

M3/1



SUBJECT TRACT



PENDING CASE



ZONING BOUNDARY

## NOTIFICATIONS

CASE#: C15-2017-0008  
LOCATION: 804 Winflo Drive



1" = 124'

This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

This product has been produced by CTM for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.



## CITY OF AUSTIN

One Texas Center | Phone: 512.978.4000  
505 Barton Springs Road, Austin, Texas 78704

## 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 # C15-2017-0008	ROW # 1165 4981	Tax # 0108031128
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### Section 1: Applicant Statement

Street Address: 804 Winflo Drive

Subdivision Legal Description:

Lot 6, Park View Subdivision, Travis County Texas, Plat of Record, Volume 5, Page 69, PRTCT

Lot(s): 6

Block(s):

Outlot:

Division:

Zoning District: MF-3-NP (old west austin)

I/We Javier Barajas, P.E.

on behalf of myself/ourselves as

authorized agent for Patricia M. and William G. Schaub

affirm that on

Month January, Day 5, Year 2017, 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: 3 Two-story Multifamily Residential Units (Single Building 4,299.67 GFA)

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

Title 25 - Land Development Code, Section 25-2-943, Substandard Lot

## 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 zoning regulations allow for the use; however, the lot does not meet the minimum lot size required per the zoning designation (MF-3 minimum lot size requirement is 8,000 square-feet). The intended use will be multi-family.

A subdivision plat was created, approved and recorded in 1948 (Park View). The lot has been in the same configuration since it was platted in 1948 and is 7,353.87 square-feet in size.

### Hardship

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

It is the only lot that is surrounded by other MF-3 and MF-4 lots used as multi-family that does not meet the minimum lot size requirement as assigned under the MF-3 designation by the City Ordinance. The zoning designation placed on the property does not allow us to fully utilize the MF-3 guidelines because the lot does not meet the minimum lot size requirement by only 646.13 square-feet. See "Section 6, Additional Space" of this application for more information.

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

Surrounding area developments include tracts Zoned MF-3 and MF-4 that are less than 8,000 square-feet in size and are multi-family (Triplex and Fourplex) residential use.

**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:

All adjacent lots, with the exception of the lot coincident and to the south, on Winflo Drive are multi-family use lots. The proposed development will be in harmony with the area adjacent to the property, will not impair the use of adjacent conforming property and will not impair the regulations of the zoning district. Harmony with properties adjacent and to the north will be based on use; adjacent condos and/or apartment use. Harmony with properties adjacent and to the south will be architectural as well as scale.

**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. parking requirements are met.
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:
3. The granting of this variance will not create a safety hazard or any other condition inconsistent with the objectives of this Ordinance because:
4. The variance will run with the use or uses to which it pertains and shall not run with the site because:



**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: *Patricia M. Schaub*

Date: *1-6-2017*

Applicant Name (typed or printed): Patricia M. and William G. Schaub

Applicant Mailing Address: 3440 Normandy Avenue

City: Dallas

State: Texas

Zip: 75205

Phone (will be public information):

Email (optional – will be public information):

**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: *Patricia M. Schaub*

Date: *1-6-2017*

Owner Name (typed or printed): Patricia M. and William G. Schaub

Owner Mailing Address: 3440 Normandy Avenue

City: Dallas

State: Texas

Zip: 75205

Phone (will be public information):

Email (optional – will be public information):

**Section 5: Agent Information**

Agent Name: Javier Barajas, P.E.

Agent Mailing Address: 5811 Blue Bluff Road

City: Austin

State: Texas

Zip: 78724

Phone (will be public information): (512) 913-5080

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).

Hardship a) continued. The 804 plat adjoins an unused buffer of land that measures approximately 565 square-feet. This undeveloped parcel is surveyed as part of 806, but its elevation differs from the rest of 806 by virtue of an 18" retaining wall that frames it away from the rest of the property and attaches it to 804. It also matches the elevation of 804 and provides a combined area of

**Additional Space (continued)**

928 square-feet. Please see attached pictures.

We wish it to be known that we have been neighbors and homeowners at 806 Winflo for more than 12 years, and presently own the majority of the building's units. Concurrent with the approved project at 804, we intend to make additional and substantial improvements at 806 Winflo within the next year. These include a newly paved parking lot, new siding, extensive landscaping and other beautifications, in accordance with OWANA and City of Austin guidelines.

In closing, we also wish it to be known that we intend to remain active and present in the neighborhood. We have always occupied a unit at 806 Winflo. The tenants that live in our other units are our neighbors; we choose them with care and experience little turnover in our building. We will reside at 804 Winflo upon its completion and will continue to have the same care and concern for them as well as for our other neighbors in Old West Austin.

Sincerely,

Patti and Greg Schaub

SAVE



## CITY OF AUSTIN

### Development Services Department

One Texas Center | Phone: 512.978.4000

505 Barton Springs Road, Austin, Texas 78704

## Board of Adjustment General/Parking Variance Application

The following information provides a summary of the Board of Adjustment variance process. This is not intended to be a complete or exhaustive guide in assisting you through this process.

### Variance Requirements

- A. A variance may be granted if, because of special circumstances of a property, the strict application of the City of Austin Land Development Code regulations deprives the property owner of privileges that are enjoyed by another person who owns property in the area that has the same zoning designation as the property for which the variance is requested.
- B. A variance to a regulation may not grant special privileges that are inconsistent with the limitations on other properties in the area or in the district in which the property is located.

### Submittal Requirements

**All variances expire one year after approval date per City Code Section 25-1-217 unless Board decision states otherwise.**

Failure to complete the application or to submit all the required materials below will result in non-acceptance of the application, and it will not be added to the next Board agenda.

1. A completed application indicating all variances being requested. The application must include proposed findings that will support requested variances. The required findings must address each variance being sought.
  - Application must be typed
  - Application must be signed and dated by owner and agent
2. A site plan or survey drawn to scale indicating present and proposed construction and location and use of structures on adjacent lots.
3. If property is located in Williamson County, then contact Williamson County Appraisal District for an electronic spreadsheet list of the property owners' names and addresses within a 500-foot radius.
4. Check made payable to the City of Austin for the Board of Adjustment application fee.
  - See Board of Adjustment fees at: <http://www.austintexas.gov/department/fees>
5. Other Information — Although the following is not a requirement of submittal you may wish to include additional information that may assist the Board in making an informed decision regarding your request such as: photos of the site or visual aids to support the request, letters from the neighborhood association(s), signatures of support from neighbors, tree and topography information, cover letter explaining extenuating circumstances, elevations of the proposed

structure, floorplans of the proposed structure, etc. Any additional information you wish to submit must be in our office two weeks prior to the meeting. The Board will receive an 8-1/2" x 11" black and white copied packet with all information that has been submitted on the Thursday prior to the meeting. If you would like the Board to see any of your evidence in either full color or large format, provide 15 sets of the information to our office two weeks prior to the meeting.

