

**Walker, Susan**

C15-2011-0110

**From:** S Lynn Hill [s-lynn-hill@sbcglobal.net]  
**Sent:** Wednesday, December 07, 2011 12:06 AM  
**To:** Walker, Susan  
**Subject:** BoA hearing December 12 - one-page supplement + ignoring some pages  
**Attachments:** Supplement to Case C15-2011-0110.doc

Hi Susan,

#1: I'm attaching a one-page Word document that is a supplemental statement we would like the Board of Adjustment to have for next Monday's hearing on our case (C15-2011-0110). I know that we missed Monday's deadline for the printer and I apologize for that. (I've been sick for the last several days.) But this is only one page and our attorney, Dowe Gullatt, asked me to ask you whether you could email this to the Board so they can read it in advance of the hearing. He wants them to have it in advance because in it we ask the Board to reconsider the decision they made at the November 29 hearing to consider only one of our four arguments. Also, the document contains a request that the Board direct Brent Lloyd to recuse himself from serving as legal counsel on this case because of a conflict of interest.

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Thanks, and let me know if you have any questions,

Lynn Hill  
 371-1254 (home)

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**From:** "Walker, Susan" <Susan.Walker@austintexas.gov>  
**To:** S Lynn Hill <s-lynn-hill@sbcglobal.net>  
**Sent:** Thu, December 1, 2011 3:30:30 PM  
**Subject:** RE: BoA hearing December 12

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Thanks!

**Susan Walker**  
**Senior Planner**  
**Planning & Development Review Department**  
**Phone: 512-974-2202**  
**Fax: 512-974-6536**

12/8/2011

**From:** S Lynn Hill [mailto:s-lynn-hill@sbcglobal.net]  
**Sent:** Wednesday, November 30, 2011 2:00 PM  
**To:** Walker, Susan  
**Subject:** BoA hearing December 12

C15-2011-0110

Hi Susan,

Please tell me, what is the deadline for submitting additional material for the Dec 12 BoA hearing for our case C15-2011-0110 (3704 Bonnell Drive)? We will probably have something, though I expect not a lot, and we'd like it to go the Board in advance (not on the day of the hearing).

Would you ask the BoA chairman if there is any way he can tell the Board that they can ignore the material on pages A1/144 through A1/338 that they received for yesterday's hearing? Remember the material on these pages is what we submitted on September 14. The material we submitted on October 21 says on the first page that the Oct 21 material replaces the Sep 14 material. (And at the Oct 27 hearing you only gave them our Oct 21 material, plus a few pages of material that were received late.) One of the board members commented last night that there were over 300 pages of material, he hadn't had time to review it all, and wanted to do so before coming to any conclusions. We don't want to cause unnecessary work or aggravation for anyone.

If the chairman agrees with my suggestion that will mean the board won't have to wade through almost 200 pages of material that in many ways duplicates the Oct 21 material, and in other ways presents arguments that we are no longer using. The material we submitted on October 21 (plus the PDRD's material and responses from interested parties) is included in the pages numbered A1/1 through A1/143. The new material we gave you last week is included in the pages numbered A1/339 through A1/364. That is the material that we would ask the board to consider.

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Lynn Hill  
371-1254 (home)

12/8/2011

December 6, 2011

C15-2011-0110

To: Board of Adjustment  
From: S. Lynn Hill & John Deigh  
Re: Case C15-2011-0110

We request reconsideration of the decision not to hear our appeal of the decision by Director Greg Guernsey to grant Mr. Bill Clark's application for a Chapter 245 determination and the determination at the apparent direction of City Attorney Brent Lloyd that our arguments regarding the 15 foot rule and Chapter 245 are not germane.

We also request that the Board direct City Attorney Brent Lloyd to recuse himself, because of a conflict of interest, from serving as legal counsel on this appeal.

The Planning and Development Review Department has established a committee (HB 1704 committee) to review applications for a chapter 245 determination. The Director makes his decisions on these applications on the basis of this committee's recommendations. Mr. Lloyd serves on this committee, and he participated in its review of Mr. Clark's application. We are appealing the decision that followed the committee's recommendation, and therefore Mr. Lloyd because of his participation in this decision, is an interested party in our appeal. The Board of Adjustment has a quasi-judicial role in reviewing appeals of the PDRD's director's decisions on zoning matters, and the appropriate standard of fairness in judicial review is impartiality. This standard requires that the Board not rely on the counsel of an interested party to decide whether it has jurisdiction to hear our appeal. It requires, in other words, that the Board not rely on Mr. Lloyd for legal counsel about whether it has such jurisdiction. Mr. Lloyd's conflict of interest means that he appears to be using his position as counsel to the Board to shield a decision that he participated in from being reviewed by the Board, and if the Board is to fulfill its role as a quasi-judicial body, it must not allow even the appearance of such bias in its deliberations and decisions.

Chapter 211, subchapter A of the Texas Local Government Code sets out the provisions for a municipality's General Zoning Regulations. This subchapter allows a municipality to create a Board of Adjustment. Section 211.008 defines such a board and states the general rules under which it is composed and acts. Section 211.009 defines the board's authority. Your authority is broad. 211.009 (a) states "The board of adjustment may (1) hear and decide an appeal that alleges error in an order, requirement, decision, or determination made by an administrative official in the enforcement of this subchapter or an ordinance adopted under this subchapter." This is the statutory authority of a board of adjustment for every municipality in the State of Texas. As State law, it supersedes any municipal ordinance that defines the authority of a board of adjustment more narrowly. Director Guernsey's decision to grant Mr. Clark's application for a chapter 245 determination was a decision to enforce part but not all of the McMansion ordinance. In particular, it was a decision to exclude the FAR requirement of the ordinance from enforcement. The McMansion ordinance is an ordinance adopted under subchapter A of chapter 211. We are alleging an error in his decision. The decision is the underlying basis for Director Guernsey's approval of Mr. Clark's application for a building permit. We are appealing his approving this application on the grounds that he has erred in his interpretation of chapter 245 as it applies to the McMansion ordinance in this case. The Board of Adjustment is plainly authorized by subchapter A of chapter 211 to hear an appeal from us that alleges error by the Director in basing his approval of the permit on a decision to enforce part but not all of the McMansion ordinance. Subsection 211.010, which concerns who may appeal decisions of administrative officials to the board of adjustment, lists as the first type of person who may appeal "a person who is aggrieved by the decision", and our standing as aggrieved persons is established in our original appeal of the attic exemption.

**Walker, Susan**

CIS-2011-0110

**From:** S Lynn Hill [s-lynn-hill@sbcglobal.net]  
**Sent:** Monday, December 12, 2011 1:25 PM  
**To:** Walker, Susan  
**Subject:** Re: BoA hearing December 12 - one-page supplement + ignoring some pages

Hi Susan,

I came in this morning at 11:15 and found the DAC was closed from 11 to 2 for a staff retreat. So we can sort out the pages at the hearing tonight.

The other item of importance is that I want to file another short appeal today about the how the impervious cover was calculated for the retaining wall on the lot. Greg Guernsey made his determination of the amount of impervious cover on November 22, so today is the deadline for filing that appeal (20th day after the decision for an interpretation appeal). I will bring a copy of the appeal along with my check when I see you at the BoA hearing tonight, and I hope that you will be able to accept it as filed on time - because I came to the office this morning during the regular hours and found it unexpectedly closed early, and you will be conducting BoA business when I see you tonight.

This new appeal will not put a hold on the construction on the lot, but I think it's an important issue for the board to decide. I think that the calculation Greg approved understates the impervious cover for the wall, and Greg said the method they used is "typical" for structures like the retaining wall. It's probably not often that there is someone who is able and willing to appeal a calculation like that. I think it's a pretty cut-and-dry issue and I won't use an attorney for it, so I assume it can just be heard at one of the BoA's regular hearings - probably the one in January?

See you tonight,

Lynn Hill  
 371-1254 (home)

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**From:** "Walker, Susan" <Susan.Walker@austintexas.gov>  
**To:** S Lynn Hill <s-lynn-hill@sbcglobal.net>  
**Sent:** Thu, December 8, 2011 3:16:18 PM  
**Subject:** RE: BoA hearing December 12 - one-page supplement + ignoring some pages

Thank you Lynn. I will be out tomorrow. You can either come down sometime Monday OR preferably at the hearing...you can look at the staff report and determine which pages to let them know to focus on and which ones to ignore.

Thank you,

**Susan Walker**  
**Senior Planner**  
**Planning & Development Review Department**  
**Phone: 512-974-2202**  
**Fax: 512-974-6536**

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12/12/2011

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12/12/2011

CITY OF AUSTIN  
APPLICATION TO BOARD OF ADJUSTMENT  
INTERPRETATIONS  
PART I: AGGRIEVED PARTY'S STATEMENT

C15-2011-0110  
TP-0125070317  
ROW-10659412

STREET ADDRESS: 3704 Bonnell Drive, Austin, TX 78731

LEGAL DESCRIPTION: Subdivision – Mount Bonnell Terrace Section 3

Lot 1 Block E Outlot --- Division ---

ZONING DISTRICT: SF-3

WE Sarah Lynn Hill and John Deigh on behalf of ourselves affirm that on the 15<sup>th</sup> Day of September, 2011, hereby apply for an interpretation hearing before the Board of Adjustment.

On the 21<sup>st</sup> day of October we hereby revise our Aggrieved Party's Statement of September 15, 2011 to delete the appeals we previously labeled Appeal #3 and Appeal #4. Appeals #1 and #2 are retained, although we have made changes to our arguments and to some of the addenda based upon information obtained and research performed since we filed our original application on the 15<sup>th</sup> day of September, 2011.

We appeal the August 26, 2011 decision of Greg Guernsey of the Planning and Development Review Department to "approve for permit" the building plans for 3704 Bonnell Drive, attached as Exhibit Ex1; alleging error was made in the decision by an administrative official.

**Appeal #1:**

We assert that error was made by the administrative official relating to the calculation of Floor-to-Area Ratio (FAR) as same relates to ceiling height greater than 15 feet.

Planning and Development Review Department interpretation is: the areas of the proposed structure that have a ceiling height greater than 15 feet do not need to be counted twice when calculating the Gross Floor Area (GFA) of the structure under the provisions of Article 3, Section 3.3 of the Land Development Code Chapter 25-2, Subchapter F: Residential Design and Compatibility Standards ("McMansion" Ordinance), because the requirement to double-count such areas does not appear in the current electronic and printed versions of the McMansion Ordinance. As a result, the Department accepted David Weekley Homes' calculated GFA of 4,537 square feet for the structure, attached as Exhibit Ex2. Since the Lot Area is 11,683 square feet, the resulting Floor-to-Area Ratio (FAR) is 38.83% (4,537 / 11,683). Based on this calculation the FAR does not exceed 40%, and the applicant can proceed without applying to the Residential Design and Compatibility Commission (RDCC).

We feel the correct interpretation is: the areas of the proposed structure that have a ceiling height greater than 15 feet do need to be counted twice when calculating the Gross Floor Area

of the structure under the provisions of Article 3, Section 3.3 of the McMansion Ordinance. This requirement was Subsection 3.3.3 of the McMansion Ordinance that became effective October 1, 2006, relevant sections attached as Exhibit Ex3. The requirement does not appear in the current electronic and printed versions of the Ordinance, relevant sections attached as Exhibit Ex4, due to a staff error, but this does not mean the requirement was deleted. It was already in effect before the Ordinance was amended in 2008, and it remains in effect because the 2008 amendments did not strike or amend the requirement, and because PDRD staff have continued to apply the requirement to other applications.

The plans submitted by the applicant show that the family room and foyer have ceiling heights between 20 and 22 feet (section of first floor layout showing this attached as Exhibit Ex5). Based on the dimensions shown on the plans, these areas have a combined floor area of at least 450 square feet. Properly double-counting these floor areas would increase the GFA from 4,537 to at least 4,987 square feet. This means the FAR would increase from 38.83% to at least 42.69% ( $4,987 / 11,683$ ), which exceeds 40% - the maximum amount of development permitted under Section 2.1 of the McMansion Ordinance.

We are asking the Board of Adjustment to find that the Planning and Development Review Department made an error in its decision to "approve for permit" by its interpretation and should follow our interpretation and recalculate the GFA of the structure to properly count twice the areas that have ceiling heights over 15 feet. The application should be denied if the recalculated FAR exceeds the maximum amount of development permitted under Section 2.1 of the McMansion Ordinance. (The applicant would still have the ability to apply to the RDCC for a modification allowing a FAR increase.)

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

When the McMansion Ordinance became effective on October 1, 2006 under Ordinance No. 20060928-022, approved by the City Council on September 28, 2006 (item 22 on the City Council meeting agenda), Article 3 contained a subsection 3.3.3 which read as follows: "An area with a ceiling height greater than 15 feet is counted twice." There is no dispute about this fact.

When the 2006 McMansion Ordinance was amended by the City Council on June 18, 2008, the matter was item 93 on the meeting agenda (a description of item 93, the action taken, and a list of the work papers and other backup documentation provided for the matter is attached as Exhibit Ex6). The requirement to double-count an area with a ceiling height greater than 15 feet was inadvertently omitted from the Draft Ordinance, (see Part 14 of attached Exhibit Ex8), due to a staff error.

That this was an error was first brought to our attention on September 8, 2011 by RDCC Commissioner Karen McGraw. That evening aggrieved party Ms. Hill looked at the City Council materials for item 93 on the June 18, 2008 agenda, and saw that the error



occurred in the Draft Ordinance whose footer identified Brent Lloyd as the "responsible attorney." On September 12, 2011 she called Brent Lloyd to discuss this and he said that she was the first person to bring this matter to his attention. He said that before taking any action he would need to do some research to see whether there had been any discussion of amending or striking the requirement before the 2008 amendments were made. On September 14, 2011 Mr. Lloyd told Ms. Hill that he had not found any discussion of the requirement, that the Ordinance did not properly strike the requirement, and that the omission of the requirement from the Ordinance was an unintentional error.

To summarize, the Draft Ordinance was correct, in that it did not strike or amend the requirement. Based on changes made to other, unrelated, provisions of Section 3.3 of Article 3, the requirement to double-count an area with a ceiling height greater than 15 feet should have been renumbered from subsection 3.3.3 to subsection 3.3.5. However, due to a staff error the requirement was not included in the Draft Ordinance. This error was carried over to the Executed Ordinance (see Part 14 of attached Exhibit Ex7). As a result, the current electronic and print versions of Article 3, Section 3.3 of the McMansion Ordinance do not mention the requirement (see attached Exhibit Ex4).

The work papers and other backup documentation provided for the City Council meeting do not mention any discussion of changing or deleting this requirement by any person or group. These documents are not attached as there is no dispute about this fact. They do not mention any discussion of this requirement at all, so the clear intent was to retain the requirement. In addition, because the requirement was already in effect, and because it was not struck or amended in the Ordinance approved by the City Council, we believe it remains in effect – even though it does not appear in current electronic or print versions of the Ordinance.

The Draft Ordinance is dated June 12, 2008, and reflects the recommendations made by the Task Force and Planning Commission as of that date. Brent Lloyd and Jessica Kingpetcharat-Bittner made a presentation to the Council at the June 18, 2008 public hearing and afterwards, Ordinance No. 20080618-093 was approved with two amendments – neither related to the requirement to double-count areas with ceiling heights greater than 15 feet (see second paragraph of Exhibit Ex6).

There is confusion and uncertainty among City staff regarding when they noticed the requirement was no longer in the Ordinance and regarding whether/when they actually stopped applying the requirement to count twice areas with ceiling heights over fifteen feet. To this day, Residential Permit Application "D" – the form used for providing Gross Floor Area information used in the FAR calculation – contains lines for entering the GFA of first, second, and third floor areas with ceiling heights over 15 feet. (See attached Exhibit EX9.) In addition, on May 4, 2011, the date of the first RDCC hearing that dealt with 3704 Bonnell Drive, Ms. Hill searched for information on the City's website about the McMansion Ordinance and found a three-page summary, first two pages attached

as Exhibit EX10, that included on page 2 the statement "Areas with ceiling heights of greater than 15 feet (included by counting the square footage twice)". At the time the owner of 3704 Bonnell Drive also believed that areas with such high ceilings had to be counted twice because in his April 13, 2011 application to the RDCC, pertinent part attached as EX11, he said that vaulting a ceiling to a height above 15 feet adds to the FAR. This exhibit also shows that the Gross Floor Area calculated for 3704 Bonnell Drive on April 13, 2011 was 5,442 square feet.

Subsequently, in a discussion with Ms. Benavidez of the RDCC on May 23, Ms. Hill mentioned the requirement and was told that PDRD didn't apply the requirement any more, and that the change had occurred "a couple of weeks" before. That evening Ms. Hill checked the McMansion summary on the City's website, first two pages attached as EX12, and found it had been changed to omit the requirement. That week the PDRD reviewed the application for Bonnell Drive and made some changes to the owner's FAR calculations that included no longer counting twice the areas with ceiling heights greater than 15 feet. The revised Residential Permit Application "D", dated May 26, 2011 and attached as Ex13, shows the revised Gross Floor Area is 5,007 square feet (a reduction of 435 square feet). On May 31, 2011 the aggrieved parties spoke to Mr. McDonald about this change and he told us that the requirement had "mysteriously" disappeared when the McMansion Ordinance was amended in 2008. At the time we did not know that the disappearance was an error, we just thought that Mr. McDonald didn't know the reasons for removing the requirement.

The interpretation that we are currently appealing relates to an August 26, 2011 application for 3704 Bonnell Drive in which an administrative decision was also made to not count twice areas with ceiling heights over 15 feet. (The earlier application was withdrawn when the August application was submitted.) As mentioned earlier, we first realized the disappearance of the requirement was due to error during a September 8, 2011 conversation with Ms. McGraw, and Mr. Lloyd was first made aware of its disappearance by Ms. Hill in a September 12, 2011 conversation. We asked for information that would tell us when the PDRD changed their practice with regard to this requirement, and on September 27, 2011 Mr. Lloyd responded via email, attached as Exhibit EX14, that he would check with Mr. McDonald but was not aware of any such memos.

On the evening of September 28, 2011 the aggrieved parties submitted a Public Information Request under the Texas Open Records Act, attached as Exhibit EX15, requesting information that we felt would resolve this issue. On October 10, 2011, in response to this request, Mr. McDonald emailed us some material. The only document he sent that relates to the requirement to count twice areas with ceilings higher than 15 feet was a copy of a September 9, 2009 email from himself to Mr. Lloyd, attached as EX16. In this email to Mr. Lloyd, Mr. McDonald had copied and pasted language from Residential Permit Application "D" that gave instructions for calculating the gross floor area of the second and third floor of a structure, including the lines for second and third

floor areas with ceiling heights greater than 15 feet. But Mr. McDonald did not comment on the lines about ceiling height. Instead, he told Mr. Lloyd that the McMansion Ordinance had changed the way second floor balconies are treated in the GFA calculation, but that "the residential application was never changed to reflect this." We think that Mr. McDonald would also have commented on the language about ceiling height if he had thought at the time that the requirement to count twice areas with ceilings greater than 15 feet was no longer in the law.

In an October 14, 2011 email to Ms. Hill, attached as Exhibit EX17, Mr. McDonald says that he "did not find any emails to Mr. Lloyd on ceiling heights greater than 15' are to be counted twice. More than likely these were verbal communications via telephone in and around September of 2009." However, as stated earlier, when Ms. Hill told Mr. Lloyd about the issue on September 12, 2011, Mr. Lloyd said that no one had ever previously told him of the issue. And on October 14, 2011, Mr. Lloyd told Ms. Hill in a telephone conversation that he had nothing responsive with regard to our Public Information Request and that he didn't think he knew "anything about the glitch" until Ms. McGraw and Ms. Hill brought it to his attention in September [2011].

Due to a staff shortage, the PDRD was not able to respond to the second part of our Public Information Request, which consisted of reviewing residential permit application files subject to McMansion to obtain information that would show when PDRD changed their practice with regard to the requirement to count twice areas with ceiling heights over 15 feet. So, Ms. Hill began reviewing applications that had been heard at RDCC hearings in 2010 and 2011, and also looked at some residential permit applications submitted in 2011 that had not gone to the RDCC. The information reviewed is public information posted on the City's online permit database and on the RDCC meeting website. It is available to anyone with a computer and an internet connection. Ms. Hill found several applications processed between late 2009 and August 2011 where, based on the information entered on Residential Permit Application "D", areas with ceiling heights greater than 15 feet were counted twice. And, based on the floor plans and elevations in the files, the applications reviewed that did *not* show areas with ceiling heights greater than 15 feet on Application "D" also did not appear to have such areas. This was obviously not an exhaustive search through all available files (that would have been physically impossible), but it shows that the PDRD has continued to apply the requirement to count twice areas with ceiling heights greater than 15 feet at least through August 2011. The only exception we know of is the case of 3704 Bonnell Drive.

The results of Ms. Hill's review are shown in attached exhibit EX18.

