

## ZONING CHANGE REVIEW SHEET

**CASE:** C14-2014-0035  
Adams House Rezoning

**P.C. DATE:** May 13, 2014  
April 22, 2014  
March 25, 2014

**ADDRESS:** 4300 Avenue G

**AREA:** 6,871 square feet

**OWNER:** Sidney Lock

**AGENT:** McHone Real Estate (Mike McHone)

**FROM:** SF-3-HD-NCCD-NP

**TO:** SF-3-HD-NCCD-NP, to change a condition of zoning

**NEIGHBORHOOD PLAN AREA:** Hyde Park

**TIA:** N/A

**WATERSHED:** Waller Creek

**SCENIC ROADWAY:** No

**CAPITOL VIEW CORRIDOR:** No

**DESIRED DEVELOPMENT ZONE:** Yes

### **SUMMARY STAFF RECOMMENDATION:**

Staff recommends the proposed rezoning request to increase the maximum floor-to-area-ratio (FAR) for property located at 4300 Avenue G from .4 to 1 to .6 to 1.

No other modification of the existing family residence-historic district-neighborhood conservation combining district-neighborhood plan (SF-3-HD-NCCD-NP) combining district zoning is proposed.

### **PLANNING COMMISSION RECOMMENDATION:**

May 13, 2014:

April 22, 2014: *TO GRANT POSTPONEMENT TO MAY 13, 2014, AS REQUESTED BY APPLICANT, ON CONSENT. 9-0 (ANDERSON-1<sup>ST</sup>, J. STEVENS-2<sup>ND</sup>)*

March 25, 2014: *TO GRANT POSTPONEMENT TO APRIL 22, 2014, AS REQUESTED BY STAFF, ON CONSENT. 8-0-1 (J. STEVENS- 1<sup>ST</sup>, D. CHIMENTI-2<sup>ND</sup>, M. SMITH- ABSENT)*

### **ISSUES:**

The proposed rezoning seeks to resolve a situation where a residential building permit was issued in error.

The property is currently zoned SF-3-HD-NCCD-NP, and is located in the Hyde Park NCCD, Neighborhood Plan area and National Register Historic District. It is used for Bed and breakfast (Group 1), and was recently issued a building permit for an addition above an existing carport/bungalow. Prior to the issuance of the building permit, the site had a floor-to-area-ratio (FAR) of 0.49 to 1, exceeding the allowable 0.4 to 1 maximum. During construction Code Compliance was contacted, and it was discovered that the building addition increased the degree of non-compliance to 0.578 to 1 FAR. It was also determined that the improvements do not qualify for a site plan exemption, and a site plan would be required. The addition has not been completed, and a site plan is also under City review at this time. *Please see Exhibit A (As-Built Survey).*

Based on guidance from City Staff and Planning Commission, the Applicant is also pursuing a resolution of the FAR issue through the Board of Adjustment (BOA) process. The issue was scheduled for consideration at the

April 14, 2014, but was postponed due to notification issues. A special-called BOA meeting was held April 30, 2014, at which time the Board decided to postpone the item to May 14, 2014, because the Board wanted the Planning Commission to consider this rezoning request prior to any action by the Board. The Board also stated that the case may not need to return to BOA, depending on Planning Commission action.

### **DEPARTMENT COMMENTS:**

The subject property is occupied by the Adams House Bed & Breakfast, and is located at the northwest corner of Avenue G and 43<sup>rd</sup> Street. The property is occupied by a two story residence and a detached carport/bungalow, where the second story addition was permitted. The property is zoned SF-3-HD-NCCD-NP, as are all of the adjacent properties. Surrounding properties include single-family residences and some duplexes. *Please refer to Exhibits B and C (Zoning Map and Aerial View).*

**Hyde Park NCCD Overview.** Neighborhood Conservation Combining Districts (NCCDs) are intended to preserve and protect older neighborhoods by modifying regulations such as setbacks, parking, and FAR, based on a neighborhood plan for development and conservation. These modified regulations are incorporated into a customized NCCD zoning ordinances.

Hyde Park NCCD is divided into six subdistricts-- Residential, Speedway, Duval, West 38<sup>th</sup> Street, Guadalupe, and Hyde Park Civic. The six subdistricts primarily establish corridors and hubs for certain land uses and their design standards. In addition to six main districts, several smaller areas are called out, generally identifying development regulations for areas that do not correspond directly to the subdistricts. For example, in the Guadalupe subdistrict, allowable building heights differ north and south of 40<sup>th</sup> Street (40 feet and 60 feet, respectively). Finally, specific properties are identified for distinctive site development and land use requirements. For example, 4300 and 4307 Speedway are subject to a variety of customized development standards and regulations related to parking, yards, curb cuts, and land uses. Other specified properties are also identified in the ordinance for special land use considerations.

