

# Staff Summary Report



Hearing Officer Hearing Date: August 17, 2010

Agenda Item Number: 7

**SUBJECT:** This is a public hearing for a request by the City of Tempe – Code Compliance Section to abate public nuisance items at the Moore Residence located at 438 West Hermosa Drive.

**DOCUMENT NAME:** 20100817dsr101 **PLANNED DEVELOPMENT (0406)**

**COMMENTS:** Request by the City of Tempe – Code Compliance Section to abate public nuisance items in violation of the Tempe City Code for the **MOORE RESIDENCE (PL100215/ABT10010/CE101812)** (Brandy Zedlar, Inspector; Marilyn Moore, property owner) located at 438 West Hermosa Drive in the R1-6, Single Family Residential District.

**PREPARED BY:** Ryan Levesque, Senior Planner (480-858-2393)

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

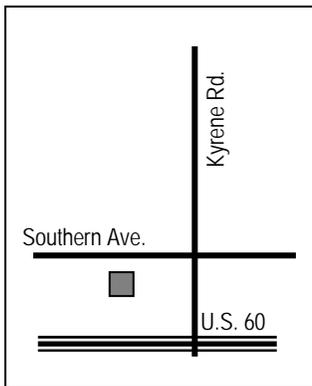
**LEGAL REVIEW BY:** N/A

**DEPARTMENT REVIEW BY:** N/A

**FISCAL NOTE:** N/A

**RECOMMENDATION:** Staff – Approval of Abatement Proceedings

**ADDITIONAL INFO:**



Code Compliance is requesting approval to abate the Moore Residence located at 438 West Hermosa Drive in the R1-6, Single Family Residential District. The property is generally located southwest of Southern Avenue and Kyrene Road. The details of this case represent several months of correspondence for compliance with the property owner. Staff requests the approval of abatement of the following nuisance items under Complaint CE101812: "Overgrown grass and weeds; trim back trees; remove inoperable vehicle and bee hive."

**Staff is requesting authorization of multiple abatements for a period not to exceed one hundred eighty (180) days from the original abatement order.**

**PAGES:**

1. List of Attachments
2. Comments; History & Facts/Description

**ATTACHMENTS:**

1. Location Map
2. Aerial Photo
- 3-13. Code Compliance Report & Photographs

**COMMENTS:**

Code Compliance is requesting approval to abate the Moore Residence located at 438 West Hermosa Drive in the R1-6, Single Family Residential District. This case was initiated on May 17, 2010, following which Code Compliance has attempted to obtain compliance through correspondence with the property owner, Marilyn Moore, regarding violations of the Tempe City Code for overgrown landscape and weeds, an inoperable vehicle and bee hive on site.

Ms. Moore has received a courtesy notice citing the specific items in violation with Tempe City Code with regards to the violations.

