

ORDINANCE NO.

AN ORDINANCE GRANTING VARIANCES FOR PROPERTY LOCATED AT 718 WEST 5TH STREET FROM CERTAIN FLOODPLAIN REGULATIONS PRESCRIBED BY THE CITY CODE FOR CONSTRUCTION OF A MIXED-USE BUILDING AND PARKING IN THE 25-YEAR 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 mixed-use building and associated parking at 718 West 5th Street within the 25-year and 100-year floodplains as described in Site Plan Application Number SP-2013-0454C.

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 restriction on construction in the 25-year and 100-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*);
- (C) 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
- (D) 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 variances granted in this ordinance are effective only if the applicant meets the following conditions:

- (A) The applicant shall submit a completed floodproofing Certificate certifying that the mixed-use building is floodproofed up to one foot above the 100-year floodplain elevation, signed by a professional land surveyor, engineer, or architect authorized by law to certify elevations, before the City may issue a certificate of occupancy for the building.
- (B) The applicant shall submit a completed elevation certificate certifying the elevation of the finished floor of the mixed-use building, signed by a professional land surveyor, engineer, or architect authorized by law to certify elevations, before the City may issue a certificate of occupancy for the building.
- (C) The applicant shall submit a certification by a registered design professional certifying that the proposed development will withstand the flood forces generated by the 100-year flood and that the design is in accordance with the latest edition of the ASCE 24-05 before the City may issue building permits for the mixed-use building and associated parking.

PART 5. This variance expires if the project for which this variance is granted does not receive a building permit before July 7, 2015.

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_____, 2014.

PASSED AND APPROVED

_____, 2014 § _____
 § _____
 § _____
 Lee Leffingwell
 Mayor

APPROVED: _____
 Karen Kennard
 City Attorney

ATTEST: _____
 Jannette Goodall
 City Clerk