

## THE WATERSHED PROTECTION AND DEVELOPMENT REVIEW DEPARTMENT RECOMMENDS APPROVAL OF THIS VARIANCE REQUEST.

### SUMMARY OF FINDINGS

1. THE PROPOSED DEVELOPMENT ENCROACHES ON THE 25-YEAR AND 100-YEAR FLOODPLAINS OF SHOAL CREEK. The applicant's civil engineer has certified that the proposed structure will not result in any additional adverse flooding of other properties.
2. NO SAFE ACCESS. The depth of water at the Field House during the 100-year flood event is up to 4.2 feet deep. First responder personnel such as EMS and AFD would not have safe access to the building in case of an emergency during a 100-year flood event. However, the proposed Field House is a non-residential building that will not be permanently occupied.
3. FINISHED FLOOR ABOVE MINIMUM REQUIRED ELEVATION. The proposed Field House building meets the City of Austin minimum elevation requirements (proposed elevation is at least one foot above the 100-year floodplain elevation). The proposed finished floor will be elevated one foot above the 100-year floodplain.
4. A HARDSHIP CONDITION FOR THE PROPERTY DOES EXIST. A serviceable Field House exists on the property. However, the finished floor elevation is below the 100-year floodplain. In order to optimize the functional use of the proposed Field House, it must be located within the 100-year floodplain. Although the proposed Field House encroaches into the 100-year floodplain, the finished floor elevation will be a minimum of one foot above the 100-year floodplain.
5. FLOODING IN AREA. Flooding records indicate that the area in which the proposed Field House will be located has been inundated on three different occasions in the last thirty years: May 1981, November 2001 and June 2004.

### APPLICABLE CODE VARIANCES REQUESTED

- I. Land Development Code Section 25-7-92 (Encroachment on Floodplain Prohibited) prohibits construction of a building or parking area in the 25-year and 100-year floodplains.

**VARIANCE REQUESTED:** *The applicant requests a variance from LDC Section 25-7-92(A) and (B) to allow encroachment of the proposed building into the 25-year and 100-year floodplains.*

- II. LDC Section 25-12-3 (Local Amendments to the Building Code), Section 1612.4.3 Means of Egress provides that normal access to a building shall be by direct connection with an area that is a minimum of one foot above the design flood elevation.

**VARIANCE REQUESTED:** *The applicant requests a variance to Building Code Section 1612.4.3, to allow construction of a building without normal access, either vehicular or pedestrian, to an area that is a minimum of one foot above the design flood elevation. The Field House building will be surrounded by as much as 4.2 feet of water during the 100-year flood event*

### PREREQUISITES FOR GRANTING VARIANCES AND FINDINGS:

Per LDC Section 25-12-3, Technical Codes, Section G 105 Variances, variances shall only be issued by the City Council upon an affirmative finding of the five conditions described below:

## PREREQUISITE

1) A technical showing of good and sufficient cause based on the unique characteristics of the size, configuration or topography of the site.

*Insufficient causes for issuing a variance may include the following:*

- *Less than a drastic depreciation of property.*
- *Convenience of property owner.*
- *Circumstances of owner not land.*
- *To obtain better financial return.*
- *Property similar to others in neighborhood.*
- *Hardship created by owner's own actions.*

2) A determination that failure to grant the variance would result in exceptional hardship by rendering the lot undevelopable;

*The location of the floodplain on the property is a characteristic of the land. Hardship refers to the effect of the floodplain status of the land on its use; it does not refer to personal or financial circumstances of the current owner of the land. In fact financial hardship, inconvenience, aesthetic considerations, physical handicaps, personal preferences or the disapproval of one's neighbors do not qualify as exceptional hardships. The applicant has the burden of proving exceptional hardship. FEMA advises that the reasons for granting floodplain management variances must be substantial and the proof compelling. The claimed hardship must be exceptional, unusual and peculiar to the property involved.*

3) A determination that granting of a variance would not result in increased flood heights, additional threats to public safety, extraordinary public expense, nor create nuisances, cause fraud on or victimization of the public or conflict with existing laws or conflict with existing laws or ordinances.

4) A determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

*Relief is defined as respite from unnecessary hardship. Unnecessary hardship is defined as:*

- *Loss of all beneficial or productive use.*

## FINDING

1) **CONDITION IS MET.** Most of the House Park property is inundated during the 25-year and 100-year flood events, including the existing Field House. The proposed Field House will encroach into the floodplain but will be elevated so that the finished floor elevation will be above the 100-year floodplain. In order to optimize the functional use of the proposed Field House, it must be located within the 100-year floodplain. The proposed development is certified to have no adverse flooding impact on other properties and will withstand the hydrodynamic forces of flood waters.

2) **CONDITION IS MET.** To optimize the functional use of the proposed Field House, it must be located within the 100-year floodplain. The proposed Field House encroaches into the 100-year floodplain but will have a finished floor elevation above the 100-year floodplain.

3) **CONDITION IS MET.** The proposed development will not result in increased flood heights as certified by the applicant's civil engineer. The approval of this variance request will not increase public safety threat because both the existing and proposed buildings are in the 100-year floodplain.

4) **CONDITION IS MET.** In this case, the proposed project and variance request is the minimum required to afford relief. The proposed Field House footprint is smaller than the existing footprint and the existing Field House will be demolished.

- *Deprivation of reasonable return on property.*
- *Deprivation of all or any reasonable use.*
- *Rendering property valueless.*
- *Inability to develop property in compliance with the regulations.*
- *Reasonable use cannot be made consistent with the regulation.*

5) Notification to the applicant in writing over the signature of the building official that the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance, and that such construction below the base flood level increases risks to life and property.

5) **CONDITION IS MET.** The finished floor elevation of the proposed building will be one foot above the 100-year floodplain. The applicant's structural engineer has certified that the proposed structure will withstand the hydrodynamic forces of the 100-year flood.

## **VARIANCE CONDITIONS**

In the event that the variance request is granted, the variance is effective only upon the satisfaction of the following conditions:

1. Before the City may issue a certificate of occupancy, the applicant shall dedicate and record an easement as required by LDC 25-7-152 to the limits of the 100-year floodplain on the property.
2. Before the City may issue a certificate of occupancy for the proposed structure, the applicant shall submit two completed elevation certificates certifying the elevation of the finished floor of the proposed structure is a minimum of one foot above the 100-year floodplain elevation and the elevation of the machinery (air conditioning unit, etc.) for the building is at or above the 100-year floodplain elevation, signed by a Texas registered professional land surveyor. The two required submittals of the elevation certificates are at the foundation inspection and at final building inspection.