

Item: M 3

804 Winflo Drive Case: C15-2017-0008

4/5/2017

Index of Support Material:

- 1) Updated Variance Application (4 pages)
- 2) Picture; Aerial View of Neighborhood (Google Earth)
- 3) Current GIS zoning Map (COA)
- 4) Current LDC:
 - A/ 25-2-492 (C)
 - B/ 25-2-492 (D)
 - C/ 25-2-942
- 5) Picture of 804 Winflo; Lot 6 Park View (vacant lot)
- 6) COA Meetings on Project
- 7) Site Plan for 802 Winflo: Elevation, site plan
- 8) Petition of neighbors signing in support (3 pages)

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CITY OF AUSTIN

Development Services Department

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

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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 # _____	ROW # _____	Tax # _____
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Section 1: Applicant Statement

Street Address: 804 Winflo Drive

Subdivision Legal Description:

Lot 6, Park View Subdivision, Travis County Texas, Volume 5, Pae 69, Plat Records of Travis County, Texas (in 1949)

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 William G. Schaub affirm that on Month March, Day 31, 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(tri-plex) single building 4,300 GFA

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

Title 25-Land Development Code, Section 25-2-492 (D)

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:

Lot 6 was legally platted in 1949, has 7,354 sq. ft. and was zoned B-2nd Height and Area. The LDC in effect at the time required property with this zoning to have 7,000 sq. ft. to construct a triplex. In 1985, the LDC was modified and Lot 6 was rezoned MF-3. This LDC requires a minimum lot size of 8,000 sq. ft. for all MF zoned lots. According to current LDC-25-2-942, Lot 6 was a legal lot in March of 1984 and therefore, it is a conforming lot. The strict application of 25-2-492 (D) ; Site Development Regulations, does not allow for a reasonable use.

Hardship

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

Lot 6 is one of the only vacant lots in the subdivision. It is also one of the few MF zoned lots that has less than the current LDC required 8,000 sq. ft.

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

Most of the lots in Park View which were rezoned from B to MF in 1985 meet the current lot size requirement and are developed with single family houses.

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:

Lot 6 is adjacent to other MF4 lots and the lot adjacent to the north is a 10 unit condominium. Those farther north on 9th St. are larger apartments. Adjacent on the south is a new 3,050 sq. ft. house on a 8,126 sq. ft. MF4 lot. Lot 6 will be developed as a triplex of 4,300 sq. ft. and is fully compliant with the compatibility requirements established by the 1985 LDC. It will be a buffer between existing SF use and a more intense MF-4 use which is encouraged by the current code.

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:

- 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: 03/31/2017

Applicant Name (typed or printed): Michael R. McHone

Applicant Mailing Address: P. O. Box 8142

City: Austin State: TX Zip: 78713

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

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): _____

Owner Mailing Address: _____

City: _____ State: _____ Zip: _____

Phone (will be public information): _____

Email (optional – will be public information): _____

Section 5: Agent Information

Agent Name: Michael R. McHone

Agent Mailing Address: P.O. Box 8142

City: Austin State: TX Zip: 78713

Phone (will be public information): _____

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).



1995

© 2016 Google

Imagery Date: 1/7/2017

30°16'31.51"N 97°45'29.55"W Elev: 531 ft

Google Earth

§ 25-2-492 SITE DEVELOPMENT REGULATIONS.

(A) The table in Subsection (D) establishes the principal site development regulations for each zoning district.

(B) Except as provided in Subsection (C), if a requirement of Subsection (D) conflicts with another provision of this title, the more restrictive regulation governs.

* (C) The requirements of the other provisions of this subchapter supersede the requirements of Subsection (D), to the extent of conflict.

(D) Site development regulation table.
Source: Section 13-2-630; Ord. 990225-70; Ord. 991104-46; Ord. 000511-109; Ord. 030731-53; Ord. 031211-11; Ord. 041118-57; Ord. 20100819-064.

	LA	RR	SF-1***	SF-2	SF-3
MINIMUM LOT SIZE (square feet):	43,560	43,560	10,000	5,750	5,750
MINIMUM LOT WIDTH:	100	100	60	50	50
MAXIMUM DWELLING UNITS PER LOT:	1	1	1	1	**
MAXIMUM HEIGHT:	35	35	35	35	35
MINIMUM SETBACKS:					
FRONT YARD:	40	40	25	25	25
STREET SIDE YARD:	25	25	15	15	15
INTERIOR SIDE YARD:	10	10	5	5	5
REAR YARD:	20	20	10	10	10

Zoning



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	MF-2	MF-3	MF-4	MF-5	MF-6	MH
MINIMUM LOT SIZE (square feet):	8,000	8,000	8,000	8,000	8,000	—
MINIMUM LOT WIDTH:	50	50	50	50	50	—
MAXIMUM DWELLING UNITS PER LOT:	*	**	***	***	—	—
MAXIMUM HEIGHT:	40 or 3 stories	40	60	60	90	—
MINIMUM SETBACKS:						
FRONT YARD:	25	25	15	15	15	—
STREET SIDE YARD:	15	15	15	15	15	—
INTERIOR SIDE YARD:	5	5	5	5	5	—
REAR YARD:	10	10	10	10	10	—
MAXIMUM BUILDING COVERAGE:	50%	55%	60%	60%	70%	—
MAXIMUM IMPERVIOUS COVER:	60%	65%	70%	70%	80%	—
MAXIMUM FLOOR AREA RATIO	—	.75:1	.75:1	1:1	—	—

* See Section 25-2-561 (Multifamily Residence Low Density District Regulations).

