

CITY OF AUSTIN
Board of Adjustment/Sign Review Board
Decision Sheet

DATE: Monday, June 13, 2011

CASE NUMBER: C15-2011-0026

____ Jeff Jack
____ Michael Von Ohlen
____ Nora Salinas
____ Bryan King
____ Leane Heldenfels, Chairman
____ Clarke Hammond, Vice Chairman
____ Heidi Goebel
____ Melissa Hawthorne

APPLICANT: Jim Bennett

OWNER: Ricardo Robles

ADDRESS: 400 33RD ST

VARIANCE REQUESTED: The applicant has requested a variance from Ordinance #040826-58; Part 6 (7) (a) & (b) in order to allow 3 parking spaces to be located in the street side yard setback in order to maintain a two-story duplex residential use in an "SF-3-NCCD-NP", Family Residence – Neighborhood Conservation Combining District – Neighborhood Plan zoning district.

The applicant has requested a variance from Section 25-6 Appendix A to decrease the minimum off-street parking space requirement from 3 off-street parking spaces to 2 off-street parking spaces in order to maintain a two-story duplex residential use in an "SF-3-NCCD-NP", Family Residence – Neighborhood Conservation Combining District – Neighborhood Plan zoning district.

The applicant has requested a variance from Ordinance #040826-58; Part 6 (7) (f) which states that a person may not reduce existing parking spaces to a number less than the number of spaces prescribed in the City Code for the present use nor may a person reallocate existing parking spaces to a new use unless the prior use is terminated or reduced in size.

The applicant has requested a variance from Ordinance #040826-58; Part 6 (3) (b) to decrease the minimum side street setback requirement (along East 33rd Street) from 25 feet to 15.4 in order to maintain a two-story duplex residential use in an "SF-3-NCCD-NP", Family Residence – Neighborhood Conservation Combining District – Neighborhood Plan zoning district.

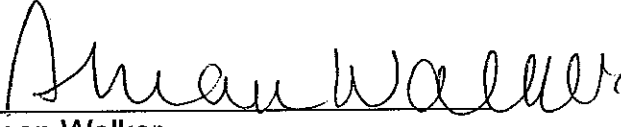
BOARD'S DECISION: POSTPONED TO MAY 9, 2011; May 9, 2011 - Postponed to June 13, 2011;


BOARD'S DECISION: June 13, 2011 - POSTPONED TO AUGUST 8, 2011

FINDING:

1. The Zoning regulations applicable to the property do not allow for a reasonable use because:
2. (a) The hardship for which the variance is requested is unique to the property in that:

(b) The hardship is not general to the area in which the property is located because:
3. The variance will not alter the character of the area adjacent to the property, will not impair the use of adjacent conforming property, and will not impair the purpose of the regulations of the zoning district in which the property is located because:


Susan Walker
Executive Liaison


Leane Heldenfels
Chairman

NORTH UNIVERSITY NEIGHBORHOOD ASSOCIATION

www.nuna-austin.org



PROPOSAL FOR 400 EAST 33RD STREET

From: NUNA Development Review Committee

To: Roberto Robles via Jim Bennett; Greg Guernsey

Subject: Resolution of Compliance Issues at 400 East 33rd Street

Date: July 9, 2011

At its regular meeting on July 6, 2011, the Development Review Committee of the North University Neighborhood Association considered the ideas discussed at the preliminary meeting between neighborhood representatives and Mr. Bennett and Mr. Robles conducted by Greg Guernsey on June 24, 2011. We appreciate the spirit of cooperation and compromise that prevailed at that meeting.

For any compromise to be approved by NUNA, it will need to be approved by the development review committee and executive committee and ratified by the general membership. The committees can act by e-mail vote as soon as an acceptable agreement can be reached, but the next meeting of the general membership is on August 9, which is one day after the next Board of Adjustment meeting on August 8. We trust that a solution can be found to that scheduling problem.

In order to resolve the parking and setback violations in this case, we propose that the owner, Mr. Robles, and the City of Austin jointly agree to the following measures:

1. Remove center front bedroom and install carport and driveway per plan offered by Robert Kaler.
2. Remove and rebuild south face of the two-story addition to Unit B back to the line of the original structure and close off all windows on the east side of that addition.
3. Move the address of the entire property to the west side on Tom Green and relocate mailboxes, recycling, and trash accordingly; install off street, screened areas for recycling and trash receptacles on Tom Green side.

4. Agree to residential parking permits on both the 33rd Street and Tom Green sides of the property.
5. Remove the deck from the south side of Unit A back to the line of the original structure.
6. Enter into a restrictive covenant requiring the City to enforce measures 1 through 5 above and the occupancy limit of no more than six unrelated adults for the entire site, that is, Units A and B combined.

In exchange for those seven measures, NUNA would consent to such variances as might be necessary to implement them.

We are prepared to recommend this proposal to the executive committee and to the general membership, and we are reasonably confident that it would be approved by those bodies. Thank you again for the spirit of cooperation you have brought to our negotiations, and please respond to me at your earliest opportunity.

Respectfully submitted,

Laurence Miller
President, NUNA

Cc:

William Bednar
Mary Ingle
Rick Iverson
Robert Kaler
Kimberly Renner
Steven Tomlinson

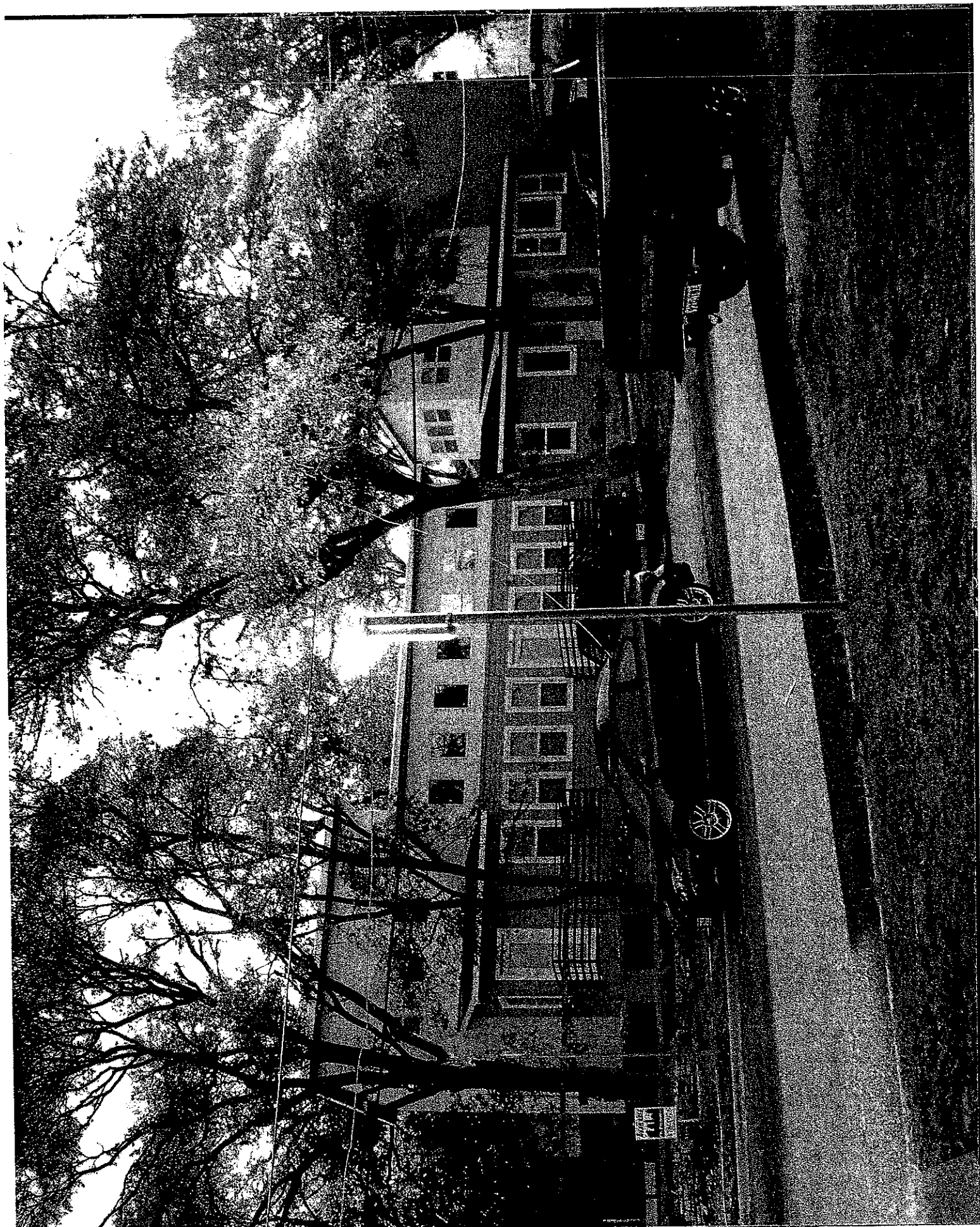


BY REVERBY HYDE

EASY AS PIE?
HARDLY!

*Mary
Engle*

CIS 2011-0026



Back
6000



Case Number: C15-20011-0026

Address: 400 E 33rd ST

North University Neighborhood (NUNA)

Neighborhood Conservation Combining District (NCCD)

PARKING REGULATIONS, NUNA NCCD ORDINANCE 2004, (pp. 21, 22).

