

If you need assistance completing this application (general inquires only) please contact Susan Walker, 974-2202; 505 Barton Springs Road, 2nd Floor (One Texas Center).

CASE# CL5-2012-0092
ROW # 10790305
TP-0214110203

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: 3305 Lafayette Avenue, Austin, TX 78722

LEGAL DESCRIPTION: Subdivision-
Upland Addition Lot(s) 3 Block 1

I/We, John and Teddy Kinney, Mgrs. on behalf of myself/ourselves and as Mgrs for Kinney Real Estate, LLC - 3305 Lafayette Series affirm that on June 29, 2012 hereby apply for a hearing before the Board of Adjustment for consideration to:

(check appropriate items below)

ERECT ATTACH *COMPLETE REMODEL MAINTAIN

The duplex permitted by the City of Austin on May 2, 2012. Work began soon thereafter, inspections have been done and the engineered foundation is in place specific to the structure that was permitted.

It is located in the SF-3-NP
Upper Boggy Creek
(zoning district)

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:

This lot is in excess of 9000 sq. ft. and zoned SF-3-NP. That zoning is ample for a small duplex to be constructed on this site. Under the City of Austin's Subchapter F Residential Design and Compatibility Standards known (McMansion Ordinance), it is required to join the duplex along the longest common air-conditioned wall preventing the earlier style of placing garages between the two units. That requirement in conjunction with the impervious cover rules of the McMansion Ordinance prevent a long drive to the back yard for a garage structure. Further the McMansion Ordinance requires the structure to be placed in the center of the lot to be "under the envelope", again making placement of a garage in the back arguably impossible. In addition, the McMansion Ordinance limits the footprint of building on a lot making a separate parking structure with an additional footprint difficult on an urban core lot.

The property is typical of those in the Cherrywood Subdistrict in that it is narrow (56 ft), slopping and burdened by large trees where overhanging canopies affect adjacent sites.

This earlier adopted Neighborhood Plan Design Tool – LDC 25-2-1604 seems to conflict with what is required under subsequently enacted City of Austin's Subchapter F Residential Design and Compatibility Standard and the Heritage Tree Ordinance. It significantly diminishes the reasonable use of a lot substantially in excess of the square footage required for a duplex family house.

HARDSHIP:

2.

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

On May 2, 2012, the City issued Applicant a permit to build a duplex of a specific design for a two-story duplex including first floor, front-facing, integrated and enclosed parking for two cars. The permit was granted without reservation. Thereafter, Applicant, in reliance on the said permit, proceeded to build the pier and beam and stem wall foundation described in the permit. Construction of the forms was commenced shortly after the permit was granted. Concrete was poured on May 25, 2012. By June 14, 2012 Applicant had completed the foundation, the forms had been removed, the site cleaned and lumber had been delivered to the site so that framing could begin. Various subcontractors including plumbing and electrical contractors had obtained from the City the required permits and paid the required fees. According to Carol Gibbs of the City, on June 11, 2012, Gerard Kinney, purporting to act on behalf of CAN contacted her, the City liaison with the Austin neighborhood associations, with his concerns about garage placement and parking on the subject lot. On June 14, 2012, at 445PM the City, acting on Mr. Kinney's stated concerns, ordered Applicant to cease construction. Applicant ceased as ordered.

The hardship is a permanent, concrete foundation on the subject lot suitable for the approved and permitted two-story structure with integrated, first-floor, front-facing, enclosed parking. Without the requested variance to permit completion of the structure as permitted, the existing foundation is an esthetic detriment to the neighborhood as well as an economic disaster for Applicant.

- (b) The hardship is not general to the area in which the property is located because:

The situation does not exist elsewhere in the neighborhood.

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 proposed variance will not affect the properties at 3303 and 3307 Lafayette. The adjacent conforming property at 3303 Lafayette is, and will remain for the foreseeable future, a single family, limestone residence built in about 1950. It was purchased by Applicant along with the subject property on November 15, 2011.

The property at 3307 Lafayette consists of a single family residence on the front of the property and at the rear of the property a two-story structure containing a garage and an apartment over it. It is, in fact, located only a few inches off the property line between 3305 and 3307 and does not comply with the McMansion Ordinance envelope or the legal setback lines.

The subject property is located in French Place. French Place is a fully-developed, eclectic inner city neighborhood east of IH-35 and north of Lady Bird Lake at about the level of 32nd Street. There is a variety of construction, design and development in this older neighborhood. The neighborhood is in a state of renewal as the conditions of the residences there reflect. The vacant lot in question is one of a very few vacant lots in the neighborhood. While there are many renovations completed and in progress, there is very little new construction. There are many converted garages enclosed to be living areas with cars parked in the front of the house in what was the former driveway. There are many duplexes within the neighborhood and numerous garage apartments. Some garages appear to be converted to studio apartments or something as there can be found a door through the former garage door.

