

NOTICE OF APPEAL INFORMATION

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

Division 1. Appeals

(see page 2 of 2 for appeal process)



Planning and Development Review Department

Address of Property in Question

3100 Highland Terrace W, Austin, Texas 78731-5321

Permit Number No's.: 2014-132111PR,
2015-004322BP, 2015-004322DS
2015-004322DS, 2015-004322EP

Appellant Filing Appeal J. Cecil Ruby &
Highland Terrace Preservation Group (HTPG)

Relationship to Property
Interested Party & Neighborhood Group

Appellant's status as Interested Party

Interested Party & Neighborhood Group (HTPG) Based on Proximity to Property

Appellant Contact Information

Name

J. Cecil Ruby, III

Street

4715 Highland Terrace

City

Austin,

State

Texas

Zip

78731

Telephone

(512) 844-9746

E-Mail

jcruby@att.net & htwneighbors@gmail.com

Permit Holder Contact Information

Name

Dallas Thompson

Street

3100 Highland Terrace W

City

Austin,

State

Texas

Zip

78731

Telephone

(310) 291-8000

E-Mail

dktbrokers@yahoo.com

Date of Decision Being Appealed:

January 13, 2015

Date Appeal is Filed:

23 February 2015

Decision being appealed: (use additional paper as required)

Please refer to Attachment 1, including the attached Exhibits.

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

For detailed explanation of reasons why the City of Austin should not have issued a building permit for a pre-fabricated metal barn/warehouse in a residential neighborhood in Austin, Texas, please refer to Attachment 1, including the attached Exhibits.

BELOW FOR CITY USE ONLY

Hearing Date:

Board or Commission:

Action on Appeal:

Date of Action

Form Bldg 101 Page 1 of 2

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

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Appeal Process

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

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

Division 1. Appeals.

§ 25-1-181 STANDING TO APPEAL.

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

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

§ 25-1-182 INITIATING AN APPEAL.

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

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

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

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

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

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

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

By signing this document, I attest to having read and understand my rights as granted by the Land Development Code for the process of appealing an administrative decision by the building official or the responsible director.

2-20-15 J. Cecil Ruby

Date:

Printed Name:


Signature:

ATTACHMENT 1 – NOTICE OF APPEAL

Summary:

As a summary, the City of Austin (“COA”) approved a residential building permit for the property at 3100 Highland Terrace W, Austin, Texas, 78731, despite the fact that Dallas Thompson (the “Permit Holder”) built a foundation and Structure without initially filing for the required COA permits. Additionally, the Structure that the Permit Holder built is an industrial pre-fabricated metal hanger building that he purchased from MetalBuildingDepot.Com.

The Permit Holder filed an additional application for a residential building permit on February 9, 2015. Appellant objects to the COA granting the Permit Holder a building permit based on the new application and requests that the previously granted building permits be rescinded.

This Addendum is intended to provide details for issues raised in the Notice of Appeal filed with the City of Austin, on January 21, 2015, and in support of the upcoming hearing scheduled for Wednesday, February 25, 2015, 1:30 PM, before the Building and Fire Code Board of Appeals.

Objections:

- 1. The Permit Holder’s building permits should be revoked because he failed to provide documentation concerning the design of the Structure’s foundation. Additionally, no inspection of the foundation was performed before the building permits were issued to determine whether the foundation complied with Code requirements.**

Section 25-12-3 of the Land Development Code – Local Amendments to the Building Code, provides the local amendments to the 2012 International Building Code. Under Section 25-12-3, Section 110.3 requires a pre-construction inspection between the inspector, general contractor and/or owner. Section 110.3.1.2 requires a layout inspection after all foundation forms have been erected and are in place, but *before any* concrete is placed. Section 110.3.13 requires a footing and foundation inspection be performed after excavations for footings have been completed and after any required reinforcing steel is in place. Additionally, for concrete foundations any required forms must be in place and the materials for the foundation shall be on the job.

In this case, the Permit Holder poured the foundation and erected the Structure before any of the above-referenced inspections were conducted. Additionally, the Permit Holder has been unable or unwilling to provide any designs for the foundation and none were submitted with any of the plans or specifications provided to the City of Austin. Jeff Gibeaux, P.E. of US Construction Consultants, LLC has reviewed photographs of the thickness of the foundation and issued a preliminary opinion that based on the information currently available it does not appear the Permit Holder complied with the

current Code requirements when he built the foundation. Mr. Gibeaux's opinion is preliminary at this point because the Permit Holder refused to allow Mr. Gibeaux access to the property in order to perform a complete inspection of the Structure's foundation. However, Mr. Gibeaux determined additional study of the Structure's foundation is warranted. A copy of Mr. Gibeaux's report and photographs of the foundation are attached hereto as Exhibits "A" & "B."