Part 6. General Provisions.

7. Parking.

a. Except as otherwise provided in this section, a parking space for a residential use may not be located in a street yard.

b. The maximum number of parking spaces in all street yards on a site is two.

c. Pavement for a parking space in a front yard may not be located in front of a principal structure. (p. 21)

d. Except for a single-family or two-family residential use, excess parking is prohibited.

e. This subsection applies to an existing single-family, **duplex**, or two-family residential. **If 400 feet or more** are added to the conditioned gross building floor area, **the use must comply with current parking regulations.** This includes conversion of accessory space to habitable space. (p 22)

TIME LINE OF EVENTS – 400 E 33RD ST

3/19/08 Permit issued for remodel/addition

Previously a small duplex (one/one) now permitted as a three bedroom, 3.5 baths+ study per side. The small duplex will **more than double in size** from 1344 sq. ft. to 3118 sq ft.

4/17/08 Communication starts between North University residents, by email and phone, to the City's Permitting Department and Code Enforcement because of erroneous language in permit and other infractions.

8/30/08 Staff issues Temporary CO for both units of the duplex because *"there were students waiting to move in... The builder/property owner will have 30 days to remove the driveway and vegetate the area the driveway currently occupies..."*

10/3/08 Mr. Robles was advised to remove the second driveway by staff. From an email, *"Mr. Robles was advised by staff, Dan McNabb and John McDonald, to remove the violation of the new construction driveway and parking area from the street yard. The removal of the driveway-parking area was completed on September 3, 2008."*

10/3/08 In an email from Bobby Ray stated that Legal Dept *"opined that NCCDs are subject to the Board of Adjustment variances which is inconsistent with conventional wisdom applied to this point."*

10/20/08 Letter from Victoria Li, Director of Watershed Protection and Development Review Department to Neighborhood President, Bill Bednar, in response to his letter 10/2/08. Letter acknowledges parking error.

10/31/08 Email from staff about sharing the corrected permit with (Armbrust and Brown) Amanda Morrow-*"let her confirm what has been built. Let John (McDonald) know what she says- and let him approve anything that she wants changed"...*

10/17/08 Inquiry to neighborhood from Armbrust & Brown (Richard Suttle) about Mr. Robles and his duplex at 400 E 33rd ST.

11/3/08 Mr. Robles hires Terry Irion- the second lawyer.

11/24/08 In an email from Terry Irion to staff (John McDonald), Irion inquires about the driveway issue- *"I need to know if you want the driveway replaced with gravel, just the way it has been since 1973 or if you want it poured in concrete. If I do not get a definitive answer from you it will be restored as gravel."*

11/24/08 Staff waiting to hear from Legal Dept. about what to do. They will not issue a CO until the Legal Dept. weighs in. *"Currently, the final inspection is being held up until approval (if granted) from the BOA is obtained."*

12/16/08 Mr. Robles gets the TCO extended until January. He restored the driveway with gravel and called for a final CO, but was unable to schedule a final inspection.

12/22/08 Final inspection fails due to no concrete poured in the driveway. (Curb cut is missing.)

12/22/08 Terry Irion writes a blistering letter at 12:31 PM to the City stating that **"the City staff have made numerous mistakes and have given Mr Robles conflicting information on the requirements for securing a CO on multiple occasions. At one point Mr Robles was instructed to pour a concrete driveway which he did. Then he was told to jack hammer it out, which he did. Then he was told to apply for a driveway permit on the side street which he did. Then he was told he could not pour the driveway, so he didn't. In another email on 12/22 (4:11 PM) Mr Irion states, "I await final, definitive confirmation on the commitment to do a final inspection."**

12/23/08 Construction Inspector Supervisor (Michael Jones) writes staff about the confusion that involved the **lack of a driveway permit** at this address (400 E 33rd ST) and **sidewalks** (10:32 AM).

By 12:59 PM, the City staff **advised the inspector to put a hold** on this until after the Christmas Holidays so that a discussion with building inspections could take place.

1/26/09 Staff concludes in an email to Code Enforcement that 400 E 33rd **"cannot have a final inspection until they have provided adequate parking. The applicant was given the option to go to the BOA to have the parking reduced. The applicant went to the BOA and postponed the case indefinitely."**

3/10/09 Public Information Request from the City (re: 400 E 33rd ST) by North University Neighborhood Association to find out what was happened with this case. Emails reveal process between owner and staff, and staff and hired lawyers.

2009-2011 Numerous inquiries made by the North University Neighborhood to City Council aides and City Staff about the property and its proper resolution.

3/31/11 Case (400 E 33rd ST) now finally on the BOA agenda. Postponed twice before 6/13/11 BOA hearing.

This rhetorical timeline points to a grand mess, a flawed process, and a lack of explanation of the NCCD regulations between the owner and the City about the parking requirements and mandatory compliance of parking regulations, if more than 400 sq. ft is added to a structure.

- parking
a permit for
parking needed

SITE SUMMARY	
ZONING:	SF-3, NCRA
SITE AREA:	8,037 sq. ft.
MAX. BLDG. COVER ALLOWED:	3,215 sq. ft. (40%)
MAX. IMP. COVER ALLOWED:	3,617 sq. ft. (45%)
MAX. FAR ALLOWED:	3.215 sq. ft. (40%)
EXISTING HOUSE AREA:	1,342 sq. ft.
FIRST FLOOR ADDITION AREA:	1,024 sq. ft.
SECOND FLOOR ADDITION AREA:	810 sq. ft.
TOTAL AREA:	3,176 sq. ft. (40%)
BUILDING COVER:	2,452 sq. ft. (31%)
IMPERVIOUS COVER:	3,440 sq. ft. (43%)

SITE SUMMARY

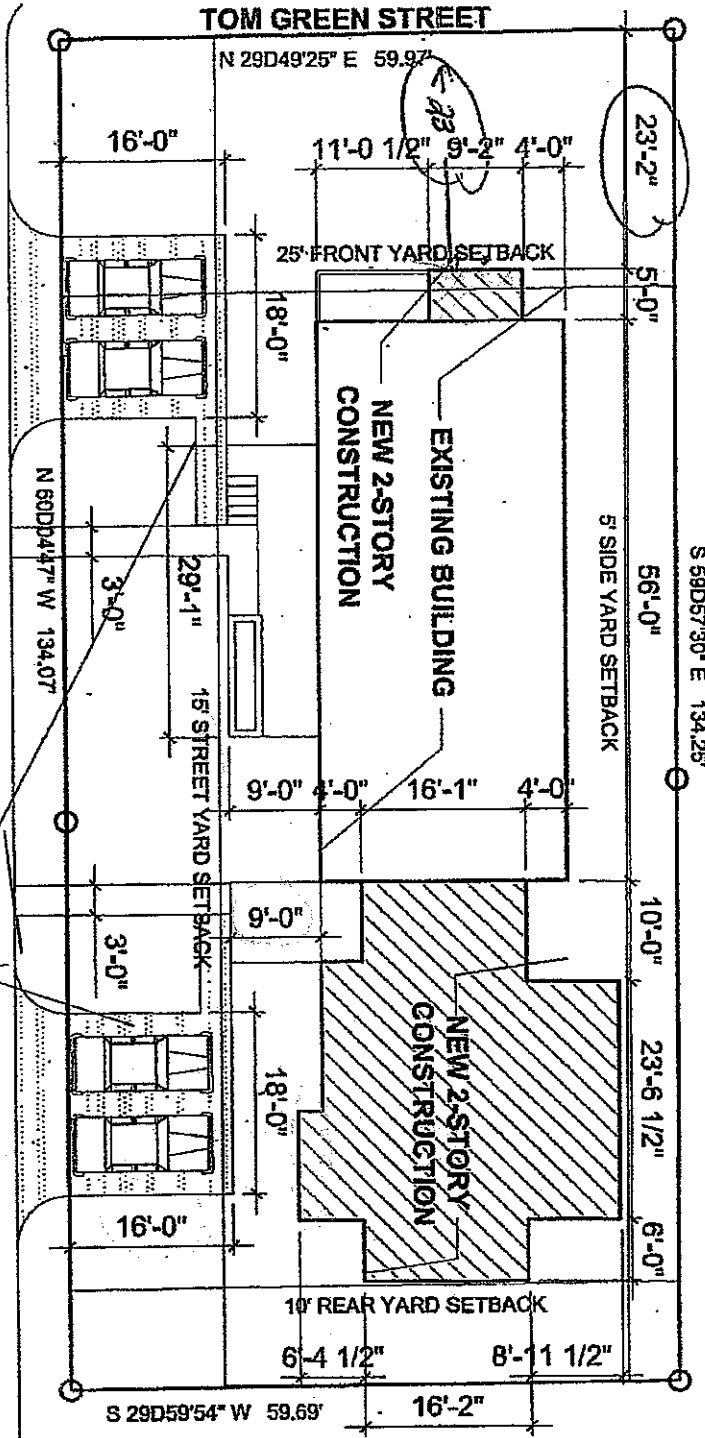
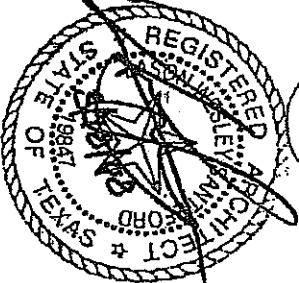
CITY OF AUSTIN
APPROVED FOR PERMIT
Victoria Hsu, P.E.

