

CIS-2010-0042
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APR 02 2010

**CITY OF AUSTIN
APPLICATION TO BOARD OF ADJUSTMENT
INTERPRETATIONS
PART I: APPLICANT'S STATEMENT
(Please type)**

CITY OF AUSTIN

ROW-10424288
TP-0113001219

STREET ADDRESS: 1915A David St.

LEGAL DESCRIPTION: Subdivision --

Carrington Subdivision

Lot (s) 17 Block 2 Outlot Division

ZONING DISTRICT: SF3-CO-NP

I/WE Karen McGraw on behalf of
myself/ourselves as authorized

Agent for Nuria Zaragoza affirm that on
2nd

Day of April, 2010, hereby apply for an interpretation hearing before the Board
of Adjustment.

Planning and Development Review Department interpretation is:

This project qualifies as a REMODEL of a two-family use.

The property is developed with a TWO-FAMILY residential use.

Staff has granted a grandfathered OCCUPANCY LIMIT of twelve (12) unrelated adults stating that prior to Nov. 18, 2004 each dwelling unit within a two-family residential use was allowed up to six unrelated persons per dwelling unit. That the use was established prior to the effective date of the ordinance (Nov. 18, 2004) AND after Nov. 18 2004 the gross floor area and the number of BEDROOMS on the site did not increase per Section 25-2-511. (see Greg Guernsey letter of march 4, 2010)

City staff has assumes that rooms that is not labeled as a BEDROOM is NOT a BEDROOM, and does trigger occupancy requirements of 25-2-511 (A)(3)(b.) and does not have to meet life safety requirements as a sleeping area.

§ 25-2-511 DWELLING UNIT OCCUPANCY LIMIT

- (A)(3) for a two-family residential use or a lot with a secondary apartment special use, not more than four unrelated persons 18 years of age or older may reside in the principal structure, and not more than two unrelated persons 18 years of age or older may reside in the second dwelling unit unless:
- (a) before (effective date of ordinance – November 18, 2004):
 - (i) a building permit for the second dwelling unit was issued: or
 - (ii) the use was established: and
 - (b) after (effective date of ordinance), the gross floor area and the number of bedrooms on the site did not increase, except for the completion of construction authorized before that date.

I feel the correct interpretation is:

The remaining building parts do not meet the minimum criteria to qualify the project as a REMODEL of the previous building. Building plans show that only a portion of the last original wall will remain. The City's remodel criteria clearly states that "at least one original, complete exterior wall" must remain and that it "may not be removed". Furthermore, the permit indicates that the foundation will be replaced. The criteria states "The framing or foundation may be reinforced, but not removed or replaced." (June 4, 2008 Memo) (Approved Site Plan)

The property currently has NO USE because the two buildings have each been excessively demolished as stated by the City's own policies stated above.

The determination that this is a REMODEL permits grandfathering of over-occupancy and perpetuates the lack of parking. (only one space will be provided).

The occupancy limit for this site should follow current code Section 25-2-511 allowing only up to 6 occupants per site. The grandfathering clause in 25-2-511 (a) is in conflict with a preceding ruling by the BOARD OF ADJUSTMENT in favor of an appeal April 14, 2003 that agreed that Group Residential Use, allowing more than 6 occupants per site, was not permitted in SF3 zoning and was not compatible with single family development prior to the November 18th 2004 date. (Attached Case Determination C15-03-025).

§ 25-2-3 RESIDENTIAL USES DESCRIBED

- (4) GROUP RESIDENTIAL use is the use of a site for occupancy by a group of more than six persons who are not a family, on a weekly or longer basis. This use includes fraternity and sorority houses, dormitories, residence halls, and boarding houses.

grandfathered occupancy of twelve (12), it will set in motion an unsafe situation as the once "two-bedroom" building will have more space to house individuals and to accommodate the newly grandfathered 12 occupants. Between 1915 A and 1915 B, the site has been permitted for six bedrooms plus an additional five rooms not labeled as bedrooms. The City's CODE COMPLIANCE officers will have to enforce that the rooms not labeled for BEDROOMS do not become illegal and unsafe sleeping rooms for unsuspecting renters. With up to 12 occupants on the site and only one parking space there will be much congestion impacting neighbors.

Neighbors have, to date, filed 5 appeals, three of which have been rejected and not heard by appropriate boards. Your judgment is needed not only to help the affected neighbors but also to prevent the City from condoning safety violations through its permitting actions.

NOTE: The board must determine the existence of, sufficiency of and weight of evidence supporting the findings described below. Therefore, you must complete each of the applicable findings statements as part of your application. Failure to do so may result in your application being rejected as incomplete. Please attach any additional support documents.

.....

1. There is a reasonable doubt of difference of interpretation as to the specific intent of the regulations or map in that

This project does not qualify as a REMODEL per the City's standard definition so the project must be considered new construction and must meet current parking and occupancy regulations.

New rooms being added must be assumed to be BEDROOMS and will trigger the occupancy limit of 6 unrelated adults per site in Section 25-2-511 (A) (3).

An occupancy limit of 12 was never intended and cannot be grandfathered per Board of Adjustment ruling April 14, 2003 so the OCCUPANCY LIMIT is 6 unrelated adults for the site.

2. An appeal of use provisions could clearly permit a use which is in character with the uses enumerated for the various zones and with the objectives of the zone in question because:

A newly established single family, two-family or duplex use is permitted and would have to meet occupancy limits of 6 per site and parking requirements which are not going to be met with the currently approved plans. Similar uses and the same regulations apply to all SF3 areas including the surrounding area.

3. The interpretation will not grant a special privilege to one property inconsistent with other properties or uses similarly situated in that:

The property has been zoned for single family use since 1931. Two-family use which was previously legally established and previously operated on the site, is still a legal use and may be reestablished under current codes. Under current regulations a new two-family use would allow 4 unrelated adults in the front unit and up to 2 unrelated adults in the rear unit. Since both units have been essentially demolished the current occupancy assignments can be met.