Section 25-11-65(A)(1) provides that a building official may require that an applicant test materials or construction methods to demonstrate compliance with technical codes if the building official has reason to believe that materials or construction methods were not tested. In this case, the Permit Holder should have been required to perform the appropriate testing before the City of Austin issued a building permit, because he was unable to provide any designs for the foundation and there were no inspections performed before the foundation was built.

2. **The Permit Holder's building permits should not have been issued and the Permit Holder should not be allowed to maintain the Structure because it violates Section 25-3-88 – Accessory Uses.**

Section 25-3-88 provides that the Permit Holder may have "one accessory dwelling unit containing not more than 700 square feet of gross building area..." The Permit Holder already has one accessory dwelling unit on the property and it is identified on Permit Holder's "New Site Plan" as the "1 Story Frame Bldg." (referred to herein as "Guest House") located behind his residence. A copy of the New Site Plan is attached hereto as Exhibit "C" and the Guest House is highlighted in orange. Photographs of the Guest House are attached as Exhibit "D." Pursuant to section 25-2-893, an accessory use may either include a use such as: (1) vehicle storage; or (2) guest house. However, the Permit Holder is not entitled to more than one accessory dwelling use. In fact, Permit Holder currently has three (3) accessory dwelling units on the Property: (1) the Structure; (2) the Guest House; and (3) a storage shed located behind the Structure (a photograph of the shed is attached hereto as Exhibit "E"). Therefore, the Permit Holder's permit for the Structure and driveway should not have been issued.

3. **The Permit Holder's building permits should not have been issued and the Permit Holder should not be allowed to maintain the Structure because it violates Section 25-2-1604 – Garage Placement.**

Section 25-2-1604 provides that a parking structure with an entrance that faces the front yard may not be closer to the front lot line of the building façade. The ordinance defines "building façade" as the "front building façade of the principal structure." The Permit Holder's Structure (which he claims is a garage) is set in front of his home. See a copy of the New Site Plan attached hereto as Exhibit "C." The yellow highlighting demonstrates that the Structure is in front of the home's building façade. Therefore, Permit Holder's permit should not have been issued.

4. **The Permit Holder cut down a Protected Tree without obtaining a permit.**

Section 25-8-602 provides that a "Protected Tree" means a tree with a diameter of 19 inches or more. A Protected Tree was cut down by the Permit Holder without obtaining the required permit. The Protected Tree is located on the New Site Plan attached hereto as Exhibit "C" and it is highlighted in pink and identified as "Chinaberry Removed." Photographs of the tree stump are attached hereto as Exhibit "F." Permit Holder cut down the Protected Tree when he started the unpermitted construction on the Structure. Whether or not the COA's Arborist would have agreed to removal of the Protected Tree, the Permit Holder showed a disregard for the existing COA's permit process and ordinances, and undertook action without the proper authorization.

5. **The Permit Holder's building permits should not have been issued because it does not appear he is using a licensed contractor to construct his driveway approach.**

Section 25-11-36 provides that an applicant must use a licensed contractor for construction of a driveway approach. The Permit Holder's subcontractor for the driveway is Angel Guzman of Maldonado's Concrete. It does not appear that Mr. Guzman or Maldonado's Concrete are licensed contractors. Unless Permit Holder can provide verification they are licensed contractors, the permit for the driveway approach should be rescinded.

6. **The Permit Holder is continuing to operate the home as a Short Term Rental even though his application for a Short Term Rental License was denied.**

The Permit Holder applied for a Short Term Rental License (the "License") pursuant to Land Development Code § 25-8-602, but the License was denied. However, the Permit Holder has continued to operate the home as a Short Term Rental in violation of the License requirement and has represented that he intends to continue operating the home as a Short Term Rental in violation of the License requirement in the coming weeks.

