Staff Summary Report

Tempe

Hearing Officer Hearing Date: October 20, 2009 Agenda Item Number: 6

SUBJECT: This is a public hearing for a request by the City of Tempe – Neighborhood Enhancement Department to abate public nuisance items located at the CRESS RESIDENCE located at 511 East Carter Drive.

DOCUMENT NAME: 20091020dssl02 PLANNNED DEVELOPMENT (0406)

SUPPORTING DOCS: Yes

COMMENTS: Hold a public hearing for a request by the City of Tempe – Neighborhood Enhancement Department to abate public nuisance items in violation of the Tempe City Code for the CRESS RESIDENCE (PL090315/ABT09023) (Robert Cress, property owner) Complaint 094298 located at 511 East Carter Drive in the R1-6, Single Family Residential District.

PREPARED BY: Sherri Lesser, Senior Planner (480-350-8486)

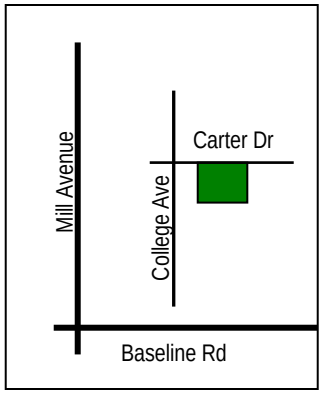
REVIEWED BY: Steve Abrahamson, Planning & Zoning Coordinator (480-350-8359) SEA

LEGAL REVIEW BY: N/A

FISCAL NOTE: N/A

RECOMMENDATION: Staff – Approval

ADDITIONAL INFO: The Neighborhood Enhancement Division is requesting approval to authorize the abatement of the CRESS RESIDENCE (PL090315/ABT09023) (Robert Cress, property owner) Complaint 094298 located at 511 East Carter Drive in the R1-6, Single Family Residential District. The details of this case represent several months of correspondence for compliance with the property owner. Staff recommends the authorization of abatement of this property.



PAGES:	1.	List of Attachments
	2.	Comments; History & Facts/Description
ATTACHMENTS:	1.	Location Map
	2.	Aerial Photo
	3-7.	Neighborhood Enhancement Report

COMMENTS:

The Neighborhood Enhancement Division is seeking approval of a request to authorize the abatement of the CRESS RESIDENCE (PL090315/ABT09023) (Robert Cress, property owner) Complaint 094298 located at 511 East Carter Drive in the R1-6, Single Family Residential District. The details of this case represent several months of correspondence for compliance with the property owner. Refer to the attached memo and photos from Brandy Zedlar, Neighborhood Enhancement Inspector, for the history and facts on the enforcement of the property.

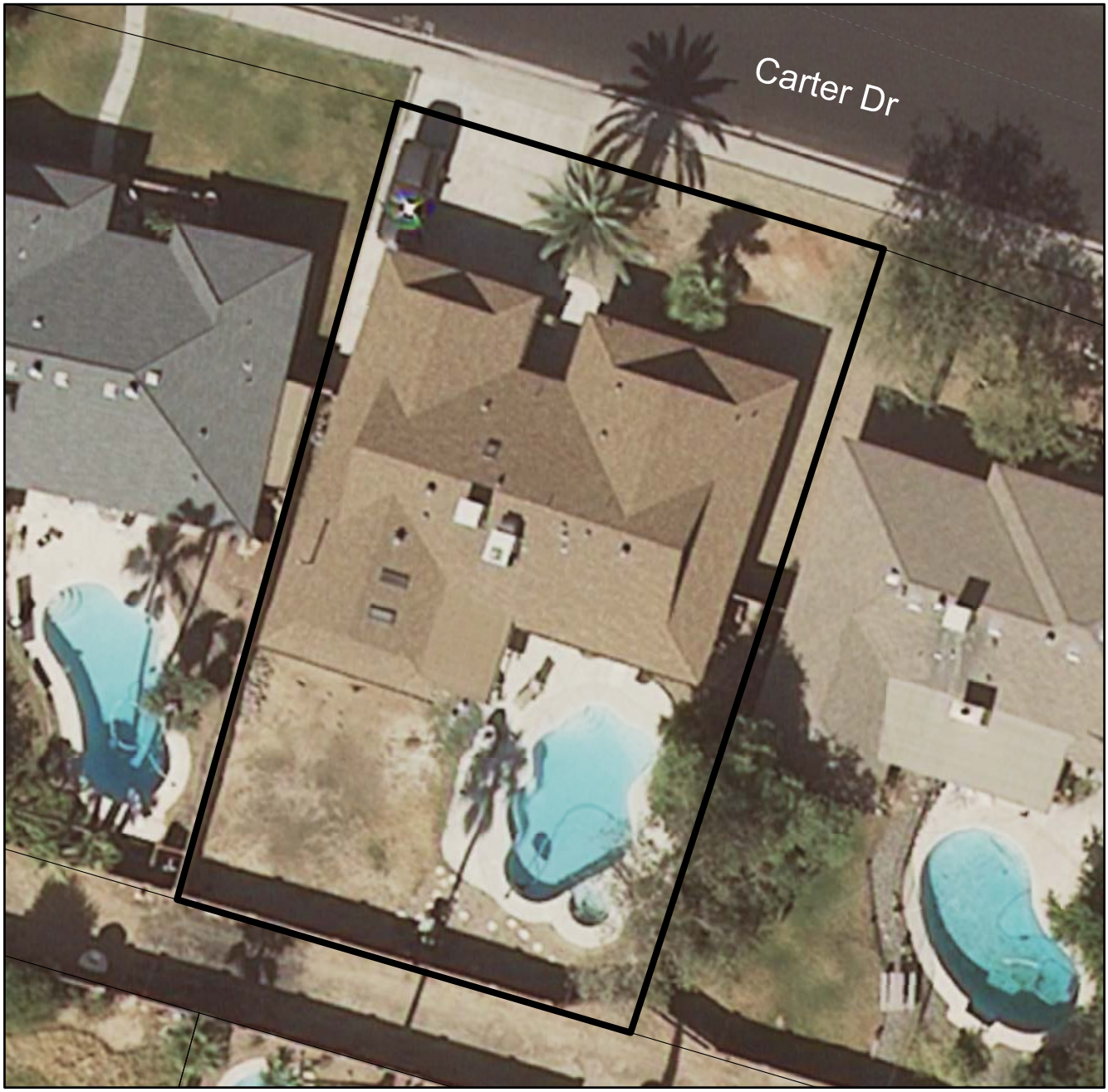
Staff recommends the authorization of abatement of this property.

