

070629

**City of** \_\_\_\_\_ Inter-Office Communication  
**Gainesville**

Planning Division  
X5023, FAX x3259, Station 12

**TO:** Mr. Erik Bredfeldt **DATE:** Tuesday, October 16, 2007  
**FROM:** Lawrence Calderon  
Chief of Current Planning  
**SUBJECT:** Building Permit for Single-family development at 2002 and 2008 NW 3<sup>rd</sup> Avenue; Tax  
Parcels 15076-000-000 and 15075-001-000

City Staff has received several inquiries regarding the permitting of residential structures located at 2002 and 2008 NW 3<sup>rd</sup> Avenue. This memo presents a chronology of events leading to the issuance of a permit to allow construction of a single-family dwelling with an accessory structure on the referenced parcels.

On May 4, 2007, First Step Staff met with Ms. Heather Dauthen concerning the subject property. Staff informed Ms. Dauthen that the property is zoned RC (Residential Conservation), which allows single-family and two-family dwellings. The applicant was also informed that the existing condition with two separate single-family dwellings on one parcel is not considered a duplex and is therefore non-conforming. Staff also provided to the applicant, a copy of the RC development standards.

On August 15, 2007, the applicant applied for a building permit for a unified development on tax parcels 15076-000-000 and 15075-001-000. The proposal included two separate single-family dwellings on one lot, which is not allowed by the code. The larger building, 3,575 square feet, contains two stories with five (5) bedrooms, seven (7) baths and one (1) kitchen. The smaller building contains a 1,140 square foot garage on the first floor and a second floor, 1,650 square feet, containing two (2) bedrooms, two (2) baths and one (1) kitchen. The proposal also showed a third house on a lot of record (tax parcel 15075-001-000), that was originally shown for demolition.

Staff rejected the application because it contained three separate single-family dwellings as part of the unified development. The RC (Residential Conservation District) allows single-family dwelling unit and two-family dwelling unit in accordance with the standards listed in Attachment "A". The code also defines a two-family dwelling unit as "...a building containing two dwelling units" (See Attachment "B").

Staff informed the applicant of the decision with the following recommendation:

1. The two-separate single-family dwellings should be combined to form one building with two dwelling units, meeting the definition of the Land Development Code.
2. If the two structures are attached in place, the structure on the north portion of the lot must meet the north, rear setback of twenty (20) feet.
3. The adjacent separate lot, tax parcel 15075-001-000, should be removed from the application or the existing structure on that parcel should be removed.
4. The smaller structure on the north side of tax parcel 15076-000-000 is considered a separate single-family dwelling and should be removed or changed to an accessory structure to the principal single-family dwelling.
5. The proposed deck on the south side of the main structure on tax parcel 15076-000-000 must meet the east, side setback of the RC zoning district.

After informing the applicant of the decision, the plans were red-lined with notes, indicating that the dwelling unit on tax parcel 15075-001-000 will be removed and the smaller structure on tax parcel 15076-000-000 would comply with the definition of an accessory structure. Staff approved the plans with a note indicating that the permit is approved, subject to compliance with those conditions. Staff included an additional note on the floor plans of the smaller structure, indicating that the range should be removed.

The applicant later resubmitted a new site plan as a cover sheet to the original submitted plans. The new site plan included only one lot, tax parcel 15076-000-000. The second adjacent lot, tax parcel 15075-001-000, was removed from the development proposal. The new site plan demonstrated compliance with setback requirements of the RC district and a letter was submitted, stating that the separate smaller structure is intended as a garage/accessory structure and it is not intended to be used or rented as a separate single-family dwelling.

A neighborhood representative indicated that the number of bedrooms versus the number of bathrooms was a concern to the neighborhood and questions whether the structure is a single-family dwelling. While the number of bedrooms with baths in the principal structure seems questionable, the ordinance does not limit the number of bedrooms and bathrooms that can be included in a single-family dwelling. Also, the principal building does not include more than one of the appliances listed in Section 30-23 (Definition of Single-family). The code limits the number of unrelated individuals that can occupy a single-family dwelling. The latter requirement is a condition of the permit and staff fully intends to monitor the use of the property and to ensure compliance with the code.

City staff also reviewed whether the accessory smaller building containing a 1,140 square foot garage on the first floor and a second floor, 1,650 square feet, containing two (2) bedrooms, two (2) baths and one (1) kitchen was a second unit. Staff approved this structure as an accessory unit based on a longstanding history of interpretation by Building Division, Code Enforcement and Planning, that a range/store is the essential appliance for food preparation and that the absence of such an appliance is sufficient to classify a structure as an accessory unit to a single-family dwelling. The building permit was issued on August 28, 2007.

