

Staff Summary Report



Hearing Officer Hearing Date: 7/19/11

Agenda Item Number: 9

SUBJECT: This is a public hearing for a request by the City of Tempe – Code Compliance Section to abate public nuisance items at the Nicholson Property located at 1220 West Malibu Drive.

DOCUMENT NAME: 20110719cdsl08 **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 **NICHOLSON PROPERTY (PL110236 /ABT11023 /CE111648)** (Brandy Zedlar, Inspector; Zachary Nicholson, property owner) located at 1220 West Malibu 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)

LEGAL REVIEW BY: N/A

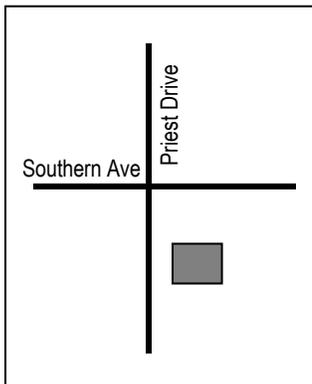
DEPARTMENT REVIEW BY: Steve Abrahamson, Planning & Zoning Coordinator (480-350-8359) *SEA*

FISCAL NOTE: \$264.00 for abatement request, including removal of weeds.

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

ADDITIONAL INFO:

Code Compliance is requesting approval to abate the Nicholson Property located at 1220 West Malibu 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 requests the approval of abatement of the following nuisance items under Complaint CE111648: deteriorated landscape and weeds.



PAGES:

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

ATTACHMENTS:

1. Location Map
2. Aerial Photo
- 3-9. Code Compliance Report & Photographs

COMMENTS:

Code Compliance is requesting approval to abate the Nicholson Property located at 1220 West Malibu Drive in the R1-6, Single Family Residential District. This case was initiated 5/11 following which Code Compliance has attempted to obtain compliance through correspondence with the property owners regarding violations of the Tempe City Code for deteriorated landscape and weeds.

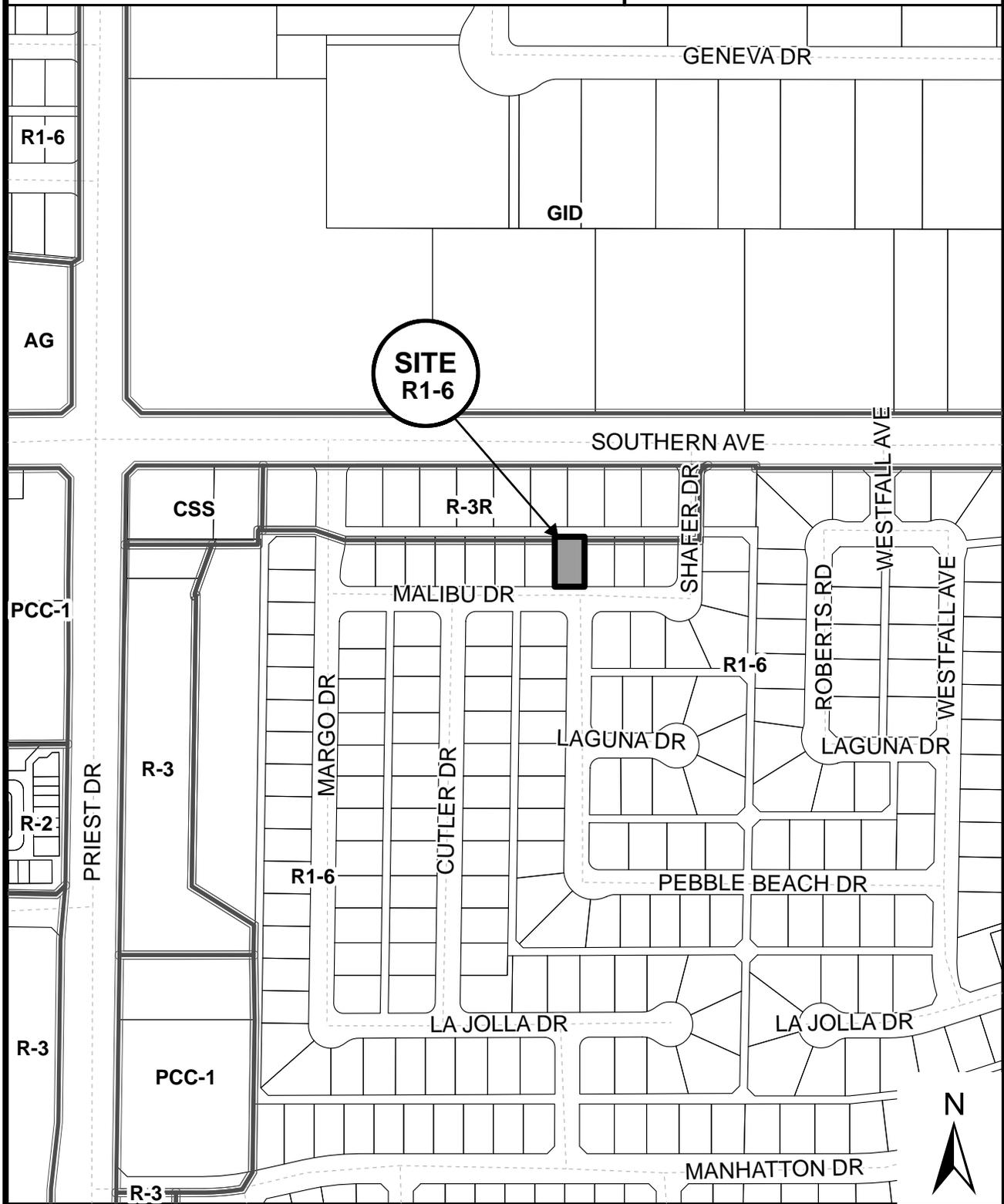
Without the intervention of abatement the property will continue to deteriorate. It is therefore requested that the City of Tempe Community Development Hearing Officer approve the abatement of this public nuisance in accordance with Section 21-53 of the Tempe City Code.

