

STREET ADDRESS: 7600 Downridge

LEGAL DESCRIPTION: Subdivision –
Vista West III

Lot (s) 24 Block J Outlot Division

ZONING DISTRICT: SF3

Agent for _____ affirm that on

Day of _____, 20____, hereby apply for an interpretation hearing before the Board of Adjustment.

Planning and Development Review Department interpretation is:

Please see Appeal Information and attachments submitted on April 25, 2012 and Additional Appeal Information and attachments submitted on APRIL 26 TO Leon Barba.

This form will be revised as reasonable time was not given to properly prepare it due to a premature hearing scheduled I had not requested and subsequent last minute deadline imposed.

I feel the correct interpretation is: _____

Please see Appeal Information and attachments submitted on April 25, 2012 and Additional Appeal Information and attachments submitted on APRIL 26 TO Leon Barba.

This form will be revised as reasonable time was not given to properly prepare it due to a premature hearing scheduled I had not requested and subsequent last minute deadline imposed.

7620 Parkview Cr.

Mailing Address _____

(512) 413-8803

City, State & Zip _____ Austin, Tx _____ Phone _____

OWNER'S CERTIFICATE – I affirm that my statements contained in the complete application are true and correct to the best of my knowledge and belief.

Signed _____ Printed _____

Mailing Address _____

City, State & Zip _____ Phone _____

C15-2012-0071

NOTICE OF APPEAL INFORMATIONROW-1076959
TP-014408-02-25

Austin City Code ARTICLE 7. APPEALS, VARIANCES, SPECIAL EXCEPTIONS, AND ADJUSTMENTS.

Division 1. Appeals

(see page 2 of 2 for appeal process)

**Planning and Development Review Department**

Address of Property in Question

7600 DOWNRIDGE DR.

Permit Number

2012-032828 BP

Appellant Filing Appeal

BETTY EPSTEIN

Relationship to Property

Interested party Adjacent Property OWNER

Appellant's status as interested Party

Registered - see attached letter

Appellant Contact Information

Permit Holder Contact Information

Name

BETTY EPSTEIN

Name

Street

7620 PARKVIEW CR.

Street

City

Austin, TX. 78731

State

Zip

City

State

Zip

Telephone

(512) 413-8803

Telephone

E-Mail

[REDACTED]

E-Mail

Date of Decision Being Appealed:

Date Appeal is Filed:

Decision being appealed: (use additional paper as required)

25-1-182

Administrative Decision By Planning and Development Review Department to Approve Application, Plans and Resulting Issuance of Building Permit. 2012-038461 PR/ 2012 032828 BP

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

* See Attached Notice of Appeal Information (cont.) Addendum (2 pages)

BELOW FOR CITY USE ONLY

Hearing Date:

Board or Commission:

Action on Appeal:

Date of Action

Form Bldg 101 Page 1 of 2

The applicant must complete page 2 of 2 and sign before this application of appeal is complete. The application will not be processed unless the applicant reads and signs page 2 of 2.

Notice of APPEAL INFORMATION (continued)

Addendum

Re: 7600 Downridge Drive, 2012-028461 PR / 2012-032828 BP

Reason the appellant believes the decision does not comply with requirements of the LDC (Title 25)

1. LDC 25-2-555 was used to allow a 5 ft rear setback for a (re-labeled) 1 story accessory structure, which is labeled a cabana. Applicant has finished out the inside of this structure as a full 2nd residence on the property, as was noted by Code Enforcement. The City is only requiring the kitchen sink to be disconnected and is allowing all other aspects of this full dwelling unit to remain. Some City staff claims that without a kitchen sink, this structure does not meet the classification of a dwelling unit, despite the Applicant's statements that the purpose of this structure is to provide a living space for her Mother. A dwelling unit cannot be labeled as an Accessory Use.
2. In order to qualify for a 5 foot rear setback under 25-2-555, the structure must be an "Accessory **BUILDING**" (not USE); however, this building is claiming to be attached to the principle residence (as is required by Deed Restrictions) and therefore does not meet the requirement of being an Accessory Building, since there is only one building on the site.
3. You cannot have a detached structure that is attached. If it is all connected together then it is not an Accessory Building.
4. If it is attached to the house then it is a 2-story structure. Rear setback for a 2-story accessory structure is 10 feet.
5. 25-1-21 (120) defines USE. An Accessory Use is by definition 'incidental to' a principal use. A cabana is an accessory USE in the family of gazebos, storage rooms, playhouses, and patios per 25-2-893. This proposed structure is a nearly 400 square foot unit with a full bath, kitchen and living quarters. I believe this is an apartment intended to be inhabited as a residence and has been incorrectly classified.
6. Asst. Dir. Don Birkner has stated in writing that an accessory use cannot be used for habitation.
7. Leon Barba has stated that in order for a person to dwell in a structure, it **MUST** have a kitchen sink. Therefore, City has issued a permit for an intended use that will immediately be a violation of City Code. City should at least inform the Applicant that habitation of this structure is prohibited and provide a copy of same to the interested party.
8. If this structure is to be used as a residence/dwelling unit, a 10- foot rear setback is required.
9. Use of this structure as a 2nd dwelling unit will violate Deed Restrictions, which Applicant pledged to abide by on the BP application. The Vista West 3 deed restrictions, state: "No building will be erected, altered, placed or permitted to remain on any lot other than one single-family dwelling.....with attached garage"
10. BP application and plans shows the NE corner of Cabana 'to be enclosed' labeled incorrectly as a 'covered PORCH'. BP is 'TO ENCLOSE existing covered

PORCH at NE corner of cabana'. This is/was a 'Covered DECK' not a porch as noted in applicant's BOA application & notification, on '97 site plan, and on 1980 BP when it was constructed. All these show this as COVERED WOOD DECK. I also have photos of this DECK. The permit is 'TO ENCLOSE' a porch.

11. Due to un-permitted additions and alterations, this structure has lost any legal non-complying status. All decks require modification to comply with 10-foot rear setback as per code. This existing COVERED DECK 'TO BE ENCLOSED' was OUTSIDE the existing accessory structure, not part of it. This EXISTING COVERED DECK 'cannot be given special privilege or amnesty having been recently illegally enclosed and must be required to have the same 10-foot rear setback as the rest of the same level decks to be compliant. The re-labeling appears to be an attempt to circumvent the 10-foot rear setback requirement of the LDC for this portion of the deck.
12. Article 2.6. in McMansion Ordinance SUBCHAPTER F: prescribes side and rear setback planes in order to minimize the impact of new development and rear development on adjacent properties. The NE corner DECK AREA 'to be enclosed' is in the most extreme close proximity to my home and creates the most negative impact to me in terms of privacy and incompatibility.
13. Numerous discrepancies, re-labeling and other contradictions and inconsistencies exist throughout BP and other applications, site plans, floor plans, and other support documents, backup material and permits scanned into system. Some examples: the accessory structure is variously represented as a 1-story, 2-story, 2nd story addition, guesthouse, garage apartment, cabana, 2-family residential, single-family, remodel, addition, variously attached/detached garage or BOTH as in application where garage is attached but cabana is detached (same structure), a deck re-labeled a porch. There are numerous others I can supply including in the permit itself. Applicant certified all information in the BP application to be complete and accurate.
14. Permit is for a 3.5 bath, the BP application is a 4-bath.
15. PR states proposed change of use- Yes. There are no existing permits for another use.
16. Permit states Rear setback is 10'
17. PR states existing garage is DETACHED
18. This structure has suddenly been re-labeled as a 1-story, which is semantics from my perspective. The building I look at appears to be a 2-story. The building is nearly 25 feet tall. Numerous support documents show this accessory building to be a 2-story. There is another BP entered specifying a 2nd story detached structure. A 2-story accessory structure requires a 10-foot setback. I do not agree with the classification now as a 1-story. I believe this re-labeling was used to circumvent the LDC.
19. Applicant failed to apply for the required demolition permit for removal of previously constructed exterior walls.
20. Applicant built structural piers (which the City approved) without any engineering design, plans or approvals.
21. Erosion and sedimentation controls have not been provided as required by 25-8-181 and referenced in the BP application.

Appeal Process

You may appeal by following the following Land Development Code requirements. You must complete the form with all information required as listed below.

ARTICLE 7. APPEALS, VARIANCES, SPECIAL EXCEPTIONS, AND ADJUSTMENTS.

Division 1. Appeals.

§ 25-1-181 STANDING TO APPEAL.

- (A) A person has standing to appeal a decision if:
- (1) the person is an interested party; and
 - (2) a provision of this title identifies the decision as one that may be appealed by that person.
- (B) A body holding a public hearing on an appeal shall determine whether a person has standing to appeal the decision.