— Please consider contacting your Neighborhood Association about your request

6. Austin Energy approval as noted below:

— The Austin Electric Utility Department (Austin Energy) enforces electric easements and the setback requirements set forth in the Austin Utility Code, Electric Criteria Manual, and National Electric Safety Code. The Board of Adjustment considers variance to the City of Austin Land Development Code, and a variance granted by the Board does not waive the requirements enforced by Austin Energy. Prior to your variance hearing, you must receive approval from Austin Energy by contacting Eben Kellogg at (512) 322-6050 or email [eben.kellogg@austinenergy.com](mailto:eben.kellogg@austinenergy.com).

Variances approved by the Board are limited to and conditioned upon the plans and specifications presented by the applicants, except as modified by the Board.

Please be advised that the Board only reviews 16 new cases a month, therefore, applications will be accepted on a first come, first served basis. In addition, a request for reconsideration must be filed within 10 days from the Board meeting.

Board of Adjustment staff

City of Austin – Development Assistance Center  
505 Barton Springs Road  
Austin, Texas 78704  
Phone: (512) 978-4000; Fax: (512) 974-6305

Mailing Address

P. O. Box 1088  
Austin, Texas 78767-1088

## Required Findings

All variance findings must be met in order for the Board to grant a variance. An application must include proposed findings that will support the requested variance. Incomplete applications will not be accepted.

### Reasonable Use

Application must demonstrate to the Board how the zoning regulations applicable to the property do not allow for a reasonable use of the property. (Note: The Board cannot approve a variance for a use that is not allowed in the zoning district in which the property is located. This requires a change in zoning.)

### Hardship

- a) Application must demonstrate to the Board how the hardship for which the variance is requested is unique to the property. Hardship should be specific to the property for which the variance is being requested (for example, topography, lot configuration, or any physical constraint that would limit the placement of the structure or prevent compliance with required site development regulations, etc.). A strictly financial or personal reason is not a valid hardship.

- b) Application must demonstrate to the Board why the hardship is not general to the area in which the property is located. Describe how the hardship relating to the site is different from other properties in the area.

### **Area Character**

Application must demonstrate to the Board how 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 zoning regulations of the zoning district in which the property is located.

### **Parking**

Parking variances **require additional findings** to be made. The additional findings are listed on the application and must also be completed for submittal of the application.



## CITY OF AUSTIN

### Development Services Department

One Texas Center | Phone: 512.978.4000  
505 Barton Springs Road, Austin, Texas 78704

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Case # \_\_\_\_\_ ROW # \_\_\_\_\_ Tax # \_\_\_\_\_

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Subdivision Legal Description:

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Lot(s): 6 Block(s): \_\_\_\_\_

Outlot: \_\_\_\_\_ Division: \_\_\_\_\_

Zoning District: MF-3-NP

I/We Mike McHone on behalf of myself/ourselves as  
authorized agent for Patricia M. and Willaim G. Schaub affirm that on  
Month December, Day 19, Year 2016, 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: 3 Two-story Multifamily Residential Units (Single Building 4,299.67 GFA)



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

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**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 zoning regulations allow for the use; however, the lot does not meet the minimum lot size required per the zoning designation MF-3,(MF-3 minimum lot size requirement is 8,000SF). The intended use will be multi-family.

A subdivision plat was created, approved and recorded in 1948 (Park View). The lot has been in the same configuration since it was platted in 1948 and is 7,353.87 SF in size.

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### Hardship

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

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## 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:

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n/a, parking requirements are met.

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:

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

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

### 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: \_\_\_\_\_

Applicant Name (typed or printed): Patricia M. Schaub

Applicant Mailing Address: 3440 Normandy Avenue

City: Dallas State: Texas Zip: 78724

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

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

### 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: \_\_\_\_\_

Owner Name (typed or printed): Patricia M. Schaub

Owner Mailing Address: 3440 Normandy Avenue

City: Dallas State: Texas Zip: 75205

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

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

### Section 5: Agent Information

Agent Name: Mike McHone

Agent Mailing Address: P.O.Box 8142

City: Austin State: Texas Zip: 78713

Phone (will be public information): (512) 554-8440

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).

Hardship a.) continued. The 804 plat adjoins an unused buffer of land that measures approximately 565 square-feet. This undeveloped parcel is surveyed as part of 806, but its elevation differs from the rest of 806 by virtue of an 18" retaining wall that frames it away from the rest of the property and attaches it to 804. It also matches the elevation of 804 and provides a combined area of 928

**Additional Space (continued)**

square-feet. Please see attached pictures.

We wish it to be known that we have been neighbors and homeowners at 806 Winflo for more than 12 years, and presently own the majority of the building's units. Concurrent with the approved project at 804, we intend to make additional and substantial improvements at 806 Winflo within the next year. These include a newly paved parking lot, new siding, extensive landscaping and other beautifications, in accordance with OWANA and City of Austin guidelines.

In closing, we also wish it to be known that we intend to remain active and present in the neighborhood. We have always occupied a unit at 806 Winflo. The tenants that live in our other units are our neighbors; we choose them with care and experience little turnover in our building. We will reside at 804 Winflo upon its completion and will continue to have the same care and concern for them as well as for our other neighbors on Old West Austin.

Sincerely,

Patti and Greg Schaub

**SAVE**

## Mike McHone Real Estate

March 27, 2017

Board of Adjustments  
City of Austin  
c/o Leane Heldenfels, City Staff  
505 Barton Springs Rd.  
Austin, TX 78704

RE: 804 Winflo C15-2017-0008  
SP 2016-032GC

Dear Members of the Board,

The variance requested is for Lot 6, Parkview (subdivision) recorded May, 1949. (Exhibit 1) The City of Austin passed its first subdivision ordinance in March of 1946. The current land development process in Austin is zoning, subdivision, site plan and then building permit, in that order. (Exhibit 2) All lots in this subdivision were in compliance with the zoning ordinance when it was passed. The zoning ordinance in effect at that time was Chapter 45. Lot #6 (804 Winflo) is about 7,354 sq. ft. and was zoned B-2nd height and area. Page 83 of Chapter 45 permits a triplex on lots zoned B-2nd height and area (H&A) (Exhibit 3)

Subsequent City Councils adopted new zoning codes. In 1984, the current code was adopted, in which the B 2nd H&A was changed to MF3 (multifamily 3). (Exhibit 4) The minimum lot size under B-2 H&A was 7,000 sq. ft. for a triplex and under MF3, the minimum lot size was 8,000 sq. ft., thus making Lot 6 non-conforming.

