

**CITY OF AUSTIN
Board of Adjustment
Decision Sheet**

DATE: Thursday, November 8, 2018

CASE NUMBER: C15-2018-0046

____ Brooke Bailey
 ____ William Burkhardt
 ____ Christopher Covo
 ____ Eric Golf
 ____ Melissa Hawthorne
 ____ Bryan King
 ____ Don Leighton-Burwell
 ____ Rahm McDaniel
 ____ Martha Gonzalez (Alternate)
 ____ Veronica Rivera
 ____ James Valdez
 ____ Michael Von Ohlen
 ____ Kelly Blume (Alternate)
 ____ Ada Corral (Alternate)

APPLICANT: Lila Nelson

OWNER: Frank Chef and Sharon Shuppert

ADDRESS: 1800 MARTIN LUTHER KING JR BLVD

VARIANCE REQUESTED: The applicant has requested variance(s) from Article 10, Compatibility Standards Section 25-2-1062 (Height Limitations and Setbacks for Small Sites):

A. (B) (2) to decrease the required setback from a property on which a use permitted in SF-5 or more restrictive zoning district is located from 15 feet (required) to 0 feet (requested); and to

B. (D) (1) to increase the height limitations for a structure that is 50 feet or less from a property on which a use permitted in an (SF-5) or more restrictive zoning district is located from two-stories and 30 feet (required, permitted) to three stories and 30 feet (requested)

in order to erect a medical office and five multifamily residential units in an "LO-MU-V-NP", Limited Office - Mixed Use - Vertical Mixed Use - Neighborhood Plan zoning district. (Upper Boggy Creek)

Note: the current zoning requires that one of the five multifamily units be designated as affordable.

BOARD'S DECISION: POSTPONED TO November 8, 2018 (6:00PM) BY APPLICANT;
 Nov 8, 2018 POSTPONED TO DECEMBER 10, 2018 REQUESTED BY APPLICANT

FINDING:

1. The Zoning regulations applicable to the property do not allow for a reasonable use because:
2. (a) The hardship for which the variance is requested is unique to the property in that:
(b) The hardship is not general to the area in which the property is located because:
3. 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:



