

**Minutes  
HEARING OFFICER  
OCTOBER 20, 2009**

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:**

David Williams, Hearing Officer  
Derek Partridge, Planner I  
Nick Graves, Planning Intern  
Steve Abrahamson, Planning & Zoning Coordinator

**Number of Interested Citizens Present:** 5

Meeting convened at 1:30 PM and was called to order by Mr. Williams. He 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 November 3, 2009 at 3:00 PM to the Development Services Department.

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1. Mr. Williams approved the Hearing Officer Minutes for September 15, 2009.

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2. Mr. Williams noted that the following case(s) had been withdrawn from today's agenda:

Request by the City of Tempe – Neighborhood Enhancement Department to abate public nuisance items in violation of the Tempe City Code for the **PEREZ RESIDENCE (PL090323/ABT09021)** (Deneica Perez, property owner) Complaint 093116 located at 1132 West Ellis Drive in the R1-6, Single Family Residential District.  
**WITHDRAWN BY CITY OF TEMPE – NEIGHBORHOOD ENHANCEMENT DEPARTMENT**

Request by the City of Tempe – Neighborhood Enhancement Department to abate public nuisance items in violation of the Tempe City Code for the **HOLBEN RESIDENCE (PL090324/ABT09020)** (Daniel Holben, property owner) Complaint 091708 located at 4620 South Parkside Drive in the R1-6, Single Family Residential District.  
**WITHDRAWN BY CITY OF TEMPE – NEIGHBORHOOD ENHANCEMENT DEPARTMENT**

Request by the City of Tempe – Neighborhood Enhancement Department to abate public nuisance items in violation of the Tempe City Code for the **RECONSTRUCT COMPANY N.A. PROPERTY (PL090361/ABT09026)** (Reconstruct Company N.A., property owner) Complaint 093899 located at 1922 East Myrna Lane in the R1-7, Single Family Residential District.

**WITHDRAWN BY CITY OF TEMPE – NEIGHBORHOOD ENHANCEMENT DEPARTMENT**

Request by the City of Tempe – Neighborhood Enhancement Department to abate public nuisance items in violation of the Tempe City Code for the **METLIFE BANK PROPERTY (PL090362/ABT09027)** (Metlife Bank, property owner) Complaint 094423 located at 1964 East Harvard Drive in the R1-6, Single Family Residential District.

**WITHDRAWN BY CITY OF TEMPE – NEIGHBORHOOD ENHANCEMENT DEPARTMENT**

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3. Request by **ALL AMERICAN MINI STORAGE (PL090321)** (Debbie Conlon/Cox Armored Mini Storage Management, applicant; Tempe West Management, property owner) located at 1403 West Baseline Road in the GID, General Industrial District for:

**ZUP09129** Use permit to allow vehicle rentals (U-Haul trucks & trailers).

Mr. Dennis Slagle was present to represent this case.

Nick Graves, staff planner, gave an overview of this case and stated that no additional public input had been received since the staff report had been issued. He noted that a letter of complaint had been received from the hotel across the street regarding parking on the hotel lot after hours; this letter was included with the staff report. He noted in response to a question from Mr. Williams, that the Conditions of Approval restrict the parking on the frontage area of the applicant.

Discussion between Mr. Williams and Mr. Slagle addressed the issue of after hours drop off. Mr. Slagle confirmed that a key drop was available for return of vehicles after hours. Mr. Williams explained that a sign explaining that off site parking of the U-Hauls were not allowed on hotel premises would be posted and enforced.

**DECISION:**

Mr. Williams approved PL090321/ZUP09129 subject to the following conditions of approval:

1. The use permit is valid for All American Mini Storage and may be transferable to successors in interest through an administrative review with the Development Services Manager, or designee.
2. Any significant verifiable complaints as determined by the City Attorney and/or the Commercial Code Enforcement Division shall require the applicant to return to the Hearing Officer for re-evaluation of the use permit.
3. All U-Haul vehicles shall not block any portion of the fire lane. A fire lane requires a twenty foot (20') wide drive aisle for emergency vehicles to maneuver on site. Any questions regarding the fire lane should be addressed to the Fire Department Representative, Jim Walker (480) 350-8341.
4. No truck repair shall be conducted on site.
5. No more than ten (10) U-Haul vehicles allowed on site at any given time.
6. No U-Haul vehicles shall be parked up front, near the Baseline frontage area and entrance to the site.
7. A Development Plan Review (DPR) will need to be processed to approve the existing colors or to set forth a new set of colors for the site by November 20, 2009.

8. **Proper on-site signage for vehicle drop-offs shall be made visible in order to help control illegal off-site parking. ADDED BY STAFF**

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4. Request by the **FLORES RESIDENCE (PL090345)** (Kerry McNeil/KLM Builders Inc., applicant; Fred Flores, property owner) located at 614 East Westchester Drive in the R1-6, Single Family Residential District for:

**ZUP09131** Use permit standard to reduce the front yard setback for an open structure (carport addition) by twenty percent (20%) from fifteen feet (15') to twelve feet (12').

