

## **STAFF RECOMMENDS DENIAL**

### **ORDINANCE NO.**

**AN ORDINANCE GRANTING VARIANCES FOR PROPERTY LOCATED AT 800 W. 6<sup>th</sup> STREET AND 600-700 WEST AVENUE FROM CERTAIN FLOODPLAIN REGULATIONS PRESCRIBED BY THE CITY CODE FOR CONSTRUCTION OF A COMMERCIAL OFFICE BUILDING AND PARKING GARAGE IN THE 25 AND 100-YEAR FLOODPLAINS; ESTABLISHING CONDITIONS FOR THE VARIANCES; 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 97,738 square foot commercial office building and a 102,048 square foot stand alone parking garage located at 800 W. 6<sup>th</sup> and 600-700 West Avenue within the 25 and 100-year floodplains as described in Site Plan Application No. SP-2007-0536C.

**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 25 and 100-year floodplains prescribed by City Code Section 25-7-92 (*Encroachment On Floodplain Prohibited*);
- (B) the requirement in City Code Section 25-7-94 (*Exceptions in Central Business Area*) that a building in the 100 year floodplain in the central business area compensate for any floodplain volume displaced by that construction;
- (C) the easement requirements in City Code Section 25-7-152 (*Dedication of Easements and Rights-of-Way*), to exclude the commercial office building

1 and stand alone parking garage from the requirement to dedicate an  
2 easement to the limits of the 100-year floodplain;

3 (D) the prohibition against placing an obstruction in a waterway prescribed by  
4 City Code Section 25-7-2 (*Obstruction of Waterways Prohibited*); and

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

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

10 (A) The applicant shall submit a Conditional Letter of Map Revision Based on  
11 Fill (CLOMR-F) to the Federal Emergency Management Agency (FEMA).  
12 The City may not approve the Site Plan for the commercial office building  
13 or stand alone parking garage until the CLOMR-F is approved by FEMA.

14 (B) The applicant shall submit a Letter of Map Revision (LOMR) to FEMA.  
15 The City may not issue a Certificate of Occupancy for the proposed  
16 commercial office building or stand alone parking garage until the LOMR  
17 is approved by FEMA.

18 (C) The lowest floor elevations for the proposed commercial office building and  
19 stand alone parking garage must be a minimum of 470.5 feet above mean  
20 sea level.

21 (D) The applicant shall submit a completed Elevation Certificate to the City  
22 certifying the elevation of the finished floor of the finished structures, signed  
23 by a Texas registered professional land surveyor. The City may not issue a  
24 Certificate of Occupancy for the proposed commercial office building or  
25 stand alone parking garage until the applicant submits the Elevation  
26 Certificate.

27 (E) The applicant shall submit a completed certification to the City certifying  
28 that the commercial office building and stand alone parking garage will  
29 withstand the flood forces generated by the 100-year flood and that the  
30 design and construction is in accord with the latest edition of the American  
31 Society of Civil Engineers Manual 24 (*Flood Resistant Design and*  
32 *Construction*) signed by a Texas registered professional engineer or  
33 architect. The City may not issue a Building Permit for the proposed  
34 commercial office building or stand alone parking garage until the applicant  
35 submits the required certification.

(F) The applicant shall dedicate an easement to the City as required by City Code Section 25-7-152 to the limits of the 100 year floodplain, excluding the footprint of the commercial office building and stand alone parking garage. The City may not issue a Building Permit for the proposed commercial office building or stand alone parking garage until the applicant submits all information and documentation necessary for the easement, and the easement as approved by the City Attorney is filed by the applicant in the Travis County Real Property Records.

**PART 5.** This variance expires if the project for which this variance is granted does not receive all necessary building permits before \_\_\_\_\_, 2009.

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

**PART 7.** This ordinance takes effect on \_\_\_\_\_, 2008.

## **PASSED AND APPROVED**

\_\_\_\_\_, 2008      § \_\_\_\_\_  
§ \_\_\_\_\_  
§ \_\_\_\_\_

Will Wynn  
Mayor

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

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