Source: Section 13-1-250; Ord. 990225-70; Ord. 030828-65; Ord. 031211-11.

§ 25-1-182 INITIATING AN APPEAL.

An interested party may initiate an appeal by filing a notice of appeal with the responsible director or building official, as applicable, not later than:

- (1) the 14th day after the date of the decision of a board or commission; or
- (2) the 20th day after an administrative decision.

Source: Section 13-1-251(a); Ord. 990225-70; Ord. 031211-11.

§ 25-1-183 INFORMATION REQUIRED IN NOTICE OF APPEAL.

The notice of appeal must be on a form prescribed by the responsible director or building official and must include:

- (1) the name, address, and telephone number of the appellant;
- (2) the name of the applicant, if the appellant is not the applicant;
- (3) the decision being appealed;
- (4) the date of the decision;
- (5) a description of the appellant's status as an interested party; and
- (6) the reasons the appellant believes the decision does not comply with the requirements of this title.

Source: Section 13-1-251(a); Ord. 990225-70; Ord. 010329-18; Ord. 031211-11.

By signing this document, I attest to having read and understand my rights as granted by the Land Development Code for the process for appealing a ~~stop work order, remove or restore order, revocation, or suspension.~~ *the subject Building Permit.* *HB*

4/25/2012
Date:

BETTY EPSTEIN
Printed Name:

Betty Epstein
Signature:

April 24th. 2012

Aggrieved Party's Standing to Appeal
Interested Party Status:

Property: 7600 Downridge Drive
Austin, Tx. 78731
Lot 24, Block I, Vista West III
Zoning District SF3

Registered Interested Party: Betty Epstein
Adjacent Property Owner
7620 Parkview Circle
Austin, Tx. 78731
(512) 413-8803

25-1-181/ 25-1-183

I am registered as an interested party to this permit file 2012-028461 PR, 2012-032828 BP as well previous PR 2011-095626 files and BOA case file C15-2011-0138 for this property.

§ 25-1-131 INTERESTED PARTIES.

- I have registered my Interested party status with Greg Guernsey and John McDonald among others on multiple occasions. Please see attached emails.

A 2) I have communicated my interest in the matter.

I have both spoken to in person and by phone as well communicated via email with Greg Guernsey and John McDonald my interest and concerns regarding the re-development of this property numerous times over the last several months.

On March 29th, 2012 I discovered the PR file with building plan permit pending review for the above address. I communicated immediately that same day to both John McDonald and Greg Guernsey registering several concerns along with requesting the plans and information in the application file be provided me and re-registering my status. I did receive confirmation of my interested party status On March 30th from both Greg Guernsey and John McDonald for this building permit with the file still pending review. In recent days I have spoken also to Leon Barba and Don Birkner regarding concerns about this building permit.

25-1-131

- A 2) a) I occupy a primary residence that is within 500 feet of the site of the proposed development. I am an adjacent property owner and share a back lot line with the subject property.

I am confirming my status to Appeal these administrative decisions.

Thank you,


Betty Epstein

Main Identity

From: "McDonald, John" <John.McDonald@austintexas.gov>
To: [REDACTED]
Cc: "Guernsey, Greg" <Greg.Guernsey@austintexas.gov>; "Villarreal, Victor" <Victor.Villarreal@austintexas.gov>; "Gibbs, Carol" <Carol.Gibbs@austintexas.gov>; "Haught, Kathy" <Kathy.Haught@austintexas.gov>; "Cain, Darren" <Darren.Cain@austintexas.gov>
Sent: Friday, March 30, 2012 10:22 AM
Subject: RE: 2012-028461 PR 7600 Downridge Drive (2011-095626 PR)

Betty,

I will make sure you are added to the interested party spreadsheet for the building permit number listed in the subject line above. The plans have not been reviewed to date and will more than likely be reassigned to another reviewer. If you need to stop by and take a look at the plans or make copies let me know and I can set that up.

Respectfully,
John M. McDonald
Development Services Manager
Residential Review/PDRD
974-2728 - Office
john.mcdonald@austintexas.gov

From: Guernsey, Greg
Sent: Friday, March 30, 2012 8:19 AM
To: [REDACTED]; McDonald, John
Cc: Villarreal, Victor; Gibbs, Carol; Haught, Kathy
Subject: RE: 2012-028461 PR 7600 Downridge Drive (2011-095626 PR)

Hi Betty:

I will speak with Staff this morning about your request. Regarding interested party status, information is usually given to an interested party about a particular application once its reviewed staff.

I understand with your e-mail (e-mail attached) sent yesterday you are also registering as an interested party on the new application filed that was filed on March 26th and referenced in the link below.

https://www.austintexas.gov/devreview/b_showpublicpermitfolderdetails.jsp?FolderRSN=10739398

Greg

From: [REDACTED]
Sent: Thursday, March 29, 2012 1:20 PM
To: Guernsey, Greg
Subject: 2012-028461 PR 7600 Downridge Drive (2011-095626 PR)

Greg-

I have become aware of plans submitted on this property. **Why wasn't I provided this information as a registered interested party?** Can you please follow up on this and what other information in the file I have not received. (last receipt of anything was from you on December 5th) I would like to have this information including the full application packet no later than noon tomorrow, March 29th.

Also per our earlier conversation, I understand no building permits can be issued for this latest non-

4/24/2012

To: [REDACTED]
Cc: Barba, Leon ; Birkner, Donald
Sent: Friday, April 13, 2012 11:38 AM
Subject: 7600 Downridge Drive - 2012-032828 BP

Betty,

Attached to this email is the 2 page Appeal Form ("Bldg 101") to be used for appealing the building permit (2012-032828 BP) that has been issued for 7600 Downridge Drive.

On the form, you will need to state your reasons for why you believe that the issuance of the building permit for 7600 Downridge Drive does not comply with the requirements of the Land Development Code (Title 25).

Your reasons should include specifically what code section or sections you feel this permit approval does not comply with. If you do not know the exact code citations, you can use plain language to state specifically why you believe the permit should not have been issued.

The Code references to the appeal process can be found in Title 25, Article 7, Division 1 of that same Land Development Code. The decision you are wanting to appeal is an "administrative decision", as referenced under 25-1-182 (2) on page 2 of the attached form.

As the form also explains, this type of appeal must be filed within 20 days of the date the permit was approved, which was **April 6, 2012**. Therefore, the appeal must be received by the PDR Department before 5 PM on **Friday, April 26, 2012**.

You may submit the completed appeal form in any of 4 manners:

1. Hand-deliver it to the PDRD Receptionist on the 5th floor of One Texas Center, 505 Barton Springs Road, 5th floor, between 8:00AM and 4:45PM Monday-Friday. You may ask that the receptionist date-stamp it.
2. Mail it via US Postal Service to Mr. Leon Barba, Building Official, City of Austin, PO BOX 1088, Austin, TX 78767.
3. Scan it and attach it to an email addressed to Leon.Barba@austintexas.gov.
4. Fax it to **512-974-2235**, Attention: Leon Barba, Building Official

Mr. Barba can also be reached at or **512-974-7254**. He will be your contact from this point forward for this appeal and all related questions.

Jody Zemel

Jody Zemel | Neighborhood Advisor | Neighborhood Assistance Center
Planning and Development Review Department | City of Austin
505 Barton Springs Road, Room 530 | Austin, Texas 78704

Jody.Zemel@austintexas.gov
Phone: 512.974.7117
Fax: 512.974.2269

Please note: E-mail correspondence to and from the City of Austin is subject to requests for required disclosure under the Public Information Act

From: McDonald, John
Sent: Thursday, April 12, 2012 1:54 PM

4/24/2012

Notice of APPEAL INFORMATION (continued)