Mr. Kerry McNeil was present to represent this case.

Derek Partridge, staff planner, gave an overview of this case and stated that no additional public input had been received since the staff report had been issued.

**DECISION:**

Mr. Williams approved PL090345/ZUP09131 subject to the following conditions of approval:

1. The use permit is valid for the plans as submitted to and approved by the Hearing Officer.
2. All required permits and clearances shall be obtained from the Building Safety Division.
3. The construction and materials shall match the existing single family home.

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5. Request by **A. T. & T. MOBILITY – SITE P749-A (PL090199)** (Shannon Morrelli/Bechtel, applicant; SAG Apache L.P., property owner) located at 1905 East Apache Boulevard in the CSS, Commercial Shopping and Services District for:

**ZUP09132** Use permit to allow a ~~sixty five foot (65)~~ **sixty foot (60')** high monopalm.  
**MODIFIED BY HEARING OFFICER**

Ms. Shannon Morrelli of Bechtel was present to represent this case.

Nick Graves, staff planner, gave an overview of this case and stated that opposition had been received that morning from an adjacent property owner since the staff report had been issued.

Mr. Williams asked if they typically limited the height of these monopalms to 55 feet. Discussion revealed that the 60 foot monopalm was consistent with what had previously been approved for this type of structure.

Ms. Morrelli explained that the monopalm is set back on a flag-shaped property. She noted that most of the older monopoles were 66 to 75 feet high. Mr. Williams asked if she wanted the case continued in order that her request could be re-evaluated in regards to the original 65 foot criteria. Ms. Morrelli responded that she did not feel that a continuance would result in any other decision by City staff regarding the maximum height of 60 feet.

Mr. Martin Godusi spoke in opposition to this request. He stated that he is the adjacent property owner and an APAC member. This request is not consistent with the goals and visions of the City's General Plan and sustainability. He provided documentation from the Tempe Apache Boulevard Association that outlined their objection to this request.

In response to a question from Mr. Williams, Mr. Abrahamson stated that staff had not received a response on this request from the Tempe Apache Boulevard Association.

During further discussion between Mr. Godusi and the Hearing Officer, Mr. Godusi stated that he had been informed that he could not erect a four (4) story high building on his property, however, the sixty (60) foot monopalm was higher than a four (4) story building would be.

Mr. Williams noted that Mr. Godusi's property is not actually adjacent to this location but is approximately 200 ft. distant. He did not see any obstacle that this monopalm would present to the development of Mr. Godusi's property and did not feel that it would present significant impact on this property.

Ms. Morelli returned to the podium and noted that this monopalm would be beneficial to the community by offering improved wireless coverage and services. She noted that there is a monopalm located at Apache Boulevard and McClintock that sets a precedent for this type of monopalm in the Apache corridor area.

Mr. Williams addressed the issue of verticality in relation to the new condominiums across the street from this location and questioned the locality. Ms. Morelli explained that when this project was first proposed they were in contact with the property management of the condominiums who expressed a concern with privacy issues regarding the condo residents. She noted that the nature of this request requires 24 hr maintenance access to the monopalm to insure coverage is continuous.

**DECISION:**

Mr. Williams approved PL090199/ZUP09132 subject to the following conditions of approval:

1. Obtain all necessary clearances from the Building Safety Division.
2. The monopalm shall be no greater than 60'-0" (sixty feet) in height (to the top of the monopalm fronds) Antenna RAD Center at 55'-0" (fifty-five feet).
3. The monopalm shall be designed to resemble a Mexican fan palm tree (not Date Palm tree). Fronds and pole to be designed to match new Mexican fan palm trees to be located on site.
4. Two (2) Mexican fan palm trees shall be planted as proposed in the drawings submitted with this request.
5. Any intensification or expansion of use, including co-location of additional antennas, will require a new use permit.
6. Any proposed roof-mounted A/C units shall be concealed on all sides by elements that are an integral part of the building design and are equal to or greater in height than the mechanical equipment.
7. The wireless device shall be removed within 30 days of discontinuance of use.

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6. Request by City of Tempe – Neighborhood Enhancement Department to abate public nuisance items in violation of the Tempe City Code for the **ANDERSON RESIDENCE ABATEMENT (PL090275/ABT09017)** (Don Anderson, property owner) Complaint 092084 located at 1123 East Palmcroft Drive in the R1-6, Single Family Residential District.

Mr. Don Anderson, property owner, was present, stating that he had been a resident and business owner for thirty (30) years. He noted that the weeds had been removed from his property. The items stored on the patio area is not junk, he explained, but good stuff, and asked for additional time to sell those items.

