

BOA Reconsideration

12/21/2016

Chairman Burkhart and Board Members,

The South Lamar Neighborhood Association ("appellant") respectfully requests reconsideration of the code interpretation case on Single Family Attached.

Attached to this request, please find the \$582.40 fee check. To date SLNA has expended \$2222.00 on this appeal. Although these are steep fees for a neighborhood association, it is money well-spent for your consideration in resolving this issue for neighborhoods citywide. Numerous other neighborhoods have contributed to make this case possible. (Barton Oaks Neighborhood, Bouldin Creek Neighborhood, South River City Neighborhood, Zilker Neighborhood, and Austin Neighborhoods Council have all supported this appeal.)

The appellant offers new evidence and information that was not presented at the December hearing, which includes the following:

1. The 1984 ordinance that created the SF Attached category for Nash Phillips Copus duplexes. It speaks volumes to the original intent of the council-passed ordinance.
2. December 2016 Email from Janet Gallagher, former city official who wrote the 2003 opinion.
3. Board requested: Detailed legible drawings of the 6'6" wide by 30" deep trellis for the specific Aldwyche project being used for this appeal.
4. Additional photographs showing the form of attachment PSW is using today to scab an attachment between buildings: as-built pictures of the trellis and in-progress pictures before trellis is added prior to completion.
5. Additional information requested by Board Member McDaniel immediately after the last hearing.
6. Email from Chair of PC Codes and Ordinances Subcommittee, sharing her recollection of their November meeting where Staff recommended this issue go to BOA, adding that very few code amendments would be addressed prior to Code Next. See attached chart of current backlog of proposed code amendments.
7. The board may have erred in that the appellant is NOT asserting that staff did not follow precedent in making their most current determination, based on previous loosely worded code; rather that the BOA should produce a current interpretation that would be the guiding principle to clarify any application of code going forward.

The appellant believes the board erred in their opinion that a Code Amendment would be the appropriate vehicle for instant relief. The board should know that the appellant was following the specific instructions given by then Director Guernsey. Representatives of appellant contacted Director Guernsey in 2011 (after discovering the 2011 "home depot ladder" approval) and were instructed to use the BOA interpretation process for relief. However the appellant needed an approved "PR" (plan review), in

which the appellant had standing, and which was ripe for appeal. This is the first such case meeting all of those criteria.

In November 2015, the appellant proactively contacted DSD upon learning of another possible application that was again using this vague code language. The appellant received assurances from Manager John McDonald in December 2015 that DSD had changed their determination and the trellis would no longer be acceptable. Based on that information, the appellant believed the issued had been resolved and there would be no need to pursue any other forms of relief.

Only after PSW trellis plan was initially rejected per John McDonald's determination, did PSW convince DSD to reverse position once again. Because of this late hour flip flop, only days before the permit was approved, BOA became the only avenue of relief. The appellant was timely in addressing the issue, believed it was resolved, and shocked at the late hour reversal.

Board Member McDaniel was clear, that while he felt that the interpretation by staff was inconsistent with the history and evolution of the duplex ordinance and the original intent of the single family attached ordinance, he expressed that he could not bring himself to accept that "the staff was wrong" in their interpretation. The basis of his decision appears to be in conflict with the reason there is a code interpretation appeal.

The appellant believes there are two ways to "clear this high bar" and show that staff erred and an adjustment needs to be made.

1. The fact that Daniel Word's testimony indicated disagreement among staff on the interpretation of the ordinance supports the appellant's assertion that the Board could make a different interpretation. It's clear that the appellant is on the same page as the original Reviewer on this case.

Mr. Word's testimony also indicated that after the original Reviewer rejected the Plan, the case was then taken to the City's Building Official, who overturned the rejection. It is very unusual for a Plan Reviewer to take such plans to the Building Official. The appellant believes the reversal was not based on good planning principles, but instead appears to be a political decision.

Staff repeatedly mentioning the precedent of several prior approvals seems to clearly indicate the decision was made from politics, not the intent of the code.

As to the "high bar" with regard to this prior testimony, it is clear that the "mistake" was not made by the Review Staff, but rather by Administrators perpetuating the ill-conceived determination. Continuing to support a bad policy decision at the administrative level would be the mistake.

2. To support this decision, Management has relied on the ambiguity of the ordinance wording (what is the "width" and what is the "length"?; what is "structural" and what is "a structural element"?), all of which can only be used to allow the administrative wiggle-room to arrive at this decision. The appellant believes that Ms. Gallagher's unfortunate

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prior determination shows the Administration's desire to minimize the mistakes of the past.

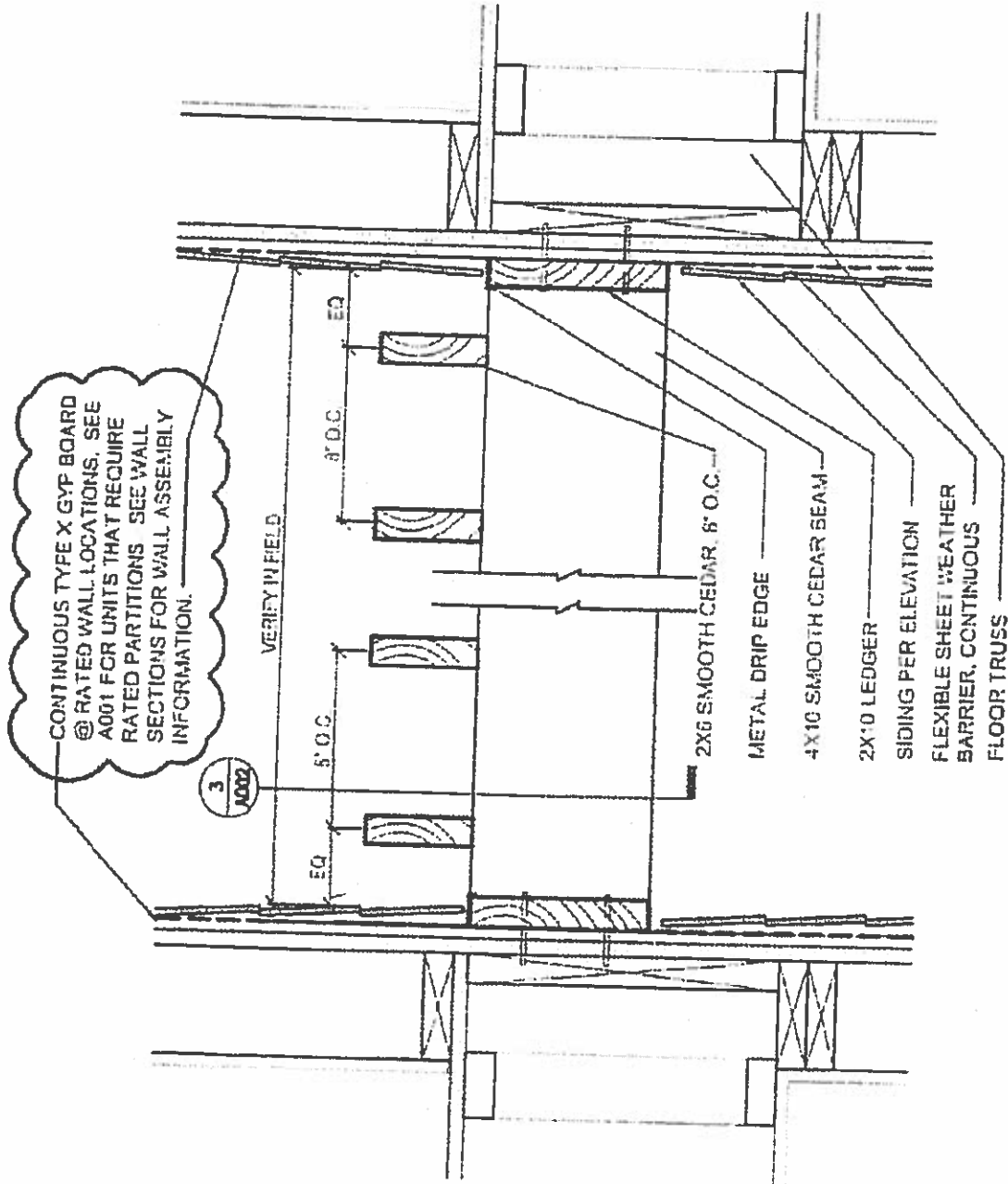
Comparing what has been recently approved to Janet Gallagher's 2003 memo, the appellant sees a morphing of what has been deemed "acceptable" over time. This has happened at the expense of creating more affordable units, which was the intent of the original ordinance.

Clearly, most permits that have been issued do not even pass the 2:1 trellis ratio mandate. Even if you play word games with the width and length, past approved trellis do not even meet the 2:1 ratio; and this specific case at hand (dimensions of 30" x 78") does not pass, regardless of how you define width and length. Yet, it was approved! This plan should have been rejected on this point alone. The Gallagher letter no longer applies since its prescription has not been followed to date, so it should be moot.

The appellant prays you support this appeal.

Thank you for your reconsideration,

Kim Johnson  
President  
South Lamar Neighborhood Association



### 3 SECTION @ STRUCTURAL ELEMENT

1 1/2" = 1'-0" (3/4" = 1'-0" IF PRINTED ON 11X17)

CF

REVIEWED BY: LARRY VIL



1/8" = 1'-0" (1/16" = 1'-0" IF PERmitted 11x17)

5/9

## ORDINANCE NO. 870219-R

AN ORDINANCE AMENDING CHAPTER 13-3 (SUBDIVISION) OF THE AUSTIN CITY CODE OF 1981 TO PROVIDE FOR THE SUBDIVISION OR RESUBDIVISION OF DUPLEX LOTS; SPECIFYING CONDITIONS AND REQUIREMENTS FOR SUCH SUBDIVISION; SUSPENDING THE RULE REQUIRING THE READING OF ORDINANCES ON THREE SEPARATE DAYS; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. That Chapter 13-3 of the Austin City Code of 1981 be, and is hereby, amended by adding thereto a new Section 13-3-108, which shall hereafter read as follows:

**SECTION 13-3-108 SINGLE-FAMILY ATTACHED RESIDENTIAL SUBDIVISION**

- (a) Single-family attached residential lots may be created only in multiples of two lots per site, where each lot is to be served by public water and public sewerage systems, subject to the provisions of this chapter and the additional regulations contained in this section. Single-family attached residential lots and uses are not permitted on properties subject to valid deed restrictions which limit usage to single-family detached dwellings or limit minimum lot size to a level larger than that permitted in this Section.
- (b) Subdivisions pursuant to this Section may be submitted only for previously unsubdivided land or for duplex lots which are either vacant or developed with a duplex as of the date of this ordinance amendment.
- (c) Resubdivision of an existing duplex lot, or lots, not resulting in an overall increase in density or impervious cover shall not impose any additional requirements or regulations other than those applicable to the original plat except as set forth in this Section.
- (d) Each lot shall be subject to, and benefited by, private easements for the location and maintenance of utility lines necessary to service any structure located on a lot.
- (e) Lots in a single-family attached residential subdivision are subject to the following regulations:

<u>FEATURE</u>	<u>REGULATION</u>
Site Area	Minimum site area, 7,000 square feet
Lot Area	Minimum lot area, 3000 square feet

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<u>FEATURE</u>	<u>REGULATION</u>
Lot Width	Minimum lot width, 25 feet for a distance of 25 feet behind the front property line except on culs-de-sac or curved streets minimum width shall be 20 feet.
Residential Density	Not more than one dwelling unit per lot; each site shall be developed with two attached units.
Height	Maximum height, 35 feet
Front Yard	Minimum required setback, 25 feet
Street Side Yard	Minimum required setback, 15 feet
Interior Side Yard (Site)	Minimum required setback, 5 feet
Common Lot Line	No Side Yard setback required
Rear Yard	Minimum required setback, 10 feet
Building Coverage	Maximum coverage, 40 percent of the total site area
Impervious Coverage	Maximum coverage, 45 percent of the total site area
Parking	A minimum of 2 off-street parking spaces is required for each unit. The driveway may be included in the counting of the required minimum as one of the two spaces required for each unit.

(f) Restrictive Covenant

No plat of a single-family attached residential subdivision located in the extraterritorial jurisdiction of the City of Austin may be recorded unless a restrictive covenant prepared by a licensed attorney, is simultaneously recorded in the Deed Records of the County in which the attached single-family residential unit subdivision is situated. Such instrument shall be approved by the City prior to recording and the recording information shall be clearly referenced on the face of the plat. Such instrument shall contain statements that:

- (1) Development of the lots is restricted to one single-family attached residential unit per lot and is further restricted in accordance with the regulations contained in this section.

G/2

- (2) Attached dwelling units shall be constructed in accordance with City Building Code requirements.
- (3) The covenant must make adequate provision for the maintenance of any common facilities or areas.

(g) Party Wall Agreement

The owner or owners of single-family attached residential lots shall execute and deliver a Party Wall Agreement for recording with the required subdivision plat substantially in the form of Exhibit A attached hereto.

PART 2. That Section 13-3-2 be, and hereby is, amended to add the following definition:

Duplex Residential: The use of a single legal lot or tract having a minimum area of 7,000 square feet for two dwelling units, within a single building, other than a mobile home.

PART 3. That the requirement imposed by Section 2-2-3 of the Austin City Code of 1981, as amended, that this ordinance be read on three separate days shall be, and hereby is, waived by the affirmative vote of five (5) members of the City Council to pass this ordinance through more than one reading on a single vote.

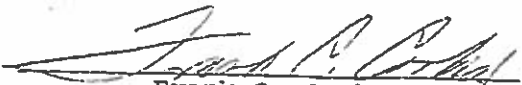
PART 4. This ordinance shall become effective ten (10) days following the date of its passage.

PASSED AND APPROVED

February 19

1987

§  
§  
§  
§

  
Frank C. Cooksey  
Mayor

APPROVED:

  
Barney L. Knight  
City Attorney

ATTEST:

  
James E. Aldridge  
City Clerk

19FEB87  
(D-1.a)  
AFM:la  
duplesub.ord.



6/9

6 or more bedrooms  
per lot

provided. Not more than 2  
spaces may be located in the  
front yard.

1 space per bedroom. Driveway  
and garage/carport area may be  
included in satisfying this  
requirement, provided, however,  
that not more than one space may  
be located behind another space  
per lot in the driveway. Not  
more than four spaces may be  
located in the front yard.

Fences

No fencing shall be permitted  
along the common lot line  
between attached single-family  
residential units for a distance  
of 25 ft. from the front  
property line.

**PART 4.** A new Section 13-2A-1557 is added to the Austin City  
Code of 1981, as amended, to read as follows:

1557

#### SINGLE-FAMILY ATTACHED RESIDENTIAL

The use of a site for two dwelling units constructed  
with common or abutting walls, or are connected by a  
carport, garage, or other structural element, and where  
each is located on a separate lot. Any existing duplex  
which applies for subdivision must first conform to all  
current duplex requirements, including parking  
requirements.

**PART 5.** The final sentence of Section 13-2A-1246 of the Austin  
City Code of 1981 is amended to read as follows:

When a lot is used together with one or more contiguous lots  
for a single use or unified development, all of the lots so  
used, including any lots used for off-street parking, shall  
be considered a single lot for purposes of these Zoning  
Regulations, unless the lots are used for duplex residential  
use.

**PART 6.** Section 13-2A-1360 of the Austin City Code of 1981 is  
amended to read as follows:

1560

#### DUPLEX RESIDENTIAL

The use of a single legal lot or tract for two dwelling  
units, within a single building, other than a mobile  
home.

G1  
10Bryan King

From: "j.gallagher" <[REDACTED]>  
To: <[REDACTED]>  
Cc: "Janet Gallagher" <[REDACTED]>; <william@brkan[REDACTED]>  
Sent: Friday, December 16, 2016 5:14 PM  
Re: Single family attached grape arbor  
[REDACTED]

I have read the back up material provided to me in regards to an my interpretation of the Land Development Code (LDC) version used in 2002. Attached single family.

I could make suppositions regarding why this interpretation was made and the exterior/interior forces at play but the memo was written approximately fourteen years ago, my memory of this project is vague.

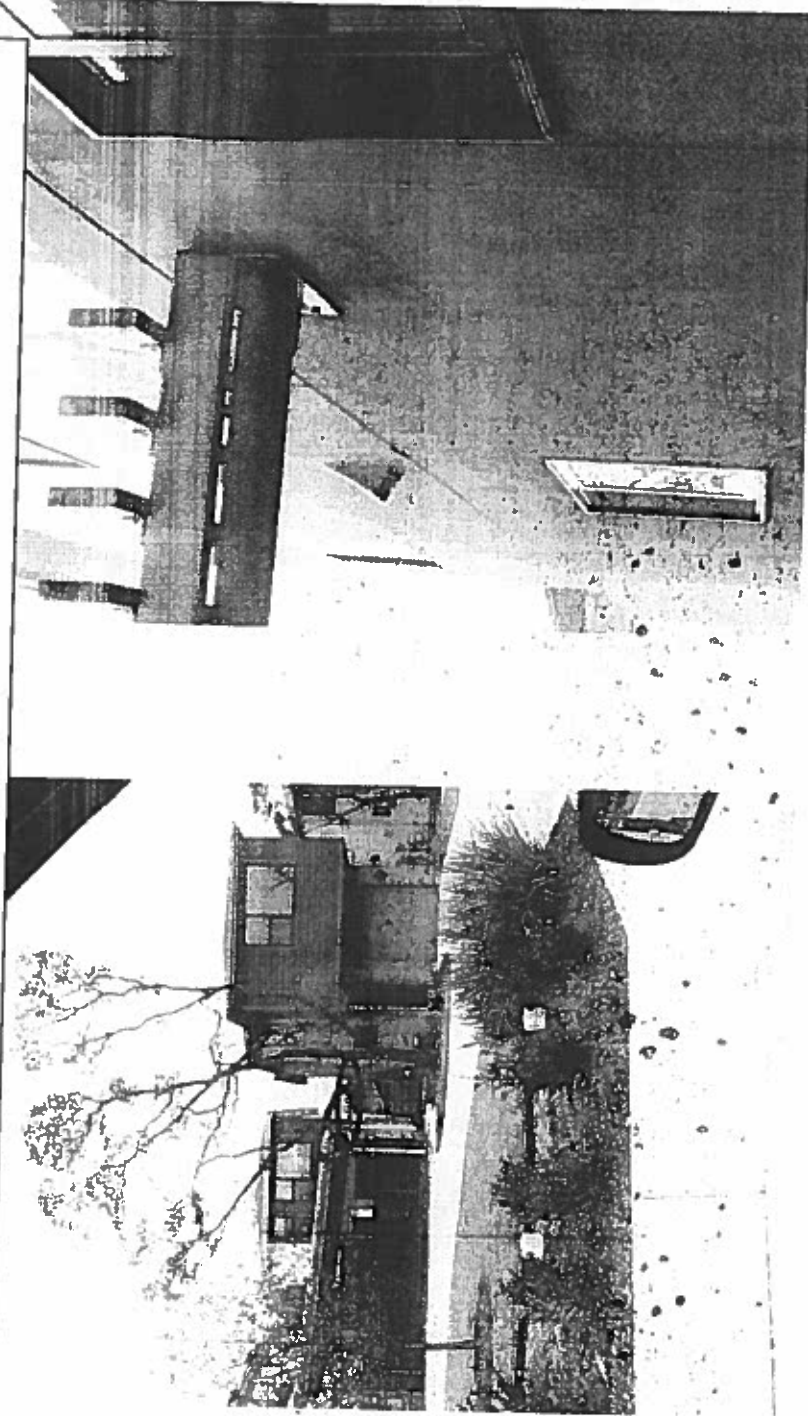
The LDC has changed significantly over the years and all interpretations of code sections should be reviewed periodically. Perhaps it is time for the interpretation to be updated to reflect the current building/zoning standards being used in Austin Texas.

Regards,

Janet Gallagher

12/19/2016

PSW Current connection via "other structural element": (visuals of the proposed attachment)  
These pictures were taken December 14<sup>th</sup>, 2016 at PSW project. Note: no siding would be  
required to remove this minimal feature.



Adjacent Sidewalls prior to scabbing on the "other structural element".  
Tyvek is already covering access to structural components of house.  
(street and alley views)

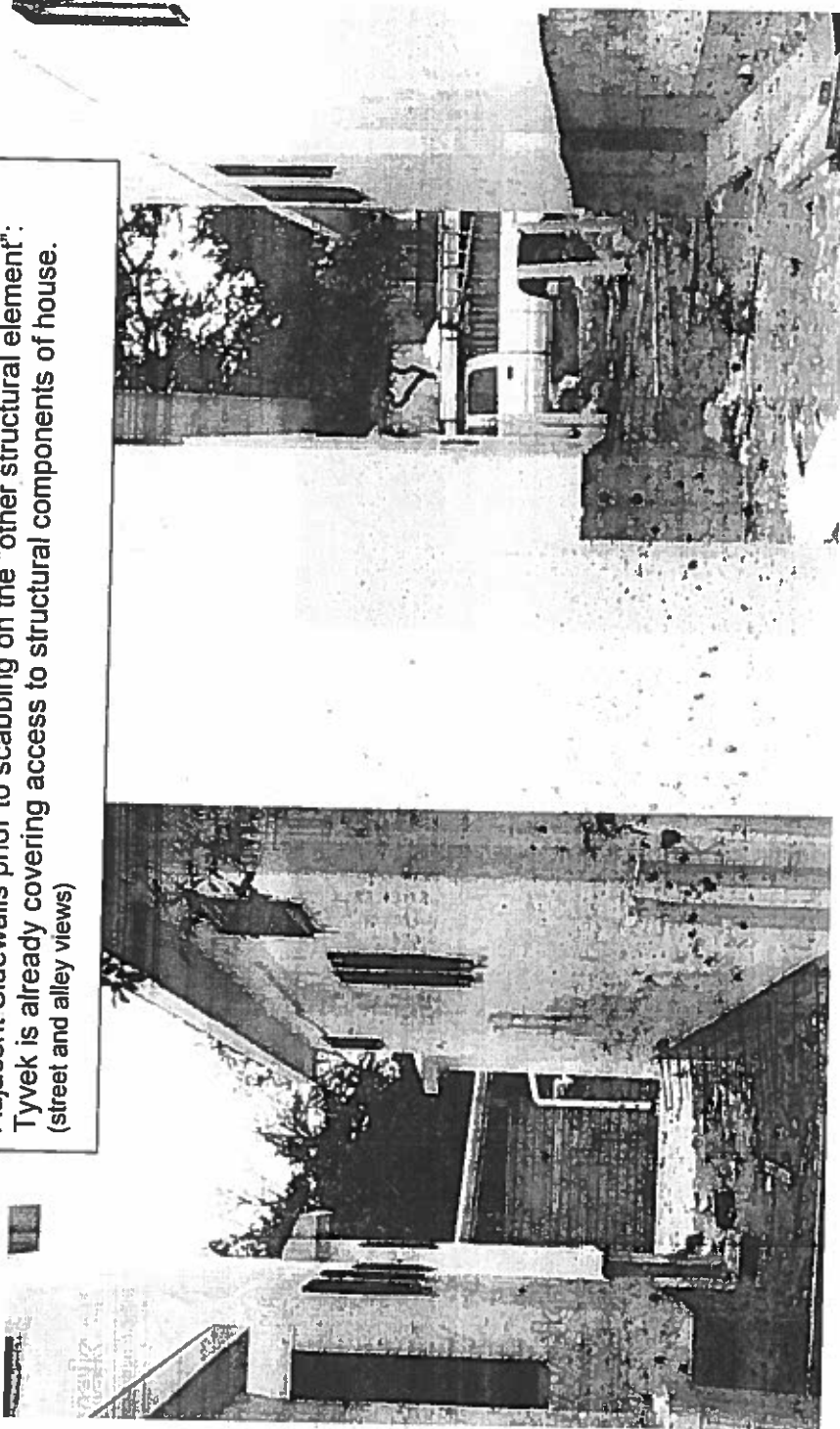
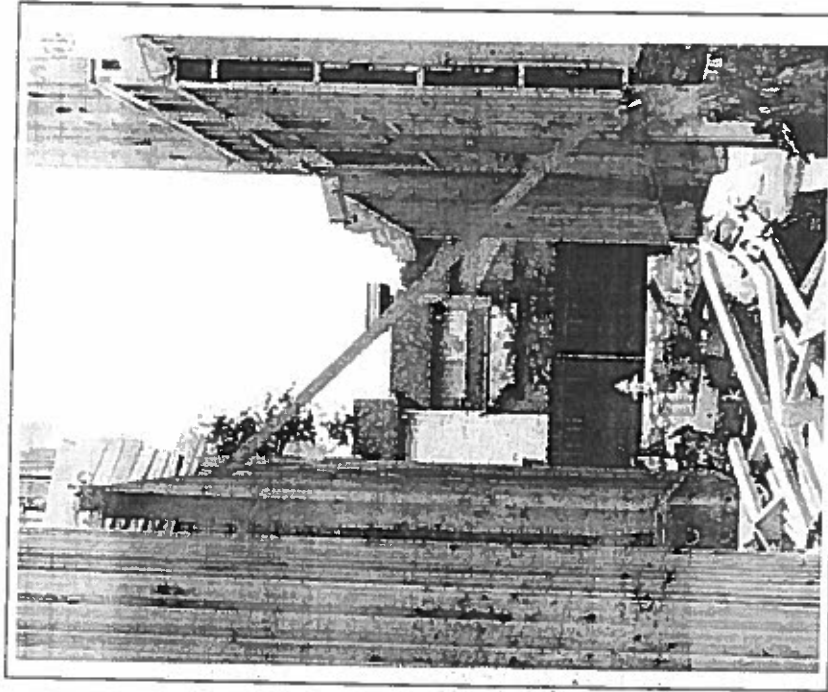


Fig 12

Could this temporary brace, shown below, be a better "other structural element"?  
It actually is supporting something and it is tied into the framing, for now.