Re: 7600 Downridge Drive. 2012-028461 PR / 2012-032828 BP

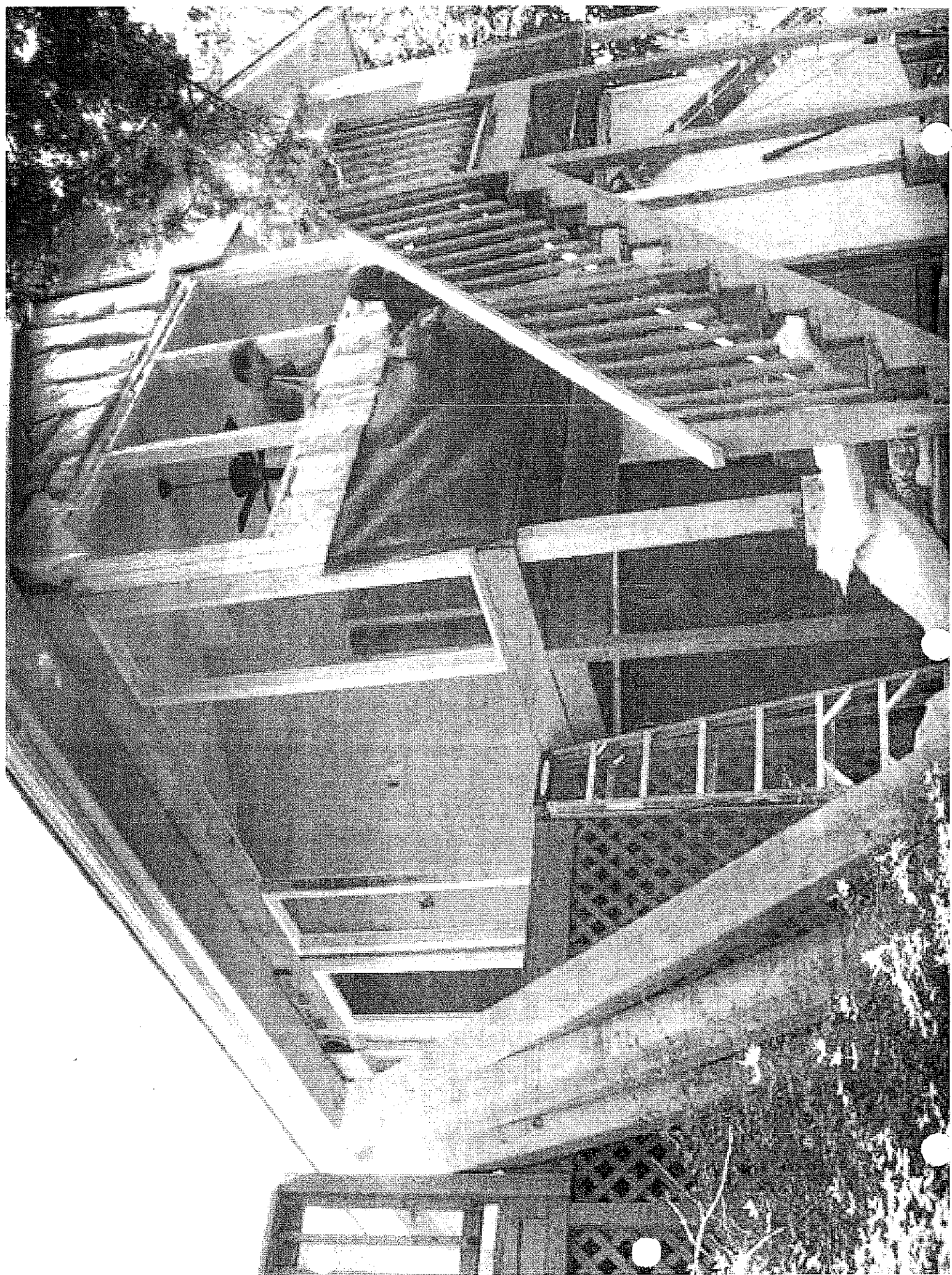
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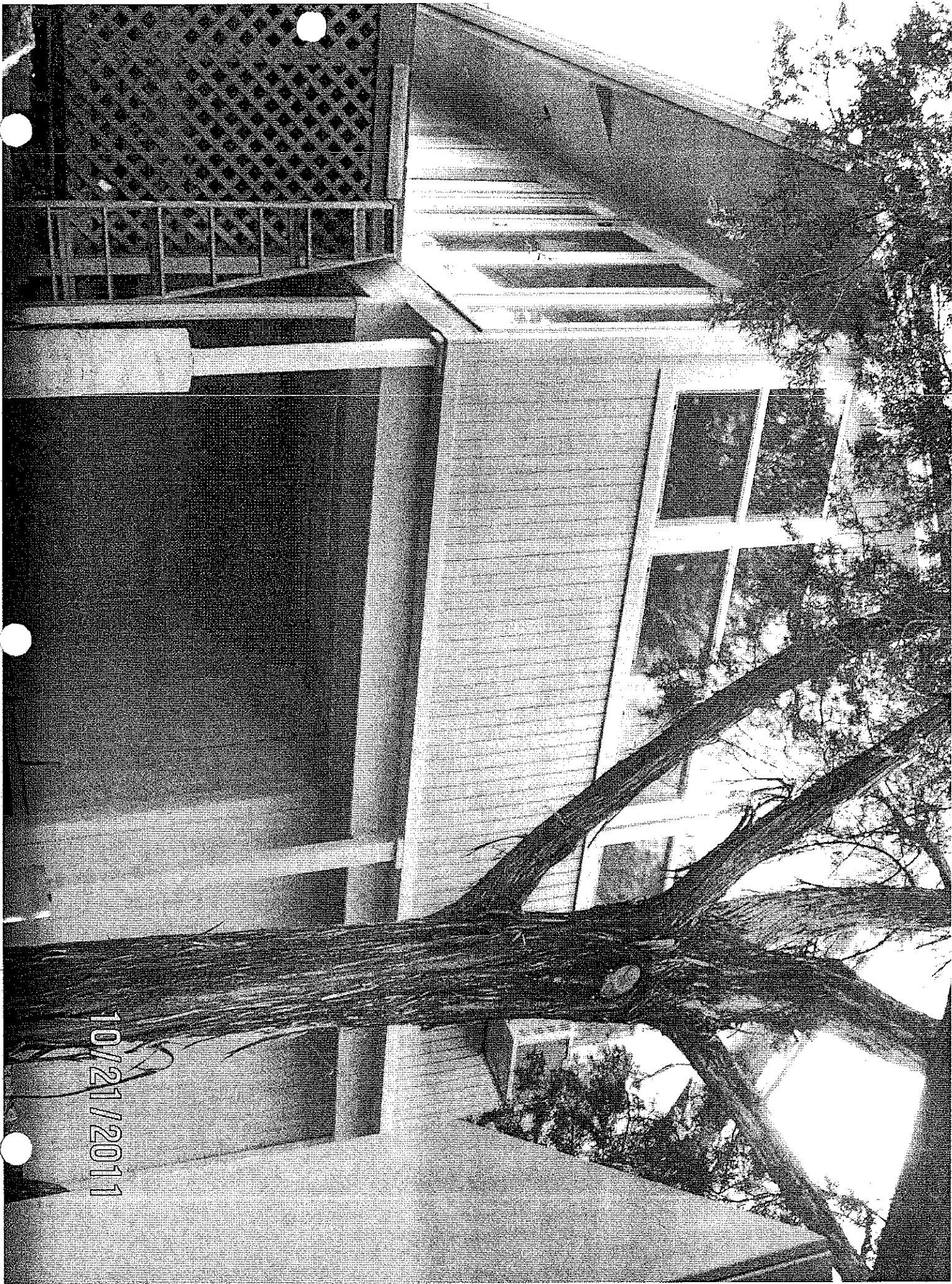
10. BP application and plans shows the NE corner of Cabana 'to be enclosed' labeled incorrectly as a 'covered PORCH'. BP is 'TO ENCLOSE existing covered PORCH at NE corner of cabana'. This is/was a 'Covered DECK' not a porch as noted in applicant's BOA application & notification, on '97 site plan, and on 1980 BP when it was constructed. All these show this as COVERED WOOD DECK. I also have photos of this DECK. The permit is 'TO ENCLOSE' a porch.
11. Due to un-permitted additions and alterations, this structure has lost any legal non-complying status. All decks require modification to comply with 10-foot rear setback as per code. This existing COVERED DECK 'TO BE ENCLOSED' was OUTSIDE the existing accessory structure, not part of it. This EXISTING COVERED DECK 'cannot be given special privilege or amnesty having been recently illegally enclosed and must be required to have the same 10-foot rear setback as the rest of the same level decks to be compliant. The re-labeling appears to be an attempt to circumvent the 10-foot rear setback requirement of the LDC for this portion of the deck.
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19. Applicant failed to apply for the required demolition permit for removal of previously constructed exterior walls.
20. Applicant built structural piers (which the City approved) without any engineering design, plans or approvals.

21. Erosion and sedimentation controls have not been provided as required by 25-8-181 and referenced in the BP application.
22. Applicant's accessory structure causes concentrated stormwater flows to adversely impact the adjacent downstream properties by flooding, and erosion.
23. Applicant's structure was reviewed under Subchapter F (McMansion Rules), yet violates Section 1.1 of the ordinance: which is designed to protect adjacent property owners. The INTENT is to minimize impact of new construction, remodeling and additions to existing buildings on surrounding properties in residential neighborhoods. 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 proximity of the proposed cabana enclosure/addition and other modifications to the accessory structure do not meet the criteria.
24. This structure, especially this proposed deck area enclosure with walls of glass and most certainly as living quarters, is not compatible in scale or bulk and greatly impacts my quality of life and privacy. Factoring the severe slope between our properties, the finished floor of their structure towers over my kitchen, master and office windows, all the rooms I spend the most time in on a daily basis, by 20 feet. Because of their higher elevation, the impact of this building is equivalent to a 3-story structure approximately 18 feet from my back door.
25. The cumulative impact of their addition and modifications and addition to this structure has impaired the use of my adjacent property in terms of privacy, drainage, erosion, resale value, exterior lighting glare, air conditioning systems placement and noise.
26. I believe the terms of the ordinance should be applied with and understanding of the purpose of the ordinance.