Recent events related to restoring the requirement to count twice areas with ceiling heights greater than 15 feet:

- 9/7/2011 RDCC hearing: Commissioners ask PDRD staff to draft an amendment that would restore the requirement to the Ordinance

- 9/20/2011 Codes & Ordinances Subcommittee meeting: Ms. McGraw makes a Citizen Communication about the error made in 2008 and the need to restore the requirement to the Ordinance
  - 10/5/2011 RDCC hearing: Commissioners receive draft amendment from staff and direct that it be forwarded to the C&O Subcommittee
  - 10/18/2011 C&O Subcommittee meeting: Members discuss draft amendment from RDCC and we understand it was forwarded to the Planning Commission
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: This item is not applicable to this appeal. The appeal relates to zoning regulations that do not affect the use of the property.
3. The interpretation will not grant a special privilege to one property inconsistent with other properties or uses similarly situated in that: our interpretation would require that the terms of the McMansion Ordinance be properly applied to this application.

The Department's interpretation grants a special privilege to this property by ignoring a requirement of the Land Development Code that has been in effect since October 1, 2006, and that they have continued to apply to other applications through August of this year.

## Appeal #2

We assert that error was made by the administrative official regarding the calculation of Floor-to-Area Ratio (FAR) as same relates to habitable attic space in new construction.

Background: Under the McMansion Ordinance the Gross Floor Area (GFA) of an unfinished attic is ignored – and so the attic has no impact on the Floor-to-Area Ratio (FAR) – unless the attic is over five feet in height and is enclosed by walls. (See McMansion Ordinance subsections 3.3.1 and 3.3.4 in attached Exhibit Ex4, and selected definitions from Land Development Code 25-1-21, attached as Exhibit Ex19, for definitions of Enclosed, GFA, and FAR; and for exemption from GFA, under McMansion, of enclosed areas five feet or less in height.) But, unless it qualifies for the habitable attic exemption of subsection 3.3.3.C of the Ordinance, when the attic, or a portion of the attic, is turned into habitable space its GFA must be included when calculating the FAR of the structure.

The portions of subsection 3.3.3 that relate to the habitable attic exemption state the following:

3.3.3. . . . attics that meet the following requirements shall be excluded from the calculation of gross floor area:

- C. A habitable portion of an attic, if:
  - 1. The roof above it is not a flat or mansard roof and has a slope of 3 to 12 or greater;
  - 2. It is fully contained within the roof structure;
  - 3. It has only one floor;
  - 4. It does not extend beyond the footprint of the floors below;
  - 5. It is the highest habitable portion of the building, or a section of the building, and adds no additional mass to the structure; and
  - 6. Fifty percent or more of the area has a ceiling height of seven feet or less.

In April 2011 the owner and his representatives submitted a residential permit application for a single family home that is nearly identical to the home in the plans submitted and approved on August 26, 2011. Because the FAR for the earlier plan exceeded 40%, the applicant applied to the RDCC for a modification that would allow a FAR increase. In May the applicants invited us to meet with them at a model home site in Round Rock to view the model on which their proposed structure was based. The photographs which we took onsite (attached as Exhibit Ex20), are of the 4-bedroom version that they showed us (Model 1), and a version of the Lundy in which a fifth bedroom has been added on the second floor over the master bath (Model 2). Model 2 matches, in its placement of the fifth bedroom, the version in the applicant's earlier and current plans. In order to add bedroom 5 to the second floor of the 4-bedroom model – to create his earlier plan – the applicant had to erect three exterior second-floor walls and raise

the roof over the bedroom/bathroom area. In addition, inspection of the photographs clearly shows that a version of the Lundy that has been expanded to include a fifth bedroom on the second floor is obviously more massive than the 4-bedroom version. That is, Model 2 is clearly more massive than Model 1.

The earlier plan was presented at the May 4, June 1, and July 6 RDCC hearings. Nine neighbors within 300 feet of the property filed objections with the RDCC believing the house to be too large for its lot and incompatible with the neighborhood, and one filed an approval. The Highland Park West Balcones Area Neighborhood Association (HPWBANA) devoted its entire June 20 meeting to a discussion of the plans following presentations by the owner and a neighbor who objected to the plans. Afterward, the HPWBANA board voted to object to the plans and filed its objection with the RDCC. At its July 6 hearing the RDCC voted to deny the application for a FAR increase. The neighbors, HPWBANA and the RDCC all felt the house was too large for its lot and in comparison to properties within 300 feet of the lot. (Letters from neighbors and HPWBANA are attached as Exhibit Ex26.)

The plans submitted by the owner and approved by the Director on August 26 are nearly identical to the plans that were objected to by the neighbors and neighborhood association and denied by the RDCC. The footprint of the house and garage are unchanged, the layouts and gross floor areas of the finished rooms and the garage are unchanged. The only difference is the owner has increased the mass of his 5-bedroom structure by raising the roof and extending the second floor exterior wall on either side of that bedroom and bathroom 4. (Attached exhibits EX21 and Ex22 show the additional mass added when moving from either the 4-bedroom Lundy or the 5-bedroom Lundy to the house in the owner's current plans.) This change, the owner contends, encloses bedroom 5 and bathroom 4 in an attic that qualifies for a habitable attic exemption under subsection 3.3.3.C of the McMansion Ordinance.

Planning and Development Review Department (PDRD) interpretation is: The structure in the August 26, 2011 application for 3704 Bonnell Drive qualifies for a habitable attic exemption under subsection 3.3.3.C of the McMansion Ordinance (see Background, above).

The condition that we assert has not been met is subsection 3.3.3.C.5. On August 29 the supervisor of the PDRD told us in person that the area identified as "habitable attic space" adds no additional mass to the structure because it fits inside the building envelope, or "tent." On September 27 Brent Lloyd told us that he had discussed the issue with PDRD staff, and the explanation he gave for their assuming the area adds no additional mass to the structure was that, "PDRD has consistently interpreted this language to prohibit use of the exemption for any increase in mass to existing structures—i.e., attic finish-outs. It does not apply to new construction, where an applicant simply revises his or her project during plan review. This

makes sense, because there is no way to add "additional mass to the structure" unless there is an actual structure on the ground."

Based on the habitable attic exemption, and David Weekley Homes' calculations, 570 square feet of attic floor with a ceiling under 7 feet in height, and 374 square feet of attic floor with a ceiling over 7 feet in height (a total of 944 square feet of "habitable" attic space) has been excluded from the calculation of the Gross Floor Area (GFA) of the structure (see attached Exhibit Ex16). The PDRD accepted David Weekley Homes' calculated GFA of 4,537 square feet for the structure (see attached Exhibit Ex2 and Exhibit Ex16), their claimed lotsize of 11,683 square feet, and their resulting Floor-to-Area Ratio (FAR) of 38.83% ( $4,537 / 11,683$ ). Based on this calculation the FAR does not exceed 40%, and the applicant can proceed without applying for a modification to the Residential Design and Compatibility Commission (RDCC).

We feel the correct interpretation is: the area identified as "habitable attic space" in the application does not qualify for a habitable attic exemption under subsection 3.3.3.C, because it adds mass to the structure and so does not satisfy the requirements of subsection 3.3.3.C.5.

Section 3.1 of the McMansion Ordinance provides that the "buildable area" (aka building envelope or tent) is the area in which development subject to the Ordinance may occur, and subsection 2.6.E provides limited exceptions under which a structure may extend outside the buildable area. We would agree with Mr. McDonald that the attic *would* add mass to the structure if it could not be built without making use of one of the exceptions of subsection 2.6.E.

However, structures of varying size and shape – i.e., of varying mass – can fit inside the tent, and so we do not agree that no other test should be applied – or indeed that no test at all should be applied to new construction. Three additional tests are suggested here.

The applicant claims that the habitable attic space is the highest habitable portion of a section of the building, but not the highest habitable portion of the entire building. Our arguments apply to that sort of habitable attic space. They require comparing the habitable attic space to the remainder of the proposed structure. They are not meant to be applied to habitable attic space that is the highest habitable portion of an entire building.

Impact of roof on mass or bulk of house: when considering habitable attic space over a section of a house, we propose that the PDRD should compare the scale of the attic roof to the scale of the roof over the (other) main living areas of the house. If an attic roof is built to a larger scale,

it will be out of proportion to the other main roof areas of the house, and more noticeable – thus drawing attention to its bulk.

An examination of the floor layouts in attached Exhibit Ex0 shows the claim is that the habitable attic space is being created inside an attic that covers the following rooms on the first floor of the structure: the study, the master-bath, and the owner's retreat.

**Test number 1:** Visual inspection of the front and rear elevations of the house in attached Exhibit Ex0 reveals what appears to be a full two-story house. The roof ridge over the habitable attic space (left side of the front elevation) is about *18 inches below* the roof ridge over the main (central) portion of the house, and is about *18 inches above* the roof ridge over bedroom 3 (right side of the front elevation). (These measurements were made using large format to-scale plans.) This means a more detailed examination of the building plan is warranted.

**Test number 2:** Further inspection of the information on the to-scale elevations of the house, the floor layouts, and the framing plans revealed that:

- a. The ridge of the habitable attic roof is above the *first-floor* master-bath; and
- b. The roof ridges over the two story section of the house are over the *second-floor* upstairs hallway, bathroom 2, the learning center, and bedroom 3; and
- c. The finished ceiling of the first-floor master-bath is ten feet below the level of the finished ceilings of the second-floor rooms listed in item b., above.

Putting this together with the information from Test number 1, we see that the finished ceiling of the master-bath (the first-floor room underneath the ridge of the habitable attic) is *ten feet below* the finished ceilings of the second-floor rooms listed in item b., above. And yet, the ridge of the habitable attic roof is about *18 inches below* the ridge of the roof over the main (central) portion of the house, and is about *18 inches above* the ridge of the roof over bedroom 3 (right side of front elevation).

Based on this information, the habitable attic space over the one-story section of the house is much more massive than the attic space over the two-story section of the house. It adds mass to the structure since it is disproportionately large compared to the attic over the two-story section of the house.

**Test number 3:** The width and length of a roof are constrained by the width and length of the portion of the house that it covers, but the slope can vary. As the slope increases, the height of the roof ridge increases, and the roof becomes more visible, making the entire structure appear more massive and bulky. So, to determine the scale of a roof one needs to look at its slope. The floor layouts and the roof plan of the house can be examined to determine the different



roof sections and the areas of the house covered by each one. The roof plan should also be consulted to determine the slopes of the different sections of roof. The front roof plan will provide information about how the attic would affect the street view of the house, while the side and rear roof plans provide information about how the attic would affect next-door and back-yard neighbors.

Application to proposed structure and the gable end attic under dispute: We examined the roof plan and floor layouts submitted with the application, focusing on sections of roof over the main living areas of the home and over the attic, noting the sections of roof that slope the same directions as the habitable attic roof. In both the front and rear of the house the slope of the habitable attic roof is greater (steeper) than the slope of the roof over the main living areas of the home. (Exhibits Ex24 and Ex25 show the Front and Rear roof plans and identify the roof slopes over different rooms in the house.) From this we conclude that the attic roof is built on a more massive scale than the roof over the rest of the house, and so the attic adds mass to the house.

How would the height of the attic roof change if the slope were reduced to match the slope of the attic over the main portions of the house? Using the large format to-scale elevations we determined that the ridge of the habitable attic roof is 13.5 feet above the finished floor of the attic. If the slope of the rear attic roof were reduced from its current 5.5 : 12 to match the 4 : 12 slope over the main living areas in the rear of the house (see rear slopes on Exhibit Ex25) its height would be only 9.8 feet ( $9.8 = 13.5 \times (4 / 5.5)$ ). That is, the ridge of the habitable attic roof would be 3.7 feet *lower* if the attic roof were built on the same scale as the attic over the main living areas of the house.

Based on the results of this test, the habitable attic space over the one-story section of the house is more massive than the attic space over the two-story section of the house. It adds mass to the structure since it is disproportionately large compared to the attic over the two-story section of the house. For this reason this space is not eligible for the habitable attic exemption.

In this case a 5-bedroom house deemed incompatible in scale and bulk by the RDCC, by the neighbors, and by the local neighborhood association (HPWBANA), has been altered to *increase* its mass, but the administrative decision made by the Director resulted in treating the structure as though its mass had been reduced to that of a 4-bedroom house. We believe this happened because the Director did not apply a reasonable standard to determine whether the habitable attic space added additional mass to the structure.

Under Section 2.1 of the McMansion Ordinance the maximum allowable Gross Floor Area (GFA) of the structure is 40% of the lotsize, or 4,673 square feet (0.4 x 11,683). With the habitable attic exemption the GFA is 4,537 square feet. Denying the 944 square foot habitable attic exemption would clearly increase the GFA to an amount in excess of the 4,673 square feet permitted under Section 2.1 of the McMansion Ordinance.

We are asking the Board of Adjustment to find that the Planning and Development Review Department made an error in its decision to "approve for permit" by its interpretation and should follow our interpretation, deny the habitable attic exemption because the habitable attic space increases the mass of the structure, recalculate the GFA and the resulting FAR (GFA / lotsize). The application should then be denied if the recalculated FAR exceeds the maximum amount of development permitted under Section 2.1 of the McMansion Ordinance. (The applicant would still have the ability to apply to the RDCC for a modification allowing a FAR increase.)

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

The intent of the McMansion Ordinance is explained in Section 1.1:

"This Subchapter is intended to minimize the impact of new construction, remodeling, and additions to existing buildings on surrounding properties in residential neighborhoods by defining an acceptable buildable area for each lot within which new development may occur. The standards are designed to protect the character of Austin's older neighborhoods by ensuring that new construction and additions are compatible in scale and bulk with existing neighborhoods."

In this case, we believe that the Planning and Development Review Department has focused only on whether the additional space fits inside the "tent" or acceptable buildable area, but that standard does not help to determine whether Subsection 3.3.3.C.5 is satisfied.

Instead, the Department needs to think about the goal of "... ensuring that new construction and additions are compatible in scale and bulk with existing neighborhoods." Refusal to grant the habitable attic exemption when creation of the habitable attic adds additional mass to the structure is in furtherance of this second goal. It is intended to prevent abuse of the habitable attic exemption. Why else would that requirement be there? The Department must not ignore this requirement when dealing with new construction, but must find a reasonable way to determine when this requirement is met.

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: This item is not applicable to this appeal. The appeal relates to zoning regulations that do not affect the use of the property.
3. The interpretation will not grant a special privilege to one property inconsistent with other properties or uses similarly situated in that: Our interpretation requires the application of a reasonable method of determining when habitable attic space adds additional mass to a structure.

Because the Department is not applying a reasonable and meaningful interpretation of the requirement "adds no additional mass to the structure" when dealing with habitable attic exemptions for new construction, it is giving preferential treatment to new construction when compared to a remodel of an existing structure on a neighboring property. For example, suppose there are two adjacent identically sized lots. One contains an existing house – the 4 bedroom version of the Lundy – and the other is an empty lot. The owner of the empty lot wants to build the 5-bedroom version of the Lundy, but the FAR for that plan exceeds 40% and the RDCC denies an application for a variance. So the builder changes his plan to the one submitted by the applicant, claims a habitable attic exemption, and with the reduced FAR is able to build his new house without applying for a variance to the RDCC. The owner of the existing 4-bedroom Lundy sees this happen and decides to remodel his house to match the new construction. But the owner of the existing property is not eligible for the habitable attic exemption because conversion of the 4-bedroom Lundy to the applicant's proposed plan requires the addition of considerable mass to the structure. As a result, the FAR of the proposed remodel exceeds 40% and the owner of the existing home must apply for a variance to the RDCC.

Because the Department is not applying a reasonable and meaningful interpretation of the requirement "adds no additional mass to the structure" when dealing with habitable attic exemptions for new construction it is giving preferential treatment to builders of new construction compared to people who already live in the surrounding neighborhood because it dilutes the protection that the McMansion Ordinance affords the surrounding properties and neighborhood by creating situations where increasing the mass and bulk of new construction actually causes the non-exempt Gross Floor Area – the GFA used in the FAR calculation – to decrease, exempting the properties from review by the RDCC, and allowing oversized structures that are incompatible with the surrounding neighborhood to be built.

**AGGRIEVED PARTY CERTIFICATE** – We affirm that our statements contained in the complete application are true and correct to the best of our knowledge and belief.

Signed S. Lynn Hill

Printed: Sarah Lynn Hill

Signed John Deigh

Printed: John Deigh

Mailing Address: 3701 Mount Bonnell Road

City, State & Zip: Austin, TX 78731-5730

Phone: 512-371-1254

**Required Addenda Included:**

- Letter to Board of Adjustment stating appellant meets the requirements as an Interested Party as listed in Section 25-1-131(A) and (B) of the Land Development Code, including all information required under 25-1-131(C).
- Notice of Appeal emailed on August 31, 2011 to John McDonald, Supervisor of the Planning and Development Review Department
- Site Plan/Plot Plan drawn to scale, showing present construction and location of existing structures on adjacent lots
- Existing Site Plan drawn to scale for 3704 Bonnell Drive
- Site Plan – Final Grade, showing proposed construction at 3704 Bonnell Drive

**Addenda included supporting our argument:**

Exhibit	Description
Ex0	Copy of the Application materials submitted to the Planning and Development Review Department for 3704 Bonnell Drive, including David Weekley Homes' calculation of the Gross Floor Area (GFA) and the Floor-to-Area Ratio (FAR); "approved for permit" by Greg Guernsey.
Ex1	Site Plan – Final Grade Approved for Permit by Greg Guernsey on 8/26/11
Ex2	David Weekley Homes' calculation of Gross Floor Area showing first floor areas with ceiling heights over 15 feet were not counted twice. Also shows lot size of 11,683 sf and Floor-to-Area Ratio of 38.83%
Ex3	Relevant portions of Executed Ordinance 20060928-022 (McMansion Ordinance approved by the City Council on September 28, 2006, which became effective October 1, 2006). Subsection 3.3.3 of Article 3 of the Executed Ordinance reads as follows: "An area with a ceiling height greater than 15 feet is counted twice."
Ex4	Relevant sections of current electronic/print version of McMansion Ordinance
Ex5	Section of first floor layout showing 20 foot ceiling in family room and 22 foot ceiling in foyer
Ex6	Summary of Item 93 – 6/18/2008 City Council Meeting. This is the item on the June 18, 2008 agenda where the Council approved Ordinance 20080618-093. It includes a list of Work Papers and Other Backup Documentation for the amendments to the McMansion Ordinance. These documents are posted on the City Council's webpage under item 93 for the 6/18/2008 City Council meeting.
Ex7	Relevant portions of Executed Ordinance 20080618-093. This is the ordinance that, due to a clerical error, inadvertently omitted the requirement to double-count areas with a ceiling height greater than 15 feet. See Part 14 of the Executed Ordinance. This part does not amend or strike the existing subsection 3.3.3; it is written as though the McMansion Ordinance being amended did not already include a subsection 3.3.3.

Exhibit	Description
Ex8	Relevant portions of 2008 Draft Ordinance (Part 14 contains original error that was carried over to Part 14 of the Executed Ordinance)
Ex9	Current City of Austin Residential Permit Application "D" used for Gross Floor Area (GFA) and Floor Area Ratio (FAR) information and calculations
Ex10	5/4/2011 summary of McMansion provisions from CoA website including requirement to count twice areas with ceiling heights greater than 15 feet.
Ex11	Material from owner's 4/13/2011 application to RDCC showing he believed ceilings higher than 15 feet increase the FAR
Ex12	5/23/2011 summary of McMansion provisions from CoA website. Requirement to count twice areas with ceiling heights greater than 15 feet is gone.
Ex13	5/26/2011 Application "D" for 3704 Bonnell Drive revised by PDRD to no longer count twice areas with ceiling heights greater than 15 feet.
Ex14	9/27/2011 email from Brent Lloyd re memos about PDRD practice with regard to counting twice areas with ceilings higher than 15 feet.
Ex15	9/28/2011 Public Information Request under Texas Open Records Act
Ex16	9/9/2009 email from Mr. McDonald to Mr. Lloyd about language on Application "D" for second floor balconies
Ex17	10/14/2011 email from Mr. McDonald to Ms. Hill in response to Public Information Request
Ex18	Results of Ms. Hill's review of applications submitted to RDCC in 2010 and early 2011; and of a sample of residential permit applications submitted to PDRD in 2011 that did not go to RDCC
Ex19	Definitions from LDC 25-1-21
Ex20	Photographs of 4-Bedroom and 5-Bedroom versions of the Lundy in Round Rock (Models 1 and 2, respectively)
Ex21	Proposed structure showing additional mass added in an attempt to qualify for habitable attic exemption (compared to Model 2)
Ex22	Proposed structure showing additional mass added in an attempt to qualify for habitable attic exemption (compared to Model 1)
Ex23	Habitable Attic area exempted from Gross Floor Area and FAR calculations; calculated by David Weekley Homes. Exempted area is shaded dark gray.
Ex24	Front roof plan for 3704 Bonnell Drive, identifying roof slopes over different areas of the house
Ex25	Rear roof plan for 3704 Bonnell Drive, identifying roof slopes over different areas of the house
Ex26	Letters from neighbors and HPWBANA objecting to earlier plans for 3704 Bonnell Drive when they were being reviewed by the RDCC

CITY OF AUSTIN  
LETTER TO BOARD OF ADJUSTMENT  
INTERPRETATIONS  
AGGRIEVED PARTY'S STANDING TO APPEAL

STREET ADDRESS: 3704 Bonnell Drive, Austin, TX 78731

LEGAL DESCRIPTION: Subdivision – Mount Bonnell Terrace Section 3

Lot 1 Block E Outlot --- Division ---

ZONING DISTRICT: SF-3

WE Sarah Lynn Hill and John Deigh on behalf of ourselves are providing this letter to confirm our Standing to Appeal Status

We meet the requirements as an Interested Party as listed in Section 25-1-131(A) of the Land Development Code because we are the record owners of property within 500 feet of the site of the proposed development and occupy a primary residence on that property. Our property shares a back lot line with the property in the application.

