

**Minutes  
HEARING OFFICER  
DECEMBER 7, 2010**

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  
Kevin O'Melia, Senior Planner  
Diana Kaminski, Senior Planner  
Nick Graves, Planner

**Number of Interested Citizens Present: 39**

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 December 21, 2010 at 3:00 PM to the Community Development Department.

1. Ms. MacDonald noted that the Hearing Officer Minutes for November 16, 2010 had been reviewed and approved.

2. Request by **BROADWAY MARKET PLACE – ARIZONA #1 GOLD BUYERS (PL100172)** (Roman Babayev, applicant; Weingarten Nostat Inc., property owner) located at 2105 South Rural Road in the PCC-1, Planned Commercial Center Neighborhood District for:

**ZUP10137** Use permit to allow a pawn shop at an existing gold buyer establishment.

Mr. Roman Babayev was present to represent this case.

Nick Graves, staff planner, gave an overview of this case and stated that no further public input has been received since the staff report was issued. This business was approved for a pawn shop use permit on July 6, 2010. A complaint on signage had been received and is still pending resolution, Mr. Graves noted.

Ms. MacDonald questioned whether Mr. Graves had received any complaints from the neighboring businesses pertaining to this request. Mr. Graves stated that he had not.

Ms. MacDonald asked Mr. Babayev if he understood that Conditions of Approval including the two (2) additional Conditions Nos. 8 and 9.

Ms. MacDonald noted that this request is compatible with the existing businesses, will not contribute to the deterioration of the surrounding neighborhoods or affect current vehicular or pedestrian traffic in adjacent areas. There will be adequate control of disruptive behavior both inside and out.

**DECISION:**

Ms. MacDonald approved PL100172 / ZUP10137 subject to the following conditions:

1. The use permit is valid for Arizona #1 Gold Buyers and may be transferable to successors in interest through an administrative review with the Community Development Manager, or designee.
2. All permits and clearances required by the Building Safety Division shall be obtained prior to the use permit becoming effective.
3. Any expansion or intensification of the use will require a new use permit.
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. All business signs shall receive a Sign Permit. Please contact Planning staff at 480-350-8331.
6. A sales tax license from the City of Tempe Tax and License Division shall be obtained prior to the use permit becoming effective.
7. The applicant shall work with the Tempe Police Department to update the Security Plan for the business. Please contact Officer Dan Brown at 480-858-6330.
8. **No fire arms shall be sold or pawned without a new use permit. ADDED BY STAFF**
9. **Applicant shall return to the Hearing Officer in six (6) months to assure that the business is in compliance with the conditions of approval. ADDED BY STAFF**

-----

3. Request by **VINTAGE ON 8<sup>TH</sup> LLC (PL100325)** (Gavin Jacobs, applicant; Arden Properties Inc., property owner) located at 1300 East 8<sup>th</sup> Street in the GID, General Industrial, and TOD, Transportation Overlay Districts for:

**ZUP10127** Use permit to allow a restaurant and bar with GID, General Industrial District, zoning.

Mr. Gavin Jacobs was present to represent this case.

Sherri Lesser, staff planner, gave an overview of this case and stated that no further public input has been received since the staff report was issued.

The parking issue was addressed and Ms. Lesser noted that the site shares available parking spaces with the Four Brewery and Restaurant. She noted that staff will require, as a Condition of Approval, that parking upgrades are completed on the Creamery Branch prior to the use permit becoming effective.

Mr. Jacobs stated that he would listen to neighborhood concerns and make every effort to accommodate those concerns. He noted on an aerial site plan where parking would be available for patrons. Ms. MacDonald noted that her site visited revealed posted signs forbidding parking except for the office building tenants.

Mr. Chris McKee, University Heights Neighborhood Association Chair, spoke in opposition, citing parking issues.

Ms. Rosa Simai, manager of Willowbrook Apartments located directly across the street from this location, spoke in opposition citing noise concerns and parking issues. There are so many people overflowing the current Four Peaks Brewery into the apartment parking lot that she has had to hire security to patrol the area.