12/14

From: Zaragoza, Nuria - BC  
Sent: Wednesday, December 21, 2016 10:48 AM  
To: Burkhardt, William - BC; Heldenfels, Leane  
Cc: Dutton, Greg; Oliver, Stephen - BC  
Subject: Interpretation case

Dear Chair Burkhardt,

I received a request, as Chair of the Codes and Ordinances subcommittee of the Planning Commission, to report on our discussion of the Single Family Detached item on the agenda at our last meeting.

Due to the time constraints, and the fact that the minutes are not out yet, I will provide my recollection of the discussion. These are my thoughts only, and have not been approved by either the subcommittee or the full commission.

Commissioner McGraw requested at a full Planning Commission meeting that Single Family attached be put on the Codes and Ordinances. I seconded the request.

At Codes and Ordinances staff reported that the interpretation of the language was to come up before you at the BOA. As we felt that was the appropriate path, we did not take any action on the item. Further, we are operating under the understanding that staff is trying to focus its energy and efforts on the new code, and trying to avoid additional changes to the current code when possible.

This communication is not intended to weigh in on the merits of the interpretation, simply to convey the discussion I recall on this code provision at the Codes and Ordinances Subcommittee.

I am including the staff liaison of Codes and Ordinances, and the PC Chair, in case there is additional information for you to consider.

Sincerely,

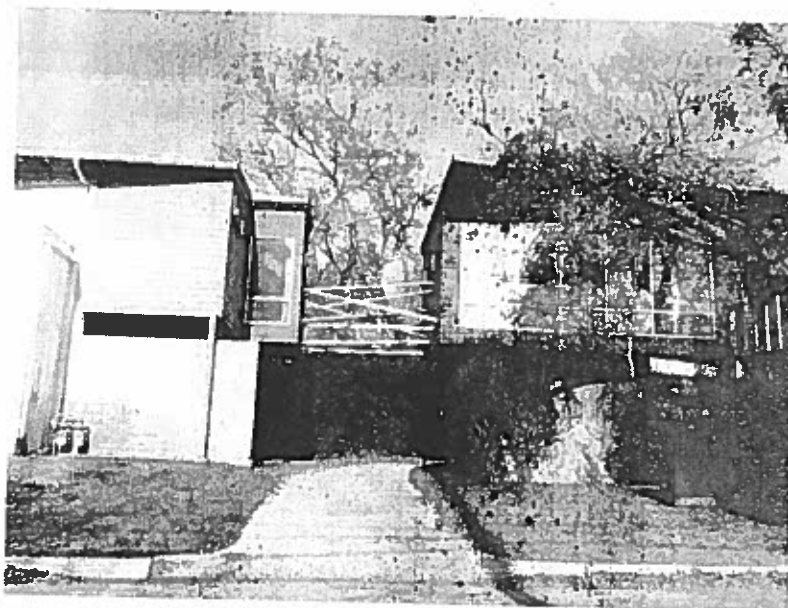
Nuria Zaragoza  
512-791-9674

Sent from my iPhone

Nuria Zaragoza  
Boards and Commissions

61  
15

Acceptable connection between buildings?  
Seriously?  
Approved at 47<sup>th</sup> & Duval



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**Code Amendment Cases Currently In-Process (to date)**

**(See also <http://www.austintexas.gov/page/land-development-code-amendments>)**

	CASE NUMBER	Name	Description	PC hearing date	Recommended by full PC to go to CC?	Council hearing date	Council action
1	C20-2015-008	Traffic Mitigation	Gives staff additional discretion in requiring traffic improvements	5/24/16	No recommendation	12/15/16	TBD
2	C20-2016-012	Historic Civic	Requires HLC review for 50+ year old civic use structures	12/13/16	TBD	12/15/16	TBD
3	C20-2014-030	Central Health	Creates specific use and development standards for the Central Health area	2016	TBD	TBD	TBD
4	C20-2016-004	Zilker Park SOS	Site-specific amendments to SOS to allow for construction of restroom and accessories in Zilker	2017	TBD	TBD	TBD
5	C20-2013-033	Metered Parking	Allows meters to be counted toward commercial use parking requirements	8/26/14	Denied 8-0	TBD	TBD
6	C20-2015-011	Sidewalk FIL Criteria	Re-evaluates existing sidewalk FIL criteria to see if room for additional staff discretion	2017	TBD	TBD	TBD
7	C20-2014-015	Agricultural Development	Clarifies which activities are allowed as a part of agricultural use	2017	TBD	TBD	TBD
8	C20-2016-016	Out of Cycle Neighborhood Plan Amendments	Council-initiated NPAs will require property owner to pay application fees	2017	TBD	TBD	TBD
9	C20-2016-009	Watershed Protection Ordinance Cleanup	Clarifications and corrections to the 2013 WPO	2017	TBD	TBD	TBD



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	CASE NUMBER	Name	Description	PC hearing date	Recommended by full PC to go to CC?	Council hearing date	Council action
10	C20-2014-25	Universal Recycling Ordinance	Suite of requirements for on-site recycling facilities	2017	TBD	TBD	TBD
11	C20-2016-007	Parkland Dedication Density Offset	Offsets affordability impacts of dedicating parkland on site, which may include site area calculation credits for the remaining developable site	2017	TBD	TBD	TBD
12	C20-2016-008	Barton Springs Zone Redevelopment Exception	Encourages redevelopment while providing environmental benefits in the Barton Springs Zone	2017	TBD	TBD	TBD
13	C20-2016-010	Findings of Fact	Simplification of the findings required for environmental variances granted at land use commission	2017	TBD	TBD	TBD
14	C20-2015-009	Complete Streets	Creates regulations to implement Council resolution on complete streets	2017	TBD	TBD	TBD
15	C20-2014-017	Outdoor Personal Improvement Services	Changes regulations for personal improvement services with outdoor component	TBD	TBD	TBD	TBD
16	C20-2016-003	Accessory Dwelling Unit Code Cleanup	Clarifies that an accessory dwelling unit is different from an accessory use	TBD	TBD	2016	TBD
17	C20-2016-013	MF Affordability	Changed development regulations for other MF zoning districts in return for affordable housing	TBD	TBD	TBD	TBD
18	C20-2016-017	Mobile Home Amenities	Requires amenities for mobile home parks	TBD	TBD	TBD	TBD

December 27, 2016

Leane Heldenfels, Staff Liaison to the Board of Adjustment  
City of Austin Development Review Department  
505 Barton Springs Road  
Austin, TX 78704

Re: Permit C15-2016-0115 (the "Permit")

Dear Ms. Heldenfels,

Drenner Group represents, and I am writing to you on behalf of, Lightsey Two, LP ("Permit Holder"), the owner of the property located at 3206 and 3208 Aldwyche Drive, Austin, Texas ("Property"). As you know, the Property and the Permit were the subject of appeal C15-2016-0115 (the "Appeal"), a permit/project-specific appeal seeking to overturn City staff's interpretation as to whether the trellis approved by City Staff in the Permit constitutes an attachment in Single Family Attached Residential Use in the City of Austin Land Development Code.

As you also know, after three months from the initial hearing date, on December 12, 2016, at a regular meeting of the Board of Adjustment with all members of the Board being present (with Bryan King recusing himself due to a conflict), the Board of Adjustment voted to deny the appeal and uphold City Staff's determination that the trellis in the Permit complies with current City Code.

We received notice that Kim Johnson, acting on behalf of the South Lamar Neighborhood Association, filed a request for reconsideration of the Board's decision on December 21, 2016 (the "Request" or the "Request for Reconsideration"). Pursuant to the Board of Adjustment Rules of Procedure, a request for reconsideration must (i) state how the Board erred in its determination; (ii) state why the action should be considered; and (iii) be supported by new or clarified evidence.

This letter outlines the reasons that the Applicant's request for reconsideration fails to comply with Article V(F)(4)(c)(i), (ii), and (iii).

I. The Request Fails to State Why the Board Erred in its Determination that Staff's Determination that the Trellis Structure in the Permit Complies with Current City of Austin Code.

The Applicant states that the Board erred in "their opinion that Code Amendment would be the appropriate vehicle for instant relief". The Applicant actually admits that Board Member McDaniel (one of the three votes denying the Appeal) stated when he made the motion to deny "that he could not bring himself to accept that 'the staff was wrong in their interpretation'". A disagreement among Staff members

is not tantamount to the Staff member who issued in the Permit making a mistake in how they interpreted Code. Janet Gallagher's 2003 memorandum was included in the Applicant's original back-up materials and was presented to the Board of Adjustment prior to their December 12, 2016 vote. The motion to reconsider fails to show why the Board was incorrect in determining that Applicant failed to prove that City Staff erred in determining that the trellis in the Permit is consistent with the current version of City Code.

II. The Request Fails to State a Reason Why the Motion Should be Reconsidered.

The reasons offered by Applicant in the Request are repetitions of prior information and rationale presented to the Board of Adjustment on two separate occasions (at the Special Called Meeting on November 21, 2016, and at the December 12, 2016, Regular Meeting). The fact that Applicant does not like the result of the Board's decision is not a justification or reason to reconsider.

III. The Request Fails to Provide New and/or Clarifying Evidence.

The Request fails to comply with subsection (iii) of Article V, (F)(4)(c)(iii) in that it is not new or clarifying. In fact, much of it is not relevant, and there is nothing in any of the information referenced or attached to the Request that changes any of the facts presented to the Board of Adjustment in either (i) the 20 minutes of testimony offered by the Applicant during the Special Called Meeting and the December 12, 2016, meeting or (ii) approximately 130 pages of back-up information previously provided by the Applicant to the Board of Adjustment prior to the Board's vote on December 21, 2016.

The evidence provided as support for reconsideration is irrelevant to the outcome of the appeal as denied on December 12, 2016, as follows:

1. The 1987 ordinance (870219-R) that created the Single Family Attached category is presented as clarifying the original intent of the Council-passed ordinance. This is not clarifying because:
  - a. Ordinance 870219-R is not the ordinance that was in effect at the time that the permit was approved and is therefore irrelevant to this case;
  - b. Ordinance 870219-R includes the same definition to 13-2A-1557 as is in current Code Section 25-2-3(B)(11), the applicable definition in both iterations of the Code define Single Family Attached Residential as "the use of a site for two dwelling units constructed with common or abutting walls, or are connected by a carport, garage, or other structural element, and where each is located on a separate lot"
  - c. Ordinance 870219-R was available to the appellant prior to the initial hearings and could have been presented as evidence but was not per the decision of the appellant.
  - d. Ordinance 870219-R was not in effect at the time the 2002 memorandum under which Staff's current interpretation is based was issued.
2. The December 21, 2016 email from former building official Janet Gallagher states only that Ms. Gallagher does not recall the interpretation and "perhaps it is time for the interpretation to be updated to reflect the current building/zoning standards being used in Austin Texas." It is as to what question was asked, by all appearances by Board Member Bryan King, under the subject line "Single family attached grape arbor." In addition to the lack of information that Ms. Gallagher is

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"Single family attached grape arbor." In addition to the lack of information that Ms. Gallagher is able to provide, she references the possibility of an updated interpretation in the context of changing building and zoning standards. These regulations have not changed since well before the time that Ms. Gallagher made her interpretation, as is evidenced by Ordinance 870219-R in which Single Family Attached is defined in the same way in 1987 that it is today. The Subdivision Code (Chapter 13) is irrelevant in Staff's determination, because Staff (as previously state to the Board of Adjustment at the Special Called Meeting) is to consider Chapter 25 when making these interpretation determinations.

3. The detailed drawing requested by the Board at the November 21, 2016 Board Meeting was presented on the dias to the Board at the December 12, 2016 Board Meeting and is therefore not new evidence.
4. The additional photographs "showing the form of attachment PSW is using today to scab an attachment between buildings" are of properties other than the subject-property and are therefore not relevant to this appeal. The attempted use of other projects as evidence in this appeal illustrates that the appellant is not contesting one project, but is attempting to re-write the land development code outside of the proper avenue of a code amendment. Further, all of these properties were in existence on the date of the initial Appeal and all subsequent hearings.
5. It is unclear what additional information Board Member McDaniel requested after the hearing and what evidence is provided in response via this request for reconsideration.
6. The email correspondence between Board Chair Burkhardt and Nuria Zaragoza, Chair of the Planning Commission Codes and Ordinances Subcommittee, does not convey new or clarifying information, only that staff reported to the Codes and Ordinances Subcommittee that this interpretation was scheduled to come to the Board of Adjustment. This point was made at the public hearing before the Board of Adjustment on December 12, 2016. The Board discussed the history of single family attached homes, how they were distinguished from duplexes, and code amendments related to duplexes that had been processed since the 1980s.
7. The request for reconsideration makes several inaccurate statements, including the following:
  - That there is no interpretation under which the approved trellis meets the 'twice as long as it is wide' requirement under the 2002 interpretation from the Building Official. This is untrue as the subject-trellis is designed to be 30 inches wide by 78 inches long, making it more than twice as long as it is wide if length is interpreted as the longer dimension and width as the shorter dimension.
  - That the Board erred in that it only considered precedent. This is untrue in that the Board discussed and based its decision appropriately on facts and statements in the application, testimony and evidence presented at the public hearing, both the former and current City Officials' statements, and the Board's consideration and evaluation of the language in the Code, as per Article IV (C) Basis for Decision in the Board of Adjustment Rules of Procedure.
  - That the Board erred in their opinion that a code amendment would provide instant relief. The Board discussed in detail the differences between changing the interpretation versus

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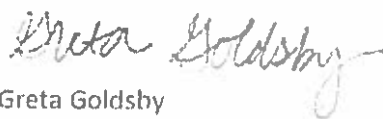
using the code amendment process at the December 12<sup>th</sup> meeting and expediency was specifically discussed.

To conclude, the Board of Adjustment has acted on this matter with full information over the course of several meetings. There is no additional information contained in the request for appeal that should change that outcome. It is clear from the numerous discussions with regard to this appeal that the South Austin Neighborhood Association would like the Code to contain a different definition of Single Family Attached and the appropriate avenue for the goal of changing the Code regarding future projects going forward is through the code amendment process. Through this process a community conversation can be had with proper notification and all affected parties at the table. This is the process that was used to amend the duplex ordinance that has been referenced repeatedly throughout this appeal, among many other code changes over the years. A one-off change of interpretation specific to a single project is not the proper way to make this change.

I appreciate your consideration to the matters contained in this letter.

Should you have any questions or comments, please do not hesitate to call me.

Very truly yours,



Greta Goldsby

CC: Leane Heldenfels, Staff Liaison to the Board of Adjustment

Enclosures



6/22

**MEMORANDUM**

**TO:** Board of Adjustment  
**FROM:** José G. Roig, Division Manager/Deputy Building Official  
**DATE:** December 27, 2016  
**SUBJECT:** C15-2016-0115

An appeal of the building official's administrative decision to approve a building permit at 3206/3208 Aldwyche for the construction of a new single-family attached residential use was filed on September 21, 2016. The appeal was denied by the Board on December 12, 2016 and it has been sent to the Board for reconsideration.

The subject of the appeal has to do with the Single-family attached residential use is defined in 25-2-3(B)(11) of the Land Development Code (LDC) and is a permitted use in SF-3 districts:

- *SINGLE-FAMILY ATTACHED RESIDENTIAL use is the use of a site for two dwelling units, each located on a separate lot, that are constructed with common or abutting walls or connected by a carport, garage, or other structural element.*

The appeal is challenging the Development Services Department interpretation of 25-2-3 (B)(11) on the grounds that a "trellis" or "grape arbor" does not constitute a structural element.

This memo is to clarify the points raised in the appeal and the discussion that was developed at the Board meetings on November 21<sup>st</sup> and December 12<sup>th</sup>, 2016. It is also an effort to explain staff's interpretation of 25-2-3 (11) based on current and known definitions of "structural element", and past precedent in regards to the application of this section of the code.

During the discussion of this appeal, there was an effort to properly define "structural element" based on the definition of "structure", which is currently defined in the Land Development Code and on the Technical Codes as follows:

- Structure as defined by the LDC:
  - STRUCTURE means a building of any kind, or a piece of work artificially built-up or composed of parts joined together in a definite manner.
- Structure as defined by the International Residential Code, currently adopted by the City of Austin:
  - STRUCTURE. That which is built or constructed.



Based on these definitions, which includes a nationally recognized code, a structure does not have to be load bearing, nor does it has to be an integral part of any other structure to be recognized as a structure. It has been determined that a “trellis” or a “grape arbor” is a structure.

To further support staff’s interpretation and application of this code section, we can also look at what constitutes a “structural element”. This term is not defined by the LDC or any of the currently adopted Technical Codes. When terms are not defined, staff refers to ordinarily accepted meanings as they are defined in the dictionary or other technical text. Section R201.4 of the currently adopted residential code says, “Where terms are not defined through the methods authorized by this section, such terms shall have ordinarily accepted meanings such as the context implies.”

The term “structural element” is recognized and defined in the construction industry by both engineering and architectural textbooks and dictionaries:

- Structural Element as defined by a “Structural Analysis” textbook by R. C. Hibbeler, which is a well-known textbook in the industry:
  - **Structural Elements.** Some of the more common elements from which structures are composed are as follows. (Then the text goes into single elements, such as Beams, Tie Rods, Columns, etc.)
- Structural Element and Structure as defined by the Dictionary of Architecture and Construction, by Cyril M. Harris, which is available to staff and currently used in the department:
  - **Structural Element** – one of the supporting components of which a building is composed; for example, a beam, column, floor, or wall.
  - **Structure** – 1. A combination of units constructed and so interconnected, in an organized way, as to provide rigidity between its elements. 2. Any edifice.
- AISC 360, a steel design manual, does not specifically define “structural element”, but it defines “structural component” as follows:
  - **Structural Component.** Member, connector, connecting element or assemblage.

Staff’s interpretation was mostly done based on the fact that the term “structural element” is inherently vague and undefined in the LDC but as we can see by the definitions above, a structural element could be just a simple beam connecting the structures. Staff also based their decision on a long-standing interpretation issued in 2002 by Janet L. Gallagher during her duties as Deputy Building Official. As the current Deputy Building Official, it is my duty to clarify a 14 year old interpretation and to find why the interpretation specifically allows for an arbor to be used as the connection between the two dwelling units of a single-family attached residential use.

It is my opinion that the staff’s interpretation and application of 25-2-3 (B)(11) is correct and a “trellis” or a “grape arbor” meets the definition of structural element and it is allowed to be the connection between the two single family units. It is also important that for fire safety and separation



GE  
24

requirements, that none of the units be structurally dependent on this structural element. On the letter from 2002, it is also stated that "the arbor must be constructed twice as long as it is wide", but I was not able to find this requirement in the code and it is unclear if the width refers to the distance between the single family units or the width of the arbor itself. Since this requirement is not in the code, it is not applicable to the structure.



**Heldenfels, Leane**

C15-2016-0115

**From:** Zaragoza, Nuria - BC  
**Sent:** Wednesday, December 21, 2016 10:48 AM  
**To:** Burkhardt, William - BC; Heldenfels, Leane  
**Cc:** Dutton, Greg; Oliver, Stephen - BC  
**Subject:** Interpretation case

61  
25

Dear Chair Burkhardt,

I received a request, as Chair of the Codes and Ordinances subcommittee of the Planning Commission, to report on our discussion of the Single Family Detached item on the agenda at our last meeting.

Due to the time constraints, and the fact that the minutes are not out yet, I will provide my recollection of the discussion. These are my thoughts only, and have not been approved by either the subcommittee of the full commission.

Commissioner McGraw requested at a full Planning Commission meeting that Single Family attached be put on the Codes and Ordinances. I seconded the request.

At Codes and Ordinances staff reported that the interpretation of the language was to come up before you at the BOA. As we felt that was the appropriate path, we did not take any action on the item. Further, we are operating under the understanding that staff is trying to focus its energy and efforts on the new code, and trying to avoid additional changes to the current code when possible.

This communication is not intended to weigh in on the merits of the interpretation, simply to convey the discussion I recall on this code provision at the Codes and Ordinances Subcommittee.

I am including the staff liaison of Codes and Ordinances, and the PC Chair, in case there is additional information for you to consider.

Sincerely,

Nuria Zaragoza  
512-791-9674

Sent from my iPhone

Nuria Zaragoza  
Boards and Commissions

---

**IMPORTANT NOTICE:** The City of Austin provides e-mail addresses for members of its boards and commissions for their use as board members. This address should not be used for private or personal messages. The views expressed in e-mail messages reflect the views of the authors alone, and do not necessarily reflect the views of any board or commission of which the author may be a member. In particular, the views expressed here do not necessarily reflect those of the City of Austin, or any of its departments, employees or officials. E-mail messages may be subject to required public disclosure under the Texas Public Information Act.

**Heldenfels, Leane**

C15-2016-0115

**From:** Burkhardt, William - BC  
**Sent:** Tuesday, December 20, 2016 9:57 AM  
**To:** Heldenfels, Leane  
**Subject:** RE: Single family attached grape arbor

5/26

Hi Leane; naturally I prefer the NA include it – I presume they will, but since I was cc'd the entire Board needs to have it by some means.

Thanks!

William

---

**From:** Heldenfels, Leane  
**Sent:** Tuesday, December 20, 2016 9:54 AM  
**To:** Burkhardt, William - BC <bc-William.Burkhardt@austintexas.gov>  
**Subject:** RE: Single family attached grape arbor

Hi William – thanks for forwarding. The South Lamar NA is planning to ask for a reconsideration for the 1/9 hearing. Would you like me to put this email in the 1/9 packet or wait and let the NA do so?

Thanks,

Leane

---

**From:** Burkhardt, William - BC  
**Sent:** Saturday, December 17, 2016 11:58 AM  
**To:** Heldenfels, Leane  
**Subject:** FW: Single family attached grape arbor

Leane,

This was an email between Brian and Janet Gallagher only, but Janet has copied me on her reply to Brian - please get with me with any questions.

Thanks,

William

---

**From:** j gallagher [REDACTED]  
**Sent:** Friday, December 16, 2016 5:14 PM  
**To:** [REDACTED]  
**Cc:** Janet Gallagher [REDACTED]; [REDACTED]  
**Subject:** Re: Single family attached grape arbor

Brian,

I have read the back up material provided to me in regards to an my interpretation of the Land Development Code (LDC) version used in 2002. Attached single family.

