

**Minutes
HEARING OFFICER
MARCH 6, 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
Diana Kaminski, Senior Planner

Number of Interested Citizens Present:

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 20, 2012 at 3:00 PM, to the Community Development Department.

Ms. MacDonald noted that the Hearing Officer Minutes for February 21, 2012 had been reviewed and approved.

Ms. MacDonald noted that the following item(s) had been removed from today's agenda:

2. Hold a public hearing for a request by the City of Tempe – Code Compliance Section to abate public nuisance items in violation of the Tempe City Code for the **WENTE PROPERTY (PL120031 /ABT12008 /CE114042)** (Michael Spencer, Inspector; Kevin & Dorothy Wente, property owners) located at 928 East Tempe Drive in the R-2, Multi-Family Residential District.

STAFF REPORT: [HOr WentePropAbate 030612.pdf](#)

3. Hold a public hearing for a request by the City of Tempe – Code Compliance Section to abate public nuisance items in violation of the Tempe City Code for the **HB VENTURES LLC / JOHNSON PROPERTY (PL120032 /ABT12007 /CE114062)** (Michael Spencer, Inspector; HB Ventures LLC/Jessica Johnson, property owner) located at 1815 East Lemon Street in the R-4, Multi-Family Residential General District.

STAFF REPORT: [HOr JohnsonPropAbate 030612.pdf](#)

Michael Spencer, Senior Code Inspector, gave a brief history on the property and indicated that two notices had been sent to the property owner and to date, nothing has been done to bring this property into City compliance with the City Code.

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

DECISION:

Ms. MacDonald approved abatement proceedings for PL120032 /ABT12007 /CE114062.

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4. Hold a public hearing for a request by the City of Tempe – Code Compliance Section to abate public nuisance items in violation of the Tempe City Code for the **CARPENTER PROPERTY (PL120033 /ABT12006 /CE120049)** (Brandy Zedlar, Inspector; Gary Carpenter, property owner) located at 715 West Diamond Drive in the R1-6, Single Family Residential District.

STAFF REPORT: [HOr_CarpenterPropAbate_030612.pdf](#)

Brandy Zedlar, Code Inspector, gave a brief history on the property and indicated that she has had a great deal of contact with the bank and they have the intention of cleaning up the property but to date, nothing has been done to bring the property into compliance with the City Code.

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

DECISION:

Ms. MacDonald approved abatement proceedings for PL120033/ABT12006 /CE120049 for an open period of 180 days.

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5. Hold a public hearing for a request by the City of Tempe – Code Compliance Section to abate public nuisance items in violation of the Tempe City Code for the **PARKER PROPERTY (PL120041 /ABT12009 /CE113009)** (Shawn Daffara, Inspector; Mary/Louis/William Parker, property owners) located at 1332 West 6th Street in the R1-6, Single Family Residential District.

STAFF REPORT: [HOr_ParkerPropAbate_030612.pdf](#)

Shawn Daffara, Code Inspector, gave a brief history on the property and indicated that the owners are now deceased and staff has been working with the son but to date, nothing has been done to bring the property into compliance with the City Code.

Mr. Bill Butler spoke in support of the abatement but questioned whether the wooden fence between the Parker property and an adjacent property could be taken care of in the abatement process.

Mr. Daffara stated that abatements fall under Section 21-3 of the City Code and only allow for landscaping, junk, debris and illegal unsafe structures. Another section of the code, Section 21-4, deals with deteriorated roofs, paint and fences and those issues cannot be abated and the only resolution is to work with the property owner and possibly filing criminal charges to get those issues resolved.

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

DECISION:

Ms. MacDonald approved abatement proceedings for PL120041 /ABT12009 /CE113009 for an open period of 180 days.

6. Hold a public hearing for a request by **APACHE OAK SHOPPING CENTER – HOOKAH BUFFET LLC (PL120022)** (Omar Mohmad Ali Al Rababah, applicant; Jimmy Garmo/Apache Oak Shopping Center LLC, property owner) located at 1501 East Apache Boulevard, Suite No. 101 in the CSS, Commercial Shopping & Services District for:

ZUP12011 Use Permit to allow a retail smoke shop (Hookah Lounge) offering tobacco and tobacco paraphernalia products.

