

**CITY OF AUSTIN**  
**Board of Adjustment**  
**Decision Sheet**  
**E-10**

**DATE: Monday February 14, 2022**

**CASE NUMBER: C15-2022-0019**

\_\_\_\_ Thomas Ates  
 \_\_\_\_ Brooke Bailey  
 \_\_\_\_ Jessica Cohen  
 \_\_\_\_ Melissa Hawthorne  
 \_\_\_\_ Barbara McArthur  
 \_\_\_\_ Rahm McDaniel  
 \_\_\_\_ Darryl Pruett  
 \_\_\_\_ Agustina Rodriguez  
 \_\_\_\_ Richard Smith  
 \_\_\_\_ Michael Von Ohlen  
 \_\_\_\_ Nicholl Wade  
 \_\_\_\_ Kelly Blume (Alternate)  
 \_\_\_\_ Carrie Waller (Alternate)  
 \_\_\_\_ Marcel Gutierrez-Garza (Alternate)

**OWNER/APPLICANT: Andrew Ryan Thompson**

**ADDRESS: 607 E 49TH ST**

**VARIANCE REQUESTED: The applicant is requesting variance(s) from the Land Development Code,**

- a) **Section 25-2-774 (Two-Family Residential Use) (C) (5) (b) from 550 square feet on the second story (maximum allowed), to 864 square feet (requested)**
- b) **Subchapter F: Residential Design and Compatibility Standards, Article 2, Development Standards Section 2.1 (Maximum Development Permitted) to increase the F.A.R from 40% (required) to 45.7% (requested) in order to remodel an existing detached Two-Family residential structure in an "SF-3-NCCD-NP", Single-Family Residence-Neighborhood Conservation Combining District Neighborhood Plan zoning district. (North Hyde Park NCCD Neighborhood Plan)**

**Note: Per LDC 25-2-774 TWO FAMILY RESIDENTIAL USE (C) The second dwelling unit: (5) may not exceed: (a) 1,100 total square feet or a floor-to-area ratio of 0.15, whichever is smaller; and (b) 550 square feet on the second story, if any; and (6) may not be used as a short term rental for more than 30 days in a calendar year if the second dwelling unit was constructed after October 1, 2015.**

**Per Subchapter F: 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**

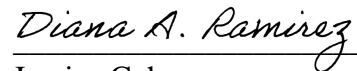
using gross floor area as defined in Section 3.3, except that the lot area of a flag lot is calculated consistent with the requirements of Section 25-1-22 (Measurements).

**BOARD'S DECISION: POSTPONED TO MARCH 14, 2022 (AE DENIAL)**

**FINDING:**

1. The Zoning regulations applicable to the property do not allow for a reasonable use because:
2. (a) The hardship for which the variance is requested is unique to the property in that:
  - (b) The hardship is not general to the area in which the property is located because:
3. The variance 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:

  
Elaine Ramirez  
Executive Liaison

 for \_\_\_\_\_  
Jessica Cohen  
Chair



February 22, 2022

Andrew Thompson  
607 E 49th St  
Austin TX, 78751

Property Description: **ABS 789 SUR 57 WALLACE J P ACR 0.2300**

**Re: C15-2022-0019**

Dear Andrew,

Austin Energy (AE) has reviewed your application for the above referenced property, requesting that the Board of Adjustment consider a variance from LDC Section 25-2-774(C)(5)(b).

Austin Energy does not oppose the request, provided that any proposed or existing improvements follow Austin Energy's Clearance & Safety Criteria, the National Electric Safety Code, and OSHA requirements. Any removal or relocation of existing facilities will be at the owner's/applicant's expense.

Please use this link to be advised of our clearance and safety requirements which are additional conditions of the above review action:

[https://library.municode.com/tx/austin/codes/utilities\\_criteria\\_manual?nodeId=S1AUENDECR\\_1.10.0CLSARE](https://library.municode.com/tx/austin/codes/utilities_criteria_manual?nodeId=S1AUENDECR_1.10.0CLSARE)

If you require further information or have any questions regarding the above comments, please contact our office. Thank you for contacting Austin Energy.

