

CITY PLANNING COMMISSION AGENDA  
November 19, 2020

STAFF: KURT ARNOLDUSSEN

FILE NO(S):  
CPC AP 20-00146

**PROJECT:** APPEAL OF NOTICE AND ORDER TO ABATE ZONING VIOLATION  
930 W NOLTE  
COLORADO SPRINGS CO, 80916

**APPLICANT/OWNER:** GALLAGHER ROBERT R  
930 W NOLTE  
COLORADO SPRINGS CO, 80916-2061



**PROJECT SUMMARY:**

1. Project Description: This is a request to appeal the Notice and Order to abate the zoning code violation issued to the owner of 930 W NOLTE DR on October 21, 2020, for violation of; the 25 Foot Front Yard Set Back for having a carport built up to and over the front property line. The property is zoned R1-6 AO (Single Family Residential).

City Code Section §7.3.105: *ADDITIONAL STANDARDS FOR SPECIFIC USES ALLOWED IN RESIDENTIAL ZONES:*

*Individual standards are designed to mitigate impacts that apply to many uses allowed in the residential zone districts. Complete descriptions of these uses and standards are as follows. These standards are in*

addition to the residential development standards and the general site design standards contained in this chapter.

A. *Accessory Uses And Structures: Accessory uses which comply with this section are permitted in any zone district, but only in connection with a principal use which is permitted within the district. No accessory structure shall be constructed and occupied on any lot prior to the time of the completion of the construction of the principal structure to which it is an accessory. The use of vehicles as storage structures or as other types of accessory structures is prohibited.*

1. *Except for development in a TND zone, accessory structures and uses shall comply with the following development standards:*

- a. *Accessory structures are not allowed in the front yard setback. The structure/use shall maintain the minimum side yard setbacks for the zone in which it is located;*

**City Code Section §7.5.1001: PURPOSE: ZONING ENFORCEMENT**

*In establishing a comprehensive zoning enforcement program, the City Council recognizes that zoning enforcement is a means of effectuating compliance with the land development process within the City of Colorado Springs. The legislative intent of comprehensive, long range and current planning controls can be implemented only by land use development activities in conformance with these controls. Improper or illegal conditions or development which is allowed to exist undermines the intent and efforts of these land use processes. The City Council hereby determines that a comprehensive zoning enforcement process is necessary and desirable to protect the public health, safety and welfare. The objectives of this comprehensive zoning enforcement process include reduction of the number of zoning violations; abatement of violations in a timely and efficient manner; protection for all citizens from zoning violations; and establishment of a fair process to abate violations. To achieve these objectives, the City Council recognizes and adopts the following general techniques or guidelines: provide consistency in the administration, interpretation and enforcement of the zoning and subdivision ordinances; recognize inherent differences in many types of zoning violations; develop a set of standard procedures for abating each type of violation based upon their risk of harm to the public health, safety and welfare; prioritize the activities of the zoning enforcement staff; and establish a greater communication and understanding of zoning and zoning enforcement within the community. (Ord. 86-66; Ord. 91-30; Ord. 94-107; Ord. 01-42)*

2. Applicant's Project Statement: **(FIGURE 1)**

3. Planning and Development Department's Recommendation: In order to maintain consistency and integrity of the City of Colorado Springs zoning regulations, staff recommends the City Planning Commission uphold the Notice and Order and deny the appeal.

**BACKGROUND:**

1. Site Address: 930 W NOLTE DR – Parcel Identification number 6424210013
2. Existing Zoning/Land Use: R1-6 AO SINGLE FAMILY RESIDENTIAL
3. Surrounding Zoning/Land Use:  
North: PUD AO (Single-Family Residential, Airport Overlay)  
South: PUD AO (Single-Family Residential, Airport Overlay)  
East: R1-6 AO (Single-Family Residential, Airport Overlay)  
West: PUD AO (Single-Family Residential, Airport Overlay)
4. Annexation: The property was annexed in 1971 as the Pikes Peak Addition #11
5. Master Plan/Designated Master Plan Land Use: TRAILMARK III DP 72-13-A1
6. Legal Description: LOT 15 BLK 2 TRAILMARK III COLO SPGS
7. Zoning Enforcement Action: Carport built in the front yard setback and on the City of Colorado Springs Right of Way. The property is zoned PUD and has a 25-foot front yard setback. No accessory structures are not allowed in the front yard setback.
8. Physical Characteristics: The property is 7,046 square feet in size, zoned PUD-Single Family Residential

**STAKEHOLDER PROCESS AND INVOLVEMENT:**

No stakeholder process is required with the issuance of a Notice and Order to Abate. The site will be posted and postcards mailed to notify property owners located within 500 feet of the subject property regarding the City Planning Commission hearing, posted for 10 days prior per current Code requirements.

