

# Staff Summary Report



Hearing Officer Hearing Date: July 7, 2009

Agenda Item Number: 11

**SUBJECT:** This is a public hearing for a request by the City of Tempe – Neighborhood Enhancement Division to abate public nuisance items at the **RADCLIFF RESIDENCE (PL090207)** located at 3612 South Margo Drive.

**DOCUMENT NAME:** 20090707dsng04 **PLANNED DEVELOPMENT (0406)**

**COMMENTS:** Request by the City of Tempe – Neighborhood Enhancement Department to abate public nuisance items in violation of the Tempe City Code for the **RADCLIFF RESIDENCE (PL090207/ABT09015)** (Toby Don Radcliffe, property owner) Complaint CE084541 located at 3612 South Margo 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) *SEA*

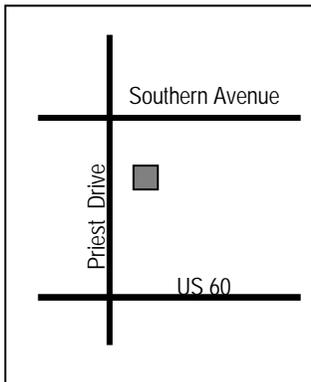
**LEGAL REVIEW BY:** N/A

**DEPARTMENT 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 **RADCLIFF RESIDENCE (PL090207/ABT09015)** (Toby Don Radcliffe, property owner) Complaint CE084541 located at 3612 South Margo Drive in the R1-6, Single Family Residential District. The residence is located southeast of the intersection of Southern Avenue and Priest Drive. 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
- 3-7. Neighborhood Enhancement Report
- 8-9. Neighborhood Enhancement Photos

**COMMENTS:**

The Neighborhood Enhancement Division is seeking approval of a request to authorize the abatement of the **RADCLIFF RESIDENCE (PL090207/ABT09015)** (Toby Don Radcliffe, property owner) Complaint CE084541 located at 3612 South Margo Drive in the R1-6, Single Family Residential District. The residence is located southeast of the intersection of Southern Avenue and Priest Drive. 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.

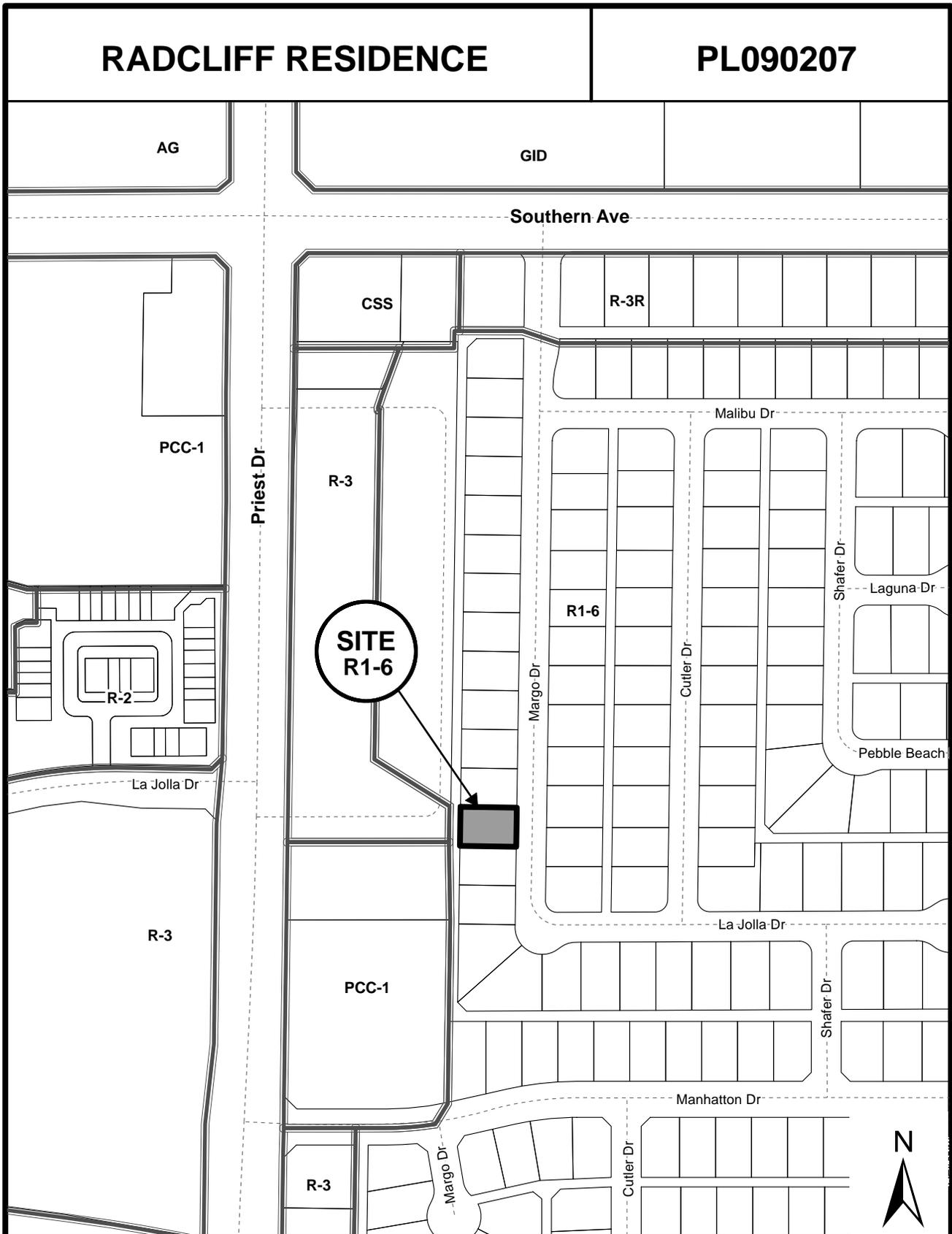
Staff recommends authorizing abatement of this property.

