

# MODIFIED (Pg 2 Staff Correction) Staff Summary Report



Hearing Officer Hearing Date: January 19, 2010

Agenda Item Number: 2

**SUBJECT:** This is a public hearing for a request by the **RESIDENCE AT 16 EAST 15<sup>TH</sup> STREET (PL090003)** located at 16 East 15<sup>th</sup> Street for one (1) use permit and two (2) variances.

**DOCUMENT NAME:** 20100119dssl01 **PLANNED DEVELOPMENT (0406)**

**COMMENTS:** Request by the **RESIDENCE AT 16 EAST 15<sup>TH</sup> STREET (PL090003)** (Charles Huellmantel, applicant) located at 16 East 15<sup>th</sup> Street in the R1-6, Single Family Residential District for:

**ZUP09182** Use permit to allow an accessory building above fifteen (15) feet in height, not-to-exceed thirty (30) feet in height (new two story accessory building).

**VAR09016** Variance to reduce the north rear yard setback from nine (9) feet to five (5) feet.

~~**VAR09017** Variance to allow a separate utility metering service for an accessory building/guest quarters.~~ **WITHDRAWN BY APPLICANT**

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

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

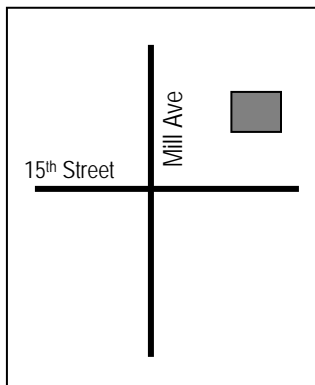
**LEGAL REVIEW BY:** N/A

**DEPARTMENT REVIEW BY:** N/A

**FISCAL NOTE:** N/A

**RECOMMENDATION:** Staff – Approval, subject to conditions

## ADDITIONAL INFO:



The applicant is before the Hearing Officer to request a use permit and a variance to allow for the construction of a garage with a guest quarters. The proposed structure will replace an existing building located at the northwest corner of the property. A one bedroom guest quarter is proposed for the second floor. The use permit is to allow an accessory structure above fifteen (15) feet in height (proposed structure 19'-6") and a variance to reduce the rear yard setback from 9' to 5'. The applicant originally requested a variance to allow separate metering but withdrew that request due to comments received during his neighborhood meeting. The applicant held a neighborhood meeting in accordance with the ZDC requirements; to date staff has received one email and one phone call regarding this request. Staff is recommending approval of the use permit and variance.

**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.-6. Letter of Intent
7. Site plan
8. Enlarged Site plan
9. Floor Plan
10. Elevation
11. Neighborhood Minutes
12. Opposition Email
13. Staff Photograph(s)
14. Staff Photograph(s)
15. Staff Photograph(s)

## COMMENTS:

The proposed structure is a two story building with a double car garage on the first floor and a guest quarters on the second floor. The structure is designed to complement the existing design of the main dwelling design. This property is located in the neighborhood southeast of the corner of Mill Avenue and Apache Boulevard/13<sup>th</sup> Street. It is located in the R1-6 Single Family District. The lot has a single family dwelling at the street front, two accessory buildings at the rear of the property, very large pecan trees and is surrounded by a mature oleander hedge.

### Public Input

The applicant held a neighborhood meeting on January 4, 2010; four neighbors attended the meeting. Based on comments received at the neighborhood meeting, the applicant is withdrawing their request for a variance to allow the utilities for the structure by a separate meter. After the neighborhood meeting, the applicant met with the neighbors to the north. They expressed concern regarding the height of the structure and the potential for invasion of privacy from the windows of the guest quarters. The applicant has modified the plans to minimize the north exposure glazing and is willing to opaque the windows. Staff received one email in opposition to the separate metering and a phone call from the neighbor to the north regarding the building height.

### Use Permit

The Zoning and Development Code requires a use permit to allow an accessory structure to exceed fifteen (15') feet in height; not to exceed thirty (30') feet as allowed by the district. The proposed structure will be nineteen feet eight inches (19'-8") at the highest point; it slopes to sixteen (16') feet at the edges of the structure. The site is surrounded by an oleander hedge that is approximately twenty feet (20) feet in height. The applicant has stated they are willing to modify the glazing on the north elevation to mitigate any potential views of neighboring properties.

