



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

AGENDA ITEM NO.: 84
AGENDA DATE: Thu 12/16/2004
PAGE: 1 of 2

SUBJECT: Conduct a public hearing and approve an ordinance for a variance from the Land Development Code Section 25-7-92 (B) (Encroachment on Floodplain Prohibited) to allow construction of a single-family residence at 10027 Wild Dunes Drive (Lot 23) and 4514 Wild Dunes Court (Lot 22) in the 100-year floodplain of Onion Creek and to waive requirement to dedicate a drainage easement to the limits of the 100-year floodplain.

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: Gary M. Kosut, P.E. 974-3374; Ray Windsor, 974-3362;
Martha Vincent, 974-3371

PRIOR COUNCIL ACTION: N/A

BOARD AND COMMISSION ACTION: N/A

PURCHASING: N/A

MBE / WBE: N/A

The Watershed Protection and Development Review Department Recommends Denial of this variance request. See second paragraph below for explanation.

The applicants, Ms. Sandra M. Combs and Mr. Raymond L. Combs, propose to construct a single-family residence on two adjacent lots at 10027 Wild Dunes Drive (Lot 23) and 4514 Wild Dunes Court (Lot 22). The lots are entirely within the 100-year floodplain of Onion Creek.

The City of Austin Land Development Code (LDC) Section 25-7-92 restricts encroachments of buildings and parking areas on the 100-year floodplain. The applicants' proposed residence will not have "normal access by direct connection with an area above the regulatory flood datum (100-year floodplain elevation plus one foot)". As a result, this variance request may only be granted by approval of the City Council. The applicants state that the proposed residence will be constructed two feet above the 100-year floodplain elevation; however the structure will be surrounded by 2.4 feet or more of floodwaters during the 100-year storm event. Access to the proposed residence by public-safety responders during the 100-year flood event will be limited by flood waters. The applicants state that they have made a substantial investment in the two lots and associated pre-development activities. The FEMA guidelines for the consideration of a variance request state that hardship created by the owner's own actions is not sufficient reason to grant a variance.

In summary, the proposed house will be surrounded by significant depths of water during the 100-year



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storm event, access to the site by public-safety responders during the 100-year flood event will be limited by the flood waters, and several other vacant lots near the subject lots are similarly situated. Therefore, the Watershed Protection and Development Review Department recommends denial of this variance request.

APPLICABLE CODE:

LDC Section 25-7-92 prohibits construction of buildings or parking areas in the 25-year flood plain and restricts encroachment on the 100-year flood plain.

Building Code, Appendix Chapter 58, Article 8 outlines procedures for consideration of floodplain 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 judgment 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;



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- 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 construction of a single-family residence on two lots in the 100-year floodplain of Onion Creek at 10027 Wild Dunes Drive.

(Suggested date and time: December 16, 2004 at 6:00 p.m.)

- Site Location Map for 10027 Wild Dunes Drive.
- Floodplain Variance Procedures.
- Photograph of the two lots at 10027 Wild Dunes Dr.
- Photograph of the two lots at 10027 Wild Dunes Dr.

2. FLOODPLAIN VARIANCE PROCEDURES

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- 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:

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- 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.

Watershed Protection Development Review



Onion Creek

Subject Property
10027 Wild Dunes Dr.

WILD DUNES DR

CUPPER HILLS DR

SHINNECOCK HILLS DR

SLICK ROCK CV

PINEHURST DR

RIVER PLANT



Legend

Lot Lines



Preliminary FEMA 100-Year Floodplain

This map was produced by the City of Austin Watershed Protection and Development Review Department as a working staff map and as such no warranty is made as to its accuracy or completeness.

WED 11/15/2014

Photograph of the two lots at 10027 Wild Dunes Dr.



Photograph of the two lots at 10027 Wild Dunes Dr.



Chronology
10027 Wild Dunes Drive

January 1, 2004 - Onion Creek Subdivision annexed by the City.

March 2004 - The Combs bought the two lots at 10027 Wild Dunes Drive (Lot 23) and 4514 Wild Dunes Court (Lot 22).

May 28, 2004 - Mr. Combs files an easement release request to vacate the public utility easement along the common lot line on the two lots. During the subsequent review of the easement release request, City staff identifies the lots as within the 100-year floodplain of Onion Creek, according to the FEMA floodplain map dated January 19, 2000.

June 9, 2004 - Mr. Combs acquires a copy of the May 3, 2000 LOMR (revised FEMA floodplain map) from Travis County. The LOMR shows the applicants' properties out of the 100-year floodplain.

October 20, 2004 - Mr. Combs applies for a building permit. Mr. Combs' builder subsequently presents a field topographic survey that indicates that the lots are completely below the 100-year floodplain elevation.

Late October, 2004 - Mr. Combs and his representatives met with City and Travis County staff to discuss the floodplain issues, a possible variance request and schedule.