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

DATE: Monday, November 10, 2014 **CASE NUMBER: C15-2014-0144**

_____ Jeff Jack
_____ Michael Von Ohlen
_____ Ricardo De Camps
_____ Bryan King
_____ Vincent Harding
_____ Melissa Hawthorne
_____ Sallie Burchett

APPLICANT: Matt Gorman

OWNER: Katie Van Dyk

ADDRESS: 505 BARTON SPRINGS RD

VARIANCE REQUESTED: The applicant has filed an appeal challenging the Planning & Development Review Department's decision interpreting a sober living facility (described in appeal application) would be classified as a Group Home, Class 1 (General) if it had fewer than 15 residents.

BOARD'S DECISION: The public hearing was closed on Board Member Melissa Hawthorne motion to Postpone to November 10, 2014 to decide on meeting date, Board Member Sallie Burchett second on a 5-2 vote (Board member Jeff Jack, Bryan King nay); POSTPONED TO November 10, 2014 TO DECIDE ON MEETING DATE TO HEAR THE APPLICATION.
Nov 10, 2014 A SPECIAL CALLED MEETING IS SCHEDULED TO HEAR THIS CASE ON December 1, 2014 AT 7:00 PM AT OTC IN ROOM 325.

FINDING:

1. There is a reasonable doubt of difference of interpretation as to the specific intent of the regulations or map in that:
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:
3. The interpretation will not grant a special privilege to one property inconsistent with other properties or uses similarly situated in that:

Leane Heldenfels
Executive Liaison

Jeff Jack
Chairman

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

DATE: Monday, November 10, 2014 **CASE NUMBER: C15-2014-0144**

___N____ Jeff Jack
___Y____ Stuart Hampton
___Y____ Ricardo De Camps
___N____ Bryan King
___Y____ Vincent Harding
___Y____ Melissa Hawthorne (Motion to PP)
___Y____ Sallie Burchett (2nd the Motion)

APPLICANT: Matt Gorman

OWNER: Katie Van Dyk

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Leane Heldenfels
Executive Liaison

Jeff Jack
Chairman

M&H
McLEAN & HOWARD, L.L.P.
Real Property Lawyers

Barton Oaks Plaza, Building II
901 South MoPac Expressway
Suite 225
Austin, TX 78746
phone 512.328.2008
fax 512.328.2409
www.mcleanhowardlaw.com

October 23, 2014

Ms. Leane Heldenfels
City of Austin
505 Barton Springs Road
Austin, Texas 78704

RE: Request for Postponement of Land Use Determination Appeal in Case No. C15-2014-0144 Scheduled for October 27, 2014

Dear Ms. Heldenfels:

I represent Mathew Gorman, and I am writing to request a three-week postponement of the above-referenced case from the October 27, 2014 meeting of the Board of Adjustment. This is the applicant's first request to postpone this case. The applicant requests this postponement in order to allow applicant to continue discussion with City staff about this matter in an effort to resolve it without a hearing.

Please do not hesitate to contact our office if you have any questions.

Sincerely,

Jeffrey S. Howard

cc: Mathew Gorman

C15-2014-0144
ROW 11233004
ROW 0202000119

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

STREET ADDRESS: N/A; City File No. UD-2014-0001

LEGAL DESCRIPTION: Subdivision –

N/A

Lot (s)_____ Block_____ Outlot_____ Division_____

ZONING DISTRICT: N/A

I/WE Katie Van Dyk on behalf of myself/ourselves as authorized

Agent for Mathew Gorman affirm that on the 22nd

Day of September, 20 14, hereby apply for an interpretation hearing before the Board of Adjustment.

Planning and Development Review Department interpretation is:

The staff interpretation is that the operation of a recovery community which houses more than 15 individuals is classified as a "Residential Treatment" use under the Land Development Code, because Group Home, Class I (General) use is limited to 15 residents, and the described use is for greater than 15 residents. The interpretation seems to indicate, and staff has told the applicant, that a recovery home use is a Group Home if under 15 people, but that the recovery home use changes if it exceeds 15 people.