804 Winflo (Lot 6) is currently a vacant lot that formerly contained a single family home in poor condition. The lots to the north across the street are apartments, and the lots to the rear and south are single family homes. The owner had a feasibility study done by a local architect in which they discussed the project with nearby neighbors and then took to the City Development Assistance Center (DAC). After a four meeting which included a local builder and architect, DAC said they were ready for site plan submittal of the proposed 4-plex. The owners hired a local architect and builder to develop plans that met the zoning, compatibility and neighborhood plan requirements. In July, 2016 the completed site plan was submitted to the City. The civil plans were determined to be complete and were submitted for review. The first round of staff review comments were issued and the civil engineer submitted responses. The subsequent City staff review issued in November, 2016 added the new comment SP 1 stating that Lot 6 (804) was substandard per LDC 25-2-943 and that a Board of Adjustment variance was required.

This came as a great shock to the owners, as they had planned to move into the larger unit, have their son on one side, and rent the third unit. The owners had also invested considerable funds in engineering and architectural services. The civil engineer filed the BOA application and the owners met

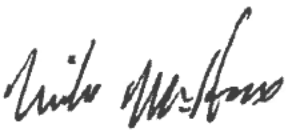
1904 Guadalupe "On the Drag" • ph: 512-481-9111 • fax: 512-481-1002 •  
mchone1234@sbcglobal.net  
mailing address: P.O. Box 8142, Austin, TX, 78713

with their neighbors to explain the situation. I was contacted in January, 2017 and asked to assist with the BOA case.

Article 7 (non-conforming uses) 25-2-941 was adopted to deal with conflicts resulting from the adoption of Chapter 25. The staff states that 25-2-943 (substandard lot) does not apply to Lot 6 (804 Winflo) because it was platted after March 15, 1946. However, 25-2-942 of the Land Development Code "Uses Conforming on March 1, 1984" states that if a property conformed to the zoning regulations in effect on March 1, 1984, it is a conforming lot. This means that 804 Winflo (lot 6) is a conforming lot per the code and that a triplex could be built.

In meeting with the neighbors, the owners have reported that one concern is that many of the lots in Park View subdivision are zoned MF4 multifamily and that granting this variance would create a precedent. The main argument to counter this concern is that the addition of the current zoning includes "compatibility", which makes it very difficult to redevelop any lot that has a single family use. (Exhibit 6) In the adoption of the Old West Austin neighborhood plan, the current base zoning was not changed. Concerned owners could file a zoning change to down zone this property. In an extreme case, the concerned parties could agree to file a private restrictive covenant to make sure only single family homes were allowed. Other neighborhood concerns typically are parking and potential flooding. The COA requires that site plans must meet all requirements for onsite parking and storm water control before they can be approved.

In summary, Lot 6 804 Winflo was legally platted and zoned for a triplex use by the code in force at the time it was platted. The lot has not changed. The current (Exhibit 6) strict application of the lot size requirements of the current code creates a hardship and prevents reasonable use.