Granting this permit will result in a special privilege to this property owner by permitting new structures to be built without meeting current occupancy and parking regulations.

APPLICANT/AGGRIEVED PARTY CERTIFICATE – I affirm that my statements contained in the complete application are true and correct to the best of my knowledge and belief.

Signed Nuria Zaragoza Printed NURIA ZARAGOZA
Mailing Address 1908 CLIFF ST
City, State & Zip AUSTIN TX 78705 Phone 791-9674

~~OWNER'S~~ **AGENTS** **CERTIFICATE** – I affirm that my statements contained in the complete application are true and correct to the best of my knowledge and belief.

Signed Karen McBraw Printed Karen McBraw
Mailing Address 4315 Avenue C
City, State & Zip Austin TX 78751 Phone 917-1761

REQUESTS FOR INTERPRETATION
(Appeal of an Administrative Decision)

REQUIRED ITEMS FOR A COMPLETE APPLICATION:

The following items are required in order to file an application for interpretation to the Board of Adjustment.

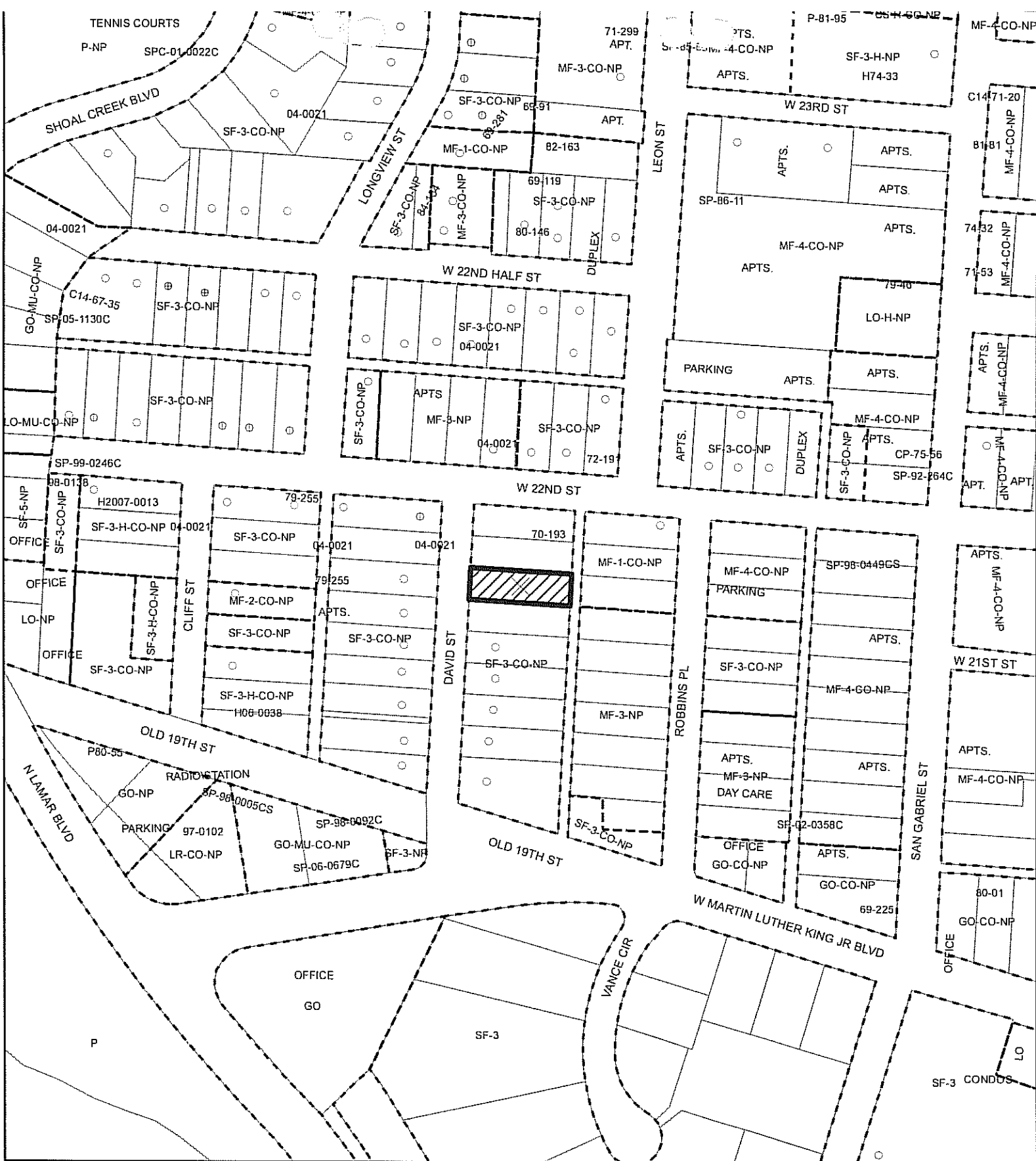
- A completed application with all information provided. Additional information may be provided as an addendum to the application.
- Standing to Appeal Status: A letter stating that the appellant meets the requirements as an Interested Party as listed in Section 25-1-131(A) and (B) of the Land Development Code. The letter must also include all information required under 25-1-132(C).
- Site Plan/Plot Plan drawn to scale, showing present and proposed construction and location of existing structures on adjacent lots.
- Tax plats: Full-size (not reduced and not altered) tax plats with the subject property clearly and accurately marked and showing all properties within a 300 foot radius of the property. These may be purchased from the Travis Central Appraisal District at 8314 Cross Park Drive, 834-9138.
- Payment of application fee of \$360.00 for residential zoning or \$660 for commercial zoning. Checks should be made payable to the City of Austin.

