

**Building and Fire Code Board of Appeals**  
**AMENDED MINUTES****REGULAR MEETING**  
**September 3, 2009**

The Building and Fire Code Board of Appeals convened in a regular meeting on September 3, 2009 at City Hall in the Board & Commission room

Alan Schumann called the meeting to order at 2:06 PM.

**Board Members in Attendance:** Alan Schumann, Frank Haught, Steven King, Michael Cannatti, Scott Stookey, James Sullivan

**Staff in Attendance:** Greg Guernsey, Leon Barba, Dan McNabb, Brent Lloyd, Chris Johnson, Katherine Clark.

**1. APPROVAL OF MINUTES** – The minutes from the meeting held August 26, 2009 were approved unanimously with the following corrections: First motion to adjourn was made by Board Member Michael Cannatti and seconded by Board Member Alan Schumann at 3:40 PM

**2. CITIZEN COMMUNICATIONS** – no one signed up for citizen communication

**3. CONDUCT A PUBLIC HEARING**

- A public hearing was conducted concerning an Appeal of Certificate of Occupancy issued July 15, 2009, Electric Permit issued July 8, 2009, Building Permit issued July 6, 2009, and Determination of a Site Plan Exemption Request approved on June 17, 2009. Sixteen citizens/guests signed in at this hearing.

Pursuant to the requirements of LDC 25-1-191(A) for the conduct of public hearings, Brent Lloyd (City Attorney) reviewed a preliminary issue concerning whether the appellant has standing to appeal and what issues are to be decided by the appeal. On a motion by Frank Haught that was seconded by Mike Cannatti, the Board decided by a 6-0 vote that the appellant had standing to appeal the issuance of the building permit no. 2009-07235BP and the related Determination of a Site Development Exemption Request No. DA-2009-0648.

- Pursuant to the requirements of LDC 25-1-191(B) for the conduct of public hearings, the public hearing proceeded as follows:
  - Leon Barba presented a report and timeline presentation of events for 1900 E. 7th Street from June 15, 2009 (*date site exemption request filed*) through August 21, 2009 (*BFC BOA notification of hearing made known to appellants*).
  - On behalf of appellant, Jerry Harris, attorney representing Huston-Tillotson and Blackshear Prospect Hill Neighborhood Association, presented the appeal arguments, including a presentation pertaining to site plan comments captured in a letter from John Bezner, PE w/Civil Point Engineers, highlighted comments from the City's Law Dept regarding the term "limits of construction", and showed site and aerial photos of the EZ Pawn construction site located at 1700 E. 7th.



- In opposition to the appeal, Bob Tyler, attorney representing EZPAWN, presented comments and arguments against the appeal and in support of the issuance of the building permit, including a presentation concerning the history of the issue, arguments that the project met the “construction” and “limits of construction” requirements of 25-5-2(D)(1), and appellant’s burden on this appeal.
  - A rebuttal presentation by appellant was not made during the hearing
  - Comments supporting the appeal were made by Terry Smith, Nell Peterson and Lonny Stern.
- At 3:58 PM, Chair Alan Schumann made a request to extend meeting. Board Member Frank Haught made first motion to hold meeting no longer than 4:30 pm and was seconded by Board Member James Sullivan.
- Brent Lloyd, Assistant City Attorney addressed Board regarding points of order. Noted the following to Board Members:
  - Board Members could vote to have the hearing extended until 5:00 PM
  - The decision regarding this appeal has to be in writing and also has to have findings
  - If the Board is not prepared to make a decision at this meeting, they can close public hearing and note this item for action only or leave public hearing open and continue discussion at next public hearing.
- Board Member Frank Haught made a motion the Board only consider the consideration of the building permit and site plan exemption to have standing to proceed with the appeal. Building Permit which includes the LDC and IBC which would also include the site and/or site plan exemption. Vice Chair Michael Cannatti seconded the motion. Chair Alan Schumann confirmed the unanimous decision and it was noted from here on discussion would be pertaining to building permit and exemption for the site with no further deviation of additional discussion.
- 4. **ADJOURN** - Board Member Frank Haught made the motion to adjourn the meeting but keep the public hearing open and continue with the public hearing at the next public meeting. Board Member Scott Stookey seconded and the motion to adjourn the meeting and convene on Wednesday, September 9, 2009 and continue public hearing was made at 4:31 PM with a vote of 4-2. Board Member Steven King and Board Member James Sullivan were opposed to this decision.