I feel the correct interpretation is:

The operation of a recovery community with more than 15 residents is classified as Group Home, Class I (General) use, because a recovery home meets every element of that definition except the number 15. Individuals who suffer from addiction (but who are no longer using or addicted to a controlled substance) are considered disabled under the Fair Housing Amendments Act of 1988, and are protected from housing discrimination based on the number of occupants. Local governments, under the FHAA, have an "affirmative duty" to provide "reasonable accommodation," or flexibility, when making decisions about zoning and land use regarding housing for persons with disabilities. Since the 15 person cap violates federal law, it is inapplicable and the proposed use meets Group Home, Class I (General).

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:

We originally sought a use determination because a recovery community with greater than 15 residents meets every substantive elements of Group Home, Class I (General) except the number of residents. On the other hand, it fits none of the elements of the Residential Treatment. A recovery community cannot legally provide any of the services listed in the Residential Treatment use definition. Staff informed the applicant that the use is considered Group Home, Class I (General) if it has less than 15 people; however, when the number exceeds 15, the underlying use of the property does not change. The actual use should be the critical factor. The court in Oxford House-C v. City of St. Louis, citing the Fair Housing Amendments Act of 1988, held that an ordinance limiting group homes for recovery purposes to 8 residents was discriminatory because it was not necessary to preserve the residential character of the neighborhood, and because recovery communities often need to house more residents to "operate viably from both a financial and a therapeutic standpoint."

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:

Group Home, Class I (General) use is the use of a site for the provision of a family-based facility providing 24-hour care in a protected living arrangement and includes foster homes; homes for the physically and mentally impaired; homes for the developmentally disabled; congregate living facilities for persons 60 years of age or older; maternity homes; emergency shelters for victims of crime, abuse, or neglect; and residential rehabilitation facilities for alcohol and chemical dependence. A recovery community is similar to every example listed in the Group Home, Class I (General) definition, and is more similar to a home for disabled individuals than a facility for those convicted of drug-related crimes who are under supervision as a condition of probation or parole. Fellowship is an important element of relapse prevention for recovering addicts, and recovery communities offer that essential familial support to residents.

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

The use determination request was not project- or property-specific, so an alternative interpretation of the use classification of a recovery community use will not grant any special privilege to any particular property.

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

Signed [signature] Printed Katie Van Dyk

Mailing Address 901 S. Mopac Expressway, Bldg. II, Suite 225

City, State & Zip Austin, TX 78746 Phone 512-328-2008

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

Signed N/A - non-project-specific use determination Printed

Mailing Address

City, State & Zip Phone

M&H
McLEAN & HOWARD, L.L.P.

Barton Oaks Plaza, Building II
901 South MoPac Expressway
Suite 225
Austin, TX 78746
phone 512.328.2008
fax 512.328.2409
www.mcleanhowardlaw.com

September 22, 2014

Leane Heldenfels
City of Austin
505 Barton Springs Road
Austin, Texas 78704

via hand delivery

RE: Land Use Determination Appeal Application ("Application") to the Board of Adjustment for Interpretation; Letter of Standing to Appeal Status

Dear Leane:

Please find enclosed the above-referenced Application requesting an appeal of an administrative decision to the Board of Adjustment, for interpretation of the decision. Pursuant to Section 25-1-131, as the agent for Mathew Gorman, the party interested in and originally requesting the land use determination, I assert that I have standing to file this appeal.

The original land use determination application was a non-project-specific use determination request, which requested an interpretation of the classification of the use of a property as a recovery home for more than 15 individuals. My firm initially submitted the request and urged that the use be classified as Group Home, Class I (General), because a recovery center use fits all of the substantive elements of the definition of Group Home, Class I (General) under the City of Austin Land Development Code ("Code"). The only element of the proposed recovery home use that does not fit the definition of Group Home, Class I (General) is the maximum number of residents, fifteen (15).

However, Jerry Rusthoven, the Manager of the Planning Division of the Planning and Development Review Department, determined on September 8, 2014, that the proposed recovery home use fits the definition of Residential Treatment under the Code, rather than Group Home, Class I (General).

The enclosed Application: (i) describes the Planning and Development Review Department's interpretation of the proposed recovery home use; (ii) provides a description of what I believe is the correct interpretation; (iii) details why there is a reasonable doubt or difference of interpretation as to the specific intent of the regulation at issue; (iv) explains why the appeal clearly permits a use which is in character with the uses enumerated for Group Home,

REQUESTS FOR INTERPRETATION
(Appeal of an Administrative Decision)

REQUIRED ITEMS FOR A COMPLETE APPLICATION:

The following items are required in order to file an application for interpretation to the Board of Adjustment.