PERVIOUS PAVING SURFACE

By: *[Signature]* Date: *3/11/09*
Scale: 1/16" = 1'-0"

PLAN

REVIEWED FOR ZONING ONLY



A NEW DEVELOPMENT FOR

RICARDO ROBLES

400 E. 33rd STREET
AUSTIN, TX

exo- design
architecture & development

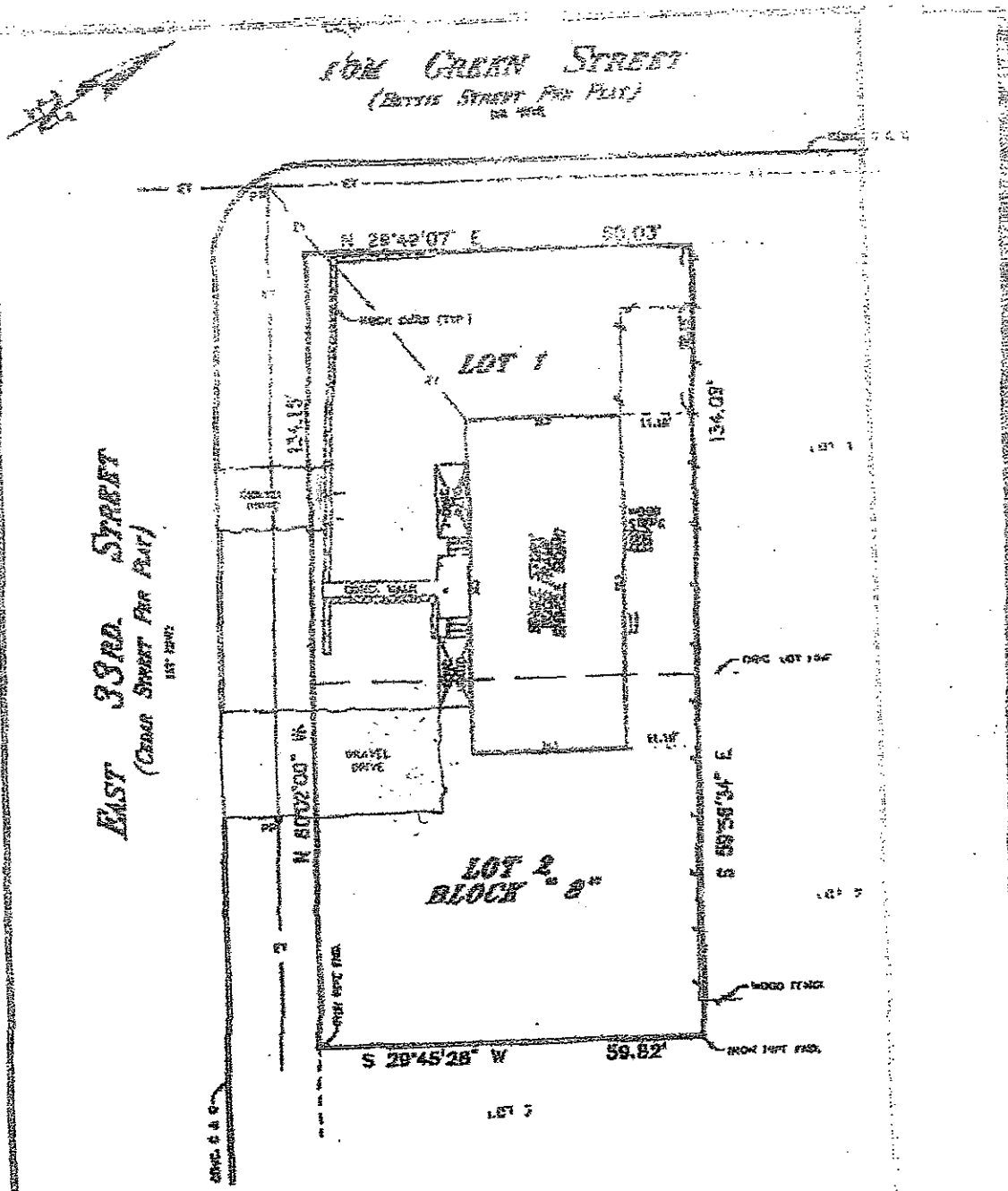
512.217.2544

exo@exo.com

SP1
SITE PLAN

MARCH 18, 2009

C15-200-0026



* A PART OF LOTS 1 & 2 (FIELD NOTES ATTACHED)

PLAT OF SURVEY

Survey No. 87207 SCALE: 1" = 20' OR 07010121

Field not to be used in a special case unless noted as identified by the Federal Emergency Management Agency on Community Panel No. 004837 DISSE (ZONE 2)
 Date: APR 12, 1993

LOT NO. 2 BLOCK NO. 2

ADDITION ON SUBDIVISION GRADIS ADDITION, BOOK 1, PAGE 59

STREET ADDRESS 400 EAST 33rd STREET CITY AUSTIN COUNTY DAVIS

SURVEY FOR TEMPLE-BRAND MORTGAGE CORP. REPRESENTED BY LINDA BRADSHAW

BY CRAGG TILE COMPANY

STATE OF TEXAS, COUNTY OF DAVIS

I, LESLIE VASTER, Surveyor, do hereby certify that this plat was made and that the same is in accordance with the laws of this State and that the same is a true and correct copy of the original as shown to me by the owner of the same and that the same is a true and correct copy of the original as shown to me by the owner of the same.

SNS ENGINEERING, INC.
 12406 Lee Indian Trail, Suite 101
 Austin, Texas 78728
 (512) 335-3944 • (512) 250-8855 (Fax) DATE: 12/03

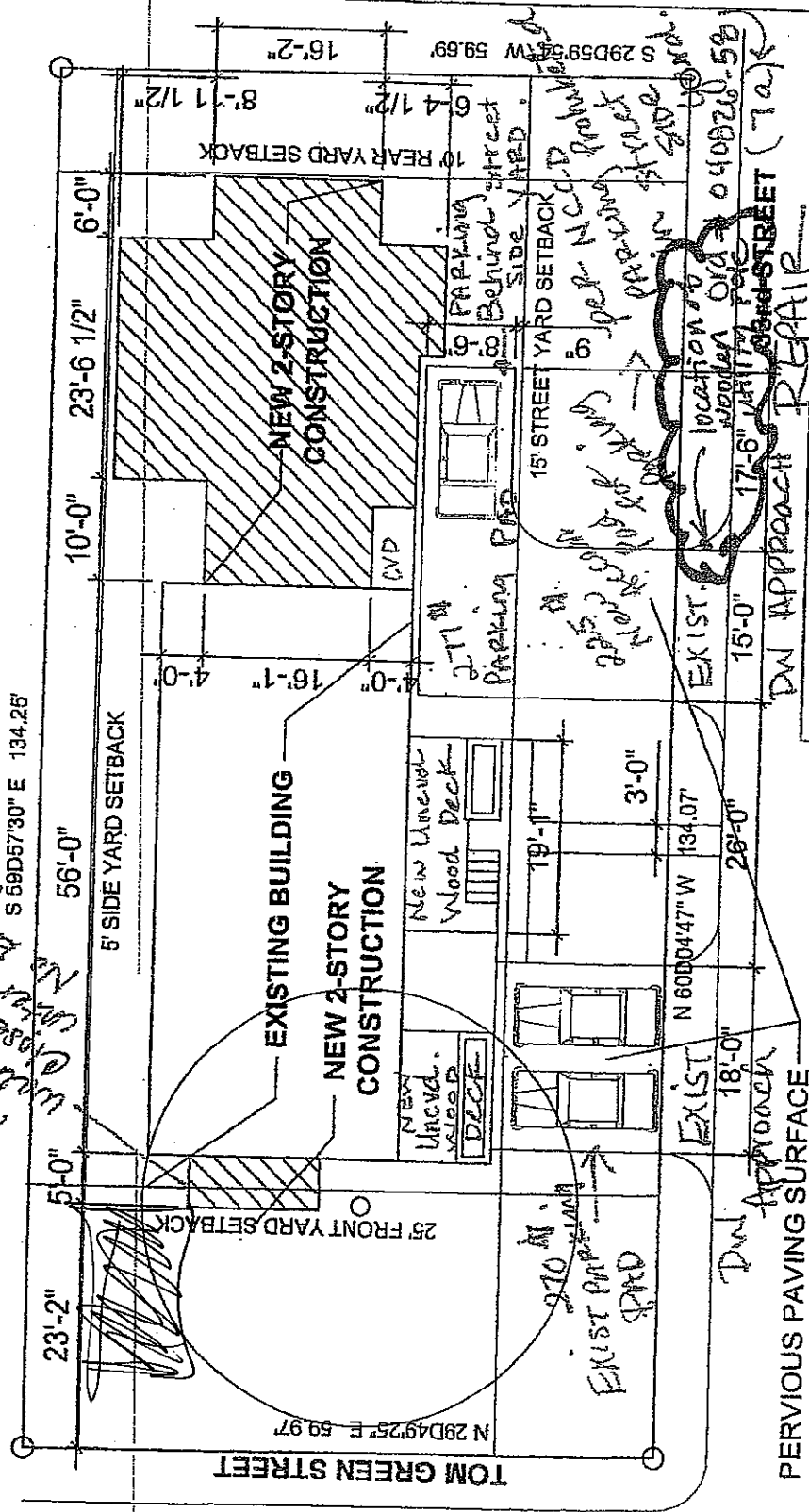
Leslie Vaster
 Date: 02-27-97

exo-design
architectural & development
512.217.2944

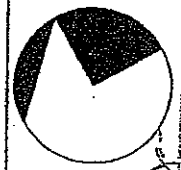
A NEW DEVELOPMENT FOR
RICARDO ROBLES
400 E. 33rd STREET
AUSTIN, TX

SEPTEMBER 22, 2008

SP1
SITE PLAN



SITE SUMMARY	
ZONING:	SP-3, NCCD, NP
SITE AREA:	8,987 sq. ft. 8027
MAX. BLDG. COVER ALLOWED:	3,216 sq. ft. (40%) 3210.8
MAX. IMP. COVER ALLOWED:	3,617 sq. ft. (45%) 3612.15
MAX. FAR ALLOWED:	3,245 sq. ft. (4:1) 3210.8
EXISTING HOUSE AREA:	1,342 sq. ft.
FIRST FLOOR ADDITION AREA:	1,024 sq. ft.
SECOND FLOOR ADDITION AREA:	810 sq. ft.
TOTAL AREA:	3,176 sq. ft. (4:1)
BUILDING COVER:	2,452 sq. ft. (31%) 2391
IMPERVIOUS COVER:	3,609 sq. ft. (45%) 3579



