

# **Marlow Response to Staff Analysis**

## **10 August 2023**

---

### **8-A-23-OA**

#### **Art. 2.3**

Bullet Point 2 – Applicant assumed the number of units would be the same in each zone as listed in multifamily. For example – RN4 requires 2,000 sf per dwelling unit; 10,000 sq ft lot = 5 dwelling units.

Bullet Point 3 – Pocket Neighborhoods have yet to be used since adoption of the current code. Moreover, as written the pocket neighborhood requires the same amount of space per dwelling unit – 5,000 SF per single family residence. This is not an effective vehicle for cottage courtyard style development.

Bullet Point 4 – I fundamentally disagree with the assertion that this will deliver large units. Building coverage and impervious coverage percentages will impact the size of the individual units.

#### **Art. 4.1**

Bullet Point 1 – Why do we even have a One Year Plan? Amending the zoning code is permissible, and in fact, during RECODE it was advertised as a living document that would be continuously reviewed and improved.

Bullet Point 2 – Including ADU in the purpose statements evidences awareness of, and concern for, our housing crisis.

Bullet Point 3 – principal use standards are readily evaluated by Plans, Review and Inspections as part of the Plans Review and Permitting processes.

#### **Art. 4.3**

Bullet Point 1 – Closely related and perhaps interchangeable with “Non-conforming Lot of Record” See Art. 17.3 but I recall it was recently moved to Art. 2 but does not appear that way on Municode.

Bullet Point 2 – Unclear of MMH Scan even studied impervious coverages. Noteworthy that they did note minimum lot size as a barrier; and impervious coverage is closely related.

#### **Art 4.3, Table 4-1 Dimensional Standards**

Bullet Point 1 – My experience is that front setbacks create wasted space. Moreover, in the near downtown neighborhoods front yards become public safety liabilities with the pervasive homelessness issue. Front yards are prone to being used as bathrooms, campgrounds, needle dumping sites, and are otherwise rendered unusable. Usable outdoor space in the near downtown

neighborhoods must be behind a solid fence of at least 6 feet in height—this is only permissible behind the front corners of the house.

Bullet Point 2 – Utility and Drainage easements do not exist on most lots of record (ward map lots). When forced to re-plat lots the utility and drainage easement is always reduced to existing building lines or proposed building lines. Within the older and established neighborhoods – which are predominately among the smallest lots in the city – the entire notion of utility and drainage easements are an unlawful taking by the Planning Commission without compensation. For example – 401 Cansler Ave. Lot 73R of Plat 4-A-22. BZA granted variances allowing building front and side setback of 6’. Peter’s office issued permit. House is standing and soon to have rough-in inspections. No one has mentioned the utility and drainage easement encroachment that Plans, Review, and Inspections permitted. It’s an entirely made-up phenomenon. For other examples of utility and drainage easement being automatically reduced See also 4-SC-19-F; 4-SA-F-21; 4-A-22; 2-N-23; 7-Z-23 (SU on today’s agenda item 12).

Bullet Point 3 – My experience is that side setbacks create barriers to all types of housing on infill lots. See BZ3J19VA; BZ2G19VA; BZ3D21VA; BZ06A22VA; BZ9E22VA; BZ6B23V; BZ6C23VA.

Bullet Point 4 – I am unfamiliar with RN7. My methodology for these amendments was to limit myself to the areas I work within and know well. My inclusion of RN7 in regards to side setbacks was an oversight. I am happy to remove RN7 from this amendment.

## **8-B-23-OA**

### **Art. 5.3, Table 5-1**

Bullet Point 1 – The MMH Scan did not evaluate CN. However, I have. See 1101 University Ave; 10-G-22-SP; 10-F-22-PA; 10-K-22-RZ

Bullet Point 2 – I intended to modify setbacks for all uses within CN.

Bullet Point 3 – Building height remains unchanged and is the primary factor when considering scale.

Bullet Point 4 – Delegating corner side setbacks to Engineering, which are primarily concerned with visibility at intersections, seems the most logical way to balance public safety and development. Any delay caused by Engineering Review will inevitably be quicker than bringing to Planning Commission given the application deadline to hearing time frame.