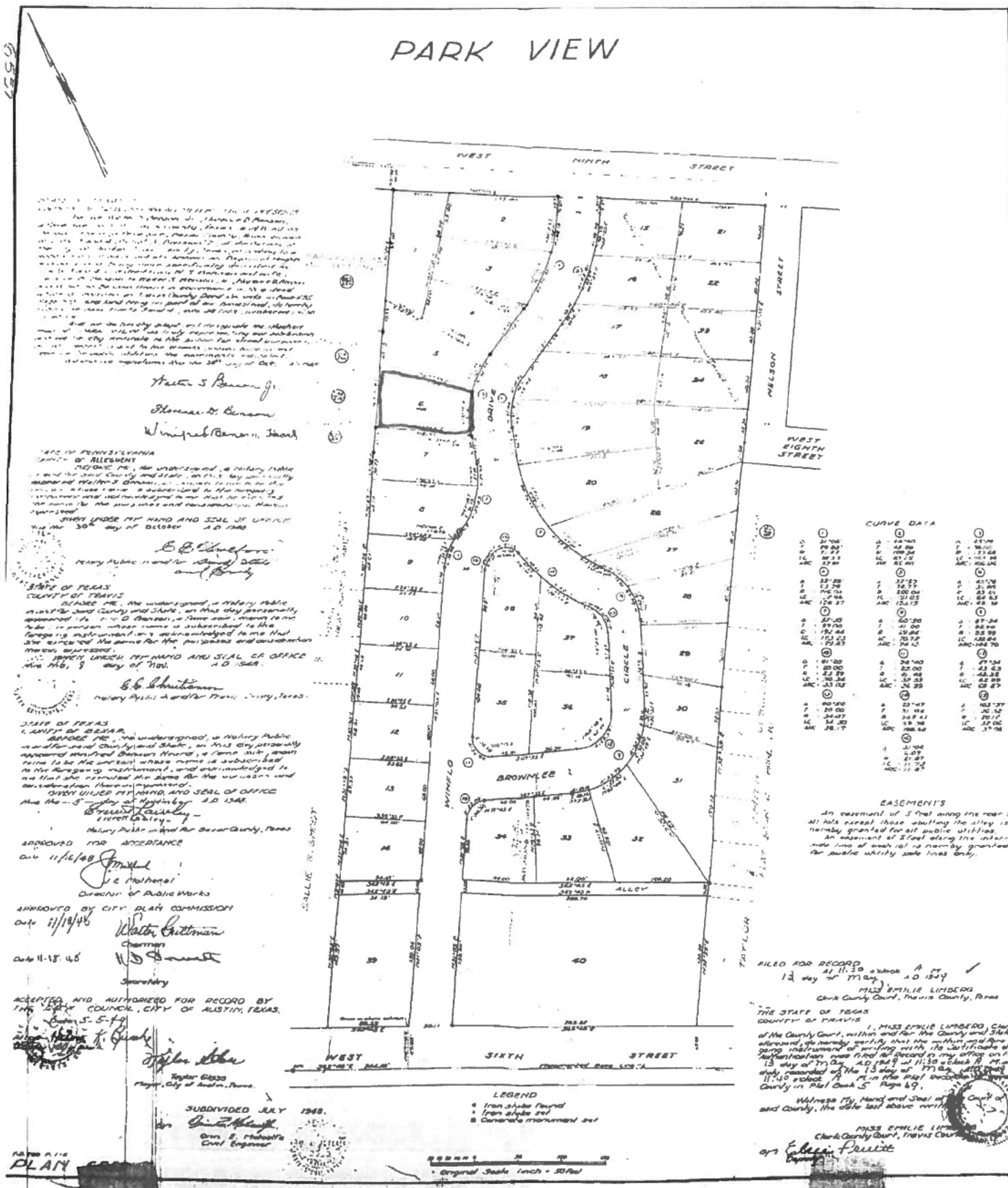
Mike McHone



For Reconstruction of this subdivision, July 1948, and 126 West Beecher

Exhibit 1, 1948  
P. 1, 1948

### PARK VIEW



## DEVELOPMENT PROCESS

	Development Assessment →	Zoning →	Subdivision →	Site Plan →	Building Plan →	Inspection
Regulation Review Elements	<ul style="list-style-type: none"> <li>• Pre-Application Review</li> <li>• Explanation of Procedures and Requirements for all Processes</li> <li>• Fee Estimates</li> <li>• Potential Issues</li> <li>• Exemptions</li> <li>• Corrections</li> <li>• Land Status</li> </ul>	<ul style="list-style-type: none"> <li>• Land Use Appropriateness</li> <li>• Development Intensity Density Height</li> <li>• Traffic Impact</li> <li>• Environmental Impact</li> </ul>	<ul style="list-style-type: none"> <li>• Park Land Design Layout</li> <li>• Lot/Tract Size Circulation</li> <li>• Street Drainage/Grading</li> <li>• Flood Plain</li> <li>• Environmental Water Quality</li> <li>• Tree/Vegetation Habitat</li> <li>• Critical Features</li> <li>• Utilities Transmission Distribution Service</li> </ul>	<ul style="list-style-type: none"> <li>• Design Intensity Density Height Setbacks</li> <li>• Compatibility</li> <li>• Transportation</li> <li>• Driveways</li> <li>• Parking/Circulation</li> <li>• Traffic Impact</li> <li>• Construction Drainage</li> <li>• Flood Plain</li> <li>• Environmental Landscaping/Tree Water Quality</li> <li>• Utilities (Service)</li> <li>• Fire (Site)</li> </ul>	<ul style="list-style-type: none"> <li>• Health</li> <li>• Taps</li> <li>• Electric Service</li> <li>• Industrial Waste</li> <li>• Construction</li> <li>• Occupancy</li> <li>• Access/Exiting</li> <li>• Structural</li> <li>• Mechanical</li> <li>• Electrical</li> <li>• Plumbing</li> <li>• Energy</li> <li>• Fire</li> <li>• Zoning Review</li> <li>• Signs</li> <li>• Barricades</li> <li>• Underground Tanks</li> </ul>	Site & Building Plan Compliance
Notice	_____	<ul style="list-style-type: none"> <li>• Property Owners within 300', Registered Neighborhood Organizations, Sector Groups at time of Application, and for Public Hearings</li> <li>• Signs Posted</li> <li>• Newspaper Ads</li> </ul>	<ul style="list-style-type: none"> <li>• Property Owners within 300', Registered Neighborhood Organizations, Sector Groups at time of Application, and for Public Hearings (Preliminary Only)</li> </ul>	<ul style="list-style-type: none"> <li>• Property Owners within 300', Registered Neighborhood Organizations, Sector Groups at time of Application, and for Public Hearings (If Any...)</li> </ul>	_____	_____
Approval Authority	_____	City Council	<ul style="list-style-type: none"> <li>• Planning Commission</li> <li>• P &amp; D Department Final w/o Prelim. ≤ 4 lots</li> <li>• Amended Plats</li> </ul>	<ul style="list-style-type: none"> <li>• P &amp; D Department Planning Commission</li> <li>• Conditional Use Hill Country</li> </ul>	<ul style="list-style-type: none"> <li>• Planning and Development Department</li> </ul>	<ul style="list-style-type: none"> <li>• Planning and Development Department</li> </ul>
Appeal	_____	_____	<ul style="list-style-type: none"> <li>• Watershed Variances to City Council</li> </ul>	<ul style="list-style-type: none"> <li>• Waivers to Planning Commission w/ Appeals to City Council</li> <li>• Planning Commission Approval Appeal to City Council</li> </ul>	<ul style="list-style-type: none"> <li>• Building Official</li> <li>• Trade Boards</li> <li>• Zoning Variances to Board of Adjustment</li> <li>• Sign Variances to SRB</li> </ul>	<ul style="list-style-type: none"> <li>• Building Official</li> <li>• Trade Boards</li> </ul>
Product	Assessment Report	Zoning Ordinance	Preliminary Plan Recorded Plat	Released Site Plan	Building Permit	Certificate of Occupancy

EXHIBIT 2

M3/19

MIKE McHANE

EXHIBIT 3  
PAGE 1 OF 4

# ZONING ORDINANCE

CHAPTER 45

AUSTIN CITY CODE



NOVEMBER 1972

§ 45-34

AUSTIN CITY CODE

§ 45-34

	Area Per Unit	Minimum Lot Area
One-family detached unit	5,750	5,750
One-family attached unit in "A" Residence (Townhouse)*	3,500	3,500
One-family attached unit in "BB" or less restricted Use Dis- trict (Townhouse)*	2,500	2,500
Two-family unit	3,500	7,000
Three-family unit	2,667	8,000

<u>Apartment House or Apartment Hotel</u>					
Use	1	Each Additional Bedroom	Hotel or Motel Unit	Dormitory (per person)	
BB	1,600	1,800	200	1,600*	200*
B, O, LR & GR	800	950	150	800	150
C, C-2, DL*, D & E	650	700	100	650	150

\* See provisions concerning use in appropriate use district regulations. The minimum lot area requirements for apartment, apartment hotels, hotels, or motels and dormitories shall be:

BB	8,000
B or less restricted (6-20-68.)	6,000

(c) Business and industrial buildings:

(1) YARDS:

A. Front and side streets. All buildings shall be set back from the front street at least twenty-five feet for the building line, and shall be set back from the side street at least ten feet for the building line, and the requirements of subsection (k) of section 45-33 shall also apply for buildings constructed on any property in an "O" office district or less restricted district when immediately adjoining property in a "B" residence district or more restricted district.

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b. Side yard and rear yard. No side yard shall be required, but if a side yard be provided it shall have a minimum width of three feet. The minimum depth of rear yards shall be five feet.

c. Coverage. The combined area of the side yards and the rear yard shall be not less than forty-five percent of the total area of the lot behind and to the rear of the front setback lines.

d. Accessory buildings. An accessory building shall observe the same regulations as prescribed for the principal building.

(2) LOT AREA. All lots for business and industrial buildings shall conform to the requirements of chapter 41. (7-17-41; Ord. No. 680620-I, pts. 3, 4,; Ord. No. 681121-B, pts. 8, 9.)