Mr. Joe Mendes, Tempe resident and owner of Willowbrook Apartments, spoke in opposition. He stated that this business would have a negative impact on the residents and spoke of parking and noise concerns. Cars have had to be towed due to parking in unauthorized areas assigned to the apartments. He stated that the noise from Four Peaks Brewery is so loud that another business of this nature should not be permitted.

Mr. Chuck Buss, representing University Heights Neighborhood Association, noted that the current situation involved parking problems and that another business of this type would add to the existing problem(s). He noted the proximity of his neighborhood to this location on an aerial location map.

Mr. James Spindler, Tempe resident, spoke in opposition to this request. He stated that there are too many cars parking in the neighborhood and requested that a noise study be done. He has been awoken many times in the night due to the loud noise from the Four Peaks Brewery and related traffic. There are many single family dwellings in the area which he noted on the location map.

Ms. Lesser returned to the podium and noted that a neighborhood meeting had been held with both the applicant and property owner in attendance to discuss any concerns that the neighbors might have. She related the past history of previous businesses that were in this location, and stated that the applicant does meet the parking requirements for his business. She noted that the Conditions of Approval address the resolution of specific parking issues.

Mr. Jacobs returned to the podium and explained the specifics of his restaurant stating that his intention is to provide a neighborhood gathering spot that will enhance the surrounding area.

The apparent similarities between Four Peaks Brewery and Vintage on 8<sup>th</sup> were discussed by Ms. MacDonald and Mr. Jacobs.

It was suggested by Ms. Lesser that two (2) additional Conditions of Approval be added . . .one to address signage and one to have a review of compliance with the Conditions of Approval by the Hearing Officer in six (6) months.

Ms. MacDonald explained that based on citizen concerns and her review of the shared parking model, she felt that there would be significant increase in the vehicular and pedestrian traffic in the adjacent areas, as well as an increase in noise, and that this may affect property values. After listening to the residents and evaluating the criteria for approval of a use permit, Ms. MacDonald stated that she believes that this application does not meet the criteria for a use permit. She noted that any appeal of this decision must be made in writing by December 21, 2010.

**DECISION:**

Ms. MacDonald denied PL100325 / ZUP10127.

-----

4. Request by **LIGHTSQUARED PHNX0692 (PL100340)** (Steve Ciolek/Coal Creek Consulting, applicant; Tower Company Assets LLC, property owner) located at 1505 West University Drive in the GID, General Industrial District for:

**ZUP10136** Use permit to increase the height of an existing monopole from 50 ft to 61 ft to allow co-location of wireless antennas.

Mr. Steve Ciolek was present to represent this case.

Nick Graves, staff planner, gave an overview of this case and stated that no further public input has been received since the staff report was issued.

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

**DECISION:**

Ms. MacDonald approved PL100340 / ZUP10136 subject to the following conditions:

1. Obtain all necessary permits and clearances from the Building Safety Division.
2. Any intensification or expansion of use, including co-location of additional antennae, will require a new use permit.
3. The wireless devices shall be removed within 30 days of discontinuance of use.
4. The antennas and dishes shall be painted to match the existing antennas.
5. The use permit is valid for the plans as approved by the Hearing Officer.
6. A weather resistant emergency contact informational sign shall be posted on the site and shall be visible to the public.

-----

5. Request by **SRP TOVREA – A. T. & T. (PL100346)** (Brendan Thomson/SRP, Applicant; SRP, property owner) located at 1282 Salt River Drive in the GID, General Industrial District for:

**ZUP10135** Use permit to allow the replacement of nine (9) antennas with nine (9) new antennas increasing the overall height of the structure from seventy-two feet (72 ft) to seventy-four feet (74 ft) to the top of the antennas.

Mr. Brendan Thomson was present to represent this case.

Nick Graves, staff planner, gave an overview of this case and stated that no further public input has been received since the staff report was issued.

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

**DECISION:**

Ms. MacDonald approved PL100346 / ZUP10135 subject to the following conditions:

1. Obtain all necessary permits and clearances from the Building Safety Division.
2. Any intensification or expansion of use, including co-location of additional antennae, will require a new use permit.
3. The overall height of the power pole and all sub-assemblies shall not exceed 74'.
4. The wireless devices shall be removed within 30 days of discontinuance of use.
5. The antennas shall be painted to match the existing 69kv drop pole/power pole (monopole).
6. A weather resistant emergency contact informational sign shall be posted on the site and shall be visible to the public.