- If permit issued allows someone to live in reside or dwell in the accessory unit then I challenge the interpretation as a single-family accessory 'cabana'.
- It is not reasonable to approve a permit that will establish a structure for an illegal use.

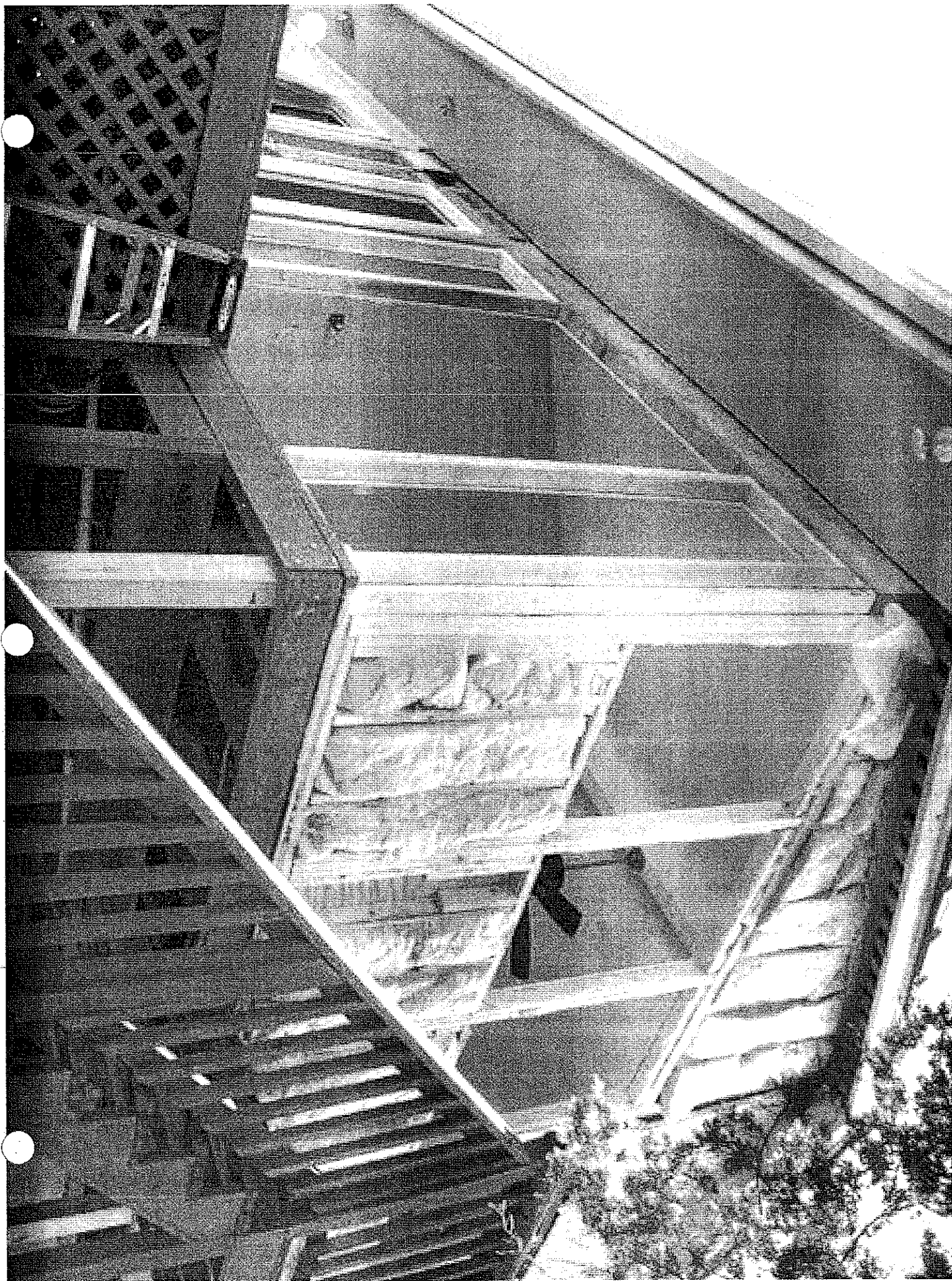


10/21/2011











10/21/2011



City of Austin

P.O. Box 1088, Austin, Texas 78767

INVOICE

Invoice No.: 5668571

Invoice Date: 05/21/2012

Payer Information

Company/Facility Name:

Invoice To: Betty A. Epstein

7620 PARKVIEW CIR AUSTIN TX 78731

Phone No.: (512) 413-8803

Invoice Amount: \$360.00

Additional Information

Department Name: Planning and Development Review

Invoice Issued By: Susan Walker

Invoice Details

FAO Codes	Fee Description	Internal Ref. No.	Address	Amount
1000 6800 9770 4120	BOA/SRB Fee	10769591	7600 DOWNRIDGE DR	\$360.00
TOTAL:				\$360.00

Barba, Leon

From: betty_e@msn.com
Sent: Thursday, April 26, 2012 2:23 AM
To: Barba, Leon
Subject: 7600 Downridge Drive - 2012-032828 BP / PR 2012-028461 PR
Attachments: IMG_1400 (2).JPG; IMG_0296.JPG; IMG_0184.JPG; IMG_1397-1.JPG; Scan_Pic0003.jpg; IMG_0173.JPG; 18-note underneath of deck-1.JPG; IMG_0272.JPG; Scan_Pic0014.jpg; ADDTL APPEAL INFO.- 7600 Downridge- 4-25.1.pdf

Mr. Barba-

Please add these attachments with some clarifications, support material and photos to my appeal submitted 4/25/12. These were a few things I ran short on time to scan earlier. I will follow up if there is anything else.

- Included is an interpretation Memo regarding Dwelling Units
 - A clarification to the earlier sent Notice of Appeal information (with this clarification, the addendum is now 4 total pages)
 - A previous site plan noting the Covered Wooden Deck in the NE corner area outside the 2-story frame pool House
 - Old building permit noting a covered deck attached to the carport.
 - page from Deed Restrictions for Vista West-3.
-
- Note photos showing this covered DECK area (NOT a porch) as referenced in 10) & 11) in the Notice of APPEAL information addendum. Note this is the same deck/level as the other decks on the property being required to be modified to within the 10-ft rear setback to comply with code.
 - Note: This does not appear to be a one-story structure.
 - Note proximity to my property line and my home. 272 taken inside my kitchen. 184 inside back door.

Please acknowledge receipt of this message.

Thank You,

Betty Epstein

(512) 413-8803

— Original Message —

From: betty_e@msn.com
To: Barba, Leon
Sent: Wednesday, April 25, 2012 5:33 PM
Subject: Re: 7600 Downridge Drive - 2012-032828 BP / PR

Mr. Barba-

Thank you for acknowledging receipt of my appeal. Did you see my follow up that I noticed page 3 of the addendum with some appeal items on it did not make the scan? I did include the word document version with all 3 pages. The addendum

should have been stated as 3-pages on the form rather than 2. Please print out both the PDF AND the word doc. so you will have all 3 pages.

I will likely follow up with additional information once I have a chance to review what I sent.

I will look for your response.

Thank you,

Betty Epstein

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

From: Barba, Leon

To: betty_e@msn.com

Sent: Wednesday, April 25, 2012 5:07 PM

Subject: RE: 7600 Downridge Drive - 2012-032828 BP / PR

Ms. Epstein, we have received your appeal. Staff will need to review your appeal and provide a response.
Leon

From: betty_e@msn.com [mailto:betty_e@msn.com]

Sent: Wednesday, April 25, 2012 4:59 PM

To: Barba, Leon

Subject: Re: 7600 Downridge Drive - 2012-032828 BP / PR

Mr. Barba-

Please find enclosed my appeal for Administrative decision regarding 7600 Downridge Drive 2012-028461 PR / 2012-032828 BP.

I will likely be following up with additional information but want to get this to you before you leave today.

Please note, page 3 of the addendum did not scan. I have included the full document separately with all 3 pages.

Please acknowledge receipt of this message and attachments.

