

# Staff Summary Report



Hearing Officer Hearing Date: August 7, 2007

Agenda Item Number: 21

**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 **MOORE PROPERTY** located at 438 West Hermosa Drive.

**DOCUMENT NAME:** 20070807dssd

**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 (PL070309/ABT07021)** (Marilyn Moore, property owner) Complaint No. CE073009 located at 438 West Hermosa Drive, in the R1-6, Single Family Residential District.

**PREPARED BY:** Shawn Daffara, Planner II (480-858-2284)

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

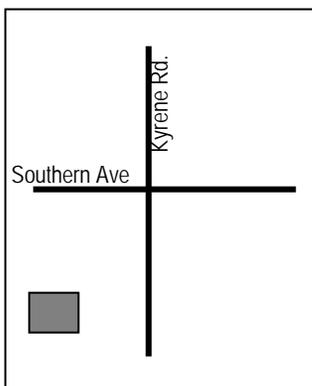
A handwritten signature in black ink, appearing to read 'SEA', located to the right of the 'REVIEWED BY' text.

**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 (PL070309/ABT07021)** (Marilyn Moore, property owner) Complaint No. CE073009 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 the authorization of abatement of this property.



**PAGES:**

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

**ATTACHMENTS:**

1. Location Map(s)
2. Aerial Photo(s)
- 3-13. Neighborhood Enhancement Report

**COMMENTS:**

The Neighborhood Enhancement Division is seeking approval of a request to authorize the abatement of the **MOORE PROPERTY (PL070309/ABT07021)** (Marilyn Moore, property owner) Complaint No. CE073009 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.

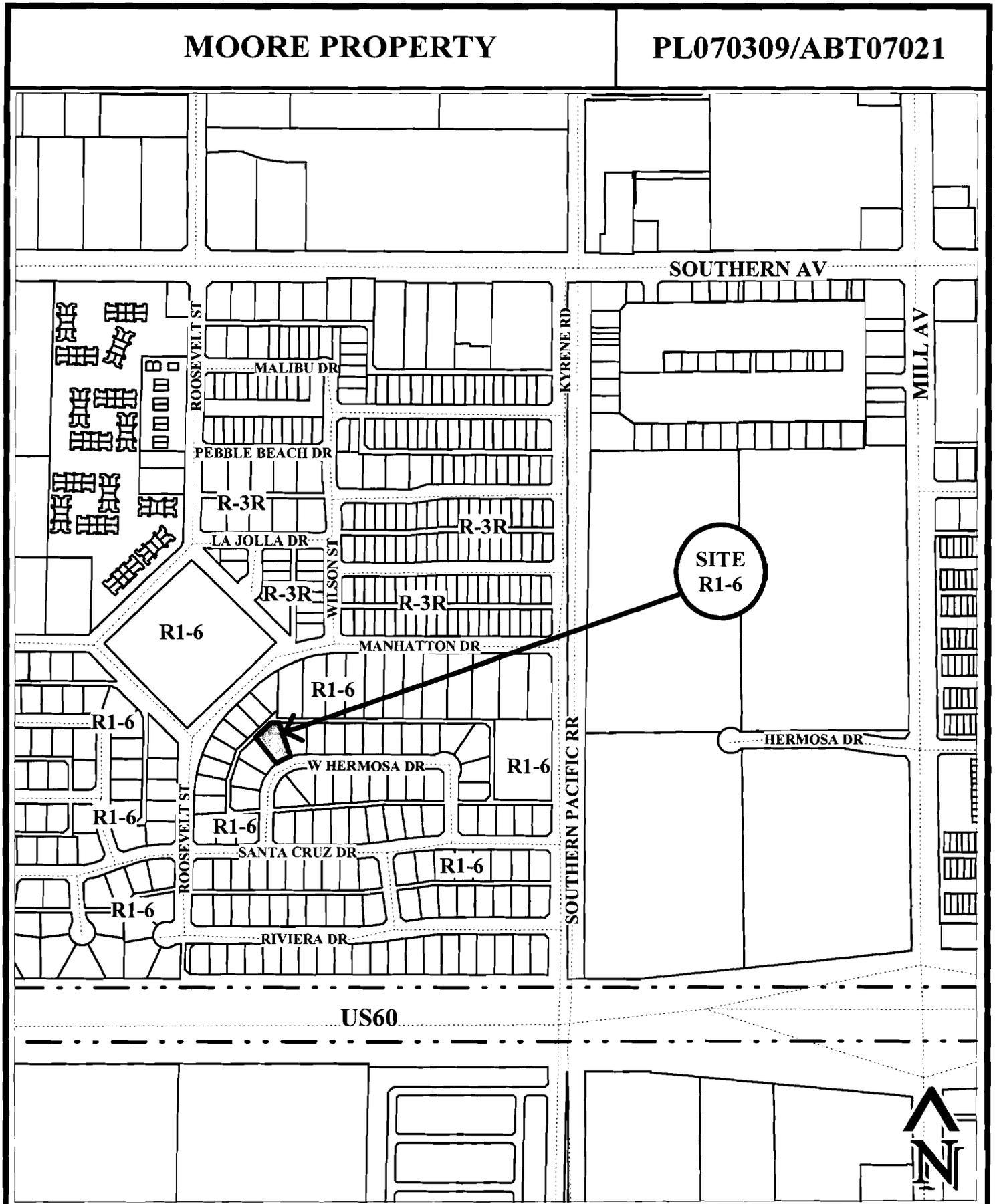
Staff recommends the authorization of abatement of this property.

