

**CITY OF TEMPE
HEARING OFFICER**

Meeting Date: 07/07/2020

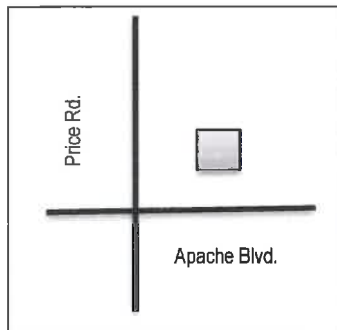
Agenda Item: 5

ACTION: Request approval to abate public nuisance items at the Chunxiang Xu Property located at 2244 E. Apache Blvd. The applicant is the City of Tempe – Code Compliance.

FISCAL IMPACT: \$4480.00 for abatement request: Landscape and graffiti cleanup, secure unsecured buildings.

RECOMMENDATION: Staff – Approval of 180 day open abatement

BACKGROUND INFORMATION: City of Tempe – Code Compliance Section requests approval to abate items in violation of the Tempe City Code at the CHUNXIANG XU PROPERTY. 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 CM200621: Landscape and graffiti cleanup, secure unsecured buildings.



Property Owner: Chunxiang Xu
Applicant: City of Tempe – Code Compliance
Zoning District: CSS, Commercial Shopping & Service
Code Compliance Inspector: Marvin White, Code Inspector

ATTACHMENTS: Supporting Attachment

STAFF CONTACT: Drew Yocom, Planning & Research Analyst (480-858-2190)

Department Director: Chad Weaver, Community Development Director

Legal review by: N/A

Prepared by: Barbara Simons, Code Inspector

Reviewed by: Drew Yocom, Planning & Research Analyst

COMMENTS:

Code Compliance is requesting approval to abate the Chunxiang Xu Property located at 2244 E. Apache Blvd., in the CSS Commercial Shopping & Service district. This case was initiated 0430/20, after which Code Compliance has attempted to obtain compliance through correspondence with the property owner regarding violations of the Tempe City Code.

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 a 180 day open 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.

ABATEMENT

Planning Application

Part 1 of 2

City of Tempe
 Community Development Department
 31 East 5th Street, Garden Level, Tempe, Arizona 85281
 (480) 350-4311 Fax: (480) 350-8677
 Planning Fax: (480) 350-8872
<http://www.tempe.gov/planning>



All applications must be accompanied by the required plans, submittal materials, and correct fee(s).

PROJECT INFORMATION – REQUIRED

PROJECT NAME	CHUNXIANG XU / PROPERTY ABATEMENT	SUITE NUMBER(S)	
PROJECT ADDRESS	2244 E. APACHE BLVD. TEMPE, AZ. 85281	EXISTING ZONING	CSS
PROJECT DESCRIPTION	ABATEMENT OF CM200621	PARCEL NUMBER(S)	135-41-024C

PROPERTY OWNER INFORMATION – REQUIRED

COMPANY/FIRM NAME	CHUNXIANG XU	OWNER ADDRESS	4209 E. WILLIAMS DR.		
OWNER CONTACT		CITY	PHOENIX,		
PHONE		STATE	AZ.	ZIP	85050
EMAIL					

I hereby authorize the applicant below to process this application with the City of Tempe.

PROPERTY OWNER SIGNATURE or attach written statement authorizing the applicant to file the request(s):	Date:
--	-------

APPLICANT INFORMATION – REQUIRED

COMPANY/FIRM NAME	CITY OF TEMPE / CODE ENFORCEMENT	APPLICANT ADDRESS	21 E. 6TH ST. SUITE # 208		
APPLICANT NAME	MARVIN WHITE / CODE INSPECTOR	CITY	TEMPE,		
PHONE	480-350-8966	STATE	AZ.	ZIP	85281
EMAIL	marvin_white@tempe.gov				

I hereby attest that this application is accurate and the submitted documents are complete. I acknowledge that if the application is deemed to be incomplete it will be returned to me without review, to be resubmitted with any missing information.

APPLICANT Signature: 	Date:
	5/28/20

BUSINESS INFORMATION – REQUIRED FOR USE PERMITS & SIGN DPRs (optional for other entitlement requests)

BUSINESS NAME		BUSINESS CONTACT	
TYPE OF BUSINESS		PHONE	
		EMAIL	

SEE REVERSE SIDE FOR REQUIRED PROJECT DATA AND APPLICATION INFORMATION

FOR CITY USE ONLY

DS		PL		1 st Preliminary Review Process <i>(if 2nd or 3rd submittal, use resubmittal form)</i>	SPR	
FILE THIS APPLICATION WITH:				CM		CE
DATE RECEIVED: <i>(stamp)</i>				TOTAL APPLICATION FEES		
				VALIDATION OF PAYMENT <i>(stamp)</i>		
				RECEIVED BY INTAKE STAFF <i>(initials)</i>		

