Subject: Approve an ordinance waiving the interim development regulations of Ordinance No. 20060309-058 to allow the remodeling of an existing single family residence at 1100 Jolena Circle, Austin, TX.

Fiscal Note: There is no unanticipated fiscal impact. A fiscal note is not required.

On March 9, 2006 the City Council adopted interim development regulations which provided development limits in subdivisions within the City limits for which the original plat was approved before March 7, 1974, or on a tract that may legally be developed without being platted. Under Part 5 (D)(5) of the ordinance regarding minimum and maximum front yard setbacks, for a building permit to construct single-family, single family attached, two-family, secondary apartment, and duplex structures for a lot on a block face on which four or more lots are developed for a use described in Subsection (B):

(a) the lot with a principal structure closest to the street is disregarded, and the lot with a principal structure farthest from the street is disregarded;

(b) the minimum front yard setback is equal to the average of the minimum front yard setbacks of the principal structures on the remaining lots minus ten percent of the distance of that average; and

(c) the maximum front yard setback is equal to the average of the minimum front yard setbacks of the principal structures on the remaining lots plus ten percent of the distance of that average.

This ordinance includes a provision which allows City Council to waive the development limitations if the Council determines that the development regulations impose an undue hardship on the applicant and the development proposed by the applicant will not adversely affect public health, safety, and welfare.

Applicant Mr. Bernabe Hernandez is requesting a waiver from Ordinance No. 20060309-058 in order to remodel a single family residence at 1100 Jolena Circle, Austin, TX with a front setback of 18 ft. The average front set back on the block face is 31.5 ft. The one story single family residence will have 1979.5 square feet of gross floor area. The proposed development complies with the floor to area ratio and square footage limitations under Ordinance No. 20060309-058. The proposed development would also comply with all other zoning regulations, including building and impervious cover limitations as well as height requirements.

Staff recommends approval of the waiver request based on the information that the applicant has provided.
WAIVER REQUEST STAFF REPORT

PERMIT NUMBER: BP-06-4608RA                        COUNCIL DATE: June 22, 2006

APPLICATION DATE: May 8, 2006

OWNER: Bernabe Hernandez                           ADDRESS: 1100 Jolena Circle

BACKGROUND

On March 9, 2006 the City Council adopted Ordinance 20060309-058 establishing development regulations applicable to certain building permits for single-family, single family attached, two-family, secondary apartment, and duplex structures in areas of the City that were subdivided prior to March 1974.

APPLICATION

On May 4, 2006, the applicant submitted an application for a waiver from Part 5 Setbacks, (D) (5) of Ordinance 20060309-058 that prescribes minimum and maximum front yard setback which except as provided in Paragraph (6), for a lot on a block face on which four or more lots are developed for a use described in Subsection (B):

(a) the lot with the principal structure closest to the street is disregarded, and the lot with a principal structure farthest from the street is disregarded;
(b) the minimum front yard setback is equal to the average of the minimum front yard setbacks of the principals structures on the remaining lots minus ten percent of the distance of that average; and
(c) the maximum front yard setback is equal to the average of the minimum front yard setbacks of the principal structures on the remaining lots plus ten percent of the distance of that average.

SETBACKS

The proposed remodel (addition) requires the applicant to request a Council Waiver because it creates a structure that does not comply with the setback limitations set forth in Part 5(D) (5) of the ordinance:
Existing Setbacks of Lots
(lots running west to east on Jolena)

<table>
<thead>
<tr>
<th>Lot</th>
<th>#31</th>
<th>18 ft (not included — subject property)</th>
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<tbody>
<tr>
<td>Lot</td>
<td>#30</td>
<td>33 ft</td>
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<td>Lot</td>
<td>#29</td>
<td>26 ft (disregarded, closest from street)</td>
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<td>Lot</td>
<td>#28</td>
<td>27 ft</td>
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<td>Lot</td>
<td>#27</td>
<td>31 ft</td>
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<td>Lot</td>
<td>#26</td>
<td>41 ft</td>
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<td>Lot</td>
<td>#25</td>
<td>48 ft (disregarded, farthest from street)</td>
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<td>Lot</td>
<td>#24</td>
<td>26 ft</td>
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<tr>
<td>Lot</td>
<td>#23</td>
<td>31 ft</td>
</tr>
</tbody>
</table>

