

Staff Summary Report



Board of Adjustment Hearing Date: March 24, 2010

Agenda Item Number: 5

SUBJECT: This is a public hearing for an appeal of the Zoning Administrator's opinion pertaining to the request by the **RESIDENCE AT 16 EAST 15TH STREET (PL090003)** located at 16 East 15th Street regarding single family zoned lots.

DOCUMENT NAME: 20100324dssl03

PLANNED DEVELOPMENT (0406)

COMMENTS: Appeal by Catherine Gorman and Phil Hedrick of the Zoning Administrator's opinion pertaining to the **RESIDENCE AT 16 EAST 15TH STREET (PL090003/VRA10002)** (Charles Huellmantel, applicant) located at 16 East 15th Street in the R1-6, Single Family Residential District for:

DSA10001 Appeal of the opinion that single family zoned lots, located adjacent to an alley, may incorporate the area to midpoint of the alley in their minimum lot size to meet the requirements for the allowance of guest quarters as defined in the Zoning and Development Code, Part 3, Chapter 3, Section 4-202.

PREPARED BY: Sherri Lesser, Senior Planner (480-350-8486)

REVIEWED BY: Steve Abrahamson, Planning & Zoning Coordinator (480-350-8359) *SEA*

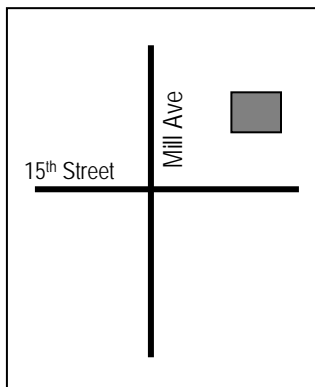
LEGAL REVIEW BY: N/A

DEPARTMENT REVIEW BY: N/A

FISCAL NOTE: N/A

RECOMMENDATION: N/A

ADDITIONAL INFO:



The property owners to the north are appealing a Zoning Administrator's Opinion which allows single family zoned lots, that are located adjacent to an alley, to incorporate the area to midpoint of the alley in their minimum lot size to meet the requirements for the allowance of guest quarters as defined in the Zoning and Development Code, Part 3, Chapter 3, Section 4-202.

The appellants contend that the zoning administrator's opinion uses an inappropriate measurement of lot size. They have provided a letter of appeal explaining their objections to the Zoning Administrator's Opinion and are appealing the opinion which allows guest quarters for the Residence at 16 East 15th Street.

PAGES:

1. List of Attachments
2. Comments;
3. Reasons for Approval; Conditions of Approval; History & Facts/Description; Zoning & Development Code Reference

ATTACHMENTS:

1. Location Map(s)
2. Aerial Photo(s)
3. Letter of Appeal
4. Site plan
5. Elevation
6. Floor Plan
7. Zoning Administrator Opinion
8. Staff Photograph

COMMENTS:

The appellants are before the Board of Adjustment to appeal a Zoning Administrators Opinion which allows single family zoned lots, that are located adjacent to an alley, to incorporate the area to midpoint of the alley in their minimum lot size to meet the requirements for the allowance of guest quarters as defined in the Zoning and Development Code, Part 3, Chapter 3, Section 4-202.

Public Input

Staff has not received any new public input for the appeal.

ZDC Requirements

Per the Zoning and Development Code, Part 3, Chapter 4, Section 3-411, Guest Quarters are permitted in single family residential districts having a minimum lot size of 15000 square feet. The Zoning Administrator opined that if an existing single family residence is adjacent to an alley, that the area of alley that would typically be used to determine the setback could also be included in the area for the lot.

This finding is based on the following premises;

- The area midpoint to the alley is utilized for the determination setbacks for single family properties.
- If the alleys were abandoned by the city, the area to the midpoint of the alley would revert to the abutting property owners.
- Per the ZDC definition of gross site area prior to development; it includes all areas of the lot as well as those dedicated for public use as streets, alleys, easements, etc.

SHOULD THE DEVELOPMENT REVIEW COMMISSION ELECT TO TAKE AFFIRMATIVE ACTION THE ZONING ADMINISTRATORS OPINION WOULD BE OVERTURNED.

HISTORY & FACTS:

February 3, 2009. The Hearing Officer approved a Use Permit for a second story addition for 16 East 15th Street, subject to conditions.