**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 – 9,592 s.f. / .22 acres  
Building area – 1,498 s.f.  
Year of construction - 1971

MOORE PROPERTY

PL070309/ABT07021





MOORE PROPERTY (PL070309/ABT07021)

**DATE:** 07/10/07

**TO:** Michael Spencer, Senior Code Inspector

**FROM:** Jody Benson, Code Inspector

**SUBJECT:** Request for Authorization to Abate Compliant CE073009

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

**LEGAL:** Book 123, Map 46, Parcel 093, as recorded with the Maricopa County Assessor

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

**FINDINGS:**

06/07/07 Neighborhood Enhancement received an anonymous complaint for deteriorated landscape (over height grass and weeds).

06/08/07 Code Inspector William Chesterfield inspected the property and found serious violations for over height grass and weeds were observed in the front yard. Chesterfield noted the property was possibly vacant. The attached courtesy notice was sent to the homeowner.

06/20/07 Case reassigned to Code Inspector Jody Benson. I conducted research on the property and found that the property has a history of similar violations and an approved abatement in 2005. I also noted that around 2005 response to violations from the previous property owner (Mona Moore) and her daughter Marilyn Moore (current owner) became very difficult. Mona Moore was ill and passed away in 2005 and subsequently the property was willed to her daughter. The mailing address for Marilyn Moore shows multiple deed of trust sales and cancellations, I can find no phone number for her, nor could the Attorney seeking the deed of trust sales. Notice delivery and owner response seems unlikely.

06/25/07 I re-inspected the property and observed severely deteriorated landscaping on the entire property. There is a chain link fence that provides public view of the backyard from Hermosa Drive, as well as from the public alley to the rear of the residence. I observed and photographed over height grass and weeds, dead bushes, overgrown bushes, dead trees, overgrown trees. Further violations noted at the property are an unregistered and inoperable brown Ford Maverick with multiple flat tires. I also noted plastic bags, cups, and other miscellaneous trash that appear to have blown into the yard over time. The house appears vacant and there was no answer at the door.

07/10/07 A request for an estimate for the abatement of the property was received from Bishop Inc. The itemized estimate for the abatement is \$2740.

**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 plastic 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. Abatement was requested; however the property was in compliance on the day of the hearing.

**RECOMMENDATIONS:**

438 West Hermosa Drive has a history of violating Tempe City Code in regards to allowing the landscape to deteriorate and have failed to keep tires inflated on the brown Ford Maverick in the carport. There have been six prior complaints dating back to 1999 for the same violations and each have 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 is there any improvement in the condition of the property in regards to this complaint. The property has twice been subject to abatement hearings in 2005 and 2006. 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 and 2006.

Without the intervention of abatement the property will continue to deteriorate, and will be subject to more repeated complaints. 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.