1 SITE PLAN
SCALE: 1/16" = 1'-0"

CITY OF AUSTIN
APPROVED FOR PERMIT
Victoria Hsu, P.E.
Date: 10-2-08
Submitted by: Ricardo Robles Development Review Department

Uncond. wp Decking counts @ 50%

25' →

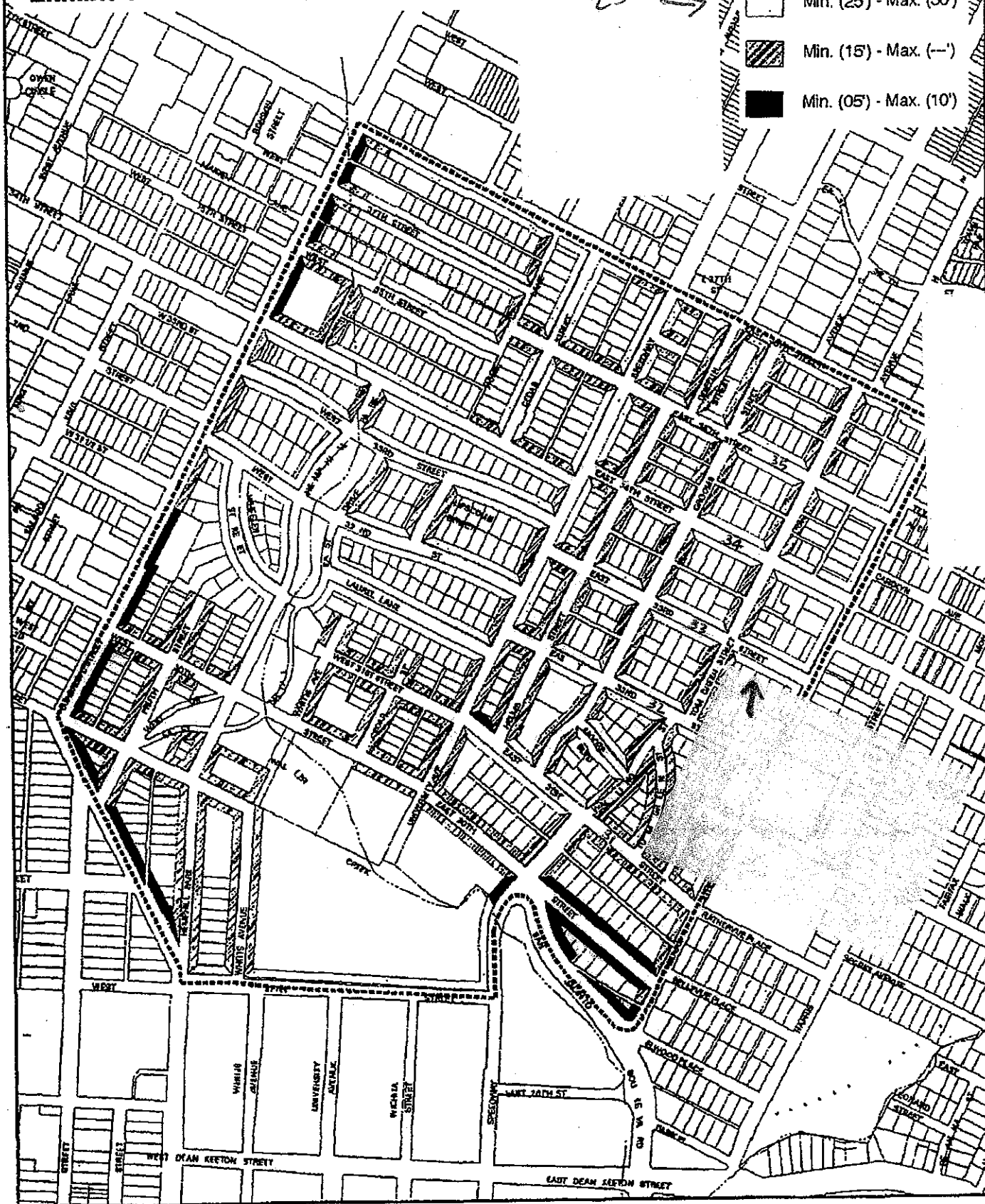


EXHIBIT "E"

CITY OF AUSTIN
Board of Adjustment/Sign Review Board
Decision Sheet

DATE: Monday, May 9, 2011

CASE NUMBER: C15-2011-0026

____ Jeff Jack
____ Michael Von Ohlen
____ Nora Salinas
____ Bryan King
____ Leane Heldenfels, Chairman
____ Clarke Hammond, Vice Chairman
____ Heidi Goebel
____ Melissa Hawthorne

APPLICANT: Jim Bennett

OWNER: Ricardo Robles

ADDRESS: 400 33RD ST

VARIANCE REQUESTED: The applicant has requested a variance from Ordinance #040826-58; Part 6 (7) (a) & (b) in order to allow 3 parking spaces to be located in the street side yard setback in order to maintain a two-story duplex residential use in an "SF-3-NCCD-NP", Family Residence – Neighborhood Conservation Combining District – Neighborhood Plan zoning district.

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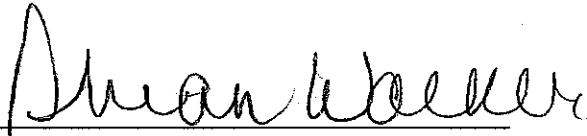
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BOARD'S DECISION: POSTPONED TO MAY 9, 2011
May 9, 2011 - Postponed to June 13, 2011


FINDING:

1. The Zoning regulations applicable to the property do not allow for a reasonable use because:
2. (a) The hardship for which the variance is requested is unique to the property in that:

(b) The hardship is not general to the area in which the property is located because:
3. The variance will not alter the character of the area adjacent to the property, will not impair the use of adjacent conforming property, and will not impair the purpose of the regulations of the zoning district in which the property is located because:



Susan Walker
Executive Liaison



Leane Heldenfels
Chairman

CITY OF AUSTIN
Board of Adjustment/Sign Review Board
Decision Sheet

DATE: Monday, April 11, 2011

CASE NUMBER: C15-2011-0026

____ Jeff Jack
____ Michael Von Ohlen
____ Nora Salinas
____ Bryan King
____ Leane Heldenfels, Chairman
____ Clarke Hammond, Vice Chairman
____ Heidi Goebel

APPLICANT: Jim Bennett

OWNER: Ricardo Robles

ADDRESS: 400 33RD ST

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Susan Walker
Executive Liaison

Leane Heldenfels
Chairman

CASE # C15-2011-0026

ROW- 10562049

TP- 0217060601

CITY OF AUSTIN
APPLICATION TO BOARD OF ADJUSTMENT
GENERAL VARIANCE/PARKING VARIANCE

WARNING: Filing of this appeal stops all affected construction activity.

PLEASE: APPLICATION MUST BE TYPED WITH ALL REQUESTED INFORMATION COMPLETED.

STREET ADDRESS: 400 East 33rd Street

LEGAL DESCRIPTION: Subdivision – Grooms Addition

Lot(s) S. 60'x134' of Lots 1&2 Block 8 Outlot Division

I Jim Bennett on behalf of myself/ourselves as authorized agent for

Ricardo Robles affirm that on 3/17/2011, hereby apply for a hearing before

the Board of Adjustment for consideration to:

ERECT – ATTACH – COMPLETE – REMODEL – MAINTAIN

A two story duplex providing a front street setback of 15⁴ feet, and providing for two driveways, and providing for two of the parking spaces not to be located behind the 25 ft. setback line, and request a variance to provide two parking spaces instead of the required three spaces.

in a SF-3-NCCD-NP district.
(zoning district)

NUNA

The Austin Electric Utility Department (Austin Energy) enforces electric easements and the setback requirements set forth in the Austin Utility Code, Electric Criteria Manual and National Electric Safety Code. The Board of Adjustment considers variance to the Land Development Code, and a variance granted by the Board of Adjustment does not waive the requirements enforced by Austin Energy. Please contact Christine Esparza with Austin Energy at 322-6112 before filing your application with the Board of Adjustment if your request is for a reduction in setbacks or height limits.

