

**MINUTES
HEARING OFFICER
JUNE 21, 2016**

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.

STUDY SESSION 4:30 PM

Present:

Vanessa MacDonald, Hearing Officer
Steve Abrahamson, Principal Planner
Lee Jimenez, Senior Planner
Diane McGuire, Administrative Assistant II

There were 7 interested citizens present at the study session.

- Staff and the Hearing Officer discussed overview and updates to the scheduled cases for this hearing.

REGULAR SESSION 5:00 PM

Present:

Vanessa MacDonald, Hearing Officer
Steve Abrahamson, Principal Planner
Lee Jimenez, Senior Planner
Diane McGuire, Administrative Assistant II

There were 8 interested citizens present at the regular session.

Meeting convened at 5:00 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 July 5, 2016 at 3:00 PM, to the Community Development Department.

1. Ms. MacDonald noted the following:

- **June 7, 2016 Hearing Officer Minutes**
Ms. MacDonald stated that the June 7, 2016 Hearing Officer Minutes had been reviewed and were approved.

- **Agenda Item No. 2**
Request approval to abate public nuisance items at the **TONG PROPERTY (CE160495)** located at 909 West Watson Drive. The applicant is the City of Tempe.
REQUEST FOR ABATEMENT WITHDRAWN – PROPERTY IN COMPLIANCE

- **Agenda Item No. 3**
Request approval to abate public nuisance items at the **SPEARS PROPERTY (CE162229)** located at 415 East Westchester Avenue. The applicant is the City of Tempe.
REQUEST FOR ABATEMENT WITHDRAWN – PROPERTY IN COMPLIANCE

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2. Request approval of a use permit to allow a distillery and tasting room (bar) for **ADVENTUROUS STILLS (PL160195)** located at 2125 East 5th Street, Suite No. 102. The applicant is Kelly Lattig of Adventurous Stills.

Lee Jimenez, Senior Planner, gave a brief overview of this case noting that this location is within the Eaton University Industrial Park subdivision in the GID, General Industrial District. The distillery component of the business is considered manufacturing and is allowed by right in the GID, however, the tasting room is considered a bar and requires a use permit to operate in this zoning district. The business will have a Series 18 Arizona Liquor License in a 2,549 s.f. suite. The space will have approximately 600 s.f. dedicated for the tasting room, retail space, barrel-aging area, a single ADA-compliant restroom and a small office. No public input has been received and staff supports this request.

Vanessa MacDonald referred to the assigned Condition of Approval No. 6 which stipulated that retail uses shall not exceed 15% of the total building area's primary industrial use without a separate use permit. She questioned whether retail use meant the sale of t-shirts, product or items of that nature. Mr. Jimenez confirmed that it did and noted that the Zoning and Development Code stipulated the 15% criteria. Steve Abrahamson, Principal Planner, noted that it would be best to ask the applicant how much of the floor space would be devoted to retail sales.

Mr. Kelly Lattig of Adventurous Stills was present to represent this case. He acknowledged receipt of the Staff Summary Report and her understanding of the assigned Conditions of Approval. He stated that the business would occupy approximately 2500 s.f. and that a small area within 600 s.f. would be set aside for retail space.

Mr. Lattig questioned the time element pertaining to Condition of Approval No. 10 which stipulates a return to the Hearing Officer within six (6) months of the business opening to review compliance with the Conditions of Approval. Mr. Jimenez responded that the six month period would begin upon the actual opening date of the business. Ms. MacDonald explained that using that date, rather than the date of this hearing, would allow the applicant a reasonable time frame for review of compliance with the assigned Conditions of Approval.

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

- There will be no significant increase in vehicular or pedestrian traffic.
- This use will not contribute to any nuisance exceeding that of ambient conditions.
- This use will not contribute to the deterioration of the neighborhood or downgrading of property values.
- It is compatible with the existing surrounding structures and uses.
- The use will not contribute to disruptive behavior.

