



**Public Hearing  
CITY OF AUSTIN  
RECOMMENDATION FOR COUNCIL ACTION**

**AGENDA ITEM NO.: 56  
AGENDA DATE: Thu 03/24/2005  
PAGE: 1 of 3**

**SUBJECT:** Conduct a public hearing to consider a floodplain variance requested by Jill Rossi and Kerry Kimbrough to allow construction of an addition/house extension to an existing single-family residence in the 100-year floodplain of Shoal Creek at 7303 Greenhaven Drive.

**AMOUNT & SOURCE OF FUNDING:** N/A

**FISCAL NOTE:** There is no unanticipated fiscal impact. A fiscal note is not required.

**REQUESTING** Watershed Protection and **DIRECTOR'S**  
**DEPARTMENT:** Development Review **AUTHORIZATION:** Joe Pantalion

**FOR MORE INFORMATION CONTACT:** Ray Windsor, 974-3362; Gary M. Kosut, P.E., 974-3374;  
Ruth Dumaine, 974-2501

**PRIOR COUNCIL ACTION:** N/A

**BOARD AND COMMISSION ACTION:** N/A

**PURCHASING:** N/A

**MBE / WBE:** N/A

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The applicant, Mr. Mark Lind, on behalf of the property owners, Ms. Jill Rossi and Mr. Kerry Kimbrough, has submitted a building permit application for remodeling and construction of an addition to the rear of the existing house at 7303 Greenhaven Drive. The addition would extend across the width of the rear of the existing house and would add an office, a sitting area, an exercise room/bedroom and a screened porch. The site plan proposes this construction in the 100-year floodplain of Shoal Creek. The floor elevation of the existing structure is below the elevation required by the City Code for substantial improvement of any residential structure in the floodplain and the applicant does not wish to elevate the existing home and the addition to the required level. In addition the applicant seeks a variance from the requirement to dedicate a drainage easement to the limits of the 100-year floodplain. To allow the new construction to have a floor elevation below that required for compliance with the City Code requires a variance from the floodplain management regulations of the City of Austin.

**THE WATERSHED PROTECTION AND DEVELOPMENT REVIEW DEPARTMENT  
RECOMMENDS DENIAL OF THIS VARIANCE REQUEST.**

**APPLICABLE CODE & ANALYSIS**

**LDC Section 25-12, Building Code Appendix Chapter 58, Article 9 Provisions for Flood Hazard Reduction, B. Specific Standards,** requires that (1) New construction and substantial improvement of any residential structure shall have the lowest floor (including basement) elevated to or above the regulatory flood datum; i.e., one foot above the 100-year floodplain elevation.

*The finished floor at 7303 Greenhaven is at elevation 684.8 ft. per FEMA Elevation Certificate of 2/2/05. The regulatory flood datum at the subject property is 685.28 ft. The applicants' home is 0.48 ft. below the regulatory flood datum.*



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LDC Section 25-12, Building Code Appendix Chapter 59, Section 5903, Nonconforming Uses, requires that a structure, or the use of a structure or premises, which was lawful before the adoption of this chapter, but which does not conform with the requirements of these regulations, may be continued subject to the following conditions: (1) No such use shall be expanded, changed, enlarged, or altered in a way which increases its nonconformity.

*The applicant proposes substantial improvement of the residence.*

LDC Section 25-7-92, restricts encroachment on the 100-year floodplain.

LDC Section 25-7-152 (A) requires the owner of real property to be developed to dedicate a drainage easement to the limits of the 100-year floodplain.

*If Council approves this variance request, the Watershed Protection and Development Review Department recommends limiting this variance request so that the requirement to dedicate a drainage easement to the limits of the 100-year floodplain is waived only as to the footprint of the house and addition/extension.*

**PREREQUISITES FOR GRANTING VARIANCES:**

LDC Section 25-12, Building Code Appendix Chapter 58, Article 8, Administration, Article 10 states that variances shall only be issued upon:

- 1) A determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- 2) Showing a good and sufficient cause;
- 3) A determination that failure to grant the variance would result in exceptional hardship to the applicant, and
- 4) A determination that granting a variance would not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing local laws or ordinances.