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.

VARIANCE FINDINGS: I contend that my entitlement to the requested variance is based on the following findings (see page 5 of application for explanation of findings):

REASONABLE USE:

1. The zoning regulations applicable to the property do not allow for a reasonable use because:

The applicant was issued a permit for the proposed construction and a C/O was issued. This permit was originally issued three years ago (3/19/08), and it is now time to resolve the issues.

HARDSHIP:

2. (a) The hardship for which the variance is requested is unique to the property in that:

A permit was issued for the proposed construction on March 19, 2008, and at that time two driveways were existing and the City required that one of the driveways be closed. This closure resulted in a deficiency in the total three space requirement. The owner attempted to vacate three different portions of R.O.W. along E. 33rd St. to satisfy the setback issue, but this attempt was rejected by several neighbors. It appears that from all the correspondence and plan revisions that have been required by the City that the owner has done everything that a reasonable and prudent person would do in order to comply with the City's wishes.

The hardship is not general to the area in which the property is located because:

The three year process that is applicable to this site is hopefully not general to the area.

AREA CHARACTER:

3. The variance will not alter the character of the area adjacent to the property, will not impair the use of adjacent conforming property, and will not impair the purpose of the regulations of the zoning district in which the property is located because:

The property was developed with a duplex use and the use will remain.

PARKING: (Additional criteria for parking variances only.)

Request for a parking variance requires the Board to make additional findings. The Board may grant a variance to a regulation prescribed Section 479 of Chapter 25-6 with respect to the number of off-street parking spaces or loading facilities required if it makes findings of fact that the following additional circumstances also apply:

1. Neither present nor anticipated future traffic volumes generated by the use of the site or the uses of sites in the vicinity reasonable require strict or literal interpretation and enforcement of the specific regulation because:

Two driveways were existing with the 1946 duplex permit.

2. The granting of this variance will not result in the parking or loading of vehicles on public streets in such a manner as to interfere with the free flow of traffic of the streets because:

3. The granting of this variance will not create a safety hazard or any other condition inconsistent with the objectives of this Ordinance because:

4. The variance will run with the use or uses to which it pertains and shall not run with the site because:

NOTE: The Board cannot grant a variance that would provide the applicant with a special privilege not enjoyed by others similarly situated or potentially similarly situated.

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

Signed _____ Mail Address _____

City, State & Zip _____

Printed _____ Phone _____ Date _____

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

Signed _____ Mail Address _____

City, State & Zip _____

Printed _____ Phone _____ Date _____

GENERAL INFORMATION FOR SUBMITTAL OF A VARIANCE REQUEST TO THE BOARD OF ADJUSTMENT

(The following is intended to provide assistance in explaining the variance process. These suggestions are not intended to be a complete or exhaustive guide in assisting you through this process.)

2. The granting of this variance will not result in the parking or loading of vehicles on public streets in such a manner as to interfere with the free flow of traffic of the streets because:

3. The granting of this variance will not create a safety hazard or any other condition inconsistent with the objectives of this Ordinance because:

4. The variance will run with the use or uses to which it pertains and shall not run with the site because:

NOTE: The Board cannot grant a variance that would provide the applicant with a special privilege not enjoyed by others similarly situated or potentially similarly situated.

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

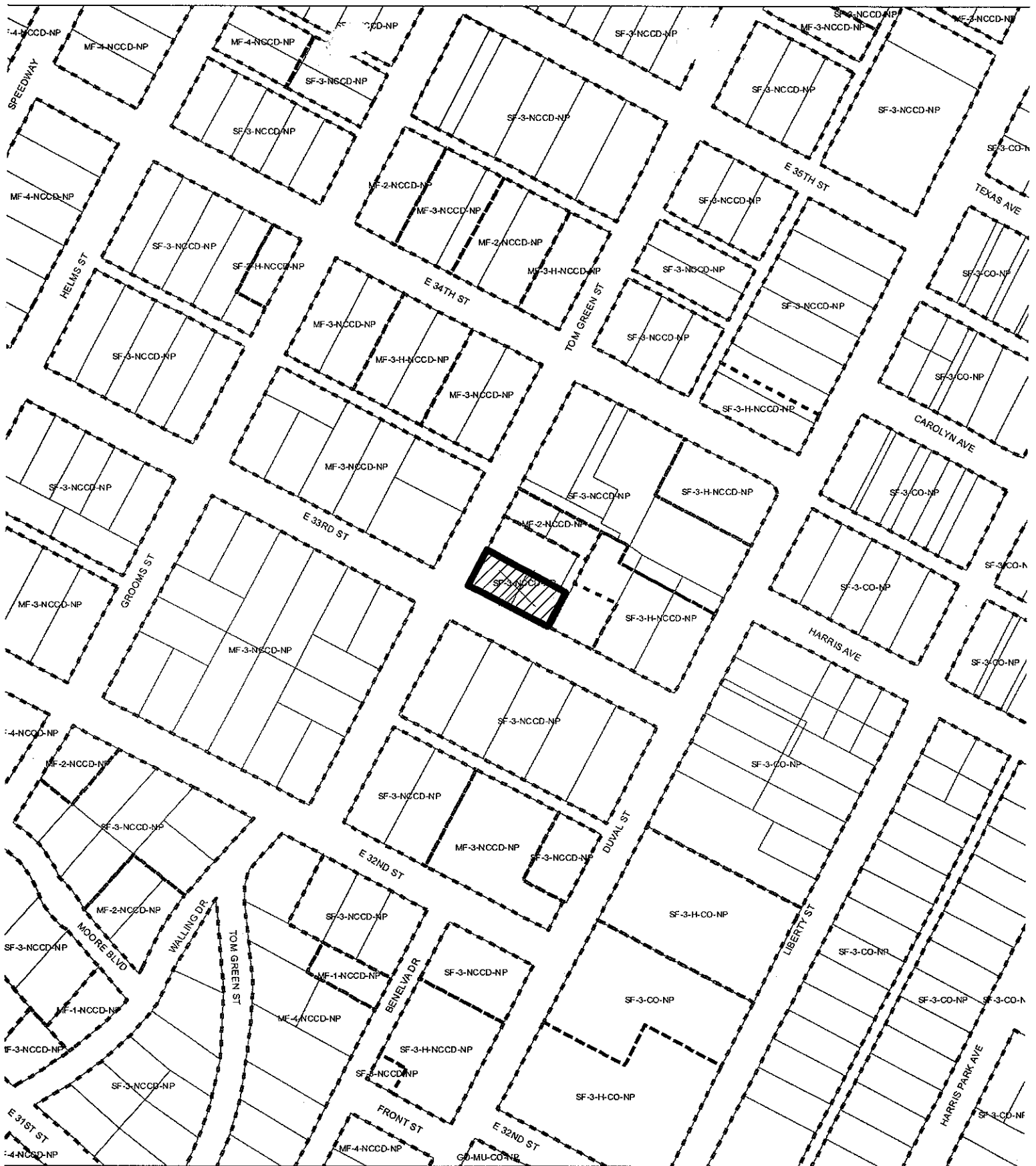
Signed Jim Bennett Mail Address 11505 Redge Dr
City, State & Zip Austin, TX. 78748

Printed Jim Bennett Phone 282-3079 Date 2/17/11

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

Signed [Signature] Mail Address 6721 Beauford Bl.
City, State & Zip Austin, TX. 78750

Printed Ricardo Robles Phone 512-358-4005 Date 2-17-11



BOARD OF ADJUSTMENTS

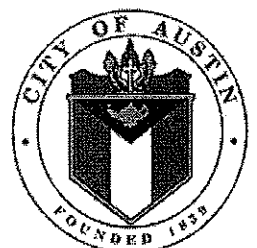
CASE#: C15-2011-0026
 LOCATION: 400 E 33RD ST
 GRID: J24
 MANAGER: SUSAN WALKER



SUBJECT TRACT



ZONING BOUNDARY



This map has been produced by the Communications Technology Management Dept. on behalf of the Planning Development Review Dept. for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.

EXHIBIT " "

ATS Job # 080903015

Reference: Robles Address: 400 East 33rd Street, Austin, TX
South 60 Ft. of Lot 1 & South 60 Ft. of W 62 Ft. Lot 2 Blk 8, DIVISION D GROOMS
ADDITION, Vol. 1 Pg. 59, Plat Records of Travis County, Texas.

LEGEND	
●	3" (IR) IRON ROD FOUND (unless noted)
○	1" IRON PIPE FOUND
△	CALCULATED POINT
()	RECORD INFORMATION
P.U.E.	PUBLIC UTILITY EASEMENT
B.S.L.	BUILDING SETBACK LINE
P.O.C.	POINT OF COMMENCEMENT
P.O.B.	POINT OF BEGINNING
A	AIR CONDITIONER/ELECTRIC TRANS
G	GAS METER (x2)
E	ELECTRIC METER (x2)
CO	WASTEWATER CLEANOUT
S	SIGN
MB	MAIL BOX (x2)
U	UTILITY POLE
OE	ELECTRIC LINE
WM	WATER METER
WV	WATER VALVE (x2)
W	WOOD FENCE
W	WIRE FENCE
N.	NEIGHBORHOOD OVERLAY

- Notes:
- 1) This map and the survey on which it is based have been prepared without the benefit of a title report and are not intended to reflect all easements, encumbrances or other circumstances affecting the title to the property shown hereon.
 - 2) Front building setback 23 Feet according to Nora Briones, reference 25-2-778, Austin Land Development Code.
 - 3) Bearings shown hereon are based on the recorded plat.

