

Staff Summary Report



Hearing Officer Hearing Date: April 1, 2008

Agenda Item Number: 10

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 **FELSINGER RESIDENCE** located at 1031 East Lilac Drive.

DOCUMENT NAME: 20080401dsng02

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 **FELSINGER RESIDENCE (PL080076/ABT08004)** (Arthur Felsing, property owner) Complaint CE072099 located at 1031 East Lilac Drive in the R1-6, Single Family Residential District.

PREPARED BY: Nick Graves, Planning Intern (480-350-8690)

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

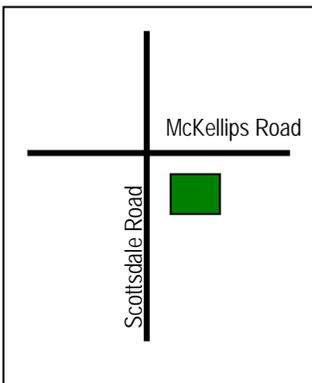
A handwritten signature in black ink, appearing to read 'SEA'.

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 **FELSINGER RESIDENCE (PL080076/ABT08004)** (Arthur Felsing, property owner) Complaint CE072099 located at 1031 East Lilac 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
- 3-9. Neighborhood Enhancement Report

COMMENTS:

The Neighborhood Enhancement Division is seeking approval of a request to authorize the abatement of the **FELSINGER RESIDENCE (PL080076/ABT08004)** (Arthur Felsing, property owner) Complaint CE072099 located at 1031 East Lilac 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 Andres Lara, Neighborhood Enhancement Inspector, for the history and facts on the enforcement of the property.

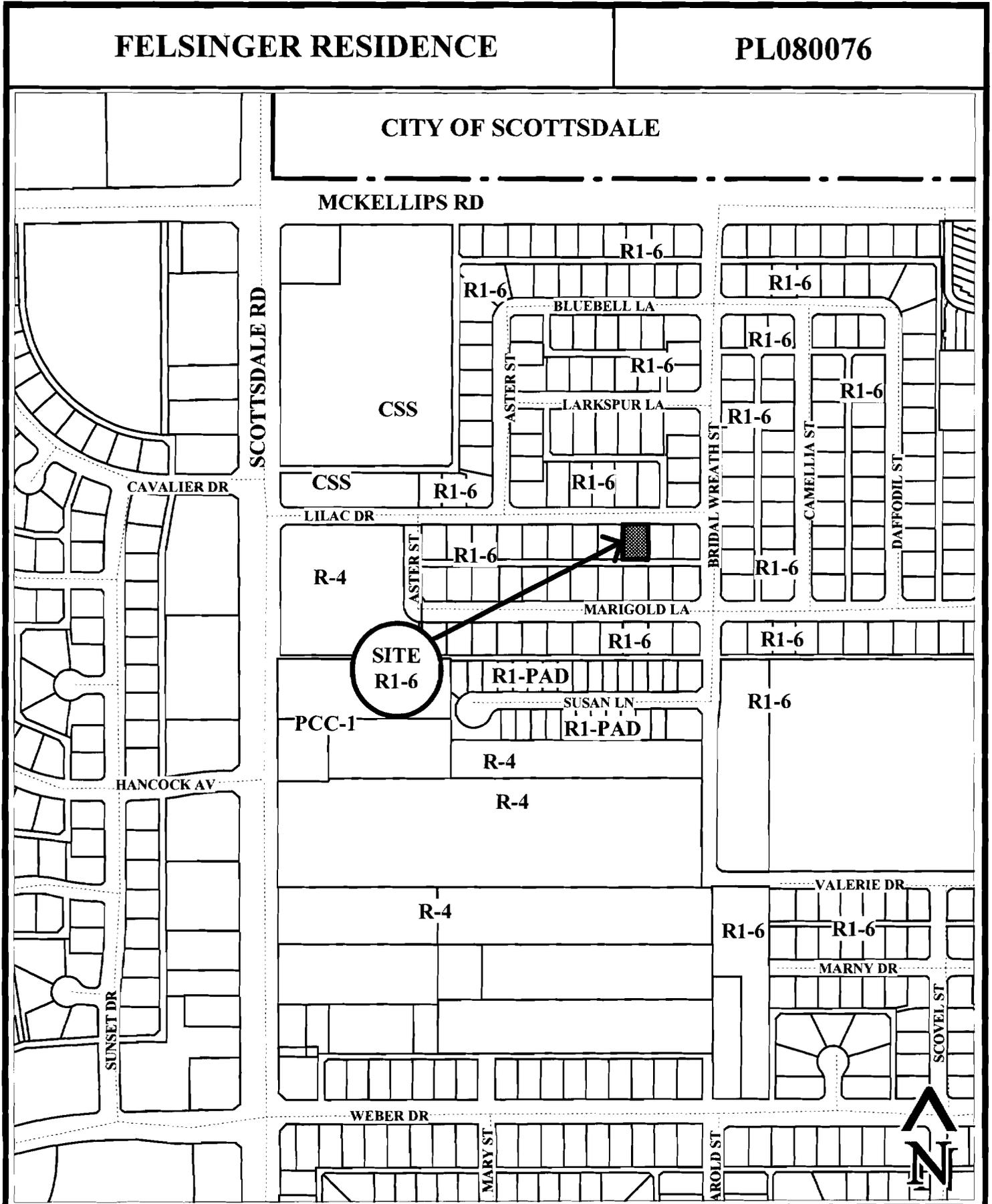
Staff recommends the authorization of abatement of this property.