I could make suppositions regarding why this interpretation was made and the exterior/interior forces at play but the memo was written approximately fourteen years ago, my memory of this project is vague.

5/27

The LDC has changed significantly over the years and all interpretations of code sections should be reviewed periodically. Perhaps it is time for the interpretation to be updated to reflect the current building/zoning standards being used in Austin Texas.

Regards,

Janet Gallagher

---


**From:** "[REDACTED]" <[REDACTED]>  
**To:** "[REDACTED]" <[REDACTED]> "[REDACTED]" <[REDACTED]>  
**Sent:** Wednesday, December 14, 2016 12:53 PM  
**Subject:** Single family attached grape arbor

Hello Janet,

Thank you so much for visiting with me today.  
Here are the links to the BOA backup we talked about:

<http://www.austintexas.gov/edims/document.cfm?id=267653>

015-2016-015



**PSW HOMES LLC**  
 2003 South First Street  
 Austin, TX 78704  
 P: 512.593.8175  
 F: 512.593.8175

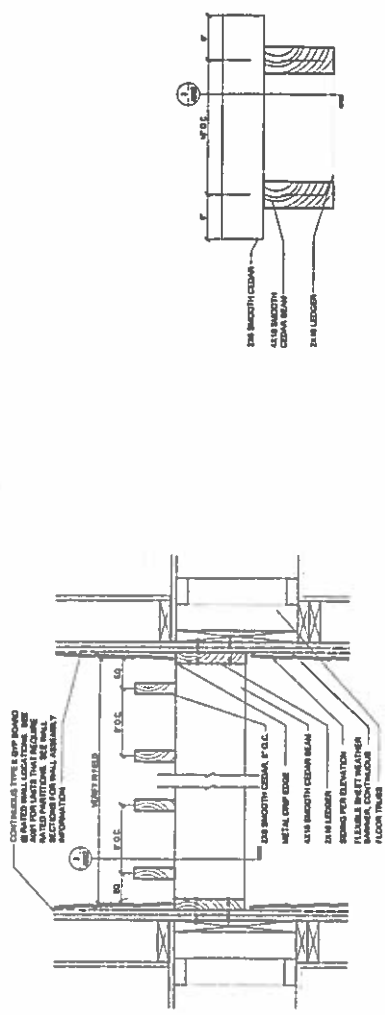
Please read all notes and signs at all times of any project. The information provided on this drawing is for informational purposes only and is not intended to be used for any other purpose. The information provided on this drawing is for informational purposes only and is not intended to be used for any other purpose.

**ARCHITECTURAL SITE PLAN NOTES**  
 1. All construction shall conform to the City of Austin's Comprehensive Zoning Ordinance, Chapter 21C, and the City of Austin's Comprehensive Zoning Ordinance, Chapter 21C, and the City of Austin's Comprehensive Zoning Ordinance, Chapter 21C.

**CONTRACTOR START DATE** 08.10.2016  
**CONTRACTOR END DATE** 08.10.2016  
**PROJECT NAME** LIGHTSEY RIDGE  
**PROJECT ADDRESS** 18001 Lightsey Rd, Austin, TX 78704  
**PROJECT NUMBER** 1305  
**PROJECT NAME** LIGHTSEY RIDGE  
**PROJECT ADDRESS** 18001 Lightsey Rd, Austin, TX 78704  
**PROJECT NUMBER** 1305  
**PROJECT NAME** LIGHTSEY RIDGE  
**PROJECT ADDRESS** 18001 Lightsey Rd, Austin, TX 78704  
**PROJECT NUMBER** 1305

**ISSUE FOR CONSTRUCTION "START PACKAGE"**

2/21/16

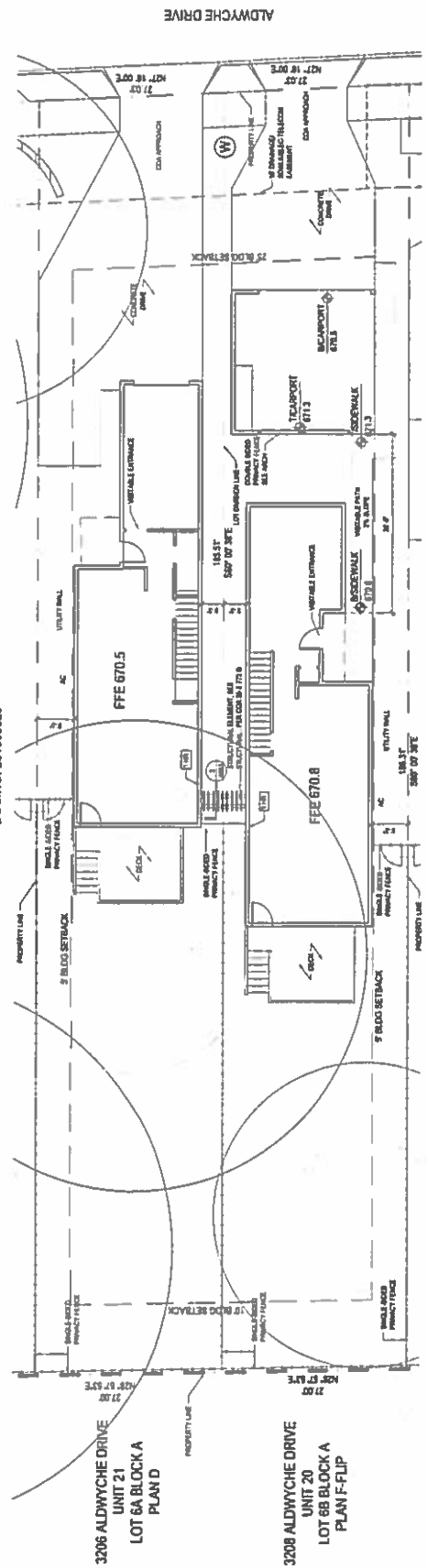


3 SECTION @ STRUCTURAL ELEMENT  
1/16" = 1' 0" (See Note 1 of 1)

2 SECTION @ STRUCTURAL ELEMENT  
1/16" = 1' 0" (See Note 1 of 1)

**LOT 8 BLOCK A CALCULATIONS**  
 1,324 SF DRIVEWAY  
 4,318 SF TOTAL IMPERVIOUS  
 10,017 SF TOTAL LOT AREA

LIGHTSEY TWO'S SECOND  
 RESUBDIVISION OF LOT 20  
 THEODORE LOW HEIGHTS  
 DOC. NO. 201600020



1 HOMESTEAD PLAN - LOT 8 BLOCK A  
1/8" = 1' 0" (See Note 1 of 1)

29



N



SUBJECT TRACT



ZONING BOUNDARY

# PUBLIC NOTIFICATIONS

CASE#: 015-2016-0115

1" = 166.67'

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.



G/30

**CITY OF AUSTIN**  
**Board of Adjustment/Interpretation**  
**Decision Sheet**

**DATE: December 12, 2016**

**CASE NUMBER: C15-2016-0115**

☐ N ☐ Brooke Bailey  
☐ N ☐ Michael Benaglio  
☐ N ☐ William Burkhardt  
☒ Y ☐ Eric Goff **2<sup>nd</sup> the Motion**  
☐ N ☐ Melissa Hawthorne  
☐ - ☐ Bryan King (Abstained)  
☐ N ☐ Don Leighton-Burwell  
☒ Y ☐ Rahm McDaniel **Motion to Deny**  
☒ Y ☐ Melissa Neslund  
☐ N ☐ James Valadez  
☐ N ☐ Michael Von Ohlen  
☐ N ☐ Kelly Blume (Alternate)

**APPLICANT: Kim Johnson, South Lamar Neighborhood Assoc.**

**OWNER: PSW, William Doerr**

**ADDRESS: 3206 and 3208 ALDWYCHE DR**

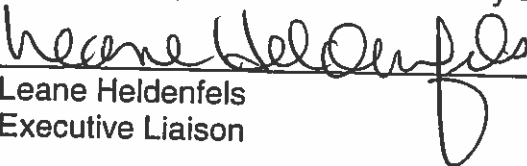
**INTERPRETATION APPEAL REQUESTED:** The appellant has requested that the Board of Adjustment determine whether staff erred in its issuance of a building permit (BP- 2016-107075) for 3206 and 3208 Aldwyche Dr. to construct two new single family attached dwelling units with an arbor structure connecting the dwelling units in an "SF-3", Family Residence zoning district because the connecting structure proposed (arbor) does not meet Section 25-2-3 (B) 11 of the Land Development Code which requires connection of two single family attached dwelling units by either a common or abutting wall or by a carport, garage, or other structural element.

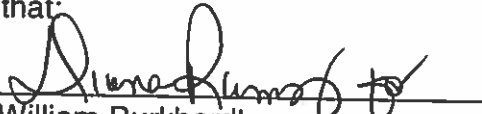
**BOARD'S DECISION:** October 10, 2016 Board Member Michael Von Ohlen motion to Postpone to November 14, 2016, Board Member Bryan King second on a 9-1 vote (Board member Eric Goff nay): **POSTPONED TO NOVEMBER 14, 2016;** Nov 14, 2016 Board Member Melissa Hawthorne motion to postpone to a Special Called Meeting November 21, 2016 at 5:30 pm at Council Chambers, 301 West 2<sup>nd</sup> Street, Board Member Brooke Bailey second on a 9-0-1 vote (Board member Bryan King Abstained): **POSTPONED TO A SPECIAL CALLED MEETING NOVEMBER 21, 2016 AT 5:30 PM AT COUNCIL CHAMBERS, 301 WEST 2<sup>ND</sup> STREET BY APPLICANT DUE TO FULL BOARD NOT PRESENT;** Nov 21, 2016 Public hearing was closed on Board Member Don Leighton-Burwell motion to Postponed to Dec 12, 2016; Board Member Brooke Bailey second on a 10-1-1 vote (Board members Bryan King Abstained, Eric Goff nay): **POSTPONED TO DECEMBER 12, 2016.** Dec 12, 2016 The discussion was closed on Board Member Rahm McDaniel motion to Deny Interpretation appeal request, Board Member Eric Goff second on a 3-8 vote (Voting aye were: Board members Goff, McDaniel, Neslund. Voting nay were: Bailey, Benaglio, Burkhardt, Hawthorne, Leighton-Burwell, Valadez, Von Ohlen, Blume. Board member King abstained); **DENIED INTERPRETATION APPEAL REQUEST.**

6/3/1

**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

  
William Burkhardt  
Chairman

G1  
32

**CITY OF AUSTIN**  
**Board of Adjustment/Interpretation**  
**Decision Sheet**

**DATE: November 21, 2016**

**CASE NUMBER: C15-2016-0115**

☒ Y ☐ Brooke Bailey 2<sup>nd</sup> the Motion  
☒ Y ☐ Michael Benaglio  
☒ Y ☐ William Burkhardt  
☐ N ☐ Eric Goff  
☒ Y ☐ Melissa Hawthorne  
☐ - ☐ Bryan King (Abstained)  
☒ Y ☐ Don Leighton-Burwell Motion to PP 12/12  
☒ Y ☐ Rahm McDaniel  
☒ Y ☐ Melissa Neslund  
☒ Y ☐ James Valadez  
☒ Y ☐ Michael Von Ohlen  
☒ Y ☐ Kelly Blume (Alternate)

**APPLICANT: Kim Johnson, South Lamar Neighborhood Assoc.**

**OWNER: PSW, William Doerr**

**ADDRESS: 3206 and 3208 ALDWYCHE DR**

**INTERPRETATION APPEAL REQUESTED:** The appellant has requested that the Board of Adjustment determine whether staff erred in its issuance of a building permit (BP- 2016-107075) for 3206 and 3208 Aldwyche Dr. to construct two new single family attached dwelling units with an arbor structure connecting the dwelling units in an "SF-3", Family Residence zoning district because the connecting structure proposed (arbor) does not meet Section 25-2-3 (B) 11 of the Land Development Code which requires connection of two single family attached dwelling units by either a common or abutting wall or by a carport, garage, or other structural element.

**BOARD'S DECISION:** October 10, 2016 Board Member Michael Von Ohlen motion to Postpone to November 14, 2016, Board Member Bryan King second on a 9-1 vote (Board member Eric Goff nay): **POSTPONED TO NOVEMBER 14, 2016;** Nov 14, 2016 Board Member Melissa Hawthorne motion to postpone to a Special Called Meeting November 21, 2016 at 5:30 pm at Council Chambers, 301 West 2<sup>nd</sup> Street, Board Member Brooke Bailey second on a 9-0-1 vote (Board member Bryan King Abstained): **POSTPONED TO A SPECIAL CALLED MEETING NOVEMBER 21, 2016 AT 5:30 PM AT COUNCIL CHAMBERS, 301 WEST 2<sup>ND</sup> STREET BY APPLICANT DUE TO FULL BOARD NOT PRESENT;** Nov 21, 2016 Public hearing was closed on Board Member Don Leighton-Burwell motion to Postponed to Dec 12, 2016; Board Member Brooke Bailey second on a 10-1-1 vote (Board members Bryan King Abstained, Eric Goff nay): **POSTPONED TO DECEMBER 12, 2016.**


**FINDING:**

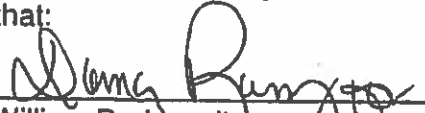
1. There is a reasonable doubt of difference of interpretation as to the specific intent of the regulations or map in that:



G/33

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

  
\_\_\_\_\_  
William Burkhardt  
Chairman

Heldenfels, Leane

Q15-2016-0115

G1  
34

**From:** BRYAN [REDACTED]  
**Sent:** Monday, November 14, 2016 12:44 AM  
**To:** Heldenfels, Leane  
**Subject:** Postponement Request

Leane Heldenfels  
BOA

Postponement request

Dear Leane,

On Thursday I became aware that two regular board members will be unavailable for the 11/14 hearing. Board members Michael Von Ohlen and Rahm McDaniel will not be present.

Kim Johnson, president of SLNA is not expected to attend as he is out of town due to hospice care with his mother. Therefore I will be presenting for SLNA and also off the dais.

Thus the Board of Adjustment will have 3 of the 11 regular members absent.

Since this is an important code interpretation matter, the South Lamar Neighborhood Association believes it would be best for a full board to hear the case.  
The board typically grants a postponement for this cause.

Although this case was postponed at the October meeting due to different members being absent, we would look forward to a full board hearing of the case at the December meeting.

I live next door to the subject property and naturally monitor it on a daily basis. The site work has not paused. This past week crews were working 6 days a week. Work continues on the site on a daily basis. It does not appear that this code interpretation appeal has prevented work on the bulk of the site.

Therefore we respectfully request a postponement until a full board is present to hear the case.

Thank you in advance,

Bryan King

for SLNA

Heldenfels, Leane wrote:

G1  
35

**CITY OF AUSTIN  
Board of Adjustment  
Decision Sheet**

**DATE:** October 10, 2016

**CASE NUMBER:** C15-2016-0115

☒ Y ☐ Brooke Bailey  
☒ Y ☐ Michael Benaglio  
☒ Y ☐ William Burkhardt  
☒ Y ☐ Eric Goff  
☐ O ☐ Melissa Hawthorne OUT  
☐ A ☐ Bryan King ABSTAIN  
☒ Y ☐ Don Leighton-Burwell  
☒ Y ☐ Rahm McDaniel  
☐ O ☐ Melissa Neslund OUT  
☒ Y ☐ James Valadez  
☒ Y ☐ Michael Von Ohlen  
☒ Y ☐ Kelly Blume (Alternate)

**APPLICANT:** Kim Johnson

**OWNER:** South Lamar Neighborhood Assoc.

**ADDRESS:** 3206 ALDWYCHE DR

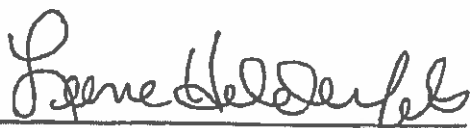
**VARIANCE REQUESTED:** The appellant has requested that the Board of Adjustment determine whether staff erred in its issuance of a building permit (BP- 2016-107075) for 3206 and 3208 Aldwyche Dr. to construct two new single family attached dwelling units with an arbor structure connecting the dwelling units in an "SF-3", Family Residence zoning district because the connecting structure proposed (arbor) does not meet Section 25-2-3 (B) 11 of the Land Development Code which requires connection of two single family attached dwelling units by either a common or abutting wall or by a carport, garage, or other structural element.


**BOARD'S DECISION:** POSTPONED TO NOVEMBER 14, 2016

The public hearing was closed on Board Member Michael Von Ohlen motion to Postpone to November 14, 2016, Board Member Bryan King second on a 9-1 vote (Board member Eric Goff nay); POSTPONED TO NOVEMBER 14, 2016.

**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

  
\_\_\_\_\_  
William Burkhardt  
Chairman

61  
36

C15-2016-0115

51  
37

Heldenfels, Leane

From: Bryan King  
Sent: Thursday, October 06, 2016 3:38 PM  
To: Heldenfels, Leane  
Subject: Postponement request

Leane,

I just realized the two regular board members will be unavailable for the 10/10 hearing. Melissa Hawthorn announced at the September meeting that she would not be attending the October BOA meeting.

Since I will likely be presenting, we will then be two members short. We only have one alternate at present. Thus we would only have a panel of 10 members instead of 11.

Since this is an important code interpretation matter, the South Lamar Neighborhood Association believes it would be best for a full board hear the case.

Since Melissa is very sharp on code matters, it would be helpful to have her present.

In addition, our SLNA president, Kim Johnson had to leave town due to his mother going into the hospital. Therefore we respectfully request a postponement until a full board is present to hear the case.

Thank you in advance,  
Bryan King  
for SLNA

-----  
The information transmitted herein is intended only for the person or entity to which it is addressed, and may contain confidential and/or privileged material. Any review, retransmission, dissemination or other use of, or taking of any action in reliance upon this information by persons or entities other than the intended recipient is prohibited. If you received this in error, please contact the sender by hitting reply and destroy all copies of this document.

----- Original Message -----

From: Heldenfels, Leane  
To: Dani Allen ; kim.johnson.austin@gmail.com ; Bryan King ; GNDC ; Teresa Elliott ; Teresa Elliott ; Susan Brewer ; crunh ; newcastle homes ; Eric deYoung ; bfaust@outlook.com ; Jay Otto ; Aye, Stephen ; Delia Meave ; Ryan, Janae ; Ron Thrower ; Beth Turner ; Jewels Nickells ; astowell@drannergroup.com  
Cc: McDonald, John ; Word, Daniel ; Johnston, Liz ; Wren, Carl  
Sent: Thursday, October 06, 2016 2:48 PM  
Subject: FW: September 28 Board of Adjustment agenda, back up

Greetings 10/10 Board of Adjustment Applicants:

Please see attached meeting agenda and AE report.

If you would like to request to have your case postponed or withdrawn from the Board's agenda please reply to just me, not all, and advise.

Please print out a copy of the agenda for your use at Monday's hearing as we will not have paper copies at the hearing.

The agenda and case back up are also posted online at the Board's website:

61  
38

Heldenfels, Leane

From: Leah Bojo [REDACTED]  
Sent: Thursday, October 06, 2016 5:03 PM  
To: Heldenfels, Leane; Lloyd, Brent  
Cc: 'Matthew Welch'; Casey Giles; Ross Wilson; Greta Goldsby  
Subject: FW: Postponement request for interpretation appeal at 3206, 3208 Aldwyche/c15-2016-0115

Hello Leane,

We object to this postponement request. The code specifies in 25-1-187 that development is not permitted during an appeal and that an approved plan or permit is suspended on the timely filing of an appeal of the plan or permit. Then, 25-1-188 states that a hearing will be scheduled for the first available meeting for which notice can be timely provided. That is the 10/10 meeting and we would like to proceed on that date. The Rules of Procedure state that the reasons for postponement are that additional evidence is needed, alternate solutions need further examination, or evidence presented at the hearing needs further examination

Please let us know if you need more information. Thanks!  
Leah

Leah M. Bojo, Sr Land Use & Policy Manager  
Drenner Group, PC | 200 Lee Barton Drive | Suite 100 | Austin, TX 78704  
512-807-2918 direct | 1-512-665-1570 cell | [REDACTED] | [www.drennergroupp.com](http://www.drennergroupp.com)

From: Casey Giles [REDACTED]  
Sent: Thursday, October 6, 2016 4:09 PM  
To: Ross Wilson <[ross@pswrealestate.com](mailto:ross@pswrealestate.com)>; Matthew Welch <[matthew.welch@pswrealestate.com](mailto:matthew.welch@pswrealestate.com)>; Greta Goldsby <[GGoldsby@drennergroupp.com](mailto:GGoldsby@drennergroupp.com)>; Leah Bojo <[LBojo@drennergroupp.com](mailto:LBojo@drennergroupp.com)>  
Subject: Fwd: Postponement request for Interpretation appeal at 3206, 3208 Aldwyche/c15-2016-0115

----- Forwarded message -----

From: Heldenfels, Leane <[Leane.Heldenfels@austintexas.gov](mailto:Leane.Heldenfels@austintexas.gov)>  
Date: Thu, Oct 6, 2016 at 3:53 PM  
Subject: Postponement request for interpretation appeal at 3206, 3208 Aldwyche/c15-2016-0115  
To: "b [REDACTED]"  
Cc: "McDonald, John" <[John.McDonald@austintexas.gov](mailto:John.McDonald@austintexas.gov)>, "Word, Daniel" <[Daniel.Word@austintexas.gov](mailto:Daniel.Word@austintexas.gov)>, "Lloyd, Brent" <[brent.lloyd@austintexas.gov](mailto:brent.lloyd@austintexas.gov)>

See below request for postponement of the above matter to the 11/14 hearing.

You can reply and advise that you do not object to the request and then don't have to appear Monday: or you can be present at the beginning of the hearing to note your objection to the request (you can also reply to this email and advise why you do/don't object to the request and I can include that info in the Board's late back up packet along with the request below).



## CITY OF AUSTIN

Development Services Department  
One Texas Center | Phone: 512.978.4000  
505 Barton Springs Road, Austin, Texas 78704

### Board of Adjustment Interpretations Application Appeal of an Administrative Decision

This application is a fillable PDF that can be completed electronically. To ensure your information is saved, click here to Save the form to your computer, then open your copy and continue.

The Tab key may be used to navigate to each field; Shift + Tab moves to the previous field. The Enter key activates links, emails, and buttons. Use the Up & Down Arrow keys to scroll through drop-down lists and check boxes, and hit Enter to make a selection.

The application must be complete and accurate prior to submittal. *If more space is required, please complete Section 6 as needed.* All information is required (if applicable).

#### For Office Use Only

Case # C15-2016-0115 ROW # 11605972 Tax # 04040910339

#### Section 1: Applicant Statement

Street Address: 3206 & 3208 Aldwyche Drive

Subdivision Legal Description:

Lightsey 2

Lot(s): Lots 6A & 6B

Block(s) Block A

Outlot:

Division: Lightsey 2 subdivision SF-3

Zoning District: SF-3

I/We Kim Johnson, president on behalf of myself/ourselves as  
authorized agent for South Lamar Neighborhood Association affirm that on  
Month September, Day 20, Year 2016, hereby apply for an interpretation  
hearing before the Board of Adjustment.

61/40

Development Services Department Interpretation is:

see attached

I feel the correct interpretation is:

see attached

## Section 2: Findings

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 supporting documents.