Section 25-1-131(B) does not apply because we have not communicated an interest in a matter that is the subject of a public hearing.

We meet the requirements of Section 25-1-131(C) because we communicated an interest in the August 26, 2011 Planning and Development Review Department's Administrative Decision to "Approve for Permit" the building plans for the above property – by sending emails to Mr. John McDonald, Supervisor of the Department, on August 29 and 30, by meeting with him in person on August 29, and by emailing him a written Notice of Appeal, as required by Section 25-1-183, on August 31, 2011. We also had previously corresponded with Mr. McDonald about issues surrounding the Floor-to-Area Ratio calculations for this property in May, and June, and about building plans for this property in July and early August. This previous correspondence was conducted via email and telephone. All information required under 25-1-131(C) is included in the enclosed copy of the Notice of Appeal that we emailed to Mr. McDonald on August 31, 2011.

**AGGRIEVED PARTY SIGNATURES**

Signed S. Lynn Hill

Printed: Sarah Lynn Hill

Signed John Deigh

Printed: John Deigh

Mailing Address: 3701 Mount Bonnell Road

City, State & Zip: Austin, TX 78731-5730

Phone: 512-371-1254

CASE 2011-077075 PR; Address 3704 Bonnell Drive

Notice of Appeal of 8-26-2011 Administrative Decision by the Planning and Development Review Department to "Approve for Permit" the building plans for the above case

Submitted to Mr. John McDonald, Supervisor of the Planning and Development Review Department.

Submitted by Sarah Lynn Hill and John Deigh on August 31, 2011

Mr. McDonald advised us that our notice of appeal could be submitted by emailing the required information to him, and that no special form is required.

**Required information:**

1. Name, address, and telephone number of the appellants:

Sarah Lynn Hill and John Deigh  
3701 Mount Bonnell Road  
Austin, TX 78731-5730  
512-371-1254 (home)

2. Name of the applicant: William Clark

3. Decision being appealed:

Planning and Development Review Department's Administrative Decision to "Approve for Permit" the building plans for 3704 Bonnell Drive (Case 2011-077075 PR)

4. The date of the decision: 8-26-2011

5. A description of the appellants' status as an interested party:

We are the record owners of property within 500 feet of the site of the proposed development and occupy a primary residence on that property. Our property shares a back lot line with the property in the application.

A history of our communication of interest in this matter with Mr. John McDonald, Supervisor of the Planning and Development Review Department (required to establish our status):

The applicant previously applied to the RDCC for a variance that would allow him to exceed the 40% F.A.R. limitation of Chapter 25-2, Subchapter F: Residential Design and Compatibility Standards of the Land Development Code, commonly known as the "McMansion" Ordinance (Case 2011-031138 PR) for a building at the same address as in the current case (2011-077075 PR). We objected to the previous application and spoke at three different RDCC hearings on the matter (May 4, June 1, and July 6). A part of the applicant's argument in that case was that he had a similar plan (that he did not want to build) that he thought satisfied the 40% F.A.R. limitation. The limitation was supposedly satisfied by treating a portion of the second floor --



including bedroom 5 and bathroom 4 – as exempt habitable attic space (attic space excluded from the F.A.R. calculation under Section 3.3.3.C of the Ordinance).

We initially communicated our concern about the F.A.R. calculations and the claim to have a habitable attic space exemption to Mr. McDonald via email on May 20. In that email we explained our concerns and our need to prepare for the June 1 RDCC hearing. We asked for a meeting with RDCC staff to go over the F.A.R. calculations in both of the applicant's plans. This email also included our name, mailing address, and phone number. Mr. McDonald reviewed the plans and spoke to us about them on May 31. The applicant revised his plans after the June 1 RDCC hearing and continued to claim a habitable attic exemption for plans he did not want to build. We emailed Mr. McDonald about these new plans on June 27, explaining our concerns and need to prepare for the July 6 RDCC hearing. He reviewed and discussed them with us on June 28. In both the May 31 and June 28 conversations he told us that in his opinion the habitable attic exemption did not apply because bedroom 5 and bathroom 4 were part of the second floor in all of the applicant's plans, not part of attic space, but he also cautioned us that the habitable attic space provisions were a controversial issue within his office. The RDCC denied the application in case 2011-031138 PR for the plan the applicant wanted to build (the one *without* the attic exemption) on July 6. We subsequently inquired about the status of the building plans on July 26, and on August 4 Mr. McDonald told us via email that the applicant had not appealed the decision and he understood them to be redesigning the plans to meet the 40% F.A.R. requirement.

Late on Friday, August 26, we checked the City's online permit database and found that the current case 2011-077075 PR had been submitted by the applicant and approved on that same day by Residential Zoning Reviewers (Mr. McDonald's staff). Early on August 29 (Monday) we sent an email to Mr. McDonald communicating our concerns that information in the database made it appear that a plan *larger* than the one denied by the RDCC had been approved. We met with Mr. McDonald that afternoon. At that meeting we found that the newly submitted plans were the plans the applicant had previously *not* wanted to build – the plans Mr. McDonald had reviewed, at our request, on June 28 (with minor changes – the addition of a small balcony and some windows – that did not affect the F.A.R.), but that Mr. McDonald had (after discussion with his supervisor), reversed his prior position and decided to grant the habitable attic exemption requested by the applicant. We discussed our reasons for thinking this decision was wrong and also pointed out that the exempted space had increased the mass of the structure – a further reason for not granting the habitable attic exemption. Mr. McDonald confirmed that the plan would exceed the 40% F.A.R. limitation if the exemption were not granted, then checked and told us that the applicant had not yet paid for the building permit. We informed him of our intention to appeal Residential Zoning's approval of 2011-077075 PR and he gave us a list of the information to be included in the notice of appeal and said we could file it by emailing the information to him. On August 30 Mr. McDonald provided us with a copy of the building plans for 2011-077075 PR and we sent him an email summarizing our August 29 meeting with him and confirming our intention to appeal.

6. Reasons the appellant believes the decision does not comply with the requirements of this title:

We believe that the F.A.R. of the plan submitted in Case 2011-077075 PR exceeds the 40% limitation of the McMansion Ordinance, and so it should not have been approved by Residential Zoning Review. We believe this because we believe that the habitable attic exemption of section 3.3.3.C should not have been granted, and, as noted above, in our meeting on Monday, August 29, Mr. McDonald confirmed that the plan exceeds the 40% limitation if the habitable attic exemption of section 3.3.3.C is not allowed.

First, we believe that bedroom 5 and bathroom 4 are part of the second floor, not part of an attic, and therefore not eligible for the habitable attic exemption. The applicant's designating bedroom 5 and bathroom 4 as the only finished portion of the second floor that is habitable attic space has no basis other than his interest in finding floor space that might be exempted from the F.A.R. calculation. That there are interior walls separating these two rooms from the rest of the finished part of the second floor is not a basis for excluding other finished portions of the second floor, continuous with these rooms, from being habitable attic space, for an interior wall can exist within an attic. Roof coverage is also not a basis for excluding other finished portions of the second floor continuous with bedroom 5 and bathroom 4 from being habitable attic space, for a section of roof that covers a portion of these two rooms also covers portions of other finished rooms on the second floor. To be able to determine whether floor space is habitable attic space exempt from the F.A.R. calculation because it is habitable attic space fifty percent or more of which has a ceiling height of less than 7 feet, one has to be able to determine the boundaries of the habitable attic space for the purpose of doing the calculation. However, there is no way of determining these boundaries.

Second, even if these rooms were treated as attic space, it would not be true that the space could be ignored – for the space fails to meet one of the conditions in the Ordinance for ignoring habitable attic space. The condition it fails to meet is that the space “adds no additional mass to the structure.” (See section 3.3.3.C.5.) Adding this space, regardless of how it is treated, adds mass to the structure.

In the plan submitted to the RDCC under Case 2011-031138 PR, the mass required for these rooms was created by making a large rectangular bump-out in the middle of the roof of the south-facing section of the house, directly over the first-floor master bath. In that case, the rooms were treated as part of the second floor and their square footage was included in the F.A.R. calculation. The F.A.R. exceeded the 40% limitation of the Ordinance, and the RDCC denied the application for those plans on July 6.

In the plan for Case 2011-077075 PR just approved by Residential Zoning Review – the approval that we are appealing – the applicant took the plan denied by the RDCC and added additional mass to the structure by adding new triangular bump-outs on the east and west sides of bedroom 5 and bathroom 4, and raising portions of the roof on the south side of the house to

cover the new bump-outs. He claims that in the modified plan a portion of the second floor that includes bedroom 5, bathroom 4, and the area under the new roof is habitable attic space that qualifies for the exemption of the Ordinance (section 3.3.3.C) and can be ignored when calculating the F.A.R. We say that bedroom 5 and bathroom 4 continue to be part of the second floor, not attic space. However, even if they are treated as attic space, section 3.3.3.C.5 is not satisfied with regard to bedroom 5, bathroom 4 and the area under the new roof, because the modifications that create this new space add additional mass to the structure.

Pictures and/or drawings will help to illustrate our arguments. In the June 28, 2011 statement that we submitted to the RDCC for their July 6 hearing we explained that adding bedroom 5 to the structure, however it is treated, adds mass to the structure. To illustrate our argument our statement included photographs of the 4-bedroom and 5-bedroom versions of a David Weekley model home on which the applicant's plan is based. That statement can be found on the RDCC website in the backup material posted for the July 6 hearing. We can also provide copies of this statement and/or the photographs on request.

It is also instructive to compare the plans submitted in cases 2011-033138 PR and 2011-077075 PR. The layout of all first and second-floor rooms, and their square footages, are the same in both plans. And the exterior elevations are the same – with the exception of the area on the south section of the second-story that surrounds bedroom 5 and bathroom 4. It is easy to see – especially when viewing the south elevation (labeled “left” in the plans) – that the structure in 2011-077075 PR has more mass than the structure in 2011-033138 PR. Mr. McDonald's department should have copies of both sets of plans.

Finally, we believe that the terms of the Ordinance should be interpreted and applied with an understanding of the underlying purpose of the Ordinance. As explained in section 1.1 of the Ordinance, “The standards are designed to protect the character of Austin's older neighborhoods by ensuring that new construction and additions are compatible in scale and bulk with existing neighborhoods.”

The plan submitted in 2011-031138 PR exceeded the 40% F.A.R. limitation of the Ordinance, and so the RDCC was required to rule on the compatibility of the proposed plan. At its July 6 hearing the RDCC denied the application, determining that the plan was too massive in comparison with nearby properties, and with several members making strong statements about the incompatibility of that plan with the neighborhood. The new plan submitted in 2011-077075 PR is nearly identical to the plan that was denied – except that one section of the new plan is more massive than the old plan. It is obvious to us that the RDCC would not consider the new plan to be compatible with the neighborhood.

We do not believe that the habitable attic exemption was adopted in order to allow applicants to decrease the size of their F.A.R. by increasing the mass of their house.



SITE PLAN/  
PLOT PLAN  
SHOWING PRESENT  
CONSTRUCTION (EMPTY  
LOT AT 3704 BONWELL DRIVE)  
AND LOCATION OF ADJACENT  
PROPERTIES

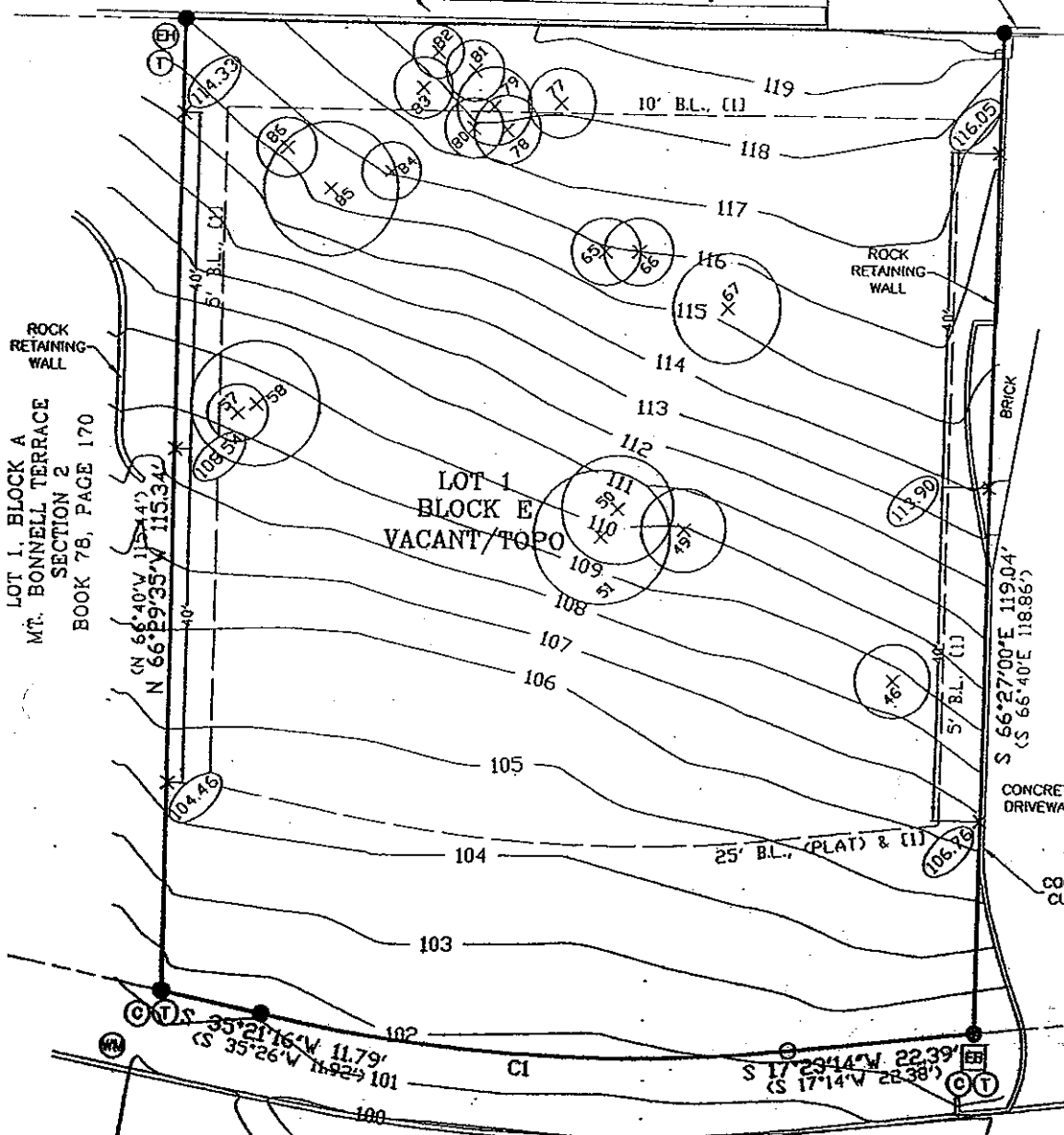
# EXISTING SITE PLAN

SCALE: 1"=20'

LOT 2, BLOCK E  
MT. BONNELL TERRACE  
SECTION 1  
BOOK 31, PAGE 10

LOT 3, BLOCK E  
MT. BONNELL TERRACE  
SECTION 1  
BOOK 31, PAGE 10

BEARING BASIS  
(N 23°20'E 97.00')  
N 23°20'00"E 97.04'



TREE#	SIZE/TYPE
46	9' MTN LAUREL
49	10' LIVE OAK
50	13' LIVE OAK
51	16' LIVE OAK
57	7' LIVE OAK
58	15' LIVE OAK
65	8' LIVE OAK
66	8' LIVE OAK
67	13' LIVE OAK
77	8' LIVE OAK
78	8' LIVE OAK
79	9' LIVE OAK
80	7' LIVE OAK
81	7' LIVE OAK
82	6' LIVE OAK
83	7' LIVE OAK
84	7' LIVE OAK
85	16' LIVE OAK
86	7' LIVE OAK

LOT 2  
BLOCK E  
BOOK 78,  
PAGE 172

## SURVEYOR'S NOTES

1. DENOTES RECORD INFORMATION

2. BUILDING LINE PER CITY OF AUSTIN ZONING ORDINANCE

3. CEMENT RESEARCH PERFORMED BY ALL POINTS AND THE UNDERSIGNED SURVEYOR LIMITED TO INFORMATION SUPPLIED BY NATIONAL INVESTORS TITLE INSURANCE COMPANY PER COMMITMENT G.F. #1101881-ARB, EFFECTIVE FEBRUARY 2, 2011; SCHEDULE B, PARAGRAPH 10.

4. LOT 1 IS SUBJECT TO RESTRICTIVE COVENANTS AS STATED IN: BOOK 78, PAGE 172 PLAT RECORDS OF TRAVIS COUNTY, TEXAS; VOLUME 6661, PAGE 12 AND VOLUME 12947, PAGE 502 DEED RECORDS OF TRAVIS COUNTY, TEXAS.

5. LOT 1 IS SUBJECT TO SANITARY SEWER EASEMENT RECORDED IN VOLUME 4647, PAGE 12 RECORDS OF TRAVIS COUNTY, TEXAS AS STATED IN BOOK 78, PAGE 172 OF RECORDS OF TRAVIS COUNTY, TEXAS.

6. ALL POINTS DOES NOT MAKE OR WARRANT ANY FLOOD ZONE DETERMINATION.

No. 1 BLOCK E  
FROM 3 PHASE  
TRAVIS COUNTY, TEXAS  
AUSTIN

SUBMISSION / ADDITION MT. BONNELL TERRACE  
Book 78 Cabinet Side PLAT RECORDS  
Volume Page(s) 172  
Document No.  
Reference: WILLIAM D. CLARK AND CLAUDIA J. CLARK

## LEGEND

EB	ELEC. BOX
WM	WATER METER
T	TELE. PED.
C	CATV. PED.
EH	ELECT. MANHOLE
●	IRON ROD END
○	1/2" IRON ROD W/ PLASTIC CAP STAMPED "ALL POINTS" SET
X	SPOT ELEVATION
B.L.	BUILDING LINE

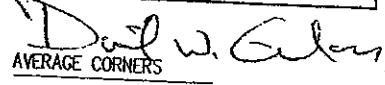
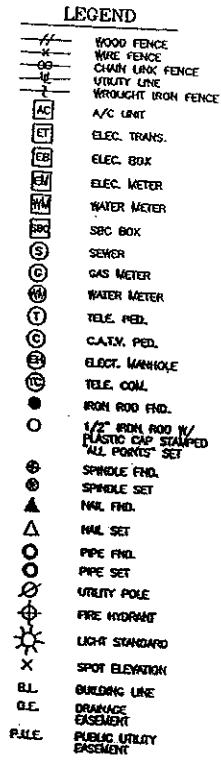
Curve	Radius	Length	Chord	Chord Bearing
C1	199.73'	63.50'	63.23'	S 26°33'39" W
(CD)	(199.73')	(63.44')	(63.18')	(S 26°20' W)

FIELD WORK	By	Date
DRAFTING	JAA	2/21/11
MDL		

SURVEY DATE: 2/21/11  
Job No. 02815611  
SCALE: 1"=20'

TO THE LIENHOLDERS AND/OR OWNERS OF THE PREMISES AND/OR

THE SEAL ON THIS PAGE PERTAINS  
ONLY TO THE AFFIRMATION OF THE  
COMPLIANCE OF THESE PLANS TO THE  
RESIDENTIAL DESIGN AND COMPATIBILITY  
STANDARDS FOR THE CITY OF AUSTIN


$$\begin{array}{r} 111.0' \\ 104.6' \\ \hline 215.6' / 2 = 107.8' \end{array}$$


**LEGEND**

⊞	ELEC. BOX
⊞	WATER METER
⊞	TELE. PED.
⊞	C.A.T.V. PED.
⊞	ELECT. WAREHOUSE
⊞	IRON ROD FND.
○	1/2" IRON ROD W/ PLASTIC CAP SET "ALL POINTS" SET
X	SPOT ELEVATION
BL	BUILDING LINE

Curve	Radius	Length	Chord	Chord Bearing
C1	199.73'	63.50'	63.23'	S 26°33'39" W
(C1)	(199.73')	(63.44')	(63.18')	(S 26°20' W)

scale: 1"=30'

**EXHIBIT Ex0**

**Copy of the Application materials submitted to the Planning and Development Review Department for 3704 Bonnell Drive, including David Weekley Homes' calculation of the Gross Floor Area (GFA) and the Floor-to-Area Ratio (FAR), "approved for permit" by Greg Guernsey**

(U)

**CITY OF AUSTIN**  
**RESIDENTIAL PERMIT APPLICATION "A"**

BP Number                       
Building Permit No.                       
Plat No.                      Date 8-26-11  
Reviewer FR

**PRIMARY PROJECT DATA**

Service Address 3704 Bonnell Drive Tax Parcel No.                       
Legal Description  
Lot 1 Block E Subdivision Mount Bonnell Terrace Section 3 Phase                     

If in a Planned Unit Development, provide Name and Case No.  
(attach final approved copies of subdivision and site plan)

*If this site is not a legally subdivided lot, you must contact the Development Assistance Center for a Land Status Determination.*

Description of Work  
☒ New Residence  
☐ Duplex  
☒ Garage ☒ attached ☐ detached  
☐ Carport ☐ attached ☐ detached  
☐ Pool  
Remodel (specify) 3/4 5/5  
Addition (specify) 2nd floor  
Other (specify) GRAB

Zoning (e.g. SF-1, SF-2...)                       
- Height of Principal building 25-6 1/2 ft. # of floors 2 Height of Other structure(s) N/A ft. # of floors N/A

- Does this site currently have water and wastewater availability? Yes ☒ No. If no, please contact the Austin Water Utility at 512-972-0000 to apply for water and/or wastewater tap application, or a service extension request.

