



# City of Austin

Founded by Congress, Republic of Texas, 1839  
Planning and Development Review Department  
P.O. Box 1088, Austin, Texas 78767

To: Mr. Jeff Jack, Chair and  
Members of the Board of Adjustment

From: John M. McDonald, Development Services Manager  
Planning and Development Review Department

Date: November 8, 2012

Re: October 29, 2012 BOA Interpretation

The City of Austin Residential Review section is in receipt of the Board of Adjustment's (BOA) interpretation and findings from the interpretation appeal for the proposed duplex residential use at 1917 David Street. Residential Review's intent is to implement and apply the BOA's interpretation to all future applications for duplex residential use.

In part, the Board has directed Residential Review to prepare a memorandum describing this interpretation and make it available to reviewers, applicants and the public.

In order to properly and completely comply with this directive, the Residential Review section is hereby respectfully requesting the Board to further define and/or clarify the following terms and phrases contained in the interpretation:

- 1.) Utility Room – there are no definitions of a utility room in the Land Development Code.
- 2.) Common Living Area – there are no definitions of a common living area in the Land Development Code.

Staff would like clarification on D and E of the motion sheet rendered on October 29, 2012. D appears to be redundant as it relates to E. Neither one are clear enough for implementation.

Staff would request that reference to Section 25-2-555(D) be deleted and make the interpretation specific to a Duplex Residential Use. This would insure the interpretation's life if 25-2-55(D) is deleted or eliminated in any future code amendments.

Staff would like to point out an unintended consequence. If applicants were to design a room that which meets A but not B to comply with the interpretation, and later utilized the space as a bedroom, this would create an unsafe situation and possible liability on the City of Austin's behalf.



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In addition, staff would like to point out plans sealed by a registered professional architect or certified professional building designer are exempt from residential building code review under our currently adopted residential application. Items A and B of the October 29<sup>th</sup> motion sheet were not reviewed; therefore, no staff interpretation was made. The zoning code has regulations on duplexes for six bedrooms and six bedrooms were labeled on the approved plans.

Respectfully,

John M. McDonald, Development Services Manager  
Planning and Development Review Department

cc: Greg Guernsey, AICP, Director, PDRD  
Donald Birkner, Assistant Director, PDRD  
Kathy Haught, Division Manager, PDRD  
Susan Walker, Planner Senior, PDRD  
Cindy Crosby, Attorney Senior, Law Department  
Brent Lloyd, Attorney Senior, Law Department

Mike McHone  
Real Estate

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CITY OF AUSTIN

Chairman Jeff Jack  
Board of Adjustments  
City of Austin  
P. O. Box 1088  
Austin, TX 78767

November 6, 2012

*Request for Reconsideration of Case C15-2012-<sup>0126</sup>~~0216~~, 1917 David Street*

Dear Chairman Jack,

On behalf of my client, Michael Said, owner of 1917 David Street, I am requesting a reconsideration of the Board's action at the Special Called meeting of the Board of Adjustments on October 29, 2012, concerning an interpretation of the City's Land Development Code section 25-2-3 (5).

As the justification for seeking an appeal of the Building Official's administrative decision as to the interpretation of 25-2-3 (5), the appellant filed a request for an interpretation by the BOA stating the decision made on the project 2011-106377 PR was incorrect. The appellant also stated that the appeal was of the interpretation made by the Watershed Protection and Development Review Department.

The Board of Adjustment erred in hearing this matter because:

- 1) The Watershed Protection and Development Review Department no longer exists. The correct City Department is the Planning and Development Review Department.
- 2) The "administrative decision" to be appealed is made by the issuance of a Building Permit (BP), not the Plan Review (PR) number.
- 3) The PR number the appellant has appealed is project 2011-016377 PR. This project was withdrawn along with the associated building permit. (Highlighted in yellow on the attached printout from the City of Austin's Information Center.) The current and actual plan is 2012-079335PR and 2012-084972 BP. (This is shown highlighted in blue, see exhibit 1.)
- 4) A side by side comparison of the two plans shows substantial differences between the two. (Exhibit 2)

Since the appeal was filed on a project that does not exist, it should be considered "improperly filed" and the decision of the Board of Adjustments should be void. Because the time for a timely appeal has now passed, the Board should not now allow a refiling of an appeal of the currently approved Building Permit.

The authority of the Board of Adjustments to rule on this matter is set forth in my letter to Karen M. Kennard, city attorney. (Exhibit 3)

The Board of Adjustments erred in denying the timely filed request for a postponement. A postponement would have allowed the affected party the ability to receive the advice of his consultant, who is the most knowledgeable member of his team concerning the Codes of the City of Austin and the procedures of the Board of Adjustments.

It appears that the Board of Adjustments or some of its members had decided this case prior to the hearing of the case. The attached "decision" was prepared in advance of the hearing and multiple copies were passed out to members. (exhibit 4)

The "decision" may be in conflict with portions of the adopted State of Texas licensing act for licensed architects. This act designates architects as the profession that designs buildings and designates the function of the space. This "decision" would require unlicensed City staff to act as architects. (exhibit 5)

The "decision" will have an effect on the building of duplexes throughout the City of Austin. Duplexes are typically a method of building more affordable housing. This "decision" should be reconsidered due to its likely effect on housing affordability, which is a major goal of the current Comprehensive Plan.

The "decision" is flawed in its language. For example: "A" leaves out that a bathroom is not considered a bedroom. Therefore, a bathroom of more than 70 sq ft would be counted as a bedroom.

The consequences of the "decision" on existing duplexes are unclear. The Board of Adjustments should reconsider its decision and allow the Planning Commission's efforts to define a "bedroom" to go forward. Consider the situation of an existing 3 bedroom 2 bath duplex built prior to this "decision" that applies for a remodel permit to upgrade a bathroom. During the plan review by the City staff, it will now be determined that the media room and office/study and master bath are all "bedrooms". This duplex now has 6 bedrooms.

Because of the reasons cited above, I urge the Board of Adjustments to reconsider the decision of October 29, 2012 in case C15-2012-0216 and to deny the appeal especially in light of the fact that it was filed on a withdrawn project.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael R. McHone". The signature is fluid and cursive, with the first name "Michael" and last name "McHone" clearly distinguishable.

Michael R. McHone



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## PERMITS/CASES

#	Permit/Case	Reference File Name	Description	Sub Type	Work Type	Project Name	Status	Related Folders
1	<a href="#">2010-032973 PR</a>		DO NOT ISSUE PERMITS CONTACT JOHN MCDONALD. Partially-demolish existing 4-plex. Remodel to form duplex (detached 2 separate bldgs) change of use from existing non-permitted 4 plex back to a legal, non-complying duplex use.	R- 435 Renovations/Remodel	Remodel	1917 DAVID ST BLDG B	Rejected	<a href="#">Yes</a>
2	<a href="#">2010-032979 BP</a>		DO NOT ISSUE PERMITS CONTACT JOHN MCDONALD 4-21-2010. Partially-demolish existing 4-plex. Remodel to form duplex (detached 2 separate bldgs) change of use from existing non-permitted 4 plex back to a legal, non-complying duplex use.	R- 435 Renovations/Remodel	Remodel	1917 DAVID ST BLDG B	Pending Permit	<a href="#">Yes</a>
3	<a href="#">2006-027947 PP</a>	06019085	Tie The 3-Exst Gas Meters To 1-Gas Meter Only To Exst 4-Plex  ***Application is WITHDRAWN PER JMM and the applicant no longer wishes to convert the land use on the site to two-family residential.*** DO NOT	Commercial	Remodel	1917 David St	Final	No
4	<a href="#">2010-009267 PR</a>	2010-009267 PR	ISSUE PERMITS CONTACT JOHN MCDONALD. Partially-demolish existing 4-plex. Remodel to form duplex (detached 2 separate bldgs) change of use from existing non-permitted 4 plex back to a legal, non-complying duplex use. (UNIT A)  ***Application is WITHDRAWN PER JMM and the applicant no longer wishes to convert the land use on the site to two-family residential.*** DO NOT	R- 434 Addition & Alterations	Addition and Remodel	1917 DAVID ST, UNIT A	Withdrawn	<a href="#">Yes</a>
5	<a href="#">2010-032960 BP</a>		ISSUE PERMITS CONTACT JOHN MCDONALD 4-21-2010. Partially-demolish existing 4-plex. Remodel to form duplex (detached 2 separate bldgs) change of use from existing non-permitted 4 plex back to a legal, non-complying duplex use. (UNIT A)  ***Application is WITHDRAWN PER JMM and the applicant no longer wishes to convert the land use on the site to two-family residential.*** DO NOT	R- 434 Addition & Alterations	Addition and Remodel	1917 DAVID ST, UNIT A	Withdrawn	<a href="#">Yes</a>
6	<a href="#">2010-032960 EP</a>		ISSUE PERMITS CONTACT JOHN MCDONALD 4-21-2010. Partially-demolish existing 4-plex. Remodel to form duplex (detached 2 separate bldgs) change of use from existing non-permitted 4 plex back to a legal, non-complying duplex use. (UNIT A)  ***Application is WITHDRAWN PER JMM and the applicant no longer wishes to convert the land use on the site to two-family residential.*** DO NOT	R- 434 Addition & Alterations	Addition and Remodel	1917 DAVID ST, UNIT A	Withdrawn	<a href="#">Yes</a>
7	<a href="#">2010-032960 MP</a>		ISSUE PERMITS CONTACT JOHN MCDONALD 4-21-2010. Partially-demolish existing 4-plex. Remodel to form	R- 434 Addition & Alterations	Addition and Remodel	1917 DAVID ST, UNIT A	Withdrawn	<a href="#">Yes</a>

				plex (detached 2 separate bldgs) change of use from existing non-permitted 4 plex back to a legal, non-complying duplex use. (UNIT A)						
8	<u>2010-032960 PP</u>			***Application is WITHDRAWN PER JMM and the applicant no longer wishes to convert the land use on the site to two-family residential.*** DO NOT ISSUE PERMITS CONTACT JOHN MCDONALD 4-21-2010 Partially-demolish existing 4-plex. Remodel to form duplex (detached 2 separate bldgs) change of use from existing non-permitted 4 plex back to a legal, non-complying duplex use. (UNIT A)	R- 434 Addition & Alterations	Addition and Remodel	1917 DAVID ST, UNIT A	Withdrawn	<u>Yes</u>	
9	<u>2010-088824 PR</u>			**Partial demo to remove rear walls (south & east walls)** Addition/remodel to existing illegal four plex use to return to duplex use.	R- 434 Addition & Alterations	Addition and Remodel	1917 DAVID ST	Expired	No	
10	<u>2011-083345 PR</u>	2011-083345 PR		Demolish tri-plex and additional detached unit (illegally converted per code enforcement). Structure originally permitted as a duplex in 1947 with an unspecified addition in 1982.	R- 646 Demolition Two Family Bldgs	Demolition	1917 DAVID ST	Approved	<u>Yes</u>	
11	<u>2012-001658 BP</u>	2012-001658 BP		new duplex - (2) 2 story 3/3s with covered porches an alley access (parking). each unit has space on highest floor that is exemptable under 25.2 subchapter f	R- 103 Two Family Bldgs	New	1917 DAVID ST	Withdrawn	<u>Yes</u>	
12	<u>2012-001658 DS</u>			new duplex - (2) 2 story 3/3s with covered porches an alley access (parking). each unit has space on highest floor that is exemptable under 25.2 subchapter f	Res. Driveway & Sidewalk	New	1917 DAVID ST	Withdrawn	<u>Yes</u>	
13	<u>2012-001658 EP</u>			new duplex - (2) 2 story 3/3s with covered porches an alley access (parking). each unit has space on highest floor that is exemptable under 25.2 subchapter f	R- 103 Two Family Bldgs	New	1917 DAVID ST	Withdrawn	<u>Yes</u>	
14	<u>2012-001658 MP</u>			new duplex - (2) 2 story 3/3s with covered porches an alley access (parking). each unit has space on highest floor that is exemptable under 25.2 subchapter f	R- 103 Two Family Bldgs	New	1917 DAVID ST	Withdrawn	<u>Yes</u>	
15	<u>2012-001658 PP</u>			new duplex - (2) 2 story 3/3s with covered porches an alley access (parking). each unit has space on highest floor that is exemptable under 25.2 subchapter f	R- 103 Two Family Bldgs	New	1917 DAVID ST	Withdrawn	<u>Yes</u>	
16	<u>2012-000038 BA</u>	C15-2012-0044		various interpretations	Interpretation	Residential	1917 DAVID ST	Approved	No	
17	<u>2012-061992 PR</u>	2012-061992 PR		Re-permitting expired demolition permits. Demolish tri-plex and additional detached unit (illegally converted per code enforcement). Structure originally permitted as a duplex in 1947 with an unspecified addition in 1982.	R- 646 Demolition Two Family Bldgs	Demolition	1917 DAVID ST	Approved	<u>Yes</u>	
18	<u>2010-088793 PR</u>	2010-088793 PR		Demolish detached rear unit.	R- 649 Demolition All Other Bldgs Res	Demolition	1917 DAVID ST	Expired	No	
19	<u>2011-106377 PR</u>	2011-106377 PR		***Permit withdrawn per applicants agent's request. JMM 4-30-2012*** new duplex - (2) two story 3/3s with covered porches an alley access (parking). each unit has space on the highest floor which is exemptable under 25.2 subchapter f	R- 103 Two Family Bldgs	New	1917 DAVID ST	Withdrawn	<u>Yes</u>	
20	<u>2012-062012 BP</u>	2012-062012 BP		Re-permitting expired demolition permit. Demolish front residence (tri-plex - illegally converted per code enforcement). Structure	R- 646 Demolition Two Family Bldgs	Demolition	1917 DAVID ST	Active	<u>Yes</u>	

			originally permitted as a duplex in 1947 with an unspecified addition in 1982.						
21	<u>2012-062013 BP</u>	2012-062013 BP	Re-permitting expired demolition permit. Demolish additional detached unit.	R- 649 Demolition All Other Bldgs Res	Demolition	1917 DAVID ST	Active	<u>Yes</u>	
22	<u>2012-079335 PR</u>	2012-079335 PR	New two story Duplex with 6 bedrooms, 6 bathrooms, attached covered porches. No parking structures included.	R- 103 Two Family Bldgs	New	1917 DAVID ST	Approved	<u>Yes</u>	
23	<u>2012-084972 BP</u>	2012-084972 BP	New two story Duplex with 6 bedrooms, 6 bathrooms, attached covered porches. No parking structures included.	R- 103 Two Family Bldgs	New	1917 DAVID ST	Active	<u>Yes</u>	
24	<u>2012-084972 DS</u>		New two story Duplex with 6 bedrooms, 6 bathrooms, attached covered porches. No parking structures included.			1917 DAVID ST	Pending	<u>Yes</u>	
25	<u>2012-084972 EP</u>		New two story Duplex with 6 bedrooms, 6 bathrooms, attached covered porches. No parking structures included.	R- 103 Two Family Bldgs	New	1917 DAVID ST	Pending Permit	<u>Yes</u>	
26	<u>2012-084972 MP</u>		New two story Duplex with 6 bedrooms, 6 bathrooms, attached covered porches. No parking structures included.	R- 103 Two Family Bldgs	New	1917 DAVID ST	Pending Permit	<u>Yes</u>	
27	<u>2012-084972 PP</u>		New two story Duplex with 6 bedrooms, 6 bathrooms, attached covered porches. No parking structures included.	R- 103 Two Family Bldgs	New	1917 DAVID ST	Pending Permit	<u>Yes</u>	
28	<u>2012-000129 BA</u>	C15-2012-0126		Interpretation	Residential	1917 DAVID ST	Hearing Scheduled	No	
29	<u>2012-108970 EX</u>	2012-108970 EX	EXCAVATION. REPLACE SERVICE. ONE 20FT X 2FT AND ONE 6FT X 6FT STREET CUT, ONE OPEN CUT BEHIND CURB. WORK BEING DONE AT 1917 DAVID ST.	Franchise		TGS - DAVID ST 1917 REPLACE SERVICE	Active	No	