SETBACK CALCULATIONS

Under Part 5, Section D (5) of Ordinance 20060309-058, the setback for the proposed front remodel (addition) is figured thusly:

(a) the lot with a principal structure closest to the street is disregarded, and the lot with a principal structure farthest from the street is disregarded;
   • 48 ft and 26 ft are disregarded

(b) the minimum front yard setback is equal to the average of the minimum front yard setbacks of the principal structures on the remaining lots minus ten percent of the distance of that average; and
   • 31.5 (avg. of remaining lots) − 3.15 (10 percent) = 28.35 minimum setback

(c) the maximum front yard setback is equal to the average of the minimum front yard setbacks of the principal structures on the remaining lots plus ten percent of the distance of that average.
   • 31.5 (avg. or remaining lots) + 3.15 (10 percent) = 34.65 maximum setback

Under Part 5, Section (E) of Ordinance 20060309-058, for a corner lot, this section prescribes minimum and maximum street side yard setbacks. Applicant lot is a corner lot, but this section does not apply because addition will be located in the front and within the boundaries of the existing structure.

DEVELOPMENT REGULATIONS

The proposed remodel (addition) requires the applicant to request a Council Waiver because it creates a structure that does not comply with front setback set forth in Part 5 Section D(5) of Ordinance 20060309-58. The applicant request a front setback of 18 ft. and the minimum front setback from the ordinance is 28.35 ft.
The proposed development does not require the applicant to request a Council Waiver from Part 4(B) of the ordinance because it complies with the greater of two size limitations:

(a) 0.4 to 1 floor-to-area ratio.
   - Proposed remodel (addition) complies with this section. Applicant proposes 1979.5 of gross floor area on 6342.03 s.f. lot, which equates to a 0.31 FAR
(b) 2500 Square feet.
   - Proposed structure will have 1979.5 s.f. The structure does not exceed 2500 allowed by 520.5 s.f.

**PROPOSED DEVELOPMENT**

Applicant proposes the following construction:

- Applicant requests a front setback of 18 ft.
- Construct an addition of 400 s.f. to a single family residence at 1100 Jolena Circle

Applicant’s additional construction:

- 144 s.f. covered porch
- 333 s.f. driveway
- 210 s.f. walkway on private property

**ZONING**

- This lot is currently zoned Single Family Residential (SF-3)
- It lies within the Johnston Terrace Neighborhood Assn., M.E.T.S.A. Neighborhood Assn., Austin Neighborhoods Council, and PODER People organized in Defense of Earth & Her Resources.

**WAIVER**

The applicant requests the waiver under Part 5, Setbacks (D) (5) on the following grounds:

- The regulations imposes undue hardship on the applicant, the development proposed by the applicant will not adversely affect the public health, safety and welfare and waiving the regulation will not have a substantially adverse impact on neighboring properties.

**STAFF ASSESSMENT**

The information submitted with the applicant’s waiver application can be summarized as follows:

- Photos from the neighborhood submitted as evidence that the new addition will be compatible to the existing structures in the neighborhood.
- Letter from neighbors indicating support.
STAFF RECOMMENDATION: APPROVAL

Staff recommends approval of the waiver request based on the information that the applicant has submitted.
Residential Building Permit and Waiver Application
CITY OF AUSTIN
RESIDENTIAL PERMIT APPLICATION

PRIMARY PROJECT DATA

Service Address: 1100 Jelena Circle
Tax Parcel No.
Legal Description: Lot 31 Block 1 Subdivision: Johnstar Inn
Lot/Block/Subdivision: Johnstar Inn Section 8 Phase

If in a Planned Unit Development, provide Name and Case No.