- Does this site have a septic system? Yes ☒ No. If yes, for all sites requiring a septic field you must obtain an approved septic permit prior to a zoning review.

Does this site have a Board of Adjustment ruling? Yes ☒ No. If yes, attach the B.O.A. documentation

Will this development require a cut and fill in excess of 4 feet? ☒ Yes ☐ No

Does this site front a paved street? ☒ Yes ☐ No A paved alley? Yes ☒ No

Is this property within the Residential Design and Compatibility Standards Ordinance Boundary Area? ☒ Yes ☐ No

**VALUATIONS FOR REMODELS ONLY**

Building \$                       
Electrical \$                       
Mechanical \$                       
Plumbing \$                       
Driveway/  
Sidewalk \$                       
TOTAL \$                       
(labor and materials)

**VALUATIONS FOR NEW CONSTRUCTION OR ADDITIONS ONLY**

Lot Size 11,683 sq. ft.  
Job Valuation - Principal Building \$ 602,625  
(Labor and materials)  
Job Valuation - Other Structure(s) \$ N/A  
(Labor and materials)  
TOTAL JOB VALUATION  
(sum of remodels and additions)  
\$ 602,625  
(Labor and materials)

**PERMIT FEES**  
(For office use only)

	NEW/ADDITIONS	REMODELS
Building	\$ <u>                    </u>	\$ <u>                    </u>
Electrical	\$ <u>                    </u>	\$ <u>                    </u>
Mechanical	\$ <u>                    </u>	\$ <u>                    </u>
Plumbing	\$ <u>                    </u>	\$ <u>                    </u>
Driveway & Sidewalk	\$ <u>                    </u>	\$ <u>                    </u>
TOTAL	\$ <u>                    </u>	\$ <u>                    </u>

**OWNER / BUILDER INFORMATION**

OWNER	Name <u>William D. &amp; Claudia Clark</u>	Telephone (h) <u>512-750-8366</u> (w) <u>                    </u>
BUILDER	Company Name <u>David Weekley Homes</u>	Telephone <u>512-821-8816</u>
	Contact/Applicant's Name <u>Lisa Ahart - Project Coordinator</u>	Pager <u>                    </u> FAX <u>512-372-8725</u>
DRIVEWAY/ SIDEWALK	Contractor <u>Delta Concrete &amp; Construction</u>	Telephone <u>512-666-0834</u>
CERTIFICATE OF OCCUPANCY	Name <u>William D. &amp; Claudia Clark</u>	Telephone <u>512-750-8366</u>
	Address <u>3704 Bonnell Drive</u>	City <u>Austin</u> ST <u>TX</u> ZIP <u>78731</u>

If you would like to be notified when your application is approved, please select the method:

☐ telephone ☒ e-mail: lahart@dwhomes.com

You may check the status of this application at [www.ci.austin.tx.us/development/picrivr.htm](http://www.ci.austin.tx.us/development/picrivr.htm)



CITY OF AUSTIN  
RESIDENTIAL PERMIT APPLICATION "B"

CITY OF AUSTIN  
RESIDENTIAL PERMIT APPLICATION

I understand that in accordance with Sections 25-1-411 and 25-11-66 of the Land Development Code (LDC), non-compliance with the LDC may be cause for the Building Official to suspend or revoke a permit and/or license. I understand that I am responsible for complying with any subdivision notes, deed restrictions, restrictive covenants and/or zoning conditional overlays prohibiting certain uses and/or requiring certain development restrictions (i.e., height, access, screening, etc.) on this property. If a conflict should result with any of these restrictions, it will be my responsibility to resolve it. I understand that, if requested, I must provide copies of all subdivision plat notes, deed restrictions, restrictive covenants, and/or zoning conditional overlay information that may apply to this property.

I acknowledge that this project qualifies for the Site Plan Exemption as listed in Section 25-5-2 of the LDC.

I understand that nothing may be built upon or over an easement. I further understand that no portion of any roof structure may overhang in any public utility or drainage easement.

I acknowledge that customer will bear the expense of any necessary relocation of existing utilities to clear this driveway location and/or the cost to repair any damage to existing utilities caused during construction.

I also understand that if there are any trees greater than 19 inches in diameter located on the property and immediately adjacent to the proposed construction, I am to schedule a Tree Ordinance review by contacting (512) 974-1876 and receive approval to proceed.

I agree that this application will expire on the 181st day after the date that the application is filed if the application is not approved and an extension is not granted. If the application expires, a new submittal will be required.

APPLICANT'S SIGNATURE Lisa Ahart DATE 8/17/11  
HOME BUILDER'S STATE REGISTRATION NUMBER (required for all new construction) 1021 Homes

Rejection Notes/Additional Comments (for office use only):

- No Time. See email  
- Ask Grant Pearson  
in pm J. McDonald

Service Address 3704 Bonnell Drive

Applicant's Signature Lisa Ahart Date 8/17/11  
Lisa Ahart - David weekley homes

## BUILDING COVERAGE

The area of a lot covered by buildings or roofed areas, but not including (i) incidental projecting eaves and similar features, or (ii) ground-level paving, landscaping, or open recreational facilities.

	Existing		New / Addition	
a. 1 <sup>st</sup> floor conditioned area	sq.ft.	*	2667	sq.ft.
b. 2 <sup>nd</sup> floor conditioned area	sq.ft.	*	1853	2449
c. 3 <sup>rd</sup> floor conditioned area	sq.ft.		N/A	sq.ft.
d. Basement	sq.ft.		N/A	sq.ft.
e. Garage / Carport	sq.ft.	*	567	sq.ft.
<input checked="" type="checkbox"/> attached	sq.ft.		N/A	sq.ft.
detached	sq.ft.		N/A	sq.ft.
f. Wood decks [must be counted at 100%]	sq.ft.		N/A	sq.ft.
g. Breezeways	sq.ft.		N/A	sq.ft.
h. Covered patios	sq.ft.		N/A	sq.ft.
i. Covered porches	sq.ft.	*	470	sq.ft.
j. Balconies	sq.ft.		N/A	sq.ft.
k. Swimming pool(s) [pool surface area(s)]	sq.ft.		N/A	sq.ft.
l. Other building or covered area(s)	sq.ft.		139	sq.ft.
Specify <u>Masonry Ledge</u>				

TOTAL BUILDING AREA (add a. through l.) N/A sq.ft. 5716 sq.ft.

TOTAL BUILDING COVERAGE ON LOT (subtract, if applicable, b., c., d., k. and l. if uncovered)

3863 sq.ft.  
33.13 % of lot

## IMPERVIOUS COVERAGE

Include building cover and sidewalks, driveways, uncovered patios, decks, air conditioning equipment pad, and other improvements in calculating impervious cover. Roof overhangs which do not exceed two feet or which are used for solar screening are not included in building coverage or impervious coverage. All water must drain away from buildings on this site and buildings on adjacent lots.

a. Total building coverage on lot (see above)	*3863	sq.ft.
b. Driveway area on private property	*1107	sq.ft.
c. Sidewalk / walkways on private property	*107	sq.ft.
d. Uncovered patios	N/A	sq.ft.
e. Uncovered wood decks [may be counted at 50%]	N/A	sq.ft.
f. Air conditioner pads	*32	sq.ft.
g. Concrete decks	N/A	sq.ft.
h. Other (specify)	*25	sq.ft.

Door Landings

TOTAL IMPERVIOUS COVERAGE (add a. through h.)

5134 sq.ft.  
43.94 % of lot

CITY OF AUSTIN  
RESIDENTIAL PERMIT APPLICATION "D"  
FLOOR AREA RATIO INFORMATION

TO BE COMPLETED FOR ALL PROPERTIES LOCATED WITHIN THE RESIDENTIAL DESIGN AND COMPATIBILITY  
STANDARDS ORDINANCE BOUNDARY AREA.

Service Address 3704 Bonnell Drive

Applicant's Signature [Signature] - Lisa Ahart Date 8/07/11  
Project Coordinator - David Weekley Homes

GROSS FLOOR AREA AND FLOOR AREA RATIO as defined in the Austin Zoning Code.

	Existing	New / Addition
<b>I. 1<sup>st</sup> Floor Gross Area</b>		
a. 1 <sup>st</sup> floor area (excluding covered or uncovered finished ground-floor porches)	sq.ft.	2667 ✓ sq.ft.
b. 1 <sup>st</sup> floor area with ceiling height over 15 feet.	sq.ft.	0 sq.ft.
c. TOTAL (add a and b above)	sq.ft.	2667 sq.ft.
<b>II. 2<sup>nd</sup> Floor Gross Area</b> See note <sup>1</sup> below		
d. 2 <sup>nd</sup> floor area (including all areas covered by a roof i.e. porches, breezeways, mezzanine or loft)	sq.ft.	1503 sq.ft.
e. 2 <sup>nd</sup> floor area with ceiling height > 15 feet.	sq.ft.	0 sq.ft.
f. TOTAL (add d and e above)	sq.ft.	1503 sq.ft.
<b>III. 3<sup>rd</sup> Floor Gross Area</b> See note <sup>1</sup> below		
g. 3 <sup>rd</sup> floor area (including all areas covered by a roof i.e. porches, breezeways, mezzanine or loft).	sq.ft.	N/A sq.ft.
h. 3 <sup>rd</sup> floor area with ceiling height > 15 feet	sq.ft.	N/A sq.ft.
i. TOTAL (add g and h above)	sq.ft.	N/A sq.ft.
<b>IV. Basement Gross Area</b>		
j. Floor area outside footprint of first floor or greater than 3 feet above grade at the average elevation at the intersections of the minimum front yard setback line and side property lines.	sq.ft.	N/A sq.ft.
<b>V. Garage</b>		
k. <input checked="" type="checkbox"/> attached (subtract 200 square feet if used to meet the minimum parking requirement)	sq.ft.	367 ✓ sq.ft.
l. <input type="checkbox"/> detached (subtract 450 square feet if more than 10 feet from principal structure)	sq.ft.	N/A sq.ft.
<b>VI. Carport</b> (open on two or more sides without habitable space above it subtract 450 square feet)	sq.ft.	N/A sq.ft.
<b>VII. TOTAL</b>	sq.ft.	4537 sq.ft.

TOTAL GROSS FLOOR AREA (add existing and new from VII above)

4537 sq. ft.

GROSS AREA OF LOT

11,683 sq. ft.

FLOOR AREA RATIO (gross floor area / gross area of lot)

38.83 %

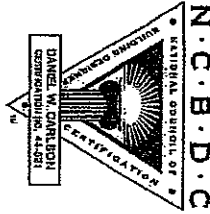
<sup>1</sup> If a second or third floor meets all of the following criteria it is considered to be attic space and is not calculated as part of the overall Gross Floor Area of the structure.

- It is fully contained within the roof structure and the roof has a slope of 3 to 12 or greater
- It only has one floor within the roof structure
- It does not extend beyond the foot print of the floors below
- It is the highest habitable portion of the building; and
- Fifty percent or more of the area has a ceiling height of seven feet or less.

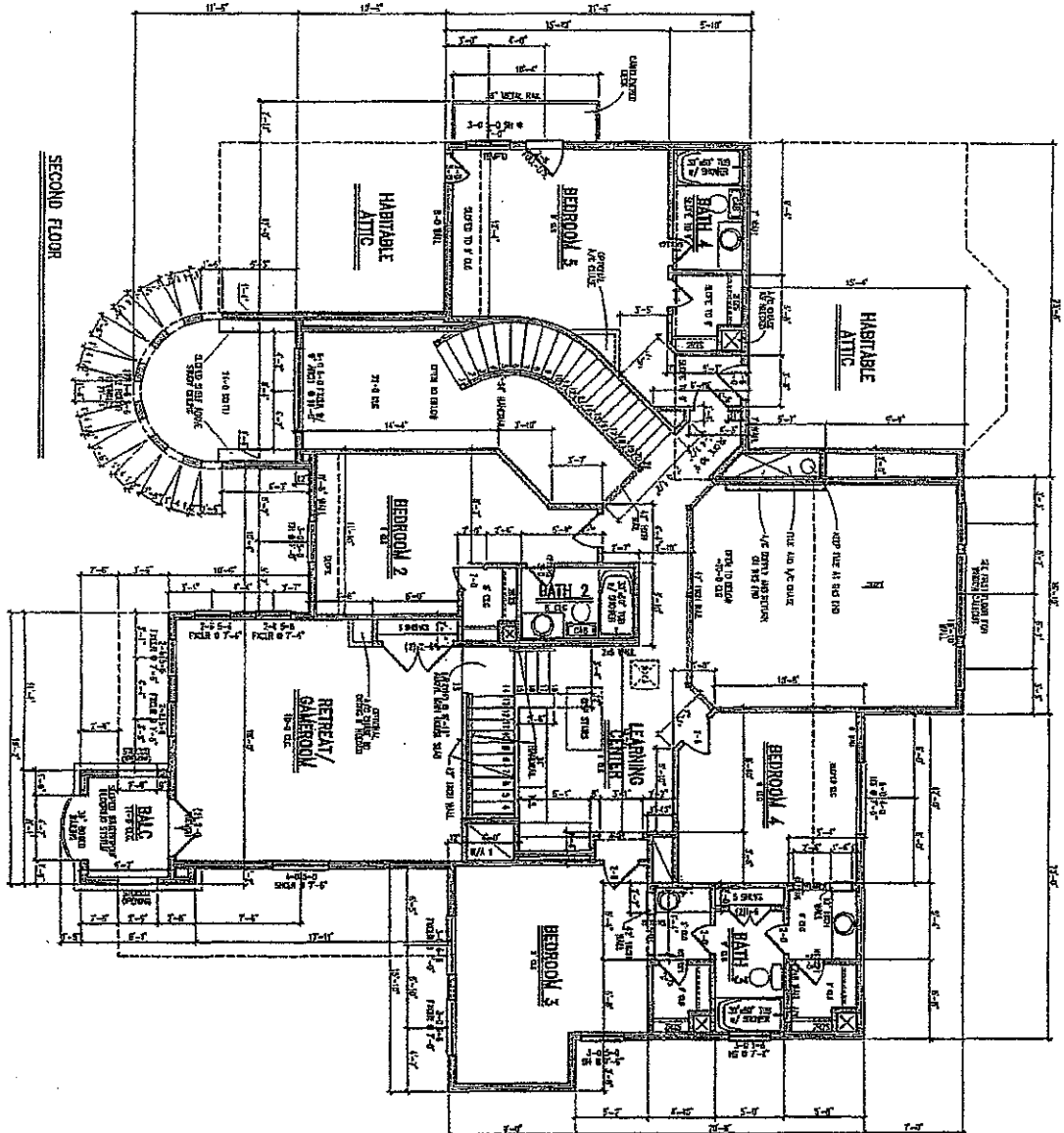
30/4

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THE SEAL ON THIS PAGE PERTAINS ONLY TO THE AFFIRMATION OF THE COMPLIANCE OF THESE PLANS TO THE RESIDENTIAL DESIGN AND COMPATIBILITY STANDARDS FOR THE CITY OF AUSTIN



*D.W. Carlsson*



NOTE: ALL 2ND FLR. CEILING HEIGHTS  
9'-0" UNLESS NOTED OTHERWISE

TYP. FRAMING: 2X6 EXTERIOR PERIMETER WALL  
UNLESS NOTED OTHERWISE, 16" O.C.

Final Set  
08/05/11

NORTH  
3688-B  
PLN-2  
LUNDY  
BOH, AUSTIN

MOUNT BONNELL TERRACE  
3704 Bonnell Drive  
Austin, TX 78731

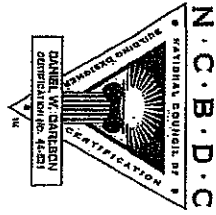
Proj. No.: 2023  
Job No.: 1122  
Lot: 1  
Bk: E  
Sect: 3

David Weekley Homes

MM/CL3/AJ  
Date: 02/26/08  
Scale: 1/8" = 1'-0"  
Rev: 7/21/11

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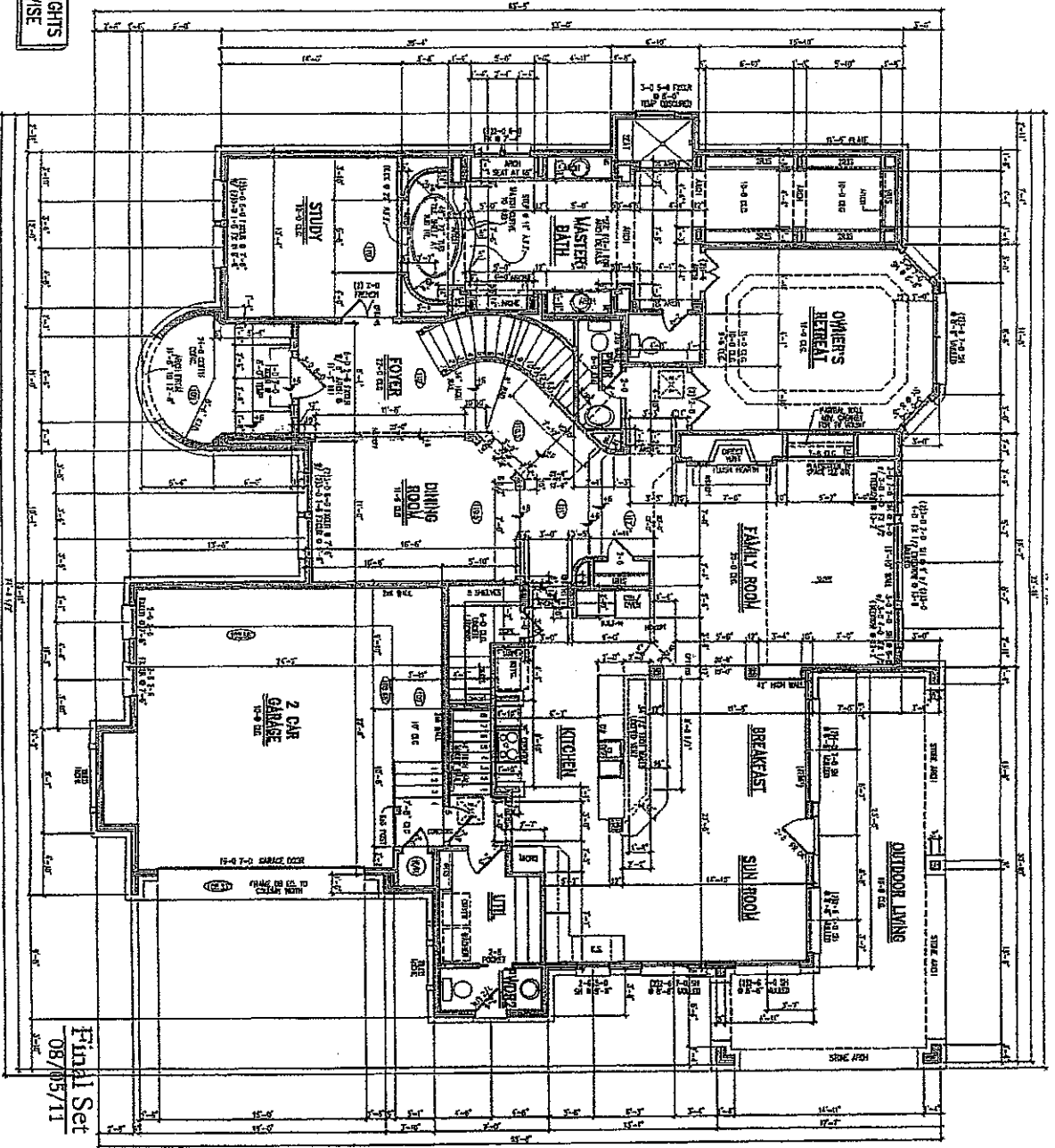


*2000-01*

TOP: FRAMING: 2X6 EXTERIOR PERIMETER WALL  
UNLESS NOTED OTHERWISE, 16" O.C.

