

The Lear Company
2108 W. Ben White Boulevard
P.O. Box 163662
Austin, TX 78716
(512)329-8290

4/17/2012

Board of Adjustment
Chairman Jeff Jack

RE: 1917 David St, Austin, TX

Chairman:

I have reviewed plans submitted to me in regard to the property to be built at 1917 David St., Austin, TX, Lot 18, Block 2, Carrington Subdivision. It was requested for me to observe the plans to offer my professional opinion as a real estate appraiser in regard to objectively observed bedrooms. I would conclude that the plans clearly indicate exceeding the three (3) bedroom per unit duplex limit.

Please find attached my qualifications, as well as a copy of my state certification.

Sincerely,



Ted Lear, SRA
TX-1321124-G

A RESUME OF THE QUALIFICATIONS OF TED N. LEAR

My name is Ted Lear and I am an independent real estate appraiser and owner of The Lear Company, a real estate appraisal and consulting firm with offices at 2108 W. Ben White Boulevard, Austin, Texas. I have been actively engaged in the appraisal of real estate since 1983, after receiving my degree from the University of Texas. I have had the privilege of developing experience in the appraisal and analysis of multiple types of properties. Before opening my own office, I managed the residential appraisal department of Sayers & Associates, Inc. I have spent 100% of my career time appraising during the past 28 years.

Designations

SRA designation -- Appraisal Institute (Senior Residential Appraiser)

State Certification

General Real Estate Appraiser - Certificate Number: TX-1321121-G

Employment History

Sayers & Associates	7/83 - 1/95
The Lear Company	1/95 - Present

Education and Memberships

University of Texas; BBA, Petroleum Land Management, 1983
Appraisal Institute-SRA Member

I am up to date regarding all ongoing education requirements. In addition to state licensing course requirements every two years, I am required to submit evidence of 100 hours of classwork every five years for the Appraisal Institute.

Experience, Types of Appraisal Work Performed

The bulk of my workload is appraisals performed for mortgage lending purposes (both resale and new construction). In addition to these type appraisals, I also have many years experience appraising properties for the purpose of litigation. My experience goes beyond the valuation process, but also into the process of court testimony. I also provide services to property owners, developers, and other prospective purchasers in a consultant role, as well as that of the appraiser. My experience also encompasses both proposed and developed properties.



1908 Cliff St.
Austin, Texas 78705
September 11, 2012

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

Re: Standing to appeal 1917 David St. 78705 BP 2012-084972

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

New Reply Delete Junk Sweep

Nuria Zaragoza 

from: John mcdonald

FW: 2012-079335 PR,1917 David

John McDonald

Folders

Inbox 15107

Junk

Drafts 43

Sent

Deleted

POP

canpac agenda

code compliance

contractors

ebay 8

izzy rsvp

juniper

Kathie Tovo

samamas

stealth dorms

Search Results

New folder

Quick views

Documents 153

Flagged 15

Photos 536

Shipping updates 11

New category



John McDonald 8/08/12

To: Darren Cain, Darren@coasmp4.ci.austin.tx.us

Cc: Nuria Zaragoza

[View contact](#)

Darren,

Make sure Nuria Zaragosa is added as an interested party on the number below at 1917 David Street.

JMM

----- Forwarded Message

From: Nuria Zaragoza <tedandnuria@hotmail.com>

Date: Wed, 8 Aug 2012 07:16:23 -0600

To: "John.mcdonald@austintexas.gov"

<john.mcdonald@austintexas.gov>, Nuria zaragoza
<tedandnuria@hotmail.com>

Cc: "carol.gibbs@austintexas.gov" <carol.gibbs@austintexas.gov>
Mowat <ann_mowat@yahoo.com>

Subject: 2012-079335 PR,1917 David

Dear John,

Please list me as an Interested party on the 1917 David permit :
079335 PR

<https://www.austintexas.gov/devreview/d_showpropertyfoldr
clicked=searchByOther>

Thank you.

Nuria

Sent from my iPhone

Content from  

[Learn more](#) | [Turn off](#)

----- End of Forwarded Message

n your POP folder! Some other program is set to download at c Close issa...



Travis Central Appraisal District
 6314 Cross Park Drive
 Austin, Texas 78764
 Internet Address: www.traviced.org
 Main Telephone Number (512) 634-4317

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 6314 Cross Park Drive
 Austin, Texas 78764
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ATTACHMENT "B"

Applicable LDC Code Sections

§ 25-2-555 FAMILY RESIDENCE (SF-3) DISTRICT REGULATIONS.

(D) This subsection applies to a duplex residential use.

(1) On a lot with a lot area of less than 10,000 square feet, a duplex structure may not exceed 4,000 square feet of gross floor area or contain more than six bedrooms.

(2) On a lot with a lot area of 10,000 square feet or more, a duplex structure may not exceed a floor-to-area ratio of 0.57 to 1.

3.3.3 Subject to the limitations in paragraph C below, the following parking areas and structures are excluded from gross floor area for purposes of this Subchapter:

C. A habitable portion of an attic, if:

1. The roof above it is not a flat or mansard roof and has a slope of 3 to 12 or greater;
2. It is fully contained within the roof structure;
3. It has only one floor;
4. It does not extend beyond the footprint of the floors below;
5. It is the highest habitable portion of the building, or a section of the building, and adds no additional mass to the structure; and
6. Fifty percent or more of the area has a ceiling height of seven feet or less.

§ 25-2-773 DUPLEX RESIDENTIAL USE.

(D) The two dwelling units are subject to the following requirements:

(1) The two units must have a common floor and ceiling or a common wall, which may be a common garage wall, that:

- (a) extends for at least 50 percent of the maximum depth of the building, as measured from the front to the rear of the lot; and
- (b) maintains a straight line for a minimum of four foot intervals or segments.

(2) The two units must have a common roof.

ATTACHMENT "C"

Parking Requirements and Landscaping

APPENDIX A. TABLES OF OFF-STREET PARKING AND LOADING REQUIREMENTS.

Use Classification	Minimum Off-Street Parking Requirement	Off-Street Loading Requirement
Duplex residential Single-family attached residential Standard If larger than 4,000 sq. ft. or more than 6 bedrooms	4 spaces 4 spaces or 1 space for each bedroom, whichever is greater	None

ARTICLE 9. LANDSCAPING.

Division 1. General Provisions.

§ 25-2-981 APPLICABILITY; EXCEPTIONS.

(A) Except as provided in Subsection (B), this article applies in the city's zoning jurisdiction.

(B) Division 2 (*Requirements for a Site Plan*) and Division 3 (*Additional Site Plan Requirements in Hill Country Roadway Corridors*) do not apply to:

(3) a lot containing one duplex residence, unless the residence exceeds 4,000 square feet of gross floor area or has more than six bedrooms;

Attachment "D"

"Group Residential" Definition from Land Development Code

(5) 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.

Walker, Susan

From: [REDACTED]
Sent: Wednesday, October 24, 2012 3:19 PM
To: Walker, Susan
Subject: hearing for 1917 David St.

Hi Susan,

I am requesting a postponement of our Board of Adjustment hearing for my property at 1917 David that is set for Monday the 29th. My consultant Mike McHone has been very ill and therefore we have not been able to meet to prepare for the hearing. Please let me know if this will be possible so we can make the appropriate plans. Thank you.

Best regards,

	Michael Said Broker Associate AustinRealtySolutions.com	realty/austin make the move.™
c 512.789.6543 f 512.600.5702 m.said@realtyaustin.com		

Michael Said | 512-789-6543 | M.Said@RealtyAustin.com

[Search Austin Properties](#)

[See My Bio](#)

Walker, Susan

From: Mike M [REDACTED]
Sent: Wednesday, October 24, 2012 12:51 PM
To: Walker, Susan; Ramirez, Diana
Cc: 'Mike Mchone'
Subject: 1917 David appeal of Building Official's Interpretation of "Bedroom"

Susan Walker, Diana Ramirez
BOA COA Support Staff
October 24, 2012

Susan and Diana,

Please convey to the Board of Adjustments my request for a postponement of the above case. I am ill and not able to adequately respond to the issues raised by this case or to effectively represent my client.

