

Staff Summary Report



Hearing Officer Hearing Date: October 6, 2009

Agenda Item Number: 8

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 **PEREZ RESIDENCE** located at 1132 West Ellis Drive.

DOCUMENT NAME: 20091006dssl05

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 **PEREZ RESIDENCE (PL090323/ABT09021)** (Deneica Perez, property owner) Complaint 093116 located at 1132 West Ellis Drive in the R1-6, Single Family Residential District.

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

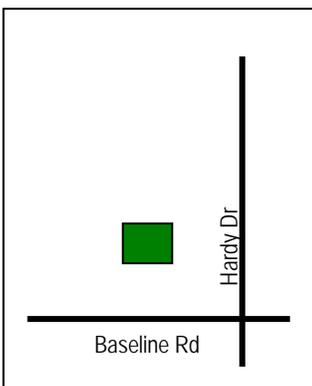
REVIEWED BY: Steve Abrahamson, Planning & Zoning Coordinator (480-350-8359) *SEA*

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 **PEREZ RESIDENCE (PL090323/ABT09021)** (Deneica Perez, property owner) Complaint 093116 located at 1132 West Ellis 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
- 3-11. Neighborhood Enhancement Report

COMMENTS:

The Neighborhood Enhancement Division is seeking approval of a request to authorize the abatement of the **PEREZ RESIDENCE (PL090323/ABT09021)** (Deneica Perez, property owner) Complaint 093116 located at 1132 West Ellis 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.

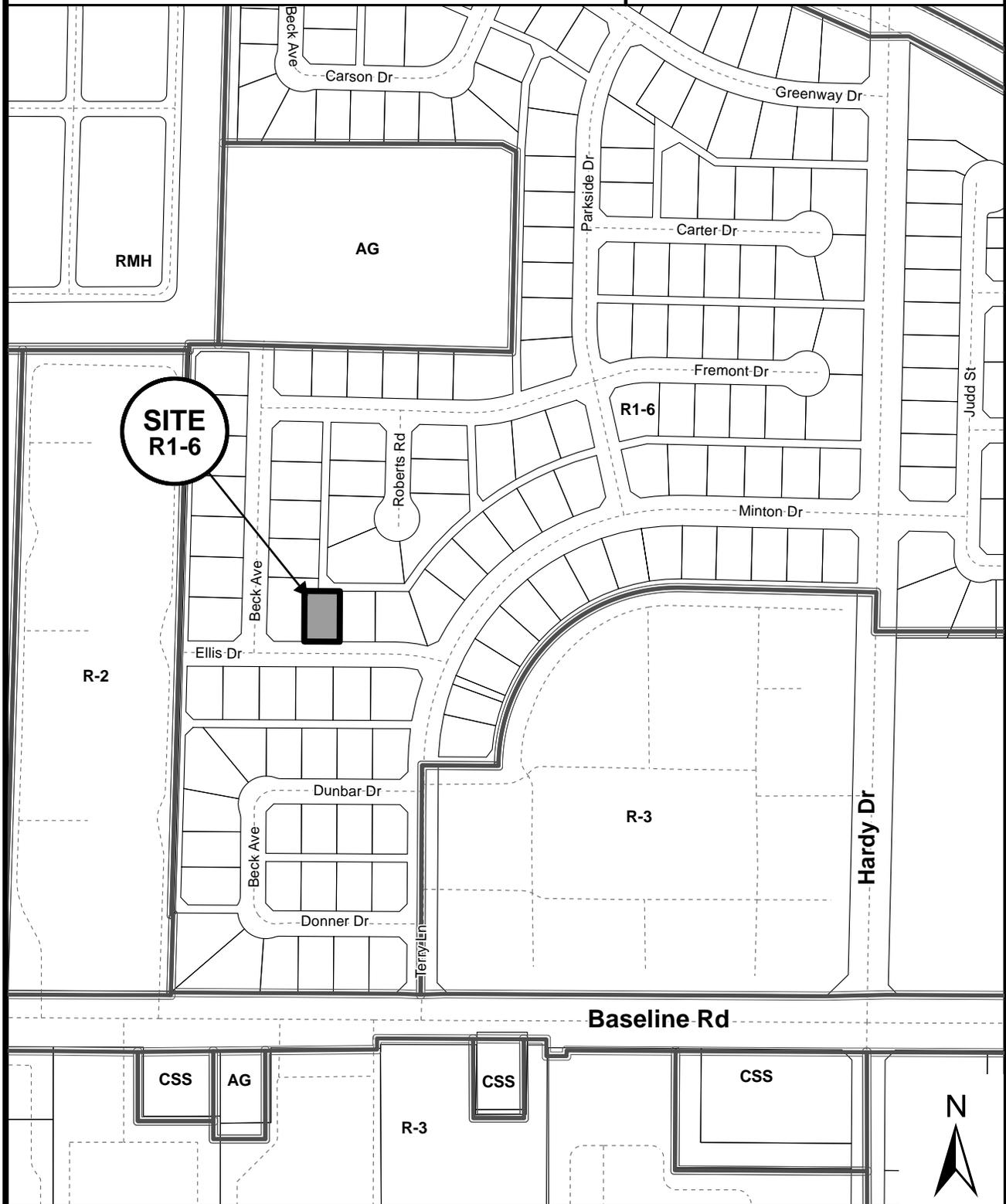
Staff recommends the authorization of abatement of this property.