**CONSIDERATIONS:**

The applicant proposes substantial improvement to an existing structure that does not conform to floodplain regulations. The structure's "non-conformance" is worsened by the proposed addition. Access to the residence by emergency vehicles is restricted by floodwaters on Greenhaven Drive in front of the property during the 100-year flood event. The property owners currently have use of their residence for its intended purposes. The property owners may, without necessity of a variance request, make interior and exterior improvements to their residence, exclusive of expansion or replacement, which in total are valued at less than 50% of the current market value of the structure. Good and sufficient cause to grant a variance and an exceptional hardship (associated with the land) has not been demonstrated. The construction of the proposed room additions will not result in significant increases in flood heights.

**VARIANCE PROCEDURES:**

The City Council shall hear and render judgment on requests for variances from the flood plain management regulations. Variances shall not be issued within any designated floodway (25-year



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floodplain) if any increase in flood levels during the base flood (100-year flood) discharge would result. Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing relevant factors have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases. The relevant factors to be considered are:

- 1) The danger to life and property due to flooding or erosion damage;
- 2) The susceptibility of the proposed facility and its contents to flood damage and the effects of such damage on the individual owner;
- 3) The danger that materials may be swept onto other lands to the injury of others;
- 4) The compatibility of the proposed use with existing and anticipated development;
- 5) The safety of access to the property during times of flood for ordinary and emergency vehicles;
- 6) The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;
- 7) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters expected at the site;
- 8) The necessity to the facility of a waterfront location, where applicable;
- 9) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
- 10) The relationship of the proposed use to the comprehensive plan for the area.

