

REPLY TO "UPDATED VARIANCE APPLICATION" FOR 6-12-2017 from Mike McHone

## **Reasonable Use**

The applicant for a variance to the lot size requirement wants to make an UNREASONABLE USE of the property, which would be building a triplex. This would allow 65% impervious cover on this too-small lot.

Construction of a duplex would be eminently REASONABLE. Neighbors have encouraged the owners, Patti and Greg Schaub (aka Winflo Holdings LLC) to do this. Duplexes are zoned as single-family, which allows 45% impervious cover.

**CodeNext** has zoned this property and most of the others in the Park View subdivision as T4NIS, which will allow 45% impervious cover for single-family AND multi-family residential.

Only single-family and commercial uses have been "grandfathered" in the current LDC.

From a previous reply to Mr. McHone's 4-10-2017 presentation:

## REASONABLE USE

Almost everything stated by Mr. McHone in this section is untrue:

- The lot was NEVER zoned "B-2nd Height and Area." (The zoning for the 804 Winflo lot was platted as an "A" property. Properties zoned "a" allowed single-family houses and duplexes (SF-3 zoning).
- The lot was not rezoned in 1985 because of a modification of the LDC..
- Lot 6 was NOT a "conforming" lot in 1984 ("conforming" meaning multi-family, in this instance).
- The application of the Site Development regulations DOES allow for a reasonable use on this lot: a duplex or a single-family residence (45% impervious cover). The lot is 683 sq. ft. too small (per 11-9-2016 COA Master Review Report) for a triplex use (65% impervious cover).

## **Hardship**

a) The slight curve in Winflo Drive presents no hardship to developing the lot. The owners have had a very large triplex designed with seven bedrooms and four garage spaces for the existing lot, and they plan to execute this design if a variance is granted (65% impervious cover).

b) This lot is NOT "one of the few lots adjacent to existing MF development." And, it is NOT "fully compliant (with) all other MF requirements and full compatibility requirements of the LDC." Instead, three waivers have been purchased from the COA for driveway spacing, width, and turn radius.

The driveway stretches from the rear of the property (on several feet of the rear setback) to the street. It is twenty feet wide at the property line. Its south side is against the fenceline (with 802 Wnflo) the whole way, except for a few feet near the street, so that it presumably won't kill a tree on an adjoining lot. There is no margin for vegetation - only unrelieved concrete (except under the tree). Three places along the driveway are constricted to a sixteen foot width.

### **Area Character**

Mr. McHone's statement, "This LDC compatibility compliant triplex will be the proper buffer and will not impair the purpose of the current zoning district regulations," is repeating his incorrect statement that the proposed triplex is compatible according to LDC standards. See above. And, the very large paved portion of this lot (65% impervious cover), as well as the quite large triplex structure (4299.67 sq. ft. gross floor area) will be a significant visual departure from the pleasant green surroundings of properties across the street and at 802 Winflo Drive, as well as the rest of the neighborhood toward 6th Street.

### **Reply to Mike McHone's letter to the Board of Adjustment, dated May 30, 2017**

1. It is unlikely that the "DAC" gave the "ok to proceed with the design."  
**Condominiums and/or townhomes were proposed when the project was received in July 2016 at the Land Use Review Division of the Development Services Department.** As noted in the first Master Review Report, dated September 20, 2016, "The current project description describes the development as RESIDENTIAL CONDOMINIUMS, but the project title describes it as TOWNHOMES (emphasis mine)." That report states that townhomes "must each be on separate lots," and so that type of development at 804 Winflo Drive is not possible."

The second Master Review Report from November 9, 2016, states, "Despite your assertion in the comment response, the proposed structures are not considered "townhouses" by the Land Development Code." That report further notes, "This project cannot be approved as a Condominium Residential land use." It concludes that, "Multifamily Residential" appears to be the only approvable option." And, the Report states that a variance will be required from the Board of Adjustment for approval of a substandard lot.

The COA should be able to assume that licensed design professionals have consulted the Land Development Code about the site requirements for whatever type of development they present for review.