Sec. 45-35. SAME--SECOND HEIGHT AND AREA DISTRICT.

In the second height and area district, for buildings erected or structurally altered, the height of buildings, the minimum dimensions of yards and courts and the minimum lot and lot area per family shall be as follows:

(a) General provisions:

(1) HEIGHT. No building shall exceed sixty feet in height.

(2) COURTS. The least dimension of an inner court shall be not less than six feet, nor less than two and one-half inches for each foot of height of such court, nor shall its area be less than twice the square of its required least dimension.

(3) OFF-STREET PARKING. Space for off-street parking shall be provided as described in section 45-30.

(4) USES SUBJECT TO CONDITIONS. Where uses enumerated in any use district are conditioned upon special height, yard, open space or coverage requirements, and are to be constructed in a second height and area district, the special requirements shall apply unless the requirements of this district are more restrictive.

(b) Residential buildings:

(1) YARDS:

a. Front and side streets. Except as provided in subsection (d) of this section, all buildings shall set back from the front street twenty-five feet for the building line, and the front line of any porch shall set back from the front street fifteen feet; buildings shall set back from the side street ten feet for the building line, and porches shall set back from the side street four feet.

b. Side yard and rear yard. There shall be a rear yard, and a side yard on each side of the building. A rear



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yard shall be not less than five feet in depth, and the total width of side yards shall be not less than thirty percent of the total width of the lot; except that the total width of side yards shall not be required to be more than fifteen feet, and that the least side yard shall be not less than five feet wide; provided, however, that in "A" and less restricted use districts where a lot is sixty feet or less in width at the building line thereof, the total width of side yards shall be not less than ten feet and each side yard shall be not less than five feet in width. (Ord. No. 700402-E.)

c. Coverage. The combined area of the rear yard and the side yards shall be not less than forty-five percent of the total area of the lot behind and to the rear of the front setback lines.

d. Accessory buildings. A private garage, private stable, poultry shed, storage room or other accessory buildings, where the principal use is a dwelling, shall be so located and placed on a lot that no part thereof shall be a lesser distance from the front property line than seventy-five percent of the mean depth of the lot measured from the front property line to the rear property line; provided, that in no case shall the distance from the front property line be required to be greater than ninety feet, and a setback line for any such accessory building of not less than twenty feet from any side street line, and twenty-five feet from any rear street line on through lots; that on both sides of and parallel to any side street, the setback distance from the side street for any such accessory building shall be not less than ten feet; and that in no case shall the building be less than five feet from any property line.

(2) Area per unit and minimum lot area. In the second height and area district, the area per dwelling unit, hotel or motel unit and person per dormitory unit, and the minimum lot area, in square feet, shall be in conformity with the minimum requirements as specified in the following schedule and provisions:

	Area Per Unit	Minimum Lot Area
One-family detached unit	5,750	5,750
One-family attached unit in "A" residence (Town house)*	3,500	3,500
One-family attached unit in "BB" or less restricted use district (Town house)*	2,500	2,500
Two-family unit	3,000	6,000
Three-family unit	2,334	7,000



# SUMMARY OF CURRENT & PROPOSED ZONING

This is a summary of Permitted Uses in the Current and Proposed zoning ordinances. Locate the current zoning in the left-hand column. Then follow the arrow across to the right-hand column to find the proposed zoning. Only examples of permitted uses have been listed. Conditional uses which require additional review are not listed. Please refer to the appropriate zoning ordinance for additional uses and requirements. Explanatory notes at bottom of last page.

CURRENT ZONING		PROPOSED ZONING
<b>LA</b> LAKE AUSTIN RESIDENCE (all H&A districts) Single Family Dwelling. (Min. Lot: 1 acre)	→	<b>LA</b> LAKE AUSTIN RESIDENCE DISTRICT Height: 35 ft. Single Family Dwelling. (Min. Lot: 1 acre)
<b>SR</b> SUBURBAN RESIDENCE (1st H&A) Single Family Dwelling. (Min. Lot: 1 acre)	→	<b>RR</b> RURAL RESIDENCE DISTRICT Height: 35 feet. Single Family Dwelling. (Min. Lot: 1 acre)
NO EQUIVALENT IN CURRENT ZONING ORDINANCE	→	<b>SF-1</b> SINGLE FAMILY RESIDENCE (LARGE LOT) Hgt: 35 ft. Single Family Dwelling. (Min. Lot: 10,000 sq. ft.)
<b>AA</b> RESIDENCE (1st H&A, 2nd H&A) Single Family Dwelling. (Min. Lot: 5,750 sq. ft.)	→	<b>SF-2</b> SINGLE FAMILY RESIDENCE (STD. LOT) Hgt. 35 ft.) Single Family Dwelling. (Min. Lot: 5,750 sq. ft.)
<b>A</b> RESIDENCE (all H&A districts) Any use permitted in "AA", Single Family Dwelling, Duplex. (Min. Lot: 5,750 sq. ft.)	→	<b>SF-3</b> FAMILY RESIDENCE Height: 35 ft. Single Family Dwelling, Duplex (Min. Lot: 5,750 sq. ft.)
NO EQUIVALENT IN CURRENT ZONING ORDINANCE	→	<b>SF-4</b> SINGLE FAMILY RESIDENCE (SMALL LOT) Hgt. 35 ft. Single Family Dwelling (Min. Lot: 3,600 sq. ft.)
NO EQUIVALENT IN CURRENT ZONING ORDINANCE	→	<b>SF-5</b> URBAN FAMILY RESIDENCE Height: 35 ft. Single Family Dwelling, Duplex, Townhouses, and Condominiums. (Min. Lot: 5,750 sq. ft.)
<b>A-2</b> CONDOMINIUM RESIDENCE (1st H&A) Any use permitted in "A" and Condominiums. (Min. Lot: 14,000 sq. ft.)	→	<b>SF-6</b> TOWNHOUSE AND CONDOMINIUM RESIDENCE Hgt: 35 ft. Single Family Dwelling, Duplex, Two Family Dwellings (See Note 1), Townhouses, Condominiums. (Min. Lot: 5,750 sq. ft.)
NO EQUIVALENT IN CURRENT ZONING ORDINANCE	→	<b>MF-1</b> MULTI-FAMILY RESIDENCE (LMT'D DENSITY) Hgt: 40 ft. Single Family Dwelling, Duplex, Two Family Dwellings (See Note 1), Townhouses, Apts. Up to 17 U.P.A. (Min. Lot: 8,000 sq. ft.)
<b>BB</b> RESIDENCE (1st H&A, 6th H&A) Any use permitted in "A", Apartments, 22-27 U.P.A.	→	<b>MF-2</b> MULTI-FAMILY RESIDENCE (LOW DENSITY) Hgt: 40 ft. Single-Family Dwelling, Duplex, Two Family Dwellings (See Note 1), Townhouses, Apts. Up to 23 U.P.A. (Min. Lot: 8,000 sq. ft.)
<b>BB</b> RESIDENCE (2nd H&A, 5th H&A) Any use permitted in "A", Apartments, 29-36 U.P.A.	→	<b>MF-3</b> MULTI-FAMILY RESIDENCE (MED. DENSITY) Hgt: 40 ft. Single Family Dwelling, Duplex, Two Family Dwellings (See Note 1), Townhouses, Apts. Up to 36 U.P.A. (Min. Lot: 8,000 sq. ft.)
<b>B</b> RESIDENCE (1st H&A) Any use permitted in "BB", Apartments, 54-67 U.P.A.		
<b>BB</b> RESIDENCE (3rd H&A) Any use permitted in "A", Apartments, 40-54 U.P.A.		
<b>B</b> RESIDENCE (6th H&A) 40-54 U.P.A. (2nd, 5th H&A) 54-67 U.P.A. Any use permitted in "BB", Apartments.	→	<b>MF-4</b> MULTI-FAMILY RESIDENCE (MOD.-HIGH DENSITY) Hgt: 60 ft. Single Family Dwelling, Duplex, Two Family Dwellings (See Note 1), Townhouses Apts. Up to 54 U.P.A. (Min. Lot: 8,000 sq. ft.)
<b>BB</b> RESIDENCE (4th H&A) Any use permitted in "A", Apartments, 54-67 U.P.A.		
<b>B</b> RESIDENCE (3rd H&A) 72-96 U.P.A. RESIDENCE (4th H&A) 87-116 U.P.A. Any use permitted in "BB", Apartments	→	<b>MF-5</b> MULTI-FAMILY RESIDENCE (HIGH DENSITY) Hgt: 50 ft. Single Family Dwelling, Duplex, Two Family Dwellings (See Note 1), Townhouses, Apts. Up to 54 U.P.A. (Min. Lot: 8,000 sq. ft.)
NO EQUIVALENT IN CURRENT ZONING ORDINANCE	→	<b>MF-6</b> MULTI-FAMILY RESIDENCE (HIGHEST DENSITY) Hgt: 90 ft. Single Family Dwelling, Duplex, Two Family Dwellings (See Note 1), Townhouses, Apts. Unlimited Density. (Min. Lot: 8,000 sq. ft.)
<b>MH</b> MOBILE HOME (1st H&A)	→	<b>MH</b> MOBILE HOME RESIDENCE Height: 35 ft. Mobile Home Residential