1. There is a reasonable doubt of difference of interpretation as to the specific intent of the regulations or map in that:

see attached

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:

see attached

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

see attached



5/3

### Section 3: 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.

Applicant Signature: [Signature] Date: 09/20/2016

Applicant Name (typed or printed): Kim Johnson for South Lamar Neighborhood Association

Applicant Mailing Address: 2608 Del Curto #2

City: Austin, TX 78704 State: TX Zip: 78704

Phone (will be public information): (512) 657-0675

Email (optional – will be public information): \_\_\_\_\_

### Section 4: Owner Information

Owner Name: \_\_\_\_\_

Owner Mailing Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

### Section 5: Agent Information

Agent Name: \_\_\_\_\_

Agent Mailing Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone (will be public information): \_\_\_\_\_

Email (optional – will be public information): \_\_\_\_\_

### Section 6: Additional Space (if applicable)

Please use the space below to provide additional information as needed. To ensure the information is referenced to the proper item, include the Section and Field names as well (continued on next page).

\_\_\_\_\_  
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\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

5/42

### *Section 1: Applicant Statement*

*Development Services Department interpretation is:*

Single Family Attached buildings may qualify as such with only a superficial or decorative attachment such as trellis or grape arbor, and that such attachment somehow comprises a structural element.

*We feel the correct interpretation is:*

Single Family Attached requires a substantial structural element to form the attachment. Chapter 25-1-21 (8) defines "attached" as "having one or more common walls or being joined by a covered porch, loggia, or passageway." 25-2-3 (B) 11 requires connection of the two dwelling units, if not by "common or abutting walls," then "by a carport, garage, or other structural element", that is significant to the integrity of the buildings. )

A trellis or grape arbor is at best a decorative or landscape feature. It is clearly not a structural element, as the removal of such a non-integral feature would not compromise the structural integrity of either dwelling. It could easily be removed, post-construction, and have no effect on the remaining structures' integrity.

### *Section 2 Findings:*

*1. There is a reasonable doubt of the difference of interpretation as to the specific intent of the regulations in that:*

Single Family Attached Residential allows for subdividing a 7000 sq ft or greater site into two lots, with one lot being as small as 3000 sq ft. The entire site must contain two buildings attached in a meaningful - not superficial - way, by using a structural element such as a common wall, covered porch, loggia, or passageway per the definition of "attached", per LDC Section 25-1-21(8). Section 25-2-3 B (11) which speaks to "connection... by a common wall, carport, garage, or other structural element". A grape arbor or trellis does not create the type of connection that rises to the level of a structural element between two single family dwellings.

*2. An appeal of this interpretation would clearly permit a use which is in character with the uses enumerated for the various zones and with the objective of the zone in question because:*

A variety of acceptable structural attachment methods are available to all who choose to build Single Family Attached properties.

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

All properties would be subject to the same guidelines for "attachment", delineated in the Code definitions, as clarified by this interpretation.


**PSYCHOWEST, LLC**  
 10021 Laurel Frey Drive  
 Suite 100  
 Los Angeles, CA 90048  
 Tel: 310.400.0111  
 Fax: 310.400.0112  
 Email: info@psychowest.com  
 Website: www.psychowest.com  
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 Website: www.psychowest.com

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 Los Angeles, CA 90048  
 Tel: 310.400.0111  
 Fax: 310.400.0112  
 Email: info@psychowest.com  
 Website: www.psychowest.com

3/100 31024424

КОНФЕРЕНЦИЯ - 1971 ГОДА

INT. 9313 TASHA D'AMORE'S CLOSET (C)

1994-2000

**EXPOSURE TO COBALT**

### LOT 8 BLOCK A CALCULATIONS

CITY OF AUSTIN - TECHNICAL REVIEW

only that the respondents put little stress on having a

11/20/20

[illegible]

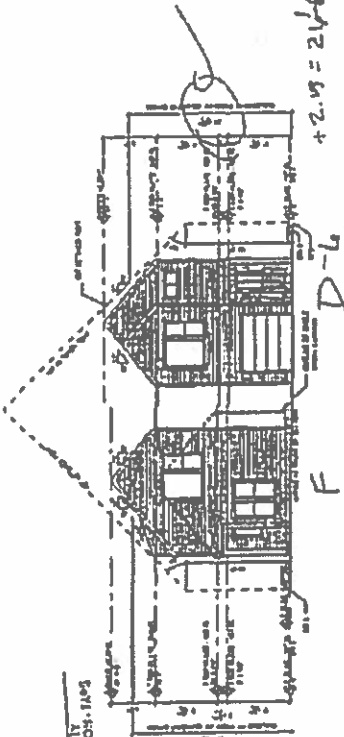
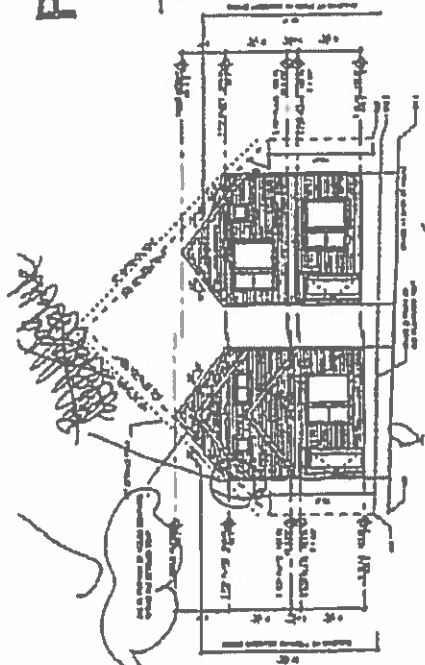
LETTER AUGUST  
ATTACHED FOR PLEASANT

61/44

**REVIEWED**

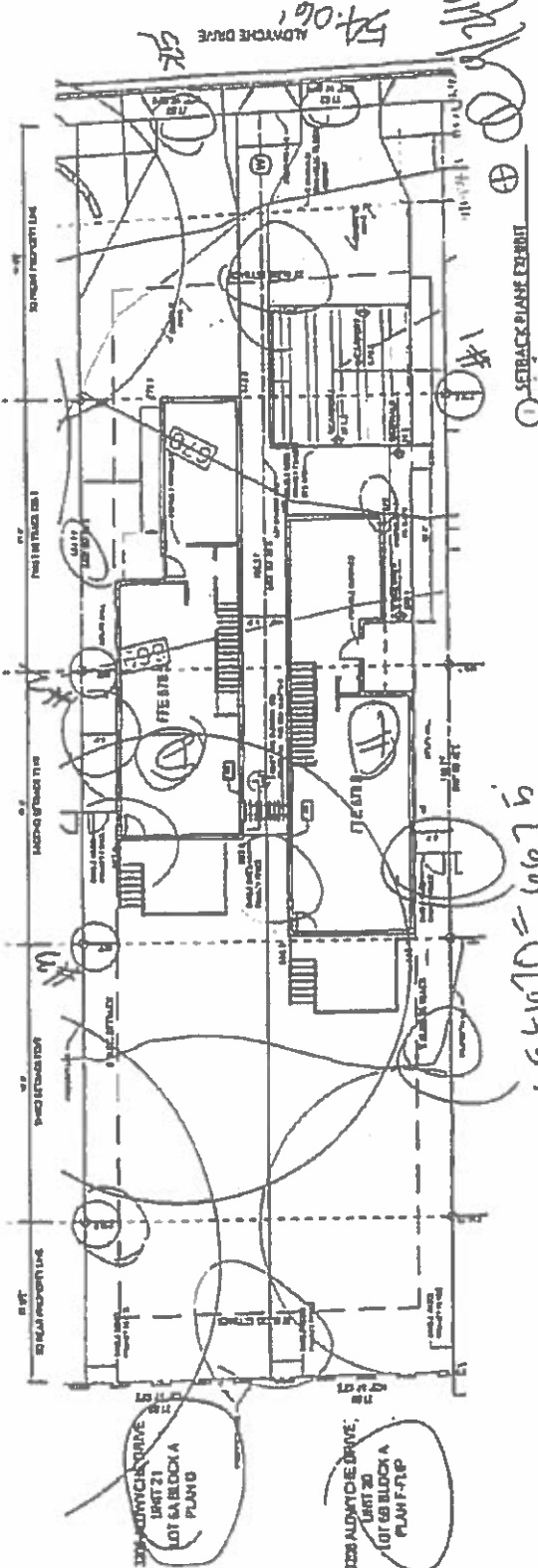
June 13 1915

**AUDITOR GENERAL**  
**COMMONWEALTH OF MASSACHUSETTS**



AE APPROVED  
JUN 13 2015  
145-111-  
JGN

**All pools must maintain 5' horizontal clearance from water's edge to UG electric lines**


$$\frac{605 + 610}{2}$$

1944-45

EX-3.1

**NEW HOMES**  
**ASD**

[illegible][illegible]
$$+ 2.9 = 2\sqrt{6}^{1/2}$$



61  
47

**Bryan King**

---

From: "Camou, Juan" <Juan.Camou@austintexas.gov>

To: <bryan@bkradio.net>

Sent: Friday, September 02, 2016 2:54 PM

Subject: 3206+3208 ALDWYCHE DR

The residential permit application for the address listed above has been approved.

Juan P. Camou

Engineering Associate C

Development Services Department

[juan.camou@austintexas.gov](mailto:juan.camou@austintexas.gov)

(512)-974-2621 office



We want to hear from you. Please take a few minutes to complete our online customer survey:

[Commercial Plan Review - English Survey](#)

[Residential Plan Review - English Survey](#)

Nos gustaría escuchar de usted. Por favor, tome un momento para completar nuestra encuesta:

[Comerciales - Encuesta en Español](#)

[Residencial - Encuesta en Español](#)

9/20/2016

51  
48

# 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 3206 & 3208 Aldwyche		Permit Number 2016-107075 BP
Appellant Filing Appeal South Lamar Neighborhood Association	Relationship to Property Listed Community Registry NA	
Appellant's status as Interested Party PROPERTY within SLNA Boundaries		
Appellant Contact Information		Permit Holder Contact Information
Name Kim Johnson	Name William	
Street 2608 Del Canto #2	Street 609 West Lynn LP (Joe Doerr)	
City Austin	State TX	Zip 78704
Telephone (512) 657-0675	Telephone 512 762-4142	
E-Mail Kim.Johnson.Austin@gmail.com	E-Mail Billy@P6WRealEstate.com	
Date of Decision Being Appealed: 9/2/16	Date Appeal is Filed: 9/21/16	

Decision being appealed: (use additional paper as required)

Challenge of Single Family attachment does not  
comply w/ code  
see interpretation attachment

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

see interpretation attachment

### BELOW FOR CITY USE ONLY

Hearing Date:	Board or Commission:
Action on Appeal:	Date of Action

Form Bldg 100 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.



61  
49

## *Section 1: Applicant Statement*

*Development Services Department interpretation is:*

Single Family Attached buildings may qualify as such with only a superficial or decorative attachment such as trellis or grape arbor, and that such attachment somehow comprises a structural element.

*We feel the correct interpretation is:*

Single Family Attached requires a substantial structural element to form the attachment. Chapter 25-1-21 (8) defines "attached" as "having one or more common walls or being joined by a covered porch, loggia, or passageway." 25-2-3 (B) 11 requires connection of the two dwelling units, if not by "common or abutting walls," then "by a carport, garage, or other structural element", that is significant to the integrity of the buildings. )

A trellis or grape arbor is at best a decorative or landscape feature. It is clearly not a structural element, as the removal of such a non-integral feature would not compromise the structural integrity of either dwelling. It could easily be removed, post-construction, and have no effect on the remaining structures' integrity.

## *Section 2 Findings:*

*1. There is a reasonable doubt of the difference of interpretation as to the specific intent of the regulations in that:*

Single Family Attached Residential allows for subdividing a 7000 sq ft or greater site into two lots, with one lot being as small as 3000 sq ft. The entire site must contain two buildings attached in a meaningful - not superficial - way, by using a structural element such as a common wall, covered porch, loggia, or passageway per the definition of "attached", per LDC Section 25-1-21(8). Section 25-2-3 B (11) which speaks to "connection... by a common wall, carport, garage, or other structural element". A grape arbor or trellis does not create the type of connection that rises to the level of a structural element between two single family dwellings.

*2. An appeal of this interpretation would clearly permit a use which is in character with the uses enumerated for the various zones and with the objective of the zone in question because:*

A variety of acceptable structural attachment methods are available to all who choose to build Single Family Attached properties.

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

All properties would be subject to the same guidelines for "attachment", delineated in the Code definitions, as clarified by this interpretation.

# DRENNER GROUP

61  
50

Greta E. Goldsby  
512.807.2909  
ggoldsby@drennergroupp.com

September 28, 2016

## VIA ELECTRONIC MAIL

City of Austin, Members of Board of Adjustment  
c/o Leanne Heldenfels, Board of Adjustment Liaison

Dear Chairman Burkhardt and Members of the Board of Adjustment,

We represent and are writing to you on behalf of Lightsey Two, LP, the owner of the below-referenced Property.

We are in receipt of the Board of Adjustment Interpretations Application (Appeal for Administrative Decision) (the "Appeal") submitted by Kim Johnson, president of the South Lamar Neighborhood Association, relating to a building permit issued for the construction of single family attached residential homes on properties having an address of 3206 & 3208 Aldwyche Drive, Austin, Texas (the "Property").

In the Appeal, Ms. Johnson asks the Board of Adjustment to limit the interpretation of "Single Family Attached Residential" to the definition of "attached" in the General Definitions of the City of Austin Land Development Code (the "Code" or "LDC"), Chapter 25-1-21(8): "Attached: when used with reference to two or more buildings, means having one or more common walls or being joined by a covered porch, loggia, or passageway." However, this definition is a "general definition", as the lead-in at the beginning of Chapter 25-1-21 states: "Unless a different definition is expressly provided, in this title [25]."

The term "Single Family Attached Residential" is specifically described and defined in Chapter 25-2-3(B)(1) as "the use of a site for two dwelling units, each located on a separate lot, that are constructed with common or abutting walls or connected by a carport, garage, or other structural element" (emphasis added). Therefore, this section (Chapter 25-2-3(B)(1)) would expressly expand and control over the general definition of "attached" in Chapter 25-1-21.

Therefore, the Applicant's suggestion in the Appeal that "structure" be modified by "that is significant to the integrity of the buildings" is not only unnecessary, it is contrary to and more restrictive than the definition of "structure" in the Code. A "structure" is defined in Chapter 25-1-21(13) as "a building of any kind, or a piece of work artificially built-up or composed of parts joined together in a definite manner." A trellis is made up of 2 beams and purlins that span between the beams. The beams are therefore structural members, as they are supporting the purlins. A trellis or covered walkway is therefore a structure, as defined by the Code.

6/15

For these reasons, the City's prior determination (as set forth in a memorandum dated July 8, 2002 signed by Janet L. Gallagher, Deputy Building Official of Watershed Protection & Development Review Department, a copy of which is attached hereto) that "an arbor constitutes a connection between single-family attached residence," is consistent with the description of use set forth in Chapter 25-2-3(3)(11) and Chapter 25-1-21(8) in that (i) a trellis or arbor joins two dwellings in a definite manner (see definition of "structure" above) and (ii) a trellis or arbor connecting two buildings creates a passageway between the two dwellings.

As stated above, the City has allowed connections including trellis, arbors, and other "structures" that connect the dwellings to constitute and satisfy the requirements in Code relating to "Single Family Attached Residential" dwellings for many years. Therefore, to make this conclusion going forward would have the unintended effect of making numerous existing homes legally non-conforming.

We appreciate your consideration to the matters contained in this letter.

Should you have any questions or comments, please do not hesitate to let us know.

Very truly yours,

  
Gretchen Goldsby

cc: Leuh Bojo (of the Firm)  
Steve Drenner (of the Firm)  
Matthew Welch (via electronic mail)  
Ross Wilson (via electronic mail)

6/5/2

AUG-13-2003 WED 10:51 AM HAYMONDS HOMES

FAX NO. 5123318870

P. 02/02



## City of Austin

Founded by Congress, Republic of Texas, 1839  
Watershed Protection and Development Review Department  
One Texas Center, 301 Barton Springs Road  
P.O. Box 1088, Austin, Texas 78767

July 8, 2002

Mr. Kipp Flores  
Sobas Flores, A.L.A.  
11776 Jollyville Road, Suite 100  
Austin, Texas 78759

Dear Mr. Flores:

It has been determined by the Building Official of the City of Austin that an arbor constitutes a connection between single-family attached SF3 residences. The arbor must be constructed twice as long as it is wide.

If you have further questions regarding this matter, please contact me at (512) 974-2089.

Sincerely,

A handwritten signature in dark ink, appearing to read "Daniel L. Gallagher".

Daniel L. Gallagher, Deputy Building Official  
Watershed Protection and Development Review Department

JLG: rvm

61  
53

AUG 13-2003 WED 10:01 AM HANNOHDS INCHES

FAX NO 5123318870

P. 02/02



## City of Austin

Founded by Congress, Republic of Texas, 1830  
Watershed Protection and Development Review Department  
One Texas Center, 505 Barton Springs Road  
P.O. Box 1088, Austin, Texas 78767

July 8, 2002

Mr. Kipp Flores  
Sabas Flores, A.J.A.  
11776 Jollyville Road, Suite 100  
Austin, Texas 78759

Dear Mr. Flores:

It has been determined by the Building Official of the City of Austin that an arbor constitutes a connection between single-family attached SF3 residences. The arbor must be constructed twice as long as it is wide.

If you have further questions regarding this matter, please contact me at (512) 974-2069.

Sincerely,

A handwritten signature in black ink, appearing to read "Daniel L. Gallagher".

Daniel L. Gallagher, Deputy Building Official  
Watershed Protection and Development Review Department

JLG:rvn



**CITY OF AUSTIN**  
**Development**  
**SERVICES DEPARTMENT**

One Texas Center | 505 Barton Springs Road, Austin, Texas 78704 | Phone: 512.978.4000

61/54

**MEMORANDUM**

**TO:** Board of Adjustment  
**FROM:** John M. McDonald, Development Services Manager  
**DATE:** September 27, 2016  
**SUBJECT:** C15-2016-0115

An appeal of the building official's administrative decision to approve a building permit at 3206/3208 Aldwyche for the construction of a new single-family attached residential use was filed on September 21, 2016.

Single-family attached residential use is defined in 25-2-3(B)(11) of the Land Development Code (LDC) and is a permitted use in SF-3 districts.

*SINGLE-FAMILY ATTACHED RESIDENTIAL use is the use of a site for two dwelling units, each located on a separate lot, that are constructed with common or abutting walls or connected by a carport, garage, or other structural element.*

The term "attached" is defined in 25-1-21(8) of the Land Development Code (LDC).

*ATTACHED, when used with reference to two or more buildings, means having one or more common walls or being joined by a covered porch, loggia, or passageway.*

The appeal is challenging the Development Services Department interpretation of 25-2-3 (B)(11) on the grounds that a "trellis" or "grape arbor" does not constitute a structural element.

In response to the points raised in the appeal, staff finds that the term "structural element" to be inherently vague and undefined in the LDC. This makes enforcement of any particular definition difficult to defend and fraught with inconsistency. In such instances, staff relies on past precedent to provide guidance.

Related to single-family attached residential use, staff finds a long-standing interpretation issued in 2002 (attached) that specifically allows for an arbor to be used as the connection between the two dwelling units of a single-family attached residential use. Additionally, staff research has found multiple cases involving new single-family attached subdivisions where a trellis or similar connection was approved.

Del Curto Place, S. Lamar NPA,  
2004

Rose Glen, S. Manchaca NPA,  
2008



**Development**  
CITY OF AUSTIN  
SERVICES DEPARTMENT

One Texas Center | 505 Barton Springs Road, Austin, Texas 78704 | Phone: 512.978 4000

Salem Center, S. Manchaca  
NPA, 2010

Blarwood Forest, Garrison Park NPA,  
2011

Bouldin Meadows, Galindo  
NPA, 2010

Enclave at Westgate, 2012

Cima Homes, 2014

Given the consistent application of the code, staff believes that it is appropriate to continue allowing a "trellis" or "arbor" to serve as the required attachment between dwelling units for a single-family attached residential use.

61  
55

5/2



## City of Austin

Founded by Congress, Republic of Texas, 1839  
Watershed Protection and Development Review Department  
One Texas Center, 505 Burton Springs Road  
P.O. Box 1088, Austin, Texas 78767

July 8, 2002

Mr. Kipp Flores  
Sabas Flores, A.L.A.  
11776 Jollyville Road, Suite 100  
Austin, Texas 78759

Dear Mr. Flores:

It has been determined by the Building Official of the City of Austin that an arbor constitutes a connection between single-family attached SF3 residences. The arbor must be constructed twice as long as it is wide.

If you have further questions regarding this matter, please contact me at (512) 974-2089.

Sincerely,

Janet L. Gallagher, Deputy Building Official  
Watershed Protection and Development Review Department

JLG:rvn



C15-2016-0115

(1)  
5/5

**From:** McDonald, John  
**Sent:** Thursday, December 03, 2015 5:21 PM  
**To:** 'Bryan King'  
**Cc:** Rivera, Mayra; Word, Daniel; Wren, Carl; Roig, Jose G; Hernandez, Tony [PDRD]  
(Tony.Hernandez@austintexas.gov); Stillwell, Kelly  
**Subject:** RE: Single Family Attached

Hi Bryan,

Sorry for the delayed response. In analyzing the code there are two sections that provide guidance, and I have pasted them below.

**§ 25-1-21 - DEFINITIONS.**

(7) **ATTACHED**, when used with reference to two or more buildings, means having one or more common walls or being joined by a covered porch, loggia, or passageway.

**§ 25-2-3 - RESIDENTIAL USES DESCRIBED.**

(B) Residential use classifications are described as follows:

(11) **SINGLE-FAMILY ATTACHED RESIDENTIAL** use is the use of a site for two dwelling units, each located on a separate lot, that are constructed with common or abutting walls or connected by a carport, garage, or other structural element.

2

Under the code language pasted above, the attachment would need to be a covered porch at a minimum. This area would be counted as impervious cover and building coverage, respectively according to how much of the covered area is on either lot. Obviously, a carport or a garage would work for the attachment as well and would count towards impervious cover and building coverage.

The connections/attachments that you provided pictures for obviously do not meet the intent nor the language of the code. It is possible this matter was never brought to my work unit before now. I can attest that it has not been brought to my attention nor have I looked into the matter before you brought it to my attention. I will be informing my staff of the appropriate nature of the attachment for future single family attached applications for a building permit.

Respectfully,

John M. McDonald  
Development Services Manager  
Residential Plan Review/DSD  
974-2728 – Office  
john.mcdonald@austintexas.gov

2 61  
58

**From:** Michael Padavic [mailto:  
**Sent:** Wednesday, July 20, 2016 3:31 PM  
**To:** Culver, Beth; Word, Daniel  
**Cc:** Jessica McCarty; Camou, Juan  
**Subject:** Single Family Attached

Beth/Daniel:

I wanted to reach out because we received a new comment on a recent application that has not been brought to our attention before. For application 2016-068734 PR, Juan (included) noted that the trellis is not an acceptable method of attachment, per LDC 25-1-21 (8). However, we have always used this method and it has never previously been questioned

. Further - while I don't have a copy - I have seen a city memo from 8-10 years ago that specifically states an "arbor" is an acceptable method of attachment. Could you please clarify this further?

If indeed the trellis does not qualify as a "covered porch, loggia, or passageway," does this mean we just slap a roof on the trellis and call it a day? Or are there specific parameters to the attachment, such as size, area, etc.?

Thank you for your time and attention to this matter.

Regards,

7

Mike

MICHAEL PDAVIC, AIA, LEED BD+C

3  
6/5/16

From: Michael Padavic  
Sent: Tuesday, August 02, 2016 4:08 PM  
To: Word, Daniel  
Cc: Jessica McGarty; Culver, Beth; Camou, Juan; Wren, Carl;  
McDonald, John  
Subject: Re: Single Family Attached

Daniel,  
If there was a stop work order, could we not just slap a roof on it and call it a "covered passageway" per the code sections you have quoted? It would not be required to go to BOA then, correct?

Please confirm.