Thank you,

Mike

Walker, Susan

From: [REDACTED]
Sent: Thursday, October 25, 2012 10:57 AM
To: Walker, Susan
Subject: 1917 David. Postponement/Bedroom definition

Hello Susan,

I understand the packets go out today. Could you please attach this email to go to the Board?

The four steering committee members I reached felt strongly that there should not be a postponement. Although they all understand the uncertain nature of illness, this case has been heard once before by this board (at length), and the issues and the floor-plan remain the same. In short, the preparation Mr. McHone did for the last appeal at BOA, before he decided to withdraw the permit, should be applicable to this appeal.

In addition to our request that the hearing not be postponed, I also wanted to pass on a clarified version of the bedroom definition. On the information sheet I sent previously, I asked that any space that met the bedroom requirements outlined in the International Property maintenance Code, be labeled as a bedroom. Following are the relevant provisions, citing the IPMC requirement:

For the purposes of determining the number of bedrooms allowed under section 25-2-555(0) of the Land Development Code, a bedroom shall be any space that:

- is private, and is not a kitchen, a bathroom, a toilet room, a closet, a hall, a storage, or a utility space;
and (404.1, 404.4.4)
- which measures at least 70 sq ft of usable floor area, and no less than 7 feet in any dimension;
and (404.4.1, 404.2)
- has a clear ceiling height of no less than 7 feet; or if sloped, with a clear ceiling height of at least 7 feet over at least one-third of the required minimum floor area; and (404.3)
- does not constitute the only means of access or egress from other habitable spaces; and (404.4.2)
- has access to at least one water closet and one lavatory, in the same story or adjacent story, without passing through another bedroom. (404.4.3)

Respectfully,

Nuria Zaagoza

Sent from my iPhone

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 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: C15-2012-0126 – 1917 David Street
Contact: Susan Walker, 512-974-2202
Public Hearing: Board of Adjustment, October 29th, 2012

PAVAN ELIS
 Your Name (please print)



1204 W 22ND ST
 Your address(es) affected by this application

Jenna Anne Van Elle
 Signature

Date

Daytime Telephone: 512-407-9838

Comments:

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

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Case Number: C15-2012-0126 – 1917 David Street
Contact: Susan Walker, 512-974-2202
Public Hearing: Board of Adjustment, October 29th, 2012

STC 224 LLC

Your Name (please print)

1918 Robins Place

Your address(es) affected by this application

Joe. Ogden Street

DOB, NISN

Signature

Date

Daytime Telephone: 512-454-2987

10-18-12

Comments: I DO NOT BELIEVE A

DUPLEX SHOULD HAVE 10

FEET FROM THE NEIGHBORHOOD.

IT DOES NOT FIT THE CHARACTER

OF THE NEIGHBORHOOD.

I HAVE NO PROBLEM WITH THE

PROPOSED DEVELOPMENT.

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

Susan Walker
P. O. Box 1088
Austin, TX 78767-1088

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Case Number: C15-2012-0126 – 1917 David Street
Contact: Susan Walker, 512-974-2202
Public Hearing: Board of Adjustment, October 29th, 2012

Your Name (please print) Kamran Zia



Your address(es) affected by this application 1010 W. 22nd St. Austin, TX 78705

Signature Kamran Zia Date 10-19-2012

Daytime Telephone: 512-784-5860

Comments: Our streets are already difficult to navigate. Adding 70 cars will make things worse. This is one of the last areas in west campus that is safe family in character. Ten bedrooms will make this a "dormitory". This will force few of us who are owners occupied to leave and only rentals will be left in this whole area.

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

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Case Number: C15-2012-0126 - 1917 David Street

Contact: Susan Walker, 512-974-2202

Public Hearing: Board of Adjustment, October 29th, 2012

LYMAN LABRY

Your Name (please print)

1113 WEST 22ND ST.

Your address(es) affected by this application

Susan Walker

Signature

Date

Daytime Telephone: 512-305-9109

OCT. 22, 2012



Comments: *The impact of ten additional vehicles backing on an already narrow and crowded David St. and the accompanying noise and trash that is associated with it erodes the quality of life of single family homes. I believe my property should be as important too and its value is endangered by such intensive development. Our neighborhood is the densest planning area in the city. We are*

struggling to maintain what's left of its single family character. Won't you help us?

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

Ray Langenberg
President, Judge's Hill Neighborhood Association
1802 Vance Circle
Austin, TX 78701
512 495-6313
rlangenberg@scottdoug.com

October 29, 2012

Mr. Greg Guernsey
Director
Planning and Development Review Department
City of Austin
P.O. Box 1088
Austin, Texas 78767-8865
Via Regular Mail and Email: greg.guernsey@ci.austin.tx.us

Re: Case No. C15-2012-0126; Application for Interpretation of the Land Development Code;
1917 David Street

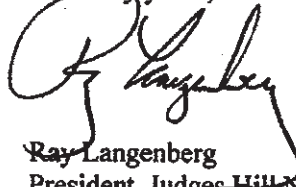
Dear Mr. Guernsey:

I am writing in support of the appellant, Nuria Zaragosa, who has requested an interpretation of whether the Planning and Development Department Director's determination to approve the proposed duplex residential use at 1917 David Street complies with the Land Development Code. Planning and Development reviewers should identify rooming houses and rooms that have probable uses as bedrooms.

This is a small lot in an area that contains many single family homes. Its location in the West Campus area makes it a prime location for potential abuse. This issue is significant not only in preventing the construction of structures that invite illegal uses, but also in giving nearby residents confidence in your department's ability to apply and enforce the Code. As central Austin residents are being asked to look at ways to absorb more density, that confidence is of paramount importance.

On behalf of the Judge's Hill Neighborhood Association, I request the Board of Adjustment to recognize the appellant's concerns that simply labeling a room as a "game room" or a "study" in a multi-bedroom duplex with multiple separate bathrooms will allow easy circumvention of the Land Development Code.

Sincerely yours,



Ray Langenberg
President, Judge's Hill Neighborhood
Association

C15-2012-0126
ROW-10836294
TP-0113001220

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

STREET ADDRESS: 1917 David Street, Austin Texas 78705

LEGAL DESCRIPTION: Subdivision –

LOT 18 BLK 2 OLT 26-28 DIV D CARRINGTON SUBD

Lot (s) 18 Block 2 Outlot 26-28 Division Carrington
Subdivision _____

ZONING DISTRICT: SF-3

I/WE Nuria Zaragoza on behalf of myself/ourselves as
authorized

Agent for Original West University NA affirm
that on 11th

Day of September, 2012, hereby apply for an interpretation hearing before the
Board of

Adjustment.

Watershed Protection and Development Review Department interpretation is:

Re: 2011-106377PR

- 1) The project does not exceed the LDC limitations placed on duplexes outlined on 25-2-555 D.
- 2) The project complies with 25-6-655 Appendix A.
- 3) The project complies with 25-2-981, Subchapter C, Article 9.
- 4) The proposed project is compatible with SF-3 use.

RECEIVED
SEP 12 2012

I feel the correct interpretation is: _____

- 1) With 10 bedrooms, the project exceeds the LDC limitations placed on duplexes outlined on 25-2-555 D.
- 2) With 10 bedrooms, the project is required 8 parking spaces per 25-6-655 Apendix A. With 4 parking spaces, the project does not meet the requirements.
- 3) With the 10 bedrooms, the project needs to comply with the landscaping requirements outlined in 25-2-981. It does not.
- 4) The project is not compatible with SF-3 use. It is clearly designed for group residential use as defined in the LDC 25-2-3 (5)

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:

1) The project has 10 bedrooms, thus exceeds the number of bedrooms allowed under LDC 25-2-555 D

(D) This subsection applies to a duplex residential use.

(1) On a lot with a lot area of less than 10,000 square feet, a duplex structure may not exceed 4,000 square feet of gross floor area or contain more than six bedrooms.