-----

6. Request by **UNIVERSITY PLAZA – SAYURI SUSHI BAR (PL100350)** (Sharon Rowe, applicant; Inverness LLC, property owner) located at 1435 East University Drive, Suite No. 111, in the GID, General Industrial District for:

**ZUP10131** Use permit to allow a restaurant with live indoor and outdoor entertainment in the GID, General Industrial District.

Ms. Sharon Rowe was present to represent this case.

Sherri Lesser, staff planner, gave an overview of this case and stated that no further public input has been received since the staff report was issued.

The Conditions of Approval were reviewed with Ms. Rowe.

Mr. Chuck Buss, representing the University Heights Neighborhood Association, spoke of concern with the outdoor element of live entertainment.

Ms. Rowe returned to the podium to respond to questions regarding the outdoor entertainment, stating that it would be small bands on the outdoor patio on weekend nights and occasionally on holidays. After discussion with Ms. MacDonald it was agreed that a Condition of Approval would be added to have the applicant return to the Hearing Officer in six (6) months to review compliance with the Conditions of Approval.

Mr. Vijay Patel, Tempe resident, spoke of his concern of the noise that the live entertainment would generate.

Ms. Lesser noted that the previous business owner built a stage on the patio although their use permit did not include outdoor entertainment. It was agreed to add an additional Condition of Approval No. 8 to address the issue of intensification of use.

Ms. MacDonald stated that after reviewing the use permit criteria she felt that this request meets all applicable conditions and tests of the Zoning and Development Code.

**DECISION:**

Ms. MacDonald approved PL100350 / ZUP10131 subject to the following conditions:

1. The use permit is valid for Sayuri Sushi Bar 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 Plan 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. The live entertainment shall be limited to karaoke and small ensembles.
5. Live entertainment shall cease at midnight (12 AM) Friday and Saturday; on other nights it shall cease at 11 PM.
6. The applicant shall submit an updated security plan to the City of Tempe Crime Prevention Unit. Contact Crime Prevention at 480-858-6330 within 30 days of this approval (January 7, 2011).
7. **Applicant shall return to the Hearing Officer in six (6) months to assure that the business is in compliance with the conditions of approval. ADDED BY HEARING OFFICER**
8. **If the scope of the business is intensified beyond this request, the applicant shall apply for a new use permit. ADDED BY STAFF**

- 
7. Request by **DANELLE PLAZA – RYO SMOKE SHOP (PL100366)** (Andrea Pomykala, applicant & property owner) located at 3400 South Mill Avenue, Suite No. 23, in the CSS, Commercial Shopping and Services District for:

**ZUP10133** Use permit to allow a retail smoke shop offering tobacco and tobacco paraphernalia products.

Ms. Andrea Pomykala was present to represent this case.

Diana Kaminski, staff planner, gave an overview of this case and stated that no further public input has been received since the staff report was issued. The business has been operating a rental vehicle/U-Haul rental without a use permit. Signage issues were also non-compliant.

It was noted that the signage issue cannot be resolved without the use permit being issued. Mr. Abrahamson explained that vehicle rental is not an allowed use in this location. Ms. Pomykala stated that she was at first unaware of these City restrictions.

Ms. MacDonald stated that the U-Haul and vehicle rental(s) are not permitted uses and asked if Ms. Pomykala had reviewed the assigned Conditions of Approval and was in agreement with those conditions. Ms. Pomykala stated that she understood the conditions and would adhere to them.

Mr. Rich Halverson, Tempe resident, spoke in support of this request and stated that there should be more businesses of this type within the City of Tempe. He questioned the City's restrictions on outdoor signage and was directed to meet with Jeff Tamulevich/Code Compliance Section (also present) who could answer his questions on a one-to-one basis.

