjoyed by surrounding properties in the subdivision, and will not be for the purpose of rectifying a special circumstance which was self-imposed by the property owner.

**DECISION:**

Ms. MacDonald approved PL110261 / ZUP11065 / VAR11005 subject to the following conditions:

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

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4. Request by **UNIVERSITY SQUARE - CARTEL COFFEE LAB MICROBREWERY AND COFFEE BAR (PL110267)** (Jason Silberschlag, applicant; Friedman Investments LLC, property owner) located at 225 West University Drive, Suite Nos. 101 and 102 in the GID, General Industrial and CC, City Center Districts for:

**ZUP11066** Use permit to allow a microbrewery in the GID, General Industrial District.

Mr. Jason Silberschlag was present to represent this case.

Sherri Lesser, staff planner, gave an overview of this case, noting that Cartel Coffee Lab has existed at this location for several years and is looking to expand by operating a microbrewery as part of their business. Staff has done a shared parking analysis and there is adequate parking to support this venture. Most of the customer base walk or bike in daily. The proposed expanded hours of operation will be from 7 Am to Midnight, seven days a week. Cartel Coffee Lab currently operates from 7 Am to 10 Pm, seven days a week. The proposed microbrewery will brew about 25 gallons of beer per batch with a total of 2 to 3 batches being brewed per day.

Ms. MacDonald referred to Condition of Approval No. 3 regarding intensification or expansion of use and asked what specific criteria applied to that Condition. Ms. Lesser responded that should the business expand beyond 25% of what is currently projected that would be considered an intensification or expansion of use.

Mr. Silberschlag acknowledged the assigned Conditions of Approval and asked for clarification of Condition of Approval No. 5 regarding the security plan requirements. Ms. Lesser responded as to what was involved in meeting that Condition.

Ms. MacDonald reviewed the criteria for a use permit and noted that this request meets those requirements.

**DECISION:**

Ms. MacDonald approved PL110261 / ZUP11065 subject to the following conditions:

1. The use permit is valid for Cartel Coffee Lab Microbrewery and Coffee Bar 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. 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.
5. 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.
6. Any new business signs shall receive a Sign Permit. Please contact Planning staff at 480-350-8372.

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5. Request by **SOUTHPOINT SHOPPING CENTER - A & Z SMOKE SHOP LLC (PL110278)** (Ansar Ashrak, applicant; Strass Family Trust, property owner) located at 2700 West Baseline Road, Suite No. 136, in the PCC-1, Planned Commercial Center Neighborhood District for:

**ZUP11071** Use permit to allow a tobacco retailer.

Mr. Hussein was present to represent this case.

Sherri Lesser, staff planner, gave an overview of this case. The business will involve the sale of tobacco-related products, lighters, e-cigarettes and other convenience store type items. No public input has been received on this request, Ms. Lesser stated.

Mr. Hussein acknowledged his understanding of the Conditions of Approval.

Ms. MacDonald reviewed the criteria for a use permit and noted that this request meets those requirements.

**DECISION:**

Ms. MacDonald approved PL110261 / ZUP11065 subject to the following conditions:

1. The use permit is valid for A & Z Smoke Shop and may be transferable to successors in interest through an administrative review with the Community Development Manager, or designee. Should the business be sold, the new owners must contact the Community Development staff for review of the business operation.

2. The use shall not violate the City of Tempe Smoking Ordinance or Smoke Free Arizona Act A.R.S. §36-601.01.
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. Any intensification or expansion of the use would require the use permit to be reheard by the Hearing Officer for further review.
5. All business signs shall receive a Sign Permit. Please contact Dean Miller at 480-350-8435.
6. The applicant shall submit a security plan to the Tempe Police Department Crime Prevention Unit. Please contact William Gallauer at 480-350-8749 within 30 days of this approval (September 16, 2011).

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The next Hearing Officer public hearing will be held on **Tuesday, September 6, 2011.**

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There being no further business the public hearing adjourned at 1:48 PM.

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



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

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