NOTE: ALL 2ND FLR. CEILING HEIGHTS  
10'-0" UNLESS NOTED OTHERWISE

FLOOR PLAN



Final Set  
08/05/11

NORTH  
3688-B  
PLN-1  
BOUL. AVENUE

MOUNT BONNELL TERRACE  
3704 Bonnell Drive  
Austin, TX 78731

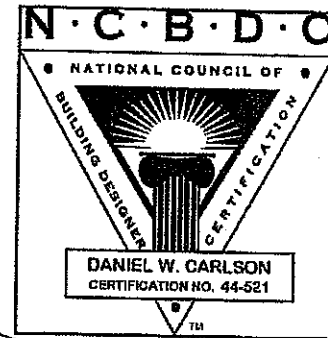
Proj. No.: 2023  
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David Weekley Homes  
MM/CL3/AJ  
Date: 02/26/08  
Scale: 1/8" = 1'-0"  
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CITY OF AUSTIN  
 APPROVED FOR PERMIT  
 Greg Guemsey  
 Planning and Development Review Department  
 By *[Signature]* Date **8-26-11**  
 the granting of a permit for, or approval of, these plans and  
 specifications shall not be construed to be a permit for, or an  
 approval of any violation of any of the provisions of the current  
 adopted building code or any other ordinance of the City of Austin.

THE SEAL ON THIS PAGE PERTAINS  
 ONLY TO THE AFFIRMATION OF THE  
 COMPLIANCE OF THESE PLANS TO THE  
 RESIDENTIAL DESIGN AND COMPATIBILITY  
 STANDARDS FOR THE CITY OF AUSTIN



*Daniel W. Carlson*  
 AVERAGE CORNERS

111.0'  
 104.6'  
 $215.6' / 2 = 107.8'$

LEGEND

- WOOD FENCE
- WIRE FENCE
- CHAIN LINK FENCE
- UTILITY LINE
- WROUGHT IRON FENCE
- AC A/C UNIT
- BT ELEC. TRANS.
- EB ELEC. BOX
- EM ELEC. METER
- WM WATER METER
- SB SEC. BOX
- SE SEWER
- GM GAS METER
- WM WATER METER
- TE TEL. PED.
- CA C.A.T.V. PED.
- EM ELEC. MANHOLE
- IR IRON ROD FND.
- 1/2" IRON ROD W/ PLASTIC CAP STAMPED "ALL POINTS" SET
- SP SPINDLE FND.
- SP SPINDLE SET
- NA NAIL FND.
- NA NAIL SET
- PF PIPE FND.
- PF PIPE SET
- UP UTILITY POLE
- FI FIRE HYDRANT
- LS LIGHT STANDARD
- X SPOT ELEVATION
- BL BUILDING LINE
- D.E. DRAINAGE EASEMENT
- P.U.E. PUBLIC UTILITY EASEMENT

LEGEND

- EB ELEC. BOX
- WM WATER METER
- TE TEL. PED.
- CA C.A.T.V. PED.
- EM ELEC. MANHOLE
- IR IRON ROD FND.
- 1/2" IRON ROD W/ PLASTIC CAP STAMPED "ALL POINTS" SET
- X SPOT ELEVATION
- BL BUILDING LINE

Curve	Radius	Length	Chord	Chord Bearing
C1	199.73'	63.50'	63.23'	S 26°33'39" W
(C1)	199.73'	(63.44')	(63.18')	(S 26°20' W)

SITE PLAN - FINAL GRADE

scale: 1"=30'

↓ = LINE OF RUNOFF DRAINAGE

**MOUNT BONNELL TERRACE**  
**3704 Bonnell Drive**  
**Austin, TX 78731**

Proj. No.:  
**2023**  
 Job No.:  
**1122**

Lot: **1**  
 Blk: **E**  
 Sect: **3**

**David Weekley Homes**  
 MM/CL3/AJ  
 Date: **02/26/08**  
 Scale: **1"=30'**  
 Rev: **7/21/11**

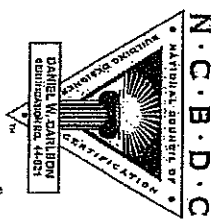
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Final Set  
 08/05/11

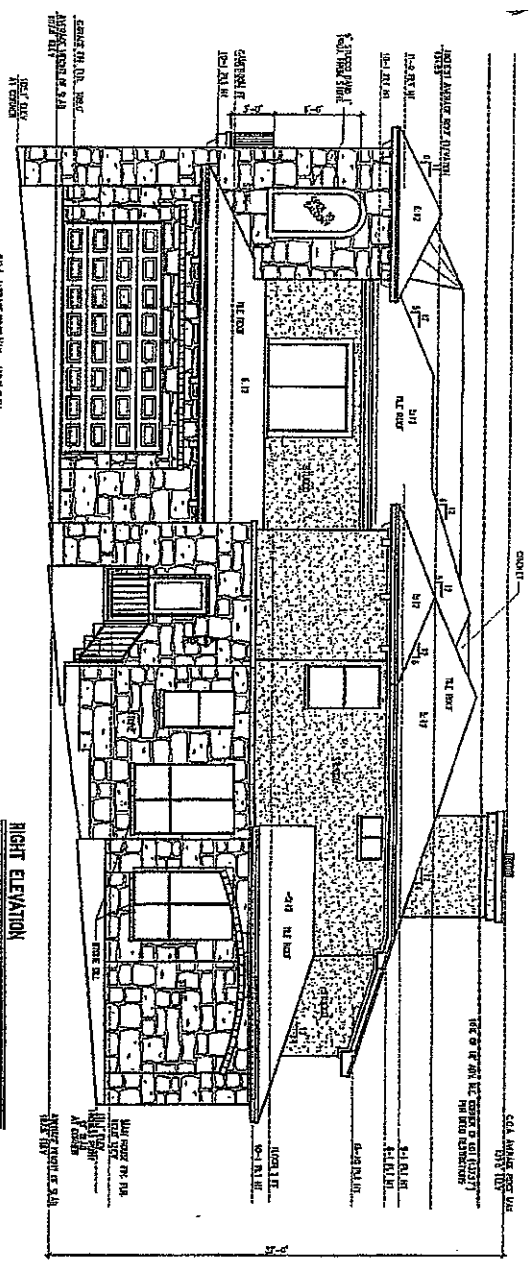
**NORTH**  
**3688-B**  
**PLT PLAN 3**  
**LUNDY**  
**BOUL AUSTIN**



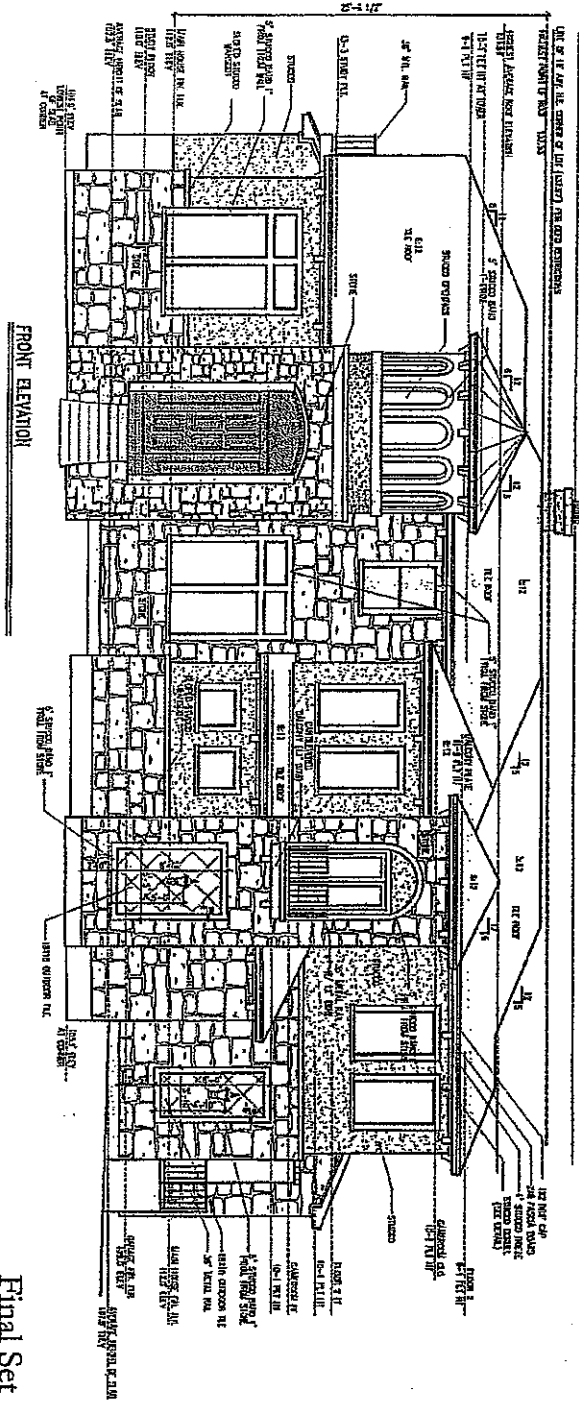
*David Weekley*



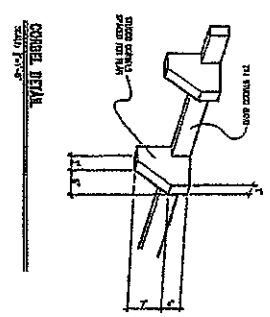
THE SEAL ON THIS PAGE PERTAINS  
TO THE AFFIRMATION OF THE  
COMPLIANCE OF THESE PLANS TO THE  
STANDARDS FOR THE CITY OF AUSTIN



RIGHT ELEVATION



FRONT ELEVATION



CORNER DETAIL

Final Set  
08/05/11

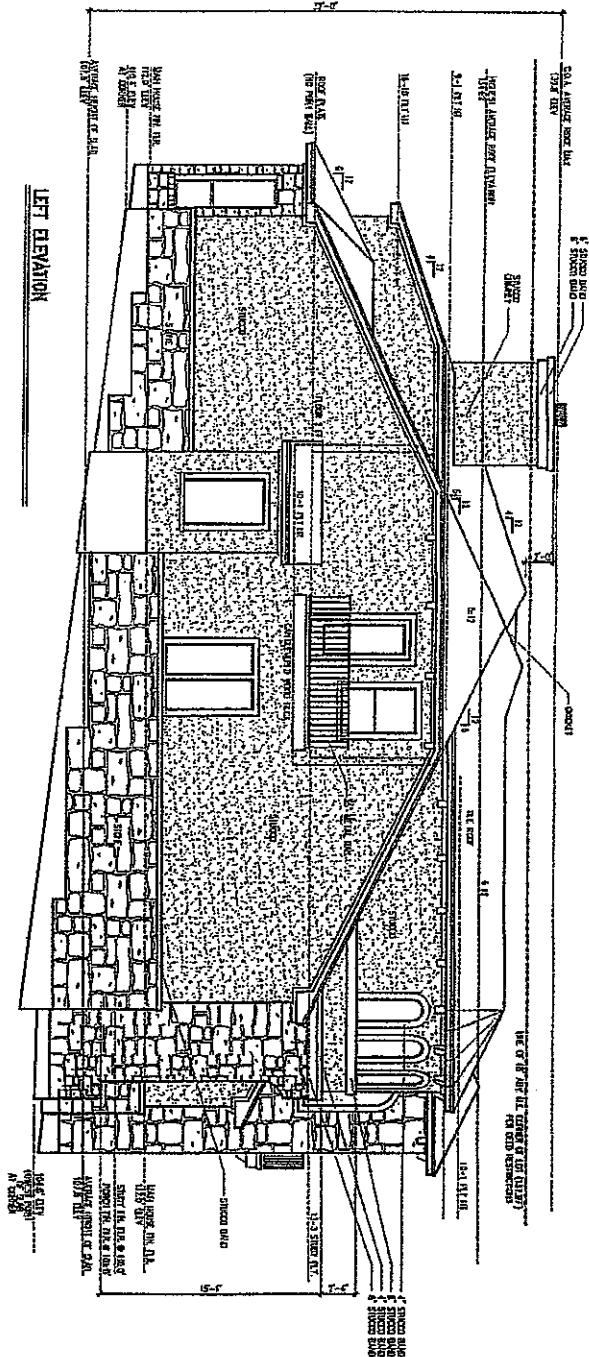
NORTH  
3688-B  
LUNBY  
BOULDER, AUSTIN

MOUNT BONNELL TERRACE  
3704 Bonnell Drive  
Austin, TX 78731

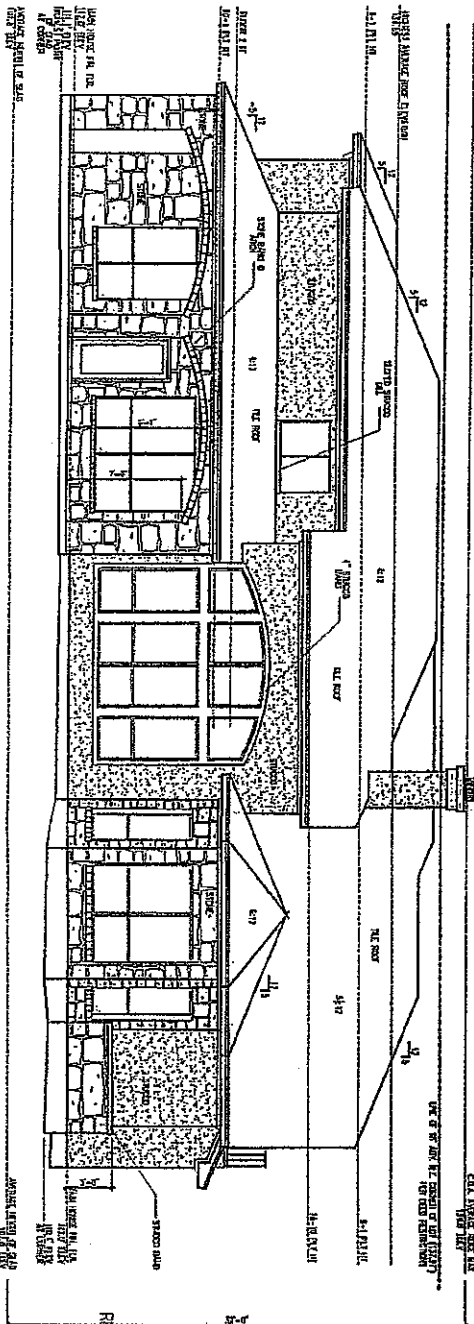
Proj. No.:  
2023  
Job No.:  
1122  
Lot:  
1  
Blk:  
E  
Sect:  
3

David Weekley Homes  
MM/CL3/AJ  
Date: 02/26/08  
Scale: 1/8" = 1'-0"  
Rev: 7/21/11

© Weekley Homes, L.P., 2008.  
The measurements, elevations, and other  
specifications shown on this document  
are guidelines for construction only.  
See actual specifications of materials.  
Dimensions may vary. This document may  
not be relied on as a primary source of  
information for construction.



LEFT ELEVATION



REAR ELEVATION



THE SEAL ON THIS PAGE PERTAINS ONLY TO THE AFFIRMATION OF THE COMPLIANCE OF THESE PLANS TO THE RESIDENTIAL DESIGN AND COMPATIBILITY STANDARDS FOR THE CITY OF AUSTIN

*DWG-CL*

Final Set  
08/05/11

NORTH  
3688-B  
ELEV 2  
LUNDY  
BOUL AUSTIN

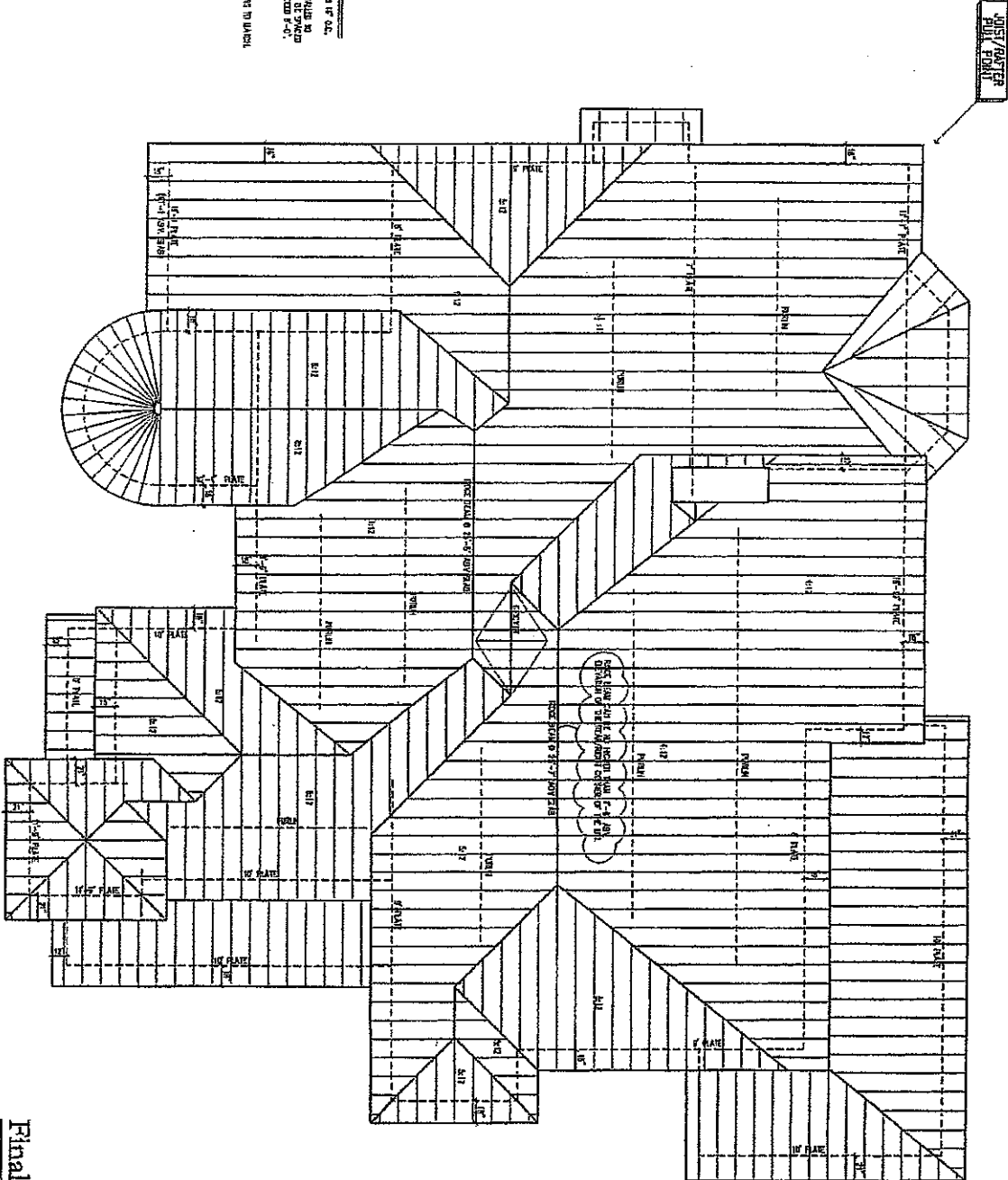
MOUNT BONNELLE TERRACE  
3704 Bonnell Terrace  
Austin, TX 78731

Proj No: 2023  
Job No: 1122  
Lot: 1  
Blk: E  
Sect: 3



David Weekley Homes  
MMCL3/AJ  
Date: 02/26/08  
Scale: 1/8" = 1'-0"  
Rev: 7/21/11

© Weekley Homes LP 2008  
The owner, architect, draftsman, and other specifications, shown on this document, are guidelines for construction use only. The actual specifications of the building materials may vary. This document may not be relied on as a representation of what the completed structure will look like.

