

**Minutes
HEARING OFFICER
JANUARY 15, 2013**

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
Diana Kaminski, Senior Planner
Jack Scofield, Code Inspector
Andy Rogacki, Senior Fire Inspector
Julie Stennerson, Executive Assistant

Number of Interested Citizens Present: 12

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 January 29, 2013 at 3:00 PM, to the Community Development Department.

1. Ms. MacDonald noted that the Hearing Officer Minutes for January 2, 2013 had been reviewed and approved.

2. Request approval to abate public nuisance items at the TIGHTLINES INTERNATIONAL LLC PROPERTY (PL120370) located at 1929 East Redmon Drive. The applicant is the City of Tempe – Code Compliance.

Continued from the December 4, 2012 hearing

John Janitell was present to represent the Tightlines International LLC property.

Jack Scofield requested a 180 day open abatement for the property at 1929 East Redmon Drive. The property is in violation of excessive trash and debris in the rear yard. Notifications have been sent out to the property owner and the resident of the property. Minimal progress has been made to clean up the yard. A citation was issued to the resident of the property. The resident failed to appear in court. This case was continued from the December 4, 2012 hearing. At that time some progress had been made at the property to correct the violations. Mr. Scofield spoke to Mr. Janitell, the resident of the property. Mr. Janitell assured Mr. Scofield the yard would be cleaned up by January 15, 2013. Mr. Scofield visited the site today and did not notice any improvement to the property. Mr. Scofield presented photos of the backyard that were taken today. The property owner is out of the country so most of the correspondence has gone to Mr. Janitell. He has indicated that he is a representative of Tightlines International.

Mr. Rogacki expressed the concerns with the Tempe Fire Department regarding this property. Based on the photographs there is a significant fire hazard in and around the property. There may be flammable liquid stored on the property amongst all the debris which would contribute to the fire hazard. Windows and doors that may

be used as exiting routes during a fire situation in the house are obstructed or completely inaccessible. The Fire Department would also have a very difficult time accessing the property from the gate on the side of the house. The debris would impose a hazard to the firefighters. The firefighters would also risk the potential of damaging the fire hose. If there is a fire situation either in the house or outside it would also present a risk to the neighbors and properties surrounding the house.

Mr. Janitell stated he has hauled off 6,000 pounds of steel to the recycling yard. He had pictures of the progress he has made cleaning up the property. Mr. Janitell stated the pile of debris along the block wall is the last load to be hauled off to the recycling center. The other items in the yard are boxes and containers that were removed from underneath the patio. He has been removing paint from buckets to take to the Tempe Recycling Center.

Ms. MacDonald stated she was pleased Mr. Janitell was making progress to correct the violation. This is a health and safety issue for Mr. Janitell and his neighbors. She understands he is in the process of boxing stuff up but questioned where the boxes were going to go. If this abatement is approved today there is a two week appeals period. Mr. Janitell can continue the work he has been doing on the property. If the work is completed within the two week period the abatement will be dismissed. The City wants the property cleaned up. If the City does not see this progress in two weeks the property will be abated.

Mr. Janitell stated the picture looks worse than it is. He stated all the combustible material has been removed.

Mr. Rogacki noted the photograph shows a significant amount of combustible materials. Specifically he was referring to the pallets, rolled up carpet, plastic tarps, 5 gallon plastic containers, cardboard boxes, and sheet lumber.

Mr. Janitell stated all of those materials are going to be hauled off. He is trying to be green and recycle the materials.

Ms. MacDonald stated this has been going on since last July. She appreciates the fact that Mr. Janitell is motivated to correct the issue using the recycling center. She believes to keep the momentum going the abatement process should be active.

Mr. Janitell stated he feels he has accomplished 95% of the work that needs to be done.

Mr. Scofield stated the trash and debris in the backyard is not only a fire hazard. The trash and debris harbors insects and rodents which poses a public safety and health issue. Everything needs to be cleaned up. The notifications sent to Tightlines International and Mr. Janitell listed detailed information to correct the problem. Mr. Scofield has had several conversations with Mr. Janitell on the phone and at the property explaining the concerned issues. There has been progress at the property, but it has been very minimal. This problem has been going on for six months. Mr. Scofield would like to see the property owner or Mr. Janitell clean up the property. Code Enforcement does not want to clean the property up and place a lien against the property.