☑ A completed application with all information provided. Additional information may be provided as an addendum to the application.

☑ Standing to Appeal Status: A letter stating that the appellant meets the requirements as an Interested Party as listed in Section 25-1-131(A) and (B) of the Land Development Code. The letter must also include all information required under 25-1-132(C).

N/A Site Plan/Plot Plan drawn to scale, showing present and proposed construction and location of existing structures on adjacent lots.

☑ Payment of application fee for residential zoning or for commercial zoning. See Current Fee Schedule (http://www.austintexas.gov/department/fees) for Applicable Fees. Checks should be made payable to the City of Austin.

An appeal of an administrative decision must be filed by the 20th day after the decision is made (Section 25-1-182). Applications which do not include all the required items listed above will not be accepted for filing.

If you have questions on this process contact Leane Heldenfels at

512-974-2202 or leane.heldenfels@austintexas.gov.

To access the Land Development Code, go to
http://www.austintexas.gov/department/online-tools-resources

NOTICE OF APPEAL INFORMATION

Austin City Code 25-1-461 (see page 2 of 2 for appeal process)

Planning and Development Review Department

Address of Property in Question	Permit Number
N/A	

Appellant Filing Appeal	Relationship to Property
Katie VanDyk	Agent for Mat Gorman

Appellant's status as Interested Party
Requestor of original Land use Determination App

Appellant Contact Information	Permit Holder Contact Information
Name: Katie VanDyk	Name:
Street: 901 S. Mopac, Bldg II, Ste 225	Street:
City: Austin State: TX Zip: 78746	City: State: Zip:
Telephone: 512-328-2008	Telephone:
E-Mail: [redacted]	E-Mail:

Date of Decision Being Appealed:	Date Appeal is Filed:
9/8/14	9/22/14

Decision being appealed: (use additional paper as required)
See attached

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

BELOW FOR CITY USE ONLY

Hearing Date:	Board or Commission:

Action on Appeal:	Date of Action

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

Appeal Process

You may appeal this "STOP WORK ORDER", "REMOVE OR RESTORE", "REVOCATION" or "SUSPENSION OF PERMIT" in accordance with Land Development Code section 25-1-461 by following these requirements:

§ 25-1-461 APPEAL.

(A) A person may appeal a stop work order, remove or restore order, revocation, or suspension issued under this division by giving written notice to the accountable official not later than the third day after:
  (1) the stop work order or remove or restore order is posted; or
  (2) the person receives notice of the revocation or suspension.

(B) The notice of appeal must contain:
  (1) the name and address of the appellant;
  (2) a statement of facts;
  (3) the decision being appealed; and
  (4) the reasons the decision should be set aside.

(C) The accountable official shall hear the appeal not later than the third working day after the appeal is filed. The appellant, the appellant's expert, and the department may offer testimony to the accountable official.

(D) The accountable official shall affirm or reverse the department's decision not later than the second working day after the hearing. The official shall give written notice of the decision and a statement of the reasons for the decision to the appellant.

(E) The appellant may appeal the accountable official's decision to the Land Use Commission or appropriate technical board by giving written notice to the accountable official and the presiding officer of the Land Use Commission or appropriate technical board not later than the third working day after receiving notice of the decision. The notice of appeal must contain the information described in Subsection (B).

(F) The Land Use Commission or appropriate technical board shall hear the appeal at the next regularly scheduled meeting following receipt of the notice of appeal. An appeal is automatically granted if the Land Use Commission or appropriate technical board does not hear the appeal before the 21st day following receipt of the notice of appeal.

(G) A stop work order, remove or restore order, suspension, or revocation remains in effect during the pendency of an appeal under this section.

Source: Section 13-1-69; Ord. 990225-70; Ord. 010607-8; Ord. 031211-11.

By signing this document, I attest to having read and understand my rights as granted by the Land Development Code for the process for appealing a stop work order, remove or restore order, revocation, or suspension.