STAFF REPORT: [HOr ParkerPropAbate_030612.pdf](#)

Diana Kaminski, Senior Planner, gave an overview of the case and indicated that the applicant has reviewed the Conditions of Approval and is in agreement.

The applicant, Omar Mohmad Ali Al Rababah and his architect, Joshua Oehler, indicated that they have read the staff report and are in agreement with the Conditions of Approval.

There was no public input.

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

1. It will not contribute to a significant increase in vehicular or pedestrian traffic
2. It will not create a nuisance arising from the omission of odors, dust, gas, noise vibration or smoke.
3. It will not contribute to the deterioration of the neighborhood.
4. It is compatible with existing uses and structures.
5. The applicant will have control over behavior inside and outside of the establishment.

DECISION:

Ms. MacDonald approved PL120022/ZUP12011 subject to the following conditions:

1. The Use Permit is valid for Hookah Buffet 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.

7. Hold a public hearing for a request by **KYRENE COMMERCE CENTER – HEGEL YOGA (PL120036)** (Tish Hegel, applicant; DMC Portfolio LLC, property owner) located at 5861 South Kyrene Road, Suite No. 11 in the GID, General Industrial District for:

ZUP12016 Use Permit to allow a fitness facility in the GID, General Industrial District.

STAFF REPORT: [HOr HegelYoga_030612.pdf](#)

Steve Abrahamson, Planning & Zoning Coordinator, gave an overview of this case and stated there has been no public input and staff is in support of this case.

Ms. Tish Hegel, applicant, stated that she had no questions and is in agreement with the Conditions of Approval.

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

1. It will not contribute to a significant increase in vehicular or pedestrian traffic
2. It will not create a nuisance arising from the omission of odors, dust, gas, noise vibration or smoke.

3. It will not contribute to the deterioration of the neighborhood.
4. It is compatible with existing uses and structures.
5. The applicant will have control over behavior inside and outside of the establishment.

DECISION:

Ms. MacDonald approved PL120036/ZUP12016 subject to the following conditions:

1. The Use Permit is valid for Hegel Yoga 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.

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8. Hold a public hearing for a request by **HUNTINGTON SQUARE – A TOUCH OF SERENITY MESSAGE (PL120044)** (Laurie Waite, applicant; Hanley Properties LLC, property owner) located at 3107 South Mill Avenue, Suite A-4, in the PCC-1, Planned Commercial Center Neighborhood District for:

ZUP12019 Use Permit to allow a massage establishment business.

STAFF REPORT: [HOr SerenityMessage 030612.pdf](#)

Steve Abrahamson, Planning & Zoning Coordinator, gave an overview of the case and stated that there has been no public input and staff is in support of the case.

Ms. MacDonald indicated for the record that the staff report had been corrected due to some numerical problems and incomplete stipulations and that she and the applicant had been given revised copies.

Ms. Laurie Waite, applicant, addressed the Hearing Officer indicating that she is applying for the Use Permit and is in agreement with the Conditions of Approval.

Ms. MacDonald asked the applicant if this establishment would be similar to a Massage Envy.

Ms. Waite indicated that although they are not a corporate operation, that yes, it would be similar.

There is no public input.

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

1. It will not contribute to a significant increase in vehicular or pedestrian traffic
2. It will not create a nuisance arising from the omission of odors, dust, gas, noise vibration or smoke.
3. It will not contribute to the deterioration of the neighborhood.
4. It is compatible with existing uses and structures.
5. The applicant will have control over behavior inside and outside of the establishment.

DECISION:

Ms. MacDonald approved PL120044/ZUP12019 subject to the following conditions:

1. The Use Permit is valid for A Touch of Serenity Massage 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.

The next Hearing Officer public hearing will be held on March 20, 2012.

There being no further business the public hearing adjourned at 2:00 PM.

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



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

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APPROVED