Tempe

Minutes
HEARING OFFICER
JUNE 5, 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: 10

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 June 19, 2012 at 3:00 PM, to the Community Development Department.

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1. Ms. MacDonald noted that the Hearing Officer Minutes for May 16, 2012 had been reviewed and approved.

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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 ROBB PROPERTY (PL120134 / ABT12021 / CE121034) (Brandy Zedlar, Inspector; William Robb, property owner) located at 1139 West Carson Drive in the R1-6, Single Family Residential District.

   There was no one present to represent the property owner.

   Brandy Zedlar, Code Inspector explained the property located at 1139 West Carson Drive has been abandoned. Staff has not been able to contact the property owner. The front yard has deteriorated landscaping. Staff requested approval of a 180 day open abatement since the property is vacant.

   Ms. MacDonald agreed the property is in a state of disrepair.

   DECISION:
   Ms. MacDonald approved abatement proceedings for PL120134 for an open period of 180 days.

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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 SULFARO PROPERTY (PL120135 / ABT12022 / CE121116) (Brandy Zedlar, Inspector; Edward Sulfaro, property owner) located at 602 East Diamond Drive in the R1-6, Single Family Residential District.

   WITHDRAWN BY STAFF, PROPERTY IS IN COMPLIANCE

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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 JP MORGAN CHASE BANK PROPERTY (PL120140 / ABT12023 / CE120885) (Brandy Zedlar, Inspector; JP Morgan Chase Bank, property owner) located at 503 West Santa Cruz Drive in the R1-6, Single Family Residential District.

   There was no one present to represent the property owner.

   Brandy Zedlar, Code Inspector, stated the property at 503 West Santa Cruz Drive is a foreclosed property owned by Chase Bank. Staff has not received any contact from Chase Bank regarding the correction notices. The property has deteriorated landscaping along with trash and debris left by the previous owner. Staff is requesting a 180 day open abatement since the property is vacant.

   DECISION:
   Ms. MacDonald approved abatement proceedings for PL120140 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 BROWN PROPERTY (PL120141 / ABT12024 / CE120392) (Brandy Zedlar, Inspector; Kenton Brown, property owner) located at 1208 West Malibu Drive in the R1-6, Single Family Residential District.

   WITHDRAWN BY STAFF, PROPERTY IS IN COMPLIANCE

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6. 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 WILLIAMS PROPERTY (PL120145 / ABT12025 / CE121117) (Jack Scofield, Inspector; Jeffrey P. Williams, property owner) located at 4407 South Elm Street in the R1-6, Single Family Residential District.

   There was no one present to represent the property owner.

   Jack Scofield, Code Inspector stated the property owner and the foreclosing bank have both been notified regarding the deteriorated landscaping and the deteriorated pool at 4407 South Elm Street. The property owner contacted Code Enforcement today requesting more time to correct the issues. Staff recommended moving forward with the 180 day abatement.

   Ms. MacDonald noted the property owner would have two weeks to address the issues and clean up the property before the abatement process would take place. The property owner could also appeal the decision.

   DECISION:
   Ms. MacDonald approved abatement proceedings for PL120145 for an open period of 180 days.

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7. 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 KLEMMER PROPERTY (PL120146 / ABT12026 / CE120919) (Jack Scofield, Inspector; Brian Klemmer, property owner) located at 1876 East Ellis Drive in the R1-6, Single Family Residential District.

   There was no one present to represent the property owner.

Jack Scofield, Code Inspector requested a 180 day open abatement for the property at 1876 East Ellis Drive. The property owner has been sent notification regarding the deteriorated landscape and deteriorated pool. Staff has not been contacted by the property owner. The property owner has been issued a citation and failed to appear in court.

Ms. MacDonald agreed the property is in a state of disrepair and needs to be cleaned up.

DECISION:
Ms. MacDonald approved abatement proceedings for PL120146 for an open period of 180 days.

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8. 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 LEVINE PROPERTY (PL120166 / ABT12030 / CE120945) (Shawn Daffara, Inspector; Jack and Corinne Levine, property owners) located at 731 East Encanto Drive in the R1-6, Single Family Residential District.

REQUEST BY CODE COMPLIANCE TO CONTINUE THIS CASE TO JUNE 19, 2012

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9. Hold a public hearing for a request by SALT RIVER PROJECT – OWENS SUBSTATION (PL120005) (Salt River Project, applicant/property owner) located at 9145 South Kyrene Road, in the GID, General Industrial District and Southwest Overlay District for:

ZUP12044 – Use Permit to allow a 75 foot monopole within a block enclosure.

Matt Ludick, Salt River Project, was present to represent this case.

Sherri Lesser introduced the case. The applicant is requesting a use permit for a 75 foot high monopole at 9145 South Kyrene. The monopole is designed to accommodate multiple carriers and will be no taller than the existing electrical poles. Staff has received one telephone inquiry regarding this request. After explaining the project is for a communication tower, not additional electrical towers, the caller was not concerned. Staff supports the request and recommends approval of the use permit.

Mr. Ludick agreed to the conditions of approval.

There was no public input.

Ms. MacDonald noted that this request meets the criteria for a Use Permit:
1. Traffic generated by this use should not be excessive.
2. It won't create a nuisance resulting from odor, dust, gas, noise, vibration, smoke, heat or glare.
3. It won't contribute to the deterioration of the neighborhood.
4. It is compatible with existing surrounding structures and uses.
5. Will not contribute to disruptive behavior both inside and outside the property.

DECISION:
Ms. MacDonald approved PL120005/ZUP12044 subject to the following conditions:
1. Obtain all necessary clearances from the Building Safety Division.
2. The use permit is valid for the plans as approved by the Hearing Officer.
3. The monopole shall be no greater than 75'-0 in height to the top of the structure.
4. Any intensification or expansion of use, including co-location of additional antennas, will require a new use permit.
5. The wireless device shall be removed within 30 days of discontinuance of use.
6. A weather resistant emergency contact informational sign shall be posted on the site and shall be visible to

the public.