The use permit request meets all applicable tests in the following manner:

- a. Any significant increase in vehicular or pedestrian traffic in adjacent areas;
    - There will be no significant increase in vehicular or pedestrian traffic in adjacent areas.
  - b. Nuisance arising from the emission of odor, dust, gas, noise, vibration, smoke, heat, or glare at a level exceeding that of ambient conditions;
    - No potential nuisances.
  - c. Contribution to the deterioration of the neighborhood or to the downgrading of property values which is in conflict with the goals, objectives or policies for rehabilitation, redevelopment or conservation as set forth in the City's adopted plans, or General Plan;
    - The proposed use should not contribute to neighborhood deterioration or downgrade property values;
  - d. Compatibility with existing surrounding structures and uses;
    - The proposed use appears to be compatible with the surrounding uses.
  - e. Adequate control of disruptive behavior both inside and outside the premises, which may create a nuisance to the surrounding area or general public:
    - ~~The proposed use requires the creation of a security plan with the Tempe Police Department to address transactions of precious metals and management of the establishment.~~
- DELETED BY DEVELOPMENT SERVICES STAFF**

### Variance

The Zoning and Development Code Development Standard, in the R1-6, Single Family Residential District, for accessory structures over twelve (12) feet in height is a nine (9) foot setback from the rear property line. The applicant is requesting a variance to reduce the rear yard setback to five (5) feet. Analysis of this request, result in findings that there are special circumstances or conditions affecting

this building, land, or use to warrant approval of the variance. Authorizing the variance will not be detrimental to the surrounding area and will not negatively impact surrounding properties. The proposed building will replace an existing accessory structure in the same approximate location on the lot. It is this existing condition that warrants staff's support of the setback variance. There is a precedence established for allowing a structure in the proposed location approximately five (5) feet from the north property line. Additionally, large pecan trees surround the proposed location of the structure limiting the building area to the northwest corner of the lot.

## Conclusion

Staff recommends approval of the use permit and variance for the construction of a freestanding garage and guest quarters.

## REASON(S) FOR APPROVAL:

1. Special circumstances or conditions applying to the land, building or use exist.
2. The authorizing of the variance is necessary for the preservation and enjoyment of substantial property rights.
3. Authorization of the variance(s) will not be materially detrimental to persons residing or working within the vicinity, to adjacent property, to the neighborhood or to the public welfare in general.

**SHOULD THE HEARING OFFICER ELECT TO TAKE AFFIRMATIVE ACTION ON THE REQUEST, THE FOLLOWING CONDITIONS OF APPROVAL SHOULD APPLY.**

## CONDITION(S) OF APPROVAL:

1. The windows on the north elevation of the structure to be opaque material.
2. The new structure to complement the main dwelling in material, design, and colors.
3. Obtain all necessary building clearances and permits.

The following ZDC requirements to be adhered to:

- The guest quarters must adhere to the requirements found within ZDC Section 3-411 Guest Quarters.

## HISTORY & FACTS:

February 3, 2009. The Hearing Officer approved a use permit for a second story addition for 16 East 15<sup>th</sup> Street, subject to conditions.