Back



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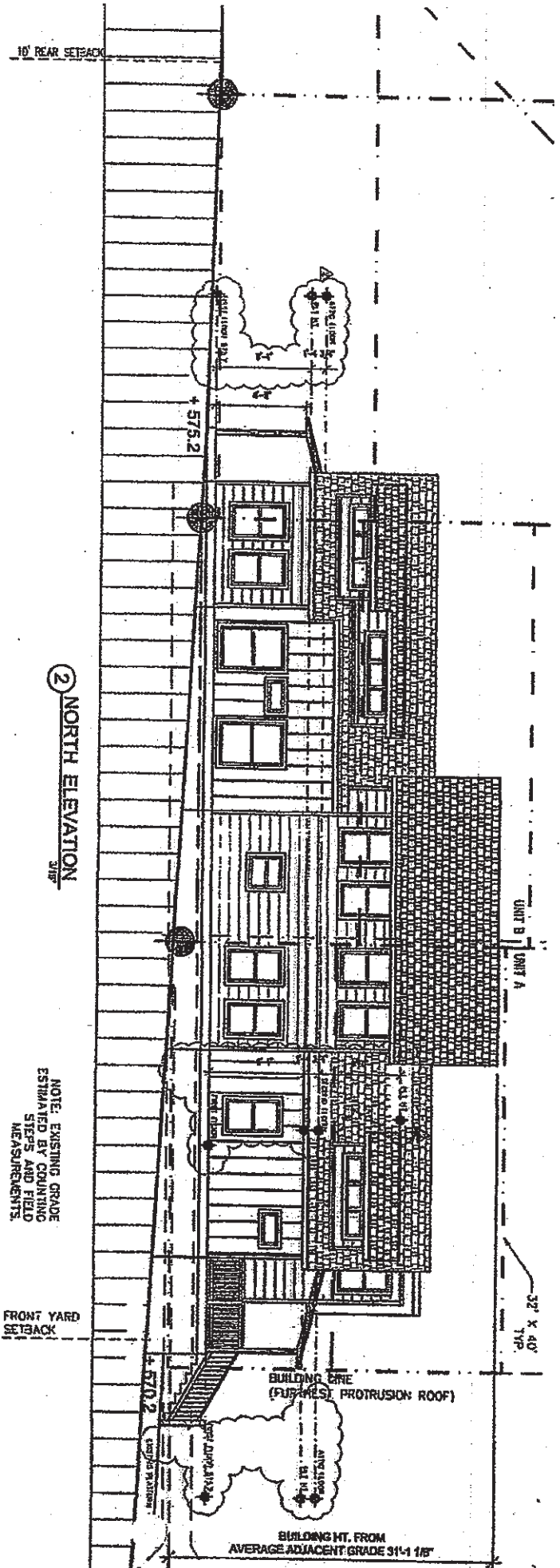
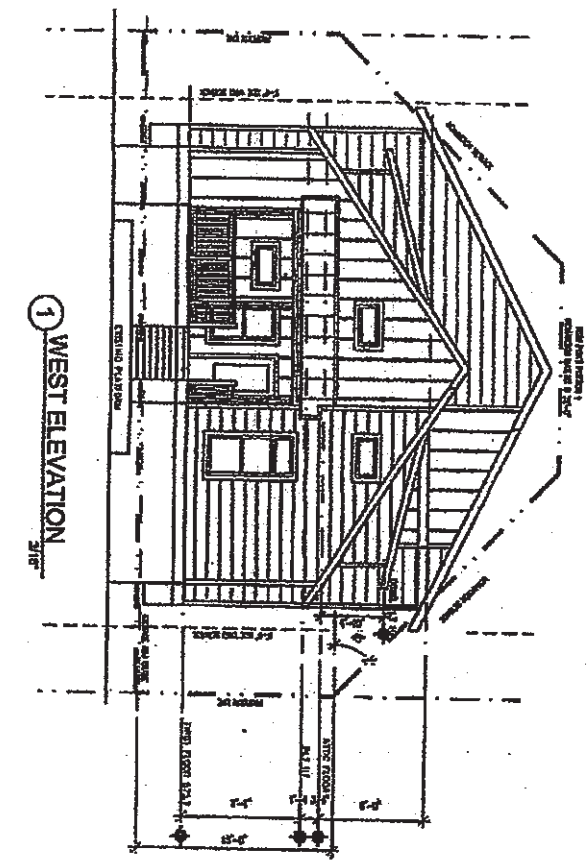
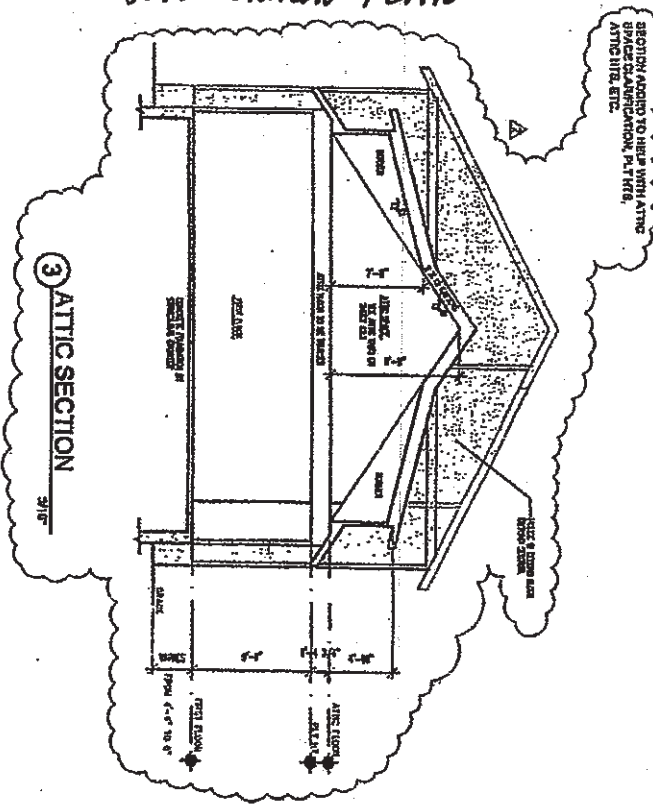
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# Exhibit 2 2056 WITHDRAWN PLAN

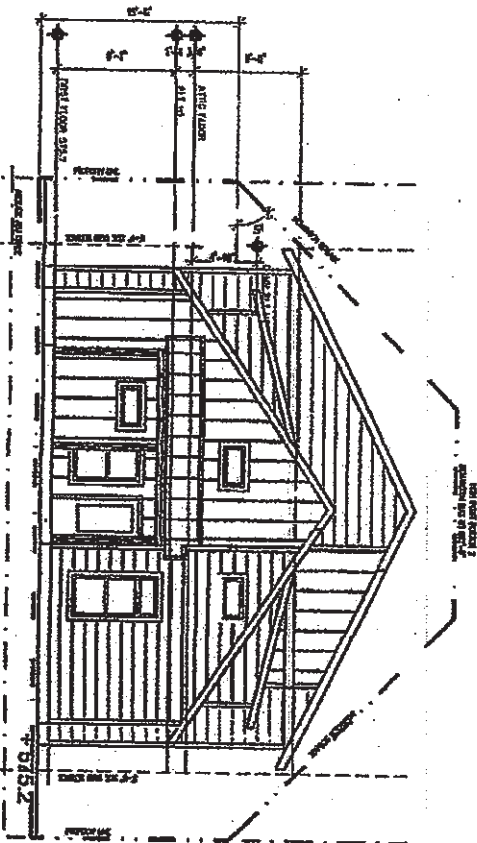


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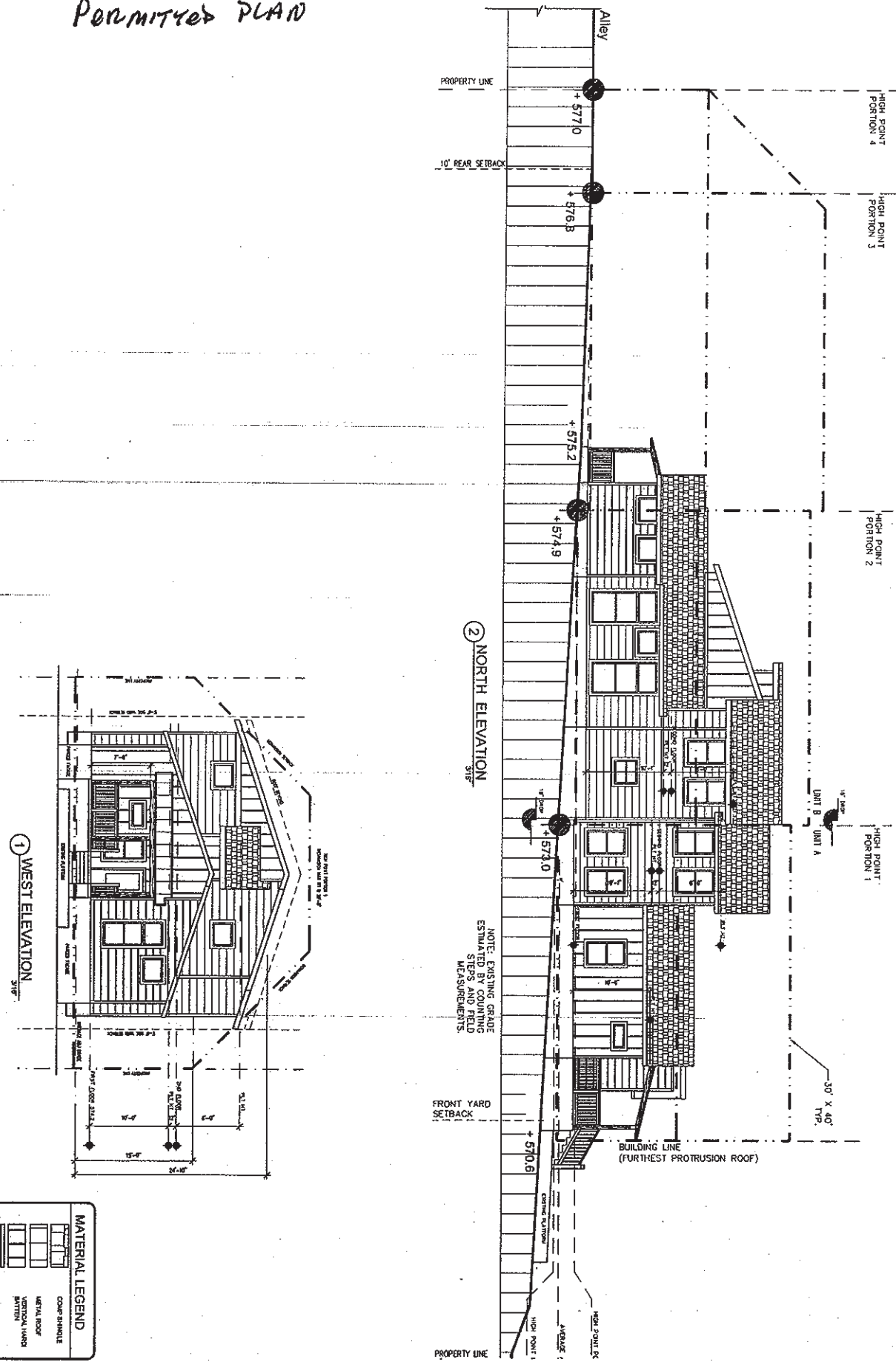
10" REAR SETBACK



ALL ELEVATIONS ARE SHOWN FROM ELEVATION AND THE RELEVATIONS ARE IDENTICAL. BIDDING ELEVATIONS ARE IDENTICAL. ELEVATION THAT HAS BEEN A TO ALL ELEVATIONS FOR CLASSIFICATION FOR ADDITIONAL INFORMATION THAT WOULD.