The submitted plans were reviewed and approved by the State of Florida Department of Community Affairs as a modular building. There is a note on the plans stating that it complies with the Florida Manufactured Building Act of 1979. As such, and in accordance with Florida Statute 553.38, the City of Gainesville must treat this structure the same as any conventionally site constructed building.

Given the complexity of this issue and the concerns of neighborhoods, staff will review the definition of accessory structure, accessory use, dwelling unit, and single-family dwellings. One approach would be to develop a separate definition of accessory structures in single-family districts to address this issue. Staff will research how other communities address this issue and solicit neighborhood involvement and participation in the review process.

Recommendation: Refer this issue to the Community Development Committee.

**ATTACHMENT “A”**

TABLE INSET:

		RC
Maximum density		12 du/a
Minimum lot area 1 :		
	Single-family dwelling unit	3,000 sq. ft.
	Two-family dwelling unit 1	6,000 sq. ft. 3
Minimum lot width at minimum front yard setback:		
	Single-family dwelling unit	35 ft.
	Two-family dwelling unit	70 ft. 4
Minimum yard setbacks:		
	Front	The average of the actual distance (up to 20 feet) between the street right-of-way and principal structures on the 2 adjoining lots, using 20 feet for any adjoining vacant lot.
	Side (interior)	5 ft. 6
	Side (street)	N/A
	Rear	20 ft.
Maximum building height		3 stories
Maximum lot coverage		50%

- 1 A separate lot does not need to be created for each duplex, triplex, or quadraplex structure, where applicable.
- 2 However, the dwelling may be arranged so that a common wall is located on the property line of adjoining lots with a minimum lot area of 5,000 square feet in the RMF-5 district.
- 3 However, the dwelling may be arranged so that a common wall is located on the property line of adjoining lots with a minimum of 3,000 square feet in the RC district.
- 4 Except when a common wall is located on the property line of two adjoining lots, in which case the required width is 50 feet for each lot.
- 5 Except where a two-family dwelling is located with a common wall on the property line of two adjoining lots. In such instances, the yard setback for the side of each lot opposite the common wall shall be at least ten feet in the RMF-5 district. No setback for attached row house and townhouse units

- 6 Except where a two-family dwelling is located with a common wall on the property line of two adjoining lots. In such instances, the yard setback for the side of each lot opposite the common wall shall be at least 7.5 feet in the RC district.
- 7 Attached rowhouses and townhouses require no minimum lot width; however, such units require a 40-foot lot width maximum when units are on separate lots. In addition, such lots require no minimum lot area.

Accessory Structures for RC

TABLE INSET:

	RC
Minimum front and side yard setbacks	Same requirements as for the principal structure, excluding fences and walls.
Minimum yard setback, rear	5 ft. 1
Maximum building height	25 ft.
Transmitter towers 2	80 ft.

- 1 One pre-engineered and premanufactured structure of 100 square feet or less may be erected in the rear and side yards as long as the structure has a minimum yard setback of three feet from the rear or side property lines, is properly anchored to the ground, and is separated from neighboring properties by a fence or wall which is at least 75 percent opaque.
- 2 In accordance with section 30-98.