Mr. Rogacki stated combustible materials include anything that is rubber, wood, plastic, or cardboard. The photographs show a large quantity of combustible materials.

Ms. MacDonald stated the City has given Mr. Janitell plenty of time to get this situation remediated. Another two weeks is a good window of opportunity to complete the work necessary. The abatement process should move forward.

There was no public input.

DECISION:

Ms. MacDonald approved abatement proceedings for PL120370/ABT12058 for an open period of 180 days.

3. Request approval for a Use Permit to allow a restaurant/bar for the FIREHOUSE (PL120431) located at 4 East University Drive. The applicant is Amy Nations.

This case will be continued to February 5, 2013 by the request of the Community Development Department staff.

4. Request approval for a Use Permit for tandem parking for 18 new attached townhomes for BELLA VITA (PL120300), located at 1004 N Miller Rd. The applicant is Hudd Hassel.

Hudd Hassel, property owner, Reese Anderson, Pew and Lake Law Firm, and the architect Edmir Dzudza were present to represent this case.

Diana Kaminski introduced the case. The property is located on the north west corner of Curry Road and Miller Road. This site consists of six lots with different zoning that have currently gone through the Development Review Commission. The project will be moving forward to City Council in February with the other entitlement requests. Part of the request is for a Planned Area Development which includes a Use Permit to include tandem parking as the primary parking at this site. The proposal is for 18 attached townhomes. This is being proposed as multi-family zoning.

The request that the Development Review Commission heard was for the Planned Area Development, Zoning and the General Plan amendment that set the standards for the setback, building height, lot coverage and density. The Development Review Commission also had authority to make a decision on the design of the Project. This includes the elevation, landscaping, site plan, materials and colors for the project. The Development Review Commission recommended approval of the entitlements. The Planned Area Development, Zoning request and the General Plan amendment will be forwarded to the City Council. There was discussion regarding parking at the Development Review Commission meeting. This was designed as a single family product with individual backyards. This will be platted as individual lots. Because of the attached nature and it being a hybrid between multi-family and single family it may contribute to a need for additional parking.

Each of the 18 units includes a single car garage with a driveway. Nine additional guest parking spaces are also shown in the landscape plan. The applicant is requesting a Use Permit to allow the driveway to serve as the second parking space for each unit. If this is developed as a single family product the Use Permit would not be necessary and the project would require 36 parking spaces. Since this is multi-family the Use Permit is needed and a total of 45 parking spaces are required. The proposed project includes a total of 45 parking spaces on site including the garage, driveway and additional guest parking spaces. Surrounding areas could also provide additional guest parking for large gatherings. The church next door has 20 parking spaces. The City lot across the street associated with the Indian Bend Wash has an additional 33 parking spaces. Since this site is located at an intersection there would be no onsite parking on Curry Road. There may be a possibility for one or two parking spaces on Miller Road.

Staff felt using the driveways for additional parking would be a sustainable concept by reducing the amount of heat island retention. This would minimize the amount of paving and increase the amount of landscaping in the development. This lot has been vacant since the annexation to the city. The lot is tremendously challenged due to the placement of the power lines that need to be undergrounded as part of the development. The alley will be paved to address retention concerns and circulation for refuse access. The development will have CC&Rs with the HOA so there will be control of behavior onsite and surrounding the property. Because it is multi-family, crime prevention through environmental design standards will be used. This includes lighting for the parking areas and pedestrian pathways and secured parking within the garages. This development would be compatible with the surrounding structures. Several of the surrounding properties do have single car carports or garages with tandem parking in the driveway. Staff is recommending approval of the Use Permit for tandem parking. The applicant is here today and has reviewed the conditions of approval.