The limit was placed in 2003 as a remedy for the "super duplex", and its devastating effects on neighborhoods. It was passed by Council with these words:

The Council finds that the regulations in this ordinance are necessary to ensure that a duplex residential use is not established unless it is compatible with other nearby land uses. Because of this emergency, this ordinance takes effect immediately on its passage for the immediate preservation of the public peace, health, and safety

Although some of the bedrooms are not accurately labeled, this structure has a total of 10 bedrooms.

The ten bedrooms will be served by 6 full bathrooms, with a total of 12 lavatory sinks.

The vast majority of projects are unaffected by bedroom counts. There are some instances, however, when the number of bedrooms needs to be calculated. This is the case with 25-2-555. If the City is going to regulate based on bedrooms counts, it is unreasonable for reviewers to refuse the authority to make that determination. At this point, reviewers simply read what is written on a plan. The process is based on the "honor system". Real Estate professionals, appraisers, habitually determine what is a bedroom and what is not a bedroom. Any of them would report that this project exceeds six bedrooms.

A room designated on the floor plan of a residential duplex project should be considered a "bedroom" for the purposes of determining the number of bedrooms allowed under section 25-2-555(0) of the Land Development Code if :

(A) the room is a minimum of 70 square feet in area and is not a kitchen, bathroom, garage, utility room, or common circulation space (halls or stairs),

(B) the room is configured so that it is or is capable of being a private space separated from all other areas of the building by a permanent door or doors,

To reiterate, the vast majority of projects would be unaffected by a bedroom definition. For those projects where the number of bedrooms trigger a regulation, common sense design variations

would ensure reasonable use, while preventing bad actors from exploiting the land Development Code and the neighborhoods that have to live with their projects.

For example, on this project the game rooms are fully enclosed private spaces. A game room, truly intended to be a game room, would likely meet all the above mentioned criteria except that of privacy.

- 2) With 10 bedrooms, the project required 8 parking spaces per 25-6-655 Appendix A. With 4 parking spaces, the project does not meet the requirements.**

Appendix A states that a duplex with more than 6 bedrooms must provide one parking space per bedroom. As this project is in the urban core, it would be reduced by 20% to 8 parking spaces. Although it is apparent that the parking plan for this project includes the decomposed parking area surrounding the legal parking spaces, they would not be legal parking spaces as they would significantly increase impervious cover beyond the allowable 45%.

- 3) With the 10 bedrooms, the project needs to comply with the landscaping requirements outlined in 25-2-981. It does not.**
- 4) The project is not compatible with SF-3 use. It is clearly designed for group residential use as defined in the LDC 25-2-3 (5)**

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.

It is apparent in the plans that the intended use for this structure is group residential. It is unfathomable that there be 12 lavatory sinks for 6 residents, or almost 1300 sq. ft. of habitable storage space. This space will store humans, and many more than six.

It is not reasonable to approve a permit that will establish a structure intended for an illegal use.

This property owner has run an illegal four-plex on the site since he purchased the property in 2006. Although it has had an open Code Compliance Case since the purchase, it has continued to be rented and inhabited.

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:

In order for this lot to be developed in the manner in which this permit seeks to develop it, it would require MF-4 zoning. If that is the intention, the property owner should seek a zoning change. Otherwise, this property should be developed with the same regulations as SF-3 properties, with a structure intended to house a MAXIMUM of 6 unrelated persons.

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

Granting this permit will result in a special privilege to this property owner by permitting a structure to be built which does not meet the requirements of the Land Development Code. This interpretation seeks to ensure that this property is developed consistently with other SF-3 properties.

The Lear Company
2108 W. Ben White Boulevard
P.O. Box 163662
Austin, TX 78716
(512)329-8290

4/17/2012

Board of Adjustment
Chairman Jeff Jack

RE: 1917 David St, Austin, TX

Chairman:

I have reviewed plans submitted to me in regard to the property to be built at 1917 David St., Austin, TX, Lot 18, Block 2, Carrington Subdivision. It was requested for me to observe the plans to offer my professional opinion as a real estate appraiser in regard to objectively observed bedrooms. I would conclude that the plans clearly indicate exceeding the three (3) bedroom per unit duplex limit.

Please find attached my qualifications, as well as a copy of my state certification.

Sincerely,

A handwritten signature in black ink, appearing to read "Ted Lear", with a long, sweeping horizontal line extending to the right.

Ted Lear, SRA
TX-1321124-G

A RESUME OF THE QUALIFICATIONS OF TED N. LEAR

My name is Ted Lear and I am an independent real estate appraiser and owner of The Lear Company, a real estate appraisal and consulting firm with offices at 2108 W. Ben White Boulevard, Austin, Texas. I have been actively engaged in the appraisal of real estate since 1983, after receiving my degree from the University of Texas. I have had the privilege of developing experience in the appraisal and analysis of multiple types of properties. Before opening my own office, I managed the residential appraisal department of Sayers & Associates, Inc. I have spent 100% of my career time appraising during the past 28 years.

Designations

SRA designation – Appraisal Institute (Senior Residential Appraiser)

State Certification

General Real Estate Appraiser - Certificate Number: TX-1321121-G

Employment History

Sayers & Associates	7/83 - 1/95
The Lear Company	1/95 - Present

Education and Memberships

University of Texas; BBA, Petroleum Land Management, 1983
Appraisal Institute-SRA Member

I am up to date regarding all ongoing education requirements. In addition to state licensing course requirements every two years, I am required to submit evidence of 100 hours of classwork every five years for the Appraisal Institute.

Experience, Types of Appraisal Work Performed

The bulk of my workload is appraisals performed for mortgage lending purposes (both resale and new construction). In addition to these type appraisals, I also have many years experience appraising properties for the purpose of litigation. My experience goes beyond the valuation process, but also into the process of court testimony. I also provide services to property owners, developers, and other prospective purchasers in a consultant role, as well as that of the appraiser. My experience also encompasses both proposed and developed properties.



1908 Cliff St.
Austin, Texas 78705
September 11, 2012

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

Re: Standing to appeal 1917 David St. 78705 BP 2012-084972

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

from: john mcdonak

FW: 2012-079335 PR,1917 David

John McDonald

Folders

Inbox 15107

Junk

Drafts 43

Sent

Deleted

POP

canpac agenda

code compliance

contractors

ebay 8

izzy rsvp

juniper

Kathie Tovo

samamas

stealth dorms

Search Results

New folder

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Documents 153

Flagged 15

Photos 536

Shipping updates 11

New category



John McDonald 8/08/12

To: Darren Cain, Darren@coasmp4.ci.austin.tx.us

Cc: Nuria Zaragoza

View contact

Darren,

Make sure Nuria Zaragoza is added as an interested party on the number below at 1917 David Street.

JMM

----- Forwarded Message

From: Nuria Zaragoza <tedandnuria@hotmail.com>

Date: Wed, 8 Aug 2012 07:16:23 -0600

To: "john.mcdonald@austintexas.gov"

<john.mcdonald@austintexas.gov>, Nuria zaragoza
<tedandnuria@hotmail.com>

Cc: "carol.gibbs@austintexas.gov" <carol.gibbs@austintexas.gov>
Mowat <ann_mowat@yahoo.com>

Subject: 2012-079335 PR,1917 David

Dear John,

Please list me as an interested party on the 1917 David permit :
079335 PR
<https://www.austintexas.gov/devreview/d_showpropertyfolder?clicked=searchByOther>

Content from  

Learn more | Turn off

Thank you.

Nuria

Sent from my iPhone

----- End of Forwarded Message



Dear Board Members,

First of all, thank you for the time you have spent on this appeal. It has surely been long and tedious for you, yet, it is apparent that you want to solution that will stop the circumvention of the Code, without having unintended consequences on legitimate projects.

As you are aware, the project you ruled on at the May 14, 2012 BOA Meeting, has been re-submitted without any substantive changes to the floor plan. We believe the reason why it was resubmitted without change was because they believe that your prior ruling will not affect their proposed project:

- 1) Project will be able to have 10 bedrooms, despite the LDC limit of 6.
- 2) Project will be designed specifically to house 10 unrelated people, despite that being a group residential use not allowed in SF-3 zoning.