Planning Application

Part 2 of 2

City of Tempe
 Community Development Department
 31 East 5th Street, Garden Level, Tempe, Arizona 85281
 (480) 350-4311 Fax: (480) 350-8677
 Planning Fax: (480) 350-8872
<http://www.tempe.gov/planning>



PROJECT DATA (as applicable)			
General Plan Projected Land Use		Proposed Residential Density (du/ac)	
General Plan Projected Density		# of Units	
Current Zoning		# of Bedrooms / Keys (if hotel)	
Proposed Zoning		Total Building Square Footage (gross)	
Gross Acres REQUIRED FOR GENERAL PLAN AMENDMENT, PAD & DEVELOPMENT PLAN REVIEW REQUEST (actual property boundaries, excludes existing ROW, i.e. not measured to the 1/2 street or alley)		Total Building Height	
Net Acres REQUIRED FOR ZONING AMENDMENT (same as gross unless ROW is to be dedicated)		Lot Coverage (% and s.f.)	
# of Existing Lots		Landscape Area (% and s.f.)	
# of Proposed Lots / Condo Units REQUIRED FOR PLAT		Total Onsite Parking Provided	

<input checked="" type="checkbox"/>	APPLICATION INFORMATION: (check all that apply)	QTY:	SPECIFIC REQUEST: (refer to fee schedule for process types)	TRACKING #: (FOR CITY USE ONLY)	
	A. Preliminary Site Plan Review			SPR	
	B. Administrative Applications			ADM	
	C. Variances			VAR	
	D. Use Permits / Use Permit Standards			ZUP	
	E. Zoning Code Amendments			ZOA	ZON
	F. Planned Area Development Overlays			PAD	REC
	G. Subdivisions / Condominiums			SBD	REC
	H. Development Plan Review			DPR	
	I. Appeals				
	J. General Plan Amendments			GPA	
	K. Zoning Verification Letters			ZVL	
<input checked="" type="checkbox"/>	L. Abatements	1		CE	CM
	TOTAL NUMBER OF REQUESTS:	1			

Know Your Rights: Arizona Revised Statutes (ARS) and Your Request

For additional information on Municipal Regulations see AZ Revised Statutes- Title 9, Chapter 7, Article 4 <https://www.azleg.gov/arstitle/>

9-834. Prohibited acts by municipalities and employees; enforcement; notice

- A municipality shall not base a licensing decision in whole or in part on a licensing requirement or condition that is not specifically authorized by statute, rule, ordinance or code. A general grant of authority does not constitute a basis for imposing a licensing requirement or condition unless the authority specifically authorizes the requirement or condition.
- Unless specifically authorized, a municipality shall avoid duplication of other laws that do not enhance regulatory clarity and shall avoid dual permitting to the maximum extent practicable.
- This section does not prohibit municipal flexibility to issue licenses or adopt ordinances or codes.
- A municipality shall not request or initiate discussions with a person about waiving that person's rights.
- This section may be enforced in a private civil action and relief may be awarded against a municipality. The court may award reasonable attorney fees, damages and all fees associated with the license application to a party that prevails in an action against a municipality for a violation of this section.
- A municipal employee may not intentionally or knowingly violate this section. A violation of this section is cause for disciplinary action or dismissal pursuant to the municipality's adopted personnel policy.
- This section does not abrogate the immunity provided by section 12-820.01 or 12-820.02.
- For additional information see ARS 9-831-9-840.

9-836. License application process

A municipality that issues licenses shall provide the following information to an applicant at the time the applicant obtains an application for a license:

- A list of all the steps the applicant is required to take in order to obtain the license.
- The applicable licensing time frames.
- The name and telephone number of a municipal contact person who can answer questions or provide assistance throughout the application process.
- The website address and any other information, if applicable, to allow the regulated person to use electronic communication with the municipality.
- Notice that an applicant may receive a clarification from the municipality of its interpretation or application of a statute, ordinance, code or authorized substantive policy statement as provided in section 9-839.

CASE # CM200621



NOTICE OF INTENT TO ABATE PUBLIC NUISANCE

DATE: 05/28/2020

CHUNXIANG XU
ATTN: BO SONG
4209 E. WILLIAMS DR.
PHOENIX, AZ. 85050

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

Legal: BOOK, MAP, PARCEL, AS RECORDED WITH THE MARICOPA COUNTY ASSESSOR.

