

**MINUTES
HEARING OFFICER
SEPTEMBER 20, 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
Prince Twumasi, Planning Technician
Mike Spencer, Code Inspector
Andres Lara-Reyes, Code Inspector
Julie Scofield, Code Inspector
Brandy Zedlar, 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
Prince Twumasi, Planning Technician
Mike Spencer, Code Inspector
Andres Lara-Reyes, Code Inspector
Julie Scofield, Code Inspector
Brandy Zedlar, Code Inspector
Diane McGuire, Administrative Assistant II

There were 7 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 October 4, 2016 at 3:00 PM, to the Community Development Department.

1. Ms. MacDonald noted the following:

- **Agenda Item No. 1**

September 6, 2016 Hearing Officer Minutes

Ms. MacDonald stated that the September 6, 2016 Hearing Officer Minutes had been reviewed and were approved.

- **Agenda Item No. 5**

Request approval to abate public nuisance items at the **HERNANDEZ PROPERTY (CE164468)** located at 5120 South Dorsey Lane. The applicant is the City of Tempe – Code Compliance.

CONTINUED TO THE OCTOBER 18, 2016 HEARING OFFICER

- **Agenda Item No. 6**

Request approval to abate public nuisance items at the **TESTA PROPERTY (CE165006)** located at 5928 South Kenneth Lane. The applicant is the City of Tempe – Code Compliance.

ABATEMENT REQUEST WITHDRAWN – PROPERTY IN COMPLIANCE

- **Agenda Item No. 8**

Request approval to abate public nuisance items at the **BROWN PROPERTY (CE163303)** located at 1208 West Malibu Drive. The applicant is the City of Tempe.

ABATEMENT REQUEST WITHDRAWN – PROPERTY IN COMPLIANCE

2. Request approval to abate public nuisance items at the **KRAMER PROPERTY (CE164617)** located at 356 West Carmen Street. The applicant is the City of Tempe – Code Compliance.

Michael Spencer, Code Inspector, gave an overview of the case, noting that nuisance items pertained to over height grass and weeds, landscape debris and excessive amounts of animal waste. Mr. Spencer noted that they have had prior abatements on this property. 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.

DECISION:

Ms. MacDonald approved the abatement for CE164617 for an open period of 180 days.

3. Request approval to abate public nuisance items at the **STANDAGE PROPERTY (CE161958)** located at 420 West 14th Street. The applicant is the City of Tempe.

Andres Lara-Reyes, Code Inspector, gave an overview of the case, noting that the nuisance item(s) pertained to junk and debris in the carport area. 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. She noted that this property owner had been non-responsive despite numerous notices from code enforcement.

DECISION:

Ms. MacDonald approved the abatement for CE161958 for an open period of 180 days.

4. Request approval to abate public nuisance items at the **WATKINS PROPERTY (CE165040)** located at 3705 South Kenneth Place. The applicant is the City of Tempe.

Julie Scofield, Code Inspector, gave an overview of the case, noting that the nuisance item(s) pertained to a deteriorated pool, grass and weeds/deteriorated landscape and an unsecured door at this location. The property owner has been non-responsive to the citations. Ms. Scofield noted that this is the second time this property has gone through the abatement process. 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 that this property owner continues to be non-responsive to code citations.

DECISION:

Ms. MacDonald approved the abatement for CE165040 for an open period of 180 days.

5. Request approval to abate public nuisance items at the **GRIEGER PROPERTY (CE161449)** located at 1135 West Tulane Drive. The applicant is the City of Tempe.

Brandy Zedlar, Code Inspector, gave an overview of the case, noting that the nuisance item(s) pertained to deteriorated landscape, weeds and grass. The property owner has been non-responsive to the citations, Ms. Zedlar stated, although she did receive a phone call from him as he was irate at the abatement notification. Ms. Zedlar further noted that this property had received two (2) landscape violations between 2015 – 2016. The current code notification(s) related to this abatement request dated back to February 2016. Staff requests a 180 day open abatement period.

Mr. Aaron Grieger, the property owner, was present at this hearing. He indicated his displeasure with the code enforcement division and asked what exactly needs to be done in order to have the property considered to be cleaned up and in compliance. He also asked how the abatement cost of \$320.00 was derived.

Mr. Abrahamson, Principal Planner, offered Mr. Grieger a copy of the staff summary report and attachments. Mr. Grieger stated that he already had a copy of that material and did not need another.

Ms. MacDonald explained that the cost of \$320.00 was provided by an outside contractor that the City uses to provide abatement cleanup in designated cases. She noted that the contractors have been selected through the use of the City's procurement process. She also noted that she doesn't know how many workers are provided by the contractor individual property cleanups, but that would figure into the total cost.