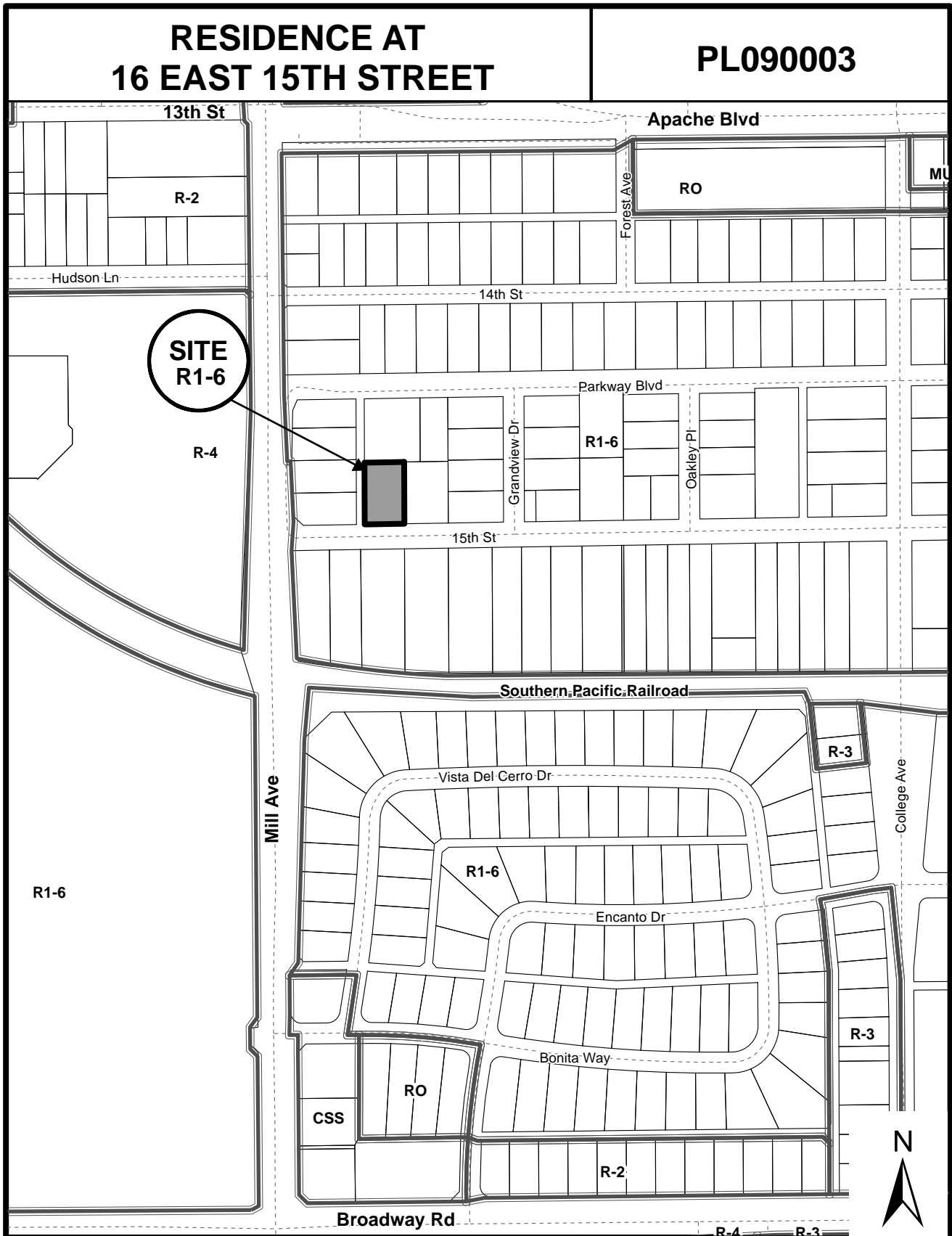
January 4, 2010. The applicant held a neighborhood meeting.

DESCRIPTION:

Owner – Charles Huellmantel
Applicant – Charles Huellmantel
Existing Zoning – R1-6, Single Family Residential District
Gross Site Area- 15487 s.f. (as measured to midpoint of alley)
Net Site Area- 14015 s.f.
Total Building Area- 3393 s.f.
Accessory Building Height – 19'-9"
Required rear yard setback – 9'
Provided rear yard setback- 5'

**ZONING AND
DEVELOPMENT
CODE REFERENCE:**

Part 3, Chapter 3, Section 4-202
Part 6, Chapter 3, Section 6-309



Location Map



RESIDENCE AT 16 EAST 15TH STREET (PL090003)

Dear Ms. Lesser,

February 1, 2010

We opposed the use permit and variance for a two-story guest house-garage next to our property line by Charles Huellmantel at 16 East 15th Street. We are neighbors directly north of Mr. Huellmantel's property. The Zoning Administrator granted the use permit (ZUP09182) that the building is not-to-exceed 20 feet in height with the specific conditions that

"The windows on the north elevation and northern most east elevation of the structure to be opaque material on the first and second story. "

"Applicant is to submit to the Development Services staff for review either a revised floor plan to move the outdoor entertainment area to the south side of the building or retain the existing floor plan and add a six (6) ft wall along the north elevation extending a minimum of twenty (20) feet east of the structure."

