



## Legislation Text

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**File #:** CPC AP 20-00146, **Version:** 2

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Withdraw an appeal of the Planning Commission's decision to uphold the Notice and Order to Abate for violation of a carport in the 25-foot front yard setback located at 930 Nolte Drive W. City Code has subsequently changed therefore the City is not pursuing enforcement action under the old code rendering this appeal moot.

Quasi-Judicial

**Presenter:**

Kurt Arnoldussen, Senior Code Enforcement Officer, Planning and Community Development  
Peter Wysocki, Director of Planning and Community Development

**Summary:**

Owner: GALLAGHER ROBERT R  
Appellant: GALLAGHER ROBERT R  
Location: 930 WEST NOLTE DR.

The application is an appeal of the City Planning Commission's decision to uphold the Notice and Order to Abate for violation of a carport (Accessory Structure) within the 25-foot front yard setback. The property is zoned PUD. Pursuant to the Development Plan the front yard setback is 18 and 25-feet. In addition, Section 7.3.105(A)(1)(a) indicates that accessory structures are not permitted within the front setback, regardless of size or height.

7.2.201. ACCESSORY STRUCTURE: A structure that is located on the same lot and detached and separate from the principal building. Accessory structures shall be incidental to the principal structure and devoted exclusively to an accessory use. Examples of accessory structures may include, but are not limited to: garages, carports, sheds, storage buildings, play structures, gazebos, arbors, greenhouses, barns, saunas, and other similar buildings. Fences and walls that exceed six feet (6') in height are considered accessory structures.

**Background:**

On September 25, 2020, an anonymous complaint ("*a car port in drive way that is not allowed in colorado city limits. needs to be removed*") was made about a carport located within the front setback, on Nolte Dr. After inspection and confirming that the location of the carport was a violation of both City of Colorado Springs Zoning Code Section 7.3.104, which outlines residential setbacks, and Section 7.3.105(A)(1)(a), which precludes Accessory Structures of any size or height from being located in the front setback. On September 30, 2020 Neighborhood Services issued a Notice and Order to abate for the carport being within the 25-foot front yard setback.

After issuance of the Notice and Order, Neighborhood Services did not receive a response from the owner and upon inspection on October 21, 2020, the carport was still located both within the front setback and City Right-of-Way. On October 28, 2020 the owner filed an appeal to the City Planning

Commission for the Notice and Order.

On November 19, 2020 the City Planning Commission heard the appeal and upheld the Notice and Order. The City Planning Commission required that the carport be removed either in 30 days or by December 19, 2020. On November 30, 2020 the owner filed an appeal of the City Planning Commission's decision. In the appeal the owner stated, *"I am deeply concerned and feel like my rights as a tax paying citizen and a Combat Veteran are being taking from me. How can I have a carport for 10+ years on my own property and a complaint from an unknown source (could be a renter, not even a home owner) cause me and at least 60 others to change our way of life."*

**Previous Council Action:**

On January 11, 2022, City Council passed Ordinance No. 21-110 amending the City Code as it pertains to front yard carports, which defines the parameters of an allowable front yard carport.

**Financial Implications:**

N/A

**City Council Appointed Board/Commission/Committee Recommendation:**

On November 19, 2020 the City Planning Commission voted unanimously to uphold the Notice and Order and required the carport either be removed in 30 days or by December 19, 2020.

**Stakeholder Process:**

The public notification process consisted of providing notice to adjacent property owners within five-hundred (500) feet of the site, which included the mailing of postcards on two occasions; prior to the City Planning Commission hearing and prior to the City Council hearing. The site was also posted during the two occasions noted above. Four emails were received in support of the carports being in the front yard setback and one email was received in opposition to the carport being in the front yard setback. Since November 2020, an anonymous complainant made about 54 complaints around the city for carports in the front yard setback.

**Alternatives:**

1. Uphold the action of the City Planning Commission;
2. Modify the decision of the City Planning Commission;
3. Reverse the action of the City Planning Commission; or
4. Refer the matter back to the City Planning Commission for further consideration

**Proposed Motion:**

Withdraw an appeal of the Planning Commission's decision to uphold the Notice and Order to Abate for violation of a carport in the 25-foot front yard setback located at 930 Nolte Drive W. City Code has subsequently changed therefore the City is not pursuing enforcement action under the old code rendering this appeal moot.

N/A