



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

**AGENDA ITEM NO.: 62
AGENDA DATE: Thu 12/15/2005
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SUBJECT: Set a public hearing to consider variance requests by Dan and Cristina Self to allow construction of an addition to a single-family residence at 4512 Avenue D in the 25-year and 100-year floodplains of Waller Creek and to limit the requirement to dedicate a drainage easement to the full limit of the 100-year floodplain to exclude the footprints of the residence and garage apartment. (Suggested date and time: at January 12, 2006 at 6:00 p.m., City Hall Council Chambers, 301 West 2nd Street).

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., 974-3374; George Oswald, 974-3369

PRIOR COUNCIL ACTION: N/A

BOARD AND COMMISSION ACTION: N/A

Daniel and Cristina Self, the homeowners and applicants, propose to enlarge their residence at 4512 Avenue D. The proposed addition is the subject of Building Permit Application number BP-05-9043A. The applicants' residence is in the 100-year and 25-year floodplains of Waller Creek. The applicants seek variances to the City of Austin's floodplain management regulations in order to obtain a building permit to construct a 950 sq. ft addition (two stories at approximately 24 ft. x 20 ft.) to the existing 985 sq. ft. single-family house. The 100-year floodplain of Waller Creek completely surrounds the existing house. The house is within the western edge of the 25-year floodplain. During a 100-year storm event water will be two-and-a-half feet to three feet deep on Avenue D, thereby restricting normal access.

The applicants state that they will elevate the existing house to bring the floor to an elevation of two feet above the 100-year floodplain. This would be 619.3 feet elevation (617.3' + 2'). The current house elevation is 616.7 feet or 2.6 feet below the 619.3 feet elevation.

There is a garage apartment structure located at the rear of the lot.

APPLICABLE CODE AND VARIANCES REQUESTED

- I. LDC Section 25-12-3 (Local Amendments to the Building Code) Appendix Chapter 59 Section 5912 (Requirements for Other Flood-Proofing Methods). Section (b) states that: "Normal access to the building shall be by direct connection with areas above the RFD."

VARIANCE REQUESTED: The applicant's house will be surrounded by 1.3 to 2.4 feet of water



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during the 100-year flood event. The applicant requests a variance to Chapter 59, Section 5912 (b) because access to the house will not be by direct connection to areas above the RFD.

- II. LDC Section 25-12-3, (Local Amendments to the Building Code), Appendix Chapter 59 (Floodplain Regulations) Section 5903 (Nonconforming Uses) provides 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 to the floodplain regulations, may be continued subject to the specific conditions including:

(1) No such use shall be expanded, changed, enlarged, or altered in a way which increases its nonconformity.

VARIANCE REQUESTED: The applicant requests a variance to LDC Section 25-12-3, Appendix Chapter 59, Section 5903 to expand and enlarge an existing nonconforming residence in the floodplain.

- III. LDC Section 25-7-92 (Encroachment on Floodplain Prohibited) prohibits construction of a building or parking area in the 25-year or 100-year floodplains.

VARIANCE REQUESTED: The applicants request a variance from LDC Section 25-7-92 (A) to allow construction of the addition in the 25-year floodplain.

- IV. LDC Section 25-7-152, (Dedication of Easements and Rights-of-Way) (A) 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 applicants request a variance to Section 25-7-152, (A) to exclude the footprints of the residence and the garage apartment from the requirement to dedicate a drainage easement.

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.