Location: 2244 E. APACHE BLVD. 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 07/07/2020. 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:

- REMOVE ALL OVERGROWN WEEDS DEAD TREE TRASH AND DEBRIS FROM PROPERTY.
- REMOVE ALL GRAFFITI FROM PROPERTY.
- SECURE ALL UNSECURED BUILDINGS ON 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 \$4,480.00 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 if the public nuisance is abated by the City.

If you have questions regarding this matter, please contact our office at (480) 350-8372.

Code Inspector: MARVIN WHITE

Phone Number: (480)350-8966

E-mail: marvin_white@tempe.gov

DATE: May 28, 2020
TO: Jeff Tamulevich, Code Compliance Manager
FROM: Marvin White, Code Inspector
SUBJECT: CM200621 / Chunxiang Xu / Property Abatement

LOCATION: 2244 E. Apache Blvd. Tempe, AZ 85281

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

OWNER: Chunxiang Xu / Bo Song
4209 E. Williams Dr.
Phoenix, AZ. 85050

FINDINGS:

See Attached.

RECOMMENDATIONS:

I recommend a 180-day abatement of the property located at 2244 E. Apache Blvd. since the property owner Chunxiang Xu / Bo Song has failed to bring the property into compliance with the City of Tempe Nuisance Code and the property has become blight on the neighborhood.

Thank you,

Marvin White
Code Inspector II

ACTION TAKEN: Submit
NAME: [Signature]
DATE: 5/28/20

HAMANN ENTERPRISES, LLC

3831 W AVALON DR.

PHOENIX, AZ 85019

(602) 575-4455

hamannenterprises@yahoo.com

THE FOLLOWING DOCUMENT IS FOR:

NAME: MARVIN WHITE

FIRM: CITY OF TEMPE COMMERCIAL CODE COMPLIANCE

DATE: 2/14/19

PROPOSAL

WE PROPOSE TO DO THE FOLLOWING WORK FOR THE CITY OF TEMPE
UNDER CONTRACT # T13-004-03

ADDRESS: 2244 E APACHE BLVD

1 LOT CLEANING, GRAFFITI PAINTING	\$2,000.00
2 ESTAMTED DUMP FEES	\$300.00
3 BOARD UP BUILDINGS	\$280.00
4 TREE REMOVAL	\$1,900.00
5	\$0.00
6	\$0.00
TOTAL COST OF JOB	<hr/> \$4,480.00

THANK YOU FOR YOUR BUSINESS
BOB HAMANN

135-41-024C Commercial Parcel

This is a commercial parcel located at [2244 E APACHE BLVD TEMPE 85281](#). and the current owner is XU CHUNXIANG. Its current year full cash value is \$414,400.

Property Information

[2244 E APACHE BLVD TEMPE 85281](#)

MCR #

Description: S 330F OF E 65F OF W 553F OF S2 LOT 2 1N SW4 NW4 EX S 59F M/L TH/OF P/F 04-1474177

Lat/Long [33.41491279 | -111.88995840](#)

Lot Size 17,570 sq ft.

Zoning CSS

Lot #

High School District TEMPE UNION #213

Elementary School District TEMPE ELEMENTARY SCHOOL DISTRICT

Local Jurisdiction TEMPE

S/T/R 19 1N 5E

Market Area/Neighborhood 03/001

Subdivision (0 Parcels)

Owner Information

[XU CHUNXIANG](#)

Mailing Address 810 BROCKTON LN NORTH, PLYMOUTH, MN 55447

Deed Number [140329285](#)

Last Deed Date 05/21/2014

Sale Date n/a

Sale Price n/a



COMMUNITY DEVELOPMENT DEPARTMENT
CODE COMPLIANCE

FINAL CORRECTION NOTICE

05/18/20

CHUNXIANG XU
ATTN: BO SONG
4209 E. WILLIAMS DR.
PHOENIX, AZ. 85050

Case #: CM200621

Site Address: 2244 E. APACHE BLVD. TEMPE, AZ.

SITE REINSPECTION ON OR AFTER: 06/26/20

This is a notice to inform you that this site was inspected on 05/18/20 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.

Table with 2 columns: SECTION and VIOLATION. Rows include CC 22-105.A (graffiti), CC 21-3.B.8 (dead landscape material), and CC 21-3.B.9 (unsecured buildings).

Table with 2 columns: SECTION and PLEASE TAKE THE FOLLOWING CORRECTIVE ACTION. Rows correspond to the violations listed above, detailing required actions like 'remove graffiti' or 'secure buildings'.

