

RECEIVED

MAY 16 2016

LAND USE REVIEW DIVISION
PLANNING & DEVELOPMENT TEAM



CITY OF COLORADO SPRINGS

LAND USE REVIEW

APPLICATION FORM FOR APPEAL OF ADMINISTRATIVE DECISION

Appellant: Devon K Bowen by Attorney Telephone (719) 337-4750 Fax (719) 578-8836
Address: 2215 Farragut 111 S. Tejon Zip Code 80907 e-mail williamlouislaw@gmail.com
Premises Involved: Ste 202

City Planning File Number (if applicable): _____

Address: 2215 Farragut - 80907

Direction from nearest street intersection Less than 100 yards north of intersection of Constitution and

Tax Schedule No. 6405110027 - Farragut - City staff have been there numerous times

(The tax schedule number can be obtained from the El Paso County Tax Assessor located at 27 E. Vermijo Avenue on the 2nd Floor; phone: 520-6600 or at their web site <http://www.land.elpasoco.com>)

Date of Receipt of Notice and Order or Date of Final Administrative Decision May 4, 2016 (City staff knows this)

Appeal of Decision Regarding:

- Development/Landscape Plan _____ Subdivision Plat _____ Notice and Order XXX
- Hillside Site Plan _____ Administrative Relief _____ Non-Conforming Use _____
- Sexually Oriented Business _____ Temporary Use Permit _____ Relocation payments _____
- Similar Use Determination _____ Property Boundary Adjustment _____
- Preservation Area Boundary Adjustment _____ Building Permit to Unplatted Land _____
- Building Permit prior to Platting _____ Historic Preservation Board Determination _____
- Home Occupation Permit _____ Human Service Establishment _____
- Other: _____

OFFICIAL CITY PLANNING USE:

Fee Receipt # _____ Date Application Accepted _____
 Completed Form _____ Intake Staff _____
 Appeal Statement (2) _____ Vicinity Map _____
 Authorization _____ Copy of Notice and Order (if applicable) _____
 Applicant informed of Poster Pickup Date? Yes ___ No ___ If Yes, Date of Poster Pickup _____
 Notification Options: Waive Notification _____ Adjacent _____ 500' _____ 1,000' _____
 Assigned to: _____ (Notice to be sent at time of CPC/CC Hearing only)

OWNER/APPLICANT AUTHORIZATION:

The signature(s) below certifies that I (we) is(are) the authorized appellant and that the information provided on this form is in all respects true and accurate to the best of my (our) knowledge and belief. I(we) familiarized myself(ourselves) with the rules, regulations and procedures with respect to preparing and filing this petition. I agree that if this request is approved, it is issued on the representations made in this submittal, and any approval or subsequently issued building permit(s) or other type of permit(s) may be revoked without notice if there is a breach of representations or conditions of approval.

Devon K Bowen by Attorney at Law - William H. Louis

[Signature] 05/15/16
Signature of Appellant Date

STATEMENT OF APPEAL

- I. Description of the Appeal: My client, Devon K. Bowen, is appealing the Notice of Order issued May 4, 2016 on the following grounds:
- A. Fence
1. Ordinance 16-19 does not apply to the fence because it was constructed before the ordinance was adopted.
 2. City staff misinterpreted City Code Section 7.4.101 in that the fence is six feet high and is not constructed on, but constructed inside of, the property line. Furthermore, City staff does not have any evidence of whatsoever kind or nature concerning the natural grade of the adjacent property.
- B. Pergola
1. Ordinance 16-19 does not apply to the pergola because it was constructed before the ordinance was adopted.
 2. City staff misinterpreted City Code Section 7.3.105 in that pergola, also known as an arbor, in that the pergola as constructed does not constitute a structure or accessory structure under the Code.
 3. City staff acted arbitrarily and capriciously and is engaging in selective enforcement concerning Mr. Bowen's pergola.
- II. Justification Based on Section 7.5.906
- A. This is an appeal under Section 7.5.906 9 (A)(2)(a)(2)
- B. The administrative decision is incorrect because of one or more of the following:
1. It was against the express language of this zoning ordinance, or
 2. It was against the express intent of this zoning ordinance, or
 3. It is unreasonable, or
 4. It is erroneous, or
 5. It is clearly contrary to law.
- C. Identify the benefits and adverse impacts created by the decision, describe the distribution of the benefits and impacts between the community and the appellant, and

show that the burdens placed on the appellant outweigh the benefits accrued by the community.

