

HISTORY OF PROCEEDINGS: C14H-2010-0016

Together we, Charles & Christine Boes, are the owners of the private property located at 408 E 33 St, Austin 78705. On March 11, 2010, we filed an application for demolition of the current structure to enable us to build our single family, five star energy-rated retirement home on this city conforming lot. We oppose the designation of the current structure as a historical landmark. We agree with the staff recommendations and the actions of the Planning Commission as reached on two separate occasions that this structure does not meet the criteria for individual designation as a historic landmark. The September 30, 2010 hearing will be the ninth airing of this case before a city entity. We ask that the City Council deny the Historic Landmark Commission's recommendation for a zoning change to historic, and request that the demolition permit be released. We cite the following as rationale:

- This structure/private property is NOT in a local historic district (staff report) Per the 2004 CANPAC Planning Document, Appendix C, (North University being a key neighborhood participant) the City specifically claims

"Until the local historic district ordinance passes and until local historic districts are established, we cannot give special protection to buildings that would qualify if and when a historic district is established. Building permits cannot be addressed until there is a historic district with design standards in place."

- This house is NOT listed in the Comprehensive Cultural Resources Survey, 1984 (staff report)
- This structure is NOT located within an area of historical designation (staff report)

Brief Chronology

- 1/ Application for demolition permit filed March 11, 2010
- 2/ Hearing on April 26, 2010 before Historic Landmark Commissioners resulted in initiation of historic zoning on a 7-0 vote
- 3/ As owners, we filed a valid petition with the city's preservation officer Steve Sadowsky opposing the historic zoning designation

4/ Hearing on May 24, 2010 before Historic Landmark Commission. City staff's recommendation indicates that structure does not qualify as a historic landmark. Commissioners voted 5-1 recommending a zoning change to historic.

5/ The Planning Commission hearing scheduled for July 13, 2010 was postponed to allow additional research by staff. The zoning change review sheet submitted at the July 13, 2010 meeting included the previous staff recommendation that the structure does not meet the criteria for individual designation as a historic landmark.

6/ At the Planning Commission hearing dated July 27, 2010, the Commission voted 5-3 in support of the staff recommendation against the historic zoning change. At this time, Commissioner Dealey suggested that owner contact her to obtain names of individuals/entities that would be interested in moving the structure. On July 29, 2010, owner agreed to work with a party identified by the Commissioner. This party has inspected the structure and has obtained confirmation from a house moving company that the structure can be moved. The party has agreed to move the structure once the city review of this matter is completed.

7/ At the public hearing before the City Council on August 19, 2010 a postponement was granted at the request of supporters of historic zoning who were given a one week timeframe to produce historical evidence.

8/ The August 26, 2010 hearing before City Council resulted in a 3-4 vote to deny historic zoning; the substitute motion by Council Member Spelman remanded the case back to the Planning Commission for another review based on circumstantial evidence summarized in a letter from Greg Smith, state historian, on a 4-3 vote.

9/ The September 14, 2010 Planning Commission conducted a full hearing on the case and voted 5-4 to deny historic zoning. We reiterated at the meeting that it was our intent to "gift" the house, pending action by the City Council to deny historic zoning.

At this time, there are several parties that have come forward interested in moving the house. We will act on the basis of expressed interest in the house, pending the outcome at City Council this week.

As owners, we, Charles & Christine Boes, request that historic zoning be denied, and that the demolition permit be issued. We have been frank, honest & forthcoming in our discussions as to the intended use of the prop-

