

**MINUTES  
HEARING OFFICER  
SEPTEMBER 6, 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  
Michael Glab, Code Inspector  
Julie Scofield, Code Inspector  
Jack Scofield, Code Inspector  
Diane McGuire, Administrative Assistant II

There were 6 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  
Michael Glab, Code Inspector  
Julie Scofield, Code Inspector  
Jack Scofield, Code Inspector  
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 September 20, 2016 at 3:00 PM, to the Community Development Department.

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1. Ms. MacDonald noted the following:

- **Agenda Item No. 1**

**August 16, 2016 Hearing Officer Minutes**

Ms. MacDonald stated that the August 16, 2016 Hearing Officer Minutes had been reviewed and were approved.

- **Agenda Item No. 4**

Request approval to abate public nuisance items at the **SALMI LIVING TRUST PROPERTY (CE163417)** located at 2041 East Radcliffe Drive. The applicant is the City of Tempe – Code Compliance.  
**ABATEMENT REQUEST WITHDRAWN – PROPERTY IN COMPLIANCE**

- **Agenda Item No. 6**

Request approval to abate public nuisance items at the **SONG PROPERTY (CE163515)** located at 1211 East Spence Avenue. The applicant is the City of Tempe – Code Compliance.  
**ABATEMENT REQUEST WITHDRAWN – PROPERTY IN COMPLIANCE**

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2. Request approval to abate public nuisance items at the **AMERICAN HOME MORTGAGE PROPERTY (CE164210)** located at 208 East Erie Drive. The applicant is the City of Tempe – Code Compliance.

Julie Scofield, Code Inspector, gave an overview of the case, noting that nuisance items pertained to deteriorated landscape, junk and debris, unsecured building, and a deteriorated garage and fence. Ms. Scofield noted that the complaint(s) had been pending for quite some time, as the original property owners had passed away and then the property went into foreclosure. Transients living at the property had been a problem. Despite numerous citation notices, the current property owner has failed to bring the property into compliance. Staff requests a 180 day open abatement period.

The property owner was not present at this hearing.

Ms. MacDonald noted that she had reviewed the Staff Summary Report and attachments and conducted a drive by of the property. Ms. MacDonald noted that citations date back to 2015 and that the current owners had not resolved the numerous violations.

**DECISION:**

Ms. MacDonald approved the abatement for CE164210 for an open period of 180 days.

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3. Request approval to abate public nuisance items at the **ROBLES PROPERTY (CE163506)** located at 1807 East Ellis Drive. The applicant is the City of Tempe.

Jack Scofield, Code Inspector, gave an overview of the case, noting that the nuisance item(s) pertained to a deteriorated pool with green stagnant water. The property owner has failed to bring the property into compliance. Staff requests a 180 day open abatement period.

The property owner was not present at this hearing.

Ms. MacDonald noted that she had reviewed the Staff Summary Report and attachments and conducted a drive by of the property. Ms. MacDonald noted that the current state of the green pool presents a public health risk.

**DECISION:**

Ms. MacDonald approved the abatement for CE163506 for an open period of 180 days.

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4. Request approval to abate public nuisance items at the **WITTIAS PARTNERS LLC PROPERTY (CE162225)** located at 1117 East Spence Avenue. The applicant is the City of Tempe.

Michael Glab, Code Inspector, gave an overview of the case, noting that the remaining nuisance item(s) pertained to dead trees and stumps at this location. The junk & debris and the damaged fence issues had been resolved. Mr. Glab explained that he had spoken with the property management, but they have failed to bring the property into compliance. Staff requests a 180 day open abatement period.

The property owner was not present at this hearing.

Ms. MacDonald noted that she had reviewed the Staff Summary Report and attachments.

**DECISION:**

Ms. MacDonald approved the abatement for CE162225 for an open period of 180 days.

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5. Request approval of two (2) use permit standards to reduce the front and rear yard setbacks by no more than 20% to allow an attached one car garage addition and a detached two car garage for the **LITRELL RESIDENCE (PL160271)** located at 204 West Myrna Lane. The applicant is David Littrell.

Lee Jimenez, Senior Planner, noted that the applicant is requesting the following:

1. Use Permit Standard to reduce the required front yard setback from 35 feet to 28 feet to allow an attached one car garage in the R1-15, Single Family Residential District.
2. Use Permit Standard to reduce the required rear yard setback from 30 feet to 24 feet to allow an attached two car garage in the R1-15, Single Family Residential District.

