

ORDINANCE NO.

AN ORDINANCE GRANTING VARIANCES FOR PROPERTY LOCATED AT 835 WEST 6TH STREET FROM CERTAIN FLOODPLAIN REGULATIONS PRESCRIBED BY THE CITY CODE FOR CONSTRUCTION OF A RESIDENCE IN THE 25- AND 100-YEAR FLOODPLAIN; AND PROVIDING AN EXPIRATION DATE FOR THE VARIANCES.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. This ordinance applies to the construction of mixed use buildings and an underground parking structure located at 835 West 6th Street within the 25- and 100-year floodplain described in Site Plan Application No. SP-06-0588C.

PART 2. Council has considered the factors for granting a variance from floodplain regulations prescribed by City Code Section 25-12-3, Building Code Appendix G, Section G105.7 (*Conditions for Issuance*). Council finds that the variances granted by this ordinance are the minimum necessary to afford relief, are based on good and sufficient cause, and failure to grant the variance would result in exceptional hardship. Council further finds that the variances granted in this ordinance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, or create a nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

PART 3. A variance is granted from:

- (A) the prohibition against placing an obstruction in a waterway prescribed by City Code Section 25-7-2 (*Obstruction of Waterways Prohibited*);
- (B) the restriction on construction in the 25- and 100-year floodplains prescribed by City Code Section 25-7-92 (*Encroachment On Floodplain Prohibited*);
- (C) the easement requirements in City Code Section 25-7-152 (*Dedication of Easements and Rights-of-Way*) to exclude the footprint of the mixed use buildings and the parking structure from the requirement to dedicate an easement to the limits of the 100-year floodplain;
- (D) the requirement that normal access to the building be by direct connection with an area at least one foot above the design flood elevation prescribed by City Code Section 25-12-3, Building Code Section 1612.4.3 (*Means of Egress*); and

- 1 (E) the requirement that a non-conforming use not be expanded, changed, or
2 altered in a way which increases its nonconformity prescribed by City Code
3 Section 25-12-3, Building Code Section G102.3 (*Nonconforming Uses*).

4 **PART 4.** The variance granted in this ordinance is only effective if the applicant meets
5 the following conditions:

- 6 (1) Before the City may release the site plan for the proposed structures, the
7 applicant shall execute and record a restrictive covenant, in a form
8 acceptable to the City Attorney, which: (1) prohibits obstructions to the flow
9 of water beneath the elevated portions of the proposed structures other than
10 piers designed and spaced in compliance with the latest edition of the
11 American Society of Civil Engineers Manual 24-05 (*Flood Resistant Design*
12 *and Construction*), and (2) prohibits residential use of the first floor of the
13 proposed structures.
- 14 (2) Before the City may release the site plan for the proposed structures, the
15 applicant shall execute and record a perpetual maintenance agreement, in a
16 form acceptable to the City Attorney, whereby the owner of the property
17 perpetually maintains Shoal Creek channel improvements and bridge
18 modifications.
- 19 (3) Before the City may release the site plan for the proposed structures, the
20 applicant shall submit to the City a conditional letter of map revision
21 (CLOMR) for review and concurrence. Before the City may issue a Building
22 Permit for the proposed structure, the applicant shall obtain approval of the
23 CLOMR from the Federal Emergency Management Agency (FEMA).
- 24 (4) Before the City may issue a certificate of occupancy for the proposed
25 structures, the applicant shall submit to the City a letter of map revision
26 (LOMR) for review and concurrence.
- 27 (5) Before the City may issue a building permit for the proposed structures, the
28 applicant shall submit to the City a certification by a Texas registered
29 professional engineer or architect certifying that the proposed structures
30 have been designed in accord with FEMA Technical Bulletin 6-93, April
31 1993 and any subsequent edition, "*Below-Grade Parking Requirements for*
32 *Buildings Located in Special Flood Hazard Areas*", and FEMA Technical
33 Bulletin 4-93, April 1993 and any subsequent edition, "*Elevator Installation*
34 *for Buildings Located in Special Flood Hazard Areas*".

- 1 (6) The applicant shall submit to the City certifications by a Texas registered
2 professional engineer certifying that the proposed mixed use buildings and
3 parking structure will withstand the flood forces generated by the 100-year
4 flood and that the design and construction is in accord with the latest edition
5 of the American Society of Civil Engineers Manual 24-05 (*Flood Resistant*
6 *Design and Construction*). The certification regarding design must be
7 submitted before the City may issue a building permit for the proposed
8 structures; the certification regarding construction must be submitted before
9 the City may issue a certificate of occupancy for the proposed structures.
- 10 (7) Before the City may issue a certificate of occupancy for the proposed
11 structures, the applicant shall submit to the City a completed elevation
12 Certificate certifying the elevation of the finished floor of the first floor of
13 the mixed use buildings, the aerial pedestrian crossway, and the entrances
14 and exits to the parking structure are each a minimum of two feet above the
15 100-year floodplain elevation, signed by a Texas registered professional land
16 surveyor.

17 **PART 5.** If the project for which this variance is granted does not receive all necessary
18 building permits before July 2, 2009, this variance expires.

19 **PART 6.** Approval of this variance does not constitute approval of zoning, subdivision,
20 a site plan, a building permit, or any other development permit, and it does not constitute
21 a commitment to any particular land use, intensity of land use, or utility services.
22 Approval of this variance does not constitute a guarantee of flood insurance availability,
23 rates, or requirements.

PART 7. This ordinance takes effect on _____, 2007.

PASSED AND APPROVED

_____, 2007

§
§
§

Will Wynn
Mayor

APPROVED: _____
David Allan Smith
City Attorney

ATTEST: _____
Shirley A. Gentry
City Clerk