Bedrooms

In your recommended definition, you exempt rooms that can be classified as common living areas. A common "study" or a "gameroom" could likely be classified as "common living areas".

BOA ruling

(1) A room designated on the floor plan of a residential duplex project should be considered a "Bedroom" for the purposes of determining the number of bedrooms allowed under section 25-2-555(0) of the Land Development Code if :

(A) the room is a minimum of 70 square feet in area and is not a kitchen, bathroom, garage, utility room, common living area or common circulation space (halls or stairs),

(C) the room is configured so that it is or is capable of being a private space separated from all other areas of the building by a permanent door or doors, and

(D) if all designated "bedrooms" shown on the plans have access to bathrooms only through shared common living areas also accessible from these rooms and no shown bedroom has direct access to any of the bathrooms.

(2) It is recognized that an interpretation relies on the specifics of a case. Because the original project permit application has been withdrawn, an interpretation at this time is not applicable. However it is my hope that this recommendation, will be used by the Director when considering what constitutes a bedroom with regard to future projects meeting the requirements of Section 25-2-555

Since the BOA hearing, we have found a definition, and a list of requirements for "bedrooms" in the International Property Maintenance Code (IPMC).

The international Property Maintenance Code is adopted in the Land Development Code § 25-12-211.

§ 25-12-211 PROPERTY MAINTENANCE CODE.

(A) The International Property Maintenance Code, 2009 Edition, published by the International Code Council ("2009 International Property Maintenance Code") is adopted and incorporated by reference into this section with the deletions in Subsection (B) and amendments in Section 25-12-213 (*Local Amendments to the International Property Maintenance Code*).

The International Residential Code states full compatibility with the International Property Maintenance Code. Further, "R201.3 Terms defined in other Codes:" states that where terms are not defined in the International Residential Code, such terms shall have meanings ascribed to them as in other code publications of the International Code Council.

2009 IPCM Section 202

BEDROOM: Any room or space used or intended to be used for sleeping purposes in either a dwelling or sleeping unit.

As we know from this case, intention can be hard to quantify. Is it the most likely use for a room over the long life of a structure? Is it what an architect designates on a set of plans, despite obvious design incongruences?

Regardless, with this definition, we support the fact that use is not something that is only established after construction, it can also be "intended".

The definition is followed by a list of requirements. A testament to the thoughtfulness you placed in your prior ruling, the requirements directly correlate with your proposed definition, without the "common living area" potential loophole. The IPCM ensures that living rooms are not labeled as bedrooms with it's "privacy", and "access from bedrooms" provision.

For the purposes of determining the number of bedrooms allowed under section 25-2-555(0) of the Land Development Code, we request that any room that meets the requirements in the IPMC 404.1, 404.3, 404.4.1, 404.4.2, 404.4.3, 404.4.4 be recognized as a bedroom. Leaving out sections 4.04.4, and 404.4.5, as will be explained.

404.1 Privacy. Dwelling units, hotel units, housekeeping units, rooming units and dormitory units shall be arranged to provide privacy and be separate from other adjoining spaces.

404.3 Minimum ceiling heights. 3. Rooms occupied exclusively for sleeping, study or similar purposes and having a sloped ceiling over all or part of the room, with a clear ceiling height of at least 7 feet (2134mm) over not less than one-third of the required minimum floor area. In calculating floor area of such rooms, only those portions of the floor area with

404.4 Bedroom and Living requirements. Every dwelling unit shall contain at least one bedrooms and one living room and every bedroom and living room shall comply with the requirements of Sections 404.4.1 through 404.4.5. Exception: This does not include Efficiency Units under Section 404.6.

404.4.1 Room area. With the exception of qualifying Efficiency Units, every living room shall contain at least 120 square feet (11.2 m²) and every bedroom or other habitable room shall contain at least 70 sq. ft. (6.5m²) of usable floor area. Where more than two persons occupy a room used for sleeping purposes, the required floor area shall be increased at the rate of 50 sq. ft. (4.65m²) for each occupant in excess of two. One child per room not more than 24 months in age will be exempt from these calculations.

404.4.2 Access from bedrooms. Bedrooms shall not constitute the only means of access to other bedrooms or habitable spaces and shall not serve as the only means of egress from other habitable spaces.

Exception: Units that contain fewer than two bedrooms.

404.4.3 Water closet accessibility. Every bedroom shall have access to at least one water closet and one lavatory without passing through another bedroom. Every bedroom in a dwelling unit shall have access to at least one water closet and lavatory located in the same story as the bedroom or an adjacent story.

404.4.4 Prohibited Occupancy. Kitchens and nonhabitable spaces shall not be used for sleeping purposes.

404.4.5 Other requirements. Bedrooms shall comply with the applicable provisions of this code including, but not limited to, the light, ventilation, room area, ceiling height and room width requirements of this chapter; the plumbing facilities and water-heating facilities requirements of Chapter 5; the heating facilities and electrical receptacle requirements of chapter 6; and the smoke detector and emergency escape requirements of Chapter 7.

As has been discussed by this Board before, it would be detrimental for bedrooms to omit safety requirements in order to sidestep the "bedroom" classification".

Because of such concern and to avoid potential loopholes, we request that requirements outlined in 404.4.5 and 404.4 not be included. 404.4.5 outlines safety and emergency requirements without adding to the definition of a bedrooms as it pertains to this issue. 404.4 requires compliance with 404.4.5, without adding significance to the definition as it pertains to this issue.

Group Residential Use

We urge you to rule on this part of our appeal. The floor plan of 1917 David is very unusual. It ONLY meets the needs of large numbers of unrelated persons living in group housing.

The technical codes and the Land Development Code repeatedly speak to the premise that a structure that houses more than six unrelated adults on a site ceases to have a residential use.

- **A ROOMING HOUSE** –A building, other than a hotel, where lodging without meals for more than six (6) unrelated persons is provided for compensation
- **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.
- **MAXIMUM OCCUPANCY** for SF-3 (the zoning of 1917 David) no more than six unrelated adults per SITE
- **SUPER DUPLEX ORDINANCE**- No more than three bedrooms allowed per side of a duplex

Again, the point of all this code is to draw a clear line between structures that house 6 unrelated persons, and structures that house more than six unrelated persons.

How do we know that this floor is intended to house more than six unrelated persons

- Ten small, similarly sized, bedrooms
- Unusually small kitchen and living room. Ratio communal space versus private space is 25%, the norm is around 40%
- 12 lavatory Sinks
- No on-suite bathrooms
- No master bedrooms

If you give staff the ability and responsibility to recognize stealth bedrooms and rooming houses, there will not be an unintended negative impact on construction designed for either large families or lifestyles that call for bonus rooms. It will only affect those trying to maximize their investments by circumventing the code, while placing their occupants at risk and deteriorating neighborhoods.

We again ask you to find that the 1917 David Plans, despite the creative labeling, have 10 bedrooms. We also ask you to find that the structure, designed to house 10 unrelated adults, is intended to have a group residential use and is thus incompatible with SF-3 zoning.

Thank you for taking the time to read this, and I look forward to seeing you on the 29th.

Respectfully,

Nuria Zaragoza
OWUNA- President
CANPAC- Co-Chair

Walker, Susan

From: ~~XXXXXXXXXXXXXXXXXXXX@cityofsanfrancisco.gov~~
Sent: Monday, October 22, 2012 10:57 AM
To: Walker, Susan
Subject: FW: Bedroom definition for occupancy limit
Attachments: Bedroom Recommendation from May 14, 2012 BOA Hearing.pdf; Int'l Code Provisions (IRC and IPMC).docx

Hi Susan.

Would you please distribute this information to the Board of Adjustment (BoA) regarding the definition of a "bedroom" that was proposed at the May 14, 2012 Board of Adjustment meeting (attached)? I am not providing this information in any official capacity from the Building and Fire Code Board of Appeals, but instead as information that may be relevant as follow-up information to the May 14 meeting, though it may also be relevant to any pending appeal regarding that case (1917 David).

