

APPLICANT RESPONSE STATEMENT – VARIANCES

The applicant finds that the following standards are relevant in balancing the interest in promoting the public health, safety, morality, or general welfare against the right to unrestricted use of property and shall govern the exercise of the zoning power.

1. Explain requested variance.

King Mac Ventures LLC. (KMV) requests the following variances to the setback conditions to accommodate the limited developable land available and to reduce the overall impact on the property. The variances will allow for a more sensitive use of the site, bringing the townhomes closer to the road and away from the creek on site.

The specific variances requested are as follows:

- a) Reduce the front, rear and side building setbacks for all units from 30' to 24' (Sec 7.928);
- b) Remove rear buffer of 75' on the southwest corner of the property. Keep building setback of 24'. **Allow grading and site walls to encroach within entire length of 75' rear buffer.** (Sec 7.928)
- c) **Allow grading within 50' City Stream Buffer.** (Sec 17.3)

2. There are exceptional and extraordinary conditions pertaining to the particular piece of property in question, due to its size, shape or topography.

The property has a stream running across it, which reduces the available developable land to less than 5 acres. This removes over half of the property for development, which is an undue burden.

3. The application of these regulations to this particular piece of property would create a practical difficulty or unnecessary hardship.

Application of the standard setbacks reduces the available developable land even more and requires unnecessary impact to the stream buffer in grading and construction of the units. The rear buffer is unnecessary since the bordering property is also residential and there is a natural buffer on the north side of that property that puts structures more than 85' apart at the closest point.

4. Such conditions are peculiar to the particular piece of property involved.

Most properties are not burdened so heavily by a stream. This property uniquely has the stream traveling from the northwest corner through the property and along most of the southern property line.

5. A literal interpretation of this ordinance would deprive the applicants of any rights that others in the same district are allowed.

The district allows up to 6 units per acre density for town home developments. The strict interpretation would only allow for approximately 4 units per acre which puts an undue burden on the developer. Allowing for the variances puts the development at just under 5 units per acre, which is still well under the maximum allowed for this category.

6. Relief, if granted, would not cause substantial detriment to the public good, or impair the purposes and intent of this ordinance.

The requested relief would benefit the commercial properties by providing more customers and the increase in residents would not harm the overall traffic flow of the area. It would serve to provide a more environmentally sensitive and walkable development which would benefit residents in this community. **Any buffer disturbance will be replanted with evergreens to replace or enhance the vegetative buffer.**

Additionally, the grading encroachments into the 50' City Stream Buffer would be replanted with a mix of native vegetation to replace the buffer and compensatory buffer could be dedicated at 1:1 or 1:2 ratio as requested by City.

7. Special circumstances or conditions applying to the building or land or building and land in question are peculiar to such premises and do not apply generally to other land or buildings in the vicinity.

The conditions of this property are unique in the environmental impact the stream has on the site.

8. Granting of the application is necessary for the preservation and enjoyment of a property right and not merely to serve as a convenience to the applicant.

Granting of the application will benefit the greater community by reducing the environmental impact of the stream and increasing the residential options for the area. **The replacement planting will enhance the current buffer, and the additional buffer will provide more protection for the stream.**

9. The condition from which relief or a variance is sought did not result from willful action by the applicant

The condition of the property is the result of the natural features of the site and the application of the zoning without regard to these conditions, not the actions of the applicant.

10. Authorizing the variance will not impair adequate supply of light and air to adjacent property or unreasonably increase the congestion of public streets, increase the danger of fire, imperil the public safety, unreasonably diminish or impair established property values within the surrounding areas or in any other respect impair the health, safety, comfort, morals or general welfare of the inhabitants of the City.

The requested variances will not impair light or air to adjacent properties, it will not increase the congestion unreasonably, it will not increase the danger of fire, it will improve public safety, and the adjoining area will benefit from the development of this property.