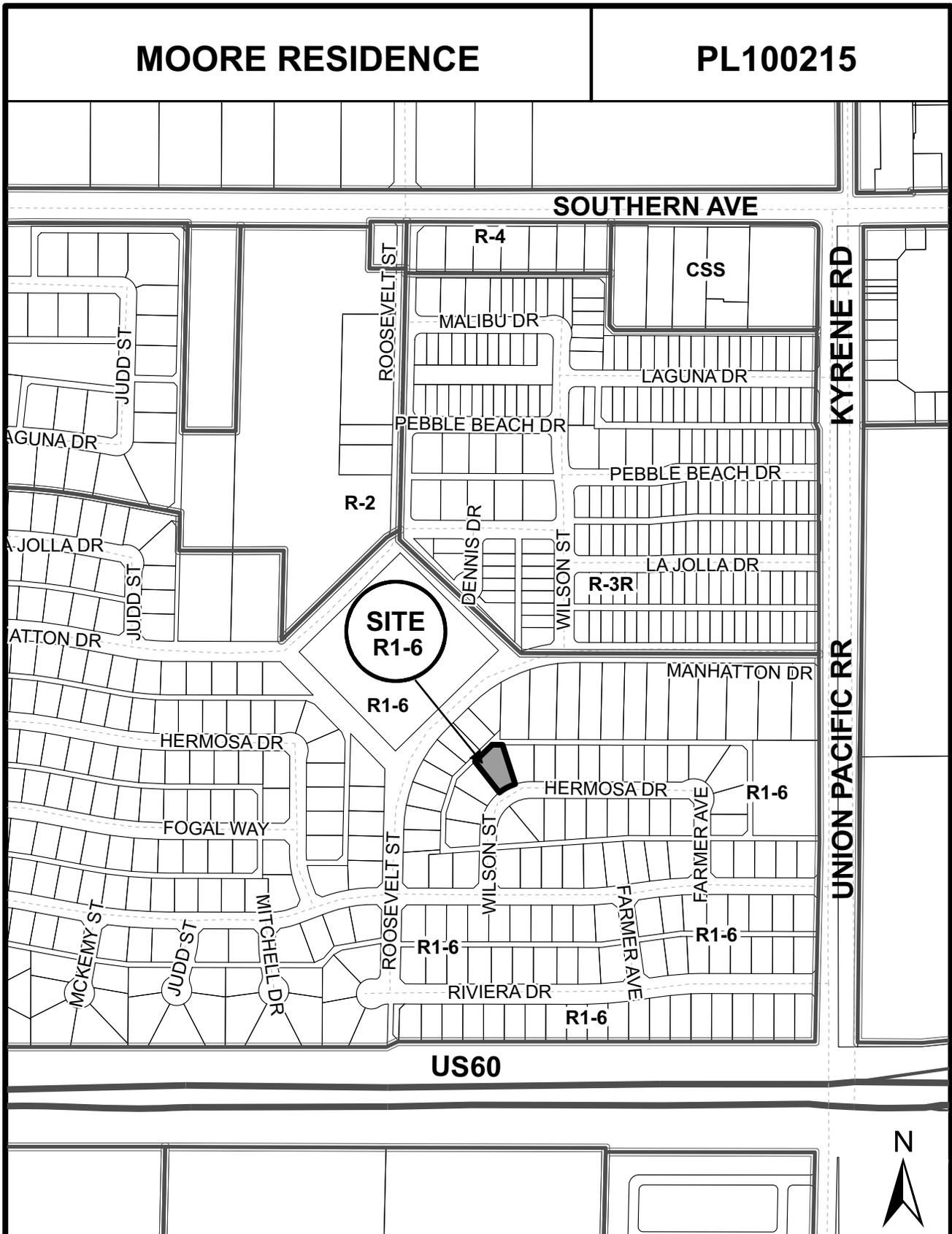
Without the intervention of abatement the property will continue to deteriorate. It is therefore requested that the City of Tempe Community Development, Hearing Officer approve the abatement of this public nuisance in accordance with Section 21-53 of the Tempe City Code.

**HISTORY & FACTS:**

The history and facts of this case are detailed in an attached memo from the Code Compliance Inspector.

**MOORE RESIDENCE**

**PL100215**



**Location Map**



**MOORE RESIDENCE (PL100215)**

**DATE:** 7/09/10  
**TO:** Michael Spencer, Sr. Code Inspector  
**FROM:** Brandy Zedlar  
**SUBJECT:** Request to Authorize for Abatement– Reference Complaint #CE101812

---

**LOCATION:** 438 W. Hermosa Dr., Tempe, AZ 85282  
**LEGAL:** Parcel #123-46-093, as recorded with the Maricopa County Assessor  
**OWNER:** Marilyn C. Moore

**FINDINGS:**

5/17/10 – The Neighborhood Enhancement Division received a complaint on the above property concerning deteriorated landscape and a beehive.

5/18/10 - The property was inspected and found to have deteriorated landscape in the front, side and back yard, beehive under the front window, an inoperable brown Ford car parked in the carport, and a sidewalk obstruction from both trees in the front yard. First notice to comply was sent to the property owner.

6/04/10 – The property was inspected with no change in its condition. Final notice to comply was sent to the property owner.

7/6/10 – The property was inspected with no change in its condition. The Neighborhood Enhancement Division filed for an Abatement Hearing.

**PROPERTY HISTORY:**

- 4/9/09, 12/9/08, 6/23/08, 10/20/07 – Property was abated for the same type of violations.
- 10/15/08 – Criminal charges have been filed with the City Prosecutors office.
- 11 complaints have been received regarding the same violations since 1999.