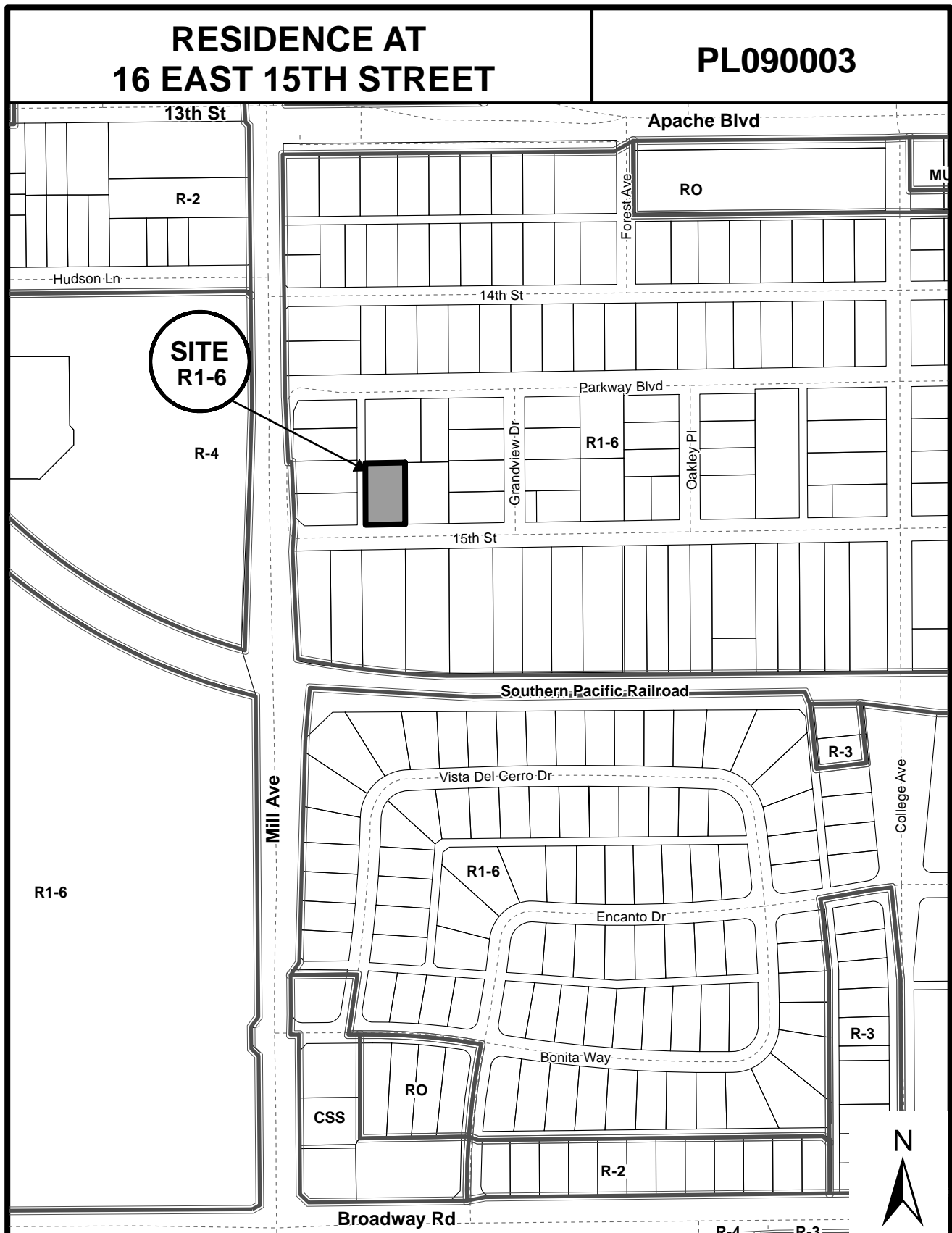
January 4, 2010. The applicant held a neighborhood meeting.

## 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.

## ZONING AND DEVELOPMENT CODE REFERENCE:

Zoning & Development Code:  
Part 3, Chapter Part 4, Section 3-402 and 3-411  
Part 4, Chapter 2, Section 4-202.  
Part 6, Chapter 3, Section 6-309



**Location Map**



**RESIDENCE AT 16 EAST 15TH STREET (PL090003)**

Charles Huellmantel  
P.O Box 1833  
Tempe, Arizona 85280  
(480) 921-2800

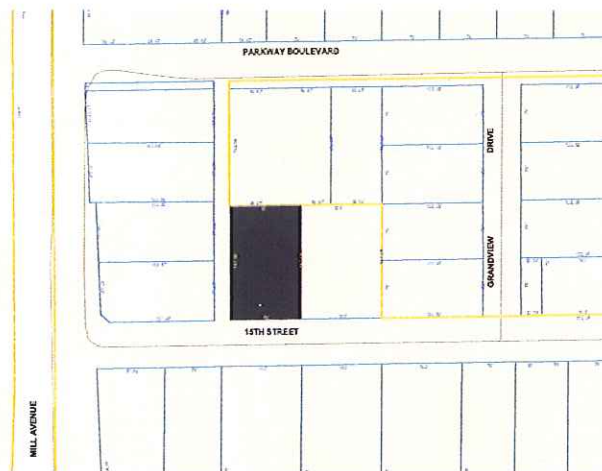
December 15, 2009

City of Tempe  
Development Services  
31 East 5th Street  
Tempe, Arizona 85280

RE: Request for a Use Permit for an accessory building and Setback and Metering  
Variances for 16 East 15<sup>th</sup> Street

To Whom It May Concern:

I am the owner of 16 East 15<sup>th</sup> Street and I seek two variances and a use permit so that I can construct an accessory building in the rear of my lot along the alley. The lot sits on the north side of 15<sup>th</sup> Street just east of Mill Avenue.



Lot Location

I would like to add a garage to the house without compromising the vegetation in the yard. In particular, the rear yard has two beautiful decades old pecan trees that are important to the character of the neighborhood and my yard. Unfortunately, these trees live in an area of the yard that makes it impossible to place a rear yard garage within the distinct setback without losing one or both of the trees.