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

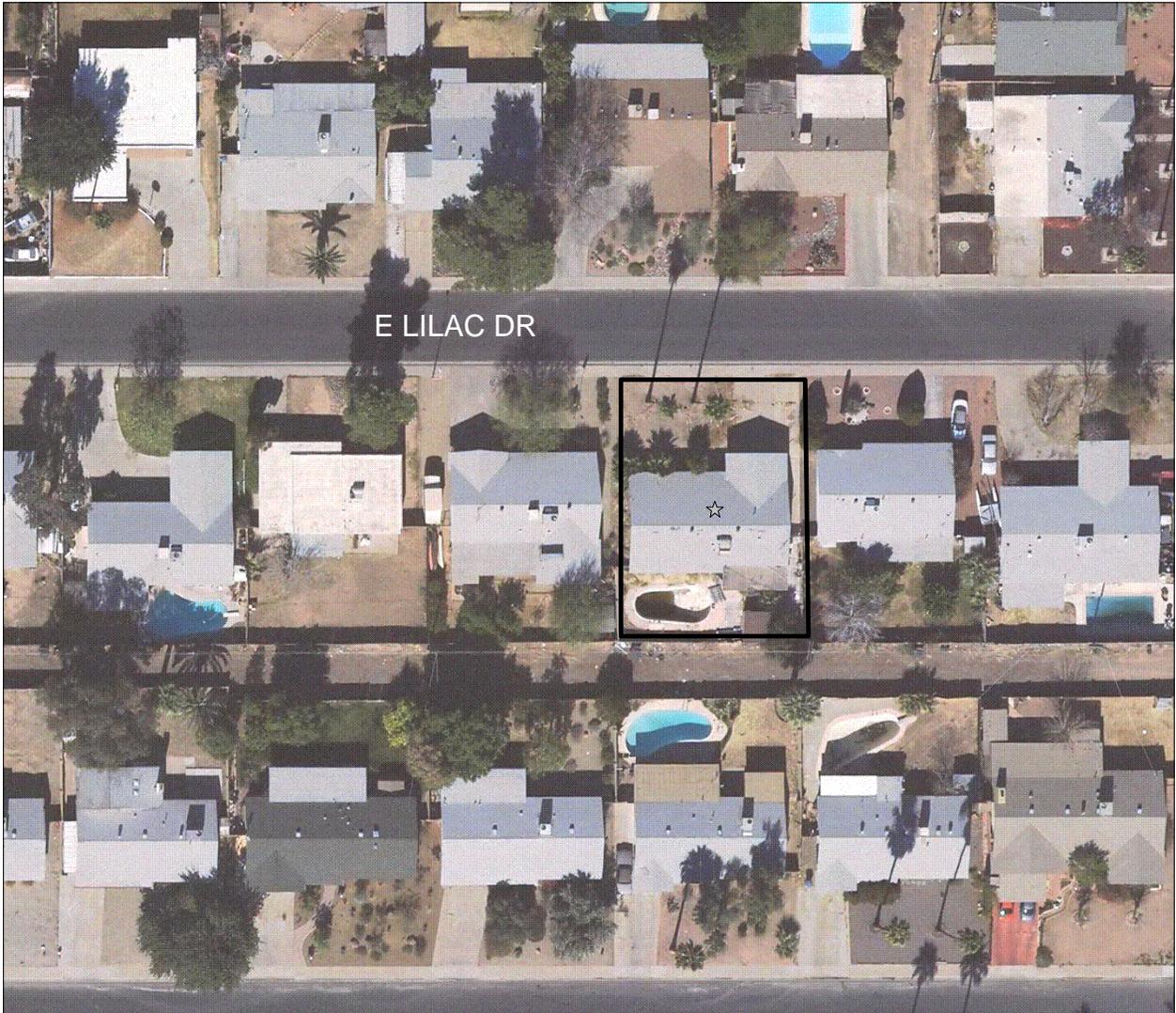
DESCRIPTION: Owner – Arthur Felsing
Applicant – Andres Lara, COT Neighborhood Enhancement
Existing zoning – R1-6, Single Family Residential District
Lot area – 7,245 sf./ .17 acre
Building area – 1,685 sf.
Year of construction – 1964

FELSINGER RESIDENCE

PL080076



Location Map



FELSINGER RESIDENCE (PL080076/ABT08004)

CASE #CE072099



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

Mailed on Date: 02/20/08

**Arthur Felsing
1031 E Lilac Dr
Tempe, AZ 85281**

This notice to comply is to inform you that on **02/15/08**, the property located at **1031 E Lilac 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 **02/28/08** 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).

