STAFF RECOMMENDS DENIAL

ORDINANCE NO.

AN ORDINANCE GRANTING VARIANCES FOR PROPERTY LOCATED AT 419 W. JOHANNA STREET FROM CERTAIN FLOODPLAIN REGULATIONS PRESCRIBED BY THE CITY CODE FOR CONSTRUCTION OF A SINGLE FAMILY RESIDENCE 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 single family residence, detached garage, swimming pool, covered patio, and porch at 419 W. Johanna Street within the 100-year floodplain as described in Building Permit application number 2010-074240 PR.

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 the proposed development 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 existing and proposed residences, garage, swimming pool, covered patio, and porch 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*);

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

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 existing and proposed residences, garage, swimming pool, covered patio, and porch. The City may not issue a Certificate of Occupancy for the residence 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 a completed Elevation Certificate certifying the elevation of the finished floor of the structure, signed by a Texas registered professional land surveyor, before the City may issue a Certificate of Occupancy for the residence.

PART 5. This variance expires if the project for which this variance is granted does not receive a Building Permit before January 24, 2012.

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_____, 2011.

PASSED AND APPROVED

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§
_____, 2011 § _____
Lee Leffingwell
Mayor

APPROVED: _____ **ATTEST:** _____
Karen M. Kennard
Acting City Attorney

Shirley A. Gentry
City Clerk

TM #47450 Resp Att'y: MIC
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