Leane Heldenfels
Executive Liaison

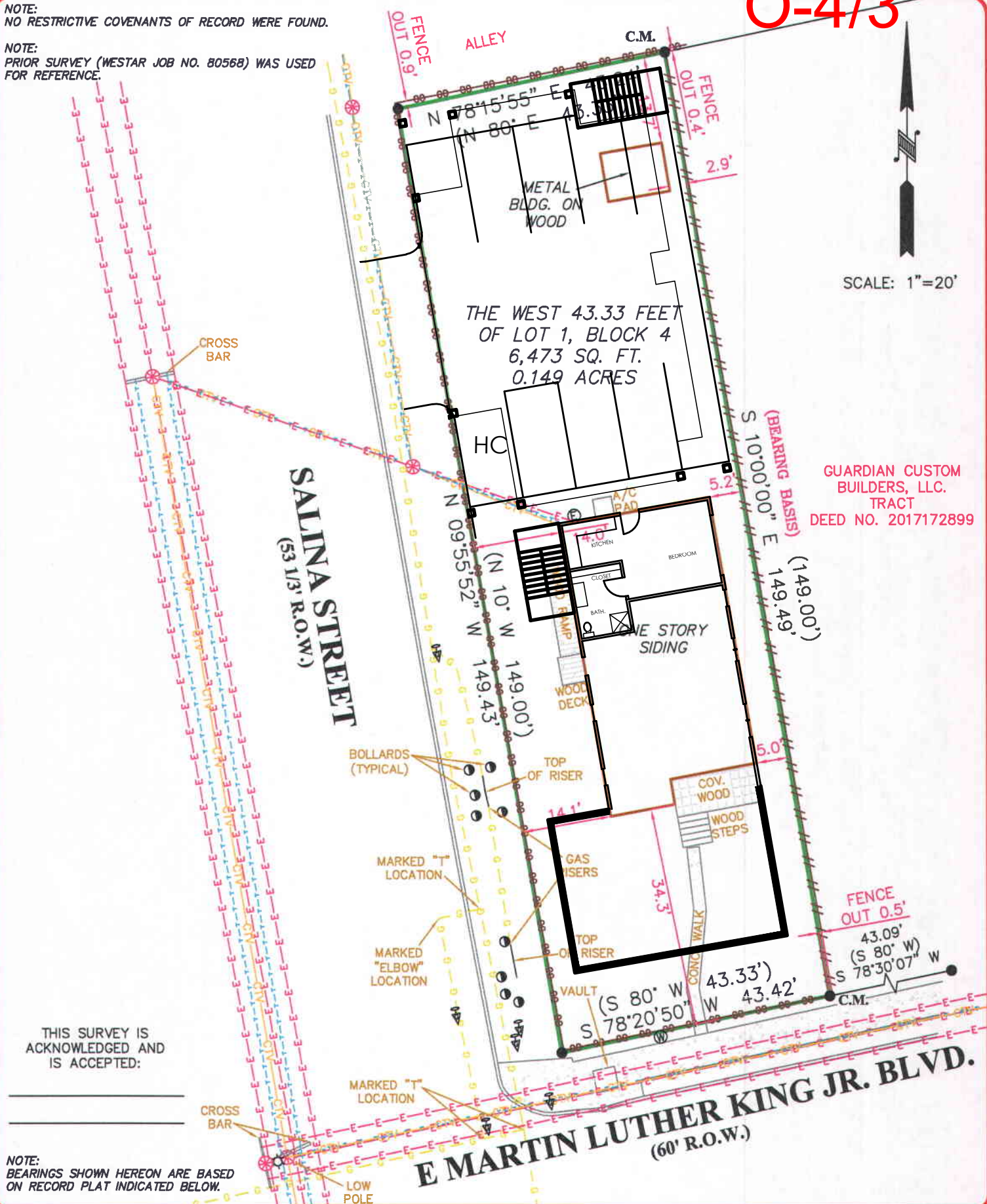


William Burkhardt
Chairman

NOTE:
NO RESTRICTIVE COVENANTS OF RECORD WERE FOUND.

NOTE:
PRIOR SURVEY (WESTAR JOB NO. 80568) WAS USED
FOR REFERENCE.

O-4/3



FIRM REGISTRATION NO.
1011700

**Westar
Alamo**

LAND SURVEYORS, LLC.

P.O. BOX 1645 BOERNE, TEXAS 78006
PHONE (210) 372-9500 FAX (210) 372-9999

LEGEND

- FND 1/2" IRON ROD
- () RECORD INFORMATION
- C.M. CONTROLLING MONUMENT
- POWER POLE
- POWER POLE/LIGHT
- WATER METER
- ELECTRIC METER
- GAS VALVE
- OVERHEAD ELECTRIC
- WOOD FENCE
- CHAIN LINK FENCE
- "MARKED" GAS LINE
- OVERHEAD TELEPHONE
- OVERHEAD CABLE T.V.

DRAWN BY: JA/JS



Property Address:

1800 E MARTIN LUTHER KING BOULEVARD

Property Description:

BEING THE WEST 43.33 FEET, MORE OR LESS, OF LOT 1,
BLOCK 4, C.R. JOHN'S SUBDIVISION OUT OF LOT 45,
DIVISION B TO THE CITY OF AUSTIN, ACCORDING TO THE
MAP OR PLAT THEREOF, RECORDED IN VOLUME 1, PAGE 3,
PLAT RECORDS, TRAVIS COUNTY, TEXAS.

Owner:

FRANK CHEFF AND SHARON SHUPPERT

I, MARK J. EWALD, Registered Professional
Land Surveyor, State of Texas, do hereby
certify that the above plat represents an
actual survey made on the ground under my
supervision, and there are no discrepancies,
conflicts, shortages in area or boundary
lines, or any encroachment or overlapping of
improvements, to the best of my knowledge
and belief, except as shown herein.