## 25-2-923 DETERMINATIONS.

The building official may permit a temporary use determining that the temporary use:

- (1) will not impair the normal, safe, and effective operation of a permanent use on the same site;
- (2) will be compatible with nearby uses;
- (3) will not adversely affect public health, safety, or convenience;
- (4) will not create a traffic hazard or congestion; and
- (5) will not interrupt or interfere with the normal conduct of uses and activities in the vicinity.

Source: Section 13-2-323; Ord. 990225-70; Ord. 031211-11.

## 25-2-924 CONDITIONS OF APPROVAL.

The building official may condition the approval of a temporary use on compliance with additional requirements that the building official determines are necessary to ensure land use compatibility and minimize adverse effects on nearby uses, including requirements for hours of operation, frequency of use, parking, traffic circulation, screening, enclosure, site restoration, and cleanup.

Source: Section 13-2-322(b); Ord. 990225-70; Ord. 031211-11.

## 25-2-925 SITE RESTORATION.

On termination of a temporary use, the person operating the temporary use shall remove all debris, waste, and other evidence of the use from the site.

Source: Section 13-2-322(a); Ord. 990225-70; Ord. 031211-11.

## ARTICLE 7. NONCONFORMING USES.

### § 25-2-941 NONCONFORMING USE DEFINED.

NONCONFORMING USE means a land use that does not conform to current use regulations, but did conform to the use regulations in effect at the time the use was established.

Source: Section 13-2-331; Ord. 990225-70; Ord. 031211-11.

### § 25-2-942 USES CONFORMING ON MARCH 1, 1984.

The use of a building, structure, or property that conformed with the zoning regulations in effect on March 1, 1984 is a conforming use notwithstanding the requirements of this chapter.

Source: Section 13-2-340; Ord. 990225-70; Ord. 031211-11.

### § 25-2-943 SUBSTANDARD LOT.

- (A) A substandard lot may be used for a nonresidential use that is permitted in the zoning district in which the lot is located if, except for minimum lot area, the use and development complies with the requirements of this title.
- (B) A substandard lot may be used for a single-family residential use if the use is permitted in the zoning district in which the lot is located and the lot complies with the requirements of this subsection.

- (1) A substandard lot recorded in the county real property records before March 15, 1946 must:

- (a) have an area of not less than 4,000 square feet; and
- (b) be not less than 33 feet wide at the street or at the building line, or