### **ANALYSIS OF REVIEW CRITERIA/MAJOR ISSUES/COMPREHENSIVE PLAN:**

#### **1. Timeline of the Notice and Order Issuance:**

On September 30, 2020, Code Enforcement staff opened a violation case at the property due to the carport in the front yard setback. Senior Code Enforcement Officer, Kurt Arnoldussen, observed a carport in the front yard setback (**Figure 2**). The carport is extend off the property and into the City of Colorado Springs Right of Way (ROW). After investigating the complaint and reviewing the code regulations, Code Enforcement Officer Arnoldussen issued a Courtesy Letter (**Figure 3**). The letter explained the zoning rules for accessory structure setback requirements for structures located with the front yard, outlined the variance process, provided contact information for City Planning, explained why the carport structure violated city code, and set a deadline to correct the violation. The letter was posted to the front door of the property (**Figure 4**). The letter requested the owner to correct the violation or set a pre-application meeting with City Planning by October 16, 2020. The owner exited the residence and removed the letter. The letter was explained to the owner, who became upset and said he will sell the house before he will remove the carport.

By October 21, 2020, there was no contact with the owner of 930 W Nolte Dr. The owner did not schedule or request a meeting with a planner.

On October 21, 2020, an inspection was completed and found the carport was still in the 25-foot front yard setback and in the City of Colorado Springs ROW. There was no answer at the door. A Notice and Order to abate the violation was issued (**Figure 5**). The notice was posted to the front door.

On October 28, 2020 Robert Gallagher filed an appeal of the notice and order.

*§7.5.1007: APPEALS: A perfected appeal shall operate as a stay of the zoning enforcement decision unless the Manager certifies in writing that the condition giving rise to the decision constitutes an imminent hazard to the public health, safety and welfare or the violation is of a short term nature that by the time an appeal hearing is held, the violation will have been terminated or moved to another site.*

#### **2. Background:**

City code regulations provide standards for residential development in order to foster an attractive community and establish uniform development throughout the City of Colorado Springs. In addition, the City Council recognizes that zoning enforcement is a means of effectuating compliance with the land development process within the City of Colorado Springs.

#### **3. Relevant Code Section:**

##### **§7.2.201: DEFINITIONS**

**SETBACK:** A line within a lot which is parallel to and measured from a corresponding lot line, forming the boundary of a required yard and establishing the minimum distance that a structure, landscaping, parking, or other designated item must be from that lot line.

**Front Yard Setback:** The area from the side property line to side property line starting at the front property line and ending at the minimum front yard setback point as prescribed by the zone district or development plan.

##### **§7.3.104: AGRICULTURAL, RESIDENTIAL, SPECIAL USE AND TRADITIONAL NEIGHBORHOOD DEVELOPMENT ZONE DISTRICT DEVELOPMENT STANDARDS:**

R1-6000 Minimum setback: Front 25ft. §7.3.105.A.1.a

Accessory structures are not allowed in the front yard setback. The structure/use shall maintain the minimum side yard setbacks for the zone in which it is located;

Staff finds no variance was approved or applied for to allow the carport in the front yard setback of the property. In addition, there is no guaranteed approval of a nonuse variance to allow a carport within the front yard setback. City Code Section 7.3.105, *ADDITIONAL STANDARDS FOR SPECIFIC USES ALLOWED IN RESIDENTIAL ZONES*, does not differentiate between types of accessory structures. The Code is clear as written that no accessory structures are permitted in the front yard setback (in this case, the front 25 feet). Allowing carports in the front yard setback is a larger policy issue and something that could be added to City Code in the future. A future policy discussion should consider if it is acceptable to allow carports citywide - with some type of design or setback standard specifically for carports. Again, current language does not differentiate between accessory structure types and does not permit any accessory structures in a front yard setback. A nonuse variance is administrative and a denial can be appealed to the City Planning Commission. Land Use Review staff has not been approving nonuse variances for carports as it sets a city-wide precedent. Instead of approving nonuse variances, this issue, again, should be discussed city-wide as part of ReToolCOS.

Staff finds that the Notice and Order to Abate meets the criteria as set forth in City Code. In the motion below, staff has recommended denial of the appeal AND issuance of a compliance date. The staff recommended compliance is removal of the carport or move the carport to another location on the property that meets the setbacks within 30 days.

4. Conformance with the City Comprehensive Plan:  
Not Applicable to a Notice and Order
5. Conformance with the Area's Master Plan:  
Not applicable to a notice and order

**STAFF RECOMMENDATION:**

**CPC AP 20-00147 - APPEAL OF NOTICE AND ORDER TO ABATE SIGN CODE VIOLATION**

Deny the appeal, uphold the Notice and Order to Abate violation issued against 930 W. Nolte Dr on October 21, 2020, and issue a compliance date of December 19, 2020, based on the finding that the appeal does not meet the criteria for granting an appeal as outlined in City Code Section 7.5.906.A.4 and 7.5.1007.