There are numerous heritage trees in the neighborhood. Houses are frame and stone primarily. The proposed duplex was carefully planned to fit into the neighborhood, being slightly Craftsman in style with shingles, horizontal siding and board and bat. It is small in scale and has articulation in the front attempting to comply with suggested design under McMansion rather than "a box". It does not emphasize the garage doors as is discouraged on page 92 of the Upper Boggy Creek Design Guidelines. The lot has a considerable slope – 15% - from the curb at the SW corner to the back NE corner. The garage is below street level and the 2nd floor windows and the shingled gables are the street view.

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:

We are making no request for a variance regarding parking. We have submitted here a new site plan. When we became aware of LDC 25-2-1603 after June 14, 2012, we redesigned the site plan to comply with that Neighborhood Plan Design Tool.

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:

Allowing the garage to be in the duplex as designed will not affect traffic and in fact will avoid additional parking congestion on the street.

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

Allowing the garage to be an integral part of the duplex will allow a safer condition for the neighborhood as it allows the front to remain free of most of the parked cars and improves visibility of the principle structure.

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

We are only asking to be allowed to complete the plan that was permitted on May 2, 2012 as designed.

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 John E. Kinney John E. Kinney,

Teddy L. Kinney Teddy L. Kinney, Mgrs.

Kinney Real Estate, LLC – 3305 Lafayette Series

Mail Address: 1010 Gaston Avenue, Austin, Texas 78703

Phone: 512/476-2805

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 Teddy L. Kinney Mgr Mail Address 1010 Gaston

