

**Recommendation for Council Action – Backup
Floodplain Variance Request – St. Catherine of Siena Church**

SUMMARY OF FINDINGS:

1. THE DEVELOPMENT DOES NOT CAUSE ADVERSE FLOODING ON OTHER PROPERTY. The applicant’s engineer submitted technical data that indicates that the proposed development will not increase flood heights.
2. NO SAFE ACCESS. Though the proposed building has multiple points of access to and from the building that are located outside of the 100-year floodplain, the property lacks normal access from the building to an area in the right-of-way that is a minimum of one foot above the design flood elevation. The current access points to the property are located along Convict Hill Road, which includes two entrances to the church’s parking lot. The two entrances are entirely in the 25-year and 100-year floodplains. First responder personnel and building occupants do not have safe access to and from the building during a 100-year flood event.
3. ADDITIONAL OCCUPANCY IN THE FLOODPLAIN. The development increases the opportunity for occupancy in the floodplain by increasing the conditioned area on the property. The development increases the conditioned space by demolishing an existing building and replacing it with the proposed building which has a greater square footage.
4. PROPOSED FINISHED FLOOR ABOVE MINIMUM REQUIRED ELEVATION. The proposed building will have its finished floor elevation above the City of Austin minimum elevation requirements, which require the finished floor elevation to be at least one foot above the 100-year floodplain elevation. The finished floor elevation of the ground floor of the proposed building is 1.7 feet above the 100-year floodplain.
5. HARDSHIP CONDITIONS FOR THE PROPERTY DO NOT EXIST. There are currently multiple buildings in use on the lot. Failure to allow the construction of the proposed building will not impact the current use of the existing buildings. The property does not have a hardship as defined in the Building Code.

APPLICABLE CODE AND VARIANCES REQUESTED

- I. 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 the replacement of an existing building located on the property to be constructed without normal access, either vehicular or pedestrian, to an area that is a minimum of one foot above the design flood elevation. Portions of the lot are in 100-year and the 25-year floodplains of the Kincheon Branch of Williamson Creek. The floodplain depths on the property at the right of way along Convict Hill Rd are listed below.*

Depth of water:	100-year flood event	25-year flood event
At the West Entrance to Parking Lot	2.9 ft.	1.9 ft.
At the East Entrance to Parking Lot	2.2 ft.	1.2 ft.

II. LDC Section 25-12-3, (Local Amendments to the Building Code), Section G102.3 Nonconforming Uses prohibits expanding, changing, enlarging, or altering the use of a premises in a way which increases its nonconformity.

VARIANCE REQUESTED: *The applicant requests a variance to Building Code Section G102.3 to allow enlarging and changing the total conditioned area on the property that does not have safe access out of the floodplain.*

PREREQUISITES FOR GRANTING VARIANCES AND FINDINGS:

Per LDC Section 25-12-3, Technical Codes, Section G105.7 Variances, variances shall only be issued upon consideration of the following prerequisites:

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

FINDING

1) **CONDITION IS MET.** The applicant has demonstrated a good faith effort to provide safe access during times of flooding through a greenbelt area within the subdivision. However, these efforts were not successful.

2) **CONDITION IS NOT MET.** There are currently existing buildings on the site. Failure to grant this variance would not render the lot undevelopable.

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 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.*
- *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.

3) **CONDITION IS NOT MET.** The proposed development does not increase flood heights. The development does increase public safety threat because more occupants could be located in building without safe access for the occupants and first responders.

4) **CONDITION IS MET.** The property currently provides a reasonable use as a church. There are no permanent residents on the property. The proposed redevelopment does not increase the amount of parking in the floodplain or additional building area in the floodplain. Any building expansion on this property would require this floodplain variance request. The expansion of the proposed building is considered minimal to the existing site use.

5) **CONDITION IS MET.** The finished floor elevations of the proposed building will be a minimum of one-foot above the 100-year floodplain elevation.