**Ordinance and Amendment History.** The Hyde Park NCCD Ordinance was originally adopted on January 31, 2002 (Ordinance No. 020131-20). At that time, the Hyde Park NCCD did not address FAR limitations for the residential subdistrict and/or residential properties in the NCCD. FAR limits were established for multifamily and commercial properties, but the NCCD zoning ordinance was silent regarding FAR for residential properties. FAR limits for residential properties were not addressed directly by the NCCD until an amendment in 2012.

Four amendments to the Hyde Park NCCD have been approved by the City of Austin.

- Ordinance No. 20080522-044 - Approved May 22, 2008 – Added a vertical mixed use building combining district to the Hyde Park NCCD, including primarily parts of Guadalupe Street.
- Ordinance No. 20080522-061 - Approved May 22, 2008 – Added a vertical mixed use building combining district at 4000 Avenue B to the Hyde Park NCCD.
- Ordinance No. 20080605-062 - Approved June 5, 2008 - This rezoned the Kocurek building at 511 West 41st Street from SF-3-NCCD to NO-H-NCCD.
- Ordinance No. 20120112-086 – Approved January 12, 2012 - This amendment specifically addressed the residential FAR issue, establishing a limit of .4 to 1 for properties within the residential subdistrict, except for the property located at 511 W. 41<sup>st</sup> Street. The NCCD ordinance does not specify the permitted FAR for the property at 511 W. 41<sup>st</sup>.

**Correspondence.** Staff has received letters and other information showing support and opposition to the proposed modification of the FAR for the Adams House property. In lieu of including of all correspondence, Staff has included a map and lists of approximately 200 support letters. Correspondence from the Neighborhood Association Steering Committee (in support), as well as correspondence in opposition to the request is also included. *Please see Exhibit D (Correspondence).*

**STAFF RECOMMENDATION:**

Staff recommends the proposed rezoning request to increase the maximum floor-to-area-ratio (FAR) for property located at 4300 Avenue G from .4 to 1 to .6 to 1.

*The proposed rezoning should satisfy a real public need and not provide special privilege to the owner.*

The Hyde Park NCCD is a plan that addressed the overall character of the historic neighborhood while recognizing that some properties of the neighborhood required different regulations. This resulted in the creation of the subdistricts, sub-areas, as well as property-specific regulations. Additionally, the NCCD has been amended four times previous to the current rezoning request, including one amendment that specifically granted a higher FAR to a NCCD property. Based on this history, property-specific regulations and NCCD amendments are appropriate tools for addressing the permit issues facing 4300 Avenue G.

**EXISTING ZONING AND LAND USES:**

	<b>ZONING</b>	<b>LAND USES</b>
<i>Site</i>	SF-3-HD-NCCD-NP	Single family residences
<i>North</i>	SF-3-HD-NCCD-NP	Single family residences
<i>South</i>	SF-3-HD-NCCD-NP	Duplexes, Single family residences
<i>East</i>	SF-3-HD-NCCD-NP	Single family residences
<i>West</i>	SF-3-HD-NCCD-NP	Single family residences

**NEIGHBORHOOD ORGANIZATIONS:**

Hyde Park Neighborhood Plan Contact Team  
 North Austin Neighborhood Alliance  
 Austin Neighborhoods Council  
 45<sup>th</sup> Street Concerned Citizens  
 Central Austin Community Development Corporation  
 Preservation Austin  
 Hyde Park Neighborhood Association  
 Friends of the Emma Barrientos MACC