WALL TYPE	THICKNESS	WEIGHT
CONCRETE	12"	150
CMU	8"	120
CMU	12"	180
CMU	16"	240
CMU	20"	300
CMU	24"	360
CMU	30"	450
CMU	36"	540
CMU	42"	630
CMU	48"	720
CMU	54"	810
CMU	60"	900
CMU	66"	990
CMU	72"	1080
CMU	78"	1170
CMU	84"	1260
CMU	90"	1350
CMU	96"	1440
CMU	102"	1530
CMU	108"	1620
CMU	114"	1710
CMU	120"	1800
CMU	126"	1890
CMU	132"	1980
CMU	138"	2070
CMU	144"	2160
CMU	150"	2250
CMU	156"	2340
CMU	162"	2430
CMU	168"	2520
CMU	174"	2610
CMU	180"	2700
CMU	186"	2790
CMU	192"	2880
CMU	198"	2970
CMU	204"	3060
CMU	210"	3150
CMU	216"	3240
CMU	222"	3330
CMU	228"	3420
CMU	234"	3510
CMU	240"	3600
CMU	246"	3690
CMU	252"	3780
CMU	258"	3870
CMU	264"	3960
CMU	270"	4050
CMU	276"	4140
CMU	282"	4230
CMU	288"	4320
CMU	294"	4410
CMU	300"	4500
CMU	306"	4590
CMU	312"	4680
CMU	318"	4770
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CMU	330"	4950
CMU	336"	5040
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CMU	348"	5220
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CMU	360"	5400
CMU	366"	5490
CMU	372"	5580
CMU	378"	5670
CMU	384"	5760
CMU	390"	5850
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CMU	402"	6030
CMU	408"	6120
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CMU	420"	6300
CMU	426"	6390
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CMU	438"	6570
CMU	444"	6660
CMU	450"	6750
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CMU	462"	6930
CMU	468"	7020
CMU	474"	7110
CMU	480"	7200
CMU	486"	7290
CMU	492"	7380
CMU	498"	7470
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CMU	516"	7740
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CMU	558"	8370
CMU	564"	8460
CMU	570"	8550
CMU	576"	8640
CMU	582"	8730
CMU	588"	8820
CMU	594"	8910
CMU	600"	9000
CMU	606"	9090
CMU	612"	9180
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CMU	624"	9360
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CMU	642"	9630
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CMU	654"	9810
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CMU	672"	10080
CMU	678"	10170
CMU	684"	10260
CMU	690"	10350
CMU	696"	10440
CMU	702"	10530
CMU	708"	10620
CMU	714"	10710
CMU	720"	10800
CMU	726"	10890
CMU	732"	10980
CMU	738"	11070
CMU	744"	11160
CMU	750"	11250
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CMU	768"	11520
CMU	774"	11610
CMU	780"	11700
CMU	786"	11790
CMU	792"	11880
CMU	798"	11970
CMU	804"	12060
CMU	810"	12150
CMU	816"	12240
CMU	822"	12330
CMU	828"	12420
CMU	834"	12510
CMU	840"	12600
CMU	846"	12690
CMU	852"	12780
CMU	858"	12870
CMU	864"	12960
CMU	870"	13050
CMU	876"	13140
CMU	882"	13230
CMU	888"	13320
CMU	894"	13410
CMU	900"	13500
CMU	906"	13590
CMU	912"	13680
CMU	918"	13770
CMU	924"	13860
CMU	930"	13950
CMU	936"	14040
CMU	942"	14130
CMU	948"	14220
CMU	954"	14310
CMU	960"	14400
CMU	966"	14490
CMU	972"	14580
CMU	978"	14670
CMU	984"	14760
CMU	990"	14850
CMU	996"	14940
CMU	1002"	15030
CMU	1008"	15120
CMU	1014"	15210
CMU	1020"	15300
CMU	1026"	15390
CMU	1032"	15480
CMU	1038"	15570
CMU	1044"	15660
CMU	1050"	15750
CMU	1056"	15840
CMU	1062"	15930
CMU	1068"	16020
CMU	1074"	16110
CMU	1080"	16200
CMU	1086"	16290
CMU	1092"	16380
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CMU	1110"	16650
CMU	1116"	16740
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CMU	1176"	17640
CMU	1182"	17730
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CMU	1206"	18090
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CMU	1350"	20250
CMU	1356"	20340
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CMU	1368"	20520
CMU	1374"	20610
CMU	1380"	20700
CMU	1386"	20790
CMU	1392"	20880
CMU	1398"	20970
CMU	1404"	21060
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CMU	1434"	21510
CMU	1440"	21600
CMU	1446"	21690
CMU	1452"	21780
CMU	1458"	21870
CMU	1464"	21960
CMU	1470"	22050
CMU	1476"	22140
CMU	1482"	22230
CMU	1488"	22320
CMU	1494"	22410
CMU	1500"	22500
CMU	1506"	22590
CMU	1512"	22680
CMU	1518"	22770
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CMU	1530"	22950
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CMU	1572"	23580
CMU	1578"	23670
CMU	1584"	23760
CMU	1590"	23850
CMU	1596"	23940
CMU	1602"	24030
CMU	1608"	24120
CMU	1614"	24210
CMU	1620"	24300
CMU	1626"	24390
CMU	1632"	24480
CMU	1638"	24570
CMU	1644"	24660
CMU	1650"	24750
CMU	1656"	24840
CMU	1662"	24930
CMU	1668"	25020
CMU	1674"	25110
CMU	1680"	25200
CMU	1686"	25290
CMU	1692"	25380
CMU	1698"	25470
CMU	1704"	25560
CMU	1710"	25650
CMU	1716"	25740
CMU	1722"	25830
CMU	1728"	25920
CMU	1734"	26010
CMU	1740"	26100
CMU	1746"	26190
CMU	1752"	26280
CMU	1758"	26370
CMU	1764"	26460
CMU	1770"	26550
CMU	1776"	26640
CMU	1782"	26730
CMU	1788"	26820
CMU	1794"	26910
CMU	1800"	27000
CMU	1806"	27090
CMU	1812"	27180
CMU	1818"	27270
CMU	1824"	27360
CMU	1830"	27450
CMU	1836"	27540
CMU	1842"	27630
CMU	1848"	27720
CMU	1854"	27810
CMU	1860"	27900
CMU	1866"	27990
CMU	1872"	28080
CMU	1878"	28170
CMU	1884"	28260
CMU	1890"	28350
CMU	1896"	28440
CMU	1902"	28530
CMU	1908"	28620
CMU	1914"	28710
CMU	1920"	28800
CMU	1926"	28890
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CMU	1938"	29070
CMU	1944"	29160
CMU	1950"	29250
CMU	1956"	29340
CMU	1962"	29430
CMU	1968"	29520
CMU	1974"	29610
CMU	1980"	29700
CMU	1986"	29790
CMU	1992"	29880
CMU	1998"	29970
CMU	2004"	30060
CMU	2010"	30150
CMU	2016"	30240
CMU	2022"	30330
CMU	2028"	30420
CMU	2034"	30510
CMU	2040"	30600
CMU	2046"	30690
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CMU	2136"	32040
CMU	2142"	32130
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CMU	2310"	34650
CMU	2316"	34740
CMU	2322"	34830
CMU	2328"	34920
CMU	2334"	35010
CMU	2340"	35100
CMU	2346"	35190
CMU	2	

Exhibit 2 SOFC  
 Permitted PLAN



MATERIAL LEGEND	
	GALE SHINGLE
	METAL ROOF
	VERTICAL SIDING
	BRICK
	HORIZONTAL SIDING

SHEET NUMBER:  
**A3.1B**

EXTERIOR ELEVATIONS

PROJECT NO.  
 DRAWN BY  
 CHECKED BY  
 SET DATE  
 SCALE  
 AS NOTED

**1917 David Street**

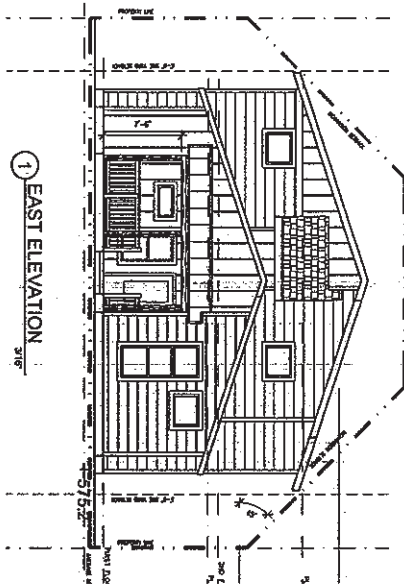
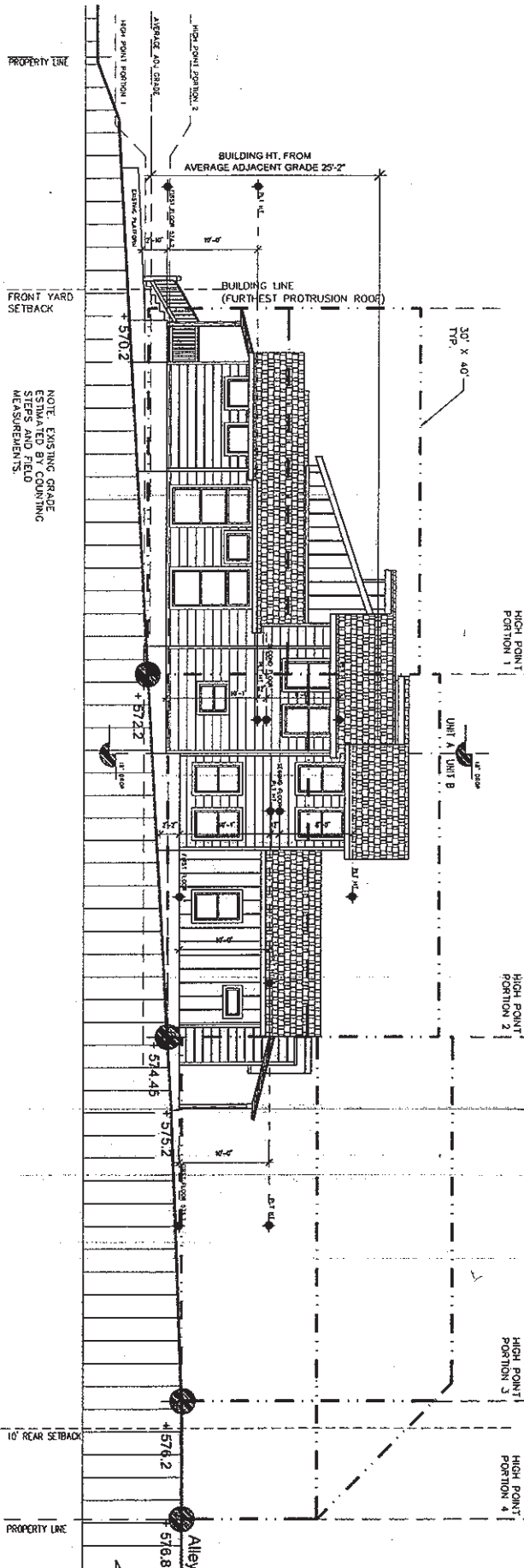
1917 David St. Austin Texas



**Mark Hart Architecture**  
 Mark Hart, AIA.  
 512-680-7905  
 5801 Mojave Drive Austin Texas 78745



Exhibit 2 6066  
 Permitted PLAN



MATERIAL LEGEND	
	CEDAR SHAKE
	METAL ROOF
	VERTICAL HARD SIDING
	HORIZONTAL HARD SIDING

SHEET NUMBER: <b>A3.1A</b>	PROJECT NO. 6066
EXTERIOR ELEVATIONS	DRAWN BY: M.H.
	CHECKED BY: M.H.
	SET DATE: 10/1/03
	SCALE: AS NOTED

REVISION:

**1917 David Street**  
 1917 David St. Austin Texas



**Mark Hart Architecture**  
 Mark Hart, AIA.  
 512-680-7805  
 5801 Mojave Drive Austin Texas 78745



## Mike McHone Real Estate

Karen M. Kennard  
City Attorney  
City of Austin  
P.O. Box 1088  
Austin, Texas 78767

October 25, 2012

Re: Board of Adjustments Case C15-2012-0126

Dear Ms. Kennard;

I am requesting a legal opinion as to the jurisdiction of the Board of Adjustments in the above referenced case.

The Authority of the Board of Adjustments is set forth in 2-1-111 of the City Code. Subsection (F) (2) authorizes the Board of Adjustments to "hear and decide an appeal of an administrative action under chapter 25-2 Zoning of the Land Development Code. This case does not involve "zoning" as defined in 25-2 and it is therefore inappropriate for the Board of Adjustments to hear this item.

The reasons for this are as follows:

- 1) The appellant's whole appeal is based upon its claim that this permitted duplex has exceeded the allowed number of "bedrooms". The appellant in its application for appeal quotes a definition of "bedroom" which is stated in the adopted Building and Technical Codes of the City of Austin.  
Interpretation of the Building , Fire and Technical Code is addressed under the City's Code 2-1-121, Building and Fire Code Board of Appeals (c) "The Board shall hear and decide appeals of orders, decisions, or determinations made by building officials relating to the application and interpretations of the Building and Fire Code. A similar claim was considered earlier this month by the Building and Fire Code Board of Appeals in which they ruled in favor to the decision by the City Professional Staff to issue a Building Permit for this property.
- 2) Additionally, the definitions of terms used in the Land Development Code are set forth in Chapter 25-1-21 Definitions not in 25-2 Zoning. Since there is no definition of "bedroom" in this section of the Land Development Code, it is a matter that would need legislative action beyond the scope of the zoning responsibilities of the Board of Adjustments.
- 3) The Board of Adjustments is a judicial body not a legislative body. The City's legislative board or commission is the Planning Commission as stated in 2-1-165. This Commission is established and governed by the City Charter, Article X (Planning). The relevant section is paragraph 4 (2) (b)... "for the purpose of this article and subsection, "land development regulation" includes zoning, subdivision, building and construction, environmental, and other police powers regulations controlling, regulating, or affecting the use or development of land."

Chapter 25-11 of the Land Development Code governs the issuance of Building Permits not Chapter 25-2.

It is my understanding that the Planning Commission has directed city staff to investigate the possibility of developing a definition of "bedroom".

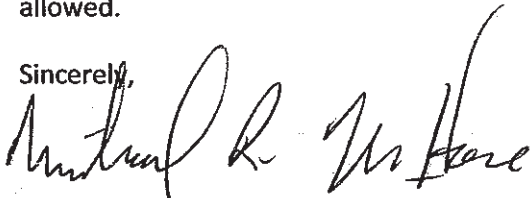
Until there is a legislative change there are no grounds for an appeal based on the label of "bedroom".

The appellant's bedroom claim is based upon the definition in the International Maintenance Code definition of the minimum requirement for a room to be a "bedroom". A room meeting these requirements may be a bedroom; however, a room meeting these requirements is not necessarily a "bedroom". The designation of rooms has long been a determination required of the licensed design professional (the architect, a State Licensed Profession). Modern Homes have become a complex of multifunctional rooms with a variety of uses and labels including but not limited to (bedroom, library, study, den, family room, media room, bar, game room, great room, etc.). A responsible architect would not design any room that did not have two means of egress.

The appellant made similar claims earlier this month before the Building and Fire Code Board of Appeals. The Board ruled in favor of the Professional City Staffs decision to issue the Building Permit for the construction of a duplex at 1917 David which has 3 bedrooms per dwelling unit and complies with the Code requirements of the City of Austin.

This attempt to put one Commission against another is not in the best interest of the City. Additionally, I believe the Board of Adjustments has no jurisdiction in this matter and the hearing should not be allowed.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael R. McHone", written over the word "Sincerely,".