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: submit for abatement  
NAME:   
DATE: 07-10-07



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: 07/10/07**

**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: Book 123, Map 46, Parcel 093, as recorded with the Maricopa County Assessor.**

**LOCATION: 438 W. HERMOSA DRIVE TEMPE, AZ 85201**

This office will submit this complaint to the Development Services Abatement Hearing Officer to be placed on the Hearing Officer agenda of 08/07/07. 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. INOPERABLE/UNREGISTERED BROWN FORD MAVERICK WITH ARIZONA TAG# GKT825.**
- 2. OVERHEIGHT GRASS AND WEEDS ON THE ENTIRE PROPERTY.**
- 3. DEAD TREES, BUSHES, LEAVES, AND LIMBS ON THE ENTIRE PROPERTY.**
- 4. ALL JUNK AND DEBRIS ON THE ENTIRE PROPERTY.**

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 \$2,740. 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: JODY BENSON #16559

Phone Number (480)350-8671

# Bishop Inc.

6340 S. Rural Rd. #118-217  
 Tempe AZ 85283  
 PH: (602) 339-2082 Fax (480) 413-1691

7744

## Estimate

Name: <u>City of Tempe</u>
Address: <u>P.O. Box 5002</u>
City: <u>Tempe, Az. 85281</u>
Attn: <u>Code Compliance</u>

Date	<u>7/5/2007</u>
Order #	_____
Customer #	_____
Our Order #	_____

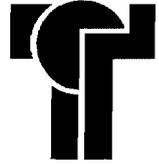
Qty	Description
	Workdone at: 438 W. Hermosa Drive
	Scope of work:
1	Cut down tall weeds and grass on property
2	Cleanup trash and debris, non-working and/ or non-repairable items as directed by Code Compliance personal.
3	Area includes front yard, back yard, and items inside open carport areas.
4	Removal of 1 vehicle
5	City of Tempe 40 yard roll off (1)
6	Trim up 2 trees in front yard
7	Cut down 15 dead trees in back yard and trim up 2 other trees.
8	Estimated labor cost to trim up all bushes and clean up.
9	Estimated labor cost for job
	Contract # T05-102-01

Unit Price	Total
\$100.00	\$100.00
\$265.00	\$265.00
2 x \$75.00	\$150.00
17 each x \$75.00	\$1,275.00
	\$950.00
	\$950.00

Disclaimer: Prices may vary due to work completed by homeowner, and the time lapse between this estimate and the abatement date. This estimate is based on a visual inspection of the property due to no access to back yards, locked gates, occupied property and obstructions to the visual inspection such as tarps, plywood coverings, over growth of trees and bushes, plastic bags, ect. Ect.

Total: \$2,740.00

CASE # CE073009



**City of Tempe Code Enforcement Division  
Courtesy Notice  
We need your help to keep our City clean**

Date: 6/08/2007

Marilyn Moore  
7342 E Laguna Azul Ave  
Mesa AZ 85209

This is a courtesy notice to inform you that on 06/08/2007, 438 W Hermosa Dr Tempe Az, was inspected and found to be in violation of the following subsection(s) of the Nuisance and Property Enhancement Ordinance, Section 21 of the Tempe City Code. If the property is brought into compliance with the code by 06/22/2007 you will not be subject to citations or fines for the violation(s). A re-inspection will be conducted on or after the date indicated to verify compliance. If the violations have not been corrected by this date and additional reinspections are necessary, you may be assessed a \$75.00 reinspection fee.

**Violation of the Tempe City Code, Chapter 21, Section 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; 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 06/22/2007**

1. Please cut and remove all the weeds and grasses in the front and side yards.
2. Maintain the yard to conform to the code.

**PROPERTY ENHANCEMENT FINE SCHEDULE**

21-3b1 thru 21-3b8 and 21-3b17 thru 21-3b19  
(FIRST VIOLATION/\$100.00 FINE)  
(SECOND VIOLATION/\$200.00 FINE)  
(THIRD VIOLATION/\$300.00 FINE)

We appreciate your cooperation in this matter. For questions or further information please contact the Code Enforcement Division at 480-350-8372 or visit our web site at [www.tempe.gov/codee/](http://www.tempe.gov/codee/) Failure to comply may result in civil citation, criminal charges or abatement of the violation.

Code Enforcement Inspector: Bill Chesterfield

Phone Number 480-350-2888