**DECISION:**

Ms. MacDonald approved PL100366 / ZUP10133 subject to the following conditions:

1. This use shall not violate the City of Tempe Smoking Ordinance or Smoke Free Arizona Act A.R.S. §36-601.01.
  2. If smoking will be permitted on the premises, the owner/management is responsible to adhere to the 2003 International Mechanical Code.
  3. Obtain all necessary clearances from the Building Safety Division.
  4. All illegal signage shall be removed. All business signs shall receive a Sign Permit. Please contact Planning staff at 480-350-8331.
  5. The Use Permit is valid for the plans as submitted within this application.
  6. Any intensification or expansion of use will require a new Use Permit.
  7. The Use Permit is valid for RYO Smoke Shop and may be transferable to successors in interest through an administrative review with the Community Development Director, or designee.
  8. 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.
  9. The applicant shall submit a security plan to the City of Tempe Crime Prevention Unit. Contact Crime Prevention at 480-858-6330 within 30 days of this approval (January 6, 2011).
-

8. Request by **CROWN CUSTOM MILLWORK (PL100368)** (Dina Rosas/d. rosas Interior Architecture, applicant; Fifth Street Industrial Plaza, property owner) located at 1975 East 5<sup>th</sup> Street in the GID, General Industrial District for:

**ZUP10134** Use permit to allow woodworking in the GID, General Industrial District.

Mr. John Langaker was present to represent this case.

Kevin O'Melia, staff planner, gave an overview of this case and stated that no further public input has been received since the staff report was issued.

Ms. MacDonald stated that after reviewing the use permit criteria she felt that this request meets all applicable conditions and tests of the Zoning and Development Code.

**DECISION:**

Ms. MacDonald approved PL100368 / ZUP10134 subject to the following conditions:

1. The Use Permit is valid for Crown Custom Millwork, L.L.C. and may be transferable to successors in interest though an administrative review with the Community Development Manager, or designee.
2. All permits and clearances required by the Building Safety Division shall be obtained prior to the Use Permit becoming effective.
3. Any expansion or intensification of the use will require a new Use Permit.
4. Conduct work indoors with exit and service doors typically closed to limit the escape of manufacturing noise to the surroundings.
5. Following the Crown Custom Millwork Letter of Intent, limit hours of business operation to 'normal business hours'. Normal business hours are defined by this condition as Monday through Saturday, 7:00 am to 6:00 pm.
6. Remove mobile mini storage container that is in front of the 1975 East 5<sup>th</sup> Street.
7. Fully screen mechanical equipment required for this business operation on all four sides to the extent required by ZDC Sec. 4-405. Orient sawdust collector to north side of building to minimize visual impact of this equipment to the surroundings.
8. Any exterior modifications to site, building or landscape to accommodate mechanical equipment, change fenestration, add lighting or other modifications required that are related to this business may require a Development Plan Review submittal.
9. The business requires a sales tax license. Contact City of Tempe Tax and License Division ([www.tempe.gov/sales tax](http://www.tempe.gov/sales-tax) or 480-350-2955) to obtain a sales tax and license form and initiate this process.
10. Business signs require a sign permit. Contact City of Tempe Community Development staff ([dean\\_miller@tempe.gov](mailto:dean_miller@tempe.gov) or 480-350-8331) to initiate this process prior to sign fabrication or installation.
11. 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.

-----

9. Request by the **RAFAEL RESIDENCE (PL100370)** (Robert Bliss/R C Bliss, applicant; Timothy Rafael, property owner) located at 14 East 14<sup>th</sup> Street in the R1-6, Single Family Residential District and CRA, Cultural Resource Area for:

**ZUP10139** Use Permit Standard to allow a twenty percent (20%) front yard (enclosed) building setback reduction from twenty feet (20 ft) to sixteen feet (16 ft) for a portion of the proposed residence.

Mr. Timothy Rafael was present to represent this case.

Kevin O'Melia, staff planner, gave an overview of this case and stated that there has been opposition to this request and that although a neighborhood meeting is not required, the applicant has met informally with those in opposition. Due to the mitigating factors related to this property, staff supports this request for a Use Permit Standard. Those factors include close proximity of the residence to Mill Avenue with its heavy traffic volume, the small portion of the residential frontage requesting front yard setback reduction and maintenance of the prevailing 7 ft. minimum side yard setback for the residence.