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

DESCRIPTION: Owner – Deneica Perez
Applicant – Brandy Zedlar, COT Neighborhood Enhancement
Existing zoning – R1-6, Single Family Residential District

PEREZ RESIDENCE

PL090323



Location Map



PEREZ RESIDENCE (PL090323)

DATE: 8/26/09
TO: Michael Spencer, Sr. Code Inspector
FROM: Brandy Zedlar
SUBJECT: Request to Authorize for Abatement– Reference Complaint #CE093116

LOCATION: 1132 W. Ellis Dr., Tempe, AZ 85282
LEGAL: Parcel #123-52-144, as recorded with the Maricopa County Assessor
OWNER: Deneica Perez

FINDINGS:

5/07/09 – The Neighborhood Enhancement Division did a proactive inspection on the above property concerning the deteriorated landscape in the graveled side yard. Notice to comply was sent to the property owner.

5/19/09 – The notice to comply was returned to sender due to no mail receptacle.

5/26/09 – The property was inspected and found no change in its condition. A new mail receptacle was installed and the notice to comply was resent to the property owner.

6/22/09 - The property was inspected and found no change in its condition. Final notice was sent to the property owner.

7/20/09 – The property was inspected and found no change in its condition. A notice was notice was posted to the property requesting contact by 7/21/09 to avoid a civil citation.

7/22/09 – No contact was made by the Ms. Perez. Civil Citation #1413246 was issued for deteriorated landscape.

8/10/09 – Ms. Perez defaulted on Civil Citation #1413246.

8/21/09 – The property was inspected with no change to its condition. The Neighborhood Enhancement Division filed for an Abatement Hearing.

PROPERTY HISTORY:

- 11/07/07 – Complaint received for no visible house numbers.
- 06/02/05 – Complaint received for deteriorated landscape.
- 03/28/05 – Complaint received for deteriorated landscape.

RECOMMENDATIONS:

I recommend the approval for abatement at 1132 W. Ellis Dr., which is owned by Deneica Perez. Ms. Perez has been given ample time and opportunities to bring his property into compliance and has failed to take corrective action. There has been no indication in Ms. Perez's actions that she plans to correct and maintain her property.

Respectfully submitted,
Brandy Zedlar

ACTION TAKEN: Referred to Hearing Officer

NAME: Michael Spencer

DATE: 8/26/09



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 28, 2009

TO: Deneica Perez
1132 W. Ellis 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 # 123-52-144, as recorded with the Maricopa County Assessor.

LOCATION: 1132 W. Ellis 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 \$752.00. 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



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

Mailed on Date: 5/08/09

Deneica Perez
1132 W. Ellis Dr.
Tempe, AZ 85282

This notice to comply is to inform you that on **5/06/09**, the property located at **1132 W. Ellis 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 **5/26/09** 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:

(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: 5/26/09

Required Correction(s):

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

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**



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

Mailed on Date: 6/23/09

Deneica Perez
1132 W. Ellis Dr.
Tempe, AZ 85282

This notice to comply is to inform you that on 6/22/09, the property located at 1132 W. Ellis 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 7/09/09 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:

(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: 7/09/09

Required Correction(s):

1. **Please remove the weeds/grass growing within the gravel landscape in the side yard adjacent to the driveway.**

*****If the above required correction is not satisfied by 7/09/09, a \$150 civil citation will be issued.**

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



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

Mailed on Date: 5/27/09

Deneica Perez
1132 W. Ellis Dr.
Tempe, AZ 85282

This notice to comply is to inform you that on 5/26/09, the property located at 1132 W. Ellis 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 6/12/09 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:

(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: 6/12/09

Required Correction(s):

1. Please remove the weeds/grass growing within the gravel landscape in the east side yard.

*****If the above required correction is not satisfied by 6/12/09, a \$150 civil citation will be issued.**

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.

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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

DATE: 08-24-09 TIME: _____ A.M. 2:15 P.M.

PROPOSAL

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

ADDRESS: 1132 E. Ellis Dr. Tempe, AZ.

- | | |
|---|-----------|
| 1. CLEAN FRONT YARD.
16 Man Hrs @ \$22./hr | \$ 352.00 |
| 2. TEMPE POLICE OFFICER 8 HRS @ \$50./HR | \$ 400.00 |

TOTAL	\$ 752.00
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THANK YOU

ACCEPTANCE

JACK HARRINGTON