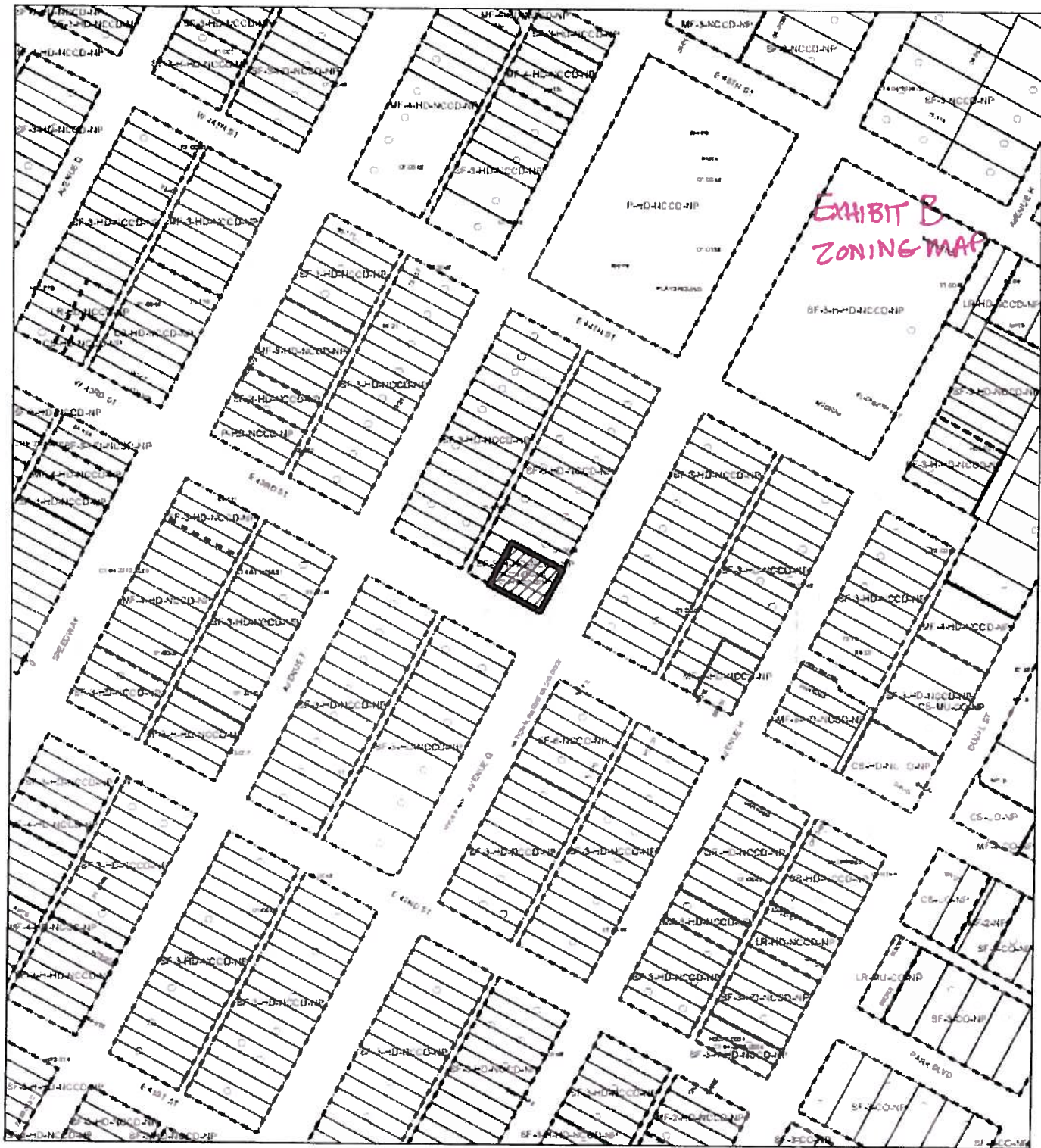
**CITY COUNCIL DATE/ACTION:**

**ORDINANCE READINGS:** 1<sup>st</sup>    2<sup>nd</sup>    3<sup>rd</sup>    **ORDINANCE NUMBER:**

**CASE MANAGER:** Heather Chaffin  
 e-mail: [heather.chaffin@austintexas.gov](mailto:heather.chaffin@austintexas.gov)

**PHONE:** 974-2122

NOT COUNTED IN THE ABOVE:  
EXEMPTED COVERAGE = 358 SQFT  
COVERAGE TO BE REMOVED = 331 SQFT



SUBJECT TRACT



PENDING CASE



ZONING BOUNDARY

## ZONING

ZONING CASE#: C14-2014-0035

1" = 200'