Mr. Jimenez noted that the property is located on the northwest corner of West Myrna Lane and South Dateland Drive in the Duskfire Unit 2 Subdivision within the R1-15, Single Family Residential District. The applicant is proposing to construct a one car garage addition onto the existing attached three car garage; and a new detached two car garage in the rear yard with access from the South Dateland Drive. Both the garage addition and the new detached garage are expected to encroach into the required front yard and rear yard setbacks by no more than 20% respectively. According to Section 4-201A of the Zoning and Development Code, the Littrell Residence qualifies for a 20% reduction for the required front and rear yard setbacks with a use permit standard.

Mr. Jimenez acknowledged that staff has received one phone call of support from a neighbor and that staff believes that this application meets all of the approval criteria for both requested use permit standards. Staff supports both requests.

Ms. MacDonald noted that the Staff Summary Report indicated per Section 4-502E regarding the number of access points of the ZDC, only one street access point is permitted per street frontage for single family residential lots which front on collector or arterial streets. Any modification of this standard shall be determined by a Public Works Manager or designee. Staff contacted the Public Works traffic engineering designee, who has indicated that allowing the two (2) access points will not interfere with the level of service, safety and efficiency of travel on Dateland Drive.

David Littrell was present to represent this case, and acknowledged receipt of the Staff Summary Report. The assigned Condition(s) of Approval were indicated to Mr. Littrell, who stated that he understood their intent.

Ms. MacDonald stated that this request involved a use permit standard rather than a variance, which is a more cumbersome process, and that the request(s) meet the criteria as follows:

- There will be no significant increase in vehicular or pedestrian traffic.
- There will be no nuisance arising from the emission of odor, dust, gas, noise, vibration, smoke, heat or glare at a level exceeding that of ambient conditions.
- It will not contribute to the deterioration of the neighborhood or to the downgrading of property values.
- It is compatible with the existing surrounding structures and uses.
- It will not cause disruptive behavior inside or outside the premises.

**DECISION:**

Ms. MacDonald approved the two (2) use permit standards, as requested, for PL160271 subject to the following Conditions of Approval:

1. The use permit standards are valid only after a building permit has been obtained, 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 standards are valid for the plans as submitted within this application. Any additions or modifications may be submitted for review during building plan check process.

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6. Request approval of two (2) use permits to allow a bar (Series 6) and an amusement business (billiards/pool hall) for **FREEZER'S ICE HOUSE (PL160282)** located at 83 East Broadway Road. The applicants are Steve Means and Kristin Thoma-Mahan of Sterling CM, LLC.

Lee Jimenez, Senior Planner, gave an overview of this case noting that the applicant is proposing to operate a billiards establishment with a bar and restaurant in the former Walgreens building of the Broadway Plaza located on the southeast corner of Broadway Road and Mill Avenue in the CSS, Commercial Shopping and Services District. The applicants plan to remodel the 15000 s.f. building to operate an upscale billiards, darts and sports lounge that will be accompanied by a full service restaurant and bar. The business will operate daily from 11 AM to 2 AM.

Mr. Jimenez noted that according to Section 3-202 of the Zoning and Development Code, a use permit is required to operate a bar and billiards establishment in the CSS, Commercial Shopping and Services District. To date, staff has received one phone call in opposition to the requests, and one phone in support of the requests. As indicated in the Staff Summary Report, staff believes that this application meets all of the approval criteria for both use permit standards and supports both requests.

Steve Means of Sterling CM LLC was present to represent this case. He acknowledged receipt of the Staff Summary Report and his understanding of the assigned Conditions of Approval.

Ms. MacDonald asked if staff had reviewed the parking for this location. Mr. Jimenez responded in the affirmative and noted that a Shared Parking Analysis had been done.

Ms. MacDonald noted that, in the past, this location had been issued a Series 10 license (beer & wine sales) for a Fresh and Easy Neighborhood Market in December 2010. Mr. Jimenez acknowledged that fact, and explained that this applicant has applied for a Series 6 Liquor License, which is pending approval through the State. If approved, the Series 6 license will allow the applicant to sell liquor for customers to drink onsite and may sell liquor 'to-go' in the original unopened containers in amounts not to exceed 30% of the on-sale receipts.

Ms. MacDonald stated that it is her understanding that the applicant is simultaneously processing a request for an outdoor patio. Mr. Jimenez confirmed that this was true and that request would be processed administratively thru the DPR process.

Ms. MacDonald noted that these requests meet the criteria for a use permit as follows:

- There will be no significant increase in vehicular or pedestrian traffic.
- There will be no nuisance arising from the emission of odor, dust, gas, noise, vibration, smoke, heat or glare at a level exceeding that of ambient conditions. All operations of the establishment will be conducted indoors.
- The use will not contribute to the deterioration of the neighborhood or downgrading of property values.
- The use is compatible with the existing surrounding structures and uses.
- There will be adequate control of disruptive behavior both inside and outside the premises. Condition of Approval No. 8 requires the applicant to establish a security plan with the Tempe Crime Prevention Unit.