Bullet Point 5 – Unclear what additional language is needed to further clarify what “exclusively residential” means. This would mean the CN is being developed as residential with no commercial use (ie no mixed use; no shops; no industry). I am happy to further define this, perhaps to allow for a leasing office onsite but no other commercial component.

## **8-C-23-OA**

### **Art. 10.3.B**

Bullet Point 1 – Extremely speculative. Many ADUs will be located within existing structures on lots (directed by economic feasibility; lot size; etc.).

Bullet Point 2 – See utility and drainage easement discussion above under Art. 4.3, Table 4-1, Bullet Point 2.

Bullet Point 3 – See 8-D-23-OA.

Bullet Point 4 – The original intent of ADU ordinance, found in Art. 10.3.B is silent as to height. Height of an accessory structure, with no distinction as to it being used as a dwelling unit, is located in Art. 10.3.A.4. This suggests an oversight in the original ADU ordinance. It is logical that an accessory unit used as a dwelling unit merits its own height standards since the IRC have specific minimum ceiling heights requirements for dwelling units and that the proper place for height restriction for an ADU is within Art. 10.3.B. That being said, my intent was to ensure the ADU remains shorter than primary house; much like I suspect 18' was arbitrarily selected for the height of any accessory structure, I arbitrarily picked 30' (5' shorter than max. building height in RN zones). I am happy to compromise somewhere between 18 and 30 feet. How about 25 feet—10 feet shorter than max building height in RN?

Bullet Point 5 – I disagree. Lot size, building coverage, and impervious coverage will all serve to limit the size of ADU. In fact, the most promising location for ADU creation is near downtown where lots are small and historically mother-in-law suites and garage apartments were fairly common.

**UNRELATED – I note that Plans, Review and Inspections recommends eliminating the owner-occupied requirement as it is difficult, if not impossible to enforce.**

## **8-D-23-OA**

### **Art. 11.3.C**

Bullet Point 1 – My methodology was to be as respectful to existing code and nomenclature as possible and undertake minimal changes. I also am being mindful of IBC regulations and hoping to avoid forcing this housing class out of IRC building standards. The intent is to allow several single family and perhaps 2F homes built on a single lot; at a greater density than what is required for 1F and 2F. The key here is to get the density regulation for a lot to be controlled by the multifamily regulation; but to allow the structures to be treated as 1F or 2F and built pursuant to IRC.

Case in point: 1216 Callaway St (7-H-23-RZ). 10,114 sf lot; upzoned to RN4. MF regulations permits 5 dwelling units (2,000 sf per). Under present zoning code the max. allowed is 2 SF (5,000 per). It may be possible, if I follow a carefully scripted timeline to achieve 3 dwelling units as follows: restore 1216 Callaway (120-year-old house) then I personally move-in to this house; then apply for and construct ADU as owner occupied; then seek to build a second single family home on the same lot. However, I see no reason I to not allow me the same multifamily density while saving this historic house and the mature pecan trees on the site. Especially when I can do so without requiring a variance from the lot coverage restrictions (35% building; 45% impervious) as

follows: Existing House 1,077 SF; Proposed detached garage at alley with ADU above (24x24 = 576) and three tiny homes along with southern boarder fitting between mature pecans forming a courtyard with the other structures (16x24= 384 each x 3 = 1,152). Add covered front porches to each tiny home (16x6 = 96 x 3 = 288). Total building coverage  $1,077 + 576 + 1,152 + 288 = 3,093$  / 10,114 = 30.6% I even have 446 sf of coverage to spare should I wish to build a community gazebo, carport, etc. As far as impervious coverage I expect street parking for the original house and the tiny houses (the lot is 75 wide which I calculate as 4 parallel parking spaces out front on the street = 1 per dwelling unit) and that garage apt. will have parking for 2 within the garage. I expect to also create 2 additional parking spaces off the alley. 2 parking spaces (18x18 = 324). I plan to use brick pavers to create sidewalks from each tiny home to the others and from the street to the alley for tenant and guest assess – figure 3' wide sidewalks x 135 lot depth plus off shoots to each tiny home of 16 feet each for a total linear distance of 183 feet x 3 feet wide = 549 sf. Include the existing sidewalk to the front of the original home (50 sf)

I will be well under the 45% or 4,551 sf of permissible impervious ( $4,551 - 3,093 - 324 - 549 - 50 = 535$  feet of impervious remaining (more than 5%).