Mr. O'Melia noted that although the existing residence is located in the University Park Historic District, this District is on the National Register of Historic Places and is not on the Tempe Register of Historic Place or is not part of a City Zoning Map Historic Overlay District. This request is in advance of the demolition of an existing 1946-47 residence and the construction of a new residence on the front and detached garage/office accessory building on the rear of the property.

Mr. Rafael acknowledged his familiarity with the assigned Conditions of Approval and explained that he had sold his home in California after acquiring this property.

Ms. MacDonald questioned the proposed footprint of this construction. Mr. Rafael explained why he felt that the proposed design best utilized the parameters of this property.

Ms. MacDonald noted her appreciation of Mr. Rafael's efforts to reach out to the neighborhood to address any concerns and include them in the process of this request. Mr. Rafael responded that he has also hired a landscape architect to help with the project.

Mr. Doug McQueen, Tempe resident, spoke of his concerns with the deviations this request encompasses as he does not feel that a hardship exists.

Ms. MacDonald explained that the Use Permit Standard was developed when it was discovered that there was a percentage of requests that did not involve a full born variance request but rather a small percentage (20% reduction) of property parameters.

Ms. MacDonald noted that this request applies to only a small portion of the property and meets the criteria for the Use Permit Standard which allows the 20% reduction in the front yard setback. She noted that if the neighbors would like to appeal this decision, they have two weeks (until December 21, 2010) to do so.

**DECISION:**

Ms. MacDonald approved PL100370 / ZUP10139 subject to the following conditions:

1. The Use Permit Standard is valid for Timothy F. Rafael and may be transferable to successors in interest through an administrative review with the Community Development Manager, or designee.
2. Permits and clearances as required, including, but may not be limited to, those issued by the Building Safety and Engineering Divisions shall be obtained prior to the Use Permit Standard becoming effective.
3. Submit construction documents for building permits by December 7, 2011 or the Use Permit Standard approval will expire. Subsequently, an expiration of the building plan check period or issued building permits will result in expiration of the Use Permit Standard approval.

4. Maintain existing building and site including periodic flood irrigation of site landscape. Do not demolish the existing residence or remove existing landscape (other than material that has died naturally) until building permits are obtained for the re-development.
5. Use Permit Standard for front yard setback reduction is approved for the plans and elevation submitted with this application, including the following. A total of twenty-two (22) lineal foot of building frontage consisting of a living room and front entrance porch is allowed at the 18'-0" front yard setback. Included in this twenty-two (22) lineal foot is a total of six (6) lineal foot, consisting of a chimney that is allowed at the 16'-0" front yard setback. Any expansion or intensification of the design that utilizes the front yard setback reduction will require a new Use Permit Standard.
6. Provide one story residence. Maintain maximum 22'-0" height and minimum 7'-0" side yard setback for residence.
7. Provide a one story detached accessory building consisting of garage and office, or alternatively consisting of garage and workshop. Do not convert the detached accessory building or any part into a second dwelling unit. Maintain maximum 15'-0" height and minimum 9'-0" side yard setback for accessory building.
8. Maintain flood irrigation system as the principal plant irrigation system on site. Provide contours on site in coordination with grading and drainage plan to allow flood irrigation to efficiently water planting areas without infiltrating structures and undermining foundations, or overflowing onto adjacent private property or public right-of-way.
9. Provide a landscape plan as part of the building safety submittal for Planning Division review. Have landscape plan prepared by a landscape architect or a person with a horticultural specialty. Indicate existing plant material to remain and identify each plant (both existing to remain and proposed) on the plan by species as part of the landscape plan. Indicate existing trees of 4" caliper or greater on the plan and identify each by species that are proposed for demolition.
10. Remove and do not replace chain link fence on property adjacent to the alley and where occurs elsewhere on site.

- 
10. Request by the **WASSON RESIDENCE (PL100376)** (Gregg Ludwigsen, applicant; James Wasson, property owner) located at 1131 East Bishop Drive in the R1-6, Single Family Residential District for:

**ZUP10138** Use permit to allow an amateur radio antenna with a maximum height of seventy feet (70 ft) which will retract to thirty-five feet (35 ft) in height when not in use.