**Cody Shook, Planner II**

Austin Energy  
Public Involvement | Real Estate Services  
2500 Montopolis Drive  
Austin, TX 78741  
(512) 322-6881

# BOA GENERAL REVIEW COVERSHEET

**CASE:** C15-2022-0019

**BOA DATE:** February 14<sup>th</sup>, 2022

**ADDRESS:** 607 E 49<sup>th</sup> St

**COUNCIL DISTRICT:** 9

**OWNER:** Andrew Ryan Thompson

**AGENT:** N/A

**ZONING:** SF-3-NCCD-NP (North Hyde Park)

**LEGAL DESCRIPTION:** **ABS 789 SUR 57 WALLACE J P ACR 0.2300**

**VARIANCE REQUEST:** 550 square feet on the second story (maximum allowed), to 864 square feet (requested) and increase the F.A.R from 40% (required) to 45.7% (requested)

**SUMMARY:** remodel existing 2 story detached Two-Family residential structure

**ISSUES:** permits were not pulled for existing structure

	<b>ZONING</b>	<b>LAND USES</b>
<i>Site</i>	SF-3-NCCD-NP	Single-Family
<i>North</i>	SF-3-NCCD-NP	Single-Family
<i>South</i>	SF-2-NCCD-NP	Single-Family
<i>East</i>	SF-3-NCCD-NP	Single-Family
<i>West</i>	SF-3-NCCD-NP	Single-Family

## **NEIGHBORHOOD ORGANIZATIONS:**

Austin Independent School District  
 Austin Lost and Found Pets  
 Austin Neighborhoods Council  
 Central Austin Community Development Corporation  
 Friends of Austin Neighborhoods  
 Friends of Hyde Park  
 Homeless Neighborhood Association  
 Hyde Park Neighborhood Assn.  
 Hyde Park Neighborhood Plan Contact Team  
 Neighborhood Empowerment Foundation  
 North Austin Neighborhood Alliance  
 Preservation Austin  
 SELTexas  
 Sierra Club, Austin Regional Group





February 8, 2022

Andrew Thompson  
607 E 49th St  
Austin TX, 78751

Property Description:

**Re: C15-2022-0019**

Dear Andrew,

Austin Energy (AE) has reviewed your application for the above referenced property, requesting that the Board of Adjustment consider a variance(s) from City of Austin Land Development Code Section 25-2-774 (C)(5)(b) Two-Family residential use.

Austin Energy **cannot approve the request** until the applicant can show that any new proposed structures will be 15 feet away from any of Austin Energy Facilities, poles, or lines or underground facilities as per Austin Energy's Clearance & Safety Criteria.

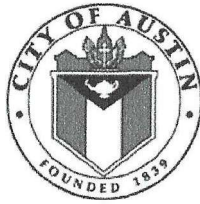
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[https://library.municode.com/tx/austin/codes/utilities\\_criteria\\_manual?nodeId=S1AUENDECR\\_1.10.0CLSARE](https://library.municode.com/tx/austin/codes/utilities_criteria_manual?nodeId=S1AUENDECR_1.10.0CLSARE)

If you require further information or have any questions regarding the above comments, please contact our office. Thank you for contacting Austin Energy.

**Cody Shook, Planner II**

Austin Energy  
Public Involvement | Real Estate Services  
2500 Montopolis Drive  
Austin, TX 78741  
(512) 322-6881



## CITY OF AUSTIN

Development Services Department

Permitting & Development Center

Phone: 512.978.4000

6310 Wilhelmina Delco Dr, Austin, Texas 78752

# Board of Adjustment General/Parking Variance Application

**WARNING: Filing of this appeal stops all affected construction activity.**

This application is a fillable PDF that can be completed electronically. To ensure your information is saved, [click here to Save](#) the form to your computer, then open your copy and continue.