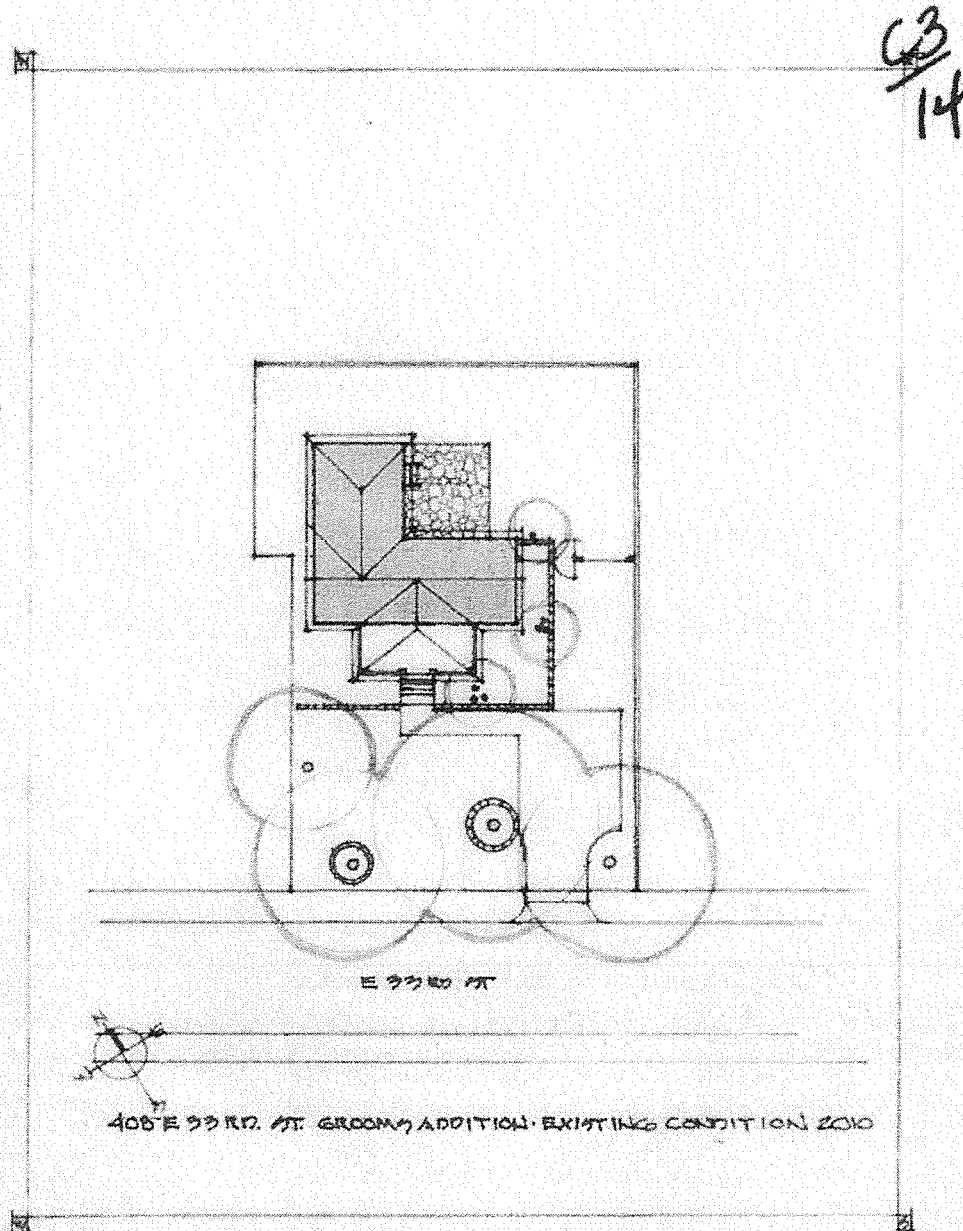
erty. Currently established ordinance guides us in that new development will be appropriately oriented and scaled relative to the neighborhood. We ask that the City consider our plans for an owner occupied new residence as complementary, not contrary, to the City's neighborhood goals. We ask that you welcome us with your vote.

Sincerely,
Charles & Christine Boes
Owners, 408 E33 St, Austin 78705

Reference:
Sent by email to Mayor Leffingwell & Council Members, City of Austin, regarding September 30, 2010 Council Agenda Item 46: C14H-2010-0016