Thank you.  
Mike  
MICHAEL PADAVIC, AIA, LEED BD+C

From: Michael Padavic [mailto:  
Sent: Tuesday, July 26, 2016 1:35 PM  
To: Jessica McCarty  
Cc: Word, Daniel; Culver, Beth; Camou, Juan; Wren, Carl  
Subject: Re: Single Family Attached

4

61  
60

Daniel,

Thank you for following up. As Jessie noted, please use the Cima Hills trellis details of an example of a recently accepted structural element (per 25-2-3 B 11). I am not sure who else will be included in the discussion, but I have copied Carl Wren on this email to help explain the situation from our point of view. I know there is a City of Austin memo that allows an arbor (trellis) to qualify as the structural element (see 25-2-3 B 11). I have seen it, but do not have a copy of it. If you'd like, I can search for it again and bill my hours back to the city as a code consultant.

Frankly, I think this is another example of the city kowtowing to the neighborhoods. The city's code has vague and conflicting information (see 25-2-3 (B) 11 versus 25-1-21 (8)), in addition to a memo allowing this as an acceptable method of compliance. Perhaps there is another memo revoking the first, but I doubt it, as I'm sure that process requires notification of stakeholders. We waited two weeks to hear back from the primary reviewer, and here we are in the second week of review on this specific question, entering the fourth week just trying to get clarification of the permit comments.

Again, if the answer is slapping a sheet of plywood on the trellis and calling it a "covered passageway" per 25-2-21 (8), then we'll do that. I don't see anything in the code stating minimum sizes, so while it still won't appease the neighborhoods, it will meet the zoning code. And then we'll pull the plywood after CO and fight the neighborhood at the Board of Adjustments when they flag us for code compliance.

Please let me know how we can quickly resolve this one way or another.

Regards,  
Mike

MICHAEL PDAVIC, AIA, LEED BD+C  
directorofarchitecture&planning

5  
6/6/16

From: Word, Daniel  
Sent: Wednesday, August 03, 2016 10:28 AM  
To: Casey Giles  
Cc: Michael Padavic; Jessica McCarty, Culver, Beth; Camou, Juan; Wren, Carl; McDonald, John  
Subject: RE: Single Family Attached

An appeal has not been filed yet. It can't be appealed until we (COA) make the administrative decision to approve the permit request. But yes, they appeal a specific permit, not the concept in general.

I am advising you, that given the public attention on this particular project and my understanding that there are members of the public that do not agree with our past practice of allowing a trellis to be the "structural element" necessary for single-family attached residential use, an appeal is probable on this project.

I think the trellis design would be very vulnerable to being overturned by the BOA. A design with common or abutting walls, or a connection with a garage or carport would be less vulnerable to being overturned. The term "structural element" is not defined, which leaves it open to interpretation, which makes the BOA involvement likely. It would come down to whether 9 members of the BOA could agree on what constitutes a "structural element".

If the BOA overturns the building official, they will issue an "interpretation" that is binding on your project and any subsequent permit submittals relevant to the issue across the city.

Daniel Word  
Planner Principal, Residential Review  
City of Austin  
Development Services Department  
mailto:Daniel.Word@austintexas.gov  
Tel: 512-974-3341

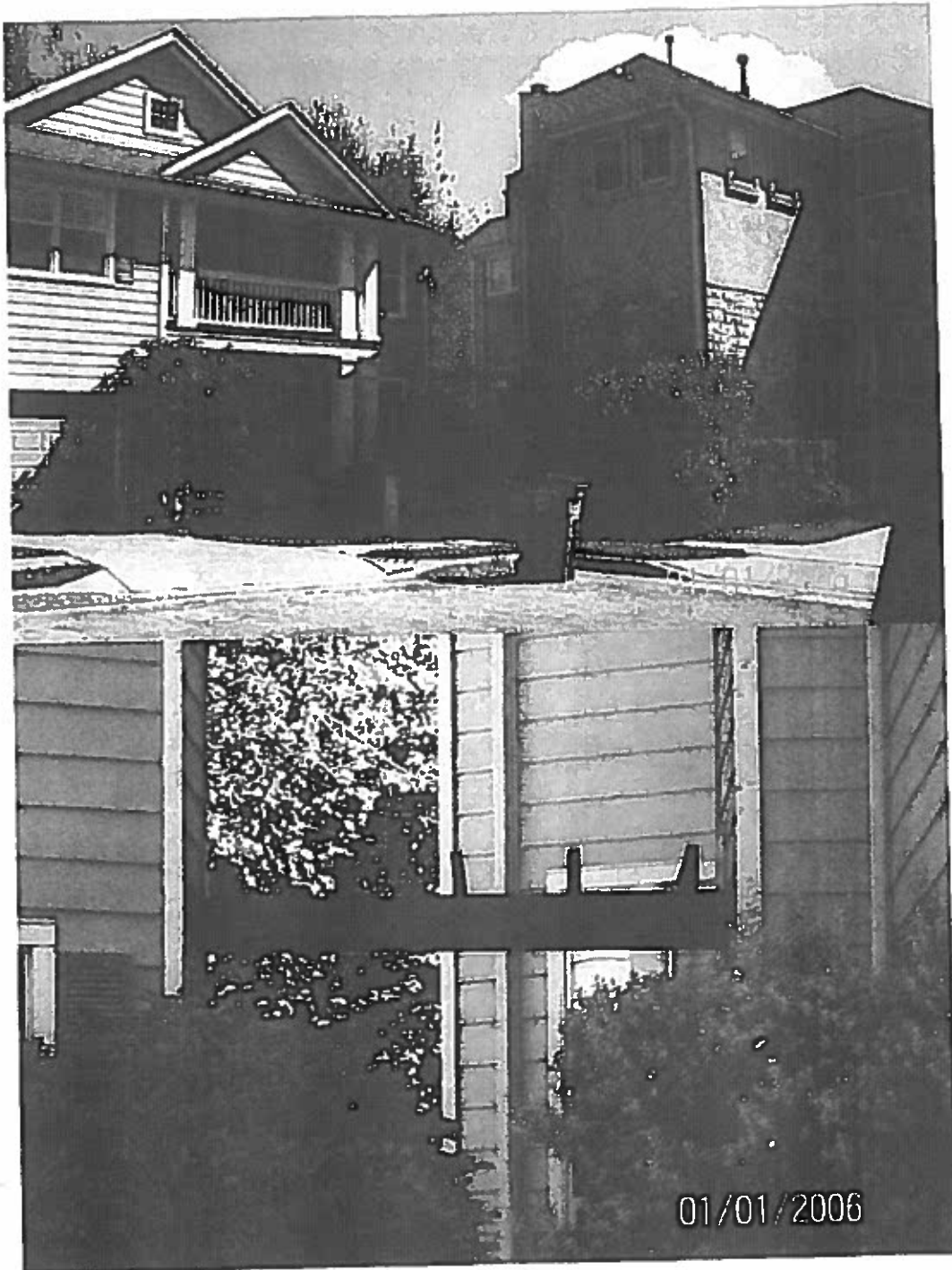
C15-2016-0115

5/2

Ignore dates - camera defaulted to 2006. These were taken in Oct 2016



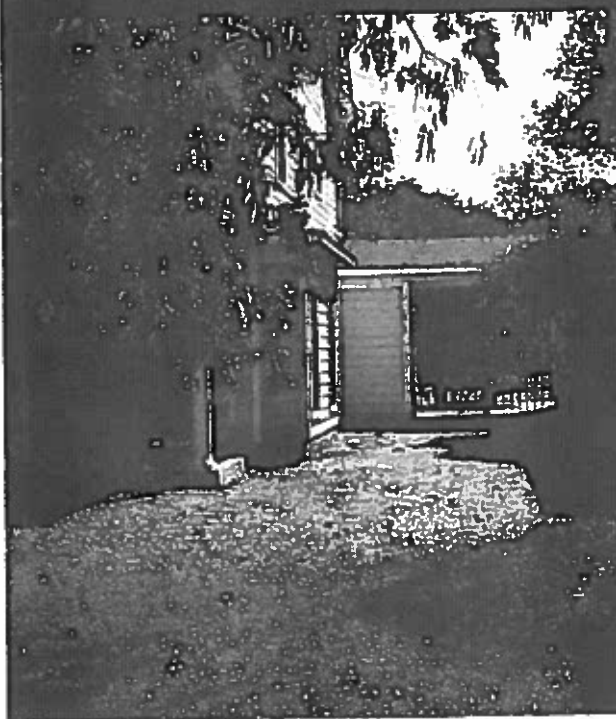
61  
63



3/3



01/01/2006



01/01/2006



6/1/06



C15-2016-0115

G1  
T6

# Single Family Attached Code Interpretation

11/30/2016

# Introduction

- *Development Services Department interpretation is:*
- 
- Single Family Attached buildings may qualify as such with only a superficial or decorative attachment such as trellis or grape arbor, and that such attachment *(which does not contribute to the impervious cover calculation)* somehow comprises significant part of the buildings or some kind a structural element.

# Correct Interpretation

- Single Family Attached requires a substantial structural element to form the attachment. Chapter 25-1-21 (8) defines "attached" as "having one or more common walls or being joined by a covered porch, loggia, or passageway." 25-2-3 (B) 11 requires connection of the two dwelling units, if not by "common or abutting walls," then "by a carport, garage, or other structural element", that is significant to the integrity of the buildings. )
- 
- A trellis or grape arbor is at best a decorative or landscape feature. It is clearly not a structural element, as the removal of such a non-integral feature would not compromise the structural integrity of either dwelling. It could easily be removed, post-construction, and have no effect on the remaining structures' integrity.

11/30/2016

# Findings

- Single Family Attached Residential allows for subdividing a 7000 sq ft or greater site into two lots, with one lot being as small as 3000 sq ft. The entire site must contain two buildings attached in a meaningful - not superficial - way, by using a structural element such a common wall, covered porch, loggia, or passageway per the definition of "attached", per LDC Section 25-1-21(8). Section 25-2-3 B (11) which speaks to "connection... by a common wall, carport, garage, or other structural element". Something that connects the functions of the two buildings. A grape arbor / trellis or tacked on feature, does not create the type of meaningful connection that rises to the level to satisfy the code.

11/30/2016

# Area Character

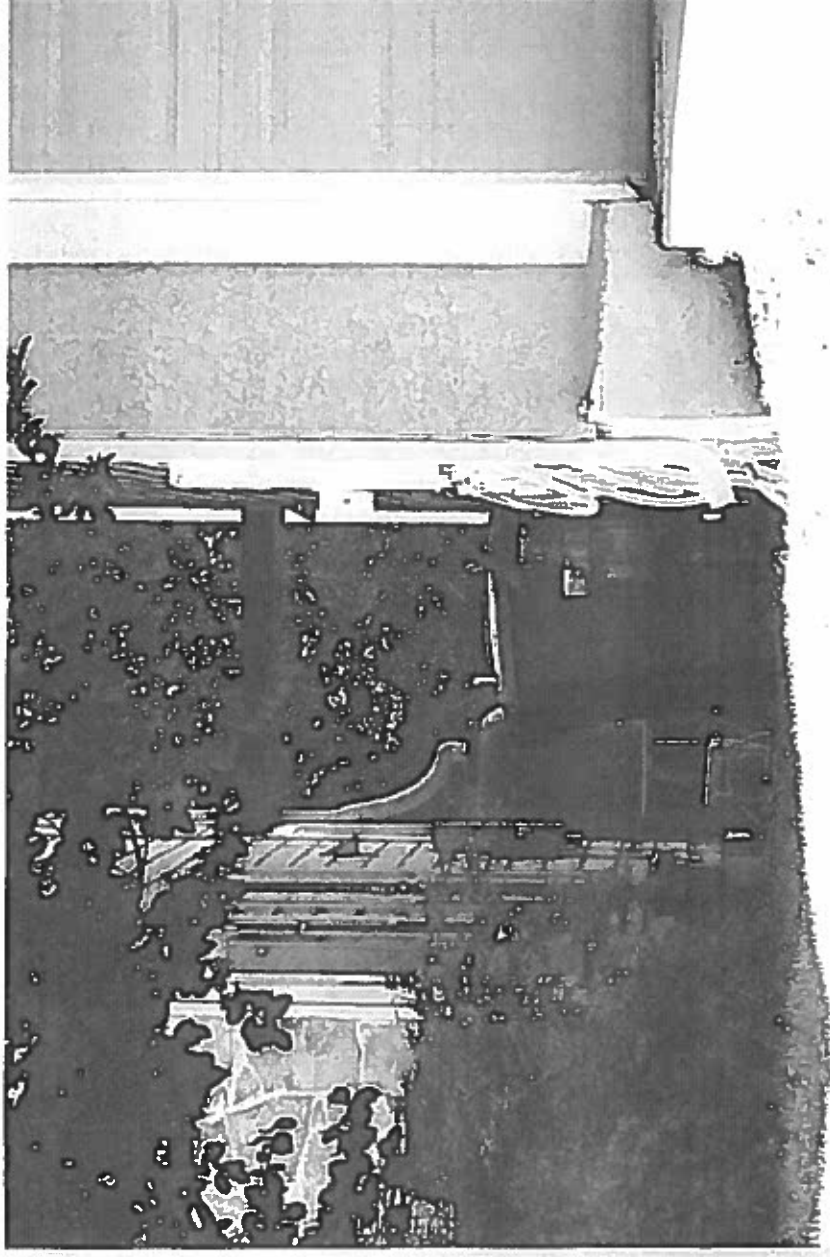
- The area character is generally comprised of either SF detached or duplex uses with the massing and lot sizes appropriate to the SF-3 district. SF-3 attached when developed with superficial attachments resembles that of a small not subdivision not that of regular expected development.

# Special Privilege

- All properties would be subject to the same guidelines for “attachment”, delineated in the Code Definitions, as further clarified by this interpretation.

# Superficial Attachments

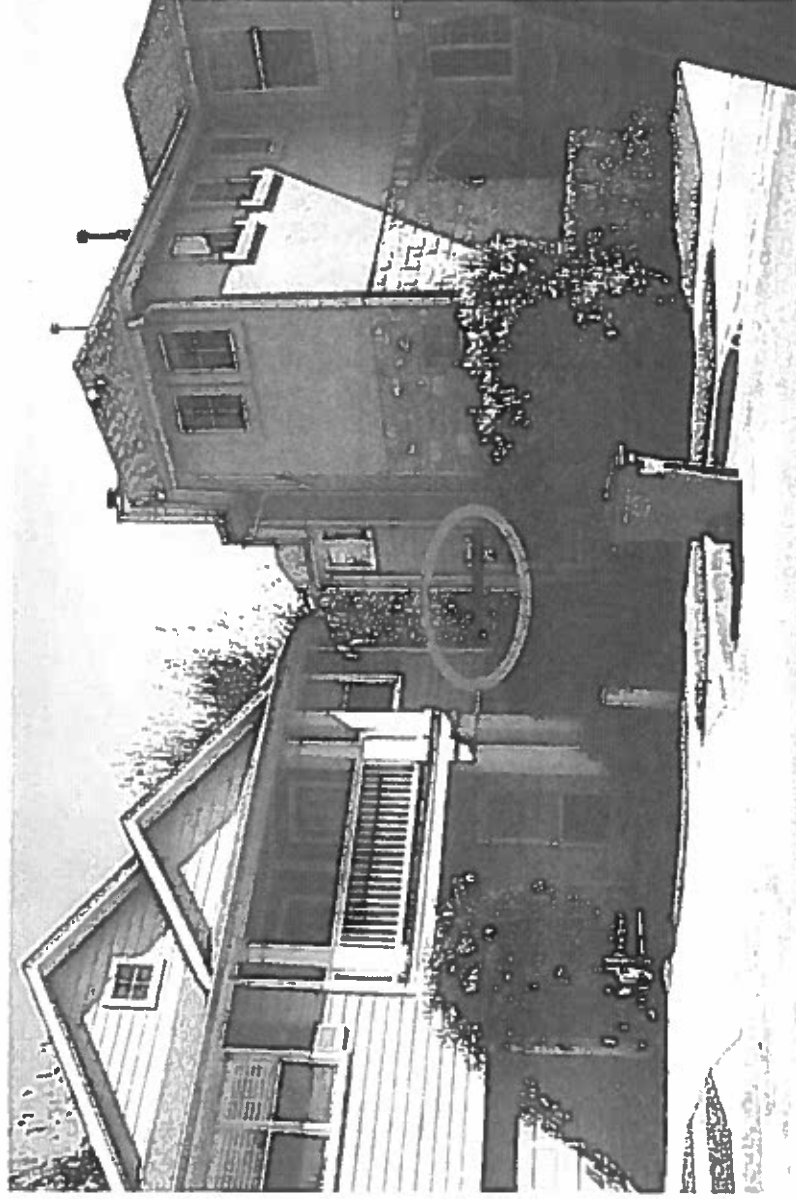
This is where the misinterpretation began



11/30/2016



# Superficial Attachments



11/30/2016

# Superficial Attachments

2010 - This is where it got ridiculous!