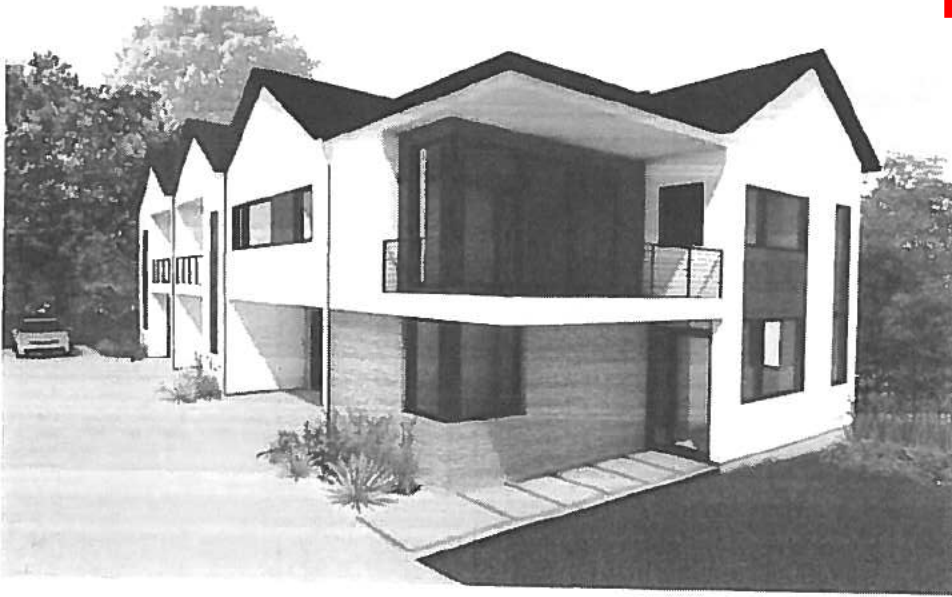


Exhibit 7

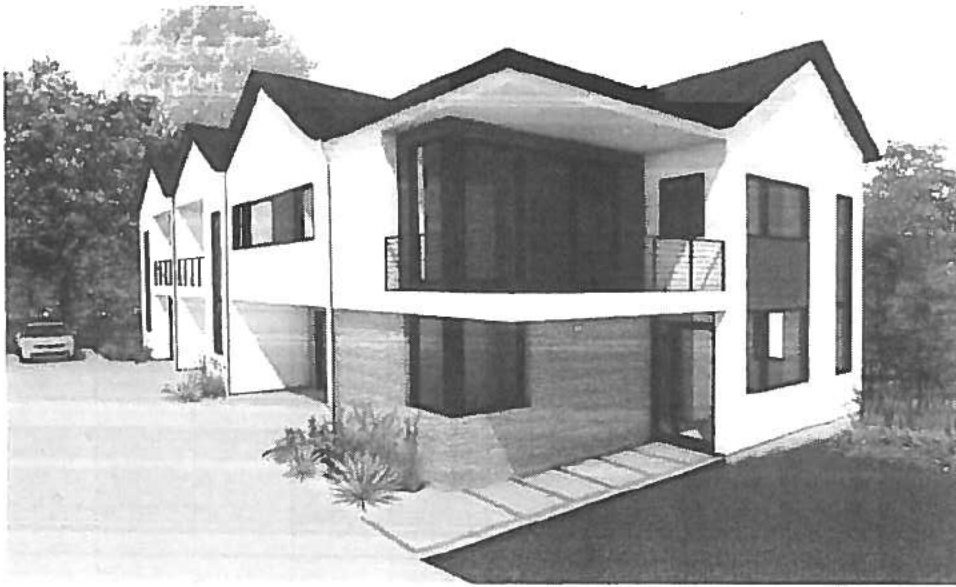
PREPARED BY <div style="text-align: center; font-size: 2em; opacity: 0.5;">E-ACIA</div>		
PROPERTY ADDRESS: 804 WINFLO DRIVE AUSTIN, TEXAS 78703		SURVEY NUMBER: 1501.0193-01
FIELD WORK DATE: 3/16/2016      REVISION DATE(S): 3/21/2016		
<b>1501.0193-01</b> <b>BOUNDARY, TREE &amp; TOPO SURVEY</b> <b>TRAVIS COUNTY</b>	<div style="float: right; font-size: 0.8em;"> <b>NOTES:</b>            1.) SUBJECT TO APPLICABLE RESTRICTIVE COVENANTS RECORDED IN VOL. 5, PG. 58, PLAT RECORDS, VOL. 1040, PG. 326 (LOTS 1-36), DEED RECORDS, TRAVIS COUNTY, TEXAS.            2.) SUBJECT TO BUILDING SETBACK LINES AND EASEMENT RIGHTS RECORDED IN VOL. 1040, PG. 326, DEED RECORDS, TRAVIS COUNTY, TEXAS.            3.) SUBJECT TO BUILDING SETBACK LINES, PER THE CITY OF AUSTIN'S NEIGHBORHOOD PLANNING GUIDE, FOR THIS LOT WHICH IS CURRENTLY ZONED "MF-3-NP".   <b>C-1</b>  <math>R = 133.661'(PM)</math>  <math>L = 51.941'(P) \ 51.44'(M)</math>  <math>\Delta = 22^\circ 15' 32''(C) \ 22^\circ 02' 59''(M)</math>  <math>S \ 29^\circ 25' W, \ 51.60'(P)</math>  <math>S \ 29^\circ 42' 24'' W, \ 51.12'(M)</math> </div>	
<b>NOTES:</b> FENCE OWNERSHIP NOT DETERMINED P.U.E. = PUBLIC UTILITY EASEMENT P.U.P.L.E. = PUBLIC UTILITY POLE LINE EASEMENT THE ELEVATIONS SHOWN HEREON WERE OBTAINED USING GPS IN CONJUNCTION WITH GEOMETRIC RTK GPS/INS NETWORKS AND ARE ON NAD83 DATUM *ELEVATIONS INDICATED ELEVATION ON NAD83 DATUM  ORIGINAL SURVEY ON 1/7/2015 BY R.L.H., RPLS 63551 REV. UPDATE, TOTO AND TREES 3/16/2016 BY P.M.V., RPLS 5359	<div style="float: right; text-align: center;">   <b>GRAPHIC SCALE (in Feet)</b>          1 inch = 30' ft.       </div> <div style="float: right; text-align: center;"> </div> <div style="clear: both;"></div>	
 	I HEREBY CERTIFY THAT: THIS PLAT REPRESENTS THE RESULTS OF A SURVEY MADE ON THE GROUND ON THE 07th DAY OF JANUARY 2015 AND THE 16th DAY OF MARCH, 2016; ALL EASEMENTS AND RIGHTS-OF-WAY SHOWN ON THE PLAT AND SET FORTH WITHIN THE TITLE COMMITMENT ISSUED BY NATIONAL INVESTORS TITLE INSURANCE COMPANY, OF NO. 1429514-MCB, EFFECTIVE DECEMBER 24, 2014, ARE SHOWN OR NOTED HEREON; THERE ARE NO VISIBLE ENCROACHMENTS OR OVERLAPPING OF IMPROVEMENTS EXCEPT AS SHOWN HEREON; THE PROPERTY HAS ACCESS TO AND FROM A PUBLIC ROADWAY.	
Use of This Survey for Purposes other than Intended, Without Written Verification, will be at the User's Sole Risk and Without Liability to the Surveyor. Nothing hereon shall be construed to Give Any Rights or Benefits to Anyone Other than those Certified.		
<b>FLOOD INFORMATION:</b> BY PERFORMING A SEARCH WITH THE LOCAL GOVERNING MUNICIPALITY OR WWW.FEMA.GOV, THE PROPERTY APPEARS TO BE LOCATED IN ZONE X. THIS PROPERTY WAS FOUND IN THE CITY OF AUSTIN, COMMUNITY NUMBER 480624, DATED 01/06/2016.	POINTS OF INTEREST * WOOD *      5M	
CLIENT NUMBER: _____	DATE: 3/21/2016	
BUYER: WILLIAM GREGORY SCHAUB AND PATRICIA MARIE SCHAUB		
SELLER: _____		
CERTIFIED TO: WILLIAM GREGORY SCHAUB AND PATRICIA MARIE SCHAUB; INDEPENDENCE TITLE COMPANY		
This is page 1 of 2 and is not valid without all pages.		