Betty Epstein

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

From: Barba, Leon

To: betty_e@msn.com

Sent: Wednesday, April 25, 2012 3:54 PM

Subject: RE: 7600 Downridge Drive - 2012-032828 BP

Please submit everything you have ready by 5:00. I will acknowledge receipt of the documents.

From: betty_e@msn.com [mailto:betty_e@msn.com]

Sent: Wednesday, April 25, 2012 3:50 PM

To: Barba, Leon

Subject: Re: 7600 Downridge Drive - 2012-032828 BP

I will include both because I am not clear. I am sure you understand the intent. It does help but not so much at 3:45PM. I hoped as long as I get anything to you today anytime it would be considered timely. I will get you the main page by but pretty much have to stop now and not necessarily time to cross reference or proof read and still get to you by 5PM. I will simply have to abort. I understood I could augment as required. Getting what I need for the process has been so delayed and confused.

April 25th, 2012

Notice of APPEAL INFORMATION (continued)

Re: 7600 Downridge Drive. 2012-028461 PR / 2012-032828 BP

Please note a few clarifications to this addendum submitted earlier today.

Clarifications:

Please note: I noticed Page 3 of the 'Notice of APPEAL INFORMATION (cont) addendum' which included appeal items did not make the PDF scan with Appeal info I sent you earlier at 4:59. So I also attached the full 3-page addendum as a word doc. file to that same message along with the other appeal information. Please print both out to be sure all appeal items are included. Also this same Notice of APPEAL INFORMATION addendum was incorrectly noted on the form as a 2-page addendum. It is a 3-page addendum.

- 13) Clarify: additional examples: Easement detail sketch and survey site plan dated 11/11/11 scanned into this BP as backup shows a 2-story frame and stone garage and cabana for existing conditions. Additionally, the 2nd story Cabana is denoted with first story below. The same 2nd/1st floor delineation can be seen on the revised 3/20/12 site plan, but the 2nd story notation has been eliminated and the 2-story frame/stone cabana relabeled as a 1-story. BOA backup for this address shows a different version of this same site plan with the garage/cabana labeled as 2-story. Building height report dated 11-2-11 states the accessory building to be a 2-story frame/stone cabana with detail showing the 2nd story a/c unit. Boundary and impervious cover survey dated 11-2-11 also shows a 2 story frame/stone cabana. These examples also apply to 18) on the addendum.
- 19) Clarify: Applicant failed to include all areas in the required demolition permit for removal of previously constructed exterior walls. Exterior bathroom wall is now an interior wall. Photos were not provided for several areas proposed for demolition as required by the application.
- 22) add: The proposed development cannot cause additional flooding on other property as per the signed BP application.
- 24) TYPO: should have read: This structure, especially this proposed deck area enclosure with walls of glass and most certainly as living quarters, is not compatible in scale or bulk and greatly impacts my quality of life and privacy. Factoring the severe slope between our properties, the finished floor of their structure towers over my kitchen, master and office windows by 20 feet. Because of their higher elevation, the impact of this building is equivalent to a 3-story structure approximately 18 feet from my back door staring down into areas of my home I use most on a daily basis.
- 25) Typo: The cumulative impact of their addition and modifications to this structure has impaired the use of my adjacent property in terms of privacy, drainage, erosion, resale value, exterior lighting glare, air conditioning systems placement and noise.



City of Austin
Planning & Development Review Department

To: Building Contractors
From: Leon Barba, P.E., Planning & Development Review Department - Building Official
Date: January 11, 2011
File: Code Interpretation Manual

INTERPRETATION NUMBER: CI2010 -0004

TITLE: Dwelling Unit
CODE EDITION: 2006 International Residential Code
SECTIONS: Chapter 2 Definitions

PURPOSE: Is an "accessory structure" that includes provisions for living including components for sleeping, eating, cooking and sanitation (water closet, lavatory and a tub and/or shower) allowable?

No. A structure where provisions exist that include sleeping, eating-cooking or food preparation and sanitation (water closet, lavatory, and a tub and/or shower) exist, the structure effectively becomes a 2nd "dwelling unit" and would require a permit as a 2nd dwelling unit.

A. 2006 IRC - ACCESSORY STRUCTURE. A structure not greater than 3,000 square feet (279 m2) in floor area, and not over two stories in height, the use of which is customarily accessory to and incidental to that of the dwelling(s) and which is located on the same lot.

B. 2006 IRC - DWELLING UNIT. A single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

C. 2006 IRC - HABITABLE SPACE. A space in a building for living, sleeping, eating or cooking. Bathrooms, toilet rooms, closets, halls, storage or utility spaces and similar areas are not considered habitable spaces.

When plumbing fixtures are provided, a structure is an "accessory structure" if the structure includes only one the following:

- A. A water closet and a lavatory located in the immediate area of the water closet used for the purposes of hand washing, and/or a kitchen sink, or a service sink used for the purpose of food preparation and/or sanitation of dishware;
- or
- B. A bathroom that includes a shower and/or tub, lavatory and water closet.

For the purposes of this interpretation, an accessory structure shall not be a habitable space.


Leon Barba, P.E., Building Official
City of Austin, Planning & Development Review Department

Outlet

Commercial

100

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	2



2

Page 10 of 10

Contractor: ANDERSON HIGGS

2046 ~~4~~ ~~1946~~ BATTLE
1086 ~~4~~

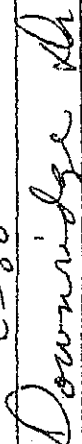
666 9

3798 # 2 N 7/26/80

Date 7/7/77-7/7/77



Address: 7600



4/28/80

- (1) Fence Required
- (2) Dressing Room, Covered Deck
A/C to CARPORT
- (3) Deck Between CARPORT & pool
- (4) Deck OFF pool

H. G. Egan

Inspector:

II.