MARK J. EWALD
Registered Professional Land Surveyor
Texas Registration No. 5095

G.F. NO. 1748554-HAY JOB NO. 85586

TITLE COMPANY: INDEPENDENCE TITLE DATE: 11/13/2018

**CITY OF AUSTIN
Board of Adjustment
Decision Sheet**

DATE: Monday October 08, 2018

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 _____ Veronica Rivera
 _____ James Valdez
 _____ Michael Von Ohlen
 _____ Kelly Blume (Alternate)
 _____ Pim Mayo (Alternate)

APPLICANT: Lila Nelson

OWNER: Frank Chef and Sharon Shuppert

ADDRESS: 1800 MARTIN LUTHER KING JR BLVD

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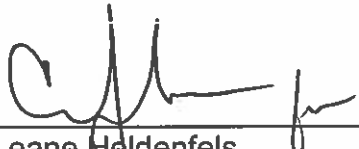
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BOARD'S DECISION: POSTPONED TO November 8, 2018 (6:00PM) BY APPLICANT

FINDING:

1. The Zoning regulations applicable to the property do not allow for a reasonable use because:
2. (a) The hardship for which the variance is requested is unique to the property in that:
(b) The hardship is not general to the area in which the property is located because:
3. 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:



Leane Heldenfels
Executive Liaison






William Burkhardt
Chairman



O-4/6



-  SUBJECT TRACT
-  PENDING CASE
-  ZONING BOUNDARY

NOTIFICATIONS

CASE#: C15-2018-0046

LOCATION: 1800 E MARTIN LUTHER KING



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.

1" = 333'



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

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 # _____

Section 1: Applicant Statement

Street Address: 1800 E Martin Luther King Blvd

Subdivision Legal Description:

W 43.33 ft of Lot 1 Blk 4 OLT 45 Div B Johns CR Subd

Lot(s): 1 Block(s): 4

Outlot: 45 Division: B Johns CR Subd

Zoning District: LO-MU-V-NP

I/We Lila Nelson, ATX Permit and Consulting on behalf of myself/ourselves as authorized agent for Frank Chef and Sharon Shuppert affirm that on Month September, Day 11, Year 2021, 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: Medical office and 5 residential apartments incl one affordable unit

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

Compatibility Standards. We are seeking a variance for the Compatibility of the adjacent single family use on the Commercial Zoned Lot located to the east (1802 E. MLK). The property to the east is zoned MF3 with a future land use plan of Mixed Use/Office which is the same as the subject property at 1800 E. MLK.

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 current use of 1800 E MLK is single family. Zoning was approved by City Council on Sept 20, 2018 to LO-MU-V-NP. Staff recommended this change. Martin Luther King Blvd is a major transit corridor and single family use is past the viable life for that land use. In addition, the reasonable use includes office and residential units including one affordable unit which would provide increased densities. This is what the corridor wants to be and what the neighborhood associations and the community seeks.

Hardship

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

The hardship in this case is a timing issue. Surrounding properties are eligible and expected to be redeveloped to Mixed Use-Vertical. We are a little ahead in the timing of redeveloping. It is a temporary condition. In our case the lot to the east is single family use although there are two SF use structures one of which is three stories or approximately 30 ft high. Without the variance we will not be able to build the residential units including the affordable unit.

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

Much of the lots on E MLK have already been converted to commercial 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:

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: Lila Nelson Date: 08/24/2018

Applicant Name (typed or printed): Lila Nelson, ATX Permit & Consulting

Applicant Mailing Address: 4408 Spicewood Springs Rd. Ste 400

City: Austin State: TX Zip: 78759

Phone (will be public information): (512) 657-7349

Email (optional – will be public information): [REDACTED]

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): see attached insert for Section 4

Owner Mailing Address: _____

City: _____ State: _____ Zip: _____

Phone (will be public information): _____

Email (optional – will be public information): _____

Section 5: Agent Information

Agent Name: Lila Nelson, ATX Permit & Consulting

Agent Mailing Address: 4408 Spicewood Springs Rd. Ste 400

City: Austin State: TX Zip: 78759

Phone (will be public information): (512) 657-7349

Email (optional – will be public information): [REDACTED]

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).