If this site is not a legally subdivided lot, you must contact the Development Assistance Center for a Land Status Determination.

Description of Work

- New Residence
- Duplex
- Garage attached detached
- Carport attached detached
- Pool
- SF3 Height of building

Zoning (e.g. SF-1, SF-2...)

On lots with LA zoning, the approved septic permit must be submitted with the Residential Permit application for zoning approval.

(LDC 25-2-551(B)(6))

Does this site have a Board of Adjustment ruling? Yes No
If yes, attach the B.O.A. documentation.

Will this development require a cut and fill in excess of 4 feet? Yes No

Does this site front a paved street? Yes No A paved alley? Yes No

VALUATIONS FOR REMODELS ONLY

DATA FOR NEW CONSTRUCTION OR ADDITIONS ONLY

PERMIT FEES

(For office use only)

<table>
<thead>
<tr>
<th>Building $</th>
<th>Electrical $</th>
<th>Mechanical $</th>
<th>Plumbing $</th>
<th>Driveway &amp; Sidewalk $</th>
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<tr>
<td>$349.03</td>
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OWNER / BUILDER INFORMATION

Owner: Bernabe Hernandez
Telephone: (512) 305-1361

Builder: Bernabe Hernandez
Company Name: Bernabe Hernandez
Contact/Applicant's Name: Bernabe Hernandez

Driveway/Sidewalk Contractor: Bernabe Hernandez

Certificate of Occupancy:

Name: Bernabe Hernandez
Address: 1100 Jelena Circle
City: Austin ST ZIP: 78721

If you would like to be notified when your application is approved, please select the method:

- Telephone
- E-mail:

You may check the status of this application at www.ci.austin.tx.us/development/pierivr.htm
BUILDING COVERAGE

The area of a lot covered by buildings or roofed areas, but not including (i) incidental projecting eaves and similar features, or (ii) ground level paving, landscaping, or open recreational facilities.

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<td>3rd floor conditioned area</td>
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<td>f.</td>
<td>Wood decks [must be counted at 100%]</td>
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<td>Covered patios</td>
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<td>Covered porches</td>
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<td>Balconies</td>
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<td>k.</td>
<td>Swimming pool(s) [pool surface area(s)]</td>
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<td>l.</td>
<td>Other building or covered area(s)</td>
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TOTAL BUILDING AREA (add a. through l) = 14,125 sq.ft.

TOTAL BUILDING COVERAGE ON LOT (subtract b., c., d., and k if applicable) = 33% of lot

IMPERVIOUS COVERAGE

Include building cover and sidewalks, driveways, uncovered patios, decks, air conditioning equipment pads, and other improvements in calculating impervious cover. Roof overhangs which do not exceed two feet or which are used for solar screening are not included in building coverage or impervious coverage. All water must drain away from buildings on this lot and buildings on adjacent lots.

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<tr>
<td>a.</td>
<td>Total building coverage on lot (see above)</td>
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<td>b.</td>
<td>Driveway area on private property</td>
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<td>c.</td>
<td>Sidewalks / walkways on private property</td>
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<td>d.</td>
<td>Uncovered patios</td>
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<td>e.</td>
<td>Uncovered wood decks [may be counted at 50%]</td>
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<td>f.</td>
<td>Air conditioner pads</td>
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<td>Concrete decks</td>
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TOTAL IMPERVIOUS COVERAGE (add a. through k) = 49% of lot
I understand that in accordance with Sections 25-1-411 and 25-11-66 of the Land Development Code (LDC), non-compliance with the LDC may be cause for the Building Official to suspend or revoke a permit and/or license. I understand that I am responsible for complying with any subdivision notes, deed restrictions, restrictive covenants and/or zoning conditional overlays prohibiting certain uses and/or requiring certain development restrictions (i.e., height, access, screening, etc.) on this property. If a conflict should result with any of these restrictions, it will be my responsibility to resolve it. I understand that, if requested, I must provide copies of all subdivision plat notes, deed restrictions, restrictive covenants, and/or zoning conditional overlay information that may apply to this property.