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

**DESCRIPTION:** Owner – Toby Don Radcliff  
Applicant – Jody Benson, COT Neighborhood Enhancement  
Existing zoning – R1-6, Single Family Residential District  
Lot Area – 6,113 s.f. / .14 acres  
Building Area – 1,092 s.f.  
Year of Structure – 1971

**RADCLIFF RESIDENCE**

**PL090207**



**Location Map**



Margo Dr

**RADCLIFF RESIDENCE (PL090207)**

**DATE:** June 9, 2009  
**TO:** Jan Koehn, Neighborhood Enhancement Administrator  
**FROM:** Jody Benson, Code Inspector  
**SUBJECT:** Request for Authorization to Abate Complaint CE084541

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**COMPLAINT:** CE084541  
**LOCATION:** 3612 S. Margo Drive, Tempe, AZ 85282  
**LEGAL:** Lot 63, WESTWAY PARK UNIT 2, Book 129 of Maps, Page 16, records of Maricopa County, Arizona.  
**OWNER:** Toby Don Radcliffe  
PO Box 24264  
Tempe, AZ 85282

**FINDINGS:**

06/13/08 City of Tempe Code Inspector Jody Benson, Neighborhood Enhancement Division, opened a proactive case for deteriorated landscape at the location. Research revealed a history of similar violation in the previous 12 months.

06/17/08 I inspected the property and found the front yard and side yard had un-controlled growth of grass or weeds in the gravel portion of the landscape and a small amount of grass in a portion of yard that is mostly dirt. Citation# 1413042 was issued to Toby Radcliffe for a 2<sup>nd</sup> violation of deteriorated landscape due to history of similar violation(s) within the previous 12 months. Photos were taken of the property condition.

07/03/08 Toby Radcliffe failed to appear on the citation# 1413042.

07/21/08 I inspected the property and found the front yard and side yard had un-controlled growth of grass or weeds in the gravel portion of the landscape and a small amount of grass in a portion of yard that is mostly dirt. Citation# 1413151 was issued to Toby Radcliffe for a 3<sup>rd</sup> violation of deteriorated landscape due to history of similar violation within the previous 12 months. Photos were taken of the property condition.

08/06/08 Toby Radcliffe failed to appear on the citation# 1413151.

08/07/08 I inspected the property and found some work had been done. Much of the un-controlled growth of grass and weeds in the gravel had been cut to within inches of the ground, however was not removed. Photos were taken of the property condition.

09/03/08 I inspected the property and found the un-controlled growth of grass or weeds are still present in the gravel. Grass has begun to fill in the portion of yard that is mostly dirt. Photos were taken of the property condition.

Due to the history of similar violations and prior citations that were each defaulted within the previous 12 months a request for criminal charges for deteriorated

landscape and habitual offender are being requested.