An appeal of an administrative decision must be filed by the 20th day after the decision is made (Section 25-1-182). Applications which do not include all the required items listed above will not be accepted for filing.

If you have questions on this process contact Susan Walker at 974-2202.

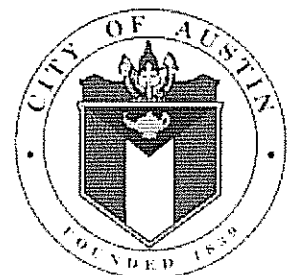
To access the Land Development Code: sign on to:



www.ci.austin.us.tx/development



BOARD OF ADJUSTMENT

CASE#: C15-2010-0042
 ADDRESS: 1915 DAVID ST BLDG A
 GRID: H23 & J23
 MANAGER: S. WALKER



 **SUBJECT TRACT**
 **ZONING BOUNDARY**

OPERATOR: S. MEEKS

1" = 200'

This map has been produced by G.I.S. Services for the sole purpose of geographic reference.
 No warranty is made by the City of Austin regarding specific accuracy or completeness.



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CITY OF AUSTIN

1908 Cliff St.
Austin, Texas 78705
March 29, 2010

Mr. Greg Guernsey
Director
Planning and Development Review Department
City of Austin
P.O. Box 1088
Austin, Texas 78767-8865

Re: Standing to appeal 1915 A David Street, permit 2010-002721 PR to BOA

Dear Mr. Guernsey:

Please see attached electronic mail correspondence from John McDonald, confirming status as an interested party. This development is within the boundaries of our neighborhood association, Original West University Neighborhood Association. I am an officer in the association.

As stated in the application, my address is: 1908 Cliff St. Austin Texas, 78705. My contact number is 512-791-9674.

Sincerely yours,

Nuria Zaragoza
President, OWUNA

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sign out

Hotmail

[New](#) | [Delete](#) [Junk](#) | [Mark as ▾](#) [Move to ▾](#) |[tedandnuria@hotmail.co](#) [Reply](#) [Reply all](#) [Forward](#) |

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RE: 2010-002721 PR

From: **McDonald, John** (John.Mcdonald@ci.austin.tx.us)

Sent: Wed 1/13/10 11:29 AM

To: Cain, Darren (Darren.Cain@ci.austin.tx.us)

Cc: Nuria Zaragoza (tedandnuria@hotmail.com)

Darren,

Add Nuria to the interested party spreadsheet for the second permit at 1915 David Street (Unit A - PR-2010-002721). Thanks.

JMM

From: Nuria Zaragoza [mailto:tedandnuria@hotmail.com]**Sent:** Wednesday, January 13, 2010 9:19 AM**To:** McDonald, John; Haught, Kathy; Barba, Leon; Guernsey, Greg**Subject:** 2010-002721 PR

Please add me as an interested party on permit 2010-002721 PR for 1915 David St 78705.

My name is Nuria Zaragoza from 1908 Cliff st. 78705. Tel. No 512 320 0351

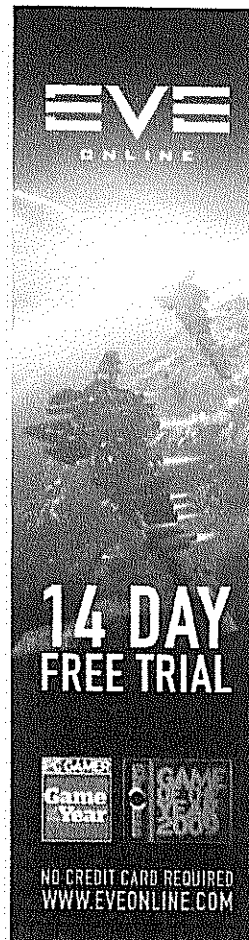
I am an officer in our NA, and live within 500 ft of the property.

Thank you,

Nuria Zaragoza

Hotmail: Powerful Free email with security by Microsoft. [Get it now.](#)

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RESIDENTIAL PERMIT APPLICATION

APR 02 2010

CITY OF AUSTIN

PR 10-002721RA

Building Permit No.

Plat No. Date 3-2-2010

Reviewer SLD

PRIMARY PROJECT DATA

Service Address 1915 DAVID STREET 'A' FRONT BLDG

Tax Parcel No. 0113001219 6000

Legal Description

Lot 17 Block 2 Subdivision CARRINGTON SUBD

Section Phase

If in a Planned Unit Development, provide Name and Case No. Outlot 11 - 26, 27 - 28 DIV D 1895
(attach final approved copies of subdivision and site plan)

If this site is not a legally subdivided lot, you must contact the Development Assistance Center for a Land Status Determination.

Description of Work

New Residence

Duplex (TWO FAMILY NON CONFORMING STRUCTURES)

Garage attached detached

Carport attached detached

Pool

X Remodel (specify) REPAIR EXISTING STRUCTURE TO CORROSION, REMODEL AS REQUIRED, REPAIR, REPLACE & REINFORCE FOUNDATION AS REQUIRED BY STRUCTURAL ENGINEER, REPLACE FLOOR COOLING, REMODEL EXTERIOR ATTACHED AREA, REPAIR REPAIR
Addition (specify) SIDEWALKS
Other (specify)

Zoning (e.g. SF-1, SF-2...) SF-3-NP-C10

Height of Principal building 25 ft. # of floors 2 Height of Other structure(s) 20 ft. # of floors 2

Does this site currently have water and wastewater availability? X Yes No. If no, please contact the Austin Water Utility at 512-972-0000 to apply for water and/or wastewater tap application, or a service extension request.

Does this site have a septic system? Yes No. If yes, for all sites requiring a septic field you must obtain an approved septic permit prior to a zoning review.