Paul Uterback, HEREBY CERTIFY that a survey was made on the ground of the property shown hereon; that there are no visible discrepancies, conflicts, shortages in area, boundary line conflicts, encroachments, overlapping of improvements, easements or right-of-way, except as shown; that said property has access to and from a public roadway; and that this plat is an accurate representation of the property to the best of my knowledge.

Paul Uterback, RPLS No. 5738

Client: Ricardo Robles

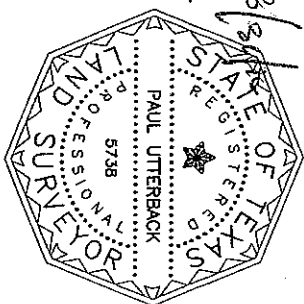
Date of Field Work: 08/27/2010

Field: MPutman

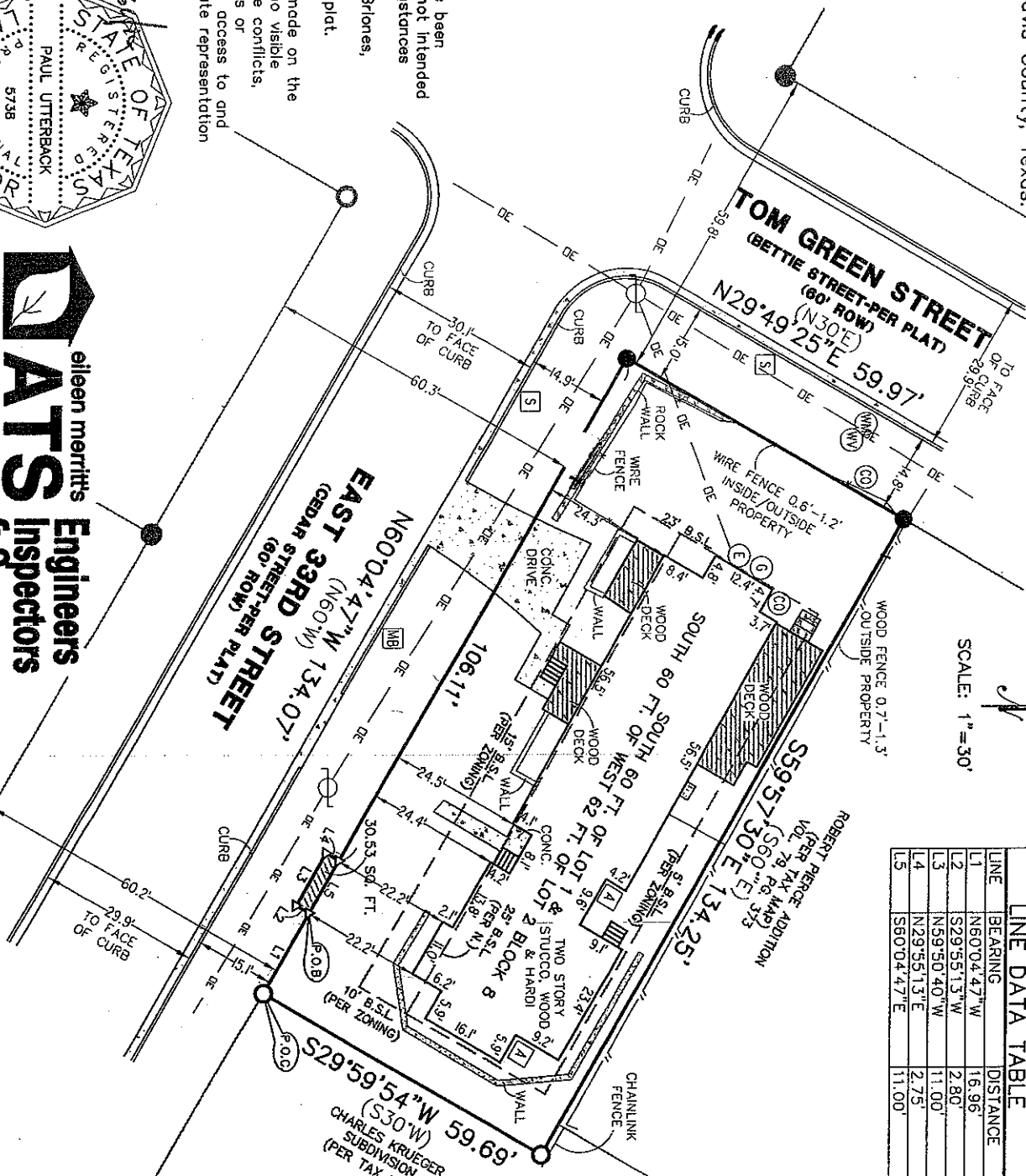
Tech: CRamirez

Date Drawn: 08/31/2010

Path: Projects/...BULK/33rdStE-400/dwgs/VacationFsm1_100830-Rev.dwg



ATS Engineers & Surveyors
www.ats-engineers.com
812 S CAPITAL OF TX HWY, STE 450
AUSTIN, TEXAS 78748
(512) 328-8995
FAX: (512) 328-8996



SCALE: 1"=30'

LINE DATA TABLE		
LINE	BEARING	DISTANCE
L1	N60°04'47"W	16.96'
L2	S29°55'13"E	2.80'
L3	N59°50'40"W	11.00'
L4	N29°55'13"E	2.75'
L5	S60°04'47"E	11.00'

EXHIBIT " "

ATS Job # 1012020202s

Reference: Robles Address: 400 East 33rd Street, Austin, TX
South 60 Ft. of Lot 1 & South 60 Ft. of W 62 Ft. Lot 2 Blk 8, DIVISION D GROOMS
ADDITION, Vol. 1 Pg. 59, Plat Records of Travis County, Texas.

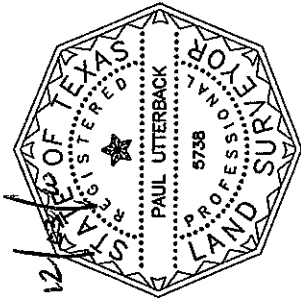
LEGEND	
●	1/2" (IRF) IRON ROD FOUND (unless noted)
○	1/2" IRON PIPE FOUND
△	CALCULATED POINT
()	RECORD INFORMATION
P.U.E.	PUBLIC UTILITY EASEMENT
B.S.L.	BUILDING SETBACK LINE
P.O.C.	POINT OF COMMENCEMENT
P.O.B.	POINT OF BEGINNING
A	AIR CONDITIONER/ELECTRIC TRANS
G	GAS METER (x2)
E	ELECTRIC METER (x2)
W	WASTEWATER CLEANOUT
S	SIGN
M	MAIL BOX (x2)
U	UTILITY POLE
DE	ELECTRIC LINE
WM	WATER METER
WV	WATER VALVE (x2)
WF	WOOD FENCE
X	WIRE FENCE
N.	NEIGHBORHOOD OVERLAY

Notes:

- 1) This map and the survey on which it is based have been prepared without the benefit of a title report and are not intended to reflect all easements, encumbrances or other circumstances affecting the title to the property shown hereon.
 - 2) Front building setback 23 Feet according to Nora Briones, reference 25-2-778, Austin Land Development Code.
 - 3) Bearings shown hereon are based on the recorded plat.
- I, Paul Utterback, HEREBY CERTIFY that a survey was made on the ground of the property shown hereon; that there are no visible discrepancies, conflicts, shortages in area, boundary line conflicts, encroachments, overlapping of improvements, easements or right-of-way, except as shown; that said property has access to and from a public roadway; and that this plat is an accurate representation of the property to the best of my knowledge.

Paul Utterback

Paul Utterback, RPLS No. 5738
Client: Ricardo Robles
Date of Field Work: 08/27/2010
Field: MPutman
Tech: CRamirez
Date Drawn: 12/03/2010
Path: Projects/...BULK/33rdSt-400/dwgs/VacationEsmt_101202-Rev.dwg