** See Section 25-2-562 (Multifamily Residence Medium Density District Regulations).

*** See Section 25-2-563 (Multifamily Residence Moderate-High Density and Multifamily Residence High Density District Regulations).

	NO	LO	GO	CR	LR	GR
MINIMUM LOT SIZE (square feet):	5,750	5,750	5,750	20,000	5,750	5,750
MINIMUM LOT WIDTH:	50	50	50	100	50	50
MAXIMUM HEIGHT:	35 or 2 stories	40 or 3 stories	60	40	40 or 3 stories	60
MINIMUM SETBACKS:						
FRONT YARD:	25	25	15	50	25	10

§ 25-2-923 DETERMINATIONS.

The building official may permit a temporary use after 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 engaging in the temporary use shall remove all debris, litter, 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



COA Contacts and Meetings

November 6th, 2015

- Mark Hart from the MHA Architect Firm met with DAC and reviewed a hard copy print of the initial 4-plex feasibility study plan. The DAC acknowledged the MF3 zoning as well as the 7,400sqft lot sized shown on the first page.
- Brian Conant from NLC met with the DAC and reviewed the same feasibility study as well as the survey and zoning map with the same information.

March 2016 second week

- Javier Barajas from the firm Landmark Civil Engineering Services met with the DAC with respect to the Water Quality, Stormwater Detention, Utilities Servicing the Site and Fire Protection Requirements.

May 6th, 2016

- Travis Habersaat from the firm TvH Architecture took an outline and questions down to the city Development Assistance Center, prior to working on any drawings. What was printed and discussed was if the lot was considered MF3 Small lot, in terms of where our compatibility setbacks would be located and how they would restrict where/ what we could build on the lot. Travis also discussed the number of units allowed for our property as we were still deciding with either 3 or 4 units. Zoning and lot size were clear and present and was not flagged as being any sort of issue with developing the lot.

January 19th, 2017

- Javier Barajas and Brian Conant met with Michael Simmons-Smith and Lynda Courtney at the City office conference room. Both Michael and Lynda were very helpful and forth coming with all topics we discussed relating to the DAC and how things have progressed. They clearly expressed that the approach we did with the DAC reviewing and discussing the feasibility is for this reason and that this should have been brought up then by the person we sat with. They also asked who we met with in a manner that made me think they might go question the employment of the person in the DAC. Overall, Michael and Lynda fully agreed with our stance and said they don't know of any other tasks we could have done differently and this is the purpose of the DAC. I am not really sure if there is any concrete documentation that states the role or terms of the DAC but Michael and Lynda both agreed to our points and said if any case was valid, this would be it.

