

Item #40
May 4, 2006

STAFF RECOMMENDS DENIAL

ORDINANCE NO.

1 **AN ORDINANCE GRANTING VARIANCES FOR PROPERTY LOCATED AT**
2 **806 EAST 30TH STREET FROM CERTAIN FLOODPLAIN REGULATIONS**
3 **PRESCRIBED BY THE CITY CODE FOR CONSTRUCTION OF A HOUSE IN**
4 **THE 25 AND 100-YEAR FLOODPLAINS, AND PROVIDING AN EXPIRATION**
5 **DATE FOR THE VARIANCES.**

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7 **BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:**
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9 **PART 1.** This ordinance applies to the construction of a 1,628 square foot house located
10 at 806 East 30th Street within the 25 and 100-year floodplains subject to Building Permit
11 Application No. BP-04-9680R.

12 **PART 2.** Council has considered the factors for granting a variance from floodplain
13 regulations prescribed by City Code Section 25-12-3, Building Code Appendix G,
14 Section G105.7 (*Conditions for Issuance*). 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 floodplains prescribed
23 by City Code Section 25-7-92 (*Encroachment On Floodplain Prohibited*);
- 24 (B) the easement requirements in City Code Section 25-7-152 (*Dedication of*
25 *Easements and Rights-of-Way*) to exclude the house from the requirement to
26 dedicate an 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 G, Section G102.3(1)
30 (*Nonconforming Uses*);
- 31 (D) the requirement in City Code Section 25-12-3, Building Code Appendix G,
32 Section G102.3(3) (*Nonconforming Uses*) that future use of the premises

1 after a nonconforming use is discontinued must conform to floodplain
2 regulations;

- 3 (E) the requirement in City Code Section 25-12-3, Building Code Appendix G,
4 Section G102.3(4) (*Nonconforming uses*) that reconstruction after a
5 nonconforming use is destroyed must conform to floodplain regulations; and
- 6 (F) the requirement that normal access to the building be by direct connection
7 with an area at least one foot above the design flood elevation prescribed by
8 City Code Section 25-12-3, Building Code Section 1612.4.3 (*Means of*
9 *Egress*).

10 **PART 4.** The variances granted in this ordinance are only effective if the applicant
11 meets the following conditions:

- 12 (1) The finished floor of the structure and all electrical and mechanical
13 components susceptible to flood damage shall have a minimum elevation of
14 one foot above the 100-year floodplain elevation.
- 15 (2) The applicant shall submit a completed Elevation Certificate certifying the
16 elevation of the finished structure, signed by a Texas registered professional
17 land surveyor, before the City may issue a Certificate of Occupancy for the
18 structure.
- 19 (3) The applicant shall submit a letter from a Texas registered professional
20 structural engineer certifying that the structure can withstand forces from the
21 100-year flood event, before the City may issue a Certificate of Occupancy
22 for the structure.
- 23 (4) The applicant shall dedicate an easement to the City as required by City
24 Code Section 25-7-152 for that portion of the property for which a variance
25 is not granted.

26 **PART 5.** If the project for which this variance is granted does not receive all necessary
27 building permits before May 4, 2007, this variance expires.

28 **PART 6.** Approval of this variance does not constitute approval of zoning, subdivision,
29 a site plan, a building permit, or any other development permit, and it does not constitute
30 a commitment to any particular land use, intensity of land use, or utility services.
31 Approval of this variance does not constitute a guarantee of flood insurance availability,
32 rates, or requirements.

1 **PART 7.** This ordinance takes effect on _____, 2006.

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3 **PASSED AND APPROVED**

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7 _____, 2006

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Will Wynn
Mayor

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12 **APPROVED:** _____
13 David Allan Smith
14 City Attorney

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17 **ATTEST:** _____
Shirley A. Gentry
City Clerk