HISTORY & FACTS:	See attached memo from the Neighborhood Enhancement Division.
October 6, 2009	Abatement proceedings continued to the October 20, 2009 Hearing Officer hearing due to cancellation of the October 6, 2009 hearing.
DESCRIPTION:	Owner – Robert Cress Applicant – Brandy Zedlar, COT Neighborhood Enhancement Existing zoning – R1-6, Single Family Residential District

Tempe

CRESS RESIDENCE	PL090315

Location Map



CRESS RESIDENCE (PL090315)

DATE: 8/24/09

TO: Michael Spencer, Senior Inspector

FROM: Brandy Zedlar

SUBJECT: Request to Authorize for Abatement– Reference Complaint #CE094298

LOCATION: 511 E. Carter Dr., Tempe, AZ 85282

LEGAL: Parcel # 133-41-474, as recorded with the Maricopa County Assessor

OWNER: Robert Cress

FINDINGS:
07/14/09 – The Neighborhood Enhancement Division received a complaint on the above property concerning the green swimming pool.

06/12/09 – The property was inspected and found the pool to be green and in deteriorated condition. A notice to comply was sent to the property owner.

07/29/09 – Spoke to Mr. Cress on the phone regarding the condition of the pool and he explained that he is loosing the property to foreclosure. I then asked Mr. Cress if he would be willing to sign a voluntary abatement form and Mr. Cress indicated he would not be willing to sign the form. I explained to him that I would be continuing my enforcement and filing for an Abatement Hearing. The Notice of Trustee Sale has not yet been recorded with Maricopa County.

8/17/09 – The property was inspected with no change in its condition. The Neighborhood Enhancement Division filed for an Abatement Hearing.

PROPERTY HISTORY:
01/19/05 – Complaint was received for junk and debris.

RECOMMENDATIONS:
I recommend the approval for abatement at 511 E. Carter Dr., which is owned by Mr. Robert Cress. Mr. Cress has made it clear that he is loosing the property to foreclosure and is unable to bring the property into compliance.

Respectfully submitted,
Brandy Zedlar

ACTION TAKEN: Referred to Hearing Officer

NAME: Michael Spencer

DATE: 8/24/09

CASE #CE094298

City of Tempe Code Compliance Division
Notice to Comply: Article I. Nuisances

Mailed on Date: 07/16/09

Robert & Elizabeth Cress
912 E. Beautiful Ln
Phoenix, AZ 85042

This notice to comply is to inform you that on 07/14/09, the property located at 511 E. Carter Dr., was inspected and found to be in violation of the following subsection(s) of the Nuisance and Property Enhancement Ordinance, Chapter 21, Article I, of the Tempe City Code. A re-inspection will be conducted on 7/31/09 or after this date to verify compliance. If the property is brought into compliance with the code you will not be subject to citations or fines for the violation(s).

