



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

**AGENDA ITEM NO.: 32
AGENDA DATE: Thu 03/10/2005
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SUBJECT: Set a public hearing to consider a 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 (Suggested date and time: March 24, 2005 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 Kosut, P.E., 974-3374;
Ruth Dumaine, 974-2501

PRIOR COUNCIL ACTION: N/A

BOARD AND COMMISSION ACTION: N/A

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 new construction of an addition to the rear of the existing house at 7303 Greenhaven Drive. The addition would extend across the width of the house and would affect three rooms. 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 new construction in and near the floodplain and the applicant does not wish to elevate the addition/extension to the required level. 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.

APPLICABLE CODE

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. (One foot above the 100-year floodplain)

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.

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.



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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;
- 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.