US CONSTRUCTION CONSULTANTS, LLC

Noel Stout
Almanza, Blackburn, & Dickie, LLP
2301 S. Capital of Texas Highway, Building H
Austin, TX 78747

February 20, 2015

RE: Garage foundation at 3100 Highland Terrace West in Austin, Texas

Dear Mr. Stout,

Per your request, USCC reviewed site inspection photographs taken during your site visit of the above address on February 19, 2015, and additionally, you provided a verbal summary of your observations. Project plans for the subject garage structure were also provided for our review.

Reportedly, the subject garage structure was recently constructed, and we reviewed the project plans prepared by Dallas Thompson and dated January 5, 2015. The plans contained no information regarding the foundation design for the structure, and no other information regarding the construction of the concrete foundation was available to us at the time of this report.

Observations made during your site visit were conveyed to us verbally and photographically. The site photographs taken during your site visit indicated that the foundation had a nominal edge thickness of between 5.5-inches and 6.5-inches, with no perimeter footing visible or unearthed during your site visit. As such, we conclude the following;

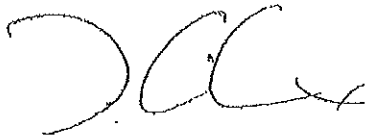
- *Based on the reviewed inspection photographs taken 2-19-15, and a review of the project plans prepared by Dallas Thompson dated 1-5-15, we conclude that the garage slab foundation may have been constructed without an appropriate and code compliant foundation. The garage structure may therefore be insufficiently supported by the foundation.*
- *Additional study of the foundation structure is warranted to verify the above conclusion, and our opinion above is based on information reviewed only.*

107 N. MAIN STREET, SUITE 300, LOCKHART, TEXAS 78644 (512) 923-5961
REGISTERED PROFESSIONAL ENGINEERS TBPE REGISTRATION # F-10148
USCCTX.COM