## ATTACHMENT "B"

### DEFINITIONS:

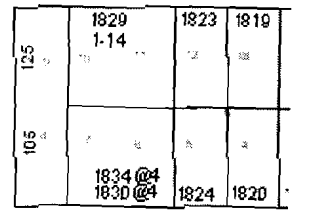
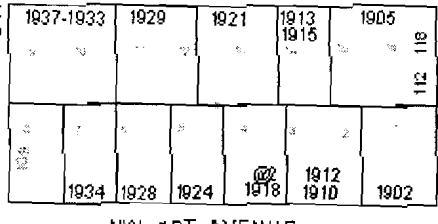
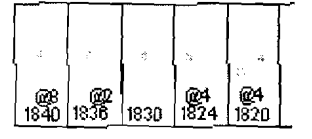
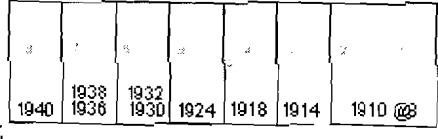
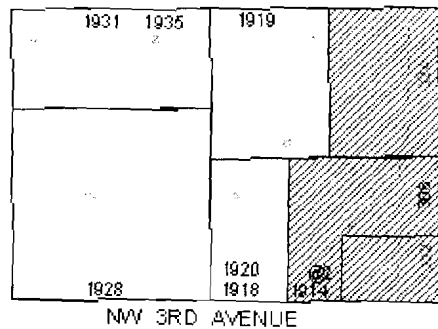
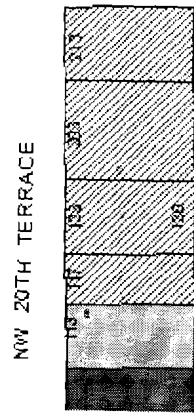
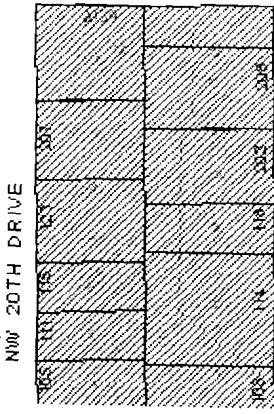
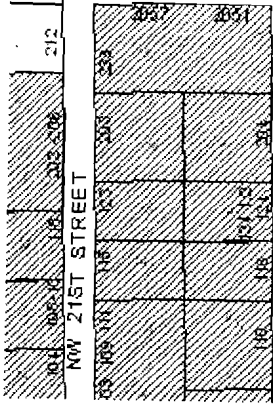
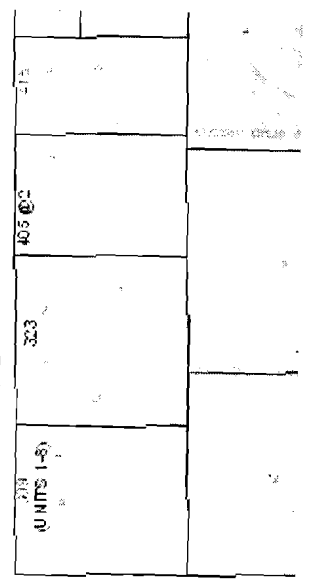
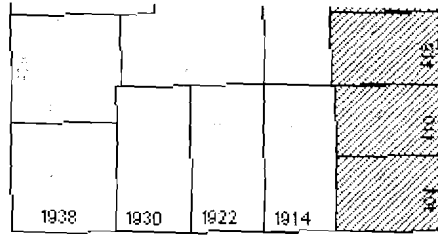
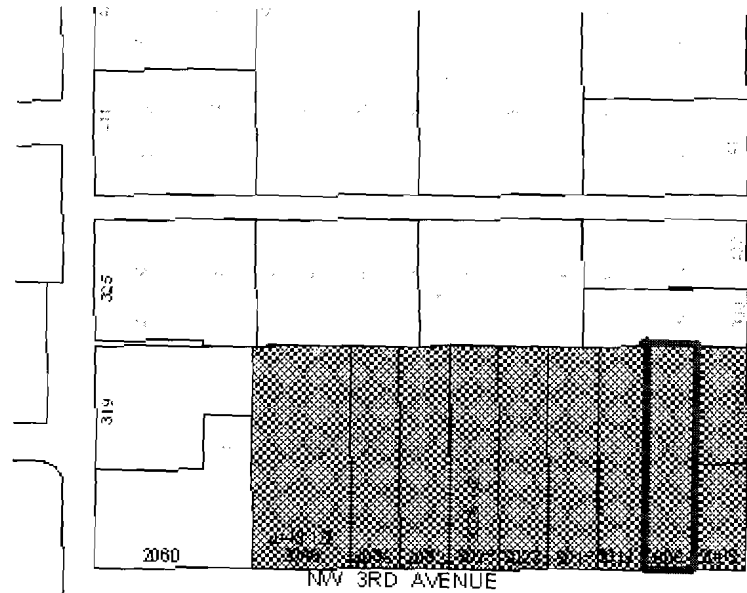
***Dwelling*** means any building used primarily for human habitation. The term "dwelling" shall not include a hotel, motel, tourist court or other building for transients, but shall include roominghouses and dormitories.