Does this site have a Board of Adjustment ruling? Yes No. If yes, attach the B.O.A. documentation

Will this development require a cut and fill in excess of 4 feet? Yes No

Does this site front a paved street? X Yes No A paved alley? X Yes No

Is this property within the Residential Design and Compatibility Standards Ordinance Boundary Area? X Yes No

VALUATIONS FOR REMODELS ONLY

Building \$46,000
Electrical \$12,500
Mechanical \$12,500
Plumbing \$12,500
Driveway/
Sidewalk \$
TOTAL \$83,500 -
(labor and materials)

VALUATIONS FOR NEW CONSTRUCTION OR ADDITIONS ONLY

Lot Size 7980 sq.ft.
Job Valuation - Principal Building \$30,000
(Labor and materials)
Job Valuation - Other Structure(s) \$
(Labor and materials)TOTAL JOB VALUATION
(sum of remodels and additions)

\$113,500

(Labor and materials)

PERMIT FEES

(For office use only)

NEW/ADDITIONS REMODELS

Building \$ \$
Electrical \$ \$
Mechanical \$ \$
Plumbing \$ \$
Driveway
& Sidewalk \$ \$
TOTAL \$ \$

OWNER / BUILDER INFORMATION

OWNER Name DAVID 1915 LLC

Telephone (h)

(w)

BUILDER Company Name COBALT PARTNER LTD

Telephone 554-8440

Pager

FAX 481-1002

DRIVEWAY/
SIDEWALK

Contact/Applicant's Name MIKE McHANE (MIKE McHANE REAL ESTATE)

Sub Contractor SOLEDAD BUILDERS (MARK MOLAR)

Telephone 848-4788

CERTIFICATE
OF

Name DAVID 1915 LLC

Telephone 476-1976

OCCUPANCY

Address 608 W. 24th Street

City AUSTIN ST TX ZIP 78705

You would like to be notified when your application is approved, please select the method:

X telephone

X e-mail:

You may check the status of this application at www.ci.austin.tx.us/development/pierivr.htm

RESIDENTIAL PERMIT APPLICATION "D"
FLOOR AREA RATIO INFORMATION

2010 002721 RA

Unit A

TO BE COMPLETED FOR ALL PROPERTIES LOCATED WITHIN THE RESIDENTIAL DESIGN AND COMPATIBILITY
STANDARDS ORDINANCE BOUNDARY AREA.Property Address 1915 DAVID UNIT A (FRONT)Applicant's Signature Michael R. [Signature]Date 3/15/10

GROSS FLOOR AREA AND FLOOR AREA RATIO as defined in the Austin Zoning Code.

	UNIT A		UNIT B	
	<u>Existing</u>		<u>New / Addition</u>	
I. 1 st Floor Gross Area	<u>NEW EXIST</u>		<u>EXISTING</u>	
a. 1 st floor area (excluding covered or uncovered finished ground-floor porches)	<u>168</u>	<u>1168</u> sq.ft.	<u>855</u>	sq.ft.
b. 1 st floor area with ceiling height over 15 feet.		sq.ft.		sq.ft.
c. TOTAL (add a and b above)		sq.ft.		sq.ft.
II. 2 nd Floor Gross Area See note ¹ below				
d. 2 nd floor area (including all areas covered by a roof i.e. porches, breezeways, mezzanine or loft)		sq.ft.	<u>855</u>	sq.ft.
e. 2 nd floor area with ceiling height > 15 feet.		sq.ft.		sq.ft.
f. TOTAL (add d and e above)		sq.ft.		sq.ft.
III. 3 rd Floor Gross Area See note ¹ below				
g. 3 rd floor area (including all areas covered by a roof i.e. porches, breezeways, mezzanine or loft).		sq.ft.		sq.ft.
h. 3 rd floor area with ceiling height > 15 feet		sq.ft.		sq.ft.
i. TOTAL (add g and h above)		sq.ft.		sq.ft.
IV. Basement Gross Area				
j. Floor area outside footprint of first floor or greater than 3 feet above grade at the average elevation at the intersections of the minimum front yard setback line and side property lines.		sq.ft.		sq.ft.
V. Garage				
k. attached (subtract 200 square feet if used to meet the minimum parking requirement)		sq.ft.		sq.ft.
l. detached (subtract 450 square feet if more than 10 feet from principal structure)		sq.ft.		sq.ft.
VI. Carport (open on two or more sides without habitable space above it subtract 450 square feet)		sq.ft.		sq.ft.
VII. TOTAL	<u>168</u>	<u>1168</u> sq.ft.	<u>1710</u>	sq.ft.

TOTAL GROSS FLOOR AREA (add existing and new from VII above)

GROSS AREA OF LOT

3046 sq. ft.
7980 sq. ft.

FLOOR AREA RATIO (gross floor area / gross area of lot)

38 %

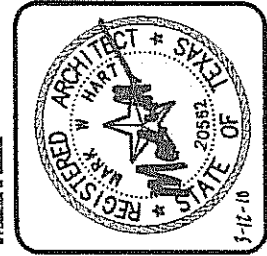
Attic Exemption — 424 sq. ft. (over 100 sq. ft. Total # 8004)

- a second or third floor meets all of the following criteria it is considered to be attic space and is not calculated as part of the overall Gross Floor Area of the structure.
- It is fully contained within the roof structure and the roof has a slope of 3 to 12 or greater
 - It only has one floor within the roof structure
 - It does not extend beyond the foot print of the floors below
 - It is the highest habitable portion of the building; and
 - Fifty percent or more of the area has a ceiling height of seven feet or less