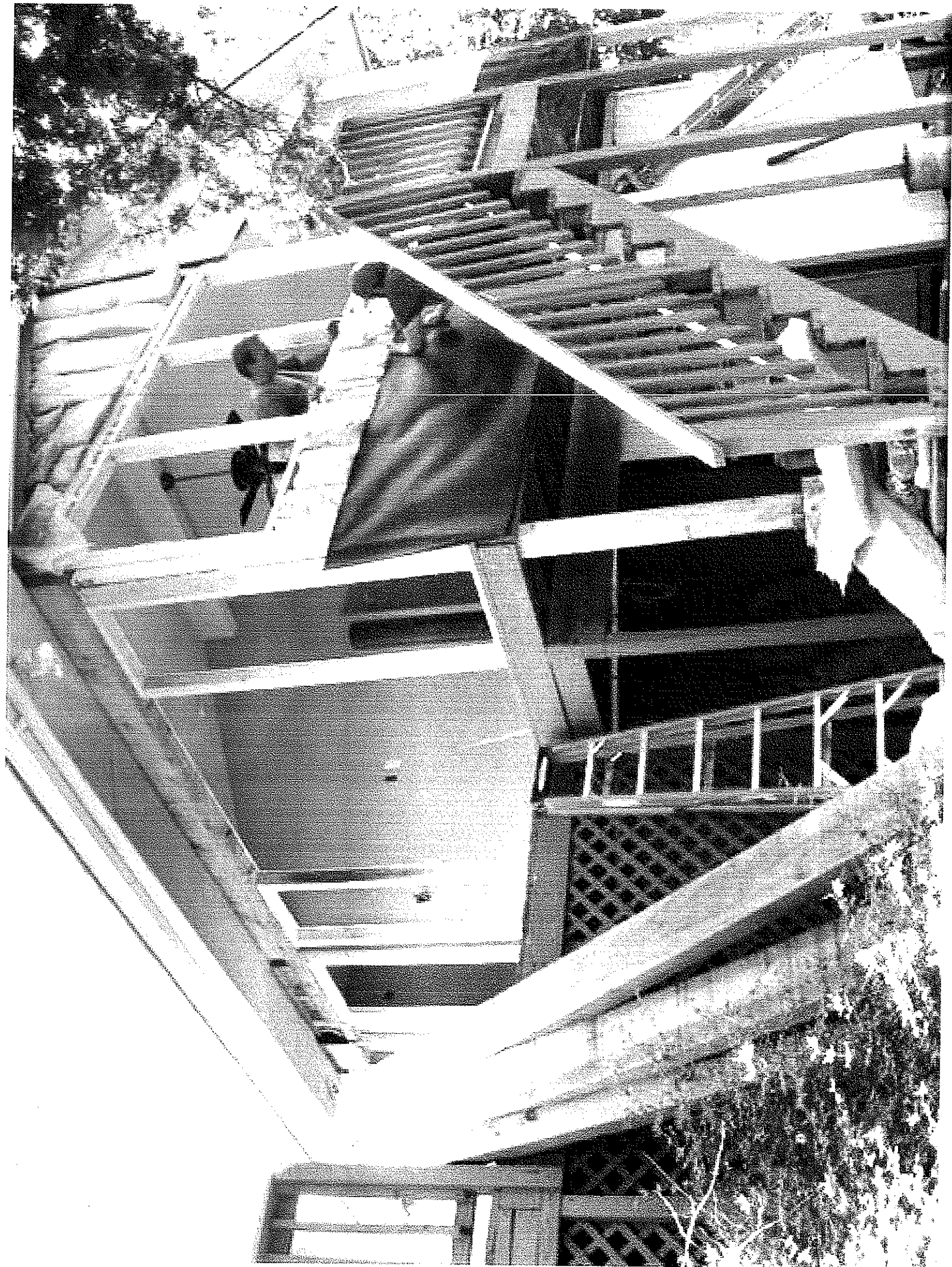
COVENANTS, CONDITIONS, RESTRICTIONS,
RESERVATIONS, AND CHARGES

The property described in Section I hereof is encumbered by the covenants, conditions, restrictions, reservations, and charges hereinafter set forth to insure the best and highest use and the most appropriate development and improvement of each lot for residential purposes within said subdivision; to protect owners of lots against improper use of surrounding lots; to preserve so far as practicable, the natural beauty of said property; to guard against the erection of poorly designed or proportioned structures of improper or unsuitable materials; to encourage and secure the erection of attractive improvements on each lot with appropriate locations; to prevent haphazard and inharmonious improvement of lots; to secure and maintain proper setbacks from streets and adequate free space; and in general to provide for development of the highest quality to enhance the value of investments made by owners.

Land Use and Building Types. No other than residential use except for residential purposes. No building shall be erected hereon except as permitted to remain on any lot. The building shall be a single-family dwelling not exceeding two and one-half stories in height. Attached garage not less than two nor more than four cars. No building shall remain uncompleted for more than one year after construction has been commenced.

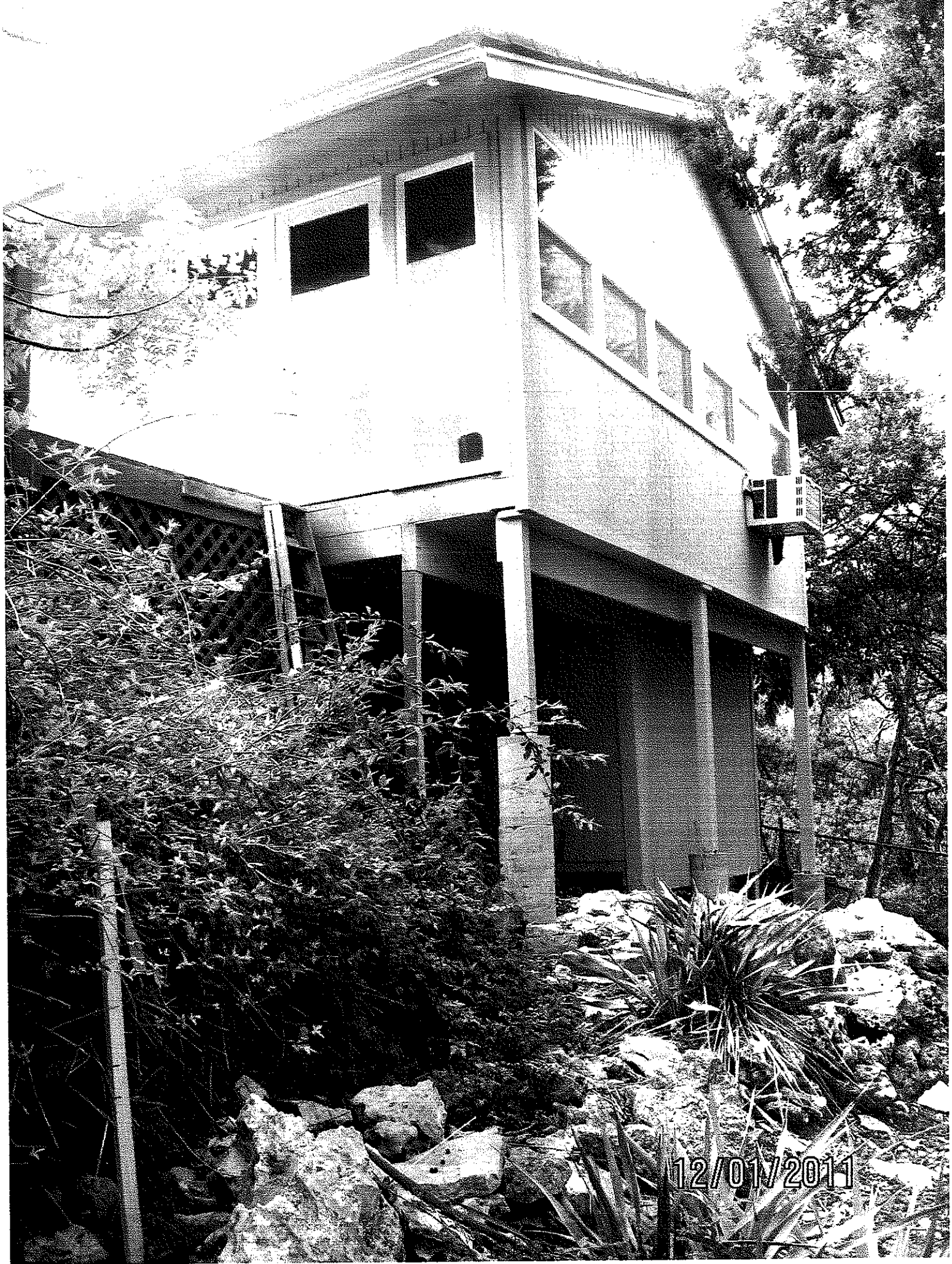
B. Dwelling Size.