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): _____

Applicant Mailing Address: _____

City: _____ State: _____ Zip: _____

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: Frank Cheff & Sharon Shuppert Date: 8/24/2018

Owner Name (typed or printed): Frank Cheff & Sharon Shuppert

Owner Mailing Address: 2004 E 14TH ST

City: Austin State: TX Zip: 78702

Phone (will be public information): (512) 659-3226

Email (optional – will be public information): _____

Section 5: Agent Information

Agent Name: _____

Agent Mailing Address: _____

City: _____ State: _____ Zip: _____

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).

Board of Adjustment

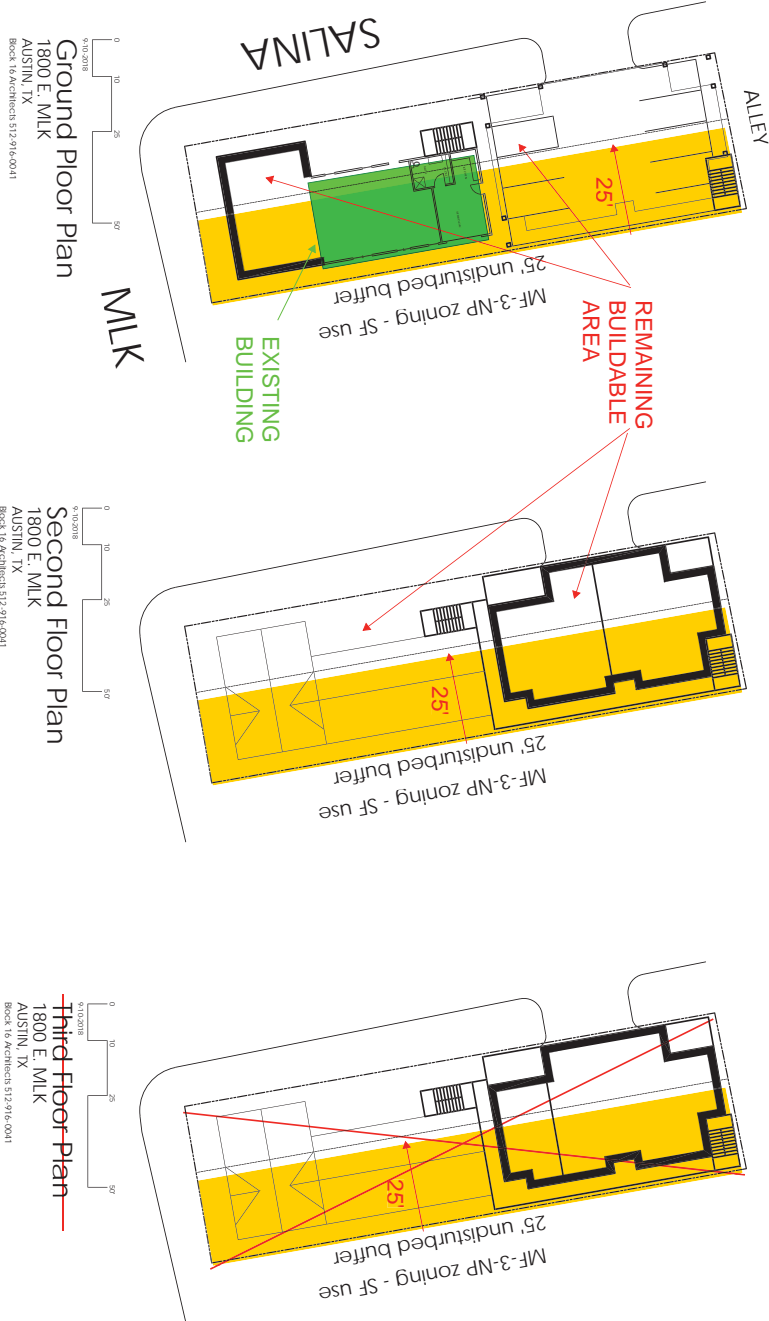
General Variance Application

1800 E MLK
Austin, Texas

- Completed Application
- Existing Site Plan / Survey
- Proposed Site Plan and Location of Use of structure on adjacent lots
- Case Manager comments for zoning case C14-2018-066 from MF-3-NP to LO-MU-NP
- Letter of support from Neighborhood Associations for zoning which has been approved
- Email (not to oppose) from Bo McCarver, Chair of Blackland CDC
- Support petition from neighboring property owners
- Color exhibit presenting addresses of owners signing petition
- Color exhibit of topography of the site and survey
- Color elevations of proposed building including illustration of effect if variance is not approved

Thank you for your time,
Lila Nelson
ATX Permit & Consulting

THE YELLOW SHADED AREAS DESIGNATE THE 25' UNDISTURBED BUFFER THAT WOULD BE REQUIRED IF THE COMPATIBILITY VARIANCE IS NOT APPROVED



A THIRD STORY WOULD NOT BE PERMITTED

Genia Cowart

From: [REDACTED]
Sent: Monday, September 24, 2018 3:00 PM
To: Genia Cowart
Subject: FW: Variance endorsement

Importance: High

From: Bo McCarver <[REDACTED]>
Sent: Wednesday, September 19, 2018 10:41 PM
To: Sharon Shuppert <[REDACTED]>
Cc: Frank Cheff <[REDACTED]>
[REDACTED]

Subject: Re: Variance endorsement
Importance: High

Sharon & All,

You should already have letters or e-mails from the Blackland Neighborhood Association (BNA) and the Upper Boggy Creek Planning Team (UBC) endorsing your development. Now that the city planning department is requiring a petition of surrounding properties to allow variances, you need endorsements from *surrounding properties*.