Mark Hart Architecture
 Mark Hart, AIA.
 5801 Mojave Drive Austin Texas 78745

1915 David Street
 House A
 1915 David St. Austin Texas

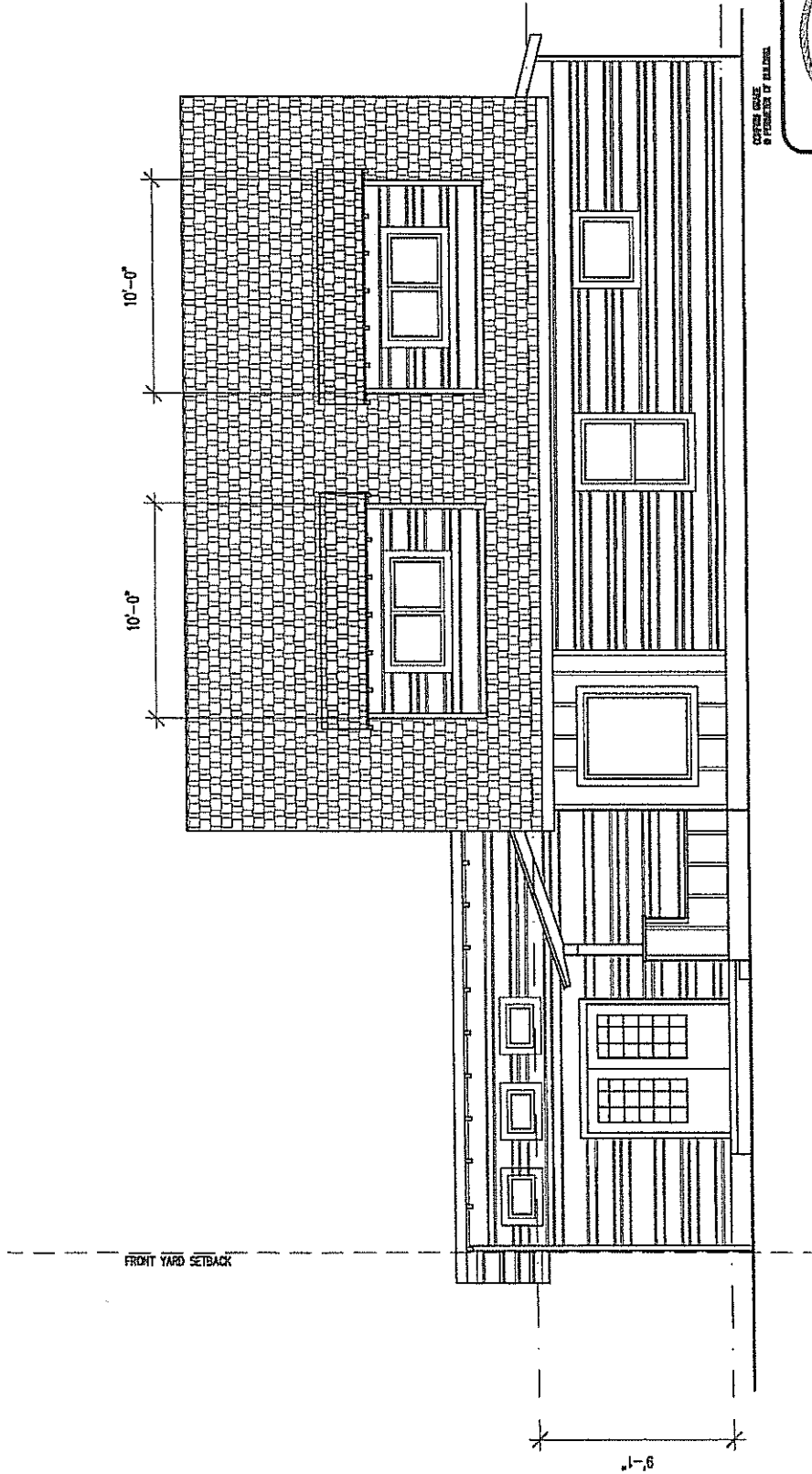
SHEET NUMBER: A3.2	
ELEVATIONS	
PERMIT SET	SCALE: AS NOTED
SET DATE: 03-13-10	



COURTESY OF
 CITY OF AUSTIN

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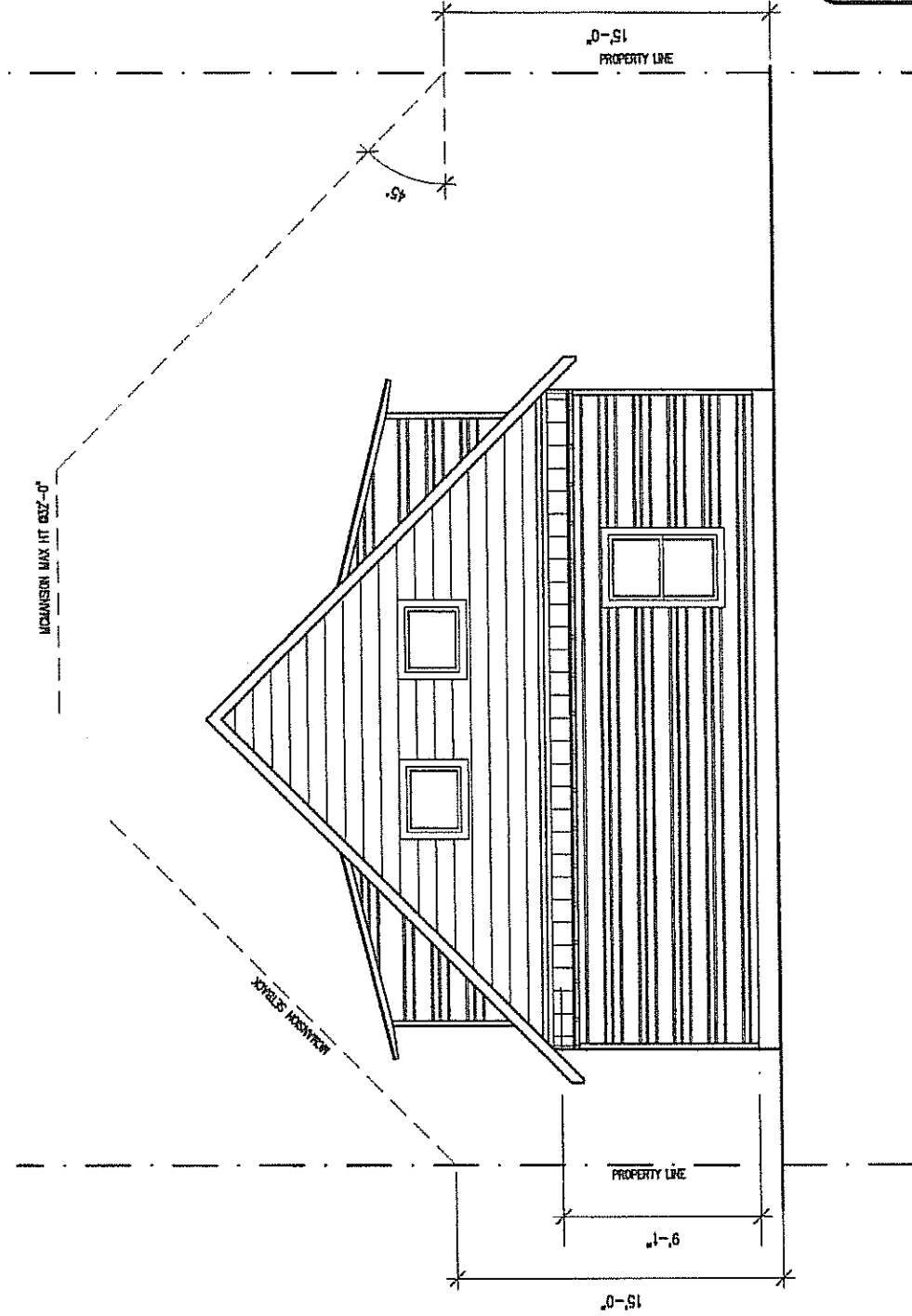
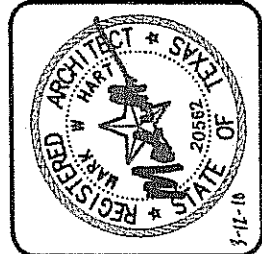
SOUTH ELEVATION SCALE: 3/8" = 1'-0"