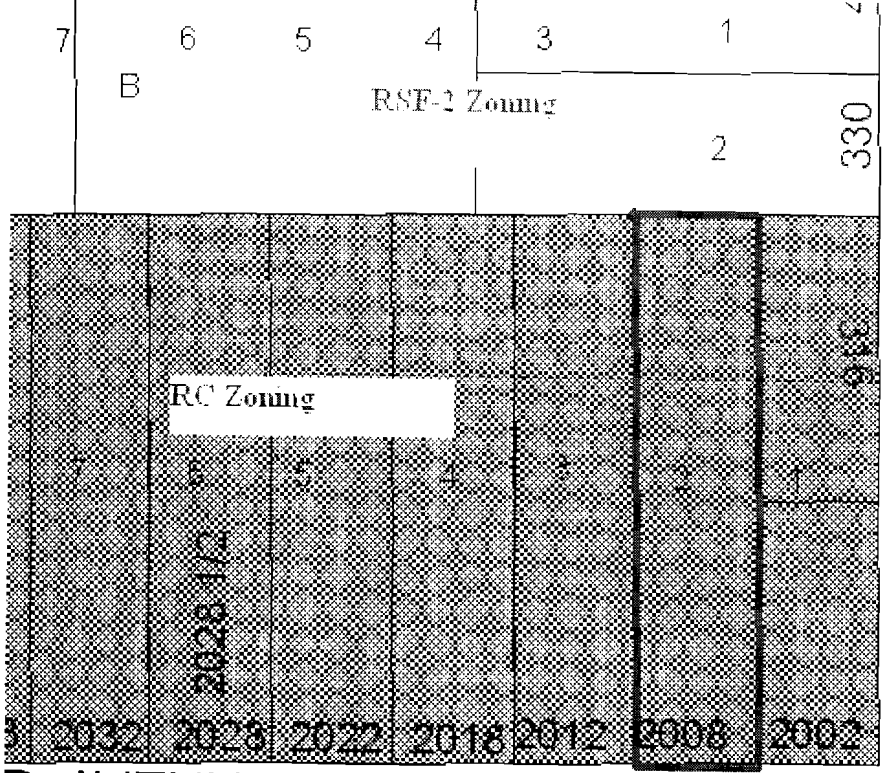
***Dwelling unit*** means a room or rooms, in a dwelling other than a roominghouse or dormitory, comprising the essential elements of a single housekeeping unit. Facilities for the preparation, storage and keeping of food for consumption within the premises shall cause a unit to be construed as a single dwelling unit. Each area with separate facilities for the preparation, storage and keeping of food for consumption within the premises shall be considered as a separate dwelling unit.

***Family*** means one natural person, or a group of two or more natural persons, living together and interrelated by bonds of blood, marriage or legal adoption, plus no more than two additional, unrelated, natural persons, occupying the whole or part of a dwelling unit as a separate housekeeping unit. A family also includes any foster children placed in a lawful foster family home and includes a community residential home, as defined in this chapter, with six or fewer residents. The persons constituting a family may also include domestic servants and temporary gratuitous guests. "Temporary gratuitous guests" as used herein shall refer to natural persons occasionally visiting such housekeeping unit for a short period of time not to exceed 30 days within a 90-day period

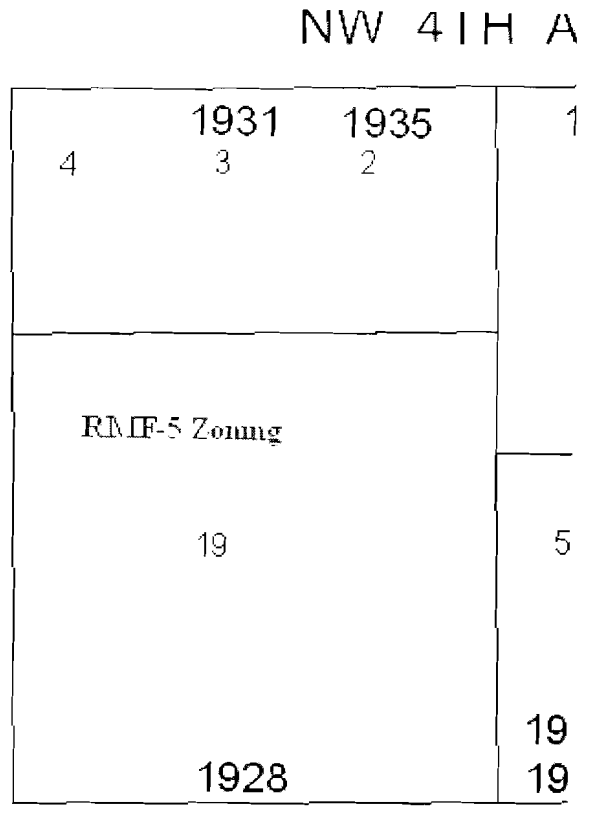
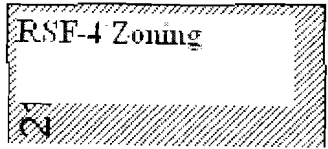
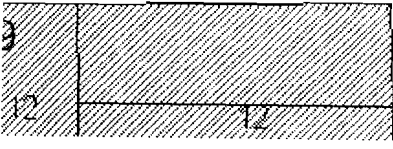
***Single-family dwelling***, in the RSF-1, RSF-2, RSF-3, RSF-4, and RC zoning districts and all residential planned developments with a density of no more than eight dwelling units per acre, means a single residential building consisting of one dwelling unit that is arranged, intended or designed for one family. A residential building with more than one meter for any utility (unless multiple meters are needed and billing is combined to one address); more than one address to the property; or more than two of the same major appliance (refrigerator, range, oven, kitchen sink, dishwasher, washer or dryer), even if consolidated in one kitchen or area, shall be considered a multifamily dwelling. In all other zoning districts, "single-family dwelling" means a structure containing only one dwelling unit.