Avenue, Austin, Tx. 78703

Printed Teddy L. Kinney, Mgr., Kinney Real Estate, LLC – 3305 Lafayette Series

Phone 512/476-2805

Date June 29, 2012



SUBJECT TRACT

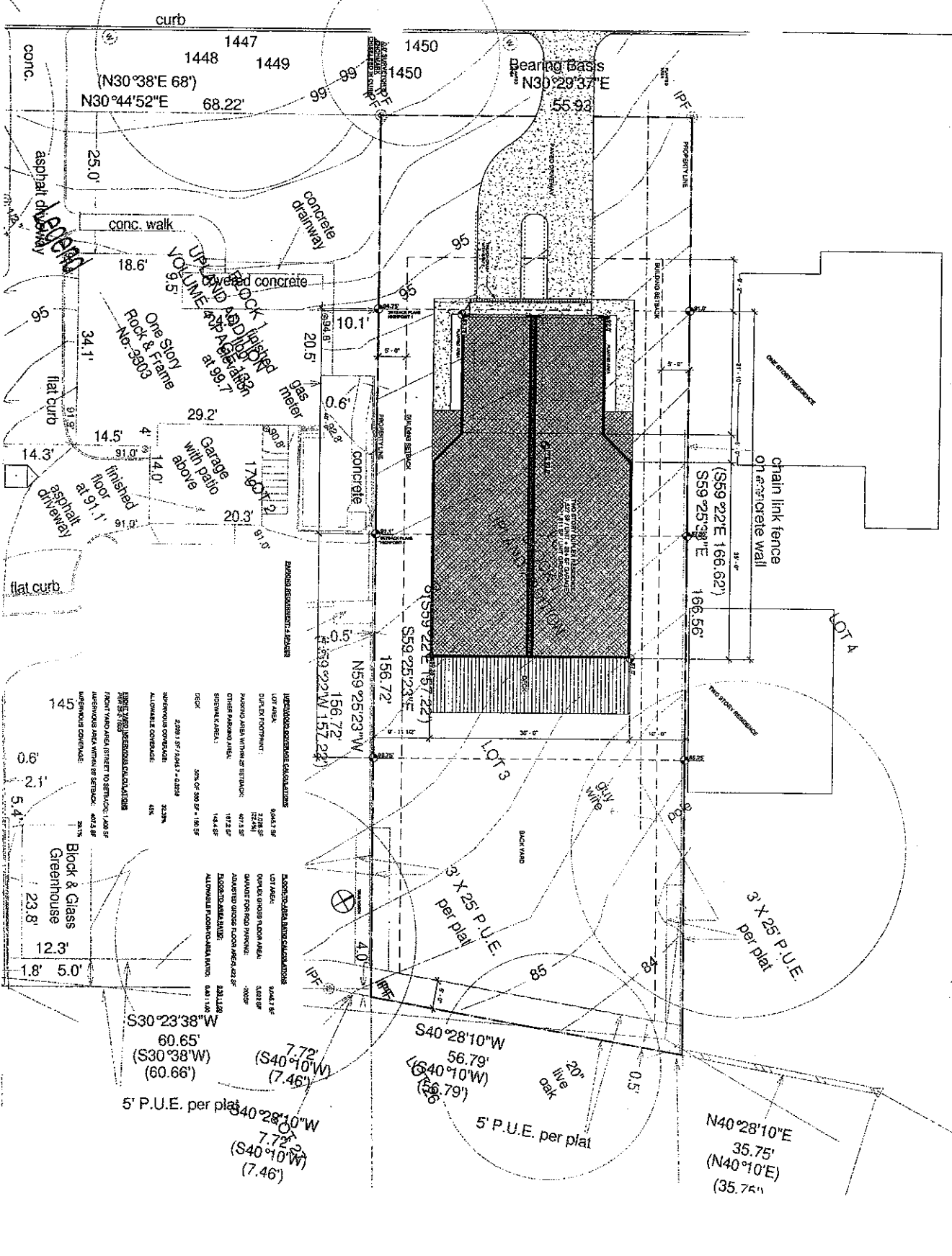
ZONING BOUNDARY

CASE#: C15-2012-0092
 LOCATION: 3305 LAFAYETTE AVE



This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

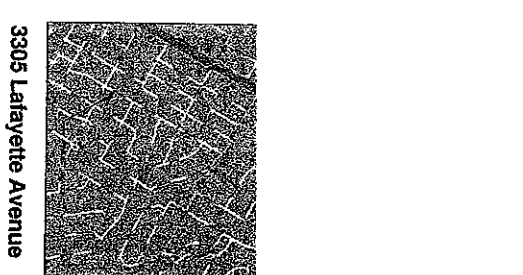
This product has been produced by the Planning and Development Review Department for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.



| | |
|--|--|
| OWNER: Teddy Kinney Kinney Duplex | PREPARED BY: Sethrup & Curtis Lantz, Inc. Subcontractors: E. J. Kinney, Inc., D&S Inc., Compco, Inc., S&S, etc. |
| PROJECT NAME: COMPREHENSIVE SITE PLAN | DATE: 02/28/12 |
| DRAWN BY: [Signature] | SCALE: AS SHOWN |