Mike McHone, Consultant for the Owner Michael Said

**Board of Adjustment Motion Sheet - October 29, 2011 Board of Adjustment Meeting**  
**Case No. C15-2012-0126, Nuria Zaragoza ("Appellant"), 1917 David Street, Austin Texas**

**Board member's Motion**

"I move to reverse the Director's determination and approval of the building permit application for the property at 1917 David Street, Austin, Texas, finding the Director's interpretation of "bedroom" under the limitations on the number of bedrooms allowed in the Land Development Code subsection 25-2-555(D) should be substituted with the following interpretation. Staff should prepare a memo describing this interpretation and make it available to reviewers and the public."

**Text of Interpretation:**

(1) A room shown on the floor plan of a residential project, though not designated as a bedroom on the plan, is a "bedroom" for the purposes of determining the number bedrooms allowed under sections 25-2-555(D) of the Land Development Code if:

- (A) the room has a minimum of 70 square feet in area and is not a kitchen, utility room, common living area or common circulation space (halls or stairs);
- (B) the room has the minimum exit area for fire egress by means of windows or doors as required by the International Residential Code as adopted by the City of Austin;
- (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) the room has access to bathrooms only through shared common living or circulation areas also accessible from the designated bedrooms on the floor plans and no designated bedrooms shown on the plans has direct access to any of the bathrooms except through common living area or common circulation space.
- (E) the room has access to multiple bathrooms through common living areas or common circulation spaces and all these bathrooms contain full bath fixtures including a tub or shower, toilet and multiple lavatories.

(2) This interpretation supersedes any conflicting interpretation previously issued by staff for the subject permit.

**Findings**

After the conclusion of the Board's deliberations, the Board finds:

- (1) The Appellant has standing to appeal the Director's decision.
- (2) There is reasonable doubt or difference of interpretation as to the determination of what constitutes a "Bedroom" with regard to the limitations set forth in section 25-2-555(D) of the Land Development Code, and written and oral testimony has been presented to support the Board's interpretation and reversal of the Director's decision; and
- (3) The resulting interpretation approved by the Board will not grant a special privilege to one property inconsistent with other properties or use similarly situated; and
- (4) When use provisions are being appealed, granting the appeal would clearly permit a use in character with the uses enumerated for the various districts and with the objective of the district in question.

**Mike Mchone**

---

**From:** Mike Mchone [mchone1234@sbcglobal.net]  
**Sent:** Tuesday, November 06, 2012 3:39 PM  
**To:** 'Mike Mchone'  
**Subject:** FW: Texas Occupations Code  
**Attachments:** 20121106\_150904.pdf

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**From:** Allen Hill [mailto:ahill@hdchlaw.com]  
**Sent:** Tuesday, November 06, 2012 3:33 PM  
**To:** Mike Mchone; Michael Said; Mark Hart  
**Subject:** Texas Occupations Code

Hi Mike

The relevant sections previously mentioned are:

Section 1051.001(7) that defines the "Practice of Architecture" to include ".....planning for functional relationships AND INTENDED USES ...."

Section 1051.001(7)(B) which further defines practice of architecture to include "preparing, or supervising and controlling the preparation of, the architectural plans and specifications..."

If you wonder what the "architectural plans and specifications" might be, see

Section 1051.0016, that says these plans include (1)(A) floor plans and details: (A) depicting the design of: (i) internal and external walls and floors.....(ii) internal spaces of a building

In Section 1051.0016(c) is a list of activities that may be performed by either an engineer or an architect, and include

1051.0016(c)(3) consulting with regard to, investigating, and analyzing the design ..... of a building ....."

and finally,

1051.0016(c)(4) says that an engineer or an architect can act in "providing expert opinion and testimony with respect to issues within the responsibility of the engineer or architect."

Thanks  
Allen

---

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H. Allen Hill, Jr.  
Hill, Ducloux, Carnes & de la Garza  
An Association of Individual Law Practices  
400 W. 15th Street, Suite 808  
Austin, Texas 78701  
(512) 474-7054

**Mike Mchone**

---

**From:** Allen Hill [ahill@hdchlaw.com]  
**Sent:** Tuesday, November 06, 2012 3:40 PM  
**To:** Mike Mchone; Michael Said; Mark Hart  
**Subject:** More from Texas Occupations Code

**Section 1051.701**

"(a) A person may not engage in the practice of architecture, or offer or attempt to engage in the practice of architecture, as defined in Section 1051.001(7)(A)(B) or (C) unless the person is registered as an architect under this chapter."

**Section 1051.801 Criminal Penalty**

"(a) A person, whether acting independently or on behalf of the person's firm, commits an offense if, in violation of this chapter, the person: (1) engages in the practice of architecture, or offers or attempts to engage in the practice of architecture; (2) prepares architectural plans or specifications for and observes or supervises the construction, enlargement, or alteration of a building for another person....."

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$250 and not more than \$1,000. Each day of the violation is a separate offense.

(c) In an action brought under this section, the board may be represented by a district or county attorney or by other counsel as necessary.

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## OCCUPATIONS CODE

## TITLE 6. REGULATION OF ENGINEERING, ARCHITECTURE, LAND SURVEYING, AND RELATED PRACTICES

## SUBTITLE B. REGULATION OF ARCHITECTURE AND RELATED PRACTICES

## CHAPTER 1051. TEXAS BOARD OF ARCHITECTURAL EXAMINERS; GENERAL PROVISIONS AFFECTING ARCHITECTS, LANDSCAPE ARCHITECTS, AND INTERIOR DESIGNERS; PROVISIONS AFFECTING ONLY ARCHITECTS

## ARTICLE 1. GENERAL PROVISIONS; BOARD OF ARCHITECTURAL EXAMINERS

## SUBCHAPTER A. GENERAL PROVISIONS

## Sec. 1051.001. DEFINITIONS. In this subtitle:

- (1) "Architect" means a person registered under this chapter to engage in the practice of architecture.
- (2) "Board" means the Texas Board of Architectural Examiners.
- (3) "Interior design" means the:
  - (A) identification, research, or development of a creative solution to a problem relating to the function or quality of an interior environment;
  - (B) performance of a service relating to an interior space, including programming, design analysis, space planning of non-load-bearing interior construction, and application of aesthetic principles, by using specialized knowledge of interior construction, building codes, equipment, materials, or furnishings; or
  - (C) preparation of an interior design plan, specification, or related document about the design of a non-load-bearing interior space.
- (4) "Interior designer" means a person registered under this subtitle to practice interior design.
- (5) "Landscape architect" means a person registered under this subtitle to practice landscape architecture.
- (6) "Landscape architecture":
  - (A) means the art and science of landscape analysis, landscape planning, and landscape design;
  - (B) includes the performance of professional services such as consultation, investigation, research, the preparation of general development and detailed site design plans, the preparation of studies, the preparation of specifications, and responsible supervision related to the development of landscape areas for:

(i) the planning, preservation, enhancement, and arrangement of land forms, natural systems, features, and plantings, including ground and water forms;

(ii) the planning and design of vegetation, circulation, walks, and other landscape features to fulfill aesthetic and functional requirements;

(iii) the formulation of graphic and written criteria to govern the planning and design of landscape construction development programs, including:

(a) the preparation, review, and analysis of master and site plans for landscape use and development;

(b) the analysis of environmental and physical considerations related to land use;

(c) the preparation of drawings, construction documents, and specifications; and

(d) construction observation;

(iv) design coordination and review of technical submissions, plans, and construction documents prepared by persons working under the direction of the landscape architect;

(v) the preparation of feasibility studies, statements of probable construction costs, and reports and site selection for landscape development and preservation;

(vi) the integration, site analysis, and determination of the location of buildings, structures, and circulation and environmental systems;

(vii) the analysis and design of:

(a) site landscape grading and drainage;

(b) systems for landscape erosion and sediment control;

and

(c) pedestrian walkway systems;

(viii) the planning and placement of uninhabitable landscape structures, plants, landscape lighting, and hard surface areas;

(ix) the collaboration of landscape architects with other professionals in the design of roads, bridges, and structures regarding the functional, environmental, and aesthetic requirements of the areas in which they are to be placed; and

(x) field observation of landscape site construction, revegetation, and maintenance; and

(C) does not include:

(i) traffic, roadway, or pavement engineering;

(ii) the design of utilities;

(iii) the engineering or study of hydrologic management of stormwater systems or floodplains;

(iv) the making of final plats; or

(v) a service or function within the practice of architecture, engineering, or public surveying as defined by this chapter or Chapter 1001 or 1071.

(7) "Practice of architecture" means a service or creative work applying the art and science of developing design concepts, planning for functional relationships and intended uses, and establishing the form, appearance, aesthetics, and construction details for the construction, enlargement, or alteration of a building or environs intended for human use or occupancy, the proper application of which requires education, training, and experience in those matters. The term includes:

(A) establishing and documenting the form, aesthetics, materials, and construction technology for a building, group of buildings, or environs intended to be constructed or altered;

(B) preparing, or supervising and controlling the preparation of, the architectural plans and specifications that include all integrated building systems and construction details, unless otherwise permitted under Section 1051.606(a)(4);

(C) observing the construction, modification, or alteration of work to evaluate conformance with architectural plans and specifications described in Paragraph (B) for any building, group of buildings, or environs requiring an architect;

(D) programming for construction projects, including identification of economic, legal, and natural constraints and determination of the scope and spatial relationship of functional elements;

(E) recommending and overseeing appropriate construction project delivery systems;

(F) consulting, investigating, and analyzing the design, form, aesthetics, materials, and construction technology used for the construction, enlargement, or alteration of a building or environs and providing expert opinion and testimony as necessary;

(G) research to expand the knowledge base of the profession of architecture, including publishing or presenting findings in professional forums; and

(H) teaching, administering, and developing pedagogical theory in academic settings offering architectural education.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 1, eff. June 1, 2003. Amended by Acts 2003, 78th Leg., ch. 331, Sec. 1.04, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 208, Sec. 1, eff. September 1, 2005.

Sec. 1051.0015. PURPOSE OF REGISTRATION REQUIREMENT. The purpose of Section 1051.701(a) is to:

- (1) safeguard life, health, property, and the public welfare; and
- (2) protect the public against the irresponsible practice of architecture.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14A.051, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1360, Sec. 1, eff. September 1, 2007.

Sec. 1051.0016. PRACTICES OF ARCHITECTURE AND ENGINEERING. (a) In this chapter, "architectural plans and specifications" include:

- (1) floor plans and details:
  - (A) depicting the design of:
    - (i) internal and external walls and floors, including simple foundations;
    - (ii) internal spaces of a building; and
    - (iii) vertical circulation systems, including accessibility ramps, stair systems, elevators, and escalators; and
  - (B) implementing programming, regulatory, and accessibility requirements for a building;
- (2) general cross-sections and detailed wall sections depicting building components from a hypothetical cut line through a building to include the building's mechanical, electrical, plumbing, or structural systems;
- (3) reflected ceiling plans and details depicting:
  - (A) the design of the location, materials, and connections of the ceiling to the structure; and
  - (B) the integration of the ceiling with electrical, mechanical, lighting, sprinkler, and other building systems;
- (4) finish plans or schedules depicting surface materials on the interior and exterior of the building;
- (5) interior and exterior elevations depicting the design of materials, locations, and relationships of components and surfaces;
- (6) partition, door, window, lighting, hardware, and fixture schedules;
- (7) manufacturer or fabricator drawings that are integrated into the construction documents; and
- (8) specifications describing the nature, quality, and execution of

OCCUPATIONS CODE CHAPTER 1051. TEXAS BOARD OF ARCHITECTURAL EXAMINERS; GENERAL PROVISIONS AFFECTING ARCHITECTS, LANDSCA...

materials for construction of the elements of the building depicted in the plans prepared by the architect.

(b) The preparation of architectural plans and specifications for the following tasks is within the scope of practice of both engineering and architecture:

(1) site plans depicting the location and orientation of a building on the site based on:

(A) a determination of the relationship of the intended use with the environment, topography, vegetation, climate, and geographic aspects; and

(B) the legal aspects of site development, including setback requirements, zoning and other legal restrictions, and surface drainage;

(2) the depiction of the building systems, including structural, mechanical, electrical, and plumbing systems, in:

(A) plan views;

(B) cross-sections depicting building components from a hypothetical cut line through a building; and

(C) the design of details of components and assemblies, including any part of a building exposed to water infiltration or fire-spread considerations;

(3) life safety plans and sheets, including accessibility ramps and related code analyses; and

(4) roof plans and details depicting the design of roof system materials, components, drainage, slopes, and directions and location of roof accessories and equipment not involving structural engineering calculations.

(c) The following activities may be performed by either an engineer or an architect:

(1) programming for construction projects, including:

(A) identification of economic, legal, and natural constraints;

and

(B) determination of the scope of functional elements;

(2) recommending and overseeing appropriate construction project delivery systems;

(3) consulting with regard to, investigating, and analyzing the design, form, materials, and construction technology used for the construction, enlargement, or alteration of a building or its environment; and

(4) providing expert opinion and testimony with respect to issues within the responsibility of the engineer or architect.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1157, Sec. 2, eff. September 1, 2011.

Sec. 1051.002. EFFECT ON MUNICIPALITY. This subtitle does not:



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

**DATE: Monday, October 29, 2012**

**CASE NUMBER: C15-2012-0126**

<input checked="" type="checkbox"/> Y	Jeff Jack
<input checked="" type="checkbox"/> Y	Michael Von Ohlen
<input checked="" type="checkbox"/> Y	Nora Salinas
<input checked="" type="checkbox"/> Y	Bryan King
<input type="checkbox"/> N	Fred McGhee
<input checked="" type="checkbox"/> Y	Stuart Hampton - Melissa Hawthorne absent
<input checked="" type="checkbox"/> Y	Sallie Burchett

**APPLICANT: Nuria Zaragoza**

**OWNER: Michael Said**

**ADDRESS: 1917 DAVID ST**

**VARIANCE REQUESTED:** The appellant (Nuria Zaragoza) has filed an appeal, requesting 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 following code sections:

- 1.) The appellant feels the correct interpretation is with ten (10) bedrooms, the project exceeds the Land Development Code (LDC) limitations placed on duplexes outlined on 25-2-555D
- 2.) The appellant feels the correct interpretation is with 10 bedrooms, the project is required eight (8) parking spaces.
- 3.) The appellant feels the correct interpretation is with ten (10) bedrooms, the project needs to comply with the landscaping requirements.
- 4.) The appellant feels the correct interpretation of the actual use is Group Residential as defined in the LDC 25-2-3(5).