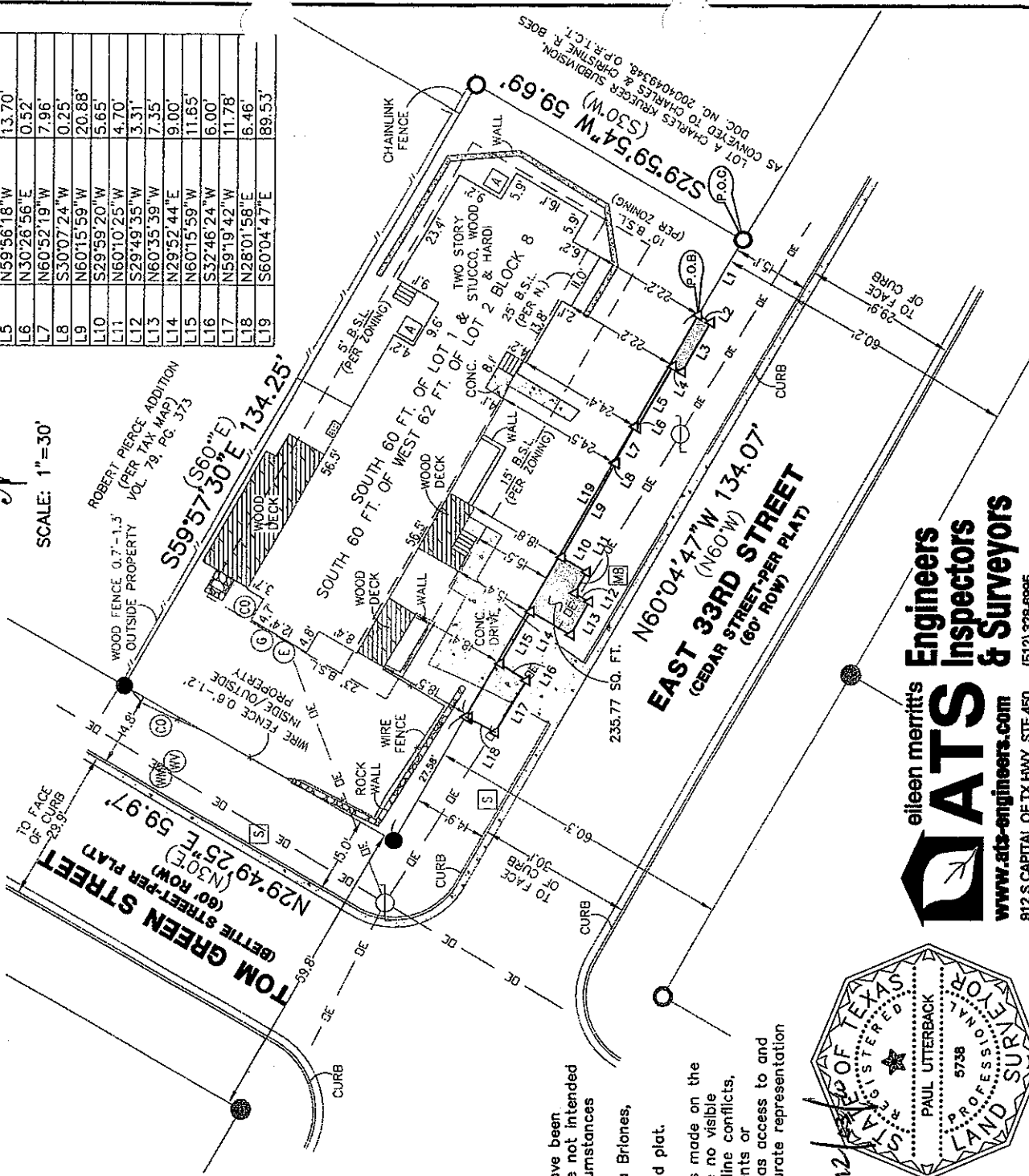


eileen merriitt's
ATS Engineers
Inspectors
& Surveyors
www.ats-engineers.com
912 S CAPITAL OF TX HWY, STE 450
AUSTIN, TEXAS 78746
(512) 328-6995
FAX: (512) 328-6996

LINE DATA TABLE		
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L3	N59°50'40"W	11.00'
L4	N29°55'13"E	2.09'
L5	N59°56'18"W	13.70'
L6	N30°28'56"E	0.52'
L7	N60°52'19"W	7.96'
L8	S30°07'24"W	0.25'
L9	N60°15'59"W	20.88'
L10	S29°59'20"W	5.65'
L11	N60°10'25"W	4.70'
L12	S29°49'35"W	3.31'
L13	N60°35'39"W	7.35'
L14	N29°52'44"E	9.00'
L15	N60°15'59"W	11.65'
L16	S32°46'24"W	6.00'
L17	N59°19'42"W	11.78'
L18	N28°01'58"E	6.46'
L19	S60°04'47"E	89.53'

SCALE: 1"=30'

ROBERT PIERCE ADDITION
WOOD FENCE 0.7'-1.3'
OUTSIDE PROPERTY
VOL. 79, PG. 373
S59°57'30"E 134.25'



AS COVERED TO CHARLES & CHRISTINE R. BOES
DOC. NO. 200404348, O.P.R.I.C.T.
LOT 1 A CHARLES REUEGER SUBDIVISION

Date: November 16, 2010

Attn: Chris Muraida

City of Austin
Office of Real Estate Services
505 Barton Springs Road, Suite 1350
Austin, TX 78704

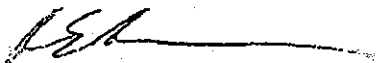
This is in response to the Certified Letter dated November 8, 2010 serving as 'Public Notice for Right-of-Way'.

As the property owners in the area surrounding the property at 400 East 33rd Street, this letter serves as our formal, stated objection to the City granting a Right-of-Way Vacation for 400 E 33 St.

As inner city property owners, we have no Home Owners Association protection or other means to protect our properties than to rely on the City to be diligent in enforcing its laws which include zoning requirements, parking requirements, impervious cover requirements, set back requirements and NCCD specific requirements. This property is in blatant violation of all of these requirements and for the City to consider selling 30.53 square feet of public right-of-way to accommodate legal requirements sets a terrible precedent.

Below are the people who could be reached. They were unanimous in their objections to this proposal. With more time, all the home owners who received the letter might have been reached.

Roy and Doris Walker	401 East 34 th Street
Lou Faid-Dattilo	3307 Tom Green
Sandy Bartlett	3307 Tom Green
Susan Pryor	3300 Duval Street
Richard Boner	3300 Duval Street
Charles and Christine Boes	408 East 33 rd Street
Dan Roberts	3210 Duval Street



Guernsey, Greg

From: Muraida, Chris
Sent: Monday, November 15, 2010 2:45 PM
To: Guernsey, Greg
Subject: FW: Certified Letter regarding Public Notice for Right-of-Way Vacation

FYI.

-----Original Message-----

From: OCLM Land Management
Sent: Monday, November 15, 2010 2:30 PM
To: 'Susan J. Pryor'
Subject: RE: Certified Letter regarding Public Notice for Right-of-Way Vacation

Ms. Pryor,
974-7090 is our main department number and it is a good working number. I called and checked with our front office personnel and was advised that the phone has been working. They were not aware of any problems.

The public notice was sent to anyone who lives or has a business within 300 feet of the area to be vacated. If one letter is to be sent to the City, we need a name and address for everyone signing the objection letter.

Thank you,
Chris Muraida

-----Original Message-----

From: Susan J. Pryor [REDACTED]
Sent: Thursday, November 11, 2010 3:45 PM
To: OCLM Land Management
Cc: Charles Boes
Subject: Certified Letter regarding Public Notice for Right-of-Way Vacation

To Chris Muraida:

I received this letter yesterday.. It gave as a phone number (512) 974-7090 - I tried to call that number but the message says it is not a working number.

Can you tell me who else received this letter? We have serious concerns about this proposal - would it be better to have each person write a separate letter - or would having everyone sign the same letter be as effective?

Thank you,

Susan J. Pryor

ORDINANCE NO. 20101216-095

AN ORDINANCE AMENDING CITY CODE SECTIONS 25-2-472, 25-2-473, AND 25-2-475 TO AUTHORIZE APPEALS AND VARIANCES FROM REQUIREMENTS OF A NEIGHBORHOOD CONSERVATION COMBINING DISTRICT.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. City Code Section 25-2-472 (*Board of Adjustment Variance Authority*) is amended to read:

§ 25-2-472 BOARD OF ADJUSTMENT VARIANCE AUTHORITY.

The Board of Adjustment shall hear and decide a request for a variance from a requirement of this chapter, or a Neighborhood Conservation Combining District adopted under this chapter, except as otherwise provided by the Code.

PART 2. Subsection (A) of City Code Section 25-2-473 (*Variance Requirements*) is amended to read:

- (A) A variance from the requirements of this chapter, or a Neighborhood Conservation Combining District adopted under this chapter, may be granted under this division if, because of special circumstances of a property, the strict application of this chapter deprives the property owner of privileges that are enjoyed by another person who owns property in the area that has the same zoning designation as the property for which the variance is requested.

PART 3. City Code Section 25-2-475 (*Appeals*) is amended to read:

§ 25-2-475 APPEALS.

A person may appeal a decision of the building official regarding a site development regulation prescribed by this subchapter, or by a Neighborhood Conservation Combining District adopted under this chapter, to the Board of Adjustment. After an appeal is filed, the building official shall provide the board with a copy of documents regarding the matter that has been appealed.

PART 4. This ordinance takes effect on December 27, 2010.

PASSED AND APPROVED

December 16, 2010 §
 §
 § Lee Leffingwell
 Lee Leffingwell
 Mayor

APPROVED: Karen M. Kennard
 Karen M. Kennard
 Acting City Attorney

ATTEST: Shirley A. Gentry
 Shirley A. Gentry
 City Clerk

PUBLIC HEARING INFORMATION

Although applicants and/or their agent(s) are expected to attend a public hearing, you are not required to attend. However, if you do attend, you have the opportunity to speak FOR or AGAINST the proposed development or change. You may also contact a neighborhood or environmental organization that has expressed an interest in an application affecting your neighborhood.

During a public hearing, the board or commission may postpone or continue an application's hearing to a later date, or recommend approval or denial of the application. If the board or commission announces a specific date and time for a postponement or continuation that is not later than 60 days from the announcement, no further notice is required.

A board or commission's decision may be appealed by a person with standing to appeal, or an interested party that is identified as a person who can appeal the decision. The body holding a public hearing on an appeal will determine whether a person has standing to appeal the decision.