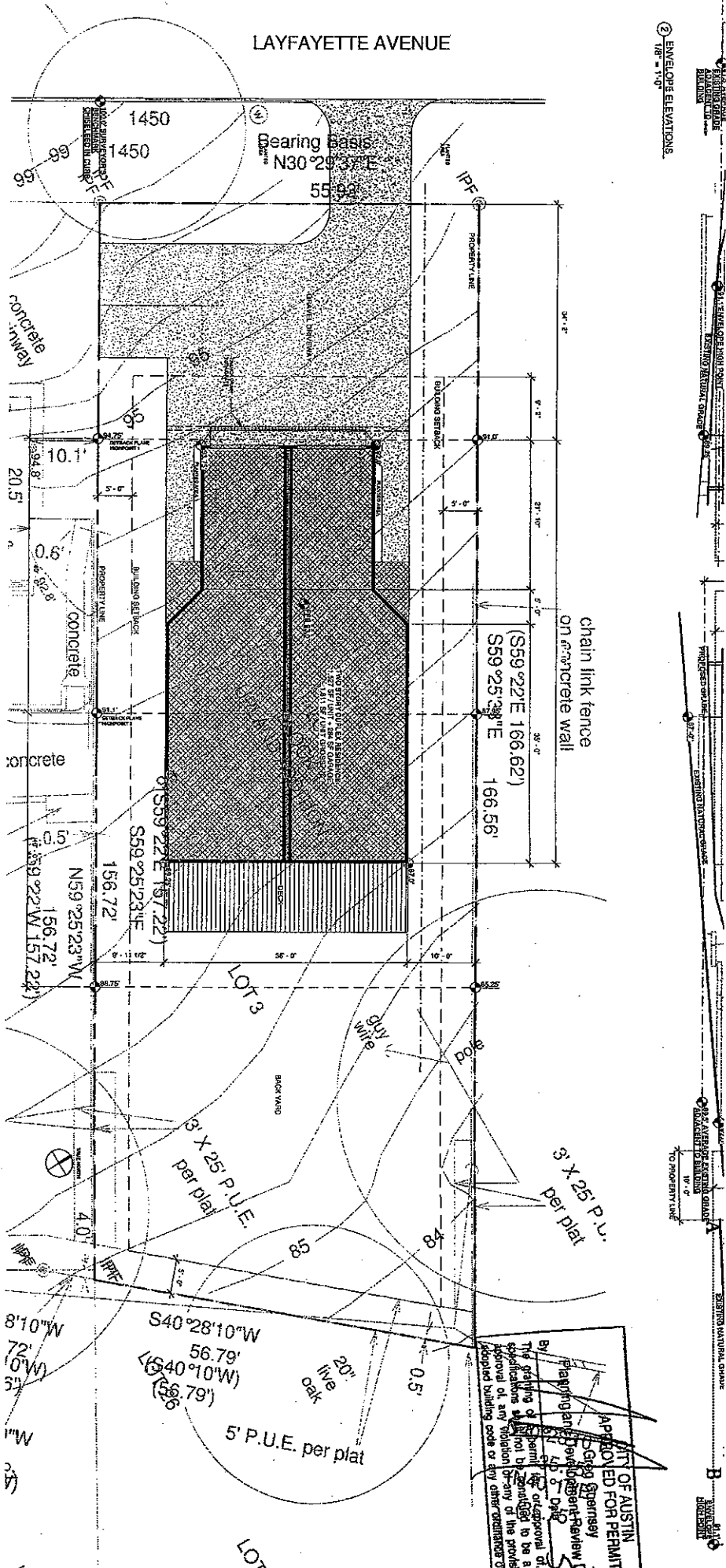
3305 Lafayette Avenue

Owner: Teddy Kinney
11010 University Blvd
Dallas, TX 75224
Phone: 972-251-1234
Email: teddy@kinneyduplex.com



① SITE PLAN
1/8" = 1'-0"

② ENVELOPE ELEVATIONS
1/8" = 1'-0"



PERMITS REQUIRED - SPACES

| UNITS/REQUIREMENTS | PERMITS REQUIRED |
|--------------------------|------------------------|
| LOT AREA | 3,900.7 SF |
| DECK FLOORING | 1,924 SF |
| PERMANENT STRUCTURE AREA | 1,924 SF |
| DECK | 90% OF 300 SF = 180 SF |
| PERMANENT COVERAGE | 30% |
| ALLOWABLE COVERAGE | 40% |

EXISTING AREA AND CALCULATIONS

| EXISTING AREA | ALLOWABLE AREA |
|----------------------------|----------------|
| LOT AREA | 3,900.7 SF |
| DECK GROSS FLOOR AREA | 3,176 SF |
| GARAGE FOR HOV PARKING | 3,000 SF |
| ADJUSTED GROSS FLOOR AREA | 3,580 SF |
| ALLOWABLE FLOOR-AREA RATIO | 0.91133 |

APPROVED FOR PERMIT
 City of Austin
 Planning and Development Review
 Approved by: [Signature]
 Date: [Date]

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3 Foods to NEVER Eat

Beware of these foods that you may think are "healthy" but are actually terrible for your health and may be making you gain abdominal fat.

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Message # Search

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LUT Report and Agenda

Print

Message #42544 of 42635

Mon Apr 30, 2012 5:10 pm

Girard Kinney

girard.kinney@...
402.478.5042
or 512.478.5042

Members Data

Post

Files

Proxies

Checklist

Photo

Members

Calendar

Info Settings

Group Information

Number: 001

Category: Community

Created: Oct 27, 2006

Language: English

Already a member? Sign up now

Yahoo! Groups Tips

Get your group

Bad words: First names

See how Yahoo! Groups

works for your group

Re: [CHERRYWOOD] LUT Report and Agenda

Good point, David! I will inquire about this when the Case Manager calls me back (I have left message).

Girard Kinney, AIA
Owner/Principal
Kinney Associates
1008 East Sixth (78707)
P.O. Box 6456
Austin, Texas 78762-6456
O: 512.472.5172
F: 512.476.9956
C: 512.657.1583
H: 512.478.5042

Please submit emails with large file attachments to: admin@...

On 4/30/2012 at 4:46 AM, David Bostum wrote:

RE: 5104 Astwood - This would be a good time to enforce the 4.5 parking spaces per unit if it is not already provided at this property. The City staff should catch this but they don't always.

DK

On Mon, Apr 30, 2012 at 11:17 AM, Girard Kinney girard.kinney@... wrote:

Cherrywooders & other neighbors: here is a status report:

- 5104 Sky Park (4900 Manor Road): the temporary use of this site for "Elvis Machines" (paid not for all performances) seems to have been successful for Mr. Boyle who many of you met at an LUT meeting or the last General Meeting of CNA. I saw it Saturday night and thought it was a great show, and that it demonstrated a great use for sites that are being "misallocated" for future use. Construction of the Apartment complex on that site will begin soon and we will continue to provide updates as that project progresses. Go to the upcoming Uco for a little more information.
- 3303 & 3305 LaFayette: thanks to a LaFayette resident, I learned recently that a developer is planning to build duplexes on each of these lots. The two magnificent oaks, one at the back yard of each lot, have been removed which (in my opinion) is a great loss for the neighborhood and especially for the adjacent neighbors. It is not known whether the plan is to remove the house at 3303, but unfortunately I would not be surprised. These are the kinds of impacts from development that we strive to avoid. PLEASE report any crosses you see that appear to be about to remove a large, healthy tree so that we can try to intervene.
- 1904 Astwood: staff has recommended some tweaks to the plans for additions to the facade of this duplex in Duplex Nation, now a National Historic District. However staff has determined that the project will not need to go to the Historic Landmark Commission since in their opinion the addition is compatible with the Historic district. It is not known whether there are any variances necessary for the applicant to receive a building permit; we will advise.
- 4020 Airport Blvd. Refer to upcoming Uco Article for details. The Steering Committee of CNA has recommended LR-V-VMU-NP zoning for this site, with a long list of conditions that would be codified in a Conditional Overlay and/or Restrictive Covenant (public and/or private). Upper Buggy Creek (UBC) has postponed action on this case until it after it is publicly presented at the 10 May CNA General Meeting (Maplewood Cafeteria, 6:30pm). No further Action is planned for this case of LUT or Steering Committee (SC) except that we have discussed removing the categorization of the residential, leaving them to City Staff and his change would require a slight change in the recommendation of the SC, which would happen

| ALAMO CREDIT | FARMERS CREDIT | FARMER'S TRUSTS |
|--------------|----------------|-----------------|
| 450 | 1,200 | 1,648 |

United States Bank

at the 9 May SC meeting at Cherrywood Club, 6:30pm).
Previous announcements of the SC Recommendation
representing the CNA position was premature, since it is
technically possible for this case to be heard and voted on by the
General Membership prior to the postponed Planning
Commission meeting (now set for 22 May). This item will go
back to IBC after the CNA meeting, but prior to the Planning
Commission meeting.

TENTATIVE AGENDA FOR UPCOMING LUT MEETING (please send
additional items):

Regular Monthly LUT meeting, 7:15pm, Wed. 22 May, at Cherrywood
Clubhouse.

- 7:00pm: Call to order, introductions, announcements
- Call for new Chair
- 7:30pm: 3303-3305 Lubbock
- 2900 Maime Road (Vidun:Sky Park)
- 1404 Adwood
- 4020 Airport Blvd. Report & discussion only; no action.

Note that we reserve the right to take action on any item on the
agenda, except where specifically excluded by posting "no action". At
this time, no action is anticipated on any items posted so far.

Gerard Kinney, AIA
(Soon to be past) Chair, CNA LUT Committee

Gerard Kinney, AIA
Owner/Principal
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Please submit emails with large file attachments to:
lcherry@y

Reply

Message 422544 of 45655 in "NeighborNet"

Open Messages

LUT Report and Agenda

Cherrywood's & other neighbors here is waiting reports re Value Sky Park (Airport Maime Road) the temporary use, which site for
"Idea Machine" build-out for...

Re: LUT Report and Agenda

RE: 1404 Adwood - This would be a good time to enforce the Lp parking agency per unit if it is not already provided at this
property. The City staff should...

Re: LUT Report and Agenda

Good job, Dave! I will inquire about this when the Case Manager calls me back (I have left messages). Gerard Kinney, AIA
Owner/Principal Kinney &...

Re: LUT Report and Agenda

Thanks for the info, Gerard. Unfortunately, I won't be able to attend either the LUT meeting or the May general CNA meeting
due to a recent the Wind @ Ogle...

Re: LUT Report and Agenda

Overpassing, I neglected to mention Blawock Golf Course. Mr. Overpassing is not able to attend the LUT meeting, but I will
add it to the agenda for a brief...

Author

Gerard Kinney
gkinney@y

David Boyton
patma5000@y

Gerard Kinney
gkinney@y

Diana W
drowan@y

Gerard Kinney
gkinney@y

5/20/2012
Apr 28, 2012
4:18 AM
Apr 30, 2012
4:47 PM
Apr 30, 2012
5:16 PM
Apr 30, 2012
3:38 PM
May 1, 2012
1:15 AM

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Truthaboutabs.com - Cut down a bit of your belly every day by not eating these 3 foods.

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1 Tip to Lose Stomach Fat
TruthAboutSemiDetox.com - This unusual article shows 3 veggies that fight stomach fat.

(C) A parking structure with an entrance that faces the front yard:

(1) may not be closer to the front lot line than the building facade; and

(2) if the parking structure is less than 20 feet behind the building facade, the width of the parking structure may not exceed 50 percent of the width of the principal structure, measured parallel to the front lot line.

