

**Minutes
HEARING OFFICER
FEBRUARY 21, 2012**

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

Number of Interested Citizens Present: 3

Meeting convened at 1:30 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 March 7, 2012 at 3:00 PM, to the Community Development Department.

1. Ms. MacDonald noted that the Hearing Officer Minutes for January 17, 2012 had been reviewed and approved.

2. Ms. MacDonald noted that the following item(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 **MOORE PROPERTY (PL120003 /ABT12001 /CE113834)** (Jack Scofield, Inspector; Saviena Moore, property owner) located at 2021 East Yale Drive in the R1-6, Single Family Residential District.
WITHDRAWN BY CODE COMPLIANCE

4. Request by the City of Tempe – Code Compliance Section to abate public nuisance items in violation of the Tempe City Code for the **PAOLUCCI PROPERTY (PL120013 /ABT12002 /CE114175)** (Michael Spencer, Inspector; Emma Paolucci, property owner) located at 730 East Cavalier Drive in the R1-6, Single Family Residential District.
WITHDRAWN BY CODE COMPLIANCE

3. Request by the City of Tempe – Code Compliance Section to abate public nuisance items in violation of the Tempe City Code for the **FELSINGER PROPERTY (PL120012 /ABT12003 /CE114044)** (Michael Spencer, Inspector; Arthur Felsing, property owner) located at 1031 East Lilac Drive in the R1-6, Single Family Residential District.

There was no one present to represent the property owner.

Michael Spencer, Code Inspector, explained that Mr. Felsing has had several abatements conducted on his property over the past several years and shows no inclination to maintain the property. Presently there is grass and weeds on the gravel in the front and east side yards as well as palm frond debris on the front yard landscape.

Ms. MacDonald stated that this property has an abatement history that goes back to 2000 and noted that this request meets the criteria for properties in disrepair.

DECISION:

Ms. MacDonald approved abatement proceedings for PL120012 /ABT12003 /CE114044 for an open period of 180 days.

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5. Request by the City of Tempe – Code Compliance Section to abate public nuisance items in violation of the Tempe City Code for the **WRIGHT PROPERTY (PL120020 /ABT12004 /CE113095)** (Shawn Daffara, Inspector; Robert Wright & Bank of America, property owners) located at 1322 West 10th Place in the R1-6, Single Family Residential District.

No one was present to represent the property owner.

Shawn Daffara, Code Inspector, explained that a complaint had been received and inspection showed that there is deteriorated landscaping, dead shrubs and a deteriorated roof missing many shingles. The house appears to be vacant and research indicated the property is in foreclosure. Staff requested an open abatement period of 180 days.

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

DECISION:

Ms. MacDonald approved abatement proceedings for PL120020 /ABT12004 /CE113095 for an open period of 180 days.

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6. Request by the City of Tempe – Code Compliance Section to abate public nuisance items in violation of the Tempe City Code for the **LOEW PROPERTY (PL120021 /ABT12005 /CE113418)** (Shawn Daffara, Inspector; William Loew, property owner) located at 1148 West 12th Street in the R1-6, Single Family Residential District.

No one was present to represent the property owner.

Shawn Daffara, Code Inspector, explained that a complaint had been received on this property. Inspection revealed a yard in a deteriorated state with high weeds and a dead tree in the front and back yards. A white truck under the carport has rotted flat tires, expired plates and is inoperable. There have been repeated complaints on this residence dating back to 2008 and the owner has failed to maintain the property but staff has been working with the owner and some progress has been made.

Ms. MacDonald stated her concern that this property has had issues since 2008 and the bare minimum is done to bring the property into compliance but would like to continue the case to give the property owner additional time.

DECISION:

Ms. MacDonald continued this case to March 20, 2012.

7. Request by the **BURNS RESIDENCE (PL120014)** (William Burns, applicant/property owner) located at 2169 East Calle De Arcos in the AG, Agricultural District for:

ZUP12007 Use Permit standard to reduce the east street side yard setback by 20% from 25 ft. to 20 ft. to allow an accessory building (RV/automobile garage).

William Burns was present to represent this case.

Sherri Lesser, staff planner, gave an overview of this case. She noted that property owner is seeking a Use Permit to allow a freestanding RV/automobile garage. The proposed structure is 1490 s.f. with an overall height of 18 ft. The placement of the new structure closer to the east property line will have minimal impact to the neighboring properties. No public input has been received on this request.