Mark Hart Architecture
 Mark Hart, AIA.
 5801 Mojave Drive Austin Texas 78745

1915 David Street
 House A
 1915 David St. Austin Texas

SHEET NUMBER: A3.3	
DATE: 01-13-10	AS NOTED
PERMIT SET	



EAST ELEVATION
 SCALE 3/8"

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1915 B (#7) Submission or Rejected
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CITY OF AUSTIN
APPLICATION TO BOARD OF ADJUSTMENT
INTERPRETATIONS
PART I: APPLICANT'S STATEMENT
(Please type)

MAR 05 2010

CITY OF AUSTIN

STREET ADDRESS: 1915 David Street Austin Texas 78705

Unit 15 RECEIVED

APR 02 2010

LEGAL DESCRIPTION: Subdivision -

CITY OF AUSTIN

Lot (s) 17 Block 2 Outlot 26-28 Division D
Carrington

ZONING DISTRICT: SF-3 NP

I/WE Karrie League on behalf of myself/ourselves as
authorized

Agent for affirm that on 4th

Day of March, 2010, hereby apply for an interpretation hearing before the Board of
Adjustment.

Planning and Development Review Department interpretation is:

As a remodel, the project approved on case # PR-2010-001742, is exempt from
provisions outlined in Subchapter C, of Chapter 25-2 of the Land Development Code.

I feel the correct interpretation is:

As new construction, the project planned for 1915 David must comply with all the
provisions outlined in Subchapter C of Chapter 25-2 of the Land Development Code.

NOTE: The board must determine the existence of, sufficiency of and weight of evidence
supporting the findings described below. Therefore, you must complete each of the applicable
findings statements as part of your application. Failure to do so may result in your application
being rejected as incomplete. Please attach any additional support documents.

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1. There is a reasonable doubt of difference of interpretation as to the specific intent of the regulations or map in that: MAR 05 2010

The term remodel is used throughout subsection C. However, there is currently no definition in the code for the status, as a remodel, that exempts a project from use and development regulations. It is clear though, based on the minimum standards used by the Planning and Development Review Department today (See Remodel Criteria Memorandum), this project does not meet the definition of a remodel and should thus be subject to the regulations outlined in the use and development regulations.

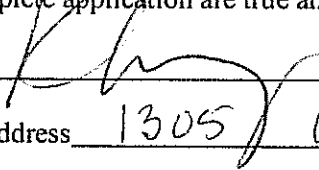
2. An appeal of use provisions could clearly permit a use which is in character with the uses enumerated for the various zones and with the objectives of the zone in question because:

Ensuring that this project adheres to the use and development regulations in the present code will by definition provide for a project that is in line with the zone in question and is in character with the uses enumerated for SF-3. zoning.

3. The interpretation will not grant a special privilege to one property inconsistent with other properties or uses similarly situated in that:

Exempting this project, as a remodel, from regulations in 25-2 Subchapter C is out of line with the standards applied to other applicants. The classification of this project as new construction, needing to comply with the Use and Development Regulations outlined in the Land Development Code, will be consistent with other treatment of other properties. The project does not have "at least one original complete exterior wall" or "the original foundation"(See attached pictures). Only the first story of a two-story exterior wall remains, and only the piers from a pier and beam foundation remain. Exempting this applicant from the provisions of the Land Use and Development Regulations grants this applicant a special privilege.

APPLICANT/AGGRIEVED PARTY CERTIFICATE – I affirm that my statements contained in the complete application are true and correct to the best of my knowledge and belief.

Signed  Printed KARRIE LEAGUE

Mailing Address 1305 W. 22nd St

City, State & Zip AUSTIN TX 78705 Phone 296-6728

OWNER'S CERTIFICATE – I affirm that my statements contained in the complete application are true and correct to the best of my knowledge and belief.