Date: 9/22/14 **Printed Name:** Katie VanDyk **Signature:** Katie VanDyk

City of Austin

Founded by Congress, Republic of Texas, 1839
Planning and Development Review Department
One Texas Center, 505 Barton Springs Road 5th Floor
P.O. Box 1088, Austin, Texas 78767
(512) 974-3207

September 8, 2014

Ms. Leslie Keyser
McLean and Howard, LLP
Barton Oaks Plaza Bldg II
901 S. MoPac Expy #225
Austin, TX 78746

Dear Ms. Keyser,

The City of Austin Planning and Development Review Department has reviewed the use determination your firm submitted regarding a sober living facility (City file # UD-2014-0001). Staff believes that the use as described would fall under the Group Home, Class I (General) land use classification if it had fewer than 15 residents. However, because the definition specifically states "not more than 15 residents" it cannot be classified as that use.

Further your firm argues that the use is not Congregate Living or Residential Treatment because the residents receive "care" rather than supervision. The Advanced English Dictionary defines supervision as "the management by overseeing the performance or operation of a group." Your letter spoke of personnel being on site 24 hours a day. It also outlines how residents must adhere to strict rules and a code of conduct or they are required to leave the program. In the opinion of the staff this is "supervision" and we believe supervision goes beyond restricting movement as outlined in your letter.

In your letter you also state that you believe it is not appropriate to apply the Residential Treatment classification to this facility. You argue that this classification is only appropriate for State licensed facilities, though this is not stated in the City's definition. You also state that the facility does not have "supervision, counseling or treatment." The staff position on "supervision" has already been outlined. And your letter does state that the residents "participate in coaching sessions, counseling sessions, accountability programs, acupuncture for addiction, yoga, etc." which the staff feels are in line with the definition.

The Congregate Living definition includes examples that do not seem to fit the use you have described. However, the Residential Treatment classification "includes alcohol and chemical dependency rehabilitation facilities, facilities to which persons convicted of alcohol or drug-related offenses are ordered to remain under custodial supervision as a condition of probation or parole, and residential care facilities and halfway houses for the

emotionally ill." Given that this facility will serve more than 15 residents and that it is for those rehabilitating from alcohol or drug dependency, staff concurs that the appropriate land use is Residential Treatment.

I have included the definitions from the Code below for reference.

Sincerely,

Jerry Rusthoven, AICP
Manager
Current Planning Division

Cc: Gregory I. Guernsey, AICP, Director, PDRD
George Adams, Assistant Director, PDRD
Chris Johnson, Dev. Svcs. Mgr, DAC, PDRD

§ 25-2-6 CIVIC USES DESCRIBED.

GROUP HOME, CLASS I (GENERAL) use is the use of a site for the provision of a family-based facility providing 24 hour care in a protected living arrangement for more than 6 but not more than 15 residents and not more than 3 supervisory personnel. This use includes foster homes, homes for the physically and mentally impaired, homes for the developmentally disabled, congregate living facilities for persons 60 years of age or older, maternity homes, emergency shelters for victims of crime, abuse, or neglect, and residential rehabilitation facilities for alcohol and chemical dependence.

CONGREGATE LIVING use is the use of a site for the provision of 24 hour supervision and assisted living for more than 15 residents not needing regular medical attention. This use includes personal care homes for the physically impaired, mentally retarded, developmentally disabled, or persons 60 years of age or older, basic child care homes, maternity homes, and emergency shelters for victims of crime, abuse, or neglect.

RESIDENTIAL TREATMENT use is 24 hour supervision, counseling, or treatment for more than 15 residents not needing regular medical attention. This use includes alcohol and chemical dependency rehabilitation facilities, facilities to which persons convicted of alcohol or drug-related offenses are ordered to remain under custodial supervision as a condition of probation or parole, and residential care facilities and halfway houses for the emotionally ill.

C. USE DETERMINATION APPLICATION

PROJECT INFORMATION: DEPARTMENTAL USE ONLY

FILING DATE: _____ FILE NUMBER: _____

DUE DATE: _____ CASE MANAGER: _____

APPLICATION ACCEPTED BY: _____

APPLICANT INFORMATION

Name: Patrick Hudson, representative for Mathew Gorman Telephone: ( ) (512) 328-2008

Address: 901 S. Mopac Expressway, Bldg. II, Suite 225

City, State and Zip: Austin, Texas 78746

Email: [redacted]

Address (if applicable) N/A

Is this determination in connection with a specific project? Yes (No)

Case number of all related cases (if applicable) _____

Description of proposed use (See attached)

Land Use category sought (from LDC Chapter 25-2, Article 1. Zoning Uses):