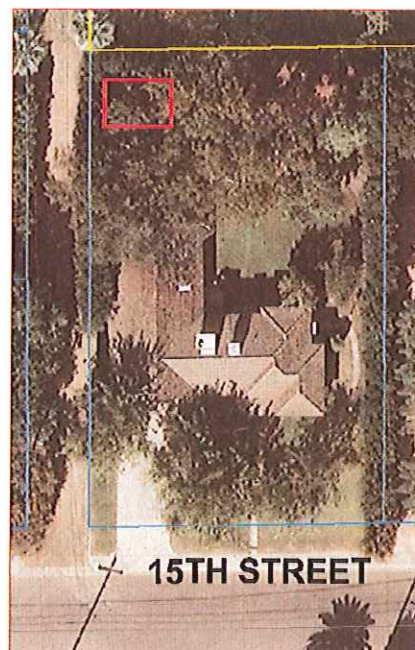
I have attached photographs of the trees I am attempting to preserve on the top of the following page.





Existing Trees

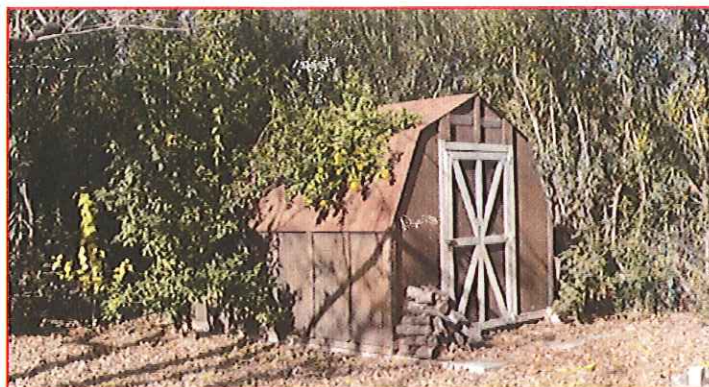
In addition to the large pecan trees, the lot has several large citrus trees in the yard and the lot is surrounded on three sides (the two sides and the rear yard) by thick mature oleanders that are already approximately 20 feet in height and create a barrier that you can't see through. It appears these plants will grow to nearly 30 feet within a few seasons and perhaps before construction is complete.



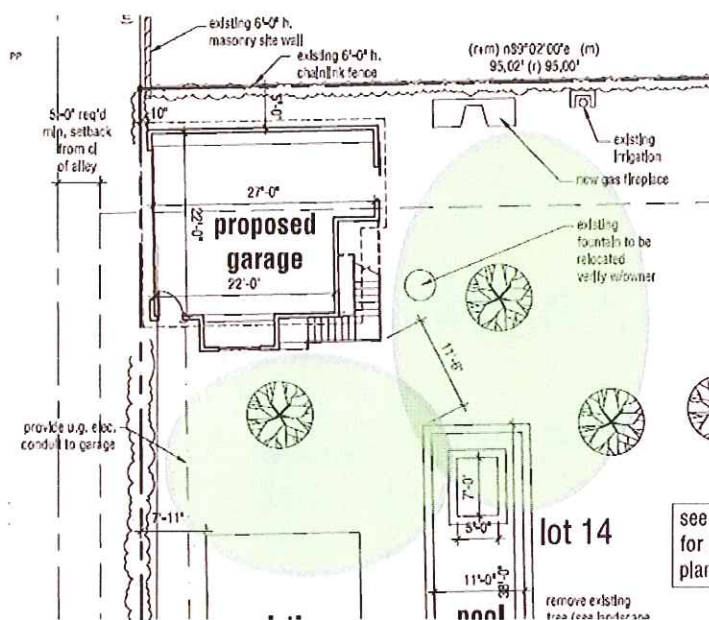
Lot Aerial Photo showing  
Proposed building location



The proposed garage will have a vehicle entry door from the alley and would sit on the northwest corner of the lot. The garage would be placed in the lot on the location of the old barn shown below and nestled behind the two pecan trees and alongside a thick row of oleanders that run along the rear lot line.



Existing Barn



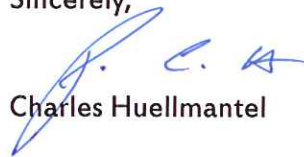
Once the accessory building is complete the oleanders will grow into the building edges along the alley and the building will only be visible from the alley where vehicle access is allowed. I am asking the city to allow me to reduce the rear yard so that the building footprint sits 5 feet from the rear lot line. Additionally, the building is planned to have a 10" overhang will that extend beyond the foot print.

The setback allows me to preserve the two pecan trees situated in the yard. The height of the building will be well below the height of the fully grown oleanders on the north side. The building

architecture will complement the main building. The footprint of the building is anticipated to be approximately 22 feet wide by 27 feet deep. I am also asking the city to allow me to separately meter the garage. This power supply will also operate the pool. This will allow me to draw power from the alley as opposed to trenching past one of the two pecan trees. I am concerned that such trenching would cause problems for the tree.

