

# Staff Summary Report



Hearing Officer Hearing Date: November 4, 2008

Agenda Item Number: 7

**SUBJECT:** This is a public hearing for a request by the City of Tempe – Neighborhood Enhancement Department to abate public nuisance items at the **MOORE PROPERTY (PL080378/ABT08033)** located at 438 West Hermosa Drive.

**DOCUMENT NAME:** 20081104dssl03

**PLANNED 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 **MOORE PROPERTY (PL080378/ABT08033)** (Marilyn Moore, property owner) Complaint CE086797 located at 438 West Hermosa Drive in the R1-6, Single Family Residential District.

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

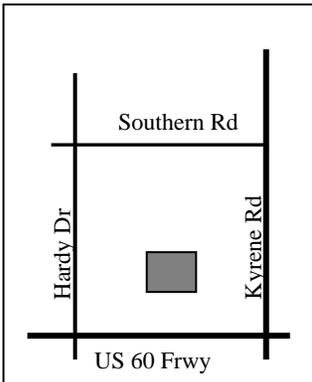
**REVIEWED BY:** Steve Abrahamson, Planning & Zoning Coordinator (480-350-8359) *SEA*

**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 **MOORE PROPERTY (PL080378/ABT08033)** (Marilyn Moore, property owner) Complaint CE086797 located at 438 West Hermosa 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 authorizing abatement of this property.



**PAGES:**

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

**ATTACHMENTS:**

1. Location Map
2. Aerial Photo
- 3-6. Neighborhood Enhancement Report
- 7-10. Neighborhood Enhancement Photos

**COMMENTS:**

The Neighborhood Enhancement Division is seeking approval of a request to authorize the abatement of the **MOORE PROPERTY (PL080378/ABT08033)** (Marilyn Moore, property owner) Complaint CE086797 located at 438 West Hermosa 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 Jody Benson, Neighborhood Enhancement Inspector, for the history and facts on the enforcement of the property.