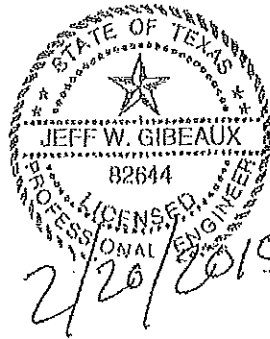


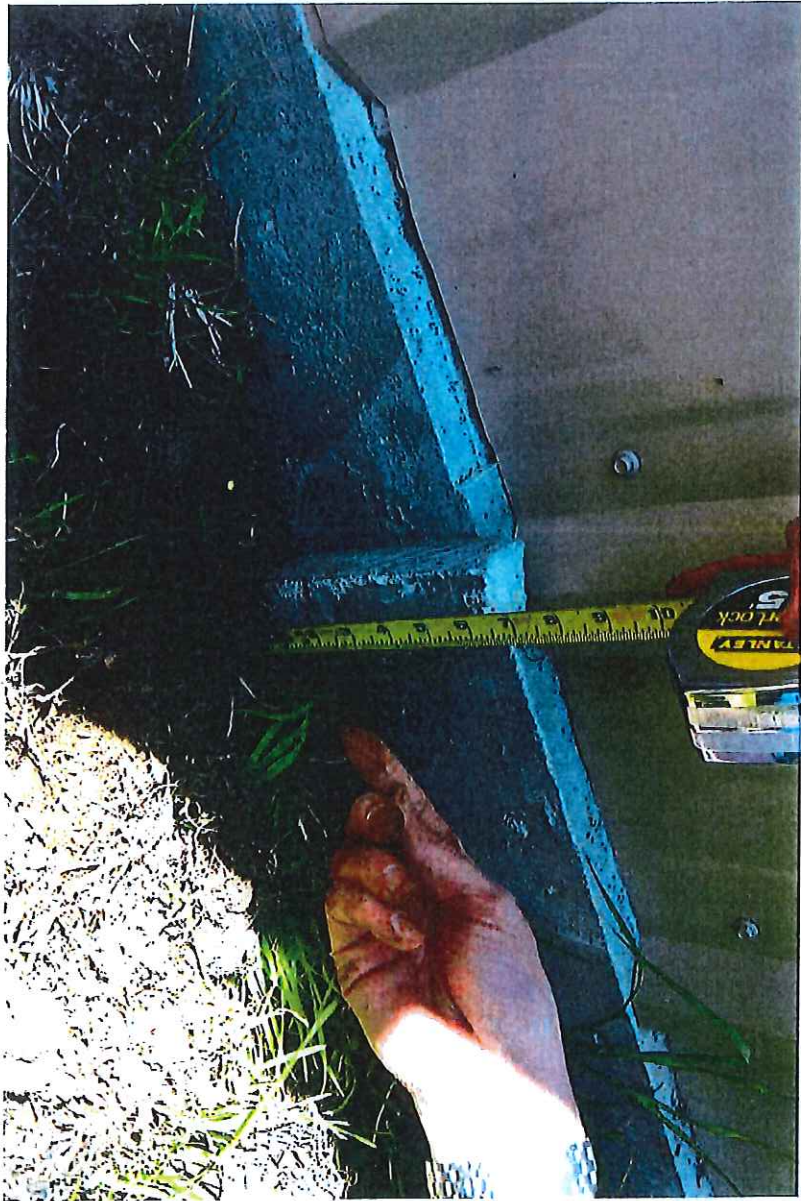
US Construction Consultants, LLC

This report was prepared for the exclusive use of Mr. Noel Stout et al, and is not intended for any other purpose. Should additional information become available, we reserve the right to determine the impact, if any, of the new information on our opinions and conclusions, and to revise our opinions and conclusions if necessary and warranted by the discovery of additional information.



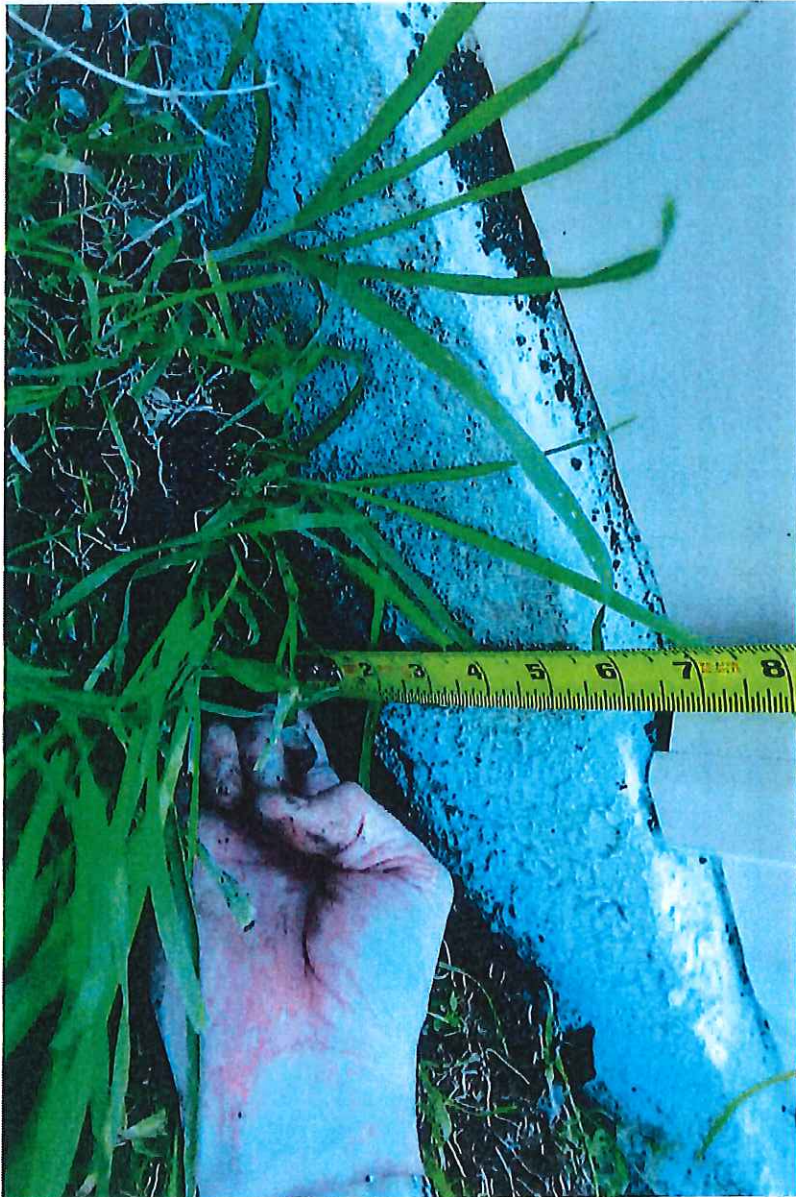
Jeff W. Gibeaux, PE
Texas Registration Number 82644





