



# CITY OF ARANSAS PASS

## AGENDA MEMORANDUM

for the City Council Meeting of February 5, 2018

Date: February 2, 2018  
To: Honorable Mayor and Council  
From: Katherine A. Comeaux, CFM

---

Consider and act on a request from Mary Ann Heimann for a variance on floodplain regulations.

---

### **PURPOSE:**

To consider the request of Mary Ann Heimann for a variance from the requirements of City of Aransas Pass Code of Ordinances, Article VIII – Flood Damage Prevention.

### **BACKGROUND AND FINDINGS:**

South Bay Marina (Legal Description: Lot 1, South Bay Marina, Aransas Pass, Nueces County), located on the causeway at 1950 HWY 361, was destroyed by Hurricane Harvey on August 25, 2017. (Attachment A)

Under FEMA and NFIP policy, a building that is substantially damaged must be brought up to current codes and standards in order to be repaired or rebuilt. “Substantial damage” is defined as damage of any original sustained by a building when the cost of restoring the building to its pre-damaged condition would equal or exceed 50% of the market value of the building before the damage occurred. The damage to Ms. Heimann’s property is considered 100% due to the complete destruction of the structure.

South Bay Marina is located in an A11 Flood Zone as per FIRM Panel 485464-0230D (Attachment C). An A11 Flood Zone is defined as an area of special flood hazard as per the City of Aransas Pass Code of Ordinances, Chapter 5 – Building and Construction, Article VIII. – Flood Damage Prevention, Section 5-144 (Attachment B). Because South Bay Marina is located in a special flood hazard zone, the City’s Flood Damage Prevention Ordinance requires that it be either elevated to one foot about the Base Flood Elevation level or by combination elevated and dry flood-proofed to the same elevation.

Ms. Heimann procured an elevation certificate from Griffith & Brundrett Survyors that establishes the top of the existing slab is at +4.05 ft. (Attachment D). The elevation certificate also states that the Base Flood Elevation level is at +8 ft. After factoring in the

City's freeboard requirement, that means that the required level of elevation and/or floodproofing must be at +4.95 ft.

Base Flood Elevation (BFE)	Top of Slab	Freeboard (Required Elevation above BFE)	Total Elevation Needed
<b>+8 feet</b>	<b>+4.05 feet</b>	<b>+1 foot</b>	<b>+4.95</b>

\*Elevations are based on the Bench Mark Tidal #2, Elevation +9.971, U.S.C. & G.S. Datum



According to FEMA Technical Bulletin 3-93 – Non-Residential Floodproofing – Requirements and Certification for Buildings Located in Special Flood Hazard Areas, “Since floodwaters exert greater pressure on the floodproofed building as the height of the flooding increases, floodproofing that exceeds 3 feet in height represents a greater risk and may result in insurance rates that reflect this increased risk.” (Attachment E) This means that FEMA will not certify floodproofing above 3 feet in height, unless the applicant has engineered plans that show the method of construction and floodproofing for the structure are done in such a way as to not increase the risk of damage in a flood event.

The Flood Damage Prevention Ordinance, Section 5-125, outlines the following considerations for granting a variance on floodplain regulations:

“Considerations for granting variance:

- (2) Variances shall only be issued upon:
  - a. Showing a good and sufficient cause;
  - b. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
  - c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.”

Ms. Heimann wishes to place a metal building, slab on grade, on the original building site. The type of business – bait sales – is conducive to the type of building that could be subjected to flooding without doing undue damage to the facilities. However, there is no guarantee that granting the request of the applicant for a variance would not result in future life-safety issues.

**ALTERNATIVES:**

Denying requested variance.

**RECOMMENDATION:**

Staff acknowledges that not granting this variance will cause hardship to the applicant; however, there is no guarantee that granting the request of the applicant for a variance would not result in future potential life-safety issues. Staff recommends following federal requirements.

**ATTACHED DOCUMENTATION:**

**ATTACHMENT A** - Before and after photographs of South Bay Marina

**ATTACHMENT B** - Portions of Flood Damage Prevention Ordinance

**ATTACHMENT C** - FIRMETTE 485464 0230 D

**ATTACHMENT D** - Elevation Certificate

**ATTACHMENT E** - FEMA Technical Bulletin 3-93

**ATTACHMENT F** - USACE Documents

**ATTACHMENT G** - Petition for variance from applicant