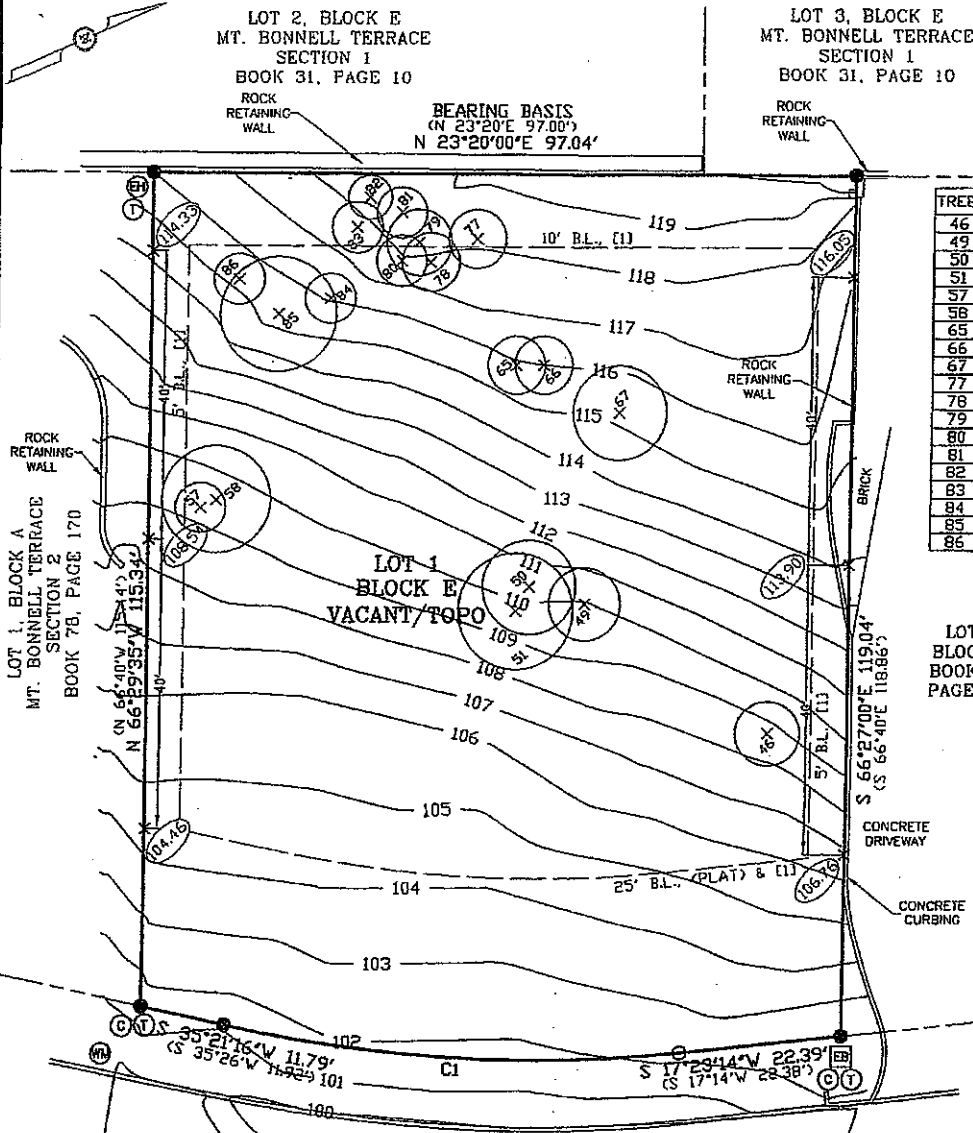
INFORMATION TO BE SUBMITTED BY SOURCE FOR EACH INDIVIDUAL SUBJECT TO BE EVALUATED FOR A SOURCE OF THIS TYPE SHOULD BE LIMITED TO THE FOLLOWING: NAME, ADDRESS, DATE OF BIRTH, SEX, RACE, ETHNIC ORIGIN, EDUCATION, OCCUPATION, RELIGION, POLITICAL AFFILIATION, SOCIAL SECURITY NUMBER, MARITAL STATUS, AND THE INFORMATION SOURCE SHOULD NOT BE CREDITED F-01.



Final Set  
08/05/11

NORTH 3688-B REP-1 LUNDY BOTT, ALBERT	 		Proj. No.: 2023	Lot: 1	©Hastley Homes LP, 2003 The measurements, dimensions, and other specifications, shown on this document, are preliminary and for orientation only. The actual specifications of the finished structure may vary. This document may not be relied on as a representation of what the completed structure will look like.
	3704 Bonnell Drive Austin, TX 78731		Job No.: 1122	Blk: E Sect: 3	
				David: Weekley Homes MM/CL3/AJ      Scale: 1/8" = 1'-0" Date: 02/26/08      Rev: 7/21	

SCALE: 1"=20'



TREE#	SIZE/TYPE
46	9' MTN LAUREL
49	10' LIVE OAK
50	13' LIVE OAK
51	16' LIVE OAK
57	7' LIVE OAK
58	15' LIVE OAK
65	8' LIVE OAK
66	8' LIVE OAK
67	13' LIVE OAK
77	8' LIVE OAK
78	8' LIVE OAK
79	9' LIVE OAK
80	7' LIVE OAK
81	7' LIVE OAK
82	6' LIVE OAK
83	7' LIVE OAK
84	7' LIVE OAK
85	16' LIVE OAK
86	7' LIVE OAK

LOT 2  
BLOCK E  
BOOK 78,  
PAGE 172

### SURVEYOR'S NOTES

( ) DENOTES RECORD INFORMATION

[1] BUILDING LINE PER CITY OF AUSTIN  
ZONING ORDINANCE.

EASEMENT RESEARCH PERFORMED BY ALL POINTS AND THE UNDERSIGNED SURVEYOR  
WAS LIMITED TO INFORMATION SUPPLIED BY NATIONAL INVESTORS TITLE INSURANCE  
COMPANY PER COMMITMENT G.F. #1101881-ARB, EFFECTIVE FEBRUARY 2, 2011;  
SCHEDULE B, PARAGRAPH 10.

LOT 1 IS SUBJECT TO RESTRICTIVE COVENANTS AS STATED IN:  
BOOK 76, PAGE 172 PLAT RECORDS OF TRAVIS COUNTY, TEXAS; VOLUME 8661, PAGE  
1502 AND VOLUME 12947, PAGE 502 DEED RECORDS OF TRAVIS COUNTY, TEXAS.

LOT 1 IS SUBJECT TO SANITARY SEWER EASEMENT RECORDED IN VOLUME 4647, PAGE  
274 DEED RECORDS OF TRAVIS COUNTY, TEXAS AS STATED IN BOOK 78, PAGE 172 OF  
THE PLAT RECORDS OF TRAVIS COUNTY, TEXAS.

ALL POINTS DOES NOT MAKE OR WARRANT ANY FLOOD ZONE DETERMINATION.

LOT No. 1 BLOCK E SUBDIVISION / ADDITION MT. BONNELL TERRACE  
SECTION 3 PHASE Volume 78 Cabinet Side  
TRAVIS COUNTY, TEXAS Document No. 172 PLAT RECORDS  
CITY AUSTIN Reference: WILLIAM D. CLARK AND CLAUDIA J. CLARK

TO THE LIENHOLDERS AND/OR OWNERS OF THE PREMISES AND/OR  
NATIONAL INVESTORS TITLE INSURANCE COMPANY / PLAINSCAPITAL BANK

The undersigned certifies that this survey was this day made by me or under my supervision on the ground of  
the real property shown on the survey and after the exercise of reasonable care and in reliance on record  
searches by the title company that this survey is correct to the best of the undersigned's knowledge and belief  
and that the property has access to and from a roadway, except as shown hereon. There are no visible  
discrepancies, conflicts, shortages or overlapping of improvements or encroachments except as shown hereon.



ALL POINTS SURVEYING

1714 FORTVIEW ROAD - SUITE 200

AUSTIN TX. 78704

TELE.: (512) 440-0071 - FAX: (512) 440-0199

### LEGEND

EB	ELEC. BOX
WM	WATER METER
T	TELE. PED.
C	CAT.V. PED.
EM	ELECT. MANHOLE
●	IRON ROD END
○	1/2" IRON ROD W/ PLASTIC CAP STAMPED "ALL POINTS" SET
X	SPOT ELEVATION
B.L.	BUILDING LINE

Curve	Radius	Length	Chord	Chord Bearing
C1	199.73'	63.50'	63.23'	S 26°33'39" W
(C1)	(199.73')	(63.44')	(63.18')	(S 26°20' W)

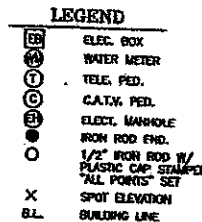
FIELD WORK	DATE
DRAFTING	MDL

SURVEY DATE: 2/21/11  
Job No. 02B15611  
SCALE: 1"=20'



Roger L. Way

CITY OF AUSTIN  
APPROVED FOR PERMIT  
Greg Guemsey  
Planning and Development Review Department  
By \_\_\_\_\_ Date 8-26-11  
the granting of a permit for, or approval of, these plans and  
specifications shall not be construed to be a permit for, or an  
approval of, any violation of any of the provisions of the current  
adopted building code or any other ordinance of the City of Austin.

$$\begin{array}{r} 111.0' \\ 104.6' \\ \hline 215.6' / 2 = 107.8' \end{array}$$


Curve	Radius	Length	Chord	Chord Bearing
C1	199.73'	63.50'	63.23'	S 26°33'39" W
(C1)	(199.73')	(63.44')	(63.18')	(S 26°20' W)

scale: 1"=30'

**© Wesley Hanes L.P. 2003**  
The measurements, dimensions, and other specifications, shown on this document, are guidelines for construction use only. The actual specifications of the finished structure may vary. This document may not be relied on as a representation of what the completed structure will look like.

Final

CITY OF ROSS  
RESIDENTIAL PERMIT APPLICATION "D"  
FLOOR AREA RATIO INFORMATION

EXHIBIT Ex 2

TO BE COMPLETED FOR ALL PROPERTIES LOCATED WITHIN THE RESIDENTIAL DESIGN AND COMPATIBILITY STANDARDS ORDINANCE BOUNDARY AREA.

Site Address 3704 Bonnell Drive

Applicant's Signature Lisa Ahart Date 8/17/11  
Project Coordinator - David Weekley Homes

GROSS FLOOR AREA AND FLOOR AREA RATIO as defined in the Austin Zoning Code.

	Existing	New / Addition
I. 1 <sup>st</sup> Floor Gross Area		
a. 1 <sup>st</sup> floor area (excluding covered or uncovered finished ground-floor porches)	sq.ft.	2667 ✓ sq.ft.
b. 1 <sup>st</sup> floor area with ceiling height over 15 feet	sq.ft.	0 sq.ft.
c. TOTAL (add a and b above)	sq.ft.	2667 sq.ft.
II. 2 <sup>nd</sup> Floor Gross Area See note <sup>1</sup> below		
d. 2 <sup>nd</sup> floor area (including all areas covered by a roof i.e. porches, breezeways, mezzanine or loft)	sq.ft.	1503 sq.ft.
e. 2 <sup>nd</sup> floor area with ceiling height > 15 feet	sq.ft.	0 sq.ft.
f. TOTAL (add d and e above)	sq.ft.	1503 sq.ft.
III. 3 <sup>rd</sup> Floor Gross Area See note <sup>1</sup> below		
g. 3 <sup>rd</sup> floor area (including all areas covered by a roof i.e. porches, breezeways, mezzanine or loft)	sq.ft.	N/A sq.ft.
h. 3 <sup>rd</sup> floor area with ceiling height > 15 feet	sq.ft.	N/A sq.ft.
i. TOTAL (add g and h above)	sq.ft.	N/A sq.ft.
IV. Basement Gross Area		
j. Floor area outside footprint of first floor or greater than 3 feet above grade at the average elevation at the intersections of the minimum front yard setback line and side property lines.	sq.ft.	N/A sq.ft.
V. Garage		
k. <input checked="" type="checkbox"/> attached (subtract 200 square feet if used to meet the minimum parking requirement)	sq.ft.	367 ✓ sq.ft.
l. <input type="checkbox"/> detached (subtract 450 square feet if more than 10 feet from principal structure)	sq.ft.	N/A sq.ft.
VI. Carport (open on two or more sides without habitable space above it subtract 450 square feet)	sq.ft.	N/A sq.ft.
VII. TOTAL	sq.ft.	4537 sq.ft.

TOTAL GROSS FLOOR AREA (add existing and new from VII above)

4537 sq. ft.

GROSS AREA OF LOT

11,683 sq. ft.

FLOOR AREA RATIO (gross floor area / gross area of lot)

38.83 %

<sup>1</sup> a second or third floor meets all of the following criteria it is considered to be attic space and is not calculated as part of the overall Gross Floor Area of the structure.

- It is fully contained within the roof structure and the roof has a slope of 3 to 12 or greater
- It only has one floor within the roof structure
- It does not extend beyond the foot print of the floors below
- It is the highest habitable portion of the building; and
- Fifty percent or more of the area has a ceiling height of seven feet or less.

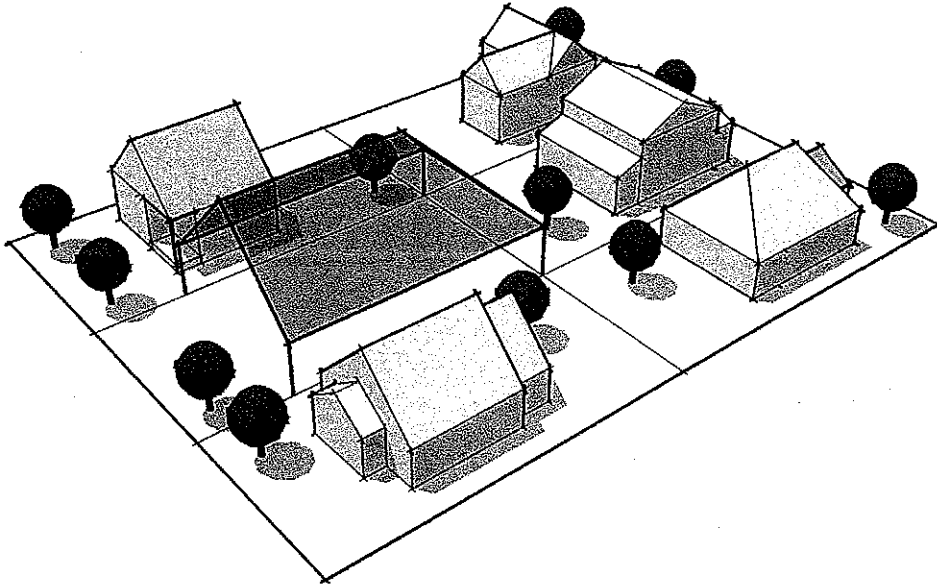
**Exhibit  
Ex 3**

Attachment A

## **SUBCHAPTER F: RESIDENTIAL DESIGN AND COMPATIBILITY STANDARDS**

---

**Austin, Texas**



**APPROVED BY THE CITY COUNCIL  
ON SEPTEMBER 28, 2006**

**BASED ON THE JUNE 22, 2006  
CITY COUNCIL ORDINANCE AND  
SUBSEQUENT AMENDMENTS**

## SUBCHAPTER F: RESIDENTIAL DESIGN AND COMPATIBILITY STANDARDS

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## ARTICLE 3: DEFINITIONS AND MEASUREMENT

### 3.1. BUILDABLE AREA

In this Subchapter, BUILDABLE AREA means the area in which development subject to this Subchapter may occur, and which is defined by the side and rear setback planes required by this Subchapter, together with the area defined by the front, side, and rear yard setbacks and the maximum height limit.

### 3.2. BUILDING LINE

In this Subchapter, BUILDING LINE means a line that is parallel to the front lot line and that intersects the principal residential structure at the point where the structure is closest to the front lot line, including any allowed projections into the front yard setback. See Figure 21.

### 3.3. GROSS FLOOR AREA

In this Subchapter, GROSS FLOOR AREA has the meaning assigned by Section 25-1-21(Definitions), with the following modifications:

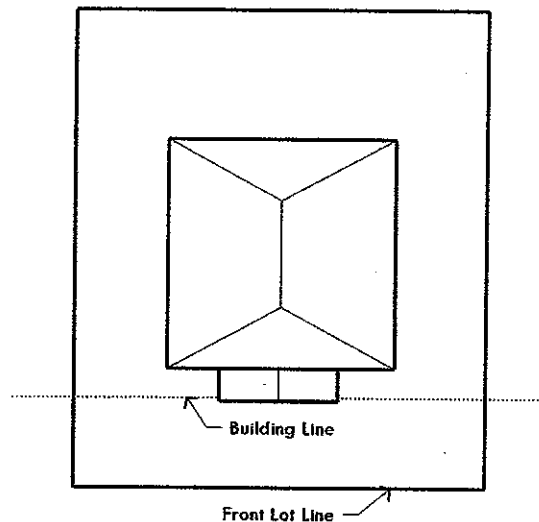


Figure 21: Building Line

#### 3.3.1. The following shall be included in the calculation of gross floor area:

- A. The portion of a second or third story of a building that is covered by a roof, including a porch, portico, breezeway, passageway, or corridor;
- B. A mezzanine or loft; and
- C. The covered portion of a parking area, except for:
  - 1. Up to 450 square feet of:
    - a. A detached rear parking area that is separated from the principal structure by not less than 10 feet; or
    - b. A parking area that is open on two or more sides, if it does not have habitable space above it; and
  - 2. Up to 200 square feet of an attached parking area if it used to meet the minimum parking requirement.

#### 3.3.2. The following shall be excluded from the calculation of gross floor area:

- A. A ground floor porch, including a screened porch;
- B. A habitable portion of a building that is below grade if:
  - 1. It does not extend beyond the first-story footprint; and
  - 2. The finished floor of the first story is not more than three feet above the average elevation at the intersections of the minimum front yard setback line and the side property lines; and
- C. A habitable portion of an attic, if:
  - 1. The roof above it is not a flat or mansard roof and has a slope of 3 to 12 or greater;
  - 2. It is fully contained within the roof structure;
  - 3. It has only one floor;
  - 4. It does not extend beyond the footprint of the floors below;
  - 5. It is the highest habitable portion of the building; and
  - 6. Fifty percent or more of the area has a ceiling height of seven feet or less.

3.3.3. An area with a ceiling height greater than 15 feet is counted twice.

### 3.4. HEIGHT

For purposes of this Subchapter, the HEIGHT of a building or setback plane shall be measured as follows:

3.4.1. Height shall be measured vertically from the average of the highest and lowest grades adjacent to the building to:

- A. For a flat roof, the highest point of the coping;
- B. For a mansard roof, the deck line;
- C. For a pitched or hip roof, the average height of the highest gable; or
- D. For other roof styles, the highest point of the building.

3.4.2. The grade used in the measurement of height for a building or setback plane shall be the lower of natural grade or finished grade, except height shall be measured from finished grade if:

- A. The site's grade is modified to elevate it out of the 100-year floodplain; or
- B. The site is located on the approximately 698.7 acres of land known as the Mueller Planned Unit Development, which was zoned as a planned unit development (PUD) district by Ordinance Number 040826-61.

3.4.3. For a stepped or terraced building, the height of each segment is determined individually.

- 3.4.4.** The height of a structure other than a building is measured vertically from the ground level immediately under the structure to the top of the structure. The height of a fence on top of a retaining wall is measured from the bottom of the retaining wall.
- 3.4.5.** A maximum height is limited by both number of feet and number of stores if both measurements are prescribed, regardless of whether the measurements are conjoined with "or" or "and."

### **3.5. NATURAL GRADE**

**3.5.1.** In this Subchapter, NATURAL GRADE is:

- A.** The grade of a site before it is modified by moving earth, adding or removing fill, or installing a berm, retaining wall, or architectural or landscape feature; or
- B.** For a site with a grade that was legally modified before October 1, 2006, the grade that existed on October 1, 2006.

**3.5.2.** Natural grade is determined by reference to an on-ground survey, City-approved topographic map, or other information approved by the director. The director may require an applicant to provide a third-party report that shows the natural grade of a site.

## **SUBCHAPTER F: RESIDENTIAL DESIGN AND COMPATIBILITY STANDARDS.**

### **ARTICLE 1: GENERAL PROVISIONS.**

#### **§ 1.1. INTENT.**

This Subchapter is intended to minimize the impact of new construction, remodeling, and additions to existing buildings on surrounding properties in residential neighborhoods by defining an acceptable buildable area for each lot within which new development may occur. The standards are designed to protect the character of Austin's older neighborhoods by ensuring that new construction and additions are compatible in scale and bulk with existing neighborhoods.