This letter is to **appeal the opinion of the Zoning Administrator** that this property meets the lot size requirement for a guest house. The new ordinance (passed on 10/22/09) that allows guest houses in R-1 zoning applies to lot with a minimum size of 15,000 square feet (Section 3-411 Guest Quarters). We understand that it was intended mainly for AG zoned properties south of US 60.

Mr. Huellmantel's lot is 95.02' by 147.5' or only 14,015.45 sq.ft., nearly 1000 sq. ft. less than the minimum required by the ordinance. Only by including half of the bordering alley, property that Mr. Huellmantel does not own, is the site over 15,000 sq. ft. This alley is regularly used both by the city (irrigation and trash) and neighbors and it is very unlikely that it will ever be abandoned. Also for access to his proposed accessory building (garage-guest house), Mr. Huellmantel is depending upon the complete 20 ft. width of the alley and if the alley were abandoned, he could not access his proposed garage. The opinion of the Zoning Administrator appears to use an inappropriate measurement of the lot size and does not follow the intent of the ordinance as we understand it. Further, we understand that the addition of half the alley to enlarge the size of this lot to meet the 15,000 sq. ft. size is without precedent.

Therefore, we recommend that this opinion be reviewed and reversed and that a guest house not be allowed on this property because the property does not meet the requirements stated in the ordinance.

Thank you,

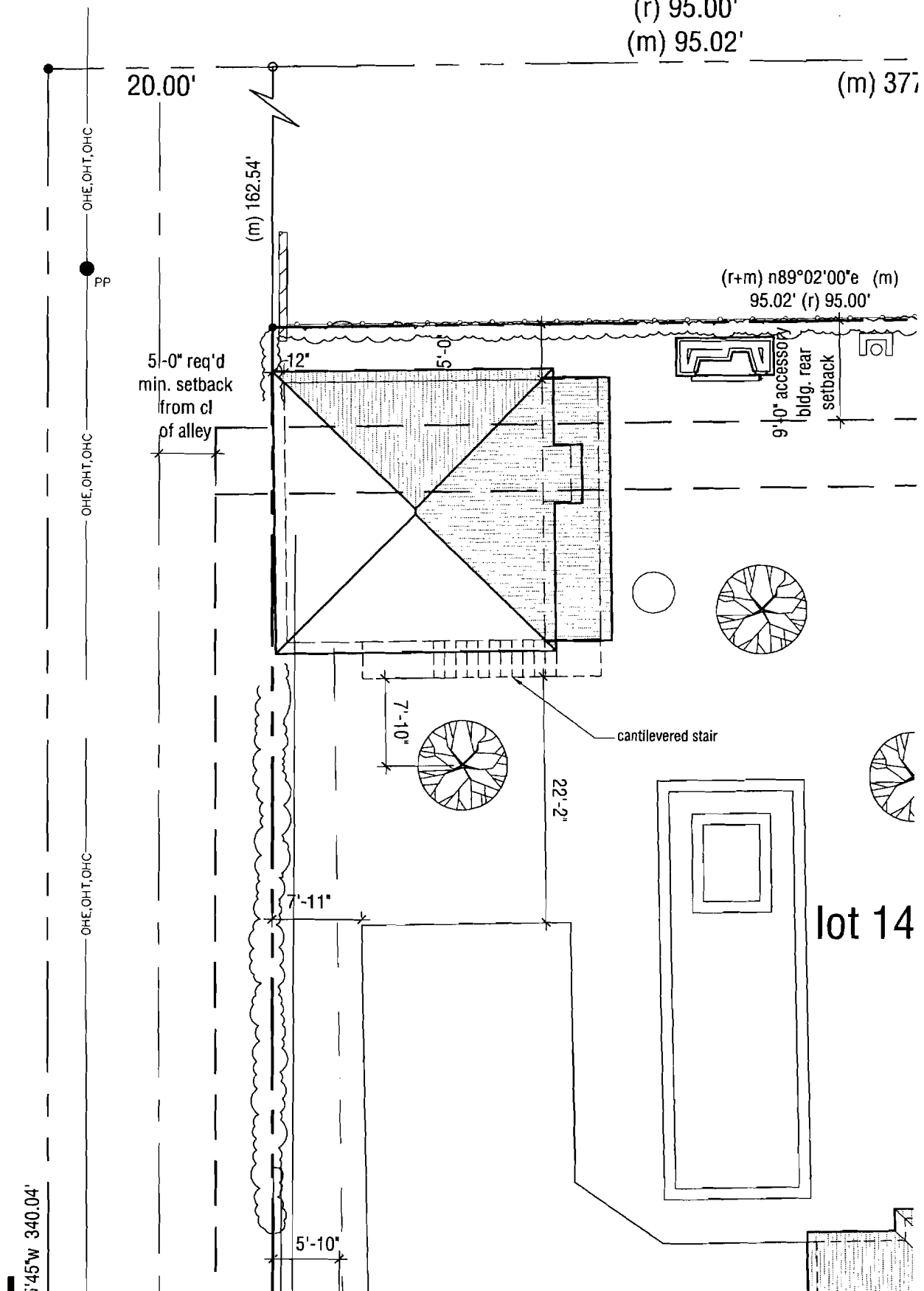
Catherine Gorman and Phil Hedrick, 23 East Parkway Blvd.