I acknowledge that this project qualifies for the Site Plan Exemption as listed in Section 25-5-2 of the LDC.

I also understand that if there are any trees greater that 19 inches in diameter located on the property and immediately adjacent to the proposed construction, I am to schedule a Tree Ordinance review by contacting (512) 974-1876 and receive approval to proceed.

APPLICANT’S SIGNATURE: Bernice Remurde
DATE: 1/19/06

Rejection/Notes/Additional Comments (for office use only):
1) Total lot size 6342.03’ X 4 = 2536.8 FAR
2) 25’ MS
Electric Service Planning Application (ESPA)

For Residential or Small Commercial "SERVICE ONLY" under 350 amps 10 or 225 amps 30

Customer Name ___________________________ Phone ________________________________
Address _______________________________ 1100 Tdyna Circle
Legal Description ________________________________________________________________
Lot _______ Block _______ Commercial/Residential? R.

Service Main Size _______ (amps) Service Conductor _______ (type & size)
Service Length _______ (ft.) Number of Meters? _______ Multi-Fuel Y N
Overhead/Underground? YTP Voltage _______ Single-phase (180) □ Three-phase (3/2)
Total Square Footage _______ Total A/C Load _______ (# of units) _______ (Tons)
Largest A/C unit _______ (Tons) LRA of Largest A/C Unit _______ (amps)
Electric Heating _______ (kW) Other ________________________________ (kW)

Comments: Add on / Electrician to pull permit ________________________________

ESPA Completed by (Signature & Print name) ___________________________ Date ____________ Phone __________________

AE Representative ___________________________ Date ____________
Approved: □ Yes □ No (Remarks on back) Phone __________________

Application expires 90 days after date of Approval

AE APPROVED

APR 27 2006
RLS 117-30
LOT: 31  BLOCK:  
ADDITION:  
SECTION: EIGHT  PHASE: N/A  
PACK: 58  MODULE: 47  
PLAT RECORDS  
COUNTY: TRAVIS  STATE OF TEXAS  
STREET ADDRESS: 1100 JOLENA CIRCLE  
CITY: AUSTIN  
REFERENCE NAME: VICTOR OLIVARES AND GABRIEL OLIVARES AND JAIME OLIVARES  

B&G Surveying, Inc.  
Victor M. Garza, R.P.L.S.  
Office: 512-458-5669  
Fax: 512-458-9846  

STATE OF TEXAS  
COUNTY OF TRAVIS  

SUBJECT TO RESTRICTIONS AS STATED IN Y. 1293, P. 207.

This property does not lie within the 100 year floodplain, and has a zone X rating as shown on the flood insurance rate maps.
WAIVER APPLICATION CHECKLIST

Failure to provide the information identified in this checklist may result in your application being rejected or submitted incomplete.

_____ COMPLETE WAIVER APPLICATION

_____ COMPLETE & REVIEWED RESIDENTIAL APPLICATION

_____ SUPPORTING DOCUMENTATION

   1) PROOF OF HARDSHIP
   2) IMPACT ON DRAINAGE
   3) NEIGHBORHOOD SUPPORT LETTERS
   4) PROOF OF FINANCIAL INVESTMENT IN PROJECT
   5) PHOTOS OF PROPERTY & SURROUNDING PROPERTIES