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10. Hold a public hearing for a request by SOUTHWEST GAS CORPORATION (PL120129) (Southwest Gas, applicant/property owner) located at 5705 South Kyrene Road, in the GID, General Industrial District for:

ZUP12047 – Use Permit to allow an 80 foot free-standing radio tower replacing an existing 60 foot tower.

Will Fielder, Southwest Gas, was present to represent this case.

Sherri Lesser introduced the case. The applicant is requesting a use permit to allow the replacement and increase in height of an existing radio tower from 60 ft. to 80 ft. The tower is located on the Southwest Gas site. This site is located on the east side of Kyrene, south of Baseline. The facility abuts other industrial districts away from any residential use. Staff has not received public input regarding this request. Staff supports the request and recommends approval of the use permit.

Mr. Fielder agreed to the conditions of approval.

There was no public input.

Ms. MacDonald noted that this request meets the criteria for a Use Permit:
1. Traffic generated by this use should not be excessive.
2. It won't create a nuisance resulting from odor, dust, gas, noise, vibration, smoke, heat or glare.
3. It won't contribute to the deterioration of the neighborhood.
4. It is compatible with existing surrounding structures and uses.
5. Will allow you to adequately control disruptive behavior both inside and outside the property.

DECISION:
Ms. MacDonald approved PL120129/ZUP12047 subject to the following conditions:
1. Obtain all necessary clearances from the Building Safety Division.
2. The use permit is valid for the plans as approved by the Hearing Officer.
3. The tower shall be no greater than 80'-0 in height to the top of the structure.

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11. Hold a public hearing for a request by FISHER INDUSTRIES (PL120144) (Sixty First Place Architects, applicant; Fisher Industries, property owner) located at 1302 West Drivers Way, in the GID, General Industrial District and Southwest Overlay District for:

ZUP12049 – Use Permit to allow new exterior dust collectors, exhaust fans and a screen wall.

Doug Lequay, Fisher Industries was present to represent this case.

Diana Kaminski introduced the case. The site is located within an industrial area south of Elliot Road east of Priest Drive. The area has commercial development to the north, heavy industrial to the south, regional commercial to the west and a newly re-zoned multi-family property to the north east and adjacent to this site. The residential property has not been built yet. The applicant is requesting a use permit for dust collectors with exhaust fans on the exterior of the building. The proposed new equipment will have masonry screening on the lower ten foot portion of the structures to buffer and deflect sound upward. The applicant provided specifications for the noise levels of the equipment. Staff has not received public input regarding this request. Staff recommends approval of the use permit.

Ms. MacDonald asked the applicant about the sound levels for the screened dust collectors.

Mr. Lequay stated the sound levels do not really apply to the application. The sound level is less when the exhaust fan has the ducted connection to the baghouses. Sound is further reduced by the solid masonry screening around the equipment. The fans will only run during the day and they do not run continuously. The dust collectors would be an improvement on the site. Some of the equipment that is currently being used outside will be moved inside the warehouse. This will help keep the dust levels down.

Mr. Lequay agreed to the conditions of approval.

There was no public input.

Ms. MacDonald noted that this request meets the criteria for a Use Permit:
1. Traffic generated by this use should not be excessive.
2. It won't create a nuisance resulting from odor, dust, gas, noise, vibration, smoke, heat or glare.
3. It won't contribute to the deterioration of the neighborhood.
4. It is compatible with existing surrounding structures and uses.
5. Will allow you to adequately control disruptive behavior both inside and outside the property.

DECISION:
Ms. MacDonald approved PL120144/ZUP12049 subject to the following conditions:
1. Obtain all necessary clearances from the Building Safety Division.
2. Masonry screen wall to be approved by staff through Development Plan Review.
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.

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12. Hold a public hearing for a request by LAUGHING BUDDHA YOGA (PL120147) (Laughing Buddha Yoga LLC, applicant; Carleton Business Park, property owner) located at 5025 South Ash Avenue, Suite 16B, in the GID, General Industrial District for:

ZUP12048 - Use Permit to allow a fitness center. (Yoga Studio)

Dusty Snow was present to represent this case.

Sherri Lesser introduced the case. The applicant is requesting a use permit to open a Yoga Studio in the Carleton Business Park. This property is located north of Baseline Road, west of Mill Avenue. Yoga classes would be held in the morning and evening hours. Staff has not received public input regarding this request. Staff supports approval of this request. Ms. Lesser noted condition number 4. Obtain all necessary clearances and permits for the occupancy from the Building Safety Division. The applicant must meet with the Building Safety Department regarding the tenant improvement prior to opening the Yoga Studio.

Ms. Snow agreed to the conditions of approval.

There was no public input.

Ms. MacDonald noted that this request meets the criteria for a Use Permit:
1. Traffic generated by this use should not be excessive.
2. It won't create a nuisance resulting from odor, dust, gas, noise, vibration, smoke, heat or glare.
3. It won't contribute to the deterioration of the neighborhood.
4. It is compatible with existing surrounding structures and uses.
5. Will allow you to adequately control disruptive behavior both inside and outside the property.

DECISION:

Ms. MacDonald approved PL120147/ZUP12048 subject to the following conditions:

1. The use permit is valid for Laughing Buddha 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 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. Obtain all necessary clearances and permits for the occupancy from the Building Safety Division.

The next Hearing Officer public hearing will be held on June 19, 2012.

There being no further business the public hearing adjourned at 2:06 PM.

Prepared by: Julie Stennerson, Executive Assistant
Reviewed by:

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

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