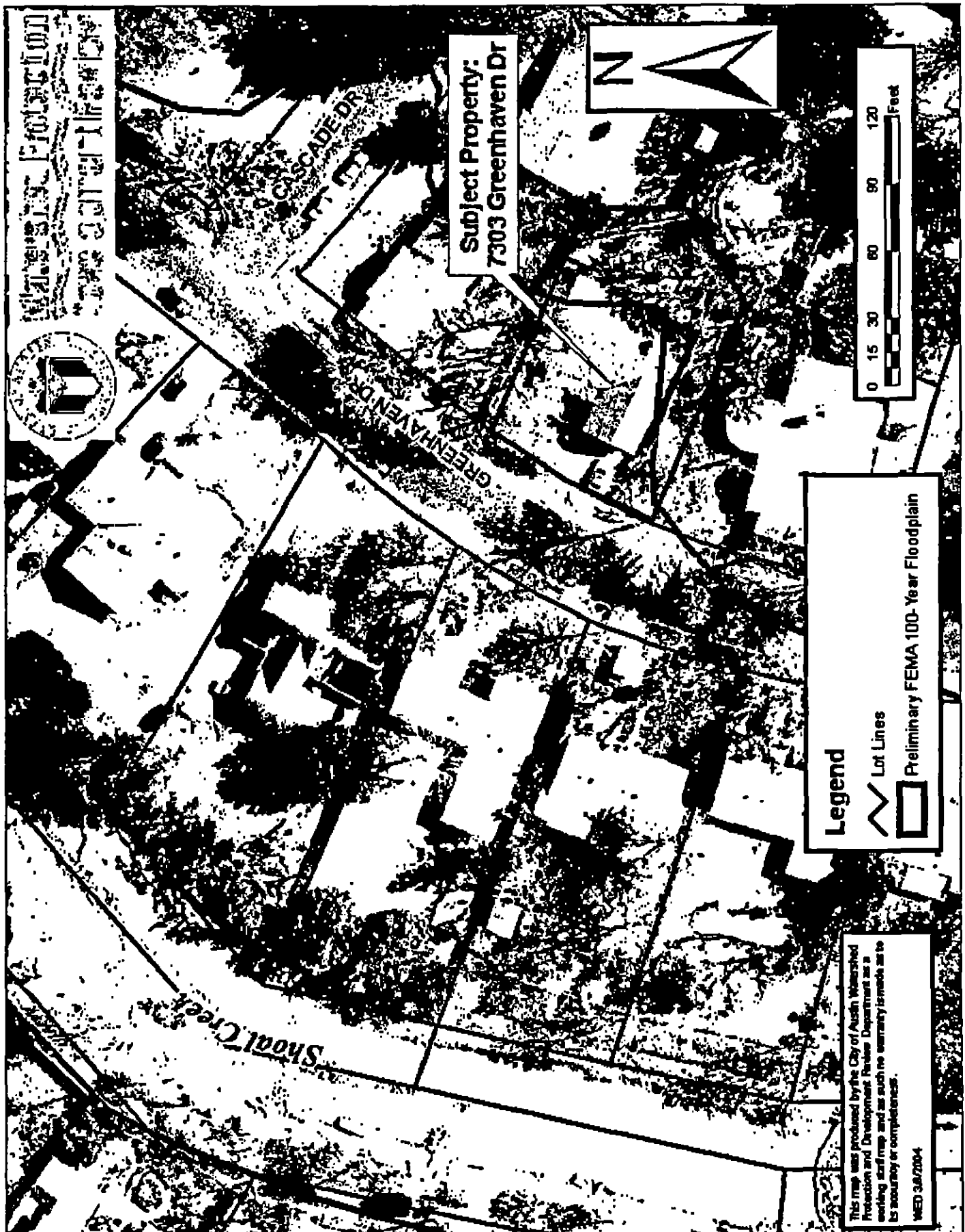
## **Backup Information Packet**

Conduct a public hearing to consider a variance request to allow expansion and remodeling of an existing single-family structure at 7303 Greenhaven Drive in the 100-year floodplain and to waive the requirement to dedicate a drainage easement to the full extent of the 100-year floodplain of Shoal Creek.

(Suggested date and time: March 24, 2005, at 6:00 p.m.)

- Site Location Map for 7303 Greenhaven Drive
- Floodplain Variance Procedures.
- Photograph of the existing house at 7303 Greenhaven Drive.
- Photograph of the existing house at 7303 Greenhaven Drive.

# Location Map for 7303 Greenhaven Drive



## **2. FLOODPLAIN VARIANCE PROCEDURES**

Building Code, Appendix Chapter 58, Article 8 outlines procedures for consideration of flood plain development and evaluation of variance requests.

### **PREREQUISITES FOR GRANTING VARIANCES:**

Variances shall only be issued upon:

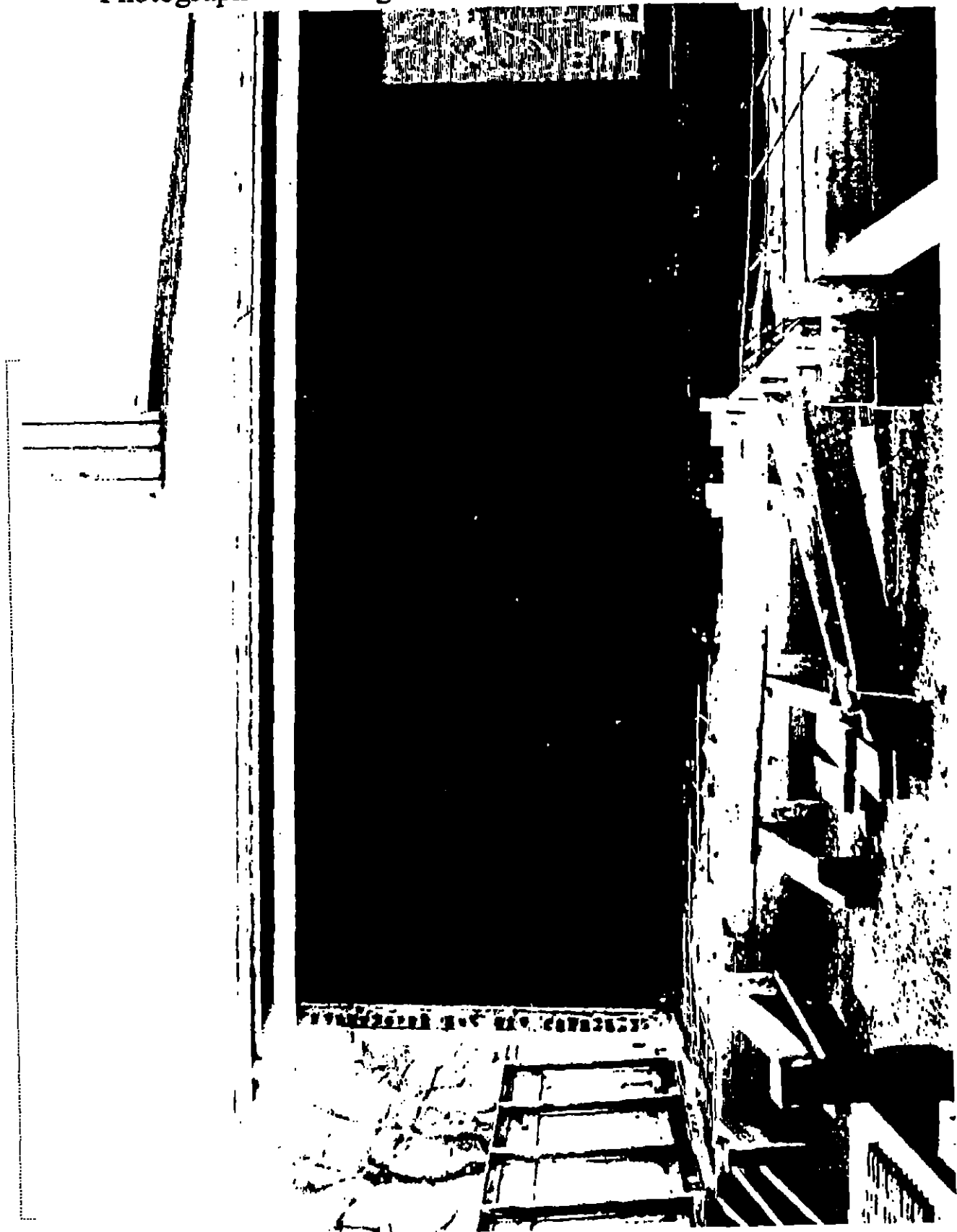
- 1) A determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- 2) Showing a good and sufficient cause;
- 3) A determination that failure to grant the variance would result in exceptional hardship to the applicant, and
- 4) A determination that granting a variance would not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing local laws or ordinances.