Violation of the Tempe City Code, Chapter 21-3-b-1

Filthy, littered, debris or trash covered exterior areas, including exterior areas under any roof area not enclosed by the walls, doors or windows of any building; including but not limited to, areas that contain items such as cans, bottles, wood, metal, plastic, rags, boxes, paper, tires, auto parts; unused, inoperable, worn out or discarded appliances or other household items; lumber, scrap iron, tin and other metal not neatly piled.

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 by: 02/28/08

Required Correction(s):

- **Please remove all trash, litter and debris in the front & back yard areas including all palm fronds, wood, carpet, metal, tarps, chairs & all house hold items.**
- **Please remove all over height grass or weeds in the front & back yard areas.**

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: Andres Lara

Phone Number: 480-858-2289

E-mail: andres_lara-reyes@tempe.gov



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: February 29, 2008

TO: Arthur Felsing
1031 E Lilac Dr
Tempe, AZ 85281

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

LEGAL: Book 132, Map 05, Parcel 114, as recorded with the Maricopa County Assessor.

LOCATION: 1031 E. Lilac Dr Tempe, AZ 85281

This office will submit this complaint to the Development Services Abatement Hearing Officer to be placed on the Hearing Officer agenda of April 1, 2008. 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:

Trash, litter, debris, palm fronds, wood, carpet, metal, tarps chairs and all house hold items in the front and back yard areas. Over height grass or weeds in the front and back yard areas. (Ref - TCC 21-3-b-1, 8)

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 \$550.00. 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: Andres Lara

Phone Number 480-858-2289

DATE: 02/29/2008
TO: Jan Koehn, Code Compliance Manager
FROM: Andres Lara
SUBJECT: Arthur Felsing Property Abatement

LOCATION: 1031 E Lilac Dr, Tempe, AZ 85281

LEGAL: Book 132, Map 05, Parcel 114, as recorded with the Maricopa County Assessor

OWNER: Arthur Felsing
1031 E Lilac Dr.
Tempe, AZ 85281

FINDINGS:

- 04/23/2007 Inspection of the property revealed a number of items stored on the east side yard, back yard and back porch of the residence. Items included wood, carpet, foam, metal, tarps, chairs, bicycle parts, plastic buckets, telescopes, photo equipment and other miscellaneous items.
- 04/24/2007 First notice to comply was mailed and posted to the front door.
- 05/10/2007 No change in the condition of the property, photos of violation taken.
- 05/24/2007 No change in the condition of the property, second notice to comply was mailed and posted to the property.
- 06/6/2007 Barry Kissell attempted contact with the owner at the residence but was told by the owner to leave his property.
- 06/11/2007 No change in the condition of the property, photos of violations taken.
- 07/11/2007 No change in the condition of the property, photos of violations taken. Criminal charges filed.
- 01/02/2008 Arraignment approved and forwarded to the City Court.
- 02/15/2008 Property was inspected and found trash, litter, debris, palm fronds, wood, carpet, metal, tarps, chairs, bicycle parts, plastic buckets and house hold items in the front and back yard area. Over height grass or weeds in the front and back yard areas.
- 02/29/2008 Found no changes or improvements, pictures taken. Notice to abate the the property posted and mailed to the owner.

HISTORY:

- 01/06/1999 - 07/22/1999 Over height grass and weeds.
- 03/28/2000 - 09/26/2000 Over height grass and weeds. Three (3) citations issued.
- 11/01/2001 - 04/25/2003 Man living in car/generator hooked up, trash and debris outdoor storage. Abatement was conducted at the property.
- 09/26/2003 - 01/12/2004 Over height grass and weeds.
- 03/02/2004 - 09/13/2004 Over height grass and weeds, junk, debris & deteriorated landscaping. Abatement was conducted at the property.
- 01/27/2005 - 07/05/2006 Over height grass and weeds. Abatement was conducted at the property.
- 08/31/2006 - 04/24/2007 Over height grass and weeds. Abatement was conducted at the property.

RECOMMENDATIONS:

I recommend abatement of the property against Mr. Arthur Felsing for being a habitual offender of the Tempe City Code. Mr. Felsing has been issued three citations and Failed to Appear on each of them. Four (4) City abatements have been conducted at the property and since 1999; Mr. Felsing has had 7 complaints concerning the same issues. The property remains in violation with no attempt to come into compliance. Due to the history of violations at this property, we would request a 180 day standing abatement order from the Hearing Officer.

Respectfully submitted,
Andres Lara
City of Tempe Code Inspector



ATTACHMENT 7



ATTACHMENT 8