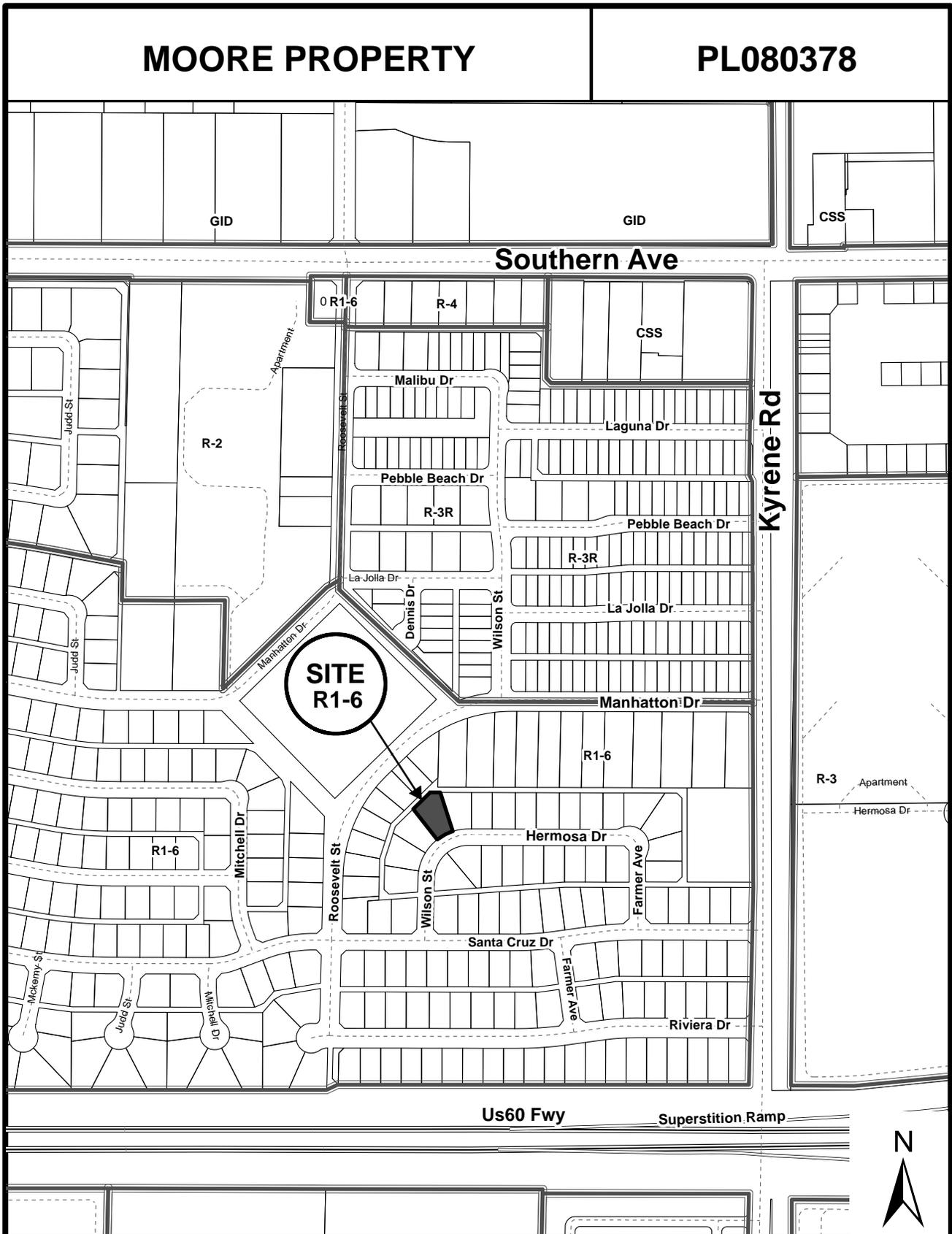
Staff recommends authorizing abatement of this property.

**HISTORY & FACTS:** See attached memo from the Neighborhood Enhancement Division.

**DESCRIPTION:** Owner – Marilyn Moore  
Applicant – Jody Benson, COT Neighborhood Enhancement  
Existing zoning – R1-6, Single Family Residential District  
Lot area – 9599 s.f.  
Building area – 2591 s.f.  
Year of structure – 1971

**MOORE PROPERTY**

**PL080378**



**Location Map**



**MOORE PROPERTY (PL080378)**

**DATE:** October 7, 2008  
**TO:** Jan Koehn, Neighborhood Enhancement Administrator  
**FROM:** Jody Benson, Code Inspector I/II  
**SUBJECT:** Request for Authorization to Abate Complaint CE086797

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**LOCATION:** 438 West Hermosa Drive, Tempe

**LEGAL:** Lot 672, KNOELL TEMPE UNIT THREE (3), Book 134 of Maps Page 47, as recorded with the Maricopa County Assessor.

**OWNER:** Marilyn C. Moore  
7342 E. Laguna Azul Avenue  
Mesa, AZ 85209

**FINDINGS:**

09/18/08 Case for deteriorated landscape was opened by City of Tempe Code Inspector Jody Benson for over height grass and weeds in the front and back yard landscape(s).

10/01/08 A request for an estimate for the abatement of the property was received from Jack Harington Inc. authorized abatement contractor for the City of Tempe. The itemized estimate for the abatement is \$528.

10/02/08 Sent Notice of Intent to abate to the homeowner and posted the Notice to the property also.

10/07/08 Found no change at the property. Took photos of the property for this submittal.

**COMPLAINT HISTORY:**

CE990817 03/12/1999 thru 03/26/1999 Complaint for over height weeds in the front yard, both side yards, and in the driveway.

CE993812 12/17/1999 thru 02/15/2000 Complaint for grass in the gravel and flat tires on the brown Ford Maverick in the carport.

