

# STAFF RECOMMENDS DENIAL

## ORDINANCE NO.

#37  
11-3-06

1 AN ORDINANCE GRANTING VARIANCES FOR PROPERTY LOCATED AT  
2 403 WEST 55 ½ STREET FROM CERTAIN FLOODPLAIN REGULATIONS  
3 PRESCRIBED BY THE CITY CODE FOR CONSTRUCTION OF AN ADDITION  
4 TO AN EXISTING HOUSE IN THE 25 AND 100-YEAR FLOODPLAIN, AND  
5 PROVIDING AN EXPIRATION DATE FOR THE VARIANCES.  
6

### 7 BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN: 8

9 **PART 1.** This ordinance applies to the construction of the addition of a bedroom and an  
10 adjacent deck to an existing house located at 403 West 55 ½ Street within the 25 and 100-  
11 year floodplain subject to Building Permit Application No. BP-05-7130RA.

12 **PART 2.** Council has considered the factors for granting a variance from floodplain  
13 regulations prescribed by City Code Section 25-12-3, Appendix Chapter 58, Article 8,  
14 Subsection D (*Variance Procedures*). Council finds that the variance granted by this  
15 ordinance is the minimum necessary to afford relief, is based on good and sufficient  
16 cause, and failure to grant the variance would result in exceptional hardship. Council  
17 further finds that the variance granted in this ordinance will not result in increased flood  
18 heights, additional threats to public safety, or extraordinary public expense, or create a  
19 nuisance, cause fraud on or victimization of the public, or conflict with existing local  
20 laws or ordinances.

### 21 **PART 3.** A variance is granted from:

- 22 (A) the restriction on construction in the 25 and 100-year floodplain prescribed  
23 by City Code Section 25-7-92 (*Encroachment On Floodplain Prohibited*);
- 24 (B) City Code Section 25-7-152 (*Dedication of Easements and Rights-of-Way*)  
25 to exclude the house, addition, and deck from the requirement to dedicate an  
26 easement to the limits of the 100-year floodplain;
- 27 (C) the prohibition against expanding, changing, enlarging, or altering a  
28 structure in a way which increases its nonconformity prescribed by City  
29 Code Section 25-12-3, Building Code Appendix Chapter 59, Section 5903  
30 (*Nonconforming Uses*).
- 31 (D) the requirement that normal access to the building be by direct connection  
32 with areas above the Regulatory Flood Datum prescribed by City Code

Section 25-12-3, Building Code Appendix Chapter 59, Section 5912(b)  
(Requirements for Other Flood-Proofing Methods).

**PART 4.** If the project for which this variance is granted does not receive all necessary building permits before November 3, 2006, this variance expires.

**PART 5.** 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 6.** This ordinance takes effect on \_\_\_\_\_, 2005.

**PASSED AND APPROVED**

\_\_\_\_\_, 2005

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\_\_\_\_\_  
Will Wynn  
Mayor

**APPROVED:** \_\_\_\_\_  
David Allan Smith  
City Attorney

**ATTEST:** \_\_\_\_\_  
Shirley A. Brown  
City Clerk