*Source: Ord. 20060216-043; Ord. 20060309-058; Ord. 20060622-022; Ord. 20060928-022.*

#### **§ 1.2. APPLICABILITY.**

Except as provided in Section 1.3, this Subchapter applies to property that is:

##### **1.2.1. Within the area bounded by:**

- A. Highway 183 from Loop 360 to Ben White Boulevard;
- B. Ben White Boulevard from Highway 183 to South Interstate Highway 35;
- C. South Interstate Highway 35 from Ben White Boulevard to William Cannon Drive;
- D. William Cannon Drive from South Interstate Highway 35 to Manchaca Road;
- E. Manchaca Road from William Cannon Drive to Ben White Boulevard;
- F. Ben White Boulevard from Manchaca Road to Loop 360;
- G. Loop 360 from Ben White Boulevard to Loop 1;
- H. Loop 1 from Loop 360 to the Colorado River;
- I. The Colorado River from Loop 1 to Loop 360; and
- J. Loop 360 from the Colorado River to Highway 183; and

**[ [Click here to view Map](#) ]**

Source: Ord. 20060216-043; Ord. 20060309-058; Ord. 20060622-022; Ord. 20060928-022; Ord. 20080618-093.

## **ARTICLE 2: DEVELOPMENT STANDARDS.**

### **§ 2.1. MAXIMUM DEVELOPMENT PERMITTED.**

The maximum amount of development permitted on a property subject to this Subchapter is limited to the greater of 0.4 to 1.0 floor-to-area ratio or 2,300 square feet of gross floor area, as defined in Section 3.3. Floor-to-area ratio shall be measured using gross floor area as defined in Section 3.3, except that the lot area of a flag lot is calculated consistent with the requirements of Section 25-1-22 (*Measurements*).

Source: Ord. 20060216-043; Ord. 20060309-058; Ord. 20060622-022; Ord. 20060928-022; Ord. 20080618-093.

### **§ 2.2. BUILDING HEIGHT.**

Except where these regulations are superseded, the maximum building height for development subject to this Subchapter is 32 feet. Section 25-2-531 (*Height Limit Exceptions*) does not apply to development subject to this Subchapter, except for a chimney, vent, antenna, or energy conservation or production equipment or feature not designed for occupancy. Building height shall be measured under the requirements defined in Section 3.4.

Source: Ord. 20060216-043; Ord. 20060309-058; Ord. 20060622-022; Ord. 20060928-022.

### **§ 2.3. FRONT YARD SETBACK.**

**A. Minimum Setback Required.** The minimum front yard setback required for development subject to this Subchapter is the lesser of:

1. The minimum front yard setback prescribed by the other provisions of this Code; or
2. The average front yard setback, if an average may be determined as provided in subsection B. below.

**B. Average Front Yard Setback.** The following rules apply for purposes of the setback calculation required by paragraph A.2:

1. A front yard setback is the distance between the front lot line and the closest front exterior wall or building façade of the principal residential structure located on the lot.
2. Except as provided in paragraph 3, average front yard setback is determined using the front yard setback of the four principal residential structures that are: (a) built within fifty feet of the front lot line; and (b) closest to, and on the same side of the block, as the property subject to the setback required by this section.

conditionally approve the modification contingent upon subsequent issuance of a certificate of appropriateness by the Historic Landmark Commission under Section 25-11-243. The applicant must include a copy of the approved modification with the application for a certificate of appropriateness.

2. If both a modification from the requirements of this Subchapter and a non-binding recommendation from the Historic Landmark Commission are sought, the Residential Design and Compatibility Commission may not approve a modification for a structure located in the National Register Historic District before the Historic Landmark Commission issues its recommendation.

**D. Appeals.** An interested party may appeal the Residential Design and Compatibility Commission's decision to the City Council.

**E. Board of Adjustment May Grant Variances.** This subsection does not prohibit the Board of Adjustment from granting a variance from a requirement of this Subchapter under Section 25-2-473 (*Variance Requirements*).

*Source: Ord. 20060216-043; Ord. 20060309-058; Ord. 20060622-022; Ord. 20060928-022; Ord. 20070830-089; Ord. 20080618-093.*

## **§ 2.9. MODIFICATIONS WITHIN NEIGHBORHOOD PLAN (NP) COMBINING DISTRICTS.**

Under Section 25-2-1406 of the Code, an ordinance zoning or rezoning property as a neighborhood plan (NP) combining district may modify certain development standards of this Subchapter.

*Source: Ord. 20060216-043; Ord. 20060309-058; Ord. 20060622-022; Ord. 20060928-022.*

# **ARTICLE 3: DEFINITIONS AND MEASUREMENT.**

## **§ 3.1. BUILDABLE AREA.**

In this Subchapter, BUILDABLE AREA means the area in which development subject to this Subchapter may occur, and which is defined by the side and rear setback planes required by this Subchapter, together with the area defined by the front, side, and rear yard setbacks and the maximum height limit.

*Source: Ord. 20060216-043; Ord. 20060309-058; Ord. 20060622-022; Ord. 20060928-022.*

## **§ 3.2. BUILDING LINE.**

In this Subchapter, BUILDING LINE means a line that is parallel to the front lot line and that intersects the principal residential structure at the point where the structure is closest to the front lot line, including any allowed projections into the front yard setback. See Figure 21.

**Click here for Figure 21: Building Line**

*Source: Ord. 20060216-043; Ord. 20060309-058; Ord. 20060622-022; Ord. 20060928-022.*

### **§ 3.3. GROSS FLOOR AREA.**

In this Subchapter, GROSS FLOOR AREA has the meaning assigned by Section 25-1-21 (*Definitions*), with the following modifications:

**3.3.1.** In this Subchapter, GROSS FLOOR AREA means all enclosed space, regardless of its dimensions, that is not exempted under subsections 3.3.2, 3.3.3, or 3.3.4.

**3.3.2.** Subject to the limitations in paragraph C below, the following parking areas and structures are excluded from gross floor area for purposes of this Subchapter:

A. Up to 450 square feet of:

1. A detached rear parking area that is separated from the principal structure by not less than 10 feet;

2. A rear parking area that is 10 feet or more from the principal structure, provided that the parking area is either:

a. detached from the principal structure; or

b. attached by a covered breezeway that is completely open on all sides, with a walkway not exceeding 6 feet in width and a roof not exceeding 8 feet in width; or

3. A parking area that is open on two or more sides, if:

i. it does not have habitable space above it; and

ii. the open sides are clear and unobstructed for at least 80% of the area measured below the top of the wall plate to the finished floor of the carport.

B. Up to 200 square feet of:

1. An attached parking area if it used to meet the minimum parking requirement; or

2. A garage that is less than 10 feet from the rear of the principal structure, provided that the garage is either:

a. detached from the principal structure; or

b. attached by a covered breezeway that is completely open on all sides, with a walkway not exceeding 6 feet in width and a roof not exceeding 8 feet in width.

C. An applicant may receive only one 450-square foot exemption per site under paragraph A. An applicant who receives a 450-square foot exemption may receive an additional 200-foot exemption for the same site under paragraph B, but only for an attached parking area used to meet minimum parking requirements.

**3.3.3.** Porches, basements, and attics that meet the following requirements shall be excluded from the calculation of gross floor area:

A. A ground floor porch, including a screened porch, provided that:

1. the porch is not accessible by automobile and is not connected to a driveway; and
2. the exemption may not exceed 200 square feet if a porch has habitable space or a balcony above it.

B. A habitable portion of a building that is below grade if:

1. The habitable portion does not extend beyond the first-story footprint and is:
  - a. Below natural or finished grade, whichever is lower; and
  - b. Surrounded by natural grade for at least 50% of its perimeter wall area, if the habitable portion is required to be below natural grade under paragraph 1.a.
2. The finished floor of the first story is not more than three feet above the average elevation at the intersections of the minimum front yard setback line and the side property lines.

C. A habitable portion of an attic, if:

1. The roof above it is not a flat or mansard roof and has a slope of 3 to 12 or greater;
2. It is fully contained within the roof structure;
3. It has only one floor;
4. It does not extend beyond the footprint of the floors below;
5. It is the highest habitable portion of the building, or a section of the building, and adds no additional mass to the structure; and
6. Fifty percent or more of the area has a ceiling height of seven feet or less.

**3.3.4.** An enclosed area shall be excluded from the calculation of gross floor area if it is five feet or less in height. For purposes of this subsection:

A. Area is measured on the outside surface of the exterior walls; and



B. Height is measured from the finished floor elevation, up to either:

1. the underside of the roof rafters; or
2. the bottom of the top chord of the roof truss, but not to collar ties, ceiling joists, or any type of furred-down ceiling.

*Source: Ord. 20060216-043; Ord. 20060309-058; Ord. 20060622-022; Ord. 20060928-022; Ord. 20080618-093.*

### **§ 3.4. HEIGHT.**

For purposes of this Subchapter, the HEIGHT of a building or setback plane shall be measured as follows:

**3.4.1.** Height shall be measured vertically from the average of the highest and lowest grades adjacent to the building to:

- A. For a flat roof, the highest point of the coping;
- B. For a mansard roof, the deck line;
- C. For a pitched or hip roof, the gabled roof or dormer with the highest average height; or
- D. For other roof styles, the highest point of the building.

**3.4.2.** The grade used in the measurement of height for a building or setback plane shall be the lower of natural grade or finished grade, except height shall be measured from finished grade if:

- A. The site's grade is modified to elevate it out of the 100-year floodplain; or
- B. The site is located on the approximately 698.7 acres of land known as the Mueller Planned Unit Development, which was zoned as a planned unit development (PUD) district by Ordinance Number 040826-61.

**3.4.3.** For a stepped or terraced building, the height of each segment is determined individually.

**3.4.4.** The height of a structure other than a building is measured vertically from the ground level immediately under the structure to the top of the structure. The height of a fence on top of a retaining wall is measured from the bottom of the retaining wall.

**3.4.5.** A maximum height is limited by both number of feet and number of stories if both measurements are prescribed, regardless of whether the measurements are conjoined with "or" or "and."

**3.4.6.** The habitable portion of a basement that is below natural grade and the habitable portion of an attic do not count toward the number of stories for purposes of Section 25-2-773(B)(5)

(*Duplex Residential Use*) if the area satisfies the requirements for an exemption from gross floor area under subsections 3.3.2.B-C of this Subchapter.

*Source: Ord. 20060216-043; Ord. 20060309-058; Ord. 20060622-022; Ord. 20060928-022; Ord. 20080618-093.*

### **§ 3.5. NATURAL GRADE.**

**3.5.1.** In this Subchapter, NATURAL GRADE is:

A. The grade of a site before it is modified by moving earth, adding or removing fill, or installing a berm, retaining wall, or architectural or landscape feature; or

B. For a site with a grade that was legally modified before October 1, 2006, the grade that existed on October 1, 2006.

**3.5.2.** Natural grade is determined by reference to an on-ground survey, City-approved topographic map, or other information approved by the director. The director may require an applicant to provide a third-party report that shows the natural grade of a site.

*Source: Ord. 20060216-043; Ord. 20060309-058; Ord. 20060622-022; Ord. 20060928-022.*

EXHIBIT  
Ex 5

RETAINS  
OF THE  
TO THE  
ABILITY  
AUSTIN

\* FAMILY ROOM HAS 20' CEILING  
FOYER HAS 22' CEILING

PERIMETER WALL  
16" O.C.

R. CEILING HEIGHTS  
NOTED OTHERWISE

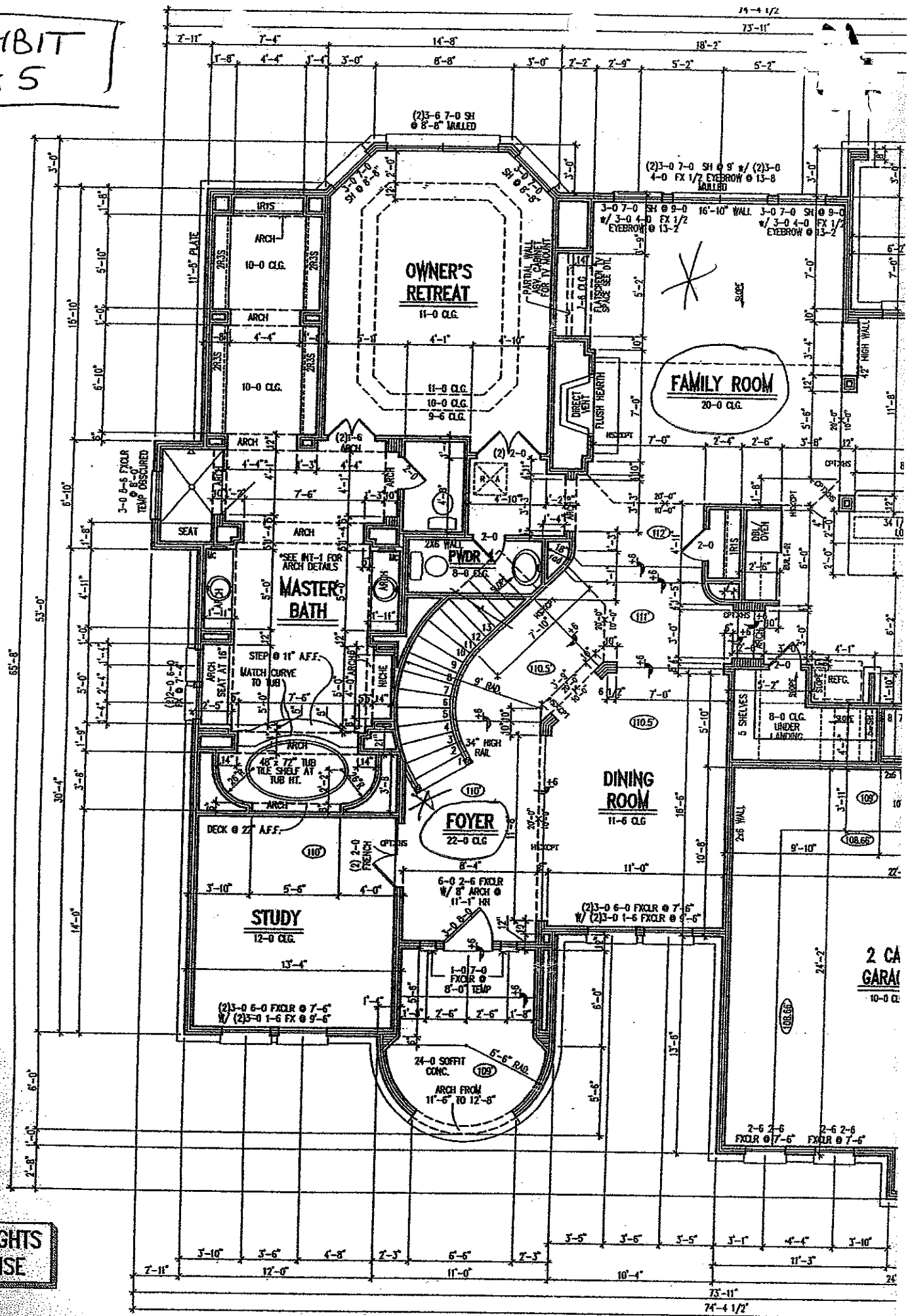


Exhibit  
EX6

**Item 93 - June 18, 2008**


Conduct a public hearing and consider an ordinance amending City Code Chapter 25-2, Subchapter F (Residential Design and Compatibility Standards), commonly referred to as the "McMansion" ordinance, and the related sections of city code regarding compatibility and to single family and duplex site development standards and procedures. Reviewed by the Planning Commission.

The public hearing was closed and Ordinance No. 20080618-093 was approved as amended on Council Member McCracken's motion, Council Member Kim's second on a 7-0 vote. The amendments were: to correct a typo on page 10 to state that a sidewall articulation is required when the structure is an "average distance of less than 9 feet" rather than "9 feet or less;" and to include an uncoded section directing the City Manager to conform the drawings to the revised code language.

**Executed Ordinance**

 Ordinance No. 20080618-093, PDF, 651kb *see Exhibit Ex 7*


**Work Papers and Other Backup Documentation**

 20080618-093, Affidavit of Publication, PDF, 38kb

 20080618-093, Agenda Backup (Affordability Impact Statement), PDF, 66kb

 20080618-093, Agenda Backup (AIA Statement), PDF, 3.9mb

 20080618-093, Agenda Backup (Attic Exemption (Draft Memo)), PDF, 41kb

 20080618-093, Agenda Backup (Draft Ordinance), PDF, 71kb *see Exhibit Ex 8*

 20080618-093, Agenda Backup (Recommendation for Council Action), PDF, 55kb

 20080618-093, Agenda Backup (Stakeholder Recommendations), PDF, 30kb

 20080618-093, Agenda Backup (Task Force Recommendations), PDF, 120kb

 20080618-093, Agenda Late Backup Part 1 of 2, PDF, 41kb

 20080618-093, Agenda Late Backup Part 2 of 2, PDF, 952kb

ORDINANCE NO. 20080618-093

Exhibit  
Ex 7

AN ORDINANCE AMENDING CITY CODE SECTION 25-2-773 RELATING TO DUPLEX HEIGHT REQUIREMENTS; AMENDING CITY CODE SECTION 25-2-1051 RELATING TO DESIGN STANDARDS AND MIXED USE; AMENDING CITY CODE SECTION 25-2-1406 RELATING TO NEIGHBORHOOD PLAN COMBINING DISTRICTS; AND AMENDING CITY CODE CHAPTER 25-2, SUBCHATER F RELATING TO RESIDENTIAL DESIGN AND COMPATABILITY.

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

**PART 1.** Subsections (B) and (D) of City Code Section 25-2-773 (*Duplex Residential Use*) are amended to read

**§ 25-2-773 DUPLEX RESIDENTIAL USE.**

(B) For a duplex residential use:

- (1) minimum lot area is 7,000 square feet,
- (2) minimum lot width is 50 feet,
- (3) maximum building cover is 40 percent;
- (4) maximum impervious cover is 45 percent, and
- (5) maximum building height is the lesser of

(a) 30 feet, or


(b) two stories, except that an attic or basement does not count as a story for purposes of this subsection if it satisfies the requirements for an exemption from gross floor area under Subsections 3 3 2 and 3 4 6 of Subchapter F (*Residential Design and Compatibility Standards*)

(D) The two dwelling units are subject to the following requirements

(1) The two units must have a common [wall-or] floor and ceiling or a common wall, which may be a common garage wall, that

approval criteria in subsection B of this section, it shall conditionally approve the modification contingent upon subsequent issuance of a certificate of appropriateness by the Historic Landmark Commission under Section 25-11-243. The applicant must include a copy of the approved modification with the application for a certificate of appropriateness. [A local, state, or national historic landmark, if the modification would adversely impact the landmark's historic status,]

- 2 If both a modification from the requirements of this Subchapter and a non-binding recommendation from the Historic Landmark Commission are sought, the Residential Design and Compatibility Commission may not approve a modification for a structure located in the National Register Historic District before the Historic Landmark Commission issues its recommendation. [A "contributing structure," as defined in Section 25-2-351 (Contributing Structure Defined), or a contributing structure in a National Register historic district, if the modification would adversely impact its status as a contributing structure, or
- 3 A property listed as Priority 1 or Priority 2 on the City's most current survey of historic assets, if the modification would adversely impact the property's architectural integrity or change its priority rating.]

 **PART 14.** Section 3.3 (*Gross Floor Area*) of City Code Chapter 25-2, Subchapter F is amended to amend Subsections 3.3.1 and 3.3.2, and to add new Subsections 3.3.3 and 3.3.4, to read

### **3.3. GROSS FLOOR AREA**

3.3.1 In this Subchapter, GROSS FLOOR AREA means all enclosed space, regardless of its dimensions, that is not exempted under subsections 3.3.2, 3.3.3, or 3.3.4. [has the meaning assigned by Section 25-1-21 (Definitions), with the following modifications:

3.3.1 The following shall be included in the calculation of gross floor area:

- A The portion of a second or third story of a building that is covered by a roof, including a porch, portico, breezeway, passageway, or corridor;

~~B~~—A mezzanine or loft, and]

3.3.2 Subject to the limitations in paragraph C below, the following parking areas and structures are excluded from gross floor area for purposes of this Subchapter [~~C~~—The covered portion of a parking area, except for]

A.~~[4.]~~ Up to 450 square feet of.

1.~~[a.]~~ A detached rear parking area that is separated from the principal structure by not less than 10 feet, ~~[or]~~

2 A rear parking area that is 10 feet or more from the principal structure, provided that the parking area is either

a detached from the principal structure, or

b attached by a covered breezeway that is completely open on all sides, with a walkway not exceeding 6 feet in width and a roof not exceeding 8 feet in width, or

3 ~~[b.]~~ A parking area that is open on two or more sides, if

i it does not have habitable space above it, and

ii the open sides are clear and unobstructed for at least 80% of the area measured below the top of the wall plate to the finished floor of the carport

B.~~[2.]~~ Up to 200 square feet of

1. An ~~[an]~~ attached parking area if it used to meet the minimum parking requirement, or ~~[-]~~

2. A garage that is less than 10 feet from the rear of the principal structure, provided that the garage is either

a detached from the principal structure, or

b. attached by a covered breezeway that is completely open on all sides, with a walkway not exceeding 6 feet in width and a roof not exceeding 8 feet in width

- C An applicant may receive only one 450-square foot exemption per site under paragraph A. An applicant who receives a 450-square foot exemption may receive an additional 200-foot exemption for the same site under paragraph B, but only for an attached parking area used to meet minimum parking requirements.