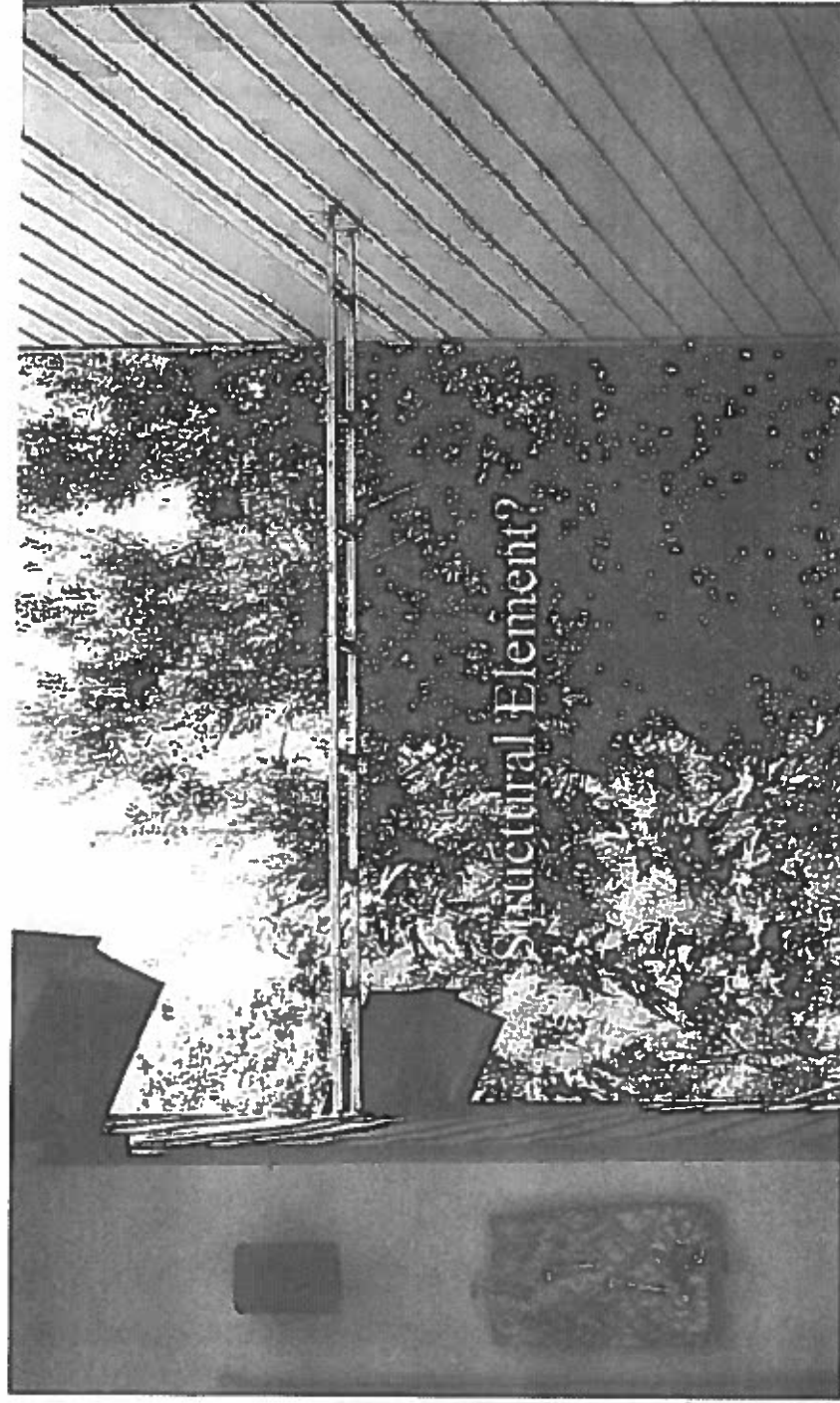


11/30/2016

9

61  
74

# Superficial Attachments

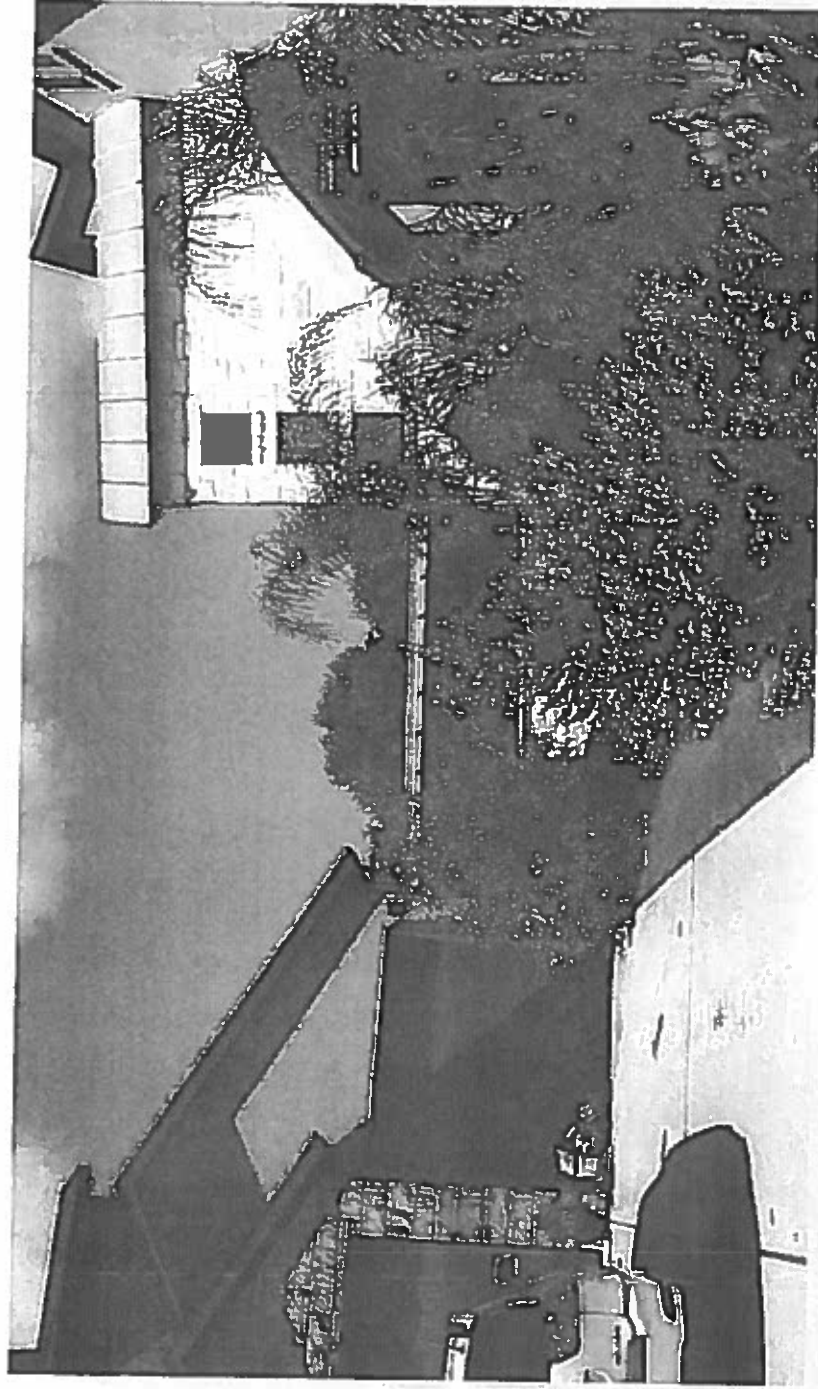


11/30/2016

10

5/15

# Home Depot Attachment



11/30/2016

# Home Depot Attachment



11/30/2016

12

11/30

# Acceptable Attachments Common Carport



11/30/2016



# Common Passageway

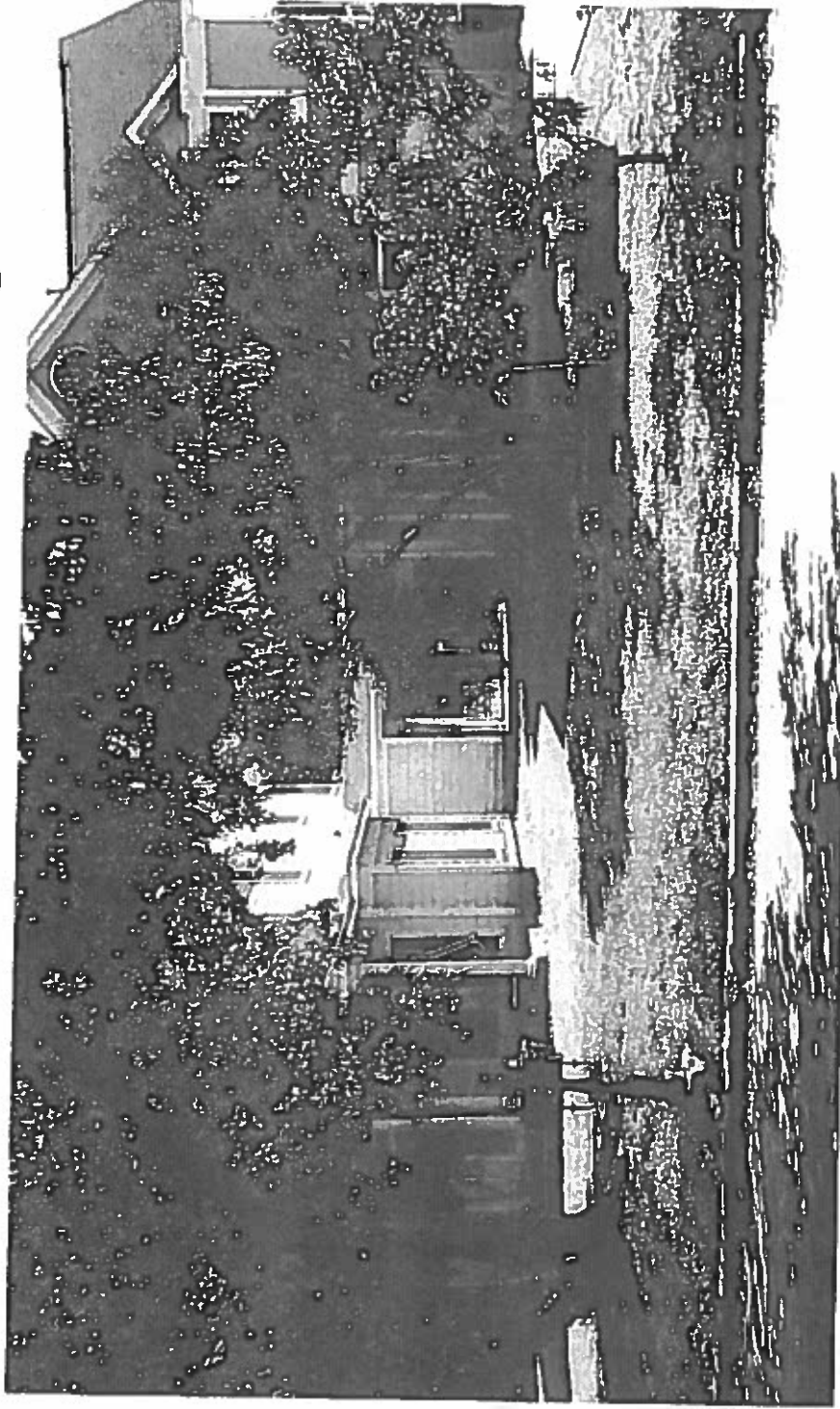


11/30/2016

14

29

# Passageway / side porch with exterior doors



11/30/2016

15

5/8



# Acceptable Attachments Has impervious cover

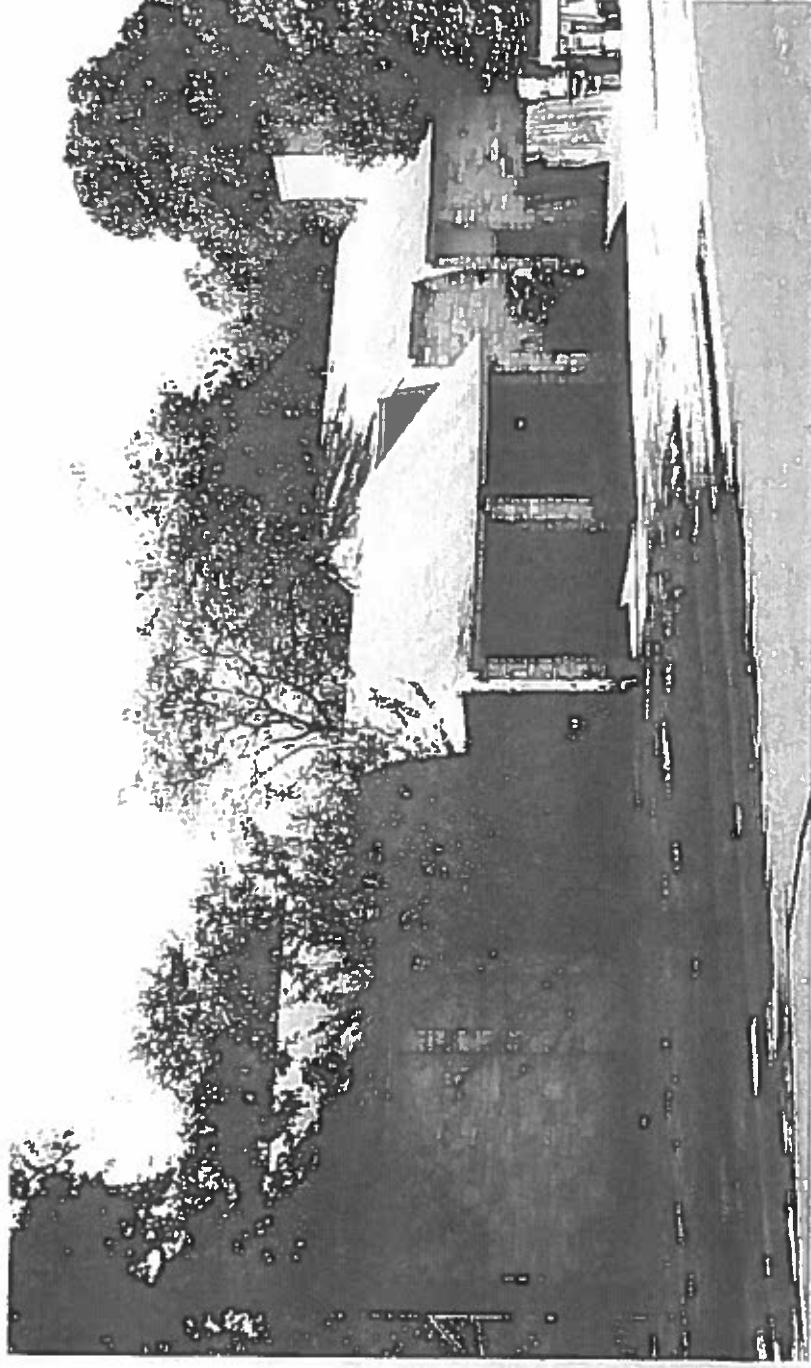


11/30/2016

16

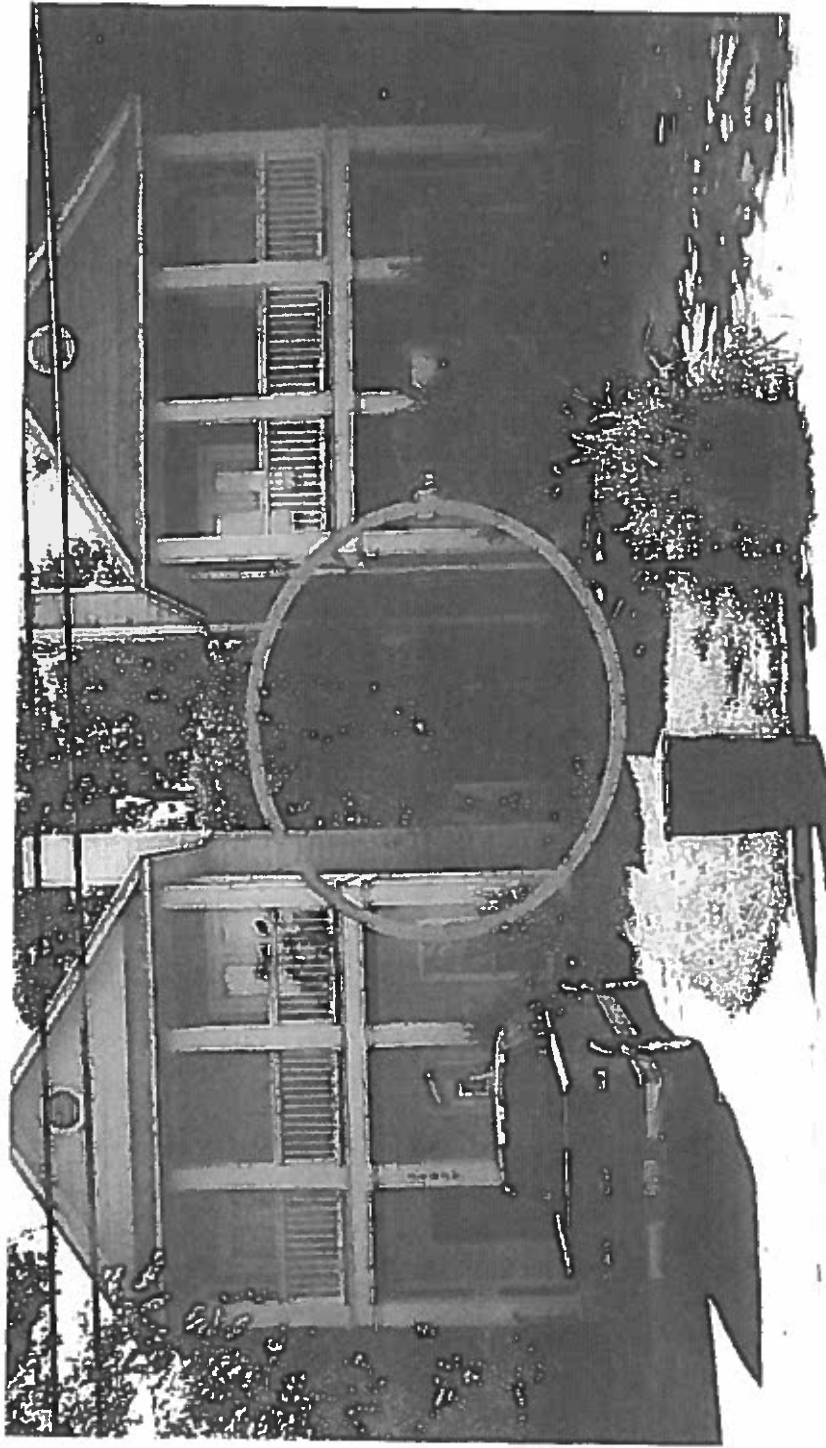
5/8/16

# Common front Loaded Carport



11/30/2016

# Passageway attaching exterior doors / mud rooms



11/30/2016

18

91  
83

# Covered Passageway

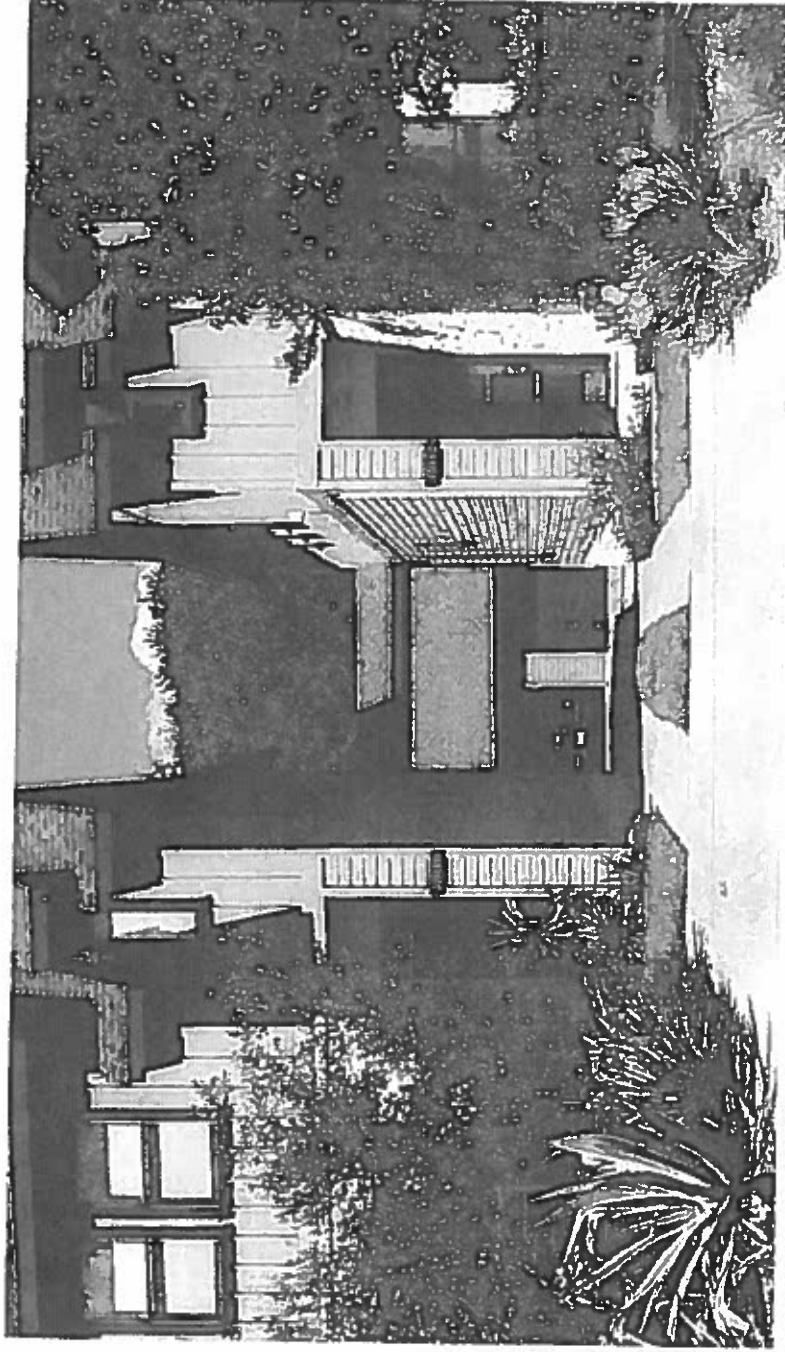


11/30/2016

19

5/5

# Passageway to Nowhere

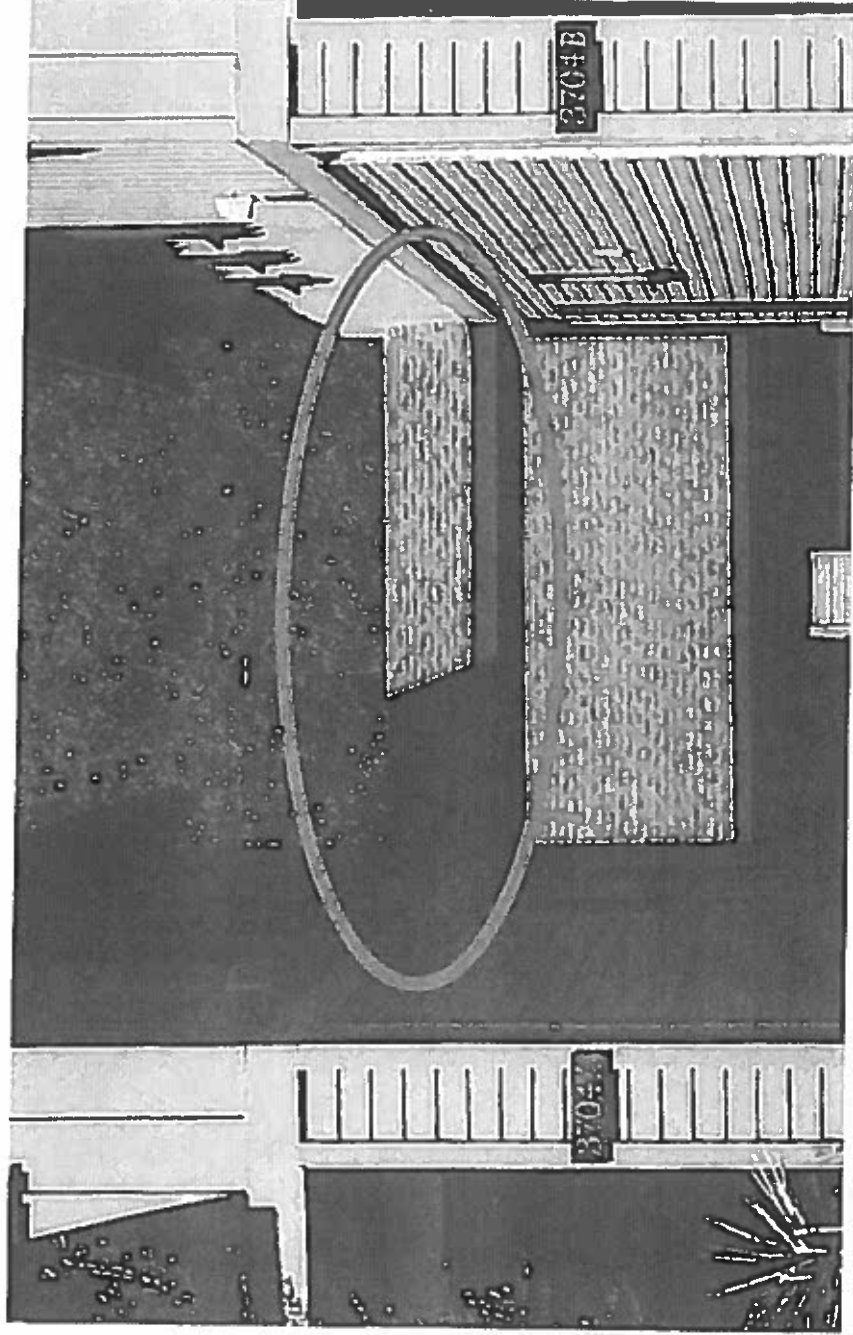


11/30/2016

20

GI  
85

# Acceptable Attachments - NOT



11/30/2016

21

5/8/16

# November 2015 Determination

- Hi Bryan,
- Sorry for the delayed response. In analyzing the code there are two sections that provide guidance, and I have pasted them below.
- § 25-1-21 - DEFINITIONS.
- (7) ATTACHED, when used with reference to two or more buildings, means having one or more common walls or being joined by a covered porch, loggia, or passageway.
- § 25-2-3 - RESIDENTIAL USES DESCRIBED.
- (B) Residential use classifications are described as follows:
- (11) SINGLE-FAMILY ATTACHED RESIDENTIAL use is the use of a site for two dwelling units, each located on a separate lot, that are constructed with common or abutting walls or connected by a carport, garage, or other structural element.
- Under the code language pasted above, the attachment would need to be a covered porch at a minimum. This area would be counted as impervious cover and building coverage, respectively according to how much of the covered area is on either lot. Obviously, a carport or a garage would work for the attachment as well and would count towards impervious cover and building coverage.
- The connections/attachments that you provided pictures for obviously do not meet the intent nor the language of the code. It is possible this matter was never brought to my work unit before now. I can attest that it has not been brought to my attention nor have I looked into the matter before you brought it to my attention. I will be informing my staff of the appropriate nature of the attachment for future single family attached applications for a building permit.

Respectfully,  
John M. McDonald  
Development Services Manager  
Residential Plan Review/DSD

11/30/2016

11/28/16

# Plans Initially REJECTED

- Meeting with Juan Camou and John McDonald to review
- Mr. Camou stated he rejected the plan as they “did not meet the attachment requirements described in LDC”



## Ordinance 1987 (87-0219-A)

SF Attached Clearly created a Duplex flexibility code provision. A bailout for unsold duplexes.

The reason the NPC homes code was created:

- 13-3-108 PART 4. A new Section 13-2A-1557 is added to the Austin City Code of 1981, as amended, to read as follows:
- SINGLE-FAMILY ATTACHED RESIDENTIAL
- The use of a site for two dwelling units constructed
- with common or abutting walls, or are connected by a
- carport, garage, or other structural element, and where
- each is located on a separate lot. Any existing duplex
- which applies for subdivision must first conform to all
- current duplex requirements...

5/29/17

From 1987 ORDINANCE NO. 870219-R  
Clearly references duplexes

- 13-3-108 (g) Party Wall Agreement
- The owner or owners of single-family attached residential lots shall execute and deliver a Party Wall Agreement for recording with the required subdivision

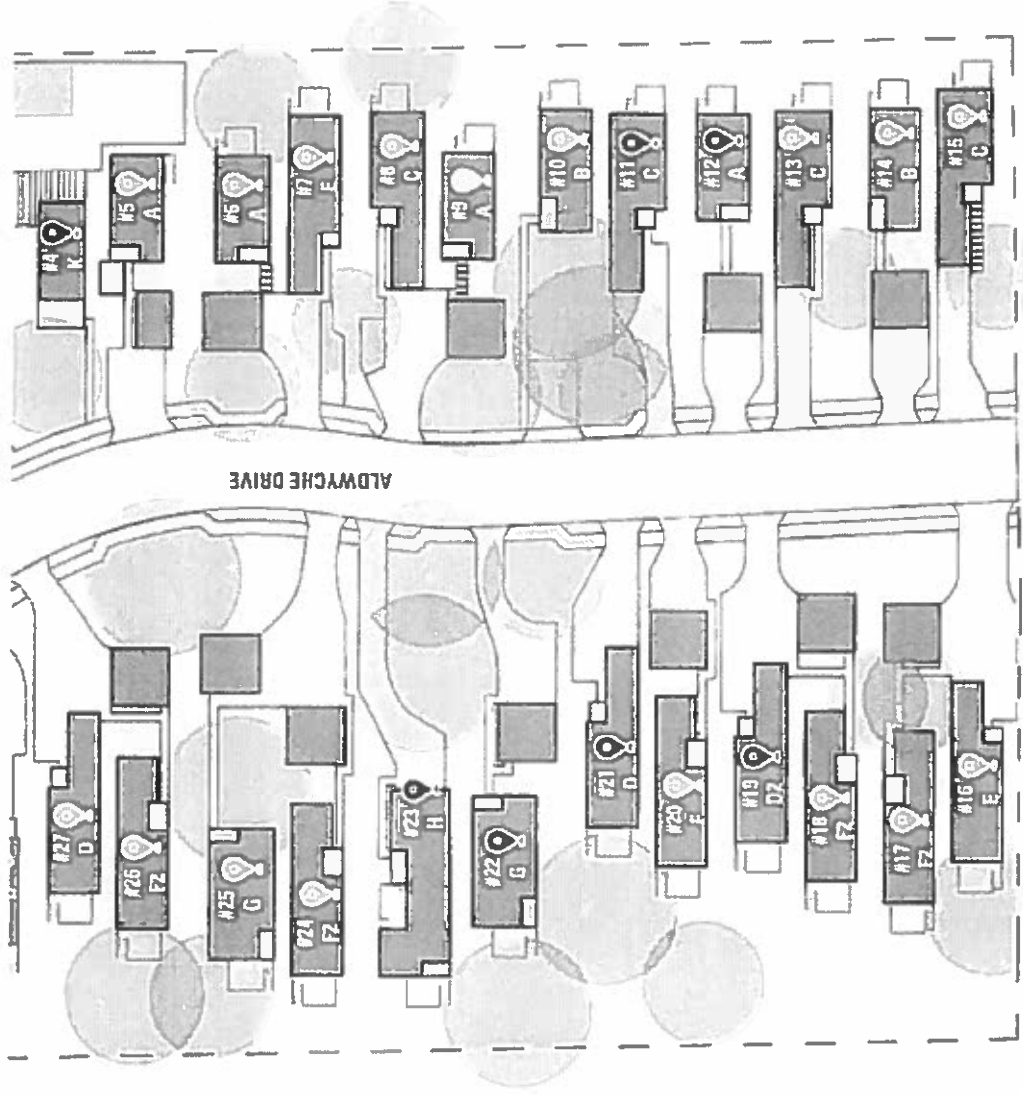
# How did the 2004 "Grape Arbor" come about?