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

Marvin White
Code Inspector II

Direct: 480-350-8966
Code Compliance: 480-350-8372
Email: marvin_white@tempe.gov

Civil and Criminal Penalties

City Code Section 21-3, Subsec (b) 1-8, 17-19 and 21; Sections 21-4; Sections 21-13; Section 21-24; section 21-38, Subsec (a-k) and (m-q): 1st occurrence \$200 per violation, 2nd occurrence \$300 per violation, 3rd occurrence \$400 per violation | Sections 21-31, 21-32, 21-33, 21-35, 21-36: 1st occurrence \$300 per violation, 2nd occurrence \$500 per violation, 3rd occurrence \$700 per violation | Sections 21-3, Subsections (b) 9-16 and 20; Sections 2-34, 21-37; Section 21-38, Subsection (l): 1st occurrence \$400 per violation, 2nd occurrence \$700 per violation, 3rd occurrence \$1,000 per violation. | Section 21-4 (b) Habitual Offender: 1st occurrence \$550 in addition to other fines, 2nd occurrence \$1,050 in addition to other fines, 3rd occurrence, \$1,550 in addition to other fines. | Section 21-25: \$1,050 per violation. | Zoning and Development Code: 1st occurrence \$170 per violation, 2nd occurrence \$420 per violation, 3rd occurrence \$820 per violation. | The City has the 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.

Please Note: In the event of more than one violation occurring at this property in a calendar year, the property owner may be assessed a reinspection fee of \$ 75.00 pursuant to City Code Section 21-51, subsection (b).



COMMUNITY DEVELOPMENT DEPARTMENT
CODE COMPLIANCE

CORRECTION NOTICE

04/30/20

CHUNXIANG XU
ATTN: BO SONG
4209 E. WILLIAMS DR.
PHOENIX, AZ. 85050

Case #: CM200621

Site Address: 2244 E. APACHE BLVD. TEMPE, AZ.

SITE REINSPECTION ON OR AFTER: 05/15/20

This is a notice to inform you that this site was inspected on 04/29/20 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.

<u>SECTION</u>	<u>VIOLATION</u>
CC 22-105.A	Site not maintained graffiti present.
CC 21-3.B.8	Site not maintained overgrown weeds and debris present.
CC 21-3.B.9	Site not maintained unsecured buildings present.

<u>SECTION</u>	<u>PLEASE TAKE THE FOLLOWING CORRECTIVE ACTION</u>
CC 22-105.A	Maintain site and remove all graffiti and color match within ten days.
CC 21-3.B.8	Maintain site and rake and remove all overgrown weeds and debris from all dirt and gravel.
CC 21-3.B.9	Maintain site and secure all unsecured buildings.

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

Marvin White
Code Inspector II

Direct: 480-350-8966
Code Compliance: 480-350-8372
Email: marvin_white@tempe.gov

Civil and Criminal Penalties

City Code Section 21-3, Subsec (b) 1-8, 17-19 and 21; Sections 21-4; Sections 21-13; Section 21-24; section 21-38, Subsec (a-k) and (m-q): 1st occurrence \$200 per violation, 2nd occurrence \$300 per violation, 3rd occurrence \$400 per violation | Sections 21-31, 21-32, 21-33, 21-35, 21-36: 1st occurrence \$300 per violation, 2nd occurrence \$500 per violation, 3rd occurrence \$700 per violation | Sections 21-3, Subsections (b) 9-16 and 20; Sections 2-34, 21-37; Section 21-38, Subsection (l): 1st occurrence \$400 per violation, 2nd occurrence \$700 per violation, 3rd occurrence \$1,000 per violation. | Section 21-4 (b) Habitual Offender: 1st occurrence \$550 in addition to other fines, 2nd occurrence \$1,050 in addition to other fines, 3rd occurrence, \$1,550 in addition to other fines. | Section 21-25: \$1,050 per violation. | Zoning and Development Code: 1st occurrence \$170 per violation, 2nd occurrence \$420 per violation, 3rd occurrence \$820 per violation. | The City has the authority to abate the violations 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.

Please Note: In the event of more than one violation occurring at this property in a calendar year, the property owner may be assessed a reinspection fee of \$ 75.00 pursuant to City Code Section 21-51, subsection (b).



Feature Information

(1 of 2)

Clear ?

135-41-024C

Owner Information

Owner Name: XU CHUNXIANG
 Property Address: 2244 E APACHE BLVD TEMPE 85281
 Mailing Address: 810 BROCKTON LN NORTH PLYMOUTH MN 55447
 Deed Number: 140329285
 Sale Date:
 Sale Price: \$

Property Information

Lat/Long: 33.415326, -111.890204
 S/T/R: 19 1N 5E
 Jurisdiction: TEMPE
 Zoning: CSS
 PUC: 1860
 Lot Size (sq ft): 17,570
 MCR #:
 Subdivision:
 Lot #: 1
 Floor:
 Construction Year:
 Living Space (sq ft):

Valuation Information

Tax Year: 2021 \$414,400
 FCV: 2020 \$404,400