### **VARIANCE PROCEDURES:**

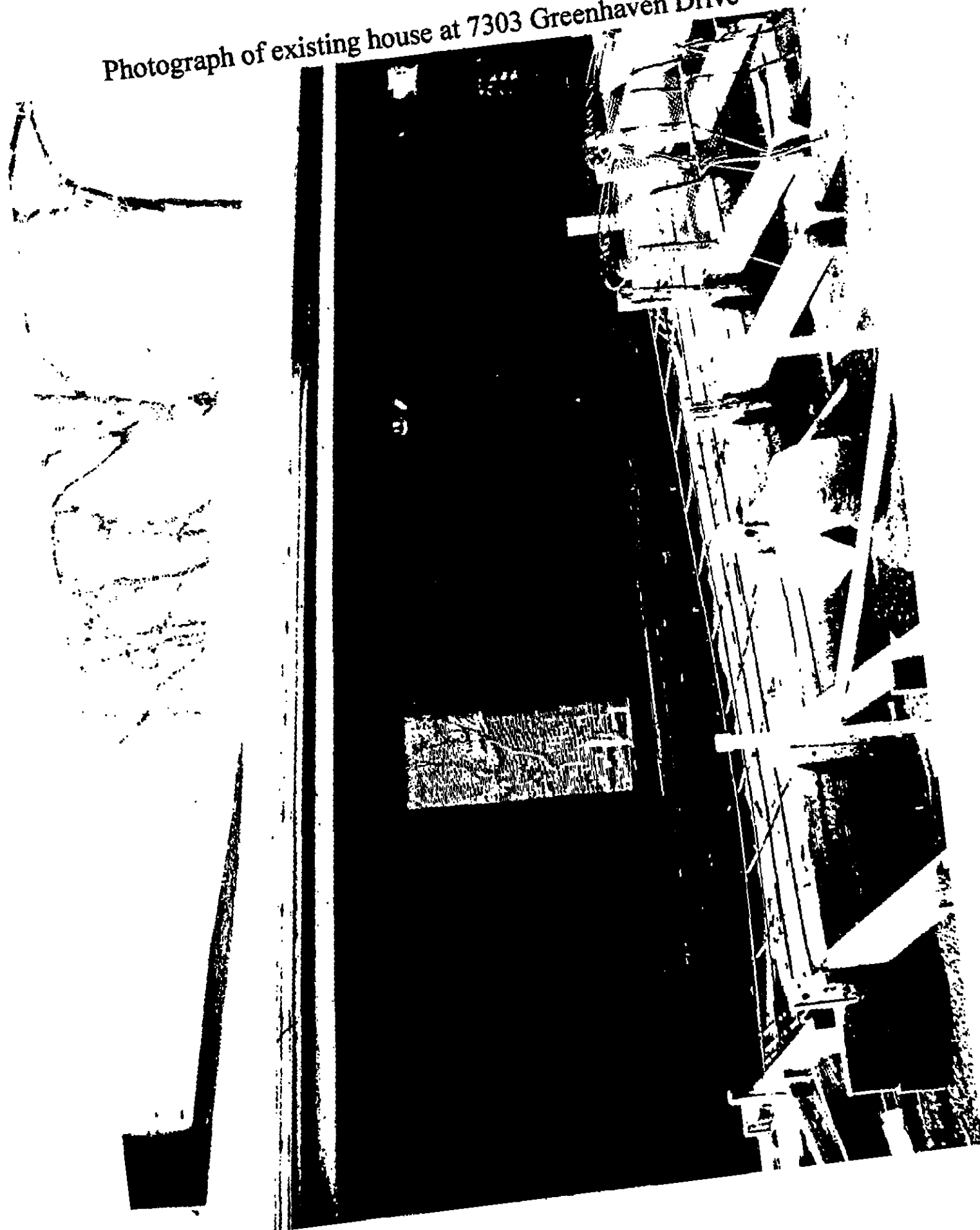
The City Council shall hear and render judgement on requests for variances from the flood plain management regulations. Variances shall not be issued within any designated floodway (25-year floodplain) if any increase in flood levels during the base flood (100-year flood) discharge would result. Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing relevant factors have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases. The relevant factors to be considered are:

- 1) The danger to life and property due to flooding or erosion damage;
- 2) The susceptibility of the proposed facility and its contents to flood damage and the effects of such damage on the individual owner;
- 3) The danger that materials may be swept onto other lands to the injury of others;
- 4) The compatibility of the proposed use with existing and anticipated development;
- 5) The safety of access to the property during times of flood for ordinary and emergency vehicles;
- 6) The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;
- 7) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters expected at the site;
- 8) The necessity to the facility of a waterfront location, where applicable;
- 9) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
- 10) The relationship of the proposed use to the comprehensive plan for the area.

Photograph of existing house at 7303 Greenhaven Drive



Photograph of existing house at 7303 Greenhaven Drive





## **NOTE: DENIAL RECOMMENDED**

### **ORDINANCE NO.**

**AN ORDINANCE GRANTING VARIANCES FOR PROPERTY LOCATED AT 7303 GREENHAVEN DRIVE FROM CERTAIN FLOODPLAIN REGULATIONS PRESCRIBED BY THE CITY CODE FOR CONSTRUCTION OF AN ADDITION/HOUSE EXTENSION TO AN EXISTING SINGLE-FAMILY RESIDENCE IN THE 100-YEAR FLOODPLAIN, AND PROVIDING AN EXPIRATION FOR THE VARIANCES.**

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

**PART 1.** Council has considered the factors for granting a variance from floodplain regulations prescribed by Section 25-12-3 (*Local Amendments to the Building Code*), Appendix Chapter 58, Article 8, Subsection D (*Variance Procedures*) of the City Code. Council finds that the variance granted by this ordinance is the minimum necessary to afford relief, is based on good and sufficient cause, and failure to grant the variance would result in exceptional hardship. Council further finds that the variance granted in this ordinance 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.

**PART 2.** This ordinance applies to the construction of an addition to an existing single-family residence at 7303 Greenhaven Drive within the 100-year floodplain, subject to Building Permit Application No. BP #05-0391 RA.

**PART 3.** A variance is granted from:

- (A) the restriction on construction in the 100-year floodplain prescribed by Section 25-7-92 (*Encroachment On Floodplain Prohibited*) of the City Code; and
- (B) Section 25-7-152 (*Dedication of Easements and Rights-of-Way*) to exclude the house and addition/extension from the requirement to dedicate an easement to the limits of the 100-year floodplain; and
- (C) the requirement that the lowest floor of a residential structure be elevated one foot above the 100-year floodplain prescribed by Section 25-12-3, Building Code Appendix Chapter 58, Article 9 B(1) (*Provisions for Flood Hazard Reduction*).