As you may know, the Building and Fire Code Board of Appeals recently considered the "bedroom" definition issue at our Oct. 9 appeal hearing for 1917 David Street. When I asked staff if they had made any progress on the "bedroom" definition recommendation from the BoA, they said, "no," and explained that the "recommendation for staff" consideration that you made did not require any action on their part.

More importantly, you should know that the term "bedroom" is actually defined in our technical codes, specifically, the 2009 International Property Maintenance Code (IPMC) (with local amendments thereto). Although staff has stated that the applicable 2006 International *Residential* Code (IRC) does not define "bedroom," the term is used throughout the IRC. In addition, IRC states that "Where terms are not defined in this code such terms shall have meanings ascribed to them as in other code publications of the International Code Council" (IRC 201.3) and that "Where terms are not defined through the methods authorized by this section, such terms shall have ordinarily accepted meanings such as the context implies." (IRC 201.4).

The 2009 International Property Maintenance Code (with local amendments thereto highlighted in green in the attached Word document) is one of the "other code publications," and it actually defines "bedroom" and provides some specific "Bedroom and living requirements" under the "Occupancy Limitations" provisions of the IPMC code. See attached excerpts from IRC and IPMC. In light of the explicit code provisions, I would propose that any room meeting the stated definition and requirements of a bedroom from the IPMC would qualify as a "bedroom" for purposes of evaluating the "occupancy limits" of 25-2-511. I presented this argument at our appeal hearing, but was outvoted 3-2. My belief is that the IPMC provisions directly apply to the "occupancy limits" requirements for duplexes, and thought this might help you with your recommendation. Interestingly to me, your proposed definition of "bedroom" seems to have a lot of overlap with the IPMC requirements, though maybe you knew this already.

Mike Cannatti

PS – The relevant IRC code (2006) is posted online at <http://publiccodes.cyberregs.com/icod/irc/2006f2/index.htm>, and the relevant IPMC code (2009) is posted online at <http://publiccodes.cyberregs.com/icod/ipmc/2009/index.htm>. Of course, the local amendments are listed at LDC Section 25-12, Article 9 (Property Maintenance Code) and Article 11 (Residential Code).

May 14, 2012 BOA Meeting

Case No. C 15-2012-0044 Nuria Zaragosa for Michael Said 1917 David Street

Boardmember's Motion:

"I move that the Board of Adjustment take no action on the appeal based on the fact that the original applicant in this case has withdrawn their request for a building permit and therefore there is no longer an active development approval by the Director for this location. However, I also find that the plans previously submitted for 1917 David Street were approved on an incorrect interpretation of Section 25-2-555 (D) of the Land Development Code with regard to what constitutes a "bedroom".

For this reason, my motion also includes the following recommendation for staff to consider when applying Section 25-2-555 in future cases.

Recommendation:

- (1) A room designated on the floor plan of a residential duplex project should be considered a "Bedroom" for the purposes of determining the number of bedrooms allowed under section 25-2-555(D) of the Land Development Code if :
 - (A) the room is a minimum of 70 square feet in area and is not a kitchen, bathroom, garage, utility room, common living area or common circulation space (halls or stairs),
 - (C) the room is configured so that it is or is capable of being a private space separated from all other areas of the building by a permanent door or doors, and
 - (D) if all designated "bedrooms" shown on the plans have access to bathrooms only through shared common living areas also accessible from these rooms and no shown bedroom has direct access to any of the bathrooms.
- (2) It is recognized that an interpretation relies on the specifics of a case. Because the original project permit application has been withdrawn, an interpretation at this time is not applicable. However it is my hope that this recommendation, will be used by the Director when considering what constitutes a bedroom with regard to future projects meeting the requirements of Section 25-2-555

2006 International Residential code (IRC)

R201.3 Terms defined in other codes.

Where terms are not defined in this code such terms shall have meanings ascribed to them as in other code publications of the International Code Council.

SECTION R202 DEFINITIONS

* * *

HABITABLE SPACE. A space in a building for living, sleeping, eating or cooking. Bathrooms, toilet rooms, closets, halls, storage or utility spaces and similar areas are not considered habitable spaces.

SECTION R304 MINIMUM ROOM AREAS

R304.1 Minimum area.

Every dwelling unit shall have at least one habitable room that shall have not less than 120 square feet (11 m²) of gross floor area.

R304.2 Other rooms.

Other habitable rooms shall have a floor area of not less than 70 square feet (6.5 m²).

Exception: Kitchens.

R304.3 Minimum dimensions.

Habitable rooms shall not be less than 7 feet (2134 mm) in any horizontal dimension.

Exception: Kitchens.

2009 International Property Maintenance Code (IPMC)

SECTION 202

BEDROOM. Any room or space used or intended to be used for sleeping purposes in either a dwelling or *sleeping unit*.



SECTION 404 OCCUPANCY LIMITATIONS

404.1 Privacy. *Dwelling units, hotel units, housekeeping units, rooming units* and dormitory units shall be arranged to provide privacy and be separate from other adjoining spaces.

404.2 Minimum room widths. A habitable room, other than a kitchen, shall not be less than 7 feet (2134 mm) in any plan dimension. Kitchens shall have a clear passageway of not less than 3 feet (914 mm) between counterfronts and appliances or counterfronts and walls.

404.3 Minimum ceiling heights. *Habitable spaces, hallways, corridors, laundry areas, bathrooms, toilet rooms* and habitable *basement* areas shall have a clear ceiling height of not less

than 7 feet (2134 mm).

Exceptions:

1. In one- and two-family dwellings, beams or girders spaced not less than 4 feet (1219 mm) on center and projecting not more than 6 inches (152 mm) below the required ceiling height.
2. *Basement* rooms in one- and two-family dwellings occupied exclusively for laundry, study or recreation purposes, having a ceiling height of not less than 6 feet 8 inches (2033 mm) with not less than 6 feet 4 inches (1932 mm) of clear height under beams, girders, ducts and similar obstructions.
3. Rooms occupied exclusively for sleeping, study or similar purposes and having a sloped ceiling over all or part of the room, with a clear ceiling height of at least 7 feet (2134 mm) over not less than one-third of the required minimum floor area. In calculating the floor area of such rooms, only those portions of the floor area with a clear ceiling height of 5 feet (1524 mm) or more shall be included.

[REDACTED]

[REDACTED]

[REDACTED]

404.4 Bedroom and living room requirements. ~~Every *bedroom* and living room shall comply with the requirements of Sections 404.4.1 through 404.4.5.~~

404.4.1 Room area. ~~Every living room shall contain at least 120 square feet (11.2 m²) and every *bedroom* shall contain at least 70 square feet (6.5 m²).~~

404.4.2 Access from bedrooms. ~~*Bedrooms* shall not constitute the only means of access to other *bedrooms* or *habitable spaces* and shall not serve as the only means of egress from other *habitable spaces*.~~

Exception: Units that contain fewer than two *bedrooms*.

404.4.3 Water closet accessibility. Every *bedroom* shall have access to at least one water closet and one lavatory without passing through another *bedroom*. Every *bedroom* in a *dwelling unit* shall have access to at least one water closet and lavatory located in the same story as the *bedroom* or an adjacent story.

404.4.4 Prohibited occupancy. Kitchens and nonhabitable spaces shall not be used for sleeping purposes.

404.4.5 Other requirements. *Bedrooms* shall comply with the applicable provisions of this code including, but not limited to, the light, *ventilation*, room area, ceiling height and room width

requirements of this chapter; the plumbing facilities and water-heating facilities requirements of Chapter 5; the heating facilities and electrical receptacle requirements of Chapter 6; and the smoke detector and emergency escape requirements of Chapter 7.

Walker, Susan

From: [REDACTED]
Sent: Saturday, October 20, 2012 6:43 PM
To: Walker, Susan
Subject: october 29th, interpretation appeal

Dear Susan Walker,

I am resorting to email because I am out of town but wish to contribute my support for the special, culturally valuable Old West University neighborhood. I am an advocate particularly for the historic Neill-Cochran House Museum (Abner Cook, 1855) in this neighborhood where development pressures continually threaten its family character. I oppose the ploys on David Street to hide dense rental properties in projects that are presented as "houses." Thank you for counting me among neighborhood objections and in support of the above-referenced appeal.