***Two-family dwelling*** means a building containing two dwelling units.

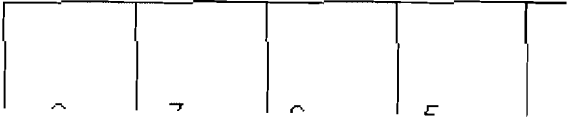




D AVENUE

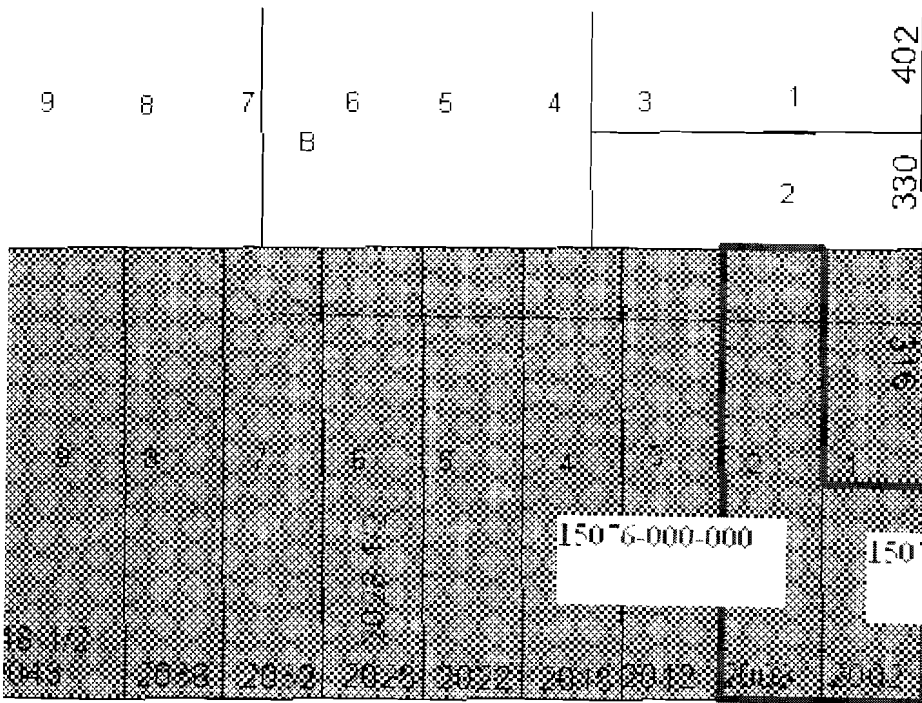


NW 3RD AV

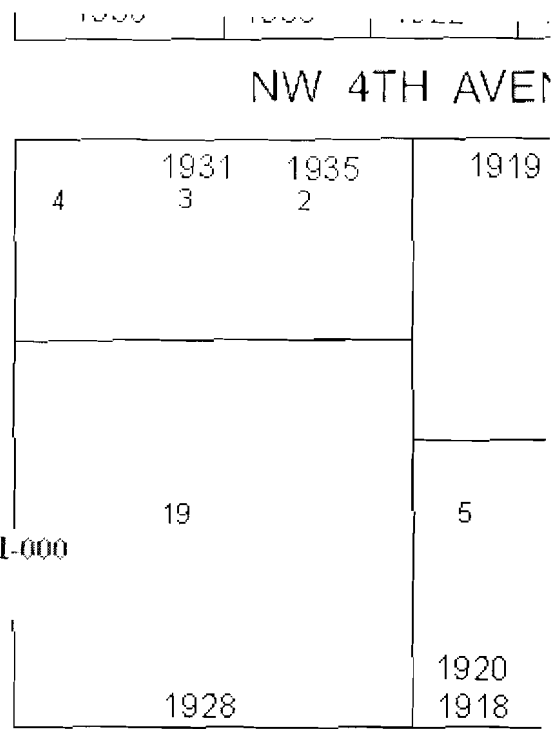








NW 3RD AVENUE



NW 3RD AVENUE