HISTORY & FACTS:

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

NICHOLSON PROPERTY

PL110236



Location Map



NICHOLSON PROPERTY (PL110236)

DATE: 6/16/11
TO: Michael Spencer, Sr. Code Inspector
FROM: Brandy Zedlar
SUBJECT: Request to Authorize for Abatement– Reference Complaint #CE111648

LOCATION: 1220 W Malibu Dr., Tempe, AZ 85282
LEGAL: Parcel #123-42-010, as recorded with the Maricopa County Assessor
OWNER: ZACHARY R NICHOLSON
1220 W MALIBU DR
TEMPE, AZ 85282

FINDINGS:

5/09/11 – The Neighborhood Enhancement Division received a complaint on the above property concerning deteriorated landscape.

2/14/11 - The property was inspected and found to have weeds/grass growing within the gravel landscape and weeds/grass growing under the carport. Notice to comply was mailed first class to Mr. Nicholson and Ms. Diane Nicholson who was the person listed on the water bill.

5/18/11 – Notice was returned with no forwarding address.

5/23/11 – Ms. Diane Nicholson called and stated her son owns the property but it is going into foreclosure.

6/16/11 – The property was inspected with no change in its condition. Code Compliance filed for an Abatement Hearing.

PROPERTY HISTORY:

- 6 complaints for deteriorated landscape were received between 2006 and 2011.
- One civil citation was issued to Mr. Nicholson for deteriorated landscape in 2009.

RECOMMENDATIONS:

I recommend the approval for abatement at 1220 W. Malibu Dr. which is owned by Mr. Zachary Nicholson. Mr. Nicholson has been given ample time and opportunities to bring his property into compliance and has failed to take any corrective action. There has been no indication from Mr. Nicholson that he plans to correct and maintain his property.

Respectfully submitted,
Brandy Zedlar

ACTION TAKEN: Referred to Hearing Officer

NAME: Michael Spencer

DATE: 6/16/11



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*Market Overview *Residential Similar Property Search

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*(A parcel number is needed to use these Features)

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Property Information

[View GIS Maps](#)

Parcel #: 123-42-010
MCR #: 12324
Property Address: 1220 W MALIBU DR
 TEMPE 85282
Property Description: WESTWAY PARK
Section Township Range: 33 1N 4E
Associated Parcel:

Subdivision Name: WESTWAY PARK
Lot #: 8
School Dist: TEMPE SCHOOL DISTRICT
Local Jurisdiction: TEMPE
[Tax District FAQs](#)

Owner Information

[View Tax Information](#)

Owner: NICHOLSON ZACHARY R
In Care Of:
Mailing Address: 1220 W MALIBU DR
 TEMPE AZ 85282 USA
Deed #: 041164876
Deed Date: 10/4/2004

Sales Price: \$150,000
Sales Month/Year: 9/2004

Valuation Information

[View Similar Parcels](#)