Karen Pope, PhD
Austin resident
Baylor faculty (art history)
Please excuse brevity, typos; sent from a phone

Walker, Susan

From: [REDACTED]
Sent: Monday, October 22, 2012 2:24 PM
To: Walker, Susan
Subject: October 29th interpretation appeal

Dear Ms. Walker:

As a member of the Original West University Neighborhood Association, I support the appeal of the decision by the building and Fire Code Board of Appeals regarding BP 2012-084972, PR-2012-079335.

The proposed building meets the definition of a rooming house, reviewable under the International Building Code. The capacity of the proposed project--which would house as many as ten unrelated adults--is a threat to the integrity and livability of our largely single-family residential neighborhood and particularly to residents along David Street.

Please include this message in the backup materials for the appeal.

Sincerely yours,

Muriel Wright
1211 West 22-1/2 Street
Austin, Texas 78705

**INFORMATION
REGARDING BUILDING
AND FIRE CODE**

**BOARD MEETING ON
OCTOBER 9, 2012**

NOTICE OF APPEAL INFORMATION

Austin City Code ARTICLE 7. APPEALS, VARIANCES, SPECIAL EXCEPTIONS, AND ADJUSTMENTS.

Division 1. Appeals

(see page 2 of 2 for appeal process)



Planning and Development Review Department

Address of Property in Question
1917 DAVID ST AUSTIN TX 78705

Permit Number
2012-084972-BP

Appellant Filing Appeal
NURIA ZARAGOZA FOR OWNERS

Relationship to Property
INTERESTED PARTY

Appellant's status as Interested Party
PRESIDENT OF N/A & PROXIMITY TO PROPERTY

Appellant Contact Information

Name
NURIA ZARAGOZA

Street
1908 CLIFF ST

City State Zip
AUSTIN TX 78705

Telephone
512 320 0351

E-Mail
TEDANDNURIA@HOTMAIL.COM

Date of Decision Being Appealed:
8-28-2012

Permit Holder Contact Information

Name
MICHAEL SAID / MIKE McHORE.

Street
2459 WESTLAKE DR

City State Zip
AUSTIN TX 78746

Telephone

E-Mail

Date Appeal is Filed:

Decision being appealed: (use additional paper as required)

PROJECT IS EFFECTIVELY A "ROOMING HOUSE" AS DEFINED BY THE LDC AND BY PREVIOUS DECISION OF THIS BOARD (SEE ATTACHED DECISION SHEET) THEREFORE THIS PERMIT ~~SHOULD~~ SHOULD HAVE BEEN REVIEWED UNDER THE COMMERCIAL CODE.

Reason the appellant believes the decision does not comply with the requirements of the Land Development Code (Title 25)

THE LDC DEFINES "ROOMING HOUSE" AS A BUILDING OTHER THAN A HOTEL WHERE LODGING WITHOUT MEALS FOR MORE THAN SIX PERSONS (UNRELATED) IS PROVIDED

BELOW FOR CITY USE ONLY

Hearing Date: Board or Commission:

Action on Appeal: Date of Action:

Form Bldg 101 Page 1 of 2

The applicant must complete page 2 of 2 and sign before this application of appeal is complete. The application will not be processed unless the applicant reads and signs page 2 of 2.

RECEIVED
SEP 17 2012
Planning & Development Review

Appeal Process

You may appeal by following the following Land Development Code requirements. You must complete the form with all information required as listed below.

ARTICLE 7. APPEALS, VARIANCES, SPECIAL EXCEPTIONS, AND ADJUSTMENTS.

Division 1. Appeals.

§ 25-1-181 STANDING TO APPEAL.

- (A) A person has standing to appeal a decision if:
- (1) the person is an interested party; and
 - (2) a provision of this title identifies the decision as one that may be appealed by that person.
- (B) A body holding a public hearing on an appeal shall determine whether a person has standing to appeal the decision.

Source: Section 13-1-250; Ord. 990225-70; Ord. 030828-65; Ord. 031211-11.

§ 25-1-182 INITIATING AN APPEAL.

An interested party may initiate an appeal by filing a notice of appeal with the responsible director or building official, as applicable, not later than:

- (1) the 14th day after the date of the decision of a board or commission; or
- (2) the 20th day after an administrative decision.

Source: Section 13-1-251(a); Ord. 990225-70; Ord. 031211-11.

§ 25-1-183 INFORMATION REQUIRED IN NOTICE OF APPEAL.

The notice of appeal must be on a form prescribed by the responsible director or building official and must include:

- (1) the name, address, and telephone number of the appellant;
- (2) the name of the applicant, if the appellant is not the applicant;
- (3) the decision being appealed;
- (4) the date of the decision;
- (5) a description of the appellant's status as an interested party; and
- (6) the reasons the appellant believes the decision does not comply with the requirements of this title.

Source: Section 13-1-251(a); Ord. 990225-70; Ord. 010329-18; Ord. 031211-11.

By signing this document, I attest to having read and understand my rights as granted by the Land Development Code.

Date:

Printed Name:

Signature:

9-11-12 Nuria Zaragoza NURIA ZARAGOZA



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

May 10, 2010

Nuria Zaragoza
1908 Cliff Street
Austin, TX 78705

RE: 1915A David Street
Building Permit# 2010-021733 BP / Plan Review # 2010-002721PR

Dear Ms. Zaragoza,

Per the direction of the Building & Fire Code Board of Appeals (Board) at the public hearing on May 5, 2010, this letter memorializes the Board's decision regarding the appeal you filed on the issuance of Building Permit No. 2010-021733 BP for development at 1915A David Street.