**BOARD'S DECISION:** Motion to reverse the Director's determination and approval of the building permit application for the property at 1917 David Street, Austin Texas, finding the Director's Interpretation of "bedroom" under the limitations on the number of bedrooms allowed in the Land Development Code subsection 25-2-555(D) should be substituted with the following interpretation. Staff should prepare a memo describing this interpretation and make it available to reviewers and the public, vote 6-1 (Board member Fred McGhee nay)

**Text of Interpretation:**

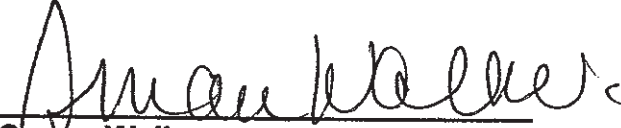
1. A room shown on the floor plan of a residential project, though not designated as a bedroom on the plan, is a "bedroom" for the purposes of


determining the number bedrooms allowed under sections 25-2-555(D) of the Land Development Code if:

- (A) The room has a minimum of 70 square feet in area and is not a kitchen, utility room, common living area or common circulation space (halls or stairs);
  - (B) The room has the minimum exit area for fire egress by means of windows or doors as required by the International Residential Code as adopted by the City of Austin;
  - (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) The room has access to bathrooms only through shared common living or circulation area also accessible from the designed bedrooms on the floor plans and no designed bedrooms shown on the plans has direct access to any the bathrooms except through common living area or common circulation space;
  - (E) The room has access to multiple bathrooms through common living areas or common circulation spaces and all these bathrooms contain full bath fixtures including a tub or shower, toilet and multiple lavatories.
2. This interpretation supersedes any conflicting interpretation previously issued by staff for the subject permit.

**FINDINGS:** After the conclusion of the Board's deliberations, the Board finds:

- 1. The Appellant has standing to appeal the Director's decision.
- 2. There is no reasonable doubt or difference of interpretation as to the determination of what constitutes a "Bedroom" with regard to the limitations set forth in section 25-2-555(D) of the Land Development Code, and written and oral testimony has been presented to support the Board's interpretation and reversal of the Director's decision; and
- 3. The resulting interpretation approved by the Board will not grant a special privilege to one property inconsistent with other properties or use similarly situated; and
- 4. When use provisions are being appealed, granting the appeal would clearly permit a use in character with the uses enumerated for the various districts and with the objective of the district in question.

  
Susan Walker  
Executive Liaison

  
Jeff Jack  
Chairman

**Board of Adjustment Motion Sheet - October 29, 2011 Board of Adjustment Meeting**  
**Case No. C15-2012-0126, Nuria Zaragoza ("Appellant"), 1917 David Street, Austin Texas**

**Board member's Motion**

"I move to reverse the Director's determination and approval of the building permit application for the property at 1917 David Street, Austin, Texas, finding the Director's interpretation of "bedroom" under the limitations on the number of bedrooms allowed in the Land Development Code subsection 25-2-555(D) should be substituted with the following interpretation. Staff should prepare a memo describing this interpretation and make it available to reviewers and the public."

**Text of Interpretation:**

(1) A room shown on the floor plan of a residential project, though not designated as a bedroom on the plan, is a "bedroom" for the purposes of determining the number bedrooms allowed under sections 25-2-555(D) of the Land Development Code if:

- (A) the room has a minimum of 70 square feet in area and is not a kitchen, utility room, common living area or common circulation space (halls or stairs);
- (B) the room has the minimum exit area for fire egress by means of windows or doors as required by the International Residential Code as adopted by the City of Austin;
- (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) the room has access to bathrooms only through shared common living or circulation areas also accessible from the designated bedrooms on the floor plans and no designated bedrooms shown on the plans has direct access to any of the bathrooms except through common living area or common circulation space.
- (E) the room has access to multiple bathrooms through common living areas or common circulation spaces and all these bathrooms contain full bath fixtures including a tub or shower, toilet and multiple lavatories.

(2) This interpretation supersedes any conflicting interpretation previously issued by staff for the subject permit.

**Findings**

After the conclusion of the Board's deliberations, the Board finds:

- (1) The Appellant has standing to appeal the Director's decision.
- (2) There is reasonable doubt or difference of interpretation as to the determination of what constitutes a "Bedroom" with regard to the limitations set forth in section 25-2-555(D) of the Land Development Code, and written and oral testimony has been presented to support the Board's interpretation and reversal of the Director's decision; and
- (3) The resulting interpretation approved by the Board will not grant a special privilege to one property inconsistent with other properties or use similarly situated; and
- (4) When use provisions are being appealed, granting the appeal would clearly permit a use in character with the uses enumerated for the various districts and with the objective of the district in question.

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- 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
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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

JOHN ALEXANDER

Your Name (please print)

1902 ROBBINS PLACE

Your address(es) affected by this application

John A. Alexander

Signature

10/21/12

Date

Daytime Telephone: 832-860-5311

Comments: I support NURIA Z. and the members of CANPAC in their efforts to protect historic single-family housing in pockets of central Austin. As a member of the UT community and West campus, I ask you to consider NURIA's request with utmost urgency and necessity.

Thanks!!

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

Your Name (please print)

Karne League

1305 W 22nd

Your address(es) affected by this application

Signature

[Signature]

Date

10/22/12

Daytime Telephone: 512 507 3361

Comments: This is clearly a stealth

down. The "office" and "garage" are so designated only for permit purposes, and the project along with others by the same architect & owner is advertised as 10 bedroom

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

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Susan Walker

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Austin, TX 78767-1088





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**Contact:** Susan Walker, 512-974-2202  
**Public Hearing:** Board of Adjustment, October 29th, 2012

TIM LEAUSE  
 Your Name (please print)



1308 OLD 19th St

Your address(es) affected by this application

[Signature] 10/22/12  
 Signature Date

Daytime Telephone: 512 507-3361

Comments: Do NOT Allow 10 Bedrooms!

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

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**Contact:** Susan Walker, 512-974-2202

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

*S. S. Wenger, W.D. Board*

Your Name (please print)

*1100 W 22 1/2 E Leov Street*

Your address(es) affected by this application

*[Signature]*

Signature

Daytime Telephone: *830 257 5323*

Date

*10/23/12*

Comments:

*This density is excessive because of lack of on-site parking*



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

Susan Walker

P. O. Box 1088

Austin, TX 78767-1088

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**Contact:** Susan Walker, 512-974-2202  
**Public Hearing:** Board of Adjustment, October 29th, 2012

Margo Baxter

Your Name (please print)

1905 Cliff St 78705

Your address(es) affected by this application

Margaret Baxter

Signature

10/22/12

Date

Daytime Telephone: 608-957-4411

Comments: Agree with applicant  
Nuria Zaragoza



**If you use this form to comment, it may be returned to:**  
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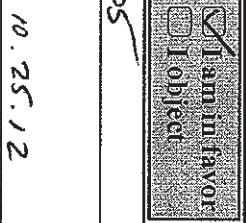
**Case Number:** C15-2012-0126 – 1917 David Street  
**Contact:** Susan Walker, 512-974-2202  
**Public Hearing:** Board of Adjustment, October 29th, 2012

NIRAV V. PATIL

Your Name (please print)

1911 CLIFF ST, #2 Austin 78705

Your address(es) affected by this application



[Signature]

Signature

10.25.12

Date

Daytime Telephone: 512/468-8201

Comments: Susan,

I HAVE MADE NUMEROUS ATTEMPTS  
TO CALL YOU RE: THE ORDER REDEMPTION (  
KNEEL BEFORE ON CLIFF) AND I CURRENTLY  
AS TO WHY YOU ONLY CHECKED THIS  
ONCE. THIS WAS THE WEEK LEADING  
UP TO THE HEARING.

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

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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

Matthew Slusarek

Your Name (please print)

1909A Cliff Street

Your address(es) affected by this application

M. Slusarek

Signature

10-24-12

Date

Daytime Telephone: 475-530-7382

Comments: DAVID ST. IS ALREADY PACKED W/ CARS.  
IT SEEMS RECKLESS TO ALLOW MORE PEOPLE  
TO LIVE ON THAT STREET. IT ALSO SEEMS  
RECKLESS AND BORDERLINE ALLEGED TO  
ALLOW SPACES THAT WILL CLEARLY BE USED  
AS BEDROOMS TO NOT BE REGULATED IN  
TERMS OF SAFETY - LET ALONE THE  
QUESTIONS THEY RAISE ABOUT ZONING.

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Susan Walker

P. O. Box 1088

Austin, TX 78767-1088





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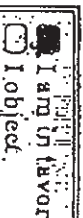
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Case Number: C15-2012-0126 – 1917 David Street  
 Contact: Susan Walker, 512-974-2202  
 Public Hearing: Board of Adjustment, October 29th, 2012

*Lucy Bullis*     *Joni Anderson*

Your Name (please print)



*1913 Cliff*

Your address(es) affected by this application

*Public Hearing, agent for owner*

Signature

Date

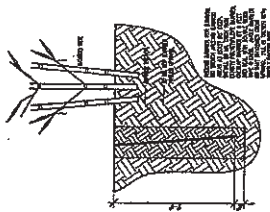
Daytime Telephone: *512 610 6600*     *10/26/12*

Comments:

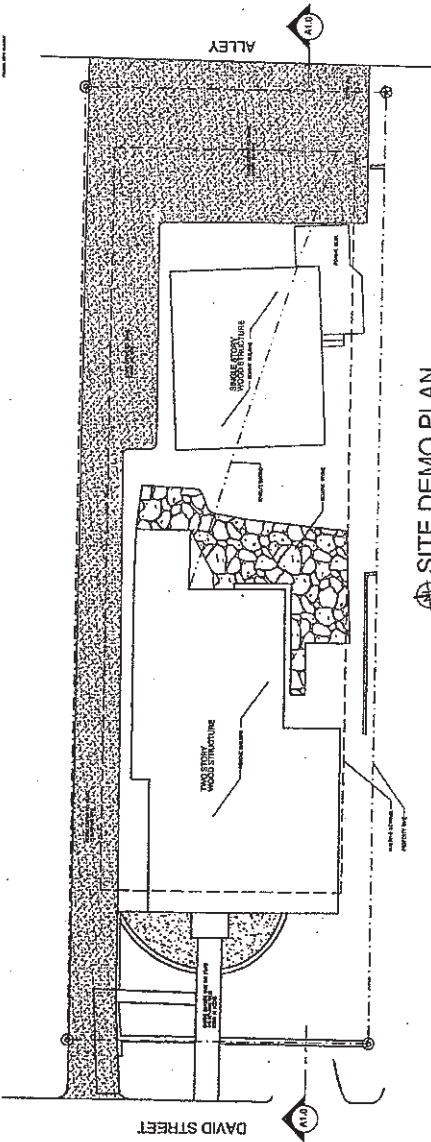
*We fully support this application and hope the BOA will render a clear decision on bedroom classification to stop the proliferation of these super duplexes or disguised dorms.*

*Thank you*

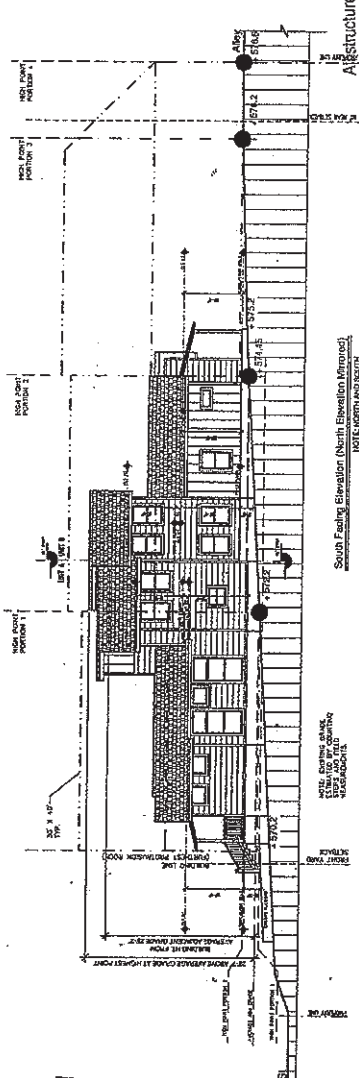
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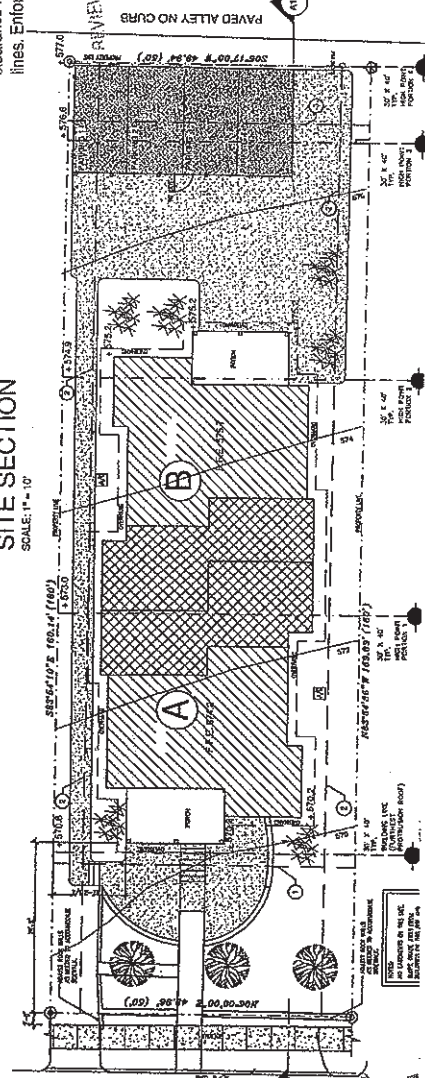
1 BAMBOO RHIZOME BARRIER



3 SITE DEMO PLAN  
SCALE: 1" = 10'



4 SITE SECTION  
SCALE: 1" = 10'



**REVIEWED**  
JUL 03 2012  
AUSTIN WATER UTILITY  
CONSUMER SERVICE DIVISION - TAPS

*C.O.A. 2012*

APPROVED FOR PERMIT  
CITY OF AUSTIN  
Greg Guessey  
Planning and Development  
Date: 8-23-12  
The granting of a permit for, or approval of, these plans and specifications shall not be construed to be a permit for, or approval of, any violation of the provisions of the City of Austin's adopted building code, or any other ordinance of the City of Austin.

Structures etc. must maintain 7'5" clearance from AE energized power lines. Enforced by AE & NESC codes.