Mr. Gregg Ludwigsen was present to represent this case.

Sherri Lesser, staff planner, gave an overview of this case and stated that no further public input has been received since the staff report was issued.

Mr. Ludwigsen requested further clarification on Condition of Approval No. 3 and could this be triggered by a person just driving down the street. Ms. Lesser explained that it required evidence that this use was detrimental. The retractable dimensions of the antenna were discussed.

Ms. MacDonald stated that she had noticed during her site visit that there were three (3) cables/wires currently extending from the house. Mr. Ludwigsen explained that those would be removed.

Mr. James Spindler, Tempe resident, spoke in support of this request and that the 'Hams' had done good work and had provided a public service.

Ms. MacDonald stated that after hearing from the applicant and reviewing the use permit criteria she felt that this request meets all applicable conditions and tests of the Zoning and Development Code.

**DECISION:**

Ms. MacDonald approved PL100376 / ZUP10138 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.
2. Any intensification or expansion of use beyond that presented, including additional height and/or antennae, will require a new use permit.
3. If there are any complaints arising from the use herein permitted that are verified by a consensus of the complaining party and the City Attorney's office, the use permit may be returned to the Hearing Officer and another public hearing set to re-evaluate the use permit.
4. The antenna to be removed within thirty (30) days ~~and~~ upon cessation of use by the home owner.

**CORRECTED BY STAFF**

-----

11. Request by **AZTECH COURT - AUGUST KARAOKE BOX (PL100373)** (Zhaoxu Liu/August Culture Media LLC, applicant; Martin Bloom Investments, property owner) located at 1301 East University Drive, Suite No. 106 in the PCC-1, Planned Commercial Center Neighborhood District for:

**ZUP10132** Use permit to allow an amusement use (Karaoke Club) with live entertainment in the GID, General Industrial District.

Ms. Zhaoxu Liu was present to represent this case.

Sherri Lesser, staff planner, gave an overview of this case and stated that no further public input has been received since the staff report was issued. She noted that this request involves approximately seven (7) private rooms and one (1) larger rooms for private Karaoke gatherings.

Mr. Vijay Patel, Tempe resident, spoke in opposition to this request. He addressed his concerns regarding parking and noise and stated that he felt that the allowed closing time(s) were too late.

Ms. MacDonald stated that after hearing from the applicant and reviewing the use permit criteria she felt that this request meets all applicable conditions and tests of the Zoning and Development Code. She assigned an additional Condition of Approval No. 11 to review compliance with the assigned Conditions of Approval by the applicant.

**DECISION:**

Ms. MacDonald approved PL100373 / ZUP10132 subject to the following conditions:

1. The use permit is valid for August Karaoke Box and may be transferable with approved 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 Plan 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. The live entertainment shall be limited to karaoke.
5. Live entertainment shall cease at ~~midnight~~ 2 AM Monday thru Saturday and at ~~11 PM~~ **12 Midnight** Sunday.

**CORRECTED BY STAFF**

6. The applicant shall **submit** a security plan with the City of Tempe Crime Prevention Unit. Contact Crime Prevention at 480-858-6330 within 60 days of this approval (February 7, 2011). **CORRECTED BY STAFF**
7. Update the data for parking file for this building prior to the Use Permit becoming effective. Provide information within 30 days or by January 7, 2011.
8. Any intensification or expansion of use shall require ~~including~~ a new Use Permit. **CORRECTED BY STAFF**
9. All permits and clearances required by the Building Safety Division shall be obtained prior to the use permit becoming effective.
10. No noise shall emanate beyond the walls of the tenant site; install sound attenuation material to the interior of the tenant space as part of the tenant improvement building permit.
11. **Applicant shall return to the Hearing Officer in six (6) months to assure that the business is in compliance with the conditions of approval. ADDED BY HEARING OFFICER**

-----

12. Request by the City of Tempe – Code Compliance Section to abate public nuisance items in violation of the Tempe City Code for the **FELSINGER RESIDENCE (PL100348/ABT10032/CE102870)** (Marvin White, Inspector; Arthur Felsing, property owner) located at 1031 East Lilac Drive in the R1-6, Single Family Residential District.