_____ COPY OF TCAD'S APPRAISAL ROLL INDICATING

   1) SQUARE FOOTAGE OF SUBJECT PROPERTY
   2) SQUARE FOOTAGE OF ADJACENT RESIDENCES
   3) HOMESTEAD EXEMPTION

_____ COPY OF PLAT

_____ COPY OF APPROVED LAND STATUS DETERMINATION

_____ F.A.R. (FLOOR TO AREA RATIO) CALCULATION

_____ DRAWINGS FROM ARCHITECT OR ENGINEER (SEALED & DATED)

_____ DEMOLITION OR RELOCATE PERMIT MUST BE FILED ON 5TH FLOOR CONCURRENTLY (if applicable) BP#

_____ OTHER

You will be required to review your application with a Residential Zoning Planner. You will be notified at this time of the next City Council hearing (Ord#2060216-043.)
CITY OF AUSTIN
REQUEST TO WAIVE DEVELOPMENT REGULATIONS
UNDER ORDINANCE NUMBER 20060309-058

STREET ADDRESS: 1100 Jolena Circle
LEGAL DESCRIPTION: Subdivision Johnston Terrace Section 8
Lot(s): 31 Block: Outlet Division
Zoning District: Neighborhood Plan (if applicable):

Type of work to be done (Select appropriate option and provide description of the proposed project):
[ ] New Construction
[ ] Addition: Add Garage

Please select one of the following:
[ ] 1. I request a waiver to the interim development regulations because the regulations impose an undue hardship as described: When I bought the property in 2003 the garage was already built according to permit of June 02. To satisfy the city's needs we will be rear commericy and will not meet the purpose.
The granting of this waiver will not adversely affect the public health, safety and welfare.
Explain: The carport is inside my property and being there since 2003 and I do not know of any problem to anybody.

[ ] 2. The following development agreement permits the activity:

[ ] 3. I have acquired a right under Texas Local Government Chapter 245 (Issuance of Local Permits), or have a common law vested right that has been fully adjudicated by a court of competent jurisdiction. Please specify and provide supporting documentation:

ALL APPLICATIONS MUST BE ACCOMPANIED BY A RESIDENTIAL PERMIT APPLICATION

Signature of applicant/owner: Benito Hernandez www

Note: The waiver application will be considered incomplete if the applicant fails to provide information requested in this application as well as requirements for residential building permit submittal. Please attach any additional information that will support your request, such as: photos, architectural drawings, letters of support from neighbors or additional documentation.

FOR STAFF USE

Date waiver application filed with City of Austin:

Date scheduled for City Council action:

Modified 4/19/2006
Supplemental Information Submitted by Applicant
I, Bernabe Hernandez owner of the property addressed as 1100 Jolena Circle Austin, TX 78721, bought this property in May 31st 2003 from Ernesto del Toro which gave me permission to construct a garage 20x20 in which there was already some concrete and walls of 8 feet and 3 inches of height. When I bought this property I didn't know I had to get a new permission to finish what was started (the concrete and walls). To finish this I had to wait and save some money. I spent around three thousand dollars.

Bernabe Hernandez  4 27 06
385 - 13 24
350 - 02 00
On the interior of the wall we used 75 2"x4 of 10 Ft. of the wood ($300.)

The roof we used 28 2"x6 of 10 Ft. Madera ($200.)

On the barillas we used 30 2"x6 of 8 Ft. wood ($180.)

Outside on the porch we used 40 2"x6 of 8 Ft. wood ($280.)

We also used 12 2"x8 of 8 Ft. wood ($120.)

For the sealing we used 50 papers of plywood ($500.)

We used to cover 10 papers of hardboard ($400.)

We used siding hardboard 20 strips of 6"x12" ($180.)

We also used 3 box of nails 4 paper de concreto, nails of concrete. ($80.)
I do not have any problem with the utilityroom construction & Storage.

Esther Hernandez
1103 Jolena Cir B
1105 Jolena Circle B

Jose Flores
1108 Jolena Cir
386-7494.

Joven Pelayo
No Hay Problema
Esta Es Alto
No Daña
A Nadie

Jose Flores