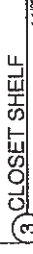
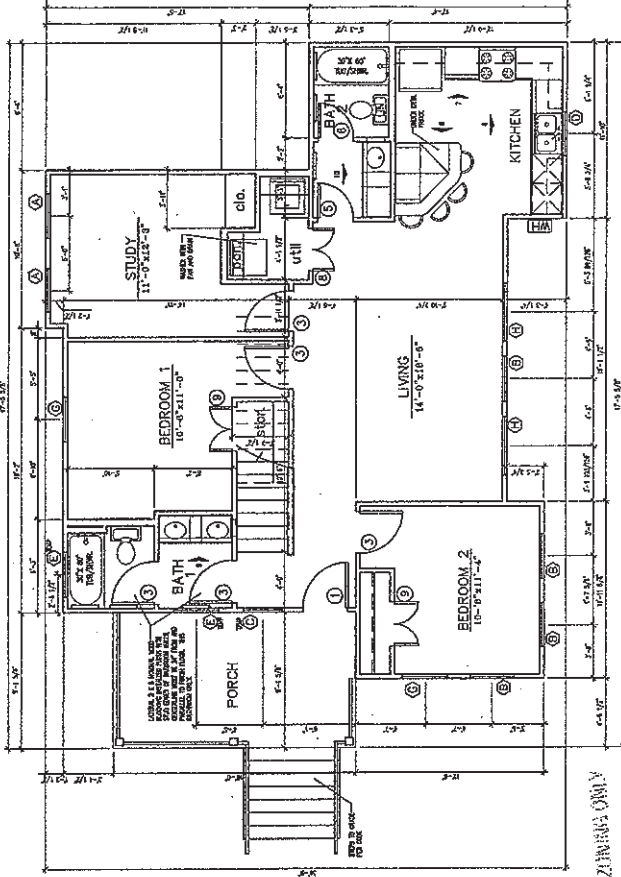
**AE APPROVED**  
JUL 03 2012  
145-218  
JGM

REVIEWED FOR ZONING ONLY

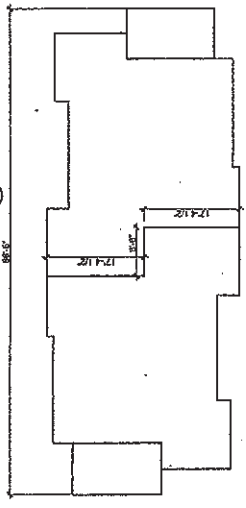
**PROJECT NO.** 145-218  
**REVISION 1**

**DATE:** JUL 03 2012  
**BY:** JGM

**PROJECT DESCRIPTION:** 145-218, 145-219, 145-220, 145-221, 145-222, 145-223, 145-224, 145-225, 145-226, 145-227, 145-228, 145-229, 145-230, 145-231, 145-232, 145-233, 145-234, 145-235, 145-236, 145-237, 145-238, 145-239, 145-240, 145-241, 145-242, 145-243, 145-244, 145-245, 145-246, 145-247, 145-248, 145-249, 145-250, 145-251, 145-252, 145-253, 145-254, 145-255, 145-256, 145-257, 145-258, 145-259, 145-260, 145-261, 145-262, 145-263, 145-264, 145-265, 145-266, 145-267, 145-268, 145-269, 145-270, 145-271, 145-272, 145-273, 145-274, 145-275, 145-276, 145-277, 145-278, 145-279, 145-280, 145-281, 145-282, 145-283, 145-284, 145-285, 145-286, 145-287, 145-288, 145-289, 145-290, 145-291, 145-292, 145-293, 145-294, 145-295, 145-296, 145-297, 145-298, 145-299, 145-300, 145-301, 145-302, 145-303, 145-304, 145-305, 145-306, 145-307, 145-308, 145-309, 145-310, 145-311, 145-312, 145-313, 145-314, 145-315, 145-316, 145-317, 145-318, 145-319, 145-320, 145-321, 145-322, 145-323, 145-324, 145-325, 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PARTY WALL LENGTH TABULATIONS  
BUILDING UNIT A - 57



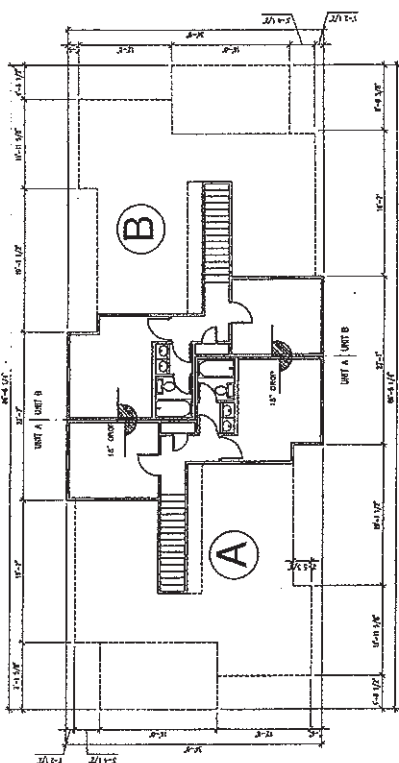


DOOR SCHEDULE ①				REMARKS
MARK	SIZE	TYPE	MATERIAL	FINISH/LOOK
1	2'-0" X 8'-0"	PANELLED	WOOD	BRUSHED
2	1'-0" X 8'-0"	PANELLED	WOOD	BRUSHED
3	2'-0" X 8'-0"	PANELLED	WOOD	BRUSHED
4	2'-0" X 8'-0"	PANELLED	WOOD	BRUSHED
5	2'-0" X 8'-0"	PANELLED	WOOD	BRUSHED
6	2'-0" X 8'-0"	PANELLED	WOOD	BRUSHED
7	2'-0" X 8'-0"	PANELLED	WOOD	BRUSHED
8	2'-0" X 8'-0"	PANELLED	WOOD	BRUSHED
9	2'-0" X 8'-0"	PANELLED	WOOD	BRUSHED

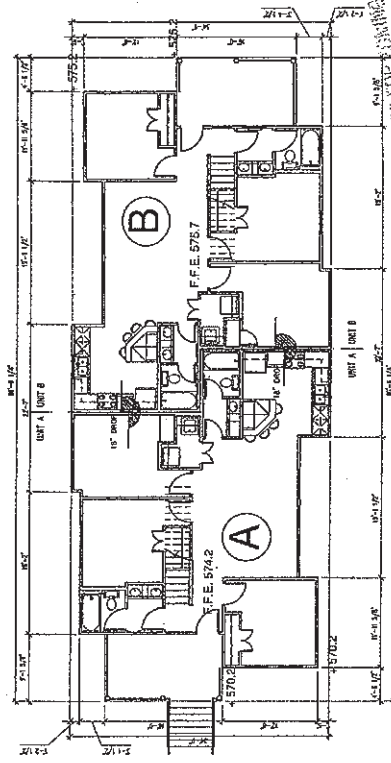
WINDOW SCHEDULE			
MARK	SIZE	TYPE	MATERIAL
A	3'-0" x 5'-0"	Single Hung	Aluminum
B	3'-0" x 4'-0"	Fixed	Aluminum
C	3'-0" x 5'-0"	Single Hung	Aluminum
D	3'-0" x 4'-0"	Fixed	Aluminum
E	3'-0" x 5'-0"	Single Hung	Aluminum
F	3'-0" x 4'-0"	Fixed	Aluminum
G	3'-0" x 5'-0"	Single Hung	Aluminum
H	4'-0" x 6'-0"	Double Hung	Aluminum
I	4'-0" x 6'-0"	Double Hung	Aluminum

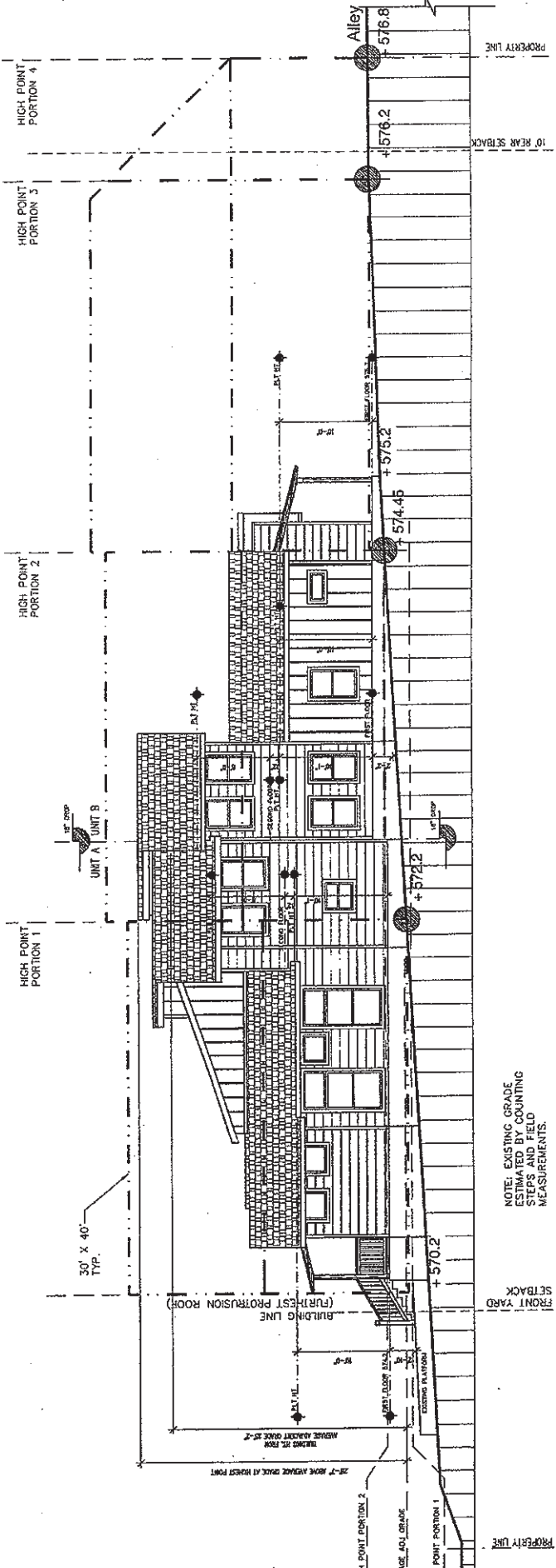
REMARKS
SOIL GLAZED W/ BROWN
SOIL GLAZED
SOIL GLAZED W/ GREEN
SOIL GLAZED W/ BROWN
SOIL GLAZED
SOIL GLAZED W/ GREEN

ROOM FINISH SCHEDULE							
	ROOM	FLOOR	BASE	WALLS	CROWN	CEILING	REMARKS
1	BATHROOM	PAINT	WOOD	DRYWALL	WOOD	DRYWALL	
2	HALLWAY	PAINT	WOOD	DRYWALL	WOOD	DRYWALL	
3	KITCHEN	PAINT	WOOD	DRYWALL	WOOD	DRYWALL	
4	KITCHEN	PAINT	WOOD	DRYWALL	WOOD	DRYWALL	
5	KITCHEN	PAINT	WOOD	DRYWALL	WOOD	DRYWALL	
6	KITCHEN	PAINT	WOOD	DRYWALL	WOOD	DRYWALL	
7	KITCHEN	PAINT	WOOD	DRYWALL	WOOD	DRYWALL	
8	KITCHEN	PAINT	WOOD	DRYWALL	WOOD	DRYWALL	
9	KITCHEN	PAINT	WOOD	DRYWALL	WOOD	DRYWALL	
10	KITCHEN	PAINT	WOOD	DRYWALL	WOOD	DRYWALL	
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18	KITCHEN	PAINT	WOOD	DRYWALL	WOOD	DRYWALL	
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38	KITCHEN	PAINT	WOOD	DRYWALL	WOOD	DRYWALL	
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40	KITCHEN	PAINT	WOOD	DRYWALL	WOOD	DRYWALL	
41	KITCHEN	PAINT	WOOD	DRYWALL	WOOD	DRYWALL	
42	KITCHEN	PAINT	WOOD	DRYWALL	WOOD	DRYWALL	
43	KITCHEN	PAINT	WOOD	DRYWALL	WOOD	DRYWALL	
44	KITCHEN	PAINT	WOOD	DRYWALL	WOOD	DRYWALL	
45	KITCHEN	PAINT	WOOD	DRYWALL	WOOD	DRYWALL	
46	KITCHEN	PAINT	WOOD	DRYWALL	WOOD	DRYWALL	
47	KITCHEN	PAINT	WOOD	DRYWALL	WOOD	DRYWALL	
48	KITCHEN	PAINT	WOOD	DRYWALL	WOOD	DRYWALL	
49	KITCHEN	PAINT	WOOD	DRYWALL	WOOD	DRYWALL	
50	KITCHEN	PAINT	WOOD	DRYWALL	WOOD	DRYWALL	
51	KITCHEN	PAINT	WOOD	DRYWALL	WOOD	DRYWALL	
52	KITCHEN	PAINT	WOOD	DRYWALL	WOOD	DRYWALL	
53	KITCHEN	PAINT	WOOD	DRYWALL	WOOD	DRYWALL	
54	KITCHEN	PAINT	WOOD	DRYWALL	WOOD	DRYWALL	
55	KITCHEN	PAINT	WOOD	DRYWALL	WOOD	DRYWALL	
56	KITCHEN	PAINT	WOOD	DRYWALL	WOOD	DRYWALL	
57	KITCHEN	PAINT	WOOD	DRYWALL	WOOD	DRYWALL	
58	KITCHEN	PAINT	WOOD	DRYWALL	WOOD	DRYWALL	
59	KITCHEN	PAINT	WOOD	DRYWALL	WOOD	DRYWALL	
60	KITCHEN	PAINT	WOOD	DRYWALL	WOOD	DRYWALL	
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62	KITCHEN	PAINT	WOOD	DRYWALL	WOOD	DRYWALL	
63	KITCHEN	PAINT	WOOD	DRYWALL	WOOD	DRYWALL	
64	KITCHEN	PAINT	WOOD	DRYWALL	WOOD	DRYWALL	
65	KITCHEN	PAINT	WOOD	DRYWALL	WOOD	DRYWALL	
66	KITCHEN	PAINT	WOOD	DRYWALL	WOOD	DRYWALL	
67	KITCHEN	PAINT	WOOD	DRYWALL	WOOD	DRYWALL	
68	KITCHEN	PAINT	WOOD	DRYWALL	WOOD	DRYWALL	
69	KITCHEN	PAINT	WOOD	DRYWALL	WOOD	DRYWALL	
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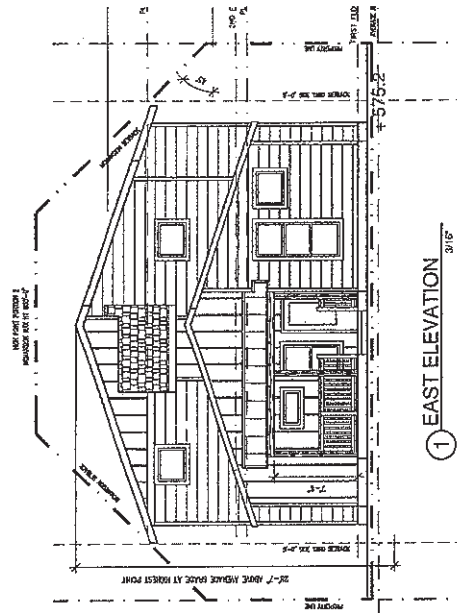