This area was developed in the 1940's and it was typical that garages were not built with the home. Where garages were desired, the owners generally built detached garages as proposed in this application. Accordingly, the proposed accessory building is consistent with the accessory buildings in many other homes in the immediate area.

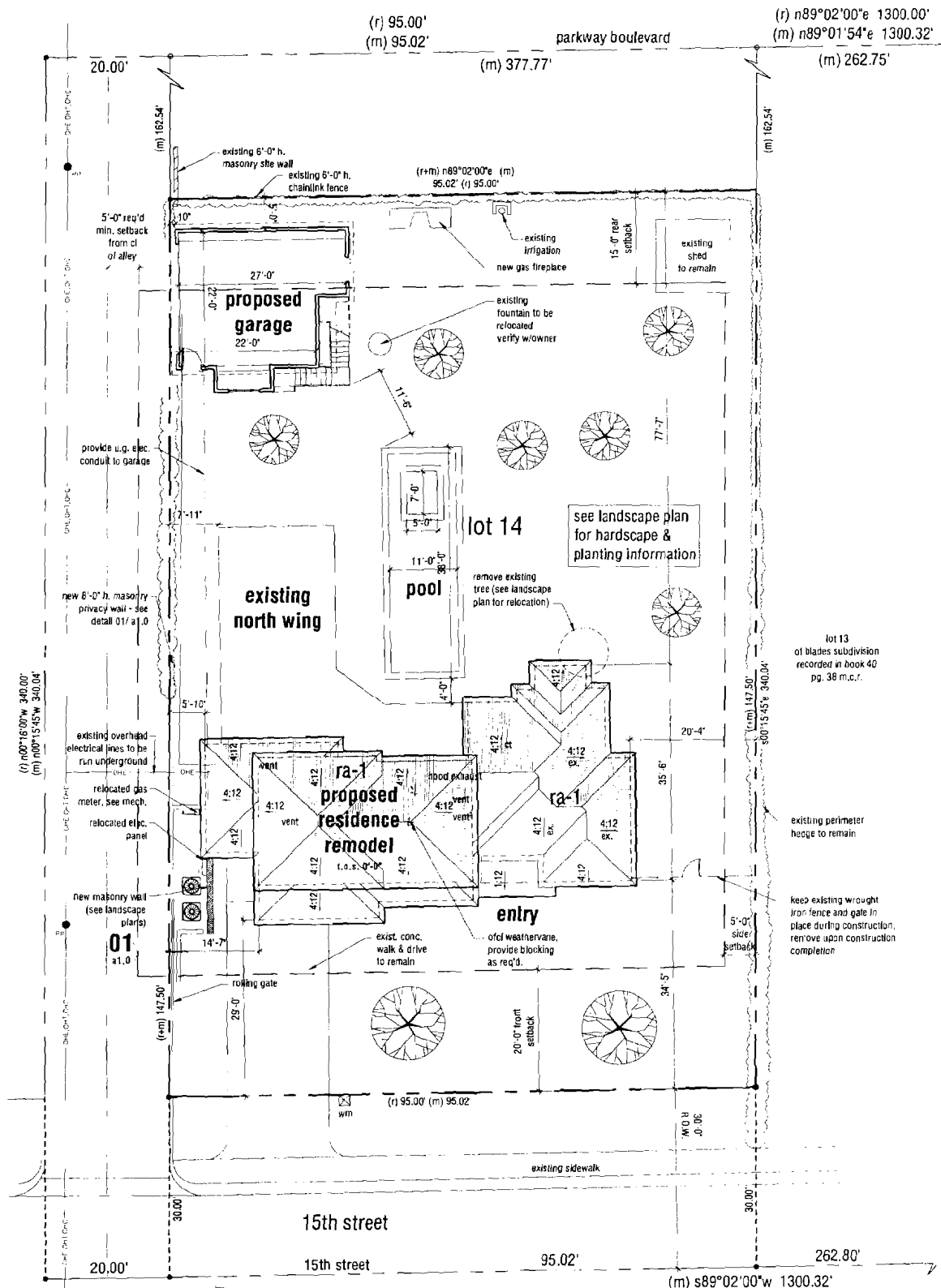
Sincerely,



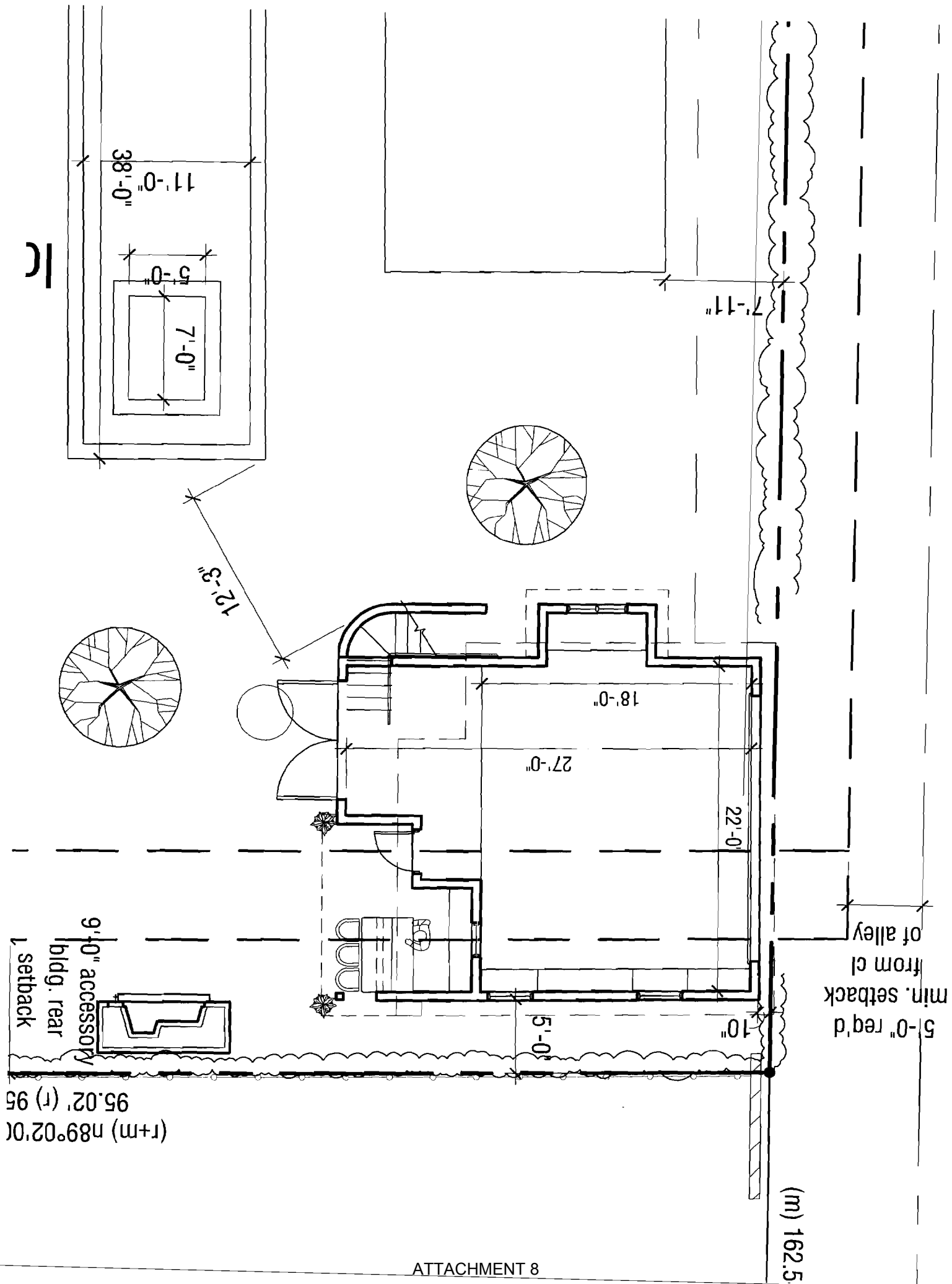
Charles Huellmantel

**12.16.09**

gross site area	16,865 sq. ft.
net site area	14,015 sq.ft.
allowable building footprint area	14,015 x 45% = 6,307 sq.ft.
total building footprint area	3,393 sq. ft.
lot coverage	3,393/14,015 = 24% < 45% max.

