

J-1/68

FD-302





NOTICE OF PUBLIC HEARING LAND DEVELOPMENT CODE DECISION AND INTERPRETATION APPEAL

Este aviso es para informarle que hemos recibido una solicitud para una varianza dentro de una distancia de 500 pies de su propiedad. Si usted desea recibir información en español, por favor llame al (512) 974-2193.

Mailing Date: March 28, 2019

Case Number: C15-2019-0018

Please be advised that the City of Austin has received an application for a Interpretation Appeal of an administrative decision based on the Land Development Code.

| | |
|-------------------|------------------------------|
| Applicant: | Ronald Sawey, (512) 472-3784 |
| Owner: | Beta Student Aid Fund |
| Address: | 2311 SHOAL CREEK BLVD |

Interpretation Appeal:

The applicant has filed an appeal challenging the Land Use Determination of 2311 Shoal Creek Blvd. as a single family residence use in a "SF-3-NP", Family Residence – Neighborhood Plan zoning district. (West University)
The applicant maintains that the use is either club/lodge or group residential.

This application is scheduled to be heard by the **Board of Adjustment** on **April 8, 2019**. The meeting will be held at **City Hall**, 1st Floor, 301 West 2nd Street **beginning at 5:30 PM**.

To see where on the agenda/when this item will be heard, on the **Friday prior to the hearing go to the **Board's website** (start at www.austintexas.gov, then click on government, then click on Boards and Commissions, then highlight Board of Adjustment and click on view website, then click on Agendas) and find this hearing **agenda/case order** there. The Board will vote on postponement and withdraw requests at the beginning of the hearing, as close to 5:30pm possible.*

You are being sent this notice because City Ordinance requires **that all property owners and utility account holders within 500 feet of the proposed development** and affected neighborhood organizations **be notified** when an application is scheduled for a **public hearing**.

You are not required to respond to this notice, however if you have any questions concerning this application, please contact **Leane Heldenfels of the Development Services Department at 512-974-2202 or leane.heldenfels@austintexas.gov** and refer to the Case Number at the top right of this notice.

You may also find information on this case at our website:

<https://www.austintexas.gov/department/development-services>

At this page click on the words Public Search, then input the case number above and click submit. Open the BA case by clicking on the title then scroll down to attachments to find the information submitted.

If you do wish to respond to this notice follow instructions provided on the following page.

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

<https://www.austintexas.gov/department/development-services>

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 website:

www.austintexas.gov/department/development-services

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: C15-2019-0018, 2311 Shoal Creek Blvd.

Contact: Leane Heldenfels, 512-974-2202, leane.heldenfels@austintexas.gov

Public Hearing: Board of Adjustment, April 8, 2019

IRISSIZ DARMON
Your Name (please print)

☒ I am in favor
☐ I object

1114 W. 22 1/2 Street
Your address(es) affected by this application

IRISSIZ DARMON
Signature

4-2-19
Date

Daytime Telephone: 512-298-8860

Comments:

Please see attached
3 pages

Comments must be returned by 10am the day of the hearing for the Board to see them at this hearing. They may be sent by:

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 before the hearing to be receive in time for this hearing)

Fax: (512) 974-6305

Email: leane.heldenfels@austintexas.gov

Re: C15-2019-0018
2311 Shoal Creek Blvd.

We do not support the use of this property as a fraternity as the use is incompatible with all other SF3 properties within the neighborhood.

We request that the fraternity sign next to the house be removed, and that any reference to the house as a fraternity be removed from their website and materials. This property should not be allowed to have fraternity parties, rush events, etc. as they are incompatible with the neighborhood.

On their fraternity website, they note that their goal is to have 120 men during the next 18 months....the impact to the neighborhood, especially to the families living within three to four blocks is devastating. Allowing this *one* property to continue this *incompatible use* is essentially "*spot zoning*," and it destroys the quality of life for *hundreds* of people.