The Blackland CDC owns the property at 1804 E. MLK and does not oppose your variances insofar as they do not deviate from the project originally presented to BNA and UBC.

Bo McCarver, Ph.D, Chair
Blackland CDC
512-573-0786

On Sep 19, 2018, at 10:15 PM, Sharon Shuppert <[REDACTED]> wrote:

Hi Bo!

Sharon here, just chiming in. My understanding from Lila is that we need *letters* from the Blackland and Upper Boggy Creek Neighborhood Associations either supporting the variance or NOT opposing it. I do believe an email may suffice. I've cc'd Lila Nelson, our zoning expeditor.

Lila, please reply and let us know if you need something different. Bo is willing to meet and sign the petition if that will suffice.

We are a bit under the gun here as the hearing is at 2:00PM Thursday (tomorrow) September 20th.

Thank you so much!
Sharon

Sharon L Shuppert, L.Ac., M.S., Dipl.OM
2911 Medical Arts St. #19B
Austin, TX 78705



I, Frank Chaff, Jr., am applying for a variance from the Board of Adjustment regarding Section 25 of the Land Development Code. The variance would allow me the ability to take advantage of the zoning allowed in the neighborhood per, approved by Blackland & Boggy Creek NAs, City Staff and the Planning Commission. Property Address is 1800 E MLK JR 78702. By signing this form, I understand that I am declaring my support for the variance being requested.

Property Owner Name (Printed)	Address	Signature
<u>Tommy C. Warren</u>	<u>1710 E. MLK 78702</u>	<u>[Signature]</u>
<u>Robert Taylor</u>	<u>1709 E. MLK 1801</u>	<u>[Signature]</u>
<u>[Signature]</u>	<u>1801 E. MLK</u>	<u>Robert Taylor</u>
<u>Carl Brunson</u>	<u>1802 E MLK #2</u>	<u>[Signature]</u>

O-4/15



I, Justin Hettig, ^{the owner} am applying for a variance from the Board of Adjustment regarding Section 2.5 of the Land

Development Code. The variance would allow me the ability to use a building that is in the wrong zone

because the building is in the wrong zone. The property address is 1801 E MLK JR
By signing this form, I understand that I am declaring my support for the variance being requested.