1. This is a neighbor dispute based on an ongoing feud that has nothing to do with land use issues. The complainant's property is not occupied. Upon best information and belief, it is being used as an indoor and outdoor storage facility. In contrast, the alleged violations on my client's property have existed for a number of years and are improvements to my client's property, but also to the neighborhood. In contrast, the complainant's property is an eyesore, especially in the back of the property.
2. The pergola is constructed entirely within my client's property; however, it is right on the line between the sidewalk and my client's property. It is well-constructed and maintained and, therefore, constitutes no danger of collapse. It occupies little space and so is not out of proportion with the rest of the neighborhood. It complements the area; it does not detract from it.
3. The benefits of making certain that staff correctly interprets and applies the code and the ordinances outweighs any negative impacts associated therewith.
4. The neighborhood is of marginal quality. My client appears to be one of the few people making an investment to improve the aesthetic quality of his property and, therefore, the neighborhood. Maintaining the improvements in their "as is" condition far outweighs the benefits of removal.
5. The improvements pose no threat or danger to the public health, safety or welfare.

CITY OF COLORADO SPRINGS, STATE OF COLORADO Manager – Land Use, Planning and Development Address: 30 S. Nevada Ave. Suite 105, Mail Code 155 Colorado Springs, CO 80901	
TO: DEVON K BOWEN and OCCUPANTS OR OTHER PERSON WITH AN INTEREST IN THE PROPERTY KNOWN AS: 2215 FARRAGUT AVE Colorado Springs, CO 80907 RESPONDENT	<hr/> Tax Schedule Number 6405110027
NOTICE OF VIOLATION AND ORDER TO ABATE	

WHEREAS, it has been made to appear to the Manager – Land Use Review, Planning and Community Development, City of Colorado Springs, State of Colorado that Devon K Bowen, 2215 Farragut Ave, Colorado Springs, CO 80907 (“Respondent”), has violated Ordinance 16-19, an ordinance amending section 201 (Definitions Enumerated) of part 2 (Definitions) of article 2 (Basic provisions, definitions and land use types and classifications) and section 102 (general standards) of part 1 (general standards) of article 4 (site development standards) of chapter 7 (planning, development and building) of the code of the City of Colorado Springs 2001, as amended, pertaining to fences and accessory structures, as amended (“City Code”) §7:2.201 in the following particulars:

- I. The property at the approximate location of 2215 Farragut Avenue, Colorado Springs, CO 80907 is zoned R-1 6000.
- II. A R-1 6000 zone district allows for single-family residences and their accessory uses.
- III. On or about January 27, 2015, Respondent constructed, in the front yard setback area along the southern property line including the side yard setback area, a fence which exceeds the height limit established in §7.4.102 A and now Zoning Ordinance 16-19. Additionally, on or about February 15, 2015, Respondent constructed an “arbor” type structure approximately eight feet (8’) in height in the front yard setback area (along the front property line) where accessory structures are limited to a maximum of six feet (6’) in height in violation of §7.3.105 A. (Now Ordinance 16-19)
- IV. Notice of this zoning land use violation was provided to Respondent on or about July 16, 2014 by USPS regular mail service and voluntary compliance by Respondent was requested.

- V. Respondent through his attorney challenged the interpretation and application of the provisions of the fence and accessory structures provisions of the City of Colorado Springs Zoning ordinances to the Colorado Springs Zoning Commission who upheld the interpretation and application of the ordinance provisions as applied BUT did amend a part of the definitions and method for measuring height as now found in Ordinance 16-19 of the city zoning ordinance.
- VI. On March 30, 2016 Respondent was noticed by USPS regular mail service to abate the zoning violations noted in City of Colorado Springs Zoning Ordinance 16-19.
- VII. On May 2, 2016 a field inspection determined that no action has been taken Respondent to abate these violations.

YOU ARE HEREBY ADVISED that abatement of this zoning violation is your responsibility.

NOW THEREFORE, you are hereby **ORDERED** to remove the unlawful fence installation and arbor structure within **ten (10)** days from the date of the issuance of this NOTICE.

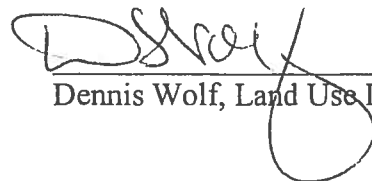
YOU ARE HEREBY ADVISED that failure to comply with this Notice of Violation and Order to Abate may result in the issuance of a criminal summons pursuant to City Code §§7.5.1008(A), (E). You are further advised that failure to comply with this Notice of Violation and Order to Abate may result in direct abatement by the Manager pursuant to City Code §7.5.1008(B) and that you may be assessed additional re-inspection fees pursuant to City Code §7.5.1008(C).

***IF YOU WISH TO CONTEST** this Notice of Violation and Order to Abate, you must file an appeal with the City of Colorado Springs Zoning Commission in accordance with §§7.5.1007 and 7.5.906 of the City Code, within 10 days of receipt of this Notice of Violation and Order to Abate.*

If you have any questions regarding this NOTICE, please contact Dennis Wolf, Land Use Inspector at 385-5353.