**RECOMMENDATIONS:**

I recommend the approval for abatement at 438 W. Hermosa Dr., which is owned by Marilyn Moore. Ms. Moore has been given ample time and opportunities to bring her property into compliance and has failed to take corrective action. Due to the history of this property, I am requesting approval for continuous abatements in the next 180 days if deemed necessary. There has been no indication in Ms. Moore's actions that she plans to correct and maintain his property.

Respectfully submitted,  
Brandy Zedlar

**ACTION TAKEN:** Referred to Hearing Officer

**NAME:** Michael Spencer

**DATE:** 7/08/10



DEVELOPMENT SERVICES DEPARTMENT
CODE COMPLIANCE
FIRST CORRECTION NOTICE

05-19-2010

MARILYN C MOORE
438 W HERMOSA DR.
TEMPE, AZ 85282

Case#: CE101812
Site Address: 438 W HERMOSA DR

SITE REINSPECTION ON OR AFTER: 06/04/2010

This is a notice to inform you that this site was inspected on 5/18/10 and found to be in violation of the City of Tempe's Zoning and Development Code (ZDC) and/or Nuisances and Property Enhancement Ordinance, Chapter 21, Article I and/or II of the City Code (CC) as noted. Failure to comply may result in civil citation or criminal charges.

Table with 2 columns: SECTION and VIOLATION. Rows include CC 21-3.b.3 (An inoperable vehicle...), CC 21-3.b.7 (Object, building, tree...), CC 21-3.b.8 (Landscaping that is substantially dead...), and CC 21-3.b.20 (Area infested with bees).

PLEASE TAKE THE FOLLOWING CORRECTIVE ACTION

- CC 21-3.b.3 Please repair or replace the flat tires on the brown Ford car parked in the carport.
CC 21-3.b.7 Please trim back both trees in the front yard to eliminate any sidewalk obstruction.
CC 21-3.b.8 Please remove the weeds/grass growing within the gravel landscape in the front and side yard.
CC 21-3.b.20 Please remove the beehive from underneath the south front window.

Please contact me if you have questions or need further assistance. Thank you for your cooperation in this matter.

Brandy Zedlar
Code Inspector II

Direct: 480-350-8623
Code Compliance: (480)350-8372
Email: brandy\_zedlar@tempe.gov

Civil and Criminal Penalties

City Code Section 21-3, subsections (b) 1-8, 15 and 17-19; Section 21-4; Sections 21-13; Section 21-38, subsections (a-k) and (m-q): 1st occurrence \$150 per violation, 2nd occurrence \$250 per violation, 3rd occurrence \$350 per violation | Sections 21-31, 21-32, 21-33, 21-35, 21-36: 1st occurrence \$250 per violation, 2nd occurrence \$450 per violation, 3rd occurrence \$650 per violation | Section 21-3, subsections (b) 9-14, 16 and 20; Sections 21-34, 21-37; Section 21-38, subsection (l): 1st occurrence \$350 per violation, 2nd occurrence \$650 per violation, 3rd occurrence \$950 per violation. | Section 21-25: \$1000 per violation plus an additional \$100 for each month after the date of the original violation until compliance occurs. | Section 21-4 (B) Habitual Offender: 1st occurrence \$500 in addition to other fines, 2nd occurrence \$1000 in addition to other fines, 3rd occurrence, \$1500 in addition to other fines. | Zoning and Development Code: 1st occurrence \$120 per violation, 2nd occurrence \$370 per violation, 3rd occurrence \$770 per violation | 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 the cost of the abatement. | The city prosecutor is authorized to file a criminal class 1 misdemeanor complaint in the Tempe Municipal Court for violations of these codes.



DEVELOPMENT SERVICES DEPARTMENT
CODE COMPLIANCE
FINAL CORRECTION NOTICE

06-07-2010

MARILYN C MOORE
438 W HERMOSA DR.
TEMPE, AZ 85282

Case#: CE101812
Site Address: 438 W HERMOSA DR

SITE REINSPECTION ON OR AFTER: 06/23/2010

This is a notice to inform you that this site was inspected on 5/18/10 and found to be in violation of the City of Tempe's Zoning and Development Code (ZDC) and/or Nuisances and Property Enhancement Ordinance, Chapter 21, Article I and/or II of the City Code (CC) as noted. Failure to comply may result in civil citation or criminal charges.

