

**Minutes
HEARING OFFICER
NOVEMBER 2, 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

Number of Interested Citizens Present: 11

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 November 16, 2011 at 3:00 PM to the Community Development Department.

1. Ms. MacDonald noted that the Hearing Officer Minutes for October 4, 2011 had been reviewed and approved.

2. Request by the City of Tempe – Code Compliance Section to abate public nuisance items in violation of the Tempe City Code for the **BAC HOME LOANS PROPERTY (PL110328 /ABT11038 /CE112247)** (Brandy Zedlar, Inspector; Bank of America, property owner) located at 416 East Carson Drive in the R1-6, Single Family Residential District.

No one was present to represent the property owner.

Brandy Zedlar, Code Inspector, explained that there is an excessive amount of palm tree debris in the front and side yards, as well as weeds and debris. There have been eight (8) complaints for deteriorated landscape between 2001 and 2011. Staff is requesting an open abatement period of 180 days to prevent repeated property neglect and neighborhood decline.

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

DECISION:

Ms. MacDonald approved abatement proceedings for PL110328 /ABT11038 /CE112247 for an open period of 180 days.

3. Request by the City of Tempe – Code Compliance Section to abate public nuisance items in violation of the Tempe City Code for the **TASHIJIAN PROPERTY (PL110339 /ABT11039 /CE113133)** (Jack Scofield, Inspector; Issa Tashjian, property owner) located at 1803 East Oxford Drive in the R1-7, Single Family Residential District.

No one was present to represent the property owner.

Jack Scofield, Code Inspector, explained that a complaint had been received regarding a deteriorated pool with green stagnant water and a damaged rear yard RV gate. The property represents a health hazard and an eyesore for the community. Staff is requesting an open abatement period of 180 days to prevent repeated property neglect and neighborhood decline.

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

DECISION:

Ms. MacDonald approved abatement proceedings for PL110339 /ABT11039 /CE113133 for an open period of 180 days.

4. Request by **CRICKET SITE PHX 190 (PL110329)** (Scott Quinn/Quinn United Enterprises, applicant; ADOT, property owner) located at 2055 South Price Road in the AG, Agricultural District for:

ZUP11086 Use permit to increase the height of an existing monopole from 53 ft. to 64 ft. for the addition of communication antennas.

Mr. Scott Quinn was present to represent this case.

Sherri Lesser, staff planner, gave an overview of this case. She noted that this is an existing monopole located in the ADOT right-of-way in an AG, Agricultural District. The existing monopole has one other carrier, Sprint. The width of the antenna encasement canister will increase from 16 inches to a diameter of 28 inches. She stated that a correction to her staff report should indicate that the three (3) existing concealed antennas will be replaced inside the new 28 inch diameter canister.

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

Ms. MacDonald noted that this request meets the criteria outlined for a use permit.

DECISION:

Ms. MacDonald approved PL110329/ZUP11086 subject to the following conditions:

1. This use permit is valid for Cricket Communications, based on the plans as submitted with this request, and may be transferable to successors in interest through an administrative review with the Community Development Manager or designee.
2. Applicant shall obtain all necessary clearances from the Building Safety Division. This must be accomplished prior to the Use Permit becoming effective.
3. The monopole shall be no greater than sixty-four (64) feet in height.
4. Any intensification or expansion of use will require a new use permit.
5. The wireless device shall be removed within thirty (30) days of discontinuance of use.

5. Request by **INTEGRITY MOLD INC. (PL110332)** (Lesley Partch/Partch & Associates Architecture LLC; Integrity Plant LLC, property owner) located at 905 West Alameda Drive in the GID, General Industrial District for:

ZUP11092 Use permit to allow an exterior dust collector in the GID, General Industrial District

Mr. Lesley Partch of Partch & Associates Architecture was present to represent this case.

Sherri Lesser, staff planner, gave an overview of this case. She explained that the dust collector supports the cleanup of the dust from metal grinders within the manufacturing area. The business is located in an industrial park with the closest residential use greater than a ¼ mile to the east, with a railroad right-of-way separating the industrial from the residential. The proposed dust collector will be located away from the street frontage and screened by a masonry wall.

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

Mr. John Kalil, representing Kalil Bottling Company, addressed several issues of concern regarding what the exterior dust collection will collect and emit and whether there is an inspection process by the City once it has been installed. Possible affects by the dust and what would occur if it malfunctioned were discussed.

Mr. Partch returned to the podium and addressed the issues presented by Mr. Kalil, noting that he would have to further research the issue(s).

Ms. MacDonald noted that more information was needed and continued this case to the November 15th HO in order that the applicant can research and supply additional documentation.

DECISION:

Ms. MacDonald continued PL110332 / ZUP11092 to the November 15th Hearing Officer hearing.