- Village Oaks Court – Hammond Homes
- Hammond Applied for SF-4 Zoning
- SLNA was formed and responded
- Council Denied Zoning Change:
- "Small lot not compatible with surroundings properties"
- Next – Property was Subdivided into 7000' lots
- We Expected Affordable Duplexes
- Instead - SF-3 attached is approved with the , now infamous, "grape arbor"

## When the Grape Arbor appears again - 2010 Bouldin Meadows

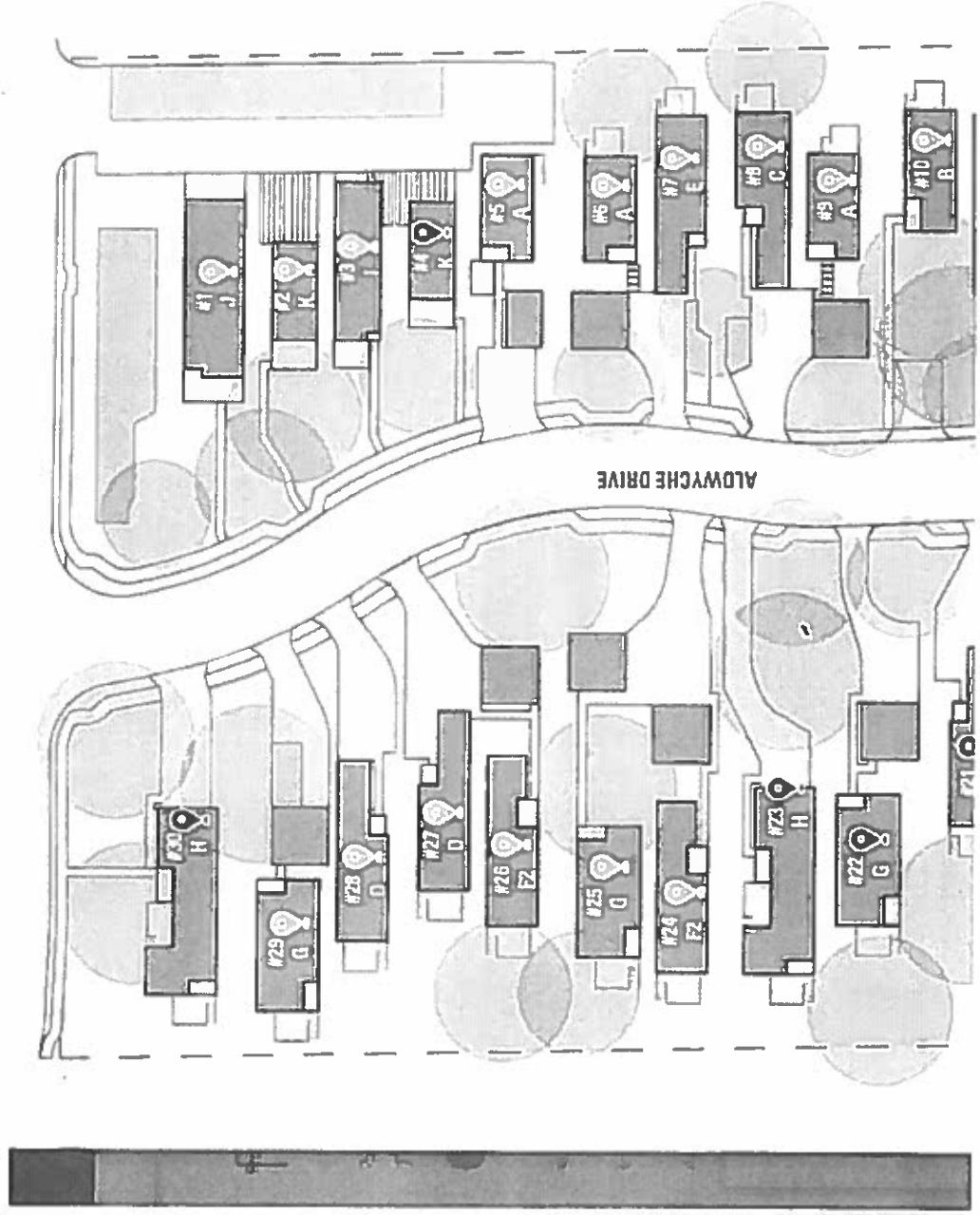
- Was first new SF grape arbor application SLNA was aware of.
- Contacted Greg Guernsey to appeal when discovered
- Was informed it was past 20 day deadline of an admin decision
- Would have to await an active permit review to appeal
- Next known case = PSW Aldwyche application

# Lightsey Ridge sales website, No attachments shown



11/30/2016

# No attachments Shown on any units



11/30/2016

9/5

# PSW Marketing Web page – Attached? They really are not and not represented as such


[home](#)
[floorplans](#)
[pricing](#)
[about](#)
[testimonials](#)
[gallery](#)
[contact](#)
[get updates](#)

[find](#)
[experience](#)
[contact](#)



PLAN D2



PLAN D2

starting from \$55,000

3	2.5	1656+
beds	baths	sq. ft.

PREVIEW / DOWNLOAD



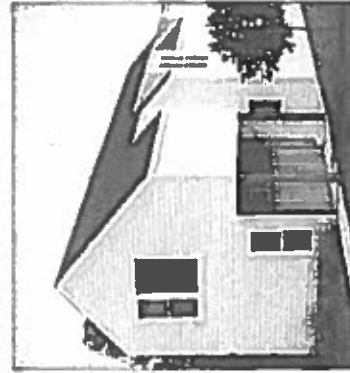
PLAN E

starting from \$55,000

3	2.5	1750+
beds	baths	sq. ft.

PREVIEW / DOWNLOAD

PLAN F



PLAN F

starting from \$55,000

4	3	2090+
beds	baths	sq. ft.

PREVIEW / DOWNLOAD



PLAN F2

starting from \$55,000

4	3	2090+
beds	baths	sq. ft.

PREVIEW / DOWNLOAD

9/5

# What this code language loophole creates:

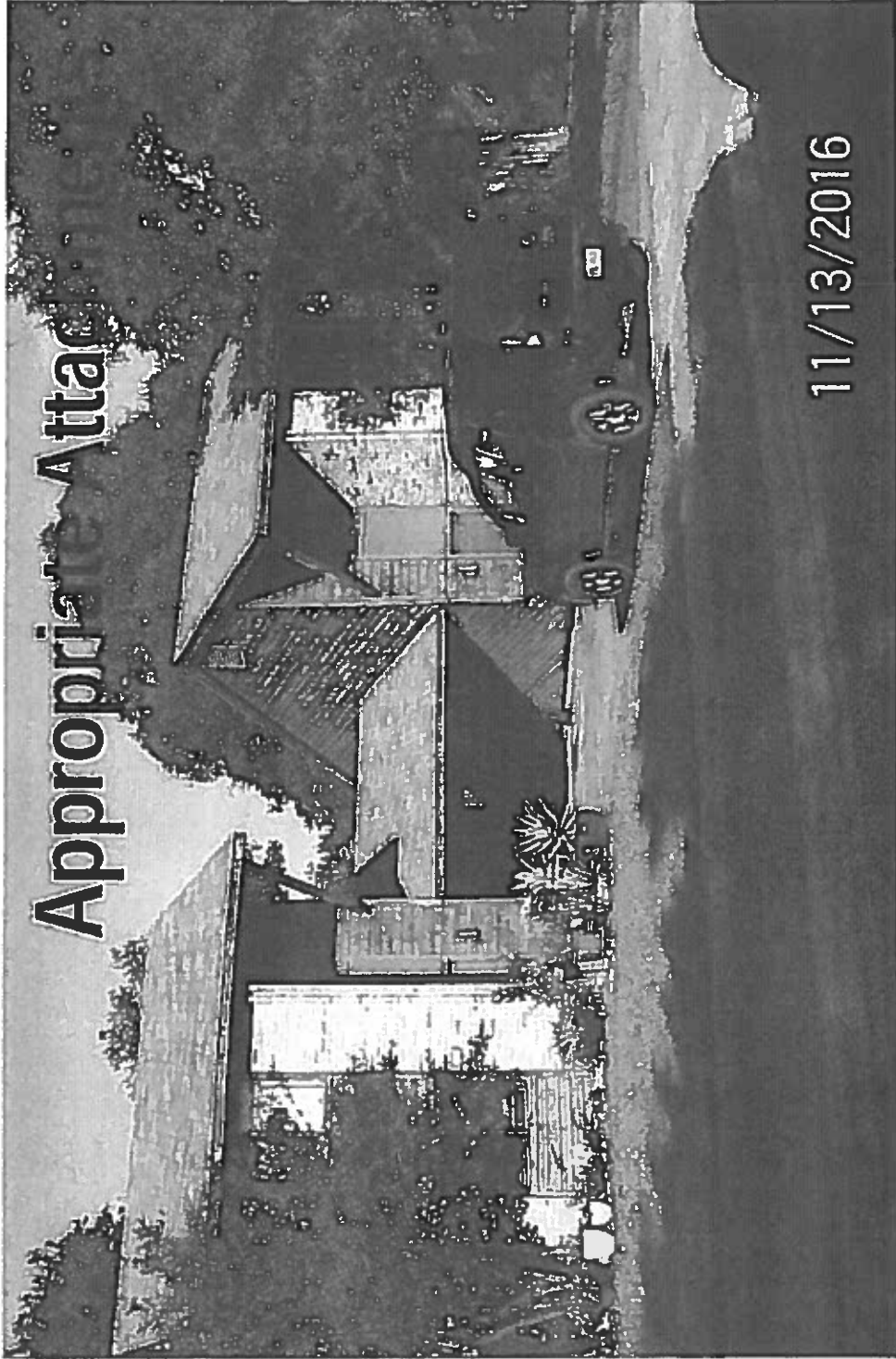
- Under the present interpretation of code:
- SF attached with this loophole has the effect of Administratively approving a small lot subdivision!
- Small lot subdivisions should go through a public process of a zoning change with Planning Commission and Council decisions
- SF attached is now creating a more expensive product than something that resemble a duplex or town home street appearance

9/6



# What should an attachment really look like?

- A common or abutting wall
- Common carport or Covered Porch
- Passageway that actually connects doors
- Offset units (front load – back load)
- L shape attached units
- Common porch or entrance way
- OTHER STRUCTURAL ELEMENT  
needs interpretation to define substantial to the structure and have impervious cover



GI  
98

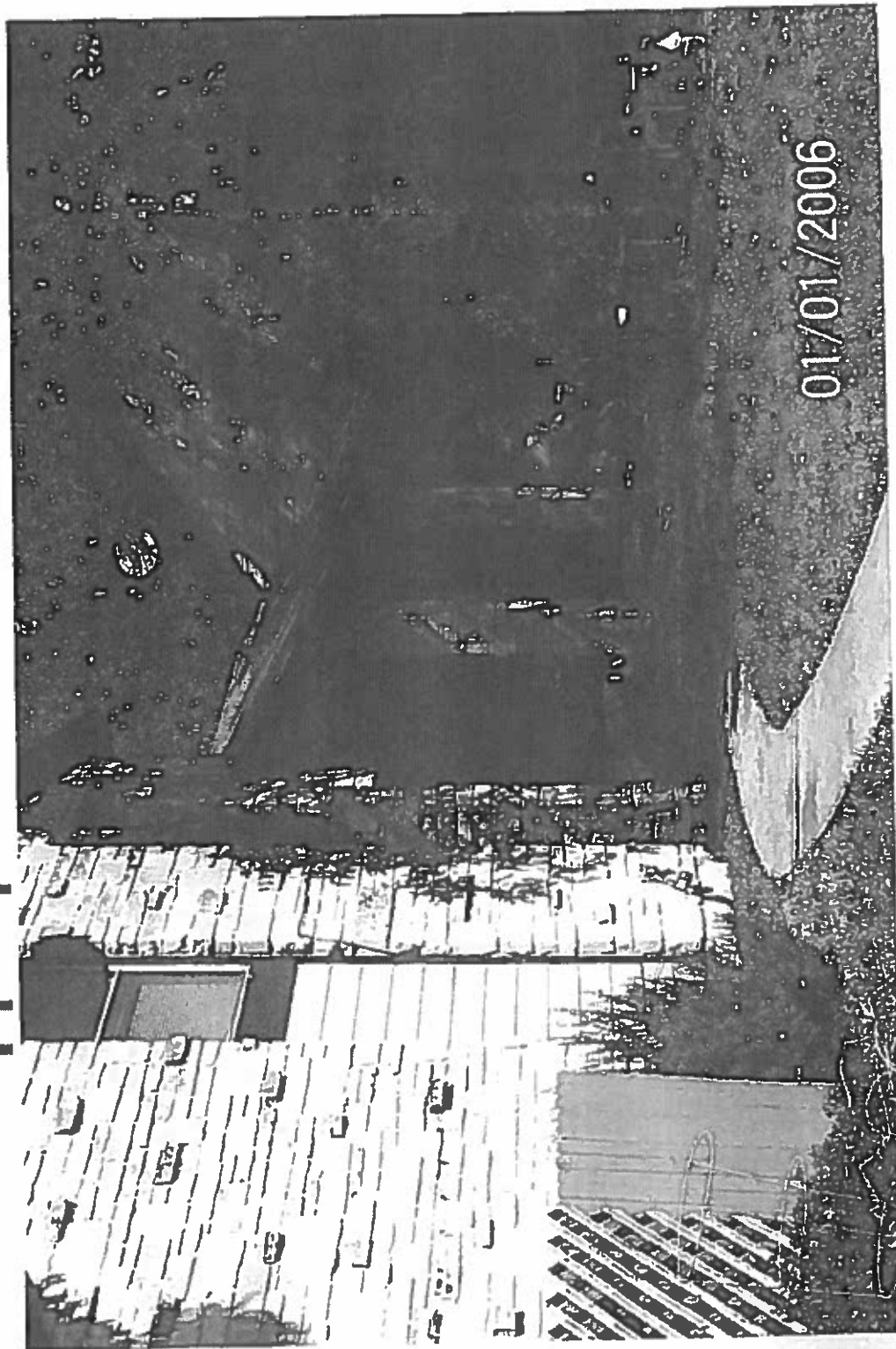
# Appropriate Attachment



11/30/2016

G/99

# Appropriate Attachment



11/30/2016

35

18/G

- We hope that you will find that:
- Any form of an “attachment” between dwellings should be a structural component, have a common purpose relating to a common use of the two units and be a substantial element that is counted as impervious cover

# Thank You

---

11/30/2016

37

2016/11

Opposition to Appeal  
C15-2016-0115  
PSW Real Estate

November 21, 2016

G/103

## 25-1-190, Appellate Burden

The appellant must establish that the decision being appealed is contrary to applicable law or regulations.



## BOA Community Guidebook:

“It’s important to remember that neither city staff nor the Board of Adjustment can re-write the Land Development Code, even if they see flaws in how it’s written.

If the code supports the department’s determination, the Board of Adjustment will not overturn the decision even if members of the Board don’t like the result.

Only the City Council, through the code amendment process, can change the code itself.”

## Rules of Procedure – Must meet all three.

1. Reasonable doubt or difference of interpretation as to the specific intent of the regulations.
2. Will not grant special privilege to one property owner inconsistent with other properties or uses similarly situated.
3. Out of character with the structures enumerated for the various districts and with the objective of the district in question.

G/106

1. Reasonable doubt or difference of interpretation as to the specific intent of the regulations?

10/6

# Definitions

- Chapter 25-1-21(8), Attached: when used with reference to two or more buildings, means having one or more common walls or being joined by a covered porch, loggia, or passageway.
  - This definition is a "general definition".
- Chapter 25-2-3 (B)(11), Single Family Attached Residential: the use of a site for two dwelling units, each located on a separate lot, that are constructed with common or abutting walls or connected by a carport, garage, or other structural element.

## "Structure"

- 25-1-21(113) – a building of any kind, or a piece of work artificially built-up or composed of parts joined together in a definite manner.

# Consistent with Prior Determination & Practice



## City of Austin

Powered by Congress, Republic of Texas, 1839  
Watershed Protection and Development Review Department  
One Texas Center, 503 Burton Springs Road  
P.O. Box 1088, Austin, Texas 78767

July 8, 2002

Mr. Kipp Flores  
Sabas Flores, A.L.A.  
11776 Jollyville Road, Suite 100  
Austin, Texas 78759

Dear Mr. Flores:

It has been determined by the Building Official of the City of Austin that an error constitutes a connection between single-family attached SF3 residences. The error must be constructed twice as long as it is wide.

If you have further questions regarding this matter, please contact me at (512) 974-2089.

Sincerely,

A handwritten signature in dark ink, appearing to read "Daniel L. Gallagher".

Daniel L. Gallagher, Deputy Building Official  
Watershed Protection and Development Review Department

JLG:rm

110/61

5/11



51  
112





G1  
T13

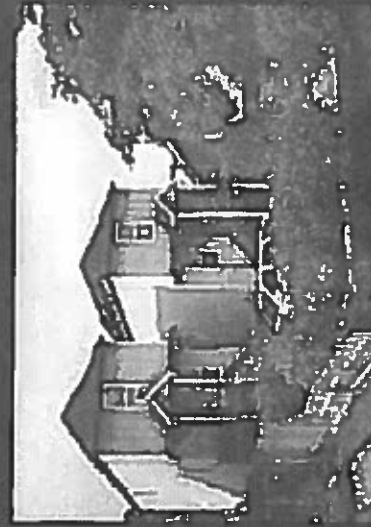
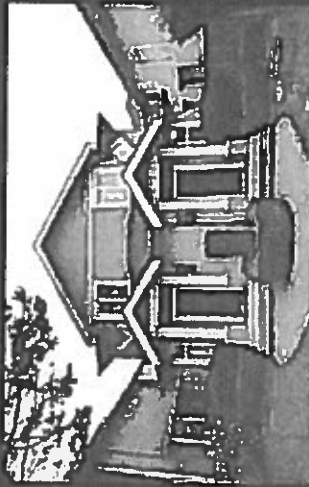


2. Will not grant special privilege to one property owner inconsistent with other properties or uses similarly situated?

3. Out of character with the structures enumerated for the various districts and with the objective of the district in question?



# Character of Family Residential District



# Land Development Code Diagnosis

## 3.4 Lack of Household Affordability and Choice Household Affordability "Gap" Continues to Grow

### Household Affordability

The city is facing a significant challenge in meeting the growing demand for affordable housing in a large segment of its residents. Through the city and its private and nonprofit partners have made considerable progress in a number of housing-related programs and initiatives, the city still faces a significant gap in the number of affordable housing units available to its residents.

The current regulations and policies could be revised to help meet the demand for more affordable housing and address the development of affordable housing in more areas. These changes include streamlining the permitting and approval process, allowing more flexibility in land use and development, and adopting more flexible zoning regulations to allow for more diverse housing types in the city's neighborhoods. The city is also working to address the existing 11% percent barrier to household affordability.

The city's current regulations and policies could be revised to help meet the demand for more affordable housing and address the development of affordable housing in more areas. These changes include streamlining the permitting and approval process, allowing more flexibility in land use and development, and adopting more flexible zoning regulations to allow for more diverse housing types in the city's neighborhoods. The city is also working to address the existing 11% percent barrier to household affordability.



Public Photo, 1999, 2014

54.1 LAND DEVELOPMENT CODE DIAGNOSIS

118/5

In conclusion,

- This appeal does not make the three required findings
- Effectively a code change
- Create many non-complying dwelling units
- Materially changes missing middle housing option

We respectfully request that you deny the appeal before you.

11/9/19

## 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 application. 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/devservices](http://www.austintexas.gov/devservices)

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Case Number: C15-2016-0115, 3206 and 3208 Aldwyche Dr.

Contact: Leane Heldenfels, 512-974-2202, [leana.heldenfels@austintexas.gov](mailto:leana.heldenfels@austintexas.gov)

Public Hearing: Board of Adjustment, October 10, 2016 -- Nov 14

Serena Lissy  
Your Name (please print)

☐ I am in favor  
☒ I object

2520 Bluebonnet Lane, ATX, 78704  
Your address(es) affected by this application

3210 Aldwyche Dr

[Signature]  
Signature

11/14/16  
Date

760 419 7945  
Daytime Telephone

Comments: I live at Bluebonnet Lane, but am under contract for 3210 Aldwyche Dr. The builder has been working with the city and got permission to construct properties as designed. If there is any ambiguity with the language in city code, any changes to language should be tightened up and future projects should be held to updated code

Comments must be returned by noon the day of the hearing to be seen by the Board at this hearing. They may be returned via:

Mail: City of Austin-Development Services Department/ 1st Floor  
Leane Heldenfels  
P. O. Box 1088  
Austin, TX 78767-1088

(Note: mailed comments must be postmarked by the Wed prior to the hearing to be received timely)

Fax: (512) 974-6305

Email: [leana.heldenfels@austintexas.gov](mailto:leana.heldenfels@austintexas.gov)

2/9



**Heldenfels, Leane**

---

**From:** Patricia Sprinkle [REDACTED]  
**Sent:** Sunday, November 13, 2016 10:00 AM  
**To:** Heldenfels, Leane  
**Subject:** Aldwyche C15-2016-0115

61  
121

Leane Heldenfels  
Senior Planner  
City of Austin

November 12, 2016

Re: C15-2016-0115

Dear Board of Adjustment Members,

The use of a trellis as a structural element between single family residences at 3206 and 3208 Aldwyche Drive violates Section 25-2-3 (B) of the Land Development Code.

The trellis is not a structural element as defined by architecture and construction standards as it is not a wall, beam, floor or other necessary means of support.\* For staff to grant an administrative decision using faulty standards sets a terrible precedence and is a gross misinterpretation of the code.

Please overturn this misapplication of the Land development Code by staff. Thank you for your time and consideration in this matter.

Sincerely,

Patty Sprinkle

Galindo

1114 Fieldcrest Drive

Austin Tx 78704

512-294-8303

## 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 application. You may also contact a neighborhood or environmental organization that has expressed an interest in an application affecting your neighborhood.

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Case Number: C15-2016-0115, 3206 and 3208 Aldwyche Dr.

Contact: Leane Heldenfels, 512-974-2202, [leana.heldenfels@austintexas.gov](mailto:leana.heldenfels@austintexas.gov)

Public Hearing: Board of Adjustment, October 10, 2016

Brian Chappell

Your Name (please print)

3001 Delculta Rd #29 Austin TX 78704

Your address (as affected by this application)

Signature

Date

Daytime Telephone: 646 323 6165

Comments: Supplemental as date of notice is not structural

Single Family Attached requires a Substantial

Structural element

By attaching the two buildings with per

adequate much needed AFFORDABLE

Family Housing. PSW is offering

1371 sq/ft @ \$449,000! structural attached

Comments must be returned by noon the day of the hearing to be

seen by the Board at this hearing. They may be returned via:

Mail: City of Austin-Development Services Department/ 1st Floor

Leane Heldenfels

P. O. Box 1088

Austin, TX 78767-1088

(Note: mailed comments must be postmarked by the Wed prior

to the hearing to be received timely)

Fax: (512) 974-6305

Email: [leana.heldenfels@austintexas.gov](mailto:leana.heldenfels@austintexas.gov)

less cost of purchase

2/2

61  
123

Heldenfels, Leane

---

**From:** Will Swetnam <[REDACTED]>  
**Sent:** Monday, October 10, 2016 11:53 AM  
**To:** Heldenfels, Leane  
**Subject:** Case C15-2016-0115, 3206 and 3208 Aldwyche Dr... OBJECT  
**Attachments:** Comments\_on\_3206-3208\_Aldwyche\_OPPOSE.pdf

Leane Heldenfels,

Please see attached response to the request for written comments on this case.