The Tab key may be used to navigate to each field; Shift + Tab moves to the previous field. The Enter key activates links, emails, and buttons. Use the Up & Down Arrow keys to scroll through drop-down lists and check boxes, and hit Enter to make a selection.

The application must be complete and accurate prior to submittal. ***If more space is required, please complete Section 6 as needed.*** All information is required (if applicable).

### For Office Use Only

Case # C15-2022-0019 ROW # 12856303 Tax # 0220100546

## Section 1: Applicant Statement

Street Address: 607 E. 49th Street

Subdivision Legal Description:

ABS 789 SUR 57 WALLACE J P ACR 0.2300

Lot(s): Not listed on TCAD

Block(s): Not listed on TCAD

Outlot: Not listed on TCAD

Division: Not listed on TCAD

Zoning District: Blank on TCAD's website

I/We Andrew Ryan Thompson on behalf of myself/ourselves as

authorized agent for Andrew Ryan Thompson affirm that on

Month January ☐, Day 6 ☐, Year 2022 ☐, hereby apply for a hearing before the

Board of Adjustment for consideration to (select appropriate option below):

☐ Erect ☐ Attach ☐ Complete ☒ Remodel ☐ Maintain ☐ Other:

Type of Structure: existing accessory building; separate from main house

Portion of the City of Austin Land Development Code applicant is seeking a variance from:

#1 Section 2.1 of Sub Ch. F: allows FAR=0.4. Current FAR=0.457 (from original construction in 2004). Request about 6% over which is 571ft over total of 10,018ft (per TCAD) #2 25-2-774 (C)(5)(b) Two-Family residential use allows total=1100ft; 550ft on 2nd story. Requesting 864ft (current size; same as 2004 original) for 2nd story of accessory building.

## Section 2: Variance Findings

The Board must determine the existence of, sufficiency of, and weight of evidence supporting the findings described below. Therefore, you must complete each of the applicable Findings Statements as part of your application. Failure to do so may result in your application being rejected as incomplete. Please attach any additional supporting documents.

**NOTE: The Board cannot grant a variance that would provide the applicant with a special privilege not enjoyed by others similarly situated or potentially similarly situated.**

I contend that my entitlement to the requested variance is based on the following findings:

### Reasonable Use

The zoning regulations applicable to the property do not allow for a reasonable use because:

the existing accessory unit (which is a garage with a room above it-separate from the main house) was constructed in 2004 but was never permitted by the builder or any of previous owners. This issue was recently uncovered.

### Hardship

a) The hardship for which the variance is requested is unique to the property in that:

the builder and previous owners did not get a permit for the accessory structure when building it, before current Austin building guidelines. This issue was recently uncovered.

b) The hardship is not general to the area in which the property is located because:

it is unique to 607 E. 49th Street



**Area Character**

The variance 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:

no changes are being made to the exterior of the current building so there will be no impact on the character of neighborhood or adjacent properties. Also, per TCAD, the deed history shows that the property lines were adjusted on March 31, 2004.

**Parking** (additional criteria for parking variances only)

Request for a parking variance requires the Board to make additional findings. The Board may grant a variance to a regulation prescribed in the City of Austin Land Development Code Chapter 25-6, Appendix A with respect to the number of off-street parking spaces or loading facilities required if it makes findings of fact that the following additional circumstances also apply:

1. Neither present nor anticipated future traffic volumes generated by the use of the site or the uses of sites in the vicinity reasonably require strict or literal interpretation and enforcement of the specific regulation because:

N/A

2. The granting of this variance will not result in the parking or loading of vehicles on public streets in such a manner as to interfere with the free flow of traffic of the streets because:

N/A

3. The granting of this variance will not create a safety hazard or any other condition inconsistent with the objectives of this Ordinance because:

N/A

4. The variance will run with the use or uses to which it pertains and shall not run with the site because:

N/A

**Section 3: Applicant Certificate**

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

Applicant Signature:  Date: 01/06/2022

Applicant Name (typed or printed): Andrew Ryan Thompson

Applicant Mailing Address: 607 E. 49th Street

City: Austin State: TX Zip: 78751

Phone (will be public information): (512) 952-8141

Email (optional – will be public information): [REDACTED]

**Section 4: Owner Certificate**

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

Owner Signature:  Date: 01/06/2022

Owner Name (typed or printed): Andrew Ryan Thompson

Owner Mailing Address: 607 E. 49th Street

City: Austin State: TX Zip: 78751

Phone (will be public information): (512) 952-8141

Email (optional – will be public information): [REDACTED]

**Section 5: Agent Information**

Agent Name: N/A

Agent Mailing Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone (will be public information): \_\_\_\_\_

Email (optional – will be public information): \_\_\_\_\_

**Section 6: Additional Space (if applicable)**

Please use the space below to provide additional information as needed. To ensure the information is referenced to the proper item, include the Section and Field names as well (continued on next page).

We request these 2 variances please:

1. A variance to allow the 864 square feet of the second floor of the garage, which is how it was constructed in 2004. Per our architect, we intend to have 236 sq ft less than the allowed in total



**Additional Space (continued)**

2. A variance for FAR of approximately 0.457, or an approximate 6% increase. We are requesting 571 sq ft over of our total 10,018 sq ft. Current property numbers are taken from TCAD

The sections of the code we are requesting variance from are:

1. Per section 2.1 of Sub Ch. F.

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).

2. Per 25-2-774 (C)(5)(b) Two-Family residential use:

(C) The second dwelling unit:

(1) must be contained in a structure other than the principal structure:

(2) must be located:

(a) at least 10 feet to the rear or side of the principal structure; or

(b) above a detached garage:

(3) may be connected to the principal structure by a covered walkway:

(4) may not exceed a height of 30 feet, and is limited to two stories:

(5) may not exceed:

(a) 1,100 total square feet or a floor-to-area ratio of 0.15, whichever is smaller; and

(b) 550 square feet on the second story, if any; and

6) may not be used as a short term rental for more than 30 days in a calendar year if the second dwelling unit was constructed after October 1, 2015

**SAVE**



**From:** Cindy Black  
**To:** [Ramirez, Elaine](#)  
**Subject:** C15-2022-0019 neighbor feedback  
**Date:** Wednesday, February 09, 2022 11:45:30 AM

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\*\*\* External Email - Exercise Caution \*\*\*

Hi Elaine,

I received a notice of variance letter for the property at 607 E 49th Street. Here is my submission:

Name: Cindy Black: "I object"

Address: 5109 Evans Ave, Austin, TX 78751

Signature: attached below

A handwritten signature in black ink that reads "Cindy Black". The signature is fluid and cursive, with the first name "Cindy" and last name "Black" clearly legible.

Phone: 214-796-5637

Comments:

The applicant states "The existing accessory unit was constructed in 2004 but not permitted by the builder or any previous owners" and that the hardship is "No permit issues when building it before current Austin building guidelines".

This existing house was built in 2018 with permit approval as a garage-forward, side-by-side duplex. No accessory building is noted on the record set.

It appears on Google Maps as though a very large accessory building sits at the back of the property, but this building is not shown on the 2018 permit records. This indicates that the 2018 applicant was negligent in documenting the property.

This is unfortunate for the new owner, but it doesn't make sense that the non-conforming, non-permitted building should carry forward through another stage of development. I vote in objection, and request that the applicant figure out an alternative design that improves the property within zoning and historic district guidelines.

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## PUBLIC HEARING INFORMATION

Although applicants and/or their agent(s) are expected to attend a public hearing, **you are not required to attend**. However, if you do attend, you have the opportunity to speak FOR or AGAINST the proposed development or change. You may also contact a neighborhood or environmental organization that has expressed an interest in an application affecting your neighborhood.

During a public hearing, the board or commission may postpone or continue an application's hearing to a later date, or recommend approval or denial of the application. If the board or commission announces a specific date and time for a postponement or continuation that is not later than 60 days from the announcement, no further notice is required.