Thank you,

Tony Hernandez, Residential Building Inspector Supervisor

City of Austin, Planning Development Review Department

100 Barton Springs Road, Suite 300
Austin, Texas 78704
Office (512) 974-2323

2/2 from 2/9

Valero, Debbie

From: Girard Kinney [\[redacted\]](mailto:girard@kinneyassociates.com)
Sent: Friday, June 15, 2012 8:49 AM
To: Jennifer Potter-Miller
Cc: Mark Schiff, Gibbs, Carol
Subject: Re: 3305 Lafayette - 2012-031243 PR - questions

Jennifer; please hold off. Mark and I met with Carol Gibbs yesterday and she has suggested a way to proceed most effectively. We have already been able to stop the construction there until the owners respond to the charge that they are not meeting city ordinances. This should give us some leverage, albeit late.

Girard Kinney, AIA
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C. 512.657.1593
H. 512.478.5042

Please submit emails with large file attachments to:

[\[redacted\]](mailto:[redacted])

On 6/15/2012 8:02 AM, Jennifer Potter-Miller wrote:

I'd be happy to forward to the email below to the list. Should I request a volunteer at the same time?
J

On Thu, Jun 14, 2012 at 9:10 AM, Girard Kinney [\[redacted\]](mailto:girard@kinneyassociates.com) wrote:
Thanks, Mark,

I have cc'd Jennifer since as chair she should be the one assigning roles, and Carol Gibbs since she is our liaison with respect to our interaction with city departments. Jennifer may wish to forward this to the LUT Committee. Here are my thoughts:

- It would be GREAT for someone in addition to me becoming knowledgeable about all the rules, who is also knowledgeable about our Cherrywood Design Guidelines and our Mission, and to help monitor projects, applications, etc. as we become aware of them.
- I am down at One Texas Center usually several times a week, so I normally don't even have to make a special trip to pick something up there.
- It would be good for us to both meet down there to get the hard copies at a time when Carol is in so that if you have not met her I can introduce you to her and we can discuss with her some of the issues with which we are trying to cope.
- It is extremely important to me that we not attempt to go farther than trying to achieve the goals of the CNA Vision and our Design Guidelines. The fact is that there are a lot of City laws, ordinances and policies with which I know from experience make technically illegal things that are really not problems (I could give you a long list), but also there are important things that are not addressed by statute (such as us not being notified of demolitions or building permit applications) that are real problems for us. So I see our job as twofold.

- First, the neighborhood level trying to become knowledgeable about pending changes, gathering information in time to act, and then trying to influence an outcome that meets the spirit of our Vision and our Design Guidelines. Methods range from providing copies of the design guidelines, diplomacy, pressure from immediate neighbors, etc. to reviewing plans, informing plan reviewers of problems we identify, and during construction alerting city code enforcement of violations.
- Second, at a higher level, using our knowledge and influence to try to change city ordinances and policies as we believe necessary to achieve our goals. We have been as effective as, if not more effective than, other neighborhoods in doing this in the past and I hope we can continue to do so.

There are subtleties and nuances here. We must have the respect and confidence of BOTH our neighborhood AND the city staff, elected officials and their appointees, and this is not an easy line to walk as is evidenced by current events.

Girard

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D. [512.372.9072](tel:512.372.9072)
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C. [512.379.1592](tel:512.379.1592)
H. [512.379.5047](tel:512.379.5047)

Please submit emails with large file attachments to:
adefgs@kinneya.com

On 6/14/2012 6:10 AM, [REDACTED] wrote:

Girard,

If I can assist you in any way on this matter, please let me know. If you want me to pick up the hard copy on the 5th floor just let me know.

I am very committed to the uniform implementation of city zoning restrictions and neighborhood design guidelines.

Mark Schiff
478-3420

On Jun 13, 2012, at 8:44 PM, Girard Kinney wrote:

From: Dave W. (dwestenb12@cherrywood.com)

To: [REDACTED]

Date: Sun, July 15, 2012 5:58:11 PM

Cc: [REDACTED];

[REDACTED];

[REDACTED];

[REDACTED];

[REDACTED];

[REDACTED];

[REDACTED];

[REDACTED];

[REDACTED];

[REDACTED];

[REDACTED];

[REDACTED];

Subject: RE: 3305 Lafayette/Neighbor Waiver Protocol

Hello. Thank you everyone for the civil and informative discussion, despite the unpleasantness that's been dealt us. I hope there's a solution that minimizes the damage already incurred. I have the following questions:

1. Exactly which City code(s) is(are) requiring waiver(s) and what are those codes ultimately intended to accomplish? I want to know what would be given up, if anything, in granting the waiver, besides the subjective aesthetic of forward facing garages. Is this just an opinion thing or is there a larger drainage or safety issue?
2. What is a reasonable range of costs for removing the existing foundation and redesigning the structure (s) to comply with the code and design guidelines? Three bids is standard practice. How much has already been spent? One solution is for the City to select a bidder and perform that work at no cost to the owner, including recovery of sunk costs. Fees for any re-permitting should, of course, be waived, and permitting expedited.
3. If Cherrywood supports, or encourages, the owners to request the City perform the work in #2 above, are there incentives Cherrywood might offer the owners, should they decide to pursue this course of action rather than continue pursuing the waiver(s)? I'm envisioning things like supporting other waivers, if necessary, for the subject property or the one next door. For example, if the owners needed to exceed McMansion by a little to fit a duplex with garages in the back, due to what we know to be a physically unique lot, Cherrywood might decide to support that. That sort of thing. Are there others?