② SECOND FLOOR PLAN  $\frac{1}{8"}$





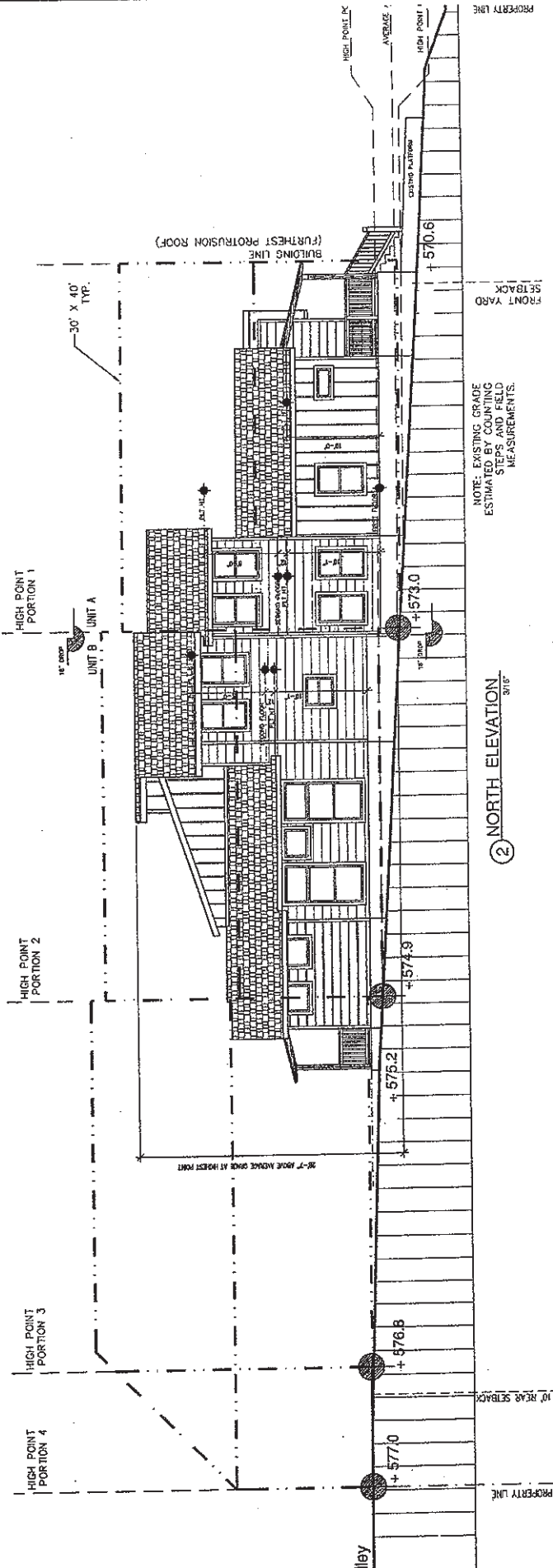
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ESTIMATED BY COUNTING  
STEPS AND FIELD  
MEASUREMENTS.

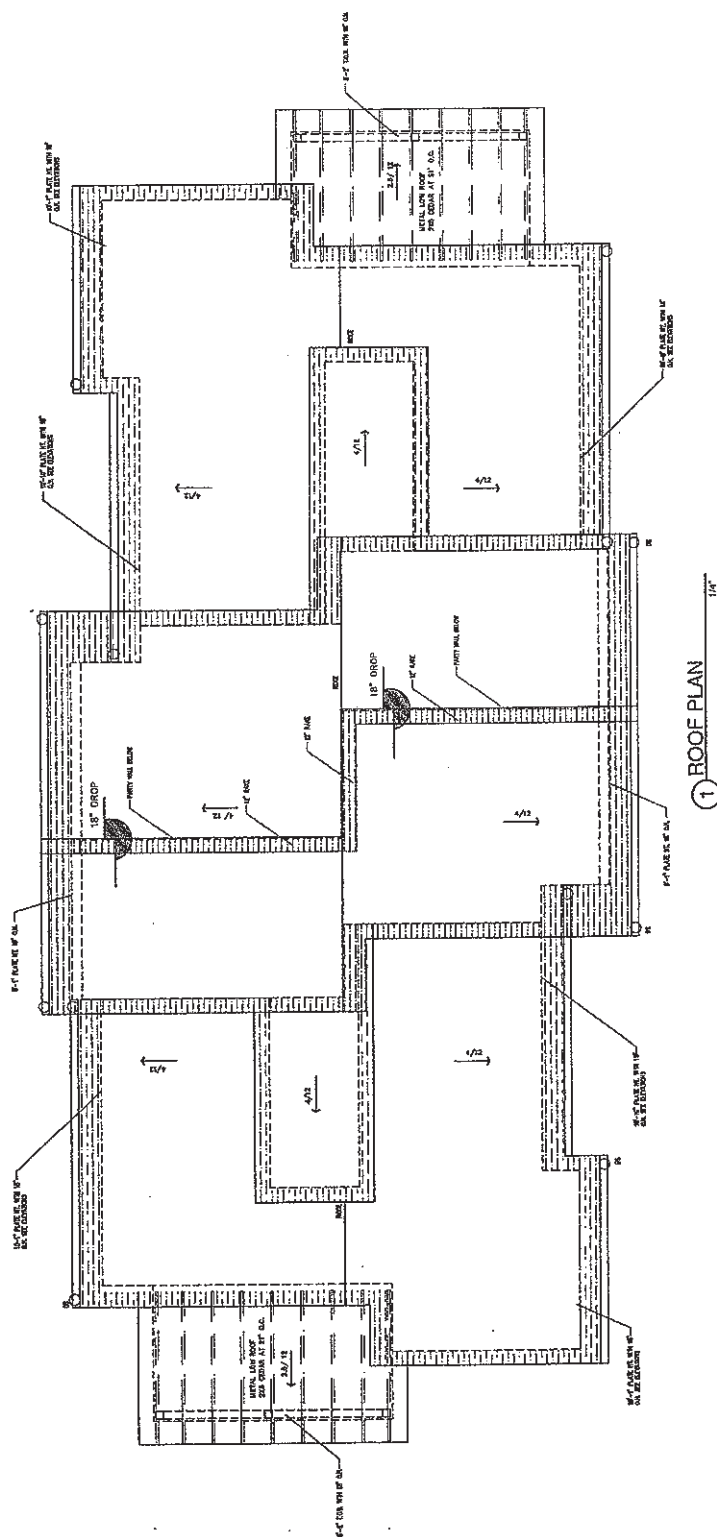




2 NORTH ELEVATION 3/16"

NOTE: EXISTING GRADE  
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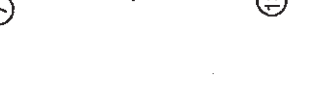
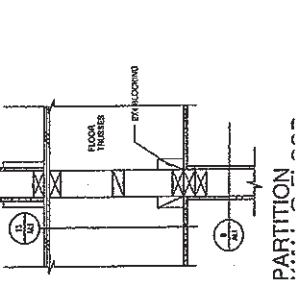
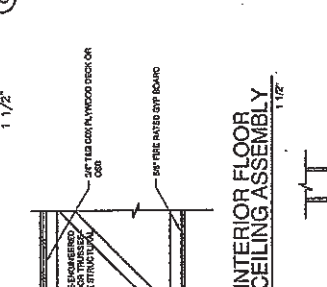
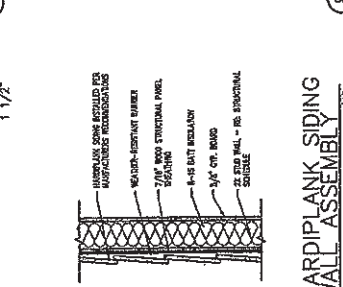
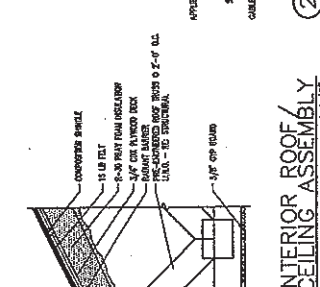
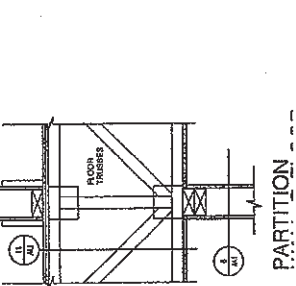
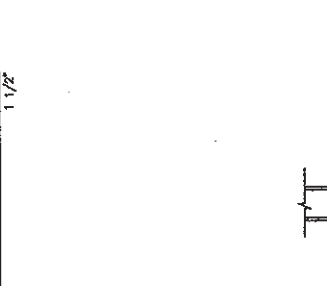
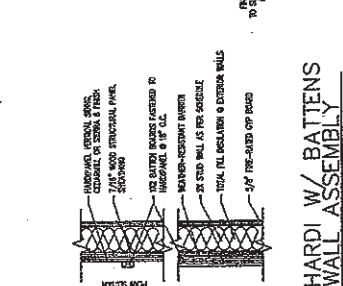
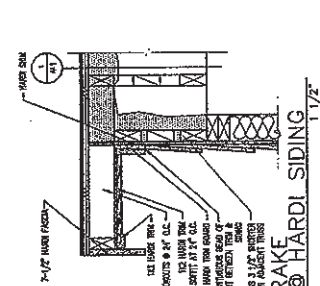
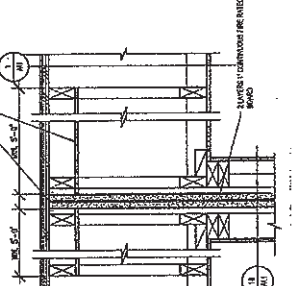
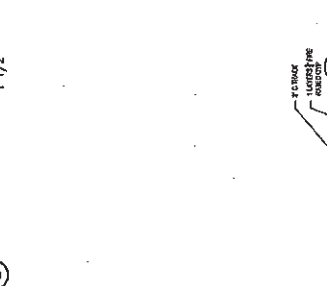
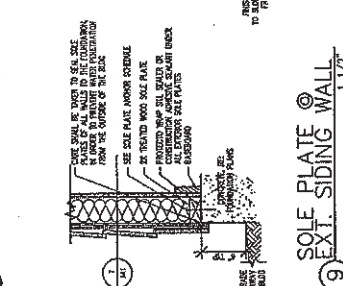
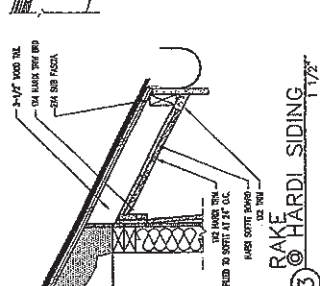
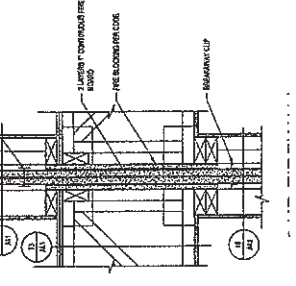
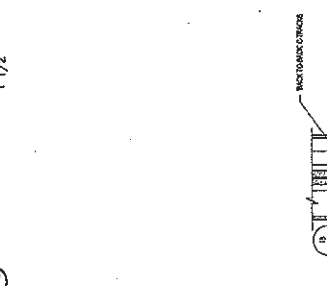
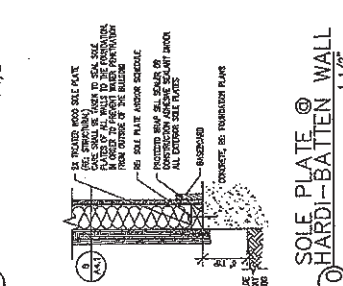
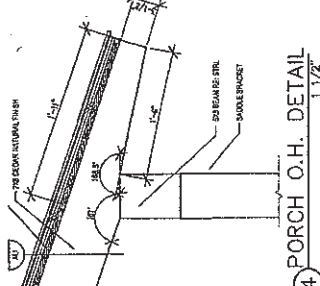
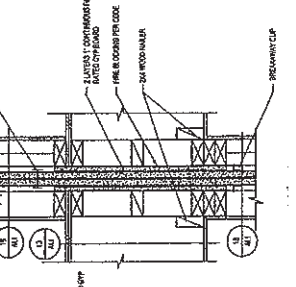
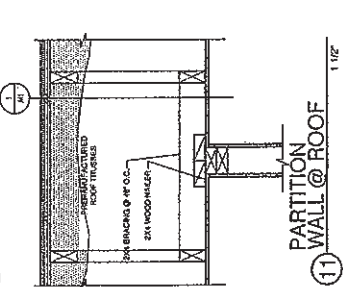
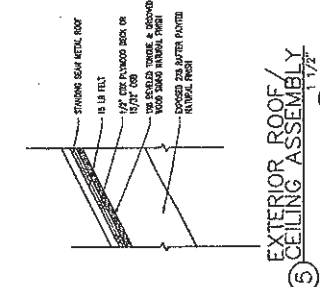
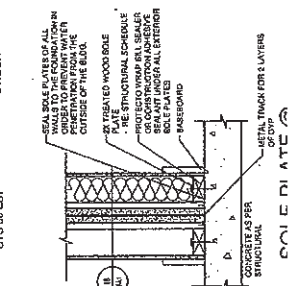
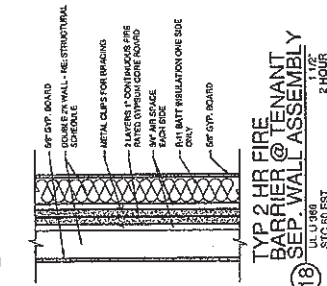
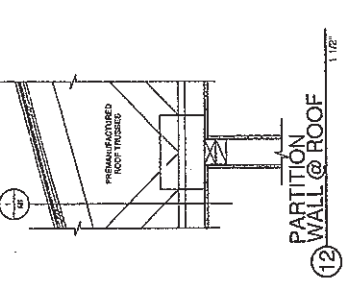
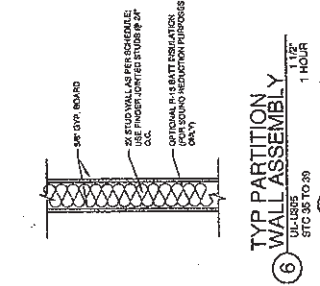


