

C15-2018-0018

PP  
5-13

---

---

# Appeal of Director's Land Use Determination

— Board of Adjustment —  
April 8, 2019

---

---

---

---

When I see a bird that walks like a duck  
and swims like a duck and quacks like a  
duck, I call that bird a duck.

-James Whitcomb Riley

---

---

---

---

When we see a building that operates as a fraternity house and sounds like a fraternity house and is advertised as a fraternity house, we call that building a fraternity house.

---

---

*- Tonight's Board of Adjustment*

---

---

# Relevant History

- 09/17/2017: Beta Theta Pi purchased the house located at 2311 Shoal Creek Blvd, Austin, TX 78701
- Purchase completed a multi-year fundraising campaign for Beta Theta Pi to re-establish a fraternity house following its chapter suspension
- Purchase made in the name of the "Texas Beta Students Aid Fund" [Travis County Property Records, Instrument #2017155531]



Beta Theta Pi - University of Texas at Austin

Like This Page · August 14, 2017

Time for our second big announcement! After looking for a house to call our own for over two years, we were finally able to acquire a house for our chapter. We are so happy to be able to call this house ours and want to thank everyone who has helped us get this far, especially our TBSAF. We are extremely excited about this acquisition and look forward to seeing how it benefits our chapter as a whole!

"Several features of the property made the purchase of the property very attractive, including its more desirable location and the ability for the undergraduates to utilize the house immediately, eliminating the inconvenience of living in a house during extensive remodeling and renovations."

- Beta Theta Pi's Summer 2018 Newsletter

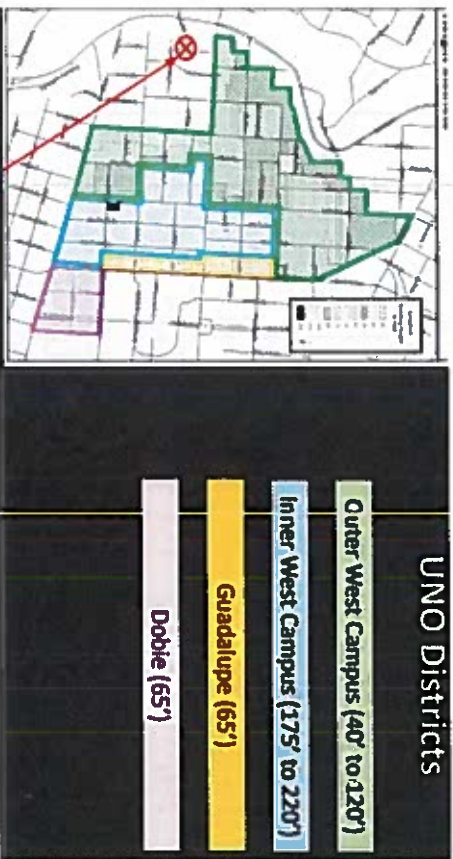
# Texas Beta Students Aid Fund

- Texas Beta Students Aid Fund is a registered Texas non-profit organization
- Official mission statement:

"Aid students of the University of Texas, who are members of the Beta Omicron Chapter of the Beta Theta Pi Fraternity, with scholarships, maintaining of lands and buildings serving as housing for these students, and to ensure that their higher education is attained."



# Property Location



Located Outside the University Neighborhood Overlay



# Use of the Property

- Listed as the official address and headquarters of the local chapter of the Beta Theta Pi on:
  - UT's Dean of Students Registry
  - Facebook and Social Media
  - Official Documents with State of Texas
  - Its Own Websites
- Advertised on Google with location marker and hours of operation
- Advertised with large sign (BΘΠ) which would be too large even for a "home occupation"



## Texas Beta Theta Pi

[Website](#)

[Directions](#)

[Save](#)

5.0 ★★☆☆★ 3 Google reviews

Fraternal organization in Austin, Texas

Address: 2311 Shoal Creek Blvd, Austin, TX 78705

Hours: Open · Closes 5PM ↕



# Use of the Property (Cont.)

- Used by ~110 member fraternal/social organization
- Day-to-Day Operations
- Hosts frequent meetings, recreational and social activities
- Primarily used by members of the fraternity and guests
- Trips to and from fraternity house far exceed any trip limits related to home occupations and accessory uses for primary residential uses
- Purchased to make housing available for undergraduate students