CE013628 10/3/2001 thru 10/18/2001 Complaint for weeds and grass in the gravel landscape as well as plastic ground wrap coming up.

- CE041892 05/13/2004 thru 06/10/2004 Complaint of over height grass and weeds in the front and back yard.
- CE050644 02/04/2005 thru 05/19/05 Complaint for over height grass and weeds in the front and back yards and a flat tire on the brown Ford Maverick in the carport. Abatement approved, however a neighbor cleaned the property.
- CE060021 01/04/2006 thru 05/06/2006 Complaint for over height grass and weeds in the front and back yards and a flat tire on the brown Ford Maverick in the carport and also an un-screened white MG with flat tires in the back yard. Citation(s) were issued to Marilyn C. Moore, however they were returned as unclaimed. The post office notified the property owner three times of the certified mail. Abatement was requested; however the property was in compliance on the day of the hearing.
- CE073009 06/07/07 thru 06/24/08 Complaint for over height grass and weeds in the front and back yards and a flat tire on the brown Ford Maverick in the carport. Abatement of the property was approved and completed. The house was abated a second time through Emergency Abatement on 06/24/08 after the property was deemed a fire hazard by the Tempe Fire Department.

### **RECOMMENDATIONS:**

The owner of 438 West Hermosa Drive, Marilyn C. Moore, has a history of violating Tempe City Code in regards to allowing the landscape to deteriorate. There have been seven prior complaints dating back to 1999 for the same violations and each has been in compliance in a reasonable amount of time until the year 2005. The house has appeared vacant since sometime before that. The City of Tempe Water account has been inactive since 12/21/2004. It appears no steps have been taken to maintain the landscape keeping it in compliance with Tempe City Code. Ownership of the home was transferred to Marilyn Moore after her mother, Mona Moore, passed away in 2005. There has not been any response to notice sent to the only address for Marilyn Moore, nor has there been any improvement in the condition of the property in regards to this complaint. The property has been subject to abatement hearings in 2005, 2006, 2007, and an Immediate Abatement in 2008. The 2005 abatement was authorized, but the property was brought into compliance by a neighbor after he refused to allow the contractor to complete the abatement. In 2006 another request for the authorization was requested and the home was found to be in compliance on the date of the hearing. As of the date of this submittal the property has been allowed to fall back into violation with the same conditions that were present prior to the abatement requests in 2005, 2006, 2007 and 2008. The City of Tempe Neighborhood Enhancement currently has liens totaling \$2676.00 for prior abatements of the property.

Without the intervention of abatement the property will continue to deteriorate. I therefore make a request to the City of Tempe Development Services Hearing Officer for authorization to abate this public nuisance in accordance with section 21-53 of the Tempe City Code and authorization of multiple abatements for a period not to exceed one hundred eighty (180) days from the previous abatement order.

Marilyn Moore is the listed legal owner of the residence, as recorded by the Maricopa County Assessor's Office.

Respectfully submitted,  
Jody Benson  
City of Tempe Code Inspector

ACTION TAKEN: Referred for Abatement  
NAME Jan Koeel  
DATE: 10/7/08

CASE # CE086797



## NOTICE OF INTENT TO ABATE PUBLIC NUISANCE

DATE: 10/02/08

TO: **MARILYN C. MOORE**  
**7342 E. LAGUNA AZUL AVENUE**  
**MESA, AZ 85209**

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

**LEGAL: Lot 672, KNOELL TEMPE UNIT THREE (3), Book 134 of Maps Page 47, as recorded with the Maricopa County Assessor.**

**LOCATION: 438 W. Hermosa Drive 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 **11/04/08**. 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:

**1. Cut and remove all over height grass and weeds in the front and back yard gravel landscape(s).**

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 **\$528.00**. 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 Inspector: JODY BENSON

Phone Number: (480)350-8671  
E-mail: JODY\_BENSON@TEMPE.GOV