I currently live at 2520 Bluebonnet LN, Unit 61, Austin, TX 78704.

I understand that other properties have been built w/ arbors or other similar features as the "attachment" in the area, and feel that this sets precedent for the approval (which PSW has already received from the city) for the permit under question.

I feel that **\*IF\*** there is any ambiguity in the code language that the language should be corrected first, and that **FUTURE** projects be held to that updated code.

I feel that this PSW project should continue as permitted, avoiding any construction delays.

Thank you for your consideration of my thoughts on this issue.

- Will Swetnam

## PUBLIC HEARING INFORMATION

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Case Number: C15-2016-0115, 3206 and 3208 Aldwyche Dr.

Contact: Lenne Heldenfels, 512-974-2202, [lenne.heldenfels@austintexas.gov](mailto:lenne.heldenfels@austintexas.gov)

Public Hearing: Board of Adjustment, October 10, 2016

WILLIAM SWETNAM

Your Name (please print)

2520 BLUEBONNET LN UNIT 61, AUSTIN TX 78707

Your address(es) affected by this application

Lenne Heldenfels 10/10/2016

Signature

Date

Daytime Telephone: 512-609-0107

Comments: I'm looking over the permit folder  
it appears the applicant got approval  
from the city to proceed w/ the current  
design, I believe the city has indicated  
that the language of the City Code re  
"attached" properties is ambiguous I believe  
the city should tighten up code language and  
then enforce the updated code on future projects

Comments must be returned by noon the day of the hearing to be seen by the Board at this hearing. They may be returned via:

Mail: City of Austin-Development Services Department/ 1st Floor

Lenne Heldenfels

P. O. Box 1088

Austin, TX 78767-1088

(Note: mailed comments must be postmarked by the Wednesday prior to the hearing to be received timely)

Fax: (512) 974-6305

Email: [lenne.heldenfels@austintexas.gov](mailto:lenne.heldenfels@austintexas.gov)

24/5

G/125

October 10, 2016  
Re: 3206-3208 Aldwyche Drive  
BOA Interpretation: C15-2016-0115

Members of the Board of Adjustment:

The *Single Family Attached* issue has come to our attention, because it could affect every neighborhood in the City. It appears that the intent of the code is being stretched; *Single Family Attached* is being used to carve up administratively parcels of land into smaller lots, which have and will impact the unsuspecting, adjacent property owners due to the lack of a public process.

*Single Family Attached* is being used to create 2 units on a lot, which should be considered a duplex that requires a shared wall. In order to avoid this shared wall requirement, *Single Family Attached* may be "attached" by way of nonfunctional structural element such as a trellis. This is an example of where form and function defy logic. Moreover, this *Single Family Attached* designation defies definition and the code's intent; it is being duplicitously used. If we are going to have administrative decisions made by City staff about the code and its application, then the code must be precise in meaning, functionality, and intent.

We request that a thoughtful interpretation be made by the Board of Adjustment to define exactly what single family attached means, what functional structural elements it encompasses, and how it is different from a duplex (2 units on a residential lot), or remove the current determination of *Single Family Attached* from the code. Thank you for your attention to this matter.

Respectfully,

Mary Ingle  
ANC President

G1  
124

Heldenfels, Leane

---

**From:** Lorraine Atherton [REDACTED]  
**Sent:** Monday, October 10, 2016 10:00 AM  
**To:** Heldenfels, Leane  
**Subject:** Trellis appeal, 3206-3208 Aldwyche, C15-2016 0115  
**Attachments:** Aldwych trellis appeal.docx

Good morning, Leane.

Please find attached a letter of support for the code interpretation case on tonight's BoA agenda, 3206-3208 Aldwyche, C15-2016-0115.

If possible, please include it in the Board's late backup, and in the case file.

Thank you.

L. Atherton  
(512-447-7581)

6/12/17

October 10, 2016  
Re: 3206-3208 Aldwyche Drive  
BOA Interpretation: C15-2016-0115

Members of the Board of Adjustment:

The *Single Family Attached* issue has come to our attention, because it could affect every neighborhood in the City. It appears that the intent of the code is being stretched; *Single Family Attached* is being used to carve up administratively parcels of land into smaller lots, which have and will impact the unsuspecting, adjacent property owners due to the lack of a public process.

*Single Family Attached* is being used to create 2 units on a lot, which should be considered a duplex that requires a shared wall. In order to avoid this shared wall requirement, *Single Family Attached* may be "attached" by way of nonfunctional structural element such as a trellis. This is an example of where form and function defy logic. Moreover, this *Single Family Attached* designation defies definition and the code's intent; it is being duplicitously used. If we are going to have administrative decisions made by City staff about the code and its application, then the code must be precise in meaning, functionality, and intent.

We request that a thoughtful interpretation be made by the Board of Adjustment to define exactly what single family attached means, what functional structural elements it encompasses, and how it is different from a duplex (2 units on a residential lot), or remove the current determination of *Single Family Attached* from the code. Thank you for your attention to this matter.

Respectfully,

Mary Ingle  
ANC President

61  
128

Heldenfels, Leane

From: Karen McGraw [REDACTED]  
Sent: Sunday, October 09, 2016 7:27 PM  
To: Heldenfels, Leane  
Subject: Case G-1 C15-2016-0115 [REDACTED]

Leane, Please forward my comments to the Board Members.

Thanks,

I urge the Board to clarify this situation in a way that respects the current code and character of SF3 neighborhoods.

The current interpretation of "attached" results in development that undermines the SF3 zoning. The resulting development appears much more like SF4A zoning, with stand alone houses on lots as small as 3,000 square feet, than adjacent complying SF3 development.

Single Family Attached Use has become a convenient way to achieve small lot developments foisted on adjacent unsuspecting homeowners without a public zoning change, notice and hearing procedure.

This likely escalates property values of existing nearby SF3 homes on 5,750 minimum complying lots.

Duplexes must be connected and appear as one building. The zoning code used to define a duplex as a house that has been divided into two units and that still maintains the character of single family development. This language has morphed over the years, but duplexes still have to be connected more substantially than these SF Attached homes.

I understand that Single Family Attached use was created in the 1980s to allow a developer with a large volume of unsold property to sell each side of a duplex separately. If this began as a way to sell sides of a duplex, how did it become a tool for stand alone houses on small lots?

The "attachment" as currently interpreted, is not essential to the buildings, effectively allowing them to be separate structures. Should the simple "attachment" fail in a windstorm, rot away, or not be desired by the residents, it is doubtful that the city would pursue a case to reconstruct the "attachment" to ensure that the intent is continued. The buildings would clearly survive the removal of this "structure". Thus, this loophole simply facilitates separate houses on small lots.

I suggest that you rule in two ways:

- 1) that the attachment must follow that required for a duplex, at the very least.
- 2) that Single-family Attached use requires a zoning change or at least a variance, to require a public notice, comment process and hearing to determine whether it is appropriate where planned, prior to allowing this use in existing SF3 zoned areas.

Thank you,



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and:

- appearing and speaking for the record at the public hearing;
- 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.

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Case Number: C15-2016-0115, 3206 and 3208 Aldwyche Dr.

Contact: Leane Heldenfels, 512-974-2202, [leaneheldenfels@austintexas.gov](mailto:leaneheldenfels@austintexas.gov)

Public Hearing: Board of Adjustment, October 10, 2016

LEANNE VENIER

Your Name (please print)

☒ I am in favor  
☐ I object

2601 DEL OUR TO ROAD #101

Your address(es) affected by this application

*Leanne Venier* 10/19/16  
Signature Date

Daytime Telephone: 512-913-8767

Comments: Next door there are 2 enormous houses crammed onto a tiny lot, joined together by two by fours. The grand houses soon overtake and are very close to our driveway fence. It makes us feel very crowded.

Comments must be returned by the day of the hearing to be seen by the Board at this hearing. They may be returned via mail. This should never be allowed to happen again.

Leane Heldenfels  
P. O. Box 1088  
Austin, TX 78767-1088

(Note: mailed comments must be postmarked by the Wednesday prior to the hearing to be received timely)

Fax: (512) 974-6305

Email: [leaneheldenfels@austintexas.gov](mailto:leaneheldenfels@austintexas.gov)

12919

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Case Number: C15-2016-0115, 3206 and 3208 Aldwyche Dr.

Contact: Leane Heldenfels, 512-974-2202, [leaneheldenfels@austintexas.gov](mailto:leaneheldenfels@austintexas.gov)

Public Hearing: Board of Adjustment, October 10, 2016

Your Name (please print) BOYAN RINCK ☒ I am in favor ☐ I object

1809 LIGATSEY

Your address(es) affected by this application

Boyankin 10/9/16 Date

Daytime Telephone: \_\_\_\_\_

Comments: SF attached should  
have substantial attachments  
creating a connected structure  
with display type signage.  
GRAP PARADE on Trallis  
does not say attachment  
is structural element mark!

Comments must be returned by noon the day of the hearing to be seen by the Board at this hearing. They may be returned via:

Mail: City of Austin-Development Services Department/ 1st Floor  
Leane Heldenfels  
P. O. Box 1088  
Austin, TX 78767-1088

(Note: mailed comments must be postmarked by the Wed prior to the hearing to be received timely)

Fax: (512) 974-6305

Email: [leaneheldenfels@austintexas.gov](mailto:leaneheldenfels@austintexas.gov)

61  
130

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Case Number: C15-2016-0115, 3206 and 3208 Aldwyche Dr.

Contact: Leanne Heldenfels, 512-974-2202, [leanne.heldenfels@austintexas.gov](mailto:leanne.heldenfels@austintexas.gov)

Public Hearing: Board of Adjustment, October 10, 2016

Jane Roetman

Your Name (please print)

2513 Southland Dr

Your address(es) affected by this application

Jane Roetman

Signature

Date

Daytime Telephone: 512 444 5485

Comments: STOP HIGH DENSITY.  
OUR NEIGHBORHOODS ARE IMPORTANT  
HOW CAN THE LONG TIME RESIDENTS  
SUPPOSED TO HANDLE THIS.  
HOW ABOUT ROADS ?  
WATER ?  
QUALITY OF LIFE.

Comments must be returned by noon the day of the hearing to be seen by the Board at this hearing. They may be returned via:

Mail: City of Austin-Development Services Department/ 1st Floor

Leanne Heldenfels

P. O. Box 1088

Austin, TX 78767-1088

(Note: mailed comments must be postmarked by the Wed prior to the hearing to be received timely)

Fax: (512) 974-6305

Email: [leanne.heldenfels@austintexas.gov](mailto:leanne.heldenfels@austintexas.gov)

1319

PUBLIC HEARING INFORMATION

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Case Number: C15-2016-0115, 3206 and 3208 Aldwyche Dr.  
Contact: Leane Heldenfels, 512-974-2202, [leaneheldenfels@austintexas.gov](mailto:leaneheldenfels@austintexas.gov)  
Public Hearing: Board of Adjustment, October 10, 2016

South Central Coalition  
Your Name (please print)

PO 1114 FLEMING ST DE AUSTIN TX 78701  
Your address(es) affected by this application

Patricia Spivey 10-8-2016  
Signature Date

Daytime Telephone: 512-294-8303

Comments: The South Central Coalition  
requests this appeal move forward.  
Thank you for your assistance in this  
matter.

Comments must be returned by noon the day of the hearing to be seen by the Board at this hearing. They may be returned via:

Mail: City of Austin-Development Services Department/ 1st Floor  
Leane Heldenfels  
P. O. Box 1088  
Austin, TX 78767-1088  
(Note: mailed comments must be postmarked by the Wed prior to the hearing to be received timely)  
Fax: (512) 974-6305  
Email: [leaneheldenfels@austintexas.gov](mailto:leaneheldenfels@austintexas.gov)

132

## PUBLIC HEARING INFORMATION

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Case Number: C15-2016-0115, 3206 and 3208 Aldwyche Dr.

Contact: Leane Heldenfels, 512-974-2202, [leana.heldenfels@austintexas.gov](mailto:leana.heldenfels@austintexas.gov)

Public Hearing: Board of Adjustment, October 10, 2016

MK SHAW

☒ I am in favor  
☐ I object

Your Name (please print)

2601 Del Curoto Rodd #102

Your address(es) affected by this application

Austin TX 78704

MK SHAW

Signature

10/8/2016

Date

Daytime Telephone:

512/743-1556

Comments:

~~Not in favor~~

Already Built Similar Next

to me - Don't do it AGAIN - it's

A joke - just Don't

✓

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Mail: City of Austin-Development Services Department/ 1st Floor

Leane Heldenfels

P. O. Box 1088

Austin, TX 78767-1088

(Note: mailed comments must be postmarked by the Wednesday prior to the hearing to be received timely)

Fax: (512) 974-6305

Email: [leana.heldenfels@austintexas.gov](mailto:leana.heldenfels@austintexas.gov)

139

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Case Number: C15-2016-0115, 3206 and 3208 Aldwyche Dr.

Contact: Leane Heldenfels, 512-974-2202, [lane.heldenfels@austintexas.gov](mailto:lane.heldenfels@austintexas.gov)

Public Hearing: Board of Adjustment, October 10, 2016

William Stoughton  
Your Name (please print)

☒ I am in favor  
☐ I object

3200 South Oaks Dr

Your address(es) affected by this application

William Stoughton  
Signature

10/8/16  
Date

Daytime Telephone: (512) 789-6423

Comments:

The way 'single family attached' is being interpreted is obviously not the intent of those who approved the code.

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Mail: City of Austin-Development Services Department/ 1st Floor  
Leane Heldenfels  
P. O. Box 1088  
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Fax: (512) 974-6305

Email: [lane.heldenfels@austintexas.gov](mailto:lane.heldenfels@austintexas.gov)

51  
134

61  
135

October 7, 2016

Re: Board of Adjustment, Reinterpretation Appeal

3206-3208 Aldwyche, C15-2016-0115

Chairman and Members of the Board of Adjustment:

The Executive Committee of the Zilker Neighborhood Association (ZNA) has voted to support the South Lamar Neighborhood's appeal of staff's interpretation of LDC 25-2-3 B11, regarding the "Single Family Attached" requirement to connect two dwelling units with a structural element. Here's why I, as a member of ZNA, think this case is so important.

"Single Family Attached" originally meant a single structure divided into two units (a duplex). "Shared wall" was all that was required to describe it in the code. Allowing single structures to be divided into two units is an efficient way for a city to provide for infill, infrastructure, and maintenance of a diverse housing stock. Over the decades, however, the definition of "shared wall" was stretched to include a shared parking area, which was then stretched to include any covered area. By 2002, when an unnamed "Building Official" determined that an "arbor" was an allowable connection, the original intent of a single structure divided into two units was completely lost. An arbor, at least, is still a covered walkway. A trellis is nothing more than a decorative lattice, something to be attached to the side of an arbor. The structures on Aldwyche are not single-family attached. They are two separate dwellings on separate substandard lots requiring separate infrastructure and city services forever.

The refusal to acknowledge the meaning of the word "structural" is just one of many tactics used to circumvent the clear intent of the code, essentially allowing staff to rewrite zoning ordinances administratively, without a public process or the approval of any land use commission or the City Council. As a resident of the Zilker Neighborhood, which is mostly built out, I feel that we are all sinking into a swamp of administrative precedent, being sucked ever farther from solid ground. "Solid ground" can be defined as a zoning code designed to match construction with the available infrastructure. The problem is even more acute in this part of the South Lamar Neighborhood, where the most basic urban infrastructure for drainage, curb and gutter, streets and sidewalks, emergency services and utilities is lacking.

Austin's development process is divided into three disconnected phases: subdivision, zoning, and construction. Usually the infrastructure that a developer will be required to provide is determined when the land is subdivided, but the developer is not required to submit plans for the actual construction, and the Planning Commission is required to approve anything that meets current code in the broadest sense. The infrastructure requirements are based on the zoning district, but the City Council is required to decide zoning cases without benefit of any actual plans from the developer. In the end, all the assumptions and calculations of infrastructure made during the subdivision and zoning processes can evaporate when staff reinterprets a seemingly trivial section of code, like LDC 25-2-3 B11, to double the density of new construction.

The specific code citations are different, but that is what happened several years ago

when this same developer built a project in Zilker. Today, the residents and neighbors are suffering the consequences of inadequate drainage and excessive impervious cover because different staff interpreted various sections of code differently between the subdivision approval and the final building permit approvals.

Please help us reclaim this small patch of solid ground by rejecting the staff interpretation of LDC 25-2-3 B11 and requiring that any structural element serving as an attachment must be integral to the single-family structure.

Sincerely yours,  
Lorraine Atherton  
Member, Executive Committee  
of the Zilker Neighborhood Association

GL  
136



GJ  
137

Heldenfels, Leane

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From: Dan Ross <[REDACTED]>  
Sent: Thursday, October 06, 2016 4:04 PM  
To: Heldenfels, Leane  
Subject: Case # C15-2016-0115, 3206 and 3208 Aldwyche Dr  
[REDACTED]

Hi Leane,

I'm reaching out to you in re regarding the appeal of the of case number C15-2016-0115, 3206 an 3208 Aldwyche Drive. I live in the neighborhood and am also building a new home at this location. Duplexes will depreciate the land and home values in the area so I strongly object to this appeal.

Please let me know if there is anything further you need from me.

Thanks

Dan Ross  
Director of Business Development  
T. 508 683 2558  
C. 774 327 7920  
45 Perseverance Way  
Hyannis, MA 02601

**Statement of Confidentiality**

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6/138

Heldenfels, Leane

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**From:** Elena Howard <[REDACTED]>  
**Sent:** Thursday, October 06, 2016 9:42 AM  
**To:** Heldenfels, Leane  
**Subject:** Case Number: C15-2016 0115, 3206 and 3208 Aldwyche Dr.

Hi Leane,

I received a letter in the mail regarding an appeal of the permits to a new construction project on Aldwyche Drive: Case Number: C15-2016-0115, 3206 and 3208 Aldwyche Dr. I do NOT approve the appeal to revoke permits for this project. I believe that single family style homes with NO shared walls are MUCH better and more beneficial to the neighborhood than a duplex style, shared wall type community. The best use of the land and the most beneficial to neighbors would be single family homes. Please include my comments to OBJECT this appeal during the hearing next week.

Confirm receipt please when you receive my email.

Thanks!

Elena Howard  
3001 Del Curto Rd #12  
Austin TX, 78704

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Heldenfels, Leane

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From: Kelly Johnson Ilse  
Sent: Wednesday, October 05, 2016 2:26 PM  
To: Heldenfels, Leane  
Subject: Case #: C15-2016-0115 - Objection

Leane,

I received a notice about an appeal of case number C15-2016-0115 for 3206 and 3208 Aldwyche Drive since I live across the street.

I object this appeal. I think that detached homes without shared walls fit in much better with the neighborhood and they would attract more families and long term residents of the community.

I've seen other communities with the same type of connection between two homes (some right across Lightsey at Barton Skyway), and I don't see an issue with it there.

Thanks for your time, please let me know if this email will suffice or if you need anything else for my objection.

Kelly

Kelly Ilse  
(512) 484-3663

Heldenfels, Leane

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From: Danielle Reali <~~danielle.reali@cityofaustin.com~~>  
Sent: Wednesday, October 05, 2016 1:55 PM  
To: Heldenfels, Leane  
Subject: Case Number: C15-2016-0115, 3206 and 3208 Aldwyche Dr.

Hello Leane,

I am contacting you regarding the appeal of the of case number C15-2016-0115, 3206 an 3208 Aldwyche Drive. I live in the community across the street and I **OBJECT** this appeal. I am in favor of single family residences instead of a duplex. I don't see the problem with 2 dwellings with a connecting structure of an arbor. I think they will fit in better with the surrounding neighborhoods.

Please confirm you did receive this and if there is anything else that needs to be done.

To confirm, I **OBJECT** this appeal. Thank you in advance for your time.

Danielle

Danielle Reali  
3001 Del Curto, #10  
Austin, TX 78704  
512-809-5922

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## 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 application. 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/devservices](http://www.austintexas.gov/devservices)

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: C15-2016-0115, 3206 and 3208 Aldivycue Dr.

Contact: Leane Heldenfels, 512-974-2202, [leana.heldenfels@austintexas.gov](mailto:leana.heldenfels@austintexas.gov)

Public Hearing: Board of Adjustment, October 10, 2016

Areta A. Cartwright  
Your Name (please print)

☐ I am in favor  
☐ I object

3204 Clawson Rd. Austin Tx 78704

Your address(es) affected by this application

*Areta A. Cartwright*  
Signature

10.4.16

Date

Daytime Telephone: 512.441.3540

Comments: Single family Attached needs to have a common wall according to Code. A superficial landscape element doesn't meet this code requirement. Affordability is also a factor.

Comments must be returned by noon the day of the hearing to be seen by the Board at this hearing. They may be returned via:

Mail: City of Austin-Development Services Department/ 1st Floor  
Leane Heldenfels  
P. O. Box 1088  
Austin, TX 78767-1088

(Note: mailed comments must be postmarked by the Wednesday prior to the hearing to be received timely)

Fax: (512) 974-6305

Email: [leana.heldenfels@austintexas.gov](mailto:leana.heldenfels@austintexas.gov)

*TH*

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Case Number: C15-2016-0115, 3206 and 3208 Aldivych Dr.

Contact: Leane Heldenfels, 512-974-2202, [leana.heldenfels@austintexas.gov](mailto:leana.heldenfels@austintexas.gov)

Public Hearing: Board of Adjustment, October 10, 2016

Jan D. Cartwright

Your Name (please print)

☒ I am in favor  
☐ I object

3204 Clawson Rd. Austin TX 78704

Your address(es) affected by this application

A.I.A. 10.4.16

Date

Signature

Daytime Telephone: 512-441-3540

Comments: Single Family attached should have a substantial connection between homes-not just a landscape element. Code calls for a common wall-carpet, passage, loggia or other STRUCTURAL element. Affordability is also important

Comments must be returned by noon the day of the hearing to be seen by the Board at this hearing. They may be returned via:

Mail: City of Austin-Development Services Department/ 1st Floor

Leane Heldenfels

P. O. Box 1088

Austin, TX 78767-1088

(Note: mailed comments must be postmarked by the Wed prior to the hearing to be received timely)

Fax: (512) 974-6305

Email: [leana.heldenfels@austintexas.gov](mailto:leana.heldenfels@austintexas.gov)

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## PUBLIC HEARING INFORMATION

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Case Number: C15-2016-0115, 3206 and 3208 Aldvyeche Dr.  
Contact: Leane Heldenfels, 512-974-2202, [leana.heldenfels@austintexas.gov](mailto:leana.heldenfels@austintexas.gov)  
Public Hearing: Board of Adjustment, October 10, 2016

Patricia Fiske  
Your Name (please print)

2601 Del Cesta #103  
Your address(es) affected by this application

Patricia Fiske  
Signature

\_\_\_\_\_  
Date

Daytime Telephone: 512-726-8835

Comments: I look at the door and see two  
by-laws joining houses - the  
way that builder supplied with  
this advertisement.  
Please don't let this happen  
again.

Comments must be returned by noon the day of the hearing to be seen by the Board at this hearing. They may be returned via:

Mail: City of Austin-Development Services Department/ 1st Floor

Leane Heldenfels

P. O. Box 1088

Austin, TX 78767-1088

(Note: mailed comments must be postmarked by the Wed prior to the hearing to be received timely)

Fax: (512) 974-6305

Email: [leana.heldenfels@austintexas.gov](mailto:leana.heldenfels@austintexas.gov)

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