# MINUTES
# HEARING OFFICER
# OCTOBER 18, 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:
Bill Burke, Deputy City Attorney, Interim Hearing Officer
Steve Abrahamson, Principal Planner
Lee Jimenez, Senior Planner
Jack Scofield, Code Inspector
Michael Glab, Code Inspector
Diane McGuire, Administrative Assistant II

There were no 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:
Bill Burke, Deputy City Attorney, Interim Hearing Officer
Steve Abrahamson, Principal Planner
Lee Jimenez, Senior Planner
Jack Scofield, Code Inspector
Michael Glab, Code Inspector
Diane McGuire, Administrative Assistant II

There were 4 interested citizens present at the regular session.

Meeting convened at 5:00 PM and was called to order by Mr. Burke. He 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 November 1, 2016 at 3:00 PM, to the Community Development Department.

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1. The following was noted:

- Agenda Item No. 1

  October 4, 2016 Hearing Officer Minutes
  Lee Jimenez, Senior Planner, stated that the October 4, 2016 Hearing Officer Minutes had been reviewed and were approved.

- Agenda Item No. 2
  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.
  ABATEMENT REQUEST WITHDRAWN – PROPERTY IN COMPLIANCE

- Agenda Item No. 5
  Request to abate public nuisance items at the MASIELLO CANCHOLA PROPERTY (CE163676) located at 410 East La Donna Drive. The applicant is the City of Tempe.
  CASE CONTINUED TO NOVEMBER 15, 2016 HEARING OFFICER

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2. Request approval to abate public nuisance items at the KISER PROPERTY (CE164989) located at 2010 East Harvard Drive. The applicant is the City of Tempe – Code Compliance.

   Jack Scofield, Code Inspector, gave an overview of the case, noting that nuisance item pertained to deteriorated landscape (dead tree in front yard). 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.

   DECISION:
   Mr. Burke approved the abatement for CE164989 for an open period of 180 days.

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3. Request approval to abate public nuisance items at the WAYMIRE PROPERTY (CE164501) located at 1417 South Rita Lane. The applicant is the City of Tempe.

   Michael Glab, Code Inspector, gave an overview of the case, noting that the nuisance item(s) had been resolved and that the property was now in compliance. The request for abatement was withdrawn.

   The property owner was not present at this hearing.

   DECISION:
   At the request of Michael Glab, Code Inspector, the abatement for CE164501 for an open period of 180 days was withdrawn as the property is now in compliance.

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4. Request approval of a use permit to allow retail sales for HUSSLE PROMOTIONS WAREHOUSE (PL160330) located at 1845 East 6th Street, Suite 4. The applicant is Brandunn Allen of Hussle Promotions LLC.

   Lee Jimenez, Senior Planner, gave an overview of this case. He noted that the applicant is proposing to operate in Suite 4 of the 1845 building in the Emkay Industrial Park AMD subdivision located on the southeast corner of East 6th Street and South hacienda Drive in the GID, General Industrial District. The Zoning and Development Code permits retails uses in the GID that are directly related to the primary industrial use, not to exceed 15% of the total building area's primary industrial use. However, a use permit is required to allow retail uses not related to the primary industrial use except outdoor display. The applicant is requesting approval of this use permit to operate a clothing retail store in which he intends to sell custom brand apparel. Staff believes that this application meets all of the approval criteria for a use permit and supports this request subject to the conditions provided in the staff report.

   Mr. Brandunn Allen was present to represent this case. He acknowledged receipt of the Staff Summary Report and his understanding of the assigned Conditions of Approval. He presented a letter of support for his request.

   Mr. Burke 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.
   - There will be no contribution of the deterioration of the neighborhood or downgrading of property values.
   - The business is compatible with existing surrounding structures and uses.
   - There will be adequate control of disruptive behavior both inside and outside the premises.

   DECISION:
   Mr. Burke approved the use permit to allow retail sales in the GID District for PL160330 subject to the following Conditions of Approval:

   1. The use permit is valid only after a building permit has been obtained for any tenant improvements and the required inspections have been completed and a final inspection has passed.
   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.

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ANNOUNCEMENTS

- The next Hearing Officer public hearing is scheduled for Tuesday, November 1, 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 5:15 PM.

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

Steve Abrahamson, Principal Planner
For Bill Burke, Deputy City Attorney, Interim Hearing Officer

SA:dm