Group Home, Class I (General)

Existing zoning N/A

Case Manager or DAC staff member N/A

Include any information for the director to use in consideration of the use determination, including but not limited to an explanation of the similarities, if any, of the use to other classified uses (include additional information and exhibits on separate page if necessary)

(See attached)

Description of Proposed Use:

The proposed use is a family-based sober living facility where more than 15 residents can live in a protected living environment with constant support and care. Residents have generally completed a rehabilitation program, and are voluntarily deciding to live in a sober living arrangement, with like-minded individuals. Residents will not need or receive medical attention or medication from the sober living facility. Residents will share bedrooms or apartment units, and will have access to common space for group meetings and peer to peer services. Residents will have 24-hour care available through on-site personnel, but residents are not "supervised" in their daily activities. Residents will pay a fee to live at the site and receive guidance and support, and will be regularly tested for drugs and alcohol.

A sober living facility differs from a rehabilitation treatment facility in that sober living does not: (a) have the same licensing requirements or regulations; (b) utilize licensed chemical dependency counselors; (c) prescribe medication; or (d) allow any type of detox or mental health treatment. Sober living is generally the next step for recovering addicts after completing residential inpatient rehab, and before returning to their hometowns.

Land Use category sought (from City of Austin Code, Land Development Code, Chapter 25-2, Article 1. Zoning Uses):

Group Home, Class I (General) (City of Austin Code ("Code") Section 25-2-6(B)(22)).

Information for director to use in consideration of the use determination (explanation of similarities to other classified uses, e.g.):

Group Home, Class I (General) is the appropriate land use classification for the proposed use because the definition is most similar to the proposed use. The definition of Group Home, Class I (General) is "the use of a site for the provision of a *family-based facility* providing *24 hour care* in a *protected living arrangement* for more than 6 but not more than 15 residents and not more than 3 supervisory personnel" (Code Section 25-2-6(B)(22)). The proposed use fits directly into that definition, except for the number 15.

Family-based treatment models are well-established and widespread in the U.S. The proposed use will be a "*family-based facility*" because it will house a group of unrelated persons that are like-minded and choosing to live together as a single housekeeping unit. Residents voluntarily follow a strict set of house rules that are enforced by the staff and other residents. All residents are required to attend weekly house meetings. Additional support is provided to the families of residents, who receive regular updates and status reports on the residents.

The proposed use will provide "*24 hour care*" because any resident who needs care can contact personnel living on site, or call a 24 hour hotline to talk to a team of recovering individuals.

The proposed use will provide a "*protected living arrangement*" because all residents will be required to follow strict rules and a code of conduct to help them succeed in their sobriety. Anyone violating the rules is required to leave the program immediately, so as to not endanger the recovery of other residents.

The only part of the proposed use that does not fit directly into the "Group Home" classification is the number of residents. Residents in excess of 15 may suggest classification as "Congregate Living," but that would be the wrong classification because (a) the proposed use does not include either assisted living or 24 hour supervision; and (b) the use components of the definition are far more important than the number 15 (otherwise, Congregate Living would be defined as "more than 15 people doing anything") (Code Section 25-2-6(B)(11)).

Congregate Living's definition includes "assisted living" whereas Group Home includes "family-based". *The proposed use does not include any assisted living.* "Assisted living" involves caregivers helping people complete basic activities of daily living, such as meal preparation and personal hygiene. It is for people who cannot live on their own without help. That should not be confused with "family-based" living, where people who can live independently choose to come together to work toward common goals. With the proposed use, residents are free to leave at any time and never return, but residents in assisted living may never be able to function without assistance. The ability to live without the assistance of others is a major difference in how Group Home and Congregate Living are defined.

Congregate Living is defined as 24 hour "supervision" whereas Group Home is defined as 24 hour "care" (Code Section 25-2-6(B)(11)), 25-2-6(B)(22)). *The proposed use does not include any supervision* – residents are free to come and go throughout the day without anyone overseeing their activities, their room, or the common areas. Residents attend school, go to work, and conduct normal lives. The residents have "care" available at all times – in addition to the on-site management and a 24-hour hotline, they participate in coaching sessions, counseling sessions, accountability programs, acupuncture for addiction, yoga, etc. Essentially, residents are cared for by having the ability to access activities or help at all hours, but they are not supervised in how they choose to spend their day. The aspect of supervising or watching over a resident is a major difference between how Group Home and Congregate Living are defined.