A board or commission's decision may be appealed by a person with standing to appeal, or an interested party that is identified as a person who can appeal the decision. The body holding a public hearing on an appeal will determine whether a person has standing to appeal the decision.

An interested party is defined as a person who is the applicant or record owner of the subject property, or who communicates an interest to a board or commission by:

- delivering a written statement to the board or commission before or during the public hearing that generally identifies the issues of concern (it may be delivered to the contact person listed on a notice); or
  - appearing and speaking for the record at the public hearing;
- and:
- occupies a primary residence that is within 500 feet of the subject property or proposed development;
  - is the record owner of property within 500 feet of the subject property or proposed development; or
  - is an officer of an environmental or neighborhood organization that has an interest in or whose declared boundaries are within 500 feet of the subject property or proposed development.

A notice of appeal must be filed with the director of the responsible department no later than 10 days after the decision. An appeal form may be available from the responsible department.

For additional information on the City of Austin's land development process, visit our web site: [www.austintexas.gov/devservices](http://www.austintexas.gov/devservices).

*old garage footage to my second dwelling.*

F-8/13

Written comments must be submitted to the contact person listed on the notice before 9 a.m. the day of the public hearing to be added to the Late Back-up and viewed by the Board the night of the meeting. Your comments should include the name of the board or commission, or Council; the scheduled date of the public hearing; the Case Number; and the contact person listed on the notice. All comments received will become part of the public record of this case.

**Case Number:** C15-2022-0019

**Contact:** Elaine Ramirez; [elaine.ramirez@austintexas.gov](mailto:elaine.ramirez@austintexas.gov)

**Public Hearing:** Board of Adjustment, February 14<sup>th</sup>, 2022

*Luis A. Bonet*

☐ I am in favor  
☒ I object

Your Name (please print)

*4604 E. 132nd Ave*

Your address(es) affected by this application

*Luis A. Bonet*

Signature

*2/12/2022*  
Date

Daytime Telephone: *512-608-1978*

Comments: *I object for the following reasons*

*1. Currently this property is at its FAR limit (3984 vs 4007) (402 vs 4570). It is not fair to other property owners who built recently to COA FAR limits*

*2. Request is to grow area by 571 ft which not only gets over FAR but also wants to go beyond the 550 ft limit for Apt and floor by increasing it by 314 ft.*

*3. This scenario will apply to many others. If you will be using this form to comment, please return it via e-mail to: [properties@nhydo.com](mailto:properties@nhydo.com). If approved*

Elaine Ramirez; 512-974-2202

Scan & Email to: [elaine.ramirez@austintexas.gov](mailto:elaine.ramirez@austintexas.gov)

*then the variance should be given automatic to other properties requesting similar exemption. This my case would have to*

February 6, 2022

**Letter of Support for C15-2022-0019 / 607 E 49th St**

We, the neighbors of Andrew & Shelley Thompson, support their request for two City of Austin variances, *Section 2.1 of Sub Ch. F* and 25-2-774 (C)(5)(b) *Two-Family residential use*, to permit the existing 2-story accessory garage building at 607 E. 49<sup>th</sup> Street.



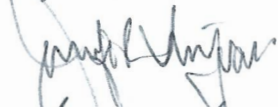
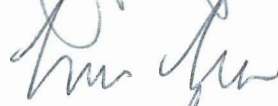

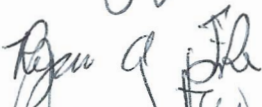
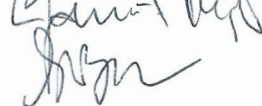

We understand that the request is to allow:

Variance 1) an increase in FAR to a total of 45.7% (max=40%) and

Variance 2) an allowance of a 2<sup>nd</sup>-floor room, which is 864 sq ft (max=550 sq ft), to permit the existing garage building at 607 E 49<sup>th</sup> Street.