During the planning process, our neighborhood compromised with the city planning staff, the UAP neighborhood area, and made numerous concessions. Our neighborhood now requests the most important thing that we have consistently requested be honored. We request that SF3 properties not be allowed to house fraternities or like minded groups. If people moving into inter city neighborhoods are unable to trust the zoning and use established by our city, we will continue to see people move out of inner city neighborhoods. Zoning, Use, and Code Enforcement are the backbone of neighborhoods, and we depend upon the city to keep its planning commitments.

T. Damron, home owner
Caswell Heights Neighborhood Association member



J-1/72

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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*

J-1/76

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

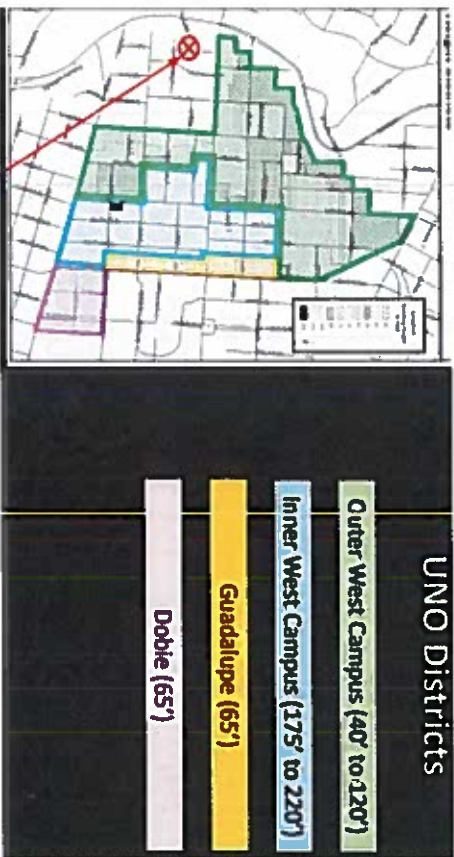
- Texas Beta Students Aid Fund is a registered Texas non-profit organization
- Official mission statement:

"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."

J-1/78

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



J-1/80

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

J-1/82



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(l))
- Fraternity could keep its sign
- Would create a space for the neighborhood and fraternity to converse about how to coexist peacefully

J-1/88

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."

COATS | ROSE

A PROFESSIONAL CORPORATION

JOHN M. JOSEPH
DIRECTORDIRECT: (512) 541-3593
FAX: (512) 469-9408

May 9, 2019

VIA EMAIL

Leane Heldenfels
Planner Senior – Board of Adjustment Liaison
City of Austin Development Services Department
505 Barton Springs Road
Austin, TX 78704

Re: Land Use Determination (C15-2019-0018); 2311 Shoal Creek Blvd., Austin, TX
78705 ("Property")

Dear Ms. Heldenfels:

Our firm represents Texas Beta Students Aid Fund, the owner of the property located at 2311 Shoal Creek Blvd. On April 8, 2019, the Board of Adjustment took testimony and closed the public hearing, but postponed action to give my client and interested residents an opportunity to reach an agreement on the continuing use of the Property. Although my client appreciates the cooperation of the adjacent property owners, interested neighborhood associations were not willing to enter an agreement. Consequently, my client has decided to cease operations, which has already occurred and place the property on the market for sale.

In as much as my client has ceased to use the Property, and has listed the Property for immediate sale, the issue on appeal is moot. We respectfully request that the Board of Adjustment, on its own motion, dismiss the Land Use Determination before them or postpone the matter until the Property is sold. No further use of the Property will be made pending sale. This matter is currently on the agenda for May 13, 2019.

Please feel free to contact me if you have any questions.

Sincerely,



John M. Joseph

cc: Bobby Levinski
Jerry Rusthoven, City of Austin

BARTON OAKS PLAZA, 901 S. MOPAC EXPWY, BLDG 1, STE 500, AUSTIN, TEXAS 78746
PHONE: (512) 469-7987 FAX: (512) 469-9408

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