1. Lots 17 through 20, Block "A," -

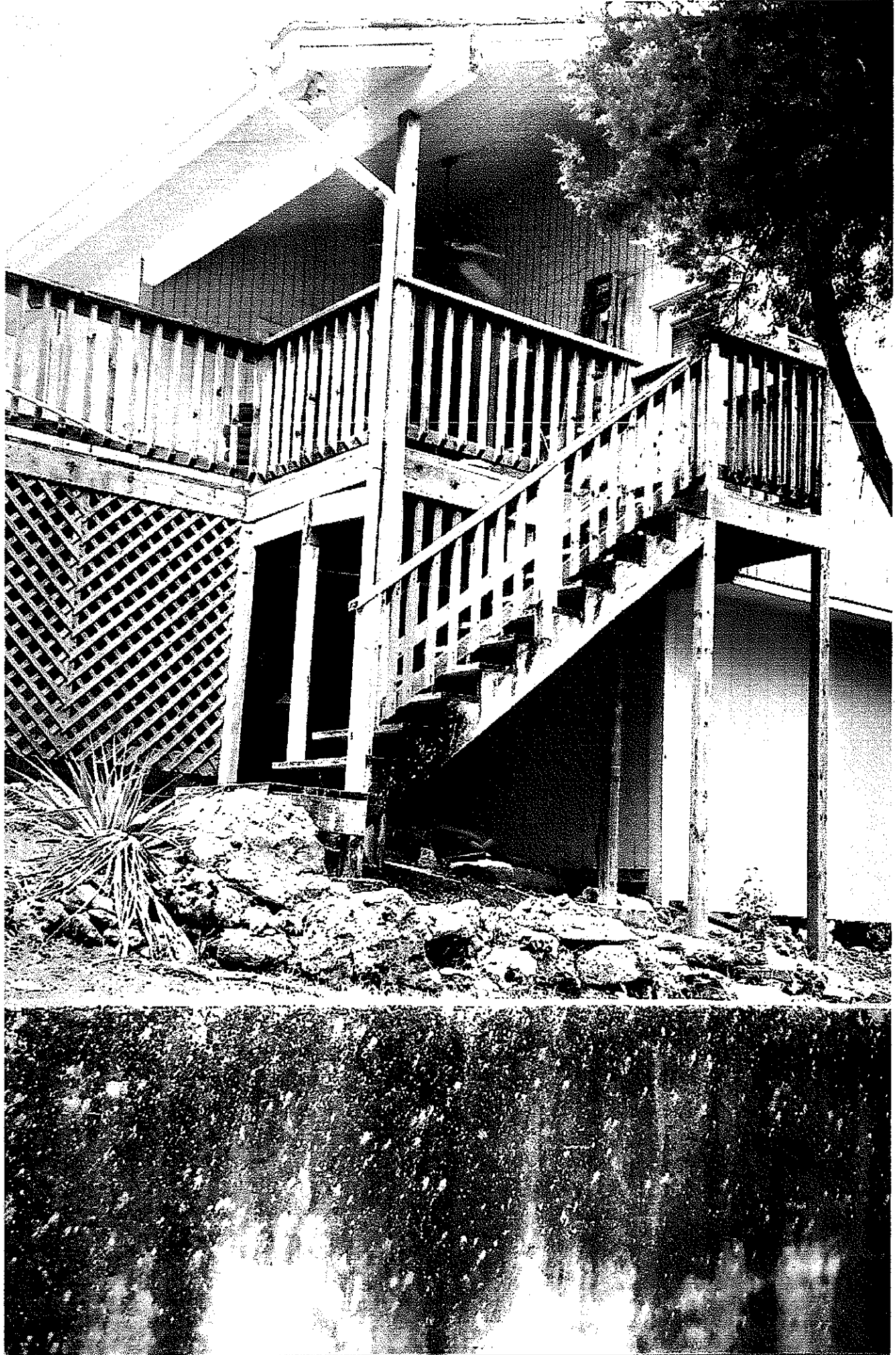


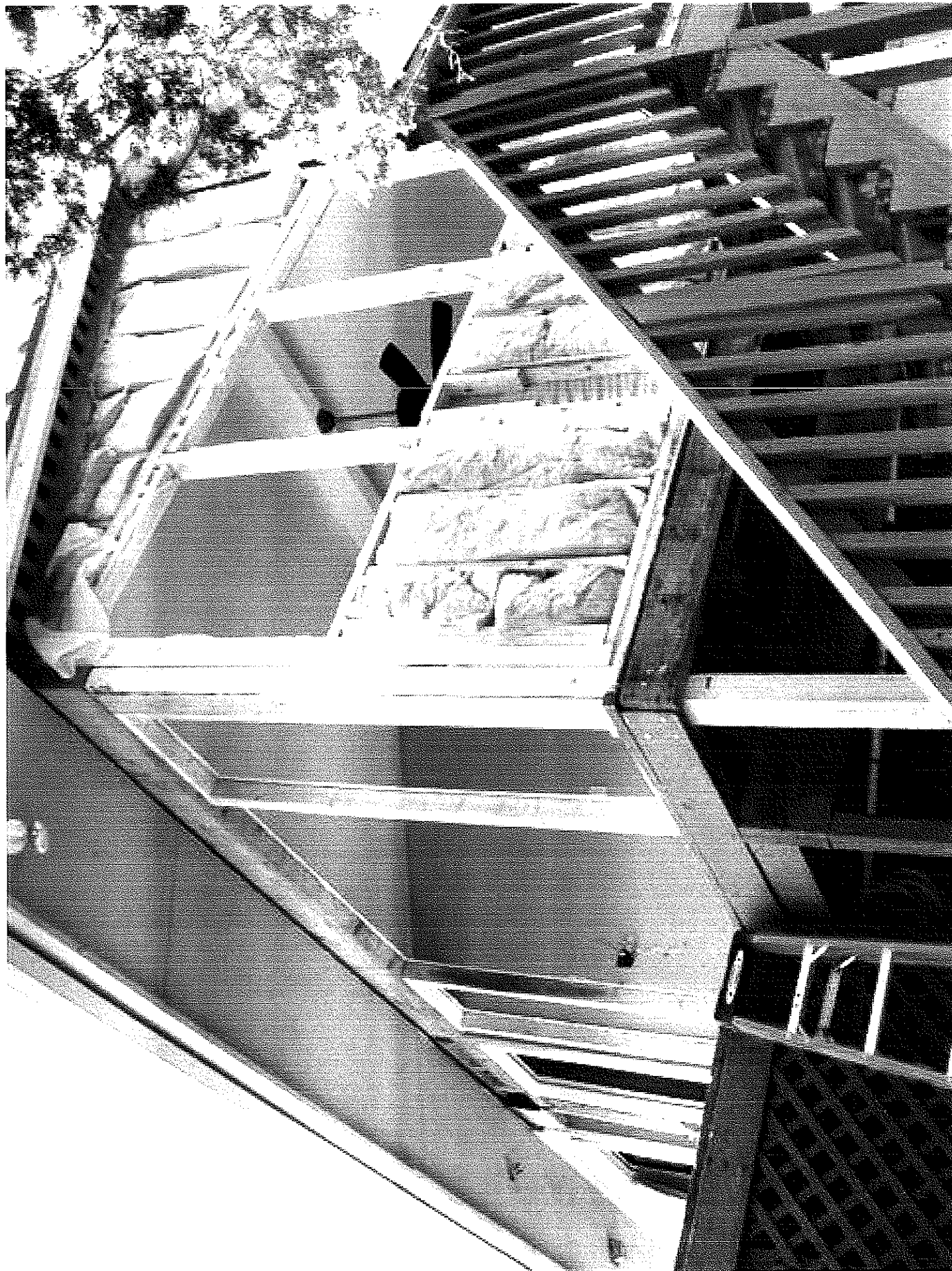
10/21/2011





12/01/2011





10/21/2011



10/21/2011



11/18/2011



09/29/2011







To: Mr. Jeff Jack, Chair and
Members of the Board of Adjustment

From: John M. McDonald, Development Services Manager
Planning and Development Review Department

Date: June 11, 2012

Re: An Administrative Appeal Request
Case No. C15-2012-0071
7600 Downridge Drive

Ms. Betty Epstein (the "Appellant") has filed an administrative appeal, requesting an interpretation of whether the Planning and Development Review Department's Director properly applied and interpreted Chapter 25-2 of the City of Austin's Land Development Code (LDC) when approving a residential application and building permit at 7600 Downridge Drive.

The Appellant has submitted an appeal outlining her twenty six (26) concerns and this information is attached in the backup material for this appeal. After digesting reviewing all 26 concerns there is appears to be only one relevant interpretation; I will attempt to address the 26 items as follows:

1. The approved plans show an accessory building and not a dwelling unit as outlined in the CI 2010-004 code interpretation issued by the City of Austin's Building Official (attached).
2. There are no definitions for an accessory building or structure in the City of Austin's LDC. There is a definition for an accessory structure in the 2006 International Residential Code (IRC) and it states, "A structure not greater than 3,000 square feet (279 m2) in floor area, and not over two stories in height, the use of which is customarily accessory to and incidental to that of the dwelling(s) and which is located on the same lot." There are no provisions in the LDC or the 2006 IRC that specifically state an accessory building or structure has to be attached or detached. The Code does define an accessory use as In addition, the LDC allow certain uses as accessory to a residence (please see attached, 25-2-839)
3. See the explanation provided in number two (2).
4. See the explanation provided in number two (2).
5. See the explanation provided in number one (1).
6. See the explanation provided in number one (1).
7. See the attached letter from Greg Guernsey (Director) addressed to Ms. Betty Epstein.
8. See the explanation provided in number one (1) and seven (7).
9. See the explanation provided in number one (1) and seven (7).
10. Irrelevant, the proposed addition could be done above an elevated porch or deck.
11. Irrelevant, the proposed addition could be done above an elevated porch or deck.

12. The proposed addition meets the requirements of both the side and rear setback planes as outlined in Section 2.6 of Subchapter F.
13. Irrelevant. Tent surveys, boundary surveys and backup material in the approved plan set went through much iteration in an effort by the applicant to achieve compliance.
14. Irrelevant. The numbers of bathrooms are only noted in the "Info" fields of the AMANDA permitting database to determine the proper meter size and a ¾" meter is required for 3.5 bathrooms and 4 bathrooms.
15. Irrelevant. The land use on the site is single family residential use.
16. Irrelevant. The rear setback in an SF-3 zoning district is ten feet. Single-story accessory buildings no greater than fifteen feet in height are allowed to encroach five feet into the ten foot rear yard setback under Section 25-2-555 in a SF-3 based zoning district. (John: do you want to reference how height is measured under McMansion regulations?)
17. Irrelevant. Garages are allowed to be detached or minimally attached under Section 3.3.2(A)(2)(b) of Subchapter F.
18. The accessory building is one story under the definition of Story in the 2006 IRC. There are no definitions for "story" in the LDC.
19. Irrelevant. A partial demolition application was applied for and approved with the residential application.
20. Irrelevant. Third party verification will be required during the inspection stage and is not required at the plan review stage.
21. Irrelevant.
22. Only a zoning review is required at the plan review stage.
23. Irrelevant. The proposed plan meets all requirements of Subchapter F.
24. Only a zoning review is required at the plan review stage.
25. Only a zoning review is required at the plan review stage.
26. The proposed plan meets all regulations of the base zoning code, SF-3 regulations and Subchapter F.