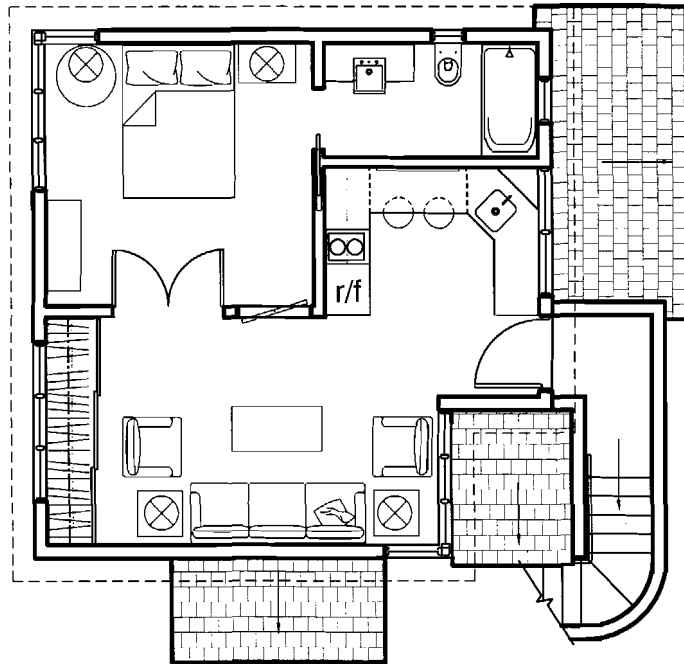


scale  
1/16" = 1'-0"

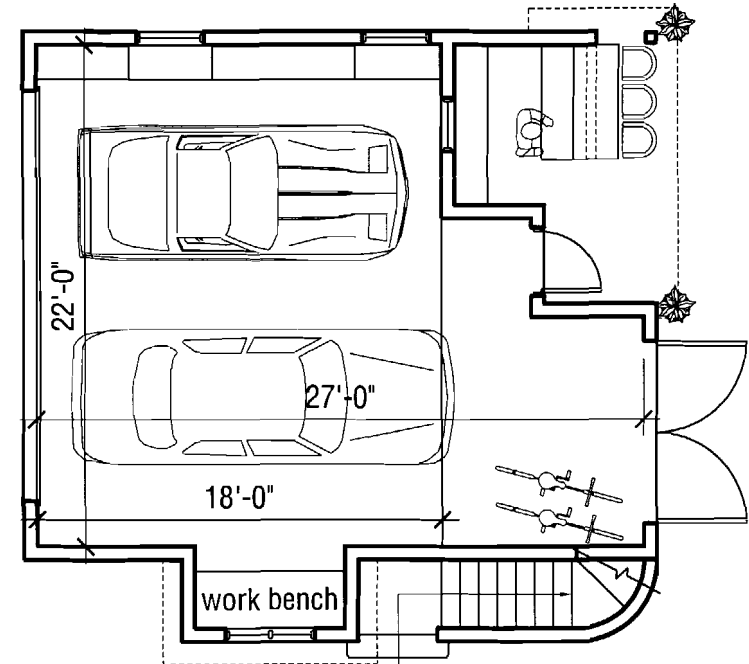


# 1615 guesthouse

1.12.09



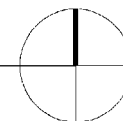
second floor



first floor

hayes inc.  
architecture • interior

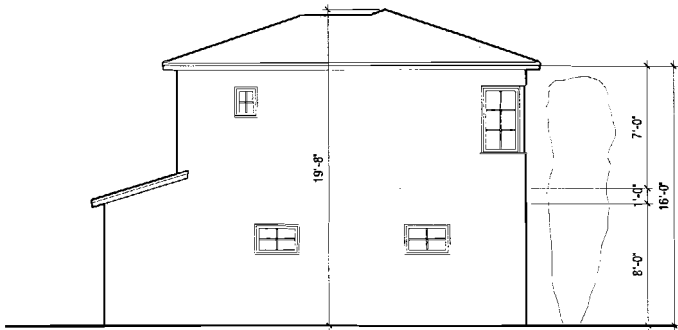
floor plan



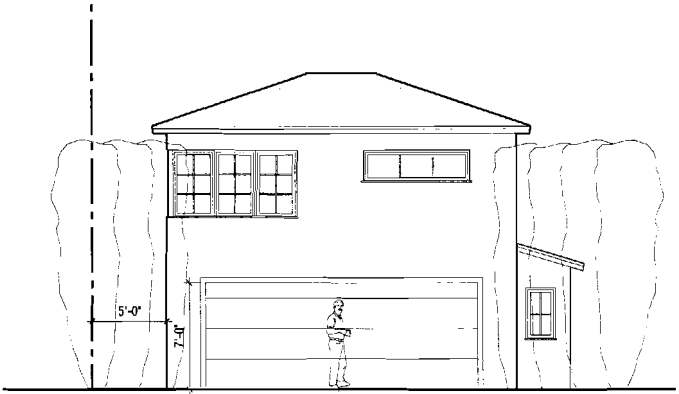
scale  
1/8"=1'-0"