Property Owner Name (Printed)	Address	Signature
Justin Hettig	1710 E MLK JR	Justin Hettig
Robert S. Taylor	1709 E MLK JR	Robert S. Taylor
Joshua Goeder	1801 E MLK JR	Joshua Goeder
JOSHUA GOEDER	1803 E MLK	J. Goeder
JOSHUA GOEDER	1805 E MLK	J. Goeder

O-4/16



EXISTING ZONING



EXISTING AERIAL

LEGEND:

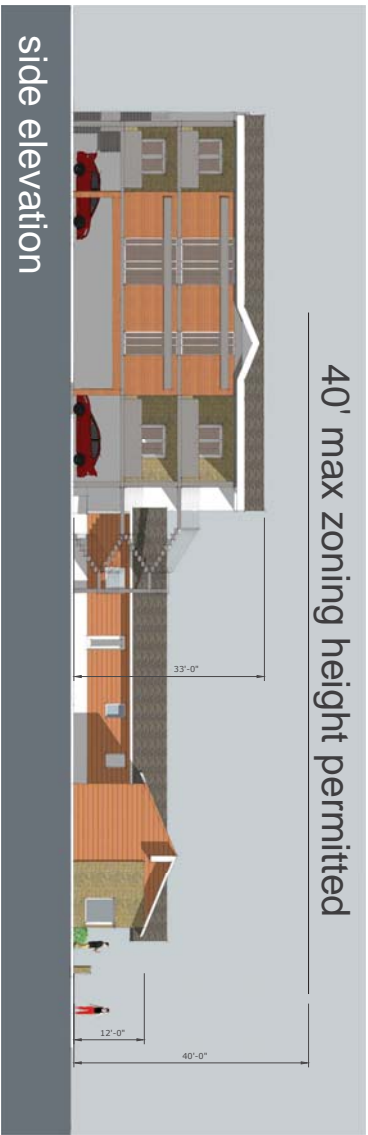
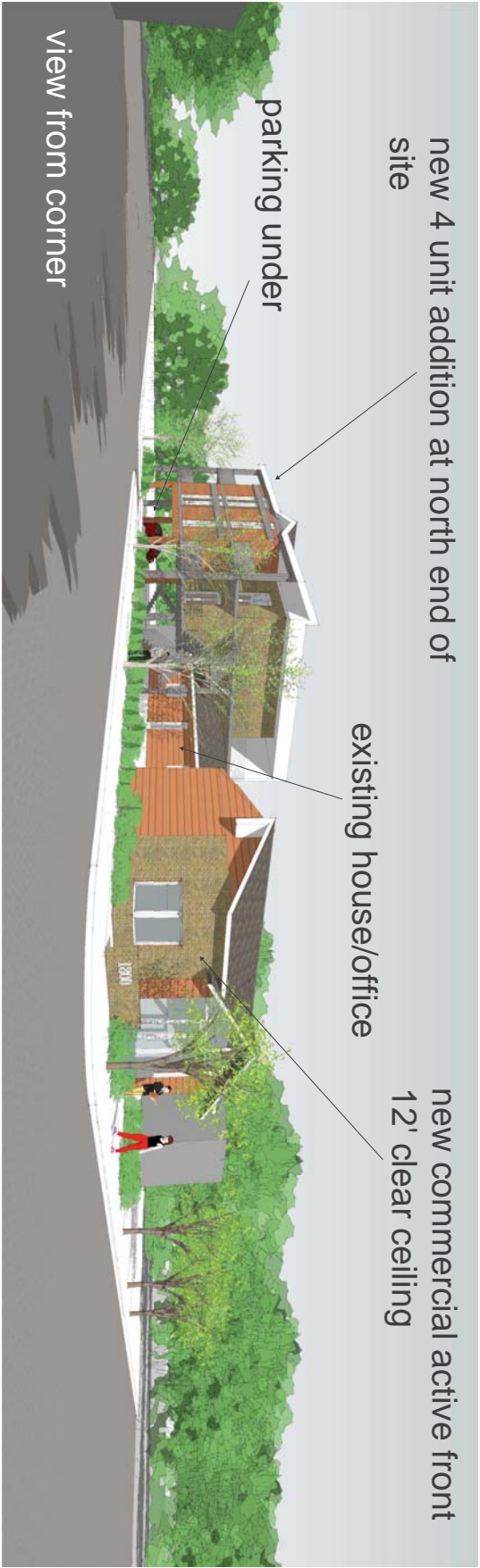
GREEN:
LETTER OF CONSENT FROM OWNER