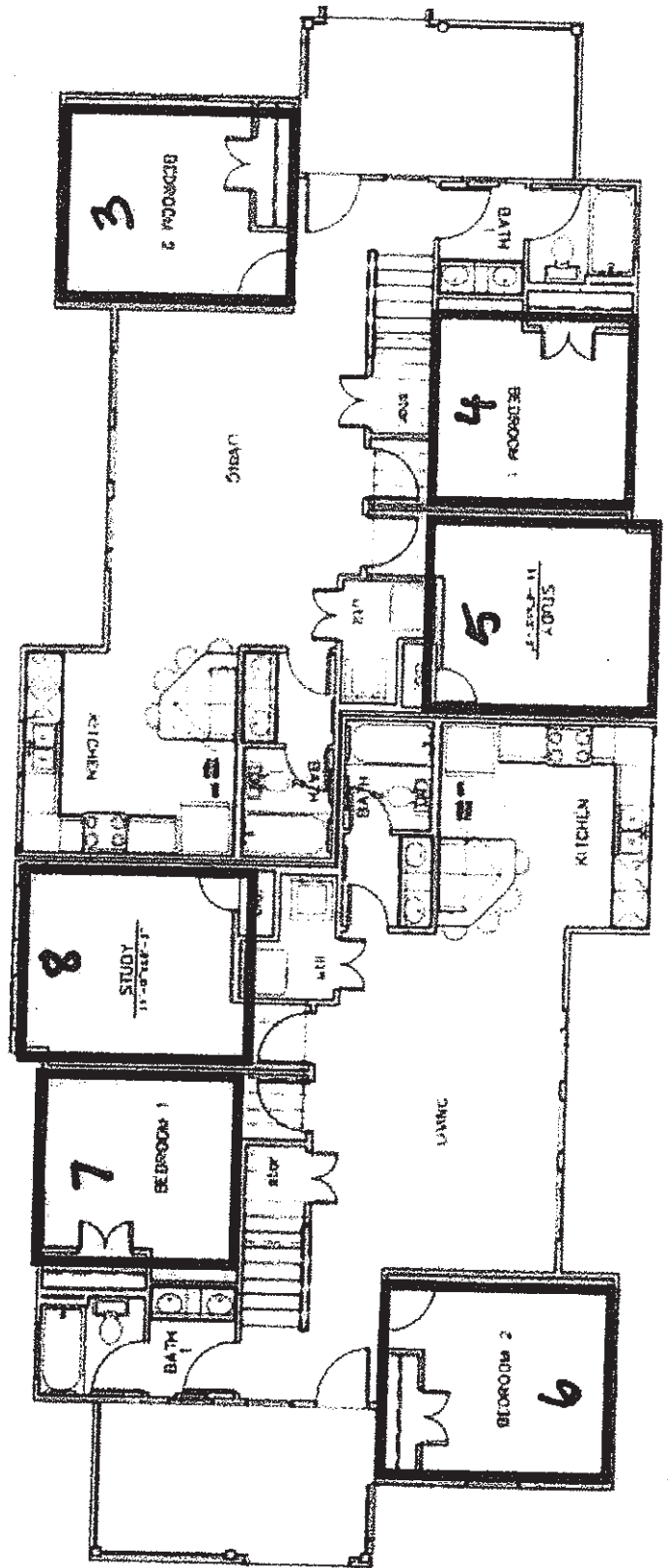
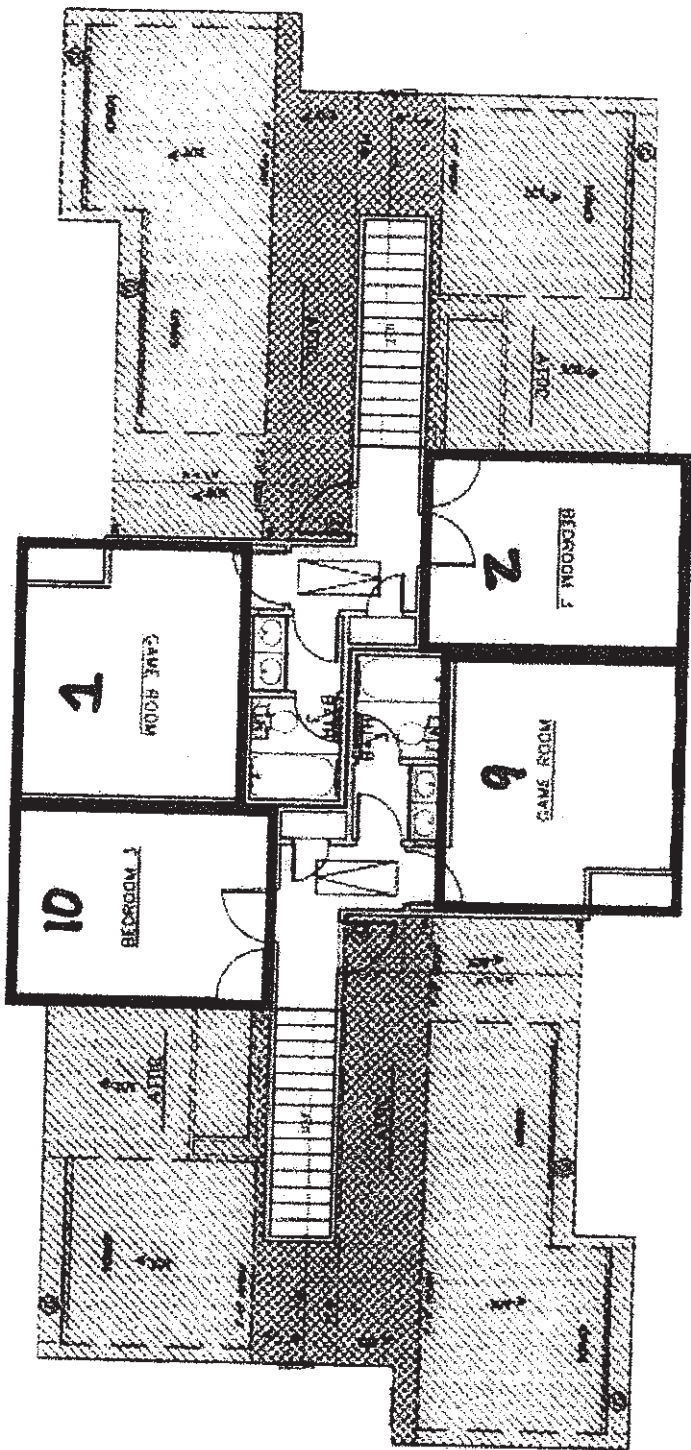
The Board voted unanimously to uphold the appeal of the issuance of the building permit. Based on the evidence presented, the Board found that that the development exceeded the limits of a remodel and therefore constituted new construction. Additionally, the Board found that development was effectively a "rooming house" and therefore should have been reviewed as a commercial project under the International Building Code, not as a residential use under the International Residential Code.

The Board's decision reverses the building permit issued for 1915A David Street. Further development of the property may only occur if a new building permit is issued.

Sincerely,

Leon, Barba, P.E., Building Official
Planning and Development Review

cc: Building and Fire Code Board of Appeal Members
Dan McNabb, Building Inspection Division Manager
Mitch Ely, Owner
Mike McHone, Owner's Agent



§ 25-12-213 LOCAL AMENDMENTS TO THE INTERNATIONAL PROPERTY MAINTENANCE CODE.

202.1 Supplemental and replacement definitions. The definitions in this subsection apply throughout this code and supplement the definitions in Section 202 (*General Definitions*) of the 2009 International Fire Code, as published, unless the term is defined in both places, in which case the definition in this subsection replaces and supersedes the definition in Section 202 of the 2009 International Property Maintenance Code.

BOARDING HOUSE. A building, other than a hotel, where lodging with meals for more than six (6) unrelated persons is provided for compensation.

ROOMING HOUSE. A building, other than a hotel, where lodging without meals for more than six (6) unrelated persons is provided for compensation.

City of Austin **Residential Permit Application**

Residential Review, 2nd floor, One Texas Center
 505 Barton Springs, Austin, TX 78704
 (512) 974-2747

12-079335

6-26-12

11/1/12

Project Information

Project Address: 1917 DAVID STREET	Tax Parcel ID: 0113001220 0000
Legal Description: LOT 18 BLOCK 2 CARRINGTON SUBDIVISION	
Zoning: SF-3-NP	Lot Size (square feet): 7999.2 ±
Neighborhood Plan Area (if applicable): COMBINED CENTRAL AUSTIN	Historic District (if applicable): N/A
Is this site within the Residential Design and Compatibility Standards Ordinance Boundary Area? <input checked="" type="radio"/> Y <input type="radio"/> N <small>Note: Boundaries are defined under Title 25-2 Subchapter F of the Land Development Code.</small>	
Does this site currently have water availability? <input checked="" type="radio"/> Y <input type="radio"/> N	wastewater availability? <input checked="" type="radio"/> Y <input type="radio"/> N
<small>If no, contact Austin Water Utility to apply for water/wastewater taps and/or service extension request.</small>	
Does this site have a septic system? <input type="radio"/> Y <input checked="" type="radio"/> N	If yes, submit a copy of approved septic permit to construct
Does this site require a cut or fill in excess of four (4) feet? <input type="radio"/> Y <input checked="" type="radio"/> N <small>If yes, contact the Development Assistance Center for a Site Plan Exemption.</small>	
Does this site front a paved street? <input checked="" type="radio"/> Y <input type="radio"/> N	Is this site adjacent to a paved alley? <input checked="" type="radio"/> Y <input type="radio"/> N
Does this site have a Board of Adjustment (BOA) variance? <input type="radio"/> Y <input checked="" type="radio"/> N	Case # <input type="text"/> (if applicable)
Does this site have a Residential Design and Compatibility Commission (RDCC) waiver? <input type="radio"/> Y <input checked="" type="radio"/> N <small>If yes, provide a copy of decision sheet. Note: A permit cannot be approved within 10 days of approval of a variance from BOA.</small>	
Does the project impact a tree protected by ordinance? This would include canopy and/or critical root zone. <input type="radio"/> Y <input checked="" type="radio"/> N <small>Note: If yes, application for a tree permit with the City Arborist may be required.</small>	
Is this site within one hundred-fifty (150) feet of the one hundred (100) year floodplain? <input type="radio"/> Y <input checked="" type="radio"/> N <small>Note: Proximity to a floodplain may require additional review time.</small>	