Thank you,
Dave Westenbarger
Cherrywood Land Use and Transportation Committee

--- On Sat, 7/14/12, John Kinney <[REDACTED]> wrote:

Glenn, Thank you for your email. I have read your email carefully. I wish that you would go by our project at 3305 and take a careful look at the lot and the existing foundation. There are some characteristics of both of which you may not be aware. You may know by now that we cut no Heritage Trees on 3305 Lafayette Avenue. We did cut one completely dead pecan tree 15" in diameter. It was standing in the middle of the lot near the back (East) end side of the lot. The limbs had fallen off the tree as had also most of the bark. The tree trunk with a couple of remaining, very dead limbs at the top were all that stood. The tree was a hazard of which we are very aware having lived in a timber-

<http://us.mg201.mail.yahoo.com/dc/launch?.partner=sbc&.gx=1&.rand=f3gdclqh0li8s&.lts...> 7/15/2012

producing area for many years. We cut it down and gave the wood to our neighbors at 3307 at their request. We also removed some "trash trees" which two arborists told us were past their life expectancy and in decline. That is all of the tree removal we did on 3305. We cut one Heritage Oak on 3303 after 3 arborists including a City arborist recommended its removal. The tree was dying with a large part of its canopy already dead. It was located near the existing house at 3303 and threatened to fall on its roof. Incidentally, the previous owners had filled sections in the trunk and even a large limb with concrete in their attempts to save the tree. You can well imagine what this did to the cost of removing that tree. We obtained the necessary permit from the City to remove the tree. Before we bought the house at 3303, just how long before we do not know, a large Heritage Oak fell over on the roof of the house causing significant damage. It was removed by the previous owners. The huge stump remains for us to pay to have removed. We have no intention to scrape the house at 3303 and build another duplex there as has been rumored. We do intend to remodel it on the inside which it sorely needs. We would like to complete our project at 3305 as permitted by the City. As you and Girard and the others can readily imagine, we already have a considerable investment in the project at 3305. Had we been aware of the Cherrywood Neighborhood Association guidelines

BEFORE we committed concrete to a design, we would have been happy to consider other designs. If someone would have warned us before we had set the forms, tied the steel and poured the concrete, we could have considered other designs and could have avoided what is for us a looming and significant financial loss. Several neighbors stopped and asked us what we were going to build as the forms were being set and other work done on the site. We told them. No one mentioned a homeowners' association or expressed any dissatisfaction with our plan to build a duplex with front-facing garages. In fact it took us a week after our job was shut down on June 14 to discover that someone named Girard Kinney had complained on June 11 on behalf of the Cherrywood Neighborhood Association of which we were also unaware until then.

We are not developers. We are two retired people 72 and 69. The 3305 project is the only new construction project we have attempted in the City. We did two small remodeling jobs on the house where we have lived since 1994 and on two other small houses that my wife bought with the daughter of a friend to fix up, decorate and sell. Those jobs were all done with City permits and there were no problems. Those experiences gave us what is proving to be a false sense of security and confidence that we could do this. Although it does us no good to say so, I am going to add that the permitting process in the City with its patchwork of neighborhood associations is a minefield for anyone wanting to build something. Some of the neighborhood associations have adopted some ordinances, others have adopted different ordinances.

Some have prejudices against one esthetic. Others approve of those same esthetics and disapprove of others. There is no easy way for a builder or for a City permit reviewer to discover what property is in what neighborhood association and what design restrictions do and do not apply. The situation is so complex that the City permitting department has great difficulty staying abreast of it, as has been demonstrated in this and other residential projects around town. Had we known what we now know about building in the City of Austin, we would have never ventured into that minefield. A citizen ought to be able to rely on a building permit once it is issued by the City. At this point we are loathe to see our project redesigned and a structure placed on the existing foundation which that foundation was not designed to accommodate. In the Marine Corps they referred to such undertakings as "jury-rigging." We do not believe that every front-facing garage design is inherently bad. In fact it seems to us that front-facing garages are an efficient design for a narrow, inner city lot that is not a corner lot, especially when there is no access to that lot from a rear alley. There are front-facing garages, with and without "snouts," all over the City and throughout the Cherrywood neighborhood. If you visit the lot at 3305, you will surely see that it slopes sharply down toward the East and also slopes toward the North making the accommodation of garages on the sides or to the rear of the principal structure problematical. We looked at the duplex you mentioned at 3107 Robinson. We agree with you that it is a mess and even a blight. I think you may