1615 garage / guest

02.08.10

(r) 95.00'
(m) 95.02'

(m) 37'



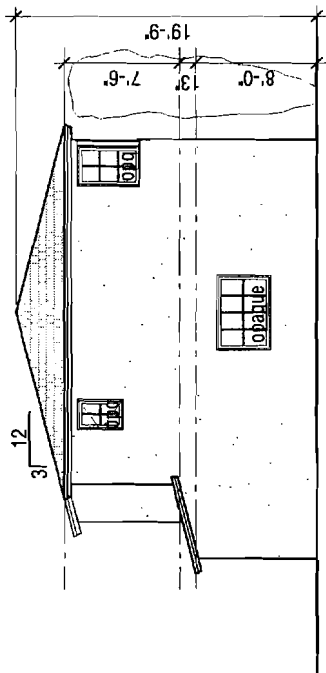
hayes inc.

architect llc • (416) 491-1100

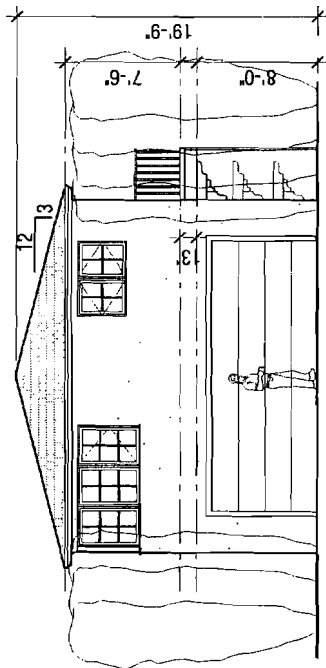
floor plan

scale

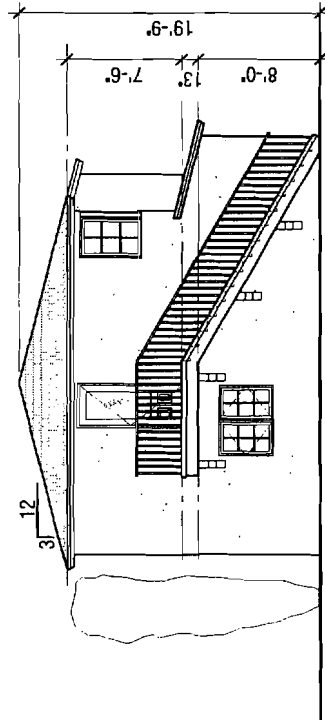
1/8" = 1'-0"