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

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

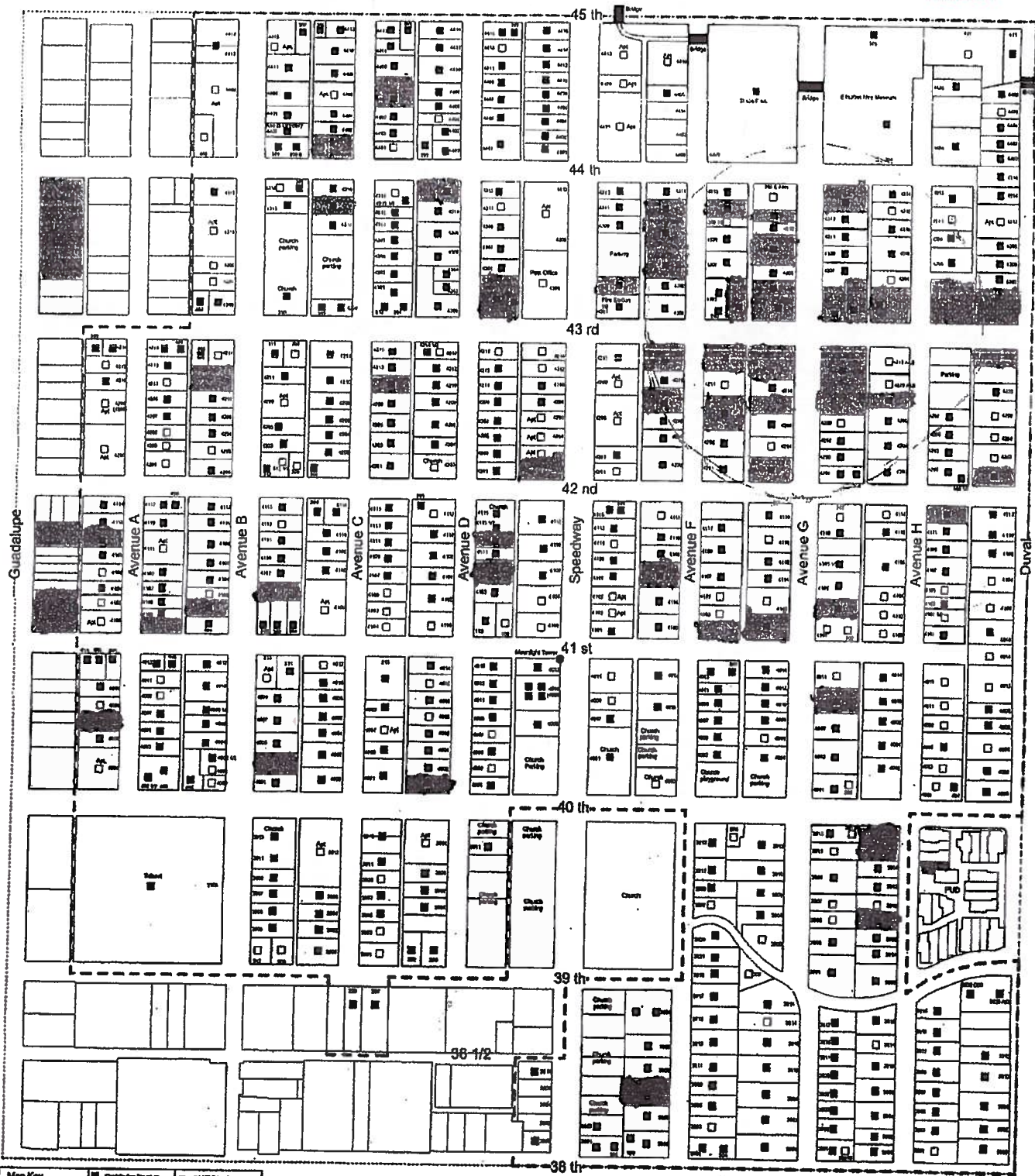




# MAP OF SUPPORTERS IN HISTORIC HYDE PARK

EXHIBIT D  
CORRESPONDENCE

Hyde Park Local Historic District - Boundary Map



Map Key  
April 2010

	Existing Structure		HLHD Boundary
	Non-Existing Structure		Original Boundary

0 FT 100 FT 1000 FT



**ADAMS HOUSE LETTERS OF SUPPORT  
HYDE PARK  
500 FEET RADIUS FROM 4300 AVENUE G**

Albinide, Teddy  
Anderson, Jane  
Bowen, David  
Brown, Don  
Brown, Sharon  
Burton, Amon  
Burton, Carol  
Corral, Abe  
Corral, Elaine  
Deinert, Mark  
Dudney, John  
Durr, Robin  
Durr, Ken  
George, Mary Carolyn  
Hendrickse, Nhalia  
Horowitz, Michael  
Horne, Sarah  
Kerr, John  
Lavinghouse, Preston  
Low, Karen  
Low, Stephen  
Matthis, David  
Maxson, Peter Flagg  
McMillan, Robin  
Mitchell, Michael  
Moore, Antoinette  
Pruner, Todd  
Pumarejo, Kate  
Pumarejo, Ricardo  
Saadeh, Karen  
Sackmary, David  
Sawyer, Sara  
Strapper, Brock  
Taylor, Jack  
Webb, Mike  
Wilson, Adam  
Xanthopoulos, Drew  
Yetman, Kiki

**ADAMS HOUSE LETTERS OF SUPPORT  
HYDE PARK  
HISTORIC HYDE PARK**

Williams, Elizabeth  
Thomas, H. Grant  
Margot, Thomas  
Bednar, Deaton  
Gill, Larry  
Gill, Susan  
Mackinnon, Richard  
French, Scott  
Duke, Virginia  
Goldmann, Brittany  
Martinson, Erin  
Martinson, Jason  
Kivel, David  
Dickson, Herbert  
Dickson, Sandra  
Hamm, Sharyn  
Metzger, Erik  
Grimes, Carolyn  
Madsen, Shelley  
Fries, Mark  
Kennedy, Sara  
Anderson, Libby  
Sheffer-Bracha, Tammy  
Welder, Carol  
Grieshaber, Michele  
Klug, Michael  
Jackson, Greg  
Jackson, Carol  
Harris, Lisa  
Anderson, David  
Anderson, Linda  
Kurth, Brian  
Grace, Margo  
Paulson, Carl  
Hardeman, Shelley  
Stewart, Carol  
Stewart, John  
Herzele, Charlotte  
Heard, Chase  
Heard, Helen  
Spence, John