Mr. Anderson stated this is a unique site. The land is currently platted for six lots. He believes they have created a unique development for this property and the Development Review Commission agrees. There was a lot of

discussion during the Development Review Commission hearing regarding parking. The Development Review Commission voted 7-0 in favor of this project. Today the applicant is just requesting a Use Permit for the tandem parking. Some of the surrounding neighbors may feel that the project is too dense. That argument is for the Development Review Commission and the City Council. The development meets the code requirements for a single family project and a multi-family project. Overflow parking is available for large gatherings. The parking will not negatively impact the neighborhood. The project is not detrimental to the neighborhood.

Mr. Anderson agreed to the conditions of approval.

Albert Dare spoke in favor of the project. The development does meet the parking standards. He believes this is the beginning of an urban renewal. In addition to all the parking spaces provided, this development is located on the free bus line. Some of the people who will live in the buildings may not even own a car. He does not feel the parking will create a problem for the neighborhood.

Linda Broadley spoke in opposition of the project. The development consists of three-story townhomes which are adjoining. This creates four large buildings. There is a good possibility there will be more than two drivers living in each unit. The third driver would not have a dependable place to park a car. Tandem parking is not ideal. It is realistic to assume some of the units will be purchased as investments and rented to college students. There may be four or five drivers living in one unit. There is simply no place for them to park. There will be a minimum of 18 families or groups of people living at this site. The residents are going to entertain often and have out of town guests and visitors. There is nowhere for those people to park. The few parking spaces on Miller Road are usually being used by the sign company. It is unrealistic to assume the church parking lot will always be available for parking. She feels the spill-over parking will find its way into the nearby streets. The alley will also end up being a thoroughfare. Additional traffic will impact the quality of life for the neighborhood. Tandem parking does not satisfy the needs of this development. If there were fewer units there could be more parking and this problem would not exist.

David Ware is the property owner where Linda Broadley is currently a tenant. He was interested in the Powerpoint presentation the developer had. A development similar to this is positive to the neighborhood. He does have concerns regarding the parking. The density of the building is an issue. Most townhomes are not owner occupied. Many of the townhomes will probably be rented out to Arizona State University students. In order for the students to afford the place they may have four to six students renting out each unit. Many of those students are going to have cars. People are going to park at the closest place possible. The church parking lot can't be counted on for long term parking. Most alleys are not designated as ingress or egress. This project is going to increase the amount of traffic in the alley as well. Mr. Ware wanted to know how wide the street would be between the driveways.

Ms. Kaminski stated the width of the private drive is 25 feet.

Mr. Anderson gave his Powerpoint presentation. He pointed out the public parking lot across the street noting the 33 parking spaces. The concern about overflow parking spilling over to a neighborhood is valid. The issue before us is if tandem parking meets the criteria of a Use Permit. The parking concern exists regardless of the use. The property is currently platted for six single family homes. Even if the lots were built as single family homes there would still be events where visitors would have to find available parking. The proposed parking for this project does meet the Zoning Code. Currently there is an informal agreement with the neighboring church to address the overflow parking.

Ms. MacDonald asked how the public parking spaces would be controlled to keep tenants from parking in the visitor parking spaces.

Mr. Anderson stated the parking would be controlled through the CC&Rs and the Homeowners Association. Each owner would have one space in the garage and one space on the driveway. The visitor parking spaces would only be available for visitors.

Mr. Anderson appreciates the concern about the alley. He indicated the main driveways going on to Miller Road

and Curry Road would be utilized more than the alley. There would be no reason to use the alley to enter or exit the property. This project may also help increase the property values in the neighborhood.

Ms. MacDonald stated the application is strictly for a Use Permit for tandem parking. This proposal meets the Zoning and Development Code for the required 45 parking spaces on site. The off premises parking spaces are good for those infrequent occasions when there are additional visitors. There is speculation as to whether there will be student housing. The marketing will correct itself. Most people would not sign a lease if there was not available parking on site.

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 PL120300/ZUP12134 subject to the following conditions:

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.
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. Sign alley and private streets for NO PARKING.

The next Hearing Officer public hearing will be held on February 5, 2013.

There being no further business the public hearing adjourned at 3:14 PM.

Prepared by: Julie Stennerson, Executive Assistant
Reviewed by:



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

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