BLUE:
INVESTOR OWNED PROPERTIES.
ATTEMPTS TO COMMUNICATE
WERE UNSUCCESSFUL. NO
RESPONSES.



EXISTING NEIGHBOR TO EAST





O-4/20



P.O. Box 1645
Boerne, TX 78006

210•372•9500
Fax: 210•372•9999
Toll Free: 1•877•372•9500
Toll Free Fax: 1•877•372•0400

Invoice

Invoice No.: 80568

Invoice Date: 1/24/2018 2:40:46 PM

GF Number

Buyer

1800 E ML King Jr
Boulevard

Title Company

Independence Title DT Team
7900 Shoal Creek Blvd. 512-467-6060
2nd Floor Austin TX
78757

Ordered By

Independence Title Jennifer Bennett
7900 Shoal Creek Blvd. 512-467-6060
2nd Floor Austin TX
78757

DESCRIPTION	AMOUNT
Land Survey	\$445.00
Tax	\$36.71
Total	\$481.71

PUBLIC HEARING INFORMATION

Although applicants and/or their agent(s) are expected to attend a public hearing, **you are not required to attend**. However, if you do attend, you have the opportunity to speak **FOR** or **AGAINST** the proposed application. You may also contact a neighborhood or environmental organization that has expressed an interest in an application affecting your neighborhood.

During a public hearing, the board or commission may postpone or continue an application's hearing to a later date, or recommend approval or denial of the application. If the board or commission announces a specific date and time for a postponement or continuation that is not later than 60 days from the announcement, no further notice will be sent.

A board or commission's decision may be appealed by a person with standing to appeal, or an interested party that is identified as a person who can appeal the decision. The body holding a public hearing on an appeal will determine whether a person has standing to appeal the decision.

An interested party is defined as a person who is the applicant or record owner of the subject property, or who communicates an interest to a board or commission by:

- delivering a written statement to the board or commission before or during the public hearing that generally identifies the issues of concern (*it may be delivered to the contact person listed on a notice*); or
- appearing and speaking for the record at the public hearing; and:

- occupies a primary residence that is within 500 feet of the subject property or proposed development;
- is the record owner of property within 500 feet of the subject property or proposed development; or
- is an officer of an environmental or neighborhood organization that has an interest in or whose declared boundaries are within 500 feet of the subject property or proposed development.

A notice of appeal must be filed with the director of the responsible department no later than 10 days after the decision. An appeal form may be available from the responsible department.

For additional information on the City of Austin's land development process, visit our website:

www.austintexas.gov/department/development-services

Written comments must be submitted to the contact person listed on the notice before or at a public hearing. Your comments should include the name of the board or commission, or Council; the scheduled date of the public hearing; the Case Number; and the contact person listed on the notice. **All comments received will become part of the public record of this case.**

Case Number: C15-2018-0046, 1800 E. MLK

Contact: Leane Heldenfels, 512-974-2202

Public Hearing: Board of Adjustment, Monday October 8, 2018

DAVID CAMP

Your Name (please print)

☒ I am in favor
☐ I object

Your address(es) affected by this application

Signature

Date

Daytime Telephone:

Comments:

Comments must be returned by 10am the day of the hearing if you wish the Board to see them at this hearing. You can return them by:

Mail: City of Austin-Development Services Department/ 1st Floor

Leane Heldenfels

P. O. Box 1088

Austin, TX 78767-1088

(Note: mailed comments must be postmarked by the Wed prior to the hearing to be seen at this hearing)

Fax: (512) 974-6305

Email: leane.heldenfels@austintexas.gov