Description of Work

Existing Use: vacant	single-family residential	duplex residential	two-family residential	other 4plex
Proposed Use: vacant	single-family residential	<u>duplex residential</u>	two-family residential	other
Project Type: <u>new construction</u>	addition	addition/remodel	remodel/repair	other
# of bedrooms existing: 0	# of bedrooms proposed: 6	# of baths existing: 0	# of baths proposed: 6	
Will all or part of an existing exterior wall be removed as part of the project? <input checked="" type="radio"/> Y <input type="radio"/> N <small>Note: Removal of all or part of a structure requires a demolition permit.</small>				
Project Description: (Note: Please provide thorough description of project. Attach additional pages as necessary) Remove EXISTING IMPROVEMENTS, BOTH STRUCTURES SAW DEMO PERMITS 2012-062012 BP, 2012-062013 BP NEW DUPLEX TO BE CONSTRUCTED PER CODE REQUIREMENTS				
Trades Permits Required: <u>electric</u> <u>plumbing</u> <u>mechanical (HVAC)</u> concrete (right-of-way)				

Job Valuation

Total Job Valuation: \$ 350,000	Portion of Total Job Valuation Dedicated to Addition/New Construction: \$ 350,000	Portion of Total Job Valuation Dedicated to Remodel/Repair: \$
Primary Structure: \$350,000		Bldg: \$ Elec: \$
Accessory Structure: \$		Plmbg: \$ Mech: \$

Note: The total job valuation should be the sum total of all valuations noted to the right. Labor and materials only, rounded to nearest dollar. Permit fees are based on adopted fee schedule.

Building Coverage Information

Note: Building Coverage means the area of a lot covered by buildings or roofed areas, but excludes ground level paving, landscaping, open recreational facilities, incidental projecting eaves, balconies, and similar features. Pools, ponds, and fountains are not included in this measurement. (LDC 25-1-21)

Existing Building Coverage (sq ft): NA

% of lot size: _____

Proposed Building Coverage (sq ft): 2540% of lot size: 31.7**TOTAL DEMOLITION OF EXISTING BLDG.****3199****Impervious Cover Information**

Note: Impervious cover is the total horizontal area of covered spaces, paved areas, walkways, and driveways. The term excludes pools, ponds, fountains, and areas with gravel placed over pervious surfaces that are used only for landscaping or by pedestrians. (LDC 25-1-23)

Existing Impervious Cover (sq ft): NA

% of lot size: _____

Proposed Impervious Cover (sq ft): 3338% of lot size: 41.7**3599****Setbacks**Are any existing structures on this site a non-compliant structure based on a yard setback requirement? (LDC 25-2-513) Y ☒ NDoes any structure (or an element of a structure) extend over or beyond a required yard? (LDC 25-2-513) Y ☒ NIs front yard setback averaging being utilized on this property? (LDC 25-2, Subchapter F, Sec. 2.3) Y ☒ N**Height Information** (LDC 25-1-21 or 25-2 Subchapter F, Section 3.4)**Parking** (LDC 25-6 Appendix A & 25-6-478)Building Height: 28'7" Number of Floors: 2# of spaces required: 4# of spaces provided: 4**Right-of-Way Information**Is a sidewalk required for the proposed construction? (LDC 6-353) ☒ Y ☐ N

*Sidewalks are to be installed on any new construction of a single family, two-family or duplex residential structure and any addition to an existing building that increases the building's gross floor area by 50 % or more.

Will a Type I driveway approach be installed, relocated, removed or repaired as part of this project? Y ☒ N

Width of approach (measured at property line): _____ ft Distance from intersection (for corner lots only): _____ ft

Are storm sewer inlets located along the property or within ten (10) feet of the boundaries of the property? Y ☒ N

Area Description	Building and Site Area		
	Unit A Existing Sq Ft	Unit B New/Added Sq Ft	Total Sq Ft
Note: Provide a separate calculation for each distinct area. Attach additional sheets as necessary. Measurements are to the outside surface of the exterior wall.			
1 st floor conditioned area	1131	1131	2262
2 nd floor conditioned area	468	468	936
3 rd floor conditioned area			
Basement			
Covered Parking (garage or carport)			
Covered Patio, Deck or Porch	139	139	278
Balcony			
Other			
Driveway			
Sidewalks		648	
Uncovered Patio		138	
Uncovered Wood Deck (counts at 50%)			
AC pads		12	
Other (Pool Coping, Retaining Walls)			
Pool			
Spa			

Gross Floor Area

This section is only required for projects located within the Residential Design and Compatibility Standards Ordinance Boundaries as defined and illustrated in Title 25-2 Subchapter F of the Land Development Code. The Gross Floor Area of each floor is measured as the area contained within the outside edge of the exterior walls.

	A Existing	B New	Exemption	Total
1 st Floor	1131	1131		2262
2 nd Floor	468	468		936
3 rd Floor	/	/		
Basement	/	/		
Attic	/	/		
Garage (attached)	/	/		
(detached)	/	/		
Carport (attached)	/	/		
(detached)	/	/		
Accessory building(s) (detached)	/	/		

TOTAL GROSS FLOOR AREA

3198 ✓

LOT =

7999.2

(Total Gross Floor Area / lot size) x 100 = .399 Floor-To-Area Ratio (FAR)

- Is this project claiming a "parking area" exemption as described under Article 3? ☐ Y ☒ N
- Is this project claiming a "ground floor porch" exemption as described under Article 3? ☐ Y ☒ N
- Is this project claiming a "basement" exemption as described under Article 3? ☐ Y ☒ N
- Is this project claiming a "habitable attic" exemption as described under Article 3? ☐ Y ☒ N
- Is a sidewall articulation required for this project? ☒ Y ☐ N
- Does any portion of the structure extend beyond a setback plane? ☐ Y ☒ N

Parking Area exemption: Up to 450 square feet of a parking area may be deducted if it is a detached rear parking area that is separated from the principal structure by not less than 10 feet; or attached by a covered breezeway that is completely open on all sides, with a walkway not exceeding 6 feet in width and a roof not exceeding 8 feet in width; or a parking area that is open on two or more sides; if it does not have habitable space above it; and the open sides are clear and unobstructed for at least 80% of the area measured below the top of the wall plate to the finished floor of the carport. Up to 200 square feet may be deducted if it is an attached parking area used to meet the minimum parking requirement; or a garage that is less than 10 feet from the rear of the principal structure, provided that the garage is either detached from the principal structure; or attached by a covered breezeway that is completely open on all sides, with a walkway not exceeding 6 feet in width and a roof not exceeding 8 feet in width. An applicant may receive only one 450-square foot exemption per site under Article 3. An applicant who receives a 450-square foot exemption may receive an additional 200-foot exemption for the same site under Article 3, but only for an attached parking area used to meet minimum parking requirements.

Ground Floor Porch exemption: A ground floor porch, including a screened porch, may be exempted, provided that the porch is not accessible by automobile and is not connected to a driveway; and the exemption may not exceed 200 square feet if a porch has habitable space or a balcony above it.

Basement exemption: A habitable portion of a building that is below grade may be exempted if the habitable portion does not extend beyond the first-story footprint and is below natural or finished grade, whichever is lower; and it is surrounded by natural grade for at least 50% of its perimeter wall area and the finished floor of the first story is not more than three feet above the average elevation at the intersections of the minimum front yard setback line and the side property lines.

Habitable Attic exemption: A habitable portion of an attic may be exempted if: 1. The roof above it is not a flat or mansard roof and has a slope of 3 to 12 or greater; 2. It is fully contained within the roof structure; 3. It has only one floor; 4. It does not extend beyond the footprint of the floors below; 5. It is the highest habitable portion of the building, or a section of the building, and adds no additional mass to the structure; and 6. Fifty percent or more of the area has a ceiling height of seven feet or less.