Ms. Julie Scofield, Neighborhood Enhancement Inspector, stated that this case was opened in March 2009 due to a complaint and notices were sent regarding grass, weeds, gravel, junk and debris and inoperable vehicle(s). In April 2009 final notice(s) were sent regarding the landscaping and junk/debris in the front yard, as well as

bees located in the shed area in the back yard. In June 2009 the landscaping items had been corrected, however there was still junk/debris located in the rear yard. There have been no changes to the property's condition since the September 1st continuance by the Hearing Officer. She presented photographs, taken yesterday, that documented the current state of this property.

Mr. Williams noted that six (6) weeks ago, on September 1<sup>st</sup>, Mr. Anderson stated that 30 days were adequate to bring these violations into compliance. He noted that Mr. Anderson would have a period of time to obtain storage accommodations for the items presently on the patio area. He suggested that Mr. Anderson meet with staff to determine the period of time available before abatement proceedings would be activated. In response to a question from Mr. Anderson it was noted that the cars were adequately screened and were not part of the abatement proceedings at this time.

**DECISION:**

Mr. Williams approved abatement proceedings for PL090275/ABT09017.

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7. Request by the City of Tempe – Neighborhood Enhancement Department to abate public nuisance items in violation of the Tempe City Code for the **CRESS RESIDENCE (PL090315/ABT09023)** (Robert Cress, property owner) Complaint 094298 located at 511 East Carter Drive in the R1-6, Single Family Residential District.

No one was present to represent the property owner.

Ms. Brandy Zedlar, Neighborhood Enhancement Inspector, stated that there had been no change in the condition of this property and the pool area. Mr. Cress is no longer occupying the property and the property is going into foreclosure. Ms. Zedlar explained that Mr. Cress had declined to sign the form authorizing a voluntary abatement. As of today, no auction date has been set by Maricopa County, stated Ms. Zedlar.

**DECISION:**

Mr. Williams approved abatement proceedings for PL090315/ABT09023.

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8. Request by the City of Tempe – Neighborhood Enhancement Department to abate public nuisance items in violation of the Tempe City Code for the **KOKES RESIDENCE (PL090316/ABT09024)** (Joseph Kokes, property owner) Complaint 093713 located at 608 East Fordham Drive in the R1-6, Single Family Residential District.

No one was present to represent the property owner.

Ms. Brandy Zedlar, Neighborhood Enhancement Inspector, stated that there had been no change in the condition of this property or the pool area. Mr. Kokes had indicated he would sign the voluntary authorization for abatement, however, the signed form had never been received, Ms. Zedlar stated. Mr. Kokes had stated that he was losing the property to foreclosure. November 18<sup>th</sup> is the date set for the auction of this property due to foreclosure.

**DECISION:**

Mr. Williams approved abatement proceedings for PL090316/ABT09024.

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9. Request by the City of Tempe – Neighborhood Enhancement Department to abate public nuisance items in violation of the Tempe City Code for the **MILES RESIDENCE (PL090322/ABT09022)** (Cris Miles, property owner) Complaint 072012 located at 702 East Taylor Street in the R1-6, Single Family Residential District.

No one was present to represent the property owner.

Mr. Andres Lara, Neighborhood Enhancement Inspector, stated that although the front yard has improved, there are dead bushes and weeds in the back yard area, and there is still an unregistered vehicle in the driveway.

**DECISION:**

Mr. Williams approved abatement proceedings for PL090322/ABT09022.

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10. Request by the City of Tempe – Neighborhood Enhancement Department to abate public nuisance items in violation of the Tempe City Code for the **RECONSTRUCT COMPANY N.A. PROPERTY (PL090363/ABT09028)** (Reconstruct Company N.A., property owner) Complaint 093559 located at 1329 East McNair Drive in the R1-7, Single Family Residential District.

No one was present to represent the property owner.

Mr. Don Alexander, Neighborhood Enhancement Inspector, stated that notices had been sent to the property owner on this foreclosed property. There has been no change/improvement to the pool. This property is in foreclosure.

**DECISION:**

Mr. Williams approved abatement proceedings for PL090363/ABT09028.

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11. Request by the City of Tempe – Neighborhood Enhancement Department to abate public nuisance items in violation of the Tempe City Code for the **RECONSTRUCT COMPANY N.A. PROPERTY (PL090364/ABT09029)** (Reconstruct Company N.A., property owner) Complaint 093699 located at 8263 South Pecan Grove Circle in the R1-15, Single Family Residential District.

No one was present to represent the property owner.

Mr. Don Alexander, Neighborhood Enhancement Inspector, stated that there has been no changes to the condition of this property. This property is in foreclosure.

**DECISION:**

Mr. Williams approved abatement proceedings for PL090364/ABT09029.

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The next Hearing Officer public hearing will be held on **Wednesday, November 4, 2009.**

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There being no further business the public hearing adjourned at 2:42 PM.

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

A handwritten signature in blue ink that reads "Steve A. Abrahamson". The signature is written in a cursive style and is set against a light green rectangular background.

Steve Abrahamson, Planning & Zoning Coordinator  
for David Williams, Hearing Officer

SA:dm

APPROVED