An interested party is defined as a person who is the applicant or record owner of the subject property, or who communicates an interest to a board or commission by:

- delivering a written statement to the board or commission before or during the public hearing that generally identifies the issues of concern (*it may be delivered to the contact person listed on a notice*); or
- appearing and speaking for the record at the public hearing; and:

- occupies a primary residence that is within 500 feet of the subject property or proposed development;
- is the record owner of property within 500 feet of the subject property or proposed development; or
- is an officer of an environmental or neighborhood organization that has an interest in or whose declared boundaries are within 500 feet of the subject property or proposed development.

A notice of appeal must be filed with the director of the responsible department no later than 10 days after the decision. An appeal form may be available from the responsible department.

For additional information on the City of Austin's land development process, visit our web site: www.ci.austin.tx.us/development.

Written comments must be submitted to the board or commission (or the contact person listed on the notice) before or at a public hearing. Your comments should include the name of the board or commission, or Council; the scheduled date of the public hearing; the Case Number; and the contact person listed on the notice.

Case Number: C15-2011-0026 - 400 E 33rd Street

Contact: Susan Walker, 512-974-2202

Public Hearing: Board of Adjustment, April 11th, 2011

Charles W. Bots

Your Name (please print)

408 E 33rd St.

☐ I am in favor
☒ I object

Your address(es) affected by this application

Charles W. Bots

Signature

Date

Daytime Telephone: *214-893-9404*

Comments: *① these variances constitute a*

blatant disregard of the NCCD plan.

② the variances are extreme with respect

to setbacks & parking ③ the current

zoning reqs allow for a reasonable

use of this property (ART3B1a) There

is no hardship or undue factual basis for

the variances (ART3B1b) ⑤ The variance does

alter the character of the area. I am a student

and I am not a resident of the area. If you use this form to comment, it may be returned to: (ART3B1c),

City of Austin-Planning & Development Review Department/ 1st Floor

Susan Walker

P. O. Box 1088

Austin, TX 78767-1088

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- occupies a primary residence that is within 500 feet of the subject property or proposed development;
- is the record owner of property within 500 feet of the subject property or proposed development; or
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Case Number: C15-2011-0026 – 400 E 33rd Street
 Contact: Susan Walker, 512-974-2202
 Public Hearing: Board of Adjustment, April 11th, 2011

Tim R Samples

Your Name (please print)

208 E 33rd St

Your address(es) affected by this application



Signature

4/5/11
 /Date

Daytime Telephone: _____

Comments: TOO MANY HIGH DENSITY STRUCTURES ALREADY IN

THE AREA. THE STRUCTURES THROD FOR REPLACEMENT ARE

PART OF NEIGHBORHOOD ARCHITECTURAL IDENTITY - THEY ARE

BOTH VALUABLE AS STANDALONE HOUSES AND ARE IN GOOD

CONDITION. PLEASE CONSIDER IDENTITY AND INTEGRITY OF

THE BLOCK THAT THESE HOUSES ARE A PART OF.

If you use this form to comment, it may be returned to:

City of Austin-Planning & Development Review Department/ 1st Floor
 Susan Walker
 P. O. Box 1088
 Austin, TX 78767-1088

Written comments must be submitted to the board or commission (or the contact person listed on the notice) before or at a public hearing. Your comments should include the name of the board or commission, or Council; the scheduled date of the public hearing; the Case Number; and the contact person listed on the notice.

Case Number: C15-2011-0026 - 400 E 33rd Street

Contact: Susan Walker, 512-974-2202

Public Hearing: Board of Adjustment, April 11th, 2011

Charles W. Bots

Your Name (please print)

408 E 33rd St.

☐ I am in favor
☒ I object

Your address(es) affected by this application

Charles W. Bots

Signature

Date

Daytime Telephone: 214-893-9404

4/7/2011

Comments: ① these variances constitute a

blatant disregard of the NCCD policy.

② the variances are extreme with respect

to setbacks & parking ③ the current

zoning regs allow for a reasonable

use of this property (ART3B1a) ④ there

is no hardship or undue factual basis for

the variance (ART3B1a) ⑤ the variance does

alter the character of the 'ART3A' zone & station

area; if you use this form to comment, it may be returned to: (ART3B1a).

City of Austin-Planning & Development Review Department/ 1st Floor

Susan Walker

P. O. Box 1088

Austin, TX 78767-1088

PUBLIC HEARING INFORMATION

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- appearing and speaking for the record at the public hearing;

- and:
- occupies a primary residence that is within 500 feet of the subject property or proposed development;
 - is the record owner of property within 500 feet of the subject property or proposed development; or
 - is an officer of an environmental or neighborhood organization that has an interest in or whose declared boundaries are within 500 feet of the subject property or proposed development.

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Case Number: C15-2011-0026 - 400 E 33rd Street

Contact: Susan Walker, 512-974-2202

Public Hearing: Board of Adjustment, April 11th, 2011

Naomi Trejo

Your Name (please print)

3204 Duval Street

Your Address(es) affected by this application

Naomi

Signature

Daytime Telephone:

512-709-9510

Date

4/2/2011

Comments:

I rarely have trouble when my friends need to find street parking. This variance seems fine.

If you use this form to comment, it may be returned to:

City of Austin-Planning & Development Review Department/ 1st Floor

Susan Walker

P. O. Box 1088

Austin, TX 78767-1088

F1

Walker, Susan

To: North University Neighborhood Association
Cc: Bill Bednar; Kimberly Renner; Mary Ingle; Rick Iverson; Steven Tomlinson
Subject: RE: C15-2011-0026

As per your request, the applicant has agreed to a one month postponement to the May 9th agenda.

Susan Walker
Senior Planner
Planning & Development Review Department
Phone: 512-974-2202
Fax: 512-974-6536

From: North University Neighborhood Association [mailto:nunaaustin@gmail.com]
Sent: Thursday, April 07, 2011 10:48 AM
To: Walker, Susan
Cc: Bill Bednar; Kimberly Renner; Mary Ingle; Rick Iverson; Steven Tomlinson
Subject: C15-2011-0026

Dear Ms. Walker:

The North University Neighborhood Association (NUNA) would like to request a postponement of the BOA hearing on C15-2011-0026 (400 E 33 St, currently scheduled for 11 April) so that we can meet with the property owner before the case comes before the BOA.

We have asked Mr. Robles to meet with us and are awaiting his response.

Laurence Miller

--
Laurence Miller
President
North University Neighborhood Association

From: Christine Boes <crb3435@gmail.com>
Subject: Objection/Case #: C15-2011-0026; 400 E 33 St/BOA hearing Apr 11-2011
Date: April 7, 2011 9:29:02 AM CDT
To: Susan Walker <susan.walker@ci.austin.tx.us>
Cc: Charles Boes <twistedriverranch@yahoo.com>
1 Attachment, 522 KB 



Ms Walker:

As the neighboring property owner adjacent to the property referenced above, please have my objection to the requested variance(s) presented to the members of the Board of Adjustment in advance of their actions/decisions on April 11, 2011.

Thank you.

Charles Boes, owner

408 E 33 St
Austin 78705

(copy also mailed to you as of today)

Written comments must be submitted to the board or commission (or the contact person listed on the notice) before or at a public hearing. Your comments should include the name of the board or commission, or Council; the scheduled date of the public hearing; the Case Number; and the contact person listed on the notice.

Case Number: C15-2011-0026 - 400 E 33rd Street
Contact: Susan Walker, 512-974-2202
Public Hearing: Board of Adjustment, April 11th, 2011

Charles W. Boes

Your Name (please print)

408 E 33rd St.

Your address(es) affected by this application

Charles W. Boes

Signature

☐ I am in favor
☒ I object

4/7/2011
Date

Daytime Telephone: 214-893-9404

Comments: ① these variances constitute a blatant disregard of the NCCO plan. ② the variances are extreme with respect to setbacks & parking ③ the current zoning reqs allow for a reasonable use of this property (ART3 B1a) There is no hardship or unique factual basis for the variance (ART3 B1b) ⑤ The variance does alter the character of the area. Promote a student property adjacent to my site building site. If you use this form to comment, it may be returned to: (Art3 Boes).

City of Austin-Planning & Development Review Department/ 1st Floor
Susan Walker
P. O. Box 1088
Austin, TX 78767-1088

From: "Walker, Susan" <susan.walker@ci.austin.tx.us>
Subject: RE: Objection/Case #: C15-2011-0026; 400 E 33 St/BOA hearing Apr 11-2011
Date: April 7, 2011 9:49:19 AM CDT
To: "Christine Boes" <crb3435@gmail.com>

Thank you for your information.

Susan Walker
Senior Planner
Planning & Development Review Department
Phone: 512-974-2202
Fax: 512-974-6536

-----Original Message-----

From: Christine Boes [mailto:crb3435@gmail.com]
Sent: Thursday, April 07, 2011 9:29 AM
To: Walker, Susan
Cc: Charles Boes
Subject: Objection/Case #: C15-2011-0026; 400 E 33 St/BOA hearing Apr 11-2011

Ms Walker:

As the neighboring property owner adjacent to the property referenced above, please have my objection to the requested variance(s) presented to the members of the Board of Adjustment in advance of their actions/decisions on April 11, 2011.

Thank you.

Charles Boes, owner

408 E 33 St
Austin 78705

(copy also mailed to you as of today)