- 03/18/09                    After checking the court database and discovering that Mr. Radcliff plead guilty to both criminal charges, I spoke to his ex-wife at the residence and she stated that she would take care of the landscape.
- 04/14/09                    The grass and weeds have been cut to within inches of the ground but not removed. No answer at the door.
- 05/01/09                    Received an abatement estimate for \$88.00 from Jack Harrington Inc. authorized abatement contractor for the City of Tempe to remove the grass and weeds in the gravel.
- 05/18/09                    Found no changes in the landscape.
- 06/02/09                    Found no changes in the landscape.
- 06/04/09                    Sent and posted a notice of intent to abate for the 07/07/09 hearing.
- 06/09/08                    Submitted request to abate the violations to Tempe Development Services.  
  
Submitted a second set of criminal charges for deteriorated landscape and habitual offender.

**COMPLAINT HISTORY**

The following history reflects all valid complaints on this property since Toby Radcliffe established ownership of 3612 S. Margo Drive in April 5<sup>th</sup>, 2005.

- CE062117                    **05/03/06 through 05/11/06:** Proactive complaint by city of Tempe Code Inspector Kirk Erickson for grass and weeds in the gravel landscape. The notice sent by Erickson was returned in the mail. Re-inspection of the property on 05/11/08 revealed the violation was corrected. The case subsequently closed.
- CE077413                    **12/14/07 through 03/03/08** Proactive complaint by city of Tempe Code Inspector Jody Benson for deteriorated landscape. The first notice issued was returned. On 01/03/08 a male subject that identified himself as John (son of the homeowner) provided a mailing address of PO Box 24264, Tempe, AZ 85282. Two subsequent notices were sent to that address as well. Citation# 1381002 was issued to the homeowner Toby D. Radcliffe for deteriorated landscape. On 02/27/08 he failed to appear on that citation. This case was in compliance after more than 2&1/2 months.

**RECOMMENDATIONS:**

Toby D. Radcliffe, owner of 3612 S. Margo Drive has a history of violating Tempe City Code in regards to allowing the landscape to deteriorate. There have been two prior complaints dating back to 2006 for the same violations; some have taken months to resolve. Toby D. Radcliffe has been issued three (3) citations for deteriorated landscape in 2008 and defaulted on all citations. Toby Radcliff also plead guilty criminal charges for deteriorated landscape and habitual offender on this current case. The landscape

remains in violation. He continues to take no steps towards maintaining the property free of violations without notice from City of Tempe Neighborhood Enhancement and has clearly demonstrated a disregard toward the neighborhood and community.

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.

Toby D. Radcliffe is the listed legal owner of the residence, as recorded by the Maricopa County Assessor's Office. In addition he maintains an account with the City of Tempe for water utilities at the residence.

Respectfully submitted,

Jody Benson #16559  
City of Tempe Code Inspector II

CASE # CE084541



## NOTICE OF INTENT TO ABATE PUBLIC NUISANCE

DATE: 06/04/09

TO: **Toby Radcliff**  
**PO Box 24264**  
**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: Lot 63, WESTWAY PARK UNIT 2, Book 129 of Maps, Page 16, records of Maricopa County, Arizona.**

**LOCATION: 3612 S. Margo Drive, Tempe, AZ 85282**

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This office will submit this complaint to the Development Services Abatement Hearing Officer to be placed on the Hearing Officer agenda of **07/07/09**. 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:

**Removal of all uncontrolled growth of grass and weeds in the gravel portion of the front and/or side yard 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 \$88.00. 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.**

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**Code Inspector: Jody Benson**  
**Phone Number: (480)350-8671**  
**E-mail: jody\_benson@tempe.gov**

JACK HARRINGTON  
6828 N. 25TH DR., #B  
PHOENIX, AZ 85017  
TEL: (602) 446-2630  
FAX : (602) 347-5487  
EMAIL: JACKHBOARDUPS@YAHOO.CO  
PROPOSAL

THE FOLLOWING DOCUMENT IS FOR:

NAME: JODY

FIRM: CITY OF TEMPE CODE COMPLIANCE

DOCUMENT EMAILED ON:

DATE: 5/1/09 TIME: 11:35 A.M. P.M.

**PROPOSAL**

WE PROPOSE TO DO THE FOLLOWING WORK AT FOR THE CITY OF TEMPE  
UNDER CONTRACT # T08-092-02

ADDRESS: 3612 S. MARGO DR. TEMPE, AZ.

1. REMOVE GRASS AND WEEDS IN THE GRAVEL 4 MAN HRS @ \$22./HR	<u>\$88.00</u>
TOTAL	\$88.00

THANK YOU

  
JACK HARRINGTON

ACCEPTANCE

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