

ORDINANCE NO. 20091119-099

AN ORDINANCE GRANTING VARIANCES FOR PROPERTY LOCATED AT 8225 HIGHWAY 71 WEST FROM CERTAIN FLOODPLAIN REGULATIONS PRESCRIBED BY THE CITY CODE FOR CONSTRUCTION OF A BANK BUILDING AND PARKING AREA IN THE 100-YEAR FLOODPLAIN; 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 bank with drive-through facilities and surface parking at 8225 Highway 71 West within the 100-year floodplain as described in Site Plan application number SP-2008-0592C.

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, extraordinary public expense, 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 requirement in City Code Section 25-7-61 (*Criteria for Approval of Plats, Construction Plans, and Site Plans*) that a site plan not be approved unless the proposed development will not result in additional identifiable adverse flooding on other property;
- (B) the restriction on construction in the 100-year floodplain 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 bank building from the requirement to dedicate an easement to the limits of the 100-year floodplain;

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

- (A) 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 bank building. The City may not issue a Certificate of Occupancy for the proposed building 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 Official Records of Travis County, Texas.
- (B) The applicant shall submit an Elevation Certificate to the City certifying the elevation of the finished floor of the building is a minimum of two (2) feet above the 100-year floodplain elevation and the elevation of machinery on the site is elevated a minimum of one (1) foot above the 100-year floodplain elevation, signed by a Texas registered professional land surveyor. The City may not issue a Certificate of Occupancy for the proposed building until the applicant has submitted a complete Elevation Certificate.

PART 5. This variance expires if the project for which this variance is granted does not receive a Building Permit before November 30, 2011.

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 November 30, 2009.

PASSED AND APPROVED

_____, November 19, 2009 §
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 § _____ Lee Leffingwell
 Mayor

APPROVED: _____
 David Alan Smith
 City Attorney

ATTEST: _____
 Shirley A. Gentry
 City Clerk