

# **STAFF RECOMMENDS DENIAL**

## **ORDINANCE NO.**

**AN ORDINANCE GRANTING VARIANCES FOR PROPERTY LOCATED AT 1111 BERGER STREET FROM CERTAIN FLOODPLAIN REGULATIONS PRESCRIBED BY THE CITY CODE FOR CONSTRUCTION OF AN ADDITION TO A RESIDENCE IN THE 25- AND 100-YEAR FLOODPLAINS; 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 a 434 square foot addition to an existing house located at 1111 Berger Street within the 25- and 100-year floodplains as described in Building Permit Application No. BP-07-125798.

**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 restriction on construction in the 100 and 25-year floodplains prescribed by City Code Section 25-7-92 (*Encroachment On Floodplain Prohibited*);
- (B) the easement requirements in City Code Section 25-7-152 (*Dedication of Easements and Rights-of-Way*), to exclude the residence from the requirement to dedicate an easement to the limits of the 100-year floodplain;
- (C) the prohibition against placing an obstruction in a waterway prescribed by City Code Section 25-7-2 (*Obstruction of Waterways Prohibited*);
- (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 prohibition against expanding, changing, enlarging, or altering a  
2 structure in a way which increases its nonconformity prescribed by City  
3 Code Section 25-12-3, Building Code Appendix G, Section G102.3  
4 (*Nonconforming Uses*).

5 **PART 4.** The variance granted in this ordinance is effective only upon the satisfaction of  
6 the following conditions:

- 7 (A) The lowest floor elevations for both the existing structure and the proposed  
8 addition must be a minimum of 461.60 feet above mean sea level.
- 9 (B) The applicant shall submit a completed Elevation Certificate to the City  
10 certifying the elevation of the finished floor of the finished structure signed  
11 by a Texas registered professional land surveyor. The City may not issue a  
12 Certificate of Occupancy for the proposed structure until the applicant  
13 submits the Elevation Certificate.
- 14 (C) The applicant shall submit a completed certification to the City certifying  
15 that the existing structure and the proposed addition will withstand the flood  
16 forces generated by the 100-year flood and that the design and construction  
17 is in accord with the latest edition of the American Society of Civil  
18 Engineers Manual 24 (*Flood Resistant Design and Construction*) signed by a  
19 Texas registered professional engineer or architect. The City may not issue  
20 a Building Permit for the proposed structure until the applicant submits the  
21 required certification.

22 **PART 5.** This variance expires if the project for which this variance is granted does not  
23 receive all necessary building permits before November 19, 2008.

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

29 **PART 7.** This ordinance takes effect on \_\_\_\_\_, 2007.

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**PASSED AND APPROVED**

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\_\_\_\_\_, 2007

\_\_\_\_\_  
Will Wynn  
Mayor

**APPROVED:** \_\_\_\_\_  
David Allan Smith  
City Attorney

**ATTEST:** \_\_\_\_\_  
Shirley A. Gentry  
City Clerk

DRAFT