



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

**AGENDA ITEM NO.: 63
AGENDA DATE: Thu 12/15/2005
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SUBJECT: Set a public hearing to consider variance requests by Mark and Renee Keeney to allow construction of an addition to a single-family residence at 3000 Vinewood Cove in the 25-year and 100-year floodplains of Shoal Creek and to limit the requirement to dedicate a drainage easement to the full limit of the 100-year floodplain to exclude the footprint of the residence. (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. Kosut, 974-3374; Joan Esquivel, 974-3371

PRIOR COUNCIL ACTION: N/A

BOARD AND COMMISSION ACTION: N/A

Mark and Renee Keeney, the homeowners and applicants, through their architect, John Carlson, propose to enlarge their home at 3000 Vinewood Cove. The proposed addition is the subject of Building Permit Number BP-05-10738RA. The applicants' residence is in the 100-year and 25-year floodplains of Shoal Creek. The applicant seeks variances to the City of Austin's floodplain management regulations in order to obtain a building permit to (1) construct a 569 sq. ft. addition to the existing 1335 sq. ft. single-family house and (2) remodel the existing residence. The proposed addition and remodeling constitute a substantial improvement as defined in the floodplain regulations. The 100-year floodplain and the 25-year floodplain of Shoal Creek completely surround the existing house while the proposed addition would lie within the eastern edge of the 25-year floodplain and be surrounded by the 100-year floodplain. During a 100-year storm event water will be more than 2.4 ft. deep on Vinewood Cove at the front of the house, thereby restricting normal access.

APPLICABLE CODE AND VARIANCES REQUESTED

- I. LDC Section 25-12-3 (Local Amendments to the Building Code), Appendix Chapter 58 (Flood Damage Prevention), Article 9 (Provisions for Flood Hazard Reduction), Section B (1) provides that a substantial improvement of a residential structure have the lowest floor elevated to or above the regulatory flood datum (RFD), which is one foot above the 100 year floodplain.

VARIANCE REQUESTED: The applicant requests a variance to LDC Section 25-12-3, Appendix Chapter 58, Article 9 (B) 1, to allow substantial improvement of an existing structure without regard to the elevation of both the room addition and the existing structure. (The existing



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structure is 2 ft. below the RFD and the addition is proposed to be constructed at an elevation 0.8 ft. below 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 which was lawful before the adoption of the floodplain regulations but does not conform to the floodplain regulations may be continued, subject to specific conditions, including:

- (1) No such use shall be expanded, changed, enlarged or altered in a way which increases its nonconformity.
- (2) No substantial improvement of the structure shall be made unless the structure is changed to conform with these regulations.

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 and to construct a substantial improvement to the residence without conforming to floodplain regulations.

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

VARIANCE REQUESTED: The applicant requests a variance from LDC Section 25-7-92(A) to allow construction of the addition in the 25-year and 100-year floodplains.

- IV. LDC Section 25-7-152 (Dedication of Easements and Rights-of-way) 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 applicant requests a variance to Section 25-7-152(A) to exclude the footprint of the residence 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.