

Goodall, Jannette

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Late Backup

**From:** [REDACTED]  
**To:** Goodall, Jannette  
**Cc:** Cancialosi David  
**Subject:** 3715 Westlake Dr zoning case C14-2013-0048  
**Attachments:** Mayes.Lesniak.ltr.8.20.13.pdf; ATT00001.htm

Late Backup

To Whom It May Concern:

I am the agent for the above referenced case. I may have talked to some council offices, others I have not had the opportunity to outline the issues of the case.

This is appearing on August 22 agenda. This item was postponed once due to a clerk error in June and again by the city in July. It is now August and we are only at our 1st reading. We have been diligently working with staff since October 2012 to seek any form of remedy for the property in order to build a legally compliant home on a very steep, challenging lot.

The lot simply has too steep of a slope to build anything more than approximately 6000 ft.<sup>2</sup> of improvement based on current regulations.

We are seeking a zoning change from LA to SF1 or 2 in order to correct the city's erroneous application of LA zoning on lots that failed to meet the minimum performance standards. The property was platted in 1915 and didn't meet said performance standards at the time of annexation. Furthermore, to relieve the harsh effects of that imposition on the existing property, the City produced a study at the time of annexation and offered some 200 plus properties the opportunity to roll back that zoning (from LA to SF2), yet the city excluded the subject property in a discriminatory manner.

The downzoning in 1982 wrongfully damaged the property and imposed an encumbrance on it which made the existing house non-complying on non-conforming lots, even though the zoning designation was imposed on property that could not meet the minimum area requirements as established by the Council for that district. One day the property had the right to 45% impervious cover (25,425 square feet), and the existing house and improvements covering about 13,500 square feet were legal and conforming; and the next day the owner was only entitled to 6,000 square feet of impervious cover and his house was suddenly non-complying. The pre-existing driveway is ~6,500 SF alone.

There is an existing house on the property which has reached the end of its useful life and needs to be replaced. It is impossible to meet current LA development requirements (i.e., impervious cover on slopes). It would also cost twice as much to remodel the home than build a new, energy efficient home that further protects drainage, water run off, soil erosion, trees, and more.

As recent as last week we met with Chief Environmental Officer Chuck Lesniak to discuss the site issues. He suggested we move the house to a 'flatter' piece of the lot (higher up the lot)(the lot has a 50' drop in grade), however, that requires the removal of a heritage tree and encroachment into several protected tree CRZ's. Additionally, due to the lot slope the garage would be 10' higher than the house and would look horrendous from the lake view, not to mention resulting in an impractical scenario to safely walk between structures. Obviously this recommendation would result in substantial slope disturbance to the natural grade above what is allowed by the LA watershed regulations.

While we are not asking to debate the specifics of what a future site plan may look like, we understand your concern. Because we do not know what regulations to design to, it's impossible to design anything at all. Thus the discussion should focus on land use and the impracticability of complying with the LA zoning code on a very challenged lot that should have remained "A" residential vs the City's discriminatory change to LA.

My client has vested rights issues, which we have chose to resolve in a cooperative manner through a rezoning with conditional overlay which fully protects the lake as opposed to Declaratory Judgment under Chapter 245.

ZAPCO voted 3-3 on the case. City staff supports the change. And there are many SF2 lots larger than this one scattered throughout the banks of Lake Austin.

As the Supreme Court of the United States declared in June, government regulation can result in a taking by imposition of punitive conditions to issuance of a permit to improve property. (Koontz v. St. Johns Water Management District).

Please call me to discuss this case. I'm more than happy to highlight the details in person or over the phone.

Sincerely,

--

David C. Cancialosi  
Permit Partners, LLC  
512-799-2401 c  
512-373-8846 f  


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# LAW OFFICE OF TERRENCE L. IRION

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August 20, 2013

Mr. Chuck Lesniak  
Planning and Development Review Department  
City of Austin  
505 Barton Springs Road  
Austin, Texas 78704

RE: C14-2013-0048; 3715 Westlake Drive, Austin, Texas- Rezoning from  
"LA" to "SF-2"; Applicant John Mayes

Dear Chuck:


Attached please find a sketch which shows the subject Lots 92 and 93, Lakeshore Addition by slope category. You will note that the 75-foot shoreline setback is overlaid over these slope categories. As you can see, the flattest part of this lot is where the existing house is located, which is about 65-foot setback from the lake.

At your request last week, we looked at relocating the proposed new house a full 75-foot set back from the Lake, but doing so pushes much of the new house into the 25%-35% slope category and encroaches on the drip line of a heritage tree. It also puts the driveway motor court on a steeper slope and would require more site disturbance of the natural topography.

Accordingly, we are requesting that you support the rezoning to "SF-2", which has been recommended by the Planning Department or in the alternative, "SF-1" with a conditional overlay which addresses the Council's environmental concerns which include the following:

1. Unified Development Agreement requiring both Lots 92 and 93, Lakeshore Addition be limited to development of one single family project in perpetuity.
2. The minimum shoreline setback of 65-feet.
3. Side yard setbacks shall be 10-feet.
4. Not more than 30% of the woody vegetation within shoreline setback shall be removed.
5. An integrated pest management plan approved by Watershed Protection and Development Department shall be implemented by deed restriction enforceable by the City of Austin.
6. Total site area impervious cover be limited to 37%

Sincerely,



Terrence L. Irion

TLI:lm

Enclosures

Cc: John Mayes  
David Cancialosi  
Clark Patterson



	SQ. FT.	% OF LOT
SLOPED AREA 0-15% GRADE	11,864	21%
SLOPED AREA 15-25% GRADE	25,768	45.5%
SLOPED AREA 25-35% GRADE	10,487	18.5%
OVER 35% GRADE	8,425	15%
75' SHORELINE SETBACK		
1/2 CRITICAL ROOT ZONE OF HERITAGE TREES		