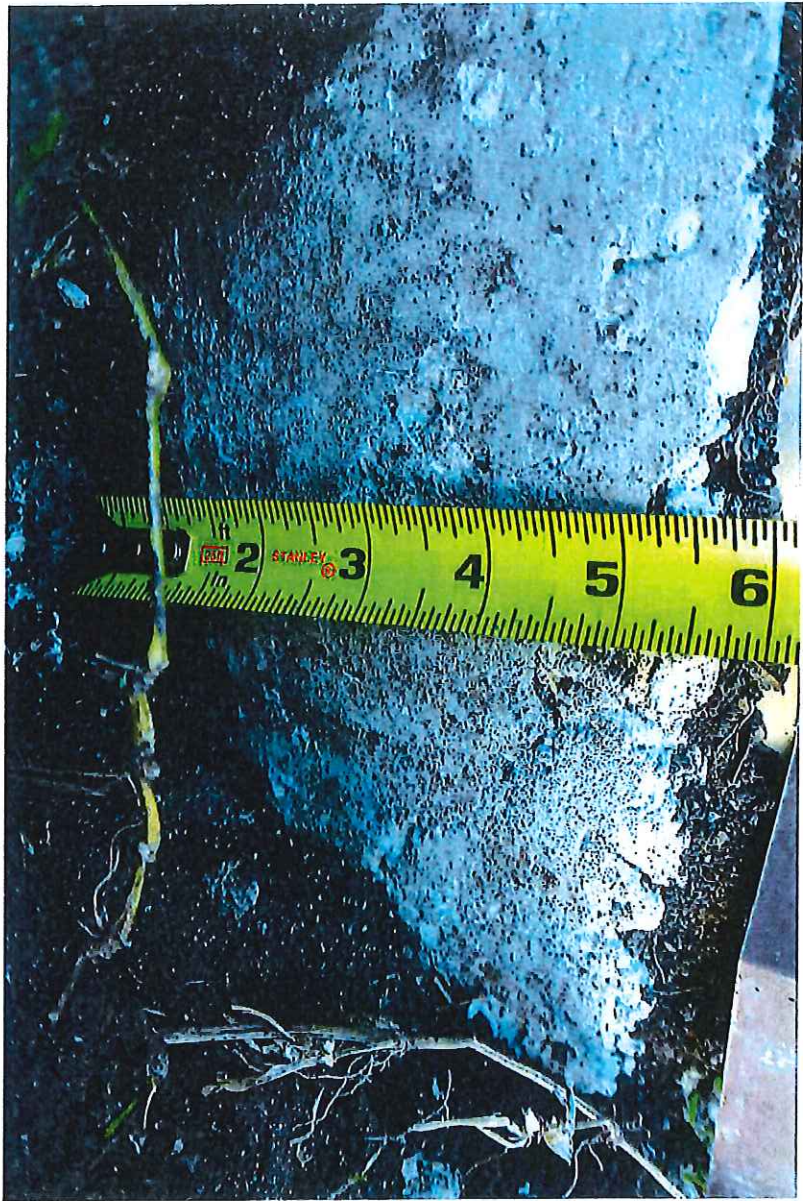




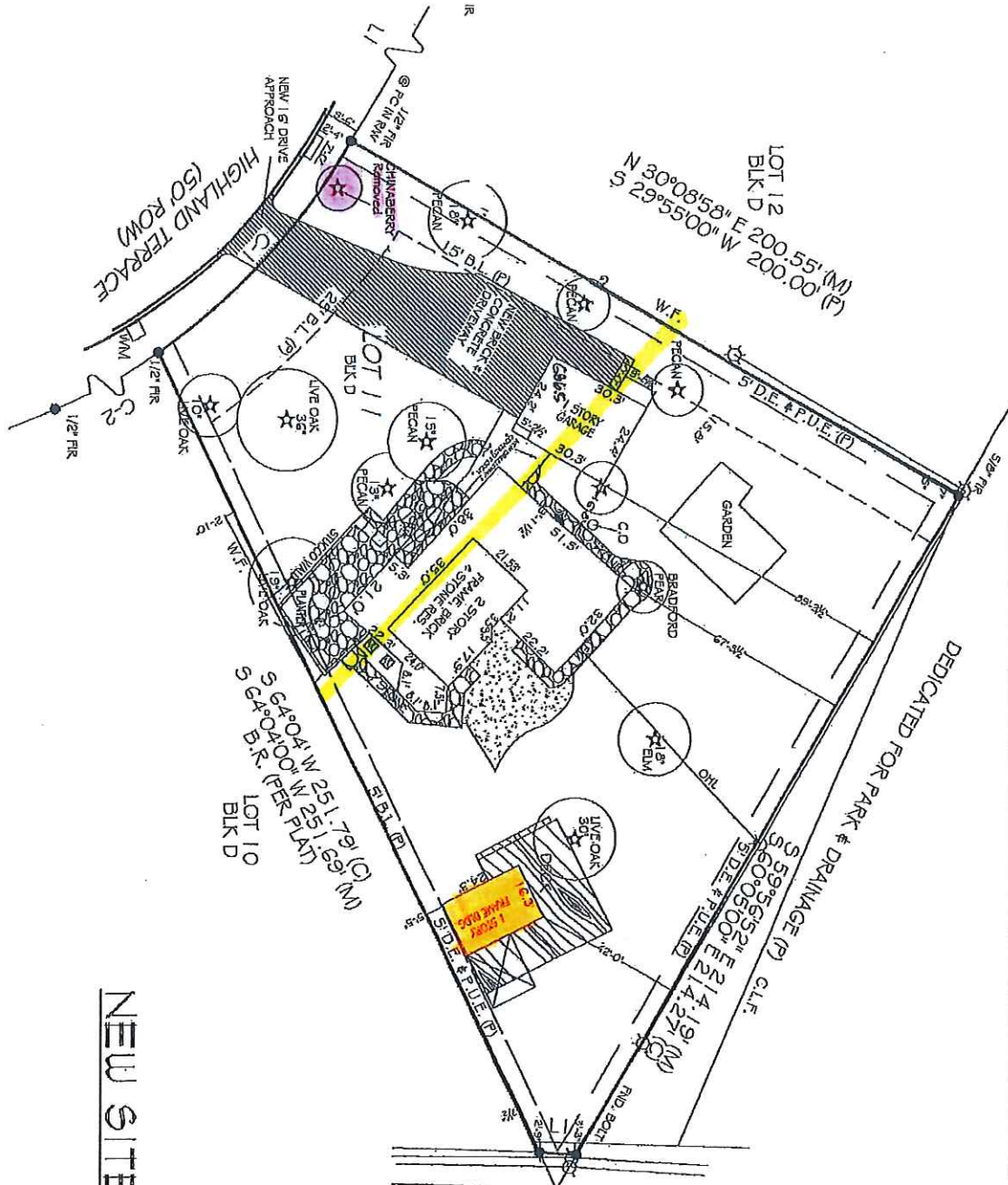












NEW SITE PLAN

1" = 30'-0"

PROJECT DATA & CALCULATIONS

RESIDENTIAL ZONING: SF-3
LOT SIZE - 32,114.7 sf

BUILDING COVERAGE

1st FLOOR COND. AREA 2700.40 sf
2nd FLOOR COND. AREA 800.74 sf
ACCESSORY BLDG 513.95 sf
GARAGE/CARPORT 0.41 sf

COVERED PORCHES 141.42 sf
TOTAL BLDG AREA 4156.71 sf

NEW ADDITIONS 0 sf
TOTAL BLDG COVERAGE ON LOT 15.63% of lot

IMPERVIOUS COVER CAUSES

1st FLOOR COND. AREA 2700.40 sf
2nd FLOOR COND. AREA 800.74 sf
ACCESSORY BLDG 513.95 sf
GARAGE/CARPORT 0.41 sf

COVERED PORCHES 141.42 sf
WOOD/DECK & STOPS 34.50 sf
BUSTLING DRIVEWAY 505.3 sf
NEW DRIVEWAY 2178.67 sf
SIDEWALKS & PATIOS 18.00 sf
AC CONDENSOR PAD 0.41 sf

TOTAL IMPERVIOUS COVER ON LOT 6565.0 sf
TOTAL IMPERVIOUS COVER ON LOT 20.44% of lot

1-5-15



Additions & Alterations for
Dallas Thompson
3100 Highland Terrace West Austin, Texas 78731

David V. Shrum, Architect
Architecture Construction Management (512) 466-8000
702-B West 34th Street Austin, Texas 78705
Texas Member of American Institute of Architects & Texas Society of Architects

Sheet No. **A-2**
OF 5
Drawn By: DVS
Checked By: DVS
Revised 2-20-15