Ms. Zedlar explained that the cost of abatement cleanup, as provided by the assigned contractor for a designated property, is based on many factors, including the time involved, workers required, etc.

Ms. MacDonald explained that the property needs general cleanup and spray for weeds as identified in the paperwork (i.e. staff summary report with attached photographs and code documentation). She emphasized that even if the abatement is approved today, Mr. Grieger still has a two (2) week window of time in which to complete the cleanup of the property. If that is done, then the abatement will not proceed at this time. She encouraged Mr. Grieger to take advantage of this two (2) week window of opportunity.

Ms. MacDonald noted that she had reviewed the Staff Summary Report and attachments, and that she had driven by the site. This abatement request represents several months of code notifications to which the property owner had been non-responsive. Ms. MacDonald also indicated to Mr. Grieger that he has the option to appeal her decision to the Board of Adjustment (in writing by October 4th). However, if Mr. Grieger cleaned up his property by October 4th, there would be nothing for him to appeal.

DECISION:

Ms. MacDonald approved the abatement for CE161449 for an open period of 180 days.

6. Review of compliance with the assigned Conditions of Approval for a use permit approved on March 1, 2016 to allow an employment agency for **STAFFCHEX INC. (PL160022)** located at 3209 South Mill Avenue, Suite B-18. The applicant is Patrick Allen.

Lee Jimenez, Senior Planner, noted that on March 1, 2016 the hearing Officer heard and approved a use permit for Staffchex Inc. to allow an employment agency located at 3209 South Mill Avenue in Suite B-18 of the Huntington Square shopping Center in the PCC-1, Planned Commercial Center Neighborhood District. The approval of the use permit conditioned that Staffchex Inc. return to the Hearing Officer for a six (6) month review of compliance with the assigned Conditions of Approval after opening for business. Staffchex Inc. opened for business on March 14, 2016. Tempe Police Department has reported no calls for service related to the operation. Other than a violation for an illegal way finding sign on the street side, no other cases related to the use permit for Staffchex Inc. have been opened by the Code Compliance Division. To date, after legal advertising and public notification of the compliance review, staff has received no public input. As noted in the staff report, staff believes that Staffchex Inc. is in compliance with all Conditions of approval and supports the continuation of the use permit.

Mr. Patrick Allen, of Staffchex Inc., was present to represent this case.

Ms. MacDonald complimented Mr. Allen on his compliance with the Conditions of Approval and thanked him for his cooperation.

Ms. MacDonald noted that at this point, there is no action required by her, other than the review of compliance with the Conditions of Approval. She gave a brief explanation of the process when a case is assigned a Condition of Approval for review of compliance. She explained that this business has been operating since March 14, 2016 with no complaints, therefore the indefinite extension of the use permit is warranted.

DECISION:

Ms. MacDonald acknowledged the applicants' compliance with the Conditions of Approval as assigned to the approval of the use permit to allow an employment agency for **STAFFCHEX INC. (PL160022)** at the March 1, 2016 public hearing.

7. Request approval of a use permit to allow parking within the ~~front~~ **street side** yard setback for the **GARCIA RESIDENCE (PL160288)** located at 2064 East Loma Vista Drive. The applicants are Joseph and Corinee Garcia.

WORDING CORRECTED BY STAFF

Prince Twumasi, Planning Technician, gave an overview of the case, noting that this case had been incorrectly advertised as a 'front yard setback' rather than the correct 'street side yard setback'. This error has been corrected in the current Staff Summary Report, he noted.

Mr. Twumasi explained that the applicants plan to convert the garage to livable space which would require parking in the street side yard setback. This residence is located on the northwest corner of East Loma Vista Drive and South River Drive in the Santo Tomas Unit three subdivision within the R1-6, Single Family Residential District. He stated that the applicants are proposing to enclose their existing garage in order to add a home office to their residence. The conversion of the garage is part of the applicants' plans to remodel the kitchen, bathroom and bedrooms along with the garage to add more functionality. The conversion of the garage will shift the two (2) required off street parking spaces onto the driveway, which will encroach into the street side yard setback. To date, staff has received one (1) phone call in support of this request. Staff believes that this application meets all the approval criteria for this use permit and supports this request subject to the Conditions of Approval provided in the staff report.

Corinee Garcia 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 involves parking in the driveway and there will be virtually no difference from the current situation if this request is approved. She explained that the change in wording from 'front yard' to 'street side yard' relates to accurate driveway location and does not affect the particulars of the case.

Ms. MacDonald stated 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.
- 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 use permit to allow parking in the street side yard setback for PL160288 subject to the following Conditions of Approval:

1. The use permit 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.

ANNOUNCEMENTS

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

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

Prepared by: Diane McGuire, Administrative Assistant II

Reviewed by:



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