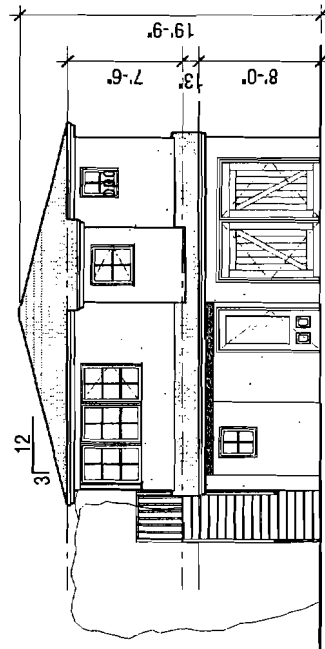
north



west



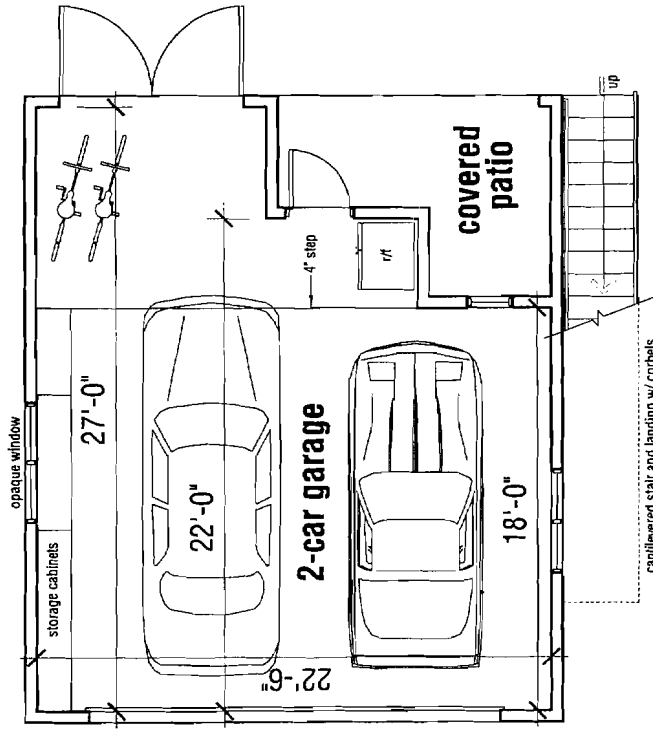
south



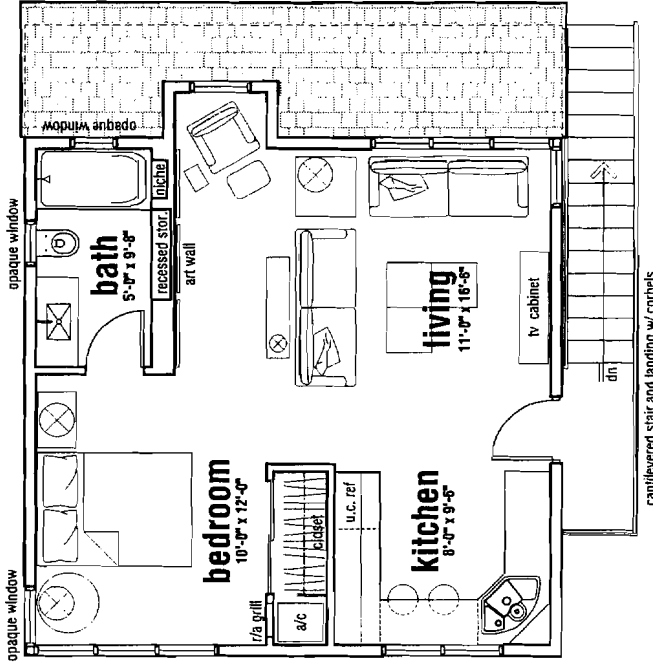
east

1615 garage / guest

2.08.10



first floor



second floor

hayes inc.
architects • interior designers

floor plan

scale
1/8"=1'-0"

Memorandum



Development Services

DRAFT

DATE: March 11, 2010

TO: Development Services Department

FROM: Lisa Collins, Deputy Development Services Director

SUBJECT: Determination of lot area for the allowance of guest quarters

Per the Zoning and Development Code, Part 3, Chapter 4, Section 3-411, Guest Quarters are permitted in single family residential districts having a minimum lot size of 15000 square feet. A question has been raised as to whether the determination of the minimum lot size could include the area to midpoint of an alley adjacent to a single family lot. Currently all residential setbacks incorporate the area to midpoint of an alley in establishing building placement.

After review and discussion with staff, I have determined that if an existing single family residence is adjacent to an alley, that the area of alley that would typically be used to determine the setback could also be included in the area for the lot .

This finding is based on the following premises;

- The area midpoint to the alley is utilized for the determination setbacks for single family properties.
- If the alleys were abandoned by the city, the area to the midpoint of the alley would revert to the abutting property owners.
- Per the ZDC definition of gross site area prior to development; it includes all areas of the lot as well as those dedicated for public use as streets, alleys, easements, etc.

This opinion applies to the determination of lot size for single family residential only; all other requirement of Section (s) 3-401, Accessory Buildings, Use and Structure and 3-411, Guest Quarters must be adhered to.

Lisa Collins
Zoning Administrator



RESIDENCE AT 16 EAST 15TH STREET

16 EAST 15TH STREET

PL090003

**REAR OF RESIDENCE – VIEW TO NORTH
EAST**