DECISION:

Ms. MacDonald approved the request for the use permit for PL160195 subject to the following Conditions of Approval:

1. This use permit is valid only after a Building Permit has been obtained and the required inspections have been completed and a Final Inspection has been passed. As part of the Building Permit process, on-site storm water retention may be required to be verified or accomplished on this site.
2. The use permit is valid for the plans as submitted within this application. Any additions or modifications may be submitted for review during building plan check process.
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, which may result in termination of the use permit.
4. Any intensification or expansion of use shall require a new use permit.
5. All required State, County and Municipal permits shall be obtained or the use permit is void.
6. Retail uses – directly related to the primary industrial use, shall not exceed 15% of the total building area's primary industrial use without a separate use permit.
7. Live entertainment requires a separate use permit.
8. The applicant shall contact the City of Tempe Crime Prevention Unit for a security plan within 30 days for this approval. Contact 480-858-6409 by July 21, 2016.
9. All rear exit doors required a lexan vision panel. Details to be approved through Building Safety Plan Review.
10. Return to the Hearing Officer for review of compliance with conditions of approval within six (6) months. The timing for the six month review to commence begins when the business is in full operation. Advise Community Development staff when in full business operation. If the full business activity is not initiated within one year, the use permit will lapse.

- 4 Request approval of a use permit to allow massage therapy services for **THE PAULSON CENTER (PL160189)** located at 4700 South McClintock Drive, Suite No. 105. The applicant is Dr. Heather Paulson of Heather Paulson, ND, LLC.

Lee Jimenez, Senior Planner, gave an overview of this case. He noted that the applicant is proposing to add massage therapy services to its existing operations in Suite 105 of the McClintock Professional Center located at 4700 South McClintock Drive in the R/O, Residential Office District. The Paulson Center for Integrative Healing is a wellness center that supports people diagnosed with cancer. The applicant plans to add 1 to 2 independent massage therapists to her practice. The Paulson Center's hours of operation are Monday through Saturday from 9 AM to 6 PM. No public input has been received and staff supports this request.

Ms. MacDonald asked for confirmation that the massage therapists would be independent and not under the supervision of a doctor. Mr. Jimenez responded in the affirmative.

Dr. Heather Paulson was present to represent this case. She acknowledged receipt of the Staff Summary Report and understanding of the assigned Conditions of Approval.

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

- There will be no significant increase in vehicular or pedestrian traffic.
- This use will not contribute to any nuisance exceeding that of ambient conditions.
- This use will not contribute to the deterioration of the neighborhood or downgrading of property values.
- It is compatible with the existing surrounding structures and uses.
- The use will not contribute to disruptive behavior.

DECISION:

Ms. MacDonald approved the request for a use permit standard for PL160189 subject to the following Conditions of Approval:

1. The use permit is valid for the plans as submitted within this application. Any additions or modifications may be submitted for review during the building plan check process.
2. 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, which may result in termination of the use permit.
3. Any intensification or expansion of use shall require a new use permit standard.
4. All required State, County and Municipal permits shall be obtained or the Use Permit Standard is void.

5. Request approval of a use permit to allow massage therapy services for the **ESCAPE MASSAGE DAY SPA (PL160176)** located at 209 East Baseline Road. The applicant is Violeta Munoz.

Lee Jimenez, Senior Planner, gave an overview of this case. He noted that the site is located in Office #4, Suite E-102 in the Mill Towne Center at 209 East Baseline Road in the PCC-1, Planned Commercial Center Neighborhood District. The Mill Towne Center is located just north of the Kiwanis Park Neighborhood Association and northwest of the University Royal Garden Homes Homeowner Association. The applicant has been a licensed massage therapist for over 4 years. The business will operate Monday through Saturday between the hours of 10 AM and 6 PM and also by appointment. To date, staff has received no public input. Staff supports this request, Mr. Jimenez stated.

Ms. Violeta Munoz was present to represent this case. She acknowledged receipt of the Staff Summary Report and her understanding of the assigned Conditions of Approval.

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

- There will be no significant increase in vehicular or pedestrian traffic.
- This use will not contribute to any nuisance exceeding that of ambient conditions.
- This use will not contribute to the deterioration of the neighborhood or downgrading of property values.
- It is compatible with the existing surrounding structures and uses.
- The use will not contribute to disruptive behavior.

DECISION:

Ms. MacDonald approved the request for a use permit for PL160176 subject to the following Conditions of Approval:

1. The use permit is valid for the plans as submitted within this application. Any additions or modifications may be submitted for review during the building plan check process.
2. 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, which may result in termination of the use permit.
3. Any intensification or expansion of use shall require a new use permit.
4. All required State, County and Municipal permits shall be obtained or the use permit is void.

ANNOUNCEMENTS

- The next Hearing Officer public hearing is scheduled for Tuesday, July 5, 2016 at 5:00 PM with a study session scheduled for 4:30 PM.

With no further business, the public hearing adjourned at 5:35 PM.

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



Steve Abrahamson, Principal Planner for Vanessa MacDonald, Hearing Officer
SA:dm