Signed _____ Printed _____

Mailing Address _____

City, State & Zip _____ Phone _____

APR 02 2010

CITY OF AUSTIN



MEMORANDUM

TO: Residential Review Planners, WPDRD
Permit Center Technicians, WPDRD
Residential Inspectors, WPDRD
Code Enforcement, Solid Waste Services

FROM: Jessica Kingpetcharat-Bittner, Planner Principal
WPDRD Residential Review

DATE: June 4, 2008

SUBJECT: Remodel Criteria

Although the Land Development Code does not provide a definition of the term "remodel," the WPDRD staff has applied minimum criteria for at least the last year. To remain under the status of a remodel, a project must maintain:

- At least one original, complete exterior wall, down to studs and framing, AND
- The original foundation

The original foundation and remaining original wall **may not be removed** from their existing location. The framing or foundation may be reinforced, but not removed or replaced.

Non-complying Status

If a non-complying wall is removed, the applicant loses their non-complying status, regardless as to whether or not the structure itself can still be considered a remodel. Only a Board of Adjustment variance will allow the project to continue using a non-complying status.

Non-conforming Status

If a project exceeds what is allowed under the remodel criteria, the project will likely lose its non-conforming status. Only a Board of Adjustment variance will allow the project to continue with the originally planned use.

Demolition Permit Application Required

A demolition permit application must be completed and submitted with a detailed site plan indicating which exterior walls are proposed to be removed. A separate demolition permit will not be issued. Instead, the demo permit will be combined with the permit to construct. The permit to construct will reference the walls being removed as described in the demolition permit application. This will avoid requiring a final inspection of a partial demolition while construction

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continues. The applicant will be charged the same fees for a demolition review and permit fee. Remember, a demolition permit fee must be issued PER structure. For example, if a complete demolition of an accessory structure AND a partial demo of a principal is required, then a one time review fee and 2 separate building permit fees are assessed.

Condition Statement Required

Staff must include the following statement in the conditions section of each REMODEL permit and verbally explain these standards to the applicant:

"The original foundation must remain in tact and the remaining walls may not be removed or separated from the original foundation. The foundation and framing may be reinforced, but not removed or replaced. Removal of a non-complying wall results in the loss of the non-complying status."

Future Code Amendment

Staff expects to codify the term "remodel" based on stakeholder feedback. The criteria for a remodel **will** change. Until a definition is adopted, the Residential Review staff will apply the criteria above to determine if a project can be considered a remodel.

cc: Victoria Li, P.E., Director, WPDRD
Bobby Ray, AICP, Assistant Director, WPDRD
Leon Barba, P.E., Assistant Director, WPDRD
Kathy Haught, Division Manager, WPDRD
Dan McNabb, Division Manager, WPDRD
Keith Leach, Division Manager, Solid Waste Services
Brent Lloyd, Attorney, Law Department

APR 02 2010

may not be used in determining the value of a structure.

(B) A Group "B" nonconforming use must comply with the regulations described in this subsection. CITY OF AUSTIN

(1) A person may continue a nonconforming use and maintain an associated structure, except the person may not:

(a) increase the floor space or site area of a nonresidential use; or

(b) make a change that increases the amount of required off-street parking.

(2) A person may improve, enlarge, or structurally alter a structure if the cost does not exceed 20 percent of the value of the structure before the improvement.

(3) An improvement required by law to meet minimum health and safety requirements, or an improvement to a portion of a structure used solely for a conforming use may not be used in determining valuations under Subsection (B).

(C) A Group "C" nonconforming use must comply with the regulations described in this subsection.

(1) A person may continue a nonconforming use and maintain an associated structure.

(2) A person may expand the portion of a structure or site that is used for a nonconforming use, except:

(a) an expansion of the portion of the site must be on the same lot and may occur only one time; and

(b) an expansion may not increase the required off-street parking to more than 120 percent of that required for the use on the later of March 1, 1984 or the date the use became nonconforming.

(3) If a structure is used for a nonconforming conditional use

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CITY OF AUSTIN



City of Austin

Founded by Congress, Republic of Texas, 1839
Planning and Development Review Department
One Texas Center, 505 Barton Springs Road
P.O. Box 1088, Austin, Texas 78767

March 4, 2010

Ms. Nuria Zaragoza
1908 Cliff Street
Austin, Texas 78705

RE: 1915 David Street

Dear Ms. Zaragoza,

Thank you for letter of February 9th regarding the above referenced property. The property was issued building permits in the 1950s as two separate residential buildings, a residence with attached garage and a remodel of a garage apartment into a one unit residence. Sometime between the issuance of the 1950 building permits and today, the front building was remodeled into a three bedroom residence and the rear was converted into four efficiency apartments. My Department does not recognize the illegal use conversion of these buildings; however, we would recognize the previously permitted uses.

Currently, the property is zoned Family Residence (SF-3) district and zoning today permits a two-family residential use as a permitted use. The size of the rear building exceeds the current two family residential use size limitation of 850 square feet, the impervious cover exceeds the SF-3 maximum of 45% and the front building side yard setback (north side) is less than 5 feet, so the buildings are both non-complying.

Last year Mr. Mike McHone, on behalf of the property owner pulled a building permit to remodel both buildings. However, my Staff processed the application in error by reviewing it as a commercial permit when the use was actually residential, by requiring only one permit for two separate residential structures, and by accepting the application as a remodel with an addition, instead of just a building remodel. For these reasons, my office issued a stop work order that resulted in an appeal by the property owner to the Building and Fire Code Board of Appeals. This appeal was eventually withdrawn by the owner's representative.