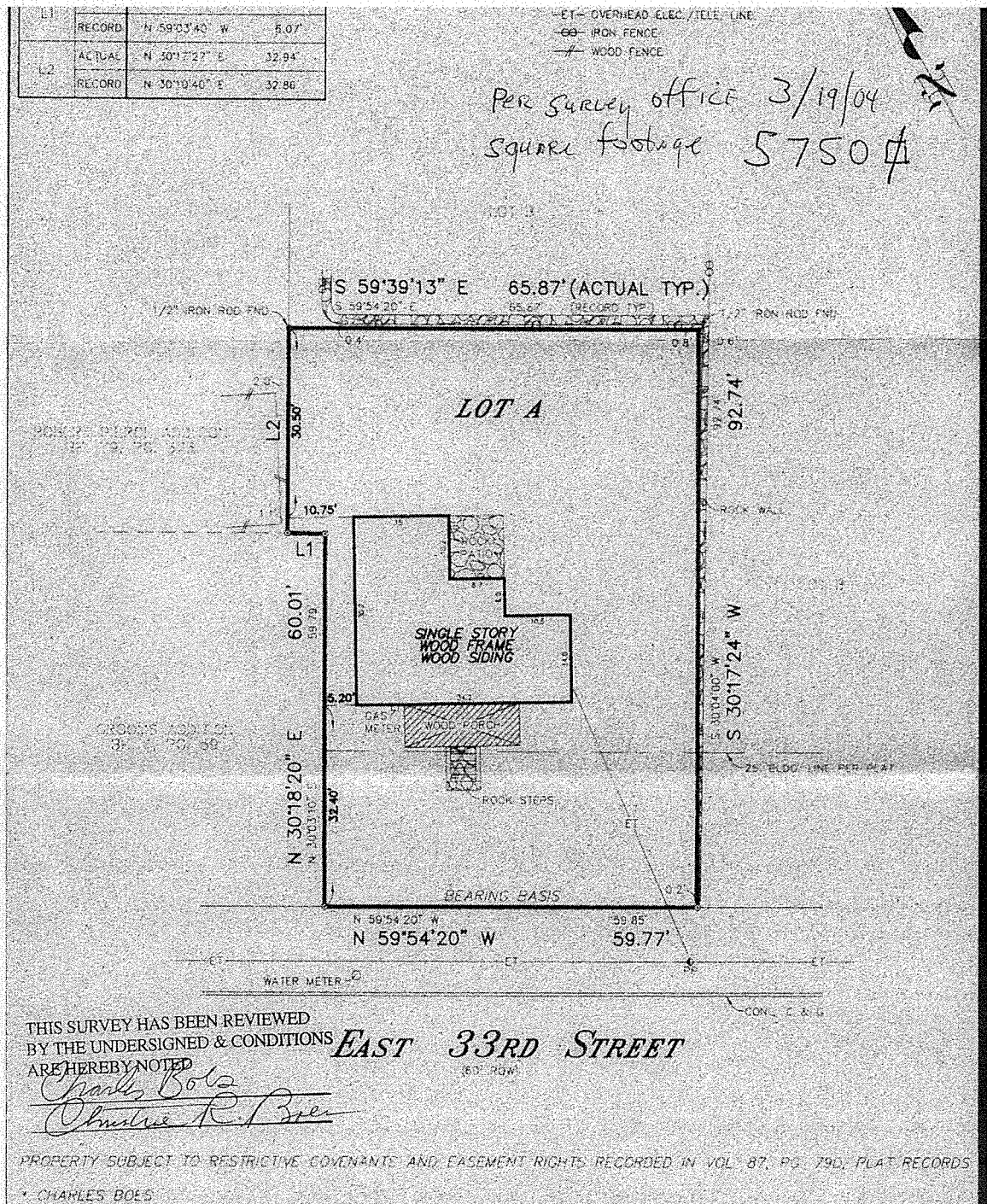
DISCUSSION OF BOES STRUCTURE:

By September 14, a slightly different version of the same house appeared-this footprint was also introduced by opposing parties



DISCUSSION OF BOES STRUCTURE:

This is an actual survey of the house, as done for us at the time of purchase in 2004. We have not made any structural additions to the house since, and we have provided a recent report of an engineer's findings that support this, along with foundation photos.



Forwarded Message

Subject: This letter has been sent to the Mayor and City Council this morning...

"Dear Mayor and Council Members

The North University Neighborhood Association has not taken an official position on the historical zoning request for the property at 408 E. 33rd Street. While sensitive to concerns about the the loss of "contributing structures" in the Grooms Subdivision of NUNA -- where a group of neighbors is seeking the establishment of a local historic district -- we are also sensitive to the property owner's rights in this case. Therefore, while we did officially oppose the request for a demolition permit we have not officially recommended support for historical designation of the structure, in question.

This case has presented a considerable dilemma for NUNA which strongly supports the prcservation of our neighborhood while recognizing the importance of individual property owner's rights.

Respectfully submitted,

Laurence Miller, President
North University Neighborhood Association"

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Laurence Miller
President
North University Neighborhood Association

To the Mayor and City Council
Steve Sadowsky

RE: 408 East 33rd Street Home – Currently Before the City Council for Historic Zoning
over the Owners' Objections

Representatives of the Grooms Historic Committee made it clear at the Planning Commission that the structure at 408 East 33rd Street was more important than having Christine and Charles Boes build the single family owner occupied retirement home they had planned at this location.

Those of us who live in the direct vicinity of this property want you to know that this does not reflect the feeling of those of us who will be directly impacted by this decision. Having a well-built owner-occupied single family home that reflects the character of the neighborhood and occupied by neighbors who will contribute to the viability of the neighborhood is more important than this structure.

Zoning this property historic over the owner's objections such that they cannot build the home they planned on building when they bought the property does not serve in the best interest of this area of the neighborhood. This structure is next-door to an illegal super-duplex. It will be the only single-family, owner occupied property on 33rd street from Duval to Grooms (2 full blocks).

It was unkind, un-neighborly and incorrect of the Grooms Historic committee representatives and I think the Planning Commission to suggest that Christine and Charles should have to sell the property or deal with the house if they want to live in our neighborhood. Neighborhoods are made up of people and we would very much like Charles and Christine to know that we welcome them to our neighborhood.

Those of us in agreement have signed the attached petition.

