



Thursday, December 14, 2006

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**Item(s) to Set Public Hearing(s)**  
**RECOMMENDATION FOR COUNCIL ACTION**

**ITEM No 50**

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**Subject** Set a public hearing to consider floodplain variances requested by Mr Mickey Bentley on behalf of Mr William Sisco and Ms Elizabeth Sisco to allow construction of a duplex at 5613 Joe Sayers Avenue in the 100-year and 25-year floodplains of the Hancock Branch of Shoal Creek and to waive the requirement to dedicate a drainage easement to the full limit of the 100-year floodplain to exclude the footprint of the proposed duplex (Suggested date and time January 11, 2007 at 6 00 p m , Austin City Hall, 301 W Second Street, Austin, TX )

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

**Additional Backup Material**

(click to open)

backup

**For More Information** Ray Windsor, 974-3362, Gary M Kosut, P E , 974-3374, George E Oswald, P E 974-3369

Mr William Sisco and Ms Elizabeth Sisco propose to construct a new duplex at 5613 Joe Sayers Avenue. A duplex structure existed on the property, but the owners demolished it under Demolition Permit No. 05016954 issued on September 21, 2005.

The proposed duplex is the subject of Building Permit application number BP-05-9457R. The applicant proposes to construct a new, two-story duplex in the 100-year and 25-year floodplains of Hancock Branch. The applicant seeks variances to the City of Austin's floodplain management regulations in order to obtain a building permit to construct a 4,723 sq. ft. duplex residential structure (the proposed two-story structure includes 3905 sq. ft. of conditioned space, 800 sq. ft. of attached garage, and an 18 sq. ft. deck). The depth of water at the curb lines of the Joe Sayers Avenue and Theckla Terrace Street intersection during the 100-year flood event will be from 2.5 to 4.6 feet deep. The floodwater depth at the high point on the lot will be 1.8 feet deep during the 100-year flood event.

### **APPLICABLE CODE AND VARIANCES REQUESTED**

- I LDC Section 25-7-92 (Encroachment on Floodplain Prohibited) prohibits construction of a building or parking area in the 25-year floodplain.

***VARIANCE REQUESTED:*** The applicant requests a variance from LDC Section 25-7-92(A) to allow encroachment of the proposed structure into the 25-year floodplain.

- II LDC Section 25-12-3, (Local Amendment 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 construction of a structure without normal access by connection with an area that is a minimum of one foot above the design flood elevation. The depth of water at the curb lines of the Joe Sayers Avenue and Theckla Terrace Street intersection during the 100-year flood event will be from 2.5 to 4.6 feet deep. The structure will be surrounded by 1.8 ft. to 3.4 feet of water during the 100-year flood event. The minimum depth of water at the front wall will be 2.7 feet.

- III LDC Section 25-7-152 (Dedication of Easements and Rights-of-Way) requires that the owner of real property proposed to be developed dedicate to the public an easement or right-of-way for a drainage facility, open or enclosed, and stormwater flow to the limits of the 100-year floodplain.

***VARIANCE REQUESTED:*** The applicant requests a variance to exclude the footprint of the proposed structure from the requirement to dedicate a drainage easement to the full extent of the 100-year floodplain.

- IV LDC Section 25-7-2, Obstruction of Waterways Prohibited prohibits the placement of an obstruction in a waterway.

***VARIANCE REQUESTED:*** The applicant requests a variance to place a duplex residential structure (an obstruction to the flow of floodwaters) in a waterway.

## **PREREQUISITES FOR GRANTING VARIANCES:**

Per LDC Section 25-12-3, Technical Codes, Section G 105 Variances, variances shall only be issued upon an affirmative finding of the five conditions described below

### **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 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 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