surveystars





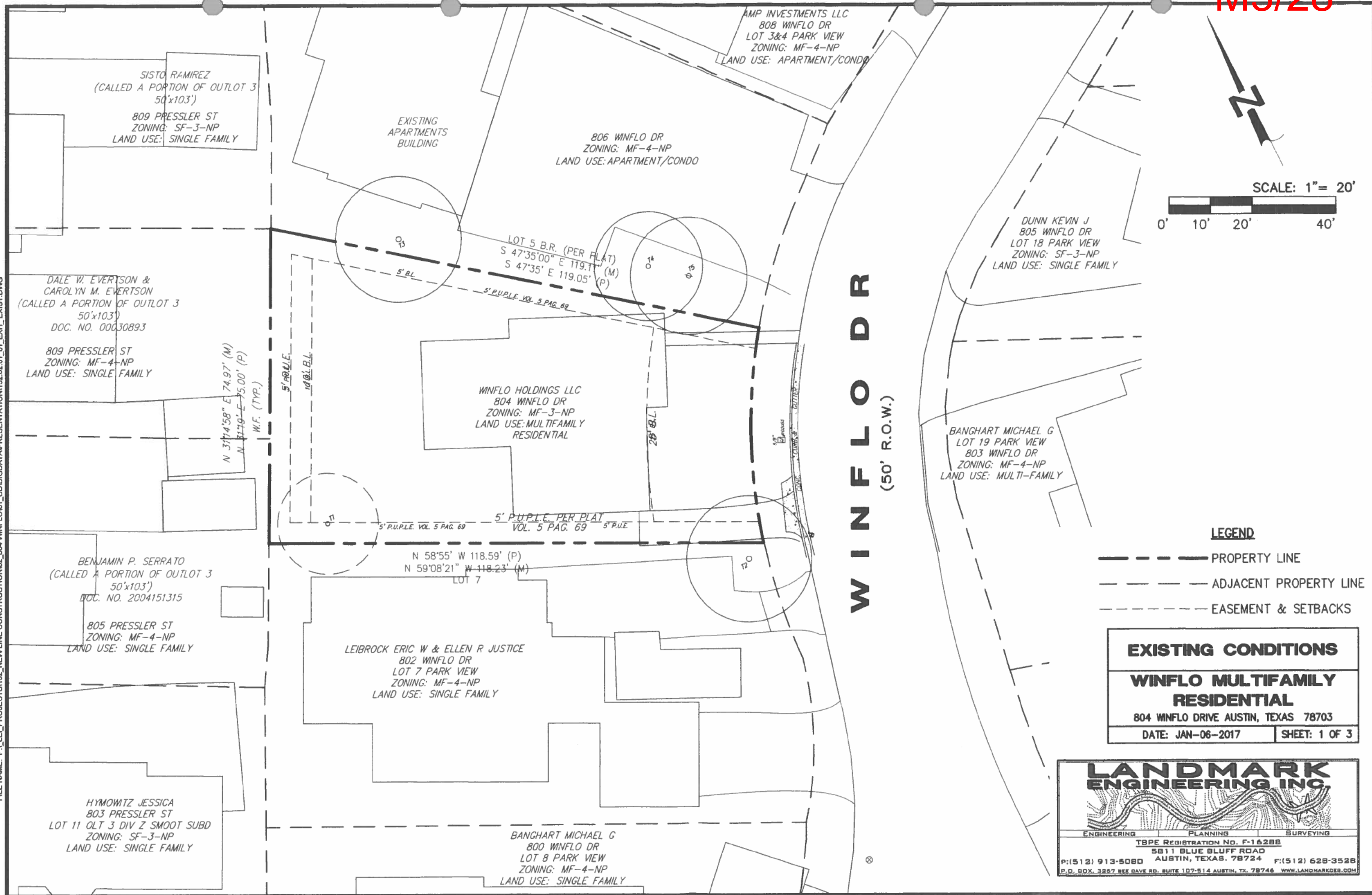
804 Winflo Drive  
Patti and Greg Schaub  
schaubtex@aol.com  
(512) 695-5486



804 Winflo Drive  
Patti and Greg Schaub  
schaubtex@aol.com  
(512) 695-5486

PROPOSED  
TRI-POLE

PLOT DATE: Friday, January 06, 2017 12:33:56 PM  
FILE NAME: P:\LEI\_PROJECTS\132\_NEW LINE CONSTRUCTION\02\_804 WINFLO\01\_CDDIGDATA\PRESENTATION\132.02.01\_01\_EXH\_EXIST.DWG





BANGHART MICHAEL G  
LOT 19 PARK VIEW  
803 WINFLO DR  
ZONING: MF-4-NP  
LAND USE: MULTI-FAMILY

\_\_\_\_\_ PROPERTY LINE  
 — — — — — ADJACENT PROPERTY LINE  
 - - - - - EASEMENT & SETBACKS

## WINFLO MULTIFAMILY RESIDENTIAL

DATE: JAN-06-2017	SHEET: 2 OF 3
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ENGINEERING	PLANNING	SURVEYING
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5811 BLUE BLUFF ROAD

AUSTIN, TEXAS. 78724

P:(512) 913-5080 AUSTIN, TEXAS. 78724 F:(512) 628-3528  
P.O. BOX. 3267 BEK CAFE RD. SUITE 107-514 AUSTIN, TX. 78746 WWW.LANDMARKGEB.COM

P.O. BOX. 3267 BEE CAVE RD. SUITE 107-514 AUSTIN, TX. 78746 WWW.LANDMARKGEB.COM

PLOT DATE: Friday, January 06, 2017 12:34:45 PM

N 31°14'58" E 74.97' (M)  
N 31°19' E 75.00' (P)  
W.F. (TYP.)

5' P.U.P.L.E. PER PLAT  
VOL. 5 PAG. 69

25' BL.

5' E 119.05' (M)

**WINFLODR**  
(50' R.O.W.)

805 PRESSLER ST  
ZONING: MF-4-NP  
LAND USE: SINGLE FAMILY

N 58°55' W 118.59' (P)  
N 59°08'21" W 118.23' (M)  
LOT 7

BANGHART MICHAEL G  
800 WINFLO DR  
LOT 8 PARK VIEW  
ZONING: MF-4-NP  
LAND USE: SINGLE FAMILY

②



PLOT DATE: Friday, January 06, 2017 12:35:03 PM  
FILE NAME: P:\LEI\_PROJECTS\132\_NEW LINE CONSTRUCTION\02\_804 WINFLO\01\_CDDIGDATA\PRESENTATION\132\_02.01\_03\_ZONING.DWG