**ADAMS HOUSE LETTERS OF SUPPORT  
HYDE PARK  
NORTH HYDE PARK AND SURROUNDING NEIGHBORHOODS**

Biechlin, Michael  
Burch, Mark  
Butchart, Hailey  
Cazalas, Kelly  
Davidson, Jared  
Davies, Penelope  
Fuller, Anthony  
Hamblen, Betsy  
Hamblen, William  
Holland, Julie  
Huse, Justin  
Marchand, Jennifer  
McDaniel, Mark  
Melancon, Rebecca  
O'Brien, Vincent  
Page, Stephanie  
Reiffel, Karen  
Russell, Megan  
Tucker, Cary  
Vega, Heather  
Vilmot, Emily

**ADAMS HOUSE LETTERS OF SUPPORT  
HYDE PARK  
HYDE PARK BUSINESSES**

Alexander, Cameron	Mother's Cafe and Garden
Antonelli, Kendall & John	Antonelli's Cheese Shop
Avery, Thad	Woodside Development
Berry, Rose	Blue Moon Glassworks
Bontempo, Gregory	NeWorld Deli
Fox, Emmett	ASTI Trattoria
Lucero, Estella	Julio's
Lyons, Tim	Fresh Plus Market
Warnken, Jeffrey & Sandra	38th Street Pharmacy

**ADAMS HOUSE LETTERS OF SUPPORT  
HYDE PARK  
AUSTIN and BEYOND**

Adams, Tom  
Anderson, Alyson  
Barron, Emily  
Barth, Suzanne  
Baldwin, Elizabeth  
Baldwin, Robert  
Belisle, Laura  
Bennett, Bill  
Bennett, Gloria  
Bergstrom, Alan  
Bergstrom, Blake  
Blake, Devin  
Bledsoe, Richard  
Borgelt, Roger  
Bradford, Robin  
Brooks, Debra  
DeCannie, Nicholas  
Dominguez, Andy  
Eklund, Richard  
Engel, William  
Evans, Betsy  
Evans, Richard  
Fernandez, Christine  
Fleming, Nathan  
Flores, Monica  
Forbes, Caroline  
Ford, Chandler  
Ford, Jordana  
Fulwiler, William James  
Gannaway, Jackie  
Garrett, Myndi  
Garza, Devin  
Gooch, Don  
Goodwin, Stephen  
Grosskopf, Eric  
Hartsough, Jeffrey  
Hendricks, Kate  
Henson, Weldon  
Hill, Lee  
Hughes, Cassandra  
Hughes, Ellen  
Hughes, Irving  
Hughes, Shawn  
Jackson, S. Megan  
Jaworski, Joe

*Former Galveston Mayor*  
**ADAMS HOUSE LETTERS OF SUPPORT**

**HYDE PARK**  
**AUSTIN and BEYOND continued**

Jaworski, Rebecca  
Johnson, Eric  
Jones, Rachel  
Kaderka, Daniel  
Katzberg, Gene  
Kincade, Edward  
Lambeth, J. Eric  
Landa, Amanda  
Landon, Viera  
Lee, Emily  
Lock, Julia  
Mann, Michele  
Merritt, John  
Moore, Kenneth  
Moore, Marcy  
Moore, Robin  
O'Brien, Vincent  
Page, Billy  
Page, Lolla  
Phlieger, Jennifer  
Prater, Terry  
Ramirez, Beatrice  
Ray, Kristen  
Reed, Janet  
Rhoades, Chris  
Roberts, Susan  
Rogers, Kathryn  
Ross, Lucy  
Sanchez, Mary  
Schultz, Richard  
Schultz, Marcia  
Sergeant, Tommy  
Sikes, Jev  
Sikes, Sydnor  
Sucherman, Todd  
Tipton, Todd  
Trask, Ann  
Truong, Christian  
Truong, Tara  
Virr, Tom  
Voelzel, Linda  
Weaver, Jacob  
Weterl, David  
Wickland, David  
Williams, Josh  
Yost, Linda

*Dean at St. Edward's University*

*President/CEO Greater Texas Federal Credit Union*

**Subject:** Re: Copy of Steering Committee Recommendation  
**From:** Kevin Heyburn <kmheyburn@gmail.com>  
**Date:** 3/27/2014 12:16 PM  
**To:** "Adams House B&B" <reservations@theadamshouse.com>

HPNA STEERING  
COMMITTEE  
RECOMMENDATION  
(ORIGINAL)

Liz,

Below is the language from the resolution we voted on in the Steering Committee. It is not an official resolution of the HPNA until there is a vote by the members at the April 7th HPNA meeting, which will take place at 7:00 p.m. at Hyde Park Methodist Church. Also some members may propose amendments to the resolution.