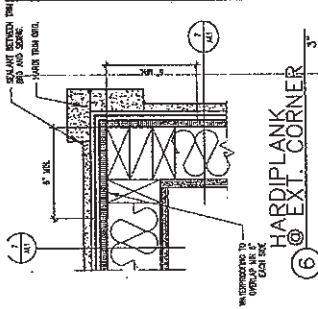




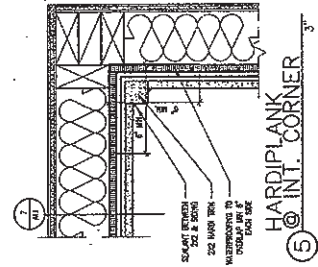
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PROJECT NO.	17-5000
DATE	11/1/17
BY	AS NOTED
CHECKED BY	
DESIGNED BY	
14.1	

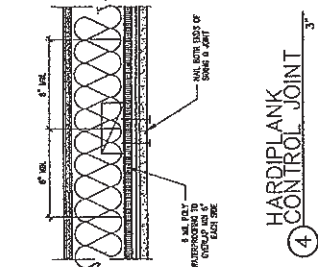




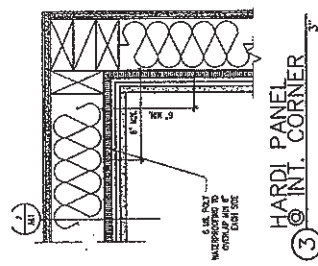
HARDIPLANK  
⑥ @ EXT. CORNER



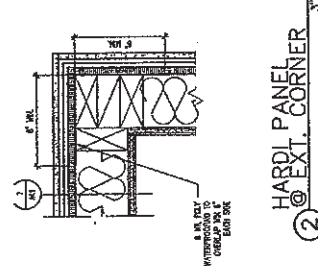
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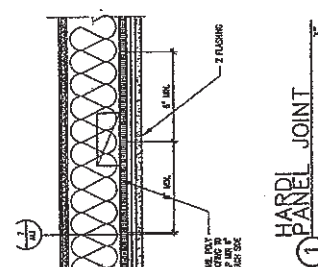
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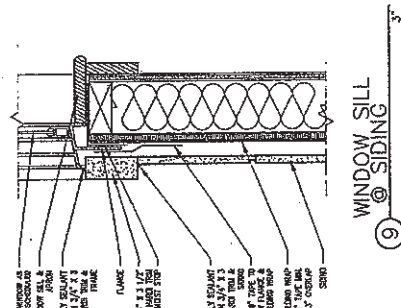
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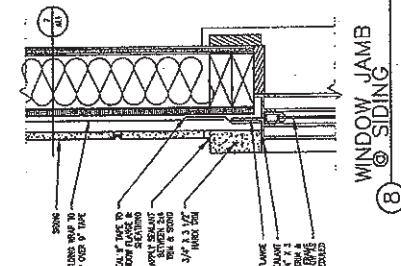
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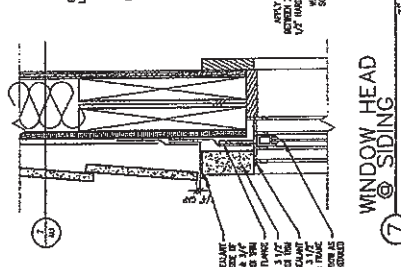
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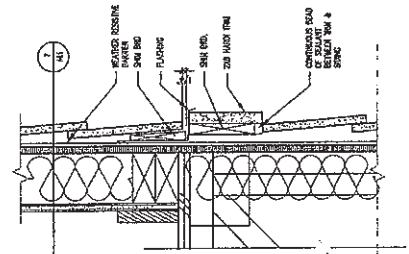
WINDOW SILL  
⑨



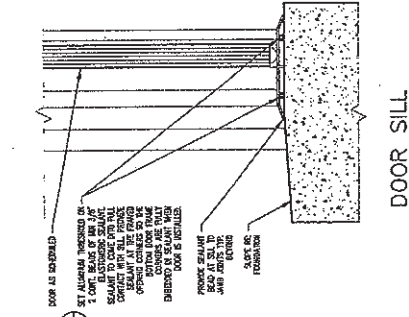
WINDOW JAMB  
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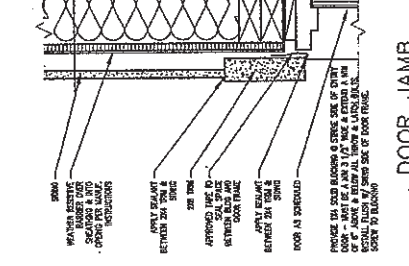
WINDOW HEAD  
⑦



DOOR SILL



DOOR JAMB



DOOR HEAD

WOOD FRAMING NOTES

1. ALL WOOD FRAMING SHALL BE AS SPECIFIED IN THE S.D.C. AND SHALL BE OF THE BEST QUALITY AVAILABLE.
2. ALL WOOD FRAMING SHALL BE KILN DRIED TO A MAXIMUM MOISTURE CONTENT OF 19%.
3. ALL WOOD FRAMING SHALL BE TREATED WITH AN APPROPRIATE PRESERVATIVE.
4. ALL WOOD FRAMING SHALL BE NOTched TO FIT AND SHALL BE PROPERLY FASTENED.
5. ALL WOOD FRAMING SHALL BE PROTECTED FROM WEATHER AND INSECTS.
6. ALL WOOD FRAMING SHALL BE PROTECTED FROM FIRE.
7. NOT USED.
8. NOT USED.
9. NOT USED.
10. NOT USED.
11. ALL STRUCTURAL FRAMING SHALL BE DESIGNED AND APPROVED BY A LICENSED STRUCTURAL ENGINEER.
12. NOT USED.
13. NOT USED.
14. NOT USED.

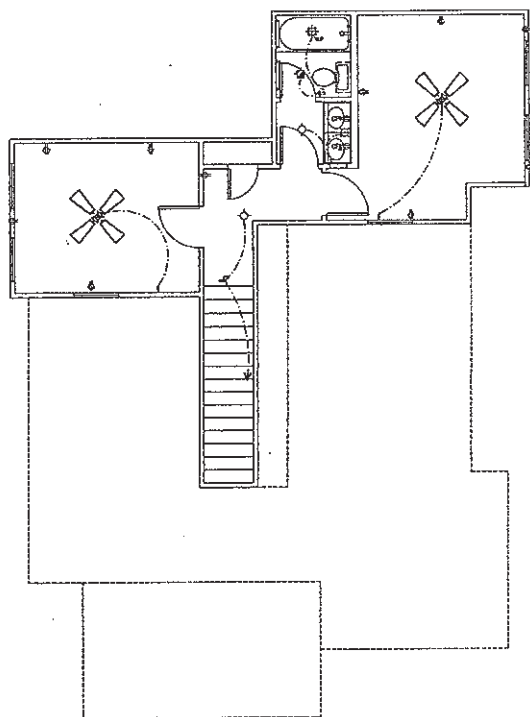
FOUNDATION NOTES

1. FOUNDATION SHALL BE DESIGNED BY A LICENSED STRUCTURAL ENGINEER.

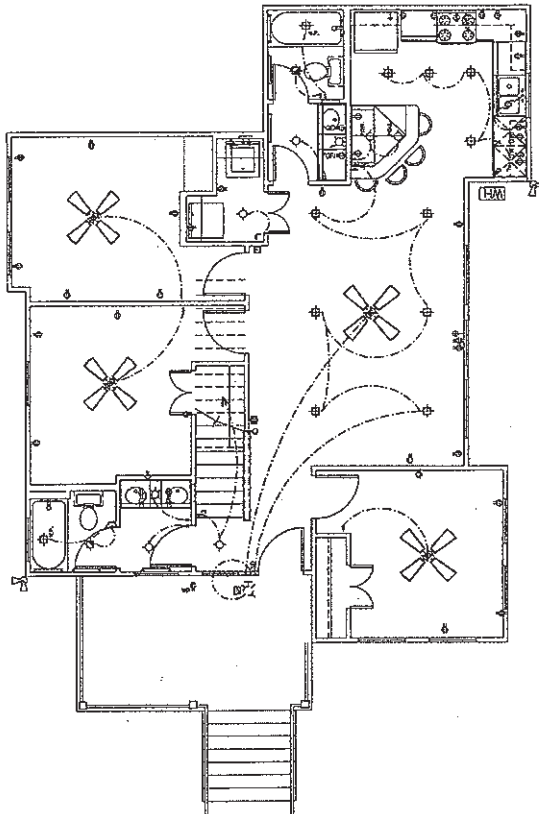
ALLOWABLE SPAN OF HEADERS

SPACING OF JOISTS	SPACING OF STUDS	SPACING OF SILLING	SPACING OF BRACING	SPACING OF OTHERS
12" x 12"	12" x 12"	12" x 12"	12" x 12"	12" x 12"
12" x 14"	12" x 14"	12" x 14"	12" x 14"	12" x 14"
12" x 16"	12" x 16"	12" x 16"	12" x 16"	12" x 16"
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ALL SPACING SHALL BE AS SPECIFIED IN THE S.D.C. AND SHALL BE OF THE BEST QUALITY AVAILABLE.



② SECOND FLOOR PLAN  $\frac{1}{4}"$



ELECTRICAL SYMBOLS LEGEND	
0	220/240VOLT 60 HZ POWER
	110V SINGLE PHASE
	WATER TIGHT OUTLET
	SHOCK HAZARD WARNING
	WATER TIGHT
	3 PHASE
	3 PHASE 4 WIRE
	3 PHASE 3 WIRE
	3 PHASE 2 WIRE
	3 PHASE 1 WIRE
	3 PHASE 0 WIRE
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	3 PHASE 1 WIRE 2 WIRE
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## GENERAL NOTES TO M.E.P.

- As you know, the new *ENTERTAINMENT WEEKLY* is a brand new magazine. It's not just a new magazine, it's a new way of looking at the world of entertainment. We've got a lot of new stuff for you, including a new section called "The Week in Entertainment" which will give you a quick overview of the week's events. We've also got a new section called "The Week in Music" which will give you a quick overview of the week's music. And we've got a new section called "The Week in TV" which will give you a quick overview of the week's TV. So, if you're looking for a new way to look at the world of entertainment, *ENTERTAINMENT WEEKLY* is the magazine for you.





To: Mr. Jeff Jack, Chair and  
Members of the Board of Adjustment

From: John McDonald, Development Services Manager, Residential Review  
Planning and Development Review Department

Date: October 22, 2012

Re: An Administrative Appeal Request  
Case No. C15-2012-0126  
Property Address: 1917 David Street

Ms. Nuria Zaragosa (the "Appellant") has filed an administrative appeal (Attachment "A"), requesting an interpretation of whether the Planning and Development Review Department Director's approval of a duplex residential use complies with the following sections of the Land Development Code (LDC):

- 1.) The appellant contends the correct interpretation of the application is ten (10) bedrooms, the project exceeds the Land Development Code (LDC) limitations placed on duplexes outlined on 25-2-555D (see Attachment "B").
- 2.) The appellant feels the correct interpretation is 10 bedrooms (not 6 bedrooms), the project is then required to provide eight (8), off street parking spaces.
- 3.) The appellant feels the correct interpretation is ten (10) bedrooms, and therefore the project must comply with landscaping requirements (see Attachment "C").
- 4.) The appellant feels the correct interpretation of the actual use is Group Residential as defined in the LDC 25-2-3(5) (see Attachment "D").

For brevity and uniformity staff will respond to each of the four above items in sequential order, then address the findings.

- 1) The proposed design labels six bedrooms within the duplex structure which meets the limitation on bedrooms under Section 25-2-555(D). Staff does not assume a room, labeled as other rooms - such as a study, library, game room, kitchen or a bathroom - is a bedroom.

The square footage of living area proposed for this duplex residential structure is 3,198 with a lot size of 7,999 square feet.

- 2) The proposed design labels six bedrooms within the duplex structure which meets the limitation on bedrooms under Section 25-2-555(D). The Department approved the plans as shown, proposing six (6) bedrooms. Parking spaces required are three (3). The approved plans propose four (4) parking spaces (see Attachment "C").
- 3) The proposed design labels six bedrooms within the duplex structure which meets the limitation on bedrooms under Section 25-2-555(D). Therefore, landscaping requirements are not required (LDC 25-2-981) (see attachment "C").
- 4) The project is designed and labeled as a duplex residential use and as designed does not exceed the limitation of six bedrooms. If the building is used as a group residential use without following the City regulations, then the Code Compliance Department may be contacted to enforce our Codes. City staff presumes that plans submitted to the City are an accurate reflection of the land use proposal, and does not assume a building will be used in an illegal manner once the building is completed and a certificate of occupancy is issued.

## FINDINGS

Staff does not believe there is reasonable doubt or difference of interpretation as to the specific intent of the regulations, because the number of bedrooms and proposed living area for this application for a building permit meet the regulations of 25-2-555(D), proposed parking meets all requirements; and landscaping requirements do not apply to the proposed design/use.

Staff believes the use provisions clearly permit the proposed use because the site is being developed with a duplex residential use. All site development regulations for a duplex residential use in a SF-3-NP zoning district have been met and the site complies with the residential design and compatibility (McMansion) standards.

The interpretation will not grant a special privilege to one property inconsistent with other properties or uses similarly situated; in that, the proposed design meets all regulations for a duplex residential use and similar designs have been approved throughout the City of Austin's permitting jurisdiction.

cc: Greg Guernsey, Director, PDRD  
Brent Lloyd, Law Department  
Donald Birkner, Assistant Director, PDRD  
Kathy Haught, Division Manager, PDRD  
John McDonald, Development Services Manager, PDRD  
Daniel Word, Principal Planner, PDRD  
Susan Walker, Planner Senior, PDRD

**Attachment "A"**  
**Administrative Appeal**

**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 Apendix 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 Appendix 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.

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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.

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