Sec. 21-3. Enumerated violations.
(a) It shall be unlawful and a violation of this code for any person to commit a nuisance or willfully omit to perform any legal duty relating to the removal of a nuisance.
(b) A nuisance includes any one or more of the following conditions:

(16) Any swimming pool areas that are not enclosed by a fence of at least five (5) feet in height and equipped with self- closing, self-latching gate(s), or padlocked at all times. Any openings in the fencing shall be of a size to prohibit a spherical object four (4) inches in diameter from passing through or under the fence or gate; or any swimming pool, architectural pool or spa that creates a health hazard, harbors insect infestation or presents a deteriorated appearance

Please take the following corrective action by: 7/31/09

Required Correction(s):

1. **Please remove the algae and dirt from the swimming pool bringing it back to a clean and clear condition.**

We appreciate your cooperation in this matter. For questions or further information please contact the Code Enforcement Division at 480-350-8372. Failure to comply may result in civil citation, criminal charges or abatement of the violation.

Civil and Criminal Penalties
Section 21-3, Enumerated Violations subsections (b) 1-8 and 17-19, Section 21-4 Enumerated Violations 1-4: 1st occurrence $150 dollars per violation, 2nd occurrence $250 dollars per violation, 3rd occurrence $350 dollars per violation.
Section 21-3, Enumerated Violations subsections (b) 9-16: 1st occurrence $350 dollars per violation, 2nd occurrence $650 dollars per violation, 3rd occurrence $950 dollars per violation.
Section 21-4 (B), Habitual Offender: 1st occurrence $500 dollars + sum of other fines, 2nd occurrence $1000 dollars + sum of other fines, 3rd occurrence $1,500 dollars + sum of other fines.
The city has authority to abate the violation should the owner neglect, fail, or refuse to correct the violation within (30) days and to assess a lien against the property for cost of abatement.
The city prosecutor is authorized to file a criminal class 1 misdemeanor complaint in the Tempe Municipal Court for violations of this chapter.

Code Inspector: Brandy Zedlar

Phone Number: 480-350-8623
E-mail: brandy_zedlar@tempe.gov

JACK HARRINGTON
3831 W AVALON
PHOENIX, AZ. 85019
TEL: (602) 446-2630
FAX: (602) 347-5487
EMAIL: JACKHBOARDUPS@YAHOO.COM

THE FOLLOWING DOCUMENT IS FOR:

NAME: BRANDY
FIRM: CITY OF TEMPE CODE COMPLIANCE

THIS TRANSMISSION MEMORANDUM PLUS ____ PAGE(S)

DATE08-13-09 TIME: _____A.M. _____P.M.

PROPOSAL

WE PROPOSE TO DO THE FOLLOWING WORK FOR THE CITY OF TEMPE
UNDER CONTRACT # TO8-092-02

ADDRESS: 511 E CARTER Tempe, AZ.

1. PUMP POOL	$125.00

TOTAL	$125,00

THANK YOU ACCEPTANCE

JACK HARRINGTON _____

Tempe

City of Tempe
P. O. Box 5002
Tempe, AZ 85280
www.tempe.gov
(480) 350-8372
(480) 858-2231 (fax)

Code Compliance Division

NOTICE OF INTENT TO ABATE PUBLIC NUISANCE

DATE: August 24, 2009

TO: Robert Cress
912 E. Beautiful Ln
Phoenix, AZ 85042

This serves as notification of the City of Tempe's intentions regarding the abatement of code violations on the following described property:

LEGAL: Parcel # 133-41-474, as recorded with the Maricopa County Assessor.

LOCATION: 511 E. Carter Dr. Tempe, AZ 85282

This office will submit this complaint to the Development Services Abatement Hearing Officer to be placed on the Hearing Officer agenda of October 6, 2009. We are requesting Hearing Officer Authorization to abate this public nuisance in accordance with Section 21-53 of the Tempe City Code by removal and repair of: Those items constituting a violation of TCC 21-3-b-8 which would include landscape clean-up in the front and side yard.

As owner of the property, you have thirty (30) days after receipt of this letter to abate or correct the violation. If the violations have not been corrected within thirty days, our office will proceed with the abatement process. Upon receipt of the Hearing Officer approval to abate this public nuisance, the necessary work will be performed at the expense of the property owner. The cost of this work will be $125.00. In addition to the actual cost of abatement, an administrative charge of fifteen (15) percent of the actual cost of abatement or three hundred ($300) dollars, whichever is greater, for expenses incurred by the city for abatement procedures, and the cost of recording liens and releases will be charged. The recorded lien may bear interest at the legal rate for judgments in the State of Arizona. Administrative charges and the cost of recording liens and releases shall become a lien on the property whether or not the public nuisance is abated by the City.

If you have questions regarding this matter, please contact our office at (480) 350-8372.

Code Enforcement Officer: Brandy Zedlar Phone Number 480-350-8372

ATTACHMENT 7