Please let me know if you have any questions.

Kevin

"The Hyde Park Neighborhood Association is unopposed to the Adams House's specific request for a variance and recognizes that the Adams House is a valued member of our community. We request that that the Board of Adjustment consider this lot as it is now with the permitted development."

On Wed, Mar 26, 2014 at 4:10 PM, Adams House B&B <[reservations@theadamshouse.com](mailto:reservations@theadamshouse.com)> wrote:

Hi Kevin,

I hope all is well with you. I have a question that I was hoping that you could help me out with.

We just met with our mediator to review the Board of Adjustments upcoming meeting. Mike (our mediator) will be out of town and has asked us to submit the book to the BOA by April 2nd. If we receive the member vote from the Hyde Park Neighborhood Association on April 7th then we can add this late.

Could we receive a copy of the official verbage now of the recommendation from the Steering Committee to the HPNA for our book? Let me know your thoughts.

Thank you,

**Heldenfels, Leane**

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**From:** Adams House B&B  
**Sent:** Tuesday, April 08, 2014 10:35 AM  
**To:** Mike Mchone; Heldenfels, Leane  
**Subject:** One more revision for Adams House BOA Packet  
**Attachments:** Steering Committee Verbage.doc

HPNA  
STEERING COMMITTEE  
RECOMMENDATION  
(REVISED)

Mike and Leane,

Last night we spoke at the Hyde Park Neighborhood Association and asked for a member vote. There were two amendments that were made to the Steering Committee's recommended verbiage. The new recommendation to the Board of Adjustments is attached.

The vote was:

29 For, 3 Against, 3 Abstained

If you would like a formal copy from HPNA I think the best person to contact would be Co-President Kevin Heyburn who ran the meeting and the vote. His information is [REDACTED]

Thank you,

Liz

--  
Liz Lock and Eric C. Hughes  
Adams House B&B  
[www.theadamshouse.com](http://www.theadamshouse.com)  
512-453-7696

Find us on Facebook, Pinterest, LinkedIn, or Blogger

RECOMMENDATION

Resolution voted by the Hyde  
Park Steering Committee

Recommendation to HPNA for  
Member Vote:

"The Hyde Park Neighborhood Association is unopposed to the Adams House's specific request for a variance and recognizes that the Adams House is a valued member of our community. We request that the Board of Adjustment consider this lot as it is now with the permitted development."

## 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.austintexas.gov/development](http://www.austintexas.gov/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:** C15-2014-0056, 4300 Avenue G

**Contact:** Leane Heldenfels, 512-974-2202

**Public Hearing:** Board of Adjustment, April 14th, 2014

*Loare Weidlich*

Your Name (please print)

☐ I am in favor  
☒ I object

*4313 Avenue F Austin, TX 78751*

Your address(es) affected by this application

*Loare Weidlich*

Signature

Date

Daytime Telephone: *512-300-2228*

Comments: *see attached letter*

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

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

To the Board of Adjustment members:

I am writing with regard to the case involving the Adams House Bed and Breakfast. I own a house two blocks from the Adams House. For years, I have both supported efforts to put in place protections for my neighborhood and worked to put those protections in place. I was chair of the Hyde Park Local Historic District project.

I am sure by now you know the facts of the case: the City of Austin made the mistake of treating this property as commercial rather than residential, although it states 3 or 4 times in City Code that a bed and breakfast is a residential use. As a result, it approved FAR that is greatly in excess of what is allowable under the McMansion ordinance.

We are all upset that the city has failed to enforce its code correctly and we all sympathize with the owners. However, there is no hardship inherent in this lot to allow for the amount of FAR that the owners are requesting. The limit is .4:1 and they are asking for .6:1 – 50% more FAR than their neighbors can build. Approving this amount of FAR punishes the neighborhood for the mistakes of the city.

I am asking you to deny the request. The owners need to seek recompense for their situation by a suit against the architect, who should have known better, and against the city, which failed to enforce its own code.

Lorre Weldlich  
Former Chair, Hyde Park Local Historic District

4313 Avenue F  
Austin, TX 78751  
512-300-2228

## PUBLIC HEARING INFORMATION

This zoning/rezoning request will be reviewed and acted upon at two public hearings: before the Land Use Commission and the City Council. 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 its public hearing, the board or commission may postpone or continue an application's hearing to a later date, or may evaluate the City staff's recommendation and public input forwarding its own recommendation to the City Council. 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.

During its public hearing, the City Council may grant or deny a zoning request, or rezone the land to a less intensive zoning than requested but in no case will it grant a more intensive zoning.