While Congregate Living does accurately describe the number (more than 15), the definition includes more than just a number, and the characteristics of the proposed use are much more similar to the Group Home classification. When considering land *use*, the *activity being conducted is far more relevant to the definition than the number of people engaged in the activity*, as shown by Code Section 25-2-2(A), which states that the director of the Planning and Development Review Department shall determine the appropriate *use* classification for an existing or proposed *use or activity*. There is a big difference between being self-sufficient and requiring assistance for basic functions. The Code says that difference in how a site is used is the relevant determination.

Additionally, the proposed use cannot be classified as Residential Treatment because (a) the facility is not licensed to provide the services described, and (b) the facility will not provide the services described. Section 25-2-6(B)(42) of the Code defines Residential Treatment as 24 hour

"supervision, counseling, or treatment" for more than 15 residents not needing regular medical attention, and includes alcohol and chemical dependency rehabilitation facilities, facilities to which persons convicted of alcohol or drug-related offenses are ordered to remain under custodial supervision as a condition or probation or parole, and residential care facilities and halfway houses for the emotionally ill. Each of the listed services requires a license from the State. For example, Texas Health and Safety Code, Chapter 464, requires facilities providing substance abuse treatment services to be licensed by the Texas Department of State Health Services. Sober living facilities are not required to have any license from the State. The Residential Treatment classification is aimed at State-licensed facilities, which does not include the proposed use. Moreover, the proposed use does not involve any of the "supervision, counseling, or treatment" that are the fundamental components of the definition of Residential Treatment. In short, the applicant is not treating people, not desiring to treat people, and not licensed to treat people. "Sober living" is not the same as "treatment."

Representatives of the City have verbally and informally informed applicant that the proposed use fits squarely in the Group Home category with 15 people, but becomes Congregate Living when the number increases above 15. We believe *that the characteristics of the use do not change* to become "assisted living" and "supervision" just because the number of participants rises above 15 (again, Congregate Living is not defined as "more than 15 people doing anything"). We hope you agree that *when the Group Home definition matches the actual proposed use, that use retains its classification* when the number of participants exceeds 15.

NOTICE OF PUBLIC HEARING
LAND DEVELOPMENT CODE

INTERPRETATION

★ Not sent since not address specific

Mailing Date: October 16, 2014 **Case Number:** C15-2014-0144

Please be advised that the City of Austin has received an application for an appeal of a City's staff's interpretation of the Land Development Code.

Applicant:	Katie Van Dyk, (512) 328-2008
Owner:	Mat Gorman
Address:	Not Site Specific/No address applies

Variance Request(s): The applicant has filed an appeal challenging the Planning & Development Review Department's decision interpreting a sober living facility (described in appeal application) would be classified as a Group Home, Class 1 (General) if it had fewer than 15 residents.

This application is scheduled to be heard by the Board of Adjustment on October 27th, 2014. The meeting will be held at One Texas Center, 505 Barton Springs Road, room 500 beginning at 6:30 PM.

You are being notified because City Ordinance requires that all property owners and utility account holders within 500 feet of the proposed development and affected neighborhood organizations be notified when an application is scheduled for a public hearing. If you have any questions concerning this application, please contact **Leane Heldenfels of the Planning and Development Review Department at 512-974-2202** and refer to the Case Number at the top right of this notice. However, you may also find information on this case at our web site **www.austintexas.gov/devreview/a_queryfolder_permit.jsp**.

For additional information on the City of Austin's land development process, please visit our web site **www.austintexas.gov/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 request. 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 will be sent.

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.

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. All comments received will become part of the public record of this case.

Case Number: C15-2014-0144, Not Site Specific/No Address
Contact: Leane Heldenfels, 512-974-2202, leane.heldenfels@austintexas.gov
Public Hearing: Board of Adjustment, October 27th, 2014

_____ ☐ **I am in favor** ☐ **I object**
Your Name (please print)

_____
Your address(es) affected by this application

_____ _____
Signature *Date*

Daytime Telephone:_____

Comments:_____

_____

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Note: Any comments received will become part of the public record of this case

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
Or fax to (512) 974-2934
Or scan and email to leane.heldenfels@austintexas.gov