**DECISION:**

Ms. MacDonald approved the two (2) use permits for PL160282; one to allow a Series 6 bar and the other to allow an amusement business (billiards/pool hall) subject to the following Conditions of Approval:

1. The use permits are valid only after a building permit has been obtained, 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 permits are valid for the plans as submitted within this application. Any additions or modifications may be submitted for review during the building plan check process.
3. All required State, County and Municipal permits shall be obtained or the use permits are void.
4. If there are any complaints arising from the use permits that are verified by a consensus of the complaining party and the City Attorney's office, the use permits will be reviewed by City staff to determine the need for a public hearing to re-evaluate the appropriateness of the use permits, which may result in termination of the one or both use permits.
5. Any intensification or expansion of the approved use shall require new use permits.
6. Return to the Hearing Officer for review of compliance with conditions of approval within six (6) months. The timing for the six month review period 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.
7. No live entertainment or outdoor speakers shall be allowed without a separate use permit.
8. The applicant shall contact the City of Tempe Crime Prevention Unit for a security plan within 30 days of this approval. Contact 480-858-6409 before October 6, 2016.
9. An occupancy inspection and clearance from the Tempe Fire Department shall be obtained prior to the use permit becoming effective.
10. All nonconforming building lighting shall be removed and replaced with compliant light fixtures. Details can be resolved during Building Safety Plan Review.

11. Replace all dead or missing trees along all landscaped area; along with any other missing landscape material.
12. All rear exit doors require a lexan vision panel. Details to be approved through Building Safety Plan Review

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7. Request approval of a use permit to allow an amusement business for **GREAT ROOM ESCAPE LLC (PL160274)** located at 1625 West University Drive, Suites 121-122. The applicant is Greg Salyers.

Lee Jimenez, Senior Planner, gave an overview of this case, noting that the location is at the southeast corner of West University Drive and South Edward Drive within the GID, General Industrial District. The applicant is proposing to operate an 'escape room' amusement business in the Gateway University II industrial/office subdivision. The applicant seeks to install simulations rooms that are created as interactive 'escape' game spaces, each of which has a separate game theme, appearance and story. The theme of each room provides the basis of the puzzles and solutions presented to the team where the team has up to an hour to work together to solve the variety of puzzles that allow them to unlock the room and escape; thus winning the game. The business will operate Sunday – Thursday, 12 PM – 10 PM, and Friday – Saturday from 12 PM – 12 AM.

Mr. Jimenez stated that according to Section 3-302 of the zoning and Development Code, a use permit is required to operate an amusement business in the GID, General Industrial District. To date, staff has received no public input. Staff believes that this applicant meets all of the approval criteria for both use permit standards and supports both requests.

Greg Salyers was present to represent this case. He acknowledged receipt of the Staff Summary Report and his understanding of the assigned Conditions of Approval.

Ms. MacDonald noted that she had heard a similar case a couple of months ago, and that she felt that Mr. Salyers had a good location for this type of business.

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

- There will be no significant increase in vehicular or pedestrian traffic.
- There will be no nuisance arising from the emission of odor, dust, gas, noise, vibration, smoke, heat or glare at a level exceeding that of ambient conditions.
- The use will not contribute to the deterioration of the neighborhood or downgrading of property values.
- The use is compatible with the existing surrounding structures and uses.
- There will be adequate control of disruptive behavior both inside and outside the premises. Condition of Approval No. 6 requires the applicant to establish a security plan with the Tempe Crime Prevention Unit.

**DECISION:**

Ms. MacDonald approved the use permit to allow an amusement business for PL160274 subject to the following Conditions of Approval:

1. This use permit or variance is valid only after a building permit has been obtained, 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. All required State, County and Municipal permits shall be obtained or the use permit is void.
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, which may result in termination of the use permit.
5. Return to the Hearing Office for review of compliance with conditions of approval within six (6) months. The timing for the six month review period 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.
6. The applicant shall contact the City of Tempe Crime Prevention Unit for a security plan within 30 days of this approval. Contact 480-858-6409 before October 6, 2016.
7. An occupancy inspection and clearance from the Tempe Fire Department shall be obtained prior to the use permit becoming effective.
8. All nonconforming building lighting shall be removed and replaced with compliant light fixtures. Details can be resolved during Building Safety Plan Review.
9. All rear exit doors required a lexan vision panel. Details to be approved through Building Safety Plan Review.

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**ANNOUNCEMENTS**

- The next Hearing Officer public hearing is scheduled for Tuesday, September 20, 2016 at 5:00 PM with a study session scheduled for 4:30 PM.

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With no further business, the public hearing adjourned at 5:30 PM.

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



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Steve Abrahamson, Principal Planner for Vanessa MacDonald, Hearing Officer  
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