3.3.3 [3.3.2] Porches, basements, and attics that meet the [The] following requirements shall be excluded from the calculation of gross floor area.

- A A ground floor porch, including a screened porch, provided that,
- 1 the porch is not accessible by automobile and is not connected to a driveway, and
  - 2 the exemption may not exceed 200 square feet if a porch has habitable space or a balcony above it.
- B. A habitable portion of a building that is below grade if
- 1 The habitable portion [It] does not extend beyond the first-story footprint[;] and is
    - a Below natural or finished grade, whichever is lower, and
    - b Surrounded by natural grade for at least 50% of its perimeter wall area, if the habitable portion is required to be below natural grade under paragraph 1 a.
  - 2 The finished floor of the first story is not more than three feet above the average elevation at the intersections of the minimum front yard setback line and the side property lines[; and].
- C A habitable portion of an attic, if
- 1 The roof above it is not a flat or mansard roof and has a slope of 3 to 12 or greater,
  - 2 It is fully contained within the roof structure;
  - 3 It has only one floor,
  - 4 It does not extend beyond the footprint of the floors below,



5 It is the highest habitable portion of the building, or a section of the building, and adds no additional mass to the structure, and

6 Fifty percent or more of the area has a ceiling height of seven feet or less

3 3 4 An enclosed area shall be excluded from the calculation of gross floor area if it is five feet or less in height For purposes of this subsection

A. Area is measured on the outside surface of the exterior walls; and

B. Height is measured from the finished floor elevation, up to either

1. the underside of the roof rafters; or

2. the bottom of the top chord of the roof truss, but not to collar ties, ceiling joists, or any type of furred-down ceiling

**PART 15.** Section 3 4 (*Height*) of City Code Chapter 25-2, Subchapter F is amended to amend Subsection 3 4 1, and to add new a Subsection 3 4 6, to read:

### **3.4. HEIGHT**

For purposes of this Subchapter, the HEIGHT of a building or setback plane shall be measured as follows:

3 4 1 Height shall be measured vertically from the average of the highest and lowest grades adjacent to the building to

A. For a flat roof, the highest point of the coping,

B. For a mansard roof, the deck line;

C. For a pitched or hip roof, the gabled roof or dormer with the highest average height [~~the average height of the highest gable~~], or

D. For other roof styles, the highest point of the building

3.4.6 The habitable portion of a basement that is below natural grade and the habitable portion of an attic do not count toward the number of stories for purposes of Section 25-2-773(B)(5) (*Duplex Residential Use*) if the area satisfies the requirements for an exemption from gross floor area under subsections 3 3 2 B-C of this Subchapter


**PART 16.** The city council directs the city manager to conform the pictures in City Code Chapter 25-2, Subchapter F, to the code text amendments adopted by this ordinance See. Exhibit A (Corrected Drawings to Replace Figures 12, 18, 19, and 20 in City Code Chapter 25-2, Subchapter F)

**PART 17.** This ordinance takes effect on June 29, 2008.

**PASSED AND APPROVED**

June 18, 2008

§  
§  
§

  
Will Wynne  
Mayor

**APPROVED:**

  
David Allan Smith  
City Attorney

**ATTEST:**

  
Shirley A. Gentry  
City Clerk

Exhibit  
Ex 8

ORDINANCE NO. \_\_\_\_\_

1 AN ORDINANCE AMENDING CITY CODE SECTION 25-2-773 RELATING TO  
2 DUPLEX HEIGHT REQUIREMENTS; AMENDING CITY CODE SECTION 25-  
3 2-1051 RELATING TO DESIGN STANDARDS AND MIXED USE; AMENDING  
4 CITY CODE SECTION 25-2-1406 RELATING TO NEIGHBORHOOD PLAN  
5 COMBINING DISTRICTS; AND AMENDING CITY CODE CHAPTER 25-2,  
6 SUBCHATER F RELATING TO RESIDENTIAL DESIGN AND  
7 COMPATABILITY.  
8

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

10  
11 PART 1. Subsections (B) and (D) of City Code Section 25-2-773 (*Duplex Residential*  
12 *Use*) are amended to read:

13  
14 § 25-2-773 DUPLEX RESIDENTIAL USE.

15  
16 (B) For a duplex residential use:

- 17  
18 (1) minimum lot area is 7,000 square feet;  
19  
20 (2) minimum lot width is 50 feet;  
21  
22 (3) maximum building cover is 40 percent;  
23  
24 (4) maximum impervious cover is 45 percent; and  
25  
26 (5) maximum building height is the lesser of:

27  
28 (a) 30 feet; or

29  
30 (b) two stories, except that an attic or basement does not count as a story for  
31 purposes of this subsection if it satisfies the requirements for an exemption from gross  
32 floor area under Subsections 3.3.2 and 3.4.6 of Subchapter F (*Residential Design and*  
33 *Compatibility Standards*).  
34

35 (D) The two dwelling units are subject to the following requirements:

36 (1) The two units must have a common [wall-or] floor and ceiling or a common  
37 wall, which may be a common garage wall, that:

**PART 14.** Section 3.3 (*Gross Floor Area*) of City Code Chapter 25-2, Subchapter F is amended to amend Subsections 3.3.1 and 3.3.2, and to add new Subsections 3.3.3 and 3.3.4, to read:

### **3.3. GROSS FLOOR AREA**

3.3.1. In this Subchapter, GROSS FLOOR AREA means all enclosed space, regardless of its dimensions, that is not exempted under subsections 3.3.2, 3.3.3, or 3.3.4. [has the meaning assigned by Section 25-1-21(Definitions), with the following modifications:

3.3.1. The following shall be included in the calculation of gross floor area:

A. ~~The portion of a second or third story of a building that is covered by a roof, including a porch, portico, breezeway, passageway, or corridor;~~

B. ~~A mezzanine or loft; and]~~

3.3.2. Subject to the limitations in paragraph C below, the following parking areas and structures are excluded from gross floor area for purposes of this Subchapter [C. The covered portion of a parking area, except for]:

A.[1.] Up to 450 square feet of:

1.[a.] A detached rear parking area that is separated from the principal structure by not less than 10 feet; [or]

2. A rear parking area that is 10 feet or more from the principal structure, provided that the parking area is either:

a. detached from the principal structure; or

b. attached by a covered breezeway that is completely open on all sides, with a walkway not exceeding 6 feet in width and a roof not exceeding 8 feet in width; or

3. [b.] A parking area that is open on two or more sides, if:

i. it does not have habitable space above it; and



1  
2 b. Surrounded by natural grade for at least 50% of its perimeter  
3 wall area, if the habitable portion is required to be below natural  
4 grade under paragraph 1.a.  
5

6 2. The finished floor of the first story is not more than three feet above  
7 the average elevation at the intersections of the minimum front yard  
8 setback line and the side property lines[; and].  
9

10 C. A habitable portion of an attic, if:

- 11  
12 1. The roof above it is not a flat or mansard roof and has a slope of 3 to  
13 12 or greater;  
14  
15 2. It is fully contained within the roof structure;  
16  
17 3. It has only one floor;  
18  
19 4. It does not extend beyond the footprint of the floors below;  
20  
21 5. It is the highest habitable portion of the building, or a section of the  
22 building, and adds no additional mass to the structure; and  
23  
24 6. Fifty percent or more of the area has a ceiling height of seven feet or  
25 less.  
26

27 3.3.4 An enclosed area shall be excluded from the calculation of gross floor area if  
28 it is five feet or less in height. For purposes of this subsection:  
29

30 A. Area is measured on the outside surface of the exterior walls; and  
31

32 B. Height is measured from the finished floor elevation, up to either:  
33

- 34 1. the underside of the roof rafters; or  
35  
36 2. the bottom of the top chord of the roof truss, but not to collar ties,  
37 ceiling joists, or any type of furred-down ceiling.  
38

39 **PART 15.** Section 3.4 (*Height*) of City Code Chapter 25-2, Subchapter F is amended to  
40 amend Subsection 3.4.1, and to add new a Subsection 3.4.6, to read:  
41

1 **3.4. HEIGHT**

2  
3 For purposes of this Subchapter, the HEIGHT of a building or setback plane shall be  
4 measured as follows:

5  
6 3.4.1. Height shall be measured vertically from the average of the highest and  
7 lowest grades adjacent to the building to:

8  
9 A. For a flat roof, the highest point of the coping;

10  
11 B. For a mansard roof, the deck line;

12  
13 C. For a pitched or hip roof, the gabled roof or dormer with the highest average  
14 height [the average height of the highest gable]; or

15  
16 D. For other roof styles, the highest point of the building.

17  
18 3.4.6. The habitable portion of a basement that is below natural grade and the  
19 habitable portion of an attic do not count toward the number of stories for  
20 purposes of Section 25-2-773(B)(5) (Duplex Residential Use) if the area  
21 satisfies the requirements for an exemption from gross floor area under  
22 subsections 3.3.2.B-C of this Subchapter.

23  
24 **PART 16.** This ordinance takes effect on \_\_\_\_\_, 2008.

25  
26 **PASSED AND APPROVED**

27  
28 §  
29 §  
30 \_\_\_\_\_, 2008 § \_\_\_\_\_

31  
32 Will Wynn  
33 Mayor

34  
35 **APPROVED:** \_\_\_\_\_  
36 David Allan Smith  
37 City Attorney

**ATTEST:** \_\_\_\_\_  
Shirley A. Gentry  
City Clerk

CITY OF AUSTIN  
RESIDENTIAL PERMIT APPLICATION "D"  
FLOOR AREA RATIO INFORMATION

Exhibit  
Ex 9

TO BE COMPLETED FOR ALL PROPERTIES LOCATED WITHIN THE RESIDENTIAL DESIGN AND COMPATIBILITY  
STANDARDS ORDINANCE BOUNDARY AREA.

Service Address \_\_\_\_\_

Applicant's Signature \_\_\_\_\_ Date \_\_\_\_\_

GROSS FLOOR AREA AND FLOOR AREA RATIO as defined in the Austin Zoning Code.

	<u>Existing</u>	<u>New / Addition</u>
<b>I. 1<sup>st</sup> Floor Gross Area</b>		
a. 1 <sup>st</sup> floor area (excluding covered or uncovered finished ground-floor porches)	_____ sq.ft.	_____ sq.ft.
b. 1 <sup>st</sup> floor area with ceiling height over 15 feet.	_____ sq.ft.	_____ sq.ft.
c. TOTAL (add a and b above)	_____ sq.ft.	_____ sq.ft.
<b>II. 2<sup>nd</sup> Floor Gross Area</b> See note <sup>1</sup> below		
d. 2 <sup>nd</sup> floor area (including all areas covered by a roof i.e. porches, breezeways, mezzanine or loft)	_____ sq.ft.	_____ sq.ft.
e. 2 <sup>nd</sup> floor area with ceiling height > 15 feet.	_____ sq.ft.	_____ sq.ft.
f. TOTAL (add d and e above)	_____ sq.ft.	_____ sq.ft.
<b>III. 3<sup>rd</sup> Floor Gross Area</b> See note <sup>1</sup> below		
g. 3 <sup>rd</sup> floor area (including all areas covered by a roof i.e. porches, breezeways, mezzanine or loft).	_____ sq.ft.	_____ sq.ft.
h. 3 <sup>rd</sup> floor area with ceiling height > 15 feet	_____ sq.ft.	_____ sq.ft.
i. TOTAL (add g and h above)	_____ sq.ft.	_____ sq.ft.
<b>IV. Basement Gross Area</b>		
j. Floor area outside footprint of first floor or greater than 3 feet above grade at the average elevation at the intersections of the minimum front yard setback line and side property lines.	_____ sq.ft.	_____ sq.ft.
<b>V. Garage</b>		
k. _____ attached (subtract 200 square feet if used to meet the minimum parking requirement)	_____ sq.ft.	_____ sq.ft.
l. _____ detached (subtract 450 square feet if more than 10 feet from principal structure)	_____ sq.ft.	_____ sq.ft.
<b>VI. Carport</b> (open on two or more sides without habitable space above it subtract 450 square feet)	_____ sq.ft.	_____ sq.ft.
<b>VII. TOTAL</b>	_____ sq.ft.	_____ sq.ft.

**TOTAL GROSS FLOOR AREA** (add existing and new from VII above)

sq. ft.

**GROSS AREA OF LOT**

sq. ft.

**FLOOR AREA RATIO** (gross floor area / gross area of lot)

sq. ft.

<sup>1</sup> If a second or third floor meets all of the following criteria it is considered to be attic space and is not calculated as part of the overall Gross Floor Area of the structure.

- It is fully contained within the roof structure and the roof has a slope of 3 to 12 or greater
- It only has one floor within the roof structure
- It does not extend beyond the foot print of the floors below
- It is the highest habitable portion of the building; and
- Fifty percent or more of the area has a ceiling height of seven feet or less.



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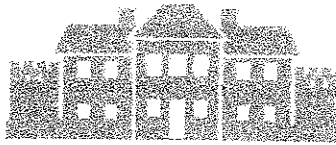
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## Development Regulations

Exhibit  
Ex 10

:: Home :: Frequently Asked Questions :: FAR Calculator :: Task Force ::

### RESIDENTIAL DESIGN AND COMPATIBILITY STANDARDS

Site development regulations for single-family, duplexes, and other non-multi-family residential development (the "McMansion Ordinance" and changes to the City's duplex regulations) went into effect on October 1, 2006 and additional revisions went into effect June 18, 2008.

#### WHERE DO THE REGULATIONS APPLY?

The McMansion Ordinance does not apply to every property within the City. It applies only within specific boundaries (generally, greater central Austin). The Mueller Planned Unit Development is exempt from the regulations. Properties zoned SF-4A are also exempt unless they are adjacent to properties zoned SF-1, SF-2 and SF-3.

However, the changes to the City's duplex regulations apply throughout the entire city and are not limited to a specific area.

Generally, the McMansion ordinance places additional regulations on single-family structures, two-family structures and duplex structures to limit bulk and volume of residential structures. Please see the rest of this website and the Frequently Asked Questions web page for further details.

#### WHAT RESIDENTIAL STRUCTURES ARE SUBJECT TO THE McMANSION ORDINANCE?

- Single-family
- Small-lot single-family
- Single-family attached
- Duplex
- Two-family (a main residence and a secondary dwelling unit)
- Secondary apartment (neighborhood planning tool)
- Urban home (neighborhood planning tool)
- Cottage lot (neighborhood planning tool)

#### WHAT DOES THE McMANSION ORDINANCE DO?

##### The McMansion Ordinance

> Limits the size of new and remodeled structures to the greater of

- 2,300 square feet or
- 0.4 to 1 Floor-to-Area-Ratio (FAR) (the limit applies to the combined square footage of all residential units on a lot)

To figure out what an 0.4 FAR means for your property, simply multiply your total lot size by 0.4. For example, an 0.4 FAR applied to a 10,000 square foot lot would yield an allowable 4,000 square feet of gross floor area)

> Adds provisions to the City's definition of gross floor area that explain how square footage must be calculated for

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- Second and third story covered porches (included in your square footage)
- Basements meeting certain criteria (excluded in your square footage)
- Garages and other parking areas (included after a certain amount)
- Areas with ceiling heights of greater than 15 feet (included by counting the square footage twice)
- Mezzanines and lofts (included)
- Habitable attic spaces meeting certain criteria (excluded)

Otherwise, gross floor area means the total enclosed area of all floors in a building with a clear height of more than five feet, measured to the outside surface of the exterior walls. The height of the finished floor is measured from the finished floor elevation to either the underside of the roof rafters or to the bottom of the top chord of the roof truss.

> Adds a building envelope requirement, created by side and rear setback planes, so that all structures on a site must fit within this envelope (there is an allowance for remodels; some building features are allowed to protrude through the setback planes)

> Adds a side wall articulation requirement, though the the side wall articulation requirement does not apply to new construction or an addition or remodel that is less than 2,000 square feet in gross floor area and less than 32 feet in height

> Changes how height is measured for uses subject to the McMansion ordinance so that it is measured vertically from the average of the highest and lowest grades adjacent to the building

> Changes the maximum height

- From 35 feet to 32 feet for single-family, small-lot single-family, single-family attached, bed and breakfast (group 1 and group 2) residential structures
- From 30 feet to 32 feet for duplexes
- From 30 feet to 32 feet for two-family residential structures
- (The 35 foot height limit stays in effect for urban home and cottage lot special uses.)
- (The 30 foot height limit stays in effect for secondary apartment special uses.)

> Decreases the minimum rear yard setback from 10 feet to 5 feet for a secondary dwelling unit if the lot abuts an alley

> Establishes minimum front yard setbacks that are slightly different than the setbacks prescribed previously in the City's Land Development Code

> Allows neighborhoods within the 'McMansion boundary' modify the McMansion Ordinance

Other changes approved with the McMansion Ordinance that also went into effect on October 1, 2006

CITY OF AUSTIN

CASE # 2011-031158R

PLAN REVIEW # #10574558

TPH 01-2507-0317

APPLICATION TO THE RESIDENTIAL DESIGN  
AND COMPATIBILITY COMMISSION (RDCC)

GENERAL MODIFICATION WAIVER

STREET ADDRESS: 3704 BONNELL DRIVE AUSTIN TX 78731

LEGAL DESCRIPTION: Subdivision - Mt. BONNELL TERRACE

Lot(s) 1 Block E Outlot - Division SECTION 3

LAND STATUS DETERMINATION CASE NUMBER (if applicable) \_\_\_\_\_

I/We JIM ENHAUS on behalf of myself/ourselves as authorized agent for

DAVID WEEKLEY HOMES affirm that on 4/13, 2011

hereby apply for a hearing before the Residential Design and Compatibility Commission for modification Section 2.8.1. of up to 25% increase in one or more of the following:

- ☒ Maximum Floor to area ratio .4 or Gross floor area 2300 sq ft.  
☐ Maximum Linear feet of Gables protruding from setback plane  
☐ Maximum Linear feet of Dormers protruding from the setback plane

Waive or modify the side wall articulation requirement of Section 2.7.

Side Wall Length Articulation

(Please describe request. Please be brief but thorough).

★ THE PRELIMINARY PLAN (NOT INCLUDED) HAD A FLAT 15' CEILING IN THE LIVING ROOM AND HAD BEDROOM 5 TUCKED IN UNDER THE ROOF. HOWEVER,

THE HOMEOWNER HAS ASKED US TO VAULT THE CEILING IN THE FAMILY ROOM, AND

ADD A WINDOW TO THE FRONT OF BRS SO THEY CAN SEE THE DOWNTOWN SKYLINE.

DOING THIS ADDS TO THE FAR. FROM THE ALLOWABLE 4673.2 (40%)  
in a SF3 zoning district. TO 5442 (46.6%) FOR NEW CONSTRUCTION

Note: Certificate of Appropriateness: H (Historic) or HD (Historic Designation) -

case goes to RDCC first. National Register Historical District (NRHD) Overlay:

without H or HD - case goes to Historic Landmark Commission first.

**CITY OF AUSTIN  
APPLICATION TO THE RESIDENTIAL DESIGN  
AND COMPATIBILITY COMMISSION**

**GENERAL MODIFICATION WAIVER**

**REASONABLE USE:**

1. The Residential Design and Compatibility Standards Ordinance applicable to the property does not allow for a reasonable use because:

★ ANY VAULTED CEILING ADDS TO THE FAR, AND CONVERTING A HABITABLE ATTIC AREA TO A REGULAR FLOOR AREA ALSO ADDS TO THE FAR, EVEN THOUGH IT DOES NOT ADD TO THE LIVING SPACE, IMPERVIOUS COVERAGE, OR BUILDING COVERAGE.

**REQUEST:**

2. The request for the modification is unique to the property in that:

THERE ARE INCREDIBLE VIEWS FROM THE FRONT OF THIS HOME TO DOWNTOWN AUSTIN. ADDING A WINDOW ON THE FRONT OF THE HOME, WILL ALLOW THE HOMEOWNER TO ENJOY THESE VIEWS.

**AREA CHARACTER:**

3. The modification will not alter the character of the area adjacent to the property, will not impair the use of adjacent conforming property, and will not impair the purpose of the regulations of the zoning district in which the property is located because:

ALLOWING THE VAULTED CEILING IN THE FAMILY ROOM WILL NOT BE EVIDENT WHATSOEVER ON THE OUTSIDE, SINCE IT IS SIMPLY ADDING NON-HABITABLE ATTIC SPACE TO THE FAMILY ROOM. ALLOWING ANOTHER WINDOW TO BE ADDED TO THE FRONT OF THE HOUSE WILL NOT AFFECT ANY NEIGHBORS. THE UPPER ROOF LINES (ROOFS) ARE STILL THE SAME. ALL THIS WOULD DO IS CONVERT A 5:12 PITCHED ROOF INTO A WALL WITH A WINDOW.