However, in order to allow for mixed use development, the Council may add the MIXED USE (MU) COMBINING DISTRICT to certain commercial districts. The MU Combining District simply allows residential uses in addition to those uses already allowed in the seven commercial zoning districts. As a result, the MU Combining District allows the combination of office, retail, commercial, and residential uses within a single development.

For additional information on the City of Austin's land development process, visit our website:

[www.austintexas.gov](http://www.austintexas.gov)

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

Case Number: C14-2014-0035

Contact: Heather Chaffin, 512-974-2122

Public Hearing: Mar 25, 2014, Planning Commission  
April 10, 2014, City Council

*Byron M Smith*  
Your Name (please print)

*4301 Ave C + 304A+B*  
Your address(es) affected by this application *4302 Stans*

☐ I am in favor  
☒ I object

*Heather Chaffin*  
Signature

Daytime Telephone: *512-453-6506*

*3-24-14*  
Date

Comments:

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

City of Austin  
Planning & Development Review Department  
Heather Chaffin  
P. O. Box 1088  
Austin, TX 78767-8810

## Chaffin, Heather

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**From:** Guernsey, Greg  
**Sent:** Tuesday, April 22, 2014 8:18 AM  
**To:** Karen McGraw; Heldenfels, Leane; Chaffin, Heather; Johnson, Christopher [PDRD]  
**Cc:** McDonald, John; Word, Daniel; Rusthoven, Jerry; Adams, George; Linseisen, Andrew; Sadowsky, Steve; Rhoades, Glenn  
**Subject:** RE: 4300 Avenue G

Hi Karen:

The site plan requirement is found in Chapter 25-5-2 of the Land Development Code and was created when Mayor Watson was here (see below). The existing B&B owners at the time fought to have restrictions in the Code that would not create too much competition and citizens raised concerns over businesses being permitted in single family neighborhoods. Here is a link to the B&B regulations that addresses unique requirements to B&B, parking, advertising, number of rooms and other site requirements:

[http://www.amlegal.com/nxt/gateway.dll?f=jumplink\\$jumplink x=Advanced\\$jumplink vpc=first\\$jumplink xsl=querylink.xsl\\$jumplink sel=title;path;content-type;home-title;item-bookmark\\$jumplink d=texas\(austin\)\\$jumplink q=\[field folio-destination-name:'25-2-781'\\$jumplink md=target-id=JD 25-2-781](http://www.amlegal.com/nxt/gateway.dll?f=jumplink$jumplink x=Advanced$jumplink vpc=first$jumplink xsl=querylink.xsl$jumplink sel=title;path;content-type;home-title;item-bookmark$jumplink d=texas(austin)$jumplink q=[field folio-destination-name:'25-2-781'$jumplink md=target-id=JD 25-2-781)

I'll copy my staff working on the zoning case, the BOA case and the site plan case regarding your concerns.

Greg

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### § 25-5-2 SITE PLAN EXEMPTIONS.

(A) *The director shall determine whether a project is exempt under this section from the site plan requirement of Section 25-5-1(Site Plan Required). The director may require that the applicant submit information necessary to make a determination under this subsection. The director may require an applicant to revise a previously approved site plan under Section 25-5-61(Revisions To Released Site Plans).*

(B) *A site plan is not required for the following development:*

- (1) *construction or alteration of a single-family residential, single-family attached residential, duplex residential, two-family residential, or secondary apartment special use structure, or an accessory structure, if:*
  - (a) *not more than one principal residential structure is constructed on a legal lot or tract; and*
  - (b) *a proposed improvement is not located in the 100 year flood plain, or the director determines that the proposed improvement will have an insignificant effect on the waterway;*
- (2) *removal of a tree not protected by this title;*
- (3) *interior alteration of an existing building that does not increase the square footage, area, or height of the building;*
- (4) *construction of a fence that does not obstruct the flow of water;*
- (5) *clearing an area up to 15 feet wide for surveying and testing, unless a tree more than eight inches in diameter is to be removed;*
- (6) *restoration of a damaged building that begins within 12 months of the date of the damage;*
- (7) *relocation or demolition of a structure or foundation covering not more than 10,000 square feet of site area under a City demolition permit, if trees larger than eight inches in diameter are not disturbed and the site is not cleared;*
- (8) *development in the extraterritorial jurisdiction that is exempt from all water quality requirements of this title; or*
- (9) *placement of a commercial portable building on existing impervious cover if the building does not impede or divert drainage and the site complies with the landscaping requirements of this title; and*

(10) construction or alteration of a townhouse in the Mueller Planned Unit Development or the area identified in Section 1.2.5.B (Conflicting Provisions) of the Regulating Plan for the Lamar Blvd./Justin Lane Transit Oriented Development.