Mr. Burns acknowledged his understanding of the assigned Conditions of Approval.

Ms. MacDonald noted that this request meets the criteria for a Use Permit and is compatible with the surrounding neighborhood. She stated this request will have a minimal impact and will not create a nuisance or contribute to the deterioration of the neighborhood.

DECISION:

Ms. MacDonald approved PL120014/ZUP12007 subject to the following conditions:

1. Obtain all necessary clearances from the Building Safety Division.
2. Building addition to match existing residence in color, form and material.

8. Request by **ASH BUSINESS CENTER - XTREME STUDIOS (PL120016)** (Lara Katler, applicant; Transwestern, property owner) located at 5010 South Ash Avenue, Suite No. 104 in the GID, General Industrial District for:

ZUP12009 Use Permit to allow a fitness facility in the GID, General Industrial District.

Lara Katler was present to represent this case.

Sherri Lesser, staff planner, gave an overview of this case. She stated that this facility will operate by appointment only for personal training for individuals. The space is approximately 2248 s.f. and will start with one (1) trainer (the proprietor) and employ independent contractor(s) for related services. The business hours will be Monday – Thursday 7 Am – 8 Pm; and Friday – Saturday 7 Am – noon; and Sunday 8 Am – noon. No public input has been received from the neighboring tenants or surrounding property owners. Parking is sufficient to support this use, Ms. Lesser noted.

Ms. Katler acknowledged understanding of the assigned Conditions of Approval. Ms. McDonald indicated that she had driven by the business and mentioned to the applicant that sandwich board type signage is not allowed by the Zoning and Development and Code and wanted to point out Condition No. 2 to verify that the applicant was aware of the stipulation.

There was no public input.

Ms. MacDonald noted that this request meets the criteria for Use Permits:

1. There will be no significant increase in vehicular or pedestrian traffic in adjacent areas.
2. This is a commercial use, similar to others in this industrial area; there should be no nuisances.
3. The proposed development will not contribute to neighborhood deterioration or downgrade property values.
4. The proposed use appears to be compatible with surrounding structures and uses.
5. The proposed use appears to have adequate control of disruptive behavior.

DECISION:

Ms. MacDonald approved PL120016/ZUP12009 subject to the following conditions:

1. The Use Permit is valid for Xtreme Studios and may be transferable with approval from the Hearing Officer staff. Should the business be sold, the new owners must contact the Hearing Officer staff for review of the business operation.
2. All business signs shall be Development Review approved and permits obtained.
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. Obtain all necessary clearances and permits for the occupancy from the Building Safety Division.

9. Request by the **YOUNGBULL RESIDENCE (PL120030)** (Cody Youngbull, applicant/property owner) located at 117 East Loma Vista Drive in the R1-10, Single Family Residential District for:

ZUP12013 Use Permit to allow the increase of a wall, located in the front yard setback, from 4 ft. to 6 ft.

Cody Youngbull was present to represent this case.

Sherri Lesser, staff planner, gave an overview of this case. She noted that the applicant(s) were requesting a Use Permit to increase the allowable fence height in the front yard setback from 4 ft. to 6 ft. The wall height is measured from the highest adjacent surface of the ground, paving or sidewalk within 20 ft. The applicant is requesting approval of a 6 ft. high decorative wall with 2 ft. cut outs. This wall will create a courtyard/patio area in the front yard and is part of an overall landscape upgrade to the applicant's front yard. To date, staff has received no public input on this request.

Mr. Youngbull indicated that he has been in contact with neighbors and has their support. He also acknowledged understanding of the assigned Conditions of Approval.

Ms. MacDonald noted that this request meets the criteria for a Use Permit and is compatible with the surrounding neighborhood and will have minimal impact on the neighborhood.

DECISION:

Ms. MacDonald approved PL120030/ZUP12013 subject to the following conditions:

1. All permits and clearances required by the Building Safety Division shall be obtained prior to the Use Permit becoming effective.

The next Hearing Officer public hearing will be held on March 6, 2012.

There being no further business the public hearing adjourned at 1:54 PM.

Prepared by: Lisa Novia, Administrative Assistant II
Reviewed by:



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

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