FINDINGS

Staff does not believe there is reasonable doubt or difference of interpretation as to the specific intent of the regulations, because an accessory building that is no more than one-story and fifteen feet in height is allowed to be five feet from the rear lot line in a SF-3 based zoning district. All SF-1 through SF-3 based zoning districts have this allowance or provision.

Staff believes the use provisions clearly permit the use which is in character with the uses enumerated for the various zones and with the objectives of the zone in question because the SF-3 zoning district allows for a single family use. All residential zoning districts allow for accessory buildings or structures.

The interpretation will not grant a special privilege to one property inconsistent with other properties or uses similarly situated; in that, the proposed plan complies with the base zoning code, the SF-3 zoning regulations and Subchapter F.

If you have any questions, please contact me at 974-2728 or by e-mail at john.mcdonald@austintexas.gov.

cc: Greg Guernsey, Director, PDRD
Brent Lloyd, Law Department
Donald Birkner, Assistant Director, PDRD
Kathy Haught, Division Manager, PDRD
Chris Johnson, Development Assistance Center Manager, PDRD
Susan Walker, Planner Senior, PDRD

Relevant Code Sections in Sequential Order of Mention

2006 INTERNATIONAL RESIDENTIAL CODE FOR ONE AND TWO-FAMILY DWELLINGS

SECTION R202 DEFINITIONS

ACCESSORY STRUCTURE. A structure not greater than 3,000 square feet (279 m2) in floor area, and not over two stories in height, the use of which is customarily accessory to and incidental to that of the dwelling(s) and which is located on the same lot.

CHAPTER 25-2, ZONING CITY OF AUSTIN'S LAND DEVELOPMENT CODE

§ 25-2-555 FAMILY RESIDENCE (SF-3) DISTRICT REGULATIONS.

- (A) This section applies in a family residence (SF-3) district.
- (B) The rear yard setback is five feet for an accessory building that is not more than one story or 15 feet in height.

SUBCHAPTER F: RESIDENTIAL DESIGN AND COMPATIBILITY STANDARDS.

ARTICLE 3: DEFINITIONS AND MEASUREMENT.

§ 3.3. GROSS FLOOR AREA.

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



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Members of the Board of Adjustment

From: John M. McDonald, Development Services Manager
Planning and Development Review Department

Date: June 11, 2012

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Kathy Haught, Division Manager, PDRD
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City of Austin
Planning & Development Review Department

To: Building Contractors
From: Leon Barba, P.E., Planning & Development Review Department - Building Official
Date: January 11, 2011
File: Code Interpretation Manual

INTERPRETATION NUMBER: CI2010 -0004

TITLE: Dwelling Unit
CODE EDITION: 2006 International Residential Code
SECTIONS: Chapter 2 Definitions

PURPOSE: Is an "accessory structure" that includes provisions for living including components for sleeping, eating, cooking and sanitation (water closet, lavatory and a tub and/or shower) allowable?

No. A structure where provisions exist that include sleeping, eating-cooking or food preparation and sanitation (water closet, lavatory, and a tub and/or shower) exist, the structure effectively becomes a 2nd "dwelling unit" and would require a permit as a 2nd dwelling unit.

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When plumbing fixtures are provided, a structure is an "accessory structure" if the structure includes only one the following:

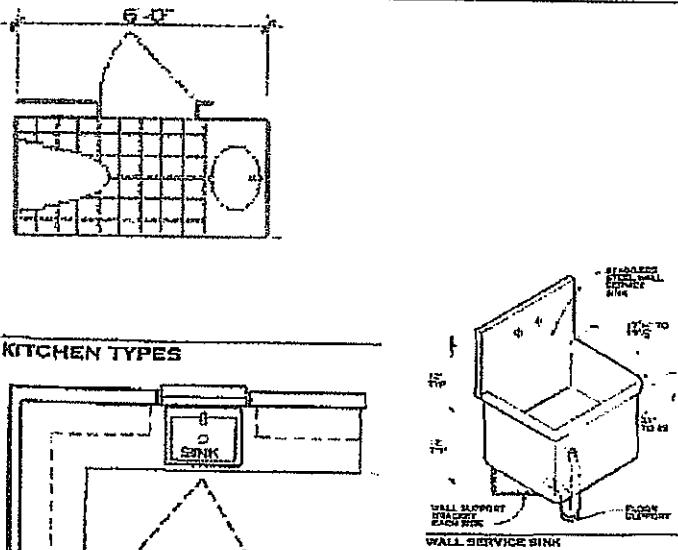
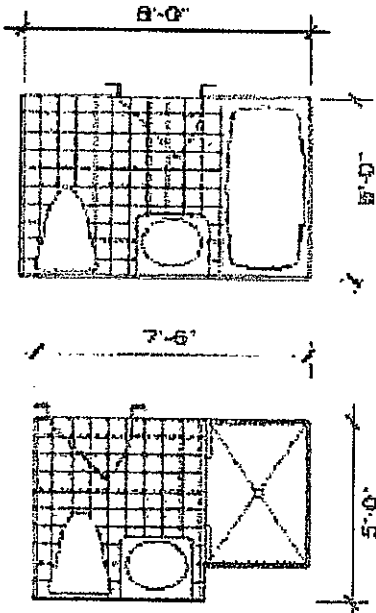
- A. A water closet and a lavatory located in the immediate area of the water closet used for the purposes or hand washing, and/or a kitchen sink, or a service sink used for the purpose of food preparation and/or sanitation of dishware;
- or
- B. A bathroom that includes a shower and/or tub, lavatory and water closet.

For the purposes of this interpretation, an accessory structure shall not be a habitable space.



Leon Barba, P.E., Building Official

City of Austin, Planning & Development Review Department

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

June 4, 2012

Ms. Karen and Mr. Drew Prairie
7600 Downridge Drive
Austin, Texas 78731

SUBJECT: Permit # 2012-032828 BP

Dear Mr. and Ms. Prairie:

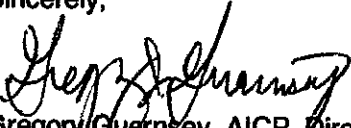
In accordance with our previous discussion and at the request of an adjoining property owner, please accept this letter as confirmation that building permit # 2012-032828 BP issued for your residence at 7600 Downridge Drive was approved for a Single Family Residential use and not a Two-Family Residential use, Duplex Residential use nor to add a Guest House accessory use. Under the Austin City Code, Chapter 25-2 a Single Family Residential use is the use of a site for only one dwelling unit, other than a mobile home. A Two-Family Residential use is the use of a lot for two dwelling units, each in a separate building, other than a mobile home, a Duplex Residential use is the use of a site for two dwelling units within a single building, other than a mobile home, and a Guest House accessory use that is a house that is "...permitted if the principal use is a single-family residential use located on a lot with at least 10,000 square feet of area. A guest house may be occupied only by occasional nonpaying guests of the permanent residents."

Therefore, the principal use of the property is limited to a single dwelling unit and not two dwelling units. The City's zoning regulations define a dwelling unit as a residential unit other than a mobile home providing complete, independent living facilities including permanent provisions for living, sleeping, eating, and cooking. In addition, Mr. Leon Barba, P.E., the Building Official in January 2011 issued Code Interpretation # CI12010-0004 which further defined a dwelling unit under the City's residential building code (please see the attachment).

The conversion of the Single Family Residential use to a Two-Family Residential use, a Duplex Residential use, or to add a Guest House accessory use would be illegal without filing an application and receiving a new building permit in compliance with applicable City Codes.

If you have any questions, please contact me at 512-974-2387 or by email at greg.guernsey@austintexas.gov.

Sincerely,


Gregory Guernsey, AICP, Director
Planning and Development Review Department

cc: Donald Birkner, Assistant Director
Leon Barba, P.E., Building Official and Assistant Director
Kathy Haught, Division Manager
John McDonald, Development Services Manager



City of Austin
Planning & Development Review Department

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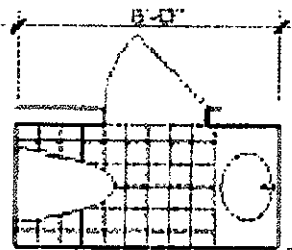
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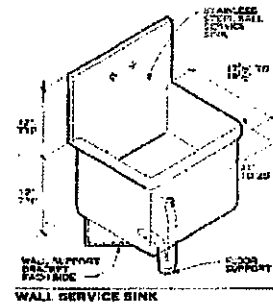
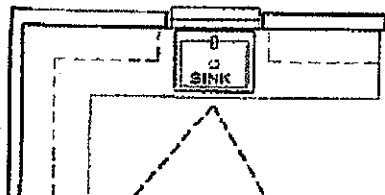
Leon Barba, P.E., Building Official
City of Austin, Planning & Development Review Department

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or



KITCHEN TYPES



B. A bathroom that includes a shower and/or tub, lavatory and water closet.

