Recommendation for Council Action – Backup
Floodplain Variance Request – 7906 S 1st St.

SUMMARY OF FINDINGS:

1. THE APPLICANT PROPOSES TO REDUCE FLOOD RISK WITH THIS REDEVELOPMENT. This redevelopment is essentially a privately funded flood risk reduction project in a location that the Watershed Protection Department does not currently have plans for a future project. The applicant proposes to elevate the existing home one-foot above the 500-year floodplain elevation and construct an elevated access path to the right-of-way.

2. PROPOSED LOWEST FLOOR EXCEEDS MINIMUM REQUIRED ELEVATION. The lowest floor elevation of the existing home is 1.4 feet below the 100-year floodplain elevation. The applicant proposes to elevate the existing home by 3.5 feet so that the finished floor elevation is one-foot above the 500-year floodplain elevation.

3. NO SAFE ACCESS. The maximum depth of water in the street in front of this property is 2.9 feet during the 100-year flood event and 1.6 feet during the 25-year flood event. The maximum depth of water at the existing house is 3.9 feet during the 100-year flood event and 2.7 feet during the 25-year flood event. First responder personnel and building occupants do not have safe access to and from the building during a flood event. However, the applicant proposes to minimize the flood risk by constructing an elevated access path from the house to the right-of-way which would reduce flood depths along the access path to less than one-foot during the 100-year event.

4. HARDSHIP CONDITIONS FOR THE PROPERTY PARTIALLY EXIST. The safe access rule presents a hardship for this site since safe access to the existing home cannot be achieved to a public right-of-way. However, there is in existing residential use on the property that could be maintained.

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 existing building to be developed without providing normal access to an area that is a minimum of one-foot above the design flood elevation. The existing home is in the 25-year and 100-year floodplains of South Boggy Creek. The maximum depth of floodwater along the proposed egress path on the property is 0.9 feet during the 100-year flood event and is elevated above the 25-year flood event by 0.3 feet. The maximum depth of floodwater in the right-of-way on South 1st Street is 2.9 feet during the 100-year flood event and 1.6 feet during the 25-year flood event.*

II. LDC Section 25-7-92, (A) and (B) Encroachment on Floodplain Prohibited prohibits encroachment of a building on the 25-year and 100-year floodplains.

VARIANCE REQUESTED: *The applicant requests a variance to elevate the existing home and construct a 215 square foot addition. The elevated portion of the existing home and the addition will encroach into the 25-year and 100-year floodplains.*

III. LDC Section 25-12-3, (Local Amendments to the Building Code), Section G102.3 Nonconforming Uses prohibits alteration or enlargement including substantial improvement of a structure unless the structure is changed to conform to these regulations.

VARIANCE REQUESTED: *The applicant requests a variance to Building Code Section G102.3 to allow the development of an existing building without bringing the building into compliance with the means of egress requirements of the floodplain regulations.*

IV. 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 existing building and addition from the requirement to dedicate a drainage easement to the full extent of the 100-year 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	FINDING
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.*	1) **CONDITION IS MET.** The applicant has demonstrated a good and sufficient cause that justifies the safe access variance request since the redevelopment will not significantly increase density on this property, while reducing the flood risk to the existing occupants.
2) A determination that failure to grant the variance would result in exceptional hardship by	2) **CONDITION IS NOT MET.** This property has an existing residential use. The failure to attain

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.

these variances would not render the lot undevelopable, however, it would leave the existing residential use at higher risk during flood events than is proposed with the redevelopment.

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.

3) **CONDITION IS MET.** The proposed redevelopment does not increase flood heights. The redevelopment also does not increase public safety threat since it reduces flood depths along the elevated access path and does not significantly increase density.

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.*

4) **CONDITION IS MET.** The existing residential use could be maintained without approval of the requested variances. However, the variances requested are the minimum necessary to reduce the flood risk to the existing home.

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

5) **CONDITION IS MET.** Granting of the requested variances will result in an existing building being elevated to more than one-foot above the base flood level. No notification from the

for flood insurance, and that such construction below the base flood level increases risks to life and property.

building official shall be required.