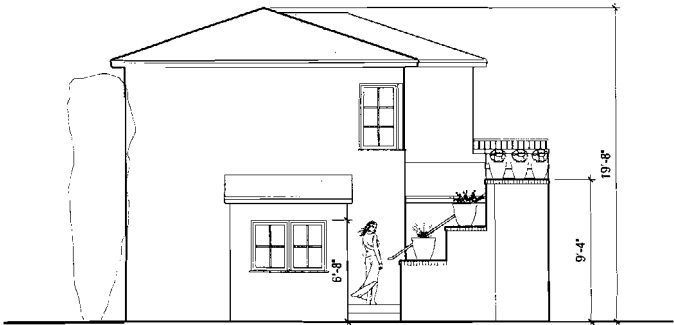
1615 garage / studio  
01.12.10



north



west



south



east

hayes inc.

exterior elevations 01

scale  
1/8"=1'-0"

**Lesser, Sherri**

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**From:** Charles Huellmantel [charles@huellmantel.com]  
**Sent:** Wednesday, January 13, 2010 12:01 PM  
**To:** Lesser, Sherri; Collins, Lisa  
**Subject:** Neighborhood input  
**Attachments:** 10-12-10 Garage Guest House site plan.pdf; 10-12-10 Garage Guest House elevations.pdf; 10-12-10 Garage Guest House plans.pdf

Please find a summary of my conversations with neighbors as well a proposed site plan, floor plan and elevations. Please note that the second story windows to the north on the attached proposed elevations will be frost, not clear.

A neighborhood meeting was held on January 4, 2010 as required by the ZDC.

Four people attended the meeting One, my neighbor from across the street. Cliff Jones, was in full support of the request. The remaining three people (Doug McQueen and Sharon Southerland) a husband and wife and their next door neighbor – all who live on 14<sup>th</sup> street) who attended the meeting came with a shared concern that the accessory building might be for rental purposes. This is not the purpose of the building nor would it be allowed under the code. They were not opposed to the use permit or the variance in the setback.

The owners immediately to the north of my house (Phil and Cathy Gorman) did not attend the planned neighborhood meeting. I have been trying to meet with them for months but they do not live in Tempe and so have been unavailable to meet. I was able to meet with them on January 12, 2010 at my home. They came to the meeting opposed to my request for the addition height and the separate metering but they do not oppose the request for a reduced setback. They were not opposed to the windows on the ground floor. They were opposed to second story over a garage. They are concerned that the structure will be 30 feet in height and rental in nature. I proposed a number of concepts to address any concerns they might have. I pointed out that the building at roughly 20 feet tall and 16 feet tall at the northern edge is below the height of the oleander which will continue to grow taller and more dense (they were cut back to clean them and help them grow full). The building will not be seen from their yard, the northern windows will be frosted and the law does not allow me to rent the unit. I proposed a number of potential solution and asked them to help me identify ways that I could mitigate whatever concerns they had and I agreed to remove my request for separate metering if that would help. The Gorman's said they are planning to sell the house soon and considering slitting the lot they owe into two. They said they would consider my ideas and let me know what position they will take. They have yet to contact me to discuss a final position.

The remaining immediately surrounding neighbors (as indicated in the map below) are in full support of my request.

Additionally, I would like to withdraw my request for separate metering of the utilities.

Please call if you have any questions.

Thank you

**Lesser, Sherri**

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**From:** doug@mcqueensoutherland.com  
**Sent:** Sunday, January 03, 2010 6:32 PM  
**To:** Lesser, Sherri  
**Subject:** Case Number PL090003

Sherri: I oppose Mr. Huellmantel's request for a separate meter for his proposed accessory building. As you are aware and experienced, a separate meter quacks like a rental, and our neighborhood is zoned for one single family residences to prevent the degradation that numerous rentals create. I will also ask that the City enforces the R-1 zoning by not permitting the infrastructure that would allow the "accessory building" to become a dwelling unit. Mr. Huellmantel is hosting a neighborhood meeting tomorrow (Monday) at 5:00 pm, and I will attend and tell him my concerns. I'll try to come by your office tomorrow to verify the zoning and ask what it is that defines a separate dwelling unit. When I sat on the Board, it was a 2" drain that is required for a kitchen sink.

Thanks, Doug McQueen, 21 E. 14th street



**RESIDENCE AT 16 EAST 15<sup>TH</sup> STREET**

**16 EAST 15<sup>TH</sup> STREET**

**PL090003**

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







**RESIDENCE AT 16 EAST 15<sup>TH</sup> STREET**

**16 EAST 15<sup>TH</sup> STREET**

**PL090003**

**FRONT OF RESIDENCE**







**RESIDENCE AT 16 EAST 15<sup>TH</sup> STREET**

**16 EAST 15<sup>TH</sup> STREET**

**PL090003**

**REAR OF RESIDENCE – VIEW TO EAST**

