

STAFF RECOMMENDS DENIAL

ORDINANCE NO.

AN ORDINANCE GRANTING VARIANCES FOR PROPERTY LOCATED AT 10017 WILD DUNES DRIVE FROM CERTAIN FLOODPLAIN REGULATIONS PRESCRIBED BY THE CITY CODE FOR CONSTRUCTION OF A RESIDENCE IN THE 100-YEAR FLOODPLAIN; ESTABLISHING CONDITIONS FOR THE VARIANCES; AND PROVIDING AN EXPIRATION DATE FOR THE VARIANCES.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. This ordinance applies to the construction of a 3,695 square foot residence (2,510 square feet of conditioned space) located at 10017 Wild Dunes Drive within the 100-year floodplain as described in Building Permit Application No. BP-08-060784R.

PART 2. Council has considered the factors for granting a variance from floodplain regulations prescribed by City Code Section 25-12-3, Building Code Appendix G, Section G105.7 (*Conditions for Issuance*). Council finds that the variances granted by this ordinance are the minimum necessary to afford relief, are based on good and sufficient cause, and failure to grant the variance would result in exceptional hardship. Council further finds that the variances granted in this ordinance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, or create a nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

PART 3. A variance is granted from:

- (A) the restriction on construction in the 100-year floodplain prescribed by City Code Section 25-7-92 (*Encroachment On Floodplain Prohibited*);
- (B) the easement requirements in City Code Section 25-7-152 (*Dedication of Easements and Rights-of-Way*), to exclude the residence from the requirement to dedicate an easement to the limits of the 100-year floodplain;
- (C) the prohibition against placing an obstruction in a waterway prescribed by City Code Section 25-7-2 (*Obstruction of Waterways Prohibited*); and
- (D) the requirement that normal access to the building be by direct connection with an area at least one foot above the design flood elevation prescribed by City Code Section 25-12-3, Building Code Section 1612.4.3 (*Means of Egress*).

PART 4. The variance granted in this ordinance is effective only upon the satisfaction of the following conditions:

- (A) The applicant shall submit an Elevation Certificate to the City, signed by a Texas registered professional land surveyor, certifying that the elevation of the finished floor of the structure, the elevation of the machinery, and the elevation of utilities in the garage are a minimum of one foot above the 100-year floodplain elevation. The City may not issue a Certificate of Occupancy for the proposed structure until the applicant submits and the City approves the Elevation Certificate.
- (B) The applicant shall submit a letter to the City certifying that the proposed structure will withstand the flood forces generated by the 100-year flood and that the design is in accord with the latest edition of the American Society of Civil Engineers Manual 24 (*Food Resistant Design and Construction*) signed by a Texas registered professional engineer or architect. The City may not issue a Building Permit for the proposed structure until the applicant submits the required certification.
- (C) The applicant shall dedicate an easement to the City as required by City Code Section 25-7-152 to the limits of the 100 year floodplain, excluding the footprint of the residence and garage. The City may not issue a Building Permit for the proposed structure until the applicant submits all information and documentation necessary for the easement, and the easement as approved by the City Attorney is filed by the applicant in the Travis County Real Property Records.

PART 5. This variance expires if the project for which this variance is granted does not receive all necessary building permits before December 1, 2009.

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

PART 7. This ordinance takes effect on December 1, 2008.

PASSED AND APPROVED

_____	§	_____
	§	
_____, 2008	§	
		Will Wynn
		Mayor

APPROVED: _____
David Allan Smith
City Attorney

ATTEST: _____
Shirley A. Gentry
City Clerk