July 12, 2016

- Original Submission of Site Plans to COA

August 15, 2016

- Site Plan Completion Check is Approved by COA

September 20, 2016

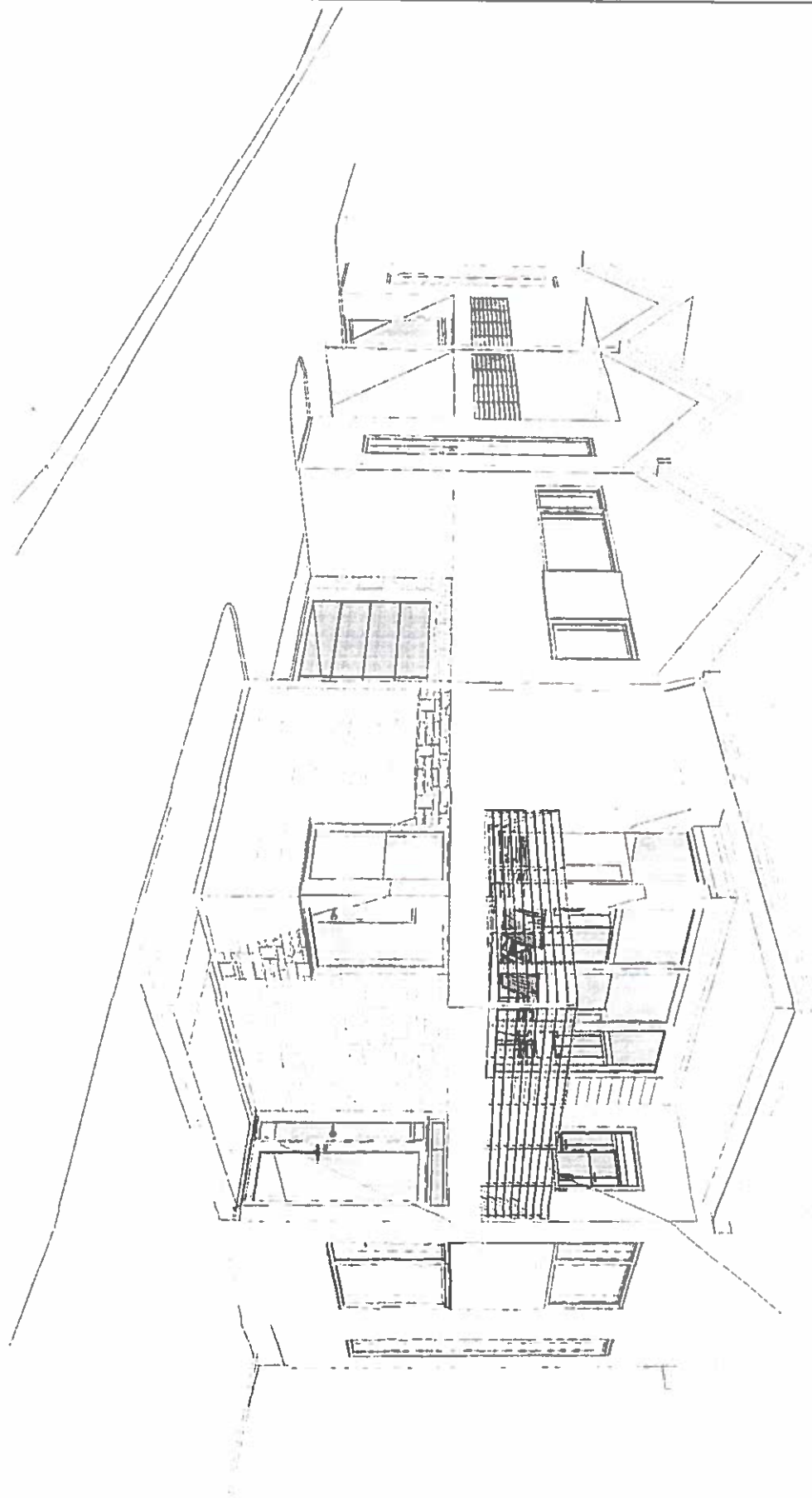
- Civil Engineer received OU Comments, (First Set of COA Comments)
- There is still no mention of Sub Standard Lot

November 8, 2016

- Civil Engineer received U1 Comments, (Second Set of COA Comments)
- This is the First time there is any mention of a Substandard lot comment

December 16, 2016

- Civil Engineer received U2 Comments, (Third Set of COA Comments)



WINFLO TOWNHOMES

804 WINFLO DRIVE, AUSTIN, TEXAS 78703

TITLE SHEET		PROJECT NAME: WINFLO TOWNHOMES		THIS DOCUMENT IS INCOMPLETE AND MAY NOT BE USED FOR REGULATORY APPROVAL, PERMITTING OR CONSTRUCTION.	 TVH ARCHITECTURE TRAVIS V HABERSAAT ARCHITECT, PLLC. 8305 Stearnline Circle, Austin, Texas 78743 512.522.9639
SHEET NUMBER:	A0.01	PROJECT: 14-001 DATE: 8/22/2016 DRAWN BY: TVH	RELEASE KEY: FOR REVIEW		



for the purpose of obtaining

Development Code. The variance would allow me the ability to develop the site as intended fallowed

under the site's current zoning designation.

By signing this form, I understand that I am declaring my support for the variance being requested.

Property Owner Name	Address	Signature
Richard Lindero	805 LINDERO DRIVE 78703	[Signature]
DICK BUNDA	706 LINDERO DR	[Signature]
Sandra Givings	812 LINDERO	Sandra Givings
Gene Bandy	502 Resister St	Gene Bandy
Hugoer Blyde	712 Bunker St	Hugoer Blyde
[Handwritten Name]	412-15 Bunker St	[Handwritten Signature]



I, Keith Baird, am applying for a variance from the Board of Adjustment regarding Section 10.02.020 of the Land Development Code. The variance would allow me the ability to construct a detached garage on the rear lot.

By signing this form, I understand that I am declaring my support for the variance being requested.

Property Owner Name <small>(Printed)</small>	Address	Signature
LAURA LOBLE	701 DINTON	Laura Loblie
KEITH BAIRD	701 WINDLE	Keith Baird
OWEN E. SCOTT	801 KENNETH DR	Owen Scott



By signing this form, I understand that I am declaring my support for the variance being requested.

Property Owner Name

(printed)

1314 W 7TH ST
Newby Garner

Address

1314 W 7TH ST
Newby Garner

Signature

[Handwritten Signature]
Newby Garner