6. Request by **FOUNTAINHEAD CORPORATE PARK – AEROTEK (PL110357)** (Terry Loo/Fountainhead Corporate, applicant; Fountainhead Corporate, property owner) located at 2625 South Plaza Drive in the GID, General Industrial District for:

ZUP11093 Use permit to allow an employment agency in the GID, General Industrial District.

Mr. Terry Loo was present to represent this case.

Sherri Lesser, staff planner, gave an overview of this case. She noted that this business consists of the placement of highly skilled contract employees in various segments of the business sector including Engineering, Technical, Scientific, Clinical, Professional, Office/Clerical, Industrial and Skilled Trades. The office will have 70 full time employees for general office operation and training.

Mr. Loo noted his understanding of the assigned Conditions of Approval. He noted that the tenant would be moving into the building in January/February 2012.

Ms. MacDonald stated that this request met all criteria outlined for use permits.

DECISION:

Ms. MacDonald approved PL110357 / ZUP11093 subject to the following conditions:

1. Obtain all necessary clearances from the Building Safety Division.
2. The use permit is valid for Aerotek and may be transferable to successors in interest through an administrative review with the Community Development Manager, or designee.
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.

7. Request by the **FALDUTO RESIDENCE (PL110358)** (J. M. Kuhstoss/Stardust Construction, applicant; Brad Falduto, property owner) located at 218 East Garfield Street in the R1-6, Single Family Residential District for:

ZUP11094 Use permit to allow required parking in the front yard setback.

Mr. Kuhstoss was present to represent this case.

Sherri Lesser, staff planner, explained the request was to allow the required parking in the front yard setback. The property owner plans to enclose the existing carport into livable space (playroom) and will construct a double car carport over the existing driveway within the allowable open structure setbacks.

Mr. Kuhstoss acknowledged his understanding of the assigned Conditions of Approval. Mr. Kuhstoss was questioned regarding the pop-up trailer that is currently being stored in the carport. He responded that once construction is complete, this trailer will be removed and stored elsewhere to allow the carport to house two (2) vehicles.

Ms. MacDonald noted that this request meets the criteria outlined for a use permit.

DECISION:

Ms. MacDonald approved PL110358/ZUP11094 subject to the following conditions of approval.

1. Obtain all necessary clearances from the Building Safety Division.
2. The **future** carport is to remain an open structure; a conversion to a garage or an enclosure of any side or the addition of storage space or the storage of materials other than vehicles is prohibited. **MODIFIED BY STAFF**
3. Color scheme of carport to complement the main dwelling color.

8. Request by **RIO SALADO SHOPPING CENTER - ARIZONA EXOTIC BIRD RESCUE INC. (PL110360)** (Curt Scarberry, applicant; P J Properties, property owner) located at 1290 North Scottsdale Road, Suite No. 130 in the PCC-1, Planned Commercial Center Neighborhood District for:

ZUP11091 Use permit to allow the overnight board of small animals (birds).

Mr. Tyler Odekirk was present to represent this case.

Sherri Lesser, staff planner, explained that this is a non-profit avian rescue dedicated to the rescue, rehabilitation, retirement and placement of exotic birds. On average they have approximately 75 birds housed

overnight in their facility, some are rescue and some are waiting for adoption. The cleaning and maintenance of the cages occur in the service area on the back side of the shopping center. Their hours of operation are 10 Am – 6 Pm, Monday thru Saturday. Ms. Lesser noted that a telephone call was received, and support expressed by Darlene Justus, North Tempe Neighborhood Association.

Ms. MacDonald noted that there were cages which appeared to be for sale on the outside of this business.

Mr. Odekirk acknowledged his understanding of the assigned Conditions of Approval. He noted that used cages were being offered for sale to the community and to increase awareness of the bird rescue location.

Ms. Lesser noted that in order to allow cages to be placed outside for sale, the case would need to be re-advertised so the use permit can include outdoor retailing.

Mr. Odekirk explained that they would like to continue to offer cages for sale and would not place them in the parking lot area or in a way to impede pedestrian traffic.

Mr. Lane Carraway, representing Cavalier Neighborhood Association, spoke in support of this request. He addressed the subject of businesses requiring a use permit, and that he felt that there should be a checklist available for new business owners so they can ascertain compliance with all requirements. He stated he is very impressed with these tenants and that this business would be a positive influence in the neighborhood.

Ms. Lesser explained that this case would be re-advertised to include outdoor retailing and would appear on the December 6th Hearing Officer agenda. Ms. Lesser noted that when new business owner(s) applied for a sales tax license or sign permit, they are directed to the need(s) for a use permit.

DECISION:

Ms. MacDonald continued PL110360/ZUP11091 to the December 6th Hearing Officer.

The next Hearing Officer public hearing will be held on November 15, 2011.

There being no further business the public hearing adjourned at 2:15 PM.

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



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