Tax Year:	2012	2011	2010
Full Cash Value (FCV):	\$106,100	\$131,000	\$154,000
Limited Property Value (LPV):	\$106,100	\$131,000	\$154,000
Notice: The values displayed on this page may not reflect constitutional or statutory adjustments.			
Legal Class:	4	4	4
Assessment Ratio:	10.0%	10.0%	10.0%
Assessed FCV:	\$10,610	\$13,100	\$15,400
Assessed LPV:	\$10,610	\$13,100	\$15,400
Property Use Code:	0131	0131	0131
Tax Area Code:	031600	031600	031600

Additional Component Information (for this parcel)

[Valuation](#) [Characteristics](#) [Commercial Property Overview](#)

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The data contained in this database is deemed reliable but not guaranteed. This information should be used for informational use only and does not constitute a legal document for the description of these properties. Every effort has been made to insure the accuracy of this data; however, this material may be slightly dated which would have an impact on its accuracy. The Maricopa County Assessor's Office disclaims any responsibility or liability for any direct or indirect damages resulting from the use of this data.

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Maricopa County Assessor || 301 W. Jefferson St. || Phoenix, AZ 85003
 602-506-3406



**COMMUNITY DEVELOPMENT DEPARTMENT
CODE COMPLIANCE
FIRST CORRECTION NOTICE**

5-12-2011

ZACHARY NICHOLSON
1220 W MALIBU DR
TEMPE, AZ 85282

Case#: CE111648
Site Address: 1220 W MALIBU DR

SITE REINSPECTION ON OR AFTER: 5/30/11

This is a notice to inform you that this site was inspected on **5/12/11** 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.

VIOLATION SECTION:

Sec. 21-3. Enumerated violations.

(b) A nuisance includes any one or more of the following conditions:

Violation of the Tempe City Code, Chapter 21-3-b-8

Any landscaping, visible from public property, that is substantially dead, damaged, or characterized by uncontrolled growth, or presents a deteriorated or slum-like appearance; uncultivated plants, weeds, tall grass, uncultivated shrubs or growth (whether growing or otherwise) higher than twelve (12) inches; or any dead trees, bushes, shrubs or portions thereof, including stumps; or any palm or similar type tree having dead or dry fronds descending downward from the base of the lowest living frond more than eight (8) feet or dry fronds longer than five (5) feet and closer than eight (8) feet to the ground.

PLEASE TAKE THE FOLLOWING CORRECTIVE ACTION:

- 1. Please remove the weeds/grass growing within the gravel landscape in the front and side yard.**
- 2. Please trim the over height grass underneath and adjacent the carport.**

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

**Brandy Zedlar
Code Inspector II
email**

**Direct: 480-350-8623
Code Compliance: 480-350-8372
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 \$170 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.



**COMMUNITY DEVELOPMENT DEPARTMENT
CODE COMPLIANCE
FIRST CORRECTION NOTICE**

5-12-2011

DIANNE NICHOLSON
3082 E SAN CARLOS PL
CHANDLER, AZ 85249

Case#: CE111648
Site Address: 1220 W MALIBU DR

SITE REINSPECTION ON OR AFTER: 5/30/11

This is a notice to inform you that this site was inspected on **5/12/11** 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.

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**Brandy Zedlar
Code Inspector II
email**

**Direct: 480-350-8623
Code Compliance: 480-350-8372
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 \$170 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
(480) 350-8372
(480) 858-2231 (fax)

Code Compliance Division

NOTICE OF INTENT TO ABATE PUBLIC NUISANCE

DATE: June 16, 2011

TO: ZACHARY NICHOLSON
1220 W MALIBU 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 # 123-42-010, as recorded with the Maricopa County Assessor.

LOCATION 1220 W. Malibu 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 July 19, 2011. 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 the following: 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 \$264.00. 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: BRANDY ZEDLAR
FIRM: CITY OF TEMPE CODE COMPLIANCE

THIS TRANSMISSION MEMORANDUM PLUS 0 PAGE(S)

DATE: 6-10-11

PROPOSAL

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

ADDRESS: 1220 W. MAILIBU DR. TEMPE, AZ.

1. REMOVE WEEDS & DEBRIS FROM FRONT YARD 12 M.H. @ \$22.00/HR.	<u>\$264.00</u>
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TOTAL COST FOR JOB	\$264.00
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THANK YOU

ACCEPTANCE

JACK HARRINGTON