DONE THIS this 4 day of MAY 2016.

FOR THE MANAGER – LAND USE, PLANNING AND DEVELOPMENT


Dennis Wolf, Land Use Inspector



City of Colorado Springs Planning Department Fee Receipt Reprint

[Return to Worksheet List](#)

<u>Application</u>	<u>Department</u>	<u>Amount</u>	<u>Applicant</u>	<u>AnnexDisc</u>
Appeal of Administrative Decision to Planning Comm	Land Use Review	\$176.00		
<u>Total Fees</u>		<u>\$176.00</u>		

Planner:	Sue Matz
Date:	5/18/2016
Intake Staff:	Katie Carleo
Receipt Number:	27936
Check Number:	237
Amount:	\$176.00
Received From:	William Louis

El Paso County Assessor's Office

2215 FARRAGUT AVE

SCHEDULE: 6405110027

OWNER: BOWEN DEVON K

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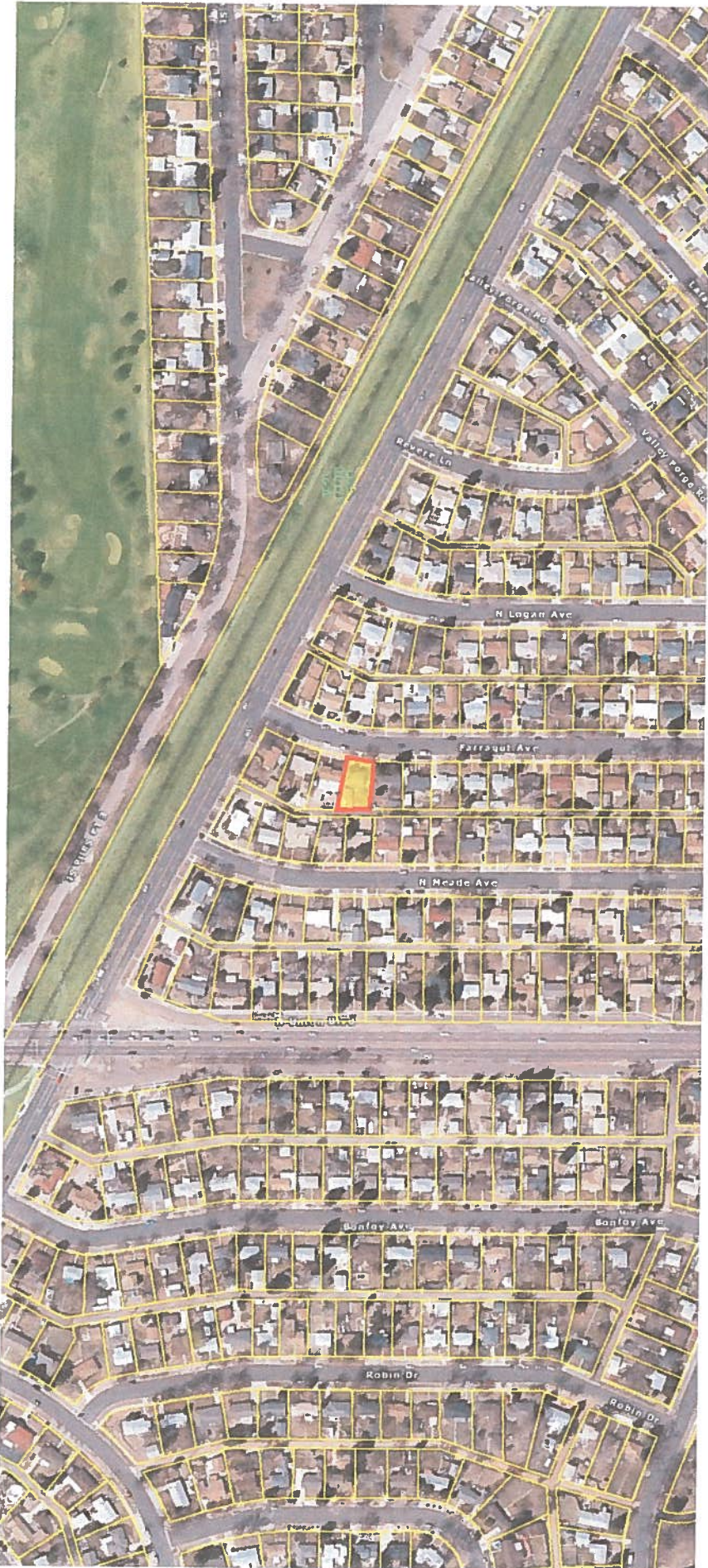


FIGURE 2