<http://us.mg201.mail.yahoo.com/dc/launch?partner=sbc&gx=1&rand=fjydcqk0li8&.its...> 7/15/2012

in this situation and damaged economically as well as emotionally. The City is the party principally at fault. The citizenry should be able to rely on the permitting process. I had hoped for some relief from the LUT. That help does not appear to be forthcoming.

I had also hoped for a little more understanding from the LUT Committee and even rescue. It seemed to me however that we were never able to focus on the only legitimate issue before the LUT Committee. I believe the question before the LUT Committee is the impact of the requested variance on the ENTIRE neighborhood. Will the impact of the variance on the ENTIRE neighborhood, if granted, be positive or negative for the ENTIRE neighborhood? That, I believe, is the dispositive question. The neighborhood, as it obviously developed over many years, is quaint and has its charm. To say, however, that there is an architectural theme throughout the entire, fully-developed neighborhood is a stretch. When owners were free to do as they pleased about their lots, they did just that, as they pleased; there are garages front-facing, alongside, behind, no garages, carports of every make and construction including tent-like structures, cars parked in front yards, cars parked in back yards, on driveways, off driveways, on the street, single family residences with and without porches and front-facing garages, duplexes with and without front-facing garages, etc. The neighborhood is a hodgepodge of styles, colors, parking arrangements, etc. The impact of our proposed structure, if the variance were granted, at worst would be neutral in its impact on the ENTIRE neighborhood and probably at its worst it would still be positive in its esthetic impact on the 3300 block of Lafayette.

John

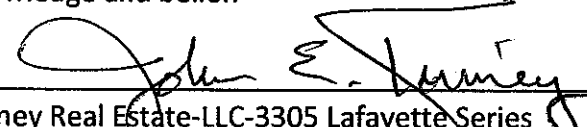
**CITY OF AUSTIN APPLICATION TO BOARD
OF ADJUSTMENT GENERAL
VARIANCE/PARKING VARIANCE
SUPPLEMENTAL ANSWER TO HARDSHIP: 2 (b)**

The lot is 56' wide and 160' deep. It is an interior lot, not a corner lot. The long axis of the lot is East-West. Lafayette Street is at the west end of the long axis of the lot. The 56' width is on a North-South axis. The lot at 3307 Lafayette is north of the subject lot (3305 Lafayette). The subject lot slopes sharply from Lafayette (approx 15-18') along a Southwest-Northeast axis to the lot's northeast corner. The slope of the subject lot is more pronounced than most, if not all, of the other lots in French Place. The front-facing façade of the proposed structure is 6'-8' below the level of Lafayette Street. The front-facing façade of the proposed structure is set back 35' from the west property line (Lafayette Street), 10' more than the required setback to allow light and a better view to and from the residence at 3307 Lafayette. The natural drainage of the lot in question and the lot at 3307 Lafayette is along the long axis on the north side of the subject lot. This is a problem for both 3307 Lafayette and the subject lot. The lot at 3307 Lafayette has a two-story garage apartment built inches off the common property line and at least partially, perhaps wholly, in the natural drainage of the two lots. Building driveways in the natural drainage is inadvisable. There is no alley way at the back (east end) of the lot providing access to the portion of the lot behind the proposed construction. The most attractive portion of the lot is that portion behind (east) of the proposed structure which would be overlooked by the rear-facing deck in Applicant's proposed design.

There are Heritage Trees on the lots east, north and south of the subject lot with large canopies that overhang portions of the subject lot to the east (rear) of the proposed structure. The canopies of these trees contribute to the beauty of the back portion of the subject lot but make the construction of parking structures there, if not already very inadvisable, even more difficult.

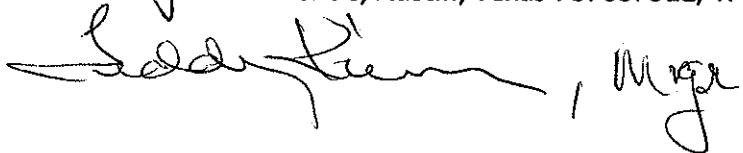
The combination of topographical and other features of the subject lot described herein are believed to be unique in the French Place neighborhood.

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

Signed  John E. Kinney, Mgr.

Kinney Real Estate-LLC-3305 Lafayette Series

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 Sadayam, Mgr.