Table with 2 columns: SECTION and VIOLATION. Rows include CC 21-3.b.3 (An inoperable vehicle or parts thereof outside of or under a roof area not enclosed), CC 21-3.b.7 (Object, building, tree, bush or vehicle that interferes with or obstructs a sidewalk or street), CC 21-3.b.8 (Landscaping that is substantially dead damaged or characterized by uncontrolled growth), and CC 21-3.b.20 (Area infested with bees).

PLEASE TAKE THE FOLLOWING CORRECTIVE ACTION

Table with 2 columns: SECTION and VIOLATION. Rows include CC 21-3.b.3 (Please repair or replace the flat tires on the brown Ford car parked in the carport), CC 21-3.b.7 (Please trim back both trees in the front yard to eliminate any sidewalk obstruction), CC 21-3.b.8 (Please remove the weeds/grass growing within the gravel landscape in the front and side yard), and CC 21-3.b.20 (Please remove the beehive from underneath the south front window).

\*\*\*If the above required corrections are not satisfied by 6/23/10, a \$600 civil citation will be issued.

Please contact me if you have questions or need further assistance. Thank you for your cooperation in this matter.

Brandy Zedlar
Code Inspector II

Direct: 480-350-8623
Code Compliance: (480)350-8372
Email: brandy\_zedlar@tempe.gov

Civil and Criminal Penalties

City Code Section 21-3, subsections (b) 1-8, 15 and 17-19; Section 21-4; Sections 21-13; Section 21-38, subsections (a-k) and (m-q): 1st occurrence \$150 per violation, 2nd occurrence \$250 per violation, 3rd occurrence \$350 per violation | Sections 21-31, 21-32, 21-33, 21-35, 21-36: 1st occurrence \$250 per violation, 2nd occurrence \$450 per violation, 3rd occurrence \$650 per violation | Section 21-3, subsections (b) 9-14, 16 and 20; Sections 21-34, 21-37; Section 21-38, subsection (l): 1st occurrence \$350 per violation, 2nd occurrence \$650 per violation, 3rd occurrence \$950 per violation. | Section 21-25: \$1000 per violation plus an additional \$100 for each month after the date of the original violation until compliance occurs. | Section 21-4 (B) Habitual Offender: 1st occurrence \$500 in addition to other fines, 2nd occurrence \$1000 in addition to other fines, 3rd occurrence, \$1500 in addition to other fines. | Zoning and Development Code: 1st occurrence \$120 per violation, 2nd occurrence \$370 per violation, 3rd occurrence \$770 per violation | 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 the cost of the abatement. | The city prosecutor is authorized to file a criminal class 1 misdemeanor complaint in the Tempe Municipal Court for violations of these codes.





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

Code Compliance Division

## NOTICE OF INTENT TO ABATE PUBLIC NUISANCE

DATE: July 9, 2010

TO: Marilyn Moore  
438 W. Hermosa Dr  
Tempe, AZ 85282

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

LEGAL: Parcel # 123-46-093, as recorded with the Maricopa County Assessor.

LOCATION: 438 W. Hermosa 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 August 17, 2010. 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, TCC 21-3-b-3, TCC 21-3-b-7 and TCC 21-3-b-20 which would include landscape clean-up in the front and back yard, trimming back the trees in the front yard, removal of the inoperable vehicle and beehive.

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 \$1333.00. 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

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: BRADY  
FIRM: CITY OF TEMPE CODE COMPLIANCE

THIS TRANSMISSION MEMORANDUM PLUS  0  PAGE(S)

DATE: 6-30-10

**PROPOSAL**

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

ADDRESS: 438 W HERMOSA

1.MOW AND REMOVE WEEDS & DEBRIS FROM FRONT AND REAR YARDS 24 MH @22.00/	\$528.00
2. REMOVE BEES FROM BELOW WINDOW	150.00
3. TOW CAR AWAY FROM PROPERTY	135,00
4. TRIM TREE IN FRONT AT SIDEWALK	120.00
5. POLICE OFFICER 8HRS @50.00/	400.00
TOTAL COST FOR ABOVE ITEMS	----- \$1333.00

THANK YOU

ACCEPTANCE

JACK HARRINGTON

\_\_\_\_\_









ATTACHMENT 12

