

## AGENDA



Thursday, July 29, 2010

**Public Hearings and Possible Actions  
RECOMMENDATION FOR COUNCIL ACTION****Item No. 147**

---

**Subject:** Conduct a public hearing and consider an appeal by Nuria Zaragoza on a decision by the Building and Fire Board of Appeals related to 1915A David Street.

**For More Information:** Greg Guernsey, 974-2387; Leon Barba, 974-7254; Sylvia Arzola, 974-6448.

**Prior Council Action:** June 24, 2010 - Council set a public hearing for July 29, 2010.

---

On March 16, 2010, a building permit (2010-021733 BP) was issued for a remodel/addition at 1915A David St. On March 29, 2010 an appeal was filed on the issuance of this building permit by Ms. Nuria Zaragoza (interested party). On May 5, 2010, the Building and Fire Code Board of Appeals (BFCBoA) voted unanimously to uphold the appeal of the issuance of the building permit. Based on the evidence presented, the BFCBoA found that the development exceeded the limits of a remodel and therefore constituted new construction. Additionally, the BFCBoA found the development was effectively a "rooming house" and therefore should have been reviewed as a commercial project under the International Building Code, not as a residential use under the International Residential Code. This decision reversed the issuance of a remodel building permit for 1915A David St.

Following the decision by the BFCBoA, Ms. Nuria Zaragoza filed an appeal requesting that Council further clarify the reasons why the site cannot be permitted in the future as a remodel. In its decision, the BFCBoA determined the project was not a remodel because of the size of the proposed structure and because the proposed project did not meet the minimum criteria consistently used by City staff for a remodel. For remodels, the staff generally follows an internal memorandum dated June 4, 2008 that requires the original foundation and one wall to remain intact. The proposed project retained the original wall of the principal structure as part of the remodel, but allowed the illegal non-complying wall that was part of the original garage to be removed. Based on staff's interpretation, the project may still be approved for a remodel depending on the scope of proposed work.

Staff recommends denial of the appeal.