(C) Except for a change of use to an adult oriented business, a site plan is not required for a change of use if the new use complies with the off-street parking requirements of this title.

(D) Except for an adult oriented business, a site plan is not required for construction that complies with the requirements of this subsection.

(1) The construction may not exceed 1,000 square feet, and the limits of construction may not exceed 3,000 square feet, except for the following:

- (a) enclosure of an existing staircase or porch;
- (b) a carport for fewer than ten cars placed over existing parking spaces;
- (c) a wooden ground level deck up to 5,000 square feet in size that is for open space use;
- (d) replacement of a roof that does not increase the building height by more than six feet;
- (e) remodeling of an exterior facade if construction is limited to the addition of columns or awnings for windows or entrance ways;
- (f) a canopy over an existing gas pump or paved driveway;
- (g) a sidewalk constructed on existing impervious cover;
- (h) replacement of up to 3,000 square feet of building or parking area lost through condemnation, if the director determines that there is an insignificant effect on drainage or a waterway; or
- (i) modification of up to 3,000 square feet of a building or impervious cover on a developed site if the modification provides accessible facilities for persons with disabilities.

(2) The construction may not increase the extent to which the development is noncomplying.

(3) The construction may not be for a new drive-in service or additional lanes for an existing drive-in service, unless the director determines that it will have an insignificant effect on traffic circulation and surrounding land uses.

(4) A tree larger than eight inches in diameter may not be removed.

(5) The construction may not be located in the 100 year flood plain, unless the director determines that it would have an insignificant effect on the waterway.

(E) A site plan is not required for minor site development, minor construction, or a change of use that the director determines is similar to that described in Subsections (B), (C), and (D) of this section.

**(I) The exemptions provided by Subsections (C) and (D) do not apply to a bed and breakfast residential use established after October 1, 1994.**

Source: Section 13-1-603; Ord. 990225-70; Ord. 990520-38; Ord. 000302-36; Ord. 000831-65; Ord. 031120-40; Ord. 031211-11; Ord. 20101209-075; Ord. 20110210-018; Ord. 20130328-032.

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**From:** Karen McGraw <mailto:MCGRRAWKA@EARTHLINK.NET>  
**Sent:** Monday, April 21, 2014 6:18 PM  
**To:** Guernsey, Greg  
**Subject:** 4300 Avenue G

Greg,

Regarding the Adams House B&B at 4300 Avenue G.

I am concerned that in efforts to correct this remarkable error, city staff is not addressing this comprehensively and the case, even if the FAR is approved, will still be out of compliance and the record will remain very confused.

I am unclear on how a house that is licensed to be a B&B can require a site plan? The LDC seems crystal clear that this is a residential use, McMansion applies to this use and the IRC also applies. What is the Site Plan requirement?

The Site Plan indicates the zoning as SF3-H-NCCD when it is actually SF3-H-HD-NCCD.

The zoning case indicates the zoning as SF3-NCCD-NP. The NP was not enacted with the NCCD and appears to have been added to maps by the city at some point but without any notice or hearing as far as I am aware. The current zoning includes H and HD that are not noted.

It seems a Change of Use from a single family house to a B&B might be in order to check number of bedrooms, parking, etc.. However, the city granted the B&B use to this lot many years ago. So this is an alteration, not a change of use unless the second dwelling is considered a change of use.

The consultant's letter states that the effort is to create private living quarters for the owners. The owners have mentioned this many times. The lot is less than 7,000 SF so the property is not eligible for two-family use. So can a B&B also have a two-family use? Is this combination allowed? Is this part of the variance request? zoning? I'm not seeing it listed directly, just noted in a letter.

Why is a Site Plan in review by the DAC instead of Site Plan staff? Why is there no information regarding the number of bedrooms, parking requirements, proposed two-family plus B&B use? Aren't the zoning requirements the subject of a Site Plan?

Why is there no mention of the NCCD parking requirement? This needs to be reviewed and a variance is likely required. A 200 SF addition triggers compliance with all parking regulations including a prohibition on street yard parking.

Who is going to review this project for residential zoning (since it hasn't been done in the SP) , NCCD, McMansion and building code? It went through the HLC months ago with no zoning review so those commissioners were not told that it was almost 50% beyond allowable FAR and likely violates parking regulations. The order of the process seems to be an area of great confusion with city staff. How is that being addressed?

My neighbors generally believe that the city is completely at fault for this and that the owners should get the permit back that they got in error. I sympathize with the owners, but I am also concerned that this situation has placed the neighbors in a difficult situation of having to choose between supporting a likable neighbor whose consultants along with city staff created a serious problem, and upholding the protections that the neighborhood association has worked for and the city has enacted over decades to protect the neighborhood.

Are you undertaking any changes to prevent this type of situation in the future?

Thanks,

Karen McGraw AIA  
512-917-1761