It is unfair to blame the COA for any delay in informing the applicants that a variance would be required. The applicants did not know what type of structure could even theoretically be built on the site until they were informed by the Development Services Department that the only possible approvable option was "Multifamily Residential," which would require a lot size variance.

2. Several of the neighbors who originally signed the petition in support of the variance have now withdrawn their approval and sent letters and emails opposing it. Five households remain on the list of those who approve. There are now twenty-three households which are opposed to the variance being approved by the Board of Adjustment. The variance is opposed by the Old West Austin Neighborhood Association Zoning Committee, the Steering Committee, and the General Membership. Our president, Scott Marks, has written a letter to the Board of Adjustment recounting this, as well as the reasons for this opposition.

3. As stated earlier, the slightly smaller front width of the lot has not been detrimental to the applicant's ability to design a large three-unit structure with accompanying garages, bicycle parking spaces, driveway and walkway. However, the amount of impervious cover this involves would make the triplex an unattractive addition to our lovely green neighborhood.

4. Mr. McHone shows that IF THE LOT WERE LARGER, it would be larger. Enough said.

5. Mr. McHone has provided many, many pages of zoning regulations. They are not relevant. As was noted on the "Notice of Public Hearing Land Development Code Variance," the substandard lot section of the LDC applies to 804 Winflo Drive since a multifamily use is proposed. This was determined by Greg Guernsey, the Director of Zoning and Planning at the Development Services Department. And, as was also noted on the Notice, "the Old West Austin Neighborhood Plan only provides small lot amnesty for single family use." Furthermore, the Neighborhood Plan Combining District (NPCD), set forth in the current LDC in May 2017, shows that the proposed triplex does not meet the requirements for small lot amnesty or residential infill.

6. It is UNTRUE that "Old West Austin NP is the only one without a FLUM." In the 2013 planning process, Hyde Park also did not have a FLUM. However, as noted previously, there are two FLUM-like maps that were produced by the neighborhood association when it did its neighborhood planning in 2000. These are the Old West Austin Neighborhood Plan Proposed Land Use and Zoning Changes, and the Historic Resource Survey Old West Austin Neighborhood Plan. Both show that 804 Winflo Drive was considered, both historically and in 2000, to be a single-family property.

7. The four properties that Mr. McHone presents as "developed as multifamily that are less than the current minimum requirement" were built in 1906, 1920, 1924,

and 1940. They do not have garages. TravisCAD shows their living areas to be 1656,1460, 2108 and 2536 square feet (611 Baylor, the fourplex). By contrast, 804 Winflo Drive is planned to have 4299.67 sq. ft. of gross floor area (which includes garages).

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**From:** [REDACTED]  
**To:** [Heldenfels, Leane](#); [REDACTED]  
**Subject:** RE: C15-2017-0008 // 2017-000005 BA  
**Date:** Friday, June 09, 2017 2:52:29 PM

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Dear Board of Adjustment Commissioners,

It is necessary to correct a mistake that was made on a previous submission. I submitted the “Gross Floor Area (GFA)” of the 804 Winflo triplex as being **4,299.67**, which figure was transmitted to me from the Development Services Department as the figure supplied by the engineer for the project. Instead 4,228.09 is the air conditioned space of the three units, and does not include their garages. However, the GFA is intended to include garages, as well. So, **the correct figure is** (not including the spaces between the finished walls and the exterior walls) **5,170.20 square feet**. This figure also does not include the balconies and covered walkways of the proposed construction, which are not included in a GFA. Those square footages, totalled, would be at least 1,958.71.

On June 7, 2017 Laura Swartz posted the “Residential New Condominium Permit Application,” dated Nov. 15, 2016, from New Line Construction for “Winflo Townhomes” for review of site development information questions. This application shows the square footages “for each distinct area.”

Considering the GFA of **804 Winflo** and its balconies and covered walkways, **the building itself is 7,123.91square feet**.

**Such a large multi-family building cannot be considered “a proper buffer,”** as Mr. McHone proposes, between the single-family properties to the south and to the west, and the multi-families to the north. Indeed, 806 Winflo, a six-plex just to the north of 804 Winflo, has only 5,354 sq. ft. of living area, and no garages.

Thank you for your attention to this comparison, which is significant in our neighborhood.

— Ellen Justice