Bullet Point 2 – See utility and drainage easement discussion above under Art. 4.3, Table 4-1, Bullet Point 2.

Bullet Point 3 – CN is different. It's taxed as commercial. It's located on busier streets, often at edges of, or center of commercial nodes, of neighborhoods where it makes sense to change the setbacks.

Bullet Point 4 – I suspect MMH Scan arbitrarily selected 5' and landscape planter. I have suggested zero. I am willing to compromise, and in general I think 5' is acceptable. However, I point out that some lots that are, or are ideal for, CN zoning are simply too small to dedicate landscape planter space. In these small lot instances, I believe flexibility to reduce that distance as necessary for good building function and design. Perhaps in conjunction with the reduction discussed more fully in 8-E-23-OA.

#### **Art. 11.4, Table 11-2**

Bullet Point 2 – My methodology was to be as respectful to existing code and nomenclature as possible and undertake minimal changes. I have no experience or training with respect dwellings above ground floor (I assume this is mixed use or apartment complex development).

Bullet Point 3 & 4 – No builder or developer is going to create something that is unmarketable. Market forces will achieve the correct parking density much quicker and more accurately than any regulation. Concerns about safety, sight distances, and street parking availability can all be addressed during the plans review phase with the Plans Review and Inspections Dept. which always includes Engineering.

Bullet Point 5 – In addition to comments immediately above; the only way to change citizen's car centric behavior is through changing circumstances. Building for the status quo only perpetuates the status quo. All growth comes with growing pains. This issue is best framed as a land use issue

that hinges on our collective morality – as a community what do we value more – parking spaces or houses? People living in vans and travel trailers or people living in houses and apartments.

#### **Art. 11.4.B**

Bullet Point 2 – My intent here was to reduce parking requirements when using commercial districts for residential that aren't classified as multifamily, such as SF, 2F, and townhomes. I do not wish to increase parking requirements anywhere – I apologize for my poor language and misunderstanding.

Bullet Point 3 – I believe adequate street parking is rather simple to define – in fact my experience in every near downtown neighborhood has organically decided that the street parking immediately out front of a house is the parking space for that house. Thus, when a house is being built on a 25 ft wide lot; I argue it has 2 parking spaces; when built on a 50 ft wide lot it has 4 parking spaces. I admit this methodology won't work in densely populated areas such as Downtown, Ft Sanders, and the South Water Front – however – I believe each of those areas have their own form-based code and none of my proposals are intended to impact that. The adequacy of the street parking can be reviewed during the plans review process by the Plans Review and Inspections Dept. which always includes Engineering.

#### **8-E-23-OA**

##### **Art. 12.2.A.**

Bullet Point 1 – The MMH Scan did not review CN at all. I have. See above at 8-B-23-OA, Art. 5.3, Table 5-1, Bullet Point 1.

Moreover, as addressed regarding the so-called double platting process concerning stormwater that was recently changed by Ordinance, after being identified by Matrix Solutions Report that studied the processes; See Ordinance O-52-2023 & O-101-2023.

I believe this landscape plan requirement should be similarly changed so projects can become shovel ready for sitework and initial construction while the minutia of details that have absolutely nothing to do with the safety or functionality of the structure do not hinder construction. Perhaps require an initial landscape plan that complies, and is stamped as part of the approval process that any changes must comply or should they not fines of \$xxx will be imposed for each omitted bush, tree, etc.

##### **Art. 12.8**

Bullet Point 1 – It is unclear what the 30% threshold is based on. Methinks it was arbitrarily selected, or derived from a compromise of other arbitrarily selected numbers. I admit I arbitrarily selected 70%. I'm willing to find a compromise, to that end I counter offer 50%.