We know that there will be no demolition of existing structures, no exterior changes to the existing garage building, nor any creation of new buildings, and that these variances will not impact the character of the neighborhood or any adjacent properties.

We know that this will not result in any changes or impact parking or traffic volume on our streets. We know that no trees will be affected by this project.

<u>Name</u>	<u>Signature</u>	<u>Address</u>	<u>Date</u>
Tatiana Jitter		515 E 49 <sup>th</sup> St	2/8/22
Arni Trivedi		602 E 49 <sup>th</sup> Street	2/8/22
Jennifer Lyngan		604 E 49 <sup>th</sup> St	2/6/22
Laura Lewis		608 E. 49 <sup>th</sup>	2/6/22
Kathy Lewis		609 E. 49 <sup>th</sup>	2/6/22
Ryan Finke		607 E 49 <sup>th</sup>	2/6/22
James A. Henshill		605 E 49 <sup>th</sup>	2/6/22
Sarah M. Barnes		605 E 49 <sup>th</sup>	2/6/22

**From:** David  
**To:** [Ramirez, Elaine](#)  
**Subject:** C15-2022-0019  
**Date:** Monday, February 07, 2022 5:21:50 PM

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\*\*\* External Email - Exercise Caution \*\*\*

Hi. We received a public hearing notice for case C15-2022-0019. I would like to comment that we are in \*favor\* of the requested variances.

- David

Orr

4509 Avenue F, Austin, TX 78751

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From: Matt DeLong  
To: [elaine.ramirez@austintexas.gov](mailto:elaine.ramirez@austintexas.gov)  
Subject: C15-2022-0019  
Date: Tuesday, February 08, 2022 9:37:48 AM

\*\*\* External Email - Exercise Caution \*\*\*

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**Case Number:** C15-2022-0019  
**Contact:** Elaine Ramirez; [elaine.ramirez@austintexas.gov](mailto:elaine.ramirez@austintexas.gov)  
**Public Hearing:** Board of Adjustment, February 14<sup>th</sup>, 2022

*Friends of Hyde Park NA*  
Your Name (please print) ☒ I am in favor ☐ I object

Your address(es) affected by this application \_\_\_\_\_  
Signature \_\_\_\_\_  
Date 2/8/22

Daytime Telephone: \_\_\_\_\_

Comments: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

If you will be using this form to comment, please return it via e-mail to:

Elaine Ramirez; 512-974-2202  
Scan & Email to: [elaine.ramirez@austintexas.gov](mailto:elaine.ramirez@austintexas.gov)

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An interested party is defined as a person who is the applicant or record owner of the subject property, or who communicates an interest to a board or commission by:

- delivering a written statement to the board or commission before or during the public hearing that generally identifies the issues of concern (*it may be delivered to the contact person listed on a notice*); or
- appearing and speaking for the record at the public hearing; and:

- occupies a primary residence that is within 500 feet of the subject property or proposed development;
- is the record owner of property within 500 feet of the subject property or proposed development; or
- is an officer of an environmental or neighborhood organization that has an interest in or whose declared boundaries are within 500 feet of the subject property or proposed development.

A notice of appeal must be filed with the director of the responsible department no later than 10 days after the decision. An appeal form may be available from the responsible department.

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**Case Number:** C15-2022-0019

**Contact:** Elaine Ramirez; [elaine.ramirez@austintexas.gov](mailto:elaine.ramirez@austintexas.gov)

**Public Hearing:** Board of Adjustment, February 14<sup>th</sup>, 2022

Your Name (please print)

BARRY GARTH

☒ I am in favor  
☐ I object

Your address(es) affected by this application

912 E. 51<sup>ST</sup> STREET

Signature

Date

Daytime Telephone:

512-461-9475

Comments:

If you will be using this form to comment, please return it via e-mail to:

Elaine Ramirez; 512-974-2202

Scan & Email to: [elaine.ramirez@austintexas.gov](mailto:elaine.ramirez@austintexas.gov)