It was explained at the Building and Fire Code Board of Appeals meeting that the owner proceeded with the partial demolition of the buildings on information obtained from my inspection Staff regarding the amount demolition that could occur with out jeopardizing the remodel status. Although the amount of partial demolition was severe, in particular to the rear building (Unit "B") building, I said at the Building and Fire Code Board of Appeals meeting that we would honor the work as a remodel and allow construction to proceed under the previous permit, once revised plans were submitted for review and approval. This is consistent with City Code Section 25-11-66 (*Errors in Permit Support Documents*) and with the International Residential Code and International Building Code, all of which authorize requiring an applicant to correct errors in plan review following permit approval.

APR 02 2010

CITY OF AUSTIN

I also said at the meeting that since another permit is required for the other residential building, the second permit (a new building permit) could be appealed to Building and Fire Code Board of Appeals. This information was reiterated at our meeting last December.

Currently, neither the City Code nor a posted City rule clearly defines what constitutes a remodel of a residential or commercial building. With the creation of the new Planning and Development Reviewed Department late last summer, one of the carry over tasks from the previous Department was to finish a remodeling code amendment. The amendment would help clarify what is a remodel under the City Code. It is anticipated this amendment may be reviewed by the Planning Commission in late April or early May, and go to Council for in June.

I agree that a group residential use is prohibited in a SF-3 zoning district. However, I disagree that 1915 David Street is developed with a group residential use. The property is developed with a two family residential use. A two family residential use is the use of a lot for two dwelling units, each in a separate building, other than a mobile home. Prior to November 18, 2004 each dwelling unit within a two family residential use was allowed up to six unrelated persons per dwelling unit. The City Code was amended on November 18, 2004 to state that a two family residential use is limited to four unrelated persons 18 years of age or older may reside in the principal structure and not more than two unrelated persons 18 years of age or older may reside in the accessory structure, unless the use was established prior to the effective date of the ordinance or after November 18, 2004 the gross floor area and the number of bedrooms on the site did not increase. Since this use was established prior to the November date and the current plans have not indicated an increase in gross floor area and the number of bedrooms on the site, then each dwelling unit is allowed up to six unrelated persons.

If you have further questions or concerns please contact me at (512) 974-2387.

Sincerely,

A handwritten signature in dark ink, appearing to read "Greg I. Guernsey". To the left of the signature, the letters "IN" and "td" are printed vertically.

Greg I. Guernsey, A.I.C.P., Director
Planning and Development Review Department

xc. Sue Edwards, Assistant City Manager
Leon Barba, Building Official, PDRD
Carol Gibbs, Neighborhood Advisor, PDRD

TaxNetUSA: Travis County Property Information

Property ID Number: 112510 RefID2 Number: 01130012190000

Owner's Name **DAVID 1915 LLC**Mailing Address 608 W 24TH ST
AUSTIN, TX 78705-5118

Location 1915 DAVID ST 78705

Legal LOT 17 BLK 2 OLT 26-28 DIV D CARRINGTON SUBD

Property Details

Deed Date 10102008

Deed Volume

Deed Page

Exemptions

Freeze Exempt

F

ARB Protest

F

Agent Code

1441117

Land Acres

0.1821

Block

2

Tract or Lot

17

Docket No.

Abstract Code

S02442

Neighborhood Code

Z7106

Value Information

	2009 Certified
Land Value	250,000.00
Improvement Value	33,091.00
AG Value	0.00
AG Productivity Value	0.00
Timber Value	0.00
Timber Productivity Value	0.00
Assessed Value	283,091.00
10% Cap Value	0.00
Total Value	283,091.00

Data up to date as of 2010-04-01

☐ AGRICULTURAL (1-D-1)
 ☐ APPOINTMENT OF AGENT FORM
 ☐ FREEPORT EXEMPTION
 ☐ HOMESTEAD EXEMPTION FORM
☐ PRINTER FRIENDLY REPORT
 ☐ PROTEST FORM
 ☐ RELIGIOUS EXEMPTION FORM
 (TIFF)
 (PDF)
☐ FLAT MAP
 ☐ FLAT MAP

Value By Jurisdiction

Entity Code	Entity Name	2008 Tax Rate	Assessed Value	Taxable Value	Market Value	Appraised Value
0A	TRAVIS CENTRAL APP DIST	0.000000	283,091.00	283,091.00	283,091.00	283,091.00
01	AUSTIN ISD	1.202000	283,091.00	283,091.00	283,091.00	283,091.00
02	CITY OF AUSTIN	0.420900	283,091.00	283,091.00	283,091.00	283,091.00
03	TRAVIS COUNTY	0.421500	283,091.00	283,091.00	283,091.00	283,091.00
2J	TRAVIS CO HEALTHCARE DIST	0.067400	283,091.00	283,091.00	283,091.00	283,091.00
6B	AUSTIN COMM COLL DIST	0.094600	283,091.00	283,091.00	283,091.00	283,091.00

Improvement Information

Improvement ID	State Category	Description
110406	B4	FOURPLEX
110407	B2	2 FAM DWELLING

Segment Information

Imp ID	Seg ID	Type Code	Description	Class	Effective Year Built	Area
110406	114846	1ST	1st Floor	WW4-	1936	875
110406	114847	2ND	2nd Floor	WW4-	1936	875
110406	418261	011	PORCH OPEN 1ST F	*4-	1936	210
110406	418262	011	PORCH OPEN 1ST F	*4-	1936	105
110406	418263	012	PORCH OPEN 2ND F	*4-	1936	210
110406	418264	251	BATHROOM	**	1936	2
110406	418265	303	STAIRWAYS FV	F-V*	1936	1
110406	418266	612	TERRACE UNCOVERD	*4-	1936	143
110407	114848	1ST	1st Floor	WA4-	1946	1,135
110407	418267	011	PORCH OPEN 1ST F	*4-	1946	64
110407	418268	251	BATHROOM	**	1946	1
Total Living Area						2,886

Land Information

Land ID	Type Code	SPTB Code	Homesite	Size-Acres	Front	Depth	Size-Sqft
112257	LAND	B4	F	0.182	0	0	7,934

[show history](#)