No one was present to represent the property owner.

Kevin O'Melia, staff planner, explained that there were accumulated litter and debris on the property as well as over height weeds and grass. It was noted that Mr. Felsing has been cited numerous times in the past eleven years and has been abated on several occasions. An open abatement period of 180 days has been requested to prevent repeated property neglect and neighborhood decline.

**DECISION:**

Ms. MacDonald approved abatement proceedings for PL100348 /ABT10032 /CE102870 for an open period of 180 days.

-----

13. Request by the City of Tempe – Code Compliance Section to abate public nuisance items in violation of the Tempe City Code for the **PATEL MOTEL ESTATES LLC PROPERTY (PL100353/ABT10035/CE102621)** (Marvin White, Inspector; Patel Motel Estates LLC, property owner) located at 1340 South River Drive in the R-4, Multi-Family Residential General District.

No one was present to represent the property owner.

Kevin O'Melia, staff planner, explained that this property has had six prior complaints in the past five years. Currently there are overgrown trees that obstruct streets, signs and public right-of-way as well as overgrown weeds and grass. An open abatement period of 180 days has been requested to prevent repeated property neglect and neighborhood decline.

Mr. Rich Halverson, Tempe resident, stated that he had resided on Wildermuth until about two (2) months ago. He had complained about chronic problems with the site involving landscaping, weeds, irrigation problems for over two (2) years. He stated that it is very frustrating that this is still an ongoing problem.

**DECISION:**

Ms. MacDonald approved abatement proceedings for PL100353 /ABT10035 /CE102621 for an open period of 180 days.

-----

14. Request by the City of Tempe – Code Compliance Section to abate public nuisance items in violation of the Tempe City Code for **ACKBAR LLC PROPERTY (PL100367/ABT10033/CE100540)** (Marvin White, Inspector; Ackbar LLC, property owner) located at 2058 East Apache Boulevard in the R-4, Multi-Family Residential General District; CSS, Commercial Shopping and Services District and TOD, Transportation Overlay District.

No one was present to represent the property owner.

Kevin O'Melia, staff planner, explained that there was debris and overgrown weeds and grass on the site. This is the third complaint on these issues for the past three years. An open abatement period of 180 days has been requested to prevent repeated property neglect and neighborhood decline.

**DECISION:**

Ms. MacDonald approved abatement proceedings for PL100367 /ABT10033 /CE100540 for an open period of 180 days.

-----

15. Request by the City of Tempe – Code Compliance Section to abate public nuisance items in violation of the Tempe City Code for the **COSTALES PROPERTY (PL100369/ABT10034/CE102475)** (Jack Scofield, Inspector; Bernabe & Elenita Costales, property owner) located at 1050 East Greenway Drive in the R1-6, Single Family Residential District.

No one was present to represent the property owner.

Jack Scofield, Code Compliance Inspector, explained that a non-permitted parking of a recreational vehicle (25' 6" RV) in the front yard on an unimproved surface was the issue.

**DECISION:**

Ms. MacDonald approved abatement proceedings for PL100369 /ABT10034 /CE102475.

-----

16. Request by the City of Tempe – Code Compliance Section to abate public nuisance items in violation of the Tempe City Code for the **REVIE RESIDENCE (PL100374/ABT10036/CE101686)** (Shawn Daffara, Inspector; Kevin Revie, property owner) located at 1215 West 11<sup>th</sup> Street in the R1-6, Single Family Residential District.

No one was present to represent the property owner.

Shawn Daffara, Code Compliance Inspector, explained that deteriorated landscaping and an vehicle with expired registration were present at this location. This property has had six complaints in the past three years with minimal response or effort to comply and failure to appear in court when cited. An open abatement period of 180 days has been requested to prevent repeated property neglect and neighborhood decline.

**DECISION:**

Ms. MacDonald approved abatement proceedings for PL100374 /ABT10036 /CE101686 for an open period of 180 days.

-----

The next Hearing Officer public hearing will be held on **Tuesday, December 21, 2010.**

-----

There being no further business the public hearing adjourned at 4:05 PM.

-----

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



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

SA:dm

APPROVED