Event Date: 2/28/2019 (Over 50 attendees)



# Use of Property (Cont.)

- Neighbors reported numerous code complaints dating back to March 27, 2018
  - Spike in activity following neighborhood meeting that the fraternity attended
- Weekly/Tuesday chapter meetings (during Fall semester)
- Fraternities are social organizations, organized for the main purpose of hosting and participating in large group activities
- High turnover makes year-to-year agreements w/ neighbors difficult



4 Trash Cans for One Person?



Multiple Carports / Ample Parking



# Staff Interpretation

- Because Beta Theta Pi claims that only 1-2 people live on the property, staff says the use is “single-family”
- Ignores the fraternity’s other uses of the property
- No consideration of “accessory use” or “home occupation”
- Ignores inconsistencies with Single-Family:
  - Advertising
  - Signage
  - Membership requirements to use property
  - Frequent, large-scale events (50+ persons)
  - More than one vehicle parked per resident



## Fraternities in Austin Operate as Either “Group Residential” or “Club or Lodge”

(5) GROUP RESIDENTIAL use is the use of a site for occupancy by a group of more than six persons who are not a family, on a weekly or longer basis. This use includes **fraternity** and sorority houses, dormitories, residence halls, and boarding houses.

Land Development Code, Sec. 25-2-3(B)(5)

OR

(5) CLUB OR LODGE use is the use of a site for provision of meeting, recreational, or social facilities by a private or nonprofit association, primarily for use by members and guests. This use includes **private social clubs and fraternal organizations**.

Land Development Code, Sec. 25-2-6(B)(5)

# Group Residential is Permitted in MF-4 (and above)

RESIDENTIAL USES	LA	RR	SF-1	SF-2	SF-3	SF-4A	SF-4B	SF-5	SF-6	MF-1	MF-2	MF-3	MF-4	MF-5	MF-6
Bed & Breakfast (Group 1)	-	-	P	P	P	-	-	P	P	P	P	P	P	P	P
Bed & Breakfast (Group 2)	-	-	-	-	-	-	-	P	P	P	P	P	P	P	P
Condominium Residential	-	-	-	-	-	-	-	P	P	P	P	P	P	P	P
Conservation Single Family Residential	-	-	P	-	-	-	-	-	-	-	-	-	-	-	-
Duplex Residential	-	-	-	-	P	-	-	P	P	P	P	P	P	P	P
Group Residential	-	-	-	-	-	-	-	-	-	-	-	C	P	P	P

# Club or Lodge is Permitted with a Conditional Use Permit in Most Categories

CIVIC USES	LA	RR	SF-1	SF-2	SF-3	SF-4A	SF-4B	SF-5	SF-6	MF-1	MF-2	MF-3	MF-4	MF-5	MF-6
Administrative Services	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Aviation Facilities	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Camp	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Cemetery	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Club or Lodge	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
College and University Facilities	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C

Note: SF-3 zoning would permit a Fraternity House, as a Club or Lodge, with a conditional use permit.

# Easiest Option is Club or Lodge

- Permitted in SF-3, with a conditional use permit
    - Wouldn't require a zoning change
  - Residential is not prohibited in civic uses
    - Eg., Section 25-2-897(1) explicitly envisions that there can be a residential accessory use to a civic use (such as a family that lives on-site to maintain and manage the Fraternity House)
  - The trip limitations and permitted attendance at events would be more inline with the fraternity's actual use
    - Under SF, accessory uses are limited to not more than 10 trips/day and 30/trips per week (LDC § 25-2-893(I))
  - Fraternity could keep its sign
  - Would create a space for the neighborhood and fraternity to converse about how to coexist peacefully
-

# Factors of Club or Lodge



“... the use of a site for provision of meeting, recreational, or social facilities ...



... by a private or nonprofit association ...



... primarily for use by members and guests.



This use includes private social clubs and fraternal organizations.”



## Proposed Motion: Club or Lodge

(5) CLUB OR LODGE use is the use of a site for provision of meeting, recreational, or social facilities by a private or nonprofit association, primarily for use by members and guests.

This use includes private social clubs and fraternal organizations.

“The use of a house by a fraternity as its headquarters, for day-to-day operations and as hosting space for frequent meetings and recreational and social activities, but where less than six unrelated adults reside in the house, should be considered a club or lodge use.”