P E T I T I O N

Date: 23 SEP 2010

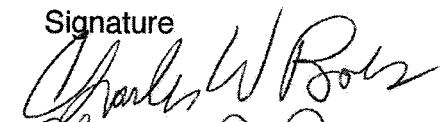
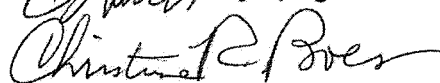
File Number: C14H-2010-0016

Address of Rezoning Request: 408 E 33 St, Austin 78705

To: Honorable Mayor and Members of City Council, City of Austin

We, Charles W Boes and Christine R Boes, the undersigned owners of the property affected by the requested zoning change described in the referenced file, do hereby protest against any change of the Land Development Code which would zone the property to any classification other than SF-3-NCCD-NP .

Please consider this letter as a valid petition indicating that we as the owners of the above referenced property, file #C14H-2010-0016, oppose the imposition of historic zoning on this property. This structure does not meet the requirements of the City of Austin historic landmark criteria for individual structure designation.

Signature	Printed Name	Property Address
	Charles W Boes	408 E 33 St, Austin 78705
	Christine R Boes	408 E 33 St, Austin 78705

Date: 23 SEP 2010

Contact Name: Charles W Boes and/or Christine R Boes

Mailing Address: 6550 Shady Brook Ln, #2017, Dallas 75206

Phone Number: 214-893-9404

cc: Greg Guernsey, Director of Neighborhood Planning and Zoning, City of Austin

Steve Sadowsky, Historic Preservation Officer, City of Austin

PETITION

September 15, 2010

File Number: C14-2010-0016

Address: 408 East 33rd

We, the undersigned owners of the properties directly affected by the requested zoning change described in the referenced file, do hereby protest against any change of the Land Development Code which would zone the property to any classification other than single family non-historic.

We believe Christine and Charles Boes should be able to build their planned single-family, owner-occupied home that will compliment our area replacing the existing structure.

(PLEASE USE BLACK INK WHEN SIGNING PETITION)

Name	Address	Phone Number
Susan I. Fryer	3300 Duval St.	(512) 476-5676
Ray E. Walker	401 East 34th	(512) 477-5305
John B. Bartlett	3307 Tompkins	(512) 472-2100
Louise Dattilo	3307 Tompkins	(512) 472-2000
C. Daniel Roberts	3210 Duval	(512) 474-8448
Caroline Roberts	3210 Duval	(512) 470-0862
Eleanor and Ron Luke	500 Harris Ave	(512) 495-9316
Kathleen Monahan	3215 Duval St	512 476-1040
Richard Boner	3215 Duval St	512 206-0160
Ed	3300 Duval St	512 497-2222
Wendy Price	3221 Duval St	512 476-7643
Lisa Ansin	3306 Duval St	512 391-0756
James A. Builtz	3219 Duval St	512-476-7544
Susan Cory	3219 Duval St	512-476-7344
Roland Riviera	507 Harris Ave	(512) 473-2105

From: "Greg Smith" <Greg.Smith@thc.state.tx.us>
Subject: **RE: Letters regarding the property at 408 E 33rd**
Date: September 14, 2010 12:07:17 PM CDT
To: [REDACTED]
Cc: [REDACTED]

I don't intend to send out any more letters regarding this case!

My letter was intended to only address the nature of the archival documents referenced by the applicant, and more importantly, argue for a transparent landmark review process, whereby the formal opinions of all relevant city reviews boards and commission are taken into account at each step of the process.

Greg

Gregory Smith
National Register Coordinator
History Programs Division
Texas Historical Commission
PO Box 12276
Austin, Texas 78711
512-463-6013
www.thc.state.tx.us

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

From: [REDACTED]
Sent: Tuesday, September 14, 2010 11:55 AM
To: Greg Smith
Cc: christine Boes
Subject: Letters regarding the property at 408 E 33rd

Dear Greg,

As your last letter caused the case to be sent back to the Planning Commission - with your letter being the 'new evidence' - could you please include us in any letters you might send out that would affect this case. Your letter was read out of context - since none of the City Council Members had time to read it at such a late date and we were unaware of any letter until the meeting - we were all caught totally unaware. Obviously, someone of your stature and position carries a heavy weight in historical zoning cases.

Thank you,

Susan J. Pryor & Richard Boner- email: [REDACTED]
(next door neighbors to this property)

Christine and Charles Boes - owners of this property - email:
[REDACTED]



408 EAST 33rd

LEGAL
SWEETPLEX

OWNER OCCUPIED
PROPERTIES 10
SUPPORT OF
CHRISTIE +
CHARLES BOES
COMPOSED TO HIS -
TAPIC DESIGNATION
ON THIS PROPERTY

RENTAL -
(NOT OWNER
OCCUPIED)

MULTI-FAMILY
OR CO-OPS